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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

SENATE—*Wednesday, July 29, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Father in heaven, we come to the middle of a very busy, heavy week of work under the relentless march of time. Thank Thee for the beautiful spirit of cooperation and unity despite the pressure. I pray for the Senators, their staffs and all who labor so tirelessly here. Minds are weary, emotions strained, nerves frayed, bodies tired; and important decisions must be made which affect significantly the lives of millions.

Gracious God, make Your presence felt here today. Infuse us with Your wisdom, Your love, Your peace. Relieve anxiety, frustration, and tension and help the Senators finish their task on schedule. In the name of Him who said, "Come unto me all ye who labor and are heavy laden, and I will give you rest." Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. Mr. President, I am constrained to remark that when the Chaplain said it was the middle of the week, I thought he was in error. It must be Friday, the way I feel this morning. [Laughter.]

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SUBSISTENCE HUNTING IN ALASKA

Mr. STEVENS. Mr. President, I wish to discuss this morning for a brief moment, positive steps on an issue of great importance to aboriginal subsistence hunters in the State of Alaska.

The Eskimo people on the northern rim of Alaska have subsistence hunted whales for well over 17,000 years.

Several years ago, this traditional activity fell under sharp attack from the world environmental community due to a lack of understanding about subsistence hunting of whales.

As a result, the Alaskan Eskimos have struggled to maintain a minimal level of harvest for their basic nutritional needs. This struggle has been a difficult one.

The U.S. Government entered into a cooperative management agreement with the Alaska Eskimo Whaling Commission this past March which marked the first positive step toward returning control of the hunt to those most closely affected—the Eskimo people of Alaska.

Last week, for the first time, the International Whaling Commission finally recognized the vital importance of the subsistence hunt to the Eskimo people. The IWC commended the great success of this self-management effort and praised the considerable efforts made by the Eskimo community.

Perhaps the most telling praise for the Eskimo people comes from those who have, in the past, so strongly opposed continuation of the subsistence hunt. I should like to quote from an article entitled "Five Minute Miracle," which appeared in ECO, the daily environmental newsletter at the IWC:

> ECO would like to add its congratulations to the Eskimos for their genuine contributions to the IWC working group on Aboriginal Substance whaling and their efforts at sound management of the hunt.

In addition, the article closed by stating:

> It was even stating yesterday that the management process could turn out to the a model for dealing with the usually thorny subsistence issues.

Mr. President, as one who has labored hard with our Eskimo people to assure that their rights will be protected, I am delighted to see that the environmental community has finally recognized those rights.

I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIVE MINUTE MIRACLE

In yesterday's morning session of the Technical Committee the three year block quota on bowhead whales was renewed by consensus in the space of about five minutes. What a turnaround that was! This marks the first time that anything to do with the bowhead has taken the Commission so little time. At the past three IWC meetings, bickering over bowhead quotas occupied days on end, jeopardizing the chance for finishing other business and sometimes resulting in charges of nasty trade-offs.

Though there is still the possibility that the issue could be raised in Plenary today, it is highly unlikely that the quota will be modified. Any change from the existing quota (maximum of 17 landed per year) would require a ¾ majority. The Eskimos' record of compliance since agreeing on a domestic management scheme has left little to complain about and in fact Sweden has proposed a resolution commending them for controls on the hunt and their cooperation in the gathering of data. ECO would also like to add its congratulations to the Eskimos for their genuine contributions to the IWC working group on Aboriginal Subsistence whaling and their efforts at sound management of the hunt.

Though the bowhead population is clearly in precarious condition, and the Scientific Committee recommends the catch be restricted to immature whales and reduction in struck but lost, it is also worth noting that results of expanded data collection now allow scientists to be a bit more confident about the situation. The model used last year that predicted a decline even in the absence of a hunt is now thought to have certain basic problems. Independent population assessments demonstrate with greater reliability that the population may be at least stable. Coupled with tighter control of the hunt and better relations with the Eskimo community, US scientists are more optimistic than they have been in the recent past.

What a momentous shift, that in the space of three years the issue could change from such contention to so small a stir. It was even stated yesterday that the management process could turn out to be a model for dealing with the usually thorny subsistence issues. We hope this bears out.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I have a special order to speak later. I would appreciate it if I could take that time when I have my regular order.

Meanwhile, the Senator from Oklahoma has a special order before mine. I will wait until he has finished.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR NICKLES

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

PETROLEUM PIPELINE REGULATORY REFORM

Mr. NICKLES. Mr. President, as Senators know, I am an ardent supporter of regulatory reform; and, like many of my colleagues in the Senate, I want to eliminate unnecessary and costly regulations whenever possible. In keeping with the goal of reducing or eliminating unnecessary regulatory burdens, serious concerns have been raised in my mind with regard to the need for continued Federal regulation of the rates that petroleum pipelines charge for the transportation of crude oil and petroleum products.

Accordingly, I am today announcing my intention to introduce in the near future petroleum pipeline regulatory reform legislation which will remove unnecessary Government regulation of petroleum and petroleum products pipeline rates. It appears to me that rates in this industry are already effectively regulated by competition, and, therefore, there is no need to have rates set by Government bureaucrats.

Moreover, elimination of the requirement for this regulation would save the taxpayers' money and reduce the cost of regulation for petroleum pipelines, which savings could be passed on to pipeline shippers and the consumers of petroleum pipeline-transported products.

It would also bring regulatory certainty to the petroleum pipeline industry, and reduce the size of the Federal Government.

Because of the importance of this legislative proposal, and to give it the careful and deliberate consideration it deserves, it is my intention over the next several months to work with representatives of the general public, the Federal Energy Regulatory Commission, petroleum pipeline shippers, and the industry itself to devise appropriate legislation on this matter. I will also ask that Chairman McCLURE and my colleagues on the Energy and Natural Resources Committee hold hearings on this issue so that there can be a complete and thorough airing of views on petroleum and petroleum products pipeline regulatory reform.

THE PETROLEUM PIPELINE INDUSTRY

Mr. President, a brief description of the petroleum pipeline industry may prove helpful. The petroleum pipeline industry is a significant component of our national transportation system. Petroleum pipelines are the preferred mode for transporting not only crude oil from producing areas to refineries, but for transporting petroleum products to distribution points or to the ultimate user.

Approximately 87 percent of domestic crude oil an nearly one-half of all oil products move by pipeline. With more than 227,000 miles of crude oil and product pipelines, the petroleum pipeline network carries almost 25 percent of all intercity freight.

Petroleum pipelines are the most safe, environmentally sound, and cost-effective means for transporting petroleum and petroleum products. As such, they are a valuable national resource and weapon in our fight to keep down the cost of delivered petroleum products.

As the FERC recently noted in its December 24, 1980 Buckeye Pipeline Co. decision, petroleum and petroleum products pipeline charges represent an extremely small portion of the total consumer costs of petroleum products.

REGULATION OF PETROLEUM PIPELINES

Since 1906 petroleum pipelines have been subject to regulation under the Interstate Commerce Act which imposes common carrier obligations on petroleum pipelines, requires that their rates be just and reasonable, and prohibits discriminatory or preferential treatment of shippers by pipelines.

For most of this time, the Interstate Committee Commission has been responsible for administering the relevant provisions of the Interstate Commerce Act. However, on October 1, 1977, jurisdiction over petroleum pipelines was transferred to the Federal Energy Regulatory Commission by the Department of Energy Organization Act.

Mr. President, just prior to the jurisdictional transfer, the ICC decided to reevaluate its approach to regulating petroleum pipeline rates. This reevaluation, in turn, has been continued by the FERC for almost 4 years. We will probably not see a final FERC decision on petroleum pipeline ratemaking, after further administrative proceedings and the inevitable court challenges to any FERC decision, in the foreseeable future.

In the interim, the FERC has suspended and set for administrative proceedings every rate increase proposed by a petroleum pipeline, even though shippers have not protested the increase.

Moreover, this backlog of petroleum pipeline cases will continue to grow while the FERC reviews the methodology developed by the ICC for regulating rates and decides for itself how to regulate rates. Until the FERC makes up its mind on a rate methodology, it cannot decide any of the cases it has set for hearing.

In brief, it is probable that by the time the methodology issue is resolved the petroleum pipeline industry will have been subjected to nearly a decade of uncertainty concerning Government policy toward rate regulation. This uncertainty makes rational planning and the attraction of necessary investment for new pipeline projects very difficult at a time when new construction will be essential to accommodate the needs of our energy industry.

For example, the National Transportation Policy Study Commission, an advisory group established by Congress and composed of Members of Congress and representatives from Government and the public, recently estimated that $26.2 billion, 1979 dollars, in a new petroleum pipeline investment will be required between 1976 and 2000.

Of course, actual capital costs will be much higher because of inflation and other factors.

COMPETITION AND THE PETROLEUM PIPELINE INDUSTRY

Mr. President, it is time, not to reevaluate the method for regulating petroleum pipeline rates, but to reevaluate the need for any petroleum pipeline rate regulation. The petroleum pipeline industry is characterized today by pervasive competition, and it is competition, not Government regulation, which should be allowed to set petroleum pipeline rates.

Pipeline competition takes the form of intramodal and intermodal competition, product exchanges, and product competition. Many of the major producing areas are connected to refining centers by more than one crude oil pipeline.

For example, crude oil produced in west Texas may be transported by interconnecting crude oil pipelines to virtually every refining center in the country. west Texas crude oil can move over the Basin, Amoco, and Shell petroleum pipeline systems to refineries in my own State of Oklahoma, over the parallel Texoma and Seaway pipelines, and routings involving the Capline and Mid-Valley systems, to Midwest refineries, or over routings offered by 13 different pipeline companies to Texas Gulf Coast refineries.

There exists similar intramodal competition among product pipelines.

For example, the Colonial and Plantation pipeline systems run parallel from the Gulf Coast refineries along the Eastern Seaboard to the Northeast. Also, no fewer than nine petroleum products pipeline systems operate in the Midwest.

Petroleum pipelines also face competion from other transportation modes. Barges and coastal tankers offer low-cost transportation alternatives where waterways parallel pipelines. Trucks and railroads, although they cannot always offer as low a rate, can sometimes provide service advantages over pipelines that outweigh price considerations.

By utilizing product exchanges, a producer or refiner can reduce or obviate the need for transportation altogether. By way of illustration, a petroleum refiner located in Oklahoma and who markets petroleum products in the Northeast can exchange equivalent amounts of those products with a refiner located in Philadelphia, who markets products in the Midwest, rather than each refiner transporting its petroleum products to its respective market area. If it becomes less expensive to enter into such exchange arrangements than to ship by pipeline, pipelines lose the business.

Product competition can also limit the ability of a pipeline to raise its rates. The pipeline's rates become part of the price of the product. If the product is unable to compete with products coming from different areas with lower transportation or production costs, less of that product will be purchased and, consequently, less will be shipped over the pipeline, thereby reducing its revenues.

Finally, petroleum pipelines, unlike

natural gas pipelines or other utilities, which enjoy Government franchised and protected monopolies, always face potential competition from new entrants. A person does not have to obtain a certificate of public convenience and necessity before it can construct a new petroleum pipeline.

Mr. President, the fact of competition and the virtual absence of shipper complaints during 40 years of rate regulation by the ICC makes it appear to me that continued rate regulation of petroleum pipelines by the Federal Government is an anachronism that merely wastes the taxpayer's money, increases the cost of shipping petroleum and petroleum products, and is unnecessary to protect shippers.

Accordingly, it would be my thinking to eliminate the need for the FERC to go through a costly and time consuming ratesetting procedure for every pipeline. Elimination of the need for such regulation would also remove the regulatory uncertainty that has been hanging over the industry. It would help the FERC out of the conundrum it would find itself in if it tried to impose "utility-type" regulation on a competitive industry.

ONLY RATE REGULATION REPEALED

Mr. President, petroleum and petroleum products pipelines have served the Nation well as a competitive, viable industry. In any case, Mr. President, I am not arguing for the repeal of all petroleum pipeline regulation. I would propose to leave intact the common carrier obligations of petroleum pipelines and proscriptions in existing law against possible discriminatory or preferential behavior by such pipelines.

The FERC would remain the forum in which a shipper could seek relief from allegedly abusive practices of a pipeline. The FERC, however, would not be burdened with the jurisdictional mandate to determine or prescribe rates and charges for petroleum pipelines.

I also do not intend to affect the applicability of the antitrust laws to petroleum pipelines, which would remain in force as a safeguard against any theoretical anticompetitive activities by oil pipelines. Similarly, any petroleum pipeline reform legislation bill would leave undisturbed the 1941 consent decree negotiated between the Justice Department and certain oil companies, which limits the amount of dividends that a shipper-owned pipeline can pay to its parent.

Mr. President, the proposal I will be bringing before the Senate will be aimed at the limited regulatory reform objective of eliminating the requirement for unnecessary and counterproductive regulation and, instead, allowing market forces to work their will. I hope my colleagues will work with me toward devising appropriate legislation on this issue and support my efforts to make its enactment a reality.

Thank you, Mr. President.

SENATOR MURKOWSKI URGES REVIEW OF FEDERAL REGULATION OF OIL PIPELINES

● Mr. MURKOWSKI. Mr. President, I believe that the Congress has a responsibility to further the regulatory reform goals set forth by President Reagan. The effort just described by Senator NICKLES is an effort in which I have great interest because of its potential for saving American taxpayers considerable sums of money. I share Senator NICKLES' concern about the need for governmental regulation of petroleum pipeline ratemaking when competition could probably do the job better.

I do believe, however, that in this regulatory reform effort, Congress must evaluate and monitor the impact on consumers. Deregulation for deregulation's sake without adequate protection for consumers is unwise. In addition, I point out that the special circumstances attached to the Alaska oil pipeline may require special treatment in any legislation on this subject.

There is considerable reason for questioning the need for continued Government regulation of petroleum pipeline ratemaking. Competition in this important sector of our energy economy is strong. The transition of this regulatory function from the Interstate Commerce Commission to the new Federal Energy Regulatory Commission has been prolonged to the point that there is a great deal of confusion and uncertainty about the future method of ratemaking.

In my view, these factors are important reasons why the Congress should take a careful look at the Government's involvement in petroleum pipeline ratemaking. As a member of the Energy Committee, I welcome the Senator's efforts and commend him for taking a leadership role in this matter.●

● Mr. WALLOP. Mr. President, the initiative undertaken by my friend from Oklahoma is an important one because it recognizes that competition in the petroleum pipeline industry has reached the point where Government regulation of ratemaking no longer makes sense from either a public policy or economic perspective. Today the Federal role in pipeline ratemaking is a vestige of governmental involvement initiated over four decades ago. Over the years, the petroleum pipeline business has become more competitive, including competition between pipelines, competition with other modes of transportation as well as product competition.

Unlike gas and electric utilities which are regulated by the Federal Energy Regulatory Commission, petroleum pipelines are not franchised by the Government nor are they protected monopolies. Petroleum pipelines are not required to obtain certificates of public convenience and necessity before they can enter or leave a market. Thus, alternative pipeline routes will often be available between major producing areas and refineries or between refineries and consuming areas.

It is important to point out that today transportation costs are one of the major variables in the economics of a successful business operation. Selection of a competitive means to transport products is absolutely critical to any industry. Given the competition in the petroleum pipeline business, market forces will act as a restraint in a deregulated industry. It is fair to say that even with governmental regulation of pipelines, competition rather than governmental involvement is a major factor in limiting rates.

Mr. President, I believe that Senator NICKLES is about to do the President's regulatory reform initiative a favor in developing this legislation. I know that members of the Energy Committee and others stand ready to assist him in this effort.●

● Mr. JOHNSTON. Mr. President, I want to applaud and support the initiative of my distinguished colleague from Oklahoma. While petroleum pipelines have been subject to regulation by the ICC since 1906, the 1977 transfer of jurisdiction to the Federal Energy Regulatory Commission brought them into a much more public light. Prior to 1977, the loose regulatory practices of the ICC allowed the industry to be regulated largely by the forces of competition. This freedom led to very few complaints and helped create one of the world's most efficient energy transportation systems.

The FERC has now expressed an intent to vary the process by which these pipelines are regulated. By initiating its own rate investigations, the FERC will drastically increase its already heavy workload and add to the backlog of gas pipeline and utility rate cases which have already accumulated. I would therefore agree with Senator NICKLES that a change in the regulatory process is not a step which should be taken lightly. It deserves the full attention of Congress and I look forward to working with my colleague as he undertakes this task.●

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, it is my understanding that I have a special order for 15 minutes and added to that are the 2 minutes yielded to me by the distinguished acting minority leader.

The PRESIDING OFFICER. The Senator is correct.

S. 1528—SOCIAL SECURITY TRUST FUND INVESTMENT REFORM ACT OF 1981

Mr. PROXMIRE. Mr. President, today, along with the Senator from Ohio (Mr. METZENBAUM), the Senator from Missouri (Mr. EAGLETON), and the Senator from Illinois (Mr. DIXON), I am introducing the Social Security Trust Fund Reform Act of 1981.

This bill is the direct result of the scandalously low return which was earned by the three social security trust funds in fiscal year 1980.

The almost $47 billion in the social security trust funds at the end of fiscal year 1980 which by law can be invested only in Government or Government-backed securities, earned only 8.3 percent in the period.

In the comparable period, money market funds which invested exclusively in Government or Government-backed securities, earned 13.5 percent. Presently those funds are earnings 16 percent or more.

WHAT THE BILL DOES

The bill does four main things.

First, it adds four new trustees to the trust fund board. At the present time there are three trustees. They are the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services.

The four new trustees, to be appointed by the President with the advice and consent of the Senate for 4-year terms beginning on January 1, 1982, would be as follows.

One would be a representative from the employers who contribute to the funds.

One would be a representative of the beneficiaries of the trust funds.

One would be a highly skilled investment counselor or manager with experience in investing funds for an insurance company or money market fund.

Second, the bill charges the trustees with the responsibility to secure the maximum possible interest yield commensurate with the safety of the trust funds.

Third, the bill provides that if the Treasury continues to invest in special issues of the Treasury the interest rate of the special issues will be calculated on the basis of the interest rates paid on all the securities the trust funds are allowed to purchase.

In the past the special issues have carried an artificially low-interest rate which is one of the reasons the trust funds are in such difficulty. If the trust funds continued to use them they would have to meet the test of maximizing the return to the funds.

Finally the bill requires the trustees to modernize their equipment and seek the advice of such experts that will allow them to maximize the return on the funds. This is not now the case.

WHY THE BILL IS NEEDED—BACKGROUND

Mr. President, just a few days ago the board of trustees of the social security trust funds—old age and survivors insurance (OASI), disability insurance (DI), and hospital insurance (HI)—made their annual report. We were told that because of the dire condition of the funds we would either have to cut back on benefits or raise social security taxes.

The report showed that on June 30, 1980, there was $46.845 billion in those three funds—$23.565 billion for OASI; $7.68 billion for DI; and $14.6 billion for HI.

But the report also showed that the interest rate or rate of return on those funds for the year was scandalously low. The combined earnings were only 8.3 percent.

The OASI fund earned 8.3 percent; the DI fund earned 8.8 percent; and the HI fund earned only 8.2 percent. The average was 8.3 percent.

This was no accident. It was done by design.

EXTRAORDINARILY LOW YIELDS

It is true that by law the fund can only invest in Government or Government-backed securities.

However, in 1980 private financial institutions investing exclusively in Government or Government-backed securities earned as much as 13.5 percent on their portfolios. But the social security trust funds, also investing exclusively in Government or Government-backed securities, earned only 8.3 percent for the year.

Think of that difference: 13.5 percent for those who invest wisely and carefully in Government securities and know what they are doing, on the average, and only 8.3 percent for the social security funds.

So far this year, financial institutions investing exclusively in Government or Government-backed issues have earned more than 15 percent. Last week they earned over 16 percent. Why is this?

The trustees of the social security trust funds, who are three in number—namely the Secretaries of the Treasury, Labor and Health, and Human Services—should invest the social security trust funds in order to maximize the return commensurate with the safety of the funds.

That is the duty of trustees whether they are private trustees or public trustees.

Before the administration cuts back on social security benefits or raises social security taxes the trustees must be required to invest the trust funds in order to achieve a return at least equal to the return everybody else can get on Government or Government-backed securities.

In 1980 that would have brought in about $2 billion a year more than the trust funds actually earned.

That is equal to 60 percent of the $3.3 billion combined deficit the trust funds suffered in 1980; 60 percent—more than half.

The 8.3 percent average earnings on the $46.7 billion in the three trust funds in 1980 is a miserable showing. If any private trustee did that badly, he or she would be fired.

We would get rid of them in a hurry. In fact, we might even go to court and sue them for malpractice if we could.

REASONS FOR LOW RETURN

While the report itself does not spell out why the return on the social security trust funds was so appallingly low, there are at least three reasons. They are:

First poor management techniques and equipment;

Second, outmoded regulations and laws; and

Third—the key to the poor showing—the conflicts of interest and responsibility at the highest levels of the trust fund management.

The actual management of the funds is at the Treasury. The managers and three trustees have put the interests of the Treasury before the interests of the social security trust funds.

Mr. President, I wish to make clear that there is no personal reflection on the present Secretary of the Treasury, who has been in office only a few months, or on the other trustees. I do not mean to imply that or mean it.

Every Secretary of the Treasury has had a conflict of interest in managing the social security trust funds. Here is why.

As a trustee of the trust funds, they are obligated to get the highest possible return commensurate with the safety of the funds. But as Secretaries of the Treasury they, and especially the Treasury Department managers of the funds, work to keep the interest on the public debt as low as they can.

The latter is the view that prevails. They want to hold down the rate of return paid by the Federal Government to the social security funds, and they do it.

The Secretary of the Treasury wears two hats. For years his and the Treasury Department's interest in paying out the lowest rate of interest on the public debt has conflicted with his duty as a trustee to get the highest interest rate available for the social security trust funds.

PORTFOLIO OF TRUST FUNDS

Let us look at the portfolio of the three trust funds on September 30, 1980. I ask unanimous consent that three tables, from the recent trustees report, giving the assets of the old age and survivors insurance (OASI) trust fund, the disability insurance (DI) trust fund, and the hospital insurance (HI) trust fund as of end of fiscal years 1979 and 1980 be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—ASSETS OF THE OASI TRUST FUND, BY TYPE, AT THE END OF FISCAL YEARS 1979 AND 1980

	Sept. 30, 1979		Sept. 30, 1980	
	Par value	Book value [1]	Par value	Book value
Investments in public-debt obligations:				
Public issues:				
Treasury bonds:				
2¾ percent, investment series B, 1975–80	$1,064,902,000	$1,064,902,000.00		
3 percent, 1995	70,170,000	70,154,300.11	$70,170,000	$70,155,324.07
3¼ percent, 1978–83	60,200,000	59,982,987.02	60,200,000	60,042,172.22
3½ percent, 1985	25,700,000	25,214,601.59	25,700,000	25,301,538.71
3½ percent, 1980	449,450,000	449,922,552.42	449,450,000	449,486,350.62
3½ percent, 1990	556,250,000	551,865,319.11	556,250,000	552,289,643.31
3½ percent, 1998	552,037,000	546,145,879.93	552,037,000	546,454,585.09
4 percent, 1980	153,100,000	153,098,379.94		
4⅛ percent, 1989–94	91,300,000	90,859,201.17	91,300,000	90,889,427.37
4¼ percent, 1975–85	78,023,000	77,905,844.18	78,023,000	77,926,827.50
4¼ percent, 1987–92	33,000,000	33,833,803.68	33,000,000	33,727,360.68
6⅜ percent, 1984	31,500,000	31,723,267.05	31,500,000	31,677,856.77
7 percent, 1981	50,000,000	49,923,333.01	50,000,000	49,963,332.97
7⅛ percent, 1988–93	99,934,000	98,828,625.56	99,934,000	98,908,053.68
7⅛ percent, 2002–07	15,000,000	14,991,911.98	15,000,000	14,992,205.14
7¼ percent, 1995–2000	22,180,000	21,559,420.62	22,180,000	21,590,066.46
8 percent, 1996–2001	90,500,000	90,415,430.64	90,500,000	90,419,304.00
8¼ percent, 2000–05	22,450,000	22,444,646.82	22,450,000	22,444,845.66
11¾ percent, 2010			153,100,000	151,998,224.32
8⅜ percent, 1995–2000	50,000,000	50,631,313.25	50,000,000	50,601,010.25
8½ percent, 1994–99	6,352,000	6,493,938.40	6,352,000	6,486,721.12
Total investments in public issues	3,522,048,000	3,510,896,756.48	2,457,146,000	2,445,354,849.94
Obligations sold only to this fund (special issues):				
Certificates of indebtedness:				
8¾ percent, 1980	1,732,790,000	1,732,790,000.00		
9 percent, 1980	6,941,877,000	6,941,877,000.00		
10½ percent, 1981			406,799,000	406,799,000.00
11⅞ percent, 1981			8,464,877,000	8,464,877,000.00
Bonds:				
7½ percent, 1988	125,847,000	125,874,000.00		
7½ percent, 1989	125,847,000	125,847,000.00		
7½ percent, 1990	125,847,000	125,847,000.00	125,847,000	125,847,000.00
7½ percent, 1991	125,848,000	125,848,000.00	125,848,000	125,848,000.00
7½ percent, 1992	2,014,741,000	2,014,741,000.00	2,014,741,000	2,014,741,000.00
7⅝ percent, 1987	474,643,000	474,643,000.00		
7⅝ percent, 1988	688,956,000	688,956,000.00		
7⅝ percent, 1989	688,956,000	688,956,000.00		
7⅝ percent, 1990	1,366,865,000	1,366,865,000.00	1,366,865,000	1,366,865,000.00
7¾ percent, 1987	522,028,000	522,029,000.00		
7¾ percent, 1988	522,029,000	522,029,000.00		
7¾ percent, 1989	522,029,000	522,029,000.00	437,645,000	437,645,000.00
7¾ percent, 1990	522,029,000	522,029,000.00	522,029,000	522,029,000.00
7¾ percent, 1991	1,888,893,000	1,888,893,000.00	1,888,893,000	1,888,893,000.00
7⅞ percent, 1987	677,910,000	677,910,000.00		
7⅞ percent, 1988	677,909,000	677,909,000.00		
7⅞ percent, 1989	677,909,000	677,909,000.00	677,909,000	677,909,000.00
8¼ percent, 1993	1,555,736,000	1,555,736,000.00	1,555,736,000	1,555,736,000.00
8¾ percent, 1994	1,272,609,000	1,272,609,000.00	1,272,609,000	1,272,609,000.00
9¾ percent, 1994			216,540,000	216,450,000.00
9¾ percent, 1995			1,489,059,000	1,489,059,000.00
Total obligations sold only to this fund (special issues)	23,251,299,000	23,251,299,000.00	20,565,307,000	20,565,307,000.00
Total investments in public-debt obligations	26,773,347,000	26,762,195,756.48	23,022,453,000	23,010,661,849.94
Investments in federally sponsored agency obligations:				
Participation certificates:				
Federal Assets Liquidation Trust—Government National Mortgage Association:				
5.10 percent, 1987	50,000,000	50,000,000.00	50,000,000	50,000,000.00
5.20 percent, 1982	100,000,000	100,000,000.00	100,000,000	100,000,000.00
Federal Assets Financing Trust—Government National Mortgage Association:				
6.05 percent, 1988	65,000,000	64,898,438.20	65,000,000	64,910,625.76
6.20 percent, 1988	230,000,000	230,000,000.00	230,000,000	230,000,000.00
6.40 percent, 1987	75,000,000	75,000,000.00	75,000,000	75,000,000.00
6.45 percent, 1988	35,000,000	35,000,000.00	35,000,000	35,000,000.00
Total investments in federally sponsored agency obligations	555,000,000	554,898,438.20	555,000,000	554,910,625.76
Total investments	27,328,347,000	27,317,034,194.68	23,577,453,000	23,565,572,475.70
Undisbursed balances		425,751,973.22		1,000,184,989.34
Total assets		27,742,846,167.90		24,565,757,465.04

[1] Par value, plus unamortized premium or less discount outstanding.

TABLE 2.—ASSETS OF THE DI TRUST FUND, BY TYPE, AT THE END OF FISCAL YEARS 1979 AND 1980

	Sept. 30, 1979		Sept. 30, 1980	
	Par value	Book value [1]	Par value	Book value [1]
Investments in public-debt obligations:				
Public issues:				
Treasury bonds:				
3½ percent, 1990	$10,500,000	$10,214,103.11	$10,500,000	$10,241,770.67
3½ percent, 1998	5,000,000	4,801,399.55	5,000,000	4,811,806.55
4 percent, 1980	30,250,000	30,249,657.12		
4¼ percent, 1989–94	68,400,000	67,914,273.75	68,400,000	67,947,580.59
4¼ percent, 1975–85	20,795,000	20,786,772.02	20,795,000	20,788,245.50
4¼ percent, 1987–92	80,800,000	80,870,716.32	80,800,000	80,861,688.84
6⅜ percent, 1984	15,000,000	15,026,674.00	15,000,000	15,021,248.68
7½ percent, 1988–93	26,500,000	25,966,014.68	26,500,000	26,004,384.80
7⅝ percent, 2002–07	10,000,000	9,994,607.78	10,000,000	9,994,804.34
8 percent, 1995–2001	26,000,000	25,975,703.74	26,000,000	25,976,816.50
8¼ percent, 2000–05	3,750,000	3,732,402.89	3,750,000	3,733,088.45
11¾ percent, 2010			30,250,000	30,032,307.52
Total investments in public issues	296,995,000	295,532,324.96	296,995,000	295,413,742.44
Obligations sold only to this fund (special issues):				
Certificates of indebtedness:				
9 percent, 1980	1,531,773,000	1,531,773,000.00		
11⅛ percent, 1981			1,875,730,000	1,875,730,000.00
Bonds:				
7⅛ percent, 1986	5,380,000	5,830,000.00	5,830,000	5,830,000.00
7⅛ percent, 1987	5,831,000	5,831,000.00	5,831,000	5,831,000.00
7⅛ percent, 1988	5,831,000	5,831,000.00	5,831,000	5,831,000.00
7⅛ percent, 1989	5,831,000	5,831,000.00	5,831,000	5,831,000.00
7⅛ percent, 1990	5,831,000	5,831,000.00	5,831,000	5,831,000.00
7⅛ percent, 1991	5,831,000	5,831,000.00	5,831,000	5,831,000.00
7⅛ percent, 1992	274,851,000	274,851,000.00	274,851,000	274,851,000.00
7⅜ percent, 1986	84,338,000	84,338,000.00	84,338,000	84,338,000.00
7⅜ percent, 1987	84,338,000	84,338,000.00	84,338,000	84,338,000.00
7⅜ percent, 1988	84,337,000	84,337,000.00	84,337,000	84,337,000.00
7⅜ percent, 1989	84,337,000	84,337,000.00	84,337,000	84,337,000.00
7⅜ percent, 1990	206,000,000	206,000,000.00	206,000,000	206,000,000.00
7½ percent, 1986	63,020,000	63,020,000.00	63,020,000	63,020,000.00
7½ percent, 1987	63,019,000	63,019,000.00	63,019,000	63,019,000.00
7½ percent, 1988	36,020,000	63,020,000.00	63,020,000	63,020,000.00
7½ percent, 1989	63,020,000	63,020,000.00	63,020,000	63,020,000.00
7½ percent, 1990	63,020,000	63,020,000.00	63,020,000	63,020,000.00
7½ percent, 1991	269,020,000	269,020,000.00	269,020,000	269,020,000.00
7⅝ percent, 1985	32,529,000	32,529,000.00	32,529,000	32,529,000.00
7⅝ percent, 1986	121,663,000	121,663,000.00	121,663,000	121,663,000.00
7⅝ percent, 1987	121,663,000	121,663,000.00	121,663,000	121,663,000.00
7⅝ percent, 1988	121,663,000	121,663,000.00	121,663,000	121,663,000.00
7⅝ percent, 1989	121,663,000	121,663,000.00	121,663,000	121,663,000.00
8¼ percent, 1984	146,558,000	146,558,000.00		
8¼ percent, 1985	208,860,000	208,860,000.00	208,860,000	208,860,000.00
8¼ percent, 1993	241,389,000	241,389,000.00	241,389,000	241,389,000.00
8¾ percent, 1983	21,816,000	21,816,000.00		
8¾ percent, 1984	192,718,000	192,718,000.00	61,511,000	61,511,000.00
8¾ percent, 1985	97,887,000	97,887,000.00	97,887,000	97,887,000.00
8¾ percent, 1986	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1987	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1988	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1989	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1990	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1991	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1992	64,425,000	64,425,000.00	64,425,000	64,425,000.00
8¾ percent, 1993	97,887,000	97,887,000.00	97,887,000	97,887,000.00
8¾ percent, 1994	339,277,000	339,277,000.00	339,277,000	339,277,000.00
9¼ percent, 1984			142,338,000	142,338,000.00
9¼ percent, 1985			142,338,000	142,338,000.00
9¼ percent, 1986			142,338,000	142,338,000.00
9¼ percent, 1987			142,338,000	142,338,000.00
9¼ percent, 1988			142,338,000	142,338,000.00
9¼ percent, 1989			142,338,000	142,338,000.00
9¼ percent, 1990			142,337,000	142,337,000.00
9¼ percent, 1991			142,337,000	142,337,000.00
9¼ percent, 1992			143,337,000	142,337,000.00
9¼ percent, 1993			142,337,000	142,337,000.00
9¼ percent, 1994			142,337,000	142,337,000.00
9¾ percent, 1995			481,613,000	481,613,000.00
Total obligations sold only to this fund (special issues)	5,285,626,000	5,285,626,000.00	7,377,327,000	7,377,327,000.00
Total investments in public-debt obligations	5,582,621,000	5,581,158,324,96	7,647,322,000	7,672,740,742.44
Undisbursed balances		42,552,853.65		7,432,523.85
Total assets		5,623,711,178.61		7,680,173,266.2

[1] Par value plus unamortized premium or less discount outstanding.

TABLE 3.—ASSETS OF THE HOSPITAL INSURANCE TRUST FUND BY TYPE AT THE END OF FISCAL YEARS 1979 AND 1980 [1]

	Sept 30, 1979	Sept 30, 1980
Investments in public-debt obligations sold only to this fund (special issues):		
Certificates of indebtedness:		
9 percent, 1980	$1,173,357,000.00	
11⅛ percent, 1981		$1,275,417,000.00
Bonds:		
7¼ percent, 1992	524,479,000.00	524,479,000.00
7⅜ percent, 1981	165,760,000.00	
7⅜ percent, 1982	165,760,000.00	
7⅜ percent, 1983	165,760,000.00	165,760,000.00
7⅜ percent, 1984	165,760,000.00	165,760,000.00
7⅜ percent, 1985	165,759,000.00	165,759,000.00
7⅜ percent, 1986	165,759,000.00	165,759,000.00
7⅜ percent, 1987	165,759,000.00	165,759,000.00
7⅜ percent, 1988	165,760,000.00	165,760,000.00
7⅜ percent, 1989	165,760,000.00	165,760,000.00
7⅜ percent, 1990	571,444,000.00	571,444,000.00
7½ percent, 1981	109,372,000.00	
7½ percent, 1982	109,372,000.00	
7½ percent, 1983	109,372,000.00	109,372,000.00
7½ percent, 1984	109,372,000.00	109,372,000.00
7½ percent, 1985	109,373,000.00	109,373,000.00
7½ percent, 1986	109,373,000.00	109,373,000.00
7½ percent, 1987	109,373,000.00	109,373,000.00
7½ percent, 1988	109,372,000.00	109,372,000.00
7½ percent, 1989	109,372,000.00	109,372,000.00
7½ percent, 1990	109,372,000.00	109,372,000.00
7½ percent, 1991	680,816,000.00	680,816,000.00
7⅝ percent, 1981	405,685,000.00	
7⅝ percent, 1982	405,685,000.00	296,079,000.00
7⅝ percent, 1983	405,685,000.00	405,685,000.00
7⅝ percent, 1984	405,685,000.00	405,685,000.00
7⅝ percent, 1985	405,685,000.00	405,685,000.00
7⅝ percent, 1986	405,685,000.00	405,685,000.00
7⅝ percent, 1987	405,685,000.00	405,685,000.00
7⅝ percent, 1988	405,684,000.00	405,684,000.00
7⅝ percent, 1989	405,684,000.00	405,684,000.00
8¼ percent, 1981	45,347,000.00	
8¼ percent, 1982	45,347,000.00	45,347,000.00
8¼ percent, 1983	45,347,000.00	45,347,000.00
8¼ percent, 1984	45,347,000.00	45,347,000.00
8¼ percent, 1985	45,347,000.00	45,347,000.00
8¼ percent, 1986	45,346,000.00	45,346,000.00
8¼ percent, 1987	45,346,000.00	45,346,000.00
8¼ percent, 1988	45,347,000.00	45,347,000.00
8¼ percent, 1989	45,347,000.00	45,347,000.00
8¼ percent, 1990	45,347,000.00	45,347,000.00
8¼ percent, 1991	45,347,000.00	45,347,000.00
8¼ percent, 1992	$201,684,000.00	$201,684,000.00
8¼ percent, 1999	726,163,000.00	725,163,000.00
8¾ percent, 1980	47,739,000.00	
8¾ percent, 1981	123,296,000.00	
8¾ percent, 1982	123,296,000.00	123,296,000.00
8¾ percent, 1983	123,297,000.00	123,297,000.00
8¾ percent, 1984	123,297,000.00	123,297,000.00
8¾ percent, 1985	123,297,000.00	123,297,000.00
8¾ percent, 1986	123,297,000.00	123,297,000.00
8¾ percent, 1987	113,297,000.00	123,297,000.00
8¾ percent, 1988	123,297,000.00	123,297,000.00
8¾ percent, 1989	123,297,000.00	123,297,000.00
8¾ percent, 1990	123,297,000.00	123,297,000.00
8¾ percent, 1991	123,297,000.00	123,297,000.00
8¾ percent, 1982	123,297,000.00	123,297,000.00
8¾ percent, 1993	123,297,000.00	123,297,000.00
8¾ percent, 1994	849,460,000.00	849,460,000.00
9¼ percent, 1982		130,210,000.00
9¼ percent, 1983		130,209,000.00
9¼ percent, 1984		130,209,000.00
9¼ percent, 1985		130,209,000.00
9¼ percent, 1986		130,120,000.00
9¼ percent, 1987		130,201,000.00
9¼ percent, 1988		130,201,000.00
9¼ percent, 1989		130,210,000.00
9¼ percent, 1990		130,201,000.00
9¼ percent, 1991		130,210,000.00
9¼ percent, 1992		130,210,000.00
9¼ percent, 1993		130,210,000.00
9¼ percent, 1994		130,210,000.00
9¼ percent, 1995		979,670,000.00
Total public-debt obligations sold only to this fund (special issues)	13,113,539,000.00	14,606,077,000.00
Investments in federally-sponsored agency obligations:		
Participations certificates:		
Federal Assests Liquidation Trust-Government National Mortgage Association:		
5.20 percent, 1982	50,000,000.00	50,000,000.00
Total investments	13,163,539,000.00	14,656,077,000.00
Undisbursed balance	199,160,799.73	(166,163,900.03)
Total assets	13,362,699,799.73	14,489,913,099.97

[1] The assets are carried at par value, which is book value.

Mr. PROXMIRE. Mr. President, what these tables show is that the overwhelming proportion of the funds were invested in Treasury special issue securities.

In fact more than 92 percent of the funds are in Treasury special issues. And as is clear from the tables, these carry a rate of interest well below that available on many other Government or Government-backed securities.

EXISTING LEGAL DISCRETION NOT USED

The managers of the trust funds are not required to invest in special issues. They can invest in any Government or Government-backed security. I would not urge them to invest in Lockheed or Chrysler guaranteed instruments but there is no reason why they could not get a much higher average return both by investing in Treasury issues carrying a higher return and by investing in GNMA, FNMA, Federal Farm Credit, Federal Home Loan Bank, or other agency or Government-backed issues.

Unfortunately the bulk of the assets of the funds are invested in the special issues. These issues are provided for under a law passed by Congress with the strong recommendation of the Treasury.

By law—by design—these special issues carry a rate of interest equal to the average market rate of Treasury obligations forming a part of the public debt which are not due or callable for 4 years.

To the degree these special issues are used, that has the effect of deliberately keeping the rate of interest paid on the assets of the social security trust funds at a very low level. For years, the law required that long-term bonds issued by the Treasury could carry an interest rate no higher than 4.25 percent. So a good deal of the public debt 4 years old or older carries an extraordinarily low interest rate.

As the report shows most of the special issues in the trust funds portfolios on September 30, 1980, carried an interest rate somewhere between 7 and 9 percent.

There are thus two effects of the special issues law. First, it helps the Treasury by keeping the interest on the public debt lower than it would otherwise be. The second, or the converse, effect is that at the same time it plunders the social security trust funds to do so.

At a time when short-term rates have been much higher than long-term rates, the managers of the social security trust funds have invested them in special issue long-term securities. Instead of maximizing the return they have minimized it. As the report on the OASI and DI funds states on page 19, the general practice is to spread the maturity dates of the special issues over a 15-year period.

OTHER GOVERNMENT SECURITIES AVAILABLE

Further, the social security trust fund managers have virtually ignored the Government-guaranteed obligations of other Government agencies. These agency obligations, which are backed by the full faith and credit of the U.S. Government and are completely safe, carry interest rates even higher than Treasury issues. But the trust funds held only about 10 percent of their assets in these securities and most of these were very old issues carried at interest rates below 7 percent. Today, these issues have yields from 13 to 20 percent.

I ask unanimous consent that a table from the Wall Street Journal of July 28, 1981, indicating the return on numerous Government agency securities be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD as follows:

GOVERNMENT, AGENCY AND MISCELLANEOUS SECURITIES

Monday, July 27, 1981

Mid-afternoon Over-the-Counter quotations; sources on request.

Decimals in bid-and-asked and bid changes represent 32nds; 101.1 means 101 1/32. a-Plus 1/64. b-Yield to call date. d-Minus 1/64. n-Treasury notes.

FNMA ISSUES

Rate	Mat	Bid	Asked	Yld
7.25	9-81	98.21	98.25	17.42
9.38	9-81	98.30	99.2	16.96
9.70	9-81	98.31	99.3	16.99
7.88	10-81	97.28	98.4	16.80
6.45	12-81	96.6	96.14	16.61
7.30	12-81	96.16	96.24	16.54
10.90	1-82	97.18	97.26	16.00
15.25	2-84	99.9	99.17	16.16
7.15	3-82	94.16	94.24	16.40
8.88	3-82	95.17	95.25	16.28
7.38	4-82	94	94.8	16.27
15.30	4-82	99.8	99.16	15.97
6.65	6-82	91.28	92.28	15.73
7.10	6-82	92.25	93.8	15.70
12.25	6-82	97	97.8	15.71
9.45	7-82	94.2	94.14	15.94
6.80	9-92	90.30	91.18	15.28
8.40	9-82	92.16	93	15.43
8.60	10-82	92.4	92.16	15.64
9.00	10-82	92.18	92.30	15.63
7.35	12-82	89.22	90.10	15.46
7.75	3-83	88.23	89.7	15.53
9.50	3-83	90.24	91.8	15.82
8.75	4-83	89.9	89.25	15.80
9.25	4-83	90	90.16	15.80
9.50	5-83	90.8	90.20	15.70
6.75	6-83	85.4	86.4	15.58
7.30	6-83	86	87	15.57
8.10	6-83	87.16	88	15.75
10.85	7-83	91.20	92.4	15.68
9.70	8-83	88.30	89.30	15.66
6.75	9-83	83.24	84.24	15.44
8.50	9-83	87.4	87.20	15.55
9.25	10-83	88.4	88.20	15.53
8.00	12-83	85	85.24	15.38
8.40	12-83	85.24	86.16	15.39
14.05	1-84	96.16	97	15.56
14.10	2-84	96	96.24	15.70
9.50	3-84	85.28	86.28	15.79
7.35	4-84	81.20	83.12	15.56
8.20	4-84	82.28	83.20	15.87
14.25	5-84	95.28	96.12	15.88
6.25	6-84	78.12	79.12	15.40
9.25	6-84	84.24	85.24	15.58
8.20	7-84	82	83	15.60
9.05	7-84	84.20	85.4	15.52
11.10	8-84	89.8	89.24	15.45
7.95	9-84	80.26	81.26	15.52
9.75	9-84	85.25	86.8	15.46
11.70	10-84	89.4	90.4	15.72
14.90	10-84	97.16	98.4	15.64
6.90	12-84	77.10	78.10	15.38
7.55	12-84	79.12	80.12	15.20
9.90	1-85	84.20	85.20	15.42
7.65	3-85	78.4	79.4	15.37
14.25	3-85	96.14	96.30	15.37
13.75	4-85	94.20	95.20	15.32
15.25	5-85	98.12	99.4	15.55
8.60	6-85	80	81	15.28
9.95	6-85	83.28	84.28	15.26
7.25	7-85	76.4	77.4	15.15
7.45	9-85	76.4	77.4	15.11
7.90	10-85	77	78	15.16
8.80	10-85	79.4	80.4	15.39
13.00	11-85	91.8	92.8	15.52
13.00	1-86	91.8	92.8	15.47
8.20	3-86	76.4	77.4	15.28
9.50	3-86	80.10	81.10	15.28
9.20	4-86	79.2	80.2	15.29
7.95	7-86	74.4	75.4	15.29
7.90	9-86	73.13	74.12	15.29
7.30	12-86	70.8	71.8	15.35
7.75	3-87	71.12	73.4	14.99
11.15	5-87	83.12	84.12	15.30
7.65	6-87	70.16	71.16	15.15
9.10	7-87	75.4	77.4	15.05
7.50	10-87	68.16	70.16	14.95
14.40	2-88	96.12	97.12	15.04
10.50	6-88	80	81	15.02
8.55	9-88	70.24	72.24	14.88
9.30	6-89	73	75	14.77
7.80	10-91	64.8	65.8	14.40
7.00	3-92	58.8	60.8	14.42
7.05	6-92	58.8	60.8	14.39
7.10	12-97	54.16	56.16	13.90

FEDERAL FARM CREDIT

Rate	Mat	Bid	Asked	Yld
13.65	8-81	99.26	99.30	16.50
15.65	8-81	99.28	100	14.54
14.90	9-81	99.20	99.24	16.09
14.95	9-81	99.22	99.26	16.05
14.35	10-81	99.9	99.13	16.51
13.55	10-81	99.7	99.11	16.68
14.90	11-81	99.6	99.10	16.45
15.45	11-81	99.17	99.21	16.24
14.85	12-81	99.2	99.6	16.37
16.60	12-81	99.22	99.26	16.74
13.55	1-82	98.16	98.20	16.23
15.80	1-82	99.16	99.20	16.53
8.90	1-82	96.8	96.16	16.78
15.40	2-82	99	99.4	16.67
16.40	3-82	99.18	99.22	16.55
8.45	4-82	94.30	95.6	16.20
15.85	4-82	99.14	99.18	16.38
7.20	9-82	91.18	92.2	15.35
9.65	9-82	93.26	94.10	15.48
10.95	10-82	94.28	95.12	15.17
11.60	12-82	94.29	95.29	15.04
8.05	3-83	89.3	90.3	15.28
10.90	4-83	93.8	93.24	15.11
13.40	4-83	97.1	97.13	15.12
13.75	9-83	96.28	97.12	15.19
9.30	12-83	88.16	88.28	15.10
14.10	12-83	98	98.12	14.85
9.00	1-84	86.28	87.20	15.16
9.50	1-84	87.26	88.10	15.33
13.85	3-84	96.8	96.24	15.39
9.45	4-84	86.16	87.2	15.24
9.70	6-84	86.8	87.4	15.44
15.25	7-84	99.20	99.28	15.30
11.75	9-84	90.24	91.8	15.39
9.55	12-84	84.16	85.16	15.22
10.65	12-84	87.4	88.4	15.30
10.90	1-85	87.20	88.20	15.23
13.20	3-85	93	94	15.39
13.25	4-85	93.8	94.8	15.31
9.20	6-85	82.12	82.28	15.23
11.60	7-85	88.24	89.8	15.30
12.75	9-85	91	91.16	15.60
14.90	9-85	97.24	98.8	15.48
14.30	12-85	95.8	96.8	15.45
13.95	3-86	94.20	95.4	15.45
15.15	7-86	98.24	99	15.44
10.75	10-86	83.20	84.20	15.09
10.00	12-86	81.16	82.16	14.85
12.65	4-88	89.24	90.24	14.86
11.70	7-88	86.12	87.12	14.65
13.05	1-89	91.20	92.20	14.71
7.75	9-89	68.4	69.20	14.17
10.60	10-89	81.20	83.4	14.12
10.95	1-90	83	84.16	14.14
10.40	7-90	80.16	81.16	14.09
14.10	4-91	95.24	96.24	14.73
9.10	7-91	72.16	74	14.01
14.70	7-91	98.16	98.24	14.94

FIC BANK DEBS.

Rate	Mat	Bid	Asked	Yld
7.00	4-82	93.30	94.6	16.39
7.95	4-86	77.20	78.20	14.38
6.95	1-87	71.24	72.24	14.33

FEDERAL HOME LOAN BANK

Rate	Mat	Bid	Asked	Yld
7.05	8-81	99	99.4	18.33
12.30	8-81	99.16	99.20	16.50
12.85	10-81	98.29	99.1	16.43
8.65	11-81	97.6	97.14	16.71
6.60	11-81	96.20	96.28	16.38
15.80	11-81	99.18	99.22	16.36
7.95	2-82	95.4	95.12	16.68
8.63	2-82	95.14	95.22	16.76
11.90	3-82	96.28	97.4	16.60
17.05	4-82	100.4	100.8	16.51
7.45	5-82	92.30	93.10	16.40
9.15	5-82	94.6	94.18	16.41
14.10	6-82	98.10	98.18	15.81
9.60	7-82	93.28	94.12	15.94
15.90	7-82	99.18	99.22	16.25
11.25	8-82	95.8	95.24	15.67
13.10	8-82	97.16	97.24	15.42
11.85	10-82	95.12	95.20	15.82
8.25	11-82	90.30	91.14	15.61
14.50	1-83	98	98.8	15.86
9.00	2-83	90.24	91.8	15.45
14.80	3-83	98	98.4	16.11
7.30	5-83	86.24	87.16	15.40
11.60	5-83	93.8	93.24	15.64
13.35	7-83	96.8	96.16	15.46
9.30	8-83	88.20	89.12	15.47
12.25	8-83	93.24	94.16	15.43
14.05	10-83	97.4	97.20	15.31
7.38	11-83	83.28	84.28	15.34
9.50	11-83	87.28	88.20	15.49
15.80	1-84	99.20	99.28	15.76
11.75	2-84	92	92.16	15.37
9.05	2-84	85.24	86.24	15.46
9.85	3-85	87.12	88.4	15.44
7.75	5-84	82.12	83.12	15.19
8.75	5-84	84.16	85.16	15.24
11.00	5-84	89.22	90.18	15.21
14.00	6-84	96	96.16	15.52
15.55	7-84	99.18	99.26	15.63
7.85	8-84	80.16	81.16	15.64
13.85	9-84	95.12	95.28	15.53
7.38	11-84	78.24	79.24	15.36
7.38	2-85	77.24	78.24	15.31
10.80	3-85	87	87.16	15.38
14.55	4-85	96.24	97.4	15.57
8.13	5-85	78.16	79.16	15.39
12.80	7-85	91.28	92.12	15.43
9.35	8-85	81.12	82.12	15.31
8.10	11-85	77.4	78.4	15.17
13.85	1-86	94.20	95.20	15.23
9.55	2-86	82.4	83.4	14.74
15.50	5-86	99.20	100.4	15.44
15.35	7-86	99.10	99.18	15.48
11.30	11-86	86.24	87.24	14.68
10.45	2-87	83.20	84.20	14.57
11.10	3-87	85.24	86.24	14.61
7.65	5-87	72.22	73.30	14.40
7.60	8-87	71.26	73.2	14.40
7.38	11-83	59.18	61.18	14.00
7.88	2-97	60.12	62.12	13.81

FEDERAL LAND BANK

Rate	Mat	Bid	Asked	Yld
7.45	10-81	97.20	97.24	17.37
6.65	1-82	95.3	95.15	16.87
7.80	1-82	95.20	96	16.82
6.90	4-82	93.13	93.28	16.25
8.15	4-82	94.1	94.13	16.56
8.70	7-82	93.4	93.20	15.99
7.30	10-82	90.14	90.30	15.67
8.00	10-82	90.30	91.14	15.92
7.20	1-83	88.26	89.10	15.57
8.20	1-83	90.4	90.20	15.54
8.65	7-83	88.2	88.18	15.59
7.30	10-83	84.4	85.4	15.42
7.35	10-83	84.6	85.6	15.44
8.10	7-85	78.28	79.28	14.99
7.95	10-85	77.21	78.21	14.92
8.80	10-85	80.12	81.12	14.88
7.60	4-87	72.8	73.8	14.65
7.25	7-87	69.28	71.4	14.67
7.85	1-88	71	72.16	14.55
8.20	1-90	69.28	71.28	13.96
7.95	4-91	67.4	69.4	13.80
7.95	10-96	61.16	63.16	13.72
7.35	1-97	57.12	59.12	13.75

GNMA ISSUES

Rate	Mat	Bid	Asked	Yld
8.00	----------	62.22	63.6	14.79
9.00	----------	65.28	66.12	15.27
9.50	----------	68	68.16	15.37
10.00	----------	70.12	70.28	15.42
11.00	----------	74.16	74.24	15.71
11.50	----------	76.24	77	15.79
12.50	----------	81.30	82.6	15.78
13.00	----------	84.13	84.21	15.80
13.50	----------	86.13	86.21	15.93
14.00	----------	88.27	89.3	15.96

Mr. PROXMIRE. Mr. President, what the managers of the fund have done is absolutely atrocious.

First, they have invested in the lower yielding securities of the Treasury itself.

Second, by a law they proposed and supported they have invested in special issues which carry rates even lower than the average of regular Treasury securities.

Third, they have virtually abandoned investments in other Government-backed obligations which are entirely safe.

TRUST FUND SUBSIDIZES GENERAL REVENUES

There has been a great deal of talk recently about how the social security trust funds might have to be subsidized by general revenues. The harsh facts are that at this time the general revenues are subsidized by money from the social security trust funds. That is a fact.

If you ask them about it, the Treasury managers of the social security trust funds will tell you they have to consider the interests of the Government as well as the interests of the social security trust funds.

If the trust managers of a local bank managing your family trust funds justified getting an average interest rate on your family trust funds of only half to 60 percent of the amount which any intelligent manager of the fund could have received on the grounds that they had to consider the interest of the bank as well as your interests, you would both fire them and sue them for misfeasance, malfeasance, and conflicts of interest. If you did not, you would be letting them victimize you and robbing you of about half the return that you would get. But this is precisely the argument the managers of the social security trust funds used to justify their actions. The policy is wrong, wrong, wrong, and we must change it.

Finally, according to some of the day-to-day managers of the funds who have spoken to members of my staff, they are not equipped technologically to move in and out of the Government security markets to take advantage of the rates which are available or which private fund managers actually get.

Imagine that, Mr. President. They are not equipped to handle a $47 billion fund.

Mr. President, these people invest billions of dollars every day, and they will not spend a few thousand dollars, at the most, to get the kind of equipment they need and the kind of experts they need to invest that money wisely.

They can save billions of dollars by spending a few thousand dollars, which would be done by the snap of a finger in the private sector. It should be done here.

As I say, these people invest billions of dollars every day and they will not spend a few thousand dollars at the most to get the kind of equipment they need and the kind of experts they need to invest that money wisely.

REFORM BILL

The bill we are introducing today addresses each of these problems.

By enlarging the board of trustees to include four public members we make certain that the Treasury no longer continues to run the funds in their interest rather than in the interest of the social security system. If they try that the public members would have a majority of the votes.

By charging all seven trustees with the duty to maximize the return to the social security funds we should get away from the essentially sweetheart system that now exists with the funds invested to help the Treasury rather than securing the best possible return for the social security trust funds.

If special issues are to be continued, they must meet the test of maximizing the return to the funds.

Finally, instead of buying special issues and sitting on them for 15 years, the trustees must now gear themselves up both technologically and with expertise to go in and out of the markets regularly in order to maximize the return to the social security system.

Mr. President, any number of things may have to be done to insure the future of the social security system. But first of all, the trustees must act as trustees, be divorced from their conflicts of interests, and put the interests of the trust funds before the interests of the Treasury or any other group.

This bill would help to do that and will bring in several billions of dollars a year more than would otherwise be the case.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 201(c) of the Social Security Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by striking out "in paragraph (2) above" and inserting in lieu thereof "in subparagraph (B)";

(4) by striking out "the Secretary of Health, Education, and Welfare, all ex officio" and inserting in lieu thereof "the Secretary of Health and Human Services, all ex officio, and four individuals appointed by the President, by and with the advice and consent of the Senate, in accordance with paragraph (2)"; and

(5) by adding at the end thereof the following new paragraph:

"(2)(A) The President shall appoint, by and with the advice and consent of the Senate, four individuals to be members of the Board of Trustees for terms of four years, begininng in 1982. The four individuals shall be—

"(i) one representative of employers;

"(ii) one representative of employees;

"(iii) one representative of individuals receiving benefits under this title; and

"(iv) one individual who is highly qualified in the field of management of investment funds.

"(B) Vacancies occurring on the Board of Trustees shall be filled in the same manner as original appointments, and any individual so appointed shall serve out the unexpired term of his predecessor.

"(C) Each member of the Board of Trustees who is not a full-time employee of the Federal Government shall be entitled to per diem compensation at rates fixed by the President, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Board, and all members of the Board of Trustees shall be allowed, while away from their homes or regular places of business in the performance of service for the Board, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.".

(b) Section 201(d) of such Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "It shall be the duty of the Board of Trustees to invest such portion of the Trust Funds as is not, in its judgment, required to meet current withdrawals, and such investments shall be made so as to secure the maximum possible interest yield, commensurate with the safety of the Trust Funds.";

(2) by inserting immediately after "then forming a part of the public debt" the following: ", all marketable interest bearing obligations which are not obligations of the United States but which are guaranteed as to both principal and interest by the United States, and all marketable federally sponsored agency interest-bearing obligations that are designated in the laws authorizing their issuance as lawful investments for fiduciary and trust funds under the control and authority of the United States or any officer of the United States".

(3) by striking out "which are not due or callable until after the expiration of four years from the end of such calendar month"; and

(4) by adding at the end thereof the following new sentence: "The Managing Trustee shall secure such equipment and enlist the services of such experts as may be necessary for the purpose of allowing the Board to make investments which will secure the maximum possible interest yield.".

(c) Section 1817(b) of such Act is amended by striking out "composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio" and inserting in lieu thereof "composed of the same individuals who compose the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as specified in section 201(c))".

(d) Section 1817(c) of such Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "It shall be the duty of the Board of Trustees to invest such portion of the Trust Funds as is not, in its judgment, required to meet current withdrawals, and such investments shall be made so as to secure the maximum possible interest yields, commensurate with the safety of the Trust Funds.";

(3) by striking out "which are not due or callable until after the expiration of 4 years from the end of such calendar month"; and

(4) by adding at the end thereof the following new sentence: "The Managing Trustee shall secure such equipment and

enlist the services of such experts as may be necessary for the purpose of allowing the Board to make investments which will secure the maximum possible interest yield.".

(e) Section 1841(b) of such Act is amended by striking out "composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio" and inserting in lieu thereof "composed of the same individuals who compose the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as specified in section 201(c))".

(f) Section 1841(c) of such Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "It shall be the duty of the Board of Trustees to invest such portion of the Trust Funds as is not, in its judgment, required to meet current withdrawals, and such investments shall be made so as to secure the maximum possible interest yield, commensurate with the safety of the Trust Funds.";

(2) by inserting immediately after "then forming a part of the public debt" the following: ", all marketable interest bearing obligations which are not obligations of the United States but which are guaranteed as to both principal and interest by the United States, and all marketable federally sponsored agency interest-bearing obligations that are designated in the laws authorizing their issuance as lawful investments for fiduciary and trust funds under the control and authority of the United States or any officer of the United States".

(3) by striking out "which are not due or callable until after the expiration of 4 years from the end of such calendar month"; and

(4) by adding at the end thereof the following new sentence: "The Managing Trustee shall secure such equipment and enlist the services of such experts as may be necessary for the purpose of allowing the Board to make investments which will secure the maximum possible interest yield.".

● Mr. PRYOR. Mr. President, today I am proud to join in sponsoring legislation which has been introduced by the distinguished Senator from Wisconsin which will make some desperately needed changes in the way in which the social security OASI, DI and HI trust funds are invested in order to maximize returns.

We are all aware of the need to act to insure the short- and long-term stability of the social security system. With the recent unveiling of the Reagan proposals for social security reform and the ensuing flurry of news articles and television programs, the public has been finally alerted to the critical aspects of that need to act. Indeed, the public concern has risen to crisis proportions as citizens throughout these United States try to sort out the facts on the future of this major retirement security program.

The recent release of the annual report of the board of trustees of the social security trust funds has added fuel to the fire of concern over this most important issue. We were once again told that nothing less than dramatic reductions in benefits to current recipients or an increase in the social security payroll tax would serve to bail out this so-claimed sinking system.

However, Mr. President, as my distinguished colleague, Senator PROXMIRE, has pointed out, with the release of the trustees' report came another shocking revelation about the trust funds: The trustees continue to invest the OASI, DI and HI trust funds at extremely low rates of return.

Combined earnings of the social security system in 1980 yielded 8.3 percent. The OASI fund earned 8.3 percent, the DI fund 8.8 percent, and the HI fund earned 8.2 percent.

It is true, Mr. President, that there are certain restrictions placed on the investment of these funds. They must be invested solely in Government or Government-backed securities. But it must be noted that these funds could have been invested more efficiently in 1980 and earned a return rate of as much as 13.5 percent.

Mr. President, no wonder we hear criticism from people about the money they are paying into social security through payroll taxes. I would complain too when I saw that this money was drawing approximately 5 percent less interest than it would if properly invested.

We are truly abusing the public trust by employing such sloppy investment practices. For these reasons I am joining with the Senator from Wisconsin in sponsoring S. 1528. The major provisions of this bill include the addition of four public members to the board of trustees which would represent employers, employees, and beneficiaries, in addition to a knowledgeable investment counselor. In addition, the bill would require all trustees to maximize the returns on invested funds.

I am aware that these changes by themselves will not solve our social security ills, but they can be instituted quickly, easily, and without cost. This bill is a commonsense, responsible beginning in our efforts to insure the future stability of the social security trust fund.●

THE FIRST STEP

Mr. PROXMIRE. Mr. President. we all agree that murder is a crime. Each of us, in our minds and in our hearts, knows that the mass murder or destruction of a group of people is a crime of atrocious proportions.

Genocide, the deliberate destruction of a group of people based on racial, religious, ethnic, or national identity, both deserves and has received international recognition as a heinous crime.

We all agree, in our hearts, that genocide should not happen. We would all like to think that it has never existed, but we cannot. The evidence of the holocaust cannot be ignored.

We would all like to think that genocide never will exist. But we cannot. We are not assured of freedom from this colossal crime.

The need for laws that would regulate, deter, and punish this crime is clear. Some critics claim that the Genocide Convention would supersede existing State and Federal laws. Those critics are simply incorrect.

Instead, ratification of the Genocide Convention by the United States would not make anyone subject to a lawsuit in our courts; it would not change present law; it would not alter the authority of the States and of this Congress to pass laws in their constitutional jurisdictions.

When we ratify this treaty—and I say when we ratify, not if we ratify, because I believe that we will ratify it—we will make it possible for the real debate to begin on this issue. After ratifying the genocide treaty, this Congress can finally begin to consider the major issues related to implementation of the treaty.

Many of the common objections to the Genocide Convention have been misdirected. They have been aimed at the treaty itself instead of being brought out for debate about what legislation to enact to carry out the principles which the treaty embodies.

That debate is the second step for us in our efforts to stop genocide. The first step is to reach an agreement on principles. The Genocide Convention represents such an agreement. The treaty's provisions are acceptable to 87 nations besides the United States. Obviously, they were acceptable to President Truman, and every President since President Truman and every Secretary of State since President Truman, and the American Bar Association and every religious group.

We should act quickly on this Genocide Convention. Right now, in this Congress, let us take that crucial first step toward outlawing genocide. Let us ratify the Genocide Convention.

Mr. THURMOND. Mr. President, will the distinguished Senator from Wisconsin yield me 3 minutes?

Mr. PROXMIRE. Whatever time I have left I am delighted to yield to the distinguished Senator from South Carolina.

CENTRAL INTELLIGENCE AGENCY DIRECTOR WILLIAM CASEY

Mr. THURMOND. Mr. President, over the past few days, I have become increasingly distressed at the tone and tenor of recent public statements concerning the Director of the Central Intelligence Agency, William Casey.

Although I do not serve on the Committee on Intelligence and do not know the facts or the pros and cons regarding the allegations against Mr. Casey, I feel strongly that Members of the Senate might well reserve judgment until a clear picture emerges. Certainly we are not at that stage now. In my judgment, it is highly improper to castigate or to seek to destroy the character of anyone through accusation and innuendo at a point when all the facts are clearly not known.

Accordingly, I shall reserve final judgment; however, I have known Mr. Casey for some time and have always found him to be a man of fine reputation and excellent character. I shall not change that opinion of him until I am shown clear evidence of wrongdoing that has

much more substance than vague accusations concerning business activities more than a decade past.

On the other hand, I was amazed to learn of leaks of classified information which have recently occurred in apparent connection with the Casey investigation.

Regardless of motive, the unauthorized disclosure of classified information shows a cavalier and possible criminal disregard for American foreign policy and American national security and should not be tolerated. Appropriate committees of Congress and agencies of the executive branch, particularly the FBI, should investigate the extent to which classified information may have been leaked and determine who is responsible and whether the law has been violated. If there has been a violation of law, then those responsible should be prosecuted to the full extent of it.

Mr. President, I ask unanimous consent that there be printed in the RECORD, following my remarks, a copy of the July 28, 1981, Wall Street Journal editorial entitled "Beyond Mr. Casey."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BEYOND MR. CASEY

The mystery about the controversy engulfing CIA Director William Casey has been that it involves a company that was formed in 1968 and went bankrupt in 1971, and known to be a subject of litigation when Mr. Casey was confirmed not only for his present job but for several previous appointments. If the lawsuit wasn't a big issue then, why is it now?

The mystery is dispelled by the new revelation that several Congressmen have written a letter to the President protesting Mr. Casey's plans for a covert operation. So the underlying battle is not about a decade-old bankruptcy. It is about whether the Reagan administration runs U.S. foreign policy.

The precise details of the covert-operations issue will probably never be known; a White House spokesman confirmed the existence of the letter but denies that it concerned Libya, as reported by Newsweek magazine. Newsweek's plausible-sounding report is that the CIA planned a campaign of propaganda, the formation of a counter-government and paramilitary action with the "ultimate" purpose of removing Libyan dictator Moammar Khadafy. It added that some congressional intelligence committee members read this as a code word for assassination.

Now, trying to overthrow a foreign government is not the kind of thing you rush into overnight, and quite possibly the particular plans were harebrained. On the other hand, we think it entirely appropriate that the CIA be exploring the possibility of a coup in Libya, and be willing to lend a hand when practical. And we expect that even the most careful plans to this effect would be undermined by a covert campaign within the U.S. government.

When Mr. Casey arrived at the CIA, for instance, one of his first problems was a revolt over his request for a second report on Soviet complicity in terrorism, promptly leaked to the press as evidence he was introducing politics to corrupt impeccably objective analysis absolving the Soviets. Too bad some politician wasn't around to ask for another report during all these years when CIA analysts missed the huge Soviet missile build-up that now threatens the land-based part of our strategic deterrent.

Any hint of personal scandal is obviously highly useful to those within the agency and on the Hill who oppose U.S. covert action and a hard line toward the Soviets. It must be said, of course, that they have been given plenty of ammunition—in the misguided appointment and subsequent resignation of Max Hugel as CIA operations head, in some recent rulings in the bankruptcy litigation, and in the interaction between Mr. Casey and some in Congress. Thus opposition has spread beyond the doves to the likes of Senator Barry Goldwater.

If the administration had understood the kind of battle it was entering, clearly it would not have appointed someone of Mr. Casey's background to this exceptionally sensitive post. The new-venture world in which he has moved is the very essence of capitalism at work, but this is often a messy process. Few new ventures become the next Polaroid or Xerox, and many collapse into a heap of bad feeling and litigation. We expect that in the end Mr. Casey will be found to have done little wrong, but clearly there is enough in the record to sustain months of damaging investigation.

If at some point Mr. Casey decides to step aside for the good of the agency and the administration, it will be vastly important to preserve the administration's foreign policy options and its ability to forge the kind of intelligence service it wants. The policy-oriented parts of the campaign against him should not be rewarded, and this consideration should weigh heavily in the choice of a successor.

The first qualification of any new CIA head should be an established record as a supporter of the kind of foreign policy change Mr. Reagan offered in his presidential campaign. He should of course also have general toughness and solid technical credentials, particularly experience in wrestling with foreign affairs and national security bureaucracies. He certainly should have a clean personal record, and it would be helpful if he had some experience in dealing with the politics of scandal. A long shopping list, but not one that should prove impossible.

If Mr. Casey does go, the administration is not likely to control its foreign policy fully if it merely turns the CIA over to the intelligence professionals, no matter how qualified technically or personally. And as for improving Mr. Casey's chances of staying, we suspect no explanations of his investments would do as much as Mr. Reagan's making clear here and now that any successor, if from a different background, would be just as much a political and policy loyalist.

RECOGNITION OF SENATOR HUDDLESTON

The PRESIDING OFFICER (Mr. ABDNOR). Under the previous order, the Senator from Kentucky is recognized for not to exceed 15 minutes.

OUR REFUGEE RESETTLEMENT PROGRAM IN SOUTHEAST ASIA

Mr. HUDDLESTON. Mr. President, last week I introduced Senate Resolution 191 which would express the sense of the Senate that this country's refugee resettlement program in Southeast Asia should be investigated immediately to ascertain whether the program is now being carried out in accordance with its original intent and with the provisions of the Refugee Act of 1980.

Senators ZORINSKY and JOHNSTON have joined me in this effort. Mr. President, we have not offered this initiative lightly or without cause.

I have been studying this issue for years and I have come into possession of a number of communications between officials of the U.S. State Department, the Justice Department, and the Immigration and Naturalization Service which relate to the implementation of our program in Southeast Asia.

I believe that these documents and the information I have received proves conclusively that our Indochina refugee program is in violation of our immigration laws.

Senate Resolution 191 has been referred to the Foreign Relations Committee and I am turning over this information to the committee for its use in considering the resolution, provided the confidentiality of the source is protected. I am also making this information available to the Subcommittee of the Judiciary Committee which is now considering our immigration and refugee policy under the able chairmanship of the Senator from Wyoming (Mr. SIMPSON).

Mr. President, among the things indicated by this correspondence are:

Serious concerns expressed by officials of the INS that the program is not now operating as originally intended nor in compliance with the Refugee Act of 1980.

That the State Department has bullied the Attorney General into a ruling contrary to the law that has resulted in a directive to the INS to ignore the legal definition of "refugee" in processing migrants from Vietnam, Laos, and Cambodia for resettlement purposes.

That officials of some countries involved in the resettlement programs and of the United Nations have serious reservations about U.S. refugee policies.

These officials also believe that our liberal, open-ended resettlement program is actually attracting migrants and increasing the flow of refugees from Southeast Asia.

That a U.S. ambassador vehemently prevailed on the State Department and on INS to automatically accept over 30,000 Khmer as refugees for resettlement in the northeast part of the United States. This was done even though most did not meet the definition of "refugee" and the action was opposed by the United Nations High Commissioner for Refugees, the Thai Government and originally by the State Department.

That over 70 percent of the persons arriving at some reception centers are economic immigrants who do not qualify as refugees under our law.

That many residents of some countries in the area are lured into the refugee camps in Thailand by the promise of food and then enticed into the resettlement program by voluntary agencies and State Department personnel.

That many are apparently coached on how to answer INS questions in order to enhance their prospects for acceptance by the United States.

That in their zeal to fill refugee quotas a person was presented to INS for refugee status even though that person had left his country unwittingly because he was on a boat that was stolen and had from the beginning asked to be returned to Vietnam.

Mr. President, it is clear that the mania of the U.S. State Department for filling the quota of 14,000 Indochina refugees per month for resettlement in this country has overridden the intent of Congress as expressed in the Refugee Act of 1980 and the wishes of the American people.

It is also clear that our current policies are contributing to the migration problems in Southeast Asia and not to their solution.

I would like to quote an experienced INS official who has long dealt with the Southeast Asia program who said the following:

An unregulated open-ended policy to continue to accept applicants at 14,000 a month is an invitation which is irresistible and will encourage persons to depart these countries for some time to come. In accepting the applicant as a refugee we are treating the symptom which does not disappear. It is time that we look for a cure. A partial remedy is the statute itself—the definition of refugee and that requirement that the refugee be of special humanitarian concern to the U.S.

Mr. President, I think it is appropriate to remember that while most domestic programs are being severely cut as we strive to balance the Federal budget, this State Department inspired refugee recruitment programs, with its tremendous cost to the taxpayer, continues unabated.

The Indochinese refugee program alone has cost U.S. taxpayers approximately $2 billion since its inception. However, this particular program is only the tip of the iceberg. In fiscal year 1980 alone, the United States spent $2 billion for all our refugee assistance efforts and this type of expenditure is expected to increase to at least $2.5 billion in fiscal year 1981.

Mr. President, with all of us awaiting the much delayed announcement of the new administration's immigration policy, it is important that we reassess our current programs. For that reason, I hope that Senate Resolution 191 will receive prompt attention in the committee and will be available for floor action in the near future.

While we can continue to be the most generous country in the world in accepting and assisting bona fide refugees, we can no longer afford an unlimited program which is self-perpetuating.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR HAYAKAWA

The PRESIDING OFFICER. Under the previous order, the Senator from California (Mr. HAYAKAWA) is recognized for not to exceed 15 minutes.

OUR MISSING AMERICANS

Mr. HAYAKAWA. Mr. President, Friday, July 17, was National POW-MIA Recognition Day, dedicated to all former American prisoners of war, those still missing, and their families. The National League of Families of American Prisoners and Missing in Southeast Asia held their 12th annual meeting in Washington in conjunction with this day of recognition. At that time, the families were awaiting word on the identification of the remains of three Americans who were listed as missing in action from the Vietnam war. Last week, the long wait for the families of Comdr. Ronald Dodge, Capt. Steve Musselman, and Lt. Richard Van Dyke was ended. Members of the League of Families expressed a profound sense of sympathy for the families of these three men, but also shared in their relief of finally knowing the fate of their loved ones.

Certainly, the return of the remains of our three Americans to U.S. soil was welcomed but it demands an explanation from the Vietnamese. You see, Mr. President, two of these three men were known to have been alive when they were captured. How did they die? When did they die? And where did they die? Hanoi knows, but will not tell us.

Mr. President, 2,459 Americans remain missing and unaccounted for and it has been 8 years since the Vietnam war was declared over. For many years, our Government did not appear to be persistent in their efforts to get a full accounting from Hanoi on the fate of these men. But the time has come to settle this once and for all, particularly in view of the numerous reported sightings of live Americans in captivity throughout Southeast Asia. There have been over 500 of these sightings.

Mr. President, the Reagan administration has indicated that this matter is of the highest priority and I truly hope that they will, indeed, live up to their commitment "to retrieve any U.S. military man, whether alive or dead."

But we in Congress as well as the administration must continue to press the governments in Hanoi and Vientiane for the return of our men. I plan to address this issue when I am in Vientiane during the August recess and several of our colleagues on the House side have asked that I express their concerns also.

Today, however, I would like to pay tribute to one individual who has been greatly responsible for the increased attention that has been given to this issue. This afternoon, I shall be presenting an award I established a few years ago to honor Californians who have made an outstanding contribution to both the State and in many instances the Nation, the Tam of the Month Award, to Ann Mills Griffiths.

Anyone who is familiar with the ongoing efforts to get a full accounting of our missing Americans knows Ann. She is a resident of Bakersfield, Calif., but is temporarily residing in Washington while serving as executive director of the National League of Families. To insure that this issue receives the attention it so rightly deserves, she has waded in with both feet, many times to the dismay of Government officials and, I daresay, to some of us in Congress. But there is another side of Ann of which many of us are not aware. Last week, Janis Dodge was making arrangements for the burial of her husband, Comdr. Ronald Dodge, and Ann was by her side giving advice and comfort.

Now, one might ask why Ann has literally filled both her days and nights with this mission. The answer is simple, Mr. President. Her brother, Navy Comdr. Jim Mills, was shot down in Vietnam on September 21, 1966. And she, too, just wants to know.

I thank the Chair.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. HAYAKAWA. Yes, Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 5 minutes, with statements therein limited to 1 minute each.

THE REAGAN DEFENSE BUDGET

Mr. HOLLINGS. Mr. President, the July 12 edition of the Washington Post contained an article by George Wilson stating that the Pentagon's 1983 budget request could run as much as $10 billion higher than previously projected by the administration. This estimate was acknowledged in an interview with Deputy Secretary of Defense Frank Carlucci. An internal DOD memorandum cited Mr. Wilson further stated that 9 percent real growth in defense appropriations rather than the 7 percent growth planned by the administration would be needed to "buy" the defense program planned by President Reagan. These increases provide a dilemma to the President, who already has to find $74 billion more in cuts to reach a balanced budget in 1984. We all recognize how difficult that process will be.

Let me say at the outset that I commend the Reagan administration's determination to rebuild our military strength and our international credibility. But a determination is not a plan, and to overcome the defense lapses of a decade requires planning and discipline of the most arduous kind. As of today, I have not seen the kind of thoroughgoing planning that we must have if we are to turn our national security problems around.

I confronted this problem in March prior to the markup of the first budget resolution for fiscal year 1982. At that time, I wrote to the military service secretaries and asked to see the 5-year programs of each service. You see, Mr. President, I wanted to make sure that the programs and funds were there that we needed to really improve—and I mean rapidly—our national security position vis-a-vis the Soviets. Well, I received re-

plies from the Army, Navy, and Air Force that indicated they did not have 5-year programs. So, next I asked the same question of Secretary of Defense Weinberger. His reply was similar. He essentially said: "Senator, I don't have a program. It's too soon to have one." Now Mr. President, I found that to be a bit unusual. I appreciate the extent of the task, but history shows that other recent Presidents, such as Jerry Ford and Jimmy Carter, never had problems giving the Congress details of their programs by mid-March.

What compounded the unusual situation surrounding Secretary Weinberger's plea of no program was that the Congress had in its possession 5-year defense budget totals provided by President Reagan. When I asked the Secretary how these 5-year budget totals had been developed if no program detail existed, I was told that they represented overall budget goals. They were an outline and the detailed programs would be following along whenever DOD got its act together.

I then went to the OMB and asked how it had put together the overall defense budget numbers. The OMB's answer was straightforward. It said the numbers were based on program information supplied by the DOD. Naturally, this was denied by the DOD.

Mr. President, the only conclusion can be that this administration is uncertain about where it is going on defense policy. Not only does it lack plans for implementing the programs, but it is unclear as to the program priorities. We are told of all the many programs DOD would like to buy. So Congress inevitably comes face-to-face with the fundamental question—can we afford all of the programs that the President and DOD have said are necessary to make significant improvements in our Armed Forces?

I believe the answer is resoundingly "no" if we assume adoption of the President's economic and tax program and when consideration is given to the flawed estimates of the administration concerning inflation in the defense business and to the uncontrolled management and spending practices of the DOD.

The President projects roughly $1.5 trillion for the defense budget over the 1982–86 period. These projections could be up to $150 billion understated if deflators less optimistic than the Reaganomic deflators are used for defense. if the across-the-board pay concepts of Secretary Weinberger are enacted. if the many programs on the gigantic DOD wish-list are pursued, and if the DOD cannot begin to curb the excessive cost growth problems burdening its entire acquisition process.

Mr. President, the guts of the President's and Dave Stockman's economic program is aimed at balancing the Federal budget by 1984. There is no way that can be accomplished with the administration's tax program that reduces the revenue levels of the Government by over $250 billion during the 1982–84 period—while at the same time we are engaged in the absolutely vital job of building up our Nation's defenses. I have had my say elsewhere about the unreasonableness of the tax program of the Reagan administration. I will not repeat those criticisms here.

Let us instead look at the problems ahead for the defense budget. President Reagan projected in March that fiscal year 1982–86 defense spending totals would be about $1.5 trillion. This projection was based on the most optimistic deflators found in America. No one on the Hill believed them. No one in the defense industry believed them. Indeed, I could find no one in the administration who could defend them—at least with a straight face. Certainly no one in the Pentagon believed them. In contrast to these projections, the CBO estimated the Reagan budget would amount to about $1.625 trillion—or $125 million over the Reagan totals.

These CBO projections in March were based on defense deflators much in line with other inflation projections by the Nation's top economists. The CBO will soon be revising its defense deflators and they will be lower than previously projected due greatly to cheaper oil on the world market. However, the CBO projections should still be well over the administration's.

But the problem under either the Reagan totals or those of the CBO—which are merely reestimates of the Reagan totals—is that no certainty exists that real defense needs can be met. The presentations provided to the Congress by administration spokesmen have thus far been woefully short on discussing defense details. The administration has talked about strategic force enhancements such as new bombers, the MX missile, the Trident system. It has spoken of a 600 to 700 ship Navy. It urges the modernization of our Army and the development of a rapid deployment force. Secretary Weinberger talks about improvement in pay and bonuses to attract and retain military personnel.

These may all be worthwhile objectives and I may support them all. But there are also other defense needs that the administration has neglected to address. Ultimately, we will need a ballistic missile defense (BMD) capability to defend our ICBM force. It is an unpleasant topic for many to discuss—but if we are to maximize our survivable ICBM force at the minimal cost—we must move toward BMD. Certainly the Soviets are doing so. The facilities needed to develop tritium and plutonium for our nuclear weapons capability require modernization. New additional facilities are also required. These actions must be started now if we are to have warheads available for the strategic and tactical weapons envisioned over the next 15 years. The administration also fails to address the need for the draft, even as it prepares for expanding the Army by up to 200,000 personnel. The Army knows it cannot meet this expanded manning requirement by the All-Volunteer-Force alone. There must be a draft, but the administration denies it. And everytime the Congress talks about restoring a GI bill to reward our military personnel for their service, we get the same old refrain: "Let us study it some more."

These are serious national security problems requiring the most careful attention if indeed we are to restore America's military power. I might add that no administration since Vietnam has recognized our true defense needs. But this administration was elected on the basis that there would be a turnaround in defense. The American public and our allies are watching to see if we are up to the task. I am watching to see if we can pay for it all. The things I have discussed represent add-ons to the defense program. If we are to afford them, we need to know what programs must be eliminated or reduced in scope. I do not mean stretched out, which only costs more money. The priorities in our defense program must be explained to the Congress. We need to understand missions and how the priorities are adapted to the missions. We can afford our defense needs only if there is program and personnel policy direction. And, we must learn to say "no" to the Defense Department when the situation compels it. It is sad to me, and it must be sad to everyone who shares the goal of getting on with the job, to realize that the necessary details and program justifications are not coming from the administration.

I see the same history being replayed with this Congress that other Congresses have had to endure. The tragedy is that now we have a Congress more of a mind to get the job done. Another cycle of the sad old story—of just hiding your problems until the sunk costs are so high that the only option available is to continue to buy the program—could be fatal.

The bottom line is that if the Pentagon does not master the art of controlling costs, it will not master the rebuildings of America's defenses to the state of readiness and credibility they must have in these dangerous times.

The best examples of the lack of program discipline surface with the quarterly submission of the selected acquisition reports (SAR's) by the DOD to the Congress. These reports of program management within the DOD are becoming intolerable and, if the Department of Defense cannot stop the situation, the Congress must. At a time when the DOD budget is safe from the extensive budget cutting being experienced in other areas of spending, credibility in presenting the defense program should be of the highest priority. It is not.

The March 31, 1981 SAR report on 47 major defense programs indicates that their cost estimates have risen from original estimates of $135.7 billion to a current estimate of $327.6 billion. This current estimate total is based on CBO inflators. That represents costs growth of $191.6 billion on these systems. Sixty-five billion dollars of this growth—or one-third of the amount—has occurred during the past 6 months alone—$47.6 billion from September 1980 to December 1980 and $17.4 billion from December 1980 to March 1981. The message is clear. The DOD is not getting better—it is moving backward.

Instead of recognizing the problem and moving to solve it, however, the ad-

ministration would not own up to these estimates. The DOD is being forced by the Dave Stockman gang at OMB to use inflation assumptions totally different from internal DOD calculations. If you believe the administration's estimates of the December 1980–March 1981 quarter, there was no cost growth. Rather the estimated costs of the SAR programs were reduced by $3.9 billion. So there is a $21.3 billion difference between the CBO and the administration for the December–March period.

Mr. President, I ask unanimous consent that a table showing SAR program costs totals for each military department, including cost growth totals by the DOD and totals that use CBO inflation assumptions for the December 1980 and March 1981 SAR's be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—SAR PROGRAMS

[In billions of dollars]

	Administration estimates						CBO estimates		
	Original estimate	December 1980 estimate	Total growth	Growth, September 1980–December 1980	March 1981 estimate	Growth, December 1980–March 1981	March 1981 estimate with CBO inflators	Growth December 1980–March 1981 with CBO inflators	Growth December 1980–March 1981 CBO over Reagan
Army	31.1	74.3	43.2	16.0	74.2	−0.1	80.2	5.9	6.0
Navy	71.8	165.4	93.6	23.5	161.6	−3.8	173.8	8.4	12.2
Air Force	32.8	70.5	37.7	8.0	70.5		73.6	3.0	3.0
Total	135.7	310.2	+174.5	+47.6	306.3	−3.9	327.6	+17.4	+21.3

Note: Figures may not add due to rounding.

Mr. HOLLINGS. Mr. President, this table shows only the program cost summary by each service. I have looked further at the procurement unit costs of selected programs included in the SAR's. My interest in the procurement unit cost stems from the Nunn amendment—which I cosponsored—to the 1982 procurement authorization bill which the Senate passed on May 14 of this year. Basically, the Nunn amendment requires that unit costs be established by DOD managers for their programs and, if these unit costs experience growth of 15 percent on an R. & D. program and 10 percent on a procurement program, then the DOD will report the increase to the Congress. Further, the DOD will report who is responsible for the increase, how it will be rectified, and no expenditure of funds could occur for up to 30 days on the program until the report is submitted to the Congress. This must be a marvelous idea, because it is giving DOD officials the fits.

Of course, a determined administration can find a way to obfuscate the issue. It can declare a glowing economy and thereby produce a reduction in costs such as shown in its version of the March SAR's. But let us look at unit costs calculated by the administration and those same costs using CBO inflators. There is an entirely different picture. I ask unanimous consent that this table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—SAR PROGRAMS—PROCUREMENT UNIT COSTS

[Millions of dollars]

	Administration estimates			Estimate with CBO inflators, March 1981
	Development estimate [1]	December 1980	March 1981	
Army:				
CH-47	4.1	6.9	6.7	8.3
Blackhawk	1.7	5.5	6.2	7.3
FVS	.2	1.7	1.5	1.7
M-1	1.3	2.5	2.5	2.7
Patriot	17.0	60 1	61.2	63.1
AH-64	5.3	10.2	9.0	10.6
Navy:				
F-14	11.2	21.1	20.8	21.2
F-18	13.7	26.0	24.1	28.6
P-3C	10.5	26.8	25.5	28.5
Lamps MK III	10.8	23.0	22.1	24.0
Trident sub	600.0	1,200.0	1,100 0	1,200.0
SSN-688	180.0	332.0	329.0	332.0
Navy—continued				
CG-47	880.0	1,100.0	1,100.0	1,200.0
Tomahawk	1.4	3.1	2.9	3.0
Trident missile	7.1	12.7	12.1	13.3
FFG-7	64.6	190.6	201.9	204.0
Air Force:				
F-15	7.7	16.6	17.2	17.4
F-16	8.3	15.0	13.9	15.3
ALCM	1.0	1.4	1.3	1.3
GLCM	2.0	4.0	4.3	4.5
DCS III	61.8	81.2	75.5	77.3
NavStar	40.0	40.0	36.9	39.3
IR Maverick	.05	.07	.07	.07

[1] The development estimate represents the projected procurement unit cost for each program at the time the full-scale engineering development decision was made for the program.

Mr. HOLLINGS. Mr. President, what this table shows is that the costs for most of our major programs keep increasing—many at an alarming rate. If the Nunn amendment had been in effect earlier this year, many programs would not be spending funds at this time. They would instead be trying to explain what in the world is going on. Now, of course I realize that the standard answer from the DOD is inflation. In their view, it is uncontrollable. But that is precisely the point I want to make. I contend that if you do not use reasonable inflation estimates either when you start a program or when it is underway—if you purposely "buy in" with knowingly low inflation rates—then reality will eventually hit you and we all get hurt—DOD and its credibility, the supporters of bigger defense budgets on the Hill, and the hard-pressed taxpayer who is called upon to pay the bills.

The cost situation of the major programs of the DOD could actually be worse than shown on the two tables I have inserted in the RECORD. There are four major programs in the Air Force alone not being reported with the SAR's. These are the new manned bomber—for which $2.1 billion in procurement is requested in 1982—the MX, and the C–141 and C–5 modifications. The initial costs on these programs are enormous and if the historic pattern of subsequent cost growth ensues, the budgetary impact will be huge and adverse. I think the Congress is neglecting its responsibilities for oversight by not demanding that SAR reporting commence on these four programs. I would hope the chairmen of the Appropriations and Armed Services Committees would act promptly to require reports on the four.

The SAR totals also do not include operations and maintenance and military personnel cost estimates. Thus, as a tool for showing total system costs, the SAR's are not useful. It occurs to me that Congress should consider a change in requirements so that a complete picture of a program's cost is available to us when the DOD budget requests for the programs are reviewed.

I noticed the other day that Secretary Weinberger was quoted as saying that inflation is down and the Presidents' defense budget levels are sound. He thought they were just right for our defense needs. I wish he would share with us how he intends to do it. What programs will be canceled? What campaign pledges will be unmet?

Mr. President, I am absolutely committed to the premise of truth-in-budgeting. I take a backseat to no one in Congress when it comes to pushing for a greater defense effort. But I want the truth shown about the real needs for

improving our defense capabilities and about what spending levels are required to get there. There are many things we need from the administration now. We need to know the recommendations on:

First. The bomber or bombers, MX, ballistic missile defense, and the strategic submarine, and missile MIX.

Second. The shipbuilding program to reach the 600 to 700 ship Navy.

Third. The modernization and expansion plans for the Army.

Fourth. The components and timeframe for manning and equipping the rapid deployment force including the CX and other mobility requirements.

Fifth. Upgrading of our nuclear weapons production capability.

Sixth. The draft.

Seventh. The GI bill.

Eighth. How to significantly improve the quality of life for service personnel, primarily enlisted men and their families.

Ninth. Defense deflators that are tied to the real world and to the contracts DOD is negotiating with its contractors—not deflators from Alice in Wonderland budgeteering.

Tenth. What current and projected defense requirements must be canceled in order to pay for real improvements in capability.

Eleventh. Identification of priorities.

Mr. President, what we need is a 5-year defense program that spells out these needs. If the DOD cannot provide this for the Congress, then the Congress should develop its own 5-year defense plans so that truth-in-budgeting for defense becomes a reality.

There is much talk in Congress about waste, fraud, and abuse in Government, and how it should be stopped. Well, I maintain that the abuse started right here in the Senate when we passed the first budget resolution and incorporated in it the tax program and economic projections of OMB. I have made that charge before and I repeat it. We know now and we did then, that the inflation projections for defense were and are wrong. They make a fraud of our defense totals. Our distinguished colleagues on the Appropriations Committee know this—the respected chairman, Senator HATFIELD, and the able Senator from Alaska, Senator STEVENS, chairman of the Defense Subcommittee—because they are on record in committee that more money is needed for defense to cover price increases over the budget request levels. So let us stop the defense budget shenanigans and abuse right now and get on with the difficult task of developing, implementing, and paying for America's defense. It cannot be done by grandstanding or political rhetoric or budgetary sleight of hand. It must instead be accomplished in an atmosphere of overall budgetary discipline. And the only way we will achieve such discipline is by working together, working with candor, and with the shared determination to learn from the mistakes of the past and chart a better road for the critical years ahead.

Mr. President. I ask unanimous consent that an article I have written on the defense budget, for the Armed Forces Journal, and the article from the Washington Post by George Wilson be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE $150-BILLION MISUNDERSTANDING

(By Senator ERNEST F. HOLLINGS)

President Reagan promises to buy and operate the military forces the US needs to meet its expanding obligations, counter the growing Soviet threat, and compensate for years of neglect in defense spending.

That's good news to one who has spent years in the Senate fighting for the right military capability and the proper defense budget levels for the United States. However, the President has underestimated the true cost of his FY82–86 defense program by over $150-billion. This hidden funding shortfall of 10 percent over his five-year budget projections is bad news all around. It will force the government to make some truly horrifying choices:

Stretch out procurement buys, putting the brakes on projected defense build-up and perpetuating the inflationary cycle of low production rates and high unit costs; and pare operations to the bone, eliminating the increases in preparedness which the Reagan program seeks;

Abandon hope of balancing the federal budget for the foreseeable future in order to meet the funding shortfall in defense, thus institutionalizing inflation;

Somehow squeeze another $30-billion a year out of federal programs for the poor, elderly, and disabled; or

Increase taxes, killing supply-side economics.

This is not a make-believe scenario. Our major allies, Britain and Germany, are agonizing over the same dilemma and are being forced by economic circumstances to cut both their social welfare programs and their defense programs.

If we cannot find a way to break this cost-spiral in defense, western security will be weaker in 1990. In short, we face a potential disaster.

I am convinced there is a better choice. But the problem won't be solved with voodoo economics which conjure away the ugly facts of inflation. The application of old fashioned, hard-nosed, managerial common sense in defense is needed. I call it supply-side defense economics.

THE REAGAN DEFENSE PROGRAM: YOU CAN'T GET THERE FROM HERE

But we talk about solutions, we must understand the problem. President Carter's last defense budget projected a six-year total of $1,474.6-billion in budget authority and $1,361.0-billion in outlays for the National Defense budget function. (The function includes the military operations of the Defense Departemnt, atomic weapons production, and miscellaneous small programs.)

President Reagan increases these six-year totals by $194.2-billion in budget authority and $118.1-billion in outlays. (The $76-billion difference in these two increases arises because a large part of the budget authority will go to weapons procurement which will be spent over a longer period than the six years.)

Under the economic assumptions of the Reagan budget, all of this increase is real. He asserts that the increase will buy approximately $200-billion more in defense goods and services than the Carter budget, measured in FY81 prices.

For example, in FY82, Reagan plans to add to the Carter budget about 300 aircraft; over 8,000 missiles, torpedoes, and artillery rounds; 287 new combat tracked vehicles; and six major ship combatants including two ship reactivations. Though program details have not been made available, one must presume similar planned hardware buys in the outyears. This is a laudable goal and should be applauded by all concerned.

The trouble is, almost two-thirds of the Reagan budget increase is likely to be eaten up by inflation. In that case, the Defense Department will be unable to pay for its planned program increases.

It seems likely that Reagan and Cap Weinberger have developed their inflation numbers from a campaign document rather than by a scientific forecast based on empirical sampling of recent price increases in defense or a close look at potential bottlenecks that go hand-in-hand with the defense acquisition process.

Inflation in the defense budget, under the Reagan/Weinberger forecast, is consistent with the exceptations of the Reagan Administration that its supply-side economic policies will reduce the inflation rate over the next five years.

Whatever the merits of a national economics policy based on the power of positive thinking, there is no reason to believe that defense prices will follow the forecast. Indeed, recent experience with prices in the defense budget raises the question whether "positive," or should I say "wishful," economic thinking works at all. The accompanying table compares forecasted with real price changes in defense purchases since FY74.

The table shows that in every year but FY76, actual inflation exceeded forecast prices by substantial amounts. This pattern is even more devastating when one considers that it shows, for each forecast, only the first year of a five-year projection. Invariably, five-year price forecasts show declining rates in future years. This means that the Defense Department has had a particularly hard time coping with the 1977–81 rising price trend, since its expectations in FY77 called for falling inflation over that period. In other words, the FY77–81 program was terribly underpriced.

Although I am no econometrician, I feel confident in forecasting that the price estimates in the Reagan defense budget constitute wishful thinking.

The Congressional Budget Office, for example, assumes that inflation on defense purchases will average about 9.6% over the next five years. This is 3.1% higher than the average annual inflation estimate for purchases in the Reagan budget. If CBO's forecast is right, the Administration has underestimated its defense program cost by $124.5-billion through FY86.

That is only the beginning of the problem. CBO's forecast does not take into account the most recent cost increase in major weapons systems. These alone could add up to $15-billion (estimate based on an extrapolation of the Five-Year-Defense Plan submissions for January 1979, 1980, and 1981 by the Senate Budget Staff) to both the CBO and Reagan estimates for FY82–86, assuming that they are a one-time phenomenon. That is a dangerous assumption.

The unit costs of major defense programs are reaching intolerable levels and they continue to increase. The following examples compare the unit (per copy) costs of the total procurement buy of selected programs as submitted by DoD with its FY81 budget and with the most recent data compiled by DoD one year later.

The few relatively bright spots in this list of cost disasters are worth separate mention. With the exception of the F/A–18 program, our fighter aircraft production teams appear to be holding cost growth to about the national average rate of inflation. But even in these cases, the cost increases are higher than the average inflation on purchases estimated in the Reagan budget. I do not argue that the new Administration is responsible for these price increases—only that it is ir-

responsible in hiding from itself and the public the budgetary implications of runaway defense inflation.

With the rapid escalation in program unit costs, one wonders whether program management overview is being practiced at all within the Department of Defense, especially in the Navy and, even more, the Army.

In addition, we have not seen the end of the manpower cost-spiral. Personnel costs now eat up about 50 percent of the defense budget. The Reagan budget projects a declining share of manpower costs based, in part, on the expectation that pay inflation rates will drop about 5 percent in 1986. CBO thinks they are likely to be at least two percentage points higher, and this is reflected in CBO's cost projections. What is not reflected in those cost projections is the likely added cost of meeting Congressionally-mandated quality standards in recruitment if unemployment falls as rapidly as the Reagan budget predicts. If these recruitment and retention objectives are met, while competing in a tight labor market, by general, across-the-board pay raises (in addition to the 5.3 percent added pay raise proposed by Reagan for 1981), then as much as another $15-billion could be added to the cost of Reagan's budget. This projection was extrapolated from data developed by the CBO on the cost of management objectives on recruiting and career manning for FY82–86 as it appears in CBO's Jan. '81 Resources for Defense: A Review of Key Issues for FY82–86.

The wisdom of across-the-board pay increases, such as the one proposed in the Reagan budget for July, 1981 is certainly questionable. The recruiting and retention benefits which flow from this pay increase (which will cost $10-billion over the 1982–86 period) could be achieved at less than half the cost by the use of bonuses, since a large part of the pay increases will go to career personnel who are on average well compensated. For example, under Reagan's pay proposal, senior O–6s (a colonel or Navy captain) will earn as much take home pay as a Cabinet member.

Many, though not all solutions to the problems our nation's defenses are facing in the next few years, lie in the practice of supply-side defense economics—the essence of which is to provide people with incentive to work, save, and invest in ways that increase productivity and combat inflationary cost-spiral.

When applied to the management of defense resources, supply-side economics means increasing supply of qualified manpower at the lowest cost, increasing productivity of the defense labor force, and increasing efficiency of defense procurement. The incentives which will achieve these objectives are both economic and social.

MANPOWER INITIATIVES

In the manpower area we must first reinstitute the draft. The need is clear. The new shipbuilding program envisioned by the Navy and the Reagan Administration could require over 100,000 men to man the additional ships we would build. Yet, the Navy is currently having a difficult time sending the ships it has to sea because of severe manpower shortages. And, as we succeed in improving our economic situation, the military manpower situation will worsen.

Under the current All Volunteer Force concept, one of our principal recruiting aids is higher unemployment. Many young men are entering the armed forces because there are no other jobs available. However, when these young men enter the Service, they select, and rightly so, the more highly specialized occupational specialties. This further exacerbates an already critical shortage in the combat arms—the men who will actually be called upon to do the fighting. It is difficult to envision a volunteer system where young men in large numbers will choose to carry a rifle, march long distances, and sleep in a muddy hole half filled with water.

So much for need. The principal reason for returning to the draft is one of equity.

One of the major criticisms heard during the war in Vietnam was that the war was being fought by the poor, the black, and the disadvantaged. And yet, we have institutionalized that system through the All Volunteer Force. The burden and privilege of defending this nation should be shared by all our people at every level of society.

Secondly, we must enact a meaningful GI Bill, including a transferability provision of unused benefits to a dependent. This will attract an increased number of high school graduates into service and will assist in retaining the career, middle-level, noncommissioned officers needed to train and lead our fighting men. The cost of such a GI Bill is far less than that of across-the-board pay increases.

Third, we must review our entire pay and benefits structure, with the objective of compensating military personnel on the basis of skills rather than rank. Large, across-the-board pay increases based on longevity are not only the most expensive way to solve the general manpower problem, they may be undermining our efforts to retain the critical skills that our forces desperately need.

O & M INITIATIVES

In the area of operations and maintenance, we must accept the fact that some of our equipment has become so complex that it is not easily maintainable even with high quality manpower. While some U.S. weapons may be needlessly complex, it is absolutely critical that we maintain our technological edge. Therefore, the U.S. should move toward increased use of more productive contractor maintenance, utilizing modular components whenever possible. It is an old adage that civilians should not serve in a war zone. This rule ignores the experience of Vietnam. Furthermore, with fuel costs for the Department of Defense now approaching $12-billion annually and with no end to the increases in sight, fuel economy must become a major factor in the design and procurement of all non-combat aircraft and vehicles.

PROCUREMENT INITIATIVES

In the procurement picture, we can expect to continue paying for some cost growth. However, there are ways to blunt the impact. A primary and relatively simple approach to this problem is to change the way our Services (and the Army in particular) view the management of their major acquisition programs. All too often, the job of program manager is viewed as a major detour, if not downright red light, on the road to career advancement.

The traditional, so-called ticket punching route to general officer or admiral is designed at each step to identify a man's leadership capabilities in traditional military activities. In the Army, for example, the brightest young officers progress from company commander as a captain through Command and General Staff College, battalion command, senior war college, brigade command, and then general officer. The Services must be persuaded that successful management of a multi-million or billion dollar program is at least as good an indication of leadership qualities and flag rank potential as the ability to lead several hundred men in the field or at sea.

The largest dividends in correcting the defense budget, of course, will come from the most difficult decisions. We, the Congress and the Executive, must have the courage to write off marginal investments. Too often, programs that are poor performers in the R&D phase, go to procurement on the rationale of maintaining our industrial defense base (or satisfying a major campaign investor at home). The Department of Defense can no longer perform the role of employer of last resort for economically depressed Congressional districts.

In the same vein, Congress should encourage the most efficient methods of procurement and production. Stretching out weapons procurement saves money in the near-term but makes unit costs higher, so in the end we buy less equipment than the Services need without realizing commensurate budgetary savings.

The Defense Department should be encouraged to study and report on the feasibility of reducing costs by obtaining second sources on major production runs. Savings from price competition often outweigh the costs of building a second production line.

Additionally, a careful reexamination of Defense roles and missions to eliminate duplication during the acquisition process is necessary, both inter- and intra-Service. For example, there are, including those developed by NATO Allies, several dozen systems to kill a tank. Is it necessary to sustain the cost of research, development, testing and evaluation, and procurement for all of them? I don't see why.

Finally, we should learn to put first things first. Currently, our military planners are charged with sizing and equipping the forces to meet a range of contingencies including a major war in Central Europe, and a lesser war in the Indian Ocean and/or the Western Pacific. By and large, they do a first rate job of planning for what some believe to be an impossibly ambitious task. However, additional weight in the procurement decision process should be given to providing systems for the most probable or lesser conflict. The ability to fight successfully the most probable or smaller war will most certainly have the added benefit of making the major war less likely.

RECORD '82 PENTAGON BUDGET LIKELY TO ZOOM HIGHER IN '83

(By George C. Wilson)

The Pentagon's budget, which in fiscal 1982 is already at a record level, is likely to run as much as $10 billion over projections for the next fiscal year, threatening President Reagan's whole economic program, including his pledge to balance the federal budget by 1984.

Deputy Defense Secretary Frank C. Carlucci acknowledged in an interview that the administration's rewrite of President Carter's final two military budgets is running $2 billion to $10 billion more than had been anticipated in bills coming due in 1983.

The overrun would make it more difficult for the administration to meet its spending targets in future years. Congress has cut nearly $40 billion in spending from the 1982 budget, and, according to administration figures, will need to cut at least $30 billion more from the 1983 budget and $44 billion from the 1984 budget if it is to be balanced.

Those figures do not reflect the higher-than-anticipated defense spending, which a secret internal Pentagon memo puts at $6 billion. The memo warns that Reagan must either raise the ceiling for military spending further or do without some of the weapons he just finished ordering.

The record high peacetime budget of $222 billion for fiscal 1982 will have to raise by 9 percent after allowing for inflation, rather than the 7 percent planned, to accommodate the huge increases, the Pentagon memo said.

"Even the planned 7 percent growth in fiscal 1983 through 1987 does not permit the services to implement all the programs planned earlier," the memo said. It cited Reagan's decisions to build a new bomber, raise military pay and construct more ships as examples of initiatives adding about $38 billion to the fiscal 1983 defense budget.

"The situation will only be exacerbated.

and the shortfall continued further into the out-years if real inflation is different from that otherwise assumed," continue the bad news memo, which was circulated between the Pentagon's E ring and the White House Office of Management and Budget.

"There is a substantial tail on the 1982 programs which is going to complicate our life in the out-years: 1983, 1984 and 1985," Carlucci acknowledged during the interview Friday in his third-floor Pentagon office. He said the extra cost could amount to somewhere betwen $2 billion and $10 billion for fiscal 1983.

"We knew this when we were putting the programs together," he said. "But the issue of whether we can live within the 7 percent guidance is something I can't speak to until I've looked at the program proposals and see what the tradeoffs are and establish priorities."

By program proposals, Carlucci meant the budget requests the military services are putting together now. Final Pentagon judgments on the requests are expected late next month.

Although he declined to discuss rumors rocketing around the Pentagon that Defense Secretary Caspar W. Weinberger already has asked Reagan to go beyond 7 percent real growth in annual Pentagon budgets, Carlucci said that "We have been talking in broad terms with OMB on the dimensions of the problem."

Asked if Reagan had been briefed on the bulge building in next year's budget, Carlucci would not go beyond saying that "certainly decision-makers on the other side of the river are aware of the dimensions of the problem."

It is too early in the budget process for the White House to change its guidance to limit annual increases in the amount of money the Pentagon can obligate, but not necessarily spend in one year, to 7 percent for fiscal 1983 through 1987, Carlucci contended.

He said that by the end of August the Pentagon should know whether a 7 percent real increase over 1982 will be enough for 1983, given the big "tail."

Carlucci, who has done much of the backroom work in putting together Reagan's record peacetime military budgets and played a leading role in selling them to Congress, conceded that asking for more than the $254.8 billion in total obligational authority that the administration projected for fiscal 1983 is loaded with political peril.

He said Pentagon planners intend to make cuts to try to stay within the 7 percent guideline. "We're not exempt from the austerity regulations laid down by the president," Carlucci said. "We will be cutting programs."

However, he vowed to resist such false economies as buying new airplanes but not enough spare parts to keep them flying or stretching out purchases to the point that the savings of mass production are lost. He said that is what happened during the previous administration.

Asked whether he believed the 7 percent increase would be enough, Carlucci reflected for a moment and said quietly: "It's going to be a real challenge."

At the same time, he conceded that raising the defense budget higher than projected in fiscal 1983 would imperil the nation's always fragile pro-defense consensus. The risk will be especially high next year, he added, because the pain from this year's domestic budget cuts will have been felt by then.

"It is clear to us that in order to maintain the consensus in favor of a strong defense, a consensus which we think we have, it is going to be most important for those on the management side in the Pentagon to demonstrate greater efficiencies, that we're getting maximum value for the taxpayer's dollar," Carlucci said.

He stressed that the only way to correct what the administration regards as the adverse military balance with the Soviet Union is to keep increasing the U.S. defense budget year after year, not go up and down as in the past.

Other administration executives are zeroing in on the defense budget as they look for new places to cut the federal budget so it can be balanced by fiscal 1984, as Reagan has promised.

The $40 billion slash in fiscal 1982 programs was done without touching defense. Many officials say they believe this immunity must be lifted, given the political and economic realities.

The political storm kicked up when the Reaganites targeted Social Security indicates to a growing number of administration officials looking for cuts that defense is the new field to conquer.

ARCTIC SCIENCE POLICY

Mr. MURKOWSKI. Mr. President, a few days ago I read a newspaper article which appeared in the All-Alaska Weekly on July 17, 1981. This article correctly pointed out the failure of the U.S. Government to develop and implement a coordinated arctic science policy. It is disturbing to me—as it was disturbing to the author of this article—that the United States continue to lag behind the other nations of the world in the area of arctic scientific research.

Last April, I addressed the Senate on the need for a national arctic science policy, and I signaled my intention to make the development of a national arctic science policy one of my legislative priorities of the 97th Congress. Toward that end, I will soon be introducing legislation which will, if enacted, create the mechanisms necessary to develop and implement the arctic research policy which is crucial to our Nation.

The fact is, we simply do not know what we need to know about the arctic. Despite the fact that we are becoming increasingly dependent upon the arctic's mineral and energy resources, we currently lack the knowledge to develop these resources in a timely and conscientious manner. Other aspects disturb me as well. Not only does the arctic contain critical energy and mineral resources, but the Alaskan arctic represents our only common border with the Soviet Union. Little is known of seaborne movements in the arctic, whether on the surface of the seas or in submarines beneath the waters and ice of the Arctic Ocean.

Our understanding of radio communications in the unique atmospheric conditions of the arctic is minimal. Our national defense requires a more complete understanding of the arctic and its effects on our military capabilities. As energy production increases in the arctic, its strategic importance will grow even greater. In the not-too-distant future, the strategic importance of the arctic will rival that of the Persian Gulf. Mr. President, I suggest that the lack of a coordinated arctic science policy is contrary to our own national security and economic self-interests, and I implore my colleagues to take a close look at this problem which affects us all.

Mr. President, I ask unanimous consent that the article from the All-Alaska Weekly be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RESEARCH IN THE ARCTIC—WHY NO U.S. POLICY? WHY IS THE U.S. LAGGING BEHIND?

Last Friday the Farthest North Press Club had two scientists, Dr. Carl Benson and Dr. Glenn Shaw, of the University of Alaska's Geophysical Institute as its guests, along with Don Moore, the Borough's Environmental Services officer.

The scientists were invited to answer questions of newsmen regarding the risks of possible petrochemical development in the Fairbanks area. The reason? Some news stories had stirred controversy and brought charges by some that the public was being unduly alarmed.

Richard Fineberg in the July issue of his Interior/North Alaska Newsletter had pursued the question "Ice Fog, Polar Air, Petrochemicals: Triple Whammy for Fairbanks Basin?" Way down in the newsletter, far from the lead, Fineberg had mentioned the remote possibility of a killer fog occurring here. It was brought out that about 60 people died when such a fog closed over Mewse Valley, Belgium, in 1930; 20 perished in Donora, Pa., in 1948, and about 3,500 to 4,000 died in London of such a fog in 1952. In all three cases stagnant over-saturated air had combined with pollutants to form the killer fogs.

When Fineberg offered the story to the Anchorage Daily News, he was requested to bring the killer fog remote possibility into the lead of the story which he agreed to do, and did do. In his third paragraph he quoted scientists as saying lethal episodes are rare.

But when the story was re-written by other media the qualifiers were dropped or deemphasized and the killer fog was stressed. As a result the two scientists said the killer fog aspect got blown out of proportion.

But in questioning the scientists at the Press Club, several interesting and disturbing aspects emerged. The air over Alaska and particularly Fairbanks is a lot more polluted than is generally thought. For one thing, Alaska and Fairbanks is sadly lacking three factors which cleanse the air of pollutants: wind, precipitation, and clouds. And pollutants come here from great distances, as far away as the Soviet Union. And because of factors such as lack of wind and inversion patterns the pollutants stay here 10 to 100 times longer.

Who is to say we don't have pollutants in our air that could team up with our saturated air to cause a disaster. The scientists said that the overall problem was not even being studied. Dr. Benson said that pollutants could be increasing in the air over the arctic to the point of possibly affecting not only the weather here but in other parts of the world.

But perhaps the most alarming aspect of all came with the revelation that the U.S. has no policy regarding research in the arctic, that the U.S. is the only nation touching the arctic that does not have one research station within the arctic circle, and that the U.S. is lagging behind the Soviet Union, Canada and other nations on sea ice studies. The U.S. doesn't have a research icebreaker. Japan does and has been doing sea ice studies for years.

Even the small country of Monaco has more of an interest in arctic research than has the U.S.

The U.S. is closing down almost all research projects in the arctic and agencies are reluctant to make grants for new projects. There is not even a designated coordinating federal agency in Alaska for arctic research.

The big little question is, Why? We trust our Congressional delegation is on that one.

Canada, the Soviet Union, Norway, Denmark, Sweden, Greenland, the Japanese, even the small country of Monaco holds arctic research in high regard. They think it's important, significant for the future. Then why is the federal government treating arctic research as a Seward's folly? We'd like to know the answer.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, I speak today, as I have the past few weeks, on the continued effects of high interest rates on the economy. Most of my previous statements have dealt with the effects of high interest rates on this country. Occasionally, I have mentioned the effects of high interest rates around the world and I would like to do so again today.

Despite the optimistic tone of the final communique at the Ottawa economic summit meeting, the effects of our overly-high prime interest rates are a major concern of allied leaders. Of the six countries that were represented at the recently completed summit, only Great Britain openly agreed with the policies the Reagan administration is now pursuing.

Our allies are doubly hit by the current 20 percent range of our prime interest rate. Foreign investors flood funds into dollars, taking advantage of high returns and tying up capital in the money markets. To keep funds from flowing out of their country, our allies must raise their interest rates to support their own currency. This has an effect of slowing their own business growth.

For example, Mr. President, in Canada in the last year, interest rates have risen 6.1 percent from an average of 13.1 percent last year to an average of 19.2 percent so far this year. In France, rates have increased from 12.2 percent to 17.7 percent in the last year, a total of 5½ percent. There were also increases in West Germany and Italy. The increase of West Germany was 3.4 percent and in Italy 3.2 percent.

Many of our allies fear that the current high interest rate crisis may plunge the entire world into a deep recession, with all of its attendant miseries.

I believe, Mr. President, that we must realize the demoralizing and stagnating effects that our high interest rates are having on not only ourselves but the rest of the world. We must do something now. We must come to grips with this issue before it is so far along that it is out of hand. We must strive to curb the high interest rates and foster production before it is too late.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ECONOMIC RECOVERY TAX ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, House Joint Resolution 266, which will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 266) to provide for a temporary increase in the public debt limit.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 326

(Purpose: To provide for a special statement of requests for new budget authority, estimates of outlays and revenues, and estimates of deficits or surplus for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund)

Mr. EAGLETON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. STENNIS, proposes an unprinted amendment numbered 326.

Mr. EAGLETON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . SEPARATE ACCOUNTING FOR SOCIAL SECURITY TRUST FUNDS.

(a) For each fiscal year beginning after September 30, 1982, the President shall transmit to the Congress, at the time he transmits the Budget under subsection (a) of section 201 of the Budget and Accounting Act, 1921, and at the time he submits the mid-year amendments and revisions of such Budget under subsection (g) of such section, a special statement summarizing requests for new budget authority, estimates of outlays and revenues, and estimates of deficit or surplus (stated both separately and in the aggregate) for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund. The special statement required by this section shall include a comparative summary of the aggregate total requests for new budget authority, estimates of outlays and revenues, and estimates of surplus or deficit for all functions and activities of the Government (other than such Trust Funds). Such special statement shall also include an explanation and analysis of the economic assumptions on which the requests and estimates for such Trust Funds and the requests and estimates for such other functions of the Government are based.

(b) The special analysis required by this section shall be transmitted to the Congress in a separate volume from the Budget of the United States or the mid-year amendments and revisions of such Budget, as the case may be.

Mr. EAGLETON. Mr. President, this is the Eagleton-Stennis amendment.

I ask unanimous consent that the names of the following Senators be added as cosponsors: Senator BRADLEY, Senator WILLIAMS, Senator PROXMIRE, and Senator SASSER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, quite frankly, this amendment is a far cry from what I wanted to offer and what I believe is needed to reassure the public as to the integrity of social security financing. Ultimately, I think we have to find a way to separate out social security financing—perhaps other trust fund financing as well—from our deliberations on the rest of the budget. I know all the arguments in support of the unified budget. But, I also know that more and more Americans are coming to doubt that the benefits they are paying for and being taxed for will be there when they retire. Somehow, we have to assure the public that social security will not become a political football.

One way to do that, without doing violence to the unified budget, concept at the same time, would be to require that any proposal affecting social security revenues or expenditures be the subject of a separate reconciliation bill, separately voted on. I reserve the right to offer such an amendment at another time.

The parliamentary situation being what it is today, however, I will content myself with the modest amendment now at the desk.

Very simply, the amendment requires a factual report which will contrast the revenues, expenditures and surplus or deficit situation of the social security trusts with that for all other functions and activities of Government. Most important, the amendment requires a statement and explanation of the economic assumptions behind the numbers. I believe that if we are going to have a unified budget, we should have a unified set of economic assumptions behind it, and not one set for social security and a completely different set for other parts of the budget. By highlighting the facts, this report may move us toward basic consistency in this matter.

The President has called for a bipartisan approach to the social security problem, a sentiment I am sure all of us endorse in principle. But, the fact is, we will not be able to objectively discuss solutions until we can first agree on a common set of numbers and assumptions as to the magnitude and duration of the problem.

For all its merits as a tool in evaluating the impact of Federal activities on the economy, the unified budget does create confusion about the extent to which social security trust funds are separated from other budget revenues and expenditures. Since the inception of the unified budget in fiscal year 1969, there have been charges that unnecessary trust fund surpluses were being engineered to disguise the true deficit in other parts of the budget. Those charges were made back in the late sixties and all through the decade of the seventies and that same charge is being made in

the decade of the eighties with regard to the social security system. Thus so long as that dispute continues, there is little prospect for bipartisanship on this issue.

Most of the information on which this amendment would cause to be assembled in a single and separate report is already available, but it is scattered throughout the budget and reports of the social security trustees. The objective of this amendment is to bring this information together in one place and to require, in that same place, a full explanation of the economic assumptions involved. The amendment in no way changes the present unified budget process. And I underscore that the amendment in no way changes the present unified budget process. It merely adds a new element which should help explain the condition and interrelationship of social security and other Federal funds.

By itself, this amendment will resolve none of the substantive problems with the social security system. But, it would be a small step toward clarifying basic facts and assuring the public that social security will not become a political football.

Mr. President, I mentioned in my opening remarks that there were various competing economic assumptions used. I ask unanimous consent that there be printed in the RECORD the various economic assumptions as set forth in a table.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ADMINISTRATION'S ASSUMPTIONS USED FOR BUDGET/TAX PROPOSALS

	Percent			
	Inflation	Unemployment	GNP	Interest rates
1981	11.1	7.8	1.1	10.9
1982	8.3	7.2	4.2	9.6
1983	6.2	6.6	5.0	8.9
1984	5.5	6.4	4.5	8.1

ADMINISTRATION'S ASSUMPTIONS USED FOR SOCIAL SECURITY PROPOSALS

	Percent			
	Inflation	Unemployment	GNP	Interest rates
1981	12.8	8.3	−0.1	12.1
1982	13.6	8.7	.7	11.1
1983	11.6	9.7	.7	10.4
1984	10.9	9.1	4.4	9.8

Mr. EAGLETON. Mr. President, Senator STENNIS is on his way to speak on this issue. I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield myself such time as I may require.

Is the Senator desirous of bringing another Senator to the Chamber to speak to the amendment or is he ready to act on it?

Mr. President, as I understand it, the leadership on both sides of the aisle is willing to accept the amendment.

Mr. EAGLETON. I am delighted in hearing that from Senator LONG. I did wish to vote on this. I can stack it later on so as not to muddle up the process of the Senate. I did wish to give an opportunity to Senator STENNIS to speak on the issue. He feels very strongly about it, and he is on his way.

Mr. LONG. We do not plan to oppose the amendment, but we do have time, so on the time allotted to the manager of the joint resolution, with the understanding of Mr. DOLE, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I rise to address the Senate in support of the Eagleton amendment.

How much time remains to the Senator?

The PRESIDING OFFICER. Ten minutes and five seconds.

Mr. EAGLETON. Mr. President, I yield all that time to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator very much.

Mr. President, we are approaching the end of what I think has been a highly constructive debate. I know it has been. I have heard most of it. I have been to virtually all the caucuses of my own party, where I was highly pleased at the constructive nature of the exchange of thought, the proposals, the rejections, the earnestness and the desire to carry out an effective new approach, and make a new start with reference to our financial affairs.

I am proud that we have a bill that our Finance Committee really considered and drafted and reported out. As matters stand now I expect to support the bill, but I do have a very strong feeling that we are leaving mostly unfinished the very grave and far-reaching problem that goes with an effective and just social security system where most of the money has been collected on a trust basis and for a trust fund.

The Government, as trustee, has a responsibility to fill. However, we have left it in the regular or administrative budget of the Federal Government. I think it has to be set up separately and clearly identified as an independent trust fund.

I think, also, that it is going to take some time, and I mean 2 years as a minimum, to really get the whole matter out on the table by a competent committee such as our Finance Committee, and examine the major problems of the system and the financing of the program in detail and in depth. Although some say we cannot put the system on a totally sound fiscal basis, the fact is that we must develop a system that is financially sound, and put it on an actuarily sound basis as nearly as possible. I realize fully the major role, the social security system will play for our people and for our entire system of government in the decades to come.

I, therefore, emphasize greatly the need for a step such as proposed by the Senator from Missouri. I was very pleased to learn in a caucus of his intense interest in this subject matter. I know him to be a man of tremendous ability. I am not just bragging on him. I have worked with him in the Appropriations Committee and other committees, and I know his diligence and his capacity, and that he is a willing worker. He is a tireless worker, and I think that is just the type of work that it is going to take to get into this matter fully. I wish there had been a chance for us to have gone further with this amendment. But this opens it up, and I am sure he will continue his work. I encourage him all I can and promise to do my part to assist him to the fullest extent.

I am pleased to join with the distinguished Senator from Missouri (Mr. EAGLETON) in cosponsoring this amendment. I believe that it has great merit and I commend the Senator from Missouri for his alert and timely interest in this matter.

Under our present system there is confusion about the extent to which social security trust funds are separated from other revenues and expenditures. Charges have been made in the past that unnecessary trust fund surpluses are being engineered to disguise the true deficit in the overall budget.

The amendment which I am cosponsoring with the Senator from Missouri would require the administration, in conjunction with its other budget submissions, to prepare and submit to Congress a special analysis which would separate the estimated revenues and expenditures for the social security trust funds and for all other functions and activities of the Government. The report would also require a statement and explanation of the economic assumptions on which those estimates are based.

Some of the information which this amendment would require is already available, but is scattered throughout the budget and reports of the social security trustees. For example, the Special Analyses of the Budget, which is prepared annually, clearly separates and sets forth facts with respect to social security trust funds. However, it should not be necessary that one be required to resort to these Special Analyses.

This is a simple amendment, and the requirements of it would not be burdensome. The objective is to bring this information together in one place and to require in that same place a full explanation of the economic assumptions involved. The annual budget submitted by the President and the mid-year review of the budget certainly should contain this information.

Let me stress that this amendment in no way changes the present unified budget process. It merely adds a new element which would highlight and spotlight, and therefore should help explain, the condition and interrelationship of social security and other Federal funds.

This amendment by itself will certainly not solve any of the substantive problems which now confront the social security system. However, it will clarify

the situation and make readily accessible and available the status of the social security trust funds with relation to the general funds and other funds of the Government and provide an explanation of economic assumptions on which the estimates are based.

Mr. President, this is a very modest amendment. I regret that it could not go farther and take some remedial action with respect to the substantive problems with which the social security system is confronted. While these problems are very real, they are by no means hopeless or beyond redemption. However, they are so serious that we must find both long- and short-range solutions to the financial difficulties which confront the trust funds and, in particular, the Old-Age and Survivors Insurance Trust Fund. We must dedicate ourselves to the long-range task of making the system self-sustaining. The immediate task, however, is the prevention of insolvency in the Old-Age and Survivors Insurance Trust Fund within the next few years. I believe that the authorization of interfund borrowing is the most logical solution to this. We have already taken action urging that the Finance Committee give prompt consideration to this.

We should, I think, consider a new program and plan which would include all phases of the system and the method of handling and paying out the funds.

This plan should definitely provide a sound financial program with assured sources of revenue that are necessary to meet the obligations of the system over a period of time. This will be difficult indeed, but a way can be found, and I believe this is the only way for us to live up to the trust that is placed on us. In fact, this has been a trust fund from its origin but we have in fact failed to properly meet the trust entrusted to us and fully fund it. This problem demands our urgent attention. I hope this is a start.

This is no academic matter with me. I know enough about the realities of life, and how much the people are dependent on this and how much it fills in and supports our economy, and how much medicare, and medicaid also means and does for the people.

I have looked into it, I have gone to hospitals, to doctors, to rest homes, everywhere, where I could get the facts on this matter. I have discussed it with plain citizens and ordinary people.

I think the plan to which I have referred should definitely provide a finance plan and revenue sources that are estimated to be sufficient to meet the obligations over a period of time.

Now, the two will have to be eventually adjusted each to the other. It cannot be done quickly. It cannot be done abruptly. It must be done though, and it can be done through trial and effort and hard work.

It will be a difficult task, but it can be done, and I believe this is the only way for us to live up to the trust that has been placed on the Congress for over 40 years. This was supposed to be a trust fund from its origin, but we have not lived up to that in fact. I am not trying to assess blame, but we can get it on this firmer foundation to meet the trust relationship that was implied and expressly stated to the people as they diligently paid in their money over the years.

I think that that is why it is such a sensitive matter, one of the reasons why it is such a sensitive matter today.

Anyway, this is a problem that demands our attention and demands a solution by us, and demands that we take whatever time and whatever political action is necessary. It will take political courage to do something about it, but we are capable, and we can do it in the course of time.

Speaking for myself, I have not supported all of the added benefits that have been proposed and passed over the years, because I was certain there was not enough money available to pay the bills and that the system would run aground.

On the other hand, I have supported all the proposed tax increases, bitter as they were, because of my feeling that it was a trust relationship after all, and whatever needed to be done to meet that trust responsibility had to be done. We simply could not let the system go bankrupt.

So that is my plea. Mr. President. I thank the Senator again for the fine work he has done and is going to do. Many others will join him. I thank him for the time he has allowed me here, and I hope this amendment has overwhelming support.

I yield the floor.

Mr. EAGLETON. I thank the distinguished Senator. There is no Member of this body I would rather have associated with me than the distinguished Senator from Mississippi (Mr. STENNIS), and I mean that sincerely.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. LONG. Mr. President, I ask unanimous consent that the time in opposition be given to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I commend my distinguished colleagues, Senator EAGLETON and Senator STENNIS, for bringing this amendment to the Senate floor.

The amendment, if adopted, can go a long way to clarifying the current social security debate. Presently, under the unified budget, surplus social security revenues are lumped in with all other Federal revenues. Consequently, if we were to adopt the social security cuts proposed by the President on May 12, we would have increased social security revenues that could be used to artificially balance the Federal budget by 1984. That would truly be a case where we would balance the budget on the backs of millions of current and future social security recipients.

In order to avoid that possibility, we should adopt the Eagleton-Stennis amendment, which will give us a clear picture of the fiscal status of the social security system. In that way we can guard against a situation where we make unnecessary cuts in social security and then use the extra revenues to balance the budget.

I need not remind my colleagues of the outcry against the administration's May 12 proposals for social security revision when we found that we were embarked on a program of making nearly $82 billion in social security cuts when the administration, by its own economic projections, considered a positive, combined balance in the social security trust funds a possibility.

Clearly, we need to solve the fiscal problems of the social security system without any sleight of hand. This amendment will help us promote a fair and sensible debate about the actions we may have to take to revise the social security system. I urge its adoption.

Mr. KENNEDY. Mr. President, I commend Senator EAGLETON and Senator STENNIS for offering this amendment, and I join them in support of it.

The essential element of this amendment is the requirement that the administration submit in a single document the economic assumptions used for both social security and other parts of the Federal budget, together with a full explanation of those assumptions.

The administration has called for massive cuts in social security, far beyond what is necessary to assure the fund's financial integrity. They are attempting to justify those cuts by painting a bleak picture of the future performance of our economy which is totally at odds with the rosy forecast we are asked to accept for the rest of its economic program. This worst case economic forecast projects virtually no economic growth, a 10-percent average annual rate of inflation, and an 8.5-percent rate of unemployment for the next 5 years.

We have never heard any administration spokesman use those worst case figures when they discuss the budget, the tax package, or any other part of their economic program. When they discuss those issues, we hear about higher growth, lower inflation, lower unemployment, and lower interest rates.

They cannot have it both ways. I believe this double bookkeeping is one of the principal causes of the confusion, concern, and fear which has swept the country over social security financing.

The 36 million social security beneficiaries, the 100 million contributing employees, and all of the American people deserve better.

The social security financing problem is too important to allow these blatant and misleading tactics to continue. This amendment will bring those tactics to a halt and I fully support it.

Mr. LONG. Mr. President, I have discussed this matter with the distinguished floor manager of the bill, the Senator from Kansas (Mr. DOLE). We agree that this amendment should be accepted, and I would hope, Mr. President, that we can simply agree to this by a voice vote. I am certain that if we had a rollcall it would be agreed to overwhelmingly. But if some Senators desire a rollcall, of course I would be happy to yield to their wishes.

Mr. President, as originally sponsored, the amendment suggested that we should separate the Social Security Fund from the consolidated budget. I would have been compelled to oppose the amendment because I recall that, when the consolidated budget was put into effect, President Lyndon Johnson had appointed a committee of very knowledgeable and distinguished Americans to make a study. They recommended the consolidated budget.

Basically it followed the general philosphy that if the Government takes out of circulation more money than the Government spends or puts into circulation, then we have a balanced budget, and the social security program was included in the budget on that basis.

The Senator has a very good point when he says that we have a right to look at the social security program separately from the rest of the budget to see if the budget surplus or deficit is caused by the social security program, and his amendment carries that program out. It leaves for future discussion the question of whether the social security system should be a part of the consolidated budget, based on what the figures will show when they are set out more clearly for all Americans to see, as a separate accounting so that one can see to what extent, if any, the surplus or deficit in the social security fund is making the budget look better or making it look worse.

As presently phrased, Mr. President, the amendment is, in my judgment, a good amendment and should be agreed to.

I am not aware of anyone who opposes it, but it might serve a purpose to have a rollcall if the Senator desires.

Mr. EAGLETON. Yes, and I ask for the yeas and nays.

Mr. LONG. I ask for the yeas and nays, too.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time is yielded back, and the question is on agreeing to the amendment of the Senator from Missouri. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—97

Abdnor	Burdick	Denton
Andrews	Byrd,	Dixon
Armstrong	Harry F., Jr.	Dodd
Baker	Byrd, Robert C.	Dole
Baucus	Cannon	Domenici
Bentsen	Chiles	Durenberger
Biden	Cochran	Eagleton
Boren	Cohen	East
Boschwitz	Cranston	Exon
Bradley	D'Amato	Ford
Bumpers	Danforth	Garn
Glenn	Laxalt	Quayle
Goldwater	Leahy	Randolph
Gorton	Levin	Riegle
Grassley	Long	Roth
Hart	Lugar	Rudman
Hatch	Mathias	Sarbanes
Hatfield	Matsunaga	Sasser
Hawkins	Mattingly	Schmitt
Hayakawa	McClure	Simpson
Heflin	Melcher	Specter
Heinz	Metzenbaum	Stafford
Helms	Mitchell	Stennis
Hollings	Moynihan	Stevens
Huddleston	Murkowski	Symms
Humphrey	Nickles	Thurmond
Inouye	Nunn	Tsongas
Jackson	Packwood	Wallop
Jepsen	Pell	Warner
Johnston	Percy	Weicker
Kassebaum	Pressler	Williams
Kasten	Proxmire	Zorinsky
Kennedy	Pryor	

NAYS—2

Chafee	Tower

NOT VOTING—1

DeConcini

So Mr. EAGLETON's amendment (UP No. 326) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, while the Senator from Tennessee is here, will he indicate when he will bring up his marriage penalty amendment? Does he want it sequenced?

Mr. SASSER. Mr. President, I had the impression that was sequenced, that it will come up later on in the morning. I am not exactly sure when.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator is advised that it follows the amendment of the Senator from Montana.

Mr. DOLE. The Chair is correct, it follows the Kennedy amendment and then the Baucus amendment.

Mr. BAUCUS addressed the Chair.

Mr. DOLE. Mr. President, does Senator KENNEDY have an amendment?

Mr. BAUCUS. I do not know, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts (Mr. KENNEDY) is to be recognized now to offer an amendment. It would take unanimous consent for the Senator from Montana to proceed.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order calling for the Senator from Massachusetts to offer his amendment be temporarily set aside. I understand the Senator from Massachusetts does not at this time want to call up his amendment. I ask that his order to do so be temporarily set aside.

The PRESIDING OFFICER. Without objection——

Mr. DOLE. It is my understanding last evening that the Senator from Massachusetts would offer an amendment last evening. Then we were told he would offer the amendment this morning. We tried to accommodate him in the sequence I wonder if the Senator from Massachusetts would indicate if, in fact, he intends to offer an amendment.

Mr. BAUCUS. Is it all right with the chairman of the committee if we reverse the order? I spoke with the Senator from Massachusetts about 5 minutes earlier and he said he wants to offer his amendment but is not prepared to do so at this time.

The PRESIDING OFFICER. Without objection, the Senator from Montana is recognized.

UP AMENDMENT NO. 327

(Purpose: Increasing the amount of certain depreciable assets which may be expensed to $25,000)

Mr. BAUCUS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 327:

On page 78, in the matter before line 1, strike out "$10,000" in the item relating to 1986 or thereafter and insert in lieu thereof "$25,000".

Mr. BAUCUS. Mr. President, this amendment is very simple. It is an inflation adjustment small business amendment. In the bill before us we provide that small businesses are able to expense up to $5,000 of their assets in 1982, $5,000 in 1983, $7,500 in 1984, $7,500 in 1985, and $10,0000 in 1986.

We all know that by 1986, $10,000 is not going to be worth very much. The amendment very simply substitutes the amount of $25,000 for 1986 for the figure of $10,000 which is presently in the bill. It is an inflation adjustment amendment. It is a small business amendment.

We all know the problems small business suffers these days, and we know what interest rates they are paying, upwards of 20 percent.

We also know that there is no sign of relief from those interest rates. They could last for a long time. We know that small businessmen, farmers and ranchers, are paying excessively high rates of interest and they need help. Big business is able to adjust to high rates of inflation and high rates of interest much more easily than small business.

Small business, too, ordinarily cannot pass on its cost increases as well as big business. Small business generally has to take the prices charged for the goods they buy and then they have to sell with simple markup. It is hard to pass on costs, at least compared with manufacturing industries or big business.

We also know that there are more bankruptcies these days. Those that go bankrupt tend to be small businesses. They have a harder time.

So this is a small business amendment.

I also want to point out that this amendment, too, has a very strong symbolic message: That we should move toward expensing. A small businessman in America needs the flexibility to expense the first x thousand dollars of their expenses. Small businessmen cannot always afford to hire accountants to go through all the paperwork of the present depreciation rules. They need flexibility, an ability to choose simpler methods if it is advantageous to them.

Whenever I talk to business groups at home and explain the concept of expensing, the first $15,000 to $25,000 of expenses, I see more heads nod in that audience than I do when I discuss any other proposal. It is something that they want. It is very simple and it is to the point.

Moreover, it is neutral. It does not have a bias toward certain kinds of investment or certain kinds of expenses. A businessman simply expenses the first year up to a certain amount. Under this amendment it would be up to $25,000 by 1986. So it does not bias his decision in one direction or another. It is whatever he wants, because it is a dollar-for-dollar first-year expense.

This amendment, too, has absolutely no effect on the budget in 1982, 1983, 1984, or in 1985. It has no effect. It has zero effect, no effect.

The only budget effect this amendment has would begin in 1986. Then it will go up. Estimates are hard to anticipate at this point, since it is 5 years in advance, but the point is that the cost will rise for a couple of years and then it will fall. By the year 1990 the Treasury will be gaining a surplus, a benefit, because of this amendment.

For those of you who are worried about the budget in 1984, this amendment has zero effect on the 1984 budget. It has no effect at all because it does not go into effect until 1986.

It is an inflation adjustment amendment, a small business amendment. It does not take effect until 1986.

We are assured there is going to be another tax bill, though some of us are not too sure when that other tax bill will be here. We are assured there will be another tax bill, and I feel confident there will be before 1986. I certainly hope there will be. But let us act now. Let us send the message that we are concerned now, and not make promises for some future bill.

With that, Mr. President, I strongly suggest we adopt this amendment. It does help the small businessmen who need this kind of help. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me say first of all I appreciate the discussion by the distinguished Senator from Montana. If, in fact, I did not think we would have another tax bill, we might give this amendment more serious consideration at this time.

I would say to the Senator from Montana that I think we have been able to accommodate him on nearly everything he brought up to the committee and everything he has brought to the floor except this amendment. I think the record would reflect that we have been most cooperative with the Senator from Montana.

This does have a revenue impact in 1986 of $679 million, over $1.2 billion in 1987, $589 million in 1988, $112 million in 1989, and then, as the Senator indicated, it does pick up some revenue in 1990. It is a significant cost.

The additional point is that we are going to have ample time to examine how the expensing provisions work, and consider whether the amount should be increased. I would just say for the record that at the urging of the Senator from Montana and others, the committee did adopt a modified expensing provision that goes to $10,000 in 1986. That is a cost of about $483 million in 1982, $900 million in 1983, about $700 million in 1984, and $600 million in 1985.

So while I know the Senator's interest in this, I hope that he understands we all share that interest and that we will look at it again before the effective date of his proposal.

I would hope to defeat this amendment and move on with other provisions of the bill.

I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, ordinarily I would be very strongly for the amendment. In this case, however, the chairman of the committee, the distinguished Senator from Kansas, who is managing this bill, has gone as far as I believe any of us could expect him to go in trying to accommodate all of us who have various concerns.

I applaud the Senator from Montana for his interest in small business. I share his interest in that regard. I also share his interest in expensing.

But, Mr. President, the chairman of the committee undertook to go as far as he thought the budgetary requirements of the Government would permit in accommodating those of us who wanted to help small business and, indeed, who wanted to help people in many other lines of endeavor. I believe I can express some appreciation for the Senator's problem when, as manager of the bill and as chairman of the committee, he has gone as far as budgetary requirements permit. Having done so, he is then confronted on the floor with further amendments that would tend to put him in a position of being against small business, when his bill does a great deal for small business.

I know that he is going to fight in conference to maintain all the good things that have been done for small business.

Mr. President, I hope that before we arrive at third reading of the bill, we might get consent to vote on the section of this bill that deals with small business because, at some point, Senators should have a right to go on record favoring the many good things the committee did under the leadership of the Senator from Kansas which help small business.

Under the circumstances, I believe it would be imposing too much and be unfair to the distinguished manager of the bill to vote for this amendment, which would not take effect until 1986 and which tends to preclude the committee from considering this item or amendments along this line at a future date when we might have a better measure of what the budgetary situation is going to be and how the provisions in the bill that benefit small business are working, after they have been enacted.

So I support the distinguished manager of the bill in opposing the amendment. I recognize that he has done everything that in his conscience he believes can be done at this point, and with every intention that, at a future date, we expect to do even more for small business. What is in this bill for small business is a very good package, and I say that as one who has served for many years on the Small Business Committee and supported those amendments in the Finance Committee.

Mr. DOLE. Mr. President, just yesterday, we adopted an amendment by the Senators from Maine (Mr. MITCHELL and Mr. COHEN), a small business amendment, which was a substantial step in the right direction.

I hope the Senator from Montana will not press the amendment, but that is his option, of course.

Mr. BAUCUS. Mr. President, I fully appreciate the views of the chairman and the Senator from Louisiana.

I point out, however, that this amendment I am advocating was in the Senate Finance Committee bill last year. In fact, it was much more generous last year. The amendment I am offering is basically the same provision, phased in at a later date, and via a phase-in which has been approved in our current legislation with only the last figure raised.

Second, the provision I am advocating is also in the Ways and Means Committee bill in the House. It may be that the Ways and Means Committee bill might not be passed in the other body, and the President's proposal might pass in the other body. But at least the Ways and Means bill recognizes the need to go to $25,000. So this is not a new idea; it is not a new concept.

I point out again that we are not going to phase in the $25,000 until 1986. That is many years away. There will be many, many meetings of the Senate Finance Committee, many meetings of the House Ways and Means Committee, and many opportunities for the House and the Senate to address the question of small business taxation—let alone all business taxation. So there will be many opportunities to reexamine the issue.

I understand that the argument cuts both ways. One can argue: "Let's wait until 1983 or 1984 until we move this." But I believe it is important that we move, because I think it is clear we are going to move toward expensing. The administration is going to move toward expensing for small business in the next few years, and many Members of this body are interested in expensing. So I say we should move now.

The inflation adjustment does not take effect until 1986. The Senate has already passed indexing, which does not take effect until 1985. In the meantime, we are going to address that issue and try to find

a way that indexing works, in a way that makes sense. I voted for indexing even though it will not take effect until 1985.

I suggest that we move toward expensing, a concept I believe we will adopt ultimately, and by 1986 we will have found a way to make sure it works well.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. BAUCUS. Mr. President, I ask the chairman and the majority leader this question: One Senator, at least, has asked whether this vote can be postponed until 1 o'clock.

Mr. BAKER. Mr. President, I regret to say that I have had several requests of that type today. We had such a request on the last vote. I also had a number of objections to stacking votes for the day. It is an inconvenience to some Members, but apparently stacking votes is impossible because we cannot agree on a time for which to stack them.

So it is with great regret that I advise the Senator that we will not be able to stack them.

Mr. BAUCUS. I appreciate that the majority leader has to organize the day's business.

Mr. President. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted who desire to do so?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—45

Baucus	Ford	Moynihan
Bentsen	Glenn	Nickles
Biden	Hart	Nunn
Bradley	Heflin	Pell
Bumpers	Hollings	Pressler
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Inouye	Pryor
Cannon	Jackson	Randolph
Chiles	Kennedy	Riegle
Cranston	Leahy	Sarbanes
DeConcini	Levin	Sasser
Dixon	Matsunaga	Stennis
Dodd	Melcher	Tsongas
Eagleton	Metzenbaum	Williams
Exon	Mitchell	Zorinsky

NAYS—55

Abdnor	Goldwater	McClure
Andrews	Gorton	Murkowski
Armstrong	Grassley	Packwood
Baker	Hatch	Percy
Boren	Hatfield	Quayle
Boschwitz	Hawkins	Roth
Byrd, Harry F., Jr.	Hayakawa	Rudman
Chafee	Heinz	Schmitt
Cochran	Helms	Simpson
Cohen	Humphrey	Specter
D'Amato	Jepsen	Stafford
Danforth	Johnston	Stevens
Denton	Kassebaum	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Tower
Durenberger	Long	Wallop
East	Lugar	Warner
Garn	Mathias	Weicker
	Mattingly	

So Mr. BAUCUS' amendment (UP No. 327) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, what is the pending question?

The PRESIDING OFFICER. The Senator from Massachusetts has an amendment.

Mr. BAKER. Mr. President, I understand the Senator from Massachusetts wishes to change with the Senator from Tennessee (Mr. SASSER) in sequence. If that is correct, I ask animous consent that that rearrangement of the schedule be done.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized to call up an amendment.

PROPOSED AMENDMENT RELATING TO MARRIED COUPLES

Mr. SASSER. Mr. President, I was fully prepared to offer an amendment to the tax bill today which would have increased the relief given by the Finance Committee to working married couples. I planned to bring forth this amendment because I believe that alleviation of the marriage penalty is one of the most important matters that we address in this tax bill.

The tax cuts that we give to these hardworking couples are certainly far more important to the American economy than the $20 billion in long-range tax breaks for major oil companies which are contained in the committee bill or the more than $40 billion or $50 billion in oil company tax breaks being promised in the forthcoming debate about the House tax bill.

Those tax breaks to the oil companies, Mr. President, are far less worthy of our consideration than full and complete alleviation of the marriage tax. However, I do not want to consume the time of my colleagues to consider yet another tax penalty amendment. We had a vote some days ago on one marriage tax penalty which failed. I see nothing to be gained today, Mr. President, by calling for another vote on the same subject.

Mr. President, my amendment would increase the marriage tax penalty deduction that is contained in the Finance Committee bill. It is not without high regard for the committee and its efforts with regard to the marriage penalty that I raise this issue. The committee has held extensive hearings on the issue and has otherwise given time to coming up with a workable solution to this problem. The Finance Committee wisely included a marriage tax penalty provision in the tax bill that it reported to the Senate last year. The members of the committee have continued to show their concern for working married couples by again adding a marriage penalty provision to the tax bill, House Joint Resolution 266, that is before us today.

The only point of contention I have with this portion of the committee bill is that the relief it provides does not go far enough. The marriage tax penalty provision contained in the bill would allow, in 1982, a deduction equal to 5 percent of the income of the lesser earning spouse up to a maximum deduction of $1,500. In 1983 and thereafter, the deduction would rise to 10 percent of the lesser earner's income up to $3,000.

My amendment, Mr. President, would be immediately effective with no phase-in period. It would authorize a deduction for the lesser earning spouse of 12 percent up to a maximum deduction of $3,600.

Mr. President, while I do not have an official estimate of the cost of my amendment from the Joint Tax Committee, my staff has been engaged in discussions with the staff of the Joint Tax Committee and we have been able to determine that the approximate cost of the amendment will be an additional $400 million for fiscal 1982, an additional $4.2 billion for 1983, and an additional $1.8 billion for 1984.

This means that the total cost of my amendment will be $6.4 billion additional for the years 1982 through 1984. After 1984 the marriage tax deduction will revert to 10 percent and there will be no additional costs over and above the committee bill.

I might point out also that the cost of this amendment is substantially below the cost of a more comprehensive and complete approach to repealing the marriage penalty recently put forward by the distinguished Senator from Maryland (Mr. MATHIAS). That amendment would have completely eliminated the marriage penalty. My amendment eliminates about two-thirds of the marriage penalty, which is about a 10-percent better break than the committee bill.

Mr. President, I do not need to belabor the fact that millions of married working couples who pay the marriage penalty are in great need of the extra relief given by my amendment. This more beneficial provision would go much further in alleviating the present disincentive to marriage and the work disincentive to the second earner.

Under present law, Mr. President, a married couple making $10,000 each would pay $2,745 in taxes on their combined income of $20,000. If the same couple were not married they would pay $2,354 in taxes. This difference of $391 in tax liability is the marriage penalty. For a couple each earning $15,000, the marriage penalty is $689.

This discussion concerning this issue has received much attention in the last few years. One important reason for this attention is the dramatic increase in the number of married couples in which both spouses are employed. The number of couples in this situation is now over 25 million.

In 1978, the number of two-earner families passed the 50-percent mark and has continued to climb from there. In 10 years, it is estimated that the percentage of married couples, both of whom are employed in the labor force, will approach 70 percent.

Mr. President, I will ask unanimous consent to have several things printed in RECORD. First, I ask unanimous consent that a table which contains the latest available data from the Bureau of Labor Statistics on the number of earners in families and their median incomes be printed in the RECORD. It shows that, as of 1979, 52.2 percent of married couples in this country had both spouses engaged in work outside the home. This trend is expected to be even more pronounced in the new Department of Labor statistics due out in the next few months.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS

NUMBER OF EARNERS IN FAMILIES, RELATIONSHIP, AND MEDIAN FAMILY INCOME IN 1979 BY TYPE OF FAMILY, MARCH 1980

Number of earners, relationship, and type of family	Number (thousands)	Percent distribution	Median family income in 1979
Total	58,729	100.0	$19,601
No earners	7,671	13.1	7,551
1 earner	18,651	31.8	15,533
2 or more earners	32,401	55.2	24,761
Husband-wife families, total	48,169	100.0	21,643
No earners	5,419	11.2	8,844
1 earner	13,594	28.2	18,137
Husband only	11,666	24.2	18,915
Wife only	1,459	3.0	12,551
Other relative only	469	1.0	17,057
2 or more earners	29,156	60.5	25,613
Husband and wife	25,129	52.2	25,289
Husband and other, not wife	3,442	7.1	29,124
Husband nonearner	584	1.2	19,429
Other families, total	10,559	100.0	10,704
Maintained by women,[1] total	8,819	100.0	9,784
No earners	2,033	23.1	4,269
1 earner	4,284	48.6	9,570
2 or more earners	2,502	28.4	16,956
Maintained by men,[1] total	1,740	100.0	$16,611
No earners	219	12.6	7,256
1 earner	773	44.4	14,420
2 or more earners	748	43.0	23,038

[1] Divorced, separated, widowed or never-married persons.

Note: Due to rounding, sums of individual items may not equal totals.

Mr. SASSER. In addition, I ask unanimous consent that a table that was a part of the testimony of the National Commission for Employment Policy before the House Ways and Means Committee during their hearing on the marriage penalty last year be printed in the RECORD. This table contains, among other things, the Commission's projection that by 1990 some 67 percent of married women will work outside the home.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NATIONAL COMMISSION FOR EMPLOYMENT POLICY—PROJECTIONS OF THE FEMALE LABOR FORCE IN 1980

	Population (thousands)			Labor force (thousands)			Participation rate (percent)		
	Actual 1978 (March)	Projected 1990	Projected change	Actual 1978 (March)	Projected 1990	Projected change	Actual 1978 (March)	Projected 1990	Projected change
Total, ages 16 and over	83,374	94,690	11,316	40,971	51,890	10,918	49.1	54.8	5.7
Ages 16 to 24	18,277	15,535	−2,742	10,580	10,420	−160	57.9	67.1	9.2
Ages 25 to 54	41,059	52,023	10,964	24,790	35,706	10,916	60.4	68.6	8.2
Ages 55 and over	24,038	27,132	3,094	5,601	5,764	163	23.3	21.2	−2.1
Total, ages 16 to 54	59,336	67,558	8,222	35,370	46,126	10,756	59.6	68.3	8.7
Never married	15,544	13,757	−1,787	9,763	9,464	−299	62.8	68.8	6.0
Married, husband present	35,802	44,390	8,588	19,842	29,600	9,758	55.4	66.7	11.3
No children under age 18	11,439	12,942	1,503	7,549	9,561	2,012	66.0	73.9	7.9
Children ages 6 to 17 only	13,231	17,859	4,628	7,661	12,520	4,859	57.9	70.1	12.2
Children under age 6	11,132	13,589	2,457	4,633	7,519	2,886	41.6	55.3	13.7
Other never married	7,989	9,410	1,421	5,764	7,062	1,298	72.1	75.0	2.9
No children under age 18	3,433	3,740	307	2,639	3,063	424	76.9	81.9	5.0
Children ages 6 to 17 only	3,042	3,882	840	2,216	2,865	649	72.8	73.8	1.0
Children under age 6	1,515	1,788	273	908	1,134	226	60.0	63.4	3.0

Mr. SASSER. Mr. President, this is an issue with which the American people are very familiar. A recent Gallup poll found 83 percent of our citizens favor a change in the law to make it fairer to married working couples. In addition, newspapers across the country have run editorials calling for changes in the tax laws that have given rise to this penalty. This overwhelming support for change demands that we improve upon the good work of the Finance Committee and place a greater priority on alleviating the marriage penalty.

Mr. President, I ask unanimous consent to have printed in the RECORD the results of a Gallup poll which found that 83 percent of Americans favor changes in the tax laws which give rise to the marriage tax penalty.

There being no objection, the results were ordered to be printed in the RECORD, as follows:

AMERICAN FAMILIES—1980

TAX LAW CHANGE FAVORED

In the area of tax policy eight out of ten Americans (83 percent) favor changing laws which now make it possible for unmarried couples who are living together to pay less income tax than married couples earning the same amount of money.

As would be expected a somewhat greater proportion of those who are married (85 percent) support changing laws exerting a marital tax penalty than do single people (77 percent). A signficantly larger percentage of part-time workers (91 percent) want these laws changed, compared to 81 percent of full-time workers who would agree. This perhaps reflects the growing number of wives who have entered the work force on a part-time basis.

Under the present laws, if a married couple and an unmarried couple who are living together earn the same amount of money, the married couple has to pay more income tax. Do you feel the laws should or should not be changed so that both couples would pay the same amount of taxes?

	Yes	No	No opinion
National	83	12	5
Marital status:			
Married	85	11	4
Single	77	19	4
Widowed	77	14	9
Divorced/separated	87	11	2
Family life:			
Satisfied with	83	12	5
Dissatisfied with	77	20	3
Effect family laws	86	12	2

Under the present laws, if a married couple and an unmarried couple who are living together earn the same amount of money, the married couple has to pay more income tax. Do you feel the laws should or should not be changed so that both couples would pay the same amount of taxes?

	Yes	No	No opinion
National	83	12	5
Sex:			
Men	84	12	4
Women	82	13	5
Race:			
White	83	12	5
Non-white	79	18	3
Education:			
College	81	16	3
High school	84	11	5
Grade school	83	9	8
Region:			
East	83	12	5
Midwest	84	11	5
South	81	14	5
West	83	13	4
Age:			
18–34 years	82	16	2
35–49 years	85	9	6
50 and older	82	12	6
Income:			
$15,000 and over	82	13	5
Under $15,000	83	12	5
Occupation/CWE:			
White collar	81	16	3
Blue collar	84	11	5
City size:			
Central city	83	12	5
Suburbs	79	15	6
Non-metro	84	12	4

Mr. SASSER. Mr. President, tax equity is a much talked about goal of many in the Congress. I submit that there are few opportunities more promising than this one to bring about a greater degree of equity to our Tax Code. It is simply unfair for two working people who are married to pay substantially higher taxes than two working people who are not married. This discourages the institution of marriage and at the same time is an embarrassing reflection on our tax system.

There are, in addition, economic reasons for a substantial reduction in the penalty that should be examined. Many of those who talk of the benefit of the supply-side economic theories also tell us that there is great supply side potential in lowering the marginal tax rates paid by a married couple's second earner.

According to supply-side theory, tax cuts can reduce inflation, at the same time increasing economic growth, if they provide incentives for increased work efforts and savings. With regard to work efforts, studies show that second earners have far more discretion in the number of hours they work and whether or not they work at all. If a tax reduction is to have any effect, it is most likely to impact second earners. Yet these individuals under the present system have the highest marginal tax rate.

Families whose income does not keep up with inflation must either withdraw savings, go into debt or one spouse must go to work or increase the number of hours worked. A tax policy targeted to this group promises more savings and less debt in the most direct and proven way possible.

Another point to be made with regard to the marriage penalty's effect on savings is that many households can afford to save only if there is a second earner. Median earnings of two earner married couples are about $27,000. This compares with $18,000 for single earner couples. The way in which many families have attempted to remain whole against the ravages of inflation has been for a nonworking spouse to go to work or to increase the number of hours worked if already working. This is all that has kept many families from suffering a tremendous decline in their standard of living.

Mr. President, we have an opportunity today to take a giant step in the name of tax equity and supply side incentive. We can make a big change in the chilling effect that the tax code now has on the institution of marriage. The Finance Committee's concern with this matter is evidence of its importance.

We should increase the marriage tax relief provision to the levels established in my amendment.

Mr. President, before I yield the floor I would like to make several additional insertions for the RECORD. First, I ask unanimous consent to have printed in the RECORD a copy of the testimony I submitted to the Senate Finance Committee in its hearings of August 5, 1980, concerning the marriage penalty.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JIM SASSER

Mr. Chairman, my bill addresses the injustice suffered by married couples as a result of the "marriage tax penalty". This issue is of grave importance to 38 million Americans who pay an income tax penalty just because they are married and to countless others who may be avoiding marriage because they cannot afford it.

In the United States we have several widely accepted principles for taxation: progressivity, aggregation, neutrality and equitability. Our present tax policy clearly violates the third and fourth principles by imposing higher taxes on a married couple earning the same income as two single persons.

In 1948 our Federal Income Tax system conformed to all the principles of taxation with the exception of aggregation. There was only one rate for both married and single persons and each person was considered an individual taxable unit. Using this method married couples could file separate returns, thus reducing their tax liability. Problems soon arose over states with community property laws. To correct this condition, the Supreme Court in 1930 ruled that a husband and wife living in a state with community property laws could file separate returns with half of their combined income in each return. In 1948 the income splitting concept was extended to all states to avoid transitional problems occurring in states adopting the community property laws. Along with this revision came the new joint return schedule and married couples were encouraged to file joint returns.

It was soon evident that the 1948 revisions had given the married couples an unfair advantage over the single taxpayer. Until the 1969 Tax Reform Act, single taxpayers paid up to 41 percent higher taxes than a married couple with the same taxable income. The 1969 reform adjusted the rate schedules so that a single person would not be required to pay more than 20 percent in excess of the tax liability paid to a married couple in their joint return for the same income. This revision was heralded by the single taxpayer but as a result, the marriage tax penalty was created.

Under the present tax law a married couple with a taxable income of $10,000 each would have a tax liability of $2,745 on their combined income of $20,000. If the same couple were not married, they would have a tax liability of only $2,354. This difference of $391 is referred to as the "marriage penalty". In many cases a couple finds their tax liability to be greater than the salary earned by one spouse. This is a great injustice and must be corrected.

The bill I have proposed works toward fairness to all taxpayers and will alleviate the discrimination against married couples. It is imperative that we correct the adverse effect this penalty has on the American family. With our present rate of inflation, families have had to lower their standard of living to survive financially. This proposal would result in relief for the inflation-burdened family by granting some measure of tax equitability.

As you well know, it is so very difficult in the area of tax legislation to please all people all of the time. But at least we can attempt to reach a desirable medium between the married couple and the single individual. My bill would reduce the marriage penalty by allowing a 20 percent reduction on the gross income of the spouse earning the lower salary with a maximum deduction of $4,000 being allowed. This deduction would be allowed without requiring itemization of deductions. The deduction also would not affect their eligibility for other deductions or credits.

The general approach to the marriage penalty that I offer is especially desirable in these times of budget control because the amount of the deduction can be altered to the desired revenue loss level without changing the substance of the legislation. S. 1817 is an achievable solution for reducing the marriage penalty that strives for fairness to all taxpayers.

I find it alarming, Mr. Chairman, that our Federal tax code actually discourages marriage by making it economically desirable for couples to live together. It is my feeling that this Congress should make every effort to promote the continued existence of the American family.

The United States is the only industrialized nation of the world that does not recognize a difference, for tax purposes, between the one- and two-earner family. This legislation would change the present income tax law to acknowledge this difference.

I think this approach is fair to all taxpayers and would ease the discrimination against married couples. I urge my colleagues on the Finance Committee to give this bill every consideration.

Mr. SASSER. Next, Mr. President, I ask unanimous consent that a portion of a floor statement I delivered on January 20, 1981, in which I reviewed the history of the tax policy which gave rise to the marriage penalty, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

FLOOR STATEMENT BY SENATOR JIM SASSER

Mr. President, I would like to review the history of the tax policy, with regard to married and unmarried persons, that led to the creation of this penalty.

As originally written the Internal Revenue Code recognized the individual as the sole taxable unit. Under some State community property laws, however, married couples were permitted to file income tax returns splitting their income. When one spouse earned most or all of the couple's income, a substantial tax savings was realized.

Residents of non-community-property States were at such a disadvantage that many States began adopting community property laws. To avoid the transitional problems likely to result from this growing State movement and for other reasons, Congress in 1948 changed the tax law to allow all married couples to take advantage of income splitting.

By the 1960's many of the growing population of single people felt that the advantage that income splitting gave to one-earner married couples was unfair to them. At some income levels the difference in tax levels between single persons and married couples was as much as 42 percent.

Consequently, Congress revised tax rates in the Tax Reform Act of 1969. Under these rates the tax liability of single persons could be no more than 20 percent in excess of that paid by a married couple on their joint return for the same amount of income. This change, of course, helped single persons but at the same time aggravated another problem by creating the marriage penalty.

Mr. SASSER. Third, I ask unanimous consent that a table which illustrates the effects of the marriage penalty at selected income levels and earnings splits between husband and wife be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

"MARRIAGE TAX PENALTY" AT SELECTED LEVELS AND EARNINGS SPLITS BETWEEN HUSBAND AND WIFE BEFORE MARRIAGE

[Assumes the Zebra]

Total family income	Share of family income from lesser-earning spouse (percent)					
	0	10	20	30	40	50
MARRIAGE						
$5,000	−199	−910	−43	0	0	0
$7,000	−232	−113	5	118	183	
$10,000	−240	−49	141	194	204	
$15,000	−353	33	176	256	277	
$20,000	−451	32	263	423	463	
$25,000	−592	10	381	610	701	
$30,000	−682	50	599	920	1,019	
$40,000	−887	274	1,153	1,662	1,852	
$50,000	−1,086	674	1,930	2,640	2,870	
$100,000	−3,045	910	3,575	5,164	5,700	

Note: The table shows the tax increase when 2 single persons with the indicated earnings division marry each other. Minus means a negative penalty; i.e., a bonus tax decrease from marriage.

Source: Joint Committee on Internal Revenue Taxation.

Mr. SASSER. Next, Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a resolution adopted in June of 1980 by the Southern Baptists at their annual convention.

The fact that this resolution was adopted over 1 year ago illustrates the degree to which a broad segment of our population has concerns about the problems created by the marriage tax penalty.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 3—ON MARRIAGE TAX

Whereas, It is the duty of the church to express itself on moral issues, and

Whereas, Our tax code encourages people to cohabit rather than marry based on economic considerations rather than morality, and

Whereas, The U.S. News & World Report April 14, 1980 issue states that 16 million working couples who were married were penalized 8.3 billion dollars in additional taxes in 1979 for filing a joint tax return as married couples, and

Whereas, This tax inequity encourages immortality and violates the basic concept of the standard of sexual morality, as set forth in the Word of God.

Be it resolved, That we act upon our deep concern for the propagation of Christian moral principles in our society by expressing our disapproval of such a tax structure, and

Be it further resolved That we demonstrate our concern as Christians by encouraging our President and the Congress to take appropriate action which will correct this inequity and promote the sacredness of marriage as a God given institution.

Mr. SASSER. Mr. President, the following is a partial list of organizations who have, in the past, come out in support for a change in the tax laws with regard to the marriage penalty:

Southern Baptists; National Grange; Chamber of Commerce; National Taxpayers Union; Urban Institute; United Auto Workers; U.S. Lutheran Laymen; National Women's Political Caucus; Family Service Association of America; and American Association of University Women.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in the Washington Post on March 19, 1981, authored by Ms. Nancy S. Barrett, who is now an economist at the Civil Aeronautics Board. Ms. Barrett is a former assistant secretary at the Department of Labor. The article, entitled "Working Couples Could Use the Break," is a well written piece which ably makes the case for the positive supply-side effects of a reduction in the marriage penalty.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WORKING COUPLES COULD USE THE BREAK

In view of the Reagan administration's strong commitment to the supply-side philosophy of tax reduction, it is curious that its 1982 budget proposal passes up a potentially powerful supply-side opportunity, lowering the marginal income tax rate for a married couple's second earner. Also known as the "marriage penalty," taxation on the basis of a couple's joint income imposes a much higher marginal (and average) rate of tax on the second earner than if the tax were computed on the basis of that person's individual income. Lowering this tax would provide a much stronger impetus for supply-side growth than across-the-board tax cuts, adding both to saving and to work effort.

According to supply-side theory, a tax cut can actually reduce inflation as it increases real growth if it provides an incentive for increased work effort and saving. First, regarding work effort, common sense—not to mention a myriad of statistical studies—suggests that second earners have far more discretion than single earners in the choice of whether or not to work and for how many hours per week. If a reduction in marginal tax rates is to have any impact on work effort at all, it is likely to have a far greater effect on second earners than on any other group. Yet these individuals, under the current system, have the highest marginal tax rates of any group.

It is noteworthy that this labor force participation rate of Swedish women increased by roughly 10 percentage points following a change from joint to individual taxation. In Sweden, however, the majority of these married women work part-time, suggesting that the supply-side effect was to increase work effort while permitting wives to combine paid employment with child care and other family responsibilities.

Turning to the impact on saving, again there is overwhelming evidence that many households can afford to save only if there is a second earner. Median earnings of two-earner married couples are about $25,600, compared with $18,100 for single-earner couples. The only way most families have been able to keep up with inflation since the early 1970s has been increasing labor force participation and hours worked of second earners. Declining productivity combined with the oil drain (as skyrocketing prices of imported oil have transferred income to OPEC nations) would have meant a huge drop in family living standards had this supply-side response not occurred.

When incomes fail to keep up with inflation, most people attempt to maintain living standards by reducing savings and even going into debt. Obligations such as a mortgage and car payments must be met. And families who have not responded to inflation by having a second earner at work will save less than two-earner families. Thus, a tax policy that encourages a supply-side response by families burdened with inflation will mean greater overall savings, as fewer families need to dip into bank accounts or go into debt to meet their needs.

Clearly, the Reagan administration wants to minimize the tax loss associated with any supply-side policy. (Alternatively, of course, the aim could be simply to relieve excessive tax burdens on everyone—probably a very sound policy.) But for real supply-side bang for the buck, tax cuts should be targeted where they are most likely to encourage saving and added work effort. Reducing taxes on second earners is clearly such a policy.

And there are alternative ways to accomplish it: Either a tax credit against part of the second (lower) income, as proposed in the Carter budget, or optional individual filings for two-earner married couples, as suggested by Rep. Millicent Fenwick. Neither proposal would increase taxes for single-earner families. And such a tax reduction would avoid costly windfalls to individuals whose supply-side response is likely to be negligible.

Mr. SASSER. Mr. President, I ask unanimous consent to have the text of my proposed amendment printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

On page 26, strike out lines 9 through 21, and insert in lieu thereof the following:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.— n the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 10 percent of the lesser of—

"(A) $30,000, or

"(B) the qualified earned income of the spouse with the lower qualified earned income for such taxable year.

"(2) TRANSITIONAL RULE.—In the case of a taxable year beginning after December 31, 1981, and before January 1, 1985, paragraph (1) shall be applied by substituting '12 percent' for '10 percent'.

Mr. SASSER. Mr. President, I thank the distinguished floor managers of the bill, Senator DOLE and Senator LONG, for their efforts in reducing the marriage tax. I urge our distinguished managers, in conference on the tax bill, to expand the marriage tax deductions now contained in the committee bill. I want to let them know that I am going to continue my efforts to, one day, bring a complete end to the so-called marriage tax penalty.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield 10 minutes on the bill to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the Senator from Louisiana for yielding me these few minutes to speak on the bill.

First, concerning the House tax bill neither the Republican nor the Democratic bill would be acceptable to me and certainly the Senate bill is totally unacceptable.

I have been appalled, Mr. President, at the bidding for votes by both parties in the House. It is a deplorable way for

either party to legislate, and only the people lose.

Mr. President, I would have favored a finely tuned and targeted tax cut that would have given relief to the great masses of people who are in desperate need of tax relief and which would not have precluded our chances of balancing the budget. I would support many of the business tax cuts in this bill. I would and did support relief for the savings and loan institutions, and I supported the Bentsen amendment to this tax bill when it was offered last week. But I cannot support a bill which does so much for so few and so little for so many.

I cannot support a bill which leaves 50 percent of the working people actually worse off at the end of the 3-year tax-cut period, 45 percent only marginally better off, and 5 percent of the people, who make over $50,000, so much better off.

I cannot vote for a bill which further increases the income inequality in this country. Except for France, the United States has the highest income inequality rate in the world. That means that the top 20 percent of income earners in this country earn 11 times more than the bottom 20 percent, and only France, which just turned to a socialist government, exceeds that ratio.

Japan, whom we all seem to want to emulate, has the lowest income inequality rate of any industrialized nation—5 to 1. And no executive in Japan makes over $300,000 a year. Maybe this explains Japan's high rate of productivity.

Mr. President, I thought it was rather courageous of my colleague from Massachusetts (Mr. KENNEDY) to mention on national television that this bill will give him an $80,000 additional income each year for the next 3 years. But it is shocking to think that he and some others in the Senate will get that size of a tax break while 65 percent of the people in my State who get paid twice a month will see a $5 increase in their paychecks.

Mr. President, I cannot vote for this bill for many reasons. I think the Senate committed one of the most irresponsible acts since I have been here when it voted for a new taxing system called indexing. It is politically appealing, as many ideas are, but it merely institutionalizes all of the gross inequities that now exist in our tax system. Israel is the only country in the world that fully indexes everything and it has an inflation rate of 150 percent.

People have developed great expectations about these tax cuts, so how will we in the Senate answer our mail from our constituents who suddenly awake to the fact that their tax cut, for one whole year, will not even pay the increased cost of their utility bills for 6 months? How will we explain to some assembly line worker in my home State of Arkansas that he is only going to get a $5 increase in his paycheck, while people making $100,000 a year will get 50 times that much.

Mr. President, one of the most dangerous things to this Nation is the polarization of people—polarization between rich and poor, black and white, labor and management, and so forth—which seems to proceed apace. Everybody felt that, when President Reagan was elected with a landslide victory, somehow or other, the people of this country would be able to join hands and unite and put some of those differences aside, and reduce our increasing distrust and cynicism toward each other.

I digress at this point by saying that all the tanks and guns and planes that we can build are not as important to the survival and the viability of this country as the way we feel about ourselves as a nation.

This bill will only exacerbate that alienation between the haves and the have-nots. One of the most dangerous trends in this country, Mr. President, is cynicism toward Government; that feeling that the people increasingly seem to have that they are being told what they want to hear rather than what they need to hear, being told something that is politically appealing when they would gladly accept something unpleasant if they just knew it was the truth. Yet, they now are being told that we can cut taxes $350 billion, as this bill does over the next 3 years, increase defense spending by $100 billion over the next 3 years, and still balance the budget in 1984.

I certainly have not talked to every economist in this city, Mr. President, but I have talked to a number of them, and I have not talked to one, not one, who thought that if we do these things, the budget can be balanced in 1984. It is an absolute, utter impossibility and it is difficult for me to believe that any thoughtful person believes otherwise.

So, Mr. President, what have we done but further polarize and deepen the cynicism people feel when, once again, they are promised a balanced budget on a day certain and know it is not going to happen?

They hear that we did not get into this mess overnight and therefore, we are not going to get out of it overnight. I submit that we are not going to get out of it at all, Mr. President, with the passage of this bill.

We have heard it said that we must all sacrifice together if this country is going to survive. Yet, this bill calls for about 95 percent of the people to sacrifice, but not the 5 percent who are the wealthiest of the wealthy in this country.

The unfortunate thing for all of us is that the great mass of people in this country do not have lobbyists roaming the Halls of Congress. We in this body are the only lobbyists most people can turn to for protection and help and we are failing them miserably with the passage of this bill.

How can you explain to your constituents that this bill contains, over the next 10 years, an additional $20 billion to the oil companies, three of whom are competing for Conoco with bids up to $8 billion—the same oil companies who said, if you will just give us the tools, give us the money, we will explore and find oil and make this Nation energy independent. We gave them the money and now they are consuming everything in sight. The American people do not get one additional barrel of oil if Mobil acquires Conoco. We get nothing except a greater concentration of economic power. Even in the House Democratic version of the tax bill the oil companies get $22 billion, and under the Republican version in the House, the President's version, those oil companies get $46 billion.

How long does that have to go on? How long will the Members of this body continue to accept it, indeed promote it.

Mr. President, there are things in this bill which I support, and I regret that my opposition to the bill and my vote against it will, most likely be construed as saying I voted against the marriage tax penalty being removed, or that I voted against raising the estate tax exemption to $600,000. I favor those things and wish I had had the opportunity to vote for them separately.

Well, that is a hazard of this profession that I will have to accept.

It is an interesting thing to note here that the President himself did not want those things in this bill.

Mr. President, this bill constitutes a gross violation of my sensitivities and my concerns for that 65 percent who will fare poorly under it and even another 30 percent who are only marginally benefitted. The administration justifies giving the lion's share of this tax cut to the wealthiest people of the country on the grounds that they will save it and invest it. First, I do not believe that, and moreover, I think it is a gross affront to every thoughtful American, rich or poor, Republican or Democrat, to suggest that we have to give these monumental sums of money to the wealthy because only they have enough sense to use it correctly.

The PRESIDING OFFICER. The 10 minutes that have been yielded have expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 60 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Finally, Mr. President, I want the President to succeed. It was very difficult for me to vote for $40 billion in budget cuts but I did it because I thought Federal spending needed to be reduced. I supported the President's efforts to curb overregulation by the Federal bureaucracy.

After all, if the President does not succeed I will suffer, my children will suffer, and the country will suffer. I want him to succeed.

But I can tell you, Mr. President, that this bill, which the Senate is going to pass overwhelmingly, assures the President's failure in his economic policies. I must vote "no."

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr.

KASTEN). Without objection, it is so ordered.

UP AMENDMENT NO. 328

Mr. DANFORTH. Mr. President, I ask that it may be in order for me to offer an amendment at this time on behalf of Senators JEPSEN, LEVIN, and METZENBAUM.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), on behalf of Mr. JEPSEN, Mr. LEVIN, and Mr. METZENBAUM, proposes an unprinted amendment numbered 328:

On page 3, line 16 of Jepsen unprinted amendment 315, strike subparagraph "d" and insert the following:

"(d) EFFECTIVE DATE.—This provision shall be effective for tax years beginning after December 31, 1980."

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment will change the effective date of the adoption expense deduction amendment that we agreed to yesterday and that was offered yesterday by Senators JEPSEN, LEVIN, and METZENBAUM.

This amendment will change the effective date from an 18-month retroactive effective date to January 1, 1981.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes.

Mr. INOUYE. Is that amendment on the list of the amendments to be considered?

Mr. DANFORTH. No, it is not.

Mr. INOUYE. Then, Mr. President, may I suggest the absence of a quorum?

The PRESIDING OFFICER. Does the Senator from Missouri yield time for the purpose of a quorum call?

Mr. DANFORTH. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DANFORTH. Mr. President, with respect to the amendment that was just called up, it is my understanding that this has been cleared on both sides, that there are no objections to it, and therefore I move the adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. DANFORTH. I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 328) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized.

UP AMENDMENT NO. 329

(Purpose: To disallow the deduction for one-half the expense of business meals)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 329.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle F of title II, add the following new section:

SEC. . BUSINESS MEALS.

(a) IN GENERAL.—Paragraph (1) of section 274(e) (relating to business meals) is amended by striking out "Expenses" and inserting in lieu thereof "Fifty percent of the expenses".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1981.

Mr. KENNEDY. Mr. President, I understand there is a time limitation of 15 minutes to a side, and I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, this is an amendment to reduce the amount of the business meals deduction by 50 percent.

Under present law, Federal income tax deductions are allowed only for ordinary and necessary business expenses.

Costs of business meals can be deducted if there is an expectation that business will be discussed. But meals with business associates are fully deductible if the meal is consumed in a "setting" that is conducive to business discussions, even if no business is actually discussed.

As a result, there are no meaningful limits on the deductibility of business meals.

The revenue loss from the business meals deduction is over $3 billion per year. This amendment would recover half of that amount, or about $750 million in the first year and about $1.5 billion in future years.

My amendment provides that, beginning next January 1, only 50 percent of the cost of business meals will be allowed as a deduction. Currently, 100 percent can be deducted.

The reasons for this amendment are obvious. Allowing the business meals deduction subsidizes consumption. It is widely agreed today that tax incentives should encourage saving; yet, the business meals deduction provides a major tax incentive for business people to consume instead of save. This tax deduction has nothing to do with saving. It is a flagrant subsidy for conspicuous consumption.

Allowing a business meals deduction fuels inflation. Since all restaurants know that the cost of expense-account meals is borne from 50 percent to 70 percent by the Federal Government, there are no incentives to keep prices down. The skyrocketing prices of restaurant meals are concrete evidence that the inevitable effect of the Federal subsidy is to encourage higher prices.

Allowing a business meals deduction also increases the Federal deficit. Congress is cutting other food programs—such as school lunches and food stamps—in order to control the budget. We can achieve the same budget benefits by cutting one of the major subsidized meal programs the Federal Government provides—the tax subsidy for business meals.

Cutting the business meals deduction in half will insure that the sacrifices required by the policy of budget restraint will be shared fairly; $1.7 billion is being cut from food stamps; $1.5 billion is being cut from child nutrition programs. If the poor and middle class are being asked to pay more for their food, it is unconscionable to continue unchecked a $3 billion Federal subsidy for three-martini lunches and luxury meals for the wealthiest people in the country.

When low- and middle-income individuals in our society are being asked to absorb a $3.2 billion cut in their Federal food programs, it is not asking too much of the highest income individuals to take a comparable cut in their federally-subsidized food program.

Mr. President, this is really a question of equity and fairness, and it is also a question of revenues.

We are cutting nutrition programs for the neediest people in our society. Mr. David Stockman and his Office of Management and Budget have clearly stated that he wanted a reduction in the school lunch program because it is helping too many middle-income people. Yet, there was no request at all to deal with that other federally-subsidized food program—the subsidy we give to the wealthiest individuals in this country, to the tune of $3 billion a year, by permitting them to write off their business meals under the tax laws.

Mr. President, I ask unanimous consent that three excerpts from Mr. Stockman's budget revisions submitted to Congress in April may be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT 1—BUDGET AND PROGRAM PRIORITIES AND CRITERIA

The President decided that achievement of his budget targets will require an end to the proliferation of new Federal programs and a reversal of the trend toward greater Federal roles in planning and controlling economic and social decisions.

He directed that all Federal programs be subjected to thorough scrutiny. However, in doing so he decided that:

A margin of safety must be created by rebuilding the Nation's defense capabilities.

The Social Safety Net of income security measures erected in the 1930's to protect the elderly (including cost of living protection for the elderly), unemployed, and poor, as well as veterans, must be maintained.

Eight basic criteria were used in evaluating and making decisions on programs:

1. Entitlement Programs must be revised to eliminate unwarranted beneficiaries and payments.

2. Subsidies and benefits for middle and upper income levels must be reduced.

3. Allocable costs of government programs must be recovered from those benefiting from the services provided, such as airports and airways, inland waterways and Coast Guard services to yacht and boat owners.

4. Sound economic criteria must be applied to economic subsidy programs such as synthetic fuels, Export-Import Bank loans, and subsidized loans.

5. Capital investments in public sector programs—such as highways, waste treatment plants and water resource projects—must be stretched out and retargeted.

6. Fiscal restraint must be imposed on programs that are in the national interest but are lower in priority than the national defense and safety net programs. Examples include NASA, National Science Foundation, and the National Institutes of Health, which would be allowed to grow at lower rates than planned.

7. Large numbers of categorical grants must be consolidated into block grants permitting less Federal administrative overhead, greater flexibility for State and local governments, greater efficiency in management and reduced overall costs. The principal examples are elementary and secondary education, and health and social services.

8. Federal personnel and overhead costs, and program waste and inefficiency must be reduced.

EXCERPT 2—CHILD NUTRITION PROGRAMS

PROGRAM DESCRIPTION

The Child Nutrition appropriation finances a variety of programs: school lunches and breakfasts, child care meals, summer meals, snacks, nutrition education, equipment assistance, and State administrative expenses. The lunch, breakfast, and child care programs subsidize all meals served, but the subsidy amounts vary in three tiers by household income level. The summer program is fully subsidized for all recipients. In recent years, large supplemental requests—$100 to $300 million—have been commonplace to finance costs of subsidized meals claimed by States.

PROPOSED CHANGE

At present, the Federal Government provides subsidies in three different categories (cash, commodities, and special cash assistance), to school districts that agree to provide free meals to the lowest-income students (those below 125 percent of the poverty line), and reduced-priced meals to those with slightly higher incomes (between 125 percent and 195 percent of the poverty line). The basic cash and commodity subsidies are distributed to schools based on the total number of children participating in the meal program, regardless of income level. The result is a subsidy, equal to about 50 percent of the purchase price of meals served to middle- and upper-income students—many of whom come from families with very high incomes. Given the need to focus Federal benefits on those truly in need, the Administration will propose legislation to focus subsidies on the lower-income groups.

The summer feeding program, which has been riddled with abuse and fraudulent claims will be proposed for termination. Other nonessential activities funded under this account will also be terminated, including funds to purchase new school food service equipment, nutrition education and training grants to States, subsidized snacks, and all subsidies to schools with high tuitions. The base and special subsidies for both free and reduced price meals will be annually indexed in future years from 1982 levels for price changes in the currently authorized indices. Finally, schools will begin to verify the income eligibility of students claiming full or partial meal subsidies.

RATIONALE

By focusing Federal meal subsidies on children from families in need, Federal costs will be reduced by over 35 percent next year, or by more than $9 billion by 1986. At the same time, continued full and partial Federal subsidies for lower income students will help to ensure that these students have access to adequate nutrition at school. Administratively, these changes will reduce the existing complexity of over 20 subsidy rates that vary by income level, type of meal, and type of institution claiming the subsidy. Elimination of activities collateral to funding nutrition subsidies for the needy moves away from inappropriate Federal involvement in State and local school administration.

KEY FACTS ABOUT THE PROGRAM

Full subsidies will continue for over 10 million needy participating children under the Administration's proposal; Federal subsidies will end for 14.5 million middle and upper income students whose families' income exceed $15,630 per year.

Grand jury indictments were handed down in March 1981 for fraud in New York City's summer feeding program, evidence of the continued abuse of that program.

Federal funding has grown dramatically on a portion of school meal financing.

EXCERPT 3—FOOD STAMPS

PROGRAM DESCRIPTION

Food stamps subsidize the food purchases of low income households. Each household meeting eligibility requirements—a net income test, a disposable assets test, and a work requirement for able bodied persons—receives stamps redeemable for food. Monthly stamp allotments may be household size and net income level. Allotments are annually indexed to changes in USDA's Thrifty Food Plan.

PROPOSED CHANGE

In accordance with the Administration's efforts to target assistance to the most needy families, and to restrain the uncontrolled growth of entitlement spending, major changes will be proposed in the food stamp program.

For a family of four, eligibility will be limited to those whose gross income is less than $11,000 per year—about $900 per month. Under current law, similar families with income in excess of $14,000 annually are eligible for food stamps. Overlapping school meal and food stamp subsidies will be eliminated. Benefit calculations will be based on actual recent eearnings or payments rather than projected earnings or payments. A recipient's initial allotment will be prorated to ensure that the benefits provided are more equivalent to the number of days in the month for which assistance is needed. Liberalized allotment levels and income deductions scheduled to take effect in the next fiscal year will be repealed. Tightened administration and program monitoring will yield additional savings through reduced overhead costs, and through the elimination of payment errors and food stamp fraud.

RATIONALE

These changes will help to refocus the food stamp program on its original purpose—to ensure adequate nutrition for America's needy families. The combined effect of food stamp's current prospective income test and high deductions from income has been td divert the food stamp program away from this original purpose toward a generalized income transfer program, regardless of nutritional need. By restructuring food stamps to complement other nutrition programs and targeting funds on those whose low income prevent them from maintaining an adequate diet, significant savings can be achieved while ensuring that needy families have the resources to meet their nutritional needs.

These changes are also designed to eliminate anomalies found in the present program, where families with high annual income are nevertheless eligible for food stamps during short, temporary periods of unemployment. The present program also permits those with relatively high incomes to take higher deductions for shelter and child care expenses than lower-income families. The Administration's program would remove 400,000 such households from the rolls. At the same time, a family of four with income below $10,985 would receive the full nutritional benefit—only modified to account for duplicated nutrition subsidies.

KEY FACTS ABOUT THE PROGRAM

Food stamp costs have doubled in the past three years and one out of ten American (22 million people) now participates in the program. The value of food stamp benefits grew from $5.2 billion in 1979 to more than $10.3 billion in 1931 and over 6 million people were added to food stamp rolls over that period.

In 1977, Congress established annual "caps" on Food Stamp appropriations, based on the best available economic and program projections. For three of the four years that the "cap" has been authorized, program growth has forced Congress to increase this statutory appropriations "cap." Increases enacted for FY 1980 and 1981 exceeded the "caps" established for those years by more than 55 percent for each year. In addition, a second increase of $1.2 billion above the "cap" for FY 1981 is currently pending.

Contrary to some popular suggestions, the growth in Food Stamp participation is not largely related to rising unemployment. Between February 1978 and February 1979, for example, Food Stamp participation increased by one million while the number of unemployed civilian workers remained constant. In the succeeding 12 months, Food Stamp participation increased by over three million while the number of unemployed increased by only 500,000. In 1975, at the peak of the recession, there were 7.8 million unemployed and 17.1 million Food Stamp participants. At the 1980 peak of 7.5 million unemployed the program grew to in excess of 22 million participants.

Source of Excerpts: Fiscal Year 1982 Budget Revisions, Additional Details on Budget Savings, Executive Office of the President, Office of Management and Budget (April 1981).

Mr. KENNEDY. Mr. President, my amendment would deny only half the deduction for business meals. In dollar terms, it will cut no more from the business program than we are cutting from the food stamp program or the child nutrition program. American taxpayers should realize that they are now paying a very large tax subsidy to feed the wealthiest individuals in our society.

If we are going to tighten our belts, then the sacrifices should be fairly shared. The budget cuts we are making will hurt millions of schoolchildren and low- and middle-income Americans. It is only fair that we tighten the belts of the wealthy, too. There is no justification for leaving their business meals deduction untouched, when we are demanding drastic cuts in Federal food programs that serve low- and middle-income families.

I reserve the remainder of my time, and I ask unanimous consent that a table summarizing the issue may be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Spending for Federal Food Programs (1982)

	Billions
Child nutrition:	
Current law	$1.3
Proposed (conference bill)	2.8
Cut	1.5
Food stamps:	
Current law	12.3
Proposed (conference bill)	10.6
Cut	1.7
Business meals:	
Current law	3.2
Finance Committee Bill	3.2
Cut	0

Mr. DOLE. Mr. President, I believe I have heard this argument before. I missed the one today; but I was here 3 years ago, I believe it was, and there was an outstanding statement at the time.

I apologize to the Senator from Massachusetts, but we were in the last reconciliation conference, considering the whole package, and we have just completed that—probably to the satisfaction of no one, but it is completed.

Mr. President, in an effort to speed up the process on this bill, I am prepared to vote on the amendment.

Mr. LONG. Mr. President, in certain lines of endeavor, entertainment is a necessary expense. If one compares entertainment to advertising, there is a parallel. In some situations, if your competitor advertises and you do not, he gets more business. In some lines of endeavor, if one entertains, it helps very much to sell a product.

On occasion, I have made the statement that entertainment is to the selling business what fertilizer is to the farming business: It increases the yield. If it is a necessary expense, then the person doing it should be permitted to deduct it.

Mr. President, this is very important to people who are incidentally affected. As far as the restaurants are concerned, they have enough difficulty surviving and making a fair profit when we look at many of the problems they have dealing with the Government and dealing with labor.

When one says that you cannot deduct the expense of entertaining, this could well be a death sentence to a great number of very nice little restaurants all across this land, and people who operate and work in those restaurants very well understand that. It was for reasons such as these that when we discussed this matter a couple of years ago the Senate voted against the amendment by a vote of about 10 yeas and over 80 nays.

I do not think that Senators have changed their minds to any great degree since that time, and I hope that the amendment will not be agreed to.

Mr. KENNEDY. Mr. President, I yield myself such time as I may require.

When we talk about the restaurant industry, I yield to no one in the concern about employment opportunities for individuals who work in that industry. It is a rapidly growing industry. But it is also fair to ask, what about the school cafeterias that will be closed because of the reduction in the school lunch program by 50 percent? Where is our concern for those workers?

We are talking about restaurants for the wealthiest individuals in this country. What about the school cafeterias for the children of the Nation?

There is no question that the clearest and the most flagrant abuse in the tax system is expense account living.

I have here in my hand a typical pamphlet, mailed to doctors, that illustrates the problem. Let me read you the title: "Great Medical Getaways," it is called. And here is the subtitle: "Combining Small-Group Medical Workshops and Down-to-Earth 'Tax Survival' Courses with a Recreational Experience of a Lifetime." It advertises tax deductible cruises and vacations at elite resorts.

Who do we think pays for all this? It is all being paid for by the hard-pressed taxpayer because of the expense account deduction. All expenses are paid. They go first class, and they deduct it all as a business expense.

They get business lunch deductions. They get business air travel deductions. They get business hotel and entertainment deductions. And they charge it—they charge it all to the Federal Treasury and the long-suffering American taxpayer.

It does not cost these individuals much to go down there, because they write it all off. And who ends up paying for it? The taxpayers pay for it.

The purveyors of these tax dodges even offer tax shelter advice as part of the deal. One whole page in the pamphlet has this heading: "Tax Survival 1982."

Mr. President, I ask unanimous consent that this page may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAX SURVIVAL 1982

This special series of seminars will be presented concurrently with each of the three Great Medical Getaways workshops in each of the three great getaway locations. Therefore, while you're attending the medical workshop, your spouse can conveniently be attending the tax course. Or, if you'd rather concentrate completely on tax plannings, you may choose the tax course in lieu of the medical workshop, and both you and your mate can attend Tax Survival, 1982 together. In either case, both you and your spouse would ordinarily be expected to benefit from the tax-deductibility attributed to these workshops, seminars and courses (see explanation below).

As a physician you are well aware of the impact of taxation on virtually every financial undertaking from simple personal savings to more sophisticated investments tax shelters, pension plans, wills, trusts, etc. Even though you and your spouse retain professionals to advise you on such matters, ultimately most important decisions rest with the two of you alone.

Tax Survival, 1982, designed specifically for you by experts, brings you up to date on the tax laws and how they can be used to maximize spendable cash, improve investment return, defer and minimize taxes and generally improve your financial base. Prepared and presented by outstanding university educators, this course is totally unbiased. Unlike the more usual "investment" seminar, this one involves no sales pitch, no get-rich-quick scheme, and no touting of any special-interest group. On the contrary, Tax Survival, 1982, does not tell you what to buy or what to sell; rather, it strives to tell you how to evaluate the alternatives. It's down to earth, easy to understand, and absolutely current. Tax Survival, 1982, is vital to your financial health.

COURSE CONTENT

Introduction to the Federal Tax System.

Recognizing taxable income and available deductions.

Understanding the variable tax rate.

Tax credits.

How to select the proper structure for a business.

The "nuts and bolts" of tax shelters.

How to evaluate deferred compensation alternatives.

Understanding Federal Estate and Gift Taxes.

How to select a tax professional.

How to interact with the IRS (audits).

TAX PROFESSORS AND MODERATORS

Your faculty are all taxation specialists in the schools of law and accounting in their respective universities.

Kathleen J. Bindon, Assistant Professor, The University of Alabama.

Jane O. Burns, Associate Professor, Indiana University.

James D. Bryce, Associate Professor, The University of Alabama.

Dennis Calfee, Associate Professor, The University of Florida.

Michael A. Diamond, Professor, The California State University—Los Angeles.

Charles P. Fazzi, Assistant Professor, North Texas State University.

Samuel A. Hicks, Associate Professor, Virginia Polytechnic Institute and State University.

Joseph E. Lane, Professor, The University of Alabama.

Henry J. Lischer, Professor, Southern Methodist University.

Martin J. McMahon, Associate Professor, The University of Kentucky.

Helen Morsicato Gernon, Assistant Professor, The University of Oregon.

Cherle O'Neil, Assistant Professor, Virginia Polytechnic University.

David W. Phipps, Professor, The University of Alabama.

Thomas Robinson, Associate Professor, The University of Arkansas.

Daniel R. Ward, Assistant Professor, Southwest Louisiana University.

Leonard R. Zumpano, Assistant Professor, The University of Alabama.

TAX DEDUCTIBILITY

Federal tax law permits an income tax deduction for education expenses incurred to: (1) maintain or improve skills required in one's employment or other trade or business, or (2) meet expressed requirements of an employer or a law imposed as a condition to retention of employment, job status or rate of compensation. In addition, the Internal Revenue Code provides for the deduction of certain expenditures incurred: (1) for the production or collection of income, or (2) for the management, conservation, or maintenance of property held for the production of income, or (3) in connection with the determination, collection, or refund of any tax.

The medical workshops and the tax course described herein have been designed to comply with federal tax law as applied to a substantial number of doctor/spouse participants, and the locations of the meetings are felt to comply with HR 5973, section 4, enacted December 13, 1980. Since the applicability of these provisions may vary depending on your specific situation and since IRS regulations change from time to time, you are advised to consult your professional tax counselor for determination of tax deductibility.

Mr. KENNEDY. I do not mind people going on these luxury vacations. I enjoy going on them myself. But I do not think the American taxpayer should be required to pay for it, as they are being asked to do at the present time.

In addition to the issue of equity, there is also the issue of revenue. We have heard over the past 2 weeks of debate on this bill, that the Senate could not accept this amendment or that amendment, because we did not have the revenues available to pay for it. Well, this amendment will recover about $600 million in the first year and over $1.5 billion each year thereafter.

What we are talking about is only a drop in the bucket. Adoption of this amendment will not put a dent in the restaurant industry. Food and beverage expenditures in 1980 exceeded $80 billion. The vast majority of those expenditures could not be deducted, because they were paid by average families for their meals.

Only about $6 billion of that amount is being deducted in the form of business meals. We are not talking only about the three-martini lunch. It is also the chateaubriand steak and the bearnaise sauce, the caviar and the flaming desserts and the fancy wine. Why should these costs be deductible? Why should the Federal Treasury be asked to subsidize these meals through the tax laws.

Some people argue that, after all, business may really be discussed at these dining tables. Well, this amendment recognizes that possibility. It allows half the cost of the meals to be deducted. It allocates half the cost of the meals to business purposes, and allows a deduction for that amount. Only half the tax deduction is denied.

But everybody has to eat, and the rich eat better than anyone else. What they do not deserve is a tax deduction for what they eat.

I have one simple quotation for every Senator who will vote on this amendment. If we are cutting food stamps for the poor by $1.7 billion; if we are cutting school lunch programs for the middle class by $1.5 billion; then why are not we cutting the business lunch program, which is nothing more than food stamps for the rich?

That is all this amendment is about. And I hope that it will be accepted by the Senate.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, is the Senator from Massachusetts prepared to yield back his time?

Mr. KENNEDY. Yes.

Mr. DOLE. I am prepared to yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 12, nays 87, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—12

Andrews	Hatfield	Pell
Boren	Kassebaum	Proxmire
Byrd, Robert C.	Kennedy	Specter
Hart	Levin	Tsongas

NAYS—87

Abdnor	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Goldwater	Nickles
Bentsen	Gorton	Nunn
Biden	Grassley	Packwood
Boschwitz	Hatch	Percy
Bradley	Hawkins	Pressler
Bumpers	Hayakawa	Pryor
Burdick	Heflin	Quayle
Byrd, Harry F., Jr.	Heinz	Randolph
	Helms	Riegle
Cannon	Hollings	Roth
Chafee	Huddleston	Rudman
Chiles	Humphrey	Sarbanes
Cochran	Inouye	Sasser
Cohen	Jackson	Schmitt
Cranston	Jepsen	Simpson
D'Amato	Johnston	Stafford
Danforth	Kasten	Stennis
DeConcini	Lautenberg	Stevens
Denton	Leahy	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Wallop
Dole	Mathias	Warner
Domenici	Matsunaga	Weicker
Durenberger	Mattingly	Williams
Eagleton	McClure	Zorinsky
East	Melcher	
Exon	Metzenbaum	

NOT VOTING—1

Tower

So Mr. KENNEDY's amendment (UP No. 329) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have a statement to make on the reconciliation conference report. I ask unanimous consent that the time I am about to utilize not be charged against this bill or any amendment thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET RECONCILIATION CONFERENCE REPORT

Mr. BAKER. Mr. President, 2 weeks ago, when the Senate and the House of Representatives decided to sit down and rectify differences in next year's budget, skepticism abounded from all directions. We were told that the conferees were embarking on an impossible course. We were told that we had sacrificed the budget reduction effort. And we were told that even if an agreement was reached, the process would take at least 2 months.

Mr. President, I am happy to report to the Senate today that the conference on the budget reconciliation bill has now been completed.

The alleged impossible conference has produced one of the most impressive and monumental legislative accomplishments of this century. The budget reduction proposal has not been sacrificed, but, rather, strengthened. It is an example of resolve and efficiency, and has been a most most powerful vehicle for abating the limitless expenditures of the past.

Perhaps most significant is the fact that we are not completing the process in September, but in July, just 13 days after the conference was established. It is truly an expeditious achievement unparalled in recent legislative history.

This prodigious process has produced distinguished results. Final numbers are not yet available, but the conference will report savings for the next fiscal year in the range of $35 billion, and provide for an additional $130 billion plus over the next 3 years through reductions in Federal programs. These are the savings that will begin the process of restoring America's economic strength.

Yet, these statistics are only half of the story. Over 250 Senators and Congressmen met in 58 separate conferences to consider nearly 300 individual issues; from magnetic fusion to small business loans, from dairy price supports to strategic mineral stockpiles, and from rural water programs to urban mass transit.

A fortnight ago, when we were faced with the option of accepting the House-passed budget proposal, I, with the advice of the Senate committee chairmen, decided that we should not proceed on that course. It was our judgment that a conference would be a journey toward betterment, resulting in a measure that would closely parallel the President's budget guidelines.

I am without a doubt in my conviction that our decision to go to conference was a correct one. The conference report represents, in my judgment, a vast improvement over the original House bill. A cursory examination of the conference report reveals its merits:

First, it preserves controls on entitlement programs while improving their overall operation. The conference report provides for additional food stamps for the elderly and the handicapped, and increased support for child nutrition.

Second, the report includes policy improvements such as health block grants for the States, and saves the Head Start program which was not in House bill.

Third numerous proposed cuts, unwise or detrimental in design, were eliminated. The sale of mortgages, which could have resulted in heavy losses in today's market, and severe reductions for agencies such as the proposed 23 percent reduction in HUD operations were removed.

Finally, another major concomitant to the conference report is improved language. I believe that the conference report reflects a more succinct and responsible terminology which may prevent the need for judicial interpretations and additional clarifications of the complex legislation.

Mr. President, I wish to pay my personal respects to the distinguished minority leader of the Senate, who made it possible to expedite these proceedings and to go forward in an orderly way with this historic piece of legislation. He is due the gratitude of every Senator, Republican and Democrat, for recognizing the importance of this undertaking, for resisting any encouragement to obstruct and, instead, providing for the implementation of the Senate's will.

The House leadership, Speaker O'NEILL, and Minority Leader MICHEL, proved essential to the harmony necessary for this cooperative effort. Members of the House Budget Committee, particularly Representatives JONES, LATTA, and PANETTA also provided invaluable assistance.

I reserve my most heartfelt thanks for my colleague, the chairman of the Budget Committee, Senator DOMENICI. I have been in the Senate almost 15 years and I can honestly say that I have never seen a Senator grow so much and go so far as PETE DOMENICI has in the exercise of his responsibility as chairman of the Budget Committee.

He has performed in a truly historic way. He has already made his work on the legislative history of this body, and I predict that he has just begun to realize his full promise and potential as a public servant.

Finally, Mr. President, thanks are also due to Senator HOLLINGS, the distinguished ranking member of the Budget Committee, and the entire Budget Committee staff, for their tireless efforts and inexhaustable energy in directing the conference proceedings. I appreciate the efforts of all the committee chairmen; without their full cooperation—bipartisan cooperation we could not have reached this point today. I am grateful to them.

I wish to express the appreciation of the President of the United States for this effort, and I believe I speak correctly when I say that it is not presumptuous to express the thanks of the people of the United States for a job well done.

Mr. President, I ask unanimous consent to have printed in the RECORD a partial list of the conference accomplishments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFERENCE ACCOMPLISHMENTS—PARTIAL LISTING

SAVINGS

$35–36 billion in FY '82; $130–140 billion over the next three years.

Original instructions to Senate, $35.2 billion.

BETTER POLICY

Health Block Grants—House had many categorical programs—conference combined 15 programs into 3 blocks at a savings of $850 billion.

Education and Community Services block grants improved.

Social Services, Energy Assistance, and Maternal and Child Health blocks preserved.

Housing—removed some regulations, lowering construction costs; targeted housing to those most in need.

Student aid—more aid for low-income students through Pell grants; curtailed use of guaranteed loans to families with incomes in excess of $30,000.

Primary and secondary education—Education block grant; Head Start funded (left out of House bill); Impact Aid formula improved.

Handicapped—more funding, to state-administered programs, to provide training and assistance to make handicapped self-sufficient.

Post Office—Reduced payments for subsidized classes.

PRESERVED ENTITLEMENT CONTROLS WHILE IMPROVING PROGRAMS

Child nutrition—better across-the-board support.

Federal employee compensation and federal retirement COLA.

Food stamps—Puerto Rico block grant; more aid to elderly and handicapped.

Subsidized housing—better targeting to those in need.

AFDC—savings through tighter eligibility and work requirements.

CLOSER TO ADMINISTRATION BUDGET PROPOSALS

Block grants.
Housing.
Post office.
EDA.
Black lung.
GNMA mortgage assistance.
Salary and expense accounts—Treasury, Commerce, HUD, DOT, Agriculture.
Public Service Health Hospitals.
Small Business Administration.

Mr. MOYNIHAN. Mr. President, as a member of the Budget Committee, I should like to join briefly in the remarks of the distinguished majority leader. The extent of my remarks will denote the rather low degree of my seniority in that extraordinary enterprise.

I compliment the chairman on his efforts in the past year, with the task suddenly put upon him, unexpectedly, and then an effort to make a piece of legislation do something that has never been done by legislation in this body, and which had the potential to change fundamentally the characteristics of this body. It is within the power of the reconciliation process to put an end to extended debate in the Senate. It is the power of the reconciliation process to supplant the functions of most of the committees of the Senate.

It was the task of Senator DOMENICI to carry out the administration's program, to the degree he embraced it, without affecting the nature of this institution. That he did so with so much agreement is a tribute more expressive than perhaps any words we might say on this floor.

He has preserved the character of the Senate, and that is something few persons will have said about them in their lifetimes. The most you can hope is that it will be said of you after your lifetime. He is fortunate in having us to observe what he has done while he is still here to hear it.

I join the majority leader in tribute to the chairman, with whom I have not voted once, I believe, in all of the 6-month ordeal.

Mr. BAKER. Mr. President, I thank the Senator for his remarks. I am sure the Senator from New Mexico is grateful as well.

The remarks of the Senator from New York are all the more welcome and relevant in view of his last observation.

One of the great attributes of leadership—and one possessed in such generous measure by Senator DO ENICI—is the ability to weld together effective forces, as he has done in the Budget Committee, even if they present divergent points of view, in a bipartisan manner.

I thank the Senator on my behalf and on behalf of Senator DOMENICI.

Mr. MOYNIHAN. I thank the majority leader.

ECONOMIC RECOVERY TAX ACT OF 1981

The Senate continued with the consideration of House Joint Resolution 266.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

UP AMENDMENT NO. 330

(Purpose: Relating to cash management)

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be started.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 330.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, insert the following new subtitle:

Subtitle—Cash Management

SEC. . CASH MANAGEMENT.

(a) IN GENERAL.—Paragraph (1) of section 6655(h) (relating to large corporations required to pay at least 60 percent of current year tax) is amended to read as follows:

"(1) MINIMUM PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a large corporation, paragraphs (1) and (2) of subsection (d) shall not apply.

"(B) TRANSITION RULE.—For taxable years beginning before 1984, in the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than the applicable percentage of—

"(i) the tax shown on the return for the taxable year, or

"(ii) if no return was filed, the tax for such year.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in:	The applicable percentage is:
1982	65
1983	75".

(b) CLERICAL AMENDMENT.—The heading of subsection (h) of section 6655 (relating to failure by corporations to pay estimated income tax) is amended by striking out "at Least 60 Percent" and inserting lieu thereof "Minimum Percentage".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Mr. DOLE. Mr. President, let me indicate at the outset just what our financial status is as of now with reference to the administration's numbers.

In fiscal year 1981, administration's number is $1,549,000,000; our number is $1,595,000,000, which is $46 million more than the administration's number.

In fiscal year 1982 the administration's revenue loss total would be $38,309,000,000; our number so far on the Senate floor, with all the amendments we have agreed to up to this point, is $38,239,000,000, or $70 million better than the administration.

In fiscal year 1983, the administration's revenue loss total would be $91,843,000,000; our number as of now is $92,778,000,000, so we are above the administration by $935 million.

In fiscal year 1984, the administrations' total revenue loss number is $149,985,000,000, and for fiscal year 1984 our number as of now is $149.865.000,000, so we are over by about $118 million.

So I guess overall, we have a problem really only in fiscal year 1983.

But in keeping with our fiscal responsibility amendment, I have sent to the desk an amendment, which has been cleared by the distinguished Senator from Louisiana, which would provide the revenues necessary through improved cash management amendment.

Present law requires large corporations to pay at least 60 percent of their tax liability on a current basis, notwithstanding the prior year's tax liability, in order to avoid a penalty for underpayment of estimated taxes. For purposes of this requirement, a large corporation is a corporation which had $1 million or more of taxable income in any of 3 immediately preceding taxable years.

The amendment would require large corporations to be at least 80 percent current with their estimated tax payments, notwithstanding the prior year's tax liability.

The amendment would increase budget receipts by $600 million in fiscal year 1982, by $1.5 billion in fiscal year 1983, by $1.2 billion in fiscal year 1984, and by $200 million in fiscal year 1985.

I think in justification for the amendment it has been said that if we allow a large corporation to be at less than 80 percent, or 80 percent current with their tax payments, it amounts to a substantial interest-free loan from the Federal Government. But in any event, as I understand it, a similar approach has been taken in the Ways and Means Committee bill and in the Hance-Conable alternative in the House of Representatives. It is in keeping with our pledge to the President that if in fact amendments were adopted which exceeded the administration's numbers, the Congress and particularly the Senate would be fiscally responsible and find other ways to cover any such deficit.

This amendment has also been discussed with the distinguished Senator from Ohio, Senator METZENBAUM. I know of no objection to the amendment, having been cleared, as I have indicated, with the distinguished Senator from Louisiana, Senator LONG.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. HARRY F. BYRD, JR. Will the Senator indicate again the definition of a large corporation?

Mr. DOLE. A large corporation would be a corporation which had $1 million or more of taxable income in any of the 3 preceding taxable years.

I yield back the remainder of my time.

The PRESIDING OFFICER. Will the Senator from Virginia yield back the time for the minority?

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 330) was agreed to.

Mr. DOLE. Mr. President, I will not make a motion to reconsider at this time, in the event someone who may not have been on the floor would want to reconsider for any reason. I will make that motion at a later time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF AMENDMENTS

Mr. DOLE. Mr. President, I will just take this time to advise Senators who may be either in committee meetings or in their offices, and the staff members of our Senate colleagues, that according to the list furnished to the Senator from Kansas the only outstanding amendments are as follows: One that may be offered by the Senator from Montana, Senator MELCHER; one that will be offered by the Senator from West Virginia, Senator ROBERT C. BYRD; one that may be offered by the Senator from Texas, Senator BENTSEN; and one that may be offered by the Senator from Kansas, myself. I understand of the six remaining amendments by the Senator from Massachusetts, Senator KENNEDY, that none of those will be offered but that he may want to speak on the bill in a general way.

So, if there are Members who wish to speak on the bill, this is an appropriate time. I hope that we can have a vote on these amendments if they cannot be negotiated. We are in the process of negotiations on a stock option amendment, which has been pending since I guess the early days of this debate. It is the amendment that was set aside temporarily from time to time by the Senator from Kansas.

There are negotiations in that area, and I suggest that that amendment could be disposed of with some debate and perhaps a rollcall. I am not certain the distinguished Senator from West Virginia, the minority leader, would want a rollcall on his amendment, nor am I certain the Senator from Montana will call up his amendment or whether or not he would want a record vote.

So that is the status. We are essentially marking time. I hope that we might move ahead after 12 days of this. The Senator from Kansas is willing to let someone else have the floor.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas be good enough to yield 5 minutes to the Senator from Ohio?

Mr. DOLE. I am happy to yield.

Mr. METZENBAUM. I rise not intending to take 5 minutes, because I feel as the afternoon wears on it may be difficult to get time to speak and I wanted to specifically address myself to the Senator from Kansas. This matter has been on the floor for 12 days.

The Senator from Kansas, as the chairman of the Finance Committee, has been extremely accommodating to the Senator from Ohio. I have had some concerns that the bill not become a Christmas tree bill. No one could have been more cooperative or more willing to work with me. The Senator from Kansas and I do not always agree on every amendment nor on the total thrust of the legislation. But notwithstanding that, he has been the ultimate in being a gentleman and I wanted to publicly express to him my appreciation because he certainly made life a lot more bearable and he made it possible for me not to concern myself that an amendment would be passed because the floor was not being protected. I express in the strongest possible terms my gratitude to him for the manner in which he handled this legislation and whether we disagree or agree on any particular matter, and on most of them we have been in agreement, as a matter of fact, he has been very, very cooperative, and I thank him.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. METZENBAUM I yield to the Senator from Kansas.

Mr. DOLE. Let me say, not because of the Senator's compliment of the Senator from Kansas, it sincerely has been much appreciated by this Senator to have the Senator from Ohio willing at every moment to assist us in screening the amendments. I have not calculated the money he has saved the American taxpayers but I assume it will be substantial.

In a spirit of friendship I addressed the Senator from time to time as my special commissioner. I say that out of friendship and not otherwise because we have appreciated his willingness to accommodate legitimate amendments and question ones that might be less desirable. I want the RECORD to indicate my appreciation for that.

Mr. METZENBAUM. I thank the Senator from Kansas.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, this morning the Eagleton amendment was brought up for a vote and I was not available to make the vote. I wish the RECORD to show that had I been here I would have supported the Eagleton amendment.

I thank the Senator.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nebraska?

Mr. DOLE. Mr. President, does the Senator from Kansas have any time remaining?

The PRESIDING OFFICER. Thirty-one minutes.

Mr. DOLE. I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank my friend from Kansas for yielding.

Mr. President, as we approach the time for final action, basically, in the Senate on the tax cut bill, I think it is appropriate that I make the following remarks.

Despite several reservations, I have chosen to vote for the Senate tax cut bill, which is essentially the bill that President Reagan wants for his economic recovery program.

I am voting for this bill because it has many good features. It includes estate tax reform, which will help family farms and family businesses. This bill limits the marriage tax penalty, indexes the tax system to eliminate the problem of bracket creep, provides a tax deduction for charitable contributions, even if the taxpayer uses the standard deduction, and extends and establishes new incentives for people who save rather than spend.

But it must be noted that none of these commendable provisions was included in the President's original tax proposal. Democrats and Republicans alike joined to persuade the President to accept these important tax changes. There is a lesson to be learned here. There was much pressure early-on to accept the President's Kemp-Roth tax bill without change. This pressure was generated by the White House itself, but by resisting some of these pressures, the Senate has come up with a better product.

Mr. President, I also support this bill because it provides needed tax relief for businesses so that productivity can increase. Increasing productivity has been neglected as a tool to fight inflation, and it is time that businesses be given accelerated depreciation and other incentives to increase productivity. Productivity-oriented tax cuts were high on Congress' priority list during the last session, and President Reagan was wise to include such tax relief in his recommendations.

But I do not wish to convey with these remarks that this tax cut bill is all well and good. Indeed, Congress and the American people may sooner or later regret that certain parts of this bill were ever passed. The reason for this is that the bill in total cuts taxes faster than spending, and relies upon a rosy set of economic conditions to keep the Federal deficit from expanding and getting out of control. It is a fear of huge, future Federal deficits which is a major cause of our present day high interest rates, and I predict that interest rates will remain intolerably high unless the economy responds very favorably to this tax cut legislation.

I hope the economy does respond well, and that President Reagan is right in his assumptions. But I believe it is most unwise to gamble our country's economic future on long shot economic projections, and this is why I attempted to amend this bill to include a hedge—an insurance policy—against the possibility that the economy will not respond as predicted. My amendment would have provided for an evaluation of economic performance at the end of fiscal year 1982, and would have given Congress the opportunity to make necessary revisions rather than embarking immediately on a policy of no return.

Let me give you one example which illustrates my concern. Last March, President Reagan predicted that interest rates on Treasury bills would average 8.9 percent for fiscal year 1982. In July, the President revised this figure to 10.5 percent, which is still optimistic by most standards. The Congressional Budget Office is predicting a 12.3 percent average rate, and Treasury bill futures are trading in the 13 percent range for 1982.

The Treasury bill rate is directly related to the amount of interest that the Federal Government must pay on the national debt. A revision from 8.9 to 10.5 percent will result in additional Federal outlays of $17.1 billion for fiscal years 1981 and 1982. We cannot go on adding these phenomenal costs onto the budget, at the same time we are cutting taxes, without the deficit getting out of control and causing even more pressure for high interest rates.

Adoption of my safety valve amendment would have signaled that Congress was concerned about high interest rates and the size of the Federal deficit. In that sense, it would have been a positive influence in the money markets, lowering expectations for high interest rates, and therefore would have actually been a help to the President's economic recovery plan. I greatly regret that President Reagan did not accept my amendment, for it would not have had any effect whatsoever if the President's own projections are fulfilled, and it could only have sent a positive signal to the money markets and resulted in lower interest rates.

In other words, Mr. President, I am most fearful for the damage high interest rates will cause to our economy. High interest rates even now are causing untold damage to the lives and futures of millions of Americans. This situation cannot be allowed to continue.

But, Mr. President, this country needs tax cuts for business, and tax reform and tax incentives in many other areas. The Senate version of the tax cut is a result of much hard work over many months. It is this 1981 tax cut bill or nothing, and despite my concerns, I have chosen to vote for this legislation with the hope for our country that the President is right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

TRIBUTES TO SENATOR ROTH

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I should like to state for the record that as we near the end of debate on this rather historic tax measure, I cannot let it pass without paying tribute to the man who, in many respects, started it all. That is our distinguished colleague from Delaware (Mr. ROTH).

I think it is fair to say that if it were not for the early efforts of the distinguished Senator from Delaware, the American people might not be getting the biggest tax cut in the history of the country which is contained in the bill. He was a trailblazer, a pioneer, in the effort to reduce the growth of Government taxes and spending.

Mr. President, I can recall when you could not count on much support or even attract much attention on the question of real and meaningful individual tax relief for the American people. BILL ROTH, even then, was quietly laying the groundwork for action in Congress on tax cuts.

BILL ROTH was telling us almost on a daily basis, when we would listen, that sooner or later, the American people would support such an effort.

Mr. President, I believe very sincerely that today's action will vindicate what Senator ROTH has been talking about and working for for the past several years. The American people ought to send a thank you note to BILL ROTH for all that he has done to reduce their tax burden. No one in the Congress has done more to help the working people of this country than the Senator from Delaware, and I join my colleagues in tipping my hat to him.

I say, as one member of the Finance Committee and as the new chairman of that committee, Mr. President, that I have great respect for the Senator from Delaware and for his efforts on behalf of the American taxpayer, who has been overburdened. When a vote is cast later

today on this measure, I would say that the margin will be, in large part, due to the efforts of my colleague from Delaware (Mr. ROTH).

Mr. BAKER. Mr. President, will the Senator yield to me on this subject?

Mr. DOLE. I am happy to yield, Mr. President.

Mr. BAKER. Mr. President, I, too, would like to take this moment to express my appreciation to all the members of the committee, the chairman in particular. I shall have more remarks to make about their efforts on this bill, but let me add to the remarks made by the distinguished chairman of the Committee on Finance in respect to our friend and colleague, the Senator from Delaware (Mr. ROTH). I want especially to compliment him for his tireless efforts in pursuit of meaningful tax relief for the American taxpayer.

The centerpiece of President Reagan's economic recovery plan is the tax package we are about to pass and the heart and soul of that package is the across-the-board tax cuts which were first introduced in this Chamber over 4 years ago by Senator ROTH.

These are tax cuts that allow for future planning, Mr. President, tax cuts that will mean a lessening of the burden on working Americans which the Government has imposed on them for too many years.

Perhaps more than any other person, the Senator from Delaware will be remembered as the initiator of what may be the most fundamental shift in tax policy our Nation has even seen, a shift that will restore incentives for working Americans and encourage the production needed to revive our sputtering economy.

Without the efforts of Senator ROTH, the working men and women of this country would certainly have been buried under an avalanche of increasing taxes.

Mr. President, Senator ROTH is to be commended for the leadership and forepersistence as a legislator than his 4-gle to reduce the taxes of all Americans.

Mr. DOLE. Mr. President, I yield to the Senator from Nevada, then the Senator from Colorado. Then I shall yield the floor.

Mr. LAXALT. Mr. President, I wish to commend one of the principal architects of the Economic Tax Recovery Act of 1981, the distinguished Senator from the State of Delaware, BILL ROTH.

As modest as BILL is, I can understand his understating the role that he has played in the development of this truly monumental tax reduction package, the largest tax cut in the history of our Nation.

Some 4 years ago, BILL ROTH introduced a proposal for a 3-year across-the-board cut in individual taxes. The proposal was a new concept at the time and considered by many to be too radical.

Since that time, we have come to lovingly know this proposal as Kemp-Roth or—excuse me—Roth-Kemp. Sorry, BILL.

As the name implies, ROTH is synonymous with across-the-board tax cuts, and the centerpiece of the Economic Tax Recovery Act is the 25-percent across-the-board reduction in individual tax rates.

No one in the Senate today can take greater pride in authorship for the enactment of this legislation than BILL ROTH. Almost singlehandedly over the past 4 years, BILL has fought for tax relief for the working men and women of this country.

Now he is about to see the coming of age of his baby. Congratulations, BILL.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I also want to acknowledge with my own utmost gratitude the pioneering work of the Senator from Delaware (Mr. ROTH). This year marks the fourth anniversary of the bill which was known as the Roth-Kemp tax cut proposal and which, really, in its final incarnation, will be voted on for passage this afternoon, I trust very shortly.

I think it is more than appropriate, Mr. President, I think it is utterly and completely fitting for BILL ROTH's colleagues to reflect upon the great achievement which this great legislation comes down to.

BILL's proposal has traveled a long and sometimes difficult road, but the successful conclusion of the trip is drawing near.

Mr. President, I congratulate BILL on his truly superb accomplishment.

Roth-Kemp is the centerpiece of the tax package the Senate is about to approve today.

The 25-percent across-the-board reduction in individual taxes is not the full 30 percent cut which BILL envisioned when he introduced his proposal but, as the President demonstrated last night, this reduction will more than offset the effects of bracket-creep and higher social security taxes over the next 3 years. So I commend Senator ROTH for his hard work and dedication in giving the American people the first real tax cut they have received in the past 20 years.

Mr. GRASSLEY. Mr. President, a number of Senators have had a great deal to do with the fashioning of this landmark piece of tax legislation, but no one can claim greater credit than the senior Senator from Delaware, BILL ROTH.

BILL ROTH started a revolution in this country, Mr. President. He almost singlehandedly in the Senate led the fight to find a way to reduce the heavy tax burden on the American middle class. Without BILL ROTH, I am convinced that we would still be sitting here in the Senate trying to find new ways of taxing the American people, instead of finding ways of cutting these confiscatory taxes that we have today.

Few men in the recent history of the Senate have had the impact of BILL ROTH. When it comes to taxes and turning our economy around, Senator ROTH can only be described as a giant. Supply side economics was only a phrase a few years ago. Senator ROTH has turned it into the economic underpinning of our country.

Thanks to BILL ROTH, the American people stand to get a real tax cut this year and for years to come.

Mr. SYMMS. Mr. President, I would like to add my voice to the others here who are recognizing the senior Senator from Delaware as a main catalyst in the fight for reducing the massive tax burden that has settled on the American taxpayer. BILL ROTH has made his name synonymous with the idea of tax relief. Nothing more clearly demonstrates his patient persistance as a legislator than his 4-year struggle to deliver real tax relief to the overworked and overtaxed taxpayers in this country.

BILL ROTH's dedicated efforts to lower taxes are a tribute to him in themselves. It is very fortunate that we have such a capable, effective leader among us in the Senate.

Mr. D'AMATO. Mr. President, over the last few months, in the flurry of working on this truly momentous tax bill, we have all been concentrating more on where it is going than where it has been. Therefore, as we approach the final vote in the Senate, I think it is appropriate to take a moment and look at where it had its beginning. That, of course, was with the distinguished Senator from Delaware, BILL ROTH.

Four years ago, when BILL ROTH first proposed his idea of dramatically cutting taxes over a period of 3 years, he was not exactly bowled over with support; and it has taken 4 years of hard work and dedication to change that opposition into support. BILL ROTH is a man who will be remembered as a pioneer in tax legislation. I think it is very appropriate at this tme to give him that recognition in the Senate.

Mr. CHAFEE. Mr. President, the passage of this tax bill will be a historic occasion—historic because it is the largest tax cut in American history and because it signals a fundamental change in the way the Federal Government conducts its business. But I do not rise on this occasion to preach the virtues of what we are about to do.

I wish, instead, to take this time to acknowledge the initiative, the leadership, and the responsiveness which Senator ROTH has shown as the architect of the Economic Recovery Act of 1981.

A little over 4 years ago, he introduced legislation that is the foundation of the tax bill we are considering today. Since then, my distinguished colleague from Delaware has worked relentlessly to build a national consensus for a tax cut that would provide real relief for the American taxpayer.

From the beginning, and despite early opposition, Senator ROTH has responded to the clear needs of the overburdened taxpayer and our struggling economy.

As a result, the Nation can now look forward to relief from higher taxes, excessive Government spending, and uncontrolled inflation.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I am happy to yield time to the Senator from Colorado (Mr. HART). I have time on the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. MOYNIHAN. Will the Senator yield for 20 seconds?

Mr. HART. As soon as I ascertain what the situation is, I will. The Senator from Colorado had made arrangements for about 10 minutes on the bill. I do not know what the circumstances are at the present time. Do I have to get those from the Senator from Kansas?

Mr. DOLE. Mr. President, I would be very happy to yield 10 minutes.

Mr. HART. Let the Senator from New York dispose of his matter. Then I shall get my 10 minutes.

(Mr. ARMSTRONG assumed the chair).

Mr. MOYNIHAN. I thank the Senator.

Mr. President, the Chicago Tribune on Monday, July 27, had an important editorial concerning the advantages and the wisdom of the tax straddle legislation which is included in the measure the Finance Committee reported to the floor—reported, of course, by the distinguished chairman of this committee. It is an elaborate, effective argument from a journal that closely follows these matters, whose views should be attended. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 27, 1981]

ON TAXING THE STRADDLERS

Are Chicago's commodity futures markets in danger of extinction? They are if you believe officials of the Board of Trade and the Mercantile Exchange, who predict catastrophe if legislation passed by the Senate Finance Committee becomes law.

Everyone should be concerned about the health of these markets, which provide some 20,000 jobs in Chicago and protect millions of farmers from unpredictable price fluctuations. But that concern should be balanced by the principle that every citizen should pay his fair share of taxes. The Finance Committee would close a loophole that serves only to allow commodity traders and other wealthy investors to escape taxation. This tax break is so flagrant that even in the Reagan administration, which doesn't make the elimination of loopholes a top priority, wants it scrapped. It's high time this loophole was closed.

At issue here is an arcane financial transaction known as a commodity tax straddle. The idea is to purchase contracts to buy and sell the same commodity (silver, say, or Treasury bills) on different dates. Whatever happens to the price, the trader can be reasonably sure that one contract will lose money and the other will gain a roughly equal amount. On its face, this makes as much sense as betting on both teams in a football game. By using the straddle, however, an investor can take his loss (which exists only on paper) early, but postpone his gain until it qualifies as a long-term capital gain (which effectively lowers the tax rate from as high as 70 per cent to 28 per cent). He can even "roll it over" against other losses the following year to defer taxes indefinitely.

The Finance Committee wants to prevent this type of shenanigan by requiring traders to tote up all of their gains and losses at the end of each year and pay taxes on them. This provision is what has gotten local traders so upset. They argue that since a trader may keep his profitable contract beyond that date, he would be taxed on an "unrealized" gain—just as if a homeowner were taxed on the appreciated value of his house every year.

But commodity traders' gains aren't unrealized in the usual sense of the term. Gains and losses are credited or charged at the close of each business day. If a trader's contract makes money, he gets cold cash in his account, which he can withdraw and spend. If it loses money, he has to cover the loss out of his own pocket. If a homeowner could collect daily for the increase in his property's value, it would make sense to tax those "unrealized gains as well. Using the exchanges' own "mark-to-market" accounting system for tax purposes would not set any dangerous precedent.

It probably is true that it would wreck the futures markets to expose traders to the risk of a 70 per cent tax rate. But that is not proposed. Under the Finance Committee's plan, the rate on all commodity futures profits would be a modest 32 percent. Traders would no longer have to hold on to a contract for at least 6 months to qualify for a low rate. Board of Trade officials worry that if the capital gains rate is lowered to an effective 20 per cent, as planned, investors will take their money out of the futures markets. But the advantage of having no time requirement should offset the appeal of the lower rate.

The industry prefers the House Ways and Means Committee's version, sponsored by Rep. Marty Russo (D-Ill.). Its effect would be to exempt traders from the change by allowing commodity losses to be written off only against commodity gains. The "mark-to-market" provision would be dropped. This change would allow traders to continue using straddles but would keep out doctors, rock stars, and others whose capital gains have nothing to do with the commodity market, thus eliminating "95 per cent" of the abuses. But the straddle itself is an abuse. There's no reason to let traders or anyone else take advantage of it.

This measure shouldn't be taken as an attempt to punish speculators, who don't enjoy the best public image. They serve an important purpose in stabilizing the prices of important commodities. To give them time to adjust, to minimize disruption of the markets, and to avoid inflicting ruinous taxes on long-deferred gains, the change should be phased in over a period of five years or so.

Nothing in the Finance Committee bill would prevent these markets from performing their valuable functions. It would only prevent them from being used as a giant refuge from the taxes other Americans have to pay.

Mr. SYMMS. Mr. President, will the distinguished Senator from Kansas yield?

Mr. DOLE. The Senator from Colorado has the time. I shall give him more time if he would yield for a unanimous-consent request.

Mr. HART. I yield, Mr. President.

Mr. SYMMS. Mr. President, I ask unanimous consent to follow the editorial the Senator from New York had printed in the RECORD with an editorial from last week's Barron's magazine, so our colleagues can have both sides of the story in a concise manner. With this editorial, they can read both sides of the question on the tax straddle at one place in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROPOSAL TO TAX COMMODITY STRADDLES IS FRAUGHT WITH RISK

To the layman, the subject of taxes on commodity straddles beckons like a dark alley. Just the thing to know nothing about, the sensible man might say. Exactly the thing to be left to the experts. Perhaps, but in the past few weeks that dusty subject has captured the imagination of the Fourth Estate. Even as the House and Senate made ready to vote on such portentous fiscal matters as indexed marginal brackets and the All Savers' Certificate, stories kept surfacing about commodity straddles and taxes. In an investigative vein, for example, The Wall Street Journal disclosed from Washington that lobbyists for commodity speculators had been seen aboard yachts as well as on dry land in the act of buttonholing legislators. Dispatches have traced the progress of alternate bills, in the House Ways and Means Committee and the Senate Finance Committee, that would close the straddle "loophole." Then, on Wednesday, a coincidence: The New York Times and Washington Post, in separate editorials, endorsed the Senate bill, which is the Administration's. Even casual observers began to gather that (a) Donald T. Regan, the Treasury Secretary and former chief of Merrill Lynch, believes that "2,500 wealthy commodity speculators" are getting away with something; (b) the Administration means to do somthing drastic about it; because (c) the cost in forgone revenues runs (by the government's estimate) to $1.3 billion a year.

Yet one small detail largely escaped comment if the Administration gets its way, commodity positions would be marked to market value at the end of each year and taxed on the basis of profits, whether realized or not. Speculators, that is, would be taxed on paper profits.

The best place to start this peculiar story is at the beginning. A commodity straddle, or sperad, is a trading technique. It is invidiously defined as a "tax gimmick." By the same token, a fork might be defined as a "bean spear." Some people spear beans with forks; some speculators use spreads, or straddles (the terms are synonymous) to defer taxes. The definition is wrong because it is incomplete. A spread is a technique that involves the purchase of one futures contract and the sale of another. The second contract, the one (in this example) that is sold, may be in a different commodity. For example, a man might buy beans and sell silver. Or, the second contract might be in the same commodity but in a different delivery month. Thus, a speculator might buy October gold and sell December gold.

Spreads have many uses. The first is to reduce risk. It is obviously safer to stake out a long position in beans if one were also short a bit of them (or some wheat or corn). A second use is to profit by an expected change in price relationships, for example, between bills and bonds or between beans and silver. A third reason to put on spreads is to put off taxes, which is the cause of the row in Washington and all that ink in the papers.

Anyone with income to shelter can set up a commodity spread on which a profit (it is hoped) will be largely offset by a loss. He, or she, can buy gold futures for delivery in one contract month and simultaneously sell in another contract month. The chances are that, no matter which way gold goes, one "leg" of the spread will show a profit and the other leg a loss. The tax angle is to real-

ize the loss but to postpone the gain. If the gold price rises, the short leg yields the loss. Thus the short sale is closed out and the long leg is protected with another spread. The profit isn't realized until the following year, or perhaps the year after that. Perpetual postponement is unlikely, however, because market risk tends to outweigh the benefit of tax postponement. The idea is to push a gain forward until it becomes a long-term gain, then to sell and pay taxes at the reduced rate.

All of which has elicited considerable indignation and one exceptionally bad piece of legislation. The bill (by number, S. 626) would close the straddle loophole by requiring that speculators marks their positions to market at the end of the year. Real and paper profits alike would be taxed at a rate of 32 percent or so (income would also be offset by past losses). This way, say proponents, profits would be captured in the year in which they were earned.

Obviously nothing of the kind has been done before. In no market are paper gains subject to tax. A precedent to the contrary would open vast possibilities for mischief in financial markets and real estate. If unrealized gain in gold contracts and T-bond futures are to be taxed, then why not in bullion and bonds, or in houses and common stock? Equity in a house can be borrowed and spent but it isn't taxed as income until the place is sold. Why not mark houses to market? At yearend, an investor with a profit in stock can sell short "against the box," or against his long position. He thus can "cash out" his gain but pays no tax until he delivers the stock to close out the transaction next year. Why not tax unrealized gains in stocks and bonds? By closing one such "loophole," the Administration, by force of logic, must close more, until it draws a loop tight around the neck of all risk capital.

What consequences might spring from this essay in "reform" are anybody's guess. The nature of tax reform is that everyone wants it but nobody has time to read the legislation, or, finding the time, can't make heads or tails of it. A case in point is the bill at hand, S. 626, to wit: "In general—In the case of any offsetting position in personal property—(1) that portion of any loss—(A) which is incurred in connection with the sale or exchange of any position held as part of such offsetting position, and (B) which exceeds any gain recognized in connection with the sale or exchange of any other position held as part of such offsetting position, shall be treated as incurred as of the close of the balanced period; and (2) the holding period (as determined under section 1223) of any position held as part of any offsetting position shall not include any portion of the balanced period with respect to the position." The words make sense separately but somehow not en masse.

The possible financial consequences of this crusade, in any case, strike us as horrific. If future markets alone were taxed on paper profits, capital would fly elsewhere. Gold is an example. If futures contracts were liable to tax on unrealized gains, but mining shares and coins were not, capital would sensibly shift to shares and bullion. As New Year's Eve drew near, moreover, speculators would distractedly trade with an eye to taxes as much as to supply and demand. Prices would tend to become untrue. The business of futures exchanges—to shift market risk from hedgers to speculators—would be impaired. A futures industry handout raises an interesting point: "Should mark-to-market legislation adversely affect [financial futures] markets—as we believe it would—the cost would far exceed the benefits. Only a very slight widening of bid-ask spreads will add millions of dollars to the Treasury's costs in a new debt issue. We close a $1.3 billion dollar straddle loophole . . . and in the process increase the cost of Treasury financing by many times that amount." Yet the Treasury, unhedged, wants to make just that speculation.

This disaster in the making, oddly, isn't born of ignorance. The Treasury Secretary, Donald T. Regan, knows that if paper profits were profits, many would be the rich man at the bar at Harry's. (Merrill Lynch, which under Regan's stewardship helped to develop a type of straddle that was subsequently challenged by the IRS, now is helpfully advising clients on "alternate income sheltering strategies.") Moreover, a friend of S. 626, Sen. Daniel Patrick Moynihan (D., N.Y.) knows a thing or two about the commodity pits. The Senator's financial statements seem to show that a trading profit of roughly $60,000 was pushed into 1980 from 1979 as the result of some pork-belly spreads designed by his broker, Maduff & Sons. (An aide of Moynihan's was asked for comment on the Senator's apparent first-hand experience with the object of the ire of S. 626; but no comment was forthcoming.) In fairness to Moynihan, his was a managed account and the spread was far from riskless. But, then, most spreads involve risk. When the Administration argues the opposite, it is misinformed.

Thus the Treasury's honorable course is surrender, S. 626 should be given up for dead. In the House, the Ways and Means Committee has passed a bill that would limit the tax benefit of spreading to income earned in commodity futures trading. It would impose no mark-to-market rule. If a bill must be passed, let it be that one.

The timeless lesson in this political dustup is that the tax law is far too complicated. The only known tangible result of the parade of "tax reforms" from 1954 to date is the burgeoning fees of lawyers and accountants. A while ago, Alvin Rabushka, senior fellow at the Hoover Institution at Stanford University, proposed a simple flat-rate system. If everybody paid 11 percent, he said, the Treasury would take in as much as it does today under the current gimmick-ridden regime. Nothing against lawyers and accountants, but the more we think of that reform, the better we like it.

Mr. DOLE. Mr. President, the Senator from Colorado has agreed to yield 2 minutes to the Senator from Iowa if he wishes it.

Mr. HART. Mr. President, I thank the Senator from Kansas.

Mr. President, neither party should be proud of the bill we are about to vote on. The Republican Party has claimed a mandate, but there is no mandate from the American people for legislation that is going to have the effect this legislation will have.

Who thinks the voters in November chose to keep the Federal deficit high for the rest of this decade?

Who thinks they voted for high interest rates? Who thinks they chose a tax cut over continued social security benefits, over any number of other social programs that we will almost certainly have to cut a year or two down the road? Most of all, who thinks the American voters gave this administration a mandate to continue inflation? The bill that we are about to pass today will do all those things.

Mr. President, I do not know whether supply-side economics is a good idea or a bad idea in the abstract. I do know that the result of it will be continued high deficits, high interest rates, and inflation. At this time, it is a horrible idea.

Today, both Houses of Congress will pass tax bills. The shameful fact is, whichever version wins, we are all going to lose. Whatever the President signs—2 years or 3, focused on high income or middle income—he insures more years of big deficits, more pressure to cut Federal spending even further, and continued high inflation.

We can talk now about the benefits of the bill we pass. But a year or two from now, the American people will discover the deception. It is wrong—and it is immoral—to tell the American people now that these tax cuts will bring about economic recovery, when, in fact, we all know they will bring unprecedented deficits and continued inflation.

Democrats hardly covered themselves with glory on this issue, either. We lined up for a political tug of war and ended up testing our political muscles—not the strength of our ideas. We missed an opportunity for responsible leadership. We quibbled over details when we could have been exposing the fallacies of the Republican program and advocating real solutions—such as tax indexing that would create a fair and just tax system; such as limiting tax cuts to real productivity increases; such as postponing broad personal tax cuts until the Federal budget is balanced, which I think the vast majority of the American people want.

My vote against this bill is not a partisan matter. It is a vote against uncontrolled deficits, which have no party; a vote against untried and unproven economic theory, which has no party; and most of all, a vote against inflation, which has no party. Trying to rebuild our economy with a tax cut which is inefficient and wasteful will not work.

Let us look at what the 1981 tax cut will do:

Mr. President, today I intend to vote "no" on final passage of the 1981 tax bill. Not because I am against a tax cut; I am not. And not because this is a partisan matter; it is not.

I intend to vote against this bill quite simply because it is a bad bill. It is a bad bill for three reasons:

First, it will be seriously inflationary. It would spur consumption—not saving—in an economy that has no need for billions in excess demand. The administration claims taxpayers will save their cuts so billions will be invested in our Nation's capital base. But absolutely no support is given for that proposition. This is unlikely to happen: Americans historically save only about 6 percent of their incomes on the average, one of the smallest percentages in the industrialized world. Aside from a constant stream of optimistic reassurances from the White House, there is little evidence to suggest that the Kemp-Roth tax cut would dramatically alter Americans' historical rate of savings and investment. Rather, it is more likely the new money Americans receive from Kemp-Roth would be channeled into consumption, and would thus fuel inflation.

Second, this 3-year tax cut will continue high Government deficits and Gov-

ernment borrowing. Unless equally massive spending cuts can be found and enacted to offset the $150 billion or more in lost revenues, adoption of the Finance Committee's proposal would, over 3 years, guarantee deficits billions of dollars larger than any we have seen. It is obvious this would leave the administration only one option for fighting inflation: Tight money and high interest rates.

This concern is shared by respected leaders of the financial community, such as investment banker Henry Kaufman, who called Kemp-Roth "exceedingly expansionary." His words are echoed every day in the Nation's bond markets, which grow weaker at even the prospect of the 3-year cut.

Finally, this is a tax cut predominantly for the wealthy. Although portrayed as an "across-the-board cut for everyone," the effect of Kemp-Roth is to reduce taxes of the wealthy far more than for the rest of us. Fully one-third of its benefits would go to taxpayers earning more than $50,000 per year.

But the key issue in this debate is inflation.

Third, it benefits wealthy taxpayers more than middle- and low-income taxpayers who are hardest hit by inflation. Inflation is the most inequitable tax that we can devise in any society. Inflation is our most serious domestic problem. For years inflation has been quietly and surely increasing our tax burden. Americans need and deserve tax relief because of inflation.

But it does not take an economist to see that tax cuts which increase inflation are no bargain.

What good does it do the average American to get $200, or $300, or $400, or even $500 in tax cuts if the tax cuts contribute to the large deficits, and those deficits cause the inflation, inflation picks the pocket of that same wage earner to the tune of $1,000 or $1,500 in earning power that same year? Is that wage earner better off? The answer is "No."

We also know that a deficit caused by a tax cut is no less damaging to the economy than a deficit caused by Government spending. The financial markets themselves have told us both deficits are bad because they force the Government into competition for borrowing scarce funds. Yet proponents of this tax cut would have us believe that deficits created by tax cuts are harmless. I do not buy it, and I do not think the American people buy it.

Mr. President, when President Reagan addressed the Congress in February and presented his economic package, he challenged anyone who did not support it to offer a better alternative. Some better alternatives have been offered—such as of a 1-year tax cut, and tax cuts targeted solely at business expansion, modernization, and real productivity increases.

We have had alternatives proposed to index the Tax Code next year, to eliminate the inequities created by inflation and bracket creep.

Some better alternatives have been offered. Unfortunately, this body and our sister House on the other side have not seen fit to buck what is apparently to them a political tide.

Senator BRADLEY and I were not willing to gamble our economy on the highly speculative theory of supply-side economics and a 3-year tax cut. We accepted the President's challenge. We offered a better alternative.

The Bradley-Hart tax plan would have limited the individual tax cut to 1 year, while directing more of the benefits to the middle and lower income Americans who are most in need of some relief from the effects of inflation.

The Bradley-Hart tax plan was superior to the plan we are considering today.

First, it was limited to 1 year, and thus would have had a smaller inflationary impact on our economy. The smaller loss in revenues would have kept budget deficits to a more manageable size, and greatly increased our chances to see a balanced budget in the near future.

Second, it was fairer because it would have given greater benefits to middle and lower income Americans who are hardest hit by inflation.

Under the Bradley-Hart plan, a family of four earning $25,000 per year would have realized a tax cut of $485, compared to $374 under the administration's bill. Our amendment would target nearly 74 percent of its tax relief to households with adjusted gross income of less than $50,000; the proposal we are now considering would give approximately 65 percent to this large group.

In short, it was a better alternative: workable, equitable, grounded in economic reality, and, above all, less inflationary.

Once this tax relief plan designed to prevent inflation failed, I offered an amendment to limit inflation's impact on the amount of taxes we pay. I urged this body to index personal income taxes beginning in 1982. If tax indexing is right in 1985—as the Senate has voted—it is right today. And it is more than right—it is less inflationary. It would cost $90 billion less than the tax cut we are considering tonight over the 3 years 1982–85, since its benefits would be more evenly spread among all income groups.

Indexing is essential if we are to have a tax system based on equity. Congress has a responsibility to act now so future inflation does not increase the average American's tax bill when there has been no real increase in his income. It is fundamentally wrong for the U.S. Treasury to reap a windfall in increased revenues each year without ever having to enact a tax bill. The hidden tax increase caused by inflation is a dramatic example of taxation without legislation.

So we have considered alternatives that are cheaper, that are fairer, that make more economic sense. And every time, we have adopted the wrong proposal for the wrong ill at the wrong time.

But let us ask ourselves what really is going on here. Are we debating over a benign and well-intentioned economic theory called supply-side economics? Or is there, on the part of some supporters of these proposals, a darker agenda, an agenda which says we have already cut $40 billion from the budget, from programs designed to help various segments of our society—education, transportation, health, job training, and so on?

Are there some who think we ought to support these tax cuts because they will deny the Government revenues so the Federal Government will no longer operate in the mideighties and nineties in areas which we need to offer public assistance?

Or is there another agenda here which says, 'Let us cut these taxes; let us deny the Government revenues so we can break the back of the Federal Government, so the Federal Government will no longer operate in the mid- and late-1980's and 1990's in these areas which need public assistance?"

When I hear statements of that sort, and we have heard them, I wonder if this tax cut is really designed to stimulate savings and investment, or whether it is designed to carry out a political point of view some 50 years old, designed to force this country out of the business of helping those who need help, of helping people get on the economic ladder who otherwise have no real chance. I wonder of the purpose is not instead, to force Congress to cut the budget even further.

What is the real agenda behind the tax cut, what is really in the minds of the people who have proposed this very drastic phase 2 and phase 3 that underlies it?

Is the purpose really to stimulate people to invest, for there is no economic evidence or historic support, or is it really to force the Federal Government to cut another $40 billion, $50 billion, or $60 billion from programs that are practically decimated—job training, energy stimulation, assistance to the elderly, and a lot of other areas?

We are getting close to the bone. We are struggling about what to do with social security, food stamps, child nutrition programs, school lunch. We will either have to change the law—and we are already changing the law in many of these areas—or we will have to abandon this scheme called supply-side economics, or at least postpone it until we get the budget in balance.

Mr. President, I do not support this darker agenda and I do not think the American people will. I will not support this 1981 tax bill because of that. There are some good provisions in this bill which I have supported in separate votes, and I am pleased they will be adopted. But I cannot support the total bill and remain true to my concerns about inflation and the health of our economy.

Finally, Mr. President, whatever our votes today, whether one agrees or disagrees with the provisions that we adopt, it is clear we have done little more than tinker with a system that badly needs a complete overhaul.

Our economic problems demand real tax reform.

Our tax laws are arcane and incomprehensible to the American citizen. American taxpayers want and have a right to expect, a tax system that is effective, just, and fair. Right now, it is none of those things.

Today we will dispose of tax relief—at least for the time being. But we will not have disposed or even come close to

touching true tax reform. That, Mr. President, in the long run is an even more important issue for the survival of this Republic.

Patchwork and quick-fix measures such as the ones we have adopted will not serve the long-term needs of this Nation and its evolving economy. They will serve only political expediency.

If we are to recapture our role as the leaders of the Nation and as the world's leaders in the 1980's, we are going to have to address our present problems with boldness, and not just band-aids.

Mr. President, we can build a strong economy that meets our national needs, but only on the basis of a fair and rational tax system. I fear we will, in all likelihood, today adopt promises that will be neither of those things.

Mr. President, I thank the Senator from Kansas and I yield the floor.

VISIT TO THE SENATE BY A MEMBER OF THE BRITISH PARLIAMENT

The PRESIDING OFFICER. The Senator from Texas is recognized for the purpose of introducing a special guest to the Senate.

Mr. TOWER. Mr. President, I have the pleasure and privilege of presenting to the Senate, the Right Honorable Geoffrey Pattie, a Member of Parliament for Chertsey and Waldin, and the Parliamentary Under Secretary for Defense Procurement.

[Applause, Senators rising.]

RECESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 minute to greet our distinguished guest.

There being no objection, the Senate, at 2:10 p.m., recessed until 2:11 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer.

ECONOMIC RECOVERY TAX ACT OF 1981

The Senate continued with the consideration of the joint resolution.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from New York and 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask unanimous consent that we might make one minor correction in the tax measure.

Those of us on the Finance Committee who are present will recall that it dealt with the effective date of the capital gains provision. It will be recalled that we agreed that it would be as of that date, June 10. We looked up at the clock. I believe that the distinguished senior Senator from Virginia and the chairman of the committee will recall that we said, "As of now, the capital gains rate takes effect." That was June 10.

For some peculiar reason, under the writeup of the measure, it provides that it is effective as of June 11, at 1 a.m., or the start of the day of June 11.

It is not a mammoth point, but it seems to me that we did so agree in committee.

So I ask unanimous consent that transactions as of June 10, which was what we all agreed to, will be the effective date for capital gains treatment—that is, for the reduction from 70 to 50 percent.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield. I wonder if that is the recollection of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. The Senator from Virginia made the motion in the committee to make the effective date June 10. The Senator says that the bill provides for June 11.

Mr. DOLE. I believe it is midnight.

Mr. HARRY F. BYRD, JR. The Senator from Virginia made the motion, and the committee voted to make the effective date June 10.

The proposal of the Senator from Rhode Island is to make the bill conform with what the committee did?

Mr. CHAFEE. Absolutely. That was my understanding. I believe it is etched in the memories of all those who were present, because I believe there was an amusing remark made about the calendar and looking at the clock. So it stays with me very clearly. I believe we should make the measure conform with what we all agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I believe the Senator from Rhode Island is absolutely correct. I must say that I have not checked the measure to see what the effective date is. I assumed it was put in the way the committee voted it; namely, June 10.

The reason I am very clear on that is that I recall that it was my father's birthday, and I thought it would be a nice day to make it effective.

Mr. CHAFEE. I cannot think of any better way to celebrate the birthday of the Senator's father.

I am not sure how it became mixed up. I am told by the members of the staff that it starts as of midnight June 10, rather than midnight June 9.

Mr. DOLE. Mr. President, we are taking a look at that right now; and, if necessary, we will clear it all around and offer it as an amendment.

Mr. CHAFEE. That is fine with me.

Mr. ROBERT C. BYRD. Mr. President, does the Senator withdraw his request for the moment?

The PRESIDING OFFICER. Does the Senator from Rhode Island withdraw his request as of this moment?

Mr. DOLE. Do it right now.

Mr. CHAFEE. I would just as soon proceed. I see no reason to wait, unless there are objections. Those of us who were there clearly recall the circumstances.

Mr. DOLE. There is no objection from this Senator.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no personal feeling about this matter, but I would hesitate to agree to the request without clearing it on my side of the aisle. That is why I suggest that the Senator might withdraw his request for the moment.

Mr. CHAFEE. I did talk with the ranking minority member about this.

Mr. DOLE. We will work it out in the next couple of minutes.

Mr. CHAFEE. That is fine with me. I have no personal involvement. I happened to notice this in reviewing it.

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Rhode Island is not offering that as an amendment at this time. Does the Chair understand correctly?

Mr. CHAFEE. That is correct. I understand that the chairman of the committee will take the action on this matter from here on, because I may not be able to be here.

Mr. ROBERT C. BYRD. Mr. President, is an amendment pending before the Senate?

The PRESIDING OFFICER. The amendment by the Senator from Kansas is still pending.

Mr. DOLE. I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 331

(Purpose: Relating to the treatment of coal utilization property for purposes of ACRS)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of myself, Mr. FORD, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. RANDOLPH, Mr. METZENBAUM, Mr. MATHIAS, Mr. GLENN, Mr. MATSUNAGA, Mr. DODD, Mr. BURDICK, and Mr. DIXON, and I ask that the clerk state the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for himself, Mr. FORD, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. RANDOLPH, Mr. METZENBAUM, Mr. MATHIAS, Mr. GLENN, Mr. MATSUNAGA, Mr. DODD, Mr. BURDICK, Mr. DIXON, and Mr. WARNER proposes an unprinted amendment numbered 331.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, line 2, strike out "or".

On page 50, line 4, strike out the end period and insert in lieu thereof ", or".

On page 50, between lines 4 and 5, insert the following:

"(iii) qualified pollution control equipment".

On page 50, line 17, strike out "and".

On page 50, line 18, strike out the end period and insert in lieu thereof ", and".

On page 50, between lines 18 and 19, insert the following:

"(iv) qualified coal utilization property which is not 3-year property, 5-year property (determined without regard to this clause), or property described in clause (i) or (ii)."

On page 51, line 1, insert ", qualified coal utilization property," after "section 1250 class property".

On page 76, between lines 13 and 14, insert the following:

"(7) QUALIFIED COAL UTILIZATION PROPERTY.—

"(A) IN GENERAL.—The term 'qualified coal utilization property' means that portion of the unadjusted basis of coal utilization property which bears the same ratio (but not greater than 1) to such unadjusted basis as—

"(i) the Btu's of energy produced by the powerplant or major fuel-burning installation before the conversion or replacement involving coal utilization property, bears to

"(ii) the Btu's of energy produced by such powerplant or installation after such conversion or replacement.

"(B) IN GENERAL.—The term 'coal utilization property' means—

"(i) a boiler or burner—

"(I) the primary fuel for which is coal (including lignite), and

"(II) which replaces an existing boiler or burner is part of a powerplant or major fuel-burning installation and the primary fuel for which is oil or natural gas or any product thereof, and

"(ii) equipment for converting an existing boiler or burner described in clause (i)(II) to a boiler or burner the primary fuel for which will be coal.

"(B) POWERPLANT AND MAJOR FUEL-BURNING INSTALLATION.—The terms 'powerplant' and 'major fuel-burning installation' have the meanings given such terms by paragraphs (7) and (10) of section 103(a) of the powerplant and Industrial Fuel Use Act of 1978, respectively.

"(C) EXISTING BOILER OR BURNER.—The term 'existing boiler or burner' means a boiler or burner which was placed in service before January 1, 1981.

"(D) REPLACEMENT OF EXISTING BOILER OR BURNER.— A boiler or burner shall be treated as replacing a boiler or burner if the taxpayer certifies that the boiler or burner which is to be replaced—

"(i) was used during calendar year 1980 for more than 2,000 hours of full load peak use (or equivalent thereof), and

"(ii) will not be used for more than 2,000 hours of such use during any 12-month period after the boiler or burner which is to replace such boiler or burner is placed in service.

"(8) QUALIFIED POLLUTION CONTROL EQUIPMENT.—The term 'qualified pollution control equipment' means equipment (including fluidized bed and coal cleaning equipment)—

"(A) which is installed in connection with coal utilization property described in paragraph (7)(B) to abate or control water or atmospheric pollution or ocntamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat, and

"(B) with respect to which the State certifying authority or Federal certifying authority have made the certifications described in subparagraphs (A) or (B) of section 169(d)(1), respectively."

Mr. ROBERT C. BYRD. Mr. President, just 1 year ago the Senate passed, by the overwhelming margin of 86 to 7, legislation to reduce the consumption of petroleum and natural gas by electric utilities. Known as the Powerplant Fuels Conservation Act of 1980, this bill was considered a key component of the accelerated national effort to reduce our dependence on imported oil. It was estimated that, by 1990, up to 1 million barrels per day could be saved through conversion of existing oil- and gas-fired generating facilities to coal. A program to aid the financially troubled utility industry in achieving this goal was viewed as a sound investment in this Nation's economic and national security.

Some say that times have changed. Market forces are now deemed to be the panacea for our energy ills. The new energy policy of the Reagan administration suggests that continued dependence on oil imports may be acceptable. Electric utilities, as consumers of energy, are to be left alone to make the most appropriate business decisions. Public spending to achieve energy security is disfavored. It is predicted that the Nation's energy problems will be cured as the economy is unleashed through a supply-side program of massive cuts in Federal spending and taxes.

Continued American dependence on large quantities of foreign oil—a dependence which still drains almost $70 billion a year from our economy—is intolerable. An ideological fixation on market forces is hardly an adequate substitute for the development of a coherent, comprehensive, long-term energy policy that offers guidance for the future.

Currently, electric utility generating plants consume about 1.2 million barrels of oil per day. In evaluating potential areas for the United States to cut its dependence on foreign oil, oil used by utilities as a boiler fuel must be viewed as a prime target. Although known coal reserves comprise approximately 85 percent of our domestic fossil fuel resources, only 18 percent of the Nation's total energy is produced from coal. The substitution of coal for oil and natural gas to produce electricity is one obvious solution to the Nation's energy problems which can obtain important and immediate results. For this to be achieved, however, the financially troubled condition of the utility industry needs to be addressed.

The amendment which I am proposing today is a simple and direct approach to encourage the voluntary conversion of oil- and gas-fired powerplants to coal. The amendment provides for accelerated depreciation of 10 years for converted or replacement generating facilities and 3 years for related pollution control equipment. This compares to the depreciation schedules of 15 years and 5 years, respectively, which were incorporated in the tax bill as reported by the Finance Committee. It also equalizes the treatment afforded coal-burning utility property with that provided for nuclear electric generation equipment. This change will make it possible for utilities that would otherwise not be in a position to convert to coal, to do so.

In the early stages, this amendment would have a modest revenue effect, costing the U.S. Treasury approximately $20 million in 1982 and $64 million in fiscal year 1983. As converted coal-burning plants come on line, the revenue effects would be more significant, costing $104 million in fiscal year 1984. But it should be remembered that these costs will be more than offset by the fuel savings afforded utilities by the lower costs of coal and by reduced oil imports. In fiscal year 1985 the revenue effect would amount to $116 million, and in fiscal year 1986 $144 million. The displacement of even 500,000 barrels per day by 1985 would reduce America's foreign oil bill by no less than $6.5 billion per year. This is money which stays at home, providing jobs and investment opportunities to promote this Nation's economic recovery.

The reluctance of utilities to convert to coal stems, in part, from the poor financial circumstances of the utility industry itself. Although coal is a far more economical fuel than expensive imported oil, the conversion of powerplants to coal-burning capacity has become too costly for most utilities to undertake. Prior to 1973, the utility industry enjoyed a stable and prosperous growth, based on increased demand for electricity to power a burgeoning economy and declining costs for generating electric power. After the Arab oil embargo, the industry's growth rate plummeted and the unpredictability of energy demand forced many utilities to postpone planned expansion. Government air pollution regulations, complex and time-consuming licensing procedures, and massive escalation in the costs of new plants created major problems for utilities.

The reluctance of regulatory agencies to allow needed rate increases through which utilities could raise needed capital for new plants also added to the reluctance of utilities to switch to coal. As a result, the use of coal has not significantly increased, despite excess production capacity in the coal industry and obvious cost advantages to the consumer.

The financial conditions of those utilities with powerplants which can be converted from oil or gas to coal plants, vary considerably. Some utilities with sufficient capital resources are proceeding on this course due to the financial benefits resulting from the use of coal. For other utilities, the costs of conversion or the financial conditions of the companies may delay or even preclude action unless some Federal assistance is offered. This amendment can help to attain the maximum level of oil savings by easing the financial plight of the utility industry in a way which has a modest impact on Federal revenues but a major impact on the increased use of coal.

Coal conversion offers one of the most direct, near-term and cost-effective opportunities for reducing U.S. reliance on imported oil. The independence of our foreign policy and the resiliency of our economy are at stake in these decisions. This amendment offers a wise and frugal means of expediting the replacement of oil with coal. It is also a concrete step along the road to energy independence, which must remain an irrefutable national priority.

Mr. President, I ask unanimous consent that the Senator from Virginia (Mr. WARNER) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The names of the following Senators were also added as cosponsors of UP amendment No. 331: Mr. JACKSON, Mr. HEINZ, and Mr. PERCY.)

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I am going to yield now to my senior colleague from West Virginia, Mr. RANDOLPH, and then to Mr. FORD.

But before doing so let me express my gratitude to Senator DOLE, in particular, and to Senator BAKER as well and to

the ranking minority manager of the bill, Mr. LONG, for the patience that they have given to consideration of my amendment and for the helpfulness that they have rendered to me by making staff available in a effort to work out some of the problems that were concomitant to the amendment.

This kind of assistance is very gratifying, and I express my personal thanks to Mr. DOLE, Mr. BAKER, and Mr. LONG, and to members of the staff on both sides, and also to my own staff member, Miss Lebow.

Now I yield to Mr. RANDOLPH.

Mr. RANDOLPH. Mr. President, I am appreciative of the able and knowledgeable minority leader's comments on the amendment he has offered.

I have joined others in cosponsoring the amendment. It creates a potential for greater allocation of fossil fuels for use in the Nation's utility boilers.

This proposal, which I hope has unanimous support, is an outgrowth of constructive work in this Chamber during the 96th Congress.

We were then attempting to implement the recommendations made by the President's Commission on Coal early in 1980. The Commission, following an exhaustive study of the utilization of fossil fuels in this country, recommended a policy of using our most abundant energy resource, coal, as the primary feedstock for utility boilers; using oil for petrochemicals and gasoline production, and using natural gas for residential and industrial uses.

The policy set forth in the Commission's report was sound. It was endorsed by both the previous and current administrations.

Coal must relieve our immediate dependence on foreign-based energy by replacing oil in all manner of existing applications. Coal will serve as the base feedstock of massive gasification and liquefaction facilities assuring our independence from Mideast fossil fuel. With these facts, through the dramatic increase in coal exports that is expected to occur, we look toward improvement in our balance-of-payment ratio. Coal touches many American industries so completely that we look to coal to spur increased investment and capital spending by those industries.

The collective impact of these demands and expectations cause us to assume that our Nation is moving toward an economy based on its abundant coal reserves. But, in spite of the existence of those reserves and their importance to the Nation's future such a conclusion is inaccurate. Eight years after the Arab oil embargo exposed our vulnerable energy position, the anticipated coal boom has yet to arrive.

Coal production will increase in the years ahead. I also have doubt as to whether existing Government policies will permit a rate of increases equal with the coal industry's true potential for growth. The question is when will the age arrive? Action taken in the budget reconciliation measure highlights our inconsistent national policy toward coal. The conference agreement repeals the off gas provision of the Powerplant and Industrial Fuel Use Act which requires utilities in 1990 to stop burning natural gas to generate electricity. It also modifies provisions and cuts back funding for coal conversion of utilities mandated by Federal statute.

If a new coal age is to arrive, the 97th Congress and the Reagan administration together must be motivated to discover and resolve conflicts that result from the pursuit of energy, economic and environmental objectives. We cannot allow reversal of coal conversion actions enacted or encouraged such as the Department of Energy's reported recommendation to President Reagan to rescind an Executive order requiring Federal agencies to develop programs for converting oil and gas-fired facilities to coal.

This action and cooperation must involve careful oversite and changes, if needed, to the Clean Air Act of 1977. This legislative effort will set environmental guidelines to retain protection of the environment during America's new coal age. It means modifying policies which prevent or delay the assemblying of and production from minable coal reserves. It means adjustments to requirements which will prevent siting and delay financing, construction, and operation of facilities which turn coal into energy. It means providing incentives to increase investment capital so utilities and industries can convert facilities to coal more quickly.

The amendment before us would assist in helping achieve a sound coal policy. It does not mandate new utility boilers to be constructed nor does it mandate conversion of any existing utility boilers. It provides an inducement to utilities to take advantage and make more efficient use of our coal resources.

Our national policy, developed over an 11-year period, of fulfilling our energy requirements while taking into account environmentally sound programs to prevent degrading of the environment, is embodied in the text of this amendment by Senator ROBERT C. BYRD, our minority leader. I also recognize and appreciate the cooperation the chairman of the Finance Committee, Senator DOLE, who has helped in the technical development of this acceptable provision.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished colleague. How much time do I have remaining?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair.

I yield to Senator FORD.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank the distinguished minority leader for giving me the opportunity to participate with him in this worthy amendment. I also appreciate joining the distinguished Senator from West Virginia (Mr. RANDOLPH). Both Senators have covered the overall view of the amendment.

Mr. President, I am pleased to cosponsor and support the amendment offered by the distinguished minority floor leader.

Last year, when the Senate developed S. 2470, the so-called oil back-out bill, we constantly ran into one of the prime obstacles to implementation of powerplant coal conversion plans—the cashflow and capital problems of the utility industry as a whole and most of those companies desiring to convert to coal in particular.

Mr. President, the amendment before us addresses that problem. Both the 1980 and 1981 annual reports submitted to Congress on the Powerplant and Industial Fuel Use Act recognize the problem:

> Conversion of coal-capable boilers may require expenditures of tens of millions of dollars to upgrade existing coal handling and pollution control equipment and to provide new equipment. Some companies have short-term cash flow or capital availability problems which might make it costly or difficult to raise the required capital, regardless of the cost-effectiveness of the projects. There may be immediate and substantial payoffs to users through reduced fuel costs, but without up-front capital to finance construction or conversion costs the savings cannot be realized.

The Department of Energy in written, April 1981, testimony, also reiterates the list of possible conversion candidates:

> The list of candidate conversions in the Senate version of the "Utility Oil Backout" legislation which was considered by the last session of the Congress is probably as good a summary of potential conversions as any available. It compromises 80 units with approximately 17,000 MW of generating capacity, all of which are currently firing petroleum. If converted to coal these 17,000 MW would displace about 475,000 barrels of oil per day. This is the equivalent of approximately 43,000,000 tons of coal per year.
>
> This estimate assumes conversion of all the units of the UOB list, which is probably optimistic, but excludes potential additional conversions, and, therefore, the above displacement/consumption estimates are probably reasonable. Of the potential oil to coal switching, 24 percent is in New England; 32 percent in New York and New Jersey; 29 percent is in Pennsylvania, Maryland, and Virginia; 5 percent is in Florida and Georgia; and 10 percent is in Illinois and Michigan.

I would like to zero in for a moment on one particular area. I would like to emphasize one striking feature of the utilities with plants cited in the annual DOE report in the Fuel Use Act as possible candidates for conversion.

Mr. President, the amendment before us addresses any of these plants that desire to convert from oil to coal voluntarily.

The question is asked: Why the assistance when everyone agrees that conversion from oil to coal will pay out in fuel savings over the long run? Well, Mr. President the answer is that the problem is not long term, it is short term and the amendment addresses it.

The problem is the financial conditions of electric utilities. Their condition is bad and it is deteriorating.

In 1977, the average ratio of market value to book value of utilities was 101 percent. Last year it was 71 percent for the 100 largest utilities and 64 percent for the plants cited by DOE.

The utility companies on the list require financial assistance to carry out the national policy of coal conversion. This is evidenced by the fact that 13 of the companies have interest coverage

ratios at or below 2.0, seven have coverage ratios between 2.0–2.5. All the companies are selling stock below book value.

GAO has examined 14 of the companies with plants likely for conversion and found only two whose bonds were rated AA or better. Their situation is highlighted by the fact that AA new long-term public utility bonds for the week ended July 24, 1981, were carrying 16.15 percent interest, up from 12.15 percent for the corresponding period in 1980.

Based on current and projected cash earnings these companies are constrained—and, in some cases, legally precluded by interest coverage provisions of bond indentures—from obtaining additional debt to finance conversions no matter how economically attractive the conversion investment may be.

Utilities are similarly discouraged from marketing new equity issues at a time when the existing stock of virtually all major investor-owned companies are selling below book value.

The financial condition of utilities forces them to decide on the basis of the first few years cost rather than levelized cost. A utility will have its highest capital changes in the first year of operation, declining each year until capital changes reach zero at the end of the assets book life. For instance, a new coal plant going on line in 1980 will have capital costs higher than levelized costs until the year 1990.

Utility management is reluctant to invest the large amounts of capital required for oil and gas displacement. Hence, there is a tendency to forecast future oil prices on the low side. This tendency is reinforced by the fuel adjustment clauses which enables utilities to plan on recovering higher fuel prices with greater certainty than recovering higher capital costs.

The amendment's accelerated depreciation is designed to help get the utilities over the first few years hump so that consumers will have lower rates at an earlier date.

Mr. KENNEDY. Mr. President, I support the amendment of the Senator from West Virginia.

I believe that it is critically important, to move forward with the development of America's coal resources.

We have seen the nuclear power industry receive more favorable treatment than coal in the committee's bill under the depreciation schedule. The committee bill significantly favors nuclear development over coal development by permitting nuclear powerplants to be depreciated much more rapidly than coal plants. This anticoal bias is the second major anticoal decision by this administration.

The first major anticoal action of the administration was its decision to cut coal research and development by 60 percent, at the same time it was increasing nuclear funding by 30 percent.

Subsidies offered by the Federal Government to nuclear power are twice as great as those given to coal.

My colleagues should understand that coal and nuclear power are direct competitors. Every time a utility builds a nuclear powerplant, it decides not to build a coal powerplant—and that nearly 9,000 Americans will not work because coal produces 30 to 40 percent more jobs than nuclear power.

I believe this amendment is essential to restore the comparable tax treatment for coal as we seek to develop our energy resources.

Thus I support the amendment of the Democratic leader. I applaud his efforts to end this inequity in our tax laws. This amendment is a critical forward step. I will support his efforts to complete the job and insure an effective role for coal in meeting our critical energy needs.

Mr. President, I also want to take this opportunity to congratulate the distinguished Senator from Kansas, Senator DOLE, on the outstanding job he has done in managing this entire legislation. We have some hard fought battles, and my side has not prevailed very often. But the Senator from Kansas has been unfailingly fair. He has generously gone the extra mile in attempting to minimize our differences and to explore the possibilities for compromise.

We have long been used to the skill and mastery and good humor of the Senator from Louisiana, Senator LONG, in managing major tax legislation on the Senate floor. Now, the Republican Party has an equally effective chairman for that very demanding role, and the Senate and the Nation are well served by his ability.

Mr. President, again, I commend the Democratic leader, Senator BYRD, for the important amendment he has offered to provide fair treatment for coal under this bill, and I hope the amendment will be approved.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

● Mr. DODD. Mr. President, as a cosponsor of the amendment by the Senator from West Virginia, the distinguished minority leader, to grant accelerated depreciation of certain coal conversion and pollution control equipment, I urge my colleagues in the Senate to support his amendment.

Reducing our dependence on foreign oil is still crucial to the security of this Nation. Oil pricing and production policies of OPEC continue to be a major determining factor in our energy situation and outlook. A change in Saudi Arabian policy concerning oil production or pricing would have nearly as dramatic an impact on many regions of this country today as did the OPEC policy decisions of the early 1970's and of 1979. The current world oil glut is as contrived as has been the oil shortage of the past decade.

Replacement of foreign oil and dwindling domestic oil supplies with more abundant coal in the U.S. energy balance continues to be our most promising path toward energy independence. The cost of this conversion also continues to be high. These high costs stand as a barrier to many utilities whose financial positions have been eroded by rapidly rising energy and capital costs.

This amendment is particularly important to New England States, including my own State of Connecticut. More than 70 percent of New England's energy needs are met by oil and 80 percent of that oil is imported. Conversion of oil-fired utility plants to coal is among New England's highest priority needs in reducing its vulnerability to uncertain foreign oil availability and contrived price increases.

Senator BYRD's amendment would be beneficial to both New England States and the Nation. It would assist financially hard-pressed utilities in obtaining the necessary capital for conversion to coal by accelerating depreciation schedules for the most expensive equipment required in such conversions. It would also accelerate depreciation schedules for the pollution control equipment necessary to insure that conversions to coal take place with positive environmental effects. In essence, it will allow us to burn more domestic coal and less foreign oil in an environmentally sound manner.

The pollution control provisions of this amendment are of particular importance to Connecticut and other New England States. Pollution control equipment in conversions to coal constitute a major cost item in all States. The rapid application of effective air pollution control measures on electricity-generating plants in the East is essential to controlling the problems of interstate pollution and acid rain. Air pollution reductions from sources in both the New England States and in States to the southwest of New England will be required in order to control these critical problems. This amendment will provide much needed assistance to utilities throughout the East meeting the needed emission control requirements while assisting in the conversion from oil and gas to coal.

I would like to commend the Senator from West Virginia for offering this amendment. It exemplifies the kind of far-sighted, broad-based legislation that will be necessary to insure both the economic and the environmental security of the people of this Nation.

I urge the Senate to adopt this amendment. In particular, I urge my colleagues from the New England States to give their support to the amendment on both economic and environmental grounds. The people of New England, the people of highly coal dependent States, and those interested in the general well-being of the national economy all have a stake in the favorable consideration of this amendment.●

Mr. DOLE. The amendment will facilitate utilities conversion to the United States of coal, America's most abundant energy resource.

This should prove beneficial in our Nation's effort to become energy independent.

I would like to commend the distinguished minority leader, Mr. BYRD, for his efforts and leadership on this amendment. He has been most accommodating during our efforts to reach a compromise on his amendment.

The proposed compromise amendment would do the following:

First, it would move coal replacement and convention equipment—primarily boilers and burners—into the 10-year ACRS category from the 15-year ACRS category.

Second, it would move qualified pollution control equipment installed in connection with a coal conversion or replacement project into the 3-year ACRS category.

REVENUE LOSS

	1981	1982	1983	1984	1985	1986
Boilers and burners	−1	−7	−18	−29	−36	−49
Pollution control	−1	−13	−46	−75	−80	−95
Total	−2	−20	−64	−104	−116	−144

Mr. President, let me reiterate that I appreciate the comments of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), and I also appreciate the work of the staff member on Senator BYRD's staff who had a lot of patience. I think we worked on this 5, 6 or 7 days, and she has rendered outstanding assistance to members of the Treasury and the other Joint Committee staff and our own staff in working out what I think is a good amendment, and I think it should prove beneficial to our Nation's efforts to become energy-independent.

I also want to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) for his interest in this problem, along with the Senator from Kentucky and others who have cosponsored the amendment.

I want to thank the distinguished majority leader who had an interest in helping us resolve not the problem but working out, sort of fine tuning, the amendment.

So I support the amendment.

Mr. FORD. Mr. President, will the distinguished Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield.

Mr. FORD. Mr. President, as my colleagues may be aware, for some time I have been intensely interested in the use of coal mixtures, where direct burning of coal may not be feasible for one reason or the other. I would pose this question to the distinguished chairman of the Finance Committee.

The amendment contains the provision that coal utilization property, among other things, means a boiler or burner, the primary fuel for which is coal.

My question to the distinguished chairman: Does primary fuel also include coal-oil mixtures and coal-gas mixtures of which coal is the major component, both in volume of use and in Btu's burned?

Mr. DOLE. Mr. President, I thank the distinguished Senator from Kentucky. My answer to that question would be the term does include these mixes if coal or lignite is the primary component of the mixture.

Mr. FORD. I thank the distinguished chairman. This and other language conforms "coal" in this amendment to the practical definition of "coal" in the Fuel Use Act, which we have successfully retained in the reconciliation bill. I thank the distinguished chairman very much for the colloquy.

Mr. DOLE. Mr. President, I know the Senator from Louisiana has no objection to the amendment, nor does the Senator from Virginia (Mr. HARRY F. BYRD, JR.) I am prepared to yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. About 2 minutes.

Mr. ROBERT C. BYRD. I want a rollcall on this amendment, but I do not want to interfere with the speeches that two other Senators have to make, and I think the best way to proceed, if I may suggest this to the distinguished majority leader and Mr. DOLE, would be to allow Mr. LEVIN to speak on another subject, and Mr. STENNIS to speak on another subject, after which the vote would then occur on my amendment, and that would then cause the follow-on vote on the committee amendment to be, I suppose, back to back.

ORDER OF PROCEDURE

Mr. DOLE. There is one additional amendment we are trying to work out with Senator BENTSEN.

Mr. ROBERT C. BYRD. All right. Then we will proceed with that. Senator KENNEDY also wants to speak.

Mr. KENNEDY. I have spoken to the majority leader and also to the chairman of the Finance Committee since about 1, and I would like some time to get 5 minutes on the bill. I intend to call up an amendment afterward to use the 5 minutes and then withdraw or I will be glad to work out with the leadership a speech at the appropriate time, whatever way the leadership wants to proceed with the time.

Mr. BAKER. Mr. President, I have no problem with that. I understand the requirements of Senators to speak at a time when they are in a position to, so I ask unanimous consent, Mr. President, that the Senator from Michigan, the Senator from Massachusetts, and the Senator from Mississippi be permitted to speak on other matters, and that the vote on the Byrd amendment be deferred until after the presentation by those three Members.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as a matter of information I may say that as far as I know we have the Dole amendment, perhaps a Bentsen amendment, and that is all I know of. We still have the time of 3 o'clock to begin voting on the final sequence. I presume that the remarks of the three Senators will end by 3 o'clock. Would they be in position to permit me to ask that the remarks of the three Senators proceed in the sequence already ordered: 5 minutes for the Senator from Massachusetts, 3 minutes for the Senator from Michigan, and 3 minutes for the Senator from Mississippi, and 1 minute for the Senator from Rhode Island? I incorporate that in my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is understood that nothing in the request I have made will change the order previously entered.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank all Senators.

Mr. ROBERT C. BYRD. I thank the majority leader. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The Senator from Mississippi.

ECONOMIC RECOVERY TAX ACT

Mr. STENNIS. Mr. President, I believe this bill represents a good, honest try by the President and the Congress to meet the problems presented. I am proud of the attitude with which this has been handled, but regret that we have not been able to deal effectively with the problem of high interest rates.

Interest rates must be lowered. That this problem has not been successfully dealt with shows the overwhelming difficulties which both the executive and legislative branches of the Government have faced in trying to effectively get at this problem and obtain prompt and beneficial results. This proves we must not abandon the effort to solve the high interest problem. For illustration, this is particularly true when prospective purchasers of Conoco are borrowing several billion dollars in order to pay for the Conoco stock thus leaving that much less credit available for small borrowers and keeping interest rates high. By contrast, an average little fellow must have a used car to get to and from work but under present conditions, he can hardly get enough credit to buy the car because of those very high interest rates. This is a deplorable situtation.

The same situation applies to those who want to build a house, start a business, or borrow money for other purposes. I am glad that the Finance Committee will hold hearings on these excessive interest rates. I am one of several who urged this. We will have a chance to go into these problems in depth in these hearings.

We really uncovered some problems of our social security system with reference to the benefits to be received as well as the inadequacies of the existing financial plans. I think that next to energy, and high interest rates, this is the gravest problem in the financial affairs of our Government.

This problem will not be solved until it is highlighted and spotlighted in the regular budget and placed in a separate category and its problems, rights, and benefits scanned and analyzed separately. Some adjustments must be made so that the provisions of the financing plan will fit the promises of the general law. While major problems have been uncovered, unfortunately they are the ones we have done the least about. These problems would not vanish so we must be prepared to meet them in the near future.

Despite some misgivings, I propose to vote for House Joint Resolution 266, the Economic Recovery Tax Act of 1981. My misgivings arise both from matters which are contained in and matters which are

omitted from the bill. At the same time I recognize that, from a practical standpoint, it may have been impossible to get a better bill passed by the Senate at this time.

My decision to vote for this bill is based in large measure on the hope that the Tax Reduction Act, in connection with the rest of the President's fiscal and budgetary program, will result in our achieving and attaining the economic goals which the administration's legislation is designed to achieve.

Specifically, I hope that this economic program, when and if enacted into law, will get the economy of this country moving again; that it will stimulate productivity; that it will bring inflation under control; that it will provide more jobs; that it will provide the necessary incentives for individual savings and investment; that it will increase the Nation's real wealth; that it will reduce and ultimately eliminate deficit spending; and that, perhaps most importantly, it will bring down the present intolerably high level of interest rates.

I have already mentioned high interest rates, Mr. President, and, because I believe it is so terribly important, I want to stress this problem once again. The fact is that these high interest rates will be a roadblock to the success of the Reagan plan. These high interest rates, at present levels are depressing almost every aspect of our economy. We cannot live with the high rates we have now. It is like a cancer gnawing at the vitals of our economy. I believe that any economic system which does not provide the people with an affordable, stable, and moderate rate of interest is unsound and ineffective and will ultimately collapse of its own weight. If this occurs, then the American system of free enterprise will vanish. We must address ourselves to this problem of high interest rates with extreme and utmost urgency.

So I repeat, Mr. President, that although I am not entirely satisfied with every aspect of this bill, I will vote for it with hope for our economic future and with great confidence in the American people and their time-tested ability to withstand and overcome problems and adversity.

Mr. President, I want to emphasize that I think this bill now represents the best results that we can achieve and the most the President can do at this time to meet the economic problems that face us.

I have to say, with emphasis, that I think much more must be done. We must try harder to find an effective program, even if it is temporary, to give the people some relief from these high, high, high interest rates. Otherwise, our economy could stagnate. Whether it goes that far or not, I am convinced that it is a hazard and a possible roadblock to the success of the Reagan economic plan itself, a major part of which is embodied in this bill.

I hope, as I expressed this morning, that we can and that we will do something further since we now understand better the problems facing the social security system, the extent of its so-called benefits, the extent and likely extent of its financial structure, its potential financial resources, and the taxes that may be necessary to keep this trust fund—and I emphasize the "trust" part—solvent and restore it to a condition which is sound financially and trustworthy—trustworthy—to the American people.

I think that is one of the essential mudsills of the reconstruction of our financial affairs on a sounder and better basis. I hope that we can do something further, too, with the modest start we have made toward an improved system of taxation; not just the lowering of taxes, as we ordinarily use that term, but finding our way toward a better system of taxation. We have at least made a start in that direction with this bill.

I repeat, Mr. President, for emphasis, that, like almost anyone else, I am not entirely satisfied with every aspect of the bill. However, I am voting for it with some satisfaction and with the hope of better things to come for our economic future, along with great confidence in the American people and their time-tested ability to withstand and overcome problems and adversity.

I want to commend highly the chairman of the committee, the ranking member, and others, including the Senator from Virginia (Mr. HARRY F. BYRD, JR.), my deskmate, and those who have debated this bill on the floor here and in the caucus room.

I yield the floor.

Mr. LEVIN. Mr. President, much as I believe that a tax cut is desirable, this particular tax cut is not. It is inequitable. It provides great tax reductions for the oil companies while it does not result in tax reductions for people earning less than $50,000, after the social security tax increases and inflation are taken into account. It is counterproductive. It will intensify inflation, increase the deficit and drive up interest rates. It is not fair. It is not productive. And it ought not be adopted.

First, by design, this tax cut gives disproportionately greater relief to those earning over $50,000 a year. The administration has stated its desire to give bigger breaks to those who earn more on the supply side theory that those are the people who will save more and supply the financial fuel to revitalize the economy. The administration has kept faith with supply side theories but broken faith with the vast majority of American taxpayers.

For the vast majority of taxpayers, this is a phantom tax cut.

If you earned $10,000 in 1980, you paid $987 in taxes. In 1984, after the full effect of this tax cut has been felt, you will be paying $1,252—in 1980 dollars. The purchasing power of your pay after inflation, social security, and Federal taxes will have actually fallen by $265. If you earn $35,000, your purchasing power will have fallen by $184 in 1984. But if you earn $80,000, then this tax cut is not a phantom—your purchasing power will have increased by $1,402. And at the $100,000 income level, you stand to gain $2,200.

Now I do not mind people earning above $50,000 getting a tax break. But what I mind is the fact that the middle and lower income taxpayers are paying for it. This country just cannot accept, in the name of economic progress, a doctrine which takes from people earning under $50,000, middle and lower income Americans, to pay for the needs—however real—of the wealthy. But that is precisely what this bill does. In broad terms, taxpayers earning less than $20,000 will pay $4.7 billion more in taxes in 1984 than they did in 1980. And those earning more than $50,000 will pay $10.1 billion less. That means that for 62 percent of the taxpayers, this tax cut really leaves them paying increased taxes. And that means that this bill just is not fair. When the President said that this bill is "the first real tax cut for everyone in almost 20 years," he was wrong. It is a real tax cut for some, but for others it offers no relief at all. It is this inequity which makes the bill so unjust and so unacceptable.

And it is not just a change in income tax rates that hurt middle-income people. As an example of the philosophy behind this bill, consider the fact that small savers—those with less than $13,000—will pay more taxes on the interest they get than they do today and that just isn't right.

Behind this collection of facts and figures designed to tell us who wins and who loses, there is an economic philosophy which we seem to have lost track of. As initially presented, the tax bill was not solely or primarily designed to give tax relief to people, it was designed to give economic vitality to our country. A large part of any evaluation of this bill ought to be based on how one believes the economy as a whole will respond to it.

In my view, the prospects in this area are as depressing as they are in the area of equity. The economic arguments are, as usual, complex, confusing and not very consistent. But since the goal of the President's economic program is to restore confidence in the future, the reaction of the financial community may well be the best indicator of its probable success. And on that basis, this plan looks like it is failing before we even adopt it. Interest rates remain high, investment continues at a low level, the stock market is mixed, and the analysts continue to predict that high inflation, high unemployment, high interests, and a sluggish growth rate for everything but the deficit under the President's plan.

This bill will cost the Treasury $784 billion. That is a staggering sum. And what it means is that there is no way—no way—to reduce the deficit. And with that deficit comes a continuation of the high interest rates which have already crippled the auto industry, paralyzed the construction industry, and dealt a mortal blow to hundreds of thousands of small businesses.

There are some good elements of the plan. I support its requirement that we index tax rates in the future and thereby provide meaningful protection for taxpayers against inflation. I also support the general thrust of the business tax cuts it contains, though I wish that they had been more targeted. I am pleased

with the child care provisions, the support for adoption, the energy tax credits, among other improvements. I have to balance these positive elements against the objectionable special interest features of the bill like the billions in tax reductions for the oil companies who are already experiencing profits in the billions.

It is very hard for me to support a bill which gives that much money to the oil companies when we are taking money away from senior citizen's social security benefits, taking money away from loans for college students, taking money away from economic development programs designed to help our urban and rural areas. We could have taken the money we have given to the oil companies and used it to provide real tax reductions for those earning less than $50,000. We could have done that without compromising the goals of promoting productivity, stimulating saving and encouraging investment. We could have done that—but we do not. As a result, the contrasts in the bill are too stark; the inequities too strong: the bill is just too unfair.

I began these comments by saying that I thought a tax cut was desirable. And to the extent that I can control the way people here in the Congress and the country interpret my vote, I want it interpreted as a vote for tax reductions—tax reductions which are fair to all income groups and effective economically. I voted for a number of amendments and alternative approaches during the Senate debate which would have achieved just that. I hope that might still be achieved in the final conference report.

But as I have indicated, this is not a real tax cut. It is a phantom tax cut. Its benefits to middle- and lower-income taxpayers are an illusion even while its gifts to the well-to-do and the special interests are all too real. The American people deserve to see a real tax cut—but the events of the last few weeks have blown smoke over the issue and clouded our perceptions. My vote is an attempt to blow some of that smoke away in the hopes that when it clears, we might still have a chance to come up with a fair and effective plan for real tax relief for all Americans. They need and deserve better than what we are giving them here.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

STATEMENT OPPOSING THE ADMINISTRATION TAX BILL

Mr. KENNEDY. Mr. President, I intend to vote against the administration's tax cut bill in the Senate. To be sure, the legislation has been improved in certain significant ways on the Senate floor, particularly by the adoption of amendments that provide relief to average families for home heating costs and child care expenses, and additional relief to small business, and I hope that these provisions will survive in the final bill that goes to the President. But these improvements are at best marginal, compared to the serious defects in the overall bill.

I oppose this measure for two basic reasons. I believe that the heart of this legislation—the massive Kemp-Roth 3-year tax reductions—are fundamentally unfair to hard-pressed middle-income Americans. And I believe that the enormous size and the excessive length of the tax cuts in the bill pose a clear and present danger to the Nation's economic well-being.

There is a widespread myth surrounding the selling of this legislation that it provides a real tax cut for everyone. That simply is not true. For average families earning $20,000 income a year or less, the administration's bill gives no tax relief whatever, after inflation and rising social security taxes are taken into account. These middle-income Americans—half of all the taxpayers in the Nation—will get no tax cut at all for the entire 3 years of the administration's bill. In fact, for 1982 to 1984, these hard-working average Americans will actually get a tax increase.

For a family with income of $20,000, their tax cut over the next 3 years will be a grand total of $1,056—not even enough to offset the increased taxes they will pay because of rising social security taxes and because of "bracket creep" as inflation drives them into higher and higher tax brackets.

The real tax relief in this bill is reserved for the really wealthy. During the 3 years of the administration's tax cut, for example:

Those making $200,000 a year will get a tax cut of $40,000.

And the richest of the rich, those making $1,000,000 a year, will get a tax cut of over $400,000.

The richer you are, the more you get. That is not fair, and that is why I oppose this legislation.

The apologists for the administration attempt to justify this blatant injustice by the claim that it would cost too much to provide more help to middle-income families. But if that claim is true, how is it that the administration has managed to find room in their bill for $20 billion in additional tax relief for the oil industry over the next decade?

There is no clearer demonstration of the misplaced priorities in this measure—too much for the "Seven Sisters" of oil, and too little for the average middle-income family.

In the view of virtually all impartial economists—and certainly in the view of Wall Street and the financial community—the excessive tax relief provided in this bill will play havoc with the national economy and the administration's hope for a balanced budget in the years to come.

Unless all the laws of economics are to be repealed, it is simply not possible to have large increases in spending for defense, to cut taxes by the huge amounts proposed by the administration, and still balance the budget all at the same time.

Something has to give—and those of us who oppose this legislation, fear that what will give is the basic structure and the fundamental soundness of the only economy we have.

The Nation's fiscal policy is now being set on a highly inflationary course. The spending cuts in the administration's plan do not come close to offsetting the additional stimulus that will result from the deep tax cuts and the large increases in defense spending.

In fact, the only serious anti-inflation weapon in the administration's arsenal is its monetary policy—the high interest rates that are already severely damaging the housing industry, small business, and other vital sectors of the economy.

It is clear from what the administration does—rather than what it says—that it is uneasy about the consequences of these policies. But to shore up their program, they have gone from bad to worse. They have frightened millions of elderly citizens by proposing unprecedented cuts in social security benefits—totaling $80 billion over the next decade.

These drastic and undeserved cuts go far beyond any sums needed to restore the balance in the social security trust funds. The administration wants these cuts in social security for another reason—in order to help them balance the rest of their budget and pay for the tax reductions contained in this legislation.

That is not fair. There are better ways to balance the Federal budget than to break the solemn obligation that the Federal Government has made to millions of elderly citizens through the promise of social security.

In the course of this debate, I have voted for a realistic Democratic alternative that would provide fairer tax cuts, smaller tax cuts and shorter tax cuts. I have supported business tax reductions designed to enhance investment and saving and productivity.

I have worked to achieve greater tax relief for small business and for research, development, and high technology. I have tried to temper the many provisions of the bill that are too heavily skewed to the Nation's largest corporations. I have offered and voted for important tax reforms to close flagrant existing loopholes and to prevent runaway new loopholes in the tax laws. But again and again, our proposals did not prevail.

In sum, this is a bill that provides the juiciest possible plums for the favored few, and the meagerest pittance for all those who need help the most. The administration has the bill it wants. But it is a bill that does not deserve to pass.

Mr. President, I ask unanimous consent that a table illustrating the net tax cuts for various income groups under the Senate bill may be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TAX CUTS BY INCOME LEVELS UNDER THE ADMINISTRATION PLAN (SENATE BILL) FOR 1982–84

Income	Percentage tax cut*
Under $5,000	(**).
$5,000 to $10,000	12.6 increase.
$10,000 to $15,000	13.1 increase.
$15,000 to $20,000	0.6 increase.
$20,000 to $30,000	3.8 decrease.
$30,000 to $50,000	6.5 decrease.
$50,000 to $100,000	9.0 decrease.
$100,000 to $200,000	12.8 decrease.
Over $200,000	17.5 decrease.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Iowa.

Mr. GRASSLEY. I thank the Senator from Kansas for yielding.

Mr. President, much discussion has focused on the estate tax provisions of the Reagan tax cut bill, House Joint Resolution 266. The estate tax reform provisions of this bill have been criticized as reaching so few estates that the tax is essentially useless.

While less than one-half of 1 percent of the estates may go untaxed, the consequences for Iowa are very important. Why? Many family farms and small businesses are valued at more than $600,000 when the owners die.

When this provision is fully phased-in, each estate under $600,000 would be exempt from Federal estate tax. According to a survey of agricultural farmland in Iowa compiled by Iowa State University and USDA, a farm of 300 acres was worth $619,000 in 1980.

Assuming a decedent has other assets in his or her estate, perhaps two cars worth $10,000, farm machinery worth $80,000, a life insurance policy includable within the estate with a face value of $50,000, $15,000 in savings and an average farm, this Iowan's estate would be worth $759,000.

This is not an atypical fact pattern. As you can see, many Iowans will benefit from the efforts of the Finance Committee, the administration, and the full Senate.

The first reform within the tax bill is the adjustment of the unified credit, increasing the value of the estate exempted from tax from $175,000 to $600,000 over a 5-year period.

This is especially important to farmowners since the price of agricultural farmland in Iowa increased 49.1 percent in the 4 years from the date of enactment of the 1976 Tax Reform Act. The effect of this provision is to permit an estate of $600,000 to pass without Federal estate tax liability.

An additional feature of the President's bill is to provide an unlimited marital deduction to permit the tax-free transfer of assets to a surviving spouse upon the death of the owner. This provision eliminates the widow's tax, one of the most unpopular provisions of the estate tax.

Also, the Senate bill contains a provision which increases the amount of excludable gift one individual can give to another each year from $3,000 to $10,000. This would permit an individual to give $10,000 per year to each family member or any other individual without gift tax consequences.

Furthermore, the committee wisely adopted a series of amendments designed to facilitate the qualification of an estate for special use valuation. One change of importance is in the predepth qualification requirements of the statute.

The IRS took the position until recently that a decedent needed an equity interest in the land to qualify for special use valuation. The service concluded that this requirement could only be satisfied by a farmer renting his land on a crop share basis or farming it himself. This change in the law will allow a farmer to cash rent to a family member without fear of disqualifying his estate from eligibility for special use valuation.

Furthermore, the Senate bill allows a 1-year grace period after the death of the decedent during which the beneficiaries may lease the land to nonrelatives without violating the continuous use by a qualified heir requirement.

Mr. President, another improvement to section 2032A, the special use valuation code section, permits an individual to materially participate if he farmed the land 5 of 8 years before death, disability, or retirement.

Current law requires a farmer to farm his land 5 of 8 years before his death to qualify his estate for special use valuation. This change will allow an individual to retire and collect social security without jeopardizing the ability of his heirs to continue the family enterprise.

Senator WALLOP's contribution to this provision has been critical in crafting a solution to a paradox within the law. If a farmer materially participated before his death, he could not collect social security: If he did not materially participate he could collect social security, but his estate would be ineligible for special use valuation if he was retired for more than 3 years before his death. This change is a great improvement in current law which I strongly support.

Other welcomed changes in current law permit a widow to have a lower standard of involvement to meet the material participation test. The widow could qualify her estate by meeting the active management test instead of materially participating.

The standard of active management is a factual determination based on a variety of factors, but basically involves engaging in farming activity without making daily operating decisions. The list of factors include the following: Inspecting growing crops, reviewing and approving annual crop plans in advance of planting, making substantial number of management decisions in the business operation and approving expenses other than nominal operating expenses.

Mr. President, other important improvements include a change in the valuation method for land which is leased on a crop share basis. The change would allow the conversion of crop shares into cash rentals for purposes of the formula method—the most favorable way of valuing property available under section 2032(A).

While most of the land in our State is leased on a cash rent basis, this is an improvement over current law for many family farms throughout the Nation. Additionally, certain timber rules have been added to reflect the uniquely slow growing period of trees.

The recapture period for the heirs maintaining the property in a qualified use, for farming or as a closely held small business, has been shortened to 10 years. Also, heirs who are under 21 or disabled may retain a fiduciary to manage the property and still keep their status as qualified heirs for the purpose of qualifying for special use valuation.

Like kind exchanges of qualified real property will be eligible for special use valuation under the new provisions in this bill. Other technical provisions have been added to the special use section and the other body has made further improvements in the special use valuation.

During my 7 years in Congress, Mr. President, I have worked hard for effective estate tax reform. The adoption of this measure containing many of the reforms I have included within bills I have offered previous Congresses is particularly gratifying.

Small farms and family businesses have played a critical role in our national effort to achieve high productivity. The very existence of these small farms and businesses is threatened by the need to pay hefty Federal estate taxes because the provisions of section 2032A have not been working properly.

The estate tax reform will adopt our traditional policy of taxing only the wealthiest decedents, while permitting taxpayers of lesser means to transfer property to their wives or children without the fear of paying a substantial portion of their estates to the Federal Government in taxes. Mr. President, this legislation will be of great benefit to many of my constituents and I am very pleased that its enactment is imminent.

Mr. President, at this time I wish to pay my compliments to the Senator from Kansas, the chairman of the Committee on Finance, for his leadership on this landmark tax legislation. Many newspapers throughout the Nation complimented him on his leadership especially the way he shepherded the President's program and supply-side economics through the legislative process. I also want to say that I have found that the chairman of the Senate Finance Committee has been a very firm leader, a person who has stood on principle, and, I think, put together a package that now, for the first time since the Kennedy tax cut in 1964, is going to be one of the major pieces of tax legislation that this body has passed.

Also, Mr. President, it is my pleasure to serve on this committee. I received the last position available to our party and I am thankful for that opportunity. It has been the most satisfying experience that I have had in my 7 years in the Congress of the United States.

Mr. President, I have also had the pleasure of becoming more acquainted with the Senator from Louisiana, the ranking minority member (Mr. LONG). I had read, in the years that I have been in the Congress, much about Mr. LONG. I want him and the people of this country to know that every compliment I have read about him in the papers, during my lifetime is factually accurate. As a beginner, I greatly appreciate his leadership and knowledge on tax matters and I feel privileged to serve with him on the Committee on Finance.

In addition to their efforts to pass the tax bill, I think the leadership of Senator LONG and the leadership of Senator DOLE need to be recognized because, their commitment to principle and preservance are enhancing the confidence of the American people in their Government.

Mr. MATHIAS. Mr. President, the tax bill before us provides for several reforms

that I have long advocated in our method of raising revenue. In particular, it gives some incentive for the accumulation of the capital that our economy will need to regain its vigor and increase its productivity.

The bill is, of course, deficient in some ways, as would be expected in such a complex piece of legislation. Its benefits and its penalties are not apportioned with perfect equity throughout American society.

In my judgment, the tax bill must be rejected in spite of its merits and for a reason beyond such inequities. That is because it has planted the fatal seed of "indexing" in the internal revenue system.

Indexing is dangerous because it actually institutionalizes inflation. We must resist the surface appeal of blanket indexing measures or run the risk of entrenching inflation in the economy in perpetuity.

Many other parts of the tax reform package represent an attempt to tackle inflation head-on by providing substantial incentives for Americans to save and invest to bring about economic recovery. I shall continue to support these promising direct approaches to increased productivity, which stand the best chance of reversing the tide of inflation once and for all.

But indexing is nothing less than surrender to the forces of inflation, Mr. President. We must reject this dangerous precedent that would cripple future Presidents and Congresses for years to come, and remove from the hands of the American people the control of their destiny.

I shall vote "No."

I ask unanimous consent that David Broder's article on the subject of indexing, "Revenue-Roulette," which appeared in the Washington Post on Sunday, July 26, 1981, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVENUE-ROULETTE

(By David S. Broder)

The membership of Congress is almost certainly smarter and better educated today than it was a decade ago. The investment in education that began with the GI Bill and continued with Sputnik and federal aid to higher education—to say nothing of the increasing competitiveness of electoral politics—has had a marked effect in reducing the number of hacks in the House and Senate.

How, then, is one to explain the extraordinary inability of Congress to extract the lessons of experience in one area and apply them to other, related questions?

This conundrum has been gnawing at me ever since the Senate decided, in a rather offhand way, to throw into the tax bill a provision that would index future tax rates and deductions for inflation, starting in 1985. when the last of the scheduled Reagan-suggested cuts go into effect.

The political appeal of indexing is obvious. It ends bracket creep—the unlegislated increase in your tax burden that comes when a cost-of-living pay raise moves you into a higher bracket. It ends the situation, in the words of Sen. Dave Durenberger, one of its proponents, where the "government, one of the primary causes of inflation, is also the main beneficiary of inflation."

Hooray.

But indexing—especially when mandated four years in advance by people who can have no real idea what the economic climate will be—is also the most hazardous form of revenue-roulette. It is a classic example of the Congress of 1981 hogtying and hampering the reasoned choice of the Congress that will be sitting in 1985.

Now, the discouraging thing is that if anyone ought to know that fact, it is the 57 senators who voted for indexing last week and the 218 representatives who have signed on as co-sponsors of a similar provision in the House.

Why should they know it? Because much of the agony they have been going through this year on the budget and reconciliation bills is the direct by-product of their predecessors' past embrace of indexing for Social Security, government and military pensions and a variety of other programs.

The folks who indexed those benefits were operating of what they considered a fine ringing principle. If Durenberger and Sens. Bob Dole and Bill Armstrong can see the wickedness of government "profiting" from inflation, their worthy predecessors in the 1970s could see that it was equally iniquitous to make retirees the victims of inflation.

When then-senator Frank Church put the cost-of-living indexing for Social Security into the law in 1972, the principle of equity seemed so obvious that it passed 82–4. What 82 senators could not forsee was that indexing would become so expensive within a decade that it could threaten the system with bankruptcy and could force Congress to such desperate expedients as eliminating the minimum Social Security benefits for a couple of million 70- and 80-year-olds living on the ragged edge of poverty.

Ah, but the sponsors of tax-indexing say their provision is different, because it affects revenues, not expenditures. It is not. The principle, and the mischief, are identical. In both cases, the lawmakers of one era are telling a selected group of citizens that for all times, under all circumstances, they will be protected against inflation.

It is a double folly. Inflation is not a scourge that affects particular groups. It clobbers everybody, and it can be cured only when everyone understands that discipline and sacrifice are involved. To "index" anyone—taxpayer or beneficiary—fully against the impact of inflation is to reduce the odds that everyone will see the need for joint action against the common enemy.

Second, it is demonstrably dangerous to lock the government into a long-term fiscal policy that restricts future room for maneuver. We are not talking about trivial sums. The Congressional Budget Office estimates that in its first two years, tax-indexing would cost the government $50 billion. No one now sitting in Congress can possibly know whether those $50 billion will be needed to balance the budget in 1986 or whether returning them to the taxpayers in that year will stimulate a lagging economy or just feed the fires of inflation.

What we do know is that this Congress has yet to bite the bullet and reduce the major items of indexed benefits it inherited. Yet it seems blithely ready to forge for its successors a new set of fiscal handcuffs called tax-indexing.

A government in which benefits are indexed to rise with inflation while taxes are indexed to resist inflation would be a government on the way to bankruptcy, of course.

It boggles the mind that these smart folks we got in Congress now can't see that for themselves. Maybe we need to send them to summer school.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I understand that we shall vote on the amendment of the distinguished Senator from West Virginia at 3 o'clock. I hope that by the end of that, I will have worked out some agreement with Senator BENTSEN on the so-called stock option matter. I am not certain whether a vote will be required on that. We do have one technical amendment that I hope we shall be able to call up. It has been discussed by Senator CHAFEE and Senator BURDICK.

In the 2 minutes remaining, let me say that I thank all Senators and members of the staff, members of my own Finance Committee staff and that of the joint committee, members of the Department of the Treasury who have been very helpful throughout, not only in this debate but in the Finance Committee.

I particularly thank my distinguished colleague from Louisiana (Mr. LONG), who has provided wise counsel and a lot of good direction to this Senator.

I think this is a historic opportunity for the American people, Mr. President. We have had a good debate on the issues. We have not loaded up the bill. I really believe that we have a bill that almost every Senator can vote for. I know some have honest differences of opinion, but by and large, in the view of this Senator, we have a good tax bill, one that I am proud to be a part of. I hope that we shall have an overwhelming vote in support of this measure to demonstrate, not just to the President but to the American people, that we are changing direction in this counry.

THE SENATE TAX REDUCTION PROPOSAL

Mr. President, we have concluded an historic debate on this tax reduction proposal. Two weeks ago the Senate took up House Joint Resolution 266, a House-passed debt limit resolution with the Finance Committee tax cut as an amendment in the form of a substitute. Now we have changed that tax cut in a number of ways; some may be for the better, some may not. But the principal features of the proposal remain intact: Real and sustained tax rate reduction for individuals, and accelerated cost recovery to spur new business investment.

This legislation is known as the Economic Recovery Tax Act of 1981. The title is significant. This is not just a tax cut aimed at giving temporary relief to the hard-pressed taxpayer. Nor is it a package of one-shot relief provisions for various special interests. This is a proposal designed to remove disincentives in the tax code that have inhibited business expansion that can generate long-term growth and which have undermined individual work, savings, and investment. In short, this is legislation geared to long-term stable economic growth, enhanced productivity, and freeing up private initiative.

Mr. President, the proposal has been changed since it was reported by the Finance Committee. Originally we—and the President—hoped for a clean bill, concentrating on the major provisions we need to get the economy moving. Some additional provisions were added

in committee, and others have been agreed to here on the Senate floor. Many of us would have preferred to have a simpler bill, and to hold the line on the cost and the scope of this proposal. Under the fiscal responsibility amendment agreed to by the Senate, we are obliged to bring in a final bill that is consistent with the revenue loss figures projected by the Reagan administration for its revised bipartisan tax cut proposal, an announced in early June. So despite the add-ons we are committed to a fairly tight bill.

The Senator from Kansas certainly does not object to any Member wanting to bring up an amendment, either to add a new provision or to modify an existing one. I hope that I have done a fair job of protecting the rights of Members to raise additional issues, and in many cases we have succeeded in reaching an accommodation among the Members, the Treasury, and the professional staffs. On the whole the system has worked well.

It is true, however, that some of those who have expressed the most concern about the size and cost of this tax cut have also shown the most enthusiasm for adding new provisions. Many of those provisions cost money. In a year when we are doing our best to achieve fiscal restraint, it may have been more appropriate to limit our appetites. I know the distinguished Senator from New Mexico and the distinguished Senator from South Carolina would agree that restraint is in order.

There are indications in this bill of how we may have to proceed in the future. Where possible we have accepted new amendments contingent on having offsetting revenue-raisers, or on tightening up the scope of the amendment. In the future these kinds of trade-offs may become increasingly necessary if we are to control revenue losses as we control budget items.

That may be all to the good, because it will force our attention to provisions of the tax code that may have outlived their usefulness or that may have no valid economic purpose. If the net result of our commitment to stable tax rates is a weeding out and restructuring of the Internal Revenue Code, we may really have achieved something.

Mr. President, I do not wish to criticize any Members for proposing amendments. By and large we have gotten excellent cooperation, and the tax proposals pending in the House also contain many provisions of relatively narrow scope that we might have preferred to defer for a second tax bill. I hope, however, that we do not lose sight of the big picture because we focus on some of the narrower provisions now contained in our bill.

The fact is that this legislation is a tribute to the dedicated efforts of the President of the United States to reform our tax system and restore equity and consistency to the way we treat the taxpayer. We have cut tax rates across the board for 3 years. We have agreed to maintain stable rates by indexing the rate brackets beginning in 1985.

This means an end to automatic tax increases, and is the most significant protection for the taxpayer that Congress has ever undertaken. I would also note that the indexing provision was undertaken on the initiative of the Finance Committee, particularly the distinguished Senator from Colorado (Mr. ARMSTRONG). The Senate has followed that initiative, and its action has been greeted with enthusiasm by the administration and by most Members of the House. So the Senate has had a major impact on the shape of this tax legislation.

We will also dramatically accelerate capital cost recovery in an equitable fashion so that inflation will no longer inhibit new investment as it has in the past. We provide tax incentives for retirement savings, for research expenditures, and for small business. These are all productivity-oriented measures and will aid capital formation. We have agreed to close a major tax loophole by changing the tax treatment of commodity straddles.

We have also freed small estates, particularly family farms and enterprises, from the burden of estate and gift taxes. We have done all these things in a responsible fashion, and in many ways this Senator believes our versions are superior to others that have been proposed. We have done a good job of balancing conflicting needs.

FOR ALL AMERICANS

Mr. President, let us remember that this is a tax cut for all the American people. By cutting rates across the board we have said that we decline to tinker with the progressivity of the Tax Code: We simply roll back the tax burden in direct proportion to existing tax liabilities. In addition, indexing the rates will guarantee that the rollback has a lasting effect: Particularly for the lower-income taxpayers who are more likely to be shunted into a higher bracket by inflation.

The rich do benefit from this tax cut. They do pay the most taxes. But some would have us believe that by skewing tax cuts a bit here and there, you really do more good for the income groups that are favored by the skewing. That is just not so. As the President has demonstrated, sustained tax relief is more meaningful for every taxpayer. Furthermore, we must recall that we are largely engaged in returning to the people tax revenues induced by inflation.

These revenues belong to the taxpayer, and it is not for the Government to decide that we should redistribute them in a different way.

Mr. President, we could spend the rest of the year debating how to divvy up the tax cut pie. The Senate has accepted the principle of across-the-board relief. It has done so in recognition of the fact that giving a few more dollars in tax rebate to certain income groups has no lasting effect. What does endure is a tax cut related to the problems endemic to our tax code: The disincentives to additional work, savings, and investment.

That is the kind of tax cut the President has offered and the Senate has agreed to. If we succeed in improving the real return on productive activities, we may not have to be back here again next year, and the year after, wrestling with our economic dilemma. We will continue to have problems, but at least we have acknowledged that shifting tax revenues among different income groups does nothing at all to boost productivity.

AN OPTIMISTIC VIEW

Mr. President, the most important fact is that we have worked out a bill that demonstrates faith in the ability of the American worker and American enterprise. We recognize that people want to get ahead, and they can, if given a chance. Those who manage to improve their position, with a better job, or extra hours of work, will find that, because of this bill, they fair better in terms of taxes than they would have.

A simple tax rebate would not have this effect, because it would assume that everyone is frozen in place. They are not. They have opportunities, and this bill gives individuals—and businesses—the chance to make the most of those opportunities. That is the essence of this legislation.

The distinguished Senator from Louisiana and ranking minority member of the Finance Committee, Senator LONG, must share the credit for this legislation—by his cooperation and hard work—and I thank him for helping forge a bipartisan consensus. I believe this is a good piece of work. This legislation could not have been achieved without the contribution of the distinguished majority leader, Senator BAKER, and the minority leader, Senator BYRD. I would also like to thank all the Senators and their staff of representatives who participated in negotiations that helped us expedite amendments.

In particular, I thank the members of the Finance Committee, who have offered their support both in committee and on the floor, and some of whom have been obliged to substitute as manager of this bill while the Senator from Kansas was absent on other business. As I stated earlier, I cannot fail to acknowledge the contribution of Senator ROTH, who first brought the notion of across-the-board rate reduction to the attention of the Senate, and who has worked long and hard for the principles embodied in this legislation.

There is more work ahead, but we have come a long way. I hope the final product will be satisfactory to the President, so that he can sign this bill into law and give the American people the tax relief they have needed for so long. The American economy will benefit, and it will largely be because the Senate has put its full support behind this proposal.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia. The yeas and nays have been ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from New Jersey be permitted to speak for 2 minutes prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, in the short time that I have been in the Senate, I have concentrated my attention on efforts to increase the competitiveness

of our national economy. Only with real economic growth will we have the rising living standards that Americans have come to expect as our birthright. I do not believe there is any such thing as a Democratic or a Republican economy. We only have one economy and that is why I believe so strongly that we must protect it and nurture it back to health. None of us can afford the high interest rates and high inflation we have been experiencing.

Mr. President, I support a tax cut. Americans need a tax cut. They need a tax cut to protect them from the effects of inflation pushing them into higher tax brackets. They need a tax cut to offset higher payroll taxes. They need a tax cut that will let them keep more of the money they earn through their labor and their investments. Above all, they need a tax cut that will promote economic growth without inflation. The American people also want a strong defense. They want a balanced budget. And they want inflation and interest rates to come down. They are right to want these things, which are the core of our national and economic security.

But, Mr. President, adoption of this legislation in its present form jeopardizes these goals.

First, I fear that a 3-year tax cut, coupled with the administration's rigid adherence to extreme monetary policies and steep increases in military spending. will stifle economic growth, not promote it.

Second, I am concerned that a 3-year tax cut, in the context of these other administration economic policies, is a recipe for higher inflation, higher interest rates and much larger deficits.

Third, I believe that we will be unable to sustain broad public support for a strong national defense unless our economy is growing. That support is not certain. If this tax cut leads to more inflation, higher interest rates and rising unemployment, the support will shatter. I do not want to see that happen.

Fourth, I believe this bill's failure to give more tax relief to individuals earning under $50,000 threatens to erode the consensus for economic growth that we must have among all income classes in order to rebuild America and make us competitive in international markets.

During the Senate's consideration of this bill, I objected to the 3-year nature of the personal tax cut. My objection was based on the uncertainty over what the budget, interest rates and inflation will look like in 1983, and on the danger that a large tax cut will fuel inflation and cause a bigger deficit in 1983 or 1984. Together with Senator EXON, I offered an amendment to deal with this problem by making the third year of the tax cut conditional on the success of the administration's economic recovery program. That would have provided a safety valve for this experimental plan in case it does not work. This amendment was defeated.

I also believe the across-the-board nature of this bill will not provide enough tax relief for middle- and low-income Americans. Under this bill, many Americans making less than $50,000 will be paying higher taxes next year than they are now. I offered two amendments to correct that. Each would have provided greater tax reduction for individuals earning less than $50,000 a year. Both amendments were defeated.

Because I am committed to stimulating risk taking and capital formation, I wholeheartedly supported cutting the top rate on investment income from 70 to 50 percent. Indeed, I also offered an amendment to reduce the tax on capital gains even further. I did so because I believe that the venture capital market is the wellspring of the innovation and productivity growth we need to turn this economy around. That amendment failed, too.

Finally, I offered an amendment that would give Americans a real incentive to invest by providing a 20-percent tax credit for new net saving. I fear that the incentives in the bill will not yield nearly enough new saving. Instead, they will encourage people to borrow or to shift their investments to take advantage of tax-favored assets. These provisions thus risk interfering with the efficient allocation of capital by the marketplace. The Senate did not agree to this amendment, either.

What we are left with Mr. President, is a bill that is unfair and unwise. It gambles with the only economy we have and I must oppose it.

For the future, we should look closely at the possibility of making some genuinely significant changes in American tax policy. For instance, instead of a top individual rate of 50 percent, why not 30 percent? And rather than lowering the corporate tax burden by complicated depreciation provisions, why not have a straightforward rate cut?

But, real rate cuts require broadening of the tax base and elimination of many deductions, credits, and exclusions. These cause wide disparities in tax liability among taxpayers with equal incomes and undermine the integrity of our tax system.

Nothing in the administration's proposals even begins to address these issues. On the contrary, they compound the system's unfairness, inefficiency and complexity. Mr. President, unless we reverse this trend, the only people paying income taxes will be the individuals whose wages and salaries are subject to withholding. That prospect is simply unacceptable in a democracy.

The PRESIDING OFFICER (Mr. PRESSLER). The time of the Senator has expired.

Mr. LONG. Mr. President, I ask unanimous consent that I might proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I compliment the chairman of the committee, the able Senator from Kansas, for the magnificent job he has done in managing this bill, starting with his leadership in scheduling the hearings, in making the plans to see that everyone had an opportunity to present their case, to present their arguments for the various things they would like to see in this bill, and for the consideration he has shown to every member of the committee.

The Senator has been efficient. He has been extremely diligent. He has worked very hard. He has been fair to every member of the committee and every Member of the Senate. I have never seen a chairman managing a bill any more considerate of every Member of this entire body, Democrat and Republican alike, trying to accommodate them to see that they had the opportunity to present their cases and also trying to adjust their amendments when it could be done so as to avoid opposing them if, indeed, he could go along with the proposals they would like to have considered.

Mr. President, I believe that the Senator from Kansas is entitled to enormous credit for this measure. It was the Senator from Kansas about a year ago who proposed a tax cut in connection with the debt limit bill. At that time he was backed by the majority of his party, but those on my side of the aisle felt that there should be hearings on the matter and that recommendations should be made by the committee before we voted on a tax cut.

We did hold hearings. We worked together. We recommended a bill with every Democrat and all save one Republican voting for it by a vote of 19 to 1. Unfortunately, the administration did not want the bill considered and the Democratic caucus did not back us in seeking to bring the bill up.

The Senator persevered in this regard to see that the tax cuts would be considered. He has shown statesmanship and leadership which I think is in the finest tradition of the U.S. Senate. He is a great chairman and I predict that he will leave a still greater mark of his statesmanship as the years go by in this body. I congratulate him on the fine job he has done.

Mr. DOLE. Mr. President, I very much appreciate those remarks coming from the distinguished Senator from Louisiana.

Mr. MATSUNAGA. Will the distinguished chairman yield?

Mr. DOLE. I ask unanimous consent, Mr. President, that the Senator from Hawaii be permitted to speak for 1 minute.

Mr. MATSUNAGA. I, too, join with the ranking member on this side, Senator LONG, in commending the chairman for the manner in which he conducted his work. I must say that although many of the good amendments offered from this side of the aisle were defeated, the fairness with which the chairman treated Members on this side of the aisle was such that he could easily rank with Democrats, and he could be mistaken for a Democrat, in the Democratic way in which he treated us Members on this side of the aisle. I wish to express my personal thanks for the manner in which he handled the debate and the negotiations during the consideration of the amendment which I offered.

Again, congratulations.

Mr. DOLE. I thank the Senator.

VOTE ON UP AMENDMENT NO. 331

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—100

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Weicker
East	McClure	Williams
Exon	Melcher	Zorinsky
Ford	Metzenbaum	

So Mr. ROBERT C. BYRD's amendment (UP No. 331) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kansas.

Mr. FORD. Mr. President, may we have order, please?

Mr. President, I do not believe the Senate is in order. The Senator from Kansas deserves to be heard. I raise a point of order that the Senate is not in order.

The PRESIDING OFFICER. The point of order is well taken. The Senate is not in order.

Mr. DOLE. Mr. President, I thank the Senator from Kentucky.

UP AMENDMENT NO. 332

(Purpose: Technical amendment)

Mr. DOLE. Mr. President, I ask unanimous consent to send to the desk a technical amendment.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment numbered 332.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 19 strike "June 10, 1981" and insert in lieu thereof "June 9, 1981."
On page 25, line 23, strike "June 10, 1981" and insert in lieu thereof "June 9, 1981."

Mr. DOLE. Mr. President, this is the amendment which was discussed earlier by the distinguished Senator from Rhode Island, Senator CHAFEE, and the distinguished Senator from Virginia, Senator HARRY F. BYRD, JR. The minority leader was in the Chamber at that time.

It is a question of changing, whether the date should be after June 9 or after June 10, and we would make it after June 9.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. LONG. Mr. President, I believe I am the one who made that motion in the committee, and at the time it was discussed my suggestion was that the bill should be effective as of the date the committee acted, and we acted on the 10th. That being the case, I think the Senator's amendment is well-taken.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 332) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. The amendment (No. 508) is withdrawn.

UP AMENDMENT NO. 333

(Purpose: To limit the amount previously granted options which may qualify as incentive stock options)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This is the stock option amendment that is listed.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 333.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 167 strike out lines 21 and all that follows through line 10 on page 168 and insert in lieu thereof the following:

"(B) ELECTION.—In the case of an option granted before December 31, 1980, the amendments made by this section shall apply only if the corporation granting such option elects (in the manner and at the time prescribed by the Secretary of the Treasury or his delegate) to have the amendments made by this section apply. The aggregate fair market value (determined at the time the option is granted) of the stock for which any employee may be granted options to which this subparagraph (B) applies (under all plans of his employer corporation and its parent and subsidiary corporations) shall not exceed $50,000, per calendar year and shall not exceed $250,000 in the aggregate."

Mr. DOLE. Mr. President, as I understand on this amendment there are 5 minutes.

The PRESIDING OFFICER. Five minutes equally divided.

Mr. DOLE. Mr. President, I say to the Members who are in the Chamber that following this amendment there will be a vote on substituting the passed language for the House bill so that will take care of any action on this measure today.

Mr. President, this stock option provision has been a very troublesome feature of this bill, and it is one that troubled this Senator and certain others.

What we have attempted to do is to figure out some compromise that is reasonable without being unduly generous to those who might benefit from it.

I know that every Senator has been contacted by some who wanted much more, and I think, in fact, I wish to have no retroactivity, but that is not possible. So we have tried to work out some compromise, and I prefer that the incentive stock option provisions apply only to options granted after the date of the enactment of this bill.

As my colleagues know, I am troubled by the retroactive feature of this bill's stock option provision. It seems to me that it is simply impossible to provide an effective incentive stock option benefit for options that have already been received.

WHAT IS THE BENEFIT?

In stark terms, let us look at what the incentive stock option provision does. Normally, when an employee receives compensation for services, he is taxed at ordinary income rates. It does not make any difference whether the compensation is salary or a special bonus. It is still taxed as ordinary income.

The incentive stock option provision changes this. It says that, if an employee receives a bonus in the form of an incentive stock option, he will not be taxed when he receives it; he will not be taxed when he exercises the option and buys stock; he will be taxed only if and when he sells the stock.

On top of this benefit of delaying the payment of tax, the incentive stock option provision will allow the gain and on the sale of stock to be taxed as capital gain, unlike other forms of compensation.

WHY THE PROVISION IS IN THE BILL?

I have no quarrel with this incentive. The Finance Committee agreed that this type of incentive is desirable to encourage employees to obtain an equity interest in their corporations. It should provide an effective incentive for employees to do their best to make their company productive and profitable.

But I want to emphasize that this is a very generous provision. We have an obligation to make sure that it is sufficiently limited to provide no more than the result we intended.

POSSIBILITY OF UNINTENDED BENEFIT

This is the reason that this Senator has taken the position that incentive stock option treatment should not apply to existing, nonqualified options. Employees who have received these options never expected that they would ever get capital gains treatment.

In fact, many if not most of the recipients of these options are highly paid executives whose companies have given them additional cash bonuses to cover the tax on the stock options.

Alternatively, their corporations may have given them larger options to account for the less favorable tax treatment.

This Senator has already discussed the magnitude of stock gains from exercise of nonqualified options, as reported by Forbes magazine last month. Let me just say again that for many executives the

amount of gain is in the six figure range and stock gains of over a million were reported for 1980. In fact one executive had stock gains of over $7 million last year.

COMPROMISE AMENDMENT

This Senator frankly would prefer that the incentive stock option provisions apply only to options granted after date of enactment of this bill.

However, in the spirit of compromise, the Senator from Kansas now offers an amendment which would allow a limited amount of existing, nonqualified options to become qualified for incentive stock option treatment.

My amendment would allow existing options granted before December 31, 1980, to be considered incentive stock options and to receive more favorable tax treatment.

Under the amendment, there will be a limit to the amount of existing options granted in any one year which may be treated as incentive stock options. The limit is the amount of options which could be used to purchase stock worth $50,000 at the time the option was granted. This would allow an aggregate of $250,000 per taxpayer to qualify. A quarter of a million dollars seems more than enough.

Of course, in many cases the stock is worth much more now than it was when the options were granted and this gain will be taxed at capital gains rates, if at all.

However, at least the amendment will provide a much needed limit to this conversion of ordinary income into deferred capital gain.

This Senator believes this amendment provides a reasonable compromise.

If there is any member who was concerned with a totally prospective effective date for the provision, this Senator is confident that this compromise amendment should satisfy those concerns.

This Senator is also confident that the members of this body would not want to provide any greater, unexpected and unnecessary tax benefit for a select number of executives.

This would allow an aggregate of $250,000 for a taxpayer to qualify. A quarter of a million dollars, it seems to me, is more than enough, and I just suggest we are talking about a lot of things in this tax bill about helping low-income Americans. This is one that is not directed toward low-income Americans. But in the spirit of compromise I have just withdrawn the amendment which would have prevented retroactivity, and presented the substitute.

Mr. MATSUNAGA. Mr. President, will the Senator yield? The 20-year provision has been left in?

Mr. DOLE. That is correct.

Mr. PACKWOOD. Mr. President, will the Senator yield me time?

Mr. LONG. I yield time to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, although the Senator from Kansas has used all his time I wonder if he would yield for a question?

Mr. DOLE. I yield.

Mr. PACKWOOD. Does the amendment as modified by the Senator cost the Treasury more money than the amendment unmodified?

Mr. DOLE. About the same.

Mr. PACKWOOD. The reason for this is simple.

Mr. DOLE. I am relying on the Joint Committee estimates.

Mr. PACKWOOD. So am I.

Mr. DOLE. The money comes from big business.

Mr. PACKWOOD. Here is the way it basically works. You have a stock option and it is a qualified preferred stock option, and you receive it. You pay no tax on it up to the limit. Above it you pay a capital gains tax. The maximum is 20 percent under this bill or if the bill is adopted, it is a maximum tax of 20 percent.

However, if you have the kind of stock option upon which you pay no tax, then the corporation cannot take a deduction. If you have the kind of stock option that you get tax-free, instead of paying 20 percent tax, then the corporation gets the deduction for the entire amount, a big business deduction, and as a corporation it has these kinds of options, and usually it is profitable enough to be in the maximum tax bracket, and that is a 46-percent deduction for the corporation.

Therefore, if you have a $250,000 stock option upon which you pay no tax, the corporation gets the $250,000 deduction, thereby depriving the Treasury of roughly 46 percent of that amount of money.

All I am now saying is we are changing the rules in midstream; we are going to cost the Treasury money to the extent we go above the option price of $250,000 in the Senator from Kansas' amendment, and I think it is unwise fiscal policy. It is unfair in its retroactivity because plans that were set up a number of years ago will not be able to qualify simply because they were set up a number of years ago.

There was no malice intended, no sleight-of-hand intended. I think they should simply be given the same treatment that plants that are formed from today onward receive. So I urge defeat of the amendment of the Senator from Kansas. I would urge especially that it be defeated because it is going to cost the Treasury money.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I do not think anybody is under any illusion about what we are doing. We are just making it possible for a few top paid corporate executives to get a little extra stock. If you do not believe the Senator from Kansas, read the June issue of Forbes about the enormous amount of stock dividends given to corporate executives.

This Senator believes we have done maybe more than we should have done by allowing any retroactivity. We have done that in the spirit of compromise.

I would hope if there is a record vote, if they want a record vote, that we will keep in mind that we are not talking about low-income Americans and taxpayers who will benefit from this amendment. It is not anybody that you know out there working for a living; it is the top corporate executives. Some want to go back to 20 years to pick up some option, and we are talking about the option price not the real price.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. (Putting the question.)

The PRESIDING OFFICER. The "noes" appear to have it.

Mr. DOLE. May we vote again? I did not hear the vote.

The PRESIDING OFFICER. All those in favor signify by saying "aye."

[There was a chorus of "ayes."]

The PRESIDING OFFICER. All those opposed signify by saying "no."

[There was a chorus of "noes."]

The PRESIDING OFFICER. The "noes" appear to have it.

Mr. DOLE. I ask for a division.

The PRESIDING OFFICER. All those in favor will rise and remain standing until they are counted.

Mr. DOLE. In favor of the compromise.

The PRESIDING OFFICER. In favor of the Dole amendment. The clerk will count those standing.

[Senators rising.]

The PRESIDING OFFICER. Those opposed will stand and be counted.

[Senators rising.]

The PRESIDING OFFICER. The "ayes" appear to have it.

The amendment (UP No. 333) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Now, Mr. President, are there further floor amendments to be dealt with?

ACR

Mr. LONG. I understand that the accelerated cost recovery system provided by section 201 of the bill would apply only to property placed in service after December 31, 1980. This section of the bill also contains certain rules to prevent evasion of this requirement by exchanges of property among different taxpayers. But, I am told that under existing law, an addition or an improvement to tangible personal property is treated as a new item of property and is therefore subject to the cost recovery method applicable at the time of the inclusion of the addition to existing property. Will such an approach be continued with respect to improvements and additions made to tangible personal property in service prior to January 1, 1980 where the improvement or addition is placed in service after December 31, 1980, so that the improvement or addition can be the subject of the accelerated cost recovery system contained in this bill?

Mr. DOLE. Yes, the same approach as now used will continue to apply. As a result, if a taxpayer makes an improvement or addition to tangible personal property in service prior to January 1, 1981, that addition or improvement will be treated as if it were new

tangible personal property placed in service after December 31, 1980, and will be subject to the accelerated cost recovery system provided by section 201 of the bill. This treatment would apply even where the taxpayer is the user of the resulting improved property both before and after the December 31, 1980 date. As a result, improvements and additions to tangible personal property such as ships, that are placed into service after December 31, 1980, will receive all of the benefits of accelerated cost recovery under the bill even though the original piece of equipment was in use by the same taxpayer prior to January 1, 1981, and continues to be used by that taxpayer after December 31, 1980.

Mr. KASTEN. Mr. President, a real tax cut is a rare thing in this town. We have had five "tax cuts" in the last 10 years, but our tax burden has increased by almost $400 billion. The marginal tax rate on an average family of four has gone up 35 percent. After taxes and inflation, most of us are worse off in 1980 than in 1972. Even if your income kept pace with inflation—and that is a big "if"—your purchasing power declined.

All Americans are being hurt by these high marginal tax rates, which discourage additional work, saving, investment, and risk-taking. Treasury Secretary Donald Regan puts it this way: "If we had a tax system which took 20 percent of your wages on Monday, 30 percent of your wages on Tuesday, 40 percent of your wages on Wednesday, and so on up to 70 percent of your wages on Saturday, how many days a week would you work? Well, figuratively speaking, more and more workers, savers, and investors are beginning to knock off around noon on Thursday."

If Congress does not enact dramatic tax rate reductions now, things will only get worse. There is a 22-percent personal tax increase built into our present tax system over the next 3 years. As it is now, if you get a cost-of-living raise to keep even with inflation, you may find yourself in a higher tax bracket and facing a bigger Federal tax bite. This "bracket creep" means that income tax revenues will keep flowing into the Treasury at a higher and higher rate. For every 10-percent increase in the price level, Government revenues increase by 16 percent—Government actually makes a profit on inflation.

Today we have a chance to dramatically change this Federal tax policy, once and for all. The Economic Recovery Tax Act of 1981 would provide a real and permanent tax rate reduction for every American taxpayer. Marginal rates would be cut by 25 percent, across the board—5 percent this October 1, 10 percent on July 1, 1982, and 10 percent again on July 1, 1983. Then we would make those cuts permanent by indexing the tax rates to inflation. This would put a stop to bracket creep.

We also have a chance to restore the incentives for job creation and entrepreneurship. After all, nearly 70 percent of all new jobs come from small firms—20 employees or less—and 90 percent of all American businesses still pay taxes through the personal schedules. These include proprietorships, partnerships and all the other noncorporate entities engaging in enterprise. This is why President Reagan calls his across the board personal tax-rate reduction plan a "small-enterprise incentive," and why he favors the proposed end to the distinction between "earned" and "unearned" income. Both increase the after-tax reward for greater entrepreneurial risk, for the direct creation of jobs.

We have a chance to stimulate savings and investment in this country. Americans now save less than any other people in the Western world, not because they've given up on providing for the future, but because they respond to economic incentives. The incentives for saving have been eroded by a combination of inflation and high marginal tax rates, and the rate of return on saving has been declining, year after year. The best way to increase the rate of savings in this country is to reduce the marginal tax rate on the next dollar of interest or dividend income an individual earns. The Economic Recovery Tax Act would do just that.

We have a chance to increase productivity and make American businesses more competitive worldwide. The Economic Recovery Tax Act would give business realistic depreciation on equipment and machinery, as well as research and development tax credit to help spark the high technology breakthroughs that are so critical to maintaining America's leadership role. A lower capital gains rate will help provide the surge in investment we need to rebuild our industrial base.

Most important, we have a chance to cut the Federal Government down to size. The Federal budget has been out of control for years—we ran a deficit every year of the past decade, and overall federal spending increased by an incredible 200 percent. The more tax money the Government collected, the more it spent. By limiting tax revenues, the Economic Recovery Tax Act will put an additional restraint on Federal spending.

I will support the President's tax program today despite the well-orchestrated objections of the critics. It used to be that if a person was against something, he said it was "un-American." Today, if you are against something, you say it is "inflationary." This is the game the big-spenders in Congress are trying to play. And yet, despite all the protests, they have yet to explain why it is inflationary when people spend their own money, but not inflationary when the Government spends it for them.

When their first argument fails, the critics claim that the Reagan tax cut would only help the rich. But that claim does not stand up to the facts. The facts are that the Reagan plan targets three-quarters of its tax relief to middle-income wage earners, who presently pay almost three-quarters of the total income tax bill. The proposals are not geared to help the poor or the rich—they are literally tax cuts "across the board." Everyone's tax rate will be cut by 25 percent, and everybody will benefit when the economy prospers.

The Economic Recovery Tax Act corrects many of the inequities in our present tax code. It cuts the marriage penalty, that unfair tax that has a working husband and wife pay more than if they were single. It increases the exemption on the inheritance (or estate) tax to $600,000 so that farmers and family-owned businesses do not have to sell the farm or store in the event of death just to pay the taxes. It would completely wipe out the tax for a surviving spouse. It allows every taxpayer to deduct the contributions they make to charitable organizations. It allows more taxpayers to set up tax-free Individual Retirement Savings Accounts (IRA's), and expands the Keogh retirement plan for self-employed workers. In addition, there is short term but substantial assistance for the hard-pressed thrift industry as well as a home heating oil tax credit.

But in the end, the bill simply represents a rare opportunity to redirect the economic future of our Nation. Somebody finally stood up and said there is nothing wrong with America that a smaller dose of Government, and a little persistence, will not solve. We finally have a President who believes the American people are not the cause of our problems—they are the solution.

It is time to unleash the creative and innovative forces of the American people, who have been held down too long by excessive taxation, inflation, and Government regulations. Once we remove the burdens of a bloated Federal bureaucracy, we can have economic growth, a sound dollar, a rising standard of living, and a strong defense. The American people know we can, because we have done it before.

It is time to reject the failed economic policies of the past, and to move into a holeful new era of growth and prosperity. Today we have a chance to vote for dramatic and permanent tax rate reductions; for savings, investment, and job creation; for less Government intervention; for greater individual freedom. I urge my colleagues to join me in voting for the Economic Recovery Tax Act of 1981.

Mr. ARMSTRONG. Mr. President, I had intended to offer an amendment to this bill to repeal what has come to be known as the family rental/home office tax.

At the request of both the Treasury Department and the distinguished chairman of the Senate Finance Committee, I withheld the amendment at this time. After careful study of my bill, and the issues presented by it, I am pleased to report that Treasury officials have now announced their support for my bill to repeal the family rental/home office tax.

In addition, Treasury has also agreed to issue new regulations allowing home-based entrepreneurs to deduct expenses incurred in maintaining home offices for part-time work. These new regulations will rescind the current IRS interpretation of a 1976 law which charges higher taxes to persons operating part-time businesses from their homes.

This is a victory for families and small businesses. It conclusively proves the Reagan administration's commitment to commonsense Federal regulation.

Mr. President, one issue that Treasury cannot correct by regulation is that current law requires individuals who rent to family members must pay higher taxes for doing so. Legislation is still needed to correct this issue, and on a retroactive basis, as my bill supported by Treasury provides. I hope this amendment will be made the centerpiece of the second tax bill, or reported out in its own right yet this year.

Mr. President, I ask unanimous consent that the letter I received from the Treasury Department about this issue be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C., July 13, 1981.

Hon. WILLIAM L. ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ARMSTRONG: This is to confirm our recent conversations about Treasury's views on the issues addressed by S. 31.

S. 31 would make three separate changes in section 280A of the Code, which generally limits deductions with respect to a dwelling unit used by the taxpayer as a residence.

In general, we do not oppose the provision of S. 31 which would treat the rental of a dwelling unit at fair rental to a family member in the same manner as the rental of the unit to an unrelated party. This is a change which cannot be made by regulation. However, we intend to resolve the other two issues addressed by S. 31 in the regulations. Thus, we intend to provide in the regulations, in general, that a taxpayer may take deductions, subject to certain limitations, allocable to a portion of a dwelling unit which is exclusively used on a regular basis as the principal place of business for any trade or business of the taxpayer, i.e., including a secondary trade or business. Also, we intend to provide by regulation essentially that a day of use of a vacation home would not be considered personal use if the "principal purpose" of the use were repair and maintenance. A more detailed discussion of these issues follows.

Rental to Family Members. If a taxpayer uses a dwelling unit for personal purposes for more than the greater of 14 days or 10 percent of the number of days that the unit is rented at fair rental, then the deductions attributable to the rental of the unit are limited, in general, to the gross income from such rental reduced by deductions (such as interest and certain taxes) allowable without regard to how the unit is used. Personal use for this purpose includes renting the unit to a member of the taxpayer's family (i.e. spouse, brothers, sisters, ancestors and lineal descendants), even at fair rental.

S. 31 would treat the rental of a dwelling unit to a family member at fair rental in the same manner as the rental of the unit to unrelated parties. This is a change that must be made by statute (and not by regulation).

Under the present version of section 280A, if a taxpayer rents a dwelling unit to a family member at fair rental, then, in general, the taxpayer can use the allocable rental deductions (e.g., depreciation, utilities) to offset the income from the unit, but the taxpayer cannot use these deductions to generate a loss to be used to offset the taxpayer's income from other sources. Thus, the issue is whether a taxpayer should be permitted to deduct depreciation (and similar expenses) on a dwelling unit rented to a family member even to the extent a deductible loss results, a result available if the taxpayer rented to an unrelated party.

This is a very difficult issue. On the one hand, it seems only fair that the owner of a dwelling unit should get the same tax advantages when renting to a family member at fair rental as when renting to an unrelated third party.

On the other hand, a family is often a single economic unit. It seems that one should not be able to generate losses from depreciation deductions simply by renting the unit within ones family if, in reality, the family is a single economic unit. For similar reasons, section 267 of the Code prevents taxpayers from deducting losses when property is sold within a family.

The issue boils down to whether the unfairness created by denying rental losses generated by depreciation deductions when family members are truly dealing at arms length outweighs the tax avoidance that might occur when such losses are created in rental transactions within families which are essentially a single economic unit. On balance, we believe there are situations where persons do deal at arms length in rental transactions with their family members and where allowing the deduction of rental losses is accordingly appropriate. Moreover, the main opportunity for tax avoidance through intrafamily rentals arises only where the annual depreciation deduction (and similar expenses) exceed the annual rental paid.

Thus, we do not oppose this provision of S. 31 provided it is made clear in the legislative history that transactions between family members will be scrutinized closely to ascertain whether their terms are truly fair market terms. It should also be made clear that if the owner continues to make use of the property, this will be personal use regardless of the rental arrangements.

Home office used as principal place of secondary business.—In general, section 280A disallows deductions in connection with the use of part of a residence for business purposes except in certain specified situations. Under one of these exceptions, a taxpayer may take certain deductions allocable to a portion of a dwelling unit which is exclusively used on a regular basis as the taxpayers principal place of business. Under the present statutory language, it is not clear whether (i) a taxpayer can have a principal place of business for this purpose for each trade or business in which the taxpayer engages or (ii) a taxpayer can have only one principal place of business—the principal place of his overall business activity—regardless of the number of trades or businesses in which the taxpayer engages.

Proposed regulations under section 280A published in the Federal Register on August 7, 1980 provide that a taxpayer can have only one principal place of business regardless of the number of trades or businesses in which the taxpayer is engaged. On the other hand, a Tax Court case, *Curphy* v. *Commissioner*, 73 T.C. 766 (1980), holds that a taxpayer may, for this purpose, have a principal place of business for a secondary trade or business.

S. 31 would amend section 280A to provide that a taxpayer may take deductions, subject to certain limitations, allocable to a portion of a dwelling unit which is exclusively used on a regular basis as "a principal place of business for any trade or business of the taxpayer." This would enable a taxpayer to take home office deductions, subject to certain limitations, allocable to a portion of a dwelling unit which is exclusively used on a regular basis as the principal place of business for a secondary trade or business of the taxpayer.

We agree for several reasons that a taxpayer should be able to take home office deductions, subject to certain limitations, allocable to a portion of a dwelling unit which is exclusively used on a regular basis as the principal place of business for any trade or business of the taxpayer i.e., including a secondary trade or business.

First, assuming that the rule can be administered in an effective manner, it would seem fair that a person who earns most of his or her income from a regular office job but who also conducts a separate trade or business out of the home should be able to deduct home office expenses with respect to a portion of the home used exclusively on a regular basis as the principal place of the secondary business.

Second, limitations on home office deductions were enacted to reduce the administrative problems that arise where residences are used for both business and personal purposes, since it is difficult to substantiate the amount of time spent for each of these uses. In this regard, the purpose of the "principal place of business" requirement appears to be to provide a reasonably verifiable threshold of business activity that must be carried on in a home office before home office deductions with respect to the activity may be taken. For example, this requirement rules out home office deductions for a taxpayer who maintains a regular office at his or her employer's place of business but uses a portion of his or her home for doing office work at night or on weekends. Although there may be some administrative difficulties in determining what constitutes a trade or business, we believe that, on balance, to require a home office to be used as the principal place of business for a trade or business of the taxpayer will provide a sufficiently verifiable threshold of business activity for administrative purposes.

Third, the amount of any home office deductions would remain limited, in general, to the gross income derived from the use of the home office in the secondary business, reduced by deductions (such as interest and certain taxes) which are allowable without regard to the use of the residence. Thus, taxpayers would not be able to take large home office deductions in respect of minor business activities (perhaps bordering on hobbies) even if these activities were dubbed "trades or businesses."

On balance, we believe that allowing a taxpayer to take deductions allocable to a portion of a dwelling unit exclusively used on a regular basis as the principal place of a secondary business will cause some additional administrative problems, but that these problems are manageable in view of the strong fairness argument for allowing such deductions. Thus, we agree with this change and we intend to make it by regulation. Accordingly, a statutory change is not necessary.[1]

Repair and maintenance days.—Section 280A directs the Secretary of the Treasury

[1] If it is decided to proceed to make this change by statute, one important technical change should be made in the language of this portion of S. 31. S. 31 would provide an exception to certain limitations of section 280A for certain deductions allocable to a portion of a dwelling unit which is exclusively used on a regular basis as "*a* principal place of business for any trade or business of the taxpayer." This should be changed to "the principal place of business for any trade or business of the taxpayer." The change would make it clear that a taxpayer may have only one principal place of business for each trade or business in which the taxpayer engages. If a taxpayer could have more than one principal place of business for a trade or business, then the tax law would be forced to resolve questions about home office deductions in connection with minor business uses of the home (such as home office deductions for the employee who takes work home at night)—precisely the questions that the enactment of section 280A was intended to eliminate.

to prescribe regulations with respect to the circumstances under which use of a dwelling unit for repairs and annual maintenance will not constitute personal use. The proposed regulations of August 7, 1980 provide in general that if, for a particular day, a taxpayer is engaged in repair or maintenance work on a substantially full-time basis but accompanying individuals who are capable of working on a substantially full-time basis do not do so then the day will be considered a day of personal use.

S. 31 would reverse this result by providing that, notwithstanding any ruling, proposed regulation or regulation to the contrary, a dwelling unit will not be treated as used by the taxpayer for personal purposes on a day on which the taxpayer is engaged in repair or maintenance work on the unit on a substantially full-time basis because other individuals on the premises on that day who are capable of working do not work on the unit on a substantially full-time basis.

We feel some sympathy for the result reached by S. 31 when the clear purpose of a taxpayer's use of a vacation home is repair or maintenance but, for example, the taxpayer's spouse accompanies the taxpayer "for the ride." On the other hand, if three or four friends of the taxpayer also accompany the taxpayer, we think this should be considered a day of personal use by the taxpayer.

A more fundamental issue is presented by these various rules. Rules of this nature are difficult to enforce because there is no way to verify what the taxpayer actually did on a particular day. Moreover, honest taxpayers may feel aggrieved if they believe that dishonest taxpayers can easily avoid the rules.

In view of this limitation, we intend to follow a different approach in the regulations. Under this approach, a day of use would not be considered personal if the "principal purpose" of the use were repair and maintenance. Although this approach does not solve the verification problem, it reflects a recognition of the practical limitations on precise but unverifiable rules. In addition, it allows a more flexible consideration of the facts and circumstances involved in particular situations such as that described above.

Sincerely,

JOHN E. CHAPOTON,
Assistant Secretary for Tax Policy.

Mr. CHAFEE. Mr. President, the tax bill we are preparing to vote on today will benefit virtually every worker and every employer in America. Furthermore, it will help create job opportunities for the jobless and growth opportunities for entrepreneurs—both of which are essential to a prosperous economy.

The Economic Recovery Tax Act of 1981 deserves the support of every Senator. It is not a perfect package, in fact, there are a number of provisions I would prefer to see deleted or changed. But on balance, it is a good package and it is an important component of President Reagan's program for economic revitalization. It is a program the people of Rhode Island support.

This legislation will affect individual taxpayers in many important ways. The most prominent and controversial feature, of course, is the provision of a 25 percent across-the-board individual rate cut during the next 2½ years. It means a fair tax reduction for every worker of 25 percent below what he or she would have otherwise paid to the Federal Government.

It is the most prominent aspect of the bill because of the simple fact that it will cut individual taxes over $100 billion a year by 1984. It is the most controversial because it is the focal point of debate about so-called supply-side economics. The proponents claim that these massive tax rate cuts are needed to stimulate new saving and investment, to create new jobs and productive capacity, and to foster overall economic prosperity. The opponents rebut that such massive tax cuts will be highly inflationary, stimulating consumer demand rather than productive capacity.

Mr. President, I must say that I have come to a rather moderate view of this debate over economic philosophy. I do not subscribe to the rose-colored projections of substantial new savings, investment and production as a result of individual rate reductions, nor do I believe that consumer demand will be revved up to higher inflationary levels by this aspect of the tax cut.

The fact is that a 25-percent tax cut over the next 2½ years will keep taxpayers just about even with the projected level of inflation. Unless we are very fortunate and inflation subsides markedly, this tax cut will yield taxpayers only a small increase in real disposable income. This kind of tax relief is important and the taxpayers need it. but by itself. it cannot measure up to the claims of either its proponents or opponents.

Fortunately, the Economic Recovery Tax Act contains other provisions that will give us the supply-side response our economy requires for noninflationary growth. This is the only kind of growth that can bring us near the balanced budget goal President Reagan has set for 1984.

MARRIAGE PENALTY DEDUCTION

Two of these provisions which apply to individual taxpayers are particularly significant. One is the phasing in of a $3,000 tax deduction to help married, working spouses offset a quirk in the Internal Revenue Code known as the marriage penalty. In Rhode Island, Mr. President, 60 percent of our families have both husband and wife in the work force. The new marriage penalty deduction will significantly reduce the extra taxes paid by these couples and create a real incentive for the second spouse to bring his or her talents to the labor market. For those working part time, it will be an incentive in some cases to work full time because more of that hard-earned income can be brought home. Eliminating the marriage penalty could have a very important effect on increasing worker productivity in this country.

UNIVERSAL IRA

The second item I find particularly important, and one which I take pride in having sponsored, will make the individual retirement account—IRA—available to all taxpayers. This provision will have two measurable effects: it will increase long-term savings deposits in our Nation's financial institutions and it will help workers save for their own retirement income needs.

As a result of this bill, individuals currently eligible for an IRA, that is those not covered by tax qualified pension plans, will be able to deduct contributions to an IRA up to $2,000 a year or 100 percent of income, whichever is less. The old limit, as you know, was $1,500 or 15 percent of income. The significance of removing the 15-percent limitation should not be overlooked here. It means that a second spouse can enter the work force, even on a part-time basis, and still contribute fully to the family's retirement needs. A spouse earning only $2,000 a year for part-time work could still contribute the maximum $2,000 to a tax-deductible IRA under the new law, but could only contribute $300 under current law.

In addition, those individuals who are covered by pension plans and not currently eligible for IRA's will be able to deduct up to $1,500 a year under the new bill for either an individual retirement account or for voluntary pension plan contributions. This provision will be a direct incentive for new long-term savings—savings that will help finance new capital investment and economic growth. It will also help take some pressure off the social security program because it will enable more people to increase their retirement savings.

These provisions affecting retirement income tax incentives—the universal IRA and the deduction of certain pension contributions—are a great step toward a system where tax on all kinds of pension and retirement savings can be deferred until withdrawn as retirement income. This is the kind of a system which makes sense and one which I will continue to work toward.

As chairman of the Finance Subcommittee on Savings, Pensions, and Investment Policy this year, I have held hearings and heard compelling testimony that indicates to me we should move as soon as possible to also allow tax deductions for so-called mandatory employee pension contributions. This would provide an important incentive to the formation of new pension plans, especially in smaller businesses where pension coverage is most lacking.

It would also eliminate a possible bias in favor of tax deductible voluntary plans that could undermine many established mandatory pension plans in the long run. During markup on this tax bill, many members of the Finance Committee indicated support for this suggestion which, unfortunately, could not be accommodated because of revenue loss considerations.

I can assure you, Mr. President, as the debate over financing social security benefits intensifies, we are going to be looking for the most effective ways to bolster individual retirement savings. By adopting the Economic Recovery Tax Act, we are taking an important step in this direction. I believe there is much support in the Senate for carrying the process a step further by exempting the mandatory pension contributions.

RAPID DEPRECIATION

Looking beyond the individual tax benefits in this act, there are several provisions to help stimulate economic

growth in America's industries. Most prominent, of course, is the dramatic revision in depreciation schedules for new investment in machinery, equipment, and buildings. The 15–10–5–3 formula we are about to adopt will speed up the modernization of industrial plant and equipment by reducing the capital cost recovery period by an average 50 percent. I have supported and worked on this kind of legislation since early in 1979 and I introduced S. 935, providing a 5-year cost recovery period for all machinery and equipment.

REHABILITATION

This bill also contains significant new tax credits for the rehabilitation of older buildings—a provision which should particularly benefit older cities like those in Rhode Island. A 15-percent tax credit will be allowed for the renovation costs of structures between 30 and 39 years old, 20 percent for those over 40 years old, and a 25-percent credit for certified rehabilitations of historic structures.

FOREIGN EARNED INCOME

Among the many other important provisions of this legislation, there is one other I would like to point out. It is one which I take some satisfaction in having drafted, one which I have been working on constantly for the last 2 years, and the only one which is designed to have a direct impact on the ability of American contractors and exporters to compete overseas.

This provision is a complete overhaul of sections 911 and 913 of the Internal Revenue Code governing the taxation of American citizens working abroad. It repeals a confusing and complex system of deductions for overseas living costs and replaces them with a simple foreign earned income exclusion and a companion exclusion for housing costs. Under this act, U.S. citizens working overseas for 11 out of 12 months would be entitled to exempt from U.S. income tax the first $50,000 plus half of the next $50,000 of earned income. In addition to this maximum $75,000 income exclusion, costs for housing in excess of about $6,000 would also be excluded.

The Finance Committee has had ample testimony to show that adopting this change in the foreign earned income provisions will be an effective stimulus to U.S. export efforts.

Mr. President, I urge the adoption of the Economic Recovery Tax Act of 1981.

Mr. SYMMS. Mr. President, the Reagan program for economic recovery is historic. In simplest terms, the President's program focuses on breaking down the restraints to noninflationary economic growth that years of misconceived policy have put in place. The Reagan program for economic recovery will lead to lower inflation, faster economic growth, lower unemployment, increased productivity, and the restoration of hope for a better future for all Americans.

The economic recovery program is not based on rhetoric and ideology. It is a carefully crafted policy aimed at correcting our basic problem; that is, the U.S. economy is just not growing fast enough. We need more jobs and more production for our people, for a rising standard of living, and for a stronger national defense. There is good economic reason for every piece of the program, with regard to both its presence in the package and the particular form it takes. Furthermore, each piece reinforces the effects of other policies in the program in achieving their primary goals.

With faster growth, incomes will be substantially higher; well-paying jobs will be more plentiful; fewer people will be dependent on welfare or unemployment compensation. Our ability to provide for solid gains in living standards and a stronger national defense will be greatly ehanced. These benefits add up to enormous social gain.

Today, the Senate is finishing consideration of the bipartisan tax reform package which is one of the four essential parts of the Reagan economic recovery program.

The two major provisions of the bipartisan tax reform package are the 25 percent across-the-board individual marginal rate reductions and the accelerated cost recovery system (ACRS). Taken together, these proposals provide a tax policy designed to increase the after-tax income for every American and improve the after-tax rate of return on investments in new plant and equipment. These changes are essential to restoring incentives to the economy and increasing growth and productivity.

The interaction of high rates of inflation with our present tax system has resulted in a rapidly increasing tax burden on individuals as they are pushed into higher and higher marginal tax rates. In 1965, 6 percent of all taxpayers faced marginal tax rates of 25 percent or more. Today, nearly one of every three taxpayers is in at least the 25-percent bracket. In the last two decades Congress has reduced personal income taxes seven times. Nevertheless, average effective tax rates are now about 30 percent higher than their mid-1960's low. Marginal tax rates have climbed in tandem with average rates.

Due to inflation, the rate of return on corporate assets, after tax, and the real level of corporate earnings have been seriously eroded over the last 15 years. Since the late 1970's, the rate of net capital formation has fallen substantially, particularly when measured by the capital stock per worker employed. In real terms the income retained by many firms after paying taxes and dividends is inadequate to maintain their capital base. The result is that real investment in equipment, maintenance, modernization, and new technology is falling further behind the needs of the economy.

The present tax bill before us is an essential part of the economic program. These tax cuts are not inflationary because they are not going to be financed by inflationary money creation. These tax cuts are needed to offset rising tax rates due to the inflationary policies of the past. The tax reductions will be more than paid for by spending reductions, additional revenues from faster economic growth, and higher levels of private saving and investment.

Monetary restraint and fiscal restraint cannot restore economic growth by themselves. These tax changes are key to the restoration of the economy. Personal savings rates and business investment will not recover by themselves they must be given tax rate reductions to offset the tax rate increases of the past several years and to prevent marginal tax rates from increasing further and leading to even greater stagnation.

The bipartisan tax reform package, to a great extent, realizes that the purpose of our tax policy is to facilitate the functioning of our economy by altering the incentives for individuals and corporations in the system and relying on the market to direct the funds to the highest uses. The bipartisan tax reform package takes a long-term approach toward solving our economic problems which is essential to any plan intending to create an environment which is productive and stable.

The tax package will help restore a sense of energy and opportunity in our Nation. That new spirit will spur on new growth in our economy, resulting in increased production and jobs.

I think we all owe a debt of thanks for the inspirational leadership of Senator DOLE for his tireless efforts to bring this to a vote today.

Mr. MITCHELL. Mr. President, throughout the Senate debate on the tax bill, the overriding message is that virtually every Senator favors tax relief. Although there are many differences on how and when taxes should be cut, there is underlying recognition that taxes are too high and that lower taxes can play an important role in restoring health to our Nation's economy.

The need for tax relief is obvious. The Federal income tax burden is at an all-time high. In 1981, if there is no tax cut, Federal income taxes will reach 15.9 percent of personal income. This compares to only 12.7 percent a decade ago. The rise in the tax burden occurred in spite of a number of tax cuts over the last 10 years.

Furthermore, Mr. President, failure to cut taxes now would result in further tax increases next year. The combined effect of inflation and higher social security taxes would result in a $23 billion tax increase in 1982. This increase falls most heavily on low- and middle-income workers. Taxpayers earning between $5,000 and $10,000 face a 25-percent increase in their taxes, and those making between $10,000 and $15,000 face a 12-percent increase. In contrast, the person with an income of $50,000 to $100,000 only faces a 6-percent increase. Thus, not only are those built-in tax increases harmful to the economy, they will make the tax system less progressive.

Many of the specific problems confronting our economy are related to the rising tax burden.

For example, inflation and our system of income taxation have drastically reduced the financial rewards to saving. It is not surprising that personal saving is at an all-time low.

Our method of taxing business income creates disincentives to capital formation. A higher rate of business investment is an important part of the solution to the problems of high inflation and low productivity. Clearly, our system of

capital cost recovery needs to be changed to reflect prevailing rates of inflation.

There are several inequities within the tax code that also need to be addressed by this Congress. The tax penalty imposed on working couples is in urgent need of reform. Also, abuses of the tax system, such as the commodity straddle, only serve to undermine public confidence in the fairness of our tax system, as high-income individuals avoid taxes on their income while the vast majority of working Americans pay more than their fair share of taxes.

Because of the importance of these issues, Mr. President, I was very concerned with the President's inital tax proposals. They were deficient in several respects: First, no targeted saving incentives were proposed. Second, although the legitimate concerns of capital-intensive firms were addressed through the depreciation reform proposals, the explicit needs of small businesses were ignored. Third, the need to attack tax abuse was not addressed. Fourth, relief from the marriage penalty was to be deferred to some unspecified future date. Finally, the President's proposals provided inadequate tax relief for low- and middle-income taxpayers. Those proposals were unacceptable.

In fact, this initial set of proposals ran into stiff opposition in each House. Members of both parties acknowledged that the limited approach of the President would not have adequately addressed the economic challenges facing us.

Mr. President, as this bill has progressed through the Senate, many meritorious measures have been added that correct to some extent the inadequacies of the initial proposal. First, the addition of explicit incentives that encourage individuals to save a greater portion of their income is a major improvement.

Another provision of the Senate bill will expand existing tax benefits for retirement saving. In addition to increasing the allowable deductions for individual retirement accounts, similar benefits will be extended for the first time to employees covered by qualified retirement plans. These changes, which are very similar to legislation I introduced earlier this year, should take pressure off the social security system as a source of income during retirement.

Second, the legitimate needs of small business have been addressed in the bill. This was an especially high priority for me, since Maine is essentially a State of small businesses. Fortunately, the bill now contains provisions that benefit all sectors of the small business community. The direct expensing option and the higher investment tax credit for used equipment deal with the concerns of capital intensive businesses; the corporate rate cuts, the increase in the number of subchapter S shareholders, and in the minimum accumulated earnings credit will benefit small corporations; and the inventory simplification measures will benefit wholesalers and retailers, many of them of whom are unincorporated

Third, the closing of the loophole known as the commodity straddle is a valuable contribution to the tax bill. No longer will persons with incomes of up to $10 million a year avoid completely any income taxes through this tax avoidance scheme.

The Senate has made several other improvements in the President's proposal. The serious inequity in the tax code that produces a tax penalty when working men and women marry is finally addressed. New tax incentives for charitable contributions are proposed at a time when other Federal budget and tax changes will reduce the flow of funds to charitable organizations. Special incentives for expanded research and development efforts should help us maintain our world leadership in technological developments. The addition of an increased tax credit for rehabilitation expenses is an important complement to the depreciation reforms included in the bill. This is particularly important in New England, as this will encourage businesses to rehabilitate their existing structures rather than build new ones, which could take them to different regions of the country.

Mr. President, there are other changes in the bill that have not been accepted that I believe would have made this an even better bill. Most importantly, the tax bill still does not provide sufficient relief for low- and middle-income taxpayers. I cosponsored and voted for several efforts, both in the Finance Committee and on the Senate floor, to redress this inequity by replacing the across-the-board rate cuts with a combination of changes to provide greater relief for those taxpayers earning less than $50,000.

Unfortunately, these efforts were not successful. Although I would prefer to see the income tax cut distributed more fairly, I believe that it would be even more unfair to deny American taxpayers any relief. Although the tax cut for lower income taxpayers barely offsets tax increases from inflation and social security taxes, their tax liabilities would be substantially greater if there were no tax cut. Because of the overwhelming need to provide for tax reduction, and because there are many worthwhile provisions in the bill, I intend to vote for its passage.

With Senate approval of this measure, the conference with the House can begin shortly. It is my hope that this conference will improve the distribution of the tax reduction for individuals to provide more tax relief for low- and middle-income taxpayers. Thus, my principal remaining concern with the Senate bill would be taken care of.

While I believe that the House may improve on this aspect of the bill, I must register my strong objections to certain provisions contained in each version of the tax cut being considered in the House. In an attempt to gain political support for their version of the tax cut, the President and the House Democratic leadership have engaged in a disgraceful bidding contest by including measures to provide substantial tax breaks for oil companies. These proposals represent an unwarranted weakening of the windfall profit tax and an unnecessary giveaway to the oil industry. Predictably, the President has given the oil companies the most.

That was to be expected. What was not to be expected, and what should not have occurred, was the effort by the House Democratic leadership to outbid the President for the support of the oil industry.

The windfall profit tax has not been used for its intended purpose; the activities it was intended to fund, such as low income energy assistance and weatherization programs, have not received adequate support. Furthermore, the oil industry is highly profitable, and, with the recent decontrol of domestic oil prices, it has more than sufficient incentive to increase production. These massive tax reductions for the oil industry are unwise and unnecessary, and I urge the Senate conferees to oppose strongly their inclusion in the final bill.

Mr. LEAHY. Mr. President, Americans and the U.S. economy need a tax cut, and I favor cutting taxes for individuals and businesses. It is with great reluctance, then, that I speak in opposition to the tax reduction bill before us today, the Economic Recovery Tax Act of 1981.

As much as I believe taxes are too high, and as much as I support the economic recovery efforts being made by the President with the assistance of both Republicans and Democrats in Congress, I cannot with good conscience vote for the tax cut bill before us today. I cannot support this bill because it benefits those least in need of tax relief the most, and it fails to protect the taxpayers most hurt by inflation and social security tax increases. It fails to protect the majority of taxpayers in my State of Vermont.

Mr. President, this bill will reduce taxes by some $280 billion over the next 3 years. Despite the enormity of these tax cuts, cuts which risk some of the greatest peacetime budget deficits in this Nation's history, many Americans and most Vermont taxpayers will face higher tax bills in the next several years.

In 1982, when "bracket creep" and social security tax increases are taken into account, 47 million taxpayers with incomes of $15,000 or less, roughly 60 percent of the taxpayers in Vermont, will face a tax increase of $1.3 billion. In 1983, these same taxpayers will face a tax increase of $2.7 billion.

In 1984, 58 million taxpayers with incomes of $20,000 or less, roughly 75 percent of all Vermont taxpayers, will face a tax increase of $4.7 billion.

By contrast, Mr. President, the 4 million taxpayers with incomes over $50,000 will receive a net tax decrease of $7.2 billion in 1982, $10.2 billion in 1983, and $10.1 billion in 1984. In my State, the 75 percent of Vermont taxpayers who earn less than $20,000 will receive just 16 percent of the tax cut dollars. The 22.5 percent of Vermont taxpayers who earn between $20,000 and $50,000 will receive 48 percent of the tax cut. And the 3 percent of Vermont taxpayers who earn more than $50,000 will receive 36 percent of the tax savings.

Mr. President, I believe these numbers speak for themselves. As much as I support tax cuts this bill as written works against the majority of taxpayers in my State, and the average American working family.

During the 2 weeks we have debated this tax cut bill, I have supported a number of amendments which would have made this tax plan fair for all American taxpayers. I deeply regret that my colleagues rejected those amendments and left me with no choice but to oppose the bill now before us. It is a foregone conclusion that the President's tax bill now before the Senate will be approved later today. It is my strong hope that the House of Representatives will pass an alternative plan, a plan which is fair and equitable to all Americans and which I can support when the final version of the tax cut legislation is considered by Congress.

I am also concerned that the tax plan before us today flirts with financial disaster. Unless inflation and interest rates plummet almost immediately, and unless the economy grows at a pace unprecedented in our recent history, budget deficits of from $50 to $100 billion a year are likely to result. If deficits of this size do occur over the next several years, and most private and public economists believe they will, the economic hardship resulting from more inflation and more high interest rates will far outweigh the benefits of the modest tax relief most Americans will receive from this bill.

To this date, 1981 has been known as the year of the budget cuts, of sacrifice and of belt-tightening. It has been such a year for most Americans. Unfortunately, the huge sums of money being given to the Pentagon and the defense industry—$662.5 billion over 3 years—and the massive 3-year tax cuts—$280 billion over 3 years—threaten to undo all of the economic good expected from the sacrifices of most Americans.

Mr. President, in view of the uncertainty and controversy which has surrounded the Reagan administration's experimental supply-side economic theories, I believe a 2-year tax cut with the third year of cuts made contingent upon a healthy economy would make far more sense. If after 2-year inflation, high interest rates and large budget deficits persist, I would hate to be locked into a third year of tax cuts which might worsen the situation. Again I regret that amendments which would have given Congress the option to cancel the third year of the tax cut unless the economy was in good shape were rejected by my colleagues during this debate.

Although I have stated my intention to vote against this bill, there are a number of provisions in the bill which I enthusiastically support.

I support the provision in the bill which is designed to eliminate the "marriage tax penalty." While I supported an amendment offered by Senator RIEGLE which would have provided even greater relief to married taxpayers, I believe the deduction of 5 percent of the first $30,000 of earnings in 1982, and 10 percent of the first $30,000 in 1983 and subsequent years which is provided in this bill is a very positive first step.

I also support the increased limits on allowable deductions for contributions to Individual Retirement Accounts (IRA's) and self-employed retirement plans (KEOGH's). These changes will increase the incentive for individuals to plan for their own retirements.

The improved health of our economy, especially the housing industry and related industries, depends to a great extent upon increased levels of personal savings. I cosponsored a provision known as the All Savers Act which authorizes financial institutions to offer special tax exempt saving certificates. Acceptance of this measure by the full Senate greatly improved the bill. Unfortunately, another amendment I supported which would have increased the tax exclusion for interest and dividend income to $1,000 ($2,000 for married couples filing jo'nt returns) was defeated.

Mr. President, I am also fully supportive of a number of the business tax cut provisions in this bill.

An accelerated and simplified capital cost recovery system is long overdue. The capital depreciation reforms contained in this bill will provide a valuable incentive for increased business investment and I support those provisions. I also favor the immediate expensing of a greater amount of the capital investments made by small businesses.

Other business tax provisions I support include raising the estate tax exemption for small family farms and businesses to $600,000, extending the targeted jobs tax credit, lowering the corporate tax rate for businesses with earnings up to $25,000 to 15 percent, and for businesses with earnings up to $50,000 to 18 percent, increasing the used equipment investment tax credit from the present cap of $100,000 a year to $150,000 a year and providing inventory accounting reform for those small businesses which cannot take advantage of the complicated accounting schemes presently available.

During the Senate debate, I supported an amendment to increase the elderly tax credit from the present maximum of $375 for singles and $562 for couples to $450 for singles and $675 for couples. Unfortunately, this amendment was defeated. I also supported an amendment to increase the allowable tax credit for alternative energy investments and energy conservation by 5 percent. This amendment was also defeated.

I believe both of these amendments were extremely worthy and regret that they were not accepted.

Mr. President, in summary, I regret that I must oppose the Economic Recovery Tax Act in its present form. As I said earlier, it is my strong hope that the House of Representatives will pass a fair and equitable alternative tax plan so that I can support the final version of the tax cut bill.

● Mr. BIDEN. Mr. President, the Senate is finishing deliberations on the future strength of our economy. It is ending deliberations on a matter of critical importance to every American taxpayer. In short, we are completing deliberations on a tax reduction bill that will provide needed tax relief for millions of Americans and will determine our economic course, perhaps for as much as a decade. I believe that some tax reduction—particularly in a form to encourage saving and investment—is essential right now. I am concerned, however, that the specific proposals we are about to act upon may not prove, in the long run, to have been in the best interest of the taxpayer or the economy.

I intend to vote for this tax reduction bill, despite my misgivings. This is the only tax reduction bill that we will consider this year. There has to be some tax relief for individual taxpayers, although it would be possible to design a tax cut better targeted to those who shoulder the greatest tax burden. We need the incentives for individuals to save that are in the bill—the IRA and Keough expansions and other things—but we need more—a greater exclusion of savings from taxation that could be used by every taxpayer, regardless of income. There are worthwhile incentives for industrial expansion and economic growth, although they could be larger and more effective, particularly to smaller businesses.

TAXES AND DEFICITS

I have long advocated a reduction in tax burdens for both individuals and for businesses. But I have felt that tax relief must be tied to success in reducing the growth of Federal spending and ending deficit financing. After all, a tax reduction in combination with a deficit means that we are borrowing money to reduce taxes. If such action has a substantial chance of improving economic activity and leading to a balanced budget within a short time, then it may be justified. But we are dealing with very large sums of money when we talk about tax reduction—hundreds of billions of dollars over the next few years—we must be certain that we do not perpetuate deficit spending and ruin our economy through a poorly designed tax reduction policy.

The administration said recently that it expects the deficit for fiscal year 1981 to reach $55 billion. That comes as no surprise to those of us who have been predicting $60 billion, or higher. The outlook for the future is equally grim. Despite the fact that nearly $40 billion in budget cuts is virtually an accomplished fact, we will be hard pressed to bring the budget into balance by fiscal year 1984. Deficits may well total over $200 billion by 1984. Defense spending reestimates keep soaring, with no fiscal restraint being exercised in this part of the budget. Interest expense on the national debt keeps climbing—we are well above the 13.5 percent Treasury bill rate estimated for fiscal year 1981 and nowhere near the 10.5 percent estimated for fiscal year 1982 in the first budget resolution. In nondefense spending we will need to find as many cuts again as we have already made to come close to budget balance. And budget balance depends on some very optimistic assumptions about the performance of our economy—GNP growth at 4.5 percent, inflation at 5.5 percent, and unemployment down to 6.4 percent by 1984.

In the face of this we are proposing here to reduce Federal revenues by about $150 billion in fiscal year 1984—approaching $225 billion in fiscal year 1986—in a multiyear tax reduction program for individuals and businesses. I do not question the need for tax relief at

this time. Indeed, I support tax relief at this time. The tax burden has grown intolerable as I predicted it would when I opposed increasing social security payroll taxes years ago. But I do have serious concerns about committing the Federal Government to the specific course of fiscal action contained in this bill for the next 3 years when the economic and fiscal outlook is so uncertain.

I have worked with others in the Senate for years—since the budget process was created in 1974—to try to bring Federal spending under control, to eliminate the ever present Federal deficits, and to lower tax burdens permanently. But the depths of recession and the heights of inflation have been unanticipated, even with the best of efforts. I hate to see this present effort straying dangerously close to overoptimistic disaster. It may be that I am too pessimistic. I hope so. But in any event, I think we must give this program—which is the President's program—a chance.

THE ECONOMIC ENVIRONMENT

The present economic environment clearly calls for action. Despite substantial real growth of 8.4 percent in the first quarter of 1981, our economy has been sluggish for the past 2 or 3 years. In the second quarter, real GNP fell at an annual rate of nearly 2 percent. There appears to be no real economic growth presently. Disappointing economic growth has sent the unemployment rate sharply upward in 1980. Since then it has hung in the 7-plus-percent range—much higher than this country should be willing to tolerate. Two of our economic mainstays—housing and automobiles—have slumped badly.

On the brighter side, the rate of inflation has finally dropped out of the double-digit level to a rate of 9.6 percent in the last 12 months. The Consumer Price Index rate in June was 7.4 percent and the Producer Price Index was growing at an annual rate of 7.2 percent.

Such a set of economic circumstances could justify a tax reduction. A tax reduction would give a boost to the sluggish economy and provide incentives for investment to increase productivity. At the same time, the declining inflation rate offers some hope that a reasonable level of tax reduction can be tolerated by the economy without setting off another wave of inflation. However, the very newness of the declining CPI should make us cautious.

TAX RELIEF FOR INDIVIDUALS

There has been no tax relief since the adoption of the Revenue Act of 1978. Since that time inflation, combined with our progressive tax system, has sent the real tax burden sky high for most taxpayers. Inflation has now pushed income taxes up to higher than 11 percent of personal income, higher than at any time in the last two decades. Without a change in marginal tax rates the tax burden would continue to climb even faster than the growth rate of inflation.

In addition, we need some of the modifications of tax law contained in this bill to change major inequities in the system which have developed over the years. The marriage tax penalty is one of those inequities, clear discrimination against married couples where both are wage earners. We must also act to remove some of the disincentives to personal savings. Recent efforts along this line started with the present 2-year provision in the tax laws for an exclusion of $200 of interest and dividend income—$400 per couple. The proposal to liberalize contributions to personal pension and retirement plans through IRA and Keogh accounts are another timely effort to help individuals save for retirement.

I am particularly concerned that this tax bill does not provide adequate tax relief to those individuals who are most hurt by increasing tax burdens. Individuals with incomes of $50,000 or less will receive almost miniscule percentage increases in their after-tax income when compared with nearly double-digit increases for those making $200,000 or better. I deeply regret that we were unable to adjust these tax reductions so that a greater portion of the cuts would go to middle and lower income taxpayers. I supported several such proposals because these taxpayers will be hard pressed to increase their saving.

INVESTMENT INCENTIVES

Looking to business for a moment, it is essential to our future prosperity that businesses be encouraged to invest in new plant and equipment. As with individuals, inflation has played havoc with businesses, largely by destroying the value of tax savings from depreciation deductions. Thus, businesses find it harder and harder to put together adequate capital to reinvest in needed plant and equipment improvements. However, in the area of business taxation, I have long been concerned about the adoption of tax provisions which funnel aid to some favored sectors of the economy to the detriment of others. Any system of incentives for investment should be as neutral as possible both among industries and among various classes of assets. This bill contains a sound provision for a tax credit to offset some of the costs of increased levels of research and development expenses. Any effort to increase business productivity must pay attention both to investment in physical assets and to research and development activity and I support such efforts.

I am concerned, however, that the present proposal is deficient in providing tax relief to small businesses. While I supported successful amendments for relief from burdensome accounting requirements as well as minimal general tax relief, we should have done more to relieve tax pressures on small businesses in our current inflationary environment. I supported such efforts through increases in the corporate surtax exemptions and lower rates.

One group of businesses that does not need special tax relief is the oil industry. Yet there are major provisions in this bill that weaken the windfall profit tax which was severely watered down before it finally passed Congress. I do not support efforts to reduce this tax.

In summary then, Mr. President, I believe the time for tax reduction is overdue. Yet I am troubled by the tax proposal that is before us. First, it does not live up to the creed of its supply-side backers, it does not focus cuts in ways that will best stimulate savings and investment. Second, the size of the tax reductions in this bill threatens a very important goal—achieving a balanced budget by 1984. Third, the magnitude of these cuts raises a great danger of fanning the flames of inflation which just now show some tentative signs of dying down. Finally, I would have liked to see greater emphasis given to tax reduction for middle and lower income taxpayers—the ones who have been most grievously hurt by inflation and by rising tax burdens.

However, as I said earlier, this bill has its positive aspects also.

It will provide tax relief for our burdened taxpayers.

It will provide incentives for saving.

It will encourage business to invest in order to achieve greater productivity.

It will provide stimulus to a sluggish economy.

On balance, Mr. President, because the choice is between this tax reduction or none, I will support this proposal.●

● Mr. WEICKER. Mr. President, I intend to cast my vote in the affirmative on final passage of the tax bill.

We still have a perilous situation in our economy. The hydra-headed monster called "stagflation"—or stagnation coexisting with inflation—persists unabated. Notwithstanding all of our considerable fundamental strengths, the high-spending, low investment/savings imbalances of the last 15 years seem to have sapped the economy of its vigor and caused a severe industrial stagnation, resulting in persistent high unemployment and mounting inflation. U.S. productivity has been essentially flat for 8 years, and now the economy seems headed downward.

In short, Mr. President, stagflation is only the most obvious symptom of a very sick economy and, for this reason, the prognosis at this moment must be considered "guarded."

Congress most important responsibility, therefore, must be to enact some significant new incentives for industrial modernization, improved productivity, and increased savings and investment, in order to lick inflation and spur the economy from the supply side of the equation. We must create a new climate in the United States, one based on improving the performance of the private sector and on achieving stronger national output and increased employment. Mr. President, this is the only way to get inflation down without imperiling the economy. But this must be done very cautiously, without tipping the economy off the edge, either with a too-stimulative tax cut or with a too restrictive fiscal or monetary policy.

In my judgment, therefore, and I have said so repeatedly this year, we need a production-oriented tax cut that boosts savings and investment, and promotes the modernization of U.S. industry. But, equally important, it must be matched roughly dollar for dollar with cuts in Government spending, at least until economic recovery comes onstream to produce higher Federal revenues. The tax

cut bill before us today, while certainly not perfect, reasonably proposes to meet those two tests, and deserves a chance.

As to the overall size of the tax cut, I believe the total figure is about right given the situation in our economy, the level of spending reduction contemplated in the Omnibus Reconciliation Act of 1981, and the projected growth of U.S. tax burdens.

I had grave reservations about the original administration tax cut plan, Mr. President, which would have cut tax revenues by $55 billion in fiscal year 1982 while cutting spending by only $40 billion. I felt it would be far too stimulative of the inflation-prone economy and, indeed, for that reason, I opposed the first budget resolution that contained these targets. But, the critical revenue/spending imbalance that characterized the original plan has now been reduced; the revised fiscal year 1982 tax cut would be about $37 billion, and this roughly matches the Federal spending cut of $35.2 billion in the Omnibus Reconciliation Act passed by the Senate, which I supported.

With respect to the orientation of the tax cut bill, I note that the administration's revised bill is far less consumption oriented and demand stimulative than the earlier plan. Any tax cut that favors consumption at a time like this runs the risk of fanning the fires of inflation and raising the inflation tax in rapid order. Specifically, in slanting the mix of the tax cut no less than $50 billion over 3 years away from consumption and in the direction of savings and investment, the bill is more properly tailored to the investment needs of our economy.

Moreover, a number of important provisions that I have long sought have been added to the tax bill to improve its effectiveness. The so-called marriage penalty has been lessened; the maximum tax rate on nonwage income has been reduced to promote investment; IRA's and other incentives for increased personal savings have been improved enormously; and we have an important new incentive for research and development. For small business, limited expensing is permitted for small amounts of capital equipment, major reforms are proposed in Federal estate and gift taxes, and we have changes in the accumulated earnings tax and in subchapter S rules. In addition, of course, the Senate adopted the Weicker-Durenberger amendment to cut small business tax rates and increase the ceiling on the value of used equipment qualifying for the investment tax credit. Nearly all of these provisions are adapted from S. 360, the Small Business Capital Formation Act of 1981, which I introduced with Senators DURENBERGER, NUNN, and others on February 3.

And, to be sure, we will have the accelerated cost recovery system of depreciation tax reform, which I consider the single most important productivity incentive to come before the Senate in 20 years.

The administration displayed an extraordinary degree of sensitivity to the concerns of those of us in Congress and in the financial community who expressed our reservations about the size and thrust of the tax cut and lost no time in modifying the original proposal—and I appreciate that and commend them for it.

Quite frankly I still have my doubts, particularly about the cumulative size of the tax cut in the outyears, given planned defense spending increases. Also, while tax liabilities will be reduced proportionally for all taxpayers, inflation and social security tax increases may not be offset uniformly across all brackets. But this tax bill represents a quantum improvement over the original plan. Our first priority right now must be to promote increased savings, capital investment, productivity, and economic growth—we must act to restore our very sick economy and, with a slump perhaps already underway, there may not be very much time.

I believe the President's new plan, as amended, deserves to be given the benefit of the doubt, and I will vote to give it a fair chance. For the sake of our country, I hope that it succeeds.●

THE WINDFALL PROFITS TAX SHOULD REMAIN INTACT

● Mr. BIDEN. Mr. President, the Economic Recovery Tax Act of 1981 should be just that—an act that will get the economy moving again and result in economic recovery for the individuals and businesses in this country that are hard pressed by our current economic climate. To consider substantial changes to the windfall oil profit tax overreachs and undermines this goal.

Nevertheless, last week the Senate considered several amendments to the tax bill that would have radically altered the windfall profit tax passed by the Congress just last year. While these amendments were almost entirely beaten back, I expect their consideration begins a new and well-orchestrated raid on the average American's pocketbook by the oil industry.

Mr. President, the amendments considered by the Senate this week and the sections of the original Finance Committee bill relating to reductions of the windfall oil profit tax represent some of the most excessive and indefensible items to be considered during debate on this bill.

Both the amendment by Senator BENTSEN and the amendment by Senators DOLE and DOMENICI would have cost the Treasury tens of billions of dollars and would have given the most profitable industry in this Nation the single largest bite of this tax cut bill.

In my opinion, Mr. President, even the more modest changes to the oil tax originally suggested by the Finance Committee and the modified provisions accepted by the Senate amount to an unjustified handout of over $6 billion to oil interests between 1982 and 1986.

Of course, that amount is above and beyond the substantial breaks the oil industry will receive along with other businesses as a matter of course.

Mr. President, of all the individuals and businesses that stand to benefit from the action we take on this tax bill, the oil industry should be our last concern. At a time when the Senate has made deep budget cuts or canceled programs for the purpose of long-term budget balancing, we should be finding ways to recoup more of America's expenditure on energy to use for the public good.

In fact, rather than lessen the windfall tax on oil, we should be extending or making permanent this tax. As the amendments we have debated make obvious, my suggestion appears to swim against the tide of thinking by the Reagan administration and this Senate.

Mr. President, if the Senate passes and the administration endorses changes to the windfall profit tax, when it has just made—over my opposition—cuts in title I educational benefits, elimination of minimum social security benefits and dozens of other programs, it will have engaged in the cruelest form of budgetary and tax cutting sleight-of-hand ever contemplated. What is more, there is simply no justification for giving this sector of our economy, which is awash in cash, a tax break.

The unprecedented oil price increases of the last few years have not only netted the oil companies unparalleled and staggering levels of profits but have been a major factor in bringing about our economic woes.

The gains these companies have made from total decontrol of oil prices and phased decontrol of natural gas prices has brought about what can only be described as an extraordinary and unthinkable transfer of wealth from the poor and middle-income families and small businesses of America to a few major energy companies.

True, these revenues have added to the already great incentives given the oil companies to go out and find domestic supplies of oil and gas. But it has also given them so much available cash that they are now beginning to wage massive and unproductive merger campaigns on a large scale. Now this well organized and powerful industry lobbies for more.

Mr. President, if the Senate passes and Committee bill makes, and the amendments we have considered for the windfall profit tax continues what I expect will be a wholesale assault on the energy policies enacted by the Congress over the past several years.

These provisions fall in line behind the administration's inconsistent budget cuts for energy conservation and solar energy programs, while at the same time increasing the nuclear program funding, and behind President Reagan's ill-advised decision to lift oil and gasoline price controls ahead of schedule.

Yet, these provisions will no doubt be viewed as modest tinkering with our energy policies when the administration makes the inevitable decision to accelerate or totally remove price controls from natural gas.

Mr. President, I think it unconscionable that when the Senate has just made the hard and painful decisions to cut any number of worthwhile and needed social programs for the poor, disadvantaged, and elderly of this country in the name of fiscal austerity and when the administration has threatened changes in basic social security benefits, that the Senate would consider further tax breaks for the oil industry.

Altering the windfall profit tax totally undermines the theory on which the tax and budget cuts have been presented. We in the Congress have been lectured for months with almost religious repetition that what is needed to get our economy going again is to bring the Federal books into balance and to stimulate investment with a tax cut.

I have for many years supported efforts to control what has seemed like runaway Federal spending and deficits, I also believe that within reason we are overdue for some type of relief of the tax burden on individuals and businesses so long as we do not finance the cut by compounding deficit spending for years to come.

But, Mr. President, there is absolutely no justification whatsoever to add to the riches and concentration of wealth bestowed on the oil companies through relaxation of the windfall profit tax.

For years the oil industry has enjoyed special allowances for intangible drilling costs and oil depletion. Even though the major companies no longer receive a tax break for oil depletion, they continue to receive substantial foreign tax credits and may defer profits earned abroad, among other breaks.

And even with the windfall profit tax in effect during 1980, the oil companies collectively accounted for tens of billions of dollars in profits and all told over 40 percent of all industry profits. Since all of this occurred in a year when most companies and industries felt fortunate just to break even, a case is just not made for special tax treatment in this bill.

What is more, these oil company profits did not result from any new found efficiency and productivity, but rather from the artificially bid-up world price of oil established by an oil cartel.

Yet the oil industry claims that this tax break and others will spur more aggressive and productive exploration activities. They expect us to believe that even with new records being reached for drilling activity and long backlogs on drilling equipment, additional incentives are necessary to get exploration moving.

Mr. President, reductions in the windfall profit tax ask the Senate to put blind and undeserving faith in the oil industry. Adopting any of these provisions does little more than break the promise the Congress has made to the American people to recapture some of the extraordinary profits resulting from decontrol of oil prices through passage of a windfall profit tax. I cannot support this or any other tinkering with the provisions of the windfall profit tax.●

● Mr. ZORINSKY. Mr. President, it is truly gratifying that the Senate, on Monday, July 27, acted without a single objection to suspend for a year an ill-conceived administrative interpretation of section 861 of the Internal Revenue Code that for the last 4 years has been driving critically needed research and development activities out of the United States.

I hope that this 1-year suspension, with instructions to the Treasury Department to study and report to Congress on the adverse effects of the 861 regulations will lead to their permanent abolition.

The core of the problem is that the 861 regulations now require American companies to allocate against foreign-source income a portion of expenses for research and development conducted entirely within the United States.

For all practical purposes, the U.S. companies find themselves paying taxes to two countries on the same income, with little or no offset from foreign tax credits.

My friend, the distinguished Senator from Ohio (Mr. GLENN), in association with the Senator from Missouri (Mr. DANFORTH) and the Senator from Wyoming (Mr. WALLOP), took the lead in achieving adoption of this important amendment. Mr. President, I congratulate them. They have worked long and tirelessly on this issue.

Elimination of the 861 regulations, as they apply to research and development in the United States, will be an important step in reducing unnecessary regulations which stifle productive economic activity.

All of us are greatly alarmed by declines in the rate of U.S. productivity, declines which have been identified as a major source of inflation. Unemployment remains at very high rates. We must get the country back on a healthy economic basis.

One essential ingredient is regaining our historic position as the world leader in science and technology. When existing Government policies serve as disincentives to investment in research and development in the United States, those policies must be changed.

Not to change them will be to continue export scientific laboratories to other countries; to continue to export to other countries jobs now held by American citizens in high-technology industry; and to continue to weaken the American economy.

My own State of Nebraska can rightly claim leadership in agricultural chemicals and in the veterinary drug field. Extensive research and development in these fields is conducted in Nebraska. I am determined to do my best to keep it there, and encourage it to expand. Disincentives to R. & D. in the United States—the section 861 regulations, for example—must be removed.

Two steps can be taken to address this problem:

First, the Treasury Department can and should undertake immediately an administrative modification of these regulations. Toward this end, the Senate has taken a major step with the amendment adopted on Monday, suspending the application of these regulations for 1 year and requiring the Treasury Department to present to the Congress within 6 months a study on the impact of these regulations. Our ultimate goal, however, remains abolition of the 861 regulations as they apply to tax treatment of R. & D. activities in the United States.●

● Mr. RIEGLE. Mr. President, over the past 2 weeks I have fought for many changes and improvements in the Senate tax cut bill. Some of those efforts were successful, others were not.

We fought hard for more tax relief for those earning less than $50,000 per year, but these amendments were voted down by the Republicans.

The final Senate bill has good and bad aspects; on balance I believe the good outweighs the bad. It is a substantial improvement over the original Reagan administration tax proposal.

I voted for this tax cut legislation because I believe we need tax relief for individuals and for business. I have long argued for lowering taxes, and for targeting tax cuts to stimulate the economy.

I believe that lower taxes and new savings incentives will lead to greater capital investment, increased productivity, and the creation of new jobs. America needs to take these steps to compete more aggressively against tough world competition.

The Senate bill has many positive features. The Senate bill:

Reduces the marriage tax penalty;

Indexes taxes to offset inflation in future years;

Provides important new help to small business;

Provides special tax incentives to rehabilitate older buildings and industrial plants (a special help to States like Michigan);

Reduces inheritance taxes to allow family farms and small businesses to remain in a family;

Provides a home-heating tax credit for families earning less than $25,000;

Provides special investment leasing provisions to help the struggling U.S. auto industry;

Accelerates depreciation write off and speeds up capital recovery;

Provides special savings certificates to increase funds for home mortgages;

Provides special tax incentives for new research and development efforts by business; and

Provides a tax credit for day care expenses incurred by working families.

Michigan and the Midwest has not received a fair share return on Federal tax dollars for many years. Every Federal tax dollar saved—and kept in Michigan—will strengthen our State economy.

I believe the Senate tax cut—while not perfect—will be a big shot in the arm to the Michigan economy. And we certainly need it.●

THE TAX BILL—IT COULD BE BETTER

Mr. PELL. Mr. President, the tax bill passed by the Senate is a poor bill, with many flaws, but it is better than the alternative which faced us in the Senate of having no tax reduction bill at all.

American workers, families, and businesses deserve a tax cut to compensate for inflation caused bracket creep and social security tax increases.

Accordingly, I have voted for this bill, despite its flaws, because voting against it would be a vote to leave the tax system exactly the way it is now.

I am voting for this tax bill with real reservations.

I believe the overall, total tax cuts provided by this bill are too large, and

could pose a serious danger of continued budget deficits and continued inflation.

The tax cuts for individuals provided in this bill are tilted too heavily in favor of the wealthy while short-changing the average American family with incomes of less than $50,000.

The bill provides some badly needed tax reductions for business and incentives for saving and investment, but it also includes billions of dollars of totally unjustified tax giveaways to the oil industry.

During the past 2 weeks a series of amendments have been offered in the Senate to improve this tax bill, to make it fiscally sounder and to make it fairer to the average American.

I voted for amendments that would have given a greater share of the tax cuts to the average American family.

I voted for amendments that would have reduced the overall size of the tax reductions, with the objective of reducing the Federal budget deficit and getting inflation under control.

To offset some of the tax windfalls being given to the oil industry, I have cosponsored and voted for an amendment to provide home heating tax credits to families that have been hard hit by skyrocketing home heating oil costs.

Each of these amendments, and many more that were offered to improve this tax reduction bill have been defeated here in the Senate, often on partyline votes.

As a result, this tax reduction bill is far from perfect. It is clear, however, after dozens of rollcall votes that this is the best tax reduction that it will be possible to achieve in the Senate this year.

Indeed, it is the only tax reduction bill that we now have an opportunity to vote for in the Senate, and I have voted in favor of it with the reservations I have noted.

There are, in fact, some provisions of this tax reduction bill that are much-needed and commendable. They include a reform of depreciation for business, relief from the marriage tax penalty, and a new tax exclusion for savings interest that should make home financing more affordable. And the cuts in individual income tax rates, while not distributed fairly, will give at least some relief to workers from increased social security taxes and inflation-caused tax bracket creep.

It is my hope that some of the shortcomings in this bill will be corrected when the House and Senate conferees meet to resolve the differences between the two versions of the tax bill. I hope that the conferees will produce a tax bill that I can support more enthusiastically than the bill now before the Senate.

SOCIAL SECURITY BENEFIT

Mr. FORD. Mr. President, I for one was surprised—very surprised, in fact—to see that a July 23 editorial in my State's largest newspaper, the Courier-Journal, endorsed the Reagan administration's plan to end minimum social security benefits.

The logic that was offered in defense of this change is just plain wrong. The reasons cited for following through with it cannot in my mind be justified. This reasoning also ignores the basic question here: Should the U.S. Government break a promise it made to millions of individuals who through the years have in good faith paid into the social security system with every expectation of receiving certain benefits upon their retirement?

Even more disturbing is the disruption this action would cause for those who have relied on this minimum benefit for years.

The editorial declares that the program "helps some who don't really need it."

Let me point out that of the estimated 3 million current recipients of minimum benefits, half have incomes below the poverty line of less than $2,000 a year; 75 percent are elderly women, many of whom are widowed and living alone; and 80,000 are age 90 or over.

Who is to say that these people "really don't need it?"

The editorial also rationalizes that some of the neediest recipients would be eligible for totally offsetting Federal help from nonsocial security programs.

This, I presume means welfare. Is this what our elders have worked all there lives to achieve? Should reaching the age of retirement mean a swap of dignity, pride and self-esteem in exchange for day-to-day subsistence?

America's senior citizens have earned and deserve better. They have earned and are entitled to the minimum benefits which they were promised when they made their payments into the system.

Last week I strongly supported an amendment that was defeated in the Senate on a near-party line vote to maintain minimum social security benefits for those presently receiving them and for those who would be entitled to those benefits through the end of the calendar year.

Some opponents of the amendment charged during the debate that the amendment was being offered on partisan grounds * * * that it would be perceived as being embarrassing to the President. Well let me say this: It ought to be.

After all, it was the President who just 5 months ago came before the Congress and declared that budget savings would not be made by cuts in the social security program. Specifically he said:

> The full retirement benefits of the 31 million Social Security recipients will be continued along with an annual cost of living increase.

That is a promise made that should and must be kept. I intend to do everything I can to see that it is.

Mr. President, I ask unanimous consent that the editorial in the Louisville Courier-Journal on July 23, 1981, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY BENEFITS

The senior citizens' lobby is depicting President Reagan's proposal to phase out minimum Social Security benefits as a betrayal of America's elderly. But the real betrayal would be to reject the sensible reform—as the House did Tuesday in a frantic effort to placate constituents enraged by its earlier support for the President's plan.

Some three million retirees now get minimum benefits of $122 monthly, though their earnings records would qualify them for less. It's estimated that eliminating this payments floor would save $7 billion by 1988—or at least a start on keeping the Social Security system solvent.

If Congress refused to make any changes—which it won't—the old age and survivors insurance trust fund would run out of money next year. But some of the other proposals for reform are even more controversial—in part because they affect many more people—than eliminating minimum benefits. For example, President Reagan already has backtracked hastily on his proposal to cut benefits immediately for those who are fully qualified but choose early retirement.

The President's plan to discuss the problem in a televised address to the nation should help. It's imperative that workers gain a better understanding of how their Social Security payroll taxes are spent. It's equally imperative that those already retired, or planning to retire soon, be made more aware of the fiscal realities.

One of those realities has been noted by Mr. Reagan, as it was last year by President Carter in urging the same reform. It's that the minimum-benefits floor, which began simply as a token $10 for administrative convenience, has evolved into a steadily escalating welfare benefit rather than a contributory pension. Meantime, the program helps some who don't really need it.

Many of these recipients are "double-dippers": government pensioners who worked just long enough in private business to qualify for Social Security, too. And some of the neediest recipients would be eligible for totally offsetting federal help from other non-Social-Security programs if the minimum payments were eliminated.

More such federal help doubtless would be needed, as a moral obligation to those already on the rolls. The Office of Management and Budget estimates that slightly more than half of those now receiving minimum benefits would lose income if the program were dropped. But the solution is not to continue the minimum benefits for all lest a few be unfairly hurt.

Instead, the answer is to drop this program and then guarantee total plugging of any gaps from other income-maintenance sources. For those now receiving payments, this guarantee could mean something more reliable than the uncertain mercies of the President's "safety net."

Congress and the administration can devise such solutions if they will. But it will take political courage: This week's House vote occurred while senior citizens were staging a large rally outside the Capitol. And it will take considerable straight-talking with the American people, who are headed for a serious generational struggle between workers and retirees if Congress simply applies the traditional Band-Aids.

President Reagan may not have been entirely fair last week in deploring "opportunistic political maneuvering, cynically designed to play on the fears of many Americans, that some are initiating in Congress at this time." The various proposals for Social Security reform are hardly an open-and-shut case. Compromises, especially as they involve keeping faith with present recipients, may be as desirable as they are inevitable.

But we're now paying for our shortsightedness in allowing Congress to temporize all these years. And we'll continue to pay if we once again settle for short-term "solutions" that merely make long-term matters worse.

● Mr. D'AMATO. Mr. President, today's vote by the Senate is representative of a

historic shift in our national policy. We have taken a firm step forward in ending the constant tax increases that the average American family has been facing each year.

The tax cuts approved today in the Senate represent real tax relief. Our actions are indicative of the prevailing national sentiment favoring a reduction in the level of taxation and Federal spending that has fueled inflation and impaired the ability of our economy to create new job opportunities for our people.

The 3 year across-the-board cuts coupled with the indexing provision will protect the public from automatic tax increases caused by bracket creep. The indexing provision is long overdue and guarantees that this tax cut will be genuine.

President Reagan and his administration are certainly placing their imprint on the future direction of our Nation. This is testimony to the fact that we now have real leadership in the White House.

I supported this measure because it is the right way to go. However, there is still a need to provide tax relief to those of modest income who earn interest on their savings. While this has not been adequately addressed in this bill, I have been assured by the chairman of the Finance Committee, Mr. DOLE, that tax relief for the small saver is a matter that will command serious attention later this year.●

● Mr. DODD. Mr. President, a fair and responsible fiscal policy is an essential component of any economic recovery program. For years, our economy has suffered under the burden of high inflation, inadequate job creation, low productivity growth, trade deficits and so on. Consumers who have paid rising fuel, food and health costs, young people who seek employment and cannot find it, entrepreneurs who cannot acquire the capital with which to establish productive enterprises, families which cannot locate decent, affordable housing, all experience firsthand the adverse effects of a sluggish economy.

It has been clear for some time now that, if we expect to alleviate our various economic problems, that a fiscal policy which implements tax reductions in appropriate areas must be included in any economic recovery package. These changes should ideally be geared directly to those problem areas which are a basic cause of our difficulties.

Mr. President, I intend to oppose final passage of House Joint Resolution 266, the Economic Recovery Tax Act of 1981, because I believe that it is a reflection of grossly distorted fiscal priorities. The impact of this bill's provisions on our economy has been discussed at length for years, first as the so-called Kemp-Roth tax cut, and now in slightly modified form, as "5–10–10" tax cut combined with numerous sweeteners.

Let me list some of the problems I have with this approach:

First. When you add up the annual revenue losses associated with this proposal, you come up with over $280 billion through 1884. This is clearly a serious aggravation of the deficit.

Second. Two-thirds of this revenue loss goes to consumption-oriented individuals rate reductions which are not only inflationary, but unfair in that they become more generous as you go up the income scale.

Third. A multiyear tax policy such as this will all but eliminate our ability to adjust fiscal policy to meet radically changed economic circumstances which may very well result from oil controls, crop failures and other unpredictable factors.

Fourth. The inclusion of indexing, beginning in 1985, will merely reinforce the inflexibility that was inherent in the original 3-vear proposal.

Fifth. The process by which this bill was considered clearly relegated the welfare of our Nation to second place, relative to the numerous sweeteners which were included for the primary purpose of attracting support.

I must say that not all provisions included in this bill are objectionable. I support efforts to remove the marriage penalty, to promote accelerated depreciation, and to improve tax credits for energy conservation, which are all included in this bill. I could not, however, support a total package that disguises rather than confronts inflation through indexing, and that ignores changing economic conditions.

The proposal is too rigid in its 3-year approach. It inhibits our ability to address a fluctuating economy. And, it is not targeted toward those who need it most: Lower- and middle-income families.

This tax bill is excessive. At a time when inflation remains the single most important issue, I am intrigued by those who could support a measure that fails to address some of its primary causes: Huge deficits and unbalanced budgets.

Who wins each vote has become more important than the job at hand: Achieving tax reform that will help the American people and the economy. The tax bills have been sweetened by one special interest amendment after another and the American people end up the losers. The politics of the debate and the political importance attached to its outcome make any victory a pyrrhic victory for the American people.●

THE SENATE TAX BILL

Mr. ROBERT C. BYRD. Mr. President, I have consistently raised concerns about the President's 3-year, across-the-board individual tax cut. I have also consistently said that the American people need to have their taxes reduced, and that business needs incentives to increase its investment in productive capacity. The bill before us is far from perfect. In fact, it is still flawed with the basic problems of Kemp/Roth. It has an unfair distribution of tax benefits, and it contains a third year tax cut which I do not believe can be justified as prudent fiscal policy.

On the other hand, the bill does provide a margin of tax relief to the hard pressed middle class of this country, and it contains many important incentives for increased investment and savings.

I have supported numerous amendments to this bill, which I believe would have made it a far better bill. I supported the Bradley amendment which attempted to redistribute some of the benefits of the individual tax cut to the $10,000–$50,000-a-year income group. I supported the Exon amendment which would have tied the third year of the tax cut to the performance of the economy, measured against the administration's own economic projections. I voted for a Bradley substitute for the individual rate cuts which provided for a 1-year individual rate reduction, and targeted the rate reductions to people earning between $10,000 and $50,000 per year.

In order to stimulate capital formation, I voted for a Bradley amendment to reduce the amount of income subject to capital gains from 40 to 30 percent. For the same reason, I voted for a D'Amato amendment which would have maintained the current exclusion from income of interest and dividends of $200 per individual and $400 per couple. I voted for the Riegle amendment which would have reduced the corporate tax rates of small businesses, and for the Kennedy amendment which would have increased the tax credit for industrial and commercial energy conservation.

In the interest of fairness to the Nation's elderly, particularly in light of the assault the administration is making on the social security system, I voted for a Kennedy amendment to increase the retirement income tax credit enjoyed by elderly Americans, and I voted for a Riegle amendment to accelerate the effective date of the marriage penalty.

All of these amendments failed, most of them on the basis of a highly partisan vote. I wish they all had passed. Had they passed, I believe the Senate would have the opportunity to vote on a bill which is far superior to that which is now before us.

However, having tried to improve the bill, and having failed, the question then becomes "Should one vote for this bill, if he or she is not 100 percent in accord with it?"

Senators will make this judgment based on a complex set of factors. I intend to vote for the bill, not because I subscribe to the theory of across-the-board, multiyear tax cuts, nor because I subscribe to the notion of trickle down economics, which is implicit in this bill. But I do believe that the American people want and deserve a tax cut. I do believe that American business needs incentives to increase its level of productivity. And finally, it is my hope that the bill can be improved in conference, especially if the Ways and Means alternative is successful in the House.

I continue to have grave concerns about the economic course upon which this administration is steering the Nation. I continue to disagree strongly with the administration's tight money policy which is crippling American business and crushing the dreams of many American consumers. I voted to support a Boren amendment which expressed the sense of the Senate that the President should assure our allies at the Ottawa Summit that the United States would take imme-

diate, direct, and affirmative steps to lower significantly our domestic interest rates. In one of many partisan votes which characterized consideration of this bill, that reasonable amendment was tabled by a vote of 53 to 40.

I am voting for this bill because I feel it is important to grant tax relief to the American people. My vote should not be misinterpreted. It is not a vote in support of this administration's economic policies, nor is it a vote in support of the large deficits and high interest rates which I fear their policies will sustain. I would have preferred to vote for a much more targeted, prudent tax cut. Democratic efforts to frame such a tax cut were consistently frustrated, so I vote for this tax bill with the hope that the new administration's rosy economic scenario proves true. However, I cannot be terribly sanguine on this front.

Mr. President, the chairman of the Finance Committee, the Senator from Kansas (Mr. DOLE), has distinguished himself in his first major legislative effort as chairman of the Senate Finance Committee. While I have not always agreed with him on this bill, his ever present and sometimes biting wit has brightened the Chamber and lightened our heavy load as we worked tirelessly to deliver this bill to the President's desk prior to the August recess. As always, the distinguished ranking minority member of the committee, Mr. LONG, has shown himself to be the master of the U.S. Tax Code and one of this Chamber's most skilled and tireless legislators.

Mr. President, I thank all Senators for their cooperation in expediting the consideration of this very important measure. During consideration of this bill, the Senate has disposed of 118 amendments in 2 weeks' time. This is a considerable legislative achievement.

Mr. THURMOND. Mr. President, today I rise in strong support of the Economic Recovery Tax Act of 1981. It is imperative that the Senate pass this vital legislation. This tax reduction and investment incentive proposal is essential to provide our economy with the strong base it needs to overcome its current problems.

The Economic Recovery Tax Act is a comprehensive approach to the most pressing problems now facing this Nation—inflation and a weakened economy. The bill reduces tax rates for individual taxpayers; establishes a new, more realistic approach to capital formation and investment; and creates new, additional protections in the area of estate taxation. In addition to these major provisions, the legislation also addresses other areas of significant interest, such as lessening the marriage-tax penalty and encouraging research and development.

Mr. President, perhaps the most widely discussed section of this bill is the 3-year tax rate reduction for individuals. Although we hear political rhetoric about aiming the tax cuts toward the lower wage earner, this across-the-board tax reduction is the approach which is most likely to achieve the economic revitalization which this country needs. In that process, Mr. President, this approach will also bring lasting benefits to those in the lower tax brackets and those unemployed persons who need the permanent, productive jobs that can only come from a strengthened, healthy economy.

Despite claims to the contrary, across-the-board cuts are fair, because they will give each American taxpayer a real tax reduction in proportion to the amount of taxes they pay. This approach is equitable, and it will result in the desired goal of enhancing personal savings, a prerequisite to reviving the housing industry and promoting capital formation in the private sector.

Just as important for a healthy economy are the provisions in this bill directly dealing with tax treatment of businesses.

First, since most businesses in this country are unincorporated partnerships or sole proprietorships, most will benefit from the individual tax cuts.

Second, the bill provides a new accelerated cost recovery system to encourage investment and expansion by these businesses, which in turn will result in more jobs for American citizens.

Additionally, the bill has been amended on the Senate floor by unanimous vote to allow more beneficial treatment of the business sector in the area of corporate income taxation. It is most important to note that if this country is to recover economically, it will do so because of sound public policies which aid a rejuvenation of the private sector, creating in the process lasting, meaningful jobs for our citizens.

Another major achievement in this bill is the revision of our tax laws dealing with estate and gift taxation. Under the terms of this legislation, thrift and investment would be rewarded because the Internal Revenue Service would consume less of an accumulated estate after death of the owner. In other words, the Federal Government would be using its tax policies to encourage the continuation from one generation to another of small businesses and farms which helped make this country great.

Mr. President, the economic recovery tax bill also addresses other issues which are important to the American public. Its provisions include worthwhile tax incentives to encourage research and development. The legislation also helps correct the current tax law penalty on two-wage earner, married couples. While many people have argued against this unfair penalty, the Committee on Finance has taken action to alleviate this problem.

In conclusion, it is important to understand the purpose of this tax bill. It is not intended to hand out special treatment to curry political favor; it is intended to make some fundamental changes in the relationship between the people of this country and the way the Federal Government raises its revenues. The American people are demanding a new course; they want a real, meaningful reduction in their tax burden, not a cosmetic, half-hearted token of relief. This bill provides what our citizens want and our economy needs.

Along with the budget reduction package, I believe it will be a successful start on the road to economic recovery, a recovery which will mean less inflation and a stronger economy for all Americans.

I wish to commend the able Senator from Kansas (Mr. DOLE) chairman of the Senate Finance Committee, for his fine leadership in managing this legislation.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS AMENDED

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the committee amendment in the nature of a substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, this is the equivalent of final passage, and I ask that we have a 10-minute rollcall vote.

Mr. STENNIS. Mr. President, we cannot hear. Let us have order.

Mr. BAKER. Mr. President, if I may have recognition for a moment, this is a rollcall vote which will be 10 minutes in duration to substitute the Senate-passed language for the House-passed bill. The yeas and nays have been ordered, and it is a 10-minute vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—89

Abdnor	Garn	Murkowski
Andrews	Glenn	Nickles
Armstrong	Goldwater	Nunn
Baker	Gorton	Packwood
Baucus	Grassley	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Pressler
Boren	Hawkins	Proxmire
Boschwitz	Hayakawa	Pryor
Burdick	Heflin	Quayle
Byrd, Harry F., Jr.	Heinz	Randolph
	Helms	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Laxalt	Stennis
DeConcini	Long	Stevens
Denton	Lugar	Symms
Dixon	Matsunaga	Thurmond
Dole	Mattingly	Tower
Domenici	McClure	Wallop
Durenberger	Melcher	Warner
East	Metzenbaum	Weicker
Exon	Mitchell	Williams
Ford	Moynihan	Zorinsky

NAYS—11

Bradley	Hart	Levin
Bumpers	Hollings	Mathias
Dodd	Kennedy	Tsongas
Eagleton	Leahy	

So the committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, is there

another vote to occur momentarily on cloture against the debate on the Johnston amendment?

The PRESIDING OFFICER. As soon as the bill has been read the third time.

Mr. BAKER. Mr. President, I ask that we proceed to third reading of the bill.

Mr. METZENBAUM. Mr. President, may we have order? We cannot hear the majority leader.

The PRESIDING OFFICER. The Senate will be in order.

The question is on the engrossment of the committee amendment, as amended, and third reading of the joint resolution.

The committee amendment, as amended, was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 266) was read a third time.

The PRESIDING OFFICER. Under the previous order, the bill goes on the Calendar.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, 12 days ago, the Senate began its consideration of the Economic Recovery Act of 1981. It was a mammoth undertaking, and many scoffed at our promise to complete action on the measure before the August recess.

They cited the Tax Reform Act of 1976, a much smaller bill, which was considered on the Senate floor for 24 days before being approved. They cited the 1980 windfall profit tax which was considered over a period of 2 months and on the Senate floor for 21 days. That too was smaller.

But, in just 12 days, this Senate has completed action on one of the largest and most comprehensive tax reforms ever considered by Congress. Mr. President, it might be of interest that in the 12 days of consideration of this bill, there were 100 hours of debate, 49 rollcall votes: 118 amendments were considered, 80 were agreed to, 17 rejected, 8 tabled, 11 withdrawn, and 2 not disposed of.

We have accomplished this during the same period of time that we were considering the voluminous budget reduction proposals, and, we have produced a double victory which is truly unprecedented in recent years.

The combination of the spending cuts endorsed by the reconciliation conference, and the tax program approved today, will revitalize our Nation's economy: restoring growth to our private sector, and encouraging individuals to work and save. Tax reductions for businesses will provide the incentives and the necessary capital to rebuild production facilities, while at the same time fostering growth for small businesses.

Specifically, individual tax relief will be accomplished through an across-the-board marginal tax reduction of 5 percent on October 1, 1981, and additional reductions of 10 percent on July 1, 1982, and 10 percent on July 1, 1983. Inclusively, this will amount to a 25-percent reduction for all individuals.

The maximum tax rate on interest and dividend income will be reduced from 70 percent to 50 percent. The top rate on capital gains will drop from 28 percent to 20 percent, and relief from the marriage penalty will also be included.

These provisions, along with savings incentives and estate tax reforms, will provide over $43 million in tax relief for individual taxpayers in 1982. Beginning in 1985, individual tax rates will also be indexed to compensate for inflation and help combat the so-called bracket-creep.

Modification of the accelerated cost recovery system will provide a 15-year, 10-year, 5-year, and 3-year write-off for classes of property with increasing depreciation schedules through 1984. This revised depreciation schedule is accompanied by expanded investment tax credit.

All together, Mr. President, American industry and business will enjoy approximately $15 billion in tax reforms next year.

The impressive nature of this measure owes a great debt to my good friend and colleague, the distinguished chairman of the Finance Committee, Senator DOLE. Mr. President, I have never, in my career in the Senate, witnessed a more sterling performance of legislative skill and leadership than that which he exercised. Senator DOLE and the Finance Committee staff, along with the distinguished ranking minority member (Mr. LONG), who was for so long chairman of the committee, have done a truly prodigious amount of work. I express my sincere appreciation to them.

I thank the distinguished minority leader and all Senators on both sides, most particularly the minority leader, for making it possible to proceed in an orderly fashion and to dispose of this matter, as we have now done, in an expeditious and reasonable way.

Mr. President, I am most anxious about informing the President on our triumph this afternoon. Our deliberations have provided for a program which coincides with the White House proposal, and which will release the citizens of this Nation from the deleterious and burgeoning tax rates which have stagnated productivity and personal savings.

The overwhelming public support for this measure and its bipartisan victory, reinforces my conviction that this country has desired and awaited swift congressional action for rebuilding our economy.

We have done exactly that.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader for his words. I join with him in complimenting the distinguished manager of the bill (Mr. DOLE) and the distinguished ranking manager of the bill (Mr. LONG). Senator DOLE has demonstrated great expertise, great skill, and great patience, I express the feeling of all Senators, I know, on both sides of the aisle when I say this is truly a remarkable bill and a remarkable performance on the part of those two Senators who have managed the bill.

I compliment the distinguished majority leader on the skill that he, too, has demonstrated. I thank him for the patience that he has displayed. Again, I think that he is entitled to a great tribute on the part of all of us. I would say that the President of the United States can be very grateful, very grateful indeed, for having the kind of majority leader that he has in Senator HOWARD BAKER.

Mr. President, I personally admire Mr. BAKER and I think that, in the handling of this bill, he has demonstrated a high quality of leadership. We admire him for it and again, I thank him for the cooperation and the understanding that he has demonstrated toward my side of the aisle.

Finally, Mr. President, I thank him for the unyielding courtesy that he extends to the members of the minority at all times. We appreciate it.

Mr. BAKER. Mr. President, I am most grateful to the distinguished minority leader. I wish to tell him of my admiration, as I have done on other occasions and will continue to in the future. It would not be possible for the Senate to function in the efficient way that I believe it is doing without the bipartisan cooperation of what I refer to as the joint leadership. I express my appreciation to the Senator from West Virginia.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BAKER. Yes, I yield.

(Mrs. HAWKINS assumed the chair.)

Mr. DOLE. Madam President, I said earlier, when some of the Senators were not present, that I wanted to extend my thanks to every Member of this body. I think a few times, it got a little tense, because everybody wanted to take action on his amendment.

I think for the most part, everyone at least had a fair hearing on his amendment before it was disposed of, sometimes disposed of successfully and sometimes unsuccessfully.

I particularly want to thank the majority leader for his sitting on his perch from time to time when the close votes were up to make certain that everybody properly interpreted the documents in front of them. That was very helpful in many areas.

Above all, I want to thank all of my colleagues on the Senate Finance Committee and the members of our staff, the members of the joint committee, the members of the Treasury, and the distinguished minority leader who has been very helpful to us in moving this along. We did it without filing cloture. Maybe it would have saved a day or two had we had cloture. We could have not taken up a lot of the amendments. All in all it was a good exercise. I have never had an experience like this before. There may not be another one for a while, with the 3-year cut.

Mr. BAKER. Madam President, I ask unanimous consent that the Senator from New Mexico may proceed briefly.

Mr. DOMENICI. I thank the distinguished leader. I only need about 35 or 40 seconds.

I first rise to commend the distinguished Senator from Kansas for the

superb job he has done, as well as Senator LONG, the minority manager.

I say to Senator DOLE, I know that your job and the job of the Budget Committee run side by side. We do not solve America's economic woes without addressing budget problems and addressing tax relief and tax reform.

It has been a privilege working with Senator DOLE and sharing the problems that we have with respect to outyear budgets, budget control, and balanced budgets. I think we will see the passage of two historic pieces of legislation before the weekend. One will be the largest budget cut in history, the other will be the most significant piece of tax legislation since 1964. I am proud to work with Senator DOLE and others in this effort.

REVENUE LOSS OF THE TAX BILL

Madam President, I rise to bring to the attention of the Senate the revenue effect of the tax bill. We have reduced revenues by $1.6 billion in fiscal 1981, $37.7 billion in fiscal 1982, $91.3 billion in fiscal 1983, and $148.7 billion in fiscal 1984. The first 3 of those years are well within the reductions specified in the first concurrent budget resolution. However, in fiscal 1984 the revenue loss is $3.9 billion in excess of the budget resolution. This makes it more difficult to achieve budget balance in 1984.

The situation in fiscal 1985 and 1986 is much worse. Many of the largest provisions in the bill "phase-in." That means that they start at low levels of revenue loss in fiscal 1982 and rise to very high levels by 1986. In those years we are $20.4 billion and $51.5 billion over what President Reagan proposed on February 18. Using the President's latest economic assumptions and spending projections, this revenue loss would produce deficits of $9.4 billion and $10.7 billion in fiscal 1985 and 1986 respectively.

I want the Senators to know that in order to have a balanced budget in fiscal year 1984 and beyond, we are going to be forced to make major and painful budget reductions beyond those being made this year. Indeed, if we get less improvement than now projected in interest rates, inflation and unemployment, we could easily face the necessity of reducing spending by over $80 billion during the next 2 years in order to balance the budget in fiscal year 1984.

We would have to make spending reductions in each of the next 2 years roughly approximating those in this year's reconciliation bill. We all know how hard it was to cut $40 billion this year. Every dollar of tax reduction beyond that requested by the President is another dollar this body will have to make up with budget reductions. This bill calls for $75.8 billion of tax reductions in excess of what the President requested in our first budget resolution. Equivalent spending reductions will have to be made over the next several years. Clearly, there is a limit to how much spending reduction can be achieved.

The alternative will always be available to finance these tax reductions with ever larger deficits. I would hope that we not allow this to happen. As Budget Committee chairman, I cannot emphasize too strongly that the state of the economy has dramatic effects upon our ability to achieve budget balance. A 1-point rise in the unemployment rate raises the deficit by $25 billion. A 1-point rise in the average interest rate on Treasury debt raises the deficit by $3 billion. A large deficit, no matter how it is produced, tends to raise interest rates and depress the economy. Once the economy stagnates or slides to a lower level, the resulting increase in the Federal deficit will outpace any spending reductions which could be formulated on short notice.

I stand firmly in favor of the tax reduction proposed by President Reagan. Taxes are too high. We have allowed inflation to push the average American taxpayer into the 32-percent tax bracket. Fifteen years ago that same taxpayer was in the 22-percent bracket. It is no wonder that our productivity has dropped from 3 percent growth to zero within the past decade. Inflation induced tax increases have sapped our economy of its vitality. We must not let these unlegislated tax increases continue.

At the same time, I would point out that a significant portion of the outyear revenue loss of this tax bill has little to do with lowering marginal tax rates for most American taxpayers or with depreciation reductions for businesses. In 1986, $31.9 billion of the bill is for such provisions not including indexing. As much as we feel compelled to grant tax relief in the outyears, we must consider the implications for the budget. Our economy will not respond any differently to a plunge into deficit in fiscal 1985 and 1986 than it did during the 1970's. I urge all Senators and especially those Senators from the Finance Committee who will conference this bill with the House to carefully weigh these budgetary concerns as the final version of this bill is readied for the President's signature.

Madam President, this tax bill determines whether we can achieve budget balance in 1984. It is my hope that we can hold the revenue loss of this bill to the amount requested by the President and no more. Then we will have a chance to fulfill our pledge to the American people to balance the budget and to revive our economy.

Madam President, I ask unanimous consent that two tables concerning revenue loss be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—REVENUE LOSS, PROPOSED UNDER THE FIRST CONCURRENT BUDGET RESOLUTION, THE FINANCE COMMITTEE BILL, H.J. RES. 266, AND FLOOR AMENDMENTS

[In millions of dollars]

	Fiscal years—					
	1981	1982	1983	1984	1985	1986
First Resolution	8,600	51,300	97,100	144,800	[1] 178,300	[1] 213,700
Senate Finance Committee	1,558	37,193	93,095	149,563	182,921	224,114
Indexing amendment					12,941	35,848
Other amendments	37	432	[1] (1,839)	[2] (888)	2,880	5,259
Total Senate bill	1,595	37,740	91,256	148,675	198,742	265,221
Excess over First Resolution	−7,005	−13,560	−5,844	3,875	20,442	51,521

[1] Reduction requested by President Reagan on Feb. 14, 1981, but not included in the First Budget Resolution.
[2] Increased revenue.

TABLE 2.—REVENUE LOSS OF THE SENATE TAX BILL, H.J. RES. 266, IN EXCESS OF THE INDIVIDUAL RATE CUT AND DEPRECIATION PROVISIONS[1]

[Dollar amounts in millions]

	Fiscal years—					
	1981	1982	1983	1984	1985	1986
Individual rate cut		$25,793	$65,703	$104,512	$122,652	$143,832
Depreciation	$1,496	9,816	17,586	26,968	38,096	53,543
Total	1,496	35,609	83,289	131,480	160,748	197,375
Senate bill	1,595	37,740	91,256	148,675	198,742	265,221
Excess	99	2,131	7,967	17,195	37,994	67,846
Excess as a percentage of bill	6.2	5.6	8.7	11.5	19.1	25.5

[1] Not including floor amendments such as indexing.

Mr. BAKER. Madam President, may I say in all sincerity I do not believe any leader of the Senate has been more fortunate than I am in having two chairmen of the caliber of the Senator from Kansas and the Senator from New Mexico to handle measures of this magnitude. I once again express my appreciation.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The Senate resumed the consideration of the bill (S. 951), to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for the fiscal year 1982, and for other purposes.

Mr. BAKER. Madam President, what is the business before the Senate?

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order the clerk will state the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Amendment Number 96 (as modified) to S. 951, the Department of Justice Authorization Bill.

J. Bennett Johnston, Lawton Chiles, Don Nickles, Russell B. Long, J. James Exon, Jennings Randolph, Walter Dee Huddleston, Sam Nunn, John C. Stennis, Lloyd Bentsen, Steven D. Symms, John Tower, John P. East, Edward Zorinsky, Charles Grassley, Dennis DeConcini, Strom Thurmond.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate should be brought to a close on amendment No. 96 (as modified). The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. PELL (after having voted in the affirmative). On this vote I have a live pair with the senior Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER), and the Senator from Massachusetts (Mr. KENNEDY), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 59, nays 37, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—59

Abdnor	Exon	Mattingly
Armstrong	Ford	McClure
Baker	Garn	Murkowski
Bentsen	Gorton	Nickles
Biden	Grassley	Nunn
Boren	Hatch	Proxmire
Byrd, Harry F., Jr.	Hawkins	Pryor
Byrd, Robert C.	Hayakawa	Quayle
Cannon	Heflin	Randolph
Chiles	Helms	Roth
Cochran	Hollings	Sasser
D'Amato	Huddleston	Schmitt
Danforth	Humphrey	Simpson
DeConcini	Jackson	Stennis
Denton	Jepsen	Symms
Dixon	Johnston	Thurmond
Dole	Kasten	Tower
Domenici	Laxalt	Wallop
East	Long	Warner
	Lugar	Zorinsky

NAYS—37

Andrews	Hart	Percy
Baucus	Hatfield	Pressler
Boschwitz	Heinz	Riegle
Bradley	Inouye	Rudman
Bumpers	Kassebaum	Sarbanes
Burdick	Leahy	Specter
Chafee	Levin	Stafford
Cohen	Mathias	Stevens
Cranston	Matsunaga	Tsongas
Dodd	Metzenbaum	Weicker
Durenberger	Mitchell	Williams
Eagleton	Moynihan	
Glenn	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, for.

NOT VOTING—3

Goldwater	Kennedy	Melcher

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 37. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1982

Mr. BAKER. Madam President, under the previous order as entered in respect to the HUD appropriation bill, I now ask that the Chair lay before the Senate that measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4034) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Appropriations with amendments.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I may say for the benefit of all Senators there will be no more rollcall votes tonight. I anticipate no further rollcall votes.

In just a moment, I intend to ask unanimous consent that the Senate stand in recess until 5:30 p.m.

Mr. MATSUNAGA. Madam President, may we have a brief period for the morning hour?

ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not longer than 10 minutes in which Senators may speak and transact no other business.

The PRESIDING OFFICER. Without objection, it is so ordered.

KEITH NYBORG

Mr. SYMMS. Madam President, last week I had the honor of introducing Mr. Keith Nyborg of Ashton, Idaho, to the members of Senator LUGAR'S European Affairs Subcommittee. Mr. Nyborg has been nominated by President Reagan to be our country's Ambassador to Finland. I am very proud to have been involved in proposing Keith Nyborg for this important post because he possesses unique qualifications.

Mr. Nyborg is a graduate of Ashton High School and attended Ricks College. He served 2 years in the U.S. Army as a personnel administrative specialist in the classification and assignment section at Fort Riley, Kans. He first came to know Finland as a missionary for the Church of Jesus Christ of Latter-Day Saints in Helsinki from 1952 to 1959. He later served as interpreter and guide for the U.S. olympic team during the 1952 olympics in Helsinki. Mr. Nyborg is currently a farmer and rancher in Idaho having owned and operated the Finlandia Ranch since 1957 where he raises cattle and grows potatoes, seed peas, hay and barley.

Mr. Nyborg is a distinguished civic and community leader in Idaho. He currently holds positions of leadership in numerous agricultural associations as well as being active in his church. He is a member of the boards of directors of the Regional Farmers Grain Cooperative and Idaho Cooperative Council and is president of the board of the Yellowstone Grain Growers, Inc. He is also president of the Board of the Fremont Cooperative Supply in Ashton and president of the Boone Creek Canal Co. He is a past member of the Fremont-Madison Cattlemen's Association and secretary of the Idaho Chapter of the National Society of Range Management.

Mrs. Nyborg, who I know will graciously support her husband in this post, is a native of Finland. She is fluent in the Finnish language as is Mr. Nyborg. Their daughter Lisa has studied at a University in Finland. The whole family, which also includes two sons, Mike and Bruce, speak Finnish in their home as a second language.

Keith Nyborg has a sincere love and respect for the Finnish people. Knowing the language and the culture and the continued affiliation he has had with Finland over the past 30 years are assets which will serve both the Nyborg family and our country well. I am confident in saying that Keith Nyborg, will also serve in a capacity that will reflect well our Nation's foreign policy and friendship with the Finnish people. I truly believe that President Reagan has made an outstanding nomination and I look forward to Mr. Nyborg's confirmation here in the Senate.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:27 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 640. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1855. An act to grant the consent of Congress to the city of Boston to construct, maintain, and operate a fixed-span bridge in and over Fort Point Channel, Boston, Massachusetts;

H.R. 1898. An act to designate the building known as the Quincy Post Office in Quincy, Massachusetts, as the "James A. Burke Post Office";

H.R. 2803. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal year 1982, and for other purposes; and

H.R. 3115. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1982, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 164. Concurrent resolution relative to adjournment to a date certain during the remainder of the Ninety-seventh Congress.

At 11:47 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4074. An act to revise the laws pertaining to the Maritime Administration; and

H.R. 4182. An act to extend the airport development aid program through fiscal year 1981.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 160. Concurrent resolution expressing the sense of the Congress with respect to monetary policy, inflation, and high interest rates.

HOUSE BILLS REFERRED

The following bills were read twice by unanimous consent, and referred as indicated:

H.R. 1855. An act to grant the consent of Congress to the city of Boston to construct, maintain, and operate a fixed-span bridge in and over Fort Point Channel, Boston, Massachusetts; to the Committee on Environment and Public Works.

H.R. 1898. An act to designate the building known as the Quincy Post Office in Quincy, Massachusetts, as the "James A. Burke Post Office"; to the Committee on Governmental Affairs.

H.R. 2803. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal year 1982, and for other purposes; to the Committee on Commerce, Science and transportation.

H.R. 4182. An act to extend the airport development aid program through fiscal year 1981; to the Committee on Commerce Science, and Transportation.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 160. Concurrent resolution expressing the sense of the Congress with respect to monetary policy, inflation, and high interest rates; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE BILL PLACED ON CALENDAR

The following bill was read twice by unanimous consent, and placed on the calendar:

H.R. 3115. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1982, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary reported that on today, July 29, 1981, he had presented to the President of the United States the following enrolled bill:

S. 1040. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1684. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Millions Written Off in Former Service Members' Debts—Future Losses Can Be Cut"; to the Committee on Armed Services.

EC–1685. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Employment Trade and Grade Controls in the DOD General Schedule Work Force"; to the Committee on Armed Services.

EC–1686. A communication from the General Counsel of the Department of Energy, transmitting a draft of proposed legislation to extend the expiration date of section 252 of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

EC–1687. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records for the Department; to the Committee on Governmental Affairs.

EC–1688. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records for the Department; to the Committee on Governmental Affairs.

EC–1689. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records for the Department; to the Committee on Governmental Affairs.

EC–1690. A communication from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–349. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance

"RESOLUTION

"Whereas, millions of wage earners of this Nation have contributed to social security on the assurance that upon reaching a certain age they would be eligible for certain retirement benefits; and

"Whereas, they are now informed that the social security system is no longer self-supporting and that the social security fund is rapidly being depleted; and

"Whereas, among the proposals being made to place the system on a sounder financial basis are reductions in pensions to early retirees, elimination of cost of living increases and the reduction or elimination of certain other benefits now provided under the Social Security Act; and

"Whereas, all of such proposals appear to be repugnant to the best interests of the members of the system and not in accord with the understanding upon which their contributions to the system have been made; and

"Whereas, substantial sums of money have been realized through the operation of our "State lottery," to the great benefit of the citizens of the commonwealth and to its cities and towns; and

"Whereas, it seems reasonable to assume that a lottery conducted nationwide by the Federal Government would produce untold millions of dollars annually; and

"Whereas, if the money so realized was used to supplement the social security fund it would do much to place the fund on a sound financial basis and insure to the members a continuation of benefits without reduction; therefore be it

"Resolved, that the Massachusetts House of Represetatives hereby urges the Congress of the United States to enact legislation providing for a Federal lottery, the income from which, after the payment of prizes and cost of operation, shall be appropriated to the social security fund; and be it further

"Resolved, that a copy of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, the Presiding Officer of each branch of Congress and to the Members thereof from this commonwealth."

POM–350. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"RESOLUTION

"Whereas, an acute sense of urgency is developing across Massachusetts and throughout the United States to call a halt to the increasing danger of nuclear conflict; and

"Whereas, cognizant that one B–52 bomber possesses more destructive power than was wreaked by the allied air forces throughout World War II, communities near and far have protested the expansion of nuclear armaments; and

"Whereas, asserting that worldwide nuclear disarmament is necessary for the survival of the human species, these communities would induce the most formidable antagonists to begin the process of detente by mutually adopting a nuclear weapons moratorium; therefore be it

"Resolved, That, in order to promote peace and to reduce the threat of nuclear war, the Massachusetts House of Representatives hereby calls upon the Governments of the United States and the Soviet Union to adopt an immediate nuclear weapons moratorium as a first step toward worldwide nuclear disarmament; and be it further

"Resolved, That copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States and the Soviet Premier, to the Presiding Officer of each branch of the Congress and to the Members thereof from this commonwealth."

POM–351. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on the Judiciary:

"HOUSE JOINT MEMORIAL 1

"Whereas, strong economic and political cooperation between the United States and Mexico will benefit not only the people of these countries, but will also help to eliminate western hemispheric tensions; and

"Whereas, the root of illegal migration from Mexico into the United States is the lack of reasonable alternatives for economic well-being in Mexico relative to those in the United States; and

"Whereas, attempts to seal the vast border between the United States and Mexico to the flow of migrants are doomed to failure and only increase the exploitation of such workers by smugglers and unscrupulous employers; and

"Whereas, in order to eliminate the present large and uncontrolled influx of undocumented workers in Idaho a system of temporary legal admissions should be established; and

"Whereas, the vast majority of jobs that will be taken by Mexicans in Idaho are in the agricultural and service industries where jobs are not now greatly in demand by American workers; and

"Whereas, many of the short-term economic needs of Mexicans and the short-term labor needs of Idaho agriculture and service industries can be met by a temporary worker visa program for Mexicans seeking temporary employment in the United States; and

"Whereas, it is necessary to establish a legal framework for Mexican labor in the United States and Idaho in order to harmonize the use of such workers and to better protect Idaho workers from unfair competition.

"*Now, therefore, be it resolved* By the members of the First Extraordinary Session of the Forty-sixth Idaho Legislature, the House of Representatives and the Senate concurring therein, that members of the Legislature strongly support and urge the passage of amendments to the Immigration and Nationality Act presently before the First Session of the 97th Congress, to establish a temporary worker's visa program between the United States and Mexico.

"*Be it further resolved* That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, Ronald Reagan; the Honorable Secretary of Agriculture, John B. Block; the Honorable Secretary of Commerce, Malcolm Baldrige; the Honorable Secretary of Labor, Raymond Donovan; the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 1475. A bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

By Mr. WEICKER, from the Committee on Labor and Human Resources, without amendment:

S. 1533. An original bill to authorize appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984, and to encourage the use of private attorneys in the provision of legal services under the Act, and for other purposes (Rept. No. 97-171).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Harold V. Hunter, of Oklahoma, to be Administrator of the Rural Electrification Administration for a term of ten years; and

Charles Wilson Shuman, of Illinois, to be Administrator of the Farmers Home Administration.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. DOLE, from the Committee on Finance:

Eugene J. Frank, of Pennsylvania, to be a Member of the United States International Trade Commission for the remainder of the term expiring December 16, 1982;

Juan A. del Real, of Maryland, to be General Counsel of the Department of Health and Human Services;

Kenneth W. Gideon, of Texas, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service);

Thomas R. Donnelly, Jr., of Virginia, to be an Assistant Secretary of Health and Human Services; and

John M. Walker, Jr., of New York, to be an Assistant Secretary of the Treasury.

By Mr. TOWER, from the Committee on Armed Services:

Edward C. Aldridge, Jr., of Virginia, to be Under Secretary of the Air Force; and

Alton Gold Keel, Jr., of the District of Columbia, to be Assistant Secretary of the Air Force.

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Lloyd R. Leavitt, Jr., U.S. Air Force (age 52), for appointment to the grade of lieutenant general on the retired list, Brig. Gen. Garrison Rapmund, U.S. Army, to be major general, Col. Tracy E. Strevey, Jr., U.S. Army, to be brigadier general, Col. Robert H. Buker, U.S. Army, to be brigadier general, Col. France F. Jordan, U.S. Army, to be brigadier general, Maj. Gen. George D. Miller, U.S. Air Force, to be lieutenant general, Maj. Gen. Charles L. Donnelly, Jr., U.S. Air Force, to be lieutenant general, Maj. Gen. Charles G. Cleveland, U.S. Air Force, to be lieutenant general, Maj. Gen. Robert T. Herres, U.S. Air Force, to be lieutenant general, and in the Army Reserve there are 21 appointments to the grade of major general and below (list begins with Wayne P. Jackson). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Air Force there are 943 promotions to the grade of colonel and below (list begins with Densel K. Acheson), in the Regular Army there are 378 appointments to the grade of colonel and below (list begins with Arthur A. Amour), in the Navy there are 1,764 promotions to the grade of captain and below (list begins with Leon E. Ackart), in the Air Force there are 1,746 promotions to lieutenant colonel (list begins with Max L. Abram), and in the Marine Corps and Marine Corps Reserve there are 8,135 permanent appointments to the grade of colonel and below (list begins with John T. Garcia). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 24, July 27, and July 28, 1981, at the end of the Senate proceedings.)

By Mr. ROTH, from the Committee on Governmental Affairs:

John V. Graziano, of Virginia, to be Inspector General, Department of Agriculture.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself, Mr. METZENBAUM, Mr. EAGLETON, Mr. DIXON, Mr. PRYOR, Mr. KASTEN, Mr. MOYNIHAN, Mr. BRADLEY, Mr. TSONGAS, Mr. BAUCUS, and Mr. DECONCINI):

S. 1528. A bill to amend the Social Security Act to provide for improved management of the social security trust funds and increase the return on investments to those funds; to the Committee on Finance.

By Mr. HEFLIN:

S. 1529. A bill to establish a National Court of Appeals, and for other purposes; to the Committee on the Judiciary.

S. 1530. A bill to establish a Federal Courts Study Commission and a Federal Courts Advisory Council on the Future of the Judiciary; to the Committee on the Judiciary.

S. 1531. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review and for other purposes; to the Committee on the Judiciary.

By Mr. HEFLIN (for himself and Mr. PRYOR):

S. 1532. A bill to amend the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure with respect to examination of prospective jurors; to the Committee on the Judiciary.

By Mr. WEICKER, from the Committee on Labor and Human Resources:

S. 1533. An original bill to authorize the appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984, and to encourage the use of private attorneys in the provision of legal services under that act, and for other purposes; placed on the calendar.

By Mr. PRESSLER:

S. 1534. A bill to provide for a program of delayed reentry and psychological readjustment assistance and vocational rehabilitation for Vietnam veterans; to the Committee on Veterans Affairs.

S. 1535. A bill to provide for comprehensive literature review, research, and studies of potential physiological health detriments affecting Vietnam veterans, and to provide for

training of Veterans' Administration personnel in the counseling, screening, testing, evaluation, treatment, therapy, readjustment, and rehabilitation of the unique medical and psycho-social needs of Vietnam veterans; to the Committee on Veterans' Affairs.

By Mr. CHILES:

S. 1536. A bill to amend the Social Security Act to ensure adequate short- and long-term financing of the old-age, survivors, and disability insurance program and the medicare program; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 1537. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for contributions to profit-sharing plans, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 1538. A bill to amend section 106 of the Civil Rights Act of 1964 (42 U.S.C. 1975e) to raise the limitation on appropriations for the U.S. Commission on Civil Rights; to the Committee on the Judiciary.

By Mr. DOLE:

S. 1539. A bill to establish a Severe Storms Advisory Committee to review on an annual basis, the severe storms research and operations activities of the Federal Government; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 1540. A bill to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAKER (for himself and Mr. ROBERT C. BYRD):

S.J. Res. 102. Joint resolution to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month"; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself, Mr. METZENBAUM, Mr. PRYOR, Mr. EAGLETON, Mr. DIXON, Mr. BRADLEY, Mr. KASTEN, Mr. MOYNIHAN, Mr. TSONGAS, Mr. BAUCUS, and Mr. DECONCINI):

S. 1528. A bill to amend the Social Security Act to provide for improved management of the social security trust funds and increase the return on investment to those funds; to the Committee on Finance.

(The remarks of Mr. PROXMIRE on this legislation appear earlier in today's RECORD.)

By Mr. HEFLIN:

S. 1529. A bill to establish a National Court of Appeals, and for other purposes; to the Committee on the Judiciary.

S. 1530. A bill to establish a Federal Courts Study Commission and a Federal Courts Advisory Council on the Future of the Judiciary; to the Committee on the Judiciary.

S. 1531. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review and for other purposes; to the Committee on the Judiciary.

By Mr. HEFLIN (for himself and Mr. PRYOR):

S. 1532. A bill to amend the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure with respect to examination of prospective jurors; to the Committee on the Judiciary.

IMPROVEMENT OF FEDERAL COURT SYSTEM AND ADMINISTRATION OF JUSTICE

Mr. HEFLIN. Mr. President, today I am introducing legislation designed to improve our Federal court system and the administration of justice in America. The courts are increasingly being overwhelmed with cases. Recent statistics indicate that in the face of burgeoning litigation and increased reliance on the court system to resolve a vast array of disputes, there is no relief in sight. The number of civil and criminal cases filed has increased, as well as the number of appeals.

Although the dispositions of cases have also increased the overall caseload continues to grow. Something must be done if the judiciary is to continue to fulfill its constitutional duty to the citizens of this country. The future of the effective administration of justice is uncertain unless Congress seeks resolutions and assesses alternatives now. If the court system falters and Americans cannot get justice, Congress has to be responsible.

The first bill I am introducing would establish a National Court of Appeals to give assistance to the Supreme Court and provide relief for matters that should have appropriate and final resolutions. This proposal is certainly not new or unfamiliar. We have delayed the creation of this court for an inordinate amount of time. A National Court of Appeals is necessary to increase our national appellate capacity and to relieve the burden on the Supreme Court. During the last term, the Supreme Court received 4,242 petitions for writ of certiorari. It granted 289, less than 7 percent. One hundred and seven of those granted were summarily decided and only 182 were scheduled for oral argument. During the previous term, only 6.25 percent of the petitions were granted. Clearly, more than 6 or 7 percent deserve to be heard, but our highest Court has no choice. It does not have the manpower to hear more cases. There must be significant cases crying out for an ultimate decision.

The National Court of Appeals could help relieve the burden on the Supreme Court by resolving conflicts in the Federal circuits and thereby promoting the uniformity that is imperative in our Federal court system. This court will clarify and stabilize the national law with a minimum amount of delay.

Although I am personally delighted with the forthcoming division of the fifth circuit, I firmly believe that circuits cannot be split indefinitely without sacrificing uniformity. Circuit realinement alone is not the panacea for the ills of the Federal appellate system; nor is the creation of Federal specialty courts or the addition of judges. The creation of the National Court of Appeals is a necessary step toward redefining the judicial system to make it more functional. Our courts must administer more than second-class justice.

Another major step forward is the establishment of a Federal body charged with the study and improvement of the Federal court system. The Permanent Federal Courts Study Act, the second bill I am introducing today, is the result of the outstanding work of Judge Clifford Wallace, of the Ninth Circuit Court of Appeals. This legislation would create the Federal Court Advisory Council. This permanent, three-branch Council would conduct a comprehensive review of Federal jurisdiction and provide a tentative blueprint for the future of the judiciary.

This bill would also establish a temporary body, the Federal Courts Study Commission, charged with the development of a long-range plan for the future of the judiciary by reviewing all available studies on the effectiveness of the courts, studying Federal court jurisdiction, and assessing all aspects of dispute-resolving bodies and methods in the United States. The Council, upon review of the findings of the legislative commission and any other studies it may conduct, would report its findings to the President and the Congress. The Council will oversee, conduct, and encourage studies of the court system and report annually to the President and the Congress on the future of the judiciary.

Mr. President, such studies are absolutely necessary if we are to solve the problems facing the judiciary now and in the future. While we all too frequently avoid solving problems by appointing commissions to "study" them, a three-branch panel to comprehensively and dispassionately study the delicate question of the proper role and scope of the Federal judiciary is something which is worthwhile and long overdue.

The third piece of legislation I am introducing today concerns the jurisdiction of the Supreme Court of the United States. The Supreme Court, like the lower Federal courts, is overwhelmed with cases as evidenced by the statistics I cited previously. The burgeoning caseload is threatening to undermine the effectiveness of the Supreme Court and the administration of justice by our highest court. The Supreme Court must be afforded greater discretion in selecting the cases it will review. Most significantly, this legislation will allow the Supreme Court discretion in reviewing decisions by the highest court in a particular State. Currently, it is required to review these cases.

The fourth bill I am introducing today will amend the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure with respect to the examination of prospective jurors. These amendments would provide a more functional procedure in the voir dire examinations of jurors in the U.S. district courts. Similar rules have been adopted in various jurisdictions and have proved to be extremely beneficial to the fair, impartial, and expeditious administration of justice. This concept has been considered by previous Congresses with strong bipartisan support. I am pleased that these amendments are supported by the American Bar Association and the Association of Trial Lawyers of America.

Each piece of legislation I am introducing today is designed to improve the administration of justice in this country.

The future of the judiciary is threatened. We must study the current and future problems which face our court system. Uniformity and clarity must be restored to the Federal law. The Supreme Court must be given further discretion. As caseloads multiply, as appeals increase, as legal fees mushroom, as time of resolving litigation lengthens, the alternative to our inaction is unacceptable if we are to heed the admonition of Learned Hand, who wrote:

If we are to keep our democracy there must be one commandment: Thou shalt not ration justice.

Mr. President, the legislation I offer today is merely an initial step to improvement of our judicial system. I urge my colleagues in the Senate to join me in taking the first step toward improvement of the American system of justice.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Court of Appeals Act of 1981".

ESTABLISHMENT OF COURT

SEC. 2. (a) Part I of title 28, United States Code, is amended by inserting immediately after chapter 1 of such title the following new chapter:

"CHAPTER 2—NATIONAL COURT OF APPEALS

"Sec.
"21. Establishment and composition of court.
"22. Chief judge; precedence of associate judges.
"23. Tenure, salary, and retirement.
"24. Principal seat and terms.
"25. Seal.
"26. Sessions.
"27. Hearings and quorum.
"28. Disqualification of judges.

"§ 21. Establishment and composition of court.

"(a) There shall be a National Court of Appeals which shall be composed—

"(1) of a chief judge appointed by the President, by and with the advice and consent of the Senate; and

"(2) eight associate judges appointed by the President, by and with the advice and consent of the Senate; and

"(b) The Chief Justice of the United States Supreme Court, upon a request by the chief judge of this court, may assign judges from circuit courts of appeals on a temporary basis to sit and act at such times and places as it necessary to carry out the purposes of this chapter.

"§ 22. Chief judge; precedence of associate judges.

"(a) If the chief judge is temporarily unable to perform his duties as such, or if such chief judge resigns or retires, such duties shall be performed by the associate judge who, according to seniority, is next in precedence.

"(b) The associate judges shall have precedence according to the seniority of their commissions. Associate judges whose commissions bear the same date shall have precedence according to seniority in age.

"§ 23. Tenure, salary, and retirement.

"(a) The judges of the National Court of Appeals shall hold office during good behavior.

"(b) Each judge of the National Court of Appeals shall receive a salary at the same annual rate as judges of the circuit courts of the United States pursuant to section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361), as adjusted by section 461 of this title.

"(c) The judges of the National Court of Appeals shall be subject to the resignation and retirement provisions of chapter 17 of this title.

"§ 24. Principal seat and terms.

"The principal seat of the National Court of Appeals shall be in the District of Columbia. The court may sit at such times and places within the United States as the court may designate.

"§ 25. Seal.

"The National Court of Appeals shall have a seal which shall be judicially noticed.

"§ 26. Sessions.

"The time and place of the sessions of the National Court of Appeals shall be prescribed by the chief judge pursuant to rules of the court.

"§ 27. Hearings and quorum.

"(a) The chief judge shall be responsible for the administration of the court.

"(b) The court may authorize the hearing and determining of cases and controversies by separate panels, each consisting of three, five, seven, or nine judges as the court determines. Such panels shall sit at the times and places and hear the cases and controversies as the court directs.

"(c) The Court of Appeals judges shall sit on the court and its panels in such order and at such times as the court directs.

"(d) The court may order a hearing or rehearing before the court en banc. A court en banc shall be comprised of judges in regular active service pursuant to the provisions of this chapter. In addition, a court en banc shall include those circuit court of appeals judges who served on the panel which originally heard the case in question.

"§ 28. Disqualification of judges.

"No judge shall hear or determine an appeal from the decision of a case or issue therein heard or tried by such judge.".

(b) The analysis of part I of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 1 of such part, the following new item:

"2. National Court of Appeals ---------- 21".

OFFICERS AND EMPLOYEES

SEC. 3. (a) Part III of title 28, United States Code, is amended by inserting immediately after chapter 45 of such title, the following new chapter:

"CHAPTER 46—NATIONAL COURT OF APPEALS

"Sec.
"691. Clerk and employees.
"692. Law clerks and secretaries.
"693. Librarian, marshal, and bailiffs.

"§ 691. Clerk and employees.

"(a) The National Court of Appeals may appoint a clerk who shall be subject to removal by the court. The court may appoint or authorize the appointment of such other officers and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"(b) The officers and employees of the court shall be subject to removal by the court or, if the court so determines, by the clerk or other officer who appointed them, with the approval of the court.

"(c) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States under regulations prescribed by him.

"§ 692. Law clerks and secretaries.

"The judges of the National Court of Appeals may appoint such law clerks and secretaries as may be necessary.

"§ 693. Librarian, marshal, and bailiffs.

"(a) The National Court of Appeals may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

"(b) The National Court of Appeals may appoint a marshal, who shall be present whenever the court is in session, be custodian of its courthouse, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court may direct. The marshal shall be subject to removal by the court. The marshal, with the approval of the court, may employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court or marshal may direct. The bailiffs shall receive the same compensation as bailiffs employed for the district courts.".

(b) The analysis of part III of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 45 of such title, the following new item:

"46. National Court of Appeals------- 691".

JURISDICTION AND REVIEW

SEC. 4. (a) Part IV of title 28, United States Code, is amended by adding immediately after chapter 81 of such title the following new chapter:

"Chapter 82—NATIONAL COURT OF APPEALS

"Sec.
"1271. Jurisdiction.
"1272. Finality of decisions.

"§ 1271. Jurisdiction.

"The National Court of Appeals shall have jurisdiction of cases referred to it by the Supreme Court.

"§ 1272. Finality of decisions.

"(a) The National Court of Appeals may deny review in any case referred to it by the Supreme Court unless directed by the Supreme Court to decide the case.

"(b) Unless modified or overruled by the Supreme Court, the decisions of the National Court of Appeals shall be binding on all courts of the United States, and, with respect to questions arising under the Constitution, laws, or treaties of the United States, on all other courts.".

(b) Chapter 81 of title 28, United States Code (relating to the jurisdiction of the Supreme Court), is amended by adding at the end thereof the following new section:

"§ 1259. National Court of Appeals.

"(a) After denying certiorari or in lieu of noting probable jurisdiction of an appeal in any case before it, the Supreme Court may refer any such case to the National Court of Appeals. The Supreme Court may, and in cases subject to review by appeal shall, direct the National Court of Appeals to decide any case so referred.

"(b) Any case in the National Court of Appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any such case before or after the rendition of judgment or decree.".

(c)(1) The analysis of part IV of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 81 of such title, the following new item:

"82. National Court of Appeals------- 1281".

(2) The analysis of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1259. National Court of Appeals.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 5. (a)(1) The first paragraph of section 331 of title 28, United States Code, is amended by inserting immediately after "shall summon annually" the following: "the chief judge of the National Court of Appeals,".

(2) The third paragraph of such section 331

is amended by inserting immediately before the first sentence the following new sentence: "If the chief judge of the National Court of Appeals is unable to attend, the Chief Justice may summon any other judge from such court.".

(b)(1) Section 372(a) of title 28, United States Code, is amended—

(A) by inserting in the third paragraph immediately following "Supreme Court," the following: "the chief judge of the National Court of Appeals,"; and

(B) by inserting in the fifth paragraph, after "Patent Appeals," the following: "the National Court of Appeals,".

(2) Section 372(b) of title 28, United States Code, is amended—

(A) by inserting immediately after "Chief Justice of the United States in the case of" the following: "the chief judge of the National Court of Appeals or"; and

(B) by inserting immediately after "chief judge of his court in the case of a judge of the" the following: "National Court of Appeals,".

(c)(1) The second paragraph of section 451 of title 28, United States Code, is amended by inserting immediately after "Supreme Court of the United States," the following: "the National Court of Appeals,".

(2) The fourth paragraph of section 451 of title 28, United States Code, is amended by inserting immediately after "includes judges of" the following: "the National Court of Appeals,".

(d) The second paragraph of section 456 of title 28, United States Code, is amended by inserting immediately after "Justices of the Supreme Court" the following: ", the judges of the National Court of Appeals,".

(e) Section 610 of title 28, United States Code, is amended by inserting immediately after "includes" the following: "the National Court of Appeals,".

(f)(1) Section 1912 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the National Court of Appeals,".

(2)(A) Section 1913 of title 28, United States Code, is amended to read as follows:

"§ 1913. National Court of Appeals; Courts of Appeals.

"The fees and costs to be charged and collected in the National Court of Appeals and each court of appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and shall be uniform in all the circuits.".

(B) The item relating to section 1913 of title 28, United States Code, in the analysis of chapter 123 of such title, is amended to read as follows:

"1913. National Court of Appeals; courts of appeals.".

(g) The first paragraph of section 2072 of title 28, United States Code, is amended by striking out "of the district courts and courts of appeals of the United States" and inserting in lieu thereof "of the district courts, courts of appeals of the United States, and the National Court of Appeals".

(h) Section 2106 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the National Court of Appeals,".

(i) Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356) is amended by inserting "and the judges of the National Court of Appeals" before the semicolon.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

S. 1530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Permanent Federal Courts Study Act".

ESTABLISHMENT AND PURPOSE OF THE COMMISSION AND THE COUNCIL

SEC. 2. (a) ESTABLISHMENT.—There is hereby established a Federal Courts Study Commission and a Federal Courts Advisory Council on the Future of the Judiciary.

(b) PURPOSE OF COMMISSION.—It is the purpose of the Commission to—

(1) develop a long-range plan for the future of the judiciary by collecting and reviewing all private and public studies on the effectiveness of the courts studying the jurisdiction of the United States courts and assessing—

(A) alternative methods of dispute resolution;

(B) the actual structure of the Federal court system;

(C) the manner in which courts handle cases;

(D) methods of intracircuit and intercircuit court of appeals (conflict resolution); and

(E) the types of disputes resolved by the Federal courts; and

(2) study the jurisdiction of the courts of the United States, and to report to the President and the Congress on the revisions, if any, of related provisions of the Constitution and laws of the United States which the Commission deems advisable on the basis of such study.

(c) PURPOSE OF THE COUNCIL.—It is the purpose of the Council to—

(1) act as a permanent body, authorized to oversee Federal court jurisdiction review and proposed revisions;

(2) stimulate the evaluation of and provide an eventual solution to problems currently facing the courts;

(3) review the findings of the legislative study group;

(4) order, receive, and review reports from all dispute resolving bodies, including courts, administrative agencies, Federal Justice Centers; and

(5) afford continuity and uniformity to the ongoing study of the judiciary.

MEMBERSHIP OF THE COMMISSION AND THE COUNCIL

SEC. 3. (a) MEMBERSHIP OF COMMISSION.—The Commission shall be composed of fourteen members appointed, within ninety days after the enactment of this Act, as follows:

(1) four members appointed by the President of the United States with two members from each of the two major political parties;

(2) two members of the Senate appointed by the President pro tempore of the Senate, one of whom shall be appointed upon recommendation of the majority leader and one of whom shall be appointed upon recommendation of the minority leader;

(3) two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon recommendation of the majority leader and one of whom shall be appointed upon recommendation of the minority leader;

(4) four members appointed by the Chief Justice of the United States with no more than two of such members being from either of the two major political parties; and

(5) two members appointed by the Conference of Chief Justices, with no more than one member being from either of the two major political parties.

(b) MEMBERSHIP OF COUNCIL.—The Council shall be composed of twelve members, representing each of the three branches of the Federal Government, appointed, within ninety days after the date of enactment of this Act, as follows:

(1) four members appointed by the President of the United States with two members from each major political party;

(2) two members of the Senate appointed by the President pro tempore of the Senate, one of whom shall be appointed upon recommendation of the majority leader and one of whom shall be appointed upon recommendation of the minority leader;

(3) two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon recommendation of the majority leader and one of whom shall be appointed upon recommendation of the minority leader; and

(4) four members to be appointed by the Chief Justice of the United States with no more than two of such members being from either of the two major political parties.

(c) REPRESENTATION AND VARIED INTERESTS.—The membership of both the Commission and of the Council shall be selected in such manner as to be broadly representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts.

(d) TERM OF OFFICE AND VACANCIES ON COMMISSION.—The term of office of each Commission member shall be for the life of the Commission. Vacanies in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(e)(1) TERMS OF OFFICE AND VACANCIES ON THE COUNCIL.—Except as provided in paragraph (2) of this subsection, the term of office of each Council member shall be for five years. A vacancy in the Council shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(2) One-half of the members of the Council first appointed pursuant to subsection (b) of this section shall be appointed for a term of three years.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and a Vice Chairman from among its members.

(g) QUORUM.—Eight members of the Commission shall constitute a quorum. Seven members of the Council shall constitute a quorum.

POWERS OF THE COMMISSION

SEC. 4. (a) HEARINGS.—(1) The Commission and Council or, on the authorization of the Commission or Council, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission, Council, or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated members, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States, or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guility of contumacy or refusal to obey is found or resides or transacts business, upon applications by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or Council, or a subcommittee thereof, to produce evidence if so ordered, or to give testimony touching the matter under inquiry. Failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive

branch of the Government, including independent agencies, shall furnish to the Commission or Council, upon request made by the Chairman or Vice Chairman, such information and assistance as the Commission or Council deems necessary to carry out its functions under this Act, consistent with applicable provisions of law.

(c) ADMINISTRATIVE POWERS.—Subject to such rules and regulations as may be adopted by the Council or Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) produce temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) CONTRACTING AUTHORITY.—Both the Commission and Council are authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) NONGOVERNMENTAL ASSISTANCE.—The Commission and Council are authorized to receive financial assistance from sources other than the Federal Government, including assistance from private foundations.

FUNCTIONS AND DUTIES

SEC. 5. (a) COMMISSION.—The Commission shall—

(1) make a complete study of the jurisdiction of the courts of the United States and report to the President and the Congress on such study;

(2) recommend revisions to the Constitution and laws of the United States as the Commission deems advisable on the basis of such study;

(3) collect and review studies on the effectiveness of the courts;

(4) develop a long-range plan for the judicial system; and

(5) submit a written report to the Council two years after its first meeting and at least one interim report within the first year after its first meeting.

(b) COUNCIL.—The Council shall—

(1) review the findings of the legislative study group;

(2) provide continuity to and oversee the ongoing study of the judiciary; and

(3) submit a written report to the President and the Congress on the findings of the Commission, containing recommendations and conclusions, within six months after receipt of the Commission's report, and make annual reports to the President on the condition of the judiciary and summarize any findings, make any recommendations and conclusions it deems advisable every year thereafter.

COMPENSATION OF MEMBERS

SEC. 6. (a) FEDERALLY EMPLOYED MEMBERS.—A member of either the Commission or the Council who is an officer, or full-time employee, of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, or the Council, as the case may be, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) OTHER MEMBERS.—A member of either the Commission or the Council who is from the private sector shall receive $200 per diem for each day (including traveltime) during which he or she is engaged in the actual performance of duties vested in the Commission, or the Council, as the case may be, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

REPORTS

SEC. 7. (a) COMMISSION REPORT.—The Commission shall transmit to the Council, not later than two years after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the study conducted by the Commission under section 2 of this Act, together with such recommendations as it deems advisable. The Commission shall submit an interim report not later than one year after the first meeting of the Commission and such other reports as they deem necessary.

(b) COUNCIL'S REPORTS.—(1) The Council, upon receipt and review of the Commission's final report, shall transmit a report to the President and the Congress, not later than six months after receipt of the Commission's report. Such report shall contain a detailed statement of its findings, conclusions and such recommendations as it deems advisable. The Council shall submit interim reports prior to the submission of the Commission's final report as they deem necessary.

(2) The Council shall, in keeping with its oversight function, make annual reports to the President on the condition of the Judiciary and summarize any findings, make any recommendations and conclusions it deems advisable on the basis of its previous activities.

EXPIRATION OF THE COMMISSION

SEC. 8. The Commission shall cease to exist on the date ninety days after the date it transmits the final report to the Council pursuant to section 6 of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 10. This Act shall become effective on October 1, 1981.

S. 1531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1252 of title 28, United States Code, is repealed.

SEC. 2. Section 1254 of title 28, United States Code, is amended—

(1) by deleting subsection (2);

(2) by redesignating subsection (3) as subsection (2); and

(3) by deleting "appeal;" from the title.

SEC. 3. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari.

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the grounds that it is repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution, treaties, or statutes of, or commission held or authority exercised under, the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

SEC. 4. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari.

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question of where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the grounds that it is repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the constitution, treaties, or statutes of, or commission held, or authority executed under, the United States.".

SEC. 5. The analysis at the beginning of chapter 81 of title 28, United States Code, is amended to read as follows:

"Chapter 81—SUPREME COURT

"Sec.
"1251. Original jurisdiction.
"1252. Repealed.
"1253. Direct appeals from decisions of three-judge courts.
"1254. Court of appeals; certiorari; certified questions.
"1255. Court of Claims; certiorari; certified questions.
"1256. Court of Customs and Patent Appeals; certiorari.
"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

SEC. 6. Section 310 of the Federal Election Campaign Act of 1971 is amended—

(1) by deleting subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 7. Section 2 of the Act of May 18, 1928 (25 U.S.C. 652) is amended by deleting ", with the right of either party to appeal to the Supreme Court of the United States.".

SEC. 8. Subsection (d) of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by deleting the last sentence and inserting in lieu thereof the following: "Any review of the interlocutory or final judgment, decree, or order of such district court may be had only upon direct review by the Supreme Court by writ of certiorari.".

SEC. 9. This Act shall take effect ninety days after the date of enactment. However, it shall not affect cases then pending in the Supreme Court, nor shall it affect the right to review, or the mode of reviewing, the judgment or decree of a court when the judgment or decree sought to be reviewed was entered prior to the effective date of this Act.

S. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) rule 24(a) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(a) EXAMINATION.—The court shall permit the defendant, or his attorney, and the attorney for the Government to conduct the examination of prospective jurors, and may, in addition to such examination, conduct its own examination. The court may impose such reasonable limitations as it deems proper with respect to the examination of prospective jurors by the defendant or his attorney and the attorney for the Government.".

(b) Rule 47(a) of the Federal Rules of Civil Procedure is amended to read as follows:

"(a) EXAMINATION OF JURORS.—The court shall permit the parties or their attorneys

to conduct the examination of prospective jurors, and may, in addition to such examination, conduct its own examination. The court may impose such reasonable limitations as it deems proper with respect to the examination of prospective jurors by the parties or their attorneys.".

By Mr. WEICKER, from the Committee on Labor and Human Resources:

S. 1533. An original bill to authorize appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984, and to encourage the use of private attorneys in the provision of legal services under that act, and for other purposes; placed on the calendar.

LEGAL SERVICES CORPORATION AMENDMENTS OF 1981

● Mr. WEICKER. Mr. President, today I am reporting the Legal Services Corporation Amendments of 1981. This legislation reauthorizes the Legal Services Corporation at $100 million for each of the next 3 succeeding fiscal years. The bill places no new restrictions upon the activities of the Corporation. The only substantive language added to the authorization statute would encourage the use of private attorneys in the provision of legal services whenever feasible.

Mr. President, I wish to thank the distinguished chairman of the Labor and Human Resources Committee, Senator HATCH, and the majority leader, Senator BAKER, for their assistance in bringing this bill to the Senate floor. While they may not share my views on extending the Corporation, they have nonetheless assured me that the full Senate will have the opportunity to express its will on this matter.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Legal Services Corporation Amendments of 1981".

SEC. 2. (a) Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended—

(1) by redesignating clauses (3) through (10) as clauses (4) through (11), respectively, and

(2) by inserting after clause (2) the following new clause:

"(3) make available, in each fiscal year to the extent feasible and consistent with clause (4), substantial funds to provide the opportunity for legal assistance to be furnished to eligible clients by private attorneys;".

(b) Section 1006(b)(5) of such Act is amended—

(1) by striking out "section 1007(a)(6)" and by inserting in lieu thereof "section 1007(a)(7)"; and

(2) by striking out "section 1007(a)(5)" and inserting in lieu thereof "section 1007(a)(6)".

SEC. 3. Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2966i(a)) is amended by inserting immediately after the second sentence the following new sentence: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation $100,000,000 for each of the fiscal years 1982, 1983, and 1984.".●

By Mr. PRESSLER:

S. 1534. A bill to provide for a program of delayed reentry and psychological readjustment assistance and vocational rehabilitation for Vietnam veterans; to the Committee on Veterans' Affairs.

S. 1535. A bill to provide for comprehensive literature review, research, and studies of potential physiological health detriments affecting Vietnam veterans, and to provide for training of Veterans' Administration personnel in the counseling, screening, testing, evaluation, treatment, therapy, readjustment, and rehabilitation of the unique medical and psychosocial needs of Vietnam veterans; to the Committee on Veterans' Affairs.

PROGRAMS PERTAINING TO VIETNAM VETERANS

o Mr. PRESSLER. Mr. President, today, I am introducing two measures which seek to deal with programs pertaining to Vietnam veterans. Although it has been nearly 10 years since most of our troops returned from that war, it is apparent today that many problems affecting these veterans have not yet been fully addressed.

Many of these veterans are experiencing health and delayed psychological problems which can be reasonably traced to their military service. The legislation which I am introducing deals with these problems. While the measures as drafted are certainly not the only approach to these problems, it is my intention that they will serve as a focal point for consideration of this subject. I would hope that these measures would be given hearings during which testimony of veterans, medical experts, and other concerned parties could be received in order to fashion the most appropriate legislation to deal with the delayed psychological and potential health hazards of Vietnam veterans.

The first of the two bills, the Vietnam Veterans Delayed Reentry, Psychological Readjustment, and Vocational Rehabilitation Assistance Act, would accord the Veterans' Administration the necessary authority it requires to resolve the unique psychosocial problems affecting Vietnam veterans within the parameters of existing VA resources. All provisions of the bill have precedence in the comprehensive psychological readjustment assistance accorded veterans of World War II by the VA.

Operation Outreach (the Veterans' Administration's psychological readjustment program) is limited in its resources, its authority, and its professional capabilities. The Delayed Reentry Act would provide Vietnam veterans who are suffering from psychological readjustment problems related to their Vietnam service or readjustment therefrom, with priority treatment within the mainstream VA mental health resources. The act would accord Vietnam veterans' mental problems (which are determined by a VA psychiatrist or psychologist to require mental health services to facilitate successful readjustment to civilian life) status as a service-connected disability, but to a noncompensable degree.

This means that these veterans' mental problems would receive priority in treatment and access to the VA mental health resources before the 75 percent of veterans whose disabilities have no connection to the military service, but are receiving mental health services from the VA. These veterans would not be subject to income limitation imposed upon non-service-connected veterans. These veterans would receive no priority medical treatment other than that required to resolve their psychological readjustment problems.

Veterans' Administration psychiatrists and psychologists would be required to make special efforts to determine if Vietnam veterans' psychological problems were incurred or aggravated in the service, or are a post traumatic stress disorder, thus warranting service connection for a disability.

The legislation would also authorize veterans whose serious mental health problems are related to their military service or readjustment therefrom, but do not warrant permanent disability compensation, to participate in the Veterans' Administration's vocational rehabilitation program under chapter 31.

There is precedence for this action in the comprehensive mental health and vocational rehabilitation assistance the VA accorded World War II veterans with "psychoneurosis" problems. Over half of the World War II disabilities were classified as "psychoneuroses." These veterans were given temporary service-connected disability status and accorded comprehensive mental health services and vocational rehabilitation. When these World War II veterans had resolved their psychological problems and readjusted to civilian life, their disability status was dropped.

The legislation would require the VA to institute a comprehensive training program for professional, paraprofessional, and lay personnel dealing with Vietnam veterans to assure that they have the ability to counsel, screen, and test Vietnam veterans and accord them effective therapy, readjustment, and rehabilitation for their unique medical and psychosocial readjustment problems.

Less than 10 percent of the patients in the VA health care system will be Vietnam veterans with medical or psychological problems related to their military service. The VA is ill-equipped to provide empathetic counseling, screening, and treatment for these veterans. VA medical personnel lack the training, resources, and experience to deal with the unique psychological effects of the Vietnam war.

"Post Traumatic Stress Disorder" (Delayed Stress) became part of the American Psychiatric Association's Diagnostic and Statistical Manual in 1980. VA mental health professionals have received little or no formal training or experience during their medical training regarding this serious problem, and little or no training to deal with the unique psychological effects of the Vietnam war from the VA.

The second bill which I am introducing today, the Comprehensive Vietnam Veterans Literature Review and Training Act of 1981, would require the Veterans Administration to conduct a comprehensive literature review, research, and studies of all potential health care detriments affecting Vietnam veterans and their natural children. The legislation would also require the VA to provide appropriate training to its personnel in the counseling, screening, testing, evaluation, treatment, therapy, readjustment and rehabilitation of the unique medical and psychosocial needs of Vietnam era veterans.

Less than 10 percent of the patients seen by the Veterans' Administration in a given year will be Vietnam veterans experiencing medical or psychological problems that are a consequence of their military service. VA personnel have neither the information nor the training to deal with serious Vietnam-related problems, such as agent orange and the effects of delayed stress. There is nothing in the VA medical training to prepare VA personnel to handle the Vietnam-related problems, let alone to provide the comprehensive and empathetic counseling and treatment that Vietnam veterans suffering consequences of their military service deserve.

The legislation would require the VA to review the literature on all possible health care detriments that could be affecting veterans or causing birth defects or other inherited traits in their natural children.

Potential health hazards which the bill would mandate a literature review of include—but are not limited to: Exposure to herbicides, chemicals, biological or hallucinogenic agents, medications, diseases, environmental hazards or conditions, and the psychophysiological effects of delayed stress. The legislation would seek a determination of the pharmacokinetics and metabolic pathways, potential toxicological, biological, psychological, immunological, mutagenic, and carcinogenic effects of health hazards in Vietnam veterans and their natural children.

Nine months after the enactment of the bill, based on the literature review, the Administrator would be required to submit to Congress recommendations for further research studies as may be necessary to resolve the unresolved health care problems determined to affect—or potentially affect—Vietnam veterans or their offspring.

Concurrent with the literature review and studies, the VA would be required to provide a comprehensive training and information program to assure that its professional, paraprofessional, and lay personnel having significant contact with Vietnam veterans will have the capability to deal knowingly and emphatically with the unique medical and psychological problems being experienced by Vietnam veterans. The legislation would provide for films, seminars, training sessions, and work shops. It would also provide for the assignment of Vietnam veteran ombudsmen, and closer coordination with the Veterans outreach center program.

The bill would authorize the appropriation of $7 million to carry out its provisions.●

By Mr. CHILES (for himself and Mr. INOUYE):

S. 1536. A bill to amend the Social Security Act to insure adequate short- and long-term financing of the old-age, survivors, and disability insurance program and the medicare program; to the Committee on Finance.

SOCIAL SECURITY REFORM ACT OF 1981

● Mr. CHILES. Mr. President, I am introducing today, with Senator INOUYE, a revised version of the social security bill I originally introduced in February.

This bill offers a comprehensive plan to resolve both the short- and long-term financial problems facing social security, without cutting benefits to any current recipients. It is an alternative to the administration's social security proposals.

The only difference between this bill and its earlier version, S. 484, is the deletion of a provision to roll back the already scheduled increases in social security payroll taxes to their pre-1981 levels, which would have been financed through general revenue contributions to the health insurance trust fund. Now that the Senate has completed work on the tax bill, this provision is no longer an issue.

For the short term, this bill would authorize interfund borrowing among the three social security trust funds, triggered when any one of the funds falls below 25 percent of 1 year's outlays. Any funds borrowed would be repaid, with interest. As a further protection against a short-term cash flow gap, both the student and minimum benefits would be eliminated—but only for future retirees.

The Congressional Budget Office has assured me that the combination of these three measures would still more than meet the short-term requirements of the system.

These provisions are the same as those in the bill I originally introduced in February.

Even though the budget reconciliation process has included provisions to end the minimum benefit for current beneficiaries, much sooner than proposed in this bill, it has not yet been signed into law. I hope that the Senate will still reverse its position on the minimum benefit before cut-off notices go out to 3 million recipients in December. We tried a number of times in the Budget Committee and on the Senate floor to make the minimum benefit cut prospective only. We failed each time, but it was by a very close margin and there is still time to make that change.

To avoid the more difficult, and more serious, long-term deficit problem, the bill proposes to gradually raise the retirement age to 68 during a 12-year phase-in period beginning in the year 2000. Also proposed are several measures to provide expanded work opportunities for the older worker—including removal of the earnings limitation in 1986. The bill does not reduce disability benefits, so those who are not healthy enough to keep working will still be covered.

I strongly believe that this Congress should address the long-term social security deficit.

The short-term problem, which occurs during the 1982 to 1986 period, has received the most attention. It must be solved now, and we are well on our way to doing that. It is not hard to do.

But the long-term problem, which will be upon us in about the year 2010, is much more serious and will require much more difficult choices. Whatever choices we make, they must be made now so future retirees will have time to plan.

I am convinced that the approach outlined in this bill is the fairest and most sensible way to salvage existing social security benefits for the future without requiring additional payroll tax increases on top of those already scheduled.

Editorial and constituent reaction to a gradual, future phase-in of an increase in the retirement age has been increasingly positive. A recent Harris poll found that—by 62 to 30 percent—people would prefer this step to cuts in current social security benefit levels.

This same poll, and others, have also shown that most people are convinced that the social security system is in deep trouble and that this kind of major change will have to be made if current workers are to receive future benefits.

I believe this bill offers a constructive alternative to the social security benefit cuts proposed by the administration. It preserves the system within the current tax structure, provides many years for future retirees to plan for changes, preserves a safety net for early retirement if necessary for health reasons, and maintains the parity between active and retired workers.

I hope more of my colleagues will join with me and adopt it as your alternative.

Mr. President, I ask unanimous consent that the bill and a fact sheet be printed in the RECORD.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

S. 1536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Social Security Reform Act of 1981".

INTERFUND BORROWING AMONG SOCIAL SECURITY TRUST FUNDS

SEC. 2. (a) Section 201 of the Social Security Act is amended by adding at the end the following new subsection:

"(e)(1) If in any month the assets of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund are less than 25 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Board of Trustees may, prior to fiscal year 1988, direct the Managing Trustee to borrow from the other Trust Fund, or from the Federal Hospital Insurance Trust Fund established under section 1817, for deposit in the deficient Trust Fund, an amount not to exceed the difference between the assets of the deficient Trust Fund and 25 percent of the amount so disbursed.

"(2) There shall be transferred from time to time, from the deficient Trust Fund to the lending Trust Fund, interest, with respect to the loan, at a rate equal to that which the lending Trust Fund would earn

if the loan were an investment under subsection (d).

"(3) If the assets of the deficient Trust Fund in any month equal or exceed 30 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into that Trust Fund shall instead be paid into the lending Trust Fund, except so much as shall be required to maintain the assets of the deficient Trust Fund at 30 percent of the amount so disbursed, until the loan under this subsection is repaid.

"(4) In exercising this authority, the Managing Trustee shall limit the amounts borrowed so as to approximately maintain equality among the Trust Funds as to the level of assets as a percent of disbursements, and to assure that no Trust Fund has insufficient funds to meet its requirements for disbursements.

"(5) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (except as interest) under this subsection.".

(b) Section 1817 of such Act is amended by adding at the end the following new subsection:

"(j) (1) If in any month the assets of the Federal Hospital Insurance Trust Fund are less than 25 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Board of Trustees may, prior to fiscal year 1988, direct the Managing Trustee to borrow from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, established under section 201, for deposit in the Federal Hospital Insurance Trust Fund, an amount not to exceed the difference between the assets of the Federal Hospital Insurance Trust Fund and 25 percent of the amount so disbursed.

"(2) There shall be transferred from time to time from the Federal Hospital Insurance Trust Fund to the lending Trust Funds, interest, with respect to the loan, at a rate equal to that which the lending Trust Fund would earn if the loan were an investment under subsection (c).

"(3) If the assets of the Federal Hospital Insurance Trust Fund in any month equal or exceed 30 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into that Trust Fund shall instead be paid into the lending Trust Fund, except so much as shall be required to maintain the assets of the Federal Hospital Insurance Trust Fund at 30 percent of the amount so disbursed, until the loan under this subsection is repaid.

"(4) In exercising this authority, the Managing Trustee shall limit the amounts borrowed so as to approximately maintain equality among the Trust Funds as to the level of assets as a percent of disbursements, and to assure that no Trust Fund has insufficient funds to meet its requirements for disbursements.

"(5) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (except as interest) under this subsection.".

COMPUTATION OF CONSUMER PRICE INDEX

SEC. 3. Section 215(i) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) In any case in which the Secretary of Labor proposes to change the method by which the Consumer Price Index (used to determine cost-of-living increases under this subsection) is computed, the Secretary of Labor must submit such proposed change to the House Committee on Ways and Means and the Senate Committee on Finance at least 120 days prior to the date on which such proposed change is to become effective.".

RETIREMENT AGE CHANGES

SEC. 4. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"PHASED INCREASE IN ELIGIBILITY AGE FOR OLD-AGE AND SURVIVORS INSURANCE BENEFITS

"SEC. 234. (a) Effective January 1, 2000, and ending January 1, 2012, in administering the programs established under this title, the Secretary shall determine entitlement to, and the amount of, benefits under this title in accordance with the following interim rules:

"(1) In determining when an individual attains age 65, such age shall be deemed to be age 65, plus one calendar month for each period of four calendar months which have elapsed since August 31, 1999.

"(2) In determining when an individual attains age 62, such age shall be deemed to be age 62, plus one calendar month for each period of four calendar months which have elapsed since August 31, 1999.

"(3) In determining when an individual attains age 60, such age shall be deemed to be age 60, plus one calendar month for each period of four calendar months which have elapsed since August 31, 1999.

"(4) For purposes of paragraphs (1), (2), and (3) an individual shall be considered to have attained age 65, 62, or 60, as the case may be, on the first day of the calendar month in which he actually attains such age.

"(b) In any case in which an individual becomes entitled to a benefit under this title by reason of attaining age 60, 62, or 65, or by reason of another individual attaining such age, such entitlement to that benefit shall not cease by reason of the application of the interim rules set forth in subsection (a).".

(b) (1) Effective January 1, 2012, section 234 of the Social Security Act (as added by subsection (a)) is repealed.

(2) Effective January 1, 2012, the Social Security Act is amended—

(A) by striking out "65" each place it appears in the following sections and inserting in lieu thereof in each instance "68":

(i) subsections (a), (d), (e), (f), (g), (r), and (w) of section 202,

(ii) subsections (c), (d), (f), (h), and (j) of section 203,

(iii) section 209 (r),

(iv) section 211(b)(3),

(v) subsections (f) and (l) of section 215,

(vi) subsections (h) and (l) of section 216, and

(vii) section 223(a);

(B) by striking out "sixty-five" in sections 203(c) and 223(a) and inserting in lieu thereof in each instance "68";

(C) by striking out "Sixty-five" in the heading of section 203(j) and inserting in lieu thereof "Sixty-eight";

(D) by striking out "62" each place it appears in the following sections and inserting in lieu thereof in each instance "65":

(i) subsections (a), (b), (c), (h), (m), and (q) of section 202,

(ii) section 213(a),

(iii) section 214(a),

(iv) subsection (a) and (b) of section 215,

(v) subsections (b), (c), (f), (g), and (l) of section 216,

(vi) subsections (a) and (c) of section 223, and

(vii) section 224; and

(E) by striking out "60" each place it appears in the following sections and inserting in lieu thereof in each instance "63":

(i) subsections (e), (f), (j), and (q) of section 202,

(ii) subsections (c) and (f) of section 203,

(iii) subsections (c) and (d) of section 222,

(iv) section 225(a), and

(v) section 226(e).

(c) Subtitle F of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following chapter:

"CHAPTER 81—SPECIAL INTERIM RULES APPLICABLE TO SOCIAL SECURITY TAXES

"Sec. 7901. Special interim rules applicable to social security taxes.

"SEC. 7901. SPECIAL INTERIM RULES APPLICABLE TO SOCIAL SECURITY TAXES.

"Effective January 1, 2000, and ending January 1, 2012, in applying sections 1402(a)(3) and 3121(a)(18), the Secretary shall determine the amount of taxes to be paid in accordance with the following interim rules:

"(1) In determining when an individual attains age 65, such age shall be deemed to be age 65, plus one calendar month for each period of four calendar months which have elapsed since August 31, 1999.

"(2) For purposes of paragraph (1), an individual shall be considered to have attained age 65 on the first day of the calendar month in which he actually attains such age.".

(d) (1) Effective January 1, 2012, chapter 81 of the Internal Revenue Code of 1954 (as added by subsection (c)) is repealed.

(2) Effective January 1, 2012, sections 1402(b)(3) and 3121(a)(18) of the Internal Revenue Code of 1954 are each amended by striking out "65" and inserting in lieu thereof "68".

ELIMINATION OF STUDENT BENEFITS

SEC. 5. (a) Section 202(d) of the Social Security Act is amended—

(1) in paragraph (1)(B)(i) by striking out "either" and by striking out "or was a full-time student and had not attained the age of 22";

(2) in paragraph (1)(E)—

(A) by striking out "(i)", and

(B) by striking out ", and (ii) is not a full-time student during any part of such month." and inserting in lieu thereof "; or";

(3) by striking out paragraph (1)(F) and redesignating paragraph (1)(G) as paragraph (1)(F);

(4) in paragraph (1)(F) as so redesignated, by striking out "gainful activity, or (if later)" and all that follows through the end of subclause (iv) and inserting in lieu thereof "gainful activity).";

(5) in paragraph (5), by striking out "but subject to subsection (5)";

(6) by amending paragraph (6) to read as follows:

"(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provide no event specified in paragraph (1)(D) has occurred beginning in the first month thereafter in which he is under a disability (as so defined) which began before the close of the eighty-fourth month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under disability, but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

"(A) the first month in which an event specified in paragraph (1)(D) occurs; or

"(B) the third month following the month in which he ceases to be under such disability."; and

(7) by striking out paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(b)(1) Section 202(s) of such Act is repealed.

(2)(A) Section 202(b)(3) of such Act is amended by striking out "(but subject to subsection (s))".

(B) Sections 202(e)(3), 202(g)(3), and 202(h)(4) of such Act are each amended by striking out "but subject to subsection (s)".

(C) Section 203(c) of such Act is amended—

(i) by striking out "paragraph (1) of section 202(s) applies or", and

(ii) by striking out "Subject to paragraph (3) of such section 202(s), no deductions" and inserting in lieu thereof "No deductions".

(D) Section 203(f)(1) of such Act is amended by striking out ", but subject to section 202(s),".

(E) Sections 216(b)(3)(B), 216(c)(6)(B), 216(f)(3)(B), and 216(g)(6)(B) of such Act are each amended by striking out "(subject, however, to section 202(s))".

(c)(1) Section 222(b) of such Act is amended by striking out paragraph (4).

(2) Section 222(d)(1)(B) of such Act is amended by striking out "(and are under a disability)".

(d) Section 225(a) of such Act is amended by striking out the last sentence.

(e) The amendments made by this section shall become effective on the date of enactment of this act, but such amendments shall not apply with respect to any individual who was entitled to a child's benefit under section 202(d) of the Social Security Act for any month prior to the date of enactment of this act, and who, in such prior month of entitlement, had attained the age of 18 and was a full-time student (as defined under section 202(d) of such Act as in effect prior to the amendments made by this section.

ELIMINATION OF MINIMUM BENEFIT

SEC. 6. (a) Section 215(a)(1)(C)(i) of the Social Security Act is amended to read as follows:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).".

(b)(1) Section 215(a)(1)(C)(ii) of such Act is amended by striking out "For purposes of clause (i)(II)" and inserting in lieu thereof "For purposes of clause (i)".

(2) Section 215(a)(3)(A) of such Act is amended by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(3) Section 215(a)(4) of such Act is amended—

(A) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)"; and

(B) in subclause (I) thereof, by striking out "but without regard to clauses (iv) and (v) thereof".

(4) Section 215(f)(8) of such Act is amended by striking out "subsection (a)(1)(C)(i)(II)" and inserting in lieu thereof "subsection (a)(1)(C)(i)".

(5) Section 215(i)(2)(A)(ii)(II) of such Act is amended by striking out "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the matter following subclause (III) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(7) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(1) and clauses (iv) and (v) of this subparagraph".

(8) Section 215(i)(2)(A) of such Act is amended by striking out clauses (iv) and (v) thereof.

(9) Section 215(i)(2)(D) of such Act is amended by striking out "subparagraph (C)(i)(II)" each place it appears and inserting in lieu thereof in each instance "subparagraph (C)(i)".

(10) Section 202(m) of such Act is repealed.

(11) Paragraphs (1) and (5) of section 202(w) of such Act are each amended by striking out "section 215(a)(1)(C)(i)(II)" and inserting in lieu thereof in each instance "section 215(a)(1)(C)(i)".

(12) Section 233(C)(2) of such Act is amended to read as follows:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.".

(c) The amendments made by this section shall apply with respect to primary insurance amounts on the basis of which no benefit was being paid for the month following the date of enactment of this act.

ELIMINATION OF EARNINGS TEST FOR RETIRED INDIVIDUALS

SEC. 7. (a)(1) Section 203(c)(1) of the Social Security Act is amended by striking out "seventy" and inserting in lieu thereof "65".

(2) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefits if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.".

(3) Section 203(d)(1) of such Act is amended by striking out "seventy" and inserting in lieu thereof "65".

(4) Section 203(f)(1) of such Act is amended—

(A) in clause (B), by striking out "seventy" and inserting in lieu thereof "65";

(B) by amending clause (D) to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,"; and

(C) by striking out "the applicable exempt amount" each place it appears and inserting in lieu thereof in each instance "the exempt amount".

(5) Section 203(f)(3) of such Act is amended—

(A) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(B) by striking out "70" and inserting in lieu thereof "65".

(6) Section 203(f)(4)(B) of such Act is amended by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount".

(7) Section 203(f)(8)(A) of such Act is amended by striking out "exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "exempt amount which is to be applicable".

(8) Section 203(f)(8)(B) of such Act is amended—

(A) by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be";

(B) in clause (i), by striking out "corresponding"; and

(C) in the matter following clause (ii), by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(9) Section 203(f)(8) of such Act is amended by striking out subparagraph (D) thereof.

(10) Section 203(h)(1)(A) of such Act is amended—

(A) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(B) by striking out "70" each place it appears and inserting in lieu thereof in each instance "65".

(11) Section 203(j) of such Act is amended—

(A) by striking out "Seventy" in the heading thereof and inserting in lieu thereof "Sixty-five"; and

(B) by striking out "seventy" and inserting in lieu thereof "65".

(b) The amendments made by subsection (a) shall be effective with respect to taxable years ending after 1985.

ELIMINATION OF FICA TAXES WITH RESPECT TO INDIVIDUALS 65 OR OVER

SEC. 8. (a) Section 209 of the Social Security Act is amended—

(1) by striking out "or" at the end of subsection (o);

(2) by striking out the period at the end of the first subsection (p) and inserting in lieu thereof a semicolon;

(3) by redesignating the second subsection (p) as subsection (q) and by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(4) by inserting after such subsection (c) the following new subsection:

"(r) Any payment made by an employer to an employee who has attained age 65 except that this subsection shall not apply for any calendar year with respect to an employee who agrees that this subsection, and paragraph (18) of section 3121(a) of the Internal Revenue Code of 1954, shall not apply to such employee for such calendar year.".

(b) Section 211(b) of the Social Security Act is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) The net earnings from self-employment derived by an individual during any taxable year which begins after such individual attains age 65; except that this paragraph shall not apply for any taxable year with respect to an individual who agrees that this paragraph, and paragraph (3) of section 1402(b) of the Internal Revenue Code of 1954, shall not apply to such individual for such taxable year.".

(c) Section 3121(a) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "or" at the end of paragraph (16);

(2) by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(18) any payment made by an employer to an employee who has attained age 65; except that this paragraph shall not apply for any calendar year with respect to an employee who agrees that this paragraph, and section 209(r) of the Social Security Act, shall not apply to such employee for such calendar year.".

(d) Section 1402(b) of the Internal Reve-

nue Code of 1954 is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the net earnings from self-employment derived by an individual during any taxable year which begins after such individual attains age 65; except that this paragraph shall not apply for any taxable year with respect to an individual who agrees that this paragraph, and paragraph (3) of section 211(b) of the Social Security Act, shall not apply to such individual for such taxable year.".

(e) Subpart A of part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954 is amended by adding after section 6039B the following new sections:

"SEC. 6039C.—INFORMATION WITH RESPECT TO REMUNERATION PAID TO INDIVIDUALS AGE 65 OR OVER.

"(a) REQUIREMENT.—Every employer shall furnish to the Secretary information as to the amount of remuneration paid by such employer which would constitute 'wages' (as defined in section 3121(a)) but for the provisions of paragraph (18) of such section 3121(a).

"(b) TIME FOR FILING.—Information required to be furnished under subsection (a) shall be furnished at the same time as information as to the amount of wages paid by such employer is required to be furnished for purposes of chapter 21 of subtitle C (Federal Insurance Contributions Act).

"SEC. 6039D.—INFORMATION WITH RESPECT TO SELF-EMPLOYMENT INCOME OF INDIVIDUAL AGE 65 OR OVER.

"(a) REQUIREMENT.—Every individual who has, for any taxable year, net earnings from self-employment which would constitute self-employment income (as defined in section 1402(b)) but for the provisions of paragraph (3) of such section 1402(b), shall furnish to the Secretary information as to the amount of such net earnings from self-employment.

"(b) TIME FOR FILING.—Information required to be furnished under subsection (a) shall be furnished at the same time as information as to the amount of self-employment income of an individual is required to be furnished for purposes of chapter 2 of subtitle A (Self-Employment Contributions of 1954).".

(f) Section 201(a) of the Social Security Act is amended—

(1) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and";

(2) by inserting after clause (4) the following new clause:

"(5) the additional amounts which would be appropriated under clauses (3) and (4) for such fiscal year but for the provisions of sections 1402(b)(3) and 3121(a)(18) of the Internal Revenue Code of 1954.";

(3) in the matter following clause (5), by striking out "clauses (3) and (4)" the first place it appears and inserting in lieu thereof "clauses (3), (4), and (5)";

(4) in the matter following clause (5) by inserting after "into the Treasury" the following: ", and estimates by the Secretary of the Treasury of the amounts specified in clause (5) of this subsection"; and

(5) in the matter following clause (5), by inserting before the period at the end thereof the following: "or the amounts specified in clause (5)".

(g) Section 1817 of the Social Security Act (as amended by section 3 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and";

(3) by inserting after paragraph (4) the following new paragraph:

"(5) the additional amounts which would be appropriated under paragraphs (1) through (4) for such fiscal year but for the provisions of sections 1402(b)(3) and 3121(a)(18) of the Internal Revenue Code of 1954.";

(4) in the matter following paragraph (5), by inserting after "into the Treasury" the following: ", and estimates by the Secretary of the Treasury of the amounts specified in paragraph (5)"; and

(5) in the matter following paragraph (5), by inserting before the period at the end thereof the following "or the amounts specified in paragraph (5)".

(h) The amendments made by this section shall be effective with respect to calendar years and taxable years beginning on or after January 1, 1982.

AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

SEC. 9. Section 12(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631(a)) is amended by striking out "but less than 70 years of age".

SOCIAL SECURITY REFORM ACT OF 1981
FACTSHEET

INTERFUND BORROWING

1. Permits interfund borrowing among the three trust funds, Old Age and Survivors Insurance (OASI), Disability Insurance (DI), and Health Insurance (HI), when one of the funds falls below 25 percent of one year's outlays.

2. Effective immediately, authority for this borrowing would expire at the end of fiscal year 1988.

3. Borrowed funds will be paid back with interest.

ELIMINATION OF STUDENT BENEFITS

1. Social Security benefits are presently paid to full-time students aged 18 to 21 who are children of retired, disabled or deceased workers.

2. These benefits would be phased out over a three to four year period. Any student now eligible and receiving benefits would be allowed to continue until age 22 if enrolled full-time. No new students would be eligible.

3. Effective date to begin phase-in is on date of enactment.

ELIMINATION OF MINIMUM BENEFIT

1. Would eliminate the minimum benefit of $122 ($97.50 for those retiring at 62) for all new retirees; current recipients would not be affected.

2. The "special minimum" benefit for long-term low-income workers is not changed.

3. Effective following date of enactment.

CONGRESSIONAL REVIEW OF CPI ADJUSTMENTS

1. The Department of Labor must report any proposed revision in the manner by which the Consumer Price Index (CPI) is computed to the House Ways and Means Committee and the Senate Committee on Finance at least 120 days before such a change could go into effect.

2. The CPI is used to determine the amount of the cost-of-living adjustment added to each Social Security check in July of each year.

GRADUAL PHASE-IN OF INCREASED RETIREMENT AGE

1. Age 68 for full benefits would begin to phase in starting in the year 2000; eligibility age for full benefits on January 1, 2000 would be 65 plus one month; age would increase by one month for each four months thereafter until age 68 is reached in year 2012.

2. Age of early retirement would rise in similar manner from 62 to 65.

3. Age of eligibility for widow/widowers would rise in similar fashion from 60 to 63.

4. Age 65 for Medicare would not be changed. No changes would be made to the disability program.

5. No current retiree would be affected at all.

6. No current worker having reached his 45th birthday by the end of 1979 would be affected.

7. The cost effect would be to place Social Security "in close actuarial balance over the long term"; savings is estimated at 1.42 percent of taxable payroll.

REMOVE EARNINGS LIMITATION COMPLETELY

1. Would remove the earnings limitation (or retirement test) which now reduces Social Security benefits $1 for every $2 earned over the limit. The ceiling in 1981 is $5,500.

2. The limitation would be removed only for those over 65.

3. The eligibility age for no retirement test would be phased upwards from 65 to 68 in a manner similar to the rise in the retirement age beginning in the year 2000.

4. Because of the short-term cash flow problems, elimination of the test will not be made until 1986.

ELIMINATING PAYROLL TAX FOR WORKERS OVER 65

1. Would remove the payroll tax for employer and employee paid on any wages earned by a worker over age 65.

2. Age 65 for this tax break would increase to 68 in the same manner as the phased increase for the age of eligibility for benefits.

3. The estimated loss of payroll tax is 0.75 percent of payroll or just over $1 billion a year in the short-term. This loss would be made up by general revenue, and would be similar to the targeted jobs tax credit. Over the long term, however, it is expected that increased Federal income tax revenues from older worker employment would make up more than lost payroll taxes.

4. Effective date: January 1, 1982.

ELIMINATE MANDATORY RETIREMENT AGE COMPLETELY

1. Amends the Age Discrimination in Employment Act to remove age 70 or over as a permissible age to allow mandatory retirement in the private sector.

2. The existing exceptions in the law are not changed.

3. Effective immediately.●

By Mr. MATSUNAGA:

S. 1537. An Act to amend the Internal Revenue Code of 1954 to provide a credit against income tax for contributions to profit-sharing plans, and for other purposes; to the Committee on Finance.

CONTRIBUTIONS TO PROFIT SHARING PLANS

Mr. MATSUNAGA. Mr. President, I am today introducing a bill to allow a tax credit for employer contributions to deferred profit sharing plans equal to 1 percent of payroll, as an incentive for the creation of new plans. We of the Congress who are concerned about our national economy must do all we can to encourage deferred, fully vested profit-sharing plans, for they are a proven spur to worker productivity. They also provide a means of resolving our ever-increasing problem of retirement security.

Mr. President, in discussions held last year on the tax reduction program, the Finance Committee focused its attention on the need for increased domestic productivity. I learned then that I was not alone in my deep concern about this Nation's lagging performance in this

area. It was generally acknowledged that in times past, the steady growth of American productivity was a key element in creating the highest living standard in the world—an ever-increasing supply of goods and services, shorter work hours, longer vacations, and earlier retirement. But recently our productivity growth rate has fallen and our productivity has actually declined.

During the period 1948 and 1965, productivity in the private business sector increased at an average rate of more than 3 percent a year. The growth rate then fell to an average of 2.3 percent through 1973, after which it plummeted down to an alarming 1-percent average in the following 5 years. In 1979, productivity actually declined by 0.9 percent, and was down 1.7 percent in the first half of 1980. The consequences are painful. Inflation will erode our living standard if we continue to have a negative growth rate.

In line with this concern, my profit sharing proposal provides an excellent incentive for greater worker productivity. Profit sharing creates a positive worker attitude toward his job, since he directly profits or loses depending on his performance. Profit sharing promotes greater employee self-interest in his company; and when employees become profit conscious, friction eases, efficiency increases, production spurts, costs drop, and profits rise.

Many companies have experienced the motivating force of profit sharing plans. Dr. Bion Howard of Northwestern University has conducted comparative studies of profit sharing and nonprofit sharing companies. In general, he has found that profit sharing companies surpass the nonprofit sharers in level of performance.

According to a recent study of the National Center for Economic Alternatives entitled "Workplace Democracy and Productivity," prepared by Karl Frieden, profit sharing increases company productivity and profitability. Comparing the 41 largest conventionally owned retailers and 10 similar profit sharing companies the study showed the profit sharing firms returning 1.85 percent on sales, compared to 1 percent for the others. The study also showed an 11-percent return on equity for the profit sharing firms compared to 9.1 percent for others. These figures present irrefutable evidence of the motivational force in profit sharing programs.

It should be noted, too, that deferred profit sharing provides needed retirement benefits for workers. This is an area of deep concern to me. A serious crisis exists today in our retirement income programs. Only about 50 percent of current workers in America participate in pension plans, and only 31 percent of American workers have vested interest in such plans and, therefore, entitled to future pension benefits. In 1978, only 28 percent of the retired population, age 65 and over, received income in the form of employee pension. Moreover, since many pension plans are offset by social security benefits, most workers even with vested benefits, received only modest supplements to their basic social security payments.

For millions of older Americans social security is their only retirement income; and it is inadequate. In 1978, 12 percent of aged retired married couples and 20 percent of aged retired nonmarried persons receiving social security, had no other source of income. Tragically, it is estimated that 58 percent of aged individuals and 36 percent of aged couples did not have sufficient cash and in-kind benefits in 1978 to achieve the moderate income living standard established by the Bureau of Labor Statistics. Moreover, 15 percent of persons age 65 and over had cash income below the poverty line in 1979. Of these individuals, 80 percent were receiving social security.

The future appears even more bleak. For the foreseeable future most retired Americans must continue to depend primarily on their monthly social security checks; and if inflation worsens, social security will become even more important as a source of retirement income, since fixed income pensions will lose their value correspondingly. Our older citizens face their retirement years with resignation. Sixty-three percent of a group surveyed by the President's Commission on Pension Policy expect their retirement income to be insufficient for their needs.

Furthermore, the social security system faces grave financial problems. Presently 11 of every 100 Americans are over age 65. By the year 2020, 22 of every 100 Americans will be over age 65. The social security system relies on pay-as-you-go financing; taxes collected from workers and their employers are used almost immediately to pay benefits for current retirees. Thus, the aging of our population will create a political and economic predicament. In order to provide the current levels of social security benefits to the aged in the future, a smaller core of active workers must be asked to provide a greater share of their earnings to cover the benefits of an expanded number of retirees.

Workers and employers must plan ahead now to provide for future retirement. The continued reliance on social security for all retirement needs is sadly misplaced. Social security was never designed to substitute fully for income earned during the working years. Social security benefits provide only a basic floor that should be supplemented by other sources of retirement income. Other measures must be designed and implemented to supplement social security benefits.

In the Employee Retirement Income Security Act of 1974, the Congress sought to insure the sound operation of pension programs and to encourage pension coverage. My bill would further implement those objectives. In sum, the deferred profit sharing tax incentive which I am proposing would not only encourage worker productivity, it would also supplement retirement security.

It is my hope that my bill will receive early and favorable consideration by the committee of jurisdiction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR CONTRIBUTIONS TO DEFERRED PROFIT-SHARING PLANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by inserting immediately before section 45 the following new section:

"SEC. 44F. CONTRIBUTIONS TO DEFERRED PROFIT-SHARING PLANS.

"(a) IN GENERAL.—In the case of a taxpayer who elects to have this section apply for any taxable year, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) the amount of contributions to a profit-sharing plan which meets the requirements of section 401 (a), or

"(2) 1 percent of the aggregate participant's compensation (as defined in section 415 (c) (3)) paid by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) VESTING REQUIREMENT.—No deduction shall be allowed under subsection (a) unless the plan to which the contribution is made provides that an employee has, without regard to any years of service, a nonforfeitable right to 100 percent of that portion of the contribution allocated to the employee's account.

"(2) NO SOCIAL SECURITY OFFSET.—No deduction shall be allowed under subsection (a) if under the plan to which the contribution is made—

"(A) an employee is excluded from participation if all of the employee's remuneration constitutes wages (within the meaning of section 3121 (a) (1)), or

"(B) contributions or benefits based on that portion of an employee's remuneration which constitutes such wages differ from contributions or benefits based on that portion which does not constitute such wages.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53 (a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year') such excess shall be—

"(i) a profit-sharing contribution credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) a profit-sharing contribution carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1982, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit

under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(d) SPECIAL RULES.—

"(1) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under section 162, 212, or 404 for any amount for which a credit is allowed under this section.

"(2) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, etc.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.".

(b) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(28) CREDIT UNDER SECTION 44F.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44F, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44F in respect of the distributor or transferor corporation.".

(B) Section 383 (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44F(c)(2)," after "44F(e)(2),", and

(ii) by inserting "PROFIT-SHARING CONTRIBUTION CREDITS," after "ALCOHOL FUEL CREDITS," in the section heading.

(C) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44F(c)((2)," after "44F(e)(2),", and

(ii) by inserting "PROFIT-SHARING CONTRIBUTION CREDITS," after "ALCOHOL FUEL CREDITS," in the section heading.

(D) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "alcohol fuel credits, profit-sharing contribution credits," after "new employee credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and new employee credit carryback" and inserting in lieu thereof "new employee credit carryback, and profit-sharing contribution credit carryback".

(B) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused new employee credit" each place it appears and inserting in lieu thereof "unused new employee credit, or profit-sharing contribution credit";

(ii) by inserting "by a profit-sharing contribution credit carryback provided in section 44F(c)(2)," after "53(b)," in the first sentence of subsection (a);

(iii) by striking out "or a new employee credit carryback from" each place it appears and inserting in lieu thereof "a new employee credit carryback, or a profit-sharing contribution credit carryback from"; and

(iv) by striking out "work incentive program carryback)" and inserting in lieu thereof "work incentive program carryback, or, in the case of a profit-sharing contribution credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback)".

(c) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(2) The table of sections for subpart A of part IV of Subchapter A of chapter 1 is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Contributions to deferred profit-sharing plans.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

By Mr. HATCH:

S. 1538. A bill to amend section 106 of the Civil Rights Act of 1964 (42 U.S.C. 1975e) to raise the limitation on appropriations for the U.S. Commission on Civil Rights; to the Committee on the Judiciary.

CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1982

● Mr. HATCH. Mr. President, I am introducing legislation today to provide authorizations for the U.S. Commission on Civil Rights for fiscal year 1982 of $12,037,000. This represents the total of their Senate-approved authorization for fiscal year 1981, $11,853,000, plus the proposed Pay Act supplemental, $318,000. The authorization figure contained in this bill is slightly under the request of the Commission for $12,318,000.

Mr. President, I would ask unanimous consent to place in the RECORD at this point my opening remarks about the Commission at their authorization hearing on June 18 before the Judiciary Subcommittee on the Constitution.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR ORRIN HATCH

The Subcommittee on the Constitution today will consider the FY 82 authorization for the United States Commission on Civil Rights. The Commission, originally created by the Civil Rights Act of 1957, has no law enforcement responsibilities or regulatory authorities but is charged with studying and collecting information about the state of civil rights in the United States and serving generally as a clearinghouse for information on this issue. The Commission is seeking a FY 82 authorization of $12.3 million, up from the estimated FY 81 appropriation of approximately $11.8 million.

The pursuit of equality for all of our citizens remains one of the great issues of our time. While this nation, in my opinion, has made remarkable progress toward a more fair and a more open society during the past three decades, there can be little serious debate that too many individuals under too many circumstances are still judged on the basis of such characteristics as race, color, or national origin. Too many individuals must still overcome conscious and unconscious biases and prejudices in order to achieve their full potential in our society. Much of the progress that we have achieved during these three decades is directly and indirectly attributable to the work and the studies of the Civil Rights Commission.

It is with full recognition of the achievements of the Commission that I have reluctantly come to the view in recent years that the Commission has lost sight of its original purpose and that it has become counterproductive as a force for genuinely equal opportunities for all citizens. Let me summarize very briefly my concerns about the present Commission on Civil Rights:

First, I believe that the Commission has distorted the transcendant cause of civil rights by "ideologizing" civil rights. The Commission's conception of civil rights is a conception that invariably requires the public sector, particularly the Federal Government, to play a greater regulatory and social role at the expense of the states, localities, private businesses, and private, voluntary institutions.

Second, I believe that the Commission has trivialized civil rights by identifying civil rights problems of great moment in the most innocent of policies and institutions, such as the discriminatory implications of all-male softball teams and the need to "de-sexify" listings of occupations. In this process, the Commission has contributed greatly toward undermining the consensus that, until very recently, existed in this country in behalf of civil rights policies.

Third, I believe that commission studies and reports evince an almost total lack of objectivity and perspective in their approach to public policy issues. I defy any fairminded person to wade through a random report of the Commission and conclude that there is ever more than one honest side to an argument over civil rights policy. I do not sense even the most minimal willingness to study both—or all—sides of an issue. I do not sense even the most minimal recognition that well meaning people can differ on how best to promote equal opportunities for all citizens.

Fourth, there is no sense of priorities at the Commission. The Commission churns out one report after another on the urban crisis, overcrowding in prisons, minorities and the energy crisis, census procedures, and similar topics. These are important issues; no one can deny that. I reject, however, the notion that every national problem can be interpreted in terms of its racial implications. The problem of discrimination does not invariably relate to the fact that people—people of all races—are beset by various social and economic problems.

Fifth, the Commission has played it extremely fast and loose with its legal mandate. Two years ago, Congress imposed an explicit restriction upon the Commission's involvement in the abortion controversy, correctly concluding, in my view, that there was absolutely no statutory mandate for their efforts on this issue. The Commission continues to lobby Members of Congress on a wide variety of issues, despite explicit legislative prohibitions upon this. They have involved themselves in such sensitive public policy debates as those on the equal rights amendment extension, the Fair Housing Act amendments, the District of Columbia representation amendment, and various and sundry legislative efforts relating to forced school busing.

Sixth, on what is, in my opinion, the most significant civil rights issue of our time—affirmative action programs and policies—the Commission has acted as if there were no serious discussion possible on the merits. Documents and reports of the Commission demonstrate almost no understanding that many people in this country—many of whom have the strongest credentials possible in the civil rights movement—feel strongly that affirmative action represents a 180-degree retreat from every traditional principle of the movement.

Finally, I believe that the Commission, not unlike other Federal commissions and agencies, has become beholden to a single, narrow constituency. It is more akin to a private, "public-interest" group, than to an agency supported by tax moneys of all the American people. I quote in this respect from a statement by the Committee on Academic Nondiscrimination, an organization of university academics:

"The proceedings of the hearings of the Commission reveal recurrent meetings of friends-in-cause who gather to survey the progress of past designs and chart new drives . . . they look to canvass new areas in which to extend governmental regulations, and to search for new justifications for their past rigid attitudes. The cast of invitees and the conduct of the proceedings betrays more a desire to buttress preconceived ideas than a search for truth in an honest and impartial fashion.

Dr. Flemming, I will be pleased to discuss any of these concerns with you in more detail, at your convenience. I deeply wish that I could preside before you today with a more charitable view of the work of the Commission. I cannot honestly do that. I am aware of the Commission's good works in the past, and its potential for good works in the future. I am also aware of the important symbolic value of the Commission to many Americans. Perhaps $12.3 million is not too much to pay for such symbolism; I do not know, for sure. I would very much hope that the Commission would honestly consider my criticisms; I can assure you that I am not the only Senator who feels this way. The cause of civil rights needs a responsible source of information, but I cannot honestly say that, in my opinion, this is what it has been getting from the Commission.

Dr. Flemming, I look forward to your testimony here today.●

By Mr. DOLE:

S. 1539. A bill to establish a Severe Storms Advisory Committee to review, on an annual basis, the severe storms research and operations activities of the Federal Government; to the Committee on Commerce, Science, and Transportation.

SEVERE STORMS ADVISORY COMMITTEE ACT OF 1981

Mr. DOLE. Mr. President, I am introducing today a bill entitled the Severe Storms Advisory Committee Act of 1981. The purpose of the advisory committee would be to review, on an annual basis, the severe storms research and operations activities of the Federal Government.

Mr. President, this legislation is badly needed. Recent weather-induced natural disasters in my State of Kansas remind us of the continuing destruction of severe storms and the need to coordinate the Federal Government research activities. For example, in the past month a tornado struck the city of Lawrence, killing one man, injuring 29 others and causing approximately $8 million in damage. Severe floods also struck the town of Great Bend causing over $45 million in damage; fortunately no one was killed by the floods. This is not an infrequent occurrence, in my State or the rest of the country. Much of the Nation is plagued by storms which claim lives and cause millions of dollars of property damage.

The advisory committee established by this bill would assess current objectives and milestones for the severe storms forecasting program, recommend initiation of any needed new programs and recommend incorporation of new technological developments into the operational forecasting system. The committee would serve to tie together the Federal effort in this area.

The National Oceanic and Atmospheric Administration (NOAA) would take the lead, in cooperation with DOD, NASA, FAA, and the Federal Emergency Management Agency. The committee would not exceed 12 members and its life would be limited to 5 years. I want to emphasize that no new authorization is provided by the bill. The personnel, facilities, and needed services are to be provided by the agencies involved.

Mr. President, it just seems to me that this is something that should be happening already. We have several Federal agencies involved with weather forecasting and the country will benefit from coordinating their activities. I urge the Senate to take prompt action on this necessary legislation.

By Mr. MOYNIHAN:

S. 1540. A bill to revise the boundaries of the Saratoga National Historic Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

SARATOGA NATIONAL HISTORIC PARK

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that would extend the boundaries of the Saratoga National Historical Park in Stillwater, N.Y.

As my colleagues are aware, it was at Saratoga that the Continental Army soundly defeated the British and turned the tide of the American Revolution. If I may disgress for a moment, Mr. President, a discussion of the events surrounding that great victory may prove enlightening, and significant to the character of the bill I propose today.

For centuries, the passage running from Lake Champlain along the banks of the Hudson River was viewed as a strategic highway connecting the Northeast. In the early years of the American Revolution, Gen. John Burgoyne, of the Royal British Army, devised a plan to lead his troops south along this route and capture Albany. On June 17, 1777, Burgoyne set out with a force of 9,000 British soldiers to accomplish this objective. As they advanced toward Albany, Burgoyne and his men suffered a series of setbacks, but he remained resolute in his decision to continue. The British might have reached Albany if it had not been for the resourceful planning of Gen. Horatio Gates, commander of the American forces in the northern colonies. In 2 separate battles at Saratoga, General Gates with an American force of 20,000 men skillfully isolated Burgoyne's troops and forced his surrender.

The American victory at Saratoga bolstered the morale of the Revolutionary Army and was instrumental in bringing France into the war. The American Revolution was no longer a mere struggle between a mother country and her colony, but an international conflict in which an American victory was an ever-growing possibility.

To commemorate the Battle of Saratoga and the American patriots who sacrificed their lives there, legislation was enacted in 1938 to create the Saratoga Historical Park. The 2,603-acre park is composed of four regions each of which relate to the events occurring in the fall of 1777. The major portion of the park contains land involved in the two historic battles. It is here that a visitor to the park can see where the British front line and significant portions of the American flank were assembled. The entire park is truly one of the few areas where it is possible to see an 18th century battlefield in its entirety, and where a visitor can get a vivid sense of our colonial history.

While the park is both historically relevant and aesthetically a delight, it is nevertheless lacking in a geographic as well as historic sense. Acreage is missing, acreage which represents the most historically significant sections of the park. Among them, the location of the American headquarters, the American hospital and the place where the largest portion of the American fortified flank stood strong against the British. In total, this area is composed 803.91 acres which, in several cases, lie virtually in the middle of the confines of the established park.

The legislation I have introduced today will unify the park and incorporate into our national parks system those areas that are of key historical importance, allowing Americans to enjoy and study this region for years to come. It is my hope that this bill will lead to the permanent protection of one of our Nation's most precious historic sites.●

ADDITIONAL COSPONSORS

S. 578

At the request of Mr. MOYNIHAN, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 578, a bill to amend the Internal Revenue Code to change certain accounting rules related to inventory.

S. 857

At the request of Mr. TOWER, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 857, a bill to impose quantitative restrictions on the importation of lamb meat.

S. 1096

At the request of Mr. KASTEN, the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 1096, a bill to facilitate the ability of product sellers to establish product liability risk retention groups, to facil-

itate the ability of such sellers to purchase product liability insurance on a group basis; and for other purposes.

S. 1229

At the request of Mr. MOYNIHAN, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1229, a bill to continue through December 31, 1982, the existing prohibition on the issuance of fringe benefit regulations.

S. 1230

At the request of Mr. CRANSTON, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 1230, a bill to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games.

S. 1365

At the request of Mr. DOLE, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1365, a bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes.

S. 1407

At the request of Mr. PRYOR, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1407, a bill to amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes.

S. 1439

At the request of Mr. PELL, the Senator from Nevada (Mr. CANNON) was added as a consponsor of S. 1439, a bill to provide for the distribution of overcharges collected by the Department of Energy.

S. 1448

At the request of Mr. MATHIAS, the Senator from Hawaii (Mr. INOUYE), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of S. 1448, a bill to provide for the issuance of a postage stamp to commemorate the seventieth anniversary of the founding of the Girl Scouts of the United States of America.

S. 1476

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1476, a bill to provide standby authority to deal with petroleum supply disruptions, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources regrading the collection, accounting, and distribution of mineral royalties. This oversight hearing will be held on Tuesday, August 11, beginning at 2 p.m. at the Natrona County Public Library in Casper, Wyo.

Witnesses which have been invited to testify at the hearing will include agencies and bureaus of the Department of the Interior involved in the collection, accounting, and distribution of mineral royalties from Federal and Indian lands; agencies of the Department of the Interior involved in audit functions; Governor Herschler of Wyoming; and representatives of the Western Governor's Policy Office, the Arapahoe Tribal Council, the Shoshone Tribal Council, the Wyoming County Commissioner Association, Rocky Mountain Oil & Gas Association, the General Accounting Office, and the American Petroleum Institute.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Tony Bevinetto of the committee staff at 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate at 10:45 a.m. on Wednesday, July 29, to hold confirmation hearings on Charles Shuman to be Administrator of the Farm Home Administration and Harold Hunter to be Administrator of the Rural Electrification Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 30, at 2:30 p.m., to discuss the role of military power in foreign policy objectives with the Secretary of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 30, to hold an executive session for the consideration of the following nominations:

Robert F. Chapman of South Carolina to be circuit judge for the U.S. Court of Appeals for the fourth circuit.

Joseph E. Stevens, Jr., to be U.S. district judge for the eastern and western district of Missouri.

John R. Gibson to be U.S. district judge for the western district of Missouri.

D. Brook Bartlett to be U.S. district judge for the western district of Missouri.

Frank H. Conway to be a member of the Foreign Claims Settlement Commission.

John C. Bell to be U.S. attorney for the middle district of Alabama.

J. B. Sessions III, to be U.S. attorney for the southern district of Alabama.

Michael Spaan to be U.S. attorney for Alaska.

A. Melvin McDonald to be U.S. attorney for Arizona.

Joseph J. Farnan, Jr., to be U.S. attorney for Delaware.

R. Lawrence Steele, Jr., to be U.S. attorney for the northern district of Indiana.

Richard S. Cohen to be U.S. attorney for Maine.

Thomas E. Dittmeier to be U.S. attorney for the eastern district of Missouri.

James A. Rolfe to be U.S. attorney for the northern district of Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate at 9:30 on Wednesday, July 29, to hold hearings on the William Casey inquiry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 30, to hold a hearing pertaining to S. 1436, a bill imposing margin requirements on foreign investors, to be followed by a full committee mark up of S. 868, the Competitive Financing Act of 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RETIREMENT OPPORTUNITIES IN AN AGING AMERICA: COVERAGE AND BENEFIT ENTITLEMENT

● Mr. GORTON. Mr. President, during the last fifty years. Americans have witnessed major transformations of their living standards, their aspirations, and the economic and social institutions around them. As part of this process, we have witnessed the growing role that retirement income programs play as individuals, businesses and government plan for a financially sound future. Whether it be through social security, employer sponsored pension plans, personal assets or public welfare programs, everyone must decide what means to be used to deliver income during retirement years.

A major study has been published by the Employee Benefit Research Institute which focuses attention on the importance of retirement income programs. "Retirement Opportunities in an Aging America: Coverage and Benefit Entitlement" examines retirement income program coverage, participation, and vesting. The Employee Benefit Research Institute is a nonprofit education and re-

search organization dedicated to meeting the growing need for professional analysis and comprehensive, practical, objective employee benefit research.

The current administration has submitted legislation to the Congress that proposes the first major cutback in social security benefits in the program's history. There were widespread concerns that large numbers of baby boom retirees expected early in the 21st century may also require benefit cutbacks. A growing consensus exists that favors expanding the role of employer pensions and private savings in providing retirement income security. The EBRI study presents invaluable data which we as legislators should consider while reevaluating retirement income policy. Copies of the study are available from EBRI at 1920 N Street, N.W., Washington, D.C. 20036; 202–659–0670.

I ask that the executive summary of the study be printed in the RECORD:

The material follows:

EXECUTIVE SUMMARY

During the last half century, Americans have increasingly enjoyed improvements in their standards of living. Simultaneously significant transformations have taken place in economic and social institutions. As needs have changed the U.S. retirement income system has changed, directly affecting work, leisure and income patterns.

The Reagan Administration's recent proposals to modify Social Security could become the first major benefit cutbacks in the program's history. When the baby boom generation begins to retire twenty-six years from now, additional cutbacks may be necessary. A consensus is growing that employer pensions and private savings should assume an expanded role in providing retirement income security.

THE RETIREMENT INCOME SYSTEM

Chapter I of this report provides a summary description of the various retirement income components and discusses their interactive relationships. Each primary component—Social Security, employer sponsored pension plans, personal assets and public welfare programs—has different goals:

Social Security is the fundamental program offering retirement income protection to nearly all workers. For most, it is mandatory and financed through automatic payroll taxes. The program's benefit formula is structured to provide all covered workers with "a floor of protection"; thus, it favors lower income workers by providing them with a larger preretirement income replacement rate than that given to higher income workers.

As part of the overall compensation package, employers frequently offer employee pension programs. An employee's length of service and his or her earnings level are often combined factors in determining pension benefit amounts.

Throughout their lifetimes, individuals accumulate assets based on their desire and ability to provide income security for themselves and their families. Such assets offer protection at times of financial crisis. In retirement years, savings and investments contribute to income security.

A number of public welfare programs have been created to provide security to those whose retirement income needs are not satisfied by other retirement system components.

No single retirement income vehicle is able or intended to satisfy all retirement income needs and desires. Public programs attempt to satisfy social needs but cannot fulfill every individual's desires. Employer pension programs are more individually oriented, but they are unable to satisfy broadly defined social goals. Each person's financial circumstances resulting from family wealth and employment and savings patterns directly contribute to accomplishing individual retirement income stability.

There are significant interactions among the various retirement income components. Changes in one component may have countervailing effects on others; thus no one component should be evaluated in isolation. Those concerned with developing retirement income policy must consider the diverse nature and capacity inherent within each income source.

FACTORS RELATED TO PENSION ACCRUAL

Chapter II focuses on employer sponsored pension programs. Since benefit levels in most employer pension programs are based on employees' years of service and earnings, employer pensions cannot provide meaningful retirement income to all workers. Therefore, in assessing the effectiveness of employer pension coverage, a relevant workforce is defined. The relevant workforce includes nonagricultural, paid employees, over age 25, who have been in current employment more than one year, and who work more than 1,000 hours annually.

The 25/1/1,000 criteria are used because in developing the 1974 Employee Retirement Income Security Act (ERISA), the Congress determined that these were reasonable requirements for employee pension program participation eligibility. Excluded from the "relevant workforce" are self-employed and agricultural workers. The self-employed are excluded because: (1) generally these individuals are the most qualified to decide whether they should invest their savings in outside retirement income programs or in their own companies; (2) the long-term self-employed frequently accumulate business assets that provide substantial retirement security. It is documented that those who establish successful businesses are among society's most wealthy individuals.[1]

Agricultural workers are excluded from the relevant workforce because farmwork is seasonal and very few hired agricultural workers ever satisfy ERISA's 1,000-hours, one-year employment criteria. In 1979, 71 percent of the 2.6 million hired agricultural employees worked fewer than 150 days in any one job; 59 percent worked fewer than 75 days. More than 37 percent of these workers were under 20 years of age.[2]

In assessing 1979 pension coverage for those in the relevant workforce this report concludes:

More than 68 percent were employer pension program participants.

Among participants, more than 80 percent of those who had been in current employment ten or more years were vested in present employer plans.

Firm age and firm size are important indicators of economic stability; they directly relate to an employer's ability to establish a pension program. Firms with fewer than 25 workers provide jobs to only 19 percent of the relevant workforce, but they accounted for 48 percent of all jobs without pension coverage. Firms with fewer than 100 workers provided 31 percent of relevant workforce jobs but 67 percent of jobs without pension coverage.

Industry category appears to affect pension availability. For example the trade and services industries accounted for 39 percent of jobs but 58 percent of jobs without pension coverage in the private sector.

Employer characteristics such as age, salary level and employment stability affect a worker's ultimate potential to receive pension benefits. Workers earning less than $10,000 accounted for 28 percent of relevant workforce employment but 44 percent of jobs without pension coverage. Fewer tax incentives and high Social Security replacement rates contribute to this reduced pension coverage pattern for low-income workers.

Workers who were with their present employers for fewer than five years accounted for 42 percent of jobs but 58 percent of jobs without pension coverage.

TRENDS IN EXPANDING PENSION PROTECTION

Chapter III analyzes private employer pension growth through 1979. Previous analyses have frequently focused on participation rates as the relevant measure of pension expansion. The participation rate seemed to stabilize in the 1970s. Based on this experience, some have concluded that the private pension system has stopped growing. This is incorrect. Although the participation rate grew by 23 percentage points between 1950 and 1979, in absolute numbers participation increased by 263 percent.

The slowing of participation rate increases in the 1970s, occurred for several reasons. During the decade:

Female labor force participation rates increased by 7.7 percentage points. The baby boom penetration entered the workforce. These two factors led to rapid private sector employment increases. For example, in the four years between 1975 and 1979, the nonagricultural workforce grew more than it had in the ten years between 1965 and 1975. Pension programs continued to expand but not as rapidly as the overall workforce.

Employment growth between 1980 and 1985 will slow significantly. This will permit employer pension participation rates to catch up with employment levels.

ERISA initially contributed to reduced rates in new pension plan formation and increased rates in plan termination. In 1974, the year before ERISAs implementation, 55,000 net new pension plans were tax-qualified by IRS. However, in 1976 only 3,500 net new plans were created.

Concurrently Social Security employer and employee payroll taxes were rising dramatically. Social Security and employer pension plans are complementary. Thus increases in Social Security taxes and benefits may have resulted in reducing pension growth.

The private pension system appears to have recovered from the aftershock of ERISA. In 1980 more than 56,000 new pension plans were issued IRS tax qualification letters.

Declining labor force growth, the maturing of baby boom workers, and increasing rates of new plan formation, all suggest that pension participation rates will continue increasing.

PROSPECTS FOR FUTURE PENSION GROWTH

Chapter IV reviews and analyzes recent, notable forecasts for future private pension growth. The models and the modeling assumption utilized in developing these forecasts are evaluated. Weaknesses inherent in the assumptions indicated that these forecasts have underestimated potential pension growth.

The President's Commission on Pension Policy assumed there will be no increase in plan availability under current policy."[3]

This assumption is contrary to IRS plan creation data as shown in this report, Table III–9.

The Pension Commission established arbitrary pension growth limitations that were used in their industry-by-industry forecasts. The models' rapid growth projections, with the arbitrary constraints, predicated 75 percent less pension participation growth between 1979 and 1990 than the same model's projections without the arbitary constraints.

A different Pension Commission model developed pension participation forecasts on an individual worker basis. The model stipu-

Footnotes at end of article.

lated that: "Trends in plan availability are thus controlled primarily through the assumed rate of change in indexed wages." [4] In the model's actual simulation of future pension growth, "the wage rate for estimating coverage was deflected by the rate of increase in average wages." [5] Thus the Commission's forecasts postulated that pension growth was dependent on real wage growth; but they arbitrarily eliminated real wage growth in developing their final forecast, and then concluded that in the future pensions would also not grow.

Other forecasts *were* developed for the Commission which did assume real wage growth. Under current policies, this "produces an overall increase in coverage in the future." [6] This forecast's results, however, are not publicly available. The Commission's elimination of the effects of wage growth in their pension forecasts is unusual. It is especially peculiar since the Commission, itself, assumed there would be wage growth when they assessed the future impact of their own proposals for policy change.[7]

To evaluate present coverage rate implications, EBRI developed a series of simulations estimating the likelihood of future pension benefit receipt. At current coverage rates, more than 70 percent of today's young workers (aged 22) can expect to receive employer pension benefits when they retire. While these estimates may seem high, they *are* consistent with forecasts that were prepared for the Pension Commission, which showed 73 percent of current workers aged 25 to 29 can expect to receive pensions.[8]

Based on questionable assumptions and forecasts, the Pension Commission concluded:

"Commission forecasting models indicate that the proportion of the labor force covered and vested in employee pension plans is not expected to increase significantly under current policies." [9]

The Commission then went on to develop their major policy recommendations calling for the creation of a mandatory pension program. The Commission's conclusions and recommendations may have been considerably different if they had used alternative assumptions in their forecasting.

RETIREMENT POLICY ISSUES

Over the last thirty years voluntary employer pension programs have grown dramatically. In reviewing historical demographic and retirement income program development, the interactions among various retirement system components and differing employer/employee needs and resources, it is apparent that pension coverage patterns have evolved rationally. There is need for further growth, however, especially among some targeted worker groups. Chapter V addresses major policy issues that are relevant to the overall goal of expanding retirement income protection.

Many believe that future Social Security expansion is not possible. Today's principal policy concerns center on program funding and universal coverage controversies. Proposals for resolving Social Security financing problems and stabilizing employer/employee payroll taxes may result in benefit cutbacks. Such action could, in turn, place additional economic pressures on other retirement income components and on the American people—particularly employers, employees and retirees. Modifications in Social Security's benefit formula may lead to financial transfers among differing income groups or differing worker generations; or they may require that all members of society expand their individual roles in producing retirement security.

Since voluntary employer programs have demonstrated continuous growth, these programs may absorb some losses resulting from OASDI benefit reductions. Chapter V's discussion on private employer pension issues focuses on incentives for increasing voluntary retirement income provisions.

Employers and taxpayers have assumed a large role in providing the American public with retirement income security. However, these two resources are not totally responsible or able to provide everyone with desired retirement income levels. Thus, policy measures should encourage individuals to accept an increased role in preparing for their retirement security.

Many are working toward developing effective retirement income policies that are suitable to the dynamic U.S. economic and social setting. However, additional research is needed before policy alternatives can be intelligently evaluated. The final chapter discusses briefly some principal areas where research gaps exist.

It is a time of economic difficulty requiring budget austerity. An exhaustive, constructive review and reorganization of this nation's priorities is necessary. Retirement security policy changes should be coordinated and consistent with other major policy changes. Additionally policymakers must appreciate that preparing for retirement is a lifetime process. New policies must incorporate sensible transition periods so that individuals and employers can productively respond to new circumstances. Changes permitting reasonable growth within realistic time frames can allay public fears while bolstering the present retirement system's effectiveness.

FOOTNOTES

[1] Peter Diamond and Jerry Hausman, "Individual Savings Behavior," Paper prepared for the National Commission on Social Security (Washington, D.C., 1980), p. 22.

[2] Bureau of the Census, *Statistical Abstract of the United States: 1980*, Table 1241, p. 708.

[3] *Background, Analysis of the Potential Effects of Minimum Universal Pension System*, Developed by ICF Incorporated for the President's Commission on Pension Policy and the Office of Pension and Welfare Benefit Programs (Washington, D.C., 1981), p. 37.

[4] *Ibid.*, Appendix C, p. 23.

[5] *Ibid.*, Appendix C, p. 25.

[6] *Ibid.*

[7] *Ibid.*, p. 36.

[8] *Ibid.*, p. 38.

[9] The President's Commission on Pension Policy, *Coming of Age: Toward a National Retirement Income Policy* (Washington, D.C., 1981), p. 28.●

SAM ERVIN ON THE VOTING RIGHTS ACT

● Mr. HELMS. Mr. President, there has been much debate in recent months on the so-called Voting Rights Act. Our distinguished former colleague, Sam J. Ervin, Jr., has written an excellent article setting forth the constitutional objections to this legislation.

Senator Ervin is recognized as one of this Nation's foremost legal and constitutional scholars. I am grateful that he has taken the time to make this valuable contribution to the debate on the Voting Rights Act. His article ought to be read and carefully studied by every Member of the Senate and House of Representatives as well as officials in the Reagan administration. I, therefore, ask that Senator Ervin's letter to me dated July 17, 1981, and the full text of his article be printed in the RECORD.

The material follows:

SAM J. ERVIN, JR.,
MORGANTON, N.C., *July 17, 1981.*

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR JESSE: Enclosed is an article which I have prepared entitled "The Truth Respecting the Highly Praised and Constitutionally Devious Voting Rights Act."

As you know, our State and six other Southern States have been reduced to the status of second-class states with constitutional powers inferior to the other states by virtue of this arbitrary and tyrannical act.

I sincerely hope that Congress will have the good judgment to defeat the proposal to extend this act.

With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, JR.,
Former U.S. Senator.

P.S. North Carolina ought to suffer its second class status no longer.

THE TRUTH RESPECTING THE HIGHLY PRAISED AND CONSTITUTIONALLY DEVIOUS VOTING RIGHTS ACT

(Statement of Sam J. Ervin, Jr. of Morganton, N.C., a former Justice of the North Carolina Supreme Court and a former United States Senator from North Carolina, July 1981.)

THE VOTING RIGHTS ACT

Mark Twain is reputed to have expressed this admonition: Truth is precious, use it sparingly. I will ignore the admonition, and tell the truth concerning the highly praised and constitutionally devious Voting Rights Act.

The Voting Rights Act was enacted by Congress in 1965 as legislation it deemed appropriate to enforce the Fifteenth Amendment. Subsequent to 1965, Congress amended the Act in comparatively minor respects and continued it in force. It is scheduled to expire soon, however, unless Congress extends it again. Hence, the current clamor in some quarters for its extension.

I will endeavor to explain in simple language why the Voting Rights Act, which applies primarily to six Southern states in their entirety, and to 40 counties in a seventh Southern state, is repugnant to the system of government the Constitution was ordained to establish. The major provisions of the Act were originally embodied in Public Law 89–110 and are now codified in sections 1973b, 1973c, 1973e and 19731 of Title 42 of the United States Code.

In explaining the Act, I will hold to a minimum the multitude of judicial decisions which corroborate what I say in respect to the constitutional provisions and principles I cite.

THE CONSTITUTION

As William Ewart Gladstone, the British statesman, affirmed, the Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man. It delegates to the federal government enumerated powers to enable it to act as the national government for all the states and all the people. It confers upon the states or reserves to them or the people all other powers. It undertakes to ensure liberty by forbidding governmental tyranny.

The Constitution consists of words inscribed on paper. If it is to be an effective instrument of government instead of a worthless scrap of paper, two things are indispensable. The provisions of the Constitution must be permanent in meaning until they are changed by a duly adopted amendment, and the words of the Constitution must be interpreted and applied to mean what they say. (*Marbury* v. *Madison*, 1 Cranch 137, 2 L.Ed. 60; *Gibbons* v. *Ogden*, 9 Wheat 1, 6 L.Ed. 23.)

The great and wise men who framed and ratified the Constitution knew this to be true. In consequence, they inserted in Article VI, clause 3 of the Constitution this specific provision: "The Senators and Representatives * * * and the members of the several state legislatures, and all executive and judicial officers both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution."

Chief Justice John Marshall, America's greatest jurist of all time, rightly ruled in

Marbury v. Madison, 1 Cranch 137, 2 L.Ed. 60, that a Supreme Court Justice who does not conform his official action to the Constitution makes his oath to support it worse than a solemn mockery.

Before discussing the repugnancy of the Voting Rights Act to the Constitution, I deem it appropriate to make observations respecting other relevant matters.

THE 13TH, 14TH, AND 15TH AMENDMENTS

After it ratified the Thirteenth Amendment, which prohibits slavery, i.e., the forced labor and one man for another against his will, the nation undertook to confer upon the recently emancipated blacks equality of legal rights with white people. To this end, Congress enacted the Civil Rights Act of 1866, which specifies, in essence, that they are entitled to enjoy virtually the same rights as those enjoyed by white people under state laws.

Knowledgeable constitutional scholars doubted whether the Thirteenth Amendment sufficed to vest in Congress power to enact the Civil Rights Act. To remove this doubt and the possibility that a subsequent Congress might repeal it, the nation added to the Constitution the Fourteenth Amendment, which includes the equal protection clause. This clause undoubtedly gave the blacks legal equality with white people under state law by decreeing, in substance, that state laws must treat in like manner all persons in like circumstances. Subsequent decisions of the Supreme Court adjudged that the due process clause of the Fifth Amendment imposes a similar requirement on acts of Congress.

The Fourteenth Amendment also made the recently emancipated black citizens by providing that "all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the the United States and of the state wherein they reside."

To make secure to blacks possessing the qualifications prescribed by law the right to vote, the nation added to the Constitution the Fifteenth Amendment which specifies that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color, or previous condition of servitude," and which confers on Congress the power to enforce that declaration by appropriate legislation.

The Supreme Court had these constitutional and legislative actions in mind when it made this comment in the *Civil Rights Cases of 1883*, 109 U.S. 3, 27 L.Ed. 835: "When a man has emerged from slavery, and by the aid of beneficient legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of mere citizen, and ceases to be a special favorite of the laws, and when his rights, as a citizen or a man, are to be protected in the ordinary modes by which other men's rights are protected."

OBJECTIVE OF ADVOCATES OF VOTING RIGHTS ACT

The Voting Rights Act was the brainchild of impatient and zealous men who spurned this comment. They were bent on abolishing literacy tests in Southern States employing them as qualifications for voting, and thus securing to blacks residing in those states the power to vote irrespective of their ability to read and write, anything in the Constitution to the contrary notwithstanding.

To be sure, these impatient and zealous men professed that they merely desired to prevent these Southern States denying or abridging the rights of blacks residing in them to vote on account of their race or color.

If this had been their objective, there would have been no reason for them to persuade Congress to enact the Voting Rights Act.

OTHER FEDERAL LAWS

This is true because at the time of its enactment the United States Code was replete with federal statutes sufficient to prevent and punish any denial or abridgement by any of these Southern States of the right of any literate black to vote on account of his race or color.

Some of these statutes provided for the imposition of criminal penalties upon offending state or local officers. Others subjected them to liability for civil damages to the aggrieved persons. And others authorized the Department of Justice and aggrieved individuals or groups to prosecute equitable proceedings triable by federal judges sitting without juries, and to obtain in such proceedings judicial decrees compelling recalcitrant states and their officers under threat of punishment for contempt to register literate blacks and permit them to vote.

By means of these equitable proceedings, the Department of Justice or aggrieved individuals or groups could have obtained judicial decrees securing to literate blacks residing in recalcitrant areas in Southern States or subdivisions of Southern States the right to vote. They could have accomplished this purpose with dispatch because federal district judges sitting without juries or special masters appointed by them could have administered literacy tests to multitudes of blacks speedily either singly or en masse, and thereby established in short order the facts necessary to support decrees enforcing the rights of literate blacks to vote.

To be sure, the criminal prosecutions, civil actions, and equitable proceedings authorized by the federal statutes were triable in federal district courts in accordance with procedures and rules of evidence conforming to constitutional principles governing the administration of civil and criminal justice. Hence, it was incumbent upon the Department of Justice or the aggrieved individuals or groups to establish in them by credible evidence the literarcy of blacks allegedly denied the right to vote in violation of the Fifteenth Amendment.

RELUCTANCE OF ADVOCATES OF VOTING RIGHTS TO INVOKE OTHER FEDERAL LAWS

For these reasons, politically-minded Attorneys General and advocates of the Voting Rights Act were reluctant to invoke these federal laws. They found it more profitable politically to agitate for the enactment of the Voting Rights Act before the nation-wide news media and in Congress than to assume the burden of establishing the truth of their allegations against the South by constitutional procedures and rules in the judicial calm of courts of justice. Besides, advocates of the Voting Rights Act also found it financially profitable to agitate in this manner because the agitation induced benevolently-minded citizens to make contributions to the causes they espoused.

I interrogated all of the occupants of the office of Attorney General during my 20 years in the Senate in various hearings concerning the reluctance of the Department of Justice to invoke existing federal statutes to enforce the Fifteenth Amendment. They invariably gave excuses rather than justifications for the Department's reluctance. They confessed that the Department had not sought criminal prosecutions of any Southern State or local officer for allegedly denying literate blacks the right to vote during their tenures. They explained the Department's inaction in this respect by asserting that Southern juries would not convict state or local officers in such prosecutions.

Since the Department of Justice had not instituted any criminal prosecutions of this nature against Southern State or local officers during their tenures, their assertion was simply an unsupported attack upon the integrity of Southern people.

I suggested that they harbored prejudices against Southerners akin to those they professed to be desirous of eradicating from Southern minds, and reminded them that the equitable proceedings authorized by existing federal laws were triable by federal district judges without Southern juries. They then asserted that the statutes authorizing civil actions and equitable proceedings were substantially ineffective—an assertion which my long experience as a trial lawyer and trial and appellate judge disabled me to accept. I was convinced that a competent lawyer could have obtained a decree in an authorized equitable proceeding securing the right to vote to any literate black.

The assertion of the Attorney General to the contrary was disproved in a number of equitable proceedings which the Department of Justice prosecuted to successful conclusion in recalcitrant areas in Alabama, Louisiana, and Mississippi.

ILLITERACY

I digress to observe that although it is undoubtedly more prevalent in the South than it is in other regions, illiteracy is not exclusively a Southern problem, or exclusively the product of Southern discrimination against blacks in education.

The validity of this observation was revealed in a Senate hearing. Attorney General Robert F. Kennedy twitted me with the fact that the census of 1960 disclosed that my home State, North Carolina, numbered about 30 thousand illiterate blacks among the people inhabiting it. He charged that this fact, standing alone, conclusively proved that North Carolina discriminated against blacks in education.

I thereupon scrutinized the census of 1960 for myself, and discovered to my surprise and to Attorney General Kennedy's consternation that it revealed that his home state, Massachusetts, was the domicile of about 60 thousand illiterate whites. I hastened to assure Kennedy that I did not accept this fact as proof that Massachusetts discriminated against whites in education.

I also digress to express my abiding conviction that it is reprehensible for any state, or any public officer, willfully to deny or abridge the right of any qualified person of any race to vote for any reason.

THE VOTING RIGHTS ACT IS A BILL OF ATTAINDER

Article I, Section IX, Clause 3 of the Constitution expressly forbids Congress to practice what may well be described as the most contemptible of all tyrannies. It forbids Congress to pass any bill of attainder.

A bill of attainder is a legislative act which declares a person guilty of a past offense and inflicts punishment upon him for it without a judicial trial.

To constitute a bill of attainder under Article I, Section IX, Clause 3 of the Constitution, an act of Congress must have these characteristics: (1) It must apply either to named persons or to a class or group of ascertainable persons; (2) it must declare by legislative fiat that the named persons or the class or group of ascertainable persons are guilty of a past offense; and (3) it must inflict punishment on the persons named or the class or group of ascertainable persons for the offense without a judicial trial.

The Supreme Court has adjudged that various classes or groups, such as persons who supported the Confederacy during the Civil War, or members of the Communist Party, constitute ascertainable persons within the purview of bills of attainder. These adjudications compel the conclusion that legislators, executive officers, or citizens of a particular state are ascertainable persons within the purview of bills of attainder.

The punishment inflicted by a bill of attainder need not be a fine, or imprisonment, or a death sentence. It may consist of the

denial of the right to engage in a profession, trade, or business, or the deprivation or suspension of constitutional, political, or legal powers and rights.

The Voting Rights Act is clearly a bill of attainder. It applies to the states and subdivisions of states it covers, and to ascertainable classes or groups of their officers and citizens; it declares them guilty of past offenses, i.e., denying or abridging the rights of black citizens to vote in violation of the Fifteenth Amendment; and it punishes them for the alleged past offenses by the deprivation or suspension of various constitutional and political powers vested in them by the Constitution.

LITERACY TESTS AS QUALIFICATIONS FOR VOTING

The Constitution provides that electors of the United States House of Representatives "in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature" (Article I, Section II); that the presidential and vice presidential electors of each State shall be appointed "in such manner as the legislature thereof may direct" (Article II, Section II, Clause 3); and that the electors of United States Senators "in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature" (Seventeenth Amendment).

The Tenth Amendment reserves to the States the power to prescribe the qualifications for voting in state and local elections.

As the Supreme Court and State and inferior federal courts have rightly adjudged in cases past numbering, these four constitutional provisions empower a State to establish and employ literacy tests as qualifications for voting in all Federal, State and local elections within its borders.

The power of a State to prescribe qualifications for voting in all elections is subject to five narrow limitations specified by the Constitution itself. A State cannot make race (Fifteenth Amendment), sex (Nineteenth Amendment), the age of persons eighteen years or over (Twenty-sixth Amendment), or the payment of a poll or other tax (Twenty-fourth Amendment) a qualification for voting. Moreover, qualifications for voting established and employed by a State must apply in like manner to all persons of all races similarly situated (Equal Protection Clause of the Fourteenth Amendment).

INDISPENSABLE CONSTITUTIONAL PRINCIPLES

The Constitution establishes certain fundamental principles which must control the official actions of Congress, the President and the Supreme Court if the United States is to endure as a federal system of government, and the United States, the States, and the people are to be ruled by the Constitution and equal, impartial, and uniform laws conforming to that instrument. Insofar as they are presently germane, these principles are as follows:

1. As the Supreme Court so well declares in *Texas v. White*, 67 Wall. 700, 19 L.Ed. 227, "the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."

2. To this end, our system of government is based on dual sovereignties, state and federal, each of which is supreme within its own sphere. Under it, the States possess all the attributes of sovereignty, except as to the powers granted to the federal government by the Constitution, or denied to the States by that instrument. (27 *Am. Jur. 2d*, States, Territories, and Dependencies, Section 16.)

3. The Constitution consists of harmonious provisions of equal dignity. None of them may be so interpreted, applied, or enforced as to nullify or suspend any others.

4. Neither the Congress nor the President nor the Supreme Court has power to nullify or suspend any provision of the Constitution. As the Supreme Court rightly ruled in its most courageous and intelligent decision of all time. *Ex Parte Milligan*, 4 Wall, 2, 18 L.Ed. 281, "The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority."

5. Under the Constitution, the United States is a Union of political equals, and all the States stand on an equal footing in respect to the constitutional powers they possess. As the Supreme Court rightly adjudged in *Coyle v. Smith*, 221 U.S. 559, 55 L.Ed. 853, "The constitutional equality of the States is essential to the harmonious operation of the scheme upon which the Republic was organized. When that equality disappears we may remain a free people, but the Union will not be the Union of the Constitution."

6. The Fifth and Sixth Amendments as well as Articles I and III of the Constitution plainly forbid the federal government to punish any person for any offense unless his guilt is established in a fair trial in a court of justice.

7. The Constitution and federal statutes conforming to it establish appropriate sanctions to remedy or punish state or local legislative or administrative action which denies or abridges the right of United States citizens to vote on account of race or color. If the action is based on state law, the law is void, and the judiciary is empowered by Article III and the Supremacy Clause of the Constitution to so adjudge and restrain its execution. If the action is based on misconduct of state or local officials, the judiciary is empowered by federal statutes to punish or restrain the misconduct, and to enforce the right to vote by suitable rulings. The Constitution clearly forbids the Congress, the President, or the federal judiciary to undertake to remedy or punish it by nullifying or suspending the power vested by it in state or local officials to establish and employ literacy tests as qualifications for voting.

The Voting Rights Act treats with contempt all of these fundamental and indispensable constitutional principles.

THE ARTIFICIAL FORMULA OF THE VOTING RIGHTS ACT

The advocates of the Voting Rights Act were pragmatic politicians. As such, they knew that they could not induce Congress to approve its drastic provisions unless the legislation embodying them plainly exempted from its coverage virtually all sections of the nation outside the areas of the South targeted by them.

Hence, they cleverly contrived an artificial legal formula to trigger the Voting Rights Act into automatic operation without a judicial trial in the areas of the South targeted by them, and to exclude from its coverage virtually all areas of the nation outside the targeted areas.

They were able to do this by differences in voting patterns in the South and other sections. At the time of the passage of the Voting Rights Act, the Democratic Party dominated the South, while the Democratic and Republican parties had substantially equal strength in virtually all other sections. Hence, there was low registering and voting in presidential elections in the South because all federal officers except the President and all state and local officers were chosen for all practical purposes in primaries and the ultimate choice of the presidential candidate was a foregone conclusion; whereas there was high registering and voting in presidential elections in other sections of the nation because the choice of their voters for President as well as for other federal and state and local officers were determined in them.

For this reason, the advocates of the Voting Rights Act devised the artificial formula embodied in Section 1973(b) of Title 42 of the United States Code which automatically applies the major provisions of the Act to the areas in the South targeted by them and excludes virtually all other sections of the land from them.

The provisions creating the artificial formula specify that the Voting Rights Act automatically applies in any State or in any subdivision of a State (1) which the Attorney General determines employed a literacy test as a qualification for voting on November 1, 1964, and with respect to which (2) the Director of the Census determines that less than 50 percent of the persons of voting age residing in it were registered on November 1, 1964, or less than 50 percent of such persons voted in the presidential election of 1964.

These determinations are made by the Attorney General and the Director of the Census without a hearing, and are not subject to review in any court of justice. Moreover, they totally ignore the race of the persons of voting age who were registered on November 1, 1964, and the race of the persons of voting age who voted in the presidential election of 1964. As a consequence, the formula applies to any State or subdivision of any State embraced within the determinations if less than 50 percent of the persons of voting age of all races residing in it were registered on November 1, 1964, or voted in the presidential election of November, 1964, even though all its black residents of voting age were registered at the specified time and all of them voted in the specified presidential election.

Nevertheless, the fomula creates, in substance, a conclusive presumption that States or subdivisions of States embraced within the determinations denied or abridged the right of black citizens to vote on account of race or color in violation of the Fifteenth Amendment; and on that basis alone punishes such States and subdivisions of States and their officers and citizens by the deprivation or suspension of the constitutional powers and rights previously enumerated in the manner hereafter stated.

UNCONSTITUTIONALITY OF FORMULA

The formula created by the Voting Rights Act is unconstitutional as well as artificial. It violates the due process clause of the Fifth Amendment in two ways. First, the Act creates a conclusive presumption; and second, the factual determinations of the Attorney General and the Director of the Census have no rational connection with the ultimate fact presumed, i.e., that the States or subdivisions of States embraced within the determinations denied the rights of black citizens to vote on account of race or color in violation of the Fifteenth Amendment.

CONSTITUTIONAL INFIRMITIES OF THE VOTING RIGHTS ACT

As originally enacted in 1965, the Voting Rights Act condemns the areas in the South targeted by it, namely, the entire States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia, and 40 of North Carolina's 100 counties. At the same time the Act repudiates the doctrine of the constitutional equality of the States by exempting from its crucial provisions the 21 other States employing literacy tests as qualifications for voting in their entirety with the exception of the State of Alaska and about five counties in three other States. Alaska and these five counties were impaled by the formula, notwithstanding few blacks, if any, resided in them, and they had never violated the Fifteenth Amendment as to any of them.

When it subsequently amended the Act by extending its coverage on the basis of registration and voting in the presidential election of 1968, Congress continued in force the Act's original condemnation and punishment of the six Southern States and the 40 North Carolina counties. This amendment may have ensnared a few isolated counties in Northern or Western States, which, like Alaska and the five counties previously condemned, had few black residents, if any, and had never violated the Fifteenth Amendment as to any of them.

For reasons already detailed, the Voting Rights Act treats with contempt the constitutional prohibition of congressional bills of attainder, the due process clause of the Fifth Amendment, and the doctrine of the constitutional equality of the States. In addition, the Act is repugnant to the other fundamental and indispensable constitutional principles which have been previously enumerated.

The provisions of the Act, now codified as Section 1973b(a) is based on the unconstitutional assumption that the Fifteenth Amendment takes precedence over the four provisions of the Constitution plainly vesting in the States the power to employ literacy tests as qualifications for voting, and empowers Congress, a creature of the Constitution, to nullify or suspend these four provisions by an irrefutable bill of attainder. On the basis of this unconstitutional assumption, the Voting Rights Act punishes any State or subdivision condemned by its formula by the deprivation or suspension of its constitutional power to employ literacy tests as qualifications for voting, and decrees that such deprivation or suspension remains in effect until a specific federal court, i.e., the District Court of the District of Columbia, "in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that" no literacy test "has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color."

The Supreme Court ruled in *Gaston County v. United States*, 395 U.S. 285, 23 L.Ed.2d 309, that a state or subdivision condemned by the formula of the Voting Rights Act has the burden of proving in an action for a declaratory judgment under Section 1973b(a) that it has not violated that section during the prescribed period. The same decision makes it virtually impossible for a condemned Southern State or subdivision to carry this burden of proof successfully by concluding that such State or subdivision produced the illiteracy of its black citizens by prior discrimination against them in education.

The provision of the Voting Rights Act now codified as Section 1973c suspends the power of any State or political subdivision condemned by the formula to exercise its power under the Constitution of the United States or its own Constitution to make any change in its voting laws in effect on November 1, 1968, without securing in advance either (1) a ruling of the United States District Court of the District of Columbia in an action brought by it against the United States for a declaratory judgment, or (2) a ruling of the Attorney General, that the change "will not have the effect of denying or abridging the right to vote on account of race or color." This provision of the Voting Rights Act robs a condemned State or subdivision of the power to legislate in an area vital to its practical operation without the prior approval of the United States District Court of the District of Columbia or that of the Attorney General.

Even apart from the constitutional evil it does, the Voting Rights Act is grossly unfair to many of the areas of the South it condemns. While the officers in some of these areas discriminated against blacks in voting, the officers in many others administered literacy tests with impartiality as required by the Fifteenth Amendment. The Voting Rights Act condemns the recalcitrant and law-abiding States and officers in like manner, and inflicts identical punishment upon them and the areas for which they act.

The Voting Rights Act, I submit, is subject to a constitutional informity additional to those already discussed.

The Act denies each condemned State or subdivision access to any court to contest the constitutionality of its original condemnation and punishment. It vests exclusive jurisdiction of subsequent actions for declaratory decrees under Sections 1973b(a) and 1973c of Title 42 of the United States Code in the United States District Court for the District of Columbia, a court sitting in Washington, D.C., 200 miles from the capital of the nearest condemned Southern State and 1000 miles or more from some of the others. (42 U.S.C. 1973b(b)) As a consequence, a State or subdivision condemned by the Act has the herculean, if not the impossible task and expense, of presenting its case to this court by securing the appearance of witnesses essential to its exoneration at hearings conducted hundreds of miles from their places of abode. The task is aggravated by the provision of 42 U.S.C. Sec. 1973(1)(d) which denies the condemned State or subdivision subpoenas to compel the attendance of any witnesses residing more than 100 miles from Washington without the consent of the court.

I submit that the venue and rules established by the Voting Rights Act in actions for declaratory judgments under Sections 1973b(a) and 1973c deny the condemned State or subdivision a fair trial, and for that reason offend the due process clause of the Fifth Amendment, which mandates that all trials in federal district courts must be fair.

They undoubtedly disgrace the Congress of a nation whose Declaration of Independence assigned as one of the reasons for the severance of its political bonds to England that King George transported Americans "beyond seas" to try to them "for pretended offences."

THE VOTING RIGHTS ACT AND THE SUPREME COURT

Chief Justice Harland F. Stone declared that "where the courts deal, as ours do, with great public questions, the only protection against unwise decisions, and even judicial usurpation, is careful scrutiny of their action, and fearless comment upon it."

Despite its manifold arbitrary provisions and constitutional infirmities, the Supreme Court ruled in *South Carolina v. Katzenbach*, 383 U.S. 301, 15 L.Ed.2d 769, that the Voting Rights Act constitutes appropriate legislation to enforce the Fifteenth Amendment within the purview of its second section.

I have carefully scrutinized that ruling on many occasions, and will make some fearless and truthful comments upon it. The decision in *South Carolina v. Katzenbach* is as bizarre as the Voting Rights Act itself.

In the opinion underlying the decision, the Supreme Court rejects all the constitutional complaints against the Voting Rights Act by assertions which are neither constitutionally permissible nor intellectually satisfying. The assertions are quite intriguing.

The Supreme Court conceded, in essence, that the Voting Rights Act is a bill of attainder and violates the due process clause. It asserts, however, that this fact is wholly immaterial. The immateriality, the Supreme Court says, arises out of the circumstance that States of the Union are not persons in the context of the prohibition of congressional bills of attainder under Article I, Section IX, Clause 3 of the Constitution, or the due process clause of the Fifth Amendment. (383 U.S. 301, 323–324, 15 L.Ed.2d 769, 784)

Diligent research reveals no authoritative precedent supporting this assertion. To be sure, there are some cases in which courts have made careless statements that states are not persons. These are cases in which the courts were construing laws imposing liabilities and conferring legal rights on individuals and organizations under the designation of "persons" and they were merely adjudging in them that the laws did not apply to States.

The Supreme Court's assertion of the inapplicability of the constitutional prohibition of congressional bills of attainder and the due process clause to the Voting Rights Act is something which Alice In Wonderland would have described as an impossible and unbelievable thing. This is so because if it were sound law instead of a judicial aberration, it would mean that Congress, a creature of the Constitution, has the arbitrary and autocratic power under the Constitution to destroy the federal system of government ordained by the Constitution by nullifying or suspending governmental powers conferred upon, or reserved to, the States as indestructible members of an indestructible union by the Constitution without notice, hearing, or proof by passing irrefutable bills of attainder alleging that the States had been guilty of wrong-doing in exercising their governmental powers. Every syllable in the Constitution refutes this fantasy.

The assertion is incompatible with sound Supreme Court decisions defining and explaining what States are in a constitutional sense, and the plain language in which the constitutional prohibition of congressional bills of attainder and the due process clause are expressed.

Since it handed down its decision in *Chisholm v. Georgia*, 2 Dall. 419, 1 L.Ed. 440, in 1792, the Supreme Court has consistently and rightly held that a State is an artificial or corporate person which has the capacity to sue to vindicate its constitutional powers or protect its proprietary interests.

Other Supreme Court decisions consistently and rightly hold that a State is far more than a mere geographical spot on the nation's map. They adjudge that a State is a political community of free citizens; that it is composed of the people residing within its borders; that in the nature of things it necessarily acts through legislative, executive, and judicial officers, who are natural persons; and that it acts through such officers to exercise the governmental powers which it and its citizens, who are natural persons, possess in their sovereign, corporate, and collective capacities.

Article I, Section IX, Clause 3 of the Constitution declares in plain words that "no bill of attainder * * * shall be passed", and the Fifth Amendment decrees in plain words that "no person * * * shall be deprived of life, liberty, or property without due process of law."

These provisions are absolute and subject to no exceptions. Since they have no power to

amend or distort them while professing to construe them, Supreme Court Justices cannot adjudge that they do not extend their protections to States, or subdivisions of States, or their officers or citizens without converting their oaths to support the Constitution in Chief Justice Marshall's unhappy phrase into worse than solemn mockeries. And that is exactly what they did in *South Carolina* v. *Katzenbach*.

The Supreme Court declares in South Carolina v. Katzenbach that a State has no standing as a parent of its citizens to invoke the constitutional prohibition of congressional bills of attainder or the due process clause. What relevancy this declaration had I cannot imagine. South Carolina was not suing as the parent of its citizens. It was suing in its own right to protect its own constitutional powers against congressional nullification or suspension, and to protect its own right to exercise those powers in the only way it could, i.e., through its officers.

To circumvent the invalidation of the Voting Rights Act by the doctrine of the constitutional equality of the States, the Supreme Court assigns to this doctrine in *South Carolina* v. *Katzenbach* a new meaning, which is alien to the objective of the doctrine and makes it virtually impotent as a protection to States. In so doing, the Supreme Court declares that the doctrine protects a State only at the precise moment of its admission to statehood, and that thereafter Congress can reduce it to the status of a second class State with constitutional powers inferior to those of other States by passing a bill of attainder. (383 U.S. 301, 328–329, 15 L.Ed.2d 769, 787)

The assertions which the Supreme Court makes to avoid invalidating the Voting Rights Act under the due process clause of the Fifth Amendment are also intriguing, but constitutionally impermissible and intellectually unsatisfying. They are, in substance, that the due process clause permits Congress to create conclusive and irrational presumptions in all its enactments except those relating directly to criminal prosecutions (383 U.S. 301, 328–329, 330–331, 15 L. Ed. 2d 769, 788), and that the constitutional objections to the jurisdiction the Act vests in the United States District Court for the District of Columbia is without substance because Article III, Section 1 of the Constitution empowers Congress to establish inferior federal courts and to define or limit their jurisdiction (383 U.S. 301, 331, 15 L. Ed. 2d 769, 788–789). This constitutional provision does confer upon Congress power to create inferior federal courts and to define or limit their jurisdiction, but it does not authorize Congress to limit the jurisdiction of such courts or to prescribe procedures or rules of evidence which limit their exercise of such jurisdiction in ways which deny litigants a fair trial as guaranteed by the due process clause.

As interpreted and applied in *Gaston County* v. *United States*, the Voting Rights Act condemns a State of wrongdoing by a conclusive, irrational and unconstitutional presumption, and on that basis robs the State of its constitutional powers, and simultaneously establishes a rule of evidence which precludes it from afterwards resuming its constitutional powers unless it rebuts the conclusive, irrational, and unconstitutional presumption.

SUMMATION

The Voting Rights Act and *South Carolina* v. *Katzenbach* treat with contempt the undeniable truth that apart from the faithful observation of the Constitution by Congress, the President, and the Supreme Court, America has no protection against anarchy, and Americans have no protection against tyranny.

What has been said proves that the Voting Rights Act commits these linguistic mayhems on the Constitution:

1. It robs the States its irrational formula condemns of constitutional powers it permits their sister States to retain and exercise.

2. It robs the States its irrational formula condemns, and their citizens of essential protections which the Constitution makes inviolate when they are invoked by others, including those who commit treason against the United States, and those who seek to destroy the United States by violence or other unlawful means.

3. It robs the States condemned by its irrational formula of sovereignity essential to their proper functioning under the Constitution.

What has been said also reveals that the decision in *South Carolina v. Katzenbach* is repugnant to multitudes of sound Supreme Court decisions. Notable among them are the cases I have cited and the additional unanswerable ruling in *Ashton v. Cameron County Water Improvement District*, 298 U.S. 513, 531, 80 L.Ed. 1309, 1314.

The Voting Rights Act was not necessary to punish violators of the Fifteenth Amendment, or to secure to any qualified black the right to vote in any area of the nation. Other federal laws conforming to the Constitution were adequate to accomplish these beneficent purposes.

As the Supreme Court has rightly adjudged, a literacy test meeting constitutional limitations affords a State constitutional means for securing an informed electorate. (*Lassiter v. Northampton County Board of Elections*, 360 U.S. 45, 3 L.Ed.2d 1072)

Americans who cherish the belief that illiterate persons ought to be allowed to vote have a constitutional and intellectually honest way to seek the consummation of their belief. They may advocate a constitutional amendment to outlaw literacy tests.

Instead of doing this, advocates of the Voting Rights Act sought to nullify the use of literacy tests in the States targeted by them by suspending powers plainly secured to those States by the Constitution, and by converting them from indestructible members of an indestructible Union and their officers and citizens from free persons to constitutional and legal pariahs.

I do not condemn advocates of the Voting Rights Act who are justifiably ignorant of the Constitution. But I can find nothing to say in extenuation of the action of supporters of the Act who are either contemptuous of its impact upon constitutional principles and protections, or are too lazy to ascertain what its impact on such principles and protections is.

I cannot accept as a justification for the Act the claim of its advocates that it has secured the power to vote to untold thousands of blacks in the Southern States impaneled by its irrational formula. Constitutional evil cannot be condoned because those responsible for it are actuated by motives they deem righteous.

The Act has undoubtedly secured the power to vote to many illiterate blacks. The claim of its advocates that it has also secured the power to vote to all the literate blacks registered in the condemned States after its enactment is certainly overbroad and insupportable. Most of them would have been registered in the absence of the Act because discrimination against literate blacks in voting has been virtually abandoned in Georgia, North Carolina, South Carolina, and Virginia, and has substantially decreased in Alabama, Louisiana, and Mississippi.

When one seeks an explanation for the enactment of the Voting Rights Act and the adjudication that it is a constitutionally appropriate means for the enforcement of the Fifteenth Amendment, he is compelled by intellectual integrity to reach this sad conclusion: Congress enacted the Voting Rights Act and the Supreme Court approved its action because they were determined to arrogate to themselves the arbitrary and autocratic power to secure to blacks residing in the States condemned by the irrational formula the power to vote irrespective of their ability to read or write, all the provisions and principles of the Constitution to the contrary notwithstanding.

The Voting Rights Act evokes the recollection of a relevant comment Pope Julius III made to a Portugese Monk centuries ago. The Pope said: "Learn, my son, with how little wisdom the world is governed."

Congress will allow the Act to expire unless a majority of its members wish to demonstrate that their oaths to support the Constitution are worse than solemn mockeries.●

TRIBUTE TO DR. PHILIP HANDLER

● Mr. RIEGLE. In the July 20, 1981, issue of Chemical and Engineering News an interview appeared entitled "Philip Handler: A Parting Look at Science Today." Dr. Handler recently retired as president of the National Academy of Sciences after having served in that position for the past 12 years. He has been as Chemical and Engineering News points out, the vicar of science during that time.

Dr. Handler is an internationally reknown biochemist whose knowledge of science and science policy extends far beyond this field. His views have been sought by many in and outside of Government. He has contributed his technical and administrative skills to making the National Academy of Sciences and its operating arm, the National Research Council, widely respected in policy circles. His initiatives on human rights and scientific freedom have been applauded.

Mr. President, Dr. Handler will be returning to Duke University where he was on the faculty before coming to Washington. Before returning he shared his views with Mr. Michael Heylin, editor of Chemical and Engineering News on present and future issues in science and public policy. The interview covered a wide range of topics including the health of the scientific enterprise, funding for research and development, the status of technical education, Government-university relationships, weapons of mass destruction and other issues. I recommend this interview to my colleagues and ask that it be printed in the RECORD.

The interview follows:

PHILIP HANDLER: A PARTING LOOK AT SCIENCE TODAY

He has never claimed the title. But in many respects Philip Handler has been the vicar of science for the past 12 years. As president of the National Academy of Sciences and chairman of its operating arm, the National Research Council, he has played a central role in the fortunes of the scientific enterprise in this country and especially in its relationships with government—by far the largest source of research funds.

NAS is sciences's ultimate honors society—it has been dubbed the profession's college of cardinals. NRC is the government's primary source of advice on science-related matters.

Handler is now leaving. His second six-year term is over and that is the statutory limit. His successor is Frank Press, a close personal friend and former science adviser to President Carter.

On one of his last days in office Handler sat down with C&EN editor Michael Heylin to pass on his views on the state of science in the U.S. today—its strengths, its triumphs, its internal problems, and its relations with government and with society at large.

He is obviously sorry to go. There is little doubt that he has relished these past 12 years. He talks with pride of the changes that have come to NAS and to NRC in these years. At the interview he is mellow, relaxed. "Take all the time you need," he says, "the business of this institution is slipping away from me." He apologizes for the disarray in his partly cleared cuter office with its now emptied bookcases.

His views reflect, besides great hope for the practitioners of science, many of the conflicts, contrasts, and contradictions within science today. He sees the scientific enterprise as vigorous, glorious, and never more productive. He also sees it as well regarded in the eyes of government. However, he also sees it carrying on in some "disarray, disorder, and even despair" with ever increasing strains in its relationship to Washington.

He is also proud of his role in helping to force the Soviet Union to accept a direct linkage between human rights and international cooperation in science under the Helsinki accords, something that could imperil the free flow of scentific information. Yet he is also disturbed that NAS has had to cut off its program with the Soviet Academy of Sciences as the only way it could protest Soviet treatment of physicist Andrei Sakharov, a foreign associate of the academy.

Handler was not asked, and did not identify, what he considers the most critical issue facing science today. But he does state that the principal reason he regrets leaving the academy is that it will remove him from a key role in what he thinks is a vitally necessary examination by the scientific establishment of the premise that ever more sophisticated weaponry is the primary route to national survival.

A biochemist by trade, Handler came to NAS from Duke University where he had been on the faculty since 1939 and chairman of its biochemistry department for almost 20 years. He will return to Duke in a teaching role after a summer at Woods Hole, Mass., where he hopes, among other things, to find time to enjoy the boat he and his family share with the Press family.

C&EN. Maybe we can start on a positive note. You wrote recently in your last president's report to the National Academy of Sciences that U.S. science is a glorious, vigorous, flourishing enterprise; alive with excitement and fresh surprises; and never more productive than it is today. So presumably you see U.S. science today as being in a golden age.

HANDLER. That is not an unfair description. Most of use seem to spend much of our time concerned with the problems, the difficulties, the awkwardnesses, the limitations of the federal budget. If you simply look at the science itself, it is just glorious and that's the reality. To be sure there are some senior scientists who don't have as much support as they would like and we might think they merit, and there are young scientists who are apprehensive. But the great bulk of the truly competent scientists of the U.S. are busily engaged at their science, which is going like a house on fire. What more can we ask?

C&EN. Is this a continuation of a long steady growth or is it somewhat of a resurgence over the past 10 years or so? I remember a time when there were grumblings that science did not have the quality it once had—that a lot of lower-quality papers were being published. And that the proliferation was at a cost of quality.

HANDLER. Those statements could be made again today. Surely, there must be a spectrum of quality. There will be the super, the very good, the unreasonably good, and some shoddy work will slip through. That will always be true. The question is, how good is the very good? Is it leading us into new vistas, giving us new capabilities, new understandings? All the rest has to be there to underpin the very best. If the entire effort isn't all going on, the very best won't happen.

There was a depressed mood going back to the Vietnam years. I don't sense that depression in our scientific community today. I sense a struggling for funds. There must always be struggling for funds. If it stops, we will have put too much money into the system. I don't know whether the present amounts are just right; I doubt it. I am sure we could benefit by a modest-size increment in the total. But I do not sense that previous sense of the scientific community that things are bad and are going to get worse.

C&EN. Did this depression cover something like 1965 to 1975?

HANDLER. Yes, more or less—1968 to 1973–74. The general mood has improved not particularly because scientists have flourished but because of the mood of the country. Even when the President and Congress could not provide quite so much money for science as they seemed to intend to provide, the scientific community did not have the sense that the rug was being pulled out from under it. There has been a sense of having a fair shake. Starting with President Ford, each incumbent in the White House has thought that the scientific enterprise is a significant aspect of our national life that warrants strong support. That notion has gone unchallenged in the Carter and Reagan Administrations.

C&EN. I believe you have said you feel that the U.S. still has a lead in all major scientific disciplines.

HANDLER. Or we are even up, surely. I cannot think of a discipline in which we are really seriously outclassed somewhere in the world. For instance, I can't think of anywhere where the quality of general chemical research exceeds ours. The Soviets are doing pretty well in certain areas, as in electrochemistry, for example. But we are running a fair race. I don't know any area in which we are just genuinely outclassed and have a long way to go to play catch-up. If you ask scientists abroad they think we are way ahead of everybody. They think we are just years ahead of them in capability and in the drama of the science that we do.

C&EN. In general, presumably, you still have supreme faith in the "Science the Endless Frontier" concept as spelled out by Vannevar Bush after World War II. Do you feel that this idea that government funding of R&D will bring enormous benefits to society has been proven in the crucible?

HANDLER. It depends on what you really mean. Science is not the answer to all our social and economic problems. Surely not. Science is a superb handle on the future, a superb tool to give us capabilities with which to manipulate that future and to see to it that it is optimized to the extent possible. It has made possible the extraordinary strength of American agriculture, extended our lives, underlain the economy at all its growing edges. Our science has been coopted by other nations. It has gone a long way in supporting economic growth for Japan, then Taiwan, Korea, Singapore, Hong Kong, and the like.

But there is confusion and uncertainty about the national security end of things. That is a matter to which you have recently spoken and to which I have called the attention of our members. There should be a great debate into which I hope the nation will enter. We should not just dust it all under the rug and keep going. There are many serious questions that need examination and resolution before we make huge national commitments.

What is certainly true is that somewhere else on the planet there is another nation that views itself in an adversarial way with respect to the U.S. We have little choice but to maintain the strength of the R&D which upholds our own security position. But there are questions, as well you know. To return to your question, the basic concept of "Science the Endless Frontier"—that the whole country will benefit from science—is still true.

C&EN. You comment in your last report (1980) to NAS that science today is carrying on in some "disarray, disorder, and even despair." So I assume that this scientific flowering from all the more or less unplanned structures which were put into place in the 1950's and 1960's is now in some ways going to seed.

HANDLER. Only somewhat. We have major laboratories that have lost their sense of mission. There are places where people have made false starts—but there always will be. There are young people who think the system is not giving them a fair shake in science although it is at least as fair as it used to be.

C&EN. Is the frustration over finding funds?

HANDLER. Yes. This country runs a system that is unique. Our young people are given the opportunity to get off to a flying start so much earlier than anywhere else in the scientific world. This means that they grow up with less sense of shelter and protection. At the moment they are caught up in the forces of inflation and many can't find quite enough money with which to work—so they tell me when I go wandering about. I still think the opportunity for early independent research is so precious that they are far better off under our system than any kind of sheltered system.

C&EN. There is a certain amount of talk, even alarm, these days about the decline in science education in high schools, especially when it is compared with apparent gains for science education in the Soviet Union and elsewhere.

HANDLER. I am deeply, deeply troubled by it.

C&EN. You feel it is real?

HANDLER. Oh yes. This may well be the largest, most difficult single problem the country has. There are two pieces to it—the supply of tomorrow's scientific and engineering leaders and the capability of our general labor force. In our postindustrial society, the latter may be more serious than the former. For some years we have witnessed declining SAT (Scholastic Achievement Test) scores for high school students applying for college entrance.

I guess many of us were not alarmed because we thought the best, the brightest would find their way anyway. But that is not what the data say. The data say that the decline in the numbers of scores over 600 and 700 is just as serious as the decline at the mean. The distribution under that curve hasn't changed, the whole curve has sunk. Restated, that says that out there there are a significant number of bright and talented young people who, for some reason, are not working in a manner that allows us to identify them. That is very scary.

C&EN. Are the data from the Soviets real?

HANDLER. I don't believe all of them. We know what their goals are, rather than what their performance is. The statement is that last year the Soviets graduated from secondary schools 2 million youngsters who had had two years of exposure to calculus. We graduated 100,000 who had some exposure to calculus. Granted the exaggerations in such numbers, it is still very, very awkward. The problem is where did the Soviet Union find all those teachers?

C&EN. And do they really have 2 million kids who could legitimately handle calculus usefully?

HANDLER. I don't know. But we must believe they are making a very large effort. Becoming a scientist or an engineer is a much clearer pathway to upward social mobility in the Soviet Union than it is in this country. In fact, it is the only sort of committed pathway. Nothing else they can do

as they go through the school system in the Soviet Union has so much of an opportunity to guarantee what they will do later. And so it is very attractive.

C&EN. Then, at least in broad terms, these differences are real. The impact on science in this country could come quite quickly. Within the decade?

HANDLER. If you mean the leading edges of science, I hope that we will still be out front. I am more worried about the impact on the performance of technologically based industry. We will have workers who can't follow directions, analogous to the undereducated people in our military being asked to manage high-technology weapons.

C&EN. Apparently that problem already is manifesting itself.

HANDLER. If we next see it at IBM, GE, and Boeing we will be in very serious trouble.

C&EN. I assume that all this is obviously related to your thoughts on the wisdom of cutting out the NSF budget in the education area.

HANDLER. I don't know that NSF has the capability to deal with the problem. The origins of the problem in our country are multiple and difficult. They are social, economic, cultural. They have to do with the changing mood of the country at different times. The problem is not purely financial. Nor is it the adequacy of curricula. We have more than adequate curricula for the youngsters, if they would go through them. The question is how to hold their attention and their motivation, how to maintain discipline in the schools, and how to make learning itself seem like an important experience rather than something to be escaped as easily and rapidly as possible. That is very complicated.

C&EN. But NSF could have played a role.

HANDLER. Yes. The curriculum development work it did for 15 or 20 years came out very well I though and provided material that would serve as well. That it has not been adopted so widely as one could hope is one of the symptoms of the difficulty.

C&EN. Would you elaborate a little on the problems that seem to be developing in the relationship between the federal government and research universities?

HANDLER. Many of us have watched this process in a troubled frame of mind now for some years. It is a historic process which finds its origins in World War II when there were facilities in place at universities and professors available. Our government used these resources for some of the R&D for the war and thereafter the process continued. In my mind Vannevar Bush's report "Science the Endless Frontier" was the major signal. It stated the credo, but it didn't consider the necessary ground rules.

The ground rules were evolved by people who had no sense of how large this system would be. As the scale of it grew it came to be a larger and larger component of life at the universities. Then schools found themselves having a harder and harder time generally because of inflation. And they came to look increasingly toward reimbursement of 100 percent of the indirect costs. They began to manipulate the system somewhat. And that provoked response from the government which began by paying a token 5 percent indirect costs. It then paid 8 percent, then 10 percent, and so forth until it is now up to more or less 50 percent. The consequence has been a continuing increase in tension. The relationship has become less and less comfortable. To satisfy Circular A-21 professors are expected to lie since they are not going to know the information they are asked for. And life on campus is just not what it used to be.

C&EN. You quote someone as saying, "It's not fun anymore."

HANDLER. Yes. I have asked a committee of the academy to pretend it is 1950 again and we are inventing the system but with the foreknowledge that one day $5 billion per year will flow from the federal treasury to the universities. It is about $3.7 billion now. Then ask, what are the terms of the bond? How should the two relate to each other? What really is the responsibility of the federal government to see to it that universities are viable? How best to manage the payment of scientists' salaries? To what extent can we protect the working scientist from having to deal with an excessive amount of paper and regulation? The current relationship between the university and the campus is a partnership, as viewed by the more enlightened program-managing bureaucrats of Washington. But it is an adversarial relationship as viewed by the auditors on campus. What is required is to optimize these relationships.

C&EN. Who are these auditors? University personnel?

HANDLER. No. On most campuses they work for the Department of Health & Human Services. They are the resident auditors who audit the books of, say, Cornell University on behalf of the U.S. government. They audit all government accounts. Here at the academy we have three auditors in residence. They never leave us. They are from the Defense Contract Audit Agency and they have been since World War II. They rotate—perhaps every year and a half. Then they leave and the next crew comes in. Their last experience was at Lockheed or Martin Marietta or General Dynamics and they don't think we are any different!

C&EN. It is still government money.

HANDLER. Yes. I And I suppose conditioned the way highway patrolmen are—you have to give out a certain number of tickets. And if you are an auditor you have to make some disallowances. They can't make last year's disallowances because we didn't do that again. So they make new ones and so keep raising the level of irritation. That is happening on campuses all over the country.

C&EN. So you are asking for a fairly subtle administrative change?

HANDLER. Yes, it has to be subtle, psychological more than material. I don't think the universities should get away with anything. They should not get more than they are due. Indeed, I am not sure they should have all they are due; there should always be a positive university financial contribution from whatever source—private money or state money or whatever.

Our committee believes in the mission. We are asking them to write another version of "Science the Endless Frontier," but in 25 pages. What prescriptions are there? What advice can one give the government, the universities, the scientists? How can we move into tomorrow with the idea that the federal government will remain the most important single source of funds for fundamental research?

C&EN. Is this committee looking into some of the other problems—such as the pressure on universities to meet government regulations that are totally unrelated to the science function and the problem of distributing R&D funds geographically?

HANDLER. Yes. Such questions are inescapable. The committee met in April for the first time. I hope it will have a report for July 1 next year.

C&EN. You have personally expressed a lot of concern about these two other areas.

HANDLER. I consider that it isn't cricket for the federal government to use the flow of research funds as a sanction to be imposed to enforce laws and regulations that have nothing to do with research. That has made me very, very upset on several occasions. It is a very powerful weapon in the hands of the government. Universities have no staying power, they cannot tolerate a shutoff of the flow of those funds. One month and they are bankrupt. So it is just such an extraordinary weapon to be brought against them.

C&EN. But this is such broad practice today. How can you say that it shouldn't apply to science?

HANDLER. Agreed, it is the only leverage the government has. The government has no other mechanism with which to exercise control over universities but the flow of money in support of research. But the government also has created a set of social regulations—affirmative action, equal employment opportunity—it wants enforced. The weapon—the threat to cut off all research funds—is a monster compared to the problem with which it deals. That's what gets me.

C&EN. Changing the subject, you recently wrote, "We ask, may demand, that the scientific community be adequately consulted in regard to certain government appointments." Is this an old problem?

HANDLER. It is a continuing problem. The political apparatus of each new Administration wants a free hand. On our side, we have thought that people like the director of NIH, the head of the Geological Survey, the director of NSF, the head of the space agency, the head of the Parks Service, and the head of R&D for the Department of Defense (DDR&E) are the senior professional positions for scientists in government. We would be happy if their appointments rested entirely on their scientific credentials and would not necessarily change with Administrations.

With the passage of time it has become more and more clear that life isn't going to be that way. If the new President wants a new administrator of the National Oceanic & Atmospheric Administration (NOAA), for examp, he will have a new administrator of NOAA. However, I think that we must still ask that the relevant scientific community have the opportunity to vet the process—to make nominations, to screen nominees who come in through other channels, and generally assure ourselves of the competence of the candidates. Their politics need be none of our concern unless they are antithetical to the views of the relevant scientific community.

C&EN. Has this normally been done?

HANDLER. It has been spotty. For the director of NSF it is spelled out in the act.

C&EN. That is the least political of these positions.

HANDLER. Yes. The last time the post director of NIH was filled, Caspar Weinberger, who was Secretary of Health, Education & Welfare at the time, called me. I assembled a panel. We brought him five names, ranked. He took the first name.

C&EN. You can't complain about that one.

HANDLER. By tradition we always have participated in selection of the head of the Geological Survey. And James Watt, the new Secretary of the Interior, so asked us, just as did his predecessors. Again we created a small panel and gathered in hundreds of names. We delivered a list of five to Watt. From what I have read in the press, he has picked one of the people on our list. But we—the academy—weren't asked about NOAA. We weren't asked about the space agency. We weren't asked about DDR&E. We have been asked recently about the Parks Service. I don't know whether the Secretary will ask us about NIH, which has just become open again.

C&EN. Has there been a traditional involvement for DDR&E?

HANDLER. No, there has not been. Perhaps we shouldn't have a role here. Indeed, our members might even be uncomfortable with such a relationship. They may not want us to have that responsibility.

C&EN. Was it the delay in appointing the science adviser that particularly incensed you this time?

HANDLER. I don't think I was so incensed. I really was making the other point—"Friends, give up on the idea that someone who runs a billion-dollar-a-year federal agency has a professional job free of the winds of politics." We in the science community have said that before and sounded foolish to politically astute individuals.

The director of the Geological Survey runs

a show which is responsible for what the U.S. thinks it has by way of mineral resources in the ground. His job is immensely important to our national life. To think that he is a pure scientist accountable to the earth sciences community but unaccountable to the political process is silly.

C&EN. Is it fair to say that the traditional science establishment had very little role in the Keyworth appointment as science adviser to the President?

HANDLER. The way you have cast that question makes it difficult to respond. Keyworth knows he was not the first choice. He is well aware that a number of well-known people were on a list and were asked. For reasons known best to them, they declined. There came a point when the principal working parts of the White House said to those who were managing the search for a science adviser, "Now you bring us someone who will say yes, and who you think has the proper tickets." As a result of that we have Keyworth. And that may yet prove just great, it just may.

In sum, rather than individually, those well-known names who declined did the nation a disservice. The search group should not have trotted out before the White House names of people who were going to say no. That isn't the way this game should work. It just becomes embarassing. Any new Administration will become very resentful of any such process. And you can't blame them. The idea of senior scientists actually saying "no thanks" directly to the President of the U.S. is really not an acceptable way to do this.

C&EN. It doesn't help science.

HANDLER. That's right. And the nation loses in the end. The lens through which the Administration sees the science community and what it does begins to get cloudy Science looks less friendly.

C&EN. President Reagan has been almost totally nonspecific about science.

HANDLER. Yes. But if you read the "black book" and the "white book" through which the new budget was revealed you can get some idea of the Administration's thinking.

C&EN. Do you see some ominous signs there?

HANDLER. You see ominous signs. And yet you also see good language. The several statements of "this we believe" could be adopted by the science community without difficulty. Then there are the specific actions that are very troublesome—the Brutal cut in social science funding and the elimination of NSF's educational effort, the less than thoughtful handling of international science. What they did for the natural sciences at NSF and elsewhere was highly supportive. Many aspects of the Carter R&D budget stayed intact.

C&EN. You seem particularly encouraged about the Department of Defense getting more involved in university R&D. I think what you are saying is that this will help build up a new cadre of scientists who have better knowledge of DOD and its problems that, it is hoped, will remain somewhat independent in its thinking.

HANDLER. Exactly so. First, I think it healthy that scientists generally work with DOD, become acquainted with its problems, and help when they really can. Second, I have been troubled by the fact that one of the prices of the Vietnam War has been the genuine development of what President Eisenhower called the military-industrial complex—a black box into which the rest of us do not peer. In the 1950's and 1960's when the military-industrial complex was formed there was a very considerable cadre of scientists, largely those involved during World War II, who stayed on and had good insight into weapons development. The President's Science Advisory Committee was an especially useful mechanism in that regard. Then President Nixon killed PSAC.

C&EN. Was PSAC purely military?

HANDLER. By no means. When it began its business was largely military. Then it turned its attention to space. And then to many other aspects of science in government. But it always had a big military component. It saw itself as a friendly critic of the military in the White House. Its business was to be knowledgeable concerning the R&D being performed by DOD and about what the military intended to acquire and deploy. It was a knowledgeable group which could examine proposed new military technology on behalf of the President, who otherwise had nothing available to him but what would come from DOD itself—which is quite capable of putting on a snow job.

C&EN. I have been exposed to that.

HANDLER. PSAC was not antimilitary, it was a built-in screen for the President. It's gone. It does not exist today. The result is, this concept of black box could become very significant.

C&EN. While this was being done, was it favorably viewed by the science community at large?

HANDLER. Yes, before the Vietnam War, although I can't say that PSAC's role was widely known. The scientific community did its part in the cold war. It was not antimilitary. PSAC's role was to say, "Please, sir, no technical monsters—no vastly expensive acquisitions for little gain in security." They were playing on the same team as the military, but free to make an independent judgment. Today that is not so easily done. The Defense Science Board doesn't play that role inside DOD. I would wish that some such mechanism could be reconstituted. I see little chance that Keyworth will have opportunity to do so. He won't have the resources.

C&EN. Maybe not the inclination?

HANDLER. That I can't say. He has spent his life in a weapons lab. As we said there is another way in. That's to develop a significantly sized external scientific community with frequent day-to-day relationships to the military. Some will work on classified, but most on unclassified, materials. They will develop a familiarity with the military and the military's requirements, programs, and aspirations. The totality of that can constitute a sort of informal monitoring system.

C&EN. You think this can be done and they won't be coopted?

HANDLER. There is always the danger of cooption—always. It will be a matter of whistle blowing in this relationship. But whistle blowing is a danger to the whistle blower. Conversely, the word gets out and the scientific community begins to talk. So there needn't be an odd individual at risk. It will not be an organized thing.

I was very discomfited when, as a consequence of Vietnam, our entire national scientific community, except those working in the military establishment itself, was turned off against the military. In a country that has fought its wars with citizen soldiers, you can't have the scientific community thinking that somehow the entire military establishment is a great evil—and therefore let it be free to do whatever it pleases because we won't have anything to do with it. That's wrong. We don't want to lick 'em. We have to join them to make sure it comes out right.

C&EN. This thing gets so convoluted when, in one way or another, 60 percent of federal R&D is defense-related. How does this distort the whole science effort?

HANDLER. For the moment, of course, we have a primary article of faith that says our national security does, indeed, rest on the success of our scientific and technical enterprise. True or false is another matter. But that is still the first article of faith. Second, defense R&D represents a huge chunk of our R&D resources and of our pool of human talent that might be otherwise directed.

Military R&D not only commands so large a fraction of our most advanced work and financial resources, but it attracts a disproportionate fraction of the best and the brightest. Because of the very challenges, it is exciting. Military scientists do these exotic things at the advancing frontiers and have available the resources to do them.

But in the outside world we face two sets of adversaries. On the one side there is the Soviet Union where they do almost no domestic kinds of R&D—we don't worry about the Soviets in the international marketplace. But they push their military R&D. So we have to have an arrangement to match that. Meanwhile, there are Japan and West Germany, for example, doing almost no military R&D and where their best and brightest are happily designing things to sell in the American market. We are having to compete in both of these worlds. That makes it very difficult. But I don't see that we have a choice.

C&EN. Is the premise that ever more sophisticated weaponry is our only route to national survival one that the science community should in some organized way be examining?

HANDLER. That question is the principal reason I regret that I am about to leave here. I came to that conclusion this year very, very strongly. I have been much impressed, I must admit, by the writings of James Fallows (Washington correspondent for *Atlantic Monthly* and author of "National Defense" recently published by Random House). There may be major errors, but there is a strain of truth through his writings that is very compelling. That recent television program that you wrote about—the CBS series on the defense of the U.S.—was very powerful.

I began to get very itchy about these matters more than a year ago. The sense of it kept mounting with me. I had distributed the Fallows writings to the council of the academy. The point is that the question has changed. For years one would read statements to the effect that the large expenditure on our military through high-technology military weaponry was a great big ripoff of the American people. The complaint was essentially about finance—about money being taken out of the Treasury and put in this wasteful pot. Relatively recently the question has changed. It isn't so much about money, it is about how effective is national security. The first question was a political, dirty question that I didn't think was the business of the scientific community. The second question has a large technical component and is the business of the technical community. And this requires a genuine national debate.

C&EN. Doesn't much of this debate have to focus on strategic nuclear weapons?

HANDLER. Yes. Our policy on nuclear weapons is the central fact of our national life. We are very serious about that at the academy. As you know, I have appointed this committee chaired by Marvin Goldberger, president of California Institute of Technology, on international security and arms control. As we speak, a portion of the committee is in Moscow meeting with a counterpart Soviet group to ascertain whether we can agree on an agenda and engage in a regular series of discussions. The first reports are decidedly encouraging. It is not inconceivable that our talks will set the stage for bilateral governmental negotiations to which we simply must return.

C&EN. You set up this committee about a year ago?

HANDLER. Yes. The committee is a balance of hawks and doves. It is a tricky committee to put together.

C&EN. Do you think this could be a mechanism to trigger broader discussion within the scientific community?

HANDLER. The entire exercise is intended to be catalytic. We can never come to any agreement. We sign no papers. All we can do is lay a flooring, a groundwork, and let the government come in. But the discussions are private, confidential, and not themselves the stuff of which broader discussion is made.

The notion that there are 40,000 (tactical and strategic) nuclear warheads deployed by the U.S. and the Soviet Union is so mind boggling, so absurd.

C&EN. And there are programs to deploy thousands more in the next decade.

HANDLER. That siting plan for the MX (intercontinental ballistic missile) just drives me up the wall.

C&EN. It is interesting in that the MX did get quite a lot of public debate. But most of it was on the environmental aspect.

HANDLER. That's right. It was not about "do we need this weapon at all."

C&EN. What is your view?

HANDLER. I have a hard time believing that any salvo of Soviet missiles could be so successful as to render all our intercontinental ballistic missiles useless. And we have overkill by such an immense margin now. The deterrence of the current triad (intercontinental ballistic missiles, submarine-launched ballistic missiles, and bombers) is so great. I cannot imagine the Soviets trying a first strike. They know they can't get away with it.

C&EN. Yes. But the fear of such a first strike is the major rationale for the MX.

HANDLER. Yes. Do the 20,000 (strategic) warheads have to become 40,000? Is there any more security at that level? There is less. The bigger that armament gets the more jeopardy for the country, as far as I can see. As you know, I also, conversely, have the sense that we mustn't reduce back to zero. Each side ought to have a few dozen, so each can deliver an absolutely devastating blow to the other. And the other always knows it. Neither can preempt. And that would be lovely. It would also deter conventional war, I hope.

C&EN. What hope do you see of a general response from the scientific community? I know, we have tried to do some of this in C&EN. I think attitudes are changing slowly. But when you talk to chemists they generally say, "It's not chemical, it has nothing to do with my discipline."

HANDLER. That is true of every section of the scientific community. And it is true that the primary problem is political.

C&EN. Then how can the scientific community best get involved?

HANDLER. It is the monitoring process, the stepwise negotiations, the credibility of statements concerning performance of individual weapons. Each side always will be terribly nervous if it agrees to an arms cutback. Each side will want to know that it can believe the other side is doing what it has committed itself to do and that no surprises are being generated. A special role of the scientific community is being part of the monitoring machinery. Because without that, nothing will happen.

C&EN. I imagine you are somewhat alarmed by some of the things that have been said in Congress recently concerning higher funding for development of weaponry in space?

HANDLER. It is very alarming and a reason for looking at the shuttle with less than totally sympathetic eyes. Right at the moment, the whole business of weapons of this kind—particle beams and lasers—is still kind of science fiction. I am not sure about particle beams, but lasers with enough power will likely be deployed, not as weapons against ground targets, but against other satellites and perhaps as a ballistic missile defense.

C&EN. This would be a colossal undertaking.

HANDLER. The technical challenges are enormous. Yet I see little chance of not going down that trail unless we learn to negotiate arms control with the Soviets.

C&EN. Let's move on to a new topic. I know that personally you have been very involved in this matter of international relations and science. You have agonized over the need to make some significant gesture about Soviet human rights violations, on the one hand, and the desire to keep the exchange of scientific information unimpeded on the other—in other words, the use of science as a weapon, a pawn in international politics. From what I gather, you have very mixed emotions about this.

HANDLER. I do indeed. It has been very difficult. An analogy is the one we talked of earlier about the government cutting off all money for research as a sanction for violations of unrelated laws. In this instance, seeking to make it as clear as we could to the Soviet government how deeply we feel about the fate of Andrei Sakharov, we used the only kind of signal that was available to us, suspension of our small program of bilateral seminars. It is a signal I am uncomfortable about using because I really do believe that communication and cooperation in science is what it is all about. And deliberately to cut off some part of that process is intrinsically a very painful act.

It is made more complicated yet by the understanding that the very Soviet scientists with whom we are about not to communicate are really helpless in their own country. They do not make the decisions. They do not even have access to the people who do, at least so they tell us. So why bother with them, as it were? The answer is, it's a signal to those other potentially powerful people.

In 1973, the first time we ever caught wind that Sakharov was in danger, I sent a cable which essentially said, touch him and we will cancel our whole exchange program. They did not touch him. He sent me a letter in his own handwriting thanking me and assuring me that our message had had a telling effect. But it is a game you can't play every year. We have already cried wolf.

C&EN. You have played your China card.

HANDLER. This time we sent a modest signal saying these matters still concern us deeply. It hasn't done Sakharov any good that I can detect. He is still in Gorki, his circumstances deteriorating. His access to even the Soviet scientific community is declining. So one may argue that we have painted ourselves into a corner. The Soviet government will not relent and we have no excuse for reversing our decision. In the absence of any reasonable response mitigating Sakharov's circumstances we shall live with the action we have taken.

C&EN. This matter went a step further in Hamburg last year when formal linkage was achieved between human rights and scientific exchange. This was the meeting of scientists representing the 35 nations that signed the 1975 Helsinki accords on European security, cooperation, human rights, and the free flow of information and ideas.

HANDLER. The outcome of the Hamburg meeting was far more favorable than anything we thought we could gain before we went. As you know, there are statements about human rights in Basket I and Basket III of the accords whereas the statement about communication and cooperation in science is in Basket II. Since Helsinki, the Soviets have held that there was no linkage—you don't have to behave by the rules in Baskets I and III in order to reap the benefits of Basket II. We have said otherwise. At a later review in Belgrade of the accords, the Soviets would not allow a single word about human rights in the final communiqué.

C&EN. But the link that was made in Hamburg has not been changed by what is now happening in Madrid?

HANDLER. No. The Madrid review of the accords will not change this. In Hamburg, we got them to agree specifically to the fact that cooperation in science is contingent upon respect for human rights in the countries so engaged. Our State Department was amazed.

C&EN. In the long term, doesn't such direct linkage between science and human rights have its perils? Conceivably, foreign scientists may one day get somewhat disturbed about some actions of the U.S.

HANDLER. Why not? We are not exempt or immune.

C&EN. But such linkage can put restrictions on the free flow of science.

HANDLER. Well, we are part of the whole world. Scientists aren't any more special than other people. We act on behalf of scientists because they are the people we know, to whom we can relate. And other folks will have to defend the shoemakers. That's the way it is. When we sent a team to Argentina and Uruguay and it came back with tales of torture of scientists, I squirmed. If, to some extent, the great American strength in science and technology offers us leverage in trying to improve the position of scientists in other countries, I am all for it. It will exact a cost from us from time to time. Science is a human endeavor. It's about people in the end. It can't be held out there as some strange objective thing that doesn't relate to the world in which people function. It must not. It would be a terrible mistake. It would be akin to the Nazi scientists who throught they could do all those crazy experiments with people because people had lost meaning and value.

C&EN. In what state do you perceive you are leaving the academy, in terms of its stature, prestige, and role within the scientific community and the community at large?

HANDLER. Are you asking me: "Am I pleased with what I did for 12 years?"

C&EN. Yes.

HANDLER. To respond is a great arrogance, but I'll make a small try. First, I do believe that 12 years later we have utilized ourselves, or have been utilized by the government, in quite a number of instances in a positive beneficial sense—matters have come out better because we were part of them than they might have if we hadn't been involved. I think I could furnish quite a list. Two, on the Washington scene generally the institution has more presence than it had when I arrived. There is more consciousness of our potential usefulness on the part of both the executive branch and Congress. There had been only one Congressional request to the academy before I came. Now we get one per month, more or less.

C&EN. Are you now satisfied with the more organized way the academy is appointing its committees, screening its reports, and so on?

HANDLER. Yes. Surely my major undertaking was to revise the whole structure of the National Research Council (the operational arm of NAS) and how it functions. We have built in effective quality controls it never had. Also, we have built in institutionalized decision-making capability of real competence. This effort generated no inconsiderable amount of trauma inside the institution—bruised feelings, frictions, tensions. But it has also seen to it that there have been relatively few real boo-boos in the reports we have produced. The general quality of the reports surely has been decidedly superior to what would have happened otherwise. I became concerned at the prospect of persons in conflict serving on our committees long before others around here were willing even to think about it. Our screen against potential sources of bias has been very effective with but a handful of exceptions. There have been some dillies.

C&EN. Your goal has been to find bias and then either eliminate it or to introduce appropriate balance.

HANDLER. Yes. It is not that we object to bias, as such. But let us make sure the committees are balanced.

C&EN. There have not been too many storms around your ears lately, have there?

HANDLER. No. We had the big cholesterol flap. Regrettably, the press's attention went to ad hominem matters. There has yet to appear any credible evidence that the committee's conclusions were incorrect. We did not know at the time that there really was a kind of establishment dedicated to belief in low-cholesterol diets—it had become almost religious. We were naive.

The other big boo-boo, the biggest one we pulled, reflected failure of our report review system. That was our report on the Veterans Administration hospitals. There were 33 recommendations. One week after the report appeared the administrator of VA announced they were accepting 27 of them verbatim and were going to implement them starting the next week. There were five that they had to think about. And one sent them up the wall. This was to plan to close the VA hospitals. I was in China when that report was finished. On the day I got back I found on my desk the press release and a summary of the report. I read it in utter dismay.

C&EN. It was already out?

HANDLER. Yes, I had been gone for several weeks. I had never heard that this was on the 33rd recommendation. What a perfectly awful flap. If the report had merely pointed out the social, economic, and demographic problems and said that Congress has a terrible problem with which to deal, and let it go at that, nothing would have happened. But the committee also offered a solution—one that politically was utterly unacceptable. That was their mistake. Oh! Did the blood flow.●

DISCOVERING OTHER COMPANIES' OIL

● Mr. JACKSON. Mr. President, last Friday I placed a statement in the RECORD about the antitrust implications of the current wave of proposed acquisitions by major oil companies of other companies. In addition to the likely antitrust problems, I believe that many of these acquisitions represent in effect a breach of faith by the major oil companies with the American people. I am sure all Senators and the American people will recall that these companies lobbied vigorously for decontrol of oil prices and against the oil windfall profits tax. Over and over again they argued that they would use the immense increase in revenues given to them by OPEC to explore for and develop new oil and gas reserves.

In effect they asked the public to pay $1.40 per gallon on the promise that the resulting profit would be used to find new reserves. Now, however, it is clear that they are using substantial portions of these revenues to discover on the floor of the New York Stock Exchange reserves which have already been found by somebody else. Unfortunately, Mr. President, while this kind of exploration may help the individual company that obtains them, it does absolutely nothing to assure the American people that they will have more oil and gas available to meet their energy needs.

A recent article in Oil Daily discusses the rationale for what it describes as the frantic merger activity that pervades the petroleum industry. The article goes on to quote a Houston consultant as saying "it is far less expensive to buy reserves rather than attempt to develop them." I ask that the Oil Daily article be printed in the RECORD.

The article follows:

QUEST FOR RESERVES SAID ROOT OF MERGER TALK

(By Gene Wilburn)

HOUSTON.—Reserve recognition accounting has emerged as a primary factor in the frantic merger activity that pervades the petroleum industry sources say.

"It's simply a very cheap way to obtain reserves," a Houston consultant told *The Oil Daily*, "With petroleum industry stocks undervalued to the extent they are, it's far less expensive to buy reserves rather than attempt to develop them."

But others equally informed on the matter offer differing opinions. Among them:

The industry has been stymied for so long by federal regulatory restrictions that it simply required the proper governmental atmosphere to produce the wildest action of this nature in the industry's history.

The absence of professional operating personnel as chairman or president in many companies has resulted in bad decisions which now are coming home to roost.

A fear that some foreign governments may topple in the forseeable future is driving the price of foreign crude oil up and precipitating a desire to strengthen domestic assets (reserves).

At last count, at least 22 full-fledged members of the petroleum industry are actively or reportedly seeking to be acquired, to be liquidated or to acquire. Not all of these activities are "friendly," nor do they include such outside interests as Seagram, Apex Holding, DuPont, Dow, Elf Aquitane, Great Basins or Texasgulf—all of which qualify as "partial" members of the petroleum industry.

How serious is their search? Six of them alone have $23 billion in readily available cash lined up to pursue an acquisition or defend against one.

One of the imponderables in this merger activity is its effect on available cash for other commercial lendings in which the industry is perhaps the greatest single participant today.

A Chicago-based financial analyst suggested the "merger mania is due in part to the fact these companies are playing with 'funny money.' They're simply taking it out of one pocket and putting it in another."

But a Dallas petroleum investment counsellor regards the situation as a "scenario—it's like a poker game. These people have thrown a sack of money onto the table and said, in essence, 'This is what it will take—top it.' You've got to believe they'll think twice before they risk the $5 billion to $10 billion it would take to call the pot."

For certain, should all the acquisitions be finalized that are knowingly or reportedly in the mill, the complexion of the industry would be massively altered—as well as that of the *Fortune* 500. Eight of the participants are among the top 50 industrial corporations in the U.S. Six others are among the next 170.

A New York investment banker likened the situation to that of the 1960s when growth into "conglomerate" status was a way of life in the business world. "This sort of thing is cyclical," he noted, "and it has a favorable governmental atmosphere at this time."

Most sources hesitate to comment as to whether the unusual activity might hasten a test of antitrust regulations. Although the Reagan administration has indicated favoring a relaxation of past guidelines, it nonetheless has given no signal as to how much it might permit.

Most sources agree that a nonforeign, non-industry type would encounter far less federal opposition in acquiring an oil company—regardless of its size—than would another oil company.

Believed to be participants—active or not—at this stage are Aminoil, Cities Service, Coastal Corp., Conoco, Clark Oil & Refining, Dome, Damson, Diamond Shamrock, Husky, Kerr-McGee, Louisiana Land & Exploration, Marathon, Mesa, Mobil, Pennzoil, Sigmor, Standard of California, Tipperary, Triton Oil and Gas, Texaco, Tosco and the Williams Cos.

Among the unanswered questions resulting from the acquisition activity is that involving Seagram's interest in Conoco just a few short months after ridding its corporate portfolio of Texas Pacific Oil Co., in a $2.3 billion transaction.

That latter amount ranks alongside such ancillary lines of credit available to: Texaco ($5.5 billion), Marathon ($5 billion); Mobil ($5 billion); DuPont ($4 billion); Pennzoil ($2.5 billion); and Citgo ($1 billion).●

STORM OVER TOBACCO

Mr. EAGLETON. Mr. President, over the past few weeks I have put a number of statements in the RECORD concerning the tobacco program and the direction in which it is headed. Concern has been raised that the current program is impacting the ability of our tobacco to compete on the world market and that the program is facing a time when it is likely to cost the taxpayers several hundred million dollars.

It should be pointed out that there are those who are interested enough in the continuation of the program to seek an intermediate position between a total elimination of the program and the status quo. An example of this is an editorial from the July 22, 1981, News and Observer, from Raleigh, N.C. While I do not necessarily agree with all aspects of this editorial, I think it shows determination by some to objectively review this program.

Mr. President, I ask consent that this editorial, "Storm Over Tobacco," be printed in the RECORD.

The editorial follows:

STORM OVER TOBACCO

Strong opening day bidding for flue-cured tobacco on the Border Belt brought a ray of good news for the state's economy. But storm clouds have gathered over the federal tobacco program.

While farmers rejoice at the prospect of an especially profitable season, they also ought to reassess whether the federal program can continue unaltered. It may well be necessary to change the price support system to save it.

The federal tobacco program serves as a social and cultural glue, as well as an economic bond, in Eastern North Carolina. Elimination of the program would hurt the state in the short-term and cause enormous modification in the state's farm structure over the long term.

A measure to phase out the program, prepared by Sen. Howard M. Metzenbaum, D.-Ohio, ought to be defeated. Secretary of Agriculture John R. Block helped the cause when he pledged to work against the legislation. But the Reagan administration and North Carolinians in Congress should cooperate in an overhaul of the program.

Rep. Charles Rose may have provided a vehicle for such a reassessment. Saying that "if there's any excess baggage on this program we're going to throw it out in September," Rose has called on the Agriculture Department for a thorough overview of "what's

right and what's wrong" with the tobacco program.

So far, however, farmers have sought relief mostly from limits on imports of foreign tobacco. The price support system drives up the cost of American tobacco, making it less competitive with leaf from abroad. But an investigation by the International Trade Commission could backfire by exposing the program's weaknesses. The Agriculture Department reported that the program faced losses of $96 million to $161 million over the next five years because of foreign competition.

In any case, import restrictions could bring retaliation. About $2.5 billion worth of American tobacco is sold abroad. Protectionism could jeopardize much of this business.

Instead of trying to protect the program artificially, farmers and their representatives may have to look at the program itself. As Dr. Charles Pugh, an extension economist at N.C. State University, has pointed out, "There are many intermediate positions between the present tobacco program and 'no tobacco program.'" In an article in N.C. Insight, the magazine of the N.C. Center for Public Policy Research, Pugh spells out alternatives to the present price support and quota systems.

For example, price support, levels are now indexed for inflation, being pegged to the costs of farm operation and production. The N.C. Farm Bureau Federation has consistently voted against proposals to reduce the yearly increases in price support levels. But, for the greater good of the program, farmers may soon have to sacrifice substantial annual increases in price support levels.

Congress should preserve the program, but it need not be preserved exactly as it is.

THE RESOURCEFULNESS OF MICHIGAN

● Mr. RIEGLE. Mr. President, the State of Michigan is rich in beauty and resources, which, when developed properly, could benefit the entire country. I feel that we can all look to agriculture, in particular, as a means of strengthening the economic base in rural communities throughout the Nation, as well as enhancing the economy as a whole. This fact was recently pointed out in an editorial in the Detroit News on May 10, 1981. I ask that this editorial be printed in the RECORD.

The editorial follows:

THE RESOURCEFULNESS OF MICHIGAN

Lewis Cass, Michigan's second territorial governor, suggested the state motto, "If you seek a pleasant peninsula, look about you."

Despite present adversity, it's a pleasant land, and the state's hope in large measure is to be found now, as before, in the land, the woods, and the water.

Michigan began its organized economic life as a vast lumberyard—the source of 4-foot wide, clear pine boards, and Paul Bunyan legends as tall as the endless treetops.

Later the Dodges, Fords, and Durants led the state into metal fabricating, borrowing the mass-production idea from the makers of Civil War rifles, and perfecting it. Detroit became the prosperous auto capital of the world.

Today, the economic power of the auto business is declining. The industry began moving out of Michigan two decades ago, building production plants all over the world and steadily reducing the state's auto employment. Now, powerful foreign competition is causing further erosion.

If Michigan is to realize its potential, it must become less dependent on the auto industry. But how?

We have no snap answers because there really are none. Diversification? Sure. High technology? Fine. New industry? Yes, yes. But as we search for practical, long-term solutions to the state's economic troubles, we're constantly reminded of the state's remarkable resources—and the remarkable lack of enterprise and energy to properly employ those resources.

Michigan, for instance, borders on four of the Great Lakes, the largest body of fresh water on the globe. This is an important natural asset, and its worth grows as national weather patterns shift. Most of the nation is now subjected to semidrought or full-drought conditions. Only the Great Lakes Basin has an abundance of fresh water. Michigan, obviously, should use this advantage to attract water-dependent industries, like steel, food processing, papermaking, and the conversion of coal into liquid fuels.

Too, Michigan's forests and farmlands are grossly underutilized. At present 60,000 people derive their living from the forest industry, which has an economic value of $1.2 billion and a payroll of $600 million. The yield is taken from 18.8 million acres of forests, covering half of the state's land mass.

The tree growth rate is three times the present cutting rate. The yield could be tripled without damaging the ability of the trees to regenerate. And new pulping technology allows the use of lower grades of timber, including second-growth jack pine and even bark and needles. Michigan has the huge volumes of water this process requires.

Three companies are investing $830 million this year in new plants to make paper products and structural building board. They will create 3,000 new jobs, and that's just the beginning. Foresters say the industry could easily add 20,000 jobs in the next five years.

Still, there's a catch. State forests (3.8 million acres), national forests (2.5 million acres), and industrial properties (2.2 million acres) are well-managed for maximum yield.

But the 10.3 million acres held by individuals are not, and that's an enormous amount of underutilized forest.

Significantly, oil and natural gas production have overtaken iron ore as the state's chief extractive industry. In the past 10 years, oil production has tripled, and gas production has quadrupled. Some 10,000 people are employed in this $610 million industry. Even so, Michigan produces only 15 percent of its total energy needs. But future prospects are bright.

For its part, state agriculture is a study in distortion. Last year, Michigan produced 30 million bushels of soybeans—yet the state doesn't have a single facility for milling the crop into meal and oil. The beans are processed in Ohio, and then the meal is shipped back to feed Michigan cattle.

Michigan, moreover, doesn't have slaughter-house facilities to match its cattle production. The animals are shipped across the border to be processed by Canadian butchers. Conversely, the state has an excess of killing facilities for hogs, and the animals are trucked here from 500 miles away to production lines that supply 10 percent of the nation's bacon. Hog production could easily be doubled in the state, thus increasing farm income and employment.

Michigan leads the nation in the harvesting of navy beans. Strange, isn't it, that more beans are cooked in the congressional kitchens (where Michigan bean soup is a staple) than in this state. Dry beans go to Ohio in sacks and come back in cans. Michigan needs its own canneries.

Last year, the state landed a dark-bean order from Mexico that by itself increased bean planting 20 percent. Aggressive marketing could land more such contracts.

Dairy farming ranks first in Michigan agriculture. But even here, opportunity still knocks. The state produces only 25 percent of its hard cheese needs and has surplus milk to supply new cheese factories.

The farm-gate value of Michigan agricultural products is $3.3 billion. It's the state's second largest industry, providing 200,000 full-time and 400,000 seasonal jobs, plus 250,000 food-related jobs.

Michigan has more potential for agricultural growth than any other state, officials say, because it has a wide variety of crops, a good climate for farming, and an excess of unused marginal land that can be made productive with irrigation. Again, water. Michigan has it.

Governor Milliken believes an industrial renaissance can be achieved by seeking high-technology industries, and certainly the potential exists in southeastern Michigan. Two companies, one in Ann Arbor and the other in Troy, are heavily supported by federal grants to conduct research into atomic fusion and solar technology. If they succeed, they will spin off vast new production industries. The need to encourage such companies is clear.

The catalog of resources is seemingly endless. The state is on the St. Lawrence Seaway and, thereby, has access to cheap worldwide water transportation. The lower counties have good rail and air services. Cultural and recreational facilities are superlative. There are excellent universities, good community colleges, and accredited trade schools to train researchers and technologists, the middle stratum of skilled employes essential to modern industry.

The state's most important asset, however, is its people. Some nonresidents may think Michigan specializes in unskilled and overpaid assembly line automatons. But this generalization, like so many others, collapses under scrutiny.

Michiganians are masters at casting, bending, stamping, and welding metals, of making wood patterns and fine furniture. They also know how to engineer and build the infrastructure of production—the machine tools, robots, computers, conveyors, and materials-handling machinery. And Michigan people have the skills to manage production. What's needed is a better promotional effort to market these skills.

Again and again, one is struck by the wealth of Michigan's resources and the pervasive complacency that is a legacy of decades of auto industry prosperity.

The state, perhaps because of its abundance, has failed to make the most of what it has. And, historically, it has suffered from a lack of vision. But the opportunities, based on an extraordinary store of natural resources, remain.

Which means—and this is the best of all reasons for hope—our fate is ours to choose.●

FUNDING TERRORISM

● Mr. ABDNOR. Mr. President, at a time when U.S. taxpayers are suffering the ravages of protracted inflationary pressures, it is time for us to blow the whistle on misappropriation of hard-earned U.S. tax dollars by the United Nations General Assembly to support Soviet-sponsored terrorists of one kind and another in various parts of the world.

Recently, I received a letter from the Chairman of the Council of Ministers of the interim territorial Government of Namibia asking me to call to the attention of the Appropriations Committee the fact that SWAPO—South West Africa People's Organization—a Communist-bloc terrorist group based in Marxist Angola, is being financed in part by

allocations of funds from the United Nations General Assembly.

Each year the U.S. taxpayers provide 25 percent of the United Nations budget—the U.S. share this year will be approximately $600 million. Of that sum, several millions may be diverted to terrorist groups sponsored by the Kremlin and which operate as instruments of Soviet expansion on various parts of the world. Elements within SWAPO are Moscow's surrogates to take over Namibia—South West Africa—which has the largest uranium mine in the world and one-sixth of all the uranium resources in the free world. Namibia also has a deep-water port at Walvis Bay capable of use by the Soviet nuclear submarine fleet to bisect the oil lifeline from the Middle East to the NATO countries of Western Europe and to the east coast of the United States.

Because of the U.S. national security interests in not having U.S. tax dollars used by the United Nations to finance terrorists trying to drag yet another African country behind the Iron Curtain, I call the letter to the attention of my colleagues and ask that they seriously consider including a prohibition in either the continuing resolution or the appropriations bills for the U.S. Department of State and the Foreign Assistance Act on the use of U.S. tax dollars by the United Nations to finance or support any terrorist activities.

The material follows:

GOVERNMENT OF
SOUTH WEST AFRICA/NAMIBIA,
July 24, 1981.

Hon. JAMES ABDNOR,
U.S. Senate,
Senate Office Building, Washington, D.C.

DEAR SENATOR ABDNOR: On behalf of the people of Namibia and their duly elected Government, I appeal to you to call to the attention of your colleagues in the U.S. Senate the importance of helping Namibia maintain its freedom from a Soviet-sponsored takeover by the South West Africa People's Organization (better known as SWAPO), a Communist-bloc terrorist group based in Marxist Angola across our northern border and engaged in continuous attacks against the black civilian population in the northern area of Namibia. Hundreds of our defenseless men, women and children have been killed as a result of terrorist use of land mines, arson, abduction, and just plain murder in their efforts to intimidate the population into allowing SWAPO to take over our country.

Although Namibia is twice the size of California, it has a population of less than a million people, who comprise 11 major population groups, who speak 8 languages and 29 dialects. These population groups derive from tribal organizations with socio-economic and cultural differences ranging from the stone age to the most sophisticated of people. Our population is approximately 90 percent non-white, yet we are all able to work together through internally elected political partie and we are governed by an interim elected National Assembly of 50 members. The National Assembly has appointed a 12 member Council of Ministers on which each of the population groups is represented. In short, we have black majority rule by a duly elected government very much in the same manner as such U.S. territories as the Virgin Islands, Puerto Rico and Guam are permitted a large measure of local self-government.

Although we were mandated to Great Britain in 1920 by the League of Nations, when South Africa was a British colony, South Africa has assured us of our complete independence. In the meantime, South Africa is the only country in the world providing us with financial support and military support to protect our country and its people from a Soviet-bloc takeover. As you know, such countries as Angola, Mozambique and Ethiopia have been dragged behind the Russian "iron curtain", and we are predictably the next target for Russian expansionism in southern Africa.

This year the U.S. Congress will appropriate $600 million for the U.S. share (25 percent) of the United Nations budget in accordance with the provisions of the United Nations Charter signed by the U.S. as a treaty in 1945. Of that sum, the United Nations General Assembly, which in the words of the Washington Post "operates much of the time by the mob rule of the Third World in close alliance with the Communist-bloc," and is a "moral swamp" and "an institutional outrage," will allocate millions of dollars to support the SWAPO terrorists. This transfer of funds is carefully camouflaged through various types of so-called "student" programs, and other innocuous sounding "front" agencies and committees of the United Nations. However, they are all affiliated with and help finance and support the activities of SWAPO.

We would hope the U.S. Senate will include in the appropriations bills or continuing resolutions for the U.S. State Department and Foreign Assistance Act funding a prohibition against the use by U.N. of U.S. tax dollars to finance SWAPO or any other terrorists who are sponsored as surrogates by the Communist-bloc.

We have chosen free enterprise, and we admire and respect America and its great institutions. It is a symbol of hope and freedom in the world. God bless America.

Sincerely yours,

COUNCIL OF MINISTERS,
GOVERNMENT OF NAMIBIA.

PROPOSED DRAFT OF PRELIMINARY STATEMENT AND INSERTION IN CONGRESSIONAL RECORD

Mr. President, at a time when U.S. taxpayers are suffering the ravages of an inflationary economy that seems to be out of control, it is time for us to blow the whistle on misappropriation of hard earned U.S. tax dollars by the United Nations General Assembly to support Soviet-sponsored terrorists of one kind and another in various parts of the world. Recently I received a letter from the Chairman of the Council of Ministers of the interim territorial Government of Namibia asking me to call to the attention of the Appropriations Committee the fact that SWAPO (South West Africa People's Organization), a Communist-bloc terrorist group based in Marxist Angola, is being financed in part by allocations of funds by the United Nations General Assembly.

Each year the U.S. taxpayers provide 25 percent of the United Nations budget—the U.S. share this year will be approximately $600 million. Of that sum, several millions will be diverted to terrorist groups sponsored by the Kremlin and which operate as instruments of Soviet expansion in various parts of the world. SWAPO is Moscow's surrogate to take over Namibia (South West Africa), which has the largest uranium mine in the world and one-sixth of all the uranium resources in the free world, plus a deep water port at Walvis Bay capable of use by the Soviet nuclear submarine fleet to bisect the oil lifeline from the Middle East to the NATO countries of western Europe and to the east coast of the U.S.

Because of the U.S. national security interests in not having U.S. tax dollars used by the United Nations to finance terrorists trying to drag yet another African country behind the "iron curtain", I call the following letter to your attention and ask that my colleagues consider seriously including a prohibition in either the continuing resolutions or the appropriations bills for the U.S. Department of State and the Foreign Assistance Act which will prohibit the use of U.S. tax dollars by the United Nations to finance or support terrorists or any of their activities or affiliated groups.●

THE WILD RIVERS

● Mr. JACKSON. Mr. President, a controversy has developed among the people living on the Olympic Peninsula of Washington State focused on legislation calling for a study of several peninsula rivers under provisions of the Wild and Scenic Rivers Act.

Much of the controversy is the result of misleading information provided to residents of this area. So I was pleased to see the Port Angeles Daily News, a paper associated with the 1981 Pulitzer Prize winning Longview Daily News, conduct an indepth probe of the issues involved in this matter.

The paper's investigation resulted in an excellent five-part series by Mr. Tony Wishik.

To increase public awareness in the region and for the benefit of my colleagues here and in the House, I ask that the text of the articles appear at this point in the RECORD.

The articles follow:

THIS TIME HIS COUNTRY'S THE "ENEMY"

(By Tony Wishik)

Henry Vincent's recliner sits by the double picture window overlooking the stately Soleduck River. There are no other homes in sight along the banks.

Ruddy-complexioned, with close-cropped receding hair, he surveys the river.

"We're awful proud of the place," he says, with a tinge of Alabama drawl. "We've worked real hard on it."

In jeans and suspenders, work boots and work shirt, Vincent looks more the part of a farmer than a military man. But those razor blue eyes flash signs of war.

Henry Vincent, retired lieutenant colonel, spent 24 years in the Marines, National Guard and Army. He fought in three wars, earned the bronze star and the Distinguished Service Medal.

He's given a lot to his country. But this country, he says, keeps taking.

Now, it looks like it wants his land. There, Vincent draws the line. Enough.

Eleven years ago, at the age of 46, Lieutenant Colonel Vincent became Retired Lieutenant Colonel Vincent. His intent: Find a place along a stream, to hunt and fish, relish peace after a life of war.

Between two tours in Korea, the Alabama native had served at Fort Lewis; during that second stint in Korea, his wife and three children lived in Lacey.

Henry and Ludie remembered the lush western Washington countryside; they moved to Lakewood in 1970, then Beaver, and in 1972 bought an older home on five acres along the Soleduck River, a mile south of the Mora Road.

Vincent expanded and remodeled the home, running a backhoe part-time to raise a little money, hunting and fishing in between. But used to the scorching summers of Alabama, Korea, and Vietnam, Vincent found 100 inches of rain a year disconcerting.

Ludie began losing her hearing and de-

veloped arthritis; Vincent has emphysema. Doctors told both they would feel healthier in a warmer and drier climate.

Two years ago, the couple purchased a home in Bynum, Alabama, near relatives, near Fort McClellan, where Vincent can get free medical treatment and use other military facilities.

They put the house on the Soleduck up for sale. Now, Vincent says, he may never be able to sell it—to anybody but the federal government, years from now.

A bill before Congress would authorize study of the Soleduck and six other Olympic Peninsula rivers for possible inclusion in the Wild and Scenic Rivers System. Such a designation prohibits dams, limits mining and logging, calls for efforts to curb water pollution while enhancing fish habitats and recreational opportunities.

The 1968 Wild and Scenic Rivers Act also empowers the federal government to acquire private property along rivers, from willing sellers or by condemnation, and to restrict building and other activity on unacquired private property through purchased "scenic easements."

"Would you buy a house and property that could be condemned and taken by the federal government?" asks Vincent.

The Vincents are renting out their Alabama home while they try to sell the one here. They've written President Reagan, Senators Henry Jackson and Slade Gorton and Congressman Don Bonker.

"They give you real flowery replies," says Vincent.

The couple joined the Wild Rivers Conservancy Federation, a new, 1,200-member group lobbying against the study and possible wild and scenic designation of West End rivers. "We're fighting with our money on both ends—our tax dollars against the federation," says Vincent.

"Acquiring this place won't improve the looks of the river one bit," declares Vincent. "The agencies should get their duffs in the road and take care of what they've already got."

"I've spent 24 years in service to my country, and for them to turn around and do this to me . . . I have a bad taste in my mouth.

"It makes you wonder, when they can come in and do this to you, what you are fighting for."

WILD RIVERS OPPONENT FIGHTS HAIRY BATTLE

(By Tony Wishik)

Lawrence Gaydeski never had a beard before.

But then Lawrence Gaydeski is doing a lot he's never done before. He's unemployed, for one. Working full-time as a volunteer, for another. President of a new, nonprofit corporation.

His beard is getting longer. So goes it once you get into politics.

Gaydeski heads the Wild Rivers Conservancy Federation, a 1,200-member group lobbying against a Congressional bill which would study seven Olympic Peninsula rivers for possible inclusion in the Wild and Scenic Rivers System.

Rivers in the federal system are protected, with dams prohibited, mining and logging limited, fish habitats and recreational opportunities enhanced. But the Wild and Scenic Rivers Act of 1968 also authorizes the government to acquire private land along the river banks either from willing sellers or by condemnation, and to limit activity on unacquired private property through purchased "scenic easements."

Federation members, fearing their land will be taken away, vehemently oppose the study bill.

A black briefcase stuffed with documents, diagrams and dissertations, jounces on the front seat of Gaydeski's Ranger pickup. Bluecovered reports from the General Accounting Office—all critical of federal land acquisition programs—slide from side to side as Gaydeski wheels over the choppy roads of his beloved West End.

Gaydeski seems older than his 50 years, face framed by white hair and whiskers, lined from 24 years in the woods, where he worked his way from choker setter to foreman.

Ten years ago Gaydeski built a small shake mill along the river bank. Once it employed 18 workers, but now—"it's gradually worn down to just family help, due to the economic conditions."

Gaydeski grins a little sheepishly, and spews tobacco juice out the truck window. "At the present time, I'm basically unemployed."

But in March, his nephew came around, worried. He'd just been to the monthly meeting of Women in Timber, Forks chapter, where something called the Wild and Scenic Rivers bill was discussed.

"He said, 'It doesn't look very good to me,' " Gaydeski relates.

The next day Gaydeski visited the Forks Library. The bill didn't look so hot to him, either.

Gaydeski contacted Friends of Lake Crescent, a group of Olympic National Park inholders fighting federal control of their land. They referred him to Californian Charles Cushman.

Gaydeski and four friends put up the $500 to fly Cushman to the Peninsula. His descriptions of previous federal land acquisition attempts heightened local fears.

Since then, Gaydeski has attended more than 50 meetings statewide as spokesman for the federation.

The beard is an outgrowth of that, so to speak.

"I went on this camping trip with my buddies—you know, hunting and that," Gaydeski says. "We got to talkin' about who could grow the best beard and who could keep it the longest.

"We made this gentleman's bet, see, as a joke. And then I started meeting a lot of people—Congressmen and the press and all—and they knew me by the beard.

"I got to thinkin', if I shave this thing off, nobody's going to recognize me.

"Well, one by one the other guys shaved theirs off. I won the bet, but I haven't shaved yet."

If that bill dies in Congress, though, look for a wild and scenic celebration in Forks, led by an unemployed shake mill operator—newly clean-shaven.

RIVER FOLK SKEPTICAL OF SOOTHING FEDERAL WORDS

(By Tony Wishik)

For 1,200 riverbank landowners, the issue is simple: No land-grabbing bureaucrats are going to steal private West End property in the name of protecting rivers.

The federal government's answer is this: No land ever has been condemned along the eight Pacific Northwest rivers now in the Wild and Scenic Rivers system.

The landowners don't want their land taken away; the federal government doesn't want to take it. Case closed.

Wrong.

Look at Lake Crescent, say the landowners, where land has been condemned to provide scenic easements for the national park. Look at the whole Olympic National Park, for that matter.

Look at some rivers already in the Wild and Scenic Rivers System, the landowners say, where virtually all the private property along the banks HAS become federal land, purchased from "willing sellers" who some say were duped, bought off or threatened.

Look at the reports, say the landowners, from the General Accounting Office, the federal watchdog agency, reports titled "Federal Protection and Preservation of Wild and Scenic Rivers is Slow and Costly," "The Federal Drive to Acquire Private Lands Should Be Reassessed," and "Lands In The Lake Chelan National Recreation Area Should Be Returned To Private Ownership."

Look, say the landowners, at this insidious campaign to steal from Americans the most basic of American freedoms: Life, liberty and the pursuit of happiness . . . on one's own land.

Hogwash and balderdash, say the feds. Bull, baloney and bombast. Absolute poppycock. Hooey.

The proposal, they say, aboveboard and reasonable. Only one section of one of the seven Olympic Peninsula rivers listed in the bill now before Congress would be included immediately in the Wild and Scenic Rivers system. All the others would be studed for possible inclusion, Studied. What's wrong with a study?

And even if the 226 miles of the Hoh, Quillayute, Soleduck, Bogachiel, Calawah, Humptulips and the rest of the Dosewallips were designated Wild and Scenic, that would not automatically mean acquisition of any private property along the banks.

The Wild and Scenic Rivers Act of 1968 is not a land-grab bill, the feds say. It is a rivers protection bill; everybody wants our rivers protected . . . Don't we?

There are 51 rivers nationwide now under the Wild and Scenic Act. According to new federal guidelines reinterpreting the law, released just this spring, the act prohibits dams, limits mining and sometimes logging, includes the rivers in the national wildlife refuge system, calls for efforts to reduce water pollution while enhancing fish habitats and recreational opportunities, and authorizes management plans to further protect the rivers.

The act also empowers the federal government to acquire private property along the river banks, from willing sellers or by condemnation, and to restrict building and other activity on unacquired private property through the use of purchased "scenic easements."

And there's the rub, according to the Wild Rivers Conservancy Federation, a four-month-old, 1,200-member (and growing) group formed to lobby against the study and possible wild and scenic designation of area rivers.

"We have no argument with banning dams on streams," says Lawrence Gaydeski, president of the conservancy group. "And a fish enhancement program? We wouldn't argue with that either.

"But this thing is written so broadly; it's what they could do that bothers us. They could take most of the private propetry on these rivers, and put scenic easements on the rest that make it so restrictive the people couldn't live with it."

Federal officials admit that land condemnation is one "management alternative" of the Wild and Scenic Rivers System. And a 1978 Government Accounting Office report contends that the government has employed "only one strategy to control development along these rivers—the acquisition of land . . ."

At the time of the report, the government administered 15 wild and scenic rivers, and had acquired or designated for acquisition more than 126,000 acres, "almost all the private land located along the . . . rivers."

The report states the federal government has overstepped the intent of the original bill, failed to cooperate with state and local governments in controlling river development, ignored zoning and other local land use controls, and wasted millions on unnecessary land purchases.

On one Wisconsin river, the National Park Service was instructed to limit land acquisition to 1,000 acres; by 1978 it had purchased more than 21,000 acres.

"There have been one or two rivers where things were a little overzealous," says Kelly Cash, Northwest branch chief for the National Park Service. "But those days are behind us. The trend is away from land purchase, even if you've got a willing seller."

John Haubert, outdoor recreation planner for the National Park Service in Washington, D.C., is the man who would compile much of the Peninsula rivers study if it is authorized by Congress. The park service currently is "taking a hard look at other ways of resource protection," alternatives to land acquisition.

"The pattern of the past is not the approach favored by the current administration," says Haubert, citing the moratorium on federal land purchase implemented by James Watt, new Secretary of the Interior, the department which includes the National Park Service.

According to Haubert, the Carter administration had projected $400 million in the 1982 fiscal year for federal land purchase, with an undetermined amount to go to the Wild and Scenic River System. But the Reagan administration and Congress have cut that figure to $45 million, with no specific allocation for riverland purchase.

West End residents concur that the current political climate supports their position. But they fear political change.

Haubert disagrees.

"The attitude of the general public is that there has been over-acquisition by the government, that private individuals should not give up their land so other people can play," he says.

Haubert also contends the Wild and Scenic Rivers Act severely restricts federal land purchase. The law establishes a river "corridor," an average depth of half a mile on each bank, within which only 100 acres a mile may be acquired, with scenic easements on the rest.

Furthermore, the act states the government cannot acquire more land if 50 percent of the river bank is already public property. Federal officials contend condemnation along the West End rivers would be disallowed by the regulation.

But the conservancy federation disputes that, citing the law's definition of "river": "A flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills and small lakes."

"If they went into all the tributaries, taking half a mile on each side, they could lock up all the drainage in the West End," claims the conservancy group's Gaydeski.

Federal officials assert that the West End concerns are exaggerated. They repeatedly emphasize that but for an eight-mile segment of the Dosewallips River which is in Olympic National Forest and along which there is virtually no private land, the bill before Congress is just for a study. A study which will take years, and include dozens of public hearings.

Except for a moratorium on developments actually in the river (dams, and possibly boat docks), there would be no restrictions during the study period, according to Haubert.

All the assurances, however, do not allay West End fears.

"A lot of people think we're hysterical fanatics out here, but we're not," says Gaydeski. "We're a group of people who see a threat to our homes and lifestyles—and we're fighting it the best way we know how."

Wild River Foes See Bill As Deep, Dark Conspiracy

(By Tony Wishik)

The Conspiracy Theory goes like this: A bunch of wealthy environmentalists ("land-grabbers") got together with a bunch of authoritarian bureaucrats ("land-grabbers") and decided to snatch some more of the Olympic Peninsula for the government, eventually for Olympic National Park.

These insidious outsiders dreamed up a Congressional bill which would study seven Olympic Peninsula rivers for possible inclusion in the Wild and Scenic Rivers System, the first step toward wild and scenic designation.

Then the thievery would begin: Condemnation proceedings by the federal government to acquire or at least limit activity on private land along the 226 miles of river.

These conspirators, so the theory goes, duped Washington's two senators and Olympic Peninsula representative into sponsoring such legislation, all in the name of enhancing fisheries and prohibiting dams. Now the little people, and landowner victims, must stand up and fight.

That theory is all wet, bunk, pure and simple, according to the legislators sponsoring the bill; the National Park Service, which would perform the river studies; and the environmentalists and outdoorsmen who initially promoted the law.

"It is an attempt to scare people and get them all confused," said Sen. Henry Jackson, D-Wash., co-sponsor of the bill in the Senate. "It's plain dishonest."

But Conspiracy Theory believers are many, including the 1,200 members of the Wild Rivers Conservancy Federation, a new nonprofit corporation formed to lobby against the study bill and possible wild and scenic designation of Olympic Peninsula rivers.

Most federation members own land along the Hoh, Quillayute, Soleduck, Bogachiel, Calawah, Dosewallips and Humptulips. They fear their homes will be taken away.

Those fears are grossly exaggerated, according to federal officials, who cite the fact that no land along Pacific Northwest rivers ever has been acquired through condemnation.

"I'm not about to push something people don't want but I don't know how anyone can object to a study," Jackson said. "Before the rivers could be included (in the Wild and Scenic Rivers System) there would have to be hearings held and we would have to come back to Congress (with a bill actually designating rivers wild and scenic).

The truth, legislators say, is that the impetus for the bill came from area environmental and fishing groups and Indian tribes, with the Olympic Peninsula rivers selected for study from a list compiled by the recently disbanded Heritage Conservation and Recreation Service, now part of the National Park Service.

From that federal list, the Sierra Club proposed a smaller list of Pacific Northwest rivers which "merited study," according to Jim Blomquist, northwest representative in the Sierra Club regional office in Seattle.

"We suggested the bill to (area) congressmen and senators," Blomquist said. "After all, the support of local congressmen and senators is key to passage."

Local Lobby Effort May Kill Wild Rivers Bill

(By Tony Wishik)

The lobbying effort against the Wild and Scenic Rivers bill is working. Chances are the prosposal never will become law, and it may never even be considered by Congress.

The Wild Rivers Conservancy Federation, a new West End group, has joined timber interests, utilities, county governments, some sportsmen and others, strenuously opposing the possible wild and scenic designation of seven area rivers.

Such a designation prohibits dams, limits mining and logging, calls for efforts to curb water pollution while enhancing fish habitats and recreational opportunities.

But the 1968 Wild and Scenic Rivers Act also empowers the federal government to acquire private property along rivers, from willing sellers or by condemnation, and to restrict building and other activity on unacquired private property through purchased "scenic easements."

The bill's opponents fear loss of their homes.

In April, conservancy federation members met with Don Bonker, D-3rd Dist., who agreed to remove his co-sponsorship of the bill and promised it would not pass the House without his support.

The group met in May with Sen. Slade Gorton, R-Wash., co-sponsor of the Senate bill with Sen. Henry Jackson, D-Wash. Federation members described the Gorton session as productive though non-commital. But Gorton has prepared an amendment, announced last week, which would prohibit consideration of land condemnation in studies of area rivers.

Gorton said the federation "definitely affected my thinking."

"They were eloquent and concerned about their property and future. They carried on the dialogue in a dignified and rational manner."

Several environmental groups backing the legislation support the Gorton amendment, hoping the elimination of land acquisition measures will improve the opportunity for passage.

But Gorton said it is extremely doubtful the legislation ever will come up for hearings before the Senate Energy and Natural Resources Committee. And Jackson, a member of that committee, said he will not seek hearings unless they also are scheduled in the House.

Those hearings, before the Public Lands Subcommittee of the House Interior Committee, will not be set until next year, if at all, according to Jim Van Nostrand, Bonker's legislative assistant.

Van Nostrand said Bonker withdrew his sponsorship during the "normal legislative process" on the bill.

"One of the steps is to give people an opportunity to react," Van Nostrand said. "They reacted and he (Bonker) responded accordingly."

Jackson, however, plans to continue his sponsorship of the bill.

"I don't cut and run," he said.

Troubled Waters at the Banks of the Hoh

(By Tony Wishik)

Elizabeth Barlow once figured she'd frame the new art studio with weathered timber from the tumbledown barn.

Bowed from half a century of West End wind, rain, and powderpost bettles, the aged walls struggle to stand upright—bowed by cattle hooves and heavy hay bales.

But Elizabeth Barlow did not level the barn, hewn by her daddy on the family homestead along the Lower Hoh. New-cut unseasoned cedar sheaths the studio.

"That barn's been here almost long as I have," says Mrs. Barlow. "I don't want to see it come down."

So the barn stays, though the 30 head of cattle roam free. The cattle; the dogs; the slug-hunting ducks; the "attack cat" named Velcro, ("he sticks like glue"), who guards the Barlows sprawling white clapboard house; and the eagle perched in the eagle tree, down by the river.

About the only thing that's got a fence around it is Charley's strawberry patch. The river corrals the rest.

Corrals, feeds, feuds with the land. Over the last 25 years, the Hoh has stolen 10 acres of choice farm land from the lower 40. Taken the top soil and left gravel in trade.

"The river giveth," says Elizabeth Barlow, "and the river taketh away."

And that's okay. But the federal government, now that's another story.

The federal government's got no rights,

like a river. Those Washington fatcats got no right to take the Barlows' land.

They tried it once before, back in the 30's. Said it was for the Public Works Administration; tried to take 4 acres including the house, right up to Fossil Creek, where it splits the farm in half.

Would have left the barn, on the far side of the creek.

But the feds didn't count on running up against Lena Fletcher, Elizabeth's mom. Lena Fletcher, daughter of John Huelsdonk, the legendary Iron Man of the Hoh.

Lena and Fred Fletcher stormed the federal courts in Seattle, vanquished the bureaucrats and eventually recouped their court costs—through a special Congressional bill 15 years after the fact.

"After that," says Mrs. Barlow, "we felt secure."

But now, the feds are at it again.

The Barlows despair that the Wild and Scenic Rivers Act, a 1968 rivers protection law, will be used to seize their land. A bill now before Congress would authorize study of several Olympic Peninsula rivers—including the Hoh—for inclusion in the Wild and Scenic Rivers System.

Along designated rivers, dams are prohibited, mining and other industries are limited, water pollution is curbed and fish habitats and recreational opportunities are enhanced.

The government is empowered to acquire land along rivers in the system, and to limit construction and other activity on private river property through the use of "scenic easements."

The Barlows and more than 1,000 other Peninsula residents recently formed the Wild Rivers Conservancy Federation, a non-profit corporation lobbying to stop the study and possible wild and scenic designation of area rivers.

Virtually all the federation members live along the Hoh, Quillayute, Soleduck, Bogachiel, Calawah, Dosewallips and Humptulips.

"To take action like this, under the pretext of improving the fish runs, is a travesty," says Mrs. Barlow. "There is nothing federal ownership will do to improve the fish runs."

The Barlows argue that federal and state ownership actually hurts some land because not enough funds are available to maintain it.

"The park road (beyond the Barlows property) washed out in February and they have no money to fix it or even put in a turnaround," says Mr. Barlow. "People have to back out half a mile, right past our place."

Solid, ruddy, silver-haired ("It's really mousy gray"), eyes piercing from a squint, Elizabeth Barlow stores history around her. The fossils she unearthed as a child are imbedded in the massive stone fireplace of the living room. A mastodon tooth glares from a glass case. The barn still stands.

Pallet-knife oils chronicle her life: parents, a portrait of herself at six months, Miss Muff, a favorite cat, a niece holding a goose, scenic views of mountains and coastline.

For most all her 60 years Elizabeth Barlow has lived along the Hoh, except for a stint at the University of Washington to earn a botany degree.

"They used to ask my daddy, 'Have you lived here all your life?" And he'd say, 'Not yet.' Well, I'm not finished yet, either. I'm going to keep on keepin on."

The Barlows intend to deed the homestead to their children and grandchildren some day; subdividing the property for development is out of the question, they say.

"We've been better stewards of our environment than the city people who come out here and litter," Mrs. Barlow says. "But they have the votes, and they think everywhere should be a public playground except where they live.

"We never have refused access to any fishermen and we never will—as long as they behave themselves.

"City folk? They just want to be out here in good weather. It takes a special kind of person to live out here year round—you either rot or grow moss."

Mrs. Barlow walks down past the art studio, where hangs her latest oil, a portrait of cousin Henry as a child. The painting garnered first place at Forks Fourth of July.

She approaches the towering eagle tree, a spruce anchor for cables clutching half a dozen smaller trees dangled above the eroding river.

There is no sign of the eagle.

"He's usually sitting there," she says, a little wistfully. "He doesn't have his nest there—fortunately. If he did, they'd call us an eagle sanctuary and kick us off our land for that."

She strides on to the river—"Watch your step, this is a farm"—to the cliff overlooking the rocky bed of the Hoh. Now the river is a hundred yards away; during the winter and spring it laps the banks beneath her.

In farmer's cap and coveralls, Charley Barlow approaches. For 20 years he scaled logs for the Department of Natural Resources. Now he raises a little hay, few head of cattle, and the garden.

Charley extends a palm full of fresh-picked strawberries. Pockets his hands, eyes hidden behind tinted glasses.

"We know we can't do anything about what the river's done to us," he says, quiet. "But we hope we can do something about what the government's trying to do to us."

The Barlows turn away from the Hoh, back toward the house.

"The river has a mind of its own, "Elizabeth Barlow says. "You don't deal with it; you just pray a lot.

"But the government? I tell myself we'll fight. If you holler loud enough and long enough, you'll get the attention. They can't do this to us."

HATED WILD RIVERS BILL HAS ITS FANS, TOO

(By Tony Wishnik)

While many Olympic Peninsula residents vehemently oppose the Wild and Scenic Rivers bill, the measure now before Congress also sports many proponents.

Several nationwide environmental groups support the proposal to study seven area rivers for possible inclusion in the federal rivers protection system, and local environmental organizations also back the law.

Some sportsmen advance it as a means of enhancing fish runs. Local outdoorsmen groups, however, have not issued approval because of the possibility of federal land acquisition along the river banks.

The law would authorize a study of seven Olympic Peninsula rivers for possible inclusion in the Wild and Scenic Rivers System.

The Wild and Scenic Rivers Act of 1968 protects rivers which have special scenic, recreational, geologic, historic, cultural or fish and wildlife characteristics.

There are 51 rivers nationwide now under the Wild and Scenic Act.

The Sierra Club, a nationwide environmental organization with regional offices in Seattle, helped select the rivers included in the study proposal.

"These rivers should be studied—that's the first step," says Jim Blomquist, northwest representative for the Sierra Club. "The Northwest Power Bill gives incentives to local utilities for construction of dams on small, local rivers. That means we may see more dams constructed than in the past and we may want to say that we don't want some rivers dammed. There is no other way, besides this (Wild and Scenic Rivers) bill, to protect from dams."

Blomquist also contends wild and scenic designation would stop the general decline of fish runs on the Peninsula and prevent erosion of other natural resources.

"It puts a federal agency in charge of dealing with each river in a comprehensive way, something we don't have now," he says.

Other groups behind the bill include the Washington Environmental Council, Friends of the Earth, the Washington State Sportsmen's Council, and Peninsula groups Save the Resources, the Hood Canal Environmental Council and Olympic Park Associates.

Tim McNulty, vice president of Olympic Park Associates and a member of Save the Resources, lives on the Little Quilcene River in Jefferson County, not far from the Duckabush, where Mason County proposes to build a 300-foot-high dam. He wants to ensure similar projects aren't constructed on other Peninsula rivers.

"We've got to decide which rivers to set aside for fish runs and recreational use or we'll lose them all," argues McNulty.

McNulty admits he can "see how people living on the rivers would be uncomfortable" about the proposal. But he believes the possibility of federal land condemnation has been misunderstood and exaggerated. He cites the fact that no land along wild and scenic rivers in the Pacific Northwest has been acquired through condemnation, although there have been condemnations for "scenic easements."

Blomquist says that many federal condemnations along rivers have been to obtain public access, and that because there already is public access to most Olympic Peninsula rivers, easements condemnation would be unnecessary.

"Would this really affect the people living along the river?" Blomquist asks, answering "Just very minimally, much more minimally than they are charging."

But local sportsmen have muzzled their support because of the land acquisition provision.

"We're in favor of the concept but we're opposed to the bill unless conditions are changed, unless private property is kept in private hands," says Mel Black, president of Olympic Outdoor Sportsmen.

Greg Ariss, president of the Forps chapter of Trout Unlimited, said his goup is "sittin' on the fence—we do want to protect streams and the environment but we don't want to see homes taken away."

And the West End Sportsmen's Club recently issued a formal opposition statement that "protection of fish runs in our rivers must be coordinated with a . . . development plan for our forests and their harvesting, as this is currently the basis of our local economy . . ."

Most environmentalists and sportsmen sanction an amendment proposed by Sen. Slade Gorton, cosponsor of the bill in the Senate, which would preclude consideration of land acquisition.

"We are mainly concerned with rapidly declining fish runs," says McNulty. "We don't want people to lose their homes."

Blomquist says that "the general idea of Gorton's amendment is totally consistent with what we'd like to see happen, and with what the bill calls for. The bill is not designed to deal with single-family homes but with major changes, like a big housing development."

In sportsman Black's opinion, "all sportsmen would be in favor of the bill if you make that change."

THE 1981 FARM BILL—WITHOUT AMENDMENT—DESERVES SUPPORT

● Mr. HELMS. Mr. President, the farmers of America are coming forward with endorsements of S. 884, the Agriculture and Food Act of 1981, as reported by the Senate Agriculture Committee. Despite

the fact that there are many who truly feel that even higher price support levels are necessary, America's farmers are being reasonable and responsible. They are endorsing the committee bill as the best possible measure under current budgetary restraints.

They also emphasize, Mr. President, that they are opposed to any amendments which would weaken or divide support for the committee bill.

I have received a number of letters to this effect from individual organizations and from the National Farm Coalition, which represents several national and regional farm organizations. It is important to understand the context of these endorsements.

During hearings on the 1981 farm bill many witnesses testified in support of higher price support levels than what the committee ultimately adopted. On the other hand, it is anticipated that amendments will be offered on the Senate floor which will strike or drastically cut back programs for one or several commodities.

In short, there is pressure for both higher and lower support levels than adopted by the committee. This is further evidence that the committee bill is a good middle ground, balancing the interests of producers and consumers in a way which meets the test of the budget.

These farm organizations endorsing S. 884 realize that the committee version is a carefully crafted compromise. Every element is important to the whole.

As the National Grange wrote:

> We believe it is in the best interest of all agricultural producers and consumers to support the bill as reported by the Committee. . . . We therefore urge you to vote "yes" on S. 884, and "no" on all amendments not acceptable to the bill's floor manager.

The National Farm Coalition put it this way:

> We urge your support of the bill approved by the Committee on Agriculture, Nutrition, and Forestry as the absolute minimum necessary to maintain the agricultural economy of the nation and to meet the needs of producers and consumers. We further urge your opposition to any weakening amendments to the Committee's bill when it is considered by the Senate.

These organizations are to be commended for their leadership and service to their members. Such unity and cooperation is critical to forging an improved farm policy. Cost-effective farm programs, as developed in the committee bill, will serve the farmer, the consumer, and the taxpayer well.

Mr. President, not only is this measure worthy of support by the full Senate, it is very timely. I hope it will be considered expeditiously, and without the risk of a host of amendments which could confuse and delay its enactment.

The unique problems confronted by many farmers underscore the significance of this question. For instance, wheat farmers in particular have a tremendous stake in a clean farm bill handled without delay.

Now, my State is not a particularly important wheat producing State, but as chairman of the Committee on Agriculture, Nutrition, and Forestry, I feel an obligation and duty to do the very best for wheat farmers who reside in the many wheat States across the Nation. A healthy wheat economy depends upon our producing a clean bill expeditiously.

During the month of September and in early October, wheat farmers in Texas and the high plains will be making plans and seeding their 1982 crop. It is important to these farmers that the legislation be finalized as soon as possible, so that producers may plan and plant accordingly.

The American farmer deals with many risks and uncertainties, such as insect pests, crop diseases, and the vagaries of nature. Most of these factors are beyond our control. But what we can and should control are the man-made factors, such as Government farm programs.

Without the certainty of just what the farm programs will comprise, farmers will lose the advantage of predictability provided to them by such legislation in the first place.

With added uncertainty and unpredictability, many farmers may decide to increase their plantings, as that may be the only way many could insure adequate cash flow to sustain their operations. Of course, an unusual amount of production thus encouraged, could have a depressing effect on farm prices which would serve to further exacerbate farmers economic problems. If that were to happen, it is not unlikely that additional budget exposure would result, as well as the problems of increased soil erosion.

In short, Mr. President, to lessen the uncertainty during this critical planting season, it is important that the Senate enact this legislation as soon as practicable. Of course, with fewer amendments we will be able to expedite passage of this measure. Having farm legislation in place as early as possible would reduce unnecessary costs and adjustments for both the producer and the taxpayer.

The general public should come to understand that farm programs are not unfair subsidies or Government giveaways. Such programs, as in the committee bill, are designed to minimize cost to the U.S. Treasury. However, they do provide beneficial stability to agriculture, one of our most basic and productive industries.

This point was particularly well made in the July 10 edition of the Kiplinger Agricultural Letter. That publication has been circulated biweekly since 1929, with helpful information on what is happening in Washington as well as projections of trends in commodity prices and the economy. Of course, the usual policy is not to allow material from the newsletter to be reprinted, so I am especially grateful to Mr. Kiplinger for allowing this excerpt to be shared with my colleagues.

Mr. President, I ask that the letters, the membership list of the National Farm Coalition, and the excerpt from Kiplingers be printed in the RECORD.

The material follows:

NATIONAL GRANGE,
Washington, D.C., July 9, 1981.

Hon. JESSIE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: The National Grange, representing 450,000 members in 42 states, strongly supports the 1981 farm bill as reported by the Senate Agriculture Committee. S. 884 does not meet all of the farm program objectives of the National Grange, but we do not believe the bill can be improved under the present budget restraints.

We understand that certain amendments will be offered to significantly change several of S. 884's provisions. We believe it is in the best interest of all agricultural producers and consumers to support the bill as reported by the Committee. S. 884 is a well-balanced bill that takes into consideration the interests of all commodities and assures consumers of an adequate supply of wholesome food at reasonable prices.

We therefore urge you to vote "yes" on S. 884, and "no" on all amendments not acceptable to the bill's floor manager.

Sincerely yours,

EDWARD ANDERSEN,
Master, National Grange.

NATIONAL WOOL GROWERS ASSOCIATION, INC.,
Salt Lake City, Utah, July 29, 1981.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: As you know, the Senate is about to take up consideration of the 1981 farm bill, which includes the extension of the Wool Act.

There is every indication that several Senators intend to chop up the farm bill and examine each commodity program individually. As a Senator who has devoted so much time and effort to furthering American agriculture (including the sheep industry), we strongly encourage you not to join in such an effort. We strongly support the passage of the farm bill as reported by the Agriculture Committee. It is a fair bill. It is financially prudent. And most important of all, it presents American agriculture as an united and cohesive force.

If American agriculture is divided; if the individual commodities are forced to compete against each other, then all of agriculture will suffer. Should this be permitted to occur, those of us in the relatively small sheep industry will surely be living on borrowed time.

In the event that the farm bill is chopped up this year, peanuts, sugar, dairy, and tobacco may well be in jeopardy. But four years from now it could easily be wool, wheat, cotton or any of the other commodities. In fact, nearly all of the individual commodities are regionally grown and most USDA support programs for any particular commodity cannot withstand the arduous legislative process without being grouped with other equally regional farm products.

The Senate Agriculture Committee voted to reduce the Wool Act 40 percent. We don't like it one bit. But, we would prefer to take a reduction on the Senate floor rather than jeopardize the entire farm support structure. 60 percent is better than nothing, and nothing is what we will have if the Senate begins looking at each commodity separately.

We sincerely hope you will help the sheep industry and all agriculture by voting to pass the farm bill without major amendment, and by rejecting the efforts of some on-farm state Senators to tear up the fragile balance that has thus far made our nation the most agricultually productive in the world.

Sincerely,

DANIEL J. MURPHY,
Director, Government Affairs.

NATIONAL MILK PRODUCERS FEDERATION,
Washington, D.C., July 16, 1981.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During consideration of the Agriculture and Food Act of 1981 by

the Senate Committee on Agriculture, Nutrition and Forestry, the National Milk Producers Federation presented a number of recommendations for inclusion in this legislation that will be the major factor in shaping food policy over the next four years.

In the final stages of the Committee's deliberations, the Federation recommended dairy price support provisions that would have allowed a price support level of as low as 70 percent of parity for the 1981–82 marketing year with semiannual adjustment to 70 percent. The support level during the remaining three years of the bill would be in the 75 to 90 percent of parity range with semiannual adjustment. The exact level of price support and the degree of the mid-year adjustment in the latter instance would have been based on a USDA estimate of dairy product removals during the marketing year.

This concept was developed by the Federation as the minimum necessary to meet the needs of dairy farmers and represented the best judgement of industry leadership as to program adjustments that would bring about the supply-demand balance necessary. It is still our judgement that this is the case.

Given the severe budget restraints under which the Agriculture Committee operated in the development of this legislation, the dairy provisions as well as provisions for other commodities did not meet the full requirements felt necessary by producers of any commodities. We would, all of us, abhor further weakening of programs which support the production effort of American agriculture. Amendments to the bill, S. 884, designed to lessen program effectiveness must be opposed. We urge your support.

Sincerely,

PATRICK B. HEALY,
Secretary, National Milk Producers Federation.

NATIONAL ASSOCIATION OF WHEAT GROWERS,
Washington, D.C., June 26, 1981.

DEAR WHEATGROWERS: NAWG supports farm bill approved by Senate Agriculture Committee.—The NAWG has announced its support for 1981 farm legislation approved by the Senate Agriculture Committee, and is urging opposition to all amendments which would weaken the measure. The bill will be considered by the Senate following its return from the Fourth of July recess.

"Important gains have been made for wheat farmers by preserving the target price and acreage adjustment programs and increasing the minimum loan rate 10 percent above the current level despite overall limits on federal spending", according to Jim Billington, Altus, Oklahoma wheat farmer and president of the NAWG.

The Senate measure sets the 1982 wheat target price at $4.20 per bushel and provides for annual increases of at least $.20 per bushel through 1985. It establishes the minimum wheat loan at $3.50 per bushel beginning in 1982 and continues authority for operation of the farmer-owned grain reserve program. Public Law 480 authority for concessional wheat sales to developing nations is extended by the bill, and a revolving fund for CCC export credits is established. ASCS disaster payment protection would be continued in locations where federal crop insurance protection was not available.

"We are strongly opposed to an amendment that would apply a $25,000 payment limitation to individual farmers, and any other amendments which would damage the operation of voluntary farm programs," Billington said. He said the Senate measure conforms with Congressional budget decisions and warrants swift approval.

WASHINGTON, D.C., *July 15, 1981.*

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

Due to prevailing high interest rates and the continued increase in agriculture production costs, the National Farm Coalition membership had sought stronger price assurances, particularly for grains and milk, then provided by S. 884, the Agriculture and Food Act of 1981. We urge your support of the bill approved by the Committee on Agriculture, Nutrition and Forestry as the absolute minimum necessary to maintain the agricultural economy of the Nation and to meet the need of producers and consumers. We further urge your opposition to any weakening amendments to committee's bill when it is considered by the Senate, National Farm Coalition represents the views of 26 national and regional membership farm organizations throughout the country.

EDWARD ANDERSON,
Chairman, National Farm Coalition.

MEMBERS OF THE NATIONAL FARM COALITION
PARTIAL LIST

National Farmers Organization.
The National Grange.
National Milk Producers Federation.
National Association of Wheat Growers.
Farmers Union Grain Terminal Association.
North Carolina Peanut Growers Association.
Grain Sorghum Producers Association.
National Corn Growers Association.
Midcontinent Farmers Association.
Land O'Lakes, Inc.
Farmers Union Central Exchange.
National Wool Growers Association.
National Association of Farmer-Elected Committeemen.

THE KIPLINGER AGRICULTURAL LETTER
(Washington, July 10, 1981)

Whenever a farm bill is before Congress, many city people often get the impression that it is some sort of shady gov't handout, a well-concealed giveaway. Sometimes editorials in their city papers imply that the farmers are being coddled and supported by the gov't . . . as if they're on "farm welfare." And we get comments from our readers like these at times . . . people who have no direct ties with agriculture.

Farmers are usually blamed when food prices shoot up rapidly. They're even blamed for gov't spending . . . why it's "all out of control." Many people see the farmer as a modern robber baron in bib overalls . . . with one hand in the consumer's pocket and the other in the gov't till.

We'd like to set the record straight. You may want to note some of the following facts and use them yourself. They're impressive. Perhaps you already know them, but remember . . . lots of people do not.

Agriculture is this country's largest industry. Its assets today are nearly one trillion dollars. That's equal to almost 90 percent of the total assets of all manufacturing corporations in this country.

Also, it is the largest employer. Around 15 million people work in some phase of agriculture . . . the growing, storing, transporting, processing, merchandising and marketing of all the farm commodities.

And it makes a big contribution to U.S. balance of payments. Farm exports exceed imports by 28 billions, help pay imported oil bill.

Productivity gains of farmers outstrip those of all other lines. This current generation of U.S. farmers produces over 75 percent more crops than their fathers did on same number of acres. An hour of farm labor in 1981 produces 14 times as much food as it did only 60 years ago.

As a result, food in this country is a heck of a buy . . . something that many consumers overlook when grousing about high prices.

U.S. families now spend 16½ percent of their incomes for food . . . by far the lowest percentage of any country. Due to better productivity, an hour of factory wages today buys almost four times as much chicken as it did 30 years ago . . . three times as many eggs, 70 percent more milk.

Many people forget that farmers are consumers too . . . big ones.

Some examples of their annual purchases: For farm machinery, farm tractors, trucks and other vehicles . . . about 14 billions. For fuel, lubricants and maintenance of vehicles and equipment . . . over 13 billions.

Agriculture uses around 6½ million tons of steel each year. That's enough to account for about 40,000 jobs in the steel industry.

And approximately 33 billion kilowatt hours of electricity. More than used in the homes of New England, Md., Ky., and Wash., D.C.

Also, farmers pay a lot of taxes . . . over 8 billions a year.

So farmers more than pull their weight in this society . . . in a very risky business, using their own skills and their own capital.●

COMMUNICATIONS REWRITES IMPACT ON RURAL TELEPHONE RATES

● Mr. MELCHER. Mr. President, last week the Senate Commerce Committee reported out S. 898 (Calendar Order No. 235) legislation designed to rewrite much of the Communications Act of 1934. Unfortunately, the report (No. 97–170) to accompany this legislation is limited in its discussion of the many complex issues addressed in this bill.

I would like to bring to my colleagues' attention, certain language which I feel helps explain the issues addressed in the bill.

During committee consideration, an amendment was offered and passed that assures telephone rates for rural Americans will not drastically increase as a result of this legislation when competition is introduced in the intercity service market. This provision is essential to assure that rural rates will not be used to cross-subsidize cutthroat competition in the intercity market.

The toll and local rates for the millions of subscribers presently being served by REA telephone borrowers, cannot exceed 110 percent of the national average for comparable service.

To clarify the intent of this legislation and to explain the operation of the surcharge mechanism on interexchange access calls, I ask that the background material be printed in the RECORD.

The material follows:

BACKGROUND: PRESENT SEPARATIONS, SETTLEMENTS AND RATE AVERAGING

Since the Supreme Court held board-to-board cost allocations unlawful in *Smith* v. *Illinois Bell Telephone Co.*, 282 U.S. 133 (1930), there have been several methods for determining the compensation to be paid for the use that long-distance services make of local exchange carriers' facilities for local distribution. Such cost allocations have traditionally been performed within the indus-

try as part of the separations and settlements or division of revenue procedures. This mechanism involves the allocation of costs between the interstate and intrastate jurisdictions according to procedures which in recent years have been developed by a joint board of four state public utilities commissioners and three FCC commissioners, reporting to the FCC.

It has long been the practice of the established carrier network to pool the revenues from basic interstate long-distance services provided jointly by the Bell system and independent telephone companies. Each participant has recovered its allocated costs, including a reasonable rate of return, for its part in providing service. Within this basic framework, the social policy favoring universal availability of basic telephone service has been furthered in two ways in the past. First, changes in jurisdictional separations have resulted in steadily increasing the allocation of local exchange costs recoverable from interstate service, thereby tending to keep local rates down.

Second, rates for basic interstate long-distance service have been averaged throughout the United States so that all users of the network pay the same amount for a call of the same distance and duration at the same time of day. The FCC also extended this policy of rate averaging to Alaska, Hawaii, Puerto Rico and the Virgin Islands with the advent of domestic satellite service.

With the growth of competition in interstate services, including the offering of services, including private line and foreign exchange services, that can be substituted for the basic services of existing telephone companies, dissatisfaction with the separations and settlements mechanism also appeared and grew. The newly-established competitors have been paying less compensation to local exchange companies for local distribution of their traffic than the established telephone companies.

Therefore, providers of basic long-distance interstate service have been seeking to reduce the support they are required to contribute to local exchange service, since their competitors pay less. On the other hand, local exchange companies have urgently pointed to the need to preserve affordable rates for basic service. New entrants that compete with established carriers criticize the separations and settlements procedures used in the past, claiming that they have been largely implemented by AT&T, with little public accountability.

ACCESS CHARGES—SECTION 222

The Committee wants to assure that fair competition can take place. This goal requires that all competitors pay the same amount for comparable local exchange distribution services. This can be accomplished by an access charge mechanism to compensate local exchange carriers for their role in distributing interexchange telecommunications traffic.

A Joint Board will develop the procedures for determining and apportioning costs for exchange access and exchange services. The Commission will then establish procedures and information gathering methods to be used to determine access charges, always keeping in mind the importance of assuring the universal availability of basic telecommunications service at reasonable charges. Access charges will be paid by all carriers and other customers which connect directly or indirectly with any exchange carrier.

The Committee believes that it is essential to fair competition that access charges and surcharges be equitably imposed on all who make direct or indirect use of the nationwide telecommunications system. Particularly with respect to surcharges imposed to assure the socially desirable availability of universal service at reasonable prices to the benefit of all Americans, the mechanism for sharing the disproportionately high costs of servicing rural or remote America must not become an incentive to abandon the network.

For this reason, the Committee intends that the purpose to "achieve equitable treatment among all carriers and other customers using the services of each exchange carrier through direct or indirect interconnection and to prevent subsidies from exchange services to interexchange services" in Section 222 (a)(1) should be broadly construed. For example, indirect interconnection includes any case in which interconnection is able to be established through a customer's PBX or other equipment. Access charges should cover all costs fairly allocable to direct or indirect connection and distribution of traffic. The term equitable treatment should also allow resolution of the problems of carriers whose customers rely on the basic telecommunications network for purposes such as backup and standby.

The Committee specifically contemplates that where carriers that provide basic service incur costs to build and maintain their networks with sufficient facilities for backup or standby, the carriers may include in their access charges usage and availability elements, as employed in the gas and electric industry. In this way, carriers that provide basic service will be able to recover the costs of providing adequate capacity from those who benefit from the availability of such backup and standby capacity while users of the basic network will not be forced to subsidize users of alternative services. In addition, no carrier will be able to obtain an unfair competitive advantage because its service relies on the basic network for backup and standby service at no charge to such competing carrier or its customers.

PRESERVING REASONABLE RATES FOR RURAL OR REMOTE BASIC SERVICE—SECTION 222(h)

The Committee believes that the need to assure necessary support for rural areas and Alaska warrants some specificity in the law. Therefore, the Commission is directed to assure that interchange and exchange rates in rural or remote areas do not exceed 110% of the national average rates for comparable service, taking into account such factors as distance, duration and time of day for interexchange service and rate structure and calling scope for exchange service.

Section 222(h) applies this standard to the rates of carriers which are (1) eligible for loans under the Rural Electrification Act of 1936 (with respect to service areas to which such loans are applicable), (2) not classified as regulated carriers or (3) provide basic telephone service for Alaska. (For carriers serving rural or remote areas that do not have existing REA loans, REA eligibility shall be determined under standards in effect as of July 1981.)

In applying the 110% standard, the Commission must apply solutions that are practicable and consistent with the policies in the legislation. For example, sampling techniques, the use of broad categories of comparable service, simplified reporting techniques, and other such methodology should be used. It is contemplated that the Commission's procedures would be designed to avoid review of exchange rates duplicative of state review. In addition, the Commission is directed to establish a surcharge or other support mechanism "whenever necessary" to maintain universal service at reasonable rates.

It is not the Committee's intention that detailed inquiry into the need for surcharges or into the practicality of alternative approaches be allowed to stand in the way of assuring support. The fundamental policy of achieving and maintaining universal service at reasonable rates within the stated range should be the guiding principle. The procedures and practices designed to accomplish this objective should be formulated with central emphasis on the substantive result, avoiding becoming enmeshed in burden of proof questions or challenges to the fine tuning of the mechanism. Perfecting modifications can occur when the mechanism is in place and providing necessary support.

SURCHARGES—SECTION 202(e)

The Committee is also concerned that a financial mechanism be established to ensure the achievement and continuation of universal telephone service at reasonable rates in areas where marketplace forces will not achieve that result. This problem is raised primarily in rural or remote areas where geography and other factors significantly increase distribution costs and the costs of toll service. A higher volume of traffic is associated with lower costs and units costs to serve rural or remote areas which are higher. Studies by the Rural Electrification Administration filed with the FCC support this conclusion. In rural or remote areas, toll service provides a significant contribution to the important goal of keeping local rates reasonable and affordable. Rate averaging is important to maintaining reasonable and affordable rates for basic toll service in rural or remote areas. The Committee believes that this support must be maintained so that rural and residential rate payers do not have to pay significantly higher rates for basic service with the opening up of telecommunications service to competition and the change to an access charge system. The Committee believes that all users of basic telephone service benefit or will benefit from the availability of universal service, which can be achieved and preserved only if rates for basic service, both local and long distance, are maintained at reasonable levels not significantly different for comparable service throughout the nation. The Commission shall develop a mechanism as a safety net, such as assessing a surcharge on access charges in order to assure that basic telephone service is universally available at reasonable charges.

In developing the access charge and surcharge system, the Commission will also design a mechanism for accomplishing the transfer of appropriate support payments to the carriers eligible under Sections 222(h) and 202(e).

TRANSITION PERIOD

Section 201(b)(2) (E) and (F) require the FCC's transition plan to contain adequate safeguards to preserve reasonable charges or prices for basic telecommunications service and to provide for practices and procedures to implement the access charge system required by Section 222. The Committee is concerned that the new procedures be fully in place before any change in the separations and settlement procedures and interstate rate averaging and pooling mechanism now in effect are altered. The intention of the legislation is that present support mechanisms and safeguards for reasonable rates must remain in effect until the replacement mechanism is able to take over those functions in the manner prescribed by this legislation. However, action to make sure that all carriers contribute equitably to the present mechanism would be appropriate for the interim period before the new system is implemented.

Mr. MELCHER. I ask to have printed in the RECORD an explanation of the meaning of the term "exempt carrier." "Exempt carriers" are the small telephone companies who presently are not required to file with the Federal Communications Commission many of the otherwise required reports and accounting statements, "exempt carriers" are not so required because they are already do-

ing so with their respective State utility commissions. This exemption continues the congressional policy of exempting small businesses from such regulatory paperwork requirements.

The material requested to be printed is as follows:

EXEMPT CARRIERS

Under the 1934 Act, telephone companies and other carriers which do not own their own interstate toll facilities are designated "connecting carriers" and are subject to only limited FCC jurisdiction. These carriers generally gain access to the nationwide network through connection to the Bell System (or other carrier) and offer toll service pursuant to the Bell tariffs. The Commission has authority to insure that the rates and practices of these carriers are just, reasonable and nondiscriminatory for interstate service. The Commission may also order them to provide connection to other carriers, and establish division of charges for through routes. Connecting carriers are not required to obtain a certificate of public convenience and necessity or file contracts or annual reports with the Commission. They are also not subject to the Commission's authority to make inquiries into management, prescribe accounting rules or depreciation rates.

The purpose and benefits of this exclusion are twofold: (1) Many, although not all, of the connecting carriers are small entities which do not have the resources to comply with all the FCC regulatory requirements without excessive cost in proportion to their size (2) there are approximately 1400 such carriers. The FCC, which is always under considerable pressure to deal adequately with AT&T, would be required to divert substantial personnel and filing resources to deal with each of these companies individually, although each can have only limited impact on national telecommunications.

Insofar as possible, your Committee agrees that small carriers should continue to be exempt from FCC regulation where it is not required to insure provision of adequate, universal service at reasonable rates. However, the conversion from interstate to interexchange as the federal/state jurisdictional boundary, and from separations and settlements to access charges will have some unavoidable impact on these carriers. In order to minimize this impact, the bill continues the partially regulated status of the existing "connecting carriers." The exempted carriers are made subject to the FCC's authority over interconnection, provision of service, access charges (including the accounting requirements applicable thereto), and complaints. The bill retains the existing exemption from pole attachment regulation in view of the absence of any demonstrated abuse of either telephone or electric cooperatives.●

ROBERT MOSES

● Mr. D'AMATO. Mr. President, I would like to bring to the attention of the Senate news of the death of a great public servant, Mr. Robert Moses. He died today at the age of 92.

Robert Moses began his 44-year career in 1913. He served under six New York State Governors and five New York City mayors. Moses worked with Governors like Roosevelt and Rockefeller. New York mayors like LaGuardia and Wagner.

The people of New York State have benefited by his efforts to secure parks and recreational areas for their enjoyment. He served as chairman of the New York State Council of Parks, commissioner of New York City Parks, chairman of the Long Island State Park Commission, chairman of the New York City Triboro Bridge Authority, and chairman of the New York State Power Authority.

Robert Moses was responsible for securing over $27 billion for public works projects for the State of New York. Millions of people have driven over the roads, bridges, and tunnels he masterminded and fought to bring into reality. He was a true giant of the 20th century.

In New York City alone, he was responsible for the creation of some 658 playgrounds, 17 miles of beaches, 15 swimming pools, and 20,000 acres of parks.

On Long Island he saw to the construction of over 175 miles of new parkways and 15 State parks, including the internationally known, Jones Beach State Park.

The St. Lawrence Seaway, the United Nations Building, and the Lincoln Center complex were built under the supervision of Robert Moses.

The death of Robert Moses means the loss of a man with great vision and the determination to bring his dreams into reality. In his day he was a man of great influence, a crusader, whose dynamic spirit inspired him to tackle projects no one else would try.

Mr. President, Robert Moses was a true pioneer in the real American spirit. I am sure that history will remember this man long after we are gone.

Robert Moses was a great public servant who will be missed.●

REMEMBERING THE HOLOCAUST

● Mr. KENNEDY. Mr. President, in June of this year the world stood witness to a remarkable event in Jerusalem. Relatives of the victims of the holocaust gathered from all parts of the world in that holy city to recall the terrible events of the past and to celebrate life. The large gathering of holocaust survivors, the first such gathering ever, somberly recalled the legacy of the death camps and the tragedy of the holocaust. But it also reminded the world of the necessity to prevent such crimes against humanity in the future—and of the fundamental obligation to assure the triumph of life over death, and liberty over totalitarianism.

In April, I was honored to attend another reflection on the holocaust, the first annual Days of Remembrance Commemoration sponsored by the U.S. Holocaust Memorial Council. An almost overpowering sense of emotion swept the audience at the White House as it listened to Elie Wiesel, chairman of the Holocaust Memorial Council, and to President Reagan during this ceremony.

The address of Elie Wiesel surely touched the soul of each person in the audience. Mr. Wiesel called on us to never let ourselves forget what happened at Treblinka, Belsen, Auschwitz, and elsewhere.

In all their chronicles and testaments, memoirs and prayers, litanies and poems, the victims stressed one single theme over and over again: Remember, remember, and bear witness. . . . And that is their legacy to us, the living. . . . All we can do is remember.

Mr. President, I ask that Elie Wiesel's moving address, "Remembering the Holocaust," along with David Shipler's account of the historic gathering in Jerusalem in the June 19, 1981, edition of the New York Times, be printed at this point in the RECORD.

The material is as follows:

REMEMBERING THE HOLOCAUST

Mr. President, about sadness later. First some words of gratitude. We thank you, Mr. President, for joining us and for participating in this solemn assembly of remembrance. Your presence here today—so soon after the senseless attack upon your person—is a tribute to your understanding and concern for human values—and is especially meaningful to us. We all know that your being here is not a ceremonial gesture, but an expression of your sense of history and your dream of a future with hope and dignity for the American Nation and for all mankind. So we thank you, Mr. President, and we thank our father in heaven for having spared you.

And now I would like to share with you some lines written by a young Jewish boy named Mottele.

Mottele wrote this poem in Theresienstadt and it reflects more than his own mood—more than his own fate:

From tomorrow on I shall be sad,
From tomorrow on.
Not today.
What is the use of sadness—tell me?
"Because these evil winds begin to blow?
Why should I grieve for tomorrow—today?
Tomorrow may be good,
Tomorrow the Sun may shine for us again;
We shall no longer need to be sad.
From tomorrow on I shall be sad—
From tomorrow on.
Not today, no! Today I will be glad.
And every day, no matter how bitter it may be,
I will say:
From tomorrow on I shall be sad—
Not today.

How does one commemorate a million Motteles and Shloimeles and Leahles and Soreles?

How does one commemorate six million victims, all descendants of Abraham and Isaac and Jacob?

What words does one use, what metaphors does one invoke to describe the brutal and unprecedented extinction of a world?

Thousands and thousands of flourishing communities survived the fury of the crusades, the hatred of pogroms, the afflictions of wars, and the misery, the shame, the despair of religious and social oppressions, only to be swept away by the holocaust.

In all their chronicles and testaments, memoirs and prayers, litanies and poems, the victims stressed one single theme over and over again:

Remember, remember and bear witness . . . and that is their legacy to us, the living.

There may be some who will ask: Why remember at all? Why not allow the dead to bury the dead? Is it not in man's nature to push aside memories that hurt and disturb? The more cruel the wound, the greater the effort to cover it; the more horrifying the nightmare, the more powerful the desire to exorcise it. Why then would anyone choose to cling to unbearable recollections of emaciated corpses, of violations of every human law?

Clearly, we have not yet learned to cope with the event—intellectually, socially, philosophically, theologically. Perhaps we never will. The more we know, the less we understand. All we can do is remember. But—how does one remember? How does one remember and communicate an event filled with so much darkness and mystery that it negates language and imagination? Auschwitz transcends history, marks it with a burning seal:

Our century, Mr. President, may well be remembered not only for the monuments it erected or for the astonishing technological advances it made, but most of all for Treblinka and Majdanek, Belsen and Ponar, Auschwitz and Buchenwald.

How is one to explain what happened? It could have been stopped—or, at least slowed down—at various stages. It was not. Why not? I am a teacher. Mr. President, and my students—young, fervent, compassionate Americans—often express their puzzlement in my classroom: Why the complacency? Why the tacit acquiescence? Why weren't the Hungarian Jews, for example, warned about their fate? When they arrived in Auschwitz—at midnight—they mistook it for a peaceful village . . .Why weren't the railways to Birkenau bombed by either the allies or the Russians?

The calculated viciousness of the executioner, the helplessness of the doomed, the passivity of the bystanders: All these lie beyond our comprehension. The killers' fascination with death, the victims' with hope, the survivors' with memory: A new vocabulary needs to be invented to describe the event.

Can you imagine the silence preceding a selection? The fear of a man who suddenly understands that he is the last of his family, the last of a line?

Imagine—no, no one can imagine that kingdom. Only those who were there know what it meant to be there . . . Theirs was a kingdom that will forever remain forbidden and forbidding. And yet, and yet: We must tell the tale—we must bear witness. Not to do so would mean to render meaningless the years—the lives—that we, those of us who survived, received as a gift, as an offering—to be shared and redeemed.

We are determined to tell the tale. Not to divide people but, on the contrary, to bring them together; not to inflict more suffering but, on the contrary, to diminish it; not to humiliate anyone but, on the contrary, to teach others to humiliate no one. This is why we bear witness, Mr. President. Not for the sake of the dead: It is too late for the dead. Not even for our own sake: It may be too late for us as well. We speak for the sake of mankind: The universality of the Jewish tragedy lies in its uniqueness. Only the memory of what was done to the Jewish people—and through it to others—can save the world from indifference to the ultimate dangers that threaten its very existence.

That the survivors have not lost their sanity, their faith in God or in man, that they decided to build on ruins and chose generosity instead of anger, hope instead of despair, is a mystery even to us they had every reason to give up on life and its promise. They did not. Still—at times, Mr. President, they are overcome by doubt. And fear. The world has not learned its lesson. Antisemitic groups spring up and some shamelessly deny that the holocaust ever occurred. Fascist groups increase their membership. Intolerance. Bigotry. Fanaticism. Mass executions in some places, mass starvation in others. Religious wars, medieval upheavals. And then, of course, the ultimate nightmare: The nuclear meance.

Though Jewish—profoundly Jewish in nature—the holocaust has universal implications: the memory of what was done to one people may shield other peoples.

Naturally, other nations were persecuted and even decimated by the nazis and their allies, and their collaborators—and we honor their memory—but the Jewish people represented a different target: for the first time in history, being became a crime: Jews were destined for annihilation not because of what they said or proclaimed, or did, or possessed, or created, but because of who they were . . .

Is that why we, Jews, are so concerned with memory?

Is that why we are so attached to a land where many survivors have found pride and refuge? Please understand us, Mr. President, we believe that the holocaust must remain above politics. If we plead for Israel's right not only to be secure but also to feel secure, it is because of Israel's nightmares—which are also our nightmares—Israel is today threatened by a holy war—which means: Total war and annihilation." Words? Yes. Words, but we are a generation traumatized by experience, Mr. President: We take wars seriously. The very idea of another Jewish catastrophe—anywhere—in our lifetime, is quite simply unbearable to us.

Before planning the final solution, Hitler asked: "Who remembers the Armenians?" He was right: No one remembered them as no one remembered the Jews.

In those times, European Jewry felt abandoned. And, indeed, it was abandoned. Other oppressed nations received help; not the Jews. On April 16, 1943, Mordechai Anielevits—the young commander of the Warsaw ghetto uprising, wrote to a friend: "We are fighting . . . we shall not surrender . . . but, as our last days are approaching, remember that we have been betrayed . . ."

That is what he felt—that is what we all felt. They were betrayed then. To forget them now, would mean to betray them again. We must not allow this to happen.

In the Jewish tradition when a person dies we appoint him or her as our emissary in heaven to intercede in our behalf. Is it possible that they were our messengers?

But then whose messengers are we?

It is with a rare sense of personal honor and pride that I present to you the President of the United States.

[From the New York Times, June 19, 1981]

DEATH CAMP LEGACY COMES ALIVE AT THE WAILING WALL

(By David K. Shipler)

JERUSALEM.—In a somber mood of warning for the future, 5,000 survivors of the ghettos and the concentration camps of Hitler's Europe ended four days of remembrance and reunion tonight at Jerusalem's Wailing Wall, the holiest place in Judaism, where they passed the legacy of the Holocaust symbolically to their children.

Gathered beside the great stones that formed the western wall of the Temple Mount in Herod's time, the survivors heard and echoed admonitions to keep alive the memory of the horror that took six million Jews to their deaths. They lit thousands of candles and watched six torches, one for each million, flare in the night as a nearly-full moon rose above the place where the Romans burned the Second Temple in A.D. 70.

It was a powerful conjunction of symbols and emotions, and Prime Minister Menachem Begin caught the tone as he declared to the assembled throng in Yiddish: "Mir zaynen do. We are here."

"Where is the Emperor? Where is his might? Where is Rome?" asked Mr. Begin. "Jerusalem lives forever. We are here."

FIRST WORLDWIDE GATHERING

An apprehension that the Holocaust would be forgotten, or that its evil would be tempered by the passing of the generation that lived through it, was a central force in bringing survivors together for the first worldwide gathering since their liberation from the Germans in 1945.

Furthermore, as conversations with many of them revealed, they are now moved to record their experiences, to speak out, both by the approach of their own deaths and a renewed sense of fear at what they see as rising anti-Semitism. The most infuriating symptom, many said, is the synthetic history now being published by a few American and French polemicists who are trying to prove that the Holocaust never happened.

Abraham H. Foxman, associate national director of the Anti-Defamation League of B'nai B'rith, said in an interview that until recently it had been difficult to get survivors to talk about their experiences, to spread the word. "For 30 years they kept silent," he noted. "Ten years ago we couldn't get anybody to talk. Revisionism was a catalyst. That's touched them so personally. It's an indignity to all they went through."

THE END OF CREATION

Samuel Pisar, a lawyer, author and survivor, explained his feelings in a conversation. "To me the Holocaust is no longer a lamentation. To me it's a warning. It's a warning to Jews and non-Jews alike, from people like myself who have lived through the collapse of the world, and who know that worlds do collapse."

"When I look back today to Auschwitz," he continued, "I have the personal feeling that I have witnessed the end of creation. In the shadow of flaming gas chambers I've seen the premonition of the death rattle of the species that was about to enter the thermonuclear age. I feel that what I lived there was a pilot project of the destruction of humanity. You know that the unthinkable is indeed possible. And evil times are returning. When uneasiness and fear come back, then it is the season for demagogues."

In a farewell address to the gathering, Ehe Wiesel, the author, also struck a note of warning. "Have we, survivors, done our duty? Something went wrong with our testimony; it was not received. Otherwise things would have been different. Look, look at the world around us: suspicion again, violence everywhere, hatred everywhere, organized state-sponsored terror, racism, fascism, fanaticism, anti-Semitism.

"Had anyone told us, when we were liberated, that we shall be compelled in our lifetime to fight anti-Semitism once more; or worse, that we shall have to prove that our suffering was genuine, that our victims had perished indeed—we would have had no strength to lift our eyes from the ruins. If only we could tell the tale, we thought, the world would change. Well, we have told the tale, and the world remained the same."

The worry was crystallized by two schoolteachers at the gathering, one a survivor of Auschwitz named Edith Singer, born in Czechoslovakia, now teaching in California, and a daughter of concentration camp survivors named Arlene Goldfarb, from New York City.

SCHOOLCHILDREN DO NOT KNOW

Mrs. Singer had a jolt when an 8-year-old boy in her class noticed the number tatooed on her arm. "What is this number?" he asked. "Your phone number?" She wanted to slap his face, then realized that he simply did not know.

Miss Goldfarb told her class why she was coming to this gathering, and afterward a 13-year-old girl came to her and asked, "What's a concentration camp?"

It was to help keep the memory alive that the legacy, signed by all those present, was transferred tonight. "We the survivors, are growing older," said Benjamin Meed, an Israeli and co-chairman of the gathering. "We may never again gather together as we have this week. The burden of preserving the legacy of the Holocaust is now to be passed on to our children and the people of Israel."

The legacy was then read by six survivors in six languages—Hebrew, Yiddish, English, French, Ladino and Russian.

"We take this oath!" it began. "We take it in the shadow of flames whose tongues scar the soul of our people. We vow in the name of dead parents and children. We vow, with our sadness hidden, our faith renewed.

We vow, we shall never let the sacred memory of our perished six million be scorned or erased."

And it concluded: "Let our legacy endure as a stone of the temple wall. For here prayers and memories burn. They burn and burn and will not be consumed."

To which the children, now young adults, replied in part: "We accept the obligation of this legacy. We are the first generation born after the darkness."●

CYPRUS: THE TRAGEDY CONTINUES

● Mr. PELL. Mr. President, last week marked the seventh anniversary of the beginning of a tragedy which has not yet ended. July 20, 1974 was not just a date in history for the people of Cyprus; the grim consequences of that day of invasion still affect them. Seven years later, Turkish troops continue to hold 40 percent of the land of the Cypriot Republic, and 200,000 Greek Cypriot refugees—almost a third of the country's population—still cannot return to their homes and livelihoods. Cypriot families still grieve for the 2,000 men, women, and children unaccounted for since the invasion.

In addition to the suffering and injustice for those immediately involved, the Cyprus tragedy has significance beyond that small Mediterranean island. Strategically located at the crossroads of three continents, Cyprus is important to the stability of the entire region, not least because the prolonged Turkish occupation remains a cause for contention between the two NATO allies of the southeastern flank, Greece and Turkey. Clearly, it is in the American interest to help in the search for a lasting settlement.

When, in 1978, the partial arms embargo against Turkey was lifted by the Congress, it was with the expectation that such action would facilitate a solution and a withdrawal of Turkish forces. Yet there has been no serious movement toward a reconciliation on Cyprus. Turkish forces remain, negotiations have proceeded slowly and intermittently, and the situation festers.

In accordance with the provisions of Public Law 95-384, which requires a Presidential report to Congress on Cyprus developments every 60 days, President Reagan issued his first report on March 20 of this year. In it he stated that "a just, fair, and lasting resolution to the problems of Cyprus will remain a priority" for his administration. He correctly noted, however, that "the opportunity for a just and lasting settlement will not remain indefinitely."

Mr. President, I urge the administration to act on the basis of these words. No Western interests are served by a perpetuation of the status quo. A solution is needed, and a solution is possible. Its accomplishment, moreover, would enhance not only Western interests but the international prestige of the Reagan administration. I am convinced, however, that the problem will yield to solution only if the full force of American diplomacy is brought to bear. If that is done, our words next July 20 can shift from commiseration with the Cypriot people, which we must feel today, to a celebration of their nation's rightfully restored independence.●

POSTAL SERVICE AMENDMENTS OF 1981

● Mr. PRYOR. Mr. President, last month I introduced S. 1407, the Postal Service Amendments of 1981. At that time, I neglected to request that the full text of that bill be printed in the RECORD. For this reason, I am requesting that the text of S. 1407 be printed in the RECORD, as well as in the appropriate place in the permanent RECORD for June 22, 1981.

The text of the bill follows:

S. 1407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Service Amendments of 1981".

SUBPENA AUTHORITY

SEC. 2. (a) Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Inspection authority

"(a) The Postal Service may require, pursuant to a written demand made under this section, that any officer or employee designated by the Postal Service be given access at reasonable times to inspect or copy any books, records, documents, or other objects that the Postal Service has reason to believe relate to any matter under investigation by the Postal Service pursuant to its authority under section 404(a)(7) of this title. Any written demand under this section shall describe with reasonable particularity the items sought to be examined, and shall specify a reasonable time and place for making the inspection. No written demand issued under this section may impose an unreasonable burden upon the party to whom the demand is issued.

"(b) If a person issued a written demand under subsection (a) refuses to obey such demand, any district court of the United States within the judicial district within which such person is found, resides, receives mail, or otherwise tranacts business, may (upon application by the Postal Service) order such person to comply with the written demand issued under subsection (a). Any failure to obey such order of the court may be punished by the court as a contempt thereof.".

(b) The table of sections of chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 412 the following new item:

"413. Inspection authority.".

AMENDMENT TO SECTION 3005

SEC. 3. Section 3005 of title 39, United States Code, is amended to read as follows:

"§ 3005. False representations; lotteries

"(a)(1) The Postal Service may issue an order described under paragraph (1) or (2) of subchapter (b), or both such orders, upon determining on the basis of evidence satisfactory to the Postal Service that any person—

"(A) is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under section 3001(d) of this title; or

"(B) is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind.

The mailing by any person of matter which is nonmailable under section 3001(d) shall constitute prima facie evidence that such person is engaged in conducting a scheme or device described by subparagraph (A).

"(2) Nothing contained in this subsection shall prohibit the mailing of—

"(A) a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery; or

"(B) tickets or other materials concerning such a lottery within that State to addresses within the State.

As used in this paragraph, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(b) When permitted under subsection (a), the Postal Service may issue—

"(1) an order which—

"(A) directs the postmaster of the post office at which mail arrives, addressed to any person engaged in an activity described by subsection (a)(1) (or to any representative of such person), to return such mail to the sender appropriately marked as in violation of this section if such person or representative is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender; and

"(B) forbids the payment by a postmaster to such person or representative of any money order drawn to the order of either, and provides for the return to the remitter of the sum named in the money order; or

"(2) an order which requires any person (or representative of such person) engaged in an activity described by subsection (a)(1) to cease and desist from such activity.

The resumption through use of any instrumentality of interstate commerce of any activity with respect to which a cease-and-desist order has been issued under paragraph (2) shall be considered to be a failure to comply with such order.

"(c)(1) The public advertisement by a person engaged in activities described by subsection (a)(1) that remittances may be made by mail to a person named in the advertisement is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency relationship in any other legal way satisfactory to it.

"(2) As used in this section and in section 3006 of this title, the term 'representatives' includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

"(d)(1) In conducting investigations to determine whether any person is engaged in activities described by subsection (a)(1), the Postal Service (or any duly authorized agent of the Postal Service) may tender at any reasonable time, and by any reasonable means, the price of any article or service that such person has offered for sale by mail. The unreasonable failure by any such person to provide the article or service to the Postal Service or its agent upon the tender of the advertised price of the article or service shall, for purposes of section 3007 of this title, constitute probable cause to believe that such person is engaged in activities described by subsection (a)(1).

"(2) If the Postal Service issues to any person a written demand, under section 413 of this title, to inspect documents or other items in the course of investigations to determine whether such person is engaged in activities described by subsection (a)(1), any unreasonable refusal by such person to comply with such demand shall, for purposes of section 3007 of this title, constitute probable cause to believe that such person is engaged in activities described by such subsection.".

CIVIL PENALTIES

SEC. 4. (a) Chapter 30 of title 39 of the United States Code is amended by adding after section 3011 the following new section:

"§ 3012. Civil penalties.

"(a) Any person—

"(1) who evades or attempts to evade the

effect of an order issued under section 3005(b)(2);

"(2) who fails to comply with any order issued under section 3005(b)(2); or

"(3) who (other than a publisher described by section 3007 (b)) has actual knowledge of any such order, is in privity with any person, described by paragraph (1) or (2), and engages in conduct which assists any such person to evade, attempt to evade, or fail to comply with any such order (as the case may be);

shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3). If orders are issued under both paragraphs (1) and (2) of section 3005(b) with respect to any activity described under section 3005(a), separate penalties may be assessed under this subsection for conduct described by paragraphs (1) and (2) of this subsection.

"(b) (1) A civil penalty under subsection (a) shall be assessed by the Postal Service by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Postal Service shall give written notice to the person to be assessed a civil penalty under such order of the Postal Service's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

"(2) In determing the amount of a civil penalty, the Postal Service shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(c) Any person who requested in accordance with subsection (b)(1) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(d) If any person fails to pay an assessment of a civil penalty—

"(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (c), or

"(2) after a court in an action brought under subsection (c) has entered a final judgment in favor of the Postal Service,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in subsection (c) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.".

(b) The amendment made by subsection (a) shall apply with respect to conduct which occurs on or after the date of the enactment of this Act.

(c) The table of sections of chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3011 the following new item:

"3012. Civil penalties.".●

THE TOBACCO DEREGULATION ACT OF 1981

● Mr. HATFIELD. Mr. President, last Thursday, I introduced S. 1515, the Tobacco Deregulation Act of 1981. This legislation would effectively remove the Federal Government from the support and production of tobacco, and raise the Federal excise tax per pack of cigarettes by 2 cents.

For years, the U.S. Government has spent millions of dollars to discourage the use of tobacco by accentuating the health hazards associated with its use. Tobacco has been linked to various forms of cancer, with many prenatal problems including the possibility of being an abortifacient.

In the Department of Health and Human Services a massive, national antismoking health program has been initiated to discourage smoking. The fiscal year 1981 budget calls for $13 million to be spent to educate communities, and especially young people and minorities, to the health consequences of smoking. Additionally, the National Cancer Institute will spend $1 billion in 1981 on a variety of cancer-related research and other expenditures.

In its ongoing subsidy of tobacco products, the Government is engaged in moral and fiscal irresponsibility. At the very time we pour hundreds of millions into tobacco subsidies, we are spending additional millions to try to persuade children and adults to avoid tobacco addiction. It is past time that this absurd and tragic paradox was ended—permanently.

Mr. President, the allotment systems harks back to the medieval times of lords and serfs. It requires a farmer to hold an allotment before he can plant a crop of tobacco for sale. The greatest anomaly to this system is that you may be an allotment-holder without actually being a farmer, and only 16 percent of the Nation's tobacco farmers own their own allotment. To rent one of these "permits-to-grow" a farmer pays an average of $1,000 per acre. Each year these "monopoly rents" total close to $900 million to nonfarm allotment-holders without them turning one spade of soil. The elimination of this system should reduce the cost of production to the farmer and serve to increase net farm income.

This elimination would likely reduce the cost of tobacco which would have the effect of reducing prices of tobacco products, and possibly encourage smoking. To offset this problem, this bill would increase the Federal excise tax on a pack of cigarettes by 2 cents, raising an additional $700 million for the Federal Treasury. This offset would not absorb the entire cost-of-production reduction to the farmer, allowing a net increase in income at the proper place. This tax has not been increased since the 1950's.

This legislation would also remove the loan program for tobacco which should not significantly hurt the industry. The amount of money that would be saved in loan subsidies could be as high as $100 million this year alone, not taking into account the cost of administering an archaic system. Through fiscal year 1981 the tobacco price support administration alone has cost the American taxpayer $68 million, not to mention inspection, grading, and other tobacco-related activities.

It is evident that the tobacco price support is costly to both the taxpayer and the Government. The Federal Government has provided export assistance for tobacco in addition to the $56 million that it has lost on the loan program. Over the period of 7 years, the export assistance that the United States has provided to tobacco producers has cost the Federal Government $220 million. The Federal Government has given as much Federal assistance to tobacco as it has for any other agricultural commodity. The administrative cost of managing the entire price support program will be $15.1 million in fiscal year 1981.

Mr. President, this is not an attempt to create economic distress in the tobacco growing areas of the country, to the contrary. The market for tobacco has been quite strong, but because of the problems with the support programs and the associated high prices for American tobacco, the quantity of imported tobacco increases each year. This eventuality is likely to cause the Federal Government to acquire huge quantities of tobacco at a very high cost, without a reasonable expectation of a fair return on this expenditure.

Recent reports indicate that the 38-year-old program of tobacco price supports could become far more costly in the years ahead due to foreign competition. A report being compiled by the International Trade Commission indicates that, because of the artificially high U.S. tobacco prices, the costs of the program could balloon to between $96 million and $1 billion over the next 4 years. Since it began in 1933, the program has run a deficit of $56 million.

Groups like the National Tax Limitation Committee have supported the elimination of the tobacco support system, and the American Lung Association, the American Cancer Society, and the American Heart Association all support this type of legislation.

Government tobacco subsidies have become a costly and dangerous anachronism that cannot be justified in an era of budget scrutiny and advancing knowledge on the clear relationship between smoking and blatantly serious disease. It is time this anticompetitive program which subsidizes increasing Federal debt, while causing untold human suffering, should be put out of its—and our—misery. The Senate has acted to reduce food benefits to millions of Americans through large sweeping cuts in food stamps and commodity programs. We must not subsidize a nonedible and unhealthy crop like tobacco, while asking many Americans to go hungry.

I ask to have printed in the RECORD an article by Congressman THOMAS PETRI of Wisconsin, done for the American Lung Association, regarding the Tobacco Deregulation Act.

The article follows:

IT IS TIME TO END FEUDALISM IN TOBACCO FARMING

(By Representative Thomas E. Petri)

One of the most archaic elements of our government's agricultural policy is our feudal tobacco subsidy system. At the same time one hand of the federal government is trying to discourage smoking, the other hand is directly and indirectly subsidizing tobacco at the rate of a billion dollars a year. In this year of severe budget cuts and market-oriented economic policies, it is surely time to end this extreme anomaly.

By federal law, you can't just stick seeds in the ground and grow tobacco anywhere you like. You have to own or rent an "allotment;" that is, a share of a government-sanctioned monopoly that covers just under one million acres. To rent an acre of tobacco allotment land costs an average of about $1,000 per year. To rent equivalent land for alternative crops such as corn or soybeans costs about $60 per acre. Thus the value of the allotment itself is over $900 per acre. This is a classic "monopoly rent," created by the artificially high profits resulting from the planting restrictions and a high federal price support. Nationwide, these monopoly rents total about $900 million per year.

Moreover, the actual farmer does not necessarily reap the benefit of these monopoly rents, since increasingly, he does not own the allotments. In fact, for flue-cured tobacco, the most common type, only 16% of the farmers own the allotments for all of the acreage they plant. More and more, the allotments are owned by absentee landlords including Wall Street lawyers, banks, churches and people whose grandparents happened to own tobacco farms 40 years ago when the system started. This system of absentee landlords owning the rights to plant a crop is essentially feudalistic.

In addition to the allotment system, the government supports the price of tobacco through a system of non-recourse loans. The government guarantees that it will give the farmer a "loan" against the value of his crop at a fixed support price. The government then stores the tobacco and sells it to liquidate the "loan" when market conditions warrant. If you don't count subsidized interest rates, in the past this has not cost the taxpayer very much. From now on, however, it will cost us plenty, since we are accumulating large stocks of low-quality tobacco for which there is no market. Figures vary, but the cost of this program next year has been estimated at over $100 million, depending partly on whether we write off the cost of spoiled surplus stocks. The government is now warehousing about 630 million pounds of tobacco valued at approximately $1 billion.

We have recently introduced companion legislation (H.R. 3998 in the House and S. —— in the Senate) entitled "The Tobacco Deregulation Act of 1981". This bill would completely eliminate both the allotment and price support systems and raise the cigarette tax 2 cents per pack (from 8 cents to 10 cents). The tax increase would bring in $700 million per year, compensating for the decline in tobacco prices that we would expect from removing the allotment system. The effect is to transfer most of the value of the "monopoly rents" from the allotment holders to the society as a whole, while leaving some margin for error. The $700 million revenue increase plus the $100 million we cut in price support expenditures would enable us to cut the federal deficit by over $800 million per year.

Since the "Tobacco Deregulation Act" will never get out of the tobacco-influenced Agriculture Committees of either the House or the Senate, we plan to offer most of it as a floor amendment to the 1981 Farm Bill in each body. It won't be possible to include the tax increase in at least the House amendment because it is not germane to the Farm Bill. However, if we get the government out of the tobacco support business first, by removing the allotment and price support systems, there will then be substantial pressure to increase the excise tax.

Furthermore, when the tax issue is considered separately, there will be no particular reason to limit the increase to 2 cents per pack. There is no magic to that figure. It was chosen for the Deregulation Act because we felt it would enable us to build the broadest possible support for the basic thrust of that bill, which is to get the government out of the tobacco business. That has to be our first priority; once that issue is favorably resolved, the field will be clear for deciding the appropriate level of the cigarette tax.

Interestingly, the cigarette tax has not been increased since 1951. In the meantime, the Consumer Price Index (CPI) has risen by a factor of 3.5. If the tax had just kept pace with inflation for all those years, instead of actually declining in real terms, it would now be at 28 cents per pack instead of 8 cents. That would yield the treasury an additional $7 billion per year, minus some amount due to decreased consumption at the resulting higher prices. By contrast, the British impose cigarette taxes of 81 cents per pack. At such levels, we would expect cigarette consumption to decrease significantly.

For years, the heavily-financed tobacco lobby has managed to prevent any change in this industry's feudalistic support system. Perhaps the time has come to end that by applying the free enterprise principles of our new President. The Petri amendment will attempt to do just that.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 5:30 P.M.

Mr. BAKER. Madam President, I ask unanimous consent that the Senate stand in recess until 5:30 p.m. today.

There being no objection, the Senate, at 4:25 p.m., recessed until 5:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SIMPSON).

The PRESIDING OFFICER. The majority leader is recognized.

THE VOTE IN THE HOUSE ON THE CONABLE SUBSTITUTE

Mr. BAKER. Mr. President, I wish to announce to the Senate, as I expect almost all people know, that the House of Representatives a few moments ago adopted the Conable substitute on the tax bill by a vote of 238 to 195, a margin of 43 votes.

I think our colleagues in the House ought to be commended, most particularly Congressman MICHEL, the minority leader, and the ranking member of the Ways and Means Committee, Mr. CONABLE. I offer them my congratulations.

I congratulate as well the Speaker and all of those on the losing side for conducting themselves in an honorable way during the contest.

Mr. President, while we ascertain whether or not it would serve any good purpose to attempt to move to the next consideration of the tax bill, I intend to contact the distinguished minority leader of the House and the Speaker, and while I do that I will momentarily suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GARN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not longer than 15 minutes in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARLIAMENTARY EMPHASIS MONTH

Mr. BAKER. Mr. President, on behalf of myself and the distinguished minority leader, I send a joint resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 102) to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the joint resolution.

Mr. BAKER. Mr. President, this is a resolution pursuant to a previous action taken by the Senate which requires additional action. I ask the Chair to put the question on the joint resolution.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered to have been read the second time at length.

The joint resolution (S.J. Res. 102) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 102

To authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month".

Whereas, the use of parliamentary procedure in the meetings of private and public organizations in this country promotes orderly deliberation and protects both individual rights and majority rule, cardinal principles of governance in the United States; and

Whereas, April is the birth month of Thomas Jefferson, author of the first com-

prehensive manual on parliamentary practice in this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the month of April 1982, as "Parliamentary Emphasis Month", to call upon Federal, State and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities, and to urge them to promote democratic processes and efficient organization of meetings through parliamentary practice.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed .

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVISING THE LAWS PERTAINING TO THE MARITIME ADMINISTRATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4074, to revise the laws pertaining to the Maritime Administration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4074) to revise the laws pertaining to the Maritime Administration.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

● Mr. PACKWOOD. Mr. President, I am pleased to bring before the Senate H.R. 4074, the implementing legislation for the transfer of the Maritime Administration to the Department of Transportation.

As chairman of the Commerce Committee which has jurisdiction over all forms of transportation including aviation, trucking, maritime, railroads, and even space travel, I believe this transfer is desirable not only for the health of the U.S. merchant marine, but for the vitality of this Nation's entire transportation network. As legislation affecting these industries is coordinated through one committee in the Senate, the administrative functions should be combined in one executive agency. It is logical, for example that the Maritime Administration which promotes the merchant marine, and the Coast Guard, which protects and regulates it, report to the same Cabinet member.

This is one of the all too rare instances where all parties concerned are united in their approval of a Federal initiative. Secretary of Commerce Malcolm Baldrige has given his blessing to the transfer, which will allow even greater focus on the broad and vital international trade, commerce, tourism, scientific, oceanic, and atmospheric responsibilities of the Department of Comerce, Secretary of Transportation Drew Lewis, with whom I have also worked closely, has demonstrated enthusiasm and competence in the broad transportation area. I am confident that the U.S. merchant marine as well as domestic and international transportation systems will benefit from his leadership. I appreciate the time and effort of Senator SLADE GORTON in holding the hearings which led to the passage of this legislation today. Finally, and most importantly, the industry believes, and I think rightly so, that the Maritime Administration and U.S. maritime activity will thrive in a Department whose primary mission is to provide a healthy national transportation system.

During the recent public comment period, concern was voiced over the ranking of the Maritime Administrator. In response I have addresed the matter. The current Assistant Secretary of Commerce for Maritime Affairs is a level IV. As a result of this bill future Maritime Administrators will enjoy a higher level III status. Level III is equal to the Commandant of the Coast Guard and higher than the Assistant Secretaries of DOT. This level will afford them sufficient ranking both within the Department and in dealings wtih other governments to strongly represent U.S. maritime interests.

Nonetheless, I have requested and received from the Department a commitment to review the desirability of increasing the Maritime Administrator to a level II, equal to the Federal Aviation and Highway Administrators. At this point, as the August recess approaches, floor debate on budget and tax cuts begin, and the House and Senate calendars are full, it is not wise to delay or risk final passage of this important transfer legislation. Should the DOT review indicate a need to increase the level, or should I believe that it is justified, the Commerce Committee will address the issue legislatively. In the meantime I remain committed to the high profile of the Maritime Administration and its direct access to the Secretary of Transportation.

A healthly merchant marine is vital to our Nation's commercial well-being and defense. As chairman of the Commerce Committee, I advocate the revitalization of this industry in an environment in which it can be viable and grow. Hopefully this transfer will contribute toward that goal. I urge its prompt passage.●

● Mr. GORTON. Mr. President, I am pleased to rise in support of H.R. 4074, a bill to transfer the Maritime Administration from the Department of Commerce to the Department of Transportation.

In fact this transfer has been very easy to support. There has been virtually no audible dissent. The move had the concurrence of the Secretary of Commerce. The Deputy Secretary of Commerce, Joseph R. Wright, appeared together at hearings before the Senate Commerce Committee with the Secretary of Transportation, Drew Lewis, to pass the maritime torch. Accompanying the hearing transcript are numerous letters of support from a broad range of maritime industries and their associations. In all, they express an optimistic anticipation that this transfer will foster a coordinated Federal transportation policy aimed at integrating the various transportation modes into one system.

Personally, I am enthusiastic about the prospect of putting air, truck, rail, and waterborne commerce under a single cabinet-level secretary. I realize that there are wrinkles in this package. Merchant marine promotional policies that are now being reevaluated, especially the subsidies for construction and operation of U.S.-flag vessels, have been primarily motivated by national security concerns. That aspect of our maritime program aimed at assuring and maintaining our seapower, our sea lift readiness and our shipyard mobilization base might best be addressed by the Department of Defense. I have no real objection, however, to seeing the Department of Transportation manage these programs because I expect to see substantial coordination between transportation and defense interests. In any case, much of our maritime policy will continue to be implemented at other departments and agencies, but I am hopeful it will be formulated largely at DOT and that a unified maritime-transportation policy will be developed.

Most rewarding during the process of shepherding this proposal in the Senate has been the remarkable good will and cooperation of Secretary Lewis. He has taken a direct, active interest in this transfer. He has spoken with me personally on several occasions to discuss the progress of this proposal. And he has demonstrated that he will be a vigorous and articulate spokesman for our Federal maritime program. This is especally encouraging because of the impending comprehensive maritime policy review in which DOT will be the focal point. In many respects, it is the potential influence of DOT over other Federal departments and agencies that affect maritime policy that makes this transfer particularly promising. I look forward to working with Secretary Lewis both in revising our maritime regulatory laws and in reexamining our maritime promotional laws.●

The bill (H.R. 4074) was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the

standing order, the distinguished Senator from Oklahoma (Mr. NICKLES), the distinguished Senator from Nebraska (Mr. ZORINSKY), and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) each be recognized for not more than 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, could I inquire of the minority leader, are there items on today's Executive Calendar which he is in a position to consider at this time? I would observe for the minority leader before he answers that all of those nominations appearing under New Reports, including nominations placed on the Secretary's desk, have been cleared on this side of the aisle. If the distingiushed minority leader is in a position to consider all or any portion of those nominations at this moment, I would hope that we might proceed to their consideration.

Mr. ROBERT C. BYRD. Mr. President, the nominations appearing on the calendar under New Reports, including nominations placed on the Secretary's desk, have been cleared on this side of the aisle and the minority is ready to proceed.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominees be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the nominees are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

[NEW REPORTS]

DEPARTMENT OF STATE

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

John Langeloth Loeb, Jr., of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Keith Foote Nyborg, of Idaho, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

Abraham Katz, of Florida, a Foreign Service officer of class 1, to be the Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

Kenneth L. Adelman, of Virginia, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

William Jennings Dyess, of Alabama, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Frederic L. Chapin, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

INTERNATIONAL COMMUNICATION AGENCY

Robert John Hughes, of Massachusetts, to be an Associate Director of the International Communication Agency.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Jay F. Morris, of Maryland, to be an Assistant Administrator of the Agency for International Development.

W. Antoinette Ford, of Michigan, to be an Assistant Administrator of the Agency for International Development.

Francis Stephen Ruddy, of Texas, to be an Assistant Administrator of the Agency for International Development.

Jon D. Holstine, of Virginia, to be an Assistant Administrator of the Agency for International Development.

Julia Chang Bloch, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development.

Elsie R. W. du Pont, of Delaware, to be an Assistant Administrator of the Agency for International Development.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning, Avis T. Bohlem, to be a Foreign Service officer of class 1, a consular officer, and a secretary in the Diplomatic Service of the United States of America, and ending Alan D. Friers, to be a secretary in the Diplomatic Service of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on July 15, 1981.

Foreign Service information officers (Terrence F. Catherman and McKinney H. Russell, Sr.) to be career ministers for information, which nominations were received by the Senate and appeared in the Congressional Record on July 23, 1981.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, the President will be immediately notified.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT CONCERNING CERTAIN TREATIES

Mr. BAKER. Mr. President, as in executive session, I ask unanimous consent that on Thursday, July 30, at 12 noon, the Senate go into executive session to consider four treaties on the Executive Calendar, those being calendar orders numbers 6–9, under the following time agreement: 20 minutes total time on all four treaties to be equally divided between the chairman of the Foreign Relations Committee, Senator PERCY, and the ranking member, or their designees, and that after the conclusion or yielding back 20 minutes of debate time, one rollcall vote to occur counting for four rollcall votes on the four resolutions of ratification.

I also ask unanimous consent at this time that the four treaties be considered as having passed through the various parliamentary stages up to and including the presentation of the resolutions of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES—EX. N—96TH CONGRESS, SECOND SESSION

The PRESIDING OFFICER. Without objection, the first treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state:

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention Against the Taking of Hostages, adopted by the United Nations General Assembly on December 17, 1979 and signed on behalf of the United States of America on December 21, 1979.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL—EX. H, 96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state:

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Physical Protection of Nuclear Material, adopted at a Vienna Meeting of Government Representatives on October 26, 1979, and signed by the United States on March 3, 1980.

REVISED CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS—EX. M: 95TH CONGRESS, 1ST SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the

Revised Customs Convention on the International Transport of Goods Under Cover of Transport International Routier Carnets (TIR Convention), done at Geneva on November 14, 1975, with annexes.

AMENDMENTS TO THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION CONVENTION—EX. K: 96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and *including* the presentation of the resolution of ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the acceptance of the Amendments to the Convention on the Inter-Governmental Maritime Consultative Organization signed at Geneva, March 6, 1948 (the IMCO Convention), which amendments were adopted on November 15, 1979, by the Assembly of the Inter-Governmental Maritime Consultative Organization at its Eleventh Session.

PROGRAM

Mr. BAKER. Mr. President, may I say that it is the expectation of the leadership on this side that after the two leaders are recognized under the standing order and the special orders are discharged, that the Senate will proceed to time for routine morning business. The HUD appropriation bill will be pending. However, it is the intention of the leadership, with the concurrence of the minority leader, to arrange the further disposition of the tax bill, which has now been acted on by the House of Representatives.

I expect a further announcement in respect of that shortly after we reconvene on tomorrow.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to, and, at 6:07 p.m., the Senate recessed until Thursday, July 30, 1981, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 29, 1981:

DEPARTMENT OF STATE

Robert P. Paganelli, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Donald L. Totten, of Illinois, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Charles R. Ross, resigned.

THE JUDICIARY

Joseph M. McLaughlin, of New York, to be U.S. district judge for the eastern district of New York vice a new position created by Public Law 95–486 approved October 20, 1978.

John E. Sprizzo, of New York, to be U.S. district judge for the southern district of New York vice Charles H. Tenney, retired.

DEPARTMENT OF JUSTICE

Frank W. Donaldson, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years vice Jesse Roscoe Brooks, resigned.

J. Frederick Motz, of Maryland, to be U.S. attorney for the district of Maryland for the term of 4 years vice Russell T. Baker, Jr., resigned.

W. Stephen Thayer, III, of New Hampshire, to be U.S. attorney for the district of New Hampshire for the term of 4 years vice William H. Shaheen, resigned.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Charles M. Girard, of Virginia, to be an Associate Director of the Federal Emergency Management Agency, vice Richard J. Green.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 29, 1981:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Jay F. Morris, of Maryland, to be an Assistant Administrator of the Agency for International Development, vice Donald Gordon MacDonald, resigned.

W. Antoinette Ford, of Michigan, to be an Assistant Administrator of the Agency for International Development, vice Joseph Coolidge Wheeler.

Francis Stephen Ruddy, of Texas, to be an Assistant Administrator of the Agency for International Development, vice Goler Teal Butcher, resigned.

Jon D. Holstine, of Virginia, to be an Assistant Administrator of the Agency for International Development, vice John H. Sullivan, resigned.

INTERNATIONAL COMMUNICATION AGENCY

Robert John Hughes, of Massachusetts, to be an Associate Director of the International Communication Agency, vice John William Shirley.

DEPARTMENT OF STATE

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

John Langeloth Loeb, Jr., of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Keith Foote Nyborg, of Idaho, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Julia Chang Bloch, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development, vice Calvin H. Raullerson, resigned.

DEPARTMENT OF STATE

Abraham Katz, of Florida, a Foreign Service officer of class 1, to be the Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

Kenneth L. Adelman, of Virginia, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

William Jennings Dyess, of Alabama, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Frederic L. Chapin, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Elise R. W. du Pont, of Delaware, to be an Assistant Administrator of the Agency for International Development, vice Genta A. Hawkins, resigning.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

FOREIGN SERVICE

Foreign Service nominations beginning Avis T. Bohlen, to be Foreign Service officer of class 1, Consular Officer, and Secretary, and ending Alan D. Fiers, to be Secretary in the Diplomatic Service of United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 15, 1981.

Foreign Service nominations beginning Terrence F. Catherman, to be Career Minister for Information, and ending McKinney H. Russell, Sr., to be Career Minister for Information, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 23, 1981.

HOUSE OF REPRESENTATIVES—*Wednesday, July 29, 1981*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let justice roll down like waters, and righteousness like an ever-flowing stream.—Amos 5: 24.

We pray, O God, not only for our world with its manifold problems, but we pray also for ourselves and our needs and concerns. Lift us from an ordinary perspective to see more clearly the wonder and mightiness of Your kingdom and the splendor of Your promises to us. Help us to know truth and responsibility in our lives, that we may be the people you would have us be. May we be partners in building a land where justice prevails and where righteousness is the mark of our national character.

These petitions and the petitions of our own hearts, we place before You. In Your holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 24, answered "present" 1, not voting 59, as follows:

[Roll No. 173]

YEAS—350

Addabbo	Atkinson	Benjamin
Akaka	AuCoin	Bennett
Albosta	Badham	Bereuter
Alexander	Bafalis	Bethune
Anderson	Bailey (MO)	Bevill
Andrews	Bailey (PA)	Biaggi
Annunzio	Barnard	Bingham
Applegate	Barnes	Blanchard
Archer	Beard	Bliley
Ashbrook	Beilenson	Boland
Aspin	Benedict	Bolling
Boner	Fuqua	Martin (NC)
Bonior	Garcia	Martin (NY)
Bouquard	Gaydos	Matsui
Bowen	Gephardt	Mavroules
Breaux	Gibbons	Mazzoli
Brinkley	Gilman	McClory
Brooks	Gingrich	McCloskey
Brown (CA)	Ginn	McCollum
Brown (CO)	Glickman	McCurdy
Brown (OH)	Goldwater	McDade
Broyhill	Gonzalez	McDonald
Burgener	Gore	McEwen
Burton, Phillip	Gradison	McGrath
Butler	Gramm	McHugh
Byron	Gray	Mica
Campbell	Green	Michel
Carman	Gregg	Mikulski
Carney	Grisham	Miller (CA)
Chappie	Guarini	Miller (OH)
Cheney	Gunderson	Mineta
Clausen	Hagedorn	Minish
Clinger	Hall (OH)	Mitchell (NY)
Coats	Hall, Sam	Moakley
Coelho	Hamilton	Molinari
Coleman	Hammerschmidt	Mollohan
Collins (IL)	Hance	Montgomery
Collins (TX)	Hansen (ID)	Moore
Conable	Hartnett	Moorhead
Conte	Hawkins	Morrison
Coughlin	Hefner	Mottl
Courter	Hendon	Murphy
Coyne, William	Hertel	Murtha
Craig	Hightower	Myers
Crane, Daniel	Hiler	Napier
Crane, Philip	Hillis	Natcher
Daniel, Dan	Holland	Nelligan
Daniel, R. W.	Holt	Nelson
Danielson	Hopkins	Nichols
Dannemeyer	Horton	Nowak
Daub	Howard	O'Brien
Davis	Hoyer	Oakar
de la Garza	Hubbard	Oberstar
Dellums	Huckaby	Obey
DeNardis	Hughes	Panetta
Derrick	Hunter	Parris
Dicks	Hyde	Pashayan
Dorgan	Ireland	Patman
Dornan	Jeffords	Patterson
Dowdy	Jeffries	Paul
Downey	Jenkins	Pease
Dreier	Johnston	Perkins
Duncan	Jones (NC)	Petri
Dunn	Jones (TN)	Peyser
Dwyer	Kastenmeier	Pickle
Dymally	Kazen	Porter
Dyson	Kemp	Price
Early	Kildee	Pritchard
Eckart	Kindness	Pursell
Edgar	Kogovsek	Quillen
Edwards (AL)	Kramer	Rahall
Edwards (CA)	LaFalce	Ratchford
Edwards (OK)	Lagomarsino	Regula
Emerson	Lantos	Reuss
Emery	Latta	Rhodes
English	Leach	Rinaldo
Erdahl	Leath	Ritter
Erlenborn	LeBoutillier	Roberts (KS)
Ertel	Lee	Roberts (SD)
Evans (DE)	Lehman	Robinson
Evans (IN)	Leland	Rodino
Fary	Lent	Roemer
Fazio	Levitas	Rose
Fenwick	Loeffler	Rosenthal
Fiedler	Long (LA)	Rostenkowski
Fields	Long (MD)	Roukema
Fish	Lott	Rousselot
Fithian	Lowery (CA)	Roybal
Flippo	Lujan	Rudd
Florio	Luken	Russo
Foley	Lundine	Scheuer
Ford (TN)	Lungren	Schneider
Fowler	Marks	Schulze
Frank	Marlenee	Schumer
Frenzel	Marriott	Sensenbrenner
Frost	Martin (IL)	Shamansky
Sharp	Studds	Whitehurst
Shumway	Stump	Whitley
Shuster	Swift	Whittaker
Siljander	Tauke	Whitten
Simon	Tauzin	Williams (MT)
Skeen	Taylor	Williams (OH)
Skelton	Thomas	Wilson
Smith (IA)	Trible	Winn
Smith (NE)	Udall	Wolf
Smith (NJ)	Vento	Wolpe
Smith (OR)	Volkmer	Wortley
Snowe	Walgren	Wright
Snyder	Wampler	Wyden
Spence	Washington	Wylie
St Germain	Watkins	Yates
Stangeland	Waxman	Yatron
Stanton	Weaver	Young (FL)
Stark	Weber (MN)	Young (MO)
Stenholm	Weber (OH)	Zablocki
Stokes	Weiss	Zeferetti
Stratton	White	

NAYS—24

Broomfield	Goodling	Sabo
D'Amours	Harkin	Schroeder
Daschle	Jacobs	Shannon
Derwinski	Jones (OK)	Solomon
Evans (IA)	Lewis	Staton
Findley	Lowry (WA)	Synar
Forsythe	Mitchell (MD)	Traxler
Gejdenson	Roe	Walker

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—59

Anthony	Evans (GA)	Oxley
Bedell	Fascell	Pepper
Boggs	Ferraro	Railsback
Bonker	Foglietta	Rangel
Brodhead	Ford (MI)	Richmond
Burton, John	Fountain	Rogers
Chappell	Hall, Ralph	Roth
Chisholm	Hansen (UT)	Santini
Clay	Hatcher	Savage
Conyers	Heckler	Sawyer
Corcoran	Heftel	Seiberling
Cotter	Hollenbeck	Shaw
Coyne, James	Hutto	Shelby
Crockett	Livingston	Smith (AL)
Deckard	Madigan	Smith (PA)
Dickinson	Markey	Solarz
Dingell	Mattox	Vander Jagt
Dixon	McKinney	Wirth
Donnelly	Moffett	Young (AK)
Dougherty	Neal	

□ 0920

So the Journal was approved.

The result of the vote was announced as above recorded.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TODAY DURING HOUSE SESSION

Mrs. BOUQUARD. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be permitted to sit today while the House is in session.

The SPEAKER. Is there objection to the request of the gentlewoman from Tennessee?

Mr. WALKER. Mr. Speaker, reserving the right to object, may I ask the gentlewoman, Is the subcommittee

going to be marking up any bills, or is it a simple matter of hearings?

Mrs. BOUQUARD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Speaker, we are sitting just for the purpose of holding hearings today; there will be no markup today.

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for her response, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3982, OMNIBUS RECONCILIATION ACT OF 1981

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 3982, the Omnibus Budget Reconciliation Act of 1981.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. LATTA. Mr. Speaker, reserving the right to object, I take this time not to object, because I shall not object, but for the purpose of inquiring of our committee chairman when he would expect this piece of legislation to be on the floor?

Mr. JONES of Oklahoma. Mr. Speaker, if the gentleman will yield, our hope is to file the conference report by midnight tonight. We have a lot of legislative drafting to do yet. It would be the chairman's hope that it could be brought up tomorrow. I would like to bring it up tomorrow. but I think it is more likely that it would be Friday morning.

Mr. LATTA. Not later than Friday?

Mr. JONES of Oklahoma. That would be this gentleman's intention and hope.

Mr. LATTA. Mr. Speaker, I thank the committee chairman for his response, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

RELATIVE TO ADJOURNMENT TO A DATE CERTAIN DURING THE REMAINDER OF THE 97TH CONGRESS

Mr. WRIGHT. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 164) relative to adjournment to a date certain during the remainder of the 97th Congress, and I ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 164

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I shall not object, but I want to advise the Speaker that I have spoken personally just a moment ago with the majority leader in the other body, and he is most pleased that we are taking this action and will anticipate its reception over in the other body.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON FRIDAY, JULY 31, 1981

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, July 31, 1981, it convene at 9 a.m. The purpose of this presumably would be to take action that day on the legislative reconciliation bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 0930

TAX INCENTIVE ACT OF 1981

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 198 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 198

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against section 742 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order in the House or in the Committee of the Whole except amendments recommended by the Committee on Ways and Means which shall be in order at any time, and shall not be subject to amendment but shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and the following amendments, which may be offered only in the Committee of the Whole, which shall be considered only in the following order if offered, and which shall be considered as having been read if offered, and against which all points of order for failure to comply with the provisions of clause 5, rule XXI are hereby waived: (1) an amendment in the nature of a substitute consisting of the text of the bill H.R. 4269 if offered by Representative Udall of Arizona, and said substitute shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Udall and a Member opposed thereto; and (2) an amendment in the nature of a substitute consisting of the text of the bill H.R. 4260 if offered by Representative Conable of New York, said substitute shall be in order even if the amendment designated (1) above has been adopted, and said substitute shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Conable and the chairman of the Committee on Ways and Means. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, but if more than one amendment in the nature of a substitute has been adopted in the Committee of the Whole, only the last such amendment adopted shall be reported to the House; if such amendment in the nature of a substitute is rejected on a separate vote in the House, any Member may demand a separate vote in the House on any of the amendments recommended by the Committee on Ways and Means adopted in the Committee of the Whole. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a most unusual rule and probably the most unusual tax bill in the history of the Republic. It is billed as being the biggest tax bill that we have ever had.

There have been so many inaccuracies I suppose about both bills that it is very hard to know whether that is true.

But, in any event, the one thing that I can say to the Members on this occasion is that every Member has had an opportunity since last Friday to look at each of the matters that will be before the House for consideration.

We are not going to have another day where there is a sudden arrival of a new version of legislation and where we are then required to buy a pig in a poke.

There was a good deal of effort that went into assuring that.

I guess that is really about the only excuse for the rule. There has been a long process that led to two and now three tax bills. The Udall bill, which came into being in the last week or 10 days, is a balanced-budget bill. The Rostenkowski bill, which is the main bill, is not. And what I will call the Reagan bill is not.

But they are very large bills. They are very complicated bills and it was obvious to me, at least, that if we were to have any ability to know what was going on, and we were not going to have a further unseemly bidding war in the last hours of the legislation, that we had to come up with a very tight rule.

Now naturally there are a large number of Members on each side who very much object to not having the opportunity to express their view on their amendment. That is not confined just to Democrats. There were Republicans, a panel of distinguished Republicans, five of them, appeared before the Rules Committee yesterday to complain about, let us say, the energy sections of the bill, and I am sure that they will complain further in the process before they move to vote on one bill or another.

This is the best that we could figure out. It seemed to be agreed to by virtually all of the leadership on the Republican and Democratic side and, therefore, I see no particular reason to debate it at great length, but I will be glad to answer any questions with regard to any provisions of the rule.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I appreciate the gentleman's statement that we are not going to have any surprises on the floor with regard to the rule, and I think the Rules Committee has done an excellent job in that regard.

The only provision I am concerned about is the provision that allows the Committee on Ways and Means to offer an amendment, that is not specified as to what this amendment might be.

I understand that it is supposed to go to title IX, but could the gentleman tell the House what that provision is all about in the rule.

Mr. BOLLING. As I understand it, it has to do with loans to States in relation to unemployment compensation funds. The gentleman understands—I do not want to mislead him in any way—there is nothing of what I am about to describe planned so far as I know.

But the committee does have a right, either for technical reasons or to correct error, to come in with committee amendments. Theoretically, at least, although I do not think that it would be attempted and I certainly would disapprove of it, a committee could have a meeting and come in with something very different than a technical amendment, but that is not the intention of the provision in the rule. The intent is to allow for the striking of title IX, if that is appropriate due to the fact that the matter is taken care of in the reconciliation bill. As far as I am concerned, the provision of the rule allowing committee amendments is only designed to deal with technical and other matters of that sort.

It is not supposed to come up with anything new policywise.

Mr. WALKER. If the gentleman will yield further, in other words, it was the understanding in adopting that provision by the Rules Committee that it was not an open-ended kind of provision to allow a major substantive change in the bill to be brought to the floor.

Mr. BOLLING. Absolutely, the gentleman is correct. This Member, unlike I take it most of the Members of the House, opposes unknowns regardless of who they benefit.

Mr. WALKER. I thank the gentleman.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding. It is my understanding that under this rule there will be only a motion to recommit without instructions; is that correct?

Mr. BOLLING. That is correct, and that was also part of the agreement.

Mr. JEFFORDS. And so if we want to have a motion to recommit with instructions to remove obnoxious provisions which we feel are obnoxious, as we discussed in the Rules Committee yesterday with respect to oil and the tax giveaways limited to six industries, then it will be necessary for us to vote down the previous question; is that correct?

□ 0940

Mr. JEFFORDS. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this is a very unusual rule, but a good one. It protects the interests of the Members of the House, provides an orderly debate on the tax reduction bill, and I am happy to see it come about. Today is long overdue.

For the past 20 years there has not been a true tax cut or a tax reduction passed by the Congress of the United States, and especially by this House of Representatives. The people are tired of going to the foot of the rainbow with a promise, with a promise, with a promise that something is there and nothing is there at all.

So today we have the opportunity to give the American people a true tax cut.

If my colleagues want to give working Americans a true tax cut, then vote for the bipartisan Conable-Hance substitute.

If my colleagues want business to grow and to expand, to provide new permanent jobs, then vote for the bipartisan Conable-Hance substitute.

If my colleagues want to hold inflation down, and inflation is the noose around the necks of all Americans, if you want to hold it down, vote for the bipartisan Conable-Hance substitute.

If my colleagues want to reduce interest rates, another noose around the necks of all Americans who are handicapped because they cannot buy a home, because they cannot finance the purchase of new automobiles, because they cannot finance what they need—if they want to see interest rates come down—vote for the bipartisan Conable-Hance substitute.

If my colleagues want to end the unfair marriage tax provision—yes, it is unfair—then vote for the bipartisan Conable-Hance substitute.

If my colleagues want to lower the top marginal rate on interest income from 70 to 50 percent, and that is badly needed for the salvaging of many of our great institutions throughout the land, to encourage savings, and most of all to benefit the people who would increase savings in their own households and others throughout the land, then if they want this, vote for the bipartisan Conable-Hance substitute.

If my colleagues want to reduce the tax on capital gains to a maximum of 20 percent starting in June 1981, a very necessary thing to stimulate our economy and to get America going again, then vote for the bipartisan Conable-Hance substitute.

If my colleagues want to provide relief in the estate tax and the gift tax, another provision which would keep farms and businesses within the families of this great country of ours,

an idea of our Founding Fathers, then if my colleagues would like this, they should vote for the bipartisan Conable-Hance substitute.

Many provisions of this bill would put America on the right track, would get America going again and provide a true tax reduction of 25 percent across the board over a 3-year period.

Mr. Speaker, I urge my colleagues, vote for the rule and then, when the measure is before us for general debate and for final passage, vote for the bipartisan Conable-Hance substitute because it is what the working people of America need; it is what we need to get America back on her feet again.

Mr. BOLLING. Mr. Speaker, I would say to the gentleman from Tennessee that he may be interested in knowing that I have, before my closing speaker, five speakers, each of whom will have 3 minutes.

Mr. QUILLEN. I would say, after the gentleman yields, that I would yield to the gentleman from New York (Mr. GREEN). I would ask the gentleman from Missouri (Mr. BOLLING) to go ahead, but I would inform the gentleman from Missouri that we have approximately nine requests for time. If the gentleman would like, I would be glad to yield more time after the gentleman in the well speaks.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Missouri for yielding to me. I rise in opposition to this rule for several reasons. First of all, it does not permit adequate debate on tax bills that range from $703 billion to $754 billion. I cannot for the life of me understand what is this haste in disposing of the largest tax bill in the history of the Republic. Given the complexity of this measure we should spend at least 1 entire day simply debating and comparing specifics of the various proposals put before us. The rule for this bill, which we are being asked to approve, limits general debate to 2 hours on a $700 billion bill.

Rather than having the opportunity to hear debate and allow Congress and the American people to find out about the specifics on a comparative basis, we are rushing headlong to judgment.

Second, the rule does not permit any amendments to be offered to test the various portions of these two major bills, whether it is a multimillion-dollar giveaway to oil producers or a multimillion-dollar giveaway to Fortune 500 corporations, or a giveway all up and down the line. No amendments will be permitted to let the Members of this House have the opportunity to determine whether or not these are appropriate.

Finally, I do not understand why the Rules Committee, both majority and minority, did not see fit to let us have an opportunity to offer an amendment which would add an indexing provision to the Ways and Means bill and an amendment which would place an economic trigger on the third year of the Hance-Conable proposal. Why could they not give us the opportunity to test the belief that anyone has in President Reagan's economic assumptions and to let us vote up and down on whether we believe these economic goals are going to be realized.

I finally figured out last night why we will not have that opportunity. The reason we have this rule is because the Democratic strategy, although we tried to keep it secret, has finally emerged. Perhaps I am letting the secret out to soon, but to me our Democratic strategy is obvious. It is to let the President win everything in his economic program, put up a good fight but let the President win, and then when the country's economy goes down the drain because of the failure of these policies, then the President and the President alone will have to bear that blame. If that is not the strategy then there is no other good explanation for the limited debate, the no-amendments gag rules which we have been presented. It is clear to me that the whole strategy, not permitting votes on the specifics, not letting us vote on the trigger to test whether even the minority believes in the economic assumptions of the President, is a very cleverly, skilled, and crafted political strategem to make certain that the President's victory can be snatched from the jaws of defeat by the imposition of these types of rules.

Obviously this strategy is not always easy to implement. It sometimes requires some Democrats to cross over and make certain that the strategy does not fail. Certainly, acting on their own, the Republicans might not stumble into these traps. When it appears that the Republicans may actually fail, our Democratic strategy must intervene and provide procedural rules to assure Republican victory.

I suggest to my colleagues that what we are about to see is another gag rule with inadequate opportunity to debate a fundamentally important question for the American people, because no opportunity is being given for appropriate amendments or even for adequate debate.

□ 0950

I do not know what the haste is in the few hours that have been permitted under this gag rule.

But, I think our Democratic strategy has finally emerged for all the world to see. Yes, with the adoption of this gag rule, no votes on amendments and really no time for debate—yes, we finally have the Republicans where we want them. They have fallen into the trap.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise to urge my colleagues to vote against the previous question on the rule proposed by the Rules Committee so that a substitute rule can be considered.

I understand the need for the Rules Committee to limit amendments to tax bills and to focus our attention on the key policy issues among the literally hundreds of issues that can arise in tax legislation.

But one key policy issue in this tax bill is the Christmas tree syndrome—the extent to which both sides of the aisle have been giving away taxes on the oil industry and other industries thought to be able to influence the votes of significant numbers of Members.

I shall use the Democratic Study Group numbers in commenting on this, so that, as a Republican, I cannot be accused of partisanship.

The Democratic Study Group numbers say—hold your nose now—that the Democratic leadership has given away $10 billion in oil tax breaks versus the Republican leadership's $16 billion. However, the Democratic leadership has also provided a $3.3 billion bailout for the airline, automobile, mining, paper, railroad, and steel industries.

Are those issues on which we should be denied the right to vote? I think not. Surely those who do feel a tax cut is needed to encourage savings, investment, and productivity should have one chance to vote against the Christmas tree.

Some may argue that the Udall-Obey-Reuss substitute gives us that option. But, on inspection, it does not. It has too many weaknesses:

First. It will inevitably lay behind inflation. Its one-quarter of a year 5 percent personal income tax cut is by any estimate of next year's inflation a true tax increase.

Second. The capital gains tax reduction we passed in 1978—based on the Steiger amendment, of which I was a cosponsor—has been one of the most successful pieces of tax legislation this House has ever passed. It provided enormous stimulus to the venture capital and new issue markets with little—or in my opinion no—loss of revenue to the Treasury. The firms helped by this are those who can most contribute to increased productivity and employment. Yet the Udall-Obey-Reuss substitute provides infinitesimal capital gains tax relief.

Third. Udall-Obey-Reuss omits tax incentives for mass transit that occur in both the Republican and Democratic tax packages.

Fourth. Udall-Obey-Reuss omits tax incentives for low-income housing that

exists in both the Republican and Democratic tax packages.

In summary, I think this rule does not provide the Members of the House with the options that they ought to have to shape this tax bill, and I shall therefore vote against the rule.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I urge support of the gentleman's proposal to vote down the previous question. I ask my colleagues to support that proposal.

Mr. Speaker, I rise in opposition to this rule and in support of the remarks by the gentleman from New York (Mr. GREEN) and urge my colleagues to vote down the previous question to permit a separate vote on the provisions of this bill which permit more and more of the windfall profits of the oil industry to escape taxation.

When I appeared before the Rules Committee yesterday, I stated that I felt that the oil tax exemption provisions of the two major tax change measures before the House were their most objectionable features. Despite my appeal for a separate vote, along with a number of my colleagues, the Rules Committee has submitted a very bad rule, which forces us to acceed to a raid on the Treasury for the benefit of the big oil interests.

I know that many of my colleagues agree with me that this oil tax giveaway provision has no place in this bill. Accordingly, I urge my colleagues to vote down the previous question and to allow a substitute rule to be offered providing for a separate vote on this provision.

Mr. LEACH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Speaker, I support the gentleman's motion to vote down the previous question.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Speaker, I support the gentleman's position.

Mr. Speaker, I rise in strong opposition to the rule. It seems strange to me that this body, which prides itself on the openness of its proceedings, consistently strays from this path whenever major legislation, such as this tax bill, is considered on the floor. Those of us—and there are many—who are not members of the Ways and Means Committee, not part of the leadership, boll weevils, or gypsy moths have been relegated to the sidelines to watch one of the most spectacular Christmas tree trimmings in recent history.

A no vote on the rule today is necessary because the bidding war has simply gone too far. Both the Ways and Means Committee bill and the Conable-Hance substitute provide excessive tax relief to one sector of the economy which, is not exactly starving for capital—the oil industry. It is ironic that, at a time when several major oil companies are engaged in a bidding war of their own for the control of Conoco, that we in the House, are asked to choose between two tax bills—one which would give the oil industry over $7 billion in new tax relief, and the other, which would give them over $16 billion in relief.

Mr. Speaker, I support the underpinnings of the Conable-Hance bill—the 3-year, 25-percent tax cut, and the new incentives for saving and investment which our country desperately needs. However, I find the oil provisions totally unsupportable and I want the opportunity to vote against them. The Senate has taken a far more reasoned approach in the oil provisions of its tax bill. The House should follow the other body's lead. I urge my colleagues to vote against the rule.

Mr. PETRI. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Speaker, I rise in opposition to the rule. I wish to associate myself with the effort of a number of my colleagues to offer a substitute rule allowing a separate vote on a number of windfall profits tax provisions in the event the Conable-Hance bill prevails. I support the Conable-Hance alternative, especially for its indexing provision which will prevent unlegislated tax increases in the future. However I am distressed that in the bidding war that has gone on between the two major bills it has been necessary to add sweeteners for various special interests with political power in certain key congressional districts. Surely this is a bad way to write a major tax bill, and both sides share the guilt.

Some of the worst sweeteners in the Conable-Hance alternative are in its windfall profits tax provisions. This tax was just enacted in the last Congress. It represents a justified political compromise, allowing us to obtain most of the economic benefits of oil decontrol while capturing most of the ensuing windfall profits for the taxpayers. There may well be improvements that could be made in the name of economic efficiency. But rest assured that that is not the motive for the changes we consider today. The motive today is pure political expediency. The oil industry has in no way demonstrated a need for $16 billion of near term tax savings, and we owe the public a separate vote on eliminating these special interest cuts.

I urge my colleagues to oppose the previous question on the rule so we may have such a vote.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I rise in opposition to the proposed rule and ask my colleagues to defeat the previous question.

Mr. Speaker, I yield to no one in my support for the President's economic recovery program, and my opposition to the rule is fully in keeping with my support for the President and his economic program.

One part of the Conable-Hance bipartisan substitute bears little, if any relation to the President's tax proposals or his economic goals of more jobs, more saving, and more investment, and less inflation and lower interest rates. The provisions I refer to are, in my judgment, giveaways to big oil, that quite aside from their perceived political necessity are clearly counterproductive to these goals. These provisions should be stripped from the bill, or at the very least, reduced substantially.

Unfortunately, under the proposed rule, the House would be denied the opportunity to even consider this issue, and that is why I must oppose the rule before us.

Mr. Speaker, these energy provisions will do little or nothing to encourage saving, investment, and job creation. The oil industry currently enjoys unprecedented prosperity and already is blessed with highly specific and very favorable tax treatment. There is simply no economic reason, justification, or defense for these provisions, and the savings resulting from their deletion or modification could be put to true supply-side use—for example, reducing the deficit or providing additional and much-needed relief to our ailing basic and muture industrial infrastructuring.

These provisions carry a terrific cost that works against the goals of the President's economic recovery program. Depending on whose estimate is accepted, the cost, in terms of revenue loss, is between $13 billion and $16 billion. I would trim this back to $6 billion by substituting portions of the Senate-reported tax bill (H.J. Res. 266, secs. 241 and 242) for title VI of Conable-Hance II (H.R. 4260). In effect, this would make the $2,500 credit for royalty owners permanent and would reduce the windfall profit tax in newly discovered oil from 30 percent to 15 percent by 1986.

I would remove the newly added energy provisions; namely, retention of the depletion rate at 22 percent for independent producers of oil and gas, royalty owners exemption from the windfall profit tax of up to two barrels per day in 1982, 1983, and 1984 and up to four barrels a day thereafter, and exemption of independent producers'

stripper well oil, beginning in 1983. In my judgment, these items should be the subject of separate legislation.

H.R. 3849, or the original Conable-Hance bill, provided for a permanent $2,500 windfall profit tax credit for royalty owners. I fully support that provision and the relief it affords the royalty owners and believe we can sustain the $3.3 billion revenue loss over the next 5 years that would result. However, I see no reason to expand that provision as included in Conable-Hance II into an exemption over the *next 5 years* which would cost an additional $2 billion.

These savings could be used either to reduce the deficit or for other tax provisions as part of subsequent tax legislation that would truly be supply side—pro-jobs, and pro-productivity. Two provisions that I personally favor are:

First, a provision that the useful life for depreciation purposes begin at the time of acquisition rather than at the time of service for equipment and/or buildings.

Second, a provision that would allow a taxpayer to accelerate the depreciation period to the shortest possible time allowed by any new language in the Tax Code for purposes of recapturing the remaining unused depreciable value in equipment and/or buildings.

Changes in the Tax Code such as these would be extremely important to a mature industrial base and would stimulate new investments, which translates into jobs and would encourage industries to stay in present locations. We must have balance in our tax laws as between mature, capital-intensive industry and other industries that can do quite well without additional Government relief. Equally important is that by permitting our mature industries—such as steel—to decline, we seriously endanger and threaten our national security.

Mr. Speaker, we have seen a so-called clean bill transformed into the all-too-common legislative Christmas tree. When I first proposed to the administration additional supply-side incentives for their tax proposal, I was told, "Yes, you're absolutely right, but we cannot afford the revenue loss." That was before this bill became the Christmas tree it now is, before any oil provisions were added, not for productivity/job-raising purposes, but for the political bidding war between the White House and the Ways and Means Committee.

This compromise would only make a small dent in these problems but it will restore some semblence of equity to the tax bill. More important, it will delete from the bill provisions that cannot be defended in the name of improving the economy, creating new jobs, increasing saving, or reducing the deficit.

Mr. Speaker, as I noted, I believe the energy provisions of H.R. 4260 work against the President's economic goals. If they were trimmed back, the $8 billion in savings could be used, if not for my personal preferences as I have just outlined them, but for reducing the Federal deficit. Deficits are important, in part, because they reflect the level of crowding out of private investment capital and encouraging the wrong kind of saving—namely saving in Government securities rather than in private-sector capital investment. The result is that all interest rates are higher because of high deficits. For each dollar we reduce the deficit, an additional dollar is made available for private-sector investment.

Mr. Speaker, I wish to share some data which dramatizes the importance of regaining our country's historic competitive advantage in world markets. In 1965, the United States captured 14.6 percent of all world trade; in 1970, our share dropped to 13.7 percent; by 1975, it was 12.3 percent; and last year, it was 11 percent. I hasten to add that the current strength of the U.S. dollar will exacerbate this ominous trend. The same sad story is true for our competitive position with the European Economic Community. In 1965, the United States had 42.4 percent of the total United States-European world trade; in 1970, that share had dropped to 38.2 percent; in 1975, the figure was down to 34.1 percent; and last year, it stood at 32.8 percent. Here too, current currency exchange rates will operate to worsen the trend.

With respect to the steel industry, the average age of steel mill equipment in the United States is 17.5 years, whereas in Japan it is 11 to 12 years, and in some countries—such as Korea—it is brand new.

These facts point out the need for reindustrializing steel and other basic domestic industries. With a limited economic pie, we cannot afford to allocate a disproportionate amount of relief and assistance to industrial sectors that simply do not need the help.

I urge the defeat of the previous question.

Mr. GREEN. Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I rise in support of this rule.

It is not often that I rise in support of a rule which is as closed as this one, but those Members who have been here as long as I have know that it is certainly not anything new to bring in a closed rule or a modified closed rule on a revenue measure. In fact, I think we all understand that if we did not do it, we would probably end up with something that is unrecognizable.

The facts are that this is a very historic day. We are going today to pass a tax cut which will probably be one of the largest and most significant ever made. This is also the adoption of a different economic concept—the supply-side economy. No more than 6 months ago, I do not believe there were very many Members on the Democratic side who would have thought that they be in a position of voting for something like this.

As I recall, one of the great issues of the last campaign was whether or not there ought to be a tax cut. On the Republican side, we said yes—that for too many years we had been taking more of the earnings of the American people than we should and it was high time that we allowed them to spend their own money. We also said that the problem with the economy was not in consumerism, but it was in supply, and that the only way to improve the supply of goods and services in the economy was to increase the savings of our people.

If one is going to increase savings, one has to cut taxes. That is what this is all about. I just happen to believe that the best bill to accomplish this is the Conable bill. I congratulate the chairman of the Ways and Means Committee, my good friend, the gentleman from Illinois (Mr. ROSTENKOWSKI), the ranking member, Mr. CONABLE, and all of the Ways and Means members. I think they have done an amazingly good job.

Nevertheless, I do believe that the fact that the Conable substitute is the only bill which gives the American people a real tax cut is certainly an element that is decisive in deciding which way to vote.

My good friend, the gentleman from Arizona (Mr. UDALL), my colleague and my equally good friend, the gentleman from Wisconsin (Mr. OBEY), have put together a very interesting substitute; but when I was trying to find out yesterday in the Rules Committee how it was that they came to a balanced budget, I was not able to get too many answers from the gentleman from Wisconsin (Mr. OBEY). I have got to conclude that that budget is probably balanced with mirrors. There is not very much in the way of a tax cut, and that, of course, would narrow the gap between income and outgo, but nevertheless, there are lots of ways to project a balanced budget, depending on the economic assumptions you are prepared to make.

Also, one can balance the budget at a high level of economic activity, or one can balance it at a low level of activity. On our side, we do not look toward doing away with the things which the American people want and expect the Federal Government to do. What we do is to build an economy which will allow us to afford the things the American people want us to do.

The problem that we have had in the economy in the last several years is the fact that we have built an edifice, a structure, of Federal Government that cannot be supported by the economy which we have. We do not produce enough, and what we produce is often too expensive. So if we are not going to disappoint future generations of Americans, if we are going to be able to allow them to have the life which they would like, it is necessary that we beef up our economy. The only way I know to do it is to start with this tax cut bill today, the Conable substitute. It will provide the level of savings and investment our growing economy must have.

This is only one portion of the economic game plan. To me, the reconciliation bill which I hope will be on the floor for final action on Friday is the most important; but the two of them together, plus the plans which we have for restructuring the Government, are most important.

This is an economic plan which will work to the benefit of all Members.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I appreciate the kind comments of my friend, the gentleman from Arizona, JOHN RHODES, who has been one of the outstanding people in this institution. I want to assure the gentleman that our bill provides for a balanced budget. All one has to do is vote it up here and get it down to the White House and have it signed and there will be a balanced budget in this coming fiscal year.

We do not do it with mirrors. Our figures come out of the same computer that gives us the facts on the Republican substitute. We believe—and I think the guts of our bill is—that one does not go out and borrow money to give people a tax cut. One does not go out in the street and try it out on some ordinary citizen and tell him, "We are going to give a working family a $150 tax cut." He says, "Where are you going to get the money?" The answer is, "We are going to borrow it."

In a year we are paying $80 billion in interest on the national debt, in a year when we are moving to $106 billion, just interest, on the national debt next year, when we need capital for new enterprises and to build this country and get back productivity, one goes out in the marketplace and one is competing with our own Government.

□ 1000

Your own Government is going to be there trying to get $106 billion just to service the national debt. We think that is wrong. We think you can have a balanced budget this year, and we think you can have a large surplus in the second year. So give us a try. We have been preaching balanced budget for a long, long time. So let us give it a try.

I remember, Mr. Speaker, just 4 years ago the Carter people came to town, and they said, "We promised you a balanced budget. We have now looked at the numbers and we cannot do it in 1977; honestly, we cannot do it in 1978; we are hopeful about 1979. But you can bank on it, there will be a balanced budget in 1980," which happened to be an election year. The actual result, a $50 billion deficit in 1980.

Earlier this year into town comes the new Reagan administration, riding out of the West with David Stockman down there as their leader, and they said to their fellow Americans, "We just got here, we promised you a balanced budget, but we have looked at the numbers and we cannot do it in 1981; we have to be frank and tell you that 1982 is out; 1983 cannot be reached. But we will guarantee you that there will be a balanced budget in 1984," which happens to be an election year.

Now, you wonder why the American people are cynical and why they are worried and why they are upset. This is part of the game. Are we going to wait another 4-year cycle to get a balanced budget? Or are we going to get it now? With the Udall-Obey-Reuss bill we can get it now, and I encourage all of you to repent of your sins and join up with us in this great crusade for a balanced budget.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, I just mention, in connection with the gentleman's comments, that Rudy Penner of the American Enterprise Institute predicts that the budget deficit for 1984 will be $87 billion if this plan of the White House passes today.

Mr. UDALL. The gentleman is right. Take the best case. Let us suppose everything happens just the way the administration says it is going to happen. The Stockman people promise you in the next 3 years $126 billion of additional deficit spending, which is going to go on the public debt. We are going to be voting here this fall on raising the debt limit. A trillion dollar debt limit. The debt limit is going to over $1 trillion, and we are going to have to go out and get more interest to service the debt. We are going to be in trouble. We can do something about it. The American people would like to have a balanced budget and they would like to have it now, and we can give it to them now if we will get together.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank my colleague for yielding. I regard the gentleman as one of the warmest and wittiest Members of this Congress and probably is our premier humorist. In that context, I think this speech will be read by historians as a sign of either a peculiarly droll day or a genuine revolution in American thought. I thank the gentleman for bringing us this moment of enlightenment.

Mr. UDALL. The gentleman ought to try us out with this balanced budget. Even JOHN ROUSSELOT of California would feel good if he could help us out.

Mr. QUILLEN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I rise today in opposition to the rule governing consideration of the Tax Incentive Act of 1981. I am extremely disappointed that the House Rules Committee in its consummate deliberations has not provided a separate vote on substantial tax breaks to oil interests. I believe we owe that much to the energy-dependent American public.

The precise extent of special oil tax benefits in the various proposals is difficult to measure; Joint Committee on Taxation figures range from an $11.5 billion revenue loss under the House Ways and Means version to an estimated $16 billion under the bipartisan substitute. These figures are overwhelming and cannot be ignored. We are talking about billions of dollars in special tax benefits to the highly lucrative oil industry. Such tax breaks deserve to be considered separately, not camouflaged by a complicated tax bill.

As a strong supporter of the windfall profits tax legislation when it was originally considered in the last Congress, I fail to see how we can justify premature modifications of this law. We have not had the opportunity to fully evaluate its impact. Furthermore, I fail to see how we can return to our constituents who have experienced oil price increases of 600 percent over the last decade and tell them that, yes, we did vote for several billion dollars in new tax breaks for the rich oil industry.

My constituents in Maine cannot afford these provisions. Sixty percent of Maine's energy needs are met by oil, with overall energy prices being 24-percent higher than the national average. Congress must begin somewhere to curb our national energy expenditures (over $400 billion in 1980). We took a positive step when we passed the windfall profits tax. Now, is not the time to dismantle it.

Mr. Speaker, I regret that this body was cheated out of the opportunity to

unequivocally register its position on this new windfall for the oil industry. Today, I urge my colleagues to join with me in opposing this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Speaker, I rise in support of the Conable-Hance substitute. While I believe that either the Conable-Hance measure or the committee bill would be an immeasurable improvement over the status quo and the status quo's inevitable large tax increase, there are many reasons why I believe Conable-Hance will best serve the American public and our Nation's economic recovery.

However, I shall mention only one. The provision for indexing the Tax Code on January 1, 1985, is in my opinion the most compelling reason of all to support Conable-Hance over the committee bill—which does not contain indexing of our Tax Code.

What is indexing? While there are many definitions, the one I like best is "under indexing, if the taxpayer gets a raise—he or she gets to keep the money." Or, more accurately stated, the Federal Government does not reach deeper into your pockets when you finally get your raise and take an even higher percentage of your entire income. Indexing is the one protection to the taxpayer that the seemingly unquenchable thirst of the congressional big spenders may finally be abated.

Governments thrive on inflation—that is until the economic roof falls in—an event closer than we think unless the Congress acts. And while governments thrive on inflation—citizens and taxpayers perish from it. Excessive taxation destroys the fabric of incentive and reward.

January 1, 1985, is only 3 years and 5 months away. With Conable-Hance, with indexing by that date—we can bring this Federal financial juggernaut, finally, under control.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. Mr. Speaker, the process by which we have arrived at this point this morning is truly amazing. Bidding, counterbidding; offers, counteroffers. Monty Hall and "Let's Make a Deal" would really be proud of what has gone on in the Halls of Congress in the last several weeks, when you look at the billions of dollars of special interest giveaways designed to buy votes.

Mr. Speaker, where is the equity in pitting the workingmen and workingwomen of America against the oil companies of this country? Where is the fairness in pitting the workingmen and workingwomen of America against the commodity dealers who will take advantage of hundreds of millions of dollars of tax-straddle loopholes?

Where, Mr. Speaker, is the predictability in tax policy based on an untried, untested economic theory?

Mr. Speaker, while the middle-income American is incapable of borrowing money to buy a home, a car, or to send their son or daughter to school, we are going to allow high interest rates and large deficits to accumulate as a result of what we do on this floor today. These large deficits will one day come back to haunt us.

Each of us in our heart of hearts knows that any relationship between sound economic and tax policy and what we will do today is purely coincidental. All this has been done in order to satisfy only special interest groups and we know who they are. Their actions have replaced baseball as the sport to watch this summer; and instead of the Indians versus the Yankees in the "House That Ruth Built," we see Mobil versus du Pont at Conoco arena.

It is said, Mr. Speaker, that some people fight public opinion, others master it, and some even ride it. The oil companies have mastered the latter technique and now they threaten to master the Congress. By gaining billions of dollars in concessions while they finance a one-half-million dollar media campaign to sell the public on a tax plan from which they will reap a hundredfold. For what purpose?

President Reagan gave away cuff links to gain passage of his budget bill, and now he gives away billions to oil companies to pass his tax cut. We should reject this rule and throw this July Christmas tree out into the summer Sun. Let us get about the business of passing a tax bill based on sound economic and tax policy that will be good for Americans of all parties. Let us bring some reason and commonsense to a debate that has all too often been focused on what looks good to Americans, instead of what is good for America.

We have been through a bidding war, and I do not dispute that that may have been necessary to accomplish certain political goals. But now is the time for commonsense and reason to prevail. I want to and intend to support a tax cut but politics should not be allowed to rule this fight when pocketbook issues are at stake. The answer cannot be "politics as usual."

Mr. Speaker, I urge my colleagues to open up this fight, and reject the rule. Restore sanity to this process. Commonsense demands it, the working people expect it.

□ 1010

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. FIELDS).

Mr. FIELDS. Mr. Speaker, today is a very exciting day for me. Today is the day I stand on principle, to place our country back on the road to economic recovery. When I think of principle, this is a historic day. I think of another historic day in Texas and American history. I think of the day that 186 Texans gave their lives at the Alamo holding off 5,000 Mexican troops for 13 days, 13 days of glory. These men gave their lives for principle—the principles of liberty and freedom—and today we have the same historic opportunity—the opportunity of a lifetime. Today, we can give all working Americans the liberty and freedom from excessive taxation which has stymied productivity in this country, which redistributes wealth instead of creating wealth, and which has subjected the lower income of this country to fewer jobs and opportunities.

Today, we can correct the errors of the past Democratic leadership, a Democratic leadership which over the last 10 years has caused our taxes to rise $400 billion.

Today we can give the Americans, the American working people, a real tax cut of 25 percent for 3 years to keep working Americans ahead of the 22 percent projected rise in taxes over the next 3 years.

We can give the workers of this country indexing to insulate workers from being pushed into higher tax brackets that deprives that worker of more spendable income and a better standard of living.

In Texas we have a song. It says, "The eyes of Texas are upon us," and I say to my Texas colleagues today on both sides of the aisle, the eyes of Texas are upon us today. I say to my other colleagues in the House, the eyes of America are upon us.

Today is the day of principle. Today is our historic day. Today is the day that we make a historic change in the direction of the country to restore incentive to working Americans.

Today is our day, and today the eyes of this country are upon all of us.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Speaker, I rise in opposition to this rule, and seldom do I rise in opposition to rules, but this time I feel I must. I believe that this rule is the most anti-Democratic and most elitist rule that this House has ever had.

Why do I say that? The leadership of both parties have gotten together and decided this is the rule that we should operate by. They did not ask the regular Members of the House, we who are elected representatives of the people. They thought they could gag us. They did not give us adequate time for debate, nor do they allow us amendments and time to examine the provisions of this bill.

And how do they justify their position? They say, well, this is a tax bill, we cannot write it on the floor. This is

a tax bill. This is special. This is a complex bill.

Yet, I did not know when I got elected to Congress I came here with the caveat that I would only vote on amendment to minor bills and on major important bills no one would be able to amend them.

After all, do we not have the right to look at this legislation and some of the special interests represented here? Do we not have the right to eliminate special interests? But no, we cannot vote on it. Yet in the other body they have debated this legislation for 10 days and amended the bill on the floor. Are they more responsible than we are? They can amend, they can discuss each and every issue, but not here in the House of Representatives, the people's House.

They are better than we? I question that.

The second reason we have been given is quite frankly that we would Christmas tree the bill. I would suggest to the Members this bill is Christmas treed with special interest legislation, and I mean both bills. But we are prevented from taking the Christmas trees away. We are denied the opportunity to do that. We have to vote on legislation which places oil interests and commodity traders over people. Look at some of the provisions in these bills. This is special interest legislation of the worst kind on which we are voting and we the people's Representatives do not have the opportunity to amend it, to correct it.

They also say, I would suggest to my colleagues, that we, the House of Representatives cannot be trusted. The leadership is saying the Members of this House cannot be trusted because we may amend the bill or change it. Improperly, they say.

Well, I thought our people trusted us enough to elect us to this body and to consider legislation. That is our job.

I would suggest to my colleagues all of this legislation can be made better and we should make it better.

In fact, even the Senate added provisions which the administration accepted, such as indexing, and charitable contributions, deductions that found their way into these bills because they were added on the Senate floor. Regardless of the merits of these items, does the leadership think we cannot add or delete meritorious items if they are good items?

Let me say one other thing.

This is the largest tax bill in the history of the United States, and yet, we, the people's Representatives, will not have the opportunity to examine it piece by piece. Is it because we want to get out on time for the recess? Remember, we are spending 1 day, 1 day on the largest piece of legislation this Congress has ever seen.

If it requires time, then we ought to stay here and consider it individually piece by piece. I would urge an open or modified open rule, Mr. Speaker, because this rule is an antidemocratic and anti-American rule. This has resolved into a contest between the administration and the Ways and Means Committee. Who wins? I do not know. But I know who loses. The American people lose.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I rise in opposition to the rule for many of the reasons expressed by so many others, but I would like to point out just a few difficulties that I have.

First of all, there is a difference between offering an amendment which gives additional tax breaks on the floor of the House of Representatives, and offering amendments that would delete tax provisions that are presently within the bills, and there is where I think the Rules Committee has gone awry. They should have permitted us a bit greater flexibility in offering amendments that delete provisions which are almost universally opposed on a bipartisan basis, or provisions which are so momentous as to warrant separate consideration.

Let me give two examples. First of all, the so-called all-savers certificate. Now, I have talked with countless Democrats and countless Republicans about this provision. I have not met one Congressperson who, on the merits, believes that it is good legislation. Every single person I have talked to thinks it is a turkey.

The Reagan administration also thinks it is a turkey, and yet we are in the anomalous situation of it being in the committee bill, the Republican substitute, and the Senate bill, although there is almost universal opposition to it conceptually, intellectually. That ought not to be the case.

Rational men can devise a system where we can have a separate vote on what is almost universally opposed.

Second, let us consider that major issue of indexing. Now indexing is probably the most momentous piece of tax legislation we have ever considered; and yet we are going to vote for or against the Republican substitute primarily on one basis, whether we are for or against Ronald Reagan, personally, rather than on the merits or demerits of the concept of indexing.

Indexing has some intellectual appeal to me, when you only consider the income tax. But when we consider the fact that about 50 percent of the American people pay about 50 percent of their total tax burden, not through the income tax, but through the social security payroll tax, we can see there is tremendous room for inequity unless we reform the social security system before we go to indexing.

If we do not, we are then mandating a constant decrease in income taxes and yet we also have mandated by law constant increases in the social security payroll tax.

And so the chasm that exists between the haves and have nots in our society, becomes increasingly greater; and we are mandating that increased chasm by law, probably unwittingly; most importantly, we are not debating it, we are not discussing it, and we are not offered the opportunity to have a separate vote on it. If we are to go to indexing, I believe reform of our social security system should precede it. Otherwise, the option of financing a portion of the social security system through general revenues will be foreclosed.

Mr. Speaker, not to allow amendments so we can have separate votes on momentous issues is a prostitution of the legislative process.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. PARRIS).

□ 1020

Mr. PARRIS. Mr. Speaker, I rise in support of the rule, and I suggest that this is a historic day in the Congress of the United States and in its long and distinguished history.

The taxpayers of this Nation are struggling under the greatest burden of taxes in the history of our Nation. We have seen a good deal of television this morning regarding the festivities being celebrated in Great Britain. Mr. Speaker, in medieval times the serfs of that nation were taxed 25 percent of their work product. That is what brought about the revolution that created this Nation, and yet today the average American taxpayer pays 44 percent of his or her total income to pay taxes to this Government. The average taxpayer worked this year from January 1 through May 10 simply to pay his or her direct and indirect taxes.

The question, I submit, is not how much should the Government give back to the people. The question is not whether the Conable-Hance bill will give back $44 or $21 more or less than the Democratic bill; it is not; whether Mr. ROSTENKOWSKI's abortive attempt to raise taxes through a so-called tax cut bill will give back this or that, more or less. The question is, how much will the Government take from the people of this Nation to use to operate its functions.

The taxpayers of this Nation earned their money. It is their money. They should have the opportunity to make their own decisions to save, to invest, to spend, to use their money as they see fit without the burdens or direction of government. I predict a large and sufficient number of gentlemen on the other side of the aisle will join us in the vote today principally because of the leadership of the Presi-

dent of the United States. This President is truly a man of destiny. He has made the tough choices, and he has then forwarded them to us and challenged us to join him in solving the economic problems that are strangling our Nation.

We have heard this morning already and will hear a lot more throughout the day strong criticism of the President's bill. But recall if you will that just a few short weeks ago, a few months ago, the President wanted a clean bill. He wanted a 3-year, 30-percent tax cut across the board for every American, with accelerated depreciation to increase business investment and create jobs. What do we have now? We have a Christmas tree with massive single interest benefits galore. But you play the game according to the rules established by the majority in this House side, not by the President. He and we have no choice. I think many of my Democratic colleagues will join us in supporting the President's proposal because they understand that the average family taxes have increased $2,000 under Jimmy Carter's Presidency. This burden has simply got to be reduced and the trend reversed.

In the Task Force on Economic Policy which I chair, at hearings earlier this week on the tax cut, Dr. Norman Ture, the Under Secretary for Tax Policy, said that the Rostenkowski bill is simply throwing a bone to the people of this Nation which they will take back with a pound of flesh attached 3 years from now. I submit to you that that observation is exactly correct.

Dr. John M. Albertine, former executive director of the Joint Economic Committee of the Congress and currently serving as president of the American Business Conference testified that a 3-year tax cut with a trigger will be considered a 2-year tax cut for business planning purposes and will not therefore stimulate business expansion and investment capital to create jobs and economic activity.

The President's bipartisan tax plan is a 25-percent permanent tax rate cut across the board. It will not be repealed by bracket creep and inflation, the disease and pestilence of our times.

The President and the Members of Congress of both parties who support the bipartisan bill are pledging to the people of this great Nation the following:

We are reducing your Federal taxes. We will keep them down. There will be no hidden tax increases. Every American taxpayer will be better off under the President's proposal by the year 1985.

That is what I believe the American taxpayers support and what they want. It is my sincere hope and I trust and I predict, that the President's bipartisan tax bill will be adopted by this Congress today.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, the question is whether the House is going to be able to assert a little self-control, or whether we are going to have the country believe that we did a lot of things that nobody here supports because we could not help it. We are talking not about whether or not there ought to be a tax cut, and not about whether or not there ought to be what kind of tax cut, but whether a series of provisions that are admitted by almost all sides to have no merit ought to be locked in.

The gentleman from Missouri said that we needed a tight rule to prevent the escalation of the bidding process. The tight rule serves the function of locking in the results of the bidding process. The gentleman from Texas said that the eyes of Texas were upon us.

Mr. Speaker, I do not object to the eyes of Texas being upon me; I object to the hands of Texas being in my pockets, because when we put into this bill special provisions for the oil industry that only about 15 Members of this body are prepared to defend on the merits, we make an error.

I believe that the chairman of the Ways and Means Committee tried very hard to avoid this. He did not initiate this bidding process. He tried to get a clean bill. That happened on the Senate side, and then the President decided that he would break from the cleanliness standard. I do not know that anyone went down to the White House and forced the President to foreswear cleanliness. I suppose he still has the other 11 Boy Scout virtues, but he gave up cleanliness voluntarily.

The only question before us now in this rule is, do we commit ourselves to vote on these provisions without change. I talked earlier about the reverse Houdini, when politicians say to the voters, "Oh, I didn't want to do this terrible thing but I couldn't help it," having put themselves in that position.

Well, you are about to have to vote on two bills, the Democratic and Republican bills, which both do things for the oil industry which are unnecessary; both have about as much effect on production as if we went down to the harbor and gave the Moon a little help with the tides. They do not need that tax relief. It is simply extra dough that we are pouring on them.

The question is, are we going to vote for a rule which prevents us from stopping this? I do not think that the people on the other side on the whole like the idea. We, however, are about to force ourselves to do it.

I sympathize with and admire the job that our leadership has done to avoid this, but the final step is here. I believe at this date, if we were to reject the rule and put in order amendments to make these bills neutral from the standpoint of oil, we would have no effect on the outcome of which bill won. We would save billions of dollars for the American people. Anybody who votes to lock this in and give the oil companies unneeded billions so that the bidding for Conoco can go up and other things can go up, please do not go and tell your people you are sorry you cut social security, that you cut school lunches or that you cut other things, not when you have given away oil revenues that exceed the amount of some of those cuts.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, it has been said here by people on both sides that this is the largest tax bill in the history of this Nation, and yet here we are with a rule which permits 2 hours of general debate and 1 hour on each of two amendments, a substitute from Mr. UDALL and a substitute from the Republican side. I gather that there is such confidence in how quickly we can dispose of this massive piece of legislation that there will be another bill besides the tax bill scheduled to be considered today. This, in the face of the fact that both the Democratic bill and the Republican substitute are disgraceful pieces of legislation. I happen to think that the Democratic bill is slightly less disgraceful than the Republican, but both are disgraceful bills.

I had occasion to say when we were discussing the budget that it was a "drop dead America" budget. This tax bill drives the nail into the coffin of America because when we have the kind of rate of increase in defense expenditures, three times the rate of Vietnam, $1.635 trillion over the course of the next 5 years, and instead of increasing taxes to take care of that kind of expenditure, we cut taxes, we are asking for chaos in the American economy. I am amazed at the Republicans doing that, after the example of Lyndon Johnson.

I happen to think that this rule is a bad rule. I am going to vote against it. I agree with my Republican colleagues, the minority on the Republican side, who want to defeat the previous question. I am going to support them in that as well, but I hope that they understand the inherent logic of their position. It means that if they vote against the previous question, that they are in fact committing themselves to a position that the oil giveaways in both the Democratic and Republican bills are unacceptable, and I

hope they will then follow through with that logic and vote both against the Republican substitute and the Democratic bill, as I intend to do. Otherwise many of their constituents will be justified in concluding that my moderate Republican colleagues are engaging in a charade intended to fool them.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Speaker, I rise in opposition to the rule. I rise in opposition because the way that this bill has been drafted has been in direct contraposition to the way this House has handled tax legislation in the past. When I asked one of my colleagues on the Rules Committee what kind of rule has been approved for previous tax bills, he answered that closed rules were generally approved. Why had they been closed, I asked? To prevent a bidding war, he answered.

Mr. Speaker, the bidding war has already occurred. The need for a closed rule is passed. What we now need is an open rule. We need an open rule to separate the wheat from the chaff. We need to determine which are the good provisions in this bill and which are the bad. We should not have to swallow or reject the whole thing.

Mr. Speaker, it has been said that both bills are Christmas trees and sure enough each side has been busy adding new sweeteners to the bill. I sympathize with the plight of our chairman of the Ways and Means Committee, but in the candy canes that are on his Christmas tree and on the President's, there are shards of glass. If we do not make an effort to remove these dangerous candy canes from the two Christmas trees, our country will suffer.

□ 1030

Mr. Speaker, this is a different day for tax legislation. We need an open rule.

Mrs. ROUKEMA. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I would like to commend the gentleman from New York (Mr. SCHUMER) for his fine comments, and I would like to associate myself with his proposal that, in fact, the bidding war has already taken place and that we do need an open rule. I thank the gentleman for his statement.

Mr. SCHUMER. Mr. Speaker, I thank the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, the gentleman made a statement that the Ways and Means Committee had to respond to the President in his efforts to Christmas-tree the bill.

I am sure the gentleman will recall that the President's request was to bring a clean bill before us, that the President merely wanted us to deal with across-the-board tax cuts and rapid depreciation matters, and that the President's intent was that we would not do this bidding but the President was just responding to the process that was controlled by the other side.

Mr. SCHUMER. Mr. Speaker, the gentleman from California (Mr. LUNGREN) will be reminded of what happened in the Senate Finance Committee long before this Democratic Ways and Means Committee had to add anything to its bill. That Finance Committee added piece after piece after piece onto the bill, and when the White House was asked whether it was opposed or in favor of those pieces, there was no position taken whatsoever. The President cannot have it both ways. He cannot say he is for a clean bill and then let his allies in the Senate add illegitimate sweetness onto it.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I support this rule so that we can get on with the historic debate on the tax cut issue.

Mr. Speaker, the majority is promoting its tax plan as a bill for the little guy, making under $50,000 a year. But their bill contains a feature they have not chosen to emphasize in public—I know why—massive cuts in the corporate tax rate for the largest of America's corporations. What is more, these corporate tax cuts are for the next 7 years!

I find it rather ironic that the Democratic Party which bills itself as being for the little guy, provides a 7-year tax cut for the largest corporations, including the largest oil companies, while restricting tax cuts for individuals to a paltry 2 years. It is not for the small business person, the majority of whom pay taxes as individual, rather than corporate rates. It is not for the wage earner that the majority bill reserves its greatest impact. It is for the Fortune 500 corporations. What I would like to know is, if 7 years is good enough in the Democrat's tax bill for the big corporations, why is it not good enough for the individual?

The little guy in America is better off under the President's plan, which guarantees everyone a 3-year tax cut, plus a permanent cap on bracket creep in years after.

The SPEAKER. The Chair will state that the gentleman from Tennessee (Mr. QUILLEN) has 10 minutes remaining and the gentleman from Missouri (Mr. BOLLING) has 3 minutes remaining.

Mr. BOLLING. Mr. Speaker, I yield 2 of my remaining 3 minutes to the distinguished gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I thank the chairman of the Rules Committee for giving me time at this point in the debate.

The Congressional Black Caucus offered a tax package in May 1981 as part of its substitute to the budget resolution. That became the caucus tax bill (H.R. 4262) on July 24. Its own rules committee has denied the caucus even an opportunity to bring it before the body today.

I am absolutely outraged, and I want to tell the Members that I am voting against the previous question. I am voting against the rule and this outrageous Democratic tax bill that is being brought here today.

We have Republicans now trying to take the oil giveaways out of the Democratic bill. The Democrats in caucus have closed off the debate on even opening it up for a vote on oil. It is hard these days to distinguish between Democratic and Republican bills.

So I want to tell my friends on the other side of the aisle, who are saying to their President and their party and to the conservatives that even they are embarrassed by this that, if you are counting on this Democrat's vote for the greatest tax scandal in the 20th century, forget it.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the Conable-Hance bipartisan tax cut proposal.

I share some of the reservations expressed earlier about the size and scope of the various measures we will be considering today.

I would prefer to have us consider the President's original proposal for a straight, 3-year tax reduction for individuals and his initial proposals for business tax relief.

Many of the amendments added to these bills in recent weeks could be handled more appropriately in separate debates.

But on balance, the most important consideration is approval of the President's tax relief and budget reduction package as quickly as possible.

One economy is reeling from years of mismanagement. Yet nearly 9 months after the election we will have not implemented an economic program to deal with those problems.

Prompt action is critical if we are to get the economy moving again.

No area of the Nation has been hit harder by our chaotic economic policies than my home State of Michigan.

Statewide unemployment still ranges over 11 percent and it ran as high as 14 percent earlier this year.

In Pontiac, Mich., my congressional district, unemployment has soared as high as 25 percent.

The major auto manufacturers have been struggling for survival and many small businesses already have been forced into bankruptcy.

The automotive industry has made a major commitment to invest the billions of dollars necessary to enable it to keep pace with the fast-changing world market and there are already encouraging signs that a comeback may be underway.

But the industry will require the stimulative encouragement of the President's business tax incentives to help it succeed.

The President's proposal is clearly the best hope for Michigan and for the Nation.

As the President said in his speech Monday night:

Our bipartisan coalition worked out a tax bill we felt would provide incentive and stimulate productivity, thus reducing inflation and providing jobs for the unemployed.

With the Government taking away nearly one-half of every extra dollar middle-income people earn, it is clear that we have removed the incentives for people to work harder, save, and invest—exactly the elements needed for economic growth.

The President's proposal for an across-the-board 25 percent tax rate reduction would remove this disincentive by telling people that if they work, save, or invest more tomorrow than they did today, more of the extra dollars they earn will be theirs to keep.

About three-fourths of the President's tax cut is targeted to middle-income Americans—those who pay most of our taxes.

Taxpayers earning between $10,000 to $60,000 who now pay 72 percent of all taxes, would receive 74 percent of the President's tax reductions.

Over the 3-year life of the President's program, it is estimated that taxpayers in my home State alone will pay nearly $140 million less in Federal taxes.

In fact, every industrial State will benefit more from the President's proposal than from the alternative offered by the majority.

The President's proposals would also help firms both large and small recover the costs of their investments with greater speed and certainty.

However, there are further provisions to help small businesses—the backbone of our economy.

Under the President's plan, tax rates go down for small corporations, gift and estate taxes would be virtually eliminated, and tax deductions on retirement savings for the self-employed would be increased.

Overall, small businesses would receive more than $15 billion worth of tax relief by 1984, under the administration's program.

The President pointed out Monday night that we can not expect his program to work unless all of its parts are approved:

Our economic package is a closely knit, carefully constructed plan to restore America's economic strength and put our Nation back on the road to economic prosperity.

Each part of the package is vital. It cannot be considered piecemeal. It was proposed as a package and it has been supported as such by the American people. Only if Congress passes all of its major components does it have a real chance of success. This is absolutely essential if we are to provide the incentives and make capital available for the increased productivity required to make real, permanent jobs for people.

Mr. Speaker, I believe we have an obligation to approve the President's tax cut and budget reduction proposals as quickly as possible to give the President a chance to turn our economy around and get America moving again.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

The SPEAKER. The gentleman from California (Mr. ROUSSELOT) is entitled to 3 minutes at the microphone on the Democratic side.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of this rule.

I, too, regret that the Black Caucus was not allowed the opportunity to offer its provision, because the one they presented to us back during the budget debate included indexing. So I am sorry that they will not be able to offer it here. I think it was a shame that they were denied that privilege by their own Democratic party leaders in the Rules Committee.

But in any regard, I rise in support of this rule because I do believe it offers three tax alternatives to our colleagues on which they can make a judgment.

I am so pleased to see my colleague, the gentleman from Arizona (Mr. UDALL), talking so strenuously for a balanced budget. That warms the cockles of my heart. He never voted for our balanced budget resolutions when we offered them during the past 7 years, but I am delighted to see him on board. I hope that when that happens in 1984 or 1983 when we debate our budgets, he will then support a balanced budget, because we just may have an opportunity to do so.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will yield in just a minute.

Mr. Speaker, I see that the other Mr. FORD (WILLIAM D. FORD) has moved to our side of the aisle. We are glad to have him over here. I will allow him time in just 1 moment. It is Mr. WILLIAM D. FORD, in case the Members do not recognize him on our side of the aisle.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. My colleagues should know it is not Gerald Ford; he has not returned, although we would be delighted to have him back. I will yield in just a moment.

First, I want to say to my colleague, the gentleman from New York, who raised the issue about his concern over indexing that there are better than 226 Members now on that bill, so he can rest assured that a majority of the House of Representatives now supports that concept.

Mr. Speaker, I say to the gentleman from Arizona (Mr. UDALL), "We are delighted that you have joined us. Maybe you are going to help us with a balanced budget right now."

In any respect, let me say that I think the Rules Committee has done the best it could to fashion a rule that allows all three points of view to be represented.

One of my colleagues on this side was concerned that there was no chance for liberal input under this rule. That is wrong. I want to read the names on the Udall bill, and that will be very much in order: Mr. WEAVER, Mr. FAZIO, Mr. LOWRY of Washington, Mr. D'AMOURS, Mr. SABO, Mr. MCHUGH, Mr. MILLER, Mr. GORE, Mr. OBERSTAR, Mr. WAXMAN—all gentle people with great liberal traditions, and I do not think anybody can accuse them of not having fashioned a liberal bill.

It is a high tax bill. Your taxes will continue to go up, and that is all right if you believe in that position. But there will be a chance to debate that point of view.

What I am saying is that this rule allows ample opportunity for discussion on all three points of view.

The SPEAKER. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. ROUSSELOT. Mr. Speaker, I am sorry that I did not get to yield to the gentlemen.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. ROUSSELOT) so that he can yield to these two fine gentlemen who have joined us on this side.

Mr. ROUSSELOT. Mr. Speaker, I am so delighted to see these gentlemen over on the Republican side of the aisle. First I yield to my colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding.

My office has been disappointed that we have not our quota of phone calls.

Mr. ROUSSELOT. We can stir it up. Would the gentleman like us to encourage your constituents to call you?

Mr. FORD of Michigan. We want to thank the gentleman for his party's generous contribution to the economy of the otherwise depressed State of Michigan and the county with your big bucks media blitz. It is appreciated, but there is no doubt that there is some confusion over it. We did get one call a few moments ago, not generated by your advertising campaign.

Mr. ROUSSELOT. Did the President himself call?

Mr. FORD of Michigan. No. My people are distressed to hear one Republican after another attacking big business, because the target appears to be the automobile industry.

Mr. ROUSSELOT. That is the Bailey bailout, for over $3 billion. That is in the Democratic bill.

Mr. FORD of Michigan. The gentleman from Arizona (Mr. UDALL) is for a balanced budget, and that is going to confuse things even more. However, I would say to the gentleman I wish he would come over to his own side, we will return to our own side, and then maybe we can set things straight on this bill.

□ 1040

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. UDALL. I thought this was a bidding thing.

The gentleman has heard of the Boll Weevils. I am starting a new group called the Cactus Kamikazes. I hope the gentleman will join up with us and I do not even have to have cuff links. I thought maybe Secretary Watt would send me a chain saw.

Mr. ROUSSELOT. I urge my colleagues to vote for the rule.

The SPEAKER. The gentleman from Tennessee (Mr. QUILLEN) has 6 minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, my role at this point is the delicately difficult one of supporting the rule after so many onslaughts, all motivated by the highest moral principle. I acknowledge that the rule does provide some difficult justification, but it still represents our best course on this bill.

I want to refresh this body's memory about some things I said about the rule during Gramm-Latta II.

I was disappointed in that rule and I thought it resulted in a situation on the floor which made for a degree of legislative chaos.

In this case, we have put together a bill which provides some balance on each side. Everybody is not happy with the degree of balance that is involved. But were we to open the rule, I am afraid an effort would be made to achieve political advantage by stripping some of the provisions from one side of the major alternatives facing us while leaving them in the other side. The question we should ask ourselves is a basic question—is the House going to have the opportunity to make a choice between two significantly different bills?

The Rules Committee and the Ways and Means Committee, through admittedly difficult processes, have made it possible for us to have that choice in a much better environment for decision than we had during the Gramm-Latta II proposal. We should be grateful to our leaders for learning that lesson.

While we are not all happy with all the choices, let me say there is a sound reason for a closed rule on tax bills. People feel intensely about taxes. They affect a great many interests, a great many classes of taxpayers, and so clearly on the floor there will be many types of amendments that will be sought if we open a rule.

Legislating on the floor on a tax bill in the past has resulted in technical problems, in a bill which did not hold together in ways that made the tax law administrable, or which distorted the balance which is possible in the deliberative committee process.

And so I cannot quarrel with the idea of a closed rule on a tax bill provided the Members have a chance to make a significant choice.

Now, let us just look at what that choice is.

The choice still is between the President's economic program and a more traditional approach to tax reform, a juggling of the equities between classes of taxpayers and interest groups.

The President's economic program is intact. I wish there were not so many add-ons, but the add-ons have occurred in order to try to maintain a balance which otherwise would be affected by specific interest group votes.

The President's program was originally a very straightforward economic package. That it is now nestled in a nest of add-ons is regrettable, but it was necessary to avoid unfortunately those imbalances creeping in which we all know result from regional differences and from very important interest group involvement in the tax process.

I hope, Mr. Speaker, that the Members will not forget the difficulties that can come from an opening of this rule on the floor; and will not forget the inevitable result which would be a chaotic legislative situation, not working to the advantage of the tax law, and ultimately while it might provide some satisfactions for some of those now seeking to open the rules, in all probability would result in less desirable tax legislation for the country as a whole.

I hope we will be able to delineate in the course of this general debate the basic issues which remain to offer a choice for the American people.

I am glad those issues are still there, justifying a vote for the rule and against the previous question.

The SPEAKER. The gentleman from Tennessee (Mr. QUILLEN) has 1 minute remaining.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I oppose this rule because it protects from the light of day a provision, which if Members were allowed to vote upon, would surely fail. Subsection F of title II of H.R. 4242 provides a $3.3 billion bailout to "distressed" industries. This slush fund had no hearings in the Ways and Means Committee and is without precedent. This is special interest legislation of the worst order and is reprehensible tax policy. The Members deserve the right to vote upon it seperately.

I appeared before the Rules Committee yesterday to ask that the rule make in order my amendment to strike this provision. The rule does not so provide even though I was the only member of the Ways and Means Committee to appear asking for a simple amendment. My request was certainly justified on the merits but also precedented as the 1976 tax bill rule allowed seven amendments and the 1978 tax bill rule allowed two.

Therefore, this rule shields from consideration a provision which remains hidden in the dark recesses of the bill frightened of illumination with good reason.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in opposition to the previous question and the rule and urge the body to try and strip out some of the obnoxious provisions, the limited provisions that we have in our motion against a substitute rule.

Mr. Chairman, it is extremely unfortunate that the two principal packages which are before us today for consideration bear so little resemblance to the original Reagan and Democratic proposals. Several months ago, I hoped that the Congress might be given a clear choice between two distinct economic philosophies, the Republican and Democratic, and work its will on them after a free and open debate. The competition for support of the various interested parties, however, has denied us that choice, as well as the opportunity to review this legislation responsibly.

Let us examine how the bidding war for votes has muddled the distinctions

between the Democratic or Ways and Means Committee bill, H.R. 4242, and the Republican substitute, known as the Conable-Hance substitute. Both measures ease the marriage penalty and expand the individual retirement account program. Both ease taxes on Americans working abroad and create new, 1-year, tax-free savings certificates. Both reduce the capital gains tax from 28 to 20 percent, and both cut business taxes by roughly the same amount by 1985.

Perhaps the most obvious choice that remains lies in the respective tax cuts for individuals, but even here the differences are not as pronounced as we have been led to believe. A recently released Library of Congress Congressional Research Service analysis indicates that for the $20,000 to $35,000 income range, the effective tax rates under either the Republican across-the-board cut or the Democratic cut for four person families in 1983 are virtually identical. For individuals earning less than $20,000, these same effective tax rates are less under the Democratic proposal, and for persons earning more than $35,000, they are less under the Conable-Hance plan. It is certainly true that, in a startling reversal, the Democrats have embraced the traditionally Republican position that substantial tax cuts for the well-to-do are necessary for the spurring of savings and investment. Accordingly, the Ways and Means proposal cuts the top marginal tax rate, the rate for the country's richest taxpayers, from 70 to 50 percent. The Republican substitute also contains this top rate reduction.

There are distinctions that can be drawn between the alternative business tax cuts. The Conable-Hance substitute embodies the modified 10-5-3 accelerated depreciation plan, while the Democratic bill phases in expensing, a 100-percent writeoff in the year of purchase, of personal property other than long-lived public utility property. In the past, I have supported the 10-5-3 concept, and I still do. It is a simple and straightforward approach to economic recovery which eliminates the confusing useful life concept from the Tax Code. It should be said, though, that the Democratic bill is preferable in that expensing is inflation and asset neutral; it is not subject to the influences of inflation as is the 10-5-3 plan.

Moreover, the Democratic bill is considerably better for small business, giving $27 billion in relief between 1981 and 1986 compared to $6.2 billion under the Republican substitute. The principal priority recommendations of the White House Conference on Small Business are addressed by H.R. 4242. The Democratic bill permits small business to immediately write off up to $25,000 of investments per year effective in 1981, and provided $12 billion in small business rate cuts on the first $200,000 of taxable income. Accordingly, the Democrats have the support of the National Small Business Association and the National Association of Home Builders, which represents predominantly small businessmen and women. But the fact remains that the Republican plan is very good for small business too, so good in fact that the National Federation of Independent Business endorses it. So, again, while we have some contrast, it is not sharp.

Perhaps the greatest common denominator between the Democratic and Republican versions is the excessive number of special interest tax breaks that were added on in the bidding war for votes. In the great effort to enlist the support of Members from different States, both sides have trimmed this Christmas tree with giveaway goodies. The Democrats have accepted so much of Mr. Reagan's philosophy that they have almost out-Reaganed Reagan. The Republican leadership should have been willing to sit down with them and compromise. Instead, we have witnessed the "King of the Hill" struggle, with both parties more interested in a legislative victory than responsible legislation.

Permit me to list some of these goodies that have added $42 billion in costs to the Reagan tax cut bill since it was introduced as H.R. 3849 on June 9 and $38 billion since July 15. The estate tax exemption has been increased from $175,000 to $600,000, and the maximum rate has been lowered from 70 to 50 percent over 4 years. While I support reduced estate taxes for our farmers and small businessmen, these two classes of individuals will receive only 14 percent of the tax break under the Reagan estate tax revision. Commodity traders have been exempted from the elimination of the so-called tax straddle loophole, at a cost of $400 million to Uncle Sam. Why should these 2,500 well-off individuals be extended this unwarranted exemption?

The above-mentioned special interest provisions are in the Democratic bill, as well. In addition, the Democratic bill also contains a special relief provision for six so-called distressed industries, mining, paper, airlines, railroads, steel, and autos, which will cost the Federal Government $3.3 billion in lost revenues. This bailout will permit these select industries to cash in unused investment tax credits accumulated since 1962. There is no requirement that the companies who receive this rebate actually be distressed; there is no language in the bill establishing any needs test. Examples of corporations which could receive benefits under this proposal are Standard Oil of Ohio and the International Paper Co.

The most flagrant special interest goody in both alternatives is targeted to the oil industry and is designed to attract the votes of the Democrats from the southern oil States, known as the "Boll Weevils." The Republican substitute, the greater offender in this area, cuts oil taxes by a whopping $16 billion between 1982 and 1986, by increasing royalty owner tax credits, halving the windfall profits tax on new oil by 1986, exempting stripper, or low production well oil from the windfall tax in 1983 and freezing the depletion allowance at 22 percent for independent producers. The Democratic bill has a $7.1 billion oil giveaway over the same 5 years, resulting from increased royalty owner credits, a 500 barrel exemption from the windfall tax on new oil in 1982 and a 350-barrel exemption for old oil by 1986.

These breaks are partially offset by a tightening of the foreign oil tax credit and changes in oil pipeline depreciation.

Do the oil companies in this country need a multibillion-dollar tax break? Are they distressed? Absolutely not, as every American knows full well. They are profiting handsomely from oil deregulation, put into effect by President Carter. A Business Week study of corporate profitability for the 12 months ending September 1980 ranks oil first in both earnings per share and return on shareholders' common equity. Moreover, oil stands to gain substantially from the business reductions in either the Democratic or Republican plan.

With a balanced budget already unlikely in fiscal year 1984, it is not sound economic policy to extend these tax breaks to a thriving industry.

If we support this strategy, we will encourage continued large Federal deficits. The deficit may be as high as $87 billion in fiscal 1984 if the Republican substitute is adopted. We are currently making an annual interest payment on the national debt of roughly $100 billion. Tax breaks of this kind will perpetuate this unacceptable level of debt service, one-seventh the total Federal budget. They will continue the high interest rates which have crippled our auto and housing industries and aggravated our allies abroad. We simply cannot have the Federal Government competing with the private sector for credit on this large scale.

I think the magnitude of the oil break can be put into perspective if one considers what sort of spending cuts would be needed to offset it; $16 billion is more than the total annual cost of the food stamp program, and is roughly comparable to the present annual cost of the medicaid program.

The Conable-Hance substitute before us today, with its $16 billion break for oil, will require spending cuts of $38 billion over and above the spending cuts totaling $125.4 billion

which already must be made between 1984 and 1986 if we are to comply with the President's spending program and balance the budget in 1984. To date, the administration has not specified how these cuts will be achieved, except for certain extremely controversial recommendations for the social security program. How can the Congress and the administration justify this oil break while eliminating the social security minimum benefit for 3 million Americans, half of whom are over the age of 70, and reducing low-income fuel assistance for the elderly and poor in the Northeast?

I came to Washington in 1974 on the heels of the oil embargo and at a time when the country was concerned that our oil companies had not done all they could to ease the energy problem. To a large extent, my campaign focused on Vermonters' mistrust of the oil industry, and that mistrust persists.

In a poll I conducted in 1978, 40 percent of those Vermonters responding listed as a major cause of the energy crisis oil company manipulation of supplies to increase profits. Of those 43 percent I surveyed in 1980 indicated they felt oil companies should have their profits taxed more heavily so that the Government could fund more energy programs; only 23 percent felt oil companies should make higher profits. In other polls, Vermonters indicated significant concern that there was not adequate competition in the oil industry, that vertical monopolies should be broken up, and that price controls on oil should be maintained. A $16 billion oil tax break, or a $7.1 billion break, for that matter, is not consistent with the general belief of the residents of my State that the oil companies have been allowed to make too much profit, and have kept too much of it as a result of tax breaks.

The Obey-Udall substitute is far more reasonable than either the Democratic or Republican alternatives in the energy area. It repeals the oil and gas depletion allowance and reforms the foreign oil tax credit, returning to the Federal Treasury approximately $1.7 billion in 1982 alone. It does not give the oil industry the undeserved breaks that are included in the other measures.

The Rules Committee has given us a closed rule which will not allow us to address any of the special interest provisions separately. The Udall-Obey and Republican substitutes will be in order, as will Ways and Means Committee amendments. There will be a motion to recommit without instructions. But we will not be allowed the opportunity to vote up or down on the oil giveaways, the bailout for the distressed industries or any of the other goodies. We have a narrow, restrictive rule which will preclude attempts at reasonable modifications to the legislation. I realize full well that when tax bills are brought to the floor, wide open rules can lead to an amendment frenzy; safeguards are needed. In this case, however, the wild amending has taken place in committee and at the behest of the White House. Members should have the chance to review the special tax provisions and work their will on at least some of them on the floor.

Accordingly, I urge a "no" vote on the previous question on the rule. Mr. LEACH of Iowa and I have drawn up a substitute rule which would allow either of two motions to recommit with instructions. If the Republican substitute prevails, we would like the option of presenting a recommittal motion striking the oil tax provisions and substituting the energy language in the original Senate Finance Committee bill. This would have the effect of reducing near-term tax savings to the oil industry from $16 billion to $6.6 billion.

If the Democratic bill prevails, we would like to offer a recommittal motion striking the bailout provision for the six distressed industries.

Unlike the committee rule, this rule will give us the chance to return the tax legislation, at least in part, to the straightforward proposals for economic recovery we had before the vote bidding war began.

While I strongly support the enactment of significant tax cut legislation for individuals and business this fiscal year, while I endorse elimination of the marriage penalty, indexation of the income tax to inflation to prevent bracket creep, reductions in the estate and gift taxes targeted toward farmers and small businesses and expansion of the IRA program, the oil industry lacks a persuasive case for astounding new tax reductions and the targeting of special relief for large corporations, including Sohio, LTV, and the International Paper Co., is profoundly inequitable. The oil breaks are so outrageous that Congressman HENSON MOORE from Louisiana, an oil State, has joined Mr. LEACH, myself, and others in this effort to provide a rule allowing us to strip out the excessive oil provisions.

I believe our rule is fair in that it seeks to remove an obnoxious element from each of the two major measures.

I urge a "no" vote on the previous question.

Thank you, Mr. Chairman.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I urge all of my colleagues to vote against the previous question on this subject because it does not give us an opportunity to remove oil provisions from both bills before us today.

Today all of us face a vote which is of paramount importance to our individual constituents, the economies of the districts we represent and our Nation as a whole. This tax bill is of particular importance at this time in view of our professed efforts to strengthen our economic posture in general.

Many of the provisions in the different tax bills are beneficial to both individual citizen taxpayers and to the many small- and medium-size businesses which provide the bulk of employment opportunities to our workers. I am in favor of such provisions and I think that they are indeed overdue. However, I must come out against the tax treatment of the oil industry in both the administration bill and the Ways and Means bill.

In particular, the producer exemption feature in the Ways and Means bill, which grants broad tax exemptions to all oil companies, will cost some $6.5 billion in lost revenue in the next few years. In the Conable-Hance bill, the continuation of percentage depletion at a frozen rate of 22 percent will cost some $4-billion plus in the next few years. Other oil industry tax gifts, if in place, would add further to the figures I just mentioned.

It seems to me that everytime the Congress takes up a major tax bill, many feel there is some compelling reason to hand out something new to the oil industry, or to revise some past oil industry provision we have agreed upon.

We started out with this tax reduction concept in good faith toward the taxpayers and the smaller businesses of our country. But somehow along the way to this debate today, both sides got caught up in a game of one upsmanship so that now, we find ourselves in the position of giving out tax gifts to the tune of billions of dollars to an already dollar-heavy industry, and all of it at the expense of the taxpayer and other segments of our economy.

Mr. Speaker, I think all of us in this body have a desire to see our economy restored to a level of activity which will in some way benefit all of our citizens. One of the major tasks facing us in the attainment of that goal is to reverse the trend of falling capital formation. But aiding the capital formation problem for business in general and small business in particular, and selling out to a specific, well-heeled industry already steeped in capital are two different propositions.

I am most disappointed that the oil tax break games have again found a way into a major tax debate, and I urge all of my colleagues here in the House to give serious consideration to the reasoning behind these tax gifts to the oil industry, and to keep in mind that $6 or $7 billion in tax breaks can

be used quite beneficially in other tax provisions as we try to strengthen our economic posture.

Mr. QUILLEN. Mr. Speaker, I would ask my colleagues to vote for the rule. It is a good rule. As I said before, it is unusual, but, nevertheless, it is mandatory that it be handled this way. It is fair for all the Members. When we get to the Conable-Hance substitute I urge my colleagues to vote for that because it is the only measure that gives the working people of this Nation a true tax cut.

Mr. Speaker, I urge my colleagues to vote for the rule.

□ 1050

Mr. BOLLING. Mr. Speaker, I yield myself the 1 minute remaining.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Speaker, there are major items in this legislation such as indexation which should be considered separately. For that reason I would vote against the previous question.

There is no question in my mind that if we are successful in providing for indexing of personal tax rates, we will have accomplished the most significant change in tax laws in at least 40 years.

Both Republicans and Democrats are committed to a tax cut to allow all taxpayers to provide forward momentum for the economy. Any tax cut must allow all citizens to realize greater purchasing power from their paychecks. This is especially true in these periods of unpredictable leaps in inflation rates and in interest rates.

A tax indexation amendment will allow us to keep individual tax rates stable. If we are successful, we will not be confronted with the periodic adjustment of personal tax rates that the Congress goes through. An adjustment that at best, for a short period of time, allows the taxpayer to barely break even in the war against inflation.

The Members of this House know that this is not a new proposal. The Senate, in a strong bipartisan vote, has already approved a Finance Committee amendment establishing indexation of personal tax rates for inflation. We know that a similar provision exists in the proposed Republican substitute. It is my opinion that if we fail to add indexation to the Ways and Means bill, one that I consider superior to the Republican substitute, we may be confronted with tax policy that fails millions of taxpayers in this country.

In a new study by the Advisory Commission on Intergovernmental Relations, in the nine States—Arizona, California, Colorado, Iowa, Minnesota, Montana, Oregon, South Carolina, and Wisconsin—that use indexing, there was greater tax equity. The reason is that indexing helps low-income taxpayers who are most hurt by unindexed exemptions and standard deductions. Furthermore, it strengthens fiscal discipline more carefully. Most importantly, in fiscal year 1979, States with indexing averaged a 15.3 percent increase in revenues due to economic growth.

The Labor Department reported that for an urban family of four in 1979, an income of $20,000 was needed to experience an intermediate standard of living. In 1980, that figure was then $23,000. The largest increase in living costs for this family was the 25 percent jump in Federal and State income taxes.

Business Week magazine reports that a family with an income of $30,000 pays 18.3 percent of those earnings in Federal income tax and social security. With no tax relief, by 1984, that taxation rate will increase to 22.5 percent. A family that earns $10,000 will have a jump from 9.9 percent to 13.9 percent during that same period. The $50,000 a year family will experience a percentage increase from the Federal Government taxation policies from 21.8 to 26.8 percent.

If we were to index personal income tax rates for the next 2 years, the tax reduction would most closely resemble the tax decreases proposed by the Ways and Means Committee—excluding reductions to offset social security tax increases. If as a tax indexation amendment, we begin indexing at the end of the tax cut period, we are simply protecting these tax decreases from inflation. We are truly providing relief to the American taxpayer.

I urged the Rules Committee to make in order my amendment to index personal income tax rates as it appears in the bill reported by the House Ways and Means Committee, H.R. 4242. The Rules Committee failed to make indexation in order; therefore, I urge a vote against the previous question.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 282, nays 148, not voting 4, as follows:

[Roll No. 174]

YEAS—282

Addabbo	Archer	Barnard
Akaka	Aspin	Beard
Albosta	Atkinson	Bellenson
Alexander	Badham	Benedict
Andrews	Bafalis	Benjamin
Annunzio	Bailey (MO)	Bethune
Anthony	Bailey (PA)	Bevill
Biaggi	Gradison	Parris
Blanchard	Gramm	Pashayan
Bliley	Grisham	Patman
Boggs	Hall (OH)	Patterson
Bolling	Hall, Ralph	Paul
Boner	Hall, Sam	Pease
Bonior	Hammerschmidt	Pepper
Bonker	Hance	Perkins
Bouquard	Hansen (ID)	Pickle
Bowen	Hansen (UT)	Price
Breaux	Hartnett	Quillen
Brinkley	Hatcher	Rahall
Brodhead	Hefner	Rangel
Brooks	Heftel	Ratchford
Broomfield	Hendon	Reuss
Broyhill	Hightower	Rhodes
Burgener	Hiler	Roberts (KS)
Butler	Hillis	Roberts (SD)
Byron	Holland	Robinson
Carman	Holt	Roemer
Carney	Hoyer	Rogers
Chappell	Hubbard	Rose
Chappie	Huckaby	Rostenkowski
Cheney	Hunter	Roth
Clausen	Hutto	Rousselot
Clinger	Hyde	Rudd
Coats	Ireland	Russo
Coelho	Jeffries	Sabo
Collins (TX)	Jenkins	Santini
Conable	Johnston	Sawyer
Corcoran	Jones (NC)	Schneider
Courter	Jones (OK)	Schulze
Coyne, William	Jones (TN)	Seiberling
Craig	Kazen	Shamansky
Crane, Daniel	Kemp	Shannon
Crane, Philip	Kildee	Shaw
Daniel, Dan	Kramer	Shelby
Daniel, R. W.	Lagomarsino	Shumway
Danielson	Lantos	Shuster
Daschle	Leath	Siljander
Daub	Lehman	Simon
Davis	Lewis	Skeen
de la Garza	Livingston	Skelton
Deckard	Loeffler	Smith (AL)
Derrick	Long (LA)	Smith (NE)
Dickinson	Lott	Smith (OR)
Dicks	Lowery (CA)	Smith (PA)
Dingell	Lujan	Spence
Dorgan	Lungren	Stanton
Dornan	Madigan	Stark
Dowdy	Markey	Staton
Downey	Marks	Stenholm
Dreier	Marlenee	Stratton
Duncan	Marriott	Stump
Dyson	Martin (IL)	Synar
Edwards (AL)	Martin (NC)	Tauzin
Edwards (OK)	Martin (NY)	Taylor
Emerson	Matsui	Thomas
English	Mattox	Traxler
Erdahl	McClory	Trible
Erlenborn	McCloskey	Udall
Evans (GA)	McCollum	Vander Jagt
Evans (IN)	McCurdy	Volkmer
Fary	McDonald	Wampler
Fazio	McEwen	Watkins
Ferraro	Mica	Weber (MN)
Fiedler	Michel	Weber (OH)
Fields	Mikulski	White
Findley	Miller (OH)	Whitehurst
Flippo	Mineta	Whitley
Foley	Moakley	Whittaker
Ford (MI)	Moffett	Whitten
Ford (TN)	Molinari	Williams (MT)
Forsythe	Mollohan	Williams (OH)
Fountain	Montgomery	Wilson
Fowler	Moorhead	Winn
Frenzel	Morrison	Wirth
Frost	Murphy	Wolpe
Fuqua	Murtha	Wright
Gaydos	Napier	Wyden
Gephardt	Natcher	Wylie
Gibbons	Nichols	Yates
Gingrich	O'Brien	Young (AK)
Ginn	Oakar	Young (FL)
Goldwater	Oberstar	Young (MO)
Gonzalez	Obey	Zablocki
Gore	Panetta	Zeferetti

NAYS—148

Anderson	Bennett	Brown (OH)
Applegate	Bereuter	Burton, John
Ashbrook	Bingham	Burton, Phillip
AuCoin	Boland	Chisholm
Barnes	Brown (CA)	Clay
Bedell	Brown (CO)	Coleman

Collins (IL)
Conte
Conyers
Coughlin
Coyne, James
Crockett
D'Amours
Dannemeyer
Dellums
DeNardis
Derwinski
Dixon
Donnelly
Dougherty
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Emery
Ertel
Evans (DE)
Evans (IA)
Fenwick
Fish
Fithian
Florio
Foglietta
Frank
Garcia
Gejdenson
Gilman
Glickman
Goodling
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hamilton
Harkin
Hawkins
Heckler
Hertel
Hollenbeck
Hopkins
Horton
Howard
Hughes
Jacobs
Jeffords
Kastenmeier
Kindness
Kogovsek
LaFalce
Latta
Leach
LeBoutillier
Lee
Leland
Lent
Levitas
Long (MD)
Lowry (WA)
Luken
Lundine
Mavroules
Mazzoli
McDade
McGrath
McHugh
McKinney
Miller (CA)
Minish
Mitchell (MD)
Mitchell (NY)
Moore
Mottl
Myers
Neal
Nelligan
Nelson
Nowak
Ottinger
Oxley
Petri
Peyser
Porter
Pritchard
Pursell
Railsback
Regula
Richmond
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Roukema
Roybal
Scheuer
Schroeder
Schumer
Sensenbrenner
Sharp
Smith (IA)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
St Germain
Stangeland
Stokes
Studds
Swift
Tauke
Vento
Walgren
Walker
Washington
Waxman
Weaver
Weiss
Wolf
Wortley
Yatron

NOT VOTING—4

Campbell
Cotter
Fascell
Savage

□ 1100

Messrs. HOWARD, GLICKMAN, GEJDENSON, TAUKE, STANGELAND, ROE, MITCHELL of New York, OTTINGER, RODINO, WOLF, GUARINI, RAILSBACK, BROWN of Ohio, LELAND, STUDDS, WORTLEY, McHUGH, SOLOMON, and KOGOVSEK changed their vote from "yea" to "nay."

Mr. WYDEN changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

□ 1110

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 280, nays 150, not voting 4, as follows:

[Roll No. 175]

YEAS—280

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Beard
Beilenson
Benedict
Benjamin
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Brown (OH)
Broyhill
Burgener
Butler
Byron
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Collins (TX)
Conable
Corcoran
Courter
Coyne, William
Craig
Daniel, Dan
Daniel, R. W.
Danielson
Daub
Davis
de la Garza
Derrick
Dickinson
Dicks
Dingell
Dornan
Dowdy
Downey
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erlenborn
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fazio
Ferraro
Fiedler
Fields
Findley
Flippo
Foley
Ford (MI)
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grisham
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Holland
Holt
Howard
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kildee
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lehman
Lent
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Lungren
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
Mica
Michel
Mikulski
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morrison
Murtha
Myers
Napier
Natcher
Nichols
O'Brien
Oakar
Oberstar
Obey
Oxley
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Pickle
Price
Quillen
Rangel
Reuss
Rhodes
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rose
Rostenkowski
Roth
Rousselot
Rudd
Russo
Santini
Sawyer
Scheuer
Schneider
Schulze
Seiberling
Shamansky
Shannon
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (OR)
Smith (PA)
Solomon
Stanton
Stark
Staton
Stenholm
Stratton
Stump
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolpe
Wright
Wylie
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—150

Applegate
Ashbrook
AuCoin
Barnes
Bedell
Bennett
Bereuter
Bingham
Boland
Burton, John
Burton, Phillip
Chisholm
Clay
Coleman
Collins (IL)
Conte
Conyers
Coughlin
Coyne, James
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Dannemeyer
Daschle
Deckard
Dellums
DeNardis
Derwinski
Dixon
Donnelly
Dorgan
Dougherty
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Emery
Erdahl
Ertel
Evans (DE)
Fenwick
Fish
Fithian
Florio
Foglietta
Ford (TN)
Frank
Garcia
Gejdenson
Gilman
Glickman
Goodling
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hamilton
Harkin
Hawkins
Heckler
Hertel
Hollenbeck
Hopkins
Horton
Hughes
Jeffords
Kastenmeier
Kindness
LaFalce
Leach
Lee
Leland
Levitas
Lowry (WA)
Luken
Lundine
Markey
Mavroules
McDonald
McGrath
McHugh
McKinney
Miller (CA)
Minish
Mitchell (MD)
Mitchell (NY)
Moffett
Moore
Mottl
Murphy
Neal
Nelligan
Nelson
Nowak
Ottinger
Panetta
Petri
Peyser
Porter
Pritchard
Pursell
Rahall
Railsback
Ratchford
Regula
Richmond
Rinaldo
Ritter
Rodino
Roe
Rogers
Rosenthal
Roukema
Roybal
Sabo
Savage
Schroeder
Schumer
Sensenbrenner
Sharp
Smith (NJ)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stokes
Studds
Swift
Vento
Volkmer
Walgren
Walker
Washington
Waxman
Weaver
Weiss
Winn
Wolf
Wortley
Wyden
Yates
Yatron

NOT VOTING—4

Campbell
Cotter
Fascell
Madigan

□ 1120

Messrs. MARKEY, McDONALD, WORTLEY, and CROCKETT changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4242, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 1 hour, and the gentleman from New York (Mr. CONABLE) will be recognized for 1 hour.

The Chair recognizes the chairman of the committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

□ 1130

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I would like personally to compliment my colleagues, particularly on the Ways and Means Committee, on the manner in which we have followed the schedule that was agreed to last March. There were many doubting Thomases, particularly at the Treasury Department and the White House that we would meet our schedule. It is to our credit as legislators that we are here on the House floor on the date scheduled and agreed upon by the minority leader, Mr. MICHEL, and by my ranking minority member on the Ways and Means Committee, Mr. CONABLE.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like personally and publicly to thank the gentleman for his adherence to the schedule and for the fairness with which he has treated us in the minority on the committee.

Mr. ROSTENKOWSKI. I thank the gentleman.

Mr. Chairman, the Tax Incentive Act of 1981, as reported by the Ways and Means Committee, lays the foundation for robust economic growth. It will set the tone for the economic policy of the 1980's. The bill is designed not only to lower tax burdens equitably, but also to rebuild the economy from farm to factory by stimulating greater productivity, savings, and investment. It is the largest tax cut bill in our history, yet is structured to meet responsible fiscal targets and to protect against higher inflation and interest rates.

The Ways and Means Committee bill has two principal goals: First, to provide equitable tax relief; and second, to reorient the taxation of business and investments to promote economic growth. I believe that the committee bill achieves both of these goals.

What is an equitable tax cut? In 1981, the social security tax rate for employees rose from 6.15 to 6.65 percent and the amount of a worker's taxable wages increased by $1,500 more than was necessary to keep pace with inflation. In addition, inflation is pulling taxpayers into higher tax brackets and causing their income taxes to rise at a faster rate than inflation. The most reasonable standard for a fair tax cut is that it at least compensate taxpayers for these increased tax burdens, so that the proportion of income paid in individual income and employee social security taxes is reduced below its 1980 level for the vast majority of American households. This is what the committee bill is structured to achieve. This is what the Conable substitute is not structured to achieve. Instead, that substitute much more than compensates the very affluent and does not compensate the many American taxpayers whose income is below $15,000.

Yet another requirement of tax equity is that the tax entry point—the level of income at which a family begins to pay income tax—be adjusted so that it stays close to the poverty level. This has been national policy since 1964, when the minimum standard deduction was introduced. It makes no sense at all for us to define a family as being poor and then to impose an income tax on that same family.

Currently, for a family of four, the tax entry point is $8,626. The committee bill raises the tax entry point to $9,958 in 1982, close to the poverty line which is expected to be $10,083. In contrast, the Conable substitute would barely increase the 1982 tax entry point to just $8,727. We have already enacted billions of dollars of spending cuts whose burden will fall on the working poor. Must we also make them pay income tax as well?

For these reasons, the committee bill is structured to provide greater tax reductions for persons with incomes below $50,000 than would a formula of proportional rate cuts. This is accomplished not only by lowering tax rates, but also by raising the zero bracket amount, the earned income credit and the child care credit. As a result, the committee bill targets the greatest tax relief to middle-income Americans earning between $15,000 and $50,000. That is 54 percent of American taxpayers. A family with two children and $30,000 of income gets a $515 cut from the committee bill in 1982, compared to only $405 in the Conable substitute.

The committee bill works toward important reforms that improve tax equity. It will reduce the marriage penalty significantly. This penalty is the increase in tax liability that occurs when persons having relatively equal incomes marry. The committee bill contains provisions to curb abuses in certain commodity straddle transactions which enable persons with high incomes to avoid or greatly reduce their taxes. This reform is accomplished without impairing the proper functioning of the commodity markets. In addition, the committee bill contains many provisions that improve tax administration and thereby improve tax equity.

In designing tax reductions to stimulate greater savings, investment, and productivity, the Ways and Means Committee attempted to address the diverse needs of the American business sector. This magnificent network of production has many different parts: Capital-intensive and labor-intensive industries, large and small businesses, enterprises struggling to develop new technology, and others struggling to adjust to it. Broadly based economic growth that will last over the long term requires that all of these parts be sound. No one sector, no Fortune 500 group of big businesses, can carry all the rest. The committee bill, therefore, through a number of provisions, reorients the taxation of business and investments so that the incentives for economic development effectively reach every type of productive enterprise.

The committee bill accelerates the depreciation of equipment and plant for tax purposes. The current system of cost recovery, and that of the Conable substitute, spreads depreciation deductions for the cost of equipment over a term of years. Due to fluctuating rates of inflation, the real value of these deductions is unpredictable both to the investor and to the Government. To keep the present system is to risk inadequate cost recovery, inadequate profitability, and inadequate incentives for investors to undertake modernizations which are needed to increase the productivity and international competitiveness of capital-intensive industries. However, to adopt a depreciation system that guarantees at least full cost recovery at any conceivable rate of inflation would be to guarantee that, most of the time, taxpayers would have incentives to make wasteful investments, ones that would not be profitable in a world without any tax system at all.

That is the serious flaw in the 10-5-3 plan in the Conable substitute. It is serious because it would tie up resources in uneconomic projects that are needed urgently for economic growth. Due to the interaction of the investment credit and depreciation deductions contained in the Conable substitute, a businessman would get back more in deductions and investment credits than his actual investment. At a time when we are being asked to make large cuts in spending programs that directly affect millions of individuals, I think that it is unfair to subsidize business through the depreciation plan contained in the Conable substitute. Another major problem with the Conable substitute is that the depreciation proposal is so generous and will create such large deductions that it could generate a flurry of corporate mergers and takeovers.

To solve these problems, the committee concluded that an expensing system, combined with corporate rate cuts, would provide stronger investment incentives, be much simpler, and would be more evenhanded across industries throughout the economy. Thus, the committee bill permits taxpayers to expense the cost of most equipment in the year it is put in service. This simple procedure provides the maximum acceleration of depreciation deductions and will be of great benefit to increasing investment and productivity. Expensing also assures full recovery in dollars of constant value. Another advantage of expensing is that it is the only feasible depreciation system which is sure to give no effective tax preference for investing in less productive assets instead of more productive ones. The depreciation of buildings is also much accelerated and simplified by the committee bill.

Fortune magazine recently asserted that, "when it comes to depreciation of business equipment * * * the Democrats have the better idea." That publication is not generally known for hostility to business tax reduction and capital formation.

A new tax incentive is needed for the rebuilding of some major American industries that temporarily are economically distressed. It would be a sad irony to provide for an upgrading of the Nation's industrial base only through accelerated depreciation when these accelerated deductions would be worthless to the heavy industries most urgently in need of modernization. We cannot walk away from these distressed industries and expect a solid economic recovery. Nor should we. The committee bill contains a provision targeted to their revitalization. Likewise, the committee concluded that a new tax incentive is needed to promote research and experimentatH-ion and to assist the growth of firms which specialize in the development of new technology.

Since small businesses, service corporations, high technology firms, and many other kinds of businesses that are not capital intensive are expected to benefit less from accelerated depreciation, the committee bill reduces corporate income tax rates and widens corporate income tax brackets. These cuts carry the stimulus for economic growth evenhandedly to all industries. When combined with an expensing system, these rate cuts give a more powerful stimulus to immediate investment than does 10-5-3. Cuts in the corporate income tax rates are also necessary to reduce the inequity of double taxation, since income from investments made by incorporated business is taxed once under this tax and again under the individual income tax when shareholders receive dividends or sell appreciated shares.

The committee bill is a bill for all businesses—it is designed to rebuild American industry from farm to factory. The bill provides decidedly more relief to small business—$27 billion from 1981-86 compared with $6.2 billion under the substitute for the same time period. The committee bill permits small businesses to immediately write off up to $25,000 of investments per year effective in 1981. This compares with $5,000 of expensing effective in 1981, phasing up to a maximum of $10,000 in 1986 contained in the Conable substitute. An essential fact is that 86 percent of all businesses make less than $25,000 of investments per year, and would be permitted to expense these investments immediately under the committee bill. In addition, the committee bill provides $12 billion of small business rate cuts on the first $200,000 of taxable income, compared with a modest $2.4 billion of rate cuts on the first $50,000 contained in the Conable substitute.

The committee bill reduces the income tax burden on savings. Greater savings are required to fund increased levels of investment for economic expansion and to do so without provoking higher interest rates. In addition, participation in individual retirement plans should be encouraged, for these plans are an important part of the retirement system. The bill, therefore, provides incentives for individuals to make greater contributions to private retirement accounts and to a new type of savings certificate. It also extends tax incentives for individual retirement accounts to many more taxpayers.

The committee bill substantially reduces the burden of estate and gift taxes. After years of inflation, more transfers of property are being subjected to these taxes than Congress ever intended. The impact has been especially disruptive on the traditional transfers of farms and small business, reliable and important areas of high productivity. The committee bill also reduces windfall profit tax burdens to encourage oil production and improve the equity of this tax.

These are the major reasons for the provisions of the committee bill. Before I list these provisions in greater detail, I wish to discuss the important question of the appropriate size of the tax cut. It is important because it may determine whether the one opportunity we have significantly to revive the American economy through tax reductions succeeds or whether it is overwhelmed by the stifling effects of bigger deficits and higher inflation and interest rates.

On this point, comparison of the committee bill with its principal alternative, the Conable substitute, is inevitable.

In 1982 and 1983, the two bills are roughly the same size. However, in fiscal year 1984—the year for which the President has promised us a balanced budget—the Conable substitute is $24 billion larger than the committee bill. That $24 billion could very well be the difference between a balanced and unbalanced budget. After 1984, the revenue differences between the two bills widen considerably.

The Conable substitute is $135 billion bigger than the Ways and Means Committee bill if the third-year cut is not triggered, and $50 billion larger if the third year is triggered. The Conable substitute is $42 billion larger than the administration bill (H.R. 3849) introduced on June 9 and $38 billion larger than the tax cut reflected in the administration midsession budget review submitted on July 15. In 1986 alone, the Conable substitute involves tax cuts $75 billion larger than the committee bill—a total tax cut of $268 billion in that year. Committing ourselves at this time to such large tax cuts is dangerous.

The administration's program to balance the budget in 1984 hinges on two key assumptions—first, that Congress will enact additional, unspecified spending cuts of $45 billion—over and above those adopted in Gramm-Latta II—including major cuts in social security benefits; and, second, that inflation and interest rates will fall sharply. If these assumptions prove false, the deficit in 1984 could easily reach $100 billion if the Conable substitute is enacted.

There is much uncertainty which surrounds the economic forecasts of the administration. I have serious doubts about the Stockman economic scenario. Earlier this year, the Secretary of the Treasury came before our committee and testified that interest rates would decline sharply. Instead, they have risen to record levels. He testified that the economy would slow down in the first quarter of the year; instead it grew at a 9-percent rate. How can we trust the administration's forecasts 3 years out if they have been wrong in the last 3 months?

In view of the fact that the Conable substitute involves a larger tax cut than that included in the midsession budget review, further cuts will have to be found in order to maintain a sound budgetary posture and finance increased spending for national defense. Where are we to find additional spending cuts of $45 billion needed to balance the budget? Before locking in outyear tax cuts of the magnitude contemplated by the Conable substitute, every Member of Congress and the American public are entitled to know where these as yet unspecified cuts will be directed. To date, the only recommendation for outyear cuts made by the administration has been in the area of social security. I am not willing to commit myself to cutting social se-

curity benefits in order to balance the budget in 1984.

The Ways and Means Committee decided for a more prudent approach. The committee bill includes a third-year tax cut for 1984 but makes that tax cut contingent on achievement of certain economic assumptions contained in the administration's own midsession budget review. The Consumer Price Index must be below the level forecast by the administration—an annual inflation rate of around 7½ percent between 1980 and 1983. The Treasury bill rate must be below the rate forecast by the administration 7½ percent in 1983, and the fiscal year 1983 budget deficit must be below the level of $22.9 billion forecast by the administration.

There has been some concern that the deficit condition in the trigger is too strict because we may end up with a tax cut bill with a fiscal year 1983 revenue loss in excess of the administration assumptions. Let me respond to this by promising that, if the committee bill is adopted, we will bring back a bill from conference which keeps the fiscal year 1983 revenue loss at a level consistent with the administration's assumptions. This pledge is similar to a pledge made by the chairman of the Finance Committee in a recently adopted sense of the Senate amendment in the other body. This will give the trigger a fair chance to go off—if the administration's own economic and fiscal projections are accurate.

Let me now summarize the major provisions of the bill.

Title I of the bill contains the broadly based individual income tax reductions. These cut rates in all tax brackets, increase the level of income at which people become subject to tax, increase the earned income credit and reduce the marriage penalty. These provisions are designed to reduce personal taxes equitably and to increase incentives for additional work and savings at every income level.

The tax rate cuts average 1 percent for 1981, 10 percent for 1982, 16 percent for 1983, and 22 percent for 1984. There is a more than proportionate cut in the tax rates which affect the great number of American taxpayers, those whose incomes are between $15,000 and $50,000.

The top rate is lowered from 70 to 60 percent in 1982 and to 50 percent in 1983. This will reduce the top tax rate on long-term capital gains from 28 to 24 percent in 1982 and to 20 percent in 1983.

To provide insurance now against a possibly untimely cut in 1984, the 1984 individual income tax reductions will be triggered only if the budget deficit, Consumer Price Index, and Treasury bill rate in 1983 are at levels consistent with the administration's current forecasts.

So that lower income persons do in fact experience a tax cut, and not merely the rhetoric of a tax cut, the bill increases the zero bracket amount—that is, the first dollars of income that are not subject to tax—in two steps from $2,300 to $2,500 for single persons and from $3,400 to $3,800 for married persons who file jointly. These amounts will increase to $2,600 and $4,000, respectively, if the 1984 cut is triggered. In addition, the earned income credit is raised to 11 percent of the first $5,000 of earnings, phasing out between $8,000 and $12,000 of income. If the 1984 cut is triggered, this credit will be increased to 11 percent of the first $6,000 of earnings, phasing out between $9,000 and $14,000 of income.

Another important structural change made by the bill is relief from the marriage tax penalty. A married couple will be allowed to deduct 10 percent of the first $50,000 of earnings of the spouse with the lesser amount of earnings, a provision which, on average, cuts the marriage penalty in half. The bill also increases the child care credit and the exclusion of certain income which individuals earn abroad.

Title II restructures the taxation of capital income to accelerate depreciation deductions, reduce corporate income tax rates, stimulate research and development and encourage redevelopment of economically distressed industries. These provisions reduce the taxation of income from investments and promote the capital formation that is essential for modernization, innovation, and increased productivity.

The bill replaces the current system of depreciation for costs of most business and farm equipment so that these costs can be expensed—that is, written off entirely when the assets are placed in service. Expensing accelerates capital cost recovery by the maximum amount, and because of revenue considerations, must be phased in until 1990. The regular investment credit would be phased out as expensing phases in. However, other credits will continue to apply. All businesses can expense up to $25,000 of equipment every year without regard to the phase in. Recovery periods for long-lived public utility assets are shortened to 10 or 15 years. The depreciation of structures is also simplified and accelerated by the bill which provides for recovery on a composite basis over an audit-proof life as short as 15 years. The present 10-percent investment credit for rehabilitating nonresidential structures will be replaced by a graduated credit—with reduction of basis—of 15 percent for buildings between 30 and 40 years old and 20 percent for buildings 40 years old or more. A 25-percent credit will be allowed for the rehabilitation of certified historic structures.

To assure that tax reductions for economic expansion reach small businesses, high technology firms, and the many other enterprises that are not capital intensive, the bill provides for reductions in corporate income tax rates. The top rate is scheduled to fall in steps from 46 percent to 34 percent by 1987. Corporate tax brackets are widened and tax rates below the top rate are lowered in stages, so that after 1983 the following schedule will apply: Fifteen percent of income up to $50,000; 20 percent of income between $50,000 and $100,000; 25 percent of income between $100,000 and $150,000; and 30 percent of income between $150,000 and $200,000.

To address special problems of economic growth in certain industries, the bill provides a 25-percent credit through 1985 for research and experimentation expenditures—other than overhead and depreciation—which exceed the average of the taxpayer's expenditures for this purpose in the 3 preceding years. The bill also allows the carryback of unused investment credits against all regular tax liability incurred since 1962 in six distressed industries—autos, steel, paper, railroads, mining, and airlines—provided that these tax savings are used for additional investment.

Title III of the bill reduces the income tax burden on savings. These provisions are intended to increase personal savings and thus release the substantial resources required to finance investment for economic growth. The bill raises the maximum deduction for contributions to an individual retirement account (IRA) to the lesser of $2,000 or 100 percent of compensation, and extends eligibility for this deduction to active participants in qualified pension plans. The maximum deduction for contributions of individuals to a self-employment retirement plan is increased to $15,000. In addition, the bill allows an individual to exclude from income as much as $1,000—$2,000 for a joint return—of interest on all savers certificates issued by banks, savings and loans, mutual savings banks, or credit unions which use a portion of the new deposits for residential or agricultural loans. These certificates may not have an interest yield greater than 70 percent of the Treasury bill rate. Another new savings incentive permits taxpayers to exclude up to $1,500 a year—$3,000 for a joint return—of dividends received from public utility corporations if the dividends are reinvested in stock of the utility; the excluded dividends will reduce the taxpayer's basis in the stock and thus will increase the capital gain treatment when the stock is sold.

Title IV provides for substantial reductions in the estate and gift taxes which, after several years of high inflation, are being levied on transfers

that Congress did not intend to tax. These provisions include increases in the unified credit equivalent to an exemption increase from $175,000 to $600,000 by 1987, exemption of all gifts and bequests between spouses, an increase in the annual gift tax exclusion from $3,000 to $10,000 per donee plus a complete exclusion for gifts to pay school tuition and medical expenses, and liberalization of the current use valuation of farms and real estate.

Title V places restrictions on commodity straddle transactions to curb abuses whereby taxes are deferred and ordinary income or short-term capital gains are converted into long-term capital gains. The committee bill requires capitalization of interest and carrying costs for straddles involving the actual commodity—with a special rule for commodity futures traders—provides that Treasury bills are to be treated as capital assets, requires dealers to identify investment securities on the day of acquisition and specifies that taxable dispositions of capital assets result in a capital gain or loss.

Title VI of the bill contains numerous provisions relating to the windfall profit tax. Among these are a credit for royalty owners for the first $2,500 of windfall profit tax paid in 1981 and an exemption for amounts which begin at 1 barrel per day in 1982 and increase to 3.5 barrels per day by 1986. All producers will be allowed exemptions for up to 500 barrels per day of new oil and 100 barrels per day of old and stripper oil—increasing to 350 barrels per day by 1986—except that the aggregate exemption will be limited to 500 barrels per day. A new income tax credit of up to $2,000 is allowed for builders of homes that have passive solar energy systems.

Title VII contains provisions for improving tax administration, such as the annual adjustment of the interest rate on deficiencies and overpayments to 100 percent of the prime rate, a requirement that estimated tax payments of large corporations be at least 80 percent of the current year tax liability, additional penalties for filing false W-4 forms, and an increased exemption from the estimated tax penalty for individuals from $100 to $500, phased in over a 4-year period.

Titles VIII and IX contain a number of miscellaneous provisions.

These then are our essential differences. The Ways and Means Committee bill provides a fairer tax cut for middle-income Americans—those with incomes of less than $50,000, significantly more relief to small business and is more prudent and responsible in terms of outyear budgets. The substitute risks huge deficits and inflation unless massive new spending cuts are proposed and enacted. We have the right to have those cuts spelled out in detail before committing ourselves and the American people to massive outyear revenue losses.

Mr. Chairman, the task of rebuilding our economy is enormous. This tax program must reach every type of business and every working person. We have only one tax reduction of this size to enact. It must work, it must work fairly, and it must work without provoking ruinous inflation and deficits.

The choice is clear. The committee bill is consistent with our traditional values and concerns for low- and middle-income persons, for working families, for small business and for responsible budgets. I am confident that any Member who looks impartially at the committee bill and the Conable substitute will conclude that the committee bill is more prudent, takes fewer risks with the economy, and provides more equitable tax relief than any of the alternatives. The Tax Incentive Act of 1981 is structured to do these things. I urge the House to reject the proposed substitute and support the committee bill.

□ 1140

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I especially want to compliment the gentleman from Illinois (Mr. ROSTENKOWSKI) and the committee for what they did for small business. The White House Conference on Small Business recommended a list of tax changes they would like to have. Seven out of the eight highest priority items are in this bill, and as the gentleman said, more than four times as much in tax cuts will go to small business under the Ways and Means Committee bill than would under the administration bill. Every small business will be substantially better off under the committee bill unless they own oil wells; 98 percent of the small businesses will be better off under the committee bill and the administration did not even include the favorable changes they now endorse until the Ways and Means Committee first made those changes. In fact, until last Friday the administration opposed those changes. No matter which proposal passes, small businesses must appreciate that they would have been left out had it not been for the favorable provisions the Ways and Means Committee under your leadership included.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to a valued member of the Committee on Ways and Means, the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. Mr. Chairman, let me say to my colleagues and my very best friends who are assembled here today that I want to direct their attention to one of the clever gimmicks in Chairman ROSTENKOWSKI's bill, its trigger. That is the trick that enables the Democratic leadership to offer their loyal subjects a tax bill that they can call a 3-year tax cut but which is designed intentionally to prohibit that third year portion. Without that third year portion, the Democratic leadership bill becomes no tax cut at all but a tax increase.

With their trigger, they have offered conservative Democrats a smooth way to be able to vote both for and against a real tax cut at the same time and later to be able to interpret their votes either as a way to defeat President Reagan's economic recovery program or, depending on the audience, as a way to help him get his tax bill through the Congress. Their trusty steed, Mr. Chairman, is aptly named "Trigger."

What their trigger does is to provide a 3-year tax cut only if three conditions are met. It gives you a real tax increase instead. What are these conditions? They like to chide the President by saying these are simply Reagan's own economic projections, though, as he has made clear, his own projections were based on enactment of his own tax bill. Catch 22, right?

One condition is that interest rates must come down to nearly half the present Treasury bill rate, to 7½ percent by 1983. That, of course, places the taxpayers' fate in the control of the Federal Reserve. Unelected and unaccountable to the people, the Federal Reserve Board of Governors, not the Congress, is given the power to raise taxes.

Another condition imposed is that inflation must be cut nearly in half, to a 5.7-percent rate by 1983. Our fate is tied not to faith in the President's projection but to OPEC's pricing decision, the weather and the success of harvests, badly timed rumors on foreign exchange markets, eccentricities of foreign powers, and luck—on everything, in short, except judgment.

Ironically, even if we meet these two targets of 7½-percent interest rates and 5.7-percent inflation, they impose one handicap that cannot be met if, instead of the Reagan bill, we enact their bill. Disingenuously, perhaps, their final condition is that the budget deficit be cut in half by 1983, to $22.9 billion. Yet they guarantee that this target cannot be met, by fixing the 1983 tax revenues $7 billion lower than the Reagan bill. That will insure that the deficit will be $5 billion to $6 billion higher than their target. Matching Macchiavellian machinations, they have provided an extra $7 billion tax cut in 1983 merely in order to trigger a tax increase of—and I want the Members to hear this—$46 billion in 1984.

□ 1150

Their trigger is based on President Reagan's own projections, but they were based on his own tax bill. The trigger then becomes the booby trap whereby the Democratic leadership gives you just another so-called tax cut that does not cut taxes.

That, Mr. Chairman, is why a million Americans have called in this week to say, "Whoa, Trigger."

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. GRADISON), a man who has spent a good deal of time on developing indexing as a concept.

Mr. GRADISON. Mr. Chairman, the debate here today is not a debate about the meaningful differences of a 2- versus a 3-year tax and economic program. It is not a debate about whether or not the institution of marriage should be punished by the Federal Government through taxation. Indeed, this is not a debate over investment versus consumption. At best, the differences on issues like these are a matter of degree.

The real controversy here is whether or not the Federal Government and its representatives will truly lower the taxes of the people in this country. The debate is between two plans. Only one of these plans meets the objective: truly cutting the taxes of the people who pay them. The substitute offered by Mr. CONABLE and Mr. HANCE is the only plan that cuts the taxes of the American people because the Conable-Hance plan contains a provision for indexing the personal income taxes of every American beginning in 1985.

An explanation of indexing does not require volumes of paper and crowds of economic experts. There was a time when indexing drew puzzled looks from our constituents—that day has passed. Indeed, if you look at H.R. 4260, you will see that indexing is one of its shortest provisions. But I guarantee you that this is one of its most important.

Simply stated, indexing ends the unlegislated tax increase that occurs every year when inflation pushes taxpayers into higher tax brackets. Each year, the tax brackets, the personal exemption, and the zero bracket amount will be adjusted based on changes in the Consumer Price Index, thus insuring that the Federal Treasury no longer profits from inflation at the expense of the American worker.

This body spent almost 1 year in heated controversy over an issue described as windfall profits.

We talked at that time in terms of financial gain of the few being reaped at the expense of the many—at the expense of those who could least afford it. We are talking about the same thing now. We are talking about the Federal Treasury reaping unlegislated windfall gains at the expense of the American taxpayer.

In the last 16 years this body has passed a great many so-called tax cuts. The accumulated effect of all these tax cuts has not equaled the effect of the inflation-caused tax increases that the Gradison indexing bill would correct. This bracket creep has been most punishing to the lower- and middle-income taxpayer because of the narrowness of the tax brackets within those income ranges.

For those who have worked with me since 1977 in support of this concept, this is the moment of truth. The votes cast here today will determine who is in favor and who is against tax indexing.

My indexing provision has passed the Senate with bipartisan support by a vote of 57 to 40. It is cosponsored by a majority of my colleagues in the House, including 60 of my Democratic colleagues.

And so I say to my colleagues that the Ways and Means tax proposal without indexing merely continues this 16-year charade. I urge this body's support of the Conable-Hance bill, which includes the Gradison indexing proposal. It is fair, it is responsible, and it stops us from using an inflation mentality to the Federal Government's benefit but to the detriment of the American taxpayer.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from New York.

Mr. KEMP. I appreciate my friend yielding. I want to congratulate him on his statement and associate myself with his remarks and thank the gentleman for his tremendous leadership on this issue and tax reform in general.

For a long time I have supported the gentleman's bill and remind my colleagues that indexing was a part of the original Roth-Kemp bill and strongly supported by President Reagan.

I would only point out that had we indexed the tax brackets since 1965, which was the last major reduction in tax rates or if we had to repair the rates to make up for the lack of an indexing bill since 1965 we would either have to raise all the tax brackets by around 120 percent or lower the marginal income tax rates of all the American people across the board by about 55 or 60 percent; that is some idea of the problem that has existed over the past 15 years since we did not have indexing and the gentleman's bill in the Tax Code; I want to praise the gentleman for his contribution and suggest, as he has, this is the moment of truth. If you believe that the American people should be protected against the Government surreptitiously taxing them out of their pay raises, they should support the Conable-Hance bill, particularly because of indexing and the across-the-board rate cuts for all.

I want to thank the gentleman for his statement.

Mr. GRADISON. I thank the gentleman for his comments and for his leadership in the entire cause of true tax reform.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I had not really planned to spend a lot of time on indexing, but I just hope that the gentlemen on this side of the aisle who advocate indexing so much will take the time to go to South America, particularly to Brazil and to Argentina, where they have been living with indexing, and see what kind of havoc has been wrought there.

I hope they will go to other places and remember what happened when we had one of these surprise amendments on indexing of social security here on the floor and the mess that it got us into then.

I know the gentleman is serious about it, but it could be a serious blunder.

Mr. Chairman, I am here to talk about how we got to this place today in the condition that we are in, particularly about the business tax cuts.

Now, the business community that is not emotionally tied to the President has endorsed the kind of business cuts that are in the Ways and Means tax bill.

The National Small Business Association that represents practically all the small businesses in the United States says our proposal is better.

Fortune magazine, hardly known to be a great supporter of Democrats, comes out and says our business tax proposal is better.

Even Business Week has mentioned our business tax cut more favorably.

Our business tax cut is easier to understand. It works more simply. It gives, for instance, to small business the advantage as compared to the Republican substitute today between the years 1981 and 1986, the Republican substitute would give them approximately $6.2 billion worth of tax relief. The Ways and Means Committee bill gives them $28 billion worth of tax relief.

How do we do it? We do it through a combination of rate cuts and expensing. Expensing is the alternative that we came up with that replaces 10-5-3. As you remember, the President said, take 10-5-3 or nothing. We did not fall for that. We tried to improve on it. We had more time to think and we outthought him on that and we came up with expensing.

Expensing merely says to the businessman that if you have made an investment in capital equipment, you can write it off in the year in which

you acquired it. If you cannot write it off in that year, you have an option as to how fast you want to write it off. You can write off as much of it as you want to, as fast as you want to, or you can stretch it out if you want to. That beats the Republican substitute hands down.

As I say, all those who are not emotionally committed to the Reagan substitute will tell you that our business tax cut plan is sounder, it is better and it does more for all business.

The Republican substitute, 10-5-3, is irrevocably flawed. It gives to some businesses, and a small number of businesses, more than just a tax break. It gives them a subsidy. A businessman taking advantage of 10-5-3 would not just recover their capital, but they would recover their capital plus a bonus from the Treasury. I do not believe most business want that.

Now, you know, we hear so much about where we are today and how we got there. I want to point out that we would not have been in the position we are for the average American taxpayer had it not been for the fact that the Ways and Means Committee came in and said, "We will make some real changes for all America."

What did we do? Rather than take pure Kemp-Roth and rather than take pure 10-5-3, we said that every taxpayer deserves to be considered and heard.

□ 1200

We put in our bill relief from the marriage tax penalty. Mr. Reagan came along and half relieved it. Finally, in the Conable substitute—that is the Reagan bill—he comes up and matches our marriage tax relief. Later in the debate I will point out the other matters that the Ways and Means Committee has brought to this legislation.

Mr. CONABLE. Mr. Chairman, I now yield 2 minutes to the gentleman from Texas (Mr. HANCE), my partner in the formulation of this substitute and, in every sense of the word, my partner.

Mr. HANCE. Mr. Chairman, I appreciate the time. Rather than give a general statement, I want to talk on two specific issues right now. I have a general statement which I would like to save until later in the debate.

Those two issues are the deficit, and my colleagues are hearing a lot about that, and the other has to do with the trigger. Many people say, "What about the Conable-Hance bill and the deficits that may be projected in the future?" I would point out we are dealing with static figures. These are estimates that the Treasury has to use for the future. These are only projections.

If my colleagues look back to the Kennedy tax cut in 1962, the Treasury predicted at that time, using static figures, a loss of revenue of $89 billion between 1963 and 1968. But what happened is they increased revenues by $54 billion, so they were off by $144 billion. There was more money coming in.

That is exactly what is going to happen when we stimulate the economy and things get rolling.

I think back to less than 3 years ago on the Steiger amendment. People said that it was going to lose money and revenues are going to be down. It is going to increase the deficit, they said. The Treasury once again, using static figures, which they have to use, said that the loss of revenue would be $1.7 billion, but the gain in revenue in the first year was $1.8 billion; they missed the projection by $3.5 billion.

I think that proves the fact that the static figures for the future are just not going to hold up. We are going to see an increase in revenues and if we are ever going to balance the budget we have got to have a healthy economy to do it.

The other thing I want to mention just briefly has to do with the trigger. The trigger is based on the administration's assumptions. But for that to work one has to have the administration's budget cut and tax cut. So it is a trigger that will never be pulled.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. The all-savers certificate is a special, statutory 1-year certificate that will exempt from income taxes the interest thereon provided certain conditions are met. As the distinguished chairman of the Ways and Means Committee knows, such a certificate may well require special regulations to be issued—some by the Treasury Department and some from other Federal agencies supervising and regulating financial institutions.

Is it the intention of the Ways and Means Committee that all of the Government departments or agencies involved seek to issue appropriate regulations to facilitate the sale of these all-savers certificates as soon as possible—and preferably by October 1, 1981?

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. It is not the committee intention by this provision to preempt the authority of the Federal or State banking regulatory agencies. The provisions provide any qualified certificates issued will be tax exempt.

However, the provision does not authorize the issuance of such certificates. The committee anticipates that the appropriate regulatory authorities will consider such authorization as expeditiously as practicable.

Mr. ST GERMAIN. I am glad to hear that. As chairman of the Banking, Finance and Urban Affairs Committee, I am hopeful that the Secretary of the Treasury, as well as the other members of the Depository Institutions Deregulation Committee will, at their next meeting, discuss and promulgate regulations which will authorize these certificates by October 1. There are several questions that will arise and need to be resolved. For example, should the early withdrawal penalties on the 6-month certificates and other certificates of a 1-year term be waived if the certificate holder prefers to convert his existing certificate to the all-savers certificate within the same institution?

I am sure there will be other questions that will need to be addressed as the DIDC promulgates rules and regulations for the depository institutions under its jurisdiction concerning the all-savers certificate.

I am sure many people, including Members of Congress, will be contacting the DIDC on the all-savers certificate.

I want to commend the chairman of the Ways and Means Committee for his work in this tax reform bill, and thank him for his response to my question.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Chairman, I would like to make a few comments with respect to how we ought to analyze these tax bills.

Let me make a couple of points about middle-income people. Middle-income people in this country in the 1970's have had six times the size of the tax increases because of inflation—bracket creep—than have those with $200,000 a year in income, and yet some say we should give them both 10 percent tax relief. I think that is fundamentally unfair.

Let us look at small business. The fact is small business produces 48 percent of the private sector gross national product in America. They also ought to get 48 percent of the tax cut. Ten-five-three directs 75 percent of the tax cut in the business sector to business firms of $200 million or more in assets. I think that is wrong.

Business Week says that in 1960, corporations in this country paid 23 percent of the income tax load. Under the President's tax proposal, by 1986, they will pay 7 percent of the tax load.

I think both bills are flawed. I am concerned. We ought to be getting the best of both rather than the worst of each in tax reform, and I am not very impressed with the tax reform efforts that have been discussed in this House in the past couple of months.

I may very well vote with the President on final passage, but I intend to cast votes every step along the way to see if we cannot try to achieve some more fairness in terms than I presently see in these bills.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Chairman, first of all I want to congratulate our distinguished chairman of the Ways and Means Committee, DANNY ROSTENKOWSKI, for the outstanding job that he did in meeting his timetable, and for his equity and fairness in the preparation of this bill.

At a recent meeting some of us on the minority side had at the White House, one of my colleagues made the observation that the chairman has produced the second-best tax bill written in the last 20 years by the Congress of the United States. Unfortunately for the chairman, there is a superior bill, the bipartisan Conable-Hance bill, that is before us today.

I would urge all of my colleagues to get behind this bipartisan effort because the deficiency, sad to say, of the committee bill lies in the fact that it is tax relief rather than tax cuts.

If my colleagues will look at the magnitude of the problem, they will note that taxes rose by 49 percent in the years 1971–74. However, they rose by almost 250 percent between the years 1971 and 1980.

If my colleagues look at the cost-of-living increase over that same period of time, it was about 100 percent. So obviously we are confronted with a situation where Americans are bearing the most confiscatory tax burden ever in the history of this country.

What is urgently needed under the circumstances is a bona fide tax cut. That is why, with all of the cooperation and the willingness on the part of our distinguished chairman to address this problem, his bill is nevertheless deficient.

The President has noted that we can anticipate, by the most conservative estimates, a 22-percent increase in taxes over the next 3 years. That is why it is essential that we get 5-10-10 in the way of tax cuts so as to provide an honest-to-goodness tax cut and then, at that moment, index the Tax Code so as to eliminate the vicious inflation tax that has been eroding the savings and the earnings of overtaxed Americans for lo these many years.

I hosted a meeting back in the spring of 1974 with Prof. Milton Friedman and about 50 of our colleagues. Professor Friedman, as my colleagues know, has been in the vanguard of promoting the idea of indexation of the Tax Code. He observed at the time that if you have just a 7-percent annual rate of inflation you must double your income every decade to break even. But the fact is you do not break even because you are progressively pushed into a higher tax bracket.

I know there are a lot of compelling reasons to avoid addressing this point because it is advantageous from the politicians' standpoint to spend like a drunken sailor and then avoid the consequences of that spending on the eve of each election by giving highly advertised tax cuts that are, in fact, not cuts but are simply relief from the new taxes that have already been imposed. The most insidious of those new taxes is the inflation tax.

□ 1210

I introduced the first indexation bill here in the House back in May of 1974. It has enjoyed growing support and the man who has been most aggressively promoting it in committee is our colleague, the gentleman from Ohio (Mr. GRADISON). The gentleman from Texas (Mr. ARCHER) was the first Member to get indexation of any portion of the Tax Code in the capital gains area. It cleared this House. It is a misunderstood concept, but what it has the practical effect of doing is forcing the Members of the House of Representatives who have that responsibility to go back to the voters on the eve of each election and tell them if we spent more than we took in that we are going to impose the surtaxes that may be dictated to try to get our books in balance rather than taking it in that hidden manner out of the purchasing power of the dollar of overtaxed, hardworking Americans.

This is the most honest thing that this body has done on taxes. I congratulate the adminsitration, I congratulate the sponsors and the promoters of the Conable-Hance bill.

I deeply regret that in the committee's bill, the chairman did not include this important feature because on this issue there should not be Republicans, not Democrats, only Americans who believe in justice, honesty, and equity.

On another point, some have claimed there will be an inflationary impact in the President's tax cut. The question I would put to my colleagues—and I would put to all Americans—is: Why is it more inflationary for hardworking Americans to spend their dollars than for this body to spend them? Every poll has indicated that if one provides honest-to-goodness tax cuts to Americans, in every income bracket, they intend to save some of the cuts that they will enjoy. I guarantee the Members, and every American knows, that if those dollars find their way into the coffers of the U.S. Treasury, not one penny of that money will be saved. Quite the contrary, based upon past experience, we will spend it all and then some.

Mr. Chairman, another ingredient of the Conable-Hance bill I have championed for most of my congressional career—indeed, I was one of the first Members of Congress to introduce legislation to eliminate estate and gift taxes.

The estate tax is by definition a tax on widows and children. A man works hard all of his life to start and run a small business. After all that work and sacrifice, after becoming successful, he commits the ungracious act of dying. For his efforts, the Federal Government comes in and imposes a death-penalty tax on his bereaved widow and children.

The death tax—a more accurate description—was enacted in 1916. The theoretical objective was to break up concentrations of wealth in some of the major families in our society when in fact it has not achieved that objective. It has not done much to the Kennedy, Rockefeller, or other very large estates, but it has hurt smaller ones. Payment of the estate taxes has very frequently forced inheritors to sell small farms or businesses. The tax has forced mergers, thus resulting in a trend toward concentration of economic power instead of preservation of small independent business.

An estate is, in reality, a capital investment in the future. For the individual who toiled and sacrificed to build an estate, who hoped to provide his heirs with more than he inherited, his hopes have for too long been dashed. The tax laws affecting inheritance have constituted a disencentive to savings and investment.

It is fortunate for taxpayers, for widows and children, for estates large and small, that Congress is finally taking action to redress most of the damage done. It is only a pity that it took us so long.

To conclude, let me address my Democratic colleagues and the few of my Republican associates who have reservations about the vote today. The time has come when partisan politics must yield to a greater pressure. The time has come when we must be compelled by a higher calling, the preservation of this great Republic. We have arrived at the point where we as a Congress must account for past spending actions and the past tax increases that all of us agree are out of control. And the way we must address this crisis, the only honest way we can speak to this issue, is to make a true and lasting change. I think all of us agree this change in direction is most dramatically and forcefully presented in the bipartisan proposal offered by our distinguished colleagues, Congressman CONABLE and Congressman HANCE.

Last year a revolution occurred in this country, a political revolution. The American people spoke with a great voice and the foundations of the past were shaken. Many of the most powerful congressional leaders who

represented this past were defeated at the polls in this popular ground swell. The message was clear; less government and more individual responsibility. Today we have the opportunity to respond to that voice. Today we have the opportunity to vote to support that message. It is my strongest feeling for the sake of our country that we should do so. It is also my strongest feeling as well, that those who do not, will again be choosing to run against what most certainly will be the prevailing wind in 1982. Based upon this, the choice should be clear—passage of President Reagan's bipartisan substitute. This is how I will cast my vote today and I would urge my colleagues to do the same.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, this House will choose today between two Federal tax-cutting bills that will affect American workers and the American economy for years to come.

Both bills are the outgrowth of deep popular support for relief from burdensome taxes. Both reflect, to a greater or lesser degree, a bipartisan commitment to refining the tax laws as a tool in regaining our Nation's industrial vitality.

But there are sharp differences between the tax bill put together by the House Ways and Means Committee and the one advanced by the Reagan administration. They are differences of substance, of direction, of philosophy. They are the difference between a meaningful tax break for working men and women and an across-the-board tax break that means a windfall for the very rich, does little for the average American worker, and courts high deficits and high interest rates in the next 5 years.

In the 3 months since Ways and Means Chairman DAN ROSTENKOWSKI presented the broad outlines of the committee's tax-cut approach, I have gone through the documents and the analyses supporting its plan, and I've heard the President and his allies in this body describe their tax strategy.

The twin yardstick I have used in evaluating these plans is the effect they would have on the people of the Fifth Congressional District and the effect they would have on our Nation as a whole.

Although the administration has moved in the past week to adopt a number of elements of the Ways and Means proposal as part of its own package, it is undebatable that the clear majority of our district's taxpayers stand to gain substantially greater benefits under the committee's tax-cutting plan than they would under the President's. Here is how:

Middle-income working families earning $15,000 to $50,000 a year get 67 percent of the total tax cut under the Ways and Means plan, 57 percent under the administration's. Tax relief is the plan I support, targeted to help those who bear the bulk of the tax burden and deserve the bulk of the tax reduction.

The trickle-down theory behind the President's plan—in which those at the highest income levels are counted on to invest their tax breaks in ways that will improve economic conditions for all—is an expensive gamble. Addressing the issue of fair tax relief for upper bracket taxpayers, however, the Ways and Means bill assures a reduction in the maximum tax on unearned income from today's 70 percent to 50 percent in 1983, cuts the maximum tax on capital gains from today's 28 percent to 20 percent in 2 years, and sharply eases the tax burden on family members from most inheritances by quadrupling the threshold for estate taxation.

The proportional difference between middle-income and high-income tax cuts under the two approaches is inequitable. While the President's formula gives a two-earner family with a $25,000 income $396 off its Federal tax bill next year, the Ways and Means alternative gives that family a $527 tax break. Yet the President, at the high end of the scale, gives a two-earner family with $200,000 in income a $12,214 bonus—more than 2½ times the $4,789 break accorded under the Ways and Means plan.

The threat of a bloated Federal deficit is increased under the administration plan, decreased under the Ways and Means plan. Instead of deciding in 1981 that there should be a large cut in marginal tax rates in 1984, the Ways and Means package has the Government make that decision in 1983, based on the economy's performance. This country's best economists have a spotty enough record projecting inflation and interest rates 6 months down the road; basing national policy on the 3-year forecasts they formulate today would be foolhardy.

Two-earner families paying the so-called marriage tax gain necessary, timely relief under the Ways and Means bill—in fact, up to two-thirds more in offsetting deductions than under the last-minute revisions incorporated in the administration bill. The committee bill recognizes the long-standing inequities of a Tax Code that penalizes millions of working couples; it corrects those inequities swiftly and comprehensively.

By raising deductions for contributions to Individual Retirement Accounts (IRA's) and Keogh plans—lifting the IRA deductible contributions level from $1,500 to $2,000, and doubling the Keogh plan deduction for self-employed workers to $15,000—and by creating a universal IRA with a $1,000 deductible contribution for workers already covered by pension plans, the Ways and Means alternative assists workers in planning a secure retirement, and it provides a much-needed incentive for individual savings. Those elements, combined with the bill's reduction in taxes on interest income, promise relief not only for the individual saver, but for the prospective homeowner denied a mortgage because of tight, high-interest money in thrift institutions.

Because the most vital sector of our economy is the small business sector, the Ways and Means bill is targeted to aid small business investment, expansion, and employment—a focus the administration's bill has lacked. The committee plan calls for an innovative form of accelerated depreciation of investments known as expensing, under which businesses would receive the full tax advantage for investment in equipment the same year that the equipment is purchased—cutting needless paperwork and encouraging job-building investment. Other incentives to growth would be provided by a research and development tax credit—especially meaningful in the newer high-technology industries in our district and throughout the State of Connecticut—and a corporate tax rate reduction that rewards productive, innovative management. Older, distressed industries facing difficult competition from abroad have not been abandoned in the Ways and Means approach; the carryback tax credit provision designed to ease their equipment costs and regain profitability is regrettably unmatched in the administration bill.

This debate, Mr. Chairman, is not over tax bills that are all good or all bad; there are some positive aspects to the package the President and his allies have been pressing, and elements with which I disagree in the Ways and Means package. The fact is, in the past week there has been considerable borrowing by the President's supporters from some of the better parts of the Ways and Means bill—although the borrowed portions, such as the marriage tax reduction, have been watered down in the process.

It remains starkly clear, however, that the tax-cut bill offering the greatest relief to middle-income families, and the greatest chance of boosting industrial productivity through savings and investment incentives, is the Ways and Means bill.

In the past few days, as this body has awaited the tax bill debate, there has been a good deal of pressure on Members of both Houses of Congress to support one version of tax relief or the other. I have seen some of the simplistic—in fact, plain wrong—arguments that extremist groups have spent lots of money to sell to the American public. I think that kind of material offends voters and elected of-

ficials alike, and I think it gets in the way of intelligent debate on an important issue.

At stake in this debate is a Federal tax policy that can strengthen our Nation's economy and reduce the burdens borne by the greatest number of working men and women. For the people of our district and our State, meaningful and fair tax relief is imperative. It is the kind of tax relief written in the bill offered by the Ways and Means Committee, and it is for that reason that I support and urge my colleagues to support this measure.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, we are debating a measure which is, without question, the largest, most important and far-reaching revenue measure in American history. We must do so in a careful and unemotional way.

Let us disregard the political rhetoric, the uninformed, locked-in positions, the special-interest demands, the politically expedient decision, and make up our own minds as to what is in the best interests of our people and our country.

We have before us today a bill which my colleagues on the Ways and Means Committee and I have produced after lengthy considerations. It is, in my opinion, balanced and reasoned. It offers incentives for savings and investment and relief for those low- and moderate-income taxpayers who have been most burdened by inflation and social security tax increases.

Also before us is a substitute, offered by others of our colleagues on the Ways and Means Committee. We have had more time to consider the provisions of this bipartisan substitute than the last one which was offered in this Chamber. I have studied the substitute and will willingly say that there are good provisions in this package. For example, I am a great admirer of the estate and gift tax provisions in the substitute, since they are identical to those which I sponsored in committee and which are included in the Ways and Means Committee bill.

Nevertheless, as we reach our conclusions on this matter, we must examine the measures in their entirety, rather than isolating a single provision, to determine if they are fair and well balanced and if they treat our people fairly.

Let me point out that, in my congressional district, the median family income is less than $16,000 per year. Of tax returns filed in the Ninth District of Georgia last year, only 3,372 were in the $50,000 a year or above category. The vast majority of my people make under $20,000 a year, over 168,000 families out of a total of 230,000 income tax returns filed.

The President has indicated that he wants an across-the-board individual tax cut, that in effect will provide rather generous tax reductions to the higher income taxpayers and a smaller tax cut to the middle- and low-income people. He justifies this on the grounds that it is his desire to encourage more savings and investment which must come from the higher income people and that the overall benefits will ultimately trickle down to the lower income people. Under his proposal, a taxpayer earning $200,000 would receive a tax reduction of $22,000 in 1982, while a taxpayer earning $15,000 would receive a reduction of $350. If this were the only provision in the tax bill, there would be justification for such an across-the-board approach. But there are many other provisions that we must examine before we make the determination as to whether this provision is fair.

For example, we have a provision that reduced the tax rate on unearned income—such as interest and dividends—from a maximum rate of 70 percent down to 50 percent. This is a good provision, but we must be honest with ourselves in recognizing that this is helpful only to the high-income people. It is not directly beneficial to the middle-income and lower-income people, simply because they are not in the 70-percent tax bracket.

Another provision of the bill permits taxpayers to set aside up to $15,000 per year, if they are self-employed, without paying any taxes on that income until after they have reached retirement age. This is an expansion of the Keogh plan. Once again, this is an excellent improvement in our tax laws, but the higher benefits obviously accrue to the higher-income people, since no middle-income taxpayer can possibly afford to set aside such a large portion of his income. In a similar fashion, we have increased the amounts that employees can set aside from taxation under the IRA provisions of our Tax Code, which also benefit the high middle-income people.

Then, there are the estate tax provisions of the bill, which I sponsored, that have the effect of eliminating all estate or inheritance taxes for people who have estates of less than $600,000. Once again, I must say to you that the primary beneficiaries of this section are necessarily those people who have been able to accumulate land or other assets during their working lives.

Likewise, the corporate rate reductions and other business provisions of this bill will probably have a greater direct impact on higher-income people than on lower- and middle-income people. I support these reductions, because I believe they are in the long-term interest of all of our people. Nevertheless, if we are to consider the overall balance of a tax bill, and I believe we must, we need to consider who is receiving the most benefit from what we enact.

Oddly enough, we on the committee find ourselves in the position of having to defend our support of targeted individual tax relief, when, in fact, our entire tax system is based upon a graduated method and upon the theory that a person should be taxed based upon his ability to pay. To target our individual tax cut is simply to provide equitable treatment to those taxpayers who will not be able to benefit from other aspects of the tax bill.

In addition, the Ways and Means Committee has done a great deal more for the young family in which both the husband and wife must work to make ends meet. In the area of the marriage penalty, which, in a recent poll, large numbers of my constituents considered a primary problem in the tax area, the committee has provided a 10-percent deduction for two-earner couples, effective in 1982. This goes beyond the relief provided for in the administration's substitute. The committee bill also increases the child-care credit for these same young couples and for the single parent.

Of course, my colleagues know that a primary concern of mine since I first came to the Congress has been the Federal deficit. I have not wavered in this concern. Even under the best of economic circumstances, it is my fear that we face the threat of an increased deficit, under either of the proposals which we are considering. Nevertheless, the Ways and Means Committee approach is the most cautious and, if you will excuse the expression, conservative. I endorse this caution and would encourage my colleagues to proceed as cautiously.

I do not believe that I will change any votes by my remarks here today. Nevertheless, I counsel caution and great care in consideration of this proposal. The decisions we make today will be examined in great detail, not only by economists and historians but also by our people in the months and years to come. How you vote in respect to fairness and equity to all classes of society will be a decision which will be long remembered. Let us do what we think is right—first and foremost. We were elected to serve. Let us serve the best interests of our people.

Mr. Chairman, I do not think a great deal of oratory or rhetoric is going to change many people's minds on this particular vote, because I suspect that most people have their minds made up. I fully appreciate the good parts of both tax bills. As several of my colleagues from the Republican side have indicated, we do have two tax bills that have many good provisions. It is simply a dispute as to which of the two bills will truly do more for this Nation.

I want to spend my time very briefly this morning giving my reasons for be-

lieving that the prudent course, the more cautious course, the more conservative approach is to go with the committee bill.

I recognize the sincere differences that we have as to which is truly best, but I think that we ought to take just a moment or two and look at really what we are voting on today.

First of all, if we were voting just on an individual tax cut in isolation, by itself, nothing else, then I think that there is a great deal of merit in the President's position that we ought to have an across-the-board tax cut, because it does give more to the higher income people, and they are the people who will invest. We are looking for greater investment in this country. That makes a great deal of sense to me; but I want to remind the Members, in all fairness and equity, that is not what we are considering today. We are considering a tax bill that has, in both packages, a reduction from 70 percent to 50 percent in the tax rates on unearned income. I support that. I think it is good. It is in both packages, but one should not be misled. Only the high-income people will benefit from that.

We increased the Keogh from $7,500 to $15,000 in both bills. But, do not be misled. No one in the $35,000 to $40,000 bracket is going to have $15,000 to set aside. It goes to the higher income people.

We have the estate tax provisions which I authored on the task force. Good provisions, but do not be misled. Once again, the major beneficiaries will necessarily be our higher income people simply because their estates are larger.

The capital gains rate is reduced from 28 to 20 percent. I support this. It is in both bills, but do not be misled. That is generally going to the higher income taxpayers.

Now, the only section that we have where we can attempt to balance the bill, just a little for fairness and equity, is on the individual income tax side. Here, the Ways and Means Committee has attempted to do that. We have attempted to say for this income bracket, below $50,000, that we recognize that they are hit harder by inflation; their social security taxes will increase greater; and therefore, we give this income group a slightly better break than is included in the administration's bill. This, to me, is fully justified when we examine the total bill.

I urge your support of the committee bill.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, I rise in strong support of the Economic Recovery Tax Act. Embodied in this bipartisan substitute to the legislation reported by the Ways and Means Committee are those tax provisions essential to full implementation of the President's program for economic recovery.

The pressing need of the American people for significant, substantial, and permanent tax relief can hardly be overstated. The tax burden borne by the average American has increased by 249 percent over the past decade. Federal tax receipts, as a percentage of GNP, are at a level unmatched since World War II. Inflation is driving millions of hard-working citizens into tax brackets traditionally associated only with the very wealthy—to the benefit solely of the Federal Treasury.

In addition to budget reductions, Mr. Chairman, tax relief was the key ingredient of the economic platform on which President Reagan swept to victory last fall. The President's economic program remains overwhelmingly supported today. And only the Conable-Hance substitute fully reflects the principles of long-term tax reduction expected by the vast majority of our constituents.

Before elaborating further, I should make clear the fact that, in many respects, both Conable-Hance and the Ways and Means bill provide for important changes in the tax code in similar fashion. For example, each bill proposes an easing of the marriage tax penalty, an increase in the foreign-earned-income exclusion, savings incentives—including an expansion of IRA's and Keogh plans—a much needed reduction in estate and gift taxes, and business tax incentives. I have long advocated such legislation, and am pleased that the Members of the House have agreed, at long last, to address these crucial issues.

In the area of personal income tax reduction, however, the Conable-Hance bipartisan substitute is clearly preferable. It provides for a 25-percent reduction over 3 years, while the Ways and Means Committee has recommended only 15 percent over 2 years, with the misleading promise of a third year based on an unachievable trigger. Further, Conable-Hance assures that, beginning in 1985, individual income tax rates will be indexed to inflation.

This, Mr. Chairman, is the reason that the bipartisan substitute alone provides for real, permanent tax reduction. Social security tax increases already mandated and bracket creep caused by inflation will result in a 22-percent tax increase for the average family over the next 2 years. It is clear, then, that the Democratic plan would not even keep pace with increases over the next 2 years already built into the tax system.

Only the bipartisan substitute provides real and certain tax reduction; only the bipartisan substitute guarantees, through indexing at the end of the 3-year period over which the 25-percent tax cut is made, that taxes will not automatically increase, purely because of inflation, in the future.

Mr. Chairman, I urge my colleagues to join me in supporting legitimate, long-term tax reduction—tax reduction which will get the economy moving again. I urge support for the bipartisan Economic Recovery Tax Act.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I rise in support of the Conable-Hance substitute to the Ways and Means Committee bill. I do so because I strongly support a reduction in Federal taxes. The Republican package provides that tax relief. The committee bill does not. It provides little more than a promise. I believe that President Reagan called it an empty promise. The Republican package does just what its proponents claim. It provides a real, across-the-board Federal tax reduction.

The committee bill, endorsed by the liberal Democratic leadership of the House, is merely a political ploy to maintain the discredited status quo and create an obstacle in the path of President Reagan's program for economic recovery. It is no more than an attempt to follow the business-as-usual approach that the liberal majority in this House has followed for the last 25 years. The American electorate soundly rejected the old, liberal policy of "taxing, spending, and electing" at the polls last November. Now the leadership of the House is giving us the opportunity to again reject that still-discredited policy by voting down the committee bill and voting in favor of the Conable-Hance substitute.

Mr. Chairman, it seems that we have a problem of interpretation here. Let me attempt to clear it up. When a conservative says he supports a tax cut, he means just that. A tax cut. But when our liberal friends uncharacteristically begin talking about a tax cut, they mean something else. In this case, they mean an elaborately designed package which will actually bring about a tax increase a couple of years down the road. In looking over the Ways and Means Committee bill, I note that my own State of Ohio will be penalized nearly $100 million in the next 3 years. I do not buy that and I will not support it.

Like most of my colleagues, I listened to President Reagan's address on Monday evening and to the Democrat rebuttals which followed. I was surprised to hear one of my colleagues from the other side of the aisle proudly proclaiming that the Democrats had enacted five tax cuts over the last 10 years. Surprised because Federal taxes have actually increased by more than $400 billion in those 10 years. I

would imagine that most American taxpayers shared that surprise as they recalled handing over 25 or 30 or 40 percent of their income to the Federal Government in the form of taxes.

I was also surprised that my Democratic colleagues chose to argue that the Republican tax bill is geared toward the wealthy. Any Member of Congress who has followed tax legislation knows full well that three-fourths of the Republican tax cut will go to middle-income taxpayers. Those individuals who now pay 72 percent of all taxes will be the beneficiaries of 74 percent of the tax cut.

Opponents of the Conable-Hance substitute also claim that they are supporting a real tax reduction which will provide needed relief to the American taxpayers. Yet they fail to mention the built-in tax increase which will occur in the next 3 years as a result of inflation and the increase in payroll taxes. The Ways and Means Committee bill provides for a 2-year 15-percent tax reduction, while the 3-year tax increase is estimated to be 22 percent. You do not have to be a Phi Beta Kappa to understand that the Democrat tax package calls for a tax increase.

I would also like to briefly comment on the Democrat claim that their bill is a tax bill for the average American taxpayer and the small businessman. It is funny that my liberal colleagues should all of a sudden become the protector of the working man. I do not know about the rest of the country but the working people in my State blame the Congress for their economic troubles. And the Congressmen who have been writing the tax laws for the last 25 years are Democrats. Those very Democrats who gave us those five, mythical tax cuts in the 1970's. And those multibillion-dollar Federal deficits. And that trillion dollar national debt. And now they are the party of the working man? I find that a little hard to swallow.

Let us talk about the working, productive American for a moment. The autoworker who faces a 30-percent unemployment rate in his industry. The construction worker who, in some areas, faces a 50-percent unemployment rate. How do you suppose it came to be that he has become increasingly concerned about whether or not his job will be there tomorrow? Whether or not he can make that house payment? Whether or not he can feed his family? Is it because the Government taxed him too little? Is it because the Government allowed him to keep too much of his money and spend it as he sees fit? I think not.

Mr. Chairman, if I had my way, we would go even further on this tax cut. We would cut deeper. Enough compromises have been made already. If we are really serious about cutting taxes and getting this country back to work again, we must adopt a multiyear tax cut for all Americans. We must adopt the Republican substitute. Our President has kept his promise to the American people. Let us keep ours.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, I would like to discuss the current tax proposals from the viewpoint of small business.

Sam and Alice own a small business by the name of Alice's Pie Shop. There is nothing unique about their business. They are simply 1 of 14 million small businesses in America. They are not incorporated, but are proprieters taxed as individuals.

Sam and Alice work 10 hours each day, 6 days a week, 50 weeks a year. Together they work 6,000 hours a year. Together they earn $40,000 in the pie shop. Divided by the hours they work, Sam and Alice earn a combined $6.60 an hour.

What do they need in the form of a tax bill?

Do they need a corporate tax cut above $200,000? No.

Do they need a corporate tax cut above $50,000? No.

Do they need a stock option plan? No.

Do they need commodity straddles? No.

Do they need front-end tertiary oil tax exemptions? No.

Do they need investment credit carrybacks? No.

Do they need industrial development bonds? No.

Do they need capital cost recovery plans? Not really.

Do they need tax cuts contingent on future events, like the inflation rate, the deficit levels, or other if's, and's or but's of which they have no control over? No.

Well, then what do they need? What is the best tax provision for Sam, Alice and the pie shop?

Is it the Democratic Ways and Means bill? Is it the Udall-Obey bill, or is it the bipartisan substitute endorsed by the President?

Which of all these plans gives Sam and Alice and the pie shop the better deal? Which plan gives the pie shop the most working capital—capital for that new oven, for pie tables, for pie tins or for that new sign that is desperately needed?

Which plan gives Sam and Alice more money to save in a Keogh or IRA retirement program?

Which plan gives the pie shop the most stability, permanency, and future certainty to enable it to take more business risks, expand, borrow, and pay back the loan?

And finally which plan has the most probability of reducing the interest rates? Today's high interest rates are the No. 1 problem facing small business. They have in fact dried up small business' sources of working capital.

What is the answer to these perplexing questions? The answer is the bipartisan tax reduction plan supported by the President.

Over the next 5 years—the bipartisan plan saves Sam and Alice between $598 and $1,617 per year, and a total of $3,859 more than the Ways and Means bill. More importantly, because the bipartisan bill includes an indexing provision it will always save Sam and Alice more.

In addition to this, statistics show that the bipartisan plan would do much more to stimulate the economy, increase productivity, reduce inflation and thus bring down the high interest rates.

And I should point out that high interest rates are among the major factors causing the unprecedented increase in small business bankruptcies. The bankruptcy rate for small business is the highest in history. Only lower interest rates will keep Sam and Alice from posting a "going out of business" sign in front of the pie shop.

I say this as a small businessman turned Congressman.

If you care, about Sam and Alice's pie shop and millions of small businesses in America just like them.

If you care at all then you have no alternative but to cast a vote for the bipartisan Reagan tax reduction package.

America's small businesses, the lifeblood of our economy, are counting on you.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. I thank the gentleman for yielding.

Mr. Chairman, I would like to get specific in talking about bracket creep. When President Eisenhower left office, the Federal Government was taking 18 cents out of every dollar of gross national product. Today the Federal Government is taking 23 cents out of every dollar of gross national product. Since 1960, we have cut tax rates over a half a dozen times, but yet the Government's take of income has grown year after year.

How has it happened? It has happened because the Government benefits from inflation due to our progressive income tax system.

In 1972, the average American family of four earned $12,974, and they paid $1,178 in income taxes, 9 percent of their income.

Last year to have stayed at the same level in real income, the average family of four would have had to earn $25,443, but they would have paid $2,982 in income taxes, or 12 percent of their income. If they stayed up with inflation, if they were the lucky few,

their income went up by 97 percent, but their taxes went up by 153 percent, and the Federal Government saw its take of their income in taxes grow by the inflation rate plus $777.

If we are going to stop the growth of Government, we are going to have to index the tax system to force Government to live on a budget like everybody else. Indexing treats Government better than most citizens are treated. It assures that if prices double, taxes double, but indexing takes the profit out of inflation for Government. Under indexing Government can grow in real terms only when the economy grows or when Congress goes on public record to raise tax rates. The big spenders fear indexing. The working men and women support it, and so do I.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. JACOBS).

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Mr. JACOBS. Mr. Chairman, this is indeed a historic day. On this day, the British people are getting a royal wedding, and the American people are getting a tax cut. I am old fashioned. I have been around here long enough to remember when people on this side of the aisle preached that you should not spend more than you take in. It seems to me that the corollary of that doctrine is, you should take in as much as President Reagan says we need to spend.

But the proposal of the President simply does not do that. Neither does our proposal entirely do that.

Are you one of those American people who earns less than $50,000 a year? Then the President's proposal, contrary to all of the rhetoric, does not give you as great a tax cut in the next 2 years as the Ways and Means proposal does. Not only that, you have a lot of company. You are among 95 percent of the American people. Five percent of the American people earn more than $50,000 a year.

Are you a small business person? If you are, hear this: Under the President's proposal, you will have 9 times less tax relief under the corporate income tax for small business than you will have under the Ways and Means proposal.

And finally, Mr. Chairman, let me suggest this: We do not know what is going to happen 3 years from now. The most serious economic error the U.S. Government has made in the past 25 years was a credit card war in Southeast Asia. I hope there will be no war 3 years from now. But if there is and these scheduled tax cuts take place in the third year, we will be doing what Gen. Hugh Johnson called a reckless shooting craps with destiny. We will be firing the greatest inflation in the history of the country.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BAFALIS), a member of the committee.

Mr. BAFALIS. Mr. Chairman, I rise in support of the Republican substitute because I firmly believe it will provide the necessary stimulus to restore our country's economic strength.

The substitute provides for a reduction in the maximum capital gains tax from 28 percent to 20 percent effective June 10, 1981. In addition, it reduces the holding period for long-term gains from 1 year to 6 months, effective January 1, 1982. Reducing the holding period should increase dramatically the turnovers of capital assets. Investors who have realized appreciation on a particular asset will be able to sell that asset at more advantageous capital gains rates and invest the proceeds in other productive ventures much more rapidly than before.

The reduction in the maximum tax rate on capital gains from 28 percent to 20 percent will encourage the development of new businesses and may stimulate the expansion of existing companies. It will be of particular help to small business.

We can ill afford to permit those with venture capital to refrain from investing because the tax rates on their returns do not warrant the "risk."

The Republican substitute deserves support in larger part because it provides something basic which the committee bill lacks: A real tax cut.

It is a 3-year tax cut. It is certain, as opposed to possible. It gives individuals the absolute assurance they need to make definite plans. It does not depend on the occurrence of events which, in all probability, will be impossible to achieve because the certainty was lacking to stimulate the initial investments.

Unlike the committee bill, the substitute will give individuals some relief from bracket creep due to inflation by indexing the brackets to keep up with inflation.

The substitute also reduces the so-called marriage penalty which has so long penalized families with two breadwinners.

The substitute further would reduce the maximum tax on investment income from 70 to 50 percent, effective June 1, 1982. Under the committee bill, the maximum rate is phased down, reaching 50 percent in 1983.

The substitute also provides incentives for business to reinvest and expand. Unlike the committee bill, it retains the investment tax credit and establishes a simplified cost recovery system. Additionally, it reduces the corporate tax rate for small businesses.

In summary, this package is designed well and carefully to restore our economic strength. It assists business and provides relief for all taxpayers. It provides certainty for investment which is necessary if our goal of economic revitalization is to be a reality.

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield to me so that I may engage the Chairman of the Committee in a colloquy regarding the all savers certificates, Section 321, and the comparable provision in the Hance-Conable substitute?

Mr. BAFALIS. I yield to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. Mr. Chairman, one criterion is that the interest be no more than 70 percent of the 12-month Treasury bill rate. Is it the chairman's understanding that this 70 percent cap is unequivocal and that an institution may not violate its spirit by providing substantial premiums or other inducements to potential purchasers of these certificates?

Mr. ROSTENKOWSKI. If the gentleman will yield, the gentleman is correct.

Mr. MARTIN of North Carolina. I thank the gentleman.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Ms. FERRARO.)

Ms. FERRARO. Mr. Chairman, I rise in support of the committee bill. I congratulate the chairman for an extremely difficult job well done.

Mr. Chairman, a great American, Benjamin Franklin, once said that only two things in this world were assured—death and taxes. But Mr. Franklin understood politics, and I am sure he would agree that along with the certainty of taxes comes the certainty of tax cuts.

Since he lived before the current two-party system took shape, Ben Franklin could have had no idea that the certainty of tax cuts would lead to another sure bet. When Democrats cut taxes, those who benefit are middle class, working Americans and small businesses, and when Republicans cut taxes, the winners are the wealthy and big business.

But this time, there is a third choice that the President failed to mention in his speech Monday night. President Reagan talked about the difference between the Democratic and Republican bills, but he made no mention of this third alternative, which truly could gain bipartisan support.

I am talking about the Udall substitute, the balanced budget substitute, which aims to achieve the bipartisan goals of a balanced Federal budget and reduced interest rates.

The Udall substitute provides a tax cut—a substantial tax cut—for individuals in all income levels, and it provides important tax breaks to businesses to encourage new growth, pro-

ductivity, research and development, and, above all, jobs.

But before providing a tax cut, this substitute provides something else that the American people have demanded—something they have had only once in the past 20 years. That is a balanced Federal budget.

Mr. Chairman, we have all heard and read a lot the past few days about the avalanche of phone calls Members of the House have received from constituents expressing their views on the tax cut issue. I have certainly received my share. And there is no doubt that the American people want—and deserve—a tax cut.

But in every poll I have seen in the past 2 years, whether they were national polls or polls of my district, when Americans are asked what should be the top economic priority of the Federal Government, the answer is always the same. They want a balanced Federal budget.

It is easy to understand why this is so. The people understand that Federal deficits contribute to high interest rates and thereby block new economic growth and the creation of new jobs. They feel the frustration high interest rates cause when they want to buy a new home, or a new car, or take out a personal bank loan for any reason.

Record-high rates continue to plague the economy. Just this morning, I checked with the Federal Reserve Board and learned that the prime rate is at 20½'percent. The Federal Home Loan Bank Boa2d says housing loans averaged 14½ percent in June of this year.

The Udall bill, by delaying the tax cut until next July, will allow the Federal Government to balance its budget and get out of the borrowing business, thus bringing interest rates down and restoring strength to our economy.

The other two choices we have today differ from each other in one basic way. The Democratic tax package, as approved by the Ways and Means Committee, provides more relief to America's working people, and small business, the people who are hurt most by heavy taxes, high interest rates, and high inflation. The Republican substitute, backed by the Reagan administration, provides more relief to wealthy Americans and big corporations.

How exactly do these two bills differ? A good place to start is with "the $50,000 question". For those Americans who earn less than $50,000—and that is 95 percent of all American taxpayers—the Democratic plan offers more tax relief. For the remaining 5 percent of Americans who earn more than $50,000, the Republicans offer a bigger break.

Let me give some examples that point out this difference. In 1982, for a married couple with two dependents and an income of $10,000, the Democratic plan provides a tax cut of $362. The Reagan plan offers the same people only $52. At the $30,000 income level, the same people get a 25 percent bigger tax cut from the Democratic plan. But for the same family only with a $100,000 income, the Republican plan offers a tax cut in 1983 of $4,648. That is almost three times as much as the Democratic plan.

With respect to the individual income tax cuts and the impact of each bill on middle class, working Americans, the President made much of the fact that his plan offers these people more help because it is a 3-year bill, while the Democratic bill guarantees only 2 years and leaves the third year's cut dependent on a "trigger" mechanism.

The question of the trigger was raised by many of my constituents who called my office following the President's speech Monday night. I spoke with many of the callers myself. While each of them called to urge my support for the President's tax package, several of them changed their minds when I explained both the $50,000 question and the reason for the third-year trigger.

As I told my constituents, the purpose of the trigger is to prevent a third-year tax cut if it would lead to soaring deficits and resulting inflation and high-interest rates in fiscal year 1984. Many independent economists have forecast Federal deficits of $80 billion and more for fiscal year 1984 under the President's economic plan. To avoid such a result, the Democratic plan provides a 3d year of cuts only if the economic projections established by the President for 1983 are met.

Without this kind of protection, the Congress would be faced in 1984 with the choice of cutting social security programs, or defense programs, or voting to increase taxes to provide the revenues needed to fund them.

Another advantage of the committee plan that is particularly valuable to middle-class Americans is its treatment of the marriage tax penalty. The marriage tax penalizes married couples in which both spouses work by requiring them to pay higher taxes than if they were single. Both tax bills deal with this problem, but there are important differences.

The bottom line is that under the Republican plan, the maximum deduction available in 1982 is $1,500. The Democratic plan, on the other hand, offers a maximum break to middle-income families to $5,000 beginning in 1982. The Democratic plan offers much more help to Americans who are being unfairly burdened by the marriage tax penalty.

In addition to the individual income tax cuts included in these bills, there are also business tax cuts. Here again, there are important differences in who benefits. Whereas in the individual tax cut area we had the $50,000 question, for businesses we have the $5 million question.

The Democratic plan targets four times as much tax relief to small business as does the Reagan plan. For businesses with more than $5 million in assets, the Republican plan, with its accelerated depreciation plan, offers a better break. But among businesses with less than $5 million in assets, less than one-half of 1 percent use the depreciation schedules, as compared with 94 percent of companies over the $5 million mark.

Instead of accelerated depreciation, the Democratic plan adopts immediate expensing, under which the entire cost of equipment or machinery can be written off the first year it is put into use. Delegates to the White House Conference on Small Business expressed their clear preference for expensing as a substitute to the Reagan depreciation plan.

Should we not believe small businessmen and women know what will help them the most? Small business creates 86.7 percent of the new jobs in this country. If they are to continue to keep our economy strong, they need the tax help provided by the Democratic plan.

The final issue I would like to address is the way the two bills deal with tax breaks for oil production. When Congress decontrolled domestic oil prices, we imposed a windfall profit tax to insure that oil companies would not reap an unearned windfall in increased profits.

The Republican bill provides some $16 billion—it might be more, nobody's really sure—in giveaways to oil interests by reducing the windfall profit tax and providing other tax breaks for oil companies. While the Democratic bill includes similar provisions, the Republican plan offers almost twice as much to oil interests. These provisions are nothing but a transfer of funds from middle-class working Americans to wealthy oil companies.

Mr. Chairman, I support tax relief for middle-class Americans. In considering the three tax cut bills before us, I will vote for the Udall substitute to give America its first balanced budget in 13 years and only the second in 20 years.

If the Udall substitute fails, and the choice is between the Democratic and Republican plans, I will vote for the Democratic plan. The Democratic plan provides greater tax relief to working Americans and to small business than the Republican plan does, and the third year trigger provides the protection against runaway budget deficits, high interest rates, and continued inflation our country needs.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I thank the chairman for yielding to me, and I am going to be supporting his legislation. However, I am not going to be speaking on the tax bill at this time, because you have heard a great deal of comment on it already. I am going to speak for a minute about being a Member of Congress, because I and many other Members in this House over the years have at one time or another been subject to all sorts of pressures, and we either decided to stand on what we believed in or we knuckled under to the pressure.

Now, it seems to me that when we are dealing with an issue like this, there are many Members of this House who sincerely believe the President's program is the correct one, as there are Members who sincerely believe that Chairman ROSTENKOWSKI's proposal is a correct one. But there are a number of Members, a surprising number, whom I have spoken to and others have, who said that they really do not like this bill or they do not like that bill, but they are going to vote for it "because"—because they have been promised something, because they have had a lot of phone calls, because they have had people who contributed to their campaigns who say, "Vote against the President and we will not contribute any more."

I suggest to my colleagues that the time comes in this House when you vote what you feel and you vote what you honestly believe in. Then you wake up with in the morning, knowing you have done a job. But when you knuckle under to pressure groups—and I do not care if it comes from the White House or from the Speaker or from oil companies—you have sold out this job and you have reduced it and you have made it something that does not have the honor and the integrity that it is supposed to have.

So I would just suggest that before we make this vote, all of us really search our own souls and our principles for what we believe in and vote that way.

Mr. CONABLE. Mr. Chairman, I certainly agree with the gentleman from New York.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I rise in support of the bipartisan substitute.

Mr. Chairman, the American people and many Members of this House are asking, what is the difference between the bipartisan bill on taxes and the committee bill?

The answer lies primarily in the fact that most Americans are permitted to enjoy the fruits of their labor, more realistically under the bipartisan bill, than any other proposal.

In the past several years, when the average worker received a 10-percent raise in pay, whether through cost-of-living or other reason, the increase in taxes left the worker with no raise at all.

When combined with double digit inflation, the worker many times received a loss in real income by getting a raise in pay. Mr. Chairman, this is ridiculous. Mr. Chairman, this is what caused the results in last year's elections.

Under the bipartisan tax bill with the indexing of tax rates, when an American worker receives a raise in the future, he gets to keep it. I cannot emphasize this fact enough, Mr. Chairman, in the future, under this bipartisan bill, when the American worker receives a raise in salary, he and his family will benefit from it because they will be able to keep it.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Chairman, I am not going to delve into statistics. I am going to speak for just a moment or two why I believe that the Hance-Conable proposal is the better of the two proposals. One is that I believe the American people, who have been covered up and inundated over the past several weeks with both of these packages, are demanding it. I know that the mail that I have received from the First District of Texas and other places is absolutely overwhelming in favor of the Hance-Conable or the President's proposal.

I received a call this morning from a woman who resides in Sumner, Tex., whom I do not know, a town that contains as of the last census count, 164 people. She is presenting to my office in Paris, Tex., a petition signed by 900 people asking that I support the Hance-Conable proposal.

□ 1230

Those are the people that I have listened to and who have caused me to throw my support for the President's proposal.

Mr. Chairman, I would ask that all of us who are here today not knuckle down to any pressure except what we think is best for this country. I believe that last November the American people gave out a clarion call that they wanted a change, and I think that those of us in this House, representing the greatest Nation on Earth owe it to the President of the United States to have an opportunity to see if his program will work. I propose to do just that.

I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Chairman, I rise in support of the committee bill.

I thank the chairman and members of the committee for bringing forth such a splendid bill for our attention.

Mr. Chairman, As a result of the President's speech to the Nation on Monday night literally hundreds of citizens in the New Orleans area have contacted my office by telephone and by telegram to express their support for substantive tax reduction now. I am in complete agreement with these individuals because I, too, believe we must have meaningful tax cuts, I strongly support efforts to relieve the effects of inflation on the American wage earners, to correct inequities in the tax code, and to encourage business investment and increased productivity. I have sponsored legislation to achieve just these goals and I believe the committee's bill, H.R. 4242, can and will achieve these goals in a manner more effective and more equitable than the substitute offered by the Reagan administration.

I think it is important for my constituents to call me to let me know of their preferences between the two proposals, but before I can endorse any tax plan, I have to look at the issues of who will benefit and whether the changes will be effective in producing positive economic results.

I believe a major tax reduction proposal must undergo careful scrutiny for fairness. Rather than working for a strictly across-the-board cut in income taxation, I favor reductions which will focus on the middle-income wage earners. Any reduction that short changes the working men and women of this Nation is unfair. The President's original plan would have given 30 percent of the benefits of the tax cuts to a group of only 4 percent of the taxpayers. Under the administration's fifth revision of its plan, the Conable substitute, 33 percent of its tax relief would go to a group comprising 5.8 percent of all taxpayers. While this is a step in the right direction, the committee's more equitable proposal gives 64 percent of the income tax relief to 54 percent of the taxpayers. Further, under the administration's plan the impact of inflation and higher payroll taxes for social security is ignored. The tax cuts in the committee bill were designed to help taxpayers by giving them real reductions. So I feel the committee bill proves to be the fairer of the two proposals.

On the question of effectiveness, I feel it is wrong to commit billions of dollars in tax cuts for the next 3 years while we continue to have strong doubts that the promised economic results will be produced. I think the third-year cut is important and I support it, but I think it makes no sense to have the cut without linking it to the performance of the economy. To do otherwise would be irresponsible and could result in higher deficits, higher inflation and higher interest rates. The committee bill incorporates an economic trigger that uses the ad-

ministration's own economic projections. The third year tax reduction with the trigger is as certain and predictable as the administration's economic assumptions are reliable. We have based the entire budget on those economic assumptions. Why not the tax cut, too? I assume the administration still has confidence in its economic assumptions.

In addition to the questions of fairness and effectiveness, the way the two bills deal with business tax cuts is very significant. The small business tax cuts in the committee bill are clearly superior to the admininstration's proposal. The principal small business provisions in H.R. 4242 include corporate tax rate reductions, expensing of the first $25,000 of capital investment immediately, a provision for businesses to improve the tax treatment of expenditures for used equipment, and an increase in the accumulated earnings credit. These provisions will generate $27 billion of tax relief for small business from 1981 through 1986. During the same period, the administration bill provides only $6.2 billion of tax relief for small business.

Mr. Speaker, I have been a long-time supporter of many significant changes in the tax code that have been incorporated by the Ways and Means Committee into H.R. 4242. I am very gratified that the importance of these proposals has been recognized and accepted. I would like to list at this point the bills I have cosponsored that have been incorporated into H.R. 4242 along with references to this bill.

PERSONAL TAX REDUCTIONS

MARRIAGE PENALTY

H.R. 1700 to reduce the inequity imposed by the so-called marriage tax penalty has been incorporated into section 122 of the bill. This addresses a glaring inequity to two wage-earner families and the committee bill does exactly twice as much as the administration proposals to reduce the marriage penalty.

GIFT AND ESTATE TAXES

H.R. 917 would amend the Internal Revenue Code to increase the unified credit on estates, provide for unlimited marital deduction, and increase the annual gift tax exclusion. Title IV of H.R. 4242 will have the effect of exempting estates of less than $600,000 in value from taxation. The bill gives relief to small, family-owned businesses and farms that are often forced to sell out to pay estate taxes.

MAXIMUM TAX RATE

H.R. 2385 proposes to reduce the maximum rate of income tax on capital gains for individuals from 70 percent to 50 percent. This provision is found in section 101 of the bill. There is no similar provision in the administration's bill.

AMERICANS WORKING OVERSEAS

H.R. 911 would resolve an inequity suffered by American citizens who work overseas which helps our balance of trade. Sections 141 through 145 of H.R. 4242 increases the income exclusion for Americans working abroad to $95,000 and increases the housing allowance exemption.

EMPLOYEE FRINGE BENEFITS

H.R. 741 would prohibit the IRS from pursuing the administration's announced policy of taxing nonmonetary benefits given by employers to their employees. Section 85 of the bill reestablishes a moratorium on this proposal and extends it until May 31, 1983.

ENERGY TAX REDUCTIONS

ROYALTY OWNERS

H.R. 1064 proposes to exempt royalty owners from the windfall profit tax. Section 602 of the bill establishes a $2,500 credit in 1981 for the windfall profit tax due by royalty holders and establishes a 3½-barrel-per-day exemption from the tax in future years.

INDEPENDENT PRODUCERS

H.R. 2451 would establish a limited exemption from the windfall profit tax for independent producers. Section 601 of H.R. 4242 provides for an exemption from the tax for the first 500 barrels per day for new oil and for certain other categories of oil. This should help stimulate domestic production.

SOLAR CONSTRUCTION

H.R. 1960 would allow homebuilders to take a tax credit for the construction for residences that incorporate a passive solar energy system. Section 621 of the bill establishes a $2,000 builder's credit for passive solar. There is no similar provision in the administration's bill.

BUSINESS TAX REDUCTIONS

CAPITAL FORMATION

H.R. 1053 would revise the existing system of capital cost recovers. Title II of the committee bill establishes a new and effective system to enable America to regain its productive edge. The bill will ultimately allow business to deduct the entire cost of an asset in the year it is purchased. This will be particularly helpful to small businesses which find the present depreciation system too complicated and inadequate. It is far simpler and better balanced than the administration's plan.

Mr. Chairman, these are just the proposals that I have cosponsored that were incorporated into the committee bill. There were numerous other concepts that I supported that have been included, including new incentives to savings and investment and to spur research and development.

I plan to support H.R. 4242 because it cuts taxes by $265.1 billion over the next 3 years and because it contains numerous advantages for individual taxpayers and incentives for healthy business investment. I believe this proposal more evenhandedly encourages individuals and businesses, whatever their circumstances, to earn, produce, save, and invest than does the administration's substitute. I believe that H.R. 4242 will provide the type of supply-side stimulus necessary for broad-based and orderly economic expansion without worsening inflation.

I urge my colleagues to support the committee bill.

Thank you.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, the Members of the House have been denied the opportunity to vote on balancing the budget. Both political parties have opposed this vote. It is a sad day in American political history when both major political parties agree to deny the importance of a balanced Federal budget and agree to prohibit a vote on balancing the budget.

If legislation considered in the House was required to pass a truth-in-legislation test, neither of the major tax bills promising individual taxpayer relief would be allowed to be presented for a vote. Both major tax bills promise tax reductions for the individual taxpayer, but, in fact, neither will provide the taxpayer with honest tax relief. The promises of taxpayer relief are impressive, but the results will be insignificant.

In many respects the two major tax bills are very similar. This similarity is not accidental; it is the result of a calculated bidding war for the handful of votes critical for political victory wanted so desperately by both sides—a political victory which means defeat for the American people.

Similar in many repects, on one fundamentally important issue both bills are identical. Both bills deny the overriding importance of a balanced Federal budget to the Nation's economy and meaningful tax relief.

Because both parties have agreed at least to prohibit a vote on the balanced budget amendment I intended to offer to the tax bills of both parties, history will soon be repeated—the history of the disappearing tax cut.

It has been demonstrated repeatedly for anyone who cares to notice, unless the budget is balanced tax relief promised by Congress is never realized. When the budget is not balanced, cuts in tax rates do not yield tax relief because the unfavorable economic consequences of deficit spending, double-digit inflation and relentless high interest rates, erode the promised tax relief.

The tax measure passed by the House, whether it is the Ways and Means Committee bill or the Conable-Hance alternative, will not provide real tax relief. In the days and weeks

ahead the promised tax relief will be erased by an unbalanced budget and its economic consequences. The loss of this promised tax relief will not be dramatic; it will instead be persistent and insidious like the ravages of inflation and excessive interest rates. In time, this latest tax reduction, like the tax reductions before it, will disappear completely. It will be entirely canceled by the entirely predictable consequences of habitual deficit spending.

Then, it will be time once again to enact tax reduction legislation, a reduction which will again be meaningless to the American taxpayers unless the budget is balanced.

Now is the time to stop the charade of tax relief and balance the budget so tax reductions will be honest tax relief. If Congress had adopted the amendment I offered to delay a cut in tax rates until the budget is balanced, the American people would be amazed by both the speed by which the Federal budget could be balanced and the results of honest tax relief.

I insert the text of my statement before the House Rules Committee in the RECORD at this point:

STATEMENT OF CONGRESSMAN TOM DASCHLE

Mr. Chairman, I appear before the Committee today in support of the adoption of a resolution by the Committee which will provide for the consideration of a balanced budget amendment to H.R. 4242, the Tax Incentive Act of 1981, and any amendment in the nature of a substitute to H.R. 4242.

The Committee has received testimony from many witnesses today and I will not belabor the importance of providing for the consideration of a balanced budget amendment to the tax legislation which will soon be considered by the House.

Without examination, a balanced budget amendment to major tax legislation might not seem wholly appropriate. Let me assure the members of this Committee a balanced budget amendment is wholly appropriate and it is the foundation of meaningful tax relief.

Simply stated, without first balancing the budget the tax relief for individual taxpayers promised by both H.R. 4242 and H.R. 4260 will not materialize. It will instead vaporize and disappear quicker than a snowflake on Constitution Avenue in the middle of July.

Recent events unquestionably demonstrate the need for a balanced budget prior to a reduction in tax rates if the American people are to truly benefit from meaningful tax relief. In February, the Administration proposed cutting individual taxes by $44.2 billion next year. In June, however, the Administration revised its tax proposal and reduced the tax relief for individuals next year resulting from a tax rate cut to $25.7 billion, a $17.4 billion reduction in promised tax relief for individual taxpayers.

This five month, 39.4 percent reduction in tax relief promised to individual taxpayers, was the result of an unbalanced federal budget. Because the budget is not balanced, federal borrowing has assumed massive proportions and interest rates, responding accordingly, have been at record and near record levels.

As a consequence of high interest rates, projected government spending for the present and next fiscal years has increased by $17 billion during only the four months between March and July spending estimates. To compensate for this $17 billion increase in projected government spending fueled by excessive interest rates which have resulted from the budget not being balanced, the Administration simply cut tax relief for individuals by $17.4 billion to offset the $17 billion increase in government spending. Within a matter of months, an unbalanced budget had eroded more than $17 billion of tax relief promised to the American taxpayers.

The erosion of promised tax relief which results from an unbalanced budget evidenced by the Administration's revised tax proposal simply means the tax relief promised the American taxpayer both by H.R. 4242 and H.R. 4260 will continuously be eroded unless the budget is balanced. This erosion will not be as readily apparent as the change between the Administration's original and revised tax proposals; it will not simply be the difference between two different sets of figures committed to paper by the Administration during a four or five month period.

The erosion of tax relief resulting from an unbalanced budget will, instead, be silent, persistent and insidious. The unfavorable economic conditions, including double-digit inflation and unrelenting high interest rates, resulting from continued deficit spending will nullify the current promise of tax relief just as surely as they have nullified many previous promises of tax relief.

I fully support meaningful tax relief and meaningful tax relief should be the objective of this Congress. The foundation of honest tax relief is a balanced federal budget. Without the federal budget being balanced first, a cut in tax rates will not provide tax relief, it will only produce another tax charade.

I realize full well, Mr. Chairman, the likelihood the Committee will not make in order the consideration of a balanced budget amendment. The importance of balancing the federal budget, however, cannot be emphasized too much or too often and I will continue to pursue every possible opportunity to balance the budget and eliminate deficit spending.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I speak for the Ways and Means Committee bill. Today, I will not make what we like to call the "itemized long form" speech going into details on this bill, but instead the "standardized short form."

I do this because it is time for us to be more forthright with the American public and with each other. There is really not that much difference between the Ways and Means Committee bill, and the Republican substitute. Those who call them vastly different are looking more at the political calendar than the economic calendar.

Let us look at the facts: If the President's bill, as introduced, was before us today, it would be Kemp-Roth and 10-5-3. Back in early spring, our chairman, the Honorable DAN ROSTENKOWSKI, laid out a tax proposal in a speech in Chicago. In that speech, he listed about 15 items that were intended to help business, and the taxpayers. The bill he outlined at the time is more or less the bill that the Ways and Means Committee brings to the floor today. Now the Republican substitute is no longer what the President proposed, but it is nearly word for word the bill that the committee wrote.

Now the committee bill was put together by both Democrats and Republicans. There was a vote on nearly every major item, and in many instances, the Republicans voiced strong support of items that they have supported for many years. I think that if you talked to most of the Republicans in private, they would say the Ways and Means bill is a good bill. And well they should, because if imitation is the highest form of flattery, then Hance-Conable II is the committee bill except for the question of the third-year cuts, and some other provisions of less public recognition like the front-end tertiary program.

For example, both Hance-Conable and the committee bills contain the essence of an estate and gift tax reduction bill that I introduced with Congressman SKIP BAFALIS of Florida, a Republican. Both bills contain a deferral for dividend reinvestment in new issue stock, an idea I introduced with Congressman BILL FRENZEL of Minnesota, a Republican. Both bills ease the taxation burden on Americans working overseas, legislation I introduced with Hon. BILL ARCHER of Texas, a Republican. Both bills contain incentives for research and development, provisions I introduced with Hon. GUY VANDER JAGT of Michigan, a Republican.

Both bills contain new incentives for savings through IRA's and company pension plans, efforts I initiated with Congressmen FRENZEL and ROUSSELOT, both Republicans.

My Republican friends have to be happy that these provisions are in the committee bill. And they have to admit that it was the Ways amd Means Committee that pushed them to the fore, not the original Kemp-Roth tax bill.

I recognize that the Republicans voted against the committee bill, on passage from the committee, and I know that they will today. But they "have to" support their party's President; I understand that. But I also know that if it were not for the Ways and Means Committee leadership on these new tax ideas, then they would have been facing Kemp-Roth today only. Off the record, they would tell that they did not want that alternative.

We have also heard that business is hesitant to support the Ways and Means bill. I doubt this. The committee bill is the most far-reaching tax cut for business ever to come through Congress. When I talk to nonpartisan

businessmen, who are neither Republican nor Democrats, they just rub their hands in glee. They are honest. They know that they have a good deal, no matter who wins in today's political battle.

But I also know that the national business groups usually held the hand of the President because they hope that, in the long run, this is the hand that will feed them.

In terms of differences, we really come down to the issue of individual tax reductions. The administration's tax plan gives 33 percent of its tax relief to taxpayers earning above $50,000, although such taxpayers comprise only 5.8 percent of all taxpayers. The Ways and Means Committee bill gives tax relief to the 54.3 percent of taxpayers earning below $50,000. I believe we should give the most tax relief to those persons in the $20,000 to $50,000 income brackets.

The administration bill has an automatic individual rate reduction for the tax year 1984-85. The committee bill also provides for a third-year cut if the economic projections that the administration has made are accurate for 1983. If not, or if some event out of our control occurs, such as an oil embargo, then Congress would have to decide on the 1984-85 cuts. Despite what some have insinuated, no one has proposed that there be only 2-year cuts. Both bills have cuts for the third year, assuming the administration's economic program is correct.

In looking at the cost of the administration's bill versus the Ways and Means bill, it is important to note that for fiscal years 1981-86, the administration's latest version is $60 billion more costly than the bill it introduced last month. It is $50 billion more costly than the Ways amd Means bill in those fiscal years, assuming that the President's economic projections will hold true and the third-year tax cut is triggered. If, for some reason, the economic assumptions are not as we would hope, the administration's bill would cost $135 billion more than the Ways and Means bill in fiscal years 1981-86.

Mr. Chairman, it is these cost figures that bother me the most. I think that every American wants a balanced budget, but today's bill may mean that the 1984 budget deficit will shoot the Moon. And if it does, the resulting inflation could bring this Nation down to its knees. Many are already saying that the only alternative to not kill this country with Government deficits and still pass the Republican tax bill is to kill off social security, or to cut it very deeply. I don't think the American people are ready for this kind of drastic action.

But the Republican bill does lock us in with 3 years of big cuts, and if anything is one bit out of kelter, we will pay the price in inflation.

Mr. Chairman, I hope and pray that what we do today does not result in economic calamity. Both bills run that risk because both are the result of a rather ruthless bidding war for votes. I hope and pray that it all works, because I don't care what party one is in, one does not want to see the President's program fail, or the country hurt by inflation.

But the truth is that we do not know. What has happened this year is that we have taken literally billions and billions of dollars away from the poor and the working poor and today we are giving that money to business and the rich. I am not saying that this is not what we should do at this particular point. I am saying that this is a new approach, and the final result of this approach is not really known, no matter what anyone says. Let us hope that it does work—for the good of our Nation.

Mr. Chairman, one of the most promising ways to end our dependence on foreign oil is to get the oil that we know is in the ground out of the ground.

I know many would think I have just stated the obvious, but there is a far greater truth in what I said than meets the eye.

Here is the reason why: When we drill an oil well and let normal pressure push the oil from the rock under the ground to the top of the ground, that pressure will push about 25 percent of the oil up. This is called primary recovery.

In other words, left to its own devices, with no more than a mechanical pump, an oil well will give one barrel of oil for every four under the ground.

In the last 25 years scientists have found that by putting water down in the rocks, then another half barrel might come up. In other words, natural pressure, and then added pressure from water flooding the rock formation, will give us about 33 percent to 40 percent of the oil underground. This flooding operation is called secondary recovery.

But Mr. Chairman, does it not dawn on everyone that all we have to do is get that other 60 percent to 65 percent of the oil that we know is there—right here in the onshore United States of America—and have literally billions and billions of barrels of oil.

And now scientists do have such a system—it is called tertiary recovery. It involves putting fancy chemicals, or gases, or even fire down in the rocks to squeeze out more oil.

Ever since I served on the Science Committee, I have pushed for tertiary recovery in this country. But these projects are expensive. Before the windfall profit tax, DOE set up a program to help nonintegrated producers finance tertiary programs with decontrolled oil.

But before the program could get started, President Carter asked for, and got, the windfall profit tax passed. This would have meant that money from oil decontrolled to buy the needed equipment and supplies for tertiary would go to the U.S. Treasury in the form of the windfall tax.

After I argued on this point, the Congress decided to exempt oil designed to pay for a tertiary project from the windfall tax up to $20 million or 75 percent of the project costs, whichever was less.

In my books, the program was very successful and many producers moved to initiate tertiary projects—which is exactly what I wanted them to do.

But when decontrol came along, the IRS would not exempt the oil from the windfall tax.

So in the committee bill before us today, I have an amendment that was accepted by the full committee.

The intent of the amendment is explained in Joint Committee on Taxation Print, JCS-37-81, dated July 27, 1981.

It says, and I quote: "The bill extends the front-end tertiary exemption to provide independent producers with benefits approximately equivalent to what they lost when the front-end tertiary tax exemption expired after decontrol."

This means that my amendment will result in around $200 million more being spent on front-end tertiary projects.

Because of some highly technical points about the program as it existed, I recognized that this has not been the easiest section of the bill to draft. At the same time, I would want to make it clear that I intend for this section to allow people to spend more money on the tertiary programs that I think will help this Nation. The amendment is not windowdressing that allows companies time to come in with claims dated before September 30, 1981; my amendment is designed to allow people to spend money for tertiary projects that were qualified on or before January 28, 1981, to spend money on those projects until the program ends, whether it be the date in the committee bill, which is April 1, 1982, or some time in the future.

I do not want to see us holding this program down to the point that my original intent, and the intent of the committee in adopting this front-end amendment, is defeated on technicalities. The language should allow another $200 million to be spent on this very vital program. And let me remind everyone, the $200 million is private sector money, not a Federal grant like we see in some of our other fuel programs.

I understand that the legislative language of the committee bill with respect to the windfall profit tax exemp-

tion for front-end tertiary oil does not accurately reflect the intention of Mr. GEPHARDT, who offered the amendment in the committee.

My understanding is that the intention was to provide an exemption for front-end tertiary oil which was produced in connection with tertiary recovery projects controlled by independent producers and that this exemption was to apply for oil produced before April 1, 1982, and for recoupable tertiary expenditures made before April 1, 1982. While the committee bill does apply to oil produced before April 1, 1981, it only applies to expenses incurred before October 1, 1981. This provides much less relief than was intended.

Am I correct in my interpretation of Mr. GEPHARDT's intention?

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Missouri.

Mr. GEPHARDT. The gentleman is correct. I intended an April 1, 1982, date for both the time before which the oil had to be produced and before which the expenses had to be incurred. I hope that the House conferees will work to enact the provision as I originally intended it, not as it was ultimately drafted.

Mr. PICKLE. Mr. Chairman, oftentimes it seems like the same song, second verse, or if I play this hand long enough, I might win. I am referring to the 10-year battle that our farmers and horticulture people have been having with the IRS and the Treasury Department. In this 10-year battle, the House Ways and Means Committee, the Senate Finance Committee, and in turn, the full Congress have been supportive of classifying single-purpose agricultural structures as equipment, thus eligible for the investment tax credit, declining balance depreciation, and section 1245 recapture. These structures are very modern chicken coups, pig pens, and green houses.

Against the farmers have been the IRS, the Treasury Department, and certain newspaper commentators, who have not studied the 10-year history of the matter.

I would like to discuss how this problem is being handled by the bills pending before the House at this time, and how this compares to the Senate bill. I know that Congressman JENKINS of Georgia would like to join me on this, and give his expertise in this field.

The Senate bill makes it clear that the single-purpose agriculture structure is equipment, eligible for equipment depreciation, and the investment tax credit for equipment. The pending Republican substitute establishes the same policy.

The committee bill, however, may leave the matter unclear. It puts these structures in the 15-year category eligible for the ITC. I want to make it clear that this in no way is a statement by the committee that the long-held position of Congress that these structures are equipment, not real estate buildings, has been changed.

I would ask the gentleman from Georgia (Mr. JENKINS) does he propose with the 15-year classifications that these structures become real estate and not property?

Mr. JENKINS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Georgia.

Mr. JENKINS. I agree with the gentleman from Texas (Mr. PICKLE).

I would say to my colleague from Texas, who has taken a lead in trying to clarify the tax treatment of these structures, that the committee version in no way tries to make these structures buildings. They are equipment, and that is what they are intended to be in the bill. It is true that we have a 15-year life on the structures, but this is just a depreciation schedule, not a verdict on the nature of the structures. I am well aware of the firm congressional policy, as evidenced by your bill in 1978, that single-purpose agricultural structures are equipment, not buildings. I also want to say that in this regard, the IRS and Treasury are once again wrong in trying to call this property section 1250 property as they are presently proposing instead of section 1245 property.

Mr. PICKLE. I would agree with the gentleman. I want to state once more, and I hope that the agencies will hear me—these structures are equipment, not buildings. I would also hope that should there be a conference on this bill, the gentleman from Georgia will work with me in trying to get the issues settled once and for all. I know that I would certainly look in detail as to whether or not we should have the Senate version or the committee version. I would not want to prejudice this issue by any vote today.

Mr. JENKINS. I will work with the gentleman from Texas. I know that he will have the best interest of our poultry and pork producers at the forefront in the action that could be taken in conference. At no time have I ever wanted to see congressional policy on this issue changed, and I think that his is the posture we should take as we look at any differences that might exist in conference.

Mr. PICKLE. Mr. Chairman, lastly, I address the House on the question of savings. Since the committee did not have a task force on savings per se, I passed and moved the amendments on savings to the full committee during markup.

When I first came to the Ways and Means Committee in 1975, my very first legislative oversight work was on individual retirement accounts. Now that I am head of the Social Security Subcommittee, I continue to be vitally interested in how Americans prepare for their retirement. It is key to have policies that encourage workers to do those things to supplement their retirement income. Social security cannot do it all.

In this regard, I, along with my good friend Congressman BILL FRENZEL of Minnesota, pushed very hard a bill that would allow every American to deduct up to $2,000 a year if he put that money in an IRA, or into his regular ERISA company plan.

In other words, my bill made no distinction between the kinds of pension plans people put money into.

The committee bill, in the amendment that I passed out in markup, does not go far enough in treating everyone equally. The committee bill allows people to take a $2,000 deduction for contributions to an IRA, or for extra contributions to a company pension plan over and above their normal contributions.

It does not take a genius to see what might happen in this kind of setup. The American working in a firm with a company plan will soon learn that his neighbor, who has only an IRA, or has no company plan, has a better deal. Then this man will go to his employers and ask that he drop the regular program.

Any more federally caused weakening of company-wide funded pension plans will be devastating, in my opinion, and this might be what we are encouraging if we do not watch out.

Furthermore, since the committee bill and the Senate bill enforce IRA rules on the voluntary contributions to the company plans, the confusion caused will be one more incentive for the company to drop the regular plan and tell everyone to go buy an IRA. The problem is that not all the workers will buy the IRA with the extra money, and the long-range retirement program will be hurt.

In conference, I hope that we can smooth out any differences between the Senate and House on these technical IRA rules being put on company plans in order to lessen that burden. I understand the main problem here resides in the treatment of contributions after age 70.5.

But in the bigger picture, I want to make it clear, as the man who proposed the savings provisions in the bill before, and which are more or less identical in the Republican substitute, that we do not intend to foreclose covering everyone equally in the future.

The thing that held us back this time was revenue considerations. I know that this might sound lightly in view of the present two bills that have been bid up to the sky in many areas, but at the time we did the savings provisions, revenue was a very major constraint.

Not only do I want to see us move ahead with the Pickle-Frenzel concept in the upcoming years, I know many Members feel the same way. They told me so during our deliberations.

So I would conclude by saying that what we are doing here is more or less a trial run, in my view. More needs to be done, and I hope it will be done.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN), a very hard working and important member of the committee.

Mr. DUNCAN. Mr. Chairman, among its many valuable features, the President's tax proposal includes several strong savings incentives. First, it includes a tax exclusion of $1,000 per person for interest earned on certain 1-year certificates of deposit.

The certificates would be issued between October 1, 1981, and December 31, 1982. Mr. Chairman, at a time when our savings rate is the lowest since 1954, and the lowest of any industrialized nation, this program to encourage savings is sorely needed.

However, in no case will any institution be required to lend more than 75 percent of its net increase in deposits. This recognizes that in many cases persons will close their passbook accounts or regular certificate accounts in order to open up a tax-exempt certificate. Thus the financial institutions should not be required to lend amounts which do not reflect a real increase in deposits.

After the tax-exempt certificates expire, the President's proposal establishes a new general interest exclusion feature. Specifically, individuals will be able to exclude from taxation up to 15 percent of their first $3,000 of interest income. This means a single person would have a maximum exclusion of $450; and a married couple would have a $900 exclusion.

It contains a safeguard to curb excessive individual borrowing. The amount of interest eligible for the 15 percent exclusion must be reduced by most of the interest which a person pays and deducts. The only exceptions are home mortgage and business-related interest. Thus, the new 15 percent exclusion primarily will apply to net interest income rather than gross interest income.

Mr. Chairman, these are just two examples of the targeted savings provisions in the President's bill. They are the "icing on the cake." The combination of the across-the-board individual tax cuts and the targeted savings provisions will reinforce one another to produce a strong incentive for saving.

Mr. Chairman, the savings incentives in the President's bill are superior to the provisions in the committee's bill. They provide still another reason to support the substitute contained in H.R. 4260.

I yield back the balance of my time.

Mr. CONABLE. I thank the gentleman for that precious 1 minute.

Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Chairman, it is truly going to be a historic day here in the House of Representatives. The direction of the country, I believe, will be changed today.

Much has been said earlier about the bidding war that has been going on in the last few months for the block of conservative Democratic votes. But let us look at what has resulted from that bidding war.

The inheritance laws are being changed signficantly in this country. Hundreds of thousands of small farmers and small businessmen will be able to preserve their family enterprises. Once again there will be savings incentives existing for Americans.

Our depreciation laws, our capital gains laws are being changed signficantly to enable American industry to truly revitalize itself, and both bills also address the marriage penalty.

I would like to commend the chairman of the Committee on Ways and Means as well as the ranking minority member for the work that they have done moving these bills very close together in most aspects.

However, there is one major significant difference. A philosophy, a true philosophy, is all encompassing in the Conable-Hance approach. What we are doing as a result of this passage will mean that this will be the last significant tax bill to come before Congress in the 20th century because with indexing we are locking in the size of the Federal Government, and future Congresses will not vote tax increases unless it is truly an emergency.

The size of the Federal Government from 1984 forward will remain at 19 percent of our Nation's gross national product instead of the 22 percent that we are now approaching today.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE), who has a very important message for us.

Mr. MOORE. Mr. Chairman, Members have been talking about the oil provisions in the two bills and they have been talking about individual tax cuts and about business tax cuts. But there is one hidden provision of the Committee on Ways and Means bill which nobody is talking about, and with good reason. They are not talking about a $3.3 billion bailout for some of the wealthiest corporations of America.

This is the biggest special interest bailout in the history of this Congress. It is known as the "distressed industry" or Bailey bailout, wherein subsection F of title II of H.R. 4242 provides help to only six so-called "distressed" industries. These select industries will be able to cash in unused investment tax credits (ITC's) accumulated through 1981 all the way back to 1962 when ITC's were first created. All other businesses and industries in this country only get a 3-year carryback under existing law. The Treasury Department has informed me that these six industries have $3.3 billion in unused ITC's. $3.3 billion. That is a lot of money. It is twice as much as any single year of the cost of the oil tax cut provisions of the Committee on Ways and Means' bill.

□ 1240

Only this select group of six industries, autos, airlines, mining, railroads, steel, and paper are eligible, and there is no requirement—no requirement—that any company within that industry be actually distressed. There is no test of need, just arbitrary selection. It won in the Committee on Ways and Means by a close vote, and six Democratic members of the committee either voted present or refused to vote for it or voted no. It is not in the Conable-Hance substitute or in the Udall-Obey substitute; it is not in the Senate tax bill.

This distressed industry provision never had any hearings in the Ways and Means Committee. We do not know anything about the concept, where it came from, why it is here, who gets help, or why them. There is no test for it. Some companies, we are finding out now, do not even need the help. Even though they are in a distressed industry, they themselves are not distressed, yet will be able to take advantage of it. This is because the give-away applies to entire industries, not separate companies.

Look at some of the companies we have uncovered so far that are going to get millions out of this proposal. This is only some of them that are classed as distressed and have unused ITC's:

International Paper Co., last year the 72d most profitable company in America with profits of $426 million, qualifies. Scott Paper Co. has $48 million in unused ITC's, had profits in every one of the last 19 years, with profits of $115 million in each of the last 4 years and qualifies.

In mining, AMAX, Kennecott, Texas Gulf each had profits every year in the last 19 years, and can get a total of $90 million in unused ITC's. They had profits of $266 million, $83 million, and $139 million respectively over the last 4 years.

In railroads, Southern Pacific has $100 million in unused ITC's. Over each of the last 4 years, it had profits averaging $150 million a year, and has been profitable every year for the last 19 years.

In the steel industry, Armco has $37 million in unused ITC's, and in recent years had profits of $201 million and

has been profitable every year for the last 19 years.

Mr. Chairman, at this point I insert into the RECORD a more complete list of just some of the companies who are profitable but qualify for this bailout as in a "distressed" industry which list I received last evening from the Treasury Department:

SUMMARY OF FINANCIAL DATA FOR LARGE COMPANIES IN SIX SELECTED INDUSTRIES WITH UNUSED INVESTMENT TAX CREDIT 1962–80

[Dollars in millions]

Company	Reported unused investment tax credit	Average annual after tax profit or loss		Number of profitable years in last 19
		1962–80	1977–80	
Mining:				
AMAX	$42.0	$117.6	$266.2	19
Kennecott	30.3	97.1	83.8	19
Texas Gulf	18.8	69.4	139.7	19
Paper:				
Scott Paper Co	48.0	63.4	115.9	19
Airlines:				
American Airlines	88.0	25.8	57.0	15
Braniff International	75.8	4.2	−23.5	16
Continental Airlines	31.5	7.3	10.2	16
Eastern Airlines	96.5	6.6	35.6	11
Northwest Airlines	62.7	43.8	58.5	19
Pan American	35.0	24.0	80.1	12
Trans World	70.1	20.9	56.9	15
Railroads:				
Burlington Northern	52.4	[1] 72.6	147.5	[1] 12
Southern Pacific	100.8	98.2	142.6	19
Steel:				
Armco, Incorporated	37.8	114.0	201.1	19
Bethlehem Steel	146.5	137.0	43.4	18
Inland Steel	59.1	78.8	101.7	19
LTV	119.0	24.3	75.6	15
Autos:				
Chrysler	194.0	−39.1	−712.1	13
Ford Motor	341.3	608.4	721.9	19
International Harvester	29.7	89.9	90.7	18

[1] Data were available only for 1968–80 (13 years).

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Treasury further advised me that of the largest 100 companies in these six "distressed" industries, 45 percent have had a profit every year for the last 19 and 55 percent have had a profit every year but one for the last 19.

I also would like to point out to the Members the fact that many distressed industries are eliminated. Why just these six? The domestic electronics industry is not included; or the shoe industry; or U.S. flag shipping; or shipyards; or the textile industry. There are probably many more. As an example, airlines are a class of distressed industries but we find out that General Dynamics has $128 million in unused ITC's, but because it is an aircraft manufacturer and not an airline, does not qualify.

We are also finding out that profitable parent corporations will be able to reap the benefits of this bailout and one of them is a big oil company, which may disturb some Members of the House. It is a silent beneficiary. It works this way: Kennecott Copper can get $30 million out of this slush fund as in the mining class of "distressed" industry. Kennecott Copper is owned by Standard Oil of Ohio—Sohio. If Kennecott needs help, let me ask the Members a question: Who should help them first, the U.S. Government, which had a deficit in 1980 of $60 billion, or Sohio, which in 1980 had profits of $1.8 billion and assets of $12 billion? Who should help first, the Treasury or the parent company?

In addition this bailout is really not worth the price. $3.3 billion is a lot of money. It is a lot of money at a time when we are asking all sectors of the economy to make do with less, cutting back various programs, and trying to balance the budget. This bailout is simply not worth it.

In conclusion, this is expensive, special interest legislation of the worst order which has slipped into the tax bill without hearings or evidence, unsupported by any major business organization, opposed by the administration, and protected by a rule that prevents it being amended out of the bill. If you could not make up your mind before, the Bailey "distressed industry" bailout is a good reason to vote against H.R. 4242 and vote for the bipartisan Conable-Hance substitute.

Mr. RUSSO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Chairman, unfortunately this has probably been one of the most misrepresented and maligned provisions in either of the measures before us. The administration hides theirs under a jawboning effort for liberalized leasing provisions, and I honestly do not know whether they have attempted to write it into law in the Republican substitute.

There have been hearings, contrary to misrepresentations here. There is no help or incentive for a profitable company in any of these industries to use these provisions. In fact, there is a discentive to do so, because the paybacks extend over 4 years. A profitable company can write off against current tax liability the investment tax credits they have earned. Only marginally profitable firms will elect this route. Not one penny—not one penny of this provision goes for dividends or profits—not one penny. Every single cent must go for qualified section 38 tangible personal property, which is productivity-improving equipment for basic capital-intensive industries that this country needs to survive free and unfettered.

There is no incentive to encourage mergers or acquisitions for purposes of utilizing these provisions when it is targeted at those kinds of investment.

Anyone representing the automobile industry, or workers—must recognize the need for this assistance. Ford is in trouble, let us drop that bombshell. Chrysler has earned $195 million worth of those credits, they would go not for dividends and profits, but for retooling for jobs, American jobs. Some of the misinformation is terrible.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, for weeks, rationalizations and reasons have circulated through Congress for Democrats to justify why they are voting against the President on the tax bill. Such things as:

The people are uninformed. They do not know what they want. Stick with the party. They will come around to the party in time.

But the people know. They are ahead of the Congress, they know they are overburdened with taxes; they know that falling productivity could destroy this country; and they know that the economic policies of the past are not working now.

We are guardians of the people's trust here in this Chamber—to work their will. It is the will of the American people for change, to offer solutions to our problems, that swells behind the President's program.

I am a Democrat, but regrettably the Democratic Party has become known as the party of subsidy and special interest, the party that is afraid to try bold directions to solve our economic problems. As a result, in this Congress the Democratic Party is only credible on the subject of economics to the degree it has imitated the President. And the difference between the two now is not substance, but debating points—and even on these the President wins. The spirit of the New Deal has become entombed in the programs of the Great Society. Franklin Roosevelt understood that new times and new problems call for new solutions and the willingness to try. Now only the President seems to grasp that a brighter future is possible, and that Government can be more than the dead hand of the past. This country's economy can grow, we can provide opportunity for all—and President Reagan's program points this country in that direction.

My own party is mired, frankly, in the zero-sum philosophy that wealth can only be distributed, and not created, that growth is not possible. This is what desecrates the spirit of the pioneers that built this country.

Since I first dreamed of coming to Congress, I dreamed of coming here to make a difference, to be a part of the solution of our problems. This tax bill provides that difference. It is a revolution in how we conduct our Government.

Instead of taking from the people, it gives back. Instead of offering the rhetoric of a better society, it provides the reality. Instead of using the tricks of Government to hide itself, it becomes honest about its policies.

The majority of America is struggling to get a good job, to keep it, pay the mortgage and send the kids through school. These dreams know

no class or color, no regional boundaries, no party caucuses. These dreams have voices. The voice of the people of my district say give the President a chance. I will vote with my conscience and for the dreams of my district. I will vote with the President.

Mr. RUSSO. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, the vote we are about to take is one of the most difficult I have had to make since coming to Congress. I have listened to the arguments. I have read extensively on the issue. I have talked with my people, and yes; I have searched my soul and prayed on the issue.

This vote must not be considered along partisan lines. The issues are too great, the consequences too grave. To simply vote with one's political party in this important matter is an unfortunate abdication of our responsibility as Members of Congress. As Congressmen from our respective areas of this great Nation, we must represent our constituents based on what is in the best national interest, not partisan interests.

Throughout the discussion on budget and tax cuts, I have been keeping several goals in mind. These are the goals I think most Americans share and the ones which the President has been describing as his mandate of last November.

From all my conversations and meetings with the people of northwest Iowa, I truly believe they really want to see our distressed economy revitalized and inflation brought under control, and will do what is necessary and feasible to achieve these goals. I have been spending a great deal of time studying the problems confronting our economy, and have come to the conclusion that, while realizing it is very interrelated, we as citizens need to greatly increase activity in two areas: Our rate of productivity and the rate of personal savings and productive investments. We, as Members of Congress, need to take significant and real action toward reducing our huge Federal deficits and balance the budget.

In an effort to effectively fight inflation, the Federal Reserve Board has, rightly or wrongly, made it quite clear that it intends on following a course of rigorously restraining the growth of the money supply until there has been the real progress made by Congress toward reducing the deficits and balancing the budget. As we are all aware, this policy has tightened up credit and driven interest rates through the ceiling, effectively choking off economic expansion and severely crippling small businesses, which are so dependent on credit to finance their operations. We have seen that large deficits are a leading contributor to inflation by pitting the Government against the private sector in competition for funds in the money markets. Such demand for these funds has driven up interest rates.

The people of northwest Iowa have clearly demonstrated that they are willing to bite the bullet in the short run to achieve economic progress down the road. It is my feeling that the rest of the country feels similarly. Moving toward a balanced budget is clearly essential. However, that does not preclude tax relief or incentives to reach our goals. Indeed, carefully targeted tax cut measures could stimulate much needed savings and productive investments necessary to expand the economy.

I have been terribly disturbed by the way the administration and the Ways and Means Committee have proceeded on this matter. We have seen a bidding auction to try to buy more and more congressional votes, rather than do what is best for the country. So, we see an administration bill that started out with two provisions, namely income tax cuts and accelerated depreciation, expanded to where it now is a Christmas tree with some 26 provisions. The Ways and Means Committee bill is no less a Christmas tree. Some of these additions are good, in my opinion. Some of them are bad. But the main thing that is bad is the way this Christmas tree has been developed. I submit, Mr. Speaker, that as long as an administration and a Congress try to buy votes by giving tax cuts for votes rather than for policy we have serious trouble.

But this is not my greatest concern, Mr. Chairman. My greatest concern is where we are heading with either of these bills. I believe our farmers, small businesses, homeowners, and indeed all of our citizens are plagued today by high inflation and high interest rates. I am personally convinced that we must have a combination of conservative fiscal and monetary policy if we are to bring inflation rates and interest rates under control. My studies have convinced me that we need to move toward a balanced budget if we are to solve the problem of inflation which plagues our society. Most economists agree that the large personal tax cuts promised out into the future in both bills assure us of huge future deficits in the future. Mr. Speaker, I believe that we in Government have a tendency to look only toward the next election and not out into the future. Large deficits do not result in immediate increases in inflation and interest rates. It takes time, but such increases are sure to occur and I submit that high interest rates and inflation are our basic economic problem in our society today.

As is true with many offices, my phone has been ringing constantly with constituents' calls since the President appeared on national television and urged everyone to call their congressman and urge support of his tax cut proposal. Most of these people asked me to vote for the President's proposal. These are good, sincere people interested in the welfare of our country. I cannot ignore their calls.

Recently I held open door meetings in all 22 of my counties. We discussed the Kemp-Roth tax cut now included in the administration bill and partially included in the Ways and Means bill.

Everyone from each county is invited to each meeting. After a thorough discussion, votes were held in each county; 12 percent of the people voted for the Kemp-Roth income tax cut. However, 48 percent of the people voted for targeted tax cuts directed toward increasing productivity and equity in the tax code, with the provision that the tax cuts not exceed the spending cuts; 40 percent of the people voted for no tax cuts until we had brought the budget into balance. It is true that this was before the President's speech. It is also true that I explained to the people my conservative attitude toward the need for a balanced budget.

On the one hand, I have the vast majority of those in attendance at my open door meetings opposed to the proposals in the administration bill and the Ways and Means Committee, and on the other hand, the telephone calls taking the opposite stand.

Mr. Chairman, because of my commitment to achieve economic vigor, and because of my commitment to balance the budget to bring down interest rates, I cannot in good conscience vote for either the Democratic tax cut bill or the Hance-Conable substitute. Both of them would be budget busting, deficit building, highly inflationary tax cuts constituting the largest tax measure in our history. This would occur at the same time as the greatest peacetime military buildup in our history. The spending cuts recently passed come nowhere near matching these tremendous outflows. A $100 billion a year deficit is suddenly very possible, making the present situation seem mild in comparison. Interest rates would also reach historic levels as the Federal Government would once again be forced into the money markets to compete for funds to finance this tax cut. Taking into account the inflation fighting policies of the Federal Reserve, supply side economics at this time becomes futile. How can a tax cut financed with massive deficits produce productive investments and economic expansion when the Federal Reserve intends on restraining the money supply and keeping interest rates at such high levels?

I have agonized over this decision, but I come out with only one answer if I am going to vote my conscience. My decision is to vote for the Udall substi-

tute which provides a smaller tax cut, includes small business tax cuts, inheritance tax cuts, tax cuts to encourage business investment, and gives us a balanced budget. I will vote against both the administration and the Ways and Means Committee bills. I am convinced that the value of a balanced budget to the average taxpayer in terms of lower interest rates and lower inflation far outweigh the small individual tax cut they will receive. And I am convinced that we need to put our priorities in order and look to the future for a change. I believe the future will only be bright if we have the courage to take the steps necessary to balance the budget and bring inflation and high interest rates under control.

Mr. RUSSO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, it is appropriate that we should be debating this bill today, with the royal wedding in the morning, we are debating a bill that will benefit primarily the economically royal in this country in the afternoon.

□ 1250

Both bills do not do justice to the vague considerations of fighting inflation, reducing interest rates, or the whole cardinal set of principles of tax justice, equity, simplicity, and neutrality. These ideals get short-shrifted by both bills.

But the Democratic bill does offer us a little hope in the area of neutrality. In the area of expensing in the depreciation plan, it is more equitable and more fair, and it will help business to make up its procurement decisions based on economic considerations and not tax considerations.

On the question of equity, should my friends in the Republican Party ever deal with that question, let me tell them that our bill, in terms of giving money back to the people who pay, does the job far better than the Republican bill. Let us just take the simple example of the 17 million taxpayers in this country who earn under $10,000 a year. The Republican bill gives to a family of $10,000 a tax cut of $69 a year, little more than $1 a week. We think that is unacceptable. It is far short of the $395 we have in our bill, and we feel that our bill will help all taxpayers under $50,000 more than the Republican bill.

If there are doubts on my side among my Democratic colleagues, I urge them to take a look at who gets what under their bill and who gets what under our bill.

Mr. Chairman, I say to my colleagues, if you are serious about being a Democrat, if you are serious about doing anything for people who work, you will vote for the Democratic tax bill.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to a very hard-working member of the committee, the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Chairman, if only one word were used to describe the bipartisan Conable-Hance bill, it should be "incentive." Incentive is the key that spurs individual effort to make our American economic miracle a reality.

This bill contains the greatest incentive in 20 years for savings and capital investment. That means more real job opportunities for Americans in all economic categories. It contains incentives and a ray of hope for the beleaguered savings and loan institutions and homebuilding business, and it gives encouragement to young couples seeking to become homeowners.

It gives incentives for new oil, domestically developed, to reduce our dependence on foreign imports, and although we have a so-called temporary world glut in oil, it is only temporary. We desperately need incentives for the discovery of new domestic oil.

It offers relief from the so-called windfall profits tax for the small royalty owners, 500,000 of them, many of whom depend upon these small checks each month for their retirement income.

It offers incentives for exports and for the employment of Americans in jobs abroad so that we can continue to have the orders flow into this country for American goods rather than for foreign goods.

It offers incentives—through estate tax liberalization—for middle-aged Americans who desire to provide something for their families at the time of their death. And one of the most important incentives is for small business.

Now, we heard earlier from the Democratic side that their bill was the best for small business, and that just is not true. Let me read to the Members a letter that was addressed to all Congressmen, dated July 28, from the National Federation of Independent Business, the major organization nationwide representing small business. Their view is shared, I might say, by 150 small business associations, a list of which I will insert in the RECORD at this time, as follows:

SMALL BUSINESS ASSOCIATIONS SUPPORTING PRESIDENT REAGAN'S TAX PROPOSAL

Air-Conditioning & Refrigeration Wholesalers
American Apparel Manufacturers Association
American Consulting Engineers
American Dental Trade Association
American Feed Manufacturers Association
American Frozen Food Institute
American Hospital Association
American Institute of Architects
American Jewelry Distributors Association
American Machine Tool Distributors Association
American Meat Institute
American Rental Association
American Supply Association
American Surgical Trade Association
American Traffic Services Association
American Veterinary Distributors Association
Appliance Parts Distributors Association, Inc.
Associated Builders & Contractors
Associated Equipment Distributors
Association of Steel Distributors
Association of Wall & Ceilings Industries
Automobile Equipment Distributors
Automobile Wholesalers of Texas
Automotive Service Industry Association
Automotive Wholesalers of Illinois
Aviation Distributors and Manufacturers Association, Inc.
Beauty and Barber Supply Institute Inc.
Bearing Specialists Association
Bicycle Wholesale Distributors Association Inc.
Biscuit & Cracker Distributors Association
California Restaurant Association
Ceramic Tile Distributors Association
Ceramic Distributors of America
Chambers Center for Small Business
Cooperative Food Distributors of America
Copper & Brass Servicecenter of America
Council for Periodical Distributors Association
Council of Wholesale-Distributors, American Institute of Kitchen Dealers
Distributors Council Inc.
Door & Hardware Institute
Drug Wholesalers Association
Electrical-Electronics Materials Distributor Assn.
Explosive Distributors Association Inc.
Farm Equipment Wholesalers Association
Flat Glass Marketing Association
Florida Hotel and Motel
Florida Trucking Association
Fluid Power Distributors Association, Inc.
Food Industries Suppliers Association
Foodservice Equipment Distributors Association
Foodservice Organization of Distributors
General Merchandise Distributors Council
Hobby Industry Association
Hospital Association of Pennsylvania
Houston Contractors Association
Illinois Retail Farm Equipment Association
Illinois Water Quality Association
Independent Bakers Association
Institutional & Service Textile Distributors Assoc., Inc.
International Ceramic Association
International Snowmobile Association
Iowa Seed Association
The Irrigation Association
Laundry & Cleaners Allied Trades Association
Louisiana Building Dealers
Machinery Dealers National Association
Mass Merchandising Distributors Association
Material Handling Equipment Distribution Association
Monument Builders of North America—Wholesale Division
Music Distributors Association
National American Wholesale Grocers' Association
National Appliance Parts Suppliers Association
National Asphalt Pavement Association
National Association of Aluminum Distributors
National Association of Brick Distributors
National Association of Chemical Distributors
National Association of Container Distributors

National Association of Decorative Fabric Distributors
National Association of Electrical Distributors
National Association of Equipment Distributors
National Association of Floor Covering Distributors
National Association of Marine Services, Inc.
National Association of Meat Purveyors
National Association of Plastic Distributors
National Association of Plumbing-Heating-Cooling Contractors
National Association of Recording Merchandisers, Inc.
National Association of Service Merchandising
National Association of Small Business Investment Companies
National Association of Sporting Goods Wholesalers
National Association of Textile & Apparel Distributors
National Association of Tobacco Distributors
National Association of Writing Instrument Distributors
National Beer Wholesalers Association
National Building Material Distributors Association
National Candy Wholesalers Association
National Commercial Refrigeration Sales Association
National Electrical Contractors Association
National Electronic Distributors Association
National Fastener Distributors Association
National Federation of Independent Business
National Food Distributors Association
National Frozen Food Association
National Independent Bank Equipment Suppliers Association
National Industrial Belting Association
National Industrial Glove Distributors Association
National Kitchen Cabinet Association
National Lawn & Garden Distributors Association
National Locksmith's Suppliers Association
National Marine Distributors Association
National Notion Wholesaler Distributor Association, Inc.
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Plastercraft Association
National Restaurant Association
National Sash & Door Jobbers Association
National School Supply & Equipment Association
National & Southern Industrial Distributors Associations
National Spa & Pool Institute
National Truck Equipment Association
National Welding Supply Association
National Wheel & Rim Association
National Wholesale Druggists' Association
National Wholesale Furniture Association
National Wholesale Hardware Association
North American Heating & Airconditioning Wholesalers
North American Wholesale Lumber Association, Inc.
Northern California Grocers Association
Optical Laboratories Association
Pet Industries Distributors Association
Power Transmission Distributors Association, Inc.
Safety Equipment Distributors Association, Inc.
Scaffold Industry Association
Screen Manufacturers Association
Sheet Metal/Air Conditioning Contractors
Shoe Service Institute of America
Southeast Poultry and Egg Association
Specialty Tools & Fasteners Distributors
Steel Service Center Institute
Tennessee Association of Life Underwriters
Texas Funeral Directors
Texas Hospital Association
Toy Wholesalers' Association of America
Travel Industry Association
United Fresh Fruit/Vegetable Association
United Pesticide Formulators & Distributors Association
Wallcovering Wholesalers Association
Warehouse Distributors Association for Leisure & Mobile Products
Watch Materials & Jewelry Distributors Association
Wholesale Florist & Florist Suppliers of America
Wholesale Stationers' Association
Wine & Spirits Wholesalers of America, Inc.
Wood Heating Alliance
Woodworking Machinery Distributors Association

Mr. Chairman, this is the way the letter from the National Federation of Independent Business reads:

. . . after careful analysis, NFIB—National Federation of Independent Business—believes that . . . the bipartisan Hance-Conable bill is closer to what its membership desires and best for the American economy.

It believes it is better "for the following reasons:"

It cuts individual taxes, and cutting individual taxes is the only way to help unincorporated businesses, which represent over 60 percent of the tax paying business community, and a guaranteed 3 year cut allows these firms to plan how to use and reinvest this money.

No. 2: While expensing is very desirable in principle, the revised 10-5-3 depreciation proposal in Hance-Conable will actually be simpler for many small businesses to use. The expensing proposal in the (Democratic) Committee bill is phased in over 10 years and the phase-in formula is extremely complicated for smaller firms. It would, in effect, force many smaller capital intensive firms to use three different systems of depreciations simultaneously.

"Hance-Conable is much better than the Committee bill for the very smallest corporations. Fifty-five percent of the Nation's incorporated businesses have less than $25,000 a year in taxable income, while over seventy-five percent of these firms have less than $50,000 a year . . . the committee bill does nothing for firms under $25,000 a year until 1984, while Hance-Conable reduces taxes in the two lowest brackets . . . in 1982 and 1983.

Last, and possibly most important, the Hance-Conable proposal contains a provision that would index individual income tax rates. This makes it a permanent tax cut, a move which has been overwhelmingly endorsed by NFIB members.

NFIB believes that from a small business standpoint the choice is clear and we urge you to vote for the bipartisan Hance-Conable proposal.

Mr. Chairman, that letter is from the NFIB which represents the small businesses of this country. I urge the support of the Hance-Conable bill to all Members who are interested in getting this country moving again.

Mr. RUSSO. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, because the area of tax is outside of my congressional work in agriculture, small business, and military preparedness, I was constrained to enter this debate. But, upon study of the issue, I feel it my duty to speak of an issue that has not been considered. I raised this issue with the President at Camp David Sunday, and, after hours of study, I raise it again today.

The issue is that of having sufficient funding for national defense under the Hance-Conable substitute. We in Congress are charged with the obligation of providing for the common defense. I have come to the conclusion that the Hance-Conable substitute would in the outyears endanger our ability to provide for that defense to which we as a nation are committed.

I have examined the budget forecast in the administration's midsession review and compared it to what receipts would be if the administration's substitute is adopted.

I want to call the Members' attention to the budget outlays over the fiscal years 1982-86 under the Gramm-Latta budget resolution, which I supported when it first came before this body. There are four categories of spending: First, social security payments; second, interest payments and other fixed entitlement programs; third, defense spending; and fourth, all other spending. When receipts under the Conable-Hance proposal are compared it is obvious that massive additional spending cuts will be necessary to bring the budget into balance. The administration program calls for $15 billion of additional social security cuts for 1986 and $43 billion of unspecified cuts in that year. Under the Gramm-Latta budget spending for all purposes other than defense, interest on the debt, social security, and other entitlement programs would be about $43 billion. Where are we to go for these unspecified cuts which we are asked to sanction by our vote today? We obviously cannot eliminate the State Department, the Commerce Department, the Agriculture Department, and everything else in the other category. These cuts will have to come at the expense of social security or from national defense.

I have therefore concluded that the plans we have made to protect our shores and insure our commitment to strengthening our national defense is in jeopardy. Let me first point out to those of my colleagues who would argue that the Conable-Hance bill will turn our economy around to make defense expenditures affordable that my conclusion is based on Treasury Department predictions using the most optimistic assumptions. The $43 billion shortfall is the minimum deficit under the best possible circumstances and after every social program has

been cut to the bone. My concern is that we are laying the groundwork here today for putting our defense in jeopardy by sacrificing the future trust and goodwill of the people for the sake of an expedient political victory—either we will have a substantial deficit or an inadequate amount for national defense—or both.

I will support the Ways and Means Committee bill today because it gives us a bit more in the way to protect our ability to finance an adequate defense budget and fulfill our constitutional obligation to provide for the common defense.

These are perilous times for us in international affairs. For a period of several years, our military readiness and preparedness has been allowed to slip. The tide has turned now, and we are attempting to catch up in the preparedness of our Nation. But that catching up must not be jeopardized. I am concerned for the outyears of 1985, 1986, and 1987 with there being uncertainty as to our ability to fund an adequate military.

Remember, it takes 10 years to build an aircraft carrier. Most defense systems require numerous years to complete.

We should be mindful of the new F-18 program we started this year. The administration has a large shipbuilding program it wishes to begin, and I will help with that program. We will be raising the salaries of the members of the armed services again this year—a new bomber and MX—all of this requires planning and adequate available funds in those outyears of 1985, 1986, and 1987.

Let me point out that Hance-Conable substitute is the product of a bidding contest that began when the negotiations between the Ways and Means Committee and the administration broke down in late May. Since that time, there has been a "can you top this" auctioning. Each side blames the other for the cause of negotiations ending and the bidding war beginning. But I can say this with all certainty: The American people were not served well by this process. The original administration bill as announced on February 18 had tax reductions of $42 billion less than the latest proposal of the administration over this period 1984, 1985, and 1986. The latest proposal includes several items not originally endorsed by the Secretary of the Treasury, including the tax loophole for commodity dealers and the tax break for the oil industry. These, plus other additions were the newest of the bidding process.

And here we are to make a decision. We want tax laws for our country to be laws based on fact and reality rather than on emotion or confusion. I am for a tax cut, and the closest bill for fiscal responsibility is the Ways and Means proposal. It at least will allow more planning and more certainty for an adequate defense of our Nation.

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Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Chairman, the same agruments are being waged against the President's tax plan that was used against President Kennedy's tax cut plan in 1963. Those arguments are mute now and were mute then. This country needs the Conable-Hance tax bill to give the American taxpayer a real income tax cut. If we do not adopt the Conable-Hance tax bill, income taxes will increase by 22 percent in the next 2½ years. The Conable-Hance tax bill will give a 25-percent tax cut over the next 3 years and it will lower the marginal tax rate for all taxpayers.

The positive effects of lowering tax rates encourages workers to shift to higher paying jobs and rewards overtime and other optimal work. This means higher salaries, more output, and greater Government revenues.

The Conable-Hance tax bill will also provide permanent relief to the American taxpayer, something that the O'Neill tax bill will not do. The Conable-Hance tax bill will make the reductions in the marginal tax rates permanent by the adoption of tax indexing. The only way for a taxpayer whose income is changing to do better under the O'Neill bill is for the change to be a pay cut.

The Conable-Hance tax bill also helps small businesses which are the backbone of this country; 90 percent of small businesses pay income taxes versus corporate taxes, and the Conable-Hance tax bill will bring greater benefits to these small businesses than the O'Neill tax bill. High marginal personal income tax rates exert a greater drag on capital investment in smaller businesses than in companies that have greater access to outside sources of capital and the O'Neill tax bill does not ease this burden.

The Conable-Hance tax bill is simpler to administer and will reduce the amount of paperwork small businesses will have to do. The Conable-Hance tax bill is fairer, it treats all business alike. The Conable-Hance tax bill provides immediate help to small business and is more certain. The Conable-Hance bill would provide a greater stimulus to save and invest than the O'Neill tax bill. By reducing the top tax rate from 70 to 50 percent immediately, this will encourage more investment by higher income taxpayers, and will bring forth more venture capital as the top capital gains rate falls from 28 to 20 percent a year earlier than under the O'Neill plan.

The State of Idaho is a State that has a great many family farms and a State whose wealth is largely dependent on agriculture. If estate and gift taxes are not corrected, then many farmlands will simply be sold to meet obligations and then sold to the highest bidder. Most likely this farmland will be turned into subdivision lots and valuable farmland will be lost forever. This is not in the best interest of the State of Idaho and the Nation.

This is why I believe the Conable-Hance bill corrects a problem that has existed for some time. The Conable-Hance tax bill will help family farms to be passed onto their heirs and would stop the sale of the family farm to pay the taxes that occur upon the death of a spouse.

In conclusion, Mr. Chairman, the O'Neill tax bill is very simple. It would toss a bone to the American taxpayer today and take it back with a pound of flesh attached tomorrow. The O'Neill tax bill is trying to buy off the tax revolt for a year or two, hoping it will go away so the big spenders can start inflating Government spending again and get back to government-as-usual. This must not be allowed to happen. The marginal tax rate reductions and indexing in the Conable-Hance bill can prevent it.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, just a few minutes ago the conferees signed the reconciliation bill, a bill that will save the American taxpayers $35 billion in fiscal year 1982 and $140 billion over the next 3 years.

Today we have an opportunity to complete the economic recovery program for this Nation. With the passage of the budget resolution, with the signing of the reconciliation bill, and, if we put in place the Reagan-Conable-Hance bill, we will have completed a blueprint for economic growth.

Reindustrialization has been on the lips of many people in the past many months. Today we have an opportunity to create the climate for the reindustrialization needed to create 13 million new jobs for Americans. Someone once said the best welfare program is a job and to create jobs we need to reindustrialize this Nation.

Let me give you one statistic: In 1965 the United States commanded 14.6 percent of the world export market. In 1980 it was 11 percent. I submit we need to get back to 14.6 percent and hopefully more, because for every percentage point our share of world export markets go down, American jobs are exported overseas. That is what we are talking about today; we need to encourage people to invest and to be productive.

As an example, we see what is happening in our industrial infrastructure

in the steel industry, where the average age of facilities in the United States is 17.5 years. In Japan it is 11 years. In many countries such as Korea they are new.

This is the kind of climate in which we have to compete in terms of our opportunities for sales in the world markets and for retention of American jobs.

The previous speaker mentioned national defense and that is very important, obviously; but I submit that one of the most important elements of security for our Nation is the ability to produce, the capacity to produce chemical, steel, automobiles, trucks, farm machinery, and a myriad of other products needed for the defense of the our Nation.

In World War II the United States was the "arsenal of democracy." Our ability to produce the products needed to defend freedom was a key element in the defeat of would-be tyrants.

During our Bicentennial Year I saw a bumper sticker with the legend "America, the possible dream."

Today we have an opportunity to make that possible dream a reality in the future of our great Nation.

Mr. RUSSO. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

Mr. WILLIAM J. COYNE. Mr. Chairman, I rise in support of the Ways and Means Committee bill.

Mr. Chairman, I have been urged repeatedly in recent weeks to give my full and uncritical support to the President in his efforts to build a new economic order. I would like to state that I am fully and unequivocally in favor of what the administration says it stands for. The American people have made it clear that they want a balanced budget, reduced inflation, and a smaller Federal presence in our national life. However, the administration's tax bill is a betrayal of these goals.

The administration apparently believes that supply-side economics amount in practice to a new form of the old trickle-down theory—give enough to the rich and the rest of us are bound to get what falls through the cracks. That 25 percent across-the-board tax cut, which sounds so fair and equitable, tosses a few dollars to the average taxpayer and thousands to the truly needy in the higher tax brackets. Then it adds subsidies, in the deceptive form of tax breaks, to a host of special-interest groups, including the oil companies. To top it off, it mandates that we continue on this openhanded course for 3 years, in the face of huge predicted deficits. All this will cost the average taxpayer dearly. Tax breaks are as much Government spending as on-budget items, and just as inflationary. The President's tax proposal, combined with his ambitious plans for defense spending, will require either the near-annihilation of all other programs, or a miracle, to avoid disastrous inflation. True supply-side believers may be confident of the miracle. But I cannot in good conscience accept a widening gap between rich and poor, while calling on the poor, the elderly, and the children of America to sacrifice their welfare for the sake of the economy.

I might have more qualms about rejecting this bill if my district reflected the President's contention that he has the overwhelming support of the people. In fact, this is not the case; a KQV radio poll shows that the people of Pittsburgh are evenly divided on the subject. I have studied all the available proposals carefully and I believe that my vote will be in the best interests of the people of Pittsburgh.

The choice between the Republican and Democratic alternatives is an unattractive one for me. One of my deepest concerns as a Representative is the closing of tax loopholes which benefit the few while all taxpayers foot the bill. In this respect, both these proposals are a step backward. Both are loaded down with favors to small groups that will do little to increase investment or renew the economy. Both will further complicate our tax structure.

My first choice among the tax bills presented is one the President failed to mention in his address. The Udall-Obey-Reuss proposal limits the tax cut to 1 year, targets the bulk of the cuts to lower income taxpayers, and stimulates investment by allowing accelerated depreciation for small business, the backbone of our economy—rather than subsidizing large corporations to acquire other large corporations at taxpayer expense. Most important, it balances the budget, and will even result in surpluses in 1982 and 1983. It does this in part by closing such notorious loopholes as the depletion allowance and the tax subsidy for commodity speculators.

The Udall-Obey-Reuss substitute will take real steps to combat inflation and lower the long-term tax burden on the public. I fully support this lean, well-thought-out bill, and I hope that the House will have the wisdom to pass it.

If it comes to a choice between the Republican and Democratic bills, I intend to support the Democratic proposal. There are many features of this bill I find distasteful, but on balance I believe it is more responsible—and more equitable—than the President's proposal. The Democratic bill targets tax cuts toward lower income taxpayers most in need of this relief, rather than lavishing subsidies on those who are in the highest brackets, who are already protected by numerous tax shelters, and provides greater small-business tax relief than the Republican alternative. Most important, it makes the third-year tax cut dependent upon the economic growth the President promises, rather than locking us into increasingly more destructive deficits. Ninety-five percent of American taxpayers earn less than $50,000 a year; it is only fair that the bulk of the population should receive the bulk of the benefits from an expensive tax cut, and not the other way around, as the Republicans propose.

The 3-year tax cut will necessitate further budget cuts on an average of $41 billion a year starting in 1984; it is an open question where we will make these additional cuts. The administration for its part has suggested that we consider cutting social security still further.

I believe that we must face the real long-term consequences of the alternatives proposed, and I find the implications of the President's proposal unacceptable. Therefore, I urge my colleagues to reject the Republican version and to support the Ways and Means Committee's proposal.

Mr. RUSSO. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. SHANNON), a member of the committee.

Mr. SHANNON. I thank the gentleman for yielding.

You know, we have had a lot of discussion today and in the last few weeks that has involved numbers, charts, statistics, and economic projections. I think that probably we are all tired of seeing those things.

Before this debate concludes, what I do want to say, however, what we have attempted to do in the Ways and Means Committee and what we have attempted to do as the Democratic Party on this piece of tax legislation.

We have said consistently throughout this year that if we are going to have an economic recovery package and if we are going to have a tax cut, and we have all acknowledged that there was going to be tax legislation this year, that we should try to fashion a tax cut that is going to insure that working American families are going to get their fair share. We should try to fashion a tax cut that would insure that small businesses, that growth industries, that labor intensive industries, would get their fair share; that we should try to stick to the principle that I think has made the economy of the United States strong and has helped this country to grow, which is that all Americans should have direct economic opportunities as a result of what we do in this room and that no class of Americans should have to accept merely what flows over from benefits we choose to bestow on only the wealthiest Americans.

It is a very simple American ideal. It is a very simple idea that economic op-

portunities should be extended to all American citizens; but I think that is what the debate boils down to today.

We all know that under the Hance-Conable substitute the benefits of the individual tax cuts go to those who earn over $50,000.

We all know that under the administration's proposal the benefits of the business tax cuts would go to the most capital-intensive corporations, the largest corporations of the United States, with very little going to small business.

We have tried in our efforts in the Ways and Means Committee to turn that around and I think we have done it very effectively.

It is a $50,000 question. It is a question of economic opportunity. It is a question of economic growth.

I think that the position of the Democratic Party has been clear cut throughout. We have stood for tax cuts for working American families.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Chairman, today, we are debating one of the most essential elements of President Reagan's program for economic recovery—the tax cut. I would like to take this opportunity to express my unqualified support for the President's tax plan as reflected in the Conable-Hance bipartisan approach and which is urgently needed if we are to get our economy moving again and to put our Nation back on the right track.

Last November 4, when the American people voted President Reagan into office, they did so because they were ready for a change. They were and are fed up with high taxes, inflation, rising unemployment, and astronomical interest rates. They want a change from the misguided economic policies of the past.

The old policies of Congress and previous administrations have failed. The inflation and unemployment which we are experiencing were created by those old policies and are the continuing and visible evidence that more and more spending and more and more taxation will not work.

Due to the failed policies of the past and the resulting inflation, unemployment, and high interest rates, too many Americans cannot afford the basic items which their parents could. They cannot afford to buy cars or to purchases new homes. They cannot afford the high rents or even higher mortgages. The homebuilding industry has been forced to a virtual standstill. And small businesses are in equally bad shape. The Small Business Administration estimated last year that 660,000 small businesses across the country would go under in 1980.

Yet some would have us continue on as we have done. To repeat the mistakes of the past. We cannot and should not repeat those mistakes. We cannot spend money which we do not have. We cannot pile tax upon tax, and say it benefits all Americans.

But we have a choice. We have a chance to change the past. And the American people know this.

That is why they voted for a change last November, why they voted to put a new man in the White House.

President Reagan has listened to the voice of the American people and has since put forth a program of tax and spending cuts designed to put our country back on the road to economic recovery.

The centerpiece of the President's tax program is a 25-percent-across-the-board cut in marginal income tax rates for all Americans. When combined with other elements in the President's tax package, this will help restore the incentive to save and invest, thus making more money available for mortgages and business loans. This, in turn, will lead to the creation of more jobs.

During the past few days and weeks, there has been extensive discussion regarding the merits of the various provisions contained in the President's tax bill versus those contained in the alternative tax plans. But that is not the issue.

The main issue is that the President's bipartisan tax bill is the only tax plan which will provide real tax relief to all the American people. Not to one group or another. Not to some more than others. But to all Americans.

There are those who feel, however, that a tax bill should not be designed for all Americans, but for groups of special interests.

Let me point out one thing which we have forgotten and the people have remembered. The total of all the special interests in America does not equal the public interest. Slanting tax cuts to favor one group and appealing to political and economic prejudice does not serve all Americans.

Yet that is what the opponents of the President's tax plan have done—the old politics as usual. We have proposals before us giving one group of taxpayers a special deal, and then increasing taxes for another group in order to fund greater Government spending.

That is wrong. And Americans know it is wrong.

And that is why over 500 Coloradans called my office in support of the President's tax plan and why 26,099—or 86 percent—of those who answered my districtwide questionnaire indicated they favored the President's tax package.

The President's tax cut plan of 25 percent across the board for 3 years followed by indexing is a real and permanent tax cut. Other plans would actually allow taxes to continue to increase for the American wage earner. Treasury Department calculations show that at least a 22-percent reduction in taxes is required by 1984 in order to offset the automatic increases caused by bracket creep and already scheduled hikes in social security payroll taxes. Therefore, a 2-year, temporary tax cut of 15 percent is no tax cut at all.

The message from the American voters last fall was unmistakably clear. The American people want a change in economic policy. They want a tax cut as proposed by the administration, and they want it now.

I agree with President Reagan that we should not delay any longer in giving working citizens the kind of real tax relief which they want and need.

The Democratic leadership of the House has already toyed too long with the President's tax cut. First, the Democratic leaders were not sure if any tax cut was necessary. Then they decided a tax cut was needed, but opposed the idea of a multiyear cut. And now they support a 2-year watered down version of the President's tax plan with only a tentative cut in the third year. I believe the American people deserve better than that. They have already suffered too long from the shipshod policies of the Federal Government.

I urge my colleagues to act now to give the American people a break—a real break. Let us approve the tax plan of the administration which provides a meaningful tax cut for all Americans, which is designed to increase incentives to work, save, invest, and produce. Let us act now to allow American citizens to keep more of their own hard-earned dollars and to get our Nation back on the right track.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Chairman, I also rise in strong support of the Conable-Hance substitute.

Mr. Chairman, Monday, President Reagan urged Congress and the American people to give his entire economic recovery program a chance. Judging from the hundreds of favorable calls my office has received since the President's speech, I would say that an overwhelming portion of my district concurs.

Indeed, much of the country has been urging that we give the Reagan program a chance. Unfortunately, Members of the House Democrat leadership have not been listening to their constituency, as they continue to resist efforts to place the Nation on a sound financial footing. For years the House Democrat leadership has spent taxpayers' money like water with complete disregard for the effects of un-

controlled Federal spending on the economy. Now that we are about to enact substantial tax cuts, this same leadership sees its hold on big spending policies slipping from its grasp.

Thus, the real concern that the Democrat leadership has with the President's tax plan is that it would not be able to return to business-as-usual spending, as it would be able to do under the Democrat tax plan.

The Reagan bipartisan tax plan is the best bill for a number of reasons. First, the Reagan tax plan is a commitment to the future, providing real, meaningful, and permanent tax relief for all taxpayers. The Reagan plan offers a 3-year, 25-percent cut and then locks in these cuts by indexing the tax brackets. This will mean that any pay increase received by an American worker will result in higher take-home pay and not a loss of income as currently happens when inflation pushes workers into higher tax brackets. Compared to the Democrat tax cut of only 15 percent, the Reagan tax cut is superior.

Second, the across-the-board tax cut approach directly addresses the needs of small businesses, which comprise some 95 percent of all business activity in my district alone. Nationwide, these unincorporated businesses supply an overwhelming number of new jobs. Since most of these unincorporated ventures file tax returns as individuals, they will receive a significant opportunity to save and plan accordingly under the across-the-board individual cuts as offered under the President's plan.

If the O'Neill plan passes, these businesses will plan and save on the assumption of a 2-year cut. Furthermore, since over one-half of the Nation's small business firms earn less than $25,000 in taxable income, they will have to wait until 1984 to benefit from much of the phased-in relief which is promised by the Democratic leadership. Those companies that are large enough to take advantage of the committee's expensing plan may wait until the 100-percent expensing provisions are in effect in 1990. The Reagan bill will implement a no-nonsense accelerated cost recovery plan that industry will be able to use immediately, when we need it most.

Third, for farmers and other small businesses that make our economy strong, the Reagan bill will change the estate tax code, so that people can pass their hard-earned farms and other businesses to their spouse or children without being viciously penalized. The bipartisan bill would raise the exemption on estate tax to $600,000, so that families need not sell their business or farm to pay estate taxes. For those wishing to transfer property during their lifetime, the Reagan tax plan will increase the gift tax exemption from $3,000 per year per recipient to $10,000 per year. If the gift is jointly made by husband and wife, a full $20,000 per year per recipient will be excluded from any tax whatsoever.

Fourth, the Reagan plan incorporates a number of other badly needed tax reforms, including relief from the marriage tax penalty, provisions to stimulate savings and direct money to the home mortgage market, increases in tax-free contributions to individual retirement accounts, and deductions for charitable contributions so that charitable organizations can receive greater amounts of assistance from the private sector. All of these measures are important to our efforts to provide honest and effective tax relief to the American taxpayer.

Finally, we must recognize that the President's tax plan is an integral part of a comprehensive plan to revitalize the American economy. The Reagan tax package is designed to complement the budget cuts previously approved by this Congress. This tax package is the final and most important step toward implementing the President's entire economic recovery program.

The American people deserve a break, and I applaud their insistance upon having one. The President's tax package represents an excellent opportunity for the Congress to signal its break from the business-as-usual tax-spend cycle that has characterized the Federal Government for the past 20 years.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. IRELAND).

Mr. IRELAND. Mr. Chairman, I rise to speak on behalf of the millions of Americans who own small businesses, who work for small businesses, who buy small businesses' goods and services. Small businesses are the backbone of American life: They create new jobs, new products, new capital, and new ideas. They are absolutely essential to the strength of the American social fabric—the family, the workplace, the neighborhood.

Mr. Chairman, on behalf of small business, I urge passage of the bipartisan Conable-Hance substitute tax package. I have carefully compared its provisions to the provisions of the Ways and Means Committee's bill, and I believe there can be no doubt on this floor today that the bipartisan bill does the job for small business. The committee bill does not come close.

Let us revise the two bills, side by side.

First, on individual rate cuts, the vast majority of small businesses (13 out of 15 million in 1977) are taxed at individual rates and so will benefit more from Conable-Hance than from the committee bill. How much more? Well, about 40 percent by 1984.

Second, depreciation. Conable-Hance is a better system, it is fairer and simpler. It provides greater benefits for small business and in a clear, easy-to-use way. The committee's bill contains complicated, hard-to-understand provisions and apply rules which change from year to year as it is phased in.

What about the smallest companies, with no taxable income? Conable-Hance liberalizes the leasing rules so these companies can share in the benefits of ACRS depreciation. The committee's depreciation provision does nothing for these companies.

What about used equipment? Many small businesses can only afford used equipment. Conable-Hance increases the amount eligible for the investment tax credit to $150,000. The committee, on the other hand, phases out the credit altogether.

Third, let us take accounting problems. Here is one area that really increases costs to small companies, particularly retail businesses. Conable-Hance provides meaningful simplifications to remove impediments to the use of LIFO inventory accounting for small companies. These changes help to remove the unlegislated inflation tax on overstated profits and thus supply more cash for growth to small business. Again, the committee has done nothing in this area.

Mr. Chairman, I could go on. Conable-Hance practically eliminates estate and gift taxes on family-owned businesses, increases tax-deductible savings, liberalizes the subchapter S rules, and provides for tax-favored stock options.

Those colleagues who want to help small business now, not later, should vote for the bipartisan bill. Those who want to vote for business as usual and who want to face the small business people who would not survive this year and next year, well, they can vote for the committee's bill.

And so, having made these points from my perspective as chairman of a Subcommittee on Small Business, I would like to take a moment to speak as the Representative of my home district, the Eighth Congressional District of Florida.

I rise in support of the bipartisan Conable-Hance tax package because, it is a comprehensive, goal-oriented tax-reduction plan. It is not a mish-mash of giveaways and sweeteners with no other purpose than to attract votes, to win.

While I think we all recognize that the bipartisan plan is not a perfect document, I strongly believe that it follows a consistent economic philosophy. It is a goal-oriented, overall economic-revitalization blueprint.

I think we all agree that we must get our country moving again economically. I can see no sense in approving the first two portions of the President's budget proposals, then balking at the underpinning of the proposals.

The bipartisan substitute presents a coherent plan to the American people. I believe they demand a change in this country, and that they demand such a plan be given a fair chance to operate. I know that my constituents demand this.

It is for these reasons that I am proud to support the Conable-Hance bipartisan tax package, and urge my colleagues to do the same.

Mr. RUSSO. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I have been trying over the past 2 weeks to make my colleagues aware of the consequences of the passage of Hance-Conable in terms of deficits in the outyears. Until 10 months ago, my colleagues on the Republican side uniformly praised balanced budgets and offered amendments to support them. Then earlier this year, our colleague, the gentleman from New York (Mr. KEMP), assured a waiting world that the Republicans no longer worshiped at the shrine of a balanced budget. That has been made abundantly clear in the last couple months as Hance-Conable has been put together.

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The truth is that Hance-Conable will build in huge Federal deficits in fiscal years 1983, 1984, and on out.

What if Congress balks at the $60 billion of additional spending cuts required in the first concurrent budget resolution? What if we use realistic economic assumptions?

I asked three sources in June and I received three similar answers.

The Congressional Budget Office says $80 billion will be the deficit in fiscal year 1984. Joe Pechman of the Brookings Institution sees $79 billion as the deficit in fiscal year 1984. Rudy Penner of the American Enterprise Institute, and a supporter of President Reagan, one of his advisers, sees $87 billion as the deficit in fiscal year 1984, the largest deficit in the history of the United States.

We all know that large deficits must inevitably increase pressure for a very tight monetary policy with its certain concomitants: High interest rates, a depressed bond market, bulky GNP growth rates, and business bankruptcies by the score.

Surely we need to be cautious and prudent, and I intend to vote that way today. Let us not kid ourselves, the Hance-Conable bill will lead to huge budget deficits. That alone is good reason not to support Hance-Conable. My colleague from Texas (Mr. HANCE) earlier said that the supply-side effect of the Hance-Conable bill will take care of these deficits. We all wish they would. But, if they will, why is Rudy Penner, a conservative from the American Enterprise Institute, saying the deficit will be $87 billion? Why does Larry Chimerine, chief economist with Chase Econometrics, say it will be $75 billion in fiscal year 1984? Why does Wall Street economist Henry Kaufman of Salomon Brothers, speaking of the Reagan-Hance-Conable package, say "It bothers me greatly what is going on * * * to be hopeful and to be wrong will lead to disaster," for America.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, we have heard a lot of claims and counterclaims today; figures and statistics about who is doing more for whom in this bill. The committee claims its bill helps the little guy; yet it offers only a 2-year tax cut for individuals while guaranteeing a 7-year cut for the biggest corporations in America—the big oil companies. The committee claims its bill gives more relief to the average taxpayer, yet contains only a 2-year, 15-percent tax cut while the President's bill contains a permanent, 25-percent tax cut.

Then, interestingly enough, the committee claims the President's bill will cost more, although this is inconsistent with their other claim. Cost more for whom? From the taxpayers' point of view, the President's bill saves more. Saves more for the taxpayer. The only cost involved is to those bureaucrats who have their hands in the Federal Treasury seeking funds.

Last night, conferees on the budget reconciliation bill finished up their job, directing $35 billion in savings for 1982. These program savings, which extend out for 4 years and more at ever higher figures, should now be returned to the taxpayers. The President's bill does that. It is part of a package, which includes both budget cuts and tax cuts. They go together. The savings we have made in programs, should go back to the taxpayers, not held in reserve against some future claim by new or expanded programs, as the committee bill attempts to do.

Mr. Chairman, the choice before us today is very clear. It really boils down to a question of time. If you expect to die in 1983, when the committee bill expires, then you are probably better off with the majority leadership's bill. But if you plan to live beyond 1983, into 1984, 1985, and thereafter, then there is no question which bill offers the greater relief to taxpayers. The President's bill, with its indexing feature, guarantees permanent tax cuts. Mr. Chairman, for 12 years we have had tax cuts that were not tax cuts. Congress cut with one hand while inflation stole the money back with the other, through bracket creep. People who thought they were keeping even with inflation, through cost-of-living raises, found themselves losing ground because they were pushed into higher tax brackets. A 10-percent increase in income translates into a 17-percent increase in Government income. The facts are plain, as the President said in his address to the Nation Monday night. In the past 12 years, we have had five tax cuts—yet taxes have gone up $400 billion.

The President's plan is the only one which includes this indexing feature, to protect against future erosion of today's tax cuts from tomorrow's inflation. It ends the windfall profit which the Treasury has been getting every year due to inflation. In this respect the bill will do more than anything else we have done to bring spiraling inflation under control. It saves money for the people, not the Treasury. It says that the people can decide for themselves how to spend that extra money, not the bureaucrats and politicians in Washington. And it ends the built-in incentive to inflation that lies at the heart of our existing tax laws.

Mr. Chairman, there can be only one rational choice for those who claim to favor real tax cuts, real cost efficiency for Government. The President's package of budget restraint and permanent, across-the-board tax cuts deserves your support.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I rise in enthusiastic support of the Conable-Hance bipartisan tax reduction proposal which embodies between 95 and 98 percent of the President's original tax cut proposal. I am convinced that the bipartisan proposal will move this country toward an economic recovery which will serve as an unprecedented example to the American people and the Western World.

Examination of both the Conable-Hance and the Ways and Means proposals has revealed three very distinct choices:

First, a choice between a true tax cut proposal versus a tax increase.

Second, a choice between creating wealth for the American people versus simply redistributing the wealth.

Third, a choice between reducing the Federal deficit versus increasing the Federal deficit by $4.5 billion.

The President's tax cut proposal is the only plan which will provide permanent tax relief for the American people—$35 billion into the pockets of the American people during the first year alone. This proposal is designed to do more to restore incentives to work, to save, and to invest than any other tax cut proposal in our history. As most taxpayers now understand, the tax cuts of the last decade were not tax cuts at all. They were in fact merely adjustments, which haphazardly offset the tax increases imposed

by inflation. With every increase in annual income that was supposed to help keep pace with runaway inflation, taxpayers were forced to pay higher taxes as they were pushed into higher income brackets. This is what has produced bracket creep, a phenomena which has made individual wage and salary increases meaningless. Next year alone, the American taxpayer will be robbed of an estimated $22½ billion.

Mr. Chairman, the solution to this problem, and one of the key elements of the Conable-Hance bipartisan proposal is indexing—a fiscal process I have supported legislatively for many years. The need to index personal income tax rates has never been greater. This will put an end to the hidden tax increases which have robbed Americans of every one of the five so-called tax cuts over the last decade. Amongst all of the rhetoric concerning tax cuts and spending cuts, indexing would be the most fundamental and far-reaching tax reform measure ever undertaken. Indexing would eliminate one clear temptation—irresponsible spending by the Federal Government, which in turn will act positively in slowing inflation. The political dividend from spiraling inflation would disappear. The tax cut proposal before us is the only plan which includes indexing and the promise for long-term tax relief for the American people.

Another key element contained in the Conable-Hance proposal is the accelerated cost recovery system (ACRS). The problems of inflation and high interest rates are directly related to inadequate capital formation in this country today. Clearly, we have reached the point where something has to be done to encourage capital formation or we must face a continued decline as an industrial nation. Recent law changes in the United Kingdom permit 100 percent recovery of cost in the first year and our Canadian neighbors are permitted to recover 109 percent of cost in just 3 years. The present tax system for U.S. businesses is not competitive with our foreign counterparts and I am firmly committed to the cost recovery provisions contained in this legislation.

Based on information which I have received from the small business community, I am convinced that the Conable-Hance small business tax proposals offer the best, and most comprehensive package ever considered by the Congress. It is particularly beneficial for the smallest, but most numerous, firms because it reduces the lowest corporate rates immediately, makes permanent reductions in individual rates, and begins the process of inventory accounting reform. The small business community is vital to the economic and social well-being of this country. It is the backbone of our economy and a major supplier of jobs. For all too long, the small businessman has been saying, "Get the government off our backs and out of our pockets." Now, we have the opportunity to reward them for their ingenuity, initiative, and individualism.

Our savings rate has fallen to a record low and I am particularly pleased with the components of this tax cut proposal designed to encourage savings and investments. The proposal includes provisions to: Ease the so-called marriage penalty; increase the tax exemption for funds invested in individual retirement accounts; drop the maximum tax rate on investment income from 70 to 50 percent; decrease the impact of estate and gift taxes; increase the charitable contribution deduction; and a lifetime exclusion of $1,000 to $2,000 of interest paid on tax-exempt savings certificates. Seventy-five percent of the proceeds from these certificates must be invested in financing for housing or agricultural loans which will serve as a boost in the arm for our depressed housing industry and be especially helpful to the small farmers and the small businesses that supply and serve the agriculture community of the country.

Representing predominantly a rural district, I believe that the quality of life in our rural areas is a vital part of our national character. It has been my goal for many years to protect the traditional rural family farm and small family businesses against the ongoing erosion of its revenue base in our fast changing society. Under the present system of taxation, I have witnessed too many small, family owned businesses and farms unable to generate enough income and savings to pay for estate and inheritance taxes. These are family businesses and farms, that have been in some families for generations, being broken up by the Federal Government because of excessive tax burdens. This has been a terrible price to pay for a few extra tax dollars and I fully support the estate tax relief provision in the Conable-Hance proposal.

Many other provisions in this proposal such as tax credits to encourage research and development, donations to universities, and rehabilitation of buildings and historic structures, help to make this one of the most comprehensive tax relief packages since the Eisenhower years of the 1950's. These tax incentives, when combined with across-the-board tax rate reductions will set in motion an equally unprecedented period of economic recovery and revitalization during the 1980's. This legislation is designed to revitalize the institutional structure of this Nation by adding new vitality to the volunteer sector, which is the American miracle.

Finally, Mr. Chairman, I am committed to the Conable-Hance tax bill because I believe that it will provide us with a new sense of direction by implementing an energy policy which is designed to make this country energy self-sufficient. As you may know, the proposal before us provides a residential energy credit for woodburning stoves in addition to major tax incentives to the independent producers and to the small royalty owners which will encourage new energy exploration, development, and production. Until this Nation regains control over its energy future, U.S. industrial productivity, economic growth and national security will remain vulnerable to energy blackmail. I have consistently supported, and will continue to strongly support legislation which I feel is a positive step in the direction of our national goal of energy independence—these provisions meet that criteria.

Mr. Chairman, the Conable-Hance bipartisan tax bill is a sound tax policy, it is sound energy policy, it is sound business policy. I firmly believe that this proposal will rekindle that spirit of free enterprise and move the country toward an exciting economic recovery in the decade of the 1980's. When combined with the most comprehensive budget expenditure control measure in the history of this Nation, this tax reform legislation will create an atmosphere in which all Americans can again stand on their own feet, without being dependent on big government, and be recognized as self-sufficient individuals. I believe that the proposal before us is designed to break the inflation psychology that has been so devastating to our economy. Now, we have the opportunity to change the self-defeating economic pattern of the past 25 years and realize the ideals and visions of the American people.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Chairman, one aspect of the tax cut debate that can never receive enough attention is the issue of indexing. If this Congress is going to demonstrate a commitment to the working man and woman of America, tax indexing must be a part of the legislation approved today.

All of us here this morning know that inflation pushes the average worker into higher and higher tax brackets every year. Bracket creep is very, very real. Many who think they are getting a raise are surprised to learn the following April 15, that their raise actually cost them more money in taxes. Unless income-tax brackets are adjusted for inflation, the Federal Government will continue to receive a windfall profit from wages earned by people who are struggling to survive on a shrinking paycheck.

The President's proposal will index tax brackets to the Consumer Price

Index starting in 1985. This will come after present rates have been reduced 25 percent over a 3-year period. The Ways and Means Committee's Democrat bill contains no provision to protect the average person from inflation. It will reduce taxes only 15 percent in 2 years and then it's back to the same old trick—let inflation bleed the working people quietly while the Federal Government smiles knowingly.

The American people know what's going on. They know that Government profits from inflation—and profits at the people's expense. 226 Congressmen have cosponsored a bill this year to index the tax structure of this country. Dozens have cosponsored my own legislation over the years to index brackets and reduce taxes. It is time for Congress to put its votes right smack where its rhetoric is. My fellow colleagues, if you want to look your fellow Americans in the eye and say you did your best for them, you will support the Conable-Hance substitute amendment.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I rise in support of the administration's Conable-Hance substitute tax-cut proposal.

Mr. Chairman, this tax-cut legislation, which I urge that we pass, is made possible by one thing—the loud voice of the American people last November when they elected a President who promised to map out a strategy to regain control of Federal spending and revitalize the economy. Prior to this, any tax-cutting measures proposed by conservatives in Congress were stopped cold by the unyielding majority.

Now, even the Democratic leadership recognizes that a tax cut is an essential element of our economic recovery. The question now is, Which one?

The 2-year plan proposed by the Ways and Means Committee is full of loopholes, and representative of the same kind of thinking that has burdened the American taxpayer with a 249-percent tax increase over the last decade.

The bipartisan plan supported by the President provides real tax relief—enough to stimulate the economy by providing investment capital, increasing production and in turn, creating jobs. In short, this plan will help turn our plummeting economy around.

The tragic results of excessive Federal spending and taxes have illustrated all too clearly that the taxpayer's wisdom in spending his paycheck is greater than that of the Federal Government. Let us act on that premise by passing a real tax cut which will allow the American taxpayer to exercise more of that good judgment in the marketplace.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I rise in support of the bipartisan Conable-Hance amendment. It will provide the long-range tax structure needed to allow planning for the economic expansion which the administration program will stimulate.

These provisions will encourage revitalization of private enterprise through reductions in individual income tax rates which will offset the adverse effect of inflation on tax brackets and increase the incentives for greater productivity for savings and for capital investment. The bill's provisions on business depreciation will stimulate modernization and expansion. A significant boost to our homebuilding and savings industries, which are now suffering from the stagnation created by high interest rates, will be achieved with the tax exemption on the interest from a special savings certificate.

The Reagan tax cut is an essential ingredient in the total economic package needed to cure our economic ills. The budget cuts we have already made have enabled us to provide this tax relief. Both are intended to reduce the role of Government in our lives and permit the revitalization of our free enterprise system, which has been stifled by the awesome scope of the Federal Government.

Mr. Speaker, it is with great satisfaction that I point to specific features of the bill that I have myself sponsored over the years. I have long endorsed tax-free interest on savings and dividends; I have been a cosponsor of the business depreciation provisions included in the Reagan tax bill; I have advocated reform of the so-called marriage tax; increased exemptions on estate and gift taxes; and indexing of individual rate brackets.

Mr. Speaker, I urge adoption of the Reagan tax cut.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, I rise in support of the Conable-Hance bipartisan substitute. As the past few hours of debate have demonstrated, the differences between the Ways and Means Committee tax bill and the Conable-Hance-administration alternative are quite clear. The choices before us today are quite simple. Furthermore, as the overwhelming positive response to President Reagan's message has demonstrated the majority of Americans realize in the long run they stand to gain the genuine tax relief they need and deserve only if the Conable-Hance package is embraced by a majority of the House of Representatives.

Major objections have been raised to the oil provisions included in both proposals. However, while the committee bill and the Conable-Hance version provide reductions in oil-related tax liability, the two packages are vastly different in targeting. Passage of the windfall profits tax a few months ago was a major victory for all of us concerned about unreasonably high oil profits. The Ways and Means Committee bill weakens this provision considerably by allowing certain exemptions on old oil, as well as newly discovered oil.

Additionally, by providing the major oil companies with a tax break, and by allowing the same companies to reap financial rewards associated with a 25-percent corporate tax reduction over the next 7 years, the Ways and Means Committee bill gives big oil just the freedom it needs to invest in all sorts of non-energy-related businesses.

As TED KENNEDY asked once in Lewiston, Maine, how much oil do you find drilling for oil in the aisles of Montgomery Ward?

In addition, Conable-Hance carefully targets reductions for the oil industry to stripper production, and especially to the independent producers who specialize in new oil production.

The bipartisan alternative provides no windfall tax breaks for the major oil companies. By focusing tax reductions on that sector of the oil industry responsible for new sources of oil, the Conable-Hance version will provide the independent producers and small operations with the capital they need to extend their exploratory activities and to actually locate and pump more oil for the consumers of America. It will also enhance competition between the major oil companies and the smaller producers.

Another important factor in the Conable-Hance bill provides a wood stove tax credit equal to 15 percent of the first $2,000 toward the purchase of an energy efficient wood-burning heating device. For New England there is no doubt in my mind that a wood stove tax credit will go much further than other alternatives to provide the sort of energy conservation incentives that people in New England and other northern tier States need and deserve. If we are talking about personal energy conservation in the North, let us talk wood stoves. Our bill has it. The committee version does not.

Only the bipartisan substitute provides a guaranteed, 3-year, 25-percent personal income tax reduction and an indexing provision designed to end "bracket creep," and the billion-dollar windfall in unlegislated tax cuts which accrue to the Government during inflationary periods. The Ways and Means Committee bill begrudgingly gives U.S. taxpayers a paltry 2-year, 15-percent cut which would not even begin to compensate for inflation. The third-year cut becomes available only in

the event that the economy meets certain performance standards. The irony of this proviso is that those economic assumptions were devised by the administration based on the consumption, investment and savings patterns which would only follow the passage of a guaranteed, long-term, tax reduction plan. If this House adopts the shortsighted 2-year cut in the committee bill, I can guarantee you that the 3d year triggered cut will never see the light of day.

If we truly want to give the American taxpayer the type of tax reduction guarantee he needs to plan ahead, add to his savings or invest in the market, we have to adopt the Conable-Hance 3-year program. Equally important, if we want to end "bracket-creep" and the higher tax rates which automatically take effect during inflationary periods we have to approve the substitute. The Ways and Means Committee bill does not include an indexing provision. The cuts stop after 2 years.

The 3-year tax cut coupled with the institution of indexing sets the Conable-Hance bipartisan substitute apart from the committee bill and on the basis of these personal tax cuts alone, should be expediently adopted. However, there are two other key differences between the proposals which enhance the substitute's statute as the strongest, most viable path to economic recovery.

The last point I would like to make centers on the manner in which the two bills differ on all-important business tax relief. Conable-Hance utilizes the 10-5-3 rapid depreciation schedule included in the original Capital Cost Recovery Act and cosponsored by over 260 House Members. The legislation is specifically designed to provide all categories of businesses with the ready capital they desperately need to expand operations, create new jobs and increase productivity. It is precisely this type of tax cut, in combination with the scaled back corporate rates for businesses making less than $50,000 in profits, which will prove invaluable to all job-creating enterprises in this country.

In contrast, the Ways and Means Committee bill is designed to give large corporations the lion's share of the tax cuts as a result of the 7-year phased reduction in the maximum corporate rate. While I do not believe this is necessarily bad, recent studies have proven that the vast majority of new jobs—between 60 and 80 percent—are created by businesses employing less than 20 persons. The small business provisions in Conable-Hance—the lower corporate rates on the first $50,000 of income, the expensing options and a number of other provisions are clearly favorable to our small businesses.

With respect to small businesses, there is also one other very important point to be made. According to National Federation of Independent Businesses, over 12 million small businesses, the mon-and-pop operations we all have in our districts, file standard 1040 forms. The Ways and Means Committee bill gives these small or micro businesses only 2 years of guaranteed tax relief. Is this any way to treat our major job creaters? The Ways and Means Committee may think so, but I am convinced that by adopting the Conable-Hance bipartisan substitute we will be targeting the vast majority of the cuts to those sectors of the economy where the bulk of new jobs are actually created. Conable-Hance will provide our truly small businesses with 3 years of relief and a guarantee of future help through the enactment of indexing.

At this point, our first priority must be passage of the Conable-Hance bipartisan package. The bipartisan alternative provides greater tax relief to the individual taxpayers, targets tax reductions to the independent and family-owned oil enterprises responsible for the majority of newly discovered oil supplies, and gives the majority of business tax cuts to that sector of the economy responsible for most of the new jobs created. Congress must pass Conable-Hance and deliver to the White House a tax bill designed to encourage the investment and personal savings necessary to put our economy squarely on the road to recovery.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JONES.)

Mr. JONES of Oklahoma. I thank my chairman for yielding for a question.

The provisions exempting foreign oil and gas extraction income from tax also disallow related deductions and credits, including certain investment tax credits. I am concerned that the language in the draft may inadvertently deny independent drilling contractors or subcontractors investment tax credits for equipment they use for oil and gas exploration outside the United States and its possessions. It is my understanding that this result was not intended.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. The provision to which you refer would exempt foreign oil and gas extraction income from U.S. tax. It denies credits and deductions allocated to or chargeable against that income. You are correct that the provision is not intended to apply to the equipment used abroad by independent drilling contractors or subcontractors whose income will continue to be subject to U.S. taxation. Under the provision, an independent drilling contractor performing oil or gas exploration services, including drilling services, would continue to be taxed on that income. It will also be entitled to all related deductions and credits, including the investment tax credit. If the statutory language is unclear, we will make it clear in conference.

Mr. JONES of Oklahoma. I thank the distinguished chairman.

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Mr. ROSTENKOWSKI. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Illinois (Mr. ROSTENKOWSKI) has 16 minutes remaining, and the gentleman from New York (Mr. CONABLE) has 14½ minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Chairman, The Ways and Means Committee tax bill provides a clearly superior choice over the Republican substitute in its treatment of small businesses. Small businesses represent the overwhelming majority of business firms in this country; they are predominantly labor intensive and, as such, are responsible for providing a much greater proportion of new jobs than are larger, more capital intensive firms. In recognition of this fact, the Ways and Means Committee tax bill generates $28 billion in tax relief for small business, through 1986, a figure which represents nearly 15 percent of the business tax provisions in the committee bill. The administration's package falls far short of this, providing for only $6.2 billion in tax relief for the same period, a figure which is less than one-quarter of the relief afforded under the committee bill. Moreover, it is interesting to note that up until the last few days, the administration consistently refused to recognize the needs of these small businesses within the parameters of their tax bill and only did so after the Ways and Means Committee adopted major tax relief provisions for smaller firms. I suggest to you that such a last ditch, de minimis effort should not be mistaken for a genuine concern for the needs of the small business community—it is clearly too little and too late.

An examination of some of the specific provisions will bear witness to the superiority of the committee bill. Over a period of 2 years, under the committee bill the graduated corporate income tax brackets would be widened from $25,000 to $50,000, with the maximum tax rate triggering in for taxable income in excess of $200,000 as compared to the present ceiling of $100,000. This would be accompanied by a reduction in the corporate tax rate applicable to each of the four tax

brackets. Such significant cuts would directly benefit small corporations regardless of the type of business pursued and will leave more dollars in the hands of small businesses to invest as each business sees fit. It helps the small retailing or wholesaling corporations equally as much as the small manufacturer. Moreover, a reduction in corporate income tax rates was the No. 1 priority of the White House Conference on Small Business.

The Republican substitute, on the other hand, only reduces the tax rate for the lower two tax brackets—the first $50,000 of taxable income. When fully phased in, the Ways and Means Committee corporate rate cuts will result in an average tax rate on $100,000 of corporate taxable income of 17.5 percent as compared to an average tax rate of 25.75 percent under the Republican substitute; on $200,000 of corporate taxable income the average tax rate under the committee bill would be 22.5 percent as compared to 38.9 percent under the Republican substitute.

In the area of capital cost recovery, the Ways and Means Committee bill allows for the expensing of the first $25,000 of business investment in plant and equipment, a provision which would benefit 86 percent of all businesses both corporate and noncorporate. This option to expense solves two problems for small businesses—complexity and capital cost recovery. Present depreciation rules provide for 132 different classes of plant and equipment. This system presents problems of mindboggling complexity for the small entrepreneur. As a remedy, the committee bill provides for only a single class of plant and equipment; moreover, this is an audit proof standard which the IRS would not be able to challenge.

Under the expensing option, small businesses could deduct the cost of investment in the year it is put into service; this would allow for recovery of the cost in 1 year while the new equipment would be used productively for several years. The substantial reduction in income taxes resulting from this provision will serve to improve cash flow and enable small businesses to obtain funds for expansion more easily.

In contrast, the Republican substitute only provides for expensing of $5,000 of plant and equipment which is gradually increased to a maximum of $10,000 over a 3-year period.

One other major small business provision involves the used property limitation on the use of the investment tax credit. By going to an expense method of capital cost recovery for tangible personal property, the Ways and Means Committee bill has made any distinction between new and used property obsolete. Under present law, taxpayers may apply the investment tax credit to the purchase of used equipment, but the amount of used equipment eligible for the investment credit is limited to $100,000. During the phasein of expensing under the committee bill, businesses that choose to expense $25,000 immediately will be able to acquire an increasingly large amount of used property without reaching the $100,000 limit. The amount of such equipment that could be acquired would be as follows:

1981	$150,000
1982	197,667
1983	275,000
1984	525,000

These changes will encourage more small businesses to invest in used equipment that may be used productively and would reduce the present incentive to scrap old machinery and equipment that might otherwise be repaired and used efficiently by a smaller firm.

Once again, in contrast, the Republican substitute falls far short of the mark allowing only for an increase in the used property limitation from $100,000 to $125,000 for 1981 to 1984 and to $150,000 thereafter.

In sum, the Ways and Means Committee bill would provide more even-handed relief to business by including corporate tax rate reductions and other key tax relief provisions which will provide incentives for labor intensive small businesses which provide most of the Nation's jobs. We share the administration's goals of increased capital formation, productivity and job creation—the major difference is that the Ways and Means Committee tax bill pursues these goals in all segments of the business community in an even-handed manner taking into account the needs of all businesses small and large, labor intensive and capital intensive alike.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILER).

Mr. HILER. Mr. Chairman, I rise in support of the Conable-Hance bill. As President Reagan has stressed, Conable-Hance is the only fair tax bill because it cuts taxes for all taxpayers by an equal percent. Conable-Hance is the only real tax cut bill because it makes the tax reductions permanent.

The American people have demanded relief from taxes that now take too large a percentage of the national income. They made that clear at the polls last November, and they are making that clear with calls and letters to our offices. I received some 300 calls yesterday alone, and fewer than 30 were opposed to the President's tax bill.

We must vote the wishes of the people and enact the Conable-Hance 3-year, 25-percent tax cut. For the first 3 years, this bill would give a real reduction in tax rates. Following the third year, the Conable-Hance bill makes the reduction permanent by indexing the brackets to the rate of inflation.

For the last 15 years, the Treasury has been reaping unlegislated increases in tax revenues when taxpayers were boosted into higher brackets as their incomes rose to match inflation. Indexing will eliminate these automatic increases in tax rates, and put the burden on the Congress to legislate tax policy, as well as to make the necessary spending reductions.

Indexing is needed because it helps those in lower income brackets the most. The lower brackets are narrower, so they increase more rapidly as taxpayers work to keep up with inflation. Indexing is the best way to help those in lower income brackets in their fight against inflation and excessive taxation.

Indexing is the only way to make sure that the tax reductions of today are still around tomorrow. And the Conable-Hance bill is the only bill that calls for indexing.

Conable-Hance is the only fair, permanent tax reduction proposal. I urge adoption of the Conable-Hance bill.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, never has it been more clear that the power to tax is the power to destroy. We have seen that in our economy today. That is why we have to support the Conable-Hance amendment.

Mr. Chairman, current tax policies are destroying the dreams of the American worker, the productivity of American business and industry, and the leadership of America in the world economy.

In the last 10 years, Federal taxes have risen 177 percent. If continued unchecked, taxes will have risen an astronomical 390 percent by 1984. One of three of America's wage earners have been pushed by inflation into the 25 percent or higher tax bracket. American taxpayers now work until May 10 of each year—over 4 months—to earn enough to pay their direct and indirect taxes. The average American worker now spends an average of 2 hours and 49 minutes each day working to pay for the Federal Government. And working couples, under current tax policy, pay more in taxes than if they remained single.

Americans earn more than ever before but their incomes simply are not keeping up. Because it costs more to live, Americans are not saving. And because of this the current level of saving in our Nation, the lowest in two decades, is the least among industrial democracies of the world. Unless Congress moves quickly to provide individual tax relief, America's standard of

living, once the highest in the world and the envy of all its people, will surely decline.

Taxes are similarly destroying the businesses of America. Punitive levels of taxation coupled with inflation have discouraged investment by businesses and plant and equipment modernization. Because these necessary improvements have not been made, American industry has lost its once awesome competitive edge. While American workers are working longer than they did in 1976, their level of productivity has fallen because they are forced to work with older and inefficient equipment.

Confiscatory inheritance taxes have forced small businesses and farms to be sold by heirs simply to pay off the required taxes. Many small businesses are unable to cope with the complexities of current tax laws, and cannot afford to hire expensive legal advise.

At every turn, our Nation's tax policies are discouraging and, in some cases destroying, our economic life blood. Unless relief is provided and incentives given through significant tax reform, American economic leadership of the world which is now threatened, will end.

Mr. Chairman, the situation is grave and calls for bold action on our part. Half-hearted measures will not do and the American people will not accept them. They rejected last November, and do today, the business-as-usual approach for tax reform represented by the committee's bill. What the American people want, and want today, is the bold tax reform contained in the Conable-Hance bipartisan substitute. It is the vital other half of President Reagan's economic recovery program, which the people are telling Congress in sure and in certain terms must be given a chance to work.

In adopting the Conable-Hance bipartisan substitute Congress will show that it has the same confidence in the American people that the people have in themselves.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. EMERSON)

Mr. EMERSON. Mr. Chairman, I rise in support of the bipartisan tax bill being offered by my distinguished colleagues, Messrs. CONABLE and HANCE.

This substitute embodies the President's tax proposal which received a blanket rejection by a majority of the majority of the Ways and Means Committee.

I am delighted with the substitute bill's treatment of estate/inheritance taxes and the much needed relief it will bring our farmers and small business people.

The single most important element in the bipartisan substitute proposal, in my view, is the indexing of tax rates. Although some members of this body will assert that the Rostenkowski-O'Neill plan gives more tax relief to middle and lower income taxpayers, the bipartisan substitute provides a permanent relief by way of eliminating the bracket creep. Bracket creep is what happens when inflation blindsides a progressive income tax system, driving people up the tax ladder even as their real income, their actual spending power, stays the same or goes down. Many of us have heard workers complain that their cost-of-living increases in pay simply place them in a higher income tax bracket, thereby defeating the purpose of the increase. The most frustrating thing about inflation, of course, is that it eats up what seem at first glance to be substantial pay raises. But to add insult to injury, these illusory raises boost workers into higher and higher tax brackets just as if they were real ones. The reason is that the tax brackets and all the basic deductions are expressed in the tax law in simple dollar amounts, as if there were no inflation at all.

The present tax brackets were set in 1964, when the inflation rate was 1 percent. Economists did not even think to adjust the brackets for inflation; it just was not a problem.

The advantages of indexing are obvious. Indexing is fair, and it conforms with simple commonsense. It is fair because it is just not right for the Government to take a multibillion dollar windfall profit out of the hides of its citizens every time we go through an inflationary period. It is sensible because it acknowledges modern economic realities that present tax law is blind to.

The Ways and Means Committee, in its report on the Rostenkowski-O'Neill bill, readily admits that "an automatic income tax increase is occuring as inflation pulls taxpayers into higher brackets while diluting the real value of the personal exemption, the zero bracket amount, and other fixed dollar parameters in existing tax law." However, the Rostenkowski-O'Neill bill refuses to grant an automatic indexing provision. The bipartisan "substitute" not only recognizes the effects of bracket creep, it does something about it.

The claims that the Rostenkowski-O'Neill bill provides more relief to working people is simply not true. While their proposal does provide a few dollars more in the short run, this temporary tax relief will simply be wiped out as the higher tax rates called for under their bill siphon off more and more of working people's wages. The President's—the bipartisan—tax program is the only program which will provide long-term tax relief to the American worker.

Under the bipartisan plan working Americans will pay less in taxes for the next 3 years and future years. Under the Rostenkowski-O'Neill plan, they will be paying more. The argument that a 2-year, 15-percent tax cut will provide a greater tax cut than a 3-year, 25-percent tax cut that is made permanent by indexing of tax rates simply does not bear out. Those who are opposing the bipartisan plan are the same people who have allowed taxes to increase by more than $400 billion in the last 10 years. With that kind of track record, I think it is time to take a different approach; one that does, in fact, provide the American taxpayer with long-term, meaningful relief.

We have a choice today of voting for a short-term, band-aid approach to tax relief, or an approach that will give the working people of this country the kind of real tax relief that will create jobs, expand savings, generate capital, and get this country moving again.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, for about 15 years now things have not been going well for the American economy. We have been trapped on a stagflation roller coaster which had propelled unemployment and inflation upward to higher and higher peaks.

In the mid-1970's the Republican members of the Joint Economic Committee began to worry about the trends in the U.S. economy. They concluded that the policies we have been following since the 1930's were not serving us well in the 1960's and 1970's. In fact, the demand-oriented, stop-and-go Keynesian policies which grew out of the depression of the 1930's have been the main cause of our recent decade of stagflation.

And so the JEC Republicans in the mid-1970's—joined by the Democrats and every member of the JEC in 1979 and 1980—set out in a new policy direction, based on supply-side principles to solve our economic ills.

The Joint Economic Committee reports of the late seventies and in 1980 called for a steady, longrun program to solve both unemployment and inflation at the same time by splitting fiscal policy—something unheard of in Keynesian analysis. The reports called for moderately tight, steady monetary policy and Federal spending restraint to fight inflation and, at the same time, tax cuts and reduced regulatory burdens to stimulate economic growth and employment. I am sure that the JEC package sounds familiar to you because those are the exact same planks of the Reagan program for economic recovery.

The Reagan administration has picked up the supply-side banner from the Joint Economic Committee and

has sallied forth with a program that will increase productivity, output, employment and fight inflation all at the same time.

Today we are concerned with tax cuts. The proposed cuts will stimulate incentives to work and save and invest by affecting rates of return on capital and labor.

This rate-of-return analysis is crucial. It means that tax rates can alter incentives in ways that are independent of the quantity of money directly involved in the tax change itself.

In Keynesian analysis, it is the flow of funds in the spending stream that is important. In supply-side analysis, it is after-tax rates of return and their impact on incentives to work, save and invest that matters.

Supply-side economics is the economics of growth. Tax cuts of the right kind and over an extended period first lead to changes in supplies of labor and of capital plant and equipment, and then to output. Stepped-up output hits at both sides of the stagflation cycle—it increases economic growth and employment, and it helps fight inflation by putting more goods on the shelves.

Mr. Chairman, the administration's tax package deserves our wholehearted support. The across-the-board marginal rate cuts in personal taxes, totaling 25 percent over the next 3 years, the 15-percent interest exclusion, the reduction of the top marginal rate on investment income from 70 percent to 50 percent, indexing of individual rate brackets beginning in 1985, and the business incentive provisions all are sound principles of taxation which will restore incentives to the private sector, will stimulate economic growth and will reduce inflationary expectations.

The savings thrust in the package is important. The United States has the lowest savings ratios of any industrial nation. This has been a great source of concern to me for some time.

A look at history and what our industrial competitors are doing should convince us once and for all that the countries that have the highest savings rates also have the highest investment rates, the highest productivity rates and accordingly also have the highest economic growth rates. The 5 percent savings ratio in the United States has brought us negative productivity growth in recent years. Japan, on the other hand, has a 20 percent saving ratio and 5 to 8 percent productivity growth rates. Obviously, if there trends continue, it won't be long before Japan exceeds us in total productivity and total per capita real income—unless we go back to fundamentals and aggressively increase our level of savings and investment. The Reagan tax package is designed to do just that. Savings by all three sectors of the economy—Government, business, and individuals—will be enhanced by enactment of the administration package.

The depreciation provisions in the package give direct incentive to capital investment, and they increase business savings. The Federal spending cuts will reduce deficits and therefore increase public savings. Across-the-board tax cuts, the 15-percent savings exclusion, and the 50-percent top tax rate on investment income will stimulate personal savings. The savings incentives from the 15 percent interest exclusion and the 50 percent top rate are obvious. The savings incentive from across-the-board tax cuts comes about by changing the relative prices of saving versus consumption while increasing disposable income available for saving.

I am glad to see my efforts to provide incentives for additional savings are finally paying off. I introduced in January 1980 and again in January 1981 a bill to provide a 25-percent exclusion from taxation on any interest income exceeding $200 for single taxpayers and $400 for married taxpayers. The administration proposal repeals the $200/$400 interest exclusion and applies the 15-percent interest exclusion after the "all savers certificate" expires. It also contains an offset provision; that is, only interest income above and beyond interest deductions (except home mortgages and business loans) would be eligible for the 15-percent exclusion. I support this provision because it would help to discourage consumption and increase saving.

As one of the first House sponsors of legislation to index individual tax rate brackets to reflect changes in the cost of living, I am also glad to see that the President has embraced this necessary revision to the Tax Code. I have been pushing for 5 years to halt the windfall for the Government that results when taxpayers are pushed into higher and higher tax brackets when they receive cost-of-living increases in their income.

Other features in the administration's bill, which I have long advocated, are reduction of the marriage penalty, tax relief for Americans working abroad, a deduction for taxpayers who do not itemize and an increase in the credit on estate taxes.

Since the administration has abandoned its two-step tax reform approach—first a clean personal rate cut and business depreciation bill to be followed later by reform of specific provisions—I am pleased to say that I agree with most of what the administration has included in its package. The one major exception is the "all savers certificate." This proposal will not generate new savings; it will only stir the pot of existing savings. The 15-percent exclusion on interest income is a far more potent tool for stimulating new savings.

Mr. Chairman, I urge the Congress to get on with the task of enacting this last leg—the tax provisions—of the administration's economic recovery program. This program will revitalize productivity in America, will increase real wages for the working man, will help the underprivileged to find job opportunities, will invigorate our sluggish economy by curing unemployment and inflation at the same time and will lift the yoke off the backs of the American taxpayer, thus encouraging greater efforts to work, save and invest.

There are several differences between the Ways and Means Committee package and the administration's package. But, to me, the most important are the 15-percent interest exclusion, which is lacking in the Ways and Means package and which I have already discussed, and the guarantee of the third year 10-percent personal tax cut lacking in the Ways and Means package.

The third year cut, to be followed by indexing, is extremely important. Scheduled social security tax increases and personal income tax increases caused by inflation will generate over one-half trillion dollars in Federal revenue, above and beyond the current tax take, over the next 5 fiscal years, 1982 through 1986. In 1984 alone, the year the Democrats want to hold the personal tax cut hostage, social security and personal income taxes will rise by more than $100 billion. The Federal Government should not get this money. This is highway robbery of the first order. That money belongs to the people. The Government is the worst culprit in causing the inflation that will generate these taxes; why should the Government get the revenue?

The third year tax cut should be made unconditional. Only in this way can the productivity, the economic growth, the job creation, the reduced inflation and the rising real living standards for all Americans be made unconditional.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, the economic policies of the past have given us high taxes, high unemployment, and high inflation. Let us give the new policy a chance.

Our Nation's voters, frustrated by the old system which failed, issued a mandate for change in November when they overwhelmingly threw their support to President Reagan. The President has responded by developing a wide-ranging economic package that includes reduced Federal spending, the elimination of many burdensome regulations and reduced taxes that will allow the American people, instead of the Federal Govern-

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ment, to spend their hard-earned money. His plan for economic recovery is a package and will only succeed in turning our economy around if it is enacted as such.

We have already worked long and hard to trim Federal spending in our effort to produce a balanced budget by 1984. And, under the leadership of Vice President BUSH, the volumes of Government regulations are being reviewed, and eliminated where possible, to get the Government off the backs of the Nation's businesses.

The third component of the package is what we debate this afternoon. The voice of the people has been heard many times this year, but at no time has that voice been louder or more unified than yesterday when they called each and every one of us demanding that we support the President's tax bill.

The President offers the workers of America permanent reductions in taxes for 3 years. These reductions are designed to stimulate our economy by increasing incentives to work, save, invest, and produce. These incentives are the basis for a sound economy which will once again get our country moving.

For the past few years, our once-unmatched industrial base has been eroded and, as a result, other nations around the world have cut into our share of the world's marketplace, in some cases surpassing our dominance in certain fields. The failing auto and steel industries are just two examples of industries in which other nations are now superior because they can produce higher quality goods cheaper and more efficiently then we can.

We need the President's economic program to return our Nation to the top of the industrial world. His plan will increase the number of real jobs for our Nation's workers. More jobs mean there will be a corresponding increase in goods produced.

As more people return to the Nation's workplace, the rolls of welfare will shrink and a greater number of Americans will be able to proudly say they once again were able to put in a day's work for a day's pay. An increase in workers will also result in a greater amount of money that will be paid into the troubled social security trust fund. As you can see, Mr. Speaker, the actions we take in the next few days have a tremendous bearing on a great many aspects of the lives of the people we were elected to represent.

Today, we have the opportunity to take important steps to keep our Nation the greatest industrial power in the world. The wrong action today could mire our country in the continued economic throws of the past 4 years.

With the leadership of President Reagan, and the dramatic support of the American people, this Congress has the historic opportunity to lead our Nation in a bold new direction that will benefit each and every citizen.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, I rise to express my strong support for the Reagan bipartisan Economic Recovery Tax Act of 1981. Only with the passage of this legislation will American taxpayers receive the tax relief they need and deserve. Only this legislation will provide the economy with the economic stimulus needed to reduce inflation, lower interest rates, and encourage savings and investments.

The House Democrats supporting the Ways and Means Committee alternative claim that their package will achieve the same worthy goals. I would encourage the Members of this House to take a close look at their bill, though—it does not take a genius or a tax expert comparing their bill to the Conable-Hance package to reach the conclusion that the Democratic claim is a false one. Over the next 3 years taxes will rise 22 percent by virtue of inflation and higher social security taxes. However, the Democratic plan would reduce this burden by only 15 percent over 2 years. How can they reasonably claim that taxes have been reduced when by 1984 the average middle-income taxpayer will be paying a higher rate of tax than in 1980? Do they think that the American people are fools? Do they believe that the public will not see through this obvious charade? President Reagan and many Members of this House are seeking to honor a promise made to the people last fall. We pledged that we would implement a real reduction in their income tax burden, and the Reagan bipartisan plan does achieve such a real reduction and more. Under the President's plan over the next 3 years, taxes will be reduced 25 percent across the board. Regardless of the "skewed" Democratic plan, every taxpayer, no matter what his income bracket, will receive greater benefits if the Conable-Hance bill is adopted.

Furthermore, and of even greater importance in my opinion, beginning in 1985 individual rate brackets will be indexed for inflation. This will mean that taxes will no longer rise unless the individual's real income increases. For too long, the Government has benefited from a windfall of revenue raised by inflation. Taxpayers are unfairly penalized as they pay higher and higher rates of taxes, eliminating any incentive to save and invest. In addition, past Congresses and administrations have too frequently decided that rather than return this windfall revenue to its source, they would instead invent new programs to spend it on. As a result, we have more and more programs while the public's ability to finance these efforts diminishes with each passing year. Indexing will end this unfair penalty, and force the Government to discipline itself by not starting programs we cannot really afford.

These are, in my mind, the most important features of the Reagan bipartisan plan, although there are other very important elements as well. For example, the marriage tax penalty has been substantially reduced; the maximum rate on dividend and interest income has been reduced from 70 to 50 percent; the maximum contribution amount for individual retirement accounts has been increased to $2,000; and business and estate taxes have been greatly reduced. Finally, taxpayers using the short form will be able to take charitable contribution deductions for the first time.

All in all, the benefits to the American Taxpayer under this plan are significant for providing real relief in an equitable fashion. Some would have us believe that we are doing the people a big favor by granting such a tax cut. They forget who the money belongs to in the first place. The Reagan bipartisan plan simply restores these funds to the rightful owners. I urge each Member's support in this crucial matter.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, President Reagan, during his direct appeal to the American people for support of his tax package, aptly noted that skeptics had claimed, during the budget debate, that Washington would never be able to change its spending habits. Fortunately, the cynics were proven wrong, and the Congress went on to pass a budget that implements budget reductions of more than $35 billion for the next fiscal year.

While Washington was busy changing its spending habits, I was hopeful that it would also learn how to change its tax-writing habits. In the case of the budget reductions, we took an essential first step in bringing Federal spending under control and reversing the trend toward open-ended entitlements, overly generous benefits, and ill-advised and costly programs. In the case of the pending tax cuts, I was looking forward to an equally responsible process—one that concentrated on our urgent need to reduce inflation, boost savings and investment, and create new jobs.

Unfortunately, that is not to be the case. We have before us a Hobson's choice between the Ways and Means bill and the Conable-Hance amendment that is supported by the President. Both tax bills are replete with overly generous reductions and revi-

sions on a broad landscape of tax policy. While some of these latest add-ons may ultimately have merit, others have been crassly inserted into both tax bills in and effort to raise the bidding at an auction.

This bidding war, begun by the Democrats, is characteristic of the long history of "spend, spend—tax, tax" that has dominated congressional action for the last 20 years. We have two packages that might have been designed by Rube Goldberg—two tax bills that have less to do with economic goals enumerated by scholars, economists, business and political leaders than most of us would have preferred.

Mr. Chairman, many Members share my extreme disappointment over the crass bidding for votes. It is contrary to the wisdom and coherence of what the President and most of us said before and after our election—that what is required is a fair and equitable tax bill to compensate for the effects of inflation and correct the economic disincentives of tax policy that have hampered economic recovery in this country.

We understood that some changes might be desirable for reasons of equity—such as the elimination of the marriage tax—or to modify business tax schedules so that one region of the country would not inadvertently have a competitive advantage in attracting new business and industry.

The first tax bill, which was "clean," had the beauty and efficiency of a finely honed and integrated program that was consistent with economic conditions. It had lasting quality and would have endured the test of time.

To our discredit, we are now passing a bill that has grown fat, clumsy, and inequitable, with additions for special interest group after special interest group after special interest group. These additions could have—and should have—been deferred for a second tax bill so that they could be assessed in light of changing economic climates and fluctuating interest rates. Then they could have also been reconciled to longer-range planning for our budget targets.

A few of these add-ons are simply unjustifiable giveaways to special interests that are contrary to the greater good. Most notable is the giveaway embodied in the exemptions from the windfall profits tax—an exemption without any plowback provision.

I believe the Rules Committee was in error in turning down our request to permit amendments deleting these two provisions from both bills.

But, the negotiations are over and the bargaining is completed. The Hobson's choice is upon us, and our protests cannot change that fact. The economy cannot endure further delay and uncertainty, and the American people need—indeed, they demand—a tax cut now. We must end the financial market fluctuations and the bitter frustrations of the businessmen who, since last November, have only been able to guess about the future intentions of Congress on tax policy and have been inhibited from financial planning, if not paralyzed.

We must act now. Pass the Conable-Hance amendment, and we can restore confidence and certainty in the direction our economy is headed. Pass the Ways and Means Committee bill, and you get a hastily drawn package that has no firm direction. The choice, even though it has been spoiled by the bidding auction, is nonetheless clear.

I have spoken on the flaws in both tax bills. On the balance, let me now briefly review the advantages of the Conable-Hance amendment over the bill reported by the Ways and Means Committee.

The core of the President's program still remains at the heart of the Conable-Hance amendment. The essential elements are still there, and it is part II of the economic recovery program—a program I believe must pass if we are to have a coherent and rational approach to our economic policy.

If we look at the heart of the Conable-Hance amendment, we find that it is consistent with our needs in attacking the forces that are inhibiting the economy.

What are these forces, and how does Conable-Hance help us meet those goals?

First, there is inflation, and the near-universal belief that the American taxpayer should have a tax reduction that compensates for inflation-reduced tax hikes and mandated increases in social security payroll taxes.

Second, there is lagging productivity, and the desperate need to give incentives to individuals and businesses for savings and investment. These savings and investments can help our basic industries that have been hard-pressed to survive in an economic climate of inflation and high interest rates. Our capital-intensive industries, along with our housing and construction industries, need a fairer tax policy that will permit them to modernize plants, invest in new equipment, and accelerate the transition to high-technology industries.

This is true across the country, but it is particularly true for the Northeastern States. We need to retool, promote small business development, and rehabilitate existing industries. The business tax provisions of Conable-Hance treat small business fairly as well as capital-intensive industries.

A program of individual income tax cuts, savings and investment incentives, and job-creating business tax incentives is sound. Conable-Hance contains several notable advantages over the proposal advocated by the Ways and Means Committee.

First, it provides a genuine, permanent income tax reduction, and it has the certainty of 3 years. It will help families plan and budget and, most importantly, it will accommodate the adverse impact of inflation.

I might add that studies by the Congressional Research Service and the Joint Tax Committee clearly show that the purported "skewed" benefits to families under $50,000 is fiction; at best, the difference for families between $10,000 and $50,000 amounts to "pin money."

Second, the Conable-Hance amendment gives the business community the help they need now rather than projecting investment stimuli to later years.

Third—as part of an overall economic package—Conable-Hance can help stimulate our economy and create new jobs in a way that the Democratic bill cannot.

I have spent a lot of time dwelling on the pluses and minuses of the tax bills, and in particular the "add-ons" that disturb so many of us. But let me state clearly that I still believe that Conable-Hance is the better of the two bills, that it contains the core of the program of tax cuts we promised the American people last November. And I think it should be adopted.

Let me close with a word of caution ... and a challenge. With the passage of the tax bill—whichever one passes—the Congress brings upon itself a solemn obligation to sustain the budget restraint and to exercise even sterner budget discipline than was required this year. Over 5 years, these tax reductions will result in a substantial loss of revenue—somewhere between $600 and $750 billion. Unless tax policy is reconciled by this Congress with spending decisions, there is no place to hide. We have made an open commitment to the American people, a commitment for which we should be held accountable.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Chairman, the committee bill does more for business than I thought any tax legislation would ever do in the course of my membership on the Ways and Means Committee or the Congress.

The committee bill provides for the expensing of tangible property. There is nothing more simple, more advantageous, more necessary than the ability to buy and expense in 1 year. The difference between our approach to depreciation and the administration's approach is the difference between treating all business fairly and evenhandedly as opposed to simply addressing the best interests of the largest industries of the Fortune 500. In 1990, under the administration proposal one has an additional $50 billion of writeoff after

you provide for expensing—the write off of all equipment purchases, all tangible property in the year of purchase, and it can only go to those who are buying extensively in heavy equipment and tangible property.

In our version, we provide for a capital reduction for corporations so that the corporate tax rate by 1987, will be 34 percent. It thus means that all American business will participate in the business tax cuts. We would provide that one-third of the total go to all business in the form of tax cuts across the board, as opposed to only through depreciation.

It is unfortunate that the Republicans did not think of it first. It is unfortunate, that that is not where they started. The gentleman from New York (Mr. KEMP) would love to say that today we are going to pass expensing and we are going to reduce corporate tax rates. But he did not start there and the President did not start there, and we are not progressive-minded enough in this body to take advantage of this great opportunity.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, the problem with the gentleman's argument is that he argues on behalf of treating all corporations equally, but his bill treats all individuals unequally. He wants to cut the tax rates on corporations by 30 percent but only cut the tax rates on the American people by 15 percent. I find that to be inconsistent. Otherwise I would be pretty close to the gentleman's position.

Mr. HEFTEL. Unfortunately, I cannot support the gentleman's proposal because it would assist me too much in my own tax treatment. I cannot support a tax proposal for individuals which would benefit me so much more than those of my constituents who earn less than $30,000 a year. If you forced it upon me, I will accept it. I would not participate in forcing it upon the American people who earn less than $50,000 a year.

Mr. Chairman, much of the debate in the media and in this Chamber today has centered on the individual tax cuts proposed by the Ways and Means Committee and, alternatively, by the administration. The differences, and they are very significant differences to the American working man and woman, have been aptly and eloquently highlighted by many of my colleagues.

But I rise today to address the inherent superiority of the Ways and Means Committee bill as it relates to business.

Rather than presenting only a depreciation proposal, which was seized upon in the confused and expedient atmosphere of a Presidential campaign, our committee product was the result of serious dialog and diverse input. We listened to the businessmen, economists, and academics and we synthesized their observations into a balanced program of business tax incentives.

Our committee's business provisions reflect the attitude that the tax benefits should not go primarily to just one sector of the economy: Capital intensive, heavy industry. To be sure, heavy industry is in dire need of depreciation reform which will simplify and accelerate the process by which capital expenditures are recovered. But there are other sectors of our economy which also need attention. The administration does nothing for the service sectors; for example, those businesses which do not require large machines, but rather perform a service for their customers. And what of the small businessman and woman? It is well known that small business produces 80 percent of all new jobs. These businesses are, by definition, very labor intensive, not equipment intensive. The small business and service sector are currently laboring under the added costs of social security tax increases. They do not benefit significantly from depreciation reform. Will the administration bill help them? Not very much.

Our committee, under Chairman ROSTENKOWSKI, sought to address the needs of the entire business community—not just big business. Our product is balanced and achieves this goal.

By combining capital expensing with a series of corporate tax rate reductions, we can reinvigorate all parts of the business community, and at the same cost as the administration bill.

There has already been ample attention drawn to the fact that the 10-5-3 proposal introduces tremendous distortions into business decisionmaking and would actually allow industries to recoup more from the tax system than was paid for the asset initially.

I shall not dwell further on that disturbing detail of the Republican bill.

Asset expensing is superior to 10-5-3 for several reasons—it is simple and does not distort business decisions. In addition, expensing gives all of the tax benefits in a single year. A businessman does not have to wait 10, 5, or even 3 years to recoup his business investments. He gets all of his money back in the first year and not in deflated dollars, 10, 5, or 3 years after making the investment.

But perhaps the most attractive aspect of our depreciation proposal is its simplicity. We have a unique opportunity at this moment to bring about a major simplification in our tax law, a development which can only engender greater respect for and adherence to our tax laws. The simplicity of the expensing proposal is that capital expenditures are written off or deducted in 1 year. There would be no more confusing depreciation schedules and complex accounting procedures. Just buy the asset and write it off in 1 year. Simplicity and immediate capital cost recovery are what our expensing proposal offers the American business person.

But we do not stop there. We know that depreciation reform, by itself, does little for small business and the service sector. So, in an effort to balance the benefits, we have adopted corporate rate reduction as the other essential element of the bill. The rate reductions are at the top and the bottom brackets so that the very small and the very large enterprise will both experience proportional tax relief.

Finally, our bill addresses directly the plight of those industries which cannot benefit currently from either depreciation reform or rate reduction. By extending the investment tax credit carryback period for certain industries, we have preserved jobs and industries critical to our Nation's defense fabric.

There has been much controversy surrounding this provision. It has been called a giveaway and a bailout. Let me have this point crystal clear. What we propose merely allows these industries to recoup a part of the Federal taxes they have already paid in the past. It is a tax refund, not a giveaway. Again, the administration has not seen fit to include any equivalent provision in its tax proposal.

And so, Mr. Chairman, I would leave my colleagues with one observation. And it is this: The administration bill when first sent to our committee had only two provisions; 10-10-10 and 10-5-3. But the administration proposal that is before this body today is quite different indeed. It contains provisions like savings incentives, marriage penalty relief, estate and gift tax reform, and research and development incentives. Where did these proposals originate—you may wonder?

They originated with the Ways and Means Democrats. Specifically Chairman ROSTENKOWSKI cited these and others as essential elements of any tax bill in a speech in Chicago in early April of this year.

And so, in closing, I would remind my colleagues and the American people that regardless of the outcome of the vote today, it is through the efforts of Chairman ROSTENKOWSKI and our committee that these provisions will become law.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, the beauty of the bipartisan, across-the-board tax cut is that it gives relief to those who are carrying the tax burden and it gives relief directly proportional to the weight of that burden. Why is it

unfair to take out the same proportion you put in?

Secretary Donald Regan said on "Issues and Answers" several weeks ago in response to "pitting the very rich against the very poor"—"our intention was not to redistribute the wealth but to create capital for a Nation."

Capital formation or investment capital will allow business and industry to upgrade production facilities, and, so the reasoning goes—create jobs. This capital will allow investment institutions to lower interest rates—simple supply/demand—and grant more loans for couples' first home or first car. There's an old axiom that inflation hurts the little guy more than the folks better off—that's true because to the little guy, each dollar means more. But isn't it a disservice to the poor and truly needy, to throw a few more dollars at them in the short run—but not provide long term job opportunities and lower interest rates which would allow the opportunity to purchase a car or TV or food.

In essence, the bipartisan tax cut is designed to devlop capital that will be invested in productive jobs to reduce unemployment and increase the general prosperity of all Americans. Did you know that the Office of Management and Budget estimates for every 1-percent increase in unemployment it costs the Federal Government $29 million—$22 million in lost revenues and interest on the deficit and $7 million in automatic spending for unemployment benefits?

The Democratic leadership have other things in mind when arguing for a smaller reduction in taxes: First, they can argue to restore some of the cuts in the budget resolution and second, 2 years from now, the House leadership would once again control the financial future of Americans—yes; Congressman O'NEILL and the House Ways and Means Committee would once again hold the purse strings. Furthermore, the working poor do not want more Federal Government programs to subsidize them but they want real jobs and a rising standard of living for themselves and their families. This on again and off again—inflation and recession cycle—is hard on all Americans but particularly on the working poor. It is about time we get off—the off-again, on-again cycle—and get on to a real course of growth—growth that allows for some certainty and allows Americans to plan for their economic future.

Yes; the Democratic leadership is afraid that much of the tax legislation will be taken away from them for 3 years.

If the President's plan works, and I feel it will, if passed, the GNP will grow 4 to 5 percent over each of the next 4 years and in the process, create 13 million new jobs over the next 3 years.

So far, the President's campaign promises have been rapidly turning into political realities. The Congress voted to end its 25-year spending spree.

Another enormous victory on the budget is Vice President BUSH heading the Presidential Task Force on Regulatory Reform. It has already struck nearly 860 regulations—saving Americans their fair share of the tremendous cost for regulatory compliance—a cost of more than $100 billion annually and is paid for by the consumers across the country. What was once double-digit inflation is now single digit with no more expected rises above 10 percent in the near future; barring catastrophe, war, and so forth.

But now the heart of the economic recovery program, the bipartisan tax cut is before Congress. On the Senate side, it passed committee 19 to 1 on a plan almost identical to the President's. It is interesting to note that only one Senate Democrat on this committee felt that the Reagan tax plan was an unsound proposal.

There is another historical note which creates some skepticism regarding the House committee plan. In 1962, President Kennedy proposed an across-the-board tax cut. This tax cut, one of the most successful in this century, as far as economic impact, provided a blueprint for the Reagan tax plan. In 1962, now Speaker of the House, THOMAS P. "TIP" O'NEILL, fought long and hard for its passage. He sighted increased savings, lower unemployment, and greater capital investment as some of its benefits.

Why was President Kennedy's plan so good then, yet the same individual who supported that plan, says Reagan's tax plan is bad. They are similar plans; the only difference now is that it was a Republican who proposed it.

Yesterday, I received a phone call from the son of a friend of mine. He's 23, married, with a young daughter of 8 months. He works for a large corporation in Omaha. He and his fellow workers were talking the other day over lunch about the tax cuts. They concluded that over the long haul, the President's proposal was better, but for the short haul, business might like the committee proposal more. Several days later, I received a letter from one of the high ranking executives in that firm. He wrote that, although the Democratic proposal looked attractive for larger business interests like his company—at least in the short term—the President's tax proposal would benefit all Americans—business people and laborers—over the long term. He was writing me to support the bipartisan tax proposal.

I feel the arguments are very clear. The committee bill gives 7 years of tax relief to those who file corporate tax returns but only 2 years of relief to those who file using individual tax rates. This is significant because of America's 14.5 million small businesses—13 million file tax returns based on individual rates. Now tell me which plan supports the little guy?

Ninety percent of U.S. business entities are taxed at individual rates, not corporate rates. These small businesses will benefit more from the larger personal tax cuts proposed by President.

Certainty of third year cut will facilitate future planning for these small firms.

The President's capital cost recovery system is simpler to use. Past studies by Treasury demonstrate that a disporportionate number of small businesses do not use existing accelerated depreciation provisions because of law's complexity.

Ways and Means proposed relief to distressed industry is oriented almost entirely to large business. What about the nearly 8,000 mostly small businesses that have failed during the first half of 1981?

Ways and Means corporate rate cuts are geared to larger firms. The largest get a 25-percent rate cut at the top end while two-thirds of the firms at the lower end get only 12 percent. The President's proposal focuses the rate cuts at the smallest corporations: those that earn $50,000 or less.

The President's proposal drastically simplifies inventory accounting for small retailers and wholesalers and makes it easier for them to utilize LIFO—the preferred method of accounting.

Capital gains is immediately cut from 28 to 20 percent. The last capital gains cut freed up billions of dollars for investment in small and new business ventures.

The people need an across-the-board tax cut. For then, they will be able to plan their financial futures. The people want a fair shake and the bipartisan tax plan will treat everyone equally and fairly.

Yes; the choice is clear. We can accept an equitable 3-year tax cut or we can accept a 2-year cut of less and apply the same bankrupt policies that have not worked for the past 20 years.

The people want an across-the-board cut in taxes. They voted for it and now they are calling urging me to support it. Since Monday evening, I have received more than 500 calls, letters, and telegrams and 90 percent of them are supportive of the bipartisan tax cut. I feel that this is what the people want and deserve.

I am urging all of my colleagues to support the Conable-Hance bill and help America to be economically sound and internationally strong again.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Chairman, I rise today in support of President Reagan's bipartisan tax reduction plan.

There is no more universal barrier to economic achievement today than confiscatory Federal taxation. The average American taxpayer faces a marginal tax rate of 50 percent. Savings in the form of dividends and interest are today taxed more than 100 percent by inflation and income taxes. And three-fourths of the return on business investment is now consumed by the tax collector.

America needs deep, permanent cuts in marginal tax rates across the board to give its citizens a real incentive to work more, save more, invest more, and get this country moving again. President Reagan delivers those permanent and meaningful cuts. He deserves our support.

Opposition to the President's farsighted plan must be viewed as a refusal to remove the barrier of confiscatory taxation and to unleash once again the tremendous productive abilities of the American people.

President Reagan will cut tax rates 25 percent over 3 years, then will make those cuts permanent by indexing. Indexing will safeguard the cuts and end the tax increases due to inflation which have robbed Americans of all five of the so-called tax cuts since 1970.

Indexing will insure that the Reagan tax cut will not be repealed by future inflation. The President and his bipartisan coalition are making this pledge: We will get your tax rates down. We will keep them down. There will be no unlegislated tax increases in the future—period.

The Reagan tax plan is completely fair: It cuts taxes only for people who pay taxes. Taxpayers who earn between $10,000 and $60,000 a year pay 72 percent of the taxes—under the Reagan plan, they will get three-quarters of the tax cuts.

It is important that tax relief be granted across the board, all taxpayers should receive tax relief. Middle and upper income groups should not be discriminated against. These groups pay a higher fraction of their incomes in taxes. They have sufferd the greatest tax increases because of inflation and our outmoded Tax Code. Their incentives to work, save, and invest have been dulled the most by years of rising marginal tax rates. It is they who will do the most with tax rate reductions to save, invest, and innovate.

Democrats live and breathe the philosophy of redistribution. They see the world as a zero-sum game. They believe that if some are to gain, others must lose. And their tax bill shows it.

Well, Mr. Chairman, we have been down that road to ruin so many times that it is now completely familiar to us. That view, and that policy, is bankrupt.

We who support the President believe that an expanding economy, prospering through improved incentives, offers more hope. The Reagan plan, with its real, predictable, and permanent tax reduction, promises a brighter future for all.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, I rise in support of the Conable-Hance bipartisan substitute.

Mr. Chairman, this is perhaps one of the most crucial and, yes, exciting votes that has been cast in the Congress in many years. And, like the reconciliation bill, the issue once again is whether it will be business-as-usual in the Congress or whether the Members have the courage to do what must be done for the best interests of our country and its people.

There have been many words spoken in these halls and many written in journals of opinion throughout the country pointing out the low rates of productivity and growth, high unemployment, lagging savings and investment and general economic stagnation that characterize our economy.

But, Mr. Chairman, Americans do not need rhetoric to tell them what they already know: prices are high, taxes are high, and borrowing is high. The average American is buffeted by excessive inflation and excessive taxation and has borrowed more and more to keep up with both. And the American people cried out last November for relief from Government run amok, giving this Congress a direction and a mandate to control Government spending and taxation, to lessen the burden of Government regulation and to curtail money and credit creation.

The challenge to the Congress has not been whether to respond, but how. Now we have before us several alternatives, each purporting to reduce the burden of individual taxes, to spur business investment and personal savings and to reform a number of inequities in the tax law.

In many respects the two major proposals are very similar, both, unfortunately, but, perhaps, understandably, made into the proverbial Christmas tree with ornaments for almost all interests to cement support for the whole package.

But there is an important difference and that difference is between business as usual and true directional change. The President said it correctly: the choice is between tax cuts and no tax cuts. The committee's bill makes cuts for 2 years that, even with optimistic projections of inflation levels, will barely match inflationary increases. And then what?

The Conable-Hance substitute makes cuts over 3 years that exceed estimated inflationary increases—real cuts—and then indexes taxes for the future to insure that Government does not continue to gain windfall revenues from the bracket creep that has raised tax rates for the average American wage earner astronomically over the last decade without Congress ever voting a tax increase.

Many in the Congress, while wishing to respond to the people of this country buffeted by excessive tax levels, and desirous of encouraging real business expansion and a growing, strong and vibrant economy, nevertheless are properly concerned that the Conable-Hance proposal might be inflationary. In my judgment, the concern, though not unreasonable, is not warranted. Middle-income Americans, who will receive the vast bulk of the relief, will take the occasion to pay down substantially on existing indebtedness, with the same effect on the economy as putting money in savings institutions. Higher-income Americans will take the occasion to do the same as interest rates fall, and will otherwise invest the balance, again with beneficial economic effects. If personal borrowing were not at the high level that it is, my concern for excessive consumption resulting from more disposable income would be great. As it is, I believe most Americans will work to restore more breathing room in their financial lives with salutary effects on the state of savings and investment.

But there are real and substantial worries with this real tax cut that should command our sharp attention and deep concern. With much Government outgo indexed to rise with inflation and Government revenues indexed not to do so, the obvious budget implications for future years is grave indeed. Are we to vote real tax cuts only to face even larger deficits in the future? Obviously, the answer must lie on the outgo side, and it is here where I think the administration is pursuing contrary courses. If defense spending is to rise $1.5 trillion over the next 5 years, as the President has proposed, while taxes are held to real economic growth levels, also as the President has proposed, I believe there is very little possibility that there will be either sufficient real growth or sufficient cutbacks possible in other areas, to meet both goals. I would be surprised if the administration would not be forced to revise substantially downward proposed future military spending in the face of economic realities.

And, Mr. Chairman, if the choice were to be between immediately faster and higher defense spending and control over the rate of increase in the growth of Government that index-

ation represents, in the absence of national emergency, the people of our country, I believe, would choose the latter.

While the Conable-Hance proposal contains many provisions that might better be deferred, some forever, the choice for investment over consumption, growth over stagnation, and employment over joblessness is a clear one.

The stroke here, as in budgetary restraint, is a bold one, Mr. Chairman, but bold actions are needed to rebuild the foundation of an economy growing weaker with each passing day. If we are successful, the outlook will not only be strong for productive Americans, but the treasuries of our Federal, State, and local governments will also grow to provide support that without this bold stroke would never materialize to provide for those in our society who cannot provide for themselves.

The vote, here, Mr. Chairman, in support of Conable-Hance is one that in my judgment will lead to a better life and a brighter future for all Americans.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Chairman, several years ago I had the privilege of participating in what was indeed the beginning of a new American revolution, the passage of proposition 13. When it started in the State of California, it gained great momentum, finally passing the State, and the overwhelming majority of the citizens supported it.

Today we stand before the House of Representatives at the end of the trail of proposition 13. The people across this country have made it very clear to their Representatives that they support and need a tax break. They believe that that can be accomplished because they saw what happened in the State of California. It gave them the momentum and the impetus and the belief in the American system of government that they can prevail in their legislative houses.

Today we will definitely succeed, in my opinion, in helping to pass tax relief for the American people, to help relieve them of the oppressive taxes that they have paid for years.

Mr. Chairman, I rise today in support of the Reagan bipartisan tax plan because I feel that today we are involved in one of the great moments of our Nation's history.

Over 200 years ago, the impetus that led to our Thirteen Colonies seeking their freedom was oppressive taxes placed upon the people by the King. The tea tax then was not so nearly oppressive as income taxes are today.

So, I believe it is entirely appropriate that we conclude our first steps in the new American revolution, the economic recovery plan, with another revolt against oppressive taxes. We have all heard the statistics in this House today. We know that for every $1 salaries increase, the taxes go up $1.50. I think that the American people have suffered enough.

I believe that it is long past time to give the American people not just a tax cut today but a permanent tax cut that is included in the Reagan bipartisan tax plan.

We have just completed work on the first portion of the economic recovery plan—cutting back the size and scope of the massive Federal Government. We must now complete our work by passing the bipartisan tax plan that will reverse the trend that we have seen for so many years—that of ever-increasing taxes.

Just as those patriots long ago threw the King's tea into Boston Harbor, we must throw the Rostenkowski plan into the trash heap of useless legislation.

It is time to start picking up the pieces of the American economy and we cannot do it when oppressive taxes stifle productivity, choke off investment, and rob the American people of their hard-earned money.

My constituents have overwhelmingly asked that I support the Reagan bipartisan plan. I am eager to do so. The American people cannot be fooled. They have asked this House to give them relief. We can do no less than to listen to those we have been sent here to represent.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Chairman, I would like to first of all commend the chairman of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI), and also the gentleman from New York (Mr. CONABLE), the ranking minority member, for the very fine job that both of them have done over the last 6 months in making sure that the committee members stayed on the schedule as we originally promised to do when this matter first came up on February 18, when the President gave his state of the Union message.

I have only been on this committee for 6 or 7 months now, having been a new member coming from the Energy and Commerce Committee. When we finally passed our bill out last week, after 6 or 7 hours, I had an occasion in the cloakroom to talk to my very good friend, the gentleman from Texas, BILL ARCHER, and I asked BILL if this was the way the members of this committee normally acted, in a very partisan manner in which the votes were 22 to 13 on most major issues. And BILL said,

No, BOB, that really is not the way we normally act. We normally work in a very bipartisan manner because, you know, on tax matters it is so important to the national economy of this country that we all work together; because if we do not, we will end up having all of the special-interest groups divide us and ultimately conquer us.

And so he expressed regret for the way the process occurred in this particular manner. As all of you know, that is exactly what happened.

The Senate Finance Committee, our committee, and the administration got involved in a game in which now we have bills that all of us are supporting in one form or another but none of us are really happy about.

But I looked at the three bills, and I guess I can live with the provisions in them except for one aspect, and that is the aspect of indexing our taxes after the next 4 years.

I am very, very concerned about that, and I think the Members on the minority side should be very concerned about that, also. I think the gentleman from New York (Mr. CONABLE) will be very concerned about that when we go into conference if the Republican substitute should pass.

We have had no hearings on this particular issue of indexing. We have not had any economists tell us what the potential dangers of it are. We only know the experience of Israel, where they have an inflation rate in excess of 130 percent.

And think about this: Right now wages under their contracts are protected from inflation by the COLA indexing system. Our social programs that the minority complains about are indexed. And now if we index our tax system, who is going to complain about the inflation rate in this country in the years ahead? And let me tell the Members that in the next 5 years we are going to have one of four choices. As the gentleman from Missouri (Mr. SKELTON) has mentioned, we are going to have to cut defense spending, if we have the will to do it, by 1985, or cut social security benefits, or suffer an incredible national yearly deficit, or remove the tax cut we put in place today.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I rise in opposition to the Conable-Hance bill.

Mr. Chairman, I first want to acknowledge the hard work of the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

For those of us on this side of the aisle, at least for the vast majority of us, it would have been wonderful if we could have seen the chairman win a victory today with a bill that could accurately be called a Democratic alternative.

Unfortunately, a bidding war took place instead and we have before us two major proposals, each of them

loaded up with goodies for special interests. There is no question that the Ways and Means bill is better for Democrats, for middle income taxpayers, for small businesses and for those firms in need of new equipment.

But it would be less than honest to suggest that the committee bill is not a big disappointment. The chairman and his loyal Members were drawn into the biggest tax auction in history. They went after eight Southern votes with a shamefully extravagant oil provision. Who knows what they bought with the breaks to commodity speculators or with the outrageous estate tax proposal that goes well beyond the legitimate goal of trying to provide relief to family farms and small businesses?

The point is that all this maneuvering did not buy very much at all. What it did do was make a bit of a sham of the tax-writing process and inflict some injury on the image of the Democratic Party in America. Imagine the old person living in fear of social security cuts or the poor pregnant mother who saw this body slash her nutrition program, imagine them watching this spectacle.

We were so concerned about the budget just a couple of weeks ago when it came to cutting medicaid and youth jobs and environmental protection funds. What happened to that concern? What happened to all those voices warning of the high deficits and interest rates?

In a way, it is fortunate for our party that we are not likely to win. That way, the President can honestly say he won what he wanted. He has his economic program in place. He has not been able to convince Wall Street or most expert economists that it makes sense, but it is, indeed, in place and we shall see what results it produces.

A kind of miracle would have to take place for the President's approach to work. Only the most shameless "supply siders" contend that the trickle-down aspect of the plan will work. How in the world can we spend $200 billion extra on defense in the next few years and pay out tax cuts of about the same amount and fail to have a massive deficit? Even if the President gets every penny of the budget cuts he wants, that would only amount to about $140 billion. How do you avoid a massive deficit?

It would have been so nice to come in here today as a Democrat and have a choice between the Reagan approach and a scaled-down, 1-year tax cut, a real Democratic alternative. We are not really presented with that opportunity. The amendment to be offered by the gentleman from Arizona (Mr. UDALL) and the gentleman from Wisconsin (Mr. OBEY) is a real step in the right direction. But it, too, embraces all too much of the Reagan approach. And, more importantly, it stands absolutely no chance of passage because it will not be supported by the committee.

So I suppose we must say, "Wait till next year," or, perhaps more appropriately, until this body gets this crazy idea out of its system that a massive tax cut makes sense in this kind of economy. This is now a guns and butter economy, except we have not yet found a way to pay for it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I strongly oppose the Conable proposition. If anyone wants to take a look at it, in terms of where small business is, there is no doubt in anybody's mind but that the committee's bill is far more favorable to small businesses in this country.

Mr. Chairman, as chairman of the Committee on Small Business, I have advocated that the small business community be given the tax relief and incentives that it needs to become more competitive. Small businesses play a vital role in our economy as a major creator of new jobs. A recent study indicated that in the area of employment, new and existing small businesses have provided over 86 percent of the Nation's new jobs in the private sector. In the past, the Committee on Small Business held hearings on small business issues and most of those hearings indicated that small businesses carry a disproportionate share of the tax burden. Further, as a result of those hearings, several specific tax proposals were developed and incorporated in tax legislation that I introduced, entitled the Small Business Tax Relief Act of 1981. I am pleased to report that substantially all of my tax proposals were included by the Committee on Ways and Means as part of its small business provisions for its comprehensive tax bill.

In a time of high interest rates and inflation, special consideration should be given to the problems of the small business community because they are now carrying a disproportionate share of the tax burden. The administration's tax plan does not address the broader needs of the small business community. For example, the administration's tax proposals are supposed to contain provisions that provide tax relief for small businesses. The administration's plan, however, fails to recognize the disproportionate tax burden that the present corporate tax rate structure imposes on small businesses that conduct business in the form of a corporation. The Committee on Ways and Means alternative tax reduction plan provides for a reduction in the corporate tax rate including preferential treatment for corporations that earn less than a quarter million dollars. Although a significant number of small businesses conduct business in the form of a sole proprietorship, that is, a sole proprietorship is taxed the same as an individual, there are a substantial number of small businesses that use the corporate structure. Thus, the reduction of the corporate tax rates will benefit a significant number of these small firms.

Another flaw in the administration's tax proposals is in the treatment of depreciable property used in a business. The administration has proposed a new system of rapid depreciation as its main type of tax relief for businesses. The administration's depreciation plan is generally referred to as 10-5-3 and it would enable businesses to write off the cost of new equipment and machinery over a period of years without regard to the replacement cost or the life of the property. The problem with 10-5-3 is that it would give most of $40 billion per year in tax breaks to large capital intensive corporations. Consequently, I do not believe that the administration's 10-5-3 plan is fair or equitable in its treatment to the small business community. The Committee on Ways and Means alternative tax reduction plan provides for the direct expensing of equipment and to be gradually phased in over a period of years. Direct expensing would permit a small business to deduct 100 percent of the cost of any equipment or machinery purchased in any year. The committee's tax plan would allow a business to expense a total of $25,000 annually, beginning in 1981. Thus, investing under the committee's plan, a business would be able to recover the capital invested immediately, rather than waiting 3, 5, or 10 years under the administration's proposals or an average of 10½ years under current law. The Senate Finance Committee also has approved a direct expensing provision, however, this plan is not as liberal as the Committee on Ways and Means direct expensing provision. The Senate would permit $5,000 in 1982 and 1983; $7,500 in 1984 and 1985; and $10,000 per year beginning in 1986. The committee's expensing provision is a radical departure from the administration's 10-5-3 plan and the existing depreciation system, a business simply deducts the cost of equipment without regard to complex rules.

It is important to note that a few small business organizations support the administration's tax reduction proposals; however, the overwhelming majority of small business organizations support the committee's alternative tax reduction plan. Moreover, a recent analysis by the National Small Business Association found that for a typical family-owned corporation, the committee's alternative—combining direct expensing and corporate tax

rate reductions—results in lower Federal taxes and higher retained earnings than either the administration's version or under existing law during the period 1981 through 1987 and thereafter.

Based on a company earning $50,000 per year in pretax profits and purchasing $25,000 of equipment in 1981,[1] the results are as follows:

COMPARISON OF HOUSE AND SENATE PROPOSALS WITH EXISTING LAW

	Federal taxes paid (1981–87)	Improvement over current law (percent)	Aftertax cash flow [1]
Current law	$58,528		$266,472
Administration proposal	56,390	3.65	268,610
House alternative	51,625	11.79	273,375

[1] Taking into account $25,000 exempted for purchase of equipment.

Thus, at a $50,000 level of income and a $25,000 level of investment, the administration proposal is slightly better than current law while the House alternative is significantly better than the administration's proposal.

The present estate tax provisions inhibit the transfer of a family owned small business from one generation to the next generation. For this reason, the committee's alternative tax reduction plan includes a number of changes to the current estate and gift tax provisions to assist further in the preservation of family owned and operated businesses. By raising the estate tax exemption from approximately $175,000 to $600,000 will provide much needed relief for the family owned business. In addition, the committee's provision to increase the gift tax exclusion from $3,000 to $10,000 per year, the members of a family owned small business will have a valuable estate planning tool which will relieve some of the burdens of our estate tax system.

Let us give the small business community the tax relief it desires by supporting the Committee on Ways and Means alternative tax relief plan.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

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Mr. COUGHLIN. Mr. Chairman, I rise in support of the Conable-Hance bipartisan substitute to the Democratic committee bill. Despite some noteworthy concessions to President Reagan's tax reduction program, the Democratic proposal is essentially the same old phony Democratic tax cut.

In the guise of helping the American working man and woman, the Democrats are again ballyhooing a so-called tax cut that will not even make up for the increase in taxes that will result from bracket creep and increases in the social security payroll tax. It is a strategy the Democrats have foisted on this body and the Nation for over a quarter of a century and it has failed miserably. It is the kind of tax program that has contributed to the problems of economic stagnation and inflation and not to their solution.

We face today a crucial choice: Whether we will go along with the bankrupt policies of the past which have contributed to our economic problems or whether we will change our course in the direction proposed by President Reagan. For anyone who believes as I do that a new approach is needed to address the economic ills of our country, there is really only one choice to make and that is to support the Conable-Hance bipartisan substitute tax cut proposal.

The incentives which the bipartisan substitute includes for Americans to work, save, and invest over the next 33 months mark a significant departure from the past. Following a certain tax rate reduction of 25 percent over the next 33 months, the bipartisan substitute would index the tax rates to changes in the consumer price index, a welcome reform which I have advocated for many years.

I urge Members to support the Conable-Hance bipartisan substitute.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, like other congressional offices, my Washington and district offices have been deluged with telephone calls in reaction to President Reagan's speech on Monday evening. More than 88 percent of the hundreds of callers voiced strong support for the President's tax relief package. On my most recent constituent questionnaire, I asked the question: "Do you approve of the President's tax reduction plan?" With more than 22,000 people responding, 84 percent of those expressing an opinion said "Yes." The results of that questionnaire, in addition to the many phone calls, letters, and telegrams I have received, convince me that the vast majority of my constituents favor the President's tax package.

Today we have heard a great deal about how the President's tax proposal will affect the inflation rate. Through my membership on the Banking Committee and the Joint Economic Committee I have heard countless hours of testimony on inflation and its causes. As we all know, there are many economic theories on the roots of inflation, but most of these diverse theories include one common belief—that the inflation rate is influenced by public expectations and by public response to Federal economic policies. There is no denying, I believe, that there has existed in our country an inflation psychology. Today the House has a chance to break that inflationary psychology by approving the bipartisan tax package.

The people have the confidence in the President's program that is necessary to win the fight against inflation. This is not a phenomenon limited to my district; only yesterday I received results of a poll conducted by the U.S. Chamber of Commerce that indicate that a majority of American citizens favor a tax cut and believe that the President's tax package will have a positive effect on the inflation rate. They also believe that the President's tax cut will promote investment and increase employment.

The people have confidence in the President and his plan. I believe that we, as elected Representatives, should allow that confidence to work toward reducing inflationary expectations.

I think we should all vote for the Conable-Hance bill.

Mr. CONABLE. Mr. Chairman, I yield 3½ minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Chairman, the Conable-Hance bill is a key part of President Reagan's economic recovery program. According to Treasury analysis, it will create 750,000 more jobs by 1985, a position I would think my good friend from Maryland would have been very eager to support.

It is a genuine bipartisan effort in which Republicans and Democrats have worked closely together, and for the third time, this year, we are putting together a coalition of Democrats and Republicans in a bipartisan effort, the only bipartisan effort in this House.

Sadly, the liberal leadership capable of putting together a bill that stands on its own merits are moving in a variety of ways that simply involve deception.

First of all, they put a phony trigger for a third year.

Let me quote briefly from the Secretary of Treasury in a letter today. He calls the Ways and Means process on the trigger a charade. He says the Ways and Means Committee bill is a gimmick pure and simple. He says it means that there will be no tax cuts in 1984 under their bill, and no Member should vote for the Ways and Means bill thinking there is any possibility that that trigger will be pulled because it was designed to fail.

Beyond that, the liberal leadership in this body has perpetrated a totally phony $50,000 question. It is a clever line, a line that harkens back to the good old days for the liberal leader. It resonates well in the country. Sadly, it simply is not true. President Reagan said it well when he said that the O'Neill-Rostenkowski bill is better if you plan to die in the next 2 years. But if you intend to live, it gets steadily worse.

The Congressional Research Service, a nonpartisan body, stated the case easily. In 1984, you do better under Conable-Hance if you earn $10,000 or more. In 1985 you do better under Conable-Hance if you earn anything.

Look at these charts. First of all, on keeping taxes down, the Treasury figures call the O'Neill-Rostenkowski first 2-year cuts a typical switch-and-bait operation. As the Secretary of Treasury said, it looks a little better and then gets steadily worse.

In fact, for a family of a $15,000 income, if you plan to live 2 or more years, there is no question if you want a real tax cut because O'Neill-Rostenkowski are offering you a long-term tax increase.

Another example which I would like to put out is a chart showing real take-home pay. That is what this is really all about. The money you get to spend in real dollars after it is over, once again, after a brief effort to help Americans, the Rostenkowski-O'Neill bill gets steadily worse.

From this point on in the debate should anybody tell us there is a $50,000 question, point out to them that they are either misinformed and do not understand the full bill on both sides, and have not looked at the third year and beyond the impact of indexing. What happens over the long run if they persist? The best we can assume is that they are deliberately deceiving us.

It is a sad day when the liberal leadership of this body defends its bill by distortion and misrepresentation.

Mr. CONABLE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Chairman, today our work is almost finished. For the past 6 months, we have labored mightily on a task of unprecedented importance to the well-being of our Nation. Today, we can put the capstone of our efforts into place by approving the administration's bipartisan tax package and by giving this administration a chance to do that which the voters asked it—and us—to do last November.

My decision to support the bipartisan tax package came only after a long and thorough scrutiny of the facts of the situation. I kept my options open until all cards had been laid on the table, and in the end I decided to support the administration's plan for several key reasons. First, the across-the-board cuts in marginal income tax rates and the timely removal of present tax penalties on investment income will generate badly needed savings among middle and higher income earners. Second, the bipartisan package will increase the take-home pay of all workers over a 3-year period while easing the burden of inflation. Third, the plan, through accelerated depreciation, will generate more cash flow for industry and will stimulate increased development in newer, more productive plants and equipment. Finally, the bipartisan plan recognizes the contribution of small businesses to our economy and it includes several measures to strengthen their position.

The turning point in my deliberations over this crucial vote, however, came when I saw that the administration's proposal is the best plan for the average American worker and, hence, the people of my home State of Maine and the Northeast region of the country. All of us have been inundated with information on this facet of the tax-cut bills, and we have heard each side proclaim its bill as the friend of the worker. This aspect is important to my constituents because they are, by and large, hard workers who earn only moderate incomes.

With this in mind, I studied the two plans before us today. I saw that social security increases under President Carter and inflation-fueled tax bracket creep will total about 22 percent for the average family in the next 2 years. I then saw that the Democratic plan calls for only 15 percent in tax cuts during that period, an amount which will not cover these built-in hikes. I asked myself if I could, in good conscience, tell my constituents that I had voted them a tax cut after supporting the Democratic plan, and I determined that I could not.

I also heard the claims from the other side of the aisle that their tax cuts are directed toward moderate-income groups—those with average incomes between $10,000 and $50,000 per year. Under the administration's package, this income bracket, which now pays 72 percent of the personal income taxes collected by the Federal Government, will receive 74 percent of the tax cut savings. I find this equitable—much more equitable than tax increases of $400 billion forced on the American people over the last 10 years while we simultaneously gave lip service to five so-called tax cuts.

One source of particular pride to me concerning the administration's bill is the fact that my colleagues and I on the Small Business Committee were able to give much-needed assistance to small business through this legislation. We hear so much about big business in this day and age that we often forget the importance of small business to our society. Our Nation's 18 million small businesses are a leading source of jobs, innovation, investment, and savings in our economy. They account for 60 percent of existing employment, 80 percent of new jobs, and half of all industrial innovation. Numbers like these cannot be ignored, and the administration's bill does not neglect them. The bipartisan package increases equipment writeoffs for small business to $10,000 by 1986. It increases tax credits for the purchase of used equipment. It raises the limits of tax-exempt accumulated earnings from $150,000 to $200,000 per year. Finally, it increases the allowable number of stockholders for small corporations from 15 to 25.

Also, I am extremely pleased that the Hance-Conable tax plan includes a 15-percent tax credit for woodburning stoves, which is not included in the Ways and Means bill. Since woodburning stoves are widely used in the State of Maine, it will provide the financial incentive necessary for individuals to install woodburning stoves. The tax credit will also serve a demonstration of support by the Federal Government for the effectiveness of woodburning stoves as an energy alternative in reducing the Nation's consumption of oil. The Maine people should be commended, Mr. Chairman, for their efforts in significantly conserving their usage of home heating oil.

Finally, Mr. Chairman, it is truly unfortunate that we were forced to include a wide variety of extraneous provisions—so-called sweeteners—to satisfy the special interests of this country. It is too bad that we could not be voting today on a clean tax bill—one that was aimed solely at giving the American people a long overdue tax break. But that is the nature of the legislative process and the administration's proposal is certainly the best one before us today.

I must also confess, Mr. Chairman, that certain provisions in both tax bills before us today tempted me to vote against all tax bills. I am speaking of the provisions included in both bills to provide tax reductions for the oil industry. Some of us supported a rules change to lift the oil industry cuts out of today's bill and to show them the light of day, but our efforts were rejected. It is unfortunate that, in order to give our people a much-deserved tax break, we also had to capitulate to special interests and simultaneously give the oil companies a tax break. We ignored the fact that oil companies already receive extensive special tax provisions in our laws. We ignored the reality that oil companies would receive the general business tax breaks included in these bills. We ignored the recent astronomical price hikes and profits of oil companies, and instead we camouflaged more breaks for big oil into a forest of tax legislation.

Nevertheless, Mr. Chairman, I will vote with the administration today. While I do not agree with certain provisions of this legislation, I do not think it is fair to deny the American people meaningful tax relief any longer. Our economic problems are well known. The solution to these woes is less certain. But the administration's plan, I believe, offers a more realistic change to get our economy moving again. We have acted in this

Chamber in recent weeks to set a new economic course, and today we should keep that course.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, I rise in support of the substitute amendment. We have sat here for many hours listening to the Democratic rhetoric that the President's plan will not help the poor. This is just not true. New wealth and opportunity are the solutions to poverty. Unless drastic steps are taken, and the President's entire economic plan is enacted, new opportunity may become a thing of the past in America.

We will continue to face high inflation, high unemployment, and high interest rates. Many Americans are getting desperate. They can see no light at the end of the tunnel unless Congress acts now. It infuriates me to no end that Members of Congress can sit here and play political games when the Nation's economy and spirit are failing.

Not so long ago, the Democrats did not even plan to give the people any tax cut. Then it was 1 year, then 2 years, and now a false promise of 3, based on unreal economic assumptions. Why the sudden change? Could it be because they have started listening to their constituents who desperately want and need a tax cut? Not a contrived tax cut, but a real reduction in the growing burden.

The desperation I read in the letters I have been receiving from the businessmen, farmers, and citizens of my district is not contrived. It is real. The past 2 days my office has been flooded with calls from constituents who listened to the President's speech and feel strongly enough to call long distance to express their feelings. My 1981 questionnaire results showed 82 percent of the citizens support the President's proposal. Can we dare to continue to play politics when so much is at stake and so many people support this cut? I think not.

The key issue in the tax debate today is that the Republican tax program is based on principle, conviction, and commitment to an economic theory dedicated to restoring the Nation's economy. It is one of four legs that the President's economic policy stands foursquare on. The Democratic plan is based on a rejection of 20 years of past tax policy and is simply crafted for a political victory—and because of that I think principle will prevail in behalf of the President.

There is not much new to add that has not been said. It is up to us to follow through with the rest of the President's plan. If not, we throw everything from the past 6 months down the drain. We are obligated to give this plan a chance to succeed. The only way we can do that is to vote today for the President, and for the people.

● Mr. HARKIN. Mr. Chairman, we are today presented with two similar tax bills which are most accurately called Christmas trees. Each side has matched the other in an auction for a handful of votes. In the President's speech on Monday, he suggested that the Ways and Means Committee bill is designed to win the vote today. He is correct. The beneficial impacts of the committee bill now seem to be secondary considerations. There are cases where multibillion-dollar provisions have been added without hearings and, I believe without much thought, because someone believed they would gain a few votes.

The President, however, stands in the same mud. The administration clearly opposes a large number of provisions that now appear in the bill he supports. President Reagan lambasted the Democrats for including these provisions; now he applauds the provisions themselves. Hundreds of identical items appear in both bills.

I would like to suggest that sometimes the buyer in an auction is not happy with the price paid, once the excitement dies down. And I suggest to you that is exactly what will happen in this case.

Let us look at some of the items on these Christmas trees. In the Ways and Means bill, there is a $3.3 billion item which many are calling the AFDC provision—aid for dependent corporations. It singles out six industries and allows large companies to get hundreds of millions of dollars back from the Treasury, a refund theoretically against taxes they paid as far back as 1962 because they are considered to be in distress. In reality, you do not have to be distressed to take advantage of this refund. No one bothered to hold hearings concerning this $3.3 billion item. Through the intrigue of corporate law, Standard Oil of Ohio will receive over $30 million. United States Steel will get $300 million. This is absolutely absurd.

Mr. Reagan's bill provides over $16 billion for our "poor" oil industry. Perhaps he views the price offered by Seagrams and Mobil for Conoco as a bit too meager.

Both bills provide hundreds of millions of dollars for the trucking companies.

I believe that we need a tax cut. Inflation is driving our tax rates out of sight. We need business tax reform. We need estate tax relief.

I believe that the best thing for the House to do is to send this package back to committee with orders to prune back the Christmas tree; to remove the giveaways to those who do not need them. Then let us vote on a tax cut bill that we can be proud of. We have been refused the opportunity to vote on these provisions individually. The bill should be voted down and the committee should be directed to make the needed changes.●

Mr. ALBOSTA. Mr. Chairman, President Reagan presented this Congress and this Nation with a program for economic recovery. That program consisted of three basic components. First, the Federal budget had to be cut. This was done on May 7, 1981, when the Congress passed the first concurrent budget resolution which mandated budget cuts in excess of $35 billion. I am hopeful that prior to Congress adjourning this week we will be able to pass the conference report to the Omnibus Budget Reconciliation Act. It is this bill that specifies which programs will be cut to implement the requirements of the first budget resolution.

As my colleagues know I supported the President in his efforts to reduce Federal expenditures. Needless to say I received a great deal of criticism for crossing party lines on that vote. During that voting, however, there was a clear choice between the President's approach and the Budget Committee's bill, as the committee bill would have translated into $20 billion more in Federal spending.

The second portion of the President's economic program deals with excessive Federal regulation. I fully support the President's efforts to reduce the rising tide of redtape. Since coming to the Congress I have been vocal in favor of cutting back Federal regulations, and applying all of them to congressional review. This review would insure that the regulation is both needed, and that it represents the spirit of the law that passed Congress. Through this process we can minimize regulation and simplify the compliance with the remaining regulation.

Finally, the President's program hinges on the passage of tax cut legislation. This Nation has for too long been burdened by rising taxes and Federal spending trends have risen to meet those increased revenues. The time is now for action—action that will respond to the people's wishes and needs.

The President called for a tax cut that represented supply-side economics. Under this theory, massive tax cuts to all sectors of the economy would translate into investment in the private sector, which would in turn produce taxable salaries and profits.

The House Ways and Means Committee has presented the House of Representatives with a tax bill, H.R. 4242, that embraces the President's call for a supply-side tax cut. In fact, according to the conservative Heritage Foundation, which has been instrumental in working with President Reagan on his economic program,

The Democrat and Republican proposals represent a triumph for supply-side thought in our Nation's tax policy.

We thus have before us two philosophically equivalent bills. In fact, besides being generally the same, most of the details of both the administration and the Ways and Means Committee bills are identical. In both bills, estate taxes are literally wiped out for most estates. Savers, under both bills will be able to invest in tax-free certificates. Those who are saving for retirement will be able to increase their deduction for a contribution to an individual retirement account in both bills.

Both pieces of legislation provide much needed tax relief for small and large businesses to serve as a direct incentive for increased investment and productivity. While the approaches utilized differ, the business community has generally said that both, when fully implemented, would be a tremendous improvement over current law.

In energy, both bills provide changes in the windfall profits tax and in tax credits for renewable energy. There is well-informed disagreement about which bill does more for most independent oil producers on the one hand, and whether the homebuilders' solar energy credit is better than the wood stove credit. I have supported efforts in each of these areas in order to increase the domestic production of energy and its wise use. I am not satisfied that we have done enough. I will continue to work for cost-effective tax cuts in energy and I look forward to working with the committee in the near future on these issues.

On the personal side, there seems to be a bit more controversy, however. The committee bill provides for a 3-year tax cut. That cut, 25 percent over the next 3 years would benefit all taxpayers. The highest percentage cuts would be targeted to those families with income between $15,000 and $50,000. The third-year tax cut would be triggered to certain economic assumptions designed by the administration to insure that the tax cut will not create excessive deficits, and make it impossible to meet the President's goal of a balanced budget by fiscal year 1984.

The administration's bill on the other hand, provides for a 3-year tax cut, without a trigger. This tax cut would be across the board, which brings the largest tax cut in dollars to those most well off. It has been argued that it is those well-off people that will invest their tax cut in the private sector. On this I agree.

However, under the committee bill, those well-off people, making more than $50,000, are given a very generous tax cut. According to a report by the Heritage Foundation:

For all the rhetoric about targeting the tax cut to poor and middle class, even the Democratic alternative promises 33 percent of its personal tax cut to those earning over $50,000 yearly. Moreover, this figure underestimates the degree of relief Democrats promise to upper-income brackets. The House Ways and Means Committee is expected to recommend a cut in the minimum capital gains tax from 28 percent to 20 percent and the maximum marginal rate on investment income from 70 percent to 50 percent—measures which will initially aid persons predominantly in upper-income brackets.—Heritage Foundation Issue Bulletin No. 67.

Thus, the argument that the committee bill does not give a big tax cut to those people who will invest it is just not true. The only difference on this front between the administration and Ways and Means is that the administration's bill makes an even bigger tax cut for those who have incomes in excess of $50,000, while the committee bill uses that extra revenue to target much-needed relief to that sector of taxpayers who bear the burden of paying a majority of our Nation's taxes—the working middle class.

Most of the constituents in my congressional district fall in that middle class, and I know it has been very difficult for them to cope with the current inflationary trend. I thus believe that they deserve this extra cut to make up for the disproportionate amount the Government has taken from them in the past.

The third-year trigger and tax indexing are two other major points of disagreement between the Ways and Means Committee bill and the administration bill.

The committee bill has triggered the third-year tax cut to the meeting of certain economic assumptions. The President has complained that the public cannot then count on the third-year tax cut. According to the President, if the third-year tax cut does not occur, the average working American will once again experience a tax increase due to inflationary bracket creep.

The committee has responded that it would be economically irresponsible for the Congress to set a level for a tax cut 3 years in advance, when we do not yet know what the economic conditions are going to be.

The other point of disagreement is that the President has in his bill the indexing of tax rates to inflation, beginning in 1984. This is a very popular provision, which I support, as it means that inflation will not drive the American public into higher tax brackets, when their purchasing power has not increased. This is the so-called bracket creep where Government profits from inflation.

I was, until today, uncommitted on the tax bill. I have always believed that it is in the best interests of this Nation to arrive at a compromise approach to the tax bill. It is important that it be in the interests of the American public and not the interests of political victories that we pass the largest tax cut in this Nation's history.

I met with President Reagan yesterday to present to him a compromise position that the third-year tax cut be triggered, to insure that we are making economically sound decisions. However, if the trigger does not kick in, indexing would then take effect in that third year, and every year thereafter.

This compromise asks the President to give up his definite 10-percent across-the-board tax cut in the third year if certain economic assumptions are not achieved, but meets his goal of prohibiting bracket creep by insuring tax relief in that third year by indexing the standard deduction to the CPI.

The committee would be compromising on two fronts. First, they would have to agree to the indexing concept. Second, while keeping the trigger, they would have to support the idea that if the trigger does not kick in, there would still be tax relief given because of the indexing provisions.

Unfortunately, this compromise proposal was rejected by both the President and the House leadership.

In conclusion, I am going to vote for final passage of the tax bill, regardless of whether the Conable-Hance substitute passes, or it is the committee bill that is before me. I am doing so because I support the President's economic recovery program, and as he said on Monday night, passage of a tax cut bill before Congress adjourns is vital to the success of his economic program.

On the individual vote on the Conable-Hance substitute, on the other hand, I intend to vote "no." I believe the only major difference between that and the committee bill is to provide those people earning more than $50,000 tax relief over and above the billions of dollars already provided in the committee bill.

While I would like to see the indexing provision in the committee bill, I am confident that in the House-Senate conference committee, the indexing provisions will be retained, as the Senate-passed tax bill already includes this important provision.

Very few of my constituents have incomes in excess of $50,000, and certainly even less have incomes over $100,000. For me to vote for Conable-Hance would simply be telling the vast majority of my constituents with incomes below $50,000 that they will be called on once again to bear the tax burden for the upper classes. Since the committee bill provides substantial tax relief for all levels of income, it is that approach that I feel, in traveling through my district, that my constituents would want me to support.

● Mr. TAYLOR. Mr. Chairman, never before in the history of this Nation

has the American taxpayer been in greater need of relief from the ever-increasing burden of taxation, and the working people of this country have a right to expect a true and equitable tax reduction. They will not receive it from the proposal offered by the Ways and Means Committee. Even-handed relief will come only from the passage of the Conable-Hance bipartisan program.

The bipartisan substitute is the only plan we are discussing today which compensates for the 22-percent rise in marginal tax rates which will come about by 1984 due to inflation-caused bracket creep and the Carter social security tax increases. The Democrat Ways and Means Committee bill does nothing more than increase their effective tax rates between 1980 and 1983.

The bipartisan substitute is the only plan which will stimulate additional savings and investment, more jobs, and put an end to the economic woes that face us because of the same old O'Neill Democrat philosophy of spend, spend, spend; tax, tax, tax. The Democrat plan leaves us with nothing more than that wornout philosophy.

Although the writers of the Democrat proposal were unwilling to give the American working people the tax cut they deserve, they were glad to include provisions for giant reductions for corporations, extending 6 years from now. The only beneficiary of this reduction is big business.

Oh, yes, the O'Neill Democrats cry crocodile tears that they are the party of the working people and it is the same O'Neill Democrats that provide in their proposal to dole out billions of dollars to many of the wealthiest corporations in the United States. The Bailey bailout in the committee proposal provides help only to our biggest industries: airlines, auto, steel, paper, mining, and railroad. I fail to see how any Member of this body could go home to his people and justify the fact that he voted to line the coffers of the giant corporations with the taxpayers money when these "distressed industries" do not even have to prove their "distress" by a test of need, and then tell his constituents that he could not bring himself to vote for a 25-percent cut for individuals.

Cutting individual taxes is the only way to help unincorporated businesses, which represent over 60 percent of the taxpaying business community and a guaranteed 3-year cut is the only cut which allows these firms to plan how to use and reinvest this money. Fifty-five percent of the Nation's incorporated businesses have less than $25,000 a year in taxable income, while over 75 percent of these firms have less than $50,000 a year. The Democrat bill will do nothing for these firms until 3 years from now, while the bipartisan substitute reduces the taxes in the lower brackets, where most of the small corporations are located, beginning in 1982.

Also, the Democrat proposal allows multimillion-dollar tax breaks for commodity traders by allowing them to keep their practice of avoiding income taxes through the use of tax straddles, while they continually manipulate the prices paid to farmers throughout the country at their will. Just try explaining to the farmers in your district why you voted to continue huge tax breaks to the very traders who decide whether or not they will make a profit or go broke on their cattle, their wheat, their eggs, and their beans, without the traders ever seeing the product; but that you could not support allowing that same farmer to keep a little more of his money for the next 3 years in order to allow him some stability when he sits down and tries to figure out whether he can afford to finance a new tractor or buy a few more cows or even stay in business.

Finally, the Democrat proposal decided to cave in to the big oil interests by allowing the bulk of the tax incentives for energy production to go to the major oil companies. The bipartisan substitute, instead, provides for incentives to the independent oil producers, where it rightfully belongs.

This difference is important since the big oil companies are highly diversified, with substantial investments in nonenergy fields. There is no guarantee that all of the extra revenues derived from the Democrat bill will be channeled into more energy production. Independent producers, on the other hand, drill 90 percent of all exploratory wells and more than 80 percent of the total wells drilled in the United States. The independents for the past decade have invested the equivalent of 105 percent of their revenues back into energy production. Furthermore, independents do not derive their revenues from the transportation, marketing, or refining of domestic oil or the production and sale of foreign oil.

In this and every other way the Conable-Hance substitute is superior to the Democrat Ways and Means measure and I hope my colleagues will have the foresight to give it their full support.●

● Mr. MATTOX. Mr. Chairman, what we are engaged in here today is the equivalent of an economic coverup. It has nothing to do with economic recovery. What are the real issues? They can be summarized as follows:

First, a tax bill that unfairly discriminates against the middle income Americans and rewards the very rich and the special interests.

Second, a tax bill based upon an economic philosophy composed of contradiction and dubious affirmation. We are asked to stimulate by a tax cut and support tight money policy and high interest rates, which restrain economic growth, at the same time. This make no economic sense.

Third, we are being asked to endorse deficit spending in excess of $132 billion for the next 4 years. Assuming the President's economic scenario is correct, which no respectable economist does, we will not balance the budget in 1982, 1983, 1984, or 1985. As JACK KEMP says:

> The Republican Party no longer worships at the altar of a balanced budget.

Fourth, by far the most vicious and cruelest part of this program is that it is dependent upon massive cutbacks in our social security benefit structure. The intention is clearly to pay for this tax cut by reducing the benefits earned by working men and women under the social security system.

These are the issues we are faced with today. In the history of the United States this will be remembered as the economic coverup.●

● Mr. WIRTH. Mr. Chairman, I rise in support of the Tax Incentive Act of 1981, which was reported to us by the House Ways and Means Committee. This proposal is more carefully constructed than the administration-backed Hance-Conable bill with respect to several important national priorities critical to our long-term economic growth:

First, it allows greater control over the size of the Federal deficit in future years.

Second, it is more carefully and equitably targeted to provide a fair share of the benefits to middle and lower income families, and does a better job of removing absurd inequities such as the marriage penalty from the Tax Code.

Third, it provides greater incentives for increased savings and investment in the economy, with particular attention to the needs of small business.

Fourth, it provides incentives for a more aggressive commitment to scientific research and development, which is imperative to our technological progress in an increasingly competitive world economy.

There has been a great deal of unproductive and misleading rhetoric from both political parties with regard to the merits of these two proposals. In considering tax reform which will provide the largest tax cuts in history, it is essential that we apply a careful set of principles to our analysis.

In crafting a tax cut package for the Nation, it is imperative that the Congress and the administration carefully consider our long-term economic goals.

We must eliminate large and continuing budget deficits. These deficits reduce national savings and crowd out private sector access to investment capital.

We must reverse the disturbing decline in the economic productivity of

the Nation. Tax policy should encourage savings and the development of capital and productive investment in the private sector. National policy must focus on providing lasting, long-term solutions, not short-term political band-aids.

Economic policy must address our major economic problem—inflation. Tax cuts must not fuel inflation, nor increase pressure on prices, wages, and interest rates.

Tax policy must address the unique problems and promise of the small businessman. As we enter the 1980's, it is clear that small businesses are playing an increasingly important and productive role in our economy.

I do not think that the administration tax proposals will lead to a sound economy, as they claim, but I hope they will. The proposals are not sufficiently targeted to encourage savings and investment. Further, the across-the-board, 3-year income tax cut included in the President's package is skewed in favor of the upper income individual at the expense of the middle-income taxpayer. We must not lose sight of the need for equity in reforming the Tax Code.

The alternative proposal will move us closer to the achievement of these goals. It is not perfect. It is not the package I would have drafted on my own. However, this proposal will give greater relief to middle and lower income persons, and to those segments of American industry which are at the cutting edge of our economy. It will relieve inflationary pressures by carefully targeting incentives for individual savings and investment, and will reduce the danger of huge, long-term budget deficits by wisely conditioning a third-year tax cut on the condition of the Federal deficit and the economy.

A TAX CUT FOR INDIVIDUALS

Congress has just recently approved the largest spending-cut package in the history of our Government. However, in order to achieve a balanced budget by 1984, as promised by the administration, billions of dollars in further cuts must be made in programs which have yet to be identified. Rather than committing ourselves to a 3-year, across-the-board tax cut at this time—which would ignore the danger of future budget deficits, high inflation and interest rates—we should implement tax cuts over the next 2 years, and make the third year conditional upon our success in achieving further budget cuts and upon important economic conditions such as inflation and interest rates. Economists from both political parties predict that the administration plan will result in huge deficits in the next several years even with the budget cuts which have just been implemented. I hope they are wrong, but I fear we will undercut our important long-term economic goals by further increasing the deficit with premature tax cuts. If inflation abates and the necessary spending cuts have been implemented, there is little question that Congress and the administration will enact further income tax reductions in future years as well.

In cutting taxes for individuals, I believe that while this tax cut should give all taxpayers relief, we must insure that the working people of this country get their fair share of the benefits. We should offset the inflationary social security tax increase which went into effect this year. This recent increase has the greatest impact on middle income wage earners as well as upon the employers who ultimately pass their added costs on the consumer in the form of higher prices. We should consider widening the income tax brackets so that inflation and higher wages do not automatically force a family to pay higher taxes. We should increase the standard deduction which would reduce the tax liability for all wage earners.

A PRODUCTIVITY/INVESTMENT TAX CUT

Perhaps the most difficult task facing Congress is that of encouraging long-term economic health by providing incentives for investment in economic activity. Congress must remove the roadblocks to long-term savings, investment, and capital development for both individuals and businesses. The Tax Code is an important tool to help us meet this challenge.

To encourage the modernization of industrial plant and equipment, one major component must be the revision of the current complex and antiquated system of asset depreciation. The administration-backed 10-5-3 proposal is not carefully targeted toward productive speculative investment. Unproductive speculative ventures and obsolete technologies should not be favored. We must insure that all industries are treated equitably to achieve the maximum benefit possible.

The alternative plan includes expensing of capital assets in the same year in which they are purchased. This provision is particularly beneficial to small businesses. Among the possible advantages of the first-year-capital-cost-recovery approach are the simplification of necessary accounting procedures, and equal treatment of all facets of the business community. In addition, inflation would be removed as a consideration in the depreciation of assets, since they would be written off in the same year in which they were purchased. Under the current system, and with the 10-5-3 proposal, high inflation erodes the value of the dollar which is written off in a future year.

The single-year-expensing approach avoids the disincentive to invest in expensive capital equipment which might become obsolete in a relatively short period of time.

The highest rate on income derived from savings and investment is too steep, resulting in the stifling of capital development. In addition to encouraging investment and savings in both the short and long term, reducing the maximum tax rate has the positive side effect of reducing the effective tax rate on capital gains.

Middle-income taxpayers also need relief from the disincentives to long-term savings. An increase in the amount which can be deposited tax free into personal retirement plans is necessary, not only to encourage savings in the long run, but also to provide greater financial security in retirement.

GROSS INEQUITIES IN THE TAX CODE

It is absurd that current law discriminates against married couples when both spouses are employed. We should remove this marriage penalty.

We can make room for an effective tax cut policy by enforcing the collection of taxes which are due to the Government, and by penalizing abusers of the system, whose actions only increase the tax burden of honest and responsible taxpayers.

In addition, there are numerous unproductive tax loopholes which benefit the privileged few. These should be tightened or eliminated to insure that those allowances for deductions in the Tax Code contribute to productive investment rather than tax avoidance. Examples of these loopholes include: excessive business entertainment deductions, distorted writeoff allowances for speculative ventures, and interest expense deductions for third and fourth homes.

TAX TREATMENT OF SMALL- AND MEDIUM-SIZED BUSINESSES

We should reward the expansion of entrepreneurial success more than we do corporate merger. Our tax laws must address the needs of all American businesses, especially small- and medium-sized businesses, through liberalized depreciation and specific incentives for research and development.

We should also include provisions to: expand the graduated corporate tax rate brackets on profits of less than $200,000, and reduce the corporate rate at every level; decrease the estate tax burden to assist family farms and family-owned businesses; and permit the deferral of taxes from rollovers of investments to small businesses, in order to alleviate the cash flow shortage which often confronts small scale businesses.

RESEARCH AND DEVELOPMENT

Efforts to stimulate industrial innovation and productivity are essential to strengthening America's economy and battling inflation. Research and development have declined markedly over the past few years. Real growth

in industrial research and development dropped in the early 1970's and R. & D. as a percentage of profits has dropped since 1976. During this same period, the United States has seen serious erosion of its technological edge. Our foreign competitors, noting this weakness, have boosted their research and development efforts and provided incentives for their industries.

The alternative plan proposes tax credits for a portion of a company's research and development expense. For example, this alternative tax cut plan will include provisions to encourage contributions to university and college research projects by providing favorable treatment of charitable donations of research funds and scientific, laboratory and computer equipment.

CONCLUSION

Clearly we cannot afford to do everything we would like to do immediately with respect to tax cuts. While the administration's across-the-board tax cut has great popular appeal, I think a more careful targeting of tax cut components, such as those listed above, will give us greater returns in both the short and long run in our battle to provide overdue tax relief and return the economy to a course of steady, inflation free growth.

And in the meantime, it is imperative that we continue our efforts to reduce Federal spending to give us leeway for future tax reduction and to lessen upward pressure on the deficit which continues to plague the Federal budget and our economy.

I do not entirely agree with either of these tax cut proposals, particularly at a time when we should be serious about eliminating the Federal deficit. But the House Ways and Means Committee proposal will reduce the deficit substantially more than the administration bill, and is much more in keeping with the principles, goals, and concerns which I have mentioned here. If it is defeated, I hope for the sake of the American people that the administration's plan works.●

● Mr. NOWAK. Mr. Chairman, due to the present state of the economy, and the specific burdens of high interest rates and double-digit inflation, we have all become keenly aware of an urgent need to press for a remedy for these economic illnesses. I am strongly committed to support the tax plan proposed by the House Ways and Means Committee, which I believe will provide major relief from our Nation's economic troubles.

I am certain that the Ways and Means Committee's tax reform, while directly beneficial to the individual and business, will ultimately effectuate a revitalization of the economy, thereby benefiting the country as a whole. For example, the provision for exclusion of tax on interest on qualified savings certificates would not only stimulate savings and investment by individuals but would also provide a boost for our ailing savings and loan institutions.

The individual changes in the Ways and Means package are specifically targeted to benefit the average American with an income of between $15,000 and $50,000. These are the taxpayers who bear the greatest tax burden and who are hardest hit by high interest rates and inflation.

The major tax breaks affecting the individual would:

First, reduce all marginal rates by 5 percent beginning on October 1, 1981, 10 percent on July 1, 1982, and include a third year "trigger" for January 1, 1984, based on the administration's economic forecast;

Second, increase the zero bracket amount (standard deduction) by $200 for single persons and $400 for married taxpayers;

Third, alleviate the marriage penalty by allowing a 10-percent deduction in 1982 of the first $50,000 of earnings of the lower earning spouse—maximum deduction of $5,000;

Fourth, allow a child care credit with maximum expenses increased to $2,400 for one dependent, $4,800 for two; and

Fifth, raise the annual IRA contribution to a maximum of $2,000. IRA's will be extended for the first time to employees currently covered by pension plans.

THE NEED TO SPUR SMALL BUSINESS GROWTH

Much has been said about the need to spur business investment and productivity. The general options for accomplishing this goal are to reduce inflation and interest rates and to increase capital investment through tax policy.

Inflation has somewhat decreased over the last several months, but interest rates remain high. These rates are particularly burdensome to small business, especially when they are borrowing money at rates in excess of 20 percent. Large business, on the other hand, has the market power leverage to borrow money at several points below prime. This situation will continue as long as the Federal Reserve Board continues to use a tight monetary policy.

Small business cannot maintain an adequate profit and at the same time finance inventories and business expansion at these extremely burdensome rates. Its only option is to utilize tax incentives. These incentives provide small business with the necessary tools to foster capital formation and increase cash flow.

As chairman of the House Small Business Subcommittee on Tax, Access to Equity Capital and Business Opportunities, I have focused my attention on monetary policy and tax initiatives. My subcommittee report on "Federal Monetary Policy and Its Effect on Small Business," released in the 96th Congress, recommended that the appropriate committees of Congress give special attention to the credit needs of smaller firms. In addition, the report recommended that banks be encouraged to tie small business loans to rates other than prime. I will continue to work with the administration and the Federal Reserve Board to implement these recommendations.

However, the immediate task before us is to identify the appropriate tax incentives which will spur business investment and growth. H.R. 4242, the Tax Incentive Act of 1981, is the only credible vehicle for accomplishing this task. One cannot compare separate provisions of the various tax bills before us and then flatly state that one provision is better than another. It is the complete package that counts. The Ways and Means bill, as drafted under the leadership of Representative DAN ROSTENKOWSKI, is clearly the only realistic package that will put our economy back on the road to growth and increased prosperity.

In another report of my subcommittee entitled, "Capital Formation and Retention," it was recommended that any accelerated depreciation measure enacted should be simple, limited in scope, and should meet the needs of capital-intensive small businesses. Further, the report stated that small business as a group is labor intensive and additional tax relief should be provided to aid labor-intensive businesses.

The Ways and Means package accomplishes both of these objectives for small business. In general, it provides comprehensive relief for the Nation's retailers, wholesalers, manufacturers, and service-oriented businesses.

H.R. 4242 provides U.S. businesses with a dramatic simplification of the way capital assets are depreciated. Instead of utilizing the complex class life asset depreciation range system, small businesses will be permitted to expense the first $25,000 of capital investment. The vast majority of businesses purchase less than $25,000 in equipment in any particular year.

The Ways and Means bill will phase out current depreciation and investment tax credit methods by 1985. At that time, all businesses will greatly benefit from direct expensing of capital investment. This system is much simpler than the so-called 10-5-3 depreciation proposal. Owners of real property will, in addition, be permitted to write off their investment over 15 years.

For those businesses that do not greatly benefit from the depreciation tax relief, H.R. 4242 provides labor-intensive business with a drastic reduction of the corporate tax rate. With respect to small business, this is one of the major recommendations for tax relief as provided by my bill, H.R. 2949. It is a measure which helps busi-

ness retain the necessary capital for increased investment and expansion.

When fully phased in, the Ways and Means bill provides the following corporate rate reduction at the low end:

$0 to $50,000	15
$50,000 to $100,000	20
$100,000 to $150,000	25
$150,000 to $200,000	30

Under H.R. 4242, businesses with greater than $200,000 in taxable income will benefit from the reduction of the top corporate rate from 46 percent to 34 percent, as phased in by 1987.

In testimony before the Ways and Means Committee on April 7, and again in a letter to the committee leadership in June, I recommended several additional small business tax measures. In the absence of the adoption of these various measures, I believe small business would not greatly benefit from any tax bill developed by the Congress or the administration.

As discussed earlier, the Ways and Means Committee has now adopted my small business depreciation and corporate rate proposals, as recommended by my April 7 and June letters. In addition, the Ways and Means bill includes my other recommendations for small business relief. These measures, which will provide small business with a viable avenue to meet its capital formation needs, are as follows: an increase in the number of subchapter S shareholders from 15 to 25, further beneficial treatment of section 1244 stock, and an increase in the minimum accumulated earnings credit from $150,000 to $250,000. The committee also took a giant step toward adoption of my inventory simplification initiatives by mandating the Department of the Treasury to do a study on accounting methods to be completed by June 30, 1982.

I am also encouraged by the provision in H.R. 4242 that will provide businesses with a 25 percent tax credit for incremental research and experimentation expenditures. This measure is particularly helpful to the Nation's high technology industries. In the past, these businesses have had trouble recouping their burdensome expenditures for research and development. This measure will reduce this burden on business and will help spur additional economic growth and productivity.

The committee's plan provides a further tax advantage to both the individual and the small business person by reducing estate and gift taxation. This provision would effectively eliminate taxation on estates under $600,000 by 1987. The plan calls for an unlimited marital deduction so that one spouse can transfer an unlimited amount of property tax-free to the other spouse. In addition, the annual gift tax exclusion will be increased $3,000 to $10,000 per donee—$20,000 in the case of a married couple who elect to split the gift.

RELIEF FOR DISTRESSED AREAS

The Buffalo area has suffered from a high rate of unemployment in recent years, partially due to the loss of capital by the automobile and steel industries. This new tax package proposes changes which will directly aid these ailing industries. Under this plan, distressed industries would be able to carry back to 1962 unused investment credits against 100 percent of tax liability. This provision would encourage reinvestment because the credit is available only to the extent funds are reinvested. This incentive to reinvest could, in effect, increase productivity, thereby creating employment potential.

The city of Buffalo also has a great deal of old but viable commercial buildings. The Ways and Means tax plan provides a rehabilitation tax credit which would encourage the utilization of the existing commercial structures. The rehabilitation tax credit would allow: 15 percent for industrial and commercial buildings at least 30 years old, 20 percent for commercial and industrial buildings 40 years old or more, and 25 percent for all income-producing certified historic structures.

The investment tax credit and the rehabilitation tax credit would be particularly attractive to northern industrial areas which are in desperate need of revitalization and which would readily be able to take advantage of these specific provisions.

Based on the above provisions, I strongly recommend adoption of H.R. 4242, the Tax Incentive Act of 1981.●

● Mr. LEE. Mr. Chairman, it is hard to resist a good bargain, and it is near impossible to keep the grin from our face when—as consumers—we find ourselves the target of an old-fashioned price war.

Everybody loves a good deal. So, when the President and the Speaker of the House moved the price-war concept out of free market enterprise and into the public policy arena, taxpayers everywhere grinned.

With the possible exception of some injured political egos and big-Government profiteers, there were no losers in the House fight for a tax cut. When it was all over, the taxpayer—and that includes each of us—was the winner.

Most of us remember the days, though it seems much longer ago than it really is, when perpetually new signs advertised lower and lower prices on a gallon of gasoline at stations on opposite corners. Each tried to outdo the other.

I have felt very much like those days have returned as we moved closer and closer to the tax-cut vote. On one side, President Reagan's Republican forces' billboard read "33 months, 25 percent." On the other corner, Speaker TIP O'NEILL's sign read "24 months, 15 percent."

Smaller signs began appearing next to them. They read "indexing of brackets," "marriage tax gone," "trigger for third year" and other clever catchwords—some pretty good marketing, overall.

Quite predictably, my support has always been with the President, and I am happy to report that our side won.

In a very real sense, it was the American taxpayer who won this war, and that is "our side." Obviously, there were chances for both sides to claim individual battle victories, but the net result on everyone is lower taxes.

It was not always that way, if you will remember.

Tax reduction bills are something that came along every 2 years. Coincidentally, they came along in years that ended in even numbers. Also coincidentally, so do the elections of Congress.

Of course, there is no correlation there, but it does make many of us wonder just how, with cuts in each second year, we could still be pledging so much more of our earnings to Uncle Sam.

The trick—and it is one of the most badly hidden tricks in the civilized world—has been to offer a small tax cut during election years to ingratiate the voter and then smack it to him with big tax increases in the odd-numbered years when he cannot get back at you.

But this President offered a novel idea: tax cuts that have purpose and design other than simply winning elections. Put that money back in the taxpayer's pocket and let it stay there. A radical notion, to say the least, but it caught on.

Naturally, the Democratic majority in the House was not to be outdone so they offered their own me-too version of the bill. The final chapter reads "off-year, nonelection tax break."

Where there was, at the beginning of this year, a fierce Democratic resistance to cutting taxes—in a year without an election—there is now an almost equally fierce insistence that we cannot do without a tax cut.

All tax cuts are not created equal. The President's tax cut was designed to fit a need in the American homes and the American marketplace. The Democratic tax cut was designed purely to compete with the President's. Because of its sole competitive purpose, it just was not as good.

Yet, in the final analysis, any tax cut is better than no tax cut. And there are years ahead when today's cuts can be perfected and expanded. Throughout those years, we realize the added benefit that the money Government will not have because of the cut, it cannot spend.

The President won. He goaded the other side into a competition that, regardless of the outcome, the taxpayer would win. Pretty crafty, I would say.●

● Mr. EMERSON. Mr. Chairman, there has been a great deal of discussion in the past couple of days about which of the two tax reduction bills would do the most for the small business concerns in this country.

This is an issue of vital concern to me personally because I represent a district whose economy is almost totally supported by small businesses. However, I believe this question is vitally important to all Members of the House because small business constitutes the backbone of our economy and is responsible for creating upward from 80 percent of all new jobs. I do not believe we can have an economic recovery in this country if small business is neglected or ignored. In fact, it is imperative that small businesses lead the charge toward economic recovery if we are to revive our ailing economy and provide prosperity for the American people.

In that light, I would like to bring to the attention of my colleagues a letter I recently received from the National Federation of Independent Businesses. This outstanding organization has 560,000 members nationwide and is perhaps the greatest single voice for the interests of small business. In particular, I would like Members to notice the concluding statement in this letter which reads:

NFIB believes that from a small business standpoint the choice is clear and we urge you to vote for the bi-partisan Hance-Conable proposal on the floor.

As the text of the letter makes clear, this conclusion is reached in part because the majority of small businesses pay taxes on the individual tax schedule and in part because NFIB recognizes that the bipartisan tax cut proposal would be a permanent tax reduction when they are indexed at the end of the third year.

Obviously the small businesses in this country have learned how to cut through the political rhetoric and can recognize when a tax cut is not really a tax cut. After 10 years of these so-called tax cuts, that have been timed for political impact yet have not stopped the relentless growth of the Federal tax burden, they clearly want a change and a real tax cut for a change.

The American people do not want a reduction of the increase in their tax burdens, they want a reduction of those burdens themselves. That is the choice we face between the two versions of the tax reduction legislation here today. The committee version offers only to reduce the rate at which the tax burden of the American people grows. The bipartisan proposal would reduce the burden itself and then make that reduction permanent by protecting it against the effects of inflation. At its essence, this is the difference between a real tax cut and the same old blue smoke and mirrors that Congress has been calling tax cuts for the past 10 years.

The time has come for the Congress to be honest with the American people. If Congress wishes to increase taxes to pay for additional programs, then Congress should be forced to legislate tax increases that will pay for those programs. The American people will then be able to judge their Representatives far more accurately on where they stand on taxing and spending decisions. They have a right to know where their Representatives stand on these crucial decisions, and if Congress is going to be honest with the American people, we should pass the bipartisan proposal that will, among other things, insure that they will know.

The support of this measure by the largest single small business organization in the country is testament to the fact that this is the kind of change expected by the people of this land. They voted for this change last November, and if we intend to truly represent their views we will give them that change. I commend the text of this letter to my colleagues and encourage them to vote their consciences and for their constituencies by approving the bipartisan tax cut.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, D.C., July 28, 1981.

Hon. BILL EMERSON,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN EMERSON: NFIB's positions on issues are set by the majority vote of its membership. This practice gives us great confidence that we are truly representing the position of the broad cross-section of the American small business community.

Even in the area of taxes, with all of its complexities, NFIB's members have shaped our positions. In a recent scientifically conducted poll, NFIB's members were asked to prioritize their tax reduction preferences. They were asked to choose from the eleven most frequently mentioned small business tax breaks, including such options as a three year, ten percent, individual tax cut, reduction in the corporate rates and accelerated depreciation. The respondents listed their priorities as follows:

1. A three year, ten percent cut in individual income tax rates;
2. A reduction in Social Security payroll taxes;
3. The elimination of death (estate) taxes;
4. The accelerated depreciation proposal known as 10-5-3;
5. Savings incentives, especially the liberalization of IRAs and Keogh plans;
6. Inventory accounting reform, including cash accounting for retailers under $1 million a year in gross sales; and
7. A further graduation and reduction of the corporate surtax exemption.

If you have had a chance to review the major tax reduction plans that will be before the House this week, you are aware that they both contain many of the elements listed above. Indeed, in certain areas, such as savings incentives and death taxes, they are almost identical. Yet, after careful analysis, NFIB believes that one of these proposals, the bipartisan Hance-Conable bill, is closer to what its membership desires and best for the American economy.

NFIB believes that the Hance-Conable bill is better for small, independent business for the following reasons:

Cutting individual taxes is the only way to help unincorporated businesses, which represent over 60 percent of the tax paying business community, and a guaranteed, three year cut allows these firms to plan how to use and reinvest this money.

While expensing is very desirable in principle, the revised 10-5-3 depreciation proposal in Hance-Conable will actually be simpler for many small businesses to use. The expensing proposal in the Committee bill is phased-in over ten years and the phase-in formula is extremely complicated for smaller firms. It would, in effect, force many smaller capital intensive firms to use three different systems of depreciation simultaneously.

Hance-Conable is much better than the Committee bill for the very smallest corporations. Fifty-five percent of the nation's incorporated businesses have less than $25,000 a year in taxable income, while over seventy-five percent of these firms have less than $50,000 a year. The Committee bill does nothing for firms under $25,000 a year until 1984, while Hance-Conable reduces taxes in the two lowest brackets, where most of the small corporations are located, in 1982 and 1983.

The bipartisan proposal also contains some movement toward inventory reform. While minimal, its LIFO simplification provisions are an important step in the right direction for inventory and labor intensive businesses.

Last, and possibly most important, the Hance-Conable proposal contains a provision that would index individual income tax rates after its three year reduction is fully implemented. This makes the Hance-Conable proposal a permanent tax cut, a move which has been overwhelmingly endorsed by NFIB members in the past.

In all other areas important to small business, Hance-Conable is at least as good as the Ways and Means Committee bill. Therefore, it is important to realize that the former is a permanent tax cut that will reduce the amount of inflation generated dollars that can be used to pay for growth in government.

NFIB believes that from a small business standpoint the choice is clear and we urge you to vote for the bipartisan Hance-Conable proposal on the floor.

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director of Federal Legislation.●

● Mr. SMITH of New Jersey. Mr. Chairman, I appeal to my colleagues today to join me in support of the President's bipartisan tax reduction program. The House Committee on Ways and Means' bill, H.R. 4242, and the bipartisan substitute contain fundamental differences for future tax policy. The basic difference is that the President's tax cut provides working people a real tax cut while the committee plan would allow taxes to continue for working people.

On July 25, Representatives CONABLE and HANCE introduced a bipartisan tax reduction proposal which has the enthusiastic support of myself and the Reagan administration. This legislation will produce a real across-the-board multiyear reduction in marginal tax rates for individuals and provide meaningful investment incentives to restore America's industry to competitiveness in our Nation and throughout the world. This bill provides more incentives for Americans to work, save, and invest, than the Ways and Means Committee's bill, as supported by Chairman ROSTENKOWSKI and House Speaker O'NEILL. Their bill relies heavily on promises of corporate tax reduction which will not become effective for several years. Industry needs relief, and it needs it now, not just rhetoric which has been offered in the hopes of swinging a few votes.

The Conable-Hance substitute contains the two basic components of President Reagan's original tax package that are vital to improving our Nation's economic future: across-the-board income tax cuts for individuals and an accelerated depreciation schedule for business. The Conable-Hance bill has been designed to provide families at all income levels with meaningful and permanent tax relief. This proposal offers a full 3 years of personal tax rate reductions which total 25 percent across the board. These reductions are guaranteed to extend into the future due to the adoption of tax indexing. Tax indexing will provide needed relief to lower-income individuals because "bracket creep" will be alleviated. Bracket creep pushes taxpayers into higher tax brackets whenever they receive a cost-of-living raise. The President's program will put an end to unlegislated tax increases which have robbed Americans of every one of the five so-called tax cuts in the last 10 years. Therefore, the President's proposal is the only plan which will provide long-term relief for the American people.

Due to the inclusion of the tax-indexing feature, the Conable-Hance tax cut cannot be invalidated by bracket creep and inflation. Since 1971, taxes have gone up 249 percent. I ask that my colleagues make a pledge to the American people to lower tax rates, and to keep them down by adopting the President's tax reduction plan. This is the only legislation which will allow us to eliminate hidden tax increases in the future.

We must offer America a tax program that provides the steadiness of policy and certainty of tax relief which is absolutely necessary for a strong economy. Individuals deserve to feel secure in their jobs, and confident in planning their immediate household budgets, as well as in long-term savings for retirement, or education. Our economy has reached the point where saving for a home has become near impossible.

In contrast, the Ways and Means bill is a temporary, 2-year 15-percent tax reduction, which will turn into a tax increase by 1984. It will not even offset built-in tax increases of approximately 22 percent as a result of bracket creep and higher payroll taxes between now and then. It is obvious to me that what Speaker O'NEILL and Chairman ROSTENKOWSKI are promoting falls far short of the tax cut this country needs.

The Speaker and the chairman continually claim that their bill is targeted to provide relief to those earning between $15,000 and $50,000. The truth of the matter is that what the Ways and Means Committee has really written is a bill which will bring about another decade of rising taxes. Families in almost every income level will receive a deeper tax cut, face lower tax rates, and enjoy a greater increase in income and living standards under the Conable-Hance bill than under the Ways and Means alternative. I know that this may sound odd, given the claims being made by the Democrats. But it is a fact that if you compare the two bills with the third year of guaranteed tax reduction, the Conable-Hance bill is a deeper cut in 1984 and each year thereafter. This tax cut will offer those in the $15,000 to $50,000 income levels more relief in the long run.

A COMPARISON OF SAVINGS FOR ONE-EARNER FAMILY OF FOUR UNDER PRESIDENT'S TAX CUT AND WAYS AND MEANS PROPOSAL

Wage level	1982	1983	1984	1985	1986	Net difference between Reagan plan and the committee plan
$15,000	Committee saves $22 more	Committee saves $25 more	Reagan saves $73 more	Reagan saves $129 more	Reagan saves $183 more	Reagan saves $338 more.
$20,000	Committee saves $37 more	Committee saves $27 more	Reagan saves $103 more	Reagan saves $175 more	Reagan saves $264 more	Reagan saves $478 more.
$25,000	Committee saves $101 more	Committee saves $75 more	Reagan saves $103 more	Reagan saves $229 more	Reagan saves $351 more	Reagan saves $507 more.
$30,000	Committee saves $52 more	Committee saves $88 more	Reagan saves $153 more	Reagan saves $379 more	Reagan saves $624 more	Reagan saves $1,016 more.
$40,000	Committee saves $91 more	Reagan saves $271 more	Reagan saves $831 more	Reagan saves $1,231 more	Reagan saves $1,617 more	Reagan saves $3,859 more.
$50,000	Reagan saves $90 more	Reagan saves $873 more	Reagan saves $1,714 more	Reagan saves $2,302 more	Reagan saves $2,870 more	Reagan saves $7,849 more.

The chairman and the Speaker only offer the American people a 15-percent tax cut over 2 years. They make a third year cut of 10 percent conditional on the size of the fiscal year 1983 budget deficit, the average rate of 91-day Treasury bills in the third-quarter of 1983, and the average rate of the consumer price index in the third-quarter of 1983. The problem with this formula is that an individual's willingness to save and invest is largely based on his expectations of future tax rates. If lack of confidence lowers the level of saving and investment, these economic goals cannot possibly be reached. Hence, the Democrat's tax cut will almost certainly be a 2-year cut.

To a family now earning $15,000, the Ways and Means bill gives $22 more in 1982 than the Conable-Hance bill and $25 more in 1983. But in 1984, the Ways and Means bill gives $73 less than the Conable-Hance bill. In 1985, it gives $129 less. In 1986, it provides for a reduction of $183 less. And the difference keeps growing because the Ways and Means bill does not include indexing for inflation.

The Speaker and Chairman ROSTENKOWSKI are hoping to attract people's attention to the first 2 years of the bill so that they ignore the later years. They are asking the American people to be happy with a $47 cut in the first 2 years and forget about the $385 reduction in the next 3 years. By 1983, the Ways and Means Committee's tax cut is finished. Taxes will start to rise again due to inflation and resulting bracket creep. Even if the tentative third year of the committee's bill is triggered, which is virtually impossible given the conditions the Democrat's have attached to its enactment, taxes would go up again in 1984.

The real test of a tax cut program is not what it does compared to current law, which has rising taxes built into it. The true test is what it does compaHHred to the taxes an individual is paying now. The Ways and Means tax cut peaks in 1983, is substantially wiped out by 1985 for people now earning $15,000, and by 1986, for everyone earning between $20,000 and $30,000. These taxpayers will be in worse shape in just a few years than they are today.

Furthermore, the way that the Ways and Means bill has twisted the tax rates and rewritten the tax schedules, it makes sure that taxes will rise faster in the 1980's for millions of Americans than ever before. This result in the Ways and Means bill comes from its increasing the zero bracket amount—the old standard deduction—and paying for this nonincentive tax cut with small reductions in the marginal tax rates in most of the brackets.

Except for the HHHHshift in the zero bracket amount, the actual tax

rate structure is as high or higher in each bracket under the Ways and Means bill than under the bipartisan bill, a fact of major adverse consequences for the economy. This higher rate structure reduces incentives to work, save, and invest.

This provision is just another attempt to redistribute income, similar to the tax bills of the last 10 years, which provided no incentives for real growth. This method has failed in the past, and has no chance of working in the future. Without indexing, the value of the one-time increase in the zero bracket amount will be undone by inflation, and the higher marginal tax rates in the Ways and Means bill will take a larger portion of every worker's pay increase.

Any worker receiving a cost-of-living increase will face a truly staggering tax burden within a few years. In every tax bracket, every cost-of-living increase and every real pay increase will be taxed more heavily by the Ways and Means bill; in some brackets, the tax bite will be as much as 10 points higher under the Ways and Means bill. The only way for a taxpayer whose income is changing to do better under the Ways and Means bill is for the change to be a pay reduction.

The Ways and Means bill also has a big surprise in store for middle bracket taxpayers—some of the biggest step-ups in tax rates from one tax bracket to the next ever to appear in the Tax Code. Middle-income taxpayers filing joint returns would find themselves leaping through brackets in which they pay 25 percent, 34 percent, 41 percent, and 48 percent of their additional income, to the Government. The corresponding rates under the Conable-Hance bill are 24 percent, 28 percent, 33 percent, and 38 percent, respectively.

Never before have tax rates risen so steeply. Even the World War II surcharges, which carried taxpayers from the 22 percent bracket ($2,000–$4,000) to the 47 percent bracket ($14,000–$16,000) with only a $10,000 increase in income, had the courtesy to do it in six steps. Furthermore, $10,000 in the mid-1940's was worth $40,000 in today's dollars. The Ways and Means bill produces nearly the same rate increase in three steps over a $16,000 income range.

This is a clear demonstration of the intent of the Ways and Means bill—to give a tax cut next year while rigging the Tax Code to take it all back in at record rates just as quickly as possible. The committee's bill provides only the form, but not the substance, of the incentive tax reduction.

The Conable-Hance bill also contains a number of specific tax law changes directed toward such problems as the shortage of savings and unequal treatment of married taxpayers.

One section of the bill will reduce the current discrimination against two-earner families by providing a marriage penalty deduction of up to $3,000, equal to a specified percentage of the lower earning spouse's income. The deduction will be 5 percent in 1982, and 10 percent in subsequent years. Taxpayers will be eligible for the deduction whether or not they choose to itemize. The penalty deduction will not increase taxes paid by single persons or one-earner couples. It will only increase the compensation married couples receive at a time when the high cost of living is making a two-earner marriage a necessity for many.

The Conable-Hance proposal would be far simpler and considerably less costly to implement than the Ways and Means Committee proposal which offers a deduction of 10 percent of the qualified earned income of the lower-earning spouse, with a maximum deduction of $5,000.

Another provision of the Conable-Hance bill would increase the maximum tax-deferred contribution to IRA's to the lesser of $2,000 or 100 percent of annual compensation. Because the limit on tax-deferred IRA contributions (currently $1,500/$1,750 or 15 percent) has not been raised since 1974, participants are finding that their contributions are eroding due to the effects of 7 years of inflation. For example, a maximum $1,750 IRA contribution made in 1980 is the equivalent of only $1,096 in 1974 dollars—nearly 40 percent less in real terms.

A second major reform in IRA rules proposed by Conable-Hance would expand eligibility to those covered by private pension plans. Participants in private plans are generally paid a flat dollar amount of percentage of their past income when they retire. Obviously, these systems do not compensate for the erosion of benefits caused by inflation. In addition, employees' contributions to private plans are seldom tax deductible. As a result of these factors, participants are discouraged from contributing to private pension plans, and when they do, their benefits rarely enable them to maintain a constant standard of living.

In addition to the broad benefits of individual rate reductions and accelerated cost recovery for all small businesses and their owners, the bipartisan House substitute bill has a number of provisions of special interest to small businesses. Small businesses account for 43 percent of the Nation's gross national product, provide virtually all new private sector employment, and are responsible for more than half of all major innovations. As a member of the Committee on Small Business, I have had the opportunity to carefully review the tax provisions which apply to this vital element of our economy. Currently, a complex and inequitable tax system threatens the existence of many of America's small enterprises. Provisions included in the Conable-Hance tax bill are critically important to the revitalization of a healthy small business sector.

It provides rate reductions for small corporations, reduces or eliminates estate and gift taxes on transfers of family owned businesses, allows for limited expensing of machinery and equipment purchases, increases tax-deductible retirement savings for the self-employed, and includes a number of other tax-reduction measures. Altogether, the provisions total about $3.3 billion of small business tax relief in 1982 and $12 billion by 1984.

The Ways and Means Committee's plan is very simple. They want to toss a bone to the American taxpayer today and take it back with a pound of flesh attached tomorrow. They are trying to avoid necessary tax reduction for a year or two, hoping that the public's fervor for tax relief will die down, so they can start inflating Government spending again and get back to Government as usual. Three-fourths of the tax cut proposed by the President will go to middle-income taxpayers—the ones who now pay most of the taxes. Taxpayers earning between $10,000 and $60,000 now pay 72 percent of all taxes and will receive 74 percent of the President's tax cut. I feel we must give the middle class the tax relief they deserve. We cannot allow oppressive tax rates to continue. The marginal tax rate reductions, indexing, and the business tax relief in the Conable-Hance bill can prevent it.●

● Mr. GUNDERSON. Mr. Chairman, after 40 years of massive increases in Government spending and stifling Federal taxation, we are, today, at a very historic moment.

Yet, as we consider the largest tax cut in American history, I am troubled by several aspects.

Mr. Chairman, my concerns revolve around two major points: First, the elements and timing of the tax cut provisions; and second, the nature of the closed rule under which this legislation is being considered.

Our country needs a tax cut aimed at stimulating savings and investment in the U.S. economy, properly timed to avoid exacerbating inflation.

Yet, the bills we are considering today are a hodgepodge of tax rate reductions, special interest tax cuts, and so-called sweeteners added for purely political purposes.

In reviewing both the Ways and Means Committee bill and the bipartisan Conable-Hance substitute, it is clear that many provisions of both have very little to do with encouraging savings and investment.

According to my calculations, under the Ways and Means bill a total of $154.2 billion is included for cuts other than those directed at savings and investment. In the bipartisan substitute, a total of $107.2 billion in personal and business cuts falls into the same indirect category.

From the beginning, I have supported economic tax cuts that would accelerate depreciation for our businesses and industries in an effort to get the economy off dead center and create more job opportunities in the private sector.

I have advocated tax policies that would encourage our citizens to save more and invest more in the private sector.

Only by stimulating the supply side of our economy can we have genuine economic growth without feeding the fires of inflation.

Timing is critical. Before we expand the demand side through individual tax cuts, we must have the supply side in a position to produce the additional goods and services which will be demanded.

Yet, one cannot help but look at the bills we are considering today and express disappointment with the lack of concern for the sequence of events.

Mr. Chairman, my second concern is over the rule we are considering. It is a closed rule with no provision for considering an amendment to remove what I consider to be a most onerous element: the tax break for oil producers and royalty owners.

Both the Ways and Means' bill and the Conable-Hance bill reduce the windfall profits tax for royalty owners and oil producers. Such action undermines a commitment made in the last session of Congress to decontrol oil prices and at the same time impose a tax on the resulting windfall profits.

We are now breaking that promise.

Because the rule does not permit consideration of an amendment to eliminate this political buyoff, I must vote against it.

SUPPORT FOR BIPARTISAN BILL

Mr. Chairman, we have two tax bills from which to choose. Comparing the two, I must support the bipartisan substitute. Despite my concerns about the elements and the timing, the Conable-Hance bill does set a new course for U.S. tax policy. And that is an overriding consideration.

As the Wall Street Journal said in an editorial today, we are choosing "between tax policy as an instrument of income redistribution or tax policy as an instrument of growth."

The primary advantage of the bipartisan approach is its long-term strategy. For too many years, Congress has looked only at the short term. Therein lies the key to many of our national economic policies.

It will restore a system of personal and business incentives that will lead to this country's economic revitalization.

The President's 3-year, 25-percent reduction in individual tax rates, coupled with future indexing to protect the tax reductions, is real and permanent. The Ways and Means Committee offers a 15-percent reduction over 2 years and removes it thereafter.

The bipartisan bill more than meets the 22-percent rise in marginal tax rates expected by 1984 due to inflation-caused bracket creep and social security tax increases already mandated by law.

Under the committee bill, by 1984 individuals in almost every tax bracket will be paying higher taxes than in 1980. In contrast, under the bipartisan bill at virtually every income level, individual taxpayers will receive greater tax relief.

In the area of incentives for business to invest and expand, the bipartisan bill again is superior in offering an effective accelerated depreciation plan to encourage capital cost recovery.

The committee's proposal of expensing would not provide adequate investment incentives; in fact, it could discourage investment in the short term as businesses delay modernization and expansion until they are eligible for a full writeoff in 1990.

MILLSTONES OF TAXATION, INFLATION

Mr. Chairman, it was Lenin who said the best way to crush the middle class is to grind them between the millstones of taxation and inflation.

Overall, the President's economic recovery plan of spending reductions and tax cuts seeks to remove those two millstones that have been grinding down not only our middle-class citizens, but all Americans.

If we succeed, our middle class and all citizens will be the beneficiaries.●

● Mr. CONYERS. Mr. Chairman, yesterday the Congressional Black Caucus offered for consideration before the Rules Committee its alternative tax bill (H.R. 4262). I regret very much that the committee did not see fit to include our bill in the rule.

The caucus tax bill differs substantially from both the Ways and Means and administration bills, and for that reason, if for no other, it should have been considered.

Many things have been said and written about the Ways and Means and administration tax bills. Two stand out. Writing in the July 25 issue of Congressional Quarterly, Pamela Fessler observes:

> Both Republicans and Democrats admitted their bills were more products of a political bidding war than blue-prints for sound economic policy.

Ms. Fessler then quotes our colleague, Mr. Conable:

> If I were writing this bill, I would write it differently and so would every other Member of this Congress.

Why are we then rushing to judgment on what most of us would privately agree is a poor pair of tax bills? After all, the consequences of these measures—the loss to the Treasury in excess of $700 billion in either bill, just to name one feature—is bound to have the worst possible effect on the Nation's economy in the years ahead.

In a more partisan vein, Michael Kinsley, an editor of the New Republic, writes:

> Someone ignorant of American politics, observing the debate, would assume that the Democrats were quite literally the party of millionaires * * * what is the point of a political party with so little sense of its own constituency that it behaves in this way.

What is Mr. Kinsley referring to in the bill? Let us consider a short list of objections. Both bills:

Virtually eliminate the corporate tax on new investments—offering corporations a $500 billion tax cut over the next 10 years.

The committee bill cuts estate and gift taxes by $6 billion a year, when fully phased in, and reduces the estate tax rate from 70 percent to 50 percent; the administration bill does it somewhat differently, but achieves the same results.

The committee bill exempts 500 barrels of oil a day for all companies from the windfall profits tax, a tax cut for oil producers of some $7 billion in 6 years—the administration bill does roughly the same.

Interestingly enough, the committee bill—the Democratic bill—offers commodities brokers $400 million in tax savings annually as a reward for their tax-avoiding commodity straddles, while the administration bill eliminates that loophole.

THE ECONOMY SUFFERS

Any objective view of the economic prospect of the enactment of either of these bills is truly frightening.

The Federal deficit? The combination of another recession, and its upward pressures on the budget, the unprecedented increase in military spending, and the corporate tax giveways and revenue loss in these bills will likely make past deficits look like minor episodes compared to what lies ahead.

Inflation? A 3-year tax cut on top of a miniscule savings rate? We can draw our own conclusions whether the greatly expanded income stream will fuel or dampen inflation. I for one do not think any conclusion can be drawn but that these tax bills are guaranteed to fuel inflation, especially since our productivity rate lags and production capacity across the economy is down.

Investment in new plant and machinery and new production? Why should these bills steer individual and corporate capital to new productive investment?

Why should investors put their new income into productive uses as a result of these bills, since both reward speculation as much as they promote productive investment? The bills offer as much incentive to investors to put their money into gold, jewelry, and Persian rugs as they do for investment in plant and equipment? The fact of the matter is that these two bills are giveways to the corporate sector and to wealthy individuals. There is no concept in them of targeting investment to productive uses.

Interest rates? How possibly can these two bills ease interest rates, given their likely impact on Federal deficits?

THE POLITICAL BIDDING WAR

The tragedy of the tax bill is that the Democratic leadership felt it necessary to engage the administration in a political bidding war. When the dust settled, virtually every powerful special interest group got a piece of the bill, while the American people were the big losers.

What justification is there to virtually eliminate the corporate tax on new investment? What justification is there to give the oil industry several billion more in tax breaks, since they are already the most profitable industry in the world and have free rein over the prices they charge? What is the justification for the unprecedented shift in the tax burden from capital to labor, and from corporations to individuals? As far back as 25 years ago, the corporate income tax paid 30 percent of the cost of the Federal Government. Under both bills, the corporate share will drop to under 6 percent.

Democrats today are searching for a new political theory to revitalize their public and constituency support. Yet the operative one so far seems to be to try to outdo the Republicans at their fiscal conservative, anti-Government game. Have we not yet learned the lesson, that when it comes down to choosing between the genuine conservative product—the administration product—and one that pretends to be the conservative product—the Democratic leadership product—but is not and can never be, the genuine product will be chosen every time? No matter how much the Democratic leadership tried to outbid the administration, and win over the well-heeled special interest groups, the administration can always claim that it is the real thing. Why should anyone choose the second best at the wheel of privilege?

THE CONGRESSIONAL BLACK CAUCUS TAX BILL (H.R. 4262)

While the assumptions underlying the CBC tax bill may not be good politics—after all, the Rules Committee in its wisdom rejected its consideration—they certainly are good policy.

H.R. 4262 is virtually identical to the tax package that the caucus offered as part of its alternative budget resolution last May. At that time the Democratic study group analysis of the various proposals cited the caucus tax package as "the largest and fairest tax cut of any of the proposals before the House" and "the boldest step of any proposal being offered to the House to deal with the Federal deficit."

The caucus tax bill considers it good tax policy to distribute fairly the tax burden among all segments of the population, including the business community. Its investment incentives are not indiscriminate corporate giveaways, but are designed to enhance the quality and quantity of new investments in plants and equipment.

The caucus tax bill considers it good tax policy to target incentives to those sectors and activities that hold the most promising of spurring economic growth, curbing inflation, and boosting productivity. For this reason, it provides that capital gains exclusions be restricted to those gains that derive from productive rather than speculative investment.

In providing for a 10-percent credit for employers and employees to be used to offset the substantial increases in social security payroll taxes, the caucus bill promotes jobs and at the same time reduces business costs and inflation.

The bill also provided for the largest package of tax reform of any proposal before the House, and thereby would have pointed us in a new direction of simplifying the Tax Code and making it equitable.

The caucus bill provides for: $32 billion in individual tax cuts, including a 10-percent credit for workers against their payroll taxes, an increase in the earned-income tax credit, the child care credit, and in the zero-bracket amount, and reduction in the marriage tax penalty; $12 billion in targeted tax incentives to stimulate business and economic recovery, which are designed to increase new productive investments and that would have maintained the corporate tax rate on new investments at 15 percent; $16 billion in tax reform measures, including elimination of the oil depletion allowance, foreign oil tax credits, tax straddle shelters, the targeting of capital gains to only productive investments, and the placing of a ceiling on business meal deductions and entertainment and travel writeoffs.

THE TAX BILL'S IMPACT ON DOMESTIC PRIORITIES

The Ways and Means Committee and administration tax bills raise the question, who or what is going to finance the Federal Government over the next 10 years, given the enormous revenue loss in both bills? Is Government going to be financed by some new, unprecedented spurt in business prosperity? Or by borrowed money, and even greater debt? Will the cost of Government have to be borne by far-reaching increases in social security taxes? Will the military-industrial complex accede to a cutback in the rate and level of military spending, that the fiscal year 1982 budget plans for? Or will domestic human resource and social programs be called upon to absorb even greater reductions than have already taken place? One thing seems clear: The pressures to reduce Federal spending could be extreme, as a result of either tax bill, and judging by recent actions domestic programs are far more likely to be sacrificed than military ones.

The Democratic Party needs a political theory to rebuild its public support and win future elections. The actions already taken this year on the 1982 budget, the reconciliation bill, and now the tax bill strongly suggest that the political theory under which the leadership currently is operating ought to be discarded. There is no way to win by imitating and even out mimicking the Republicans.

The experience with these measures should point the Democratic Party in a new direction, in the direction of fashioning Democratic policies, not pseudo-Republican ones. The party should honor its constituent parts, its constituency base, rather than abandon it. It should look ahead and plan ahead, and come up with public policies that reflect both its historic values and that address the problems our society faces. The political bidding war with the administration has to end. Public support for the party will return only when the party convinces citizens that it has their good in mind.●

● Mr. McGRATH. Mr. Chairman, I rise in strong support of the Conable-Hance bipartisan tax relief package. Today, this body has the option of providing real tax relief for the American people, or to continue business as usual.

Shortly after coming to Congress in January, I asked my constituents whether they supported a 3-year, 30-percent reduction in taxes. Eighty-two percent of my constituents answered "Yes"; only 12 percent responded "No." Since the President's address on Monday night, telegrams and phone calls to my offices have been running better than 20 to 1 in support of the President's tax reduction package.

My constituents, and I would venture to say an overwhelming majority of the people in this country, support the President, because his program is the only one which provides genuine tax relief. A Congressional Research Service study dated July 27 states:

If the triggered tax cut in the Ways and Means Committee bill does not go into effect, the Finance Committee (Reagan) bill would provide larger tax cuts and lower marginal tax rates to nearly all taxpayers in 1984.

Since the Ways and Means Committee bill is structured in a way that virtually insures that additional tax cuts will not be triggered, the Reagan proposal is the only alternative which provides legitimate tax relief beyond 1983.

To cite an example, the average family of four in my home district has an annual income of about $25,000. By 1983, under the committee bill, a family with a $25,000 income would have a slight advantage—about $75, or less than $1.50 a week. But by 1984 and thereafter, the advantage clearly swings to the President's tax cut. In 1984, under the bipartisan tax cut, the tax reduction for this family would be $995, under the committee bill, $892. In 1985, the difference grows to $329, and by 1986 to $351. The committee wants us to remember the $75, but apparently wants us to forget the cumulative $783 difference in the succeeding 3 years.

Even at a lower income bracket—$15,000—does the committee really believe that the American people are willing to trade a 50-cent-a-week tax break in 1983 for lasting tax relief? I doubt if our citizens are that shortsighted.

A key element in the Conable-Hance bill is tax indexing. Without indexing, bracket creep will continue, and our citizens will be guaranteed higher and higher taxes, even if they have had no real increases in income.

For the past decade and more, the Congress has been playing a shell game with the American people. On six different occasions, the Congress has voted tax cuts, but at the same time it has been collecting ever-increasing revenues. In the past 10 years, tax revenues have increased by $400 billion, and inflation-induced bracket creep is one of the major reasons. The New York Times, in a recent editorial endorsing indexing has exposed the shell game:

The main argument for the change is integrity. Six times since 1969, Congress has flattered itself by passing what were called tax cuts, when it was merely turning back revenues generated by the inflationary creep of taxpayers into ever higher tax brackets. And some of this windfall was not returned at all, but spent. So the legislators could boast not only of cutting taxes but also of increased Federal benefits. The Senate's indexing plan would end that game this year. Future tax cuts would really have to be cuts; increased spending would have to come from real economic growth or candidly acknowledged tax increases.

It is time we stopped playing games with the American people. The Federal Government should not benefit from inflation, as it has in the past. Apparently, the majority of my colleagues agree with me, since more than half the membership of this body has cosponsored tax indexing legislation.

The Conable-Hance substitute provides genuine tax relief for individuals, and provides the incentives which are necessary for investment in the economic future of this country. On the other hand, the proposal which has been advanced by the Ways and Means Committee is a sham. It tosses a bone to the taxpayer, and the benefits of the committee tax cut proposal will be all but wiped out 3 years from right now. The Conable-Hance bipartisan substitute allows the taxpayer to get even with inflation—and stay even. The committee bill guarantees tax increases 3 years from now. Our choice is between doing something meaningful or business as usual. I believe it is time we did something meaningful.

I include for the benefit of my colleagues recent editorials from the New York Times and the New York Post relative to certain aspects of the tax cut:

[From the New York Post, July 27, 1981]

DELAY ENOUGH—GIVE REAGAN HIS TAX CUTS

President Reagan is absolutely right to demand that the Democrats stop fooling with "trigger" gimmickry as a condition of passing his tax-cut program.

He is absolutely right to demand the income tax cuts as he wants them—without conditions, across the board and, most essentially, over three years, 5 per cent this October, 10 per cent in July 1982 and 10 per cent again in July 1983.

As part and parcel of their continuing delay, the Democrats have now demanded the President not get his cuts in the third year unless certain conditions are met: inflation down to less than 5.7 per cent a year, the 1983 budget deficit less than $22.9 billion and interest rates stabilized at 7.5 per cent.

It all sounds reasonable. But it really amounts to a delaying tactic—yet another attempt to frustrate income and other tax cuts which must surely be passed here and now if the President's mandated pledge to cut government expenditure and get big government off the backs of the people is to have the slightest chance of succeeding over the next three years.

Some major elements in the President's plan are already in place.

His budget cuts are at work—the first serious attempt to cut government spending in decades. We may not have seen the last of the big spenders but their voices are muted and their avarice contained.

We already have a tough monetary squeeze. The Federal Reserve at long last appears to have gotten the courage to sit on top of the supply of money. Restraint is the order of the day. Interest rates are very high—and likely to stay that way until the battle against inflation is finally won.

But without tax cuts, all this restraint will be loaded onto private business, big and small. Investment will be throttled. More major firms will collapse. The very heart and soul of America's future—the growth of investment in new productivity—will be gripped in the cold hand of recession.

Such a prospect may not worry the Democrats.

But it must worry the heart and soul of anyone with American's future growth on his conscience.

As President Reagan said of the "trigger" concept, it's an idea hatched by "people who really don't believe in cutting taxes at all."

He can be sure of massive support when he vows: "I'll go anywhere any time to ensure that the working people of this country get their first real tax reduction in 20 years."

The President has a good case. He has already compromised to the limit. No more delays, no more nibbling away at reductions in rates, no more fanciful conditions—he must be given his program in full.

The alternative is a bleak outlook in which a monetary vise will squeeze the life and future growth possibilities out of the American dream.

[From the New York Times]

A TAX INDEX BETS ON DEMOCRACY

If you are truly weary of politicians "cutting" taxes every other year but nonetheless collecting ever larger sums for Federal spending, take heart from a live proposal to end the shell game. It is called "indexing" the income tax, and the Senate has voted to try it starting in 1985.

The idea, first embraced by Ronald Reagan during his Presidential campaign and now part of the Administration tax bill, is annually to index, or raise, the income that determines tax bracket—as well as taxpayers' personal exemptions and standard deductions—by an amount that offsets inflation. In other words, the prevailing tax rate would be held roughly constant in relation to purchasing power; it would stop creeping upwards simply because of inflation. If it takes an income of $33,000 this year to buy what $30,000 bought last year, the *proportion* going to Uncle Sam would no longer automatically increase.

It is a worthy idea that would restore honest packaging to Federal tax policy. If Government spending increases, Congress would have to actually vote to raise taxes to finance it. And merely holding the true tax rate constant could no longer be misrepresented as tax reduction.

The main argument for the change is integrity. Six times since 1969, Congress has flattered itself by passing what were called income tax cuts, when it was merely turning back revenues generated by the inflationary creep of taxpayers into ever higher tax brackets. And some of this windfall was not returned at all, but spent. So the legislators could boast not only of cutting taxes but also of increased Federal benefits. The Senate's indexing plan would end that game this year. Future tax cuts would really have to be cuts; increased spending would have to come from real economic growth or candidly acknowledged tax increases.

The strongest argument against the idea is that protecting taxpayers against inflation in this way would weaken their already feeble will to resist inflation. But that puts a policy premium on trickery. The fact is that taxpayers learn soon enough that their tax rates have been going up, no matter what the politicians say, and then join much riskier "tax revolts" of the kind that have now spread from the states to Washington.

Indeed, it may turn out the Government will more quickly fight inflation if it is among the first victims. Indexing the income tax would sensitize Congress and all Federal agencies to the declining value of the dollar. To avoid a true tax increase for new works, both President and Congress would have a new incentive to resist waste

and the costly subsidies that still lie buried in the tax code.

Liberals have good reason to fear that in its present conservative mood, the nation would be driven by a tax index to resist important new social programs. But that is an argument to perpetuate good works by sleight of hand.

It is just as valid to argue that social programs lost political support precisely because they were too long financed with the inflation's tax windfall and did not have to be openly defended as meriting tax increases.

There are risks in tax indexing. If applied in 1985 after repeated reductions in social spending, it might wind up skimming an additional $13 billion from tax receipts and lead Congress to squeeze the budget even harder. Congress might still refuse to face up to inflation. And it might shortchange both military and civilian obligations rather than raise tax rates. But that would only perpetuate honest debate over priorities. The risk, in the end, is not greater than betting on democracy.●

● Mr. LUNDINE. Mr. Chairman, for more than 5 years, the American public has watched with frustration and disillusionment as our economy has stagnated and even declined. There is no question that the primary challenge facing Congress and the country is to reverse the erosion of American productivity and of America's industrial base, to put the economy back on track and to rekindle the confidence and the optimism of the American people.

President Reagan has offered a plan which has clearly captured the imagination and the support of most Americans. I have strong misgivings about much of that plan. There are serious risks involved. I have expressed my reservations frequently and, at the same time, I have tried to set forth or support those alternative strategies which I believe are in the better interests of the country. I have outlined what I believe are the fallacies of "trickle down economics"—the notion that America's moderate income majority can only advance if enormous benefits are granted to America's wealthiest individuals and largest corporations. I have also articulated what I believe are the specific steps needed for improving the productivity of workplaces throughout America.

In particular, I voted only 2 months ago against the President's budget because I honestly felt the House Budget Committee had come up with a more prudent plan that was more likely to contribute to America's revitalization.

Today, we consider the last and, in some ways, the most far-reaching component of the President's plan: a multiyear tax cut. Once again, I have serious misgivings about the likely effects of what the President proposes. But, this time my dismay is compounded by the absence of any truly better alternative. I had hoped that the Ways and Means Committee would present a tax cut alternative that was leaner, more equitable, and more efficiently targeted toward economic renewal than the President's. Unfortunately, the committee has instead fashioned a bill that in its excessive cost, in its lack of focus, and in its willingness to further complicate an already cluttered Tax Code is barely distinguishable from the President's proposal. In short, neither bill is one I can enthusiastically support. I do not believe either bill constitutes good tax policy or economic policy.

Under these circumstances, I have decided to support the President's tax plan embodied in the Conable-Hance substitute. I do so for two basic reasons.

First, because I continue to believe that America needs a tax cut. I have said for some time that a reduction in taxes is important both to stimulate economic growth through investment and savings and to compensate working families for the effects of inflation. Over the last few days, as I confronted the choice between the Ways and Means bill and the Conable-Hance substitute, I have been tempted to vote against both of them, to strike out against these Christmas tree tax bills in the hope we will be offered something better later on. But, in the final analysis, this does not seem to me a defensible course to take. To defeat a tax cut now will only prolong the paralysis of the American economy and the demoralization of the American people for another 6 months—all for the uncertain prospect that we can craft a better tax cut in the future. Which brings me to my second reason for supporting the President's bill; namely, the psychological impact on the American public.

Essentially, I have become convinced that only if the President's bill is passed can we restore the American public confidence in the future. One of the things I have come to appreciate as an observer of the economic scene is the intangible but unmistakable impact of public attitudes in shaping the performance of the economy. They cannot be quantified, but there can be no doubt that they play a significant role. Pessimism among consumers and investors alike, for example, has done much to perpetuate the wage-price spiral over the last few years.

It is clear that a great many hopes and plans for the future on the part of millions of Americans are tied to the success of the President's tax plan. Is it really worth forfeiting the economic benefits which may accrue from this surge in national optimism, by rejecting the President's bill in favor of one offered by the Ways and Means Committee which is hardly any different? I would be willing to risk losing that psychological impact if I felt we could enact a tax cut that was substantially better. Indeed, earlier this afternoon, I supported a substitute offered by the gentleman from Arizona (Mr. UDALL), which would have provided a 1-year tax cut and the prospect of much smaller deficits and thus lower interest rates in the immediate future. Judging from the vote on that measure, this was not a viable alternative.

So we are left with the two principal tax cut plans. And I am faced with several simple facts: The deficits are as large under the Democratic plan as they are under the Republican plan; there are as many ornamental additions to the one bill as there are to the other; and therefore, under these circumstances, it is probably most important to support the plan that has the best hope of restoring a positive view of America's economic future among our people.

That view is confirmed by the hundreds of thoughtful constituents from whom I have heard and with whom I have talked over the last several days. I have not arrived at my conclusion out of intimidation or pressure. In fact, a recent decision by a radical right-wing group to target me through an expensive and negative advertising campaign rather strengthened my initial impulse to vote against all of the tax cut alternatives. But the more I listened to my constituents and to their expressions of hope for the future, the more I have become convinced that this incipient optimism cannot be lightly discarded.

Let me add that there is one lesson for the future which I hope all of us will extract from this experience. For many years there has been a growing recognition that what we really need is fundamental and thoroughgoing reform of the tax code. I have been a strong supporter of such reform proposals. It seems to me that all Americans will be better off if we can eliminate most of the special deductions, exemptions, and preferential treatments of income. If we were to succeed in that effort, we could lower the overall levels of marginal tax rates and allow investment to flow naturally to those places where it can earn the best return in the marketplace, rather than to those places where it will be sheltered and where it will often add nothing to the productivity of our economy. I hope that in the coming months, the Ways and Means Committee, the Senate Finance Committee, and the Reagan administration will devote themselves to this increasingly important task.●

● Mr. MAZZOLI. Mr. Chairman, earlier this year, when the House was faced with a choice between two competing budget bills, I said that neither plan suited me and that I would have preferred to make numerous changes in the terms and provisions of both bills.

But, I could not change the bills, and, eventually, I had to choose one over the other.

Here, today, I am faced with a similar situation.

I find provisions in both competing tax bills disturbing from a fiscal and economic standpoint. I find others which do nothing more than pander to a few favored special interests.

But, I cannot change these measures nor craft them to my satisfaction here today.

I have to choose one over the other.

I have decided, following careful study of the bills, following discussions with my constituents, my family, my staff, and my colleagues in the House—and following many restless nights and days—to support President Reagan's bipartisan tax-cut package.

Let me hasten to make one point very clear, Mr. Chairman. I am not a Republican—closet or otherwise. I am a Democrat and proud of it.

But, despite my allegiance to the Democratic Party, I view my role here in the House is to support the President when I believe he is right and to oppose him when I believe he is wrong.

Today, I think he is right. While a vote for his plan may not be in the best interest of my party—though I think that point is debatable—it is, in my opinion, in the best interest of the people. And, that is what democracy is really all about.

But, for a moment, let us get back to the issue of supporting and opposing the President.

For example, I support extension of the Voting Rights Act. Mr. Reagan does not—at least yet. I intend to fight in the Judiciary Committee, at meetings starting this evening, to pass an extension of the act without weakening provisions and to work for its prompt adoption into law.

I feel Mr. Reagan is ready to commit too many dollars to buy weapons systems plagued with wild cost overruns and frequent malfunctions. And, I do not believe enough emphasis has been placed on "trimming the fat" at the Pentagon.

I am a veteran and support my country's need for the strongest possible national defense. But when, as now, the President goes too far, I intend to oppose him.

I think the administration is dead wrong in proposed personnel cutbacks in the U.S. Border Patrol and in the Immigration and Naturalization Service. We need to strengthen our Nation's borders—not weaken them. Otherwise, today's unacceptably heavy flow of undocumented aliens will become a completely unmanageable flood.

I also think the President is wrong on his proposals to eliminate the Legal Services Corporation for the poor and the social security minimum benefit for current retirees.

Mr. Chairman, these are but a handful of issues on which I respectfully disagree with the President and on which I have opposed him and will continue to oppose him—despite my support today for his tax plan.

Later today and in the days ahead, people will ask me: "Why did you support the President's bill over the one drafted by Chairman ROSTENKOWSKI and your democratic colleagues on the Ways and Means Committee?"

First off, I disagree with those who are calling this vote today a "litmus test" on one's allegiance and loyalty to the Democratic Party.

Let me quote today's Washington Post editorial:

> It is true, as the Democratic leaders claim, that their bill is slightly better for people with incomes under $50,000 a year. But, it is equally true . . . that both bills are exceedingly generous to people with incomes over $50,000. Both bills take very good care of a wide range of lobbyists and both contain the exemption to the oil windfall tax—the most squalid and dangerous of all caveins. . . .

Where, Mr. Chairman, is a clear, Democratic philosophy evidenced in the Ways and Means bill?

But, though the differences in these bills are modest and both are seriously flawed, nonetheless, there is a choice before us.

On the one hand is the ways and means bill which seems largely to be an uncoordinated hodge-podge of tax goodies and sweeteners with little coherence or completeness save to garner votes from special interest groups.

On the other hand, underneath all the tax baubles and bangles, added to the President's bill during the frantic and unseemly bidding war for votes, lies a basic economic philosophy—the so-called supply side economics. The President has urged this economic position since his candidacy began and it was endorsed by the people in last November's elections.

I am not sure his economic program will work for America. It may be all wet. But, I cannot get over the feeling that we ought to give him a chance.

He may succeed, Mr. Chairman, in which case Americans for a long time to come will be the better for our actions today. Or, he may hang himself and his party, thus insuring my party's political primacy for a long time to come.

Another factor directing me in favor of the President's plan is that it provides predicitability to individuals and corporations in their planning for the future.

The bipartisan plan is a 3-year plan. The Ways and Means Committee bill contains a trigger for the third year. It is debatable whether the trigger can ever be pulled given its terms.

But, even if a third year is likely, it still is not a certainty. In order to see whether the President's economic plan for America is solid or only hot air, we have to give it a real chance. That means 3 years.

The President's plan has serious flaws, as I stated earlier.

I am not satisfied that tax-bracket indexing is a correct step. It may only serve to take the pain out of inflation—by conforming tax rates to cost-of-living increases. But, since it does not begin until 1985, Congress will have a chance to take a second look at this novel concept before it takes hold.

I wish the President had not "caved in" to the oil industry lobbyists—I say the same about the Ways and Means Committee bill. The oil people wanted decontrol. We gave them decontrol so they would have incentive to search for new fields. In return we enacted the windfall profit tax to insure that oil companies did not reap a bonanza without paying their fair share of the tax bill.

However, the ink on this bill has hardly dried and Republicans and Democrats alike have fallen all over themselves to lift the tax. I hope these overgenerous provisions will be withdrawn or rewritten.

The commodity tax straddle provisions, appearing in both measures, is another doozy. It is no more than a blatant giveaway to a strong lobby. This sweetener should be "soured" along the line.

So much for the bad stuff. There is much good in both bills.

Both encourage savings, investment, and productivity. Both reward the work ethic and promote research and inventiveness.

One item which appears only in the President's bill was influential in my decision to support his package. It would allow people to deduct their charitable contributions even when they file the short tax form and do not itemize their deductions.

The sharp reduction both measures make in the estate, inheritance, and gift taxes will make it hard for universities and other nonprofit charitable organizations to raise funds.

Because the Federal Government is withdrawing from many social services and educational programs, leaving a void the church and other charitable groups have to fill, Congress must do all possible to encourage charitable giving. The President's bill is helpful in this respect.

Another important influence on me, Mr. Chairman, was the tremendous outpouring of telephone calls, telegrams, letters, and personal visits which followed President Reagan's speech on Monday evening.

While no doubt some of it was orchestrated and staged, I believe the great bulk of this response was sponta-

neous, unprogramed and came straight from grassroots America.

This is an impressive affirmation that Americans—and not just the rich—are supportive of Mr. Reagan's economic proposal and want him to have a chance.

In the final analysis, that is what I am doing today: Giving him a chance. If he fails to give America a better future, then he should be held accountable to the people of this land.

But, if, as I fervently hope, he is right, then all of us Americans will be the better for his efforts.●

Mr. CONABLE. Now, Mr. Chairman, to wind up debate for our side during the general debate period, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL), a very hard working and respected member of the committee.

Mr. FRENZEL. Mr. Chairman, the bill before us is the largest tax reduction bill in history. During the next 5 years, the committee bill, as well as all of the other proposals which will be offered as substitutes, will return hundreds of billions of dollars in tax revenues back to the American people. Returning money to the taxpayers is a noble goal, and one which I enthusiastically support.

However, I cannot, and will not, support a measure which returns hundreds of billions of dollars to the taxpayers in a haphazard, and sometimes irresponsible, manner.

The Ways and Means Committee bill is being presented as an alternative to the President's original tax proposal—and to the bipartisan substitute—when in fact it is not an alternative tax policy at all. The bill is more properly described as a political document, and a classic example of political horse trading, logrolling, and half-effective tax symbolism.

The Ways and Means Committee took the sound, comprehensive economic policy inherent in the President's 5-10-10/ACRS tax program, and turned it into a highly ornamented Christmas tree. The glitter and attractive ornaments got the attention, but very little consideration was given to the basic economic foundation.

Bailing out certain so-called distressed industries would be far less objectionable if the rest of our industrial base had already been made healthy and productive through economic stimulus. Providing increases in the negative income tax we call the earned income credit might be more acceptable if it did not involve increasing the taxes of the millions of already overburdened taxpayers who are forced to subsidize this benefit. Unfortunately, the majority members of the Ways and Means Committee must have lost sight of the original goals behind this tax bill, and instead reported a political document which they hoped could prevail. They were forced to bend their bill toward the President's proposal for the same reason. Nonetheless their bill's ultimate value to the economy is highly questionable.

Some of the provisions in the bill reflect the committee attitude of finding an alternative proposal at any cost. One of the other chief offenders in the bill is the committee's depreciation proposal, which was hastily dreamed up and tossed into the bill as a means of finding an alternative to the ACRS program that the President had proposed. The ACRS (10-5-3) proposal had been the subject of intense scrutiny over the past few years by some of the finest economic and financial minds in the country. It had been drafted and redrafted, until a final proposal was developed which most experts agreed would provide almost all of the incentives necessary to rebuild our industrial base, and return life and vigor to the economy.

Instead of taking the advice of almost all of the witnesses that testified before the committee in favor of the ACRS concept, the Ways and Means bill relies on a new and untested expensing proposal. It is not a bad idea, but this proposal is so untried that its provisions were changed almost every time the committee sat down to mark up the bill. Because it is so untested, it is difficult to find anybody in industry that can testify as to how it will affect various industries and regions. Sometimes I think that the President should have offered the text of the committee bill as his original proposal. That way, in its quest for an alternative tax program, the Ways and Means Committee might then have passed a bill like Conable-Hance as its own bill. The country would then be able to look forward to the next decade as an era of sound economic and tax policy, instead of approaching the coming years with trepidation as to what lies ahead for the health and stability of our entire economy.

Mr. Chairman, there is a good deal more to distinguish the Presidentially endorsed bipartisan Conable-Hance amendment from the Ways and Means Committee bill than a third year of individual tax cuts, the permanentization of those cuts, or a skewing of the cuts. But those are the major differences that have dominated all the discussions on this debate.

I believe the Conable-Hance alternative is superior specifically because it preserves the third year of tax cuts and then perpetuates them through indexing. It provides a real tax cut over 3 years.

The committee bill, because of bracket creep and social security, will acutally cause taxpayers to pay more taxes after 3 years than they pay today. It is not a tax cut at all.

We have been told that the Conable-Hance amendment favors the rich. The Democratic Party line alleges the committee bill is better for people with $50,000 of income or less.

I will readily admit that the committee tax cuts are skewed. They are not across-the-board cuts which I favor, and most of America favors, but how much do they favor middle-income people?

Under the committee bill, a $15,000 wage earner with a family of four will do better in the first year, 1982, by less than $2 a month, the $20,000 earner with the same family situation by less than $3 a month. When income rises over $35,000 for this kind of taxpayer, the Conable-Hance amendment will be more favorable even after 2 years. So much for generosity. Our thimbles runneth over.

More important than the fact that the income level skewing is minimal, is the fact that everybody comes out better under the Conable-Hance bill in the third year. As the President has said the committee bill is better only for those who plan to live only 2 years.

So, if any Member of this body has been planning to vote for the committee bill because it is so much better for middle-income people, he or she can now safely change their plans. The President's plan is better.

The few pennies a month that it delivers represent an insignificant difference from the straightforward and fair across-the-board tax cuts of Conable-Hance.

However, if Members are curious as to where the committee version puts the money that it, admittedly, takes away from higher income taxpayers, let them be aware that the Democrat bill sweetens the earned income tax credit by nearly $2 billion over the first 3 years. The Members may recall the earned income tax credit goes to people who pay almost nothing to begin with, or who are not even taxpayers at all. If we want to help people who pay no taxes at the expense of those who pay most of this country's tax bills, we probably should support the committee's tax bill.

Some Members may like the $3½ billion given to the largest companies in America under the Bailey bailout. If we vote for the committee bill, we can deny our constituents a third year of the tax cut and give the money instead to such distressed companies as General Motors, Ford, International Paper, United States Steel, Southern Railroad, Standard of Ohio, and scads of other large profitable companies. The Members' own taxpayer constituents will be interested to hear why we reduced their tax cut to give to the largest and most powerful corporations of this country.

And if some Members still like the committee bill, I invite them to consider how we are going to explain to our constituents that we are only cutting

their taxes by 15 percent, but we are cutting the maximum tax rate for Exxon and IBM and other giants by nearly 30 percent.

Those are some of the reasons to vote against the committee bill. There are plenty of additional reasons to vote in favor of the Conable-Hance bipartisan substitute.

A number of Members have stood in this well and told us that the committee bill is better for the small business. Remember that the largest small business organization in the world strongly and unequivocably supports the Conable-Hance amendment.

Remember, too, that the cuts in Conable-Hance are real and they are permanent. The bill is fair. The cuts are made across the board. They effectively provide stimulus to those healthy, growing companies in our industrial system on which we are going to have to depend.

Conable-Hance does not bail out the cripples. It helps those who are going to provide us new jobs in the future. The bipartisan substitute President's total economic program.

The final and perhaps most dominant reason of all to support it is that our constituents want us to vote for this bill. The telephones in our offices have been jammed with calls since the President's speech. Average Americans are calling and telling us that we ought to be supporting the President. They know his tax cut fits the President's comprehensive economic program.

Now that we have adopted our tight budget and supported it by the reconciliation, a vote for the Conable-Hance amendment is the next step we must take to turn this country around, to make a real change in America, to give people who work and save and produce a fair return, and to build more jobs and more prosperity for our country in the future.

We have only one choice. It is Conable-Hance.

I urge the adoption of the amendment.

□ 1330

The CHAIRMAN. All time of the gentleman from New York (Mr. CONABLE) has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the remaining time to the gentleman from Missouri (Mr. GEPHARDT).

The CHAIRMAN. The gentleman from Missouri (Mr. GEPHARDT) will be recognized for 6½ minutes.

Mr. GEPHARDT. Mr. Chairman, members of the committee, I first want to, as other speakers have, give my commendation to the chairman of the committee, the gentleman from Illinois, and all of the members of the committee for the fine and outstanding work they have all done in putting this bill together. The committee has spent hours after hours in committee meetings and caucus meetings and other meetings trying to put the best provisions together to make this an excellent tax bill. Everyone here has something against one provision or another. Everyone has a better idea on many provisions, but I think on the whole what we have arrived at is a bill that brings together many, many elements of our country, and does provide for us a blueprint for the economic recovery that our President and all of us want.

There are three major differences between the two major tax bills before us today. There has been a lot of talk in the media and around the country in the past few days that these two bills are essentially the same. People have said that they are Tweedledum and Tweedledee, and that they are really calling for the same kind of tax cuts. I do not think the people that are saying that have taken the time to really look at these two bills, because there are essential and important differences that I hope all of us will consider.

The first and most important difference—and it is always the important difference in a tax cut—is who gets it and how much do they get? On the individual side, if Members will take the time to go out in the hall here and look at the charts before they vote, they are going to find that there are some very real differences. Many of our colleagues on the other side of the aisle have buttons on that say, "I plan to live," and I hope we all do live, but I think that people in this country are worried not just about what is going to happen 3 or 4 or 5 years from now; they are worried about what is going to happen next year and the year after that.

I think the evidence is clear that if you make under $50,000, the House Ways and Means bill is better for you. Let me just read some figures about average tax cuts.

Individuals between $5,000 and $10,000 income get $66 under the Republican plan and $136 under the Democratic plan. If you earn between $15,000 and $20,000, you get $246 under the Republican plan, but $342 under the Democratic plan. If you earn between $30,000 and $50,000, you get $751 under the Republican plan, but $1,011 under the Democratic plan. But, if you earn over $200,000 you get $22,000 under the Republican plan but only $10,000 under the Democratic plan.

I understand what out colleagues are saying on the other side of the aisle, that in the third and fourth and fifth years after their tax cut will do better, but that statement assumes, I suppose, that the Congress is going to be disbanded this year and we are never going to come back; we are never going to look again at a tax cut; we are never going to consider cutting taxes again. As the President said the other night, we cut taxes five times in the last 10 years. I think it is clear that Congress can and will take a look at taxes in 2 years and enact tax cuts if it makes economic sense.

The second major difference between the bills has to do with the business cuts.

The Republican version is geared primarily to businesses that are large and capital-intensive, and our plan, while it helps those businesses a great deal, also targets relief to businesses that are small and medium sized and have a great deal of activity in services and information, in what economists tell us is the future of our economic growth.

Let me cite a statistic. In the last 10 years, we produced more jobs in ratio to population than at any time in our past. We have accommodated the baby boom and the women in our population, and we have done it while manufacturing jobs were going from 24 percent of the jobs in this country to 13 percent of the jobs. That means that the growth in jobs has been in small- and medium-sized businesses, in high technology and information and in services, but I submit to the Members that the Republican bill does very, very little for those businesses, but does most of what it does for businesses where jobs are declining.

I only ask the Members, do we not want a bill that treats all business—small business, medium business, large business, businesses that are capital-intensive, and businesses that are labor-intensive, in a way that they can all grow and all prosper and all produce jobs? The Democratic version simply does that better. Whether one is talking about the graduated corporate rate, whether one is talking about expensing over 10-5-3, or whether one is talking about the lowering of the overall corporate rate, all three are better for small and medium-sized businesses.

The last difference, and perhaps the most important, is the economy. I would say to my friends on the other side of the aisle, if we all live, and I hope we do for 2, 3, or 4 years, that the plan that is being proposed today by the Republicans will produce for us higher interest rates and higher deficits because of the effect of the locked-in third year, and because of the effect of indexing. The financial managers and economists of America tell us again and again that high deficits and interest rates are choking this country. The Republican bill lacks the flexibility we need to deal with high deficits. I urge Members to support the committee bill. It makes sense for more Americans.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

All time on general debate has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except amendments recommended by the Committee on Ways and Means which shall be in order at any time, and shall not be subject to amendment, and the following amendments which shall be considered only in the following order, if offered: First, an amendment in the nature of a substitute consisting of the text of H.R. 4269, if offered by Representative UDALL of Arizona, said substitute shall not be subject to amendment; and second, and amendment in the nature of a substitute consisting of the text of H.R. 4260, if offered by Representative CONABLE of New York, said substitute shall be in order even if the previous amendment in the nature of a substitute is adopted, and said substitute shall not be subject to amendment.

The text of the bill is as follows:

H.R. 4242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Incentive Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

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TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Tax Reductions

SEC. 101. RATE CUTS.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following tables:

"(1) FOR 1981.—

"If taxable income is:	The tax is:
Not over $3,500	No tax.
Over $3,500 but not over $5,600.	13% of excess over $3,500.
Over $5,600 but not over $7,700.	$273, plus 16% of excess over $5,600.
Over $7,700 but not over $12,000.	$609, plus 18% of excess over $7,700.
Over $12,000 but not over $16,100.	$1,383, plus 20% of excess over $12,000.
Over $16,100 but not over $20,300.	$2,203, plus 24% of excess over $16,100.
Over $20,300 but not over $24,700.	$3,211, plus 28% of excess over $20,300.
Over $24,700 but not over $30,000.	$4,443, plus 32% of excess over $24,700.
Over $30,000 but not over $35,300.	$6,139, plus 37% of excess over $30,000.
Over $35,300 but not over $45,900.	$8,100, plus 43% of excess over $35,300.
Over $45,900 but not over $60,100.	$12,658, plus 49% of excess over $45,900.
Over $60,100 but not over $85,700.	$19,616, plus 54% of excess over $60,100.
Over $85,700 but not over $109,500.	$33,440, plus 59% of excess over $85,700.
Over $109,500 but not over $162,500.	$47,482, plus 64% of excess over $109,500.
Over $162,500 but not over $215,500.	$81,402, plus 68% of excess over $162,500.
Over $215,500	$117,442, plus 70% of excess over $215,500.

"(2) FOR 1982.—

"If taxable income is:	The tax is:
Not over $3,800	No tax.
Over $3,800 but not over $5,900.	13% of excess over $3,800.
Over $5,900 but not over $8,000.	$273, plus 14% of excess over $5,900.
Over $8,000 but not over $12,300.	$567, plus 15% of excess over $8,000.
Over $12,300 but not over $16,400.	$1,212, plus 19% of excess over $12,300.
Over $16,400 but not over $20,600.	$1,991, plus 21% of excess over $16,400.
Over $20,600 but not over $25,000.	$2,873, plus 23% of excess over $20,600.
Over $25,000 but not over $30,300.	$3,885, plus 28% of excess over $25,000.
Over $30,300 but not over $35,600.	$5,369, plus 34% of excess over $30,300.
Over $35,600 but not over $46,200.	$7,171, plus 41% of excess over $35,600.
Over $46,200 but not over $60,400.	$11,517, plus 49% of excess over $46,200.
Over $60,400 but not over $86,000.	$18,475, plus 53% of excess over $60,400.
Over $86,000 but not over $109,800.	$32,043, plus 58% of excess over $86,000.
Over $109,800	$45,847, plus 60% of excess over $109,800.

"(3) FOR 1983.—

"If taxable income is:	The tax is:
Not over $3,800	No tax.
Over $3,800 but not over $5,900.	11% of excess over $3,800.
Over $5,900 but not over $8,000.	$231, plus 13% of excess over $5,900.
Over $8,000 but not over $12,300.	$504, plus 14% of excess over $8,000.
Over $12,300 but not over $16,400.	$1,106, plus 18% of excess over $12,300.
Over $16,400 but not over $20,600.	$1,844, plus 19% of excess over $16,400.
Over $20,600 but not over $25,000.	$2,642, plus 22% of excess over $20,600.
Over $25,000 but not over $30,300.	$3,610, plus 25% of excess over $25,000.
Over $30,300 but not over $35,600.	$4,935, plus 34% of excess over $30,300.
Over $35,600 but not over $46,200.	$6,737, plus 41% of excess over $35,600.
Over $46,200 but not over $60,400.	$11,083, plus 48% of excess over $46,200.
Over $60,400	$17,899, plus 50% of excess over $60,400.

"(4) FOR 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $4,000	No tax.
Over $4,000 but not over $6,100.	$0, plus 10% of excess over $4,000.
Over $6,100 but not over $8,200.	$210, plus 12% of excess over $6,100.
Over $8,200 but not over $12,500.	$462, plus 14% of excess over $8,200.
Over $12,500 but not over $16,600.	$1,064, plus 16% of excess over $12,500.
Over $16,600 but not over $20,800.	$1,720, plus 17% of excess over $16,600.
Over $20,800 but not over $25,200.	$2,434, plus 22% of excess over $20,800.
Over $25,200 but not over $30,500.	$3,402, plus 24% of excess over $25,200.
Over $30,500 but not over $35,800.	$4,674, plus 29% of excess over $30,500.
Over $35,800 but not over $46,400.	$6,211, plus 37% of excess over $35,800.
Over $46,400 but not over $70,000.	$10,133, plus 44% of excess over $46,400.
Over $70,000	$20,517, plus 50% of excess over $70,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following tables:

"(1) FOR 1981.—

"If taxable income is:	The tax is:
Not over $2,350	No tax.
Over $2,350 but not over $4,450.	13% of excess over $2,350.
Over $4,450 but not over $6,550.	$273, plus 16% of excess over $4,450.
Over $6,550 but not over $8,750.	$609, plus 18% of excess over $6,550.
Over $8,750 but not over $11,850.	$1,005, plus 21% of excess over $8,750.
Over $11,850 but not over $15,050.	$1,656, plus 24% of excess over $11,850.
Over $15,050 but not over $18,250.	$2,424, plus 26% of excess over $15,050.
Over $18,250 but not over $23,550.	$3,256, plus 31% of excess over $18,250.
Over $23,550 but not over $28,850.	$4,899, plus 36% of excess over $23,550.
Over $28,850 but not over $34,150.	$6,807, plus 42% of excess over $28,850.
Over $34,150 but not over $44,750.	$9,033, plus 46% of excess over $34,150.
Over $44,750 but not over $60,650.	$13,909, plus 54% of excess over $44,750.
Over $60,650 but not over $81,850.	$22,495, plus 59% of excess over $60,650.
Over $81,850 but not over $108,350.	$35,003, plus 63% of excess over $81,850.
Over $108,350 but not over $161,350.	$51,698, plus 68% of excess over $108,350.
Over $161,350	$87,738, plus 70% of excess over $161,350.

"(2) FOR 1982.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $4,600.	13% of excess over $2,500.
Over $4,600 but not over $6,700.	$273, plus 14% of excess over $4,600.
Over $6,700 but not over $8,900.	$567, plus 15% of excess over $6,700.
Over $8,900 but not over $12,000.	$897, plus 21% of excess over $8,900.
Over $12,000 but not over $15,200.	$1,548, plus 22% of excess over $12,000.
Over $15,200 but not over $18,400.	$2,252, plus 23% of excess over $15,200.
Over $18,400 but not over $23,700.	$2,988, plus 28% of excess over $18,400.
Over $23,700 but not over $29,000.	$4,472, plus 34% of excess over $23,700.
Over $29,000 but not over $34,300.	$6,274, plus 40% of excess over $29,000.
Over $34,300 but not over $44,900.	$8,394, plus 46% of excess over $34,300.

"If taxable income is:	The tax is:
Over $44,900 but not over $60,800.	$13,270, plus 53% of excess over $44,900.
Over $60,800 but not over $82,000.	$21,697, plus 58% of excess over $60,800.
Over $82,000	$33,993, plus 60% of excess over $82,000.

"(3) FOR 1983.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $4,600.	11% of excess over $2,500.
Over $4,600 but not over $8,900.	$231, plus 14% of excess over $4,600.
Over $8,900 but not over $12,000.	$833, plus 19% of excess over $8,900.
Over $12,000 but not over $18,400.	$1,422, plus 20% of excess over $12,000.
Over $18,400 but not over $23,700.	$2,702, plus 25% of excess over $18,400.
Over $23,700 but not over $29,000.	$4,027, plus 32% of excess over $23,700.
Over $29,000 but not over $34,300.	$5,723, plus 39% of excess over $29,000.
Over $34,300 but not over $44,900.	$7,790, plus 44% of excess over $34,300.
Over $44,900	$12,454, plus 50% of excess over $44,900.

"(4) FOR 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,600	No tax.
Over $2,600 but not over $4,700.	$0, plus 10% of excess over $2,600.
Over $4,700 but not over $6,800.	$210, plus 13% of excess over $4,700.
Over $6,800 but not over $9,000.	$483, plus 14% of excess over $6,800.
Over $9,000 but not over $12,100.	$791, plus 16% of excess over $9,000.
Over $12,100 but not over $15,300.	$1,287, plus 18% of excess over $12,100.
Over $15,300 but not over $18,500.	$1,863, plus 20% of excess over $15,300.
Over $18,500 but not over $23,800.	$2,503, plus 24% of excess over $18,500.
Over $23,800 but not over $29,100.	$3,775, plus 30% of excess over $23,800.
Over $29,100 but not over $34,400.	$5,365, plus 36% of excess over $29,100.
Over $34,400 but not over $50,000.	$7,273, plus 43% of excess over $34,400.
Over $50,000	$13,981, plus 50% of excess over $50,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following tables:

"(1) FOR 1981.—

"If taxable income is:	The tax is:
Not over $2,350	No tax.
Over $2,350 but not over $3,450.	13% of excess over $2,350.
Over $3,450 but not over $4,450.	$143, plus 16% of excess over $3,450.
Over $4,450 but not over $6,550.	$303, plus 18% of excess over $4,450.
Over $6,550 but not over $8,550.	$681, plus 19% of excess over $6,550.
Over $8,550 but not over $10,850.	$1,061, plus 20% of excess over $8,550.
Over $10,850 but not over $12,950.	$1,521, plus 24% of excess over $10,850.
Over $12,950 but not over $15,050.	$2,025, plus 26% of excess over $12,950.
Over $15,050 but not over $18,250.	$2,571, plus 30% of excess over $15,050.
Over $18,250 but not over $23,550.	$3,531, plus 34% of excess over $18,250.
Over $23,550 but not over $28,850.	$5,333, plus 39% of excess over $23,550.
Over $28,850 but not over $34,150.	$7,400, plus 44% of excess over $28,850.
Over $34,150 but not over $41,550.	$9,732, plus 49% of excess over $34,150.
Over $41,550 but not over $55,350.	$13,358, plus 55% of excess over $41,550.
Over $55,350 but not over $81,850.	$20,948, plus 63% of excess over $55,350.
Over $81,850 but not over $108,350.	$37,643, plus 68% of excess over $81,850.
Over $108,350	$55,663, plus 70% of excess over $108,350.

"(2) FOR 1982.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $3,600.	13% of excess over $2,500.
Over $3,600 but not over $4,600.	$143, plus 14% of excess over $3,600.
Over $4,600 but not over $6,700.	$283, plus 15% of excess over $4,600.
Over $6,700 but not over $8,700.	$598, plus 17% of excess over $6,700.
Over $8,700 but not over $11,000.	$938, plus 19% of excess over $8,700.
Over $11,000 but not over $15,200.	$1,375, plus 21% of excess over $11,000.
Over $15,200 but not over $18,400.	$2,257, plus 26% of excess over $15,200.
Over $18,400 but not over $23,700.	$3,089, plus 31% of excess over $18,400.
Over $23,700 but not over $29,000.	$4,732, plus 35% of excess over $23,700.
Over $29,000 but not over $34,300.	$6,587, plus 41% of excess over $29,000.
Over $34,300 but not over $41,700.	$8,760, plus 48% of excess over $34,300.
Over $41,700 but not over $55,500.	$12,312, plus 54% of excess over $41,700.
Over $55,500	$19,764, plus 60% of excess over $55,500.

"(3) FOR 1983.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $3,600.	11% of excess over $2,500.
Over $3,600 but not over $6,700.	$121, plus 14% of excess over $3,600.
Over $6,700 but not over $8,700.	$555, plus 15% of excess over $6,700.
Over $8,700 but not over $11,000.	$855, plus 17% of excess over $8,700.
Over $11,000 but not over $13,100.	$1,246, plus 19% of excess over $11,000.
Over $13,100 but not over $15,200.	$1,645, plus 20% of excess over $13,100.
Over $15,200 but not over $18,400.	$2,065, plus 24% of excess over $15,200.
Over $18,400 but not over $23,700.	$2,833, plus 30% of excess over $18,400.
Over $23,700 but not over $29,000.	$4,423, plus 34% of excess over $23,700.
Over $29,000 but not over $34,300.	$6,225, plus 41% of excess over $29,000.
Over $34,300 but not over $41,700.	$8,398, plus 48% of excess over $34,300.
Over $41,700	$11,950, plus 50% of excess over $41,700.

"(4) FOR 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,600	No tax.
Over $2,600 but not over $3,700.	$0, plus 10% of excess over $2,600.
Over $3,700 but not over $4,700.	$110, plus 13% of excess over $3,700.
Over $4,700 but not over $6,800.	$240, plus 14% of excess over $4,700.
Over $6,800 but not over $8,800.	$534, plus 15% of excess over $6,800.
Over $8,800 but not over $11,100.	$834, plus 16% of excess over $8,800.
Over $11,100 but not over $13,200.	$1,202, plus 17% of excess over $11,100.
Over $13,200 but not over $15,300.	$1,559, plus 19% of excess over $13,200.
Over $15,300 but not over $18,500.	$1,958, plus 22% of excess over $15,300.
Over $18,500 but not over $23,800.	$2,662, plus 26% of excess over $18,500.
Over $23,800 but not over $29,100.	$4,040, plus 30% of excess over $23,800.
Over $29,100 but not over $34,400.	$5,630, plus 36% of excess over $29,100.
Over $34,400 but not over $45,000.	$7,538, plus 43% of excess over $34,400.
Over $45,000	$12,096, plus 50% of excess over $45,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following tables:

"(1) FOR 1981.—

"If taxable income is:	The tax is:
Not over $1,750	No tax.
Over $1,750 but not over $2,800.	13% of excess over $1,750.
Over $2,800 but not over $3,850.	$136, plus 16% of excess over $2,800.
Over $3,850 but not over $6,000.	$304, plus 18% of excess over $3,850.
Over $6,000 but not over $8,050.	$691, plus 20% of excess over $6,000.
Over $8,050 but not over $10,150.	$1,101, plus 24% of excess over $8,050.
Over $10,150 but not over $12,350.	$1,605, plus 28% of excess over $10,150.
Over $12,350 but not over $15,000.	$2,221, plus 32% of excess over $12,350.
Over $15,000 but not over $17,650.	$3,069, plus 37% of excess over $15,000.
Over $17,650 but not over $22,950.	$4,050, plus 43% of excess over $17,650.
Over $22,950 but not over $30,050.	$6,329, plus 49% of excess over $22,950.
Over $30,050 but not over $42,850.	$9,808, plus 54% of excess over $30,050.
Over $42,850 but not over $54,750.	$16,720, plus 59% of excess over $42,850.
Over $54,750 but not over $81,250.	$23,741, plus 64% of excess over $54,750.
Over $81,250 but not over $107,750.	$40,701, plus 68% of excess over $81,250.
Over $107,750	$58,721, plus 70% of excess over $107,750.

"(2) FOR 1982.—

"If taxable income is:	The tax is:
Not over $1,900	No tax.
Over $1,900 but not over $2,950.	13% of excess over $1,900.
Over $2,950 but not over $4,000.	$136, plus 14% of excess over $2,950.
Over $4,000 but not over $6,150.	$283, plus 15% of excess over $4,000.
Over $6,150 but not over $8,200.	$606, plus 19% of excess over $6,150.
Over $8,200 but not over $10,300.	$995, plus 21% of excess over $8,200.
Over $10,300 but not over $12,500.	$1,436, plus 23% of excess over $10,300.
Over $12,500 but not over $15,150.	$1,942, plus 28% of excess over $12,500.
Over $15,150 but not over $17,800.	$2,684, plus 34% of excess over $15,150.
Over $17,800 but not over $23,100.	$3,585, plus 41% of excess over $17,800.
Over $23,100 but not over $30,200.	$5,758, plus 49% of excess over $23,100.
Over $30,200 but not over $43,000.	$9,237, plus 53% of excess over $30,200.
Over $43,000 but not over $54,900.	$16,021, plus 58% of excess over $43,000.
Over $54,900	$22,923, plus 60% of excess over $54,900.

"(3) FOR 1983.—

"If taxable income is:	The tax is:
Not over $1,900	No tax.
Over $1,900 but not over $2,950.	11% of excess over $1,900.
Over $2,950 but not over $4,000.	$115, plus 13% of excess over $2,950.
Over $4,000 but not over $6,150.	$252, plus 14% of excess over $4,000.
Over $6,150 but not over $8,200.	$553, plus 18% of excess over $6,150.
Over $8,200 but not over $10,300.	$922, plus 19% of excess over $8,200.
Over $10,300 but not over $12,500.	$1,321, plus 22% of excess over $10,300.
Over $12,500 but not over $15,150.	$1,805, plus 25% of excess over $12,500.
Over $15,150 but not over $17,800.	$2,467, plus 34% of excess over $15,150.
Over $17,800 but not over $23,100.	$3,368, plus 41% of excess over $17,800.
Over $23,100 but not over $30,200.	$5,541, plus 48% of excess over $23,100.
Over $30,200	$8,949, plus 50% of excess over $30,200.

"(4) FOR 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,000	No tax.
Over $2,000 but not over $3,050.	$0, plus 10% of excess over $2,000.
Over $3,050 but not over $4,100.	$105, plus 12% of excess over $3,050.
Over $4,100 but not over $6,250.	$231, plus 14% of excess over $4,100.
Over $6,250 but not over $8,300.	$532, plus 16% of excess over $6,250.
Over $8,300 but not over $10,400.	$860, plus 17% of excess over $8,300.
Over $10,400 but not over $12,600.	$1,217, plus 22% of excess over $10,400.
Over $12,600 but not over $15,250.	$1,701, plus 24% of excess over $12,600.
Over $15,250 but not over $17,900.	$2,337, plus 29% of excess over $15,250.
Over $17,900 but not over $23,200.	$3,105, plus 37% of excess over $17,900.
Over $23,200 but not over $35,000.	$5,066, plus 44% of excess over $23,200.
Over $35,000	$10,258, plus 50% of excess over $35,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following tables:

"(1) FOR 1981.—

"If taxable income is:	The tax is:
Not over $1,050	13% of taxable income.
Over $1,050 but not over $2,100.	$136, plus 16% of excess over $1,050.
Over $2,100 but not over $4,250.	$304, plus 18% of excess over $2,100.
Over $4,250 but not over $6,300.	$691, plus 20% of excess over $4,250.
Over $6,300 but not over $8,400.	$1,101, plus 24% of excess over $6,300.
Over $8,400 but not over $10,600.	$1,605, plus 28% of excess over $8,400.
Over $10,600 but not over $13,250.	$2,221, plus 32% of excess over $10,600.
Over $13,250 but not over $15,900.	$3,069, plus 37% of excess over $13,250.
Over $15,900 but not over $21,200.	$4,050, plus 43% of excess over $15,900.
Over $21,200 but not over $28,300.	$6,329, plus 49% of excess over $21,200.
Over $28,300 but not over $41,100.	$9,808, plus 54% of excess over $28,300.
Over $41,100 but not over $53,000.	$16,720, plus 59% of excess over $41,100.
Over $53,000 but not over $79,500.	$23,741, plus 64% of excess over $53,000.
Over $79,500 but not over $106,000.	$40,701, plus 68% of excess over $79,500.
Over $106,000	$58,721, plus 70% of excess over $106,000.

"(2) FOR 1982.—

"If taxable income is:	The tax is:
Not over $1,050	13% of taxable income.
Over $1,050 but not over $2,100.	$136, plus 14% of excess over $1,050.
Over $2,100 but not over $4,250.	$283, plus 15% of excess over $2,100.
Over $4,250 but not over $6,300.	$606, plus 19% of excess over $4,250.
Over $6,300 but not over $8,400.	$995, plus 21% of excess over $6,300.
Over $8,400 but not over $10,600.	$1,436, plus 23% of excess over $8,400.
Over $10,600 but not over $13,250.	$1,942, plus 28% of excess over $10,600.
Over $13,250 but not over $15,900.	$2,684, plus 34% of excess over $13,250.
Over $15,900 but not over $21,200.	$3,585, plus 41% of excess over $15,900.
Over $21,200 but not over $28,300.	$5,758, plus 49% of excess over $21,200.
Over $28,300 but not over $41,100.	$9,237, plus 53% of excess over $28,300.
Over $41,100 but not over $53,000.	$16,021, plus 58% of excess over $41,100.
Over $53,000	$22,923, plus 60% of excess over $53,000.

"(3) FOR 1983.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100.	$115, plus 13% of excess over $1,050.
Over $2,100 but not over $4,250.	$252, plus 14% of excess over $2,100.
Over $4,250 but not over $6,300.	$553, plus 18% of excess over $4,250.
Over $6,300 but not over $8,400.	$922, plus 19% of excess over $6,300.
Over $8,400 but not over $10,600.	$1,321, plus 22% of excess over $8,400.
Over $10,600 but not over $13,250.	$1,805, plus 25% of excess over $10,600.
Over $13,250 but not over $15,900.	$2,467, plus 34% of excess over $13,250.
Over $15,900 but not over $21,200.	$3,368, plus 41% of excess over $15,900.
Over $21,200 but not over $28,300.	$5,541, plus 48% of excess over $21,200.
Over $28,300	$8,949, plus 50% of excess over $28,300.

"(4) FOR 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $1,050	10% of taxable income.
Over $1,050 but not over $2,100.	$105, plus 12% of excess over $1,050.
Over $2,100 but not over $4,250.	$231, plus 14% of excess over $2,100.
Over $4,250 but not over $6,300.	$532, plus 16% of excess over $4,250.
Over $6,300 but not over $8,400.	$860, plus 17% of excess over $6,300.
Over $8,400 but not over $10,600.	$1,217, plus 22% of excess over $8,400.
Over $10,600 but not over $13,250.	$1,701, plus 24% of excess over $10,600.
Over $13,250 but not over $15,900.	$2,337, plus 29% of excess over $13,250.
Over $15,900 but not over $21,200.	$3,105, plus 37% of excess over $15,900.
Over $21,200 but not over $33,000.	$5,066, plus 44% of excess over $21,200.
Over $33,000	$10,258, plus 50% of excess over $33,000.

"(f) COORDINATION WITH SECTION 21.—For purposes of section 21, if for any calendar year there is a change in rates under the preceding subsections of this section, the effective date of such change shall be treated as the first day of the calendar year."

"(g) RATE REDUCTION FOR 1984 ONLY IF CERTAIN CONDITIONS ARE MET.—

"(1) IN GENERAL.—IF THE REQUIREMENTS OF PARAGRAPH (2) ARE NOT MET—

"(A) the rate schedules set forth in paragraph (4) of subsections (a), (b), and (c) shall not apply, and

"(B) the rate schedules set forth in paragraph (3) of such subsections shall continue to apply after 1983.

"(2) CONDITIONS.—The requirements of this paragraph are met if (and only if) the Secretary of the Treasury determines, and publishes such determination in the Federal Register, before November 15, 1983, that all of the following conditions have been met:

"(A) the deficit in the Federal budget for fiscal year 1983 was $22.9 billion or less,

"(B) the average of the Consumer Price Index for All Urban Consumers (as published by the Bureau of Labor Statistics) for July, August, and September of 1983 was 309 or less, and

"(C) the average investment yield for United States Treasury bills with maturities of 91 days (which were auctioned during the third quarter of calendar year 1983) was 7.5 percent or less."

(b) WITHHOLDING TABLES.—

(1) DETERMINATION OF WITHHOLDING.—Section 3402(a) (relating to requirement of withholding income tax at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—

"(1) IN GENERAL.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall—

"(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

"(B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.

"(2) AMOUNT OF WAGES.—For purposes of applying tables or procedures prescribed under paragraph (1), the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption. The amount of each withholding exemption shall be equal to the amount of one personal exemption provided in section 151(b), prorated to the payroll period. The maximum number of withholding exemptions permitted shall be calculated in accordance with regulations prescribed by the Secretary under this section.

"(3) CHANGES MADE BY SECTION 101 OF THE TAX INCENTIVE ACT OF 1981.—For purposes of paragraph (1)(B), the Secretary shall treat—

"(A) the period beginning on October 1, 1981, and ending on June 30, 1982, and

"(B) the period after June 30, 1982, as separate periods."

(2) WAGES PAID FOR PERIOD LESS THAN 1 WEEK.—Section 3402(b) (relating to the percentage method of withholding) is amended—

(A) by striking out paragraph (1), and redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by amending paragraph (3) (as redesignated by subparagraph (A)) to read as follows:

"(3) In any case in which the period, or the time described in paragraph (2), in respect of any wages is less than one week, the Secretary, under regulations prescribed by him, may authorize an employer to compute the tax to be deducted and withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period."

(3) ZERO BRACKET AMOUNT.—Paragraph (1)(G) of section 3402(f) (relating to withholding exemptions) is amended by inserting "(or more than one exemption if so prescribed by the Secretary)" after "one exemption".

(4) CHANGES IN WITHHOLDING.—Section 3402(i) (relating to additional withholding) is amended to read as follows:

"(i) CHANGES IN WITHHOLDING.—

"(1) IN GENERAL.—The Secretary may by regulations provide for increases or decreases in the amount of withholding otherwise required under this section in cases where the employee requests such changes.

"(2) TREATMENT AS TAX.—Any increased withholding under paragraph (1) shall for all purposes be considered tax required to be deducted and withheld under this chapter."

(5) WITHHOLDING ALLOWANCES.—Subsection (m) of section 3402 (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(m) WITHHOLDING ALLOWANCES.—Under regulations prescribed by the Secretary, an employee shall be entitled to additional withholding allowances or additional reductions in withholding under this subsection. In determining the number of additional withholding allowances or the amount of additional reductions in withholding under this subsection, the employee may take into account (to the extent and in the manner provided by such regulations)—

"(1) estimated itemized deductions allowable under chapter 1 (other than the deductions referred to in section 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62) (other than paragraph (13) thereof),

"(2) estimated tax credits allowable under chapter 1, and

"(3) such additional deductions and other items as may be specified by the Secretary in regulations."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (b) shall apply to remuneration paid after September 30, 1981, except that the amendment made by subsection (b)(5) shall apply to remuneration paid after December 31, 1981.

SEC. 102. INCREASE IN ZERO BRACKET AMOUNT, ETC.

(a) CHANGES FOR 1981.—

(1) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended—

(A) by striking out "$3,400" and inserting in lieu thereof "$3,500",

(B) by striking out "$2,300" and inserting in lieu thereof "$2,350", and

(C) by striking out "$1,700" and inserting in lieu thereof "$1,750".

(2) FILING REQUIREMENTS.—

(A) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(i) by striking out "$3,300" and inserting in lieu thereof "$3,350",

(ii) by striking out "$4,400" and inserting in lieu thereof "$4,500", and

(iii) by striking out "$5,400" and inserting in lieu thereof "$5,500".

(B) Paragraph (9) of section 6012(a) is amended by striking out "$2,700" and inserting in lieu thereof "$2,750".

(3) AMENDMENT OF SECTION 402(e)(1).—Subparagraph (C) of section 402(e)(1) (relating to tax on lump-sum distributions) is amended by striking out "$2,300" and inserting in lieu thereof "$2,350".

(b) CHANGES FOR 1982.—

(1) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (as amended by subsection (a)) is amended—

(A) by striking out "$3,500" and inserting in lieu thereof "$3,800",

(B) by striking out "$2,350" and inserting in lieu thereof "$2,500", and

(C) by striking out "$1,750" and inserting in lieu thereof "$1,900".

(2) FILING REQUIREMENTS.—

(A) Paragraph (1) of section 6012(a) (as amended by subsection (a)) is amended—

(i) by striking out "$3,350" and inserting in lieu thereof "$3,500",

(ii) by striking out "$4,500" and inserting in lieu thereof "$4,800", and

(iii) by striking out "$5,500" and inserting in lieu thereof "$5,800".

(B) Paragraph (9) of section 6012(a) (as amended by subsection (a)) is amended by striking out "$2,750" and inserting in lieu thereof "$2,900".

(3) AMENDMENT OF SECTION 402(e)(1).—Subparagraph (C) of section 402(e)(1) (as amended by subsection (a)) is amended by striking out "$2,350" and inserting in lieu thereof "$2,500".

(4) REDUCTION IN ALTERNATIVE MINIMUM TAX.—Subparagraph (C) of section 55(a)(1) (relating to alternative minimum tax) is amended by striking out "25 percent" and inserting in lieu thereof "24 percent".

(5) REDUCTION IN PERSONAL HOLDING COMPANY TAX.—Section 541 (relating to personal holding company tax) is amended by striking out "70 percent" and inserting in lieu thereof "60 percent".

(c) ADJUSTMENTS FOR 1983.—

(1) REPEAL OF MAXIMUM TAX ON PERSONAL SERVICE INCOME.—

(A) IN GENERAL.—Part VI of subchapter Q of chapter 1 (relating to maximum rate on personal service income) is repealed.

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (1) of section 3(b) (relating to tax tables for individuals) is amended to read as follows:

"(1) an individual to whom section 1301 (relating to income averaging) applies for the taxable year,".

(ii) Subsection (b) of section 1304 (relating to special rules for income averaging) is amended—

(I) by inserting "and" at the end of paragraph (1),

(II) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(III) by striking out paragraph (3).

(iii) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI.

(2) REDUCTION IN ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 55(a) is amended to read as follows:

"(1) an amount equal to the sum of—

"(A) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000, plus

"(B) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000, exceeds".

(3) REDUCTION IN PERSONAL HOLDING COMPANY TAX.—Section 541 (as amended by subsection (b)) is amended by striking out "60 percent" and inserting in lieu thereof "50 percent".

(d) ADJUSTMENTS FOR 1984.—

(1) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (as amended by subsections (a) and (b)) is amended—

(A) by striking out "$3,800" and inserting in lieu thereof "$4,000",

(B) by striking out "$2,500" and inserting in lieu thereof "$2,600", and

(C) by striking out "$1,900" and inserting in lieu thereof "$2,000".

(2) FILING REQUIREMENTS.—

(A) Paragraph (1) of section 6012(a) (as amended by subsection (a)) is amended—

(i) by striking out "$3,500" and inserting in lieu thereof "$3,600",

(ii) by striking out "$4,800" and inserting in lieu thereof "$5,000", and

(iii) by striking out "$5,800" and inserting in lieu thereof "$6,000".

(B) Paragraph (9) of section 6012(a) (as amended by subsection (a)) is amended by striking out "$2,900" and inserting in lieu thereof "$3,000".

(3) AMENDMENT OF SECTION 402(e)(1).—Subparagraph (C) of section 402(e)(1) (as amended by subsections (a) and (b)) is amended by striking out "$2,500" and inserting in lieu thereof "$2,600".

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1981.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1982.

(4) SUBSECTION (d).—The amendments made by subsection (d)—

(A) shall apply to taxable years beginning after December 31, 1983, but only if

(B) the requirements of paragraph (2) of section 1(g) of the Internal Revenue Code of 1954 are met.

Subtitle B—Increases in Earned Income Credit and Child Care Credit; Deduction for Two-Earner Married Couples

SEC. 121. INCREASE IN THE EARNED INCOME TAX CREDIT.

(a) INCREASE IN CREDIT.—Subsection (a) of section 43 (relating to earned income credit) is amended by striking out "10 percent" and inserting in lieu thereof "11 percent".

(b) INCREASE FOR 1982.—

(1) IN GENERAL.—Subsection (b) of section 43 (relating to limitation) is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $550, over

"(2) 13.75 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $8,000."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (f)(2) of section 43 is amended—

(i) by striking out "$10,000" each place it appears and inserting in lieu thereof "$12,000", and

(ii) by striking out "$6,000" and inserting in lieu thereof "$8,000".

(B) Paragraph (2) of section 3507(c) (relating to earned income advance amount tables) is amended—

(i) by striking out "10 percent" each place it appears and inserting in lieu thereof "11 percent",

(ii) by striking out "$6,000 and $10,000" and inserting in lieu thereof "$8,000 and $12,000", and

(iii) by striking out "$3,000 and $5,000" and inserting in lieu thereof "$4,000 and $6,000".

(c) INCREASE FOR 1984.—

(1) ADJUSTMENT OF BASE AMOUNT.—Subsection (a) of section 43 is amended by striking out "$5,000" and inserting in lieu thereof "$6,000".

(2) ADJUSTMENT OF PHASE-OUT.—Subsection (b) of section 43 is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to the taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $660, over

"(2) 13.2 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (f)(2) of section 43 is amended—

(i) by striking out "$12,000" each place it appears and inserting in lieu thereof "$14,000", and

(ii) by striking out "$8,000" and inserting in lieu thereof "$9,000".

(B) Paragraph (2) of section 3507(c) (relating to earned income advance amount tables) is amended—

(i) by striking out "$8,000 and $12,000" and inserting in lieu thereof "$9,000 and $14,000", and

(ii) by striking out "$4,000 and $6,000" and inserting in lieu thereof "$4,500 and $7,000".

(d) EFFECTIVE DATES.—

(1) FOR SUBSECTIONS (a) AND (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1981.

(B) AMENDMENTS OF SECTION 3507.—The amendments made by subsection (b)(2)(B) shall apply to remuneration paid after December 31, 1981.

(2) FOR SUBSECTION (c).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (c)—

(i) shall apply to taxable years beginning after December 31, 1983, but only if

(ii) the requirements of paragraph (2) of section 1(g) of the Internal Revenue Code of 1954 are met.

(B) AMENDMENTS OF SECTION 3507.—The amendments made by subsection (c)(3)(B)—

(i) shall apply to remuneration paid after December 31, 1983, but only if

(ii) the requirements of paragraph (2) of section 1(g) of the Internal Revenue Code of 1954 are met.

SEC. 122. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

"(a) DEDUCTION ALLOWED.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 10 percent of the lesser of—

"(1) $50,000, or

"(2) the qualified earned income of the spouse with the lower qualified earned income for such taxable year.

"(b) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), (9), (10), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws.

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of the net profits of such trade or business'.

"(c) DEDUCTION DISALLOWED FOR INDIVIDUAL CLAIMING BENEFITS OF SECTION 911 OR 931.—No deduction shall be allowed under this section for any taxable year if either spouse claims the benefits of section 911 or 931 for such taxable year."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income), as amended by section 142 of this Act, is amended by inserting after paragraph (15) the following new paragraph:

"(16) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 221."

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 85 (relating to unemployment compensation) is amended by striking out "and without regard to section 105(d)" and inserting in lieu thereof ", section 105(d) and section 221".

(2) Subsection (d)(3) of section 105 (relating to amounts received under accident and health plans) is amended by inserting "and section 221" after "subsection" the first place it appears.

(3) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following new items:

"Sec. 221. Deduction for two-earner married couples.

"Sec. 222. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 123. INCREASES IN CREDIT ALLOWABLE FOR EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT.

(a) INCREASE IN PERCENTAGE OF EXPENSES ALLOWED AS CREDIT.—Subsection (a) of section 44A (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below 20 percent) by 1 percentage point for each full $1,000 by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000."

(b) INCREASES IN DOLLAR LIMITS ON AMOUNT CREDITABLE.—

(1) IN GENERAL.—Subsection (d) of section 44A (relating to dollar limit on amount creditable) is amended—

(A) by striking out "$2,000" and inserting in lieu thereof "$2,400", and

(B) by striking out "$4,000" and inserting in lieu thereof "$4,800".

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 44A(e) (relating to earned income limitation) is amended—

(A) by striking out "$166" and inserting in lieu thereof "$200", and

(B) by striking out "$333" and inserting in lieu thereof "$400".

(c) CREDIT ALLOWED FOR CERTAIN SERVICES OUTSIDE THE TAXPAYER'S HOUSEHOLD.—Subparagraph (B) of section 44A(c)(2) is amended to read as follows:

"(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of—

"(i) a qualifying individual described in paragraph (1)(A), or

"(ii) a qualifying individual (not described in paragraph (1)(A)) who regularly spends at least 8 hours each day in the taxpayer's household."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Subtitle C—Income Earned Abroad

SEC. 141. PARTIAL EXCLUSION FOR EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES AND FOREIGN HOUSING COSTS.

(a) IN GENERAL.—Section 911 (relating to income earned by individuals in certain camps) is amended to read as follows:

"SEC. 911. CITIZENS OR RESIDENTS OF THE UNITED STATES LIVING ABROAD.

"(a) EXCLUSION FROM GROSS INCOME.—At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year—

"(1) the foreign earned income of such individual, and

(2) the housing cost amount of such individual.

"(b) FOREIGN EARNED INCOME.—

"(1) DEFINITION.—For purposes of this section—

"(A) IN GENERAL.—The term 'foreign earned income' with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or (B) of subsection (d)(1), whichever is appropriate.

"(B) CERTAIN AMOUNTS NOT INCLUDED IN FOREIGN EARNED INCOME.—The foreign earned income for an individual shall not include amounts—

"(i) received as a pension or annuity,

"(ii) paid by the United States or an agency thereof if such individual is eligible for an exclusion from gross income or an exemption from taxation of any portion of such amount under any other section of this subpart or under any other provision of United States law,

"(iii) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or

"(iv) received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.

"(2) LIMITATION ON FOREIGN EARNED INCOME.—

"(A) IN GENERAL.—The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at the annual rate set forth in the following table for each day of the taxable year within the period described in subparagraph (A) or (B) of subsection (d)(1):

"In the case of taxable years beginning in:	The annual rate is:
1982	$75,000
1983	80,000
1984	85,000
1985	90,000
1986 and thereafter	95,000.

"(B) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of applying subparagraph (A), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(C) TREATMENT OF COMMUNITY INCOME.—In applying subparagraph (A) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount which may be excludable from the gross income of such husband and wife under subsection (a)(1) for any taxable year shall equal the amount which would be so excludable if such amounts did not constitute community income.

"(c) HOUSING COST AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'housing cost amount' means an amount equal to the excess of—

"(A) the housing expenses of an individual for the taxable year, over

"(B) an amount equal to the product of—

"(i) 16 percent of the salary (computed on a daily basis) of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-14, multiplied by

"(ii) the number of days of such taxable year within the period described in subparagraph (A) or (B) of subsection (d)(1).

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—The term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of an individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. The term—

"(i) includes expenses attributable to the housing (such as utilities and insurance), but

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

Housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(B) SECOND FOREIGN HOUSEHOLD.—

"(i) IN GENERAL.—Except as provided in clause (ii), only housing expenses incurred with respect to that abode which bears the closest relationship to the tax home of the individual shall be taken into account under paragraph (1).

"(ii) SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS.—If an individual maintains a separate abode outside the United States for his spouse and dependents and they do not reside with him because of living conditions which are dangerous, unhealthful, or otherwise adverse, then—

"(I) the words 'if they reside with him' in subparagraph (A) shall be disregarded, and

"(II) the housing expenses incurred with respect to such abode shall be taken into account under paragraph (1).

"(3) SPECIAL RULES WHERE HOUSING EXPENSES NOT PROVIDED BY EMPLOYER.—

"(A) IN GENERAL.—To the extent the housing cost amount of any individual for any taxable year is not attributable to employer provided amounts, such amount shall be treated as a deduction allowable in computing adjusted gross income to the extent of the limitation of subparagraph (B).

"(B) LIMITATION.—For purposes of subparagraph (A), the limitation of this subparagraph is the excess of—

"(i) the foreign earned income of the individual for the taxable year, over

"(ii) the amount of such income excluded from gross income under subsection (a)(1) for the taxable year.

"(C) 1-YEAR CARRYOVER OF HOUSING AMOUNTS NOT ALLOWED BY REASON OF SUBPARAGRAPH (B).—

"(i) IN GENERAL.—The amount not allowable as a deduction for any taxable year under subparagraph (A) by reason of the limitation of subparagraph (B) shall be treated as a deduction allowable in computing adjusted gross income for the succeeding taxable year (and only for the succeeding taxable year) to the extent of the limitation of clause (ii) for such succeeding taxable year.

"(ii) LIMITATION.—For purposes of clause (i), the limitation of this clause for any taxable year is the excess of—

"(I) the limitation of subparagraph (B) for such taxable year, over

"(II) amounts treated as a deduction under subparagraph (A) for such taxable year.

"(D) EMPLOYER PROVIDED AMOUNTS.—For purposes of this paragraph, the term 'employer provided amounts' means any amount paid or incurred on behalf of the individual by the individual's employer which is foreign earned income included in the individual's gross income for the taxable year (without regard to this section).

"(E) FOREIGN EARNED INCOME.—For purposes of this paragraph, an individual's foreign earned income for any taxable year shall be determined without regard to the limitation of subparagraph (A) of subsection (b)(2).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual whose tax home is in a foreign country and who is—

"(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(B) a citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.

"(2) EARNED INCOME.—

"(A) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

"(B) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

"(3) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(4) WAIVER OF PERIOD OF STAY IN FOREIGN COUNTRY.—Notwithstanding paragraph (1), an individual who—

"(A) is a bona fide resident of, or is present in, a foreign country for any period,

"(B) leaves such foreign country after August 31, 1978—

"(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

"(ii) before meeting the requirements of such paragraph (1), and

"(C) establishes to the satisfaction of the Secretary that such individual could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B),

shall be treated as a qualified individual with respect to the period described in subparagraph (A) during which he was a bona fide resident of, or was present in, the foreign country, and in applying subsections (b)(2)(A) and (c)(1)(B)(ii) with respect to such individual, only the days within such period shall be taken into account.

"(5) TEST OF BONA FIDE RESIDENCE.—If—

"(A) an individual who has earned income from sources within a foreign country submits a statement to the authorities of that country that he is not a resident of that country, and

"(B) such individual is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings,

then such individual shall not be considered a bona fide resident of that country for purposes of paragraph (1)(A).

"(6) DENIAL OF DOUBLE BENEFITS.—No deduction or exclusion from gross income under this subtitle or credit against the tax imposed by this chapter (including any credit or deduction for the amount of taxes paid or accrued to a foreign country or possession of the United States) shall be allowed to the extent such deduction, exclusion, or credit is properly allocable to or chargeable against amounts excluded from gross income under subsection (a).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules—

"(A) for cases where a husband and wife each have earned income from sources outside the United States, and

"(B) for married individuals filing separate returns.

"(e) ELECTION.—

"(1) IN GENERAL.—An election under subsection (a) shall apply to the taxable year for which made and to all subsequent taxable years unless revoked under paragraph (2).

"(2) REVOCATION.—A taxpayer may revoke an election made under paragraph (1) for any taxable year after the taxable year for which such election was made. Except with the consent of the Secretary, any taxpayer who makes such a revocation for any taxable year may not make another election under this section for any subsequent taxable year before the 6th taxable year after the taxable year for which such revocation was made.

"(f) CROSS REFERENCES.—

"For administrative and penal provisions relating to the exclusions provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Citizens or residents of the United States living abroad."

(2) Section 43(c)(1)(C)(i) is amended by striking out "relating to income earned by individuals in certain camps outside the United States" and inserting in lieu thereof "relating to citizens or residents of the United States living abroad".

(3) Sections 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to income earned by employees in certain camps" and inserting in lieu thereof "relating to citizens or residents of the United States living abroad".

(4) Sections 37(e)(9)(B), 63(e)(2), 105(h)(3)(B)(v), 410(b)(3)(C), 879(a)(1), 1303(c)(2), and 1304(c)(3) are each amended by striking out "section 911(b)" each place it appears and inserting in lieu thereof "section 911(d)(2)".

(5) Paragraph (11) of section 1402(a) is amended to read as follows:

"(11) in the case of an individual described in section 911(d)(1)(B), the exclusion from gross income provided by section 911(a)(1) shall not apply; and".

SEC. 142. REPEAL OF DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) IN GENERAL.—Section 913 (relating to deduction for certain expenses of living abroad) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 913.

(2) Section 62 (relating to definition of adjusted gross income) is amended by striking out paragraph (14) and redesignating paragraphs (15) and (16) as paragraphs (14) and (15), respectively.

(3) Subparagraph (C) of section 43(c)(1) (relating to earned income) is amended—

(A) by striking out "913," in the caption thereof,

(B) by striking out clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(4) Subsection (k) of section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking out "section 913(j)(1)(B)" and inserting in lieu thereof "section 911(d)(3)".

(5) Section 3401 (relating to the definition of wages) is amended by striking out paragraph (18) and redesignating paragraphs (19) and (20) as paragraphs (18) and (19), respectively.

(6) Subparagraph (B) of section 6091(b)(1) (relating to place for filing returns and other documents) is amended by striking out "section 913 (relating to deduction for certain expenses of living abroad)".

SEC. 143. EMPLOYEES LIVING IN CAMPS.

Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end thereof the following new subsection:

"(c) EMPLOYEES LIVING IN CERTAIN CAMPS.—

"(1) IN GENERAL.—In the case of an individual who is furnished lodging in a camp located in a foreign country by or on behalf of his employer, such camp shall be considered to be part of the business premises of the employer.

"(2) CAMP.—For purposes of this section, a camp constitutes lodging which is—

"(A) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

"(B) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

"(C) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees."

SEC. 144. REPORTS BY SECRETARY.

Section 208 of the Foreign Earned Income Act of 1978 is amended to read as follows:

"SEC. 208. REPORTS BY SECRETARY.

"(a) GENERAL RULE.—As soon as practicable after the date of the enactment of the Tax Incentive Act of 1981, and as soon as practicable after the close of each fourth calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on the operation and effects of sections 911 and 912 of the Internal Revenue Code of 1954.

"(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a)."

SEC. 145. EFFECTIVE DATE.

The amendments made by this subtitle (other than section 144) shall apply with respect to taxable years beginning after December 31, 1981.

Subtitle D—Benefits Relating to Sales of Principal Residences

SEC. 151. 18-MONTH PERIODS FOR ROLLOVER PRINCIPAL RESIDENCE INCREASED TO 2 YEARS.

(a) IN GENERAL.—Section 1034 (relating to rollover of gain of sale of principal residence) is amended by striking out "18 months" each place it appears and inserting in lieu thereof "2 years".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 1034(c) is amended by striking out "18-month" and inserting in lieu thereof "2-year".

(2) Paragraph (5) of section 1034(c) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) sold or exchanged—

(1) after July 20, 1981, or

(2) on or before such date, if the rollover period under such section (determined without regard to the amendments made by this section) expires on or after such date.

SEC. 152. ONE-TIME EXCLUSION OF GAIN INCREASED TO $125,000.

(a) IN GENERAL.—Paragraph (1) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by striking out "$100,000 ($50,000" and inserting in lieu thereof "$125,000 ($62,500".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to residences sold or exchanged after July 20, 1981.

TITLE II—BUSINESS PROVISIONS

Subtitle A—Depreciation Reform

SEC. 201. EXPENSE-METHOD DEPRECIATION FOR PERSONAL PROPERTY.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. 168. EXPENSE-METHOD DEPRECIATION.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the basis of each expense-method property placed in service by the taxpayer during the taxable year.

"(b) EXPENSE-METHOD PROPERTY DEFINED.—Except as otherwise provided in this section, for purposes of this title, the term 'expense-method property' means tangible property—

"(1) which is of a character subject to the allowance for depreciation,

"(2) which is—

"(A) personal property,

"(B) other property (not including a building and its structural components) but only so long as it meets the requirements of clause (i), (ii), or (iii) of section 1245(a)(3)(B), or

"(C) a storage facility used in connection with the distribution of oil, gas, or any primary product of oil or gas, and

"(3) which is placed in service by the taxpayer after December 31, 1980.

"(c) FLEXIBILITY.—

"(1) IN GENERAL.—The taxpayer may elect to have all (or any portion) of the basis of any expense-method property—

"(A) not taken into account under subsection (a), but

"(B) depreciable under the rules of section 167(t).

"(2) SPECIAL RULE FOR TRANSITION.—An election under this subsection may apply only with respect to the portion of the basis of any expense-method property to which this section applies (determined after the application of paragraphs (1) and (2) of subsection (g)).

"(3) ELECTION.—An election under this subsection shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which the property is placed in service. Such election shall be made in such manner as the Secretary may by regulations prescribe. Any such election may not be revoked except with the consent of the Secretary.

"(d) CERTAIN PROPERTY EXCLUDED FROM DEFINITION OF EXPENSE-METHOD PROPERTY.—For purposes of this section—

"(1) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—The term 'expense-method property' does not include property which, during the taxable year, is used predominantly outside the United States (within the meaning of paragraph (2) of section 48(a)).

"(2) NONCORPORATE LESSORS.—

"(A) IN GENERAL.—In the case of a person other than a corporation, the term 'expense-method property' includes property with respect to which the taxpayer is the lessor only if the requirements of subparagraph (A) or (B) of section 46(e)(3) are met with respect to such property.

"(B) CORPORATE PARTNERS.—In the case of any property of which a partnership is the lessor, subparagraph (A) shall not apply with respect to such property in the case of any partner which is a corporation.

"(C) SPECIAL RULES FOR CERTAIN CORPORATIONS.—For purposes of this paragraph, the term 'corporation' does not include—

"(i) an electing small business corporation (as defined in section 1371),

"(ii) a personal holding company (as defined in section 542), and

"(iii) any service organization (as defined in section 414(m)(3)).

"(3) PROPERTY FOR WHICH INVESTMENT CREDIT NOT ALLOWABLE UNDER PRIOR LAW.—The term 'expense-method property' does not include any property whichHHHHH, if it had been placed in service before January 1, 1981, would have been excluded from the definition of section 38 property under—

"(A) paragraph (3) of section 48(a) (relating to property used for lodging),

"(B) paragraph (4) of section 48(a) (relating to property used by certain tax-exempt organizations), or

"(C) paragraph (5) of section 48(a) (relating to property used by governmental units).

"(4) PUBLIC UTILITY PROPERTY.—The term 'expense-method property' does not include—

"(A) any public utility property with a present class life of more than 18 years, and

"(B) in the case of a taxpayer which is regulated on a rate of return basis, any public utility property with a present class life of 18 years or less unless the taxpayer uses a normalization method of accounting (within the meaning of section 168A(d)(2)(B)) with respect to such property.

"(5) PROPERTY ACQUIRED AT DEATH.—The term 'expense-method property' does not include any property the basis of which in the hands of the taxpayer is determined under section 1014(a).

"(6) CERTAIN LIVESTOCK.—

"(A) IN GENERAL.—The term 'expense-method property' does not include any livestock (determined under section 1231(b)(3) without regard to the period for which held by the taxpayer) unless the taxpayer elects to treat such livestock as expense-method property.

"(B) LIMITATION IN THE CASE OF HORSES.—In the case of a horse, an election under subparagraph (A) shall only apply to so much of the basis of the horse as does not exceed $100,000.

"(7) RAILROAD TANK CARS.—The term 'expense-method property' does not include any railroad tank car.

"(8) OIL PIPELINES.—The term 'expense-method property' does not include any oil pipeline.

"(9) CERTAIN FILMS.—The term 'expense-method property' does not include any qualified film (as defined in section 48(k)(1)(B)).

"(e) COORDINATION WITH SECTION 1245.—In the case of any disposition of expense-method property—

"(1) the excess referred to in paragraph (1) of section 1245(a) shall be determined as if such paragraph did not contain subparagraph (A) thereof,

"(2) paragraph (1) of section 1245(b) shall not apply, and

"(3) paragraph (3) of section 1245(b) (and paragraph (5) of section 1245(b) to the extent it relates to such paragraph (3)) shall not apply unless the transfer is in a transaction to which section 381(a) applies.

"(f) DEFINITIONS AND SPECIAL RULES.—

"(1) DISPOSITIONS WITHIN 1 YEAR AFTER PROPERTY PLACED IN SERVICE.—The term 'expense-method property' does not include any property disposed of by the taxpayer before the date 1 year after the date on which such property was placed in service.

"(2) PROPERTY WHICH CEASES TO BE EXPENSE-METHOD PROPERTY.—If any expense-method property for which a deduction was allowable to the taxpayer under this section ceases to be expense-method property with respect to the taxpayer (other than by disposition)—

"(A) the taxpayer shall be treated as having disposed of such property on the date of such cessation, and

"(B) the basis of such property in the hands of the taxpayer after the date of such cessation shall be treated as equal to its fair market value as of such date.

"(3) PUBLIC UTILITY PROPERTY.—For purposes of this section, the term 'public utility property' has the meaning given to such term by section 167(l)(3)(A).

"(4) PRESENT CLASS LIFE.—The present class life of any property is the class life (if any) which would be applicable to such property as of January 1, 1981, under subsection (m) of section 167 (detemined without regard to any regulation, ruling, or announcement published by the Secretary after such date, and as if the taxpayer had made an election under such subsection).

"(5) COORDINATION WITH SECTION 453.—The Secretary shall prescribe regulations to the extent he determines such regulations are necessary to prevent undue benefits from combining the benefits of this section with the benefits of section 453.

"(6) BASIS.—For purposes of this section, the basis of any property shall be the adjusted basis provided in section 1011 for purposes of determining the gain on the sale or other disposition of such property.

"(7) LIFE TENANTS AND BENEFICIARIES OF TRUSTS AND ESTATES.—Rules similar to the rules of section 167(h) shall apply for purposes of this section.

"(8) TRANSFEREE BOUND BY TRANSFEROR'S TREATMENT OF PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of expense-method property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—For purposes of subparagraph (A), the transactions described in this subparagraph are—

"(i) any transaction of property if the basis of such property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of section 332, 351, 361, 371(a), 374(a), 721, or 731,

"(ii) any acquisition where the transferor and transferee are related persons (other than a transaction to which section 334(b)(2) applies), and

"(iii) any acquisition of property by any person if such person acquired the property from another person and leases it back to such other person (or a person related to such other person).

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations prescribed by the Secretary, expense-method property which is disposed of and then reacquired by the taxpayer shall be treated, for purpose of computing the deduction allowable under subsection (a), as if such property had not been disposed of.

"(D) RELATED PERSON DEFINED.—For purposes of this paragraph, a person is related to another person if—

"(i) the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(ii) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent'.

"(g) TRANSITIONAL RULES.—

"(1) IMMEDIATE EXPENSING FOR FIRST $25,000 OF PROPERTY.—

"(A) IN GENERAL.—The taxpayer may designate items of expense-method property which shall be deductible under subsection (a) without regard to the rules of paragraphs (2) and (3) of this subsection.

"(B) LIMITATION.—The aggregate bases of expense-method property which are placed in service during any taxable year and which are designated under subparagraph (A) shall not exceed $25,000.

"(2) ONLY CERTAIN PORTION OF PROPERTY TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Except in the case of property designated by the taxpayer under paragraph (1), this section (other than subsection (e)) shall apply only to the applicable percentage of the basis of expense-method property of the taxpayer placed in service before 1985.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"In the case of property placed in service during:	The applicable percentage is:
1981	20
1982	40
1983	60
1984	80.

"(3) HALF-YEAR CONVENTION.—

"(A) IN GENERAL.—Except in the case of property designated by the taxpayer under paragraph (1), the deduction for any expense-method property placed in service before 1990 shall be allowed for the taxable year in which placed in service and for the succeeding taxable year in accordance with the following table:

"In the case of property placed in service:	The following percentage of the deduction with respect to the property shall be allowed:	
	For the taxable year in which placed in service:	For the succeeding taxable year:
After 1980 and before 1986	50	50
During 1986	60	40
During 1987	70	30
During 1988	80	20
During 1989	90	10

"(B) DEDUCTION.—For purposes of subparagraph (A), the term 'deduction' means,

with respect to any property, the amount allowable as a deduction under subsection (a) with respect to such property for the taxable year in which such property is placed in service (determined without regard to this paragraph but with regard to paragraph (2)).

"(4) SPECIAL RULES FOR DESIGNATIONS UNDER PARAGRAPH (1).—

"(A) DESIGNATION.—

"(i) IN GENERAL.—A designation under subparagraph (A) of paragraph (1) shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which the property is placed in service. The designation shall be made in such manner as the Secretary may by regulations prescribe. Any such designation may not be revoked except with the consent of the Secretary.

"(ii) DESIGNATION APPLIES TO ENTIRE BASIS.—A designation under subparagraph (A) of paragraph (1) shall apply to the entire basis of the property being designated, except that the designation may apply to a portion of the basis of one item if (but for this exception) the designation of such item would result in the limitation of subparagraph (B) of paragraph (1) being exceeded.

"(B) PARAGRAPH (1) NOT TO APPLY TO ESTATES AND TRUSTS.—Paragraph (1) shall not apply to estates and trusts.

"(C) DOLLAR LIMITATION FOR CONTROLLED GROUP.—For purposes of paragraph (1)—

"(i) all component members of a controlled group shall be treated as one taxpayer, and

"(ii) the Secretary shall apportion the dollar limitation of subparagraph (B) of paragraph (1) among the component members of such controlled group in such manner as he shall by regulations prescribe.

"(D) CONTROLLED GROUP DEFINED.—For purposes of subparagraph (C), the term 'controlled group' has the meaning assigned to it by section 1563(a), except that, for such purposes, the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(E) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.—In the case of a partnership, the dollar limitation of subparagraph (B) of paragraph (1) shall apply with respect to the partnership and with respect to each partner.

"(F) MARRIED INDIVIDUALS.—In the case of a separate return by a married individual (within the meaning of section 143), the dollar limitation of subparagraph (B) of paragraph (1) shall be $12,500 in lieu of $25,000.

"(G) TRANSITIONAL RULE.—In the case of any taxable year which begins before January 1, 1981, and ends after December 31, 1980, the dollar limitation of subparagraph (B) of paragraph (1) shall be an amount which bears the same ratio to the amount which (but for this subparagraph) would be such limitation, as—

"(i) the number of months in such taxable year beginning after December 31, 1980, bears to

"(ii) 12.

A similar rule shall also apply in the case of a short taxable year beginning after December 31, 1980.

"(5) SPECIAL RULES FOR TRANSITION PERIOD.—

"(A) INVESTMENT TAX CREDIT ALLOWED FOR REMAINING BASIS.—

"(i) IN GENERAL.—Paragraph (11) of section 48(a) shall not apply to that portion of the basis of any expense-method property to which this section does not apply (hereinafter in this paragraph referred to as the 'remaining basis').

"(ii) CLARIFICATION OF LIMIT ON USED PROPERTY.—For purposes of section 48(c)(2), the cost of any used section 38 property shall not include the portion of the cost of such property to which this section applies.

"(B) DEPRECIATION DEDUCTION ALLOWED.—The depreciation deduction provided by section 167 shall apply to the remaining basis without regard to the second sentence of section 167(a). For purposes of computing such deduction, the taxpayer may use a useful life which has a variance up or down of not more than 20 percent (rounded to the nearest half year) from the present class life for such property (whether or not the taxpayer has made an election under section 167(m)).

"(6) TRANSITIONAL RULES DO NOT APPLY TO SHORT LIFE PROPERTY.—This subsection shall not apply to any expense-method property which, without regard to this section, would have been depreciable over a period of less than 2 years.

"(7) RRB REPLACEMENT PROPERTY GETS IMMEDIATE EXPENSING.—This subsection shall not apply to any property described in section 48(a)(9)."

(b) AMENDMENTS TO INVESTMENT TAX CREDIT.—

(1) TERMINATION OF REGULAR PERCENTAGE.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) EXPENSE-METHOD PROPERTY.—For purposes of applying the regular percentage, the term 'section 38 property' shall not include any expense-method property (as defined in section 168). The preceding sentence shall not apply to any property described in paragraph (9) placed in service before 1985."

(2) USEFUL LIFE FOR PURPOSES OF ENERGY PERCENTAGE, ETC.—The second sentence of paragraph (2) of section 46(c) (relating to applicable percentage) is amended by inserting before the period at the end thereof the following: "; except that, in the case of expense-method property, the useful life shall be the class life (as defined in section 167(t)(3)(B)) for such property (or if there is no such class life for such property, a useful life determined on the facts and circumstances)".

(c) CERTAIN STORAGE FACILITIES TREATED AS SECTION 1245 PROPERTY.—Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) a storage facility used in connection with the distribution of oil, gas, or any primary product of oil or gas."

(d) EXPENSE-METHOD DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of expense-method property (as defined in section 168), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section."

(e) REPEAL OF TAX PREFERENCE FOR ACCELERATED DEPRECIATION OF LEASED PERSONAL PROPERTY.—

(1) Paragraph (3) of section 57(a) is hereby repealed.

(2) The second to the last sentence of section 57(a) is amended by striking out "Paragraphs (3) and (11)" and inserting in lieu thereof "Paragraph (11)".

(f) TREATMENT OF EXPENSE-METHOD DEDUCTION WITH RESPECT TO ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Subsection (d) of section 183 (relating to activities not engaged in for profit) is amended by adding at the end thereof the following: "For purposes of this subsection and subsection (e)(2), in the case of expense-method property (as defined in section 168), there shall be substituted for the deductions under section 168 the deductions which would be allowed for each taxable year if section 167 had applied and if the taxpayer had applied the double declining balance method using a useful life determined under the rules of section 167(t)(1)."

(g) TREATMENT OF PROPERTY DEPRECIATED UNDER RETIREMENT-REPLACEMENT-BETTERMENT METHOD.—

(1) 5-YEAR AMORTIZATION OF EXISTING ADJUSTED BASIS.—

(A) IN GENERAL.—The adjusted basis of RRB property as of December 31, 1980, shall be depreciated using—

(i) a useful life (selected by the taxpayer) of not less than 5 years and not more than 50 years, and

(ii) a method (selected by the taxpayer) described in section 167(b) of the Internal Revenue Code of 1954.

(B) TAXPAYER TO SELECT METHODS AND USEFUL LIFE.—The taxpayer may select the useful life and the method described in section 167(b) of such Code to be used for purposes of subparagraph (A). Except with the consent of the Secretary or as provided in section 167(e) of the Internal Revenue Code of 1954, such selection, once made, shall be irrevocable.

(C) SIMILAR RULE TO APPLY TO PROPERTY EXCLUDED FROM EXPENSE-METHOD DEPRECIATION DURING PHASE-IN.—The portion of any RRB property placed in service in any taxable year beginning before 1985 which is not expense-method property by reason of subsection (g) of section 168 of the Internal Revenue Code of 1954 shall be depreciated using—

(i) the useful life selected by the taxpayer under subparagraph (A)(i), and

(ii) the method selected by the taxpayer under subparagraph (A)(ii).

(D) RRB PROPERTY DEFINED.—For purposes of this paragraph, the term 'RRB property' means property which under the taxpayer's method for depreciation before January 1, 1981, would have been depreciated under the retirement-replacement-betterment method.

(2) REPEAL OF SECTION 167(r).—Section 167 (relating to depreciation) is amended by striking out subsection (r).

(3) CHANGE IN METHOD OF ACCOUNTING.—Any change in the method of depreciation to comply with the provisions of this subsection shall not be treated under sections 446 and 481 of the Internal Revenue Code of 1954 as a change of accounting method.

(h) TREATMENT OF CERTAIN LEASED ROLLING STOCK.—Clause (ii) of section 48(a)(2)(B) is amended to read as follows:

"(ii) rolling stock—

"(I) of a domestic corporation providing transportation subject to subchapter I of chapter 105 of title 49, or

"(II) of a United States person which is leased to a corporation described in subclause (I),

which is used within and without the United States;".

(i) REPEAL OF SECTION 179.—Section 179 (relating to additional first-year depreciation allowance for small business) is hereby repealed.

(j) CLERICAL AMENDMENTS.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 167 the following new item:

"Sec. 168. Expense-method depreciation."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 179.

(3) Paragraph (1) of section 48(c) is amended by striking out "section 179(d)(2)(A) or (B)" and inserting in lieu thereof "subparagraph (A) or (B) of section 179(d)(2) (as in effect on the day before the date of the enactment of the Tax Incentive Act of 1981)".

(4) Subparagraph (A) of section 48(c)(3) is amended by striking out "section 179(d)(2)" and inserting in lieu thereof "section 179(d)(2) (as in effect on the day before the date of the enactment of the Tax Incentive Act of 1981)".

(5) Subparagraph (A) of section 1033(g)(3) is amended by striking out "(relating to additional first-year depreciation allowance for small business)" and inserting in lieu thereof "as in effect on the day before the date of the enactment of the Tax Incentive Act of 1981".

SEC. 202. DEPRECIATION OF REAL PROPERTY.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) METHOD OF DEPRECIATING CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—In the case of section 167(s) property, notwithstanding any other provision of this section, the depreciation allowance under subsection (a) shall be computed—

"(A) using a useful life of 15, 25, 35, or 45 years (as selected by the taxpayer),

"(B) treating the salvage value as zero, and

"(C) under—

"(i) the straight line method, or

"(ii) if the taxpayer makes an election with respect to such property under this clause, the applicable declining balance method.

If an election under clause (ii) of subparagraph (C) is made with respect to any property, the taxpayer shall be deemed to have selected a useful life of 15 years for such property.

"(2) APPLICABLE DECLINING BALANCE METHOD.—For purposes of paragraph (1), the applicable declining balance method is—

"(A) in the case of property other than low-income housing and targeted area property, the declining balance method using a rate not in excess of 150 percent of the straight line rate, and

"(B) in the case of low-income housing and targeted area property, the declining balance method using a rate not in excess of 200 percent of the straight line rate.

"(3) ELECTION.—An election under clause (ii) of paragraph (1)(C) with respect to any property shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which such property is placed in service. Except as provided in subsection (e), such an election, once made, shall be irrevocable.

"(4) COMPONENTS OF BUILDINGS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) an election made under clause (ii) of paragraph (1)(C) with respect to any building shall apply to all components of such building, and

"(ii) no election may be made under clause (ii) of paragraph (1)(C) with respect to any component of a building unless such an election has been made with respect to such building.

"(B) TRANSITIONAL RULE.—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such building placed in service after December 31, 1980, an election under clause (ii) of paragraph (1)(C) with respect to the first component placed in service after December 31, 1980 (or a failure to make such an election with respect to such first component) shall be treated as an election (or failure to make an election) with respect to such building.

"(C) EXCEPTION FOR SUBSTANTIAL IMPROVEMENTS.—

"(i) IN GENERAL.—For purposes of this paragraph, a substantial improvement shall be treated as a separate building.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), the term 'substantial improvement' means the improvements added to capital account with respect to any building during any taxable year, but only if the sum of the amounts added to such account during such year equals or exceeds 25 percent of the adjusted basis of the property (determined without regard to the adjustments provided in paragraphs (2) and (3) of section 1016(a)) as of the first day of such taxable year.

"(iii) IMPROVEMENTS MUST BE MADE AFTER PROPERTY IN SERVICE FOR 3 YEARS.—For purposes of this paragraph, the term 'substantial improvement' shall not include any improvement made before the date 3 years after the building was placed in service.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) SECTION 167(S) PROPERTY.—Except as provided in subparagraph (B), the term 'section 167(s) property' means any property—

"(i) which is section 1250 property, or which is an elevator or escalator which would be section 1250 property but for subparagraph (C) or (D) of section 1245(a)(3), and

"(ii) which is placed in service after December 31, 1980.

For purposes of the preceding sentence, the determination of whether any property is (or would be) section 1250 property shall be made without regard to section 1245(a)(3)(F).

"(B) EXCEPTIONS.—The term 'section 167(s) property' shall not include—

"(i) any property for which a class life of 12½ years or less is in effect under subsection (m) as of January 1, 1981,

"(ii) any mobile home, and

"(iii) any property for which amortization (in lieu of depreciation) or for which subsection (k) is properly elected.

"(C) LOW-INCOME HOUSING.—The term 'low-income housing' means any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

"(D) TARGETED AREA PROPERTY.—

"(i) IN GENERAL.—The term 'targeted area property' means any section 167(s) property which is placed in service in (or directly adjacent to) an economically distressed area. Such term shall not include any low-income housing or residential rental property (as defined in subsection (j)(2)(B)).

"(ii) ECONOMICALLY DISTRESSED AREA.—The term 'economically distressed area' means a census tract or enumeration district designated by the Secretary—

"(I) in which at least 70 percent of the families have incomes below 80 percent of the median income for the State in which such area is located, and

"(II) in which at least 30 percent of the families have incomes below the national poverty level.

"(iii) INFORMATION USED.—The determinations under clause (i) shall be made on the basis of the most recent decennial census for which data are available before the date 1 year before the date on which the property is placed in service; except that in no event shall a decennial census before the 1980 census be used.

"(E) BUILDING INCLUDES OTHER STRUCTURE.—The term 'building' includes any other structure.

"(6) SPECIAL RULES FOR FOREIGN PROPERTY.—In the case of any section 167(s) property outside the United States—

"(A) the taxpayer shall use a useful life of 35 years (in lieu of the amount provided in paragraph (1)(A)), and

"(B) the applicable declining balance method shall be the method described in paragraph (2)(A).

"(7) TRANSFEREE BOUND BY TRANSFEROR'S TREATMENT OF PROPERTY IN CERTAIN CASES.—Rules similar to the rules of section 168(e)(8) shall apply to section 167(s) property."

(b) RECAPTURE UNDER SECTION 1245 FOR COMMERCIAL OR INDUSTRIAL STRUCTURES WHERE DECLINING BALANCE METHOD ELECTED.—Paragraph (3) of section 1245(a) (defining section 1245 property), as amended by section 201, is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(F) any property—

"(i) with respect to which an election under section 167(s)(1)(C)(ii) applied, and

"(ii) which is not low-income housing (as defined in section 167(s)(5)(C)) and is not residential rental property (as defined in section 167(j)(2)(B)).

If only a portion of a building (or other structure) is section 1245 property, gain from any disposition of such building (or other structure) shall be allocated first to the portion of the building (or other structure) which is section 1245 property (to the extent of the amount which may be treated as ordinary income under this section) and then to the portion of the building or other structure which is section 1250 property."

(c) 1245 RECAPTURE FOR CERTAIN OTHER EXPENSED PROPERTY.—Paragraph (2) of section 1245(a) is amended by adding at the end thereof the following new sentence: "For purposes of this section, if any portion of the purchase price of property acquired after December 31, 1981, was deducted as an expense and the deduction was not disallowed, the amount so allowed as a deduction shall be treated as allowed for depreciation."

SEC. 203. SIMPLIFIED COST RECOVERY FOR LONG-LIFE PUBLIC UTILITY PROPERTY.

(a) IN GENERAL.—Part IV of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 168 the following new section:

"SEC. 168A. SIMPLIFIED COST RECOVERY FOR LONG-LIFE PUBLIC UTILITY PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a public utility recovery property, there shall be allowed, in lieu of any deduction allowed by any other section of this part, the recovery deduction provided by this section.

"(b) AMOUNT OF DEDUCTION.—The amount of the deduction allowable by subsection (a) for any taxable year shall be the aggregate determined by applying—

"(1) the recovery percentage for each class of property, to

"(2) the balance in the recovery account for such class at the end of such year.

"(c) CLASS AND RECOVERY PERIOD.—

"(1) TABLE.—All recovery property—

"(A) shall be placed in 1 of the 2 classes set forth in the following table, and

"(B) shall have the recovery percentage set forth for such class in the following table:

"Class and Recovery Percentage Table

"Class:	Recovery percentage:
1	15
2	10

"(2) CLASS 1.—Public utility recovery property with a present class life of more than 18 years but not more than 25 years shall be placed in class 1.

"(3) CLASS 2.—Public utility property with a present class life of more than 25 shall be placed in class 2.

"(4) PRESENT CLASS LIFE.—For purposes of this section, the term 'present class life' has the meaning given to such term by section 168(e)(4).

"(d) PUBLIC UTILITY RECOVERY PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'public utility recovery property' means any property—

"(A) which is public utility property (as defined in section 168(f)(3)), and

"(B) which would be expense-method property but for section 168(d)(4).

"(2) NORMALIZATION RULES.—

"(A) IN GENERAL.—In the case of a taxpayer which is regulated on a rate of return basis, the term 'public utility recovery property' does not include any property unless the taxpayer uses a normalization method of accounting with respect to such property.

"(B) USE OF NORMALIZATION METHOD DEFINED.—For purposes of subparagraph (A), in order to use a normalization method of accounting with respect to any public utility property—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from the allowance of a deduction with respect to such property under this section instead of the allowance of a deduction under section 167 using—

"(I) the method of depreciation used to compute regulated tax expense under clause (i), and

"(II) the depreciation period used to compute regulated tax expense under clause (i) (or, if shorter, the class life (as defined in section 167(t)(3)(B)) applicable to such property).

"(3) AMORTIZATION PROPERTY.—The term 'public utility recovery property' does not include property with respect to which the taxpayer—

"(A) is entitled to elect amortization (in lieu of depreciation), and

"(B) elects such amortization.

"(e) RECOVERY ACCOUNT.—

"(1) IN GENERAL.—The taxpayer shall establish a recovery account for each class of public utility recovery property.

"(2) ADDITIONS TO ACCOUNT.—The recovery account for any class of recovery property shall be increased by an amount equal to the sum of—

"(A) one-half of the basis of each public utility recovery property in such class which is placed in service by the taxpayer during the taxable year, plus

"(B) one-half of the basis of each public utility recovery property in such class which was placed in service by the taxpayer during the preceding taxable year.

"(3) REDUCTIONS IN ACCOUNT.—

"(A) PROPERTY DISPOSED OF DURING YEAR.—The recovery account for any class of public utility recovery property shall be reduced by an amount equal to the amount realized on each public utility recovery property of such class disposed of by the taxpayer during the taxable year.

"(B) AMOUNT ALLOWED UNDER THIS SECTION.—The recovery account for any class of public utility recovery property shall be reduced by an amount equal to the amount of the deduction allowed under subsection (a) with respect to such class (but not less than the amount allowable).

"(4) TIME FOR MAKING ADJUSTMENTS.—

"(A) IN GENERAL.—Any adjustment under paragraph (2) or (3)(A) shall be made as of the close of the taxable year but before the determination of the amount allowable as a deduction under subsection (a) for such taxable year.

"(B) REDUCTION FOR DEDUCTION.—Any reduction under paragraph (3)(B) shall be made as of the beginning of the taxable year following the taxable year for which the amount was allowed (or allowable) as a deduction under subsection (a).

"(5) COORDINATION WITH OTHER PROVISIONS.—

"(A) DISPOSITIONS NOT TREATED AS DISPOSITIONS FOR CERTAIN PURPOSES.—For purposes of this title (other than this section and section 47), the disposition of any property in a recovery account shall be treated as if it were not a disposition.

"(B) NEGATIVE BALANCE.—If, as of the close of any taxable year (after the adjustments under paragraphs (2) and (3)(A)), there is a negative balance in any recovery account then, notwithstanding any other provision of this subtitle—

"(i) an amount equal to the amount by which—

"(I) such negative balance (expressed as a positive number), exceeds

"(II) one-half of the basis of all public utility recovery property in the class of recovery property for which such account is established which was placed in service by the taxpayer during the taxable year

shall be included in gross income for such taxable year as ordinary income, and

"(ii) the balance in the account shall be adjusted (as of the beginning of the following taxable year) by adding to the account an amount equal to the amount included in gross income under clause (i).

"(f) SPECIAL RULES.—

"(1) NO ADJUSTMENT WHERE PROPERTY DISPOSED OF BEFORE CLOSE OF TAXABLE YEAR IN WHICH PLACED IN SERVICE.—No adjustment shall be made under paragraphs (2) and (3)(A) of subsection (c) in respect of any property which is disposed of by the taxpayer before the close of the taxable year in which placed in service by the taxpayer.

"(2) PROPERTY CEASING TO BE RECOVERY PROPERTY.—If any property taken into account under subsection (e) ceases to be public utility recovery property during any taxable year—

"(A) such property shall be treated as disposed of by the taxpayer during such taxable year, and

"(B) the basis of such property in the hands of the taxpayer after such cessation shall be treated as equal to its fair market value.

"(3) DISPOSITIONS OTHER THAN SALE OR EXCHANGE.—If any public utility recovery property is disposed of in a disposition which is not a sale, exchange, or involuntary conversion and which is not described in paragraph (4) or (5), the reduction under paragraph (3)(A) of subsection (e) for such disposition shall be the fair market value of the property disposed of. In the case of property disposed of by abandonment, the fair market value thereof shall be treated as if it were zero.

"(4) TRANSFERS WHERE BASIS GOES OVER.—

"(A) IN GENERAL.—If any public utility recovery property is transferred and the transferee's basis of such property is determined in whole or in part by reference to the adjusted basis of the transferor, then, under regulations prescribed by the Secretary—

"(i) the transferor's recovery account for the class of property in which the public utility recovery property falls shall be reduced by the transferred amount, and

"(ii) for purposes of determining the transferee's basis in such property, the adjusted basis of such property in the hands of the transferor shall be treated as equal to the transferred amount.

"(B) TRANSFERRED AMOUNT.—For purposes of subparagraph (A), the transferred amount shall be the amount which bears the same relation to—

"(i) the total amount in the transferor's recovery account immediately before the transfer, as

"(ii) the fair market value of the transferred property bears to the fair market value of all property in such account immediately before the transfer.

"(C) AUTHORITY TO PRESCRIBE ALTERNATE METHODS OF ALLOCATION.—The Secretary may by regulations prescribe alternate methods for allocating the balance in any recovery account for purposes of determining the transferred amount of any property.

"(D) COORDINATION WITH SECTION 170(e).—In the case of any charitable contribution of public utility recovery property, the excess of the fair market value of such property (determined at the time of such contribution) over the transferred amount shall be treated as gain described in section 170(e)(1)(A).

"(5) LIKE KIND EXCHANGES; INVOLUNTARY CONVERSIONS.—Under regulations prescribed by the Secretary, in the case of any exchange described in section 1031 or 1033—

"(A) if the properties fall in the same class, changes shall be made in the taxpayer's recovery account for such class only to the extent necessary to reflect the money or other property (within the meaning of section 1031) or property not similar or related in service or use (within the meaning of section 1033) paid, exchanged, or received, as the case may be, and

"(B) if the properties fall in different classes, proper adjustments in the recovery accounts for both classes shall be made to carry out the nonrecognition provided for in such sections.

"(6) SHORT TAXABLE YEARS.—The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (as amended by section 201) is amended by adding at the end thereof the following new sentence: "In the case of public utility recovery property (within the meaning of section 168A), the deduction allowable under section 168A shall be deemed to constitute the reasonable allowance provided by this section."

(2) UNREALIZED RECEIVABLES.—Subsection (c) of section 751 (defining unrealized receivables) is amended by adding at the end thereof the following new sentence: "For purposes of this section and sections 731, 736, and 741, the excess of the aggregate fair market value of the property in any recovery account established under section 168A(e) over the balance in such account shall be treated as an unrealized receivable."

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 168 the following new item:

"Sec. 168A. Simplified cost recovery for long-life public utility property."

SEC. 204. USEFUL LIFE FOR PERSONAL PROPERTY WHICH IS NOT EXPENSE-METHOD PROPERTY.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) SPECIAL RULES FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980.—

"(1) IN GENERAL.—For purposes of this section, the useful life of any property to which this subsection applies shall be—

"(A) the lower limit life applicable to such property, or

"(B) if there is no lower limit life for such property, a useful life determined on the facts and circumstances.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any expense-method property to the extent that an election under section 168(c) applies to such property, and

"(B) any property which would be expense-method property as determined under section 168 but for section 168(d).

For purposes of the preceding sentence, section 168(d)(4) shall be applied as if it did not contain subparagraph (A) thereof and without regard to the present class life requirement of subparagraph (B).

"(3) LOWER LIMIT LIFE.—For purposes of this subsection—

"(A) LOWER LIMIT LIFE.—The term 'lower limit life' means the class life for the property reduced by an amount equal to 20 percent of such class life (rounded to the nearest half year).

"(B) CLASS LIFE.—The term 'class life' means, with respect to any property which is included in a class for which a class life has been prescribed, the class life prescribed by the Secretary which reasonably reflects the anticipated useful life of such class of property to the industry or other group. Except as provided by the Secretary, after the date of the enactment of this section, the classes of property and class lives shall be the same as those in effect under subsection (m) of such date of enactment.

"(4) SPECIAL RULES FOR CERTAIN PROPERTY.—

"(A) USEFUL LIFE.—In the case of any property—

"(i) to which an election under section 168(c) applies,

"(ii) described in paragraph (1) or (2) of section 168(d), or

"(iii) which is public utility property,

the class life for such property shall be taken into account under paragraph (1) in lieu of the lower limit life.

"(B) STRAIGHT-LINE METHOD FOR CERTAIN CASES.—In the case of any property—

"(i) to which an election under section 168(c) applies,

"(ii) described in paragraph (2) of section 168(d), or

"(iii) which is public utility property,

the term 'reasonable allowance' (as used in subsection (a)) means only an allowance computed under the straight-line method.

"(5) SPECIAL RULES.—

"(A) PUBLIC UTILITY PROPERTY.—For purposes of this subsection, the term 'public utility property' has the meaning given to such term by section 168(f)(3).

"(B) RAILROAD TANK CARS, ETC.—In the case of any railroad tank car, oil pipeline, or property which would be section 167(s) property but for clause (i) or (ii) of subsection (s)(5)(B)—

"(i) this section (other than this subparagraph) shall not apply, but

"(ii) rules similar to the rules of section 168A which apply to class 1 public utility recovery property shall apply."

(b) CHANGE FROM ONE METHOD OF DEPRECIATION TO SLOWER METHOD PERMITTED.—Subsection (e) of section 167 (relating to change in method) is amended to read as follows:

"(e) CHANGE IN METHOD.—In the absence of an agreement under subsection (d) containing a provision to the contrary, the taxpayer may at any time elect in accordance with regulations prescribed by the Secretary to change from any method of depreciation described in subsection (b) (other than paragraph (1) thereof) to another method described in such subsection which would have resulted in a smaller allowance for the year in which the property was placed in service."

SEC. 205. EFFECT ON EARNINGS AND PROFITS.

Subsection (k) of section 312 (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(4) Special rules for property placed in service after December 31, 1980.

"(A) EXPENSE-METHOD PROPERTY, ETC.—For purposes of paragraph (1), the useful life of any expense-method property (as defined in section 168), any public utility recovery property (as defined in section 168A), or any property described in subparagraph (B) of section 167(t)(5) shall be—

"(i) the lower limit life applicable to such property, or

"(ii) if there is no lower limit life for such property, a useful life determined on the facts and circumstances.

"(B) REAL PROPERTY.—In the case of any section 167(s) property, for purposes of paragraph (1), the useful life of such property shall be 35 years.

"(C) LOWER LIMIT LIFE.—For purposes of this paragraph—

"(i) LOWER LIMIT LIFE.—The term 'lower limit life' has the meaning given to such term by section 167(t)(3)(A).

"(ii) FOREIGN ASSETS.—In the case of any property described in paragraph (1) of section 168(c), the class life (as defined in section 167(t)(3)(B)) for the property shall be taken into account under subparagraph (A) in lieu of the lower limit life."

SEC. 206. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title shall apply to property placed in service after December 31, 1980, in taxable years ending after such date.

(b) SPECIAL RULES FOR CERTAIN TANGIBLE PERSONAL PROPERTY.—

(1) IN GENERAL.—The amendments made by sections 201 and 203 shall apply to related property only to the extent that the taxpayer's basis in such property does not exceed the amount recognized as ordinary income by the person transferring such property to the taxpayer.

(2) RELATED PROPERTY.—For purposes of paragraph (1), the term 'related property' means any property acquired by the taxpayer after December 31, 1980, if—

(A) such property was owned by a related person at any time before 1985 (or, if earlier, the date of its acquisition by the taxpayer), or

(B) after its acquisition by the taxpayer, such property is used by a person who used such property at any time before such acquisition (or by a person who is related to a person who so used such property).

(c) SPECIAL RULES FOR REAL ESTATE PLACED IN SERVICE BEFORE 1981.—The amendments made by section 202 shall not apply to property acquired by the taxpayer after December 31, 1981, and before January 1, 1986, if—

(1) before January 1, 1981, the property was owned by a related person, or

(2) such property is acquired in an exchange described in section 1031, 1033, 1038, or 1039 to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person during 1980.

(d) PERSONAL AND REAL PROPERTY TRANSFERRED IN CERTAIN NONRECOGNITION TRANSACTIONS.—If—

(1) the basis of any property in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor by reason of section 332, 351, 361, 371(a), 374(a), 721, 731, or 1015 of the Internal Revenue Code of 1954, and

(2) such property had been placed in service by the transferor before January 1, 1981 (or, in the case of property described in section 168(b)(2) of the Internal Revenue Code of 1954, January 1, 1985),

the amendments made by this title shall not apply to such property to the extent the basis of such property is so determined. A similar rule shall apply in the case of a series of such transactions.

(e) RELATED PERSON.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a person is related to another person if—

(A) the person bears a relationship to the other person specified in section 267(b) or 707(b)(1) of the Internal Revenue Code of 1954, or

(B) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52 of such Code).

For purposes of subparagraph (A), sections 267(b) and 707(b)(1) of such Code shall be applied by substituting "10 percent" for "50 percent".

(2) SALE AND LEASEBACKS.—In the case of any property, a persons shall be treated as a related person to another person if such person acquires the property from the other person and leases it back to the other person (or a person related to the other person).

(3) LIQUIDATION OF SUBSIDIARIES.—A person is not a related person to the taxpayer if such person is a distributing corporation in a transaction to which section 334(b)(2)(B) of the Internal Revenue Code of 1954 applies and the stock purchase requirements referred to in such section were met after December 31, 1980.

(f) ANTIAVOIDANCE RULE.—Under regulations prescribed by the Secretary of the Treasury or his delegate, the amendments made by this title shall not apply to any property acquired by the taxpayer after December 31, 1980, in a transaction a substantial purpose of which is to avoid the other limitations of this section.

(g) CHANGE FROM ONE METHOD OF DEPRECIATION TO SLOWER METHOD.—The amendment made by section 204(b) shall take effect on the date of the enactment of this Act.

(h) SPECIAL RULE FOR PUBLIC UTILITIES.—

(1) TRANSITIONAL RULE FOR NORMALIZATION REQUIREMENTS.—If, by the terms of the applicable rate order last entered before the date of the enactment of this Act by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of section 168(d)(4)(B) or 168A(d)(2) of the Internal Revenue Code of 1954 because, for an accounting period ending after December 31, 1980, such public utility used a method of accounting other than a normalization method of accounting, such regulated public utility shall not fail to meet such requirements if—

(A) the applicable rate order expires by its terms without extension, and

(B) by the terms of its first rate order which becomes effective after the date of the enactment of this Act, such regulated public utility uses a normalization method of accounting.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of this Act, required a regulated public utility to use a method of accounting with respect to the deduction allowable by section 167 which, under section 167(l), it was not permitted to use.

(2) TRANSITIONAL RULE FOR REQUIREMENTS OF SECTION 46(f).—If, by the terms of the applicable rate order last entered before the date of the enactment of this Act by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 for an accounting period ending after December 31, 1980, such regulated public utility shall not fail to meet such requirements if—

(A) the applicable rate order expires by its terms without extension, and

(B) by the terms of its first rate order which becomes effective after the date of the enactment of this Act, such regulated public utility meets such requirements.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of this Act, was inconsistent with the requirements of paragraph (1) or (2) of section 46(f) of such Code (whichever would have been applicable).

(3) CLARIFICATION.—Subparagraph (C) of section 167(l)(3) is amended by inserting "and which is placed in service before January 1, 1981" immediately before the period at the end thereof.

Subtitle B—Corporate Rate Reductions (Including Special Rates for Small Businesses)

SEC. 211. CORPORATE RATE REDUCTIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum determined by applying each tax rate under the applicable rate schedule to the portion of the taxable income to which such tax rate applies.

"(2) RATE SCHEDULES.—For purposes of paragraph (1)—

"(A) 1982 RATE SCHEDULE.—The rate schedule for 1982 is—

"For so much of taxable income as—		The tax rate (as a percent) is:
Exceeds:	But does not exceed:	
0	$37,500	17
$37,500	75,000	20
75,000	112,500	30
112,500	150,000	40
150,000		46

"(B) 1983 RATE SCHEDULE.—The rate schedule for 1983 is—

"For so much of taxable income as—		The tax rate (as a percent) is:
Exceeds:	But does not exceed:	
0	$50,000	17
$50,000	100,000	20
100,000	150,000	30
150,000	200,000	40
200,000		46

"(C) 1984 RATE SCHEDULE.—The rate schedule for 1984 and thereafter is—

"For so much of taxable income as—		The tax rate (as a percent) is:
Exceeds:	But does not exceed:	
0	$50,000	15
$50,000	100,000	20
100,000	150,000	25
150,000	200,000	30
200,000		43

"(3) REDUCTION IN TOP RATE FOR YEARS AFTER 1984.—Subparagraph (C) of paragraph (2) shall be applied by substituting for "43" the number appearing in the following table:

"For:	The tax rate (as a percent) is:
1985	40
1986	37
1987 and thereafter	34

"(4) COORDINATION WITH SECTION 21.—For purposes of section 21, if for any calendar year there is a change in rates under paragraph (2) or (3), the effective date of such change shall be treated as the first day of the calendar year."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "$^{28}/_{46}$" and inserting in lieu thereof "the applicable fraction", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the first sentence of this paragraph, the term 'applicable fraction' means the fraction the numerator of which is the rate of tax for the taxable year under section 1201(a)(2) and the denominator of which is the highest rate of tax for such year under section 11(b)."

(2)(A) Clause (iv) of section 593(b)(2)(E) (relating to computation of taxable income) is amended by striking out "$^{18}/_{46}$" each place it appears and inserting in lieu thereof "the applicable fraction".

(B) Subparagraph (E) of section 593(b)(2) is amended by adding at the end thereof the following new sentence: "For purposes of clause (iv), the term 'applicable fraction' means the fraction the numerator of which is the excess of the highest rate of tax for the taxable year under section 11(b) over the rate of tax for such year under section 1201(a)(2), and the denominator of which is the highest rate of tax for such year under section 11(b)."

(3)(A) Paragraph (2) of section 821(a) (relating to imposition of tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(2) CAP ON TAX WHERE INCOME IS LESS THAN $12,000.—The tax imposed by paragraph (1) on so much of the mutual insurance company taxable income as does not exceed $12,000 shall not exceed 34 percent (30 percent for taxable years beginning after December 31, 1983) of the amount by which such income exceeds $6,000."

(B) Subparagraph (B) of section 821(c)(1) (relating to imposition of alternative tax for certain small companies) is amended to read as follows:

"(B) CAP WHERE INCOME IS LESS THAN $6,000.—The tax imposed by subparagraph (A) on so much of the taxable investment income as does not exceed $6,000 shall not exceed 34 percent (30 percent for taxable years beginning after December 31, 1983) of the amount by which such income exceeds $3,000."

(C) The amendments made by subparagraphs (A) and (B) shall apply to taxable years beginning after December 31, 1978.

(c) EFFECTIVE DATE.—Except as provided in subsection (b)(3)(C), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Subtitle C—Credit for Rehabilitation Expenditures

SEC. 221. INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES.

(a) INCREASE IN AMOUNT OF CREDIT.—

(1) Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage."

(2) Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

"(F) REHABILITATION PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25

"(ii) REGULAR PERCENTAGE AND ENERGY PERCENTAGE NOT TO APPLY.—The regular percentage and energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(iii) DEFINITIONS.—

"(I) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(II) 40-YEAR BUILDING.—The term '40-year building' means any building (other than a certified historic structure) which would meet the requirements of section 48(g)(1) if '40' were substituted for '30' each place it appears in subparagraph (B) thereof.

"(III) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' has the meaning given to such term by section 191(d)(1)."

(b) CERTIFIED HISTORIC STRUCTURE USED FOR RESIDENTIAL PURPOSES QUALIFIES FOR CREDIT.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended by adding at the end thereof the following new paragraph:

"(4) SUBSECTION (a)(3) NOT TO APPLY TO CERTIFIED HISTORIC STRUCTURES.—Subsection (a)(3) shall not apply to that portion of the basis of a certified historic structure (within the meaning of section 191(d)(1)) which is attributable to qualified rehabilitation expenditures unless such structure is used for residential purposes by the taxpayer or a member of the taxpayer's family (as defined in section 267(c)(4))."

(c) DEFINITION OF QUALIFIED REHABILITATION EXPENDITURES.—

(1) Subparagraph (B) of section 48(g)(1) (defining qualified rehabilitated building) is amended by striking out "20 years" each place it appears and inserting in lieu thereof "30 years".

(2) Subparagraph (B) of section 48(g)(2) (defining qualified rehabilitation expenditure) is amended by striking out clause (i) and inserting in lieu thereof the following:

"(i) PROPERTY FOR WHICH DECLINING BALANCE METHOD ELECTED.—Any expenditure for property to which an election under section 167(s)(1)(C)(ii) (relating to election to use declining balance method) applies."

(d) BASIS ADJUSTMENT.—Subsection (g) of section 48 is amended by adding at the end thereof the following new paragraph:

"(5) ADJUSTMENTS TO BASIS OF PROPERTY.—

"(A) IN GENERAL.—The basis of any qualified rehabilitated building shall be reduced, for purposes of this subtitle other than this subpart, by an amount equal to the rehabilitation percentage of the qualified rehabilitation expenditures with respect to such building. The preceding sentence shall not apply in the case of any certified historic structure (within the meaning of section 191(d)(1)).

"(B) CERTAIN DISPOSITIONS.—If there is a recapture amount determined with respect to any qualified rehabilitated building the basis of which was reduced under subparagraph (A), the basis of such building (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47(a)."

(e) CERTAIN DISINCENTIVE PROVISIONS TERMINATED.—

(1) PROPERTY CONSTRUCTED ON SITE WHERE CERTIFIED HISTORIC STRUCTURE DEMOLISHED, ETC.—Paragraph (4) of section 167(n) (relating to straight-line method in certain cases) is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1982".

(2) DEMOLITION EXPENDITURES, ETC.—Subsection (c) of section 280B (relating to demolition of certain historic structures) is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1982".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section (other than subsection (e)) shall apply to amounts incurred after December 31, 1981, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building—

(A) if the physical work on such rehabilitation began before January 1, 1982, and

(B) if such building meets the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) but does not meet the requirements of such paragraph (1) (as amended by this Act).

SEC. 222. INVESTMENT TAX CREDIT ALLOWED FOR CERTAIN REHABILITATED BUILDINGS LEASED TO TAX-EXEMPT ORGANIZATIONS OR TO GOVERNMENTAL UNITS.

(a) USE BY TAX-EXEMPT ORGANIZATIONS.—Paragraph (4) of section 48(a) (relating to property used by certain tax-exempt organizations) is amended by adding at the end thereof the following new sentence: "If any qualified rehabilitated building is used by the tax-exempt organization pursuant to a lease, this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures."

(b) USE BY GOVERNMENTAL UNITS.—Paragraph (5) of section 48(a) (relating to governmental units) is amended by adding at the end thereof the following new sentence: "If any qualified rehabilitated building is used by the governmental unit pursuant to a lease, this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to uses after July 29, 1980, in taxable years ending after such date.

Subtitle D—Other Small Business Provisions

SEC. 231. INCREASE IN ACCUMULATED EARNINGS CREDIT, ETC.

(a) INCREASE IN CREDIT FOR CERTAIN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 535(c) (relating to accumulated earnings credit) is amended to read as follows:

"(2) MINIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowable under paragraph (1) shall in no case be less than the amount by which $250,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year.

"(B) CERTAIN SERVICE CORPORATIONS.—In the case of a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, subparagraph (A) shall be applied by substituting '$150,000' for '$250,000'."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 535(c) is amended by striking out "$150,000" and inserting in lieu thereof "$250,000".

(B) Sections 243(b)(3)(C)(i) (relating to qualifying dividends for purposes of the dividends received deduction) and 1551(a) (relating to disallowance of surtax exemption and accumulated earnings credit) are each amended by striking out "$150,000".

(C) Section 1561(a)(2) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$150,000" and inserting in lieu thereof "$250,000 ($150,000 if any component member is a corporation described in section 535(c)(2)(B))".

(b) CERTAIN ADDITIONAL PRE-DEATH ACCUMULATIONS FOR REDEMPTION OF SECTION 303 STOCK TREATED AS REASONABLE NEEDS OF BUSINESS.—Paragraph (1) of section 537(b) (defining section 303 redemption needs) is amended by inserting "immediately preceding the taxable year" after "taxable year of the corporation".

(c) BURDEN OF PROOF SHIFTED TO GOVERNMENT IN PROCEEDINGS BEFORE DISTRICT COURT OR COURT OF CLAIMS.—

(1) Subsection (a) of section 534 (relating to burden of proof) is amended by striking out "before the Tax Court involving a notice of deficiency".

(2) Subsection (b) of section 534 (relating to notification by Secretary) is amended by striking out "referred to in subsection (a)" and inserting in lieu thereof "based in whole or in part on an allegation described in subsection (a)".

(3) Subsection (d) of section 534 (relating to jeopardy assessment) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1981.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply with respect to notices of deficiency mailed after December 31, 1981.

SEC. 232. SUBCHAPTER S SHAREHOLDERS.

(a) INCREASE IN NUMBER OF SHAREHOLDERS.—Section 1371(a) (defining small business corporation) is amended by striking out "15 shareholders" in paragraph (1) and inserting in lieu thereof "25 shareholders".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1981.

SEC. 233. TREATMENT OF TRUSTS AS SUBCHAPTER S SHAREHOLDERS.

(a) IN GENERAL.—Subsection (e) of section 1371 (relating to certain trusts permitted as shareholders) is amended to read as follows:

"(e) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—

"(1) IN GENERAL.—For purposes of subsection (a), the following trusts may be shareholders:

"(A) A trust all of which is treated (under subpart E of part I of subchapter J of this chapter) as owned by an individual who is a citizen or resident of the United States.

"(B) A trust which was described in subparagraph (A) immediately before the death of the deemed owner and which continues in existence after such death, but only for the 60-day period beginning on the day of the deemed owner's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the deemed owner, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'.

"(C) A trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

"(D) A trust created primarily to exercise the voting power of stock transferred to it.

"(2) TREATMENT AS SHAREHOLDERS.—For purposes of subsection (a)—

"(A) In the case of a trust described in subparagraph (A) of paragraph (1), the deemed owner shall be treated as the shareholder.

"(B) In the case of a trust described in subparagraph (B) of paragraph (1), the estate of the deemed owner shall be treated as the shareholder.

"(C) In the case of a trust described in subparagraph (C) of paragraph (1), the estate of the testator shall be treated as the shareholder.

"(D) In the case of a trust described in subparagraph (D) of paragraph (1), each beneficiary of the trust shall be treated as a shareholder."

(b) BENEFICIARY OF QUALIFIED SUBCHAPTER S TRUST TREATED AS OWNER OF TRUST.—

(1) IN GENERAL.—For purposes of subsection (a) of section 678 of the Internal Revenue Code of 1954 (relating to person other than grantor treated as substantial owner), the beneficiary of a qualified subchapter S trust shall be treated as the owner of such trust.

(2) QUALIFIED SUBCHAPTER S TRUST DEFINED.—For purposes of paragraph (1), the term "qualified subchapter S trust" means a trust—

(A) which has as its sole income beneficiary an individual who is a citizen or resident of the United States who, at the date of death of the grantor of the trust, is under a disability (within the meaning of section 216(i) of the Social Security Act),

(B) during the lifetime of such beneficiary, the corpus or income of which may be distributed only to such beneficiary,

(C) which terminates at the death of such beneficiary, with the corpus and accumulated income at such time being distributed as provided by the beneficiary by will or pursuant to a general power of appointment (as defined in section 2041 of the Internal Revenue Code of 1954) held by the beneficiary or (failing such disposition) to the heirs of the beneficiary or to takers in default of appointment,

(D) 90 percent or more of the contributions to which in value consist of stock in one subchapter S corporation,

(E) all of the contributions to which are includible in the gross estate of the grantor of the trust and which pass to the trust at the grantor's death, and

(F) with respect to which the beneficiary or his legal representative has made an irrevocable election (at such time and in such manner as the Secretary of the Treasury may provide) that, from the creation of the trust until the trust ceases to be a qualified subchapter S trust, the beneficiary is to be treated for purposes of section 678 of such Code as the owner of such trust.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall apply to taxable years beginning after December 31, 1981.

SEC. 234. PREFERRED STOCK ELIGIBLE UNDER SECTION 1244.

(a) GENERAL RULE.—Subsections (c)(1) and (d)(2) of section 1244 (relating to losses on small business stock) are each amended by striking out "common stock" and inserting in lieu thereof "stock".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to stock issued after the date of the enactment of this Act in taxable years ending after such date.

SEC. 235. STUDY OF ACCOUNTING METHODS FOR INVENTORY.

(a) STUDY.—The Secretary of the Treasury shall conduct a full and complete study of methods of tax accounting for inventory with a view toward the development of simplified methods which minimize income distortions resulting from inflation. Such study shall include (but shall not be limited to) an examination of the last-in first-out method and the cash receipts and disbursements method.

(b) REPORT.—Not later than June 30, 1982, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he deems appropriate.

Subtitle E—Incentives for Research and Experimentation

SEC. 241. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"SEC. 44F. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the excess (if any) of—

"(1) the qualified research expenses for the taxable year, over

"(2) the base period research expenses.

"(b) QUALIFIED RESEARCH EXPENSES.—For purposes of this section—

"(1) QUALIFIED RESEARCH EXPENSES.—The term 'qualified research expenses' means the sum of the following amounts which are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer—

"(A) in-house research expenses, and

"(B) contract research expenses.

"(2) IN-HOUSE RESEARCH EXPENSES.—

"(A) IN GENERAL.—The term 'in-house research expenses' means—

"(i) any wages paid or incurred to an employee for qualified services performed by such employee,

"(ii) any amount paid or incurred for supplies used in the conduct of qualified research, and

"(iii) any amount paid or incurred to another person for the right to use personal property in the conduct of qualified research.

"(B) QUALIFIED SERVICES.—The term 'qualified services' means services consisting of—

"(i) engaging in qualified research, or

"(ii) engaging in the direct supervision or direct support of research activities which constitute qualified research.

If substantially all of the services performed by an individual for the taxpayer during the taxable year consists of services meeting the requirements of clause (i) or (ii), the term 'qualified services' means all of the services performed by such individual for the taxpayer during the taxable year.

"(C) SUPPLIES.—The term 'supplies' means any tangible property other than—

"(i) land or improvements to land, and

"(ii) property of a character subject to the allowance for depreciation.

"(D) WAGES.—

"(i) IN GENERAL.—The term 'wages' has the meaning given such term by section 3401(a).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—In the case of an employee (within the meaning of section 401(c)(1)), the term 'wages' includes the earned income (as defined in section 401(c)(2)) of such employee.

"(iii) EXCLUSION FOR WAGES TO WHICH NEW JOBS OR WIN CREDIT APPLIES.—The term 'wages' shall not include any amount taken into account in computing the credit under section 40 or 44B.

"(3) CONTRACT RESEARCH EXPENSES.—

"(A) IN GENERAL.—The term 'contract research expenses' means 65 percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research.

"(B) PREPAID AMOUNTS.—If any contract research expenses paid or incurred during any taxable year are attributable to qualified research to be conducted after the close of such taxable year, such amount shall be treated as paid or incurred during the period during which the qualified research is conducted.

"(c) BASE PERIOD RESEARCH EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'base period research expenses' means the average of the qualified research expenses for each year in the base period.

"(2) BASE PERIOD.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'base period' means the 3 taxable years immediately preceding the taxable year for which the determination is being made (hereinafter in this subsection referred to as the 'determination year').

"(B) TRANSITIONAL RULES.—Subparagraph (A) shall be applied—

"(i) by substituting 'first taxable year' for '3 taxable years' in the case of the first determination year ending after June 30, 1981, and

"(ii) by substituting '2' for '3' in the case of the second determination year ending after June 30, 1981.

"(3) MINIMUM BASE PERIOD RESEARCH EXPENSES.—In no event shall the base period research expenses be less than 50 percent of the qualified research expenses for the determination year.

"(d) CREDIT AVAILABLE WITH RESPECT TO CERTAIN BASIC RESEARCH BY COLLEGES, UNI-

VERSITIES, AND CERTAIN RESEARCH ORGANIZATIONS.—

"(1) IN GENERAL.—65 percent of any amount paid or incurred by a corporation to any qualified organization for basic research to be performed by such organization shall be treated as contract research expenses. The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written research agreement between the corporation and the qualified organization.

"(2) NOT INCLUDED IN BASE YEAR EXPENSES.—For purposes of determining the amount of the credit allowed under this section for any taxable year, any amount treated as contract research expenses under paragraph (1) shall not be included in the qualified research expenses for any year in the base period.

"(3) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (as defined in section 3304(f)), and

"(B) any other organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(4) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective.

"(5) SPECIAL RULES FOR GRANTS TO CERTAIN FUNDS.—

"(A) IN GENERAL.—For purposes of this subsection, a qualified fund shall be treated as a qualified organization and the requirements of paragraph (1) that the basic research be performed by the qualified organization shall not apply.

"(B) QUALIFIED FUND.—For purposes of subparagraph (A), the term 'qualified fund' means any organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a) and is not a private foundation,

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (3)(A) for purposes of basic research, and

"(iv) makes an election under this paragraph.

"(C) EFFECT OF ELECTION.—

"(i) IN GENERAL.—Any organization which makes an election under this paragraph shall be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

"(6) CERTAIN CORPORATIONS NOT ELIGIBLE.—For purposes of this subsection, the term 'corporation' shall not include—

"(A) an electing small business corporation (as defined in section 1371(b)),

"(B) a personal holding company (as defined in section 542), and

"(C) a service organization (as defined in section 414(m)(3)).

"(7) EFFECTIVE DATE.—This subsection shall only apply to amounts paid or incurred after December 31, 1981.

"(e) QUALIFIED RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research' means—

"(A) research for the purpose of discovering information which may be potentially useful in—

"(i) the development of a new business item for the taxpayer, or

"(ii) bringing about a significant improvement in an existing business item of the taxpayer, or

"(B) applying results obtained by research to develop a plan or design for a new business item for the taxpayer, or for a significant improvement in an existing business item of the taxpayer.

"(2) EXCLUSIONS.—The term 'qualified research' does not include—

"(A) any activity conducted outside the United States,

"(B) any activity in the social sciences or the humanities,

"(C) any activity for purposes of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas), and

"(D) for purposes of determining the credit allowable under this section to the taxpayer, any activity performed by the taxpayer for another person (or governmental entity) whether pursuant to a grant, contract, or otherwise.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) RESEARCH.—The term 'research' means a planned search or critical investigation, and includes experimentation.

"(B) BUSINESS ITEM.—The term 'business item' means a product or technique for use or sale by the taxpayer in a trade or business.

"(C) EXISTING.—The term 'existing' means a business item sold or used by the taxpayer in a trade or business before the taxpayer paid or incurred the amounts for qualified research.

"(4) LIMITATION ON APPLIED RESEARCH.—The term 'qualified research' shall not include any activity after the point at which—

"(A) the new business item or significantly improved business item meets specific functional and economic requirements of the taxpayer for that item, or

"(B) the new or improved item is ready for manufacture, sale, or use.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION OF EXPENDITURES.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the increase in qualified research expenses giving rise to the credit.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the increase in qualified research expenses giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) ALLOCATIONS.—

"(A) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the Secretary—

"(A) ACQUISITIONS.—If, after June 30, 1980, a taxpayer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after such acquisition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such acquisition shall be increased by so much of such expenses paid or incurred by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business or separate unit acquired by the taxpayer.

"(B) DISPOSITIONS.—If, after June 30, 1980—

"(i) a taxpayer disposes of the major portion of any trade or business or the major portion of a separate unit of a trade or business in a transaction to which subparagraph (A) applies, and

"(ii) the taxpayer furnishes the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such disposition shall be decreased by so much of such expenses as is attributable to the portion of such trade or business or separate unit disposed of by the taxpayer.

"(C) INCREASE IN BASE PERIOD.—If during any of the 3 taxable years following the taxable year in which a disposition to which subparagraph (B) applies occurs, the disposing taxpayer (or a person with whom the taxpayer is required to aggregate expenditures with the taxpayer under paragraph (1)) reimburses the acquiring person (or a person required to so aggregate expenditures with such person) for research on behalf of the taxpayer, then the amount of research expenses of the taxpayer for the base period for such taxable year shall be increased by the lesser of—

"(i) the amount of the decrease under subparagraph (B) which is allocable to such base period, or

"(ii) the product of the number of years in the base period, multiplied by the amount of the reimbursement described in this subparagraph.

"(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified research expenses shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

"(5) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(g) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) a research credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) a research credit carryover to each of the 20 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1981, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 20 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 19 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year."

(b) DEDUCTION FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Section 280C (relating to disallowance of deduction for portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR SECTION 44F CREDIT.—Except in the case of a corporation (within the meaning of section 44F(d)(6)), no deduction shall be allowed for that portion of qualified research expenses (within the meaning of section 44F(b)) paid or incurred during the taxable year which is equal to the amount allowable as a credit under section 44F with respect to such expenses (determined without regard to section 44F(g))."

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 280C is amended to read as follows:

"SEC. 280C. EXPENDITURES FOR WHICH CREDIT IS CLAIMED UNDER SECTION 40, 44B, or 44F."

(B) The item relating to section 280C in the table of sections for part IX of subchapter B of chapter 1 is amended to read as follows:

"Sec. 280C. Expenditures for which credit is claimed under section 40, 44B, or 44F."

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subparagraph (A) of section 55(c)(4) (relating to carryover and carryback of certain credits) is amended by striking out "section 44E(e)(1)" and inserting in lieu thereof "section 44F(g)(1), 44E(e)(1)".

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(28) CREDIT UNDER SECTION 44F.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44F, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44F in respect of the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44F(g)(2)," after "44E(e)(2),", and

(ii) by inserting "research credits," after "alcohol fuel credits," in the section heading.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44F(g)(2)," after "44E(e)(2),", and

(ii) by inserting "research credits," after "alcohol fuel credits," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "alcohol fuel credits, research credits," after "new employee credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and new employee credit carryback" and inserting in lieu thereof "new employee credit carryback, and research credit carryback".

(B) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused new employee credit" each place it appears and inserting in lieu thereof "unused new employee credit, or unused research credit";

(ii) by inserting "by a research credit carryback provided in section 44F(g)(2)," after "53(b)," in the first sentence of subsection (a);

(iii) by striking out "or a new employee credit carryback from" each place it appears and inserting in lieu thereof "a new employee credit carryback, or a research credit carryback from"; and

(iv) by striking out "work incentive program carryback)" and inserting in lieu thereof "work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback)".

(d) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Credit for increasing research activities."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1981, and before January 1, 1986.

(2) TRANSITIONAL RULE.—

(A) IN GENERAL.—If, with respect to the first taxable year to which the amendments made by this section apply and which ends in 1981 or 1982, the taxpayer may only take into account qualified research expenses, paid or incurred during a portion of such taxable year, the amount of the qualified research expenses, taken into account for the base period of such taxable year shall be the amount which bears the same ratio to the total qualified research expenses, for such base period as the number of months in such portion of such taxable year bears to the total number of months in such taxable year. A similar rule shall apply in the case of a taxpayer's first taxable year ending after December 31, 1985.

(B) DEFINITIONS.—For purposes of the preceding sentence, the terms "qualified research expenses" and "base period" have the meanings given to such terms by section 44F of the Internal Revenue Code of 1954 (as added by this section).

SEC. 242. CHARITABLE CONTRIBUTIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to deductions for charitable, etc., contributions and gifts) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR CONTRIBUTIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH.—

"(A) LIMIT ON REDUCTION.—In the case of a qualified research contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) QUALIFIED RESEARCH CONTRIBUTIONS.—For purposes of this paragraph, the term 'qualified research contribution' means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of section 1221, but only if—

"(i) the contribution is to an educational organization which is described in subsection (b)(1)(A)(ii) of this section and which is an institution of higher education (as defined in section 3304(f)),

"(ii) the property is constructed by the taxpayer,

"(iii) the contribution is made not later than 2 years after the date the construction of the property is substantially completed,

"(iv) the original use of the property is by the donee,

"(v) the property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of section 174), or for research training, in the United States in physical or biological sciences,

"(vi) the property is not transferred by the donee in exchange for money, other property, or services, and

"(vii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (v) and (vi).

"(C) CONSTRUCTION OF PROPERTY BY TAXPAYER.—For purposes of this paragraph, property shall be treated as constructed by the taxpayer only if the cost of the parts used in the construction of such property (other than parts manufactured by the taxpayer or a related person) do not exceed 50 percent of the taxpayer's basis in such property.

"(D) CORPORATION.—For purposes of this paragraph, the term 'corporation' shall have the meaning given to such term by section 44F(d)(6)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to charitable contributions made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 243. SUSPENSION OF REGULATIONS RELATING TO ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) 1-YEAR SUSPENSION.—In the case of the taxpayer's first taxable year beginning within 1 year after the date of the enactment of this Act, all research and experimental expenditures (within the meaning of section 174 of the Internal Revenue Code of 1954) which are paid or incurred in such year for research activities conducted in the United States shall be allocated or apportioned to sources within the United States.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study with respect to the impact which section 1.861-8 of the Internal Revenue Service Regulations would have on research and experimental activities conducted in the United States.

(2) REPORT.—Not later than the date 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) (together with such recommendations as he may deem advisable).

Subtitle F—Treatment of Existing Carryovers of Certain Distressed Industries

SEC. 251. ELECTIVE CARRYBACK OF EXISTING CARRYOVERS FOR CERTAIN DISTRESSED INDUSTRIES.

(a) GENERAL RULE.—If a corporation makes an election under this section for its first taxable year beginning after December 31, 1980, one-fourth of the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1954 made by such corporation on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such first taxable year and for each of its 3 immediately succeeding taxable years.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be the lesser of—

(1) the corporation's existing qualified carryovers, or

(2) the corporation's net tax liability for the carryback period.

(c) CORPORATION MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of any corporation which makes an election under this section, the amount of such corporation's existing qualified carryovers shall not be taken into account under subsections (a) and (b) of section 46 of such Code for any taxable year beginning after December 31, 1980.

(d) NET TAX LIABILITY FOR CARRYBACK PERIOD.—For purposes of this section—

(1) GENERAL.—A corporation's net tax liability for the carryback period is the aggregate of such corporation's net tax liability for taxable years in the carryback period.

(2) NET TAX LIABILITY.—The term "net tax liability" means, with respect to any taxable year, the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for such taxable year, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of such chapter 1 (other than section 39 thereof). For purposes of the preceding sentence, any tax treated as not imposed by chapter 1 of such Code under the last sentence of section 46(a)(4) of such Code shall not be treated as tax imposed by such chapter 1.

(3) CARRYBACK PERIOD.—The term "carryback period" means the period—

(A) which begins with the corporation's first taxable year ending after December 31, 1961, and

(B) which ends with the corporation's last taxable year beginning before January 1, 1981.

(e) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of such Code, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

SEC. 252. REQUIREMENT THAT REFUNDS BE USED FOR INVESTMENT IN QUALIFIED INVESTMENT PROPERTY.

(a) GENERAL RULE.—In the case of any taxpayer who receives a qualified refund—

(1) such person shall place such refund in a separate account, and

(2) amounts in such separate account—

(A) shall only be used for purposes of acquiring qualified industrial property, and

(B) shall be used (or obligated) for purposes of making such acquisitions not later than 3 years after the taxpayer received the refund.

(b) PENALTY.—Any person who fails to satisfy any requirement of subsection (a) shall pay a penalty in an amount equal to the amount involved in such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(c) QUALIFIED REFUND.—For purposes of this section, the term "qualified refund" means any refund or credit of an overpayment resulting from the application of section 251.

(d) CERTAIN RULES MADE APPLICABLE.—All provisions of law which apply in respect of the assessment or collection of any penalty imposed by subchapter B of chapter 68 of the Internal Revenue Code of 1954 shall apply in respect of the assessment or collection of any penalty imposed by subsection (a); except that subchapter B of chapter 63 of such Code (relating to deficiency procedures) shall not apply.

SEC. 253. DEFINITIONS AND SPECIAL RULES.

(a) EXISTING QUALIFIED CARRYOVERS.—For purposes of this subtitle—

(1) IN GENERAL.—The term "existing qualified carryovers" means the aggregate of the amounts which are investment credit carryovers to the taxpayer's first taxable year beginning after December 31, 1980 (determined without regard to the limitation of section 46(b)(3) of the Internal Revenue Code of 1954 for such first taxable year).

(2) CARRYOVERS TAKEN INTO ACCOUNT ONLY TO THE EXTENT ATTRIBUTABLE TO QUALIFIED INDUSTRIAL PROPERTY.—An investment credit carryover shall be taken into account under paragraph (1) only to the extent such carryover is attributable to qualified industrial property.

(3) SPECIAL RULE.—For purposes of determining the portion of any carryover which is attributable to qualified industrial property, any portion of the unused credit for the taxable year in which such carryover arose which was used for a taxable year beginning before January 1, 1981, shall be treated as attributable first to property other than qualified industrial property.

(b) QUALIFIED INDUSTRIAL PROPERTY.—For purposes of this subtitle, the term "qualified industrial property" means section 38 property (as defined in section 48 of the Internal Revenue Code of 1954)—

(1) which (A) is used directly in connection with the trade or business of operating a railroad (including a railroad switching or terminal company), and (B) is owned by a domestic common carrier by railroad or by a corporation the majority of the voting stock of which is owned directly or indirectly by one or more such common carriers or by persons who were such common carriers before entering proceedings under title 11 of the United States Code,

(2) which (A) is used directly in connection with the trade or business of the furnishing or sale of transportation of persons or property as a common carrier by air, and (B) is owned by a domestic common carrier by air or by a corporation the majority of the voting stock of which is owned directly or indirectly by one or more such common carriers or by persons who were such common carriers before entering proceedings under title 11 of the United States Code,

(3) which is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture or production of steel,

(4) which is used by manufacturers or producers of motor vehicles directly in connection with the trade or business of the manufacture, production, assembly, sale, or delivery of vehicles intended to be used as motor vehicles (as defined in section 6323(h)(3)) or parts, accessories, or components therefor,

(5) which is used by the taxpayer directly in connection with the trade or business of the manufacture, production, or conversion of pulp, paper, or paper products, and

(6) which is used by the taxpayer directly in connection with the trade or business of the taxpayer of extracting ores or minerals from the ground (or from the waste or residue of prior mining) and treating or processing such ores or minerals to the form in which they are most commonly marketed by the domestic industry.

(c) ELECTION.—An election under section 251 shall be made not later than the time prescribed by law for filing the taxpayer's return of tax under chapter 1 of such Code for its first taxable year beginning after De-

cember 31, 1980 (including extensions thereof).

(d) CERTAIN RULES MADE APPLICABLE.—

(1) SECTION 383.—Rules similar to the rules of section 383 shall apply to any amount treated as a payment under section 251.

(2) TENTATIVE REFUNDS.—Rules similar to the rules of section 6411(d) shall apply to any overpayment resulting from the application of section 251.

Subtitle G—Extension of Certain Carryforward Periods

SEC. 261. EXTENSION OF CARRYOVER PERIOD FOR NET OPERATING LOSSES AND CERTAIN CREDITS.

(a) NET OPERATING LOSS.—

(1) IN GENERAL.—Subparagraph (B) of section 172(b)(1) (relating to net operating loss carryovers) is amended by striking out "7" and inserting in lieu thereof "20".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 172(b)(1) is amended—

(i) by inserting "and before January 1, 1976," after "1955,", and

(ii) by striking out the last sentence thereof.

(B)(i) Subparagraph (E)(i)(II) of section 172(b)(1) is amended by striking out "8" and inserting in lieu thereof "20".

(ii) Clause (ii) of section 172(b)(1)(E) is amended to read as follows:

"(ii) In the case of any net operating loss for a taxable year which is not a REIT year, such loss shall not be carried back to any taxable year which is a REIT year."

(C) Paragraph (3) of section 172(g) (relating to certain regulated transportation corporations) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(iii) by striking out subparagraph (C).

(b) CERTAIN LOSSES OF LIFE INSURANCE COMPANIES.—Paragraph (1) of section 812(b) (relating to operations loss carrybacks and carryovers of life insurance companies) and paragraph (1) of section 825(d) (relating to unused loss carrybacks and carryovers of mutual life insurance companies) are each amended by striking out "7" and inserting in lieu thereof "20".

(c) CARRYOVER OF TAX CREDITS.—

(1) INVESTMENT CREDIT AND WIN CREDIT.—Paragraph (1) of section 46(b) (relating to carryback and carryovers of unused investment credits) and paragraph (1) of section 50A(b) (relating to carryback and carryover of unused work incentive program credit) are each amended by adding at the end thereof the following new sentence: "In the case of an unused credit for an unused credit year ending after December 31, 1973, this paragraph shall be applied by substituting '20' for '7' in subparagraph (B), and by substituting '23' for '10', and '22' for '9' in the second sentence."

(2) NEW EMPLOYEE CREDIT.—Paragraph (1) of section 53(c) (relating to carrybacks and carryovers of new employee credit) is amended—

(A) by striking out "7" in subparagraph (B) and inserting in lieu thereof "20",

(B) by striking out "10" and inserting in lieu thereof "23", and

(C) by striking out "9" and inserting in lieu thereof "22".

(3) ALCOHOL FUELS CREDIT.—Subparagraph (A) of section 44E(e)(2) (relating to carryover of unused credit) is amended—

(A) by striking out "7" each place it appears and inserting in lieu thereof "20", and

(B) by striking out "6" and inserting in lieu thereof "19".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to net operating losses in taxable years ending after December 31, 1975.

(2)(A) The amendments made by subsection (c)(1) shall apply to unused credit years ending after December 31, 1973.

(B) The amendment made by subsection (c)(2) shall apply to unused credit years beginning after December 31, 1976.

(C) The amendment made by subsection (c)(3) shall apply to unused credit years ending after September 30, 1980.

TITLE III—INDIVIDUAL SAVINGS

Subtitle A—Retirement Savings

SEC. 301. RETIREMENT SAVINGS PROVISIONS.

(a) GENERAL RULE.—Section 219 (relating to deduction for retirement savings) is amended to read as follows:

"SEC. 219. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of—

"(A) $2,000, or

"(B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(2) SPECIAL RULES FOR EMPLOYER CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) LIMITATION.—The amount allowable as a deduction under subsection (a) for any employer contribution on behalf of the employee to a simplified employee pension shall be the lesser of—

"(i) 15 percent of the compensation from the employer includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(ii) the amount contributed by such employer to the simplified employee pension and included in gross income (but not in excess of $15,000).

"(B) CERTAIN LIMITATIONS DO NOT APPLY TO EMPLOYER CONTRIBUTION.—Paragraph (1) of this subsection and paragraph (1) of subsection (c) shall not apply with respect to the employer contribution to a simplified employee pension.

"(C) SPECIAL RULE FOR APPLYING SUBPARAGRAPH (A)(ii).—In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the $15,000 amount specified in subparagraph (A)(ii) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3).

"(3) SPECIAL RULE WHERE INDIVIDUAL CONTRIBUTES TO EMPLOYEE IRA.—If the individual has paid any qualified retirement contribution for the taxable year to an employee IRA, the amount of the qualified retirement contributions (other than employer contributions to a simplified employee pension) which are paid for the taxable year to an individual retirement plan (other than an employee IRA) and which are allowable as a deduction under subsection (a) for such taxable year shall not exceed—

"(A) the amount determined under paragraph (1) for such taxable year, reduced by

"(B) the amount of the qualified retirement contributions for the taxable year to an employee IRA.

"(c) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) INDIVIDUALS WHO HAVE ATTAINED AGE 70½.—No deduction shall be allowed under this section with respect to any qualified retirement contribution which is made for a taxable year of an individual if such individual has attained age 70½ before the close of such taxable year.

"(2) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 408(d)(3), or 409(b)(3)(C).

"(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(d) DEFINITION OF RETIREMENT SAVINGS CONTRIBUTIONS, ETC.—For purposes of this section—

"(1) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means any amount paid in cash during the taxable year by or on behalf of the individual for his benefit to an individual retirement plan.

"(2) SPECIAL RULE FOR RETIREMENT BONDS.—For purposes of paragraph (1), the term 'individual retirement plan' includes a retirement bond described in section 409 only if the bond is not redeemed within 12 months of its issuance.

"(3) PAYMENTS FOR CERTAIN PLANS.—The term 'amounts paid to an individual retirement plan' includes amounts paid for an individual retirement annuity or a retirement bond.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) MARRIED INDIVIDUALS.—

"(A) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(B) SPECIAL RULES FOR JOINT RETURNS.—In the case of a joint return under section 6013 for the taxable year—

"(i) the amount allowable as a deduction under this section for the taxable year shall be the sum of the amounts determined under paragraph (1) of subsection (b) separately computed for each spouse, and

"(ii) no deduction shall be allowed under this section for contributions paid for the taxable year for the benefit of any one spouse to the extent that such contributions exceed $2,000.

"(C) SPECIAL RULE FOR ALLOCATING EXCESS CONTRIBUTIONS.—If the aggregate amount of the contributions paid to individual retirement plans for the taxable year for the benefit of an individual and his spouse exceeds the limitation of subparagraph (B)(i), such excess shall be allocated between the spouses in proportion to the respective contributions made for the benefit of the spouses for the taxable year.

"(D) SPECIAL RULE.—Subparagraphs (B) and (C) shall not apply to any employer contribution to a simplified employee pension allowable as a deduction under subsection (a).

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year. In the case of an employee IRA, the preceding sentence shall apply only to the extent permitted under the plan and without regard to the reference to extensions.

"(4) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(5) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

(b) REPEAL OF SECTION 220.—Section 220 (relating to deduction for retirement savings for certain married individuals) is hereby repealed.

(c) AMENDMENTS RELATING TO INCREASE IN IRA LIMITATIONS.—

(1) The following provisions are each amended by striking out "$1,500" each place it appears and inserting in lieu thereof "$2,000":

(A) Section 408(a)(1) (defining individual retirement account).

(B) Section 408(b) (defining individual retirement annuity).

(C) Section 408(j) (relating to increase in maximum limitations for simplified employee pensions).

(D) Section 409(a)(4) (defining retirement bond).

(2) Subparagraph (A) of section 408(d)(5) is amended by striking out "$1,750" and inserting in lieu thereof "$2,000".

(3) Subparagraph (A) of section 409(b)(3) (relating to redemption within 12 months) is amended by adding the following sentence at the end thereof: "The preceding sentence shall not apply to the extent that the bond was purchased with a rollover distribution described in subparagraph (C) of this paragraph or in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), or 408(d)(3)."

(4)(A) Paragraph (2) of section 415(a) is amended to read as follows:

"(2) SECTION APPLIES TO CERTAIN ANNUITIES AND ACCOUNTS.—In the case of—

"(A) an employee annuity plan described in section 403(a),

"(B) an annuity contract described in section 403(b),

"(C) a simplified employee pension described in section 408(k), or

"(D) a plan described in section 405(a),

such a contract, plan, or pension shall not be considered to be described in section 403(a), 403(b), 405(a), or 408(k), as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subsection (g). In the case of an annuity contract described in section 403(b), the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subsection (b) or the limitation of subsection (c), whichever is appropriate, and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)."

(B) The last sentence of paragraph (2) of section 415(c) is amended to read as follows: "For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), and 409(b)(3)(C)) and without regard to employee contributions to a simplified employee pension."

(C) Paragraph (5) of section 415(e) is amended to read as follows:

"(5) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—For purposes of this section, any annuity contract described in section 403(b) (except in the case of a participant who has elected under subsection (c)(4)(D) to have the provisions of subsection (c)(4)(C) apply) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year. In the case of any annuity contract described in section 403(b), the amount of the contribution disqualified by reason of subsection (g) shall reduce the exclusion allowance as provided in section 403(b)(2)."

(d) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 220.—

(1) Paragraph (10) of section 62 (defining adjusted gross income) is amended by striking out "and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)".

(2) Paragraphs (4) and (5) of section 408(d) (relating to tax treatment of distributions) are each amended by striking out "section 219 or 220" each place it appears and inserting in lieu thereof "section 219".

(3) Subsection (a) of section 415 is amended by striking out paragraph (3).

(4) Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219 or 220" each place it appears and inserting in lieu thereof "section 219".

(5) Subsection (d) of section 2503 is hereby repealed.

(6) Subparagraph (D) of section 3401(a)(12) is amended by striking out "section 219(a) or 220(a)" and inserting in lieu thereof "section 219(a)".

(7) Subsection (b) of section 4973 is amended—

(A) by striking out "section 219 or 220" each place it appears and inserting in lieu thereof "section 219", and

(B) by striking out "sections 219(c)(5) and 220(c)(6)" and inserting in lieu thereof "section 219(e)(5)".

(8) Subsection (d) of section 6047 is amended by striking out "section 219(a) or 220(a)" and inserting in lieu thereof "section 219(a)".

(9) Subsection (a) of section 4973 is amended by striking out the last sentence and inserting in lieu thereof the following: "The tax imposed by this subsection shall be paid by such individual."

(10) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) TRANSITIONAL RULE.—For purposes of the Internal Revenue Code of 1954, any amount allowed as a deduction under section 220 of such Code (as in effect before its repeal by this Act) shall be treated as if it were allowed by section 219 of such Code.

(3) CERTAIN BOND ROLLOVER PROVISIONS.—The amendment made by subsection (c)(3) shall apply to taxable years beginning after December 31, 1974.

(4) SECTION 415 AMENDMENTS.—The amendments made by subsections (c)(4) and (d)(3) shall apply to years after December 31, 1981.

SEC. 302. ESTABLISHMENT OF EMPLOYEE IRA AS PART OF EMPLOYER PLAN.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) EMPLOYEE IRA'S.—

"(1) TREATMENT AS AN INDIVIDUAL RETIREMENT ACCOUNT.—An employee IRA shall be treated as an individual retirement account for purposes of—

"(A) section 219 (relating to deduction for retirement savings),

"(B) subsections (d), (e) (other than paragraphs (1) and (2) thereof), (f), and (i) of this section,

"(C) section 4972(c), 4973, and 4974 (relating to certain excise taxes),

"(D) sections 101(b), 401(d), 402, 403, 415, 2039, and 2517, and

"(E) any limitation on the amount of voluntary employee contributions.

For purposes of applying section 4974, rules similar to the rules of paragraphs (6) and (7) of subsection (a) shall be treated as applying to the account.

"(2) TREATMENT AS PART OF QUALIFIED TRUST.—Except to the extent inconsistent with paragraph (1), for purposes of this title, an employee IRA shall be treated as part of a qualified trust under section 401 or an annuity plan described in section 403(a) (as the case may be).

"(3) EMPLOYEE IRA DEFINED.—For purposes of this title, the term 'employee IRA' means an account (separately accounted for) in a trust which is a qualified trust under section

401 or under an annuity plan described in section 403(a), but only if, under the rules governing such account—

"(A) except in the case of a rollover contribution, only voluntary contributions may be credited to the account,

"(B) the first $2,000 of voluntary contributions by the employee for a calendar year are credited to the account unless the employee designates (at such time and in such manner as the Secretary shall by regulations prescribe) part or all of such contributions as nondeductible, and

"(C) there is regular adjusting of the account (not less frequently than once a year) for its proportionate share of the interest, expenses, and other gains and losses of the trust or plan (as the case may be).

The term 'employee IRA' does not include an account in a governmental plan (within the meaning of section 414(d)).

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) VOLUNTARY CONTRIBUTION.—For purposes of this subsection, the term 'voluntary contribution' means any contribution made by an employee which is not a mandatory contribution (as defined in section 411(c)(2)(C)).

"(B) TREATMENT OF AMOUNTS DISTRIBUTED AS ANNUITIES.—If amounts in an employee IRA are distributed to the individual in the form of an annuity which commences after the individual attains age 59½—

"(i) the amounts so distributed shall be taxable under section 72 (and subsection (d) of this section shall not apply), and

"(ii) for purposes of applying section 72, the amount in the account shall be treated as an employer contribution which was not includible in the gross income of the individual.

"(C) AMOUNTS USED TO PURCHASE LIFE INSURANCE.—If any amount in an employee IRA is used to purchase life insurance, the amount so used shall be treated as distributed to the individual."

SEC. 303. INCREASE IN AMOUNT OF SELF-EMPLOYED RETIREMENT PLAN DEDUCTION.

(a) IN GENERAL.—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended by striking out "$7,500" in paragraphs (1) and (2) and inserting in lieu thereof "$15,000".

(b) MAXIMUM AMOUNT OF COMPENSATION TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (17) of section 401(a) (relating to maximum amount of compensation which may be taken into account) is amended by striking out all after "only" and inserting in lieu thereof "if—

"(A) the annual compensation of each employee taken into account under the plan does not exceed the first $200,000 of compensation, and

"(B) in the case of any plan with respect to which compensation in excess of $100,000 is taken into account, contributions on behalf of each employee (other than an employee within the meaning of section 401(c)(1)) to the plan or plans are at a rate (expressed as a percentage of compensation) not less than 7.5 percent."

(2) SIMPLIFIED EMPLOYEE PENSIONS.—Subparagraph (C) of section 408(k)(3) (relating to uniform relationships of contributions) is amended to read as follows:

"(C) CONTRIBUTIONS MUST BEAR A UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless—

"(i) contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $200,000) of each employee maintaining a simplified employee pension, and

"(ii) if compensation in excess of $100,000 is taken into account under a simplified employee pension for an employee, contributions to a simplified employee pension on behalf of each employee for whom a contribution is required are at a rate (expressed as a percentage of compensation) not less than 7.5 percent."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 401 is amended by striking out "for all such years exceeds $7,500" and inserting in lieu thereof "for such taxable year exceeds $15,000".

(2) Subparagraph (A) of section 401(j)(2) (relating to benefit plans for self-employed individuals and shareholder-employees) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(3) Paragraph (3) of section 401(j) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a change in the annual compensation taken into account under subparagraph (A) of subsection (j)(2) shall be treated as beginning a new period of plan participation."

(4) Subsections (d)(5) and (j) of section 408 are each amended by striking out "$7,500" and inserting in lieu thereof "$15,000".

(5) Subparagraph (B) of section 1379(b)(1) (relating to certain qualified pension, etc., plans) is amended by striking out "$7,500" and inserting in lieu thereof "$15,000".

(d) LOANS TO PARTICIPANTS.—Subsection (m) of section 72 (relating to special rules) is amended—

(1) by adding at the end of paragraph (6) the following new sentence: "For purposes of the preceding sentence, the term 'owner-employee' shall include an employee within the meaning of section 401(c)(1).", and

(2) by adding at the end thereof the following new paragraph:

"(8) LOANS TO OWNER-EMPLOYEES.—If, during any taxable year, an owner-employee receives, directly or indirectly, any amount as a loan from a trust described in section 401(a) which is exempt from tax under section 501(a), such amount shall be treated as having been received by such owner-employee as a distribution from such trust."

(e) CORRECTION OF EXCESS CONTRIBUTION PERMITTED WITHOUT PENALTY.—

(1) Subsection (m) of section 72 (relating to special rules applicable to employee annuities and distributions under employee plans) (as amended by subsection (d)) is amended by adding at the end thereof the following new paragraph:

"(9) RETURN OF EXCESS CONTRIBUTIONS BEFORE DUE DATE OF RETURN.—

"(A) IN GENERAL.—If an excess contribution is distributed in a qualified distribution—

"(i) such distribution shall not be included in gross income, and

"(ii) this section (other than this paragraph) shall be applied as if such excess contribution and such distribution had not been made.

"(B) EXCESS CONTRIBUTION.—For purposes of this paragraph, the term 'excess contribution' means any contribution to a qualified trust described in section 401(a) or under a plan described in section 403(a) or 405(a) made on behalf of an employee (within the meaning of section 401(c)) for any taxable year to the extent such contribution exceeds the amount allowable as a deduction under section 404(a).

"(C) QUALIFIED DISTRIBUTION.—The term 'qualified distribution' means any distribution of an excess contribution which meets requirements similar to the requirements of subparagraphs (A), (B), and (C) of section 408(d)(4). In the case of such a distribution, the rules of the last sentence of section 408(d)(4) shall apply."

(2) Paragraph (4) of section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) shall not apply to any distribution to which section 72(m)(9) applies."

(3) Subsection (b) of section 4972 (defining excess contributions) is amended by adding at the end thereof the following new paragraph:

"(6) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE.—For purposes of this subsection, any contribution which is distributed in a distribution to which section 72(m)(9) applies shall be treated as an amount not contributed."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1981.

(2) TRANSITIONAL RULE.—The amendments made by subsection (d) shall not apply to any loan from a plan to a self-employed individual who is an employee within the meaning of section 401(c)(1) which is outstanding on December 31, 1981. For purposes of the preceding sentence, any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as a new loan.

SEC. 304. ROLLOVERS UNDER BOND PURCHASE PLANS.

(a) GENERAL RULE.—Subsection (d) of section 405 (relating to taxability of beneficiary of qualified bond purchase plan) is amended by adding at the end thereof the following new paragraph:

"(3) ROLLOVER INTO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.—

"(A) IN GENERAL.—If—

"(i) any qualified bond is redeemed,

"(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, and

"(iii) such transfer is made on or before the 60th day after the day on which the individual received the proceeds of such redemption,

then, gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3).

"(B) QUALIFIED BOND.—For purposes of this paragraph, the term 'qualified bond' means any bond described in subsection (b) which is distributed under a qualified bond purchase plan or from a trust described in section 401(a) which is exempt from tax under section 501(a)."

(b) TECHNICAL AMENDMENTS.—

(1) The second sentence of paragraph (1) of section 405(d) is amended by striking out "the proceeds" and inserting "except as provided in paragraph (3), the proceeds".

(2) Sections 219(c)(2), 408(a)(1), and 4973(b)(1)(A) are each amended by inserting "405(d)(3)," after "403(b)(8),".

(3) Subsection (e) of section 2039 is amended by inserting "405(d)(3)," after "a contract described in subsection (c)(3)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to redemptions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 305. MISCELLANEOUS PROVISIONS.

(a) REMOVAL OF FIVE-YEAR BAN ON CONTRIBUTIONS TO OWNER-EMPLOYEE PLANS WHERE PLAN TERMINATES.—

(1) IN GENERAL.—Paragraph (5) of section 401(d) (relating to additional requirements for qualifications of trusts and plans benefiting owner-employees) is amended by adding at the end thereof the following: "Subparagraph (C) shall not apply to a distribution on account of the termination of the plan."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after December 31, 1981, in taxable years ending after such date.

(b) INVESTMENT BY INDIVIDUAL RETIREMENT ACCOUNTS, ETC., IN COLLECTIBLES TREATED AS DISTRIBUTIONS.—

(1) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) INVESTMENT IN COLLECTIBLES TREATED AS DISTRIBUTIONS.—

"(1) IN GENERAL.—The acquisition by an individual retirement account or by an individually-directed account under a plan described in section 401(a) of any collectible shall be treated (for purposes of this section and section 402) as a distribution from such account in an amount equal to the cost to such account of such collectible.

"(2) COLLECTIBLE DEFINED.—For purposes of this subsection, the term 'collectible' means—

"(A) any work of art,

"(B) any rug or antique,

"(C) any metal or gem,

"(D) any stamp or coin,

"(E) any alcoholic beverage, or

"(F) any other tangible personal property specified by the Secretary for purposes of this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property acquired after December 31, 1981, in taxable years ending after such date.

Subtitle B—Exclusion of Interest on Certain Savings Certificates

SEC. 321. EXCLUSION OF INTEREST ON CERTAIN SAVINGS CERTIFICATES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and by inserting after section 127 the following new section:

"SEC. 128. INTEREST ON CERTAIN SAVINGS CERTIFICATES.

"(a) EXCLUSION FROM GROSS INCOME.—In the case of an individual, gross income does not include amounts received as interest on qualified tax-exempt savings certificates.

"(b) MAXIMUM DOLLAR AMOUNT.—

"(1) IN GENERAL.—The aggregate amount excludable under subsection (a) for any taxable year shall not exceed the excess of—

"(A) $1,000 ($2,000 in the case of a joint return under section 6013), over

"(B) the aggregate amount received by the taxpayer which was excludable under subsection (a) for any prior taxable year.

"(2) SPECIAL RULE.—For purposes of paragraph (1)(B), one-half of the amount excluded under subsection (a) on any joint return shall be treated as received by each spouse.

"(c) QUALIFIED TAX-EXEMPT SAVINGS CERTIFICATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tax-exempt savings certificate' means any certificate—

"(A) which is issued by a qualified institution after September 30, 1981, and before October 1, 1982,

"(B) which has a maturity of 1 year,

"(C) which has an investment yield which does not exceed 70 percent of the average investment yield for the most recent auction (before the week in which the certificate is issued) of United States Treasury bills with maturities of 52 weeks, and

"(D) which is issued under a plan of the qualified institution under which—

"(i) the minimum deposit required for the issuance of the certificate does not exceed $500, and

"(ii) subject to any maximum limitation imposed by the institution, certificates will be issued for any amount in excess of $500.

Such term does not include any certificate issued by a qualified institution after the date on which the Secretary publishes in the Federal Register a notice that such institution has failed to substantially comply with the requirements of subsection (d).

"(2) QUALIFIED INSTITUTION.—The term 'qualified institution' means—

"(A) a bank (as defined in section 581),

"(B) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or other savings institution chartered and supervised as a savings and loan or similar institution under Federal or State law, or

"(C) a credit union,

the deposits or accounts of which are insured under Federal or State law or are protected or guaranteed under State law.

"(d) INSTITUTIONS REQUIRED TO PROVIDE RESIDENTIAL PROPERTY FINANCING.—For purposes of this section—

"(1) IN GENERAL.—If a qualified institution (other than an institution described in subparagraph (C) of subsection (c)(2)) issues any qualified tHHax-exempt savings certificate during any calendar quarter, the amount of the qualified residential financing provided by such institution during the succeeding calendar quarter shall not be less than the lesser of—

"(A) 75 percent of the face amount of qualified tax-exempt savings certificates issued during the calendar quarter, or

"(B) 75 percent of the qualified net savings for the calendar quarter.

The aggregate amount of qualified tax-exempt savings certificates issued by any institution described in subparagraph (C) of subsection (c)(2) which are outstanding at the close of any calendar quarter may not exceed the limitation determined under paragraph (4) with respect to such institution for such quarter.

"(2) PENALTY FOR FAILURES TO MEET REQUIREMENTS.—If, as of the close of any calendar quarter, a qualified institution has not met the requirement of paragraph (1) with respect to the preceding calendar quarter, such institution may not issue any qualified tax-exempt savings certificate until it meets such requirements.

"(3) QUALIFIED RESIDENTIAL FINANCING.—The term 'qualified residential financing' includes, and is limited to—

"(A) any loan secured by a lien on a single-family or multifamily residence,

"(B) any secured or unsecured qualified home improvement loan (within the meaning of section 103A(1)(6) without regard to the $15,000 limit),

"(C) any mortgage (within the meaning of section 103A(1)(1)) on a single family or multifamily residence which is insured or guaranteed by the Federal, State, or local government or any instrumentality thereof,

"(D) any loan to acquire a mobile home,

"(E) any construction loan for the construction or rehabilitation of a single-family or multifamily residence,

"(F) the purchase of mortgages secured by single-family or multifamily residences on the secondary market, but only to the extent the amount of such purchases exceeds the amount of sales of such mortgages by an institution,

"(G) the purchase of securities issued or guaranteed by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or securities issued by any other person, if such securities are secured by mortgages originated by a qualified institution, but only to the extent the amount of such purchases exceeds the amount of sales of such securities by an institution, and

"(H) any loan for agricultural purposes.

For purposes of this paragraph, the term 'single-family residence' includes 2, 3, and 4 family residences, and the term 'residence' includes stock in a cooperative housing corporation (as defined in section 216(b)).

"(4) LIMITATION FOR CREDIT UNIONS.—For purposes of paragraph (1), the limitation determined under this paragraph with respect to any institution for any calendar quarter is the sum of—

"(A) the aggregate of the amounts described in subparagraph (A) of paragraph (5) with respect to such institution as of September 30, 1981, plus

"(B) 10 percent of the excess of—

"(i) the aggregate of such amounts as of the close of such calendar quarter, over

"(ii) the amount referred to in subparagraph (A).

"(5) QUALIFIED NET SAVINGS.—The term 'qualified net savings' means, with respect to any qualified institution, the excess of—

"(A) the amounts paid into passbook savings accounts, 6-month money market certificates, 30-month small-saver certificates, time deposits with a face amount of less than $100,000, and qualified tax-exempt savings certificates issued by such institution, over

"(B) the amounts withdrawn or redeemed in connection with the accounts and certificates described in subparagraph (A).

"(6) CONSOLIDATED GROUPS.—For purposes of this subsection, all members of the same affiliated group (as defined in section 1504) which file a consolidated return for the taxable year shall be treated as 1 corporation.

"(e) PENALTY FOR EARLY WITHDRAWALS.—

"(1) IN GENERAL.—If any portion of a qualified tax-exempt savings certificate is redeemed before the date on which it matures—

"(A) subsection (a) shall not apply to any interest on such certificate for the taxable year of redemption and any subsequent taxable year, and

"(B) there shall be included in gross income for the taxable year of redemption the amount of any interest on such certificate excluded under subsection (a) for any preceding taxable year.

"(2) CERTIFICATE PLEDGED AS COLLATERAL.—For purposes of paragraph (1), if the taxpayer pledges any qualified tax-exempt savings certificate as collateral or security for a

loan, the taxpayer shall be treated as having redeemed such certificate.

"(f) OTHER SPECIAL RULES.—

"(1) COORDINATION WITH SECTION 116.—Section 116 shall not apply to the interest on any qualified tax-exempt savings certificate.

"(2) ESTATES AND TRUSTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the exclusion provided by this section shall not apply to estates and trusts.

"(B) CERTIFICATES ACQUIRED BY ESTATE FROM DECEDENT.—In the case of qualifed tax-exempt savings certificate acquired by an estate by reason of the death of the decedent—

"(i) subparagraph (A) shall not apply, and

"(ii) paragraph (1) of subsection (b) shall be applied as if the estate were the decedent."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 128 and inserting in lieu thereof the following new items:

"Sec. 128. Interest on certain savings certificates.

"Sec. 129. Cross references to other Acts."

(2) Paragraph (2) of section 265 (relating to expenses and interest relating to tax-exempt income) is amended by inserting ", or to purchase or carry any certificate to the extent the interest on such certificate is excludable under section 128" after "116".

(3) Paragraph (2) of section 584(c) (relating to income of participants in common trust funds) is amended by inserting "or 128" after "116".

(4) Paragraph (7) of section 643(a) (defining distributable net income) is amended by inserting "or section 128 (relating to interest on certain savings certificates)" after "received)".

(5) Paragraph (5) of section 702(a) (relating to income and credits of partner) is amended by inserting "or 128" after "116".

(c) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the exemption from income of interest earned on qualified tax-exempt savings certificates established by this section to determine the exemption's effectiveness in generating additional savings. Such report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before June 1, 1982.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after September 30, 1981.

SEC. 322. REPEAL OF PARTIAL EXCLUSION OF INTEREST FROM GROSS INCOME.

Subsection (c) of section 404 of the Crude Oil Windfall Profit Tax Act of 1980 is amended by striking out "1983" and inserting in lieu thereof "1982".

Subtitle C—Reinvestment of Dividends in Public Utilities

SEC. 341. ENCOURAGEMENT OF REINVESTMENT OF DIVIDENDS IN THE STOCK OF PUBLIC UTILITIES.

(a) AMENDMENT OF SECTION 305.— Section 305 (relating to distributions of stock and stock rights) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DIVIDEND REINVESTMENT IN STOCK OF PUBLIC UTILITIES.—

"(1) IN GENERAL.—Subsection (b) shall not apply to any qualified reinvested dividend.

"(2) QUALIFIED REINVESTED DIVIDEND DEFINED.—For purposes of this subsection, the term 'qualified reinvested dividend' means—

"(A) a distribution by a qualified public utility of shares of its qualified common stock to an individual with respect to the common or preferred stock of such corporation pursuant to a plan under which shareholders may elect to receive dividends in the form of stock instead of property, but

"(B) only if the shareholder elects to have this subsection apply to such shares.

"(3) QUALIFIED PUBLIC UTILITY DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public utility' means, for any taxable year of the corporation, a domestic corporation which, for the 10-year period ending on the day before the beginning of the taxable year, acquired public utility recovery property having a cost equal to at least 60 percent of the aggregate cost of all tangible personal depreciable property acquired by the corporation during such period.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all members of an affiliated group shall be treated as one corporation,

"(ii) a successor corporation shall take into account the acquisitions of its predecessor, and

"(iii) a new corporation to which clause (ii) does not apply shall substitute its period of existence for the 10-year period set forth in subparagraph (A).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by subsection (a) of section 1504 (determined without regard to subsection (b) of section 1504).

"(ii) PUBLIC UTILITY RECOVERY PROPERTY.—The term 'public utility recovery property' has the meaning given to such term by section 168A, except that any requirement that the property be placed in service after December 31, 1980, shall not apply.

"(4) QUALIFIED COMMON STOCK DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified common stock' means authorized but unissued common stock of the corporation—

"(i) which has been designated by the board of directors of the corporation as issued for purposes of this subsection, but

"(ii) only if the number of shares to be issued to a shareholder was determined by reference to a value which is not less than 95 percent and not more than 105 percent of the stock's fair market value during the period immediately before the distribution (determined under regulations prescribed by the Secretary).

"(B) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—Except as provided in subparagraph (D), if a corporation has purchased or purchases its common stock within a 2-year period beginning 1 year before the date of the distribution and ending 1 year after such date, such distribution shall be treated as not being a qualified reinvested dividend.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of subparagraph (B), the purchase by any corporation which is a member of the same affiliated group (as defined in paragraph (3)(C)(i)) as the distributing corporation of common stock in any corporation which is a member of such group from any person (other than a member of such group) shall be treated as a purchase by the distributing corporation of its common stock.

"(D) WAIVER OF SUBPARAGRAPH (B) WHERE THERE IS BUSINESS PURPOSE.—Under regulations prescribed by the Secretary, subparagraph (B) shall not apply where the distributing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this subsection.

"(5) SHARE INCLUDES FRACTIONAL SHARE.—For purposes of this subsection, the term 'share' includes a fractional share.

"(6) LIMITATION.—

"(A) IN GENERAL.—In the case of any individual, the aggregate amount of distributions to which this subsection applies for the taxable year shall not exceed $1,500 ($3,000 in the case of a joint return).

"(B) APPLICATION OF CEILING.—If, but for this subparagraph, a share of stock would, by reason of subparagraph (A), be treated as partly within this subsection and partly outside this subsection, such share shall be treated as outside this subsection.

"(7) BASIS AND HOLDING PERIOD.—In the case of stock received as a qualified reinvested dividend—

"(A) notwithstanding section 307, the basis shall be zero, and

"(B) the holding period shall begin on the date the dividend would (but for this subsection) be includible in income.

"(8) ELECTION.—An election under this subsection with respect to any share shall be made on the shareholder's return for the taxable year in which the dividend would (but for this subsection) be includible in income. Any such election, once made, shall be revocable only with the consent of the Secretary.

"(9) DISPOSITIONS WITHIN 1 YEAR OF DISTRIBUTION.—Under regulations prescribed by the Secretary—

"(A) DISPOSITION OF OTHER COMMON STOCK.—If—

"(i) a shareholder receives any qualified reinvested dividend from a corporation, and

"(ii) during the period which begins on the record date for the qualified reinvested dividend and ends 1 year after the date of the distribution of such dividend, the shareholder disposes of any common stock of such corporation,

the shareholder shall be treated as having disposed of the stock received as a qualified reinvested dividend (to the extent there remains such stock to which this paragraph has not applied).

"(B) ORDINARY INCOME TREATMENT.—If any stock received as a qualified reinvested dividend is disposed of within 1 year after the date such stock is distributed, such disposition shall be treated as a disposition of property which is not a capital asset.

"(10) NO REDUCTION IN EARNINGS AND PROFITS FOR DISTRIBUTION OF QUALIFIED COMMON STOCK.—The earnings and profits of any corporation shall not be reduced by reason of the distribution of any qualified common stock of such corporation pursuant to a plan under which shareholders may elect to receive dividends in the form of stock instead of property.

"(11) CERTAIN INDIVIDUALS INELIGIBLE.—

"(A) IN GENERAL.—This subsection shall not apply to any individual who is—

"(i) a trust or estate, or

"(ii) a nonresident alien individual.

"(B) 5 PERCENT SHAREHOLDERS INELIGIBLE.—Any distribution by a corporation to a 5 percent shareholder in such corporation shall not be treated as a qualified reinvested dividend.

"(C) 5 PERCENT SHAREHOLDER DEFINED.—For purposes of subparagraph (B), the term '5

percent shareholder' means any individual who, immediately before the distribution, owns (directly or through the application of section 318)—

"(i) stock possessing more than 5 percent of the total combined voting power of the distributing corporation, or

"(ii) more than 5 percent of the total value of all classes of stock of the distributing corporation."

(b) AMENDMENT OF SECTION 305(d).—Paragraph (1) of section 305(d) (defining stock) is amended by striking out "this section" and inserting in lieu thereof "this section (other than subsection (e))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1981, in taxable years ending after such date.

TITLE IV—ESTATE AND GIFT TAX PROVISIONS

Subtitle A—Increase in Unified Credit; Rate Reduction; Unlimited Marital Deduction

SEC. 401. INCREASE IN UNIFIED CREDIT.

(a) CREDIT AGAINST ESTATE TAX.—

(1) IN GENERAL.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking out "$47,000" and inserting in lieu thereof "$192,800".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 2010 is amended to read as follows:

"(b) PHASE-IN OF CREDIT.—

"In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$192,800' the following amount:
1982	$62,800
1983	79,300
1984	96,300
1985	121,800
1986	155,800."

(B) Subsection (a) of section 6018 (relating to estate tax returns by executors) is amended—

(i) by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$600,000"; and

(ii) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) PHASE-IN OF FILING REQUIREMENT AMOUNT.—

"In the case of decedents dying in:	Paragraph (1) shall be applied by substituting for '$600,000' the following amount:
1982	$225,000
1983	275,000
1984	325,000
1985	400,000
1986	500,000."

(b) CREDIT AGAINST GIFT TAX.—

(1) IN GENERAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax) is amended by striking out "$47,000" and inserting in lieu thereof "$192,800".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 2505 is amended to read as follows:

"(b) PHASE-IN OF CREDIT.—

"In the case of gifts made in:	Subsection (a)(1) shall be applied by substituting for '$192,800' the following amount:
1982	$62,800
1983	79,300
1984	96,300
1985	121,800
1986	155,800."

(c) EFFECTIVE DATES.—The amendments made—

(1) by subsection (a) shall apply to the estates of decedents dying after December 31, 1981, and

(2) by subsection (b) shall apply to gifts made after such date.

SEC. 402. REDUCTION IN MAXIMUM RATES OF TAX.

(a) 50 PERCENT MAXIMUM RATE.—Subsection (c) of section 2001 (relating to rate schedule) is amended by striking out the item beginning "Over $2,500,000" and all that follows and inserting in lieu thereof the following new item:

"Over $2,500,000	$1,025,800, plus 50% of the excess over $2,500,000."

(b) PHASE-IN OF 50 PERCENT MAXIMUM RATE.—Subsection (c) of section 2001 is amended—

(1) by striking out "(c) RATE SCHEDULE.—" and inserting in lieu thereof the following:

"(c) RATE SCHEDULE.—

"(1) IN GENERAL.—", and

(2) by adding at the end thereof the following new paragraph:

"(2) PHASE-IN OF 50 PERCENT MAXIMUM RATE.—

"(A) IN GENERAL.—In the case of decedents dying, and gifts made, before 1985, there shall be substituted for the last item in the schedule contained in paragraph (1) the items determined under this paragraph.

"(B) FOR 1982.—In the case of decedents dying, and gifts made, in 1982, the substitution under this paragraph shall be as follows:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000 but not over $3,500,000.	$1,290,800, plus 57% of the excess over $3,000,000.
Over $3,500,000 but not over $4,000,000.	$1,575,800, plus 61% of the excess over $3,500,000.
Over $4,000,000	$1,880,800, plus 65% of the excess over $4,000,000.

"(C) FOR 1983.—In the case of decedents dying, and gifts made, in 1983, the substitution under this paragraph shall be as follows:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000 but not over $3,500,000.	$1,290,800, plus 57% of the excess over $3,000,000.
Over $3,500,000	$1,575,800, plus 60% of the excess over $3,500,000.

"(D) FOR 1984.—In the case of decedents dying, and gifts made, in 1984, the substitution under this paragraph shall be as follows:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000."

(c) ADJUSTMENT IN COMPUTATION OF TAX FOR GIFTS MADE AFTER DECEMBER 31, 1976.—Paragraph (2) of section 2001(b) is amended to read as follows:

"(2) the aggregate amount of tax which would have been payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976, if the rate schedule set forth in subsection (c) (as in effect at the decedent's death) had been applicable at the time of such gifts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after, and gifts made after, December 31, 1981.

SEC. 403. UNLIMITED MARITAL DEDUCTION.

(a) ESTATE TAX DEDUCTION.—

(1) IN GENERAL.—Section 2056 (relating to bequests, etc., to surviving spouses) is amended—

(A) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(B) by striking out "subsections (b) and (c)" in subsection (a) and inserting in lieu thereof "subsection (b)".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 2012(b) (relating to credit for gift tax) is amended to read as follows:

"(2) if a deduction with respect to such gift is allowed under section 2056(a) (relating to marital deduction), then by the amount of such value, reduced as provided in paragraph (1); and".

(B) Paragraph (5) of section 2602(c) (relating to coordination with estate tax) is amended by striking out subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(C) Subparagraph (A) of section 691(c)(3) (relating to special rules for generation-skipping transfers) is amended by striking out "section 2602(c)(5)(C)" and inserting in lieu thereof "section 2602(c)(5)(B)".

(b) GIFT TAX DEDUCTION.—

(1) IN GENERAL.—Subsection (a) of section 2523 (relating to gift to spouse) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—Where a donor who is a citizen or resident transfers during the calendar year by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar year an amount with respect to such interest equal to its value."

(2) TECHNICAL AMENDMENT.—Section 2523 is amended by striking out subsection (f).

(3) CONFORMING AMENDMENTS.—

(A) So much of section 6019 (relating to gift tax returns) as follows the heading and precedes subsection (b) is amended to read as follows:

"Any individual who in any calendar year makes any transfer by gift other than—

"(1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year, or

"(2) a transfer of an interest with respect to which a deduction is allowed under section 2523,

shall make a return for such year with respect to the gift tax imposed by subtitle B."

(B) Paragraph (2) of section 2035(b) is amended by inserting "(other than by reason of section 6019(a)(2))" after "section 6019".

(c) ESTATE TAX ON PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.

(1) IN GENERAL.—Paragraph (2) of section 2040(b) (defining qualified joint interest) is amended to read as follows:

"(2) QUALIFIED JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as—

"(A) tenants by the entirety, or

"(B) joint tenants with right of survivorship, but only if the decedent and the spouse of the decedent are the only joint tenants."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 2040 is amended by striking out "joint tenants" each place it appears and inserting in lieu thereof "joint tenants with right of survivorship".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (c), (d), and (e) of section 2040 are hereby repealed.

(B) Section 2515 (relating to tenancies by the entirety in real property), section 2515A (relating to tenancies by the entirety in personal property), and subsection (c) of section 6019 (relating to gift tax return) are hereby repealed.

(C) The table of sections for subchapter B of chapter 12 (relating to transfers) is amended by striking out the items relating to sections 2515 and 2515A.

(d) ELECTION TO HAVE CERTAIN LIFE INTERESTS QUALIFY FOR MARITAL DEDUCTION.—

(1) ESTATE TAX.—Subsection (b) of section 2056 is amended by adding at the end thereof the following new paragraphs:

"(7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING SPOUSE.—

"(A) IN GENERAL.—In the case of qualified terminable interest property—

"(i) for purposes of subsection (a), such property shall be treated as passing to the surviving spouse, and

"(ii) for purposes of paragraph (1)(A), no part of such property shall be treated as passing to any person other than the surviving spouse.

"(B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified terminable interest property' means property—

"(I) which passes from the decedent,

"(II) in which the surviving spouse has a qualifying income interest for life, and

"(III) to which an election under this paragraph applies.

"(ii) QUALIFYING INCOME INTEREST FOR LIFE.—The surviving spouse has a qualifying income interest for life if—

"(I) the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, and

"(II) no person has a power to appoint any part of the property to any person other than the surviving spouse.

Subclause (II) shall not apply to a power, exercisable only at or after the death of the surviving spouse.

"(iii) PROPERTY INCLUDES INTEREST THEREIN.—The term 'property' includes an interest in property.

"(iv) SPECIFIC PORTION TREATED AS SEPARATE PROPERTY.—A specific portion of property shall be treated as separate property.

"(v) ELECTION.—An election under this paragraph with respect to any property shall be made by the executor on the return of tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(A) IN GENERAL.—If the surviving spouse of the decedent is the only noncharitable beneficiary of a qualified charitable remainder trust, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) NONCHARITABLE BENEFICIARY.—The term 'noncharitable beneficiary' means any beneficiary of the qualified charitable remainder trust other than an organization described in section 170(c).

"(ii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or charitable remainder unitrust (described in section 664)."

(2) GIFT TAX.—Section 2523 is amended by adding at the end thereof the following new subsections:

"(f) ELECTION WITH RESPECT TO LIFE ESTATE FOR DONEE SPOUSE.—

"(1) IN GENERAL.—In the case of qualified terminable interest property—

"(A) for purposes of subsection (a), such property shall be treated as transferred to the donee spouse, and

"(B) for purposes of subsection (b)(1), no part of such property shall be considered as retained in the donor or transferred to any person other than the donee spouse.

"(2) QUALIFIED TERMINABLE INTEREST PROPERTY.—For purposes of this subsection, the term 'qualified terminable interest property' means any property—

"(A) which is transferred by the donor spouse,

"(B) in which the donee spouse has a qualifying income interest for life, and

"(C) to which an election under this subsection applies.

"(3) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, the rules of clauses (ii), (iii), and (iv) of section 2506(b)(7)(B) shall apply.

"(4) ELECTION.—An election under this subsection with respect to any property shall be made on the return of the tax imposed by section 2501 for the calendar year in which the interest was transferred. Such an election, once made, shall be irrevocable.

"(g) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(1) IN GENERAL.—If, after the transfer, the donee spouse is the only noncharitable beneficiary (other than a beneficiary) of a qualified remainder trust, subsection (b) shall not apply to the interest in such trust which is transferred to the donee spouse.

"(2) DEFINITIONS.—For purposes of paragraph (1), the term 'noncharitable beneficiary' and 'qualified charitable remainder trust' have the meanings given to such terms by section 2056(b)(8)(B)."

(3) TREATMENT OF SPOUSE.—

(A) INCLUSION IN GROSS ESTATE.—

(i) IN GENERAL.—Part III of subchapter A of chapter 11 is amended by redesignating sections 2044 and 2045 as sections 2045 and 2046, respectively, and by inserting after section 2043 the following new section:

"SEC. 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED.

"(a) GENERAL RULE.—The value of the gross estate shall include the value of any property to which this section applies in which the decedent had a qualifying income interest for life.

"(b) PROPERTY TO WHICH THIS SECTION APPLIES.—This section applies to any property if a deduction was allowed with respect to the transfer of such property to the decedent—

"(1) under section 2056 by reason of subsection (b)(7) thereof, or

"(2) under section 2523 by reason of subsection (f) thereof."

(ii) The table of sections for part III of subchapter A of chapter 11 is amended by redesignating the items relating to sections 2044 and 2045 as sections 2045 and 2046, respectively, and by inserting after the item relating to section 2043 the following new item:

"Sec. 2044. Certain property for which marital deduction was previously allowed."

(B) GIFT TAX.—

(i) IN GENERAL.—Subchapter B of chapter 11 (relating to transfers) is amended by adding at the end thereof the following new section:

"SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES.

"(a) GENERAL RULE.—Any disposition of all or part of a qualifying income interest for life in any property to which this section applies shall be treated as a transfer of such property.

"(b) PROPERTY TO WHICH THIS SUBSECTION APPLIES.—This section applies to any property if a deduction was allowed with respect to the transfer of such property to the donor—

"(1) under section 2056 by reason of subsection (b)(7) thereof, or

"(2) under section 2523 by reason of subsection (f) thereof."

(ii) The table of sections for subchapter B of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2519. Dispositions of certain life estates."

(4)(A) Subchapter C of chapter 11 is amended by inserting after section 2207 the following new section:

"SEC. 2207A. RIGHT OF RECOVERY IN THE CASE OF CERTAIN MARITAL DEDUCTION PROPERTY.

"(a) RECOVERY WITH RESPECT TO ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate consists of property the value of which is includible in gross estate by reason of section 2044 (relating to certain property for which marital deduction was previously allowed), the decedent's estate shall be entitled to recover from the person receiving the property the amount by which—

"(A) the total tax under this chapter which has been paid, exceeds

"(B) the total tax under this chapter which would have been payable if the value of such property had not been included in the gross estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs by will.

"(b) RECOVERY WITH RESPECT TO GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2519, such person shall be entitled to recover from the person receiving the property the amount by which—

"(1) the total tax for such year under chapter 12, exceeds

"(2) the total tax which would have been payable under such chapter for such year if the value of such property had not been taken into account for purposes of chapter 12.

"(c) MORE THAN ONE RECIPIENT OF PROPERTY.—For purposes of this section, if there is more than one person receiving the property, the right of recovery shall be against each such person.

"(d) TAXES AND INTEREST.—In the case of penalties and interest attributable to additional taxes described in subsections (a) and (b), rules similar to subsections (a), (b), and (c) shall apply."

(B) The table of sections for subchapter C of chapter 11 is amended by inserting after the item relating to section 2207 the following new item:

"Sec. 2207A. Right of recovery in the case of certain marital deduction property."

(e) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

(2) The amendments made by paragraphs (1), (2), and (3)(A) of subsection (b), subparagraphs (B) and (C) of subsection (c)(3), and paragraphs (2) and (3)(B) of subsection (d) shall apply to gifts made after December 31, 1981.

(3) If—

(A) the decedent dies after December 31, 1981,

(B) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before the date which is 30 days after the date of the enactment of this Act, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(C) the formula referred to in subparagraph (B) was not amended to refer specifically to an unlimited marital deduction at any time after the date which is 30 days after the date of enactment of this Act, and before the death of the decedent, and

(D) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

Subtitle B—Other Estate Tax Provisions

SEC. 421. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

(a) INCREASE IN LIMITATION.—Paragraph (2) of section 2032A(a) (relating to limitation) is amended to read as follows:

"(2) LIMIT ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed the applicable limit set forth in the following table:

"In the case of decedents dying in:	The applicable limit is:
1981	$750,000
1982	875,000
1983 or thereafter	1,000,000."

(b) DEFINITION OF QUALIFIED REAL PROPERTY.—

(1) REQUIRED USE CAN BE BY MEMBER OF FAMILY.—Paragraph (1) of section 2032A(b) (defining qualified real property) is amended by inserting "by the decedent or a member of the decedent's family" after "qualified use" each place it appears.

(2) SPECIAL RULES FOR DECEDENTS WHO ARE RETIRED OR DISABLED AND FOR SURVIVING SPOUSES.—Subsection (b) of section 2032A is amended by adding at the end thereof the following new paragraphs:

"(4) DECEDENTS WHO ARE RETIRED OR DISABLED.—

"(A) IN GENERAL.—If, on the date of the decedent's death, the requirements of paragraph (1)(C)(ii) with respect to the decedent for any property are not met, and the decedent—

"(i) was receiving old-age benefits under title II of the Social Security Act for a continuous period ending on such date, or

"(ii) was disabled for a continuous period ending on such date,

then paragraph (1)(C)(ii) shall be applied with respect to such property by substituting 'the date on which the longer of such continuous periods began' for 'the date of the decedent's death' in paragraph (1)(C).

"(B) DISABLED DEFINED.—For purposes of subparagraph (A), an individual shall be disabled if such individual has a mental or physical impairment which renders him unable to materially participate in the operation of the farm or other business.

"(C) COORDINATION WITH RECAPTURE.—For purposes of subsection (c)(6)(B)(i), if the requirements of paragraph (1)(C)(ii) are met with respect to any decedent by reason of subparagraph (A), the period ending on the date on which the continuous period taken into account under subparagraph (A) began shall be treated as the period immediately before the decedent's death.

"(5) SPECIAL RULES FOR SURVIVING SPOUSES.—

"(A) IN GENERAL.—If property is qualified real property with respect to a decedent (hereinafter in this paragraph referred to as the 'first decedent') and such property was acquired from or passed from the first decedent to the surviving spouse of the first decedent, for purposes of applying this subsection and subsection (c) in the case of the estate of such surviving spouse, active management of the farm or other business by the surviving spouse shall be treated as material participation by such surviving spouse in the operation of such farm or business.

"(B) SPECIAL RULE.—For the purposes of subparagraph (A), the determination of whether property is qualified real property with respect to the first decedent shall be made without regard to subparagraph (D) of paragraph (1) and without regard to whether an election under this section was made."

(c) DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.—

(1) 10-YEAR RECAPTURE PERIOD.—

(A) IN GENERAL.—Paragraph (1) of section 2032A(c) (relating to tax treatment of dispositions and failures to use for qualified use) is amended by striking out "15 years" and inserting in lieu thereof "10 years".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (c) of section 2032A is amended by striking out paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(ii) Subparagraph (A) of paragraph (2) of section 2032A(h) (relating to treatment of replacement property) is amended by striking out all that follows "involuntarily converted" and inserting in lieu thereof the following: "; except that with respect to such qualified replacement property the 10-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property,".

(iii) Subparagraph (C) of such paragraph (2) is amended by striking out "(7)" and inserting in lieu thereof "(6)".

(2) CESSATION OF QUALIFIED USE.—

(A) IN GENERAL.—Subsection (c) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES.—

"(A) NO TAX IF USE BEGINS WITHIN 2 YEARS.—If the date on which the qualified heir begins to use the qualified real property (hereinafter in this subparagraph referred to as the commencement date) is before the date 2 years after the decedent's death—

"(i) no tax shall be imposed under paragraph (1) by reason of the failure by the qualified heir to so use such property before the commencement date, and

"(ii) the 10-year period under paragraph (1) shall be extended by the period after the decedent's death and before the commencement date.

"(B) ACTIVE MANAGEMENT BY ELIGIBLE QUALIFIED HEIR TREATED AS MATERIAL PARTICIPATION.—For purposes of paragraph (6)(B)(ii), the active management of a farm or other business by—

"(i) an eligible qualified heir, or

"(ii) a fiduciary of an eligible qualified heir described in clause (ii) or (iii) of subparagraph (C),

shall be treated as material participation by such eligible qualified heir in the operation of such farm or business. In the case of an eligible qualified heir described in clause (ii), (iii), or (iv) of subparagraph (C), the preceding sentence shall apply only during periods during which such heir meets the requirements of such clause.

"(C) ELIGIBLE QUALIFIED HEIR.—For purposes of this paragraph, the term 'eligible qualified heir' means a qualified heir who—

"(i) is the surviving spouse of the decedent,

"(ii) has not attained the age of 21,

"(iii) is disabled (within the meaning of subsection (b)(4)(B)), or

"(iv) is a student.

"(D) STUDENT.—For purposes of subparagraph (C), an individual shall be treated as a student with respect to periods during any calendar year if (and only if) such individual is a student (within the meaning of section 151(e)(4)) for such calendar year."

(B) CONFORMING AMENDMENTS.—

(i) Subsection (e) of section 2032A (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) ACTIVE MANAGEMENT.—The term 'active management' means the making of the management decisions of a business (other than the daily operating decisions)."

(ii) Paragraph (6) of section 2032A(c) (as redesignated by paragraph (1)) is amended by striking out "3 years or more" and inserting in lieu thereof "more than 3 years".

(d) EXCHANGE OF QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—Section 2032A (relating to valuation of certain farm, etc., real property) is amended by adding at the end thereof the following new subsection:

"(i) EXCHANGES OF QUALIFIED REAL PROPERTY.—

"(1) TREATMENT OF PROPERTY EXCHANGED.—

"(A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.—If an interest in qualified real property is exchanged solely for an interest in qualified exchange property in a transaction which qualifies under section 1031, no tax shall be imposed by subsection (c) by reason of such exchange.

"(B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.—If an interest in qualified real property is exchanged for an interest in qualified exchange property and other property in a transaction which qualifies under section 1031, the amount of the tax imposed by subsection (c) by reason of such exchange shall be the amount of tax which (but for this subparagraph) would have been imposed on such exchange under subsection (c)(1), reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the fair market value of the other property bears to the fair market value of the qualified real property exchanged.

For purposes of clause (ii) of the preceding sentence, fair market value shall be determined as of the time of the exchange.

"(2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.—For purposes of subsection (c)—

"(A) any interest in qualified exchange property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was exchanged,

"(B) any tax imposed by subsection (c) by reason of the exchange shall be treated as a tax imposed on a partial disposition, and

"(C) paragraph (6) of subsection (c) shall be applied by treating material participation with respect to the exchanged property as material participation with respect to the qualified exchange property.

"(3) QUALIFIED EXCHANGE PROPERTY.—For purposes of this subsection, the term 'qualified exchange property' means real property which is to be used for the qualified use set forth in subparagraph (A), (B), or (C) of subsection (b)(2) under which the real property exchanged therefor originally qualified under subsection (a)."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 2032A(f) (relating to statute of limitations) is amended—

(i) by inserting "or exchange" after "conversion",

(ii) by inserting "or (i)" after "(h)", and

(iii) by inserting "or of the exchange of property" after "replace".

(B) Paragraph (2) of section 6324B(c) (relating to special liens) is amended by inserting "and qualified exchange property (within the meaning of section 2032A(i)(3))" before the period at the end thereof.

(e) ELECTION REQUIREMENT OF SPECIAL RULES FOR INVOLUNTARY CONVERSIONS REPEALED.—

(1) IN GENERAL.—Section 2032A(h) (relating to special rules for involuntary conversions of qualified real property) is amended—

(A) by striking out "and the qualified heir makes an election under this subsection" in paragraph (1)(A); and

(B) by striking out paragraph (5).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 2032A(f) is amended by striking out "to which an election under subsection (h)" and inserting in lieu thereof "to which subsection (h)".

(f) METHOD OF VALUING FARMS.—

(1) Paragraph (7) of section 2032A(e) (relating to method of valuing farms) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) VALUE BASED ON NET SHARE RENTAL IN CERTAIN CASES.—

"(i) IN GENERAL.—If there is no comparable land from which the average annual gross cash rental may be determined but there is comparable land from which the average net share rental may be determined, subparagraph (A)(i) shall be applied by substituting 'average net share rental' for 'average gross cash rental'.

"(ii) NET SHARE RENTAL.—For purposes of this paragraph, the term 'net share rental' means the excess of—

"(I) the value of the produce received by the lessor of the land on which such produce is grown, over

"(II) the cash operating expenses of growing such produce which, under the lease, are paid by the lessor."

(2) Subparagraph (C) of section 2032A(e)(7) (as resdesignated by paragraph (1)) is amended by inserting after "determined" the following: "and that there is no comparable land from which the average net share rental may be determined".

(g) BASIS INCREASE WHERE RECAPTURE.—Subsection (c) of section 1016 (relating to adjustments to basis) is amended to read as follows:

"(c) INCREASE IN BASIS OF PROPERTY ON WHICH ADDITIONAL ESTATE TAX IS IMPOSED.—

"(1) TAX IMPOSED WITH RESPECT TO ENTIRE INTEREST.—If an additional estate tax is imposed under section 2032A(c)(1) with respect to any interest in property and the qualified heir makes an election under this subsection with respect to the imposition of such tax, the adjusted basis of such interest shall be increased by an amount equal to the excess of—

"(A) the fair market value of such interest on the date of the decedent's death (or the alternate valuation date under section 2032, if the executor of the decedent's estate elected the application of such section), over

"(B) the value of such interest determined under section 2032A(a).

"(2) PARTIAL DISPOSITIONS.—

"(A) IN GENERAL.—In the case of any partial disposition for which an election under this subsection is made, the increase in basis under paragraph (1) shall be an amount—

"(i) which bears the same ratio to the increase which would be determined under paragraph (1) (without regard to this paragraph) with respect to the entire interest, as

"(ii) the amount of the tax imposed under section 2032A(c)(1) with respect to such disposition bears to the adjusted tax difference attributable to the entire interest (as determined under section 2032A(c)(2)(B)).

"(B) PARTIAL DISPOSITION.—For purposes of subparagraph (A), the term 'partial disposition' means any disposition or cessation to which subsection (c)(2)(D), (h)(1)(B), or (i)(1)(B) of section 2032A applies.

"(3) TIME ADJUSTMENT MADE.—Any increase in basis under this subsection shall be deemed to have occurred immediately before the disposition or cessation resulting in the imposition of the tax under section 2032A(c)(1).

"(4) SPECIAL RULE IN THE CASE OF SUBSTITUTED PROPERTY.—If the tax under section 2032A(c)(1) is imposed with respect to qualified replacement property (as defined in section 2032A(h)(3)(B)) or qualified exchange property (as defined in section 2032A(i)(3)), the increase in basis under paragraph (1) shall be made by reference to the property involuntarily converted or exchanged (as the case may be).

"(5) ELECTION.—

"(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

"(B) INTEREST ON RECAPTURED AMOUNT.—If an election is made under this subsection with respect to any additional estate tax imposed under section 2032A(c)(1), for purposes of section 6601 (relating to interest on underpayments), the last date prescribed for payment of such tax shall be deemed to be the last date prescribed for payment of the tax imposed by section 2001 with respect to the estate of the decedent (as determined for purposes of section 6601)."

(h) SPECIAL RULES FOR WOODLANDS.—

(1) USE AS WOODLAND TREATED AS QUALIFIED USE.—

(A) Paragraph (2) of section 2032A(b) (defining qualified use) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) use as a farm for farming purposes,

"(B) use in timber operations in a trade or business, or

"(C) use in a trade or business other than the trade or business of farming or timber operations."

(B) Subparagraph (C) of section 2032A(e)(5) is amended to read as follows:

"(C) timber operations but only if such operations are incidental to other farming operations."

(2) VALUE OF TIMBER INCLUDED IN VALUATION; ACTIVE MANAGEMENT TREATED AS MATERIAL PARTICIPATION.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(13) SPECIAL RULES FOR WOODLANDS.—

"(A) IN GENERAL.—In the case of any qualified woodland with respect to which the executor elects to have this subparagraph apply—

"(i) trees growing on such woodland shall not be treated as a crop, and

"(ii) active management in the operation of such woodland shall be treated as material participation in the operation of such woodland.

"(B) QUALIFIED WOODLAND.—The term 'qualified woodland' means any real property which—

"(i) is used in timber operations, and

"(ii) is an identifiable area of land such as an acre or other area for which records are normally maintained in conducting timber operations.

"(C) TIMBER OPERATIONS.—The term 'timber operations' means—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market.

"(D) ELECTION.—An election under subparagraph (A) shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable."

(3) RECAPTURE UPON DISPOSITION OF TIMBER.—Paragraph (2) of section 2032A(c) (relating to amount of additional tax) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR DISPOSITION OF TIMBER.—In the case of qualified woodland to which an election under subsection (e)(13)(A) applies, if the qualified heir dis-

poses of (or severs) any standing timber on such qualified woodland—

"(i) such disposition (or severance) shall be treated as a disposition of a portion of the interest of the qualified heir in such property, and

"(ii) the amount of the additional tax imposed by paragraph (1) with respect to such disposition shall be an amount equal to the lesser of—

"(I) the amount realized on such disposition (or, in any case other than a sale or exchange at arm's length, the fair market value of the portion of the interest disposed or severed), or

"(II) the amount of additional tax determined under this paragraph (without regard to this subparagraph) if the entire interest of the qualified heir in the qualified woodland had been disposed of, less the sum of the amount of the additional tax imposed with respect to all prior transactions involving such woodland to which this subparagraph applied.

For purposes of the preceding sentence, the disposition of a right to sever shall be treated as the disposition of the standing timber. The amount of additional tax imposed under paragraph (1) in any case in which a qualified heir disposes of his entire interest in the qualified woodland shall be reduced by any amount determined under this subparagraph with respect to such woodland."

(i) DEFINITION OF FAMILY MEMBER.—Paragraph (2) of section 2032A(e) (defining member of family) is amended to read as follows:

"(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only—

"(A) an ancestor of such individual,

"(B) the spouse of such individual,

"(C) a lineal descendant of such individual, of such individual's spouse, or of a parent of such individual, or

"(D) the spouse of any lineal descendant described in subparagraph (C).

For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood."

(j) MISCELLANEOUS AMENDMENTS.—

(1) PROPERTY TRANSFERRED TO CERTAIN DISCRETIONARY TRUSTS.—Subsection (g) of section 2032A (relating to application of section 2032A and section 6324B to interests in partnerships, corporations, and trusts) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, an interest in a discretionary trust all the beneficiaries of which are qualified heirs shall be treated as a present interest."

(2) PARENTS MAY MAKE ELECTION FOR CHILDREN IN CERTAIN CASES.—Paragraph (2) of section 2032A(d) (relating to agreement) is amended by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, if (but for this sentence) no person would be empowered to sign the agreement for a minor, a custodial parent may sign such an agreement on behalf of such minor. Such signature shall be binding for purposes of this section."

(3) PROPERTY PURCHASED FROM DECEDENT'S ESTATE ELIGIBLE FOR SPECIAL VALUATION.—

(A) IN GENERAL.—Paragraph (9) of section 2032A(e) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such property is acquired by any person from the estate, or

"(C) such property is acquired by any person from a trust (to the extent such property is includible in the gross estate of the decedent)."

(B) NONRECOGNITION OF GAIN.—The section heading and subsections (a) and (b) of section 1040 are amended to read as follows:

"SEC. 1040. TRANSFER OF CERTAIN FARM, ETC., REAL PROPERTY.

"(a) GENERAL RULE.—If the executor of the estate of any decedent transfers to a qualified heir (within the meaning of section 2032A(e)(1)) any property with respect to which an election was made under section 2032A, then gain on such transfer shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where the trustee of a trust (any portion of which is included in the gross estate of the decedent) transfers property with respect to which an election was made under section 2032A."

(C) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1040 and inserting in lieu thereof the following:

"Sec. 1040. Transfer of certain farm, etc., real property."

(4) ELECTION MAY BE MADE ON LATE RETURNS.—Paragraph (1) of section 2032A(d) (relating to election) is amended to read as follows:

"(1) ELECTION.—The election under this section shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable."

(5) TREATMENT OF REPLACEMENT PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(14) TREATMENT OF REPLACEMENT PROPERTY ACQUIRED IN SECTION 1031 OR 1033 TRANSACTIONS.—

"(A) IN GENERAL.—In the case of any qualified replacement property, any period during which there was ownership, qualified use, or material participation with respect to the replaced property by the decedent or any member of his family shall be treated as a period during which there was such ownership, use, or material participation (as the case may be) with respect to the qualified replacement property.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that the fair market value of the qualified replacement property (as of the date of its acquisition) exceeds the fair market value of the replaced property (as of the date of its disposition).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means any real property which is—

"(I) acquired in an exchange which qualifies under section 1031, or

"(II) the acquisition of which results in the nonrecognition of gain under section 1033.

Such term shall only include property which is used for the same qualified use as the replaced property was being used before the exchange.

"(ii) REPLACED PROPERTY.—The term 'replaced property' means—

"(I) the property transferred in the exchange which qualifies under section 1031, or

"(II) the property compulsorily or involuntarily converted (within the meaning of section 1033)."

(6) TREATMENT OF STATE RECAPTURE TAXES.—Paragraph (2) of section 2032A(c) is amended by adding at the end thereof the following new subparagraph:

"(F) TREATMENT OF STATE RECAPTURE TAXES.—

"(i) IN GENERAL.—If any State recapture tax is imposed with respect to any disposition (or cessation) of an interest in qualified real property, for purposes of applying this subsection to such disposition (or cessation) and subsequent dispositions (or cessations), the adjusted tax difference attributable to the interest involved shall be reduced by the creditable recapture tax.

"(ii) CREDITABLE RECAPTURE TAX.—For purposes of clause (i), the term 'creditable recapture tax' means the lesser of—

"(I) the State recapture tax, or

"(II) the excess credit limitation reduced by any State recapture tax imposed with respect to prior dispositions (or cessations).

"(iii) EXCESS CREDIT LIMITATION.—For purposes of this subparagraph, the term 'excess credit limitation' means the excess of the limitation determined under section 2011(b) (determined without regard to section 2011(c)) with respect to the estate of the decedent over the credit allowed by section 2011(a).

"(iv) STATE RECAPTURE TAX.—For purposes of this subparagraph, the term 'State recapture tax' means any tax actually paid to any State which is similar to the tax imposed by this subsection."

(k) PROCEDURE FOR BINDING DETERMINATION OF FAIR MARKET VALUE.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7479. PROCEDURE FOR BINDING DETERMINATION OF FAIR MARKET VALUE OF SPECIAL VALUATION PROPERTY.

"(a) ADMINISTRATIVE AUDIT.—

"(1) DESIGNATION BY EXECUTOR.—An executor may request the Secretary to audit the fair market value of any special valuation property which is shown on the return of the tax imposed by chapter 11. Any such request shall be made on such return. Any request so made may be withdrawn only with the consent of the Secretary.

"(2) AUTHORITY OF THE SECRETARY.—For purposes of examining the correctness of the fair market value of any special valuation property, the Secretary shall have the same authority as if he were determining the liability of any person for a tax imposed by this title.

"(b) JUDICIAL REVIEW.—

"(1) BRINGING OF ACTION.—If the executor and the Secretary have not entered into an agreement described in subsection (c)(2) with respect to any special valuation property, the executor may bring an action in the Tax Court with respect to such property.

"(2) DECLARATION BY TAX COURT.—Upon the filing of an appropriate pleading in an action brought under paragraph (1), the Tax Court may make a declaration of the fair market value of property with respect to which such an action is brought. Any such declaration shall be final and conclusive and shall not be reviewed by any other court.

"(3) TIME FOR BRINGING ACTION.—

"(A) DURING FIRST 18 MONTHS.—No action may be brought under this subsection with respect to any property during the 18-month period which begins on the date on which the executor made a request under subsection (a)(1) with respect to such property unless the pleading is filed on or after the notification date.

"(B) PLEADING MUST BE FILED WITHIN THE 90-DAY PERIOD BEGINNING ON NOTIFICATION DATE.—No action may be brought under this subsection with respect to any property for which a notification date has occurred unless the pleading is filed within the 90-day period beginning on the notification date.

"(C) NOTIFICATION DATE DEFINED.—For purposes of this paragraph, the term 'notification date' means the day on which the Secretary sends by certified or registered mail a notification of his disagreement with the fair market value of the property shown on the return of the tax imposed by chapter 11.

"(c) BINDING EFFECT OF DETERMINATIONS.—

"(1) NOTICE FROM SECRETARY.—If—

"(A) an executor makes a request under subsection (a)(1) with respect to the fair market value of any property, and

"(B) before the date 3 years after the day on which such request is made, the Secretary sends to the executor by certified or registered mail notice of his disagreement with the fair market value of such property shown on the return of the tax imposed by chapter 11 together with his determination of such fair market value,

then the fair market value as so determined by the Secretary shall be binding and conclusive on the Secretary and on any qualified heir unless the executor brings an action in the Tax Court as provided, and within the period prescribed by subsection (b), or unless any such qualified heir establishes a different fair market value to the satisfaction of the Secretary.

"(2) NO NOTICE FROM SECRETARY.—If—

"(A) an executor makes a request under subsection (a)(1) with respect to the fair market value of any property, and

"(B) before the date 3 years after the day on which such request is made, the Secretary does not send to the executor by certified or registered mail notice of his disagreement with the fair market value of such property shown on the return of the tax imposed by chapter 11,

then the fair market value so shown shall be binding and conclusive on the Secretary and on any qualified heir unless any such qualified heir establishes a different fair market value to the satisfaction of the Secretary.

"(3) AGREEMENT BETWEEN SECRETARY AND EXECUTOR.—If the executor and the Secretary sign a written agreement as to the fair market value of any property with respect to which the executor made a request under subsection (a)(1), such agreement shall be binding and conclusive on the Secretary and on any qualified heir in the same manner as if such agreement were a closing agreement under section 7121 between the Secretary and such qualified heir.

"(4) TAX COURT DECISION BINDING ON HEIRS.—Any declaration of the fair market value of any property made by the Tax Court which has become final shall also be binding on any qualified heir.

"(d) INTERVENTION.—Any qualified heir shall be allowed to intervene in any administrative or judicial proceeding under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) FAIR MARKET VALUE.—The term 'fair market value' means fair market value on the date of the decedent's death (or, the alternate valuation date under section 2032, if the executor of the decedent's estate elected the application of such section).

"(2) SPECIAL VALUATION PROPERTY.—The term 'special valuation property' means any real property to which an election under section 2032A applies.

"(3) QUALIFIED HEIR.—The term 'qualified heir' means any person who is a qualified heir (within the meaning of section 2032A(e)(1)) with respect to the estate of the decedent."

(2) COMMISSIONERS.—Subsection (c) of section 7456 (relating to Tax Court commissioners) is amended by striking out "and 7478" and inserting in lieu thereof "7478, and 7479".

(3) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Sec. 7479. Procedure for binding determination of fair market value of special valuation property."

(l) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to the estates of decedents dying after December 31, 1981.

(2) INCREASE IN LIMITATION.—The amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1980.

(3) SUBSECTION (d).—The amendments made by subsection (d) shall apply with respect to exchanges after December 31, 1981.

(4) SUBSECTION (e).—The amendments made by subsection (e) shall apply with respect to involuntary conversions after December 31, 1981.

(5) CERTAIN AMENDMENTS MADE RETROACTIVE TO 1976.—

(A) IN GENERAL.—The amendments made by subsections (b)(1), (c)(2), (j)(1), and (j)(3) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) TIMELY ELECTION REQUIRED.—Subparagraph (A) shall only apply in the case of an estate if a timely election under section 2032A was made with respect to such estate. If the time for making an election under section 2032A with respect to any estate would have otherwise expired after July 28, 1980, the time for making such election shall not expire before the date 6 months after the date of the enactment of this Act.

(C) REINSTATEMENT OF ELECTIONS.—If any election under section 2032A was revoked before the date of the enactment of this Act, such election may be reinstated within 6 months after the date of the enactment of this Act.

(D) STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) the making of a credit or refund of any overpayment of tax resulting from the amendments described in subparagraph (A) is barred by any law or rule of law, such credit or refund shall nevertheless be made if claim therefor is made before the date 6 months after such date of enactment.

SEC. 422. COORDINATION OF EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 6166(a) (relating to alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking out "65 percent" and inserting in lieu thereof "35 percent".

(2) INTERESTS IN 2 OR MORE CLOSELY HELD BUSINESSES.—Subsection (c) of section 6166 (relating to interests in 2 or more closely held businesses) is amended by striking out "more than 20 percent" and inserting in lieu thereof "20 percent or more".

(b) COORDINATION WITH SECTION 303.—

(1) IN GENERAL.—Subparagraph (A) of section 303(b)(2) (relating to relationship of stock to decedent's estate) is amended by striking out "50 percent" and inserting in lieu thereof "35 percent".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 303(b)(2) is amended to read as follows:

"(B) SPECIAL RULE FOR STOCK IN 2 OR MORE CORPORATIONS.—For purposes of subparagraph (A), stock of 2 or more corporations, with respect to each of which there is included in determining the value of the decedent's gross estate 20 percent or more in value of the outstanding stock, shall be treated as the stock of a single corporation. For purposes of the 20-percent requirement of the preceding sentence, stock which, at the decedent's death, represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate."

(c) ACCELERATION OF PAYMENT.—

(1) AMOUNT OF DISPOSITION.—Subparagraph (A) of section 6166(g)(1) (relating to acceleration of payment in the case of disposition of interest or withdrawal of funds from business) is amended to read as follows:

"(A) If—

"(i)(I) any portion of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

"(II) money and other property attributable to such an interest is withdrawn from such trade or business, and

"(ii) the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 50 percent of the value of such interest,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary."

(2) FAILURE TO MAKE PAYMENTS.—Paragraph (3) of section 6166(g) (relating to failure to pay installments) is amended to read as follows:

"(3) FAILURE TO MAKE PAYMENT OF PRINCIPAL OR INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any payment of principal or interest under this section is not paid on or before the date fixed for its payment by this section (including any extension of time), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(B) PAYMENT WITHIN 6 MONTHS.—If any payment of principal or interest under this section is not paid on or before the date determined under subparagraph (A) but is paid within 6 months of such date—

"(i) the provisions of subparagraph (A) shall not apply with respect to such payment,

"(ii) the provisions of section 6601(j) shall not apply with respect to the determination of interest on such payment, and

"(iii) there is imposed a penalty in an amount equal to the product of—

"(I) 5 percent of the amount of such payment, multiplied by

"(II) the number of months (or fractions thereof) after such date and before payment is made.

The penalty imposed under clause (iii) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68."

(3) NO DISQUALIFICATION IN CASE OF SUBSEQUENT DEATHS.—Subparagraph (D) of section 6166(g)(1) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of a series of subsequent transfers of the property by reason of death so long as each transfer is to a member of the family (within the meaning of section 267(c)(4)) of the transferor in such transfer."

(d) DECLARATORY JUDGMENT PROCEEDINGS.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7480. DECLARATORY JUDGMENTS RELATING TO SECTION 6166.

"(a) IN GENERAL.—In the case of an actual controversy involving—

"(1) whether an estate is eligible for the extension of time for payment of the estate tax provided by section 6166,

"(2) the amount of the adjusted gross estate determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed), or

"(3) whether there is an acceleration of the time for payment under paragraph (1), (2), or (3) of section 6166(g),

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such issue. Any such declaration shall be final and conclusive and shall not be reviewed by any other court.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the executor of the decedent's estate.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment under this section unless it determines in any proceeding that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination of an issue described in subsection (a), no proceeding may be initiated under this section with respect to such issue unless the pleading is filed before the 91st day after the date of such mailing."

(2) COMMISSIONERS.—Subsection (c) of section 7456 (relating to Tax Court commissioners) is amended by striking out "and 7479" and inserting in lieu thereof "7479, and 7480".

(3) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Sec. 7480. Declaratory judgments relating to section 6166."

(e) REPEAL OF SECTION 6166A.—Section 6166A (relating to extension of time for payment of estate tax where estate consists largely of interest in a closely held business) is hereby repealed.

(f) TECHNICAL AMENDMENTS.—

(1) Sections 303(b)(1)C), 2204(c), and 6161(a)(2)(B) are each amended by striking out "or 6166A" each place it appears.

(2) Paragraph (2) of section 2011(c) is amended by striking out "6161, 6166 or 6166A" and inserting in lieu thereof "6161 or 6166".

(3) Subsections (a) and (b) of section 2204 are each amended by striking out "6166 or 6166A" and inserting in lieu thereof "or 6166".

(4) Subsection (b) of section 2621 is amended—

(A) by striking out "sections 6166 and 6166A (relating to extensions" and inserting in lieu thereof "section 6166 (relating to extension", and

(B) by striking out "SECTIONS 6166 AND 6166A" in the subsection heading and inserting in lieu thereof "SECTION 6166".

(5)(A) Subsection (a) of section 6166 is amended by striking out paragraph (4).

(B) The section heading for section 6166 is amended by striking out "alternate".

(C) The table of sections for subchapter B of chapter 62 is amended by striking out the items relating to sections 6166 and 6166A and inserting in lieu thereof the following:

"Sec. 6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business."

(6)(A) Subsections (a), (c)(2), and (e) of section 6324A are each amended by striking out "or 6166A" each place it appears.

(B) Paragraphs (3) and (5) of section 6324A(d) are each amended by striking out "or 6166A(h)".

(C) The section heading for section 6324A is amended by striking out "or 6166a".

(D) The table of sections for subchapter C of chapter 64 is amended by striking out "or 6166A" in the item relating to section 6324A.

(7) Subsection (d) of section 6503 is amended by striking out "6163, 6166, or 6166A" and inserting in lieu thereof "6163 or 6166".

(8) Subsection (a) of section 7403 is amended by striking out "or 6166A(h)".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

(2) ACCELERATION BY REASON OF SUBSEQUENT DEATH.—The amendment made by subsection (c)(3) shall apply to transfers after December 31, 1981.

SEC. 423. TREATMENT OF CERTAIN CONTRIBUTIONS OF WORKS OF ART, ETC.

(a) ESTATE TAX.—Subsection (e) of section 2055 (relating to disallowance of deduction in certain cases) is amended by adding at the end thereof the following new paragraph:

"(4) WORKS OF ART AND THEIR COPYRIGHTS TREATED AS SEPARATE PROPERTIES IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of a qualified contribution of a work of art, the work of art and the copyright on such work of art shall be treated as separate properties for purposes of paragraph (2).

"(B) WORK OF ART DEFINED.—For purposes of this paragraph, the term 'work of art' means any tangible personal property with respect to which there is a copyright under Federal law.

"(C) QUALIFIED CONTRIBUTION DEFINED.—For purposes of this paragraph, the term 'qualified contribution' means any transfer of property to a qualified organization if the use of the property by the organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(D) QUALIFIED ORGANIZATION DEFINED.—For purposes of this paragraph, the term 'qualified organization' means any organization described in section 501(c)(3) other than a private foundation (as defined in section 509). For purposes of the preceding sentence, a private operating foundation (as defined in section 4942(j)(3)) shall not be treated as a private foundation."

(b) GIFT TAX.—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

"(3) Rules similar to the rules of section 2055(e)(4) shall apply for purposes of paragraph (2)."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to the estates of decedents dying after December 31, 1981.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to transfers after December 31, 1981.

SEC. 424. GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH NOT INCLUDED IN GROSS ESTATE.

(a) GENERAL RULE.—Section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding at the end thereof the following new subsection:

"(d) DECEDENTS DYING AFTER 1981.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, subsection (a) shall not apply to the estate of a decedent dying after December 31, 1981.

"(2) EXCEPTIONS FOR CERTAIN TRANSFERS.—Paragraph (1) shall not apply to a transfer of an interest in property which is included in the value of the gross estate under section 2036, 2037, 2038, 2041, or 2042 or would have been included under any of such sections if such interest had been retained by the decedent.

"(3) 3-YEAR RULE RETAINED FOR CERTAIN PURPOSES.—Paragraph (1) shall not apply for purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farm, etc., real property),

"(C) section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business), and

"(D) subchapter C of chapter 64 (relating to lien for taxes)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after December 31, 1981.

SEC. 425. BASIS OF CERTAIN APPRECIATED PROPERTY TRANSFERRED TO DECEDENT BY GIFT WITHIN 3 YEARS OF DEATH.

(a) GENERAL RULE.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(e) APPRECIATED PROPERTY ACQUIRED BY DECEDENT BY GIFT WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—In the case of a decedent dying after December 31, 1981, if—

"(A) appreciated property was acquired by the decedent by gift during the 3-year period ending on the date of the decedent's death, and

"(B) such property is acquired from the decedent by (or passes from the decedent to) the donor of such property (or the spouse of such donor),

the basis of such property in the hands of such donor (or spouse) shall be the adjusted basis of such property in the hands of the decedent immediately before the death of the decedent.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) APPRECIATED PROPERTY.—The term 'appreciated property' means any property if the fair market value of such property on the day it was transferred to the decedent by gift exceeds its adjusted basis.

"(B) TREATMENT OF CERTAIN PROPERTY SOLD BY ESTATE.—In the case of any appreciated property described in subparagraph (A) of paragraph (1) sold by the estate of the decedent, rules similar to the rules of paragraph (1) shall apply to the extent the donor of such property (or the spouse of such donor) is entitled to the proceeds from such sale."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired by decedents after December 31, 1981.

SEC. 426. DISCLAIMERS.

(a) IN GENERAL.—Subsection (c) of section 2518 (relating to disclaimers) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN TRANSFERS TREATED AS DISCLAIMERS.—For purposes of subsection (a), a written transfer of the transferor's entire interest in the property—

"(A) which meets requirements similar to the requirements of paragraphs (2) and (3) of subsection (b), and

"(B) which is to a person or persons who would have received the property had the transferor made a qualified disclaimer (within the meaning of subsection (b)),

shall be treated as a qualified disclaimer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1981.

SEC. 427. REPEAL OF DEDUCTION FOR BEQUESTS, ETC., TO CERTAIN MINOR CHILDREN.

(a) IN GENERAL.—Section 2057 (relating to bequests, etc., to certain minor children) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2057.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1981.

Subtitle C—Other Gift Tax Provisions

SEC. 441. INCREASE IN ANNUAL GIFT TAX EXCLUSION; UNLIMITED EXCLUSION FOR CERTAIN TRANSFERS.

(a) INCREASE IN ANNUAL EXCLUSION.—Subsection (b) of section 2503 (relating to annual gift tax exclusion) is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

(b) UNLIMITED EXCLUSION FOR CERTAIN TRANSFERS.—Section 2503 (defining taxable gifts) is amended by adding at the end thereof the following new subsection:

"(e) EXCLUSION FOR CERTAIN TRANSFERS FOR EDUCATIONAL EXPENSES OR MEDICAL EXPENSES.—

"(1) IN GENERAL.—Any qualified transfer shall not be treated as a transfer of property by gift for purposes of this chapter.

"(2) QUALIFIED TRANSFER.—For purposes of this subsection, the term 'qualified transfer' means any amount paid on behalf of an individual—

"(A) as tuition to an educational organization described in section 170(b)(1)(A)(ii) for the education or training of such individual, or

"(B) to any person who provides medical care (as defined in section 213(e)) with respect to such individual as payment for such medical care."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers after December 31, 1981.

(2) TRANSITIONAL RULE.—If—

(A) an instrument executed before the date which is 30 days after the date of the enactment of this Act provides for a power of appointment which may be exercised during any period after December 31, 1981,

(B) such power of appointment is expressly defined in terms of, or by reference to, the amount of the gift tax exclusion under section 2503(b) of the Internal Revenue Code of 1954 (or the corresponding provision of prior law),

(C) the instrument described in subparagraph (A) has not been amended on or after the date which is 30 days after the date of the enactment of this Act, and

(D) the State has not enacted a statute applicable to such gift under which such power of appointment is to be construed as being defined in terms of, or by reference to, the amount of the exclusion under such section 2503(b) after its amendment by subsection (a),

then the amendment made by subsection (a) shall not apply to such gift.

SEC. 442. TIME FOR PAYMENT OF GIFT TAXES.

(a) AMENDMENTS TO SUBCHAPTER A OF CHAPTER 12.—

(1) SECTION 2501.—Subsection (a) of section 2501 (relating to imposition of gift tax) is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(2) SECTION 2502.—Section 2502 (relating to rate of tax) is amended to read as follows:

"SEC. 2502. RATE OF TAX.

"(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar year shall be an amount equal to the excess of—

"(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar year and for each of the preceding calendar periods, over

"(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar periods.

"(b) PRECEDING CALENDAR PERIOD.—Whenever used in this title in connection with the gift tax imposed by this chapter, the term 'preceding calendar period' means—

"(1) calendar years 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970,

"(2) the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the first calendar quarter of calendar year 1982, and

"(3) all calendar years after 1981 and before the calendar year for which the tax is being computed.

For purposes of paragraph (1), the term 'calendar year 1932' includes only that portion of such year after June 6, 1932.

"(c) TAX TO BE PAID BY DONOR.—The tax imposed by section 2501 shall be paid by the donor."

(3) SECTION 2503.—

(A) Subsection (a) of section 2503 is amended to read as follows:

"(a) GENERAL DEFINITION.—The term 'taxable gifts' means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C (section 2522 and following)."

(B) The first sentence of subsection (b) of section 2503 is amended to read as follows: "In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year, the first $10,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year."

(4) SECTION 2504.—

(A) Subsection (a) of section 2504 is amended to read as follows:

"(a) IN GENERAL.—In computing taxable gifts for preceding calendar periods for purposes of computing the tax for any calendar year—

"(1) there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the calendar period in which the transfers were made,

"(2) there shall be allowed such deductions as were provided for under such laws, and

"(3) the specific exemption in the amount (if any) allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of preceding calendar periods ending before January 1, 1977, for purposes of computing the tax for any calendar year."

(B) Subsection (b) of section 2504 is amended—

(i) by striking out "preceding calendar years and calendar quarters" and inserting in lieu thereof "preceding calendar periods",

(ii) by striking out "the years and calendar quarters" and inserting in lieu thereof "the periods",

(iii) by striking out "such years and calendar quarters" and inserting in lieu thereof "such preceding calendar periods", and

(iv) by striking out "PRECEDING YEARS AND QUARTERS" in the subsection heading and inserting in lieu thereof "PRECEDING CALENDAR PERIODS".

(C) Subsection (c) of section 2504 is amended—

(i) by striking out "preceding calendar year or calendar quarter" each place it appears and inserting in lieu thereof "preceding calendar period",

(ii) by striking out "under this chapter for any calendar quarter" and inserting in lieu thereof "under this chapter for any calendar year",

(iii) by striking out "section 2502(c)" and inserting in lieu thereof "section 2502(b)", and

(iv) by striking out "PRECEDING CALENDAR YEARS AND QUARTERS" in the subsection heading and inserting in lieu thereof "PRECEDING CALENDAR PERIODS".

(D) The section heading for section 2504 is amended by striking out "preceding years and quarters" and inserting in lieu thereof "preceding calendar periods".

(E) The table of sections for subchapter A of chapter 12 is amended by striking out "preceding years and quarters" in the item relating to section 2504 and inserting in lieu thereof "preceding calendar periods".

(5) SECTION 2505.—

(A) Subsection (a) of section 2505 is amended—

(i) by striking out "each calendar quarter" and inserting in lieu thereof "each calendar year", and

(ii) by striking out "preceding calendar quarters" and inserting in lieu thereof "preceding calendar periods".

(B) Subsection (d) of section 2505 is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(b) AMENDMENTS TO SUBCHAPTER B OF CHAPTER 12.—

(1) SECTION 2512.—Subsection (b) of section 2512 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(2) SECTION 2513.—

(A) Section 2513(a) is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(B) Paragraph (2) of section 2513(b) is amended by striking out "calendar quarter" in the matter preceding subparagraph (A) and inserting in lieu thereof "calendar year".

(C) Subparagraph (A) of subsection (b)(2) of section 2513 is amended to read as follows:

"(A) The consent may not be signified after the 15th day of April following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse."

(D) Subparagraph (B) of subsection (b)(2) of section 2513 is amended—

(i) by striking out "the consent" and inserting in lieu thereof "The consent", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(E) Subsection (c) of section 2513 is amended—

(i) by striking out "calendar quarter" and inserting in lieu thereof "calendar year", and

(ii) by striking out "15th day of the second month following the close of such quarter" and inserting in lieu "15th day of April following the close of such year".

(F) Subsection (d) of section 2513 is amended—

(i) by striking out "any calendar quarter" and inserting in lieu thereof "any calendar year", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(c) AMENDMENT TO SUBCHAPTER C OF CHAPTER 12.—Section 2522 is amended by striking out "quarter" each place it appears and inserting in lieu thereof "year".

(d) MISCELLANEOUS AMENDMENTS.—

(1) Paragraph (2) of subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended—

(A) by striking out "calendar quarter (or calendar year if the gift was made before January 1, 1971)" and inserting in lieu thereof "calendar year (or preceding calendar period)", and

(B) by striking out "calendar quarter or year" each place it appears and inserting in lieu thereof "calendar year or period".

(2) Section 6019 (relating to gift tax returns) is amended by striking out subsection (b).

(3) Subsection (b) of section 6075 (relating to time for filing gift tax returns) is amended to read as follows:

"(b) GIFT TAX RETURNS.—

"(1) GENERAL RULE.—Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

"(2) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

"(3) COORDINATION WITH DUE DATE FOR ESTATE TAX RETURN.—Notwithstanding paragraphs (1) and (2), the time for filing the return made under section 6019 for the calendar year which includes the date of death of the donor shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor."

(4) Paragraph (1) of section 6212(c) (relating to notice of deficiency) is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to gifts made after December 31, 1981.

TITLE V—TAX STRADDLES

SEC. 501. DISALLOWANCE OF COMMODITY-RELATED LOSSES WHICH EXCEED COMMODITY-RELATED GAINS.

(a) GENERAL RULE.—Part VII of subchapter O of chapter 1 (relating to wash sales of stock or securities) is amended by adding at the end thereof the following new section:

"SEC. 1092. LIMITATION ON STRADDLE LOSSES.

"(a) GENERAL RULE.—Straddle losses shall be allowed only to the extent of the sum of—

"(1) straddle gains, and

"(2) net non-straddle commodity gain.

"(b) CARRYOVER OF DISALLOWED LOSSES.—Any straddle loss which is disallowed for the taxable year under subsection (a) shall be treated as a straddle loss in the succeeding taxable year.

"(c) ANTICONVERSION RULES.—For purposes of section 1222, subsection (a) shall be treated as having used up—

"(1) all straddle gains and losses, and

"(2) a proportion of each gain or loss from a commodity-related transaction (other than a straddle transaction) equal to the proportion of the net capital gain from such transactions offset under subsection (a)(2).

For purposes of section 1222, any excess of straddle gains shall be treated as a long-term capital gain or a short-term capital gain (whichever is the appropriate result after applying section 1222 solely with respect to straddle gains and losses) from a single asset.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STRADDLE GAIN.—The term 'straddle gain' means any gain from a straddle transaction.

"(2) STRADDLE LOSS.—The term 'straddle loss' means any loss from a straddle transaction.

"(3) NET NON-STRADDLE COMMODITY GAIN.—The term 'net non-straddle commodity gain' means the net gain for the taxable year determined by taking into account only gains and losses from non-straddle commodity transactions.

"(4) STRADDLE TRANSACTION.—The term 'straddle transaction' means any sale, exchange, or other disposition of—

"(A) a futures contract,

"(B) a forward contract,

"(C) a commodity (including any metal),

"(D) a Treasury bill or other evidence of indebtedness,

"(E) currency, or

"(F) any interest in any of the foregoing,

if such property was at any time part of a straddle (as defined in section 263A(e)).

"(5) NON-STRADDLE COMMODITY TRANSACTION.—The term 'non-straddle commodity transaction' means any sale, exchange, or other disposition of property described in paragraph (4) if at no time was such property part of a straddle.

"(6) COMMODITY-RELATED TRANSACTION.—The term 'commodity-related transaction' means any sale, exchange, or other disposition of property described in paragraph (4).

"(7) INTEREST ON CERTAIN OBLIGATIONS.—Gain from the sale, exchange, or other disposition of an evidence of indebtedness shall not be treated as gain from a transaction described in paragraph (4) or (5) to the extent such gain is interest (including any amount treated as ordinary income under section 1232).

"(8) CHARACTER OF CARRYOVER.—Any loss carried over to a succeeding taxable year under subsection (b) shall be treated as short term to the extent the taxpayer had short-term straddle losses (not used to offset short-term gains) for the taxable year from which carried.

"(e) SECTION NOT TO APPLY TO HEDGING TRANSACTIONS.—

"(1) SECTION NOT TO APPLY.—This section shall not apply in the case of a hedging transaction.

"(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term 'hedging transaction' means any transaction if—

"(A) such transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

"(i) to reduce risk of price change or currency fluctuations with respect to property which is held or to be held by the taxpayer, or

"(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or obligations incurred or to be incurred, by the taxpayer,

"(B) the gain or loss on such transactions is treated as ordinary income or loss, and

"(C) before the close of the day on which such transaction was entered into, the taxpayer clearly identifies such transaction as being a hedging transaction.

"(3) SPECIAL RULE FOR SYNDICATES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'hedging transaction' shall not include any transaction entered into by or for a syndicate.

"(B) SYNDICATE DEFINED.—For purposes of subparagraph (A), the term 'syndicate' means any partnership or other entity (other than a C corporation)—

"(i) if at any time interests in such entity have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

"(ii) if more than 35 percent of the losses of such entity during any period are allocable to limited partners or limited entrepreneurs (within the meaning of section 464(e)(2)).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) C CORPORATION.—The term 'C corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(ii) HOLDING ATTRIBUTABLE TO ACTIVE PARTICIPATION IN MANAGEMENT.—An individual shall not be treated as a limited partner or

limited entrepreneur (within the meaning of section 464(e)(2)) with respect to any entity for any period during which such individual actively participates in the management of such entity.

"(iii) SPECIAL RULES FOR BANKS.—In the case of a bank (as defined in section 581), subparagraph (A) of paragraph (2) shall be applied as if it read as follows:

"'(A) such transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business,'.

"(f) SPECIAL RULES.—

"(1) DENIAL OF CAPITAL GAINS TREATMENT FOR PROPERTY IDENTIFIED AS PART OF A HEDGING TRANSACTION.—For purposes of this title, gain from any property described in subsection (b) shall in no event be considered as gain from the sale or exchange of a capital asset if such property was at any time identified under subsection (e)(2)(C) by the taxpayer as being part of a hedging transaction.

"(2) SPECIAL RULE FOR ORDINARY GAIN OR LOSS.—This section shall be applied separately with respect to—

"(A) capital gains and losses, and

"(B) ordinary gains and losses not in hedging transactions.

"(g) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), gains and losses shall be taken into account under this section only if they are attributable to property acquired (or positions established) by the taxpayer after January 27, 1981.

"(2) ELECTION TO TAKE INTO ACCOUNT ALL GAINS AND LOSSES.—If the taxpayer so elects (at such time and in such manner as the Secretary shall by regulations prescribe), this section shall apply to all gains and losses from commodity-related transactions in taxable years ending after January 27, 1981 (whether the property is acquired before, on, or after January 27, 1981)."

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for such part VII is amended by adding at the end thereof the following new item:

"Sec. 1092. Limitation on straddle losses."

(2) The heading for such part VII is amended to read as follows:

"PART VII—WASH SALES; LIMITATION ON STRADDLE LOSSES".

(3) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part VII and inserting in lieu thereof the following:

"Part VII. Wash sales; straddle losses."

SEC. 502. CAPITALIZATION OF CERTAIN INTEREST AND CARRYING CHARGES IN THE CASE OF STRADDLES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CERTAIN INTEREST AND CARRYING COSTS IN THE CASE OF STRADDLES.

"(a) GENERAL RULE.—No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle. Any amount not allowed as a deduction by reason of the preceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

"(b) INTEREST AND CARRYING CHARGES DEFINED.—For purposes of subsection (a), the term 'interest and carrying charges' means the excess of—

"(1) the sum of—

"(A) interest on indebtedness incurred or continued to purchase or carry the personal property, and

"(B) amounts paid or incurred to insure, store, or transport the personal property, over

"(2) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A).

"(c) EXCEPTION FOR HEDGING TRANSACTIONS.—This section shall not apply in the case of any hedging transaction (as defined in section 1092(d)).

"(d) TRADERS ALLOWED TO OFFSET GAINS FROM COMMODITY-RELATED TRANSACTIONS.—

"(1) IN GENERAL.—In the case of any trader—

"(A) subsection (a) shall not apply, but

"(B) the aggregate amount which, but for subparagraph (A), would have been disallowed as a deduction for any taxable year under subsection (a)—

"(i) shall be treated as an ordinary loss to the extent such amount does not exceed the net straddle ordinary gain for the taxable year, and

"(ii) to the extent such amount exceeds the net straddle ordinary gain, shall be treated as a short-term straddle loss for the taxable year (within the meaning of section 1092).

"(2) TRADER DEFINED.—For purposes of paragraph (1), the term 'trader' means an individual whose—

"(A) principal activity for the taxable year is engaging in futures contracts transactions for his own account, and

"(B) principal source of income or loss from the taxable year is from the activity described in subparagraph (A).

"(3) NET STRADDLE ORDINARY GAIN.—For purposes of paragraph (1), the term 'net straddle ordinary gain' means the net ordinary gain determined by taking into account ordinary gains and losses from straddle transactions to which section 1092 applies.

"(e) STRADDLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'straddle' means offsetting positions with respect to personal property.

"(2) OFFSETTING POSITIONS.—

"(A) IN GENERAL.—A taxpayer holds offsetting positions with respect to personal property if there is a substantial diminution of the taxpayer's risk of loss from holding any position with respect to personal property by reason of his holding 1 or more other positions with respect to personal property (whether or not of the same kind).

"(B) ONE SIDE LARGER THAN OTHER SIDE.—If 1 or more positions offset only a portion of 1 or more other positions, the Secretary shall by regulations prescribe the method for determining the portion of such other positions which is to be taken into account for purposes of this section.

"(3) PRESUMPTION.—

"(A) IN GENERAL.—For purposes of paragraph (2), 2 or more positions shall be presumed to be offsetting if—

"(i) the positions are in the same personal property (whether established in such property or a contract for such property),

"(ii) the positions are in the same personal property, even though such property may be in a substantially altered form,

"(iii) the positions are in debt instruments of a similar maturity or other debt instruments described in regulations prescribed by the Secretary,

"(iv) the positions are sold or marketed as offsetting positions (whether or not such positions are called a straddle, spread, butterfly, or any similar name),

"(v) the aggregate margin requirement for such positions is lower than the sum of the margin requirements for each such position (if held separately), or

"(vi) there are such other factors (or satisfaction of subjective or objective tests) as the Secretary may by regulations prescribe as indicating that such positions are offsetting.

For purposes of the preceding sentence, 2 or more positions shall be treated as described in clause (i), (ii), (iii), or (vi) only if the value of 1 or more of such positions ordinarily varies inversely with the value of 1 or more other such positions.

"(B) PRESUMPTION MAY BE REBUTTED.—Any presumption established pursuant to subparagraph (A) may be rebutted if the taxpayer establishes to the satisfaction of the Secretary that the positions were not offsetting.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSONAL PROPERTY.—The term 'personal property' means any personal property (other than stock) of a type which is actively traded. Such term also includes any commodity substitute stock.

"(2) POSITION.—

"(A) IN GENERAL.—The term 'position' means an interest (including a futures or forward contract or option) in personal property.

"(B) SPECIAL RULE FOR STOCK OPTIONS.—The term 'position' includes any stock option which is a part of a straddle and which is an option to buy or sell stock which is actively traded, but does not include a stock option which—

"(i) is traded on a domestic exchange (or on a similar foreign market designated by the Secretary), and

"(ii) is of a type with respect to which the maximum period during which such option may be exercised is less than one year from when granted.

"(3) POSITIONS HELD BY RELATED PERSONS, ETC.—

"(A) IN GENERAL.—In determining whether 2 or more positions are offsetting, the taxpayer shall be treated as holding any position held by a related person.

"(B) RELATED PERSON.—For purposes of subparagraph (A), a person is a related person to the taxpayer if—

"(i) the relationship between such person and the taxpayer would result in a disallowance of losses under section 267 or 707(b), or

"(ii) such person and the taxpayer are under common control (within the meaning of subsection (b) or (c) of section 414).

For purposes of clause (i), an individual's family shall consist only of such individual, such individual's spouse, and a child of such individual who has not attained the age of 18.

"(C) CERTAIN FLOW-THROUGH ENTITIES.—If part or all of the grain or loss with respect to a position held by a partnership, trust, or other entity would properly be taken into account for purposes of this chapter by a taxpayer with respect to whom the entity is not a related person, then, except to the extent otherwise provided in regulations—

"(i) such position shall be treated as held by the taxpayer, and

"(ii) the offsetting positions held by the taxpayer shall be treated as held by the entity.

"(4) COMMODITY SUBSTITUTE STOCK.—The term 'commodity substitute stock' means any stock of a corporation 80 percent or more in value of the business and investment assets of which consist of interests in

commodities. For purposes of this paragraph, the term 'business and investment assets' means assets used or held for use in the trade or business, and assets held for investment."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after section 263 the following new item:

"Sec. 263A. Certain interest and carrying costs in the case of straddles."

SEC. 503. CERTAIN GOVERNMENTAL OBLIGATIONS ISSUED AT DISCOUNT TREATED AS CAPITAL ASSETS.

(a) GENERAL RULE.—Section 1221 (defining capital asset) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) TREATMENT OF AMOUNTS RECEIVED ON SALE OR OTHER DISPOSITION.—Subsection (a) of section 1232 (relating to bonds and other evidences of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held less than 1 year.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is issued on a discount basis and payable without interest at a fixed maturity date not exceeding 1 year from the date of issue. Such term does not include any obligation the interest on which is not includible in gross income under section 103 (relating to certain governmental obligations).

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 1231(b)(1) is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(2) Subparagraph (B) of section 341(c)(2) is amended by striking out "(and governmental obligations described in section 1221(5))".

SEC. 504. PROMPT IDENTIFICATION OF SECURITIES BY DEALERS IN SECURITIES.

Subsection (a) of section 1236 (relating to dealers in securities) is amended—

(1) by striking out "before the expiration of the 30th day after the date of its acquisition" and inserting in lieu thereof "before the close of the day on which it was acquired", and

(2) by striking out "expiration of such 30th day" and inserting in lieu thereof "close of such day".

SEC. 505. TREATMENT OF GAIN OR LOSS FROM CERTAIN TERMINATIONS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1234 the following new section:

"SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TERMINATIONS.

"Gain or loss attributable to the cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in section 263A(f)(1)) or property described in section 1092(c)(4) which is (or on acquisition would be) a capital asset in the hands of the taxpayer shall be treated as gain or loss from the sale of a capital asset."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1234 the following new item:

"Sec. 1234A. Gains or losses from certain terminations."

SEC. 506. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall apply to property acquired and positions established by the taxpayer after January 27, 1981, in taxable years ending after such date.

(b) IDENTIFICATION REQUIREMENTS.—

(1) UNDER SECTION 1236 OF CODE.—The amendments made by section 504 shall apply to property acquired by the taxpayer after the date of the enactment of this Act in taxable years ending after such date.

(2) UNDER SECTION 1092(e)(2) OF CODE.—Section 1092(e)(2)(C) of the Internal Revenue Code of 1954 (as added by this title) shall apply to property acquired and positions established by the taxpayer after December 31, 1981, in taxable years ending after such date.

SEC. 507. STUDY.

(a) GENERAL RULE.—The Secretary of the Treasury shall conduct a study on the effects of this title.

(b) REPORTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall submit 2 reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a).

(2) FIRST REPORT.—The first report submitted under paragraph (1) shall be submitted on or before July 1, 1983, and shall include an analysis of tax returns filed for taxable years beginning in 1981.

(3) SECOND REPORT.—The second report submitted under paragraph (1) shall be submitted on or before July 1, 1984, and shall include an analysis of tax returns filed for taxable years beginning in 1982.

TITLE VI—ENERGY PROVISIONS

Subtitle A—Changes in Windfall Profit Tax

SEC. 601. GENERAL EXEMPTION FOR PRODUCERS.

(a) GENERAL RULE.—Subsection (b) of section 4991 (defining exempt oil) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(5) any exempt producer oil."

(b) EXEMPT PRODUCER OIL.—Subchapter B of chapter 45 (relating to categories of oil) is amended by inserting after section 4991 the following new section:

"SEC. 4991A. EXEMPT PRODUCER OIL.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'exempt producer oil' means that portion of any producer's qualified production which does not exceed such person's exempt limit for such quarter.

"(b) EXEMPT LIMIT.—For purposes of this section—

"(1) IN GENERAL.—A person's exempt limit for any quarter is the product of—

"(A) 500 barrels, multiplied by

"(B) the number of days in such quarter.

"(2) SPECIAL LIMIT FOR TIER 1 AND TIER 2.—The aggregate amount of any producer's qualified production for any quarter which is tier 1 or tier 2 oil and which may be treated as exempt producer oil shall not exceed the amount which would be determined under paragraph (1) if the barrel amount determined under the following table were substituted for 500 barrels in paragraph (1)(A):

"In the case of qualified production during:	The amount in barrels is:
1982	100
1983	100
1984	100
1985	200
1986 and thereafter	350.

"(3) PRODUCER MAY ALLOCATE EXEMPTION.—If a producer's qualified production for any quarter exceeds such producer's exempt limit (or where the production described in paragraph (2) exceeds the limitation determined under such paragraph), the producer may allocate such exempt limit to any oil he may select so long as such allocation does not result in the limitations of paragraphs (1) and (2) being exceeded. Any such selection, once made, shall be irrevocable.

"(c) QUALIFIED PRODUCTION.—

"(1) IN GENERAL.—For purposes of this section, a producer's qualified production of oil for any quarter shall be determined under the rules of section 4992(d) with the adjustments provided in this subsection.

"(2) ADJUSTMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—Paragraph (1) of section 4992(d) shall be applied—

"(i) as if it did not contain subparagraph (C) thereof,

"(ii) as if any reference to an independent producer were a reference to any producer, and

"(iii) as if the reference to taxable crude oil were a reference to crude oil which would have been taxable crude oil without regard to this section.

"(B) TRANSFER RULE.—Clause (ii) of paragraph (3)(B) of section 4992(d) shall be applied as if—

"(i) the reference to independent producer amount were a reference to the exempt limit, and

"(ii) as if it did not contain subclause (II) thereof.

"(d) ALLOCATION WITHIN RELATED GROUP.—Rules similar to the rules of subsection (e) of section 4992 shall apply for purposes of this section."

(c) COORDINATION WITH INDEPENDENT PRODUCER AMOUNT.—Paragraph (1) of section 4992(c) is amended by adding at the end thereof the following new sentence:

"The amount determined under the preceding sentence shall be reduced by the amount of tier 1 and tier 2 oil which such person

elected to treat as exempt producer oil for the quarter."

(d) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 45 is amended by inserting after section 4991 the following new item:

"Sec. 4991A. Exempt producer oil."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1982.

SEC. 602. $2,500 ROYALTY CREDIT FOR 1981; EXEMPTION FOR 1982 AND THEREAFTER.

(a) $2,500 Royalty Credit for 1981.—

(1) IN GENERAL.—Subsection (a) of section 6429 (relating to treatment as overpayment) is amended to read as follows:

"(a) TREATMENT AS OVERPAYMENT.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production removed from the premises during calendar year 1981 shall be treated as an overpayment of the tax imposed by section 4986."

(2) INCREASE IN AMOUNT OF CREDIT.—Paragraph (1) of section 6429(c) (relating to $1,000 limitation on credit or refund) is amended to read as follows:

"(1) IN GENERAL.—The aggregate amount which may be treated as an overpayment under subsection (a) with respect to any qualified royalty owner for production removed from the premises during calendar year 1981 shall not exceed $2,500."

(3) CONFORMING AMENDMENTS.—Subsection (c) of section 6429 is amended—

(A) by striking out "$1,000" each place it appears (including in the subsection heading) and inserting in lieu thereof "$2,500",

(B) by striking out "qualified period" each place it appears and inserting in lieu thereof "calendar year", and

(C) by striking out "after June 24, 1980," in paragraph (4) and inserting in lieu thereof "during the calendar year".

(4) DEFINITION OF QUALIFIED ROYALTY PRODUCTION.—Subsection (d) of section 6429 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the qualified royalty owner which—

"(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

"(B) is not created pursuant to a binding contract entered into before June 10, 1981."

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—In the case of a transfer of an interest in any property, the qualified royalty production of the transferee shall not include any production attributable to an interest which has been transferred after June 9, 1981, in a transfer which—

"(i) is described in section 613A(c)(9)(A), and

"(ii) is not described in section 613A(c)(9)(B).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the transferee are required by paragraph (3) or (4) of subsection (c) to share the $2,500 amount in subsection (c)(1). The preceding sentence shall apply in the case of any property only if the production from the property was qualified royalty production of the transferor.

"(C) TRANSFERS INCLUDE SUBLEASES.—For purposes of this paragraph, a sublease shall be treated as a transfer.

"(D) ESTATES.—For purposes of this paragraph, property held by any estate shall be treated as owned both by such estate and proportionately by the beneficiaries of such estate.".

(H) Paragraph (4) of section 6429(d) is amended to read as follows:

"(4) QUALIFIED FAMILY FARM CORPORATION.—The term 'qualified family farm corporation' means a corporation—

"(A) all the outstanding shares of stock of which at all times during the calendar year are held by members of the same family (within the meaning of section 2032A(e)(2)), and

"(B) 80 percent in value of the assets of which (other than royalty interests described in paragraph (2)(A)) are held by the corporation at all times during such calendar year for use for farming purposes (within the meaning of section 2032A(e)(5))."

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1981.

(b) EXEMPTION FOR 1982 AND THEREAFTER.—

(1) IN GENERAL.—Subsection (b) of section 4991 (as amended by section 601) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) exempt royalty oil."

(2) EXEMPT ROYALTY OIL.—Subchapter B of chapter 45 is amended by inserting after section 4991A the following new section:

"SEC. 4991B. EXEMPT ROYALTY OIL.

"(a) IN GENERAL.—For purposes of this chapter, the term 'exempt royalty oil' means that portion of the qualified royalty owner's qualified royalty production for the quarter which does not exceed the royalty limit for such quarter.

"(b) ROYALTY LIMIT.—For purposes of this section—

"(1) IN GENERAL.—A qualified royalty owner's royalty limit for any quarter is the product of—

"(A) the number of days in such quarter, multiplied by

"(B) the limitation in barrels determined under the following table:

"In the case of qualified royalty production during:	The limitation in barrels is:
1982	1
1983	1
1984	1
1985	2
1986	3.5

"(2) PRODUCTION EXCEEDS LIMITATION.—If a qualified royalty owner's qualified royalty production for any quarter exceeds the royalty limitation for such quarter, such royalty owner may allocate such limit to any qualified royalty production which he selects.

"(c) DEFINITIONS.—

"(1) IN GENERAL.—The terms 'qualified royalty owner' and 'qualified royalty production' have the meanings given to such terms by section 6429; except that the reference to taxable oil in section 6429(d) shall be treated as a reference to oil which would have been taxable crude oil but for this section.

"(2) ALLOCATION.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply to the limitation determined under subsection (b)(1)."

(3) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 45 is amended by inserting after the item relating to section 4991A the following new item:

"Sec. 4991B. Exempt royalty oil."

(4) ADJUSTMENTS TO WITHHOLDING.—Subsection (a) of section 4995 is amended by adding at the end thereof the following new paragraph:

"(9) ADJUSTMENTS TO WITHHOLDING TO TAKE INTO ACCOUNT ROYALTY EXEMPTION.—The Secretary shall prescribe such regulations as may be necessary so that the withholding required under this subsection shall be reduced to take into account the exemption provided by section 4991(b)(6) (relating to exempt royalty oil)."

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1982.

(c) REDUCTION OF ESTIMATED TAX.—To the extent allowed under regulations prescribed by the Secretary of the Treasury or his delegate, any amount which is treated under section 6429 of the Internal Revenue Code of 1954 as an overpayment of the tax imposed by section 4946 during calendar year 1980 or 1981 shall, for purposes of sections 6015, 6654, and 6655 of such Code, be treated as a credit provided by part IV of subchapter A of chapter 1 of such Code.

SEC. 603. FRONT-END TERTIARY PROJECTS FOR INDEPENDENTS.

(a) IN GENERAL.—Subsection (c) of section 4994 (relating to front-end tertiary oil) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR INDEPENDENT PROJECTS CERTIFIED ON OR BEFORE JANUARY 28, 1981.—In the case of any front-end tertiary project certified on or before January 28, 1981—

"(A) paragraph (1)(A) shall be applied by substituting 'April 1, 1982' for 'October 1, 1981', and

"(B) the term 'front-end oil' means any domestic crude oil which would not have been subject to a first sale ceiling price under the energy regulations solely by reason of the front-end tertiary provisions of such regulations (without regard to the decontrol on January 28, 1981).

Paragraph (2) shall be applied as if this paragraph had not been enacted."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 28, 1981.

SEC. 604. NATURAL GAS RETAILING NOT TAKEN INTO ACCOUNT IN DETERMINING INDEPENDENT PRODUCER STATUS.

(a) IN GENERAL.—Paragraph (2) of section 4992(b) (defining independent producer) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) by not taking into account under paragraph (2) of section 613A(d)—

"(i) any sales of natural gas (or of products derived therefrom), and

"(ii) gross receipts from such sales."

(b) TECHNICAL AMENDMENT.—Subparagraph (C) of section 4994(c)(4) is amended by striking out "4992(b)" and inserting in lieu thereof "4992(b), determined without regard to paragraph (2)(C) thereof".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable periods (within the meaning of section 4996(b)(7) of the Internal Revenue Code of 1954) beginning after December 31, 1981.

(2) For purposes of making any determination under section 4992(d)(3)(B)(ii) of the Internal Revenue Code of 1954, the amendments made by subsection (a) shall be treated as having been in effect for periods after September 30, 1979. The preceding sentence shall only apply with respect transfers after July 22, 1981.

SEC. 605. EXEMPTION FROM WINDFALL PROFIT TAX OF OIL PRODUCED FROM INTERESTS HELD BY OR FOR THE BENEFIT OF RESIDENTIAL CHILD CARE AGENCIES.

(a) EXEMPTION OF CHILD CARE AGENCIES FROM TAX.—Subparagraph (A) of section 4994(b)(1) (relating to charitable interests exempt from windfall profit tax) is amended by redesignating clause (ii) as clause (iii) and by adding after clause (i) the following new clause:

"(ii) held by an organization described in section 170(c)(2) which is organized and operated primarily for the residential placement, care, or treatment of delinquent, dependent, orphaned, neglected, or handicapped children, or".

(b) PERIOD INTEREST REQUIRED TO BE HELD.—

(1) IN GENERAL.—Subparagraph (B) of section 4994(b)(1) is amended to read as follows:

"(B) such interest was held on January 21, 1980, and at all times thereafter before the last day of the taxable period, by the organization described in clause (i) or (ii) of subparagraph (A), or subclause (I) of subparagraph (A)(iii)."

(2) INTERESTS HELD FOR THE BENEFIT OF CHILD CARE AGENCIES.—Paragraph (2) of section 4994(b) is amended—

(A) by striking out "paragraph (1)(A)(ii)" and inserting in lieu thereof "clause (ii) or (iii) of paragraph (1)(A)", and

(B) by striking out "paragraph (1)(A)(i)" each place it appears and inserting in lieu thereof "clause (i) or (ii) of paragraph (1)(A)".

(c) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4994(b)(1)(A) is amended by striking out "or" at the end thereof.

(2) Subclause (II) of section 4994(b)(1)(A)(ii) is amended by inserting "or (ii)" after "clause (i)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after December 31, 1980.

Subtitle B—Treatment of Foreign Oil and Gas Income

SEC. 611. SHORT TITLE.

This subtitle may be cited as the "Foreign Oil and Gas Tax Act of 1981".

SEC. 612. EXCLUSION FROM TAX OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart H—Exclusion From Gross Income of Foreign Oil and Gas Extraction Income

"Sec. 981. Exclusion from gross income of foreign oil and gas extraction income.

"SEC. 981. EXCLUSION FROM GROSS INCOME OF FOREIGN OIL AND GAS EXTRACTION INCOME.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include any foreign oil and gas extraction income of the taxpayer.

"(b) FOREIGN OIL AND GAS EXTRACTION INCOME.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'foreign oil and gas extraction income' means any amount derived from sources without the United States and its possessions from the extraction (by the taxpayer or any other person) of minerals from oil or gas wells.

"(2) DIVIDENDS, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil and gas extraction income' includes—

"(A) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) amounts with respect to which taxes are deemed paid under section 960(a), and

"(C) the taxpayer's distributive share of income from partnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil and gas extraction income.

"(c) DEDUCTIONS AND CREDITS DISALLOWED.—

"(1) No deduction shall be allowed—

"(A) for any amount allocated to or chargeable against amounts excluded from gross income under subsection (a); or

"(B) for any amount expended for the exploration for oil and gas outside the United States and its possessions, or for the development of any oil or gas property located outside the United States and its possessions.

"(2) No credit shall be allowed—

"(A) under section 901 for taxes paid or accrued (or deemed paid) with respect to amounts excluded from gross income under subsection (a); and

"(B) under section 38 for section 38 property used predominantly for exploration or development described in paragraph (1) or for the production of amounts excluded from gross income under subsection (a).

"(d) LIMITATION ON LOSSES.—

"(1) IN GENERAL.—Losses sustained during the taxable year on the sale, exchange, abandonment, or other disposition of any assets used in a trade or business described in subsection (b)(1) shall be allowed only to the extent of the gains recognized during such year from the sale or exchange of oil or gas properties located outside the United States.

"(2) CARRYOVER OF UNUSED LOSSES.—Any amount of loss disallowed under clause (i) shall be carried to the succeeding taxable year and treated as a short-term loss sustained in such succeeding year from the sale or exchange of oil or gas properties located outside the United States.

"(e) REPORTING REQUIRED.—Every taxpayer shall furnish such information with respect to amounts excluded from gross income under subsection (a) as the Secretary may by regulations prescribe."

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart H. Exclusion from gross income of foreign oil and gas extraction income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1981.

SEC. 613. DENIAL OF CREDIT FOR EXCESS FOREIGN OIL RELATED PAYMENTS.

(a) IN GENERAL.—Section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"SEC. 907. FOREIGN TAXES ON OIL RELATED INCOME AT RATE IN EXCESS OF FOREIGN GENERAL RATE OF TAXATION NOT TREATED AS TAXES.

"(a) EXCESS FOREIGN OIL RELATED PAYMENTS.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil related income, the term 'income, war profits, and excess profits taxes' does not include any amount paid or accrued to the extent that the Secretary determines that the foreign law imposing the amount is structured, or in fact operates, so that the amount imposed with respect to foreign oil related income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is not foreign oil related income. In computing the amount not treated as tax under this section, such amount shall be treated as a deduction under the foreign law.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

"(1) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

"(B) the transportation of such minerals or primary products,

"(C) the distribution or sale of such minerals or primary products,

"(D) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

"(E) the performance of a service by or on behalf of a related person who is engaged in an activity described in subparagraphs (A), (B), (C), or (D) or an activity described in section 981(b)(1), relating to the exclusion from gross income of foreign oil and gas extraction income.

"(2) DIVIDENDS, INTEREST, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil related income' includes—

"(A) dividends and interest from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) interest and dividends from a domestic corporation which are treated under sections 861(a)(1)(B) and 861(a)(2)(A) as income from sources without the United States,

"(C) amounts with respect to which taxes are deemed paid under section 960(a), and

"(D) the taxpayer's distributive share of the income of partnerships,

to the extent such dividends, interest, amounts, or distributive share is attributable to foreign oil related income, except that such term also includes interest described in subparagraph (A) attributable to foreign oil and gas extraction income, and interest and dividends described in subparagraph (B) which are attributable to foreign oil and gas extraction income.

"(3) DISREGARD OF CERTAIN POSTED PRICES, ETC.—In determining the amount of taxable income in the case of foreign oil related income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or

gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

"(c) CARRYOVER OF CERTAIN OIL TAXES.—For purposes of determining the amount of taxes paid or accrued in any taxable year beginning before January 1, 1981 (hereinafter in this subsection referred to as the 'excess credit year'), which under section 904(c) are deemed paid or accrued in a taxable year beginning on or after January 1, 1981—

"(1) the amendments made by sections 612 and 613 of the Foreign Oil and Gas Tax Act of 1981 shall be deemed to have been in effect for such excess credit year and for all taxable years thereafter, and

"(2) section 907(b) (as in effect on the day before the date of the enactment of the Foreign Oil and Gas Tax Act of 1981) shall be deemed to be in effect for such excess credit year and for all taxable years thereafter."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 907 and inserting in lieu thereof the following:

"Sec. 907. Foreign taxes on oil related income at rate in excess of foreign general rate of taxation not treated as taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts paid or accrued on or after January 1, 1981, in taxable years ending on or after that date.

SEC. 614. END OF DEFERRAL FOR FOREIGN OIL RELATED INCOME.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(5) the foreign base company oil related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) SPECIAL RULES.—

(1) Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil related income".

(2) Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR FOREIGN OIL RELATED INCOME.—Income of a corporation which is foreign base company oil related income under paragraph (5) of subsection (a) shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a)."

(c) DEFINITION OF FOREIGN OIL RELATED INCOME.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) FOREIGN BASE COMPANY OIL RELATED INCOME.—For purposes of subsection (a)(5), the term 'foreign base company oil related income' means foreign oil related income (as defined in section 907(b)) other than income derived from sources within—

"(1) a foreign country in connection with oil or gas which was extracted by the foreign corporation or a related person from an oil or gas well in such foreign country, or

"(2) a foreign country in connection with oil or gas related products which are sold by the foreign corporation or a related person for use or consumption within such country."

(d) EXCEPTION FOR CERTAIN FOREIGN CORPORATIONS NOT TO APPLY.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to foreign base company oil related income described in subsection (a)(5)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning on or after January 1, 1981, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

Subtitle C—Credit for Passive Solar Residential Construction

SEC. 621. CREDIT FOR PASSIVE SOLAR RESIDENTIAL CONSTRUCTION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44G. CREDIT FOR PASSIVE SOLAR RESIDENTIAL CONSTRUCTION.

"(a) ALLOWANCE OF CREDIT.—In the case of a builder of a new residential unit which incorporates a passive solar energy system, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined under the solar construction credit table prescribed by the Secretary under subsection (d).

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER UNIT.—

"(A) IN GENERAL.—The amount of the credit allowed by subsection (a) shall not exceed $2,000 for a residential unit.

"(B) PHASEOUT OF CREDIT AFTER 1986.—In the case of a residential unit completed after December 31, 1986, there shall be substituted for '$2,000' in subparagraph (A) the amount determined in accordance with the following table:

"Units completed in—	The amount is—
1987	$1,500
1988	1,000
1989	500.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) BUILDER.—The term 'builder' means a person who is in the trade or business of building residential units and has a proprietary interest in the residential unit built.

"(2) NEW RESIDENTIAL UNIT.—The term 'new residential unit' means any unit—

"(A) which is located in the United States,

"(B) which is designed for use as a residence,

"(C) which is a unit of a building having less than 5 residential units,

"(D) the construction of which is completed after September 30, 1981, and before January 1, 1990, and

"(E) which is ready for occupancy before January 1, 1990.

"(3) PASSIVE SOLAR ENERGY SYSTEM.—The term 'passive solar energy system' means a system—

"(A) which contains—

"(i) a solar collection area,

"(ii) an absorber,

"(iii) a storage mass,

"(iv) a heat distribution method, and

"(v) heat regulation devices, and

"(B) which is a part of, or incorporated in, a new residential unit.

"(4) SOLAR COLLECTION AREA.—The term 'solar collection area' means an expanse of transparent or translucent material which is located in such a place on the structure that the rays of the Sun directly strike an absorber.

"(5) ABSORBER.—The term 'absorber' means a hard surface which—

"(A) is exposed to the rays of the Sun admitted through a solar collection area,

"(B) converts solar radiation into heat,

"(C) transfers heat to a storage mass, and

"(D) has an area of directly irradiated material equal to or greater than the solar collection area.

"(6) STORAGE MASS.—The term 'storage mass' means a dense, heavy material which—

"(A) receives and holds heat from an absorber and later releases the heat to the interior of the structure,

"(B) has a volume, depth, and thermal energy capacity which can store and deliver adequate amounts of solar heat for the structure in which it is incorporated, and

"(C) is located so that it is capable of distributing the stored heat directly to the habitable areas of the structure through a heat distribution method.

"(7) HEAT DISTRIBUTION METHOD.—The term 'heat distribution method' means—

"(A) the release of radiant heat from a storage mass within the habitable areas of the structure, or

"(B) convective heating from a storage mass, through airflow paths provided by openings or by ducts (with or without the assistance of a fan or pump having a horsepower rating of less than 1 horsepower) in the storage mass, to habitable areas of a structure.

"(8) HEAT REGULATION DEVICE.—The term 'heat regulation device' means—

"(A) shading or venting mechanisms to control the amount of solar heat admitted through solar collection areas; and

"(B) nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of a structure.

"(9) JOINT PROPRIETARY INTERESTS IN RESIDENTIAL UNIT.—If a builder has less than a full proprietary interest in a residential unit (determined at the time the unit is substantially completed), the credit allowable under subsection (a) (after the application of subsection (b)(1)) shall be apportioned on the basis of the ownership interests in the residential unit.

"(10) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(A) IN GENERAL.—For purposes of determining the amount of credit with respect to a residential unit, there shall not be taken into account any portion of a passive solar energy system which is financed from subsidized energy financing.

"(B) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' has the meaning given such term by section 44C(c)(10)(C).

"(11) SWIMMING POOLS EXCLUDED.—The amount of credit under subsection (a) shall

be determined without regard to any swimming pool.

"(12) PURCHASER'S RESIDENTIAL ENERGY CREDIT REDUCED BY CREDIT ALLOWED TO BUILDER.—

"(A) IN GENERAL.—The maximum amount of credit allowable under section 44C for renewable energy source expenditures to the first purchaser of a residential unit for which a credit is allowed under this section shall be reduced by the credit so allowed.

"(B) BUILDER TO INFORM PURCHASER OF CREDIT ALLOWED.—No credit shall be allowed under this section to a builder with respect to a residential unit unless the builder, not later than the time of the purchase of the residence, notifies the purchaser of the credit allowed under this section.

"(C) RELATED PARTY RULE.—For purposes of the notice requirement of subparagraph (B), any person who is a related person (within the meaning of section 168(e)(8)(D)) with respect to the builder shall be treated as the builder.

"(d) SOLAR CONSTRUCTION CREDIT TABLE.—

"(1) PRESCRIPTION OF TABLE.—After consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, the Secretary by regulations shall—

"(A) prescribe the solar construction credit table referred to in subsection (a) which meets the requirements set forth in paragraph (2), and

"(B) prescribe a table of insulation factors, based on the amounts of insulation in floors, walls, and ceilings and the number of panes of glass in the windows of a structure, for 8 categories of residential units ranging from one having no added insulation to one having the maximum feasible amount of insulation.

"(2) REQUIREMENTS FOR SOLAR CONSTRUCTION CREDIT TABLE.—

"(A) IN GENERAL.—In order to meet the requirements of this paragraph, the table prescribed by the Secretary—

"(i) shall provide a credit at the rate of $60 for each 1 million Btu's of annual energy savings per residential unit, and

"(ii) shall set forth different amounts of credit for different ratios of solar collection area to house heating load and for residential units located in different areas of the United States.

"(B) ANNUAL ENERGY SAVINGS PER RESIDENTIAL UNIT.—For purposes of subparagraph (A), the annual energy saving for a residential unit shall be the amount by which the number of Btu's of nonsolar energy required to provide heat to a reference house for a calendar year exceeds the number of Btu's of nonsolar energy required to heat a similar house, in the same or a similar location, which uses a passive solar energy system for a calendar year.

"(C) REFERENCE HOUSE.—For purposes of subparagraph (B), the term 'reference house' means a residential unit with 1,500 square feet of habitable floor space and a heating load of 7.5 Btu's per square foot per degree day.

"(D) HEATING LOAD.—For purposes of subparagraph (C), the term 'heating load' means the product of the number of square feet of habitable floor space of a residential unit multiplied by the appropriate insulation factor, set forth in the table prescribed by the Secretary under paragraph (1)(B), for that unit.

"(e) TERMINATION.—The credit allowable by subsection (a) shall not be allowed with respect to a residential unit the construction of which is completed after December 31, 1989."

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44F the following new item:

"Sec. 44G. Credit for passive solar residential construction."

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44F" and inserting "44F, and 44G".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after September 30, 1981.

TITLE VII—ADMINISTRATIVE PROVISIONS

Subtitle A—Disclosure

SEC. 701. DISCLOSURE TO GAO.

(a) GENERAL RULE.—Subparagraph (A) of section 6103(i)(6) (relating to disclosures to Comptroller General) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) any audit authorized by law with respect to any program or activity carried out under the Social Security Act,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 702. PROHIBITION OF DISCLOSURE OF METHODS FOR SELECTION OF TAX RETURNS FOR AUDITS.

(a) GENERAL RULE.—Paragraph (2) of section 6103(b) (defining return information) is amended by adding at the end thereof the following new sentence: "Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disclosures after July 19, 1981.

Subtitle B—Changes in Interest Rate for Overpayments and Underpayments

SEC. 711. CHANGES IN RATE OF INTEREST FOR OVERPAYMENTS AND UNDERPAYMENTS.

(a) ANNUAL ADJUSTMENT TO RATE OF INTEREST.—Subsection (b) of section 6621 (relating to adjustment of interest rate) is amended by striking out the last sentence thereof.

(b) RATE OF INTEREST TO BE BASED ON 100 PERCENT OF PRIME RATE.—Subsection (c) of section 6621 is amended by striking out "90 percent of".

(c) NEW RATE TO TAKE EFFECT ON JANUARY 1 OF EACH YEAR AFTER 1982.—Subsection (b) of section 6621 is amended by striking out "February 1" and inserting in lieu thereof "January 1".

(d) EFFECTIVE DATES.—

(1) FOR SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to adjustments made after the date of the enactment of this Act.

(2) FOR SUBSECTION (c).—The amendment made by subsection (c) shall apply to adjustments made for periods after 1982.

Subtitle C—Changes in Certain Penalties and in Requirements Relating to Returns

SEC. 721. CHANGES IN PENALTIES FOR FALSE INFORMATION WITH RESPECT TO WITHHOLDING.

(a) CIVIL PENALTY.—Section 6682 (relating to false information with respect to withholding allowances based on itemized deductions) is amended to read as follows:

"SEC. 6682. FALSE INFORMATION WITH RESPECT TO WITHHOLDING.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if—

"(1) any individual makes a statement under section 3402 which results in a decrease in the amounts deducted and withheld under chapter 24, and

"(2) as of the time such statement was made, there was no reasonable basis for such statement,

such individual shall pay a penalty of $500 for such statement.

"(b) EXCEPTION.—The Secretary may waive (in whole or in part) the penalty imposed under subsection (a) if the taxes imposed with respect to the individual under subtitle A for the taxable year are equal to or less than the sum of—

"(1) the credits against such taxes allowed by part IV of subchapter A of chapter 1, and

"(2) the payments of estimated tax which are considered payments on account of such taxes.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect to the assessment or collection of any penalty imposed by subsection (a)."

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6682 and inserting in lieu thereof the following:

"Sec. 6682. False information with respect to withholding."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and failures to act after December 31, 1981.

SEC. 722. ADDITIONS TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS, INCREASE IN NEGLIGENCE PENALTY.

(a) VALUATION OVERSTATEMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax) is amended by redesignating section 6659 as section 6660 and by inserting after section 6658 the following new section:

"SEC. 6659. ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS FOR PURPOSES OF THE INCOME TAX.

"(a) ADDITION TO THE TAX.—If—

"(1) an individual, or

"(2) a closely held corporation or a personal service corporation,

has an underpayment of the tax imposed by chapter 1 for the taxable year which is attributable to a valuation overstatement, then there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributable.

"(b) APPLICABLE PERCENTAGE DEFINED.—For purposes of subsection (a), the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is—
150 percent or more but not more than 200 percent	10
More than 200 percent but not more than 250 percent	20
More than 250 percent	30

"(c) VALUATION OVERSTATEMENT DEFINED.—

"(1) IN GENERAL.—For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return exceeds 150 percent of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

"(2) PROPERTY MUST HAVE BEEN ACQUIRED WITHIN LAST 5 YEARS.—This section shall not apply to any property which, as of the close of the taxable year for which there is a valuation overstatement, has been held by the taxpayer for more than 5 years.

"(d) UNDERPAYMENT MUST BE AT LEAST $1,000.—This section shall not apply if the underpayment for the taxable year attributable to the valuation overstatement is less than $1,000.

"(e) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation or adjusted basis claimed on the return and that such claim was made in good faith.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) UNDERPAYMENT.—The term 'underpayment' has the meaning given to such term by section 6653(c)(1).

"(2) CLOSELY HELD CORPORATION.—The term 'closely held corporation' means any corporation described in section 465(a)(1)(C).

"(3) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' means any corporation which is a service organization (within the meaning of section 414(m)(3))."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6659. Addition to tax in the case of valuation overstatements for purposes of the income tax.

"Sec. 6660. Applicable rules."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to returns filed after December 31, 1981.

(b) INCREASE IN NEGLIGENCE PENALTY.—

(1) IN GENERAL.—Subsection (a) of section 6653 (relating to failure to pay tax) is amended to read as follows:

"(a) NEGLIGENCE OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS WITH RESPECT TO INCOME, GIFT, OR WINDFALL PROFIT TAXES.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)(1)) of any tax imposed by subtitle A, by chapter 12 of subtitle B, or by chapter 45 (relating to windfall profit tax) is due to negligence or intentional disregard of rules or regulations (but without intent to defraud), there shall be added to the tax an amount equal to 5 percent of the underpayment.

"(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO NEGLIGENCE, ETC.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to the negligence or intentional disregard referred to in paragraph (1), and

"(B) for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 723. CHANGES IN REQUIREMENTS RELATING TO INFORMATION RETURNS.

(a) INCREASES IN PENALTIES FOR FAILURE TO FILE CERTAIN RETURNS OR FURNISH CERTAIN STATEMENTS.—

(1) CERTAIN RETURNS.—Paragraph (1) of section 6652(a) (relating to failure to file certain information returns, registration statements, etc.) is amended to read as follows:

"(1) to file a statement of the aggregate amount of payments to another person required by—

"(A) section 6041(a) or (b) (relating to certain information at source),

"(B) section 6042(a)(1) (relating to payments of dividends aggregating $10 or more),

"(C) section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more),

"(D) section 6049(a)(1) (relating to payments of interest aggregating $10 or more),

"(E) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(F) section 6051(d) (relating to information returns with respect to income tax withheld), or".

(2) CERTAIN STATEMENTS.—Section 6678 (relating to failure to furnish certain statements) is amended by striking out "or" at the end of paragraph (1), by inserting "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) to furnish a statement under—

"(A) section 6050A(b) (relating to statements furnished by certain fishing boat operators),

"(B) section 6050C (relating to information regarding windfall profit tax on crude oil),

"(C) section 6051 (relating to information returns with respect to income tax withheld) if the statement is required to be furnished to the employee, or

"(D) section 6053(b) (relating to statements furnished by employers with respect to tips),

on the date prescribed therefor to a person with respect to whom such a statement is required,".

(3) RETENTION OF EXISTING PENALTIES FOR FAILURE TO FILE CERTAIN STATEMENTS.—Subsection (b) of section 6652 is amended to read as follows:

"(b) OTHER RETURNS.—In the case of each failure to file a statement of a payment to another person required under the authority of—

"(1) section 6042(a)(2) (relating to payments of dividends aggregating less than $10),

"(2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10),

"(3) section 6049(a)(2) (relating to payments of interest aggregating less than $10), or

"(4) section 6049(a)(3) (relating to other payments of interest by corporations),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, $1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed $1,000."

(4) CLERICAL AMENDMENT.—The subsection heading of subsection (a) of section 6652 is amended by inserting "INFORMATION AT SOURCE," before "PAYMENTS OF DIVIDENDS".

(b) REQUIREMENT OF STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED ON PAYMENTS OF $600 OR MORE.—

(1) IN GENERAL.—Section 6041 (relating to information at source) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name, address, and identification number of the person making such return, and

"(2) the aggregate amount of payments to the person shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons making returns under subsection (b)."

(2) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Paragraph (1) of section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "6041(d)," before "6042(c)", and

(B) by inserting "6041(a)," before "6042(a)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements required to be furnished after December 31, 1981.

SEC. 724. PENALTY FOR OVERSTATED DEPOSIT CLAIMS.

(a) GENERAL RULE.—Subsection (b) of section 6656 (relating to failure to make deposit of taxes) is amended to read as follows:

"(b) OVERSTATED DEPOSIT CLAIMS.—

"(1) IMPOSITION OF PENALTY.—Any person who makes an overstated deposit claim shall be subject to a penalty equal to 25 percent of such claim.

"(2) OVERSTATED DEPOSIT CLAIM DEFINED.—For purposes of this subsection, the term 'overstated deposit claim' means the excess of—

"(A) the amount of tax under this title which any person claims, in a return filed with the Secretary, that such person has deposited in a government depositary under section 6302(c) for any period, over

"(B) the aggregate amount such person has deposited in a government depositary

under section 6302(c), for such period, on or before the date such return is filed.

"(3) PENALTY NOT IMPOSED IN CERTAIN CASES.—The penalty under paragraph (1) shall not apply if it is shown that the excess described in paragraph (2) is due to reasonable cause and not due to willful neglect.

"(4) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty under paragraph (1) shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 6656 is amended by inserting "or overstatement of deposits" after "taxes".

(2) The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6656 and inserting in lieu thereof the following:

"Sec. 6656. Failure to make deposit of taxes or overstatement of deposits."

(3) The heading of subsection (a) of section 6656 is amended by striking out "PENALTY" and inserting in lieu thereof "UNDERPAYMENT OF DEPOSITS".

(4)(A) Section 5684 (relating to penalties relating to the payment and collection of liquor taxes) is amended by striking out subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(B) Subsection (c) of section 5684, as redesignated by subparagraph (A), is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) For penalty for failure to make deposits or to overstate deposits, see section 6656."

(5) Section 5761 (relating to civil penalties) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) APPLICABILITY OF SECTION 6659.—The penalty imposed by subsection (b) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6659(a).

"(d) CROSS REFERENCES.—

"For penalty for failure to make deposits or to overstate deposits, see section 6656."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 725. DECLARATION OF ESTIMATED TAX NOT REQUIRED IN CERTAIN CASES.

(a) GENERAL RULE.— Section 6015 (relating to declaration of estimated tax by individuals) is amended by redesignating subsections (b) through (i) as subsections (c) through (j), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DECLARATION NOT REQUIRED IN CERTAIN CASES.—No declaration shall be required under subsection (a) if the estimated tax (as defined in subsection (d)) is less than the amount determined in accordance with the following table:

"In the case of taxable years beginning in:	The amount is:
1981	$100
1982	200
1983	300
1984	400
1985 and thereafter	500."

(b) NO PENALTY FOR FAILURE TO PAY ESTIMATED TAX IN CERTAIN CASES.—Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) EXCEPTION WHERE TAX IS SMALL AMOUNT.—

"(1) IN GENERAL.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than the amount determined under the following table:

"In the case of taxable years beginning in:	The amount is:
1981	$100
1982	200
1983	300
1984	400
1985 and thereafter	500."

"(2) SPECIAL RULE.—For purposes of subsection (b), the amount of any installment required to be paid shall be determined without regard to subsection (b) of section 6015."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (6) of section 871(g) is amended by striking out "6015(i)" and inserting in lieu thereof "6015(j)".

(2) Subsection (a) of section 6015 is amended by striking out the last sentence.

(3) Subsection (a) of section 6153 is amended by striking out "6015(c)" and inserting in lieu thereof "6015(d)".

(4) Subparagraph (A) of section 7701(a)(34) is amended by striking out "6015(c)" and inserting in lieu thereof "6015(d)".

(5) Subsection (g) of such section 6654 (as redesignated by subsection (b)) is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (f)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estimated tax for taxable years beginning after December 31, 1980.

Subtitle D—Cash Management

SEC. 731. CASH MANAGEMENT.

(a) IN GENERAL.—Paragraph (1) of section 6655(h) is amended to read as follows:

"(1) IN GENERAL.—In the case of a large corporation, paragraphs (1) and (2) of subsection (d) shall not apply."

(b) CLERICAL AMENDMENT.—The subsection heading of subsection (h) of section 6655 (relating to failure by corporations to pay estimated income tax) is amended by striking out "60 PERCENT" and inserting in lieu thereof "80 PERCENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Subtitle E—Financing of Railroad Retirement System

SEC. 741. INCREASES IN EMPLOYER AND EMPLOYEE TAXES.

(a) TAX ON EMPLOYEES.—Section 3201 (relating to rate of tax on employees) is amended by striking out all that precedes "the rate of the tax" and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 2.0 percent of so much of the compensation paid in any calendar month to such employee for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 for any month.

"(b) The rate of tax imposed by subsection (a) shall be increased by".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Subsection (a) of section 3211 (relating to tax on employee representatives) is amended by striking out "9.5" and inserting in lieu thereof "11.75".

(c) TAX ON EMPLOYERS.—The first sentence of section 3221(a) (relating to tax on employers) is amended by striking out "9.5" and inserting in lieu thereof "11.75".

(d) CONFORMING AMENDMENTS.—

(1) The last sentence of section 230(c) of the Social Security Act is amended—

(A) by inserting "employee and" before "employer",

(B) by striking out "section 3221(a)" and inserting in lieu thereof "sections 3201(a) and 3221(a)", and

(C) by striking out "9.5" and inserting in lieu thereof "11.75".

(2) Paragraph (1) of section 3231(e) (defining compensation) is amended by striking out "(iii)" and all that follows through "(iv)" and inserting in lieu thereof "or (iii)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to compensation paid for services rendered after September 30, 1981.

SEC. 742. ADVANCE TRANSFER OF AMOUNTS PAYABLE UNDER SOCIAL SECURITY FINANCIAL INTERCHANGE.

Section 15(b) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(b)" and by inserting at the end thereof the following new subdivision:

"(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Funds estimate will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of in-

terest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month."

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. RESTRICTED STOCK OPTIONS.

(a) Subsection (b) of section 424 (relating to restricted stock options) is amended—

(1) by striking out "(or, if it meets the requirements of subsection (c)(3), an option granted after December 31, 1963)," and inserting in lieu thereof ", an option which meets the requirements of subsection (c)(3) granted after December 31, 1963, and before January 1, 1981, or an option exercised or granted after December 31, 1980,",

(2) by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4), and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(5) in the case of an option exercised after December 31, 1980, under terms of the plan, the aggregate fair market value (determined as of the time the option is granted) of the stock for which any employee may be granted options in any calendar year (under all plans of his employer corporation and its parent and subsidiary corporations providing options qualifying under this subsection) shall not exceed $75,000.

Paragraph (5) shall apply only if stock in the employer corporation (or its parent or any subsidiary) is a marketable security (within the meaning of section 453(f)(2)).", and

(3) by adding at the end thereof the following new sentence:

"An option exercised after December 31, 1980, shall not fail to qualify as a restricted stock option merely because the employee may pay for the stock with property (including stock of the employer corporation or of its parent or subsidiary corporation) if such property is taken into account at its fair market value (at the time of the exercise of the option)."

(b) Paragraph (3) of section 424(c) (relating to certain options granted after December 31, 1963) is amended by striking out the last sentence.

(c) Paragraph (6) of section 57(a) (defining items of tax preference) is amended by striking out "or a restricted stock option (as defined in section 424(b))".

(d) AFTER EMPLOYMENT CEASES.—Subsection (a) of section 424 (relating to restricted stock options) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (B), in the case of an employee who is disabled (within the meaning of section 105(d)(4)), the 3-month period shall be 1 year."

(e)(1) The amendments made by this section shall apply to options granted after May 21, 1976, and exercised after December 31, 1980.

(2) In the case of an option which—

(A) is granted before January 1, 1981, and

(B) is not a qualified option (within the meaning of section 422 of the Internal Revenue Code of 1954),

the corporation granting such option may elect not to have the amendments made by this section apply. Such election shall be made not later than 6 months after the date of the enactment of this Act and, once made, may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(3) In the case of an option granted after May 21, 1976, and outstanding on the date of the enactment of this Act, paragraph (1) of section 425(h) of the Internal Revenue Code of 1954 shall not apply to any change in the terms of such option (or the terms of the plan under which granted) made within 1 year after such date of enactment to permit such option to qualify as a restricted stock option. The preceding sentence shall apply to an option only if, after such change, the option meets the requirements of section 424(b)(5) of such Code.

SEC. 802. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) TWO-YEAR EXTENSION OF ELECTION.—Subsection (a) of section 604 of the Tax Reform Act of 1976 is amended by striking out "January 1, 1981," and inserting in lieu thereof "January 1, 1983,".

(b) TREATMENT OF DEEMED EXPENDITURES.—Subsection (a) of section 604 of the Tax Reform Act of 1976 is amended—

(1) by striking out "and" at the end of paragraph (1), and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of—

"(A) the amount generally allowable with respect to such day to employees of the executive branch the State of which he is a legislator for per diem while away from home but serving in the United States, to the extent such amount does not exceed 110 percent of the amount described in subparagraph (B) with respect to such day, or

"(B) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States, and

"(3) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day."

(c) SECTION NOT TO APPLY TO LEGISLATORS WHOSE DISTRICT RESIDENCE IS 50 OR FEWER MILES FROM THE CAPITOL.—Section 604 of the Tax Reform Act of 1976 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SECTION NOT TO APPLY TO LEGISLATORS WHO RESIDE NEAR CAPITOL.—Subsection (a) shall not apply to any legislator whose place of residence within the legislative district which he represents is 50 or fewer miles from the capitol building of the State."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning on or after January 1, 1973.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1980.

SEC. 803. TAX EXEMPT FINANCING FOR VEHICLES USED FOR MASS COMMUTING.

(a) GENERAL RULE.—Paragraph (4) of section 103(b) (relating to industrial development bonds) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) qualified mass commuting vehicles."

(b) DEFINITION OF QUALIFIED MASS COMMUTING VEHICLES.—Subsection (b) of section 103 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) QUALIFIED MASS COMMUTING VEHICLES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(I), the term 'qualified mass commuting vehicle' means any bus, subway car, rail car, or similar equipment—

"(i) which is leased to a mass transit system wholly owned by 1 or more governmental units (or agencies or instrumentalities thereof), and

"(ii) which is used by such system in providing mass commuting services.

"(B) TERMINATION.—Paragraph (4)(I) shall not apply to any obligation issued after December 31, 1984."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 804. ADJUSTMENTS TO NEW JOBS CREDIT.

(a) EXTENSION.—Paragraph (4) of section 51(c) (defining wages) is amended to read as follows:

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1984."

(b) INCREASE IN AMOUNT OF WAGES FOR WHICH CREDIT ALLOWED.—Paragraph (4) of section 51(b) (defining qualified wages) is amended by striking out "$6,000" each place it appears and inserting in lieu thereof "$10,000".

(c) TREATMENT OF ECONOMICALLY DISADVANTAGED YOUTHS.—

(1) LOWER AGE LIMITATION.—Subparagraph (B) of section 51(d)(3) (relating to age requirements) is amended to read as follows:

"(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subparagraph—

"(i) if such individual has attained age 18 but not 25 on the hiring date, or

"(ii) if—

"(I) such individual has attained age 16 but not age 18 on the hiring date, and

"(II) such individual has not terminated his education before the hiring date other than after graduation from a high school or vocational school."

(2) SPECIAL RULES FOR USE IN QUALIFIED COOPERATIVE EDUCATIONAL PROGRAMS.—Paragraph (8) of section 51(d) (defining youth participating in a qualified cooperative education program) is amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) IN GENERAL.—The term 'youth participating in a qualified cooperative education program' means any individual who is certified by the school participating in the program as—

"(i) having attained age 16 and not having attained age 20,

"(ii) not having graduated from a high school or vocational school,

"(iii) being enrolled in and actively pursuing a qualified cooperative education program, and

"(iv) being a member of an economically disadvantaged family (as determined under paragraph (9)).

Clause (iv) shall not apply in the case of an individual participating in a program described in subparagraph (B)(ii).

"(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term 'qualified cooperative education program' means a program of—

"(i) vocational education, or

"(ii) special education for handicapped children (as defined in section 602(1) of the Education of the Handicapped Act (20 U.S.C. 1401)),

pursuant to which individuals (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alternation of study and school with a job in any occupational field (but only if these 2 experiences are planned by the school and employer so that each contributes to the student's education and employability).

"(C) QUALIFIED SCHOOL DEFINED.—The term 'qualified school' means—

"(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market or for the provision of special education to handicapped children (as defined in section 602(1) of the Education of the Handicapped Act),

"(ii) the department of a high school exclusively or principally used for providing education described in clause (i), or

"(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a)."

(d) LATE CERTIFICATIONS NOT PERMITTED.—Subsection (d) of section 51 (defining members of targeted groups) is amended by adding at the end thereof the following new paragraph:

"(13) LATE CERTIFICATIONS.—No certification of any individual by the designated local agency shall be taken into account under this subsection unless—

"(A) such certification was made before the 30th day after the hiring date, or

"(B) the employer requested the designated local agency to make a certification with respect to such individual before such 30th day."

(e) WIN REGISTRANTS ELIGIBLE FOR NEW JOBS CREDIT.—

(1) Paragraph (1) of section 51(d) is amended by striking out "or" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(H) a WIN registrant."

(2) Subsection (d) of section 51 is amended by redesignating paragraphs (9), (10), (11), (12), and (13) as paragraphs (10), (11), (12), (13), and (14), respectively, and by inserting after paragraph (8) the following new paragraph:

"(9) WIN REGISTRANT.—The term 'WIN registrant' means any individual who is certified by the designated local agency as—

"(A) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance for any period of not less than 90 days ending within the preemployment period, or

"(B) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act."

(3) Subsection (a) of section 50B (defining work incentive program expenses) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—The term 'work incentive program expenses' shall not include any amount paid or incurred by the taxpayer in a taxable year beginning after December 31, 1981."

(4) Paragraph (3) of section 51(c) is hereby repealed.

(5) Paragraphs (3)(A)(ii), (4)(C), and (7)(B) of section 51(d) are each amended by striking out "paragraph (9)" and inserting in lieu thereof "paragraph (10)".

(f) ELIMINATION OF AGE REQUIREMENT APPLICABLE TO VIETNAM VETERANS.—Paragraph (4) of section 51(d) (defining Vietnam veteran who is a member of an economically disadvantaged family) is amended by inserting "and" at the end of subparagraph (B), by striking out ", and" at the end of subparagraph (C) and inserting in lieu thereof a period, and by striking out subparagraph (D).

(g) REPEAL OF PROVISION LIMITING FIRST-YEAR WAGES TO 30 PERCENT OF FUTA WAGES.—

(1) Subsection (e) of section 51 is hereby repealed.

(2) Subsection (f) of section 51 is amended—

(A) by striking out paragraph (3), and

(B) by striking out "any year" in paragraphs (1) and (2) and inserting in lieu thereof "any taxable year".

(h) OTHER TECHNICAL AMENDMENTS.—

(1) DEFINITION OF MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILY.—Paragraph (10) of section 51(d), as redesignated by subsection (e)(2), is amended to read as follows:

"(10) MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—An individual is a member of an economically disadvantaged family if the designated local agency determines that such individual was a member of a family which had income (during the 6 months immediately preceding the month in which such determination is made) which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard. Any such determination shall be valid for the 45-day period beginning on the day on which it was made."

(2) CERTIFICATIONS MADE BY STATE EMPLOYMENT SECURITY AGENCIES.—Paragraph (13) of section 51(d) (defining designated local agency), as redesignated by subsection (e)(2), is amended to read as follows:

"(13) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means the State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n). Each designated local agency shall take such steps (through sample techniques or otherwise) as may be appropriate to ensure that certifications made by such agency under this section are reasonably accurate."

(3) UNITED STATES EMPLOYMENT SERVICE TO NOTIFY EMPLOYERS.—Subsection (g) of section 51 is amended by striking out "the Secretary of Labor" each place it appears (including in the subsection heading) and inserting in lieu thereof "the United States Employment Service".

(4) NO CREDIT FOR RELATED INDIVIDUALS.—Section 51 is amended by adding at the end thereof the following new subsection:

"(i) INELIGIBLE INDIVIDUALS.—No credit shall be allowed under subsection (a) with respect to amounts paid or incurred to any individual who—

"(1) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 276(c)),

"(2) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

"(3) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust."

(5) CLARIFICATION OF HIRING DATE RULE.—Paragraph (12) of section 51(d) (defining hiring date), as redesignated by subsection (e)(2), is amended by inserting "first" before "hired".

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1981, in taxable years ending after such date.

(2) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1981.

(3) SUBSECTION (b).—The amendment made by subsection (b) shall apply in the case of an individual who began work for the employer before January 1, 1982, but only—

(A) for purposes of determining the amount of the qualified second-year wages (as defined in section 51(b)(3) of the Internal Revenue Code of 1954 paid to such individual), and

(B) if the one-year period described in such section with respect to such individual begins after December 31, 1981.

(4) SUBSECTIONS (d) AND (h)(1).—The amendments made by subsections (d) and (h)(1) shall apply to certifications made after July 16, 1981.

(5) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 1981.

(B) TRANSITIONAL RULE.—In the case of WIN registrants (as defined in section 51(d)(9) of the Internal Revenue Code of 1954 as added by this section), subsections (a) and (b) of section 51 of such Code shall be applied for taxable years beginning after December 31, 1981, as if such registrants had been members of a targeted group for taxable years beginning before January 1, 1982.

(6) SUBSECTION (g).—The amendments made by subsection (g) shall apply to taxable years beginning after December 31, 1981.

SEC. 805. EXTENSION OF PROHIBITION OF ISSUANCE OF FRINGE BENEFIT REGULATIONS.

Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95–427), is amended by striking out "May 31, 1981" each place it appears and inserting in lieu thereof "May 31, 1983".

SEC. 806. EXTENSION OF RULES FOR COMMUTING EXPENSES.

Section 2 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95–427), is amended by striking out

"May 31, 1981" and inserting in lieu thereof "May 31, 1983".

SEC. 807. FIVE-YEAR EXTENSION OF TREATMENT OF LOW-INCOME HOUSING WITH RESPECT TO AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

The table contained in subsection (b) of section 189 (relating to amortization of real property construction period interest and taxes) is amended by striking out the column which appears under the heading "Low-income housing" and inserting in lieu thereof the following new column:

"....
1987
1988
1989
1990
1991
1992
after 1992".

SEC. 808. PAYMENTS TO THE GOVERNMENTS OF GUAM AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—The Secretary of the Treasury is authorized to make separate payments to the government of Guam and the government of the Virgin Islands. The payment to the government of a particular possession shall be in an amount equal to the loss to that possession with respect to tax returns for taxable years beginning after December 31, 1981, by reason of title I of this Act. Such amount shall be determined by the Secretary of the Treasury upon certification to the Secretary by the United States Government Comptrollers for Guam and the Virgin Islands.

(b) AUTHORIZATION.—There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.

SEC. 809. DEDUCTION FOR MOTOR CARRIER OPERATING AUTHORITY.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1954, in computing the taxable income of a taxpayer who, on July 1, 1980, held one or more motor carrier operating authorities, an amount equal to the aggregate adjusted basis of all motor carrier operating authorities held by the taxpayer on July 1, 1980, or acquired subsequent thereto pursuant to a binding contract in effect on July 1, 1980, shall be allowed as a deduction ratably over a period of 60 months. Such 60-month period shall begin with the month of July 1980 (or if later, the month in which acquired), or at the election of the taxpayer, the first month of the taxpayer's first taxable year beginning after July 1, 1980.

(b) DEFINITION OF MOTOR CARRIER OPERATING AUTHORITY.—For purposes of this section, the term "motor carrier operating authority" means a certificate or permit held by a motor common or contract carrier of property and issued pursuant to subchapter II of chapter 109 of title 49 of the United States Code.

(c) SPECIAL RULES.—

(1) ADJUSTED BASIS.—For purposes of the Internal Revenue Code of 1954, proper adjustments shall be made in the adjusted basis of any motor carrier operating authority held by the taxpayer on July 1, 1980, for the amounts allowable as a deduction under this section.

(2) CERTAIN STOCK ACQUISITIONS.—

(A) IN GENERAL.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

(i) a corporation, on or before July 1, 1980 (or after such date pursuant to a binding contract in effect on such date), acquired, directly or indirectly, stock in a corporation which held any motor carrier operating authority at the time of such acquisition, and

(ii) would have been able to allocate to the basis of such authority that portion of the taxpayer's cost basis in such stock attributable to such authority if the taxpayer had received such authority in the liquidation of such corporation immediately following such acquisition and such allocation would have been proper under section 334(b)(2) of such Code.

the holder of the authority may, for purposes of this section, allocate a portion of the basis of the acquiring corporation in the stock of the acquired corporation to the basis of such authority in such manner as the Secretary may prescribe in such regulations.

(B) ADJUSTMENT TO BASIS.—The taxpayer shall make proper adjustment to basis of the stock described in subparagraph (A) to take into account any allocation under such subparagraph.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after June 30, 1980.

SEC. 810. PROPERTY TRANSFERRED TO EMPLOYEES SUBJECT TO CERTAIN RESTRICTIONS.

(a) GENERAL RULE.—Paragraph (1) of section 83(c) (defining substantial risk of forfeiture) is amended to read as follows:

"(1) SUBSTANTIAL RISKS OF FORFEITURE.—The rights of a person and property are subject to a substantial risk of forfeiture if—

"(A) such person's rights to full enjoyment of such property are conditioned upon the just performance of substantial services by any individual, or

"(B) the sale of such property at a profit could subject such person to suit under section 16(b) of the Securities Act of 1934."

(b) SPECIAL RULE FOR CERTAIN ACCOUNTING RULES.—For purposes of section 83 of the Internal Revenue Code of 1954, property is subject to substantial risk of forfeiture if such property is subject to a restriction on transfer to comply with the "Pooling-of-Interests Accounting" rules set forth in Accounting Series Release Numbered 130 ((10/5/72) 37 FR 20937; 17 CFR 211.130) and Accounting Series Release Numbered 135 ((1/18/73) 38 FR 1734; 17 CFR 211.135).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) and the provisions of subsection (b) shall apply to taxable years ending after June 30, 1969.

(2) ELECTION REQUIRED FOR YEARS BEGINNING BEFORE 1982.—The amendments made by this section shall apply in the case of a taxable year beginning before January 1, 1982, only if the person to whom the property is transferred elects (in such manner as the Secretary of the Treasury or his delegate shall prescribe) to have such amendments apply.

SEC. 811. TAX EXEMPTION FOR INTEREST ON OBLIGATIONS OF VOLUNTEER FIRE DEPARTMENTS.

(a) IN GENERAL.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) OBLIGATIONS OF CERTAIN VOLUNTEER FIRE DEPARTMENTS.—

"(1) IN GENERAL.—An obligation of a volunteer fire department shall be treated as an obligation of a political subdivision of a State if—

"(A) such department is a qualified volunteer fire department with respect to an area within the jurisdiction of such political subdivision, and

"(B) such obligation is issued as part of an issue substantially all of the proceeds of which are to be used for the acquisition, construction, reconstruction, or improvement of qualified firefighting property used or to be used by such department.

"(2) QUALIFIED VOLUNTEER FIRE DEPARTMENT.—For purposes of this subsection, the term 'qualified volunteer fire department' means, with respect to a political subdivision of a State, any organization—

"(A) which is organized and operated to provide firefighting services for persons in an area (within the jurisdiction of such political subdivision) which is not provided with any other firefighting services,

"(B) which is required (by agreement or otherwise) by the political subdivision to furnish firefighting services in such area,

"(C) which receives over half of the funds for outfitting its members and providing and maintaining its qualified firefighting property from the political subdivision, and

"(D) which makes no charge for its firefighting services.

"(3) QUALIFIED FIREFIGHTING PROPERTY.—For purposes of this subsection, the term 'qualified firefighting property' means property—

"(A) which is of a character subject to the allowance for depreciation, and

"(B) the principal use of which is (i) the training for the performance of, or the performance of, firefighting or ambulance services, or

"(ii) to house the property described in clause (i)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued after December 31, 1968.

TITLE IX—LOANS TO STATE UNEMPLOYMENT FUNDS

SEC. 901. ADJUSTMENTS TO PROVISIONS WHICH INCREASE FEDERAL UNEMPLOYMENT TAX IN STATES WITH OUTSTANDING LOANS.

(a) LIMITATIONS ON CREDIT REDUCTION IN CERTAIN CASES.—Section 3302 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsections:

"(f) LIMITATION ON CREDIT REDUCTION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—In the case of any State which meets the requirements of paragraph (2) with respect to any taxable year, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers subject to the unemployment compensation law of such State shall not exceed the greater of—

"(i) the reduction which was in effect with respect to such State under subsection (c)(2) for the preceding taxable year, or

"(ii) 0.6 percent of the wages paid by the taxpayer during such taxable year which are attributable to such State.

"(B) SPECIAL RULE WHERE LIMITATION EXCEEDS 1 PERCENT OF WAGES.—If—

"(i) a State meets the requirements of paragraph (2) with respect to any taxable year, and

"(ii) the unadjusted subparagraph (A)(i) limitation for such taxable year exceeds 1 percent of the wages paid during such taxable year which are attributable to such State (hereinafter in this subparagraph referred to as 'State wages'),

then the amount determined under clause (i) of subparagraph (A) for such taxable

year shall not exceed the unadjusted subparagraph (A)(i) limitation reduced (but not below 1 percent of the State wages paid during such taxable year) by 0.3 percent of the State wages paid during such taxable year.

"(C) UNADJUSTED SUBPARAGRAPH (A)(i) LIMITATION.—For purposes of subparagraph (B) the unadjusted subparagraph (A)(i) limitation for any taxable year is the amount determined under clause (i) of subparagraph (A) for such taxable year without regard to the application of subparagraph (B) to such taxable year.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines (on or before November 10 of such taxable year) that—

"(A) during the 12-month period ending on September 30 of such taxable year—

"(i) no State action was taken which has resulted or will result in a reduction in such State's unemployment tax effort (as defined by the Secretary of Labor in regulations), and

"(ii) no State action was taken which has resulted or will result in a net decrease in the solvency of the State unemployment system (as defined by the Secretary of Labor by regulations), and

"(B) the State unemployment tax rate for the taxable year equals or exceeds the average benefit cost ratio for calendar years in the 5-calendar year period ending with the last calendar year before the taxable year.

"(3) ALTERNATIVE RULE FOR TAXABLE YEARS 1981, 1982, AND 1983.—

"(A) IN GENERAL.—A State shall be treated as meeting the requirements of subparagraph (B) of paragraph (2) with respect to a taxable year 1981, 1982, or 1983 if such State meets the requirements of subparagraph (B) of this paragraph for such taxable year.

"(B) ALTERNATIVE REQUIREMENT.—A State meets the requirements of this paragraph with respect to any taxable year if the Secretary of Labor determines (on or before November 10 of such taxable year) that—

"(i) the State unemployment tax rate for such taxable year equals or exceeds the percentage set forth in clause (i) of subparagraph (C) of the average State unemployment tax rate for such year for all States, and

"(ii) the State has enacted legislation after December 31, 1979, which increased the total State unemployment taxes for such taxable year by an amount which is not less than the amount determined by applying the percentage set forth in clause (ii) of subparagraph (C) to the taxes which would have been imposed for such taxable year without such legislation.

"(C) REQUIRED PERCENTAGES.—For purposes of subparagraph (B)—

"(i) The percentage set forth in this clause is—

"(I) 125 percent in the case of taxable year 1981,

"(II) 140 percent in the case of taxable year 1982, and

"(III) 150 percent in the case of taxable year 1983.

"(ii) The percentage set forth in this clause is—

"(I) 30 percent in the case of taxable year 1981,

"(II) 40 percent in the case of taxable year 1982, and

"(III) 50 percent in the case of taxable year 1983.

"(D) ONLY STATE TAXES TAKEN INTO ACCOUNT.—For purposes of this paragraph, the rules of paragraph (6)(B) shall not apply.

"(4) CREDIT REDUCTIONS FOR SUBSEQUENT YEARS.—If the credit reduction under subsection (c)(2) is limited by reason of paragraph (1) of this subsection for any taxable year (hereinafter in this paragraph referred to as the 'capped year'), for purposes of applying subsection (c)(2) to subsequent taxable years, the capped year (and January 1 thereof) shall not be taken into account.

"(5) SPECIAL RULES FOR STATE ACTION REQUIREMENTS.—For purposes of clauses (i) and (ii) of paragraph (2)(A)—

"(A) RULE FOR TAXABLE YEAR 1981.—In the case of taxable year 1981, any State action taken pursuant to legislation enacted before January 1, 1981, shall not be taken into account.

"(B) TAXABLE YEARS AFTER 1981.—In the case of any taxable year beginning after 1981—

"(i) any change in tax rates (or limitation on the amount of wages subject to contribution) under the State law from that in effect for the prior taxable year, and

"(ii) any credit against (or other reduction in) the State unemployment tax allowed for such taxable year which is determined by reference to any increase in the tax imposed by this chapter by reason of subsection (c)(2),

shall be treated as State action taken during the 12-month period referred to in subparagraph (A) of paragraph (2) whether or not pursuant to legislation enacted before such 12-month period. Clause (ii) shall not apply for any taxable year unless subsection (g) (relating to credit reduction not made when State makes certain repayments) is in effect for such year.

"(6) STATE UNEMPLOYMENT TAX RATE.—For purposes of this subsection—

"(A) IN GENERAL.—The State unemployment tax rate for any taxable year is the percentage obtained by dividing—

"(i) the total amount of contributions paid into the State unemployment fund with respect to such taxable year, by

"(ii) the total amount of the remuneration subject to contributions under the State unemployment compensation law with respect to such taxable year (determined without regard to any limitation on the amount of wages subject to contribution under the State law).

"(B) TREATMENT OF ADDITIONAL TAX UNDER THIS CHAPTER.—

"(i) TAXABLE YEARS BEFORE 1984.—In the case of any taxable year beginning before 1984, any additional tax imposed under this chapter with respect to any State by reason of subsection (c)(2) shall be treated as contributions paid into the State unemployment fund with respect to such taxable year.

"(ii) TAXABLE YEAR 1984.—In the case of taxable year 1984, any additional tax imposed under this chapter with respect to any State by reason of subsection (c)(2) shall (to the extent such additional tax is attributable to a credit reduction in excess of 0.6 of wages attributable to such State) be treated as contributions paid into the State unemployment fund with respect to such taxable year.

"(iii) TREATMENT OF CERTAIN LUMP-SUM PAYMENTS—Rules similar to the rules of clauses (i) and (ii) shall apply with respect to any repayment taken into account for purposes of determining whether a State meets the requirements of paragraph (2)(A)(i) of subsection (g).

"(7) BENEFIT COST RATIO.—For purposes of this subsection—

"(A) IN GENERAL.—The benefit cost ratio for any calendar year is the percentage determined by dividing—

"(i) the sum of the total of the compensation paid under the State unemployment compensation law during such calendar year and any interest paid during such calendar year on advances made to the State under title XII of the Social Security Act, by

"(ii) the total amount of the remuneration subject to contributions under the State unemployment compensation law with respect to such calendar year (determined without regard to any limitation on the amount of remuneration subject to contribution under the State law).

"(B) REIMBURSABLE BENEFITS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), compensation shall not be taken into account to the extent—

"(i) the State is entitled to reimbursement for such compensation under the provisions of any Federal law, or

"(ii) such compensation is attributable to services performed for a reimbursing employer.

"(C) REIMBURSING EMPLOYER.—The term 'reimbursing employer' means any governmental entity or other organization (or group of governmental entities or any other organizations) which makes reimbursements in lieu of contributions to the State unemployment fund.

"(D) SPECIAL RULES FOR YEARS BEFORE 1985.—

"(i) TAXABLE YEARS BEFORE 1983.—For purposes of determining whether a State meets the requirements of paragraph (2)(B) with respect to any taxable year before 1983, only regular compensation (as defined in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970) shall be taken into account for purposes of determining the benefit cost ratio for any preceding calendar year.

"(ii) TAXABLE YEAR 1983.—For purposes of determining whether a State meets the requirements of paragraph (2)(B) for taxable year 1983, only regular benefits (as so defined) shall be taken into account for purposes of determining the benefit ratio for any preceding calendar year before 1982.

"(iii) TAXABLE YEAR 1984.—For purposes of determining whether a State meets the requirements of paragraph (2)(B) for taxable year 1984, only regular benefits (as so defined) shall be taken into account for purposes of determining the benefit ratio for any preceding calendar year before 1981.

"(E) ROUNDING.—If any percentage determined under subparagraph (A) is not a multiple of .1 percent, such percentage shall be reduced to the nearest multiple of .1 percent.

"(8) REPORTS.—The Secretary of Labor may, by regulations, require a State to furnish such information at such time and in such manner as may be necessary for purposes of this subsection or subsection (g).

"(9) DEFINITIONS AND SPECIAL RULES.—The definitions and special rules set forth in subsection (d) shall apply to this subsection in the same manner as they apply to subsection (c).

"(g) CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.—

"(1) IN GENERAL.—In the case of any State which meets the requirements of paragraph (2) with respect to any taxable year, subsection (c)(2) shall not apply to such taxable year. Except as provided in subsection (f)(4), such taxable year (and January 1 of such

taxable year) shall be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines that—

"(A) the repayments during the 1-year period ending on September 30 of such taxable year made by such State of advances under title XII of the Social Security Act are not less than the sum of—

"(i) the potential additional taxes for such taxable year, and

"(ii) any advances made to such State during such 1-year period under such title XII, and

"(B) there will be sufficient amounts in the State unemployment fund to pay all compensation during the 3-month period beginning on October 1 of such taxable year without receiving any advance on or after such October 1 under title XII of the Social Security Act.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) POTENTIAL ADDITIONAL TAXES.—The term 'potential additional taxes' means, with respect to any State for any taxable year, the aggregate amount of the additional tax which would be payable under this chapter (subject to the limitation of subsection (g)) for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection.

"(B) TREATMENT OF CERTAIN REDUCTIONS.—Any reduction in the State's balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State.

"(C) SPECIAL RULE FOR TAXABLE YEARS 1981 AND 1982.—In the case of taxable year 1981 and 1982, paragraph (2)(A) shall be applied as if it did not contain clause (ii) thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

SEC. 2. INTEREST ON LOANS MADE TO STATE UNEMPLOYMENT FUNDS.

(a) GENERAL RULE.—Section 1202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b)(1) Except as otherwise provided in this subsection, each State shall pay interest on any advance made to such State under section 1201. Interest so payable with respect to periods during any calendar year shall be at the rate determined under paragraph (4) for such calendar year.

"(2) No interest shall be required to be paid under paragraph (1) with respect to any advance made during any calendar year if—

"(A) such advance is repaid in full before the close of September 30 of the calendar year in which the advance was made,

"(B) no other advance was made to such State under section 1201 during such calendar year and after the date on which the repayment of the advance was completed.

"(3)(A) Interest payable under paragraph (1) which was attributable to periods during any fiscal year shall be paid by the State to the Secretary of the Treasury not later than the first day of the following fiscal year. If interest is payable under paragraph (1) on any advance (hereinafter in this subparagraph referred to as the 'first advance') by reason of another advance made to such State after September 30 of the calendar year in which the first advance was made, interest on such first advance attributable to periods before such September 30 shall be paid not later than the day after the date on which the other advance was made.

"(B) Notwithstanding subparagraph (A), in the case of any advance made during the last 6 months of any fiscal year, interest on such advance attributable to periods during such fiscal year shall not be required to be paid before the last day of the succeeding taxable year. Any interest the time for payment of which is deferred by the preceding sentence shall bear interest in the same manner as if it were an advance made on the day on which it would have been required to be paid but for this subparagraph.

"(4) The interest rate determined under this paragraph with respect to any calendar year is a percentage (but not in excess of 10 percent) determined by dividing—

"(A) the aggregate amount credited under section 904(e) to State accounts on the last day of the last calendar quarter of the immediately preceding calendar year, by

"(B) the aggregate of the average daily balances of the State accounts for such quarter as determined under section 904(e).

"(5) Interest required to be paid under paragraph (1) shall not be paid (directly or indirectly) by a State from amounts in its unemployment fund.

"(6)(A) For purposes of paragraph (2), any voluntary repayment shall be applied against advances made under section 1201 on a last made first repaid basis. Any other repayment of such an advance shall be applied against advances on a first made first repaid basis.

"(B) For purposes of this paragraph, the term 'voluntary repayment' means any repayment made under subsection (a).

"(C) Notwithstanding subparagraph (B), the term 'voluntary repayment' shall not include any repayment taken into account for purposes of determining whether a State meets the requirements of paragraph (2)(A)(i) of section 3302(g) of the Internal Revenue Code of 1954 (relating to credit reduction not to apply when States make certain repayments).

"(7)(A) Notwithstanding any other provision of this subsection, interest shall not be payable by any State on any advance with respect to periods during any calendar year if—

"(i) there was no reduction in credits under subsection (c)(2) of section 3302 of the Internal Revenue Code of 1954 for the calendar year with respect to taxpayers subject to the unemployment compensation law of such State, and

"(ii) on or before September 30 of such taxable year the Secretary of Labor determines that the State unemployment tax rate for such taxable year equals or exceeds 150 percent of the average State unemployment tax rate for such year for all States.

"(B) For purposes of subparagraph (A), a State unemployment tax rate shall be determined under section 3302(f) of the Internal Revenue Code of 1954 without regard to paragraph (6)(B) thereof.

"(8) No interest for periods before January 1, 1989, shall be payable under paragraph (1) with respect to any advance made before October 1, 1982."

(b) DENIAL OF ADMINISTRATIVE GRANTS WHERE STATES DO NOT PAY INTEREST.—

(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with administration of State law, finds that there is the failure to comply substantially with the requirements of section 1202(b) of this Act, the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer such failure. Until the Secretary of Labor is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State."

(2) Paragraph (2) of section 304(a) of such Act is amended by striking out "or (e)" and inserting in lieu thereof "(e), or (f)".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 1201 of such Act is amended by striking out "without interest" and inserting in lieu thereof "with interest computed in accordance with section 1202(b)".

(2) Section 1202 of such Act is amended by striking out "SEC. 1202." and inserting in lieu thereof "SEC. 1202. (a)".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out title IX of the bill and amend the table of contents accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 10 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, this is a technical amendment that has the support of the Ways and Means Committee. It proposes to strike title IX of the Ways and Means Committee bill relating to loans to State unemployment funds. This provision has already been adopted in the reconciliation conference. The Ways and Means Committee agreed that should the provisions contained in title IX be adopted in the reconciliation conference, that this amendment would be offered to strike the title from the tax bill.

□ 1400

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I thank the Chair, and I would say that we have no objection to this amendment.

I will, however, yield 2 minutes from my own time to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, this is the section in the committee bill which relates to unemployment compensation generally, and specifically to the penalties which States are supposed to pay when they have borrowed against the unemployment compensation fund of the Federal Govern-

ment, and not made timely repayments.

What has happended is that a number of our States—regrettably, some of the largest, with the most assets, highest evaluations, and greatest tax sources—have borrowed, interest free from the Federal Government to pay for their own State unemployment compensation benefits.

That borrowing has caused Federal taxpayers to have to pay what I estimate to be about $600 million in this fiscal year, and perhaps as much as $1 billion in the next fiscal year. Those States themselves pay no interest on their borrowings. They do not increase the taxes on the companies that are supposed to pay taxes to support those unemployment compensation benefits. There is no incentive for them to do so.

The amendment which has been accepted in the reconciliation bill will probably be some improvement both over what we are striking in this bill and what now exists in present law. Therefore I support the chairman's amendment.

But, in my judgment, the States will still not be under enough pressure to put their houses in order. As long as the taxpayers are carrying them on a subsidy, there is no reason for them to give up the Federal crutch. Your constituents and mine are obliged to carry these costs because State legislators have recklessly raised unemployment compensation benefits without showing a similar willingness to raise taxes.

The feature which is being eliminated from this bill by the committee amendment is picked up in slightly different form in the reconciliation bill. It will be a slight improvement over the current law, but in my judgment it provides insufficient incentive for States to pay off their obligation. I fear that the taxpayers will be obliged to continue to bear this burden for many years in the future.

Mr. Chairman, Congress could have done better, but I think it is a shame that we did not. Nevertheless the amendment shall be passed.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the gentleman from Minnesota (Mr. FRENZEL) will agree that this amendment is a step toward a permanent solution of this rather deep-seated and serious problem, and that it is appropriate at this time, in view of the resolution in the Budget Reconciliation Act, for title IX to be stricken.

For that purpose, Mr. Chairman, I recommend adoption of the amendment.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment in the nature of a substitute which has been made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The amendment in the nature of a substitute reads as follows:

Amendment in the nature of a substitute offered by Mr. UDALL: Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction and Reform Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Tax Reductions

SEC. 101. RATE CUTS.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following tables:

"(1) FOR 1982.—

"If taxable income is:	The tax is:
Not over $3,800	No tax.
Over $3,800 but not over $5,900.	$0, plus 13% of excess over $3,800.
Over $5,900 but not over $8,000.	$273, plus 15% of excess over $5,900.
Over $8,000 but not over $12,300.	$588, plus 17% of excess over $8,000.
Over $12,300 but not over $16,400.	$1,319, plus 21% of excess over $12,300.
Over $16,400 but not over $20,600.	$2,180, plus 23% of excess over $16,400.
Over $20,600 but not over $25,000.	$3,146, plus 27% of excess over $20,600.
Over $25,000 but not over $30,300.	$4,334, plus 30% of excess over $25,000.
Over $30,300 but not over $35,600.	$5,924, plus 36% of excess over $30,300.
Over $35,600 but not over $46,200.	$7,832, plus 42% of excess over $35,600.
Over $46,200 but not over $60,400.	$12,284, plus 48% of excess over $46,200.
Over $60,400 but not over $86,000.	$19,100, plus 54% of excess over $60,400.
Over $86,000 but not over $109,800.	$32,924, plus 58% of excess over $86,000.
Over $109,800 but not over $162,800.	$46,728, plus 64% of excess over $109,800.
Over $162,800 but not over $215,800.	$80,648, plus 67% of excess over $162,800.
Over $215,800	$116,158, plus 68% of excess over $215,800.

"(2) FOR 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $3,800	No tax.
Over $3,800 but not over $5,900.	$0, plus 12% of excess over $3,800.
Over $5,900 but not over $8,000.	$252, plus 14% of excess over $5,900.
Over $8,000 but not over $12,300.	$546, plus 17% of excess over $8,000.
Over $12,300 but not over $16,400.	$1,277, plus 20% of excess over $12,300.
Over $16,400 but not over $20,600.	$2,097, plus 23% of excess over $16,400.
Over $20,600 but not over $25,000.	$3,063, plus 27% of excess over $20,600.
Over $25,000 but not over $30,300.	$4,251, plus 29% of excess over $25,000.
Over $30,300 but not over $35,600.	$5,788, plus 35% of excess over $30,300.
Over $35,600 but not over $46,200.	$7,643, plus 41% of excess over $35,600.
Over $46,200 but not over $60,400.	$11,989, plus 48% of excess over $46,200.
Over $60,400 but not over $86,000.	$18,805, plus 53% of excess over $60,400.
Over $86,000 but not over $109,800.	$32,373, plus 58% of excess over $86,000.
Over $109,800 but not over $162,800.	$46,177, plus 63% of excess over $109,800.
Over $162,800	$79,567, plus 67% of excess over $162,800.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following tables:

"(1) FOR 1982.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $4,600.	$0, plus 13% of excess over $2,500.
Over $4,600 but not over $6,700.	$273, plus 15% of excess over $4,600.
Over $6,700 but not over $8,900.	$588, plus 18% of excess over $6,700.
Over $8,900 but not over $12,000.	$984, plus 21% of excess over $8,900.
Over $12,000 but not over $15,200.	$1,635, plus 24% of excess over $12,000.
Over $15,200 but not over $18,400.	$2,403, plus 25% of excess over $15,200.
Over $18,400 but not over $23,700.	$3,203, plus 31% of excess over $18,400.
Over $23,700 but not over $29,000.	$4,846, plus 35% of excess over $23,700.
Over $29,000 but not over $34,300.	$6,701, plus 41% of excess over $29,000.
Over $34,300 but not over $44,900.	$8,874, plus 46% of excess over $34,300.
Over $44,900 but not over $60,800.	$13,750, plus 53% of excess over $44,900.
Over $60,800 but not over $82,000.	$22,177, plus 59% of excess over $60,800.
Over $82,000 but not over $108,500.	$34,685, plus 62% of excess over $82,000.
Over $108,500 but not over $161,500.	$51,115, plus 67% of excess over $108,500.
Over $161,500	$86,625, plus 68% of excess over $161,500.

"(2) FOR 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $4,600.	$0, plus 12% of excess over $2,500.
Over $4,600 but not over $6,700.	$252, plus 14% of excess over $4,600.
Over $6,700 but not over $8,900.	$546, plus 17% of excess over $6,700.
Over $8,900 but not over $12,000.	$920, plus 21% of excess over $8,900.
Over $12,000 but not over $15,200.	$1,571, plus 23% of excess over $12,000.
Over $15,200 but not over $18,400.	$2,307, plus 25% of excess over $15,200.
Over $18,400 but not over $23,700.	$3,107, plus 30% of excess over $18,400.
Over $23,700 but not over $29,000.	$4,697, plus 35% of excess over $23,700.
Over $29,000 but not over $34,300.	$6,552, plus 40% of excess over $29,000.
Over $34,300 but not over $44,900.	$8,672, plus 45% of excess over $34,300.
Over $44,900 but not over $60,800.	$13,442, plus 53% of excess over $44,900.
Over $60,800 but not over $82,000.	$21,869, plus 58% of excess over $60,800.
Over $82,000 but not over $108,500.	$34,165, plus 62% of excess over $82,000.

"If taxable income is:	The tax is:
Over $108,500	$50,595, plus 67% of excess over $108,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following tables:

"(1) FOR 1982.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $3,600.	$0, plus 13% of excess over $2,500.
Over $3,600 but not over $4,600.	$143, plus 15% of excess over $3,600.
Over $4,600 but not over $6,700.	$293, plus 18% of excess over $4,600.
Over $6,700 but not over $8,700.	$671, plus 19% of excess over $6,700.
Over $8,700 but not over $11,000.	$1,051, plus 20% of excess over $8,700.
Over $11,000 but not over $13,100.	$1,511, plus 24% of excess over $11,000.
Over $13,100 but not over $15,200.	$2,015, plus 25% of excess over $13,100.
Over $15,200 but not over $18,400.	$2,540, plus 30% of excess over $15,200.
Over $18,400 but not over $23,700.	$3,500, plus 33% of excess over $18,400.
Over $23,700 but not over $29,000.	$5,249, plus 38% of excess over $23,700.
Over $29,000 but not over $34,300.	$7,263, plus 44% of excess over $29,000.
Over $34,300 but not over $41,700.	$9,595, plus 48% of excess over $34,300.
Over $41,700 but not over $55,500.	$13,147, plus 54% of excess over $41,700.
Over $55,500 but not over $82,000.	$20,599, plus 62% of excess over $55,500.
Over $82,000 but not over $108,500.	$37,029, plus 67% of excess over $82,000.
Over $108,500	$54,784, plus 68% of excess over $108,500.

"(2) FOR 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,500	No tax.
Over $2,500 but not over $3,600.	$0, plus 12% of excess over $2,500.
Over $3,600 but not over $4,600.	$132, plus 14% of excess over $3,600.
Over $4,600 but not over $6,700.	$272, plus 17% of excess over $4,600.
Over $6,700 but not over $8,700.	$629, plus 18% of excess over $6,700.
Over $8,700 but not over $11,000.	$989, plus 20% of excess over $8,700.
Over $11,000 but not over $13,100.	$1,449, plus 23% of excess over $11,000.
Over $13,100 but not over $15,200.	$1,932, plus 25% of excess over $13,100.
Over $15,200 but not over $18,400.	$2,457, plus 29% of excess over $15,200.
Over $18,400 but not over $23,700.	$3,385, plus 32% of excess over $18,400.
Over $23,700 but not over $29,000.	$5,081, plus 38% of excess over $23,700.
Over $29,000 but not over $34,300.	$7,095, plus 43% of excess over $29,000.
Over $34,300 but not over $41,700.	$9,374, plus 48% of excess over $34,300.
Over $41,700 but not over $55,500.	$12,926, plus 54% of excess over $41,700.
Over $55,500 but not over $82,000.	$20,378, plus 62% of excess over $55,500.
Over $82,000	$36,808, plus 67% of excess over $82,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following tables:

"(1) FOR 1982.—

"If taxable income is:	The tax is:
Not over $1,900	No tax.
Over $1,900 but not over $2,950.	$0, plus 13% of excess over $1,900.
Over $2,950 but not over $4,000.	$136, plus 15% of excess over $2,950.
Over $4,000 but not over $6,150.	$294, plus 17% of excess over $4,000.
Over $6,150 but not over $8,200.	$659, plus 21% of excess over $6,150.
Over $8,200 but not over $10,300.	$1,090, plus 23% of excess over $8,200.
Over $10,300 but not over $10,500.	$1,573, plus 27% of excess over $10,300.
Over $12,500 but not over $15,150.	$2,167, plus 30% of excess over $12,500.
Over $15,150 but not over $17,800.	$2,962, plus 36% of excess over $15,150.
Over $17,800 but not over $23,100.	$3,916, plus 42% of excess over $17,800.
Over $23,100 but not over $30,200.	$6,142, plus 48% of excess over $23,100.
Over $30,200 but not over $43,000.	$9,550, plus 54% of excess over $30,200.
Over $43,000 but not over $54,900.	$16,462, plus 58% of excess over $43,000.
Over $54,900 but not over $81,400.	$23,364, plus 64% of excess over $54,900.
Over $81,400 but not over $107,900.	$40,324, plus 67% of excess over $81,400.
Over $107,900	$58,079, plus 68% of excess over $107,900.

"(2) FOR 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Over $1,900	No tax.
Over $1,900 but not over $2,950.	$0, plus 12% of excess over $1,900.
Over $2,950 but not over $4,000.	$126, plus 14% of excess over $2,950.
Over $4,000 but not over $6,150.	$273, plus 17% of excess over $4,000.
Over $6,150 but not over $8,200.	$638, plus 20% of excess over $6,150.
Over $8,200 but not over $10,300.	$1,048, plus 23% of excess over $8,200.
Over $10,300 but not over $12,500.	$1,531, plus 27% of excess over $10,300.
Over $12,500 but not over $15,150.	$2,125, plus 29% of excess over $12,500.
Over $15,150 but not over $17,800.	$2,894, plus 35% of excess over $15,150.
Over $17,800 but not over $23,100.	$3,821, plus 41% of excess over $17,800.
Over $23,100 but not over $30,200.	$5,994, plus 48% of excess over $23,100.
Over $30,200 but not over $43,000.	$9,402, plus 53% of excess over $30,200.
Over $43,000 but not over $54,900.	$16,186, plus 58% of excess over $43,000.
Over $54,900 but not over $81,400.	$23,088, plus 63% of excess over $54,900.
Over $81,400	$39,783, plus 67% of excess over $81,400.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following tables:

"(1) FOR 1982.—

"If taxable income is:	The tax is:
Not over $1,050	$0, plus 13% of taxable income.
Over $1,050 but not over $2,100.	$136, plus 15% of excess over $1,050.
Over $2,100 but not over $4,250.	$294, plus 17% of excess over $2,100.
Over $4,250 but not over $6,300.	$659, plus 21% of excess over $4,250.
Over $6,300 but not over $8,400.	$1,090, plus 23% of excess over $6,300.
Over $8,400 but not over $10,600.	$1,573, plus 27% of excess over $8,400.
Over $10,600 but not over $13,250.	$2,167, plus 30% of excess over $10,600.
Over $13,250 but not over $15,900.	$2,962, plus 36% of excess over $13,250.
Over $15,900 but not over $21,200.	$3,916, plus 42% of excess over $15,900.
Over $21,200 but not over $28,300.	$6,142, plus 48% of excess over $21,200.
Over $28,300 but not over $41,100.	$9,550, plus 54% of excess over $28,300.
Over $41,100 but not over $53,000.	$16,462, plus 58% of excess over $41,100.
Over $53,000 but not over $79,500.	$23,364, plus 64% of excess over $53,000.
Over $79,500 but not over $106,000.	$40,324, plus 67% of excess over $79,500.
Over $106,000	$58,079, plus 68% of excess over $106,000.

"(2) FOR 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $1,050	$0, plus 12% of taxable income.
Over $1,050 but not over $2,100.	$126, plus 14% of excess over $1,050.
Over $2,100 but not over $4,250.	$273, plus 17% of excess over $2,100.
Over $4,250 but not over $6,300.	$638, plus 20% of excess over $4,250.
Over $6,300 but not over $8,400.	$1,048, plus 23% of excess over $6,300.
Over $8,400 but not over $10,600.	$1,531, plus 27% of excess over $8,400.
Over $10,600 but not over $13,250.	$2,125, plus 29% of excess over $10,600.
Over $13,250 but not over $15,900.	$2,894, plus 35% of excess over $13,250.
Over $15,900 but not over $21,200.	$3,821, plus 41% of excess over $15,900.
Over $21,200 but not over $28,300.	$5,994, plus 48% of excess over $21,200.
Over $28,300 but not over $41,100.	$9,402, plus 53% of excess over $28,300.
Over $41,100 but not over $53,000.	$16,186, plus 58% of excess over $41,100.
Over $53,000 but not over $79,500.	$23,088, plus 63% of excess over $53,000.
Over $79,500	$39,783, plus 67% of excess over $79,500.

"(f) COORDINATION WITH SECTION 21.—For purposes of section 21, if for any calendar year there is a change in rates under the preceding subsections of this section, the effective date of such change shall be treated as the first day of the calendar year."

(b) WITHHOLDING TABLES.—

(1) DETERMINATION OF WITHHOLDING.—Section 3402(a) (relating to requirement of withholding income tax at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—

"(1) IN GENERAL.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall—

"(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

"(B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.

"(2) AMOUNT OF WAGES.—For purposes of applying tables or procedures prescribed under paragraph (1), the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption. The amount of each withholding exemption shall be equal to the amount of one personal exemption provided in section 151(b), prorated to the payroll period. The maximum number of withholding exemptions permitted shall be calculated in accordance with regulations prescribed by the Secretary under this section.

"(3) CHANGES MADE BY SECTION 101 OF THE TAX REDUCTION AND REFORM ACT OF 1981.—For purposes of paragraph (1)(B), the Secretary shall treat—

"(A) the period beginning on July 1, 1982, and ending on June 30, 1983, and

"(B) the period after June 30, 1983,

as separate periods."

(2) WAGES PAID FOR PERIOD LESS THAN 1 WEEK.—Section 3402(b) (relating to the percentage method of withholding) is amended—

(A) by striking out paragraph (1), and redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by amending paragraph (3) (as redesignated by subparagraph (A)) to read as follows:

"(3) In any case in which the period, or the time described in paragraph (2), in respect of any wages is less than one week, the Secretary, under regulations prescribed by him, may authorize an employer to compute the tax to be deducted and withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period."

(3) ZERO BRACKET AMOUNT.—Paragraph (1)(G) of section 3402(f) (relating to withholding exemptions) is amended by inserting "(or more than one exemption if so prescribed by the Secretary)" after "one exemption".

(4) CHANGES IN WITHHOLDING.—Section 3402(i) (relating to additional withholding) is amended to read as follows:

"(i) CHANGES IN WITHHOLDING.—

"(1) IN GENERAL.—The Secretary may by regulations provide for increases or decreases in the amount of withholding otherwise required under this section in cases where the employee requests such changes.

"(2) TREATMENT AS TAX.—Any increased withholding under paragraph (1) shall for all purposes be considered tax required to be deducted and withheld under this chapter."

(5) WITHHOLDING ALLOWANCES.—Subsection (m) of section 3402 (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(m) WITHHOLDING ALLOWANCES.—Under regulations prescribed by the Secretary, an employee shall be entitled to additional withholding allowances or additional reductions in withholding under this subsection. In determining the number of additional withholding allowances or the amount of additional reductions in withholding under this subsection, the employee may take into account (to the extent and in the manner provided by such regulations)—

"(1) estimated itemized deductions allowable under chapter 1 (other than the deductions referred to in section 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62) (other than paragraph (13) thereof),

"(2) estimated tax credits allowable under chapter 1, and

"(3) such additional deductions and other items as may be specified by the Secretary in regulations."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (b) shall apply to remuneration paid after June 30, 1982, except that the amendment made by subsection (b)(5) shall apply to remuneration paid after December 31, 1981.

SEC. 102. INCREASE IN ZERO BRACKET AMOUNT, ETC.

(a) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended—

(1) by striking out "$3,400" and inserting in lieu thereof "$3,800",

(2) by striking out "$2,300" and inserting in lieu thereof "$2,500", and

(C) by striking out "$1,700" and inserting in lieu thereof "$1,900".

(b) FILING REQUIREMENTS.—

(1) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(A) by striking out "$3,300" and inserting in lieu thereof "$3,500",

(B) by striking out "$4,400" and inserting in lieu thereof "$4,800", and

(C) by striking out "$5,400" and inserting in lieu thereof "$5,800".

(2) Paragraph (9) of section 6012(a) is amended by striking out "$2,700" and inserting in lieu thereof "$2,900".

(c) AMENDMENT OF SECTION 402(e)(1).—Subparagraph (C) of section 402(e)(1) (relating to tax on lump-sum distributions) is amended by striking out "$2,300" and inserting in lieu thereof "$2,500".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 103. PERSONAL EXEMPTIONS INCREASED TO $1,100.

(a) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$1,100".

(b) FILING REQUIREMENTS.—

(1) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income), as amended by section 102 of this Act, is amended by striking out "$1,000", "$3,500", "$4,800", and "$5,800" each place they appear and inserting in lieu thereof "$1,100", "$3,600", "$4,900", and "$6,000", respectively.

(2) Subparagraph (A) of section 6013(b)(3) (relating to assessment and collection in case of returns of husband and wife) is amended by striking out "$1,000" and "$2,000" each place they appear and inserting in lieu thereof "$1,100" and "$2,200", respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Subtitle B—Increase in Earned Income Credit; Deduction for Two-Earner Married Couples; Etc.

SEC. 121. INCREASE IN THE EARNED INCOME TAX CREDIT.

(a) INCREASE IN CREDIT.—Subsection (a) of section 43 (relating to earned income credit) is amended by striking out "10 percent" and inserting in lieu thereof "11 percent".

(b) INCREASE IN PHASEOUT.—

(1) IN GENERAL.—Subsection (b) of section 43 (relating to limitation) is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $550, over

"(2) 13.75 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $7,000."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (f)(2) of section 43 is amended—

(i) by striking out "$10,000" each place it appears and inserting in lieu thereof "$11,000", and

(ii) by striking out "$6,000" and inserting in lieu thereof "$7,000".

(B) Paragraph (2) of section 3507(c) (relating to earned income advance amount tables) is amended—

(i) by striking out "10 percent" each place it appears and inserting in lieu thereof "11 percent",

(ii) by striking out "$6,000 and $10,000" and inserting in lieu thereof "$7,000 and $11,000", and

(iii) by striking out "$3,000 and $5,000" and inserting in lieu thereof "$3,500 and $7,000".

"(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1981.

(2) AMENDMENTS OF SECTION 3507.—The amendments made by subsection (b)(2)(B) shall apply to remuneration paid after December 31, 1981.

SEC. 122. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

"(a) DEDUCTION ALLOWED.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 10 percent of the lesser of—

"(1) $30,000, or

"(2) the qualified earned income of the spouse with the lower qualified earned income for such taxable year.

In the case of a taxable year beginning in 1982, the preceding sentence shall be applied by substituting '5 percent' for '10 percent'.

"(b) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), (9), (10), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws.

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of the net profits of such trade or business'.

"(c) DEDUCTION DISALLOWED FOR INDIVIDUAL CLAIMING BENEFITS OF SECTION 911 OR 931.—No deduction shall be allowed under this section for any taxable year if either

spouse claims the benefits of section 911 or 931 for such taxable year."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income), as amended by section 142 of this Act, is amended by inserting after paragraph (15) the following new paragraph:

"(16) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 221."

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 85 (relating to unemployment compensation) is amended by striking out "and without regard to section 105(d)" and inserting in lieu thereof ", section 105(d) and section 221".

(2) Subsection (d)(3) of section 105 (relating to amounts received under accident and health plans) is amended by inserting "and section 221" after "subsection" the first place it appears.

(3) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following new items:

"Sec. 221. Deduction for two-earner married couples.

"Sec. 222. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 123. INCREASES IN CREDIT ALLOWABLE FOR EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT.

(a) INCREASE IN PERCENTAGE OF EXPENSES ALLOWED AS CREDIT.—Subsection (a) of section 44A (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below 20 percent) by 1 percentage point for each full $1,000 by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000."

(b) INCREASES IN DOLLAR LIMITS ON AMOUNT CREDITABLE.—

(1) IN GENERAL.—Subsection (d) of section 44A (relating to dollar limit on amount creditable) is amended—

(A) by striking out "$2,000" and inserting in lieu thereof "$2,400", and

(B) by striking out "$4,000" and inserting in lieu thereof "$4,800".

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 44A(e) (relating to earned income limitation) is amended—

(A) by striking out "$166" and inserting in lieu thereof "$200", and

(B) by striking out "$333" and inserting in lieu thereof "$400".

(c) CREDIT ALLOWED FOR CERTAIN SERVICES OUTSIDE THE TAXPAYER'S HOUSEHOLD.—Subparagraph (B) of section 44A(c)(2) is amended to read as follows:

"(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of—

"(i) a qualifying individual described in paragraph (1)(A), or

"(ii) a qualifying individual (not described in paragraph (1)(A)) who regularly spends at least 8 hours each day in the taxpayer's household."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 124. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) TWO-YEAR EXTENSION OF ELECTION.—Subsection (a) of section 604 of the Tax Reform Act of 1976 is amended by striking out "January 1, 1981," and inserting in lieu thereof "January 1, 1983,".

(b) TREATMENT OF DEEMED EXPENDITURES.—Subsection (a) of section 604 of the Tax Reform Act of 1976 is amended—

(1) by striking out "and" at the end of paragraph (1), and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of—

"(A) the amount generally allowable with respect to such day to employees of the executive branch the State of which he is a legislator for per diem while away from home but serving in the United States, to the extent such amount does not exceed 110 percent of the amount described in subparagraph (B) with respect to such day, or

"(B) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States, and

"(3) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day."

(c) SECTION NOT TO APPLY TO LEGISLATORS WHOSE DISTRICT RESIDENCE IS 50 OR FEWER MILES FROM THE CAPITOL.—Section 604 of the Tax Reform Act of 1976 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SECTION NOT TO APPLY TO LEGISLATORS WHO RESIDE NEAR CAPITOL.—Subsection (a) shall not apply to any legislator whose place of residence within the legislative district which he represents is 50 or fewer miles from the capitol building of the State."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning on or after January 1, 1973.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1980.

TITLE II—BUSINESS PROVISIONS

Subtitle A—Depreciation Reform

SEC. 201. EXPENSE-METHOD DEPRECIATION FOR PERSONAL PROPERTY.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. 168. EXPENSE-METHOD DEPRECIATION.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the basis of each expense-method property placed in service by the taxpayer during the taxable year.

"(b) EXPENSE-METHOD PROPERTY DEFINED.—Except as otherwise provided in this section, for purposes of this title, the term 'expense-method property' means tangible property—

"(1) which is of a character subject to the allowance for depreciation,

"(2) which is—

"(A) personal property,

"(B) other property (not including a building and its structural components) but only so long as it meets the requirements of clause (i), (ii), or (iii) of section 1245(a)(3)(B), or

"(C) a storage facility used in connection with the distribution of oil, gas, or any primary product of oil or gas, and

"(3) which is placed in service by the taxpayer after December 31, 1980.

"(c) FLEXIBILITY.—

"(1) IN GENERAL.—The taxpayer may elect to have all (or any portion) of the basis of any expense-method property—

"(A) not taken into account under subsection (a), but

"(B) depreciable under the rules of section 167(t).

"(2) SPECIAL RULE FOR TRANSITION.—An election under this subsection may apply only with respect to the portion of the basis of any expense-method property to which this section applies (determined after the application of paragraphs (1) and (2) of subsection (g)).

"(3) ELECTION.—An election under this subsection shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which the property is placed in service. Such election shall be made in such manner as the Secretary may by regulations prescribe. Any such election may not be revoked except with the consent of the Secretary.

"(d) CERTAIN PROPERTY EXCLUDED FROM DEFINITION OF EXPENSE-METHOD PROPERTY.—For purposes of this section—

"(1) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—The term 'expense-method property' does not include property which, during the taxable year, is used predominantly outside the United States (within the meaning of paragraph (2) of section 48(a)).

"(2) NONCORPORATE LESSORS.—

"(A) IN GENERAL.—In the case of a person other than a corporation, the term 'expense-method property' includes property with respect to which the taxpayer is the lessor only if the requirements of subparagraph (A) or (B) of section 46(e)(3) are met with respect to such property.

"(B) CORPORATE PARTNERS.—In the case of any property of which a partnership is the lessor, subparagraph (A) shall not apply with respect to such property in the case of any partner which is a corporation.

"(C) SPECIAL RULES FOR CERTAIN CORPORATIONS.—For purposes of this paragraph, the term 'corporation' does not include—

"(i) an electing small business corporation (as defined in section 1371),

"(ii) a personal holding company (as defined in section 542), and

"(iii) any service organization (as defined in section 414(m)(3)).

"(3) PROPERTY FOR WHICH INVESTMENT CREDIT NOT ALLOWABLE UNDER PRIOR LAW.—The term 'expense-method property' does not include any property which, if it had been placed in service before January 1,

1981, would have been excluded from the definition of section 38 property under—

"(A) paragraph (3) of section 48(a) (relating to property used for lodging),

"(B) paragraph (4) of section 48(a) (relating to property used by certain tax-exempt organizations), or

"(C) paragraph (5) of section 48(a) (relating to property used by governmental units).

"(4) PUBLIC UTILITY PROPERTY.—The term 'expense-method property' does not include—

"(A) any public utility property with a present class life of more than 18 years, and

"(B) in the case of a taxpayer which is regulated on a rate of return basis, any public utility property with a present class life of 18 years or less unless the taxpayer uses a normalization method of accounting (within the meaning of section 168A(d)(2)(B)) with respect to such property.

"(5) PROPERTY ACQUIRED AT DEATH.—The term 'expense-method property' does not include any property the basis of which in the hands of the taxpayer is determined under section 1014(a).

"(6) CERTAIN LIVESTOCK.—

"(A) IN GENERAL.—The term 'expense-method property' does not include any livestock (determined under section 1231(b)(3) without regard to the period for which held by the taxpayer) unless the taxpayer elects to treat such livestock as expense-method property.

"(B) LIMITATION IN THE CASE OF HORSES.—In the case of a horse, an election under subparagraph (A) shall only apply to so much of the basis of the horse as does not exceed $100,000.

"(7) RAILROAD TANK CARS.—The term 'expense-method property' does not include any railroad tank car.

"(8) OIL PIPELINES.—The term 'expense-method property' does not include any oil pipeline.

"(9) CERTAIN FILMS.—The term 'expense-method property' does not include any qualified film (as defined in section 48(k)(1)(B)).

"(e) COORDINATION WITH SECTION 1245.—In the case of any disposition of expense-method property—

"(1) the excess referred to in paragraph (1) of section 1245(a) shall be determined as if such paragraph did not contain subparagraph (A) thereof,

"(2) paragraph (1) of section 1245(b) shall not apply, and

"(3) paragraph (3) of section 1245(b) (and paragraph (5) of section 1245(b) to the extent it relates to such paragraph (3)) shall not apply unless the transfer is in a transaction to which section 381(a) applies.

"(f) DEFINITIONS AND SPECIAL RULES.—

"(1) DISPOSITIONS WITHIN 1 YEAR AFTER PROPERTY PLACED IN SERVICE.—The term 'expense-method property' does not include any property disposed of by the taxpayer before the date 1 year after the date on which such property was placed in service.

"(2) PROPERTY WHICH CEASES TO BE EXPENSE-METHOD PROPERTY.—If any expense-method property for which a deduction was allowable to the taxpayer under this section ceases to be expense-method property with respect to the taxpayer (other than by disposition)—

"(A) the taxpayer shall be treated as having disposed of such property on the date of such cessation, and

"(B) the basis of such property in the hands of the taxpayer after the date of such cessation shall be treated as equal to its fair market value as of such date.

"(3) PUBLIC UTILITY PROPERTY.—For purposes of this section, the term 'public utility property' has the meaning given to such term by section 167(l)(3)(A).

"(4) PRESENT CLASS LIFE.—The present class life of any property is the class life (if any) which would be applicable to such property as of January 1, 1981, under subsection (m) of section 167 (determined without regard to any regulation, ruling, or announcement published by the Secretary after such date, and as if the taxpayer had made an election under such subsection).

"(5) COORDINATION WITH SECTION 453.—The Secretary shall prescribe regulations to the extent he determines such regulations are necessary to prevent undue benefits from combining the benefits of this section with the benefits of section 453.

"(6) BASIS.—For purposes of this section, the basis of any property shall be the adjusted basis provided in section 1011 for purposes of determining the gain on the sale or other disposition of such property.

"(7) LIFE TENANTS AND BENEFICIARIES OF TRUSTS AND ESTATES.—Rules similar to the rules of section 167(h) shall apply for purposes of this section.

"(8) TRANSFEREE BOUND BY TRANSFEROR'S TREATMENT OF PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of expense-method property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—For purposes of subparagraph (A), the transactions described in this subparagraph are—

"(i) any transaction of property if the basis of such property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of section 332, 351, 361, 371(a), 374(a), 721, or 731,

"(ii) any acquisition where the transferor and transferee are related persons (other than a transaction to which section 334(b)(2) applies), and

"(iii) any acquisition of property by any person if such person acquired the property from another person and leases it back to such other person (or a person related to such other person).

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations prescribed by the Secretary, expense-method property which is disposed of and then reacquired by the taxpayer shall be treated, for purpose of computing the deduction allowable under subsection (a), as if such property had not been disposed of.

"(D) RELATED PERSON DEFINED.—For purposes of this paragraph, a person is related to another person if—

"(i) the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(ii) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent'.

"(g) TRANSITIONAL RULES.—

"(1) IMMEDIATE EXPENSING FOR FIRST $25,000 OF PROPERTY.—

"(A) IN GENERAL.—The taxpayer may designate items of expense-method property which shall be deductible under subsection (a) without regard to the rules of paragraphs (2) and (3) of this subsection.

"(B) LIMITATION.—The aggregate bases of expense-method property which are placed in service during any taxable year and which are designated under subparagraph (A) shall not exceed $25,000.

"(2) ONLY CERTAIN PORTION OF PROPERTY TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Except in the case of property designated by the taxpayer under paragraph (1), this section (other than subsection (e)) shall apply only to the applicable percentage of the basis of expense-method property of the taxpayer placed in service before 1985.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"In the case of property placed in service during:	The applicable percentage is:
1981	20
1982	40
1983	60
1984	80.

"(3) HALF-YEAR CONVENTION.—

"(A) IN GENERAL.—Except in the case of property designated by the taxpayer under paragraph (1), the deduction for any expense-method property placed in service before 1990 shall be allowed for the taxable year in which placed in service and for the succeeding taxable year in accordance with the following table:

"In the case of property placed in service:	The following percentage of the deduction with respect to the property shall be allowed:	
	For the taxable year in which placed in service:	For the succeeding taxable year:
After 1980 and before 1986	50	50
During 1986	60	40
During 1987	70	30
During 1988	80	20
During 1989	90	10

"(B) DEDUCTION.—For purposes of subparagraph (A), the term 'deduction' means, with respect to any property, the amount allowable as a deduction under subsection (a) with respect to such property for the taxable year in which such property is placed in service (determined without regard to this paragraph but with regard to paragraph (2)).

"(4) SPECIAL RULES FOR DESIGNATIONS UNDER PARAGRAPH (1).—

"(A) DESIGNATION.—

"(i) IN GENERAL.—A designation under subparagraph (A) of paragraph (1) shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which the property is placed in service. The designation shall be made in such manner as the Secretary may by regulations prescribe. Any such designation may not be revoked except with the consent of the Secretary.

"(ii) DESIGNATION APPLIES TO ENTIRE BASIS.—A designation under subparagraph (A) of paragraph (1) shall apply to the entire basis of the property being designated, except that the designation may apply

to a portion of the basis of one item if (but for this exception) the designation of such item would result in the limitation of subparagraph (B) of paragraph (1) being exceeded.

"(B) PARAGRAPH (1) NOT TO APPLY TO ESTATES AND TRUSTS.—Paragraph (1) shall not apply to estates and trusts.

"(C) DOLLAR LIMITATION FOR CONTROLLED GROUP.—For purposes of paragraph (1)—

"(i) all component members of a controlled group shall be treated as one taxpayer, and

"(ii) the Secretary shall apportion the dollar limitation of subparagraph (B) of paragraph (1) among the component members of such controlled group in such manner as he shall by regulations prescribe.

"(D) CONTROLLED GROUP DEFINED.—For purposes of subparagraph (C), the term 'controlled group' has the meaning assigned to it by section 1563(a), except that, for such purposes, the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(E) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.—In the case of a partnership, the dollar limitation of subparagraph (B) of paragraph (1) shall apply with respect to the partnership and with respect to each partner.

"(F) MARRIED INDIVIDUALS.—In the case of a separate return by a married individual (within the meaning of section 143), the dollar limitation of subparagraph (B) of paragraph (1) shall be $12,500 in lieu of $25,000.

"(G) TRANSITIONAL RULE.—In the case of any taxable year which begins before January 1, 1981, and ends after December 31, 1980, the dollar limitation of subparagraph (B) of paragraph (1) shall be an amount which bears the same ratio to the amount which (but for this subparagraph) would be such limitation, as—

"(i) the number of months in such taxable year beginning after December 31, 1980, bears to

"(ii) 12.

A similar rule shall also apply in the case of a short taxable year beginning after December 31, 1980.

"(5) SPECIAL RULES FOR TRANSITION PERIOD.—

"(A) INVESTMENT TAX CREDIT ALLOWED FOR REMAINING BASIS.—

"(i) IN GENERAL.—Paragraph (11) of section 48(a) shall not apply to that portion of the basis of any expense-method property to which this section does not apply (hereinafter in this paragraph referred to as the 'remaining basis').

"(ii) CLARIFICATION OF LIMIT ON USED PROPERTY.—For purposes of section 48(c)(2), the cost of any used section 38 property shall not include the portion of the cost of such property to which this section applies.

"(B) DEPRECIATION DEDUCTION ALLOWED.—The depreciation deduction provided by section 167 shall apply to the remaining basis without regard to the second sentence of section 167(a). For purposes of computing such deduction, the taxpayer may use a useful life which has a variance up or down of not more than 20 percent (rounded to the nearest half year) from the present class life for such property (whether or not the taxpayer has made an election under section 167(m)).

"(6) TRANSITIONAL RULES DO NOT APPLY TO SHORT LIFE PROPERTY.—This subsection shall not apply to any expense-method property which, without regard to this section, would have been depreciable over a period of less than 2 years.

"(7) RRB REPLACEMENT PROPERTY GETS IMMEDIATE EXPENSING.—This subsection shall not apply to any property described in section 48(a)(9)."

(b) AMENDMENTS TO INVESTMENT TAX CREDIT.—

(1) TERMINATION OF REGULAR PERCENTAGE.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) EXPENSE-METHOD PROPERTY.—For purposes of applying the regular percentage, the term 'section 38 property' shall not include any expense-method property (as defined in section 168). The preceding sentence shall not apply to any property described in paragraph (9) placed in service before 1985."

(2) USEFUL LIFE FOR PURPOSES OF ENERGY PERCENTAGE, ETC.—The second sentence of paragraph (2) of section 46(c) (relating to applicable percentage) is amended by inserting before the period at the end thereof the following: "; except that, in the case of expense-method property, the useful life shall be the class life (as defined in section 167(t)(3)(B)) for such property (or if there is no such class life for such property, a useful life determined on the facts and circumstances)".

(c) CERTAIN STORAGE FACILITIES TREATED AS SECTION 1245 PROPERTY.—Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) a storage facility used in connection with the distribution of oil, gas, or any primary product of oil or gas."

(d) EXPENSE-METHOD DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of expense-method property (as defined in section 168), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section."

(e) REPEAL OF TAX PREFERENCE FOR ACCELERATED DEPRECIATION OF LEASED PERSONAL PROPERTY.—

(1) Paragraph (3) of section 57(a) is hereby repealed.

(2) The second to the last sentence of section 57(a) is amended by striking out "Paragraphs (3) and (11)" and inserting in lieu thereof "Paragraph (11)".

(f) TREATMENT OF EXPENSE-METHOD DEDUCTION WITH RESPECT TO ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Subsection (d) of section 183 (relating to activities not engaged in for profit) is amended by adding at the end thereof the following: "For purposes of this subsection and subsection (e)(2), in the case of expense-method property (as defined in section 168), there shall be substituted for the deductions under section 168 the deductions which would be allowed for each taxable year if section 167 had applied and if the taxpayer had applied the double declining balance method using a useful life determined under the rules of section 167(t)(1)."

(g) TREATMENT OF PROPERTY DEPRECIATED UNDER RETIREMENT-REPLACEMENT-BETTERMENT METHOD.—

(1) 5-YEAR AMORTIZATION OF EXISTING ADJUSTED BASIS.—

(A) IN GENERAL.—The adjusted basis of RRB property as of December 31, 1980, shall be depreciated using—

(i) a useful life (selected by the taxpayer) of not less than 5 years and not more than 50 years, and

(ii) a method (selected by the taxpayer) described in section 167(b) of the Internal Revenue Code of 1954.

(B) TAXPAYER TO SELECT METHODS AND USEFUL LIFE.—The taxpayer may select the useful life and the method described in section 167(b) of such Code to be used for purposes of subparagraph (A). Except with the consent of the Secretary or as provided in section 167(e) of the Internal Revenue Code of 1954, such selection, once made, shall be irrevocable.

"(C) SIMILAR RULE TO APPLY TO PROPERTY EXCLUDED FROM EXPENSE-METHOD DEPRECIATION DURING PHASE-IN.—The portion of any RRB property placed in service in any taxable year beginning before 1985 which is not expense-method property by reason of subsection (g) of section 168 of the Internal Revenue Code of 1954 shall be depreciated using—

"(i) the useful life selected by the taxpayer under subparagraph (A)(i), and

"(ii) the method selected by the taxpayer under subparagraph (A)(ii).

(D) RRB PROPERTY DEFINED.—For purposes of this paragraph, the term 'RRB property' means property which under the taxpayer's method for depreciation before January 1, 1981, would have been depreciated under the retirement-replacement-betterment method.

(2) REPEAL OF SECTION 167(r).—Section 167 (relating to depreciation) is amended by striking out subsection (r).

(3) CHANGE IN METHOD OF ACCOUNTING.—Any change in the method of depreciation to comply with the provisions of this subsection shall not be treated under sections 446 and 481 of the Internal Revenue Code of 1954 as a change of accounting method.

(h) TREATMENT OF CERTAIN LEASED ROLLING STOCK.—Clause (ii) of section 48(a)(2)(B) is amended to read as follows:

"(ii) rolling stock—

"(I) of a domestic corporation providing transportation subject to subchapter I of chapter 105 of title 49, or

"(II) of a United States person which is leased to a corporation described in subclause (I),

which is used within and without the United States;".

(i) REPEAL OF SECTION 179.—Section 179 (relating to additional first-year depreciation allowance for small business) is hereby repealed.

(j) CLERICAL AMENDMENTS.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 167 the following new item:

"Sec. 168. Expense-method depreciation."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 179.

(3) Paragraph (1) of section 48(c) is amended by striking out "section 179(d)(2)(A) or (B)" and inserting in lieu thereof "subparagraph (A) or (B) of section 179(d)(2) (as in effect on the day before the date of the enactment of the Tax Incentive Act of 1981)".

(4) Subparagraph (A) of section 48(c)(3) is amended by striking out "section 179(d)(2)" and inserting in lieu thereof "section 179(d)(2) (as in effect on the day before the

date of the enactment of the Tax Incentive Act of 1981)".

(5) Subparagraph (A) of section 1033(g)(3) is amended by striking out "(relating to additional first-year depreciation allowance for small business)" and inserting in lieu thereof "as in effect on the day before the date of the enactment of the Tax Incentive Act of 1981".

SEC. 202. DEPRECIATION OF REAL PROPERTY.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) METHOD OF DEPRECIATING CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—In the case of section 167(s) property, notwithstanding any other provision of this section, the depreciation allowance under subsection (a) shall be computed—

"(A) using a useful life of 20, 25, 35, or 45 years (as selected by the taxpayer),

"(B) treating the salvage value as zero, and

"(C) under—

"(i) the straight line method, or

"(ii) if the taxpayer makes an election with respect to such property under this clause, the applicable declining balance method.

If an election under clause (ii) of subparagraph (C) is made with respect to any property, the taxpayer shall be deemed to have selected a useful life of 20 years for such property.

"(2) APPLICABLE DECLINING BALANCE METHOD.—For purposes of paragraph (1), the applicable declining balance method is—

"(A) in the case of property other than low-income housing and targeted area property, the declining balance method using a rate not in excess of 150 percent of the straight line rate, and

"(B) in the case of low-income housing and targeted area property, the declining balance method using a rate not in excess of 200 percent of the straight line rate.

"(3) ELECTION.—An election under clause (ii) of paragraph (1)(C) with respect to any property shall be made on or before the due date prescribed by law (including extensions thereof) for filing the return under this chapter for the taxable year in which such property is placed in service. Except as provided in subsection (e), such an election, once made, shall be irrevocable.

"(4) COMPONENTS OF BUILDINGS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) an election made under clause (ii) of paragraph (1)(C) with respect to any building shall apply to all components of such building, and

"(ii) no election may be made under clause (ii) of paragraph (1)(C) with respect to any component of a building unless such an election has been made with respect to such building.

"(B) TRANSITIONAL RULE.—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such building placed in service after December 31, 1980, an election under clause (ii) of paragraph (1)(C) with respect to the first component placed in service after December 31, 1980 (or a failure to make such an election with respect to such first component) shall be treated as an election (or failure to make an election) with respect to such building.

"(C) EXCEPTION FOR SUBSTANTIAL IMPROVEMENTS.—

"(i) IN GENERAL.—For purposes of this paragraph, a substantial improvement shall be treated as a separate building.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), the term 'substantial improvement' means the improvements added to capital account with respect to any building during any taxable year, but only if the sum of the amounts added to such account during such year equals or exceeds 25 percent of the adjusted basis of the property (determined without regard to the adjustments provided in paragraphs (2) and (3) of section 1016(a)) as of the first day of such taxable year.

"(iii) IMPROVEMENTS MUST BE MADE AFTER PROPERTY IN SERVICE FOR 3 YEARS.—For purposes of this paragraph, the term 'substantial improvement' shall not include any improvement made before the date 3 years after the building was placed in service.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) SECTION 167(S) PROPERTY.—Except as provided in subparagraph (B), the term 'section 167(s) property' means any property—

"(i) which is section 1250 property, or which is an elevator or escalator which would be section 1250 property but for subparagraph (C) or (D) of section 1245(a)(3), and

"(ii) which is placed in service after December 31, 1980.

For purposes of the preceding sentence, the determination of whether any property is (or would be) section 1250 property shall be made without regard to section 1245(a)(3)(F).

"(B) EXCEPTIONS.—The term 'section 167(s) property' shall not include—

"(i) any property for which a class life of 12½ years or less is in effect under subsection (m) as of January 1, 1981,

"(ii) any mobile home, and

"(iii) any property for which amortization (in lieu of depreciation) or for which subsection (k) is properly elected.

"(C) LOW-INCOME HOUSING.—The term 'low-income housing' means any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

"(D) TARGETED AREA PROPERTY.—

"(i) IN GENERAL.—The term 'targeted area property' means any section 167(s) property which is placed in service in (or directly adjacent to) an economically distressed area. Such term shall not include any low-income housing or residential rental property (as defined in subsection (j)(2)(B)).

"(ii) ECONOMICALLY DISTRESSED AREA.—The term 'economically distressed area' means a census tract or enumeration district designated by the Secretary—

"(I) in which at least 70 percent of the families have incomes below 80 percent of the median income for the State in which such area is located, and

"(II) in which at least 30 percent of the families have incomes below the national poverty level.

"(iii) INFORMATION USED.—The determinations under clause (i) shall be made on the basis of the most recent decennial census for which data are available before the date 1 year before the date on which the property is placed in service; except that in no event shall a decennial census before the 1980 census be used.

"(E) BUILDING INCLUDES OTHER STRUCTURE.—The term 'building' includes any other structure.

"(6) SPECIAL RULES FOR FOREIGN PROPERTY.—In the case of any section 167(s) property outside the United States—

"(A) the taxpayer shall use a useful life of 35 years (in lieu of the amount provided in paragraph (1)(A)), and

"(B) the applicable declining balance method shall be the method described in paragraph (2)(A).

"(7) TRANSFEREE BOUND BY TRANSFEROR'S TREATMENT OF PROPERTY IN CERTAIN CASES.—Rules similar to the rules of section 168(e)(8) shall apply to section 167(s) property."

(b) RECAPTURE UNDER SECTION 1245 FOR COMMERCIAL OR INDUSTRIAL STRUCTURES WHERE DECLINING BALANCE METHOD ELECTED.—Paragraph (3) of section 1245(a) (defining section 1245 property), as amended by section 201, is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(F) any property—

"(i) with respect to which an election under section 167(s)(1)(C)(ii) applied, and

"(ii) which is not low-income housing (as defined in section 167(s)(5)(C)) and is not residential rental property (as defined in section 167(j)(2)(B)).

If only a portion of a building (or other structure) is section 1245 property, gain from any disposition of such building (or other structure) shall be allocated first to the portion of the building (or other structure) which is section 1245 property (to the extent of the amount which may be treated as ordinary income under this section) and then to the portion of the building or other structure which is section 1250 property."

(c) 1245 RECAPTURE FOR CERTAIN OTHER EXPENSED PROPERTY.—Paragraph (2) of section 1245(a) is amended by adding at the end thereof the following new sentence: "For purposes of this section, if any portion of the purchase price of property acquired after December 31, 1981, was deducted as an expense and the deduction was not disallowed, the amount so allowed as a deduction shall be treated as allowed for depreciation."

SEC. 203. SIMPLIFIED COST RECOVERY FOR LONG-LIFE PUBLIC UTILITY PROPERTY.

(a) IN GENERAL.—Part IV of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 168 the following new section:

"SEC. 168A. SIMPLIFIED COST RECOVERY FOR LONG-LIFE PUBLIC UTILITY PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a public utility recovery property, there shall be allowed, in lieu of any deduction allowed by any other section of this part, the recovery deduction provided by this section.

"(b) AMOUNT OF DEDUCTION.—The amount of the deduction allowable by subsection (a) for any taxable year shall be the aggregate determined by applying—

"(1) the recovery percentage for each class of property, to

"(2) the balance in the recovery account for such class at the end of such year.

"(c) CLASS AND RECOVERY PERIOD.—

"(1) TABLE.—All recovery property—

"(A) shall be placed in 1 of the 2 classes set forth in the following table, and

"(B) shall have the recovery percentage set forth for such class in the following table:

"Class and Recovery Percentage Table

"Class:	Recovery percentage
1	15
2	10

"(2) CLASS 1.—Public utility recovery property with a present class life of more than 18 years but not more than 25 years shall be placed in class 1.

"(3) CLASS 2.—Public utility property with a present class life of more than 25 shall be placed in class 2.

"(4) PRESENT CLASS LIFE.—For purposes of this section, the term 'present class life' has the meaning given to such term by section 168(e)(4).

"(d) PUBLIC UTILITY RECOVERY PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'public utility recovery property' means any property—

"(A) which is public utility property (as defined in section 168(f)(3)), and

"(B) which would be expense-method property but for section 168(d)(4).

"(2) NORMALIZATION RULES.—

"(A) IN GENERAL.—In the case of a taxpayer which is regulated on a rate of return basis, the term 'public utility recovery property' does not include any property unless the taxpayer uses a normalization method of accounting with respect to such property.

"(B) USE OF NORMALIZATION METHOD DEFINED.—For purposes of subparagraph (A), in order to use a normalization method of accounting with respect to any public utility property—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from the allowance of a deduction with respect to such property under this section instead of the allowance of a deduction under section 167 using—

"(I) the method of depreciation used to compute regulated tax expense under clause (i), and

"(II) the depreciation period used to compute regulated tax expense under clause (i) (or, if shorter, the class life (as defined in section 167(t)(3)(B)) applicable to such property).

"(3) AMORTIZATION PROPERTY.—The term 'public utility recovery property' does not include property with respect to which the taxpayer—

"(A) is entitled to elect amortization (in lieu of depreciation), and

"(B) elects such amortization.

"(e) RECOVERY ACCOUNT.—

"(1) IN GENERAL.—The taxpayer shall establish a recovery account for each class of public utility recovery property.

"(2) ADDITIONS TO ACCOUNT.—The recovery account for any class of recovery property shall be increased by an amount equal to the sum of—

"(A) one-half of the basis of each public utility recovery property in such class which is placed in service by the taxpayer during the taxable year, plus

"(B) one-half of the basis of each public utility recovery property in such class which was placed in service by the taxpayer during the preceding taxable year.

"(3) REDUCTIONS IN ACCOUNT.—

"(A) PROPERTY DISPOSED OF DURING YEAR.—The recovery account for any class of public utility recovery property shall be reduced by an amount equal to the amount realized on each public utility recovery property of such class disposed of by the taxpayer during the taxable year.

"(B) AMOUNT ALLOWED UNDER THIS SECTION.—The recovery account for any class of public utility recovery property shall be reduced by an amount equal to the amount of the deduction allowed under subsection (a) with respect to such class (but not less than the amount allowable).

"(4) TIME FOR MAKING ADJUSTMENTS.—

"(A) IN GENERAL.—Any adjustment under paragraph (2) or (3)(A) shall be made as of the close of the taxable year but before the determination of the amount allowable as a deduction under subsection (a) for such taxable year.

"(B) REDUCTION FOR DEDUCTION.—Any reduction under paragraph (3)(B) shall be made as of the beginning of the taxable year following the taxable year for which the amount was allowed (or allowable) as a deduction under subsection (a).

"(5) COORDINATION WITH OTHER PROVISIONS.—

"(A) DISPOSITIONS NOT TREATED AS DISPOSITIONS FOR CERTAIN PURPOSES.—For purposes of this title (other than this section and section 47), the disposition of any property in a recovery account shall be treated as if it were not a disposition.

"(B) NEGATIVE BALANCE.—If, as of the close of any taxable year (after the adjustments under paragraphs (2) and (3)(A)), there is a negative balance in any recovery account then, notwithstanding any other provision of this subtitle—

"(i) an amount equal to the amount by which—

"(I) such negative balance (expressed as a positive number), exceeds

"(II) one-half of the basis of all public utility recovery property in the class of recovery property for which such account is established which was placed in service by the taxpayer during the taxable year

shall be included in gross income for such taxable year as ordinary income, and

"(ii) the balance in the account shall be adjusted (as of the beginning of the following taxable year) by adding to the account an amount equal to the amount included in gross income under clause (i).

"(f) SPECIAL RULES.—

"(1) NO ADJUSTMENT WHERE PROPERTY DISPOSED OF BEFORE CLOSE OF TAXABLE YEAR IN WHICH PLACED IN SERVICE.—No adjustment shall be made under paragraphs (2) and (3)(A) of subsection (c) in respect of any property which is disposed of by the taxpayer before the close of the taxable year in which placed in service by the taxpayer.

"(2) PROPERTY CEASING TO BE RECOVERY PROPERTY.—If any property taken into account under subsection (e) ceases to be public utility recovery property during any taxable year—

"(A) such property shall be treated as disposed of by the taxpayer during such taxable year, and

"(B) the basis of such property in the hands of the taxpayer after such cessation shall be treated as equal to its fair market value.

"(3) DISPOSITIONS OTHER THAN SALE OR EXCHANGE.—If any public utility recovery property is disposed of in a disposition which is not a sale, exchange, or involuntary conversion and which is not described in paragraph (4) or (5), the reduction under paragraph (3)(A) of subsection (e) for such disposition shall be the fair market value of the property disposed of. In the case of property disposed of by abandonment, the fair market value thereof shall be treated as if it were zero.

"(4) TRANSFERS WHERE BASIS GOES OVER.—

"(A) IN GENERAL.—If any public utility recovery property is transferred and the transferee's basis of such property is determined in whole or in part by reference to the adjusted basis of the transferor, then, under regulations prescribed by the Secretary—

"(i) the transferor's recovery account for the class of property in which the public utility recovery property falls shall be reduced by the transferred amount, and

"(ii) for purposes of determining the transferee's basis in such property, the adjusted basis of such property in the hands of the transferor shall be treated as equal to the transferred amount.

"(B) TRANSFERRED AMOUNT.—For purposes of subparagraph (A), the transferred amount shall be the amount which bears the same relation to—

"(i) the total amount in the transferor's recovery account immediately before the transfer, as

"(ii) the fair market value of the transferred property bears to the fair market value of all property in such account immediately before the transfer.

"(C) AUTHORITY TO PRESCRIBE ALTERNATE METHODS OF ALLOCATION.—The Secretary may by regulations prescribe alternate methods for allocating the balance in any recovery account for purposes of determining the transferred amount of any property.

"(D) COORDINATION WITH SECTION 170(e).—In the case of any charitable contribution of public utility recovery property, the excess of the fair market value of such property (determined at the time of such contribution) over the transferred amount shall be treated as gain described in section 170(e)(1)(A).

"(5) LIKE KIND EXCHANGES; INVOLUNTARY CONVERSIONS.—Under regulations prescribed by the Secretary, in the case of any exchange described in section 1031 or 1033—

"(A) if the properties fall in the same class, changes shall be made in the taxpayer's recovery account for such class only to the extent necessary to reflect the money or other property (within the meaning of section 1031) or property not similar or related in service or use (within the meaning of section 1033) paid, exchanged, or received, as the case may be, and

"(B) if the properties fall in different classes, proper adjustments in the recovery accounts for both classes shall be made to carry out the nonrecognition provided for in such sections.

"(6) SHORT TAXABLE YEARS.—The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (as amended by section 201) is amended by adding at the end thereof the following new sentence: "In the case of public utility recovery property (within the meaning of section 168A), the deduction allowable under section 168A shall be deemed to constitute

the reasonable allowance provided by this section."

(2) UNREALIZED RECEIVABLES.—Subsection (c) of section 751 (defining unrealized receivables) is amended by adding at the end thereof the following new sentence: "For purposes of this section and sections 731, 736, and 741, the excess of the aggregate fair market value of the property in any recovery account established under section 168A(e) over the balance in such account shall be treated as an unrealized receivable."

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 168 the following new item:

"Sec. 168A. Simplified cost recovery for long-life public utility property."

SEC. 204. USEFUL LIFE FOR PERSONAL PROPERTY WHICH IS NOT EXPENSE-METHOD PROPERTY.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) SPECIAL RULES FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980.—

"(1) IN GENERAL.—For purposes of this section, the useful life of any property to which this subsection applies shall be—

"(A) the lower limit life applicable to such property, or

"(B) if there is no lower limit life for such property, a useful life determined on the facts and circumstances.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any expense-method property to the extent that an election under section 168(c) applies to such property, and

"(B) any property which would be expense-method property as determined under section 168 but for section 168(d).

For purposes of the preceding sentence, section 168(d)(4) shall be applied as if it did not contain subparagraph (A) thereof and without regard to the present class life requirement of subparagraph (B).

"(3) LOWER LIMIT LIFE.—For purposes of this subsection—

"(A) LOWER LIMIT LIFE.—The term 'lower limit life' means the class life for the property reduced by an amount equal to 20 percent of such class life (rounded to the nearest half year).

"(B) CLASS LIFE.—The term 'class life' means, with respect to any property which is included in a class for which a class life has been prescribed, the class life prescribed by the Secretary which reasonably reflects the anticipated useful life of such class of property to the industry or other group. Except as provided by the Secretary, after the date of the enactment of this section, the classes of property and class lives shall be the same as those in effect under subsection (m) of such date of enactment.

"(4) SPECIAL RULES FOR CERTAIN PROPERTY.—

"(A) USEFUL LIFE.—In the case of any property—

"(i) to which an election under section 168(c) applies,

"(ii) described in paragraph (1) or (2) of section 168(d), or

"(iii) which is public utility property,

the class life for such property shall be taken into account under paragraph (1) in lieu of the lower limit life.

"(B) STRAIGHT-LINE METHOD FOR CERTAIN CASES.—In the case of any property—

"(i) to which an election under section 168(c) applies,

"(ii) described in paragraph (2) of section 168(d), or

"(iii) which is public utility property,

the term 'reasonable allowance' (as used in subsection (a)) means only an allowance computed under the straight-line method.

"(5) SPECIAL RULES.—

"(A) PUBLIC UTILITY PROPERTY.—For purposes of this subsection, the term 'public utility property' has the meaning given to such term by section 168(f)(3).

"(B) RAILROAD TANK CARS, ETC.—In the case of any railroad tank car, oil pipeline, or property which would be section 167(s) property but for clause (i) or (ii) of subsection (s)(5)(B)—

"(i) this section (other than this subparagraph) shall not apply, but

"(ii) rules similar to the rules of section 168A which apply to class 1 public utility recovery property shall apply."

(b) CHANGE FROM ONE METHOD OF DEPRECIATION TO SLOWER METHOD PERMITTED.—Subsection (e) of section 167 (relating to change in method) is amended to read as follows:

"(e) CHANGE IN METHOD.—In the absence of an agreement under subsection (d) containing a provision to the contrary, the taxpayer may at any time elect in accordance with regulations prescribed by the Secretary to change from any method of depreciation described in subsection (b) (other than paragraph (1) thereof) to another method described in such subsection which would have resulted in a smaller allowance for the year in which the property was placed in service."

SEC. 205. EFFECT ON EARNINGS AND PROFITS.

Subsection (k) of section 312 (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(4) Special rules for property placed in service after December 31, 1980.

"(A) EXPENSE-METHOD PROPERTY, ETC.—For purposes of paragraph (1), the useful life of any expense-method property (as defined in section 168), any public utility recovery property (as defined in section 168A), or any property described in subparagraph (B) of section 167(t)(5) shall be—

"(i) the lower limit life applicable to such property, or

"(ii) if there is no lower limit life for such property, a useful life determined on the facts and circumstances.

"(B) REAL PROPERTY.—In the case of any section 167(s) property, for purposes of paragraph (1), the useful life of such property shall be 35 years.

"(C) LOWER LIMIT LIFE.—For purposes of this paragraph—

"(i) LOWER LIMIT LIFE.—The term 'lower limit life' has the meaning given to such term by section 167(t)(3)(A).

"(ii) FOREIGN ASSETS.—In the case of any property described in paragraph (1) of section 168(c), the class life (as defined in section 167(t)(3)(B)) for the property shall be taken into account under subparagraph (A) in lieu of the lower limit life."

SEC. 206. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title shall apply to property placed in service after December 31, 1980, in taxable years ending after such date.

(b) SPECIAL RULES FOR CERTAIN TANGIBLE PERSONAL PROPERTY.—

(1) IN GENERAL.—The amendments made by sections 201 and 203 shall apply to related property only to the extent that the taxpayer's basis in such property does not exceed the amount recognized as ordinary income by the person transferring such property to the taxpayer.

(2) RELATED PROPERTY.—For purposes of paragraph (1), the term 'related property' means any property acquired by the taxpayer after December 31, 1980, if—

(A) such property was owned by a related person at any time before 1985 (or, if earlier, the date of its acquisition by the taxpayer), or

(B) after its acquisition by the taxpayer, such property is used by a person who used such property at any time before such acquisition (or by a person who is related to a person who so used such property).

(c) SPECIAL RULES FOR REAL ESTATE PLACED IN SERVICE BEFORE 1981.—The amendments made by section 202 shall not apply to property acquired by the taxpayer after December 31, 1981, and before January 1, 1986, if—

(1) before January 1, 1981, the property was owned by a related person, or

(2) such property is acquired in an exchange described in section 1031, 1033, 1038, or 1039 to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person during 1980.

(d) PERSONAL AND REAL PROPERTY TRANSFERRED IN CERTAIN NONRECOGNITION TRANSACTIONS.—If—

(1) the basis of any property in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor by reason of section 332, 351, 361, 371(a), 374(a), 721, 731, or 1015 of the Internal Revenue Code of 1954, and

(2) such property had been placed in service by the transferor before January 1, 1981 (or, in the case of property described in section 168(b)(2) of the Internal Revenue Code of 1954, January 1, 1985),

the amendments made by this title shall not apply to such property to the extent the basis of such property is so determined. A similar rule shall apply in the case of a series of such transactions.

(e) RELATED PERSON.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a person is related to another person if—

(A) the person bears a relationship to the other person specified in section 267(b) or 707(b)(1) of the Internal Revenue Code of 1954, or

(B) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52 of such Code).

For purposes of subparagraph (A), sections 267(b) and 707(b)(1) of such Code shall be applied by substituting "10 percent" for "50 percent".

(2) SALE AND LEASEBACKS.—In the case of any property, a person shall be treated as a related person to another person if such person acquires the property from the other person and leases it back to the other person (or a person related to the other person).

(3) LIQUIDATION OF SUBSIDIARIES.—A person is not a related person to the taxpayer if such person is a distributing corporation in a transaction to which section 334(b)(2)(B) of the Internal Revenue Code of 1954 applies and the stock purchase re-

quirements referred to in such section were met after December 31, 1980.

(f) ANTIAVOIDANCE RULE.—Under regulations prescribed by the Secretary of the Treasury or his delegate, the amendments made by this title shall not apply to any property acquired by the taxpayer after December 31, 1980, in a transaction a substantial purpose of which is to avoid the other limitations of this section.

(g) CHANGE FROM ONE METHOD OF DEPRECIATION TO SLOWER METHOD.—The amendment made by section 204(b) shall take effect on the date of the enactment of this Act.

(h) SPECIAL RULE FOR PUBLIC UTILITIES.—

(1) TRANSITIONAL RULE FOR NORMALIZATION REQUIREMENTS.—If, by the terms of the applicable rate order last entered before the date of the enactment of this Act by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of section 168(d)(4)(B) or 168A(d)(2) of the Internal Revenue Code of 1954 because, for an accounting period ending after December 31, 1980, such public utility used a method of accounting other than a normalization method of accounting, such regulated public utility shall not fail to meet such requirements if—

(A) the applicable rate order expires by its terms without extension, and

(B) by the terms of its first rate order which becomes effective after the date of the enactment of this Act, such regulated public utility uses a normalization method of accounting.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of this Act, required a regulated public utility to use a method of accounting with respect to the deduction allowable by section 167 which, under section 167(l), it was not permitted to use.

(2) TRANSITIONAL RULE FOR REQUIREMENTS OF SECTION 46(f).—If, by the terms of the applicable rate order last entered before the date of the enactment of this Act by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 for an accounting period ending after December 31, 1980, such regulated public utility shall not fail to meet such requirements if—

(A) the applicable rate order expires by its terms without extension, and

(B) by the terms of its first rate order which becomes effective after the date of the enactment of this Act, such regulated public utility meets such requirements.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of this Act, was inconsistent with the requirements of paragraph (1) or (2) of section 46(f) of such Code (whichever would have been applicable).

(3) CLARIFICATION.—Subparagraph (C) of section 167(l)(3) is amended by inserting "and which is placed in service before January 1, 1981" immediately before the period at the end thereof.

Subtitle B—Corporate Rate Reductions for Small Businesses

SEC. 211. CORPORATE RATE REDUCTIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum determined by applying each tax rate under the applicable rate schedule to the portion of the taxable income to which such tax rate applies.

"(2) RATE SCHEDULES.—For purposes of paragraph (1)—

"(A) 1982 RATE SCHEDULE.—The rate schedule for the portion of 1982 after June 30 is—

"For so much of taxable income as—		The tax rate (as a percent) is:
Exceeds:	But does not exceed:	
0	$37,500	17
$37,500	75,000	20
75,000	112,500	30
112,500	150,000	40
150,000		46

"(B) 1983 RATE SCHEDULE.—The rate schedule for 1983 is—

"For so much of taxable income as—		The tax rate (as a percent) is:
Exceeds:	But does not exceed:	
0	$50,000	17
$50,000	100,000	20
100,000	150,000	30
150,000	200,000	40
200,000		46

"(C) 1984 RATE SCHEDULE.—The rate schedule for 1984 and thereafter is—

"For so much of taxable income as—		The tax rate (as a percent) is:
Exceeds:	But does not exceed:	
0	$50,000	15
$50,000	100,000	20
100,000	150,000	25
150,000	200,000	30
200,000		46

"(3) COORDINATION WITH SECTION 21.—For purposes of section 21, if for any calendar year there is a change in rates under paragraph (2), the effective date of such change shall be treated as the first day of the calendar year (or in the case of 1982), as July 1, 1982."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1982.

Subtitle C—Credit for Rehabilitation Expenditures

SEC. 221. INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES.

(a) INCREASE IN AMOUNT OF CREDIT.—

(1) Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage."

(2) Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

"(F) REHABILITATION PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25

"(ii) REGULAR PERCENTAGE AND ENERGY PERCENTAGE NOT TO APPLY.—The regular percentage and energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(iii) DEFINITIONS.—

"(I) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(II) 40-YEAR BUILDING.—The term '40-year building' means any building (other than a certified historic structure) which would meet the requirements of section 48(g)(1) if '40' were substituted for '30' each place it appears in subparagraph (B) thereof.

"(III) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' has the meaning given to such term by section 191(d)(1)."

(b) CERTIFIED HISTORIC STRUCTURE USED FOR RESIDENTIAL PURPOSES QUALIFIES FOR CREDIT.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended by adding at the end thereof the following new paragraph:

"(4) SUBSECTION (a)(3) NOT TO APPLY TO CERTIFIED HISTORIC STRUCTURES.—Subsection (a)(3) shall not apply to that portion of the basis of a certified historic structure (within the meaning of section 191(d)(1)) which is attributable to qualified rehabilitation expenditures unless such structure is used for residential purposes by the taxpayer or a member of the taxpayer's family (as defined in section 267(c)(4))."

(c) DEFINITION OF QUALIFIED REHABILITATION EXPENDITURES.—

(1) Subparagraph (B) of section 48(g)(1) (defining qualified rehabilitated building) is amended by striking out "20 years" each place it appears and inserting in lieu thereof "30 years".

(2) Subparagraph (B) of section 48(g)(2) (defining qualified rehabilitation expenditure) is amended by striking out clause (i) and inserting in lieu thereof the following:

"(i) PROPERTY FOR WHICH DECLINING BALANCE METHOD ELECTED.—Any expenditure for property to which an election under section 167(s)(1)(C)(ii) (relating to election to use declining balance method) applies."

(d) BASIS ADJUSTMENT.—Subsection (g) of section 48 is amended by adding at the end thereof the following new paragraph:

"(5) ADJUSTMENTS TO BASIS OF PROPERTY.—

"(A) IN GENERAL.—The basis of any qualified rehabilitated building shall be reduced, for purposes of this subtitle other than this subpart, by an amount equal to the rehabilitation percentage of the qualified rehabilitation expenditures with respect to such building. The preceding sentence shall not apply in the case of any certified historic structure (within the meaning of section 191(d)(1)).

"(B) CERTAIN DISPOSITIONS.—If there is a recapture amount determined with respect to any qualified rehabilitated building the basis of which was reduced under subparagraph (A), the basis of such building (immediately before the event resulting in such recapture) shall be increased by an amount

equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47(a)."

(e) CERTAIN DISINCENTIVE PROVISIONS TERMINATED.—

(1) PROPERTY CONSTRUCTED ON SITE WHERE CERTIFIED HISTORIC STRUCTURE DEMOLISHED, ETC.—Paragraph (4) of section 167(n) (relating to straight-line method in certain cases) is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1982".

(2) DEMOLITION EXPENDITURES, ETC.—Subsection (c) of section 280B (relating to demolition of certain historic structures) is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1982".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section (other than subsection (e)) shall apply to amounts incurred after December 31, 1981, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building—

(A) if the physical work on such rehabilitation began before January 1, 1982, and

(B) if such building meets the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) but does not meet the requirements of such paragraph (1) (as amended by this Act).

SEC. 222. INVESTMENT TAX CREDIT ALLOWED FOR CERTAIN REHABILITATED BUILDINGS LEASED TO TAX-EXEMPT ORGANIZATIONS OR TO GOVERNMENTAL UNITS.

(a) USE BY TAX-EXEMPT ORGANIZATIONS.—Paragraph (4) of section 48(a) (relating to property used by certain tax-exempt organizations) is amended by adding at the end thereof the following new sentence: "If any qualified rehabilitated building is used by the tax-exempt organization pursuant to a lease, this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures."

(b) USE BY GOVERNMENTAL UNITS.—Paragraph (5) of section 48(a) (relating to governmental units) is amended by adding at the end thereof the following new sentence: "If any qualified rehabilitated building is used by the governmental unit pursuant to a lease, this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to uses after July 29, 1980, in taxable years ending after such date.

Subtitle D—Incentives for Research and Experimentation

SEC. 231. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"SEC. 44F. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the excess (if any) of—

"(1) the qualified research expenses for the taxable year, over

"(2) the base period research expenses.

"(b) QUALIFIED RESEARCH EXPENSES.—For purposes of this section—

"(1) QUALIFIED RESEARCH EXPENSES.—The term 'qualified research expenses' means the sum of the following amounts which are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer—

"(A) in-house research expenses, and

"(B) contract research expenses.

"(2) IN-HOUSE RESEARCH EXPENSES.—

"(A) IN GENERAL.—The term 'in-house research expenses' means—

"(i) any wages paid or incurred to an employee for qualified services performed by such employee,

"(ii) any amount paid or incurred for supplies used in the conduct of qualified research, and

"(iii) any amount paid or incurred to another person for the right to use personal property in the conduct of qualified research.

"(B) QUALIFIED SERVICES.—The term 'qualified services' means services consisting of—

"(i) engaging in qualified research, or

"(ii) engaging in the direct supervision or direct support of research activities which constitute qualified research.

If substantially all of the services performed by an individual for the taxpayer during the taxable year consists of services meeting the requirements of clause (i) or (ii), the term 'qualified services' means all of the services performed by such individual for the taxpayer during the taxable year.

"(C) SUPPLIES.—The term 'supplies' means any tangible property other than—

"(i) land or improvements to land, and

"(ii) property of a character subject to the allowance for depreciation.

"(D) WAGES.—

"(i) IN GENERAL.—The term 'wages' has the meaning given such term by section 3401(a).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—In the case of an employee (within the meaning of section 401(c)(1)), the term 'wages' includes the earned income (as defined in section 401(c)(2)) of such employee.

"(iii) EXCLUSION FOR WAGES TO WHICH NEW JOBS OR WIN CREDIT APPLIES.—The term 'wages' shall not include any amount taken into account in computing the credit under section 40 or 44B.

"(3) CONTRACT RESEARCH EXPENSES.—

"(A) IN GENERAL.—The term 'contract research expenses' means 65 percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research.

"(B) PREPAID AMOUNTS.—If any contract research expenses paid or incurred during any taxable year are attributable to qualified research to be conducted after the close of such taxable year, such amount shall be treated as paid or incurred during the period during which the qualified research is conducted.

"(c) BASE PERIOD RESEARCH EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'base period research expenses' means the average of the qualified research expenses for each year in the base period.

"(2) BASE PERIOD.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'base period' means the 3 taxable years immediately preceding the taxable year for which the determination is being made (hereinafter in this subsection referred to as the 'determination year').

"(B) TRANSITIONAL RULES.—Subparagraph (A) shall be applied—

"(i) by substituting 'first taxable year' for '3 taxable years' in the case of the first determination year ending after December 31, 1981, and

"(ii) by substituting '2' for '3' in the case of the second determination year ending after December 31, 1981.

"(3) MINIMUM BASE PERIOD RESEARCH EXPENSES.—In no event shall the base period research expenses be less than 50 percent of the qualified research expenses for the determination year.

"(d) CREDIT AVAILABLE WITH RESPECT TO CERTAIN BASIC RESEARCH BY COLLEGES, UNIVERSITIES, AND CERTAIN RESEARCH ORGANIZATIONS.—

"(1) IN GENERAL.—65 percent of any amount paid or incurred by a corporation to any qualified organization for basic research to be performed by such organization shall be treated as contract research expenses. The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written research agreement between the corporation and the qualified organization.

"(2) NOT INCLUDED IN BASE YEAR EXPENSES.—For purposes of determining the amount of the credit allowed under this section for any taxable year, any amount treated as contract research expenses under paragraph (1) shall not be included in the qualified research expenses for any year in the base period.

"(3) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (as defined in section 3304(f)), and

"(B) any other organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(4) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective.

"(5) SPECIAL RULES FOR GRANTS TO CERTAIN FUNDS.—

"(A) IN GENERAL.—For purposes of this subsection, a qualified fund shall be treated as a qualified organization and the requirements of paragraph (1) that the basic research be performed by the qualified organization shall not apply.

"(B) QUALIFIED FUND.—For purposes of subparagraph (A), the term 'qualified fund' means any organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a) and is not a private foundation,

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (3)(A) for purposes of basic research, and

"(iv) makes an election under this paragraph.

"(C) EFFECT OF ELECTION.—

"(i) IN GENERAL.—Any organization which makes an election under this paragraph shall be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

"(6) CERTAIN CORPORATIONS NOT ELIGIBLE.—For purposes of this subsection, the term 'corporation' shall not include—

"(A) an electing small business corporation (as defined in section 1371(b)),

"(B) a personal holding company (as defined in section 542), and

"(C) a service organization (as defined in section 414(m)(3)).

"(e) QUALIFIED RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research' means—

"(A) research for the purpose of discovering information which may be potentially useful in—

"(i) the development of a new business item for the taxpayer, or

"(ii) bringing about a significant improvement in an existing business item of the taxpayer, or

"(B) applying results obtained by research to develop a plan or design for a new business item for the taxpayer, or for a significant improvement in an existing business item of the taxpayer.

"(2) EXCLUSIONS.—The term 'qualified research' does not include—

"(A) any activity conducted outside the United States,

"(B) any activity in the social sciences or the humanities,

"(C) any activity for purposes of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas), and

"(D) for purposes of determining the credit allowable under this section to the taxpayer, any activity performed by the taxpayer for another person (or governmental entity) whether pursuant to a grant, contract, or otherwise.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) RESEARCH.—The term 'research' means a planned search or critical investigation, and includes experimentation.

"(B) BUSINESS ITEM.—The term 'business item' means a product or technique for use or sale by the taxpayer in a trade or business.

"(C) EXISTING.—The term 'existing' means a business item sold or used by the taxpayer in a trade or business before the taxpayer paid or incurred the amounts for qualified research.

"(4) LIMITATION ON APPLIED RESEARCH.—The term 'qualified research' shall not include any activity after the point at which—

"(A) the new business item or significantly improved business item meets specific functional and economic requirements of the taxpayer for that item, or

"(B) the new or improved item is ready for manufacture, sale, or use.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION OF EXPENDITURES.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the increase in qualified research expenses giving rise to the credit.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the increase in qualified research expenses giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) ALLOCATIONS.—

"(A) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the Secretary—

"(A) ACQUISITIONS.—If, after December 31, 1980, a taxpayer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after such acquisition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such acquisition shall be increased by so much of such expenses paid or incurred by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business or separate unit acquired by the taxpayer.

"(B) DISPOSITIONS.—If, after December 31, 1980—

"(i) a taxpayer disposes of the major portion of any trade or business or the major portion of a separate unit of a trade or business in a transaction to which subparagraph (A) applies, and

"(ii) the taxpayer furnishes the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such disposition shall be decreased by so much of such expenses as is attributable to the portion of such trade or business or separate unit disposed of by the taxpayer.

"(C) INCREASE IN BASE PERIOD.—If during any of the 3 taxable years following the taxable year in which a disposition to which subparagraph (B) applies occurs, the disposing taxpayer (or a person with whom the taxpayer is required to aggregate expenditures with the taxpayer under paragraph (1)) reimburses the acquiring person (or a person required to so aggregate expenditures with such person) for research on behalf of the taxpayer, then the amount of research expenses of the taxpayer for the base period for such taxable year shall be increased by the lesser of—

"(i) the amount of the decrease under subparagraph (B) which is allocable to such base period, or

"(ii) the product of the number of years in the base period, multiplied by the amount of the reimbursement described in this subparagraph.

"(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified research expenses shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

"(5) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(g) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) a research credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) a research credit carryover to each of the 20 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1981, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 20 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 19 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year."

(b) DEDUCTION FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Section 280C (relating to disallowance of deduction for portion of wages for which credit is claimed under sec-

tion 40 or 44B) is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR SECTION 44F CREDIT.—Except in the case of a corporation (within the meaning of section 44F(d)(6)), no deduction shall be allowed for that portion of qualified research expenses (within the meaning of section 44F(b)) paid or incurred during the taxable year which is equal to the amount allowable as a credit under section 44F with respect to such expenses (determined without regard to section 44F(g))."

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 280C is amended to read as follows:

"SEC. 280C. EXPENDITURES FOR WHICH CREDIT IS CLAIMED UNDER SECTION 40, 44B, or 44F."

(B) The item relating to section 280C in the table of sections for part IX of subchapter B of chapter 1 is amended to read as follows:

"Sec. 280C. Expenditures for which credit is claimed under section 40, 44B, or 44F."

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subparagraph (A) of section 55(c)(4) (relating to carryover and carryback of certain credits) is amended by striking out "section 44E(e)(1)" and inserting in lieu thereof "section 44F(g)(1), 44E(e)(1)".

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(28) CREDIT UNDER SECTION 44F.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44F, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44F in respect of the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44F(g)(2)," after "44E(e)(2),", and

(ii) by inserting "RESEARCH CREDITS," after "ALCOHOL FUEL CREDITS," in the section heading.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44F(g)(2)," after "44E(e)(2),", and

(ii) by inserting "RESEARCH CREDITS," after "ALCOHOL FUEL CREDITS," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "alcohol fuel credits, research credits," after "new employee credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and new employee credit carryback" and inserting in lieu thereof "new employee credit carryback, and research credit carryback".

(B) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused new employee credit" each place it appears and inserting in lieu thereof "unused new employee credit, or unused research credit";

(ii) by inserting "by a research credit carryback provided in section 44F(g)(2)," after "53(b)," in the first sentence of subsection (a);

(iii) by striking out "or a new employee credit carryback from" each place it appears and inserting in lieu thereof "a new employee credit carryback, or a research credit carryback from"; and

(iv) by striking out "work incentive program carryback)" and inserting in lieu thereof "work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback)".

(d) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Credit for increasing research activities."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1981, and before January 1, 1986.

(2) TRANSITIONAL RULE.—

(A) IN GENERAL.—If, with respect to the first taxable year to which the amendments made by this section apply and which ends in 1982, the taxpayer may only take into account qualified research expenses, paid or incurred during a portion of such taxable year, the amount of the qualified research expenses, taken into account for the base period of such taxable year shall be the amount which bears the same ratio to the total qualified research expenses, for such base period as the number of months in such portion of such taxable year bears to the total number of months in such taxable year. A similar rule shall apply in the case of a taxpayer's first taxable year ending after December 31, 1985.

(B) DEFINITIONS.—For purposes of the preceding sentence, the terms "qualified research expenses" and "base period" have the meanings given to such terms by section 44F of the Internal Revenue Code of 1954 (as added by this section).

TITLE III—ESTATE AND GIFT TAX PROVISIONS

SEC. 301. INCREASE IN ESTATE TAX UNIFIED CREDIT IN THE CASE OF FARMS AND SMALL BUSINESSES.

(a) GENERAL RULE.—Subsection (b) of section 2010 (relating to unified credit against estate tax) is amended to read as follows:

"(b) INCREASED CREDIT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN FARM OR OTHER CLOSELY HELD BUSINESS.—

"(1) IN GENERAL.—In the case of a qualified farm other small business estate, subsection (a) shall be applied by substituting for "$47,000" the amount determined under the following table:

"In the case of decedents dying in:	The amount determined under this table is:
1982	$62,800
1983	79,300
1984	96,300
1985 and thereafter	104,800

"(2) QUALIFIED FARM OR OTHER SMALL BUSINESS ESTATE.—For purposes of paragraph (1), the term 'qualified farm or other small business estate' means the estate of any decedent whose executor is eligible to elect the application of section 6166."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after December 31, 1981.

SEC. 302. UNLIMITED MARITAL DEDUCTION.

(a) ESTATE TAX DEDUCTION.—

(1) IN GENERAL.—Section 2056 (relating to bequests, etc., to surviving spouses) is amended—

(A) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(B) by striking out "subsections (b) and (c)" in subsection (a) and inserting in lieu thereof "subsection (b)".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 2012(b) (relating to credit for gift tax) is amended to read as follows:

"(2) if a deduction with respect to such gift is allowed under section 2056(a) (relating to marital deduction), then by the amount of such value, reduced as provided in paragraph (1); and".

(B) Paragraph (5) of section 2602(c) (relating to coordination with estate tax) is amended by striking out subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(C) Subparagraph (A) of section 691(c)(3) (relating to special rules for generation-skipping transfers) is amended by striking out "section 2602(c)(5)(C)" and inserting in lieu thereof "section 2602(c)(5)(B)".

(b) GIFT TAX DEDUCTION.—

(1) IN GENERAL.—Subsection (a) of section 2523 (relating to gift to spouse) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—Where a donor who is a citizen or resident transfers during the calendar year by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar year an amount with respect to such interest equal to its value."

(2) TECHNICAL AMENDMENT.—Section 2523 is amended by striking out subsection (f).

(3) CONFORMING AMENDMENTS.—

(A) So much of section 6019 (relating to gift tax returns) as follows the heading and precedes subsection (b) is amended to read as follows:

"Any individual who in any calendar year makes any transfer by gift other than—

"(1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year, or

"(2) a transfer of an interest with respect to which a deduction is allowed under section 2523,

shall make a return for such year with respect to the gift tax imposed by subtitle B."

(B) Paragraph (2) of section 2035(b) is amended by inserting "(other than by reason of section 6019(a)(2))" after "section 6019".

(c) ESTATE TAX ON PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.

(1) IN GENERAL.—Paragraph (2) of section 2040(b) (defining qualified joint interest) is amended to read as follows:

"(2) QUALIFIED JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as—

"(A) tenants by the entirety, or

"(B) joint tenants with right of survivorship, but only if the decedent and the spouse of the decedent are the only joint tenants."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 2040 is amended by striking out "joint tenants" each place it appears and inserting in lieu thereof "joint tenants with right of survivorship".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (c), (d), and (e) of section 2040 are hereby repealed.

(B) Section 2515 (relating to tenancies by the entirety in real property), section 2515A (relating to tenancies by the entirety in personal property), and subsection (c) of section 6019 (relating to gift tax return) are hereby repealed.

(C) The table of sections for subchapter B of chapter 12 (relating to transfers) is amended by striking out the items relating to sections 2515 and 2515A.

(d) ELECTION TO HAVE CERTAIN LIFE INTERESTS QUALIFY FOR MARITAL DEDUCTION.—

(1) ESTATE TAX.—Subsection (b) of section 2056 is amended by adding at the end thereof the following new paragraphs:

"(7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING SPOUSE.—

"(A) IN GENERAL.—In the case of qualified terminable interest property—

"(i) for purposes of subsection (a), such property shall be treated as passing to the surviving spouse, and

"(ii) for purposes of paragraph (1)(A), no part of such property shall be treated as passing to any person other than the surviving spouse.

"(B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified terminable interest property' means property—

"(I) which passes from the decedent,

"(II) in which the surviving spouse has a qualifying income interest for life, and

"(III) to which an election under this paragraph applies.

"(ii) QUALIFYING INCOME INTEREST FOR LIFE.—The surviving spouse has a qualifying income interest for life if—

"(I) the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, and

"(II) no person has a power to appoint any part of the property to any person other than the surviving spouse.

Subclause (II) shall not apply to a power exercisable only at or after the death of the surviving spouse.

"(iii) PROPERTY INCLUDES INTEREST THEREIN.—The term 'property' includes an interest in property.

"(iv) SPECIFIC PORTION TREATED AS SEPARATE PROPERTY.—A specific portion of property shall be treated as separate property.

"(v) ELECTION.—An election under this paragraph with respect to any property shall be made by the executor on the return of tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(A) IN GENERAL.—If the surviving spouse of the decedent is the only noncharitable beneficiary of a qualified charitable remainder trust, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) NONCHARITABLE BENEFICIARY.—The term 'noncharitable beneficiary' means any beneficiary of the qualified charitable remainder trust other than an organization described in section 170(c).

"(ii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or charitable remainder unitrust (described in section 664)."

(2) GIFT TAX.—Section 2523 is amended by adding at the end thereof the following new subsections:

"(f) ELECTION WITH RESPECT TO LIFE ESTATE FOR DONEE SPOUSE.—

"(1) IN GENERAL.—In the case of qualified terminable interest property—

"(A) for purposes of subsection (a), such property shall be treated as transferred to the donee spouse, and

"(B) for purposes of subsection (b)(1), no part of such property shall be considered as retained in the donor or transferred to any person other than the donee spouse.

"(2) QUALIFIED TERMINABLE INTEREST PROPERTY.—For purposes of this subsection, the term 'qualified terminable interest property' means any property—

"(A) which is transferred by the donor spouse,

"(B) in which the donee spouse has a qualifying income interest for life, and

"(C) to which an election under this subsection applies.

"(3) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, the rules of clauses (ii), (iii), and (iv) of section 2506(b)(7)(B) shall apply.

"(4) ELECTION.—An election under this subsection with respect to any property shall be made on the return of the tax imposed by section 2501 for the calendar year in which the interest was transferred. Such an election, once made, shall be irrevocable.

"(g) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(1) IN GENERAL.—If, after the transfer, the donee spouse is the only noncharitable beneficiary (other than a beneficiary) of a qualified remainder trust, subsection (b) shall not apply to the interest in such trust which is transferred to the donee spouse.

"(2) DEFINITIONS.—For purposes of paragraph (1), the term 'noncharitable beneficiary' and 'qualified charitable remainder trust' have the meanings given to such terms by section 2056(b)(8)(B)."

(3) TREATMENT OF SPOUSE.—

(A) INCLUSION IN GROSS ESTATE.—

(i) IN GENERAL.—Part III of subchapter A of chapter 11 is amended by redesignating sections 2044 and 2045 as sections 2045 and 2046, respectively, and by inserting after section 2043 the following new section:

"SEC. 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED.

"(a) GENERAL RULE.—The value of the gross estate shall include the value of any property to which this section applies in which the decedent had a qualifying income interest for life.

"(b) PROPERTY TO WHICH THIS SECTION APPLIES.—This section applies to any property if a deduction was allowed with respect to the transfer of such property to the decedent—

"(1) under section 2056 by reason of subsection (b)(7) thereof, or

"(2) under section 2523 by reason of subsection (f) thereof."

(ii) The table of sections for part III of subchapter A of chapter 11 is amended by redesignating the items relating to sections 2044 and 2045 as sections 2045 and 2046, respectively, and by inserting after the item relating to section 2043 the following new item:

"Sec. 2044. Certain property for which marital deduction was previously allowed."

(B) GIFT TAX.—

(i) IN GENERAL.—Subchapter B of chapter 11 (relating to transfers) is amended by adding at the end thereof the following new section:

"SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES.

"(a) GENERAL RULE.—Any disposition of all or part of a qualifying income interest for life in any property to which this section applies shall be treated as a transfer of such property.

"(b) PROPERTY TO WHICH THIS SUBSECTION APPLIES.—This section applies to any property if a deduction was allowed with respect to the transfer of such property to the donor—

"(1) under section 2056 by reason of subsection (b)(7) thereof, or

"(2) under section 2523 by reason of subsection (f) thereof."

(ii) The table of sections for subchapter B of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2519. Dispositions of certain life estates."

(4)(A) Subchapter C of chapter 11 is amended by inserting after section 2207 the following new section:

"SEC. 2207A. RIGHT OF RECOVERY IN THE CASE OF CERTAIN MARITAL DEDUCTION PROPERTY.

"(a) RECOVERY WITH RESPECT TO ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate consists of property the value of which is includible in gross estate by reason of section 2044 (relating to certain property for which marital deduction was previously allowed), the decedent's estate shall be entitled to recover from the person receiving the property the amount by which—

"(A) the total tax under this chapter which has been paid, exceeds

"(B) the total tax under this chapter which would have been payable if the value of such property had not been included in the gross estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs by will.

"(b) RECOVERY WITH RESPECT TO GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2519, such person shall be entitled to recover from the person receiving the property the amount by which—

"(1) the total tax for such year under chapter 12, exceeds

"(2) the total tax which would have been payable under such chapter for such year if the value of such property had not been

taken into account for purposes of chapter 12.

"(c) MORE THAN ONE RECIPIENT OF PROPERTY.—For purposes of this section, if there is more than one person receiving the property, the right of recovery shall be against each such person.

"(d) TAXES AND INTEREST.—In the case of penalties and interest attributable to additional taxes described in subsections (a) and (b), rules similar to subsections (a), (b), and (c) shall apply."

(B) The table of sections for subchapter C of chapter 11 is amended by inserting after the item relating to section 2207 the following new item:

"Sec. 2207A. Right of recovery in the case of certain marital deduction property."

(e) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

(2) The amendments made by paragraphs (1), (2), and (3)(A) of subsection (b), subparagraphs (B) and (C) of subsection (c)(3), and paragraphs (2) and (3)(B) of subsection (d) shall apply to gifts made after December 31, 1981.

(3) If—

(A) the decedent dies after December 31, 1981,

(B) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before the date which is 30 days after the date of the enactment of this Act, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(C) the formula referred to in subparagraph (B) was not amended to refer specifically to an unlimited marital deduction at any time after the date which is 30 days after the date of enactment of this Act, and before the death of the decedent, and

(D) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

TITLE IV—TAX REFORM

Subtitle A—Repeal of Percentage Depletion for Oil and Gas

SEC. 401. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS.

(a) GENERAL RULE.—Section 613A (relating to limitations on percentage depletion in case of oil and gas wells) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 613 (relating to denial of percentage depletion in the case of oil and gas wells) is amended by striking out "Except as provided in section 613A, in" and inserting in lieu thereof "In".

(2) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 613A.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1982.

Subtitle B—Tax Straddles

SEC. 411. POSTPONEMENT OF RECOGNITION OF LOSSES, ETC.

(a) GENERAL RULE.—Part VII of subchapter O of chapter 1 (relating to wash sales of stock or securities) is amended by adding at the end thereof the following new section:

"SEC. 1092. STRADDLES.

"(a) RECOGNITION OF LOSS IN CASE OF STRADDLES, ETC.—

"(1) LIMITATION ON RECOGNITION OF LOSS.—

"(A) IN GENERAL.—Any loss with respect to 1 or more positions shall be taken into account for any taxable year only to the extent that the amount of such loss exceeds the unrealized gain (if any) with respect to 1 or more positions which—

"(i) were acquired by the taxpayer before the disposition giving rise to such loss,

"(ii) were offsetting positions with respect to the 1 or more positions from which the loss arose, and

"(iii) were not part of an identified straddle as of the close of the taxable year.

"(B) CARRYOVER OF LOSS.—Any loss which may not be taken into account under subparagraph (A) for any taxable year shall, subject to the limitations under subparagraph (A), be treated as sustained in the succeeding taxable year.

"(2) SPECIAL RULE FOR IDENTIFIED STRADDLES.—

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle as of the close of any taxable year—

"(i) paragraph (1) shall not apply for such taxable year, and

"(ii) any loss with respect to such straddle shall be treated as sustained not earlier than the day on which all of the positions making up the straddle are disposed of.

"(B) IDENTIFIED STRADDLE.—The term 'identified straddle' means any straddle—

"(i) which is clearly identified on the taxpayer's records, before the close of the day on which the straddle is acquired, as an identified straddle,

"(ii) all of the original positions of which (as identified by the taxpayer) are acquired on the same day and with respect to which—

"(I) all of such positions are disposed of on the same day during the taxable year, or

"(II) none of such positions has been disposed of as of the close of the taxable year, and

"(iii) which is not part of a larger straddle.

"(3) UNREALIZED GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'unrealized gain' means the amount of gain which would be taken into account with respect to any position held by the taxpayer as of the close of the taxable year if such position were sold on the last business day of such taxable year at its fair market value.

"(B) REPORTING OF GAIN.—

"(i) IN GENERAL.—Each taxpayer shall disclose to the Secretary, at such time and in such manner and form as the Secretary may prescribe by regulations—

"(I) each position (whether or not part of a straddle) which is held by such taxpayer as of the close of the taxable year and with respect to which there is unrealized gain, and

"(II) the amount of such unrealized gain.

"(ii) REPORTS NOT REQUIRED IN CERTAIN CASES.—Clause (i) shall not apply—

"(I) to any position which is part of an identified straddle,

"(II) to any position which, with respect to the taxpayer, is property described in paragraph (1) or (2) of section 1221 or to any position which is part of a hedging transaction (as defined in section 1256(e)), or

"(III) with respect to any taxable year if no loss on a position (including a regulated futures contract) has been sustained during such taxable year or if the only loss sustained on such position is a loss described in subclause (II).

"(b) CHARACTER OF GAIN OR LOSS; WASH SALES.—Under regulations prescribed by the Secretary, in the case of gain or loss with respect to any position of a straddle, rules which are similar to the rules of subsections (a) and (d) of section 1091 and of subsections (b) and (d) of section 1233 and which are consistent with the purposes of this section shall apply.

"(c) STRADDLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'straddle' means offsetting positions with respect to personal property.

"(2) OFFSETTING POSITIONS.—

"(A) IN GENERAL.—A taxpayer holds offsetting positions with respect to personal property if there is a substantial diminution of the taxpayer's risk of loss from holding any position with respect to personal property by reason of his holding 1 or more other positions with respect to personal property (whether or not of the same kind).

"(B) ONE SIDE LARGER THAN OTHER SIDE.—If 1 or more positions offset only a portion of 1 or more other positions, the Secretary shall by regulations prescribe the method for determining the portion of such other positions which is to be taken into account for purposes of this section.

"(3) PRESUMPTION.—

"(A) IN GENERAL.—For purposes of paragraph (2), 2 or more positions shall be presumed to be offsetting if—

"(i) the positions are in the same personal property (whether established in such property or a contract for such property),

"(ii) the positions are in the same personal property, even though such property may be in a substantially altered form,

"(iii) the positions are in debt instruments of a similar maturity or other debt instruments described in regulations prescribed by the Secretary,

"(iv) the positions are sold or marketed as offsetting positions (whether or not such positions are called a straddle, spread, butterfly, or any similar name),

"(v) the aggregate margin requirement for such positions is lower than the sum of the margin requirements for each such position (if held separately), or

"(vi) there are such other factors (or satisfaction of subjective or objective tests) as the Secretary may by regulations prescribe as indicating that such positions are offsetting.

For purposes of the preceding sentence, 2 or more positions shall be treated as described in clause (i), (ii), (iii), or (vi) only if the value of 1 or more of such positions ordinarily varies inversely with the value of 1 or more other such positions.

"(B) PRESUMPTION MAY BE REBUTTED.—Any presumption established pursuant to subparagraph (A) may be rebutted.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSONAL PROPERTY.—The term 'personal property' means any personal property (other than stock) of a type which is actively traded.

"(2) POSITION.—

"(A) IN GENERAL.—The term 'position' means an interest (including a futures or forward contract or option) in personal property.

"(B) SPECIAL RULE FOR STOCK OPTIONS.—The term 'position' includes any stock option which is a part of a straddle and which is an option to buy or sell stock which

is actively traded, but does not include a stock option which—

"(i) is traded on a domestic exchange, and

"(ii) is of a type with respect to which the maximum period during which such option may be exercised is less than the minimum period for which a capital asset must be held for gain to be treated as long-term capital gain under section 1222(3).

"(3) POSITIONS HELD BY RELATED PERSONS, ETC.—

"(A) IN GENERAL.—In determining whether 2 or more positions are offsetting, the taxpayer shall be treated as holding any position held by a related person.

"(B) RELATED PERSON.—For purposes of subparagraph (A), a person is a related person to the taxpayer if with respect to any period during which a position is held by such person, such person—

"(i) is the spouse of the taxpayer, or

"(ii) files a consolidated return (within the meaning of section 1501) with the taxpayer for any taxable year which includes a portion of such period.

"(C) CERTAIN FLOWTHROUGH ENTITIES.—If part or all of the gain or loss with respect to a position held by a partnership, trust, or other entity would properly be taken into account for purposes of this chapter by a taxpayer, then, except to the extent otherwise provided in regulations, such position shall be treated as held by the taxpayer.

"(4) SPECIAL RULE FOR REGULATED FUTURES CONTRACTS.—In the case of a straddle—

"(A) at least 1 (but not all) of the positions of which are regulated futures contracts, and

"(B) with respect to which the taxpayer has not elected to have the provisions of section 1256 apply,

the provisions of this section shall apply to any regulated futures contract and any other position making up such straddle.

"(5) REGULATED FUTURES CONTRACT.—The term 'regulated futures contract' has the same meaning given such term by section 1256(b).

"(e) EXCEPTION FOR HEDGING TRANSACTIONS.—This section shall not apply in the case of any hedging transaction (as defined in section 1256(e)).

"(f) CROSS REFERENCE.—

"For provision requiring capitalization of certain interest and carrying charges where there is a straddle, see section 263(g)."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Section 6653 (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULE IN CASES OF FAILURE TO REPORT UNREALIZED GAIN ON POSITION IN PERSONAL PROPERTY.—If—

"(1) a taxpayer fails to make the report required under section 1092(a)(3)(B) in the manner prescribed by such section and such failure is not due to reasonable cause, and

"(2) such taxpayer has an underpayment of any tax attributable (in whole or in part) to the denial of a deduction of a loss with respect to any position (within the meaning of section 1092(d)(2)),

then such underpayment shall, for purposes of subsection (a), be treated as an underpayment due to negligence or intentional disregard of rules and regulations (but without intent to defraud).".

(c) APPLICATION WITH SECTION 1233.—Paragraph (2) of section 1233(e) (defining property to which section applies) is amended by inserting ", but does not include any position to which section 1092(b) applies" after "taxpayer" in subparagraph (A).

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for such part VII is amended by adding at the end thereof the following new item:

"Sec. 1092. Straddles."

(2) The heading for such part VII is amended to read as follows:

"PART VII—WASH SALES; STRADDLES".

(3) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part VII and inserting in lieu thereof the following:

"Part VII. Wash sales; straddles."

SEC. 412. CAPITALIZATION OF CERTAIN INTEREST AND CARRYING CHARGES IN THE CASE OF STRADDLES.

Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN INTEREST AND CARRYING COSTS IN THE CASE OF STRADDLES.—

"(1) GENERAL RULE.—No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle (as defined in section 1092(c)). Any amount not allowed as a deduction by reason of the preceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

"(2) INTEREST AND CARRYING CHARGES DEFINED.—For purposes of paragraph (1), the term 'interest and carrying charges' means the excess of—

"(A) the sum of—

"(i) interest on indebtedness incurred or continued to purchase or carry the personal property, and

"(ii) amounts paid or incurred to insure, store, or transport the personal property, over

"(B) the sum of—

"(i) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A), and

"(ii) any amount treated as ordinary income under section 1232(a)(4)(A) with respect to such property for the taxable year.

"(3) EXCEPTION FOR HEDGING TRANSACTIONS.—This subsection shall not apply in the case of any hedging transaction (as defined in section 1256(e)).".

SEC. 413. REGULATED FUTURES CONTRACTS MARKED TO MARKET.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1256. REGULATED FUTURES CONTRACTS MARKED TO MARKET.

"(a) GENERAL RULE.—For purposes of this subtitle—

"(1) each regulated futures contract held by the taxpayer at the close of the taxable year shall be treated as sold for its fair market value on the last business day of such taxable year (and any gain or loss shall be taken into account for the taxable year),

"(2) proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account by reason of paragraph (1),

"(3) any gain or loss with respect to a regulated futures contract shall be treated as—

"(A) short-term capital gain or loss, to the extent of 50 percent of such gain or loss, and

"(B) long-term capital gain or loss, to the extent of 50 percent of such gain or loss, and

"(4) if all the offsetting positions making up any straddle consist of regulated futures contracts to which this section applies (and such straddle is not part of a larger straddle), sections 1092 and 263(g) shall not apply with respect to such straddle.

"(b) REGULATED FUTURES CONTRACTS DEFINED.—For purposes of this section, the term 'regulated futures contract' means a contract—

"(1) which requires delivery of personal property (as defined in section 1092(d)(1)) or an interest in such property;

"(2) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market; and

"(3) which is traded on or subject to the rules of a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission or of any board of trade or exchange which the Secretary determines has rules adequate to carry out the purposes of this section.

"(c) TERMINATIONS.—The rules of paragraphs (1), (2), and (3) of subsection (a) shall also apply to the termination during the taxable year of the taxpayer's obligation with respect to a regulated futures contract by offsetting, by taking or making delivery, or otherwise. For purposes of the preceding sentence, fair market value at the time of the termination shall be taken into account.

"(d) ELECTIONS WITH RESPECT TO MIXED STRADDLES.—

"(1) ELECTIONS.—The taxpayer may elect to have this section—

"(A) apply to all positions of all mixed straddles of the taxpayer in the same manner as if all such positions were regulated futures contracts; or

"(B) not apply to all regulated futures contracts which are part of all mixed straddles.

"(2) TIME AND MANNER.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(3) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under paragraph (1) shall apply to the taxpayer's taxable year for which made and to all subsequent taxable years, unless the Secretary consents to a revocation of such election.

"(4) MIXED STRADDLE.—For purposes of this subsection, the term 'mixed straddle' means any straddle (as defined in section 1092(c))—

"(A) at least 1 (but not all) of the positions of which are regulated futures contracts, and

"(B) with respect to which each position forming part of such straddle is clearly identified, before the close of the day on which such position is acquired, as being part of such straddle.

"(e) MARK TO MARKET NOT TO APPLY TO HEDGING TRANSACTIONS.—

"(1) SECTION NOT TO APPLY.—Subsection (a) shall not apply in the case of a hedging transaction.

"(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term 'hedging transaction' means any transaction if—

"(A) such transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

"(i) to reduce risk of price change or currency fluctuations with respect to property which is held or to be held by the taxpayer, or

"(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or

obligations incurred or to be incurred, by the taxpayer,

"(B) the gain or loss on such transactions is treated as ordinary income or loss, and

"(C) before the close of the day on which such transaction was entered into, the taxpayer clearly identifies such transaction as being a hedging transaction.

"(3) SPECIAL RULE FOR SYNDICATES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'hedging transaction' shall not include any transaction entered into by a syndicate.

"(B) SYNDICATE DEFINED.—For purposes of subparagraph (A), the term 'syndicate' means any partnership or other entity (other than a C corporation)—

"(i) if at any time interests in such entity have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

"(ii) if more than 35 percent of the losses of such entity during any period are allocable to limited partners or limited entrepreneurs (within the meaning of section 464(e)(2)).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) C CORPORATION.—The term 'C corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(ii) HOLDING ATTRIBUTABLE TO ACTIVE MANAGEMENT.—An individual shall not be treated as a limited partner or limited entrepreneur (within the meaning of section 464(e)(2)) with respect to any entity for any period during which such individual actively participates in the management of such entity.

"(f) SPECIAL RULES.—

"(1) DENIAL OF CAPITAL GAINS TREATMENT FOR PROPERTY IDENTIFIED AS PART OF A HEDGING TRANSACTION.—For purposes of this title, gain from any property shall in no event be considered as gain from the sale or exchange of a capital asset if such property was at any time identified under subsection (e)(2)(C) by the taxpayer as being part of a hedging transaction.

"(2) SUBSECTION (a)(3) NOT TO APPLY TO ORDINARY INCOME PROPERTY.—Paragraph (3) of subsection (a) shall not apply to any gain or loss which, but for such paragraph, would be ordinary income or loss.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1256. Regulated futures contracts marked to market.".

SEC. 414. CARRYBACK OF LOSSES FROM REGULATED FUTURES CONTRACTS TO OFFSET PRIOR GAINS FROM SUCH CONTRACTS.

Section 1212 (relating to capital loss carrybacks and carryovers) is amended by adding at the end thereof the following new subsection:

"(c) CARRYBACK OF LOSSES FROM REGULATED FUTURES CONTRACTS TO OFFSET PRIOR GAINS FROM SUCH CONTRACTS.—

"(1) IN GENERAL.—If a taxpayer (other than a corporation) has a net commodity futures loss for the taxable year and elects to have this subsection apply to such taxable year, the amount of such net commodity futures loss—

"(A) shall be a carryback to each of the 3 taxable years preceding the loss year, and

"(B) to the extent that, after the application of paragraphs (2) and (3), such loss is allowed as a carryback to any such preceding taxable year—

"(i) 50 percent of the amount so allowed shall be treated as a short-term capital loss from regulated futures contracts, and

"(ii) 50 percent of the amount so allowed shall be treated as a long-term capital loss from regulated futures contracts.

"(2) AMOUNT CARRIED TO EACH TAXABLE YEAR.—The entire amount of the net commodity futures loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried back under paragraph (1). The portion of such loss which shall be carried to each of the 2 other taxable years to which such loss may be carried back shall be the excess (if any) of such loss over the portion of such loss which, after the application of paragraph (3), was allowed as a carryback for any prior taxable year.

"(3) AMOUNT WHICH MAY BE USED IN ANY PRIOR TAXABLE YEAR.—An amount shall be allowed as a carryback under paragraph (1) to any prior taxable year only to the extent—

"(A) such amount does not exceed the net commodity futures gain for such year, and

"(B) the allowance of such carryback does not increase or produce a net operating loss (as defined in section 172(c)) for such year.

"(4) NET COMMODITY FUTURES LOSS.—For purposes of paragraph (1), the term 'net commodity futures loss' means the lesser of—

"(A) the net capital loss for the taxable year determined by taking into account only gains and losses from regulated futures contracts and positions to which section 1256 applies, or

"(B) the sum of the amounts which, but for paragraph (6)(A), would be treated as capital losses in the succeeding taxable year under subparagraphs (A) and (B) of subsection (b)(1).

"(5) NET COMMODITY FUTURES GAIN.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'net commodity futures gain' means the lesser of—

"(i) the capital gain net income for the taxable year determined by taking into account only gains and losses from regulated futures contracts, or

"(ii) the capital gain net income for the taxable year.

"(B) SPECIAL RULE.—The net commodity futures gain for any taxable year before the loss year shall be computed without regard to the net commodity futures loss for the loss year or for any taxable year thereafter.

"(6) COORDINATION WITH CARRYFORWARD PROVISIONS OF SUBSECTION (b)(1).—

"(A) CARRYFORWARD AMOUNT REDUCED BY AMOUNT USED AS CARRYBACK.—For purposes of applying subsection (b)(1), if any portion of the net commodity futures loss for any taxable year is allowed as a carryback under paragraph (1) to any preceding taxable year—

"(i) 50 percent of the amount allowed as a carryback shall be treated as a short-term capital gain for the loss year, and

"(ii) 50 percent of the amount allowed as a carryback shall be treated as a long-term capital gain for the loss year.

"(B) CARRYOVER LOSS RETAINS CHARACTER AS ATTRIBUTABLE TO REGULATED FUTURES CONTRACT.—Any amount carried forward as a short-term or long-term capital loss to any taxable year under subsection (b)(1) (after the application of subparagraph (A)) shall, to the extent attributable to losses from regulated futures contracts, be treated as loss from regulated futures contracts for such taxable year.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) REGULATED FUTURES CONTRACT.—The term 'regulated futures contract' means any regulated futures contract (as defined in section 1256(b)) to which section 1256 applies. Such term includes any position treated as a regulated futures contract under section 1256(d)(1).

"(B) EXCLUSION FOR ESTATES AND TRUSTS.—This subsection shall not apply to any estate or trust.".

SEC. 415. CERTAIN GOVERNMENTAL OBLIGATIONS ISSUED AT DISCOUNT TREATED AS CAPITAL ASSETS.

(a) GENERAL RULE.—Section 1221 (defining capital asset) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) TREATMENT OF AMOUNTS RECEIVED ON SALE OR OTHER DISPOSITION.—Subsection (a) of section 1232 (relating to bonds and other evidences of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held less than 1 year.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is issued on a discount basis and payable without interest at a fixed maturity date not exceeding 1 year from the date of issue. Such term does not include any obligation the interest on which is not includible in gross income under section 103 (relating to certain governmental obligations).

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 1231(b)(1) is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(2) Subparagraph (B) of section 341(c)(2) is amended by striking out "(and governmental obligations described in section 1221(5))".

SEC. 416. PROMPT IDENTIFICATION OF SECURITIES BY DEALERS IN SECURITIES.

Subsection (a) of section 1236 (relating to dealers in securities) is amended—

(1) by striking out "before the expiration of the 30th day after the date of its acquisition" and inserting in lieu thereof "before the close of the day on which it was acquired", and

(2) by striking out "expiration of such 30th day" and inserting in lieu thereof "close of such day".

SEC. 417. TREATMENT OF GAIN OR LOSS FROM CERTAIN TERMINATIONS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1234 the following new section:

"SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TERMINATIONS.

"Gain or loss attributable to the cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in section 1092(d)(1)) which is (or on acquisition would be) a capital asset in the hands of the taxpayer shall be treated as gain or loss from the sale of a capital asset.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1234 the following new item:

"Sec. 1234A. Gains or losses from certain terminations."

SEC. 418. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall apply to property acquired and positions established by the taxpayer after January 27, 1981, in taxable years ending after such date.

(b) IDENTIFICATION REQUIREMENTS.—

(1) UNDER SECTION 1236 OF CODE.—The amendments made by section 416 shall apply to property acquired by the taxpayer after the date of the enactment of this Act in taxable years ending after such date.

(2) UNDER SECTION 1256(E)(2)(C) OF CODE.—Section 1256(e)(2)(C) of the Internal Revenue Code of 1954 (as added by this title) shall apply to property acquired and positions established by the taxpayer after December 31, 1981, in taxable years ending after such date.

(c) ELECTION WITH RESPECT TO PROPERTY HELD ON JUNE 23, 1981.—If the taxpayer so elects (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) with respect to all regulated futures contracts or positions held by the taxpayer on January 27, 1981, the amendments made by this title shall apply to all such contracts and positions, effective for periods after such date in taxable years ending after such date. For purposes of the preceding sentence, the term "regulated futures contract" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954, and the term "position" has the meaning given to such term by section 1092(d)(2) of such Code.

Subtitle C—Treatment of Foreign Oil and Gas Income

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Foreign Oil and Gas Tax Act of 1981".

SEC. 422. EXCLUSION FROM TAX OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart H—Exclusion From Gross Income of Foreign Oil and Gas Extraction Income

"Sec. 981. Exclusion from gross income of foreign oil and gas extraction income.

"SEC. 981. EXCLUSION FROM GROSS INCOME OF FOREIGN OIL AND GAS EXTRACTION INCOME.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include any foreign oil and gas extraction income of the taxpayer.

"(b) FOREIGN OIL AND GAS EXTRACTION INCOME.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'foreign oil and gas extraction income' means any amount derived from sources without the United States and its possessions from the extraction (by the taxpayer or any other person) of minerals from oil or gas wells.

"(2) DIVIDENDS, PARTNERSHIP DISTRIBUTION, ETC.—The term 'foreign oil and gas extraction income' includes—

"(A) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) amounts with respect to which taxes are deemed paid under section 960(a), and

"(C) the taxpayer's distributive share of partnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil and gas extraction income.

"(c) DEDUCTIONS AND CREDITS DISALLOWED.—

"(1) No deduction shall be allowed—

"(A) for any amount allocated to or chargeable against amounts excluded from gross income under subsection (a); or

"(B) for any amount expended for the exploration for oil and gas outside the United States and its possessions, or for the development of any oil or gas property located outside the United States and its possessions.

"(2) No credit shall be allowed—

"(A) under section 901 for taxes paid or accrued (or deemed paid) with respect to amounts excluded from gross income under subsection (a); and

"(B) under section 38 for section 38 property used predominantly for exploration or development described in paragraph (1) or for the production of amounts excluded from gross income under subsection (a).

"(d) LIMITATION ON LOSSES.—

"(1) IN GENERAL.—Losses sustained during the taxable year on the sale, exchange, abandonment, or other disposition of any assets used in a trade or business described in subsection (b)(1) shall be allowed only to the extent of the gains recognized during such year from the sale or exchange of oil or gas properties located outside the United States.

"(2) CARRYOVER OF UNUSED LOSSES.—Any amount of loss disallowed under clause (i) shall be carried to the succeeding taxable year and treated as a short-term loss sustained in such succeeding year from the sale or exchange of oil or gas properties located outside the United States.

"(e) REPORTING REQUIRED.—Every taxpayer shall furnish such information with respect to amounts excluded from gross income under subsection (a) as the Secretary may by regulations prescribe."

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart H—Exclusion from gross income of foreign oil and gas extraction income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1981.

SEC. 423. DENIAL OF CREDIT FOR EXCESS FOREIGN OIL RELATED PAYMENTS.

(a) IN GENERAL.—Section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"SEC. 907. FOREIGN TAXES ON OIL RELATED INCOME AT RATE IN EXCESS OF FOREIGN GENERAL RATE OF TAXATION NOT TREATED AS TAXES.

"(a) EXCESS FOREIGN OIL RELATED PAYMENTS.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil related income, the term 'income, war profits, and excess profits taxes' does not include any amount paid or accrued to the extent that the Secretary determines that the foreign law imposing the amount is structured, or in fact operates, so that the amount imposed with respect to foreign oil related income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is not foreign oil related income. In computing the amount not treated as tax under this section, such amount shall be treated as a deduction under the foreign law.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

"(1) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

"(B) the transportation of such minerals or primary products,

"(C) the distribution or sale of such minerals or primary products,

"(D) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

"(E) the performance of a service by or on behalf of a related person who is engaged in an activity described in subparagraphs (A), (B), (C), or (D) or and activity described in section 981(b)(1), relating to the exclusion from gross income of foreign oil and gas extraction income.

"(2) DIVIDENDS, INTEREST, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil related income' includes—

"(A) dividends and interest from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) interest and dividends from a domestic corporation which are treated under sections 861(a)(1)(B) and 861(a)(2)(A) as income from sources without the United States,

"(C) amounts with respect to which taxes are deemed paid under section 960(a), and

"(D) the taxpayer's distributive share of the income of partnerships,

to the extent such dividends, interest, amounts, or distributive share is attributable to foreign oil related income, except that such term also includes interest described in subparagraph (A) attributable to foreign oil and gas extraction income, and interest and dividends described in subparagraph (B) which are attributable to foreign oil and gas extraction income.

"(3) DISREGARD OF CERTAIN POSTED PRICES, ETC.—In determining the amount of taxable income in the case of foreign oil related income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

"(c) CARRYOVER OF CERTAIN OIL TAXES.—For purposes of determining the amount of

taxes paid or accrued in any taxable year beginning before January 1, 1981 (hereinafter in this subsection referred to as the 'excess credit year'), which under section 904(c) are deemed paid or accrued in a taxable year beginning on or after January 1, 1981—

"(1) the amendments made by sections 422 and 423 of the Foreign Oil and Gas Tax Act of 1981 shall be deemed to have been in effect for such excess credit year and for all taxable years thereafter, and

"(2) section 907(b) (as in effect on the day before the date of the enactment of the Foreign Oil and Gas Tax Act of 1981) shall be deemed to be in effect for such excess credit year and for all taxable years thereafter."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 907 and inserting in lieu thereof the following:

"Sec. 907. Foreign taxes on oil related income at rate in excess of foreign general rate of taxation not treated as taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts paid or accrued on or after January 1, 1981, in taxable years ending on or after that date.

SEC. 424. END OF DEFERRAL FOR FOREIGN OIL RELATED INCOME.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(5) the foreign base company oil related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) SPECIAL RULES.—

(1) Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil related income."

(2) Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR FOREIGN OIL RELATED INCOME.—Income of a corporation which is foreign base company oil related income under paragraph (5) of subsection (a) shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a)."

(c) DEFINITION OF FOREIGN OIL RELATED INCOME.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) FOREIGN BASE COMPANY OIL RELATED INCOME.—For purposes of subsection (a)(5), the term 'foreign base company oil related income' means foreign oil related income (as defined in section 907(b)) other than income derived from sources within—

"(1) a foreign country in connection with oil or gas which was extracted by the foreign corporation or a related person from an oil or gas well in such foreign country, or

"(2) a foreign country in connection with oil or gas related products which are sold by the foreign corporation or a related person for use or consumption within such country."

(d) EXCEPTION FOR CERTAIN FOREIGN CORPORATIONS NOT TO APPLY.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to foreign base company oil related income described in subsection (a)(5)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning on or after January 1, 1981, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

Subtitle D—Cash Management

SEC. 431. CASH MANAGEMENT.

(a) IN GENERAL.—Paragraph (1) of section 6655(h) is amended to read as follows:

"(1) IN GENERAL.—In the case of a large corporation, paragraphs (1) and (2) of subsection (d) shall not apply."

(b) CLERICAL AMENDMENT.—The subsection heading of subsection (h) of section 6655 (relating to failure by corporations to pay estimated income tax) is amended by striking out "60 PERCENT" and inserting in lieu thereof "80 PERCENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

TITLE V—FINANCING OF RAILROAD RETIREMENT SYSTEM

SEC. 501. INCREASES IN EMPLOYER AND EMPLOYEE TAXES.

(a) TAX ON EMPLOYEES.—Section 3201 (relating to rate of tax on employees) is amended by striking out all that precedes "the rate of the tax" and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 2.0 percent of so much of the compensation paid in any calendar month to such employee for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 for any month.

"(b) The rate of tax imposed by subsection (a) shall be increased by".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Subsection (a) of section 3211 (relating to tax on employee representatives) is amended by striking out "9.5" and inserting in lieu thereof "11.75".

(c) TAX ON EMPLOYERS.—The first sentence of section 3221(a) (relating to tax on employers) is amended by striking out "9.5" and inserting in lieu thereof "11.75".

(d) CONFORMING AMENDMENTS.—

(1) The last sentence of section 230(c) of the Social Security Act is amended—

(A) by inserting "employee and" before "employer",

(B) by striking out "section 3221(a)" and inserting in lieu thereof "sections 3201(a) and 3221(a)", and

(C) by striking out "9.5" and inserting in lieu thereof "11.75".

(2) Paragraph (1) of section 3231(e) (defining compensation) is amended by striking out "(iii)" and all that follows through "(iv)" and inserting in lieu thereof "or (iii)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to compensation paid for services rendered after September 30, 1981.

SEC. 502. ADVANCE TRANSFER OF AMOUNTS PAYABLE UNDER SOCIAL SECURITY FINANCIAL INTERCHANGE.

Section 15(b) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(b)" and by inserting at the end thereof the following new subdivision:

"(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Funds estimate will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month."

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute is considered as having been read.

The gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and a Member in opposition will be recognized for 30 minutes. The Chair understands that the gentleman from Illinois (Mr. ROSTENKOWSKI) will be in opposition and will yield 15 minutes of his 30 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, is it proper for the gentleman from Illinois (Mr. ROSTENKOWSKI) to yield me some of his time? The gentleman indicated he would.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ROSTENKOWSKI) desire to yield time?

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 8 minutes of my time to

the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I thank the gentleman from Illinois (Mr. ROSTENKOWSKI), and I commend him for his efforts in this area. I thank him particularly for the hard work he has done on this bill. I want it known that when we get to a choice between the committee bill and the administration bill, I am with my friend, the gentleman from Illinois (Mr. DAN ROSTENKOWSKI), and his committee on what they have brought to us today.

I guess it is time for stories perhaps at this point in the afternoon, and let me tell the Members about a conversation. It never happened, but it could have.

Our old friend, Dave Stockman, comes out of the Executive Office Building, and he meets a taxpayer on the street with a family of four, two kids and a wife. The fellow recognizes him and greets him, and he says, "I hear you have good news for me, Mr. Stockman."

And he says, "Yes, we are going to give you a tax cut."

Then this working man says, "Well, gee, that's great. How much will it be in my $15,000 bracket?"

Mr. Stockman tells him, "It will be somewhere between $90 and $150."

And he says, "Gee, that's good. That's good news."

And so the guy says, "Well, that $150 will probably get me through a pair of jeans for my teen-aged daughter and a $15 pair of shoes for my son who is going to school and a $20 night out for my wife and I. With the $35 I have left I can buy two tanks of gas and have $5 for lunch at McDonald's."

He says to Mr. Stockman, "That is not very terrific, but what really pleases me, Mr. Stockman, is that you guys down at the Capitol have finally got around to balancing the budget so that you have some money left for tax cuts."

Mr. Stockman says, "Well, to be honest with you, I cannot say that. We have not balanced the budget. Instead, the deficit has gone up from $40 billion this year to maybe something like $60 billion. I guess I had better tell you, Mister, that if our program works the way this Mr. Laffer out in California says and if our best-case assumptions carry, we are going to have another $128 billion in deficits before 1984."

The fellow says, "That is strange. Where are we going to get this $40 billion to $60 billion for me and other Americans to have a tax cut?"

Mr. Stockman says, "Well, to be honest with you, we are going to borrow it."

"Well, who will pay for it?"

"Well, it is going to be on your credit card and on the credit cards of all Americans," Mr. Stockman says.

"Yes, we are going to borrow it. When I was a Congressman, I used to call that 'printing money' or 'monetizing the debt'."

"But," the guy says, "in the Federal budget is not interest a big item? I have heard it is something like $80 billion just for interest on the national debt."

And Mr. Stockman says, "Yes, that is right, and to be honest, we are going to have more for interest payments, even larger ones, next year, if that $60 billion deficit goes through. As a matter of fact," Mr. Stockman says, "we have already budgeted $106 billion. The interest next year on the national debt is $106 billion, the third biggest item in the budget."

And the fellow says, "Well, Mr. Stockman, won't all this cut down the money supply that we need for capital investment in homes and buildings and all the rest?"

"I suppose," says Dave Stockman. "But to be honest with you, Dr. Laffer and JACK KEMP and these fellows all say we are going to have to try this for 3 years first to get any results."

The taxpayer says, "Well, I've got to leave, Mr. Stockman, but it seems to me that we would be a lot better if we passed up a tax cut this year and got inflation under control and moved quickly toward a balanced budget. Then maybe we could talk about tax cuts."

That is the end of the story, except to tell you that the CBS and New York Times polls in February, supported by every other poll I have seen, asked the American people: "Would you rather have a large tax cut or pass up a tax cut and have a balanced budget before you have a tax cut?"

Seventy percent said, "Do not cut taxes. Let us leave them where they are, and let us balance the budget this year."

Seventy percent say yes, 23 percent say no.

So if we are going to go into debt and drive up the cost of interest on the national debt by having tax cuts, at least we ought to put that money where it will do some good. We ought to put it into productive assets and homes, where it will give people jobs and create long-term economic activity.

We are in a crazy world. We are fighting inflation. We have an overheated economy in some respects, and in the administration bill we fight that overheated economy with high interest rates and big spending cuts.

That is the traditional medicine. But we also have some things in our economy that are stagnant, so we are fighting a stagnant economy with big tax cuts, printing more money and going into big deficits and all the rest.

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What the administration is telling us to adopt as public policy, on which all our hopes should rest, is that not only is there a free lunch, but that there is a free lunch and we are going to get a bonus for eating it.

It is like going to the doctor and the doctor says, "Mr. Stockman, you seem to have high blood pressure symptoms, but you also have some low blood pressure symptoms. We have done all the tests with Dr. Reagan and so on. Some of our tests say high blood pressure and some of them say low blood pressure. So what we are going to do for you is give you a high blood pressure pill on this side of your mouth and a low blood pressure pill on the other side of your mouth. Swallow quick and you will live happily ever after."

GEORGE BUSH was right when he said this is voodoo economics. It will not end and nothing is going to happen unless this country gets sensible and comes back to the balanced budget that we all want.

We can have a balanced budget this year. It is guaranteed. The figures come out of the same process that the administration figures come from.

How do you think they are going to feel on Wall Street if tomorrow the story is, miraculously, that this country is not going to have a balanced budget next year, but a balanced budget with a surplus of $2 billion? We are going to have a second balanced budget in the next year under our plan, under all these rational assumptions.

We can do it. We can bring hope back to the American people. We can get rid of the skepticism that is around.

You know, I talked a little bit this morning about the problem of confidence and skepticism in this country. Four years ago Jimmy Carter came to town with his people. He said, "We promised you a balanced budget in the election. We have now looked at the numbers and we have to be honest with you. There will not be a balanced budget in 1977, and to be perfectly frank, there will not be one in 1978 or 1979. But you can bank on it, there will be a balanced budget in the last year of the Carter administration, 1980," which happened to be an election year.

Turn the clock back to 1981. A new President rides out of the West. He brings Dave Stockman with him down to OMB. They say to the American people, "We promised you a balanced budget. We have looked at the numbers. We cannot get it in 1981. We are not going to get it in 1982 or 1983, for that matter, but you can count on it. Ladies and gentlemen, we will have the mystic balanced budget in 1984," and last week it slipped to 1985.

Well, good Lord, when everybody agrees that the best medicine for fighting inflation and to bring interest rates down and get this economy

going, when everybody agrees the best medicine would be to balance the budget, by what kind of logic do we come in here and propose a plan, where, if all the assumptions were true, if everything in the Republican program works as advertised, it will be 1984 or 1985 before we have a balanced budget?

We really do not want to wait for another cycle and another new President in 1985, saying, "It is possible. We are going to balance the budget. We promised it. Let us wait. We cannot right now, so you have to wait another 4 years."

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I will yield to my friend, the gentleman from New York (Mr. KEMP), since I mentioned his name.

Mr. KEMP. I appreciate the gentleman yielding.

We have just come through 4 years of the gentleman's economic advice to this country. President Carter raised taxes on the American people by a total of $300 billion in 4 years and we are no closer to a balanced budget, indeed the deficits are bigger and interest rates are higher than ever.

Does the gentleman think, there is any empirical evidence, that you can balance the budget by raising taxes? Can the gentleman tell us why he wants a tax increase on the American people?

Mr. UDALL. I am not in favor of a tax increase on the American people. I am doing what 70 percent of the American people say over and over, but they never make any impression on my friend. "We want a balanced budget."

Mr. KEMP. Taxes are going up or down and I prefer and my voters prefer they go down.

Mr. UDALL. They say, "We don't want to wait for 4 years for a balanced budget. We want it now."

And we can give it to them. We can give them a balanced budget now if we will pass our resolution.

Mr. KEMP. But you have got to raise taxes to do it.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Chairman, I am delighted to hear the distinguished gentleman from Arizona make reference to medical attention. I would ask the American people and my fellow members of this committee now, if you had gone to a surgeon and he had been unsuccessful in removing your appendix, would you permit him to operate on your heart or on your brain?

The American people have seen this group that appeared on television the other night, led by our venerable speaker, who have brought us to the brink of economic disaster, and who now tell us, trust them, they are going to save us. They know only too well the type of salvation they offer.

Well, gentlemen, you just cannot fool all the people all the time. You have accused the gentleman in the White House of seeking not to do anything for the economy of this Nation, but to win a great political victory. What greater victory can a human being achieve than to be elected President of the United States of America? I submit to you, he needs no greater political victory. He is trying to give the people of this Nation an economic victory, one in which they can look forward with some hope and anticipation to greater days to come for themselves and their children.

I heard a fellow on the radio saying he awakened again this morning with a bad case of the bracket creeps. You know, that happens so very often. The American people finally realized on November 4 of last year that we were tired of wakening every morning to a bad case of the bracket creeps.

So I say to those of you who support the work of the gentleman who has been here many years, the chairman of the Ways and Means Committee, and during those years the economy has deteriorated almost to nothing—those of you who support the amendment of the bill as proposed by him and the other members of that committee, I say to you, do not be supprised if you and your constituents continue to awaken on payday with a bad case of the bracket creeps, if the Rostenkowski-O'Neill amendment passes.

I commend the distinguished gentleman from New York (Mr. CONABLE) and those of you who have worked so hard to bring about what finally is going to be economic recovery for this Nation. I salute those of you who are representative of the Democrats that are going to lead the Democrat party into the 21st century, for what you are doing not only for your President, but for your constituents and mine. When you join people like the distinguished gentleman from New York (Mr. CONABLE) in voting for the Conable-Hance bipartisan bill, you are doing something for your country, your President, something that has not been done in the 26 or more years that people like our distinguished chairman have had control of these committees and this economy.

I salute you and I thank you on behalf of 519,000 people living down in South Carolina in my congressional district.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, for many years many of us have fought for a balanced budget. We have introduced constitutional amendments. We have taken other measures to try to bring that about.

Yesterday by a vote of 403 to 17, we used strong language in a resolution we passed saying the administration should take immediate action to reduce future budget deficits.

Mr. Chairman, the opportunity is available to us today in the Udall proposal. This is a modest proposal. The proposals that are otherwise before us: As I understand the estimate from the Ways and Means bill, it is $620 billion in reduction in assets from the Federal Treasury for that committee's bill; and the estimate for the Conable bill is $731 billion, that is three-quarters of a trillion dollars; while for the Udall bill the estimate is $309 billion only.

Now, I asked the President last weekend when I was up there with him which was the bill which cost the most money and had the deepest cuts. He frankly replied to me that it was his bill, the Conable bill.

When I went back to my district very recently and had town meetings, and many hundreds of people attended these town meetings, I did not have a single soul arise and ask for a tax cut. I had scores of people rise and ask, "What are we going to do about inflation?" They said, "That is the thing that is really catching us."

I mentioned once something about there might be some kind of a tax cut, and the reply I got back was, "Well, what do we get, a hundred dollars or two hundred dollars? It is going to cost us a thousand dollars in inflation next year if it does anything to us next year like it did last year; so we are very much more interested, Mr. Congressman, in your doing something about inflation."

Now, we have an opportunity to do that here.

Another thing that I would like to mention that was mentioned very eloquently by the gentleman from Missouri has to do with national defense. If we enact these extreme measures that are going to cost so much and put us in such a bad financial bind in the future, we just are not going to be able to have an adequate national defense. Inadequately defunded, we might risk encouraging war if we do not watch out.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. UDALL. Mr. Chairman, I yield 1 additional minute to the gentleman from Florida.

Mr. BENNETT. Finally, Mr. Chairman, I would like to say it seems to me you have here two bills, both of which are loaded down with things which are just traded off to get more votes. These things have nothing to do with the merits of the American people at all. They are just bargaining chips, and when you have all of these chips on there, it seems to me it makes good sense, since you have already got such a bill in the Senate, to pass a modest

bill over here and then you can get rid of all this tripe and excess baggage in conference. That gives you an opportunity to really work out a clean bill. That is what the country needs today, a clean bill, a good bill, one that will actually make some needed tax reductions and, more importantly, actually make some reductions in inflation.

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I congratulate the gentleman from Arizona (Mr. UDALL) and his cohorts for bringing this to us.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Chairman. I rise in support of the Conable-Hance tax reduction bill, which is enthusiastically supported by the President of the United States, and by an overwhelming majority of the people of the United States.

Yesterday, just 1 day after the President spoke on national television, in my three congressional offices, I received 201 calls in favor of the President's tax cut and 32 calls against. The 201 calls, I might add, were made on behalf of 1,592 people, since some callers registered opinions of organizations, businesses, families, and coworkers. The 32 calls against were all from individuals.

I appreciate hearing from both opponents and supporters of the President's tax plan, for it is only by listening to the voices of the people I represent that I can make decisions which accurately reflect my district.

And, after yesterday's barrage of calls, I cannot help but note that, were I not already committed to the President's tax plan, there would be no way I could oppose it after this overwhelming, favorable response by the people of Kentucky's Sixth District. I will be amazed to see which of my colleagues vote against the President's plan and against the obvious will of the people. I know that if I—a conservative Republican who has consistently backed the President's economic recovery package—have received this many calls representing over 1,500 people, that those who have consistently opposed the President's economic package must be overwhelmed.

I believe the people of this country realize the President's plan is the only one which will give them long-term, permanent tax relief.

In the Commonwealth of Kentucky, the President's 25-percent-tax-cut proposal will mean a tremendous savings to taxpayers. Enactment of the tax cut will mean a $2.7 billion tax reduction for Kentuckians over the next 3 years. This would amount to an average of $1,734 for every taxpayer in the State over the 3-year period. And, the $2.7 billion only includes personal income taxes and not the business or corporate tax reductions which should add millions more in tax relief to our State.

It is also very interesting to note that the $2.7 billion Kentucky would receive from the tax cut exceeds—by some $800 million—the reductions Kentucky reportedly could suffer if all the Federal budget cuts are enacted.

Keeping these dollars in Kentucky will mean a huge boost to our economy. The impact of this cut would provide long overdue relief in the area of jobs creation, investment, and private business development.

I would like to cite a few counties and the impact the President's 25-percent-personal-income-tax cut will have on them.

Fayette County will receive $203,513,250 in personal income tax reductions from fiscal year 1982 to 1984; Jefferson County will receive $748,285,990; Kenton County will receive $116,952,540; Warren County will receive $51,008,018 and McCracken County will receive $59,718,870.

The mandate of 1980 was very clear that the people want their money back. Two generations of taxing and spending have created the economic problems we face today. It is time to enact the President's plan and go about solving our financial problems.

Today, we in the House of Representatives are being called upon to do just that, by choosing between the President's tax cut proposal or the hastily concocted alternative proposed by Speaker O'NEILL and company. For me, there is no choice. Despite the rhetoric offered by the liberals, the President's tax cut will help all Americans by putting more hard-earned dollars back into the pockets of the people who earn them.

One of the most loudly proclaimed assertions by the proponents of the O'Neill tax cut plan has been totally invalidated by two studies done by the Congressional Research Service, a unit of the Library of Congress which is independent of either political party.

The claim has been that only people who make over $50,000 a year will benefit from the Reagan tax cut. This is not true.

The conclusions of these two CRS reports are that if you take a 2-year analysis of the two bills, you will find everyone over $35,000 does better under the President's bipartisan proposal. But a temporary, band-aid, 2-year solution is not what the President has offered. More importantly, the study shows that, if you take the third year and factor in the full impact of the President's proposal, every single wage category, every single earnings category above $10,000 does better under the President's tax cut than they do under the O'Neill plan. Those people who earn less than $10,000 will do only slightly better with the O'Neill alternative—$35 better.

Even after the third year, the tax cut will remain effective, because these reductions will then be indexed, locking the tax cut into the tax structure, permanently combating bracket creep which has ravaged us all in recent years. The 2-year-quick-fix-tax cut offered by the liberals in the House is temporary. After 2 years, taxes will again rise as inflation pushes earnings into higher brackets.

The fundamental difference between the President's tax cut and the alternative tax bill is that the President's plan provides working people with a real tax cut, while the O'Neill plan would allow taxes to continue to increase on working people.

Under the President's tax bill, all working Americans can look forward to lower taxes and higher, real take-home pay over the next several years.

The President's bill is the only one which will provide real, long-term tax relief for the American people. For these reasons, I am voting for the Conable-Hance tax reduction bill, which has been offered to the House of Representatives and to the American people as certain, long-term relief from overbearing Federal taxation.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Chairman, Will Rogers used to say if you could get the American people to argue about a proposition and publicize it enough that you could divide the country overnight on the question of whether or not broccoli or spinach is the most nutritious.

We had an election 8 months ago and since that time the tax and spend crowd has been bombarding the American people and pounding away in an effort to divide them and to bust up the unity that they have had.

First we heard that the election constituted no mandate, that it was just a contest of personalities, and that did not sell. Then we heard that the tax cuts were going to be widely inflationary. That did not sell. Then we heard that the President's tax cut may not be inflationary, but it favors the rich, and that has not been selling. Then they say maybe we need tax cuts, but this is the wrong way and this is the wrong time and this is the wrong place.

I think what Will Rogers said about broccoli and spinach is ordinarily true, but it is not working. For some reason it has not divided the people. The people are sticking with the President.

I think that this has come as a real surprise to the tax and spend crowd. But they have been quick to sense, however, that the will of the people is there and they have been quick to sense that our ideas are salable. So the

difference here comes in what we do and what they do.

If my colleagues look at the President's bipartisan proposal, they discover that we keep the promises that were made, and that ours is based on ideas that we believe in, on which we have conviction, real tax cuts, economic growth.

The Democratic Ways and Means bill is a dinky tax cut for 2 years which will be eaten up in the third year when that phony trigger never gets pulled.

So it looks like something the people want, but it is not. It is just a party unity bill and then we will go back to business as usual in the years to come.

Then we have the liberal amendment which is being offered, which is really the same old stuff but it is being passed off under a balanced budget title because that is popular and seems like what the people want. We need to stick with the people. They are sticking with the President.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I wish that I could say that the choices we have today were between good and evil, right and wrong. But the truth is that they are not. No Democrat or Republican can be proud of the work done on this tax measure or its substitute. The outrageous bidding war of the last few months has produced a disastrous tax policy that Americans will have to live with for years to come. Billions of dollars have literally been bargained away on both sides until now it is hard to distinguish what differences there are between the two primary proposals. No philosophy will win with this vote, since both bills are a mish-mash of tax loopholes, tax cuts, and tax giveaways. This is a far cry from the original proposals to cut individual taxes, and encourage investments, savings, and capital formation.

On Monday night the President said that his version had "something for everyone"—and it surely does if you are rich enough to take advantage of the provisions. Beyond the much discussed $50,000 difference, under which those making less than $50,000 do better with the Democratic plan than they do under the Reagan plan, there are other major differences. For example the oil industry, which already accounts for more than one-third of all U.S. industrial profits, would receive $16 billion in tax breaks under the Reagan plan. The Democratic proposal is not much better as it gives away $10 billion to an industry which only a few months ago was largely decontrolled from price regulation.

The stated objectives of this oil tax giveaway plan are to produce more domestic oil and gas and to become energy self-sufficient. It sounds good, but when one takes a closer look at both provisions, one notices that a good portion if this "relief" will go to taxpayers who own royalty interests in oil-producing properties, but who do not make decisions about production. Much of the rest would go to independent oil producers who lack the corporate resources needed to undertake more complex exploration projects. I would keep in mind when one looks at any tax cut, or giveaway, that someone else, usually the average working man and woman, will have to pay to make up the difference.

On top of the energy tax benefits—read oil tax benefits—both proposals have generous provisions for dividend reinvestment, and both incorporate the "All Savers Plan". This plan appears quite reasonable, but only a week ago President Reagan opposed it. Now he advocates it. An estate tax exemption is necessry and fair, but the proposal submitted by both the Democratic and Republican bills is ludicrous. It is estimated that this provision, which would benefit only the top 3 percent on the income scale, could amount to a whopping $4 million tax break for the beneficiaries of a $25 million estate. The only positive element from the estate and gift tax proposal is the tax free unlimited transfer of property to the spouse. It is something we should have done long ago in recognition of the financial and emotional support a spouse gives, and needs.

But despite the drawbacks, the massive giveaways, the Christmas tree appearance of both bills, I must reluctantly support the Ways and Means Committee version of the largest tax cut in American history. I fear that neither bill will do what their proponents suggest, but the Democratic bill comes closer. It will not do enough to increase productivity, reduce unemployment, encourage savings, or improve the economy, but neither would the program submitted by President Reagan. I suspect that whichever program we approve, in a few years hence we will be discussing the same problems we do today—high unemployment, rising interest rates, unacceptable inflation, and staggering Federal budget deficits—in short, we will be struggling over a battered economy. Despite the rhetoric, neither this, nor the budget cuts will be our salvation.

Nonetheless, I will support the Ways and Means Committee's proposal. Not because it is good, but because it is better. Better for the people of my district; better for working class America. It is the distribution not of wealth, but of sweeteners. And as reluctant as I am to say it, I choose the Democrats' sweeteners.

Unlike the President's proposal, the Democrats have improved the child care tax credits, increasing child care credits to 40 percent for taxpayers with incomes below $11,000, and phasing down the rate to 20 percent for those incomes from $11,000 to $30,000. The Democrats' version also has a much better marriage penalty deduction of up to $5,000 versus the President's $3,000. And finally, the Democrats' plan favors small businesses, the very entity which creates over 90 percent of all new jobs.

Perhaps the most significant difference between these two proposals is in the treatment of small business. True, the President would reduce paperwork and accounting difficulties with his 10-5-3 depreciation plan, but the real beneficiaries of this plan will be industries with long-lived and outdated assets and investments. On the other hand, the Democrats have proposed a truly innovative approach called expensing. This process would benefit one of the most productive and fastest-growing industries in America—electronics, an area where, worldwide, Americans are in the forefront. It would also incredibly simplify and streamline paperwork and accounting procedures. At this time, I would like to compliment the sponsors of both pieces of legislation in recognizing the importance of research and development by providing tax credits to businesses. Small business must survive and prosper if our economy is to improve and grow. The Democratic version is simply far superior in this respect.

Nonetheless, this will not entirely counteract the expense and waste of these giveaway proposals. Politicians sometimes find this hard to believe, but I do not really believe that Americans are so simpleminded or so selfish as not to read this present behavior as mere political shenanigans. The President talked of balanced budgets just a little over a month ago, but has proposed a tax cut that will surely create massive deficits in the years to come. We in Congress are not fools, nor sheep to be led to slaughter. We can read and analyze the figures. We know that there is no conceivable way to balance the budget, increase defense spending, and give massive tax cuts without completely dismantling programs beneficial to all Americans, not just a selected few. The current controversy of eliminating the minimum social security benefit, a proposal I oppose, is just the tip of the iceberg of the budget cuts in vital programs which the Republican economic plan would require in the next 3 years.

These tax proposals will not solve our economic problems, nor will they substantially help those in financial need, the majority of my constituents. This is a selfish program, not aimed at selfish Americans, but at selfish politicians who desire to win their political games no matter who might be the

losers. It is not always easy for an elected Representative to balance the needs of a disparate constituency, especially when those who are most vocal and able to articulate their view are advocating a policy that is not in the best interest of the majority. Yet that is our job, and even though some will not like our vote, we must try to faithfully represent not only the majority of our vocal constituents, but the majority of all our constituents. The Democratic plan is, on balance, a better plan, for these hard-working people.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I rise today in support of the Udall-Obey-Reuss substitute and to voice my serious concern over the Conable-Hance substitute as well as the Ways and Means Committee bill.

I must say I would like nothing more than to be able to support the President, or where that is not possible on the merits, the leadership of the House on important issues such as taxes. However, I have serious reservations about both proposals.

There is, in fact, only one bill I can vote for in good conscience. The Udall substitute would provide a 5.1-percent tax cut during the first year, a cut equal to that of the President's first year proposal. It would, however, skew that cut to the middle-class taxpayer. It totally eliminates the commodity tax straddle, a loophole for large scale commodity traders. It provides narrowly targeted business and investment tax incentives.

Unfortunately, it does not include the "all savers" concept which I support and which I would like to see included. But, it also does not include massive exemptions from the windfall profits tax for oil and gas producers nor does it include estate tax breaks which primarily benefit the wealthy.

The Udall bill is a moderate, reasonable approach to tax relief. It provides for a balanced budget by 1983 which should cool inflationary expectations enormously. It may, therefore, help to keep us at the single digit inflation level we have achieved recently even after the OPEC nations once again begin a yearly rise in oil prices as a cartel action. I am convinced that the administration proposal and the Ways and Means proposal will lead to huge deficits by 1984 because they both represent expansionary fiscal policy. I am not alone in that belief. One economist on the President's Advisory Committee estimated Federal deficits of close to $80 billion by 1984 as a result of the President's bill.

In addition, the Udall bill does not include tax indexing which I feel is extremely risky without extensive hearings and debate. The idea of an automatic yearly tax cut pegged to the Consumer Price Index sounds every bit as exciting now as the idea of a similar automatic yearly increase in important spending programs sounded 8 years ago. However, we know the 1972 indexing decision on spending programs was wrong and I believe similar, perhaps far graver, problems will occur with the administration proposal to index Federal taxes. I fear that 10 or 15 years from now, or perhaps earlier, your children and mine will pay a terrible price for this particular political decision.

The only Nation in the world which has tax indexing is Israel and they have experienced inflation rates of over 70 percent for years, sometimes even going to 100 percent or more. This could happen to this country under these tax proposals. I fear the economy of our Nation will go into a tailspin in just a few years because of expanding government borrowing due to huge deficits. This borrowing will inevitably lead to even larger inflation rates than we are experiencing now and to a continuation of inflation and high interest rates. That clearly would not be in our national interest.

I believe in a change in our economic policies and have for many years. I opposed almost every budget presented by the Carter administration. I voted consistently for across-the-board spending cuts with the exception of defense.

However, the Conable-Hance substitute and the committee bill is little more than an embarassing, reprehensible, if not scandelous, attempt to attract special interest groups. In an effort to outbid one another, the leadership of both parties have forgotten their responsibilities to all segments of our economy and certainly to the average American taxpayer. The impacts of both will be detrimental to both my South Jersey constituency and the Nation as a whole.

I, therefore hope my colleagues will join me today in support of the Udall-Obey-Reuss proposal—the only one that represents good national tax policy.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I rise in support of the Udall substitute.

We are about to enter a period not of continued inflation in our economy but of actual deflation. The primary cause of the deflation will be the result of the largest money transfer in history, the greatest redistribution of wealth ever seen. This money transfer will occur for three reasons.

First, high, extremely high interest rates transfer money from the mass of consumers and taxpayers who pay the high interest rates on the cost of the products they buy and on the interest on the national debt they pay in their taxes. Receivers of this benefit are those affluent few who own bonds and bills and other money market investments.

Second, the tax cut (Republican and Democrat) gives far more per capita dollars to those same affluent few, meaning a net taking away of money from the rest.

Third, Federal, State, and local government spending cuts reduce money going to lower economic groups, while spending is increased for many of the affluent such as the oil companies and defense manufacturers.

The result of these three transfers will be the transfer of hundreds of billions of dollars from the pockets of the middle and lower income groups to the more affluent. Whether the more affluent will invest this added wealth, or how they will invest it, I do not know. But those who make up the mass of consumers, and who do spend almost all the money they receive, will have hundreds of billions less to spend.

Pressure will be taken off our economy. Less goods will be made and sold. Businesses will be cut back, many will fail. Unemployment will increase, eventually causing lower wages. And inflation will be stopped. Deflation—lower prices—will occur.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I rise in support of the Udall substitute.

In 1980, when Ronald Reagan and GEORGE BUSH were both candidates for the Republican Presidential nomination, BUSH characterized Reagan's economic proposals as "voodoo economics." Like so many others, GEORGE BUSH understood that we could not cut taxes, increase defense spending, balance the budget and hope to reduce inflation all at the same time. Today GEORGE BUSH is Mr. Reagan's Vice President and, not surprisingly, he supports the same economic program he once denounced. He, of course, has no choice. What is surprising and dismaying—is that the Democratic majority on the Ways and Means Committee and the distinguished Democratic leadership of the House have joined Reagan in backing a tax cut program based on what has come to be called "supply side" economic theory. Unlike GEORGE BUSH, the Democrats in the House did have a choice. As an editorial in today's New York Times puts it:

> The Democrats had their chance for glory by exposing the economic fallacies and risks in the President's plan. Instead they pursued him over the same cliff.

While I will, of course, vote for the Ways and Means Committee bill as against the Reagan substitute, I deplore much of what is in the committee bill, as a result of the bidding for

votes that has occurred. The conservative Heritage Foundation jubilantly points to the Ways and Means bill as a "supply side triumph." It notes that the Democratic depreciation plan "actually provides a business tax cut of greater magnitude * * * than the plan offered by Reagan." As to the personal tax cuts, it tells us that "for all the rhetoric about targeting the tax cut to the poor and middle class, even the Democratic alternative promises 33-percent of its personal tax cut to those earning over $50,000 yearly." The Heritage Foundation adds that this 33 percent figure underestimates the degree of relief given the wealthy because cuts in the minimum capital gains tax will also greatly aid persons in the upper income brackets.

The conservative think-tank is entitled to feel pride in the "supply-side triumph." President Reagan deserves our admiration for the way he has dominated the economic debate in this country since taking office. Let us not kid ourselves. The budget this Congress is enacting is a Reagan budget with Dave Stockman's signature on every page. The tax bill we pass today will be a Reagan tax bill no matter which of the two major versions actually receives a majority of the votes in this chamber. Unless by a miracle the Udall-Obey-Reuss substitute should prevail, there can really be no Democratic victory today. While the Ways and Means bill is superior to the administration alternative, it remains, in essence, a modified Reagan bill. Can anyone claim that the Ways and Means Committee would have reported such a bill if Ronald Reagan were not President of the United States?

I stand with the AFL-CIO when it concludes that both major tax bills are "a double dose of bad news" for the great majority of the American people. The AFL-CIO maintains correctly that "the Ways and Means bill is marginally less inequitable toward American workers than the administration's proposal. But the differences between the two bills are overwhelmed by the similarities—designed to bring huge benefits to the corporations and the super rich at the expense of schoolchildren and pensioners, the unemployed and the disabled, and the disadvantaged. All this would come at a cost to the Federal Treasury over the next 5 years of over $700 billion."

I am saddened to see the Democratic leadership pursuing the illusion of victory today. In pursuit of that victory the Democratic bill has been weighed down with sweeteners for dozens of special interests. The Ways and Means bill will allow the exemption of 500 barrels of oil a day from the windfall profit tax at a cost to the Treasury of $7 billion over the next 5 years. The oil companies, with their astronomical profits, will receive $10 billion in tax breaks under the Democratic bill—this on the heels of decontrol of oil. The Ways and Means bill eliminates the estate tax for all estates worth less than $600,000 at a cost to the Treasury of $6 billion a year. By reducing the maximum estate and gift tax rate from 70 to 50 percent it will give a $4 million tax break to the beneficiaries of a $25 million estate. The minimum capital gains tax will be cut from 28 to 20 percent at a cost of $1.5 billion a year. One can argue that the Republican bill is far worse. It is, in the words of the Washington Post "a monstrous grab bag of expensive gimmicks." But that does not absolve the Democratic majority of responsibility for offering a bad bill if its own, a bill based on the same assumptions and the same "voodoo economics" as the administration bill. If one is a prescription for disaster, then so is the other.

Apart from its basic approach, the Democratic bill is better than the Reagan bill. Its individual tax cuts are skewed more heavily to middle and lower income households. The Ways and Means bill would give taxpayer with incomes between $15,000 and $50,000 some 64 percent of the tax relief, compared to 59 percent under the Republican proposal. The administration bill reserves its largest tax cuts for the super rich who would receive virtually all of the benefits from more favorable capital gains treatment, and estate and gift tax cuts. The Ways and Means bill is also better in respect to the business tax cuts. The Republican business cuts will be especially beneficial to very large, capital intensive businesses. The Ways and Means bill is clearly more generous to smaller businesses.

One of the most disturbing elements in the administration and Ways and Means bills are the huge deficits they would create. Here we have an administration which came to office pledged to balance the budget asking for tax cuts which would cause deficits of some $87 billion over the next 2 years. The Joint Committee on Taxation estimates that the Reagan bill will reduce revenues by $754.4 billion over 6 years while the Ways and Means bill will reduce revenues by $706 billion. Revenue losses in this range—coupled with the Reagan defense expenditures of $1.5 trillion over the next 5 years—are bound to be grossly inflationary. The Reagan defense expenditures, which are three times bigger than those of Vietnam days in an economy which is in much worse shape than the economy of the 1960's, are gasoline poured on the inflationary fires. Now I oppose these defense increases, but they are a reality. Like it or not, we are going to have to pay for them.

We will pay for them in various ways. We will pay for them through unprecedented budget deficits leading to erosion in the value of the dollar. We will pay for them through further cuts in social programs. We have already seen the enactment of $37 billion in painful budget cuts. In the coming years, I fear that the administration will attempt to pay for its tax cuts and military budget increases by asking for billions and billions more in cuts in health programs, mass transit, and social security. In spite of the President's incredible statements to the contrary, the administration has already begun an attack on the level of social security benefits. As Messrs. Reagan and Stockman search for new savings to finance the tax cuts and Pentagon increases, the social security program is the obvious target, all too inviting.

We will pay for this profligacy also through higher interest rates. As the budget goes deeper and deeper into the red, the Government is going to have to go into the money markets where it will compete with businesses and private borrowers to raise capital. Interest rates will stay high and millions of young people will continue to face an economic situation where a mortgage and a private home are impossible dreams.

Are these tax cuts worth all this? I believe they are not.

Fortunately we do have one proposal before us today which offers tax relief without huge deficits. The Udall-Obey-Reuss proposal would provide significant tax reductions for most Americans while at the same time balancing the Federal budget. In its first full year the Udall-Obey-Reuss bill would provide larger tax reductions to 77 percent of all taxpayers than they would receive under the first year of the Reagan proposal. Most of the Udall cuts will go to middle- and lower-income taxpayers not the rich and the super rich. The Udall bill will provide $10 billion in tax incentives to businesses for modernization and increased productivity and it will be especially helpful to smaller businesses. Despite its tax cuts for individuals and businesses, the Udall bill would actually result in a $2 billion budget surplus in 1982 and a $20 billion surplus in 1983. These surpluses are possible because the Udall bill does not include billions of dollars of giveaways for oil companies and other special interests. The Udall bill continues the tax on huge estates. It eliminates tax breaks like the oil depletion allowance, forcing oil companies to pay more rather than less taxes.

The surplus produced under the Udall bill would go far toward offsetting any shortfalls in the social security system and would permit us to continue social programs badly needed by the middle- and lower-income groups.

The problem really is not all that complicated. We can cut taxes and balance the budget at the same time. We can do that and move toward an equi-

table tax code as well. The Udall-Obey-Reuss bill shows the way. The other bills before us today go in quite the opposite direction.

Mr. Speaker, I hope that this body will reject the administration bill. Its legacy will be social program cuts, soaring interest rates, and continued raging inflation. I do not believe Americans want tax cuts at such a price. I urge my colleagues to join me in supporting the only tax cut bill which will mean tax relief today without painful damage to the quality of our lives later.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I rise in support of the administration's tax bill.

Mr. Chairman, how far we have come in the past 30 years of Democrat stewardship of our Nation's financial business. In 1950 our national debt was $257 billion. Today, 30 years later, that debt is nearing $950 billion—almost a fivefold growth in that timespan.

In only 2 years out of that period did Republicans control the House of Representatives. During that 30 years the Federal budget has also dramatically grown—from less than $100 billion annually to almost $600 billion—more than a sixfold growth. During that time fiscal conservatives have preached and begged for balanced budgets and tax cuts—all to no avail, because the tax-spend, tax-spend did what they do best—tax-spend. At the same time they took our Nation deeper and deeper into debt.

Finally, with the dramatic help of a great leader that we have in President Ronald Reagan, the American people are now demanding the principles of fiscal responsibility that many of us have been working for these many years. How the worm has turned. Today I couldn't believe my ears when I heard the big spenders of the past talking about balancing the budget and cutting taxes. They never had wanted to do that before—why now? I'll tell you why—because in the face of Ronald Reagan's leadership and the demands of an awakend people, they see the political handwriting on the wall—they are joining the bandwagon.

The atmosphere in this Chamber tells me that we are going to finally get a tax cut for the American people today. I greatly prefer the Conable-Hance bipartisan tax cut supported by President Reagan and I hope this measure will be enacted today. I will vote for that version. However, I am most pleased that regardless of what happens, I know that this House will enact today a tax cut for the American people.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM).

Mr. McCOLLUM. Mr. Chairman, the real debate before us today on this issue where I rise to oppose the Udall amendment and in support of the Conable-Hance amendment, the President's supported substitute for this tax plan, is the quality, the future quality of American life for at least the next generation. The questions really are: Are we going to have a free society of individual liberty and opportunity and free enterprise where we taxpayers can earn and spend the money that we earn the way we want to, with dollars that mean something, with real purchasing power; or are we going to have a society politicians call free but, in fact, it is a society of "big daddy" Federal Government where we earn dollars that really are not worth that much and, in fact, they are worth less and less with each passing year and where we pay more and more taxes on those dollars, even if our income appears to go up.

Those are the questions of the quality of life for the next generation that we are going to decide in large measure today. The culprits are big Government, and runaway inflation—inflation which is caused primarily by the creation of too many dollars largely by the funding of a runaway public debt and also by the decline of the underlying value of the dollar, which is not gold or silver, but the productivity of the American people which basically forms the quality of our life—that ingenuity, that creativity, that inventiveness that has been the product of our great heritage since the Founding Fathers broke from King George over the same problem of taxes.

The only way we are going to get productivity up is by cutting taxes, just like the only way we are going to stop the creation of dollars is by cutting spending and balancing the budget. The only way to get money back into the taxpayers' pockets is by cutting income taxes. The only permanent income tax cut for wage earners and small businesses of middle-income America is in the President-supported Conable-Hance substitute bill.

I urge my colleagues to support the Conable-Hance amendment because it means in real terms the indexing that we are talking about to get away from inflation where a family of two people today earning $30,000 a year is earning only the equivalent of $15,000 a year 10 years ago. Yet they are paying, those two individual wage earners combined are paying more in taxes for that $30,000 income today that is not real, it is just the same as $15,000 in real dollars of 10 years ago, 48 percent more than they would have paid in taxes on the $15,000 income just 10 years ago.

□ 1430

I call on my colleagues to vote for the President's tax cut plan and I call on them to listen to the American public. It is our revolution that we are participating in. It is a revolution of our age and our generation that demands a return to the people of this country the Government which has so long been reposited not with them but with the people sitting up here instead.

I call for the cutting of spending, yes; but I call for it as a responsible cut to balance the budget in that fashion and the cutting of taxes to put the money back in the pockets of the American people to spend the way they want to, rather than the way the "big daddy" Federal Government wants them to do.

I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, better than a year ago this country undertook a discussion about tax cuts and it was determined that we ought to provide tax cuts to individuals so they will increase their savings and we ought to try to provide tax cuts to business so they will invest their capital investment. In fact, there is no indication that individuals are going to save this money. In today's Wall Street Journal there is a discussion by retailers across the country—Sears, Roebuck; J. C. Penney—saying they expect the consumers to spend at an all-time rate this Christmas season, that they are ordering inventories in expectation of that, and they expect the consumers to spend this money.

The consumer has every right to spend this money. I think probably they will. But it would be much cheaper, Mr. Speaker, if we just gave the consumers a Visa card, signed Uncle Sam's name, and told them to go Christmas shopping.

Much cheaper than this, because the important fact is that we have taken all of the political rhetoric in the Republican bill and in the Democratic bill and then we have prostituted it on the streets. In order to take desires of the American people, the legitimate needs of American business, we have gone and parceled it out and given $16 billion to the oil companies and a few hundred million dollars to the commodity straddles people, and hundreds of millions of dollars to people who speculate in gold and silver and elsewhere. We are really not interested in giving a tax cut to the American people. What we are really interested in is taking care of the powerful people in this country, because if we did not do that, we could increase the tax cut that we are providing to the American people.

What the Udall bill simply says, as most politicians hate to admit—everybody wants to go home and tell their constituents that they cut their taxes—what this bill really says is we can cut taxes a little bit, but when we are running this $80 billion deficit, why in the hell would we go out and borrow money in today's market at exorbitant interest rates to give a tax cut, and each Member should ask their constituents do they think the Government should borrow money to provide them a tax cut?

The resounding answer is "No."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin, (Mr. REUSS).

Mr. REUSS. Mr. Chairman, this is a battle of the titans. Over the smoke of the battlefield and the boom of the guns, the great captains stand with their battalions, Reagan, ROSTENKOWSKI, each intent on victory—victory decisive, victory complete, victory at any cost.

The simple little Udall substitute asks, "Victory for whom? For the American people?" With the revenue loss of $754 billion of the Reagan bill, and $620 billion of the Ways and Means bill, one can look forward into the future, as far as the human eye can see, and see very little but cruel inflation, cruel interest rates, and cruel unemployment.

What is needed is a very simple bill, which Udall offers. One, a modest tax cut for those who need it. Two, a real incentive to business to put in productivity-enhancing capital equipment. Three, balance the budget now, and thus bring down in the most sensible way the murderous interest rates and inflation which are dogging us.

We pledged yesterday, 403 to 17, to take immediate action to reduce the budget deficit and so permit lower interest rates. Now is an opportunity to put our votes where our voice was.

Four, no bonanzas for the oil companies, no cornucopias for coupon clippers, no goodies for the commodity tax straddlers. Five, in a year or two, let us come up for air, and give a tax cut then, with inflation and interest rates under control, that is good for everyone.

That is the Udall amendment. Now, the wiseacres tell us that it is not going to pass, and they may be right. But Members who today vote for the Udall substitute, in 6 months or a year, with inflation and interest rates and unemployment rampant, can be proud that on July 29 they stood with Udall.

They can be proud, when all around were talking victory, they kept their heads, and remembered the national rather than the special interests.

So you remember that old poem of Robert Southey about the Battle of Blenheim, when little Peter, years afterward on the desolate field, finds a cannonball and he asks his grandfather to explain what in the world was going on and what the battle was all about? "But what good came of it at last?" quote little Peterkin.

"Why that I cannot tell," he said, "but it was a famous victory."

Mr. Chairman, there is something better than a famous victory: Common-sense, good economics, and simple justice. When the vote comes in a few minutes, let us go with Mo.

The CHAIRMAN. The Chair announces that the gentleman from Illinois (Mr. ROSTENKOWSKI) has 2 minutes remaining. The gentleman from New York (Mr. CONABLE) has 7 minutes remaining. The gentleman from Arizona (Mr. UDALL) has 23 minutes remaining.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, the Udall-Obey-Reuss balanced budget substitute is a sound statement of economic policy.

It is a tax cut, but not as big as the Reagan or Ways and Means Committee bills.

It is not designed to win votes from one or another House faction.

It is not designed to appeal to one or another of the many special-interest groups that have been lobbying Congress these past many months.

It is a responsible effort to deal with fundamental economic issues: Deficits, inflation, and interest rates.

Every administration in the last 20 years has set a goal of achieving a balanced budget, only to revise its forecasts early on, when confronted with economic realities, and then delay or put off that goal altogether. The Reagan administration is no different. Candidate Reagan last year pledged a balanced budget in 1981, and now tells us he'll meet that goal in 1984. And, he proposes to do so with a tax cut financed out of continuing, larger deficits.

The economic issues debated over the last several years and with considerable intensity in the 1980 Presidential election have been inflation, high interest rates, and the Federal budget deficit. The American people have expressed their feelings on these issues: They want a slow-down in the rate of growth of Federal programs. Congress has done that and more with the fiscal year 1982 budget and reconciliation process.

The people want inflation lowered; they want interest rates lowered; but their highest priority is to balance the budget.

Neither the Reagan bill nor the Ways and Means Committee bill achieves those goals.

The respected Wall Street economist, Henry Kaufman, in an address to the National Press Club, said.

To fight inflation head on, the need is for the government to achieve a balanced budget in fiscal 1982. This would chop inflationary expectations and, of equal importance, would reduce the role of the government as a powerful demander of credit, thereby forcing savings to finance the private sector.

Mr. Kaufman goes on to say that—

A balanced budget achieved through selective tax cuts and tough controls on expenditures would reduce the chances of a credit clash.

The Udall-Obey-Reuss bill is the very embodiment of that advice from Wall Street's finest economist—it makes highly selective tax cuts and it balances the budget. It is not the product of a bidding war among competing special interests; it does not include corporate tax subsidies or preferential treatment for the wealthy.

It is an expression of fiscal realism.

It is a blueprint for economic stability.

It is the tax bill—the only tax bill—this Congress should pass.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Chairman, I want to associate myself with the remarks made by both the gentleman from Wisconsin (Mr. REUSS) and the gentleman from Arizona (Mr. UDALL).

Mr. Chairman, I am very concerned at the frantic atmosphere in which this body is attempting to formulate a tax policy. These measures make massive alterations in the structure of our tax system, and we are being asked to approve or disapprove packages without any item-by-item consideration by the whole House concerning the content of these packages.

Among my greatest concerns is that in the frantic atmosphere of changing the two major packages to bid for support, the interests of the American people have been forgotten. If we are to revitalize our businesses and our communities, we must carefully target the tax incentives to activities which enhance that revitalization rather than make sweeping general changes. If we are to provide tax relief to the working people our our society, we should not make changes which simultaneously shift a greater percentage of the tax burden onto working people by giving even greater tax breaks to the wealthy. We should not make massive cuts in programs which aid our sick, our elderly, our poor, our people, in the name of balancing our budget, and then turn around to give massive tax cuts which make a mockery of balanced budget rhetoric.

While I believe that of the two major bills under consideration, the Ways and Means Committee bill

better addresses the needs of our people and small businesses, I strongly support the Udall substitute as the most responsible tax policy measure before this House. The Udall substitute makes signficant cuts in taxes paid by individuals, increases the standard deduction, provides reduction in the marriage tax, increases the tax credit for child care, and increases the earned income credit which helps low-income working and elderly people. The Udall substitute provides tax incentives for small businesses and industry which closely parallel the Ways and Means Committee bill and exceeds the tax incentives available under the Conable-Hance substitute. The Udall substitute includes spousal immunity from inheritance taxes, and increases the inheritance tax exemption for farms and small businesses. These provisions make it easier for small businesses to become established, thrive, and be transferred within families without extensive Federal taxation. Most importantly to my constituents, these provisions make it possible for small businesses to provide jobs.

The Udall substitute avoids the big oil bonus bidding war which has transformed an orderly consideration of taxes into a frantic series of giveaways which dwarf the tax cuts for individuals under the committee bill and the Conable substitute. These giveaways are led by the nearly $16 billion reduction in windfall profit taxes on oil companies in the Conable substitute. Both major measures continue tax loopholes for commodity traders, tax breaks for holders of preferred stock, and tax exclusions for stock dividend reinvestment, all of which are not included in the Udall substitute. While some provisions in the Ways and Means Committee bill to bail out distressed industries could be applied to aid the revitalization of our industry, the committee merely listed industries rather than establishing criteria which could be applied to determine which businesses are distressed and what tax measure should be used to assist the revitalization. Some industries, such as shipbuilding, were left off the committee list even though many businesses in those industries could certainly qualify as being in distress.

I urge my colleagues to support the Udall substitute because it provides a responsible and fair approach to tax policy, for our businesses, our communities, our families, and our people.

Mr. FAZIO. Mr. Chairman, I am hoping that the House will take this opportunity for the first time in many years to agree with a broad bipartisan and ideologically divergent consensus of economists. For the first time in my memory we have Mr. Heller and Mr. Eckstein from the left and Mr. Stein and Mr. Burns and Mr. Penner on the right in agreement on one thing. That is that it is not the time to make tax cuts in a period when we are about to enter into an $80 billion deficit—and that is a realistic estimate for fiscal 1982.

Mr. Burns is saying, "I would not cut personal income taxes at all"; this recently before the Senate Budget Committee.

Mr. Stein is saying that he urges a policy of fiscal restraint rather than a drastic tax cut.

These are people that the right has listened to for many years. Why today do they reject their advice? I think they do so because they are at a loss to find any alternative other than to offer to the voters a panacea, one that they know has no certainty of working but one which gives them the opportunity perhaps to go back to their constituents and say: "We understand your dilemma, we feel for your problem, and we are, therefore, rather than staying a fiscally prudent course, about to go on an unfounded adventure in hopes that somehow we could bring you the relief that we know you need." That adventure is supply-side economics with a vengeance—not targeted stimulous but expensive tax expenditures.

□ 1440

Well, instead, I think it is time for us to look at a consensus of economic thought in this country, and to vote for a fiscally conservative tax policy, one that will in 1982 phase in cuts for business and for the individual, but do it in a way that will get the Federal Government out of the private capital market for once and that will do something fundamental about the most compelling problem that we face in our economy, and that is the terribly high interest rates that are prolonging our inflation problem and driving up unemployment at the same time.

Mr. Chairman, as part of my remarks I include in the RECORD at this time articles from the Christian Science Monitor of May 11, 1981, and March 9, 1981, which document the economic consensus that has emerged on this issue.

[From the Christian Science Monitor, May 11, 1981]

GOP ECONOMISTS RAISE CAUTION FLAGS ON TAX CUT

(By Richard L. Strout)

Conservative economists who support the Reagan administration warn the President to go slow on the three-year, 30 percent tax cut program incorporated in the Kemp-Roth plan. The congressional battle starts this week.

Reagan economists have been united till now and hailed the White House victory in cutting the federal budget in Congress last week. The second step is tougher; the "old guard" Reagan economists urge caution.

Herbert Stein, a top economist for the right-of-center American Enterprise Institute (AEI) and a pillar of the conservative establishment, warns that drastic tax cutting may stimulate inflation:

"Mr. Reagan faces more ominous economic conditions than has any president since Roosevelt," Mr. Stein writes in the current AEI "Economist." There is no comfortable way of ending inflation, he warns.

The "failure" of the Reagan administration to emphasize the risks involved in fighting inflation is "cause for concern," says Mr. Stein. He urges a policy of continued "fiscal and monetary restraint" rather than a drastic tax cut.

Another leader of Reagan "old guard" economic supporters, Arthur F. Burns, one-time chairman of the Council of Economic Advisers, also cautions over the Reagan-Kemp-Roth tax cut. Speaking in Cincinnati last week, he said the proposed cut "is larger" than "most members of the President's committee of private economic advisers had contemplated."

Mr. Burns, a respected voice in Republican councils, testified against the Kemp-Roth program before Congress last winter. "I would not cut personal income taxes at all this time," he told the Senate Budget Committee.

Republican legislative leaders adopted the Kemp-Roth economic theory before the 1980 presidential election with the idea that a slash in income taxes would unleash a burst of economic productivity which would pay for itself and would produce more federal tax revenue, not less. This was on the basis of studies by "supply side" economist Arthur Laffer, quantified in his so-called Laffer Curve. The program has split Reagan economists—the Stein-Burns "old guard," and the "young turks" or economic activists, whose leader is David A. Stockman, the head of the Office of Budget Management.

The Republican National Committee embraced Kemp-Roth economics before the congressional midterm election in 1978, and in July of last year issued a "press kit" in which GOP national chairman Bill Brock declared: "The Republican National Committee, backed by the most complete agreement on an economic issue in modern Republican history, is about to launch a top-priority campaign to take the issue of badly needed, meaningful tax cut for all Americans directly to the people."

In 1981 many economists agree that the time has come to consider a tax cut to balance off the upward "bracket creep" of taxes produced by inflation. But the Republican leadership has generally dropped the self-liquidating argument in favor of the Kemp-Roth proposal.

Inflation is running so high that the government is paying the steepest interest rate in history on 30-year bonds. It means that the financial community doesn't believe inflation has been defeated. During the 1980 primary campaign for the Republican nomination Mr. Reagan supported the Kemp-Roth formula, but the man who ultimately became his running mate, George Bush, called it "voodoo economics."

Rival forces may move to a compromise. Democrats appear to favor some reduction, although not the blanket three-year, 10 percent across-the-board program, accompanied by quicker tax write-offs on factories and equipment.

[From the Christian Science Monitor, Mar. 9, 1981]

LIBERAL ECONOMISTS APPLAUD REAGAN GOAL, BUT NOT TAX CUT

(By Richard L. Strout)

The liberal economic response to President Reagan's inflation program is not that

it isn't needed, but that it uses the wrong strategy.

Harvard's Otto Eckstein, president of Data Resources Inc., agrees with Mr. Reagan that this "really is the time for the historic reversal of budget policies." Testifying in Congress, this middle-road economist said: "The times are certainly ready for a new economic policy: In general philosophy and in its overall goals President Reagan's program for economic recovery is the right one."

Walter Heller, liberal economic adviser to Presidents John F. Kennedy and Lyndon Johnson, agrees with the Reagan goals. He takes exception to some of the approaches, in particular the big tax cuts.

On NBC-TV's "Meet the Press" March 8, Mr. Heller insisted it would be "imprudent" to put through the proposed Reagan tax cuts until it is known just how much the budget will be cut. He said he would "guess" that out of $50 billion in cuts sought by the Reagan administration in the fiscal 1982 budget, Congress will agree to about $30 billion.

Heller agreed that economic recovery in 1964 came through the big Kennedy-Johnson tax cut that he formulated, but he noted that inflation was then only 1.2 percent as compared to 12 percent today. As to balancing the budget along with a big expansion of the economy and reduced taxes—"You just can't do it," he exclaimed. There is likely to be "an inflationary outburst that could be very damaging," he warned.

The administration "is kidding itself," Heller added. "Its forecasts are much too optimistic."

Mr. Eckstein, who was a member of the Council of Economic Advisers part of the time that Mr. Heller was chairman, also warns that the administration is taking an overoptimistic view of its program.

Basically, the liberal economists argue that the Reagan program is expansionary—that the proposed tax cuts will leave more money to spend and this might send prices up.

Whether or not this happens will depend in part on the course of the economy as a whole.

"If there was ample criticism of President Johnson's failure to enact a tax increase to pay for the Vietnam war," Eckstein told the House Ways and Means Committee, "we are now asked for dramatic tax decreases in a period of similar military buildup."

Eckstein, a respected analyst, has prepared three scenarios labeled optimistic, middle road, and pessimistic, depending on forthcoming domestic and world developments. The President's economic assumptions, he argues, are based on "very favorable developments."

The Harvard economist says his own middle-road forecast is also optimistic, but much less so than the Reagan forecasts.

But suppose the pessimistic "third" scenario appears? "It has been the experience of the last 15 years," Eckstein says "that things often turn out a little worse than anyone thought." Factors in such a scenario might include a drop in industrial production, rising inflation, OPEC hiking of oil prices, threats of war.

The Federal Reserve Board, it is noted, is pledged to increase interest rates if inflation isn't checked, making it harder to buy cars, homes, and appliances. Under such circumstances unemployment increases.

"The risk to the budget stemming from the economic environment exceeds $100 billion by 1984," says Eckstein. In short, he concludes, the Reagan fiscal program should be "tougher" by about $30 billion a year.

The undercurrent of concern over the risk in the Reagan program, expressed in the Eckstein and Heller testimony, is delaying action in Congress.

Eckstein told Congress: "The President's program for economic recovery is a much needed reversal in policy." However, he added that Congress should "improve" it by taking out the fiscal stimulus "which is likely to offset the benefits."

In short, these academic analysts are anxiously saying, "Don't let the administration push the accelerator while hitting the brakes."

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank God we have the Udall-Reuss tax bill before us, and I am hoping that perhaps at least half of the Democrats will vote for this measure, to remind our constituents and those who recognize us to be the last vestiges of representation of working people that we are not oblivious to a $700 billion decision that is being made today. Now, when you add that to the $1.5 to $2 trillion decision that we made 2 weeks ago in the defense, authorization debate I think that you see where we are going in this country, ladies and gentlemen.

I would like to quote Michael Kinsley, a senior editor of the New Republic who sets the appropriate setting for the consideration of the Udall substitute. He says referring to the Democratic/Ways and Means Committee tax bill:

> Someone ignorant of American politics, observing the debate, would assume that the Democrats were quite literally the party of millionaires * * *. What is the point of a political party with so little sense of its own constituency that it behaves in this way? Behaves in this way as if we do not have working people, unemployed, and senior citizens in our party?

So I urge you, since the Congressional Black Caucus tax alternative offered in May of this year during the budget debate and presented last Friday in bill form was never granted the courtesy even of debate, that we now all turn hopefully toward a vote for a decent tax bill, the Udall-Reuss measure. Because if we do not get it, ladies and gentlemen, we will be saying to our constituencies that we are indeed a party of millionaires.

What is happening today is an economic crime against the citizens of this country. What we are doing here in this bidding war, that has gotten out of hand and has embarrassed all parties, will result in very adverse effects for the country. At least the Udall bill is a measure that honestly tries to take some of the fat out, some of the giveaways, some of the oil boondoggles which are so embarrassingly present in both the bills. And I commend those Members on the Republican side who had the fortitude and the courage to seek to have a rule that would allow them to take out the oil boondoggles, even if our leadership was reluctant to.

So I would urge that those Members who today voted against the rule, those who have protested the oil giveaways, those who realize that we need a decent tax bill to vote Udall-Reuss.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. CARMAN).

Mr. CARMAN. Mr. Chairman, 6 months ago President Reagan outlined his economic plan for recovery. He said we need substantial budget cuts, substantial tax relief, and substantial relief from regulation.

The night before last, the President spoke to the Nation and indicated his plan to provide a 25-percent across-the-board reduction in individual tax rates over a 3-year period, with indexing at the end to provide for permanent tax relief.

The Ways and Means Committee plan provides for individual tax-rate reductions at 15 percent over a 2-year period.

There can be little argument that a 25-percent reduction is superior to a 15-percent reduction. But what does it mean to our several and individual States?

I show you a Reagan tax cut means more than has been presented here this afternoon. It shows that Michigan will have $140 million more in revenue; $57 million more for Indiana; $127 million more for New Jersey; $228 million more for New York; $81 million for Massachusetts; $88 million for Illinois; $120 million more for Ohio; $110 million more for the State of Pennsylvania.

I submit to you that there is not a man or woman in this House who would not be interested in voting for a measure that would give a grant of these kinds of money to the several States. The difference in this measure, the difference in the Reagan proposal, is that these moneys will be given back to the individuals who reside in those States.

I think what is important to underline here and to understand is that if you feel that I have passion for this tax bill, you are right. It is a passion not embossed in tax credits, exclusions, deductions, and accelerated depreciation in terms of technical means. It is rather a feeling of passion that is for the American people. We are restoring hope with the President's economic program, and this is an essential part of that promise.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, I rise in support of the Udall amendment.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Arizona (Mr. UDALL) and the two gentlemen from Wisconsin (Mr. OBEY and Mr. REUSS). Recognizing that there is strong support in Congress for a reduction in taxes, I believe that this substitute is the most responsible option available. It offers some much needed relief to our hard-pressed taxpayers, and it does so in a manner that is most likely to promote general ecomomic recovery.

The latter point needs to be stressed, Mr. Chairman. Our purpose today should not be to see which side can win the bidding war by offering the largest possible tax cut. Our purpose should be to provide the largest tax cut possible consistent with the overall health of our economy, a tax cut that will contribute to rather than impede economic recovery.

I believe that the Udall substitute will contribute most to such a recovery. As opposed to both the Republican and Democractic alternatives, this proposal has not been sweetened in an effort to appeal to special interests or to win the votes of Members representing different regions of the country. Instead, it has been crafted in an effort to reduce taxes while balancing the budget, thus stimulating savings, investment, and economic growth while helping to reduce inflation and intolerably high interest rates.

To be sure, the Udall substitute has not generated the publicity that the Democratic and Republican bills have received, and President Reagan even chose to ignore it completely in his televised address to the Nation. Nonetheless, it represents an attempt to deal with the American people honestly and fairly. It deserves the support of those who are interested in the substance as opposed to the politics of what we are doing here today.

THE NEED FOR A TAX REDUCTION

In looking at the performance of our economy in recent years, Mr. Chairman, we all have reason for some concern. By every measure of economic health and well-being, our economy has not performed as well as it should.

Unemployment has risen to levels that would not have been tolerated a decade ago, and has remained at those levels for several years. Although the number of jobs has grown in absolute terms, that growth has not kept pace with the expanding demand for employment. Productivity has steadily declined to the point where, over the last decade, the United States tied with Great Britain for the lowest productivity gains of any major industrialized nation in the Western World. Neither investment nor savings have been large enough to generate the revenues needed to reindustrialize America, and the American people have been forced to struggle with rates of inflation that have significantly reduced their purchasing power. Finally, economic growth has been sluggish. Indeed, for the third year in a row, the rate of economic growth is likely to fall below our postwar average as a nation.

As a result of these developments, confidence in the dollar has declined, and we have seen the price of gold and silver climb to new heights as people have sought to take refuge against inflation in precious metals. interest rates have also soared to record levels, pricing the average American out of the housing and automotive markets and imposing enormous burdens on small businesses, which create almost 80 percent of new jobs. Our balance of trade with foreign nations has also deteriorated as we have become less competitive abroad.

In short, the American economy has not performed nearly as well as one could expect, and a deep and persistent apprehension has gripped the American people. Today, as never before in the recent past, Americans seem uncertain about their economic futures.

While the causes of the present state of affairs are manifold and complex, there can be little doubt that our tax laws have contributed to these problems by placing successively greater burdens on income generated from work, investments and savings. The proportion of household income that is paid in individual income and social security taxes is now greater than at any other time in the last two decades, and corporate tax rates are at levels that do not encourage enough expansion and growth.

As a result, we must consider some reduction in taxes, not only to provide relief to individuals but to encourage a broader economic recovery. It would be foolish to suggest that tax cuts alone will resolve all our economic problems. However, considered as one element in an overall program for economic recovery, tax reductions do have an important role to play, and that is why I will support a tax cut today.

THE DEMOCRATIC AND REPUBLICAN ALTERNATIVES

Mr. Chairman, any reduction in taxes should be designed carefully to deal with the underlying causes of our present economic problems. In my judgment, that means a tax proposal that will encourage research and development, savings, investment, the modernization of existing plant, and a broad-based economic growth.

Unfortunately, both the Republican and Democratic strategies on taxes are based more on a desire to win a political battle than on enacting a responsible tax bill. In their wild scramble for votes, both sides have been dispensing tax benefits to special interests with little apparent concern for what constitutes sound economic policy, and with even less concern for the general public, which is the chief victim of our present problems.

For example, both sides have included in their respective bills sweeteners for the oil industry, an industry already flush with profits, in an effort to win the votes of Members representing oil-producing States. When all of the many sweeteners are added up, the oil industry would receive some $16 billion in tax breaks under the Republican substitute and some $10 billion under the Democratic alternative.

Tax benefits like this for oil producers are not necessary coming as they do on the heels of oil deregulation. All of us know this, Mr. Chairman, and all of us also know that these sweeteners have nothing to do with improving our economy but much to do with winning votes. As a consequence, whichever side wins the political battle, there will be a significant loss of tax revenue in our budget with no corresponding benefit to the economy.

Similarly, the tax straddle provisions in both of these bills would allow commodity traders to continue to avoid paying taxes because of artificial losses and thus cost the Treasury some $400 million in lost revenues in fiscal year 1982. When this proposal was originally put forward, it was denounced by President Reagan. In an effort to win votes, however, the President and the Republicans have incorporated it into their own proposal.

The two bills also contain many other provisions of questionable merit. The estate tax reductions contained in both bills have been justified as a break for family farms and small businesses. However, they go far beyond these original purposes to confer even more generous provisions on some of the very richest members of our society.

Indeed, while some of the tax breaks included in the two alternatives might be reasonable under other circumstances, they will cumulatively cost the Treasury billions in lost revenues and thus prevent us from achieving a balanced budget at any time in the near future.

The fact is that every tax cut results in less Federal revenue, at least in the short run. Unless those revenue losses are accompanied by spending cuts, the budget deficit will grow. Despite deep spending cuts in certain domestic programs like education, health care, and job training, there has been no cut in total Federal spending because the Reagan administration and a majority of Congress have approved substantial increases in military spending.

To the extent that the Republican and Democratic bills give tax benefits

to others who need them least—to the oil companies, the commodity traders, the largest estates, to name just a few—they are unnecessarily decreasing Federal revenues and thereby increasing budget deficits.

If these tax benefits contributed to a broader economic recovery, they might be justified. However, as I have tried to suggest, many of these provisions have less to do with economic recovery than with political victory. As a result, both of these proposals lack a sharp economic focus.

Of the two alternatives, I believe that the Democratic proposal is less objectionable since it targets more of the individual tax reductions to those making less than $50,000 per year, and because its business tax reductions will contribute to a more immediate and lasting economic recovery.

However, the fact that this alternative is less objectionable does not make it sound economic policy. What the country really needs is a tax bill stripped of boondoggles and Christmas tree ornaments, and one that deals with the American people in an honest and even-handed manner.

Unfortunately, that will not be found in either the Democratic or Republican alternatives. These are political documents designed to make political statements and to cater to special interests, regions, and individuals. The Udall substitute is the only proposal before us that offers tax reductions within the context of a sound overall economic recovery program.

THE SUBSTITUTE PROPOSAL

The tax proposal that is now before us and that I am supporting is the only fiscally responsible and realistic proposal that will be considered today. It would provide meaningful tax reductions while balancing the budget. In fiscal year 1982, for example, it would result in a $2 billion surplus rather than the large deficits contained in the Democratic and Republican alternatives. That surplus would rise to more than $20 billion in fiscal year 1983.

A key difference between this substitute and the official party alternatives is that it would provide for a tax reduction that does not require the Government to enter money markets to raise the funds needed to pay for a tax cut. Let me be clear on this point. The Democratic alternative, without the third year tax cut, would reduce revenues by $620 billion between fiscal year 1981 and fiscal year 1986, and by $706 billion over the same period with the third year tax cut. The Republican alternative would reduce revenues by an estimated $754.4 billion over the same period. Neither of these alternatives can be financed unless the Federal Government borrows the money.

By way of contrast, the substitute now before us would result in reduced revenues of only $309 billion over the same period. It can be financed without increasing the deficit. Aside from the virtue of being a pay-as-you-go tax reduction, that means that the U.S. Government will not be competing with business and private borrowers in the money markets.

This substitute would provide $130 billion in tax incentives to businesses for modernization between fiscal year 1982 and fiscal year 1986, which is only $35 billion less than the Democratic alternative and only $40 billion less than the Republican proposal. While it includes incentives for the rehabilitation of commercial and industrial structures, and would help small businesses by lowering their corporate tax rates and widening tax brackets, it would not provide a bailout to failing industries or unnecessary cuts in the maximum tax rates for the very largest corporations.

As for tax relief for individuals, this proposal would provide more tax relief to low- and middle-income taxpayers—those making less than $50,000 per year—in the first 12 months it is in full effect than would be provided in the first 12 months of the Republican substitute. It would also provide more relief at a lower dollar amount than the Democratic alternative.

This substitute would close the commodity tax straddle. It would bar U.S. oil companies from deferring taxes indefinitely on overseas oil-related income, and would repeal the oil and gas depletion allowance. It does not confer special privileges on the oil companies or the very wealthy.

But it does have one potential political drawback. In order to balance the budget and avoid further deficits, this proposal would defer the reduction in individual income taxes from October 1, 1981, as proposed in the Republican and Democratic alternatives, to July 1, 1982. It also does not provide a guarantee that there will be a second and third year of reductions.

The reason why this proposal does not automatically include a second and third year of tax reductions is simple and understandable. At this point in time, no one has any way of knowing how the economy will perform in future years. If the economy is performing well, I believe that additional tax reductions would be possible and desirable. However, if it is not performing well, I think that we do a disservice to the American people and to our economy by mandating additional tax reductions.

CONCLUSION

Mr. Chairman, national polls have shown that the American people would like a tax cut, but not at the expense of more deficits and more inflation. The people are right. Tax cuts provide no real help if the dollars they permit taxpayers to retain are eroded by inflation.

Among the proposals now before us, I believe that only one deals with the American people honestly and fairly, and thus I urge my colleagues to support the substitute offered by Mr. UDALL, Mr. OBEY, and Mr. REUSS.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. D'AMOURS.)

Mr. D'AMOURS. Mr. Chairman, I think it is pretty significant that nobody has gotten up here yet to speak against the Udall substitute. I think perhaps that is a pretty good indication that it is a pretty good substitute.

This substitute, make no mistake about it, in fact balances the budget in fiscal year 1982 and in fiscal year 1983. This substitute in fact is the only item we are going to get to vote on today that does something immediate and dramatic about high interest rates. More important than that, this substitute cuts through the pretense, the pretense that we are seeing going on before us today. The Democrats are pretending that their version does not include the Kemp-Roth concept that they campaigned against just last fall. The Republicans are pretending that they no longer care about balanced budgets and they no longer care about high interest rates. The truth of the matter is that they are both pretending that this is not a political exercise.

Why do you think we are giving $16 or $10 billion to the oil industry, another half billion dollars to commodity speculators, just a few weeks after we told senior citizens they would have their social security benefits reduced, we told children benefiting from nutritional school lunch programs that they could no longer do so, and we told senior citizens who are poor that they will not qualify for low-income fuel assistance?

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We are doing all of these things because we are engaged in a political exercise where winning has become more important than the contents of our bill. To Republicans on this side of the aisle, who have told me personally, and who have said on the floor today publicly, that they feel trapped, they do not like these oil giveaways, they do not like these commodity speculator giveaways, but they do not know what to do about it, here is what they can do about it, they can vote for the Udall substitute and be responsible.

The CHAIRMAN. The Chair announces that the gentleman from New York (Mr. CONABLE) has 5 minutes remaining.

The gentleman from Arizona (Mr. UDALL) has 16 minutes remaining.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise in support of the Udall substitute for a balanced budget.

Mr. Chairman, I rise in support of the Udall-Obey-Reuss substitute package that will permit a balanced budget for fiscal 1982 and a substantial surplus in fiscal 1983, fiscal 1984, and beyond. This antihigh interest rate, anti-inflation proposal is the only one of the three bills that is fiscally responsible and realistic. It provides the most tax reform to middle- and lower-income taxpayers in the first 12 months than would be provided in the first 12 months of the Republican substitute.

Further, the Udall substitute repeals the 22-percent oil and gas depletion allowance thus eliminating a special interest giveaway to the oil industry.

Mr. Chairman, the ills of a ballooning Federal deficit are well known to my colleagues. But progress toward a balanced budget is the first victim of a tax cut unwarranted by economic conditions. Even a number of President Reagan's own economic advisers admit that, should massive tax cuts be enacted prior to a corresponding reduction in Government spending, the Federal deficit would be even greater, resulting in another upward spiral in the rate of inflation. Predicting what the economy will look like 6 months from now is incredibly difficult; that predicting what it will look like 3 years from now is virtually impossible.

A better mix would avoid the inflationary momentum of a large potentially hazardous 3-year inequitably distributed personal tax cut and adopt the Udall-Obey-Reuss substitute thereby permitting faster progress toward a balanced budget and permitting monetary policy to accommodate the necessary growth with lower interest rates.

In the final analysis, the vast majority of Americans stand to gain far more from robust growth, more and better jobs, and lower price levels than from a small tax benefit particularly when that benefit would be swiftly wiped out by chronic inflation.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, the only bill that is consonant with national economic justice is the Udall substitute. I urge its adoption.

Mr. Chairman, in today's debate on the Tax Incentive Act of 1981, we are really confronted with the task of choosing between two slightly different versions of voodoo economics. My colleagues will recall that it was Candidate GEORGE BUSH who coined the term "voodoo economics" to describe a policy of reducing taxes during a period of sustained inflation and unbalanced budgets.

Our economy is plagued by high inflation, high-interest rates, and slow growth in gross national product. Yet the administration plans to stimulate savings and investment with a tax cut which favors big business and people with incomes over $50,000 per year. With only 3.6 percent of the population earning over $50,000 per year, it is doubtful that those relatively few people will effectively stimulate the economy by discontinuing their use of high yield money market funds and the like and concentrating this additional cash in a savings bank. Most of those below the $50,000 level will not receive a tax cut large enough to offset the influence of inflation, and those who do will likely be forced to spend those few inflation-eroded dollars rather than save them. We should end up with increased consumer spending, which would do nothing to decrease inflation.

In addition, the President would have us approve massive, multimillion dollar giveaways to people and industries who simply do not warrant this treatment. For example, oil companies would receive approximately $20 billion in tax giveaways under the Republican substitute.

Once again, the Federal Government would be forced to increase its own borrowing to fund the huge deficit these tax cuts will create. A budget deficit of at least $60 billion in fiscal year 1982, the result of Reaganomics, would obviously preclude a balanced budget even after the enormous budget cuts which the administration has foisted upon the Nation. The Federal Government would be forced to borrow money to meet its financial obligation. By competing with the private sector for credit, the Federal Government would unintentionally create even higher interest rates—interest which must eventually be paid back on loans and which will drive the Federal debt to over a trillion dollars.

H.R. 4242, the tax proposal reported by the Ways and Means Committee is flawed for many of the same reasons. It is a massive tax cut during a period of sustained inflation, and it is being presented at a time when the mood of the administration continues to favor massive spending levels on defense. In any other time, this proposal would be overwhelmingly rejected by a Democratic Congress. Although the Ways and Means tax plan does target the $10,000–$50,000 per year income earners with its individual tax rate cuts, it also includes huge giveaways to big business. For example, it contains virtually the same provision of royalty owner credit for oil companies as the Republican bill which gives royalty owners a $2,500 credit for 1981. Another provision would provide for an exemption from windfall profit tax which, by the year 1986, should cost the Federal Government between $1 and $2 billion annually in giveaways to the oil companies.

Those who will pay for these giveaways are the citizens who face massive cuts in health services, social security, school aid, food stamps, college grants and loans, unemployment compensation and the other social programs the administration has sought to slash. The Ways and Means bill is only a pale imitation of the Reagan proposal; if either bill passes, the President has won and the people have lost.

Only one tax cut proposal before us today offers anything approaching real tax equity. In its first year, the Udall-Obey-Reuss substitute would provide larger actual tax reductions to 77 percent of all taxpayers than they would receive under the first 12 months of the administration bill. Lower and middle income Americans realize more relief under this bill.

Yet the Udall bill acknowledges how unwise it would be to force tax cuts in upcoming years, when we have no certain knowledge of the economy's performance. It keeps the borrowing of the Treasury to a minimum, and refuses to engage in the sham of a tax break with borrowed money.

In addition, the Udall package eliminates the Christmas tree items that have been laden upon the other two bills to benefit the oil companies, tax straddlers, and others.

While cutting taxes enough to offset inflation's impact, the Udall bill makes possible a balanced budget for next year—something neither the President's nor the Ways and Means package would accomplish. It makes surpluses possible in subsequent years, at which time further tax cuts could be made if the economy has improved enough to make them prudent. All in all, it helps put the Government back on a careful, pay as you go path.

Earlier this year, I labeled the Reagan budget as the drop dead, America budget. The Reagan tax program combined with a 5-year defense buildup costing a total of $1.635 trillion nails the lid on the coffin of the American economy.

In the attempt to ward off economic chaos Mr. Reagan will be coming back next year demanding increasingly savage cuts in domestic programs. He will be insisting on additional cuts in social security benefits.

America will rue the day of this great Reagan tax victory.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I rise in support of the Udall measure, the only measure that makes sense, that is before us.

Mr. Chairman, today we are considering the largest tax measure ever pro-

posed in the history of this country. Of the three different measures being offered, the Ways and Means Committee bill is a more reasonable and equitable approach to tax reform than is the Conable-Hance substitute, but the Udall-Obey-Reuss substitute surpasses both of these measures.

The Udall-Obey-Reuss substitute is the most sensible tax-cut proposal, because it deals with the root of our economic ills—deficit spending by the Federal Government. This package is the most fiscally responsible and realistic as it provides fair and equitable tax reform while refraining from sweetening the proposal with giveaways to the oil companies, big business, and the very rich.

Unlike the other proposals, this package takes into account the popular sentiment in favor of balancing the Federal budget. High interest rates, high inflation, and high unemployment are directly tied to high deficit spending by the U.S. Government. The Udall-Obey-Reuss substitute is the only proposal which would provide significant tax reductions while balancing the budget now. It would actually result in a $2 billion surplus in fiscal year 1982 and a more than $20 billion surplus in fiscal year 1983.

For the last 25 years, the Republicans have been saying that deficit spending causes most of our economic ills. Now, in 1981, the Republicans are advocating a tax-cut package which will produce the very deficits they have opposed for decades. The Republican substitute insures continued high inflation, high interest rates, and high unemployment through multibillion-dollar deficits. Here is where these packages differ: The Udall-Obey-Reuss substitute promises balanced budgets and economic stability and the Republican substitute promises massive deficits and economic turbulence.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. WASHINGTON).

Mr. WASHINGTON. Mr. Chairman, I also rise in support of the Udall amendment.

Mr. Chairman, I am deeply distressed by the course of our deliberations on the tax bill. I fear that this Congress, on both sides of the aisle, has become so blinded by the competition for partisan advantage that we have forgotten we are engaged in the serious business of charting the future of our Nation's economy.

In the competition for support, both parties have given away the store to narrow, venal special interest. In this era of mammoth energy inflation, oil barons do not need tax breaks. Commodities brokers do not need tax breaks. It is the average citizen, struggling to make ends meet, who need a tax break.

Only the Udall-Obey bill guarantees genuine tax relief for the average citizen. Because only the Udall-Obey bill is predicated on any rational assumptions about the American economy.

Let me make a prediction. If we adopt either of the alternatives, whether it be the bill offered by my esteemed colleague from Illinois or the bill offered by the administration, we will find within a year that we have to start all over again. We will find that we have given away the store to the big corporations and special interests. We will find that the only way to save the American economy will be to cancel or postpone the future tax cuts. We may be forced to choose between raising taxes, on the one hand, or throwing away the last vestige of our national commitment to economic justice, on the other.

If we pass the Udall-Obey balanced budget tax plan we stand a chance of putting our Nation's fiscal house in order. We stand a chance of creating the conditions where we can offer additional tax relief to individuals in future years. And we avoid the disastrous consequences of the current precipitous rush to shift even more of the cost of Government from corporations and the well-to-do on to the backs of poor, working class, and middle income citizens.

I do not think of myself as a conservative. But today I rise to urge you to take the conservative, cautious, sensible approach to tax reduction. I urge you to vote for real tax benefits to the average citizen, and against special breaks for the wealthy few. I urge you to vote for a balanced budget. I urge you, in short, to vote for the Udall-Obey balanced budget tax proposal.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Chairman, it is a privilege and honor to rise in support of my chairman's tax bill.

Mr. Chairman, of the three tax cut plans brought to the floor today, only one would truly be responsive to the fiscal goals this Congress has set. I rise in support of the substitute amendment offered by Messrs. UDALL, OBEY, and REUSS.

Most of my colleagues agree that efforts to reduce inflation should include more investment, more expansion, and more innovation in the private sector. All three proposals would revamp the Tax Code to provide new incentives for businesses to reinvest their profits. What the other plans ignore, however, is the need to free funds from capital markets for business expansion. Our public debt is close to $1 trillion. American businesses face a severe shortage of venture capital because nearly one-third of all investment funds are used just to pay off the Federal Government's bills.

The administration-backed plan and the Ways and Means Committee bill each would provide sweeping reforms for relief to individuals and businesses, yet each would leave a Federal deficit of over $40 billion. This means that the cut will be provided with borrowed money. It also means that the Government will have to increase its activity in the money markets, competing with businesses and private borrowers to raise this sum.

The Udall-Obey-Reuss substitute would balance the Federal budget. While providing significant relief to taxpayers, it would truly attack inflation and attack high interest rates.

Also, I support this substitute amendment because of its judicious distribution of the tax reductions. Congress is in the process of finalizing sweeping cuts in nearly every program or service provided by the Federal Government. We are committed to trimming every dollar which is unnecessarily spent. Should we not subject the other side of the budget process—the revenue side—to this same rigorous review? We cannot permit the Federal Government to continue wasteful or misdirected spending, and we cannot provide wasteful, misdirected, and costly tax cuts.

This substitute amendment would provide $9.5 billion in tax incentives to businesses, an amount which equals the incentives provided for modernization and increased productivity in the committee bill and the administration's plan. The other two plans, however, include provisions which are fiscally irresponsible. New tax breaks to the oil companies represent nothing more than a giveaway package. These reductions could cost some $16 billion over the next 5 years, yet would do little to increase domestic oil and gas production. The Udall-Obey-Reuss amendment would also close out commodity straddles, a quirk in the Tax Code which costs the Treasury, and therefore American taxpayers, at least $400 annually.

I support the Udall-Obey-Reuss tax plan because it fulfills the goals of reducing the effects of inflation on American wage earners, encouraging business growth and increased productivity, and setting our Nation on the road to fiscal integrity. It would provide significant tax relief to individuals, particularly those in the low- to middle-income brackets. The cuts mandated by this legislation are ones which we can afford, not ones which would have to be paid with borrowed money. Most importantly, this plan would reform the Internal Revenue Code without creating new, greater inequities in the Tax Code.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. Mr. Chairman, later today many of us will proclaim ourselves heroes because we voted to cut taxes.

Some will rejoice, saying we have set a new course by returning money to the people and living happily ever after.

If that was true, I would join the jubilation. But it is not—and we know it.

It is ludicrous to suppose that an entity such as the Federal Government with a $1 trillion debt and an annual operating deficit of $40 billion can return something it does not have—let alone the $750 billion this tax cut will cost over the next 6 years.

You see, the Federal Government is not hoarding the people's money and refusing to give it back. It is borrowing the people's money to pay its bills—at record clips and record interest rates.

So this vote today is not really about how much money we are going to return to the American taxpayer, it is about how much more we will have to borrow from the American people so we can posture as heroes.

It will not be the much ballyhooed dawning of a new day. It will be the license to continue business as usual—and that means more deficit spending.

The American taxpayer will not get back cash on the barrel head. He will get back gilded IOU's.

Can you not see it now? The men in gray pinstripes at the Treasury Department handing out deficit dollars in the guise of a tax cut at one end of the building, while at the other end issuing Treasury bills, at ever higher interest rates, to suck billions of dollars out of the private sector to make up the loss.

The salesmanship on this tax cut has been incredible. It is the classic bait-and-switch tactic. Taxpayers have been titillated to elation by the promise of a pot of gold at the end of the rainbow. But when they get to the end of the rainbow, they will discover it is just another dead end. They will have spent their money, and they will have been taken for a ride.

I am not sure when we stopped being heroes and descended to villainy in crafting this tax legislation. We started out all right talking about ways to spur productivity, generate growth, and create jobs. That is the tax cut I planned to support. Initiatives to encourage savings, to reward middle-income workers, and to give incentives for business, particularly beleaguered small business.

Then something happened. Politics, the burning desire to be the good guys, sent us reeling until we wound up in a cattle auction with the American taxpayers put up for bid just like so much meat on the hoof.

My concern—my fear really—is that America, already wracked by rampant inflation, bulging "real" interest rates and rising unemployment, cannot afford the luxury of a grand experiment, just for the sake of trying something new, which is not new anyway—just a rehash of yesterday's discarded practice of pump priming.

What if these tax cuts are not the elixir we hope for and do not revive the economy?

Do we plunge even more people out of jobs?

Do we tighten the monetary spigot even more so interest rates pierce 30 percent?

Do we make even deeper Federal spending cuts, even though we thrashed frantically about trying to find $37 billion in cuts this year?

Or do we resort to the tried-and-true method—more deficit spending, perhaps exceeding $80 billion as early as 1984, and insuring Federal red ink will flow the rest of this decade?

Is this the climate for taking such a wild, lemming-like leap over the cliff? I do not think so.

Most Americans have a more commonsense cure in mind. They want inflation halted, and see the first step as balancing the Federal budget. I agree.

When the Federal budget is balanced, the Government is not shoving to the front of the line crowding out everyone in the capital markets. Competition for credit decreases and interest rates can fall naturally.

Lower interest rates will bring down off the shelf those plans for expansion, will permit the shopowner to hold onto his inventory, will kindle the imagination of risk takers who start business ventures.

And when that happens, there will be renewed economic activity, growth and jobs. The engines of our economy will go forward again.

With fewer unemployed people, more profits being generated, and the spirit of optimism reawakened, Government spending will drop and revenues will go up. The time will be ripe to cut taxes—and to cut them permanently.

Then a tax cut will be a bargain, not a boondoggle. Then a tax cut will produce a dividend, not a deficit.

The tax cut we are embarked on today literally attempts to throw money at inflation in the vague hope inflation will be scared off. It does not just work that way—for Republicans or for Democrats.

The irony is that the tax cut will actually manufacture inflation through higher deficits and a continuation of high interest rates. The only advantage is for those who speculate in money. But when has speculation in money created jobs or increased productivity? And since when is it good public policy to say that if we cannot lick inflation, we might as well get fat off of it?

Truly, I hope I am wrong. But I fear I am all too right.

I want a tax cut. A good tax cut. A tax cut that halts bracket creep, ends the marriage penalty, encourages research and development, helps small business, spurs productivity, generates industrial expansion and modernization, and creates jobs. Regrettably, I did not have a chance today to vote for such a tax cut.

That is why I will not seek a hero's tribute today. Instead, I will be praying that someday soon the American public, when it discovers it has been deceived, will not chase after all of us as villains.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I rise in support of the Udall substitute.

Last week, I had a talk with the president of Chrysler Corp., Mr. Lee Iacocca, and we were talking about the impact of the President's budget on interest rates next year and how Wall Street and the Fed are predicting that they are going to be even higher than the 21½ percent that we had at the peak of the recent wave of interest rates, and Mr. Iacocca said, "If they get up into the 25-percent range, then all bets are off for the future of the auto industry."

Now what has happened to the old chant of the Republicans that inflation is the cruelest tax of all? The way they propose to fight inflation, under the President's budget and tax bill, is through high interest rates, which are a disaster for the auto industry, the housing industry, the workers in those industries, and above all, for the consumers in this country.

A balanced budget is the one way left to fight inflation and prevent this constant escalation of interest rates that are threatening these industries and the future economic stability of our country.

Mr. UDALL. Mr. Chairman, I yield 7 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, first of all, I want to say that those Democrats who say there is no difference between the Ways and Means Committee bill and the administration bill are as wrong as Democrats were back in 1968 when they said that there was no difference between Richard Nixon and Hubert Humphrey.

There is a big difference. But there is an even bigger difference between both versions and the Udall-Obey-Reuss substitute. I would like to take a moment to explain both what is in it and what is not in it.

First of all, what is in it over the next 5 years is almost $120 billion in business tax cuts. We do have a reform

of the depreciation schedule by substituting full first year expensing of machinery and equipment as the Ways and Means Committee does.

We do have credits for R. & D. We do permit buildings to be depreciated over 20 years. We do provide the rehabilitation credit for existing structures which the chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI) included in the Ways and Means package. It has corporate rate tax cuts for small business.

On individual tax cuts, we have almost $200 billion in individual tax cuts. They are kicked in somewhat later and they are somewhat smaller than both of the competing versions. But in the first full year of our amendment, as compared to the first full year of the administration proposal, we actually provide more in individual tax relief in dollar terms, not in percentage terms but in real dollar terms, than does the administration proposal for taxpayers who make less than $30,000 a year.

As the Ways and Means Committee package, ours is targeted to taxpayers under $50,000. On the estate tax, we eliminate the spouse from all taxes and we raise farm and small business exemptions to $350,000. But we essentially strip away virtually everything else.

This amendment does not have a $7 billion gift to oil. It does not have the corporate bailout that the gentleman from Louisiana was talking about earlier. It does not have the commodity tax straddle. It does not put the tax cut on Master Charge.

In short, it does not borrow money in order to finance a tax cut, which means that we have a $2 billion surplus this year and a $25 billion surplus next year.

That means this is the most effective package before us in terms of dealing with what was really at stake in the last election, namely how to attack inflation and high interest rates.

Who says we ought to have a balanced budget? Not just the gentleman from Arizona (Mr. UDALL), a fellow by the name of Kaufman said we ought to have a balanced budget. He is not exactly a liberal economist. A fellow by the name of Samuelson, also a pretty good economist. He says we ought to have a balanced budget. The American people say we ought to have a balanced budget. I just finished a survey in my own district. Almost 80 percent said, "Yes, sir, Mr. Congressman, you bet we want a tax cut, but we do not want one financed with borrowed money."

That is why this amendment is here.

I know there are some people of liberal persuasion in this House who will say: "Why do we have to worship at the altar of a balanced budget?" We do not have to. It is inappropriate on some occasions to support a balanced budget if, for instance, we have economic conditions in which we have a strongly depressed economy. It is not appropriate in those circumstances to have a balanced budget. But if it is not time for a balanced budget when we have interest rates running at 20 percent, then I do not know when it is.

The Republicans are complaining about what they refer to as the Bailey bailout in the Ways and Means Committee bill. If we do not like it, this is the only chance we have left to take out both the oil gift, oil, the Bailey bailout, the commodity straddle, the whole laundry list of items which Republican Members indicated an hour ago they were unhappy with.

I want to read some quotes from the administration.

No. 1:

> They are resorting to the tactics that got us into this mess to begin with, including yet another discriminatory tax provision such as the so-called all-savers certificates.

Who do you think said that? Mr. McNamar, the Deputy Treasury Secretary.

Guess what is now in the administration bill? The same item.

On July 9 and 12, Secretary of the Treasury Donald Regan said:

> To exempt independent producers and royalty owners from the windfall profits tax is a real budget buster. With what they have done in the oil field they do not have a poor man's bill.

Guess what is in the administration bill today? That very item.

Another quote:

> I see no convincing evidence one way or another that all-savers certificates would lead to increased personal savings.

A fellow by the name of Weidenbaum said that the Chairman of the Presidents Council of Economic Advisers.

Another quote:

> They have gone out of their way to offer 2,500 commodity speculators a tax break of $400 million.

Who said that? President Reagan. Guess what is in the Reagan bill. The same item.

If we vote for this amendment, we will be voting for the only proposal that provides an effective attack on high interest rates and inflation. If we vote against it, we will be asking the House to support 3 years of deficits of over $130 billion.

If this package had been offered 1 year ago, the business community would have thought that they had dropped dead and gone to heaven. There is more in this package for business relief than anybody ever dreamed of just a year ago. Despite what the gentleman from New York says, there are substantial individual tax cuts. But the American people are pretty smart. They do not know yet—at least not enough of them know yet—that the administration package is largely financed on borrowed money.

□ 1500

When they find out it is, they are going to come asking all of us, why did we not support the Udall amendment. You ought to give them the right answer. You ought to support the Udall amendment today.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Chairman, when we talk about issues like this, somehow there is a lot of talk on both sides of the aisle about what the people really want. I found a funny thing. If we want to find out what a lot of the people in the heartland are saying, if we want to know how the people of the grassroots are talking, if we want to know what the blue collar worker, the man and woman are saying, ofttimes it might behoove us to listen to the words of country and western music. Whether you like it, as I do, or do not like it; whether you find it harmonious or not, the words often speak many, many truthful things.

A couple of years ago there was a hit record by a fellow named Johnny Paycheck—the very name talks about the economy—entitled, "Me and the IRS."

Several of the lines in there are pretty important. Some of them say:

> Well, the fight keeps gettin' bigger
> And the paychecks' gettin' small
> You know the IRS ain't going to rest
> Until they think they've got it all.

In fact, it is not the IRS that is not going to rest, but based on what we have done with respect to bracket creep, we in the House have allowed them, the American people, to think that we are going to take it all. Today is the opportunity for us to do something very different about that.

This chart graphically shows that the working man and woman of America will be helped by the Conable-Hance bill. There is no doubt about it. For the first couple of years there is a slight betterment in that position from the people supporting the O'Neill-Rostenkowski bill, but after that the difference is absolutely astounding. You are asking for a major tax increase for the working men and women of America if you do not support the bipartisan bill supported by the President of the United States.

When we think about the words of that song, we think about the refrain that is going to every single office on Capitol Hill, over and over again; perhaps not accompanied by music, but nonetheless just as direct. You are hearing from your constituents, saying, "I believe in the President. Support the President. Vote for the President. Give us a chance to try to

catch up with what inflation has done to us."

We should listen to that refrain, because we are the people's House. The Constitution talks about this House being the place where tax policy must be written. That goes on back to the Magna Carta, when a fundamental decision was made that it would be the people's representatives that would decide how they were going to be taxed.

We had some difficulty with the Ways and Means Committee, because in the Ways and Means Committee the people were not represented. They certainly were not represented in the proportion they had elected us to office on November 4. Certainly if we accept the Ways and Means position against that of the President, we are rejecting what the people told us on November 4, and certainly we are rejecting what the people are telling us now by telephone, by letter, and by every other means of communication.

It is very clear that one of the most important things about the economy is the confidence that the average person has in his ability to go forward. That means it is both fragile and potentially terrific. We have got to do something about it, Mr. Chairman. Let us not sacrifice the interests of the individual on the altar of political expediency.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the Udall-Reuss-Obey amendment.

Mr. Chairman, this well-constructed substitute package provides for reasonable individual and business tax cuts, but it does so within the parameters of a balanced budget. A balanced budget for fiscal 1982 and a substantial surplus in fiscal 1983, fiscal 1984 and beyond is an accomplishment every American would like to achieve and one we could be very proud of without a doubt. Furthermore, this balanced budget substitute contains no costly special interest giveways to the oil industry, savings and loans, and the very wealthy.

Despite the fact that the overall size of the tax cut for individuals is smaller than the other alternatives, it does what most of my constituents have asked for. It concentrates the largest portion of the cut on middle and lower income taxpayers. Those earning under $50,000—a majority of the people in the 15th District—deserve this relief.

Businesses can expect good results from this proposal. It will provide major new incentives to them to expand and upgrade plant and equipment, to strengthen research and development and to improve productivity. Most importantly, it would be especially helpful to small businesses because it would lower their corporate tax rates and widen their tax brackets.

I cannot believe that any of our constituents would be disappointed to learn that the House of Representatives had passed legislation that would permit a 1-year tax cut and would balance the budget in 1982. And let us not forget to mention that this balanced budget will not require the Government to go into money markets and compete with businesses and private borrowers to raise the money required to pay for the tax cut.

The oil companies and the tax straddlers are not going to reap the same benefits from this amendment as they would under the alternatives, but in my book, this amendment shows sound fiscal policy and it provides a better, more equitable and less inflationary program than the other proposals being considered today.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in support of the Udall-Obey-Reuss substitute as being far preferable to any other alternatives, even though I do not support a tax cut of any kind, and would even vote against this on final passage.

Mr. Chairman, I just cannot see the justification for any tax cut at a time when Congress has approved albeit adversely a $1½ trillion military buildup. It is a clear prescription for runaway inflation.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I rise in support of the substitute, and I would like to quote page 12 of Ronald Reagan's "America's New Beginning":

> In the past, excessive deficit spending has been a major contributor to the initiation and the persistence of inflation.

Well, ladies and gentlemen, if the American people are not confused by this tremendous role reversal we see going on here, I do not know what will confuse them. Here we have Democrats finally listening to the words of our Republican friends who, for the last 30 years, have been telling us, "Balance the budget and you will solve the problem of inflation."

We have listened to your wisdom. We have incorporated these notions in a tax plan that is designed to help business and the American people but, more importantly, it would be getting closer to a balanced budget and trying to reduce interest rates, and what do you tell us?

You tell us, "Don't worry about the deficit because deficits that are used for decreasing marginal rates are not bad."

Nonsense. The American people know that is nonsense, and I am delighted to note that the Democratic Party is the party, in the words of another famous songwriter, Bob Dylan, "He Who Is Not Busy Being Born Is Busy Dying."

I suggest to our friends we are being born, and we are being born to the theory that a balanced budget will reduce inflation.

Mr. CONABLE. Mr. Chairman, I yield the balance of my time, 2 minutes, to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Chairman, I would like to use my time for a brief historical review of the movement to cut taxes.

This movement, starting with the original Kemp-Roth proposal 5 years ago in 1976, had as its basic premise that a steeply progressive tax code, with large jumps in the tax brackets as income rises, colliding with inflation, pushing taxpayers into higher brackets, creates a slow, a flat, a stagnant economic climate—and tax punishment; tax punishment not only for individual economic success, but punishment for individuals receiving cost-of-living benefits, punishment for overtime work, punishment for second jobs, working spouses, new enterprise, inventions, innovation, and so on.

These punitive marginal rates hold a large share of the responsibility for slow or negative economic growth, and for inflation itself.

The bipartisan substitute is the only tax bill that addresses the problem of punitive marginal tax rates. The Ways and Means bill actually enlarges the gap between the tax brackets. I would like to quote Dr. Norman Ture:

> The only way for a taxpayer whose income is changing to do better under the Ways and Means bill is for the change to be a pay cut.

He goes on further to say:

> Middle-income taxpayers filing joint returns would find themselves leaping through brackets in which they pay 25 percent, 34 percent, 41 percent, and 48 percent of additional income to the government, step-ups of 9, 7 and 7 percentage points. (Under the committee bill.)

That is why the committee bill will not, because it cannot, provide for economic growth.

My point is: The basic ideas behind reducing marginal rates and 5 years of intellectual, economic, and political development behind it, there would be no tax debate today. Only one bill encompasses the heart of the tax matter, The Conable-Hance substitute. I urge my colleagues to support it.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. UDALL. Mr. Chairman, I yield the remaining time to myself.

Mr. Chairman, I get a lot of my wisdom behind the rail up there with the back-benchers, whom I visit with quite often. Somebody said earlier in the day, "What does Ronald Reagan

and the Republican Members of Congress want for the man or the oil company who has everything?"

The answer is more, more of everything for these groups in our society. Two things have struck me as we end up this debate. Not a hand has been laid on our bill. Nobody has argued about it. No attention has been directed to its failings, if it has any, because the bill is an honest-to-God balance-the-budget bill, and nobody has questioned it.

□ 1510

No. 2, if we accept the Conable-Hance substitute, there is no argument; there is no argument to defend it or to deny it. We are guaranteeing the people, if all goes well, if every assumption comes through, that they are guaranteed three straight deficits in 1982, in 1983, and 1984, and they will total $128 billion. And it will guarantee my friends over here—and I await that day; I want special tickets for that day—that when we vote in October or November, we will vote for the first time in our history to raise the national debt over $1 trillion. Indeed it will be $1 trillion 60 billion, and to keep the country in business someone is going to have to vote for that.

The computer people have a slogan, "Garbage In, Garbage Out." It means that if you give the computer bad information, you are going to get lousy facts coming out. The $128 billion in deficits depends on the assumption that we will have 9 percent interest rates at the bank at the end of this year. Try that on your banker. Try to get a home mortgage at 9 percent. It depends on the computer being told inflation will be running at 8 percent at the end of this year. They do not tell you about the multiplier effect.

If you cut a man's taxes a hundred bucks, he spends $100 for a pair of shoes and a night out in your McDonald's restaurant, and it multiplies. That shoe salesman goes out and buys something from somebody else. The economists have agreed for years—and there is no argument and no rational opposition to this theory—that the multiplier is 2. It has been validated for every industrial country in the world. It is 2½ if you are lucky, if you have a real stagnant economy. The multiplier that is used on the whole Kemp-Roth-Reagan tax cut depends on a multiplier of 5. That is what they are telling the computer. That is like telling the computer that the sum of 2 and 2 is not 4 but it is 10.

Let us not talk about this any longer. That seems to be pretty well agreed. We talked about the economists today and their views. I think we could stuff in a Datsun taxicab on Wall Street the number of reputable economists who believe for a moment that taking this tremendous whack at taxes in the face of inflation and building up $128 billion of deficits in the next 3 years is not disastrous, and if I had the time, I would read what all of them say.

Let me give the Members a couple of examples.

Business Week 2 years ago, commenting on a somewhat different Kemp-Roth bill, said that this is a proposal that would "touch off an inflationary explosion that would wreck the country and everyone on a fixed income."

Irving Shapiro, chairman of DuPont, one of the leading spokesmen for business, said, that:

Kemp-Roth is political rhetoric. Neither Kemp nor Roth are economists or students of the economy. They're politicians. And they arrived at a formula that had a ring to it and played it politically and they've milked it. But it ought to be discarded now.

Mr. Chairman, I want to say maybe one more thing, if I may. There has been a lot of talk about savings here and about savings and loan institutions, one of our basic financial institutions that let my generation at least buy a home. Do you know how you are going to get more savings? You are going to balance the budget. I cannot think of anything that would give people more comfort and more confidence to leave their money in a savings and loan than balancing the budget.

So let us lift up our eyes a little bit from this debate that we have had today from all the Members on the technicalities and focus on what this country faces. Let me give the Members two scenarios.

The one is that my Republican friends will get this great victory tonight that they hunger for; they applaud and they cheer, and they go out and celebrate. But they guarantee the country when they celebrate that we are going to have a deficit of $60 billion in 1982, a deficit of $45 billion in 1983, and a deficit of $23 billion in 1984, and God help us, they might get a balanced budget in 1985 after the next election.

The Wall Street people do not believe that, and the homebuilders do not believe it is going to work that way. They are scared, they are frightened. The old ties in the financial community with the Republican Party are strained, and the financiers will tell us privately that this is a very dangerous course they are taking the country down.

Let me give the Members another scenario of what could happen in the next few months. Let us suppose we pass our bill tonight and it comes out in conference and goes to the White House substantially as it is proposed. We have guaranteed—and nobody argues this—a $2 billion surplus in this fiscal year we are coming into in October. We are guaranteed, if we leave it alone and do not tinker around any further and come up with more wild schemes, that we are going to have a $23 billion surplus in 1983. You can vote for that scenario right now.

Mr. Chairman, I am pleased to have the support of the AFL-CIO for the Udall-Obey-Reuss substitute that has come before the House today. I commend to the attention of my colleagues the following letter in support of our plan.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Washington, D.C. July 28, 1981.

DEAR REPRESENTATIVE: The AFL-CIO is strongly opposed to both the House Ways and Means Committee's tax bill, (H.R. 4242) and the Administration backed Hance-Conable II substitute (H.R. 4260). The AFL-CIO urges you to vote for the Udall-Obey-Reuss substitute as a more equitable, less inflationary tax package free of the most shameful giveaways to the wealthy. While the Udall-Obey-Reuss substitute contains expensive giveaways to big business, by comparison to the other bills, it is far more equitable and would be $400 billion less of a raid on the Treasury. The Udall bill is fairer in its distribution of the individual and business tax reduction. Also, it is not laden with costly giveaways to the oil industry, wealthy estates, the super-rich and corporation whose "investing" is to gobble up other businesses.

The Committee bill and the Hance-Conable substitute, we have concluded, are a double dose of bad news for the great majority of the American people. We urge that you vote against both of these proposals.

The House Ways and Means Bill is marginally less inequitable toward American workers than the Administration's proposal. But the differences between the two bills are overwhelmed by the similarities—designed to bring huge benefits to the corporations and the super rich, at the expense of school children and pensioners, the unemployed and the disabled and the disadvantaged. All of this would come at a cost to the federal Treasury over the next five years of more than $700 billion.

Those who will pay for these giveways are the victims of massive cuts or elimination of health services, social security, aid to schools, food stamps, unemployment compensation, aid to states and cities and a long list of other social programs that help people who have no place to turn.

Both of the tax bills would hand over half of the $700 billion to business and the richest five percent or so of the population. The remaining 95 percent of Americans would be left to share one-half of the tax cut. Neither bill makes any pretense of providing tax cuts where they are the most needed or where they would do the most good in stimulating the economy, creating jobs and getting America moving toward the goals everyone shares—a full-employment economy.

For instance, U.S. tax law once had the concept, for corporate income tax purposes, of giving a honest depreciation allowance on a company's plant and equipment. But the Ways and Means bill eliminates the concept and hands over the money willy-nilly; the Administration bill retains the concept but makes it meaningless.

Both of these bills are loaded with unfair and costly gimmicks that widen the gap between the haves and have-nots in our socie-

ty. They virtually eliminate estate and gift taxes, greatly benefiting those who stand to inherit estates worth $400,000 and up. They single out oil companies and those who collect oil royalties for special tax cuts that will cost the Treasury many billions of dollars.

Both bills provide a whole array of so-called "savings incentives" that totally ignore the needs of those who have little or nothing to save. Those incentives will do nothing to increase the overall level of savings, but they will increase competition for investment money and add to the pressure on interest rates.

The most dangerous feature that these bills share is that they impose a huge, continuing drain on the federal Treasury. They leave the government with no other tool for economic management except to manipulate the money supply and interest rates, a policy that has made inflation worse—and which will continue to undermine the government's ability to control inflation, fight unemployment and revitalize the country.

The AFL-CIO urges that you vote for the Udall substitute and vote against both H.R. 4242 and the Administration-backed Hance-Conable substitute. The Udall substitute will provide a better, more equitable and less inflationary program than what has been served up by both the Administration and the Ways and Means Committee.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. UDALL) has expired. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Chairman announced that he was in doubt.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 288, answered "present" 1, not voting 1, as follows:

[Roll No. 176]

AYES—144

Akaka	Crockett	Ford (TN)
Alexander	D'Amours	Fountain
Anderson	Danielson	Frank
Andrews	de la Garza	Garcia
Aspin	Dellums	Gejdenson
Barnes	DeNardis	Gephardt
Bedell	Dixon	Gonzalez
Beilenson	Donnelly	Gore
Benjamin	Downey	Gray
Bennett	Dunn	Guarini
Bevill	Dwyer	Hamilton
Bingham	Dymally	Harkin
Blanchard	Dyson	Hawkins
Boland	Early	Hefner
Bolling	Eckart	Hertel
Bonior	Edgar	Hollenbeck
Bonker	Edwards (CA)	Howard
Brodhead	Ertel	Hoyer
Brown (CA)	Evans (IN)	Hughes
Burton, John	Fascell	Jacobs
Burton, Phillip	Fazio	Jeffords
Chisholm	Ferraro	Kastenmeier
Clay	Fithian	Kildee
Collins (IL)	Flippo	Kogovsek
Conte	Florio	LaFalce
Conyers	Foglietta	Lehman
Coyne, William	Ford (MI)	Leland
Long (MD)	Ottinger	Sharp
Lowry (WA)	Panetta	Smith (PA)
Lundine	Patterson	Solarz
Markey	Pease	Stark
Mavroules	Pepper	Stokes
McHugh	Perkins	Studds
Mica	Peyser	Swift
Mikulski	Rangel	Udall
Miller (CA)	Ratchford	Vento
Minish	Reuss	Washington
Mitchell (MD)	Richmond	Waxman
Moakley	Rodino	Weaver
Moffett	Roe	Weiss
Mottl	Rose	Whitley
Murtha	Rosenthal	Whitten
Natcher	Roybal	Williams (MT)
Neal	Sabo	Wolpe
Nichols	Scheuer	Wyden
Oakar	Schumer	Yates
Oberstar	Seiberling	Zablocki
Obey	Shamansky	Zeferetti

NOES—288

Addabbo	Edwards (AL)	Lagomarsino
Albosta	Edwards (OK)	Lantos
Annunzio	Emerson	Latta
Anthony	Emery	Leach
Applegate	English	Leath
Archer	Erdahl	LeBoutillier
Ashbrook	Erlenborn	Lee
Atkinson	Evans (DE)	Lent
AuCoin	Evans (GA)	Levitas
Badham	Evans (IA)	Lewis
Bafalis	Fary	Livingston
Bailey (MO)	Fenwick	Loeffler
Bailey (PA)	Fiedler	Long (LA)
Barnard	Fields	Lott
Beard	Findley	Lowery (CA)
Benedict	Fish	Lujan
Bereuter	Foley	Luken
Bethune	Forsythe	Lungren
Biaggi	Fowler	Madigan
Bliley	Frenzel	Marks
Boggs	Frost	Marlenee
Boner	Fuqua	Marriott
Bouquard	Gaydos	Martin (IL)
Bowen	Gibbons	Martin (NC)
Breaux	Gilman	Martin (NY)
Brinkley	Gingrich	Matsui
Brooks	Ginn	Mattox
Broomfield	Glickman	Mazzoli
Brown (CO)	Goldwater	McClory
Brown (OH)	Goodling	McCloskey
Broyhill	Gradison	McCollum
Burgener	Gramm	McCurdy
Butler	Green	McDade
Byron	Gregg	McDonald
Campbell	Grisham	McEwen
Carman	Gunderson	McGrath
Carney	Hagedorn	McKinney
Chappell	Hall (OH)	Michel
Chappie	Hall, Ralph	Miller (OH)
Cheney	Hall, Sam	Mineta
Clausen	Hammerschmidt	Mitchell (NY)
Clinger	Hance	Molinari
Coats	Hansen (ID)	Mollohan
Coelho	Hansen (UT)	Montgomery
Coleman	Hartnett	Moore
Collins (TX)	Hatcher	Moorhead
Conable	Heckler	Morrison
Corcoran	Heftel	Murphy
Coughlin	Hendon	Myers
Courter	Hightower	Napier
Coyne, James	Hiler	Nelligan
Craig	Hillis	Nelson
Crane, Daniel	Holland	Nowak
Crane, Philip	Holt	O'Brien
Daniel, Dan	Hopkins	Oxley
Daniel, R. W.	Horton	Parris
Dannemeyer	Hubbard	Pashayan
Daschle	Huckaby	Patman
Daub	Hunter	Paul
Davis	Hutto	Petri
Deckard	Hyde	Pickle
Derrick	Ireland	Porter
Derwinski	Jeffries	Price
Dickinson	Jenkins	Pritchard
Dicks	Johnston	Pursell
Dingell	Jones (NC)	Quillen
Dorgan	Jones (OK)	Rahall
Dornan	Jones (TN)	Railsback
Dougherty	Kazen	Regula
Dowdy	Kemp	Rhodes
Dreier	Kindness	Rinaldo
Duncan	Kramer	Ritter
Roberts (KS)	Skeen	Trible
Roberts (SD)	Skelton	Vander Jagt
Robinson	Smith (AL)	Volkmer
Roemer	Smith (IA)	Walgren
Rogers	Smith (NE)	Walker
Rostenkowski	Smith (NJ)	Wampler
Roth	Smith (OR)	Watkins
Roukema	Snowe	Weber (MN)
Rousselot	Snyder	Weber (OH)
Rudd	Solomon	White
Russo	Spence	Whitehurst
Santini	St Germain	Whittaker
Sawyer	Stangeland	Williams (OH)
Schneider	Stanton	Wilson
Schroeder	Staton	Winn
Schulze	Stenholm	Wirth
Sensenbrenner	Stratton	Wolf
Shannon	Stump	Wortley
Shaw	Synar	Wright
Shelby	Tauke	Wylie
Shumway	Tauzin	Yatron
Shuster	Taylor	Young (AK)
Siljander	Thomas	Young (FL)
Simon	Traxler	Young (MO)

ANSWERED "PRESENT"—1

Savage

NOT VOTING—1

Cotter

□ 1530

Mr. BROOKS, Mr. PRICE, Mrs. SCHROEDER, and Mr. WIRTH changed their votes from "aye" to "no."

Messrs. LONG of Maryland, DYSON, and ANDREWS changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The amendment in the nature of a substitute reads as follows:

Amendment in the nature of a substitute offered by Mr. CONABLE: On page 1, line 1, strike all after the enacting clause and insert in lieu thereof the text of H.R. 4260, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Economic Recovery Tax Act of 1981".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Tax Reductions

Sec. 101. Rate cuts; rate reduction credit.
Sec. 102. 20-percent maximum rate on net capital gain for portion of 1981, decrease in holding period.
Sec. 103. Deduction for two-earner married couples.
Sec. 104. Adjustment to prevent inflation-caused tax increase.

Subtitle B—Income Earned Abroad

Sec. 111. Partial exclusion for earned income from sources without the United States and foreign housing costs.

Sec. 112. Repeal of deduction for certain expenses of living abroad.
Sec. 113. Employees living in camps.
Sec. 114. Reports by Secretary.
Sec. 115. Effective date.

Subtitle C—Miscellaneous Provisions

Sec. 121. Deduction for charitable contributions to be allowed for individuals who do not itemize deductions.
Sec. 122. 18-month period for rollover principal residence increased to 2 years.
Sec. 123. One-time exclusion of gain increased to 2 years.

TITLE II—BUSINESS INCENTIVE PROVISIONS

Subtitle A—Cost Recovery Provisions

Sec. 201. Accelerated cost recovery system.
Sec. 202. Election to expense certain depreciable business assets.
Sec. 203. Amendments related to depreciation.
Sec. 204. Recapture on disposition of recovery property.
Sec. 205. Minimum tax treatment.
Sec. 206. Earnings and profits.
Sec. 207. Extension of carryover period for net operating losses and certain credits.
Sec. 208. Carryover of recovery attribute in section 381 transactions.
Sec. 209. Effective dates.

Subtitle B—Investment Tax Credit Provisions

Sec. 211. Modification of investment tax credit to reflect accelerated cost recovery.
Sec. 212. Increase in investment tax credit for qualified rehabilitation expenditures.
Sec. 213. Investment credit for used property; increase in dollar limitation.

Subtitle C—Incentives for Research and Experimentation

Sec. 221. Credit for increasing research activities.
Sec. 222. Charitable contributions of scientific property used for research.
Sec. 223. Allocation under section 861 of research and experimental expenditures.

Subtitle D—Small Business Provisions

Sec. 231. Reduction in corporate tax rate.
Sec. 232. Increase in accumulated earnings credit.
Sec. 233. Subchapter S shareholders.
Sec. 234. Treatment of trusts as subchapter S shareholders.
Sec. 235. Simplification of LIFO by use of government indexes to be provided by regulations.
Sec. 236. 3-year averaging permitted for increases in inventory value when LIFO is elected.
Sec. 237. Election by small business to use one LIFO inventory pool.
Sec. 238. Study of accounting methods for inventory.

Subtitle E—Savings and Loan Associations

Sec. 241. Reorganizations involving financially troubled thrift institutions.
Sec. 242. Limitations on carryovers of financial institutions.
Sec. 243. Reserves for losses on loans.
Sec. 244. FSLIC financial assistance.
Sec. 245. Effective dates.

Subtitle F—Stock Options

Sec. 251. Stock options.

TITLE III—SAVINGS PROVISIONS

Subtitle A—Interest Exclusion

Sec. 301. Exclusion of interest on certain savings certificates.
Sec. 302. Partial exclusion of interest.

Subtitle B—Retirement Savings Provisions

Sec. 311. Retirement savings.
Sec. 312. Increase in amount of self-employed retirement plan deduction.
Sec. 313. Rollovers under bond purchase plans.

Subtitle C—Reinvestment of Dividends in Public Utilities

Sec. 321. Encouragement of reinvestment of dividends in the stock of public utilities.

TITLE IV—ESTATE AND GIFT TAX PROVISIONS

Subtitle A—Increase in Unified Credit; Rate Reduction; Unlimited Marital Deduction

Sec. 401. Increase in unified credit.
Sec. 402. Reduction in maximum rates of tax.
Sec. 403. Unlimited marital deduction.

Subtitle B—Other Estate Tax Provisions

Sec. 421. Valuation of certain farm, etc., real property.
Sec. 422. Coordination of extensions of time for payment of estate tax where estate consists largely of interest in closely held business.
Sec. 423. Treatment of certain contributions of works of art, etc.
Sec. 424. Gifts made within 3 years of decendent's death not included in gross estate.
Sec. 425. Basis of certain appreciated property transferred to decedent by gift within 3 years of death.
Sec. 426. Disclaimers.
Sec. 427. Repeal of deduction for bequests, etc., to certain minor children.

Subtitle C—Other Gift Tax Provisions

Sec. 441. Increase in annual gift tax exclusion; unlimited exclusion for certain transfers.
Sec. 442. Time for payment of gift taxes.

TITLE V—TAX STRADDLES

Sec. 501. Disallowance of community-related losses which exceed commodity-related gains.
Sec. 502. Capitalization of certain interest and carrying charges in the case of straddles.
Sec. 503. Certain government obligations issued at discount treated as capital assets.
Sec. 504. Prompt identification of securities by dealers in securities.
Sec. 505. Treatment of gain or loss from certain terminations.
Sec. 506. Effective dates.
Sec. 507. Study.

TITLE VI—ENERGY PROVISIONS

Subtitle A—Changes in Windfall Profit Tax

Sec. 601. $2,500 royalty credit for 1981; exemption for 1982 and thereafter.
Sec. 602. Reduction in tax imposed on newly discovered oil.
Sec. 603. Exempt independent producer stripper well oil.
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Subtitle B—Miscellaneous Provisions

Sec. 611. Retention of applicable percentage for certain oil and gas depletion allowances.
Sec. 612. Wood stove tax credit.

TITLE VII—ADMINISTRATIVE PROVISIONS

Subtitle A—Prohibition of Disclosure of Audit Methods

Sec. 701. Prohibition of disclosure of methods for selection of tax returns for audits.

Subtitle B—Changes in Interest Rate for Overpayments and Underpayments

Sec. 711. Changes in rate of interest for overpayments and underpayments.

Subtitle C—Changes in Certain Penalties and in Requirements Relating to Returns

Sec. 721. Changes in penalties for false information with respect to withholding.
Sec. 722. Additions to tax in the case of valuation overstatements, increase in negligence penalty.
Sec. 723. Changes in requirements relating to information returns.
Sec. 724. Penalty for overstated deposit claims.
Sec. 725. Declaration of estimated tax not required in certain cases.

Subtitle D—Cash Management

Sec. 731. Cash management.

Subtitle E—Financing of Railroad Retirement System.

Sec. 741. Increase in employer and employee taxes.
Sec. 742. Advance transfer of amounts payable under social security financial interchange.
Sec. 743. Amendments to section 3231 clarifying definition of compensation.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Deduction for motor carrier operating authority.
Sec. 802. State legislators' travel expenses away from home.
Sec. 803. Tax exempt financing for vehicles used for mass commuting.
Sec. 804. Adjustments to new jobs credit.
Sec. 805. Extension of prohibition of issuance of fringe benefit regulations.
Sec. 806. Extension of rules for commuting expenses.
Sec. 807. One-year extension of treatment of low-income housing with respect to amortization of real property construction period interest and taxes.
Sec. 808. Property transferred to employees subject to certain restrictions.
Sec. 809. Obligations of certain volunteer fire departments.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Tax Reductions

SEC. 101. RATE CUTS; RATE REDUCTION CREDIT.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500.	12% of the excess over $3,400.
Over $5,500 but not over $7,600.	$252, plus 14% of the excess over $5,500.
Over $7,600 but not over $11,900.	$546, plus 16% of the excess over $7,600.
Over $11,900 but not over $16,000.	$1,234, plus 19% of the excess over $11,900.
Over $16,000 but not over $20,200.	$2,013, plus 22% of the excess over $16,000.
Over $20,200 but not over $24,600.	$2,937, plus 25% of the excess over $20,200.
Over $24,600 but not over $29,900.	$4,037, plus 29% of the excess over $24,600.
Over $29,900 but not over $35,200.	$5,574, plus 33% of the excess over $29,900.
Over $35,200 but not over $45,800.	$7,323, plus 39% of the excess over $35,200.
Over $45,800 but not over $60,000.	$11,457, plus 44% of the excess over $45,800.
Over $60,000 but not over $85,600.	$17,705, plus 49% of the excess over $60,000.
Over $85,600	$30,249, plus 50% of the excess over $85,600.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500.	11% of the excess over $3,400.
Over $5,500 but not over $7,600.	$231, plus 13% of the excess over $5,500.
Over $7,600 but not over $11,900.	$504, plus 15% of the excess over $7,600.
Over $11,900 but not over $16,000.	$1,149, plus 17% of the excess over $11,900.
Over $16,000 but not over $20,200.	$1,846, plus 19% of the excess over $16,000.
Over $20,200 but not over $24,600.	$2,644, plus 23% of the excess over $20,200.
Over $24,600 but not over $29,900.	$3,656, plus 26% of the excess over $24,600.
Over $29,900 but not over $35,200.	$5,034, plus 30% of the excess over $29,900.
Over $35,200 but not over $45,800.	$6,624, plus 35% of the excess over $35,200.
Over $45,800 but not over $60,000.	$10,334, plus 40% of the excess over $45,800.
Over $60,000 but not over $85,600.	$16,014, plus 44% of the excess over $60,000.
Over $85,600 but not over $109,400.	$27,278, plus 48% of the excess over $85,600.
Over $109,400	$38,702, plus 50% of the excess over $109,400.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500.	11% of the excess over $3,400.
Over $5,500 but not over $7,600.	$231, plus 12% of the excess over $5,500.
Over $7,600 but not over $11,900.	$483, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000.	$1,085, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200.	$1,741, plus 18% of the excess over $16,000.
Over $20,200 but not over $24,600.	$2,497, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900.	$3,465, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200.	$4,790, plus 28% of the excess over $29,900.
Over $35,200 but not over $45,800.	$6,274, plus 33% of the excess over $35,200.
Over $45,800 but not over $60,000.	$9,772, plus 38% of the excess over $45,800.
Over $60,000 but not over $85,600.	$15,168, plus 42% of the excess over $60,000.
Over $85,600 but not over $109,400.	$25,920, plus 45% of the excess over $85,600.
Over $109,400 but not over $162,400.	$36,630, plus 49% of the excess over $109,400.
Over $162,400	$62,600, plus 50% of the excess over $162,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	12% of the excess over $2,300.
Over $4,400 but not over $6,500.	$252, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,700.	$546, plus 16% of the excess over $6,500.
Over $8,700 but not over $11,800.	$898, plus 20% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,518, plus 22% of the excess over $11,800.
Over $15,000 but not over $18,200.	$2,222, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,958, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,442, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100.	$6,138, plus 38% of the excess over $28,800.
Over $34,100 but not over $44,700.	$8,152, plus 41% of the excess over $34,100.
Over $44,700 but not over $60,600.	$12,498, plus 49% of the excess over $44,700.
Over $60,600	$20,289, plus 50% of the excess over $60,600.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	11% of the excess over $2,300.
Over $4,400 but not over $6,500.	$231, plus 13% of the excess over $4,400.
Over $6,500 but not over $8,700.	$504, plus 15% of the excess over $6,500.
Over $8,700 but not over $11,800.	$834, plus 18% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,392, plus 19% of the excess over $11,800.
Over $15,000 but not over $18,200.	$2,000, plus 21% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,672, plus 25% of the excess over $18,200.
Over $23,500 but not over $28,800.	$3,997, plus 29% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,534, plus 34% of the excess over $28,800.
Over $34,100 but not over $44,700.	$7,336, plus 37% of the excess over $34,100.
Over $44,700 but not over $60,600.	$11,258, plus 44% of the excess over $44,700.
Over $60,600 but not over $81,800.	$18,254, plus 48% of the excess over $60,600.
Over $81,800	$28,430, plus 50% of the excess over $81,800.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	11% of the excess over $2,300.
Over $4,400 but not over $6,500.	$231, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700.	$483, plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800.	$791, plus 17% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,318, plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200.	$1,894, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,534, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800.	$3,806, plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,290, plus 32% of the excess over $28,800.
Over $34,100 but not over $44,700.	$6,986, plus 35% of the excess over $34,100.
Over $44,700 but not over $60,600.	$10,696, plus 42% of the excess over $44,700.
Over $60,600 but not over $81,800.	$17,374, plus 45% of the excess over $60,600.
Over $81,800 but not over $108,300.	$26,914, plus 48% of the excess over $81,800.
Over $108,300	$39,634, plus 50% of the excess over $108,300.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	12% of the excess over $2,300.
Over $3,400 but not over $4,400.	$132, plus 14% of the excess over $3,400.
Over $4,400 but not over $6,500.	$272, plus 16% of the excess over $4,400.
Over $6,500 but not over $8,500.	$608, plus 17% of the excess over $6,500.
Over $8,500 but not over $10,800.	$948, plus 19% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,385, plus 22% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,847, plus 23% of the excess over $12,900.
Over $15,000 but not over $18,200.	$2,330, plus 27% of the excess over $15,000.
Over $18,200 but not over $23,500.	$3,194, plus 31% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,837, plus 35% of the excess over $23,500.
Over $28,800 but not over $34,100.	$6,692, plus 40% of the excess over $28,800.
Over $34,100 but not over $41,500.	$8,812, plus 44% of the excess over $34,100.
Over $41,500	$12,068, plus 50% of the excess over $41,500.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	11% of the excess over $2,300.
Over $3,400 but not over $4,400.	$121, plus 13% of the excess over $3,400.
Over $4,400 but not over $8,500.	$251, plus 15% of the excess over $4,400.
Over $8,500 but not over $10,800.	$866, plus 17% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,257, plus 19% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,656, plus 21% of the excess over $12,900.
Over $15,000 but not over $18,200.	$2,097, plus 24% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,865, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,349, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100.	$6,045, plus 36% of the excess over $28,800.
Over $34,100 but not over $41,500.	$7,953, plus 40% of the excess over $34,100.
Over $41,500 but not over $55,300.	$10,913, plus 45% of the excess over $41,500.
Over $55,300	$17,123, plus 50% of the excess over $55,300.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	11% of the excess over $2,300.
Over $3,400 but not over $4,400.	$121, plus 12% of the excess over $3,400.

"If taxable income is:	The tax is:
Over $4,400 but not over $6,500.	$241, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,500.	$535, plus 15% of the excess over $6,500.
Over $8,500 but not over $10,800.	$835, plus 16% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,203, plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,581, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200.	$2,001, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,737, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,115, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,705, plus 34% of the excess over $28,800.
Over $34,100 but not over $41,500.	$7,507, plus 38% of the excess over $34,100.
Over $41,500 but not over $55,300.	$10,319, plus 42% of the excess over $41,500.
Over $55,300 but not over $81,800.	$16,115, plus 48% of the excess over $55,300.
Over $81,800	$28,835, plus 50% of the excess over $81,800.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750.	12% of the excess over $1,700.
Over $2,750 but not over $3,800.	$126, plus 14% of the excess over $2,750.
Over $3,800 but not over $5,950.	$273, plus 16% of the excess over $3,800.
Over $5,950 but not over $8,000.	$617, plus 19% of the excess over $5,950.
Over $8,000 but not over $10,100.	$1,006, plus 22% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,468, plus 25% of the excess over $10,100.
Over $12,300 but not over $14,950.	$2,018, plus 29% of the excess over $12,300.
Over $14,950 but not over $17,600.	$2,787, plus 33% of the excess over $14,950.
Over $17,600 but not over $22,900.	$3,661, plus 39% of the excess over $17,600.
Over $22,900 but not over $30,000.	$5,728, plus 44% of the excess over $22,900.
Over $30,000 but not over $42,800.	$8,852, plus 49% of the excess over $30,000.
Over $42,800	$15,124, plus 50% of the excess over $42,800.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750.	11% of the excess over $1,700.
Over $2,750 but not over $3,800.	$115, plus 13% of the excess over $2,750.
Over $3,800 but not over $5,950.	$252, plus 15% of the excess over $3,800.
Over $5,950 but not over $8,000.	$574, plus 17% of the excess over $5,950.
Over $8,000 but not over $10,100.	$923, plus 19% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,322, plus 23% of the excess over $10,100.
Over $12,300 but not over $14,950.	$1,828, plus 26% of the excess over $12,300.
Over $14,950 but not over $17,600.	$2,517, plus 30% of the excess over $14,950.
Over $17,600 but not over $22,900.	$3,312, plus 35% of the excess over $17,600.
Over $22,900 but not over $30,000.	$5,167, plus 40% of the excess over $22,900.
Over $30,000 but not over $42,800.	$8,007, plus 44% of the excess over $30,000.
Over $42,800 but not over $54,700.	$13,639, plus 48% of the excess over $42,800.
Over $54,700	$19,351, plus 50% of the excess over $54,700.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750.	11% of the excess over $1,700.
Over $2,750 but not over $3,800.	$115, plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950.	$241, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000.	$542, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100.	$870, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,248, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950.	$1,732, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600.	$2,395, plus 28% of the excess over $14,950.
Over $17,600 but not over $22,900.	$3,137, plus 33% of the excess over $17,600.
Over $22,900 but not over $30,000.	$4,886, plus 38% of the excess over $22,900.
Over $30,000 but not over $42,800.	$7,584, plus 42% of the excess over $30,000.
Over $42,800 but not over $54,700.	$12,960, plus 45% of the excess over $42,800.
Over $54,700 but not over $81,200.	$18,315, plus 49% of the excess over $54,700.
Over $81,200	$31,300, plus 50% of the excess over $81,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $1,050	12% of taxable income.
Over $1,050 but not over $2,100.	$126, plus 14% of the excess over $1,050.
Over $2,100 but not over $4,250.	$273, plus 16% of the excess over $2,100.
Over $4,250 but not over $6,300.	$617, plus 19% of the excess over $4,250.
Over $6,300 but not over $8,400.	$1,006, plus 22% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,468, plus 25% of the excess over $8,400.
Over $10,600 but not over $13,250.	$2,018, plus 29% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,787, plus 33% of the excess over $13,250.
Over $15,900 but not over $21,200.	$3,661, plus 39% of the excess over $15,900.
Over $21,200 but not over $28,300.	$5,728, plus 44% of the excess over $21,200.
Over $28,300 but not over $41,100.	$8,852, plus 49% of the excess over $28,300.
Over $41,100	$15,124, plus 50% of the excess over $41,100.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100.	$115, plus 13% of the excess over $1,050.
Over $2,100 but not over $4,250.	$252, plus 15% of the excess over $2,100.
Over $4,250 but not over $6,300.	$574, plus 17% of the excess over $4,250.
Over $6,300 but not over $8,400.	$923, plus 19% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,322, plus 23% of the excess over $8,400.
Over $10,600 but not over $13,250.	$1,828, plus 26% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,517, plus 30% of the excess over $13,250.
Over $15,900 but not over $21,200.	$3,312, plus 35% of the excess over $15,900.
Over $21,200 but not over $28,300.	$5,167, plus 40% of the excess over $21,200.
Over $28,300 but not over $41,100.	$8,007, plus 44% of the excess over $28,300.
Over $41,100 but not over $53,000.	$13,639, plus 48% of the excess over $41,100.
Over $53,000	$19,351, plus 50% of the excess over $53,000.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100.	$115, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250.	$241, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300.	$542, plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400.	$870, plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,248, plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250.	$1,732, plus 25% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,395, plus 28% of the excess over $13,250.
Over $15,900 but not over $21,200.	$3,137, plus 33% of the excess over $15,900.
Over $21,200 but not over $28,300.	$4,886, plus 38% of the excess over $21,200.
Over $28,300 but not over $41,100.	$7,584, plus 42% of the excess over $28,300.
Over $41,100 but not over $53,000.	$12,960, plus 45% of the excess over $41,100.
Over $53,000 but not over $79,500.	$18,315, plus 49% of the excess over $53,000.
Over $79,500	$31,300, plus 50% of the excess over $79,500."

(b) CREDIT TO REFLECT EQUIVALENT 1981 RATE REDUCTION.—

(1) IN GENERAL.—Section 6428 (relating to refund of 1974 individual income taxes) is amended to read as follows:

"SEC. 6428. 1981 RATE REDUCTION TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by section 1, or against a tax imposed in lieu of the tax imposed by section 1, for any taxable year beginning in 1981, an amount equal to the product of—

"(1) 1.25 percent, multiplied by

"(2) the amount of tax imposed by section 1 (or in lieu thereof) for such taxable year.

"(b) SPECIAL RULES FOR APPLICATION OF THIS SECTION.—

"(1) APPLICATION WITH OTHER CREDITS.—In determining any credit allowed under subpart A of part IV of subchapter A of chapter 1 (other than under sections 31, 39, and 43), the tax imposed by chapter 1 shall (before any other reductions) be reduced by the credit allowed under subsection (a).

"(2) CREDIT TREATED AS SUBPART A CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart A of part IV of subchapter A of chapter 1.

"(c) TABLES TO REFLECT CREDIT.—

"(1) SECTION 3 TABLES.—The tables prescribed by the Secretary under section 3 shall reflect the credit allowed under subsection (a).

"(2) OTHER TABLES.—In order to reflect the amount of the credit under subsection (a) for different levels of tax or taxable income, the Secretary may—

"(A) modify the tables under section 1, or

"(B) prescribe such other tables as he determines necessary."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6428 and inserting in lieu thereof the following new item:

"Sec. 6428. 1981 rate reduction tax credit."

(B) Paragraph (1) of section 3(a) (relating to imposition of tax table tax) is amended by inserting "and which shall be in such form as he determines appropriate" after "Secretary".

(c) REPEAL OF MAXIMUM TAX ON PERSONAL SERVICE INCOME.—

(1) IN GENERAL.—Part VI of subchapter Q of chapter 1 (relating to maximum rate on personal service income) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 3(b) (relating to tax tables for individuals) is amended to read as follows:

"(1) an individual to whom section 1301 (relating to income averaging) applies for the taxable year,".

(B) Subsection (b) of section 1304 (relating to special rules for income averaging) is amended—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (3).

(C) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI.

(d) CONFORMING AMENDMENTS.—

(1) ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 55(a) (relating to alternative minimum tax) is amended—

(A) by striking out all that follows "$60,000" in subparagraph (B) and inserting in lieu thereof ", exceeds", and

(B) by striking out subparagraph (C).

(2) PERSONAL HOLDING COMPANY TAX.—Section 541 (relating to personal holding company tax) is amended by striking out "70 percent" and inserting in lieu thereof "50 percent".

(e) WITHHOLDING TABLES.—

(1) DETERMINATION OF WITHHOLDING.—Section 3402(a) (relating to requirement of withholding income tax at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—

"(1) IN GENERAL.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall—

"(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

"(B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.

"(2) AMOUNT OF WAGES.—For purposes of applying tables or procedures prescribed under paragraph (1), the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption. The amount of each withholding exemption shall be equal to the amount of one personal exemption provided in section 151(b), prorated to the payroll period. The maximum number of withholding exemptions permitted shall be calculated in accordance with regulations prescribed by the Secretary under this section, taking into account any reduction in withholding to which an employee is entitled under this section.

"(3) CHANGES MADE BY SECTION 101 OF THE ECONOMIC RECOVERY TAX ACT OF 1981.—Notwithstanding the provisions of this subsection, the Secretary shall modify the tables and procedures under paragraph (1) to reflect—

"(A) the amendments made by section 101(b) of the Economic Recovery Tax Act of 1981 (and such modification shall take effect on October 1, 1981), and

"(B) the amendments made by section 101(a) of such Act, and such modifications shall take effect—

"(i) on July 1, 1982, as if the reductions in the rate of tax under section 1 (as amended by such section) were attributable to a 10-percent reduction effective on such date, and

"(ii) on July 1, 1983, as if such reductions were attributable to a 10-percent reduction effective on such date."

(2) WAGES PAID FOR PERIOD LESS THAN 1 WEEK.—Section 3402(b) (relating to the percentage method of withholding) is amended—

(A) by striking out paragraph (1), and redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by striking out paragraph (3), as redesignated by subparagraph (A), and inserting in lieu thereof the following:

"(3) In any case in which the period, or the time described in paragraph (2), in respect of any wages is less than one week, the Secretary, under regulations prescribed by him, may authorize an employer to compute the tax to be deducted and withheld as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period."

(3) ZERO BRACKET AMOUNT.—Paragraph (1)(G) of section 3402(f) (relating to withholding exemptions) is amended by inserting "(or more than one exemption if so prescribed by the Secretary)" after "one exemption".

(4) CHANGES IN WITHHOLDING.—Section 3402(i) (relating to additional withholding) is amended to read as follows:

"(i) CHANGES IN WITHHOLDING.—

"(1) IN GENERAL.—The Secretary may by regulations provide for increases or decreases in the amount of withholding otherwise required under this section in cases where the employee requests such changes.

"(2) TREATMENT AS TAX.—Any increased withholding under paragraph (1) shall for all purposes be considered tax required to be deducted and withheld under this chapter."

(5) WITHHOLDING ALLOWANCES.—

(A) IN GENERAL.—Paragraph (1) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, an employee shall be entitled to additional withholding allowances or additional reductions in withholding under this subsection. In determining the number of additional withholding allowances or the amount of additional reductions in withholding under this subsection, the employee may take into account—

"(A) the excess of his estimated itemized deductions or other estimated deductions (as prescribed by the Secretary) over his zero bracket amount (as defined in section 63(d)),

"(B) such tax credits to which he is entitled as specified in the regulations prescribed by the Secretary, and

"(C) such additional items as specified in the regulations by the Secretary."

(B) TABLES.—Paragraph (4) of section 3402(m) is amended to read as follows:

"(4) AUTHORITY TO PRESCRIBE TABLES.—The Secretary may prescribe tables or computational procedures pursuant to which employees shall determine the number of withholding allowances or the amount of reduced withholding to which the employees are entitled under this subsection."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (c), and (d) shall apply to taxable years beginning after December 31, 1981.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (e) shall apply to remuneration paid after September 30, 1981.

SEC. 102. 20-PERCENT MAXIMUM RATE ON NET CAPITAL GAIN FOR PORTION OF 1981, DECREASE IN HOLDING PERIOD.

(a) IN GENERAL.—If for any taxable year ending after June 10, 1981, and beginning before January 1, 1982, a taxpayer other than a corporation has qualified net capital gain, then the tax imposed under section 1 of the Internal Revenue Code of 1954 for such taxable year shall be equal to the lesser of—

(1) the tax imposed under such section determined without regard to this subsection, or

(2) the sum of—

(A) the tax imposed under such section on the excess of—

(i) the taxable income of the taxpayer, over

(ii) 40 percent of the qualified net capital gain of the taxpayer, and

(B) 20 percent of the qualified net capital gain.

(b) APPLICATION WITH ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—If subsection (a) applies to any taxpayer for any taxable year, then the amount determined under section 55(a)(1) of the Internal Revenue Code of 1954 for such taxable year shall be equal to the lesser of—

(A) the amount determined under such section 55(a)(1) determined without regard to this subsection, or

(B) the sum of—

(i) the amount which would be determined under such section 55(a)(1) if the alternative minimum taxable income was the excess of—

(I) the alternative minimum taxable income (within the meaning of section 55(b)(1) of such Code) of the taxpayer, over

(II) the qualified net capital gain of the taxpayer, and

(ii) 20 percent of the qualified net capital gain.

(2) NO CREDITS ALLOWABLE.—For purposes of section 55(c) of such Code, no credit allowable under subpart A of part IV of subchapter A of chapter 1 of such Code (other than section 33(a) of such Code) shall be allowable against the amount described in paragraph (1)(B)(ii).

(c) QUALIFIED NET CAPITAL GAIN.—

(1) IN GENERAL.—For purposes of this section, the term "qualified net capital gain" means the lesser of—

(A) the net capital gain for the taxable year, or

(B) the net capital gain for the taxable year taking into account only gain or loss from sales or exchanges occurring on or after June 9, 1981.

(2) NET CAPITAL GAIN.—For purposes of this subsection, the term "net capital gain" has the meaning given such term by section 1222(11) of the Internal Revenue Code of 1954.

(d) DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN OR LOSS TREATMENT.—Paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(e) CONFORMING AMENDMENTS.—The following provisions are each amended by

striking out "1 year" each place it appears and inserting in lieu thereof "6 months".

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(7) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(8) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(9) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Section 644 (relating to special holding period rules for gain on property transferred to trust at less than fair market value).

(12) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(13) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(14) Subparagraph (B) of paragraph (3), and paragraph (4), of section 852(b) (relating to taxation of shareholders of regulated investment companies).

(15) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(16) Subparagraph (B) of paragraph (3), and paragraph (5), of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(17) Paragraph (11) of section 1223 (relating to holding period of property).

(18) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(19) Paragraph (2) of section 1232(a), (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(20) Subsections (b), (d), and (e) of section 1233 (relating to gains and losses from short sales).

(21) Paragraph (1) of section 1234(b) (relating to special rule for gain or lapse of an option granted as part of a straddle), as amended by this Act.

(22) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(23) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(24) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(25) Subsection (b), and subparagraph (C) of subsection (f)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(26) Paragraph (1) of section 1251(e) (defining farm recapture property).

(f) The changes made by subsections (d) and (e) shall apply to taxable years beginning after December 31, 1981.

SEC. 103. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 10 percent of the lesser of—

"(A) $30,000, or

"(B) the qualified earned income of the spouse with the lower qualified earned income for such taxable year.

"(2) SPECIAL RULE FOR 1982.—In the case of a taxable year beginning during 1982, paragraph (1) shall be applied by substituting '5 percent' for '10 percent'.

"(b) QUALIFIED EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (7), (9), (10), and (15) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws.

"(2) EARNED INCOME.—For purposes of paragraph (1), the term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(d)(2)(B) shall be applied without regard to the phrase 'not in excess of 30 percent of his share of net profits of such trade or business'.

"(c) DEDUCTION DISALLOWED FOR INDIVIDUAL CLAIMING BENEFITS OF SECTION 911 OR 931.—No deduction shall be allowed under this section for any taxable year if either spouse claims the benefits of section 911 or 931 for such taxable year.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income), as amended by section 112(b)(2) of this Act, is amended by inserting after paragraph (15) the following new paragraph:

"(16) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 221."

(c) CONFORMING AMENDMENT TO WITHHOLDING.—Subparagraph (A) of section 3402(m)(2) (defining estimated itemized deductions) is amended by striking out "paragraph (13)" and inserting in lieu thereof "paragraphs (13) and (16)".

(d) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 85 (relating to unemployment compensation) is amended by striking out "and without regard to section 105(d)" and inserting in lieu thereof ", section 105(d) and section 221".

(2) Subsection (d)(3) of section 105 (relating to amounts received under accident and health plans) is amended by inserting "and section 221" after "subsection" the first place it appears.

(3) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following new items:

"Sec. 221. Deduction for two-earner married couples.

"Sec. 222. Cross references."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) WITHHOLDING.—The amendment made by subsection (c) shall apply to remuneration paid after December 31, 1981.

SEC. 104. ADJUSTMENT TO PREVENT INFLATION-CAUSED TAX INCREASE.

(a) ADJUSTMENTS TO INDIVIDUAL INCOME TAX BRACKETS.—Section 1 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL.—Not later than December 15 of 1984 and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table, by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next highest multiple of $10).

"(3) COST-OF-LIVING ADJUSTEMENT.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1983,

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the last Consumer Price Index

for all-urban consumers published by the Department of Labor."

(b) DEFINITION OF ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended to read as follows:

"(d) ZERO BRACKET AMOUNT.—For purposes of this subtitle, the term, 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case."

(c) PERSONAL EXEMPTIONS.—

(1) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(2) EXEMPTION AMOUNT.—Section 151 is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the next highest multiple of $10)."

(d) RETURN REQUIREMENTS.—

(1) AMENDMENTS TO SECTION 6012.—

(A) Clause (i) of section 6012(a)(1)(A) is amended by striking out "$3,300" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(B) Clause (ii) of section 6012(a)(i)(A) is amended by striking out "$4,400" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(C) Clause (iii) of section 6012(a)(1)(A) is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(D) Paragraph (1) of section 6012(a) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(E) Paragraph (1) of section 6012(a) is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151(f)."

(2) AMENDMENTS TO SECTION 6012.—Subparagraph (A) of section 6013(b)(3) is amended—

(A) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(B) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(C) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle B—Income Earned Abroad

SEC. 111. PARTIAL EXCLUSION FOR EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES AND FOREIGN HOUSING COSTS.

(a) IN GENERAL.—Section 911 (relating to income earned by individuals in certain camps) is amended to read as follows:

"SEC. 911. CITIZENS OR RESIDENTS OF THE UNITED STATES LIVING ABROAD.

"(a) EXCLUSION FROM GROSS INCOME.—At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year—

"(1) the foreign earned income of such individual, and

(2) the housing cost amount of such individual.

"(b) FOREIGN EARNED INCOME.—

"(1) DEFINITION.—For purposes of this section—

"(A) IN GENERAL.—The term 'foreign earned income' with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or (B) of subsection (d)(1), whichever is appropriate.

"(B) CERTAIN AMOUNTS NOT INCLUDED IN FOREIGN EARNED INCOME.—The foreign earned income for an individual shall not include amounts—

"(i) received as a pension or annuity,

"(ii) paid by the United States or an agency thereof if such individual is eligible for an exclusion from gross income or an exemption from taxation of any portion of such amount under any other section of this subpart or under any other provision of United States law,

"(iii) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or

"(iv) received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.

"(2) LIMITATION ON FOREIGN EARNED INCOME.—

"(A) IN GENERAL.—The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at the annual rate set forth in the following table for each day of the taxable year within the period described in subparagraph (A) or (B) of subsection (d)(1):

"In the case of taxable years beginning in:	The annual rate is:
1982	$75,000
1983	80,000
1984	85,000
1985	90,000
1986 and thereafter	95,000.

"(B) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of applying subparagraph (A), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(C) TREATMENT OF COMMUNITY INCOME.—In applying subparagraph (A) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount which may be excludable from the gross income of such husband and wife under subsection (a)(1) for any taxable year shall equal the amount which would be so excludable if such amounts did not constitute community income.

"(c) HOUSING COST AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'housing cost amount' means an amount equal to the excess of—

"(A) the housing expenses of an individual for the taxable year, over

"(B) an amount equal to the product of—

"(i) 16 percent of the salary (computed on a daily basis) of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-14, multiplied by

"(ii) the number of days of such taxable year within the period described in subparagraph (A) or (B) of subsection (d)(1).

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—The term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of an individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. The term—

"(i) includes expenses attributable to the housing (such as utilities and insurance), but

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

Housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(B) SECOND FOREIGN HOUSEHOLD.—

"(i) IN GENERAL.—Except as provided in clause (ii), only housing expenses incurred with respect to that abode which bears the closest relationship to the tax home of the individual shall be taken into account under paragraph (1).

"(ii) SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS.—If an individual maintains a separate abode outside the United States for his spouse and dependents and they do not reside with him because of living conditions which are dangerous, unhealthful, or otherwise adverse, then—

"(I) the words 'if they reside with him' in subparagraph (A) shall be disregarded, and

"(II) the housing expenses incurred with respect to such abode shall be taken into account under paragraph (1).

"(3) SPECIAL RULES WHERE HOUSING EXPENSES NOT PROVIDED BY EMPLOYER.—

"(A) IN GENERAL.—To the extent the housing cost amount of any individual for any taxable year is not attributable to employer provided amounts, such amount shall be treated as a deduction allowable in computing adjusted gross income to the extent of the limitation of subparagraph (B).

"(B) LIMITATION.—For purposes of subparagraph (A), the limitation of this subparagraph is the excess of—

"(i) the foreign earned income of the individual for the taxable year, over

"(ii) the amount of such income excluded from gross income under subsection (a)(1) for the taxable year.

"(C) 1-YEAR CARRYOVER OF HOUSING AMOUNTS NOT ALLOWED BY REASON OF SUBPARAGRAPH (B).—

"(i) IN GENERAL.—The amount not allowable as a deduction for any taxable year under subparagraph (A) by reason of the limitation of subparagraph (B) shall be treated as a deduction allowable in computing adjusted gross income for the succeeding taxable year (and only for the succeeding taxable year) to the extent of the limitation of clause (ii) for such succeeding taxable year.

"(ii) LIMITATION.—For purposes of clause (i), the limitation of this clause for any taxable year is the excess of—

"(I) the limitation of subparagraph (B) for such taxable year, over

"(II) amounts treated as a deduction under subparagraph (A) for such taxable year.

"(D) EMPLOYER PROVIDED AMOUNTS.—For purposes of this paragraph, the term 'employer provided amounts' means any amount paid or incurred on behalf of the individual by the individual's employer which is foreign earned income included in the individual's gross income for the taxable year (without regard to this section).

"(E) FOREIGN EARNED INCOME.—For purposes of this paragraph, an individual's foreign earned income for any taxable year shall be determined without regard to the limitation of subparagraph (A) of subsection (b)(2).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual whose tax home is in a foreign country and who is—

"(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(B) a citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.

"(2) EARNED INCOME.—

"(A) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

"(B) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

"(3) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(4) WAIVER OF PERIOD OF STAY IN FOREIGN COUNTRY.—Notwithstanding paragraph (1), an individual who—

"(A) is a bona fide resident of, or is present in, a foreign country for any period,

"(B) leaves such foreign country after August 31, 1978—

"(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

"(ii) before meeting the requirements of such paragraph (1), and

"(C) establishes to the satisfaction of the Secretary that such individual could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B),

shall be treated as a qualified individual with respect to the period described in subparagraph (A) during which he was a bona fide resident of, or was present in, the foreign country, and in applying subsections (b)(2)(A) and (c)(1)(B)(ii) with respect to such individual, only the days within such period shall be taken into account.

"(5) TEST OF BONA FIDE RESIDENCE.—If—

"(A) an individual who has earned income from sources within a foreign country submits a statement to the authorities of that country that he is not a resident of that country, and

"(B) such individual is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings,

then such individual shall not be considered a bona fide resident of that country for purposes of paragraph (1)(A).

"(6) DENIAL OF DOUBLE BENEFITS.—No deduction or exclusion from gross income under this subtitle or credit against the tax imposed by this chapter (including any credit or deduction for the amount of taxes paid or accrued to a foreign country or possession of the United States) shall be allowed to the extent such deduction, exclusion, or credit is properly allocable to or chargeable against amounts excluded from gross income under subsection (a).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules—

"(A) for cases where a husband and wife each have earned income from sources outside the United States, and

"(B) for married individuals filing separate returns.

"(e) ELECTION.—

"(1) IN GENERAL.—An election under subsection (a) shall apply to the taxable year for which made and to all subsequent taxable years unless revoked under paragraph (2).

"(2) REVOCATION.—A taxpayer may revoke an election made under paragraph (1) for any taxable year after the taxable year for which such election was made. Except with the consent of the Secretary, any taxpayer who makes such a revocation for any taxable year may not make another election under this section for any subsequent taxable year before the 6th taxable year after the taxable year for which such revocation was made.

"(f) CROSS REFERENCES.—

"For administrative and penal provisions relating to the exclusions provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Citizens or residents of the United States living abroad."

(2) Section 43(c)(1)(C)(i) is amended by striking out "relating to income earned by individuals in certain camps outside the United States" and inserting in lieu thereof "relating to citizens or residents of the United States living abroad".

(3) Sections 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to income earned by employees in certain camps" and inserting in lieu thereof "relating to citizens or residents of the United States living abroad".

(4) Sections 37(e)(9)(B), 63(e)(2), 105(h)(3)(B)(v), 410(b)(3)(C), 879(a)(1), 1303(c)(2), and 1304(c)(3) are each amended by striking out "section 911(b)" each place it appears and inserting in lieu thereof "section 911(d)(2)".

(5) Paragraph (11) of section 1402(a) is amended to read as follows:

"(11) in the case of an individual described in section 911(d)(1)(B), the exclusion from gross income provided by section 911(a)(1) shall not apply; and".

SEC. 112. REPEAL OF DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) IN GENERAL.—Section 913 (relating to deduction for certain expenses of living abroad) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 913.

(2) Section 62 (relating to definition of adjusted gross income) is amended by striking out paragraph (14) and redesignating paragraphs (15) and (16) as paragraphs (14) and (15), respectively.

(3) Subparagraph (C) of section 43(c)(1) (relating to earned income) is amended—

(A) by striking out "913," in the caption thereof,

(B) by striking out clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(4) Subsection (k) of section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking out "section 913(j)(1)(B)" and inserting in lieu thereof "section 911(d)(3)".

(5) Section 3401 (relating to the definition of wages) is amended by striking out paragraph (18) and redesignating paragraphs (19) and (20) as paragraphs (18) and (19), respectively.

(6) Subparagraph (B) of section 6091(b)(1) (relating to place for filing returns and other documents) is amended by striking out "section 913 (relating to deduction for certain expenses of living abroad)".

SEC. 113. EMPLOYEES LIVING IN CAMPS.

Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end thereof the following new subsection:

"(c) EMPLOYEES LIVING IN CERTAIN CAMPS.—

"(1) IN GENERAL.—In the case of an individual who is furnished lodging in a camp located in a foreign country by or on behalf of his employer, such camp shall be considered

to be part of the business premises of the employer.

"(2) CAMP.—For purposes of this section, a camp constitutes lodging which is—

"(A) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

"(B) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

"(C) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees."

SEC. 114. REPORTS BY SECRETARY.

Section 208 of the Foreign Earned Income Act of 1978 is amended to read as follows:

"SEC. 208. REPORTS BY SECRETARY.

"(a) GENERAL RULE.—As soon as practicable after the date of the enactment of the Tax Incentive Act of 1981, and as soon as practicable after the close of each fourth calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on the operation and effects of sections 911 and 912 of the Internal Revenue Code of 1954.

"(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a)."

SEC. 115. EFFECTIVE DATE.

The amendments made by this subtitle (other than section 144) shall apply with respect to taxable years beginning after December 31, 1981.

Subtitle C—Miscellaneous Provisions

SEC. 121. DEDUCTION FOR CHARITABLE CONTRIBUTIONS TO BE ALLOWED FOR INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) RULE FOR NONITEMIZATION OF DEDUCTIONS.—

"(1) IN GENERAL.—In the case of an individual, the applicable percentage of the deduction allowed by subsection (a) for the taxable year shall not be treated as an itemized deduction.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"For taxable years beginning in—	The applicable percentage is—
1982, 1983 or 1984	25
1985	50
1986	100.

"(3) LIMITATION.—The portion of the deduction allowed by subsection (a) to which the applicable percentage shall be applied in years 1982, 1983, and 1984 under paragraph (1) shall not exceed $100.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 57(b) (relating to adjusted itemized deductions) is amended by inserting "without regard to paragraph (3) thereof" after "section 63(f)".

(2) Paragraph (1) of section 63(b) (relating to individuals) is amended—

(A) by striking out "and" at the end of paragraph (A), and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) the deduction for charitable, etc., contributions and gifts provided by section 170, to the extent that such deduction is not treated as an itemized deduction under section 170(i), and".

(3) Subsection (f) of section 63 (relating to itemized deductions) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the word "and", and

(C) by adding at the end thereof the following new paragraph:

"(3) the deduction for charitable, etc., contributions and gifts provided by section 170, to the extent that such deduction is not treated as an itemized deduction under section 170(i).".

(c) WITHHOLDING.—

(1) Paragraph (2) of section 3402(m) is amended by inserting ", the deduction referred to in section 170(i)," after "section 151".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1981, and with respect to contributions payment of which is made after such date.

(2) The amendment made by subsection (c) shall apply with respect to remuneration paid after December 31, 1981.

(e) TERMINATION DATE.—The amendment made by this section shall not apply to contributions made after December 31, 1986.

SEC. 122. 18-MONTH PERIODS FOR ROLLOVER PRINCIPAL RESIDENCE INCREASED TO 2 YEARS.

(a) IN GENERAL.—Section 1034 (relating to rollover of gain of sale of principal residence) is amended by striking out "18 months" each place it appears and inserting in lieu thereof "2 years".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 1034(c) is amended by striking out "18-month" and inserting in lieu thereof "2-year".

(2) Paragraph (5) of section 1034(c) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) sold or exchanged—

(1) after July 20, 1981, or

(2) on or before such date, if the rollover period under such section (determined without regard to the amendments made by this section) expires on or after such date.

SEC. 123. ONE-TIME EXCLUSION OF GAIN INCREASED TO $125,000.

(a) IN GENERAL.—Paragraph (1) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by striking out "$100,000 ($50,000" and inserting in lieu thereof "$125,000 ($62,500".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to residences sold or exchanged after July 20, 1981.

TITLE II—BUSINESS INCENTIVE PROVISIONS

Subtitle A—Cost Recovery Provisions

SEC. 201. ACCELERATED COST RECOVERY SYSTEM.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for any taxable year the amount determined under this section with respect to recovery property.

"(b) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the amount of the deduction allowable by subsection (a) for any taxable year shall be the aggregate amount determined by applying to the unadjusted basis of recovery property the applicable percentage determined in accordance with the following tables:

"(A) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980, AND BEFORE JANUARY 1, 1985.—

"If the recovery year is:	The applicable percentage for the class of property is:			
	3-year	5-year	10-year	15-year public utility
1	25	15	8	5
2	38	22	14	10
3	37	21	12	9
4		21	10	8
5		21	10	7
6			10	7
7			9	6
8			9	6
9			9	6
10			9	6
11				6
12				6
13				6
14				6
15				6.

"(B) FOR PROPERTY PLACED IN SERVICE IN 1985.—

"If the recovery year is:	The applicable percentage for the class of property is:			
	3-year	5-year	10-year	15-year public utility
1	29	18	9	6
2	47	33	19	12
3	24	25	16	12
4		16	14	11
5		8	12	10
6			10	9
7			8	8
8			6	7
9			4	6
10			2	5
11				4
12				4
13				3
14				2
15				1.

"(C) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1985.—

"If the recovery year is:	The applicable percentage for the class of property is:			
	3-year	5-year	10-year	15-year public utility
1	33	20	10	7
2	45	32	18	12
3	22	24	16	12
4		16	14	11
5		8	12	10
6			10	9
7			8	8

"If the recovery year is:	The applicable percentage for the class of property is:			
	3-year	5-year	10-year	15-year public utility
8			6	7
9			4	6
10			2	5
11				4
12				3
13				3
14				2
15				1.

"(2) 15-YEAR REAL PROPERTY.—

"(A) IN GENERAL.—In the case of 15-year real property, the applicable percentage shall be determined in accordance with a table prescribed by the Secretary. In prescribing such table, the Secretary shall—

"(i) assign to the property a 15-year recovery period, and

"(ii) assign percentages generally determined in accordance with use of the method of depreciation described in section 167(b)(2), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

For purposes of this subparagraph, the applicable percentage in the taxable year in which the property is placed in service shall be determined on the basis of the number of months in such year during which the property was in service.

"(B) SPECIAL RULE FOR YEAR OF DISPOSITION.—In the case of a disposition of 15-year real property, the deduction allowable under subsection (a) for the taxable year in which the disposition occurs shall reflect only the months during such year the property was in service.

"(3) ELECTION OF DIFFERENT RECOVERY PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subsection (f)(2), in lieu of any applicable percentage under paragraphs (1) and (2), the taxpayer may elect, with respect to one or more classes of recovery property placed in service during the taxable year, the applicable percentage determined by use of the straight line method over the recovery period elected by the taxpayer in accordance with the following table:

"In the case of:	The taxpayer may elect a recovery period of:
3-year property	3, 5, or 12 years.
5-year property	5, 12, or 25 years.
10-year property	10, 25, or 35 years.
15-year real property	15, 35, or 45 years.
15-year public utility property.	15, 35, or 45 years.

"(B) OPERATING RULES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the taxpayer may elect under subparagraph (A) only a single percentage for property in any class of recovery property placed in service during the taxable year. The percentage so elected shall apply to all property in such class placed in service during such taxable year and shall apply throughout the recovery period elected for such property.

"(ii) REAL PROPERTY.—In the case of 15-year real property the taxpayer shall make the election under paragraph (1) on a property-by-property basis.

"(iii) CONVENTION.—Under regulations prescribed by the Secretary, the half-year convention shall apply to any election with respect to any recovery property (other than 15-year real property) with respect to which an election is made under this paragraph.

"(c) RECOVERY PROPERTY.—For purposes of this title—

"(1) RECOVERY PROPERTY DEFINED.—Except as provided in subsection (e), the term 'recovery property' means tangible property of a character subject to the allowance for depreciation—

"(A) used in a trade or business, or

"(B) held for the production of income.

"(2) CLASSES OF RECOVERY PROPERTY.—Each item of recovery property shall be assigned to one of the following classes of property:

"(A) 3-YEAR PROPERTY.—The term '3-year property' means section 1245 class property—

"(i) with a present class life of 4 years or less; or

"(ii) used in connection with research and experimentation.

"(B) 5-YEAR PROPERTY.—The term '5-year property' means recovery property which is section 1245 class property and which is not 3-year property, 10-year property, or 15-year public utility property.

"(C) 10-YEAR PROPERTY.—The term '10-year property' means—

"(i) public utility property (other than section 1250 class property or 3-year property) with a present class life of more than 18 years but not more than 25 years;

"(ii) section 1250 class property with a present class life of 12.5 years or less; and

"(iii) railroad tank cars.

"(D) 15-YEAR REAL PROPERTY.—The term '15-year real property' means section 1250 class property which does not have a present class life of 12.5 years or less.

"(E) 15-YEAR PUBLIC UTILITY PROPERTY.—The term '15-year public utility property' means public utility property (other than section 1250 class property or 3-year property) with a present class life of more than 25 years.

"(d) UNADJUSTED BASIS; ADJUSTMENTS.—

"(1) UNADJUSTED BASIS DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'unadjusted basis' means the excess of—

"(i) the basis of the property determined under part II of subchapter O of chapter 1 for purposes of determining gain (determined without regard to the adjustments described in paragraph (2) or (3) of section 1016(a)), over

"(ii) the sum of—

"(I) that portion of the basis for which the taxpayer properly elects amortization (including the deduction allowed under section 167(k)) in lieu of depreciation, and

"(II) that portion of the basis which the taxpayer properly elects to treat as an expense under section 179.

"(B) TIME FOR TAKING BASIS INTO ACCOUNT.—

"(i) IN GENERAL.—The unadjusted basis of property shall be first taken into account under subsection (b) for the taxable year in which the property is placed in service.

"(ii) REDETERMINATIONS.—The Secretary shall by regulation provide for the method of determining the deduction allowable under subsection (a) for any taxable year (and succeeding taxable years) in which the basis is redetermined (including any reduction under section 1017).

"(2) DISPOSITIONS.—

"(A) MASS ASSET ACCOUNTS.—In lieu of recognizing gain or loss under this chapter, a taxpayer who maintains one or more mass asset accounts of recovery property may, under regulations prescribed by the Secretary, elect to include in income all proceeds realized on the disposition of such property.

"(B) ADJUSTMENT TO BASIS.—Except as provided under regulations prescribed by the Secretary under subsection (f)(7), if any recovery property (other than 15-year real property or property with respect to which an election under subparagraph (A) is made) is disposed of, the unadjusted basis of such property shall cease to be taken into account in determining any recovery deduction allowable under subsection (a) as of the beginning of the taxable year in which such disposition occurs.

"(C) DISPOSITION INCLUDES RETIREMENT.—For purposes of this subparagraph, the term 'disposition' includes retirement.

"(e) PROPERTY EXCLUDED FROM APPLICATION OF SECTION.—For purposes of this section—

"(1) PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1981.—The term 'recovery property' does not include property placed in service by the taxpayer before January 1, 1981.

"(2) CERTAIN METHODS OF DEPRECIATION.—The term 'recovery property' does not include property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the first taxable year for which a deduction would (but for this election) be allowable under this section with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the retirement-replacement-betterment method).

"(3) SPECIAL RULE FOR CERTAIN PUBLIC UTILITY PROPERTY.—

"(A) IN GENERAL.—The term 'recovery property' does not include public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting.

"(B) USE OF NORMALIZATION METHOD DEFINED.—For purposes of subparagraph (A), in order to use a normalization method of accounting with respect to any public utility property—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(l)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under subparagraph (B)(i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

"(C) PUBLIC UTILITY PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of public utility property which, by reason of this paragraph, is not treated as recovery property, the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (B)(i).

"(4) CERTAIN TRANSACTIONS IN PROPERTY PLACED IN SERVICE BEFORE 1986.—

"(A) SECTION 1245 CLASS PROPERTY.—The term 'recovery property' does not include section 1245 class property acquired by the taxpayer after December 31, 1980, if—

"(i) the property was owned or used at any time during 1980 by the taxpayer or a related person,

"(ii) the property is acquired from a person who owned such property at any time during 1980, and, as part of the transaction, the user of such property does not change,

"(iii) the taxpayer leases such property to a person (or a person related to such person) who owned or used such property at any time during 1980, or

"(iv) the property is acquired in a transaction as part of which the user of such property does not change and the property is not recovery property in the hands of the person from which the property is so acquired by reason of clause (ii) or (iii).

For purposes of this subparagraph, whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) SECTION 1250 CLASS PROPERTY.—The term 'recovery property' does not include section 1250 class property acquired by the taxpayer after December 31, 1980, if—

"(i) such property was owned by the taxpayer or by a related person at any time during 1980;

"(ii) the taxpayer leases such property to a person (or a person related to such person) who owned such property at any time during 1980; or

"(iii) such property is acquired in an exchange described in section 1031, 1033, 1038, or 1039 to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person during 1980.

"(C) CERTAIN NONRECOGNITION TRANSACTIONS.—The term 'recovery property' does not include property placed in service by the transferor or distributor before January 1, 1981, which is acquired by the taxpayer after December 31, 1980, in a transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731 (or such property acquired from the transferee or acquiring corporation in a transaction described in such section), to the extent that the basis of the property is determined by reference to the basis of the property in the hands of the transferor or distributor. In the case of property to which this subparagraph applies, rules similar to the rules described in section 381(c)(6) shall apply.

"(D) RELATED PERSON DEFINED.—Except as provided in subparagraph (E), for purposes of this paragraph a person (hereinafter referred to as the related person) is related to any person if—

"(i) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(ii) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), in applying section 267(b) and section 707(b)(1) '10 percent' shall be substituted for '50 percent'. The determination of whether a person is related to another person shall be made as of the time the taxpayer acquires the property involved.

"(E) LIQUIDATION OF SUBSIDIARY.—For purposes of this paragraph, a person is not a related person to the taxpayer if such person is a distributing corporation in a transaction to which section 334(b)(2)(B) applies and the stock of such corporation referred to in such subparagraph (B) was acquired by the taxpayer by purchase after December 31, 1980.

"(F) ANTIAVOIDANCE RULE.—The term 'recovery property' does not include property acquired by the taxpayer after December 31, 1980, which, under regulations prescribed by the Secretary, is acquired in a transaction one of the principal purposes of which is to avoid the principles of paragraph (1) and this paragraph.

"(G) REDUCTION IN UNADJUSTED BASIS.—In the case of an acquisition of property described in subparagraph (B) or (C), the unadjusted basis of the property under subsection (d) shall be reduced to the extent that such property acquired is not recovery property.

"(H) SPECIAL RULES FOR PROPERTY PLACED IN SERVICE BEFORE CERTAIN PERCENTAGES TAKE EFFECT.—Under regulations prescribed by the Secretary—

"(i) rules similar to the rules of this paragraph shall be applied in determining whether the tables contained in subparagraph (B) or (C) of subsection (b)(1) apply with respect to recovery property, and

"(ii) if the tables contained in subparagraph (B) or (C) of subsection (b)(1) do not apply to such property by reason of clause (i), the deduction allowable under subsection (a) shall be computed—

"(I) In the case of a transaction described in subparagraph (C), under rules similar to the rules described in section 381(c)(6); and

"(II) in the case of a transaction otherwise described in this paragraph, under the recovery period and method (including rates prescribed under subsection (b)(1)) used by the person from whom the taxpayer acquired such property (or, where such person had no recovery method and period for such property, under the recovery period and method (including rates prescribed under subsection (b)(1)) used by the person which transferred such property to such person).

"(f) SPECIAL RULES FOR APPLICATION OF THIS SECTION.—For purposes of this section—

"(1) COMPONENTS OF SECTION 1250 CLASS PROPERTY.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) the deduction allowable under subsection (a) with respect to any component (which is section 1250 class property) of a building shall be computed in the same manner as the deduction allowable with respect to such building, and

"(ii) the recovery period for such component shall begin on the later of—

"(I) the date such component is placed in service, or

"(II) the date on which the building is placed in service.

"(B) TRANSITIONAL RULE.—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such buildings placed in service after December 31, 1980, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after December 31, 1980. For purposes of the preceding sentence, the method of computing the deduction allowable with respect to such first component shall be determined as if it were a separate building.

"(C) EXCEPTION FOR SUBSTANTIAL IMPROVEMENTS.—

"(i) IN GENERAL.—For purposes of this paragraph, a substantial improvement shall be treated as a separate building.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), the term 'substantial improvement' means the improvements added to capital account with respect to any building during any 24-month period, but only if the sum of the amounts added to such account during such period equals or exceeds 25 percent of the adjusted basis of the building (determined without regard to the adjustments provided in paragraphs (2) and (3) of section 1016(a)) as of the first day of such period.

"(iii) IMPROVEMENTS MUST BE MADE AFTER BUILDING IN SERVICE FOR 3 YEARS.—For purposes of this paragraph, the term 'substantial improvement' shall not include any improvement made before the date 3 years after the building was placed in service.

"(2) RECOVERY PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of recovery property which, during the taxable year, is used predominantly outside the United States, the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under tables prescribed by the Secretary. For purposes of the preceding sentence, in prescribing such tables, the Secretary shall—

"(i) assign the property described in this subparagraph to classes in accordance with the present class life (or 12 years in the case of personal property with no present class life) of such property; and

"(ii) assign percentages (taking into account the half-year convention) determined in accordance with use of the method of depreciation described in section 167(b)(2), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

"(B) REAL PROPERTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), in the case of 15-year real property which, during the taxable year, is predominantly used outside the United States, the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under tables prescribed by the Secretary. For purposes of the preceding sentence in prescribing such tables, the Secretary shall—

"(I) assign to the property described in this subparagraph a 35-year recovery period; and

"(II) assign percentages (taking into account the last sentence of subsection (b)(2)(A)) determined in accordance with use of the method of depreciation described in section 167(j)(1)(B), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

"(ii) SPECIAL RULE FOR DISPOSITION.—In the case of a disposition of 15-year real property described in clause (i), subsection (b)(2)(B) shall apply.

"(C) ELECTION OF DIFFERENT RECOVERY PERCENTAGE.—

"(i) GENERAL RULE.—The taxpayer may elect, with respect to one or more classes of recovery property described in this paragraph, to determine the applicable percentage under this paragraph by use of the straight-line method over the recovery period determined in accordance with the following table:

"In the case of:	The taxpayer may elect a recovery period of:
3-year property	The present class life, 5 or 12 years.
5-year property	The present class life, 12 or 25 years.
10-year property	The present class life, 25 or 35 years.
15-year real property.	35 or 45 years.
15-year public utility property.	The present class life, 35 or 45 years.

"(ii) OPERATING RULES.—

"(I) PERIOD ELECTED BY TAXPAYER.—Except as provided in subclause (II), the taxpayer may elect under clause (i) for any taxable year only a single recovery period for recovery property described in this paragraph which is placed in service during such taxable year, which has the same present class life, and which is in the same class under subsection (c)(2). The period so elected shall not be shorter than such present class life.

"(II) REAL PROPERTY.—In the case of 15-year real property, the election under clause (i) shall be made on a property-by-property basis.

"(D) DETERMINATION OF PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—For purposes of this paragraph, under regulations prescribed by the Secretary, rules similar to the rules under section 48(a)(2) (including the exceptions under subparagraph (B)) shall be applied in determining whether property is used predominantly outside the United States.

"(E) CONVENTION.—Under regulations prescribed by the Secretary, the half year convention shall apply for purposes of any determination under subparagraph (C) (other than any determination with respect to 15-year real property).

"(3) RRB REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—In the case of RRB replacement property placed in service before January 1, 1985, the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under tables prescribed by the Secretary. For purposes of the preceding sentence, in prescribing such tables, the Secretary shall—

"(i) use the recovery period determined in accordance with the following table:

"If the year property is placed in service is:	The recovery period is:
1981	1
1982	2
1983	3
1984	4

and

"(ii) assign percentages determined in accordance with use of the method of depreciation described in section 167(b)(2), switching to the method described in section 167(b)(3) at a time to maximize the deduction allowable under subsection (a) (taking into account the half-year convention).

"(B) RRB REPLACEMENT PROPERTY DEFINED.—For purposes of this section, the term 'RRB replacement property' means replacement track material (including rail, ties, other track material, and ballast) installed by a railroad (including a railroad switching or terminal company) if—

"(i) the replacement is made pursuant to a scheduled program for replacement,

"(ii) the replacement is made pursuant to observations by maintenance-of-way personnel or specific track material needing replacement,

"(iii) the replacement is made pursuant to the detection by a rail-test car of specific track material needing replacement, or

"(iv) the replacement is made as a result of a casualty.

Replacements made as a result of a casualty shall be RRB replacement property only to the extent that, in the case of each casualty, the replacement cost with respect to the replacement track material exceeds $50,000.

"(4) MANNER AND TIME FOR MAKING ELECTIONS.—

"(A) IN GENERAL.—Any election under this section shall be made for the taxable year in which the property is placed in service.

"(B) MADE ON RETURN.—Any election under this section shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year concerned.

"(C) REVOCATION ONLY WITH CONSENT.—Any election under this section, once made, may be revoked only with the consent of the Secretary.

"(5) SHORT TAXABLE YEARS.—In the case of a taxable year that is less than 12 months, the amount of the deduction under this section shall be an amount which bears the same relationship to the amount of the deduction, determined without regard to this paragraph, as the number of months in the short taxable year bears to 12. In such case, the amount of deduction for subsequent taxable years shall be appropriately adjusted in accordance with regulations prescribed by the Secretary. The determination of when a taxable year begins shall be made in accordance with regulations prescribed by the Secretary. This paragraph shall not apply to any deduction with respect to any property for the first taxable year of the lessor for which an election under paragraph (8) is in effect with respect to such property.

"(6) LEASEHOLD IMPROVEMENTS.—For purposes of determining whether a leasehold improvement which is recovery property shall be amortized over the term of the lease, the recovery period (taking into account any election under subsection (b)(3) with respect to such property) of such property shall be taken into account in lieu of its useful life.

"(7) SPECIAL RULE FOR ACQUISITIONS AND DISPOSITIONS IN NONRECOGNITION TRANSACTIONS.—Notwithstanding any other provision of this section, the deduction allowed under this section in the taxable year in which recovery property is acquired or is disposed of in a transaction in which gain or loss is not recognized in whole or in part shall be determined in accordance with regulations prescribed by the Secretary.

"(8) SPECIAL RULE FOR LEASES.—

"(A) IN GENERAL.—In the case of an agreement with respect to qualified leased property, if all of the parties to the agreement characterize such agreement as a lease and elect to have the provisions of this paragraph apply with respect to such agreement, and if the requirements of subparagraph (B) are met, then, for purposes of this subtitle—

"(i) such agreement shall be treated as a lease entered into by the parties in the course of carrying on a trade or business, and

"(ii) the lessor shall be treated as the owner of the property.

"(B) CERTAIN REQUIREMENTS MUST BE MET.—The requirements of this subparagraph are met if—

"(i) the lessor is—

"(I) a corporation (other than an electing small business corporation within the meaning of section 1371(b)) or a personal holding company (within the meaning of section 542(a)),

"(II) a partnership all of the partners of which are corporations described in subclause (I), or

"(III) a grantor trust with respect to which the grantor and all beneficiaries of the trust are described in subclause (I) or (II),

"(ii) the minimum investment of the lessor—

"(I) at the time the property is first placed in service under the lease, and

"(II) at all times during the term of the lease,

is not less than 10 percent of the adjusted basis of such property, and

"(iii) the term of the lease (including any extensions) does not exceed—

"(I) 90 percent of the useful life of such property for purposes of section 167, or

"(II) 150 percent of the present class life of such property.

"(C) NO OTHER FACTORS TAKEN INTO ACCOUNT.—If the requirements of subparagraphs (A) and (B) are met with respect to any transaction described in subparagraph (A), no other factors shall be taken into account in making a determination as to whether subparagraph (A) (i) or (ii) applies with respect to such transaction, including but not limited to, whether—

"(i) the lessor or lessee has title to such property,

"(ii) the lessor or lessee must take the tax benefits into account in order to make a profit with respect to the transaction,

"(iii) any person other than the lessee may use such property after expiration of the lease term,

"(iv) any person has an option or obligation to buy or sell the property at a fixed or determinable price at the end of the lease term,

"(v) the lessee (or a related party) provided financing for the transaction, or

"(vi) subject to the provisions of subparagraph (G), the obligation of any person is subject to a contingency or an offset agreement.

"(D) QUALIFIED LEASED PROPERTY DEFINED.—For purposes of subparagraph (A), the term 'qualified leased property' means recovery property (other than a qualified rehabilitated building within the meaning of section 48(g)(1)) which is—

"(i) new section 38 property (as defined in section 48(b)) of the lessor which is leased within 3 months after such property was placed in service and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(ii) property—

"(I) which was new section 38 property of the lessee,

"(II) which was acquired from the lessee within 3 months after such property was placed in service by the lessee, and

"(III) with respect to which the purchase price paid by the lessor to the lessee does not exceed the adjusted basis of the lessee at the time of the acquisition by the lessor.

In the case of property placed in service after December 31, 1980, and before the date of the enactment of this subparagraph,

this subparagraph shall be applied by substituting 'the date of the enactment of this subparagraph' for 'such property was placed in service'.

"(E) MINIMUM INVESTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'minimum investment' means the amount the lessor has at risk with respect to the property (other than financing from the lessee or a related party of the lessee).

"(ii) SPECIAL RULE FOR PURCHASE REQUIREMENT.—For purposes of clause (i), an agreement between the lessor and lessee requiring either or both parties to purchase or sell the qualified leased property at some price (whether or not fixed in the agreement) at the end of the lease term shall not affect the amount the lessor is treated as having at risk with respect to the property.

"(F) CHARACTERIZATION BY PARTIES.—For purposes of this paragraph, any determination as to whether a person is a lessor or lessee or property is leased shall be made on the basis of the characterization of such person or property under the agreement described in subparagraph (A).

"(G) SPECIAL RULES FOR CONTINGENT PAYMENTS AND OFFSETS.—

"(i) IN GENERAL.—In the case of an agreement under subparagraph (A) which provides that the parties are obligated to make payments to each other, such agreement may provide that a party's obligation under the agreement is contingent upon, or may be satisfied by being offset (to the extent of the same amount) by, the payment by another party of such party's obligation.

"(ii) INCOME AND BASIS ADJUSTMENTS.—In the case of an agreement described in clause (i) to which this paragraph applies, for purposes of this subtitle—

"(I) the basis of the lessor in the qualified leased property shall include the amount of any obligation of the lessor which is contingent or offset, and

"(II) there shall be included in the gross income of the lessor (regardless of whether or not paid or received) the amount the lessor is to receive under a schedule of payments under the agreement under subparagraph (A) under the obligation of another party which offsets the lessor's obligation.

"(H) CROSS REFERENCE.—

"For special recapture in cases where lessee acquires qualified leased property, see sections 47(e) and 1245.

"(9) SALVAGE VALUE.—No salvage value shall be taken into account in determining the deduction allowable under subsection (a).

"(10) TRANSFEREE BOUND BY TRANSFEROR'S PERIOD AND METHOD IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of recovery property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSFERS COVERED.—The transactions described in this subparagraph are—

"(i) a transaction described in section 332 (other than a transaction with respect to which the basis is determined under section 334(b)(2)), 351, 361, 371(a), 374(a), 721, or 731;

"(ii) an acquisition (other than described in clause (i)) from a related person (as defined in subparagraph (D) of subsection (e)(4)); and

"(iii) an acquisition followed by a leaseback to the person from whom the property is acquired.

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations prescribed by the Secretary, recovery property which is disposed of and then reacquired by the taxpayer shall be treated for purposes of computing the deduction allowable under subsection (a) as if such property had not been disposed of.

"(D) EXCEPTION.—This paragraph shall not apply to any transaction to which subsection (e)(4) applies.

"(11) SPECIAL RULES FOR COOPERATIVES.—In the case of a cooperative organization described in section 1381(a), the Secretary may by regulations provide—

"(A) for allowing allocation units to make separate elections under this section with respect to recovery property, and

"(B) for the allocation of the deduction allowable under subsection (a) among allocation units.

"(g) DEFINITIONS.—For purposes of this section—

"(1) PUBLIC UTILITY PROPERTY.—The term 'public utility property' means property described in section 167(l)(3)(A).

"(2) PRESENT CLASS LIFE.—The term 'present class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1981, under subsection (m) of section 167 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

"(3) SECTION 1245 CLASS PROPERTY.—The term 'section 1245 class property' means tangible property described in section 1245(a)(3) other than subparagraphs (C) and (D).

"(4) SECTION 1250 CLASS PROPERTY.—The term 'section 1250 class property' means property described in section 1250(c) and property described in section 1245(a)(3)(C).

"(5) RESEARCH AND EXPERIMENTATION.—The term 'research and experimentation' has the same meaning as the term research or experimental has under section 174.

"(6) RRB PROPERTY DEFINED.—For purposes of this section, the term 'RRB property' means property which under the taxpayer's method of depreciation before January 1, 1981, would have been depreciated using the retirement-replacement-betterment method.

"(h) CROSS REFERENCE.—For special rules with respect to certain gain derived from disposition of recovery property, see sections 1245 and 1250."

(b) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES AND PETROLEUM PRODUCT STORAGE FACILITIES TREATED AS SECTION 1245 PROPERTY.—Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D), and by adding at the end thereof the following new subparagraphs:

"(E) a single purpose agricultural or horticultural structure (as defined in section 48(p)), or

"(F) a storage facility for petroleum or its primary products."

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 167 the following new item:

"Sec. 168. Accelerated cost recovery system."

SEC. 202. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Section 179 (relating to additional first-year depreciation allowance for small business) is amended to read as follows:

"SEC. 179. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

"(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the cost of any section 179 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the section 179 property is placed in service.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

"If the taxable year begins in:	The applicable amount is:
1981	$0
1982	$5,000
1983	$5,000
1984	$7,500
1985	$7,500
1986 or thereafter	$10,000.

"(2) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under paragraph (1) shall be equal to 50 percent of the amount otherwise determined under paragraph (1).

"(c) ELECTION.—

"(1) IN GENERAL.—An election under this section for any taxable year shall—

"(A) specify the items of section 179 property to which the election applies and the portion of the cost of each of such items which is to be taken into account under subsection (a), and

"(B) be made on the taxpayer's return of the tax imposed by this chapter for the taxable year.

Such election shall be made in such manner as the Secretary may by regulations prescribe.

"(2) ELECTION IRREVOCABLE.—Any election made under this section, and any specification contained in any such election, may not be revoked except with the consent of the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—

"(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means any recovery property which is section 38 property and which is acquired by purchase for use in a trade or business.

"(2) PURCHASE DEFINED.—For purposes of paragraph (1), the term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

"(B) the property is not acquired by one component member of a controlled group from another component member of the same controlled group, and

"(C) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) COST.—For purposes of this section, the cost of property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the person acquiring such property.

"(4) SECTION NOT TO APPLY TO ESTATES AND TRUSTS.—This section shall not apply to estates and trusts.

"(5) SECTION NOT TO APPLY TO CERTAIN NONCORPORATE LESSORS.—This section shall not apply to any section 179 property purchased by any person described in section 46(e)(3) unless the credit under section 38 is allowable with respect to such person for such property (determined without regard to this section).

"(6) DOLLAR LIMITATION OF CONTROLLED GROUP.—For purposes of subsection (b) of this section—

"(A) all component members of a controlled group shall be treated as one taxpayer, and

"(B) the Secretary shall apportion the dollar limitation contained in subsection (b)(1) among the component members of such controlled group in such manner as he shall by regulations prescribe.

"(7) CONTROLLED GROUP DEFINED.—For purposes of paragraphs (2) and (6), the term 'controlled group' has the meaning assigned to it by section 1563(a), except that, for such purposes, the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(8) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.—In the case of a partnership, the dollar limitation contained in subsection (b)(1) shall apply with respect to the partnership and with respect to each partner.

"(9) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)."

(b) RECAPTURE RULE.—Subsection (a) of section 1245 (relating to gains from dispositions from certain depreciable property) is amended—

(1) by striking out "169, 184" each place it appears in paragraph (2) and inserting in lieu thereof "169, 179, 184",

(2) by striking out "section 190" in paragraph (2) and inserting in lieu thereof "section 179, 190", and

(3) by striking out "169, 185" in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "169, 179, 185".

(c) INSTALLMENT SALES.—Section 453 (relating to the installment method) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) APPLICATION WITH SECTION 179.—

"(1) IN GENERAL.—In the case of an installment sale of section 179 property, subsection (a) shall not apply, and for purposes of this title, all payments to be received shall be deemed received in the year of disposition.

"(2) LIMITATION.—Paragraph (1) shall apply only to the extent of the amount allowed as a deduction under section 179 with respect to the section 179 property."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a semicolon and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(H) expenditures for which a deduction is allowed under section 179."

(2) Subparagraph (A) of section 1033(g)(3) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by striking out "(relating to additional first-year depreciation allowance for small business)" and inserting in lieu thereof "(relating to election to expense certain depreciable business assets)".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 179 and inserting in lieu thereof the following:

"Sec. 179. Election to expense certain depreciable business assets."

SEC. 203. AMENDMENTS RELATED TO DEPRECIATION.

(a) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of recovery property (within the meaning of section 168), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section, except with respect to that portion of the basis of such property to which subsection (k) applies."

(b) TERMINATION OF CLASS LIFE SYSTEM.—Subsection (m) of section 167 (relating to class lives) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—This subsection shall not apply with respect to recovery property (within the meaning of section 168) placed in service after December 31, 1980."

(c) RETIREMENT—REPLACEMENT—BETTERMENT METHOD OF DEPRECIATION.—

(1) REPEAL OF SECTION 167(r).—Section 167 (relating to depreciation) is amended by striking out subsection (r) and redesignating subsection (s) as subsection (r).

(2) CHANGE IN METHOD OF ACCOUNTING.—Any change in the method of depreciation to comply with the provisions of this subsection shall not be treated under sections 446 and 481 of the Internal Revenue Code of 1954 as a change of accounting method.

(3) TRANSITIONAL RULE.—The adjusted basis of RRB property (as defined in section 168(g)(6) of such code) as of December 31, 1980, shall be depreciated using a useful life of no less than 5 years and no more than 50 years and a method described in section 167(b) of such Code, including the method described in section 167(b)(2) of such Code, switching to the method described in section 167(b)(3) of such Code at a time to maximize the deduction.

(d) AGREEMENT AS TO USEFUL LIFE ON WHICH DEPRECIATION RATE IS BASED.—Subsection (d) of section 167 is amended by adding at the end thereof the following: "This subsection shall not apply with respect to recovery property defined in section 168."

(e) CONFORMING AMENDMENT.—The Secretary of Health and Human Services is not required to apply any provision of the Internal Revenue Code of 1954, as amended, in calculating depreciation (for the purpose of determining any cost under a program administered by the Secretary), unless a provision of law requires so expressly.

SEC. 204. RECAPTURE ON DISPOSITION OF RECOVERY PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 1245(a) (relating to ordinary income) is amended by inserting after "December 31, 1962," the following "or section 1245 recovery property is disposed of after December 31, 1980,".

(b) RECOMPUTED BASIS.—Paragraph (2) of section 1245(a) (relating to recomputed basis) is amended—

(1) by striking out "or" at the end of subparagraph (C),

(2) by inserting ", or" at the end of subparagraph (D), and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) with respect to any section 1245 recovery property, the adjusted basis of such property recomputed by adding thereto all adjustments attributable to periods for which a deduction is allowed under section 168(a) (as added by the Economic Recovery Tax Act of 1981) with respect to such property,".

(c) SECTION 1245 RECOVERY PROPERTY DEFINED.—Subsection (a) of section 1245 is amended by adding at the end thereof the following new paragraph:

"(5) SECTION 1245 RECOVERY PROPERTY.—For purposes of this section, the term 'section 1245 recovery property' means recovery property (within the meaning of section 168) other than—

"(A) 15-year real property which is residential rental property (as defined in section 167(j)(2)(B)),

"(B) 15-year real property which is described in section 168(f)(2),

"(C) 15-year real property with respect to which an election under subsection (b)(3) of section 168 to use a different recovery percentage is in effect, and

"(D) 15-year real property which is described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

If only a portion of a building (or other structure) is section 1245 recovery property, gain from any disposition of such building (or other structure) shall be allocated first to the portion of the building (or other structure) which is section 1245 recovery property (to the extent of the amount which may be treated as ordinary income under this section) and then to the portion of the building or other structure which is not section 1245 recovery property."

(d) QUALIFIED LEASED PROPERTY.—Subsection (a) of section 1245 (relating to recomputed basis) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED LEASED PROPERTY.—In any case in which—

"(A) the lessor of qualified leased property (within the meaning of section 168(f)(8)(D)) is treated as the owner of such property for purposes of this subtitle under section 168(f)(8), and

"(B) the lessee acquires such property,

the recomputed basis of the lessee under this subsection shall be determined by taking into account any adjustments which would be taken into account in determining the recomputed basis of the lessor."

(e) APPLICATION WITH SECTION 1250.—Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

"(11) SECTION 1245 RECOVERY PROPERTY.—Subsection (a) shall not apply to the disposition of property which is section 1245 recovery property (as defined in section 1245(a)(5))."

SEC. 205. MINIMUM TAX TREATMENT.

(a) IN GENERAL.—Subsection (a) of section 57 (defining items of tax preference) is amended by inserting immediately after paragraph (11) the following new paragraph:

"(12) ACCELERATED COST RECOVERY DEDUCTION.—

"(A) IN GENERAL.—With respect to each recovery property (other than 15-year real property) which is subject to a lease, the amount (if any) by which the deduction allowed under section 168(a) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	8 years.
10-year property	15 years.
15-year public utility property.	22 years.

"(B) 15-YEAR REAL PROPERTY.—With respect to each recovery property which is 15-year real property, the amount (if any) by which the deduction allowed under section 168(a) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using a 15-year period and the straight-line method (without regard to salvage value).

"(C) PARAGRAPHS (2) AND (3) SHALL NOT APPLY.—Paragraphs (2) and (3) shall not apply to recovery property.

"(D) DEFINITIONS.—For purposes of this paragraph, the terms '3-year property', '5-year property', '10-year property', '15-year public utility property', '15-year real property', and 'recovery property', shall have the same meanings given such terms under section 168."

(b) CONFORMING AMENDMENT.—The next to the last sentence of section 57(a) is amended by striking out "and (11)" and inserting in lieu thereof ", (11), and (12)".

SEC. 206. EARNINGS AND PROFITS.

(a) IN GENERAL.—Subsection (k) of section 312 (relating to earnings and profits) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR RECOVERY AND SECTION 179 PROPERTY.—

"(A) RECOVERY PROPERTY.—Except as provided in subparagraphs (B) and (C), in the case of recovery property (within the meaning of section 168), the adjustment to earnings and profits for depreciation for any taxable year shall be the amount determined under the straight-line method (using a half year convention in the case of property other than the 15-year real property and without regard to salvage value) and using a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	12 years.
10-year property	25 years.
15-year real property.	35 years.
15-year public utility property.	35 years.

For purposes of this subparagraph, no adjustment shall be allowed in the year of disposition (except with respect to 15-year real property), and rules similar to the rules under the last sentence of section 168(b)(2)(A) and section 168(b)(2)(B) shall apply.

"(B) TREATMENT OF AMOUNTS DEDUCTIBLE UNDER SECTION 179.—For purposes of computing the earnings and profits of a corporation, any amount deductible under section 179 shall be allowed as a deduction ratably over the period of 5 years (beginning with the year for which such amount is deductible under section 179)."

"(C) FLEXIBILITY.—In any case where a different recovery percentage is elected under section 168(b)(3) or (f)(2)(C) based on a recovery period longer than the recovery period provided in subparagraph (A), the adjustment to earnings and profits shall be based on such longer period under rules similar to those provided in subparagraph (A).

(b) FOREIGN CORPORATIONS.—Paragraph (4) of section 312(k), as redesignated by subsection (a), is amended—

(1) by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (3)", and

(2) by adding at the end thereof the following new sentence: "In determining the earnings and profits of such corporation in the case of recovery property (within the meaning of section 168), the rules of section 168(f)(2) shall apply."

(c) CONFORMING AMENDMENT.—Subsection (a) of section 964 (relating to miscellaneous provisions involving controlled foreign corporations) is amended by striking out "section 312(k)(3)" and inserting in lieu thereof "section 312(k)(4)".

SEC. 207. EXTENSION OF CARRYOVER PERIOD FOR NET OPERATING LOSSES AND CERTAIN CREDITS.

(a) NET OPERATING LOSS.—

(1) IN GENERAL.—Subparagraph (B) of section 172(b)(1) (relating to net operating loss carryovers) is amended by striking out "7" and inserting in lieu thereof "20".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 172(b)(1) is amended—

(i) by inserting "and before January 1, 1976," after "1955,", and

(ii) by striking out the last sentence thereof.

(B)(i) Subparagraph (E)(i)(II) of section 172(b)(1) is amended by striking out "8" and inserting in lieu thereof "20".

(ii) Clause (ii) of section 172(b)(1)(E) is amended to read as follows:

"(ii) In the case of any net operating loss for a taxable year which is not a REIT year, such loss shall not be carried back to any taxable year which is a REIT year."

(C) Paragraph (3) of section 172(g) (relating to certain regulated transportation corporations) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(iii) by striking out subparagraph (C).

(b) CERTAIN LOSSES OF LIFE INSURANCE COMPANIES.—Paragraph (1) of section 812(b) (relating to operations loss carrybacks and carryovers of life insurance companies) and paragraph (1) of section 825(d) (relating to unused loss carrybacks and carryovers of mutual life insurance companies) are each amended by striking out "7" and inserting in lieu thereof "20".

(c) CARRYOVER OF TAX CREDITS.—

(1) INVESTMENT CREDIT AND WIN CREDIT.—Paragraph (1) of section 46(b) (relating to carryback and carryovers of unused investment credits) and paragraph (1) of section 50A(b) (relating to carryback and carryover of unused work incentive program credit) are each amended by adding at the end thereof the following new sentence: "In the case of an unused credit for an unused credit year ending after December 31, 1973, this paragraph shall be applied by substituting '20' for '7' in subparagraph (B), and by substituting '23' for '10', and '22' for '9' in the second sentence.".

(2) NEW EMPLOYEE CREDIT.—Paragraph (1) of section 53(c) (relating to carrybacks and carryovers of new employee credit) is amended—

(A) by striking out "7" in subparagraph (B) and inserting in lieu thereof "20",

(B) by striking out "10" and inserting in lieu thereof "23", and

(C) by striking out "9" and inserting in lieu thereof "22".

(3) ALCOHOL FUELS CREDIT.—Subparagraph (A) of section 44E(e)(2) (relating to carryover of unused credit) is amended—

(A) by striking out "7" each place it appears and inserting in lieu thereof "20", and

(B) by striking out "6" and inserting in lieu thereof "19".

SEC. 208. CARRYOVER OF RECOVERY ATTRIBUTE IN SECTION 381 TRANSACTIONS.

Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(28) METHOD OF COMPUTING RECOVERY ALLOWANCE FOR RECOVERY PROPERTY.—The acquiring corporation shall be treated as the distributor or transferor corporation for purposes of computing the deduction allowable under section 168(a) on property acquired in a distribution or transfer with respect to so much of the basis in the hands of the acquiring corporation as does not exceed the adjusted basis in the hands of the distributor or transferor corporation."

SEC. 209. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to property placed in service after December 31, 1980, in taxable years ending after such date.

(b) SPECIAL RULE FOR RRB PROPERTY.—The amendment made by subsection (c) of section 203 shall take effect on January 1, 1981, and shall apply with respect to taxable years ending after such date.

(c) SPECIAL RULE FOR CARRYOVERS.—

(1) The amendments made by subsections (a) and (b) of section 207 shall apply to net operating losses in taxable years ending after December 31, 1975.

(2)(A) The amendments made by subsection (c)(1) of section 207 shall apply to unused credit years ending after December 31, 1973.

(B) The amendment made by subsection (c)(2) of section 207 shall apply to unused credit years beginning after December 31, 1976.

(C) The amendments made by subsection (c)(3) of section 207 shall apply to unused

credit years ending after September 30, 1980.

(d) SPECIAL RULE FOR PUBLIC UTILITIES.—

(1) TRANSITIONAL RULE FOR NORMALIZATION REQUIREMENTS.—If, by the terms of the applicable rate order last entered before the date of the enactment of this Act by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of section 168(e)(3) of the Internal Revenue Code of 1954 because, for an accounting period ending after December 31, 1980, such public utility used a method of accounting other than a normalization method of accounting, such regulated public utility shall not fail to meet such requirements if—

(A) the applicable rate order expires by its terms without extension, and

(B) by the terms of its first rate order which becomes effective after the date of the enactment of this Act, such regulated public utility uses a normalization method of accounting.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of this Act, required a regulated public utility to use a method of accounting with respect to the deduction allowable by section 167 which, under section 167(l), it was not permitted to use.

(2) TRANSITIONAL RULE FOR REQUIREMENTS OF SECTION 46(f).—If, by the terms of the applicable rate order last entered before the date of the enactment of this Act by a regulatory commission having appropriate jurisdiction, a regulated public utility would (but for this provision) fail to meet the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 for an accounting period ending after December 31, 1980, such regulated public utility shall not fail to meet such requirements if—

(A) the applicable rate order expires by its terms without extension, and

(B) by the terms of its first rate order which becomes effective after the date of the enactment of this Act, such regulated public utility meets such requirements.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of this Act, was inconsistent with the requirements of paragraph (1) or (2) of section 46(f) of such Code (whichever would have been applicable).

(3) CLARIFICATION.—Subparagraph (C) of section 167(l)(3) is amended by inserting "and which is placed in service before January 1, 1981" immediately before the period at the end thereof.

Subtitle B—Investment Tax Credit Provisions

SEC. 211. MODIFICATION OF INVESTMENT TAX CREDIT TO REFLECT ACCELERATED COST RECOVERY.

(a) APPLICABLE PERCENTAGE.—

(1) IN GENERAL.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) APPLICABLE PERCENTAGE FOR RECOVERY PROPERTY.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of 15-year public utility, 10-year, or 5-year property (within the meaning of section 168(c)), 100 percent, and

"(B) in the case of 3-year property (within the meaning of section 168(c)), 60 percent.

For purposes of subparagraph (A), RRB replacement property (within the meaning of section 168(f)(3)(B)) shall be treated as 5-year property."

(2) Subsection (a) of section 48 (defining section 38 property) is amended by striking out paragraph (9).

(b) REVISION OF PROGRESS EXPENDITURE RULES.—

(1) IN GENERAL.—Paragraph (1) of section 46(d) (defining qualified progress expenditures) is amended to read as follows:

"(1) INCREASE IN QUALIFIED INVESTMENT.—

"(A) IN GENERAL.—In the case of any taxpayer who has made an election under paragraph (6), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to the aggregate of the applicable percentage of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(B) APPLICABLE PERCENTAGE.—

"(i) RECOVERY PROPERTY.—For purposes of subparagraph (A), the applicable percentage for recovery property (within the meaning of section 168) shall be determined under subsection (c)(7) based on a reasonable expectation of what the character of the property will be when it is placed in service.

"(ii) NONRECOVERY PROPERTY.—For purposes of subparagraph (A), the applicable percentage for property which is not recovery property (within the meaning of section 168) shall be determined under subsection (c)(2) based on a reasonable expectation of what the useful life of the property will be when it is placed in service.

"(iii) APPLICATION ON BASIS OF FACTS KNOWN.—Clauses (i) and (ii) shall be applied on the basis of the facts known at the close of the taxable year of the taxpayer in which the expenditure is made."

(2) CONFORMING AMENDMENT.—Clause (ii) of section 46(d)(2)(A) (defining progress expenditure property) is amended by striking out "having a useful life of 7 years or more".

(c) PETROLEUM PRODUCT STORAGE FACILITIES.—Paragraph (1) of section 48(a) (defining section 38 property) is amended—

(1) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

(2) by inserting immediately after subparagraph (F) the following new subparagraph:

"(G) storage facilities for petroleum and its primary products."

(d) TECHNICAL AMENDMENT RELATING TO NONCORPORATE LESSORS.—Paragraph (3) of section 46(e) (relating to limitations on noncorporate lessors) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), in the case of any recovery property (within the meaning of section 168), the useful life shall be the present class life for such property (as defined in section 168(g)(2))."

(e) CONFORMING AMENDMENTS.—

(1) The heading and so much of paragraph (2) of section 46(c) as precedes the table is amended to read as follows:

"(2) APPLICABLE PERCENTAGE IN CERTAIN CASES.—Except as provided in paragraphs (3), (6), and (7), the applicable percentage for purposes of paragraph (1) for any property shall be determined under the following table:".

(2) Subparagraph (A) of section 46(c)(6) (relating to special rules for commuter highway vehicles) is amended to read as follows:

"(A) IN GENERAL.—Notwithstanding paragraph (2) or (3), in the case of a commuter highway vehicle the useful life of which is 3 years or more, or which is recovery property (within the meaning of section 168), the applicable percentage for purposes of paragraph (1) shall be 100 percent."

(3) Subparagraph (C) of section 48(l)(2) (defining energy property) is amended by inserting before the period at the end thereof "or which is recovery property (within the meaning of section 168)".

(4) The second sentence of section 48(a)(1) (defining section 38 property) is amended by striking out "includes only property" and inserting in lieu thereof "includes only recovery property (within the meaning of section 168 without regard to any useful life) and any other property".

(f) APPLICATION OF AT RISK RULES TO INVESTMENT CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraphs:

"(8) LIMITATION TO AMOUNT AT RISK.—

"(A) IN GENERAL.—In the case of new or used section 38 property which—

"(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

"(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465,

the basis of such property for purposes of paragraph (1) shall not exceed the amount the taxpayer is at risk with respect to such property as of the close of such taxable year.

"(B) AMOUNT AT RISK.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'at risk' has the same meaning given such term by section 465(b) (without regard to paragraph (5) thereof).

"(ii) CERTAIN FINANCING.—In the case of any amount borrowed for use in an activity (other than convertible debt), such taxpayer shall be considered at risk for purposes of this paragraph to the extent that such amount—

"(I) is borrowed from a qualified person, or

"(II) represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by, any Federal, State, or local government.

"(C) SPECIAL RULE FOR PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—In the case of any partnership or electing small business corporation (within the meaning of section 1371(b)), any amount treated as at risk under subparagraph (B)(ii) shall be allocated among the partners or shareholders (and treated as an amount at risk with respect to such persons) in the same manner as the credit allowable by section 38.

"(D) QUALIFIED PERSON.—For purposes of this paragraph, the term 'qualified person' means any person—

"(i) which is an institution described in clause (i), (ii), or (iii) of subparagraph (A) or subparagraph (B) of section 128(c)(2) or an insurance company to which subchapter L applies,

"(ii) which is regulated by, and the loans of which are reviewed by, any Federal or State agency,

"(iii) which is not a related person (within the meaning of section 168(e)(4)) with respect to the taxpayer, and

"(iv) which is not a person who receives a fee with respect to the taxpayer's investment in property described in paragraph (8)(A) or a related person (as so defined) with respect to such person.

"(9) SUBSEQUENT INCREASES IN THE TAXPAYER'S AMOUNT AT RISK WITH RESPECT TO THE PROPERTY.—

"(A) IN GENERAL.—If, at the close of a taxable year subsequent to the year in which property was placed in service, the amount which the taxpayer has at risk with respect to such property has increased (as determined under subparagraph (B)), such increase shall be taken into account as additional qualified investment in such property in accordance with subparagraph (C).

"(B) INCREASES TO BE TAKEN INTO ACCOUNT.—For purposes of subparagraphs (A) and (C), the amount which a taxpayer has at risk with respect to the property shall be treated as increased by the sum of the cash and the fair market value of property (other than property with respect to which the taxpayer is not at risk) used during the taxable year to reduce the principal sum of any amount with respect to which the taxpayer is not at risk.

"(C) MANNER IN WHICH TAKEN INTO ACCOUNT.—For purposes of determining the amount of credit allowed under section 38 and the amount of credit subject to the early disposition rules under section 47, an increase in a taxpayer's qualified investment in property (determined under subparagraph (B)) shall be deemed to be additional qualified investment made by the taxpayer in the year in which the property referred to in subparagraph (A) was first placed in service. However, the credit determined by taking into account the increase in qualified investment under this paragraph shall be considered a credit earned in the taxable year of such increase.".

(2) RECAPTURE.—Section 47 (relating to certain dispositions of section 38 property), is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY CEASING TO BE AT RISK.—

"(A) IN GENERAL.—If the taxpayer ceases to any extent to be at risk (within the meaning of section 46(c)(8)(B)) with respect to any amount in connection with section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from substituting, in determining qualified investment, the amount determined under section 46(c)(8) with respect to such property if, on the date the property was placed in service, the taxpayer had not been at risk with respect to the amount he ceased to be at risk to.

"(B) CERTAIN TRANSFERS NOT TREATED AS CEASING TO BE AT RISK.—If, after the 12-month period after the date on which a taxpayer borrows an amount from a qualified person (within the meaning of section 48(c)(8)(D)) with respect to which such taxpayer is considered at risk under section 48(c)(8)(B), the qualified person transfers or agrees to transfer any evidence of such indebtedness to a person who is not a qualified person, then, for purposes of subparagraph (A), the taxpayer shall not be treated as ceasing to be at risk with respect to such amount."

(g) AMENDMENT OF RECAPTURE RULES.—

(1) IN GENERAL.—Subsection (a) of section 47 (relating to certain dispositions, etc, of section 38 property) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR RECOVERY PROPERTY.—

"(A) GENERAL RULE.—If, during any taxable year, section 38 recovery property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer before the close of the recapture period, then, except as provided in subparagraph (D), the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) RECAPTURE PERCENTAGE.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

"If the recovery property ceases to be section 38 property within	The recapture percentage is: For 15-year, 10-year, and 5-year property	For 3-year property
One full year after placed in service	100	100
One full year after the close of the period described in clause (i)	80	66
One full year after the close of the period described in clause (ii)	60	33
One full year after the close of the period described in clause (iii)	40	0
One full year after the close of the period described in clause (iv)	20	0

"(C) PROPERTY CEASES TO BE PROGRESS EXPENDITURE PROPERTY.—If, during any taxable year, any recovery property taken into account in determining qualified investment under section 46(d)(1) ceases to be progress expenditure property (as determined under paragraph (3)) or becomes, with respect to the taxpayer, recovery property of a character other than that expected in determining the applicable percentage under section 46(d)(1)(B)(i), then the tax under this chapter for such taxable year shall be adjusted in accordance with regulations prescribed by the Secretary.

"(D) LIMITATION.—The tax for the taxable year shall be increased under subparagraph (A) only with respect to the credits allowed under section 38 which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carrybacks and carryovers under section 46(b) shall be appropriately adjusted.

"(E) DEFINITIONS AND SPECIAL RULES.—

"(i) SECTION 38 RECOVERY PROPERTY.—For purposes of this paragraph, the term 'section 38 recovery property' means any section 38 property which is recovery property (within the meaning of section 168).

"(ii) RECAPTURE PERIOD.—For purposes of this paragraph, the term 'recapture period' means, with respect to any recovery property, the period consisting of the first full year after the property is placed in service and the 4 succeeding full years (the 2 succeeding full years in the case of 3-year property).

"(iii) CLASSIFICATION OF PROPERTY.—For purposes of this paragraph, property shall be classifed as provided in section 168(c).

"(iv) PARAGRAPH (1) NOT TO APPLY.—Paragraph (1) shall not apply with respect to any recovery property."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 47(a)(3) is amended to read as follows:

"(D) COORDINATION WITH PARAGRAPHS (1) AND (5).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), or a disposition, cessation, or change in expected use described in paragraph (5), then paragraph (1) or (5), as the case may be, shall be applied as if any credit, which was allowable by reason of section 46(d) and which has not been required to be recaptured before such disposition, cessation, or change in use were allowable for the taxable year the property was placed in service."

(B) Paragraph (6) of section 47(a) (as redesignated by paragraph (1) of this subsection) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 1980.

(2) PROGRESS EXPENDITURES.—The amendments made by subsection (b) shall apply to progress expenditures made after December 31, 1980.

(3) PETROLEUM STORAGE FACILITIES.—The amendments made by subsection (c) shall apply to periods after December 31, 1980, under rules similar to the rules under section 48(m).

(4) NONCORPORATE LESSORS.—The amendments made by subsection (d) shall apply to leases entered into after June 25, 1981.

(5) AT RISK RULES.—

(A) IN GENERAL.—The amendment made by subsection (f) shall not apply to—

(i) property placed in service by the taxpayer on or before February 18, 1981, and

(ii) property placed in service by the taxpayer after February 18, 1981, where such property is acquired by the taxpayer pursuant to a binding contract entered into on or before that date.

(B) BINDING CONTRACT.—For purposes of subparagraph (A)(ii), property acquired pursuant to a binding contract shall, under regulations prescribed by the Secretary, include property acquired in a manner so that it would have qualified as pretermination property under section 49(b) (as in effect before its repeal by the Revenue Act of 1978).

SEC. 212. INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES.

(a) INCREASE IN AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii), by inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.".

(2) REHABILITATION PERCENTAGE DEFINED.—Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

"(F) REHABILITATION PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25.

"(ii) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentage and the energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(iii) DEFINITIONS.—

"(I) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure. "(II) 40-YEAR BUILDING.—The term '40-year building' means any building (other than a certified historic structure) which would meet the requirements of section 48(g)(1)(B) if '40' were substituted for '30' each place it appears in subparagraph (B) thereof. "(III) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' has the meaning given to such term by section 48(g)(3)."

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph: "(8) REHABILITATION INVESTMENT CREDIT.—The term 'rehabilitation investment credit' means that portion of the credit allowable by section 38 which is attributable to the rehabilitation percentage."

(b) QUALIFIED REHABILITATED BUILDINGS AND EXPENDITURES.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components)—

"(i) which has been substantially rehabilitated, "(ii) which was placed in service before the beginning of the rehabilitation, and "(iii) 75 percent or more of the existing external walls of which are retained in place as external walls in the rehabilitation process.

"(B) 30 YEARS MUST HAVE ELAPSED SINCE CONSTRUCTION.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless there is a period of at least 30 years between the date the physical work on the rehabilitation began and the date the building was first placed in service. "(C) SUBSTANTIALLY REHABILITATED DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period ending on the last day of the taxable year exceed the greater of—

"(I) the adjusted basis of such property, or "(II) $5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250(e)), whichever is later.

"(ii) SPECIAL RULE FOR PHASED REHABILITATION.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) LESSEES.—The Secretary shall prescribe by regulation rules for applying this provision to lessees.

"(D) RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account which is incurred after December 31, 1981—

"(i) for property (or additions or improvements to property) which have a recovery period (within the meaning of section 168) of 15 years, and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) ACCELERATED METHODS OF DEPRECIATION MAY NOT BE USED.—Any expenditures with respect to which an election has not been made under section 168(b)(3) (to use straight-line method of depreciation).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of an existing building.

"(iv) CERTIFIED HISTORIC STRUCTURE, ETC.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

"(v) EXPENDITURES OF LESSEE.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than 15 years.

"(C) CERTIFIED REHABILITATION.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(3) CERTIFIED HISTORIC STRUCTURE DEFINED.—

"(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(4) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property.".

"(5) ADJUSTMENT TO BASIS.—

"(A) IN GENERAL.—For purposes of this subtitle, if a credit is allowed under this section for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, the increase in basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed. "(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any qualified rehabilitated building the basis of which was reduced under subparagraph (A), the basis of such building (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47(a)(5)."

(c) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) a certified historic structure to the extent of that portion of the basis which is attributable to qualified rehabilitation expenditures unless such structure is used for residential purposes by the taxpayer or a member of the taxpayer's family (as defined in section 267(c)(4))."

(d) REPEAL OF CERTAIN PROVISIONS RELATING TO HISTORIC STRUCTURES.—

(1) IN GENERAL.—Section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) and subsections (n) and (o) of section 167 (relating to depreciation) are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (8) of section 48(a) (relating to amortized property) is amended by striking out "188, or 191" and inserting in lieu thereof "or 188".

(B) Paragraph (2) of section 57(a) (relating to items of tax preference) is amended by striking out "or 191".

(C) Section 280B (relating to demolition of certain historic structures) is amended—

(i) by striking out "section 191(d)(1)" in subsection (a), and inserting in lieu thereof "48(g)(3)(A)", and

(ii) by striking out "section 191(d)(2)" in subsection (b) and inserting in lieu thereof "section 48(g)(3)(B)". (D) Subsection (f) of section 642 (relating to special rules for credits and deductions) is amended by striking out "188, and 191" and inserting in lieu thereof "and 188". (E) Subparagraph (B) of section 1082(a)(2) (relating to basis for determining gains or loss) is amended by striking out "188, or 191" and inserting in lieu thereof "or 188". (F) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) and paragraph (4) of section 1250(b) (relating to gain from dispositions of certain depreciable realty) are each amended by inserting "(as in effect before its repeal by the Economic Recovery Tax Act of 1981)" after "191" each place it appears.

(G) Subsection (a) of section 1016 (relating to adjustments to basis) is amended—

(i) by striking out "and" at the end of paragraph (22), (ii) by striking out the period at the end of paragraph (23) and inserting in lieu thereof ", and", and (iii) by adding at the end thereof the following new paragraph:

"(24) to the extent provided in section 48(g)(5), in the case of expenditures with respect to which a credit has been allowed under section 38."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures incurred after December 31, 1981, in taxable years ending after such date. (2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building if—

(A) the physical work on such rehabilitation began before January 1, 1982, and (B) such building meets the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as in effect on the day before the date of enactment of this Act) but does not meet the requirements of such paragraph (1) (as amended by this Act).

SEC. 213. INVESTMENT CREDIT FOR USED PROPERTY; INCREASE IN DOLLAR LIMIT.

(a) IN GENERAL.—Paragraph (2) of section 48(c) (relating to used section 38 property) is amended by amending subparagraphs (A), (B), and (C) to read as follows:

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The cost of used section 38 property taken into account under section 46(c)(1)(B) for any taxable year shall not exceed $150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984). If such cost exceeds $150,000 (or $125,000 as the case may be), the taxpayer shall select (at such time and in such manner as the Secretary shall by regulations prescribe) the items to be taken into account, but only to the extent of an aggregate cost of $150,000 (or $125,000). Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations. "(B) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) shall be $75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984). This subparagraph shall not apply if the spouse of the taxpayer has not used section 38 property which may be taken into account as qualified investment for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(C) CONTROLLED GROUPS.—In the case of a controlled group, the amount specified under subparagraph (A) shall be reduced for each component member of the group by apportioning such amount among the component members of such group in accordance with their respective amounts of used section 38 property which may be taken into account."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 1980.

Subtitle C—Incentives for Research and Experimentation

SEC. 221. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44E the following new section: "SEC. 44F. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the excess (if any) of—

"(1) the qualified research expenses for the taxable year, over "(2) the base period research expenses.

"(b) QUALIFIED RESEARCH EXPENSES.—For purposes of this section—

"(1) QUALIFIED RESEARCH EXPENSES.—The term 'qualified research expenses' means the sum of the following amounts which are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer—

"(A) in-house research expenses, and "(B) contract research expenses.

"(2) IN-HOUSE RESEARCH EXPENSES.—

"(A) IN GENERAL.—The term 'in-house research expenses' means—

"(i) any wages paid or incurred to an employee for qualified services performed by such employee,

"(ii) any amount paid or incurred for supplies used in the conduct of qualified research, and "(iii) any amount paid or incurred to another person for the right to use personal property in the conduct of qualified research.

"(B) QUALIFIED SERVICES.—The term 'qualified services' means services consisting of—

"(i) engaging in qualified research, or "(ii) engaging in the direct supervision or direct support of research activities which constitute qualified research.

If substantially all of the services performed by an individual for the taxpayer during the taxable year consists of services meeting the requirements of clause (i) or (ii), the term 'qualified services' means all of the services performed by such individual for the taxpayer during the taxable year. "(C) SUPPLIES.—The term 'supplies' means any tangible property other than—

"(i) land or improvements to land, and "(ii) property of a character subject to the allowance for depreciation.

"(D) WAGES.—

"(i) IN GENERAL.—The term 'wages' has the meaning given such term by section 3401(a). "(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—In the case of an employee (within the meaning of section 401(c)(1)), the term 'wages' includes the earned income (as defined in section 401(c)(2)) of such employee. "(iii) EXCLUSION FOR WAGES TO WHICH NEW JOBS OR WIN CREDIT APPLIES.—The term 'wages' shall not include any amount taken into account in computing the credit under section 40 or 44B.

"(3) CONTRACT RESEARCH EXPENSES.—

"(A) IN GENERAL.—The term 'contract research expenses' means 65 percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research. "(B) PREPAID AMOUNTS.—If any contract research expenses paid or incurred during any taxable year are attributable to qualified research to be conducted after the close of such taxable year, such amount shall be treated as paid or incurred during the period during which the qualified research is conducted.

"(c) BASE PERIOD RESEARCH EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'base period research expenses' means the average of the qualified research expenses for each year in the base period. "(2) BASE PERIOD.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'base period' means the 3 taxable years immediately preceding the taxable year for which the determination is being made (hereinafter in this subsection referred to as the 'determination year').

"(B) TRANSITIONAL RULES.—Subparagraph (A) shall be applied—

"(i) by substituting 'first taxable year' for '3 taxable years' in the case of the first determination year ending after June 30, 1981, and "(ii) by substituting '2' for '3' in the case of the second determination year ending after June 30, 1981.

"(3) MINIMUM BASE PERIOD RESEARCH EXPENSES.—In no event shall the base period research expenses be less than 50 percent of the qualified research expenses for the determination year.

"(d) QUALIFIED RESEARCH.—For purposes of this section the term 'qualified research' has the same meaning as the term research or experimental has under section 174, except that such term shall not include—

"(1) qualified research conducted outside the United States, "(2) qualified research in the social sciences or humanities, and "(3) qualified research to the extent funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(e) CREDIT AVAILABLE WITH RESPECT TO CERTAIN BASIC RESEARCH BY COLLEGES, UNIVERSITIES, AND CERTAIN RESEARCH ORGANIZATIONS.—

"(1) IN GENERAL.—65 percent of any amount paid or incurred by a corporation (as such term is defined in section 170(e)(4)(D)) to any qualified organization for basic research to be performed by such organization shall be treated as contract research expenses. The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written research agreement between the corporation and the qualified organization.

"(2) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (as defined in section 3304(f)), and

"(B) any other organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a), "(ii) is organized and operated primarily to conduct scientific research, and "(iii) is not a private foundation.

"(3) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(A) basic research conducted outside the United States, and "(B) basic research in the social sciences or humanities.

"(4) SPECIAL RULES FOR GRANTS TO CERTAIN FUNDS.—

"(A) IN GENERAL.—For purposes of this subsection, a qualified fund shall be treated as a qualified organization and the requirements of paragraph (1) that the basic research be performed by the qualified organization shall not apply. "(B) QUALIFIED FUND.—For purposes of subparagraph (A), the term 'qualified fund' means any organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a) and is not a private foundation, "(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i), "(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (2)(A) for purposes of basic research, and "(iv) makes an election under this paragraph.

"(C) EFFECT OF ELECTION.—

"(i) IN GENERAL.—Any organization which makes an election under this paragraph shall be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income). "(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION OF EXPENDITURES.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and "(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the increase in qualified research expenses giving rise to the credit.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and "(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the increase in qualified research expenses giving rise to the credit. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) ALLOCATIONS.—

"(A) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the Secretary—

"(A) ACQUISITIONS.—If, after June 30, 1980, a taxpayer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after such acquisition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such acquisition shall be increased by so much of such expenses paid or incurred by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business or separate unit acquired by the taxpayer.

"(B) DISPOSITIONS.—If, after June 30, 1980—

"(i) a taxpayer disposes of the major portion of any trade or business or the major portion of a separate unit of a trade or business in a transaction to which subparagraph (A) applies, and

"(ii) the taxpayer furnished the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such disposition shall be decreased by so much of such expenses as is attributable to the portion of such trade or business or separate unit disposed of by the taxpayer.

"(C) INCREASE IN BASE PERIOD.—If during any of the 3 taxable years following the taxable year in which a disposition to which subparagraph (B) applies occurs, the disposing taxpayer (or a person with whom the taxpayer is required to aggregate expenditures under paragraph (1)) reimburses the acquiring person (or a person required to so aggregate expenditures with such person) for research on behalf of the taxpayer, then the amount of research expenses of the taxpayer for the base period for such taxable year shall be increased by the lesser of—

"(i) the amount of the decrease under subparagraph (B) which is allocable to such base period, or

"(ii) the product of the number of years in the base period, multiplied by the amount of the reimbursement described in this subparagraph.

"(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified research expenses shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

"(5) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and "(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(g) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(B) SPECIAL RULE FOR PASSTHROUGH OF CREDIT.—In the case of an individual who—

"(i) owns an interest in an unincorporated trade or business.

"(ii) is a partner in a partnership.

"(iii) is a beneficiary of an estate or trust, or

"(iv) is a shareholder in an electing small business corporation (within the meaning of section 1371(b)).

the credit allowed by subsection (a) for any taxable year shall not exceed the lesser of the amount determined under subparagraph (A) for the taxable year or an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity.

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) a research credit carryback to each of the 3 taxable years preceding the unused credit year, and "(ii) a research credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1981, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried. "(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and "(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year."

(b) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subparagraph (A) of section 55(c)(4) (relating to carryover and carryback of certain credits) is amended by striking out "section 44E(e)(1)" and inserting in lieu thereof "section 44F(g)(1), 44E(e)(1)". (B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(28) CREDIT UNDER SECTION 44F.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44F, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44F in respect of the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and

capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44F(g)(2)," after "44E(e)(2),", and (ii) by inserting "research credits," after "alcohol fuel credits," in the section heading.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44F(g)(2)," after "44E(e)(2),", and (ii) by inserting "research credits," after "alcohol fuel credits," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "alcohol fuel credits, research credits," after "new employee credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and new employee credit carryback" and inserting in lieu thereof "new employee credit carryback, and research credit carryback".

(B) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused new employee credit" each place it appears and inserting in lieu thereof "unused new employee credit, or unused research credit"; (ii) by inserting "by a research credit carryback provided in section 44F(g)(2)," after "53(b)," in the first sentence of subsection (a); (iii) by striking out "or a new employee credit carryback from" each place it appears and inserting in lieu thereof "a new employee credit carryback, or a research credit carryback from"; and (iv) by striking out "work incentive program carryback)" and inserting in lieu thereof "work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback)".

(c) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F". (2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Credit for increasing research activities."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1981, and before January 1, 1986.

(2) TRANSITIONAL RULE.—

(A) IN GENERAL.—If, with respect to the first taxable year to which the amendments made by this section apply and which ends in 1981 or 1982, the taxpayer may only take into account qualified research expenses, paid or incurred during a portion of such taxable year, the amount of the qualified research expenses, taken into account for the base period of such taxable year shall be the amount which bears the same ratio to the total qualified research expenses, for such base period as the number of months in such portion of such taxable year bears to the total number of months in such taxable year. A similar rule shall apply in the case of a taxpayer's first taxable year ending after December 31, 1985. (B) DEFINITIONS.—For purposes of the preceding sentence, the terms "qualified research expenses" and "base period" have the meanings given to such terms by section 44F of the Internal Revenue Code of 1954 (as added by this section).

SEC. 222. CHARITABLE CONTRIBUTIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to deductions for charitable, etc., contributions and gifts) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR CONTRIBUTIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH.—

"(A) LIMIT ON REDUCTION.—In the case of a qualified research contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B). "(B) QUALIFIED RESEARCH CONTRIBUTIONS.—For purposes of this paragraph, the term 'qualified research contribution' means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of section 1221, but only if—

"(i) the contribution is to an educational organization which is described in subsection (b)(1)(A)(ii) of this section and which is an institution of higher education (as defined in section 3304(f)), "(ii) the property is constructed by the taxpayer, "(iii) the contribution is made not later than 2 years after the date the construction of the property is substantially completed,

"(iv) the original use of the property is by the donee, "(v) the property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of section 174), or for research training, in the United States in physical or biological sciences, "(vi) the property is not transferred by the donee in exchange for money, other property, or services, and "(vii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (v) and (vi).

"(C) CONSTRUCTION OF PROPERTY BY TAXPAYER.—For purposes of this paragraph, property shall be treated as constructed by the taxpayer only if the cost of the parts used in the construction of such property (other than parts manufactured by the taxpayer or a related person) do not exceed 50 percent of the taxpayer's basis in such property.

"(D) CORPORATION.—For purposes of this paragraph, the term 'corporation' shall not include—

"(i) an electing small business corporation (as defined in section 1371(b)), "(ii) a personal holding company (as defined in section 542), and "(iii) a service organization (as defined in section 414(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to charitable contributions made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 223. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—Section 861(b) of the Internal Revenue Code of 1954 (relating to allocation of deductions to income from U.S. sources) is amended to read as follows: "(b) TAXABLE INCOME FROM SOURCES WITHIN UNITED STATES.—

"(1) IN GENERAL.—From the items of gross income specified in subsection (a) as being income from sources within the United States there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as taxable income from sources within the United States. In the case of an individual who does not itemize deductions, an amount equal to the zero bracket amount shall be considered a deduction which cannot definitely be allocated to some item or class of gross income. (2) "SPECIAL RULE FOR RESEARCH AND EXPERIMENTATION.—All research and experimentation expenditures (within the meaning of section 174) which are paid or incurred for research conducted in the United States shall be allocated and apportioned to income from sources within the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of enactment of this Act.

Subtitle D—Small Business Provisions

SEC. 231. REDUCTION IN CORPORATE TAX RATES.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to amount of corporate tax) is amended—

(1) by striking out "17 percent" in paragraph (1) and inserting in lieu thereof "15 percent" (16 percent for taxable years beginning in 1982)", and (2) by striking out "20 percent" in paragraph (2) and inserting in lieu thereof "18 percent (19 percent for taxable years beginning in 1982)".

(b) CONFORMING AMENDMENTS.—Subsections (a)(2) and (c)(1)(B) of section 821 are each amended by striking out "34 percent" and inserting in lieu thereof "30 percent (32 percent for taxable years beginning in 1982)". (c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

SEC. 232. INCREASE IN ACCUMULATED EARNINGS CREDIT.

(a) INCREASE IN CREDIT FOR CERTAIN CORPORATIONS.—Paragraph (2) of section 535(c) (relating to accumulated earnings credit) is amended to read as follows:

"(2) MINIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowable under paragraph (1) shall in no case be less than the amount by which $250,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year.

"(B) CERTAIN SERVICE CORPORATIONS.—In the case of a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, subparagraph (A) shall be applied by substituting '$150,000' for '$250,000'."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 535(c) is amended by striking out "$150,000" and inserting in lieu thereof "$250,000".

(2) Sections 243(b)(3)(C)(i) (relating to qualifying dividends for purposes of the dividends received deduction) and 1551(a) (relating to disallowance of surtax exemption and accumulated earnings credit) are each amended by striking out "$150,000".

(3) Section 1561(a)(2) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$150,000" and inserting in lieu thereof "$250,000 ($150,000 if

any component member is a corporation described in section 535(c)(2)(B))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 233. SUBCHAPTER S SHAREHOLDERS.

(a) INCREASE IN NUMBER OF SHAREHOLDERS.—Section 1371(a) (defining small business corporation) is amended by striking out "15 shareholders" in paragraph (1) and inserting in lieu thereof "25 shareholders".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1981.

SEC. 234. TREATMENT OF TRUSTS AS SUBCHAPTER S SHAREHOLDERS.

(a) IN GENERAL.—Subsection (e) of section 1371 (relating to certain trusts permitted as shareholders) is amended to read as follows:

"(e) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—

"(1) IN GENERAL.—For purposes of subsection (a), the following trusts may be shareholders:

"(A) A trust all of which is treated (under subpart E of part I of subchapter J of this chapter) as owned by an individual who is a citizen or resident of the United States.

"(B) A trust which was described in subparagraph (A) immediately before the death of the deemed owner and which continues in existence after such death, but only for the 60-day period beginning on the day of the deemed owner's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the deemed owner, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'.

"(C) A trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

"(D) A trust created primarily to exercise the voting power of stock transferred to it.

"(2) TREATMENT AS SHAREHOLDERS.—For purposes of subsection (a)—

"(A) In the case of a trust described in subparagraph (A) of paragraph (1), the deemed owner shall be treated as the shareholder.

"(B) In the case of a trust described in subparagraph (B) of paragraph (1), the estate of the deemed owner shall be treated as the shareholder.

"(C) In the case of a trust described in subparagraph (C) of paragraph (1), the estate of the testator shall be treated as the shareholder.

"(D) In the case of a trust described in subparagraph (D) of paragraph (1), each beneficiary of the trust shall be treated as a shareholder."

(b) BENEFICIARY OF QUALIFIED SUBCHAPTER S TRUST TREATED AS OWNER OF TRUST.—

(1) IN GENERAL.—For purposes of subsection (a) of section 678 of the Internal Revenue Code of 1954 (relating to person other than grantor treated as substantial owner), the beneficiary of a qualified subchapter S trust shall be treated as the owner of such trust.

(2) QUALIFIED SUBCHAPTER S TRUST DEFINED.—For purposes of paragraph (1), the term "qualified subchapter S trust" means a trust—

(A) which has as its sole income beneficiary an individual who is a citizen or resident of the United States who, at the date of death of the grantor of the trust, is under a disability (within the meaning of section 216(i) of the Social Security Act),

(B) during the lifetime of such beneficiary, the corpus or income of which may be distributed only to such beneficiary,

(C) which terminates at the death of such beneficiary, with the corpus and accumulated income at such time being distributed as provided by the beneficiary by will or pursuant to a general power of appointment (as defined in section 2041 of the Internal Revenue Code of 1954) held by the beneficiary or (failing such disposition) to the heirs of the beneficiary or to takers in default of appointment,

(D) 90 percent or more of the contributions to which in value consist of stock in one subchapter S corporation,

(E) all of the contributions to which are includible in the gross estate of the grantor of the trust and which pass to the trust at the grantor's death, and

(F) with respect to which the beneficiary or his legal representative has made an irrevocable election (at such time and in such manner as the Secretary of the Treasury may provide) that, from the creation of the trust until the trust ceases to be a qualified subchapter S trust, the beneficiary is to be treated for purposes of section 678 of such Code as the owner of such trust.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the provisions of subsection (b) shall apply to taxable years beginning after December 31, 1981.

SEC. 235. SIMPLIFICATION OF LIFO BY USE OF GOVERNMENT INDEXES TO BE PROVIDED BY REGULATIONS.

Section 472 is amended by adding at the end thereof the following new subsection:

"(f) USE OF GOVERNMENT PRICE INDEXES IN PRICING INVENTORY.—The Secretary shall prescribe regulations providing for simplification of the use of the method described in subsection (b) through the use of suitable published government indexes in such manner and circumstances as determined by the Secretary."

SEC. 236. 3-YEAR AVERAGING PERMITTED FOR INCREASES IN INVENTORY VALUE.

Subsection (d) of section 472 is amended to read as follows: "The closing inventory of the taxable year preceding the taxable year for which the method described in subsection (b) is first used shall be at cost. Any adjustment to income resulting from the application of the preceding sentence shall be taken into account ratably in each of the three taxable years beginning with the first taxable year the method described in subsection (b) is first used."

SEC. 237. ELECTION BY SMALL BUSINESS TO USE ONE INVENTORY POOL WHEN LIFO IS ELECTED.

(a) IN GENERAL.—Subpart D of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 474. ELECTION BY CERTAIN SMALL BUSINESSES TO USE ONE INVENTORY POOL.

"(a) IN GENERAL.—A taxpayer which is an eligible small business and which uses the dollar-value method of pricing inventories under the method provided by section 472(b) may elect to use one inventory pool for any trade or business of such taxpayer.

"(b) ELIGIBLE SMALL BUSINESS DEFINED.—For purposes of this section, a taxpayer is an eligible small business for any taxable year if the average annual gross receipts of the taxpayer do not exceed $1,000,000 for the 3 taxable years ending with the taxable year.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a taxpayer which is a member of a controlled group, all persons which are component members of such group at any time during the calendar year shall be treated as one taxpayer for such year for purposes of determining the gross receipts of the taxpayer.

"(B) CONTROLLED GROUP DEFINED.—For purposes of subparagraph (A), persons shall be treated as being members of a controlled group if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(2) ELECTION.—

"(A) IN GENERAL.—The election under this section may be made without the consent of the Secretary and shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(B) PERIOD TO WHICH ELECTION APPLIES.—The election under this section shall apply—

"(i) to the taxable year for which it is made, and

"(ii) to all subsequent taxable years for which the taxpayer is an eligible small business,

unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(3) TRANSITIONAL RULES.—In the case of a taxpayer who changes the number of inventory pools maintained by him in a taxable year by reason of an election (or cessation thereof) under this section—

"(A) the inventory pools combined or separated shall be combined or separated in the manner provided by regulations under section 472;

"(B) the dollar value of the taxpayer's inventory as of the beginning of the first taxable year—

"(i) for which an election under this section is in effect, or

"(ii) after such election ceases to apply,

shall be the same as such dollar value as of the close of the taxable year preceding the taxable year described in clause (i) or (ii) (as the case may be), and

"(C) the first taxable year for which an election under this section is in effect or after such election ceases to apply (as the case may be) shall be treated as a new base year in accordance with procedures provided by regulations under section 472."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart D is amended by adding at the end thereof the following new item:

"Sec. 474. Election by certain small businesses to use one inventory pool."

SEC. 238. STUDY OF ACCOUNTING METHODS FOR INVENTORY.

(a) STUDY.—The Secretary of the Treasury shall conduct a full and complete study of methods of tax accounting for inventory with a view toward the development of simplified methods. Such study shall include (but shall not be limited to) an examination of the last-in first-out method and the cash receipts and disbursements method.

(b) REPORT.—Not later than December 31, 1982, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he deems appropriate.

Subtitle E—Savings and Loan Associations

SEC. 241. REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS.

AMENDMENT OF SECTION 368(a)(3)(D).—Section 368(a)(3)(D) of the Internal Revenue Code of 1954 (relating to agency receivership proceedings which involve financial institutions) is amended to read as follows:

"(D) AGENCY PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—

"(i) For purpose of subparagraphs (A) and (B)—

"(I) In the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution to which section 585 applies, the agency shall be treated as a court, and

"(II) In the case of a financial institution to which section 593 applies, the term 'title 11 or similar case' means only a case in which the Board (which will be treated as the court in such case) makes the certification described in clause (ii).

"(ii) A transaction otherwise meeting the requirements of subparagraph (G) of paragraph (1), in which the transferor corporation is a financial institution to which section 593 applies, will not be disqualified as a reorganization if no stock or securities of the corporation to which the assets are transferred (transferree) are received or distributed, but only if all of the following conditions are met:

"(I) the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met with respect to the acquisition of the assets,

"(II) substantially all of the liabilities of the transferor immediately before the transfer become, as a result of the transfer, liabilities of the transferee, and

"(III) the Board certifies that the grounds set forth in section 1464(d)(6)(A) (i), (ii), or (iii) of title 12, United States Code, exist with respect to the transferor or will exist in the near future in the absence of action by the Board.

"(iii) For purposes of this subparagraph, the 'Board' means the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corportion or, if neither has supervisory authority with respect to the transferor, the equivalent State authority."

SEC. 242. LIMITATIONS ON CARRYOVERS OF FINANCIAL INSTITUTIONS.

Section 382(b)(7) of the Internal Revenue Code of 1954 (relating to reduction of net operating loss carryovers in title 11 or similar cases), as added by section 2(d) of Public Law 96-589, is amended to read as follows:

"(7) SPECIAL RULE FOR REORGANIZATIONS IN TITLE 11 OR SIMILAR CASES.—For purposes of this subsection—

"(A) a creditor who receives stock in a reorganization in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) shall be treated as a stockholder immediately before the reorganization and

"(B) in a transaction qualifying under section 368(a)(3)(D)(ii)—

"(i) a depositor in the transferor shall be treated as a stockholder immediately before the reorganization of the loss corporation,

"(ii) deposits in the transferor which become, as a result of the transfer, deposits in the transferee shall be treated as stock of the acquiring corporation owned as a result of owning stock of the loss corporation, and

"(iii) the fair market value of the outstanding stock of the acquiring corporation shall include the amount of deposits in the acquiring corporation immediately after the reorganization.

SEC. 243. RESERVES FOR LOSSES ON LOANS.

Paragraph (1) of section 593(e) of the Internal Revenue Code of 1954 (relating to distributions to shareholders of a domestic building and loan association) is amended by striking out "applies." in the last sentence thereof and substituting therefor the following: "applies, or to any distribution to the Federal Savings and Loan Insurance Corporation with respect to an interest in an association, if such interest was originally received by the Federal Savings and Loan Insurance Corporation in exchange for financial assistance pursuant to section 406(f) of the National Housing Act (12 U.S.C. sec. 1729(f))."

SEC. 244. FSLIC FINANCIAL ASSISTANCE.

(a) Part II of subchapter H of subtitle A of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 597. FSLIC FINANCIAL ASSISTANCE.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income of a domestic building and loan association does not include any amount of money or other property received from the Federal Savings and Loan Insurance Corporation pursuant to section 406(f) of the National Housing Act (12 U.S.C. sec. 1729(f)), regardless of whether any note or other instrument is issued in exchange therefor.

"(b) NO REDUCTION IN BASIS OF ASSETS.—No reduction in the basis of assets of a domestic building and loan association shall be made on account of money or other property received under the circumstances referred to in subsection (a)."

(b) CLERICAL AMENDMENTS.—The table of sections for part II of subchapter H of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting after the item relating to section 596 the following:

"Sec. 597. FSLIC financial assistance."

SEC. 245. EFFECTIVE DATES.

(a) The amendment made by sections 601 and 602 shall apply to any transfer made on or after January 1, 1981.

(b) The amendment made by section 603 shall apply to any distribution made on or after January 1, 1981.

(c) The amendment made by section 604 shall apply to any payment made on or after January 1, 1981.

Subtitle F—Stock Options

SEC. 251. RESTRICTED STOCK OPTIONS.

(a) Subsection (b) of section 424 (relating to restricted stock options) is amended—

(1) by striking out "(or, if it meets the requirements of subsection (c)(3), an option granted after December 31, 1963)," and inserting in lieu thereof ", an option which meets the requirements of subsection (c)(3) granted after December 31, 1963, and before January 1, 1981, or an option exercised or granted after December 31, 1980,",

(2) by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4), and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraphs:

"(5) in the case of an option exercised after December 31, 1980, under terms of the plan, the aggregate fair market value (determined as of the time the option is granted) of the stock for which any employee may be granted options in any calendar year (under all plans of his employer corporation and its parent and subsidiary corporations providing options qualifying under this subsection) shall not exceed $75,000.

Paragraph (5) shall apply only if stock in the employer corporation (or its parent or any subsidiary) is a marketable security (within the meaning of section 453(f)(2)). In the case of options granted before July 24, 1981, and exercised on or after July 24, 1981, the aggregate fair market value of options qualifying under this section shall not exceed $150,000, and

"(6) such options by its terms is not exercisable while there is outstanding any restricted stock option which was granted, before the granting of such option, to such individual, to purchase stock in his employer corporation or in a corporation which (at the time of the granting of such option) is a parent or subsidiary corporation of the employer corporation, or in a predecessor corporation of any such corporation.", and

(3) by adding at the end thereof the following new sentence:

"An option exercised after December 31, 1980, shall not fail to qualify as a restricted stock option merely because the employee may pay for the stock with property (including stock of the employer corporation or of its parent or subsidiary corporation) if such property is taken into account at its fair market value (at the time of the exercise of the option)."

(b) Paragraph (3) of section 424(c) (relating to certain options granted after December 31, 1963) is amended by striking out the last sentence.

(c) Paragraph (6) of section 57(a) (defining items of tax preference) is amended by striking out "or a restricted stock option (as defined in section 424(b))".

(d) AFTER EMPLOYMENT CEASES.—Subsection (a) of section 424 (relating to restricted stock options) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (B), in the case of an employee who is disabled (within the meaning of section 105(d)(4)), the 3-month period shall be 1 year."

(e)(1) The amendments made by this section shall apply to options granted after May 21, 1976, and exercised after December 31, 1980.

(2) In the case of an option which—

(A) is granted before January 1, 1981, and

(B) is not a qualified option (within the meaning of section 422 of the Internal Revenue Code of 1954),

the corporation granting such option may elect not to have the amendments made by this section apply. Such election shall be made not later than 6 months after the date of the enactment of this Act and, once made, may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(3) In the case of an option granted after May 21, 1976, and outstanding on the date of the enactment of this Act, paragraph (1) of section 425(h) of the Internal Revenue Code of 1954 shall not apply to any change in the terms of such option (or the terms of the plan under which granted) made within 1 year after such date of enactment to permit such option to qualify as a restricted stock option. The preceding sentence shall apply to an option only if, after such change, the option meets the requirements of section 424(b)(5) of such Code.

TITLE III—SAVINGS PROVISIONS

Subtitle A—Interest Exclusion

SEC. 301. EXCLUSION OF INTEREST ON CERTAIN SAVINGS CERTIFICATES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and

by inserting after section 127 the following new section:

"SEC. 128. INTEREST ON CERTAIN SAVINGS CERTIFICATES.

"(a) IN GENERAL.—Gross income does not include any amount received by any individual during the taxable year as interest on a depository institution tax-exempt savings certificate.

"(b) MAXIMUM DOLLAR AMOUNT.—

"(1) IN GENERAL.—The aggregate amount excludable under subsection (a) for any taxable year shall not exceed the excess of—

"(A) $1,000 ($2,000 in the case of a joint return under section 6013), over

"(B) the aggregate amount received by the taxpayer which was excludable under subsection (a) for any prior taxable year.

"(2) SPECIAL RULE.—For purposes of paragraph (1)(B), one-half of the amount excluded under subsection (a) on any joint return shall be treated as received by each spouse.

"(c) DEPOSITORY INSTITUTION TAX-EXEMPT SAVINGS CERTIFICATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'depository institution tax-exempt savings certificate' means any certificate—

"(A) which is issued by a qualified savings institution after September 30, 1981, and before January 1, 1983,

"(B) which has a maturity of 1 year,

"(C) which has an investment yield equal to 70 percent of the average investment yield for the most recent auction (before the week in which the certificate is issued) of United States Treasury bills with maturities of 52 weeks, and

"(D) which is made available in denominations of $500.

"(2) QUALIFIED INSTITUTION.—The term 'qualified institution' means—

"(A)(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar institution under Federal or State law, or

"(iii) a credit union, the deposits or accounts of which are insured under Federal or State law or are protected or guaranteed under State law, or

"(B) an industrial loan association or bank chartered and supervised under Federal or State law in a manner similar to a savings and loan institution.

"(d) INSTITUTIONS REQUIRED TO PROVIDE RESIDENTIAL PROPERTY FINANCING.—

"(1) IN GENERAL.—If a qualified savings institution (other than an institution described in subsection (c)(2)(A)(iii)) issues any depository institution tax-exempt savings certificate during any calendar quarter, the amount of the qualified residential financing provided by such institution shall during the succeeding calendar quarter not be less than the lesser of—

"(A) 75 percent of the face amount of depository institution tax-exempt savings certificates issued during the calendar quarter, or

"(B) 75 percent of the qualified net savings for the calendar quarter.

The aggregate amount of qualified tax-exempt savings certificates issued by any institution described in subsection (c)(2)(A)(iii) which are outstanding at the close of any calendar quarter may not exceed the limitation determined under paragraph (4) with respect to such institution for such quarter.

"(2) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—If, as of the close of any calendar quarter, a qualified institution has not met the requirements of paragraph (1) with respect to the preceding calendar quarter, such institution may not issue any certificates until it meets such requirements.

"(3) QUALIFIED RESIDENTIAL FINANCING.—The term 'qualified residential financing' includes, and is limited to—

"(A) any loan secured by a lien on a single-family or multifamily residence,

"(B) any secured or unsecured qualified home improvement loan (within the meaning of section 103A(l)(6) without regard to the $15,000 limit),

"(C) any mortgage (within the meaning of section 103A(l)(1)) on a single family or multifamily residence which is insured or guaranteed by the Federal, State, or local government or any instrumentality thereof,

"(D) any loan to acquire a mobile home,

"(E) any construction loan for the construction or rehabilitation of a single-family or multifamily residence,

"(F) the purchase of mortgages secured by single-family or multifamily residences on the secondary market but only to the extent the amount of such purchases exceed the amount of sales of such mortgages by an institution,

"(G) the purchase of securities issued or guaranteed by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or securities issued by any other person if such securities are secured by mortgages originated by a qualified institution, but only to the extent the amount of such purchases exceed the amount of sales of such securities by an institution, and

"(H) any loan for agricultural purposes.

For purposes of this paragraph, the term 'single-family residence' includes 2-, 3-, and 4-family residences, and the term 'residence' includes stock in a cooperative housing corporation (as defined in section 216(b)).

"(4) LIMITATION FOR CREDIT UNIONS.—For purposes of paragraph (1), the limitation determined under this paragraph with respect to any institution for any calendar quarter is the sum of—

"(A) the aggregate of the amounts described in subparagraph (A) of paragraph (5) with respect to such institution as of September 30, 1981, plus

"(B) 10 percent of the excess of—

"(i) the aggregate of such amounts as of the close of such calendar quarter, over

"(ii) the amount referred to in subparagraph (A).

"(5) QUALIFIED NET SAVINGS.—The term 'qualified net savings' means, with respect to any qualified institution, the excess of—

"(A) the amounts paid into passbook savings account, 6-month money market certificates, 30-month small-saver certificates, time deposits with a face amount of less than $100,000, and depository institution tax-exempt savings certificates issued by such institution, over

"(B) the amounts withdrawn or redeemed in connection with the accounts and certificates described in subparagraph (A).

"(e) PENALTY FOR EARLY WITHDRAWALS.—

"(1) IN GENERAL.—If any portion of a depository institution tax-exempt savings certificate is redeemed before the date on which it matures—

"(A) subsection (a) shall not apply to any interest on such certificate for the taxable year of redemption and any subsequent taxable year, and

"(B) there shall be included in gross income for the taxable year of redemption the amount of any interest on such certificate excluded under subsection (a) for any preceding taxable year.

"(2) CERTIFICATE PLEDGED AS COLLATERAL.—For purposes of paragraph (1), if the taxpayer uses any depository institution tax-exempt savings certificate (or portion thereof) as collateral or security for a loan, the taxpayer shall be treated as having redeemed such certificate.

"(f) OTHER SPECIAL RULES.—

"(1) COORDINATION WITH SECTION 116.—Section 116 shall not apply to the interest on any depository institution tax-exempt savings certificate.

"(2) ESTATES AND TRUSTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the exclusion provided by this section shall not apply to estates and trusts.

"(B) CERTIFICATES ACQUIRED BY ESTATE FROM DECEDENT.—In the case of a depository institution tax-exempt savings certificate acquired by an estate by reason of the death of the decedent—

"(i) subparagraph (A) shall not apply, and

"(ii) subsection (b) shall be applied as if the estate were the decedent."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 128 and inserting in lieu thereof the following new items:

"Sec. 128. Interest on certain savings certificates.

"Sec. 129. Cross references to other Acts."

(2) Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by inserting ", or to purchase or carry any certificate to the extent the interest on such certificate is excludable under section 128" after "116".

(3) Paragraph (2) of section 584(c) (relating to income of participants in common trust funds), as in effect for taxable years beginning in 1981, is amended by inserting "or 128" after "116".

(4) Paragraph (7) of section 643(a) (defining distributable net income), as in effect for taxable years beginning in 1981, is amended by inserting "or section 128 (relating to interest on certain savings certificates)" after "received)".

(5) Section 702(a)(5) (relating to income and credits of partners), as in effect for taxable years beginning in 1981, is amended by inserting "or 128" after "116".

(6) Each of the following provisions, as in effect for taxable years beginning after December 31, 1981, are amended by inserting "or interest" after "dividends" each place it appears in the caption or text:

(A) section 584(c)(2),

(B) section 643(a)(7),

(C) section 702(a)(5).

(c) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the exemption from income of interest earned on depository institution tax-exempt savings certificates established by this section to determine the exemption's effectiveness in generating additional savings. Such report shall be submitted to the Congress before June 1, 1983.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after September 30, 1981.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(6) shall

apply to taxable years beginning after December 31, 1981.

SEC. 302. PARTIAL EXCLUSION OF INTEREST.

(a) AMOUNT OF EXCLUSION.—Section 128 (relating to the interest on certain savings certificates) is amended to read as follows:

"SEC. 128. PARTIAL EXCLUSION OF INTEREST.

"(a) IN GENERAL.—Gross income does not include the amounts received during the taxable year by an individual as interest.

"(b) MAXIMUM DOLLAR AMOUNT.—

"(1) IN GENERAL.—The aggregate amount excludable under subsection (a) for any taxable year shall not exceed 15 percent of the lesser of—

"(A) $3,000 ($6,000 in the case of a joint return under section 6013), or

"(B) the excess of the amount of interest received by the taxpayer during such taxable year (less amounts deducted by the taxpayer under 62(12)) over the amount of qualified interest expenses of such taxpayer for the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) INTEREST DEFINED.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

"(ii) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) QUALIFIED INTEREST EXPENSE.—The term 'qualified interest expense' means an amount equal to the excess of—

"(A) the amount of the deduction allowed the taxpayer under section 163(a) (relating to interest) for the taxable year, over

"(B) the amount of such deduction allowed with respect to interest paid or accrued on indebtedness incurred in—

"(i) acquiring, constructing, reconstructing, or rehabilitating property which is primarily used by the taxpayer as a dwelling unit (as defined in section 280A(f)(1)), or

"(ii) the taxpayer's conduct of a trade or business.".

(b) REPEAL OF PARTIAL EXCLUSION OF INTEREST FROM GROSS INCOME.—Subsection (c) of section 404 of the Crude Oil Windfall Profit Tax Act of 1980 is amended by striking out "1983" and inserting in lieu thereof "1982".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1, as amended by section 301(b)(1), is amended by striking out the item relating to section 128 and inserting in lieu thereof the following new item:

"Sec. 128. Partial exclusion of interest."

(2) Section 265 (relating to expenses and interest relating to tax-exempt income), as amended by section 301(b), is amended by striking out "or to purchase or carry any certificate to the extent the interest on such certificate is excludable under section 128" and insert in lieu thereof "or to purchase or carry obligations or shares, or to make other deposits or investments, the interest on which is described in section 128(c)(1) to the extent such interest is excludable from gross income under section 128".

(3) Section 46(c)(8) (relating to limitation to amount at risk) is amended by striking out "clause (i), (ii), or (iii) of subparagraph (A) or subparagraph (B) of section 128(c)(2)" and inserting in lieu thereof "subparagraph (A) or clause (i) or (ii) of subparagraph (B) of section 128(c)(1)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1984.

Subtitle B—Retirement Savings Provisions

SEC. 311. RETIREMENT SAVINGS.

(a) GENERAL RULE.—Section 219 (relating to deduction for retirement savings) is amended to read as follows:

"SEC. 219. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of—

"(A) $2,000, or

"(B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(2) SPECIAL RULES FOR EMPLOYER CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) LIMITATION.—If there is an employer contribution on behalf of the employee to a simplified employee pension, an employee shall be allowed as a deduction under subsection (a) (in addition to the amount allowable under paragraph (1) an amount equal to the lesser of—

"(i) 15 percent of the compensation from such employer includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(ii) the amount contributed by such employer to the simplified employee pension and included in gross income (but not in excess of $7,500).

"(B) CERTAIN LIMITATIONS DO NOT APPLY TO EMPLOYER CONTRIBUTION.—Paragraph (1) of this subsection and paragraph (1) of subsection (d) shall not apply with respect to the employer contribution to a simplified employee pension.

"(C) SPECIAL RULE FOR APPLYING SUBPARAGRAPH (A)(ii).—In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the $7,500 amount specified in subparagraph (A)(ii) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3).

"(3) SPECIAL RULE FOR INDIVIDUAL RETIREMENT PLANS.—If the individual has paid any qualified voluntary employee contributions for the taxable year, the amount of the qualified retirement contributions (other than employer contributions to a simplified employee pension) which are paid for the taxable year to an individual retirement plan and which are allowable as a deduction under subsection (a) for such taxable year shall not exceed—

"(A) the amount determined under paragraph (1) for such taxable year, reduced by

"(B) the amount of the qualified voluntary employee contributions for the taxable year.

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of any individual with respect to whom a deduction is otherwise allowable under subsection (a)—

"(A) who files a joint return under section 6013 for a taxable year, and

"(B) whose spouse has no compensation (determined without regard to section 911) for such taxable year,

there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse.

"(2) LIMITATION.—The amount allowable as a deduction under paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

"(i) $2,250, or

"(ii) an amount equal to the compensation includible in the individual's gross income for the taxable year, over

"(B) the amount allowed as a deduction under subsection (a) for the taxable year.

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) INDIVIDUALS WHO HAVE ATTAINED AGE 70½.—No deduction shall be allowed under this section with respect to any qualified retirement contribution which is made for a taxable year of an individual if such individual has attained age 70½ before the close of such taxable year. "(2) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 408(d)(3), or 409(b)(3)(C). "(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(e) DEFINITION OF RETIREMENT SAVINGS CONTRIBUTIONS, ETC.—For purposes of this section—

"(1) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

"(A) any qualified voluntary employee contribution paid in cash by the individual for the taxable year, and "(B) any amount paid in cash for the taxable year by or on behalf of such individual for his benefit to an individual retirement plan.

For purposes of the preceding sentence, the term 'individual retirement plan' includes a retirement bond described in section 409 only if the bond is not redeemed within 12 months of its issuance.

"(2) QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified voluntary employee contribution' means any voluntary contribution—

"(i) which is made by an individual as an employee under a qualified employer plan or government plan, which plan elects to allow an employee to make contributions which may be treated as qualified voluntary employee contributions under this section, and "(ii) with respect to which the individual has not designated such contribution as a contribution which should not be taken into account under this section.

"(B) VOLUNTARY CONTRIBUTION.—For purposes of subparagraph (A), the term 'voluntary contribution' means any contribution which is not a mandatory contribution (within the meaning of section 411(c)(2)(C)).

"(C) DESIGNATION.—For purposes of determining whether or not an individual has made a designation described in subparagraph (A)(ii) with respect to any contribution during any calendar year under a qualified employer plan or government plan, such individual shall be treated as having made such designation if he notifies the plan administrator of such plan, not later than the earlier of—

"(i) April 15 of the succeeding calendar year, or "(ii) the time prescribed by the plan administrator,

that the individual does not want such contribution taken into account under this section. Any designation or notification referred to in the preceding sentence shall be made in such manner as the Secretary shall by regulations prescribe and, after the last date on which such designation or notification may be made, shall be irrevocable for such taxable year.

"(3) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), "(C) a qualified bond purchase plan described in section 405(a), "(D) a simplified employee pension (within the meaning of section 408(k)), and "(E) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

"(4) GOVERNMENT PLAN.—The term 'government plan' means any plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

"(5) PAYMENTS FOR CERTAIN PLANS.—The term 'amounts paid to an individual retirement plan' includes amounts paid for an individual retirement annuity or a retirement bond.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2). "(2) MARRIED INDIVIDUALS.—The maximum deduction under subsections (b) and (c) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws. "(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

"(A) INDIVIDUAL RETIREMENT PLANS.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). "(B) QUALIFIED EMPLOYER OR GOVERNMENT PLANS.—For purposes of this section, if a qualified employer or government plan elects to have the provisions of this subparagraph apply, a taxpayer shall be deemed to have made a voluntary contribution to such plan on the last day of the preceding calendar year (if, without regard to this paragraph, such contribution may be made on such date) if the contribution is made by April 15 of the calendar year or such earlier time as provided by the plan administrator.

"(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions. "(5) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a deduction for such payment is allowable under this section to the employee. (6) "EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

"(g) CROSS REFERENCE.—

"For failure to provide required reports, see section 6652(h)."

(b) TREATMENT OF DISTRIBUTIONS FROM EMPLOYER PLAN TO WHICH EMPLOYEE MADE DEDUCTIBLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) SPECIAL RULES FOR DISTRIBUTIONS FROM QUALIFIED PLANS TO WHICH EMPLOYEE MADE DEDUCTIBLE CONTRIBUTIONS.—

"(1) TREATMENT OF CONTRIBUTIONS.—For purposes of this section and sections 402, 403, and 405, notwithstanding section 414(h), any deductible employee contribution made to a qualified employer plan or government plan shall be treated as an amount contributed by the employer which is not includible in the gross income of the employee.

"(2) ADDITIONAL TAX IF AMOUNT RECEIVED BEFORE AGE 59½.—If—

"(A) any accumulated deductible employee contributions are received from a qualified employer plan or government plan to which the employee made one or more deductible employee contributions, "(B) such amount is received by the employee before the employee attains the age of 59½, and "(C) such amount is not attributable to such employee's becoming disabled (within the meaning of subsection (m)(7)),

then the employee's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the amount so received to the extent that such amount is includible in gross income.

For purposes of this title, any tax imposed by this paragraph shall be treated as a tax imposed by subsection (m)(5)(B).

"(3) AMOUNTS CONSTRUCTIVELY RECEIVED.—

"(A) IN GENERAL.—For purposes of this subsection, rules similar to the rules provided by subsection (m) (4) and (8) shall apply. "(B) PURCHASE OF LIFE INSURANCE.—To the extent any amount of accumulated deductible employee contributions of a plan are applied to the purchase of life insurance contracts, such amount shall be treated as distributed to the employee in the year so applied.

"(4) SPECIAL RULE FOR TREATMENT OF ROLLOVER AMOUNTS.—For purposes of sections 402(a)(5), 402(a)(7), 403(a)(4), 408(d)(3), and 409(b)(3)(C), the Secretary shall prescribe regulations providing for such allocations of amounts attributable to accumulated deductible employee contributions, and for such other rules, as may be necessary to insure that such accumulated deductible employee contributions do not become eligible for additional tax benefits (or freed from limitations) through the use of rollovers.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—The term 'deductible employee contribution' means any qualified voluntary employee contribution (as defined in section 219(e)(2)) made after December 31, 1981, in a taxable year beginning after such date and allowable as a deduction under section 219(a) for such taxable year.

"(B) ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—The term 'accumulated deductible employee contributions' means the deductible employee contributions—

"(i) increased by the amount of income and gain allocable to such contributions, and "(ii) reduced by the sum of the amount of loss and expense allocable to such contributions and the amount of such contributions received by the employee.

"(C) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' has the meaning given to such term by section 219(e)(3). "(D) GOVERNMENT PLAN.—The term 'government plan' has the meaning given such term by section 219(e)(4).

"(6) ORDERING RULES.—Unless the plan specifies otherwise, any distribution from such plan shall not be treated as being made from the accumulated deductible employee contributions until all other amounts to the

credit of the employee have been distributed."

(2) 10-YEAR AVERAGING AND CAPITAL GAINS NOT TO APPLY.—Subparagraph (A) of section 402(e)(4) (defining lump sum distribution) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 403, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5))." (3) CONFORMING AMENDMENTS RELATING TO ROLLOVER DISTRIBUTIONS.—

(A) Paragraph (5) of section 402(a) (relating to rollover amounts) is amended—(i) by inserting "(other than accumulated deductible employee contributions within the meaning of section 72(o)(5))" after "contributions" in subparagraph (B), (ii) by striking out "or" at the end of subparagraph (D)(i)(I), (iii) by striking out the period at the end of subparagraph (D)(i)(II) and inserting in lieu thereof ", or", and (iv) by inserting at the end of subparagraph (D) the following new subclause:

"(III) which constitute a distribution of accumulated deductible employee contributions (within the meaning of section 72(o)(5))."

(B) Paragraph (8) of section 403(b) (relating to rollover amounts) is amended by inserting ", or 1 or more distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5))" after "subsection (a)" in subparagraph (B)(i).

(c) UNREALIZED APPRECIATION OF EMPLOYER SECURITIES.—

(1) Paragraph (1) of section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by striking out in the second sentence thereof "by the employee" and inserting in lieu thereof "by the employee (other than deductible employee contributions within the meaning of section 72(o)(5))." (2) Subparagraph (J) of section 432(e) (relating to tax on lump sum distribution) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to distributions of accumulated deductible employee contributions (within the meaning of section 77(o)(5))."

(d) ESTATE AND GIFT TAX EXCLUSION.—

(1) ESTATE TAX.—Subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any deductible employee contributions within the meaning of paragraph (5) of section 72(o)) shall be considered as made by a person other than the decedent." (2) GIFT TAX.—Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any deductible employee contributions (within the meaning of paragraph (5) of section 72(o)) shall be considered as made by a person other than the employee."

(e) REPEAL OF SECTION 220.—Section 220 (relating to deduction for retirement savings for certain married individuals) is hereby repealed. (f) PENALTIES FOR FAILURE TO PROVIDE NECESSARY REPORTS.—Section 6652 is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection: "(h) INFORMATION REQUIRED IN CONNECTION WITH DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—In the case of failure to make a report required by section 219(f)(4) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to $25 for each participant with respect to whom there was a failure to file such information, multiplied by the number of years during which such failure continues, but the total amount imposed under this subsection on any person for failure to file shall not exceed $10,000." (g) AMENDMENTS RELATING TO INCREASE IN IRA LIMITATIONS.—

(1) The following provisions are each amended by striking out "$1,500" each place it appears and inserting in lieu thereof "$2,000":

(A) Section 408(a)(1) (defining individual retirement account). (B) Section 408(b) (defining individual retirement annuity). (C) Section 408(j) (relating to increase in maximum limitations for simplified employee pensions). (D) Section 409(a)(4) (defining retirement bond).

(2) Subparagraph (A) of section 408(d)(5) is amended by striking out "$1,750" and inserting in lieu thereof "$2,000". (3) Subparagraph (A) of section 409(b)(3) (relating to redemption within 12 months) is amended by adding the following sentence at the end thereof: "The preceding sentence shall not apply to the extent that the bond was purchased with a rollover contribution described in subparagraph (C) of this paragraph or in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(b)(3), or 408(d)(3)." (4)(A) Paragraph (2) of section 415(a) is amended to read as follows: "(2) SECTION APPLIES TO CERTAIN ANNUITIES AND ACCOUNTS.—In the case of—

"(A) an employee annuity plan described in section 403(a), "(B) an annuity contract described in section 403(b), "(C) a simplified employee pension described in section 408(k), or "(D) a plan described in section 405(a),

such a contract, annuity plan, or pension shall not be considered to be described in section 403(a), 403(b), 405(a), or 408(k), as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subsection (g). In the case of an annuity contract described in section 403(b), the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subsection (b) or the limitation of subsection (c), whichever is appropriate, and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)." (B) The last sentence of paragraph (2) of section 415(c) is amended to read as follows: "For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), and 409(b)(3)(C)) without regard to employee contributions to a simplified employee pension allowable as a deduction under section 219(a), and without regard to deductible employee contributions within the meaning of section 72(o)(5)." (C) Paragraph (5) of section 415(e) is amended to read as follows: "(5) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—For purposes of this section, any annuity contract described in section 403(b) (except in the case of a participant who has elected under subsection (c)(4)(D) to have the provisions of subsection (c)(4)(C) apply) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year. In the case of any annuity contract described in section 403(b), the amount of the contribution disqualified by reason of subsection (g) shall reduce the exclusion allowance as provided in section 403(b)(2)."

(d) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 220.—

(1) Paragraph (10) of section 62 (defining adjusted gross income) is amended by striking out "and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)". (2) Paragraphs (4) and (5) of section 408(d) (relating to tax treatment of distributions) are each amended by striking out "section 219 or 220" each place it appears and inserting in lieu thereof "section 219". (3) Subsection (a) of section 415 is amended by striking out paragraph (3). (4) Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219 or 220" each place it appears and inserting in lieu thereof "section 219".

(5) Subsection (d) of section 2503 is hereby repealed.

(6) Subparagraph (D) of section 3401(a)(12) is amended by striking out "section 219(a) or 220(a)" and inserting in lieu thereof "section 219(a)".

(7) Subsection (b) of section 4973 is amended by striking out "section 219 or 220" each place it appears and inserting in lieu thereof "section 219".

(8) Subsection (d) of section 6047 is amended by striking out "section 219(a) or 220(a)" and inserting in lieu thereof "section 219(a)".

(9) Subsection (a) of section 4973 is amended by striking out the last sentence and inserting in lieu thereof the following: "The tax imposed by this subsection shall be paid by such individual."

(10) Subparagraph (C) of section 4973(b)(2) is amended by striking out "sections 219(c)(5) and 220(c)(6)" and inserting in lieu thereof "section 219(f)(6)".

(11) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220.

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) TRANSITIONAL RULE.—For purposes of the Internal Revenue Code of 1954, any amount allowed as a deduction under section 220 of such Code (as in effect before its repeal by this Act) shall be treated as if it were allowed by section 219 of such Code.

(3) CERTAIN BOND ROLLOVER PROVISIONS.—The amendment made by subsection (g)(3) shall apply to taxable years beginning after December 31, 1974.

(4) SECTION 415 AMENDMENTS.—The amendments made by subsections (g)(4) and (h)(3) shall apply to years after December 31, 1981.

SEC. 312. INCREASE IN AMOUNT OF SELF-EMPLOYED RETIREMENT PLAN DEDUCTION.

(a) IN GENERAL.—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended by striking out "$7,500" in paragraphs (1) and (2) and inserting in lieu thereof "$15,000".

(b) MAXIMUM AMOUNT OF COMPENSATION TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (17) of section 401(a) (relating to maximum amount of compensation which may be taken into account) is amended by striking out all after "only" and inserting in lieu thereof "if—

"(A) the annual compensation of each employee taken into account under the plan does not exceed the first $200,000 of compensation, and "(B) in the case of any plan with respect to which compensation in excess of $100,000 is taken into account, contributions on behalf of each employee (other than an employee within the meaning of section 401(c)(1)) to the plan or plans are at a rate (expressed as a percentage of compensation) not less than 7.5 percent."

(2) SIMPLIFIED EMPLOYEE PENSIONS.—Subparagraph (C) of section 408(k)(3) (relating to uniform relationships of contributions) is amended to read as follows:

"(C) CONTRIBUTIONS MUST BEAR A UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless—

"(i) contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $200,000) of each employee maintaining a simplified employee pension, and "(ii) if compensation in excess of $100,000 is taken into account under a simplified employee pension for an employee, contributions to a simplified employee pension on behalf of each employee for whom a contribution is required are at a rate (expressed as a percentage of compensation) not less than 7.5 percent."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraphs (A) and (C) of section 219(b)(2), as amended by section 311(a), are each amended by striking out "$7,500" and inserting in lieu thereof "$15,000". (2) Subsection (e) of section 401 is amended by striking out "for all such years exceeds $7,500" and inserting in lieu thereof "for such taxable year exceeds $15,000". (3) Subparagraph (A) of section 401(j)(2) (relating to benefit plans for self-employed individuals and shareholder-employees) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000". (4) Paragraph (3) of section 401(j) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a change in the annual compensation taken into account under subparagraph (A) of subsection (j)(2) shall be treated as beginning a new period of plan participation.". (5) Subsections (d)(5) and (j) of section 408 are each amended by striking out "$7,500" and inserting in lieu thereof "$15,000". (6) Subparagraph (B) of section 1379(b)(1) (relating to certain qualified pension, etc., plans) is amended by striking out "$7,500" and inserting in lieu thereof "$15,000".

(d) LOANS TO PARTICIPANTS.—Subsection (m) of section 72 (relating to special rules) is amended—

(1) by adding at the end of paragraph (6) the following new sentence: "For purposes of the preceding sentence, the term 'owner-employee' shall except in applying paragraph (5), include an employee within the meaning of section 401(c)(1).", and

(2) by adding at the end thereof the following new paragraph:

"(8) LOANS TO OWNER-EMPLOYEES.—If, during any taxable year, an owner-employee receives, directly or indirectly, any amount as a loan from a trust described in section 401(a) which is exempt from tax under section 501(a), such amount shall be treated as having been received by such owner-employee as a distribution from such trust."

(e) CORRECTION OF EXCESS CONTRIBUTION PERMITTED WITHOUT PENALTY.—

(1) Subsection (m) of section 72 (relating to special rules applicable to employee annuities and distributions under employee plans) (as amended by subsection (d)) is amended by adding at the end thereof the following new paragraph:

"(9) RETURN OF EXCESS CONTRIBUTIONS BEFORE DUE DATE OF RETURN.—

"(A) IN GENERAL.—If an excess contribution is distributed in a qualified distribution—

"(i) such distribution shall not be included in gross income, and

"(ii) this section (other than this paragraph) shall be applied as if such excess contribution and such distribution had not been made.

"(B) EXCESS CONTRIBUTION.—For purposes of this paragraph, the term 'excess contribution' means any contribution to a qualified trust described in section 401(a) or under a plan described in section 403(a) or 405(a) made on behalf of an employee (within the meaning of section 401(c)) for any taxable year to the extent such contribution exceeds the amount allowable as a deduction under section 404(a).

"(C) QUALIFIED DISTRIBUTION.—The term 'qualified distribution' means any distribution of an excess contribution which meets requirements similar to the requirements of subparagraphs (A), (B), and (C) of section 408(d)(4). In the case of such a distribution, the rules of the last sentence of section 408(d)(4) shall apply."

(2) Paragraph (4) of section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) shall not apply to any distribution to which section 72(m)(9) applies."

(3) Subsection (b) of section 4972 (defining excess contributions) is amended by adding at the end thereof the following new paragraph:

"(6) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE.—For purposes of this subsection, any contribution which is distributed in a distribution to which section 72(m)(9) applies shall be treated as an amount not contributed."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plans which include employees within the meaning of section 401(c)(1) with respect to taxable years beginning after December 31, 1981.

(2) TRANSITIONAL RULE.—The amendments made by subsection (d) shall not apply to any loan from a plan to a self-employed individual who is an employee within the meaning of section 401(c)(1) which is outstanding on December 31, 1981. For purposes of the preceding sentence, any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as a new loan.

SEC. 313. ROLLOVERS UNDER BOND PURCHASE PLANS.

(a) GENERAL RULE.—Subsection (d) of section 405 (relating to taxability of beneficiary of qualified bond purchase plan) is amended by adding at the end thereof the following new paragraph:

"(3) ROLLOVER INTO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.—

"(A) IN GENERAL.—If—

"(i) any qualified bond is redeemed, "(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, and "(iii) such transfer is made on or before the 60th day after the day on which the individual received the proceeds of such redemption,

then, gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3).

"(B) QUALIFIED BOND.—For purposes of this paragraph, the term 'qualified bond' means any bond described in subsection (b) which is distributed under a qualified bond purchase plan or from a trust described in section 401(a) which is exempt from tax under section 501(a)."

(b) TECHNICAL AMENDMENTS.—

(1) The second sentence of paragraph (1) of section 405(d) is amended by striking out "the proceeds" and inserting "except as provided in paragraph (3), the proceeds".

(2) Sections 219(c)(2), 408(a)(1), and 4973(b)(1)(A) are each amended by inserting "405(d)(3)," after "403(b)(8),".

(3) Subsection (e) of section 2039 is amended by inserting "405(d)(3)," after "a contract described in subsection (c)(3)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to redemptions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 314. MISCELLANEOUS PROVISIONS.

(a) REMOVAL OF FIVE-YEAR BAN ON CONTRIBUTIONS TO OWNER-EMPLOYEE PLANS WHERE PLAN TERMINATES.—

(1) IN GENERAL.—Paragraph (5) of section 401(d) (relating to additional requirements for qualifications of trusts and plans benefiting owner-employees) is amended by adding at the end thereof the following: "Subparagraph (C) shall not apply to a distribution on account of the termination of the plan."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after December 31, 1980, in taxable years beginning after such date.

(b) INVESTMENT BY INDIVIDUAL RETIREMENT ACCOUNTS, ETC., IN COLLECTIBLES TREATED AS DISTRIBUTIONS.—

(1) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) INVESTMENT IN COLLECTIBLES TREATED AS DISTRIBUTIONS.—

"(1) IN GENERAL.—The acquisition by an individual retirement account or by an individually-directed account under a plan described in section 401(a) of any collectible shall be treated (for purposes of this section and section 402) as a distribution from such account in an amount equal to the cost to such account of such collectible. "(2) COLLECTIBLE DEFINED.—For purposes of this subsection, the term 'collectible' means—

"(A) any work of art, "(B) any rug or antique, "(C) any metal or gem, "(D) any stamp or coin, "(E) any alcoholic beverage, or "(F) any other tangible personal property

specified by the Secretary for purposes of this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property acquired after December 31, 1981, in taxable years ending after such date.

(c) TAXABILITY OF DISTRIBUTIONS TO EMPLOYEES.—

(1) CONTRIBUTIONS MADE AVAILABLE.—Paragraph (1) of section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by striking out each place it appears "or made available".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1981.

Subtitle C—Reinvestment of Dividends in Public Utilities

SEC. 321. ENCOURAGEMENT OF REINVESTMENT OF DIVIDENDS IN THE STOCK OF PUBLIC UTILITIES.

(a) AMENDMENT OF SECTION 305.—Section 305 (relating to distributions of stock and stock rights) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection: "(e) DIVIDEND REINVESTMENT IN STOCK OF PUBLIC UTILITIES.—

"(1) IN GENERAL.—Subsection (b) shall not apply to any qualified reinvested dividend.

"(2) QUALIFIED REINVESTED DIVIDEND DEFINED.—For purposes of this subsection, the term 'qualified reinvested dividend' means—

"(A) a distribution by a qualified public utility of shares of its qualified common stock to an individual with respect to the common or preferred stock of such corporation pursuant to a plan under which shareholders may elect to receive dividends in the form of stock instead of property, but "(B) only if the shareholder elects to have this subsection apply to such shares.

"(3) QUALIFIED PUBLIC UTILITY DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public utility' means, for any taxable year of the corporation, a domestic corporation which, for the 10-year period ending on the day before the beginning of the taxable year, acquired public utility recovery property having a cost equal to at least 60 percent of the aggregate cost of all tangible personal depreciable property acquired by the corporation during such period. "(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all members of an affiliated group shall be treated as one corporation, "(ii) a successor corporation shall take into account the acquisitions of its predecessor, and "(iii) a new corporation to which clause (ii) does not apply shall substitute its period of existence for the 10-year period set forth in subparagraph (A).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by subsection (a) of section 1504 (determined without regard to subsection (b) of section 1504).

"(ii) PUBLIC UTILITY RECOVERY PROPERTY.—The term 'public utility recovery property' has the meaning given to such term by section 168A, except that any requirement that the property be placed in service after December 31, 1980, shall not apply.

"(4) QUALIFIED COMMON STOCK DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified common stock' means authorized but unissued common stock of the corporation—

"(i) which has been designated by the board of directors of the corporation as issued for purposes of this subsection, but

"(ii) only if the number of shares to be issued to a shareholder was determined by reference to a value which is not less than 95 percent and not more than 105 percent of the stock's fair market value during the period immediately before the distribution (determined under regulations prescribed by the Secretary).

"(B) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—Except as provided in subparagraph (D), if a corporation has purchased or purchases its common stock within a 2-year period beginning 1 year before the date of the distribution and ending 1 year after such date, such distribution shall be treated as not being a qualified reinvested dividend.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of subparagraph (B), the purchase by any corporation which is a member of the same affiliated group (as defined in paragraph (3)(C)(i)) as the distributing corporation of common stock in any corporation which is a member of such group from any person (other than a member of such group) shall be treated as a purchase by the distributing corporation of its common stock.

"(D) WAIVER OF SUBPARAGRAPH (B) WHERE THERE IS BUSINESS PURPOSE.—Under regulations prescribed by the Secretary, subparagraph (B) shall not apply where the distributing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this subsection.

"(5) SHARE INCLUDES FRACTIONAL SHARE.—For purposes of this subsection, the term 'share' includes a fractional share.

"(6) LIMITATION.—

"(A) IN GENERAL.—In the case of any individual, the aggregate amount of distributions to which this subsection applies for the taxable year shall not exceed $1,500 ($3,000 in the case of a joint return).

"(B) APPLICATION OF CEILING.—If, but for this subparagraph, a share of stock would by reason of subparagraph (A), be treated as partly within this subsection, such share shall be treated as outside this subsection.

"(7) BASIS AND HOLDING PERIOD.—In the case of stock received as a qualified reinvested dividend—

"(A) notwithstanding section 307, the basis shall be zero, and

"(B) the holding period shall begin on the date the dividend would (but for this subsection) be includible in income.

"(8) ELECTION.—An election under this subsection with respect to any share shall be made on the shareholder's return for the taxable year in which the dividend would (but for this subsection) be includible in income. Any such election, once made, shall be revocable only with the consent of the Secretary. "(9) DISPOSITIONS WITHIN 1 YEAR OF DISTRIBUTION.—Under regulations prescribed by the Secretary—

"(A) DISPOSITION OF OTHER COMMON STOCK.—If—

"(i) a shareholder receives any qualified reinvested dividend from a corporation, and "(ii) during the period which begins on the record date for the qualified reinvested dividend and ends 1 year after the date of the distribution of such dividend, the shareholder disposes of any common stock of such corporation,

the shareholder shall be treated as having disposed of the stock received as a qualified reinvested dividend (to the extent there remains such stock to which this paragraph has not applied). "(B) ORDINARY INCOME TREATMENT.—If any stock received as a qualified reinvested dividend is disposed of within 1 year after the date such stock is distributed, such disposition shall be treated as a disposition of property which is not a capital asset.

"(10) NO REDUCTION IN EARNINGS AND PROFITS FOR DISTRIBUTION OF QUALIFIED COMMON STOCK.—The earnings and profits of any corporation shall not be reduced by reason of the distribution of any qualified common stock of such corporation pursuant to a plan under which shareholders may elect to receive dividends in the form of stock instead of property.

"(11) CERTAIN INDIVIDUALS INELIGIBLE.—

"(A) IN GENERAL.—This subsection shall not apply to any individual who is—

"(i) a trust or estate, or "(ii) a nonresident alien individual.

"(B) 5 PERCENT SHAREHOLDERS INELIGIBLE.—Any distribution by a corporation to a 5 percent shareholder in such corporation shall not be treated as a qualified reinvested dividend. "(C) 5 PERCENT SHAREHOLDER DEFINED.—For purposes of subparagraph (B), the term '5 percent shareholder' means any individual who, immediately before the distribution, owns (directly or through the application of section 318)—

"(i) stock possessing more than 5 percent of the total combined voting power of the distributing corporation, or "(ii) more than 5 percent of the total value of all classes of stock of the distributing corporation."

(b) AMENDMENT OF SECTION 305(d).—Paragraph (1) of section 305(d) (defining stock) is amended by striking out "this section" and inserting in lieu thereof "this section (other than subsection (e))". (c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1981, in taxable years ending after such date.

TITLE IV—ESTATE AND GIFT TAX PROVISIONS

Subtitle A—Increase in Unified Credit; Rate Reduction; Unlimited Marital Deduction

SEC. 401. INCREASE IN UNIFIED CREDIT.

(a) CREDIT AGAINST ESTATE TAX.—

(1) IN GENERAL.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking out "$47,000" and inserting in lieu thereof "$192,800".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 2010 is amended to read as follows:

(b) PHASE-IN OF CREDIT.—

"In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$192,800' the following amount:
1982	$62,800
1983	879,300
1984	96,300
1985	121,800
1986	155,800."

(B) Subsection (a) of section 6018 (relating to estate tax returns by executors) is amended—

(i) by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$600,000"; and

(ii) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) PHASE-IN OF FILING REQUIREMENT AMOUNT.—

"In the case of decedents dying in:	Paragraph (1) shall be applied by substituting for '$600,000' the following amount:
1982	$225,000
1983	275,000
1984	325,000
1985	400,000
1986	500,000."

(b) CREDIT AGAINST GIFT TAX.—

(1) IN GENERAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax) is amended by striking out "$47,000" and inserting in lieu thereof "$192,800".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 2505 is amended to read as follows:

(b) PHASE-IN OF CREDIT.—

"In the case of gifts made in:	Subsection (a)(1) shall be applied by substituting for '$192,800' the following amount:
1982	$62,800
1983	79,300
1984	96,300
1985	121,800
1986	155,800."

(c) EFFECTIVE DATES.—The amendments made—

(1) by subsection (a) shall apply to the estates of decedents dying after December 31, 1981, and

(2) by subsection (b) shall apply to gifts made after such date.

SEC. 402. REDUCTION IN MAXIMUM RATES OF TAX.

(a) 50 PERCENT MAXIMUM RATE.—Subsection (c) of section 2001 (relating to rate schedule) is amended by striking out the item beginning "Over $2,500,000" and all that follows and inserting in lieu thereof the following new item:

"Over $2,500,000	$1,025,800, plus 50% of the excess over $2,500,000.

(b) PHASE-IN OF 50 PERCENT MAXIMUM RATE.—Subsection (c) of section 2001 is amended—

(1) by striking out "(c) RATE SCHEDULE.—" and inserting in lieu thereof the following:

"(c) RATE SCHEDULE.—

"(1) IN GENERAL.—", and

(2) by adding at the end thereof the following new paragraph:

"(2) PHASEIN OF 50 PERCENT MAXIMUM RATE.—

"(A) IN GENERAL.—In the case of decedents dying, and gifts made, before 1985, there shall be substituted for the last item in the schedule contained in paragraph (1) the items determined under this paragraph.

"(B) FOR 1982.—In the case of decedents dying, and gifts made, in 1982, the substitution under this paragraph shall be as follows:

"Over $2,500,000 but not over $3,000,000.	$1,025,000, plus 53% of the excess over $2,500,000.
Over $3,000,000 but not over $3,500,000.	$1,290,000, plus 57% of the excess over $3,000,000.
Over $3,500,000 but not over $4,000,000.	$1,575,800, plus 61% of the excess over $3,500,000.
Over $4,000,000	$1,880,800 plus 65% of the excess over $4,000,000.

"(C) FOR 1983.—In the case of decedents dying, and gifts made, in 1983, the substitution under this paragraph shall be as follows:

"Over $2,500,000 but not over $3,000,000.	$1,025,800,000, plus 53% of the excess over $2,500,000.
Over $3,000,000 but not over $3,500,000.	$1,290,000, plus 57% of the excess over $3,000,000.
Over $3,500,000	$1,575,800, plus 60% of the excess over $3,500,000.

"(D) FOR 1984.—In the case of decedents dying, and gifts made, in 1984, the substitution under this paragraph shall be as follows:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,000, plus 55% of the excess over $3,000,000.

(c) ADJUSTMENTS IN COMPUTATION OF TAX FOR GIFTS MADE AFTER DECEMBER 31, 1976.—Paragraph (2) of section 2001(b) is amended to read as follows:

"(2) the aggregate amount of tax which would have been payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976, if the rate schedule set forth in subsection (c) (as in effect at the decedent's death) had been applicable at the time of such gifts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after, and gifts made after, December 31, 1981.

SEC. 403. UNLIMITED MARITAL DEDUCTION.

(a) ESTATE TAX DEDUCTION.—

(1) IN GENERAL.—Section 2056 (relating to bequests, etc., to surviving spouses) is amended—

(A) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(B) by striking out "subsections (b) and (c)" in subsection (a) and inserting in lieu thereof "subsection (b)".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 2012(b) (relating to credit for gift tax) is amended to read as follows:

"(2) if a deduction with respect to such gift is allowed under section 2056(a) (relating to marital deduction), then by the amount of such value, reduced as provided in paragraph (1); and".

(B) Paragraph (5) of section 2602(c) (relating to coordination with estate tax) is amended by striking out subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(C) Subparagraph (A) of section 691(c)(3) (relating to special rules for generation-skipping transfers) is amended by striking out "section 2602(c)(5)(C)" and inserting in lieu thereof "section 2602(c)(5)(B)".

(b) GIFT TAX DEDUCTION.—

(1) IN GENERAL.—Subsection (a) of section 2523 (relating to gift to spouse) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—Where a donor who is a citizen or resident transfers during the calendar year by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar year an amount with respect to such interest equal to its value."

(2) TECHNICAL AMENDMENT.—Section 2523 is amended by striking out subsection (f).

(3) CONFORMING AMENDMENTS.—

(A) So much of section 6019 (relating to gift tax returns) as follows the heading and precedes subsection (b) is amended to read as follows:

"Any individual who in any calendar year makes any transfer by gift other than—

"(1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year, or

"(2) a transfer of an interest with respect to which a deduction is allowed under section 2523,

shall make a return for such year with respect to the gift tax imposed by subtitle B."

(B) Paragraph (2) of section 2035(b) is amended by inserting "(other than by reason of section 6019(a)(2))" after "section 6019".

(c) ESTATE TAX ON PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.

(1) IN GENERAL.—Paragraph (2) of section 2040(b) (defining qualified joint interest) is amended to read as follows:

"(2) QUALIFIED JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as—

"(A) tenants by the entirety, or

"(B) joint tenants with right of survivorship, but only if the decedent and the spouse of the decedent are the only joint tenants."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 2040 is amended by striking out "joint tenants" each place it appears and inserting in lieu thereof "joint tenants with right of survivorship".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (c), (d), and (e) of section 2040 are hereby repealed.

(B) Section 2515 (relating to tenancies by the entirety in real property), section 2515A (relating to tenancies by the entirety in personal property), and subsection (c) of section 6019 (relating to gift tax return) are hereby repealed.

(C) The table of sections for subchapter B of chapter 12 (relating to transfers) is amended by striking out the items relating to sections 2515 and 2515A.

(d) ELECTION TO HAVE CERTAIN LIFE INTERESTS QUALIFY FOR MARITAL DEDUCTION.—

(1) ESTATE TAX.—Subsection (b) of section 2056 is amended by adding at the end thereof the following new paragraphs:

"(7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING SPOUSE.—

"(A) IN GENERAL.—In the case of qualified terminable interest property—

"(i) for purposes of subsection (a), such property shall be treated as passing to the surviving spouse, and

"(ii) for purposes of paragraph (1)(A), no part of such property shall be treated as passing to any person other than the surviving spouse.

"(B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified terminable interest property' means property—

"(I) which passes from the decedent,

"(II) in which the surviving spouse has a qualifying income interest for life, and

"(III) to which an election under this paragraph applies.

"(ii) QUALIFYING INCOME INTEREST FOR LIFE.—The surviving spouse has a qualifying income interest for life if—

"(I) the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, and

"(II) no person has a power to appoint

any part of the property to any person other than the surviving spouse.

Subclause (II) shall not apply to a power exercisable only at or after the death of the surviving spouse.

"(iii) PROPERTY INCLUDES INTEREST THEREIN.—The term 'property' includes an interest in property.

"(iv) SPECIFIC PORTION TREATED AS SEPARATE PROPERTY.—A specific portion of property shall be treated as separate property.

"(v) ELECTION.—An election under this paragraph with respect to any property shall be made by the executor on the return of tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(8) SPECIAL RULE FOR CHARITABLE REMAINER TRUSTS.—

"(A) IN GENERAL.—If the surviving spouse of the decedent is the only noncharitable beneficiary of a qualified charitable remainder trust, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) NONCHARITABLE BENEFICIARY.—The term 'noncharitable beneficiary' means any beneficiary of the qualified charitable remainder trust other than an organization described in section 170(c).

"(ii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder unitrust (described in section 664)."

(2) GIFT TAX.—Section 2523 is amended by adding at the end thereof the following new subsections:

"(f) ELECTION WITH RESPECT TO LIFE ESTATE FOR DONEE SPOUSE.—

"(1) IN GENERAL.—In the case of qualified terminable interest property—

"(A) for purposes of subsection (a), such property shall be treated as transferred to the donee spouse, and

"(B) for purposes of subsection (b)(1), no part of such property shall be considered as retained in the donor or transferred to any person other than the donee spouse.

"(2) QUALIFIED TERMINABLE INTEREST PROPERTY.—For purposes of this subsection, the term 'qualified terminable interest property' means any property—

"(A) which is transferred by the donor spouse,

"(B) in which the donee spouse has a qualifying income interest for life, and

"(C) to which an election under this subsection applies.

"(3) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, the rules of clauses (ii), (iii), and (iv) of section 2506(b)(7)(B) shall apply.

"(4) ELECTION.—An election under this subsection with respect to any property shall be made on the return of the tax imposed by section 2501 for the calendar year in which the interest was transferred. such an election, once made, shall be irrevocable.

"(g) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(1) IN GENERAL.—If, after the transfer, the donee spouse is the only noncharitable beneficiary (other than a beneficiary) of a qualified remainder trust, subsection (b) shall not apply to the interest in such trust which is transferred to the donee spouse.

"(2) DEFINITIONS.—For purposes of paragraph (1), the term 'noncharitable beneficiary' and 'qualified charitable remainder trust' have the meanings given to such terms by section 2056(b)(8)(B)."

(3) TREATMENT OF SPOUSE.—

(A) INCLUSION IN GROSS ESTATE.—

(i) IN GENERAL.—Part III of subchapter A of chapter 11 is amended by redesignating sections 2044 and 2045 as sections 2045 and 2046, respectively, and by inserting after section 2043 the following new section:

"SEC. 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED.

"(a) GENERAL RULE.—The value of the gross estate shall include the value of any property to which this section applies in which the decedent had a qualifying income interest for life.

"(b) PROPERTY TO WHICH THIS SECTION APPLIES.—This section applies to any property if a deduction was allowed with respect to the transfer of such property to the decedent—

"(1) under section 2056 by reason of subsection (b)(7) thereof, or

"(2) under section 2523 by reason of subsection (f) thereof."

(ii) The table of sections for part III of subchapter A of chapter 11 is amended by redesignating the items relating to sections 2044 and 2045 as sections 2045 and 2046, respectively, and by inserting after the item relating to section 2043 the following new item:

"SEC. 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED."

(B) GIFT TAX.—

(i) IN GENERAL.—Subchapter B of chapter 11 (relating to transfers) is amended by adding at the end thereof the following new section:

"SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES.

"(a) GENERAL RULE.—Any disposition of all or part of a qualifying income interest for life in any property to which this section applies shall be treated as a transfer of such property.

"(b) PROPERTY TO WHICH THIS SUBSECTION APPLIES.—This section applies to any property if a deduction was allowed with respect to the transfers of such property to the donor—

"(1) under section 2056 by reason of subsection (b)(7) thereof, or

"(2) under section 2523 by reason of subsection (f) thereof."

(ii) The table of sections for subchapter B of chapter 11 is amended by adding at the end thereof the following new item:

"SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES."

(4)(A) subchapter C of chapter 11 is amended by inserting after section 2207 the following new section:

"SEC. 2207A. RIGHT OF RECOVERY IN THE CASE OF CERTAIN MARITAL DEDUCTION PROPERTY.

"(a) RECOVERY WITH RESPECT TO ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate consists of property the value of which is includible in gross estate by reason of section 2044 (relating to certain property for which marital deduction was previously allowed), the decedent's estate shall be entitled to recover from the person receiving the property the amount by which—

"(A) the total tax under this chapter which has been paid, exceeds

"(B) the total tax under this chapter which would have been payable if the value of such property had not been included in the gross estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs by will.

"(b) RECOVERY WITH RESPECT TO GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2519, such person shall be entitled to recover from the person receiving the property the amount by which—

"(1) the total tax for such year under chapter 12, exceeds

"(2) the total tax which would have been payable under such chapter for such year if the value of such property had not been taken into account for purposes of chapter 12.

"(c) MORE THAN ONE RECIPIENT OF PROPERTY.—For purposes of this section, if there is more then one person receiving the property, the right of recovery shall be against each such person.

"(d) TAXES AND INTEREST.—In the case of penalties and interest attributable to additional taxes described in subsections (a) and (b), rules similar to subsections (a), (b), and (c) shall apply."

(B) The table of sections for subchapter C of chapter 11 is amended by inserting after the item relating to section 2207 the following new item:

"SEC. 2207A. RIGHT OF RECOVERY IN THE CASE OF CERTAIN MARITAL DEDUCTION PROPERTY."

"(e) EFFECTIVE DATES.—

(1) Except as otherwise provided in this sebsection, the amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

(2) The amendments made by paragraphs (1), (2), and (3)(A) of subsection (b), subparagraphs (B) and (C) of subsection (c)(3), and paragraphs (2) and (3)(B) of subsection (d) shall apply to gifts made after December 31, 1981.

(3) If—

(A) the decedent dies after December 31, 1981,

(B) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before the date which is 30 days after the date of the enactment of this Act, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(C) the formula referred to in subparagraph (B) was not amended to refer specifically to an unlimited marital deduction at any time after the date which is 30 days after the date of enactment of this Act, and before the death of the decedent, and

(D) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

Subtitle B—Other Estate Tax Provisions

SEC. 421. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

(a) INCREASE IN LIMITATION.—Paragraph (2) of section 2032A(a) (relating to limitation) is amended to read as follows:

"(2) LIMIT ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed the applicable limit set forth in the following table:

"In the case of decedents dying in:	The applicable limit is:
1981	$750,000
1982	875,000
1983 or thereafter	1,000,000."

(b) DEFINITION OF QUALIFIED REAL PROPERTY.—

(1) REQUIRED USE CAN BE BY MEMBER OF FAMILY.—Paragraph (1) of section 2032A(b) (defining qualified real property) is amended by inserting "by the decedent or a member of the decedent's family" after "qualified use" each place it appears.

(2) SPECIAL RULES FOR DECEDENTS WHO ARE RETIRED OR DISABLED AND FOR SURVIVING SPOUSES.—Subsection (b) of section 2032A is amended by adding at the end thereof the following new paragraphs:

"(4) DECEDENTS WHO ARE RETIRED OR DISABLED.—

"(A) IN GENERAL.—If, on the date of the decedent's death, the requirements of paragraph (1)(C)(ii) with respect to the decedent for any property are not met, and the decedent—

"(i) was receiving old-age benefits under title II of the Social Security Act for a continuous period ending on such date, or

"(ii) was disabled for a continuous period ending on such date,

then paragraph (1)(C)(ii) shall be applied with respect to such property by substituting 'the date on which the longer of such continuous periods began' for 'the date of the decedent's death' in paragraph (1)(C).

"(B) DISABLED DEFINED.—For purposes of subparagraph (A), an individual shall be disabled if such individual has a mental or physical impairment which renders him unable to materially participate in the operation of the farm or other business.

"(C) COORDINATION WITH RECAPTURE.—For purposes of subsection (c)(6)(B)(i), if the requirements of paragraph (1)(C)(ii) are met with respect to any decedent by reason of subparagraph (A), the period ending on the date on which the continuous period taken into account under subparagraph (A) began shall be treated as the period immediately before the decedent's death.

"(5) SPECIAL RULES FOR SURVIVING SPOUSES.—

"(A) IN GENERAL.—If property is qualified real property with respect to a decedent (hereinafter in this paragraph referred to as the 'first decedent') and such property was acquired from or passed from the first decedent to the surviving spouse of the first decedent, for purposes of applying this subsection and subsection (c) in the case of the estate of such surviving spouse, active management of the farm or other business by the surviving spouse shall be treated as material participation by such surviving spouse in the operation of such farm or business.

"(B) SPECIAL RULE.—For the purposes of subparagraph (A), the determination of whether property is qualified real property with respect to the first decedent shall be made without regard to subparagraph (D) of paragraph (1) and without regard to whether an election under this section was made."

(c) DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.—

(1) 10-YEAR RECAPTURE PERIOD.—

(A) IN GENERAL.—Paragraph (1) of section 2032A(c) (relating to tax treatment of dispositions and failures to use for qualified use) is amended by striking out "15 years" and inserting in lieu thereof "10 years".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (c) of section 2032A is amended by striking out paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(ii) Subparagraph (A) of paragraph (2) of section 2032A(h) (relating to treatment of replacement property) is amended by striking out all that follows "involuntarily converted" and inserting in lieu thereof the following: "; except that with respect to such qualified replacement property the 10-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property,".

(iii) Subparagraph (C) of such paragraph (2) is amended by striking out "(7)" and inserting in lieu thereof "(6)".

(2) CESSATION OF QUALIFIED USE.—

(A) IN GENERAL.—Subsection (c) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES.—

"(A) NO TAX IF USE BEGINS WITHIN 2 YEARS.—If the date on which the qualified heir begins to use the qualified real property (hereinafter in this subparagraph referred to as the commencement date) is before the date 2 years after the decedent's death—

"(i) no tax shall be imposed under paragraph (1) by reason of the failure by the qualified heir to so use such property before the commencement date, and

"(ii) the 10-year period under paragraph (1) shall be extended by the period after the decedent's death and before the commencement date.

"(B) ACTIVE MANAGEMENT BY ELIGIBLE QUALIFIED HEIR TREATED AS MATERIAL PARTICIPATION.—For purposes of paragraph (6)(B)(ii), the active management of a farm or other business by—

"(i) an eligible qualified heir, or

"(ii) a fiduciary of an eligible qualified heir described in clause (ii) or (iii) of subparagraph (C),

shall be treated as material participation by such eligible qualified heir in the operation of such farm or business. In the case of an eligible qualified heir described in clause (ii), (iii), or (iv) of subparagraph (C), the preceding sentence shall apply only during periods during which such heir meets the requirements of such clause.

"(C) ELIGIBLE QUALIFIED HEIR.—For purposes of this paragraph, the term 'eligible qualified heir' means a qualified heir who—

"(i) is the surviving spouse of the decedent,

"(ii) has not attained the age of 21,

"(iii) is disabled (within the meaning of subsection (b)(4)(B)), or

"(iv) is a student.

"(D) STUDENT.—For purposes of subparagraph (C), an individual shall be treated as a student with respect to periods during any calendar year if (and only if) such individual is a student (within the meaning of section 151(e)(4)) for such calendar year."

(B) CONFORMING AMENDMENTS.—

(i) Subsection (e) of section 2032A (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) ACTIVE MANAGEMENT.—The term 'active management' means the making of the management decisions of a business (other than the daily operating decisions)."

(ii) Paragraph (6) of section 2032A(c) (as redesignated by paragraph (1)) is amended by striking out "3 years or more" and inserting in lieu thereof "more than 3 years".

(d) EXCHANGE OF QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—Section 2032A (relating to valuation of certain farm, etc., real property) is amended by adding at the end thereof the following new subsection:

"(i) EXCHANGES OF QUALIFIED REAL PROPERTY.—

"(1) TREATMENT OF PROPERTY EXCHANGED.—

"(A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.—If an interest in qualified real property is exchanged solely for an interest in qualified exchange property in a transaction which qualifies under section 1031, no tax shall be imposed by subsection (c) by reason of such exchange.

"(B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.—If an interest in qualified real property is exchanged for an interest in qualified exchange property and other property in a transaction which qualifies under section 1031, the amount of the tax imposed by subsection (c) by reason of such exchange shall be the amount of tax which (but for this subparagraph) would have been imposed on such exchange under subsection (c)(1), reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the fair market value of the other property bears to the fair market value of the qualified real property exchanged.

For purposes of clause (ii) of the preceding sentence, fair market value shall be determined as of the time of the exchange.

"(2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.—For purposes of subsection (c)—

"(A) any interest in qualified exchange property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was exchanged,

"(B) any tax imposed by subsection (c) by reason of the exchange shall be treated as a tax imposed on a partial disposition, and

"(C) paragraph (6) of subsection (c) shall be applied by treating material participation with respect to the exchanged property as material participation with respect to the qualified exchange property.

"(3) QUALIFIED EXCHANGE PROPERTY.—For purposes of this subsection, the term 'qualified exchange property' means real property which is to be used for the qualified use set forth in subparagraph (A), (B), or (C) of subsection (b)(2) under which the real property exchanged therefor originally qualified under subsection (a)."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 2032A(f) (relating to statute of limitations) is amended—

(i) by inserting "or exchange" after "conversion",

(ii) by inserting "or (i)" after "(h)", and

(iii) by inserting "or of the exchange of property" after "replace".

(B) Paragraph (2) of section 6324B(c) (relating to special liens) is amended by inserting "and qualified exchange property (within the meaning of section 2032A(i)(3))" before the period at the end thereof.

(e) ELECTION REQUIREMENT OF SPECIAL RULES FOR INVOLUNTARY CONVERSIONS REPEALED.—

(1) IN GENERAL.—Section 2032A(h) (relating to special rules for involuntary conversions of qualified real property) is amended—

(A) by striking out "and the qualified heir makes an election under this subsection" in paragraph (1)(A); and

(B) by striking out paragraph (5).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 2032A(f) is amended by striking out "to which an election under subsection (h)" and inserting in lieu thereof "to which subsection (h)".

(f) METHOD OF VALUING FARMS.—

(1) Paragraph (7) of section 2032A(e) (relating to method of valuing farms) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) VALUE BASED ON NET SHARE RENTAL IN CERTAIN CASES.—

"(i) IN GENERAL.—If there is no comparable land from which the average annual gross cash rental may be determined but there is comparable land from which the average net share rental may be determined, subparagraph (A)(i) shall be applied by substituting 'average net share rental' for 'average gross cash rental'.

"(ii) NET SHARE RENTAL.—For purposes of this paragraph, the term 'net share rental' means the excess of—

"(I) the value of the produce received by the lessor of the land on which such produce is grown, over

"(II) the cash operating expenses of growing such produce which, under the lease, are paid by the lessor."

(2) Subparagraph (C) of section 2032A(e)(7) (as redesignated by paragraph (1)) is amended by inserting after "determined" the following: "and that there is no comparable land from which the average net share rental may be determined".

(g) BASIS INCREASE WHERE RECAPTURE.—Subsection (c) of section 1016 (relating to adjustments to basis) is amended to read as follows:

"(c) INCREASE IN BASIS OF PROPERTY ON WHICH ADDITIONAL ESTATE TAX IS IMPOSED.—

"(1) TAX IMPOSED WITH RESPECT TO ENTIRE INTEREST.—If an additional estate tax is imposed under section 2032A(c)(1) with respect to any interest in property and the qualified heir makes an election under this subsection with respect to the imposition of such tax, the adjusted basis of such interest shall be increased by an amount equal to the excess of—

"(A) the fair market value of such interest on the date of the decedent's death (or the alternate valuation date under section 2032, if the executor of the decedent's estate elected the application of such section), over

"(B) the value of such interest determined under section 2032A(a).

"(2) PARTIAL DISPOSITIONS.—

"(A) IN GENERAL.—In the case of any partial disposition for which an election under this subsection is made, the increase in basis under paragraph (1) shall be an amount—

"(i) which bears the same ratio to the increase which would be determined under paragraph (1) (without regard to this paragraph) with respect to the entire interest, as

"(ii) the amount of the tax imposed under section 2032A(c)(1) with respect to such disposition bears to the adjusted tax difference attributable to the entire interest (as determined under section 2032A(c)(2)(B)).

"(B) PARTIAL DISPOSITION.—For purposes of subparagraph (A), the term 'partial disposition' means any disposition or cessation to which subsection (c)(2)(D), (h)(1)(B), or (i)(1)(B) of section 2032A applies.

"(3) TIME ADJUSTMENT MADE.—Any increase in basis under this subsection shall be deemed to have occurred immediately before the disposition or cessation resulting in the imposition of the tax under section 2032A(c)(1).

"(4) SPECIAL RULE IN THE CASE OF SUBSTITUTED PROPERTY.—If the tax under section 2032A(c)(1) is imposed with respect to qualified replacement property (as defined in section 2032A(h)(3)(B)) or qualified exchange property (as defined in section 2032A(i)(3)), the increase in basis under paragraph (1) shall be made by reference to the property involuntarily converted or exchanged (as the case may be).

"(5) ELECTION.—

"(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

"(B) INTEREST ON RECAPTURED AMOUNT.—If an election is made under this subsection with respect to any additional estate tax imposed under section 2032A(c)(1), for purposes of section 6601 (relating to interest on underpayments), the last date prescribed for payment of such tax shall be deemed to be the last date prescribed for payment of the tax imposed by section 2001 with respect to the estate of the decedent (as determined for purposes of section 6601)."

(h) SPECIAL RULES FOR WOODLANDS.—

(1) USE AS WOODLAND TREATED AS QUALIFIED USE.—

(A) Paragraph (2) of section 2032A(b) (defining qualified use) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) use as a farm for farming purposes,

"(B) use in timber operations in a trade or business, or

"(C) use in a trade or business other than the trade or business of farming or timber operations."

(B) Subparagraph (C) of section 2032A(e)(5) is amended to read as follows:

"(C) timber operations but only if such operations are incidental to other farming operations."

(2) VALUE OF TIMBER INCLUDED IN VALUATION; ACTIVE MANAGEMENT TREATED AS MATERIAL PARTICIPATION.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(13) SPECIAL RULES FOR WOODLANDS.—

"(A) IN GENERAL.—In the case of any qualified woodland with respect to which the executor elects to have this subparagraph apply—

"(i) trees growing on such woodland shall not be treated as a crop, and

"(ii) active management in the operation of such woodland shall be treated as material participation in the operation of such woodland.

"(B) QUALIFIED WOODLAND.—The term 'qualified woodland' means any real property which—

"(i) is used in timber operations, and

"(ii) is an identifiable area of land such as an acre or other area for which records are normally maintained in conducting timber operations.

"(C) TIMBER OPERATIONS.—The term 'timber operations' means—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market.

"(D) ELECTION.—An election under subparagraph (A) shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable."

(3) RECAPTURE UPON DISPOSITION OF TIMBER.—Paragraph (2) of section 2032A(c) (relating to amount of additional tax) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR DISPOSITION OF TIMBER.—In the case of qualified woodland to which an election under subsection (e)(13)(A) applies, if the qualified heir disposes of (or severs) any standing timber on such qualified woodland—

"(i) such disposition (or severance) shall be treated as a disposition of a portion of the interest of the qualified heir in such property, and

"(ii) the amount of the additional tax imposed by paragraph (1) with respect to such disposition shall be an amount equal to the lesser of—

"(I) the amount realized on such disposition (or, in any case other than a sale or exchange at arm's length, the fair market value of the portion of the interest disposed or severed), or

"(II) the amount of additional tax determined under this paragraph (without regard to this subparagraph) if the entire interest of the qualified heir in the qualified woodland had been disposed of, less the sum of the amount of the additional tax imposed with respect to all prior transactions involving such woodland to which this subparagraph applied.

For purposes of the preceding sentence, the disposition of a right to sever shall be treated as the disposition of the standing timber. The amount of additional tax imposed under paragraph (1) in any case in which a qualified heir disposes of his entire interest in the qualified woodland shall be reduced by any amount determined under this subparagraph with respect to such woodland."

(i) DEFINITION OF FAMILY MEMBER.—Paragraph (2) of section 2032A(e) (defining member of family) is amended to read as follows:

"(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only—

"(A) an ancestor of such individual,

"(B) the spouse of such individual,

"(C) a lineal descendant of such individual, of such individual's spouse, or of a parent of such individual, or

"(D) the spouse of any lineal descendant described in subparagraph (C).

For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood."

(j) MISCELLANEOUS AMENDMENTS.—

(1) PROPERTY TRANSFERRED TO CERTAIN DISCRETIONARY TRUSTS.—Subsection (g) of section 2032A (relating to application of section 2032A and section 6324B to interests in partnerships, corporations, and trusts) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, an interest in a discretionary trust all the beneficiaries of which are qualified heirs shall be treated as a present interest."

(2) PARENTS MAY MAKE ELECTION FOR CHILDREN IN CERTAIN CASES.—Paragraph (2) of section 2032A(d) (relating to agreement) is amended by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, if (but for this sentence) no person would be empowered to sign the agreement for a minor, a custodial parent may sign such an agreement on behalf of such minor. Such signature shall be binding for purposes of this section."

(3) PROPERTY PURCHASED FROM DECEDENT'S ESTATE ELIGIBLE FOR SPECIAL VALUATION.—

(A) IN GENERAL.—Paragraph (9) of section 2032A(e) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such property is acquired by any person from the estate, or

"(C) such property is acquired by any person from a trust (to the extent such property is includible in the gross estate of the decedent)."

(B) NONRECOGNITION OF GAIN.—The section heading and subsections (a) and (b) of section 1040 are amended to read as follows:

"SEC. 1040. TRANSFER OF CERTAIN FARM, ETC., REAL PROPERTY.

"(a) GENERAL RULE.—If the executor of the estate of any decedent transfers to a qualified heir (within the meaning of section 2032A(e)(1)) any property with respect to which an election was made under section 2032A, then gain on such transfer shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where the trustee of a trust (any portion of which is included in the gross estate of the decedent) transfers property with respect to which an election was made under section 2032A."

(C) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1040 and inserting in lieu thereof the following:

"Sec. 1040. Transfer of certain farm, etc., real property."

(4) ELECTION MAY BE MADE ON LATE RETURNS.—Paragraph (1) of section 2032A(d) (relating to election) is amended to read as follows:

"(1) ELECTION.—The election under this section shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable."

(5) TREATMENT OF REPLACEMENT PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(14) TREATMENT OF REPLACEMENT PROPERTY ACQUIRED IN SECTION 1031 OR 1033 TRANSACTIONS.—

"(A) IN GENERAL.—In the case of any qualified replacement property, any period during which there was ownership, qualified use, or material participation with respect to the replaced property by the decedent or any member of his family shall be treated as a period during which there was such ownership, use, or material participation (as the case may be) with respect to the qualified replacement property.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that the fair market value of the qualified replacement property (as of the date of its acquisition) exceeds the fair market value of the replaced property (as of the date of its disposition).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means any real property which is—

"(I) acquired in an exchange which qualifies under section 1031, or

"(II) the acquisition of which results in the nonrecognition of gain under section 1033.

Such term shall only include property which is used for the same qualified use as the replaced property was being used before the exchange.

"(ii) REPLACED PROPERTY.—The term 'replaced property' means—

"(I) the property transferred in the exchange which qualifies under section 1031, or

"(II) the property compulsorily or involuntarily converted (within the meaning of section 1033)."

(6) TREATMENT OF STATE RECAPTURE TAXES.—Paragraph (2) of section 2032A(c) is amended by adding at the end thereof the following new subparagraph:

"(F) TREATMENT OF STATE RECAPTURE TAXES.—

"(i) IN GENERAL.—If any State recapture tax is imposed with respect to any disposition (or cessation) of an interest in qualified real property, for purposes of applying this subsection to such disposition (or cessation) and subsequent dispositions (or cessations), the adjusted tax difference attributable to the interest involved shall be reduced by the creditable recapture tax.

"(ii) CREDITABLE RECAPTURE TAX.—For purposes of clause (i), the term 'creditable recapture tax' means the lesser of—

"(I) the State recapture tax, or

"(II) the excess credit limitation reduced by any State recapture tax imposed with respect to prior dispositions (or cessations).

"(iii) EXCESS CREDIT LIMITATION.—For purposes of this subparagraph, the term 'excess credit limitation' means the excess of the limitation determined under section 2011(b) (determined without regard to section 2011(c)) with respect to the estate of the decedent over the credit allowed by section 2011(a).

"(iv) STATE RECAPTURE TAX.—For purposes of this subparagraph, the term 'State recapture tax' means any tax actually paid to any State which is similar to the tax imposed by this subsection."

(k) PROCEDURE FOR BINDING DETERMINATION OF FAIR MARKET VALUE.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7479. PROCEDURE FOR BINDING DETERMINATION OF FAIR MARKET VALUE OF SPECIAL VALUATION PROPERTY.

"(a) ADMINISTRATIVE AUDIT.—

"(1) DESIGNATION BY EXECUTOR.—An executor may request the Secretary to audit the fair market value of any special valuation property which is shown on the return of the tax imposed by chapter 11. Any such request shall be made on such return. Any request so made may be withdrawn only with the consent of the Secretary.

"(2) AUTHORITY OF THE SECRETARY.—For purposes of examining the correctness of the fair market value of any special valuation property, the Secretary shall have the same authority as if he were determining the liability of any person for a tax imposed by this title.

"(b) JUDICIAL REVIEW.—

"(1) BRINGING OF ACTION.—If the executor and the Secretary have not entered into an agreement described in subsection (c)(2) with respect to any special valuation property, the executor may bring an action in the Tax Court with respect to such property.

"(2) DECLARATION BY TAX COURT.—Upon the filing of an appropriate pleading in an action brought under paragraph (1), the Tax Court may make a declaration of the fair market value of property with respect to which such an action is brought. Any such declaration shall be final and conclusive and shall not be reviewed by any other court.

"(3) TIME FOR BRINGING ACTION.—

"(A) DURING FIRST 18 MONTHS.—No action may be brought under this subsection with respect to any property during the 18-month period which begins on the date on which the executor made a request under subsection (a)(1) with respect to such property unless the pleading is filed on or after the notification date.

"(B) PLEADING MUST BE FILED WITHIN THE 90-DAY PERIOD BEGINNING ON NOTIFICATION DATE.—No action may be brought under this subsection with respect to any property for which a notification date has occurred unless the pleading is filed within the 90-day period beginning on the notification date.

"(C) NOTIFICATION DATE DEFINED.—For purposes of this paragraph, the term 'notification date' means the day on which the Secretary sends by certified or registered mail a notification of his disagreement with the fair market value of the property shown on the return of the tax imposed by chapter 11.

"(c) BINDING EFFECT OF DETERMINATIONS.—

"(1) NOTICE FROM SECRETARY.—If—

"(A) an executor makes a request under subsection (a)(1) with respect to the fair market value of any property, and

"(B) before the date 3 years after the day on which such request is made, the Secretary sends to the executor by certified or registered mail notice of his disagreement with the fair market value of such property shown on the return of the tax imposed by chapter 11 together with his determination of such fair market value,

then the fair market value as so determined by the Secretary shall be binding and conclusive on the Secretary and on any qualified heir unless the executor brings an action in the Tax Court as provided, and within the period prescribed by subsection (b), or unless any such qualified heir establishes a different fair market value to the satisfaction of the Secretary.

"(2) NO NOTICE FROM SECRETARY.—If—

"(A) an executor makes a request under subsection (a)(1) with respect to the fair market value of any property, and

"(B) before the date 3 years after the day on which such request is made, the Secretary does not send to the executor by certified or registered mail notice of his disagreement with the fair market value of such property shown on the return of the tax imposed by chapter 11,

then the fair market value so shown shall be binding and conclusive on the Secretary and on any qualified heir unless any such qualified heir establishes a different fair market value to the satisfaction of the Secretary.

"(3) AGREEMENT BETWEEN SECRETARY AND EXECUTOR.—If the executor and the Secretary sign a written agreement as to the fair market value of any property with respect to which the executor made a request under subsection (a)(1), such agreement shall be binding and conclusive on the Secretary and on any qualified heir in the same manner as if such agreement were a closing agreement under section 7121 between the Secretary and such qualified heir.

"(4) TAX COURT DECISION BINDING ON HEIRS.—Any declaration of the fair market

value of any property made by the Tax Court which has become final shall also be binding on any qualified heir.

"(d) INTERVENTION.—Any qualified heir shall be allowed to intervene in any administrative or judicial proceeding under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) FAIR MARKET VALUE.—The term 'fair market value' means fair market value on the date of the decedent's death (or, the alternate valuation date under section 2032, if the executor of the decedent's estate elected the application of such section).

"(2) SPECIAL VALUATION PROPERTY.—The term 'special valuation property' means any real property to which an election under section 2032A applies.

"(3) QUALIFIED HEIR.—The term 'qualified heir' means any person who is a qualified heir (within the meaning of section 2032A(e)(1)) with respect to the estate of the decedent."

(2) COMMISSIONERS.—Subsection (c) of section 7456 (relating to Tax Court commissioners) is amended by striking out "and 7478" and inserting in lieu thereof "7478, and 7479".

(3) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Sec. 7479. Procedure for binding determination of fair market value of special valuation property."

(l) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to the estates of decedents dying after December 31, 1981.

(2) INCREASE IN LIMITATION.—The amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1980.

(3) SUBSECTION (d).—The amendments made by subsection (d) shall apply with respect to exchanges after December 31, 1981.

(4) SUBSECTION (e).—The amendments made by subsection (e) shall apply with respect to involuntary conversions after December 31, 1981.

(5) CERTAIN AMENDMENTS MADE RETROACTIVE TO 1976.—

(A) IN GENERAL.—The amendments made by subsections (b)(1), (c)(2), (j)(1), and (j)(3) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) TIMELY ELECTION REQUIRED.—Subparagraph (A) shall only apply in the case of an estate if a timely election under section 2032A was made with respect to such estate. If the time for making an election under section 2032A with respect to any estate would have otherwise expired after July 28, 1980, the time for making such election shall not expire before the date 6 months after the date of the enactment of this Act.

(C) REINSTATEMENT OF ELECTIONS.—If any election under section 2032A was revoked before the date of the enactment of this Act, such election may be reinstated within 6 months after the date of the enactment of this Act.

(D) STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) the making of a credit or refund of any overpayment of tax resulting from the amendments described in subparagraph (A) is barred by any law or rule of law, such credit or refund shall nevertheless be made if claim therefor is made before the date 6 months after such date of enactment.

SEC. 422. COORDINATION OF EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 6166(a) (relating to alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking out "65 percent" and inserting in lieu thereof "35 percent".

(2) INTERESTS IN 2 OR MORE CLOSELY HELD BUSINESSES.—Subsection (c) of section 6166 (relating to interests in 2 or more closely held businesses) is amended by striking out "more than 20 percent" and inserting in lieu thereof "20 percent or more".

(b) COORDINATION WITH SECTION 303.—

(1) IN GENERAL.—Subparagraph (A) of section 303(b)(2) (relating to relationship of stock to decedent's estate) is amended by striking out "50 percent" and inserting in lieu thereof "35 percent".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 303(b)(2) is amended to read as follows:

"(B) SPECIAL RULE FOR STOCK IN 2 OR MORE CORPORATIONS.—For purposes of subparagraph (A), stock of 2 or more corporations, with respect to each of which there is included in determining the value of the decedent's gross estate 20 percent or more in value of the outstanding stock, shall be treated as the stock of a single corporation. For purposes of the 20-percent requirement of the preceding sentence, stock which, at the decedent's death, represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate."

(c) ACCELERATION OF PAYMENT.—

(1) AMOUNT OF DISPOSITION.—Subparagraph (A) of section 6166(g)(1) (relating to acceleration of payment in the case of disposition of interest or withdrawal of funds from business) is amended to read as follows:

"(A) If—

"(i)(I) any portion of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

"(II) money and other property attributable to such an interest is withdrawn from such trade or business, and

"(ii) the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 50 percent of the value of such interest,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary."

(2) FAILURE TO MAKE PAYMENTS.—Paragraph (3) of section 6166(g) (relating to failure to pay installments) is amended to read as follows:

"(3) FAILURE TO MAKE PAYMENT OF PRINCIPAL OR INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any payment of principal or interest under this section is not paid on or before the date fixed for its payment by this section (including any extension of time), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(B) PAYMENT WITHIN 6 MONTHS.—If any payment of principal or interest under this section is not paid on or before the date determined under subparagraph (A) but is paid within 6 months of such date—

"(i) the provisions of subparagraph (A) shall not apply with respect to such payment,

"(ii) the provisions of section 6601(j) shall not apply with respect to the determination of interest on such payment, and

"(iii) there is imposed a penalty in an amount equal to the product of—

"(I) 5 percent of the amount of such payment, multiplied by

"(II) the number of months (or fractions thereof) after such date and before payment is made.

The penalty imposed under clause (iii) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68."

(3) NO DISQUALIFICATION IN CASE OF SUBSEQUENT DEATHS.—Subparagraph (D) of section 6166(g)(1) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of a series of subsequent transfers of the property by reason of death so long as each transfer is to a member of the family (within the meaning of section 267(c)(4)) of the transferor in such transfer."

(d) DECLARATORY JUDGMENT PROCEEDINGS.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7480. DECLARATORY JUDGMENTS RELATING TO SECTION 6166.

"(a) IN GENERAL.—In the case of an actual controversy involving—

"(1) whether an estate is eligible for the extension of time for payment of the estate tax provided by section 6166,

"(2) the amount of the adjusted gross estate determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed), or

"(3) whether there is an acceleration of the time for payment under paragraph (1), (2), or (3) of section 6166(g),

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such issue. Any such declaration shall be final and conclusive and shall not be reviewed by any other court.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the executor of the decedent's estate.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment under this section unless it determines in any proceeding that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination of an issue described in subsection (a), no proceeding may be initiated under this section with respect to such issue unless the pleading is filed before the 91st day after the date of such mailing."

(2) COMMISSIONERS.—Subsection (c) of section 7456 (relating to Tax Court commissioners) is amended by striking out "and 7479" and inserting in lieu thereof "7479, and 7480".

(3) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter C of

chapter 76 is amended by adding at the end thereof the following new item:

"Sec. 7480. Declaratory judgments relating to section 6166."

(e) REPEAL OF SECTION 6166A.—Section 6166A (relating to extension of time for payment of estate tax where estate consists largely of interest in a closely held business) is hereby repealed.

(f) TECHNICAL AMENDMENTS.—

(1) Sections 303(b)(1)C), 2204(c), and 6161(a)(2)(B) are each amended by striking out "or 6166A" each place it appears.

(2) Paragraph (2) of section 2011(c) is amended by striking out "6161, 6166 or 6166A" and inserting in lieu thereof "6161 or 6166".

(3) Subsections (a) and (b) of section 2204 are each amended by striking out "6166 or 6166A" and inserting in lieu thereof "or 6166".

(4) Subsection (b) of section 2621 is amended—

(A) by striking out "sections 6166 and 6166A (relating to extensions" and inserting in lieu thereof "section 6166 (relating to extension", and

(B) by striking out "SECTIONS 6166 AND 6166A" in the subsection heading and inserting in lieu thereof "SECTION 6166".

(5)(A) Subsection (a) of section 6166 is amended by striking out paragraph (4).

(B) The section heading for section 6166 is amended by striking out "ALTERNATE".

(C) The table of sections for subchapter B of chapter 62 is amended by striking out the items relating to sections 6166 and 6166A and inserting in lieu thereof the following:

"Sec. 6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business."

(6)(A) Subsections (a), (c)(2), and (e) of section 6324A are each amended by striking out "or 6166A" each place it appears.

(B) Paragraphs (3) and (5) of section 6324A(d) are each amended by striking out "or 6166A(h)".

(C) The section heading for section 6324A is amended by striking out "or 6166a".

(D) The table of sections for subchapter C of chapter 64 is amended by striking out "or 6166A" in the item relating to section 6324A.

(7) Subsection (d) of section 6503 is amended by striking out "6163, 6166, or 6166A" and inserting in lieu thereof "6163 or 6166".

(8) Subsection (a) of section 7403 is amended by striking out "or 6166A(h)".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

(2) ACCELERATION BY REASON OF SUBSEQUENT DEATH.—The amendment made by subsection (c)(3) shall apply to transfers after December 31, 1981.

SEC. 423. TREATMENT OF CERTAIN CONTRIBUTIONS OF WORKS OF ART, ETC.

(a) ESTATE TAX.—Subsection (e) of section 2055 (relating to disallowance of deduction in certain cases) is amended by adding at the end thereof the following new paragraph:

"(4) WORKS OF ART AND THEIR COPYRIGHTS TREATED AS SEPARATE PROPERTIES IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of a qualified contribution of a work of art, the work of art and the copyright on such work of art shall be treated as separate properties for purposes of paragraph (2).

"(B) WORK OF ART DEFINED.—For purposes of this paragraph, the term 'work of art' means any tangible personal property with respect to which there is a copyright under Federal law.

"(C) QUALIFIED CONTRIBUTION DEFINED.—For purposes of this paragraph, the term 'qualified contribution' means any transfer of property to a qualified organization if the use of the property by the organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(D) QUALIFIED ORGANIZATION DEFINED.—For purposes of this paragraph, the term 'qualified organization' means any organization described in section 501(c)(3) other than a private foundation (as defined in section 509). For purposes of the preceding sentence, a private operating foundation (as defined in section 4942(j)(3)) shall not be treated as a private foundation."

(b) GIFT TAX.—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

"(3) Rules similar to the rules of section 2055(e)(4) shall apply for purposes of paragraph (2)."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to the estates of decedents dying after December 31, 1981.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to transfers after December 31, 1981.

SEC. 424. GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH NOT INCLUDED IN GROSS ESTATE.

(a) GENERAL RULE.—Section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding at the end thereof the following new subsection:

"(d) DECEDENTS DYING AFTER 1981.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, subsection (a) shall not apply to the estate of a decedent dying after December 31, 1981.

"(2) EXCEPTIONS FOR CERTAIN TRANSFERS.—Paragraph (1) shall not apply to a transfer of an interest in property which is included in the value of the gross estate under section 2036, 2037, 2038, 2041, or 2042 or would have been included under any of such sections if such interest had been retained by the decedent.

"(3) 3-YEAR RULE RETAINED FOR CERTAIN PURPOSES.—Paragraph (1) shall not apply for purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farm, etc., real property),

"(C) section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business), and

"(D) subchapter C of chapter 64 (relating to lien for taxes)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after December 31, 1981.

SEC. 425. BASIS OF CERTAIN APPRECIATED PROPERTY TRANSFERRED TO DECEDENT BY GIFT WITHIN 3 YEARS OF DEATH.

(a) GENERAL RULE.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(e) APPRECIATED PROPERTY ACQUIRED BY DECEDENT BY GIFT WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—In the case of a decedent dying after December 31, 1981, if—

"(A) appreciated property was acquired by the decedent by gift during the 3-year period ending on the date of the decedent's death, and

"(B) such property is acquired from the decedent by (or passes from the decedent to) the donor of such property (or the spouse of such donor),

the basis of such property in the hands of such donor (or spouse) shall be the adjusted basis of such property in the hands of the decedent immediately before the death of the decedent.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) APPRECIATED PROPERTY.—The term 'appreciated property' means any property if the fair market value of such property on the day it was transferred to the decedent by gift exceeds its adjusted basis.

"(B) TREATMENT OF CERTAIN PROPERTY SOLD BY ESTATE.—In the case of any appreciated property described in subparagraph (A) of paragraph (1) sold by the estate of the decedent, rules similar to the rules of paragraph (1) shall apply to the extent the donor of such property (or the spouse of such donor) is entitled to the proceeds from such sale."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired by decedents after December 31, 1981.

SEC. 426. DISCLAIMERS.

(a) IN GENERAL.—Subsection (c) of section 2518 (relating to disclaimers) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN TRANSFERS TREATED AS DISCLAIMERS.—For purposes of subsection (a), a written transfer of the transferor's entire interest in the property—

"(A) which meets requirements similar to the requirements of paragraphs (2) and (3) of subsection (b), and

"(B) which is to a person or persons who would have received the property had the transferor made a qualified disclaimer (within the meaning of subsection (b)),

shall be treated as a qualified disclaimer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1981.

SEC. 427. REPEAL OF DEDUCTION FOR BEQUESTS, ETC., TO CERTAIN MINOR CHILDREN.

(a) IN GENERAL.—Section 2057 (relating to bequests, etc., to certain minor children) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2057.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1981.

Subtitle C—Other Gift Tax Provisions

SEC. 441. INCREASE IN ANNUAL GIFT TAX EXCLUSION; UNLIMITED EXCLUSION FOR CERTAIN TRANSFERS.

(a) INCREASE IN ANNUAL EXCLUSION.—Subsection (b) of section 2503 (relating to annual gift tax exclusion) is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

(b) UNLIMITED EXCLUSION FOR CERTAIN TRANSFERS.—Section 2503 (defining taxable gifts) is amended by adding at the end thereof the following new subsection:

"(e) EXCLUSION FOR CERTAIN TRANSFERS FOR EDUCATIONAL EXPENSES OR MEDICAL EXPENSES.—

"(1) IN GENERAL.—Any qualified transfer shall not be treated as a transfer of property by gift for purposes of this chapter.

"(2) QUALIFIED TRANSFER.—For purposes of this subsection, the term 'qualified transfer' means any amount paid on behalf of an individual—

"(A) as tuition to an educational organization described in section 170(b)(1)(A)(ii) for the education or training of such individual, or

"(B) to any person who provides medical care (as defined in section 213(e)) with respect to such individual as payment for such medical care."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers after December 31, 1981.

(2) TRANSITIONAL RULE.—If—

(A) an instrument executed before the date which is 30 days after the date of the enactment of this Act provides for a power of appointment which may be exercised during any period after December 31, 1981,

(B) such power of appointment is expressly defined in terms of, or by reference to, the amount of the gift tax exclusion under section 2503(b) of the Internal Revenue Code of 1954 (or the corresponding provision of prior law),

(C) the instrument described in subparagraph (A) has not been amended on or after the date which is 30 days after the date of the enactment of this Act, and

(D) the State has not enacted a statute applicable to such gift under which such power of appointment is to be construed as being defined in terms of, or by reference to, the amount of the exclusion under such section 2503(b) after its amendment by subsection (a),

then the amendment made by subsection (a) shall not apply to such gift.

SEC. 442. TIME FOR PAYMENT OF GIFT TAXES.

(a) AMENDMENTS TO SUBCHAPTER A OF CHAPTER 12.—

(1) SECTION 2501.—Subsection (a) of section 2501 (relating to imposition of gift tax) is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(2) SECTION 2502.—Section 2502 (relating to rate of tax) is amended to read as follows:

"SEC. 2502. RATE OF TAX.

"(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar year shall be an amount equal to the excess of—

"(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar year and for each of the preceding calendar periods, over

"(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar periods.

"(b) PRECEDING CALENDAR PERIOD.—Whenever used in this title in connection with the gift tax imposed by this chapter, the term 'preceding calendar period' means—

"(1) calendar years 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970,

"(2) the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the first calendar quarter of calendar year 1982, and

"(3) all calendar years after 1981 and before the calendar year for which the tax is being computed.

For purposes of paragraph (1), the term 'calendar year 1932' includes only that portion of such year after June 6, 1932.

"(c) TAX TO BE PAID BY DONOR.—The tax imposed by section 2501 shall be paid by the donor."

(3) SECTION 2503.—

(A) Subsection (a) of section 2503 is amended to read as follows:

"(a) GENERAL DEFINITION.—The term 'taxable gifts' means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C (section 2522 and following)."

(B) The first sentence of subsection (b) of section 2503 is amended to read as follows: "In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year, the first $10,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year."

(4) SECTION 2504.—

(A) Subsection (a) of section 2504 is amended to read as follows:

"(a) IN GENERAL.—In computing taxable gifts for preceding calendar periods for purposes of computing the tax for any calendar year—

"(1) there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the calendar period in which the transfers were made,

"(2) there shall be allowed such deductions as were provided for under such laws, and

"(3) the specific exemption in the amount (if any) allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of preceding calendar periods ending before January 1, 1977, for purposes of computing the tax for any calendar year."

(B) Subsection (b) of section 2504 is amended—

(i) by striking out "preceding calendar years and calendar quarters" and inserting in lieu thereof "preceding calendar periods",

(ii) by striking out "the years and calendar quarters" and inserting in lieu thereof "the periods",

(iii) by striking out "such years and calendar quarters" and inserting in lieu thereof "such preceding calendar periods", and

(iv) by striking out "PRECEDING YEARS AND QUARTERS" in the subsection heading and inserting in lieu thereof "PRECEDING CALENDAR PERIODS".

(C) Subsection (c) of section 2504 is amended—

(i) by striking out "preceding calendar year or calendar quarter" each place it appears and inserting in lieu thereof "preceding calendar period",

(ii) by striking out "under this chapter for any calendar quarter" and inserting in lieu thereof "under this chapter for any calendar year",

(iii) by striking out "section 2502(c)" and inserting in lieu thereof "section 2502(b)", and

(iv) by striking out "PRECEDING CALENDAR YEARS AND QUARTERS" in the subsection heading and inserting in lieu thereof "PRECEDING CALENDAR PERIODS".

(D) The section heading for section 2504 is amended by striking out "preceding years and quarters" and inserting in lieu thereof "preceding calendar periods".

(E) The table of sections for subchapter A of chapter 12 is amended by striking out "preceding years and quarters" in the item relating to section 2504 and inserting in lieu thereof "preceding calendar periods".

(5) SECTION 2505.—

(A) Subsection (a) of section 2505 is amended—

(i) by striking out "each calendar quarter" and inserting in lieu thereof "each calendar year", and

(ii) by striking out "preceding calendar quarters" and inserting in lieu thereof "preceding calendar periods".

(B) Subsection (d) of section 2505 is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(b) AMENDMENTS TO SUBCHAPTER B OF CHAPTER 12.—

(1) SECTION 2512.—Subsection (b) of section 2512 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(2) SECTION 2513.—

(A) Section 2513(a) is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(B) Paragraph (2) of section 2513(b) is amended by striking out "calendar quarter" in the matter preceding subparagraph (A) and inserting in lieu thereof "calendar year".

(C) Subparagraph (A) of subsection (b)(2) of section 2513 is amended to read as follows:

"(A) The consent may not be signified after the 15th day of April following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse."

(D) Subparagraph (B) of subsection (b)(2) of section 2513 is amended—

(i) by striking out "the consent" and inserting in lieu thereof "The consent", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(E) Subsection (c) of section 2513 is amended—

(i) by striking out "calendar quarter" and inserting in lieu thereof "calendar year", and

(ii) by striking out "15th day of the second month following the close of such quarter" and inserting in lieu "15th day of April following the close of such year".

(F) Subsection (d) of section 2513 is amended—

(i) by striking out "any calendar quarter" and inserting in lieu thereof "any calendar year", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(c) AMENDMENT TO SUBCHAPTER C OF CHAPTER 12.—Section 2522 is amended by striking out "quarter" each place it appears and inserting in lieu thereof "year".

(d) MISCELLANEOUS AMENDMENTS.—

(1) Paragraph (2) of subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended—

(A) by striking out "calendar quarter (or calendar year if the gift was made before January 1, 1971)" and inserting in lieu thereof "calendar year (or preceding calendar period)", and

(B) by striking out "calendar quarter or year" each place it appears and inserting in lieu thereof "calendar year or period".

(2) Section 6019 (relating to gift tax returns) is amended by striking out subsection (b).

(3) Subsection (b) of section 6075 (relating to time for filing gift tax returns) is amended to read as follows:

"(b) GIFT TAX RETURNS.—

"(1) GENERAL RULE.—Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

"(2) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

"(3) COORDINATION WITH DUE DATE FOR ESTATE TAX RETURN.—Notwithstanding paragraphs (1) and (2), the time for filing the return made under section 6019 for the calendar year which includes the date of death of the donor shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor."

(4) Paragraph (1) of section 6212(c) (relating to notice of deficiency) is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to gifts made after December 31, 1981.

TITLE V—TAX STRADDLES

SEC. 501. DISALLOWANCE OF COMMODITY-RELATED LOSSES WHICH EXCEED COMMODITY-RELATED GAINS.

(a) GENERAL RULE.—Part VII of subchapter O of chapter 1 (relating to wash sales of stock or securities) is amended by adding at the end thereof the following new section:

"SEC. 1092. LIMITATION ON STRADDLE LOSSES.

"(a) GENERAL RULE.—Straddle losses shall be allowed only to the extent of the sum of—

"(1) straddle gains, and

"(2) net non-straddle commodity gain.

"(b) CARRYOVER OF DISALLOWED LOSSES.—Any straddle loss which is disallowed for the taxable year under subsection (a) shall be treated as a straddle loss in the succeeding taxable year.

"(c) ANTICONVERSION RULES.—For purposes of section 1222, subsection (a) shall be treated as having used up—

"(1) all straddle gains and losses, and

"(2) a proportion of each gain or loss from a commodity-related transaction (other than a straddle transaction) equal to the proportion of the net capital gain from such transactions offset under subsection (a)(2).

For purposes of section 1222, any excess of straddle gains shall be treated as a long-term capital gain or a short-term capital gain (whichever is the appropriate result after applying section 1222 solely with respect to straddle gains and losses) from a single asset.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STRADDLE GAIN.—The term 'straddle gain' means any gain from a straddle transaction.

"(2) STRADDLE LOSS.—The term 'straddle loss' means any loss from a straddle transaction.

"(3) NET NON-STRADDLE COMMODITY GAIN.—The term 'net non-straddle commodity gain' means the net gain for the taxable year determined by taking into account only gains and losses from non-straddle commodity transactions.

"(4) STRADDLE TRANSACTION.—The term 'straddle transaction' means any sale, exchange, or other disposition of—

"(A) a futures contract,

"(B) a forward contract,

"(C) a commodity (including any metal),

"(D) a Treasury bill or other evidence of indebtedness,

"(E) currency, or

"(F) any interest in any of the foregoing, if such property was at any time part of a straddle (as defined in section 263A(e)).

"(5) NON-STRADDLE COMMODITY TRANSACTION.—The term 'non-straddle commodity transaction' means any sale, exchange, or other disposition of property described in paragraph (4) if at no time was such property part of a straddle.

"(6) COMMODITY-RELATED TRANSACTION.—The term 'commodity-related transaction' means any sale, exchange, or other disposition of property described in paragraph (4).

"(7) INTEREST ON CERTAIN OBLIGATIONS.—Gain from the sale, exchange, or other disposition of an evidence of indebtedness shall not be treated as gain from a transaction described in paragraph (4) or (5) to the extent such gain is interest (including any amount treated as ordinary income under section 1232).

"(8) CHARACTER OF CARRYOVER.—Any loss carried over to a succeeding taxable year under subsection (b) shall be treated as short term to the extent the taxpayer had short-term straddle losses (not used to offset short-term gains) for the taxable year from which carried.

"(e) SECTION NOT TO APPLY TO HEDGING TRANSACTIONS.—

"(1) SECTION NOT TO APPLY.—This section shall not apply in the case of a hedging transaction.

"(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term 'hedging transaction' means any transaction if—

"(A) such transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

"(i) to reduce risk of price change or currency fluctuations with respect to property which is held or to be held by the taxpayer, or

"(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or obligations incurred or to be incurred, by the taxpayer,

"(B) the gain or loss on such transactions is treated as ordinary income or loss, and

"(C) before the close of the day on which such transaction was entered into, the taxpayer clearly identifies such transaction as being a hedging transaction.

"(3) SPECIAL RULE FOR SYNDICATES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'hedging transaction' shall not include any transaction entered into by or for a syndicate.

"(B) SYNDICATE DEFINED.—For purposes of subparagraph (A), the term 'syndicate' means any partnership or other entity (other than a C corporation)—

"(i) if at any time interests in such entity have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

"(ii) if more than 35 percent of the losses of such entity during any period are allocable to limited partners or limited entrepreneurs (within the meaning of section 464(e)(2)).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) C CORPORATION.—The term 'C corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(ii) HOLDING ATTRIBUTABLE TO ACTIVE PARTICIPATION IN MANAGEMENT.—An individual shall not be treated as a limited partner or limited entrepreneur (within the meaning of section 464(e)(2)) with respect to any entity for any period during which such individual actively participates in the management of such entity.

"(iii) SPECIAL RULES FOR BANKS.—In the case of a bank (as defined in section 581), subparagraph (A) of paragraph (2) shall be applied as if it read as follows:

"'(A) such transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business,'.

"(f) SPECIAL RULES.—

"(1) DENIAL OF CAPITAL GAINS TREATMENT FOR PROPERTY IDENTIFIED AS PART OF A HEDGING TRANSACTION.—For purposes of this title, gain from any property described in subsection (b) shall in no event be considered as gain from the sale or exchange of a capital asset if such property was at any time identified under subsection (e)(2)(C) by the taxpayer as being part of a hedging transaction.

"(2) SPECIAL RULE FOR ORDINARY GAIN OR LOSS.—This section shall be applied separately with respect to—

"(A) capital gains and losses, and

"(B) ordinary gains and losses not in hedging transactions.

"(g) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), gains and losses shall be taken into account under this section only if they are attributable to property acquired (or positions established) by the taxpayer after January 27, 1981.

"(2) ELECTION TO TAKE INTO ACCOUNT ALL GAINS AND LOSSES.—If the taxpayer so elects (at such time and in such manner as the Secretary shall by regulations prescribe), this section shall apply to all gains and losses from commodity-related transactions in taxable years ending after January 27, 1981 (whether the property is acquired before, on, or after January 27, 1981)."

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for such part VII is amended by adding at the end thereof the following new item:

"Sec. 1092. Limitation on straddle losses."

(2) The heading for such part VII is amended to read as follows:

"PART VII—WASH SALES; LIMITATION ON STRADDLE LOSSES".

(3) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part VII and inserting in lieu thereof the following:

"Part VII. Wash sales; straddle losses."

SEC. 502. CAPITALIZATION OF CERTAIN INTEREST AND CARRYING CHARGES IN THE CASE OF STRADDLES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CERTAIN INTEREST AND CARRYING COSTS IN THE CASE OF STRADDLES.

"(a) GENERAL RULE.—No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle. Any amount not allowed as a deduction by reason of the pre-

ceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

"(b) INTEREST AND CARRYING CHARGES DEFINED.—For purposes of subsection (a), the term 'interest and carrying charges' means the excess of—

"(1) the sum of—

"(A) interest on indebtedness incurred or continued to purchase or carry the personal property, and

"(B) amounts paid or incurred to insure, store, or transport the personal property, over

"(2) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A).

"(c) EXCEPTION FOR HEDGING TRANSACTIONS.—This section shall not apply in the case of any hedging transaction (as defined in section 1092(d)).

"(d) TRADERS ALLOWED TO OFFSET GAINS FROM COMMODITY-RELATED TRANSACTIONS.—

"(1) IN GENERAL.—In the case of any trader—

"(A) subsection (a) shall not apply, but

"(B) the aggregate amount which, but for subparagraph (A), would have been disallowed as a deduction for any taxable year under subsection (a)—

"(i) shall be treated as an ordinary loss to the extent such amount does not exceed the net straddle ordinary gain for the taxable year, and

"(ii) to the extent such amount exceeds the net straddle ordinary gain, shall be treated as a short-term straddle loss for the taxable year (within the meaning of section 1092).

"(2) TRADER DEFINED.—For purposes of paragraph (1), the term 'trader' means an individual whose—

"(A) principal activity for the taxable year is engaging in futures contracts transactions for his own account, and

"(B) principal source of income or loss from the taxable year is from the activity described in subparagraph (A).

"(3) NET STRADDLE ORDINARY GAIN.—For purposes of paragraph (1), the term 'net straddle ordinary gain' means the net ordinary gain determined by taking into account ordinary gains and losses from straddle transactions to which section 1092 applies.

"(e) STRADDLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'straddle' means offsetting positions with respect to personal property.

"(2) OFFSETTING POSITIONS.—

"(A) IN GENERAL.—A taxpayer holds offsetting positions with respect to personal property if there is a substantial diminution of the taxpayer's risk of loss from holding any position with respect to personal property by reason of his holding 1 or more other positions with respect to personal property (whether or not of the same kind).

"(B) ONE SIDE LARGER THAN OTHER SIDE.—If 1 or more positions offset only a portion of 1 or more other positions, the Secretary shall by regulations prescribe the method for determining the portion of such other positions which is to be taken into account for purposes of this section.

"(3) PRESUMPTION.—

"(A) IN GENERAL.—For purposes of paragraph (2), 2 or more positions shall be presumed to be offsetting if—

"(i) the positions are in the same personal property (whether established in such property or a contract for such property),

"(ii) the positions are in the same personal property, even though such property may be in a substantially altered form,

"(iii) the positions are in debt instruments of a similar maturity or other debt instruments described in regulations prescribed by the Secretary,

"(iv) the positions are sold or marketed as offsetting positions (whether or not such positions are called a straddle, spread, butterfly, or any similar name),

"(v) the aggregate margin requirement for such positions is lower than the sum of the margin requirements for each such position (if held separately), or

"(vi) there are such other factors (or satisfaction of subjective or objective tests) as the Secretary may by regulations prescribe as indicating that such positions are offsetting.

For purposes of the preceding sentence, 2 or more positions shall be treated as described in clause (i), (ii), (iii), or (vi) only if the value of 1 or more of such positions ordinarily varies inversely with the value of 1 or more other such positions.

"(B) PRESUMPTION MAY BE REBUTTED.—Any presumption established pursuant to subparagraph (A) may be rebutted if the taxpayer establishes to the satisfaction of the Secretary that the positions were not offsetting.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSONAL PROPERTY.—The term 'personal property' means any personal property (other than stock) of a type which is actively traded. Such term also includes any commodity substitute stock.

"(2) POSITION.—

"(A) IN GENERAL.—The term 'position' means an interest (including a futures or forward contract or option) in personal property.

"(B) SPECIAL RULE FOR STOCK OPTIONS.—The term 'position' includes any stock option which is a part of a straddle and which is an option to buy or sell stock which is actively traded, but does not include a stock option which—

"(i) is traded on a domestic exchange (or on a similar foreign market designated by the Secretary), and

"(ii) is of a type with respect to which the maximum period during which such option may be exercised is less than one year from when granted.

"(3) POSITIONS HELD BY RELATED PERSONS, ETC.—

"(A) IN GENERAL.—In determining whether 2 or more positions are offsetting, the taxpayer shall be treated as holding any position held by a related person.

"(B) RELATED PERSON.—For purposes of subparagraph (A), a person is a related person to the taxpayer if—

"(i) the relationship between such person and the taxpayer would result in a disallowance of losses under section 267 or 707(b), or

"(ii) such person and the taxpayer are under common control (within the meaning of subsection (b) or (c) of section 414).

For purposes of clause (i), an individual's family shall consist only of such individual, such individual's spouse, and a child of such individual who has not attained the age of 18.

"(C) CERTAIN FLOW-THROUGH ENTITIES.—If part or all of the gain or loss with respect to a position held by a partnership, trust, or other entity would properly be taken into account for purposes of this chapter by a taxpayer with respect to whom the entity is not a related person, then, except to the extent otherwise provided in regulations—

"(i) such position shall be treated as held by the taxpayer, and

"(ii) the offsetting positions held by the taxpayer shall be treated as held by the entity.

"(4) COMMODITY SUBSTITUTE STOCK.—The term 'commodity substitute stock' means any stock of a corporation 80 percent or more in value of the business and investment assets of which consist of interests in commodities. For purposes of this paragraph, the term 'business and investment assets' means assets used or held for use in the trade or business, and assets held for investment."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after section 263 the following new item:

"Sec. 263A. Certain interest and carrying costs in the case of straddles."

SEC. 503. CERTAIN GOVERNMENTAL OBLIGATIONS ISSUED AT DISCOUNT TREATED AS CAPITAL ASSETS.

(a) GENERAL RULE.—Section 1221 (defining capital asset) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) TREATMENT OF AMOUNTS RECEIVED ON SALE OR OTHER DISPOSITION.—Subsection (a) of section 1232 (relating to bonds and other evidences of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held less than 1 year.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is issued on a discount basis and payable without interest at a fixed maturity date not exceeding 1 year from the date of issue. Such term does not include any obligation the interest on which is not includible in gross income under section 103 (relating to certain governmental obligations).

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 1231(b)(1) is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(2) Subparagraph (B) of section 341(c)(2) is amended by striking out "(and governmental obligations described in section 1221(5))".

SEC. 504. PROMPT IDENTIFICATION OF SECURITIES BY DEALERS IN SECURITIES.

Subsection (a) of section 1236 (relating to dealers in securities) is amended—

(1) by striking out "before the expiration of the 30th day after the date of its acquisition" and inserting in lieu thereof "before the close of the day on which it was acquired", and

(2) by striking out "expiration of such 30th day" and inserting in lieu thereof "close of such day".

SEC. 505. TREATMENT OF GAIN OR LOSS FROM CERTAIN TERMINATIONS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1234 the following new section:

"SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TERMINATIONS.

"Gain or loss attributable to the cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in section 263A(f)(1)) or property described in section 1092(c)(4) which is (or on acquisition would be) a capital asset in the hands of the taxpayer shall be treated as gain or loss from the sale of a capital asset."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1234 the following new item:

"Sec. 1234A. Gains or losses from certain terminations."

SEC. 506. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall apply to property acquired and positions established by the taxpayer after January 27, 1981, in taxable years ending after such date.

(b) IDENTIFICATION REQUIREMENTS.—

(1) UNDER SECTION 1236 OF CODE.—The amendments made by section 504 shall apply to property acquired by the taxpayer after the date of the enactment of this Act in taxable years ending after such date.

(2) UNDER SECTION 1092(e)(2) OF CODE.—Section 1092(e)(2)(C) of the Internal Revenue Code of 1954 (as added by this title) shall apply to property acquired and positions established by the taxpayer after December 31, 1981, in taxable years ending after such date.

SEC. 507. STUDY.

(a) GENERAL RULE.—The Secretary of the Treasury shall conduct a study on the effects of this title.

(b) REPORTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall submit 2 reports to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a).

(2) FIRST REPORT.—The first report submitted under paragraph (1) shall be submitted on or before July 1, 1983, and shall include an analysis of tax returns filed for taxable years beginning in 1981.

(3) SECOND REPORT.—The second report submitted under paragraph (1) shall be submitted on or before July 1, 1984, and shall include an analysis of tax returns filed for taxable years beginning in 1982.

TITLE VI—ENERGY PROVISIONS

Subtitle A—Changes in Windfall Profit Tax

SEC. 601. $2,500 ROYALTY CREDIT FOR 1981; EXEMPTION FOR 1982 AND THEREAFTER.

(a) $2,500 ROYALTY CREDIT FOR 1981.—

(1) IN GENERAL.—Subsection (a) of section 6429 (relating to treatment as overpayment) is amended to read as follows:

"(a) TREATMENT AS OVERPAYMENT.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production removed from the premises during calendar year 1981 shall be treated as an overpayment of the tax imposed by section 4986."

(2) INCREASE IN AMOUNT OF CREDIT.—Paragraph (1) of section 6429(c) (relating to $1,000 limitation on credit or refund) is amended to read as follows:

"(1) IN GENERAL.—The aggregate amount which may be treated as an overpayment under subsection (a) with respect to any qualified royalty owner for production removed from the premises during calendar year 1981 shall not exceed $2,500."

(3) CONFORMING AMENDMENTS.—Subsection (c) of section 6429 is amended—

(A) by striking out "$1,000" each place it appears and inserting in lieu thereof "$2,500", and

(B) by striking out "qualified period" each place it appears and inserting in lieu thereof "calendar year".

(4) DEFINITION OF QUALIFIED ROYALTY PRODUCTION.—Subsection (d) of section 6429 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the qualified royalty owner which—

"(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

"(B) is not created pursuant to a binding contract entered into prior to June 10, 1981."

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—In the case of a transfer of an interest in any property, the qualified royalty production of the transferee shall not include any production attributable to an interest that has been transferred after June 9, 1981, in a transfer which—

"(i) is described in section 613A(c)(9)(A), and

"(ii) is not described in section 613A(c)(9)(B).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the transferee are required by paragraph (3) or (4) of subsection (c) to share the $2,500 amount in subsection (c)(1). The preceding sentence shall apply to the case of any property only if the production from the property was qualified royalty production of the transferor.

"(C) TRANSFERS INCLUDE SUBLEASES.—For purposes of this paragraph, a sublease shall be treated as a transfer.

"(D) ESTATES.—For purposes of this paragraph, property held by any estate shall be treated as owned both by such estate and proportionately by the beneficiaries of such estate."

(H) Paragraph (4) of section 6429(d) is amended to read as follows:

"(4) QUALIFIED FAMILY FARM CORPORATION.—The term 'qualified family farm corporation' means a corporation—

"(A) all the outstanding shares of stock of which at all times during the calendar year are held by members of the same family (within the meaning of section 2032A(e)(2)), and

"(B) 80 percent in value of the assets of which (other than royalty interests described in paragraph (2)(A)) are held by the corporation at all times during such calendar year for use for farming purposes (within the meaning of section 2032A(e)(5))."

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 6654(f) (relating to failure by individuals to pay estimated income tax) is amended to read as follows:

"(3) the sum of—

"(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

"(B) to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 as an overpayment of the tax imposed by section 4986."

(B) Paragraph (2) of section 6655(e) (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

"(2) the sum of—

"(A) the credits against tax provided by part IV of subchapter A of chapter 1, plus

"(B) to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 as an overpayment of the tax imposed by section 4986."

(b) EXEMPTION FOR 1982 AND THEREAFTER.—

(1) IN GENERAL.—Subsection (b) of section 4991 is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4), and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(5) exempt royalty oil."

(2) EXEMPT ROYALTY OIL.—Subchapter B of chapter 45 is amended by inserting after section 4991 the following new section:

"SEC. 4991A. EXEMPT ROYALTY OIL.

"(a) IN GENERAL.—For purposes of this chapter, the term 'exempt royalty oil' means that portion of the qualified royalty owner's qualified royalty production for the quarter which does not exceed the royalty limit for such quarter.

"(b) ROYALTY LIMIT.—For purposes of this section—

"(1) IN GENERAL.—A qualified royalty owner's royalty limit for any quarter is the product of—

"(A) the number of days in such quarter, multiplied by

"(B) the limitation in barrels determined under the following table:

"In the case of qualified royalty production during:	The limitation in barrels is:
1982	2
1983	2
1984	2
1985 and thereafter	4

"(2) PRODUCTION EXCEEDS LIMITATION.—If a qualified royalty owner's qualified royalty production for any quarter exceeds the royalty limitation for such quarter, such royalty owner may allocate such limit to any qualified royalty production which he selects.

"(c) DEFINITIONS.—

"(1) IN GENERAL.—The terms 'qualified royalty owner' and 'qualified royalty production' have the meanings given to such terms by section 6429; except that the reference to qualified taxable crude oil in section 6429(d) shall be treated as a reference to oil which would have been taxable crude oil but for this section.

"(2) ALLOCATION.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply to the limitation determined under subsection (b)(1)."

(3) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 45 is amended by inserting after the item relating to section 4991 the following new item:

"Sec. 4991A. Exempt royalty oil."

(4) ADJUSTMENTS TO WITHHOLDING.—Subsection (a) of section 4995 is amended by adding at the end thereof the following new paragraph:

"(9) ADJUSTMENTS TO WITHHOLDING TO TAKE INTO ACCOUNT ROYALTY EXEMPTION.—The Secretary shall prescribe such regulations as may be necessary so that the withholding required under this subsection shall be reduced to take into account the exemption provided by section 4991(b)(6) (relating to exempt royalty oil)."

(5) EFFECTIVE DATES.—(a) Except as provided in paragraph (5), subsection (a) shall take effect on January 1, 1981.

(b) The amendments made by paragraph (5) of subsection (a) shall take effect on January 1, 1980.

(c) The amendments made by subsection (b) shall take effect on January 1, 1982.

SEC. 602. REDUCTION IN TAX IMPOSED ON NEWLY DISCOVERED OIL.

(a) IN GENERAL.—Paragraph (3) of section 4987(b) (relating to applicable percentage) is amended to read as follows:

"(3) TIER 3 OIL.—

"(A) IN GENERAL.—The applicable percentage for tier 3 oil which is not newly discovered oil is 30 percent.

"(B) NEWLY DISCOVERED OIL.—The applicable percentage for newly discovered oil shall be determined in accordance with the following table:

"For taxable periods beginning in:	The applicable percentage is:
1982	27½
1983	25
1984	22½
1985	20
1986 and thereafter	15 ".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable periods beginning after December 31, 1981.

SEC. 603. EXEMPT INDEPENDENT PRODUCER STRIPPER WELL OIL.

(a) IN GENERAL.—Subsection (b) of section 4991 (as amended by section) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5), and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) exempt stripper well oil."

(b) EXEMPT STRIPPER WELL OIL.—Subchapter B of chapter 45 is amended by inserting after section 4991A the following new section:

"SEC. 4991B. EXEMPT STRIPPER WELL OIL.

"(a) IN GENERAL.—For purposes of this chapter, the term 'exempt stripper well oil' means any oil—

"(1) the producer of which is an independent producer (within the meaning of section 4992(b)(1)),

"(2) is from a stripper well property within the meaning of the June 1979 energy regulations, and

"(3) is attributable to the independent producer's working interest in the stripper well property.

"(b) LIMITATION FOR CERTAIN TRANSFERRED PROPERTIES.—Exempt stripper oil does not include oil produced from stripper well property transferred on or after July 23, 1981, by a producer other than an independent producer (within the meaning of section 4991(b)(1))."

(c) CONFORMING AMENDMENT.—Subparagraph (A) of paragraph (2) of subsection (c) of section 4992 is amended by inserting "(other than exempt stripper well oil)" after the number "2".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to oil removed from the premises after December 31, 1982.

SEC. 604. EXEMPTION FROM WINDFALL PROFIT TAX OF OIL PRODUCED FROM INTERESTS HELD BY OR FOR THE BENEFIT OF RESIDENTIAL CHILD CARE AGENCIES.

(a) EXEMPTION OF CHILD CARE AGENCIES FROM TAX.—Subparagraph (A) of section 4994(b)(1) (relating to charitable interests exempt from windfall profit tax) is amended by redesignating clause (ii) as clause (iii) and by adding after clause (i) the following new clause:

"(ii) held by an organization described in section 170(c)(2) which is organized and operated primarily for the residential placement, care, or treatment of delinquent, dependent, orphaned, neglected, or handicapped children, or".

(b) PERIOD INTEREST REQUIRED TO BE HELD.—

(1) IN GENERAL.—Subparagraph (B) of section 4994(b)(1) is amended to read as follows:

"(B) such interest was held on January 21, 1980, and at all times thereafter before the last day of the taxable period, by the organization described in clause (i) or (ii) of subparagraph (A), or subclause (I) of subparagraph (A)(iii)."

(2) INTERESTS HELD FOR THE BENEFIT OF CHILD CARE AGENCIES.—Paragraph (2) of section 4994(b) is amended—

(A) by striking out "paragraph (1)(A)(ii)" and inserting in lieu thereof "clause (ii) or (iii) of paragraph (1)(A)", and

(B) by striking out "paragraph (1)(A)(i)" each place it appears and inserting in lieu thereof "clause (i) or (ii) of paragraph (1)(A)".

(c) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4994(b)(1)(A) is amended by striking out "or" at the end thereof.

(2) Subclause (II) of section 4994(b)(1)(A)(ii) is amended by inserting "or (ii)" after "clause (i)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after December 31, 1980.

Subtitle B—Miscellaneous Provisions

SEC. 611. RETENTION OF APPLICABLE PERCENTAGE FOR CERTAIN OIL AND GAS DEPLETION ALLOWANCES.

(a) RETENTION OF APPLICABLE PERCENTAGE.—Paragraph (c)(5) of section 613A (relating to limitations on percentage depletion for oil and gas wells) is amended to read as follows:

"(5) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is 22 percent."

(b) CONFORMING AMENDMENT.—Paragraph (c)(1) of section 613A is amended by striking out "in accordance with the table contained in" and inserting in lieu thereof "under".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1980.

SEC. 612. WOOD STOVE TAX CREDIT.

(a) Subparagraph (A) of section 44C(c)(4) of the Internal Revenue Code of 1954 (defining other energy-conserving component) is amended—

(1) by striking out "or" at the end of clause (vii),

(2) by redesignating clause (viii) as clause (ix) and,

(3) by inserting after clause (vii) the following new clause:

"(viii) an efficient wood stove or furnace (other than a fireplace) for space heating, the heating of water, or cooking of food (or any combination thereof), including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or".

(b) Clause (i) of section 44C(c)(6)(A) of such Code is amended by striking out "paragraph (4)(A)(viii)" and inserting in lieu thereof "paragraph (4)(A)(ix)".

(c) The amendments made by this section shall apply to purchases made after July 24, 1981.

TITLE VII—ADMINISTRATIVE PROVISIONS

Subtitle A—Prohibition of Disclosure of Audit Methods

SEC. 701. PROHIBITION OF DISCLOSURE OF METHODS FOR SELECTION OF TAX RETURNS FOR AUDITS.

(a) GENERAL RULE.—Paragraph (2) of section 6103(b) (defining return information) is amended by adding at the end thereof the following new sentence: "Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disclosures after July 19, 1981.

Subtitle B—Changes in Interest Rate for Overpayments and Underpayments

SEC. 711. CHANGES IN RATE OF INTEREST FOR OVERPAYMENTS AND UNDERPAYMENTS.

(a) ANNUAL ADJUSTMENT TO RATE OF INTEREST.—Subsection (b) of section 6621 (relating to adjustment of interest rate) is amended by striking out the last sentence thereof.

(b) RATE OF INTEREST TO BE BASED ON 100 PERCENT OF PRIME RATE.—Subsection (c) of section 6621 is amended by striking out "90 percent of".

(c) NEW RATE TO TAKE EFFECT ON JANUARY 1 OF EACH YEAR AFTER 1982.—Subsection (b)

of section 6621 is amended by striking out "February 1" and inserting in lieu thereof "January 1".

(d) EFFECTIVE DATES.—

(1) FOR SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to adjustments made after the date of the enactment of this Act.

(2) FOR SUBSECTION (c).—The amendment made by subsection (c) shall apply to adjustments made for periods after 1982.

Subtitle C—Changes in Certain Penalties and in Requirements Relating to Returns

SEC. 721. CHANGES IN PENALTIES FOR FALSE INFORMATION WITH RESPECT TO WITHHOLDING.

(a) CIVIL PENALTY.—Section 6682 (relating to false information with respect to withholding allowances based on itemized deductions) is amended to read as follows:

"SEC. 6682. FALSE INFORMATION WITH RESPECT TO WITHHOLDING.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if—

"(1) any individual makes a statement under section 3402 which results in a decrease in the amounts deducted and withheld under chapter 24, and

"(2) as of the time such statement was made, there was no reasonable basis for such statement,

such individual shall pay a penalty of $500 for such statement.

"(b) EXCEPTION.—The Secretary may waive (in whole or in part) the penalty imposed under subsection (a) if the taxes imposed with respect to the individual under subtitle A for the taxable year are equal to or less than the sum of—

"(1) the credits against such taxes allowed by part IV of subchapter A of chapter 1, and

"(2) the payments of estimated tax which are considered payments on account of such taxes.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect to the assessment or collection of any penalty imposed by subsection (a)."

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6682 and inserting in lieu thereof the following:

"Sec. 6682. False information with respect to withholding."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and failures to act after December 31, 1981.

SEC. 722. ADDITIONS TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS, INCREASE IN NEGLIGENCE PENALTY.

(a) VALUATION OVERSTATEMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax) is amended by redesignating section 6659 as section 6660 and by inserting after section 6658 the following new section:

"SEC. 6659. ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS FOR PURPOSES OF THE INCOME TAX.

"(a) ADDITION TO THE TAX.—If—

"(1) an individual, or

"(2) a closely held corporation or a personal service corporation,

has an underpayment of the tax imposed by chapter 1 for the taxable year which is attributable to a valuation overstatement, then there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributable.

"(b) APPLICABLE PERCENTAGE DEFINED.—For purposes of subsection (a), the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is—
150 percent or more but not more than 200 percent	10
More than 200 percent but not more than 250 percent	20
More than 250 percent	30

"(c) VALUATION OVERSTATEMENT DEFINED.—

"(1) IN GENERAL.—For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return exceeds 150 percent of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

"(2) PROPERTY MUST HAVE BEEN ACQUIRED WITHIN LAST 5 YEARS.—This section shall not apply to any property which, as of the close of the taxable year for which there is a valuation overstatement, has been held by the taxpayer for more than 5 years.

"(d) UNDERPAYMENT MUST BE AT LEAST $1,000.—This section shall not apply if the underpayment for the taxable year attributable to the valuation overstatement is less than $1,000.

"(e) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation or adjusted basis claimed on the return and that such claim was made in good faith.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) UNDERPAYMENT.—The term 'underpayment' has the meaning given to such term by section 6653(c)(1).

"(2) CLOSELY HELD CORPORATION.—The term 'closely held corporation' means any corporation described in section 465(a)(1)(C).

"(3) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' means any corporation which is a service organization (within the meaning of section 414(m)(3))."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6659. Addition to tax in the case of valuation overstatements for purposes of the income tax.

"Sec. 6660. Applicable rules."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to returns filed after December 31, 1981.

(b) INCREASE IN NEGLIGENCE PENALTY.—

(1) IN GENERAL.—Subsection (a) of section 6653 (relating to failure to pay tax) is amended to read as follows:

"(a) NEGLIGENCE OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS WITH RESPECT TO INCOME, GIFT, OR WINDFALL PROFIT TAXES.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)(1)) of any tax imposed by subtitle A, by chapter 12 of subtitle B, or by chapter 45 (relating to windfall profit tax) is due to negligence or intentional disregard of rules or regulations (but without intent to defraud), there shall be added to the tax an amount equal to 5 percent of the underpayment.

"(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO NEGLIGENCE, ETC.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to the negligence or intentional disregard referred to in paragraph (1), and

"(B) for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 723. CHANGES IN REQUIREMENTS RELATING TO INFORMATION RETURNS.

(a) INCREASES IN PENALTIES FOR FAILURE TO FILE CERTAIN RETURNS OR FURNISH CERTAIN STATEMENTS.—

(1) CERTAIN RETURNS.—Paragraph (1) of section 6652(a) (relating to failure to file certain information returns, registration statements, etc.) is amended to read as follows:

"(1) to file a statement of the aggregate amount of payments to another person required by—

"(A) section 6041(a) or (b) (relating to certain information at source),

"(B) section 6042(a)(1) (relating to payments of dividends aggregating $10 or more),

"(C) section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more),

"(D) section 6049(a)(1) (relating to payments of interest aggregating $10 or more),

"(E) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(F) section 6051(d) (relating to information returns with respect to income tax withheld), or".

(2) CERTAIN STATEMENTS.—Section 6678 (relating to failure to furnish certain statements) is amended by striking out "or" at the end of paragraph (1), by inserting "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) to furnish a statement under—

"(A) section 6050A(b) (relating to statements furnished by certain fishing boat operators),

"(B) section 6050C (relating to information regarding windfall profit tax on crude oil),

"(C) section 6051 (relating to information returns with respect to income tax withheld) if the statement is required to be furnished to the employee, or

"(D) section 6053(b) (relating to statements furnished by employers with respect to tips),

on the date prescribed therefor to a person with respect to whom such a statement is required,".

(3) RETENTION OF EXISTING PENALTIES FOR FAILURE TO FILE CERTAIN STATEMENTS.—Subsection (b) of section 6652 is amended to read as follows:

"(b) OTHER RETURNS.—In the case of each failure to file a statement of a payment to another person required under the authority of—

"(1) section 6042(a)(2) (relating to payments of dividends aggregating less than $10),

"(2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10),

"(3) section 6049(a)(2) (relating to payments of interest aggregating less than $10), or

"(4) section 6049(a)(3) (relating to other payments of interest by corporations),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, $1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed $1,000."

(4) CLERICAL AMENDMENT.—The subsection heading of subsection (a) of section 6652 is amended by inserting "INFORMATION AT SOURCE," before "PAYMENTS OF DIVIDENDS".

(b) REQUIREMENT OF STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED ON PAYMENTS OF $600 OR MORE.—

(1) IN GENERAL.—Section 6041 (relating to information at source) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name, address, and identification number of the person making such return, and

"(2) the aggregate amount of payments to the person shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons making returns under subsection (b)."

(2) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Paragraph (1) of section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "6041(d)," before "6042(c)", and

(B) by inserting "6041(a)," before "6042(a)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements required to be furnished after December 31, 1981.

SEC. 724. PENALTY FOR OVERSTATED DEPOSIT CLAIMS.

(a) GENERAL RULE.—Subsection (b) of section 6656 (relating to failure to make deposit of taxes) is amended to read as follows:

"(b) OVERSTATED DEPOSIT CLAIMS.—

"(1) IMPOSITION OF PENALTY.—Any person who makes an overstated deposit claim shall be subject to a penalty equal to 25 percent of such claim.

"(2) OVERSTATED DEPOSIT CLAIM DEFINED.—For purposes of this subsection, the term 'overstated deposit claim' means the excess of—

"(A) the amount of tax under this title which any person claims, in a return filed with the Secretary, that such person has deposited in a government depositary under section 6302(c) for any period, over

"(B) the aggregate amount such person has deposited in a government depositary under section 6302(c), for such period, on or before the date such return is filed.

"(3) PENALTY NOT IMPOSED IN CERTAIN CASES.—The penalty under paragraph (1) shall not apply if it is shown that the excess described in paragraph (2) is due to reasonable cause and not due to willful neglect.

"(4) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty under paragraph (1) shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 6656 is amended by inserting "OR OVERSTATEMENT OF DEPOSITS" after "TAXES".

(2) The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6656 and inserting in lieu thereof the following:

"Sec. 6656. Failure to make deposit of taxes or overstatement of deposits."

(3) The heading of subsection (a) of section 6656 is amended by striking out "PENALTY" and inserting in lieu thereof "UNDERPAYMENT OF DEPOSITS".

(4)(A) Section 5684 (relating to penalties relating to the payment and collection of liquor taxes) is amended by striking out subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(B) Subsection (c) of section 5684, as redesignated by subparagraph (A), is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) For penalty for failure to make deposits or to overstate deposits, see section 6656."

(5) Section 5761 (relating to civil penalties) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) APPLICABILITY OF SECTION 6659.—The penalty imposed by subsection (b) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6659(a).

"(d) CROSS REFERENCES.—

"For penalty for failure to make deposits or to overstate deposits, see section 6656."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 725. DECLARATION OF ESTIMATED TAX NOT REQUIRED IN CERTAIN CASES.

(a) GENERAL RULE.— Section 6015 (relating to declaration of estimated tax by individuals) is amended by redesignating subsections (b) through (i) as subsections (c) through (j), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DECLARATION NOT REQUIRED IN CERTAIN CASES.—No declaration shall be required under subsection (a) if the estimated tax (as defined in subsection (d)) is less than the amount determined in accordance with the following table:

"In the case of taxable years beginning in:	The amount is:
1981	$100
1982	200
1983	300
1984	400
1985 and thereafter	500."

(b) NO PENALTY FOR FAILURE TO PAY ESTIMATED TAX IN CERTAIN CASES.—Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) EXCEPTION WHERE TAX IS SMALL AMOUNT.—

"(1) IN GENERAL.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than the amount determined under the following table:

"In the case of taxable years beginning in:	The amount is:
1981	$100
1982	200
1983	300
1984	400
1985 and thereafter	500.

"(2) SPECIAL RULE.—For purposes of subsection (b), the amount of any installment required to be paid shall be determined without regard to subsection (b) of section 6015."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (6) of section 871(g) is amended by striking out "6015(i)" and inserting in lieu thereof "6015(j)".

(2) Subsection (a) of section 6015 is amended by striking out the last sentence.

(3) Subsection (a) of section 6153 is amended by striking out "6015(c)" and inserting in lieu thereof "6015(d)".

(4) Subparagraph (A) of section 7701(a)(34) is amended by striking out "6015(c)" and inserting in lieu thereof "6015(d)".

(5) Subsection (g) of such section 6654 (as redesignated by subsection (b)) is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (f)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estimated tax for taxable years beginning after December 31, 1980.

Subtitle D—Cash Management

SEC. 731. CASH MANAGEMENT.

(a) IN GENERAL.—Paragraph (1) of section 6655(h) is amended to read as follows:

"(1) IN GENERAL.—In the case of a large corporation, paragraphs (1) and (2) of subsection (d) shall not apply."

(b) CLERICAL AMENDMENT.—The subsection heading of subsection (h) of section 6655 (relating to failure by corporations to pay estimated income tax) is amended by striking out "60 PERCENT" and inserting in lieu thereof "80 PERCENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Subtitle E—Financing of Railroad Retirement System

SEC. 741. INCREASES IN EMPLOYER AND EMPLOYEE TAXES.

(a) TAX ON EMPLOYEES.—Section 3201 (relating to rate of tax on employees) is amended by striking out all that precedes "the rate of the tax" and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 2.0 percent of so much of the compensation paid in any calendar month to such employee for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 for any month.

"(b) The rate of tax imposed by subsection (a) shall be increased by".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Subsection (a) of section 3211 (relating to tax on employee representatives) is amended by striking out "9.5" and inserting in lieu thereof "11.75".

(c) TAX ON EMPLOYERS.—The first sentence of section 3221(a) (relating to tax on employers) is amended by striking out "9.5" and inserting in lieu thereof "11.75".

(d) CONFORMING AMENDMENTS.—

(1) The last sentence of section 230(c) of the Social Security Act is amended—

(A) by inserting "employee and" before "employer",

(B) by striking out "section 3221(a)" and inserting in lieu thereof "sections 3201(a) and 3221(a)", and

(C) by striking out "9.5" and inserting in lieu thereof "11.75".

(2) Paragraph (1) of section 3231(e) (defining compensation) is amended by striking out "(iii)" and all that follows through "(iv)" and inserting in lieu thereof "or (iii)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to compensation paid for services rendered after September 30, 1981.

SEC. 742. ADVANCE TRANSFER OF AMOUNTS PAYABLE UNDER SOCIAL SECURITY FINANCIAL INTERCHANGE.

Section 15(b) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(b)" and by inserting at the end thereof the following new subdivision:

"(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Funds estimate will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month."

SEC. 743. AMENDMENTS TO SECTION 3231 CLARIFYING DEFINITION OF COMPENSATION.

(a) Paragraph (1) of section 3231(e) (defining compensation) is amended by adding after the third sentence thereof the following new sentence: "Compensation which is paid in one calendar month but which would be payable in a prior or subsequent taxable month but for the fact that prescribed date of payment would fall on a Saturday, Sunday or legal holiday shall be deemed to have been paid in such prior or subsequent taxable month."

(b) Paragraph (2) of section 3231(e) is amended by adding at the beginning thereof the following new sentence: "A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made."

(c) Paragraph (2) of section 3231(e), as amended by subsection (b), is amended by striking from the second sentence thereof the words "An employee" and inserting instead the words: "An employee receiving retroactive wage payments".

(d) The amendments made by this section shall apply for taxable years ending on or after the date of the enactment of this Act and for taxable years ending before the date of the enactment of this Act as to which the period for assessment and collection of tax or the filing or payment of a claim or credit for refund has not expired on the date of enactment of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. DEDUCTION FOR MOTOR CARRIER OPERATING AUTHORITY.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1954, in computing the taxable income of a taxpayer who, on July 1, 1980, held one or more motor carrier operating authorities, an amount equal to the aggregate adjusted basis of all motor carrier operating authorities held by the taxpayer on July 1, 1980, or acquired subsequent thereto pursuant to a binding contract in effect on July 1, 1980, shall be allowed as a deduction ratably over a period of 60 months. Such 60-month period shall begin with the month of July 1980 (or if later, the month in which acquired), or at the election of the taxpayer, the first month of the taxpayer's first taxable year beginning after July 1, 1980.

(b) DEFINITION OF MOTOR CARRIER OPERATING AUTHORITY.—For purposes of this section, the term "motor carrier operating authority" means a certificate or permit held by a motor carrier or contract carrier of property and issued pursuant to subchapter II of chapter 109 of title 49 of the United States Code.

(c) SPECIAL RULES.—

(1) ADJUSTED BASIS.—For purposes of the Internal Revenue Code of 1954, proper adjustments shall be made in the adjusted basis of any motor carrier operating authority held by the taxpayer on July 1, 1980, for the amounts allowable as a deduction under this section.

(2) CERTAIN STOCK ACQUISITIONS.—

(A) IN GENERAL.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

(i) a corporation, on or before July 1, 1980 (or after such date pursuant to a binding contract in effect on such date), acquired, directly or indirectly, stock in a corporation which held any motor carrier operating authority at the time of such acquisition, and

(ii) would have been able to allocate to the basis of such authority that portion of the taxpayer's cost basis in such stock attributable to such authority if the taxpayer had received such authority in the liquidation of such corporation immediately following such acquisition and such allocation would have been proper under section 334(b)(2) of such Code.

the holder of the authority may, for purposes of this section, allocate a portion of the basis of the acquiring corporation in the stock of the acquired corporation to the basis of such authority in such manner as the Secretary may prescribe in such regulations.

(B) ADJUSTMENT TO BASIS.—The taxpayer shall make proper adjustment to basis of the stock described in subparagraph (A) to take into account any allocation under such subparagraph.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after June 30, 1980.

SEC. 802. STATE LEGISLATORS TRAVEL EXPENSES AWAY FROM HOME.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—

"(1) IN GENERAL.—For purposes of subsection (a), in the case of any individual who is a State legislator at any time during the taxable year and who makes an election under this subsection for the taxable year—

"(A) the place of residence of such individual within the legislative district which he represented shall be considered his home,

"(B) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of—

"(i) the amount generally allowable with respect to such day to employees of the State of which he is a legislator for per diem while away from home, to the extent such amount does not exceed 110 percent of the amount described in clause (ii) with respect to such day, or

"(ii) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government

for per diem while away from home but serving in the United States, and

"(C) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day.

"(2) LEGISLATIVE DAYS.—For purposes of paragraph (1), a legislative day during any taxable year for any individual shall be any day during such year on which—

"(A) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or

"(B) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary shall by regulations prescribe."

"(4) SECTION NOT TO APPLY TO LEGISLATORS WHO RESIDE NEAR CAPITOL.—For taxable years beginning after December 31, 1980, this subsection shall not apply to any legislator whose place of residence within the legislative district which he represents is 50 or fewer miles from the capitol building of the State."

(b) The amendment made by subsection (a) shall apply to taxable years beginning on or after January 1, 1973.

SEC. 803. TAX EXEMPT FINANCING FOR VEHICLES USED FOR MASS COMMUTING.

(a) GENERAL RULE.—Paragraph (4) of section 103(b) (relating to industrial development bonds) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) qualified mass commuting vehicles."

(b) DEFINITION OF QUALIFIED MASS COMMUTING VEHICLES.—Subsection (b) of section 103 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) QUALIFIED MASS COMMUTING VEHICLES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(I), the term 'qualified mass commuting vehicle' means any bus, subway car, rail car, or similar equipment—

"(i) which is leased to a mass transit system wholly owned by 1 or more governmental units (or agencies or instrumentalities thereof), and

"(ii) which is used by such system in providing mass commuting services.

"(B) TERMINATION.—Paragraph (4)(I) shall not apply to any obligation issued after December 31, 1984."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 804. ADJUSTMENTS TO NEW JOBS CREDIT.

(a) EXTENSION.—Paragraph (4) of section 51(c) (defining wages) is amended to read as follows:

"(4) TERMINATION.—The term 'wages' shall not include:

(A) In the case of any youth participating in a qualified cooperative education program, any amount paid or incurred after December 31, 1981 unless such youth is economically disadvantaged;

(B) In the case of any other members of a targeted group, any amount paid or incurred after December 31, 1983."

(b) INDIVIDUALS QUALIFYING AS MEMBERS OF A TARGETED GROUP.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended—

(A) by striking out "or" at the end of subparagraph (F),

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following:

"(H) a WIN registrant, or

"(I) an involuntarily terminated CETA employee."

(2) DEFINITIONS.—

(A) IN GENERAL.—Subsection (d) of section 51 is amended by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (11), (12), (13), and (14), respectively, and by inserting after paragraph (8) the following new paragraphs:

"(9) WIN REGISTRANT.—The term 'WIN registrant' means any individual who is certified by the designated local agency as—

"(A) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance for any period of not less than 90 days ending within the preemployment period, or

"(B) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act."

"(10) INVOLUNTARILY TERMINATED CETA EMPLOYEE.—The term 'involuntarily terminated CETA employee' means an individual who is certified by the designated local agency as having been involuntarily terminated after December 31, 1980, from employment financed in whole or in part under a program under part D of title II or title VI of the Comprehensive Employment and Training Act.".

(B) CONFORMING AMENDMENTS.—

(i) Paragraphs (3)(A)(ii), (4)(C), and (7)(B) of section 51(d) are each amended by striking out "paragraph (9)" and inserting in lieu thereof "paragraph (11)".

(ii) Subsection (a) of section 50B of such Code (defining work incentive program expenses) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—The term 'work incentive program expenses' shall not include any amount paid or incurred by the taxpayer in a taxable year beginning after December 31 1981."

(iii) Paragraph (3) of section 51(c) of such Code is hereby repealed.

(iv) Paragraphs (3)(A)(ii), (4)(C), and (7)(B) of section 51(d) of such Code are each amended by striking out "paragraph (9)" and inserting in lieu thereof "paragraph (11)".

(3) ELIMINATION OF AGE REQUIREMENT APPLICABLE TO VIETNAM VETERANS.—Paragraph (4) of section 51(d) of such Code (defining Vietnam veteran who is a member of an economically disadvantaged family) is amended by inserting "and" at the end of subparagraph (B), by striking out ", and" at the end of subparagraph (C) and inserting in lieu thereof a period, and by striking out subparagraph (D).

(c) LATE CERTIFICATIONS NOT PERMITTED.—Subsection (d) of section 51 of such Code (defining members of targeted groups) is amended by adding at the end thereof the following new paragraph:

"(13) LATE CERTIFICATIONS.—No certification of any individual by the designated local agency shall be taken into account under this subsection unless—

"(A) such certification was made before the eligible employee's employment starting date, or

"(B) the employer requested the designated local agency to make a certification with respect to such individual before such date."

(d) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—Paragraph (11) of section 51(d) is amended to read as follows:

"(11) MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—An individual is a member of an economically disadvantaged family if the designated local agency determines that such individual was a member of a family which had income (during the 6 months immediately preceding the month in which such determination is made) which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard. Any such determination shall be valid for the 45-day period beginning on the day on which it was made."

(2) CERTIFICATIONS MADE BY STATE EMPLOYMENT SECURITY AGENCIES.—Paragraph (13) of section 51(d) (defining designated local agency) is amended to read as follows:

"(12) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means the State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n). Each designated local agency shall take such steps (through sample techniques or otherwise) as may be appropriate to ensure that certifications made by such agency under this section are reasonably accurate."

(3) UNITED STATES EMPLOYMENT SERVICE TO NOTIFY EMPLOYERS.—Subsection (g) of section 51 is amended by striking out "the Secretary of Labor" each place it appears (including in the subsection heading) and inserting in lieu thereof "the United States Employment Service".

(e) REPEAL OF PROVISION LIMITING FIRST-YEAR WAGES TO 30 PERCENT OF FUTA WAGES.—

(1) Subsection (e) of section 51 is hereby repealed.

(2) Subsection (f) of section 51 is amended—

(A) by striking out paragraph (3), and

(B) by striking out "any year" in paragraphs (1) and (2) and inserting in lieu thereof "any taxable year".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1981, in taxable years ending after such date.

(2) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1981.

(3) SUBSECTIONS (c) AND (d)(1).—The amendments made by subsections (c) and (d)(1) shall apply to individuals whose employment starting date is after the date of enactment of this bill.

(4) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1981.

(B) TRANSITIONAL RULE.—In the case of WIN registrants (as defined in section 51(d)(9) of the Internal Revenue Code of 1954 as added by this section), subsections (a) and (b) of section 51 of such Code shall be applied for taxable years beginning after December 31, 1981, as if such registrants had been members of a targeted group for

taxable years beginning before January 1, 1982.

(5) SUBSECTION (e).—The amendment made by subsection (e) shall apply to taxable years ending after December 31, 1981.

"(g) INELIGIBLE INDIVIDUALS.—No credit shall be allowed under subsection (a) with respect to amounts paid or incurred to any individual who—

"(1) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 276(c)),

"(2) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

"(3) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust."

SEC. 805. EXTENSION OF PROHIBITION OF ISSUANCE OF FRINGE BENEFIT REGULATIONS.

Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95-427), is amended by striking out "May 31, 1981" each place it appears and inserting in lieu thereof "May 31, 1983".

SEC. 806. EXTENSION OF RULES FOR COMMUTING EXPENSES.

Section 2 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95-427), is amended by striking out "May 31, 1981" and inserting in lieu thereof "May 31, 1983".

SEC. 807. ONE-YEAR EXTENSION OF TREATMENT OF LOW-INCOME HOUSING WITH RESPECT TO AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

The table contained in subsection (b) of section 189 (relating to amortization of real property construction period interest and taxes) is amended by striking out the column which appears under the heading "Low-income housing" and inserting in lieu thereof the following new column:

"....
1983
1984
1985
1986
1987
1988
after 1988".

SEC. 808. PROPERTY TRANSFERRED TO EMPLOYEES SUBJECT TO CERTAIN RESTRICTIONS.

(a) GENERAL RULE.—Paragraph (1) of section 83(c) (defining substantial risk of forfeiture) is amended to read as follows:

"(1) SUBSTANTIAL RISKS OF FORFEITURE.—The rights of a person and property are subject to a substantial risk of forfeiture if—

"(A) such person's rights to full enjoyment of such property are conditioned upon the just performance of substantial services by any individual, or

"(B) the sale of such property at a profit could subject such person to suit under section 16(b) of the Securities Act of 1934."

(b) SPECIAL RULE FOR CERTAIN ACCOUNTING RULES.—For purposes of section 83 of the Internal Revenue Code of 1954, property is subject to substantial risk of forfeiture if such property is subject to a restriction on transfer to comply with the "Pooling-of-Interests Accounting" rules set forth in Accounting Series Release Numbered 130 ((10/5/72) 37 FR 20937; 17 CFR 211.130) and Accounting Series Release Numbered 135 ((1/18/73) 38 FR 1734; 17 CFR 211.135).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) and the provisions of subsection (b) shall apply to taxable years ending after December 31, 1981.

SEC. 809. OBLIGATIONS OF CERTAIN VOLUNTEER FIRE DEPARTMENTS.

(a) IN GENERAL.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) OBLIGATIONS OF CERTAIN VOLUNTEER FIRE DEPARTMENTS.—

"(1) IN GENERAL.—An obligation of a volunteer fire department shall be treated as an obligation of a political subdivision of a State if—

"(A) such department is a qualified volunteer fire department with respect to an area within the jurisdiction of such political subdivision, and

"(B) such obligation is issued as part of an issue substantially all of the proceeds of which are to be used for the acquisition, construction, reconstruction, or improvement of qualified firefighting property.

"(2) QUALIFIED VOLUNTEER FIRE DEPARTMENT.—For purposes of this subsection, the term 'qualified volunteer fire department' means, with respect to a political subdivision of a State, any organization—

"(A) which is organized and operated to provide firefighting services for persons in an area (within the jurisdiction of such political subdivision) which is not provided with any other firefighting services,

"(B) which is required (by agreement or otherwise) by the political subdivision to furnish firefighting services in such area,

"(C) which receives over half of the funds for outfitting its members and providing and maintaining its qualified firefighting property from the political subdivision, and

"(D) which makes no charge for its firefighting services.

"(3) QUALIFIED FIREFIGHTING PROPERTY.—For purposes of this subsection, the term 'qualified firefighting property' means property—

"(A) which is of a character subject to the allowance for depreciation, and

"(B) (i) which is used in the training for the performance of, or the performance of, firefighting or ambulance services, or

"(ii) which is used to house the property described in clause (i).

"(4) NO INFERENCE WHERE STANDARDS ARE NOT MET.—In the case of an obligation which does not meet all of the requirements of this subsection, nothing in this subsection shall be construed to infer that interest on such obligation is not exempt from tax under this section."

(b) The amendments made by subsection (a) shall apply to obligations issued after December 31, 1980.

The CHAIRMAN. Pursuant to the rule, the amendment is considered as having been read.

The gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, we would not be here today, engaged in this debate, were it not for pledges made to the American people by Ronald Reagan during his campaign for the Presidency in 1980.

Unlike some promises made by some candidates in such pursuits, these were seriously made. Mr. Reagan meant what he said.

His election launched us in a new direction as far as tax policy is concerned and brought us to where we are at this moment.

A relatively few years ago, the mere mention of tax reductions or depreciation reform of the magnitudes we are contemplating today would have prompted sly smiles of disbelief, if not hoots of derision, in this very Chamber. Yet here we are, Mr. Chairman, trying to choose among proposals which accept, in varying degree, the major propositions put forward by the President: That our economy has not worked well for years; that it needs to be supported by a bold new policy embodying regulatory reform, a reduction in the growth of Federal spending, a more stable monetary position, and across-the-board tax reduction coupled with accelerated depreciation.

Although we will move toward the President's program no matter what we approve today, there is nevertheless a world of difference in the proposals pending, and in the extent to which they really do represent the President's program. I do not think it is debatable that the substitute which I offer today comes closest to that standard.

It retains the thrust of the President's original proposal. It cuts marginal tax rates over the next 3 years by 25 percent and it provides genuine and simplified depreciation reform—a combination designed to bring about capital investment in productive enterprises and to restore our ailing economy to good health.

The deep marginal rate cuts will encourage people to work harder, to save more, and to invest in more productive ventures. The substitute which I am offering follows those marginal reductions by cost-of-living indexation of the tax brackets, the standard deduction threshold and personal exemptions. That will have the salubrious effect of helping in particular those taxpayers who are on relatively low and fixed incomes. It also gives all taxpayers their only guarantee of a permanent reduction.

Under the committee bill's 2-year rate reduction, any relief will be short-lived. Inflation will push taxpayers upward through the brackets, and

they soon will find themselves back where they were before the two-shot tax break was provided.

The deep marginal reductions will bring tax burdens down nearer their traditional levels and indexing will keep them there. For all taxpayers, the relief is substantial and lasting.

As to the business portion of the President's program, it is safe to say that the centerpiece is the accelerated cost recovery system, or ACRS, more popularly known as 10-5-3. This comes as close as any legislative concept I have known to having a consensus behind it on both sides of the aisle. Originally it was the Jones-Conable bill. The Reagan administration adopted it, making rather modest changes which, on the whole, enhanced it.

The concept has its roots in multilateral trade negotiations which were completed several years ago. Some of us who were involved in that effort felt we might be merely reducing obstacles to imports if we facilitated the flow of world trade while leaving American goods in a noncompetitive position. American goods are, for the most part, high technology items, and technology is capital intensive. Capital costs here are particularly high, and the result is that we may be at a competitive disadvantage in the world and in our own markets in selling goods of high capital content.

One of the serious problems affecting American industry results from the overstatement of corporate profits as a result of rigid adherence to the old principle of useful life in depreciation. The useful life concept results in many heavy items of equipment being written off over as long as 20 years through the tax system. It results in buildings, commercial and otherwise, sometimes being written off over as long as 40 years. It results, in short, in very slow recapture through the tax system of the cost of capital assets.

The depreciation reform package in the Republican substitute before us today is our best bet to keep American goods competitive in world markets. Unlike the alternatives, it retains the investment tax credit and promises the speediest relief to beleaguered domestic enterprises striving to gain in productivity and profitability.

ACRS will place depreciable machinery, equipment, and real estate in fixed recovery periods of 3, 5, 10, or 15 years, with most equipment and machinery in the 5-year category. Most real estate is placed in the 15-year writeoff category. Research equipment, special tools, and cars are in the 3-year writeoff category. The 10-year category primarily will include public utility property.

As indicated, our substitute continues the investment tax credit and eases eligibility for it. Machinery and equipment in the 5-year writeoff category generally will be eligible for the full 10-percent credit. Under current law, this equipment must have a useful life of at least 7 years in order to qualify for the full 10 percent.

ACRS also provides flexibility in the amount of depreciation deductions which a taxpayer must claim. This is accomplished by allowing the taxpayer to write off his asset at a slower rate and over a longer period of time than is reflected in the 10-5-3 tables. The taxpayer may choose to use the straight-line method of depreciation calculated over the number of years in the asset's recovery class or over some longer period. For example, equipment in the 5-year category could be depreciated using the straight-line method over either 5, 12, or 25 years. This provision will give taxpayers the flexibility to plan their depreciation deductions to match their expected pattern of income.

Mr. Chairman, the business depreciation provisions in the substitute have been examined and refined for over 2 years. They have a broad base of support in the business community. We should adhere to the consensus they represent and not allow ourselves to be diverted by some last-minute product developed in closed caucuses.

In sum, Mr. Chairman, this substitute is the legislation our country wants. It forms an integral part of the Reagan program for economic recovery. A clear majority of American voters showed in November of 1980 that they liked what Mr. Reagan said and wanted to give his program a chance.

The time has come for Congress to meet that mandate, by accepting the Conable-Hance substitute.

Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Chairman, I would like to commend the distinguished chairman of the Ways and Means Committee for the truly outstanding job that he has done in bringing to this floor the second-best tax legislation cut that we have had in at least a quarter of a century. The only thing that beats it is the substitute we are going to be voting on in just a moment. It does not detract from my admiration for the leadership of the chairman to observe that it does not take a very good tax bill to be better than the tax bills that we have had in the past.

Five times in just the last 10 years we have adopted tax cuts and taxes have gone up $400 billion. While we have been voting for tax cuts five times, taxes have increased twice as fast as wages or inflation.

In 1978 my colleagues will remember we adopted a tax cut. We went back home under blazing headlines, "Congress Votes Big Tax Cut for American People." Eighty-two percent of the American people paid more taxes in 1979 than they did in 1978, and that is not a tax cut; that is a tax increase. And this tax cut over a 3-year period is exactly the same thing. If we do not do anything, taxes for individuals in 3 years go up 22 percent. A 15-percent cut over that time frame translates into a 7-percent tax increase.

Only something in the magnitude of the President's proposal which has indexing will make them permanent and will give real meaningful tax cuts to the American people. The difference between this committee tax bill and the bills that have gone before is that it maintains the illusion of a tax cut for 2 years instead of the usual 2 months.

A family earning $15,000 does get $47 more in tax relief total in the first 2 years. But in the third and fourth year it is taken away fourfold.

There is terrible bracket creep in the committee bill. In fact, some factory working families in the 25-percent bracket today will be vaulted into the 48-percent bracket in just 5 years. That is not bracket creep; that is bracket leap and it is devastating for those working American families that are subjected to it.

There is a fundamental philosophical difference in the two bills that I think was put into focus for us by our distinguished Speaker, for whom I have the greatest esteem and genuine affection.

□ 1540

You will recall as the gentleman closed the debate on the budget battle, the Speaker argued, in essence, that America is great partly because of all the good things that our Government has done for our people; and the gentleman pointed with pride to the fact that Congress has always given our people more Government this year than the year before.

"Please do not cut these good Government programs," the gentleman argued, "because it will cut the greatness of America."

Ronald Reagan has argued just exactly the opposite. He says, "America is not great because of what Government did for people, America is great because of what, in America, a free people had the opportunity and incentive to do for themselves."

That is what the President is trying to give back to the people through this tax cut. The difference in philosophy is dramatic in these two bill. Under the Speaker's bill, by 1984 the Government will be taking more dollars from every working American so Government can do more for it. By 1984, under the President's bill, every worker in America will keep more of what he earns so he can do more for himself.

The choice is clear: Tax increase or tax cut, outmoded traditional tax policy or something different, a new beginning together.

Years ago James Russell Lowell wrote:

New occasions teach new duties.
We cannot make their creed our jailer.
They must forever onward sweep,
And upward who would keep abreast of truth
Nor attempt the future's portal with the past's worn out key.

By voting for the Republican substitute, the Members will be voting to throw away the worn-out key of tax policies of the past and opening the door to a future, a future of economic recovery, of more jobs, and more after-tax dollars for every American.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Chairman, I stand in support of the Conable-Hance substitute.

Mr. Chairman, people have asked me what did I get out of voting for the President's tax bill. President Reagan's tax bill as originally proposed was a bill that gave all American taxpayers an equal break. It was a bill designed to stimulate the economy by encouraging productivity and the saving and investment needed to finance business expansion and job creation.

That original bill did not require a bidding war on my part for me to want to pass legislation beneficial to the American public.

The administration and the 97th Congress, through its work on the budget bills, already has begun changing the direction and economic philosophy of this Government. I see the tax reductions embodied in the bipartisan Conable-Hance tax proposal as the next crucial step toward making that change permanent. And it is for that reason that I am supporting the Conable-Hance substitute.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Chairman, I have been asked to summarize briefly the effect passage of the Conable-Hance bipartisan bill will have on the Midwest and Northeast.

In a nutshell, the President's plan is tailor made for working Americans. It cuts individual income taxes by 25 percent and makes these cuts permanent through indexation of the tax codes.

For small business it reduces taxation and increases depreciation. For the construction trade it provides incentives for industry to expand and lower interest rates for potential homebuyers. For farmers, the inheritance tax reform can only be described as a godsend. And for the unemployed, the Conable-Hance bill expands productivity and creates jobs.

The creation of jobs, the protection of savings, and the establishment of secure futures are the means and the ends of this tax cut.

All of us have certain misgivings about one or another provisions of all the tax cut bills before us today, and I particularly feel the treatment of the oil and commodity trading industries is rather generous in the two principal alternatives, but the real alternative is not the Democratic approach which has borrowed so generously from the Republican package, nor the Udall-Obey bill. It is the status quo. If there is risk in any of these tax cuts, there is even greater risk in doing nothing.

For the past two decades significant parts of American industry, largely located in the Midwest and Northeast, have suffered from too much attention to the problems at hand and too little to the opportunities ahead.

The Conable-Hance bill is a beacon of optimism in an age of economic uncertainty. It is designed to open up America, rejuvenate our incentive economic system, and revitalize our thinking about ourselves and our visions of the future.

America was built on risks and Americans have seldom shied away from challenges. The challenge of economic opportunities is what galvanized our forefathers. It is what the Conable-Hance bill is all about.

The risk involved in this tax cut is rooted in the American tradition. It is worth taking.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in opposition to the Republican proposal.

I support the Ways and Means Committee bill because it provides tax breaks where they are needed most—to middle-income individuals and small businesses. Although some provisions of this Republican substitute amendment would be beneficial, taken as a whole, it does not provide the quantity and quality of assistance to small businesses, families, and individuals as the Democratic Ways and Means bill.

Under the Ways and Means Committee bill, the tax rate cuts to individuals would be directed to low- and middle-income individuals, providing working people with greater benefits than are available under the Republican bill. The Ways and Means bill provides a greater tax deduction for married couples than the Republican substitute. The Democratic bill would increase the amount of tax credit available to families for child-care payments and would increase the earned income credit which aids low-income working and elderly people. Neither of these provisions were included in the Reagan administration's proposal represented by the Conable-Hance substitute. The Democratic bill would also raise the zero bracket amount—standard deduction—which benefits working people more than the wealthy. This provision is also absent from the Republican substitute.

Under the Democratic Ways and Means Committee bill, small businesses could receive comparatively greater benefits than under the Reagan administration's proposal. Small businesses could write off plant and equipment expenses in the first year thereby avoiding the wait associated with depreciation deductions. The tax rates are significantly reduced for small corporations under the Democratic bill, but are not reduced under the Reagan substitute. Finally, the Democratic bill expands the targeted jobs tax credit which provides even greater benefits to small labor-intensive businesses, as well as providing incentives to decrease unemployment.

I cannot support the Republican substitute because it results in much larger tax breaks for the wealthy, and finances those tax reductions with borrowed money. This substitute would result in a tax reduction for oil companies of $16 billion, nearly twice the reduction which would occur under the committee bill. The substitute would give the greatest financial incentives to capital-intensive industries at a time when the industries which could solve our unemployment problems are primarily labor intensive. I regret that some worthwhile provisions of the Republican substitute such as the charitable deductions provisions were not added to the committee bill, but the interests of our small businesses, communities, families, elderly, and working people require that I vote against this substitute.

Some here have attempted to contend that the tax proposals presented by the Reagan administration are so intertwined with the rest of the "economic package" that to change those plans would upset the entire scheme. If that is true, why has the administration been so willing to change its tax proposal at the drop of an oil well? The most recent revision of the administration's tax plan has adopted almost all the tax provisions initiated by the Ways and Means Committee. It has become very evident that the tax proposals of the administration are no more necessary to the economic package than the entire committee bill. While I support economic revitalization, and the use of tax incentives to achieve that revitalization, I believe we must act in a fair and responsible manner to insure that those tax incentives will aid revitalization, and not just aid the wealthy.

I urge my colleagues to cast their votes for the people of this country; vote to benefit the low- and middle-income workers, the elderly, the fami-

lies, and the small business owners; vote against this substitute to the Democratic Ways and Means Committee bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I rise in favor of the committee bill.

Mr. Chairman, the committee bill gives the majority of the tax cuts to low- and middle-income wage earners—the people who pay almost 60 percent of all income taxes. The committee bill gives greater relief to America's small businesses—the major providers of employment in this country.

The President's alternative would require that we make massive cuts, not only in social security, but in other, as yet undesignated, areas in order to rebalance the budget which their own tax bill puts into deficit. It would be the height of irresponsibility to endorse such a proposal.

The alternative is the kissing cousin of the Gramm-Latta budget resolution. Together the two become the most blatant reordering of priorities against our low- and moderate-income families and in favor of the affluent and the more affluent.

The vote in favor of Gramm-Latta in May is what unleashed the first assault on social security. It gave the administration the belief that it could sell anything—that it now had the power to undo our longstanding commitment to our senior citizens.

Again today, the extremists in this administration will be encouraged to even greater excesses if they sell this package of bonbons for the rich. Fattened by another victory, the Stockman crowd will be back with new assaults on social security and the whole range of programs that are so important to the working people of this Nation and to local communities all over the Nation.

Mr. Chairman, I do not hold up the Ways and Means tax bill as ideal—it has been a difficult task to put together a bill under the constant onslaughts of the administration and its manufactured lobbying campaign. But, the Democratic bill is far superior—clearly more equitable—than the administration's supersweet package for the superrich.

Earlier today I voted against the previous question and the rule because I wanted an opportunity to cast my vote against tax favors for the oil companies—something that appears in both bills. Surely no one suggests that oil companies need more tax incentives. Earlier this year, we were told that deregulation would give them all the incentives and capital they needed—now they tell us to add on more tax breaks.

So far, the deregulation incentive has been an incentive not to find more oil reserves, but an incentive to raise prices and to play international takeover games with the swollen profits taken from working people who must heat their homes and drive their automobiles to work—the same people hit by the Reagan tax bill.

I also wanted an opportunity to cast my vote against the special tax investment preferences given to some of our Nation's largest corporations.

But in the final analysis, it is clear that the Democratic proposal is the best proposal for the working people in my district who are seeking tax relief.

The Democratic bill would not go willy-nilly into new budget deficits in 1984 but would set up clear guidelines which would not hamper the ability of the United States to maintain a sound budgetary posture.

The working people in my district have already been hard hit by the Stockman budget cuts. The Democratic bill offers the House the last chance we will have this year to make the economic recovery package an equitable program for Rhode Island wage earners.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, there is a saying that somewhere we have all heard probably that goes something to this effect: "For when that one great scorer comes to mark against your name, he marks not whether you won or lost but how you played the game."

I think the basic thing that we are doing today is forgetting how the bill has been put together and the contents of the bill. We are more concerned, quite frankly, with which party is going to win, whether it is the Republican version or the Democratic version. I think that is really not the best way to proceed.

I think the simple truth is that if the Republicans had looked at the Democratic bill several months ago, they would have probably embraced it and said it is one of the best tax packages we could ever probably put together in this House of Representatives because most of the features in the Democratic bill are principles that the Republicans have been advocating for years.

But somehow we have now gotten into this battle of who is going to win, which party is going to win, not whether the American people are going to win.

I personally like the oil and gas provisions in this bill. I like the estate tax provisions of the Democratic bill. I like what it does toward targeting the tax cut to the working people in this country who have had tax problems year in and year out and who are bearing the biggest burden. I think that they are the ones who benefit better from the Democratic bill.

I have had some people say, "You cannot give the tax cut to the little workingman. He might waste it. He might not spend it wisely."

What is the solution in the Republican package? Give the break to the wealthy people because somehow they are going to invest it for the public good. I do not think that is a logical reasoning. I do not think it makes much sense. One can trust the workingman as well as one can trust a wealthy person.

I was thinking the other day if a guy was making $15,000 a year and had four kids that he was trying to put through school, when one tells him that the Republicans' bill is better for him, we better bring a bunch of graphs, we better bring a bunch of charts with us, we better bring a bunch of Laffer curves with us to try to explain it. When he finishes kicking us out of his house, down the steps and out in the street, if one has enough courage, turn around and say, "Vote for me in November."

I do not think we can do that. I think this is a better package. I think it is a better approach.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Chairman, I think in moments of decision like this it is terribly important for all of us to develop a sense of perspective. I think it would be very important for the American people to feel that our debate had removed from it the sting of partisanship and that we were genuinely looking at the issue of what is best for the American people.

I am disturbed by the tone of public discussion on the subject of the tax packages before us, and I think we owe it to the working man and woman of America, to the small businesses, to others involved in this economy, to see to it that we deliberate with a sense of fairness to one and to all.

I am not totally happy with either of the two packages before us at this moment. I would say personally that I am very unhappy with the oil inclusion in both bills. To me, these are very obnoxious provisions; and while I joined with other Members of this body to try to persuade the Rules Committee to give us a separate vote on the oil issues, we did not succeed. It seems incredible to me that so soon after an outraged Nation forced this Congress to pass the windfall profits tax, that now we in the Congress this year find it comfortable to go easy on big oil. But that issue will have to be resolved on another day because there are other very significant questions in this tax bill which concern all of us.

I feel very strongly that the question is clear. The question is: What kind of a tax cut will America have? Will it have a modest gesture or will it have

permanent tax relief? For the past several years, as a member of the Joint Economic Committee, I have listened to the testimony of witnesses who have outlined the interlocking problems of inflation, of unemployment, the problems of productivity, of incentives, of misuse and underuse of our economic resources.

We know the destructive effects of inflation and we also know the impact on the average American.

□ 1550

If we are to have a genuine tax cut that will counterbalance the effects of inflation, then I suggest that the Conable-Hance substitute promises and provides the only answer.

The fact of the matter is that the issue of indexing has been brought before us, but I do not think it has been carefully analyzed. I invite my colleagues to look at this chart prepared by the staff of the Joint Committee on Taxation on the question of indexing. We have included permanent indexing and a permanent real tax cut for the average American in that Conable-Hance substitute.

What does indexing mean? It means for the lowest-income person—the person at the very end of the spectrum, earning $5,000 to $10,000—in an economy where inflation is increasing by 9.3 percent, that the tax bite is 19.3 percent, but for the person earning $200,000, the tax bite due to inflation is 1.2 percent. Indexing helps the little guy. It helps the average working couple in America. The fact is that indexing is only one factor in the total Conable-Hance package.

BRACKET CREEP BY INCOME CLASS WITH 9.14 PERCENT INFLATION

Income	Average [1]	Percent [2]
Over $200,000	1,653	1.0
$100,000 to $200,000	1,262	3.2
$50,000 to $100,000	779	5.4
$30,000 to $50,000	388	6.1
$20,000 to $30,000	220	6.3
$15,000 to $20,000	146	6.8
$10,000 to $15,000	104	8.4
$5,000 to $10,000	81	19.3
$0 to $5,000	37	0

[1] Average dollar increase due to inflation.
[2] Percent increase of tax obligation that indexing will eliminate.
Source: Staff, Joint Committee on Taxation.

I think the basic question we come down to here is really a philosophical one. There are those who say that this is an untested experiment, that we have never taken this course before, and, therefore, we must hesitate and must not try. That view flies in the face of American history. America is an experience in democracy that has always been an experiment, and if we are afraid to innovate, to try a new path in the face of a failure of old answers, then we are afraid to pursue the path of greatness which has been our history.

I suggest to my colleagues on both sides of the aisle that President Kennedy, a beloved former President of the United States, understood what this was all about. Almost 20 years ago he understood that a rising tide lifts all boats, that a healthy economy will develop the best opportunity for the future for all Americans.

That is what President Reagan suggests today.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, over the last 24 hours I have heard from my constituents, as all of you have heard from your constituents. I had one dear friend of our family call me just a minute ago and say, "Bill, I have known you since you were born and I want you to vote for the tax cut" not understanding that there was more than one cut being considered by this body. I hurriedly dictated a letter to her, and to all others inquiring, which explains my position:

DEAR VIRGINIA: Thank you for the interest you have shown in the Tax Bills which are being debated today. Having followed the development of both bills, I am convinced that the Democratic Bill better serves the people of the First Congressional District of Arkansas. While the provisions are massive and there are proposed changes to the law with which I disagree, the Democratic Bill is generally better for the following three reasons:

1. While both bills treat farmland and owners equally, the Democratic Bill is more favorable to small business.

2. The Democratic Bill provides a substantially larger tax cut to the taxpayers of my District than the Administration Bill.

3. The Democratic Bill produces a substantially lower deficit, about $30 billion, than the Administration Bill, and is therefore less inflationary.

The National Home Builders Association summarizes the difference in these two bills this way: "It is a simple choice between Main Street and Wall Street."

Mr. Chairman, I would like to elaborate on the third point in my letter for a moment. The Democratic bill will produce a lower deficit than the Conable-Hance measure supported by the President. And deficits are a main cause of inflation and high interest rates.

I suggest there is only one way to prevent deficits, and that is to balance the budget. Balancing the budget is not a new subject to Republicans. For many years, it has been a familiar refrain on the Republican side of the aisle. But with the advent of the new supply-side religion, the term "balanced budget" virtually disappeared from the lexicon of the GOP.

It has also disappeared from the policy embraced by the Republican Party. The Conable-Hance amendment will assure the American people of huge deficits in 1982, 1983, 1984, and beyond. It will assure a continued high level of inflation—which is the cruelest tax of all—and it will guarantee high interest rates for small business, the housing industry, the automobile manufacturers and dealers, and for farmers, consumers, and our trading partners.

The promise of a tax cut may be an offer the American people cannot refuse, but if the effects of the Conable-Hance, supply-side, trickle-down policies prove not to have magical curative powers, I can promise that the American people will refuse to return those to office who supported it.

Mr. Chairman, I urge my colleagues to vote down the Republican substitute.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. Mr. Chairman, I rise in support of the Reagan-bipartisan tax plan introduced by Representatives CONABLE and HANCE.

The combination of individual and business tax relief contained in the plan is substantial and impressive. It represents the most significant tax reform and reduction for the American people in nearly a generation. Government tax policies for too long have stifled investment and encouraged wasteful consumption, leading to long-term deterioration in the Nation's ability to produce goods on terms competitive with other nations. To arrest the decline in American efficiency and high inflation rates that inefficiency brings, the "new economics" of the Reagan administration and the Conable-Hance bill recommends reduction in individual and business taxes and new incentives to encourage investment and production.

I believe this tax program, along with the other budget and economic programs that we are enacting this year, will lead to faster growth, more jobs, less inflation, and lower interest rates.

There are, of course, uncertainties ahead for any economic plan given the complexities of our national economy and the unpredictability of world economic and political events. Moreover, I do have some practical concerns. For example, can the President and the Congress achieve the goal of a balanced budget by 1984, and if our policies do not reduce the deficit, will they conflict with the tight money grip of the Federal Reserve Board?

Yet, I believe that it is time to be bold and venturesome, a time to try new and creative approaches, particularly in light of the failure of present policies. The Reagan-bipartisan tax plan is innovative and clearly preferable to the Democratic Ways and Means Committee alternative. The latter is an inferior copy of the Conable-Hance plan, designed by members of the majority party who are steeped

in the economics of the past and whose credibility is damaged by their stewardship of the dangerously faltering economy that we inherited at the start of this new Congress in January.

On another level of analysis, I have been particularly interested in the tax program as it relates to my section of the country—the Northeast. I find that the Democratic tax alternative would cost the Northeast a cool $11.7 billion in tax reduction over the next 4 years. A typical family of four in the region would be losing $700 a year by 1984.

The impact is so acute because, with a higher cost of living and nominal incomes, families in the Northeast are already suffering disproportionately. Under the Reagan-bipartisan tax plan, the region would receive $55.9 billion in tax reduction by 1984; under the Democratic plan, only $44.2 billion.

Mr. Chairman, I do not intend to review all the details of the Reagan-bipartisan (Conable-Hance) plan—it is a comprehensive program and it has been widely discussed here in the House today. I do wish to point out, however, that I am particularly pleased with the individual tax cuts and the savings, investment, and productivity incentives. Other provisions like marriage penalty relief, the child-care tax credit, and new incentives for charitable contributions are also very attractive aspects of this bill.

The provision for indexing is generally a positive step. Starting in 1985, annual adjustments will be made in personal exemption, zero bracket amount, and income brackets to offset so-called bracket creep caused by wage inflation. And while I believe this will materially help the average taxpayer, my only reservation is that as a society "indexes" more and more of its economic components, it may lose the will and the leverage to fight inflation, which can become "institutionalized" in time. As a Member of Congress, I will do my utmost to prevent that from happening by remaining ever vigilant about the causes of inflation and committed to actions to minimize and contain it.

Mr. Chairman, there are two other features of this tax plan that I want to mention briefly, because they have great potential for my district: First, the rehabilitation tax credit will encourage developers in my cities to renovate old buildings for productive purposes; and second, a new tax credit for research and development will aid our efforts in the Northeast to attract industry linked to our world-renowned scientific and educational facilities. Both of these features were incorporated into the tax plan at the urging of a group of small but influential Northeastern and Midwestern Republicans known as the "gypsy moths," a group to which I proudly belong. The rehabilitation and research and development tax credits will help us greatly as we undertake the formidable task of rebuilding our urban economies. Our tax system now will help renovation, rather than relocation.

There is one great drawback in the tax plan that I feel compelled to mention. The new oil tax cuts are unwarranted and unnecessary. The revenues we will lose as a result of these provisions cannot be condoned in a year when we have had to cut domestic programs, particularly since the additional breaks come on the heels of oil deregulation which could seriously undermine the credibility and balance of the tax reduction and economic program. For that reason, I supported a challenge to the rules earlier today which would have permitted a separate vote on the oil tax cuts—a move which failed. I will support other motions and actions today and in the future to strike these "special tax breaks" out of the program—they will not lead to more production, only higher profits and less revenue for needed domestic and social programs.

I must hasten to add, however, that these provisions were not part of the original Reagan-bipartisan tax plan. Only as a result of the "bidding war" started by House Democrats, who attempted to lure our "oil-State" colleagues by adding oil tax cuts to the Ways and Means Committee, did the authors of the Conable-Hance bill feel obliged to respond accordingly. It represents an unfortunate and disgraceful exchange of offers.

Aside from this, the tax bill and the other economic policies we are enacting this year are positive and constructive steps toward increased productivity and improvement in America's standard of living, a chance to control inflation, and paychecks that reflect real rather than imaginary gains. Steps that I am proud and pleased to support.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise in support of the Conable-Hance substitute.

Mr. Chairman, I believe we all agree that the time for tax relief is now. The question before the House is not if we will, but how we will affect the tax cut America is screaming for. We are currently considering the Ways and Means Committee version of individual and business tax cuts, versus the President's bipartisan substitute.

We are fortunate to have two such excellent proposals to choose between. Both would give tax relief to U.S. taxpayers and business. What we have to decide here today is: Which one is superior. Which one will give lasting, predictable tax relief? Which will provide incentives for people to work, save, and invest? Which will stimulate economic growth and capital formation?

Our economy is floundering and hurting all Americans. Families' personal taxes have quadrupled over the past 15 years. One out of three taxpayers is in the 25-percent-or-above tax bracket. We have had 8 million people out of work. We have double-digit inflation. New houses stand empty, huge portions of the construction industry stand idle. Productivity is on the decline. Bankruptcies are on the increase. These are all signs of a very unhealthy economy, and the medicine for this ailing economy is personal and business tax rate reduction which will stimulate investment, productivity, savings, and job formation.

The best prescription involves real, lasting tax relief. I stand in firm support of the President's bipartisan tax bill as the clear choice for a number of solid reasons. We've heard this debate again and again, but I'd like to outline the argument again now.

First, permanent individual tax cuts. The bipartisan substitute bill offers a 3-year, 25-percent, across-the-board tax cut—5 percent this year and 10 percent for each of the following 2 years. The committee bill offers only a 15-percent cut over 2 years. There's no way that their 15-percent, 2-year cut can ever equal a 25-percent cut no matter what type of voodoo economics the Democrats practice. Taxes will go up 22 percent over the next 3 years if we do nothing. The Democrats' plan amounts to, at best, a slight reduction in increased taxes. Additionally, the bipartisan bill reduces the capital gains rate from 70 percent to 50 percent starting in January of 1982. The committee bill puts off this reduction until 1983.

We've heard a lot from supporters of the committee bill how the President's program is skewed to help the rich. How can anyone say that, when three-quarters of the tax cut will go to middle-income taxpayers—who now pay most of the taxes? Taxpayers earning between $10,000 and $60,000 now pay 72 percent of all taxes and will receive 74 percent of the President's tax cut. To me, this is fair. We need a tax cut to create wealth, not artificially redistribute wealth. The across-the-board cut will do this.

Second, indexing. Inflation-caused bracket creep has turned into a nightmare for middle-income wage earners as they try to keep up with the rising cost of living. One of the most important aspects of the President's program is the indexing provision, which adjusts everyone's taxes to account for inflation, as reflected by increases in the Consumer Price Index. The Ways and Means bill has no such provision. To me, this means that after a token tax cut the Democrats intend to go

back to taking more and more in taxes after 1982 and spending more and more on runaway Government programs. This is clearly unacceptable and is exactly what the President's four-point program means to stop.

Third, business tax cuts. Both bills address the need to accelerate and simplify business depreciation schedules. Both have pluses and minuses. The 10-5-3 depreciation contained in the President's program is not flexible enough for some industries, like high technology and computer software, but is ideal for others. The Ways and Means bill provides for first-year expensing of assets, which may not provide adequate incentives to business to reinvest until 1985, when the proposal would be fully implemented. The bipartisan bill would also reduce the corporate tax rate and increase the investment tax credit, both important changes.

It disturbs me that there are those who have relegated this debate to that age-old political shell game which tries to pit the poor against the rich; the laborer against the investor; black against white; the Northeast against the Southwest. This disturbs me because it takes the entire issue out of focus, and we need to adjust the lens and get back to the issue which is prosperity—a growing economy that provides jobs for all who want to work and to return the incentive to go forward.

It isn't in the interests of the poor to discourage wealth, and it is not in the interests of the wealthy to discourage the poor from becoming wealthy. It is about time we talked about what is good for America being good for all people. We are still one nation, one people, one family, and we need to expand the house and open the front door and welcome everyone under one roof.

This can be done by reducing the enormous burden of taxation the American people are currently staggering under. This burden discourages everything this Nation's economy needs:

It discourages incentives to work;

It discourages production; and

It discourages savings and investment.

In short, it discourages everything that has made this country the economic powerhouse of this world.

I would like to remind you that every major tax cut in this century has strengthened the economy, generated productivity and increased tax revenues.

We have tried taxing and spending and tinkering with economy and redistributing wealth to insure prosperity. It does not work. Let us give a return to the traditional American way of life a chance—letting individual taxpayers make more of their own decisions about spending their hard-earned dollars. This free-market system made us great in the first place and it can put us back on the road to economic recovery now.

I say, support the President's bipartisan tax bill.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, I rise in support of the Conable-Hance substitute.

Mr. Chairman, recent history has shown that Government alone, with its periodic attempts to manipulate the economy, cannot solve the problem of simultaneous high inflation and high unemployment. As Government must rely on private enterprise and the citizens of this Nation to generate long-term real economic growth, Congress in turn must make a long-term commitment toward restoring the health of our economy. The Conable-Hance bill represents such a long-term commitment. A guaranteed 3-year across-the-board tax rate cut represents a consistent economic policy that individuals and businesses can plan upon. The certainty of lower rates will create a stable and predictable environment, encouraging both investment in productive economic behavior and savings sorely needed in our capital-starved economy.

Inflation generated bracket creep and social security tax increases are expected to impose a 22-percent increase in tax rates over the next 3 years. It is readily apparent that the committee bill, which only cuts taxes by 15 percent over a period of 24 months, does not offset this automatic 22-percent rise in taxes. On the other hand, the Conable-Hance plan cuts marginal income tax rates by 25 percent across the board over 33 months providing real tax relief to all taxpayers. Although the Conable-Hance proposal barely offsets this tax increase, the committee bill falls far short.

The Conable-Hance bill offers a 3-year, 25-percent across-the-board tax cut for all taxpayers, leaving our progressive tax code untouched. The committee's 2-year 15-percent tax cut claims to provide more tax relief to lower- and middle-income groups. However, a 3-year 25-percent reduction provides virtually the same amount of tax relief to low- and middle-income groups as a 2-year, targeted, 15-percent tax reduction. For example, under the committee bill, households with 1980 income levels below $35,000 would be taxed at a rate only three-tenths of 1 percent lower in 1983 than under the Conable-Hance bill. As the Conable-Hance bill adopts indexing it provides even more relief for this group than the committee bill does by making the tax cut permanent.

Currently, the middle class pays 72 percent of the Federal tax burden. The Conable-Hance bill would give this same group 73 percent of the tax relief. In terms of equity, every income group shares in the tax reduction just as they shared in past tax increases. Instead of a policy of redistributing income, which in the past has reduced incentives, this even-handed approach is designed to create new income by restoring growth to the economy. Creating new wealth is the surest way to create jobs and business opportunities for everyone.

Our troubled economy today provides ample evidence of the destructive effect high tax rates have on an individual's incentive to work and save. Under the Conable-Hance proposal, individuals will have an additional incentive to work, save, and invest. Furthermore, almost 90 percent of all businesses are operated as proprietorships, partnerships, and subchapter S corporations and therefore pay their taxes under personal rates. These individual rate cuts constitute a major small business tax cut.

In today's world, no discussion of taxes is complete without addressing the cruelest tax of all—inflation. One of the key provisions of the Conable-Hance bill follows up the 3-year tax cuts with indexation. Tax indexing, currently cosponsored by 226 of our colleagues, will halt automatic tax increases that occur when inflation pushes taxpayers into higher brackets. This built-in protection against bracket creep will protect and perpetuate the incentives intended by Conable-Hance. As inflation hurts the lower and middle-income groups most, these groups will benefit most by tax indexing.

President Reagan's economic recovery program is based upon sound economic principles as well as being endorsed by many experienced entrepreneurs. As an integral part of this comprehensive plan designed to rekindle the momentum of our free-enterprise economy, the Conable-Hance bill deserves our support.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, comprehensive tax reform legislation to foster our national economic recovery program as proposed by President Reagan is long overdue. In this regard, the President's bipartisan tax bill is the most logical proposal in the fight to provide equitable tax relief to all sectors of society and to stimulate the economy with new tax incentives for businesses and investors. The American people have rallied to declare their unquestionable support of the President's proposal. For example, the phone calls in my office are indicating an almost 11-to-1 margin in favor of Mr. Reagan's legislation.

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Opponents of the measure claim that it will not benefit low- and middle-income taxpayers. Yet, when one objectively examines the two proposals, it is readily apparent that the Reagan-backed tax plan is the only one that offers the American people concrete tax relief over the next 3 years and, more importantly, in future years. Under the Democratic Ways and Means Committee bill, the median income family will be in the 25-percent bracket by 1984 and in the 34-percent bracket by 1986 or 1987. The Conable-Hance bill would put the median income family in the 24-percent tax bracket in 1984 and many years thereafter due to the indexing provision.

Tax indexing is one of the key elements of the personal tax reductions offered in the Conable-Hance bipartisan bill. Under present trends, inflation, bracket creep, and scheduled payroll tax increases will raise taxes by about 22 percent over the next 3 years. The Reagan-backed plan offers a 25-percent reduction spread over 3 years, thereby offsetting the projected tax increase and preventing future bracket creep. The President's proposal clearly provides at least a little real tax relief over the next 3 years and then, by indexing, guarantees that personal income taxes will not begin to rise automatically due to inflation. This indexing proposal, not contained in the Democratic plan, is particularly significant for lower- and middle-income taxpayers. As a long-time supporter of tax indexing, I realize the vital importance of such a provision in any meaningful tax reform.

Let me emphasize that with indexing, there will be no hidden tax increase. Without tax indexing, cost-of-living increases would push taxpayers into higher brackets, even when their actual incomes have not increased. Under the current tax schedule, for each 10-percent rise in wages and prices, income taxes increase 17 percent, resulting in 7 percent of bracket creep. Indexing is an extremely efficient means to moderate the adverse effects of inflation and eliminate the windfall for the Government resulting from this inflation.

While there are some similarities between the two bills, I believe that the Conable-Hance bill provides the most effective tax relief for individual taxpayers. After all, the American people gave Mr. Reagan their vote of confidence in November. Mr. Reagan promised to cut spending and he has. He will cut taxes, if we support him. I believe that in the interest of realistic equitable tax reductions we, as Members of Congress, must support the President's tax bill.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of the Conable-Hance substitute.

Today we will have an opportunity to decide if the people of this country will get real, permanent tax relief or a Johnny-come-lately excuse for a tax cut.

President Reagan and many of us in this Congress have been working for the past 7 months to enact a genuine tax cut against the vehement opposition of the Democratic leadership. Only in the past few weeks has the Democrat leadership begun to take serious steps in the direction of providing tax relief. This late-blooming activity has been prompted more by political opportunism than by genuine concern for the taxpayers of this country.

Mr. Chairman, we have heard a great deal of misguided rhetoric which implies that the President's tax cut will not benefit the working people of this country, and that the Ways and Means Committee bill is the better alternative. This is utter nonsense. A Treasury Department analysis shows that families at virtually every income level will receive a deeper tax cut, face lower tax rates, and enjoy a greater increase in income and living standards under the Reagan-Conable-Hance bill than under the Ways and Means alternative.

For example for a family now earning $15,000, the Ways and Means bill gives $22 more in 1982 than the Conable-Hance bill and $25 more in 1983. But in 1984 the Ways and Means bill gives $73 less than the Conable-Hance bill. In 1985 it gives $129 less. In 1986 it gives $183 less. And the difference keeps growing because the Ways and Means bill does not include indexing for inflation.

The Ways and Means tax cut is not only inadequate, it is also temporary. After 1983, taxes will start to rise again due to inflation and built-in unlegislated tax increases known as "bracket creep." The Reagan proposal will abolish this hidden tax increase and allow the taxpayers of this country to keep more of their hard-earned wages instead of automatically turning them over to the Government in ever-increasing amounts.

Since President Reagan spoke to the Nation last Monday evening, the people in my district—by a 4-to-1 margin—have called to tell me of their support for the President's tax reduction program. They believe that they will receive greater tax relief under the President's plan than they would under the Ways and Means proposal.

Treasury Department statistics confirm the confidence of my constituents. In 1983, New Jersey will receive $290.5 million in tax relief under the Reagan plan, $4.2 million more than they would receive under the Ways and Means bill. In 1984, New Jersey residents will receive $465.3 million in relief from the President's bill. Assuming that the Democratic trigger mechanism does not work in 1984—a pretty safe assumption when we consider all of the complex provisions which the committee attached to it—the people of New Jersey will receive $124.6 million more in 1984 under the President's plan than under the Ways and Means proposal.

Mr. Chairman, the choice is clear. We can continue the business-as-usual approach that has produced economic stagnation. Or we can make a fundamental change in the stifling tax policies that have inhibited our economic growth by supporting the President's tax cut plan.

Mr. CONABLE. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in support of Reagan-Conable-Hance-Gramm-Michel-Kemp—there is a whole mess of us for this bill—because it really is the best tax bill. Quickly, I would like to say that it is anti-inflationary because there is far less tax increase than in the majority bill. Taxes are very much a factor in inflation, and this bill is far superior in reducing taxes which are very inflationary today.

Small business, the National Federation of Independent Businessmen, has endorsed this bill overwhelmingly. The NFIB representing not only their 700,000 membership, but a coalition of 130 different small business organizations, state that the Conable-Hance bill is far superior for small business.

Mr. Chairman, as elected representatives we have the opportunity of a lifetime before us today. Our vote this afternoon on the tax bill will determine whether we depart on a course during the next few years based upon economic weakness or based upon economic strength and prosperity. I strongly support the Conable-Hance bipartisan tax plan because it represents the only real chance to remove the present barriers that inhibit the economic growth our country is so capable of producing. This bill provides for the greatest incentives for productivity and capital formation in the past 20 years.

It is important for us to understand how the Conable-Hance bill differs from the committee alternative. Having sat through the past several weeks of hearings and markup of the committee bill, and having met on numerous occasions with the President and other cabinet leaders, I am quite familiar with each of these bills.

Although there are many elements in the Conable-Hance bipartisan tax bill which are vital for economic recovery and tax relief, such as accelerated depreciation and indexing—both of which I have supported for many

years—the key point which must not be overlooked in our consideration of this proposed bill is that the tax reduction cannot be evaluated as a one-time, static return to the American people of their hard-earned tax dollars. An amount that I might point out would be almost $553 billion through 1986, when you take indexing into account for personal tax returns, as well as approximately $180 billion through 1986, for business tax returns.

Although this return of tax dollars is one benefit, there is more to the tax reduction than that provision. The key is that the bipartisan tax reduction bill will result in reflows which will go to make up much, if not all, of the shortfall reflected in the Federal budget by this tax reduction, and will, more importantly, provide for a stronger economy. Simply stated, reflows allow for the tax reduction to actually "pay" for itself, because the tax base is expanded from the new real growth in the economy which is induced by the increased incentives to work, to produce, and to save.

This type of a tax reduction is not necessarily new in theory or in practice. Unfortunately, however, this type of a tax reduction is relatively foreign to this Congress.

In a December 1962 speech before the Economic Club of New York, President John F. Kennedy recognized this difference in tax reduction plans when he stated:

> An economy hampered by restrictive tax rates will never produce enough revenue to balance the budget—just as it will never produce enough jobs or enough profits. In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low—and the soundest way to raise revenues in the long run is to cut rates now.

President Kennedy continued to make the important point that:

> Our practical choice is not between a tax-cut deficit and a budgetary surplus. It is between two kinds of deficits—a chronic deficit of inertia, as the unwanted result of inadequate revenues and a restricted economy—or a temporary deficit of transition, resulting from a tax cut designed to boost the economy, increase tax revenue and achieve a future budget surplus. The first type of deficit is a sign of waste and weakness—the second reflects an investment in the future.

The choice President Kennedy so eloquently spoke of almost 20 years ago is not all that different from the choice we face today. The key point is that the budget cannot be balanced based upon a sluggish economy, but it can be balanced when based upon an economy built upon strength and prosperity.

Mr. Chairman, there is one thing of which we can be most certain. If today we talk ourselves out of restoring economic incentives, if we fail to give the President his program for economic recovery, which he was elected to implement, and if we opt for a tax reduction which simply duplicates the tax cuts of the past, then our Nation's budget will not break from the deficit mode. I am certain that I do not need to remind my colleagues that the Federal budget has been in deficit for 19 of the last 20 years. Consequently, our vote signifies today whether we will simply guarantee continued deficits or whether we will break out of the deficit mentality that the Congress has locked itself into in the past.

We must vote for Conable-Hance today in order to launch this country into an era of strong economic growth.

There are tremendous economic disincentives operating today. For example, in 1965, only 6 percent of all taxpayers faced marginal tax rates of 25 percent or higher. Today, almost 40 percent of all taxpayers face rates of 25 percent or more. In addition, the average worker must now pay his entire salary to taxes from January 1, to May 11.

Moving the economy past these barriers can only be accomplished by a higher economic growth. The bipartisan tax reduction plan achieves this higher economic growth by overcoming the disincentives present in our economy to work, to produce, and to save. "The key," as Secretary Regan told the Senate Finance Committee in May, "is to give the economy back to the people." The bipartisan tax plan allows the people themselves to restore economic growth through their increased productive and saving efforts. This results as the "costs," or taxes, to work, produce, and save are reduced, individuals can respond positively by being paid more for their efforts. In this way, new previously unharnessed production provides not only a stronger economy but the funds to pay for most if not all of the tax cut, thereby financing the tax reduction plan.

Allow me to use an example for illustrative purposes. The bipartisan tax proposal would reduce personal taxes by $27.2 billion and business taxes by $8.6 billion in fiscal year 1982. The total reduction is $35.8 billion. Using a conservative estimate, during the next few years the tax cut for fiscal year 1982 would increase real GNP by $61 billion. This increased economic base would feed back, even under the most conservative estimate, $20 billion in added tax revenues to Federal, State, and local governments. In addition, personal and business saving would rise by $4 billion, and another $9 billion in business savings results automatically from the accelerated depreciation allowances. By summing these figures we find that only $3 billion of the $35.8 billion total tax reduction would still need to be financed. However, there will be no problem financing this amount. New sources of funds will emerge due to increased incentives to work, to produce, and to save, which the bipartisan tax reduction plan will produce.

Mr. Chairman, it is not as if we are enacting a tax plan blindly as some would like us to believe. History of the reflows which will result from the bipartisan tax plan provide us with our best example of potential success.

My colleagues will recall that in 1963 the Treasury predicted a revenue loss of $89 billion over 6 years as a result of the Kennedy tax cuts. Instead those tax cuts generated more than $143 billion in revenue than the Treasury had predicted. Similary, the capital gains reduction of 1978 resulted in $3.8 billion more receipts than what had been estimated by the Treasury Department. Many can also remember the high reflows experienced in the 1920's when Treasury Secretary Andrew Mellon cut the highest marginal tax rate from 73 percent in 1921 to 25 percent in 1925.

And so I put forth before my colleagues the choice: Will we enact the bipartisan tax plan which will allow for true, real, economic growth or will we opt for an imitation or synthetic version of the President's plan? I urge that we enact the real thing.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Chairman, because of the President's brilliant political skills, I can understand why the people of my district and particularly my region in the South think that there is only one game in town and that is that of the President of the United States and that in fact in the alternative the Democrats do not want to cut any taxes.

What I cannot understand is why we do not represent those people who are misinformed about the nature of the two packages of massive tax reduction that is being offered for our decision today, because the facts, regardless of where you come from and what banner you wave, are very simple.

If you live in a small town in a rurally dominated economy, if you are a wage earner under $50,000 a year, if you have to borrow more than you loan, then the plan offered by the Ways and Means Committee is more beneficial to your family, to your economy and to your region.

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All of these are characteristics of the great silent majority of wage earners in this country, people who are politically indefensible because they do not have $200,000 a year lobbyists, talking about how we have got to do what for corporate America.

No one has accused the Ways and Means plan of being antirich. Permanent tax cuts for corporations, a trillion dollars in 10 years, a permanent reduction in the maximum rate on un-

earned and investment income from 70 percent down to 50 percent, permanent escape from estate taxes for 99.7 percent of all Americans.

But what is missing is one little thing that, yes, came from the Republican side of the aisle—it is a safety valve. It is called a trigger. It was conceived by the gentleman from New York (Mr. CONABLE). It was cobirthed by the gentleman from Ohio (Mr. LATTA).

It said, on October 12, 1978, when a similar tax proposal for a 5-year tax cut was offered—this approach to fiscal discipline is responsible and workable. Voting for this amendment is the way to make clear our firm resolve to lower taxes and spending over the next 5 years.

The gentleman from New York (Mr. CONABLE), up jumped the gentleman from Ohio (Mr. LATTA), this amendment provides a positive check against runaway deficits. We get the tax cuts if and only if Federal spending is restrained. This is trigger. Up came the gentleman from Michigan (Mr. STOCKMAN) to be the midwife. The spending level is locked in. The deficit cannot be increased. This is the trigger. Help save trigger. Do not abort the trigger. Let trigger live.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Chairman, with the passage of the Gramm-Latta budget and reconciliation bill, and with the passage of the Conable-Hance tax bill, the Federal Government, for the first time in 25 years, is going to get smaller next year relative to the private sector of the economy.

At issue here is who is going to spend the money of the working men and women of this country, and on that issue there is a deep philosophical division.

The President and those who support his position say let us put more money back into the pockets of the people who earn that money in the first place. Let us create incentives for people to work, for people to save, and for people to invest. And those who oppose the President do so because they recognize that a real tax cut which is indexed is going to shut down this spending show.

They recognize that it is going to mean that the spending cuts of the 1982 budget are permanent and they are the beginning of a process of fiscal responsibility.

The committee bill does not cut taxes. Taxes are rising by 22 percent over the next 3 years, and by cutting 15 percent, even by skewing it to lower income Americans, they raise everybody's taxes and they play this old populist demagogic song, "We are doing something for the little guy."

What they are doing is confusing the people, raising everybody's taxes, pitting one group of workers against another, and making the tax system more progressive than it already is.

The progressive tax mentality is the problem in this country, and making the system more progressive will not solve that problem.

What we need is a tax cut that creates wealth, not one that redistributes wealth.

This country was built by the American free enterprise system and individual freedom. Let us let it work again.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I rise in strong opposition to the Reagan substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, it is a little hard to speak in nonemotional terms with the high rate of emotion that we have on the floor today.

I am not criticizing anybody for having their emotions high. This is an important moment.

Let us try to put it in perspective though.

There are essentially three differences between the Republican substitute and the committee bill. Indexing is one of those. I realize we can make some pretty good arguments for indexing. I have heard them. I even bit on them once, and it was a mistake. It is a mistake in Argentina, it is a mistake in Brazil, it is a mistake in lots of other Western Hemisphere countries. It has been tried. It has not worked. It has led to a lot of trouble. We have had no hearings on it. We do not know what the side effects are going to be.

If it works, as my friends on the Republican side have described, by 1985 there will be 535 people who are against inflation, and all the rest of the people in the United States will not give a hoot.

Those 535 people will be here in Congress. Maybe that will be salutary, but it really will not work.

You cannot put this great complex country on an autopilot and expect anything other than a crash landing.

That is the first difference.

The second difference is in the individual tax cuts. This bill obviously does a lot for very wealthy people. It reduces their inheritance tax. Very few people will ever pay an inheritance tax after that. It reduces their principal residences. It reduces their capital gains rates. It does all of those things—things that will not help the common individual wage earner.

The Democratic bill, the House Ways and Means bill, is tilted slightly, and I say slightly toward the wage earner, the people below $50,000.

I think we should all stop and think. I am cutting my taxes, if you just figure what my income is, as a Congressman, by about $3,000 a year, in 1984, just on my congressional income. We are cutting the taxes of the average person in my district by less than $1,000 a year.

In all good conscience I cannot vote that much tax cut for myself and so little for others. But that is the way it is, and the Ways and Means bill tries to correct that to some extent. We do not do a perfect job.

The third thing is that we have got in the Democratic bill—and I know it is hard for my colleagues who are so emotionally attached to the Republican proposal to understand this—but we have a better business tax proposal. We give the businessman the spending rather than depreciation. We let him write off his investment in the year in which he acquires it rather than over 10 or 5 years or 3 years.

I say, Mr. Chairman, considering all of those, the Ways and Means Committee bill is the best one to support.

Mr. CONABLE. I yield 4½ minutes to the gentleman from New York (Mr. KEMP).

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman from New York (Mr. KEMP) knows I was one of the earliest cosponsors of the Kemp-Roth bill in 1976, and I know this is an important occasion for the gentleman from New York who has worked so hard and persevered so tirelessly to bring about a meaningful tax rate reduction.

I mention my early interest in the multiyear tax rate reduction, to signify that both my support for it and concerns about it are not the result of any new-found interest or concern.

One of my concerns about the 3-year tax cut under existing economic circumstances is the potential of high deficits in the third year if the economy has not improved as forecast and, that is why I tried to get an economic trigger made in order on this proposal to avoid high deficits, high interest, and high inflation if the economic recovery has not occurred.

I am concerned about that. And I regret the Rules Committee did not allow such a trigger amendment.

Last night, however, in a conversation with President Reagan, I asked him about this problem and concern specifically. He told me that in the event there are economic problems, if the anticipated economic recovery had not occurred by this third year, he would come to Congress with proposals which would raise the revenues, if necessary, or take other actions to rectify that, and to avoid the potential deficit, interest, and inflation problem,

and I wonder if the gentleman from New York would comment.

Mr. KEMP. I think the gentleman knows, as do all Members, the reason the President is not adding a trigger for the third year is his recognition that the high deficits in this country and in the budget today are caused in large part by the high tax rates which are crowding out investments and savings and economic growth. President Kennedy flatly refused a trigger for precisely that reason, saying the uncertainty could lead to larger, not smaller, deficits.

So I am pleased that the gentleman had the conversation with the President. I appreciate his support in the past and I know in good conscience he can support this bill, because he knows the President would not undertake any policy that would leave this country in an economic decline over the next 3 or 4 years. The President is going to have to run in those 4 years. I would appreciate it if the gentleman would find it in his heart to support his bill now because this is so important to the people of Georgia and America in terms of economic recovery that will reduce the deficts.

Mr. LEVITAS. I would say to the gentleman, if he would yield further, that in light of my conversation with the President on this point and his assurances that steps would be taken which, I believe, would have the same effect as the economic trigger I have proposed and in light of the fact that the indexing provision is in the Conable substitute version that has been proposed, I intend to support that position. After careful and concerned study, I have made the decision to support the President by voting for the Conable substitute amendment to the tax bill because I believe that it is time to give the American people a significant tax break. The Conable substitute does just that by giving the American people a 3-year across-the-board tax cut such as the one the gentleman from New York (Mr. KEMP) has been calling for over the past few years. As a long time supporter of the so-called Kemp-Roth tax cut proposal, I am pleased that this type of cut is now being seriously considered. I first cosponsored the Kemp-Roth bill in 1976. Therefore, my interest in it and my concerns about it are not the result of some new-found knowledge or events.

The decision to vote in favor of the Conable proposal, however, was not an easy one to make. In fact, I have been deliberating over this matter for a long time. While there are many things in the bill which I endorse, such as the 3-year across-the-board cut and the indexing provision, there are also many things in the bill I do not like.

I really do not totally like either of the two proposals which we are now debating, for both the Ways and Means Committee bill and the Conable substitute contain sweeteners, boondoggles and provisions which have no business being in a responsible tax bill. Provisions which favor commodity trader, provisions which favor oil producers, the carryback provisions on corporate investment tax credits—these are just a few examples of provisions which were put in both tax cut bills as a way for each side to gain votes in a bidding contest. I do not believe that is the way responsible tax legislation should be written. And indeed, what we now have in both of these proposals as a result of this bargaining and this bidding war are some unreasonable and inequitable provisions which favor a select few.

Another part of the Conable version which I do not like is the fact that the third year individual tax cut is not specifically tied to the performance of the economy. Since the beginning of the debate on the individual tax cut I have said that if we were going to enact a multiyear tax cut, which I do favor, then we should make certain that there are some safeguards, some safety nets, to make sure that we do not end up in the third year with a $100 billion deficit, increased inflation, and interest rates going through the roof.

Unfortunately, my Republican friends did not respond to my plea and did not include the safety of a trigger provision in their bill. And, this neglect occurred even though many of them, including Mr. CONABLE, Mr. KEMP, Mr. LOTT, Mr. LATTA, Mr. STOCKMAN—who was then a Member of the House—and many others, supported the type of trigger I was proposing when it was offered by Senators NUNN, CHILES, ROTH and BELLMON in the 1978 tax cut debate. I am not convinced that the threat of inflation, budget deficits and high interest rates is any less real today than it was in 1978 and so I have continued my support for an economic trigger in this tax cut debate.

I regret that the Rules Committee did not allow the offering of an amendment to the Conable substitution which would have put in such a trigger mechanism. After all, the trigger I proposed was based on the very same economic assumptions which the entire economic recovery plan of this administration is based on.

I did have the opportunity last night, however, to discuss my specific concerns with President Reagan. I asked him about my concerns over the potential of high deficits in the third year if the economy has not improved as forecast. He told me that in the event there are economic problems, if the anticipated economic recovery had not occurred by the third year, he would come to Congress with proposals which would raise the revenues, if necessary, or take other actions to rectify the problems and to avoid the potential deficit, interest and inflation problems.

This assurance from the President that steps would be taken which, I believe, would have the same effect as the economic trigger I have proposed, convinced me to vote for the Conable substitute.

There is another important provision in the Conable substitute which helped convince me to support it. This is the provision which calls for indexing of individual income tax rates. I have long supported the efforts of Mr. GRADISON to enact such an indexing measure. People in all walks of life—low income, middle income, fixed income—all suffer from inflation. To add greater injury the tax law takes even a greater part of a person's real income because of inflation. The Government taxes inflation. It is not fair that the Federal Treasury benefits from inflation which raises tax revenues when Government policy is partly responsible for creating inflation to begin with.

Indexing the tax rates to offset inflation is only fair. It provides needed tax relief. I am strongly in favor of this provision in the Conable substitute which puts a permanent end to the bracket creep and the tax on inflation which has burdened all sectors, but particularly those in the lower middle income brackets.

I definitely believe American taxpayers know how to spend their money better than the Federal Government does. With the indexing provision in the Conable substitute, and with the subtantial tax relief this measure will provide, I believe we will be able to return to the American people the right to decide how they spend a significant portion of their income.

A poll I took in my district last March revealed that an across-the-board 3-year tax rate reduction such as the Kemp-Roth plan was the No. 1 choice for tax relief among my constituents who responded by almost a 2-to-1 majority on the second choice.

I have criticized the way the decisions on the President's economic recovery package have been made up until this point. In discussing the rules for consideration of the first budget resolution and the budget reconciliation bill, I said on the floor of this House and I said in public statements that it was unfair to the American people and an insult to our democratic form of government not to open the debate to discussion of specific questions and allow for amendments to improve specific provisions in the bills. Likewise, I said in the debate this morning on the rule for consideration of this tax bill that it was unfair to hastily debate a measure such as this which will have monumental effects on our economy. I believe it was unfair

to prevent amendments to the proposals which could have improved them and improved our chances for economic recovery.

Those who are unhappy with my vote, but who did not contact me before this vote will realize that they, too, have hurt the democratic process. If this is to be a government by the people then it is necessary for the people to let their Representatives know how they feel.

The constituents I heard from told me how they felt and the overwhelming majority of them told me they supported the President's plan. They want to give him a chance.

Even though I have reservations about some parts of the President's plan, and including some parts of the Conable tax proposal, I am willing to give it a chance. This tax proposal does incorporate provisions which I have long supported—a 3-year across-the-board tax cut and the indexing of individual tax rates. It also includes provisions to spur productivity, reduce the marriage penalty, and provide for savings incentives. And the President has assured me he is aware of my concerns over the potential for high deficits, higher inflation, and higher interest rates if the economy does not improve and the third-year tax cut were to go forward. He has assured me he will take actions to rectify this situation if it occurs.

But let us hope it does not occur. Let us hope that the President's plan will work and that we will all look forward to a better economic future as a result of this tax cut and the efforts being undertaken today.

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Mr. KEMP. I appreciate the comments of my friend from Georgia. They are very important to all of us, and in the same spirit of bipartisanship I am pleased to announce that the Senate, in an overwhelming vote of 89 to 11, passed substantially the same bill as the Conable-Hance substitute. This truly is a bipartisan effort, and it points out that this is not a victory for any one party or even the President. It is going to be a victory for the American people, the American taxpayer, and those hardworking people who want to be rewarded for their work and savings.

Mr. Speaker, we stand today at a crossroad. What we do here will help decide the course of our Nation. Will it again be the land of opportunity, or a place of frustration? Will there be hope for our people, or narrowing horizons? Will hard work and thrift be rewarded, or discouraged?

We have been here before. We stood at the same crossroad after the First World War, when Treasury Secretary Andrew Mellon saw that wartime taxation was crushing the peacetime life of the Nation. We stood here again in 1963, when President Kennedy observed that high tax rates were blocking our economic progress. Both Mellon and Kennedy boldly proposed to cut tax rates permanently and across the board for all Americans. Our people responded with new jobs, new savings, new enterprise. Rich and poor, black and white, our Nation prospered without inflation.

Once again, President Reagan calls on us to remove the disincentives caused by years of inflation raising everyone's tax rates—obstacles which have nearly exhausted the Nation, and frustrated the American dream.

Each time, the debate is the same. Somehow, our Nation draws forth leaders of vision, who see us as we are—one Nation, one people, one family. Leaders concerned with the welfare of all our citizens, whose goal is prosperity in which everyone might share.

But there are always zero-sum politicians against them: Those who think the gain of one American must come at another's expense. Who try to divide the Nation against itself, who pit rich against poor. Black against white. Young against old. North against South. Look around you. This is the swan song of the zero-sum politician. They never seem to learn.

You know, a Presidential candidate in 1972 was doing fairly well until he proposed a $1,000 tax cut for everyone with an income under $17,000. Naturally, these rebates would have to be financed by people earning more than $17,000. His advisers no doubt assumed the proposal would be politically popular, since more than three-quarters of the people at that time earned less than $17,000.

Instead, this candidate went into a nosedive in the polls. After the election, he frankly admitted to newsmen that the whole idea had been a mistake. I will never forget what he said. "I just did not realize," he said, "how many Americans there are who are making less than $17,000 a year, who hope someday to be making more than $17,000 a year."

That is the problem with the grand strategy behind the O'Neill-Rostenkowski bill. The American idea was never that everyone be leveled to the same position by a redistributive tax system. The American idea was that each American would have the same chance to go as high or as far as their effort and God-given talents could carry them. Never mind that everyone, over or under $50,000, will be worse off under the Ways and Means Committee bill. What these politicians do not realize is how many Americans hope that someday they—or their children—will be better off than they are today.

When I came to Congress 10 years ago, a typical steelworker in my district in Buffalo was earning just over $12,000 a year. That put him in the 27-percent tax bracket. Today, that same worker earns just over $25,000. He has had five so-called tax cuts; but he is now in the 30-percent tax bracket. And he has lost 10 percent of his buying power after Federal taxes and inflation since 1970.

What will happen to my steelworker if the Ways and Means Committee bill is enacted? Suppose he keeps up with inflation over the next 10 years. Under the same old policies. By 1986, today's $25,000 income will be $45,000. He will jump from the 30 percent to the 41-percent tax bracket. In 1990, the same income will be almost $66,000. That will put him in the top 50-percent tax bracket under the O'Neill-Rostenkowski bill. The worker's income will have lost 21 percent in buying power since 1970—after this supposed tax cut. Under President Reagan's bill, my steelworker's buying power would go up, and stay up.

In this country, we have always believed that those with higher incomes should pay relatively more of the tax burden. For example, compared with a family earning $10,000, a family earning 5 times as much pays 25 times as much income tax. A family earning 20 times as much pays 200 times as much.

President Reagan's bill does not change that. His proposal would give everyone the same 25 percent cut in tax rates over 3 years. That means the family earning five times as much will still pay 25 times as much, and the family earning 20 times as much will still pay 200 times as much. The difference is that everyone's tax rates will be lower. But the Reagan bipartisan plan will also adjust the tax rates every year, so people will never again be pushed into higher tax brackets by inflation.

The O'Neill-Rostenkowski bill does not treat everyone alike. It cuts tax rates 15 percent for some people and 2 percent for other people. It does nothing to prevent those automatic tax increases caused by inflation. Their bill does not stand for fairness. It stands for high tax rates.

Let me say to my friends from the Northeast and Midwest: In my district, unemployment has doubled in the past 10 years, under the policies of the same people who oppose President Reagan's tax bill. In the whole region, unemployment has risen by 50 percent. Prices have increased over 100 percent. Jobs have left.

Tell me: Do you find their unemployment fair? Do you find their inflation progressive? They are against cutting tax rates across the board, but they close factories across the board. If you think your districts have prospered from the policies of the past 10 years you should vote for their bill. If you think it is time to get this country

moving again, you will vote for President Reagan's bipartisan bill.

The centerpiece of President Reagan's bill is the same plan he has been proposing for more than 2 years to revitalize our economy. The Democratic leadership ran against this plan in 1980 and lost. Even their politics ring hollow, when they say we should cut tax rates only 15 percent for people, but 30 percent for corporations; only 2 years for people, but 7 years for Exxon.

The Democratic leadership does not have a plan to revitalize the American economy. They have a plan to revitalize the Democratic leadership. But they are wrong in thinking that they can do that by pitting one class of taxpayers against another instead of treating everyone alike.

It will not work. The American people know that for us to succeed, all of us must have the incentive to contribute to a prosperity in which we can all share. We are one Nation, one people. We must all move ahead, and we cannot leave anyone behind.

I hope all Members will support this bipartisan effort.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. I thank my chairman and I thank the gentlemen over here for that ovation. I will try not to disappoint them.

As I was listening to my dear friend from New York (Mr. KEMP), whom I admire, I remembered a couple of things like fall afternoons years ago when he would take that snap from the center and he would fade back deftly, and some big linebacker would sack him.

The other thing was a story that when I started running for the Congress I learned quickly that politicians often will take a few statistics and talk to an audience, and although they know nothing about their topic, they use those statistics to try to impress. So, one day I was speaking to a Golden Age group down in my district, and I made the surprising observation that in this great land of ours there are five women over the age of 80 for every man over the age of 80. There was a gentleman seated in the front row who fit that category, and he stood up slowly, he propped himself up on his cane, and he smiled like a man who had lived for 80 years, like he knew what I was talking about. With a twinkle in his eyes, he said, "Young man, that is about the most useless statistic I ever heard."

I want to tell the Members something. After listening for months in the Ways and Means Committee to useless statistics, and on up through today to a lot of useless statistics, I think it is time we discussed some of them. The Director of OMB tells us his own economic projections are nothing but useless statistics because the trigger will not do any good.

Now, today I see the concept of indexing coming on, but what they have not said about indexing in the administration's proposals is that it uses the most useless statistic in this economic dialog in this country, the Consumer Price Index. They do not want to change it any more, they want to build it into this system. There is another useless statistic. I heard the President say the other night that there is going to be a 22-percent increase in the average working guy's cost of social security, and that his plan will give him a 25-percent tax cut. That is a pretty useless statistic to a man and wife who are spending 100 percent just to get by. The Hance-Conable substitute does not address that middle-income problem. I think that is one of the real failures, and I admire the author, I guess, of a lot of it.

Another useless statistic is these calls the Members have told me about today, such as, "I had 300 calls yesterday and all but 90 of them were for the President's plan."

That is about the most useless statistic, the most fabricated figure that has been laid out. If any Member feels compelled to be run out of his position by that sort of scare tactic, then I have to say that he has been badly misled by a very deceitful set of statistics.

Another statistic we have to consider today, especially the gentleman from my part of the country, is that we have no use down that way for a 90-percent commitment. There is nothing but a 100-percent commitment that has any value or any use at all, and those who are today hearing about a 90-percent commitment are going to have to live with that after they vote today. I understood and I believe a commitment to be 100 percent, and I think they agree with me too.

The story I want to tell the Members in closing is what they are going to have to tell the people at the end of this golden pathway that Hance-Conable is laying down. The people who are interested in defending this country a few years down the road are going to come flocking to your congressional door and say, "What happened to our defense?"

Those people on social security are going to call out, "What happened to that?"

It is like a man I know who was elected Governor of a Southern State. The day he was sworn in there were 2,000 people on the lawn because he promised literally everybody he had met in the campaign a job. His aide came in and said, "Governor, what am I going to tell all those people in the yard out there? They say you told them a job is coming."

He said, "Tell them I lied."

The CHAIRMAN. The gentleman from Illinois (Mr. ROSTENKOWSKI) has 16 minutes remaining, and the gentleman from New York (Mr. CONABLE) has 11 minutes remaining.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. SILJANDER).

Mr. SILJANDER. Mr. Chairman, I rise in support of the Conable-Hance amendment.

Mr. Chairman, being the newest Member of the Michigan Republican delegation, I think I can offer a fresh perspective on how the people of Michigan are feeling about taxes and tax plans these days.

Just a few months ago, shortly after I left my seat in the legislature, proposal "A," a complicated plan to shift the property tax burden while providing moderate tax relief, was soundly defeated 4 to 1. A different property tax proposal in November would have provided drastic property tax cuts. That plan received substantially more support than proposal "A." It is evident that the people of Michigan are holding out for genuine tax cuts.

Michigan taxpayers want and deserve real tax cuts to help turn around our injured economy. Michigan is near the bottom of the Nation's list in terms of unemployment, inflation, business climate, and in terms of Federal dollars returned to Michigan. We are high on the list of welfare payments.

Unemployment in my district, which includes six counties touching the Ohio and Indiana borders, and one on the Lake Michigan shore north of Berrien County, is well above the national average of 7.3 percent. The latest figures show Berrien County to have 13.4 percent unemployment. The city of Benton Harbor is said to have 35 to 40 percent of its labor force laid off.

All of us here were elected to help turn around our State's plight. After 25 years of arguing about the amount by which Congress would raise taxes, it is refreshing now to be talking about how much to cut them.

I believe that we are entering into an era of responsible government. It is our duty to provide the people with a program that will lead to greater incentives for productivity and investment. Under the administration's plan, we have an opportunity for real long-term relief from bracket creep and a dramatic erosion of inflation.

Just like Michigan's proposal "A," the people of Michigan are not going to buy a proposal designed to deceive them. They are too sophisticated for that. Under the Democrats' proposal, we would realize a tax cut for the first 2 years, but taxes in all brackets would be increased by 1984.

The Democrats' "trigger" mechanism is a sham as well. The only way

we are going to achieve the figures that will trigger their third year of the cut is by going with the President's plan from the start, and they know it.

The only way we are going to turn around Michigan's economy is through increased activity in the private sector. Businesses need a certainty of planning in order to flourish. That is why a 3-year cut which includes indexing and immediate relief for businesses is essential.

Any stability we can give to business is important for the businesses in my district. Being located so close to the Indiana and Ohio borders with a business climate that is less than favorable to begin with, it does not take much for these merchants to pick up shop and move a few miles across the border. We must help our businesses, and I am convinced the administration's plan will do that.

I believe that one of the reasons Michigan's proposal "A" was defeated so soundly is because it was too complicated for the average voter to understand.

The President's plan is fair for all, and it is simple to understand. It will help the poor and those on fixed incomes by realistically dealing with their worst enemies: inflation and unemployment.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming (Mr. CHENEY), one of the leaders on this side of the aisle.

Mr. CHENEY. Mr. Chairman, I rise on behalf of the Republican Policy Committee in support of the bipartisan substitute.

Mr. Chairman, for the past 3 months this Congress has been enrolled in an intensive course in economics. Three months ago next week President Reagan appeared before us, stood on that rostrum, and outlined in detail the problems we face.

Sadly, the American economy over the past several years has degenerated into a perfect laboratory example of how bad things can become when an entire country is mismanaged. For the past 4 years, we watched while unemployment lines grew, inflation rates soared, interest costs came close to killing the American dream, and bad money slowly drove out good.

It is the average American worker and taxpayer who has suffered.

President Reagan was speaking for those average Americans when he outlined those continuing economic problems in April and called on us to deal speedily with Government spending that has grown out of control, tax policies that stifle incentive on the part of both labor and capital and which work to block economic expansion, Government overregulation, and a monetary policy that fosters all of our economic ills.

A majority of us passed our midterm exams with flying colors, once we heard from the American people. Those workers and taxpayers agreed with the President, and wanted Government spending cut.

We did that in imposing a budget ceiling and then living up to it in the reconciliation process. But that passing grade did not come without difficulty, for even after the people had spoken, there were some in the House who still refused to listen to and learn from the harsh lessons of the past.

For the past several months the House Committee on Ways and Means has conducted an extensive seminar on competing economic philosophies in the field of taxation, again weighing the politics and policies of the past which combined to create our current economic crisis against the hopes and dreams of American working men and women.

Now, in that balance, the House Democratic leadership is attempting to tip the scales in its own favor, for the positions of the past and against the economic recovery program of the President and the American people.

Mr. Chairman, today we face our final examination on these economic programs.

Before the close of business today, we will be tested. And before the end of this Congress, final grades are going to be handed to all of those by those American workers and taxpayers most affected by Government spending and taxing programs.

Over the past several days, all of us have heard the Members of the House Democratic leadership trying out their lines for this final exam, trying out their answers to questions they know they are going to be asked.

And sadly, Mr. Chairman, a number of the Members of the House Democratic leadership seem to have fallen prey to a failing that flunks many a college freshman. They seem to think that if they say something is true often enough, and loudly enough, their professors can be convinced that the answer is true, even if it is not.

I have a warning for the Democratic leadership, Mr. Chairman: In this case those professors are the American people. They know the answers. And the American people are awfully good at sifting and winnowing the wheat from that chaff.

Here are some of the questions being asked in that economics exam authored by the American people:

First. Who does the Reagan bipartisan tax bill favor?

The Democratic leadership blithely claims that that is the "$50,000 question." If you earn more than $50,000 a year, they claim, the bill favors you. If your earn less than $50,000 a year, the bill hurts you, they contend.

Wrong. And the American people know it.

The Library of Congress, an impartial source as we all know, has sent Congress its own study which shows that the bipartisan plan, calling for a 3-year guaranteed tax cut, has a $35,000 cutoff point. The Democratic leadership plan guarantees only 2 years of tax cuts. And that third year does not go into effect, the Library of Congress has warned us in the report the House Democratic leadership is trying to ignore, "the Ways and Means Committee tax cut would result in higher tax payments than the [bipartisan] bill for all households above the $10,000 income level," simply because the total relief called for in the bipartisan plan over 3 years is greater than the Democratic leadership offers in its inadequate 2-year package.

Second. Can the Democratic leadership bill provide for a third-year tax cut?

Yes, claims the Democratic leadership.

Wrong again, say the American people. The Democratic leadership bill would allow a third-year cut only if certain economic conditions are met. Yet the Democratic leadership plan, by its very nature, will make it impossible to trigger that third year. The Democratic leadership knows that, but continues its efforts to play a cynical shell game with the American taxpayer.

The American people know that the immediate high deficits called for in the Democratic leadership plan will make it impossible to bring inflation down to a level below 5.7 percent a year before that third year is reached. The American people know that those shortfalls will make it impossible to bring the deficit below $22.9 billion a year in time to pull that trigger. The American people know that making a third-year tax cut dependent on interest paid on 91-day Treasury notes will put America's economic future in the hands of a few big money financiers who can manipulate those figures by playing the markets.

The American people know what the Democratic leadership is trying to do to them, not for them.

Third. Will the bipartisan tax plan cost taxpayers more than the Democratic leadership proposal?

Yes, say those Democratic leaders who have scoured the Halls of Congress, looking for wavering votes that could be influenced by special tax breaks for back-home interests.

Wrong, say the American people.

A Joint Committee on Taxation study proves that the bipartisan bill will cost $4.5 billion less than the Democratic leadership plan from 1981 through 1983. The American people know that the cost of the bipartisan proposal has actually been reduced in the process of compromise with responsible Democrats that went to the

drafting of the final bipartisan package. The Conable-Hance bill before us actually will cost American taxpayers $7.1 billion less between 1982 and 1985 than President Reagan's original tax plan.

Fourth. Has the Democratic leadership been responsible, met its obligations, and favored a tax cut all along to help American workers fight their way out of the economic morass in which they are mired?

Yes, claim those Democratic leaders, as they continue to push a plan that will guarantee rising taxes, slowed economic growth, and a continuation of the programs and rhetoric of the past.

Wrong, replies the American taxpayer.

The House Democratic leadership, no matter how hard it tries cannot fool those taxpayers into forgetting that the Democratic leadership opposed any tax cut at all even after the American people swept President Reagan and a Republican Senate into office and handed us massive Republican gains last fall, largely as a result of our calls for economic change.

The House Democratic leadership, no matter how hard it tries and how often it claims it just is not so, cannot fool those American workers into forgetting that it finally backed down and eventually said a 1-year tax cut might be worth discussing.

Taxpayers will not forget how, after the American people continued their just demands for a major change in economic policy, the Democratic leadership conceded that it was willing to talk about a 2-year cut.

And no matter how hard they try, those House Democratic leaders will not be able to convince anyone that they really favored a third-year tax cut all along—"if."

Fifth. Most basic of all, is the House Democratic leadership plan a serious attempt to deal with the economic crisis confronting American wage earners?

Yes, claim those Democratic leaders, as they continue to shuffle the shells faster and faster, hoping to cure through slight of hand the damage they have done to themselves through three decades of mismanagement of the American economy.

Wrong, reply the American people once again.

The Democratic leadership tax bill is aimed not at helping the economy, but at rebuilding a shattered Democratic Party, the American people know. It is designed simply to buy time—at the expense of the taxpayer—while the Democratic leadership tries to recover from the last elections and the staggering losses it suffered in the key budget votes this spring. It is aimed purely and simply at defeating one of President Reagan's proposals, no matter what the cost in continued suffering on the part of unemployed facing a stifled economy and taxpayers who can no longer bear the burden of a Federal Government that takes too much, tries too much, and accomplishes too little. The House Democratic leadership tax plan is built on the shifting sands of the rhetoric of the 1930's and 1940's and 1950's and 1960's, not on the hard ground and tough choices facing our country in the 1980's.

The American people know that Republicans and responsible Democrats are facing up to that test in backing the bipartisan Conable-Hance proposal. That is why they are going to pass us with honors.

And they know that the House Democratic leadership has taken that same test—and failed miserably.

Mr. Chairman, back when many of us were in school, we used to sneak away from the books for study breaks. Often we would turn on the television for a change of pace. And many of us years ago watched a once-popular TV quiz show.

It was called "Who Do You Trust?"

Do the American people trust a House Democratic leadership philosophy that has given them five tax cuts in 10 years—each of which ended up with Americans paying more, not less, to the Federal Government?

Do the American people trust a House Democratic leadership team that knows workers face 22 percent tax increases in the next 2 years due to bracket creep and the social security tax hikes, voted under President Carter, and then tries to call a 15-percent reduction a tax cut?

Do the American people trust the same Democratic leadership philosophy that resulted in a 249-percent tax increase in the last decade to bring about tax reductions?

Or do they trust themselves to put this economy back together, through responsible action on the part of a bipartisan coalition led by President Reagan?

Mr. Chairman, who do the American people trust? And who do you trust—the people, or big Government?

The answers to those questions, Mr. Speaker, can be found in the policy statement on tax reductions adopted by the House Republican Policy Committee, of which I am chairman.

The full text of that statement follows:

No amount of financial juggling by the House Democratic leadership can make 15 cents seem like more than 25 cents in the pockets of American workers and taxpayers. And no amount of fiscal juggling by those Democratic leaders can make their 15 percent tax cut amount to greater savings for Americans than President Reagan's proposed 25 percent tax reduction.

Even the "new math" of the House Democratic leadership cannot make true the misstatements and deceptions it has voiced throughout the tax cut debate.

Until the November 4 election, the House Democratic leadership denounced every proposal made to help a staggering economy through substantial tax cuts. Faced with crushing defeat in those elections, however, the House Democratic leadership eventually changed its tune and agreed with Republicans that a tax cut is needed. But only the tax cuts suggested by the House Democratic leadership will help the economy, they argue.

That is the same House Democratic leadership that raised the taxes on the average American by 249 percent during the past decade. Clearly the American people did not believe those Democratic leaders last election day, and they do not believe the House Democratic leadership now. The American people know that the Democratic leadership bill will actually raise taxes, while the Republican plan will lower them.

The American people support President Reagan's tax proposals by an overwhelming margin.

The House Republican Policy Committee agrees. We support a federal tax cut that will benefit all Americans, one that will lead to the investment of billions of dollars previously consumed by government. The result will be an expanded economy which will provide millions of new jobs by restoring incentives for both labor and capital.

The House Republican Policy Committee welcomes the emerging economic optimism of the American people. But we know that much remains to be done before this country returns to full economic growth and health. The fiscal 1982 federal spending cutback mandated by the budget reconciliation bill now in conference is a long first step along that path.

But the reconciliation process is only a part of the package needed to restore economic well-being.

President Reagan fully recognized that fact when he presented Congress with his economic recovery program. One key part of that package included those federal spending cuts. An equally important part of the program calls for across-the-board, three year tax cuts that will spread the incentives of an eased federal tax burden to all American workers, resulting in increased savings, lowered interest rates, and boosted investment.

Faced with the prospect of across-the-board federal tax reductions sorely needed and strongly supported by the American wage earner, the House Democratic leadership has chosen instead—by the admission of its own House Budget Committee chairman—to "play politics" with the program.

Confronted by an intransigent House Democratic leadership, President Reagan showed his willingness to compromise by reducing his three year, 30 percent tax cut plan to a three year, 25 percent reduction. To date, the reaction from the Democratic leadership has been purely rhetorical, and purely political.

The Democratic leadership is buttonholing House Democrats, and flooding the nation's media, with pleas for support. Now the House Democratic leadership contends its plan will provide added tax savings for "low and middle income" Americans.

That claim is patently false, and the Democratic leadership knows that it is.

The Democratic proposal calls for a five percent tax cut in the first year and a 10 percent tax cut in the second year. Only if inflation falls below a 5.7 percent level in the third year and the 1983 deficit is less than $22.9 billion would another 10 percent tax decrease be ordered, under the Democratic leadership plan.

What the Democratic leadership does not tell the American people is that the economic damage done by their tax proposals—including new loopholes for special interests—will make it impossible to reach those levels. No third year tax cut would come for average working Americans under the Democratic leadership plan, while those special interests would continue to collect their new tax breaks.

The Republican tax proposal would guarantee those five and 10 percent tax cuts in the first two years of the program, and give all working Americans another 10 percent tax decrease in the third year. Under the Republican proposal all Americans would be assured of a 25 percent tax reduction. Under the Democratic plan, working Americans would get only a 15 percent tax over two years.

The Democratic leadership continues to play a shell game as well on the economic impact of its own past tax increases during the next two years. The Social Security tax increases voted by the Democratic Congress under former President Carter and expected bracket creep in tax rates will increase working people's taxes by 22 percent during the next two years. The Democratic leadership tax proposal will not even cover those increases.

The Republican tax proposal will result in real—not pretend—savings for American workers. The House Democratic leadership would do well to remember Mr. Lincoln's warning about trying to "fool all the people all of the time." Clearly, it is the Republican tax cut plan that helps American working men and women the most—by far.

House Republicans stand willing to work with responsible House Democrats on passing a tax reduction program that will meet the goals of providing across-the-board relief from the crushing tax burdens facing all Americans, and providing a long term base needed for sound growth and investment planning by American industry.

The House Democratic leadership repeatedly has assured the nation that action on a tax cut bill will be completed by August 1. The House Republican Policy Committee calls on the Democratic leadership to honor that commitment, and work in good faith with House Republicans and responsible Democrats for a tax reduction package that will benefit all Americans, across-the-board.

Mr. CONABLE. Mr. Chairman, I now yield 3 minutes to the distinguished gentleman from Texas (Mr. HANCE), with whom I have enjoyed being associated in this effort.

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Mr. HANCE. Mr. Chairman, let me say to the Speaker, the majority leader, and the committee chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI), that I would first of all say a special "thank you" that this bill is being heard today and that it will be voted on today. Sometimes when you bend over backward to bring a bill up like this, you do not get the "thank you's," and I personally say, "thank you," because I sincerely think we are going to be able to get the budget and the tax cuts taken care of by August 1. I appreciate the hard work that has been done on that behalf.

What I want to talk about is not the specific tax cuts; I do not want to talk about depreciation, the personal income tax cuts, or the corporate tax cuts. I want to talk to the Members first of all about the Constitution.

The Constitution says that we have to run for reelection every 2 years. That is difficult. It is not a lot of fun, because we are running all the time, but the people who drafted the Constitution had in mind that by running every 2 years we would be close to the people and that we would know what was on their minds.

Last November they sent a message and they let us know what was on their minds. We read letters and we get phone calls, and the people let us know what is on their minds, and I can tell the Members the public is saying that the economic policies of the past have not worked, and that they want to give the President an opportunity to let his program work. They want the President to have the opportunity for his tax cut and his budget cuts to work. That is what they are saying.

I am convinced that the majority of the people in the majority of the districts, are for the President's tax cut. That is the reason they are calling, and they are going to continue to say that. If we do not give them that opportunity, they will find someone else who will give them that opportunity. It does not matter whether we represent Lubbock or Lamesa, Midland or Muleshoe; they want to be heard. They say, "Give the President a chance."

Mr. Chairman, I fully support the President's tax cut because that is what is needed to have a successful economic program in this country and that is what the public wants.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 6 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I have but one plea. Let us do what we do today with our eyes open.

This Republican substitute is no ordinary tax bill. It is historic retrogression. Combined with what we have already done, it does redistribute wealth upward from the bottom to the top. It amounts to a long leap into the past. It is not a new beginning.

The policies of Mr. Stockman, Mr. Reagan, and Mr. Volcker are not new policies. These are the threadbare remnants of the twenties warmed over. They are the trickle-down policies invoked by Coolidge and Mellon and Hoover, scarcely distinguishable.

It is said that the President admires more than any of his predecessors former President Calvin Coolidge, because of the tax cuts for the wealthy that were enacted during the Coolidge administration and because of the 5 years of bubble prosperity over which Mr. Coolidge presided before the bubble burst. Those were years of the rich getting richer, at least on paper. They were years in which worker productivity increased by 43 percent but wages increased by only 8 percent. Can anybody seriously doubt the reason for the ultimate collapse? People simply were not able to buy those things that business was turning out for their consumption. Hence the glut of goods on the market, frantic last-minute price fluctuations, nobody able to get out of debt, panic on Wall Street, and a final capitulation of the economic structure.

That was the blind Samson of dogma that strained against the pillars of the Philistine temples of the twenties and those that it slew in its death were more than it slew in its life.

That is the dogma of David Stockman. You can call it "supply side," if you want to; its real name is "trickle down." It is the belief of George Gilder that "regressive taxes help the poor," and that only the rich have sense enough to invest in things that are good for America. That is what is behind Kemp-Roth.

That is not the basic American doctrine. It is not consistent with our economic history. It is not even sound conservative doctrine. Respectable conservative economists have denounced it. George Bush called it voodoo economics. It did not work for Coolidge and Hoover. It is not working for Margaret Thatcher. What makes us think it will work for us?

Already with Gramm-Latta II, we have repealed a lot of the carefully constructed work of the New Deal, the Fair Deal, the New Frontier, and the Great Society, much of that which we have put in place during the last 50 years to help people.

Now at Mr. Stockman's and Mr. Reagan's insistance we have cut social security. We have cut job training. We have cut Meals on Wheels. We have cut medicare. School lunches will cost more. Bus fares will be higher. Student loans will be harder to get and harder to repay. Day care centers and nursing homes will be harder to find. Home loans, if not impossible to get, are impossible to pay. Even the clean water program has been reduced to a trickle.

Mr. Chairman, I say to my friends that this is not an economic recovery program. It is an economic retrenchment program.

Let us be sure that we understand its effect in connection with this proposed tax cut.

The Kemp-Roth cut is not across the board equally. It is not an equal percentage cut in taxes paid, and nobody can say it is. It is a percentage cut in tax rates. Think what a profound difference that makes. Coupled with indexing, the clear effect is to reduce taxes paid by the wealthy, not by 25 percent but probably by more

like 40 percent, and then to immunize them forever from increases.

So any future increase in defense needs or education will have to come from payroll taxes or sales taxes—in other words, from the pockets of the middle-income and the working poor. That is what we are sealing into place, if we pass this substitute.

The Republican plan could easily wind up with a deficit by 1984 of $70 billion. But of course the President has recommended that we cut social security payments over the next 5 years by $70 billion. Is that how we are to make things come out even? Must we take $70 billion from social security recipients just so the wealthiest 5 percent of our people can have that much more in tax relief?

Do you think that is what those who called you on the phone would really want, and if so, is that fair to those who did not call you on the phone, those 90 percent of your people who have nobody but you to represent them?

For the past 50 years we have been building ladders of upward mobility for the humblest people in our society. Shall we burn those ladders for kindling?

We have been building shock absorbers to cushion the blows of economic recession. If we take them away, the elderly and the disadvantaged who fall through the gaping holes in the so-called safety net will fall on bare concrete.

Let us cut expenses, yes. Let us cut taxes, yes. But let us leave the Round Table intact at Camelot. Let us not burn it for firewood to warm the wealthy. Someday we may want to reconvene the Round Table and see America's Camelot restored.

The CHAIRMAN. The Chair wishes to announce that the gentleman from New York (Mr. CONABLE) has 8 minutes remaining and the gentleman from Illinois (Mr. ROSTENKOWSKI) has 10 minutes remaining.

The Chair now recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I rise in favor of the Conable-Hance bill, and I bring the Members' attention to a list of 23 more Democratic Senators who have just supported this fine bill.

The CHAIRMAN. The gentleman will suspend. As the gentlemen from New York know, the action of the Senate and individual votes in that body may not be mentioned in debate. The Members will keep that in mind.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the Conable-Hance substitute.

Mr. Chairman, this has been an historic day indeed, one which no doubt will signal a change in course for the American economy.

We have been faced with a series of choices, some unpleasant—many necessary, albeit long in coming. Let me engage in a brief discussion of the proceedings today and of the reasons for my choices.

That an equitable tax relief program for the American public is essential to national economic recovery is obvious. Americans worked this year from January 1 until May 11 just to pay their taxes. And, if current law remains unchanged, they will pay $44 billion more in personal taxes in 1982.

In consideration of legislation significant for all taxpayers, I felt it essential that debate and votes focus on the substantive issues at hand.

We have before us two major packages, the Ways and Means bill and the Conable-Hance bipartisan substitute, which are garnished with costly incentives to attract the support of Members who have remained undecided on their tax votes. These provisions, in my view, constitute a potentially dangerous departure from the original mission of the Congress and the administration to legislate comprehensive tax reform.

One such departure, contained in both the Ways and Means bill and the Conable-Hance bipartisan substitute provides new tax reductions for the oil industry. I firmly believe that such a tax break should be decided by a separate vote in Congress. On Monday, I was joined by a number of my Republican colleagues in sending a letter to Rules Committee Chairman RICHARD BOLLING outlining the reasons I felt this provision should not be included in today's tax deliberations. The points included were as follows:

The impact of the windfall profits tax cannot yet be adequately measured; adjustments in this tax may be premature.

There are already extensive special tax breaks for the oil industry. To pass additional breaks on the heels of deregulation could seriously undermine the credibility and balance of the tax reduction program.

The oil industry stands to benefit from any general business tax reductions which may be approved in this bill.

The oil industry has enjoyed exceptional prosperity in recent years. A Business Week study of corporate profitability for the 12 months ending September 1980 ranked the oil industry first in both earnings per share and return on shareholders' common equity. Oil producers and service companies dominate the lists of corporate sales and earnings for 1980, with 15 of the 25 top performers on earnings and 11 of the top 25 in sales.

Since 1972, the aftertax profits of major oil companies have quintupled; while the price of oil has increased 600 percent the general cost of living has risen 177 percent.

In the last 2 years, the rising price of oil has increased revenue from "stripper" wells by 2½ times.

Congress has attempted to provide even greater incentives for smaller producers than major companies in previous laws.

We do not have adequate assurances that proposed new tax breaks will be targeted to those who may need additional production incentives.

In many instances, major, highly profitable companies may benefit from tax breaks intended for marginal producers.

According to an estimate by the Joint Committee on Taxation, the Senate passed bill provides a $6.6 billion oil industry break. The Ways and Means bill at some $8 billion and the bipartisan substitute at possibly $16 billion provide even greater breaks.

The oil industry's influence on world and national economics demand that we view these new proposed tax benefits with special care. If new cuts can be justified, let them stand the test of separate scrutiny by the Congress. Mr. Chairman, it is because of these concerns, that I opposed the rule in an attempt for a separate "oil tax" vote and supported the opportunity to offer a motion to recommit with instructions for a separate vote on the oil tax provisions. At the very least, I hope and feel reasonably assured that the conference committee will act responsibly and approve the least costly Senate provisions pertaining to the oil industry.

With adoption of the previous question and the rule earlier today, I was left with only one recorded opportunity to voice my objections to the oil concessions. The opportunity occurred in consideration of the Obey-Udall substitute that would provide a tax cut, move toward an earlier balanced Federal budget and a lowering of interest rates.

The key difference between this approach and the committee and bipartisan plans is that the Obey alternative permits a balanced budget which does not require the Government to enter the money market and compete with businesses and private borrowers to raise money for tax cuts. Another important difference is that, unlike the other two proposals—results of a bidding war to attract votes—the Obey substitute contains no costly special interest giveaways to the oil industry and the very wealthy.

Despite the fact that the overall size of the tax cut for individuals is smaller than the alternatives, Obey concen-

trates the largest portion of the cut on middle and lower income taxpayers. This plan, in its first full year, would provide larger actual tax reductions to 77 percent of all taxpayers than they would receive during the first 12 months of the other proposals.

On the business side, it provides the full expensing proposal contained in the Ways and Means bill which will take effect January 1, 1981, the same date as both the Ways and Means and the bipartisan substitute. It also provides incremental credits for research and development and corporate rate reductions for small businesses. The plan further permits commercial structures to be depreciated in 20 years and would increase the investment tax credit for rehabilitation of existing older buildings.

In addition, it liberalizes estate and gift taxes but not to the extent of either of the other proposals before us. It would exempt small businesses and farms from any estate taxes on transfers between spouses.

In the area of tax reform, the substitute includes provisions to restrict special tax benefits to oil companies as a result of their foreign operations. Futhermore, it repeals the oil depletion allowance and it calls for the full elimination of commodity tax straddles.

Finally, it is imperative to note that this substitute does not eliminate the possibility of further tax cuts. The projected budget surplus of more than $25 billion in fiscal 1983 certainly makes further cuts feasible.

A SUMMARY OF THE OBEY-UDALL SUBSTITUTE

Balanced budget in 1982 instead of a $40-$60 billion deficit.

Individual Income Tax Cuts to help offset inflation and bracket creep—

The tax rate in every tax bracket will be reduced by between one and three percentage points and the tax brackets will be widened (eg. the tax rate in the lowest tax bracket will be reduced from 14 percent to 12 percent. A majority of the benefits will go to taxpayers earning less than $50,000.

The standard deduction will be increased from $2,300 to $2,500 for single individuals and from $3,400 to $3,800 for married couples.

Personal exemptions will be increased from $1,000 to $1,100.

Earned income tax credit for families with children will be increased from 10 percent to 11 percent and will be available to families with incomes up to $11,000 (instead of $10,000 under current law).

Marriage tax will be reduced by allowing a deduction of 10 percent of the first $30,000 earned by the spouse with the smaller income.

Business Tax Cuts to stimulate productivity and investment—

Replace current complicated depreciation and investment tax credit provisions with one year write offs ("expensing") for all new equipment. Real estate will be depreciated over a 15 year period. This will greatly simplify tax recording-keeping for businesses, as well as providing them with meaningful tax relief.

Substantially reduce corporate tax rates for small businesses and widen the tax brackets.

Provide a 25 percent tax credit to businesses for the amount that current research and development expenditures exceed previous years R. & D. expenditures.

Provide a 15 percent tax credit for rehabilitating buildings that are 30-40 years old, a 20 percent tax credit for buildings that are over 40 years old, and a 25 percent tax credit for historic structures.

Tax Reforms—

Unlimited estate tax exemptions for spouses.

Increase the current $175,000 estate tax exemption to $350,000 for farms and small businesses.

Repeal oil and gas depletion allowance which allows oil companies to exempt 22 percent of their income from taxes.

Reform tax provision which allows oil companies to take a tax credit for payments to foreign countries.

Eliminate special tax loophole for commodity speculators.

Accordingly, I voted for the Obey plan.

CONABLE-HANCE BIPARTISAN PLAN

The Republican substitute provides a 3-year, 25-percent, across-the-board cut in individual tax rates; indexes personal taxes beginning in 1985; institutes the 10-5-3 depreciation plan; allows up to a $3,000 reduction of the marriage penalty; lowers the maximum tax rate on unearned income to 50 percent in one step; and lowers the capital and gains tax.

Specifically, I believe this substitute is the best alternative now available to increase productivity, investment, and savings as a total part of this Nation's economic recovery plan. It removes disincentives, brings stability to tax policy and encourages long-term economic growth by freeing the private sector from excessive taxation.

The 3-year, 25-percent, across-the-board cut in individual taxes will provide the needed relief to almost entirely offset bracket creep, by allowing individuals to keep a higher percentage of income, it encourages people to work and earn more, which in turn will spur economic growth.

With an increased rate of personal savings, industry will be provided with investment capital for expansion and modernization. The plan's cuts in the top tax rates are important for achieving higher productivity and investment, because high tax rates distort economic decisions, the cut in the maximum tax rate and in the long-term capital gains tax should discourage tax investments that shelter income but do not contribute to productivity.

Furthermore, the indexing provision, which has over 230 cosponsors, including me, and is not part of the committee bill, has several advantages. It should end the Government's dependence on inflation-induced revenues which have resulted in more spending and larger deficits. It also prevents the equity built into the Tax Code from being distorted by inflation. Most importantly, it benefits lower income people who tend to be hardest hit by inflation, which pushes them into higher tax brackets.

The 3-year approach assures individual's and businesses of the certainty they need to plan for their economic needs. The Ways and Means bill does not achieve the administration's goals, and its promise of a third-year tax cut if economic conditions warrant is phony. Further, if Congress finds that the plan is not working, we can act to repeal it rather than deal with the fallacy of the trigger approach.

With respect to the business tax cuts, the substitute completely overhauls the current cumbersome and confusing depreciation system. The 15-10-5-3 system would ease the administrative and bookkeeping burdens placed on businesses—particularly small businesses—in depreciating their assets. Reducing the period over which assets can be depreciated would allow businesses to recoup the cost of their assets more quickly. The substitute would thus provide businesses with the capital necessary to retool and modernize so that they could more effectively compete with imports and so that output could increase without commensurate increases in cost and prices.

The substitute would help economically troubled businesses by liberalizing the depreciation rules as they relate to leased assets. The Government would not be bailing out any business; rather, it would be assisting mutually beneficial transactions among elements of the private sector. In addition, small businesses would benefit from the lowering of their corporate tax rate and from modifications in the inventory accounting rules they use.

In short, I feel that the Conable-Hance substitute is on balance the best alternative available at this posture and I intend to support it.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in support of the Conable-Hance substitute.

Mr. Chairman, I do so out of a belief that it is the only tax bill before the House which offers the American people any hope of escape from the burdens of excessive taxation and economic stagnation in the future. The American people are expecting a meaningful tax bill to be passed today. They gave the Congress and the President a mandate last November to enact such a bill. That mandate should and can be fulfilled with passage of the Conable-Hance bipartisan tax bill.

It should be obvious to any observer that the same policies of the last 20 years which have brought us ever higher inflation, ever higher interest rates, ever higher deficits, ever higher unemployment, and ever higher taxes are a failure. The Ways and Means bill represents a mere continuation of those same policies. Therefore it is guaranteed to have the same results. The American people understand how our economy operates and what causes inflation and high interest rates. That is why they voted in November for a change. That is why millions are today calling and writing their Representatives urging support of the Conable-Hance bill.

The choices presented between the bipartisan substitute and the Ways and Means bills are clear. Either we adopt the substitute and give the American people a true tax cut; or we can adopt the Ways and Means bill and give the impression of a tax cut. I think the American people are smart enough to know when their taxes are reduced and when they are not.

It must be said that the Ways and Means Committee has come a long way in recent months. In an almost desperate effort to give the leadership of the House a victory, the committee has adopted many provisions contained in the President's package. However, some of the most important provisions have been left out.

We should not be fooled by the gimmicks contained in the committee's bill which seem to promise a third year cut because there simply is no chance that the triggers in the bill will ever be met. We need the tax provisions contained in the Conable-Hance version to improve the economy sufficiently to meet the President's economic goals which would trigger the third year tax cut contained in the Ways and Means bill. We cannot expect the President's goals to be met unless we adopt his policies.

It would be almost impossible to discuss all of the provisions in each of the two bills. I would, however, like to talk briefly about what I consider one of the most vital aspects of the tax debate. In a word I want to discuss incentives. Incentives to save, to work, to improve one's income, and to participate in the economic well-being of the Nation.

The bipartisan substitute gives American taxpayers the incentive to increase savings and investments by cutting the marginal tax rates. It gives workers incentives to work harder by lowering tax rates so that it becomes worthwhile to work overtime or to seek a pay raise.

The incentives contained in the bill extend to businesses as well. Businesses are encouraged to modernize through an improved capital cost recovery system. Corporate tax rates are also revised so that our business can make reasonable profits while improving productivity.

With passage of the President's tax proposals, we will have set the stage for total economic recovery. Later this week we may pass the conference report to the reconciliation bill which will cut Federal spending around $35 billion. That, along with the provisions of the President's tax bill, will provide the requisite economic forces to bring our economy back to life.

It would be a cruel hoax to the American people to continue the politics and policies of the past when the President has proposed a plan for the future. The President's tax policy, coupled with his budget cuts are designed to create an economic climate in which Americans will be given incentives to work harder, save, and invest more, and improve productivity.

The American people are demanding a change from the Government and fiscal policies which led to today's stagnant economy. Only the President's economic recovery program, with its tax and budget cuts, offers that change. I strongly urge adoption of the Conable-Hance tax bill. I do so not because I want the President to be given a political victory. I do so because I want the American people to be given a chance.

Mr. CONABLE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, I rise in support of the Conable-Hance substitute.

Mr. Chairman, I have heard a lot of nonsense during my years in Congress, and now I am hearing that a 2-year tax cut of 15 percent is somehow better than a 3-year tax cut of 25 percent followed by downward adjustments of taxes for inflation.

The Ways and Means Committee bill shows a remarkable conversion of some of our colleagues to the cause of tax relief. But it is utter nonsense to claim that the average American worker would fare better under the committee bill than the Conable-Hance substitute.

Sure, the committee bill is a little more generous to moderate- and middle-income people for just 2 years, but then what?

Additional income they earn will push them into higher tax brackets and hit them with the same or higher rates than they were paying before the tax cut. There is something very familiar about that scenario.

Now, compare that with the President's tax reduction plan represented by the Conable-Hance substitute. The 3 years of tax cuts provide a greater dollar amount of tax relief, and the relief is made permanent by the adjustments required in following years to offset inflation.

But the point some of my colleagues are missing is that we have a greater purpose than tax relief. We have the purpose of increasing the amount of discretionary income available in the economy for saving and investment in real economic growth and the creation of jobs.

We all know that saving and investment have declined in recent years because inflation and the rising tax burden have reduced the amount of discretionary income available to families that save and invest.

This is the trend we must reverse if we are to restore our economy to a condition of strong and productive growth. I make no apologies for favoring an across-the-board tax cut that benefits rich and poor alike and everybody in between.

Yes; the Conable-Hance legislation provides substantial tax relief for families that are accustomed to putting their money to work for them, and this offers the prospect of being a great boon to our economy.

Yes; we will be taxing away less of their discretionary income and increasing the capital available for investment in economic growth that will provide opportunities for all Americans.

And what is the matter with that, I might ask?

We have been through many years in which Congress devoted so much attention to redistributing income that the economy wilted and drooped.

Now is the time to restore the incentives for work, saving, and investment to rebuild the American economy. Instead of redistributing income, we should be concentrating on improving the opportunities for all Americans to increase their incomes.

The tax proposals of President Reagan are better for the average worker and better for the future growth of our economy, with greater opportunities for all. I urge your support.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Mr. Chairman, I rise in support of the Conable-Hance bipartisan substitute (H.R. 4260).

The Conable-Hance bill is the only hope we have for real tax relief for individuals. It will benefit the Nation's economy and it will benefit my own State of New Jersey as well. In personal income tax reductions alone, this bill will mean a tax savings of $429 million for the people of the 13th District, and over $5.5 billion for all New Jerseyans by the end of 1984.

Most importantly, this bill provides a real tax cut for Americans. A 2-year cut of 15 percent is in fact a tax increase on working people. Who here on this floor can stand up and tell the

people that yet another tax increase is what our country needs today? Because of bracket creep and scheduled social security tax increases, taxpayers face tax increases of 22 percent in the next 3 years. The bipartisan substitute overcomes this built-in increase; however, the Ways and Means bill does not.

Furthermore, the Conable-Hance bill deserves support because it contains an important tax policy reform—it will index the tax brackets to the inflation rate beginning in 1985. Whereas the Democratic alternative is a shortsighted, one-shot proposal, the bipartisan bill represents a long-term strategy for helping taxpayers to overcome unlegislated tax increases caused by inflation. Taxpayers will no longer have to pay higher tax rates simply because their wages keep pace with inflation. If Congress wants more revenues in the future, it will have to vote openly for a tax increase.

The Ways and Means Committee bill claims to offer a 3-year tax cut, which is triggered if certain conditions are met. It is no secret that this trigger will never be pulled. Ways and Means has based the trigger on the administration's economic goals regarding interest rates, inflation, and the budget deficit—goals which in turn depend on passage of the President's tax proposals. By denying the administration's tax policies a chance to stimulate economic growth, Ways and Means is making sure they will never have to offer that third year tax cut. Let's not have the economic indicators determine our policy. Let us have our policy determine the economic indicators.

We should not forget that the bipartisan bill is an essential part of the President's overall plan to make our economy move again. It's time to release the productive forces of our economy—forces that have been choked by double-digit inflation, excessive Government regulation, soaring taxes. I support a bill that increases incentives to work, save, invest, and produce. Now is not the time to sacrifice economic growth and recovery for the sake of political expediency. It is the time to get America back to work. I strongly urge my colleagues to support this bill.

The CHAIRMAN. I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I rise in support of the Conable-Hance substitute.

In 1801, Thomas Jefferson defined good government as follows: A wise and frugal government that shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned.

This administration has made an historic move to restore Government to these Jeffersonian principles, and in recent major votes, the administration has enjoyed the support of Republicans and a group of moderate and conservative Democrats. Now, these courageous Democrats have been greatly under fire for their support of the President, and for breaking ranks with the party liberals.

In my view, these Democrats, who are the philosophical heirs of Jefferson, have been following the philosophy of establishing a wise and frugal Government. I salute these courageous Democrats who support President Reagan, and urge them to stick to their guns.

I would also like to address a contention made by several opponents of the President's package to the effect that supporters of the President have been knuckling under to special-interest groups. The only group with a special interest in lower taxes is the American taxpaying public. As of this morning, my office in National City, Calif. had received 179 calls for the President's proposal, and only 18 in opposition. All this, in a 24-hour period following the President's speech on Monday.

This response is entirely consistent with responses to a survey of small businessmen and women, taken just this week, which registered more than 90 percent approval of the President's program, and the results of a questionnaire taken throughout the 42d District, which showed 84 percent support for the 3-year tax plan and 91 percent support for indexation against inflation.

Let me further remind the opposition that these responses come from a district that never before elected a Republican—a district that registers nearly 2-to-1 Democrat.

Listen to the people—they are sending a clear message. Support the President's bipartisan tax bill.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LOWERY).

Mr. LOWERY of California. Mr. Chairman, I rise in strong support of the Reagan-Hance-Kemp-Conable substitute.

Mr. Chairman, enactment of the bipartisan Economic Recovery Tax Act is an essential part of the President's plan to revitalize the American economy, and I wholeheartedly endorse it.

According to a recent Gallup poll, a solid majority of the American public endorses it, too. My office has been deluged by calls, telegrams, and letters from taxpayers who know we cannot continue with yesterday's policies. They know the Federal tax burden has increased by 249 percent in the last 10 years of Democratic leadership in the Congress. If current law remains unchanged, the social security tax increases legislated during the Carter years plus inflation-induced bracket creep will increase that burden by an additional 22 percent over the next 2 years.

The 15 percent, individual tax rate reduction provided by the Ways and Means Committee is, therefore, no reduction at all. It will not even compensate for already scheduled tax increases. The Democrat tax reduction program is, in reality, a tax boost program for the average American worker. Under the provisions of the committee bill, workers in almost every tax bracket will pay higher taxes in 1984 than they did in 1980.

In contrast, the Conable-Hance tax reduction package will provide real relief for every American worker. The 3-year, 25-percent across-the-board, marginal tax rate reduction will reverse the dangerous upward tax spiral of recent years. It will provide the needed incentive for all Americans to work, save, and invest. Furthermore, by indexing the tax rate structure to inflation, the Conable-Hance substitute will provide built-in protection against future tax increases caused by bracket creep, and will protect and perpetuate the incentives provided by the plan.

On the business side, the committee approved expensing method for depreciating capital expenditures will not provide adequate investment incentives to business. In fact, it may actually discourage investment in the short-term because business will delay modernization and expansion until they are eligible to fully write off expenses in 1990.

The accelerated cost recovery system proposed in the Conable-Hance substitute, in contrast, both speeds up and simplifies depreciation schedules, providing the incentives necessary to encourage both long- and short-term capital improvements. Coupled with better investment tax credits, the bipartisan plan will encourage the investments necessary for a healthier, more productive economy. The Conable-Hance plan will also spur innovation by reducing both capital and labor costs of new research and development.

Enactment of the Conable-Hance Economic Recovery Tax Act will mean increased productivity, more jobs, and a greater market share for American business at home and abroad. In combination with tighter Federal budgets, regulatory reform and a stable monetary policy, it will put our Nation on a fundamentally different course. This new course will lead to less inflation, greater economic growth, and a brighter future for all Americans.

There should be no doubt that millions of Americans insist we act favorably on this tax cut. For the record, I want to share further results of the

Gallup poll which speaks loudly to every Member of Congress here today.

75 percent of the public favors a tax rate cut;

A solid majority (65 percent) expects that a 30 percent cut in federal income tax rates over the next three years as originally proposed by President Reagan will either reduce inflation or not have much effect on inflation:

Americans believe by more than four to one that a 30 percent tax rate cut over the next three years will increase business investment and employment;

73 percent of America thinks the amount of taxes the government collects is now a serious threat to basic economic liberties; and

Of those favoring a tax rate cut; 77 percent favor a 3 year approach over any other.

Unquestionably, we have a mandate from the taxpayers of this country for the Conable-Hance substitute which nearly contains the Reagan program in its entirety. The economic genius of America can be unleashed once again to provide new jobs for workers, stable prices, and a Government we can afford. I contend passage of Conable-Hance is the best means to achieving that goal.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I rise in support of the Conable-Hance bill.

Mr. Chairman, on February 18, President Reagan outlined a tax cut aimed at stimulating the savings and investment that are needed to increase productivity in this country. Our goal today is still the same, and I believe that the bipartisan Conable-Hance bill now before the Congress will do the job.

It provides a 25-percent across-the-board marginal tax rate reduction.

It includes business tax cuts that emphasize our reliance on private industry to rejuvenate the economy.

It encourages saving, investment and work effort.

Bold and immediate action is needed. The policies of the past of tax and tax, spend and spend have not only failed miserably, they have also created great misery. For too long, Government has stood in the way of progress, taking more of what our people earn. With Government taking away nearly one-half of every extra dollar middle-income people earn, it is obvious we no longer have strong incentives to produce, save, and invest—the very activities we need more of to make our economy grow.

Together with other measures to encourage work and savings and to reduce the burdens of Federal regulation and Government spending, the bipartisan Conable-Hance bill will provide the conditions for increased capital investment needed to provide jobs and improve the U.S. competitive position in world markets. As a result of the expansion of savings and capital formation, significant improvement in productivity will accompany the employment gains. Growth in real output per worker should average over 2 percent per year from 1982 through 1986.

The bipartisan Conable-Hance bill now includes in addition to a 25-percent tax rate cut, the following:

Expansion of individual retirement accounts from $1,500 to $2,000 per year and Keogh plans from $7,500 to $15,000 per year.

Relief from the marriage tax penalty to substantially ease the situation in which a married couple with two incomes pays more taxes than two single people with the same incomes.

Exemption from estate taxes of first $600,000 and an increase in the gift tax exemption to $10,000 which will be very beneficial to family farms and other small businesses.

A 25-percent tax credit for R. & D. costs.

Relief for Americans working abroad, allowing an exclusion of up to $75,000 in income.

An investment tax credit for rehabilitation.

The accelerated cost recovery plan will no longer be phased in gradually. It will take effect, as of January 1, 1981, and will save business a cumulative $162.4 billion through 1986.

A reduction in the top rate on investment income from 70 to 50 percent.

The bipartisan tax bill will provide more than $1,000 in tax relief for the average family of four by the third year. The biggest percentage reductions in total tax burden goes to the lower- and median-income families—not the wealthy.

The fundamental difference between the bipartisan tax cut and the alternative tax bill is that the President's plan provides working people a real tax cut while the alternative plan would allow taxes to continue to increase on working people.

Instead of a plan that gives all working people of this country a real tax break, the alternative plan would provide a means to redistribute income.

Instead of a plan directed at savings and investment, the alternative plan would provide a business-as-usual tax cut aimed at stimulating consumption.

Instead of giving people the assurance of a multiyear tax cut, the alternative plan would gamble with year-to-year targets.

What the President, in effect, is really saying to all of us is this: If you work or save or invest more tomorrow than you did today, more of every extra dollar of your earnings will be yours to keep. This is what we mean by incentives. And this is what will unlock the drive and energy of our people and result in more jobs, more and better goods on the shelves, and new opportunities for all.

The bipartisan tax proposals are absolutely essential to the success of the President's economic recovery program and to give taxpayers a new economic lease on life. I support the bipartisan effort.

□ 1630

Mr. CONABLE. Mr. Chairman I yield one-half minute to the gentleman from New Jersey (Mr. RINALDO),

Mr. RINALDO. Mr. Chairman, I intend to support the Conable-Hance amendment to carry out the tax reductions, specifically and primarily because it guarantees the third year of tax cuts.

As far as I am concerned, since low- and middle-income taxpayers will lose 22 percent of their tax relief in the next 3 years due to built-in tax increases in the system, the Democratic or Ways and Means Committee cut of 15 percent does not provide any tax reduction at all.

Mr. Chairman. While there are many similarities between the Conable-Hance amendment and the Ways and Means Committee's bill, I intend to support the Conable-Hance amendment to carry out the tax reductions endorsed by the President, primarily because it guarantees a third year of tax cuts.

In my view, this provision puts President Reagan's proposal head and shoulders above the Democratic bill. Furthermore, a 25-percent cut, rather than a 15-percent tax reduction as provided by the Democratic bill, gives better tax relief to taxpayers in all income groups.

The Conable-Hance amendment provides the strongest encouragement for savings and investment, the second step Congress must take toward a reduction in the present record high interest rates and a boost in the now sagging rate of employment and national productivity.

Supporters of the Ways and Means Committee's bill claim that its tax relief is directed toward low- and middle-income taxpayers.

I agree, as far as the tax cuts for the first 2 years are concerned.

However, every taxpayer gets a larger tax cut under the President's proposal in the third year and every year thereafter.

Since low- and middle-income taxpayers will lose 22 percent of their tax relief to built-in tax increases in the next three years, the Democratic tax cut of 15 percent does not provide any relief at all.

On the other hand, the Conable-Hance amendment provides for tax rates to be indexed to inflation beginning in 1985 to prevent taxpayers from losing their cost-of-living pay increases to the Federal Government.

Although the committee was unwilling to commit itself to a third year of tax cuts for individuals, its bill would

slash corporate income rates by approximately 30 percent.

The Conable-Hance amendment, on the other hand, directs business tax relief to invest in new plants and equipment, the activity most likely to result in new job opportunities for the unemployed.

My constituents, who fall into all economic categories, recognize the advantage of the President's tax cut plan. After President Reagan's speech, I received 671 calls on the tax legislation, and 582 favored the Conable-Hance amendment.

I am disappointed that the majority-controlled Rules Committee did not allow amendments to be offered to strike the provisions in both versions of the legislation that provide exclusions from the windfall profits tax.

While the Conable-Hance bill increases the windfall profits tax credit for individual royalty owners, many of whom are retirees with modest incomes, the Democratic bill gives a huge tax exemption to oil producers.

This additional tax break for the oil companies is completely unnecessary, and provides further evidence of the purely political basis of the Ways and Means tax cut bill.

Mr. CONABLE. Mr. Chairman, I yield myself 3½ minutes.)

Mr. Chairman, I would first like to deal with Camelot. We have had five redistributive tax cuts in the past 12 years and the disparity between the wealthy and the poor is greater than it was before. That is because of bracket creep. So much for Camelot.

We have now already voted on the bill advocated by the Democratic Convention platform a year ago. That was ably and graciously carried by the gentleman from Arizona (Mr. UDALL), and it was disposed of by a vote of 288 to 144.

We are now considering the difference between the Conable-Hance bill, on which I have been honored to work with the gentleman from Texas, KENT HANCE.

I will say that my beloved chairman, whom I greatly admire, has brought his party a long way since a year ago and that Democratic Convention. I thank him for reflecting the pragmatism of the two-party system. I also thank the President for having helped him along the way.

Now, there is a great difference between these two bills. We have focused on the add-ons to a great extent; but in fact, there is a difference embodied in these bills which is significent. The President's economic package is still intact. As a matter of fact, it is improved, if anything. Far from changing the principles that actuated him at the beginning, House Republicans have not changed their basic direction.

We now have a 3-year-across-the-board-rate cut, a proposal which will not add to the progressivity of the tax system, but reduce it.

Why is this not for the advantage of the wealthy? The wealthy are at the maximum tax rate. They are not affected by bracket creep; but if you increase the progressivity of the system, inevitably the working people, those who get modest increases find the Government taking a bigger cut as they move through the brackets.

Now, we have improved the idea of an across-the-board reduction by making the tax cut permanent; in effect, taxing real income for the first time, instead of nominal income. Indexing is probably the most significant long-term change in this bill.

The business tax cuts also are very different in the two options available to us. I regret that we have not dealt with the issues there more clearly in this rather truncated debate. The business tax cuts involve the difference between an emphasis on capital investment and productivity and jobs, if I may say so, and the type of phased in—and do not forget, it is phased in over 5 years—expensing that unfortunately will result in considerable manipulation. Depreciation reform, broadly distributed, will be fairer, easier to administer and of greater economic benefit than expensing, and it will happen sooner in our bill.

I trust the Members of this body will support the Conable-Hance substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, no one more than the gentleman presently in the well is looking forward to the conclusion of this debate and the final vote on this legislation.

After the last election, there was a choice to be made by the gentleman from Illinois (Mr. ROSTENKOWSKI): whether to be whip or to be chairman of the Ways and Means Committee. As I stand here and think about the 6 months that we have worked, sometimes together, sometimes not, sometimes disagreeing but never disagreeable, I know that I have made the right choice. I have, I am proud to say, a strong, positive relationship with virtually every member of the committee. And that relationship will serve us all well in the months ahead.

Today, we have finished drawing the stark lines between the President's tax package and the Democratic tax package. Our real differences reach beyond this Congress—to the very philosophical roots of our parties.

As Democrats, we believe that Congress should treat taxpayers as individuals. We believe that middle-income working families who make up the largest part of our society, deserve the largest share of this tax cut. We believe they will always determine the Nation's economic course.

The President's approach ignores personal economic distinctions in this country. His across-the-board tax cut favors the wealthy—assuming that they, not the middle class are the rightful decisionmakers in this country.

Democrats dread the potential consequences of an automatic third-year cut, followed by indexation. The "certainty" of tax reduction that the President demands for Wall Street may well promise certain disaster—rather than certain prosperity.

You say we have come a long way—and maybe we have, but you know, we have brought you a long way, too.

Debate today has focused on what is in your bill, when in fact most of what you refer to with pride were ideas that first surfaced in speeches and bills that Democrats authored.

Your original 10-10-10, sponsored by the gentleman from New York, did not provide relief from the marriage penalty, but we believed that this segment of our taxpayers was entitled to relief. Your bill did not have small business tax cuts, it forgot savings incentives, and rejected incentives for rehabilitation. But we believed that an economic recovery would not be possible without relief for the small businesses that are the backbone of our economy, without incentives for the average middle-income American to save the dollars he would receive in a tax cut, or without incentives to revitalize our older cities, which throughout our history have been the source of jobs and prosperity for this country, through rehabilitation of their decaying neighborhoods.

The outcome of this vote will carry far beyond taxes—to the very profound political and constitutional question of the role of Congress in writing laws. This vote is more than a choice between the President's tax bill or the Democratic tax bill. It is in large measure a decision whether laws should be written by political strategists in the basement of the White House—or by men and women elected to serve in this legislature.

If we accept this White House package—shaped by political demands rather than economic realities—we will declare this Congress no longer independent of the executive branch. If we blindly accept this last political revision of a trillion-dollar economic package, we will declare that the President—not Congress—is the people's only spokesman.

The Ways and Means Committee has a long tradition of writing bipartisan tax bills.

Over the years our bills have always been shaped and tempered by our differences—not partisan differences between Democrats and Republicans, but bipartisan differences over tax

policy. We have always respected and taken pride in our differences.

The tax cut we are about to judge bears little imprint of Republicans elected to serve on the Ways and Means Committee. The President's approach to the legislative process is an insult to those committee Republicans who pride themselves as legislators—who pride themselves on their experience and their understanding of taxation and economics.

Republicans—especially my colleagues on the Ways and Means Committee—have little reason to be proud of the final White House version. Some feel a quiet shame for what has been forced upon them—and, as a legislator and a committee chairman, I share your sense of frustration. I know that few of you are free to oppose the President's substitute.

But the struggle now is more profound than we ever imagined.

If we accept the President's substitute we accept this dominance of our House for the months ahead. We surrender to the political and economic whim of his White House. We open wide the door to the House floor for any messenger with a last-minute draft—whether it is a $150 billion slash in social programs or a trillion-dollar tax cut.

Will the next dictate come on social security—or perhaps, voting rights? It is a sober, and very legitimate, question.

The CHAIRMAN. The gentleman has consumed 3 minutes. The gentleman has 2 minutes remaining.

Mr. GIBBONS. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. ROSTENKOWSKI. To members of my own party, I owe a great debt for your participation in shaping the Democratic bill. I owe you my enormous gratitude for your loyalty—loyalty, in many cases, given in the face of extreme political pressure from the White House—loyalty often given despite personal opposition to some provisions in our bill.

I want to say I am grateful to every Member, Republicans and Democrats alike. I have enjoyed the effort on this bill. It has been hard work, but there is a great future for us as a committee. I hope it is not going to be, at least in the Ways and Means Committee, Democrats versus Republicans but rather Democrats and Republicans. I know we will have political differences from time to time, but I hope today marks the last time that we are political in the way we write tax policy.

In the final analysis I do not know whether you are right or whether you are wrong, or whether we are right or whether we are wrong, but I do know that I will not change my view about those people that are earning below $50,000. I will be in this well defending a larger marginal rate cut targeted to those people as long as I am chairman of the Ways and Means Committee, because those are the people that make the wheels of America turn. That is the issue now, that will be the issue next year as well.

□ 1740

I want to say I am grateful to every Member, Republicans and Democrats alike. I have enjoyed the effort on this bill. It has been work, but there is a great future for us as a committee. I hope it is not going to be, at least in the Ways and Means Committee, Democrats versus Republicans but rather Democrats and Republicans. I know we will have political differences from time to time, but I hope today marks the last time that we are political in the way we write tax policy.

Mr. CONABLE. Mr. Chairman, I yield my remaining time to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, we are about to vote on the largest tax reduction bill ever in the history of our country. Ordinarily one would expect the debate on such a wide sweeping piece of legislation to be debated for days rather than the relatively few hours we have devoted to it today in this Chamber.

In a much larger sense, however, the debate over the form and the extent of this tax reduction actually began when the President first made it an issue in his campaign over a year ago.

Since that time he has spelled out time and time again that his plan for economic recovery involves a multiyear plan of both expenditure and tax reduction.

We are now in the throes of wrapping up the reconciliation process which has propelled us forward with one giant quantum leap in achieving expenditure reductions of historic proportions.

Now we must this afternoon match that feat with an equally important and historic long-term commitment to tax reduction.

This is another one of those issues where our philosophical kinship rather than our political division will be the decisive factor in determining whether the bipartisan substitute will prevail over the committee bill.

Unfortunately, the committee bill before us embraces a philosophy that has dominated this Congress for generations, I cannot think of anyone in this Congress today who has given this philosophy more meaning and more life than the Speaker of the House.

After the vote on the reconciliation bill he came into this well and enunciated that philosophy as only he could do it.

The committee bill is yet another temporary palliative. It is classically traditional. I daresay it is the only kind of tax bill the Speaker of this House could support out of principle because it does not threaten the role of Government as the dominant force in our society and over our lives.

Let us face it, the Speaker wants to hold on to as much Federal revenue as he can. Under no circumstances was he going to agree to more than a 1-year tax cut. Remember?

My dear friend ROSTY knew that was an untenable position and finally persuaded the Speaker he had to do better. I will give the chairman credit for his perception in sensing the changes that have taken place around here since last November and his attempt to break with his party's traditional stance on such items as the corporate tax rate, capital gains, and unearned income.

But the fact remains the committee bill is like one of those late-summer weeds that grow in the garden: It may look green and it may seem to have a certain attraction, it may even flower, but it will bear no fruit. In the end it will kill what has grown around it and there will be no harvest from it.

The philosophy underlying the Conable-Hance bill is the antithesis of the committee bill. The two bills are worlds apart philosophically.

Conable-Hance is a dramatic departure from the past. It is not only a 3-year reduction of 25 percent but also provides for automatic adjustments thereafter through indexing.

The Conable-Hance substitute gives back to the people what is theirs to begin with. Conable-Hance means that those who govern must get their license to govern—to spend and tax—from those who are governed. No more will there be taxation without representation, without debate, without a single hearing, without our voting the financing mechanism up or down on future wild spending programs.

There are, to be sure, provisions in both bills which to some are boons and to others boondoggles. But as important as those provisions are and as they mean, they are not the issue.

The American people are not going to judge you and me solely on the basis of the specifics in either bill. The American people are looking to us to depart from the past to set a new course and embark upon it without reservation without looking back to the glory days of big government.

We embarked on that new course 6 months ago. The public gave us the opportunity and their support. We have come a long way in 6 months. We have come farther, done more, and acted more decisively than any Congress in my memory.

Have we come this far only to turn back now? Have we set out this new course, only to falter at this juncture because we are breaking new ground and cannot quite summon up the courage to go all the way?

We have set out on a tough road. No one is denying that. We have taken risks. But it is the only road this country can afford to travel now.

This is not the time to cut and run. This is the time to finish the task we set out to do.

The choice is one of philosophy. Are we going to serve the tired ghosts of Congress past or are we going to serve the vital spirit of America's future?

I certainly hope it will be the latter and urge your support of the pending substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands (Mr. DE LUGO).

Mr. DE LUGO. Mr. Chairman, seldom in this historic forum has a more significant vote been called for from this body. The breadth of this tax legislation is awesome; the implications of the vote will be even more so.

And in the midst of this intense issue, virtually buried beneath the weight of national politics involved in this debate, lies a matter of critical importance to a relative handful of people living under the American flag in two of its territories: the U.S. Virgin Islands and Guam.

In H.R. 4242, the Democratic tax package, a bill of nearly 400 pages, are contained a few words—two sentences to be exact—that spell the future for those people. Those two sentences will compensate the U.S. Virgin Islands and Guam for direct revenue losses they will suffer as a result of the nationwide tax cuts. Without those two sentences, the U.S. Virgin Islands and Guam would have to bear a double burden—direct revenue losses from the tax cuts and program reductions in the budget cuts. It is a double burden that these two territories can least afford to cope with.

On January 20, 1981, the day of the inauguration, I wrote to the President a detailed explanation of the unique and damaging impact the combination of program reductions and tax cuts would have on the two territories. I urged the President to reimbuse the territories for the direct revenue losses resulting from the tax cuts—a carefully structured program for which the precedent had been set under the Ford administration. That precedent was set in 1976 with the backing of both parties in both Houses.

On March 15 of this year, in the Interior Committee's report to the Budget Committee, the Republican members of the Interior Committee went on record as supporting and in fact urged the utilization of that precedent for this administration's tax cuts. I would like to quote from that Republican report:

> Over the years, it has become the policy of the Committee on Interior and Insular Affairs to regard with sympathy the critical needs of the citizens in the offshore areas; too often, it is forgotten that their standard-of-living approximates a level two-fifths below that of America's poorest State. Economic development, health care programs and educational assistance in the territories are more severely restrained than on the mainland because of vast distances, inadequate infrastructures and soaring inflation * * *. We do not wish the governments of Guam and the Virgin Islands to be doubly jeopardized by Federal economic policy over which they have no control * * *. Consequently, we appeal to the Reagan administration to take note of this fact and appropriately compensate the governments of Guam and the Virgin Islands for revenue loss as a result of changes in the national taxing authority.

On June 25, 1981, the chairman of the Appropriations Subcommittee on Interior in his report stated that "budget reductions proposed by the administration are bound to have a greater and unfortunate effect on the flag territories as well as the Trust Territory of the Pacific Islands than in local government entities." The chairman noted that income tax revenues are expected to decrease by as much as 25 percent. "The impact of actions now in Congress may be most devastating", he stated.

On June 25, 1981, the chairman of the Senate Committee on Energy and Natural Resources which has jurisdiction over the territories stated on the floor of the Senate:

> * * * I am concerned that we may very well be unintentionally harming the territories and creating a situation which we are powerless to remedy. During this year's appropriations hearing I asked the administration witness what the total levels of Federal reduction would be to the territories under the President's program and what would be the effect. The witness did not know * * *.
>
> * * * In addition to the uncertainty of program cuts, the territories, as a result of Federal law, operate under a mirror tax. The proposed Federal cuts will automatically be mirrored in the territories resulting in decreased revenues at the same time that Federal assistance is being reduced.
>
> Mr. President, I am prepared, as chairman of the Committee on Energy and Natural Resources and chairman of the Subcommittee on Interior and Related Agencies of the Appropriations Committee, to reassume the total responsibility for all programs in the territories if that is the direction we are going. But if that is the direction we are going, the budget must adequately reflect the needs of the territories and the increased responsibilities of the Secretary of the Interior. There is very little flexibility under the reconciliation process to accommodate this.
>
> I would hope that this will not happen, but if it does, I hope that sufficient leadtime is given so that the necessary authorizations can be enacted. I would like to state, however, that it is my intention within whatever constraints there may be, to insure that the Congress properly fulfills its responsibilities for the U.S. citizens and other residents of the offshore areas * * *.

On July 16, 1981, the House Ways and Means Committee included in its tax package, now bill 4242, a provision to reimburse the U.S. Virgin Islands and Guam for tax cut revenue losses. That amendment was adopted without objection.

I detail this history to emphasize the strong bipartisan support that not only now in this Congress, but historically has been given to this reimbursement provision for the U.S. Virgin Islands and Guam, and to underscore the point that despite the endorsement of leaders of both parties, this administration has failed to include such a provision in its tax package.

These two territories represent the outermost reaches of the American frontier—one in the Pacific, Guam, and the other half way around the world in the Caribbean, the U.S. Virgin Islands. The sphere of American influence in these two distant areas revolves not around Washington or the Midwest or California, but around these two territories. The perception of America in those hinterlands is built upon those territories.

How ironic, how paradoxical, that at the same time the administration speaks of developing a new policy in the Caribbean, it literally ignores the impact its own domestic policies will have on its own territory in that region.

The U.S. Virgin Islands cannot bear the double burden of program cuts and revenue losses. This is a fact.

The leadership of both parties in both Houses of Congress has recognized that fact. Does this administration not heed the advise of its own party leaders in the House of Representatives and the Senate—leaders with years of experience in dealing with the territories? If it does not, then this is an ominous new beginning indeed.

I would urge the passage of the tax bill as reported out of the Ways and Means Committee. I would urge this administration to reconsider its position, to listen to the advice of its own party leaders, and to recognize that we are all Americans, all under one flag, all willing to speak out for America—and all needing to be heard.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I rise in opposition to the substitute and in support of the committee bill.

I rise in opposition to the amendment offered by Messrs. CONABLE and HANCE, the so-called Republican substitute which reflects the tax cuts endorsed by President Reagan. I support the bill reported from the House Ways and Means Committee. Although I oppose the President's version of the tax bill, I am hopeful, regardless of which version passes today, that our country will experience an economic resurgence which will benefit all Americans in all income classes. Nothing would make me happier than to

see lower taxes, a balanced budget, and reduced unemployment.

I have devoted much careful consideration to both the Conable-Hance bill and to the Democratic bill. The decision has been a difficult one, for both bills offer great amounts of relief to different segments of our population. Both bills would accomplish essentially the same goals of stimulating economic activity and investment and easing the growing burden of taxes felt by too many of our citizens.

Over the past few weeks, I received hundreds of phone calls and letters and talked personally with scores of constituents who urged my support for one tax bill or the other. I am most grateful to them for their assistance and input in this decisionmaking process. The ultimate decision must be made on the basis of which tax cut is in the best interests of the people of my district and the Nation, not who the sponsors are, or what bill is supported by Democrats or Republicans.

ESTATE TAX EXEMPTION

There is much to be commended in both bills and there are many similarities between them. Each bill includes large increases in the estate tax exemption. This would provide much needed relief to those who want to pass on an estate without burdening the beneficiary with taxes so high that the heir must sell the estate to pay the taxes. This will be especially valuable to the farmer or small business man who wishes to leave the family farm or small business to someone in his family. In addition, under both versions of the tax bill, any estate inherited by a spouse would be tax exempt, regardless of its value. In fact, 99.7 percent of estates would pay no taxes. Still another feature in this portion of the bills is an increase in the gift-tax exemption from $3,000 to $10,000. This would mean a real break for parents who wish to give their children sizable gifts for college education or any other purpose.

Both bills also contain provisions to help research and development activities by businesses through a new tax exemption. This would prompt businesses to invest money to develop new products, new and more efficient methods of production, and to conduct scientific research which will benefit not only the company funding the research, but also the general public.

Among other common features, both proposals offer increased incentives for people to save for retirement. The Individual Retirement Account—IRA—exemption would be raised to $2,000 and the exemption for Keogh account deposits would be raised to $15,000. These changes would relieve the tax burden on those persons planning ahead for their retirement.

BETTER FOR MIDDLE-INCOME FAMILIES

Nevertheless, there are significant and important differences in the two bills. It is these differences which must be the ultimate deciding factor. Perhaps the most striking difference is in the distribution of the individual tax breaks.

Both the Republican and Democratic plans call for an overall first-year reduction of 5 percent and a second-year reduction of 10 percent to individuals. But the crucial difference is that the Republicans aim a greater share of the cuts to the wealthy. The democratic plan focuses the cuts on those making less than $50,000 a year. The middle-income taxpayer, under the Republican plan, receives a markedly smaller tax cut. After contending with increased social security taxes and inflation, a family in Saginaw earning $20,000 would actually pay more taxes, even by 1984, than they will this year. I don't think is fair. I believe that those earning less than $50,000 a year bear the heaviest burden of the tax load and are most entitled to relief. They are having the hardest time coping with increased social security taxes and inflation. Those earning more than $50,000 would still receive sizable tax cuts next year under the Democratic plan. But the rich have not been so hard hit by higher taxes and skyrocketing inflation that they deserve a disproportionately large share of the tax cuts. Most of the people in my district make considerably less than $50,000 a year, and they strongly indicated to me that they did not wish to see a tax cut geared to the rich.

MARRIAGE PENALTY RELIEF

The marriage penalty is one of the most unfair aspects of our tax code. A two-earner family is taxed more heavily if they are married than if they were not. The Democratic bill offers long-needed relief from this penalty, providing a tax exemption of up to $5,000 beginning in 1982. The Republican bill offers less relief: only a maximum deduction of $1,500 in 1982, rising to only $3,000 in 1983. This penalty would still not be totally eliminated, but the Democratic plan represents a bigger step toward the goal of making our tax system truly equitable.

CHILD CARE TAX CREDIT

The Democratic bill also includes an increased credit for child care, which is not part of the Republican bill. Parents who must find day care for their children while the parents work or attend school would welcome such relief. The cost of such care can become a real burden, and the Democratic bill not only increases the credit for child care but also institutes a sliding credit percentage of as much as 40 percent of such expenses at the $10,000 income level. This is another area in which the Democratic bill provides relief to those who truly need it.

LOWEST WAGE EARNERS AND STUDENTS

Additionally, the Democratic plan offers important benefits to those in the lowest income brackets. The zero bracket amount would be increased by $200 for individuals and $400 for couples, so that individuals earning less than $2,500 and couples earning less than $3,800 would not pay any taxes. This would mean a great deal to those who make so little, including students who hold summer jobs. An income level of $2,500 is not much, and every dollar that can be saved from the tax collector counts. The Republican plan makes no provision for increasing the zero bracket amount.

INDEXING AGAINST INFLATION

The Republican plan includes one good idea that was not included in the Democratic bill. That idea is indexing the tax rates to offset the rate of inflation. I support this feature and, in fact, I have sponsored legislation in the past to institute indexing. I had hoped that indexing would have been a part of the Democratic bill and, in this particular area, I believe that the Republican proposal is better. But we can still address this issue separately at a later time.

BETTER FOR SMALL BUSINESSES AND FARMERS

Small businesses are the backbone of economic activity in this country. The Democratic bill offers them much more relief than the Republican plan. Small business creates 90 percent of the new jobs in this country. If, as the President claims, we are trying to stimulate investment, we need to give meaningful relief to small business, and the Democratic bill offers much more.

The Republicans make an attempt at helping business. There has been much talk about the administration's 10-5-3 proposal, under which the depreciation time for new capital equipment will be shortened. But the Democratic bill would institute expensing, under which businesses could write off the cost of their investment in new equipment in 1 year, beginning with a total of $25,000 worth in the first year. I cannot imagine a system that could be any easier or more beneficial to small and big businesses alike. In fact, the Republicans liked the provision that the Democrats included in their bill so much that they copied it and added it to their own bill. However, they provide for only a maximum of $10,000 in expensing, and that not until 1986.

Another important break for small business in the Democratic bill is the cut in the maximum corporate tax rate from 46 percent to 34 percent. This would be phased in over 4 years. At the same time, the income tax brackets would be expanded so that the maximum rate would apply only to earnings over $200,000 as compared to the $100,000 level under present law. This significant cut, amounting to $12 billion, as compared to $2.4 billion in relief in the Republican bill, would

mean thousands of new jobs created by investment in new plants and equipment, using money that otherwise would have been consumed by taxes.

The Democratic bill extends special relief to six distressed industries, including the auto industry. It would allow them to claim unused investment tax credits dating back to 1962. The health of Michigan's economy depends on the health of the auto industry, which employs a great number of people in my district, and this measure would offer significant relief to the auto industry.

RELIEF FOR FARMERS

The Democratic bill is also better for our small farmers. In a good year, small farmers in Michigan will net between $15,000 and $20,000. In 1978, these farmers averaged only $10,000 net income. The tax reduction at these income levels is more generous in the Democratic bill than the substitute.

But very importantly, it needs to be remembered that farming is a capital intensive business. In 1982, under the President's plan, farmers would be able to expense only $5,000 of their capital purchases, and this amount increases very gradually over the next few years, reaching a maximum of $10,000 in 1986. But under the Democratic bill, farmers can expense $25,000 of their equipment in 1982—five times as much. This means that some farmers who buy new equipment will be able to avoid any tax liability at all in the year of purchase so that the tax savings can help them pay for their equipment. It also means that the farm implement dealers who have suffered a severe downturn in sales in recent years might be in a better position to make more sales and increase their own income.

Once again, Mr. Chairman, I would like to reiterate my opposition to this Republican substitute. I do not think that the President's version of the tax cut is a bad bill. However, I believe that it is necessary for me to base my vote on what is in the best interests of my district and the Nation. The Democratic bill, in my opinion, best serves these interests.

I believe that we need large tax cuts. They are long overdue. It is important that we provide major tax relief for both individuals and businesses. Tax cuts will provide a needed stimulus to our economy and promote widespread economic growth. The Republican proposal would do this, but I believe the Democrats' bill will do it better and more fairly.

● Mr. BIAGGI. Mr. Chairman, I rise in support of the Conable-Hance tax substitute and particularly its provisions encouraging increased personal savings by all Americans.

A brief history of the issue indicates the American willingness to save has substantially decreased over the last 10 years. By the end of 1978, the rate of disposable income savings in the United States reached a 30-year low of under 5 percent—far less than any other Western democracy.

For example, Great Britain has a 13-percent savings rate; West Germany, 15 percent; and Japan, 25 percent. Each of these countries offers generous tax concessions or Government bonuses to savers.

The importance of savings to productivity and our overall economy cannot be overstated. One-third of all the capital in this country is made available through personal savings. Without adequate savings, there cannot be sufficient investments in industry, small business, and home construction. The result is higher consumer prices and increased unemployment.

Last year, recognizing this critical need to stimulate savings, the Congress enacted two measures that gradually raised the interest a person could receive on his or her savings deposits, and allowed $200—$400 for couples—of that interest to be tax-free for a 2-year experimental period. Unfortunately, while these two landmark laws represented a positive shift in U.S. economic policy, they have not resulted in any noticeable rise in personal savings.

Interest rates on savings deposits have remained close to their original levels and, as feared, the $200/$400 temporary interest tax exclusion does not seem to be enough of an incentive to save. In fact, studies show that an estimated 95 percent of all the money saved in America is earned by individuals and businesses whose interest and dividends income exceed the $200/$400 limit.

Earlier this year I introduced a bill, H.R. 3049, to remedy this situation. My legislation would make permanent the current $200/$400 tax exclusion on interest and dividends and raise it to $1,000/$2,000 for savings interest only. In addition, my bill would allow all persons age 65 and over to earn tax-free interest on their savings deposits.

The Conable-Hance substitute offers similar relief aimed at providing a shortterm and much needed boost to our slumping savings and loan, and thrift industry. Under the terms of this legislation depository institutions would be authorized to issue 1-year tax-exempt savings certificates. They would allow single taxpayers to earn as much as $1,000—$2,000 for couples—in tax-free interest. The certificates, which would cost $500 and above, would yield 70 percent of the interest rate on 52-week Treasury bills, and would be available for a 15-month period beginning on October 1, 1981.

The certificate would allow depository institutions to retain and attract many of the investment dollars that have recently gone to competing investment opportunities that currently offer higher returns.

I might add that these savings certificates are far more preferable than a proposal that has been offered to lower the returns on competing money market funds. Rather than penalizing the small saver by eliminating one of their few opportunities to get a fair market return on his or her dollar, additional investment opportunities should be made available. The tax-exempt savings certificates provide such an opportunity.

As an original member of the House Select Aging Committee, I would like to emphasize, however, that these tax-exempt savings certificates are not the final solution to our Nation's dismal savings rate, especially as it relates to the elderly. First, the certificates would only be offered for a 15-month period allowing the troubled depository institutions to revitalize themselves over a 2-year period, but failing to provide any long-term relief for either the institutions or the saver.

Second, many senior citizens cannot afford to tie up $500 or more of their savings for a 1-year period. They depend heavily on their savings to pay for daily living expenses, including emergency medical needs. Under the proposed certificate plan, a person would receive stiff interest penalties for withdrawing funds early.

I favor a more flexible savings incentive plan that would incorporate the tax-exempt savings certificate idea with the bill I authored providing across-the-board, tax-free interest for senior citizens. Unfortunately, I am restricted by the rule from offering such a compromise proposal in the form of an amendment. As a result, I am supporting the tax-exempt certificate plan as the most responsible plan under these circumstances, and another major step toward permanent and meaningful small saver relief.

We must not forget, however, that savings interest represents nearly 25 percent of the total income for persons age 65 and over. In addition, two-thirds of all savings accounts in the United States belong to persons 55 years and older. Certainly, then, any long-term small savers relief should address the special needs of our elderly. That is why I continue to offer my bill, H.R. 3049, as an effective solution to the savings rate problem in our Nation.

Let me finally express my support for the additional savings incentive contained in the substitute—increased retirement investment opportunities. Under the Conable-Hance amendment, the current $1,500 limit on individual retirement account (IRA) contributions would be increased to $2,000—$2,250 for couples. In addition, for the

first time, employees contributing to an employer-sponsored pension plan could also claim the $2,000/$2,250 IRA tax deduction.

In addition, the maximum tax deductible contributions to self-employment (Keogh) retirement plans would double from $7,500 to $15,000.

Both of these retirement savings incentives are expected to attract millions of new savings dollars, while allowing individuals to plan for a more financially secure retirement.

Simply stated, Mr. Chairman, increased savings by Americans will do as much to stimulate our economy and increase productivity as any other economic tool. The Conable-Hance substitute provides responsible and effective tax incentives for savings and I urge that it be adopted today.●

● Mr. FIELDS. Mr. Chairman, I rise in enthusiastic support of the Conable-Hance amendment to the pending Ways and Means Committee bill.

Mr. Chairman, without sounding melodramatic, each of us should recognize that later today we will cast one of the most important votes in recent history.

While the consequences of our actions are staggering, the choice is clear—the time is now to pass the Reagan bipartisan tax bill.

On the one hand, we have a bill written by the overly partisan Ways and Means Committee, a bill which calls for a 2-year, 15-percent reduction in tax rates, tax rates which they, over the years have caused to rise and take a larger portion of the paychecks of every man and every woman working today.

On the other hand, we have a bipartisan tax proposal which not only reduces taxes 25 percent across-the-board for all Americans during the next 3 years, but permanently eliminates the built-in tax increases caused by inflation.

Before discussing why I feel the Reagan bipartisan tax plan provides real tax relief, while the Ways and Means Committee bill calls for actual tax increases in the years ahead, we should recognize that the Ways and Means Committee bill was drafted by a group of men who are much better at raising taxes than they are at reducing them.

In fact, they are so good at increasing taxes that they have done so at a rate of 249 percent since 1971.

Since that time, the Ways and Means Committee has given the American people five other so-called tax cuts. Yet, over the same 10 years, total taxes increased by more than $400 billion.

It is interesting to note that it took this Nation 200 years for Washington to extract $300 billion annually from the private sector. Yet, from 1977 to 1981, the Ways and Means Committee was able to more than double that figure.

Yet, these same revenue-raisers, who only a short time ago said the American people were not entitled to a tax cut, now are saying that they have the right tax bill for the American people.

Mr. Chairman, the American people have been down that briar path before and they recognize that the Ways and Means Committee's bill is just another tax increase masquerading as a "tax cut."

There is a better path we should travel, and I urge my colleagues to join with me in supporting the President's bipartisan tax plan.

While there has been much debate about which of the proposals provides real relief to the individual taxpayer, the simple fact is that under the President's bill, all American households will experience decreases in their tax rates after 1981.

Conversely, by 1984, under the Ways and Means tax bill, working people in nearly every tax bracket will be paying more taxes than they paid in 1980, and will be faced with whopping tax increases in the years to come.

Mr. Chairman, the President's tax proposal is imminently fair in that it provides tax relief to those Americans who pay the majority of taxes. For those Americans, who earn between $10,000 and $60,000 and now pay 72 percent of total individual taxes in America, the President's plan will provide 74 percent of the benefits to them.

In addition, it will relieve taxpayers of 98 percent of the tax increase expected over the next 4 years due to inflation and will eliminate "bracket creep" after 1985.

It is refreshing to have, at long last, a President with the courage to end this unlegislated, unvoted, unsigned and unending tax hike on the American people. Regrettably, however, the Ways and Means Committee lacked that courage and their bill does not include a provision to index our tax code. This I believe is but another example of their true intentions to continue to raise the level of taxes on all working Americans.

In 1963 President Kennedy said, "The final and best means of strengthening demand among consumers and business is to reduce the burden on private income and the deterrents to private initiative which are imposed by our present tax system. This administration pledged itself last summer to an across-the-board, top-to-bottom cut in personal and corporate income taxes."

With this in mind, President Kennedy sent to the Congress, just as President Reagan is doing now, a tax bill to significantly reduce marginal tax rates for all Americans.

President Kennedy's proposal was overwhelmingly approved by the Congress which included the current Speaker of the House and chairman of the Ways and Means Committee. It was hailed by the then-chairman of the Ways and Means Committee Wilbur Mills as a proposal, "to remove the private sector of the American economy from its high-tax straitjacket. To breathe into our free enterprise system that vitality that we concluded it requires if it is to do the job required of it today."

Yet, today, the same individuals who voted in favor of the Kennedy across-the-board tax cuts are saying it is unwise, potentially inflationary, unworkable and dangerous to give Americans this type of tax relief. I say their opposition is politically motivated and not based on any sound economic principles.

Mr. Chairman, in the 7 months that I have been a Member of this distinguished body, I have held 32 town meetings in my district, I have made 52 speeches, I have attended 31 special events, and I have met hundreds of other individuals of every age, race, occupation, and income. Without exception, those with whom I have talked, want to keep more of their paycheck and—they want to have the freedom to save or spend their hard-earned money—the way they want—and not as Washington dictates.

In my congressional district, the median family income is $11,800. Under the Reagan bipartisan tax plan, individuals earning this income will get to keep $917 more of their dollars conversely under the Ways and Means bill, they will keep only $527 of their dollars.

While this alone is significant, this is not the whole story. For, as we all know, the benefits of the Reagan bipartisan plan will continue in the years ahead, long after the Ways and Means Committee bill not only has run out of gas, but has guaranteed all taxpayers huge tax increases.

Mr. Chairman, the President's bipartisan tax bill will provide $205 million in savings to my congressional district and $1.4 billion in new income to the city of Houston.

I firmly believe that similar tax benefits are available to every community, every town, every city, and every congressional district in this Nation.

Mr. Chairman, that is the central goal of the Reagan bipartisan tax proposal which is, in my judgment, the best opportunity we have to encourage more employment, higher real incomes, fewer lives wasted on welfare and a rekindling of the work effort and entrepreneurial spirit in our Nation. Instead of working to pay taxes, people will be working for themselves and their families once again, and upward mobility will return to American life.

Finally, Mr. Chairman, I would say to my colleagues that if you want to continue to support the misguided tax policies of the past which have given us persistent double-digit inflation, high unemployment, negative productivity, the lowest savings rate of any industrialized Nation and one of the highest tax burdens in our history—then you should support the Ways and Means Committee bill.

If you want, however, real economic growth and real prosperity for your constituents—then you have no real choice but to join with me in support of the President's tax proposal. For it and it alone, will free us from our economic bondage—and insure that our children and grandchildren live in a nation with a strong economy—a nation with hope—and opportunity for all its people.●

● Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of the substitute bill offered by the gentleman from New York (Mr. CONABLE). This substitute, in my opinion, simply does a better job of insuring real tax relief for individuals and business.

It is simpler in concept and application. Every responsible legislator wants to simplify the tax system. Today, it takes a tax lawyer and a CPA to unravel many of the provisions of our tax code in order to utilize various incentives and procedures for protecting businesses and households from being ravaged by the Federal income tax.

The Conable substitute has better targeted tax incentives. It allows a deduction on the short form for those who donate to charity but cannot use the long form. It shortens the long-term capital gains holding provision, which will provide a real, immediate boost to investment. It allows deductions for research and development contributions to universities, and it allows struggling companies to lease back their equipment to generate much-needed capital. Most importantly, it targets inflation relief to the individual taxpayer by indexing the brackets. I was proud to cosponsor the bill introduced by the gentleman from Ohio which is being assimilated into the substitute.

I wish to impress on my colleagues the importance of certainty. Often, the largest, most onerous burden the Government can place on the shoulders of our people is our unfortunate tendency to change course in midstream, cutting their plans out from under them. This substitute mandates a 3-year, across-the-board reduction—unlike the committee bill it allows our people to count on tax policy for at least 3 years to come.

Last, Mr. Chairman, I must address the charge most often hurled at supporters of the Conable substitute—that it is a bill for the rich. It is a bill for all Americans—over 3 years, it provides more relief for every taxpaying American than the committee bill does, and it is that simple.

I urge in the strongest terms the support of my colleagues for the substitute offered by the gentleman from New York.●

● Mr. MOLINARI. Mr. Chairman, I rise today in strong support of the bipartisan tax legislation introduced by my distinguished colleagues Mr. Conable and Mr. Hance and backed by President Reagan. It offers an equitable and long-overdue tax cut through a plan designed to restore our Nation's economic health while relieving some of the heavy tax burden now borne by all sectors of the economy. The increased incentives to work, save, and invest which are built into the Conable-Hance proposal will benefit the overall economy on a long-term basis. The 25 percent reduction in individual tax rates is the first real tax cut in nearly two decades. Its benefits will be realized by individual taxpayers of all income levels. The bill is not aimed at the impossible task of pleasing all of the people all of the time. It is, however, an intelligent, carefully planned, and comprehensive piece of legislation which seeks to offer the greatest good for the greatest number. It is my firm belief that Conable-Hance does just that.

I am painfully aware of the fears of many of my constituents that the tax cuts favor the rich at the expense of the middle and lower income classes. This is, clearly, not true. Three-quarters of the tax relief offered by this bipartisan bill is aimed at middle-income wage earners. That group currently pays nearly three-quarters of all the tax the Government collects. In addition, beginning with the third year of the tax cut and continuing thereafter, taxes for all income levels will be significantly lower under the administration-backed plan than under the Ways and Means Committee version.

Another important feature of the bill is its elimination of "bracket creep." That is, the automatic tax increase that results when inflation pushes wage earners into higher tax brackets. In addition, Conable-Hance includes a provision to relieve the "marriage penalty," which taxes a married couple more than two individuals earning the same total income. The Conable-Hance bill also offers incentive provisions for small businesses as well as encouragements to individual taxpayers to save and invest. In an effort to make a long, important story short, the proposal is a blueprint for economic recovery. In conclusion, the bipartisan 3-year, 25-percent tax cut proposal and all its provisions form a plan under which both we as individuals and this country's troubled economy can not only survive, but prosper.●

● Mr. DREIER. Mr. Chairman, I rise today to voice my strongest support for the President's proposal for a multiyear, across-the-board tax cut.

The American people know what President Reagan's tax proposals will mean to them, and they have sent us a loud and clear message calling for the passage of the economic recovery program. The success of this program depends on both tax rate reductions and budget cuts.

In a recent survey sent out to my entire congressional district constituency, over 87 percent of those responding solidly supported the President's proposal to reduce personal income taxes over the next 3 years.

The Conable-Hance substitute provides for across-the-board marginal tax rate reductions of 5 percent on October 1, 1981, with additional reductions of 10 percent on July 1, 1982, and 10 percent on July 1, 1983. The top marginal rate on investment income will be lowered from 70 percent to 50 percent, effective January 1, 1982.

In order to rebuild America's industrial base, and to balance the Federal budget, we must significantly reduce tax rates across the board by a multiyear tax bill. Lower taxes will definitely increase the opportunity for people to save and invest a greater part of their income.

Reduced taxes encourages savings, and will provide capital to create new jobs and increase productivity.

It has been said that the President's tax proposal is a bill for the wealthy. This is most certainly not true.

Presently, Americans who are earning between $5,000 and $50,000 per year pay 67 percent of all taxes. Under the Conable-Hance substitute these Americans will receive 70 percent of the benefits.

Cutting taxes and restoring fiscal responsibility to the Federal Government must be the top priorities of this Congress. A reduction in the Federal income tax rate is critical to the economic recovery of our Nation.

I believe that the Conable-Hance substitute provides a fair tax break for the American taxpayer, and addresses major inequities in our current tax laws.

I urge my colleagues to endorse the President's efforts to make the Federal Government fiscally responsible by cutting taxes and reducing spending.●

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the remaining time to the Speaker of the House of Representatives, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, if the President has his way this could be a big day for the aristocracy of the world. This morning there was quite a royal wedding. This afternoon President Reagan is proposing a royal tax cut.

It is very interesting what has happended. I think perhaps last week we had this bill won. Literally thousands of phone calls, thousands of telephone calls and letters came in. I guess we got everything in the tax bill but a tax cut for tax callers, particularly for Phillip Morris, Paine Webber, Monsanto Chemical, Exxon, McDonnell Douglas, who were so kind to allow the use of their staff to the President of the United States in flooding the switchboards of America.

I want to thank DON ROSTENKOWSKI and the members of the Ways and Means Committee. I think they did a beautiful job.

Six months ago I pledged to this body that the leadership of this House would not obstruct the program of the new President. As Democrats and as members of the opposition party we would try to work with the new administration—when and where possible. Together we would try to get this country moving again.

We showed our good faith. We drew up a schedule for consideration of the President's economic program. By the end of today we will have met that schedule.

We realize that a new President was bound to have an advantage over the Congress. We realized a quick schedule could increase his program's chances. Nevertheless we agreed to it, because we felt that it was responsive to the public's demand that an economic program be implemented without delay.

In developing our economic legislation Chairman JIM JONES and DAN ROSTENKOWSKI sought to reach a compromise with the administration. In both cases we traveled more than halfway and failed to reach an agreement. As a result, we missed the opportunity for genuine bipartisanship.

By rejecting compromise, the administration challenged us to a bidding contest. In this contest no commodity straddle was too generous. No oil depreciation allowance was too high. No period of capital gain too brief for the Republican substitute. No prior statement regarding these matters—not even by the President of the United States or the Secretary of the Treasury—was immune from repudiation.

No future deficit was so threatening that it could prevent adding $35 billion in cuts to the final Republican proposal.

And, yes, almost no feature of the Democratic proposal was so ill-conceived that it, too, could not be added to the Republican substitute.

Marriage penalty relief, rehabilitation tax credits, research and development incentives to name a few, have, been added to the Republican substitute.

But there is one prominent feature the administration refuses to adopt and that is the targeting of tax relief to middle-income Americans.

The administration seeks to give greater relief and more immediate relief to those who make more than $50,000.

To those who make less—the struggling middle Americans—the administration prefers that those families wait to get that relief. The administration believes in deferring tax relief for the middle class and providing immediate tax relief for the wealthy. Well the fact is the middle class of this country needs tax relief now, not later. The Democratic plan gives it to them today; the Republicans promise it to them sometime in the future.

The American people do not want tax cuts as compensation for high inflation. They are afraid of inflation and high interest rates. They threaten their dreams for their future and their dreams for their children's future. Inflation and high interest rates must be overcome and time is running out.

By 1986 the Republican substitute will cost $754.4 billion in anticipated revenues for the Treasury. It's proponents maintain that reducing taxes will generate more revenue for the Treasury. This proposition has no precedent. It is a terrible gamble. If it fails, the consequences for the Nation will be horrible. Deficits will soar, inflation will persist, budgets will be cut. Amongst the casualties will be the social security program, health care and education programs, and possibly a reduced defense program.

The Democratic plan seeks only an opportunity after 2 years, to see if the cuts are working, if the administration's economic projections are correct. If inflation and unemployment are reduced and if business prospers further cuts would follow. If the administration is wrong then we could take steps to reduce high interest rates and high deficits.

For over a decade the American economy has confounded Democratic and Republican Presidents alike. Strong convictions don't guarantee success, only results do. Why should we be afraid of assessing the results of our actions 2 years from now? Why should we forfeit today, tomorrow's options?

There is a lot at stake in how we vote today. A lot more than a political victory for Republicans or Democrats.

If you believe that those Americans who are hurt most by inflation—those middle American families—deserve the most tax relief, then vote against this Republican substitute.

If you believe that we should not surrender to indexing tax reductions then don't vote for the Republican substitute. If you believe that the American economy is something more than an economic guinea pig for untested, unproven economic theories, then vote against the Republican substitute. If you believe that small business deserves more relief than big business, then vote against the Republican substitute.

And as you vote, let me say one thing. This is a representative democracy; this House is its most representative branch. You serve the interest of our Nation best by serving the interest of your constituents. They elect you because they know you and they respect you. Because I serve with you I respect them for their judgment in electing you.

There is a great deal of wisdom and a great deal of knowledge among the Members of this House. The committee bill represents the experience and judgment of our colleagues who specialize in tax matters. The choice is between a bill reported from the Ways and Means Committee and a bill drawn up by the executive branch.

I believe that if all of you vote what you truly believe is the wisest and best course for this Nation to follow in the eighties then you will join me in voting against the Republican substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Chairman announced that he was in doubt.

RECORDED VOTE

Mr. CONABLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, nays 195, not voting 2, as follows:

[Roll No. 177]

AYES—238

Archer	Courter	Frenzel
Ashbrook	Coyne, James	Fuqua
Atkinson	Craig	Gilman
Badham	Crane, Daniel	Gingrich
Bafalis	Crane, Philip	Ginn
Bailey (MO)	Daniel, Dan	Glickman
Barnard	Daniel, R. W.	Goldwater
Beard	Dannemeyer	Goodling
Benedict	Daub	Gradison
Bereuter	Davis	Gramm
Bethune	de la Garza	Green
Biaggi	Deckard	Gregg
Bliley	DeNardis	Grisham
Boner	Derwinski	Gunderson
Bouquard	Dickinson	Hagedorn
Bowen	Dicks	Hall, Ralph
Brinkley	Dornan	Hall, Sam
Broomfield	Dougherty	Hammerschmidt
Brown (CO)	Dreier	Hance
Brown (OH)	Duncan	Hansen (ID)
Broyhill	Dunn	Hansen (UT)
Burgener	Dyson	Hartnett
Butler	Edwards (AL)	Hatcher
Byron	Edwards (OK)	Heckler
Campbell	Emerson	Hendon
Carman	Emery	Hightower
Carney	English	Hiler
Chappell	Erdahl	Hillis
Chappie	Erlenborn	Hollenbeck
Cheney	Evans (DE)	Holt
Clausen	Evans (GA)	Hopkins
Clinger	Evans (IA)	Horton
Coats	Fenwick	Hubbard
Coleman	Fiedler	Huckaby
Collins (TX)	Fields	Hunter
Conable	Findley	Hutto
Conte	Fish	Hyde
Corcoran	Forsythe	Ireland
Coughlin	Fountain	Jeffries

Johnston	Miller (OH)	Sensenbrenner
Jones (TN)	Mitchell (NY)	Shaw
Kemp	Molinari	Shelby
Kindness	Montgomery	Shumway
Kramer	Moore	Shuster
Lagomarsino	Moorhead	Siljander
Latta	Morrison	Skeen
Leach	Mottl	Smith (AL)
Leath	Myers	Smith (NE)
LeBoutillier	Napier	Smith (NJ)
Lee	Nelligan	Smith (OR)
Lent	Nelson	Snowe
Levitas	Nichols	Snyder
Lewis	O'Brien	Solomon
Livingston	Oxley	Spence
Loeffler	Parris	Stangeland
Lott	Pashayan	Stanton
Lowery (CA)	Paul	Staton
Lujan	Petri	Stenholm
Luken	Porter	Stump
Lundine	Pritchard	Tauke
Lungren	Pursell	Taylor
Madigan	Quillen	Thomas
Marks	Railsback	Trible
Marlenee	Regula	Vander Jagt
Marriott	Rhodes	Walker
Martin (IL)	Rinaldo	Wampler
Martin (NC)	Ritter	Weber (MN)
Martin (NY)	Roberts (KS)	Weber (OH)
Mazzoli	Roberts (SD)	Whitehurst
McClory	Robinson	Whittaker
McCloskey	Roemer	Williams (OH)
McCollum	Rogers	Winn
McCurdy	Roth	Wolf
McDade	Roukema	Wortley
McDonald	Rousselot	Wylie
McEwen	Rudd	Yatron
McGrath	Santini	Young (AK)
McKinney	Sawyer	Young (FL)
Mica	Schneider	
Michel	Schulze	

NAYS—195

Addabbo	Eckart	Long (LA)
Akaka	Edgar	Long (MD)
Albosta	Edwards (CA)	Lowry (WA)
Alexander	Ertel	Markey
Anderson	Evans (IN)	Matsui
Andrews	Fary	Mattox
Annunzio	Fascell	Mavroules
Anthony	Fazio	McHugh
Applegate	Ferraro	Mikulski
Aspin	Fithian	Miller (CA)
AuCoin	Flippo	Mineta
Bailey (PA)	Florio	Mitchell (MD)
Barnes	Foglietta	Moakley
Bedell	Foley	Moffett
Beilenson	Ford (MI)	Mollohan
Benjamin	Ford (TN)	Murphy
Bennett	Fowler	Murtha
Bevill	Frank	Natcher
Bingham	Frost	Neal
Blanchard	Garcia	Nowak
Boggs	Gaydos	O'Neill
Boland	Gejdenson	Oakar
Bolling	Gephardt	Oberstar
Bonior	Gibbons	Obey
Bonker	Gonzalez	Ottinger
Breaux	Gore	Panetta
Brodhead	Gray	Patman
Brooks	Guarini	Patterson
Brown (CA)	Hall (OH)	Pease
Burton, John	Hamilton	Pepper
Burton, Phillip	Harkin	Perkins
Chisholm	Hawkins	Peyser
Clay	Hefner	Pickle
Coelho	Heftel	Price
Collins (IL)	Hertel	Rahall
Conyers	Holland	Rangel
Coyne, William	Howard	Ratchford
Crockett	Hoyer	Reuss
D'Amours	Hughes	Richmond
Danielson	Jacobs	Rodino
Daschle	Jeffords	Roe
Dellums	Jenkins	Rose
Derrick	Jones (NC)	Rosenthal
Dingell	Jones (OK)	Rostenkowski
Dixon	Kastenmeier	Roybal
Donnelly	Kazen	Russo
Dorgan	Kildee	Sabo
Dowdy	Kogovsek	Savage
Downey	LaFalce	Scheuer
Dwyer	Lantos	Schroeder
Dymally	Lehman	Schumer
Early	Leland	Seiberling
Shamansky	Swift	White
Shannon	Synar	Whitley
Sharp	Tauzin	Whitten
Simon	Traxler	Williams (MT)
Skelton	Udall	Wilson
Smith (IA)	Vento	Wirth
Smith (PA)	Volkmer	Wolpe
Solarz	Walgren	Wright
St Germain	Washington	Wyden
Stark	Watkins	Yates
Stokes	Waxman	Young (MO)
Stratton	Weaver	Zablocki
Studds	Weiss	Zeferetti

NOT VOTING—2

Cotter	Minish

□ 1710

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes, pursuant to House Resolution 198, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. JEFFORDS. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. JEFFORDS moves to recommit the bill, H.R. 4242, to the Committee on Ways and Means.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 323, nays 107, not voting 4, as follows:

[Roll No. 178]

YEAS—323

Addabbo	Duncan	Jones (OK)
Akaka	Dunn	Jones (TN)
Albosta	Dyson	Kazen
Alexander	Eckart	Kemp
Anderson	Edwards (AL)	Kindness
Andrews	Edwards (OK)	Kramer
Annunzio	Emerson	Lagomarsino
Anthony	Emery	Lantos
Archer	English	Latta
Ashbrook	Erdahl	Leach
Atkinson	Erlenborn	Leath
AuCoin	Ertel	LeBoutillier
Badham	Evans (DE)	Lee
Bafalis	Evans (IA)	Lehman
Bailey (MO)	Evans (IN)	Lent
Barnard	Fary	Levitas
Beard	Fenwick	Lewis
Benedict	Fiedler	Livingston
Benjamin	Fields	Loeffler
Bereuter	Findley	Long (LA)
Bethune	Fish	Long (MD)
Bevill	Flippo	Lott
Biaggi	Foglietta	Lowery (CA)
Blanchard	Foley	Lujan
Bliley	Forsythe	Luken
Boggs	Fountain	Lundine
Boner	Fowler	Lungren
Bonker	Frenzel	Madigan
Bouquard	Frost	Marks
Bowen	Fuqua	Marlenee
Breaux	Gaydos	Marriott
Brinkley	Gephardt	Martin (IL)
Brooks	Gibbons	Martin (NC)
Broomfield	Gilman	Martin (NY)
Brown (CO)	Gingrich	Mattox
Brown (OH)	Ginn	Mazzoli
Broyhill	Glickman	McClory
Burgener	Goldwater	McCloskey
Butler	Goodling	McCollum
Byron	Gradison	McCurdy
Campbell	Gramm	McDade
Carman	Green	McDonald
Carney	Gregg	McEwen
Chappell	Grisham	McGrath
Chappie	Gunderson	McKinney
Cheney	Hagedorn	Mica
Clausen	Hall (OH)	Michel
Clinger	Hall, Ralph	Miller (OH)
Coats	Hall, Sam	Mitchell (NY)
Coelho	Hamilton	Molinari
Coleman	Hammerschmidt	Mollohan
Collins (TX)	Hance	Montgomery
Conable	Hansen (ID)	Moore
Conte	Hansen (UT)	Moorhead
Corcoran	Hartnett	Morrison
Coughlin	Hatcher	Mottl
Courter	Heckler	Murphy
Coyne, James	Hefner	Myers
Craig	Heftel	Napier
Crane, Daniel	Hendon	Natcher
Crane, Philip	Hertel	Neal
Daniel, Dan	Hightower	Nelligan
Daniel, R. W.	Hiler	Nelson
Danielson	Hillis	Nichols
Dannemeyer	Holland	Nowak
Daschle	Hollenbeck	O'Brien
Daub	Holt	Oakar
Davis	Hopkins	Oxley
de la Garza	Horton	Panetta
Deckard	Hubbard	Parris
DeNardis	Huckaby	Pashayan
Derwinski	Hunter	Patterson
Dickinson	Hutto	Paul
Dicks	Hyde	Pepper
Dorgan	Ireland	Perkins
Dornan	Jeffries	Petri
Dougherty	Jenkins	Peyser
Dowdy	Johnston	Pickle
Dreier	Jones (NC)	Porter

Price	Shelby	Trible
Pritchard	Shumway	Vander Jagt
Pursell	Shuster	Volkmer
Quillen	Siljander	Walker
Rahall	Skeen	Wampler
Railsback	Skelton	Watkins
Regula	Smith (AL)	Weber (MN)
Rhodes	Smith (IA)	Weber (OH)
Rinaldo	Smith (NE)	White
Ritter	Smith (NJ)	Whitehurst
Roberts (KS)	Smith (OR)	Whitley
Roberts (SD)	Snowe	Whittaker
Robinson	Snyder	Whitten
Roemer	Solomon	Williams (MT)
Rogers	Spence	Williams (OH)
Rose	St Germain	Wilson
Rostenkowski	Stangeland	Winn
Roth	Stanton	Wirth
Roukema	Stark	Wolf
Rousselot	Staton	Wolpe
Rudd	Stenholm	Wortley
Santini	Stump	Wylie
Sawyer	Swift	Yatron
Schneider	Synar	Young (AK)
Schulze	Tauke	Young (FL)
Sensenbrenner	Tauzin	Young (MO)
Shamansky	Taylor	Zablocki
Sharp	Thomas	Zeferetti
Shaw	Traxler	

NAYS—107

Applegate	Fithian	Obey
Aspin	Florio	Ottinger
Bailey (PA)	Ford (MI)	Patman
Barnes	Ford (TN)	Pease
Bedell	Frank	Rangel
Beilenson	Garcia	Ratchford
Bennett	Gejdenson	Reuss
Bingham	Gonzalez	Richmond
Boland	Gore	Rodino
Bolling	Gray	Roe
Bonior	Guarini	Rosenthal
Brodhead	Harkin	Roybal
Brown (CA)	Hawkins	Russo
Burton, John	Howard	Sabo
Burton, Phillip	Hoyer	Scheuer
Chisholm	Hughes	Schroeder
Clay	Jacobs	Schumer
Collins (IL)	Jeffords	Seiberling
Conyers	Kastenmeier	Shannon
Coyne, William	Kildee	Simon
Crockett	Kogovsek	Smith (PA)
D'Amours	LaFalce	Solarz
Dellums	Leland	Stokes
Derrick	Lowry (WA)	Stratton
Dingell	Markey	Studds
Dixon	Matsui	Udall
Donnelly	Mavroules	Vento
Downey	McHugh	Walgren
Dwyer	Mikulski	Washington
Dymally	Miller (CA)	Waxman
Early	Mineta	Weaver
Edgar	Mitchell (MD)	Weiss
Edwards (CA)	Moakley	Wright
Fascell	Moffett	Wyden
Fazio	Murtha	Yates
Ferraro	Oberstar	

NOT VOTING—4

Cotter	Minish
Evans (GA)	Savage

□ 1730

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MATSUI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4242, just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981—CONFERENCE REPORT ON H.R. 3982

Mr. JONES of Oklahoma submitted the following conference report and statement on the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1981".

TABLE OF CONTENTS

Title I. Agriculture, forestry, and related programs.
Title II. Armed services and defense-related programs.
Title III. Banking, housing, and related programs.
Title IV. District of Columbia.
Title V. Education programs.
Title VI. Human services programs.
Title VII. Employment programs.
Title VIII. School lunch and child nutrition programs.
Title IX. Health services and facilities.
Title X. Energy and energy-related programs.
Title XI. Transportation and related programs.
Title XII. Consumer product safety and communications.
Title XIII. International affairs.
Title XIV. Department of Interior and related programs.
Title XV. Department of Justice and related provisions.
Title XVI. Maritime and related programs.
Title XVII. Civil service and postal service programs; governmental affairs generally.
Title XVIII. Water resource development and economic development programs.
Title XIX. Small business.
Title XX. Veterans' programs.
Title XXI. Medicare, medicaid, and maternal and child health.
Title XXII. Federal Old-Age, Survivors, and Disability Insurance program.
Title XXIII. Public assistance programs.
Title XXIV. Unemployment compensation.
Title XXV. Trade adjustment assistance.
Title XXVI. Low-income home energy assistance.
Title XXVII. Health professions.

PURPOSE

SEC. 2. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives and the Senate pursuant to directions contained in part A of title III of the first concurrent resolution on the budget for the fiscal year 1982 (H. Con. Res. 115, 97th Congress), and pursuant to the reconciliation requirements which were imposed by such concurrent resolution as provided in section 310 of the Congressional Budget Act of 1974.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Food Stamp Program Reductions and Other Reductions in Authorization for Appropriations

PART 1—FOOD STAMP PROGRAM REDUCTIONS

FAMILY UNIT REQUIREMENT

SEC. 101. Section 3(i) of the Food Stamp Act of 1977 is amended by—

(1) inserting before the period at the end of the first sentence "; except that parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents is sixty years of age or older"; and

(2) striking out "neither" in the second sentence and inserting "no" in lieu thereof.

BOARDERS

SEC. 102. Section 3(i) of the Food Stamp Act of 1977 is amended by—

(1) striking out in clause (1) of the first sentence "or else pays compensation to the others for such meals,";

(2) striking out in clause (2) of the first sentence "or else live with others and pay compensation to the others for such meals"; and

(3) adding before the period at the end of the second sentence ", or else live with others and pay compensation to the others for meals".

ADJUSTMENT OF THE THRIFTY FOOD PLAN

SEC. 103. Section 3(o) of the Food Stamp Act of 1977 is amended by striking out "and" before clause (6) and all that follows down through the end of clause (6), and inserting in lieu thereof the following: "(6) on April 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding December 31, (7) on July 1, 1983, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding March 31, (8) on October 1, 1984, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding June 30, and (9) on October 1, 1985, and each October 1, thereafter, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30".

GROSS INCOME ELIGIBILITY STANDARD

SEC. 104. (a) Section 5 of the Food Stamp Act of 1977 is amended by—

(1) striking out everything before "adjusted annually" in the first sentence of subsection (c) and inserting the following:

"(c) The income standards of eligibility shall be—

"(1) for households containing a member who is sixty years of age or over or a member who receives supplement security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and

XVI of the Social Security Act, 100 per centum, and

"(2) for all other households, 130 per centum,

of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget"; and

(2) inserting "for purposes of determining eligibility and benefit levels for households described in subsection (c)(1) and determining benefit levels only for all other households" after "household income" in the first sentence of subsection (e).

(b) Section 8(a) of the Food Stamp Act of 1977 is amended by inserting "(d) and (e)" after "section 5" in the first sentence.

ADJUSTMENTS OF DEDUCTIONS

SEC. 105. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) striking out in the first sentence everything that follows "the Secretary shall allow a standard deduction of" and inserting in lieu thereof the following: "$85 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed a standard deduction of $145, $120, $170, $50, and $75, respectively.";

(2) striking out the second sentence and inserting in lieu thereof the following: "Such standard deductions shall be adjusted (1) on July 1, 1983, to the nearest $5 increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food and the homeownership component of shelter costs, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the fifteen months ending the preceding March 31, (2) on October 1, 1984, to the nearest $5 increment to reflect such changes for the fifteen months ending the preceding June 30, and (3) on October 1, 1985, and each October 1 thereafter, to the nearest $5 increment to reflect such changes for the twelve months ending the preceding June 30."; and

(3) striking out the proviso in clause (2) of the fourth sentence and inserting in lieu thereof the following: "Provided, That the amount of such excess shelter expense deduction shall not exceed $115 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States, $200, $165, $140, $40, and $85, respectively, adjusted (i) on July 1, 1983, to the nearest $5 increment to reflect changes in the shelter (exclusive of homeownership costs), fuel, and utilities components of housing costs in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the fifteen months ending the preceding March 31, (ii) on October 1, 1984, to the nearest $5 increment to reflect such changes for the fifteen months ending the preceding June 30, and (iii) on October 1, 1985, and each October 1 thereafter, to the nearest $5 increment to reflect such changes for the twelve months ending the preceding June 30,".

EARNED INCOME DEDUCTION

SEC. 106. Section 5(e) of the Food Stamp Act of 1977 is amended by striking out "20 per centum" in the third sentence and inserting in lieu thereof "18 per centum".

RETROSPECTIVE ACCOUNTING

SEC. 107. (a) Section 5(f) of the Food Stamp Act of 1977 is amended to read as follows:

"(f)(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year shall be calculated by averaging such income over a twelve-month period.

"(B) Household income for those households that receive nonexcluded income of the type described in subsection (d)(3) of this section shall be calculated by averaging such income over the period for which it is received.

"(2)(A) Household income for migrant farmworker households shall be calculated on a propsective basis, as provided in paragraph (3)(A).

"(B) Household income for all other households shall be calculated either on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B), as elected by the State agency under regulations prescribed by the Secretary.

"(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

"(B) Calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

"(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this Act and the Social Security Act, the income of households receiving benefits under this Act and title IV-A of the Social Security Act is calculated on a comparable basis under the two Acts. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection to the extent necessary to permit the State agency to calculate income for purposes of this Act on the same basis that income is calculated under title IV-A of the Social Security Act in that State.".

(b) Effective October 1, 1983, paragraph (2)(B) of section 5(f) of the Food Stamp Act of 1977, as amended by subsection (a), is amended to read as follows:

"(B) Household income for all other households shall be calculated on a retrospective basis as provided in paragraph (3)(B)."

(c) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "5(f)(2)" and inserting "5(f)" in lieu thereof.

PERIODIC REPORTING

SEC. 108. (a) Section 3(c) of the Food Stamp Act of 1977 is amended by inserting before the period at the end of the second sentence "except that the limit of twelve months may be waived by the Secretary to improve the administration of the program".

(b) Section 6(c) of the Food Stamp Act of 1977 is amended by—

(1) inserting after "households" in the first sentence of paragraph (1) ", including all households with earned income, except migrant farmworker households, all households with potential earners, including individuals receiving unemployment compensation benefits and individuals required by section 6(d) of this Act to register for work, and all households required to file a similar report under title IV-A of the Social Security Act, but not including households that have no earned income and in which all members are sixty years of age or over or receive supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act,";

(2) striking out "5(f)(2)" in paragraph (1) and inserting "5(f)" in lieu thereof; and

(3) inserting after paragraph (3) the following new paragraph:

"(4) Any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.".

(c) Effective October 1, 1983, section 6(c)(1) of the Food Stamp Act of 1977 is further amended by—

(1) striking out in the first sentence "that elect to use a system of retrospective accounting in accordance with section 5(f) of this Act"; and

(2) striking out the second sentence.

ELIGIBILITY OF STRIKERS

SEC. 109. (a) Section 6(d)(4) of the Food Stamp Act of 1977 is amended by—

(1) inserting before the colon at the end of the first proviso the following: ", however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household";

(2) inserting a period in lieu of the colon at the end of the second proviso; and

(3) striking out the third proviso.

(b) Section 6(i) of the Food Stamp Act of 1977 is repealed.

PRORATING FIRST MONTH BENEFITS

SEC. 110. Section 8 of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subsection:

"(c) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued. As used in this subsection, the term 'initial month' means (1) the first month for which an allotment is issued to a household, and (2) the first month for which an allotment is issued to a household following any period of more than thirty

days which such household was not participating in the food stamp program under this Act after previous participation in such program.".

OUTREACH

SEC. 111. (a) Section 11(e)(1) of the Food Stamp Act of 1977 is amended by striking out clauses (A) and (B) and redesignating existing clause (C) as (B) and inserting the following new clause (A):

"(A) not conduct food stamp outreach activities with funds provided under this Act;".

(b) Section 16(a) of that Act is amended by—

(1) striking out clause (1); and

(2) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively.

DISQUALIFICATION PENALTIES FOR FRAUD AND MISREPRESENTATION

SEC. 112. Section 6(b) of the Food Stamp Act of 1977 is amended to read as follows:

"(b)(1) Any person who has been found by any State or Federal court or administrative agency to have intentionally (A) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (B) committed any act that constitutes a violation of this Act, the regulations issued thereunder, or any State statute, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards shall, immediately upon the rendering of such determination, become ineligible for further participation in the program—

"(i) for a period of six months upon the first occasion of any such determination;

"(ii) for a period of one year upon the second occasion of any such determination; and

"(iii) permanently upon the third occasion of any such determination.

During the period of such ineligibility, no household shall receive increased benefits under this Act as the result of a member of such household having been disqualified under this subsection.

"(2) Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings, after notice and an opportunity for a hearing at the State level, or by referring such matters to appropriate authorities for civil or criminal action in a court of law.

"(3) Such periods of ineligibility as are provided for in paragraph (1) of this subsection shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to review.

"(4) The Secretary shall prescribe such regulations as the Secretary may deem appropriate to ensure that information concerning any such determination with respect to a specific individual is forwarded to the Office of the Secretary by any appropriate State or Federal entity for the use of the Secretary in administering the provisions of this section. No State shall withhold such information from the Secretary or the Secretary's designee for any reason whatsoever.".

WAIVING AND OFFSETTING CLAIMS; IMPROVED RECOVERY OF OVERPAYMENTS

SEC. 113. (a) Section 13 of the Food Stamp Act of 1977 is amended by—

(1) inserting "(a)" immediately after the section designation;

(2) inserting before the period at the end of the first sentence ", including the power to waive claims if the Secretary determines that to do so would serve the purposes of this Act";

(3) adding the following new sentence at the end thereof: "The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 16 of this Act to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 14 of this Act."; and

(4) adding the following new subsection at the end thereof:

"(b)(1) In the case of any ineligibility determination under section 6(b) of this Act, the household of which such ineligible individual is a member is required to agree to a reduction in the allotment of the household of which such individual is a member, or payment in cash, in accordance with a schedule determined by the Secretary, that will be sufficient to reimburse the Federal Government for the value of any overissuance of coupons resulting from the activity that was the basis of the ineligibility determination. If a household refuses to make an election, or elects to make a payment in cash under the provisions of the preceding sentence and fails to do so, the household shall be subject to an allotment reduction.

"(2) State agencies shall collect any claim against a household arising from the overissuance of coupons, other than claims the collection of which is provided for in paragraph (1) of this subsection and claims arising from an error of the State agency, by reducing the monthly allotments of the household. These collections shall be limited to 10 per centum of the monthly allotment (or $10 per month, whenever that would result in a faster collection rate).".

(b) The heading of section 13 of the Food Stamp Act of 1977 is amended to read "COLLECTION AND DISPOSITION OF CLAIMS".

STATES' SHARE OF COLLECTED CLAIMS

SEC. 114. Section 16(a) of the Food Stamp Act of 1977 is amended by—

(1) striking out in the first sentence "through prosecutions" and all that follows down through the end of the sentence and inserting in lieu thereof "pursuant to section 13(b)(1) of this Act and 25 per centum of the value of all funds or allotments recovered or collected pursuant to section 13(b)(2) of this Act."; and

(2) striking out in the second sentence, "fraud" and inserting in lieu thereof "ineligibility".

REPEAL OF INCREASES IN DEPENDENT CARE DEDUCTIONS FOR WORKING ADULTS AND MEDICAL DEDUCTIONS FOR THE ELDERLY AND DISABLED

SEC. 115. Sections 104 and 105 of the Food Stamp Act Amendments of 1980 (Public Law 96-249) are repealed.

PUERTO RICO BLOCK GRANT

SEC. 116. (a) Effective July 1, 1982, the Food Stamp Act of 1977 is amended by—

(1) striking out "Puerto Rico," in section 3(m), clause (3) of section 3(o), section 5(b), wherever it appears in section 5(c), and wherever it appears in section 5(e); and striking out "$50," and "$40," in section 5(e); and

(2) adding at the end thereof the following new section:

"BLOCK GRANT

"SEC. 19. (a)(1)(A) From the sums appropriated under this Act the Secretary shall, subject to the provisions of this subsection and subsection (b), pay to the Commonwealth of Puerto Rico not to exceed $825,000,000 for each fiscal year to finance 100 per centum of the expenditures for food assistance provided to needy persons, and 50 per centum of the administrative expenses related to the provision of such assistance.

"(B) The payments to the Commonwealth for any fiscal year shall not exceed the expenditures by that jurisdiction during that year for the provision of the assistance the provision of which is included in the plan of the Commonwealth approved under subsection (b) and 50 per centum of the related administrative expenses.

"(2) The Secretary shall, subject to the provisions of subsection (b), pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

"(b)(1)(A) In order to receive payments under this Act for any fiscal year, the Commonwealth shall have a plan for that fiscal year approved by the Secretary under this section. By July 1 of each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(1)(A) for the following fiscal year which—

"(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

"(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

"(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

"(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(1)(A); and

"(v) includes such other information as the Secretary may require.

"(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

"(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a),

in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

"(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

"(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

"(C)(i) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (b)(1)(A) in the administration of a plan approved under subsection (b)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

"(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a), in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), at which time such withheld payments shall be paid.

"(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

"(c)(1) The Secretary shall provide for the review of the programs for the provision of the assistance described in subsection (a)(1)(A) for which payments are made under this Act.

"(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(1)(A).

"(d) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.".

(b) Notwithstanding the provisions of section 19 of the Food Stamp Act of 1977, as added by this section—

(1) the amount payable to the Commonwealth of Puerto Rico under section 19 for fiscal year 1982 shall be $206,500,000, and the Secretary of Agriculture is authorized to grant such waivers of the requirements imposed by that section with respect to that fiscal year as the Secretary determines appropriate to carry out the purposes of that section; and

(2) in order to receive the amounts payable under this subsection or section 19 for fiscal years 1982 and 1983, the Commonwealth shall submit, for the Secretary's approval, the plan required by the provisions of subsection (b) of section 19 by April 1, 1982.

EFFECTIVE DATES

SEC. 117. Except as otherwise specifically provided, the amendments made by sections 101 through 116 of this Act shall be effective and implemented upon such dates as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation.

PART 2—OTHER REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS

AGRICULTURAL AND RELATED PROGRAMS

SEC. 120. Notwithstanding any other provision of law, there are hereby authorized to be appropriated for the programs designated below not to exceed the sums shown for each of the fiscal years 1982, 1983, and 1984.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

For necessary expenses involved in making indemnity payments to dairy farmers under the Act of August 13, 1968 (7 U.S.C. 450j): $200,000 for fiscal year 1982, $200,000 for fiscal year 1983, and $200,000 for fiscal year 1984.

AGRICULTURAL MARKETING SERVICE

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)): $1,571,000 for fiscal year 1982, $1,651,000 for fiscal year 1983, and $1,723,000 for fiscal year 1984.

FARMERS HOME ADMINISTRATION

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313): $3,565,000 for fiscal year 1982, $3,821,000 for fiscal year 1983, and $4,038,000 for fiscal year 1984.

RURAL DEVELOPMENT PLANNING GRANTS

For rural development planning grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)): $4,767,000 for fiscal year 1982, $4,959,000 for fiscal year 1983, and $5,155,000 for fiscal year 1984.

RURAL DEVELOPMENT GRANT

For grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932): $5,007,000 for fiscal year 1982, $5,280,000 for fiscal year 1983, and $5,553,000 for fiscal year 1984.

SOIL CONSERVATION SERVICE

For necessary expenses for carrying out the programs administered by the Soil Conservation Service: $588,875,000 for fiscal year 1982, $596,767,000 for fiscal year 1983, and $602,865,000 for fiscal year 1984.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g-590o, 590p(a), and 590q), and sections 1001-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1508, and 1510): $201,325,000 for fiscal year 1982, $209,647,000 for fiscal year 1983, and $218,216,000 for fiscal year 1984.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101): $15,090,000 for fiscal year 1982, $16,913,000 for fiscal year 1983, and $18,314,000 for fiscal year 1984.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311): $10,876,000 for fiscal year 1982, $10,854,000 for fiscal year 1983, and $10,813,000 for fiscal year 1984.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205): $10,069,000 for fiscal year 1982, $10,507,000 for fiscal year 1983, and $10,958,000 for fiscal year 1984.

WATER AND WASTE GRANTS

SEC. 121. Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (a)(2)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a colon and the following: "Provided, That for fiscal years commencing after September 30, 1981, such grants may not exceed $154,900,000 in any fiscal year.".

FOREST SERVICE

SEC. 122. Notwithstanding any other provision of law, there are hereby authorized to be appropriated for the necessary expenses of the Forest Service for carrying out the programs for Forest Research, State and Private Forestry, and National Forest System under the appropriations account for Forest Management, Protection, and Utilization, and the programs under the appropriations account for Construction and Land Acquisition: $1,575,552,000 for fiscal year 1981; $1,498,000,000 for fiscal year 1982; $1,560,000,000 for fiscal year 1983; and $1,620,000,000 for fiscal year 1984: Provided, That none of the funds authorized to be appropriated hereby may be used for carrying out the Bald Mountain road in the Siskiyou National Forest.

ASSISTANCE TO LAND-GRANT COLLEGES

SEC. 123. There are authorized to be appropriated for the purpose of providing assistance to land-grant colleges under the Act of August 30, 1890 (commonly referred to as the "Second Morrill Act") and the Act of March 4, 1907 (7 U.S.C. 322), not to exceed $2,800,000 for the fiscal year 1981; not to exceed $2,800,000 for the fiscal year 1982; not to exceed $2,800,000 for the fiscal year 1983; and not to exceed $2,800,000 for the fiscal year 1984.

PUBLIC LAW 480 APPROPRIATION LIMITS

SEC. 124. Notwithstanding any other provision of law, programs shall not be undertaken under title I (including title III) and title II of the Agricultural Trade Development and Assistance Act of 1954 during any calendar year which call for an appropriation of more than $1,304,836,000 for the fiscal year 1982; $1,320,292,000 for the fiscal year 1983; and $1,402,278,000 for the fiscal year 1984.

PART 3—DEPARTMENT OF AGRICULTURE PERSONNEL

ESTABLISHMENT OF PERSONNEL CEILING

SEC. 125. Notwithstanding any other provision of law, the total full-time equivalent staff year personnel ceiling for the United States Department of Agriculture shall not exceed one hundred and seventeen thousand staff years (including overtime) for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.

Subtitle B—Reduction in Direct Spending

PART 1—COMMODITY CREDIT CORPORATION PROGRAMS

MILK PRICE SUPPORT

SEC. 150. Effective October 1, 1981, section 201 of the Agricultural Act of 1949 is amended by—

(1) striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "Notwithstanding the foregoing, effective for the period beginning October 1, 1981, and ending September 30, 1985, the price of milk for the marketing year beginning on October 1 of each year shall be supported at a level determined according to the following procedure: The Secretary shall estimate Government price support purchases net of sales for unrestricted use for the marketing year using the amount of such purchases made during the most recent six-month period adjusted to an annual level on the basis of the most recent ten year experience. The Secretary shall adjust this estimate of net Government purchases to reflect the effect of current and expected availability of feed, feed prices, milk-feed ratio, utility cow prices, dairy cow numbers and dairy heifer replacement stocks on milk production during the marketing year. After making this final estimate, the Secretary shall support the price of milk at not less than the level indicated by the following schedule, nor more than 90 per centum of the parity price therefor:

"Price as percent of parity	The higher of anticipated annual rate of net Government purchases	
	Nonfat dry milk (million pounds)	Milk equivalent (butterfat basis) of butter and cheese (billion pounds
75	more than 500	5.5 or more.
76	450–499.9	5.0–5.499.
77	400–449.9	4.5–44.999.
78	350–399.9	4.0–4.499.
79	300–349.9	3.5–3.999.
80	250–299.9	3.0–3.499.
81	200–249.9	2.5–2.999.
82	150–199.9	2.0–2.499.
83	100–149.9	1.5–1.999.
84	50–99.9	1.0–1.499.
85	less than 50	less than 1.0.

In no event shall the support price be less than the dollar amount of the support price then currently in effect for milk: Provided, That if the Secretary determines that the inventory of dairy products, at the end of the marketing year, exceeds five hundred million pounds of nonfat dry milk or five and one-half billion pounds milk equivalent of butter and cheese, the support price for the next marketing year shall be established at the minimum level indicated by this schedule based upon estimated Government price support purchases net of sales for unrestricted use for such year. The Secretary shall notify, in writing, the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the chairman of the House Committee on Agriculture of the Secretary's decision and reasons therefor thirty days prior to the effective date of the new support level. Notwithstanding the foregoing, if during any marketing year dairy product imports into the United States are increased as the result of an expansion of imports or termination of import restraints established pursuant to section 22 of the Agricultural Adjustment Act, the support price shall be redetermined by reducing the final estimate of net Government purchases by the milk equivalent (butterfat basis) of dairy products or nonfat dry milk or its equivalent of other products derived from such increased imports. The increased support price so determined shall become effective simultaneously with the announcement of the expansion of dairy product imports. A similar reduction in the net Government purchases for the marketing year in which the imports are entered into the United States shall be made when determining the support price level for subsequent years."; and

(2) inserting a new subsection (d) as follows:

"(d) Effective for the period beginning October 1, 1982, and ending on September 30, 1985, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period to reflect any estimated change in the parity index during said semiannual period. If a review of net Government purchases as provided for in subsection (c) indicates that purchases during the most recent six-month period are being made at an annual rate exceeding five and one-half billion pounds milk equivalent (butterfat basis), or five hundred million pounds of nonfat dry milk, the support price of milk need not be adjusted unless such adjustment is necessary to prevent a support price at less than 75 per centum of parity as determined at the beginning of the semiannual period. The Secretary shall notify, in writing, the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the chairman of the House Committee on Agriculture of the Secretary's decision and the reasons therefor thirty days prior to the effective date of such semiannual adjustment.".

FARM STORAGE FACILITY LOANS

SEC. 151. Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by striking out from the fourth proviso of the second sentence "shall make loans" and inserting in lieu thereof "may make loans".

REDUCTION IN CCC ADMINISTRATIVE EXPENSE LIMITATION

SEC. 152. Not to exceed $52,000,000 shall be available for the fiscal year ending September 30, 1982, for administrative expenses of the Commodity Credit Corporation, within the limits of funds and borrowing authority available to the Corporation as may be necessary in carrying out the programs set forth in the budget for the Corporation.

PART 2—COMMODITY INSPECTION FEES

GRAIN INSPECTION AND WEIGHING

SEC. 155. Effective for the period October 1, 1981, through September 30, 1984, inclusive, the United States Grain Standards Act is amended by—

(1) amending section 7(j) (7 U.S.C. 79(j)) to read as follows:

"(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.";

(2) amending section 7A(l) (7 U.S.C. 79a(l)) to read as follows:

"(l)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto.

Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.";

(3) adding a new section 7C as follows:

"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

"SEC. 7C. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1982 through 1984 shall not exceed 35 per centum of the total costs for such activities carried out by the Service for such year.";

(4) amending section 19 (7 U.S.C. 87h) to read as follows:

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1981, and ending September 30, 1984, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) adding a new section 20 as follows:

"ADVISORY COMMITTEE

"SEC. 20. (a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to the efficient and economical implementation of the United States Grain Standards Act of 1976. The advisory committee shall consist of not more than twelve members, appointed by the Secretary, representing the interests of all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this section.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act.

"(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.".

COTTON CLASSING AND RELATED SERVICES

SEC. 156. (a) Section 5 of the United States Cotton Standards Act (7 U.S.C. 55) is amended to read as follows:

"SEC. 5. (a) The Secretary of Agriculture shall cause to be collected such fees and charges for licenses issued to classifiers of cotton under section 3 of this Act, for determinations made under section 4 of this Act, and for the establishment of standards and sale of copies of standards under section 6 of this Act, as will cover, as nearly as practicable, and after taking into consideration net proceeds from any sale of samples, the costs incident to providing services and standards under such sections, including administrative and supervisory costs. Such fees and charges shall be credited to the current appropriation account that incurs the cost and shall remain available until expended to pay the expenses of the Secretary incident to providing services and standards under this Act and the United States Cotton Futures Act (7 U.S.C. 15b). The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this Act shall become the property of the United States and may be sold with the proceeds credited to the foregoing account: Provided, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(b) The price established by the Secretary of Agriculture under the foregoing provisions of this section for practical forms representing the official cotton standards of the United States shall cover, as nearly as practicable, the estimated actual cost to the Department of Agriculture for developing and preparing such practical forms.".

(b) Effective only for the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows:

"SEC. 3a. Effective for the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, the Secretary of Agriculture shall make cotton classification services available to producers of cotton. The Secretary shall further provide for appropriate agencies of the Department of Agriculture to collect directly from participating producers reasonable fees which, together with the proceeds of sales of samples submitted under this section, shall cover as nearly as practicable the cost of the services provided under this section, including administrative and supervisory costs: Provided, That the Secretary's net cost estimate (after taking into account the proceeds from the sale of samples) used to calculate the uniform per-bale fee to be collected from producers for such classification services shall not exceed $12,000,000 in the fiscal year ending September 30, 1982, $12,400,000 in the fiscal year ending September 30, 1983, and $13,000,000 in the fiscal year ending September 30, 1984. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: Provided, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Fees collected under this section and under section 3d of this Act and proceeds from sales of samples shall be credited to the current appropriation account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing classification services under this section. The Secretary may deposit such funds in an interest bearing account with a financial institution. If any interest is earned on this account, such interest so earned shall be credited to the account for use by the Secretary in providing such services. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sale of samples.".

(c) Subsection (f)(1)(G) of the United States Cotton Futures Act (7 U.S.C. 15b(f)(1)(G)) is amended by striking out "in such regulations." and inserting in lieu thereof "in such regulations and shall be credited to the account referred to in section 5 of the United States Cotton Standards Act (7 U.S.C. 55). The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this act shall become the property of the United States and may be sold and the proceeds credited to the foregoing account: Provided, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).".

(d) The Secretary of Agriculture shall hold annual meetings with representatives of the cotton industry to review (1) activities and operations under the Cotton Standards Act, and the Cotton Statistics and Estimates Act, (2) activities and operations relating to cotton under the United States Warehouse Act, and (3) the effect of such activities and operations on prices received by producers and sales to domestic and foreign users, for the purpose of improving procedures for financing and administering such activities and operations for the benefit of the industry and the Government. Notwithstanding any other provision of law, the Secretary shall take such action as may be necessary to insure that the universal cotton standards system and the licensing and inspection procedures for cotton warehouses are preserved and that the Government cotton classification system continues to operate so that the United States cotton crop is provided an official quality description.

(e) The provisions of this section shall become effective October 1, 1981.

TOBACCO INSPECTION AND RELATED SERVICES

SEC. 157. (a) The Tobacco Inspection Act is amended by—

(1) in section 5 (7 U.S.C. 511d), striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall by regulation fix and collect fees and charges for inspection and certification, the establishment of standards, and other services under this section at designated auction

markets. The fees and charges authorized by this section shall, as nearly as practicable, cover the costs of the services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The fees and charges, when collected, shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this Act. Such fees and charges shall be assessed against the warehouse operator, irrespective of ownership or interest in the tobacco, and shall be collected by the warehouse operator from the sellers of the tobacco. The inspection and related services under this section shall be suspended or denied if the warehouse operator fails to collect or otherwise pay the fees and charges imposed under this section. Tobacco inspection or certification services provided to designated auction markets shall take precedence over such services, other than reinspection, requested under the authority contained in section 6 of this Act or any other provision of law. In accordance with the Federal Advisory Committee Act, the Secretary shall establish a national advisory committee of tobacco producers, and advisory subcommittees for each major kind of tobacco, to advise the Secretary with regard to the level of inspection and related services and the fees and charges therefor. The advisory committee and subcommittees established under this section shall be of permanent duration. The committees shall meet at the call of the Secretary."; and

(2) in section 6 (7 U.S.C. 511e), amending the first sentence of the second paragraph as follows: "The Secretary shall fix and collect such fees or charges in the administration of this section as will cover, as nearly as practicable, the costs of the services provided, including administrative and supervisory costs. Such fees and charges shall be credited to the account referred to in section 5 of this Act.".

(b) The provisions of this section shall become effective October 1, 1981.

WAREHOUSE EXAMINATION, INSPECTION, AND LICENSING

SEC. 158. (a) The United States Warehouse Act is amended by—

(1) amending section 10 (7 U.S.C. 251) to read as follows:

"SEC. 10. The Secretary of Agriculture, or the Secretary's designated representative, shall charge, assess, and cause to be collected a reasonable fee for (1) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this Act; (2) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this Act; (3) each annual warehouse license issued to a warehouseman to conduct a warehouse under this Act; and (4) each warehouse license amended, modified, extended, or reinstated under this Act. Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses, including administrative and supervisory costs: Provided, That the amount of such fees collected for cotton warehouse inspections shall not exceed $400,000 in the fiscal year ending September 30, 1982, $415,000 in the fiscal year ending September 30, 1983, and $430,000 in the fiscal year ending September 30, 1984. All fees collected shall be credited to the current appropriation account that incurs the costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this Act. The Secretary may deposit such funds in an interest bearing account with a financial institution. If any interest is earned on this account such interest shall be credited to the account for use by the Secretary in providing such services."; and

(2) amending section 31 (7 U.S.C. 271) to read as follows:

"SEC. 31. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act other than those services for which fees are authorized pursuant to section 10. Such appropriated funds may be used by the Secretary to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the provisions of this Act.".

(b) The provisions of this section shall become effective October 1, 1981.

NAVAL STORES INSPECTION AND RELATED SERVICES

SEC. 159. (a) The Naval Stores Act is amended by—

(1) in the second sentence of section 4 (7 U.S.C. 94) striking out "on tender of the cost thereof as required by him,"; and

(2) amending section 8 (7 U.S.C. 98) to read as follows:

"SEC. 8. (a) The Secretary of Agriculture shall fix and cause to be collected fees and charges for the establishment of standards under section 3 of this Act and for examinations, analyses, classifications, and other services under section 4 of this Act which shall cover, as nearly as practicable, the costs of providing such services and standards as the Secretary shall deem necessary, including administrative and supervisory costs. Such fees and charges, when collected, shall be credited to the current appropriation account that incurs such costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services and standards under this Act. Fees and charges shall be assessed and collected from processors and warehousers of naval stores, and inspection and related services shall be suspended or denied to any such processor or warehouser upon failure to timely pay the fees and charges assessed.

"(b) There are hereby authorized to be appropriated such sums as may be necessary for the enforcement and administration of this Act.".

(b) The provisions of this section shall become effective October 1, 1981.

PART 3—FARMERS HOME ADMINISTRATION PROGRAMS

INTEREST RATES ON FARMERS HOME ADMINISTRATION WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY LOANS, TO LOW-INCOME LIMITED RESOURCE BORROWERS, AND LOANS FOR NONFARM FACILITIES ON PRIME FARMLANDS

SEC. 160. (a) Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended by—

(1) in paragraph (2), striking out "and (5)" and inserting in lieu thereof "(5), and (6)";

(2) in paragraph (4), striking out "The" and inserting in lieu thereof "Except as provided in paragraph (6), the";

(3) amending paragraph (3) to read as follows:

"(3)(A) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans), to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be set by the Secretary at rates not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for such loans, and adjusted to the nearest one-eighth of 1 per centum; and not in excess of 5 per centum per annum for any such loans which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C 2971d) and in other areas as the Secretary may designate where a significant percentage of the persons to be served by such facilities are of low income, as determined by the Secretary.

"(B) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans) under section 310D of this title shall be as determined by the Secretary, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, nor less than 5 per centum per annum."; and

(4) adding at the end thereof a new paragraph (6) as follows:

"(6)(A) Notwithstanding any other provision of this section, in the case of loans (other than guaranteed loans) made or insured under the authorities of this Act specified in subparagraph (B) for activities that involve the use of prime farmland as defined in subparagraph (C), the interest rates shall be the interest rates otherwise applicable under this section increased by 2 per centum per annum. Wherever practicable, construction by a State, municipality, or other political subdivision of local government that is supported by loans described in the preceding sentence shall be placed on land that is not prime farmland, in order to preserve the maximum practicable amount of prime farmlands for production of food and fiber. Where other options exist for the siting of such construction and where the governmental authority still desires to carry out such construction on prime farmland, the 2 per centum interest rate increase provided by this clause shall apply, but such increased interest rate shall not apply where such other options do not exist.

"(B) The authorities referred to in subparagraph (A) are—

"(i) clauses (2) and (3) of section 303(a),

"(ii) the provisions of section 304(a) relating to the financing of outdoor recreational enterprises or the conversion of farming or ranching operations to recreational uses,

"(iii) section 304(b),

"(iv) the provisions of section 306(a)(1) relating to loans for recreational developments and essential community facilities,

"(v) section 306(a)(15),

"(vi) clause (1) of section 310B(a),

"(vii) subsections (d) and (e) of section 310B, and

"(viii) section 310D(a) as it relates to the making or insuring of loans under clauses (2) and (3) of section 303(a).

"(C) For purposes of this paragraph, the term 'prime farmland' means prime farmlands and unique farmland as those terms

are defined in sections 657.5 (a) and (b) of title 7, Code of Federal Regulations (1980).".

(b) Section 316(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)) is amended by—

(1) inserting "(1)" after "(a)";

(2) inserting in the second sentence "and loans as provided in paragraphs (2) and (3)" after "except for guaranteed loans"; and

(3) adding at the end thereof new paragraphs (2) and (3) as follows:

"(2) The interest rate on any loan (other than a guaranteed loan) to a low-income, limited resource borrower under this subtitle shall be the interest rate otherwise applicable under this section reduced by 3 per centum per annum.

"(3) The interest rate on any loan (other than a guaranteed loan) made or insured under clause (5) of section 312(a) for activities that involve the use of prime farmland as defined in section 307(a)(6)(C) shall be the interest rate otherwise applicable under this section increased by 2 per centum per annum.".

(c) The amendments made by this section shall apply to loans approved after September 30, 1981.

EMERGENCY LOAN AMOUNTS

SEC. 161. Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by inserting "only to the extent and in such amounts as provided in advance in appropriation Acts" after "The Secretary shall make and insure loans under this subtitle".

INTEREST RATES ON EMERGENCY LOANS FOR ACTUAL LOSS

SEC. 162. (a) Section 324(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(b)(1)) is amended to read as follows:

"(1) For loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest shall be at rates prescribed by the Secretary, but (A) if the applicant is not able to obtain sufficient credit elsewhere, not in excess of 8 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, not in excess of the rate prevailing in the private market for similar loans, as determined by the Secretary; and".

(b) The amendments made by this section shall apply to loans made with respect to disasters occurring after September 30, 1981.

ELIGIBILITY FOR ASSISTANCE BASED ON PRODUCTION LOSS

SEC. 163. Section 329 of the Consolidated Farm and Rural Development Act is amended to read as follows:

"SEC. 329. The Secretary shall make financial assistance under this subtitle available to any applicant seeking assistance based on production losses if the applicant shows that a single enterprise which constitute a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least a 30 per centum loss of normal per acre or per animal production, or such lesser per centum of loss as the Secretary may determine, as a result of the disaster based upon the average monthly price in effect for the previous year and the applicant otherwise meets the conditions of eligibility prescribed under this subtitle. Such loans shall be made available based upon 80 per centum, or such greater per centum as the Secretary may determine, of the total calculated actual production loss sustained by the applicant.".

INSURED LOAN LIMITS

SEC. 164. Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof a new subsection (d) as follows:

"(d) Notwithstanding any contrary provisions of subsection (b) of this section, for fiscal year 1982, loans are authorized to be insured, or made to be sold and insured, as follows:

"(1) From the Agricultural Credit Insurance Fund—

"(A) insured real estate loans for farm ownership purposes, $700,000,000, and

"(B) insured operating loans, $1,325,000,000. Not less than 20 per centum of the insured loans authorized for farm ownership purposes and not less that 20 per centum of the insured loans authorized for farm operating purposes shall be for low-income, limited-resource applicants.

"(2) From the Rural Development Insurance Fund—

"(A) insured water and waste disposal loans, $300,000,000, and

"(B) insured community facility loans, $130,000,000.".

PART 4—RURAL ELECTRIFICATION ADMINISTRATION PROGRAMS

RURAL ELECTRIFICATION ACT AMENDMENTS

SEC. 165. (a) Section 305(b) of the Rural Electrification Act of 1936 (7 U.S.C. 935(b)) is amended to read as follows:

"(b) Insured loans made under this title shall bear interest at 5 per centum per annum, except that the Administrator may make insured loans to electric or telephone borrowers at a lesser interest rate, but not less than 2 per centum per annum, if, in the Administrator's sole discretion, the Administrator finds that the borrower—

"(1) has experienced extreme financial hardship; or

"(2) cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of this Act.".

(b) Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended by—

(1) inserting immediately after the second sentence the following: "With respect to guarantees issued by the Administrator under this section, on the request of the borrower of any such loan so guaranteed, the loan shall be made by the Federal Financing Bank and at a rate of interest that is not more than the rate of interest applicable to other similar loans then being made or purchased by the Bank."; and

(2) striking out "a loan insured at the standard rate" in the fourth sentence and inserting in lieu thereof "an insured loan".

(c) Section 307 of the Rural Electrification Act of 1936 (7 U.S.C. 937) is amended by striking out "a loan insured at the standard rate" and inserting in lieu thereof "an insured loan".

(d) The amendments made by subsection (a) of this section shall apply to loans the applications for which are received by the Rural Electrification Administration after July 24, 1981.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

Subtitle A—Strategic and Critical Materials

AUTHORIZATION OF DISPOSALS

SEC. 201. (a) Effective on October 1, 1981, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b), such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 1,000,000 pounds of iodine.

(2) 1,500,000 carats of diamonds, industrial crushing bort.

(3) 710,253 pounds of mercuric oxide.

(4) 50,000 flasks of mercury.

(5) 6,000,000 pounds of mica, muscovite splittings.

(6) 25,000 pounds of mica, phlogopite splittings.

(7) 46,537,000 troy ounces of silver.

(8) 1,000 short tons of antimony.

(9) 2,000 short tons of asbestos chrysotile.

(10) 50,000 pounds of mica muscovite film, first and second qualities.

(11) 50,000 pounds of mica muscovite block, stained and lower.

(12) 700 long tons of vegetable tannin extract, wattle.

(b) Effective on October 1, 1982, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile, such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 44,682,000 troy ounces of silver.

(2) 1,000 short tons of antimony.

(3) 2,000 short tons of asbestos chrysotile.

(4) 1,500,000 carats of diamond stones.

(5) 1,000,000 pounds of iodine.

(6) 50,000 pounds of mica muscovite film, first and second qualities.

(7) 50,000 pounds of mica muscovite block, stained and lower.

(8) 697 long tons of vegetable tannin extract, wattle.

(c) Effective on October 1, 1983, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile, such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 13,900,000 troy ounces of silver.

(2) 1,000 short tons of antimony.

(3) 6,000 short tons of asbestos amosite.

(4) 2,000 short tons of asbestos chrysotile.

(5) 1,500,000 carats of diamond stones.

(6) 197,465 carats of diamonds, industrial crushing bort.

(7) 213,000 pounds of iodine.

(8) 50,000 pounds of mica muscovite film, first and second qualities.

(9) 50,000 pounds of mica muscovite block, stained and lower.

(d)(1) The authority to enter into contracts for the disposal of materials in the stockpile under the disposal authorizations contained in paragraphs (7) through (12) of subsection (a) expires on September 30, 1982.

(2) The authority to enter into contracts for the disposal of materials in the stockpile under the disposal authorizations contained in subsection (b) expires on September 30, 1983.

(3) The authority to enter into contracts for the disposal of materials in the stockpile under the disposal authorizations contained

in subsection (c) expires on September 30, 1984.

(e) Any disposal under the authority of subsection (a), (b), or (c) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(f)(1) The authority contained in subsections (b)(1) and (c)(1) shall not become effective unless the President, not later than September 1, 1982, determines that the silver authorized for disposal by such subsections is excess to the requirements of the stockpile as of that date.

(2) A determination by the President under paragraph (1) shall be based upon consideration of such factors as the President considers relevant, including the following factors:

(A) The demand for silver in each of the next ten years for the industrial, military, and naval needs of the United States for national defense.

(B) The domestic supply of silver for each of the next ten years, as a function of price, that would be available to meet the demand identified under subparagraph (A).

(C) The potential dependency of the United States on foreign supplies of silver in each of the next ten years to meet the demand identified under subparagraph (A).

(D) The effect of disposal under subsections (b)(1) and (c)(1) on (i) the world silver market (in terms of price and supply), (ii) the domestic and international silver mining industry (in terms of exploration and production), (iii) international currency and monetary policy, and (iv) long range military preparedness.

(3) If the President makes a determination described in paragraph (1), he shall promptly report to the Committees on Armed Services of the Senate and House of Representatives that he has made such determination and shall include a detailed discussion and analysis of the factors set forth in paragraph (2) and other relevant factors.

AUTHORIZATION OF APPROPRIATIONS

SEC. 202. (a) Effective on October 1, 1981, there is authorized to be appropriated the sum of $535,000,000 for the acquisition of strategic and critical materials under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)).

(b) Any acquisition using funds appropriated under the authorization of subsection (a) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

IMPROVEMENTS IN STOCKPILE MANAGEMENT

SEC. 203. (a) Section 5(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "and other incidental expenses" after "transportation";

(3) by striking out "for a period of five fiscal years, if so provided in appropriation Acts" and inserting in lieu thereof "until expended, unless otherwise provided in appropriation Acts"; and

(4) by adding at the end thereof the following new paragraph:

"(2) If for any fiscal year the President proposes certain stockpile transactions in the annual materials plan submitted to Congress for that year under section 11(b) and after that plan is submitted the President proposes (or Congress requires) a significant change in any such transaction, or a significant transaction not included in such plan, no amount may be obligated or expended for such transaction during such year until the President has submitted a full statement of the proposed transaction to the appropriate committees of Congress and a period of 30 days has passed from the date of the receipt of such statement by such committees or until each such committee, before the expiration of such period, notifies the President that it has no objection to the proposed transaction. In computing any 30-day period for the purpose of the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.".

(b) Section 5(b) of such Act (50 U.S.C. 98d(b)) is amended—

(1) by inserting "(1)" after "from the stockpile"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (2) if the disposal would result in there being a balance in the National Defense Stockpile Transaction Fund in excess of $1,000,000,000 or, in the case of a disposal to be made after September 30, 1983, if the disposal would result in there being a balance in the fund in excess of $500,000,000.".

(c) Section 6(a)(6) of such Act (50 U.S.C. 98e(a)(6)) is amended by inserting "subject to the provisions of section 5(b)," after "(6)".

(d)(1) Section 9(b)(1) of such Act (50 U.S.C. 98h(b)(1)) is amended by striking out "or until" and all that follows in such section and inserting in lieu thereof a period.

(2) Section 9(b)(3) of such Act (50 U.S.C. 98h(b)(3)) is amended to read as follows:

"(3) Moneys in the fund, when appropriated, shall remain available until expended, unless otherwise provided in appropriation Acts.".

(e) Section 11 of such Act (50 U.S.C. 98h-2) is amended—

(1) by inserting "(a)" after "SEC. 11."; and

(2) by adding at the end thereof the following new subsection:

"(b) The President shall submit to the appropriate committees of the Congress each year with the Budget submitted to Congress pursuant to section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), for the next fiscal year a report containing an annual materials plan for the operation of the stockpile during such fiscal year and the succeeding four fiscal years. Each such report shall include details of planned expenditures for acquisition of strategic and critical materials during such period (including expenditures to be made from appropriations from the general fund of the Treasury) and of anticipated receipts from proposed disposals of stockpile materials during such period.".

(f) The amendments made by subsection (a) shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.

SUBTITLE B—MILITARY COMPENSATION

ONCE ANNUAL COST-OF-LIVING INCREASES IN MILITARY RETIRED PAY

SEC. 211. (a) For cost savings achieved through elimination of one of the present semiannual increases in military retired and retainer pay, contingent upon a similar change in law being made with respect to the civil service retirement system, see section 812(b) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1098).

(b) Section 812(b)(1) of the Department of Defense Authorization Act, 1981, is amended by striking out "subject to paragraph (3)" and inserting in lieu thereof "subject to paragraph (2)".

OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN

SEC. 212. (a)(1) Any eligible member who on the date of the enactment of this Act is not a participant in the Survivor Benefit Plan may elect to participate in the Plan during the open enrollment period specified in subsection (b).

(2) Any eligible member who on the date of the enactment of this Act is a participant in the Plan but elected not to participate in the Plan at the maximum level or (in the case of an eligible member who is married) elected to provide an annuity under the Plan for a dependent child and not for the member's spouse may during the open enrollment period elect to participate in the Plan at a higher level or to provide an annuity under the Plan for the eligible member's spouse at a level not less than the level provided for the dependent child.

(3) Any such election shall be made in the same manner as an election under section 1448 of such title and shall be effective when received by the Secretary concerned. Notwithstanding the last sentence of section 1452(a) of such title, the reduction in retired or retainer pay prescribed by the first sentence of such section shall, in the case of an individual making an election under paragraph (1), begin on the first day of the first month beginning after such election is effective.

(b) The open enrollment period is the period beginning on October 1, 1981, and ending on September 30, 1982.

(c) If an individual making an election under subsection (a) dies before the end of the two-year period beginning on the date of that election, the election is void and the amount of any reduction in the retired or retainer pay of such individual that is attributable to the election shall be paid in a lump sum to that individual's beneficiary under the Plan (as designated under that election).

(d) Sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to individuals making elections and to elections under this section.

(e) For the purposes of this section:

(1) The term "eligible member" means a member or former member of the uniformed services who on the date of the enactment of this Act is entitled to retired or retainer pay.

(2) The term "Survivor Benefit Plan" or "Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101(5) of title 37, United States Code.

TITLE III—BANKING, HOUSING, AND RELATED PROGRAMS

Subtitle A—Housing and Community Development

SHORT TITLE

SEC. 300. This subtitle may be cited as the "Housing and Community Development Amendments of 1981".

PART 1—COMMUNITY AND ECONOMIC DEVELOPMENT

AUTHORIZATIONS

SEC. 301. Section 103 of the Housing and Community Development Act of 1974 is amended to read as follows:

"AUTHORIZATIONS

"SEC. 103. The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this title. There are authorized to be appropriated for these purposes not to exceed $4,166,000,000 for each of the fiscal years 1982 and 1983. Sums appropriated pursuant to this section shall remain available until expended.".

STATEMENT OF ACTIVITIES AND REVIEW

SEC. 302. (a) The caption of section 104 of the Housing and Community Development Act of 1974 is amended to read as follows: "STATEMENT OF ACTIVITIES AND REVIEW".

(b) Subsections (a), (b), and (c) of section 104 of such Act are amended to read as follows:

"(a)(1) Prior to the receipt in any fiscal year of a grant under section 106(b) by any metropolitan city or urban county, under section 106(d) by any State, or under section 106(d)(2)(B) by any unit of general local government, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 106(b) and in the case of units of general local government receiving grants pursuant to section 106(d)(2)(B), the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 106(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

"(2) In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall—

"(A) furnish citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken;

"(B) publish a proposed statement in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee; and

"(C) hold one or more public hearings to obtain the views of citizens on community development and housing needs.

In preparing the final statement, the grantee shall consider any such comments and views and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c).

"(b) Any grant under section 106 shall be made only if the grantee certifies to the satisfaction of the Secretary that—

"(1) the grantee is in full compliance with the requirements of subsection (a)(2) (A), (B), and (C) and has made the final statement available to the public;

"(2) the grant will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284;

"(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs; and

"(4) the grantee will comply with the other provisions of this title and with other applicable laws.

"(c)(1) Any grant made under section 106(b) shall be made only if the unit of general local government certifies that it is following a current housing assistance plan which has been approved by the Secretary and which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower income persons (including elderly and handicapped persons, large families, owners of homes requiring rehabilitation assistance, and persons displaced or to be displaced) residing in or expected to reside in the community as a result of existing or projected changes in employment opportunities and population in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and identifies housing stock which is in a deteriorated condition, including the impact of conversion of rental housing to condominium or cooperative ownership on such needs;

"(B) specifies a realistic annual goal for the number of dwelling units or lower income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, including existing rental and owner occupied dwelling units to be upgraded and thereby preserved, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low and moderate income; and

"(C) indicates the general locations of proposed housing for lower income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects.

"(2) The Secretary shall establish such dates and manner for the submission of housing assistance plans described in paragraph (1) as the Secretary may prescribe.".

(c)(1) Section 104(d) of such Act is amended to read as follows:

"(d) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance report concerning the use of funds made available under section 106, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

"(1) in the case of grants made under section 106(b) or section 106(d)(2)(B), whether the grantee has carried out its activities and, where applicable, its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

"(2) in the case of grants to States made under section 106(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in paragraph (1) of this subsection.

The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 106(d), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1982.

(d) Section 104 of such Act is amended by striking out subsections (e) and (f) and redesignating subsections (g), (h), (i), and (j) as subsections (e), (f), (g), and (h).

(e) Section 104(f) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out "applicants" in paragraph (1) and inserting in lieu thereof "recipients of assistance under this title";

(2) by striking out "applicant" wherever it appears and inserting in lieu thereof "recipient of assistance under this title";

(3) by striking out "applications and" in the last sentence of paragraph (2); and

(4) by adding the following new paragraph at the end thereof:

"(4) In the case of grants made to States pursuant to section 106(d), the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.".

(f) Section 104(g) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Units of general local government receiving assistance under this title may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 106(d), not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this title. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment."; and

(2) by striking out the last two sentences of paragraph (2).

ELIGIBLE ACTIVITIES

SEC. 303. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out paragraph (8) and inserting in lieu thereof the following:

"(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 10 per centum of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;";

(2) by inserting the following before the semicolon at the end of paragraph (13) ", and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981";

(3) by striking out "and" at the end of paragraph (15);

(4) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new paragraph:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project.".

(b) In fiscal years 1982, 1983, and 1984, the Secretary may waive the limitation on the amount of funds which may be used for public services activities under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended by this Act, in the case of a unit of general local government which, during fiscal year 1981, allocated more than 10 per centum of funds received under title I of the Housing and Community Development Act of 1974 for such activities.

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 304. (a) Section 106(a) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(a) Of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107 and section 119), 70 per centum shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(b) Section 106 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(c) Section 106(c), as redesignated by subsection (b) of this section, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), any amounts allocated to a metropolitan city or an urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year because of failure to meet the requirements of section 104 (a), (b), or (c), or which become available as a result of actions under section 104(d) or 111, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area which certify to the satisfaction of the Secretary that they would be adversely affected by the loss of such amounts from the metropolitan area. The amount of the share of funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year, except that—

"(A) in determining the amounts awarded to cities or counties for purposes of calculating shares pursuant to this sentence, there shall be excluded from the award of any city or county any amounts which become available as a result of actions against such city or county under section 111;

"(B) in reallocating amounts resulting from an action under section 104(d) or section 111, the city or county against whom any such action was taken shall be excluded from the calculation of shares for purposes of reallocating the amounts becoming available as a result of such action; and

"(C) in no event may the share of reallocated funds for any metropolitan city or urban county exceed 25 per centum of the amount awarded to the city or county under section 106(b) for the fiscal year in which the reallocated funds under this paragraph become available.

Any amounts allocated under section 106(b) which become available for reallocation and for which no metropolitan city or urban county qualifies under this paragraph shall be added to amounts available for allocation under such section 106(b) in the succeeding fiscal year.

"(2) Notwithstanding any other provision of this title, the Secretary shall make grants from amounts authorized for use under section 106(b) by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this title which governed grants with respect to such amounts, as such provisions existed prior to the effective date of the Housing and Community Development Amendments of 1981, except that any such amounts which are not obligated before January 1, 1982, shall be reallocated in accordance with paragraph (1).".

(d) Section 106(d)(1) of such Act, as redesignated by subsection (b) of this section, is amended—

(1) by striking out "section 103(a)" and all that follows through "nonmetropolitan areas of each State" in the first sentence and inserting in lieu thereof the following: "section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107 and section 119), 30 per centum shall be allocated among the States for use in nonentitlement areas. The allocation for each State shall be"; and

(2) by striking out "nonmetropolitan" wherever it appears and inserting in lieu thereof "nonentitlement".

(e) Section 106(d) of such Act, as redesignated by subsection (b) of this section, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title—

"(i) by the State, consistent with the statement submitted under section 104(a); or

"(ii) by the Secretary, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

Notwithstanding any provision of this title, the Secretary shall make grants from amounts authorized for use in nonentitlement areas by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this title which governed grants with respect to such amounts, as such provisions existed prior to the effective date of the Housing and Community Development Amendments of 1981. Any amounts under the preceding sentence (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1981, and which have been obligated by January 1, 1982) which are or become available for obligation after fiscal year 1981 shall be available for distribution in the State in which the grants from such amounts were made, by the State or by the Secretary, whichever is distributing the State allocation in the fiscal year in which such amounts are or become available.

"(B) The Secretary shall distribute amounts allocated under paragraph (1) where—

"(i) the State has elected, in such manner and before such time as the Secretary may prescribe, not to distribute such amounts; or

"(ii) the State has failed to submit the certifications described in subparagraph (C).

"(C) To receive and distribute amounts allocated under paragraph (1), the Governor must certify that the State, with respect to units of general local government in nonentitlement areas—

"(i) engages or will engage in planning for community development activities;

"(ii) provides or will provide technical assistance to units of general local government in connection with community development programs;

"(iii) will provide, out of State resources, funds for community development activities in an amount which is at least 10 per

centum of the amounts allocated for use in the State pursuant to paragraph (1); and

"(iv) has consulted with local elected officials from among units of general local government located in nonentitlement areas of that State in determining the method of distribution of funds required by subparagraph (A).

"(3)(A) If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. The State shall pay from its own resources all administrative expenses incurred by the State in carrying out its responsibilities under this title, except that from the amounts received for distribution in nonentitlement areas, the State may deduct an amount not to exceed 50 per centum of the costs incurred by the State in carrying out such responsibilities. Amounts so deducted shall not exceed 2 per centum of the amount so received.

"(B) If the Secretary distributes such amounts, the distribution shall be made in accordance with determinations of the Secretary pursuant to statements submitted and the other requirements of section 104 (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Secretary.

"(C) Any amounts allocated for use in a State under this subsection which become available as a result of actions under section 104(d) or 111 shall—

"(i) in the case of actions against units of general local government in nonentitlement areas, be added to amounts available for distribution in the State in the fiscal year in which the amounts become so available; or

"(ii) in the case of actions against the State, be added to amounts available for distribution in the State in the succeeding fiscal year.

Amounts reallocated under this subparagraph shall be available for distribution by the State or by the Secretary, whichever is distributing the State allocation in the fiscal year in which such reallocated amounts are added.

"(4) In computing amounts under paragraph (1), Indian tribes shall be excluded.".

(f) Section 106(f), as redesignated by subsection (b) of this section, is amended by striking out "(1)" and all that follows through "106(e)" and inserting in lieu thereof "all basic grant entitlement amounts".

DISCRETIONARY FUND

SEC. 305. Section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"DISCRETIONARY FUND

"SEC. 107. (a) Of the total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, not more than $60,000,000 for each of the fiscal years 1982 and 1983 may be set aside in a special discretionary fund for grants under subsection (b). Grants under this section are in addition to any other grants which may be made under this title to the same entities for the same purposes.

"(b) From amounts set aside under subsection (a), the Secretary is authorized to make grants—

"(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;

"(2) in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(3) to Indian tribes; and

"(4) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title, and to States and units of general local government for implementing special projects otherwise authorized under this title. The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out assistance under this title.

"(c) Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

"(d)(1) Except as provided in paragraph (2), no grant may be made under this section or section 119 unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284.

"(2) No grant may be made to an Indian tribe under this section or section 119 unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 109 and section 110.

"(3) The Secretary may accept a certification from the applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.".

NONDISCRIMINATION

SEC. 306. Section 109(a) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof: "Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.".

TRANSITIONAL PROVISIONS

SEC. 307. (a) Any amounts appropriated for any fiscal year before fiscal year 1982 in a Department of Housing and Urban Development—Independent Agencies Appropriation Act or a Supplemental Appropriation Act under the head "COMMUNITY DEVELOPMENT GRANTS" which are or become available for obligation on or after October 1, 1981, shall remain available as provided by law, and shall be used in accordance with the following:

(1) funds authorized for use under section 106(b) of the Housing and Community Development Act of 1974 ("such Act") before October 1, 1981, shall be available for use as provided by section 106(c) of such Act as amended by this Act;

(2) funds authorized for use under section 107 of such Act before October 1, 1981, shall be available for use as provided by section 107(a) of such Act as amended by this Act; and

(3) funds authorized for use under section 106 (c) or (e) of such Act before October 1, 1981, shall be available for use as provided by section 106(d)(2)(A) of such Act as amended by this Act.

(b) Any grant or loan which, prior to the effective date of any provision of this part, was obligated and governed by any authority amended by any provision of this part shall continue to be governed by the provisions of such authority as they existed immediately before such effective date.

URBAN DEVELOPMENT ACTION GRANTS

SEC. 308. (a) Section 119 of the Housing and Community Development Act of 1974 is amended to read as follows:

"URBAN DEVELOPMENT ACTION GRANTS

"SEC. 119. (a) The Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. Of the total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, not more than $500,000,000 shall be available for each of the fiscal years 1982 and 1983 for grants under this section.

"(b)(1) Urban development action grants shall be made only to cities and urban counties which have, in the determination of the Secretary, demonstrated results in providing housing for low- and moderate-income persons and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and, where data are available, the extent of unemployment and job lag.

"(2) A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of such paragraph and—

"(A) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of the Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county; (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city or urban county; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level; or

"(B) in the case of a city with a population of less than fifty thousand persons, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of the Census or for which data certified by the United States Bureau of the Census are available having at least a population of two thousand five hundred persons or 10 per centum of the population of the city, whichever is greater; (ii) in which at least 70 per centum of the residents have incomes below

80 per centum of the median income of the city; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.

"(c) Applications for assistance under this section shall—

"(1) in the case of an application for a grant under subsection (b)(2), include documentation of grant eligibility in accordance with the standards described in that subsection;

"(2) set forth the activities for which assistance is sought, including (A) an estimate of the costs and general location of the activities; (B) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private investment; and (C) an analysis of the economic benefits which the activities are expected to produce;

"(3) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has held public hearings to obtain the views of citizens, particularly residents of the area in which the proposed activities are to be carried out, and (B) has analyzed the impact of these proposed activities on the residents, particularly those of low- and moderate-income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and

"(4) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (C) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B); and (D) will comply with the requirements of section 121.

"(d)(1) Except in the case of a city or urban county eligible under subsection (b)(2), the Secretary shall establish selection criteria for grants under this section which must include (A) as the primary criterion, the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (B) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties; and (C) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; the extent to which the grant will stimulate economic recovery by leveraging private investment; the number of permanent jobs to be created and their relation to the amount of grant funds requested; the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed; the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested; the extent to which State or local government funding or special economic incentives have been committed; and the feasibility of accomplishing the proposed activities in a timely fashion within the grant amount available.

"(2) For the purpose of making grants with respect to areas described in subsection (b)(2), the Secretary shall establish selection criteria, which must include (A) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and (B) such other criteria as the Secretary may determine, including at a minimum the criteria listed in paragraph (1)(C) of this subsection.

"(e) The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) unless—

"(1) the grant will be used in connection with a project located in an area described in subsection (b)(2), except that the Secretary may waive this requirement where the Secretary determines (A) that there is no suitable site for the project within that area, (B) the project will be located directly adjacent to that area, and (C) the project will contribute substantially to the economic development of that area;

"(2) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(3) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in subsection (b)(2); and

"(4) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 per centum of the grant to be available under this section to be used in carrying out the activities described in the application.

"(f) Activities assisted under this section may include such activities, in addition to those authorized under section 105(a), as the Secretary determines to be consistent with the purposes of this section.

"(g) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(h) No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

"(i) Not less than 25 per centum of the funds made available for grants under this section shall be used for cities with populations of less than fifty thousand persons which are not central cities of a metropolitan statistical area.

"(j) A grant may be made under this section only where the Secretary determines that there is a strong probability that (1) the non-Federal investment in the project would not be made without the grant, and (2) the grant would not substitute for non-Federal funds which are otherwise available to the project.

"(k) In making grants under this section, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

"(l) For purposes of this section, the Secretary may reduce or waive the requirement in section 102(a)(5)(B)(ii) that a town or township be closely settled.

"(m) In the case of any application which identifies any property in accordance with subsection (c)(4)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 121(b).

"(n)(1) For the purposes of this section, the term 'city' includes Guam, the Virgin Islands, and Indian tribes.

"(2) The Secretary may not approve a grant to an Indian tribe under this section unless the tribe (A) is located on a reservation or in an Alaskan Native Village, and (B) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.

"(o) If no amounts are set aside under, or amounts are precluded from being appropriated for this section for fiscal years after fiscal year 1983, any amount which is or becomes available for use under this section after fiscal year 1983 shall be added to amounts appropriated under section 103.".

(b) Section 121 of such Act is amended by striking out "subsection (c)(7)(B)" in subsection (b) and inserting in lieu thereof "subsection (c)(4)(B)".

(c) The amendments made by subsections (a) and (b) shall become effective on the effective date of regulations implementing such subsections. As soon as practicable, but not later than January 1, 1982, the Secretary shall issue such final rules and regulations as the Secretary determines are necessary to carry out such subsections.

COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS

SEC. 309. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out paragraphs (18) and (19);

(2) by inserting immediately after paragraph (6) the following:

"(7) The term 'nonentitlement area' means an area which is not a metropolitan city or part of an urban county."; and

(3) by redesignating the remaining paragraphs accordingly.

(b) Section 102(c) of such Act is amended by striking out "a Community Development

Program in whole or in part" and inserting in lieu thereof "activities assisted under this title".

(c) The first sentence of section 102(d) of such Act is amended—

(1) by striking out "103(a)(1)" and inserting in lieu thereof "103"; and

(2) by striking out "unless the application by the urban county is disapproved or withdrawn prior to or during such three-year period" and inserting in lieu thereof "unless the urban county does not receive a grant for any year during such three-year period".

(d) Section 104(j) of such Act is amended by striking out "planning a joint community development program, meeting the application requirements of this section, and implementing such program" and inserting in lieu thereof "submitting a statement under section 104(a) and carrying out activities under this title".

(e) The caption of section 105 of such Act is amended to read as follows: "ELIGIBLE ACTIVITIES".

(f) Section 105(a) of such Act is amended—

(1) by striking out the first sentence and "These activities" in the second sentence and inserting in lieu thereof "Activities assisted under this title";

(2) by striking out "program" in paragraph (6);

(3) by striking out "the Community Development Program" in paragraph (9) and inserting in lieu thereof "activities assisted under this title";

(4) by striking out "to the community development program" in paragraph (11);

(5) by striking out "(as specifically" and all that follows through "104(a)(1)" in paragraph (14) and inserting in lieu thereof "which are carried out by public or private nonprofit entities"; and

(6) by striking out "(as specifically described in the application submitted pursuant to section 104)" in paragraph (15).

(g) Section 105(b) of such Act is amended by striking out "a grant" and inserting in lieu thereof "assistance".

(h) The second sentence of section 106(b)(4) of such Act is amended by striking out "for a grant under subsection (c) or (e)" and inserting in lieu thereof the following: "to receive assistance under subsection (d)".

(i) Section 108(d)(2) of such Act is amended by striking out "approved or".

(j) The first sentence of section 110 of such Act is amended by striking out "grants" and inserting in lieu thereof "assistance".

(k) The first sentence of section 112(a) of such Act is amended by striking out "103(a)" and inserting in lieu thereof "103".

(l) Section 113(a)(2) of such Act is amended by striking out "as approved by the Secretary".

(m) Section 116(b) of such Act is amended to read as follows:

"(b) In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 104(a), unless such statement is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of statements in that year.".

COMMUNITY DEVELOPMENT MISCELLANEOUS AMENDMENTS

SEC. 310. (a) Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end thereof: "or until September 30, 1982, whichever is later".

(b) Section 102(a)(6) of such Act is amended by inserting at the end thereof the following: "Any urban county (A) which qualified as an urban county in fiscal year 1981, (B) the population of which includes all of the population of the county (other than the population of metropolitan cities therein), and (C) the population of which for fiscal year 1982 falls below the amount required by clause (B) of the preceding sentence by reason of the 1980 decennial census shall be considered as meeting the population requirements of such clause for fiscal year 1982 and shall not be subject to the provisions of section 102(d) in that fiscal year.".

REHABILITATION LOANS

SEC. 311. (a) Subsection (a)(1)(D) of section 312 of the Housing Act of 1964 is amended by striking out "an approved community development program" and inserting in lieu thereof "community development activities".

(b) Subsection (d) of such section is amended—

(1) by inserting "and" after "October 1, 1979," in the first sentence;

(2) by striking out "and not to exceed $129,000,000 for the fiscal year beginning on October 1, 1981," in the first sentence; and

(3) by striking out the last sentence.

(c) Subsection (h) of such section is amended by striking out "1982" each place it appears and inserting in lieu thereof "1983".

(d) Subsection (j)(1) of such section is amended by striking out the second sentence.

URBAN HOMESTEADING

SEC. 312. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $26,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $26,000,000 for the fiscal year 1979, and not to exceed $13,467,000 for the fiscal year 1983".

REPEALERS

SEC. 313. (a) Title VII of the Housing and Community Development Amendments of 1978 is hereby repealed.

(b) Section 701 of the Housing Act of 1954 is hereby repealed.

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 314. Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $14,950,000 for fiscal year 1982".

REPORT ON BLOCK GRANT PROGRAM

SEC. 315. Not later than 270 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall report to the Congress on administrative and legislative steps that can be taken to—

(1) require all grantees to concentrate their block grant funds in distressed geographic areas small enough so that visible improvements can be achieved in a reasonable time period and to ensure that claimed benefits to low- and moderate-income persons are, in actuality, occurring;

(2) reduce the broad list of activities currently eligible so that funds can be focused on those activities which meet the cities' most urgent revitalization needs;

(3) develop overall income eligibility requirements for recipients of block grant supported rehabilitation; and

(4) limit eligible rehabilitation work to that which is essential to restore the housing unit to a decent, safe, and sanitary or energy efficient condition, specifically prohibiting nonessential and luxury items, so that more homes needing basic repairs can be rehabilitated.

PART 2—HOUSING ASSISTANCE PROGRAMS

HOUSING AUTHORIZATIONS

SEC. 321. (a) The first sentence of section 5(c)(1) of the United States Housing Act of 1937 is amended by inserting immediately after "1980" the following: ", and by $906,985,000 on October 1, 1981".

(b) The second sentence of section 5(c)(1) of such Act is amended by striking out "Acts;" and all that follows through the period and inserting in lieu thereof the following: "Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, and $18,087,370,000 with respect to the additional authority provided on October 1, 1981.".

(c) Section 5(c) of such Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) inserting immediately after paragraph (2) the following:

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, the Secretary shall make available at least $75,000,000 for assistance to projects under section 14.

"(B) Of the balance of the additional authority referred to in the preceding subparagraph which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary shall allocate such authority for use in different areas and communities in accordance with section 213(d) of the Housing and Community Development Act of 1974, except that on a national basis the Secretary may not enter into contracts aggregating—

"(i) more than 45 per centum of such balance for existing units assisted under this Act; and

"(ii) more than 55 per centum of such balance for newly constructed and substantially rehabilitated units assisted under this Act.

"(C) After making allocations referred to in subparagraph (B), the Secretary shall, to the extent allowable within the percentage limitations contained in such subparagraph and within the available contract and budget authority, accommodate the preferences of units of general local government, which preferences shall be established after consultation with the appropriate public housing agencies, regarding (i) the mix among newly constructed, substantially rehabilitated, existing, or moderately rehabilitated units; (ii) the programs under which assistance is to be provided; and (iii) the extent to which such allocation should be used for comprehensive improvement assistance under section 14.".

(d) Section 9(c) of such Act is amended—

(1) by striking out "and" after "on or after October 1, 1979,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $1,500,000,000 on or after October 1, 1981".

(e) Section 213(d) of the Housing and Community Development Act of 1974 is

amended by adding at the end thereof a new paragraph to read as follows:

"(4) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development may not retain more than 15 per centum of the financial assistance which becomes available under programs described in subsection (a)(1) during any fiscal year. Any such financial assistance which is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

"(A) unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

"(B) support for the needs of the handicapped or for minority enterprise;

"(C) providing for assisted housing as a result of the settlement of litigation;

"(D) small research and demonstration projects;

"(E) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and

"(F) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary, including assistance for infrastructure in connection with the Indian Housing Program.".

(f)(1) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended—

(A) by striking out "and" after "the fiscal year 1980,";

(B) by inserting before the period at the end thereof the following: ", and not to exceed $4,000,000 for the fiscal year 1982"; and

(C) by striking out the comma immediately following "Act" and inserting in lieu thereof a closed parenthesis.

(2) Section 201 of the Housing and Community Development Amendments of 1978 is amended—

(A) by redesignating subsections (h) and (i) as subsections (j) and (k), respectively; and

(B) by inserting the following new subsection after subsection (g):

"(h) The Secretary may not use any of the assistance available under this section during any fiscal year beginning on or after October 1, 1981, to supplement any contract to make rental assistance payments which was made pursuant to section 101 of the Housing and Urban Development Act of 1965.".

(3) The third sentence of section 236(f)(3) of the National Housing Act, as redesignated by section 322(f)(7) of this part, is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

TENANT RENTAL PAYMENTS

SEC. 322. (a) Section 3 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL PAYMENTS; DEFINITIONS

"SEC. 3. (a) Dwelling units assisted under this Act shall be rented only to families who are lower income families at the time of their initial occupancy of such units. A family shall pay as rent for a dwelling unit assisted under this Act the highest of the following amounts, rounded to the nearest dollar:

"(1) 30 per centum of the family's monthly adjusted income;

"(2) 10 per centum of the family's monthly income; or

"(3) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(b) When used in this Act:

"(1) The term 'lower income housing' means decent, safe, and sanitary dwellings assisted under this Act. The term 'public housing' means lower income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. When used in reference to public housing, the term 'lower income housing project' or 'project' means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"(2) The term 'lower income families' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The term 'very low-income families' means lower income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations of the Secretary. In no event shall more than 15 per centum of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D). In determining priority for admission to housing under this Act, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations of the Secretary to be essential to their care or well being.

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of lower income housing.

"(7) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to public housing:

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower income housing project. The term 'development cost' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a lower income housing project. The term also means the financing of tenant programs and services for families residing in lower income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by a public housing agency in acquiring

property for a lower income housing project.".

(b) Sections 4, 5, 9, and 11 of such Act are amended by striking out "LOW-INCOME" where it appears in the caption accompanying each such section and by inserting in lieu thereof "LOWER INCOME".

(c) Sections 2, 4, 5, 6, 9, 11, 12, and 14 of such Act are amended by striking out "low income" and "low-income" wherever they appear and inserting in lieu thereof "lower income".

(d) Section 6(c)(2) of such Act is amended by striking out the phrase "at intervals of two years (or at shorter intervals where the Secretary deems it desirable)" and inserting in lieu thereof "no less frequently than annually".

(e) Section 8 of such Act is amended—

(1) by striking out paragraph (3) of subsection (c) and inserting in lieu thereof the following:

"(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.";

(2) by striking out paragraph (7) of subsection (c) and redesignating paragraph (8) of such subsection as paragraph (7);

(3) by striking out paragraphs (1), (2), and (3) of subsection (f) and redesignating paragraphs (4), (5), and (6) of such subsection as paragraphs (1), (2), and (3), respectively;

(4) by striking out "The provisions of section 3(1), 5(e), and 6" in subsection (h) and inserting in lieu thereof "Sections 5(e) and 6";

(5) by striking out the comma after the word "Act" in subsection (h); and

(6) by striking out "25 per centum of one-twelfth of the annual income of such family" in paragraph (3) of subsection (j) and inserting in lieu thereof "the rent the family is required to pay under section 3(a) of this Act".

(f) Section 236 of the National Housing Act is amended—

(1) by striking out "two years" in subsection (e) and inserting in lieu thereof "one year";

(2) by striking out "25 per centum of the tenant's income" in the second sentence of subsection (f)(1) and inserting in lieu thereof "30 per centum of the tenant's adjusted income";

(3) by striking out clause (ii) in the third sentence of subsection (f)(1) and inserting in lieu thereof the following:

"(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 per centum of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 25 per centum of a tenant's adjusted income.";

(4) by striking out "25 per centum of their income" in paragraph (2) of subsection (f) and inserting in lieu thereof "30 per centum of their adjusted income";

(5) by striking out "25 per centum of the tenant's income" in paragraph (2) of subsection (f) and inserting in lieu thereof "the highest of the following amounts, rounded to the nearest dollar:

"(A) 30 per centum of the tenant's monthly adjusted income;

"(B) 10 per centum of the tenant's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated";

(6) by striking out the third sentence in paragraph (2) of subsection (f);

(7) by striking out subparagraph (A) of subsection (f)(3) and redesignating subsection (f)(3)(B) as subsection (f)(3); and

(8) by striking out subsection (m) and inserting in lieu thereof the following:

"(m) For the purpose of this section the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.".

(g) Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out paragraph (2) in subsection (c) and inserting in lieu thereof the following:

"(2) 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.";

(2) by striking out the first sentence of subsection (d) and inserting in lieu thereof the following: "The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 per centum of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 per centum of the tenant's adjusted income."; and

(3) by striking out ", except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable)" in paragraph (2) of subsection (e), and by inserting in lieu thereof "no less frequently than annually".

(h) Title II of the Housing and Community Development Amendments of 1979 is amended—

(1) by striking out subsection (c) in section 202; and

(2) by striking out subsection (c) in section 203.

(i)(1) In determining the rent to be paid by tenants who are occupying housing assisted under the authorities amended by this section on the effective date of this Act, the Secretary, notwithstanding any other provision of this section, may provide for delayed applicability, or for staged implementation, of the procedures for determining rent required by the provisions of subsections (a) through (h) of this section if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. The Secretary shall provide that the amount of rent paid by any family shall not increase, as a result of the amendments made by this section and as a result of any other provision of Federal law redefining which governmental benefits are required to or may be considered as income, by more than 10 per centum during any 12-month period unless the increase above such 10 per centum is attributed solely to increases in income which are not caused by such amendments or by such redefinitions. The limitation contained in the preceding sentence shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection. Notwithstanding any other provision of this section, application of the procedures for determining rent contained in this section shall not result in a reduction in the amount of rent paid by any tenant below the amount paid by such tenant immediately preceding the effective date of this Act.

(2) Tenants of housing assisted under the provisions of law amended by this section whose occupancy begins after the effective date of this Act shall be subject to immediate rent payment determinations in accordance with the amendments contained in subsections (a) through (h), except that the Secretary may provide for delayed applicability, or for staged implementation, of these requirements for such tenants if the Secretary determines that immediate application of the requirements of this section would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

(3) The Secretary's actions and determinations and the procedures for making determinations pursuant to this subsection shall not be reviewable in any court. The provisions of subsections (a) through (h) shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of this Act, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

INCOME ELIGIBILITY

SEC. 323. The United States Housing Act of 1937 is amended by adding at the end thereof the following:

"INCOME ELIGIBILITY FOR ASSISTED HOUSING

"SEC. 16. (a) Not more than 10 per centum of the dwelling units which were available for occupancy under public housing annual contributions contracts and section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981, and which will be leased on or after such effective date shall be available for leasing by lower income families other than very low-income families.

"(b) Not more than 5 per centum of the dwelling units which become available for occupancy under public housing annual contributions contracts and section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981 shall be available for leasing by lower income families other than very low-income families.".

COST REDUCTION IN ASSISTED HOUSING

SEC. 324. Section 8 of the United States Housing Act of 1937 is amended—

(1) by inserting after the first sentence of subsection (b)(2) the following: "To increase housing opportunities for very low-income families, the Secretary shall assure that newly constructed housing to be assisted under this section is modest in design.";

(2) by adding at the end of subsection (c)(2) the following:

"(D) Notwithstanding the foregoing, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units."; and

(3) by adding at the end thereof the following:

"(l) After selection of a proposal involving newly constructed or substantially rehabilitated units for assistance under this section, the Secretary shall limit cost and rent increases, except for adjustments in rent pursuant to section 8(c)(2), to those approved by the Secretary. The Secretary may approve those increases only for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

"(m) For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States or units of local government if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

"(n) In making assistance available under subsection (e)(5) and subsection (i), the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

"(1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary; and

"(2) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose.

The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 3(b)(3) with respect to the assistance made available under this subsection.".

AID FOR ELIGIBLE FAMILIES

SEC. 325. Section 8 of the United States Housing Act of 1937 is amended—

(1) by adding at the end of subsection (b)(2) the following: "Each contract to make assistance payments for newly constructed or substantially rehabilitated housing assisted under this section entered into after the date of enactment of the Housing and Community Development Amendments of 1981 shall provide that during the term of the contract the owner shall make available for occupancy by families which are eligible for assistance under this section, at the time of their initial occupancy, the number of units for which assistance is committed under the contract."; and

(2) by inserting after "nonhandicapped persons" in the second sentence of subsection (c)(5) the following: "which are not subject to mortgages purchased under section 305 of the National Housing Act".

MISCELLANEOUS HOUSING ASSISTANCE PROVISIONS

SEC. 326. (a) Section 8(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following:

"(8) Each contract under this section shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract.".

(b)(1) Within one year after the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a survey to determine the number of projects which are assisted under section 8 of the United States Housing Act of 1937 and are owned by developers or sponsors with five-year annual contributions contracts who plan to withdraw from the section 8 program when their contracts expire and who will increase rents in those projects to levels that the current residents of those projects will not be able to afford. Where such survey indicates that an owner intends to withdraw from the program, the Secretary shall notify affected residents of possible rent increases.

(2) Not later than one year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report indicating alternative methods which may be utilized for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.

(c) The Secretary of Housing and Urban Development, after consultation with the Attorney General, shall develop regulations to prevent possible conflicts of interest on the part of Federal, State, and local government officials with regard to participation in projects assisted under section 8 of the United States Housing Act of 1937, and shall make such regulations effective not later than 180 days after the date of enactment of this Act.

(d)(1) The Secretary of Housing and Urban Development shall permit public housing agencies to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the housing assistance program under section 8 of the United States Housing Act of 1937, an amount equal to the greater of (A) the legal expenses incurred in obtaining such judgments, or (B) 50 per centum of the amount actually collected on the judgments.

(2) The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Department of Housing and Urban Development Act a summary of cases brought to its attention by public housing authorities for prosecution or civil action, and shall describe the handling of such cases by such authorities and by the Department of Housing and Urban Development and the resolution of such cases in the court system.

(e)(1) Section 8(d)(1)(B) of the United States Housing Act of 1937 is amended to read as follows:

"(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary; and

"(ii) the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;".

(2) The amendment made by paragraph (1) shall apply with respect to leases entered into on or after October 1, 1981.

RENT SUPPLEMENTS

SEC. 327. (a) Section 101(l) of the Housing and Urban Development Act of 1965 is amended to read as follows:

"(l) Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available under this section.".

(b) The second sentence of section 101(d) of such Act is repealed.

SECTION 235 AMENDMENTS

SEC. 328. (a) Section 235(c)(2)(A) of the National Housing Act is amended by striking out "ceases for a period of 90 continuous days or more making payments required under the mortgage, loan, or advance of credit secured by such a property, or".

(b) Section 235(h)(1) of such Act is amended by adding the following new sentences at the end thereof: "The Secretary shall not enter into new contracts for assistance payments under this section after March 31, 1982, except pursuant to a firm commitment issued on or before March 31, 1982, or pursuant to other commitments issued by the Secretary prior to June 30, 1981, reserving funds for housing to be assisted under this section where such housing is included in a project pursuant to section 119 of the Housing and Community Development Act of 1974. In no event may the Secretary enter into any new contract for assistance payments under this section after September 30, 1983.".

(c) Section 235(q)(14) of such Act is amended by striking out "ceases for a period of 90 continuous days or more making payments on the mortgage, loan, or advance of credit secured by the property, or".

RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 329. (a) Section 214 of the Housing and Community Development Act of 1980 is amended to read as follows:

"RESTRICTION ON USE OF ASSISTED HOUSING

"SEC. 214. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

"(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

"(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

"(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant

to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

"(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or

"(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

"(b) For purposes of this section the term 'financial assistance' means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.".

(b) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 214 of the Housing and Community Development Act of 1980, to be an alien described in section 214(a)(3) of such Act.

PAYMENT FOR DEVELOPMENT MANAGERS

SEC. 329A. The Secretary of Housing and Urban Development shall develop and implement a revised fee schedule for development managers of lower income housing projects assisted under the United States Housing Act of 1937 so that the percentage limitation applicable to fees chargeable in connection with smaller projects is increased to a minimum level which is practicable.

REVIEW OF OPERATING SUBSIDY FORMULA

SEC. 329B. The Secretary of Housing and Urban Development shall review the administration of the operating subsidy program under section 9 of the United States Housing Act of 1937, including an examination of alternative methods for distributing operating subsidies which provide incentives for efficient management, full rent collection, and improved maintenance of projects developed under the United States Housing Act of 1937. Not later than March 1, 1982, the Secretary of Housing and Urban Development shall transmit a report to the Congress on the results of such review.

ENERGY EFFICIENCY EFFORTS

SEC. 329C. Section 201 of the Housing and Community Development Amendments of 1978 is amended—

(1) in subsection (f)(1), by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(D) an amount determined by the Secretary to be necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary."; and

(2) by inserting after subsection (h) the following:

"(i) Notwithstanding any other provision of law, in exercising any authority relating to the approval or disapproval of rentals charged tenants residing in projects which are eligible for assistance under this section, the Secretary—

"(1) shall consider whether the mortgagor could control increases in utility costs by securing more favorable utility rates, by undertaking energy conservation measures which are financially feasible and cost effective, or by taking other financially feasible and cost-effective actions to increase energy efficiency or to reduce energy consumption; and

"(2) may, in his discretion, adjust the amount of a proposed rental increase where he finds the mortgagor could exercise such control.".

RECOGNITION OF KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

SEC. 329D. The Secretary of Housing and Urban Development shall permit the Kansas Department of Economic Development to participate as a public housing agency for the purposes of programs carried out under the United States Housing Act of 1937 and as a State agency for the purpose of section 883.203 of title 24 of the Code of Federal Regulations as in effect June 1, 1981.

PURCHASE OF PHA OBLIGATIONS

SEC. 329E. In addition to any authority provided before October 1, 1981, the Secretary of Housing and Urban Development may, on and after October 1, 1981, enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of the United States Housing Act of 1937. Notwithstanding any other provision of law, such contracts may be entered into only to the extent approved in appropriation Acts, and the aggregate amount which may be obligated over the duration of such contracts may not exceed $400,000,000. There are hereby authorized to be appropriated any amounts necessary to provide for such payments. The authority to enter into contracts under this subsection shall be in lieu of any authority (except for authority provided specifically to the Secretary before October 1, 1981) of the Secretary to enter into contracts for such purposes under section 16(b) of the Federal Financing Bank Act of 1973.

TENANT PARTICIPATION

SEC. 329F. Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking out "owner's action" and inserting in lieu thereof "owner's request for rent increase, conversion of residential rental units to any other use (including commercial use or use as a unit in any condominium or cooperative project), partial release of security, or major physical alterations".

FIRE SAFETY

SEC. 329G. Section 14(i)(1) of the United States Housing Act of 1937 is amended by inserting the following before the period at the end of the first sentence thereof: ", especially emergency and special purpose needs which relate to fire safety standards".

SECTION 8 ASSISTANCE FOR MANUFACTURED HOMES

SEC. 329H. (a) Section 8(j) of the United States Housing Act of 1937 is amended to read as follows:

"(j)(1) The Secretary may enter into contracts to make assistance payments under this subsection to assist lower income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family or with respect to the rental by such family of a manufactured home and the real property on which it is located. In carrying out this subsection, the Secretary may—

"(A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or

"(B) enter into such contracts directly with the owners of such real property.

"(2)(A) A contract entered into pursuant to this paragraph shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this paragraph.

"(B) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this paragraph, and on which is located a manufactured home which is owned by such family shall be the difference between the rent the family is required to pay under section 3(a) of this Act and the sum of—

"(i) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(ii) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(iii) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(3)(A) Contracts entered into pursuant to this paragraph shall establish the maximum monthly rent permitted with respect to the manufactured home and the real property on which it is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of a manufactured home and the real property on which it is located suitable for occupancy by families assisted under this paragraph, except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent.

"(B) The amount of any monthly assistance payment with respect to any family which rents a manufactured home and the real property on which it is located and which is assisted under this paragraph shall be the difference between the rent the family is required to pay under section 3(a) of this Act and the sum of—

"(i) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(ii) the maximum monthly rent permitted with respect to the manufactured home and the real property on which it is located.

"(4) The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under this subsection.

"(5) Each contract entered into under this subsection shall be for a term of not less than one month and not more than 180 months, except that in any case in which the manufactured home park is substantially rehabilitated or newly constructed, such term may not be less than 240 months, nor more than the maximum term for a manufactured home loan permitted under section 2(b) of the National Housing Act.

"(6) The Secretary may carry out this subsection without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(7) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this subsection, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.

"(8) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.".

HOMEOWNERSHIP AND FIRE SAFETY STUDIES

SEC. 329I. (a)(1) The Secretary of Housing and Urban Development shall conduct a study of—

(A) the extent, if any, to which section 8(c)(7) of the United States Housing Act of 1937 has been utilized;

(B) the results of any such utilization;

(C) if such section has not been utilized or utilized only on a very restricted basis, the reasons why it has not been utilized more extensively; and

(D) different methods by which such section could be utilized for increasing homeownership opportunities for lower income families.

(2) As a result of such study, the Secretary shall, not later than January 1, 1982, transmit to the Congress recommendations regarding the establishment of a demonstration project in which the Secretary would use section 8(c)(7) of such Act for the purpose of increasing homeownership opportunities for lower income families. Such proposal shall include, but not be limited to, provisions for—

(A) targeting such project so that existing housing may be preserved to the maximum extent practicable; and

(B) recovering assistance in the case of resale of the property or in other appropriate cases.

(b) The Secretary shall conduct a study to the extent to which lower income housing projects do not meet applicable fire safety standards and report to the Congress with respect to such study not later than one year after the date of the enactment of this Act.

PART 3—PROGRAM AMENDMENTS AND EXTENSIONS

FEDERAL HOUSING ADMINISTRATION EXTENSIONS

SEC. 331. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1981" in the first sentence and inserting in lieu thereof "October 1, 1982".

(b) Section 217 of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1981" in the fifth sentence and inserting in lieu thereof "September 30, 1982".

(d)(1) Section 235(m) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(2) Section 235(q)(1) of such Act is amended by striking out "June 1, 1981," in the fourth sentence thereof and inserting in lieu thereof "September 30, 1982,".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1981" in the first sentence and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "October 1, 1981" in the second sentence and inserting in lieu thereof "October 1, 1982".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(h)(1) Section 809(f) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(2) Section 810(k) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(i) Section 1002(a) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(j) Section 1101(a) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

FLEXIBLE INTEREST RATES

SEC. 332. Section 3(a)(1) of Public Law 90-301 is amended by striking out "October 1, 1981" and inserting in lieu thereof "October 1, 1982".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SEC. 333. (a)(1) Section 305(c) of the Federal National Mortgage Association Charter Act is amended—

(A) by striking out "and" after "1978,"; and

(B) by inserting the following before the period at the end thereof: ", and by $1,100,000,000 on October 1, 1981".

(2) Section 305 of such Act is amended by adding the following new subsection at the end thereof:

"(k) During fiscal year 1982, the Association may not enter into commitments to purchase under this section mortgages with an aggregate principal amount in excess of $1,973,000,000, except that the Association may not enter into commitments to purchase mortgages secured by projects which do not contain units assisted under section 8 of the United States Housing Act of 1937 with an aggregate principal amount in excess of $580,000,000.".

(3) Section 306(g) of such Act is amended—

(A) by inserting "(1)" after "(g)";

(B) by striking out "(1)" and "(2)" in the first sentence and inserting in lieu thereof "(i)" and "(ii)", respectively; and

(C) by adding the following new paragraph at the end thereof:

"(2) During fiscal year 1982, the Association may not enter into commitments to issue guarantees under this subsection in an aggregate amount in excess of $69,542,000,000.".

(b)(1) In entering into commitments to purchase below-market, tandem plan mortgages during the period beginning on the date of the enactment of this Act and ending October 1, 1982, under section 305 of the Federal National Mortgage Association Charter Act, the Government National Mortgage Association may enter into such commitments only with respect to multifamily projects for which firm commitments for mortgage insurance under title II of the National Housing Act have been issued.

(2) The Secretary of Housing and Urban Development shall continue to process applications for mortgage insurance for multifamily projects under title II of the National Housing Act for a period of at least 90 days beginning on October 1, 1981.

GENERAL INSURANCE FUND

SEC. 334. Section 519(f) of the National Housing Act is amended by inserting the following before the period at the end thereof: ", which amount shall be increased by $126,673,000 on October 1, 1981".

LIMITATION ON INSURANCE AUTHORITY

SEC. 335. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"LIMITATION ON INSURANCE AUTHORITY

"SEC. 531. During fiscal year 1982, the Secretary may not enter into commitments to insure under this Act loans and mortgages with an aggregate principal amount in excess of $41,000,000,000.".

HOUSING FOR THE ELDERLY

SEC. 336. Section 202(a)(4)(C) of the Housing Act of 1959 is amended by inserting the following before the period at the end of the second sentence: ", and not more than $850,848,000 may be approved in appropriation Acts for such loans with respect to fiscal year 1982".

RESEARCH AUTHORIZATIONS

SEC. 337. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $51,000,000 for the fiscal year 1981" and inserting in lieu thereof "not to exceed $51,000,000 for the fiscal year 1981, and not to exceed $35,000,000 for the fiscal year 1982".

PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

SEC. 338. (a) Section 2(b) of the National Housing Act is amended to read as follows:

"(b)(1) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the amount of such loan, advance of credit, or purchase exceeds—

"(A) $17,500 ($20,000 where financing the installation of a solar energy system is involved) if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures or manufactured homes;

"(B) $43,750 or an average amount of $8,750 per family unit ($50,000 and $10,000,

respectively, where financing the installation of a solar energy system is involved) if made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

"(C) $22,500 ($35,000 in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home;

"(D) $35,000 ($47,500 in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) such an amount as may be necessary, but not exceeding $12,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within six months after the date of such loan;

"(F) $15,000 per family unit if made for the purpose of financing the preservation of an historic structure; and

"(G) such principal amount as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

"(2) Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or Hawaii, increase any dollar amount limitation on manufactured homes or manufactured home lot loans contained in this subsection by not to exceed 40 per centum. In other areas where needed to meet higher costs of land acquisition, site development, and construction of a permanent foundation in connection with the purchase of a manufactured home or lot, the Secretary may, by regulation, increase any dollar amount limitation otherwise applicable by an additional $7,500.

"(3) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the term to maturity of such loan, advance of credit or purchase exceeds—

"(A) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure or manufactured home;

"(B) fifteen years and thirty-two days if made for the purpose of financing the alteration, repair, improvement or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

"(C) twenty years and thirty-two days (twenty-three years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home;

"(D) twenty years and thirty-two days (twenty-five years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) fifteen years and thirty-two days if made for the purpose of financing the purchase, by the owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home;

"(F) fifteen years and thirty-two days if made for the purpose of financing the preservation of an historic structure;

"(G) such term to maturity as the Secretary may prescribe if made for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes; and

"(H) such term to maturity as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

"(4) For the purpose of this subsection—

"(A) the term 'developed lot' includes an interest in a condominium project (including any interest in the common areas) or a share in a cooperative association;

"(B) a loan to finance the purchase of a manufactured home or a manufactured home and lot may also finance the purchase of a garage, patio, carport, or other comparable appurtenance; and

"(C) a loan to finance the purchase of a manufactured home or a manufactured home and lot shall be secured by a first lien upon such home or home and lot, its furnishings, equipment, accessories, and appurtenances.

"(5) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purpose of this title. Any such obligation with respect to which insurance is granted under this section shall bear interest and insurance premium charges not exceeding (A) an amount, with respect to so much of the net proceeds thereof as does not exceed $2,500, equivalent to $5.50 discount per $100 of original face amount of a one-year note payable in equal monthly installments, plus (B) an amount, with respect to any portion of the net proceeds thereof in excess of $2,500, equivalent to $4.50 discount per $100 of original face amount of such note. The amounts referred to in clauses (A) and (B) of the preceding sentence, when correctly based on tables of calculations issued by the Secretary or adjusted to eliminate minor errors in computation in accordance with requirements of the Secretary, shall be deemed to comply with such sentence.

"(6)(A) Any obligation with respect to which insurance is granted under this section may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of any applicable maximum provided for in this subsection.

"(B) The owner of a manufactured home lot purchased without assistance under this section but otherwise meeting the requirements of this section may refinance such lot under this section in connection with the purchase of a manufactured home if the borrower certifies that the home and lot is or will be his or her principal residence within six months after the date of the loan.".

(b) Section 207(c)(3) of the National Housing Act is amended by striking out "$8,000" and inserting in lieu thereof "$9,000".

MORTGAGE INSURANCE FOR CONDOMINIUMS

SEC. 339. (a) The first sentence of section 234(b) of the National Housing Act is amended by inserting ", including a project in which the dwelling units are attached, semi-attached, or detached," after "multifamily project".

HOUSING COUNSELING

SEC. 339A. Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended by inserting the following before the period at the end of the first sentence: "; except that for the fiscal year 1982, there are authorized to be appropriated not to exceed $4,000,000 for such purposes".

TECHNICAL AMENDMENTS

SEC. 339B. (a) The last sentence of section 207(c)(3), section 213(p), the last proviso in section 220(d)(3)(B)(iii), section 221(k), the proviso in section 231(c)(2), and section 234(j) of the National Housing Act are amended—

(1) by inserting "therein" immediately after "installation" wherever it appears; and

(2) by striking out "therein" before the punctuation at the end thereof.

(b) Section 223(f) of such Act is amended—

(1) by inserting "and" immediately after the semicolon at the end of paragraph (2)(A); and

(2) by redesignating paragraph (5) as paragraph (4).

(c) For purposes of paragraphs (1) and (4) of section 308(c) of the Housing and Community Development Act of 1980, the term "mobile home" and the term "manufactured home" shall be deemed to include the term "mobile homes" and the term "manufactured homes", respectively.

(d)(1) The material preceding the proviso in clause (2) of the first sentence of section 234(c) of the National Housing Act is amended to read as follows: "(2) the project is or has been covered by a mortgage insured under any section (except section 213(a) (1) and (2)) of this Act or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing:".

(2) Section 318 of the Housing and Community Development Act of 1980 is repealed.

LOWER COST TECHNOLOGY

SEC. 339C. The Secretary of Housing and Urban Development is authorized to develop and implement a demonstration program utilizing lower cost building technology for projects located on innercity vacant land.

REDUCTION OF 1981 AUTHORITY

SEC. 339D. (a) Notwithstanding any other provision of law, the authorizations for appropriations for programs and activities administered by the Secretary for Housing and Urban Development in fiscal year 1981 are reduced by $5,359,000,000.

(b) This section takes effect upon the date of enactment of this Act.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 339E. (a) Section 809(h) of the Housing and Community Development Act of 1974 is amended by striking out "through 1982 (with" and inserting in lieu thereof "through 1984 (with not more than $500,000 to be appropriated for each of the fiscal years 1982, 1983, and 1984 and with".

(b) Section 809(c)(4) of such Act is amended by inserting the following before the

period at the end thereof: "; except that, notwithstanding any such rules and procedures as may be adopted by the Institute, the President of the United States, by and with the advice and consent of the Senate, shall appoint, as representative of the public interest, two of the members of the Board of Directors selected each year for terms commencing in that year".

NEW COMMUNITIES

SEC. 339F. Section 717(b) of the National Urban Policy and New Community Development Act of 1970 is amended by adding the following new sentence at the end thereof: "With respect to fiscal year 1982, the Secretary may not issue obligations under this section in an aggregate amount in excess of $33,250,000.".

PURCHASER-BROKER ARRANGEMENT

SEC. 339G. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"PURCHASER-BROKER ARRANGEMENT

"SEC. 532. In carrying out the provisions of title II of this Act with respect to insuring mortgages secured by a one- to four-family residence, the Secretary may not exclude from the principal amount which may be insured under such title any sum solely on the basis that such sum is to be paid by the purchaser to a broker who has been the purchaser's agent in the purchase of the residence, but the principal amount of the mortgage, when such sum is added, shall not exceed the limitation as to maximum mortgage amount provided in title II.".

MORTGAGE INSURANCE FOR HOSPITALS

SEC. 339H. Section 242(d)(5) of the National Housing Act is amended by adding at the end thereof the following: "This paragraph shall not limit the authority of the Secretary to approve a mortgage increase on any mortgage eligible for insurance under this paragraph at any time prior to final endorsement of the loan for insurance; except that such mortgage increase may not be approved for the cost of constructing any improvements not included in the original plans and specifications approved by the Department of Health and Human Services unless approved by the Secretary of Housing and Urban Development and by the Secretary of Health and Human Services.".

PART 4—FLOOD, CRIME, AND RIOT INSURANCE

FLOOD INSURANCE

SEC. 341. (a) Section 1376(c) of the National Flood Insurance Act of 1968 is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof ", and not to exceed $42,600,000 for the fiscal year 1982".

(b)(1) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(2) Section 1336(a) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c)(1) Section 1310(a) of such Act is amended by inserting "as described in subsection (f)" after "which shall be available".

(2) Section 1310 of such Act is amended by adding the following new subsection at the end thereof:

"(f) The fund shall be available, with respect to any fiscal year beginning on or after October 1, 1981, only to the extent approved in appropriation Acts; except that the fund shall be available for the purpose described in subsection (d)(1) without such approval.".

(d)(1) Chapter I of such Act is amended by adding the following new section at the end thereof:

"UNDEVELOPED COASTAL BARRIERS

"SEC. 1321. (a) No new flood insurance coverage shall be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on undeveloped coastal barriers which shall be designated by the Secretary of the Interior.

"(b) For purposes of this section—

"(1) the term 'coastal barrier' means—

"(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) which—

"(i) consists of unconsolidated sedimentary materials,

"(ii) is subject to wave, tidal, and wind energies, and

"(iii) protects landward aquatic habitats from direct wave attack; and

"(B) all associated aquatic habitats including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

"(2) a coastal barrier or any portion thereof shall be treated as an undeveloped coastal barrier for purposes of subsection (a) only if there are few manmade structures on the barrier or portion thereof and these structures and man's activities on the barrier do not significantly impede geomorphic and ecological processes; and

"(3) a coastal barrier which is included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes shall not be designated as an undeveloped coastal barrier for purposes of subsection (a).

"(c) A federally insured financial institution may make loans secured by structures which are not eligible for flood insurance under this title by reason of subsection (a).".

(2) The Secretary of the Interior shall conduct a study for the purpose of designating the undeveloped coastal barriers which will be affected by the amendment made by paragraph (1). Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report of the findings and conclusions of such study together with a proposed designation of the undeveloped coastal barriers and any recommendation regarding the definition of the term "coastal barrier" as enacted by such amendment.

(e) Section 1345 of such Act is amended by adding at the end thereof the following:

"(c) The Director of the Federal Emergency Management Agency shall hold any agent or broker selling or undertaking to sell flood insurance under this title harmless from any judgment for damages against such agent or broker as a result of any court action by a policyholder or applicant arising out of an error or omission on the part of the Federal Emergency Management Agency, and shall provide any such agent or broker with indemnification, including court costs and reasonable attorney fees, arising out of and caused by an error or omission on the part of the Federal Emergency Management Agency and its contractors. The Director of the Federal Emergency Management Agency may not hold harmless or indemnify an agent or broker for his or her error or omission.".

CRIME AND RIOT INSURANCE

SEC. 342. (a) Section 1201(b) of the National Housing Act is amended—

(1) by striking out "September 30, 1981" in paragraph (1) and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "September 30, 1984" in paragraph (1)(A) and inserting in lieu thereof "September 30, 1985".

(b) Section 1211(b) of the National Housing Act is amended—

(1) by inserting "and" at the end of paragraph (9);

(2) by striking out "; and" at the end of paragraph (10) and inserting in lieu thereof a period; and

(3) by striking out paragraph (11).

PART 5—RURAL HOUSING

AUTHORIZATIONS

SEC. 351. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $3,797,600,000 with respect to the fiscal year ending September 30, 1981" in subsection (a) and inserting in lieu thereof "not to exceed $3,700,600,000 with respect to the fiscal year ending September 30, 1982";

(2) by striking out "not less than $3,120,000,000" in subsection (a)(1) and inserting in lieu thereof "not less than $3,170,000,000";

(3) by striking out "not more than $100,000,000" in subsection (a)(4) and inserting in lieu thereof "none";

(4) by striking out subsection (b)(2) and inserting in lieu thereof the following:

"(2) not to exceed $50,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1982, of which not more than $25,000,000 shall be available for grants;";

(5) by striking out subsection (b)(3) and inserting in lieu thereof the following:

"(3) not to exceed $25,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1982;";

(6) by striking out "September 30, 1981" in subsection (b)(4) and inserting in lieu thereof "September 30, 1982"; and

(7) by striking out "and" at the end of subsection (b)(4), by striking out the period at the end of subsection (b)(5) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(6) not to exceed $2,000,000 for the purposes of section 509(c) for the fiscal year ending September 30, 1982.".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(d) Section 521(a)(2)(D) of such Act is amended—

(1) by striking "$493,000,000" and inserting in lieu thereof "$398,000,000"; and

(2) by striking out "1981, except that" and all that follows through the period at the end thereof and inserting in lieu thereof "1982.".

(e) Section 523 of such Act is amended—

(1) by striking out "September 30, 1981" each place it appears in subsection (f) and inserting in lieu thereof "September 30, 1982";

(2) by striking out "not to exceed $2,500,000 for fiscal year 1981" in the first sentence of subsection (g) and inserting in lieu thereof "not to exceed $3,000,000 for fiscal year 1982";

(3) by inserting the following after "shall be available" in the second sentence of subsection (g): ", to the extent approved in appropriation Acts,"; and

(4) by inserting the following before the period at the end of the second sentence of subsection (g): "; except that not more than $5,000,000 may be made available during fiscal year 1982".

INTEREST SUBSIDY PROGRAM

SEC. 352. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by striking out "shall" and inserting in lieu thereof "may".

REPORTS

SEC. 353. The Secretary of Agriculture shall transmit a report to the Congress not later than March 1, 1982, setting forth—

(1) various options for presenting the budget of the Farmers Home Administration and alternatives to the use of Federal Financing Bank financing for rural housing programs;

(2) workable definitions of "low income" which will target Farmers Home Administration housing assistance programs to a population substantially equivalent to the population served by the Department of Housing and Urban Development's assisted housing programs;

(3) the effect of a requirement that 30 per centum of assistance provided by the Farmers Home Administration be provided to families with incomes at 50 per centum of area median income and recommendations for contribution requirements which will achieve equity with the contribution requirements of the Department of Housing and Urban Development's assisted housing programs;

(4) recommendations for ensuring that subsidy levels for assisted families are minimized and that assisted families with similar circumstances in different regions of the country are treated equally; and

(5) the Farmers Home Administration's efforts to minimize the cost of housing subsidized under its programs and the Farmers Home Administration's use of existing lower cost housing technology.

PART 6—MULTIFAMILY MORTGAGE FORECLOSURE

SHORT TITLE

SEC. 361. This part may be cited as the "Multifamily Mortgage Foreclosure Act of 1981".

FINDINGS AND PURPOSE

SEC. 362. (a) The Congress finds that—

(1) disparate State laws under which the Secretary of Housing and Urban Development forecloses real estate mortgages which the Secretary holds pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964 covering multiunit residential and nonresidential properties burden the programs administered by the Secretary pursuant to these authorities, and cause detriment to the residents of the affected projects and the community generally;

(2) long periods to complete the foreclosure of these mortgages under certain State laws lead to deterioration in the condition of the properties involved; necessitate substantial Federal management and holding expenditures; increase the risk of vandalism, fire loss, depreciation, damage, and waste with respect to the properties; and adversely affect the residents of the projects and the neighborhoods in which the properties are located;

(3) these conditions seriously impair the Secretary's ability to protect the Federal financial interest in the affected properties and frustrate attainment of the objectives of the underlying Federal program authorities, as well as the national housing goal of "a decent home and a suitable living environment for every American family";

(4) application of State redemption periods to these mortgages following their foreclosure would impair the salability of the properties involved and discourage their rehabilitation and improvement, thereby compounding the problems referred to in clause (3);

(5) the availability of a uniform and more expeditious procedure for the foreclosure of these mortgages by the Secretary and continuation of the practice of not applying postsale redemption periods to such mortgages will tend to ameliorate these conditions; and

(6) providing the Secretary with a nonjudicial foreclosure procedure will reduce unnecessary litigation by removing many foreclosures from the courts where they contribute to overcrowded calendars.

(b) The purpose of this part is to create a uniform Federal foreclosure remedy for multiunit residential and nonresidential mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964.

DEFINITIONS

SEC. 363. As used in this part—

(1) "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal or mixed, or any interest in property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation;

(2) "multifamily mortgage" means a mortgage held by the Secretary pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964 covering any property, except a property on which there is located a one- to four-family residence;

(3) "mortgage agreement" means the note or debt instrument and the mortgage instrument, deed of trust instrument, trust deed, or instrument or instruments creating the mortgage, including any instrument incorporated by reference therein (including any applicable regulatory agreement), and any instrument or agreement amending or modifying any of the foregoing;

(4) "mortgagor" means the obligor, grantor, or trustor named in the mortgage agreement and, unless the context otherwise indicates, includes the current owner of record of the security property whether or not personally liable on the mortgage debt;

(5) "person" includes any individual, group of individuals, association, partnership, corporation, or organization;

(6) "record" and "recorded" include "register" and "registered" in the instance of registered land;

(7) "security property" means the property, real, personal or mixed, or an interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, together with fixtures and other interests subject to the lien of the mortgage under applicable State law;

(8) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, and Indian tribes as defined by the Secretary;

(9) "county" means county as defined in section 2 of title I, United States Code; and

(10) "Secretary" means the Secretary of Housing and Urban Development.

APPLICABILITY

SEC. 364. Multifamily mortgages held by the Secretary encumbering real estate located in any State may be foreclosed by the Secretary in accordance with this part, or pursuant to other foreclosure procedures available, at the option of the Secretary.

DESIGNATION OF FORECLOSURE COMMISSIONER

SEC. 365. A foreclosure commissioner or commissioners designated pursuant to this part shall have a nonjudicial power of sale as provided in this part. Where the Secretary is the holder of a multifamily mortgage, the Secretary may designate a foreclosure commissioner and, with or without cause, may designate a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, by executing a duly acknowledged, written designation stating the name and business or residential address of the commissioner or substitute commissioner. The designation shall be effective upon execution. Except as provided in section 368(b), a copy of the designation shall be mailed with each copy of the notice of default and foreclosure sale served by mail in accordance with section 369(1). The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business under the laws of the State in which the security property is located. The foreclosure commissioner shall be a person who is responsible, financially sound and competent to conduct the foreclosure. More than one foreclosure commissioner may be designated. If a natural person is designated as foreclosure commissioner or substitute foreclosure commissioner, such person shall be designated by name, except that where such person is designated in his or her capacity as an official or employee of the government of the State or subdivision thereof in which the security property is located, such person may be designated by his or her unique title or position instead of by name. The Secretary shall be a guarantor of payment of any judgment against the foreclosure commissioner for damages based upon the commissioner's failure properly to perform the commissioner's duties. As between the Secretary and the mortgagor, the Secretary shall bear the risk of any financial default by the foreclosure commissioner. In the event that the Secretary makes any payment pursuant to the preceding two sentences, the Secretary shall be fully subrogated to the rights satisfied by such payment.

PREREQUISITES TO FORECLOSURE

SEC. 366. Foreclosure by the Secretary under this part of a multifamily mortgage may be commenced, as provided in section 368, upon the breach of a covenant or condition in the mortgage agreement for which foreclosure is authorized under the mortgage, except that no such foreclosure may be commenced unless any previously pending proceeding, judicial or nonjudicial, separately instituted by the Secretary to foreclose the mortgage other than under this part has been withdrawn, dismissed, or otherwise terminated. No such separately insti-

tuted foreclosure proceeding on the mortgage shall be instituted by the Secretary during the pendency of foreclosure pursuant to this part. Nothing in this part shall preclude the Secretary from enforcing any right, other than foreclosure, under applicable State law, including any right to obtain a monetary judgment. Nothing in this part shall preclude the Secretary from foreclosing under this part where the Secretary has obtained or is seeking any other remedy available pursuant to Federal or State law or under the mortgage agreement, including, but not limited to, the appointment of a receiver, mortgagee-in-possession status or relief under an assignment of rents.

NOTICE OF DEFAULT AND FORECLOSURE SALE

SEC. 367. (a) The notice of default and foreclosure sale to be served in accordance with this part shall be subscribed with the name and address of the foreclosure commissioner and the date on which subscribed, and shall set forth the following information:

(1) the names of the Secretary, the original mortgagee and the original mortgagor;

(2) the street address or a description of the location of the security property, and a description of the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

(3) the date of the mortgage, the office in which the mortgage is recorded, and the liber and folio or other description of the location of recordation of the mortgage;

(4) the failure to make payment, including the due date of the earliest installment payment remaining wholly unpaid as of the date the notice is subscribed, or the description of other default or defaults upon which foreclosure is based, and the acceleration of the secured indebtedness;

(5) the date, time, and place of the foreclosure sale;

(6) a statement that the foreclosure is being conducted pursuant to this part;

(7) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

(8) the amount and method of deposit to be required at the foreclosure sale (except that no deposit shall be required of the Secretary), the time and method of payment of the balance of the foreclosure purchase price and other appropriate terms of sale.

(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms, as appropriate, of the loan program under section 312 of the Housing Act of 1964, the program under which insurance under title II of the National Housing Act was originally provided with respect to such property, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.

(2)(A) In any case where the majority of the residential units in a property subject to such a sale are occupied by residential tenants at the time of the sale, the Secretary shall require, as a condition and term of sale, any purchaser (other than the Secretary) to operate the property in accordance with such terms, as appropriate, of the programs referred to in paragraph (1).

(B) In any case where the Secretary is the purchaser of a multifamily project, the Secretary shall manage and dispose of such project in accordance with the provisions of section 203 of the Housing and Community Development Amendments of 1978.

COMMENCEMENT OF FORECLOSURE

SEC. 368. (a) If the Secretary as holder of a multifamily mortgage determines that the prerequisites to foreclosure set forth in section 366 are satisfied, the Secretary may request the foreclosure commissioner to commence foreclosure of the mortgage. Upon such request, the foreclosure commissioner shall commence foreclosure of the mortgage, by commencing service of a notice of default and foreclosure sale in accordance with section 369.

(b) Subsequent to commencement of a foreclosure under this part, the Secretary may designate a substitute foreclosure commissioner at any time up to forty-eight hours prior to the time of foreclosure sale, and the foreclosure shall continue without prejudice, unless the substitute commissioner, in his or her sole discretion, finds that continuation of the foreclosure sale will unfairly affect the interests of the mortgagor. In the event that the substitute commissioner makes such a finding, the substitute commissioner shall cancel the foreclosure sale, or adjourn such sale in the manner provided in section 369B(c). Upon designation of a substitute foreclosure commissioner, a copy of the written notice of such designation referred to in section 365 shall be served upon the persons set forth in section 369(1) of this part (1) by mail as provided in such section 369 (except that the minimum time periods between mailing and the date of foreclosure sale prescribed in such section shall not apply to notice by mail pursuant to this subsection), or (2) in any other manner, which in the substitute commissioner's sole discretion, is conducive to achieving timely notice of such substitution. In the event a substitute foreclosure commissioner is designated less than forty-eight hours prior to the time of the foreclosure sale, the pending foreclosure shall be terminated and a new foreclosure shall be commenced by commencing service of a new notice of default and foreclosure sale.

SERVICE OF NOTICE OF DEFAULT AND FORECLOSURE SALE

SEC. 369. The foreclosure commissioner shall serve the notice of default and foreclosure sale provided for in section 367 upon the following persons and in the following manner, and no additional notice shall be required to be served notwithstanding any notice requirements of any State or local law—

(1) NOTICE BY MAIL.—The notice of default and foreclosure sale, together with the designation required by section 365, shall be sent by certified or registered mail, postage prepaid and return receipt requested, to the following persons:

(A) the current security property owner of record, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this part;

(B) the original mortgagor and all subsequent mortgagors of record or other persons who appear of record or in the mortgage agreement to be liable for part or all of the mortgage debt, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this part, except any such mortgagors or persons who have been released; and

(C) all persons holding liens of record upon the security property, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this part.

Notice under clauses (A) and (B) of this paragraph shall be mailed at least twenty-one days prior to the date of foreclosure sale, and shall be mailed to the owner or mortgagor at the address stated in the mortgage agreement, or, if none, to the address of the security property, or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such owner or mortgagor. Notice under clause (C) of this paragraph shall be mailed at least ten days prior to the date of foreclosure sale, and shall be mailed to each such lienholder's address as stated of record or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such lienholder. Notice by mail pursuant to this subsection or section 368(b) of this part shall be deemed duly given upon mailing, whether or not received by the addressee and whether or not a return receipt is received or the letter is returned.

(2) PUBLICATION.—A copy of the notice of default and foreclosure sale shall be published, as provided herein, once a week during three successive calendar weeks, and the date of last publication shall be not less than four nor more than twelve days prior to the sale date. The information included in the notice of default and foreclosure sale pursuant to section 367(a)(4) may be omitted, in the foreclosure commissioner's discretion, from the published notice. Such publication shall be in a newspaper or newspapers having general circulation in the county or counties in which the security property being sold is located. To the extent practicable, the newspaper or newspapers chosen shall be a newspaper or newspapers, if any is available, having circulation conducive to achieving notice of foreclosure by publication. Should there be no newspaper published at least weekly which has a general circulation in one of the counties in which the security property being sold is located, copies of the notice of default and foreclosure sale shall be posted in at least three public places in each such county at least twenty-one days prior to the date of sale.

(3) POSTING.—A copy of the notice of default and foreclosure sale shall be posted in a prominent place at or on the real property to be sold at least seven days prior to the foreclosure sale, and entry upon the premises for this purpose shall be privileged as against all persons. If the property consists of two or more noncontiguous parcels of land, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such parcel. If the security property consists of two or more separate buildings, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such building. Posting at or on the premises shall not be required where the foreclosure commissioner, in the commissioner's sole discretion, finds that the act of posting will likely cause a breach of the peace or that posting may result in an increased risk of vandalism or damage to the property.

PRESALE REINSTATEMENT

SEC. 369A. (a) Except as provided in sections 368(b) and 369B(c), the foreclosure commissioner shall withdraw the security property from foreclosure and cancel the foreclosure sale only if—

(1) the Secretary so directs the commissioner prior to or at the time of sale;

(2) the commissioner finds, upon application of the mortgagor at least three days prior to the date of sale, that the default or defaults upon which the foreclosure is based did not exist at the time of service of the notice of default and foreclosure sale; or

(3)(A) in the case of a foreclosure involving a monetary default, there is tendered to the foreclosure commissioner before public auction is completed the entire amount of principal and interest which would be due if payments under the mortgage had not been accelerated; (B) in the case of a foreclosure involving a nonmonetary default, the foreclosure commissioner, upon application of the mortgagor before the date of foreclosure sale, finds that such default is cured; and (C) there is tendered to the foreclosure commissioner before public auction is completed all amounts due under the mortgage agreement (excluding additional amounts which would have been due if mortgage payments had been accelerated), all amounts of expenditures secured by the mortgage and all costs of foreclosure incurred for which payment from the proceeds of foreclosure is provided in section 369C, except that the Secretary shall have discretion to refuse to cancel a foreclosure pursuant to this paragraph (3) if the current mortgagor or owner of record has on one or more previous occasions caused a foreclosure of the mortgage, commenced pursuant to this part or otherwise, to be canceled by curing a default.

(b) Prior to withdrawing the security property from foreclosure in the circumstances described in subsection (a)(2) or (a)(3), the foreclosure commissioner shall afford the Secretary a reasonable opportunity to demonstrate why the security property should not be so withdrawn.

(c) In any case in which a foreclosure commenced under this part is canceled, the mortgage shall continue in effect as though acceleration had not occurred.

(d) If the foreclosure commissioner cancels a foreclosure sale under this part a new foreclosure may be subsequently commenced as provided in this part.

CONDUCT OF SALE; ADJOURNMENT

SEC. 369B. (a) The date of foreclosure sale set forth in the notice of default and foreclosure sale shall not be prior to thirty days after the due date of the earliest installment wholly unpaid or the earliest occurrence of any uncured nonmonetary default upon which foreclosure is based. Foreclosure sale pursuant to this part shall be at public auction, and shall be scheduled to begin between the hours of 9 o'clock ante meridian and 4 o'clock post meridian local time on a day other than Sunday or a public holiday as defined by section 6103(a) of title 5, United States Code, or State law. The foreclosure sale shall be held at a location specified in the notice of default and foreclosure sale, which shall be a location where foreclosure real estate auctions are customarily held in the county or one of the counties in which the property to be sold is located, or at a courthouse therein, or at or on the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated.

(b) The foreclosure commissioner shall conduct the foreclosure sale in accordance with the provisions of this part and in a manner fair to both the mortgagor and the Secretary. The foreclosure commissioner shall attend the foreclosure sale in person, or, if there are two or more commissioners, at least one shall attend the foreclosure sale. In the event that no foreclosure commissioner is a natural person, the foreclosure commissioner shall cause its duly authorized employee to attend the foreclosure sale to act on its behalf. Written one-price sealed bids shall be accepted by the foreclosure commissioner from the Secretary and other persons for entry by announcement by the commissioner at the sale. The Secretary and any other person may bid at the foreclosure sale, including the Secretary or any other person who has submitted a written one-price bid, except that the foreclosure commissioner or any relative, related business entity or employee of such commissioner or entity shall not be permitted to bid in any manner on the security property subject to foreclosure sale. The foreclosure commissioner may serve as auctioneer, or, in accordance with regulations of the Secretary, may employ an auctioneer to be paid from the commission provided for in section 369C(5).

(c) The foreclosure commissioner shall have discretion, prior to or at the time of sale, to adjourn or cancel the foreclosure sale if the commissioner determines, in the commissioner's sole discretion, that circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary or that additional time is necessary to determine whether the security property should be withdrawn from foreclosure as provided in section 369A. The foreclosure commissioner may adjourn a sale to a later hour the same day without the giving of further notice, or may adjourn the foreclosure sale for not less than nine nor more than twenty-four days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite that the foreclosure sale has been adjourned to a specified date and to include any corrections the foreclosure commissioner deems appropriate. Such notice shall be served by publication, mailing and posting in accordance with section 369, except that publication may be made on any of three separate days prior to the revised date of foreclosure sale, and mailing may be made at any time at least seven days prior to the date to which the foreclosure sale has been adjourned.

FORECLOSURE COSTS

SEC. 369C. The following foreclosure costs shall be paid from the sale proceeds prior to satisfaction of any other claim to such sale proceeds:

(1) necessary advertising costs and postage incurred in giving notice pursuant to sections 369 and 369B;

(2) mileage for posting notices and for the foreclosure commissioner's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

(3) reasonable and necessary costs actually incurred in connection with any necessary search of title and lien records;

(4) necessary out-of-pocket costs incurred by the foreclosure commissioner to record documents; and

(5) a commission for the foreclosure commissioner for the conduct of the foreclosure to the extent authorized by regulations issued by the Secretary.

DISPOSITION OF SALE PROCEEDS

SEC. 369D. Money realized from a foreclosure sale shall be made available for obligation and expenditure—

(1) first to cover the costs of foreclosure provided for in section 369C;

(2) then to pay valid tax liens or assessments prior to the mortgage;

(3) then to pay any liens recorded prior to the recording of the mortgage which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale;

(4) then to service charges and advancements for taxes, assessments, and property insurance premiums;

(5) then to the interest;

(6) then to the principal balance secured by the mortgage (including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement); and

(7) then to late charges.

Any surplus after payment of the foregoing shall be paid to holders of liens recorded after the mortgage and then to the appropriate mortgagor. If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the allocation of the surplus, or if any person claiming an interest in the mortgage proceeds does not agree that some or all of the sale proceeds should be paid to a claimant as provided in this section, that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs in taking or defending such action shall be deductible from the disputed funds.

TRANSFER OF TITLE AND POSSESSION

SEC. 369E. (a) The foreclosure commissioner shall deliver a deed or deeds to the purchaser or purchasers and obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale.

(b) Subject to subsection (c), the foreclosure deed or deeds shall convey all of the right, title, and interest in the security property covered by the deed which the Secretary as holder, the foreclosure commissioner, the mortgagor, and any other persons claiming by, through, or under them, had on the date of execution of the mortgage, together with all of the right, title, and interest thereafter acquired by any of them in such property up to the hour of sale, and no judicial proceeding shall be required ancillary or supplementary to the procedures provided in this part to assure the validity of the conveyance or confirmation of such conveyance.

(c) A purchaser at a foreclosure sale held pursuant to this part shall be entitled to possession upon passage of title to the mortgaged property, subject to an interest or interests senior to that of the mortgage and subject to the terms of any lease of a residential tenant for the remaining term of the lease or for one year, whichever period is shorter. Any other person remaining in possession after the sale and any residential tenant remaining in possession after the applicable period shall be deemed a tenant at sufferance.

(d) There shall be no right of redemption, or right of possession based upon right of redemption, in the mortgagor or others subsequent to a foreclosure pursuant to this part.

(e) When conveyance is made to the Secretary, no tax shall be imposed or collected with respect to the foreclosure commissioner's deed, whether as a tax upon the instrument or upon the privilege of conveying or transferring title to the property. Failure to collect or pay a tax of the type and under the circumstances stated in the preceding sentence shall not be grounds for refusing to record such a deed, for failing to recognize such recordation as imparting notice or for denying the enforcement of such a deed and its provisions in any State or Federal court.

RECORD OF FORECLOSURE AND SALE

SEC. 369F. (a) To establish a sufficient record of foreclosure and sale, the foreclosure commissioner shall include in the recitals of the deed to the purchaser or prepare an affidavit or addendum to the deed stating—

(1) that the mortgage was held by the Secretary;

(2) the particulars of the foreclosure commissioner's service of notice of default and foreclosure sale in accordance with sections 369 and 369B;

(3) that the foreclosure was conducted in accordance with the provisions of this part and with the terms of the notice of default and foreclosure sale;

(4) a correct statement of the costs of foreclosure, calculated in accordance with section 369C; and

(5) the name of the successful bidder and the amount of the successful bid.

(b) The deed executed by the foreclosure commissioner, the foreclosure commissioner's affidavit and any other instruments submitted for recordation in relation to the foreclosure of the security property under this part shall be accepted for recordation by the registrar of deeds or other appropriate official of the county or counties in which the security property is located upon tendering of payment of the usual recording fees for such instruments.

COMPUTATION OF TIME

SEC. 369G. Periods of time provided for in this part shall be calculated in consecutive calendar days including the day or days on which the actions or events occur or are to occur for which the period of time is provided and including the day on which an event occurs or is to occur from which the period is to be calculated.

SEPARABILITY

SEC. 369H. If any clause, sentence, paragraph or part of this part shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof and of this part, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

REGULATIONS

SEC. 369I. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this part.

PART 7—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 371. (a) Except as otherwise provided in this subtitle, the provisions of this subtitle shall take effect on October 1, 1981.

(b) The amendments made by sections 324, 325, and 326(a) shall apply only with respect to contracts entered into on and after October 1, 1981.

Subtitle B—Banking and Related Programs

SHORT TITLE

SEC. 380. This subtitle may be cited as the "Banking and Related Programs Authorization Adjustment Act".

EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 381. (a) Section 7(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended—

(1) by inserting "(1)" after "Sec. 7. (a)"; and

(2) by adding at the end thereof the following:

"(2) Within the limits of funds and borrowing authority available to the Bank pursuant to this Act, gross obligations for the principal amount of direct loans authorized by the Bank during fiscal years 1982 and 1983 shall not exceed $10,478,000,000, of which amount $5,065,000,000 is designated for fiscal year 1982 and $5,413,000,000 is designated for fiscal year 1983.".

(b) On or before December 15, 1981, the Secretary of the Treasury shall transmit a report to both Houses of the Congress regarding the status of negotiations within the Organization for Economic Cooperation and Development on improving the International Arrangement on Guidelines for Officially Supported Export Credits and on the status of any other multilateral or bilateral negotiations or discussions for the purpose of improving any other arrangements, standstills, minutes, and practices involving official export financing in which the United States participates. Such report shall include—

(1) an assessment of the progress, if any, that has been made in these negotiations, and of the prospects for a successful conclusion to these negotiations within a reasonable time; and

(2) a recommendation by the Secretary of the Treasury as to whether the Congress, in order to improve the prospects for a successful conclusion to these negotiations, should enact legislation for the purpose of enhancing the ability of the Export-Import Bank of the United States to offer or support export credit fully competitive with the subsidized official export credit offered or supported by other governments.

DEPARTMENT OF THE TREASURY

SEC. 382. (a) Section 5 of the Act of November 8, 1978 (92 Stat. 3092; Public Law 95-612), is amended—

(1) in subsection (a), by striking out "$24,000,000 for fiscal year 1979 and $22,375,000 for fiscal year 1980," and inserting in lieu thereof "$22,896,000 for fiscal year 1982, and such sums as may be necessary for each fiscal year thereafter"; and

(2) in subsection (b), by striking out "for fiscal year 1980 not to exceed $800,000" and inserting in lieu thereof "not to exceed $1,000,000 for fiscal year 1982, and such sums as may be necessary for each fiscal year thereafter,".

(b) The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1982 not to exceed $54,706,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1981.

COUNCIL ON WAGE AND PRICE STABILITY

SEC. 383. Section 6 of the Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is hereby repealed.

USURY PROVISION

SEC. 384. Section 501(a)(1)(C)(vi) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 1735f-7 note) is amended by inserting "or a residential manufactured home" after "residential real property".

RESERVE REQUIREMENTS

SEC. 385. (a) Section 19(b)(8)(E) of the Federal Reserve Act (12 U.S.C. 461(b)(8)(E)) is amended by striking out the first two sentences thereof and inserting in lieu thereof the following: "This subparagraph applies to any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in a State outside the continental limits of the United States, and (ii) was not a member of the Federal Reserve System at any time on or after such date. Such a depository institution shall not be required to maintain reserves against its deposits held or maintained at its offices located in a State outside the continental limits of the United States until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980.".

(b) The third sentence of section 19(b)(8)(E) of such Act (12 U.S.C. 461(b)(8)(E)) is amended by striking out "its deposits" and inserting in lieu thereof "such deposits".

Subtitle C—National Consumer Cooperative Bank Act Amendments

SHORT TITLE

SEC. 390. This subtitle may be cited as the "National Consumer Cooperative Bank Act Amendments of 1981".

ACCELERATION OF FINAL GOVERNMENT EQUITY REDEMPTION DATE

SEC. 391. (a)(1) The National Consumer Cooperative Bank Act (12 U.S.C. 3001 et seq.) is amended by inserting after section 115 the following:

"ACCELERATION OF FINAL GOVERNMENT EQUITY REDEMPTION DATE

"SEC. 116. (a)(1)(A) The Final Government Equity Redemption Date shall occur on December 31, 1981, or not later than 10 days after the date of the enactment of the first Act providing for appropriations for fiscal year 1982 (other than continuing appropriations) for the Department of Housing and Urban Development and Independent Agencies, whichever occurs later.

"(B) Not later than 5 days after the Final Government Equity Redemption Date, the Secretary of the Treasury shall publish a notice in the Federal Register indicating the day on which the Final Government Equity Redemption Date occurred.

"(2)(A) Before the Final Government Equity Redemption Date, the Secretary of the Treasury shall purchase all class A stock for which the Congress has appropriated funds.

"(B) After the Final Government Equity Redemption Date, the Secretary of the Treasury shall not purchase any class A stock.

"(3)(A) On the Final Government Equity Redemption Date, all class A stock held by the Secretary of the Treasury on such date shall be redeemed by the Bank in exchange for class A notes which are issued by the Bank to the Secretary of the Treasury on behalf of the United States and which have a total face value equal to the total par value of the class A stock which is so redeemed, plus any unpaid dividends on such stock.

"(B) During the period beginning on the Final Government Equity Redemption Date and ending on December 31, 1990, not less than 30 percent of the revenue derived from the sale of stock by the Bank, other than the sale of class B stock or class C stock, shall be used, upon receipt, to retire class A notes.

"(C) After December 31, 1990, the Bank shall maintain a repayment schedule for class A notes which will assure full repayment of all class A notes not later than December 31, 2020. The requirement specified in the previous sentence is in addition to the requirement regarding the redemption of class A notes which is specified in section 104(c).

"(b)(1) The United States shall not be responsible for any obligation of the Bank which is incurred after the Final Government Equity Redemption Date.

"(2) As soon as practicable after the date of the enactment of this section, the Board shall adopt bylaws which will assist in expediting and coordinating the activities which will occur with respect to the Final Government Equity Redemption Date.".

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b)(1) Only for purposes of section 107(a) of the National Consumer Cooperative Bank Act (12 U.S.C. 3017(a)), class A notes shall be deemed to be paid-in capital of the Bank.

(2) This subsection shall take effect on the day after the Final Government Equity Redemption Date.

TAX STATUS OF THE BANK

SEC. 392. (a) Section 109 of the National Consumer Cooperative Bank Act (12 U.S.C. 3019) is amended—

(1) by striking out "Until the Final Government Equity Redemption Date, but not thereafter, the Bank" and inserting in lieu thereof "(a) The Bank"; and

(2) by adding at the end thereof the following:

"(b) Notwithstanding any other provision of law, for purposes of subchapter T of the Internal Revenue Code of 1954—

"(1) the Bank shall be treated as a corporation operating on the cooperative basis within the meaning of section 1381(a)(2) of such Code;

"(2) the term 'patronage dividend', as defined in section 1388(a) of such Code includes, only as such section applies to the Bank, any patronage refunds in the form of class B or class C stock or allocated surplus that are distributed or set aside by the Bank pursuant to section 104(i) of this Act;

"(3) the terms 'written notice of allocation' and 'qualified written notices of allocation', as defined in section 1388 (b) and (c) of such Code, include (to the extent of par value), only as such sections apply to the Bank, any class B or class C stock distributed by the Bank pursuant to section 104(i) of this Act and shall also include any allocated surplus set aside by the Bank pursuant to section 104(i) of this Act;

"(4) patrons of the Bank shall be deemed to have consented under section 1388(c)(2) of such Code to the inclusion in their incomes of any qualified written notices of allocation received by such patrons from the Bank; and

"(5) any amounts required to be included in the incomes of patrons of the Bank with respect to class B or class C stock or allocated surplus shall be treated as earnings from business done by such patrons of the Bank with or for their own patrons.".

(b) The amendments made by subsection (a) shall take effect on the day after the Final Government Equity Redemption Date.

BOARD OF DIRECTORS

SEC. 393. (a) Subsections (a), (b), (c), and (d) of section 103 of such Act (12 U.S.C. 3013) are amended to read as follows:

"(a) The Bank shall be governed by a Board of Directors (hereinafter in this Act referred to as the 'Board') which shall consist of 15 members. All members shall serve for a term of 3 years. After the expiration of the term of any member, such member may continue to serve until his successor has been elected or has been appointed and qualified. Any member appointed by the President may be removed for cause by the President.

"(b)(1) The President shall appoint, by and with the advice and consent of the Senate—

"(A) one member who shall be selected from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers;

"(B) one member who shall be selected from among the officers of the agencies and departments of the United States; and

"(C) one member who shall be selected from among persons having extensive experience in the cooperative field representing low-income cooperatives eligible to borrow from the Bank.

"(2) Twelve members of the Board shall be elected by the holders of class B stock and class C stock in accordance with the provisions of subsection (d) and the bylaws of the Bank.

"(c)(1) On the day after the Final Government Equity Redemption Date, all members of the Board of Directors of the Bank who were appointed by the President shall resign, except that—

"(A) the member who shall have been appointed by the President from among proprietors of small business concerns, and

"(B) one member who shall be designated by the President and who shall have been appointed by the President from among the officers and employees of the agencies and departments of the United States Government,

may continue to serve until their successors have been appointed and qualified.

"(2) Any member of the Board of Directors of the Bank who was elected by the holders of class B or class C stock before the Final Government Equity Redemption Date shall serve the remainder of the term for which such member was elected.

"(3) Any member appointed pursuant to subsection (b)(1) shall be entitled to sit on any committee of the Board, but not more than one member so appointed may sit on any one committee.

"(d)(1) All elections of members of the Board by the holders of class B stock and class C stock shall be conducted in accordance with the bylaws of the Bank. Such bylaws shall conform to the requirements of this section. Nominations for such elections shall be made by the following classes of cooperatives: (A) housing, (B) consumer goods, (C) low-income cooperatives, (D) consumer services, and (E) all other eligible cooperatives.

"(2)(A) Vacant shareholder directorships shall be filled so that at any time when there are three or more shareholder directors on the Board, there shall be at least one director representing each of the following classes of cooperatives: (i) housing cooperatives, (ii) low-income cooperatives, and (iii) consumer goods and services cooperatives.

"(B) Each nominee for a shareholder directorship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented.

"(C) No one class of cooperatives specified in paragraph (1) shall be represented on the Board by more than three directors.".

(b) Section 103(h) of such Act (12 U.S.C. 3013(h)) is amended—

(1) in the second sentence thereof, by striking out ", until the Final Government Equity Redemption Date" and all that follows through "class B and class C stock" and inserting in lieu thereof "the member of the Board appointed pursuant to subsection (b)(1)(C)"; and

(2) by adding at the end thereof the following: "The members of the Board who are elected by the holders of class B stock and class C stock shall be compensated in accordance with the bylaws of the Bank. All compensation and expenses paid to the members of the Board of Directors shall be paid by the Bank.".

(c) The amendments made by subsections (a) and (b) shall take effect on the day after the Final Government Equity Redemption Date.

EXAMINATIONS AND AUDITS; CONFORMING AMENDMENTS

SEC. 394. (a)(1) Section 115 of the National Consumer Cooperative Bank Act (12 U.S.C. 3025) is amended to read as follows:

"EXAMINATION AND AUDIT

"SEC. 115. The Farm Credit Administration and the General Accounting Office are hereby authorized and directed to examine and audit the Bank. Reports regarding such examinations and audits shall be promptly forwarded to both Houses of the Congress. The Bank shall reimburse the Farm Credit Administration for the costs of any examination or audit conducted by the Farm Credit Administration.".

(2) The amendment made by paragraph (1) shall take effect on the day after the Final Government Equity Redemption Date.

(b) The second sentence of section 108(a) of such Act (12 U.S.C. 3018(a)) is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1985".

(c)(1) The first sentence of section 104(a) of such Act (12 U.S.C. 3014(a)) is amended by inserting "by other public or private investors," after "by public bodies,".

(2) The amendment made by paragraph (1) shall take effect on the day after the Final Government Equity Redemption Date.

(d)(1) The last sentence of section 102 of such Act (12 U.S.C. 3012) is amended to read as follows: "In determining whether a public offering is taking place for the purpose of the Securities Act of 1933, there shall be excluded from consideration all class B and class C stock purchases which took place prior to the date of the enactment of the National Consumer Cooperative Bank Act Amendments of 1981.".

(2) The amendment made by paragraph (1) shall take effect on the day after the Final Government Equity Redemption Date.

(e)(1) The first sentence of section 105(a) of such Act (12 U.S.C. 3015(a)) is amended by striking out "entirely owned" and inserting in lieu thereof "primarily owned".

(2) The amendment made by paragraph (1) shall take effect on the day after the Final Government Equity Redemption Date.

(f) Section 105(a)(5) of such Act (12 U.S.C. 3015(a)(5)) is amended by inserting "(except that this requirement shall not apply to any housing cooperative in existence on March 21, 1980, which did not meet such requirement on such date)" after "one vote per person basis".

(g)(1) The second sentence of section 107(a) of such Act (12 U.S.C. 3017(a)) is amended by striking out "after consultation with the Secretary of the Treasury".

(2) The amendment made by paragraph (1) shall take effect on the day after the Final Government Equity Redemption Date.

NONPROFIT CORPORATION

SEC. 395. (a) The National Consumer Cooperative Bank Act (12 U.S.C. 3001 et seq.) is amended by inserting after section 210 the following:

"ESTABLISHMENT OF NONPROFIT CORPORATION

"SEC. 211. (a)(1) Upon the incorporation of the nonprofit corporation described in subsection (b), the Office of Self-Help Development and Technical Assistance is hereby abolished.

"(2)(A) If the nonprofit corporation described in subsection (b) agrees to accept the liabilities of the Office, the Bank, notwithstanding any other provision of law, shall transfer all assets, liabilities, and property of the Office to such nonprofit corporation on the day on which such nonprofit corporation is incorporated.

"(B) Such assets shall include all sums which are appropriated to the Office by the Congress and all sums which are contained in the Account established pursuant to section 202. If any such sums are appropriated after the date on which the transfer described in subparagraph (A) occurs, the Bank shall promptly transfer such sums to such nonprofit corporation.

"(b)(1) As soon as possible after the date of the enactment of this section, the Board shall establish a nonprofit corporation under the laws of the District of Columbia and, notwithstanding the laws of the District of Columbia, name the directors of such nonprofit corporation.

"(2) Notwithstanding the laws of the District of Columbia, the Board of Directors of such nonprofit corporation shall—

"(A) select an executive director who shall be responsible for the administration of such nonprofit corporation;

"(B) set the compensation of such executive director and the other employees of such nonprofit corporation;

"(C) promulgate and publish the policies of such nonprofit corporation and make such policies available at all times to eligible cooperatives; and

"(D) perform the functions specified in subparagraphs (A) and (C) of paragraph (3).

"(3) Such nonprofit corporation shall only perform—

"(A) the functions which are authorized to be performed pursuant to sections 203 through 208 and section 210;

"(B) such functions as are necessary to comply with the laws under which it was incorporated in the District of Columbia; and

"(C) such functions as are necessary to remain qualified as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

"(4) Notwithstanding any other provision of law—

"(A) the Bank may provide administrative or staff support to such nonprofit corporation; and

"(B) any member of the Board of Directors of the Bank may serve as a member of the Board of Directors of such nonprofit corporation.

"(c)(1) Notwithstanding any other provision of law, such nonprofit corporation shall be deemed to be, and treated as, qualified as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 from the date on which such nonprofit corporation is established under the laws of the District of Columbia until the date on which the Internal Revenue Service makes a final determination on the application which such nonprofit corporation will submit to the Internal Revenue Service seeking status as an organization qualifying under such section.

"(2) When performed by such nonprofit corporation, the functions described in subsection (b)(3)(A) shall be deemed to be performed for 'charitable purposes' within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954.

"(d)(1) The Board of Directors of the Bank may make contributions to the nonprofit corporation in such amounts as the Board of Directors of the Bank deems appropriate, except that—

"(A) such contributions may be made only out of the Bank's earnings, determined in accordance with generally accepted accounting principles; and

"(B) the Bank shall set aside amounts sufficient to satisfy its obligations to the Secretary of the Treasury for payments of principal and interest on class A notes and other debt before making any contributions to such nonprofit corporation.

"(2) During any period in which the nonprofit corporation described in subsection (b) is qualified as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, contributions made by the Bank pursuant to paragraph (1) shall be treated as charitable contributions within the meaning of section 170(c)(2) of the Internal Revenue Code of 1954, and may be deducted notwithstanding the provisions of section 170(b)(2) of such Code.

"(3) During any period in which the nonprofit corporation described in subsection (b) is qualified as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, contributions to such nonprofit corporation by any person shall qualify as charitable contributions, as defined in section 170(c) of such Code, for purposes of the charitable contribution deduction provided for in section 170(a) of such Code, and shall also qualify for the deductions for estate and gift tax purposes provided for in sections 2055 and 2522 of the Internal Revenue Code of 1954.

"(e) Notwithstanding the laws of the District of Columbia, the Board of Directors of such nonprofit corporation shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the conflict of interest provisions adopted by the Board of Directors of the Bank pursuant to section 114.".

(b)(1) The first sentence of section 202 of the National Consumer Cooperative Bank Act (12 U.S.C. 3042) is amended by striking out "$10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act" and by inserting in lieu thereof "for the purpose of making advances under section 203 of this Act an amount not to exceed $14,000,000 for fiscal year 1982".

(2) Section 104(a) of such Act (12 U.S.C. 3014(a)) is amended by striking out the second and third sentences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated not to exceed $47,000,000 for fiscal year 1982 for purposes of purchasing class A stock.".

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1981.

CONFORMING AMENDMENTS; DEFINITIONS

SEC. 396. (a) For purposes of this subtitle, the term "Final Government Equity Redemption Date" shall have the same meaning given such term in section 101(5) of the National Consumer Cooperative Bank Act (12 U.S.C. 3011(5)).

(b) The first sentence of section 101 of the National Consumer Cooperative Bank Act (12 U.S.C. 3011) is amended to read as follows: "The Congress of the United States hereby creates and charters a body corporate to be known as the National Consumer Cooperative Bank (hereinafter in this Act referred to as the 'Bank').".

(c)(1) Section 104(b) of such Act (12 U.S.C. 3014(b)) is amended—

(A) in the first sentence, by striking out "class A, class B," and inserting in lieu thereof "class B"; and

(B) by amending the second and third sentences to read as follows: "Class A notes which are held by the United States shall have first preference with respect to assets and interest payments over all classes of stock issued by the Bank. So long as any class A notes are outstanding, the Bank shall not pay any dividend on any class of stock at a rate greater than the statutory interest rate payable on class A notes.".

(2) Section 104(c) of such Act (12 U.S.C. 3014(c)) is amended—

(A) by striking out the first sentence thereof;

(B) in the second sentence—

(i) by striking out "class A stock" and inserting in lieu thereof "class A notes";

(ii) by striking out "dividends" each place it appears therein and inserting in lieu thereof "interest payments"; and

(iii) by striking out ": Provided, That" and inserting in lieu thereof ", except that";

(C) in the third sentence, by striking out "dividends" and inserting in lieu thereof "interest payments";

(D) by amending the fourth sentence to read as follows: "Any such interest payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, except that any interest payment so deferred shall bear interest at a rate equal to the rate determined pursuant to the first sentence of this subsection.";

(E) in the fifth sentence, by striking out "any other class of stock" and all that follows through the end thereof and inserting in lieu thereof "any class of stock at any time when the deferred interest payments on class A notes shall not have been paid in full, together with any unpaid interest on such notes.";

(F) in the sixth sentence—

(i) by striking out "class A stock" each place it appears therein and inserting in lieu thereof "class A notes";

(ii) by striking out "other";

(iii) by striking out "dividends" and inserting in lieu thereof "interest payments"; and

(iv) by striking out "par value" and inserting in lieu thereof "face value"; and

(G) in the seventh sentence—

(i) by striking out "class A stock" each place it appears therein and inserting in lieu thereof "class A notes";

(ii) by striking out "cumulative dividends" and inserting in lieu thereof "interest payments";

(iii) by striking out ": Provided, That" and inserting in lieu thereof ", except that";

(iv) by striking out "of shares" after "fiscal year a number"; and

(v) by striking out "par value" each place it appears therein and inserting in lieu thereof "face value".

(3) Section 104(e) of such Act (12 U.S.C. 3014(e)) is amended—

(A) by striking out "class A stock" each place it appears therein and inserting in lieu thereof "class A notes"; and

(B) in the last sentence thereof, by striking out "statutory dividend" and inserting in lieu thereof "statutory interest payment".

(4) Section 104(f) of such Act (12 U.S.C. 3014(f)) is amended—

(A) by striking out "class A stock is" and inserting in lieu thereof "class A notes are"; and

(B) by striking out "class A stock as to dividends" and inserting in lieu thereof "class A notes as to dividends, interest payments,".

(5) Section 104(g)(2)(B) of such Act (12 U.S.C. 3014(g)(2)(B)) is amended by striking out "section 103(c)" and inserting in lieu thereof "section 103(d)(2)(A).".

(6) The second sentence of section 104(h) of such Act (12 U.S.C. 3014(h)) is hereby repealed.

(7) The first sentence of section 104(i) of such Act (12 U.S.C. 3014(i)) is amended—

(A) by striking out "cumulative dividends on class A stock" and inserting in lieu thereof "interest payments on class A notes"; and

(B) by striking out "class A stock in" and inserting in lieu thereof "class A notes in".

(d) Section 107 of such Act (12 U.S.C. 3017) is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(e) The second sentence of section 108(b) of such Act (12 U.S.C. 3018(b)) is amended by striking out ", but so long as" and all that follows through "class B stock in the Bank".

(f) The last sentence of section 114 of such Act (12 U.S.C. 3024) is hereby repealed.

(g) Section 203 of such Act (12 U.S.C. 3043) is amended by striking out "out of the Account" each place it appears therein.

(h)(1) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by striking out "(7) the Rural Telephone Bank" and all that follows through the end thereof and inserting in lieu thereof "(7) the Rural Telephone Bank, (8) the United States Railway Association, and (9) the National Credit Union Administration Central Liquidity Facility.".

(2) Section 302 of the Government Corporation Control Act (31 U.S.C. 867) is amended—

(A) by inserting "or" after "the Regional Banks for Cooperatives,"; and

(B) by striking out "or the National Consumer Cooperative Bank,".

(3) The second sentence of section 303(d) of the Government Corporation Control Act (31 U.S.C. 868(d)) is amended by striking out "National Consumer Cooperative Bank,".

(4) Section 5315 of title 5, United States Code, is amended by striking out "Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.".

(i) The amendments made by subsections (b) through (h) shall take effect on the day after the Final Government Equity Redemption Date.

TITLE IV—THE DISTRICT OF COLUMBIA

LIMITATION ON THE AMOUNT OF FUNDS AUTHORIZED AND EXPENDED FOR LOANS FOR CAPITAL PROJECTS

SEC. 401. (a) Subsection (c) of section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-241 note) is amended to read as follows:

"(c)(1) Subject to the limitations contained in section 603(b), there is authorized to be appropriated to make loans under this section the sum of $155,000,000 for the fiscal year ending on September 30, 1982, the sum of $155,000,000 for the fiscal year ending on September 30, 1983, and the sum of $155,000,000 for the fiscal year ending on September 30, 1984.".

(b) The amendment made by this section shall take effect on October 1, 1981.

TITLE V—EDUCATION PROGRAMS

SHORT TITLE

SEC. 501. This title may be cited as the "Omnibus Education Reconciliation Act of 1981".

Subtitle A—Authorization Savings for Fiscal Years 1982, 1983, and 1984

EFFECT ON OTHER LAWS; GENERAL RESTRICTIONS

SEC. 502. (a) Any provision of law which is not consistent with the provisions of this subtitle is hereby superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in section 528 of this title), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

(c) No funds are authorized to be appropriated for the fiscal year 1982, 1983, or 1984 to pay for the expenses of any advisory council which provides advice to a program for which there are no authorizations of appropriations made under this subtitle or made by an amendment made by this subtitle.

ACT OF MARCH 2, 1867 (HOWARD UNIVERSITY)

SEC. 503. The total amount of appropriations to carry out the Act of March 2, 1867 (14 Stat. 439), shall not exceed $145,200,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF SEPTEMBER 23, 1950 (IMPACT AID)

SEC. 504. The total amount of appropriations to carry out the Act of September 23, 1950 (Public Law 815, 81st Congress), shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 505. (a)(1) The total amount of appropriations to make payments under the Act of September 30, 1950 (Public Law 874, 81st Congress), shall not exceed $455,000,000 for each of the fiscal years 1982, 1983, and 1984 of which—

(A) $10,000,000 shall be available for payments under section 2 of such Act; and

(B) $10,000,000 shall be available for payments under section 7 of such Act.

Funds available for section 2 of such Act for each such fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, 81st Congress).

(2) Section 3(d)(2) of such Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The amount of the entitlement of any local educational agency under this section for fiscal year 1982 with respect to children determined under subsection (b) with respect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 66⅔ per centum.

"(ii) The amount of the entitlement of any local educational agency under this section for fiscal year 1983 with respect to children determined under subsection (b) with respect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 33⅓ per centum.

"(iii) The amount of the entitlement of any local educational agency under this section for fiscal year 1984 or any succeeding fiscal year with respect to children determined under subsection (b) with respect to such agency shall be zero.".

(3) If the amount appropriated for making payments under such Act for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(b) No funds are authorized to be appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A or 6 of such Act.

(c)(1) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress), shall not apply during fiscal year 1982, or any succeeding fiscal year.

(2) Funds appropriated to the Department of Defense shall be available to the Secretary of Defense for payments and arrangements of the kind that may be made by the Secretary of Education under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress).

(3) The Secretary of Defense shall delegate to the Secretary of Education responsibility for the conduct of programs with funds so available.

ADULT EDUCATION ACT

SEC. 506. The total amount of appropriations to carry out the Adult Education Act shall not exceed $100,000,000 for each of the fiscal years 1982, 1983, and 1984.

ALCOHOL AND DRUG ABUSE EDUCATION ACT

SEC. 507. The total amount of appropriations to carry out the Alcohol and Drug Abuse Education Act shall not exceed $3,000,000 for fiscal year 1982.

CAREER EDUCATION INCENTIVE ACT

SEC. 508. The total amount of appropriations to carry out the Career Education Incentive Act shall not exceed $10,000,000 for fiscal year 1982.

CIVIL RIGHTS ACT OF 1964

SEC. 509. The total amount of appropriations to carry out sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c et seq.) shall not exceed

$37,100,000 for each of the fiscal years 1982, 1983, and 1984.

DEPARTMENT OF EDUCATION

SEC. 510. The total amount of appropriations for salaries and expenses of the Department of Education shall not exceed $308,000,000 for each of the fiscal years 1982, 1983, and 1984, of which—

(1) $49,396,000 shall be available for the Office of Civil Rights; and

(2) $12,989,000 shall be available for the Office of the Inspector General;

for each such year.

EDUCATION AMENDMENTS OF 1978

SEC. 511. (a) No funds are authorized to be appropriated to carry out section 1015 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(3) The total amount of appropriations to carry out section 1524 of the Education Amendments of 1978 relating to general assistance for the Virgin Islands shall not exceed $2,700,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out section 1526 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1980

SEC. 512. (a) No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(b) No funds are authorized to be appropriated to carry out part H of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 513. (a) The total amount of appropriations to carry out title I of the Elementary and Secondary Education Act of 1965 shall not exceed $3,480,000,000 for fiscal year 1982. From the amount appropriated in accordance with the preceding sentence, not more than 14.6 percent of such amount for fiscal year 1982 shall be available to carry out sections 141, 146, and 151, of such Act. After the requirement of the preceding sentence is met, the Secretary of Education shall assure that the amount available for section 117 of such Act bears the same ratio to the amount appropriated in such fiscal year for title I of such Act as the amount available for such section 117 in fiscal year 1980 bore to the total amount appropriated for title I of such Act in fiscal year 1980.

(b) The total amount of appropriations to carry out title II of the Elementary and Secondary Education Act of 1965 shall not exceed $31,500,000 for fiscal year 1982.

(c)(1) The total amount of appropriations to carry out section 303 of the Elementary and Secondary Education Act of 1965 shall not exceed $25,500,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part B of title III of such Act shall not exceed $1,380,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title III of such Act shall not exceed $3,150,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title III of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title III of such Act shall not exceed $3,600,000 for fiscal year 1982.

(6) No funds are authorized to be appropriated to carry out part F of title III of such Act for fiscal year 1982.

(7) The total amount of appropriations to carry out part G of title III of such Act shall not exceed $1,000,000 for fiscal year 1982.

(8) No funds are authorized to be appropriated to carry out part H of title III of such Act for fiscal year 1982.

(9) No funds are authorized to be appropriated to carry out part I of title III of such Act for fiscal year 1982.

(10) No funds are authorized to be appropriated to carry out part J of title III of such Act for fiscal year 1982.

(11) No funds are authorized to be appropriated to carry out part K of title III of such Act for fiscal year 1982.

(12) The total amount of appropriations to carry out part L of title III of such Act shall not exceed $3,000,000 for fiscal year 1982.

(13) No funds are authorized to be appropriated to carry out part M of title III of such Act for fiscal year 1982.

(14) No funds are authorized to be appropriated to carry out part N of title III of such Act for fiscal year 1982.

(d)(1) The total amount of appropriations to carry out part B of title IV of the Elementary and Secondary Education Act of 1965 shall not exceed $161,000,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $66,130,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part D of title IV of such Act shall not exceed $15,000,000 for fiscal year 1982.

(e)(1) The total amount of appropriations to carry out part B of title V of the Elementary and Secondary Education Act of 1965 shall not exceed $42,075,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982.

(f) The total amount of appropriations to carry out title VI of the Elementary and Secondary Education Act of 1965 shall not exceed $149,292,000 for fiscal year 1982.

(g) The total amount of appropriations to carry out title VII of the Elementary and Secondary Education Act of 1965 shall not exceed $139,970,000 for each of the fiscal years 1982, 1983, and 1984.

(h) The total amount of appropriations to carry out title VIII of the Elementary and Secondary Education Act of 1965 shall not exceed $3,138,000 for fiscal year 1982.

(i)(1) The total amount of appropriations to carry out part A of title IX of the Elementary and Secondary Education Act of 1965 shall not exceed $5,652,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title IX of such Act shall not exceed $6,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title IX of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $2,250,000 for fiscal year 1982.

(j)(1) Funds appropriated in an appropriation Act for fiscal year 1982 for title I of the Elementary and Secondary Education Act of 1965 which are intended for use by a State or local educational agency in the school year 1982-1983 shall remain available to such agency but shall be expended and used in accordance with chapter 1 of the Education Consolidation and Improvement Act of 1981.

(2) Funds appropriated in an appropriation Act for fiscal year 1981 for title I of the Elementary and Secondary Education Act of 1965 which are not obligated by a State or local educational agency prior to July 1, 1982, shall remain available to such agency but shall be expended and used in accordance with chapter 1 of the Education Consolidation and Improvement Act of 1981.

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

SEC. 514. (a)(1) The total amount of appropriations to carry out chapter 1 of the Education Consolidation and Improvement Act of 1981 shall not exceed $3,480,000,000 for each of the fiscal years 1983 and 1984.

(2) From the amount appropriated in accordance with the paragraph (1), not more than 14.6 percent of such amount for each of the fiscal years 1983 and 1984 shall be available to carry out programs described in sections 141, 146, and 151 of the Elementary and Secondary Education Act of 1965. After the requirement of the preceding sentence is met, the Secretary of Education shall assure that the amount available for the programs described in section 117 of the Elementary and Secondary Education Act of 1965 bears the same ratio to the amount appropriated in each such fiscal year for chapter 1 of the Education Consolidation and Improvement Act of 1981 as the amount available for such section 117 in fiscal year 1980 bore to the total amount appropriated for title I of the Elementary and Secondary Education Act of 1965 in fiscal year 1980.

(b)(1) The total amount of appropriations to carry out chapter 2 of the Education Consolidation and Improvement Act of 1981 shall not exceed $589,368,000 for each of the fiscal years 1982, 1983, and 1984.

(2)(A) Funds appropriated in an appropriation Act for fiscal year 1982 for any program described in section 561(a) (1), (2), (3), (5), and (6) of this Act which are intended for use by a State or local educational agency in the school year 1982-1983 shall remain available to such agency but shall be expended and used in accordance with chapter 2 of the Education Consolidation and Improvement Act of 1981.

(B) Funds appropriated in an appropriation Act for fiscal year 1981 for any program described in section 561(a) (1), (2), (3), (5), and (6) of this Act which are not obligated by a State or local educational agency prior to July 1, 1982, shall remain available to such agency but shall be expended and used in accordance with chapter 2 of the Education Consolidation and Improvement Act of 1981.

GENERAL EDUCATION PROVISIONS ACT

SEC. 515. (a) The total amount of appropriations to carry out section 405 of the General Education Provisions Act shall not exceed $55,614,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out section 406 of the General Education Provisions Act shall not exceed $8,947,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out section 406A(1) of the General

Education Provisions Act shall not exceed $1,875,000 for fiscal year 1982.

(d) The total amount of appropriations to carry out section 406A(2) of the General Education Provisions Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

HIGHER EDUCATION ACT OF 1965

SEC. 516. (a)(1) No funds are authorized to be appropriated to carry out part A of title I of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $8,000,000 for fiscal year 1982, 1983, or 1984.

(b)(1) The total amount of appropriations to carry out part A of title II of the Higher Education Act of 1965 shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out part B of title II of such Act shall not exceed $1,200,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out part C of title II of such Act shall not exceed $6,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title II of such Act for fiscal year 1982, 1983, or 1984.

(5) No funds available for carrying out part A and section 224 of part B of such title for any such fiscal year shall be made available to any institution, organization, or agency which is a recipient of assistance under part C of such title.

(c)(1) The total amount of appropriations to carry out title III of the Higher Education Act of 1965 shall not exceed $129,600,000 for each of the fiscal years 1982, 1983, and 1984.

(2) Section 331(a)(1) of the Higher Education Act of 1965 is amended by striking out the period at the end of clause (B) and by inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new clause:

"(C) which is an institution of higher education which includes a substantial number of minority and educationally disadvantaged students, which provides a medical education program which leads to a doctor of medicine degree or which is not less than a two year program fully acceptable toward such a degree, and which in fiscal year 1980 received a grant as a two year medical school under section 788(a) of the Health Professions Educational Assistance Act of 1976.".

(d)(1)(A) The total amount of appropriations to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall not exceed $2,650,000,000 for fiscal year 1982, $2,800,000,000 for fiscal year 1983, and $3,000,000,000 for fiscal year 1984.

(B) If the Secretary of Education determines that it is necessary to waive any provision of subpart 1 of part A of title IV of the Higher Education Act of 1965 to meet the authorizations specified in subparagraph (A) of this paragraph, the Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. The notification shall contain a description of each provision of such subpart that the Secretary proposes to waive and the reasons for the waiver. The Secretary may waive each provision contained in the notification submitted under this subparagraph if the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives within 30 days after the receipt approve of the waiver of that provision. Before the Secretary may act under this subparagraph, each such committee must approve of the waiver of each provision requested in the notification.

(2) The total amount of appropriations to carry out subpart 2 of part A of title IV of such Act shall not exceed $370,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out subpart 3 of part A of title IV of such Act shall not exceed $76,800,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out subpart 4 of part A of title IV of such Act shall not exceed $165,000,000 for the fiscal year 1982, $170,000,000 for each of the fiscal years 1983 and 1984.

(5) The total amount of appropriations to carry out subpart 5 of part A of title IV of such Act shall not exceed $7,500,000 for each of the fiscal years 1982, 1983, and 1984.

(6)(A) No funds are authorized to be appropriated to carry out section 419 of such Act for fiscal year 1982, 1983, or 1984.

(B) The total amount of appropriations to carry out section 420 of such Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

(7) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $550,000,000 for each of the fiscal years 1982, 1983, and 1984.

(8) The total amount of appropriations to carry out part E of title IV of such Act shall not exceed $286,000,000 for each of the fiscal years 1982, 1983, and 1984.

(9) The total amount of appropriations to carry out section 491 of such Act shall not exceed $1,000,000 for fiscal year 1982 and $2,000,000 for fiscal year 1983.

(e)(1) The total amount of appropriations to carry out part A of title V of the Higher Education Act of 1965 shall not exceed $22,500,000 for fiscal year 1982.

(2)(A) The total amount of appropriations to carry out part B of title V of such Act shall not exceed $9,100,000 for fiscal year 1982.

(B) The last sentence of section 531 of such Act shall not apply to the funds appropriated to carry out part B of title V of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out part D of title V of such Act for fiscal year 1982, 1983, or 1984.

(f) The total amount of appropriations to carry out title VI of the Higher Education Act of 1965 shall not exceed $30,600,000 for each of the fiscal years 1982, 1983, and 1984.

(g) No funds are authorized to be appropriated to carry out part A or B of title VII of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(h) The total amount of appropriations to carry out title VIII of the Higher Education Act of 1965 shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(i)(1) No funds are authorized to be appropriated to carry out part A of title IX of such Act for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title IX of the Higher Education Act of 1965 shall not exceed $14,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) No funds are authorized to be appropriated to carry out part C of title IX of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title IX of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(j) The total amount of appropriations to carry out title X of the Higher Education Act of 1965 shall not exceed $13,500,000 for each of the fiscal years 1982, 1983, and 1984.

INDIAN EDUCATION ACT

SEC. 517. The total amount of appropriations to carry out the Indian Education Act shall not exceed $81,700,000 for fiscal year 1982, $88,400,000 for the fiscal year 1983, and $95,300,000 for the fiscal year 1984.

JOHNSON-O'MALLEY ACT; SNYDER ACT; NAVAJO COMMUNITY COLLEGE ACT; TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

SEC. 518. The total amount of appropriations—

(1) to carry out the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act;

(2) to carry out all education programs under the direction of the Office of Indian Education Programs in the Bureau of Indian Affairs of the Department of the Interior authorized under the Act of November 2, 1921, commonly referred to as the Snyder Act (and not otherwise expressly authorized by law);

(3) to carry out the Navajo Community College Act; and

(4) to carry out the Tribally Controlled Community College Assistance Act of 1978;

shall not exceed $262,300,000 for fiscal year 1982, $276,100,000 for the fiscal year 1983, and $290,400,000 for fiscal year 1984.

JOINT RESOLUTION OF OCTOBER 19, 1972 (ELLENDER FELLOWSHIP PROGRAM)

SEC. 519. The total amount of appropriations to carry out the joint resolution of October 19, 1972, shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 520. (a) The total amount of appropriations to carry out the Library Services and Construction Act shall not exceed $80,000,000 for each of the fiscal years 1982, 1983, and 1984 of which—

(1) not more than $65,000,000 shall be available for title I of such Act; and

(2) not more than $15,000,000 shall be available for title III of such Act, for each such year.

(b) No funds are authorized to be appropriated to carry out title II of the Library Services and Construction Act for fiscal year 1982, 1983, or 1984.

MUSEUM SERVICES ACT

SEC. 521. The total amount of appropriations to carry out the Museum Services Act shall not exceed $9,600,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 522. The total amount of appropriations to carry out the National Commission on Libraries and Information Science Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 523. The total amount of appropriations to the National Endowment for the Arts shall not exceed $119,300,000 for each of the fiscal years 1982, 1983, and 1984.

SEC. 524. The total amount of appropriations to the National Endowment for the Humanities shall not exceed $113,700,000 for each of the fiscal years 1982, 1983, and 1984.

REFUGEE EDUCATION CONSOLIDATION

SEC. 525. The total amount of appropriations to carry out titles I through IV of the Refugee Education Assistance Act of 1980 shall not exceed $5,000,000 for fiscal year 1982, $7,500,000 for fiscal year 1983, and $10,000,000 for fiscal year 1984.

REFUGEE CUBAN AND HAITIAN PROGRAMS

SEC. 526. (a)(1) The total amount of appropriations to carry out Cuban and Haitian reception activities shall not exceed $20,000,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to Cuban and Haitian reception activities for the fiscal year 1983.

(b) The total amount of appropriations to carry out Cuban and Haitian domestic activities shall not exceed $94,000,000 for fiscal year 1982 and $59,000,000 for fiscal year 1983.

VOCATIONAL EDUCATION ACT OF 1963

SEC. 527. The total amount of appropriations to carry out the Vocational Education Act of 1963 shall not exceed $735,000,000 for each of the fiscal years 1982, 1983, and 1984.

GENERAL EXTENSION OF AUTHORIZATIONS

SEC. 528. Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) the Act of September 30, 1950 (Public Law 874, 81st Congress);

(2) the Act of September 23, 1950 (Public Law 815, 81st Congress);

(3) the General Education Provisions Act;

(4) the Indian Education Act;

(5) titles XI, XIV, and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(6) the Adult Education Act;

(7) section 342 of the Education Amendments of 1976;

(8) the Asbestos School Hazards Detection and Control Act;

(9) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(10) the Vocational Education Act of 1963;

(11) title IV of the Civil Rights Act of 1964;

(12) the Library Services and Construction Act;

(13) the Navajo Community College Act and the Tribally Controlled Community College Assistance Act of 1978; and

(14) part C of title IX of the Elementary and Secondary Education Act of 1965, relating to Women's Educational Equity.

Subtitle B—Student Assistance Provisions

SHORT TITLE

SEC. 531. This subtitle may be cited as the "Postsecondary Student Assistance Amendments of 1981".

ELIGIBILITY FOR SUBSIDIZED LOANS

SEC. 532. (a) Section 428(a)(2) of the Higher Education Act of 1965 (hereafter in this subtitle referred to as the "Act") is amended to read as follows:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(I) sets forth such student's estimated cost of attendance; and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the adjusted gross income of such student's family—

"(i) is less than or equal to $30,000; or

"(ii) is greater than $30,000, and the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need, subject to the provisions of subparagraph (F).

"(C) For the purpose of paragraph (1) and this paragraph—

"(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable transportation costs, and costs for books and supplies;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subparts 1 and 2 of part A, and parts C and E of this title, any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

"(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B)(ii) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.

"(D) The Secretary shall submit a separate schedule of expected family contributions to the President of the Senate and the Speaker of the House of Representatives not later than the submission of, and in accordance with the procedures for, the proposed schedule of expected family contributions under section 482, except as provided in subparagraph (E).

"(E)(i) The initial separate schedule required by subparagraph (D) shall—

"(I) be submitted not later than August 15, 1981;

"(II) be effective on October 1, 1981, except as is otherwise provided in division (ii);

"(III) not be the subject of public comment otherwise required by section 482(a)(1) of this Act or section 431 of the General Education Provisions Act; and

"(IV) be subject to amendment prior to the next regular submission of a separate schedule as required by subparagraph (D) only in accordance with division (iv) of this subparagraph.

"(ii) If either the Senate or the House of Representatives adopts, prior to October 1, 1981, a resolution of disapproval of the schedule submitted under division (i), such schedule shall not take effect. If such schedule is so disapproved, or if the Secretary does not submit such a schedule by August 15, 1981, then beginning on October 1, 1981, the expected family contribution for purposes of this paragraph shall be determined by the eligible institution in accordance with regulations promulgated under section 411 or 413B, as in effect for the period beginning on July 1, 1981, governing the determination of expected family contribution.

"(iii) The method of determining the expected family contribution established under this subparagraph shall remain in effect until superseded by the taking effect of the next schedule submitted in accordance with subparagraph (D) or amended in accordance with division (iv) of this subparagraph.

"(iv) Any amendment promulgated by the Secretary to the initial separate schedule established under this subparagraph shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, within 30 legislative days following the publication of such amendment, a resolution of disapproval of such amendment, such amendment shall not take effect.

"(F) For the purpose of a student described in clause (ii) of subparagraph (B), the amount of the loan which is qualified for a payment under paragraph (1) is the amount of the need of such student as determined by the eligible institution, except that, if the amount of need is equal to or more than $500, but is less than $1,000, the amount of the loan which is qualified for such payment shall be $1,000.".

(b)(1) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(B)(i)" and inserting in lieu thereof "section 428(a)(2)(C)(i)".

(2) Section 439B of the Act is repealed.

(3) Section 428B(b)(3) of the Act is amended by striking out "No" and inserting in lieu thereof "Any loan under this section may be counted as part of the student's expected family contribution in the determination of need under this title, but no".

(4) Section 438(b)(5) of the Act is amended to read as follows:

"(5) As used in this section, the term 'eligible loan' means a loan—

"(A)(i) on which a portion of the interest is paid on behalf of the student and for his account to the holder of the loan under section 428(a);

"(ii) which is made under section 428B or 439(o);

"(iii) which was made prior to October 1, 1981; and

"(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.".

NEED ANALYSIS AMENDMENTS

SEC. 533. (a)(1) Section 482(a)(1) of the Act is amended by striking out everything after the comma following the words "family income, which," and inserting in lieu thereof the following: "together with any amendments published in the Federal Register, no later than September 1, 1981, June 1, 1982, and June 1 of each succeeding year, shall become effective July 1 of the calendar year which succeeds such calendar year, except as is otherwise provided in

paragraph (2). During the thirty-day period following publication of a schedule the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually.".

(2) Section 482(a)(2) of the Act is amended to read as follows:

"(2) The schedule of expected family contributions required for each academic year, including any amendments thereto published pursuant to paragraph (1), shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, prior to October 15, 1981, July 15, 1982, or July 15 of any succeeding year, following the submission of such schedule and any amendments thereto as required by this paragraph, a resolution of disapproval of such schedule or amendments, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule, either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.".

(3) The first sentence of section 431(d)(1) of the General Education Provisions Act is amended by inserting after "final regulation" the first time it appears the following: "(except expected family contribution schedules and any amendments thereto promulgated pursuant to sections 428(a)(2) (D) and (E) and 482(a) (1) and (2) of the Higher Education Act of 1965)".

(b) Section 482(b)(4) of the Act is amended to read as follows:

"(4) In determining the expected family contribution under this section for any academic year after academic year 1981-1982, the Secretary shall establish a series of assessment rates to be applied to parental discretionary income.".

AUXILIARY PROGRAM

SEC. 534. (a)(1) Section 427A of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

"(c)(1) Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428B on or after October 1, 1981, shall be 14 per centum per annum on the unpaid principal balance of the loan.

"(2) If for any twelve-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 14 per centum, the applicable rate of interest for loans made pursuant to section 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 per centum per annum on the unpaid principal balance of the loan.

"(3) If for any twelve-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period exceeds 14 per centum, the applicable rate of interest for loans made pursuant to section 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 per centum per annum on the unpaid principal balance of the loan.".

(2) Section 428B(c)(3) is amended by striking out everything after "unpaid principal balance of the loan," and inserting in lieu thereof the following: "except as otherwise required by section 427A(c).".

(b) Section 438(b)(2) of the Act is amended—

(1) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(2)(A) Subject to subparagraph (B) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such three month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.5 per centum to the resultant per centum, and (iv) by dividing the resultant per centum by four.";

(2) by redesignating subparagraph (D) as subparagraph (B); and

(3) by striking out "subparagraph (A), (B), or (C)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "subparagraph (A)".

(c)(1) Section 428B(a) of the Act is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2) Graduate or professional students (as defined by regulations of the Secretary) and independent undergraduate students (as defined in section 482(c)(2)) shall be eligible to borrow funds under this section in amounts specified in subsection (b) (treating graduate and professional students as parents for the purposes of such subsection), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.".

(2) Section 428B(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Subject to subparagraph (B) of this paragraph, the maximum amount an independent undergraduate student may borrow under this section in any academic year or its equivalent (as defined by regulation by the Secretary) is equal to (i) $2,500, minus (ii) the amount of all other loans under this part to such student for such academic year or its equivalent.

"(B) The aggregate insured unpaid principal amount for insured loans made to an independent undergraduate student under this part (including loans made under this section) shall not exceed $12,500.".

(3) The heading of section 428B of the Act is amended to read as follows:

"AUXILIARY LOANS TO ASSIST STUDENTS"

INDEPENDENT STUDENT LOAN LIMITATIONS

SEC. 535. (a) Section 425(a)(1) of the Act is amended—

(1) by striking out clause (A) and by redesignating clauses (B), (C), and (D) as clauses (A), (B), and (C), respectively; and

(2) by striking out "clause (C)" in the last sentence of such section and inserting in lieu thereof "clause (B)".

(b) Section 425(a)(2) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(c) The matter preceding subdivision (i) of section 428(b)(1)(A) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(e) Section 428A of the Act is amended—

(1) by striking out ", other than an independent student," in subsection (a)(1)(A) and in subsection (a)(2)(A);

(2) by striking out "$3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education)," in each such subsection;

(3) by striking out "(other than an independent student)" in each such subsection; and

(4) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education," in each such subsection.

ORIGINATION FEES

SEC. 536. (a) Section 438 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c)(1) Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

"(2) With respect to any loan (other than loans made under section 428B and section 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the

borrower an origination fee in an amount not to exceed 5 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower.

"(3) Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

"(4) The lender shall disclose to the borrower the amount and method of calculating the origination fee. For any loan for which the lender is authorized to charge an origination fee and which is made prior to August 1, 1982—

"(A) this disclosure need not meet the requirements of the Truth in Lending Act (15 U.S.C. 1601 et seq.) or the disclosure requirements of any State law;

"(B) for purposes of such Act, a lender may disclose either in the note or other written evidence of the loan or in a supplementary letter (which need not be signed by the borrower);

"(C) for purposes of such Act, the origination fee shall not be taken into account in calculating and disclosing the annual percentage rate; and

"(D) a lender or an assignee shall not incur civil liability under section 130 of such Act nor be subject to any administrative enforcement action pursuant to section 108 of such Act for disclosures in connection with such loans.".

(b) Section 428(a)(3)(A) of the Act is amended by inserting "and subject to section 438(c)" after "Except as provided in paragraph (8)".

ADMINISTRATIVE SAVINGS; TECHNICAL AMENDMENTS

SEC. 537. (a)(1) Section 428(e) of the Act is repealed.

(2) The first sentence of section 489(a) of the Act is amended by striking out "$10" and inserting in lieu thereof "$5".

(b)(1) Section 427(c) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

(2) Section 428(b)(1)(L) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

(c) Section 428(c) of the Act is amended—

(1) in paragraph (2)(D), by striking out "but shall not otherwise provide for subrogation of the United States to rights of any insurance beneficiary" and inserting in lieu thereof "but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8)"; and

(2) by adding at the end thereof the following new paragraph:

"(8) If the Secretary determines that the protection of the Federal fiscal interest so requires, a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.".

(d)(1) The matter following section 428(b)(1)(M)(viii) of the Act is amended by striking out ", and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

(2) Section 427(a)(2)(C) of the Act is amended—

(A) by striking out "that any such period" and inserting in lieu thereof "and that any such period"; and

(B) by striking out ", and that no repayment of principal of any loan for a period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

(e)(1) Section 427(a)(2)(B) of the Act is amended by striking out "not earlier than".

(2) Section 428(b)(1)(E) of the Act is amended by striking out "not earlier than".

AMENDMENTS CONCERNING THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 538. (a) Section 439(a) of the Act is amended by striking out "insured" wherever it appears, and by inserting after "student loans," the first time it appears the following: "including loans which are insured".

(b) Section 439(a) of the Act is further amended by striking out "and" at the end of clause (1), and by striking the period at the end of clause (2) and inserting in lieu thereof the following: "; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.".

(c) Section 439(d)(1) of the Act is amended to read as follows:

"(d)(1) The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b);

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a State or nonprofit private institution or organization which has an agreement with the Secretary under section 428(b) or by an eligible lender in a State described in section 435(g)(1) (D) or (F);

"(C) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and 428(A), and except with respect to loans under section 439(o), the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no State or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part is capable of or willing to provide a program of loan insurance for such borrowers; and

"(D) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.".

(d) Section 439(l) of the Act is amended by adding at the end thereof the following: "The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title.".

DIRECT STUDENT LOAN INTEREST RATE

SEC. 539. Section 464(c)(1)(D) of the Act is amended by striking out "October 1, 1980," and inserting in lieu thereof "July 1, 1981, or 5 per centum in the case of any loan made on or after October 1, 1981,".

EFFECTIVE DATES

SEC. 540. (a) Except as provided in subsection (b), the amendments made by this subtitle take effect on October 1, 1981.

(b)(1) The amendments made by section 532 (other than subsection (b)(4)) shall apply to loans for which the statement required by section 428(a)(2)(A) of the Act is completed by the eligible institution on or after October 1, 1981.

(2) The amendments made by section 534(b) shall apply to loans made on or after October 1, 1981.

(3) The amendments made by section 536 shall take effect as provided therein.

(4) The amendments made by section 538 shall take effect 30 days after the date of enactment of this Act.

Subtitle C—Refugee Education Consolidation

SHORT TITLE

SEC. 541. This subtitle may be cited as the "Consolidated Refugee Education Assistance Act".

REPEALER

SEC. 542. The following provisions are hereby repealed:

(1) Section 4A of the Act of September 30, 1950 (Public Law 81-874).

(2) Titles I and II of the Indochina Refugee Children Assistance Act of 1976.

(3) Section 317 of the Adult Education Act.

AMENDMENTS TO TITLE I OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 543. (a)(1) Section 101 of the Refugee Education Assistance Act of 1980 is amended—

(A) by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) The term 'eligible participant' means any alien who—

"(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act;

"(C) is an applicant for asylum, or has been granted asylum, in the United States; or

"(D) has fled from the alien's country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 36-month period beginning with the first month in which the alien entered the United States (in the case of an alien described in (A), (B), or (D)) or the

month in which the alien applied for asylum (in the case of an alien described in subparagraph (C))."; and

(C) by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be an eligible participant (within the meaning of section 101(3) of such Act), but only during the 36-month period beginning with the first month in which the alien entered the United States as such an entrant or otherwise first acquired such status.

(b) Section 103(b)(1)(A) of the Refugee Education Assistance Act of 1980 is amended by striking out "aggregate of the amounts to which all States are entitled" and inserting in lieu thereof "amount authorized to be appropriated".

(c) Section 104 of the Refugee Education Assistance Act of 1980 is amended by striking out "1 percent of the amounts which that State educational agency is entitled to receive for that period under this Act" and inserting in lieu thereof "2 percent of the amount which that State educational agency receives for that period under this Act".

(d) Title I of the Refugee Education Assistance Act of 1980 is amended by adding at the end thereof the following new section:

"CONSULTATION WITH OTHER AGENCIES

"SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to eligible participants in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.".

AMENDMENTS TO TITLE II OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 544. (a) Section 201 of the Refugee Education Assistance Act is amended—

(1) by amending the first sentence of subsection (a)(1) to read as follows: "The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for eligible participants enrolled in elementary or secondary public schools.";

(2) in the second sentence of subsection (a)(1), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "eligible participants";

(3) by amending subsection (b)(1) to read as follows:

"(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that an eligible participant assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.";

(4) by amending the first sentence of subsection (b)(2) to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title."; and

(5) in subsection (c), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "eligible participants".

(b) Section 202(a) of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending paragraph (2) to read as follows:

"(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;".

(c) Section 203 of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending the section heading to read as follows:

"PAYMENTS AND AUTHORIZATIONS"

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

"(b) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of—

"(1) the total number of eligible participants enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made, multiplied by—

"(2) $400.".

AMENDMENTS TO TITLE III OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 545. (a) The heading of title III of the Refugee Education Assistance Act of 1980 is amended by striking out "REFUGEE".

(b) Section 301 of the Refugee Education Assistance Act of 1980 is amended—

(1) in subsection (a), by striking out "for each of the fiscal years 1981, 1982, and 1983" and inserting in lieu thereof "for fiscal year 1981, and for each subsequent fiscal year,";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

"(A) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants less than one year, multiplied by (ii) $700;

"(B) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants at least one year but not more than two years, multiplied by (ii) $500; and

"(C) the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants more than two years but not more than three years, multiplied by (ii) $300.";

(3) in subsection (b)(2), by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "eligible participants";

(4) in the first sentence of subsection (b)(3), by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and all that follows through the period and inserting in lieu thereof "eligible participants, except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965.";

(5) in subsection (b)(5), by striking out "Cuban and Haitian refugee children who meet the requirements of section 101(1)" and inserting in lieu thereof "eligible participants who meet the requirements of section 101(4)"; and

(6) in subsection (c), by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "eligible participants".

(b) Section 302 of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee children and Indochinese refugee children" each place it appears and inserting in lieu thereof "eligible participants".

(c) Section 303(a) of the Refugee Education Assistance Act of 1980 is amended—

(1) in paragraph (3), by inserting before the semicolon ", subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for eligible participants enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(3) by inserting after paragraph (4) the following:

"(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant concentration of eligible participants, and (B) the local educational agencies within whose districts are eligible participants provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;"; and

(4) in paragraph (7), as so redesignated, by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "eligible participants".

AMENDMENTS TO TITLE IV OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 546. (a) Title IV of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee adults" and "Haitian and Cuban refugee adults" each place such terms appear and inserting in lieu thereof "eligible participants".

(b)(1) Section 401(a) of the Refugee Education Assistance Act of 1980 is amended by striking out "for each of the fiscal years 1982 and 1983" and inserting in lieu thereof "for fiscal year 1982, and for each subsequent fiscal year".

(2) The first sentence of section 401(b)(2) of the Refugee Education Assistance Act of 1980 is amended to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title.".

(c) Section 403(a) of the Refugee Education Assistance Act of 1980 is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) specify the amount of reduction required under section 401(b)(2);".

EFFECTIVE DATE

SEC. 547. This subtitle shall take effect on October 1, 1981.

Subtitle D—Elementary and Secondary Education Block Grant

SEC. 551. This subtitle may be cited as the "Education Consolidation and Improvement Act of 1981".

CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

DECLARATION OF POLICY

SEC. 552. The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome, unnecessary, and unproductive paperwork and free the schools of unnecessary Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children. The Congress also finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from overly prescriptive regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional program.

DURATION OF ASSISTANCE

SEC. 553. During the period beginning October 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title in effect on September 30, 1982.

APPLICABILITY OF TITLE I PROVISIONS OF LAW

SEC. 554. (a) PROGRAM ELIGIBILITY.—Except as otherwise provided in this subtitle, the Secretary shall make payments based upon the amount of, and eligibility for, grants as determined under the following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

(1) Part A—"Programs Operated by Local Education Agencies":

(A) Subpart 1—"Basic Grants"; and

(B) Subpart 2—"Special Grants".

(2) Part B—"Programs Operated by State Agencies":

(A) Subpart 1—"Programs for Migratory Children";

(B) Subpart 2—"Programs for Handicapped Children";

(C) Subpart 3—"Programs for Neglected and Delinquent Children"; and

(D) Subpart 4—"General Provisions for State Operated Programs".

(b) ADMINISTRATIVE PROVISIONS.—The Secretary, in making the payments and determinations specified in subsection (a), shall continue to use the following provisions of title I of the Elementary and Secondary Education Act as in effect on September 30, 1982:

(1) Part E—"Payments":

(A) Section 191—"Payment Methods";

(B) Section 192—"Amount of Payments to Local Educational Agencies";

(C) Section 193—"Adjustments Where Necessitated by Appropriations"; and

(D) Section 194—"Payments for State Administration", subject to subsection (d) of this section.

(2) Part F—"General Provisions":

(A) Section 197—"Limitation on Grants to Puerto Rico"; and

(B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subtitle shall be used.

(c) APPLICABILITY RULE.—The provisions of title I of the Elementary and Secondary Education Act of 1965 which are not specifically made applicable by this chapter shall not be applicable to programs authorized under this chapter.

(d) AMENDMENT.—Section 194(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

AUTHORIZED PROGRAMS

SEC. 555. (a) GENERAL.—Each State and local educational agency shall use the payments under this chapter for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

(b) PROGRAM DESIGN.—State agency programs shall be designed to serve those categories of children counted for eligibility for grants under section 554(a)(2) in accordance with the requirements of this chapter.

(c) PROGRAM DESCRIPTION.—A local education agency may use funds received under this chapter only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 556(b)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982, and planning for such programs and projects.

(d) RECORDS AND INFORMATION.—Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

APPROVAL OF APPLICATIONS

SEC. 556. (a) APPLICATION BY LOCAL EDUCATIONAL AGENCY.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the

State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

(b) APPLICATION ASSURANCES.—The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State educational agency that the local educational agency will keep such records and provide such information to the State educational agency as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the State agency under this chapter), and that the programs and projects described—

(1)(A) are conducted in attendance areas of such agency having the highest concentrations of low-income children;

(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children; or

(C) are designed to utilize part of the available funds for services which promise to provide significant help for all such children served by such agency;

(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, permits selection of those children who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year; and

(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 557.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 557. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 555(c), 556(b) (2), (3), and (4), and 558(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) BYPASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

GENERAL PROVISIONS

SEC. 558. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A local educational agency may use funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter, and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection a local education agency shall not be required to provide services under this chapter outside the regular classroom or school program.

(c) COMPARABILITY OF SERVICES.—(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

(A) a districtwide salary schedule;

(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, if such programs are consistent with the purposes of this chapter.

(e) ALLOCATION OF FUNDS IN CERTAIN STATES.—In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during fiscal year 1982, except that (1) precisely the same factors are used to determine the amount of such grants to counties, and (2) a local educational agency dissatisfied with such determination is afforded an opportunity for a hearing on the matter by the State educational agency.

CHAPTER 2—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

STATEMENT OF PURPOSE

SEC. 561. (a) It is the purpose of this chapter to consolidate the program authorizations contained in—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) the Alcohol and Drug Abuse Education Act;

(3) part A and section 532 of title V of the Higher Education Act of 1965;

(4) the Follow Through Act (on a phased basis);

(5) section 3(a)(1) of the National Science Foundation Act of 1950 relating to precollege science teacher training; and

(6) the Career Education Incentive Act;

into a single authorization of grants to States for the same purposes set forth in the provisions of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. It is the further purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(b) The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE

SEC. 562. (a) There are authorized to be appropriated such sums as may be necessary for fiscal year 1982 and each of the five succeeding fiscal years to carry out the provisions of this chapter.

(b) During the period beginning July 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for the purposes of this chapter.

(c) Funds available under previously authorized programs shall be available for the purpose of such payments in accordance with section 514(b)(2) of the Omnibus Education Reconciliation Act of 1981.

ALLOTMENTS TO STATES

SEC. 563. (a) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 6 per centum of the sums appropriated, to carry out the purposes of section 583. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 per centum of such remainder.

(b) For the purposes of this section:

(1) The term "school-age population" means the population aged five through seventeen.

(2) The term "States" includes the fifty States, the District of Columbia, and Puerto Rico.

STATE APPLICATIONS

SEC. 564. (a) Any State which desires to receive grants under this chapter shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local and regional school administrators (including principals and superintendents);

(F) institutions of higher education; and

(G) the State legislature;

to advise the State educational agency on the allocation among authorized functions of funds (not to exceed 20 per centum of the amount of the State's allotment) reserved for State use under section 565(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

(3) sets forth the planned allocation of funds reserved for State use under section 565(a) among subchapters A, B, and C of this chapter and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 586, including administrative costs of carrying out the responsibilities of the State educational agency under this chapter;

(4) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1984, provides for an annual evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public; and

(6) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter); and

(7) contains assurances that there is compliance with the specific requirements of this chapter.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 565. (a) From the sum made available each year under section 563, the State educational agency shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families,

(2) children living in economically depressed urban and rural areas, and

(3) children living in sparsely populated areas.

(b) The Secretary shall approve criteria suggested by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 563 and 564 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 566 the amount of its allocation as determined under subsection (a).

LOCAL APPLICATIONS

SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year in which it has on file with the State educational agency an application which—

(1) sets forth the planned allocation of funds among subchapters A, B, and C of this chapter and for the programs authorized by such subchapters which it intends to support, including the allocation of such funds required to implement section 586;

(2) provides assurances of compliance with provisions of this chapter relating to such programs, including the participation of

children enrolled in private, nonprofit schools in accordance with section 586;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

(4) in the allocation of funds for programs authorized by this chapter, and in the design, planning, and implementation of such programs, provides for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Each local educational agency shall have complete discretion, subject only to the provisions of this chapter, in determining how funds the agency receives under this section shall be divided among the purposes of this chapter in accordance with the application submitted under this section.

Subchapter A—Basic Skills Development

USE OF FUNDS

SEC. 571. Funds allocated for use under this subchapter shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II of the Elementary and Secondary Education Act of 1965, relating to basic skills improvement, including the special mathematics program as formerly authorized by section 232 of such title.

STATE LEADERSHIP AND SUPPORT SERVICES

SEC. 572. (a) In order to achieve the purposes of this subchapter, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions—

(1) to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teacher training institutes; and

(2) for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

Each State educational agency may also use such funds for technical assistance and training for State boards of education.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to help their children in developing basic skills;

except that such activities conducted in local areas shall be conducted with the approval of and in conjunction with programs of local educational agencies.

SCHOOL LEVEL PROGRAMS

SEC. 573. (a) In planning for the utilization of funds it allocates for this chapter (from its allotment under section 565) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 586. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administrators, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. The programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teacher aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness of programs for maintaining a continuity of effort for individual children.

(b) The programs described in subsection (a) may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

Subchapter B—Educational Improvement and Support Services

STATEMENT OF PURPOSE

SEC. 576. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV, relating to educational improvement, resources, and support, title V, relating to State leadership, title VI, relating to emergency school aid, of the Elementary and Secondary Education Act of 1965, section 3(a)(1) of the National Science Foundation Act of 1950, relating to precollege science teacher training, and part A and section 532 of title V of the Higher Education Act of 1965, relating to the Teacher Corps and teacher centers, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

AUTHORIZED ACTIVITIES

SEC. 577. Programs and projects authorized under this subchapter include—

(1) the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which take into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools if such assistance is not conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and that such assistance is not made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary schools and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment);

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies;

(6) programs and projects to assist in teacher training and in-service staff development, particularly to better prepare both new and in-service personnel to deal with contemporary teaching and learning requirements and to provide assistance in the teaching and learning of educationally deprived students; and

(7) programs and projects to assist local educational agencies to meet the needs of children in schools undergoing desegregation and to assist such agencies to develop and implement plans for desegregation in the schools of such agencies.

Subchapter C—Special Projects

STATEMENT OF PURPOSE

SEC. 581. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III, relating to special projects, title VIII, relating to community schools, and title IX (except part C), relating to gifted and talented children, educational proficiency standards, safe schools program, and ethnic heritage program, of the Elementary and Secondary Education Act of 1965, the

Career Education Incentive Act, and part B of title V of the Economic Opportunity Act of 1964, relating to Follow Through programs, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

AUTHORIZED ACTIVITIES

SEC. 582. Programs and projects authorized under this subchapter include—

(1) special projects (as may be determined to be desirable by the State or local educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C)(i) in-school partnership programs in which the parents of school-age children participate to enhance the education and personal development of the children, previously authorized by part B of the Headstart-Follow Through Act;

(ii) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

(F) career education previously authorized by the Career Education Incentive Act;

(G) environmental education, health education, education about legal institutions and the American system of law and its underlying principles, and studies on population and the effects of population changes;

(H) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders; and

(I) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subchapter A of this chapter) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(D) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others; and

(E) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

Subchapter D—Secretary's Discretionary Funds

DISCRETIONARY PROGRAM AUTHORIZED

SEC. 583. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 563(a) the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, and others served by this subtitle, and for assessing the needs of such individuals, including programs and projects formerly authorized by section 376 of the Elementary and Secondary Education Act of 1965 and programs and projects formerly funded under the "National Diffusion Network" program;

(2) carry out research and demonstrations related to the purposes of this subtitle;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subtitle; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subtitle.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund—

(1) the Inexpensive Book Distribution Program (as carried out through "Reading Is Fundamental") as formerly authorized by part C of title II of the Elementary and Secondary Education Act of 1965,

(2) the programs of national significance in the "Arts in Education" Program as formerly authorized by part C of title III of such Act, and

(3) programs in alcohol and drug abuse education as formerly authorized by the Alcohol and Drug Abuse Education Act,

at least in amounts necessary to sustain the activities described in this sentence at the level of operations during fiscal year 1981, and then utilize the remainder of such funds for the other authorized activities described in subsection (a).

Subchapter E—General Provisions

MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

SEC. 585. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 586. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use under section 565, such agency after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other

public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this chapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

(d) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

REPEALS

SEC. 587. (a) Effective October 1, 1982, the provisions of—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) part A and section 532 of title V of the Higher Education Act of 1965;

(3) the Alcohol and Drug Abuse Education Act; and

(4) the Career Education Incentive Act;

are repealed.

(b) Effective October 1, 1984, subchapter C of chapter 8 of subtitle A of title VI of this Act, relating to Follow-Through programs is repealed.

CHAPTER 3—GENERAL PROVISIONS

FEDERAL REGULATIONS

SEC. 591. (a) The Secretary is authorized to issue regulations—

(1) relating to the discharge of duties specifically assigned to the Secretary under this subtitle;

(2) relating to proper fiscal accounting for funds appropriated under this subtitle and the method of making payments authorized under this subtitle; and

(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subtitle.

(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subtitle.

(c) Regulations issued pursuant to this subtitle shall not have the standing of a Federal statute for the purposes of judicial review.

WITHHOLDING OF PAYMENTS

SEC. 592. (a) Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this subtitle the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subtitle, or affected chapter thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the subtitle or affected chapter thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the subtitle or affected chapter thereof, or (2) payments by the State educational agency under the subtitle or affected chapter thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

(b) Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

JUDICIAL REVIEW

SEC. 593. (a) If any State is dissatisfied with the Secretary's action under section 592(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) A State educational agency shall be presumed to have complied with this subtitle, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous

action, and shall file in the court the record of the further proceedings.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

AVAILABILITY OF APPROPRIATIONS

SEC. 594. Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this subtitle shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

DEFINITIONS

SEC. 595. (a) Except as otherwise provided herein as used in this subtitle—

(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade twelve;

(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities;

(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(b) Any term used in provisions referenced by section 554 and not defined in this section shall have the same meaning as that term was given in title I of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

APPLICATION OF OTHER LAWS

SEC. 596. (a) Sections 434, 435, and 436 of the General Education Provisions Act (relating to "State Educational Agency Monitoring and Agency Application") shall not apply to programs authorized under this subtitle except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds), and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.

(b) Section 412 of the General Education Provisions Act shall apply to any funds appropriated for any fiscal year pursuant to this subtitle.

TITLE VI—HUMAN SERVICES PROGRAMS

Subtitle A—Authorizations Savings for Fiscal Years 1982, 1983, and 1984

CHAPTER 1—GENERAL PROVISIONS

EFFECT ON OTHER LAWS

SEC. 601. (a) Any provision of law which is not consistent with the provisions of this subtitle hereby is superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle, no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

CHAPTER 2—EDUCATION OF THE HANDICAPPED PROGRAMS

EDUCATION OF THE HANDICAPPED ACT

SEC. 602. (a)(1) There is authorized to be appropriated to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, $969,850,000 for fiscal year 1982, and $1,017,900,000 for each of the fiscal years 1983 and 1984.

SEC. (2) There is authorized to be appropriated to carry out section 618 of such Act $2,300,000 for each of the fiscal years 1982 and 1983.

(3) There is authorized to be appropriated to carry out section 619 of such Act $25,000,000 for each of the fiscal years 1982 and 1983.

(b)(1) There is authorized to be appropriated to carry out section 621 of the Education of the Handicapped Act (relating to regional resource centers) $9,800,000 for each of the fiscal years 1982 and 1983.

(2) There is authorized to be appropriated to carry out section 622 of such Act $16,000,000 for each of the fiscal years 1982 and 1983.

(3) There is authorized to be appropriated to carry out section 623 of such Act $20,000,000 for each of the fiscal years 1982 and 1983.

(4) There is authorized to be appropriated to carry out sections 621 and 624 of such Act (relating to projects for severely handicapped children) $5,000,000 for each of the fiscal years 1982 and 1983.

(5) There is authorized to be appropriated to carry out section 625 of such Act $4,000,000 for each of the fiscal years 1982 and 1983.

(6) There is authorized to be appropriated to carry out sections 631, 632, and 634 of such Act $58,000,000 for each of the fiscal years 1982 and 1983.

(7) There is authorized to be appropriated to carry out section 633 of such Act $1,000,000 for each of the fiscal years 1982 and 1983.

(8) There is authorized to be appropriated to carry out part E of such Act $20,000,000 for each of the fiscal years 1982 and 1983.

(9) There is authorized to be appropriated to carry out part F of such Act $19,000,000 for each of the fiscal years 1982 and 1983.

CHAPTER 3—VOCATIONAL REHABILITATION PROGRAMS

GENERAL AUTHORIZATION UNDER REHABILITATION ACT OF 1973

SEC. 603. There is authorized to be appropriated to carry out the Rehabilitation Act of 1973 $1,009,260,000 for fiscal year 1982, and $1,054,160,000 for fiscal year 1983.

SPECIFIC SPENDING LIMITS UNDER REHABILITATION ACT OF 1973

SEC. 604. (a) Of the amounts authorized to be appropriated in section 603, not to exceed $250,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out section 12 of the Rehabilitation Act of 1973.

(b) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out section 14 of the Rehabilitation Act of 1973 for fiscal years 1982 or 1983.

(c) Of the amounts authorized to be appropriated in section 603, such sums as may be necessary shall be available, for each of the fiscal years 1982 and 1983, to carry out section 15 of the Rehabilitation Act of 1973.

(d) Of the amounts authorized to be appropriated in section 603, not to exceed $899,000,000 for fiscal year 1982, and not to exceed $943,900,000 for fiscal year 1983, shall be available for the purpose of making grants to States pursuant to State entitlements under part B of title I of the Rehabilitation Act of 1973.

(e) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out section 120(a) of the Rehabilitation Act of 1973 for fiscal years 1982 and 1983.

(f) Of the amounts authorized to be appropriated in section 603, not to exceed $650,000 shall be available, for each of the fiscal years 1982 and 1983, for the purpose of making grants to Indian tribes under part D of title I of the Rehabilitation Act of 1973.

(g)(1) Of the amounts authorized to be appropriated in section 603, not to exceed $3,500,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out section 112 of the Rehabilitation Act of 1973.

(2) The requirement for the setting aside of funds established in the first sentence of section 112(a) of such Act shall not have

any force or effect for each of the fiscal years 1982 and 1983.

(h) Of the amounts authorized to be appropriated in section 603, not to exceed $35,000,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out title II of the Rehabilitation Act of 1973.

(i) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out section 301 of the Rehabilitation Act of 1973 for fiscal year 1982 or 1983.

(j) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out section 302 of the Rehabilitation Act of 1973 for fiscal year 1982 or 1983.

(k) Of the amounts authorized to be appropriated in section 603, not to exceed $25,500,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out section 304 of the Rehabilitation Act of 1973.

(l) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out section 305 of the Rehabilitation Act of 1973 for fiscal year 1982 or 1983.

(m)(1) Of the amounts authorized to be appropriated in section 603, not to exceed $12,210,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out sections 310, 311, 312, 314, and 315 of the Rehabilitation Act of 1973.

(2) The requirement for the setting aside of funds established in the first sentence of section 310(b) of such Act shall not have any force or effect for each of the fiscal years 1982 and 1983.

(n) Of the amounts authorized to be appropriated in section 603, not to exceed $2,000,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out section 316 of the Rehabilitation Act of 1973.

(o) Of the amounts authorized to be appropriated in section 603, not to exceed $3,500,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out section 313 of the Rehabilitation Act of 1973.

(p) Of the amounts authorized to be appropriated in section 603, not to exceed $256,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out title IV of the Rehabilitation Act of 1973.

(q) Of the amounts authorized to be appropriated in section 603, such sums as may be necessary shall be available, for each of the fiscal years 1982 and 1983, to carry out section 502 of the Rehabilitation Act of 1973.

(r) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out section 506 of the Rehabilitation Act of 1973 for fiscal year 1982 or 1983.

(s) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out part A of title VI of the Rehabilitation Act of 1973 for fiscal year 1982 or 1983.

(t) Of the amounts authorized to be appropriated in section 603, not to exceed $8,000,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out part B of title VI of the Rehabilitation Act of 1973.

(u) Notwithstanding the authorization of appropriations made in section 603, no funds are authorized to be appropriated to carry out part A, C, or D of title VII of the Rehabilitation Act of 1973 for fiscal year 1982 or 1983.

(v) Of the amounts authorized to be appropriated in section 603, not to exceed $19,400,000 shall be available, for each of the fiscal years 1982 and 1983, to carry out part B of title VII of the Rehabilitation Act of 1973.

CHAPTER 4—OTHER HANDICAPPED PROGRAMS AND SERVICES

AMERICAN PRINTING HOUSE FOR THE BLIND; GALLAUDET COLLEGE; KENDALL SCHOOL; MODEL SECONDARY SCHOOL FOR THE DEAF; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ACT

SEC. 605. (a) The total amount of appropriations to carry out the Act of March 3, 1979 (20 Stat. 468), relating to the American Printing House for the Blind, shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out the Act of June 18, 1954 (68 Stat. 265), relating to Gallaudet College, shall not exceed $52,000,000 for each of the fiscal years 1982, 1983, and 1984. Amounts appropriated pursuant to this subsection also shall be available for the administration of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf.

(c) The total amount of appropriations to carry out the National Technical Institute for the Deaf Act shall not exceed $26,300,000 for each of the fiscal years 1982, 1983, and 1984.

CHAPTER 5—OLDER AMERICAN PROGRAMS

OLDER AMERICANS ACT OF 1965

SEC. 606. (a) There is authorized to be appropriated to carry out the Older Americans Act of 1965 (other than title V of such Act) $715,000,000 for fiscal year 1982 and $793,312,000 for fiscal year 1983.

(b)(1) There is authorized to be appropriated to carry out title V of the Older Americans Act of 1965—

(A) $277,100,000 for fiscal year 1982 and $293,726,000 for fiscal year 1983; and

(B) such additional sums as may be necessary for each such fiscal year to enable the Secretary of Labor, through the operation of older American community service employment programs under such title, to provide for at least 54,200 part-time employment positions for eligible individuals.

(2) For purposes of this subsection:

(A) The term "eligible individual" has the meaning given it in section 507(2) of the Older Americans Act of 1965.

(B) The term "part-time employment position" means an employment position with a workweek of at least 20 hours.

(c) Section 213 of the Older Americans Act of 1965 is amended by striking out ", where such organization demonstrates clear superiority with respect to the quality of services covered by such contract".

CHAPTER 6—DOMESTIC VOLUNTEER SERVICE PROGRAMS

AUTHORIZATIONS UNDER DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 607. (a) Section 501 of the Domestic Volunteer Service Act of 1973 is amended to read as follows:

"NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

"SEC. 501. There is authorized to be appropriated to carry out title I of this Act $25,763,000 for fiscal year 1982 and $15,391,000 for fiscal year 1983. Of the amounts appropriated under this section, not less than $16,000,000 shall first be available for carrying out part A of title I for fiscal year 1982, and not less than $8,000,000 shall first be available for carrying out part A of title I for fiscal year 1983.".

(b)(1) Section 502(a) of the Domestic Volunteer Service Act of 1973 is amended to read as follows:

"SEC. 502. (a) There is authorized to be appropriated $28,691,000 for fiscal year 1982 and $30,412,000 for fiscal year 1983, for the purpose of carrying out programs under part A of title II of this Act.".

(2) Section 502(b) of such Act is amended to read as follows:

"(b) There is authorized to be appropriated $49,670,000 for fiscal year 1982 and $52,650,000 for fiscal year 1983, for the purpose of carrying out programs under part B of title II of this Act.".

(3) Section 502 of such Act is amended by adding at the end thereof the following new subsection:

"(c) There is authorized to be appropriated $16,610,000 for fiscal year 1982 and $17,607,000 for fiscal year 1983, for the purpose of carrying out part C of title II of this Act.".

(c) Section 504 of the Domestic Volunteer Service Act of 1973 is amended to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the administration of this Act, as authorized in title IV of this Act, $30,091,000 for fiscal year 1982 and $29,348,000 for fiscal year 1983.".

AMENDMENTS TO DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 608. (a) Section 114(a) of the Domestic Volunteer Service Act of 1973 is amended to read as follows:

"SEC. 114. (a) The Director is authorized to make grants and contracts for projects and programs which encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in-school or out-of-school basis in assignments of a character and on such terms and conditions as are described in subsections (a) and (c) of section 103.".

(b) Section 211 of the Domestic Volunteer Service Act of 1973 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(c) Title II of the Domestic Volunteer Service Act of 1973 is amended—

(1) by redesignating part C as part D; and

(2) by inserting after section 212 the following new part:

"PART C—SENIOR COMPANIONS PROGRAM

"GRANTS AND CONTRACTS FOR THE PROGRAM

"SEC. 213. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part in the same manner as provided in section 211(a)) designed for the purpose of providing opportunities for low-income persons aged 60 or over to serve as 'senior companions' to persons with exceptional needs. Senior companions may provide services designed to help older persons requiring long-term care, including services to persons receiving home health care, nursing care, home-delivered meals or other nutrition services; services designed to help persons deinstitutionalized from mental hospitals, nursing homes, and other institutions; and services designed to assist persons having developmental disabilities and other special needs for companionship.

"(b) The provisions of section 211(d) and section 211(e) and such other provisions of part B as the Director determines to be necessary shall apply to the provisions of this part.".

(d) The heading of part B of the Domestic Volunteer Service Act of 1973 is amended to read as follows:

"PART B—FOSTER GRANDPARENT PROGRAM".

(e)(1) The item relating to part B of title II in the table of contents of the Domestic Volunteer Service Act of 1973 is amended to read as follows:

"PART B—FOSTER GRANDPARENT PROGRAM".

(2) The table of contents of such Act is amended by inserting after the item relating to part B the following new items:

"PART C—SENIOR COMPANIONS PROGRAM

"Sec. 213. Grants and contracts for the program.".

(3) The item relating to part C of title II in the table of contents of such Act is amended by striking out "PART C" and inserting in lieu thereof "PART D".

(f)(1) Section 113(c)(2) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 221 of such Act is amended—

(A) by striking out "the Community Services Administration,"; and

(B) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) Section 417(c)(2) of such Act is amended by striking out "Secretary of Health, Education, and Welfare or the Secretary of Health and Human Resources, as the case may be," and inserting in lieu thereof "Secretary of Health and Human Services".

CHAPTER 7—CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

STATE GRANTS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 609. There is authorized to be appropriated to make grants to States under section 4(b)(1) of the Child Abuse Prevention and Treatment Act $7,000,000 for each of the fiscal years 1982 and 1983.

DISCRETIONARY PROGRAMS

SEC. 610. (a)(1) The Secretary of Health and Human Services, either directly, through grants to States and public and private, nonprofit organizations and agencies, or through jointly financed cooperative arrangements with States, public agencies, and other agencies and organizations, is authorized to provide for activities of national significance related to child abuse prevention and treatment and adoption reform, including operation of a national center to collect and disseminate information regarding child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(2) The Secretary, in carrying out the provisions of this subsection, shall provide for the continued operation of the National Center on Child Abuse and Neglect in accordance with section 2(a) of the Child Abuse Prevention and Treatment Act for each of the fiscal years 1982 and 1983.

(3) If the Secretary determines, in fiscal year 1982 or 1983, to carry out any of the activities described in section 2(b) of the Child Abuse Prevention and Treatment Act, the Secretary shall carry out such activities through the National Center on Child Abuse and Neglect.

(b) There is authorized to be appropriated to carry out this section $12,000,000 for each of the fiscal years 1982 and 1983. Of the amounts appropriated under this subsection for any fiscal year, not less than $2,000,000 shall be available to carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

CHAPTER 8—COMMUNITY SERVICES PROGRAMS

Subchapter A—Community Economic Development

SHORT TITLE

SEC. 611. This subchapter may be cited as the "Community Economic Development Act of 1981".

STATEMENT OF PURPOSE

SEC. 612. The purpose of this subchapter is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at large, with appropriate Federal assistance, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.

DEFINITION

SEC. 613. For purposes of this subchapter, the term "community development corporation" means a nonprofit organization responsible to residents of the area it serves which is receiving financial assistance under part 1 and any organization more than 50 percent of which is owned by such an organization, or otherwise controlled by such an organization, or designated by such an organization for the purpose of this subchapter.

SOURCE OF FUNDS

SEC. 614. The Secretary is authorized to use funds made available to the Secretary under section 681(b) for purposes of carrying out the provisions of this subchapter.

ADVISORY COMMUNITY INVESTMENT BOARDS

SEC. 615. (a)(1) The President is authorized to establish a National Advisory Community Investment Board (hereinafter in this section referred to as the "Investment Board"). Such Investment Board shall be composed of 15 members appointed, for staggered terms and without regard to the civil service laws, by the President, in consultation with the Secretary of Health and Human Services (hereinafter in this subchapter referred to as the "Secretary"). Such members shall be representative of the investment and business communities and appropriate fields of endeavor related to this subchapter. The Investment Board shall meet at the call of the chairperson, but not less often than 3 times each year. The Secretary and the administrator of community economic development programs shall be ex officio members of the Investment Board.

(2) The Secretary shall carry out the provisions of this subchapter through the Office of Community Services established in section 676(a).

(b) The Investment Board shall promote cooperation between private investors and businesses and community development corporation projects through—

(1) advising the Secretary and the community development corporations on ways to facilitate private investment;

(2) advising businesses and other investors of opportunities in community development corporation projects; and

(3) advising the Secretary, community development corporations, and private investors and businesses of ways in which they might engage in mutually beneficial efforts.

(c) The governing body of each Community Development Corporation may establish an advisory community investment board composed of not to exceed 15 members who shall be appointed by the governing body after consultation with appropriate local officials. Each such board shall promote cooperation between private investors and businesses and the governing body of the Community Development Corporation through—

(1) advising the governing body on ways to facilitate private investors;

(2) advising businesses and other investors of opportunities in Community Development Corporation projects; and

(3) advising the governing body, private investors, and businesses of ways in which they might engage in mutually beneficial efforts.

PART 1—URBAN AND RURAL SPECIAL IMPACT PROGRAMS

STATEMENT OF PURPOSE

SEC. 616. The purpose of this part is to establish special programs of assistance to nonprofit private locally initiated community development corporations which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban and rural areas having concentrations or substantial numbers of low-income persons; (2) are of sufficient size, scope, and duration to have an appreciable impact in such communities, neighborhoods, and rural areas in arresting tendencies toward dependency, chronic unemployment, and community deterioration; (3) hold forth the prospect of continuing to have such impact after the termination of financial assistance under this part; and (4) provide financial and other assistance to start, expand, or locate enterprises in or near the area to be served so as to provide employment and ownership opportunities for residents of such areas, including those who are disadvantaged in the labor market because of their limited speaking, reading, and writing abilities in the English language.

ESTABLISHMENT AND SCOPE OF PROGRAMS

SEC. 617. (a) The Secretary is authorized to provide financial assistance in the form of grants to nonprofit and for profit community development corporations and other affiliated and supportive agencies and organizations associated with qualifying community development corporations for the payment of all or part of the cost of programs which are designed to carry out the purposes of this part. Financial assistance shall be provided so that each community economic development program is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

(1) community business and commercial development programs, including (A) programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the area served so as to provide employment and ownership opportunities for residents of such areas; and (B) programs for small businesses located in or owned by residents of such areas;

(2) community physical development programs, including industrial parks and housing activities, which contribute to an im-

proved environment and which create new training, employment and ownership opportunities for residents of such area;

(3) training and public service employment programs and related services for unemployed or low-income persons which support and complement community development programs financed under this part, including, without limitation, activities such as those described in the Comprehensive Employment and Training Act; and

(4) social service programs which support and complement community business and commercial development programs financed under this part, including child care, educational services, health services, credit counseling, energy conservation, recreation services, and programs for the maintenance of housing facilities.

(b) The Secretary shall conduct programs assisted under this part so as to contribute, on an equitable basis between urban and rural areas, to the elimination of poverty and the establishment of permanent economic and social benefits in such areas.

FINANCIAL ASSISTANCE REQUIREMENTS

SEC. 618. (a) The Secretary, under such regulations as the Secretary may establish, shall not provide financial assistance for any community economic development program under this part unless the Secretary determines that—

(1) such community development corporation is responsible to residents of the area served (A) through a governing body not less than 50 percent of the members of which are area residents; and (B) in accordance with such other guidelines as may be established by the Secretary, except that the composition of the governing bodies of organizations owned or controlled by the community development corporation need not be subject to such residency requirement;

(2) the program will be appropriately coordinated with local planning under this subchapter with housing and community development programs, with employment and training programs, and with other relevant planning for physical and human resources in the areas served;

(3) adequate technical assistance is made available and committed to the programs being supported;

(4) such financial assistance will materially further the purposes of this part;

(5) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met;

(6) all projects and related facilities will, to the maximum feasible extent, be located in the areas served;

(7) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses and housing, cooperatively or otherwise, by residents of the area served;

(8) projects will be planned and carried out with the fullest possible participation of resident or local businessmen and representatives of financial institutions, including participation through contract, joint venture, partnership, stock ownership or membership on the governing boards or advisory councils of such projects consistent with the self-help purposes of this subchapter;

(9) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(10) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal or other funds in connection with work that would otherwise be performed;

(11) the rates of pay for time spent in work training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) preference will be given to low-income or economically disadvantaged residents of the areas served in filling jobs and training opportunities; and

(14) training programs carried out in connection with projects financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities, neighborhoods, or rural areas other than those for which programs are established under this part.

(b) Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in a substantial increase in unemployment in the area of original location.

(c) Financial assistance for commercial development under this part shall not be extended until the community economic development program that has applied for assistance under this subchapter has specified in some detail its development goals and its development timetable. The Secretary, in providing continued financial assistance to a community economic development program, shall give serious consideration to the experience such program has had in meeting development goals or in adhering to development timetables.

FEDERAL SHARE

SEC. 619. (a)(1) Assistance provided under this subchapter to any program described in section 618(a) shall not exceed 90 percent of the cost of such program, including costs of administration, unless the Secretary determines that the assistance in excess of such percentage is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(2) The assistance referred to in paragraph (1) shall be made available (A) for deposit to the order of grantees which have demonstrated successful program performance, under conditions which the Secretary deems appropriate, within 30 days following approval of the grant agreement by the Secretary and such grantee; or (B) whenever the Secretary deems appropriate, in accordance with applicable rules and regulations prescribed by the Secretary of the Treasury, and including any other conditions which the Secretary of Health and Human Services deems appropriate, within 30 days following approval of the grant agreement by the Secretary and such grantee.

(b) Property acquired as a result of capital investments made by any community development corporation with funds granted as its Federal share of the cost of programs carried out under this subchapter, and the proceeds from such property, shall become the property of the community development corporation and shall not be considered to be Federal property. The Federal Government retains the right to direct that on severance of the grant relationship the assets purchased with grant funds shall continue to be used for the original purpose for which they were granted.

PART 2—SPECIAL RURAL PROGRAMS

STATEMENT OF PURPOSE

SEC. 620. It is the purpose of this part to meet the special economic needs of rural communities or areas with concentrations or substantial numbers of low-income persons by providing support to self-help programs which promote economic development and independence, as a supplement to existing similar programs conducted by other departments and agencies of the Federal Government. Such programs should encourage low-income families to pool their talents and resources so as to create and expand rural economic enterprise.

FINANCIAL ASSISTANCE

SEC. 621. (a) The Secretary is authorized to provide financial assistance, including loans having a maximum maturity of fifteen years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time, to any low-income rural family where, in the judgment of the Secretary, such financial assistance has a reasonable possibility of effecting a permanent increase in the income of such families, or will contribute to the improvement of their living or housing conditions, by assisting or permitting them to—

(1) acquire or improve real estate or reduce encumbrances or erect improvements thereon;

(2) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

(3) participate in cooperative associations, or finance nonagricultural enterprises which will enable such families to supplement their income.

(b) The Secretary is authorized to provide financial assistance to local cooperative associations or local public and private nonprofit organizations or agencies in rural areas containing concentrations or substantial numbers of low-income persons for the purpose of defraying all or part of the costs of establishing and operating cooperative programs for farming, purchasing, marketing, processing, and to improve their income as producers and their purchasing power as consumers, and to provide such essentials as credit and health services. Costs which may be defrayed shall include—

(1) administrative costs of staff and overhead;

(2) costs of planning and developing new enterprises;

(3) costs of acquiring technical assistance; and

(4) initial capital where it is determined by the Secretary that the poverty of the families participating in the program and the social conditions of the rural area require such assistance.

LIMITATION ON ASSISTANCE

SEC. 622. No financial assistance shall be provided under this part unless the Secretary determines that—

(1) any cooperative association receiving assistance has a minimum of fifteen active members, a majority of which are low-income rural persons;

(2) adequate technical assistance is made available and committed to the programs being supported;

(3) such financial assistance will materially further the purposes of this part; and

(4) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met.

PART 3—DEVELOPMENT LOANS TO COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS

DEVELOPMENT LOAN FUND

SEC. 623. (a) The Secretary is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations, to families and local cooperatives and the designated supportive organizations of cooperatives eligible for financial assistance under this subchapter, to private nonprofit organizations receiving assistance under subtitle B of this title, or to public and private nonprofit organizations or agencies, for business facilities and community development projects, including community development credit unions, which the Secretary determines will carry out the purposes of this part. No loans, guarantees, or other financial assistance shall be provided under this section unless the Secretary determines that—

(1) there is reasonable assurance of repayment of the loan;

(2) the loan is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs; and

(3) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made.

Loans made by the Secretary pursuant to this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus such additional charge, if any, toward covering other costs of the program as the Secretary of Health and Human Services may determine to be consistent with its purposes, except that, for the 5 years following the date in which funds are initially available to the borrower, the rate of interest shall be set at a rate considered appropriate by the Secretary in light of the particular needs of the borrower, which rate shall not be lower than 1 percent. All such loans shall be repayable within a period of not more than 30 years.

(b) The Secretary is authorized to adjust interest rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by the Secretary, and to take such other actions in respect to such loans as the Secretary shall determine to be necessary or appropriate, consistent with the purposes of this section.

(c)(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of two separate accounts, one of which shall be a revolving fund called the Rural Development Loan Fund and the other of which shall be a revolving fund called the Community Development Loan Fund. The capital of each such revolving fund shall remain available until expended.

(2) The Rural Development Loan Fund shall consist of the remaining funds provided for in part A of title III of the Economic Opportunity Act of 1964, as in effect on September 19, 1972, and such amounts as may be deposited in such Fund by the Secretary out of funds made available from appropriations for purposes of carrying out this part. The Secretary shall utilize the services of the Farmers Home Administration in administering the Fund.

(3) The Community Development Loan Fund shall consist of such amounts as may be deposited in such fund by the Secretary out of funds made available from appropriations for purposes of carrying out this subchapter. The Secretary may make deposits in the Community Development Loan Fund in any fiscal year in which the Secretary has made available for grants to community development corporations under this subchapter not less than $60,000,000 out of funds made available from appropriations for purposes of carrying out this subchapter.

ESTABLISHMENT OF MODEL COMMUNITY ECONOMIC DEVELOPMENT FINANCE CORPORATION

SEC. 624. To the extent he deems appropriate, the Secretary shall utilize funds available under this part to prepare a plan of action for the establishment of a Model Community Economic Development Finance Corporation to provide a user-controlled independent and professionally operated long-term financing vehicle with the principal purpose of providing financial support for community economic development corporations, cooperatives, other affiliated and supportive agencies and organizations associated with community economic development corporations, and other entities eligible for assistance under this subchapter.

PART 4—SUPPORTIVE PROGRAMS AND ACTIVITIES

TRAINING AND TECHNICAL ASSISTANCE

SEC. 625. (a) The Secretary shall provide, directly or through grants, contracts, or other arrangements, such technical assistance and training of personnel as may be required to effectively implement the purposes of this subchapter. No financial assistance shall be provided to any public or private organization under this section unless the Secretary provides the beneficiaries of these services with opportunity to participate in the selection of and to review the quality and utility of the services furnished them by such organization.

(b) Technical assistance to community development corporations and both urban and rural cooperatives may include planning, management, legal assistance or support, preparation of feasibility studies, product development, marketing, and the provision of stipends to encourage skilled professionals to engage in full-time activities under the direction of a community organization financially assisted under this subchapter.

(c) Training for employees of community development corporations and for employees and members of urban and rural cooperatives shall include on-the-job training, classroom instruction, and scholarships to assist them in development, managerial, entrepreneurial, planning, and other technical and organizational skills which will contribute to the effectiveness of programs assisted under this subchapter.

SMALL BUSINESS ADMINISTRATION AND DEPARTMENT OF COMMERCE PROGRAMS

SEC. 626. (a)(1) Funds granted under this subchapter which are invested directly or indirectly, in a small investment company, local development company, limited small business investment company, or small business investment company licensee under section 301(d) of the Small Business Investment Act of 1958 shall be included as "private paid-in capital and paid-in surplus", "combined paid-in capital and paid-in surplus", and "paid-in capital" for purposes of sections 302, 303, and 502, respectively, of the Small Business Investment Act of 1958.

(2) Not later than 90 days after the date of the enactment of this Act, the Administrator of the Small Business Administration, after consultation with the Secretary, shall promulgate regulations to ensure the availability to community development corporations of such programs as shall further the purposes of this subchapter, including programs under section 8(a) of the Small Business Act.

(b)(1) Areas selected for assistance under this subchapter shall be deemed "redevelopment areas" within the meaning of section 401 of the Public Works and Economic Development Act of 1965, shall qualify for assistance under the provisions of title I and title II of such Act, and shall be deemed to have met the overall economic development program requirements of section 202(b)(10) of such Act.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce shall prescribe regulations which will ensure that community development corporations and cooperatives shall qualify for assistance and shall be eligible to receive such assistance under all such programs of the Economic Development Administration as shall further the purposes of this subchapter.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS

SEC. 627. The Secretary of Housing and Urban Development, after consultation with the Secretary, shall take all necessary steps to assist community development corporations and local cooperative associations to qualify for and receive (1) such assistance in connection with technical assistance, counseling to tenants and homeowners, and loans to sponsors of low-income and moderate-income housing under section 106 of the Housing and Urban Development Act of 1968, as amended by section 811 of the Housing and Community Development Act of 1974; (2) such land for housing and business location and expansion under title I of the Housing and Community Development Act of 1974; and (3) such funds for comprehensive planning under section 701 of the Housing Act of 1954, as amended by section 401 of the Housing and Community Development Act of 1974, as shall further the purposes of this subchapter.

DEPARTMENT OF AGRICULTURE AND FARMERS HOME ADMINISTRATION PROGRAMS

SEC. 628. The Secretary of Agriculture or, where appropriate, the Administrator of the Farmers Home Administration, after consultation with the Secretary of Health and Human Services, shall take all necessary steps to ensure that community development corporations and local cooperative associations shall qualify for and shall receive—

(1) such assistance in connection with housing development under the Housing Act of 1949, as amended;

(2) such assistance in connection with housing, business, industrial, and community development under the Consolidated Farmers Home Administration Act of 1961 and the Rural Development Act of 1972; and

(3) such further assistance under all such programs of the United States Department of Agriculture; as shall further the purposes of this subchapter.

COORDINATION AND ELIGIBILITY

SEC. 629. (a) The Secretary shall take all necessary and appropriate steps to encourage Federal departments and agencies and State and local governments to make grants, provide technical assistance, enter into contracts, and generally support and cooperate with community development corporations and local cooperative associations.

(b) Eligibility for assistance under other Federal programs shall not be denied to any applicant on the ground that it is a community development corporation or any other entity assisted under this subchapter.

EVALUATION AND RESEARCH

SEC. 630. (a) Each program for which grants are made under this subchapter shall provide for a thorough evaluation of the effectiveness of the program in achieving its purposes, which evaluation shall be conducted by such public or private organizations as the Secretary in consultation with existing grantees familiar with programs carried out under the Community Services Block Grant Act may designate, and all or part of the costs of evaluation may be paid from funds appropriated to carry out this part. In evaluating the performance of any community development corporation funded under part 1, the criteria for evaluation shall be based upon such program objectives, goals, and priorities as are consistent with the purposes of this subchapter and were set forth by such community development corporation in its proposal for funding as approved and agreed upon by or as subsequently modified from time to time by mutual agreement between the Secretary and such community development corporation.

(b) The Secretary shall conduct, either directly or through grants or other arrangements, research and demonstration projects designed to suggest new programs and policies to achieve the purposes of this subchapter in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income residents.

PLANNING GRANTS

SEC. 631. In order to facilitate the purposes of this subchapter, the Secretary is authorized to provide financial assistance to any public or private nonprofit agency or organization for planning of community economic development programs and cooperative programs under this subchapter.

NONDISCRIMINATION PROVISIONS

SEC. 632. (a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

AVAILABILITY OF CERTAIN APPROPRIATED FUNDS

SEC. 633. Funds appropriated to the Rural Development Loan Fund under title VII of the Economic Opportunity Act of 1964 (as in effect on the day before the date of the enactment of this Act), and interest accumulated in such fund, shall be deposited in the Rural Development Loan Fund established under section 623(c)(1) and shall continue to be available to carry out the purposes of such fund. Funds appropriated to the Community Development Credit Union Revolving Loan Fund under title VII of the Economic Opportunity Act of 1964 (as in effect on the day before the date of the enactment of this Act), and interest accumulated in such fund, shall continue to be available to carry out the purposes of such fund.

Subchapter B—Head Start Programs

SHORT TITLE

SEC. 635. This subchapter may be cited as the "Head Start Act".

STATEMENT OF PURPOSE AND POLICY

SEC. 636. (a) In recognition of the role which Project Head Start has played in the effective delivery of comprehensive health, educational, nutritional, social, and other services to economically disadvantaged children and their families, it is the purpose of this subchapter to extend the authority for the appropriation of funds for such program.

(b) In carrying out the provisions of this subchapter, the Secretary of Health and Human Services shall continue the administrative arrangement responsible for meeting the needs of migrant and Indian children and shall assure that appropriate funding is provided to meet such needs.

DEFINITIONS

SEC. 637. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(3) The term "financial assistance" includes assistance provided by grant, agreement, or contract, and payments may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS

SEC. 638. The Secretary may, upon application by an agency which is eligible for designation as a Head Start agency pursuant to section 641, provide financial assistance to such agency for the planning, conduct, administration, and evaluation of a Head Start program focused primarily upon children from low-income families who have not reached the age of compulsory school attendance which (1) will provide such comprehensive health, nutritional, educational, social, and other services as will aid the children to attain their full potential; and (2) will provide for direct participation of the parents of such children in the development, conduct, and overall program direction at the local level.

AUTHORIZATION OF APPROPRIATIONS

SEC. 639. There is authorized to be appropriated for carrying out the provisions of this subchapter $950,000,000 for fiscal year 1982, $1,007,000,000 for fiscal year 1983, and $1,058,357,000 for fiscal year 1984.

ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

SEC. 640. (a)(1) Of the sums appropriated pursuant to section 639 for any fiscal year beginning after September 30, 1981, the Secretary shall allot such sums in accordance with paragraphs (2) and (3).

(2) The Secretary shall reserve 13 percent of the amount appropriated for each fiscal year for use in accordance with the following order of priorities—

(A) Indian and migrant Head Start programs and services for handicapped children, except that—

(i) there shall be made available for use by Indian and migrant Head Start programs, on a nationwide basis, no less funds for fiscal year 1982 and each subsequent fiscal year than were obligated for use by Indian and migrant Head Start programs for fiscal year 1981; and

(ii) cost-of-living adjustments shall be made with respect to such Indian and migrant Head Start programs for fiscal year 1982 and each subsequent fiscal year, and such adjustments shall, at the minimum, reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor;

(B) payments to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands according to their respective needs, except that such amount shall not exceed one-half of 1 percent of the sums appropriated for any fiscal year;

(C) training and technical assistance activities which are sufficient to meet the needs associated with program expansion and to foster program and management improvement activities; and

(D) discretionary payments made by the Secretary.

(3) The Secretary shall allot the remaining 87 percent of the amounts appropriated in each fiscal year among the States, in accordance with latest satisfactory data so that—

(A) each State receives an amount which is equal to the amount the State received for fiscal year 1981; and

(B)(i) 33⅓ percent of any amount available after all allotments have been made under clause (A) for such fiscal year shall be distributed on the basis of the relative number of children from birth through 18 years of age, on whose behalf payments are made under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act in each State as compared to all States; and

(ii) 66⅔ percent of such amount shall be distributed on the basis of the relative number of children from birth through 5 years of age living with families with incomes below the poverty line in each State as compared to all States.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b) Financial assistance extended under this subchapter for a Head Start program shall not exceed 80 percent of the approved costs of the assisted program or activities,

except that the Secretary may approve assistance in excess of such percentage if the Secretary determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 percent of the approved costs of programs or activities assisted under this subchapter.

(c) No programs shall be approved for assistance under this subchapter unless the Secretary is satisfied that the services to be provided under such program will be in addition to, and not in substitution for, comparable services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may prescribe.

(d) The Secretary shall establish policies and procedures designed to assure that for fiscal year 1982 and thereafter no less than 10 percent of the total number of enrollment opportunities in Head Start programs in each State shall be available for handicapped children (as defined in paragraph (1) of section 602 of the Education of the Handicapped Act) and that services shall be provided to meet their special needs. The Secretary shall report to the Congress at least annually on the status of handicapped children in Head Start programs, including the number of children being served, their handicapping conditions, and the services being provided such children.

(e) The Secretary shall adopt appropriate administrative measures to assure that the benefits of this subchapter will be distributed equitably between residents of rural and urban areas.

DESIGNATION OF HEAD START AGENCIES

SEC. 641. (a) The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit agency which (1) has the power and authority to carry out the purposes of this subchapter and perform the functions set forth in section 642 within a community; and (2) is determined by the Secretary to be capable of planning, conducting, administering, and evaluating, either directly or by other arrangements, a Head Start program.

(b) For purposes of this subchapter, a community may be a city, county, or multicity or multicounty unit within a State, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.

(c) In the administration of the provisions of this section, the Secretary shall give priority in the designation of Head Start agencies to any local public or private nonprofit agency which is receiving funds under any Head Start program on the date of the enactment of this Act, except that—

(1) the Secretary shall, before giving such priority, determine that the agency involved meets program and fiscal requirements established by the Secretary; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Secretary shall give priority in the designation of Head Start agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

The provisions of clause (2) shall apply only to agencies actually operating Head Start programs.

(d) The Secretary shall require that the practice of significantly involving parents and area residents affected by the program in selection of Head Start agencies be continued.

POWERS AND FUNCTIONS OF HEAD START AGENCIES

SEC. 642. (a) In order to be designated as a Head Start agency under this subchapter, an agency must have authority under its charter or applicable law to receive and administer funds under this subchapter, funds and contributions from private or local public sources which may be used in support of a Head Start program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit agency (as the case may be) organized in accordance with this subchapter, could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency must also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. The power to transfer funds and delegate powers must include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

(b) In order to be so designated, a Head Start agency must also (1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests; (2) provide for their regular participation in the implementation of such programs; (3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources; and (4) establish procedures to seek reimbursement, to the extent feasible, from other agencies for services for which any such other agency is responsible, which are provided to a Head Start participant by the Head Start agency.

(c) The head of each Head Start agency shall coordinate with other programs serving the children in the Head Start agency to carry out the provisions of this subsection.

SUBMISSION OF PLANS TO GOVERNORS

SEC. 643. In carrying out the provisions of this subchapter, no contract, agreement, grant, or other assistance shall be made for the purpose of carrying out a Head Start program within a State unless a plan setting forth such proposed contract, agreement, grant, or other assistance has been submitted to the Governor of the State, and such plan has not been disapproved by the Governor within 30 days of such submission, or, if so disapproved, has been reconsidered by the Secretary and found by the Secretary to be fully consistent with the provisions and in furtherance of the purposes of this subchapter. Funds to cover the costs of the proposed contract, agreement, grant, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to the Governor. This section shall not, however, apply to contracts, agreements, grants, loans, or other assistance to any institution of higher education in existence on the date of the enactment of this Act.

ADMINISTRATIVE REQUIREMENTS AND STANDARDS

SEC. 644. (a) Each Head Start agency shall observe standards of organization, management, and administration which will assure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this subchapter and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each such agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each agency shall also provide for reasonable public access to information, including public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible. Each such agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to (1) establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits; (2) assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness; (3) guard against personal or financial conflicts of interest; and (4) define employee duties in an appropriate manner which will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action which is in violation of law.

(b) No financial assistance shall be extended under this subchapter in any case in which the Secretary determines that the costs of developing and administering a program assisted under this subchapter exceed 15 percent of the total costs, including non-Federal contributions to such costs, of such program. The Secretary shall establish by regulation, criteria for determining (1) the costs of developing and administering such program; and (2) the total costs of such program. In any case in which the Secretary determines that the cost of administering such program does not exceed 15 percent of such total costs but is, in the judgment of the Secretary, excessive, the Secretary shall forthwith require the recipient of such financial assistance to take such steps prescribed by the Secretary as will eliminate such excessive administrative cost, including the sharing by one or more Head Start agencies of a common director and other administrative personnel. The Secretary may waive the limitation prescribed by this subsection for specific periods of time not to exceed 12 months whenever the Secretary determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

(c) The Secretary shall prescribe rules or regulations to supplement subsection (a), which shall be binding on all agencies carrying on Head Start program activities with financial assistance under this subchapter. The Secretary may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. Policies and procedures shall be

established to ensure that indirect costs attributable to the common or joint use of facilities and services by programs assisted under this subchapter and other programs shall be fairly allocated among the various programs which utilize such facilities and services.

(d) At least 30 days prior to their effective date, all rules, regulations, guidelines, instructions, and application forms shall be published in the Federal Register and shall be sent to each grantee with the notification that each such grantee has the right to submit comments pertaining thereto to the Secretary prior to the final adoption thereof.

PARTICIPATION IN HEAD START PROGRAMS

SEC. 645. (a)(1) The Secretary shall by regulation prescribe eligibility for the participation of persons in Head Start programs assisted under this subchapter. Except as provided in paragraph (2), such criteria may provide (A) that children from low-income families shall be eligible for participation in programs assisted under this subchapter if their families' incomes are below the poverty line, or if their families are eligible or, in the absence of child care, would potentially be eligible for public assistance; and (B) pursuant to such regulations as the Secretary shall prescribe, that programs assisted under this subchapter may include, to a reasonable extent, participation of children in the area served who would benefit from such programs but whose families do not meet the low-income criteria prescribed pursuant to clause (A).

(2) Whenever a Head Start program is operated in a community with a population of 1,000 or less individuals and—

(A) there is no other preschool program in the community;

(B) the community is located in a medically underserved area, as designated by the Secretary pursuant to section 330(b)(3) of the Public Health Service Act and is located in a health manpower shortage area, as designated by the Secretary pursuant to section 332(a)(1) of such Act;

(C) the community is in a location which, by reason of remoteness, does not permit reasonable access to the types of services described in clauses (A) and (B); and

(D) not less than 50 percent of the families to be served in the community are eligible under the eligibility criteria established by the Secretary under paragraph (1);

the Head Start program in each such locality shall establish the criteria for eligibility, except that no child residing in such community whose family is eligible under such eligibility criteria shall, by virtue of such project's eligibility criteria, be denied an opportunity to participate in such program.

(b) The Secretary shall not prescribe any fee schedule or otherwise provide for the charging of any fees for participation in Head Start programs, unless such fees are authorized by legislation hereafter enacted. Nothing in this subsection shall be construed to prevent the families of children who participate in Head Start programs and who are willing and able to pay the full cost of such participation from doing so.

APPEALS, NOTICE, AND HEARING

SEC. 646. The Secretary shall prescribe procedures to assure that—

(1) special notice of and an opportunity for a timely and expeditious appeal to the Secretary will be provided for an agency or organization which desires to serve as a delegate agency under this subchapter and whose application to the Head Start agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Secretary, in accordance with regulations which the Secretary shall prescribe;

(2) financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(3) financial assistance under this subchapter shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than 30 days, unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

RECORDS AND AUDITS

SEC. 647. (a) Each recipient of financial assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this subchapter.

TECHNICAL ASSISTANCE AND TRAINING

SEC. 648. The Secretary may provide, directly or through grants or other arrangements (1) technical assistance to communities in developing, conducting, and administering programs under this subchapter; and (2) training for specialized or other personnel needed in connection with Head Start programs.

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 649. (a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this subchapter.

(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, or pilot projects and the use of all research authority under this subchapter. Such plan shall set forth specific objectives to be achieved and priorities among such objectives.

ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, AND PILOT PROJECTS CONTRACTS

SEC. 650. (a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this subchapter; and

(2) the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a)(1) shall be made within 30 days of making such grants or contracts, and the public announcements required by subsection (a)(2) shall be made within 90 days of the receipt of such results.

(c) The Secretary shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this subchapter shall become the property of the United States.

(d) The Secretary shall publish summaries of the results of activities carried out pursuant to this subchapter not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such summaries.

EVALUATION

SEC. 651. (a) The Secretary shall provide, directly or through grants or contracts, for the continuing evaluation of programs under this subchapter, including evaluations that measure and evaluate the impact of programs authorized by this subchapter, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program or project operation.

(b) The Secretary shall operate the programs and projects covered by this subchapter in accordance with Head Start performance standards. Any revisions in such standards shall result in standards which are no less comprehensive than those in effect on the date of the enactment of the Economic Opportunity Amendments of 1978. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this subchapter.

(c)(1) In carrying out evaluations under this subchapter, the Secretary shall establish working relationships with the faculties of colleges or universities located in the area in which any such evaluation is being conducted, unless there is no such college or university willing and able to participate in the evaluation. For purposes of the preceding sentence, for any single evaluation, areas in which such working relationships are established may not be larger than 3 contiguous States.

(2) In carrying out evaluations under this subchapter, the Secretary may require Head Start agencies to provide for independent evaluations.

(d) In carrying out evaluations under this subchapter, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this subchapter about such programs and projects.

(e) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed

with assistance under this subchapter shall become the property of the United States.

POVERTY LINE

SEC. 652. (a) The Secretary shall revise annually (or at any shorter interval the Secretary deems feasible and desirable) a poverty line which, except as provided in section 645, shall be used as a criterion of eligibility for participation in Head Start programs.

(b) The revision required by subsection (a) shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

(c) Revisions required by subsection (a) shall be made and issued not more than 30 days after the date on which the necessary Consumer Price Index data become available.

COMPARABILITY OF WAGES

SEC. 653. The Secretary shall take such action as may be necessary to assure that persons employed in carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher; or (2) less than the minimum wage rate prescribed in section 6(a)(1) of the Fair Labor Standards Act of 1938.

NONDISCRIMINATION PROVISIONS

SEC. 654. (a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this subchapter.

(c) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract relating to the financial assistance specifically provides that no person with responsibilities in the operation of the program, project, or activity will discriminate against any individual because of a handicapping condition in violation of section 504 of the Rehabilitation Act of 1973.

LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES

SEC. 655. No individual employed or assigned by any Head Start agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this subchapter by such Head Start agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

POLITICAL ACTIVITIES

SEC. 656. (a) For purposes of chapter 15 of title 5, United States Code, any agency which assumes responsibility for planning, developing, and coordinating Head Start programs and receives assistance under this subchapter shall be deemed to be a State or local agency. For purposes of clauses (1) and (2) of section 1502(a) of such title, any agency receiving assistance under this subchapter shall be deemed to be a State or local agency.

(b) Programs assisted under this subchapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or (3) any voter registration activity. The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

ADVANCE FUNDING

SEC. 657. For the purpose of affording adequate notice of funding available under this subchapter, appropriations for carrying out this subchapter are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

Subchapter C—Follow Through Programs

SHORT TITLE

SEC. 661. This subchapter may be cited as the "Follow Through Act".

FINANCIAL ASSISTANCE FOR FOLLOW THROUGH PROGRAMS

SEC. 662. (a) The Secretary is authorized to provide financial assistance in the form of grants to local educational agencies, combinations of such agencies, and, as provided in subsection (b), any other public or appropriate nonprofit private agencies, organizations, and institutions for the purpose of carrying out Follow Through programs focused primarily on children from low-income families in kindergarten and primary grades, including such children enrolled in private nonprofit elementary schools, who were previously enrolled in Head Start or similar programs. Other children in kindergarten and primary grades, including such other children enrolled in private nonprofit elementary schools, who were previously enrolled in preschool programs of a compensatory nature which received Federal financial assistance may participate in such Follow Through programs.

(b) Whenever the Secretary determines—

(1) that a local educational agency receiving assistance under subsection (a) is unable or unwilling to include in a Follow Through program children enrolled in nonprofit private schools who would otherwise be eligible to participate therein; or

(2) that it is otherwise necessary in order to accomplish the purposes of this section;

the Secretary may provide financial assistance for the purpose of carrying out a Follow Through program to any other public or appropriate nonprofit private agency, organization, or institution.

(c) Programs to be assisted under this section shall provide such comprehensive educational, health, nutritional, social, and other services as will aid in the continued development of children described in subsection (a) to their full potential. Such projects shall provide for the direct participation of the parents of such children in the development, conduct, and overall direction of the program at the local level. If the Secretary determines that participation in the project of children who are not from low-income families will serve to carry out the purposes of this section, the Secretary may provide for the inclusion of such children from non-low-income families, but only to the extent that their participation will not dilute the effectiveness of the services designed for children described in subsection (a).

AUTHORIZATION OF APPROPRIATIONS

SEC. 663. (a)(1) There is authorized to be appropriated for carrying out the purposes of this subchapter $44,300,000 for fiscal year 1982, $22,150,000 for fiscal year 1983, and $14,767,000 for fiscal year 1984.

(2) Funds appropriated under this section for fiscal years 1982 and 1983 shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

(b) Financial assistance extended under this subchapter for a Follow Through program shall not exceed 80 percent of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 percent of the approved costs of programs or activities assisted under this subchapter.

(c) No project shall be approved for assistance under this subchapter unless the Secretary is satisfied that the services to be provided under such project will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may adopt.

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 664. (a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public and private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or in otherwise furthering the purposes of this subchapter.

(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, or pilot projects and the use of all research authority under this subchapter. Such plan shall set forth specific objectives to be achieved and priorities among such objectives.

ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, AND PILOT PROJECT CONTRACTS

SEC. 665. (a) The Secretary shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this subchapter; and

(2) the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a)(1) shall be made not later than 30 days after making such grants or contracts, and the public announcements required by subsection (a)(2) shall be made not later than 90 days after the receipt of such results.

(c) The Secretary shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this subchapter shall become the property of the United States.

(d) The Secretary shall publish summaries of the results of activities carried out pursuant to this subchapter not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such summaries.

EVALUATION

SEC. 666. (a) The Secretary shall provide, directly or through grants or contracts, for the continuing evaluation of programs under this subchapter, including evaluations that measure and evaluate the impact of programs authorized by this subchapter, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanism for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program or project.

(b) The Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this subchapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this subchapter.

(c) In carrying out evaluations under this subchapter, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this subchapter about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this section become the property of the United States.

TECHNICAL ASSISTANCE AND TRAINING

SEC. 667. The Secretary may provide, directly or through grants or other appropriate arrangements (1) technical assistance to Follow Through programs in developing, conducting, and administering programs under this subchapter; and (2) training for specialized or other personnel which is needed in connection with Follow Through programs.

SPECIAL CONDITIONS

SEC. 668. (a) Recipients of financial assistance under this subchapter shall provide maximum employment opportunities for residents of the area to be served, and to parents of children who are participating in projects assisted under this subchapter.

(b) Financial assistance under this subchapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for refunding be denied, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(c) Financial assistance under this subchapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

APPLICABILITY OF PROVISIONS OF SUBCHAPTER B

SEC. 669. The provisions of sections 637, 653, 654, 655, 656, and 657 shall apply to the administration of this subchapter.

REPEALER

SEC. 670. Effective October 1, 1984, the provisions of this subchapter are repealed.

Subtitle B—Community Services Block Grant Program

SHORT TITLE

SEC. 671. This subtitle may be cited as the "Community Services Block Grant Act".

COMMUNITY SERVICES GRANTS AUTHORIZED

SEC. 672. (a) The Secretary is authorized to make grants in accordance with the provisions of this subtitle, to States to ameliorate the causes of poverty in communities within the State.

(b) There is authorized to be appropriated $389,375,000 for the fiscal year 1982 and for each of the 4 succeeding fiscal years to carry out the provisions of this subtitle.

DEFINITIONS

SEC. 673. For purposes of this subtitle:

(1) The term "eligible entity" means any organization which was officially designated as a community action agency or a community action program under the provisions of section 210 of the Economic Opportunity Act of 1964 for fiscal year 1981, unless such community action agency or a community action program lost its designation under section 210 of such Act as a result of a failure to comply with the provisions of such Act.

(2) The term "poverty line" means the official poverty line established by the Director of the Office of Management and Budget. The Secretary shall revise the poverty line annually (or at any shorter interval the Secretary deems feasible and desirable) which shall be used as a criterion of eligibility in community service block grant programs. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

(3) The term "Secretary" means the Secretary of Health and Human Services.

(4) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

STATE ALLOCATIONS

SEC. 674. (a)(1) The Secretary shall from the amount appropriated under section 672 for each fiscal year which remains after—

(A) the Secretary makes the apportionment required in subsection (b)(1); and

(B) the Secretary determines the amount necessary for the purposes of section 681(b);

allot to each State an amount which bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under section 221 of the Economic Opportunity Act of 1964 bore to the total amount received by all States for fiscal year 1981 under such part, except that no State shall receive less than one-quarter of 1 percent of the amount appropriated under section 672 for such fiscal year.

(2) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) The Secretary shall apportion the one-half of 1 percent remaining in each fiscal year on the basis of need between Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this subtitle upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this subtitle, and which are consistent with the requirements of section 675.

(c)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subtitle be made directly to such tribe or organization; and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subtitle;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this subtitle for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from sums that would otherwise be allotted to such State not less than 100 percent of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all individuals eligible for assistance under this subtitle in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

(5) The terms "Indian tribe" and "tribal organization" mean those tribes, bands, or other organized groups of Indians recognized in the State in which they reside or considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose.

APPLICATIONS AND REQUIREMENTS

SEC. 675. (a) Each State desiring to receive an allotment for a fiscal year under this subtitle shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will comply with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) After the expiration of the first fiscal year in which a State received funds under this subtitle, no funds shall be allotted to such State for any fiscal year under this subtitle unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under this subtitle for such fiscal year.

(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this subtitle—

(A) to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(B) to provide activities designed to assist low-income participants including the elderly poor—

(i) to secure and retain meaningful employment;

(ii) to attain an adequate education;

(iii) to make better use of available income;

(iv) to obtain and maintain adequate housing and a suitable living environment;

(v) to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

(vi) to remove obstacles and solve problems which block the achievement of self-sufficiency;

(vii) to achieve greater participation in the affairs of the community; and

(viii) to make more effective use of other programs related to the purposes of this subtitle;

(C) to provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor;

(D) to coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals; and

(E) to encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community;

(2)(A)(i) use, for fiscal year 1982 only, not less than 90 percent of the funds allotted to the State under section 674 to make grants to use for the purposes described in clause (1) to eligible entities (as defined in section 673(1)) or to organizations serving seasonal or migrant farmworkers; and

(ii) use, for fiscal year 1983 and for each subsequent fiscal year, not less than 90 percent of the funds allotted to the State under section 674 to make grants to political subdivisions of the State for the political subdivisions to use for the purposes described in clause (1) directly or to nonprofit private community organizations which have a board which meets the requirements of clause (3), or to migrant and seasonal farm worker organizations; and

(B) provide assurances that the State will not expend more than 5 percent of its allotment under section 674 for administrative expenses at the State level;

(3) provide assurances that, in the case of a community action agency or nonprofit private organization, each board will be constituted so as to assure that (A) one-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement; (B) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and (C) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community;

(4) give special consideration in the designation of local community action agencies under this subtitle to any community action agency which is receiving funds under any Federal antipoverty program on the date of the enactment of this Act, except that (A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and (B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, the State shall give special consideration in the designation of community action agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made;

(5) provide assurances that the State may transfer funds, but not to exceed 5 percent of its allotment under section 674, for the provisions set forth in this subtitle to services under the Older Americans Act of 1965, the Head Start program under subchapter B of chapter 8 of subtitle A of this title, or the energy crisis intervention program under title XXVI of this Act (relating to low-income home energy assistance);

(6) prohibit any political activities in accordance with subsection (e);

(7) prohibit any activities to provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity;

(8) provide for coordination between antipoverty programs in each community, where appropriate, with emergency energy crisis intervention programs under title XXVI of this Act (relating to low-income home energy assistance) conducted in such community;

(9) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the assistance provided under this subtitle, and provide that at least every year each State shall prepare, in accordance with subsection (f), an audit of its expenditures of amounts received under this subtitle and amounts transferred to carry out the purposes of this subtitle; and

(10) permit and cooperate with Federal investigations undertaken in accordance with section 679.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(d)(1) In addition to the requirements of subsection (c), the chief executive of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (c). The chief executive of each State may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (1) shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(e) For purposes of chapter 15 of title 5, United States Code, any nonprofit private organization receiving assistance under this subtitle which has responsibility for planning, developing, and coordinating community antipoverty programs shall be deemed to be a State or local agency. For purposes of clauses (1) and (2) of section 1502(a) of such title, any such organization receiving assistance under this subtitle shall be deemed to be a State or local agency.

(f) Each audit required by subsection (c)(9) shall be conducted by an entity independent of any agency administering activities or services carried out under this subtitle and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this subtitle or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

(h) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this subtitle in order to assure that expenditures are consistent with the provisions of this subtitle and to determine the effectiveness of the State in accomplishing the purposes of this subtitle.

ADMINISTRATION

SEC. 676. (a) There is established in the Department of Health and Human Services an Office of Community Services. The Office shall be headed by a Director.

(b) The Secretary shall carry out his functions under this subtitle through the Office of Community Services established in subsection (a).

NONDISCRIMINATION PROVISIONS

SEC. 677. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

PAYMENTS TO STATES

SEC. 678. (a) From its allotment under section 674, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), for use under this subtitle.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

WITHHOLDING

SEC. 679. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment substantially in accordance with the provisions of this subtitle and the assurances such State provided under section 675.

(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subtitle or the assurances provided by the State under section 675. For purposes of this paragraph, a violation of any one of the assurances contained in section 675(c) that constitutes a disregard of that assurance shall be considered a serious complaint.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this subtitle in order to evaluate compliance with the provisions of this subtitle.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this subtitle by such State in order to ensure compliance with the provisions of this subtitle.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this subtitle by a State in order to ensure compliance with the provisions of this subtitle.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 680. (a) Except as provided in subsection (b), grants made under this subtitle (other than amounts made available under section 681(b)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

(b) The Secretary may waive the limitation contained in subsection (a) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the State's ability to carry out the purposes of this subtitle.

DISCRETIONARY AUTHORITY OF SECRETARY

SEC. 681. (a) The Secretary is authorized, either directly or through grants, loans, or guarantees to States and public and other organizations and agencies, or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for—

(1) training related to the purposes of this subtitle; and

(2) ongoing activities of national or regional significance related to the purposes of this subtitle, including special emphasis programs for—

(A) special programs of assistance to private, locally initiated community development programs which sponsor enterprises providing employment and business development opportunities for low-income residents of the area;

(B) Rural Development Loan Fund revolving loans and guarantees under subchapter A of chapter 8 of subtitle A of this title;

(C) community development credit union programs administered under subchapter A of chapter 8 of subtitle A of this title;

(D) technical assistance and training programs in rural housing and community facilities development;

(E) assistance for migrants and seasonal farmworkers; and

(F) national or regional programs designed to provide recreational activities for low-income youth.

(b) Of the amounts appropriated under section 672(b) for any fiscal year, not more than 9 percent of such amounts shall be available to the Secretary for purposes of carrying out this section and subchapter A of chapter 8 of subtitle A of this title.

TRANSITION PROVISIONS

SEC. 682. (a)(1) The purpose of this section is to permit, for fiscal year 1982 only, States to choose to operate programs under the block grant established by this subtitle or to have the Secretary operate programs under the provisions of law repealed by section 683(a).

(2) The Secretary shall carry out the provisions of this section through the Office of Community Services established in section 676(a).

(b)(1) Notwithstanding the provisions of section 683(a) or any other provision of law, a State may, for fiscal year 1982 only, make a determination that the State chooses not to operate programs under the block grant established by this subtitle. If the State makes such a determination, the State's allotment under section 674 shall be used within the State by the Secretary to carry out programs (in accordance with paragraph (4)) under the provisions of law in effect on September 30, 1981, but repealed by section 683(a).

(2) The provisions of paragraph (1) apply to the provisions of law referred to in such paragraph, regardless of whether there is a specific termination provision or other provision of law repealing or otherwise terminating any program subject to this Act.

(3) Each State which, pursuant to paragraph (1), determines to have the Secretary operate programs under the provisions of law in effect on September 30, 1981, but repealed by section 683(a), shall give notice to the Secretary of such determination. Such notice shall be submitted to the Secretary prior to the beginning of the first quarter of fiscal year 1982 and at least 30 days before the beginning of any other quarter during such fiscal year. For purposes of this section, the quarters for fiscal year 1982 shall commence on October 1, January 1, April 1, and July 1 of fiscal year 1982.

(4) In any case in which the Secretary carries out programs under paragraph (1), the Secretary shall provide for the carrying out of such programs by making grants for such purpose to eligible entities (as defined in section 673(1)).

(c) The Secretary shall provide such assistance to the States as the States may require in order to carry out the provisions of this section.

(d) The Secretary may reserve not more than 5 percent of any State's allotment for administration of such State's programs under the block grant established by this subtitle, if such State has made a determination that the State chooses not to operate programs under the block grant established by this subtitle, and the Secretary is carrying out such State's programs under the provisions of law in effect on September 30, 1981.

(e) Upon the enactment of this Act, the Director of the Office of Management and Budget is authorized to provide for termination of the affairs of the Community Services Administration. He shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records and unexpended balances of appropriations, authorizations, allocations and other funds held, used, arising from, available to, or to be made available in connec-

tion with implementation of the authorities terminated by section 683(a) as necessary to effectuate the purposes of this subtitle.

REPEALER; REAUTHORIZATION PROVISIONS; TECHNICAL AND CONFORMING PROVISIONS

SEC. 683. (a) Effective October 1, 1981, the Economic Opportunity Act of 1964, other than titles VIII and X of such Act, is repealed.

(b) There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1982, 1983, and 1984, to carry out title VIII of the Economic Opportunity Act of 1964.

(c)(1) Any reference in any provision of law to the poverty line set forth in section 624 of the Economic Opportunity Act of 1964 shall be construed to be a reference to the poverty line defined in section 673(2) of this Act.

(2) Any reference in any provision of law to any community action agency designated under title II of the Economic Opportunity Act of 1964 shall be construed to be a reference to private nonprofit community organizations eligible to receive funds under this subtitle.

(3) No action or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any agency administering the Act repealed by subsection (a) of this section shall abate by reason of the enactment of this Act.

TITLE VII—EMPLOYMENT PROGRAMS

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 701. (a) Section 112 of the Comprehensive Employment and Training Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 112. (a) There are authorized to be appropriated for fiscal year 1982 for the purpose of carrying out this Act—

"(1) $1,430,775,000 for carrying out parts A, B, and C of title II;

"(2) $219,015,000 for carrying out titles III and V, of which not more than $3 million may be transferred to the National Occupational Information Coordinating Committee established pursuant to section 161(b) of the Vocational Education Act of 1963 for purposes described in section 315 of this Act;

"(3) $576,200,000 for carrying out part A of title IV;

"(4) $628,263,000 for carrying out part B of title IV;

"(5) $766,100,000 for carrying out part C of title IV;

"(6) $274,700,000 for carrying out title VII; and

"(7) $75,462,000 for the expenses of the Department of Labor in administering this Act.

"(b)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.".

(b) The matter preceding clause (i) of section 202(a)(2)(A) of the Act is amended by striking out "Eighty-five percent" and inserting in lieu thereof "Eighty-six and one-half percent".

(c) Section 202 of the Comprehensive Employment and Training Act is amended by adding the following subsection at the end thereof:

"(h) Notwithstanding the provisions of subsections (b), (c), (d), and (e) of this section, not more than 10½ percent of the amounts available for this title shall be available for the purposes specified in such subsections. The Governor of each State may in his own discretion determine the amount of funds to be used for each of the functions specified in such subsections but not to exceed the amounts specified therein.".

(d)(1) Section 433(a)(1) of the Comprehensive Employment and Training Act is amended by striking out "75" and inserting in lieu thereof "85".

(2) Section 436(a)(2) of such Act is amended by striking out ", but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart".

(e)(1) Title IV of the Comprehensive Employment and Training Act is amended by inserting after section 402 the following new section:

"TRANSFERABILITY OF FUNDS

"SEC. 403. (a) Twenty percent of the funds available to a prime sponsor in fiscal year 1982 to carry out part A of this title may, at the prime sponsor's discretion, be used in accordance with the provisions of part C and 20 percent of the funds available to a prime sponsor in fiscal year 1982 to carry out part C of this title may, at the prime sponsor's discretion, be used in accordance with the provisions of part A.

"(b) Funds available to a prime sponsor under subpart 2 of part A of this title may, at the prime sponsor's discretion, be used in accordance with the provisions of subpart 3 of part A of this title. Any funds allocated under subpart 2 of part A of this title which are reallocated by the Secretary pursuant to section 108 may, in the Secretary's discretion, be allocated for use in accordance with the provisions of subpart 3 of part A of this title.".

(2) The table of contents of such Act is amended by inserting after the item pertaining to section 402 the following new item:

"403. Transferability of funds.".

(f) Section 702 of the Comprehensive Employment and Training Act is amended—

(1) by striking out "Eighty-five" in subsection (b)(1) and inserting in lieu thereof "Ninety-five"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Funds available to prime sponsors under this title may be used to promote coordination with economic development activities supported by Federal, State, or local funds. Funds used for such coordinated activities shall not be taken into account in the computation of cost per participant or cost per placement for purposes of program evaluation.".

(g) If, during the second session of the 97th Congress, neither the House of Representatives nor the Senate have passed legislation replacing or amending the Comprehensive Employment and Training Act by September 10, 1982, the provisions of section 112 of that Act (relating to authorization of appropriations) applicable to fiscal 1982 shall be applicable to fiscal 1983.

THE WAGNER-PEYSER ACT

SEC. 702. Section 5(b) of the Act of June 6, 1933 (commonly known as the Wagner-Peyser Act), is amended by inserting before the period at the end thereof a comma and the following: "but not to exceed $677,800,000 in the fiscal year beginning October 1, 1981. For purposes of this subsection, the term 'proper and efficient administration of its public employment offices' shall mean only such functions as are necessary to carry out the provisions of this Act and shall not include functions authorized or required under the Internal Revenue Code of 1954, the Immigration and Nationality Act, or chapter 41 of title 38, United States Code.".

TITLE VIII—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

CHANGES IN REIMBURSEMENT FOR SCHOOL LUNCHES AND BREAKFASTS

SEC. 801. (a) Section 4 of the National School Lunch Act is amended—

(1) by inserting "(a)" after "SEC. 4.";

(2) in subsection (a) (as so designated), by striking out the second sentence; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary shall make food assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in a total amount equal to the product obtained by multiplying—

"(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency; by

"(B) the national average lunch payment prescribed in paragraph (2) of this subsection.

"(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 11(a) of this Act) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price, the national average lunch payment shall be 2 cents more.".

(b) Section 11(a) of the National School Lunch Act is amended—

(1) by inserting "(1)" after "SEC. 11. (a)";

(2) in the third sentence, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out the fifth sentence and all that follows through the end of the subsection and inserting in lieu thereof the following:

"(2) The special-assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special-assistance factor for reduced-price lunches shall be 40 cents less than the special-assistance factor for free lunches.

"(3)(A) The Secretary shall prescribe on July 1, 1982, and on each subsequent July 1, an annual adjustment in the following:

"(i) The national average payment rates for lunches (as established under section 4 of this Act).

"(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

"(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966).

"(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

"(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent.".

(c)(1) Section 4(b)(1) of the Child Nutrition Act of 1966 is amended to read as follows:

"(b)(1)(A) The Secretary shall make breakfast assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in an amount equal to the product obtained by multiplying—

"(i) the number of breakfasts served during such fiscal year to children in schools in such States which participate in the school breakfast program under agreements with such State educational agency; by

"(ii) the national average breakfast payment for free breakfasts, for reduced-price breakfasts, or for breakfasts served to children not eligible for free or reduced-price meals, as appropriate, as prescribed in clause (B) of this paragraph.

"(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act). The national average payment for each reduced-price breakfast shall be one-half of the national average payment for each free breakfast, adjusted to the nearest one-fourth cent, except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced-price breakfast exceed 30 cents. The national average payment for each breakfast served to a child not eligible for free or reduced-price meals shall be 8.25 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act).

"(C) No school which receives breakfast assistance payments under this section may charge a price of more than 30 cents for a reduced-price breakfast.

"(D) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.".

(2) Section 4(b)(2) of the Child Nutrition Act of 1966 is amended—

(A) in clause (B)(ii)—

(i) by striking out "on a semiannual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(ii) by striking out "six-month" and inserting in lieu thereof "twelve-month"; and

(B) in clause (C), by striking out "five" and inserting in lieu thereof "thirty".

(3)(A) Section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows:

"(d)(1) Each State educational agency shall provide additional assistance to schools in severe need, which shall include only—

"(A) those schools in which the service of breakfasts is required pursuant to State law; and

"(B) those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.

The provision of eligibility specified in clause (A) of this paragraph shall terminate effective July 1, 1983, for schools in States where the State legislatures meet annually and shall terminate effective July 1, 1984, for schools in States where the State legislatures meet biennially.

"(2) A school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.".

REDUCTION IN COMMODITY ASSISTANCE FOR LUNCHES

SEC. 802. The first sentence of section 6(e) of the National School Lunch Act is amended to read as follows: "The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions.".

REVISION OF INCOME ELIGIBILITY GUIDELINES

SEC. 803. (a) Section 9(b) of the National School Lunch Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced-price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. For the school years ending June 30, 1982, and June 30, 1983, the income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family-size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). Beginning July 1, 1983, the income guidelines for determining eligibility for free lunches for any school year shall be the same as the gross income eligibility standards announced by the Secretary for any such period for eligibility for participation in the food stamp program under the Food Stamp Act of 1977. The income guidelines for determining eligibility for reduced-price lunches for any school year shall be 185 percent of the applicable family-size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

"(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

"(i) the official poverty line (as defined by the Office of Management and Budget); by

"(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.";

(2) by redesignating paragraph (2) (and any references thereto) as paragraph (5) and by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family-size, to be used by schools in the State in making determinations of eligibility for free and reduced-price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced-price lunches on or before the opening of school.

"(B) Applications for free and reduced-price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family-size income levels for reduced-price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced-price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

"(C) Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, States, and local school food authorities may seek verification of the data contained in the application. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification.

"(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family-size income level of the income eligibility guidelines for reduced-price lunches, as determined under paragraph (1), shall be served a reduced-price lunch. The price charged for a reduced-price lunch shall not exceed 40 cents.

"(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced-price lunch under this subsection shall be made by the school nor shall there by any overt identification of any child by special tokens or tickets, an-

nounced or published lists of names, or by other means."; and

(3) in the second sentence of paragraph (5), as so redesignated by paragraph (2) of this subsection, by striking out "solely".

(b) Section 9 of the National School Lunch Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced-price lunches that the member of the household who executes the application furnish the social security account numbers of all adult members of the household of which such person is a member.

"(2) No member of a household may be provided a free or reduced-price lunch under this Act unless—

"(A) appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority; or

"(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 has been provided to the appropriate local school food authority.".

(c) Notwithstanding any other provision of law, the Secretary of Agriculture shall conduct a pilot study to verify the data submitted on a sample of applications for free and reduced-price meals. In conducting the pilot study, the Secretary may require households included in the study to furnish social security numbers of all household members and such other information as the Secretary may require, including, but not limited to, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers, as a condition for receipt of free or reduced-price meals.

(d) For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions made by the amendments contained in this section to the income eligibility guidelines for free and reduced-price lunches under section 9 of the National School Lunch Act. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications and make determinations using such applications.

REVISION OF STATE REVENUE MATCHING REQUIREMENTS

SEC. 804. Section 7 of the National School Lunch Act is amended to read as follows:

"SEC. 7. (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980.

"(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

"(b) The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this Act. No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

"(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.".

TERMINATION OF FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 805. (a) Section 5 of the National School Lunch Act is repealed.

(b) Section 5 of the Child Nutrition Act of 1966 is repealed.

NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 806. The second sentence of section 19(j)(2) of the Child Nutrition Act of 1966 is amended to read as follows: "There is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000 for fiscal year 1981, and not more than $5,000,000 for each subsequent fiscal year.".

REVISION OF THE SPECIAL MILK PROGRAM

SEC. 807. Section 3 of the Child Nutrition Act of 1966 is amended—

(1) in the first sentence—

(A) in clause (1), by inserting "which do not participate in a meal service program authorized under this Act or the National School Lunch Act," after "under,"; and

(B) in clause (2), by inserting ", which do not participate in a meal service program authorized under this Act or the National School Lunch Act" after "training of children";

(2) in the fourth sentence, by inserting "which does not participate in a meal service program authorized under this Act or the National School Lunch Act" after "institution";

(3) in the fifth sentence, by striking out "also"; and

(4) by striking out the eighth sentence.

LIMITATION ON PRIVATE SCHOOL PARTICIPATION

SEC. 808. (a) Section 12(d)(6) of the National School Lunch Act is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child," after "under,".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child," after "such school,".

SUMMER FOOD SERVICE PROGRAM

SEC. 809. Section 13 of the National School Lunch Act is amended—

(1) in subsection (a)(1)—

(A) in clause (B), by striking out "nonresidential public or private nonprofit institutions," and inserting in lieu thereof "public or private nonprofit school food authorities, local, municipal, or county governments,"; and

(B) in clause (C), by striking out "33⅓ percent" and inserting in lieu thereof "50 percent"; and

(2) by adding at the end of subsection (a) the following new paragraph:

"(6) Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.".

REVISION OF CHILD CARE FOOD PROGRAM

SEC. 810. (a) Section 17(a) of the National School Lunch Act is amended—

(1) in the second sentence, by adding at the end before the period the following: "(but only if such organization receives compensation under such title for at least 25 percent of the children for which the organization provides such nonresidential day care services)"; and

(2) by adding after the third sentence the following: "Reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for handicapped children).".

(b) Section 17(b) of the National School Lunch Act is amended by striking out "served in the manner specified in subsection (c)" and inserting in lieu thereof "as provided in subsection (f)".

(c) Section 17(c) of the National School Lunch Act is amended to read as follows:

"(c)(1) For purposes of this section, the national average payment rate for free lunches and suppers, the national average payment rate for reduced-price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced-price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

"(2) For purposes of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced-price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced-price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11(a) of this Act).

"(3) For purposes of this section, the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced-price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

"(4) Determinations with regard to eligibility for free and reduced-price meals and supplements shall be made in accordance with the income eligibility guidelines for

free lunches and reduced-price lunches, respectively, under section 9 of this Act.".

(d) Section 17(f) of the National School Lunch Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

"(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child.";

(2) by striking out paragraph (3) and by redesignating paragraphs (4) and (5) (and any references thereto) as paragraphs (3) and (4), respectively; and

(3) in paragraph (3), as so redesignated—

(A) by redesignating the fourth sentence and all that follows through the end of the paragraph as subparagraph (C); and

(B) by amending all that precedes subparagraph (C) (as so redesignated) to read as follows:

"(3)(A) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the eligiblity standards for free or reduced-price meals under section 9 of this Act. The reimbursement factor in effect as of the date of the enactment of this sentence shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which such data are available. The reimbursement factor under this subparagraph shall be rounded to the nearest one-fourth cent.

"(B) Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available. The maximum allowable levels for administrative expense payments, as in effect as of the date of the enactment of this subparagraph, shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes.".

(e) Section 17(g) of the National School Lunch Act is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) (and any references thereto) as paragraphs (2) and (3), respectively.

(f) Section 17 of the National School Lunch Act is further amended by striking out subsections (i) and (n).

(g) Section 17(o) of the National School Lunch Act is amended in the second sentence by striking out "the availability of food service equipment funds under the program,".

FOOD NOT INTENDED TO BE CONSUMED

SEC. 811. The third sentence of section 9(a) of the National School Lunch Act is amended by striking out "in any junior high school or middle school".

STATE PLAN REQUIREMENTS

SEC. 812. Section 11(e) of the National School Lunch Act is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2) and (3) (and any references thereto) as paragraphs (1) and (2), respectively; and

(2) in paragraphs (1) and (2), as so redesignated, by striking out the second sentence of each such paragraph.

COMMODITY ONLY SCHOOLS

SEC. 813. (a) Section 14 of the National School Lunch Act is amended by adding at the end thereof the following new subsection:

"(f) Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 6(e) of this Act and the national average payment established under section 4 of this Act. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act, and shall represent the four basic food groups, including a serving of fluid milk.".

(b) Section 11 of the National School Lunch Act is further amended by adding at the end thereof the following new subsection:

"(e) Commodity only schools shall also be eligible for special-assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 9(b) of this Act, and shall serve meals at a reduced-price, not exceeding the price specified in section 9(b)(3) of this Act, to children meeting the eligibility requirements for reduced-price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced-priced lunch shall be made by the school, nor shall there be any overt identification of any such child by any means.".

(c) Section 3 of the Child Nutrition Act of 1966 is further amended by—

(1) inserting "(a)" after "SEC. 3."; and

(2) by adding at the end thereof the following new subsection:

"(b) Commodity only schools shall not be eligible to participate in the special milk program under this section. For the purposes of the preceding sentence, the term 'commodity only schools' means schools that do not participate in the school lunch program under the National School Lunch Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.".

(d) Section 12(d) of the National School Lunch Act is further amended by adding at the end thereof the following new paragraph:

"(8) 'Commodity only schools' means schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.".

STATE ADMINISTRATIVE EXPENSES

SEC. 814. (a) Section 7(a)(2) of the Child Nutrition Act of 1966 is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1981".

(b) Section 7(e) of the Child Nutrition Act is amended to read as follows:

"(e) Notwithstanding any other provision of law, funds made available to each State under this section shall remain available for obligation and expenditure by that State during the fiscal year immediately following the fiscal year for which such funds were made available. For each fiscal year the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary considers appropriate.".

AUTHORIZATIONS FOR WIC PROGRAM

SEC. 815. Section 17(g) of the Child Nutrition Act of 1966 is amended by striking out in the first sentence "and such sums as may be necessary for the three subsequent fiscal years," and inserting in lieu thereof "$1,017,000,000 for the fiscal year ending September 30, 1982, $1,060,000,000 for the fiscal year ending September 30, 1983, and $1,126,000,000 for the fiscal year ending September 30, 1984,".

CLAIMS ADJUSTMENT AUTHORITY

SEC. 816. Section 16 of the Child Nutrition Act of 1966 is amended—

(1) by inserting "(a)" after "SEC. 16."; and

(2) by adding at the end thereof the following new subsection:

"(b) With regard to any claim arising under this Act or under the National School Lunch Act, the Secretary shall have the authority to determine the amount of, to settle and to adjust any such claim, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of either such Act. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

LIMITATIONS ON SECRETARY'S AUTHORITY TO DIRECTLY ADMINISTER PROGRAMS

SEC. 817. (a) Section 10 of the National School Lunch Act is amended to read as follows:

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 10. (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this

Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

"(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.".

(b) Section 13 of the National School Lunch Act is further amended by striking out subsection (i).

(c) Section 17 of the National School Lunch Act is further amended—

(1) by striking out subsection (m); and

(2) by redesignating subsections (j), (k), (l), (o), (p), (q), and (r), as subsections (i), (j), (k), (l), (m), (n), and (o), respectively.

(d) Section 4 of the Child Nutrition Act of 1966 is further amended by striking out subsection (f) and redesignating subsection (g) as subsection (f).

(e) The Child Nutrition Act of 1966 is further amended by inserting after section 4 the following new section:

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 5. (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools or institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

"(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.".

(f) Section 19(d) of the Child Nutrition Act of 1966 is amended by striking out paragraph (6).

COST SAVINGS REVISIONS BY THE SECRETARY

SEC. 818. As soon as possible after the date of the enactment of this Act, the Secretary of Agriculture shall review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to nutritional requirements for meals) for the purposes of determining ways in which cost savings might be accomplished at the local level in the operation of meal programs under the National School Lunch Act and the Child Nutrition Act of 1966 without impairing the nutritional value of such meals. Not later than 90 days after the date of the enactment of this Act, on the basis of such review, the Secretary of Agriculture shall promulgate such regulations as the Secretary considers appropriate to effectuate such cost savings.

CONFORMING AND MISCELLANEOUS AMENDMENTS

SEC. 819. (a) Section 11 of the National School Lunch Act is amended—

(1) by striking out "financing the cost of" in the first sentence in subsection (b); and

(2) by striking out "or 5" in subsection (d).

(b) Section 4(c) of the Child Nutrition Act of 1966 is amended by striking out "financing the costs of" in the first sentence.

(c) Section 12 of the National School Lunch Act is amended—

(1) in subsection (d)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) through (8) (and any references thereto) as paragraphs (3) through (7), respectively; and

(2) by striking out the second sentence of subsection (h).

(d) Section 8 of the National School Lunch Act is amended—

(1) by striking out "or 5" in the first sentence;

(2) by striking out "to finance the cost of obtaining" in the second sentence and inserting in lieu thereof "to obtain";

(3) by striking out "and food service equipment assistance in connection with such program" in the second sentence; and

(4) by striking out "Federal food-cost contribution rate" both places it occurs in the fifth and sixth sentences and inserting in lieu thereof "per meal reimbursement rate".

(e) Section 7 of the Child Nutrition Act of 1966 is amended by striking out "3, 4, and 5" in subsections (a)(1), (a)(2), and (b) and inserting in lieu thereof "3 and 4".

(f) Section 11(a) of the Child Nutrition Act of 1966 is amended by striking out "sections 3 through 5" and inserting in lieu thereof "sections 3 and 4".

(g) Section 4(a) of the National School Lunch Act is amended in the first sentence by striking out ", excluding the sum specified in section 5,".

(h) Section 6(a)(2) of the National School Lunch Act is amended—

(1) by striking out "sections 4 and 5" and inserting in lieu thereof "section 4"; and

(2) by striking out "sections 4, 5, and 7" and inserting in lieu thereof "sections 4 and 7".

(i) Section 15(f) of the National School Lunch Act is amended by striking out "annually" in the second sentence and inserting in lieu thereof "biennially".

(j) Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) by striking out "title VII" in paragraph (1) of subsection (a) and inserting in lieu thereof "title III"; and

(2) by striking out "section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045(a)(4)) or for cash payments in lieu of such donations under section 707(d)(1) of such Act (42 U.S.C. 3045f(d)(1))" in the first sentence of subsection (c) and inserting in lieu thereof "section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4)) or for cash payments in lieu of such donations under section 311(c)(1) of such Act (42 U.S.C. 3030(c)(1))".

(k) The second sentence of section 17(f)(1) of the National School Lunch Act is amended by striking out "financing the cost of".

EFFECTIVE DATES AND REPEALER

SEC. 820. (a) The provisions of this title shall take effect as follows:

(1) The amendments made by the following sections shall take effect on the first day of the month following the date of the enactment of this Act, or on September 1, 1981, whichever is earlier:

(A) section 801;

(B) that portion of the amendment made by section 810(d)(1) pertaining to the limitation on the number of meals for which reimbursement may be made under the child care food program;

(C) that portion of the amendment made by section 810(d)(3) which reduces the meal reimbursement factor by 10 percent; and

(D) section 811.

(2) The amendments made by sections 802 and 804 shall take effect on July 1, 1981.

(3) The amendments made by sections 807, 808, and 810(a)(2) shall take effect on the first day of the second month following the date of the enactment of this Act.

(4) The amendments made by the following sections shall take effect October 1, 1981: sections 805, 806, 809, 810(a)(1), 810(f), 810(g), 812, 814, 817, and 819.

(5) The amendments made by section 813 shall take effect 90 days after the date of the enactment of this Act.

(6) The amendments made by the following provisions shall take effect January 1, 1982: subsections (b), (c), (d), and (e) of section 810, except that—

(A) the amendment made by section 810(d)(1) pertaining to the limitation on the number of meals for which reimbursement may be made shall take effect as provided under paragraph (1) of this subsection; and

(B) the amendment made by section 810(d)(3) which reduces the meal reimbursement factor by 10 percent shall take effect as provided under paragraph (1) of this subsection.

(7) The following provisions shall take effect on the date of the enactment of this Act:

(A) the amendments made by subsections (a) and (b) of section 803 and the provisions of subsections (c) and (d) of section 803;

(B) the amendment made by section 815;

(C) the amendment made by section 816; and

(D) the provisions of section 818.

(b) The Omnibus Reconciliation Act of 1980 (Public Law 96-499) is amended—

(1) by striking out subsection (a) of section 201 effective September 1, 1981, or the first day of the first month following the month in which this Act is enacted, whichever is earlier;

(2) by striking out subsection (a) of section 202 effective July 1, 1981; and

(3) by striking out subsections (a) and (b) of section 203 effective on the date of the enactment of this Act.

(c) Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement the amendments made by this title.

TITLE IX—HEALTH SERVICES AND FACILITIES

Subtitle A—Block Grants

PREVENTIVE HEALTH, HEALTH SERVICES, AND PRIMARY CARE HEALTH BLOCK GRANTS

SEC. 901. Effective October 1, 1981, the Public Health Service Act is amended by adding at the end the following new title:

"TITLE XIX—BLOCK GRANTS

"PART A—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1901. (a) For the purpose of allotments under section 1902, there is authorized to be appropriated $95,000,000 for fiscal year 1982, $96,500,000 for fiscal year 1983, and $98,500,000 for fiscal year 1984.

"(b) Of the amount appropriated for any fiscal year under subsection (a), at least $3,000,000 shall be made available for allotments under section 1902(b).

"ALLOTMENTS

"SEC. 1902. (a)(1) From the amounts appropriated under section 1901 for any fiscal year and available for allotment under this subsection, the Secretary shall allot to each State an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in paragraph (2) to the State and entities in the State for fiscal year 1981 bore to the total amount appropriated for such provisions of law for fiscal year 1981.

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on September 30, 1981:

"(A) The authority for grants under section 317 for preventive health service programs for the the control of rodents.

"(B) The authority for grants under section 317 for establishing and maintaining community and school-based fluoridation programs.

"(C) The authority for grants under section 317 for preventive health service programs for hypertension.

"(D) Sections 401 and 402 of the Health Services and Centers Amendments of 1978.

"(E) Section 314(d).

"(F) Section 339(a).

"(G) Sections 1202, 1203, and 1204.

"(b) From the amount required to be made available under section 1901(b) for allotments under this subsection for any fiscal year, the Secretary shall make allotments to each State on the basis of the population of the State.

"(c) To the extent that all the funds appropriated under section 1901 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1905 for the fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1906(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

"(d)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1981 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (a) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(5) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(e) The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotment to the States under this section. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Before June 30, 1982, the Secretary shall submit a report to the Congress respecting the development of a formula and make such recommendations as the Secretary may deem appropriate in order to ensure the most equitable distribution of funds under allotments under this section.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1903. (a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under section 1902 (other than any amount reserved under section 1902(d)) from amounts appropriated for that fiscal year.

"(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1904. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF ALLOTMENTS

"SEC. 1904. (a)(1) Except as provided in subsections (b) and (c), amounts paid to a State under section 1903 from its allotment under section 1902(a) and amounts transferred by the State for use under this part may be used for the following:

"(A) Preventive health service programs for the control of rodents and community and school-based fluoridation programs.

"(B) Establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, hypertension.

"(C) Community based programs for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations, comprehensive programs designed to deter smoking and the use of alcoholic beverages among children and adolescents, and other risk-reduction and health education programs.

"(D) Comprehensive public health services.

"(E) Demonstrate the establishment of home health agencies (as defined in section 1861(m) of the Social Security Act) in areas where the services of such agencies are not available. Amounts provided for such agencies may not be used for the direct provision of health services.

"(F) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the purchase of equipment for the systems.

"(G) Providing services to rape victims and for rape prevention.

Amounts provided for the activities referred to in the preceding sentence may also be used for related planning, administration, and educational activities.

"(2) Except as provided in subsection (b), amounts paid to a State under section 1903 from its allotment under section 1902(b) and amounts transferred by the State for use under this part may only be used for providing services to rape victims and for rape prevention.

"(3) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this part.

"(b) A State may not use amounts paid to it under section 1903 to—

"(1) provide inpatient services;

"(2) make cash payments to intended recipients of health services,

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity.

Except as provided in subsection (a)(1)(E), the Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

"(c) A State may transfer not more than 7 percent of the amount allotted to the State under section 1902(a) for any fiscal year for use by the State under parts B and C of this title and title V of the Social Security Act in such fiscal year as follows: At any time in the first three quarters of the fiscal year a State may transfer not more than 3 percent of the allotment of the State for the fiscal year for such use, and in the last quarter of a fiscal year a State may transfer for such use not more than the remainder of the amount of its allotment which may be transferred.

"(d) Of the amount paid to any State under section 1903, not more than 10 percent paid from each of its allotments under subsections (a) and (b) of section 1902 may be used for administering the funds made available under section 1903. The State will pay from non-Federal sources the remaining costs of administering such funds.

"APPLICATION AND DESCRIPTION OF ACTIVITIES

"SEC. 1905. (a) In order to receive an allotment for a fiscal year under section 1902 each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the legislature of the State has complied with the provisions of subsection (b) and that the State will meet the requirements of subsection (c).

"(b) After the expiration of the first fiscal year in which a State receives an allotment under section 1902, no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1903 for such fiscal year.

"(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State—

"(1) agrees to use the funds allotted to it under section 1902 in accordance with the requirements of this part;

"(2) except as provided in subsection (e), shall make grants for fiscal year 1982 to each entity within the State which received a grant or contract under section 1202, 1203, or 1204 in fiscal year 1981 and which would be eligible to receive a grant or contract under such section (as in effect on September 30, 1981) for such fiscal year if such grants or contracts were made under such section;

"(3) agrees to establish reasonable criteria to evaluate the effective performance of entities which receive funds from the allotment of the State under this part and procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

"(4) agrees to make grants for preventive health service programs for hypertension in amounts equal to—

"(A) for fiscal year 1982, 75 percent of the total amount provided by the Secretary in fiscal year 1981 to the State and entities in the State under section 317 for such programs,

"(B) for fiscal year 1983, 70 percent of such total amount, and

"(C) for fiscal year 1984, 60 percent of such total amount.

"(5) agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1907;

"(6) has identified those populations, areas, and localities in the State with a need for the services for which funds may be provided by the State under this part;

"(7) agrees that Federal funds made available under section 1903 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds; and

"(8) has in effect a system to protect from inappropriate disclosure patient and rape victim records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

"(d) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1903 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part, and any revision shall be subject to the requirements of the preceding sentence.

"(e) A State shall be required to make a grant to an entity as prescribed by subsection (c)(2) unless—

"(1) the State recommends on the basis of—

"(A) any Federal finding, Federal administrative action, or judicial proceeding with respect to any such entity, or

"(B) a review of such entity in accordance with the criteria and procedures required under subsection (c)(3),

that the State not be required to make such grants; and

"(2) the Secretary approves the recommendation of the State under paragraph (1) based upon a substantive and procedural review of the record made by the State in making its recommendation under paragraph (1).

"REPORTS AND AUDITS

"SEC. 1906. (a)(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this part. Such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (A) to determine whether funds were expended in accordance with this part and consistent with the needs within the State identified pursuant to section 1905(c)(6), (B) to secure a description of the activities of the State under this part, and (C) to secure a record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes for which the funds were provided. Copies of the report shall be provided, upon request, to any interested person (including any public agency).

"(2) In determining the information that States must include in the report required by this subsection, the Secretary may not establish reporting requirements that are burdensome.

"(b)(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 1903 and funds transferred under section 1904(c) for use under this part.

"(2) Each State shall annually audit its expenditures from payments received under section 1903. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, in so far as practical, in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

"(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certification provided by the State under section 1905. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this part.

"(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part and the certification provided by the State under section 1905.

"(6) Not later than October 1, 1983, the Secretary shall report to the Congress on the activities of the States that have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

"(c) Title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to audits of funds allotted under this part.

"WITHHOLDING

"SEC. 1907 (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certification provided under section 1905.

The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

"(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certification provided under section 1905. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

"(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 1905.

"(4) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this part or certifications provided under section 1905.

"(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part and certifications provided under section 1905.

"(2) The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 1905.

"(c) Each State, and each entity which has received funds from an allotment made to a State under this part, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(d)(1) In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

"NONDISCRIMINATION

"SEC. 1908. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

"(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 1902, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"CRIMINAL PENALTY FOR FALSE STATEMENTS

"SEC. 1909. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this part, or

"(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

"PART B—ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1911. For the purpose of grants and allotments under section 1912, there is authorized to be appropriated $491,000,000 for fiscal year 1982, $511,000,000 for fiscal year 1983, and $532,000,000 for fiscal year 1984.

"GRANTS AND ALLOTMENTS

"SEC. 1912. (a)(1) The Secretary may use not more than 1 percent of the amount appropriated under section 1911 for any fiscal year to make grants to public and nonprofit private entities for projects for the training and retraining of employees adversely affected by changes in the delivery of mental health services and for providing such employees assistance in securing employment.

"(2) No grant may be made by the Secretary under paragraph (1) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under paragraph (1).

"(b)(1) From the remainder of the amount appropriated under section 1911 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder for that fiscal year as the amounts—

"(A) which would have been provided by the Secretary to the State and entities in the State under the Community Mental Health Centers Act and the Mental Health Systems Act for fiscal year 1981 if the Secretary had obligated all the funds for mental health services available for such Acts under Public Law 96-536, and

"(B) provided by the Secretary to the State and entities in the State under the laws referred to in subparagraphs (C) and (D) of paragraph (2) for fiscal year 1980

bore to the total amount appropriated for mental health services for fiscal year 1981 under Public Law 96-536 for the Community Mental Health Centers Act and the Mental Health Systems Act and the total amount appropriated for fiscal year 1980 for the provisions of law referred to in subparagraphs (C) and (D) of paragraph (2).

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981:

"(A) The Community Mental Health Centers Act.

"(B) The Mental Health Systems Act.

"(C) Sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

"(D) Sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(3) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1915 for the fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1916(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(c)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (b) for the fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such

State under subsection (b) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1980 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (b)(2) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(5) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(d) The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotment to the States under subsection (b). In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Before June 30, 1982, the Secretary shall submit a report to the Congress respecting the development of a formula and make such recommendations as the Secretary may deem appropriate in order to insure the most equitable distribution of funds under allotments under subsection (b).

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1913. (a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under section 1912(b) (other than any amount reserved under section 1912(c)) from amounts appropriated for that fiscal year.

"(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1914. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF ALLOTMENTS

"SEC. 1914. (a)(1) Except as provided in subsections (b) and (c), amounts paid to a State under section 1913 and amounts transferred by the State for use under this part may be used by the State for—

"(A) planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs and activities to deal with alcohol and drug abuse; and

"(B) grants to community mental health centers in accordance with section 1915(c) and grants to community mental health centers for the provision of the following services:

"(i) Services for chronically mentally ill individuals, which include identification of chronically mentally ill individuals and assistance to such individuals in gaining access to essential services through the assignment of case managers.

"(ii) Identification and assessment of severely mentally disturbed children and adolescents and provision of appropriate services to such individuals.

"(iii) Identification and assessment of mentally ill elderly individuals and provision of appropriate services to such individuals.

"(iv) Services for identifiable populations which are currently underserved in the State.

"(v) Coordination of mental health and health care services provided within health care centers.

Amounts provided for the activities referred to in the preceding sentence may also be used for related planning, administration, and educational activities.

"(2) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this part.

"(b) A State may not use amounts paid to it under section 103 to—

"(1) provide inpatient services in the case of amounts provided for community mental health centers or provide inpatient hospital services in the case of amounts provided for alcohol or drug abuse programs,

"(2) make cash payments to intended recipients of health services,

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

"(c) A State may transfer not more than 7 percent of the amount allotted to the State under section 1902 for any fiscal year for use by the State under parts A and C of this title and title V of the Social Security Act in such fiscal year as follows: At any time in the first three quarters of the fiscal year a State may transfer not more than 3 percent of the allotment of the State for the fiscal year for such use, and in the last quarter of a fiscal year a State may transfer for such use not more than the remainder of the amount of its allotment which may be transferred.

"(d) Of the amount paid to any State under section 1913, not more than 10 percent may be used for administering the funds made available under such section. The State will pay from non-Federal sources the remaining costs of administering such funds.

"APPLICATION AND DESCRIPTION OF ACTIVITIES

"SEC. 1915. (a) In order to receive an allotment for a fiscal year under section 1912(b) each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the legislature of the State has complied with the provisions of subsection (b) and that the State will meet the requirements of subsection (c).

"(b) After the expiration of the first fiscal year in which a State receives an allotment under section 1912(b), no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1913 for such fiscal year.

"(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify as follows:

"(1) The State agrees to use the funds alloted to it under section 1902 in accordance with the requirements of this part.

"(2) Except as provided in subsection (e), for fiscal years 1982, 1983, and 1984, the State agrees to make grants, subject to paragraphs (3) and (4), to each community mental health center within the State which received a grant under the Community Mental Health Centers Act in fiscal year 1980 and which would be eligible to receive a grant for its operation under that Act (as in effect on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981) for such fiscal year if such grants were made under such Act.

"(3) The State agrees to make grants to community mental health centers in the State for the provision of comprehensive mental health services—

"(A) principally to individuals residing in a defined geographic area (hereinafter in this section referred to as a 'mental health service area'), with special attention to individuals who are chronically mentally ill,

"(B) within the limits of its capacity, to any individual residing or employed in its mental health service area regardless of ability to pay for such services, current or past health condition, or any other factor, and

"(C) which are available and accessible promptly, as appropriate and in a manner which preserves human dignity and assures continuity and high quality care.

"(4) The State agrees to require that any community mental health center in the State receiving a grant from the State under this part provide—

"(A) outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility,

"(B) 24-hour-a-day emergency care services,

"(C) day treatment or other partial hospitalization services,

"(D) screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission, and

"(E) consultation and education services.

"(5) The State agrees to establish reasonable criteria to evaluate the effective performance of entities which receive funds from the State under this part and procedural and substantive independent State review procedures of the failure by the State to provide funds for any such entity.

"(6)(A) The State agrees to use the funds allotted to it under section 1912 for fiscal year 1982 for the mental health and alcohol and drug abuse activities prescribed by section 1914(a) as follows:

"(i) The amount provided for mental health activities shall not exceed an amount which bears the same relationship to the funds allotted to the State for such fiscal year as the funds for mental health services which would have been received by the State and entities in the State in fiscal year 1981 under the Community Mental Health Centers Act and the Mental Health Systems Act if the Secretary had obligated all of the funds appropriated for such Acts under Public Law 96-536 bore to the funds which would have been so received by the State and entities in the State in such fiscal year under such Acts and the funds received by the State and entities in the State in fiscal year 1980 under sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(ii) The amount provided for alcohol and drug abuse activities shall not exceed an amount which bears the same relationship to the funds allotted to the State for such fiscal year as the funds received by the State and entities in the State in fiscal year 1980 under sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act bore to the funds received by the State and entities in the State in such fiscal year under such sections and the funds for mental health services which would have been received by the State and entities in the State in fiscal year 1981 under the Community Mental Health Centers Act and the Mental Health Systems Act if the Secretary had obligated all of the funds appropriated for such Acts under Public Law 96-536.

"(B) The State agrees to use 95 percent of the funds allotted to it under section 1912 for fiscal year 1983 for the mental health and alcohol and drug abuse activities prescribed by section 1914(a) as prescribed by subparagraph (A).

"(C) The State agrees to use 85 percent of the funds allotted to it under section 1912 for fiscal year 1984 for the mental health and alcohol and drug abuse activities prescribed by section 1914(a) as prescribed by subparagraph (A).

"(7) In any fiscal year, the State agrees to use funds for the alcohol and drug abuse activities prescribed by section 1914(a) as follows:

"(A) Not less than 35 percent of the amount to be made available for such activities shall be used for programs and activities relating to alcoholism and alcohol abuse.

"(B) Not less than 35 percent of the amount to be made available for such activities shall be used for programs and activities relating to drug abuse.

"(8) Of the amount to be used in any fiscal year for alcohol or drug abuse activities, the State agrees to use not less than 20 percent of such amount for prevention and early intervention programs designed to discourage the abuse of alcohol or drugs, or both.

"(9) The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1907.

"(10) That the State has identified those populations, areas, and localities in the State with a need for mental health, alcohol abuse and alcoholism, and drug abuse services.

"(11) That the Federal funds made available under section 1903 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

"(12) That the State has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

"(13) That the State shall develop and implement arrangements, which are not excessively burdensome on the State, to locate jobs for employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

"(d) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1903 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part, and any revision shall be subject to the requirements of the preceding sentence.

"(e) A State shall be required to make a grant to a community mental health center under subsection (c)(2) unless—

"(1) the State recommends on the basis of—

"(A) any Federal finding, Federal administrative action, or judicial proceeding with respect to any such community mental health center, or

"(B) a review of such center in accordance with the criteria and procedures required under subsection (c)(5),

that the State not be required to make such grants; and

"(2) the Secretary approves the recommendation of the State under paragraph (1) based upon a substantive and procedural review of the record made by the State in making its recommendation under paragraph (1) which review demonstrates that the community mental health center is not providing services as prescribed by paragraphs (3) and (4) of subsection (c) or is engaged in a substantial misuse of funds.

"REPORTS AND AUDITS

SEC. 1916. (a) Each State shall prepare and submit to the Secretary annual reports on its activities under this part. Such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (1) to determine whether funds were expended in accordance with this part and consistent with the needs within the State identified pursuant to section 1915(c)(10), (2) to secure a description of the activities of the State under this part, and (3) to secure a record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes for which the funds were provided. Copies of the report shall be provided, upon request, to any interested person (including any public agency).

"(2) In determining the information that States must include in the report required by this subsection, the Secretary may not establish reporting requirements which are burdensome.

"(b)(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 1913 and funds transferred for use under this part.

"(2) Each State shall annually audit its expenditures from payments received under section 1913. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, in so far as practical, in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

"(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the affected State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certification provided under section 1916. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing, offset such amounts against the amount of any allotment to which the State is or may become entitled under section 1913.

"(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part.

"(6) Not later than October 1, 1983, the Secretary shall report to the Congress on the activities of the States which have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

"(c) The provisions of title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to the audit of funds allotted under this part.

"WITHHOLDING

"SEC. 1917. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certification provided under section 1915. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

"(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certification provided under section 1905. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

"(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or the certification provided under section 1915.

"(4) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this part or the certification provided under section 1915.

"(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part and the certification provided under section 1915.

"(2) The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and the certification provided under section 1915.

"(c) Each State, and each entity which has received funds from an allotment made to a State under this part, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(d)(1) In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

"NONDISCRIMINATION

"SEC. 1918. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

"(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 1912, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"CRIMINAL PENALTY FOR FALSE STATEMENTS

"SEC. 1919. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this part, or

"(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"TRANSITION PROVISION

"SEC. 1920. If at the request of a State the Secretary uses the allotment of the State during the transition period prescribed by title XVII of the Omnibus Budget Reconciliation Act of 1981 for grants under this part, the Secretary shall make the grants in accordance with the requirements of paragraphs (6), (7), and (8) of section 1915(c). The Secretary shall deduct from the allotment of the State the amount the Secretary (after consultation with the State) requires to fund such programs.".

"PART C—PRIMARY CARE BLOCK GRANTS

"PLANNING GRANTS

"SEC. 1921. (a) The Secretary may make grants to any State to undertake planning and other administrative activities to enable the State to administer allotments provided to it under this part. The amount of any grant to a State shall be determined by the Secretary but may not exceed $150,000.

"(b) No grant may be made under subsection (a) unless an application therefore submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(c) For grants under subsection (a), there are authorized to be appropriated $2,500,000 for fiscal year 1982.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1922. For allotments under section 1924 and for grants under section 330, there is authorized to be appropriated $302,500,000 for fiscal year 1983, and $327,000,000 for fiscal year 1984.

"GRANTS UNDER SECTION 330

SEC. 1923. If a State does not submit an application for an allotment under section 1924 for a fiscal year or does not qualify for such an allotment for such fiscal year, the Secretary shall use funds appropriated under section 1922 to make grants under section 330 to community health centers within the State. Before making grants under section 330 for community health centers within a State the Secretary shall consult with the chief executive officer of the State and with appropriate local officials. The amount of funds from appropriations under section 1922 which may be used for grants for a fiscal year under section 330 for community health centers shall be the amount remaining after allotments are made under section 1924 for such fiscal year.

"ALLOTMENTS

"SEC. 1924 (a). If a State submits an application under section 1927 for an allotment for a fiscal year and is determined by the Secretary to be eligible under such section for such an allotment, the Secretary shall allot to such State from the amount appropriated under section 1922 for such fiscal year an amount which bears the same ratio to the amount appropriated under section 1922 for that fiscal year as the amount granted for fiscal year 1982 by the Secretary to community health centers in the State under section 330 bore to the amount granted for that fiscal year by the Secretary under such section to centers in all States from appropriations for that fiscal year.

"(b)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal

to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount granted for fiscal year 1982 by the Secretary to such tribe or tribal organization under section 330 bore to the total amount granted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under section 330.

"(3) From the amount reserved by the Secretary on the basis of a determination under this subsection, the Secretary shall make grants under section 330 to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1925. (a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), from amounts appropriated for allotments (other than any amount reserved under section 1924(b)) under section 1924(a) to each State which receives such an allotment.

"(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made for the next fiscal year if the Secretary determines that the State acted in accordance with section 1926(a)(1) and there is good cause for funds remaining unobligated.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished to the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1926. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"GRANTS TO COMMUNITY HEALTH CENTERS

"SEC. 1926. (a)(1) In fiscal years 1983 and 1984 each State shall use for grants under paragraphs (2) and (3) the entire amount allotted to it under section 1924 for such fiscal year and the entire amount required to be made available under paragraph (4).

"(2) From the amounts paid to it under section 1925 for fiscal year 1983 and from the State funds required to be made available under paragraph (4) for such fiscal year, each State shall make grants to each community health center which received a grant for its operation under section 330(d) for fiscal year 1982 and which meets the requirements of this paragraph. A grant may be made under this paragraph to a community health center only—

"(A) if the center has made an application to the State in accordance with section 330(e), and

"(B) if the center meets the requirements for receiving a grant under section 330 for its operation.

The amount of a grant under this paragraph to a center shall be not less than the amount the center received under section 330(d) for fiscal year 1982. If the State determines under subparagraph (B) that a community health center which has applied for a grant does not meet the requirements referred to in that subparagraph, the Secretary shall review the State's determination. If the Secretary finds that the center does not meet such requirements, the State may withhold a grant to the center under this paragraph.

"(3) In fiscal years 1983 and 1984, each State shall make grants to community health centers within the State which serve medically underserved populations and which meet the requirements of this paragraph. A grant under this paragraph for fiscal year 1983 shall be made from any amount not obligated under paragraph (2) or (4) for such fiscal year, and a grant for fiscal year 1984 shall be made from the amounts paid to it under section 1925 for the fiscal year and from the State funds required to be made available under paragraph (4) for the fiscal year. A grant may be made under this paragraph to a community health center only—

"(A) if the center has made an application to the State in accordance with section 330(e), and

"(B) if the center meets the requirements for receiving a grant under section 330 for its operation.

The limitation prescribed by section 330(g)(3) shall apply with respect to grants under this paragraph. States shall make grants under this paragraph in such a manner that medically underserved populations which have been served by community health centers and which are still medically underserved populations will continue to receive health care, and in making such grants a State shall not, to the extent practicable, disrupt established provider-patient relationships.

"(4)(A) In fiscal year 1983 a State which receives an allotment under section 1924 for that fiscal year shall make available, from State funds, for the grants described in paragraphs (2) and (3) and for State administrative expenses for such grants for such fiscal year an amount equal to 20 percent of its allotment. In fiscal year 1984 a State which receives an allotment under section 1924 for that fiscal year shall make available, from State funds, for the grants described in paragraphs (2) and (3) and for State administrative expenses for such grants for such fiscal year an amount equal to one-third of its allotment.

"(B) A State, at the request of a community health center, may reduce the amount of the State's contribution under subparagraph (A) to the center by—

"(i) the fair market value of any supplies or equipment furnished to the center, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the State when detailed to the center and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the center and for the purpose of activities centers assisted under this section. The amount by which any payment is so reduced shall be available for payment by the State of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid by the State under subparagraph (A).

"(5) A State may not use any funds paid to it under section 1925 for the purposes of administration of the grants required by paragraphs (2) and (3).

"(6) For purposes of this part—

"(A) the term 'community health center' has the same meaning as that term has under section 330(a), and

"(B) a medically underserved population is such a population designated by the Secretary under section 330(b)(3).

"(b) A State may not use amounts paid to it under section 1925 to—

"(1) provide inpatient services, except in fiscal year 1983 in the case of a community health center which used funds provided under section 330 for fiscal year 1982 to provide such services,

"(2) make cash payments to intended recipients of health services,

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(5) provide financial assistance to any entity other than a public or nonprofit private community health center.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part. The prohibition prescribed by this subsection (other than paragraph (4)) shall apply with respect to any amount required to be made available under subsection (a)(4).

"APPLICATION; ASSURANCES; DESCRIPTION OF ACTIVITIES

"SEC. 1927. (a) No State may receive an allotment for a fiscal year under section 1924(a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted before the beginning of the fiscal year for which the allotment applied for will be made. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the legislature of the State has complied with the provisions of subsection (b) and that the State will meet the requirements of subsection (c).

"(b) After the expiration of the first fiscal year in which a State receives an allotment under section 1924, no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1925 for such fiscal year.

"(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees—

"(1) to use the funds alloted to it under section 1924 in accordance with the requirements of section 1926; and

"(2) to establish, after providing reasonable notice and opportunity for the submission of comments, reasonable criteria to evaluate the fiscal, managerial, and clinical performance of community health centers; and

"(3) to establish procedural and substantive independent State review procedures relating to the failure by the State to provide funds for any such center and to the reduction of the funds paid to a community health center in fiscal year 1984 to an amount which is significantly less than the amount paid to the center by the State under section 1926 in fiscal year 1983.

The application of a State shall also contain assurances, satisfactory to the Secretary, that the State has the administrative capability to administer grants under section 1926, to determine the need for services of community health centers by medically underserved populations, and to evaluate the performance of community health centers.

"(d)(1) The chief executive officer of the State shall, as part of the application required by subsection (a), prepare and furnish to the Secretary (in accordance with such form as the Secretary shall provide) a description of the intended use of the payments the State will receive under section 1925 for that fiscal year and the funds the State is required to obligate under section 1926(a)(4) for that fiscal year.

"(2) The description required by paragraph (1) shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted under this part, and any revision shall be subject to the requirements of the preceding sentence.

"REPORTS AND AUDITS

"SEC. 1928. (a)(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this part. Such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (A) to determine whether funds were expended in accordance with sections 1926 and 1927(c), (B) to secure a description of the activities under this part, and (C) to secure a record of the purposes for which funds were spent, of the recipients of such funds and of the progress made toward achieving the purposes for which the funds were provided. Copies of the report shall be provided, upon request, to any interested person (including any public agency).

"(2) In determining the information that States must include in the report required by this subsection, the Secretary may not establish reporting requirements which are burdensome.

"(b)(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 1925.

"(2) Each State shall annually audit its expenditures from payments received under section 1925. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, to the extent practicable, in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

"(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the affected State, repay to the United States amounts found not to have been expended in accordance with the requirements of section 1926 or the certification and assurances provided under section 1927. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing, offset such amounts against the amount of any allotment to which the State is or may become entitled under section 1924.

"(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part.

"(6) Not later than January 1, 1984, the Secretary shall report to the Congress on the activities of the States which have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

"WITHHOLDING

"SEC. 1929. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State and subject to paragraphs (2) and (3) of this subsection, withhold funds from any State which does not use its allotment in accordance with the requirements of section 1926 or 1927. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur. If the Secretary withholds funds from a State for its failure to provide grants to community health centers in accordance with section 1926, the Secretary shall use the funds withheld to make such grants in accordance with such section.

"(2) The Secretary may not institute proceedings to withhold funds under this section unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with this part. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

"(3) The Secretary may not withhold funds under this subsection from a State for a minor failure to comply with the provisions of this part.

"(4) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part.

"(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part.

"(2) The Comptroller General of the United States may conduct an investigation of the use of funds received under this part by a State in order to insure compliance with the requirements of this part.

"(c) A State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(d)(1) In conducting any investigation, the Secretary or the Comptroller General of the United States may not request any information not readily available to such State or to any community health center which has received a grant under this part and may not make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

"NONDISCRIMINATION

"SEC. 1930. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

"(b) Whenever the Secretary finds that a State or an entity that has received a payment from an allotment to a State under section 1924 has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"CRIMINAL PENALTY FOR FALSE STATEMENTS

"SEC. 1931. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State

from funds allotted to the State under this part, or

"(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"ADMINISTRATION

"SEC. 1932. Title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to the grant program authorized by this part.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 902. (a) Sections 401 and 402 of the Health Services and Centers Amendments of 1978 are repealed.

(b) Sections 314(d) and subpart III of part D of title III of the Public Health Service Act are repealed.

(c)(1) The second sentence of section 311(a) of the Public Health Service Act is amended—

(A) by inserting "and with respect to other public health matters" after "diseases", and

(B) by striking out "and in carrying out the purposes of section 314".

(2) The first sentence of section 311(b) of such Act is amended by striking out "the purposes of section 314" and inserting in lieu thereof "public health activities".

(d)(1) Sections 1201, 1202, 1203, 1204, 1205(d), 1206, 1207(a), 1208, 1209, and 1210, and part B of title XII of the Public Health Service Act are repealed.

(2) Title XII of such Act is amended by striking out—

"PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS".

(3) Section 1205 of such Act is redesignated as section 1201.

(4) Section 1207(b) of such Act is redesignated as section 1202.

(7) Section 2(f) of such Act is amended by striking out "1201(2),".

(e)(1) Section 101, part B of title I, titles II and III, and sections 502, 602, 801, and 806 of the Mental Health Systems Act are repealed.

(2)(A) Section 225 of the Community Mental Health Centers Act is transferred to title V of the Public Health Service Act, inserted after section 514, redesignated as section 515, and amended (A) by striking out "this title" and inserting in lieu thereof "the Community Mental Health Centers Act" and (B) by inserting "of the Community Mental Health Centers Act" after "section 222".

(B) The Community Mental Health Centers Act is repealed.

(f)(1) Title I of the Mental Health Systems Act is amended—

(A) by striking out "PART A—DEFINITIONS";

(B) by striking out "OTHER" in the section heading for section 102; and

(C) by striking out paragraphs (3), (4), (6), and (7) of section 102, and by redesignating paragraph (5) of such section as paragraph (3).

(2) The table of contents in the first section of such Act is amended by striking out the items relating to sections 101, 105, 106, 107, 201 through 208, 301 through 303, 305 through 309, 315 through 317, 321, 325 through 328, 502, 602, 801, and 806, parts A and B of title I, title II, title III, and parts A, B, C, D, and E of title III.

(3) The table of section 102 in such table of contents is amended to read as follows:

"Sec. 102. Definitions.".

(20) Section 601(a) of such Act is amended—

(A) by striking out "community mental health centers and other" in paragraph (5); and

(B) by striking out paragraph (6).

(g)(1) The second sentence of section 455(a) of the Public Health Service Act is amended by striking out ", the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II), and the Mental Health Systems Act".

(2) Section 507 of such Act is amended by striking out ", appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities,".

(3) Section 513 of such Act is amended by striking out "the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act,".

(4) Section 1513(e)(1)(A)(i) of such Act is amended by striking out ", the Community Mental Health Centers Act, the Mental Health Systems Act, sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

(5) Section 1521(d)(2)(A) of such Act is amended—

(A) by striking out ", the Community Mental Health Centers Act," and inserting in lieu thereof "or"; and

(B) by striking out ", and the Drug Abuse Office and Treatment Act of 1972".

(6) Section 1524(c)(6)(A) of such Act is amended by striking out "the Community Mental Health Centers Act, section 409 or 410 of the Drug Abuse Office and Treatment Act of 1972, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970,".

(h) The amendments made by this section shall take effect October 1, 1981.

ONE-YEAR EXTENSION OF COMMUNITY HEALTH CENTERS AND PRIMARY CARE RESEARCH AND DEMONSTRATIONS

SEC. 903. (a) The first sentence of section 330(g)(2) (42 U.S.C. 254c(g)(2)) of the Public Health Service Act is amended by striking out "and" after "1980," and by striking out the period and inserting in lieu thereof the following: "and $284,000,000 for the fiscal year ending September 30, 1982. For authorizations for appropriations for fiscal years 1983 and 1984, see section 1922.".

(b)(1) Section 340(g)(2) of the Public Health Service Act (42 U.S.C. 256(g)(2)) is amended by striking out "and" after "1980," and by striking out the period and inserting in lieu thereof the following: "and $3,000,000 for the fiscal year ending September 30, 1982. No funds may be appropriated under this paragraph or paragraph (1) for a fiscal year beginning after September 30, 1982.".

(c) Effective October 1, 1982, section 340 of such Act is repealed.

SERVICES TO MIGRANTS BY COMMUNITY HEALTH CENTERS

SEC. 904. The Secretary of Health and Human Services shall review the performance of community health centers which have received grants under section 329 of the Public Health Service Act (relating to migrant health centers) to determine if the community health centers have provided services to migrants in a manner which is consistent with the needs of the migrants. In determining if the services have been provided in such a manner, the Secretary shall consider the hours of operation of a center, the bilingual capabilities of a center's staff, and the ability of the center's staff to detect, report, and treat adverse health effects resulting from exposure to pesticides. The Secretary shall report the results of the review conducted under this section to the Congress not later than six months after the date of the enactment of this section and shall include in the report actions taken by the Secretary to assure that community health centers receiving grants under such section 329 will provide services to migrants in a manner consistent with their needs.

CRITERIA FOR DETERMINING AREAS AND POPULATION GROUPS IN NEED OF SERVICES OF COMMUNITY HEALTH CENTERS

SEC. 905. (a) Section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254c(b)(3)) is amended by adding at the end the following: "After the date of the enactment of part A of title XIX, the Secretary may not designate a medically underserved population or remove the designation of such a population unless the Secretary provides reasonable notice and opportunity for comment and consults with the chief executive officer of the State in which the population is located and appropriate local officials. The Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall include infant mortality in an area or population group, other factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.".

(b) Section 330(e)(2) of such Act is amended by inserting before the second sentence the following: "Such an application shall also include a demonstration by the applicant that the area or a population group to be served by the applicant has a shortage of personal health services and that the center will be located so that it will provide services to the greatest number of persons residing in such area or included in such population group. Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.".

AUDITS OF GRANTS TO COMMUNITY HEALTH CENTERS

SEC. 906. Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended by adding at the end the following:

"(h)(1) Each entity which receives a grant under subsection (d) shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the

funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

"(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

"(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

"(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

"(2) Each entity which receives a grant under subsection (d) shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

"(3) Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(4) The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection to a community health center.".

Subtitle B—Developmental Disabilities

EXTENSION OF PROGRAMS

SEC. 911. (a) The first sentence of section 113(b)(2) of the Developmental Disabilities Assistance and Bill of Rights Act (hereinafter in this subtitle referred to as the "Act") (42 U.S.C 6012(b)(2)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984".

(b) Section 123(a) of the Act (42 U.S.C. 6033(a)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$7,500,000 for the fiscal year ending September 30, 1982, $7,500,000 for the fiscal year ending September 30, 1983, and $7,500,000 for the fiscal year ending September 30, 1984".

(c) Section 131 of the Act (42 U.S.C. 6061) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$43,180,000 for the fiscal year ending September 30, 1982, $43,180,000 for the fiscal year ending September 30, 1983, and $43,180,000 for the fiscal year ending September 30, 1984".

EVALUATION SYSTEM

SEC. 912. (a) Section 110 of the Act (42 U.S.C. 6009) is repealed.

SPECIAL PROJECT GRANTS

SEC. 913. Section 145 of the Act (42 U.S.C. 6081) is amended to read as follows:

"GRANT AUTHORITY

"SEC. 145. (a) The Secretary may make grants to public or nonprofit private entities for—

"(1) demonstration projects—

"(A) which are conducted in more than one State,

"(B) which involve the participation of two or more Federal departments or agencies, or

"(C) which are otherwise of national significance,

and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped); and

"(2) demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expanding or otherwise improving protection and advocacy services relating to the State protection and advocacy system described in section 113.

Projects for the evaluation and assessment of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 133. The Secretary shall provide to the State Planning Council (established under section 137) for each State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments on the application.

"(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary.

"(d) For the purpose of grants under subsection (a), there are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1982, $2,500,000 for the fiscal year ending September 30, 1983, and $2,500,000 for the fiscal year ending September 30, 1984.".

Subtitle C—Health Services Research, Statistics, and Technology; Medical Libraries; and National Research Service Awards

REFERENCES IN SUBTITLE

SEC. 916. Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

AUTHORIZATIONS FOR HEALTH SERVICES RESEARCH, STATISTICS, AND TECHNOLOGY

SEC. 917. (a) The first sentence of section 308(i)(1) (42 U.S.C. 242m(i)(1)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1982, $22,000,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984".

(b) Section 308(i)(2) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$39,000,000 for the fiscal year ending September 30, 1982, $39,000,000 for the fiscal year ending September 30, 1983, and $39,000,000 for the fiscal year ending September 30, 1984".

(c)(1) The first sentence of section 309(i) (42 U.S.C. 242n(i)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $4,000,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984".

(2) The second sentence of such section is amended by striking out "the fiscal year ending September 30, 1981," and inserting in lieu thereof "for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984,".

GENERAL AUTHORITIES

SEC. 918. (a) Section 304(a)(3) (42 U.S.C. 242b(a)(3)) is amended—

(1) by striking out "shall" and inserting in lieu thereof "may", and

(2) by striking out "and" the first three places it occurs and inserting in lieu thereof "or".

(b)(1) The first sentence of section 304(d)(1) is amended by striking out "and the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units) shall, jointly and" and inserting in lieu thereof ", with the advice and assistance of the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units), shall,".

(2) The second sentence of such section is amended by striking out "and the National Academy of Sciences (hereinafter in this subsection referred to as the 'Academy')".

(3) Section 304(d)(3) is amended by striking out "and the Academy" each place it appears.

(c) Section 304(d)(3) is amended by striking out "every two years" and inserting in lieu thereof "every three years".

(d)(1) Subsections (b)(1) and (c)(1) of section 304 are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Subsection (d)(3) of such section is amended by striking out "Committee on Interstate and Foreign Commerce" and inserting in lieu thereof "Committee on Energy and Commerce".

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

SEC. 919. (a)(1) The first sentence of section 305(d)(1) (42 U.S.C. 242c(d)(1)) is amended by striking out "health services, research, evaluations" and inserting in lieu thereof "health services research, evaluations, training, policy analysis,".

(2)(A) The second sentence of such section is amended (i) by striking out "six of such centers" and inserting in lieu thereof "three of such centers", and (ii) by striking out "three national special emphasis centers" and all that follows through "health care delivery;" and inserting in lieu thereof "two national special emphasis centers,".

(B) Section 308(i)(1) (42 U.S.C. 242m(i)(1)) (as amended by section 911(a) of this Act) is further amended by adding at the end thereof the following new sentence: "Of the amounts appropriated under this paragraph

for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, not more than $1,500,000 may be used for grants and contracts for all the costs of planning, establishing, and operating centers under section 305(d)."

(3) Section 305(d)(2)(B)(iv) is amended by striking out "demonstrations, and evaluations" and inserting in lieu thereof "evaluations, policy analysis, and demonstrations".

(b)(1) Paragraph (4) of section 305(b) is amended to read as follows:

"(4) the role of market forces in the health care system and the appropriate role they may play in restraining cost increases and improving the availability and quality of care.".

(2) The amendment made by paragraph (1) shall apply with respect to grants made under section 305(b) of the Public Health Service Act for fiscal years beginning after September 30, 1981, except that if an entity received a grant under paragraph (4) of such section, as in effect before the date of the enactment of this Act, for the fiscal year ending September 30, 1981, the Secretary may, until the fiscal year beginning October 1, 1983, make an additional grant or grants to such entity for the purposes prescribed by such paragraph as so in effect.

(c) Section 305(b) is amended by adding after and below paragraph (4) the following: "No grant or contract shall be made under this subsection for the purpose of funding clinical research that is directly related to determining the cause of any disease or disorder or clinical research that is directly and principally designed to evaluate the efficacy of any therapeutic, diagnostic, or preventive health measure.".

(d) Subsections (a) and (c) of section 305 are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 920. (a) Section 306(e)(3) (42 U.S.C. 242k(e)(3)) is amended by inserting "and other activities" after "data collection".

(b) The first sentence of section 306(l)(2)(A) is amended by striking out "the Center" and inserting in lieu thereof "the Center and in cooperation with the Office of Federal Statistical Policy and Standards".

(c) Section 306(l)(2)(D) is amended by striking out all after "subparagraph (A)" and inserting in lieu thereof a period.

(d)(1) Subsections (a), (e)(4), (j), (k)(4)(C), (k)(4)(D), and (l)(2)(B)(v) of section 306 are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Subsection (c) of such section is amended by striking out "Committee on Interstate and Foreign Commerce" and inserting in lieu thereof "Committee on Energy and Commerce".

INTERNATIONAL COOPERATION

SEC. 921. (a) Section 307(a) (42 U.S.C. 2421(a)) is amended (1) by striking out "and the" and inserting in lieu thereof ", health care technology, and the", and (2) by striking out "and 306" and inserting in lieu thereof "306, and 309".

(b) Section 307(b) is amended—

(1) in paragraph (5), by striking out "or health statistics" and inserting in lieu thereof ", health statistics, or health care technology", and

(2) in paragraph (6), by striking out "and programs of biomedical research, health services research, and health statistical activities" and inserting in lieu thereof "or programs of biomedical research, health services research, health statistical activities, or health care technology activities".

GENERAL PROVISIONS

SEC. 922. (a) Section 308(a)(2) (42 U.S.C. 242m(a)(2)) is amended by striking out "September 1" and inserting in lieu thereof "December 1".

(b) Section 308(b)(2) is amended by striking out "$35,000" and inserting in lieu thereof "$50,000".

(c) Section 308(d)(2) is amended by inserting "or in the course of health care technology activities under section 309" after "305".

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY

SEC. 923. (a) Section 309(b)(1) (42 U.S.C. 242n(b)(1)) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Center shall not unreasonably inhibit the innovation of new technologies."

(b) Section 309(b)(5) is amended by striking out "may" and inserting in lieu thereof "shall" and by adding at the end thereof the following new sentence: "The making of such recommendations shall be a priority of the Center."

(c) Section 309(e) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Secretary shall ensure that the Center does not duplicate the activities of other units of the Department of Health and Human Services or, to the extent practicable, the activities of other Federal departments and agencies. To ensure necessary coordination, all assessments, research, evaluations, and demonstrations conducted by the Center shall take into consideration relevant studies and activities undertaken by the National Institutes of Health, the Food and Drug Administration, the Center for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, and other Federal departments and agencies."

(d) Sections 309(d) and 309(f)(1)(B) are each amended by striking out "$35,000" and inserting in lieu thereof "$50,000".

(e) Section 309(f)(1)(B) is amended by striking out "in excess of" and inserting in lieu thereof "the direct costs of which will exceed".

(f)(1) Subparagraph (D) of section 309(f)(1) is amended by striking out "exemplary standards, norms, and criteria" and inserting in lieu thereof "information".

(2) Subparagraph (E) of such section is amended by striking out "standards, norms, and criteria" and inserting in lieu thereof "information".

(g) Section 309(f)(2)(A) is amended by striking out "and the head of the Health Care Financing Administration (or the successor to such entity) who (or their designees) shall be ex officio members" and inserting in lieu thereof "the head of the Health Care Financing Administration (or the successor to such entity), and such other Federal officials as the Secretary may specify, who (or their designees) shall be nonvoting ex officio members".

(h) The third sentence in the matter following section 309(f)(2)(B) is amended by striking out "two" and inserting in lieu thereof "three".

(i)(1) Clauses (1) and (2) of section 309(f)(6) are redesignated as clauses (A) and (B), respectively.

(2) Subsections (a) and (g) of section 309 are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(j) Section 309(f)(7) is amended by striking out "1981" and inserting in lieu thereof "1984".

(k) Subsection (g) of section 309 is repealed and subsections (h) and (i) are redesignated as subsections (g) and (h), respectively.

NATIONAL RESEARCH SERVICE AWARDS

SEC. 924. (a)(1) Section 472(a)(1)(A) (42 U.S.C. 2891-1(a)(1)(A)) is amended—

(A) by inserting "and" after the comma in clause (iii);

(B) by striking out clauses (iv), (v), and (vi);

(C) by redesignating clause (vii) as clause (iv); and

(D) by striking out "and the research described in clause (vi)" in clause (iv) (as redesignated by subparagraph (C) of this paragraph).

(2) Section 472(a)(3) is amended to read as follows:

"(3) In awarding National Research Service Awards under this section, the Secretary shall take account of the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years of biomedical research.".

(b)(1) Section 472(b)(1)(C) is amended by striking out "or (a)(1)(A)(iv)".

(2) Section 472(b)(2) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) The first sentence of section 472(b)(5) is amended by inserting a comma and "tuition, fees," after "stipends".

(c)(1) Section 472(c)(1) is amended to read as follows:

"(c)(1) Each individual who is awarded a National Research Service Award (other than an individual who is a prebaccalaureate student who is awarded a National Research Service Award for research training) shall, in accordance with paragraph (3), engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, for a period computed in accordance with paragraph (2).".

(2) Section 472(c)(2) is amended to read as follows:

"(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of twelve months, such individual shall engage in one month of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment.".

(3) The second sentence of section 472(c)(3) is amended to read as follows: "The Secretary shall by regulation prescribe the type of research and teaching in which an individual may engage to comply with such requirement and such other requirements respecting research and teaching as the Secretary considers appropriate.".

(d) The first sentence of section 472(d) is amended by striking out "and" after "1980," and by inserting before the period a comma and "$182,000,000 for the fiscal year ending September 30, 1982, and $195,000,000 for the fiscal year ending September 30, 1983".

(e) Section 473(c) (42 U.S.C. 2891-2(c)) is amended (1) by striking out "Interstate and Foreign Commerce" and inserting in lieu thereof "Energy and Commerce", and (2) by striking out "Public Welfare" and inserting in lieu thereof "Human Resources".

EXTENSION OF ASSISTANCE FOR LIBRARIES; MISCELLANEOUS

SEC. 925. (a) Section 390(c) (42 U.S.C. 280b(c)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "and $7,500,000 for the fiscal year ending September 30, 1982".

(b) Section 434(d)(1) (42 U.S.C. 289c-1(d)(1)) is amended by inserting "musculoskeletal and skin diseases," after "arthritis,".

Subtitle D—Categorical Programs

PREVENTIVE HEALTH SERVICE PROGRAMS

SEC. 928. (a) Subsection (a) of section 317(a) of the Public Health Service Act (42 U.S.C. 247b) is amended to read as follows:

"(a) The Secretary may make grants to States, and in consultation with State health authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health service programs.".

(b) Subsection (j) of such section (42 U.S.C. 247b(j)(1)(A)) is amended to read as follows:

"(j)(1) For grants under subsection (a) for preventive health service programs to immunize children against immunizable diseases there are authorized to be appropriated $29,500,000 for the fiscal year ending September 30, 1982, $32,000,000 for the fiscal year ending September 30, 1983, and $34,500,000 for the fiscal year ending September 30, 1984.

"(2) For grants under subsection (a) for preventive health service programs for tuberculosis there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984.".

PREVENTION AND CONTROL OF VENEREAL DISEASES

SEC. 929. The first sentence of section 318(d)(1) of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$40,000,000 for the fiscal year ending September 30, 1982, $46,500,000 for the fiscal year ending September 30, 1983, and $50,000,000 for the fiscal year ending September 30, 1984".

EXTENSION OF PROGRAM FOR MIGRANT HEALTH CENTERS

SEC. 930. (a) Section 329(h) of the Public Health Service Act (42 U.S.C. 247d(h)) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(h)(1) For the purposes of subsections (c), (d), and (e), there are authorized to be appropriated $43,000,000 for the fiscal year ending September 30, 1982, $47,500,000 for the fiscal year ending September 30, 1983, and $51,000,000 for the fiscal year ending September 30, 1984. The Secretary may not obligate for grants and contracts under subsection (c)(1) in any fiscal year an amount which exceeds 2 per centum of the funds appropriated under this paragraph for that fiscal year, the Secretary may not obligate for grants under subsection (d)(1)(C) in any fiscal year an amount which exceeds 5 per centum of such funds, and the Secretary may not obligate for contracts under subsection (e) in any fiscal year an amount which exceeds 10 per centum of such funds.".

(b) Paragraph (4) of section 329(h) is redesignated as paragraph (2).

FAMILY PLANNING PROGRAMS

SEC. 931. (a)(1) Section 1001(c) of the Public Health Service Act (42 U.S.C. 300(c)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$126,510,000 for the fiscal year ending September 30, 1982; $139,200,000 for the fiscal year ending September 30, 1983; and $150,830,000 for the fiscal year ending September 30, 1984".

(2) Section 1003(b) of such Act (42 U.S.C. 300a-1(b)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$2,920,000 for the fiscal year ending September 30, 1982; $3,200,000 for the fiscal year ending September 30, 1983; and $3,500,000 for the fiscal year ending September 30, 1984".

(3) Section 1005(b) of such Act (42 U.S.C. 300a-3(b)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$570,000 for the fiscal year ending September 30, 1982; $600,000 for the fiscal year ending September 30, 1983; and $670,000 for the fiscal year ending September 30, 1984".

(b)(1) Section 1001(a) of such Act is amended by adding at the end the following: "To the extent practical, entities which receive grants or contracts under this subsection shall encourage family participation in projects assisted under this subsection.".

(2) Section 1004 is amended by striking out "(a)" after "SEC. 1004." and by striking out subsection (b).

(c) The Secretary of Health and Human Services shall conduct a study of the possible ways of State delivery of the services for which assistance is authorized by title X of the Public Health Service Act and the willingness and ability of the States to assume the administration of activities assisted under such title X. The Secretary shall report to the Congress on the results of such study 18 months after the date of the enactment of this Act.

Subtitle E—Health Planning

AUTHORIZATIONS

SEC. 933. (a)(1) Section 1516(d)(1) of the Public Health Service Act (42 U.S.C. 300l-5(d)(1)) is amended by inserting "and" after "1980," and by inserting a period after "1981" and striking out the remainder of such section.

(2) Section 1525(c) of such Act (42 U.S.C. 300m-4(c)) is amended by inserting "and" after "1980," and by inserting a period after "1981" and striking out the remainder of such section.

(3) Section 1534(d) of such Act (42 U.S.C. 300n-3(d)) is amended by inserting "and" after "1980," and by inserting a period after "1981" and striking out the remainder of such section.

(b) Part D of the Public Health Service Act is amended by adding at the end the following:

"AUTHORIZATIONS FOR FISCAL YEAR 1982

"SEC. 1537. For grants and contracts under sections 1516(a), 1525(a), and 1534(a) there is authorized to be appropriated $102,000,000 for fiscal year 1982. Of the amount appropriated under this section, not more than $65,000,000 may be used for grants under section 1516(a).".

MINIMUM GRANT; WAIVER OF REQUIREMENTS

SEC. 934. (a) Section 1516(c)(1)(C)(iv) of the Public Health Service Act is amended by striking out "$260,000" and inserting in lieu thereof "$100,000".

(b) The Secretary of Health and Human Services may—

(1) upon application waive the application of the requirements of subsection (e), (g), or (h) of section 1513 of the Public Health Service Act, or any combination of such subsections, to a health systems agency if the Secretary determines that the Federal funds made available to the agency are not sufficient to enable it to meet such requirements or

(2) by regulation waive the application of the requirements of subsection (e), (g), or (h) of section 1513 of the Public Health Service Act, or any combination of such subsections, to all health systems agencies if the Secretary determines that the Federal funds made available to all the agencies are not sufficient to enable them to meet such requirements.

STATES WITHOUT HEALTH SYSTEMS AGENCIES

SEC. 935. (a)(1) Section 1536 of the Public Health Service Act (42 U.S.C. 300n-5) is amended—

(1) by striking out subsection (a),

(2) by amending the matter in subsection (b) preceding paragraph (1) to read as follows: "Upon application of the chief executive officer of a State or the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, or American Samoa, it shall, upon approval of the application, be considered to be a State for purposes of this title and",

(3) by striking out "sections 1516 and 1640" and inserting in lieu thereof "section 1640", and

(4) by adding after and below paragraph (4) the following:

"An application made under this section for a fiscal year shall be made not later than November 1 in that fiscal year and shall contain the certification of the chief executive officer that the State is willing and able to meet the purposes of this title in such fiscal year without any health systems agency in the State.".

(b) A State which—

(1) because of section 1536(b) of the Public Health Service Act (as in effect on September 30, 1981) received a grant under section 1516 of such Act for fiscal year 1981, and

(2) had an application under section 1536 of such Act (as amended by subsection (a)) approved,

shall be eligible to receive a grant under section 1516 of such Act for fiscal year 1982.

(c) If a State which on the date of the enactment of this Act has a population of less than 600,000 and has only one health service area has an application approved under this section, such State shall be eligible to receive a grant under section 1516 of the Public Health Service Act for fiscal year 1982.

(d) The last sentence of section 1512(b)(5) of the Public Health Service Act (42 U.S.C. 300l-1(b)(5)) is amended by inserting before the period the following: "or health insurance".

CERTIFICATE OF NEED REVIEW

SEC. 936. (a) Section 1531 of the Public Health Service Act (42 U.S.C. 300n) is amended—

(1) by striking out "$75,000" each place it occurs in paragraph (5) and inserting in lieu thereof "$250,000";

(2) by striking out "$150,000" each place it occurs in paragraph (6) and inserting in lieu thereof "$600,000"; and

(3) by striking out "$150,000" each place it occurs in paragraph (7) and inserting in lieu thereof "$400,000".

(b)(1) Section 1521(d)(1)(B) of the Public Health Service Act (42 U.S.C. 300m(d)(1)(B)(ii)) is amended—

(A) by striking out "twelve months" the second time it appears in clause (i) and inserting in lieu thereof "twenty-four months", and

(B) by striking out "twelve months" the second time it appears in clause (ii) and inserting in lieu thereof "twenty-four months".

(2) The first sentence of section 1521(b)(2)(B) of such Act is amended to read as follows: "The period of an agreement described in subparagraph (A) shall not extend beyond the period set forth in subsection (d)(1)(B).".

EFFECTIVE DATE

SEC. 937. The amendments made by this subtitle shall take effect October 1, 1981.

Subtitle F—Health Maintenance Organizations

CHAPTER 10—HEALTH MAINTENANCE ORGANIZATIONS

SHORT TITLE; REFERENCE TO ACT

SEC. 940. (a) This subtitle may be cited as the "Health Maintenance Organization Amendments of 1981".

(b) Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSIONS

SEC. 941. (a) Subsection (a) of section 1309 (42 U.S.C. 300e-8(a)) is amended to read as follows:

"(a)(1) For grants and contracts under sections 1303 and 1304 there is authorized to be appropriated $20,000,000 for the fiscal years 1982, 1983, and 1984. No funds appropriated under this paragraph may be expended or obligated for a grant or contract unless the entity received a grant or contract under section 303 or 304 during or before the fiscal year 1981.

"(2) For grants under section 1317 there is authorized to be appropriated $1,000,000 for each of the fiscal years 1982, 1983, and 1984.".

(b) Subsection (b) of section 1309 is amended to read as follows:

"(b) To maintain in the loan fund established under section 1308(e) for the purpose of making new loans a balance of at least $5,000,000 at the end of each fiscal year and to meet the obligations of the loan fund resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to the loan fund for fiscal years 1982, 1983, and 1984, such sums as may be necessary to assure such balance and meet such obligations.".

(c) Section 1304(j) (42 U.S.C. 300e-3(j)) is amended by striking out "1981" and inserting in lieu thereof "1984".

REVISION OF REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 942. (a)(1) Section 1301(b)(3) is amended (A) by striking out subparagraph (C), and (B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(2) Section 1301 (b)(3)(A)(iv) is amended by striking out "subject to subparagraph (C),".

(3)(A) Section 1310(b)(1) (42 U.S.C. 300e-9(b)(1)) is amended by striking out "provides basic health services" and inserting in lieu thereof "provides more than one-half of its basic health services which are provided by physicians".

(B) Section 1310(b)(2) is amended by striking out "basic health services" and inserting in lieu thereof "its basic health services which are provided by physicians".

(4) Section 1310(b)(2) (42 U.S.C. 300e-9(b)(2)) is amended by striking out "or (B)" and inserting in lieu thereof "(B) individual physicians and other health professionals under contract with the organization, or (C)".

(5) The amendment made by paragraph (3)(A) shall apply with respect to the offering of a health maintenance organization in accordance with section 1310(b)(1) of the Public Health Service Act after four years after the date the organization becomes a qualified health maintenance organization for purposes of section 1310 of such Act if the health maintenance organization provides assurances satisfactory to the Secretary that upon the expiration of such four years it will provide more than one half of its basic health services which are provided by physicians through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups).

(b)(1) Section 1301(b)(3)(B) is amended by striking out "(i)", by striking out clause (ii), and by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(2) Subparagraph (D) of section 1301(b)(3) is amended to read as follows:

"(D) Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require, but only to the extent that such requirements are designed to insure the delivery of quality health care services and sound fiscal management.".

(c)(1) The first sentence of section 1301(b)(4) (42 U.S.C. 300e(b)(4)) is amended by inserting before the period a comma and the following: "except that a health maintenance organization which has a service area located wholly in a nonmetropolitan area may make a basic health service available outside its service area if that basic health service is not a primary care or emergency health care service and if there is an insufficient number of providers of that basic health service within the service area who will provide such service to members of the health maintenance organization".

(2) The first sentence of section 1301(b)(4) is amended by striking out "promptly as appropriate" and inserting in lieu thereof "with reasonable promptness".

(d)(1) Section 1301(c) is amended by striking out paragraphs (4), (9), and (10), by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), by redesignating paragraph (11) as paragraph (9), and by adding after paragraph (7) (as so redesignated) the following new paragraph:

"(8) adopt at least one of the following arrangements to protect its members from incurring liability for payment of any fees which are the legal obligation of such organization—

"(A) a contractual arrangement with any hospital that is regularly used by the members of such organization prohibiting such hospital from holding any such member liable for payment of any fees which are the legal obligation of such organization;

"(B) insolvency insurance, acceptable to the Secretary;

"(C) adequate financial reserve, acceptable to the Secretary; and

"(D) other arrangements, acceptable to the Secretary, to protect members,

except that the requirements of this paragraph shall not apply to a health maintenance organization if applicable State law provides the members of such organization with protection from liability for payment of any fees which are the legal obligation of such organization; and".

(2) Subsection (d) of section 1301 is repealed.

(e) Section 1301(c)(2) (42 U.S.C. 300e(c)(2)) is amended—

(1) by striking out "obtain insurance or make other arrangements",

(2) by inserting "obtain insurance or make other arrangements" after "(A)", "(B)", and "(C)",

(3) by striking out "and (C)" and inserting in lieu thereof "(C)", and

(4) by inserting before the semicolon a comma and the following: "and (D) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions".

(f) The last sentence of section 1302(1) (42 U.S.C. 300e-1(1)) is repealed.

(g)(1) The first sentence of section 1302(2) (42 U.S.C. 300e-1(2)) is amended to read as follows: "The term 'supplemental health services' means any health service which is not included as a basic health service under paragraph (1) of this section.".

(2) The second sentence of such section is amended by striking out "If a service of a physician described in the preceding sentence" and inserting in lieu thereof "If a health service provided by a physician".

(3) The last sentence of such section is repealed.

(h) Section 1302(4)(C) is amended by inserting before the semicolon at the end of clause (i) the following: ", except that this clause does not apply before the end of the forty-eight month period beginning after the month in which the health maintenance oranization becomes a qualified health maintenance organization as defined in section 1310(d), or as authorized by the Secretary in accordance with regulations that take into consideration the unusual circumstances of the group".

(i) Section 1302(5)(B) is amended by striking out "feasible (1)" and inserting in lieu thereof "feasible," and by striking out "administrative staff" and all that follows in such section and inserting in lieu thereof "administrative staff.".

(j) Section 1302(8) (42 U.S.C. 300e-1(8)) is amended to read as follows:

"(8)(A) The term 'community rating system' means the systems, described in subparagraphs (B) and (C), of fixing rates of payments for health services. A health maintenance organization may fix its rates of payments under the system described in subparagraph (B) or (C) or under both such systems, but a health maintenance organization may use only one such system for fixing its rates of payments for any one group.

"(B) A system of fixing rates of payment for health services may provide that the rates shall be fixed on a per-person or per-family basis and may authorize the rates to vary with the number of persons in a

family, but, except as authorized in subparagraph (D), such rates must be equivalent for all individuals and for all families of similar composition.

"(C) A system of fixing rates of payment for health services may provide that the rates shall be fixed for individuals and families by groups. Except as authorized in subparagraph (D), such rates must be equivalent for all individuals in the same group and for all families of similar composition in the same group. If a health maintenance organization is to fix rates of payment for individuals and families by groups, it shall—

"(i) classify all of the members of the organization into classes based on factors which the health maintenance organization determines predict the differences in the use of health services by the individuals or families in each class and which have not been disapproved by the Secretary,

"(ii) determine its revenue requirements for providing services to the members of each class established under clause (i), and

"(iii) fix the rates of payment for the individuals and families of a group on the basis of a composite of the organization's revenue requirements determined under clause (ii) for providing services to them as members of the classes established under clause (i).

The Secretary shall review the factors used by each health maintenance organization to establish classes under clause (i). If the Secretary determines that any such factor may not reasonably be used to predict the use of the health services by individuals and families, the Secretary shall disapprove such factor for such purpose.

"(D) The following differentials in rates of payments may be established under the systems described in subparagraphs (B) and (C):

"(i) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of members:

"(I) Individual members (including their families).

"(II) Small groups of members (as determined under regulations of the Secretary).

"(III) Large groups of members (as determined under regulations of the Secretary).

"(ii) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.

"(iii) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health benefits program for employees of States, political subdivision of States, and other public entities.".

INITIAL OPERATION COSTS

SEC. 943. (a) Section 1305(a) (42 U.S.C. 300e-4) is amended—

(1) by striking out "nonprofit" in paragraphs (1) and (2), and

(2) by amending paragraph (3) to read as follows:

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private health maintenance organizations for the amounts referred to in paragraphs (1) and (2).".

(b) Section 1305(b)(1) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for a health maintenance organization may not exceed $7,000,000. In any twelve-month period the amount disbursed to a health maintenance organization under this section (either directly by the Secretary, by an escrow agent under the terms of an escrow agreement, or by a lender under a guaranteed loan) may not exceed $3,000,000.".

(c) Section 1305(d) is amended by striking out "1981" and inserting in lieu thereof "1986".

(d) Subsection (e) of section 1307 (42 U.S.C. 300e-6) is repealed.

AMBULATORY FACILITIES

SEC. 944. (a) Section 1305A(a) (42 U.S.C. 300e-4a(a)) is amended—

(1) by striking out "nonprofit" in paragraph (1), and

(2) by amending paragraph (2) to read as follows:

"(2) guarantee to non-Federal lenders for their loans to private health maintenance organizations for projects described in paragraph (1) the payment of principal and interest on such loans.".

(b) Subsections (b) and (c) of section 1305A are redesignated as subsections (c) and (d), respectively, and the following is inserted after subsection (a):

"(b) No loan may be made to a health maintenance organization and no loan to a health maintenance organization may be guaranteed under subsection (a) unless the application of the health maintenance organization for such loan or loan guarantee contains assurances satisfactory to the Secretary that—

"(1) at the time the application is made the health maintenance organization is fiscally sound;

"(2) if the application is for a loan, the health maintenance organization is unable to secure a loan, at the rate of interest prevailing in the area in which the organization is located, from non-Federal lenders for the project with respect to which the application is submitted, or, if the application is for a loan guarantee, the health maintenance organization would be unable to secure a loan from such lenders for such project without the loan guarantee; and

"(3) during the period of the loan or loan guarantee, the health maintenance organization will remain fiscally sound.".

LOANS

SEC. 945. Section 1308(b)(2) (42 U.S.C. 300e-7(b)(2)) is amended—

(1) by amending clause (D) to read as follows: "(D) on the date the loan is made, bear interest at a rate comparable to the rate of interest prevailing on such date with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges, and"; and

(2) by adding at the end the following: "On the date disbursements are made under a loan after the initial disbursement under the loan, the Secretary may change the rate of interest on the amount of the loan disbursed on that date to a rate which is comparable to the rate of interest prevailing on the date the subsequent disbursement is made with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.".

DUAL CHOICE

SEC. 946. (a) Section 1310(d) (42 U.S.C. 300e-9(d)) is amended by adding at the end the following: "Every two years (or such longer period as the Secretary may by regulation prescribe) after the date a health maintenance organization becomes a qualified health maintenance organization under this subsection, the health maintenance organization must demonstrate to the Secretary that it is qualified within the meaning of this subsection.".

(b) Section 1310(f)(1) is amended by inserting before the semicolon a comma and the following: "except that such term includes nonappropriated fund instrumentalities of the Government of the United States".

REPEAL OF SPECIAL CONSIDERATIONS

SEC. 947. (a) Section 1303 (42 U.S.C. 300e-2) is amended by striking out subsection (i).

(b) Section 1304 (42 U.S.C. 300e-3) is amended by striking out subsection (k).

(c) Section 1305 (42 U.S.C. 300e-4) is amended by striking out subsection (e).

FINANCIAL DISCLOSURE

SEC. 948. (a) Subsection (a)(2) of section 1318 (42 U.S.C. 300e-17) is amended to read as follows:

"(2) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 of the Social Security Act by disclosing entities and the information required to be supplied under section 1902(a)(38) of such Act.".

(b) Subsection (a)(3)(B) of such section is amended to read as follows:

"(B) any furnishing for consideration of goods, services (including management services), or facilities between the health maintenance organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and".

(c) Subsection (b)(1) of such section is amended by striking out "employee" and inserting in lieu thereof "employee responsible for management or administration".

(d) Subsection (b)(4) of such section is amended to read as follows:

"(4) any spouse, child, or parent of an individual described in paragraph (1).".

MISCELLANEOUS

SEC. 949. (a) The third sentence of section 1312(b)(1) (42 U.S.C. 300e-11(b)(1)) is amended by inserting after "Secretary prescribes" the following: ", then after the Secretary provides the entity a reasonable opportunity for reconsideration of his determination, including, at the entity's election, a fair hearing".

(b) Sections 1314 and 1316 (42 U.S.C. 300e-13, 300e-15) are repealed.

(c) Section 1527(b)(1) (42 U.S.C. 300m-6(b)(1)) is amended—

(1) by striking out clause (i) in subparagraph (A) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively,

(2) by striking out "such enrolled individuals" in subparagraph (A) and inserting in lieu thereof "individuals enrolled in such organization or organizations",

(3) by striking out "which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least 50,000 individuals" in subparagraph (B)(ii),

(4) by striking out "such enrolled individuals" in subparagraph (B)(iii) and inserting

in lieu thereof "individuals enrolled in such organization or organizations",

(5) by striking out "which has, in the service area or the organization or service areas of the organizations in the combination, an enrollment of at least 50,000 individuals" in subparagraph (C)(i), and

(6) by striking out "such enrolled individuals" in subparagraph (C)(ii) and inserting in lieu thereof "individuals enrolled in such organization or organizations".

(d) The amendments made by subsection (c) shall take effect October 1, 1982.

Subtitle G—Adolescent Family Life

SEC. 955. (a) The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XX—ADOLESCENT FAMILY LIFE DEMONSTRATION PROJECTS

"FINDINGS AND PURPOSES

"SEC. 2001. (a) The Congress finds that—

"(1) in 1978, an estimated one million one hundred thousand teenagers became pregnant, more than five hundred thousand teenagers carried their babies to term, and over one-half of the babies born to such teenagers were born out of wedlock;

"(2) adolescents aged seventeen and younger accounted for more than one-half of the out of wedlock births to teenagers;

"(3) in a high proportion of cases, the pregnant adolescent is herself the product of an unmarried parenthood during adolescence and is continuing the pattern in her own lifestyle;

"(4) it is estimated that approximately 80 per centum of unmarried teenagers who carry their pregnancies to term live with their families before and during their pregnancy and remain with their families after the birth of the child;

"(5) pregnancy and childbirth among unmarried adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low birth weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing schooling; a greater likelihood that an adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

"(6)(A) adoption is a positive option for unmarried pregnant adolescents who are unwilling or unable to care for their children since adoption is a means of providing permanent families for such children from available approved couples who are unable or have difficulty in conceiving or carrying children of their own to term; and

"(B) at present, only 4 per centum of unmarried pregnant adolescents who carry their babies to term enter into an adoption plan or arrange for their babies to be cared for by relatives or friends;

"(7) an unmarried adolescent who becomes pregnant once is likely to experience recurrent pregnancies and childbearing, with increased risks;

"(8)(A) the problems of adolescent premarital sexual relations, pregnancy, and parenthood are multiple and complex and are frequently associated with or are a cause of other troublesome situations in the family; and

"(B) such problems are best approached through a variety of integrated and essential services provided to adolescents and their families by other family members, religious and charitable organizations, voluntary associations, and other groups in the private sector as well as services provided by publicly sponsored initiatives;

"(9) a wide array of educational, health, and supportive services are not available to adolescents with such problems or to their families, or when available frequently are fragmented and thus are of limited effectiveness in discouraging adolescent premarital sexual relations and the consequences of such relations;

"(10)(A) prevention of adolescent sexual activity and adolescent pregnancy depends primarily upon developing strong family values and close family ties, and since the family is the basic social unit in which the values and attitudes of adolescents concerning sexuality and pregnancy are formed, programs designed to deal with issues of sexuality and pregnancy will be successful to the extent that such programs encourage and sustain the role of the family in dealing with adolescent sexual activity and adolescent pregnancy;

"(B) Federal policy therefore should encourage the development of appropriate health, educational, and social services where such services are now lacking or inadequate, and the better coordination of existing services where they are available; and

"(C) services encouraged by the Federal Government should promote the involvement of parents with their adolescent children, and should emphasize the provision of support by other family members, religious and charitable organizations, voluntary associations, and other groups in the private sector in order to help adolescents and their families deal with complex issues of adolescent premarital sexual relations and the consequences of such relations; and

"(11)(A) there has been limited research concerning the societal causes and consequences of adolescent pregnancy;

"(B) there is limited knowledge concerning which means of intervention are effective in mediating or eliminating adolescent premarital sexual relations and adolescent pregnancy; and

"(C) it is necessary to expand and strengthen such knowledge in order to develop an array of approaches to solving the problems of adolescent premarital sexual relations and adolescent pregnancy in both urban and rural settings.

"(b) Therefore, the purposes of this title are—

"(1) to find effective means, within the context of the family, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other family members, and to promote self discipline and other prudent approaches to the problem of adolescent premarital sexual relations, including adolescent pregnancy;

"(2) to promote adoption as an alternative for adolescent parents;

"(3) to establish innovative, comprehensive, and integrated approaches to the delivery of care services for pregnant adolescents, with primary emphasis on unmarried adolescents who are seventeen years of age or under, and for adolescent parents, which shall be based upon an assessment of existing programs and, where appropriate, upon efforts to establish better coordination, integration, and linkages among such existing programs in order to—

"(A) enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life; and

"(B) assist families of adolescents to understand and resolve the societal causes which are associated with adolescent pregnancy;

"(4) to encourage and support research projects and demonstration projects concerning the societal causes and consequences of adolescent premarital sexual relations, contraceptive use, pregnancy, and child rearing;

"(5) to support evaluative research to identify effective services which alleviate, eliminate, or resolve any negative consequences of adolescent premarital sexual relations and adolescent childbearing for the parents, the child, and their families; and

"(6) to encourage and provide for the dissemination of results, findings, and information from programs and research projects relating to adolescent premarital sexual relations, pregnancy, and parenthood.

"DEFINITIONS

"SEC. 2002. (a) For the purposes of this title, the term—

"(1) 'Secretary' means the Secretary of Health and Human Services;

"(2) 'eligible person' means—

"(A) with regard to the provision of care services, a pregnant adolescent, an adolescent parent, or the family of a pregnant adolescent or an adolescent parent; or

"(B) with regard to the provision of prevention services and referral to such other services which may be appropriate, a nonpregnant adolescent;

"(3) 'eligible grant recipient' means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary—

"(A) in the case of an organization which will provide care services, the capability of providing all core services in a single setting or the capability of creating a network through which all core services would be provided; or

"(B) in the case of an organization which will provide prevention services, the capability of providing such services;

"(4) 'necessary services' means services which may be provided by grantees which are—

"(A) pregnancy testing and maternity counseling;

"(B) adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

"(C) primary and preventive health services including prenatal and postnatal care;

"(D) nutrition information and counseling;

"(E) referral for screening and treatment of venereal disease;

"(F) referral to appropriate pediatric care;

"(G) educational services relating to family life and problems associated with adolescent premarital sexual relations, including—

"(i) information about adoption;

"(ii) education on the responsibilities of sexuality and parenting;

"(iii) the development of material to support the role of parents as the provider of sex education; and

"(iv) assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

"(H) appropriate educational and vocational services and referral to such services;

"(I) referral to licensed residential care or maternity home services;

"(J) mental health services and referral to mental health services and to other appropriate physical health services;

"(K) child care sufficient to enable the adolescent parent to continue education or to enter into employment;

"(L) consumer education and homemaking;

"(M) counseling for the immediate and extended family members of the eligible person;

"(N) transportation;

"(O) outreach services to families of adolescents to discourage sexual relations among unemancipated minors;

"(P) family planning services; and

"(Q) such other services consistent with the purposes of this title as the Secretary may approve in accordance with regulations promulgated by the Secretary;

"(5) 'core services' means those services which shall be provided by a grantee, as determined by the Secretary by regulation;

"(6) 'supplemental services' means those services which may be provided by a grantee, as determined by the Secretary by regulation;

"(7) 'care services' means necessary services for the provision of care to pregnant adolescents and adolescent parents and includes all core services with respect to the provision of such care prescribed by the Secretary by regulation;

"(8) 'prevention services' means necessary services to prevent adolescent sexual relations, including the services described in subparagraphs (A), (D), (E), (G), (H), (M), (N), (O), and (Q) of paragraph (4);

"(9) 'adolescent' means an individual under the age of nineteen; and

"(10) 'unemancipated minor' means a minor who is subject to the control, authority, and supervision of his or her parents or guardians, as determined under State law.

"(b) Until such time as the Secretary promulgates regulations pursuant to the second sentence of this subsection, the Secretary shall use the regulations promulgated under title VI of the Health Services and Centers Amendments of 1978 which were in effect on the date of enactment of this title, to determine which necessary services are core services for purposes of this title. The Secretary may promulgate regulations to determine which necessary services are core services for purposes of this title based upon an evaluation of and information concerning which necessary services are essential to carry out the purposes of this title and taking into account (1) factors such as whether services are to be provided in urban or rural areas, the ethnic groups to be served, and the nature of the populations to be served, and (2) the results of the evaluations required under section 2006(b). The Secretary may from time to time revise such regulations.

"AUTHORITY TO MAKE GRANTS FOR DEMONSTRATION PROJECTS

"SEC. 2003. (a) The Secretary may make grants to further the purposes of this title to eligible grant recipients which have submitted an application which the Secretary finds meets the requirements of section 2006 for demonstration projects which the Secretary determines will help communities provide appropriate care and prevention services in easily accessible locations. Demonstration projects shall, as appropriate, provide, supplement, or improve the quality of such services. Demonstration projects shall use such methods as will strengthen the capacity of families to deal with the sexual behavior, pregnancy, or parenthood of adolescents and to make use of support systems such as other family members, friends, religious and charitable organizations, and voluntary associations.

"(b) Grants under this title for demonstration projects may be for the provision of—

"(1) care services;

"(2) prevention services; or

"(3) a combination of care services and prevention services.

"USES OF GRANTS FOR DEMONSTRATION PROJECTS FOR SERVICES

"SEC. 2004. (a) Except as provided in subsection (b), funds provided for demonstration projects for services under this title may be used by grantees only to—

"(1) provide to eligible persons—

"(A) care services;

"(B) prevention services; or

"(C) care and prevention services (in the case of a grantee who is providing a combination of care and prevention services);

"(2) coordinate, integrate, and provide linkages among providers of care, prevention, and other services for eligible persons in furtherance of the purposes of this title;

"(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent premarital sexual relations and adolescent pregnancy;

"(4) plan for the administration and coordination of pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents which will further the objectives of this title; and

"(5) fulfill assurances required for grant approval by section 2006.

"(b)(1) No funds provided for a demonstration project for services under this title may be used for the provision of family planning services (other than counseling and referral services) to adolescents unless appropriate family planning services are not otherwise available in the community.

"(2) Any grantee who receives funds for a demonstration project for services under this title and who, after determining under paragraph (1) that appropriate family planning services are not otherwise available in the community, provides family planning services (other than counseling and referral services) to adolescents may only use funds provided under this title for such family planning services if all funds received by such grantee from all other sources to support such family planning services are insufficient to support such family planning services.

"(c) Grantees who receive funds for a demonstration project for services under this title shall charge fees for services pursuant to a fee schedule approved by the Secretary as a part of the application described in section 2006 which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. A grantee who receives funds for a demonstration project for services under this title may not, in any case, discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services, except that in determining the ability of an unemancipated minor to provide payment for services, the income of the family of an unemancipated minor shall be considered in determining the ability of such minor to make such payments unless the parents or guardians of the unemancipated minor refuse to make such payments.

"PRIORITIES, AMOUNTS, AND DURATION OF GRANTS FOR DEMONSTRATION PROJECTS FOR SERVICES

"SEC. 2005. (a) In approving applications for grants for demonstration projects for services under this title, the Secretary shall give priority to applicants who—

"(1) serve an area where there is a high incidence of adolescent pregnancy;

"(2) serve an area with a high proportion of low-income families and where the availability of programs of care for pregnant adolescents and adolescent parents is low;

"(3) show evidence—

"(A) in the case of an applicant who will provide care services, of having the ability to bring together a wide range of needed core services and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for pregnant adolescents or adolescent parents; or

"(B) in the case of an applicant who will provide prevention services, of having the ability to provide prevention services for adolescents and their families which are appropriate for the target population and the geographic area to be served, including the special needs of rural areas;

"(4) will utilize to the maximum extent feasible existing available programs and facilities such as neighborhood and primary health care centers, maternity homes which provide or can be equipped to provide services to pregnant adolescents, agencies serving families, youth, and children with established programs of service to pregnant adolescents and vulnerable families, licensed adoption agencies, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents;

"(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

"(6) can demonstrate a community commitment to the program by making available to the demonstration project non-Federal funds, personnel, and facilities;

"(7) have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the demonstration project; and

"(8) will demonstrate innovative and effective approaches in addressing the problems of adolescent premarital sexual relations, pregnancy, or parenthood, including approaches to provide pregnant adolescents with adequate information about adoption.

"(b)(1) The amount of a grant for a demonstration project for services under this title shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents in such area.

"(2) In making grants for demonstration projects for services under this title, the

Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds taking into consideration the relative number of adolescents in such areas in need of such services.

"(c)(1) A grantee may not receive funds for a demonstration project for services under this title for a period in excess of 5 years.

"(2)(A) Subject to paragraph (3), a grant for a demonstration project for services under this title may not exceed—

"(i) 70 per centum of the costs of the project for the first and second years of the project;

"(ii) 60 per centum of such costs for the third year of the project;

"(iii) 50 per centum of such costs for the fourth year of the project; and

"(iv) 40 per centum of such costs for the fifth year of the project.

"(B) Non-Federal contributions required by subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) The Secretary may waive the limitation specified in paragraph (2)(A) for any year in accordance with criteria established by regulation.

"REQUIREMENTS FOR APPLICATIONS

"SEC. 2006. (a) An application for a grant for a demonstration project for services under this title shall be in such form and contain such information as the Secretary may require, and shall include—

"(1) an identification of the incidence of adolescent pregnancy and related problems;

"(2) a description of the economic conditions and income levels in the geographic area to be served;

"(3) a description of existing pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents (including adoption services), and including where, how, by whom, and to which population groups such services are provided, and the extent to which they are coordinated in the geographic area to be served;

"(4) a description of the major unmet needs for services for adolescents at risk of initial or recurrent pregnancies and an estimate of the number of adolescents not being served in the area;

"(5)(A) in the case of an applicant who will provide care services, a description of how all core services will be provided in the demonstration project using funds under this title or will otherwise be provided by the grantee in the area to be served, the population to which such services will be provided, how such services will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services in the public and private sectors; or

"(B) in the case of an applicant who will provide prevention services, a description of the necessary services to be provided and how the applicant will provide such services;

"(6) a description of the manner in which adolescents needing services other than the services provided directly by the applicant will be identified and how access and appropriate referral to such other services (such as medicaid; licensed adoption agencies; maternity home services; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided, including a description of a plan to coordinate such other services with the services supported under this title;

"(7) a description of the applicant's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

"(8) a description of the results expected from the provision of services, and the procedures to be used for evaluating those results;

"(9) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, concerning the proposed use of funds provided for a demonstration project for services under this title and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

"(10) assurances that the applicant will have an ongoing quality assurance program;

"(11) assurances that, where appropriate, the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

"(12) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(13) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State (in which the applicant provides services) that administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement;

"(14) assurances that the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(15) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under parts B and E of title IV and title XX of the Social Security Act;

"(16)(A) a description of—

"(i) the schedule of fees to be used in the provision of services, which shall comply with section 2004(c) and which shall be designed to cover all reasonable direct and indirect costs incurred by the applicant in providing services; and

"(ii) a corresponding schedule of discounts to be applied to the payment of such fees, which shall comply with section 2004(c) and which shall be adjusted on the basis of the ability of the eligible person to pay;

"(B) assurances that the applicant has made and will continue to make every reasonable effort—

"(i) to secure from eligible persons payment for services in accordance with such schedules;

"(ii) to collect reimbursement for health or other services provided to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program; and

"(iii) to seek such reimbursement on the basis of the full amount of fees for services without application of any discount; and

"(C) assurances that the applicant has submitted or will submit to the Secretary such reports as the Secretary may require to determine compliance with this paragraph;

"(17) assurances that the applicant will make maximum use of funds available under title X of this Act;

"(18) assurances that the acceptance by any individual of family planning services or family planning information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

"(19) assurances that fees collected by the applicant for services rendered in accordance with this title shall be used by the applicant to further the purposes of this title;

"(20) assurances that the applicant, if providing both prevention and care services will not exclude or discriminate against any adolescent who receives prevention services and subsequently requires care services as a pregnant adolescent;

"(21) a description of how the applicant will, as appropriate in the provision of services—

"(A) involve families of adolescents in a manner which will maximize the role of the family in the solution of problems relating to the parenthood or pregnancy of the adolescent;

"(B) involve religious and charitable organizations, voluntary associations, and other groups in the private sector as well as services provided by publicly sponsored initiatives;

"(22)(A) assurances that—

"(i) except as provided in subparagraph (B) and subject to clause (ii), the applicant will notify the parents or guardians of any unemancipated minor requesting services from the applicant and, except as provided in subparagraph (C), will obtain the permission of such parents or guardians with respect to the provision of such services; and

"(ii) in the case of a pregnant unemancipated minor requesting services from the applicant, the applicant will notify the parents or guardians of such minor under clause (i) within a reasonable period of time;

"(B) assurances that the applicant will not notify or request the permission of the parents or guardian of any unemancipated minor without the consent of the minor—

"(i) who solely is requesting from the applicant pregnancy testing or testing or treatment for venereal disease;

"(ii) who is the victim of incest involving a parent; or

"(iii) if an adult sibling of the minor or an adult aunt, uncle, or grandparent who is related to the minor by blood certifies to the grantee that notification of the parents or guardians of such minor would result in physical injury to such minor; and

"(C) assurances that the applicant will not require, with respect to the provision of services, the permission of the parents or guardians of any pregnant unemancipated minor if such parents or guardians are attempting to compel such minor to have an abortion;

"(23) assurances that primary emphasis for services supported under this title shall

be given to adolescents seventeen and under who are not able to obtain needed assistance through other means;

"(24) assurances that funds received under this title shall supplement and not supplant funds received from any other Federal, State, or local program or any private sources of funds; and

"(25) a plan for the conduct of, and assurances that the applicant will conduct, evaluations of the effectiveness of the services supported under this title in accordance with subsection (b).

"(b)(1) Each grantee which receives funds for a demonstration project for services under this title shall expend at least 1 per centum but not in excess of 5 per centum of the amounts received under this title for the conduct of evaluations of the services supported under this title. The Secretary may, for a particular grantee upon good cause shown, waive the provisions of the preceding sentence with respect to the amounts to be expended on evaluations, but may not waive the requirement that such evaluations be conducted.

"(2) Evaluations required by paragraph (1) shall be conducted by an organization or entity which is independent of the grantee providing services supported under this title. To assist in conducting the evaluations required by paragraph (1), each grantee shall develop a working relationship with a college or university located in the grantee's State which will provide or assist in providing monitoring and evaluation of services supported under this title unless no college or university in the grantee's State is willing or has the capacity to provide or assist in providing such monitoring and assistance.

"(3) The Secretary may provide technical assistance with respect to the conduct of evaluations required under this subsection to any grantee which is unable to develop a working relationship with a college or university in the applicant's State for the reasons described in paragraph (2).

"(c) Each grantee which receives funds for a demonstration project for services under this title shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include, at such times as are considered appropriate by the Secretary, the results of the evaluations of the services supported under this title.

"(d)(1) A grantee shall periodically notify the Secretary of the exact number of instances in which a grantee does not notify the parents or guardians of a pregnant unemancipated minor under subsection (a)(22)(B)(iii).

"(2) For purposes of subsection (a)(22)(B)(iii), the term "adult" means an adult as defined by State law.

"(e) Each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this title. The Governor shall submit to the applicant comments on any such application within the period of sixty days beginning on the day when the Governor receives such copy. The applicant shall include the comments of the Governor with such application.

"(f) No application submitted for a grant for a demonstration project for care services under this title may be approved unless the Secretary is satisfied that core services shall be available through the applicant within a reasonable time after such grant is received.

"COORDINATION OF FEDERAL AND STATE PROGRAMS

"SEC. 2007. (a) The Secretary shall coordinate Federal policies and programs providing services relating to the prevention of adolescent sexual relations and initial and recurrent adolescent pregnancies and providing care services for pregnant adolescents. In achieving such coordination, the Secretary shall—

"(1) require grantees who receive funds for demonstration projects for services under this title to report periodically to the Secretary concerning Federal, State, and local policies and programs that interfere with the delivery of and coordination of pregnancy prevention services and other programs of care for pregnant adolescents and adolescent parents;

"(2) provide technical assistance to facilitate coordination by State and local recipients of Federal assistance;

"(3) review all programs administered by the Department of Health and Human Services which provide prevention services or care services to determine if the policies of such programs are consistent with the policies of this title, consult with other departments and agencies of the Federal Government who administer programs that provide such services, and encourage such other departments and agencies to make recommendations, as appropriate, for legislation to modify such programs in order to facilitate the use of all Government programs which provide such services as a basis for delivery of more comprehensive prevention services and more comprehensive programs of care for pregnant adolescents and adolescent parents;

"(4) give priority in the provision of funds, where appropriate, to applicants using single or coordinated grant applications for multiple programs; and

"(5) give priority, where appropriate, to the provision of funds under Federal programs administered by the Secretary (other than the program established by this title) to projects providing comprehensive prevention services and comprehensive programs of care for pregnant adolescents and adolescent parents.

"(b) Any recipient of a grant for a demonstration project for services under this title shall coordinate its activities with any other recipient of such a grant which is located in the same locality.

"RESEARCH

"SEC. 2008. (a)(1) The Secretary may make grants and enter into contracts with public agencies or private organizations or institutions of higher education to support the research and dissemination activities described in paragraphs (4), (5), and (6) of section 2001(b).

"(2) The Secretary may make grants or enter into contracts under this section for a period of one year. A grant or contract under this section for a project may be renewed for four additional one-year periods, which need not be consecutive.

"(3) A grant or contract for any one-year period under this section may not exceed $100,000 for the direct costs of conducting research or dissemination activities under this section and may include such additional amounts for the indirect costs of conducting such activities as the Secretary determines appropriate. The Secretary may waive the preceding sentence with respect to a specific project if he determines that—

"(A) exceptional circumstances warrant such waiver and that the project will have national impact; or

"(B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this title.

"(4) The amount of any grant or contract made under this section may remain available for obligation or expenditure after the close of the one-year period for which such grant or contract is made in order to assist the recipient in preparing the report required by subsection (f)(1).

"(b)(1) Funds provided for research under this section may be used for descriptive or explanatory surveys, longitudinal studies, or limited demonstration projects for services that are for the purpose of increasing knowledge and understanding of the matters described in paragraphs (4) and (5) of section 2001(b).

"(2) Funds provided under this section may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

"(c) The Secretary may not make any grant or enter into any contract to support research or dissemination activities under this section unless—

"(1) the Secretary has received an application for such grant or contract which is in such form and which contains such information as the Secretary may by regulation require;

"(2) the applicant has demonstrated that the applicant is capable of conducting one or more of the types of research or dissemination activities described in paragraph (4), (5), or (6) of section 2001(b); and

"(3) in the case of an application for a research project, the panel established by subsection (e)(2) has determined that the project is of scientific merit.

"(d) The Secretary shall, where appropriate, coordinate research and dissemination activities carried out under this section with research and dissemination activities carried out by the National Institutes of Health.

"(e)(1) The Secretary shall establish a system for the review of applications for grants and contracts under this section. Such system shall be substantially similar to the system for scientific peer review of the National Institutes of Health and shall meet the requirements of paragraphs (2) and (3).

"(2) In establishing the system required by paragraph (1), the Secretary shall establish a panel to review applications under this section. Not more than 25 per centum of the members of the panel shall be physicians. The panel shall meet as often as may be necessary to facilitate the expeditious review of applications under this section, but not less than once each year. The panel shall review each project for which an application is made under this section, evaluate the scientific merit of the project, determine whether the project is of scientific merit, and make recommendations to the Secretary concerning whether the application for the project should be approved.

"(3) The Secretary shall make grants under this section from among the projects which the panel established by paragraph (2) has determined to be of scientific merit and may only approve an application for a project if the panel has made such determination with respect to such a project. The Secretary shall make a determination with respect to an application within one month after receiving the determinations and recommendations of such panel with respect to the application.

"(f)(1)(A) The recipient of a grant or contract for a research project under this section shall prepare and transmit to the Secretary a report describing the results and

conclusions of such research. Except as provided in subparagraph (B), such report shall be transmitted to the Secretary not later than eighteen months after the end of the year for which funds are provided under this section. The recipient may utilize reprints of articles published or accepted for publication in professional journals to supplement or replace such report if the research contained in such articles was supported under this section during the year for which the report is required.

"(B) In the case of any research project for which assistance is provided under this section for two or more consecutive one-year periods, the recipient of such assistance shall prepare and transmit the report required by subparagraph (A) to the Secretary not later than twelve months after the end of each one-year period for which such funding is provided.

"(2) Recipients of grants and contracts for dissemination under this section shall submit to the Secretary such reports as the Secretary determines appropriate.

"(g) In carrying out functions relating to the conduct and support of research under this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44, United States Code, except with respect to the collection of survey data which primarily will be used for the generation of national population estimates.

"EVALUATION AND ADMINISTRATION

"SEC. 2009. (a) Of the funds appropriated under this title, the Secretary shall reserve not less than 1 per centum and not more than 3 per centum for the evaluation of activities carried out under this title. The Secretary shall submit to the appropriate committees of the Congress a summary of each evaluation conducted under this section.

"(b) The officer or employee of the Department of Health and Human Services designated by the Secretary to carry out the provisions of this title shall report directly to the Assistant Secretary for Health with respect to the activities of such officer or employee in carrying out such provisions.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2010. (a) For the purpose of carrying out this title, there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $30,000,000 for the fiscal year ending September 30, 1983, and $30,000,000 for the fiscal year ending September 30, 1984.

"(b) At least two-thirds of the amounts appropriated to carry out this title shall be used to make grants for demonstration projects for services.

"(c) Not more than one-third of the amounts specified under subsection (b) for use for grants for demonstration projects for services shall be used for grants for demonstration projects for prevention services.

"RESTRICTIONS

"SEC. 2011. (a) Grants or payments may be made only to programs or projects which do not provide abortions or abortion counseling or referral, or which do not subcontract with or make any payment to any person who provides abortions or abortion counseling or referral, except that any such program or project may provide referral for abortion counseling to a pregnant adolescent if such adolescent and the parents or guardians of such adolescent request such referral; and grants may be made only to projects or programs which do not advocate, promote, or encourage abortion.

"(b) The Secretary shall ascertain whether programs or projects comply with subsection (a) and take appropriate action if programs or projects do not comply with such subsection, including withholding of funds.".

(b) Effective October 1, 1981, titles VI, VII, and VIII of the Health Services and Centers Amendments of 1978 are repealed.

Subtitle H—Alcohol and Drug Programs

CHAPTER 1—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION

REFERENCE

SEC. 960. Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

ALCOHOL ABUSE AND ALCOHOLISM AMONG GOVERNMENT AND OTHER EMPLOYEES

SEC. 961. Section 201(b)(2)(B) is amended by striking out "single State agencies designated pursuant to section 303 of this Act" and inserting in lieu thereof "the State agencies responsible for the administration of alcohol abuse prevention, treatment, and rehabilitation activities".

TECHNICAL ASSISTANCE

SEC. 962. (a) Section 301 is amended to read as follows:

"TECHNICAL ASSISTANCE

"SEC. 301. (a) On the request of any State, the Secretary, acting through the Institute, shall, to the extent feasible, make available technical assistance for—

"(1) developing and improving systems for data collection;

"(2) program management, accountability, and evaluation;

"(3) certification, accreditation, or licensure of treatment facilities and personnel;

"(4) monitoring compliance by hospitals and other facilities with the requirements of section 321; and

"(5) eliminating exclusions in health insurance coverage offered in the State which are based on alcoholism or alcohol abuse.

"(b) Insofar as practicable, technical assistance provided under this section shall be provided in a manner which will improve coordination between activities supported under this Act and under the Drug Abuse Prevention, Treatment, and Rehabilitation Act.".

(b) Sections 302, 303, and 310 are repealed.

GRANTS AND CONTRACTS

SEC. 963. (a) The section heading for section 311 is amended to read as follows:

"GRANTS AND CONTRACTS FOR THE DEMONSTRATION OF NEW AND MORE EFFECTIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS".

(b) Section 311(a) is amended—

(1) by adding at the end of clause (1) "and with particular emphasis on developing new and more effective alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs,";

(2) by inserting "and" after the comma the last place it appears in clause (2);

(3) by striking out clauses (3) and (5) and by redesignating clause (4) as clause (3); and

(4) by striking out the comma and "and" at the end of clause (3) (as redesignated by clause (2) of this subsection) and inserting in lieu thereof a period.

(c)(1) Section 311(c)(2)(A) is amended—

(A) by striking out "designated under section 303 of this Act, if such designation has been made" in the first sentence and inserting in lieu thereof "responsible for the administration of alcohol abuse and alcoholism prevention, treatment, and rehabilitation activities";

(B) by striking out "the" before "State comprehensive plan" in the third sentence and inserting in lieu thereof "any"; and

(C) by striking out "under section 303" in the third sentence.

(2) Section 311(c)(3) is amended—

(A) by inserting "and" after the semicolon in clause (B);

(B) by striking out the semicolon and "and" at the end of clause (C) and inserting in lieu thereof a period; and

(C) by striking out clause (D).

(3) Section 311(c)(4) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects aimed at underserved populations such as racial and ethnic minorities, Native Americans, youth, the elderly, women, handicapped individuals, public inebriates, and families of alcoholics.".

(4) Section 311(c) is further amended—

(A) by redesignating paragraph (5) as paragraph (6);

(B) by inserting after paragraph (4) the following new paragraph:

"(5)(A) No grant may be made under this section to a State or to any entity within the government of a State unless the grant application has been duly authorized by the chief executive officer of such State.

"(B) No grant or contract may be made under this section for a period in excess of five years.

"(C)(i) The amount of any grant or contract under this section may not exceed 100 per centum of the cost of carrying out the grant or contract in the first fiscal year for which the grant or contract is made under this section, 80 per centum of such cost in the second fiscal year for which the grant or contract is made under this section, 70 per centum of such cost in the third fiscal year for which the grant or contract is made under this section, and 60 per centum of such cost in each of the fourth and fifth fiscal years for which the grant or contract is made under this section.

"(ii) For purposes of this subparagraph, no grant or contract shall be considered to have been made under this section for a fiscal year ending before September 30, 1981."; and

(C) by adding at the end thereof the following new paragraph:

"(7) Nothing shall prevent the use of funds provided under this section for programs and projects aimed at the prevention, treatment, or rehabilitation of drug abuse as well as alcohol abuse and alcoholism.".

AUTHORIZATION OF APPROPRIATIONS; PROJECT GRANTS AND CONTRACTS

SEC. 964. (a) The first sentence of section 312 is amended—

(A) by striking out "sections 310 and 311" and inserting in lieu thereof "section 311"; and

(B) by striking out "and" after "1980," and by inserting before the period a comma and "and $15,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such section is amended by striking out "and" after the semicolon the first place it appears and by inserting before the period a semicolon and "and of the funds appropriated under this section for the fiscal year ending September

30, 1982, at least 25 per centum of the funds shall be obligated for such grants".

ALCOHOL ABUSE RESEARCH AND RESEARCH CENTERS

SEC. 965. (a) Section 503 (42 U.S.C. 4587) is amended—

(A) by inserting "(a)" after "503.",

(B) by striking out "the purposes of sections 501 and 502" and inserting in lieu thereof "this title",

(C) by striking out "and" after "1980,", and

(D) by striking out the period and inserting in lieu thereof a comma and the following: "$25,000,000 for the fiscal year ending September 30, 1982. Of the funds appropriated under this section for any fiscal year beginning after September 30, 1981, not more than 35 per centum may be obligated for grants under section 503.".

(b) Section 504(b) (42 U.S.C. 4588(b)) is amended by adding at the end the following: "The Secretary shall include in the grants made under this section for fiscal years beginning after September 30, 1981, a grant to a designated Center for research on the effects of alcohol on the elderly.".

(c) Section 503 is inserted after section 504 of such Act and is redesignated as section 504 and the section 504 of such Act relating to National Alcohol Research Centers is redesignated as section 503.

TECHNICAL AMENDMENTS

SEC. 966. (a) The first sentence of section 101(a) is amended (1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services", and (2) by striking out "and part C of the Community Mental Health Centers Act".

(b) Section 102(1) is amended by striking out "and part C of the Community Mental Health Centers Act".

(c) Section 103(b) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(d) Section 201(b)(4) is amended by striking out "Office and Treatment Act of 1972" and inserting in lieu thereof "Prevention, Treatment, and Rehabilitation Act".

(e) Section 201(e) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(f)(1) The heading for title III is amended to read as follows:

"TECHNICAL ASSISTANCE AND FEDERAL GRANTS AND CONTRACTS"

(2) The heading for part A of title III is amended to read as follows:

"PART A—TECHNICAL ASSISTANCE"

CHAPTER II—DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION

REFERENCE

SEC. 967. Except as otherwise specifically provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

ADDITIONAL DRUG ABUSE PREVENTION FUNCTIONS

SEC. 968. (a) Section 406(a) is amended—

(1) by inserting "and" after the semicolon in clause (2);

(2) by striking out the semicolon and "and" at the end of clause (3) and inserting in lieu thereof a period; and

(3) by striking out clause (4).

(b) The section heading for section 406 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(c) The item relating to section 406 in the table of sections for title IV is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

FORMULA GRANTS

SEC. 969. (a) Section 409 is repealed.

(b) The table of sections for title IV is amended by striking out the item relating to section 409.

GRANTS AND CONTRACTS

SEC. 970. (a)(1) The section heading for section 410 is amended to read as follows:

"§410. Grants and contracts for the demonstration of new and more effective prevention, treatment, and rehabilitation programs.".

(2) The item relating to section 410 in the table of sections for title IV is amended to read as follows:

"410. Grants and contracts for the demonstration of new and more effective prevention, treatment, and rehabilitation programs.".

(b)(1) The first sentence of section 410(a) is amended to read as follows: "The Secretary acting through the National Institute on Drug Abuse, may make grants to and enter into contracts with individuals and public and private nonprofit entities—

"(1) to provide training seminars, educational programs, and technical assistance for the development, demonstration, and evaluation of drug abuse prevention, treatment, and rehabilitation programs; and

"(2) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects and on identifying new and more effective drug abuse prevention, treatment, and rehabilitation programs.".

(2) Section 410(a) is further amended by adding at the end thereof the following new sentence: "Furthermore, nothing shall prevent the use of funds provided under this section for programs and projects aimed at the prevention, treatment, and rehabilitation of alcohol abuse and alcoholism as well as drug abuse.".

(c) Section 410(b) is amended by adding at the end thereof the following new sentences: "For carrying out the purposes of this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1982. Of the funds appropriated under the preceding sentence, at least 25 per centum of the funds shall be obligated for grants and contracts for primary prevention and intervention programs designed to discourage individuals, particularly individuals in high risk populations, from abusing drugs.".

(d)(1)(A) The first sentence of section 410(c)(2) is amended by striking out "designated or established under section 409" and inserting in lieu thereof "responsible for the administration of drug abuse prevention activities".

(B) The third sentence of such section is amended—

(i) by striking out "the" before "State comprehensive plan" and inserting in lieu thereof "any"; and

(ii) by striking out "under section 409".

(2) Section 410(c)(3) is amended—

(A) by inserting "and" after the semicolon in clause (B);

(B) by striking out the semicolon and "and" at the end of clause (C) and inserting in lieu thereof a period; and

(C) by striking out clause (D).

(e) Section 410(d) is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section to programs and projects aimed at underserved populations such as racial and ethnic minorities, native Americans, youth, the elderly, women, handicapped individuals, and families of drug abusers.".

(f) Section 410 is further amended by adding at the end thereof the following new subsection:

"(g)(1) No grant may be made under this section to a State or to any entity within the government of a State unless the grant application has been duly authorized by the chief executive officer of such State.

"(2) No grant or contract may be made under this section for a period in excess of five years.

"(3)(A) The amount of any grant or contract under this section may not exceed 100 per centum of the cost of carrying out the grant or contract in the first fiscal year for which the grant or contract is made under this section, 80 per centum of such cost in the second fiscal year for which the grant or contract is made under this section, 70 per centum of such cost in the third fiscal year for which the grant or contract is made under this section, and 60 per centum of such cost in each of the fourth and fifth fiscal years for which the grant or contract is made under this section.

"(B) For purposes of this paragraph, no grant or contract shall be considered to have been made under this section for a fiscal year ending before September 30, 1981.".

RECORDS AND AUDIT

SEC. 971. Section 411(a) is amended by striking out "409 or".

DRUG ABUSE RESEARCH

SEC. 972. (a) Section 503 is amended—

(1) by inserting "(a)" before "The Director shall";

(2) by striking out "and" after the semicolon in clause (3);

(3) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and "and"; and

(4) by inserting after clause (4) the following new clause:

"(5) drug abuse prevention, treatment, and rehabilitation.";

(5) by striking out "this section" in the last sentence and inserting in lieu thereof "this subsection"; and

(6) by adding at the end the following:

"(b) The Director may—

"(1) make grants or enter into contracts with individuals and public and nonprofit entities for the purpose of determining the causes of drug abuse in a particular area, and

"(2) make grants to and enter into contracts with individuals and public and private nonprofit entities for research respecting improved drug maintenance and detoxification techniques and programs.

"(c) For the purposes of subsections (a) and (b), there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1982.".

(b) The heading for section 503 of such Act is amended by striking out "certain research and development" and inserting in lieu thereof "research".

(c) The item relating to section 503 in the table of sections for title V of such Act is amended by striking out "certain research and development" and inserting in lieu thereof "research".

TECHNICAL AMENDMENTS

SEC. 973. (a) Section 205 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Section 302 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(c)(1) Section 405 is amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(2) The section heading for section 405 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) The item relating to section 405 in the table of sections for title IV is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(d) Section 408(g) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(e) Section 413(b)(2)(B) is amended by striking out "single State agencies designated pursuant to section 409(e)(1) of this Act" and inserting in lieu thereof "the State agencies responsible for the administration of drug abuse prevention activities".

(f) Section 501 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

Subtitle I—Consumer-Patient Radiation Health and Safety Act of 1981

SHORT TITLE

SEC. 975. This subtitle may be cited as the "Consumer-Patient Radiation Health and Safety Act of 1981".

STATEMENT OF FINDINGS

SEC. 976. The Congress finds that—

(1) it is in the interest of public health and safety to minimize unnecessary exposure to potentially hazardous radiation due to medical and dental radiologic procedures;

(2) it is in the interest of public health and safety to have a continuing supply of adequately educated persons and appropriate accreditation and certification programs administered by State governments;

(3) the protection of the public health and safety from unnecessary exposure to potentially hazardous radiation due to medical and dental radiologic procedures and the assurance of efficacious procedures are the responsibility of State and Federal governments;

(4) persons who administer radiologic procedures, including procedures at Federal facilities, should be required to demonstrate competence by reason of education, training, and experience; and

(5) the administration of radiologic procedures and the effect on individuals of such procedures have a substantial and direct effect upon United States interstate commerce.

STATEMENT OF PURPOSE

SEC. 977. It is the purpose of this subtitle to—

(1) provide for the establishment of minimum standards by the Federal Government for the accreditation of education programs for persons who administer radiologic procedures and for the certification of such persons; and

(2) insure that medical and dental radiologic procedures are consistent with rigorous safety precautions and standards.

DEFINITIONS

SEC. 978. Unless otherwise expressly provided, for purposes of this subtitle, the term—

(1) "radiation" means ionizing and nonionizing radiation in amounts beyond normal background levels from sources such as medical and dental radiologic procedures;

(2) "radiologic procedure" means any procedure or article intended for use in—

(A) the diagnosis of disease or other medical or dental conditions in humans (including diagnostic X-rays or nuclear medicine procedures); or

(B) the cure, mitigation, treatment, or prevention of disease in humans;

that achieves its intended purpose through the emission of radiation;

(3) "radiologic equipment" means any radiation electronic product which emits or detects radiation and which is used or intended for use to—

(A) diagnose disease or other medical or dental conditions (including diagnostic X-ray equipment); or

(B) cure, mitigate, treat, or prevent disease in humans;

that achieves its intended purpose through the emission or detection of radiation;

(4) "practitioner" means any licensed doctor of medicine, osteopathy, dentistry, podiatry, or chiropractic, who prescribes radiologic procedures for other persons;

(5) "persons who administer radiologic procedures" means any person, other than a practitioner, who intentionally administers radiation to other persons for medical purposes, and includes medical radiologic technologists (including dental hygienists and assistants), radiation therapy technologists, and nuclear medicine technologists;

(6) "Secretary" means the Secretary of Health and Human Services; and

(7) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

PROMULGATION OF STANDARDS

SEC. 979. (a) Within twelve months after the date of enactment of this Act, the Secretary, in consultation with the Radiation Policy Council, the Administrator of Veterans' Affairs, the Administrator of the Environmental Protection Agency, appropriate agencies of the States, and appropriate professional organizations, shall by regulation promulgate minimum standards for the accreditation of educational programs to train individuals to perform radiologic procedures. Such standards shall distinguish between programs for the education of (1) medical radiologic technologists (including radiographers), (2) dental auxiliaries (including dental hygienists and assistants), (3) radiation therapy technologists, (4) nuclear medicine technologists, and (5) such other kinds of health auxiliaries who administer radiologic procedures as the Secretary determines appropriate. Such standards shall not be applicable to educational programs for practitioners.

(b) Within twelve months after the date of enactment of this Act, the Secretary, in consultation with the Radiation Policy Council, the Administrator of Veterans' Affairs, the Administrator of the Environmental Protection Agency, interested agencies of the States, and appropriate professional organizations, shall by regulation promulgate minimum standards for the certification of persons who administer radiologic procedures. Such standards shall distinguish between certification of (1) medical radiologic technologists (including radiographers), (2) dental auxiliaries (including dental hygienists and assistants), (3) radiation therapy technologists, (4) nuclear medicine technologists, and (5) such other kinds of health auxiliaries who administer radiologic procedures as the Secretary determines appropriate. Such standards shall include minimum certification criteria for individuals with regard to accredited education, practical experience, successful passage of required examinations, and such other criteria as the Secretary shall deem necessary for the adequate qualification of individuals to administer radiologic procedures. Such standards shall not apply to practitioners.

MODEL STATUTE

SEC. 980. In order to encourage the administration of accreditation and certification programs by the States, the Secretary shall prepare and transmit to the States a model statute for radiologic procedure safety. Such model statute shall provide that—

(1) it shall be unlawful in a State for individuals to perform radiologic procedures unless such individuals are certified by the State to perform such procedures; and

(2) any educational requirements for certification of individuals to perform radiologic procedures shall be limited to educational programs accredited by the State.

COMPLIANCE

SEC. 981. (a) The Secretary shall take all actions consistent with law to effectuate the purposes of this subtitle.

(b) A State may utilize an accreditation or certification program administered by a private entity if—

(1) such State delegates the administration of the State accreditation or certification program to such private entity;

(2) such program is approved by the State; and

(3) such program is consistent with the minimum Federal standards promulgated under this subtitle for such program.

(c) Absent compliance by the States with the provisions of this subtitle within three years after the date of enactment of this Act, the Secretary shall report to the Congress recommendations for legislative changes considered necessary to assure the States' compliance with this subtitle.

(d) The Secretary shall be responsible for continued monitoring of compliance by the States with the applicable provisions of this subtitle and shall report to the Senate and the House of Representatives by January 1, 1982, and January 1 of each succeeding year the status of the States' compliance with the purposes of this subtitle.

(e) Notwithstanding any other provision of this section, in the case of a State which has, prior to the effective date of standards and guidelines promulgated pursuant to this subtitle, established standards for the accreditation of educational programs and certification of radiologic technologists, such State shall be deemed to be in compliance with the conditions of this section unless the Secretary determines, after notice and hearing, that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this subtitle.

FEDERAL RADIATION GUIDELINES

SEC. 982. The Secretary shall, in conjunction with the Radiation Policy Council, the Administrator of Veterans' Affairs, the Administrator of the Environmental Protection Agency, appropriate agencies of the States, and appropriate professional organizations, promulgate Federal radiation guidelines with respect to radiologic procedures. Such guidelines shall—

(1) determine the level of radiation exposure due to radiologic procedures which is unnecessary and specify the techniques, procedures, and methods to minimize such unnecessary exposure;

(2) provide for the elimination of the need for retakes of diagnostic radiologic procedures;

(3) provide for the elimination of unproductive screening programs;

(4) provide for the optimum diagnostic information with minimum radiologic exposure; and

(5) include the therapeutic application of radiation to individuals in the treatment of disease, including nuclear medicine applications.

APPLICABILITY TO FEDERAL AGENCIES

SEC. 983. (a) Except as provided in subsection (b), each department, agency, and instrumentality of the executive branch of the Federal Government shall comply with standards promulgated pursuant to this subtitle.

(b)(1) The Administrator of Veterans' Affairs, through the Chief Medical Director of the Veterans' Administration, shall, to the maximum extent feasible consistent with the responsibilities of such Administrator and Chief Medical Director under subtitle 38, United States Code, prescribe regulations making the standards promulgated pursuant to this subtitle applicable to the provision of radiologic procedures in facilities over which the Administrator has jurisdiction. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall consult with the Secretary in order to achieve the maximum possible coordination of the regulations, standards, and guidelines, and the implementation thereof, which the Secretary and the Administrator prescribe under this subtitle.

(2) Not later than 180 days after standards are promulgated by the Secretary pursuant to this subtitle, the Administrator of Veterans' Affairs shall submit to the appropriate committees of Congress a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to paragraph (1) of this subsection. Such report shall include—

(A) an explanation of any inconsistency between standards made applicable by such regulations and the standards promulgated by the Secretary pursuant to this subtitle;

(B) an account of the extent, substance, and results of consultations with the Secretary respecting the prescription and implementation of regulations by the Administrator; and

(C) such recommendations for legislation and administrative action as the Administrator determines are necessary and desirable.

(3) The Administrator of Veterans' Affairs shall publish the report required by paragraph (2) in the Federal Register.

Subtitle J—Orderly Closure, Transfer, and Financial Self-Sufficiency of Public Health Service Hospitals and Clinics

FINDINGS AND PURPOSES

SEC. 985. (a) Congress finds that—

(1) because of national budgetary considerations, it has become necessary to terminate Federal appropriations for Public Health Service hospitals and clinics,

(2) with proper planning and coordination, some of these hospitals and clinics could be transferred to State, local, or private control or become financially self-sufficient and continue to provide effective and efficient health care to individuals in the areas in which they are located,

(3) a precipitous closure of these hospitals and clinics will preclude the possibility of such orderly transfer to entities which are willing and able to take over operations at such facilities and will cause unnecessary and costly hardships on the patients and staffs at such facilities and on the communities in which the facilities are located, and

(4) it is in the national interest, consistent with sound budgetary considerations, to assist in the orderly and prompt transfer of such operations to State, local, or private operation or in the achievement of financial self-sufficiency where feasible.

(b) The purposes of this subtitle are—

(1) to provide for the prompt and orderly closure by October 31, 1981, of Public Health Service hospitals and clinics which cannot reasonably be transferred to State, local, or private operation or become financially self-sufficient and for the transfer or achievement of financial self-sufficiency by September 30, 1982, of those hospitals and clinics which can be so transferred or which can achieve such financial self-sufficiency, and

(2) to provide for transitional assistance for merchant seamen whose entitlement to receive free care through Public Health Service hospitals and clinics is repealed and who are hospitalized at the end of fiscal year 1981 and require continuing hospitalization.

ELIMINATION OF MERCHANT MARINE ENTITLEMENT TO HEALTH SERVICES; ELIMINATION OF REQUIREMENT FOR MAINTAINING PUBLIC HEALTH SERVICE HOSPITALS

SEC. 986. (a) Subsection (h) of section 2 and subsections (a) and (b) of section 322 of the Public Health Service Act are repealed.

(b)(1) Section 322(e) of such Act is amended—

(A) by striking out "entitled to care and treatment under subsection (a) of this section and persons"; and

(B) by striking out "subsection (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsections (c), (d), and (e) of section 322 of such Act are redesignated as subsections (a), (b), and (c), respectively.

(3) The section heading for section 322 of such Act is amended by striking out "SEAMEN" and inserting in lieu thereof "PERSONS UNDER QUARANTINE".

(4) Section 332(a)(2)(C) of such Act is amended by striking out "seamen" and inserting in lieu thereof "persons under quarantine".

(c) The amendments and repeals made by this section shall take effect on October 1, 1981.

PROPOSALS FOR TRANSFER OR FINANCIAL SELF-SUFFICIENCY OF PUBLIC HEALTH SERVICE HOSPITALS AND CLINICS

SEC. 987. (a) The Secretary of Health and Human Services (hereinafter in this subtitle referred to as the "Secretary") shall, in accordance with this section and notwithstanding section 818 of Public Law 93-155, provide for the closure, transfer, or financial self-sufficiency of all hospitals and other stations of the Public Health Service (hereinafter in this subtitle referred to as the "Service") not later than September 30, 1982.

(b) Not later than July 1, 1981, the Secretary shall notify each Service hospital and other station, and the chief executive officer of each State and of each locality in which such a hospital or other station is located, that the Secretary will accept proposals for the transfer of each such hospital and station from the Service to a public (including Federal) or nonprofit private entity or for the achievement of financial self-sufficiency of each such hospital and station not later than September 30, 1982. No such proposal shall be considered by the Secretary if it is submitted later than September 1, 1981.

(c) The Secretary shall evaluate promptly each proposal submitted under subsection (b) with respect to a hospital or other station and determine, not later than September 30, 1981, whether or not under such proposal the hospital or station—

(1) will be maintained as a general health care facility providing a range of services to the population within its service area,

(2) will continue to make services available to existing patient populations, and

(3) has a reasonable expectation of financial viability and, in the case of a hospital or station that is not proposed to be transferred, of financial self-sufficiency.

Paragraph (1) shall not apply in the case of a proposal for the transfer of a discrete, minor, freestanding part of a hospital or station to a local public entity for the purpose of continuing the provision of services to refugees.

(d)(1) If the Secretary determines that a proposal for a hospital or other station does not meet the standards of subsection (c) or if there is no proposal submitted under subsection (b) with respect to a hospital or other station, the Secretary shall provide for the closure of the hospital or station by not later than October 31, 1981.

(2) If the Secretary determines that a proposal for a hospital or other station meets the standards of subsection (c), the Secretary shall take such steps, within the amounts available through appropriations, as may be necessary and proper—

(A) to operate (or participate or assist in the operation of) the hospital or station by the Service until the transfer is accomplished or financial self-sufficiency is achieved,

(B) to bring the hospital or station into compliance with applicable licensure, accreditation, and local medical practice standards, and

(C) to provide for such other legal, administrative, personnel, and financial arrangements (including allowing payments made with respect to services provided by the hospital or station to be made directly to that hospital or station) as may be necessary to effect a timely and orderly transfer of such hospital or station (including the land, building, and equipment thereof) from the Service, or for the financial self-sufficiency of the hospital or station, not later than September 30, 1982.

(e) There is established, within the Office of the Assistant Secretary for Health of the Department of Health and Human Services, an identifiable administrative unit which shall have direct responsibility and authority for overseeing the activities under this section.

(f) For purposes of this section, a hospital or station cannot be found to be financially self-sufficient if the hospital or station is re-

lying, in whole or in part, on direct appropriated funds for its continued operations.

CONTINUED CARE FOR MERCHANT SEAMEN HOSPITALIZED IN PUBLIC HEALTH SERVICE HOSPITALS

SEC. 988. (a) The Secretary shall provide, by contract or other arrangement with a Federal entity and without charge but subject to subsection (b), for the continuation of inpatient hospital services (and outpatient services related to the condition of hospitalization) to any individual who—

(1) on September 30, 1981, is receiving inpatient hospital services at a Public Health Service hospital on the basis of the entitlement contained in section 322(a) of the Public Health Service Act (42 U.S.C. 249(a)), as such section was in effect on such date, for treatment of a condition,

(2) requires continued hospitalization after such date for treatment of that condition (or requires outpatient services related to such condition), and

(3) the Secretary determines has no other source of inpatient hospital services available for continued treatment of that condition.

(b) Services may not be provided under subsection (a) to an individual after the earlier of—

(1) September 30, 1982,

(2) the end of the first 60-day consecutive period (beginning after September 30, 1981) during the entire period of which the individual is not an inpatient of a hospital.

(c) Notwithstanding any other provision of law, the head of any Federal department or agency which provides, under other authority of law and through federal facilities, inpatient hospital services or outpatient services, or both, is authorized to provide inpatient hospital services (and related outpatient services) to individuals under contract or other arrangement with the Secretary pursuant to this section.

Subtitle K—Office of the Secretary of Health and Human Services

APPROPRIATIONS FOR IMMEDIATE OFFICE OF SECRETARY OF HEALTH AND HUMAN SERVICES

SEC. 991. The appropriations for the immediate office of the Secretary of Health and Human Services and the Under Secretary of Health and Human Services for the executive direction of the Department of Health and Human Services may not exceed $4,125,000 for fiscal year 1982, may not exceed $4,485,000 for fiscal year 1983, and may not exceed $4,875,000 for fiscal year 1984. Before the Secretary may request additional funds for the office of the Secretary or the Under Secretary or request the reprograming to such offices of appropriated funds, the Secretary shall consult with the Committee on Energy and Commerce of the House of Representatives.

TITLE X—ENERGY AND ENERGY-RELATED PROGRAMS

Subtitle A—Department of Energy Authorization

CHAPTER 1—CIVILIAN RESEARCH AND DEVELOPMENT AUTHORIZATION

OPERATING EXPENSES

SEC. 1001. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the civilian research and development programs of the Department of Energy for the following appropriations accounts:

(1) General science and research activities,

(A) for the fiscal year ending on September 30, 1982, $439,160,000;

(B) for the fiscal year ending on September 30, 1983, $471,000,000; and

(C) for the fiscal year ending on September 30, 1984, $500,000,000.

(2) Energy supply, research and development activities,

(A) for the fiscal year ending on September 30, 1982, $2,057,460,000;

(B) for the fiscal year ending on September 30, 1983, $2,141,000,000 including programs authorized in section 1007(a)(3)(A); and

(C) for the fiscal year ending on September 30, 1984, $2,258,000,000 including programs authorized in section 1007(a)(3)(A).

(3) Uranium supply and enrichment activities (advanced isotope separation), for the fiscal year ending on September 30, 1982, $80,292,000.

(4) Geothermal resources development fund: geothermal loan guarantee and interest assistance program,

(A) for the fiscal year ending on September 30, 1982, $200,000;

(B) for the fiscal year ending on September 30, 1983, $200,000; and

(C) for the fiscal year ending on September 30, 1984, $200,000.

(5) Fossil energy research and development, including capital equipment not related to construction,

(A) for the fiscal year ending on September 30, 1982, $460,800,000;

(B) for the fiscal year ending on September 30, 1983, $430,800,000; and

(C) for the fiscal year ending on September 30, 1984, $430,800,000.

(6) Energy conservation research and development, including capital equipment not related to construction,

(A) for the fiscal year ending on September 30, 1982, $149,444,000;

(B) for the fiscal year ending on September 30, 1983, $154,000,000; and

(C) for the fiscal year ending on September 30, 1984, $158,600,000.

PLANT AND CAPITAL EQUIPMENT GENERALLY

SEC. 1002. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction of the Department of Energy for the following appropriations accounts:

(1) General science and research activities,

(A) for the fiscal year ending on September 30, 1982, $128,300,000 including the amounts authorized to be appropriated in sections 1003 and 1004(a)(3);

(B) for the fiscal year ending on September 30, 1983, $137,000,000; and

(C) for the fiscal year ending on September 30, 1984, $147,000,000.

(2) Energy supply, research and development activities,

(A) for the fiscal year ending on September 30, 1982, $370,132,000 including the amounts authorized to be appropriated in sections 1003 and 1004(a)(2);

(B) for the fiscal year ending on September 30, 1983, $354,000,000; and

(C) for the fiscal year ending on September 30, 1984, $416,200,000.

(3) Fossil energy construction,

(A) for the fiscal year ending on September 30, 1982, $18,000,000 including the amounts authorized to be appropriated in sections 1003 and 1004(a)(1);

(B) for the fiscal year ending on September 30, 1983, $13,000,000; and

(C) for the fiscal year ending on September 30, 1984, $6,000,000.

PRIOR YEAR CONSTRUCTION

SEC. 1003. (a) Of the amounts authorized to be appropriated for fiscal year 1982 by sections 1001 and 1002, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget, amounts not to exceed the appropriations amount requested for such project for fiscal year 1982 as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts otherwise authorized by subsection (a) to be appropriated for fiscal year 1982 or previously authorized are increased or decreased as follows:

(1) Fossil energy research and development:

(A) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for fossil energy research and development is decreased by $800,000;

(2) Energy supply research and development:

(A) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy supply, research, and development activities is increased by $1,000,000;

(B) in the case of Project 81-ES-1, OTEC 40MW Pilot Plant, the amount previously authorized is increased by $6,300,000, for a total project authorization of $36,300,000;

(C) in the case of Project 81-T-314, Impurity Studies Experiment Modification (ISX-C), Oak Ridge, Tennessee, the amount previously authorized is increased by $3,500,000, for a total project authorization of $7,000,000;

(D) in the case of Project 80-ES-19, 250KW, Small Community Solar Thermal Power Experiment, the amount previously authorized is increased by $4,000,000, for a total project authorization of $8,180,000;

(E) in the case of Project 80-G-2, Second 50 MWe Demonstration Power Plant, Heber, Imperial Valley, California, the amount previously authorized is increased by $11,000,000, for a total project authorization of $19,000,000;

(F) in the case of Project 78-6-f, Fuels and Materials Examination Facility, Hanford, Washington, the amount previously authorized is increased by $17,800,000, for a total project authorization of $176,800,000; and

(G) in the case of Project 78-3-b, Mike McCormack Fusion Materials Irradiation Test Facility, Hanford, Washington, the amount previously authorized is increased by $14,000,000, for a total project authorization of $47,000,000.

(3) Energy conservation:

(A) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy conservation is increased by $326,000.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

SEC. 1004. (a) Of the amounts appropriated for fiscal year 1982 pursuant to the authorization provided in section 1002, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized in an amount not to exceed the Federal share of the total estimated cost set forth for each project in budget documents submitted to the Congress in support of the fiscal year 1982 budget. Within such amounts the authorizations for the new plant and capital equipment activities for fiscal year 1982 are limited as follows:

(1) Fossil energy construction:

(A) Project 82-F-506, Surface Water Containment and Waste Water Treatment Facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,000,000; and

(B) Project 82-F-505, General plant projects for technology centers, six locations, $6,000,000; and

(2) Energy supply research and development:

(A) Nuclear fission activities:

(i) Project 82-N-315, General plant projects, Richland, Washington, and other sites, $1,100,000;

(ii) Project 82-N-310, Modification to reactors, various locations, $2,000,000; and

(iii) Project 82-N-312, General plant projects, $11,000,000.

(B) Magnetic fusion activities:

(i) Project GPP-82, General plant projects, Princeton, New Jersey, and Oak Ridge, Tennessee, $5,700,000.

(C) Supporting research and technical analysis activities:

(i) Project 82-E-322, High Temperature Materials Laboratory, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(ii) Project 82-E-321, Accelerator Improvements and Modifications, various locations, $300,000;

(iii) Project 82-E-320, General plant projects, various locations, $300,000;

(iv) Project 82-E-301, 300 area critical utilities upgrading, Richland, Washington, $1,000,000;

(v) Project 82-E-302, Security Facility, Argonne National Laboratory, Argonne, Illinois, $1,500,000;

(vi) Project 82-E-305, Traffic safety improvements, Richland, Washington, $3,800,000;

(vii) Project 82-E-306, Railroad modifications, Idaho National Engineering Laboratory, Idaho, $2,000,000.

(E) Environmental research and development activities:

(i) Project 82-GPP-1, General plant projects, $3,000,000; and

(ii) Project 82-V-305, Modifications and additions to environmental research facilities, various locations, $1,000,000.

(3) General science and research activities:

(A) High energy physics activities:

(i) Project 82-E-206, Tevatron II, Fermi National Accelerator Laboratory, Batavia, Illinois, $6,000,000;

(ii) Project 82-E-205, Accelerator improvements and modifications, various locations, $7,000,000; and

(iii) Project 82-E-204, General plant projects, various locations, $6,000,000;

(B) Nuclear physics activities:

(i) Project 82-E-223, Argonne Tandem-Linac Accelerator System (ATLAS), Argonne National Laboratory, Argonne, Illinois, $4,000,000;

(ii) Project 82-E-221, Accelerator improvements and modifications, various locations $2,000,000; and

(iii) Project 82-E-222, General plant projects, various locations, $2,800,000.

(b) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

CHAPTER 2—CONSERVATION, INFORMATION, AND REGULATION

AUTHORIZATIONS FOR FISCAL YEARS 1982, 1983, AND 1984

SEC. 1005. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for—

(1) Energy conservation,

(A) for the fiscal year ending on September 30, 1982, $363,056,000;

(B) for the fiscal year ending on September 30, 1983, $387,400,000; and

(C) for the fiscal year ending on September 30, 1984, $399,000,000.

(2) Regulation and information activities—

(A) for the fiscal year ending on September 30, 1982, including—

(i) for economic regulation, $44,600,000;

(ii) for the Federal Energy Regulatory Commission, $80,400,000; and

(iii) for the Energy Information Administration, $84,986,000;

(B) for the fiscal year ending on September 30, 1983, $265,000,000; and

(C) for the fiscal year ending on September 30, 1984, $275,000,000.

(3) Strategic Petroleum Reserve, to carry out part B of title I of the Energy Policy and Conservation Act, except acquisition, transportation, and injection of petroleum products for the Reserve and the carrying out of any drawdown and distribution of the Reserve—

(A) for the fiscal year ending September 30, 1983, $366,319,000; and

(B) for the fiscal year ending on September 30, 1984, $364,429,000.

CHAPTER 3—POWER MARKETING ADMINISTRATIONS

SEC. 1006. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for the civilian programs of the Department of Energy for the following appropriations accounts:

(1) Alaska Power Administration operation and maintenance,

(A) for the fiscal year ending on September 30, 1982, $3,538,000 of which $50,000 shall be reserved for an emergency fund to assure continuous operations during unusual or emergency conditions;

(B) for the fiscal year ending on September 30, 1983, $3,374,000; and

(C) for the fiscal year ending on September 30, 1984, $3,374,000.

(2) Southeastern Power Administration operation and maintenance,

(A) for the fiscal year ending on September 30, 1982, $7,237,000;

(B) for the fiscal year ending on September 30, 1983, $11,848,000; and

(C) for the fiscal year ending on September 30, 1984, $24,240,000.

(3) Southwestern Power Administration operation maintenance,

(A) for the fiscal year ending on September 30, 1982, $20,239,000;

(B) for the fiscal year ending on September 30, 1983, $38,119,000; and

(C) for the fiscal year ending on September 30, 1984, $40,254,000.

(4) Western Area Power Administration construction rehabilitation, operation and maintenance,

(A) for the fiscal year ending on September 30, 1982, $210,774,000;

(B) for the fiscal year ending on September 30, 1983, $226,400,000; and

(C) for the fiscal year ending on September 30, 1984, $259,700,000.

(5) Western Area Power Administration emergency fund,

(A) for the fiscal year ending on September 30, 1982, $500,000;

(B) for the fiscal year ending on September 30, 1983, $500,000; and

(C) for the fiscal year ending on September 30, 1984, $500,000.

CHAPTER 4—OTHER ACTIVITIES

OPERATING EXPENSES

SEC. 1007. (a) Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses—

(1) uranium supply and enrichment activities,

(A) other than advanced isotope separation, for the fiscal year ending on September 30, 1982, for—

(i) gaseous diffusion operations and support, $961,825,000;

(ii) gas centrifuge operations and support, $5,200,000;

(iii) uranium enrichment process development, $93,075,000;

(iv) program administration, $3,100,000; and

(v) uranium resource assessment, $9,700,000;

(B) including advanced isotope separation, for the fiscal year ending on September 30, 1983, $1,621,600,000; and

(C) including advanced isotope separation, for the fiscal year ending on September 30, 1984, $1,973,600,000.

(2) Department administration,

(A) for the fiscal year ending on September 30, 1982, $206,000,000;

(B) for the fiscal year ending on September 30, 1983, $246,963,000, including plant and capital equipment; and

(C) for the fiscal year ending on September 30, 1984, $246,963,000, including plant and capital equipment.

(3) Energy supply research and development,

(A) solar and hydropower for the fiscal year ending on September 30, 1982, $11,700,000; and

(B) commercial waste management,

(i) other than programs authorized in section 1001(2)(A), for the fiscal year ending on September 30, 1982, $67,370,000;

(ii) for the fiscal year ending on September 30, 1983, $284,148,000; and

(iii) for the fiscal year ending on September 30, 1984, $300,000,000.

(4) Energy conservation, including capital equipment not related to construction,

(A) for the fiscal year ending on September 30, 1982, $32,600,000;

(B) for the fiscal year ending on September 30, 1983, $33,600,000; and

(C) for the fiscal year ending on September 30, 1984, $34,600,000.

(5) Energy production, demonstration, and distribution,

(A) for the fiscal year ending on September 30, 1982, $230,963,000;

(B) for the fiscal year ending on September 30, 1983, $377,195,000; and

(C) for the fiscal year ending on September 30, 1984, $292,305,000.

(b) Any State receiving financial assistance for energy extension service activities pursuant to the National Energy Extension Service Act shall be required to provide funds from non-Federal sources for such activities in an amount no less than 20 per centum of the amount allocated to such State under such Act during any fiscal year.

PLANT AND CAPITAL EQUIPMENT GENERALLY

SEC. 1008. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, of the Department of Energy for the following appropriations accounts:

(1) Uranium supply and enrichment activities, including research and development activities,

(A) for the fiscal year ending on September 30, 1982,

(i) $748,250,000 including the amounts authorized in sections 1009 and 1010(a)(1), and

(ii) $200,000 for uranium resource assessment, capital equipment not related to construction;

(B) for the fiscal year ending on September 30, 1983, $1,002,800,000; and

(C) for the fiscal year ending on September 30, 1984, $981,500,000.

(2) Department administration,

(A) for the fiscal year ending on September 30, 1982, $40,963,000 including the amounts authorized in sections 1009(a) and 1010(a)(2).

(3) Energy supply research and development, commercial waste management,

(A) for the fiscal year ending on September 30, 1982, $975,000.

PRIOR YEAR CONSTRUCTION

SEC. 1009. (a) Of the amounts authorized to be appropriated for fiscal year 1982 by section 1008, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget amounts not to exceed the appropriations amount requested for such project for fiscal year 1982 as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts authorized to be appropriated for fiscal year 1982 with respect to the following projects are as follows:

(1) Uranium supply and enrichment activities,

(A) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, the amount previously authorized is increased by $6,600,000 for a total project authorization of $26,500,000; and

(B) Project 76-8-g, Enriched uranium production facilities, Portsmouth, Ohio, the amount previously authorized is increased by $601,000,000 for a total project authorization of $1,552,845,000.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

SEC. 1010. (a) Of the amounts appropriated for fiscal year 1982 pursuant to the authorization provided in section 1008, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized in an amount not to exceed the Federal share of the total estimated cost set forth for each project in budget documents submitted to the Congress in support of the fiscal year 1982 budget. Within such amounts the authorizations for the new plant and capital equipment activities for fiscal year 1982 are limited as follows:

(1) Uranium supply and enrichment activities,

(A) Project 82-R-410, General plant projects, various locations, including Grand Junction, Colorado, $17,600,000;

(B) Project 82-R-411, UF6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(C) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(D) Project 82-R-413, Improved UF6 containment and gaseous diffusion plants, $7,100,000;

(E) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(F) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(G) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(H) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(I) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000; and

(J) Project 82-N-402, General plant projects, various locations, $650,000.

(2) Departmental administration,

(A) Project 82-A-601, Modifications for energy management, various locations, $14,100,000;

(B) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(C) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(D) Project 82-C-601, Plant engineering and design, various locations, $2,000,000; and

(E) Capital equipment not related to construction for departmental administration activities, $5,563,000.

(b) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

GENERAL REQUIREMENT

SEC. 1011. (a) At the same time that the President submits his budget to the Congress for fiscal years 1983 and 1984 for the Department of Energy as required by the Budget and Accounting Act, 1921, there shall be submitted, in addition to any other existing requirements, a tabular listing for the recommended level of program activity and subactivity funding the fiscal years 1983 and 1984 of civilian energy activities in the same format as is contained in the program tables relating to this title appearing in the statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1981 (H.R. 3982; 97th Congress).

(b) At the same time that the President submits his budget to the Congress those plant and capital amounts requested for that fiscal year, additional authorization requested for prior year projects, and any new construction requests shall also be submitted as a separate request for authorization of appropriations for civilian research and development activities.

CHAPTER 5—UNITED STATES ENERGY TARGETS

ENERGY TARGETS

SEC. 1012. United States energy targets:

ENERGY TARGETS

[Quadrillrion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Oil and NGL	18	17	18	18
Natural gas	18	18	16	15
Coal	21	27	32	41
Nuclear	5	7	8	9
Hydro geothermal	3	4	4	4
Renewables	2	3	5	6
Subtotal	67	76	83	93
Imports:				
Oil	18	14	11	7
Natural gas	2	3	3	2
Coal	−1.8	−2.1	−2.2	−2.4
Subtotal	18	15	11	7
Total supply	85	90	94	100
End-use consumption:				
Petroleum liquids	32	29	28	27
Gas	17	18	18	18
Direct coal	5	6	6	7
Electricity	9	10	11	12
Decentralized solar	2	3	4	5
Subtotal	64	66	67	68
Conversion losses	21	25	28	32
Stock increase	21	25	28	32
Total consumption	85	91	94	100

Subtitle B—Powerplant and Industrial Fuel Use Act of 1978 Provisions

APPLICABILITY OF FUEL USE RESTRICTIONS TO CERTAIN EXISTING ELECTRIC POWERPLANTS

SEC. 1021. (a) Title III of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking out section 301 (42 U.S.C. 8341) and inserting in lieu thereof the following:

"SEC. 301. EXISTING ELECTRIC POWERPLANTS.

"(a) CERTIFICATION BY POWERPLANTS OF COAL CAPABILITY.—At any time, the owner or operator of an existing electric powerplant may certify to the Secretary, for purposes of subsection (b)—

"(1) whether or not such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

"(2) whether or not such powerplant could have the technical capability to use coal or another alternate fuel as a primary energy source without having—

"(A) substantial physical modification of the powerplant, or

"(B) substantial reduction in the rated capacity of the powerplant; and

"(3) whether or not it is financially feasible to use coal or another alternate fuel as a primary energy source in such a powerplant.

"(b) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303(a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing electric powerplant, if an affirmative certification under subsection (a)(1), (2), and (3) is in effect with respect to such powerplant and if, after examining the basis for the certification, the Secretary concurs with the certification.

"(c) AUTHORITY OF SECRETARY TO PROHIBIT EXCESSIVE USE IN MIXTURES.—At any time, the owner or operator of an existing electric powerplant may certify to the Secretary for purposes of this subsection whether or not it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source in that powerplant. If an affirmative certification under this subsection is in effect with respect to such powerplant and if, after examining the basis for the certification, the Secretary concurs with the certification, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

"(d) AMENDMENT OF SUBSECTION (a) AND (c) CERTIFICATIONS.—The owner or operator of any such powerplant may at any time amend any certification under subsection (a) or (c) in order to take into account changes in relevant facts and circumstances; except that no such amendment to such a certification may be made after the date of any final prohibition under subsection (b) or (c) based on that certification.".

(b) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by adding at the end thereof the following new subsection:

"(c) NATURAL GAS USAGE BY ELECTRIC UTILITIES.—(1) For purposes of section 404(b) and other emergency authorities, the Secretary shall obtain data necessary to determine—

"(A) within 6 months after the date of the enactment of this subsection, the total quantities of natural gas used as a primary energy source by each electric utility during calendar year 1977, and

"(B) on a semiannual basis, the total quantities of natural gas used as a primary energy source during the previous 6-month period by each electric utility.

"(2) The Secretary shall include in each annual report to the Congress under section 806 a summary of information received by the Secretary under this subsection.".

VALIDITY OF ORDERS UNDER FORMER SECTION 301 OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 1022. (a) The amendments made by section 1021 to section 301 (b) and (c) of the Powerplant and Industrial Fuel Use Act of 1978 shall not apply to any electric powerplant for which a final order was issued pursuant to section 301 (b) or (c) of such Act before the date of the enactment of this Act.

(b) Any electric powerplant issued a proposed order under section 301 (b) or (c) of such Act which is pending on the date of the enactment of this Act may elect not to have the amendments made by section 1021 to such section 301 (b) or (c) apply with respect to that powerplant. Such an election shall be irrevocable and shall be made in such form and manner as the Secretary of Energy shall, within 45 days after the date of the enactment of this Act, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary of Energy prescribes the form and manner of making such election.

(c)(1) The amendments made by section 1021 shall not affect the validity of any final order issued under section 301 (b) or (c) of the Powerplant and Industrial Fuel Use Act of 1978 before the date of the enactment of this Act.

(2) The validity of any proposed order issued under such section 301 (b) or (c) shall not be affected in the case of powerplants covered by elections made under subsection (b).

(3) The authority of the Secretary of Energy to amend, repeal, rescind, modify, or enforce any order referred to in paragraph (1) or (2), or rules applicable thereto, shall remain in effect notwithstanding any such amendments.

ELECTRIC UTILITY CONSERVATION PLAN

SEC. 1023. (a) The Powerplant and Industrial Fuel Use Act of 1978 is amended by inserting after section 807 the following new section:

"SEC. 808. ELECTRIC UTILITY CONSERVATION PLAN.

"(a) APPLICABILITY.—An electric utility is subject to this subsection if—

"(1) the utility owns or operates any existing electric powerplant in which natural gas was used as a primary energy source at any time during the 1-year period ending on the date of the enactment of this section, and

"(2) the utility plans to use natural gas as a primary energy source in any electric powerplant.

"(b) SUBMISSION AND APPROVAL OF PLAN.—The Secretary shall require each electric utility subject to this section to—

"(1) submit, within 1 year after the date of the enactment of this section, and have approved by the Secretary, a conservation plan which meets the requirements of subsection (c); and

"(2) implement such plan during the 5-year period beginning on the date of the initial approval of such plan.

"(c) CONTENTS OF PLAN.—(1) Any conservation plan under this section shall set forth means determined by the utility to achieve conservation of electric energy not later than the 5th year after its initial approval at a level, measured on an annual basis, at least equal to 10 percent of the electric energy output of that utility during the most recent 4 calendar quarters ending prior to the date of the enactment of this section which is attributable to natural gas.

"(2) The conservation plan shall include—

"(A) all activities required for such utility by part 1 of title II of the National Energy Conservation Policy Act;

"(B) an effective public information program for conservation; and

"(C) such other measures as the utility may consider appropriate.

"(3) Any such plan may set forth a program for the use of renewable energy sources (other than hydroelectric power).

"(4) Any such plan shall contain procedures to permit the amounts expended by such utility in developing and implementing the plan to be recovered in a manner specified by the appropriate State regulatory authority (or by the utility in the case of a nonregulated utility).

"(d) PLAN APPROVAL.—(1) The Secretary shall, by order, approve or disapprove any conservation plan proposed under this subsection by an electric utility within 120 days after its submission. The Secretary shall approve any such proposed plan unless the Secretary finds that such plan does not meet the requirements of subsection (c) and states in writing the reasons therefor.

"(2) In the event the Secretary disapproves under paragraph (1) the plan originally submitted, the Secretary shall provide a reasonable period of time for resubmission.

"(3) An electric utility may amend any approved plan, except that the plan as amended shall be subject to approval in accordance with paragraph (1).".

(b) Section 712 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8422) is amended by inserting "(a) GENERALLY.—" before "Any person" and by adding at the end thereof the following new subsection:

"(b) REPORT ON IMPLEMENTATION OF SECTION 808 PLAN.—Any electric utility required to submit a conservation plan under section 808 shall annually submit to the Secretary a report identifying the steps taken during the preceding year to implement such plan.".

(c) The table of contents for such Act is amended by adding at the end thereof the following item after the item relating to section 807:

"Sec. 808. Electric utility conservation plan.".

APPLICABILITY OF RESTRICTIONS RELATING TO NATURAL GAS OUTDOOR LIGHTING

SEC. 1024. (a) Section 402(b)(1) of the Powerplant and Industrial Fuel Use Act of 1978 is amended—

(1) by inserting "(other than any outdoor lighting fixture which was installed before the date of the enactment of this Act for use in connection with a residence and for which natural gas was being provided on such date of enactment)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

(b) Section 402 of such Act is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) For the purpose of discouraging the use of natural gas for outdoor lighting, each local distribution company which is subject to subsection (a) or (b) shall, in accordance with rules promulgated by the Secretary—

"(A) establish a reasonable and simple method, as determined by each such company, by which the company shall periodically inform its customers about the amount of natural gas consumed by outdoor lighting and the annual cost of such gas for such lighting; and

"(B) report to the Secretary the method established under subparagraph (A).

A company may establish a method which provides for reporting such information on the basis of estimates where actual information is not readily available.

"(2) The Secretary shall propose the rules referred to in paragraph (1) as promptly as posssible after the date of the enactment of this subsection, and such rules shall take effect not later than the ninetieth day after

they are proposed. In promulgating such rules, the Secretary shall, to the greatest extent feasible, consult with the appropriate regulatory authority of the States and the local distribution companies who will be subject to the rules.".

Subtitle C—Strategic Petroleum Reserve

SHORT TITLE

SEC. 1031. This subtitle may be cited as the "Strategic Petroleum Reserve Amendments Act of 1981".

FINDINGS

SEC. 1032. The Congress finds that—

(1) the Strategic Petroleum Reserve should be considered a national security asset; and

(2) enlarging the capacity and filling of the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) to take advantage of any increased availability of crude oil in the world market from time to time.

RATE OF FILLING THE STRATEGIC PETROLEUM RESERVE

SEC. 1033. Section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended to read as follows:

"(c)(1) The President shall immediately seek to undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day.

"(2) The requirements in paragraph (1) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.".

FINANCING OF THE STRATEGIC PETROLEUM RESERVE

SEC. 1034. (a)(1) Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231-6246) is amended by adding at the end thereof the following:

"SPR PETROLEUM ACCOUNT

"SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States an account to be known as the 'SPR Petroleum Account' (hereinafter in this section referred to as the 'Account').

"(b) Amounts in the Account may be obligated by the Secretary of Energy for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve, and the drawdown and delivery of petroleum products from the Reserve—

"(1) in the case of fiscal year 1982, in an aggregate amount, not to exceed $3,900,000,000, as may be provided in advance in appropriation Acts;

"(2) in the case of any fiscal year after fiscal year 1982, subject to section 660 of the Department of Energy Organization Act, in such aggregate amounts as may be appropriated in advance in appropriation Acts; and

"(3) in the case of any fiscal year, notwithstanding section 660 of the Department of Energy Organization Act, in an aggregate amount equal to the aggregate amount of the receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161.

Funds available to the Secretary of Energy for obligation under this subsection may remain available without fiscal year limitation.

"(c) The Secretary of the Treasury shall provide and deposit into the Account such sums as may be necessary to meet obligations of the Secretary of Energy under subsection (b).

"(d) The Account, the deposits and withdrawals from the Account, and the transactions, receipts, obligations, outlays associated with such deposits and withdrawals (including petroleum product purchases and related transactions), and receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161—

"(1) shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States; and

"(2) shall not be deemed to be budget authority, spending authority, budget outlays, or Federal revenues for purposes of title III of Public Law 93-344, as amended.".

(2) The table of contents for the Energy Policy and Conservation Act is amended by adding after the item relating to section 166 the following new item:

"Sec. 167. SPR Petroleum Account.".

(b) Section 166 of the Energy Policy and Conservation Act (42 U.S.C. 6246) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(4) for the fiscal year ending September 30, 1982, not to exceed $260,000,000 to carry out the provisions of this part, except—

"(A) acquisition, transportation, and injection of petroleum products for the Reserve, and

"(B) the carrying out of any drawdown and distribution of the Reserve.".

(c) The provisions of section 167(d) of such Act, as added by subsection (a) of this section, shall apply with respect to the outlays associated with unexpended balances of appropriations made available and obligated as of the end of fiscal year 1981 for the acquisition, transportation, and injection of petrolem products for the Strategic Petroleum Reserve to the same extent and manner as such provisions apply with respect to withdrawals from the SPR Petroleum Account.

QUARTERLY REPORTS

SEC. 1035. (a) Section 166 of the Energy Policy and Conservation Act (42 U.S.C. 6245) is amended by inserting "(a)" before "The Secretary" and by adding at the end thereof the following new subsection:

"(b)(1) On or before the fifteenth day of the second calendar quarter which begins after the date of the enactment of this subsection and every calendar quarter thereafter, the Secretary shall report to the Congress on activities undertaken with respect to the Strategic Petroleum Reserve under the amendments made by the Strategic Petroleum Reserve Amendments Act of 1981, including—

"(A) the amounts of petroleum products stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

"(B) the projected fill rate for the Strategic Petroleum Reserve for the then current calendar quarter and the previous calendar quarter;

"(C) the average price of the petroleum products acquired during the previous calendar quarter;

"(D) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

"(E) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petroleum products in the Reserve and with the expansion of storage capacity for the Reserve; and

"(F) the amount of funds obligated by the Secretary from the SPR Petroleum Account, as well as other funds available for the Reserve, during the previous calendar quarter and in total under the amendments made by such Act.

"(2) The first report submitted under paragraph (1) shall include—

"(A) a detailed statement on the planned use of the SPR Petroleum Account as well as other funds available for the Strategic Petroleum Reserve;

"(B) a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan; and

"(C) detailed plans of the Secretary for acquisition or new construction of storage and related facilities.".

STUDY ON ULTIMATE SIZE OF RESERVE

SEC. 1037. Not later than 6 months after the date of the enactment of this Act, the Secretary of Energy shall conduct a study, and prepare and transmit a report thereon to the President and the Congress, on whether the final storage level set forth in the Strategic Petroleum Reserve Plan should be amended. Such report shall include an analysis of the costs and benefits to the Government (and the nation) which are associated with achieving—

(1) the final storage level currently set forth in the plan, and

(2) any other larger or smaller final storage level which might be appropriate.

EFFECTIVE DATE

SEC. 1038. The provisions of this title shall take effect on the date of the enactment of this Act.

Subtitle D—Voluntary Building Energy Conservation Standards

VOLUNTARY STANDARDS

SEC. 1041. (a) The Energy Conservation Standards for New Buildings Act of 1976 is amended by striking out "performance standards" each place it appears, except in section 306, and inserting in lieu thereof "voluntary performance standards".

(b) The Energy Conservation Standards for New Buildings Act of 1976 is amended by striking out sections 305 and 307 (42 U.S.C. 6834 and 6836).

(c) Section 304(a) of the Energy Conservation Standards for New Buildings Act of 1976 (42 U.S.C. 6833(a)) is amended—

(1) by adding at the end thereof the following new paragraph:

"(4) Except in the case of Federal buildings as required under section 306, voluntary performance standards under this subsection shall be developed solely as guidelines for the purpose of providing technical assistance for the design and construction of energy efficient buildings.";

(2) by striking out "the effective date of final performance standards promulgated pursuant to this paragraph" where it appears in paragraphs (1) and (2) and inserting in lieu thereof "April 1, 1984,"; and

(3) by striking out ", and shall become effective within a reasonable time not to exceed 1 year after the date of promulga-

tion, as specified by the Secretary" where it appears in paragraphs (1) and (2).

(d) Section 306 of such Act (42 U.S.C. 6835) is amended by striking out "Upon the effective date of the final performance standards promulgated pursuant to such section," and inserting in lieu thereof "Not later than April 1, 1984,".

(e) Section 308 of such Act (42 U.S.C. 6837) is amended by striking out "meeting the requirements of this title" and inserting in lieu thereof "furthering the design and construction of energy efficient buildings".

(f) The table of sections for such Act is amended by striking out the items relating to sections 305 and 307.

Subtitle E—Office of Federal Inspector for the Alaska Natural Gas Transportation System

FUNDING LIMITATION

SEC. 1051. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Office of Federal Inspector for the Alaska Natural Gas Transportation System in excess of $21,038,000 for the fiscal year ending September 30, 1981; $36,568,000 for the fiscal year ending September 30, 1982; in excess of $45,532,000 for the fiscal year ending September 30, 1983, and $46,908,000 for the fiscal year ending September 30, 1984.

Subtitle F—Biomass Energy and Alcohol Fuels

DEPARTMENT OF AGRICULTURE

SEC. 1061. Section 204(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8803(a)) is amended by striking out "$600,000,000" in paragraph (1) and inserting in lieu thereof "$460,000,000".

DEPARTMENT OF ENERGY

SEC. 1062. Section 204(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8803(a)) is amended by striking out "$600,000,000" in paragraph (2) and inserting in lieu thereof "$460,000,000".

CONFORMING AMENDMENT

SEC. 1063. Section 204(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8803(a)) is amended by striking out "$1,450,000,000" and inserting in lieu thereof "$1,170,000,000".

SUBTITLE G—SOLAR BANK

FISCAL YEAR 1982, 1983, AND 1984 AUTHORIZATIONS

SEC. 1071. In lieu of the amounts authorized by subsections (a) and (b) of section 522 of the Solar Energy and Energy Conservation Act of 1980 (12 U.S.C. 3620) to be appropriated for fiscal years 1982, 1983, and 1984, there is authorized to be appropriated for each such fiscal year not to exceed $50,000,000 to provide financial assistance under subtitle A of such Act for the purchase and installation of residential and commercial energy conserving improvements and of solar energy systems. Any funds appropriated pursuant to the preceding authorization may remain available without fiscal year limitation.

TITLE XI—TRANSPORTATION AND RELATED PROGRAMS

Subtitle A—Aviation

PART 1—FISCAL YEAR 1981 AIRPORT DEVELOPMENT

SEC. 1101. This part may be cited as the "Fiscal Year 1981 Airport Development Authorization Act".

SEC. 1102. (a) Section 14(a)(3) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(3)) is amended by striking out "and" after "1979," and by striking out the period at the end thereof and inserting in lieu thereof ", and $387,000,000 for fiscal year 1981.".

(b) Section 14(a)(4) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(4)) is amended by striking out "and" after "1979," and by striking out the period at the end thereof and inserting in lieu thereof ", and $63,000,000 for fiscal year 1981.".

(c) In addition to the purposes otherwise authorized, amounts authorized under sections 14(a)(3) and 14(a)(4) of the Airport and Airway Development Act of 1970 for fiscal year 1981 shall also be authorized for airport system planning, airport master planning, and airport noise compatibility planning, all in accordance with section 13 of such Act, and for carrying out noise compatibility programs under section 104(c) of the Aviation Safety and Noise Abatement Act of 1979. The apportionment of such amounts under section 15 of the Airport and Airway Development Act of 1970 shall be made as soon as possible after the date of enactment of this part and for purposes of sections 14(b), 15, and 19 of the Airport and Airway Development Act of 1970 relating to authority to incur obligations and to enter into project grant agreements all the purposes set forth in the preceding sentence shall be deemed to be airport development within the meaning of such Act. The Secretary shall obligate from funds available for fiscal year 1981 under section 14(a)(3) of the Airport and Airway Development Act of 1970 not less than $25,000,000 for carrying out noise compatibility programs under section 104(c) of the Aviation Safety and Noise Abatement Act of 1979.

(d) Section 14(b)(2) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(b)(2)) is amended by striking out "1980" and inserting in lieu thereof "1981".

(e) Section 15(a)(3)(A)(I) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(3)(A)(I)) is amended by striking out "1980" and inserting in lieu thereof "1981".

(f) Section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(3)(A)(II)) is amended by striking out "1980" and inserting in lieu thereof "1981".

(g) Section 15(a)(3)(B)(i) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(3)(B)(i)) is amended by striking out "1980" and inserting in lieu thereof "1981".

(h) Section 15(a)(4) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(4)) is amended by striking out "fiscal year 1980" each place it appears and inserting in lieu thereof "fiscal years 1980 and 1981".

(i) Section 17(a)(2)(A) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717(a)(2)(A)) is amended by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal years 1980 and 1981".

(j) Notwithstanding any other provision of the Airport and Airway Development Act of 1970, the Secretary of Transportation may approve an application under such Act before October 1, 1981, for a project which was begun after September 30, 1980, and before the date of the enactment of this part. If such an application is approved, costs incurred under such project after September 30, 1980, and before the date of approval of such project shall be allowable costs to the extent they would be allowable costs under the provisions of such Act of 1970 (other than provisions making costs allowable only if incurred after the execution of the grant agreement) if incurred after the date of such project approval.

(k) Notwithstanding any other provision of law, the Secretary of Transportation shall obligate from funds available for fiscal year 1981 under the Airport and Airway Development Act of 1970 $15,000,000 for carrying out noise compatibility programs at Cannon International Airport in Reno, Nevada, in accordance with section 104(c) of the Aviation Safety and Noise Abatement Act of 1979. Such funds shall remain available until expended. Of the amount obligated for projects described in this subsection, only that portion of such amount which exceeds $10,000,000 and is less than or equal to $15,000,000 shall be counted as part of the $25,000,000 required to be obligated by the last sentence of subsection (c) of this section.

SEC. 1103. (a) Section 208(f)(1) of the Airport and Airway Revenue Act of 1970 is amended by striking out "1980" and inserting in lieu thereof "1981".

(b) Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 is amended to read as follows:

"(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act);".

PART 2—ADDITIONAL PROVISIONS RELATING TO AIRPORT DEVELOPMENT

SEC. 1104. If the Senate and the House of Representatives approve a conference report on the Airport and Airway Improvement Act of 1981 which includes new budget authority for airport development, airport planning, airport noise compatibility planning, and carrying out noise compatibility programs which exceeds $450,000,000 for fiscal year 1981 or which exceeds an aggregate amount of $1,050,000,000 for fiscal years 1981 and 1982, then before the bill which is the subject of such conference report is enrolled, the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, is directed to include the following provision in the bill: "Notwithstanding any other provision of law, the total amount which may be obligated for airport development, airport planning, airport noise compatibility planning, and carrying out noise compatibility programs from amounts in the Airport and Airway Trust Fund which were not available for obligation during any previous fiscal year shall not exceed $450,000,000 for fiscal year 1981 and shall not exceed an aggregate amount of $1,050,000,000 for fiscal years 1981 and 1982.".

Subtitle B—Highways and Highway Safety

SEC. 1106. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1982 shall not exceed $8,200,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or

section 147 of the Surface Transportation Assistance Act of 1978.

(b) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1983 shall not exceed $8,800,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(c) For each of the fiscal years 1982 and 1983, the Secretary of Transportation shall distribute the limitation imposed by subsections (a) and (b) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to each State for each such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to all the States for each such fiscal year.

(d) During the periods October 1 through December 31, 1981, and October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (c), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(e) Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1982, and after August 1, 1983, revise a distribution of the funds made available under subsection (c) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

SEC. 1107. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.

(2) Out of the funds authorized to be appropriated under paragraph (1) of this subsection for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, not less than $20,000,000 per fiscal year shall be obligated under section 402 of title 23, United States Code, for the purpose of enforcing the fifty-five miles per hour speed limit established by section 154 of such title.

(3) Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(b) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed $100,000,000, per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000, per fiscal year for each of such fiscal years.

(c) Effective October 1, 1982, subsection (h) of section 402 is repealed.

(d) Section 402(j) of title 23, United States Code, is amended to read as follows:

"(j) The Secretary of Transportation shall, not later than September 1, 1981, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Such rule shall be promulgated taking into account consideration of the States having a major role in establishing these programs. Not later than April 1, 1982, the Secretary shall promulgate a final rule establishing those programs determined most effective in reducing accidents, injuries, and deaths. Before such rule shall take effect, it shall be transmitted to Congress. If such rule is not transmitted by April 1, 1982, it shall not take effect before October 1, 1983. If such rule is transmitted by April 1, 1982, it shall take effect October 1, 1982, unless before June 1, 1982, either House of Congress by resolution disapproves such rule. If such rule is disapproved by either House of Congress, the Secretary shall not apportion or obligate any amount authorized to carry out this section for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1981. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this chapter.".

(e) Section 402(b)(1) of title 23, United States Code, is amended by striking out subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) (and any references thereto) as subparagraphs (D), (E), and (F), respectively.

SEC. 1108. (a) Section 154(f) of title 23, United States Code, is amended to read as follows:

"(f) If the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 50 percent, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the following fiscal year, in the case of fiscal years 1982 and 1983, and up to 10 percent, in the case of subsequent fiscal years.".

(b) Subsection (i) of section 154 of title 23, United States Code, is hereby repealed.

SEC. 1109. (a) Section 202 of the Highway Safety Act of 1978 is amended as follows:

(1) Paragraph (1) is amended by striking out "per fiscal year for each of the fiscal years ending September 30, 1981, and September 30, 1982." and inserting in lieu thereof "for the fiscal year ending September 30, 1981.".

(2) Paragraph (2) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and $31,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.".

(3) Paragraph (3) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.".

(4) Paragraph (4) is amended in the first sentence by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981.". Paragraph (4) is amended in the second sentence by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981.".

(5) Paragraph (5) is amended by striking out the period at the end thereof and inserting in lieu thereof ", and $13,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, and September 30, 1984.".

(6) Paragraph (9) is amended by striking out the period at the end thereof and inserting in lieu thereof "and $1,500,000 for the fiscal year ending September 30, 1983. Section 406 of title 23, United States Code, is repealed effective upon the obligation and expenditure of all funds authorized to carry out such section.".

(7) Paragraph (10) is amended by inserting "and" after "1980," and by striking out ", and $15,000,000 for the fiscal year ending September 30, 1982." and inserting in lieu thereof a period.

(b)(1) Of the funds authorized to be appropriated by section 202(1) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1981, which have not been obligated for expenditure before such date, $133,000,000 shall not be available for obligation, and shall no longer be authorized, on and after such date.

(2) Of the funds authorized to be appropriated by section 202(3) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1981, which have not been obligated for expenditure before such date, $40,000,000 shall not be available for obligation, and shall no longer be authorized, on and after such date.

(c) Section 206 of the Highway Safety Act of 1978 is amended by inserting "and" after "1980," and by striking out "and September 30, 1982,".

Subtitle C—Public Mass Transportation

SEC. 1111. (a) The Urban Mass Transportation Act of 1964 is amended as follows:

(1) Section 4(c)(3)(A) is amended by striking out "$1,600,000,000" and inserting in lieu thereof "$1,515,000,000".

(2) Section 4(e) is amended by striking out "$120,000,000" and inserting in lieu thereof "$75,000,000".

(3) Section 4(f) is amended by striking out "$105,000,000" and inserting in lieu thereof "$100,000,000".

(4) Section 4(g) is amended by striking out the period at the end thereof and inserting in lieu thereof ", except that there are au-

thorized to be appropriated not to exceed $600,000,000 for such projects for the fiscal year ending September 30, 1982.".

(5) Section 5(a)(1)(B) is amended by striking out "$900,000,000 in each fiscal year ending September 30, 1981, and September 30, 1982." and inserting in lieu thereof "$900,000,000 for the fiscal year ending September 30, 1981, and $850,000,000 for the fiscal year ending September 30, 1982.".

(6) Section 5(a)(2)(B) is amended by striking out "$250,000,000" the last place it appears and inserting in lieu thereof "$165,000,000".

(7) Section 5(a)(3)(B) is amended by striking out "$160,000,000" and inserting in lieu thereof "$90,000,000".

(8) Section 5(a)(4)(B) is amended by striking out "$455,000,000" and inserting in lieu thereof "$375,000,000".

(b) Notwithstanding any other provision of law, the total amount authorized to be appropriated for the fiscal year ending September 30, 1982, under the Urban Mass Transportation Act of 1964 shall not exceed $3,792,000,000.

Subtitle D—Railroad Retirement and Related Matters

SEC. 1116. (a) The last sentence of section 1(f)(1) of the Railroad Retirement Act of 1974 is amended to read as follows: "Ultimate fractions shall be taken at their actual value.".

(b) Section 1(o) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "the National Transportation Safety Board," after "the National Mediation Board,"; and

(2) by inserting after the first sentence the following: "For purposes of section 2(b) and section 2(d) only, an individual shall be deemed also to have 'a current connection with the railroad industry' if, after having completed twenty-five years of service, such individual involuntarily and without fault ceased rendering service as an employee under this Act and did not thereafter decline an offer of employment in the same class or craft as the individual's most recent employee service. For purposes of section 2(d) only, an individual shall be deemed to have a 'current connection with the railroad industry' if a pension will have been payable to that individual under the Railroad Retirement Act of 1937 or a retirement annuity based on service of not less than 10 years (as computed in awarding the annuity) will have begun to accrue to that individual prior to 1948 under the Railroad Retirement Act of 1937.".

SEC. 1117. (a)(1) Section 2(b)(1) of the Railroad Retirement Act of 1974 is amended—

(A) by striking out "(1) An individual" and inserting in lieu thereof "An individual";

(B) by striking out "in subdivision (2) of this subsection and";

(C) by striking out "and" at the end of paragraph (iii);

(D) by inserting "and" at the end of paragraph (iv);

(E) by inserting after paragraph (iv) the following new paragraph:

"(v) has performed compensated service in at least one month prior to October 1, 1981;"

(2) Section 2(b) of the Railroad Retirement Act of 1974 is amended—

(A) by striking out subdivision (2); and

(B) by striking out subdivision (3);

(b) Section 2(c) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "or a divorced wife who would be entitled to an annuity under subdivison (4)" after "under subdivision (1)" in subdivision (2);

(2) by striking out "1/180" and inserting in lieu thereof "1/144" in subdivision (2);

(3) by striking out "spouse" the second place it appears in subdivision (2) and adding in lieu thereof "spouse or divorced wife"; and

(4) by adding at the end thereof the following new subdivision (4):

"(4) The 'divorced wife' (as defined in section 216(d) of the Social Security Act) of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) and (B) has attained the age 62;

"(ii) such divorced wife (A) has attained the age of 65 and (B) is not married; and

"(iii) such divorced wife would have been entitled to a benefit under section 202(b) of the Social Security Act as the divorced wife of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act;

shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to a divorced wife's annuity, if she has filed an application therefor, in the amount provided under section 4 of this Act.".

(c) Section 2(d) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of subdivision (1)(iii);

(2) by striking out the period at the end of subdivision (1)(iv) and inserting in lieu thereof "; and"; and

(3) by adding at the end of subdivision (1) the following new paragraph:

"(v) The widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), and a surviving divorced mother (as defined in section 216(d) of the Social Security Act) if such widow, surviving divorced wife, or surviving divorced mother would have been entitled to a benefit under section 202(e) or 202(g) of the Social Security Act as the widow, surviving divorced wife, or surviving divorced mother of the employee if all of his service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph, the reference in sections 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under section 2(d)(1)(i) of this Act and an individual entitled to an annuity under section 2(d)(1)(ii) of this Act, and the reference in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under section 2(d)(1)(iii) or section 2(d)(1)(iv) of this Act, and the references in section 202(g)(3) of the Social Security Act to an individual entitled under section 202(a) or section 223(a) of that Act shall include an individual entitled to an annuity under section 2(a)(1) of this Act.".

(d) Section 2(e)(5) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(e)(1) Section 2(f)(2) of the Railroad Retirement Act of 1974 is amended by inserting "or divorced wife's" after "spouse's" each place (other than the second place) it appears.

(2) Section 2(f) of such Act is amended by adding at the end thereof the following new subdivisions:

"(3) Deductions shall not be made pursuant to subdivision (1) from that portion of an individual's annuity as is computed under section 3(a) of this Act for any month in which the annuity of such individual is reduced pursuant to section 3(m) of this Act. This subdivision shall be disregarded in determining the applicability and amount of deductions in a spouse's annuity pursuant to subdivision (2) of this subsection.

"(4) Deductions shall not be made pursuant to subdivision (2) from that portion of a spouse's annuity as is computed under section 4(a) of this Act for any month in which the annuity of such spouse is reduced due to entitlement to a benefit under title II of the Social Security Act.

"(5) If an annuity begins to accrue on other than the first day of a month, subdivisions (1) and (2) of this subsection shall not apply in the year the annuity begins to accrue if the annuitant has no earnings in excess of the monthly exempt amount in such year after the annuity beginning date.".

(f) Section 2(g)(2) of the Railroad Retirement Act of 1974 is amended by striking out "is under the age of seventy-two and is" and inserting in lieu thereof "would be".

(g) Section 2(h) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" in subdivision (1) and inserting in lieu thereof "spouse or divorced wife", and

(2) by striking out "spouse" the first place it appears in subdivision (3) and inserting in lieu thereof "spouse or divorced wife".

SEC. 1118. (a) Subsection (b) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(b)(1) The amount of the annuity of an individual provided under subsection (a) shall be increased by an amount equal to seven-tenths of 1 per centum of the product which is obtained by multiplying such individual's 'years of service' by such individual's 'average monthly compensation' as determined under this subsection. The annuity amount payable to the individual under this subsection shall be reduced by 25 per centum of the annuity amount computed for such individual under subsection (h)(1) or (h)(2), and subsection (h)(5), of this section without regard to section 7(c)(1) of this Act. An individual's 'average monthly compensation' for purposes of this subsection shall be the quotient obtained by dividing by 60 such individual's total compensation for the 60 months, consecutive or otherwise, during which such individual received that individual's highest monthly compensation, except that no part of any month's compensation in excess of the maximum amount creditable for any individual for such month under subsection (j) of this section shall be recognized. In determining the months of compensation to be used for purposes of this subsection, the total compensation reported for the individual under section 9 of this Act or credited to such individual under subsection (j) of this section for a year divided by the number of months of service credited to such individual under subsection (i) of this section with respect to such year shall be considered the monthly compensation of the individual for each month of service in any year for which records of the Board do not show the amount of compensation paid to the individual on a monthly basis. If the 'average monthly compensation' computed under this subsection is not

a multiple of $1, it shall be rounded to the next lower multiple of $1.

"(2) For purposes of subdivision (1) of this subsection, in determining 'average monthly compensation' for an individual who has not engaged in employment for an employer in the 60-month period preceding the month in which such individual's annuity began to accrue, and whose major employment during such 60-month period was for a United States department or agency named in section 1(o) of this Act, the amount of compensation used with respect to each month used in making such determination shall be the product of—

"(i) the compensation credited to such individual for such month under paragraph (1) of this subsection; and

"(ii) the quotient obtained by dividing—

"(I) the average of total wages (as determined under section 215(b)(3)(A)(ii)(I) of the Social Security Act) for the second calendar year preceding the earliest of the year of the individual's death or the year in which an annuity begins to accrue to such individual (disregarding an annuity based on disability which is terminated because such individual has recovered from such disability if such individual engages in any regular employment after such termination); by

"(II) the average of total wages (as determined under section 215(b)(3)(A)(ii)(II) of the Social Security Act) for the calendar year during which such month occurred, unless such month occurred prior to calendar year 1951, in which case, the average of total wages so determined for 1951.

In no event shall 'average monthly compensation' determined for an individual under this subdivision exceed the maximum 'average monthly compensation' which can be determined under subdivision (1) of this subsection for any person retiring January 1 of the year in which such individual's annuity began to accrue.".

(b) Subsections (c) and (d) of section 3 of the Railroad Retirement Act of 1974 are repealed.

(c)(1) Section 3(f)(1) is amended by striking out "subsections (b), (c), and (d)" each place it appears and inserting in lieu thereof "subsection (b)".

(2) Section 3(f) of the Railroad Retirement Act of 1974 is amended by striking out of subdivision (1) all after "effective after the date on which such" and before "(A) 100 per centum of his" and inserting in lieu thereof "individual's annuity under section 2(a)(1) of this Act begins to accrue, exceed an amount equal to the sum of".

(d) Subsection (g) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(g) Effective with the month of June for any year after 1981, that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1 of such year, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31 of such year with (B) the higher of (i) such index for the calendar quarter ending March 31 of the year immediately preceding such year or (ii) such index for the calendar quarter ending March 31 of any preceding year after 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter.".

(e) Section 3(h) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "subsections (a) through (d)" each place it appears and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking out all after "January 1, 1975," in section 3(h)(5) and inserting in lieu thereof "to the earlier of the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue or January 1, 1982.", and

(3) by adding at the end thereof the following new subdivision:

"(6) No amount shall be payable to an individual under subdivision (3) or (4) of this subsection unless the entitlement of such individual to such amount had been determined prior to the date of the enactment of this subdivision.".

(f) Subsection (j) of section 3 of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "the average compensation paid to an employee with respect to calendar months included in his 'years of service' " the first place it appears in the first sentence thereof and inserting in lieu thereof the following: "computed in the manner specified in section 3(b) of this Act"; and

(2) by striking out "If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple $1.".

(g) Subsection (l) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(l)(1) Except as provided in subdivision (2) of this subsection, if an annuity awarded under section 2(a)(1)(iii) or under section 2(c)(2) of this Act is increased or decreased either by a change in the law or by a recomputation, the reduction on account of age in the amount of such increase or decrease shall be computed as though such increased or decreased annuity amount had been in effect for and after the month in which the annuitant first became entitled to such annuity under section 2(a)(1)(iii) or section 2(c)(2),

"(2) The reduction required under section 2(a)(1)(iii) or section 2(c)(2) may be applied separately to each of the annuity amounts computed under subsections (a), (b), and (h) of this section and subsections (a), (b), and (e) of section 4. For this purpose, in any case in which an annuity amount was computed for an individual under the provisions of this Act or of Public Law 93-445 prior to October 1, 1981, an annuity amount computed under subsections (a), (b), (c), (d) and (h) of this section, subsection (a), (b), or (e) of section 4, and section 204 or section 206 of Public Law 93-445 shall be reduced by its proportionate share of the reduction on account of age. For purposes of the preceding sentence, annuity amounts computed for an individual under subsections (b), (c), and (d) of section 3 prior to October 1981 shall be considered as one annuity amount.".

(h)(1) Section 3(m) of the Railroad Retirement Act of 1974 is amended by inserting ", after any reduction pursuant to paragraph (iii) of section 2(a)(1)," after "shall".

(2) Section 3(m) of such Act is amended by inserting "(before any deductions on account of work)" after "monthly benefit".

SEC. 1119. (a) Section 4(a)(1) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(b) Section 4(b) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "subsections (b), (c) and (d)" and inserting in lieu thereof "subsection (b)";

(2) by striking out "50" and inserting in lieu thereof "45";

(3) by striking out of the first sentence all after "was reduced by reason of the provisions of subsection (i)(2) of this section" and inserting in lieu thereof a period;

(4) by striking out ", subject to the third proviso of this subsection"; and

(5) by striking out the period at the end of the first sentence and by inserting in lieu thereof the following "(disregarding, for this purpose, any increase in such reduction which becomes effective after the later of the date such spouse's annuity under section 2(c) of this Act began to accrue or the date such spouse's annuity under section 2(a)(1) of this Act began to accrue).".

(c) Section 4(c) of the Railroad Retirement Act of 1974 is amended by striking "wife's or husband's" and inserting in lieu thereof "monthly".

(d) Section 4(e) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out all after "January 1, 1975," in subdivision (4) and inserting in lieu thereof "to the earlier of the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue or January 1, 1982."; and

(2) by adding at the end thereof the following new subdivision:

"(5) No amount shall be payable to a person under subdivision (1), (2), or (3) of this subsection unless the entitlement of such person to such amount had been determined prior to the date of the enactment of this subdivision.".

(e) Section 4(f) of such Act is amended—

(1) by adding at the end of subdivision (1) "In the case of a widow or widower who is entitled to an annuity under section 2(d) of this Act solely on the basis of railroad service which was performed prior to January 1, 1937, the amount provided under this section with respect to any month shall not be less than the first amount appearing in column IV of the table appearing in section 215(a) of the Social Security Act as in effect on December 31, 1974, after reduction in accordance with the provisions of section 202(k) and 202(q) of that Act in the same manner as would be applicable to a widow's insurance benefit or widower's insurance benefit payable under section 202(e) or 202(f) of that Act."; and

(2) by adding at the end thereof the following new subdivision:

"(3) The annuity amount provided to a widow or widower under last sentence of subdivision (1) shall be increased by the same percentage or percentages as insurance benefits payable under section 202 of the Social Security Act are increased after the date on which such annuity begins to accrue.".

(f) Section 4(f)(2) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) striking out the period at the end of paragraph (ii) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(iii) The provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(g) Subsection (g) of section 4 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(g)(1) The amount of the annuity provided under subsection (f)(1) (other than the last sentence thereof) for a survivor of a deceased individual shall be increased by an amount equal to the appropriate one of the following percentages of that portion of the annuity computed under section 3(b) of this Act, before any reduction on account of age, to which such deceased individual would have been entitled for the month such survivor's annuity under section 2(d) of this Act began to accrue if such individual were living (deeming for this purpose that if such individual died before becoming entitled to an annuity under section 2(a)(1) of this Act, such individual became entitled to an annuity under subdivision (i) of such section 2(a)(1) in the month in which such individual died):

"(i) In the case of a widow or widower, the increase shall be equal to 50 per centum of such portion of the deceased individual's annuity, but the amount of the annuity so determined shall be subject to reduction on account of age in the same manner as is applicable to the annuity amount determined for the widow or widower under subsection (f) and shall be subject to increase as provided in subdivision (4) of this subsection.

"(ii) In the case of a parent, the increase shall be equal to 35 per centum of such portion of the deceased individual's annuity.

"(iii) In the case of a child, the increase shall be equal to 15 per centum of such portion of the deceased individual's annuity.

"(2) Whenever the total amount of the increases based on the deceased individual's portion of the annuity under section 3(b) of this Act as determined under subdivision (1) of this subsection for all survivors of a deceased employee is—

"(i) less than an amount equal to 35 per centum of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act, be increased proportionately until the total increase is equal to 35 per centum of such portion of the deceased individual's annuity; or

"(ii) more than an amount equal to 80 per centum of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act and before any reduction on account of age, be reduced proportionately until the total increase is equal to 80 per centum of such portion of the deceased individual's annuity.

"(3) An annuity determined under this subsection for a month prior to the month in which application is filed, shall be reduced to any extent that may be necessary so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

"(4) If a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act and if either such widow or widower or such deceased employee will have completed 10 years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under subdivisions (1) through (3) of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act) on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i)(2) of this section but before any deductions on account of work) under the preceding provisions of this subsection, subsection (f) of this section, and the amount determined under subsection (h) of this section before the proviso, as of the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue. If a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f)(1) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e)(3) of this section (after any reduction on account of age) in the month preceding the employee's death. If a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B)(i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e) of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not entitled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

"(5) This subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.

"(6) That portion of the annuity of a survivor of an individual determined under subdivisions (1) and (2) of this subsection shall be increased whenever, and by the same percentage or percentages as, the annuity of the individual would have been increased pursuant to section 3(g) of this Act if such individual were still living.".

(h) Section 4(h) of the Railroad Retirement Act is amended—

(1) by inserting "(1)" after "(h)";

(2) by inserting after "during the period from January 1, 1975, to" the following "January 1, 1982 or, if earlier, to";

(3) by inserting after "202(k) and 202(q) of the Social Security Act" the first time it appears the following: "and subsection (i)(2) of this section"; and

(4) by adding at the end the following new subdivision:

"(2) Subdivision (1) of this subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act. No amount shall be payable to a person under subdivision (1) of this subsection unless the entitlement of such person to such amount had been determined prior to the date of the enactment of this subdivision.".

(i) Section 4(i) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" each place it appears in subdivision (1) and subdivision (2) and inserting in lieu thereof "spouse or divorced wife";

(2) by inserting ", after a reduction pursuant to section 2(c)(2)" after "shall" in subdivision (1);

(3) by striking out "wife's or husband's" in subdivision (1); and

(4) by inserting "(before any deduction on account of work)" after "insurance benefit" in subdivision (1).

SEC. 1120. (a) Section 5(a) of the Railroad Retirement Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (ii),

(2) by striking out the period at the end of paragraph (iii) and inserting "; and" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(iv) in the case of an applicant otherwise entitled to an annuity under section 2(c)(4) or 2(d)(1)(v) of this Act, not earlier than the month an annuity would begin to accrue to such individual under such section if section 202(j)(1) and section 202(j)(4) of the Social Security Act were applicable to this Act.

"(v) an annuity amount provided by section 3(h)(1) or 3(h)(2) shall not be paid to an individual otherwise eligible therefor for any month before the month such individual would be entitled, upon filing an application therefor, to an old-age insurance benefit or a disability insurance benefit under title II of the Social Security Act and an annuity amount provided by section 3(h)(3) or section 3(h)(4) shall not be paid to an individual otherwise eligible therefor for any month before the month such individual

would be entitled, upon filing an application therefor, to an insurance benefit as a wife, husband, widow, or widower under title II of the Social Security Act;

"(vi) an annuity amount provided by section 4(e)(1) or 4(e)(2) shall not be paid to a spouse otherwise eligible therefor for any month prior to the month such spouse would be entitled, upon filing an application therefor, to an old-age or disability insurance benefit under title II of the Social Security Act; and

"(vii) an annuity amount provided by section 4(e)(3) shall not be paid to a spouse otherwise eligible therefor for any month prior to the month such spouse would be entitled, upon filing an application therefor, to a wife's or husband's insurance benefit under title II of the Social Security Act.".

(b) Section 5(b) of such Act is amended by inserting "title II of" after "may be entitled under this Act or" in the second sentence thereof.

(c) Section 5(c)(3) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentence: "The entitlement of the divorced wife of an individual to an annuity under section 2(c) shall end on the last day of the month preceding the month in which (A) the divorced wife or the individual dies or (B) the divorced wife remarries.".

(d) Section 5(c) of such Act is amended by adding at the end thereof the following new subdivision:

"(9) No annuity shall accrue with respect to the calendar month in which an annuitant dies. In cases where an individual entitled to an annuity under this Act disappears, no annuity shall accrue to that individual with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month, but—

"(A) where an annuity would accrue for such month under section 2(a)(1) to an individual who had a current connection with the railroad industry at the time of such individual's disappearance, and under section 2(c) to such individual's spouse, had such individual been shown to be alive during such month, such individual shall be deemed, for the purposes of benefits under section 2(d), to have died in the month in which such individual disappeared, and where an annuity would accrue for such month under section 2(a)(1) to an individual who did not have a current connection with the railroad industry at the time of such individual's disappearance, and under section 2(c) to such individual's spouse, had such individual been shown to be alive during such month, such individual shall be deemed, for purposes of benefits payable under section 2(c), to be alive during such month unless the death of such individual has been established or the annuity of the spouse of such individual is otherwise terminated under subsection (c)(3) of this section, and

"(B) if such individual is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of such individual's compensation under section 2(d) for the months in which such individual was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's or widower's annuity as an application for a spouse's annuity), shall be made in accordance with section 10.

For purposes of the payment of benefits under this Act, the death of an individual shall be presumed based on such individual's unexplained absence of not less than seven years, except that whenever the death of an individual is so established, such individual shall be deemed to have died in the month in which such individual disappeared.".

SEC. 1121. (a) Section 6(a)(3) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" and inserting "spouse or divorced wife" in lieu thereof; and

(2) by striking out "spouse's" and inserting "spouse's or divorced wife's" in lieu thereof.

(b) Section 6(b)(2) of the Railroad Retirement Act of 1974 is amended by inserting "surviving divorced wife," after "widow," the first place it appears.

(c) Section 6(c) of the Railroad Retirement Act of 1974 is amended—

(1) by adding the following new sentence at the end of subdivision (1): "After a lump sum with respect to the death of an employee is paid pursuant to an election filed with the Board under the provisions of this subsection, no further benefits shall be paid under this Act or the Social Security Act on the basis of such employee's compensation and service under this Act, except that nothing in this Act or the Social Security Act shall operate to deprive a widow, widower, or parent making such election of any insurance benefit under title II of the Social Security Act to which such individual would have been entitled if the employee had not rendered service as an employee under this Act.";

(2) by inserting after "section 21 of the Railroad Retirement Act of 1937," in the first sentence of subdivision (2) thereof the following: "any supplemental annuity payments made to the employee under section 2(b) of this Act or section 3(j) of the Railroad Retirement Act of 1937,"; and

(3) by striking out "spouse" the first place it appears in subdivision (2) and inserting in lieu thereof "spouse or divorced wife".

SEC. 1122. (a) Section 7(b) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "wife" in subdivision (2)(B) and inserting in lieu thereof "wife or divorced wife"; and

(2) by striking out "this Act and the" where it appears in the first sentence of subdivision (7) and inserting in lieu thereof "this Act, the Railroad Unemployment Insurance Act,".

(b)(1) Section 7(d) of such Act is amended by striking out "; or" at the end of paragraph (i) of subdivision (2) and inserting in lieu thereof: "or (C) bears a relationship to an employee which, by reason of section 3(f)(3) of this Act, has been, or would be, taken into account in calculating the amount of the annuity of such employee; or".

(2) Section 7(d)(2) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" and inserting in lieu thereof "spouse or divorced wife".

(c) Section 7(c) of the Railroad Retirement Act of 1974 is amended by striking out the period at the end of subdivision (1) and by inserting in lieu thereof the following: ", and payments of annuity amounts made under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 shall be made from the Dual Benefits Payments Account. In any fiscal year, the total amounts paid under such sections shall not exceed the total sums appropriated to the Dual Benefits Payments Account for that fiscal year. The Board shall prescribe regulations for allocation of annuity amounts which would without regard to such regulations be payable under sections 3(h), 4(e), and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 so that the sums appropriated to the Dual Benefits Payments Account for a fiscal year so far as practicable, are expended in equal monthly installments throughout such fiscal year, and are distributed so that recipients are paid annuity amounts which bear the same ratio to the annuity amounts such recipients would have received but for such regulations as the ratio of the total sums appropriated to pay such annuity amounts bear to the total sums necessary to pay such annuity amounts without regard to such regulations. Nothwithstanding any other provision of law, the entitlement of an individual to an annuity amount under section 3(h), 4(e), or 4(h) of this Act or section 204(a)(3), 204(a)(4), 206(3), or 207(3) of Public Law 93-445 for any month in which the amount payable to such individual is allocated under the regulations prescribed by the Board under this subsection shall not exceed the amount so allocated for that month to such individual.".

SEC. 1123. Section 10(a) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentence: "The Board shall have the authority to recover from any payment which would be made to an individual by the Board under section 7(b)(2) of this Act the amount of annuity payments made to such individual which are erroneous because of such individual's entitlement to monthly insurance benefits under title II of the Social Security Act.".

SEC. 1124. (a) Section 15(d) of the Railroad Retirement Act of 1974 is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the amounts of annuities estimated by the Board to be paid under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445. Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding one-twelfth of the amount which the Board has determined will be the amount of the appropriation to be made to the Dual Benefits Payments Account under the applicable Public Law making such appropriation for such fiscal year, and the Secretary of the Treasury shall make such transfer. Not more than 10 days after the funds appropriated to the Dual Benefits Payments Account for each such fiscal year are received into such Account, the Board shall request the Secretary of the Treasury to retransfer from the Dual Benefits Payments Account to the credit of the Railroad Retirement Account an amount equal to the amount transferred to the Dual Benefits Payments Account prior to such fiscal year under the preceding sentence, together with such additional amount determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from

such transfer, and the Secretary of the Treasury shall make such retransfer.".

(b) Section 15(e) of the Railroad Retirement Act of 1974 is amended by inserting ", the Dual Benefits Payments Account" after "Railroad Retirement Account" in the first sentence thereof.

(c) Section 15(g) of the Railroad Retirement Act of 1974 is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and the Dual Benefits Payments Account.".

SEC. 1125. Section 18(2) of the Railroad Retirement Act of 1974 is amended by inserting "and section 216(i)" immediately after "203".

SEC. 1126. (a) Not later than October 1, 1982, the President shall analyze options that will assure the long-term financial integrity of the railroad retirement system and report to the Congress the results of such analysis, together with recommendations with respect to such options and such comments as may have been submitted by representatives of railroad labor and management.

(b) The Railroad Retirement Act of 1974 is amended by adding at the end thereof the following:

"BENEFIT PRESERVATION

"SEC. 22. (a) In any fiscal year in which the Board determines that general revenue borrowing authority available under this Act will be used to borrow an amount equal to or greater than fifty percent of the total amount available under such borrowing authority for that fiscal year, the Board shall, on or before April 1 of that year, report to the President, the Speaker of the House, and the President of the Senate, in writing—

"(1) the aggregate amount it will need to borrow for that fiscal year and the aggregate amount it is authorized to borrow for that fiscal year;

"(2) the first fiscal year during which benefits under this Act must be reduced, in the absence of any adjustments, because insufficient funds (including any general revenue borrowing authority under this Act) would preclude payment of full benefits payable from the Dual Benefits Payments Account) for every month in such fiscal year;

"(3) the first fiscal year during which the Board would recommend suspension of the authority to borrow contained in section 10(d) of the Railroad Unemployment Insurance Act, in order to prevent depletion of the Railroad Retirement Account; and

"(4) the amount, if any, of adjustments (stated in terms of percentage of taxable payroll), and any other changes such as cash flow adjustments, necessary to preserve the financial solvency of the Railroad Retirement Account, if such adjustments were effective at the beginning of the next succeeding fiscal year.

The Board shall, not less than 20 nor more than 30 days after the submission of a written report under this subsection, publish such report in the Federal Register.

"(b) Not later than 180 days after the publication in the Federal Register of any Board report referred to in subsection (a) of this section which states an amount of adjustments (in terms of percentage of taxable payroll) necessary to preserve the financial solvency of the railroad retirement account—

"(1) representatives of railroad employees and carriers shall, jointly or separately, submit to the President, the Speaker of the House, and the President of the Senate, funding proposals designed to preserve the financial solvency of the Railroad Retirement Account; and

"(2) the President shall submit to the Speaker of the House and the President of the Senate such recommendations as he may deem appropriate with respect to the preservation of the Railroad Retirement Account, including a specific proposal to assure continuous payments of social security equivalent benefits by separating the social security equivalent benefits from industry pension equivalent benefits payable under this Act.

"(c) Not later than 180 days after the submission of a written report under subsection (a) of this section which states the first fiscal year during which benefits under this Act must be reduced because insufficient funds would preclude payment of full benefits for every month of that year, the Board shall issue and publish in the Federal Register such regulations as may be necessary which shall be designed to—

"(1) provide a constant level of benefits at the maximum level possible for every month of that fiscal year; and

"(2) provide that no individual shall receive less during that fiscal year than the amount otherwise payable if the employee's service as an employee after December 31, 1936, had been covered under the Social Security Act, minus the amount of any reduction required under section 3(m) or 4(i) of this Act.

Unless otherwise provided by law enacted after the date of enactment of this section, or by a later report filed by the Board under subsection (a) of this section, regulations issued by the Board under this subsection shall apply beginning with the fiscal year designated by the Board in its written report under subsection (a) of this section. Any Board regulation which becomes effective under this subsection may be modified, rescinded, or superseded in the same manner and to the same extent as in the case of any other Board regulation issued under authority of this Act.".

SEC. 1127. (a) Section 15(b) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(b)" and by inserting at the end thereof the following new subdivision:

"(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Fund estimate will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month.".

SEC. 1128. (a) Section 5(f) of the Railroad Unemployment Insurance Act is amended by striking out "fifteen" and by inserting in lieu thereof "thirty".

(b) Section 8(f) of the Railroad Unemployment Insurance Act is amended by striking out "0.25" and inserting in lieu thereof: "0.5".

SEC. 1129. (a) Except as otherwise provided in this section, the amendments made by this subtitle shall take effect October 1, 1981, and shall apply only with respect to annuities awarded on or after that date.

(b)(1) The amendment made by section 1116(a) of this Act shall take effect October 1, 1981, except that the years of service of an individual shall not be considered less after enactment of this Act for any individual who files an application before April 1, 1982 than such individual had during the month of September 1981.

(2) The amendments made by sections 1116(b)(1), 1118(c)(21), 1119(b)(5), 1119(c), 1119(b)(3), 1119(i)(3), 1120(a), 1120(d), 1121(c)(1), 1121(c)(2), 1123, and 1125 of this Act shall take effect January 1, 1975.

(3) The first sentence added to section 1(o) of the Railroad Retirement Act of 1974 by section 1116(b)(2) shall take effect October 1, 1981, and shall apply only with respect to individuals who did not die before that date and who ceased rendering service as an employee under the Railroad Retirement Act of 1974 on or after Ocotber 1, 1975 or were on leave of absence or furlough on October 1, 1975. The second sentence added to section 1(o) of the Railroad Retirement Act of 1974 by section 1116(b)(2) shall take effect October 1, 1981.

(c) The amendment made by section 1117(a) of this Act shall take effect October 1, 1981, and shall apply only with respect to individuals whose supplemental annuity closing date under section 2(b) of the Railroad Retirement Act of 1974 before the effective date of the amendment to such section by this Act did not occur before October 1, 1981.

(d) The amendments made by section 1119(b)(1) shall not apply with respect to annuities awarded on the basis of employee annuities awarded before October 1, 1981.

(e)(1) The amendments made by sections 1118(e)(3), 1119(d)(2), 1119(h)(1), and 1119(h)(4) of this Act shall take effect on the date of the enactment of this Act.

(2) The amendment made by sections 1118(d) of this Act shall apply with respect to annuity increases which become effective on or after the date described in the next

sentence. The date referred to in the last preceding sentence is the later of October 1, 1981 and the date (after July 1, 1981) on which there is an increase in the rate of any tax imposed under chapter 22 (relating to railroad retirement tax) of the Internal Revenue Code of 1954. For the purposes of the amendment made by section 1118(d), with respect to annuities awarded before October 1, 1981, the annuity portions computed under subsections (b) and (d) of section 3 of the Railroad Retirement Act of 1974 as in effect before October 1, 1981, shall be treated as a portion of an annuity computed under section 3(b) of such Act as amended by this Act.

(3) The amendment made by section 1118(a) of this Act shall take effect on the later of October 1, 1981, and the date (after July 1, 1981) on which there is an increase in the rate of any tax imposed under chapter 22 (relating to railroad retirement tax) of the Internal Revenue Code of 1954, and shall apply only with respect to annuities awarded on or after the date of that taking effect.

(f) Section 4(g) of the Railroad Retirement Act of 1974 as amended by this Act (except subdivisions (5) and (6) of such section 4(g)) shall take effect October 1, 1981, with respect to awards made on or after that date in cases in which the employee did not begin receiving an annuity under section 2(a)(1) of the Railroad Retirement Act of 1974 before October 1, 1981, and did not die before that date, and to all awards made on or after October 1, 1986. In all other awards made on or after October 1, 1981, and before October 1, 1986, for purposes of determining the initial annuity amount only, the provisions of section 4(g) of the Railroad Retirement Act of 1974, as in effect before amendment by this Act shall be applicable. Initial annuity amounts determined under the preceding sentence shall be increased only by the same percentage, or percentages, as an employee's annuity amount determined under section 3(b) of the Railroad Retirement Act of 1974 is increased under section 3(g) of the Railroad Retirement Act of 1974 on or after the date on which such initial annuity amount began to accrue. Annuity amounts determined under section 4(g) of the Railway Retirement act of 1974 before amendment by this Act or under section 207(2) of Public Law 93-445 shall be increased only by the same percentage, or percentages, as an employee's annuity amount determined under section 3(b) of the Railroad Retirement Act of 1974 is increased under section 3(g) of the Railroad Retirement Act of 1974 on or after October 1, 1981. Section 4(g)(5) and 4(g)(6) of the Railroad Retirement Act of 1974, as amended by this Act, shall take effect on October 1, 1981.

(g) The amendments made by sections 1118(b), 1118(g), 1120(b), 1122(a)(2), 1122(b)(1), 1122(c), 1124, 1126, and 1127 of this Act shall take effect October 1, 1981.

(h) The amendments made by sections 1117(e)(2), 1117(f), 1118(h)(2), and 1119(i)(4) shall take effect January 1, 1982.

Subtitle E—Conrail

SEC. 1131. This subtitle may be cited as the "Northeast Rail Service Act of 1981".

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PART 1—GENERAL PROVISIONS

FINDINGS

SEC. 1132. The Congress finds and declares that—

(1) the processes set in motion by the Regional Rail Reorganization Act of 1973 have failed to create a self-sustaining railroad system in the Northeast region of the United States and have cost United States taxpayers many billions of dollars over original estimates;

(2) current arrangements for the provision of rail freight and commuter service in the Northeast and Midwest regions of the United States are inadequate to meet the transportation needs of the public and the needs of national security;

(3) although the Federal Government has provided billions of dollars in assistance for Conrail and its employees, the Federal interest in ensuring the flow of interstate commerce through rail service in the private sector has not been achieved, and the protection of interstate commerce requires Federal intervention to preserve essential rail service in the private sector;

(4) the provisions for protection of employees of bankrupt railroads contained in the Regional Rail Reorganization Act of 1973 have resulted in the payment of benefits far in excess of levels anticipated at the time of enactment, have imposed an excessive fiscal burden on the Federal taxpayer, and are now an obstacle to the establishment of improved rail service and continued rail employment in the Northeast region of the United States; and

(5) since holding Conrail liable for employee protection payments would destroy its prospects of becoming a profitable carrier and further injure its employees, an alternative employee protection system must be developed and funded.

PURPOSE

SEC. 1133. It is therefore declared to be the purpose of the Congress in this subtitle to provide for—

(1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail;

(2) transfer of Conrail commuter service responsibilities to one or more entities whose principal purpose is the provision of commuter service; and

(3) an orderly return of Conrail freight service to the private sector.

GOALS

SEC. 1134. It is the goal of this subtitle to provide Conrail the opportunity to become profitable through the achievement of the following objectives:

(1) NONAGREEMENT PERSONNEL.—(A) Employees who are not subject to collective bargaining agreements (hereafter in this section referred to as "nonagreement personnel") should forego wage increases and benefits in an amount proportionately equivalent to the amount foregone by agreement employees pursuant to paragraph (4) of this section, adjusted annually to reflect inflation.

(B) After May 1, 1981, the number of nonagreement personnel should be reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 702 of the Regional Rail Reorganization Act of 1973).

(2) SUPPLIERS.—To facilitate the orderly movement of goods in interstate commerce, materials and services which should continue to be available to Conrail, under normal business practices, including the provision of credit and normal financing arrangements.

(3) SHIPPERS.—Conrail should utilize the revenue opportunities available to it under the Staggers Rail Act of 1980 and subtitle IV of title 49, United States Code.

(4) AGREEMENT EMPLOYEES.—(A) Conrail should enter into collective bargaining agreements with its employees which would reduce Conrail's costs in an amount equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

(B) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

(C) The cost reductions required under this subparagraph in the first year of the agreement may be deferred, but the aggregate cost reductions should be no less than an average of $200,000,000 per year for each

of the first three one-year periods beginning April 1, 1981.

(D) The amount of cost reductions provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (i) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (ii) until such national agreement is reached, the cost which the United States Railway Association estimates would result from the application of such a national agreement.

DEFINITIONS

SEC. 1135. (a) As used in this subtitle, unless the context otherwise requires, the term:

(1) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.).

(2) "Commission" means the Interstate Commerce Commission.

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter service.

(4) "Commuter service" means short-haul rail passenger service operated in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) "Rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code.

(7) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this subtitle.

(8) "Special court" means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).

(b) Section 102 of the Regional Rail Reorganization Act of 1973 is amended—

(1) by inserting after paragraph (2) the following new paragraphs:

"(3) 'Commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter service;

"(4) 'Commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations;"; and

(2) by redesignating paragraphs (3) through (19) as paragraphs (5) through (21), respectively.

PART 2—TRANSFER OF RAIL SERVICE RESPONSIBILITIES

Subpart A—Transfer of Conrail Commuter Services

END OF CONRAIL OBLIGATION

SEC. 1136. Notwithstanding any other provision of law or contract, Conrail shall be relieved of any legal obligation to operate commuter service on January 1, 1983.

ESTABLISHMENT OF AMTRAK COMMUTER

SEC. 1137. (a) The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is amended by inserting immediately after title IV thereof the following new title:

"TITLE V—AMTRAK COMMUTER SERVICES

"SEC. 501. ESTABLISHMENT OF AMTRAK COMMUTER.

"(a) There shall be established, no later than November 1, 1981, a wholly-owned subsidiary of the Corporation to be known as the Amtrak Commuter Services Corporation (hereafter in this Act referred to as 'Amtrak Commuter').

"(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act.

"(2) Amtrak Commuter shall be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operation of commuter service under this title. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

"(c)(1) Amtrak Commuter shall not be subject to the jurisdiction of the Commission under chapter 105 of title 49, United States Code, but it shall (treated as a separate rail carrier) be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems, and other dealings with its employees as any rail carrier providing transportation subject to the jurisdiction of the Commission under such chapter 105.

"(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such law relates to rates, routes, or service, including any modification or discontinuance thereof.

"(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as the Corporation is exempt under section 306(n) of this Act.

"(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and the Corporation.

"(d) The Board of Directors of the Corporation shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

"SEC. 502. DIRECTORS AND OFFICERS.

"(a)(1) Amtrak Commuter shall have a Board of Directors as follows:

"(A) The President of Amtrak Commuter, ex officio.

"(B) One member selected by the President to serve on the Board of Directors of the Corporation as a representative of commuter authorities contracting with Amtrak Commuter for the operation of commuter service.

"(C) Two members selected by the Board of Directors of the Corporation.

"(D) One member from a commuter authority as follows:

"(i) During the period prior to the commencement of the operation of commuter service by Amtrak Commuter, such member shall be selected by commuter authorities for which the Consolidated Rail Corporation (hereafter in this title referred to as 'Conrail') operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 450 days after the effective date of this title, such member shall be selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this title, except that if Amtrak Commuter operates commuter service for only one commuter authority, only one member shall be selected under this clause.

"(2)(A) Except as otherwise provided in this section, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

"(B) The Board shall elect one of its members annually to serve as Chairman.

"(C) Each member of the Board shall receive compensation and reimbursement in accordance with section 303(a)(5) of this Act.

"(b) The provisions of section 303 (b) and (d) of this Act shall apply to Amtrak Commuter, except that references to the Corporation shall be read as though they referred to Amtrak Commuter.

"SEC. 503. GENERAL POWERS OF AMTRAK COMMUTER.

"(a)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

"(2) Amtrak Commuter shall, to the extent consistent with this Act and with agreements with commuter authorities, directly operate and control all aspects of its commuter service.

"(b) To carry out its functions and purposes, Amtrak Commuter shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

"(c) Amtrak Commuter is authorized to issue common stock to the Corporation.

"SEC. 504. COMMUTER SERVICE.

"(a) Amtrak Commuter is authorized to operate commuter service under an agreement with a commuter authority. Effective January 1, 1983, any commuter service operated by Amtrak Commuter under an agreement with a commuter authority shall be

operated solely pursuant to the provisions of this section.

"(b)(1) Amtrak Commuter shall operate commuter service which Conrail was obligated to provide on the effective date of this title under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, and may operate any other commuter service, if the commuter authority for which such service is to be operated offers to provide a commuter service operating payment which is designed to cover the difference between the revenue attributable to the operation of such service and the avoidable costs of operating such service (including the avoidable cost of any capital improvements necessary to operate such service) together with a reasonable return on the value.

"(2) Any commuter authority making an offer under this subsection shall demonstrate that such commuter authority has acquired, leased, or otherwise obtained access to all rail properties necessary to provide such additional commuter service.

"(3) Any additional manpower requirements shall be satisfied through existing seniority arrangements as agreed to in the implementing agreement negotiated pursuant to section 506 of this Act.

"(c) Any offer to provide a commuter service operating payment under subsection (b) of this section shall be made in accordance with regulations issued by the Rail Services Planning Office pursuant to section 205(d)(5)(A) and (6) of the Regional Rail Reorganization Act of 1973. Such Office may revise and update such regulations as may be necessary to carry out the provisions of this section.

"(d)(1) Amtrak Commuter may discontinue commuter service provided under this section upon 60 days' notice if—

"(A) a commuter authority does not offer a commuter service operating payment in accordance with subsection (b) of this section; or

"(B) an applicable commuter service operating payment is not paid when it is due.

"(2) The necessary contents of the notice required under this subsection shall be determined pursuant to regulations issued by the Rail Services Planning Office.

"(e) Notwithstanding any other provision of law, compensation to the Corporation or Amtrak Commuter for right-of-way related costs for service over the Northeast Corridor and other properties owned by the Corporation shall be determined in accordance with the methodology determined by the Commission or agreed upon by the parties pursuant to section 1164 of the Northeast Rail Service Act of 1981.

"(f) Amtrak Commuter shall not be subject to any lease or agreement with a commuter authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service, except that the Corporation and Conrail shall retain appropriate trackage rights (for passenger and freight operations respectively) over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights shall be just and reasonable.

"(g) Notwithstanding any other provision of this section, Amtrak Commuter is not obligated to provide commuter service if a commuter authority operates the service itself or contracts for the provision of such service by an operator other than Amtrak Commuter. In any such case, Amtrak Commuter shall, where appropriate, provide the commuter authority or such other operator with access to the rail properties needed to operate such service.

"(h) Amtrak Commuter and Amtrak shall, to the maximum extent practicable, enter into agreements for purposes of avoiding duplication of employee functions and voluntarily establishing a consolidated work force.

"SEC. 505. NORTHEAST CORRIDOR COORDINATION.

"(a) The Board of Directors of Amtrak Commuter shall develop and recommend to the Corporation—

"(1) policies which ensure equitable access to the Northeast Corridor, taking into account the need for equitable access by commuter and intercity service and the requirements of section 402(e) of this Act; and

"(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

"(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of the Corporation such actions as are necessary to resolve differences of opinions regarding operations (among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight service), with respect to all matters except those conferred on the Commission in section 402(a) of this Act.

"SEC. 506. PROPERTY TRANSFER.

"(a) Not later April 1, 1982, each commuter authority shall notify Amtrak Commuter and Conrail whether it intends to operate its own commuter service or to contract with Amtrak Commuter for the operation of such service.

"(b)(1) A commuter authority may initiate negotiations with Conrail for the transfer of commuter service operated by Conrail.

"(2) Any transfer agreement between such a commuter authority and Conrail shall specify at least—

"(A) the service responsibilities to be transferred;

"(B) the rail properties to be conveyed; and

"(C) a transfer date not later than January 1, 1983.

"(3) Any transfer agreement under this subsection shall be entered into not later than September 1, 1982.

"(c) Not later than September 1, 1982, Conrail and Amtrak Commuter shall agree on terms and conditions for the transfer to Amtrak Commuter of all of Conrail's commuter service in the Northeast Corridor, except for commuter service to be transferred directly to a commuter authority under an agreement entered into under subsection (b) of this section, and any rail properties used or useful for the operation of such commuter service. Such service and properties shall be transferred to Amtrak Commuter not later than January 1, 1983.

"(d) If, by September 1, 1982, Conrail and Amtrak Commuter have not signed an agreement pursuant to subsection (c) of this section, the Secretary shall, within 30 days, determine which rail properties shall be transferred to Amtrak Commuter and the terms and conditions under which such rail properties and the Northeast Corridor commuter service of Conrail shall be transferred to Amtrak Commuter. Such transfer shall occur not later than
January 1, 1983.

"(e) Following the transfer of commuter service and properties to Amtrak Commuter, and upon the request of any commuter authority for which the service is provided by Amtrak Commuter, Amtrak Commuter and such commuter authority shall agree upon terms and conditions for the transfer to the commuter authority of such service and any rail properties used or useful in the operation of such commuter service.

"(f) If, within 90 days after a request for the transfer of commuter services is made by a commuter authority under subsection (e), Amtrak Commuter and such commuter authority do not sign an agreement pursuant to subsection (e) of this section, Amtrak Commuter or the commuter authority may appeal to the Secretary. Upon such appeal the Secretary shall determine which rail properties shall be transferred and the terms and conditions of such transfer.

"(g) Consideration for inventory, including tools, spare parts, and fuel, transferred under this section shall be based on book value. The transfer of fixed facilties and rolling stock under this section shall be without consideration.

"(h)(1) Notwithstanding any other provision of this Act, or of the Rail Passenger Service Act, if an interest in rail properties is conveyed pursuant to this section, and if such conveyance is in accordance with the requirements of paragraph (2) of this subsection, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve the Corporation of liability for any breach which occurs after the date of such conveyance, except that the Corporation shall remain liable for any breach, event of default, or violation of covenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than the Corporation, such person or entity shall have a claim to direct reimbursement from the Corporation, together with interest on the amount so paid.

"(2)(A) A conveyance referred to in paragraph (2) of this subsection may be effected only if—

"(i) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed);

"(ii) such conveyance is made subject to such obligations; and

"(iii) in the event of a conveyance of property to persons other than Class I or II railroads, such conveyance must be approved by any party who is a owner, lessor, equipment trustee, or conditional sale vendor to the Corporation on any debt instrument imposing a lien or encumbrance on or otherwise affecting the title or interest in the rail properties to be conveyed, except that such approval may not be unreasonably withheld and may be withheld only for lack of credit worthiness.

As used in this subsection, the term 'rail properties' means assets or rights owned, leased, or otherwise controlled by the Corporation, other than real property, which are used or useful in rail transportation service.

"(B) Subject to the provisions of this subsection, the provisions of this Act and of the Rail Passenger Service Act shall not affect the title and interests of any lessor, equip-

ment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 1168 of title 11, United States Code. An assignee to whom such a conveyance is made shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by such an assignee, shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provision of any such agreement or lease.

"(i) Conrail shall retain rail properties which are used chiefly in freight service and appropriate trackage rights for freight operations over any rail properties which are transferred under this section. Any dispute regarding such rights may be submitted to the Commission for final and binding determination.

"(j) Nothing contained in this legislation shall be construed nor is it intended to affect the rights, duties, or obligations of the Corporation or its successor in title and any bistate commuter authority under any agreement, lease, or contract subject to which property was conveyed to the Corporation pursuant to the Regional Rail Reorganization Act.

"SEC. 507. REGULATORY APPROVAL.

"Transfers of properties and assumptions of service responsibilities pursuant to agreements negotiated under section 506, or pursuant to a determination made by the Commission under section 506 (d) or (f), shall not be subject to judicial review or to the provisions of subtitle IV of title 49, United States Code.".

PROHIBITION OF CROSS-SUBSIDIZATION

SEC. 1138. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) None of the funds appropriated under this section for the payment of operating and capital expenses of intercity rail passenger service shall be used for the operation of commuter service by Amtrak Commuter.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 1139. (a) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601), as amended by this subtitle, is further amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated to the Secretary not to exceed $20,000,000 for the fiscal year ending September 30, 1982, to be allocated for commuter rail purposes to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.".

(b) There are authorized to be appropriated to the Secretary in the fiscal year beginning October 1, 1981, not to exceed $50,000,000, to facilitate the transfer of rail commuter services from Conrail to other operators. The Secretary shall by regulation prescribe standards for the obligation of such funds, and shall ensure that distribution of such funds is equitably made between Amtrak Commuter and the commuter authorities that operate commuter service. In providing for the distribution of such funds, the Secretary shall consider any particular adverse financial impact upon any commuter authority contracting with Amtrak Commuter that results from the termination of any lease or agreement between such commuter authority and Conrail. Amounts appropriated under this section are authorized to remain available until October 1, 1986.

Subpart B—Additional Financing of Conrail

ADDITIONAL FINANCING OF CONRAIL

SEC. 1140. (a) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711 et seq.) is amended by adding at the end thereof the following new section:

"ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK

"SEC. 217. (a) FEDERAL INVESTMENT.—The Association shall purchase shares of Series A preferred stock and accounts receivable of the Corporation during the period between the effective date of the Northeast Rail Service Act of 1981 and August 1, 1983, in amounts not to exceed a total of $262,000,000.

"(b) ACCOUNTS RECEIVABLE.—(1) In any further purchase under this section or section 216 of this title the Association shall purchase accounts receivable of the Corporation attributable to the dispute over the right-of-way related costs described in section 409 of the Regional Rail Reorganization Act of 1973 until the Commission resolves such dispute under section 409 of this Act, and accounts receivable of the Corporation attributable to delays in reimbursement from commuter authorities.

"(2) From funds provided under section 216 or 217, the Association shall purchase preferred stock of the Corporation, to the extent of losses on commuter service, in an amount not to exceed $15 million.

"(c) STATES AND LOCALITIES.— The Corporation shall be exempt from liability for any State tax, except for any tax imposed by any political subdivision of a State, until the property of the Corporation is transferred by the Secretary under title IV of this Act.

"(d) DEBENTURES.—The Association shall return debentures to the Corporation in an amount equal to the value of the properties conveyed by the Corporation to Amtrak Commuter and any commuter authority.

"(e) RIGHTS RETAINED.—The Corporation shall retain the right to collect and shall collect any accounts receivable attributable to delays in reimbursement from commuter authorities that are purchased by the Association under this section. No agency or instrumentality of the United States shall be required to collect such accounts.

"(f) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section not to exceed $262,000,000, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act. In addition, any amounts appropriated under section 216(g) of this Act are authorized to remain available until expended. All sums received on account of the holding or disposition of any such securities or accounts receivable shall be deposited in the general fund of the Treasury.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 216 the following new item:

"SEC. 217. ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK.".

ORGANIZATION AND STRUCTURE OF CONRAIL

SEC. 1141. (a) Section 301(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)(2)) is amended—

(1) by striking out "(other than resignations pursuant to this subsection)" in the second sentence; and

(2) by striking out the third, fourth, and fifth sentences.

(b) Section 301(e)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(e)(1)) is amended by striking out "In order to carry out the final system plan, the" and inserting in lieu thereof "The".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) SIGNAL SYSTEMS.—If, within two years after the effective date of this subsection, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, the Secretary shall approve or disapprove such application within 90 days of its submission.".

Subpart C—Transfer of Freight Service Responsibilities

TRANSFER OF FREIGHT SERVICE

SEC. 1142. The Regional Rail Reorganization Act of 1973 is amended by inserting immediately after title III the following new title:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"INTEREST OF UNITED STATES

"SEC. 401. (a) PLAN FOR SALE OF COMMON STOCK.—(1) As soon as possible after the effective date of the Northeast Rail Service Act of 1981, the Secretary shall engage the services of an investment banking firm or similar financial institution, which firm or institution shall arrange for the sale of the interest of the United States in the common stock of the Corporation under this section.

"(2) At any time after the effective date of the Northeast Rail Service Act of 1981 the Secretary may submit to the Congress a plan for the sale, in block or by public offering, of the interest of the United States in the common stock of the Corporation. Such plan shall—

"(A) ensure continued rail service;

"(B) promote competitive bidding for such common stock; and

"(C) maximize the return to the United States on its investment.

"(A) continuity of session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(b) CANCELLATION.—In making any sale under a plan submitted under subsection (a)(2), the Secretary may cancel some shares of the common stock of the Corporation and sell only the remaining shares.

"(c) REPLACEMENT OF BOARD OF DIRECTORS.—When all common stock of the Corporation held by the United States (or any agent or instrumentality thereof) is sold under a plan submitted under subsection (a)(2) or canceled under subsection (b), the Corporation shall elect a new Board of Directors. Only holders of shares of common stock may vote in such election, and each such share shall entitle its holder to one vote.

"(d) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Cor-

poration shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest in the Corporation.

"(e) STOCK OFFERING.—In making any sale under a plan submitted under subsection (a)(1), the Secretary shall first offer to any employees whose wages are reduced pursuant to any agreement entered into under section 217(c)(5) of this Act, stock in amounts equal to the extent of such wage reduction.

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) LIMITATION.—Prior to any sale of the common stock of the Corporation under section 401, the interest of the United States in any debt or preferred stock of the Corporation held by the United States (or any agent or instrumentality thereof, including the Association) shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of the Corporation. The Secretary shall substitute for the evidence of such debt or preferred stock held by the United States (or any such agent or instrumentality) contingency notes conforming to the limited terms set forth in this subsection.

"(b) SUBSEQUENT ISSUE.—If the interest of the United States is limited under subsection (a) the Corporation may issue new debt or preferred stock subsequent to the issuance of the debt or preferred stock described in subsection (a) which shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt or preferred stock described in subsection (a).

"PROFITABILITY DETERMINATIONS

"SEC. 403. (a) FIRST DETERMINATION.—(1) On June 1, 1983, the Board of Directors of the Association (hereafter in this title referred to as the 'USRA Board') shall make a determination whether the Corporation will be a profitable carrier. For the purpose of making such determination the USRA Board shall assume that the interest of the United States in any debt or preferred stock of the Corporation is limited as required under section 402 of this Act.

"(2) As used in this subsection, 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, and which would be able to borrow capital sufficient to maintain its operations if all outstanding debt issued to the Federal Government were excused.

"(3)(A) If the USRA Board determines under paragraph (1) of this subsection that the Corporation will be a profitable carrier, the Secretary shall continue to attempt to sell the interest of the United States in the common stock of the Corporation under section 401 of this Act.

"(B) If the USRA Board determines under paragraph (1) of this subsection that the Corporation will not be a profitable carrier, the Secretary shall initiate discussions and negotiations under section 405 of this Act for the transfer of the Corporation's freight rail properties and service responsibilities.

"(b) SECOND DETERMINATION.—(1) As soon after November 1, 1983, as the necessary information is available, if the USRA Board has determined under subsection (a)(1) of this section that the Corporation will be a profitable carrier such Board shall make a determination as to whether the Corporation has been a profitable carrier during the period beginning June 1, 1983, and ending October 31, 1983.

"(2) The USRA shall use the same standard for the determination under paragraph (1) of this subsection as it used for the determination under subsection (a)(1) of this section.

"(3)(A) If the USRA Board determines under paragraph (1) of this subsection that the Corporation has been a profitable carrier, the Secretary shall continue to attempt to sell the interest of the United States in the common stock of the Corporation under section 401 of this Act.

"(B) If the USRA Board determines under paragraph (1) of this subsection that the Corporation has not been a profitable carrier, the Secretary shall initiate discussions and negotiations under section 405 of this Act for the transfer of the Corporation's freight rail properties and service responsibilities.

"FAILURE TO SELL AS ENTITY

"SEC. 404. (a) NOTIFICATION.—After June 1, 1984, the Secretary may notify the USRA Board that he has determined that he is unable to sell the interest of the United States in the common stock of the Corporation under section 401 of this Act.

"(b) USRA BOARD APPROVAL.—(1) If the USRA Board approves any determination of the Secretary it is notified of under subsection (a)(1) the employees of the Corporation may, within 90 days after the date of such approval, submit to the Secretary a plan for the purchase of the common stock of the Corporation.

"(2) The Secretary shall approve any plan submitted under paragraph (1) of this subsection if, taking into account any consideration to be received by the Corporation from any sale of debt instruments or newly issued common stock as part of the purchase transaction, the Corporation's earnings and earnings prospects are sufficient to meet its operating and capital requirements and permit it adequate access to the private capital markets for any additional capital it may require, so that the Corporation will not require further Federal financial assistance.

"(3) If the Secretary does not approve the plan submitted under paragraph (1) of this section the Secretary shall initiate discussions and negotiations under section 405 of this Act for the transfer of the Corporation's freight rail properties and service responsibilities.

"(c) USRA BOARD DISAPPROVAL.—(1) If the USRA Board disapproves any determination of the Secretary it is notified of under subsection (a), the Secretary shall continue to attempt to sell the interest of the United States in the common stock of the Corporation.

"(2) The Secretary may notify the USRA Board that he has determined that he is unable to sell the interest of the United States in the common stock of the Corporation each 90 days thereafter, and such determination shall be subject to the approval or disapproval under the provisions of this section.

"TRANSFER PLAN

"SEC. 405. (a) INITIAL DISCUSSIONS.—If the Corporation is determined not to be a profitable carrier by the USRA Board under subsections (a) or (b) of section 403, or if any plan for the purchase of the common stock of the Corporation under section 404(b) is not approved by the Secretary, the Secretary, in consultation with the Corporation, shall initiate discussions and negotiations under section 5 of the Department of Transportation Act (49 U.S.C. 1654) with potential purchasers for the transfer of the Corporation's freight rail properties and service responsibilities, specifically including freight terminal operations in the Northeast Corridor.

"(b) CONFERENCES.—As a part of the process set forth in subsection (a), the Secretary shall consult with railroads, representatives of employees of the Corporation and other railroads that may be affected, appropriate State and local government officials, shippers, consumer representatives, potential purchasers or operators other than railroads, and holders of purchase money equipment obligations. The Secretary shall hold conferences in developing plans for the sale of the Corporation and persons attending or represented at such conferences shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference, or with respect to any agreements reached at such conferences, which are entered into with the approval of the Secretary.

"(c) FREIGHT TRANSFER AGREEMENTS.—Any agreement for the transfer of the Corporation's rail properties and service responsibilities (hereafter in this title referred to as 'freight transfer agreements') shall specify the rail properties and the service responsibilities to be transferred to the acquiring railroad and the price to be paid for rail properties transferred, and shall include such other terms as the Secretary, consulting with the Corporation, and the acquiring railroad consider appropriate.

"(d) TERMINAL COMPANIES.—Not later than 1 year after the freight transfer agreements are implemented pursuant to section 408 of this title, the Secretary shall arrange for the formation by railroads of one or more terminal companies, to be operated as private corporations without Federal operating subsidy, to provide switching and terminal services in the Northeast Corridor without preference to the traffic of any railroad. Notwithstanding the provisions of the preceding sentence, the Secretary shall not be required to arrange for the formation of such terminal companies if he certifies in writing to the Congress that individual acquiring railroads are capable of assuring adequate freight terminal operations in the Northeast Corridor.

"(e) COMPETITION.—Discussion and negotiations for freight transfer agreements shall be conducted, to the maximum extent practicable, to assure the preservation and enhancement of rail competition in the Northeast. In the development of freight transfer agreements, rail lines which have heavy rail freight activity shall receive priority designation for competitive service. In determining such priority the Secretary shall consider shipper input and other relevant data.

"(f) REPORT.—The Secretary shall submit to the Congress every six months a report regarding his activities under this section. If the Secretary finds that he is unable to sell the interest of the United States in the common stock of the Corporation under section 401 of this Act, he shall concurrently notify the Congress and the USRA Board of such finding.

"CONSOLIDATION OF AGREEMENTS

"SEC. 406. (a) GOALS.—The Secretary shall ensure that freight transfer agreements entered into under the authority of this title provide for the continuation of the opti-

mum level of self-sustaining rail service consistent with the needs of the service area, the long-term viability of acquiring railroads operating in the private sector, the preservation and enhancement of transportation competition, and the orderly disposition of equipment subject to railroad equipment obligations and of rail properties subject to contractual obligations based on improvements directly financed by States, localities, and shippers.

"(b) TRANSFER DATE.—All freight transfer agreements entered into under this title shall include as a term a common transfer date.

"(c) CONSOLIDATION.—The Secretary shall consolidate, for purposes of approval and review, all freight transfer agreements and shall ensure that no less than 75 percent of the total rail service operated by the Corporation on the date of transfer shall be maintained under the aggregate of such agreements. If the Secretary acts to grant preliminary or final approval to the freight transfer agreements, the Secretary shall include in his determination a listing of those rail properties not specified in such agreements for transfer, and the likely disposition of such properties.

"PUBLIC COMMENT AND CONGRESSIONAL NOTIFICATION

"SEC. 407. (a) ATTORNEY GENERAL.—If the Secretary grants preliminary approval to the freight transfer agreements, the Secretary shall publish a summary of the agreements in the Federal Register, requesting public comment. The period for comment shall be not less than 30 days. The Secretary shall, upon the expiration of such 30-day period, transmit the freight transfer agreements with any proposed modifications to the Attorney General. The Attorney General shall, within 10 days of receipt of such transmittal, advise the Secretary as to whether any freight transfer agreement or combination of agreements would create or maintain a situation inconsistent with the antitrust laws of the United States, and the Secretary shall give due consideration to any such advice that may be rendered. The transmittal to the Attorney General shall contain such information as the Attorney General may require in order to advise the Secretary as to whether the freight transfer agreements under consideration would create or maintain a situation inconsistent with such antitrust laws.

"(b) COMMISSION.—The Secretary shall also transmit the freight transfer agreements with any proposed modifications to the Commission on the same date that the Secretary transmits them to the Attorney General. The Commission shall, within 10 days of receipt of such transmittal, advise the Secretary as to the effect of any freight transfer agreement or combination of agreements on the adequacy of public transportation and whether any freight transfer agreement or combination of agreements would have an adverse effect on other railroads or on competition among railroads.

"(c) FINAL APPROVAL.—After consideration of comments received and any advice rendered by the Attorney General and the Commission, but no later than 90 days after the close of public comment under subsection (a), the Secretary may grant final approval to the freight transfer agreements. With the consent of the acquiring railroad, the Secretary may modify a freight transfer agreement prior to granting such final approval.

"(d) CONGRESSIONAL REVIEW.—If the Secretary grants final approval to the freight transfer agreements, the Secretary shall, within 10 days of such approval, transmit a copy of such agreements to each House of Congress, together with the Secretary's determination of final approval. The freight transfer agreements shall be deemed approved at the end of 60 calendar days of continuous session of the Congress, unless either the House of Representatives or the Senate or both passes a resolution during such period stating that they do not favor the freight transfer agreements. For purposes of this subsection—

"(1) continuity of session of the Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the period described in this subsection.

"PERFORMANCE UNDER AGREEMENTS; EFFECT

"SEC. 408. (a) TRANSFER.—If neither House of Congress has acted to disapprove the freight transfer agreements within 60 days, rail properties shall be conveyed and service responsibilities of the Corporation shall be transferred in accordance with the freight transfer agreements. Such conveyances and transfers shall not be subject to the provisions of subtitle IV of title 49, United States Code, or, with respect to the issuance and sale of securities to the United States or the Corporation for the purpose of financing such transfers, to the registration and prospectus delivery requirements of the Securities Act of 1933, or to the laws of any State with respect to the issuance and sale of securities.

"(b) RESPONSIBILITIES.—On the date the common stock or the rail properties and service responsibilities of the Corporation are transferred under this title—

"(1) the acquiring railroad shall be deemed a railroad subject to subtitle IV of title 49, United States Code, and shall be deemed qualified thereunder to provide the service responsibilities assumed; and

"(2) the Corporation shall discontinue, and shall be relieved of any responsibility to operate rail service over any line of railroad conveyed under the freight transfer agreements and all other rail properties of the Corporation.

"(c) REVIEW.—No transfer of the Corporation's stock or rail properties and freight service responsibilities under this title shall be subject to judicial review or to review by the Commission.

"(d) SALE DATE.—Unless the Corporation is found not profitable under section 403(a) or (b) of this title, the Secretary may not sell the rail properties and service responsibilities of the Corporation until June 1, 1984.

"ASSIGNMENT

"SEC. 409. LIABILITY.—(a) Notwithstanding any other provision of this title, if an interest in rail properties is conveyed pursuant to section 408 of this Act, and if such conveyance is in accordance with the requirements of subsection (b) of this section, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve Conrail of liability for any breach which occurs after the date of such conveyance, except that Conrail shall remain liable for any breach, event of default, or violation of covenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than Conrail, such person or entity shall have a claim to direct reimbursement from Conrail, together with interest on the amount so paid.

"(b) CONVEYANCE.—(1) A conveyance referred to in subsection (a) of this section may be effected only if—

"(A) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed),

"(B) such conveyance is made subject to such obligations, and

"(C) in the event of a conveyance of property to persons other than Class I or II railroads, such conveyance must be approved by any party who is a owner, lessor, equipment trustee, or conditional sale vendor to Conrail on any debt instrument imposing a lien or encumbrance on or otherwise affecting the title or interest in the rail properties to be conveyed, provided that such approval may not be unreasonably withheld and may be withheld only for lack of credit worthiness.

As used in this paragraph, the term "rail properties" means assets or rights owned, leased, or otherwise controlled by Conrail, other than real property, which are used or useful in rail transportation service.

"(2) Subject to the provisions of this subsection, the provisions of this title shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 1168 of title 11, United States Code. An assignee to whom such a conveyance is made shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by such an assignee, shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provision of any such agreement or lease.

"SUBSIDIARIES

"SEC. 410. The Corporation, by January 1, 1982, shall identify those of its subsidiaries (other than the Conrail Equity Corporation) which did not operate at a profit during the preceding 12-month period, and shall, not later than 12 months after the date of enactment of this subtitle, seek to sell any subsidiary identified as not profitable unless the Association determines that the benefits of maintaining ownership of such subsidiary outweigh the financial loss resulting from such ownership.".

Part 3—Protection for Conrail Employees

PROTECTION OF CONRAIL EMPLOYEES

SEC. 1143. (a) The Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF EMPLOYEES

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 701. (a) GENERAL.—(1) The Secretary of Labor and the representatives of the various classes and crafts of employees of the Corporation shall, not later than 90 days after the effective date of this title, enter

into an agreement providing protection for employees of the Corporation who were protected by the compensatory provisions of title V of this Act immediately prior to the effective date of the Northeast Rail Service Act of 1981 and who are, or may be, deprived of employment by actions taken under this Act and the Northeast Rail Service Act of 1981. An employee shall be considered deprived of employment if unable to obtain a position with an acquiring railroad, or to obtain a position with the Corporation, the Rail Passenger Service Corporation, or a commuter authority through the normal exercise of seniority or, in the case of a non-agreement employee, by written application.

"(2) If the parties are unable to reach agreement under paragraph (1) within 90 days, the Secretary of Labor shall, within 30 days after the expiration of such 90-day period, prescribe the benefit schedule.

"(b) USE OF FUNDS.—The agreement entered into under this section may provide for the use of funds made available under section 713 of this Act for the following purposes:

"(1) Allowances to employees deprived of employment.

"(2) Moving expenses for employees who must make a change in residence.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Termination allowances for employees.

"(5) Health and welfare insurance premiums.

"(6) Such other purposes as may be agreed upon by the parties.

"(c) APPLICABILITY.—Any employee of the Corporation who is eligible for benefits under an agreement entered into under this section and who is transferred to the the Rail Passenger Service Corporation, to the Amtrak Commuter Services Corporation, or to a commuter authority pursuant to title V of the Rail Passenger Service Act shall remain eligible for such benefits.

"(d) LIMITATION.—(1) The agreement of the parties and the benefit schedule prescribed by the Secretary under this section may not require the expenditure of funds in excess of the amount authorized to be appropriated under section 713 of this Act, or provide benefits for any individual employee in excess of $20,000.

"(2) Eligibility for benefits under this section shall terminate after the last day of the two-year period beginning on the date of enactment of this section.

"TERMINATION ALLOWANCE

"SEC. 702. (a) GENERAL.—The Corporation may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of $350 for each month of active service with the Corporation or with a railroad in reorganization, but in no event may any such termination allowance exceed $25,000.

"(b) EMPLOYMENT NEEDS.—Within 90 days after the effective date of this title, the Corporation shall determine, for each location, the number of employees that the Corporation intends to separate under subsection (a) of this section.

"(c) NOTIFICATION AND SEPARATION PROCEDURE.—(1) Within 90 days after the effective date of this title, the Corporation shall notify its employees of their rights and responsibilities under this section.

"(2) Within 90 days after the effective date of this title, the Corporation shall notify each train and engine service employee eligible to be separated under paragraph (3) that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

"(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by the Corporation, the Corporation shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at that location, as determined by the Corporation, have been eliminated.

"(d) DESIGNATED SEPARATIONS.—If the number of employees who are separated pursuant to subsection (c)(3) is less at any location than the number of excess firemen in freight and commuter service and second and third brakemen in freight service at such location, as determined by the Corporation, the Corporation may, after 210 days after the effective date of this title, designate for separation employees in engine service or train service respectively in inverse order of seniority, beginning with the most junior employee in active service at such location until the excess firemen in freight and commuter service and second and third brakemen in freight service, at that location have been eliminated. An employee designated under this subsection may choose (1) to furlough himself voluntarily, in which case the next most junior employee protected under the fireman manning or crew consist agreements or any other agreement or law, in the same craft or class at such location may be separated instead and receive the separation allowance, or (2) to exercise his seniority to another location, in which case the Corporation may separate, under the provisions of this subsection, the next most junior protected employee in active service at the location to which seniority ultimately is exercised.

"(e) EFFECT ON POSITIONS.—(1) The Corporation shall refrain from filling one fireman position in freight service for each employee in engine service separated in accordance with this section.

"(2) The Corporation may refrain from filling one brakeman position in excess of one conductor and one brakeman on one crew in freight service for each employee in train service who is separated in accordance with this section.

"(3) Positions permitted to be not filled under this subsection shall be not filled in different types of freight service actually operated at or from the location in a sequence to be agreed upon between the Corporation and the general chairman representative of classes or crafts of employees having jurisdiction over the positions to be not filled. If no such agreement is reached, the Corporation may designate the position to be not filled.

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, the Corporation shall retain all rights it has under any provision of law or agreement to refrain from filling any position of employment.

"(f) PROCEDURES.—The Corporation and representatives of the various classes and crafts of employees to be separated may agree on procedures to implement this section, but the absence of such agreement shall not interfere with implementation of the separations authorized by this section.

"(g) PASSENGER EMPLOYEES.—The provisions of this section shall apply to the separation of firemen in commuter service, except that with respect to such employees the Corporation is required to make the separations authorized by this section.

"PREFERENTIAL HIRING

"SEC. 703. (a) GENERAL.—Any employee who is deprived of employment shall have the first right of hire by any other railroad for a vacancy for which he is qualified in a class or craft (or in the case of a non-agreement employee, for a non-agreement vacancy) in which such employee was employed by the Corporation or a predecessor carrier for not less than one year, except where such a vacancy is covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

"(b) STATUS.—The first right of hire afforded to employees under this section shall be coequal to the first right of hire afforded under section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).

"CENTRAL REGISTER OF RAILROAD EMPLOYMENT

"SEC. 704. (a) REGISTER.—(1) The Railroad Retirement Board (hereinafter in this section referred to as the 'Board') shall prepare and maintain a register of persons separated from railroad employment after at least one year of completed service with a railroad who have declared their current availability for employment in the railroad industry. The register shall be subdivided by class and craft of prior employment and shall be updated periodically to reflect current availability.

"(2) Each entry in the register shall include, or provide access to, basic information concerning the individual's experience and qualifications.

"(3) The Board shall place at the top of the register those former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(b) CORPORATION EMPLOYEES.—As soon as is practicable after the effective date of this title, the Corporation shall provide to the Board the names of its former employees who elect to appear on the register and who have not been offered employment with acquiring railroads.

"(c) VACANCY NOTICES.—Each railroad shall timely file with the Board a notice of vacancy with respect to any position for which the railroad intends to accept applications from persons other than current employees of that carrier.

"(d) PLACEMENT.—The Board shall, through distribution of copies of the central register (or portions thereof) to railroads and representatives of classes or crafts of employees and through publication of employment information derived from vacancy notices filed with the Board, promote the placement of former railroad employees possessing requisite skills and experience in appropriate positions with other railroads.

"(e) EMPLOYMENT APPLICATIONS.—In addition to its responsibilities under subsections (a) through (d) of this section, the Board shall facilitate the filing of employment ap-

plications with respect to current vacancies in the industry by former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(f) EXPIRATION.—The provisions of this section shall cease to be effective on the expiration of the 3-year period beginning on the effective date of this title.

"(g) RESOLUTION OF DISPUTES.—Any dispute, grievance, or claim arising under this section or section 703 of this Act shall be subject to resolution in accordance with the following procedures:

"(1) Any employee with such a dispute, grievance, or claim may petition the Board to review and investigate the dispute, grievance, or claim.

"(2) The Board shall investigate the dispute, grievance, or claim, and if it concludes that the employee's rights under this section or section 703 of this Act may have been violated, the dispute, grievance, or claim shall be subject to resolution in accordance with the procedures set forth in section 3 of the Railway Labor Act (45 U.S.C. 153).

"(3) In the case of any violation of this section or section 703 of this Act, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act shall, where appropriate, award such relief, including back pay, as may be necessary to enforce the employee's rights.

"ELECTION AND TREATMENT OF BENEFITS

"SEC. 705. (a) ELECTION.—(1) Any employee who accepts any benefits under an agreement entered into under section 701 of this Act or a termination allowance under section 702 of this Act, shall, except as provided in paragraph (2) of this subsection, be deemed to waive any employee protection benefits otherwise available under any other provision of law or any contract or agreement in effect on the effective date of this title, except benefits under sections 703 and 704 of this Act, and shall be deemed to waive any cause of action for any alleged loss of benefits resulting from the provisions of or the amendments made by the Northeast Rail Service Act of 1981.

"(2) Nothing in paragraph (1) of this subsection shall affect the right of any employee described in such paragraph to benefits under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act.

"(b) TREATMENT OF BENEFITS.—Any benefits received by an employee under an agreement entered into pursuant to section 701 of this Act and any termination allowance received under section 702 of this Act shall be considered compensation solely for purposes of—

"(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

"(2) determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"ASSIGNMENT OF WORK

"SEC. 706. (a) GENERAL.—With respect to any craft or class of employees not covered by a collective bargaining agreement that provides for a process substantially equivalent to that provided for in this section, the Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated. Prior to the exercise of authority under this subsection, the Corporation shall negotiate an agreement with the representative of the employees involved permitting such employees the right to follow their work.

"(b) EXPIRATION.—The authority granted by this section shall apply only for as long as benefits are provided under this title with funds made available under section 713 of this Act.

"CONTRACTING OUT

"SEC. 707. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the employees of the classes or crafts involved shall continue to be performed by the Corporation's employees, including employees on furlough. Should the Corporation lack a sufficient number of employees, including employees on furlough, and be unable to hire additional employees, to perform the work required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees, including those on furlough, except where agreement by the representatives of the employees of the classes or crafts involved is required by applicable collective-bargaining agreements. The term 'unable to hire additional employees' as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

"NEW COLLECTIVE-BARGAINING AGREEMENTS

"SEC. 708. (a) AGREEMENT.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes or crafts of employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are the employees of the Corporation. Such collective bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not, before April 1, 1984, include any provisions for job stabilization which may exceed or conflict with those established herein. Negotiations with respect to such single collective bargaining agreement, and any successor thereto, shall be conducted systemwide.

"(b) PROCEDURE.—(1) Any procedure for finally determining the components of the first single collective bargaining agreement for any class or craft, agreed upon before the effective date of this title, shall be completed no later than 45 days after such effective date. Such agreed upon procedure shall be deemed to satisfy the requirements of sections 7 and 8 of the Railway Labor Act. The National Mediation Board shall appoint any person as provided for by such agreements.

"(2) Nothing in this section shall be construed to require the parties to enter into a new single collective bargaining agreement if the agreement between the parties in effect immediately prior to the effective date of this title complied with section 504(d) of this Act as in effect immediately prior to such date.

"(c) RAILWAY LABOR ACT NOTICES.—Employees of the Corporation may not serve notices under section 6 of the Railway Labor Act for the purpose of negotiating job stabilization or other protective agreements with the Corporation until after April 1, 1984.

"EMPLOYEE AND PERSONAL INJURY CLAIMS

"SEC. 709. (a) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims, prior to April 1, 1976, by employees, arising under the collective bargaining agreements of the railroads in reorganization in the Region, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the Region. Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid pursuant to this subsection by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

"(b) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the Region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association or its successor authority to be the obligation of such railroad. Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation

or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations were discharged or paid.

"LIMITATIONS ON LIABILITY

"SEC. 710. (a) FEDERAL GOVERNMENT.—The liability of the United States under an agreement entered into or benefit schedule prescribed under section 701 of this Act or for payment of a termination allowance under section 702 of this Act shall be limited to amounts appropriated under section 713 of this Act.

"(b) THE CORPORATION.—(1) The Corporation shall incur no liability under an agreement entered into or benefit schedule prescribed under section 701 of this Act or for the payment of a termination allowance under section 702 of this Act.

"(2) Notwithstanding any other provision of law, until April 1, 1984, Conrail shall have no liability for employee protection in the event of a sale of any asset to a purchaser, and such purchaser shall assume the liability for the application of employee protection conditions imposed by the Commission for all employees adversely affected by such sale.

"PREEMPTION

"SEC. 711. No State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation, the National Railroad Passenger Corporation, or the Amtrak Commuter Services Corporation to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees, and no State in the Region may adopt or continue in force any such law, rule, regulation, order, or standard with respect to any railroad in the Region.

"FACTFINDING PANEL

"SEC. 712. (a) PURPOSE.—The Corporation shall enter into collective bargaining agreements with its employees which provide for the establishment of one or more advisory factfinding panels, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(b) NATIONAL MEDIATION BOARD.—The National Mediation Board shall appoint public members to any panel established by an agreement entered into under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(c) OTHER FUNCTIONS.—The factfinding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated to carry out the provisions of this title not to exceed $385,000,000. Of the amounts authorized to be appropriated under this section, not more than $115,000,000 shall be available solely for termination allowances under section 702 of this Act. Any amounts not expended for termination allowances under section 702 shall be available for purposes of section 701 of this Act. In addition to funds authorized under this section, any funds appropriated under section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) for use under section 216(b)(3) of the Regional Rail Reorganization Act of 1973 shall be available to the Association, and the Association shall make available to the Corporation as a grant such funds to accomplish the purposes of this title. Amounts appropriated under this section are authorized to remain available until expended.

"ARBITRATION

"SEC. 714. Any dispute or controversy with respect to the interpretation, application, or enforcement of the provisions of this title, except sections 703, 704, 708, and 713, or of the provisions of section 1144 of the Northeast Rail Service Act of 1981, and except those matters subject to judicial review under section 1152 of the Northeast Rail Service Act, which have not been resolved within 90 days, may be submitted by either party to an Adjustment Board for a final and binding decision thereon as provided in section 3 of the Railway Labor Act, in which event the burden of proof on all issues so presented shall be on the Corporation, or the Association, where appropriate.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new items:

"TITLE VII—PROTECTION OF EMPLOYEES

"Sec. 701. Employee protection agreement.
"Sec. 702. Termination allowance.
"Sec. 703. Preferential hiring.
"Sec. 704. Central register of railroad employment.
"Sec. 705. Election and treatment of benefits.
"Sec. 706. Assignment of work.
"Sec. 707. Contracting out.
"Sec. 708. New collective bargaining agreements.
"Sec. 709. Employee and personal injury claims.
"Sec. 710. Limitations on liability.
"Sec. 711. Preemption.
"Sec. 712. Factfinding panel.
"Sec. 713. Authorization of appropriations.
"Sec. 714. Arbitration.".

REPEALS

SEC. 1144. (a)(1) Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.), and the items in the table of contents of such Act relating to such title V, are repealed.

(2) Notwithstanding the repeal made by paragraph (1) of this subsection—

(A) benefits accrued as of October 1, 1981, as a result of events that occurred wholly prior to October 1, 1981, shall be disbursed except as provided in paragraph (3); and

(B) any dispute or controversy regarding such benefits shall be determined under the terms of the law in effect on the date the claim arose.

(3) Benefits shall not be disbursed under paragraph (2)(A) unless the employee has filed a claim for such benefits within 90 days after the date of repeal; except that, with respect to a claim which is the subject of or is based upon any arbitration decision issued after the date of repeal, such 90-day period shall not commence until such arbitration decision is issued to the employee and the employee's representative; and no benefits shall be disbursed unless appropriations for such purposes are or become available.

(4) The provisions of this subsection shall take effect on the first day of the first month beginning after the date of enactment of this subtitle.

(b) Section 11 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 910) and section 107 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1006) (relating to maintenance of certain employee lists) are repealed.

PART 4—TERMS OF LABOR ASSUMPTION

Subpart A—Passenger Employees

TRANSFER OF PASSENGER SERVICE EMPLOYEES

SEC. 1145. Title V of the Rail Passenger Service Act, as added by this subtitle, is amended by adding at the end thereof the following new sections:

"SEC. 508. TRANSFER OF EMPLOYEES.

"(a) Not later than May 1, 1982, Conrail, commuter authorities that intend to operate commuter service, and representatives of the various crafts or classes of employees of Conrail to be transferred to the commuter authorities shall enter into neotiations for an implementing agreement in accordance with subsection (c) of this section.

"(b) Not later than May 1, 1982, Conrail, Amtrak Commuter, and representatives of the various crafts or classes of employees of Conrail to be transferred to Amtrak Commuter shall enter into negotiations for an implementing agreement in accordance with subsection (c) of this section.

"(c) Such negotiations shall—

"(1) determine the number of employees to be transferred to Amtrak Commuter or a commuter authority;

"(2) identify the specific employees of Conrail to whom Amtrak Commuter or a commuter authority offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with Amtrak Commuter or a commuter authority;

"(4) determine the procedure for acceptance of such employees into employment with Amtrak Commuter or a commuter authority;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in Amtrak Commuter or with a commuter authority which shall, to the extent possible, preserve their prior seniority rights;

"(6) ensure that all such employees are transferred to Amtrak Commuter or a commuter authority no later than January 1, 1983, and

"(7) ensure the retention of prior seniority of Conrail of employees transferring to Amtrak or commuter authority and determine the extent and manner in which such employees shall be permitted to exercise such seniority in order to (A) provide employees transferred to Amtrak Commuter or a commuter authority at least one opportunity every six-month period to exercise previous freight seniority rights, (B) maximize employment opportunities for employees on furlough, (C) maintain the ability to recall experienced employees, (D) ensure that under no circumstances are seniority rights exercised in any manner which results any disruption of service or in a position being filled which would otherwise not be filled under the terms of any crew consist, fire-

man manning, or other similar agreement, and seniority.

"(d)(1) If agreements with respect to the matters being negotiated pursuant to this section are not reached by August 1, 1982, the parties to the negotiations shall, within an additional 5 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall immediately appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to this section not later than 5 days after the date he is selected or appointed, and shall render a decision within 20 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The National Mediation Board shall fix and pay the compensation of such referees.

"(e) If Amtrak Commuter transfers commuter service and properties to a commuter authority under section 506(e) of this part, Amtrak Commuter, the commuter authority, and representatives of the various crafts or classes of employees to be transferred to the commuter authority shall enter into an implementing agreement in accordance with subsection (c) of this section. If no agreement is reached by the date service and properties are transferred, the dispute shall be resolved by a neutral referee in accordance with subsection (d) of this section.

"(f) Any employee of the Conrail who is not offered employment with Amtrak Commuter or a commuter authority under agreements entered into under this section shall be provided employee protection under section 701 of the Regional Rail Reorganization Act of 1973 to the same extent as if such employee had remained in the employ of Conrail.

"SEC. 509. FACT FINDING PANEL

"(a) Amtrak Commuter or a commuter authority and the representatives of the various classes and crafts of employees to be transferred to Amtrak Commuter or such commuter authority shall, within 120 days after the effective date of this title, establish a fact-finding panel, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which would result in greater producitivity to the maximum extent practicable.

"(b) The National Mediation Board shall appoint public members to the panel established under subsection (a) of this section.

"(c) The fact-finding panel shall, by July 1, 1982, submit a report to the parties setting forth its recommendations for changes in operating practices and procedures.

"(d) The fact-finding panel may provide mediation, conciliation, and other assistance to the parties.".

"SEC. 510. COLLECTIVE BARGAINING AGREEMENT FOR AMTRACK COMMUTER OR COMMUTER AUTHORITIES.

"(a)(1) Not later than September 1, 1982, the commuter authorities that intend to operate commuter services and the representatives of the various classes or crafts of employees to be transferred to such commuter authorities under agreements entered into under section 508 of this Act shall enter into new collective bargaining agreements with respect to rates of pay, rules, and working conditions.

"(2) Not later than September 1, 1982, Amtrak Commuter and the representatives of the various classes of employees to be transferred to Amtrak Commuter under agreements entered into under section 508 of this Act shall enter into new collective bargaining agreements with respect to rates of pay, rules, and working conditions.

"(b) If the parties have not reached an agreement by the date specified in subsection (a) of this section, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may, within 15 days after such date, request the President to establish an emergency board pursuant to subsection (c) of this section.

"(c) Within 15 days after the request under subsection (b) of this section of a party or a Governor, the President shall create an emergency board. Such board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony, and shall, within 30 days after the date of its creation, report on the dispute.

"(d) If no settlement in the dispute is reached within 10 days after report of the emergency board, such board shall require the parties to the dispute to submit, within 5 days, final offers to the board for settlement of the dispute.

"(e) Within 15 days after the submission of final offers, the emergency board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(f) If the emergency board selects a final offer submitted by a carrier and the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(g) If the emergency board selects a final offer submitted by the employees and the carrier refuses to accept such offer, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.

"(h) The provisions set forth in this section shall be the exclusive means for resolving any dispute relating to entering into an initial collective bargaining agreement between Amtrak Commuter or a commuter authority, as the case may be, and representatives of the various classes or craft of employees to be transferred to Amtrak Commuter or such commuter authority.".

Subpart B—Freight Employees

LABOR TRANSFER

SEC. 1146. (a) Title IV of the Regional Rail Reorganization Act of 1973, as added by this subtitle, is amended by adding at the end thereof the following new sections:

"LABOR TRANSFER AGREEMENTS

"SEC. 411. (a) IMPLEMENTING AGREEMENT.—Within 30 days after the date any freight transfer agreement is entered into under this title, any class I or class II railroad purchasing rail properties under such agreement, including any entity that attains such status on the transfer date, and the representatives of the various crafts or classes of employees of the Corporation to be transferred to such railroad or other entity shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to such railroad;

"(2) identify the specific employees of the Corporation to whom such railroad or other entity offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with such railroad or other entity;

"(4) determine the procedure for acceptance of such employees into employment with such railroad or other entity;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in the system of such railroad or other entity, which shall, to the extent possible, preserve their prior freight service seniority rights; and

"(6) ensure that all such employees are transferred to such railroad or other entity no later than 120 days after the date the transfer agreement is entered into under this title.

"(b) DECISION OF REFEREE.—(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (a) within 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The National Mediation Board shall fix and pay the compensation of such referees.

"LABOR CONDITIONS

"SEC. 412. (a) NEW YORK DOCK.—Employees of the corporation who are transferred under this title shall be entitled to the labor protection benefits set forth in New York Dock Railway-Control-Brooklyn Eastern Terminal, 360 ICC 60 (1979), except as provided in subsection (b) of this section.

"(b) ALTERNATIVES.—(1) If the entity to which such employees are transferred was a railroad under the provisions of subtitle IV of title 49, United States Code, prior to the date of transfer, and the parties are unable to reach a collective bargaining agreement under procedures referred to in subsection (a), the collective bargaining agreement in effect between such railroad and its employees shall govern.

"(2) If the entity to which such employees are transferred was not a railroad under the provisions of subtitle IV of title 49, United States Code, prior to the date of transfer, and the parties are unable to reach a collective bargaining agreement under procedures referred to in subsection (a), the collective bargaining agreement in effect between the Corporation and its employees prior to the date of transfer shall govern.

"(c) CLASS III EXEMPTION.—The provisions of this section shall not apply to any Class III carrier.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by striking out the items relating to title IV and inserting in lieu thereof the following new items:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"Sec. 401. Interest of United States.
"Sec. 402. Debt and preferred stock.
"Sec. 403. Profitability determinations.
"Sec. 404. Failure to sell as entity.
"Sec. 405. Transfer plan.
"Sec. 406. Consolidation of agreements.
"Sec. 407. Public comment and congressional notification.
"Sec. 408. Performance under agreements; effect.
"Sec. 409. Assignment.
"Sec. 410. Subsidiaries.
"Sec. 411. Labor transfer agreements.
"Sec. 412. Labor conditions.".

PART 5—UNITED STATES RAILWAY ASSOCIATION

ORGANIZATION OF USRA

SEC. 1147. (a) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by striking out subsections (d) through (i), by redesignating subsections (j) and (k) as subsections (g) and (h), respectively, and by inserting after subsection (c) the following new subsections:

"(d) BOARD OF DIRECTORS.—(1) The Board of Directors of the Association shall consist of five individuals, as follows:

"(A) The Chairman, who shall be the present Chairman until the expiration of his term or his resignation, and his replacement shall be selected by himself and the other members of the Board.

"(B) The Secretary of Transportation.

"(C) The Comptroller General of the United States.

"(D) The Chairman of the Commission.

"(E) The Chairman of the Board of Directors of the Corporation.

"(2) The Chairman may not have any employment or other direct financial relationship with any railroad. The Chairman shall receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"(e) TERM OF OFFICE.—The term of office of the Chairman of the Board of Directors of the Association shall expire on December 31, 1983. The Chairman may be reappointed for an additional term of 3 years.

"(f) QUORUM.—Three members of the Board of Directors shall constitute a quorum for the transaction of any function of the Association.".

(b) The amendment made by this subsection shall not affect the term of the individual serving as Chairman of the United States Railway Association on the effective date of this subtitle.

FUNCTIONS OF USRA

SEC. 1148. (a) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712) is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsection:

"(a) GENERAL.—The Association is authorized to—

"(1) monitor the financial performance of the Corporation;

"(2) determine whether the conditions and requirements of this Act are met;

"(3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether debt or equity) of the Corporation under sections 216 and 217 of this Act and exercise all of the rights, privileges, and powers of a holder of any such securities;

"(4) purchase accounts receivable of the Corporation in accordance with section 217 of this Act; and

"(5) appoint and fix the compensation of such personnel as the Association considers necessary and appropriate."; and

(2) by redesignating subsections (c) through (j) as subsections (b) through (i), respectively.

(b) The section heading of section 202 of the Regional Rail Reorganization Act of 1973 is amended by striking out "general powers and duties" and inserting in lieu thereof "functions".

(c) The item relating to section 202 in the table of contents of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"Sec. 202. Functions of the Association.".

ACCESS TO INFORMATION

SEC. 1149. Section 203 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 713) is amended to read as follows:

"ACCESS TO INFORMATION

"SEC. 203. The Corporation shall make available to the Association such information as the Association determines necessary for the Association to carry out its functions under this Act. The Association shall request from other parties which are affected by this Act information which will enable the Association to determine if the conditions of this Act are met.".

UNITED STATES RAILWAY ASSOCIATION REPORTS

SEC. 1150. (a) Title II of the Regional Rail Reorganization Act of 1973, as amended by this subtitle, is amended further by adding at the end thereof the following new sections:

"UNITED STATES RAILWAY ASSOCIATION REPORTS

"SEC. 218. (a) PROGRESS AND EVALUATION.—(1) The Association shall prepare and submit to Congress periodic reports on the progress of the Secretary in carrying out the provisions of titles II, III, and IV of this Act.

"(2) Reports submitted under paragraph (1) of this subsection shall also include an evaluation of the performance of the Corporation in order to keep the Congress informed as to matters which may affect the quality of rail service in the Northeast and which may affect the security of Federal funds invested in the Corporation.

"(b) TRANSFER AGREEMENTS.—(1) The Association shall prepare and submit to Congress a final report on the transfer agreements which the Secretary is required to transmit to Congress under section 408 of the Regional Rail Reorganization Act of 1973. Such report shall be submitted on the same date as the Secretary's transmittal of such agreements to Congress.

"(2) The report submitted under paragraph (1) of this subsection shall include an evaluation of the effect of the transfer agreements on rail service in the Northeast, railroad employees, the economy of the Region, other railroads in the Northeast and elsewhere, and any other matter which the Association considers appropriate. Such report shall also include recommendations with respect to approval, disapproval, or modification of the transfer agreements.

"ADVISORY BOARD

"SEC. 219. Members of the Board of Directors of the Association serving on the day before the effective date of the Northeast Rail Service Act of 1981, shall serve as an Advisory Board to the Association. A member of the Advisory Board who is not otherwise an employee of the Federal Government shall receive $300 per diem when engaged in the actual performance of his duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. The Chairman of the Association shall serve as Chairman of the Advisory Board. Any vacancy on the Advisory Board shall be filled by the Association with a representative from the group which had a representative in the vacant position.".

USRA AUTHORIZATION

SEC. 1151. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act not to exceed $13,000,000 for the fiscal year ending September 30, 1982, not to exceed $4,000,000 for the fiscal year ending September 30, 1983. Sums appropriated under this subsection are authorized to remain available until expended.".

PART 6—MISCELLANEOUS PROVISIONS

JUDICIAL REVIEW

SEC. 1152. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this subtitle, or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this subtitle;

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, the United States Railway Association, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this subtitle; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this subtitle.

(b) A judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of any provision of this subtitle shall be reviewable by direct appeal to the Supreme Court of the United States. Such review is exclusive and any petition or appeal shall be filed not more than 20 days after entry of such order or judgment.

(c) Administrative action under the provisions of or amendments made by this subtitle which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2) (A), (B), (C), and (D) of section 706, title 5, United States Code. The requirements of this subtitle shall constitute the exclusive procedures required by law for such administrative action.

(d) If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multi-district litigation authorized by section 1407 of title 28, United States Code, for the assignment of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.

TRANSFER TAXES AND FEES; RECORDATION

SEC. 1153. (a)(1) All transfers or conveyances of any interest in rail property (whether real, personal, or mixed) which are made under any provision of or amendment made by this subtitle shall be exempt from any taxes, imposts, or levies now or hereby imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, easements, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumberances, easements, or other instruments, and to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(2) This section shall not apply to Federal income tax laws.

(b) Transfer of designated real property (including any interest in real property) authorized by the amendments made by part 2 of this subtitle shall have the same effect for purposes of rights and priorities with respect to such property as recordation on the transfer date of appropriate deeds, or other appropriate instruments, in offices appointed under State law for such recordation, except that acquiring rail carriers and other entities shall proffer such deeds or other instruments for recordation within 36 months after the transfer date as a condition of preserving such rights and priorities beyond the expiration of that period. Conrail shall cooperate in effecting the timely preparation, execution, and proffering for recordation of such deeds and other instruments.

SATISFACTION OF CLAIMS

SEC. 1154. No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid claims, including loss, damage, overcharge claims, and lease claims, against Conrail have been satisfied, or provision has been made for satisfying such claims.

EXPEDITED SUPPLEMENTAL TRANSACTIONS

SEC. 1155. (a) Section 305(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(f)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2)(A) Within 10 days after the effective date of the Northeast Rail Service Act of 1981, the Secretary shall initiate discussions and negotiations for the transfer of some or all of the Corporation's rail properties and freight service obligations in the States of Connecticut and Rhode Island to one or more parties under a plan which provides for continued rail freight service on all lines operated by the Corporation on the date of enactment for at least four years.

"(B) Within 120 days after the effective date of the Northeast Rail Service Act of 1981, the Secretary shall petition the special court for an order to transfer all of the Corporation's rail properties and freight service obligations in the States of Connecticut and Rhode Island to one or more railroads in the Region—

"(i) which have under subparagraph (A) of this paragraph completed negotiations and submitted to the Secretary a proposal to assume all of the freight operations and freight service obligations of the Corporation in such States on a financially self-sustaining basis for a period of at least four years; or

"(ii) which have developed a proposal to assume all of the freight operations and freight service obligations of the Corporation in such States under an agreement by and between the Corporation and such railroad or railroads; or

"(iii) which have, prior to May 1, 1981, submitted a proposal to the Secretary for such a transfer.

For the purpose of this section, an order to transfer may include the Corporation if the Corporation agrees to maintain service over lines retained by Conrail for four years.

"(C) To permit efficient and effective rail operations consistent with the public interest, as a part of any transfer under paragraph (2)(B) of this subsection, the Secretary shall promote the transfer of additional non-mainline Corporation properties in adjoining States that connect with properties that are the subject of such transfer.

"(D) The special court shall determine a fair and equitable price for the rail properties to be transferred under this subsection, and shall, unless the parties otherwise agree, establish divisions of joint rates for through routes over such properties which are fair and equitable to the parties. The special court shall establish a method to ensure that such divisions are promptly paid.

"(E) Notwithstanding any other provision of law or agreement in effect on May 1, 1981, the special court shall require that the railroad or railroads to which properties are to be transferred under this subsection assume all charges payable by the Corporation to Amtrak for the carriage of property by rail over those portions of the Northeast Corridor in Connecticut and Rhode Island. If the Corporation operates any rail freight service over those portions of the Northeast Corridor in Connecticut and Rhode Island after the date of such transfer, the Corporation shall pay Amtrak any compensation that may be separately agreed upon by the Corporation and Amtrak, and the railroad or railroads to which properties are transferred under this subsection shall not be obligated to pay any compensation owed by the Corporation to Amtrak for such post-transfer operations by the Corporation."; and

(2) by striking out paragraph (4) and inserting in lieu thereof the following new paragraph:

"(4)(A) Any employee who was protected by the compensatory provisions of title V of this Act immediately prior to the effective date of the Northeast Rail Service Act of 1981, and who is deprived of employment as a result of the transfer of rail properties under this subsection shall be eligible for benefits under section 701 of this Act.

"(B) As used in this paragraph, 'employee deprived of employment' means any employee who is unable to secure employment through the normal exercise of seniority rights, but does not include any employee who refuses an offer of employment with a railroad acquiring properties under this subsection.".

(b) Section 305(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)) is amended by striking out paragraph (7).

(c) Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745), as amended by this section, is further amended by adding after subsection (f) the following new subsection:

"(g)(1) Within 20 days after the effective date of the Northeast Rail Service Act of 1981, the Secretary shall initiate discussions and negotiations for the expedited transfer of all properties and freight service obligations of the Corporation with respect to the following lines: Canaan, Connecticut, to Pittsfield, Massachusetts; North Adams Junction, Massachusetts, to North Adams, Massachusetts; Hazardville, Connecticut, to Springfield, Massachusetts; Westfield, Massachusetts, to Easthampton, Massachusetts; Westfield, Massachusetts, to Holyoke, Massachusetts.

"(2) Within 120 days after the effective date of the Northeast Rail Service Act of 1981, the Secretary shall transfer, provided a qualified purchaser offers to purchase, the Corporation's properties and freight service obligations described in paragraph (1) of this subsection to another railroad or railroads in the Region which are determined by the Secretary to be qualified. A qualified purchaser is defined as a railroad financially self-sustaining which guarantees continuous service for at least four years.

"(3) The Secretary shall determine a fair and equitable price for the rail properties to be transferred under this subsection, and shall, unless the parties otherwise agree, establish divisions of joint rates for through routes over such properties which are fair and equitable to the parties.

"(4) The Secretary shall determine fair and equitable terms for the provision of such trackage rights, on segments of the Corporation's lines not to exceed 5 miles per line transferred, to acquiring carriers as may be necessary to operate such transferred lines in an efficient manner.".

ABANDONMENTS

SEC. 1156. (a) Title III of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new section:

"ABANDONMENTS

"SEC. 308. (a) GENERAL.—The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49, United States Code.

"(b) APPLICATIONS FOR ABANDONMENT.—Any application for abandonment that is filed by the Corporation under this section before November 1, 1981, shall be granted by the Commission within 90 days after the date such application is filed unless, within such 90-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to the line to be abandoned.

"(c) NOTICE OF INSUFFICIENT REVENUES.—(1) The Corporation may, prior to Novem-

ber 1, 1981, file with the Commission a notice of insufficient revenues for any line which is part of the system of the Corporation.

"(2) Any application for abandonment that is filed by the Corporation under this section before October 1, 1983, for a line for which a notice of insufficient revenues was filed under paragraph (1) shall be granted by the Commission within 90 days after the date such application is filed unless, within such 90-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.

"(d) OFFERS OF FINANCIAL ASSISTANCE.—(1) The provisions of section 10905 (d)-(f) of title 49, United States Code (including the timing requirements of subsection (d) thereof), shall apply to any offer of financial assistance under subsection (b) or (c) of this section.

"(2) The Corporation shall provide any person that intends to make an offer of financial assistance under subsection (b) or (c) of this section with such information as the Commission may require.

"(e) LIQUIDATION.—(1) If any application for abandonment is granted under subsection (b) of this section, the Commission shall, as soon as practicable, appraise the net liquidation value of the line to be abandoned, and shall publish notice of such appraisal in the Federal Register.

"(2) Appraisals made under paragraph (1) shall not be appealable.

"(3)(A) If, within 120 days after the date on which an appraisal is published in the Federal Register under paragraph (1), Conrail receives a bona fide offer for the sale, for 75 percent or less of the amount at which the liquidation value of such line was appraised by the Commission, of the line to be abandoned, Conrail shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

"(B) If Conrail receives no bona fide offer under subparagraph (A), within such 120-day period, Conrail may abandon or dispose of the line as it chooses, except that Conrail may not dismantle bridges, or other structures (not including rail, signals, and other rail facilities) for 120 days thereafter. The Secretary may require that bridges or other structures (not including rail, signals, and other rail facilities), not be dismantled for an additional 8 months if he assumes all liability of any sort related to such property.

"(4) If the purchaser under paragraph (3)(A) of this subsection of any line of Conrail abandons such line within five years after such purchase, the proceeds of any track liquidations shall be paid into the general fund of the Treasury of the United States.

"(f) EMPLOYEE PROTECTION.—The provisions of section 10903(b)(2) of title 49, United States Code, shall not apply to any abandonment granted under this section. Any employee who was protected by the compensatory provision of title V of this Act immediately prior to the effective date of the Northeast Rail Service Act of 1981, who is deprived of employment by such an abandonment shall be eligible for employee protection under section 701 of this Act.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973, as amended by this subtitle, is further amended by inserting immediately after the item relating to section 307 the following new item:

"Sec. 308. Abandonments.".

AMENDMENT TO THE RAILWAY LABOR ACT

SEC. 1157. The Railway Labor Act is amended by inserting immediately after section 9 the following new section:

"SPECIAL PROCEDURE FOR COMMUTER SERVICE

"SEC. 9A. (a) The provisions of this section shall apply to any dispute subject to this Act between a publicly funded and publicly operated carrier providing rail commuter service (including the Amtrak Commuter Services Corporation) and its employees.

"(b) If a dispute between the parties described in subsection (a) is not adjusted under the foregoing provisions of this Act and the President does not, under section 10 of this Act, create an emergency board to investigate and report on such dispute, then any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish such an emergency board.

"(c)(1) Upon the request of a party or a Governor under subsection (b), the President shall create an emergency board to investigate and report on the dispute in accordance with section 10 of this Act. For purposes of this subsection, the period during which no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose shall be 120 days from the date of the creation of such emergency board.

"(2) If the President, in his discretion, creates a board to investigate and report on a dispute between the parties described in subsection (a), the provisions of this section shall apply to the same extent as if such board had been created pursuant to paragraph (1) of this subsection.

"(d) Within 60 days after the creation of an emergency board under this section, if there has been no settlement between the parties, the National Mediation Board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the emergency board for settlement of the dispute.

"(e) If no settlement in the dispute is reached at the end of the 120-day period beginning on the date of the creation of the emergency board, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish another emergency board, in which case the President shall establish such emergency board.

"(f) Within 30 days after creation of a board under subsection (e), the parties to the dispute shall submit to the board final offers for settlement of the dispute.

"(g) Within 30 days after the submission of final offers under subsection (f), the emergency board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(h) From the time a request to establish a board is made under subsection (e) until 60 days after such board makes its report under subsection (g), no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

"(i) If the emergency board selects the final offer submitted by the carrier and, after the expiration of the 60-day period described in subsection (h), the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(j) If the emergency board selects the final offer submitted by the employees and, after the expiration of the 60-day period described in subsection (h), the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.".

CONCERTED ECONOMIC ACTION

SEC. 1158. (a) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Conrail, where an effect thereof is to interfere with rail freight service provided by Conrail.

(b) Any person engaging in concerted economic action over disputes arising out of freight operations provided by Conrail shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Amtrak Commuter or any commuter authority, where an effect thereof is to interfere with rail passenger service.

(c) Any concerted action in violation of this section shall be deemed to be a violation of the Railway Labor Act.

CONSTRUCTION AND EFFECT OF CERTAIN PROVISIONS

SEC. 1159. Any cost reductions resulting from the provisions of or the amendments made by this subtitle shall not be used to limit the maximum level of any rate charged by Conrail for the provision of rail service, to limit the amount of any increase in any such rate (including rates maintained jointly by Conrail and other rail carriers), or to limit a surcharge or cancellation otherwise lawful under chapter 107 of title 49, United States Code.

LABOR AUTHORIZATION

SEC. 1160. There are authorized to be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1982, not to exceed $25,000,000 for the payment of allowances, expenses, and costs that protected employees are entitled to receive under any provision of title V of the Regional Rail Reorganization Act of 1973 as in effect on the day before the effective date of this subtitle.

LIGHT DENSITY RAIL SERVICE

SEC. 1161. (a) At any time after the effective date of this subtitle, the Secretary may enter negotiations for the transfer of—

(1) any rail lines of the Corporation which are the subject of an abandonment proceeding pending before the Commission other than an abandonment proceeding subject to section 308 of the Regional Rail Reorganization Act of 1973; and

(2) any rail lines of the Corporation which are designated in Category I under Commission regulation. The Secretary may transfer any such lines in accordance with the terms of an agreement entered into by the Secretary under this subsection.

(b)(1) All reasonable expenses which are incurred in negotiations for the purchase of rail properties by a railroad which subsequently purchases such properties in accordance with the provisions of this subtitle shall be credited against the total purchase price for such properties if such purchaser entered into such negotiations in good faith

within six months after the effective date of this subtitle.

(2) Expenses for labor protection for a maximum of a twelve-month period incurred by a purchaser of rail properties in accordance with the provisions of this subtitle as a result of protective conditions imposed pursuant to section 412 of the Regional Rail Reorganization Act of 1973 shall be credited against the total purchase price for such properties if such purchaser entered into such negotiations in good faith within six months after the effective date of this subtitle.

(c) As a part of each transfer negotiation authorized and directed by section 405 of the Regional Rail Reorganization Act of 1973, the Secretary shall promote the inclusion of those additional Conrail lines that connect with, and only with, the line or lines that are the subject of particular transfer negotiations (hereafter "associated branch lines"), and which are financially viable.

(d) In the event that a transfer agreement granted final approval by the Secretary under section 1142 of this subtitle does not provide for the continuation of rail service on an associated branch line, or other Conrail line not designated for transfer, that an affected State, shipper, or connecting railroad (other than a Class I or II railroad) concludes is essential, that State, shipper, or connecting railroad, or any combination of such States, shippers, or railroads, may immediately enter negotiations with the Secretary for the transfer of identified associated branch lines or other Conrail line not designated for transfer without rail-common carrier status under the requirements of subtitle IV of title 49, United States Code, to and entity designated by the State, shipper, railroad, or combination thereof, for continued operation free of the common carrier obligations and other requirements of subtitle IV of title 49, United States Code. Conrail shall convey and associated branch line or other Conrail line not designated for transfer in accordance with the terms of an agreement entered into by the Secretary under this subsection.

(e) The Secretary may transfer lines in accordance with the provisions of this section for nominal consideration, if justified by the public benefit associated with continued rail service.

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 1162. Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) in the third sentence, by striking "When making" and all that follows through "available for railroad financing, and" and inserting in lieu thereof the following: "When making such a determination, the Secretary shall evaluate and consider in the following order of priority (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed and the railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on a long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission, (B) the interest of the public in supplementing such other funds as may be available in order to increase the total amount of funds available for railroad financing, and"; and

(2) by adding at the end thereof the following: "The Secretary shall assign the highest priorities to those meritorious applications of carriers operating under section 77 of the Bankruptcy Act unable to generate such funds in the private sector and to those meritorious applications for funds to provide for the restructuring of rail freight facilities and systems which handle more than two million rail cars annually, which are located in more than one State, and which are separated by the Mississippi River.".

NORTHEAST CORRIDOR COST DISPUTE

SEC. 1163. (a)(1) Within 120 days after the effective date of this subtitle, the Commission shall determine an appropriate costing methodology for compensation to Amtrak for the right-of-way related costs for the operation of commuter rail passenger service over the Northeast Corridor and other properties owned by Amtrak, unless Conrail, Amtrak, and affected commuter authorities have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall consider all relevant factors, including the standards of sections 205(d) and 304(c) of the Regional Rail Reorganization Act of 1973, section 701(a)(6) of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 402(a) of the Rail Passenger Service Act.

(2) Within 120 days after the effective date of this subtitle, the Commission shall determine a fair and equitable costing methodology for compensation to Amtrak by Conrail for the right-of-way related costs for the operation of rail freight service over the Northeast Corridor, unless Conrail and Amtrak have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall take into consideration the industry-wide average compensation for freight trackage rights and any additional costs associated with high-speed service provided over the Northeast Corridor.

(b) Any determination by the Commission under this section shall be effective on the date of such determination, and any agreement of the parties under this section shall be effective on the date specified in such agreement. Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or the date so specified, as the case may be, for the right-of-way related costs described in subsection (a) of this section.

(c) Nothing in this section shall preclude parties from entering into an agreement, after the determination of the Commission or their initial agreement under this section, with respect to the right-of-way related costs described in subsection (a) of this section.

(d) Any determination by the Commission under this section shall be final and shall not be reviewable in any court.

SEC. 1163A. Notwithstanding any other provision of subtitle IV of title 49, United States Code, in any proceeding before the Commission under section 11344 or 11345 of such subtitle involving a railroad in the Region, as defined in section 102 of the Regional Rail Reorganization Act of 1973, which was in a bankruptcy proceeding under section 77 of the Bankruptcy Act on November 4, 1979, the Commission shall, with or without a hearing, issue a final decision within a period not to exceed 180 days after receipt of an application under either such section.

SEC. 1163B. (a) Nowithstanding any other provision of subtitle IV of title 49, United States Code, in any proceeding before the Commission under section 11344 or 11345 of such subtitle involving a profitable railroad in the Region, as defined in section 102 of the Regional Rail Reorganization Act of 1973 which received a loan under section 211(a) of such Act, the Commission shall, with or without a hearing, issue a final decision within a period not to exceed 180 days after receipt of an application under either such section.

(6)(1) The interest of the United States in any debt of a profitable railroad in the Region, as defined in 102 of the RRR Act of 1973 (P.L. 93-236), which received a loan under sec 211(a) of such Act, shall be limited by the Secretary to an interest which attaches to such debt in the event of bankruptcy, or substantial sale, or liquidation of the assets of the railroad if the Secretary determines that there is an agreement between such railroad and a prospective purchaser for the sale of such railroad. The Secretary shall substitute for the evidence of such debt or contingency notes conforming to the limited terms set forth in this subsection.

(2) If the interest of the United States is limited under paragraph (1), and if the railroad in the Region described in paragraph (1) issues new debt or preferred stock subsequent to the issuance of the debt described in paragraph (1) such new debt or perferred stock shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt stock described in paragraph (1).

SEC. 1163C. Not later than January 1, 1983, Amtrak shall take over crews related to service on the Northeast Corridor. Amtrak, Amtrak Commuter, and the Corporation, and the employees with seniority in both freight and passenger service shall commence negotiations not later than 120 days after the date of the enactment for the right of such employees to move to from one service to the other once each six-month period. If agreement is not reached within 360 days, such matter shall be submitted to binding arbitration.

TRACKAGE RIGHTS

SEC. 1163D. At any time after the effective date of this subtitle, the Commission may approve, under the provisions of existing law, the grant of trackage rights to any terminal railroad operating primarily in the city of Philadelphia over the individual lines of Conrail located in the city and port of Philadelphia.

EFFECTIVE DATE

SEC. 1164. Except as otherwise provided, the provisions of and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

Subtitle F—Amtrak

SHORT TITLE

SEC. 1170. This subtitle may be cited as the "Amtrak Improvement Act of 1981".

FINDINGS

SEC. 1171. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended to read as follows:

"(a) The Congress finds that the public convenience and necessity require that the National Railroad Passenger Corporation provide, to the extent that the Corporation's budget allows, modern, cost-efficient,

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and energy-efficient intercity railroad pasenger service between crowded urban areas and in other parts of the country; that rail passenger service can help in alleviating the overcrowding of airways, airports, and highways; and that to the maximum extent feasible travelers in America should have the freedom to choose the mode of transportation most convenient to their needs.

"(b) The Congress further finds that a greater degree of cooperation is necessary among railroads, the Corporation, State, regional, and local governments and the private sector, labor organizations, and suppliers of services and equipment to the Corporation in order to achieve the level of performance sufficient to justify expenditure of public funds.

"(c) The Congress further finds that—

"(1) modern, efficient commuter rail passenger service is important to the viability and well-being of major urban areas and to the national goals of energy conservation and self-sufficiency;

"(2) Amtrak, as a passenger service entity, should be available to operate commuter service through its subsidiary Amtrak Commuter under contract with commuter agencies which do not choose to operate such service themselves as a part of the governmental functions of the State;

"(3) the Northeast Corridor is a valuable national resource used by intercity passenger, commuter passenger, and freight services; and

"(4) greater coordination between intercity and commuter passenger services are required.".

ADDITIONAL GOALS FOR AMTRAK

SEC. 1172. Section 102 of the Rail Passenger Service Act (45 U.S.C. 501) is amended—

(1) by striking out paragraphs (1) and (3) and redesignating paragraphs (2), (4), (5), and (6) as paragraphs (8) through (11), respectively;

(2) by inserting immediately before paragraph (8), as so redesignated, the following new paragraphs:

"(1) Exercise of the Corporation's best business judgment in taking actions to minimize Federal subsidies, including increasing fares, increasing revenues from the carriage of mail and express, reducing losses on food service, improving its contracts with operating railroads, reducing management costs, and increasing employee productivity.

"(2) Encouragement of State, regional, and local governments and the private sector to share the costs of operating rail passenger service, including the costs of operating stations and other facilities, in order to minimize Federal subsidies.

"(3) Improvement of the number of passenger miles generated systemwide per dollar of Federal funding by at least 30 percent within the two-year period beginning on the effective date of the Amtrak Improvement Act of 1981.

"(4) Elimination of the deficit associated with food and beverages services by September 30, 1982.

"(5) Implementation of strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient service.

"(6) Operation of Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables for such operation.

"(7) Development of service on rail corridors, subsidized by States or private parties, or both.";

(3) in paragraph (8), as redesignated, by striking out "55" and inserting in lieu thereof "60"; and

(4) by adding at the end thereof the following new paragraphs:

"(12) Implementation of policies ensuring equitable access to the Northeast Corridor by both intercity and commuter services.

"(13) Coordination among the various users of the Northeast Corridor, particularly intercity and commuter passenger services.

"(14) Amtrak's maximization of the use of its resources, including the most cost-effective use of employees, facilities, and real estate. Amtrak is encouraged to enter into agreements with the private sector and undertake initiatives which are consistent with good business judgment and designed to maximze its revenues and minimize Federal subsidies.".

DEFINITIONS

SEC. 1173. Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by redesignating paragraphs (7) through (14) as paragraphs (10) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of this Act.".

(3) by inserting immediately after paragraph (7), as redesignated, the following new paragraphs:

"(8) 'Commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter service.

"(9) 'Commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations."; and

(4) in paragraph (11), as redesignated, by striking out "commuter and other" and all that follows through "operations" and inserting in lieu thereof "commuter service".

CHANGES IN BOARD OF DIRECTORS

SEC. 1174. (a) Section 303(a) of the Rail Passenger Service Act (45 U.S.C. 543(a)) is amended—

(1) by striking out paragraphs (1) through (4) and inserting in lieu thereof the following new paragraphs:

"(1) The Corporation shall have a board of directors consisting of nine individuals who are citizens of the United States, as follows:

"(A) The Secretary of Transportation, ex officio. The Secretary of Transportation may be represented at meetings of the Board by his deputy, the Administrator of the Federal Railroad Administration or the General Counsel of the Department of Transportation.

"(B) The President of the Corporation.

"(C) Three members appointed by the President, by and with the advice and consent of the Senate, on the following basis:

"(i) One to be selected from a list of three qualified individuals recommended by the Railway Labor Executives Association.

"(ii) One to be selected from among the Governors of States with an interest in rail transportation.

"(iii) One to be selected as a representative of business with an interest in rail transportation.

"(D) Two members selected by commuter authorities, on the following basis:

"(i) Until January 1, 1983, the two members under this subparagraph shall be selected by the President from a list of names consisting of one individual nominated by each commuter authority for which the Consolidated Rail Corporation operates commuter service under the Regional Rail Reorganization Act of 1973. Such members shall serve until December 31, 1983, or until their successors are appointed pursuant to subparagraph (ii).

"(ii) After January 1, 1983, the two members under this subparagraph shall be selected by the President from a list of names consisting of one individual nominated by each commuter authority for which Amtrak Commuter operates commuter service under title V of this Act and one individual nominated by each commuter authority in the Region (as defined in section 102 of the Regional Rail Reorganization Act of 1973) which operates its own service or contracts with an operator other than Amtrak.

"(I) if Amtrak Commuter operates commuter service for one or more commuter authorities, at least one of the members selected under this clause shall be an individual nominated by such a commuter authority.

"(II) if Amtrak Commuter does not operate commuter service for any commuter authority, five names shall be submitted to the President by commuter authorities providing service over rail properties owned by Amtrak, and the President shall select two members from such list.

"(E) Two members selected annually by the preferred stockholders of the Corporation, which members shall be selected as soon as practicable after the first issuance of preferred stock by the Corporation.

"(2)(A) Members appointed by the President under paragraph (1)(C) shall serve for terms of four years or until their successors have been appointed and qualified, except that any member appointed by the President under such subparagraph to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed. Not more than three of the members appointed under such subparagraph shall be registered as members of the same political party.

"(B) Members selected under paragraph (1)(D) shall serve for terms of two years or until their successors have been appointed.

"(3) Except as provided in paragraph (2)(A) of this subsection, any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection.

"(4) The President of the Corporation shall serve as chairman of the board of directors.";

(2) by striking out paragraph (6) and redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(3) in paragraph (7), as redesignated by paragraph (2) of this subsection, by striking

out "election" and inserting in lieu thereof "selection"; by striking out "four" and inserting in lieu thereof "two"; and by striking out "seven" and inserting in lieu thereof "four".

(b) The term of office of any member of the board of directors of the National Railroad Passenger Corporation serving on such board immediately before the effective date of this subtitle pursuant to section 303(a)(1)(B), (C), or (D) of the Rail Passenger Service Act shall be deemed to have expired on such effective date, except that—

(1) such members shall continue to serve for a period not to exceed 90 days during which time the President shall appoint members of the board in accordance with section 303(a)(1) of such Act, as amended by this section; and

(2) if any position on such board remains vacant after the expiration of such 90-day period, the President of Amtrak may designate any citizen of the United States to serve in such position until the President fills such position by appointment in accordance with such section 303(a)(1).

FINANCING OF THE CORPORATION

SEC. 1175. Section 304 of the Rail Passenger Service Act (45 U.S.C. 544) is amended—

(1) in subsection (a), by striking out "each of which shall carry voting rights and" and inserting in lieu thereof "which shall";

(2) in subsection (a), by striking out the second sentence;

(3) by amending subsection (c) to read as follows:

"(c)(1) Not later than February 1, 1982, and in consideration of receiving further Federal financial assistance, the Corporation shall issue to the Secretary a sufficient number of shares of preferred stock to equal, to the nearest whole share, the amount of funds appropriated by Congress for capital acquisitions or improvements, or for operating and capital expenses, under the authority of subsections (a)(2), (b)(1)(B), and (b)(1)(C) of section 601 of this Act between October 30, 1970, and September 30, 1981.

"(2) Commencing on October 1, 1981, and in consideration of receiving further Federal financial assistance, the Corporation shall issue to the Secretary within 30 days after the close of each quarter of the fiscal year of the United States Government additional preferred stock equal, to the nearest whole share, to the amount of funds paid to the Corporation under section 601 of this Act during such quarter."; and

(3) by striking out subsections (d) through (f) and inserting in lieu thereof the following:

"(d) The Corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, notes, and other certificates of indebtedness as it may determine, except that no obligation with a liquidation interest superior to any preferred stock issued to the Secretary or secured by a lien on property of the Corporation shall be incurred without the consent of the Secretary so long as any preferred stock issued to the Secretary is outstanding.

"(e)(1) The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-920(b)) as to the percentage of stock a stockholder is required to hold in order to have the rights of inspection and copying set forth in such section shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

"(2) Preferred stock issued under the authority of this section shall be subject to the annual fee prescribed under section 29-936(e) of the District of Columbia Code, or to any other form of taxation unless otherwise specifically prescribed by Congress.".

CHARGE FOR CUSTOMS AND IMMIGRATION SERVICE

SEC. 1176. Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new sentence: "The Corporation shall not be obligated to pay any amount to any agency of the Federal Government for the cost of customs inspection or immigration procedures in connection with the provision of services by the Corporation.".

FOOD AND BEVERAGE SERVICE

SEC. 1177. (a) Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall implement policies which will eliminate the deficit in its on-board food and beverage operations no later than September 30, 1982. Beginning October 1, 1982, food and beverage services shall be provided on-board Amtrak trains only if the revenues from such service are equal to or greater than the total costs of such services as computed on an annual basis.".

(b) Section 405(e) of the Rail Passenger Service Act (45 U.S.C. 565(e)) is amended—

(1) by striking out "The Corporation" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of this subsection shall not apply to food and beverage services provided on-board Amtrak trains.".

APPLICABILITY

SEC. 1178. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsections:

"(n) The Corporation shall not be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or right-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (1) on the acquisition, improvement, or ownership of personal property by the Corporation; and (2) on real property other than taxes or fees on the acquisition of real property or on the value of real property which is not attributable to improvements made by the Corporation.

"(o) The operation of trains by or for the Corporation shall not be subject to the requirement of any State or local law which specifies the minimum number of crewmembers who must be employed in connection with the operation of a passenger train.".

SANCTIONS

SEC. 1179. Section 307(a) of the Rail Passenger Service Act (45 U.S.C. 547(a)) is amended by adding at the end thereof the following: "Any discontinuance of routes, trains, or services or reduction in frequency of service, which is made by the Corporation shall not be reviewable in any court except on petition of the Attorney General of the United States.".

ELIMINATION OF UNNECESSARY REPORTS

SEC. 1180. (a) Section 308(a)(1) of the Rail Passenger Service Act (45 U.S.C. 548(a)(1)) is amended by striking out subparagraph (C).

(b) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended—

(1) by striking out "and the Commission"; and

(2) by striking out "reports (or, in their discretion, a joint report)" and inserting in lieu thereof "a report".

FACILITY AND SERVICE AGREEMENTS

SEC. 1181. The first sentence of section 402(a) of the Rail Passenger Service Act is amended by inserting ", which terms shall include a penalty for untimely performance" before the period.

STATE SUPPORTED SERVICES

SEC. 1182. (a) Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended to read as follows:

"Sec. 403. Service.

"(a) Except as otherwise provided in this Act, after the effective date of the Amtrak Improvement Act of 1981, all route additions shall be in accordance with the Route and Service Criteria.

"(b)(1)(A) Any State or group of States, any regional or local agency, or any other person may submit an application to the Corporation requesting the institution of rail passenger service or the retention of a route, train, or service, or some portion of such route, train, or service, which the Corporation intends to discontinue under section 407 of this Act.

"(B) Each application by a State, agency, or person for rail passenger service under this subsection shall contain—

"(i) adequate assurances by such State, agency, or person that it has sufficient resources to meet its share of the cost of such service for the period such service is to be provided;

"(ii) a market analysis acceptable to the Corporation to ensure that there is adequate demand to warrant such service; and

"(iii) a statement by such State, agency, or person that it agrees to pay in each year of operation of such service at least—

"(I) 45 percent in the first year of operation; and

"(II) 65 percent in each year of operation thereafter;

of the short-term avoidable losses of operating such service and 50 percent of the associated capital costs.

"(2)(A) The Corporation shall review each application submitted by a State, agency, or person for the institution or retention of service under this subsection to determine whether—

"(i) the application complies with the requirements of paragraph (1)(B) of this subsection; and

"(ii) there is a reasonable probability that the service requested can be provided with the resources available to the Corporation.

"(B) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of paragraph (1)(B) of this subsection.

"(3)(A) The Corporation may enter into an agreement with such State, agency, or person for the institution or retention of such service, in accordance with the funding formula set forth in paragraph (1)(B) of this subsection, if the Corporation determines that such service can be provided with resources available to the Corporation.

"(B) An agreement entered into pursuant to this subsection may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

"(C) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the board of directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation.

"(4)(A) Any funds provided by the Corporation under an agreement with a State, an agency or a person pursuant to this subsection which are allocated for associated capital costs and which are not expended during the fiscal year for which they are provided shall remain available until expended.

"(B) The board of directors shall, after consultation with the appropriate officials of each State that contributes to the operation of service under this subsection, establish the basis for determining the short-term avoidable loss and associated capital costs of service operated under this subsection and the total revenues from such service. In addition, the Corporation shall provide appropriate State officials with the basis for determining such loss, costs, and revenues for each route on which service is operated under this subsection.

"(5)(A) Prior to instituting any fare increase that applies to service provided under this subsection and that represents an increase of more than 5 percent over a 6-month period, the Corporation shall consult with and obtain the views of the appropriate officials of each State to be affected by such fare increase. The Corporation shall provide the officials of each such State with an explanation of the circumstances warranting the proposed fare increase (such as the unique costs of or demand for the services involved).

"(B) A proposed fare increase described in subparagraph (A) shall take effect 90 days after the date the Corporation first consults with the affected States pursuant to such subparagraph. Within thirty days of the initial consultation, the affected State may submit proposals to the Corporation for reducing costs and increasing revenues in connection with service provided under this subsection. Following such thirty-day period, the Corporation, after taking into consideration such proposals as may be submitted by a State, shall decide whether to implement the proposed fare increase in whole or in part.

"(C) Notwithstanding the provisions of subparagraph (B) of this paragraph, the Corporation may increase fares pursuant to this paragraph during the first month of a fiscal year if the authorization for appropriations or the appropriations for the benefit of the Corporation for such fiscal year are not enacted at least 90 days prior to the beginning of such fiscal year, and the Corporation may increase fares pursuant to this paragraph during the 30 days following enactment of any appropriation for the benefit of the Corporation or rescission thereof. Notice of fare increases pursuant to the preceding sentence shall be given by the Corporation to any affected State as soon as possible following the decision to effect such fare increase.

"(6) At least 2 but not more than 5 percent of all revenues generated by each particular route operated under the authority of this subsection shall be dedicated to advertising and promotion of such service on a local level.".

(b) The amendments made by subsection (a) of this section shall apply to any agreement entered into under section 403(b) of the Rail Passenger Service Act after October 1, 1981, and to any renewal after October 1, 1983, of any agreement entered into under such section 403(b) prior to October 1, 1981.

OPERATION WITHIN AVAILABLE RESOURCES

SEC. 1183. (a) Section 404(c)(3) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Whenever the Corporation determines that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such amendment.".

(b) Section 404(c)(4) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)) is amended to read as follows:

"(4)(A) The Corporation's annual total costs shall not exceed the funds, including grants made under section 601 of this Act, contributions provided by States, regional and local agencies and other persons, and revenues, available to the Corporation within the then-current fiscal year. Commencing in fiscal year 1982, the Corporation shall recover an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 50 percent.

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet the criteria set forth in the appropriate paragraph, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criteria will be met.

"(C) The annual review conducted by the Corporation under subparagraph (B) shall include an evaluation of the potential market demand for, and the cost of providing service on routes or portions thereof, and the potential market demand for, and cost of providing service on, alternative routings. The Corporation shall transmit the results of the annual review to each House of the Congress and to the Secretary of Transportation.

"(D)(i) No later than 30 days after the beginning of each fiscal year, the Corporation shall evaluate the financial requirements for operating the basic system and its progress in achieving the system-wide performance standards prescribed in this Act during such fiscal year. If the Corporation determines that the funds to be available for such fiscal year are insufficient to meet the projected operating costs, or if the Corporation projects that the system cannot meet the performance standards of this Act, the Corporation shall, in accordance with this subparagraph, take such action as may be necessary to reduce such costs and improve performance.

"(ii) Any action taken by the Corporation to reduce costs or improve performance pursuant to this subparagraph shall be designed to continue the maximum level of service practicable, and shall include—

"(I) changes in frequency of service;

"(II) increases in fares;

"(III) reductions in the costs of sleeper car service on certain routes;

"(IV) reductions in the costs of dining car service on certain routes;

"(V) increases in the passenger capacity of cars used on certain routes; and

"(VI) restructuring or adjustment of the route system or discontinuance of service over those routes, considering short-term avoidable loss and the number of passengers served by trains on such routes.

"(E) The Corporation shall, prior to October 1, 1983, reduce its costs of management by not less than 10 percent of the administrative costs incurred during the period of twelve calendar months prior to June 1, 1981.

"(F)(i) Notice of any discontinuance of service pursuant to this paragraph shall be posted at least 14 days before such discontinuance in all stations served by the train to be discontinued.

"(ii) Notice of any discontinuance of service pursuant to this paragraph shall be given in such a manner as the Corporation determines will afford an opportunity for any State or group of States, or any regional or local agency or other person, to agree to share the cost of such route, train, or service, or some portion of such route, train, or service. Such notice shall be given at least 90 days prior to such discontinuance.

"(iii) Notwithstanding the provisions of clause (ii), the Corporation may discontinue service pursuant to this paragraph during the first month of a fiscal year if the authorization for appropriations or the appropriations for the benefit of the Corporation for such fiscal year are not enacted at least 90 days prior to the beginning of such fiscal year, and the Corporation may discontinue service pursuant to this paragraph during the 30 days following enactment of any appropriation for the benefit of the Corporation or rescission thereof. Notice of discontinuance of service pursuant to the preceding sentence shall be given by the Corporation to any affected State or regional or local transportation authority as soon as possible following the decision to effect such discontinuance.".

(c) Section 404(c)(5) of the Rail Passenger Service Act (45 U.S.C. 564(c)(5)) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraph:

"(C) modification or adjustment of service under paragraph (4)(B) of this subsection, and discontinuance, modification, or adjustment under paragraph (4)(D) of this subsection.".

(d) Section 404(e) of the Rail Passenger Service Act (45 U.S.C. 564(e)) is repealed.

(e) Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended to read as follows:

"(d) Beginning October 1, 1981, the Corporation shall continue to operate rail passenger service operated under this subsection

prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the criteria set forth in section 404(d)(2)(B) of this Act, after taking into account projected fare increases and any State or local contributions to such service. Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the day prior to the effective date of the Amtrak Improvement Act of 1981.".

EXTENSION OF COMPENSATION FOR PASS RIDERS

SEC. 1184. The third sentence of section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565) is amended by striking out ", during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1979,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 1185. (a) Section 601(b) of the Rail Passenger Service Act (45 U.S.C. 601(b)) is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) not to exceed $735,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act; and

"(B) not to exceed $788,000,000 for the fiscal year ending September 30, 1983, of which not more than $26,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act.";

(3) in paragraph (3), as redesignated, by striking out "(A)" and by striking out ", and (B) guidelines established by the Secretary"; and

(4) by adding at the end thereof the following new paragraph:

"(4) Of the amounts appropriated under this subsection for fiscal year 1982, the Corporation may not spend for on-board food and beverage services an amount greater than 50 percent of the amount by which the costs of such services in fiscal year 1981 exceeded the revenues from such services in such fiscal year.".

(b) Section 601(b)(1) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)) is amended by striking out subparagraphs (B) through (E).

LOAN GUARANTEES

SEC. 1186. (a) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended—

(1) by striking out "$900,000,000" each place it appears and inserting in lieu thereof "$930,000,000"; and

(2) by striking out the last sentence.

(b) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsections:

"(j) During the period beginning October 1, 1981, and ending September 30, 1983, the interest due to the Federal Financing Bank from the Corporation on debt of the Corporation held by the Federal Government shall be deferred. During such period the interest so deferred shall be added to the principal of the debt owed to the Federal Government. The deferral of payment under this subsection shall not constitute a default under any note or obligation of the Corporation. Notwithstanding the deferral of interest provided for under this subsection, the Secretary Bank shall guarantee loans to the Corporation to meet commitments under previously approved capital programs and to repay existing notes and equipment obligations.

"(l) Before February 1, 1982, the Department of Transportation, in consultation with the General Accounting Office, the Corporation, and the Department of the Treasury, shall submit to the Congress legislative recommendations for how best to relieve Amtrak of its debt to the Federal Government.".

RAIL CORRIDOR DEVELOPMENT AND OTHER STUDIES

SEC. 1187. (a) Not later than June 1, 1982, the National Railroad Passenger Corporation shall transmit to the Congress a report containing its recommendations for the development of rail corridors. Such report shall contain—

(1) an identification of those rail corridors which the Corporation would propose to develop, taking into consideration factors such as (A) the projected cost-effectiveness, energy efficiency, and ridership of rail corridors recommended for development, (B) the need to preserve regional balance in rail passenger service, (C) the share of intercity passengers which would be attracted by rail corridor service, and (D) the willingness of private sector interests or State and local governments, or both, to contribute to the development of rail corridors;

(2) a timetable for the development of rail corridors, including schedules for (A) the negotiation of agreements with the rail carriers, private interests, and State and local governments, (B) the acquisition of equipment, (C) the improvement of fixed facilities, and (D) the implementation of service; and

(3) a financial plan, including recommendations for reductions in the cost of existing service, for the funding of rail corridor development during the timetable proposed pursuant to paragraph (2) of this subsection.

(b) The National Railroad Passenger Corporation, representatives of labor, and the American Association of Railroads shall, within six months after the effective date of this subtitle, conduct a study and submit a joint report to the Congress regarding their efforts to achieve greater efficiencies in management and labor practices. Such report shall include a description of efforts by such corporation toward efficiencies in the management of such corporation, recommendations for further efficiencies, and any other appropriate legislative recommendations.

(c) Within three months after the effective date of this subtitle, the National Railroad Passenger Corporation shall submit to the Congress a report on actual and potential problems for such Corporation in entering into agreements regarding direct employment of rail passenger operating personnel. Such report shall include legislative recommendations, if such corporation determines that such recommendations are appropriate.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 1188. (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 531) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(b) Section 305(a) of the Rail Passenger Service Act (45 U.S.C. 535(a)) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(c) Section 402(e)(1) of the Rail Passenger Service Act (45 U.S.C. 562(e)(1)) is amended by inserting "or commuter" immediately after "intercity".

(d) Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) is amended by adding at the end thereof the following new subsection:

"(g) The provisions of subsections (a), (b), and (c) of this section shall not apply to Amtrak commuter.".

(e) Section 702 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 852), and the item relating to such section in the table of contents of such Act, are repealed.

EFFECTIVE DATE

SEC. 1189. The provisions of and amendments made by this subtitle shall take effect on October 1, 1981.

Subtitle G—Miscellaneous

CHAPTER I—LOCAL RAIL ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 1191. Section 5(p) of the Department of Transportation Act is amended by striking out "without fiscal year limitation. Of the foregoing sums, not to exceed $5,000,000 shall be made available for planning grants during each of the 3 fiscal years ending June 30, 1976; September 30, 1977; and September 30, 1978" and inserting in lieu thereof the following: "of which $40,000,000 shall be made available in the fiscal year ending September 30, 1982, $44,000,000 shall be made available in the fiscal year ending September 30, 1983 and $48,000,000 shall be made available in the fiscal year ending September 30, 1984.".

RAIL FREIGHT ASSISTANCE

SEC. 1192. (a) Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) The first sentence of section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended by striking out "80 per centum, except that" and all that follows in that sentence and inserting in lieu thereof "70 per centum.".

(c) Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended—

(1) in paragraph (1) by striking out "1979" and inserting in lieu thereof "1981"

(2) in paragraph (2) by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1981";

(3) in paragraph (2)(B) by striking out "(including" and all that follows through "under this section)" both places it appears; and

(4) by amending paragraph (3) to read as follows:

"(3)(A) The Interstate Commerce Commission shall, no later than July 1 of the year preceding the fiscal year funds are made available under this section, provide the Secretary with the sum of the rail mileage in each State that meets the description set forth in subparagraphs (A) and (B) of paragraph (2). The Secretary shall, no later than the first day of each fiscal year, notify each State of the funds to which such State is entitled under this subsection during such fiscal year.

"(B)(i) Entitlement funds shall remain available to a State for the first 6 months after the end of the fiscal year for which

funds have been made available for use under this section.

"(ii) Any funds which have not been applied for under this section shall be made available to the Secretary for use during the remainder of the current fiscal year for rail service assistance projects meeting the requirements of this section. The Secretary shall, no later than 30 days after the end of the first six months of a fiscal year, notify each State with respect to any funds still available for rail service assistance projects under this section.

"(C) In considering applications for rail service assistance to be provided with funds described in subparagraph (B)(ii), the Secretary shall consider the following:

"(i) The percentage of lines filed with the Interstate Commerce Commission for abandonment or potential abandonment within a State.

"(ii) The likelihood of future abandonments within a State.

"(iii) The ratio of benefits to costs (which are included in the State rail plan) for a proposed project.

"(iv) The likelihood that the line will continue operating with rail freight assistance.

"(v) The impact of rail bankruptcies, rail restructuring, and rail mergers on the State applying for assistance.".

(d) Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) on the first day of the fiscal year, each State shall be entitled to $100,000 of the fund available for expenditure under subsection (q) of this section during the fiscal year to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section. Each State must apply for such funds on or before the first day of the fiscal year. Any funds which have not been applied for under this subsection shall be made available to the Secretary under subsection (h)(3)(B) of this section.".

(e) Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(2) in paragraph (1), as redesignated, by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)", by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C); and

(3) by striking out the period at the end of paragraph (2), as redesignated, and at the end of paragraph (3)(B), as redesignated, and inserting in lieu thereof the following: "unless such a project has been receiving assistance under this subsection but did not receive all the funds to which the State was entitled at the beginning of the fiscal year ending September 30, 1981, in which case such project shall continue to be eligible until September 30, 1982.".

(f) Section 5(l) of the Department of Transportation Act (49 U.S.C. 1654(l)) is amended by adding at the end thereof the following new sentence: "Upon receipt of an application for rail freight assistance, the Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 45 days. If the Secretary fails to consider and notify the State applying for rail freight assistance under subsection (k) within 45 days, then the project shall be considered approved and the State shall receive the Federal share up to the amount to which it is entitled.".

(g) Section 5(n) of the Department of Transportation Act (49 U.S.C. 1654(n)) is amended to read as follows:

"(n) As used in this section, the term 'State' means any State in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, maintains any line of railroad.".

(h) Section 5(o) of the Department of Transportation Act (49 U.S.C. 1654(o)) is amended by adding at the end thereof the following new paragraph:

"(5) The State, to the maximum extent possible, shall encourage the participation of shippers, railroads, and local communities in providing the State share of rail freight assistance funds.".

(i) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Each State shall retain a contingent interest (redeemable preference shares) for the Federal share of funds in any line receiving rail freight assistance under this section and shall exercise the right to collect its share of the funds used for such a line, if an application for abandonment of such line is filed under chapter 109 of title 49, United States Code, or if such line is sold or disposed of in any way after it has received Federal assistance.".

CHAPTER 2—NORTHEAST CORRIDOR

NORTHEAST CORRIDOR

SEC. 1193. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by inserting before the first sentence thereof the following new sentence: "The Secretary shall complete the Northeast Corridor improvement project in accordance with the goals of this Act to the extent of funds authorized under this Act."; and

(2) by inserting at the end thereof the following new sentence: "Of the funds authorized to be appropriated under this section, not more than $200,000,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1982; and not more than $185,000,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1983.".

CHAPTER 3—DEPARTMENT OF TRANSPORTATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 1194. (a) The Department of Transportation Act is amended by inserting at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 17. There are authorized to be appropriated—

"(1)(A) for necessary expenses of the Secretary of Transportation, including not to exceed $27,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, not to exceed $35,193,204 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984; and

"(B) for necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics to remain available until expended, $10,486,615 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984;

"(2) for necessary expenses for railroad research and development, not to exceed $40,000,000 to remain available until expended for the fiscal year ending September 30, 1982; and

"(3) for necessary expenses of the Minority Business Resource Center not otherwise provided for, not to exceed $10,000,000 for each of the fiscal years ending September 30, 1982, 1983, and 1984.

The Secretary may not utilize any appropriated funds for the Office of the Secretary other than those which are authorized for that purpose by this section.".

CHAPTER 4—RAILROAD SAFETY

AUTHORIZATION OF APPROPRIATIONS

SEC. 1195. Section 214(a) of the Federal Railroad Safety Act of 1970 is amended by striking out "$40,000,000" and inserting in lieu thereof "$27,650,000".

CHAPTER 5—INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

SEC. 1196. Notwithstanding any other provision of law, the total amount authorized to be appropriated for necessary expenses of the Interstate Commerce Commission shall not exceed $79,000,000 for the fiscal year ending September 30, 1982; $80,400,000 for the fiscal year ending September 30, 1983; and $80,400,000 for the fiscal year ending September 30, 1984.

CHAPTER 6—TRANSPORTATION RESEARCH

TRANSPORTATION RESEARCH AND SPECIAL PROGRAMS

SEC. 1197. Notwithstanding any other provision of law, the total amount authorized to be appropriated to the Department of Transportation for expenses necessary to discharge the functions of the Research and Special Programs Administration shall not exceed $30,047,000 for the fiscal year ending September 30, 1982; $32,300,000 for the fiscal year ending September 30, 1983; and $33,300,000 for the fiscal year ending September 30, 1984.

STATEMENT OF MANAGERS

SEC. 1199A. The managers on the part of the Senate and the House of Representatives are authorized to have printed in the Congressional Record at any time prior to midnight on July 31, 1981, a statement in explanation of the provisions of this title relating to matters within the jurisdiction of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce. Such statement shall be considered to have been filed at the same time and along with the conference report on the Omnibus Budget Reconciliation Act of 1981 (H.R. 3982); and shall be considered for all purposes to constitute the statement on the part of the managers with respect to such provisions.

TITLE XII—CONSUMER PRODUCT SAFETY AND COMMUNICATIONS

Subtitle A—Consumer Product Safety

SHORT TITLE; REFERENCE TO ACT

SEC. 1201. (a) This subtitle may be cited as the "Consumer Product Safety Amendments of 1981".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 1202. Section 7 is amended to read as follows:

"CONSUMER PRODUCT SAFETY STANDARDS

"SEC. 7. (a) The Commission may promulgate consumer product safety standards in accordance with the provisions of section 9. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

"(1) Requirements expressed in terms of performance requirements.

"(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product.

"(b) The Commission shall rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.

"(c) If any person participates with the Commission in the development of a consumer product safety standard, the Commission may agree to contribute to the person's cost with respect to such participation, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the person is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings. Payments under agreements entered into under this subsection may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).".

ADMINISTRATIVE PROCEDURE

SEC. 1203. (a) Section 9 is amended to read as follows:

"PROCEDURE FOR CONSUMER PRODUCT SAFETY RULES

"SEC. 9. (a) A proceeding for the development of a consumer product safety rule shall be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

"(1) identify the product and the nature of the risk of injury associated with the product;

"(2) include a summary of each of the regulatory alternatives under consideration by the Commission (including voluntary consumer product safety standards);

"(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not eliminate or adequately reduce the risk of injury identified in paragraph (1);

"(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days or more than 60 days after the date of publication of the notice), comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk;

"(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing standard or a portion of a standard as a proposed consumer product safety standard; and

"(6) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), a statement of intention to modify or develop a voluntary consumer product safety standard to address the risk of injury identified in paragraph (1) together with a description of a plan to modify or develop the standard.

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(b)(1) If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (a)(5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a consumer product safety standard, would eliminate or adequately reduce the risk of injury identified in the notice under subsection (a)(1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule.

"(2) If the Commission determines that—

"(A) compliance with any standard submitted to it in response to an invitation in a notice published under subsection (a)(6) is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice, and

"(B) it is likely that there will be substantial compliance with such standard,

the Commission shall terminate any proceeding to promulgate a consumer product safety rule respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury.

"(c) No consumer product safety rule may be proposed by the Commission unless, not less than 60 days after publication of the notice required in subsection (a), the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

"(1) a preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

"(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (a)(5) was not published by the Commission as the proposed rule or part of the proposed rule;

"(3) a discussion of the reasons for the Commission's preliminary determination that efforts proposed under subsection (a)(6) and assisted by the Commission as required by section 5(a)(3) would not, within a reasonable period of time, be likely to result in the development of a voluntary consumer product safety standard that would eliminate or adequately reduce the risk of injury addressed by the proposed rule; and

"(4) a description of any reasonable alternatives to the proposed rule, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed rule.

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(d)(1) Within 60 days after the publication under subsection (c) of a proposed consumer product safety rule respecting a risk of injury associated with a consumer product, the Commission shall—

"(A) promulgate a consumer product safety rule respecting the risk of injury associated with such product, if it makes the findings required under subsection (f), or

"(B) withdraw the applicable notice of proposed rulemaking if it determines that such rule is not (i) reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product, or (ii) in the public interest;

except that the Commission may extend such 60-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

"(2) Consumer product safety rules shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

"(e) A consumer product safety rule shall express in the rule itself the risk of injury which the standard is designed to eliminate or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act. In the promulgation of such a rule the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule.

"(f)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

"(A) the degree and nature of the risk of injury the rule is designed to eliminate or reduce;

"(B) the approximate number of consumer products, or types or classes thereof, subject to such rule;

"(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need; and

"(D) any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.

"(2) The Commission shall not promulgate a consumer product safety rule unless

it has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a final regulatory analysis of the rule containing the following information:

"(A) A description of the potential benefits and potential costs of the rule, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs.

"(B) A description of any alternatives to the final rule which were considered by the Commission, together with a summary description of their potential benefits and costs and a brief explanation of the reasons why these alternatives were not chosen.

"(C) A summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

The Commission shall publish its final regulatory analysis with the rule.

"(3) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

"(A) that the rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product;

"(B) that the promulgation of the rule is in the public interest;

"(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable risk of injury associated with such product;

"(D) in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to such rule have adopted and implemented a voluntary consumer product safety standard, that—

"(i) compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

"(ii) it is unlikely that there will be substantial compliance with such voluntary consumer product safety standard;

"(E) that the benefits expected from the rule bear a reasonable relationship to its costs; and

"(F) that the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated.

"(4)(A) Any preliminary or final regulatory analysis prepared under subsection (c) or (f)(2) shall not be subject to independent judicial review, except that when an action for judicial review of a rule is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review.

"(B) The provisions of subparagraph (A) shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

"(g)(1) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

"(2) The Commission may by rule prohibit a manufacturer of a consumer product from stockpiling any product to which a consumer product safety rule applies, so as to prevent such manufacturer from circumventing the purpose of such consumer product safety rule. For purposes of this paragraph, the term 'stockpiling' means manufacturing or importing a product between the date of promulgation of such consumer product safety rule and its effective date at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was produced or imported during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the consumer product safety rule.

"(h) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (g) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (d)(2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.".

(b)(1) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following new subsections:

"(f) A proceeding for the promulgation of a regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance or a regulation under subsection (e) of this section shall be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

"(1) identify the article or substance and the nature of the risk of injury associated with the article or substance;

"(2) include a summary of each of the regulatory alternatives under consideration by the Commission (including voluntary standards);

"(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not eliminate or adequately reduce the risk of injury identified in paragraph (1);

"(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days or more than 60 days after the date of publication of the notice), comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk;

"(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing standard or a portion of a standard as a proposed regulation under section 2(q)(1) or subsection (e) of this section; and

"(6) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), a statement of intention to modify or develop a voluntary standard to address the risk of injury identified in paragraph (1) together with a description of a plan to modify or develop the standard. The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(g)(1) If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (f)(5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a regulation under section 2(q)(1) or subsection (e) of this section, as the case may be, would eliminate or adequately reduce the risk of injury identified in the notice provided under subsection (f)(1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed regulation under such section or subsection.

"(2) If the Commission determines that—

"(A) compliance with any standard submitted to it in response to an invitation in a notice published under subsection (f)(6) is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice, and

"(B) it is likely that there will be substantial compliance with such standard,

the Commission shall terminate any proceeding to promulgate a regulation under section 2(q)(1) or subsection (e) of this section, respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury.

"(h) No regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance and no regulation under subsection (e) of this section may be proposed by the Commission unless, not less than 60 days after publication of the notice required in subsection (f), the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

"(1) a preliminary description of the potential benefits and potential costs of the

proposed regulation, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

"(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (f)(5) was not published by the Commission as the proposed regulation or part of the proposed regulation;

"(3) a discussion of the reasons for the Commission's preliminary determination that efforts proposed under subsection (f)(6) and assisted by the Commission as required by section 5(a)(3) of the Consumer Product Safety Act would not, within a reasonable period of time, be likely to result in the development of a voluntary standard that would eliminate or adequately reduce the risk of injury identified in the notice provided under subsection (f)(1); and

"(4) a description of any reasonable alternatives to the proposed regulation, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed regulation.

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(i)(1) The Commission shall not promulgate a regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance or a regulation under subsection (e) of this section unless it has prepared a final regulatory analysis of the regulation containing the following information:

"(A) A description of the potential benefits and potential costs of the regulation, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs.

"(B) A description of any alternatives to the final regulation which were considered by the Commission, together with a summary description of their potential benefits and costs and a brief explanation of the reasons why these alternatives were not chosen.

"(C) A summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

The Commission shall publish its final regulatory analysis with the regulation.

"(2) The Commission shall not promulgate a regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance or a regulation under subsection (e) of this section unless it finds (and includes such finding in the regulation)—

"(A) in the case of a regulation which relates to a risk of injury with respect to which persons who would be subject to such regulation have adopted and implemented a voluntary standard, that—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

"(ii) it is unlikely that there will be substantial compliance with such voluntary standard;

"(B) that the benefits expected from the regulation bear a reasonable relationship to its costs; and

"(C) that the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the regulation is being promulgated.

"(3)(A) Any regulatory analysis prepared under subsection (h) or paragraph (1) shall not be subject to independent judicial review, except that when an action for judicial review of a regulation is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review.

"(B) The provisions of subparagraph (A) shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.".

(2) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following new subsections:

"(g) A proceeding for the promulgation of a regulation under this section for a fabric, related material, or product shall be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

"(1) identify the fabric, related material, or product and the nature of the risk of injury associated with the fabric, related material, or product;

"(2) include a summary of each of the regulatory alternatives under consideration by the Commission (including voluntary standards);

"(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not eliminate or adequately reduce the risk of injury identified in paragraph (1);

"(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days or more than 60 days after the date of publication of the notice), comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk;

"(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing standard or a portion of a standard as a proposed regulation.

"(6) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), a statement of intention to modify or develop a voluntary standard to address the risk of injury identified in paragraph (1) together with a description of a plan to modify or develop the standard.

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(h)(1) If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (g)(5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a regulation, would eliminate or adequately reduce the risk of injury identified in the notice provided under subsection (g)(1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed regulation under this section.

"(2) If the Commission determines that—

"(A) compliance with any standard submitted to it in response to an invitation in a notice published under subsection (g)(6) is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice, and

"(B) it is likely that there will be substantial compliance with such standard,

the Commission shall terminate any proceeding to promulgate a regulation respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury.

"(i) No regulation may be proposed by the Commission under this section unless, not less than 60 days after publication of the notice required in subsection (g), the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

"(1) a preliminary description of the potential benefits and potential costs of the proposed regulation, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

"(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (g)(5) was not published by the Commission as the proposed regulation or part of the proposed regulation;

"(3) a discussion of the reasons for the Commission's preliminary determination that efforts proposed under subsection (g)(6) and assisted by the Commission as required by section 5(a)(3) of the Consumer Product Safety Act would not, within a reasonable period of time, be likely to result in the development of a voluntary standard that would eliminate or adequately reduce the risk of injury identified in the notice provided under subsection (g)(1); and

"(4) a description of any reasonable alternatives to the proposed regulation, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed regulation.

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(j)(1) The Commission shall not promulgate a regulation under this section unless it has prepared a final regulatory analysis of the regulation containing the following information:

"(A) A description of the potential benefits and potential costs of the regulation, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs.

"(B) A description of any alternatives to the final regulation which were considered by the Commission, together with a summary description of their potential benefits

and costs and a brief explanation of the reasons why these alternatives were not chosen.

"(C) A summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

The Commission shall publish its final regulatory analysis with the regulation.

"(2) The Commission shall not promulgate a regulation under this section unless it finds (and includes such finding in the regulation)—

"(A) in the case of a regulation which relates to a risk of injury with respect to which persons who would be subject to such regulation have adopted and implemented a voluntary standard, that—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

"(ii) it is unlikely that there will be substantial compliance with such voluntary standard;

"(B) that the benefits expected from the regulation bear a reasonable relationship to its costs; and

"(C) that the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the regulation is being promulgated.

"(3)(A) Any regulatory analysis prepared under subsection (i) or paragraph (1) shall not be subject to independent judicial review, except that when an action for judicial review of a regulation is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review.

"(B) The provisions of subparagraph (A) shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.".

(c) Section 8 (15 U.S.C. 2057) is amended by striking out "propose and".

PUBLIC DISCLOSURE OF INFORMATION

SEC. 1204. Section 6 (15 U.S.C. 2055) is amended to read as follows:

"PUBLIC DISCLOSURE OF INFORMATION

"SEC. 6. (a)(1) Nothing contained in this Act shall be construed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, or subject to section 552(b)(4) of title 5, United States Code, shall be considered confidential and shall not be disclosed.

"(3) The Commission shall, prior to the disclosure of any information which will permit the public to ascertain readily the identity of a manufacturer or private labeler of a consumer product, offer such manufacturer or private labeler an opportunity to mark such information as confidential and therefore barred from disclosure under paragraph (2).

"(4) All information that a manufacturer or private labeler has marked to be confidential and barred from disclosure under paragraph (2), either at the time of submission or pursuant to paragraph (3), shall not be disclosed, except in accordance with the procedures established in paragraphs (5) and (6).

"(5) If the Commission determines that a document marked as confidential by a manufacturer or private labeler to be barred from disclosure under paragraph (2) may be disclosed because it is not confidential information as provided in paragraph (2), the Commission shall notify such person in writing that the Commission intends to disclose such document at a date not less than 10 days after the date of receipt of notification.

"(6) Any person receiving such notification may, if he believes such disclosure is barred by paragraph (2), before the date set for release of the document, bring an action in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the documents are located, or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals of the United States, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

"(7) Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees or subcommittees of the Congress, and the provisions of paragraphs (2) through (6) shall not apply to such disclosures, except that the Commission shall immediately notify the manufacturer or private labeler of any such request for information designated as confidential by the manufacturer or private labeler.

"(8) The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers or employees concerned with carrying out this Act or when relevant in any administrative proceeding under this Act, or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information in Commission administrative proceedings, or in judicial proceedings to which the Commission is a party, shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.

"(b)(1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds that the public health and safety requires a lesser period of notice and publishes such a finding in the Federal Register), the Commission shall, to the extent practicable, notify and provide a summary of the information to, each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. In disclosing any information under this subsection, the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of this section.

"(2) If the Commission determines that a document claimed to be inaccurate by a manufacturer or private labeler under paragraph (1) should be disclosed because the Commission believes it has complied with paragraph (1), the Commission shall notify the manufacturer or private labeler that the Commission intends to disclose such document at a date not less than 10 days after the date of the receipt of notification. The Commission may provide a lesser period of notice of intent to disclose if the Commission finds that the public health and safety requires a lesser period of notice and publishes such finding in the Federal Register.

"(3) Prior to the date set for release of the document, the manufacturer or private labeler receiving the notice described in paragraph (2) may bring an action in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the documents are located or in the United States District Court for the District of Columbia to enjoin disclosure of the document. The district court may enjoin such disclosure if the Commission has failed to take the reasonable steps prescribed in paragraph (1).

"(4) Paragraphs (1) through (3) of this subsection shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts); or (B) information in the course of or concerning a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking), an adjudicatory proceeding (which shall commence upon the issuance of a complaint) or other administrative or judicial proceeding under this Act.

"(5) In addition to the requirements of paragraph (1), the Commission shall not disclose to the public information submitted pursuant to section 15(b) respecting a consumer product unless—

"(A) the Commission has issued a complaint under section 15 (c) or (d) alleging that such product presents a substantial product hazard;

"(B) in lieu of proceeding against such product under section 15 (c) or (d), the Commission has accepted in writing a remedial settlement agreement dealing with such product; or

"(C) the person who submitted the information under section 15(b) agrees to its public disclosure.

The provisions of this paragraph shall not apply to the public disclosure of information with respect to a consumer product which is the subject of an action brought under section 12, or which the Commission has reasonable cause to believe is in viola-

tion of section 19(a), or information in the course of or concerning a judicial proceeding.

"(6) Where the Commission initiates the public disclosure of information that reflects on the safety of a consumer product or class of consumer products, whether or not such information would enable the public to ascertain readily the identity of a manufacturer or private labeler, the Commission shall establish procedures designed to ensure that such information is accurate and not misleading.

"(7) If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product or class of consumer products, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner equivalent to that in which such disclosure was made, take reasonable steps to publish a retraction of such inaccurate or misleading information.

"(8) If, after the commencement of a rulemaking or the initiation of an adjudicatory proceeding, the Commission decides to terminate the proceeding before taking final action, the Commission shall, in a manner equivalent to that in which such commencement or initiation was publicized, take reasonable steps to make known the decision to terminate.

"(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant risk of injury associated with such product.

"(d)(1) For purposes of this section, the term 'Act' means the Consumer Product Safety Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, and the Federal Hazardous Substances Act.

"(2) The provisions of this section shall apply whenever information is to be disclosed by the Commission, any member of the Commission, or any employee, agent, or representative of the Commission in an official capacity.".

ADVISORY COUNCILS

SEC. 1205. (a)(1) Section 28 (15 U.S.C. 2077) is repealed.

(2) Subsection (d) of section 12 (15 U.S.C. 2061) is repealed and subsections (e) and (f) are redesignated as subsections (d) and (e), respectively.

(b) Section 17 of the Flammable Fabrics Act (15 U.S.C. 1204) is repealed.

(c) Section 6 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1475) is repealed and sections 7, 8, and 9 of such Act are redesignated as sections 6, 7, and 8, respectively.

CHRONIC HAZARDS

SEC. 1206. (a) The following section is inserted after section 27:

"CHRONIC HAZARD ADVISORY PANEL

"SEC. 28. (a) The Commission shall appoint Chronic Hazard Advisory Panels (hereinafter referred to as the Panel or Panels) to advise the Commission in accordance with the provisions of section 31(b) respecting the chronic hazards of cancer, birth defects, and gene mutations associated with consumer products.

"(b) Each Panel shall consist of 7 members appointed by the Commission from a list of nominees who shall be nominated by the President of the National Academy of Sciences from scientists—

"(1) who are not officers or employees of the United States, and who do not receive compensation from or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product; and

"(2) who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances.

The President of the National Academy of Sciences shall nominate for each Panel a number of individuals equal to three times the number of members to be appointed to the Panel.

"(c) The Chairman and Vice Chairman of the Panel shall be elected from among the members and shall serve for the duration of the Panel.

"(d) Decisions of the Panel shall be made by a majority of the Panel.

"(e) The Commission shall provide each Panel with such administrative support services as it may require to carry out its duties under section 31.

"(f) A member of a Panel appointed under subsection (a) shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Panel.

"(g) Each Panel shall request information and disclose information to the public, as provided in subsecton (h), only through the Commission.

"(h)(1) Notwithstanding any statutory restriction on the authority of agencies and departments of the Federal Government to share information, such agencies and departments shall provide the Panel with such information and data as each Panel, through the Commission, may request to carry out its duties under section 31. Each Panel may request information, through the Commission, from States, industry and other private sources as it may require to carry out its responsibilities.

"(2) Section 6 shall apply to the disclosure of information by the Panel but shall not apply to the disclosure of information to the Panel.".

(b) Section 31 (15 U.S.C. 2080) is amended by inserting "(a)" after "SEC. 31." and by adding at the end the following:

"(b)(1) The Commission may not issue an advance notice of proposed rulemaking for—

"(A) a consumer product safety rule,

"(B) a rule under section 27(e), or

"(C) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product unless a Chronic Hazard Advisory Panel, established under section 28, has, in accordance with paragraph (2), submitted a report to the Commission with respect to whether a substance contained in such product is a carcinogen, mutagen, or teratogen.

"(2)(A) Before the Commission issues an advance notice of proposed rulemaking for—

"(i) a consumer product safety rule,

"(ii) a rule under section 27(e), or

"(iii) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product, the Commission shall request the Panel to review the scientific data and other relevant information relating to such risk to determine if any substance in the product is a carcinogen, mutagen, or a teratogen and to report its determination to the Commission.

"(B) When the Commission appoints a Panel, the Panel shall convene within 30 days after the date the final appointment is made to the Panel. The Panel shall report its determination to the Commission not later than 120 days after the date the Panel is convened or, if the Panel requests additional time, within a time period specified by the Commission. If the determination reported to the Commission states that a substance in a product is a carcinogen, mutagen, or a teratogen, the Panel shall include in its report an estimate, if such an estimate is feasible, of the probable harm to human health that will result from exposure to the substance.

"(C) A Panel appointed under section 28 shall terminate when it has submitted its report unless the Commission extends the existence of the Panel.

"(D) The Federal Advisory Committee Act shall not apply with respect to any Panel established under this section.

"(c) Each Panel's report shall contain a complete statement of the basis for the Panel's determination. The Commission shall consider the report of the Panel and incorporate such report into the advance notice of proposed rulemaking and final rule.".

CONGRESSIONAL VETO

SEC. 1207. (a) The Consumer Product Safety Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF CONSUMER PRODUCT SAFETY RULES

"SEC. 36. (a) The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 9.

"(b) Any rule specified in subsection (a) shall not take effect if—

"(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the consumer product safety rule which was promulgated by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the rule for the following reasons: .'; or

"(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of

continuous session of the Congress specified in subsection (b).".

(b) Subsection (l) of section 27 (15 U.S.C. 2076) is repealed.

(c) The Federal Hazardous Substances Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF REGULATIONS

"SEC. 21. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any regulation promulgated by the Commission under section 2(q)(1) or subsection (e) of section 3.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the regulation which was promulgated under the Federal Hazardous Substances Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(d) The Flammable Fabrics Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF FLAMMABILITY REGULATIONS

"SEC. 17. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any flammability regulation promulgated by the Commission under section 4.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the flammability regulation which was promulgated under the Flammable Fabrics Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

REPORTS

SEC. 1208. (a) Section 27(b)(1) (15 U.S.C. 2076(b)(1)) is amended by inserting "to carry out a specific regulatory or enforcement function of the Commission" after "may prescribe".

(b) Section 27(b) is amended by adding after and below paragraph (9) the following: "An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the order as is practicable taking into account the purpose for which the order was issued.".

VOLUNTARY STANDARDS

SEC. 1209. (a) Section 5(a) (15 U.S.C. 2054(a)) is amended by—

(1) striking "and" after paragraph (1);

(2) striking the period after paragraph (2) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

"(3) following publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking for a product safety rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of manufacturers, administratively and technically, in the development of safety standards addressing the risk of injury identified in such notice; and

"(4) to the extent practicable and appropriate (taking into account the resources and priorities of the Commission), assist public and private organizations or groups of manufacturers, administratively and technically, in the development of product safety standards and test methods.".

(b) Section 5(b) (15 U.S.C. 2054(b)) is amended by amending paragraph (3) to read as follows:

"(3) offer training in product safety investigation and test methods.".

(c) Section 27(j) (15 U.S.C. 2076(j)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting immediately after paragraph (9) the following:

"(10) with respect to voluntary consumer product safety standards for which the Commission has participated in the development through monitoring or offering of assistance and with respect to voluntary consumer product safety standards relating to risks of injury that are the subject of regulatory action by the Commission, a description of—

"(A) the number of such standards adopted;

"(B) the nature and number of the products which are the subject of such standards;

"(C) the effectiveness of such standards in reducing potential harm from consumer products;

"(D) the degree to which staff members of the Commission participate in the development of such standards;

"(E) the amount of resources of the Commission devoted to encouraging development of such standards; and

"(F) such other information as the Commission determines appropriate or necessary to inform the Congress on the current status of the voluntary consumer product safety standard program; and".

PETITIONS TO COMMISSION

SEC. 1210. Section 10 (15 U.S.C. 2059) is repealed.

MISCELLANEOUS

SEC. 1211. (a) The first sentence of section 24 (15 U.S.C. 2073) is amended by inserting "(including any individual or nonprofit, business, or other entity)" after "interested person".

(b) Section 13 (15 U.S.C. 2062) is repealed.

(c)(1) Section 20 is amended by—

(A) redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

"(b) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 19(a), the Commission shall consider the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, the number of defective products distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.".

(2) The second sentence of section 20(c) (as so redesignated by subsection (a)(1) of this section) (15 U.S.C. 2069) is amended to read as follows: "In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed.".

(d) Section 27 (15 U.S.C. 2076) is amended by striking out subsection (m).

(e) The last sentence of section 14(a) of the Flammable Fabrics Act (15 U.S.C. 1201(a)) is repealed.

(f)(1) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended to read as follows:

"NOTICE AND REPAIR, REPLACEMENT, OR REFUND

"SEC. 15. (a) If any article or substance sold in commerce is defined as a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that notification is required to adequately protect the public from such article or substance, the Commission may order the manufacturer or any distributor or dealer of the article or substance to take any one or more of the following actions:

"(1) To give public notice that the article or substance is a banned hazardous substance.

"(2) To mail such notice to each person who is a manufacturer, distributor, or dealer of such article or substance.

"(3) To mail such notice to every person to whom the person giving the notice knows such article or substance was delivered or sold.

An order under this subsection shall specify the form and content of any notice required to be given under the order.

"(b) If any article or substance sold in commerce is defined as a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that action under this subsection is in the public interest, the Consumer Product Safety Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

"(1) If repairs to or changes in the article or substance may be made so that it will not be a banned hazardous substance, to make such repairs or changes.

"(2) To replace such article or substance with a like or equivalent article or substance which is not a banned hazardous substance.

"(3) To refund the purchase price of the article or substance (less a reasonable allowance for use, if the article or substance has been in the possession of the consumer for one year or more—

"(A) at the time of public notice under subsection (a), or

"(B) at the time the consumer receives actual notice that the article or substance is a banned hazardous substance,

whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection. An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the article or substance with respect to which the order was issued.

"(c)(1) No charge shall be made to any person (other than a manufacturer, distributor, or dealer) who avails himself of any remedy provided under an order issued under subsection (b), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or dealer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

"(2) An order issued under subsection (a) or (b) with respect to an article or substance may require any person who is a manufacturer, distributor, or dealer of the article or substance to reimburse any other person who is a manufacturer, distributor, or dealer of such article or substance for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

"(d) An order under subsection (a) or (b) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).".

(2) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following:

"(j) The failure to comply with an order issued under section 15.".

(g) The table of contents is amended by striking out the items relating to sections 13 and 28, and inserting in lieu thereof the following:

"Sec. 13. Repealed."

and

"Sec. 28. Chronic hazards advisory panel.",

respectively.

(h)(1) Section 11(c) (15 U.S.C. 2060(c)) is amended by striking out "section 9(c)" and inserting in lieu thereof "sections 9(f)(1) and 9(f)(3)". (2) Section 11(a) is amended by striking out "9(a)(2)" and inserting in lieu thereof "9(d)(2)".

(3)(A) Section 11 is amended by adding at the end thereof the following:

"(f) For purposes of this section and sections 23(a) and 24, a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.".

(B) Section 23(a) (15 U.S.C. 2072(a)) is amended by striking out "10(e)(4)" and inserting in lieu thereof "11(f)".

(C) Section 24 (15 U.S.C. 2074) is amended by striking out "10(e)(4)" and inserting in lieu thereof "11(f)".

(4) Section 15(g)(1) (15 U.S.C. 2064(g)(1)) is amended by inserting ", Science and Transportation" immediately after "on Commerce", and by striking out "section 12(e)(1)" and inserting in lieu thereof "section 12(c)(1)".

LAWN MOWER STANDARD

SEC. 1212. (a) Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall amend its consumer product safety standard for walk-behind power lawn mowers to provide that a manually started rotary type lawn mower which has a blade control system which meets the requirements of the standard relating to blade controls (16 CFR 1205.5) except that the system stops the engine and requires a manual restart of the engine shall be considered in compliance with such requirements if the engine starting controls for the lawn mower are located within twenty-four inches from the top of the mower's handles or the mower has a protective foot shield which extends three hundred and sixty degrees around the mower housing. The Consumer Product Safety Act shall not apply with respect to the promulgation of the amendment prescribed by this subsection.

(b) The Commission shall conduct a study of the effect on consumers of the amendment prescribed by subsection (a) and shall report the results of such study two years after the date the standard, as amended in accordance with subsection (a), takes effect. The Commission may not amend the amendment prescribed by subsection (a) before the report is filed under this subsection.

AMUSEMENT PARKS

SEC. 1213. Section 3(a)(1) (15 U.S.C. 2052(a)(1)) is amended by inserting before the sentence following subparagraph (I) the following: "Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site.".

EXTENSION OF ACT

SEC. 1214. Section 32(a) (15 U.S.C. 2081(a)) is amended (1) by striking out "and" at the end of paragraph (6), (2) by striking out the period at the end of paragraph (7) and inserting a semicolon, and (3) by adding at the end the following:

"(8) $33,000,000 for the fiscal year ending September 30, 1982; and

"(9) $35,000,000 for the fiscal year ending September 30, 1983.

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, severance pay under section 5595 under such title, and any other expense related to a reduction in force in the Commission, there are authorized to be appropriated such sums as may be necessary.".

EFFECTIVE DATE

SEC. 1215. (a) Except as provided in subsection (b), the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) The amendments made by section 1207 shall apply with respect to consumer product safety rules under the Consumer Product Safety Act and regulations under the Federal Hazardous Substances Act and the Flammable Fabrics Act promulgated by the Consumer Product Safety Commission after the date of the enactment of this Act; and the amendments made by sections 1202, 1203, and 1206 of this subtitle shall apply with respect to regulations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act for which notices of proposed rulemaking are issued after August 14, 1981.

Subtitle B—Communications

CHAPTER 1—PUBLIC BROADCASTING

SHORT TITLE

SEC. 1221. This chapter may be cited as the "Public Broadcasting Amendments Act of 1981".

AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC TELECOMMUNICATIONS FACILITIES

SEC. 1222. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by inserting after "1981," the following: "$20,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, and $12,000,000 for fiscal year 1984,".

GRANTS FOR CONSTRUCTION AND PLANNING

SEC. 1223. (a) Section 392(a)(4) of the Communications Act of 1934 (47 U.S.C. 392(a)(4)) is amended by striking out "only" and inserting in lieu thereof "primarily", and by inserting before the semicolon at the end thereof the following: ", and that the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services will not interfere with the provision of such public telecommunications services as required in this part".

(b) Section 392(g)(2) of the Communications Act of 1934 (47 U.S.C. 392(g)(2)) is amended—

(1) by striking out "only" and inserting in lieu thereof "primarily"; and

(2) by striking out "(unless" and all that follows through "do so)" and inserting in lieu thereof the following: "(or the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services interferes with the provision of such public telecommunications services as required in this part)".

DECLARATION OF POLICY REGARDING CORPORATION

SEC. 1224. Section 396(a)(5) of the Communications Act of 1934 (47 U.S.C. 396(a)(5)) is amended by striking out "and", and by inserting before the semicolon at the end thereof the following: ", and which will constitute a source of alternative telecommunications services for all the citizens of the Nation".

BOARD OF DIRECTORS OF CORPORATION

SEC. 1225. (a)(1) Section 396(c) of the Communications Act of 1934 (47 U.S.C. 396(c)) is amended to read as follows:

"BOARD OF DIRECTORS

"(c)(1) The Corporation for Public Broadcasting shall have a Board of Directors (hereinafter in this section referred to as the 'Board'), consisting of 10 members appointed by the President, by and with the advice and consent of the Senate, and the President of the Corporation. No more than 6 members of the Board appointed by the President may be members of the same political party. The President of the Corporation shall serve as the Chairman of the Board.

"(2) The 10 members of the Board appointed by the President (A) shall be selected from among citizens of the United States (not regular full-time employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; and (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the Nation, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

"(3) Of the members of the Board appointed by the President under paragraph (1), one member shall be selected from among individuals who represent the licensees and permittees of public television stations, and one member shall be selected from among individuals who represent the licensees and permittees of public radio stations.

"(4) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

"(5) The term of office of each member of the Board appointed by the President shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each.

"(6) Any vacancy in the Board shall not affect its power, but shall be filled in the manner consistent with this Act.

"(7) Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill such vacancy not later than 30 days after such vacancy is determined by the Chairman of the Board.".

(2)(A) The amendment made in paragraph (1) shall not affect the continuation in office of any individual serving on the Board of Directors of the Corporation for Public Broadcasting on the date of the enactment of this Act.

(B) The first 5 vacancies occurring on the Board after October 1, 1983 (other than any vacancy in the office of Chairman) shall not be filled, so as to reduce the membership of the Board to 10 members in addition to the Chairman of the Board.

(b) Section 396(d) of the Communications Act of 1934 (47 U.S.C. 396(d)) is amended to read as follows:

"Election of Vice Chairman; Compensation

"(d)(1) Members of the Board shall annually elect one or more of their members as a Vice Chairman or Vice Chairmen.

"(2) The members of the Board shall not, by reason of such membership, be deemed to be officers or employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subpart, be entitled to receive compensation at the rate of $150 per day, including travel time. No Board member shall receive compensation of more than $10,000 in any fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses.".

(c) Section 396(e)(1) of the Communications Act of 1934 (47 U.S.C. 396(e)(1)) is amended—

(1) by striking out "the Chairman and any" and inserting in lieu thereof "a"; and

(2) by inserting "for services rendered" after "Corporation" the sixth time it appears therein.

REPORT TO CONGRESS

SEC. 1226. Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended by striking out "February" and inserting in lieu thereof "May".

FINANCING; COMMUNITY ADVISORY BOARDS

SEC. 1227. (a) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking out "and" each place it appears therein;

(2) by inserting "1984, 1985, and 1986," after "1983,"; and

(3) by inserting before the period at the end thereof the following: ", and $130,000,000 for each of the fiscal years 1984, 1985, and 1986".

(b) Section 396(k)(2)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(2)(B)) is amended—

(1) by striking out "quarterly" and inserting in lieu thereof "fiscal year"; and

(2) by striking out ", in such amounts" and all that follows through "quarter".

(c)(1) Section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(3)(A)(i) The Corporation shall establish an annual budget for use in allocating amounts from the Fund. Of the amounts appropriated into the Fund available for allocation for any fiscal year—

"(I) not more than 5 percent of such amounts shall be available for the administrative expenses of the Corporation;

"(II) not less than 5 percent of such amounts shall be available for other expenses incurred by the Corporation, including research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness, capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, and the costs of interconnection facilities and operations (as provided in clause (iv)), except that the total amount available for obligation for any fiscal year under this subclause and subclause (I) shall not exceed 10 percent of the amounts appropriated into the Fund available for allocation for such fiscal year;

"(III) 75 percent of the remainder (after allocations are made under subclause (I) and subclause (II)) shall be allocated in accordance with clause (ii); and

"(IV) 25 percent of such remainder shall be allocated in accordance with clause (iii).

"(ii) Of the amounts allocated under clause (i)(III) for any fiscal year—

"(I) 75 percent of such amounts shall be available for distribution among the licensees and permittees of public television stations pursuant to paragraph (6)(B); and

"(II) 25 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public television programming.

"(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

"(I) not less than 50 percent of such amounts (as determined under paragraph (6)(A)) shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B); and

"(II) not more than 50 percent of such amounts (as determined under paragraph (6)(A)) shall be available for distribution under subparagraph (B)(i) for public radio.

"(iv)(I) Subject to the provisions of clause (v), the Corporation shall defray an amount equal to 50 percent of the total costs of interconnection facilities and operations to facilitate the availability of public television and radio programs among public broadcast stations.

"(II) Of the amounts received as the result of any contract, lease agreement, or

any other arrangement under which the Corporation directly or indirectly makes available interconnection facilities, 50 percent of such amounts shall be distributed to the licensees and permittees of public television stations and public radio stations. The Corporation shall not have any authority to establish any requirements, guidelines, or limitations with respect to the use of such amounts by such licensees and permittees.

"(v) If the expenses incurred by the Corporation under clause (i)(II) for any fiscal year for—

"(I) capital costs relating to telecommunications satellites;

"(II) the payment of programming royalties and other fees; and

"(III) the costs of interconnection facilities and operations (as provided in clause (iv));

exceed 6 percent of the amounts appropriated into the Fund available for allocation for such fiscal year, then 75 percent of such excess costs shall be defrayed by the licensees and permittees of public television stations from amounts available to such licensees and permittees under clause (ii)(I) and 25 percent of such excess costs shall be defrayed by the licensees and permittees of public radio stations from amounts available to such licensees and permittees under clause (iii)(I).".

(2) Section 396(k)(3)(B)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(i)) is amended to read as follows:

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II), and a significant portion of such other funds as may be available to the Corporation, to make grants and contracts for production of public television or radio programs by independent producers and production entities and public telecommunications entities, and for acquisition of such programs by public telecommunications entities. Of the funds utilized pursuant to this clause, a substantial amount shall be reserved for distribution to independent producers and production entities for the production of programs.".

(3) Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended—

(A) in clause (ii) thereof, by striking out "contained in the annual budget established by the Corporation under clause (i)" and inserting in lieu thereof "available for distribution under clause (i)"; and

(B) by striking out clause (iii) and clause (iv) thereof.

(4) The amendments made in this subsection shall apply to fiscal years beginning after September 30, 1983.

(d)(1) Section 396(k)(6)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(A)) is amended to read as follows:

"(6)(A) The Corporation, in consultation with public radio stations and with National Public Radio (or any successor organization), shall determine the percentage of funds allocated under subclause (I) and subclause (II) of paragraph (3)(A)(iii) for each fiscal year. The Corporation, in consultation with such organizations, also shall conduct an annual review of the criteria and conditions applicable to such allocations.".

(2) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended—

(A) by striking out the first sentence thereof;

(B) in the second sentence thereof, by inserting "under paragraph (3)(A)(ii)(I)" after "stations"; and

(C) in the last sentence thereof, by inserting "under paragraph (3)(A)(iii)(I)" after "radio stations".

(3) The amendments made in this subsection shall apply to fiscal years beginning after September 30, 1983.

(e) Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended to read as follows:

"(7) The funds distributed pursuant to paragraph (3)(A) may be used at the discretion of the recipient for purposes related primarily to the production or acquisition of programming.".

(f) Section 396(k)(8) of the Communications Act of 1934 (47 U.S.C. 396(k)(8)) is amended to read as follows:

"(8) Any public telecommunications entity which—

"(A) receives any funds pursuant to this subpart for any fiscal year; and

"(B) during such fiscal year has filed or was required to file a return with the Internal Revenue Service declaring unrelated business income related to station operations under sections 501, 511, and 512 of the Internal Revenue Code of 1954;

shall refund to the Corporation an amount equal to the amount of unrelated business income tax paid as stated in such filed return.".

(g)(1) Section 396(k)(9)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(A)) is amended—

(A) by inserting "(other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency)" after "public broadcast station";

(B) by inserting after "assure that" the following: "(i) its advisory board meets at regular intervals; (ii) the members of its advisory board regularly attend the meetings of the advisory board; and (iii)"; and

(C) by striking out "reasonably reflects" and inserting in lieu thereof "are reasonably representative of".

(2) Section 396(k)(9)(D) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(D)) is amended by inserting "(other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency)" after "public broadcast station".

(3) Section 396(k)(9)(E) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(E)) is amended by inserting "(other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency)" after "public broadcast station".

RECORDS AND AUDIT

SEC. 1228. (a) Section 396(l)(1)(A) of the Communications Act of 1934 (47 U.S.C. 396(l)(1)(A)) is amended by inserting ", except that such requirement shall not preclude shared auditing arrangements between any public telecommunications entity and its licensee where such licensee is a public or private institution" after "United States".

(b) Section 396(l)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)) is amended—

(1) in clause (ii) thereof, by striking out "an annual" and inserting in lieu thereof "a biannual"; and

(2) in clause (iii) thereof, by striking out "annually" and inserting in lieu thereof "biannually".

EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES PROHIBITED

SEC. 1229. Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended to read as follows:

"EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES PROHIBITED

"SEC. 399. No noncommercial educational broadcasting station which receives a grant from the Corporation under subpart C of this part may engage in editorializing. No noncommercial educational broadcasting station may support or oppose any candidate for political office.".

USE OF BUSINESS OR INSTITUTIONAL LOGOGRAMS

SEC. 1230. Subpart D of part IV of title III of the Communications Act of 1934 (47 U.S.C. 397) is amended by adding at the end thereof the following new section:

"USE OF BUSINESS OR INSTITUTIONAL LOGOGRAMS

"SEC. 399A. (a) For purposes of this section, the term 'business or institutional logogram' means any aural or visual letters or words, or any symbol or sign, which is used for the exclusive purpose of identifying any corporation, company, or other organization, and which is not used for the purpose of promoting the products, services, or facilities of such corporation, company, or other organization.

"(b) Each public television station and each public radio station shall be authorized to broadcast announcements which include the use of any business or institutional logogram and which include a reference to the location of the corporation, company, or other organization involved, except that such announcements may not interrupt regular programming.

"(c) The provisions of this section shall not be construed to limit the authority of the Commission to prescribe regulations relating to the manner in which logograms may be used to identify corporations, companies, or other organizations.".

OFFERING OF CERTAIN SERVICES, FACILITIES, OR PRODUCTS BY PUBLIC BROADCAST STATIONS

SEC. 1231. Subpart D of part IV of title III of the Communications Act of 1934, as amended in section 1230, is further amended by adding at the end thereof the following new section:

"OFFERING OF CERTAIN SERVICES, FACILITIES, OR PRODUCTS BY PUBLIC BROADCAST STATIONS

"SEC. 399B. (a) For purposes of this section, the term 'advertisement' means any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended—

"(1) to promote any service, facility, or product offered by any person who is engaged in such offering for profit;

"(2) to express the views of any person with respect to any matter of public importance or interest; or

"(3) to support or oppose any candidate for political office.

"(b)(1) Except as provided in paragraph (2), each public broadcast station shall be authorized to engage in the offering of services, facilities, or products in exchange for remuneration.

"(2) No public broadcast station may make its facilities available to any person for the broadcasting of any advertisement.

"(c) Any public broadcast station which engages in any offering specified in subsection (b)(1) may not use any funds distribut-

ed by the Corporation under section 396(k) to defray any costs associated with such offering. Any such offering by a public broadcast station shall not interfere with the provision of public telecommunications services by such station.

"(d) Each public broadcast station which engages in the activity specified in subsection (b)(1) shall, in consultation with the Corporation, develop an accounting system which is designed to identify any amounts received as remuneration for, or costs related to, such activities under this section, and to account for such amounts separately from any other amounts received by such station from any source.".

STUDY ON ALTERNATIVE FINANCING FOR PUBLIC TELECOMMUNICATIONS

SEC. 1232. (a)(1) A study shall be conducted in accordance with the provisions of this section regarding options which may be available to public telecommunications entities, the Public Broadcasting Service, and National Public Radio with respect to the development of sources of revenue in addition to the sources of revenue available to such entities and organizations on the date of the enactment of this Act. Such study shall be completed not later than July 1, 1982, and a report shall be submitted to the Congress in accordance with subsection (i).

(2) The study required in paragraph (1) shall seek to identify funding options which also will ensure that public telecommunications as a source of alternative and diverse programming will be maintained and enhanced, and that public telecommunications services will continue to expand and be available to increasing numbers of citizens throughout the Nation.

(3) The study required in paragraph (1), in examining funding alternatives, also shall seek to determine appropriate means for ensuring that the use of such funding alternatives does not interfere with the content and quality of programming appearing on public television and radio.

(b)(1) The study required in subsection (a)(1) shall be conducted by a commission to be known as the Temporary Commission on Alternative Financing for Public Telecommunications (hereinafter in this section referred to as the "Commission").

(2) The Commission shall consist of the Chairman of the Federal Communications Commission (or a member of the Commission designated by the Chairman); the Assistant Secretary of Commerce for Communications and Information (or his delegate); the heads of the Corporation for Public Broadcasting, National Public Radio, and the National Association of Public Television Stations (or their delegates); the Chairman and the ranking minority member of the Committee on Commerce, Science, and Transportation of the Senate (or any members of such committee designated by them); and the Chairman and ranking minority member of the Committee on Energy and Commerce of the House of Representatives (or any members of such committee designated by them).

(3) In addition to the members of the Commission specified in paragraph (2), an officer or employee of a public television station and an officer or employee of a public radio station shall serve as members of the Commission. Such members shall be selected by the members of the Commission specified in paragraph (2). Such selection shall be made at the first meeting conducted by the Commission.

(4) For purposes of this subsection, the terms "public television station" and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(c) The members of the Commission shall serve without compensation, but the Federal Communications Commission shall make funds available to reimburse such members for travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chairman of the Federal Communications Commission (or the person designated by the Chairman under subsection (b)(2)) shall serve as Chairman of the Commission.

(e) The Commission shall meet at the call of the Chairman or a majority of the members of the Commission. Six members of the Commission shall constitute a quorum.

(f)(1) Upon request of the Commission, the Federal Communications Commission shall furnish the Commission with such personnel and support services as may be necessary to assist the Commission in carrying out its duties and functions under this section. The Commission shall not be required to pay or reimburse the Federal Communications Commission for such personnel and support services.

(2) The Assistant Secretary of Commerce for Communications and Information, and the heads of the Corporation for Public Broadcasting, the Public Broadcasting Service, National Public Radio, and the National Association of Public Television Stations, each are authorized to furnish the Commission with such personnel and support services as each such organization considers necessary or appropriate to assist the Commission in carrying out its duties and functions under this section.

(g) The Commission shall have authority to hold such hearings, sit and act at such times and places, and take such testimony as the Commission considers advisable. The Commission shall seek to obtain the testimony and advice of business representatives, persons representing public interest groups, and other persons and organizations which have an interest in public broadcasting.

(h) The Commission shall be exempt from section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act (5 U.S.C. Appendix).

(i) The Commission shall submit a report to the Congress containing the results of the study required in subsection (a)(1) not later than July 1, 1982. Such report shall include an evaluation of each option with respect to the development of additional sources of revenue, and shall include recommendations for such legislative or other action as the Commission considers necessary or appropriate.

(j)(1) Except as provided in paragraph (2), the Commission shall terminate at the end of the 90-day period following the date of the submission of the report required in subsection (i).

(2) If the Commission decides to establish the demonstration program specified in section 1233, then the Commission shall reconvene after the termination of the demonstration program conducted under section 1233 for the purpose of carrying out the functions of the Commission specified in section 1233(e). The Commission shall terminate at the end of the 90-day period following the date of the submission of the report required in section 1233(e).

DEMONSTRATION PROGRAM REGARDING ADVERTISING

SEC. 1233. (a) The Temporary Commission on Alternative Financing for Public Telecommunications established in section 1232 may establish a demonstration program in accordance with this section for the purpose of determining the feasibility of permitting public television station licensees and public radio station licensees to broadcast advertising announcements. If the Commission decides to establish such demonstration program, then the Commission shall establish and carry out such demonstration program in accordance with the provisions of subsection (b) through subsection (f).

(b)(1)(A) The Commission shall establish the demonstration program as soon as practicable after the date of the enactment of this Act. The Commission shall permit public broadcast station licensees to begin the broadcasting of qualifying advertising not later than January 1, 1982, except that such licensees may begin such advertising before such date if the Commission completes the establishment of the demonstration program before such date.

(B) Such broadcasting of qualifying advertising shall be carried out during the 18-month period beginning January 1, 1982 (or beginning on such earlier date as may be authorized by the Commission under subparagraph (A)), except that such broadcasting of qualifying advertising shall terminate not later than June 30, 1983. The demonstration program shall terminate at the end of such period.

(2)(A) The Corporation for Public Broadcasting, in consultation with the Commission, shall select not more than 10 public television station licensees and not more than 10 public radio station licensees to participate in the demonstration program.

(B) Such selection shall be made from among licensees which have expressed to the Corporation a desire to participate in the demonstration program, except that any public television station licensee or public radio station licensee which is represented on the Commission under section 1232(b)(3) shall not be eligible to participate in the demonstration program.

(C) If a licensee elects not to participate in the demonstration program, after receiving notice of its selection from the Corporation, then the Corporation shall select an alternate licensee.

(D) The exemption from income tax of any public broadcast station licensee under section 501(a) of the Internal Revenue Code of 1954, relating to exemption from taxation, shall not be affected by the participation of such licensee in the demonstration program.

(3) The Corporation shall make selections under paragraph (2), to the extent practicable, in a manner which ensures that—

(A) a representative geographical distribution of public broadcast station licensees will be achieved;

(B) licensees serving audiences and markets of various sizes will participate in the demonstration program;

(C) licensees with operating budgets of various sizes will participate in the demonstration program;

(D) different types of licensees will participate in the demonstration program; and

(E) in the case of public radio station licensees, licensees with different types of programming formats will participate in the demonstration program.

(c) Each public television station licensee or public radio station licensee which is selected by the Corporation for Public Broadcasting under subsection (b) shall be authorized to broadcast qualifying advertising in accordance with subsection (d).

(d)(1)(A) Except as provided in subparagraph (B), any qualifying advertising announcement which is broadcast by any public television station licensee or any public radio station licensee may be broadcast only at the beginning or at the end of regular programs, and may not interrupt regular programs.

(B) In the case of any regular program which is 2 or more hours in duration, any public radio station licensee may broadcast (subject to paragraph (2)) a qualifying advertising announcement during the program, but only (i) during a break in the program scheduled for station identification; or (ii) at other times which will not unduly disrupt the program.

(2) Any qualifying advertising announcements which are broadcast consecutively by any public television station licensee or any public radio station licensee may not exceed 2 minutes in duration. Such licensees may not engage in any such consecutive broadcasts of qualifying advertising announcements more than once during any 30-minute period.

(3)(A) The Commission shall prescribe regulations which specify the types of advertisements which may be broadcast by licensees during the demonstration program. The Commission may authorize licensees participating in the demonstration program to broadcast institutional advertisements and advertisements relating to specific products, services, or facilities. Licensees shall not be authorized or required to broadcast any advertisement which—

(i) is intended to promote any opinion or point-of-view regarding any matter of public importance or interest, any political issue, or any matter relating to religion; or

(ii) is intended to support or oppose any candidate for political office.

(B) The Federal Communications Commission shall have authority to determine in disputed cases whether any advertising announcement shall be considered to be qualifying advertising for purposes of this section.

(4) The Commission shall prescribe regulations which establish requirements relating to the sale of broadcast time for advertisements during the demonstration program. Such regulations may authorize—

(A) the assignment of broadcast time for advertisements through a system of random selection;

(B) the sale of broadcast time for advertisements which will be broadcast at the beginning or at the end of particular programs, or during particular portions of the broadcast day; or

(C) any other method for the sale of broadcast time which the Commission considers appropriate.

(5) The Commission shall have authority to prescribe regulations under paragraph (3) and paragraph (4) which establish different criteria and requirements applicable to the various licensees participating in the demonstration program, to the extent the Commission considers the establishment of such different criteria and requirements to be necessary to assist the Commission in preparing the report, and making the recommendations, required in subsection (e).

(6) Any issue regarding compliance with the provisions of this subsection shall be resolved by the Federal Communications Commission in accordance with its authority under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(e)(1) The Commission, as soon as practicable after the termination of the demonstration program under subsection (b)(1)(A), shall analyze the results of the demonstration program and shall submit a report to each House of the Congress regarding the demonstration program. Such report shall be submitted not later than October 1, 1983, and shall include—

(A) an examination of whether qualifying advertising had any influence or effect upon programming broadcast by the public broadcast station licensees involved;

(B) an analysis of the reaction of audiences to the broadcasting of such qualifying advertising;

(C) an examination of the extent to which businesses and other organizations engaged in the purchase of broadcast time for the broadcast of qualifying advertising;

(D) an analysis of whether the broadcasting of qualifying advertising had any impact upon the underwriting of programs; and

(E) any other findings or information which the Commission considers appropriate.

(2) Such report also shall include such recommendations for legislative or other action as the Commission considers appropriate, including a recommendation regarding whether public broadcast stations should be permitted to broadcast qualifying advertising on a permanent basis.

(f) For purposes of this section:

(1) The term "Commission" means the Temporary Commission on Alternative Financing for Public Telecommunications established in section 1232.

(2) The term "demonstration program" means the demonstration program which the Commission is authorized to establish in accordance with this section.

(3) The terms "public broadcast station", "public television station", and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(4) The term "qualifying advertising" means any type of advertising specified by the Commission under subsection (d)(3)(A).

TECHNICAL AMENDMENTS

SEC. 1234. (a) Section 396(g) of the Communications Act of 1934 (47 U.S.C. 396(g)) is amended by striking out paragraph (5) thereof, and by redesignating paragraph (6) as paragraph (5).

(b) Section 397(15) of the Communications Act of 1934 (47 U.S.C. 397(15)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "Human Services".

CHAPTER 2—TELEVISION AND RADIO BROADCASTING

TELEVISION AND RADIO LICENSE TERMS

SEC. 1241. (a) Section 307(d) of the Communications Act of 1934 (47 U.S.C. 307(d)) is amended—

(1) by inserting "television" after "operation of a";

(2) by striking out "three years" each place it appears therein and inserting in lieu thereof "five years";

(3) by inserting "(other than a radio broadcasting station)" after "class of station";

(4) by inserting after the first sentence thereof the following new sentence: "Each license granted for the operation of a radio broadcasting station shall be for a term of seven years.";

(5) by inserting "television" after "in the case of" the first place it appears therein;

(6) by inserting "for a term of seven years in the case of radio broadcasting station licenses," after "licenses," the first place it appears therein; and

(7) by inserting "for a term of" after "and" the third place it appears therein.

(b) The amendments made in subsection (a) shall apply to television and radio broadcasting licenses granted or renewed by the Federal Communications Commission after the date of the enactment of this Act.

GRANTING OF CERTAIN INITIAL LICENSES AND PERMITS BASED ON SYSTEM OF RANDOM SELECTION

SEC. 1242. (a) Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(i)(1) If there is more than one applicant for any initial license or construction permit which will involve any use of the electromagnetic spectrum, then the Commission, after determining the qualifications of each such applicant under section 308(b), shall have authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

"(2) The determination of the Commission under paragraph (1) with respect to the qualifications of applicants for an initial license or construction permit shall be made after notice and opportunity for a hearing, except that the provisions of section 409(c)(2) shall not apply in the case of any such determination.

"(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection, groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties will be granted significant preferences.

"(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such times, and in accordance with such procedures, as the Commission may require.

"(4)(A) The Commission, not later than 180 days after the effective date of this subsection, shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

"(B) The Commission shall have authority to amend such rules from time to time to the extent necessary to carry out the provisions of this subsection. Any such amendment shall be made after notice and opportunity for hearing.".

(b) The Commission shall have authority to use the system of random selection established by the Commission under section 309(i) of the Communications Act of 1934, as added in subsection (a), with respect to any application for an initial license or construction permit which will involve any use

of the electromagnetic spectrum and which—

(1) is filed with the Commission after the date of the enactment of this Act; or

(2) is pending before the Commission on such date of enactment but has not been designated for hearing on or before such date of enactment.

SPECIAL REQUIREMENTS RELATING TO BROADCASTING STATION LICENSE APPLICATIONS

SEC. 1243. Section 311 of the Communications Act of 1934 (47 U.S.C. 311) is amended by adding at the end thereof the following new subsection:

"(d)(1) If there are pending before the Commission two or more applications for a license granted for the operation of a broadcasting station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications in exchange for the payment of money, or the transfer of assets or any other thing of value by the remaining applicant or applicants.

"(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall require.

"(3) The Commission shall approve the agreement only if it determines that (A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its license application for the purpose of reaching or carrying out such agreement.

"(4) For purposes of this subsection, an application shall be deemed to be pending before the Commission from the time such application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court.".

CHAPTER 3—REGULATORY AGENCIES

Subchapter A—Federal Communications Commission

AUTHORIZATION OF APPROPRIATIONS

SEC. 1251. (a) The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting after section 5 the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There is authorized to be appropriated for the administration of this Act by the Commission $76,900,000, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1982 and 1983.".

(b) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by striking out "from time to time may be appropriated for by Congress" and inserting in lieu thereof "may be appropriated for by the Congress in accordance with the authorizations of appropriations established in section 6".

MANAGING DIRECTOR OF COMMISSION; ANNUAL REPORT

SEC. 1252. Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by adding at the end thereof the following new subsections:

"(f) The Commission shall have a Managing Director who shall be appointed by the Chairman subject to the approval of the Commission. The Managing Director, under the supervision and direction of the Chairman, shall perform such administrative and executive functions as the Chairman shall delegate. The Managing Director shall be paid at a rate equal to the rate then payable for level V of the Executive Schedule.

"(g) The Commission shall submit an annual report to the Congress not later than January 31 of each year. Such report shall—

"(1) list the specific goals, objectives, and priorities of the Commission which shall be projected over 12-month, 24-month, and 36-month periods;

"(2) describe in detail the programs which are, or shall be, established to meet or carry out such goals, objectives, and priorities;

"(3) provide an evaluation of actions taken during the preceding year with regard to fulfilling the functions of the Commission; and

"(4) contain recommendations for legislative action required to enable the Commission to meet its objectives.".

UNIFORM SYSTEM OF ACCOUNTS

SEC. 1253. (a)(1) The Federal Communications Commission (hereinafter in this section referred to as the "Commission") shall complete the rulemaking proceeding relating to the revision of the uniform system of accounts used by telephone companies (Common Carrier Docket 78-196; notice of proposed rulemaking adopted June 28, 1978, 43 Federal Register 33560) as soon as practicable after the date of the enactment of this Act.

(2) Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier.

(b) The Commission shall submit a report to each House of the Congress not later than one year after the date of the enactment of this Act. Such report shall include a summary of actions taken by the Commission in connection with the rulemaking proceeding specified in subsection (a), together with such other information as the Commission considers appropriate.

Subchapter B—National Telecommunicationsand Information Administration

AUTHORIZATION OF APPROPRIATIONS

SEC. 1255. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration $16,483,500, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1982.

SUBTITLE C—DEPARTMENT OF COMMERCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 1261. There are authorized to be appropriated to the Secretary of Commerce for expenses necessary for the general administration of the Department of Commerce not to exceed $33,472,300 for fiscal year 1982, $33,472,300 for fiscal year 1983, and $33,472,300 for fiscal year 1984.

TITLE XIII—INTERNATIONAL AFFAIRS

Subtitle A—Public Law 480

APPROPRIATION LIMITS

SEC. 1301. Notwithstanding any other provision of law, programs shall not be undertaken under title I (including title III) and title II of the Agricultural Trade Development and Assistance Act of 1954 during any calendar year which call for an appropriation of more than $1,304,836,000 for the fiscal year 1982, $1,320,292,000 for the fiscal year 1983, and $1,402,278,000 for the fiscal year 1984.

Subtitle B—International Development Banks

PART 1—INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

INCREASE IN SUBSCRIPTION OF STOCK

SEC. 1311. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 39. (a) The United States Governor of the Bank is authorized—

"(1) to vote to increase by three hundred and sixty-five thousand shares the authorized capital stock of the Bank; and

"(2) to subscribe on behalf of the United States to not more than seventy-three thousand and ten shares of the capital stock of the Bank: Provided, however, That not more than seven and one-half percent ($658,305,195) of the price of the shares subscribed may be paid in to the Bank on subscription, with the remainder of that price ($8,149,256,155) being subject to call only when a call on unpaid subscriptions is required to meet obligations of the Bank for funds borrowed or on loans guaranteed by it and not for use by the Bank in its lending activities or for administrative expenses: Provided further, That any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) In order to pay for the paid-in portion of the United States subscription to the Bank provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $658,305,195 for payment by the Secretary of the Treasury: Provided, however, That not more than $109,720,549 of such sum may be made available for each of the fiscal years 1982, 1983, and 1984.".

FUTURE SUBSCRIPTIONS OF STOCK

SEC. 1312. Section 27(a)(2) of the Bretton Woods Agreements Act (22 U.S.C. 286e-1f(a)(2)) is amended by striking out "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated" and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts".

PART 2—INTERNATIONAL DEVELOPMENT ASSOCIATION

SIXTH REPLENISHMENT

SEC. 1321. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 17. (a) The United States Governor is authorized to agree on behalf of the United States to pay to the Association $3,240,000,000 as the United States contribution to the sixth replenishment of the re-

sources of the Association: Provided, however, That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contributions provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $3,240,000,000 for payment by the Secretary of the Treasury: Provided, however, That not more than $850,000,000 of such sum may be made available for the fiscal year 1982 and not more than $945,000,000 of such sum may be made available for the fiscal year 1983.".

PART 3—AFRICAN DEVELOPMENT BANK

SHORT TITLE

SEC. 1331. This part may be cited as the "African Development Bank Act".

ACCEPTANCE OF MEMBERSHIP

SEC. 1332. The President is hereby authorized to accept membership for the United States in the African Development Bank (hereinafter in this part referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter in this part referred to as the "agreement") deposited in the archives of the United Nations.

GOVERNOR AND ALTERNATE GOVERNOR

SEC. 1333. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor and an Alternate Governor of the Bank. The term of office for the Governor and the Alternate Governor shall be five years, subject at any time to termination of appointment or to reappointment. The Governor and Alternate Governor shall remain in office until a successor has been appointed.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor, except for reasonable expenses to attend meetings of the Board of Governors.

(c) The Governor, or in the Governor's absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Bank.

DIRECTOR OR ALTERNATE DIRECTOR; ALLOWANCES

SEC. 1334. The Director or Alternate Director representing the United States, if citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received from the Bank and from the African Development Fund, may not exceed those authorized for a chief of mission under the Foreign Service Act of 1980.

APPLICABILITY OF BRETTON WOODS AGREEMENTS ACT

SEC. 1335. The provisions of section 4 of the Bretton Woods Agreements Act (22 U.S.C. 286b) shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Bank under paragraphs (5) and (6) of section 4 of that Act shall be included in the first and subsequent reports made thereunder after the United States accepts membership in the Bank.

RESTRICTIONS

SEC. 1336. (a) Unless authorized by law, neither the President, nor any person or agency, shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Bank;

(2) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(3) make a loan or provide other financing to the Bank, except that funds for technical assistance may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

FEDERAL RESERVE BANKS AS DEPOSITORIES

SEC. 1337. Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SUBSCRIPTION OF STOCK

SEC. 1338. (a) The President is authorized to agree to subscribe on behalf of the United States to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank: Provided, however, That the subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) There is authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the initial United States subscription to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank, $359,733,570: Provided, however, That not more than $17,986,679 of such sum may be made available for paid in subscriptions to the Bank for each of the fiscal years 1982, 1983, and 1984.

(c) Any payment or distributions of moneys from the Bank to the United States shall be covered into the Treasury as a miscellaneous receipt.

JURISDICTION OF UNITED STATES COURTS

SEC. 1339. For the purposes of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have original jurisdiction of any such action. When the Bank is defendant in any action in a State court, it may at any time before the trial thereof remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28, United States Code.

EFFECTIVENESS OF AGREEMENT

SEC. 1340. Paragraph 5 of article 49, articles 50 through 59, and the other provisions of the agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration as provided in article 64, paragraph 3, of the agreement that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to United States citizens or nationals.

SECURITIES ISSUED BY THE BANK

SEC. 1341. (a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with the raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 9 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 7, paragraph 4(a), of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c) and section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

TECHNICAL AMENDMENTS

SEC. 1342. (a) The seventh sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or" after "the Inter-American Development Bank" and inserting in lieu thereof a comma, and by inserting "or the African Development Bank" after "the Asian Development Bank".

(b) Section 701(a) of Public Law 95-118 (22 U.S.C. 262d(a)) is amended by striking out "and" after "the African Development Fund," and inserting "and the African Development Bank," after "the Asian Development Bank,".

(c) Section 801(a) of Public Law 95-118 (22 U.S.C. 262f(a)) is amended by striking out "and" after "the African Development Fund," and inserting "and the African Development Bank," after "the Asian Development Bank,".

(d) Section 51 of Public Law 91-599 (22 U.S.C. 276c-2) is amended by striking out "and" after "the Asian Development Bank," and inserting "and the African Development Bank," after "the African Development Fund,".

PART 4—INTER-AMERICAN DEVELOPMENT BANK AND ASIAN DEVELOPMENT BANK

CONTRIBUTIONS TO THE INTER-AMERICAN DEVELOPMENT BANK

SEC. 1351. (a) The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The United States Governor of the Bank is authorized on behalf of the United States to contribute to the Fund for

Special Operations $70,000,000: Provided, however, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for a portion of the increase in the United States subscription to the capital stock of the Bank provided for in section 29(a) and for the United States contribution to the Fund for Special Operations provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury, (1) $274,920,799 for the United States subscription, and (2) $70,000,000 for the United States contribution to the Fund for Special Operations: Provided, however, That no funds may be made available for such contribution to the Fund for Special Operations for the fiscal year 1982.".

(b) Section 29(b) of the Inter-American Development Bank Act (22 U.S.C. 283z-1(b)) is amended by striking out the period and inserting in lieu thereof the following: ": Provided, however, That for contributions to the Fund for Special Operations, not more than $175,000,000 may be made available for the fiscal year 1982, and not more than $105,000,000 may be made available for the fiscal year 1983.".

(c) Section 26(b) of the Inter-American Development Bank Act (22 U.S.C 283w(b)) is amended by striking out the period and inserting in lieu thereof the following: ": Provided, however, That not more than $15,677,000 may be made available to the Fund for Special Operations for the fiscal year 1982.".

CONTRIBUTIONS TO THE ASIAN DEVELOPMENT FUND

SEC. 1352. (a) The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 26. (a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $66,750,000 to the Asian Development Fund, a special fund of the Bank: Provided, however, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $66,750,000 for payment by the Secretary of the Treasury: Provided, however, That no funds may be made available for such contribution for the fiscal year 1982.".

(b) Section 24(b) of the Asian Development Bank Act (22 U.S.C. 285u(b)) is amended by striking out the period and inserting in lieu thereof the following: ": Provided, however, That not more than $111,250,000 of such sum may be made available for the fiscal year 1982, and not more than $44,500,000 of such sum may be made available for the fiscal year 1983.".

(c) Section 23(b) of the Asian Development Bank Act (22 U.S.C. 285t(b)) is amended by striking out the period and inserting in lieu thereof the following: ": Provided, however, That not more than $14,116,177 may be made available for such contribution for the fiscal year 1982.".

FUTURE SUBSCRIPTIONS OF STOCK TO THE ASIAN DEVELOPMENT BANK

SEC. 1353. Section 22(a) of the Asian Development Bank Act (22 U.S.C. 285s(a)) is amended by striking out "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated" and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts".

PART 5—TARGETING ASSISTANCE TO THE NEEDY; CONGRESSIONAL CONSULTATIONS

AMENDMENTS TO PUBLIC LAW 95-118

SEC. 1361. (a) Public Law 95-118 (22 U.S.C. 262c et seq.) is amended by inserting immediately after the enacting clause the following:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'International Financial Institutions Act' ".

(b) Public Law 95-118 is further amended by adding at the end thereof the following new titles:

"TITLE XI—TARGETING ASSISTANCE TO THE NEEDY

"SEC. 1101. (a) The Congress finds that there is a need for concerted international efforts to deal with the problems of malnutrition, low life expectancy, childhood disease, underemployment, and low productivity in developing countries.

"(b) The Congress notes with approval that the Inter-American Development Bank, under the terms of its Fifth Replenishment, has adopted the target that 50 percent of its lending benefit the poorest groups and has developed a usable methodology for determining the proportion of its lending which benefits such groups.

"SEC. 1102. (a) The Secretary of the Treasury shall consult with representatives of other member countries of the International Bank for Reconstruction and Development, the International Development Association, the Asian Development Bank, the African Development Fund, and the African Development Bank (if the United States becomes a member of that Bank), for the purpose of establishing guidelines within each of those institutions which specify that, in a manner consistent with the purposes and charters of those institutions, a specified proportion of the annual lending by each institution shall be designed to benefit needy people, primarily by financing sound, efficient, productive, self-sustaining projects designed to benefit needy people in developing countries, thus helping poor people improve their conditions of life.

"(b) The Congress finds that projects to construct basic infrastructure, to expand productive capacity (including private enterprise), and to address social problems can all meet the objectives of this section if they are designed and implemented properly. For the purposes of this title, 'needy people' means those people living in 'absolute' or 'relative' poverty as determined under the standards employed by the International Bank for Reconstruction and Development and the International Development Association.

"SEC. 1103. The Secretary of the Treasury shall, not later than May 1 of 1982, 1983, and 1984, report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the progress being made toward achieving the goals of section 1102, and shall include in each such report, for each of the institutions referred to in sections 1101 and 1102, as accurate an estimate as is practicable of the proportion of the lending by that institution which benefits needy people in its borrower countries.

"TITLE XII—CONGRESSIONAL CONSULTATIONS

"SEC. 1201. The Secretary of the Treasury or his designee shall consult with the Chairman and the Ranking Minority Member of—

"(1) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Appropriations of the House of Representatives, and the appropriate subcommittee of each such committee, and

"(2) the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, and the appropriate subcommittee of each such committee,

for the purpose of discussing the position of the executive branch and the views of the Congress with respect to any international negotiations being held to consider future replenishments or capital expansions of any multilateral development bank which may involve an increased contribution or subscription by the United States. Such consultation shall be made (A) not later than 30 days before the initiation of such international negotiations, (B) during the period in which such negotiations are being held, in a frequent and timely manner, and (C) before a session of such negotiations is held at which the United States representatives may agree to such a replenishment or capital expansion.".

PART 6—MISCELLANEOUS PROVISIONS

ELIMINATION OF CERTAIN REPORTS

SEC. 1371. (a)(1) Section 31 of the Bretton Woods Agreements Act (22 U.S.C. 286e-10) is repealed.

(2) Section 35 of that Act (22 U.S.C. 286u) is amended by striking out ", and shall report" and all that follows through "goal".

(b)(1) Section 801 of Public Law 95-118 (22 U.S.C. 262f) is amended—

(A) by striking out "(a)"; and

(B) by repealing subsection (b).

(2) Section 901 of that Act (22 U.S.C. 262g) is amended—

(A) by striking out "(a)"; and

(B) by repealing subsection (b).

EFFECTIVE DATE AND AVAILABILITY OF FUNDS

SEC. 1372. This subtitle shall take effect upon its enactment, except that funds authorized to be appropriated by any provision contained in part 1 or part 4 shall not be available for use or obligation prior to October 1, 1981.

Subtitle C—Foreign Assistance and Foreign Affairs Agencies

AUTHORIZATION CEILINGS

SEC. 1381. The following ceilings are hereby established:

(1) AMERICAN SCHOOLS AND HOSPITALS ABROAD: The amount authorized to be appropriated for the fiscal year 1982 to carry out section 214 of the Foreign Assistance Act of 1961 shall not exceed $20,000,000.

(2) INTERNATIONAL ORGANIZATIONS AND PROGRAMS: The amount authorized to be appropriated for the fiscal year 1982 under section 302(a)(1) of the Foreign Assistance Act of 1961 shall not exceed $255,650,000.

(3) INTERNATIONAL NARCOTICS CONTROL: The amount authorized to be appropriated for the fiscal year 1982 to carry out section 481 of the Foreign Assistance Act of 1961 shall not exceed $37,700,000.

(4) INTERNATIONAL DISASTER ASSISTANCE: The amount authorized to be appropriated for the fiscal year 1982 under section 492 of the Foreign Assistance Act of 1961 to carry

out section 491 of that Act shall not exceed $27,000,000.

(5) INTER-AMERICAN FOUNDATION: The amount authorized to be appropriated for the fiscal year 1982 to carry out section 401 of the Foreign Assistance Act of 1969 shall not exceed $12,000,000.

(6) PEACE CORPS: The amount authorized to be appropriated for the fiscal year 1982 under section 3(b) of the Peace Corps Act to carry out that Act shall not exceed $105,000,000.

(7) INTERNATIONAL ORGANIZATIONS AND CONFERENCES—ASSESSED CONTRIBUTIONS: The amount authorized to be appropriated for the fiscal year 1982 for assessed contributions to international organizations under "International Organizations and Conferences" shall not exceed $454,591,000.

(8) BOARD FOR INTERNATIONAL BROADCASTING: The amount authorized to be appropriated for the fiscal year 1982 under section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to carry out that Act shall not exceed $98,317,000.

(9) INTERNATIONAL COMMUNICATION AGENCY—SALARIES AND EXPENSES: The amount authorized to be appropriated for the fiscal year 1982 for salaries and expenses for the International Communication Agency, excluding amounts authorized by section 704 of the United States Information and Educational Exchange Act of 1948 (relating to nondiscretionary personnel costs and currency fluctuations), shall not exceed $452,187,000.

(10) ARMS CONTROL AND DISARMAMENT AGENCY: The amount authorized to be appropriated for the fiscal year 1982 under section 49(a)(1) of the Arms Control and Disarmament Act to carry out the purposes of that Act (other than the amounts necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates) shall not exceed $18,268,000.

TITLE XIV—DEPARTMENT OF INTERIOR AND RELATED PROGRAMS

SEC. 1401. (a) Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of the Interior for Department of the Interior programs as defined in subsection (e) in excess of $4,095,404,000 for the fiscal year ending on September 30, 1981; in excess of $3,970,267,000 for the fiscal year ending on September 30, 1982; $4,680,223,000 for the fiscal year ending on September 30, 1983; and $4,797,281,000 for the fiscal year ending on September 30, 1984.

(b) It is the sense of the Congress that the appropriation targets for such fiscal years should be: not less than $275,000,000 to be appropriated annually pursuant to the provisions of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 460z); not less than $30,000,000 to be appropriated annually pursuant to the provisions of the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470); not less than $10,000,000 to be appropriated annually pursuant to the provisions of the Urban Park and Recreation Recovery Act of 1978 (92 Stat. 3538; 16 U.S.C. 2501, et seq.); not less than $105,000,000 to be appropriated annually to be used for the restoration and rehabilitation of units of the National Park System, as authorized by law; not less than $239,000,000 to be appropriated annually for the Office of Territorial and International Affairs (including amounts for the Trust Territory of the Pacific Islands); not less than $6,200,000 to be appropriated annually to carry out the provisions of Title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445); and not less than $100,000,000 to be appropriated annually pursuant to the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601, et seq.) including not less than $5,000,000 annually to carry out the purposes of section 3 of said Act.

(c) Notwithstanding the limitation otherwise imposed by subsection (a) of this section—

(1) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in subsection (a) by such amount as permanent and annual indefinite appropriations exceed the estimates for such appropriations as contained in "The Budget of the United States Government, Fiscal Year 1982," as revised by the March 1981, publication of the Office of Management and Budget entitled "Fiscal Year 1982 Budget Revisions", when receipts available to be appropriated equal or exceed such appropriations, and

(2) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in subsection (a) by such amounts as may be required for emergency firefighting and for increased pay costs authorized by law.

(d)(1) Notwithstanding any other provision of law, effective October 1, 1981, all applications for noncompetitive oil and gas leases shall be accompanied by a filing fee of not less than $25 for each such application: Provided, That any increase in the filing fee above $25 shall be established by regulation and subject to the provisions of the Act of August 31, 1951 (65 Stat. 290), the Act of October 20, 1976 (90 Stat. 2765) but not limited to actual costs. Such fees shall be retained as a service charge even though the application or offer may be rejected or withdrawn in whole or in part.

(2) The Secretary of the Interior is hereby directed to conduct a study and report to Congress within one year of the date of enactment of this Act, regarding the current annual rental charges on all noncompetitive oil and gas leases to investigate the feasibility and effect of raising such rentals.

(e) For the purposes of this section, the term "Department of the Interior programs" means—

3(1) Alaska Native Fund amounts included in Bureau of Indian Affairs programs funded from Miscellaneous Trust Funds and Miscellaneous Permanent Appropriations accounts;

(2) Bureau of Land Management programs;

(3) Bureau of Mines programs;

(4) National Park Service programs other than the John F. Kennedy Center for the Performing Arts; (including those programs formerly administered by the Heritage Conservation and Recreation Service as of October 1, 1980);

(5) Offices of the Solicitor and the Secretary;

(6) Office of Surface Mining Reclamation and Enforcement programs;

(7) Office of Territorial Affairs programs;

(8) United States Geological Survey programs; and

(9) Bureau of Reclamation (including those programs formerly administered by the Water and Power Resources Service).

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SEC. 1402. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Advisory Council on Historic Preservation in excess of $1,590,000 for the fiscal year ending September 30, 1981; in excess of $1,865,000 for the fiscal year ending on September 30, 1982; in excess of $1,920,000 for the fiscal year ending on September 30, 1983; and in excess of $2,000,000 for the fiscal year ending on September 30, 1984.

OFFICE OF FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 1403. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Office of Federal Inspector for the Alaska Natural Gas Transportation System in excess of $21,038,000 for the fiscal year ending September 30, 1981; $36,568,000 for the fiscal year ending September 30, 1982; in excess of $45,532,000 for the fiscal year ending on September 30, 1983, or $46,908,000 for the fiscal year ending on September 30, 1984.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SEC. 1404. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Pennsylvania Avenue Development Corporation in excess of $31,612,000 for the fiscal year ending September 30, 1981; in excess of $19,040,000 for the fiscal year ending on September 30, 1982; in excess of $19,500,000 for the fiscal year ending on September 30, 1983; or in excess of $19,300,000 for the fiscal year ending September 30, 1984.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

SEC. 1405. Notwithstanding any other provision of law, there shall be appropriated for programs of the United States Holocaust Memorial Council in excess of $900,000 for the fiscal year ending on September 30, 1982, in excess of $950,000 for the fiscal year ending on September 30, 1983, or in excess of $1,000,000 for the fiscal year ending on September 30, 1984.

CORPS OF ENGINEERS

SEC. 1406. Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Defense for special recreational user fees programs of the corps of Engineers in excess of $5,000,000 for the fiscal year ending September 30, 1981; in excess of $5,200,000 for the fiscal year ending September 30, 1982, in excess of $6,000,000 for the fiscal year ending September 30, 1983, or in excess of $6,000,000 for the fiscal year ending September 30, 1984.

YOUTH CONSERVATION CORPS ACT OF 1970

SEC. 1407. No funds may be appropriated to carry out the Act of August 13, 1970, commonly referred to as the Youth Conservation Corps Act of 1970, for fiscal year 1982, 1983, or 1984.

TITLE XV—DEPARTMENT OF JUSTICE AND RELATED PROVISIONS

AUTHORIZATION OF APPROPRIATIONS FOR SALARIES AND EXPENSES OF PATENT AND TRADEMARK OFFICE FOR FISCAL YEAR 1982

SEC. 1501. Notwithstanding any other provision of law, there are authorized to be appropriated for the payment of salaries and expenses of the Patent and Trademark Office $118,961,000 for the fiscal year ending September 30, 1982, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

LIMITATION ON APPROPRIATIONS FOR REFUGEE ASSISTANCE FOR FISCAL YEAR 1982

SEC. 1502. The total amount of appropriations to carry out—

(1) chapter 2 of title IV of the Immigration and Nationality Act (relating to refuge assistance), other than section 412(b) thereof (relating to initial resettlement assistance), and

(2) sections 313(c) and 401 of the Refugee Act of 1980 (Public Law 96-212),

shall not exceed $583,705,000 for fiscal year 1982, and none of the amounts appropriated for fiscal year 1982 to carry out such provisions shall be available to carry out any of the provisions of Public Law 96-422.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 1503. The total amount of appropriations to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 shall not exceed $77,000,000 for fiscal year 1982; $77,500,000 for fiscal year 1983; and $74,900,000 for fiscal year 1984.

TITLE XVI—MARITIME AND RELATED PROGRAMS

SEC. 1601. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce of fiscal year 1982, as follows:

(1) for payment of obligations incurred for operating differential subsidy, $417,148,000;

(2) for research and development, $10,491,000;

(3) for operations and training, $74,898,000 including—

(A) $8,005,000 for reserve fleet expenses;

(B) $33,684,000 for maritime education and training expenses, including $19,205,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $12,599,000 for financial assistance to State maritime academies and $1,880,000 for expenses necessary for additional training; and

(C) $33,209,000 for other operating and training expenses.

SEC. 1602. There are authorized to be appropriated for the fiscal year 1982, in addition to the amounts authorized by section 1601, such supplemental amounts for the activities for which appropriations are authorized under section 1601, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

SEC. 1603. The Merchant Marine Act, 1936, as amended (46 U.S.C. 1101-1294), is further amended by adding a new section 614 to read as follows:

"SEC. 614. (a) Any operator receiving operating differential subsidy funds may elect, for all or a portion of its ships to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if—

"(1) the vessel is less than ten years of age;

"(2) the suspension period is not less than twelve months;

"(3) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce; and

"(4) the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

(b) Any operator making an election under this section is entitled to full reinstatement of the suspended contract on request. The Secretary of Commerce may prescribe rules and regulations connsistent with the purpose of this section."

SEC. 1604. Section 809(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1213(a)) is amended by inserting after the second sentence the following: "For the purposes of this section and section 211(a), the Secretary shall establish trade routes, services, or lines that take into account the seasonal closure of the Saint Lawrence Seaway and provide for alternate routing of ships via a diffferent range of ports during that closure so as to maintain continuity of service on a year-round basis. For the purposes of section 605(c), such an alternate routing via a different range of ports shall be deemed to be service from Great Lakes ports, provided such alternative routing is based upon receipt or delivery of cargo at Great Lakes-Saint Lawrence Seaway ports under through intermodal bills of lading.

SEC. 1605. The Merchant Marine Act, 1936 is amended by adding a new section 909 to read as follows:

"SEC. 909. No vessel may receive construction differential subsidy or operating differential subsidy if it is not offered for enrollment in a sealift readiness program approved by the Secretary of Defense.

SEC. 1606. (a) Section 203(b) of Public Law 96-320 (94-Stat. 994) is repealed.

(b) Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273), is amended to read as follows:

"(f) The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any one time shall not exceed $12,000,000,000, of which $1,650,000,000 shall be limited to obligations pertaining to commerical demonstration ocean thermal energy conversion facilities or plantships guaranteed under section 1110 of this title, and of which $850,000,000 shall be limited to obligations pertaining to guarantees of obligations for fishing vessels and fishery facilities made under this title."

(c) Section 1104(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1274(d)), as amended—

(1) in paragraph (1), by striking "Except as provided in paragraph (2), no" an inserting in lieu thereof "No";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(d) Section 1104(g) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1274(g)) is amended—

(1) by striking "(1)" immediately after "(g)"; and

(2) by striking paragraph (2).

(e) The first sentence of section 1105(d) of the Merchant Marine Act, as amended (46 U.S.C. 1275(d)), is amended by striking ", and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)".

(f) The last sentence of section 1110(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1279(c)), is amended by striking "$2,000,000,000" and inserting in lieu thereof "$1,650,000,000".

SEC. 1607. Section 1303(h)(2)(D) of the Merchant Marine Act, 1936 (46 U.S.C. 1295(h)(2)(D)), is amended by striking "1 Member" and inserting in lieu thereof "2 Members".

SEC. 1608. (a) Section 1 of the Shipping Act, 1916 (39 Stat. 728), as amended (46 U.S.C. 801), is amended by striking at the end thereof the paragraph defining an independent ocean freight forwarder and inserting in lieu thereof the following: "The term 'independent ocean freight forwarder' means a person that is carrying on the business of forwarding for a consideration who is not a shipper, consignee, seller, or purchaser of shipments to foreign countries.".

(b) Section 44 of the Shipping Act, 1916 (75 Stat. 552; 46 U.S.C. 841(b)), is amended by adding at the end thereof the following new subsection:

"(f) A forwarder may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which any holding company, subsidiary, affiliate, officer, director, agent, or executive of such forwarder has a beneficial interest.".

(c) This section shall remain in effect until December 31, 1983, after which time the definition in section 1, Shipping Act, 1916, of 'independent ocean freight forwarder' shall read: "An 'independent ocean freight forwarder' is a person carrying on the business of forwarding for a consideration who is not a shipper or consignee or a seller or purchaser of shipments to foreign countries, nor has any beneficial interest therein, nor directly or indirectly controls or is controlled by such shipper or consignee or by any person having such a beneficial interest." By June 1, 1983, the Federal Maritime Commission shall submit a report to Congress evaluating the enforceability of this section and describing any reasons why this section should not be made permanent law.

SEC. 1609. The Secretary of Commerce shall conduct a study comparing the relative costs of repairing and outfitting the training vessel Bay State with the costs of reactivating and converting the steamship Tulare of the United States Naval Reserve Fleet, in order to aid in the determination of the appropriate vessel for use as the training ship of the Massachusetts Maritime Academy. This study shall be completed and submitted to the Congress within ninety days of enactment of this act.

SEC. 1610. The Merchant Marine Act, 1936 (46 U.S.C. 1101 et seq.) is amended by adding a new section 615 to read as follows:

"SEC. 615. (a) The Secretary of Commerce may, until September 30, 1983, authorize an operator receiving or applying for operating differential subsidy under this title to construct, reconstruct, or acquire its vessels of over five thousand deadweight tons in a foreign shipyard if the Secretary finds and certifies in writing that such operator's application for construction differential subsidy cannot be approved due to the unavailability of funds in the construction differential subsidy account. Vessels constructed, reconstructed, or modified pursuant to this section shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act, and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391(a)(7)): PROVIDED, That the provisions of section 607 of this Act shall not apply to vessels constructed, reconstructed, modified, or acquired pursuant to this section.

"(b) The provisions of this section shall be effective for fiscal year 1983 only if the President in his annual budget message for

that year requests at least $100,000,000 in construction differential subsidy or proposes an alternate program that would create equivalent merchant shipbuilding activity in privately-owned United States shipyards and the Secretary reports to Congress on the effect such action will have on the shipyard mobilization base at least thirty days prior to making the certification referred to in subsection (a).".

TITLE XVII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS; GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Civil Service Programs

4.8 PERCENT PAY CAP ON FEDERAL EMPLOYEES

SEC. 1701. (a) Notwithstanding any other provision of law, the overall percentage of the adjustment of the rates of pay under the General Schedule or any other statutory pay system under section 5305 of title 5, United States Code, which is to become effective with the first applicable pay period commencing on or after October 1, 1981, shall not exceed 4.8 percent.

(b)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title—

(A) any increase in the rate of pay payable to such employee which would result from the expiration of the limitation contained in section 114(a)(2) of Public Law 96-369 shall not take effect, and

(B) any adjustment under subchapter IV of chapter 53 of such title to any wage schedule or rate applicable to such employee which results from a wage survey and which is to become effective during the fiscal year beginning October 1, 1981, shall not exceed the amount which is 4.8 percent above the schedule or rate payable on September 30, 1981 (determined with regard to the limitation contained in section 114(a)(2) of Public Law 96-369).

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of paragraph (1) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act.

ANNUALIZATION OF COST-OF-LIVING ADJUSTMENT FOR FEDERAL EMPLOYEES

SEC. 1702. (a) Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b) Except as provided in subsection (c) of this section, effective March 1 of each year each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest 1/10 of 1 percent.".

(b) Section 8340(c)(1) of title 5, United States Code, is amended to read as follows:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, to the widow or widower of a deceased employee or Member, or to the widow or widower of a deceased annuitant whose annuity has not been increased under this subsection or subsection (b) of this section, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) 1/12 of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of months (counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a widow or widower of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to annuities which commence before, on, or after such date.

AWARDS FOR THE DISCLOSURE OF WASTE, FRAUD, AND MISMANAGEMENT

SEC. 1703. (a) Chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—AWARDS FOR COST SAVINGS DISCLOSURES

"§4511. Definition and general provisions

"(a) For purposes of this subchapter, the term 'agency' means any Executive agency.

"(b) A cash award under this subchapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or assigns.

"§4512. Agency awards for cost savings disclosures

"(a) The Inspector General of an agency, or any other agency employee designated under subsection (b), may pay a cash award to any employee of such agency whose disclosure of fraud, waste, or mismanagement to the Inspector General of the agency, or to such other designated agency employee, has resulted in cost savings for the agency. The amount of an award under this section may not exceed the lesser of—

"(1) $10,000; or

"(2) an amount equal to 1 percent of the agency's cost savings which the Inspector General, or other employee designated under subsection (b), determines to be the total savings attributable to the employee's disclosure.

For purposes of paragraph (2), the Inspector General or other designated employee may take into account agency cost savings projected for subsequent fiscal years which will be attributable to such disclosure.

"(b) In the case of an agency for which there is no Inspector General, the head of the agency shall designate an agency employee who shall have the authority to make the determinations and grant the awards permitted under this section.

"(c)(1) The Inspector General, or other employee designated under subsection (b), shall submit to the Comptroller General documentation substantiating any award made under this section.

"(2) The Comptroller General shall, from time to time, review awards made under this section and procedures used in making such awards to verify the cost savings for which the awards were made.

"§4513. Presidential awards for cost savings disclosures

"The President may pay a cash award in the amount of $20,000 to any employee whose disclosure of fraud, waste, or mismanagement has resulted in substantial cost savings for the Government. In evaluating the significance of a cost savings disclosure made by an employee for purposes of determining whether to make an award to such employee under this section, the President may take into account cost savings projected for subsequent fiscal years which will be attributable to the disclosure. During any fiscal year, the President may not make more than 50 awards under this section.

"§4514. Expiration of authority

"No award may be made under this title after September 30, 1984.".

(b)(1) Chapter 45 of title 5, United States Code, is amended by inserting immediately before section 4501 the following new subchapter heading:

"Subchapter I—Awards for Superior Accomplishments".

(2) Chapter 45 of title 5, United States Code, is amended in sections 4501, 4502, 4505, and 4506, by striking out "chapter" each place it appears and inserting in lieu thereof "subchapter".

(3) The analysis for chapter 45 of title 5, United States Code, is amended—

(A) by inserting immediately after the chapter heading the following new item:

"Subchapter I—Awards for Superior Accomplishments";

and

(B) by inserting after the item relating to section 4507 the following:

"Subchapter II—Awards for Cost Savings Disclosures

"4511. Definition and general provisions.
"4512. Agency awards for cost savings disclosures.
"4513. Presidential awards for cost savings disclosures.
"4514. Expiration of authority.".

(c) The amendments made by this section shall take effect on October 1, 1981.

REDUCTIONS IN FORCE OF CAREER SENIOR EXECUTIVES

SEC. 1704. (a)(1) Chapter 35 of title 5, United States Code, relating to retention preference, restoration, and reemployment, is amended by redesignating section 3595 as section 3596 and by inserting after section 3594 the following new section:

"§3595. Reduction in force in the Senior Executive Service

"(a) An agency shall establish competitive procedures for determining who shall be removed from the Senior Executive Service in any reduction in force of career appointees within that agency. The competitive procedures shall be designed to assure that such determinations are primarily on the basis of performance, as determined under subchapter II of chapter 43 of this title.

"(b)(1) This subsection applies to any career appointee who has successfully completed the probationary period prescribed under section 3393(d) of this title.

"(2) Except as provided in paragraphs (4) and (5), a career appointee may not be removed from the Senior Executive Service due to a reduction in force within an agency.

"(3) A career appointee who, but for this subsection, would be removed from the Senior Executive Service due to a reduction in force within an agency—

"(A) is entitled to be assigned by the head of that agency to a vacant Senior Executive

Service position for which the career appointee is qualified; or

"(B) if the agency head certifies, in writing, to the Office of Personnel Management that no such position is available in the agency, is entitled to be placed by the Office in any agency in any vacant Senior Executive Service position unless the head of that agency determines that the career appointee is not qualified for that position.

The Office of Personnel Management shall take all reasonable steps to place a career appointee under subparagraph (B) and may require any agency to take any action which the Office considers necessary to carry out any such placement.

"(4) A career appointee who is not assigned under paragraph (3)(A) may be removed from the Senior Executive Service and the civil service due to a reduction in force if—

"(A) the career appointee declines a reasonable offer for placement in a Senior Executive Service position under paragraph (3)(B); or

"(B) subject to paragraph (5), the career appointee is not placed in another Senior Executive Service position under paragraph (3)(B) within 120 days after the Office receives certification regarding that appointee under paragraph (3)(B).

"(5) An individual who was a career appointee on May 31, 1981, may be removed from the Senior Executive Service and the civil service due to a reduction in force after the 120-day period specified in paragraph (4)(B) only if the Director of the Office of Personnel Management certifies to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate, no later than 30 days prior to the effective date of such removal, that—

"(A) the Office has taken all reasonable steps to place the career appointee in accordance with paragraph (3) of this subsection, and

"(B) due to the highly specialized skills and experience of the career appointee, the Office has been unable to place the career appointee.

"(c) A career appointee is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title—

"(1) whether the reduction in force complies with the competitive procedures required under subsection (a),

"(2) any removal under subsection (b)(4)(A), and

"(3) in the event the career appointee is not placed under subsection (b)(3) of this section whether the Office of Personnel Management took all reasonable steps to achieve such placement.

"(d) For purposes of this section, 'reduction in force' includes the elimination or modification of a position due to a reorganization, due to a lack of funds or curtailment of work, or due to any other factor.".

(2) The table of sections for chapter 35 of title 5, United States Code, is amended by striking out the item relating to section 3595 and inserting in lieu thereof the following:

"3595. Reduction in force in the Senior Executive Service.
"3596. Regulations.".

(b) Section 3593 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) A former career appointee shall be reinstated, without regard to section 3393(b) and (c) of this title, to any vacant Senior Executive Service position in an agency for which the appointee is qualified if—

"(A) the individual was a career appointee on May 31, 1981;

"(B) the appointee was removed from the Senior Executive Service under section 3595 of this title due to a reduction in force in that agency;

"(C) before the removal occurred, the appointee successfully completed the probationary period established under section 3393(d) of this title; and

"(D) the appointee applies for that vacant position within one year after the Office receives certification regarding that appointee pursuant to section 3595(b)(3)(B) of this title.

"(2) A career appointee is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title any determination by the agency that the appointee is not qualified for a position for which the appointee applies under paragraph (1) of this subsection.".

(c) Section 3393 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) A career appointee may not be removed from the Senior Executive Service or civil service except in accordance with the applicable provisions of sections 1207, 3592, 3595, 7532, or 7543 of this title.".

(d)(1) Section 7542 of title 5, United States Code, is amended by inserting "or 3595" after "3592".

(2) Section 7543(a) of title 5, United States Code, is amended by striking out "such cause" and all that follows down through the period and inserting in lieu thereof "misconduct, neglect of duty, or malfeasance.".

(e)(1) Subject to paragraph (2), the amendments made by this section shall be effective as of June 1, 1981.

(2)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to any career appointee removed from the civil service after May 31, 1981, and before the date of the enactment of this section if, not later than 14 days after such date of enactment, application therefor is made to the Office of Personnel Management and to the head of the agency in which the appointee was employed.

(B) The provisions of section 3595(a), as added by subsection (a)(1), shall take effect on the date of the enactment of this Act.

(3) The effectiveness of the amendments made by this section shall be subject to section 415(b) of the Civil Service Reform Act of 1978 (5 U.S.C. 3131 note) to the same extent and manner as the amendments made by title IV of that Act.

VOLUNTARY STATE INCOME TAX WITHHOLDING FOR ANNUITANTS

SEC. 1705. (a) Section 8345 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(k)(1) The Office shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Office shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund and disbursed to the States during the month following that calendar quarter.

"(2) An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests in effect during any one calendar year.

"(3) Subject to paragraph (2) of this subsection, an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Office, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Office.

"(4) This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Office may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Office shall be repaid by the State in accordance with regulations issued by the Office.

"(5) For the purpose of this subsection, 'State' means a State, the District of Columbia, or any territory or possession of the United States.".

(b) The amendment made by subsection (a) shall take effect October 1, 1981.

(c) The Civil Service Retirement and Disability Fund is available for expenses incurred by the Office of Personnel Management in the initial implementation of the amendments made by this section.

Subtitle B—Savings Under the Postal Service Program

AUTHORIZATIONS FOR PUBLIC SERVICE APPROPRIATIONS

SEC. 1721. Section 2401(b)(1) of title 39, United States Code, is amended—

(1) in subparagraph (D), by striking out "an amount equal to 7 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$250,000,000";

(2) in subparagraph (E), by striking out "an amount equal to 6 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$100,000,000"; and

(3) in subparagraph (F), by striking out "an amount equal to 5 percent of such sum for fiscal year 1971" and inserting in lieu thereof "no funds are authorized to be appropriated".

CONTINUATION OF SIX-DAY MAIL DELIVERY

SEC. 1722. During fiscal years 1982 through 1984, the Postal Service shall take no action to reduce or to plan to reduce the number of days each week for regular mail delivery.

REDUCTION OF AUTHORIZATION FOR REVENUE FOREGONE

SEC. 1723. (a) Notwithstanding section 2401(c) of title 39, United States Code, the amount authorized to be appropriated under such section shall not exceed—

(1) $696,000,000 for fiscal year 1982;

(2) $708,000,000 for fiscal year 1983; or

(3) $760,000,000 for fiscal year 1984.

(b)(1) If during any of the fiscal years 1982 through 1984, the amount which would have been authorized to be appropriated under section 2401(c) of title 39, United States Code, if this section were not enacted exceeds the amount authorized to be appropriated by subsection (a) of this section for

that fiscal year, the rates for the class of mail under former sections 4452(b) and 4452(c) of such title shall be adjusted (in the same manner as rates are adjusted under section 3627 of such title) so that the increased revenues received from the users of such class of mail will equal the amount of such difference. During such fiscal years, adjustments in rates under such section 3627 as a result of a failure of appropriations (as described by that section) may be made under section 3627 only to the extent permitted under paragraph (2) of this subsection.

(2) If during any of the fiscal years 1982 through 1984 the Congress fails to appropriate the maximum amount authorized by subsection (a) of this section for purposes of section 2401(c) of title 39, United States Code, then rates for any class of mail sent at a free or reduced rate under section 3217 or section 3626 of such title 39, under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975, may be adjusted during such fiscal year in accordance with section 3627 of title 39, United States Code, in order to provide for additional revenues equal to the difference between (A) the maximum amount authorized to be appropriated for such fiscal year by subsection (a) of this section, and (B) any lesser amount actually appropriated for such fiscal year for purposes of section 2401(c) of title 39, United States Code.

REDUCTION OF TRANSITIONAL APPROPRIATIONS

SEC. 1724. (a) Notwithstanding the authorization contained in section 2004 of title 39, United States Code, no sums are authorized to be appropriated to the Fund for the purposes of such section during fiscal years 1982 through 1984. During fiscal year 1985, there are authorized to be appropriated to the Fund such amounts as may be necessary to carry out such section during such fiscal year, together with such amounts as would have been available to the Fund for fiscal years 1982 through 1984 were this section not enacted.

(b) From amounts available to the Postal Service from the Fund, during fiscal years 1982 through 1984 the Postal Service shall meet the transitional expenses referred to under section 2004 of title 39, United States Code, to the same extent as the Postal Service would have met such expenses were subsection (a) of this section not enacted.

QUARTERLY PAYMENTS OF APPROPRIATIONS TO THE POSTAL SERVICE FUND

SEC. 1725. Section 2003(e) of title 39, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end thereof the following:

"(2) Funds appropriated to the Postal Service under sections 2401 and 2004 of this title shall be apportioned as provided in this paragraph. From the total amounts appropriated to the Postal Service for any fiscal year under the authorizations contained in sections 2401 and 2004 of this title, the Secretary of the Treasury shall make available to the Postal Service 25 percent of such amount at the beginning of each quarter of such fiscal year.".

PROHIBITION OF 9-DIGIT ZIP CODE

SEC. 1726. (a) The Postal Service shall not implement any ZIP code system using more than 5 digits before October 1, 1983. This subsection shall not be construed as precluding the Postal Service or the Postal Rate Commission from taking such actions as may be required before October 1, 1983, to prepare for the implementation of such a ZIP code system.

(b) During the period beginning on the date of the enactment of this Act and ending December 31, 1982, no Executive agency shall take any action to conform its mailing procedures to those appropriate for use under any ZIP code system using more than 5 digits. As used in this subsection, the term "Executive agency" has the same meaning given such term by section 105 of title 5, United States Code.

EFFECTIVE DATE

SEC. 1727. The provisions of this subtitle (other than section 1726 and this section) shall take effect on October 1, 1981. The provisions of section 1726 and this section shall take effect on the date of the enactment of this Act.

Subtitle C—Governmental Affairs Generally

CHAPTER 1—CONSULTANTS AND TRAVEL

REDUCTION IN EXPENDITURES FOR CONSULTANTS

SEC. 1731. (a) The President shall submit with the Budget of the United States Government transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921, in January, 1982, a rescission bill (as that term is defined in section 1011(3) of the Impoundment Control Act of 1974) to reduce by the amount described in subsection (b) the total amount of funds appropriated for the fiscal year 1982 which may be obligated for consultant services, management and professional services, and special studies and analyses for all departments, agencies, and instrumentalities of the executive branch of the Government. Such bill shall be accompanied by a special message specifying the matters required by paragraphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974 with respect to the rescission proposal and shall specifically allocate the reduction in such total amount required by the preceding sentence among the departments, agencies, and instrumentalities of the executive branch.

(b) The amount of the reduction referred to in subsection (a) shall be $500,000,000 less the difference between—

(1) the amounts which can be identified for the consultant services, management and professional services, and special studies and analyses referred to in subsection (a) in the Budget of the United States Government for the fiscal year 1982 which was transmitted by the President on January 15, 1981, under section 201(a) of the Budget and Accounting Act, 1921, and

(2) the amounts appropriated for the fiscal year 1982 for such purposes,

to the extent that the amounts described in paragraph (1) exceed the amounts described in paragraph (2). The special message required by subsection (a) shall identify the amounts in appropriations Acts and the amounts in the Budget of the United States Government on the basis of which the reduction described in this subsection is calculated.

REDUCTION IN EXPENDITURES FOR TRAVEL BY FEDERAL EMPLOYEES

SEC. 1732. (a) The President shall submit with the Budget of the United States Government transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921, in January, 1982, a rescission bill (as that term is defined in section 1011(3) of the Impoundment Control Act of 1974) to reduce by the amount described in subsection (b) the total amount of funds appropriated for the fiscal year 1982 which may be obligated for direct administrative travel for all departments, agencies, and instrumentalities of the executive branch of the Government. Such bill shall be accompanied by a special message specifying the matters required by paragraphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974 with respect to the rescission proposal and shall specifically allocate the reduction in such total amount required by the preceding sentence among the departments, agencies, and instrumentalities of the executive branch. In making such allocation, the President shall not—

(1) propose the reduction of any amounts to be obligated for debt collection, supervision of loans, necessary and essential law enforcement activities, or emergency national defense activities of the Federal Government; or

(2) propose the reduction of the total amount which may be obligated by any department, agency, or instrumentality for direct administrative travel for officers and employees of such department, agency, or instrumentality by more than 15 percent of the amount proposed thereof in such budget.

(b) The amount of the reduction referred to in subsection (a) shall be $100,000,000 less the difference between—

(1) the amounts which can be identified for the direct administrative travel referred to in subsection (a) in the Budget of the United States Government for the fiscal year 1982 which was transmitted by the President on January 15, 1981, under section 201(a) of the Budget and Accounting Act, 1921, and

(2) the amounts appropriated for the fiscal year 1982 for such purposes,

to the extent that the amounts described in paragraph (1) exceed the amounts described in paragraph (2). The special message required by subsection (a) shall identify the amounts in the appropriations Acts and the amounts in the Budget of the United States Government on the basis of which the reduction described in this subsection is calculated.

CHAPTER 2—BLOCK GRANT FUNDS

DISTRIBUTION OF BLOCK GRANT FUNDS

SEC. 1741. (a) To help assure that (1) block grant funds are allocated for programs of special importance to meet the needs of local governments, their residents, and other eligible entities, and (2) all eligible urban and rural local governments, their residents, and other eligible entities are treated fairly in the distribution of such funds, each State which receives block grant funds under this Act shall comply with the requirements of this chapter, to the extent that such funds may be used at the discretion of the State, as described in subsection (b)(1)(B).

(b) For purposes of this chapter—

(1) block grant funds are funds which are received for a program—

(A) which provides for the direct allocation of funds to States only, except for the allocation of funds for use by the Federal agency administering the program; and

(B) which provides funds that may be used at the discretion of the State, in whole or in part, for the purpose of continuing to support activities funded, immediately before the date of the enactment of this Act, under programs the authorizations of which are discontinued by this Act and which were funded, immediately before

such date of the enactment, by Federal Government allocations to units of local government or other eligible entities, or both; and

(2) "State" includes the District of Columbia and any territory or possession of the United States.

REPORTS ON PROPOSED USE OF FUNDS; PUBLIC HEARINGS

SEC. 1742. (a) Each State shall prepare a report on the proposed use of block grant funds received by that State, including (1) a statement of goals and objectives, (2) information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served, and (3) the criteria and method established for the distribution of the funds, including details on how the distribution of funds will be targeted on the basis of need to achieve the purposes of the block grant funds. Beginning in the fiscal year 1983, the report required by this subsection shall include a description of how the State has met the goals, objectives, and needs in the use of funds for the previous fiscal year as identified in the report prepared pursuant to this subsection for that previous fiscal year.

(b) The report prepared by a State pursuant to subsection (a), and any changes in such report, shall be made public within the State on a timely basis and in such manner as to facilitate comments from interested local governments and persons.

(c) No State may receive block grant funds for any fiscal year until the State has conducted a public hearing, after adequate public notice, on the use and distribution of the funds proposed by the State as set forth in the report prepared pursuant to subsection (a) with respect to that fiscal year.

TRANSITION PROVISION

SEC. 1743. (a) In the fiscal year 1982 only, each State shall certify to the responsible Federal agency that it is in compliance with section 1742 and that it is prepared to use all or part of available block grant funds. Such certifications shall be submitted to the responsible Federal agency prior to the beginning of the first quarter of the fiscal year 1982 or at least 30 days before the beginning of any other quarter of that fiscal year. For purposes of this section, the quarters for the fiscal year 1982 shall commence on October 1, January 1, April 1, and July 1 of the fiscal year 1982.

(b) Except as otherwise provided in this Act, until such time as the responsible Federal agency receives a certification from a State pursuant to subsection (a), such agency shall distribute the block grant funds involved for programs to which the funds relate and which are discontinued by this Act as referred to in section 1741(b)(1)(B).

ACCESS TO RECORDS BY COMPTROLLER GENERAL

SEC. 1744. For the purpose of evaluating and reviewing the use of block grant funds, consolidated assistance, or other grant programs established or provided for by this Act, the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such funds, assistance, or programs, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of the grantees of such States or political subdivisions.

STATE AUDITING REQUIREMENTS

SEC. 1745. (a) Each State shall conduct financial and compliance audits of any block grant funds which the State receives under this Act and any funds which the State receives under any consolidated assistance program established or provided for by this Act.

(b) Any audit required by subsection (a) shall be conducted with respect to the 2-year period beginning on October 1, 1981, and with respect to each 2-year period thereafter.

(c) Any audit required by subsection (a) shall, insofar as is practicable, be conducted in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions.

(d) The audit of funds by a State required by subsection (a) shall be conducted in lieu of any other financial and compliance audit of the same funds which the State is required to conduct under any other provision of this Act, unless such other provision, by explicit reference to this section, otherwise provides.

TITLE XVIII—WATER RESOURCE DEVELOPMENT AND ECONOMIC DEVELOPMENT PROGRAMS

Subtitle A—Water Projects

PART 1—WATER POLLUTION CONTROL

SEC. 1801. (a) Section 207 of the Federal Water Pollution Control Act is amended by striking out "September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year." and inserting in lieu thereof "not to exceed $5,000,000,000; for the fiscal year ending September 30, 1981, not to exceed $2,548,837,000; and for the fiscal year ending September 30, 1982, not to exceed $0, unless there is enacted legislation establishing an allotment formula for fiscal year 1982 construction grant funds and otherwise reforming the municipal sewage treatment construction grant program under this title, in which case the authorization for fiscal year 1982 shall be an amount not to exceed $2,400,000,000.".

(b) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency for the fiscal year ending September 30, 1982, not to exceed $40,000,000 to carry out section 205(g) of the Federal Water Pollution Control Act. The Administrator shall make such authorization available to the States in accordance with such section 205(g) in the same manner and to the same extent as would be the case if $2,000,000,000 had been authorized under section 207 of such Act, using the same allotment table as was applicable to the fiscal year ending September 30, 1981.

PART 2—RIVER AND HARBOR, FLOOD CONTROL, AND RELATED PROJECTS

SEC. 1805. Notwithstanding any other provision of law, the total amount authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers, for construction of river and harbor, flood control, shore protection, and related authorized projects (other than the project for the Mississippi River and tributaries) and detailed studies, and plans and specifications, of projects authorized or made eligible for selection by law, shall not exceed $1,546,755,000 for the fiscal year ending September 30, 1982; $1,688,948,000 for the fiscal year ending September 30, 1983; and $1,575,750,000 for the fiscal year ending September 30, 1984.

SEC. 1806. Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Defense for special recreational user fees programs of the Corps of Engineers in excess of $5,000,000 for the fiscal year ending September 30, 1981; in excess of $5,200,000 for the fiscal year ending September 30, 1982; in excess of $6,000,000 for the fiscal year ending September 30, 1983; or in excess of $6,000,000 for the fiscal year ending September 30, 1984.

SEC. 1807. (a) Subject to enactment of legislation establishing a National Board on Water Resources Policy, there is hereby authorized to be appropriated to such Board for the purposes of coordination of water resources policy and water resources planning grants to the States the sum of $12,500,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984. Upon establishment of a National Board on Water Resources Policy, all unobligated funds of the Water Resources Council, established by the Water Resources Planning Act of 1965, are transferred to such National Board.

(b) No funds are authorized to be appropriated to the Secretary of the Interior for the purposes of water resources research and development, saline water research, development and demonstration, and associated activities in excess of $23,650,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.

PART 3—TVA PROJECT

SEC. 1811. No amount shall be authorized to be appropriated for the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to the Tennessee Valley Authority to carry out the North Alabama Coal Gasification Project at Murphy Hill, Alabama. The Tennessee Valley Authority shall provide for the repayment out of its proceeds from the project with interest at the rate established in accordance with section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(e)) of all Federal funds invested in the North Alabama Coal Gasification Project at Murphy Hill, Alabama.

Subtitle B—Economic Development Programs

PART 1—PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 1821. (a) The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended as follows:

(1) Section 105 is amended by striking out "September 30, 1981, and September 30, 1982." at the end of the first sentence and inserting in lieu thereof "and September 30, 1981, and not to exceed $150,000,000 for the fiscal year ending September 30, 1982.".

(2) Section 201(c) is amended by striking out "September 30, 1981, and September 30, 1982." at the end thereof and inserting in lieu thereof "and September 30, 1981, and not to exceed $46,500,000 for the fiscal year ending September 30, 1982.".

(3) Section 204(c) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981.".

(4) Section 303(a) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and not to exceed $35,500,000 for the fiscal year ending September 30, 1982.".

(5) The first sentence of section 304(a) is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(6) Section 403(g) is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(7) Section 404 is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(8) Effective September 30, 1981, title V is repealed.

(9) Section 709 is amended by inserting ", except that there are hereby authorized to be appropriated to carry out those provisions of the Act for which specific authority for appropriations is not otherwise provided in this Act not to exceed $25,000,000 for the fiscal year ending September 30, 1982" before the period at the end of the first sentence.

(10) Title VIII is amended by striking out section 806.

(11) Section 905 is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and not to exceed $33,000,000 for the fiscal year ending September 30, 1982.".

(12) Section 1007 is amended by striking out "September 30, 1982." and inserting in lieu thereof "and September 30, 1981.".

(b) The total of all authorizations to carry out the Public Works and Economic Development Act of 1965 for the fiscal year 1982 shall not exceed $290,000,000 and in the obligation of such sum the Secretary shall approve projects in accordance with such Act as follows: (1) highest priority to those projects for which applications have been authorized to be filed as of the date of enactment of this section; (2) next priority to those projects for which preapplications or project profiles have been authorized to be filed as of the date of enactment of this section; and (3) thereafter other projects. The Secretary shall ensure that only technically approvable projects under these priorities will be funded, and that no new projects are approved which cannot be completed with funds obligated in fiscal year 1982.

PART 2—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 1822. (a) The Appalachian Regional Development Act of 1965 is amended as follows:

(1) Section 105(b) is amended by striking out "$3,350,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $550,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff)." and inserting in lieu thereof "$2,900,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $400,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).".

(2) Section 201(g) is amended by striking out "and $215,000,000 for fiscal year 1982" and inserting in lieu thereof "and $165,000,000 for fiscal year 1982".

(3) Section 401 is amended by striking out "$140,000,000 for the fiscal year ending September 30, 1982." and inserting in lieu thereof "$50,000,000 for the fiscal year ending September 30, 1982.".

(4) Section 401 is amended by adding at the end thereof the following: "No part of the sums authorized in this section for the fiscal year ending September 30, 1982, shall be obligated for any project unless such project was undertaken with funds obligated in a previous fiscal year or is a capital project which was originally approved for funding in fiscal year 1981 and can be started and completed with funds authorized for fiscal year 1982."

TITLE XIX—SMALL BUSINESS

SEC. 1901. This title may be cited as the "Small Business Budget Reconciliation and Loan Consolidation/Improvement Act of 1981".

SEC. 1902. Subsection (a) of section 7 of the Small Business Act is amended to read as follows:

"(a) The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equipment, and working capital, and to make loans to any qualified small business concern, including those owned by qualified Indian tribes, for purposes of this Act. Such financings may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. These powers shall be subject, however, to the following restrictions, limitations, and provisions:

"(1) No financial assistance shall be extended pursuant to this subsection if the applicant can obtain credit elsewhere. No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no direct financing may be made unless it is shown that a participation is not available.

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be:

"(A) not less than 90 per centum of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $100,000; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 per centum nor more than 90 per centum of the financing outstanding at the time of disbursement if such financing exceeds $100,000 but is less than $714,285, and

"(ii) less than 70 per centum of the financing outstanding at the time of disbursement if such financing exceeds $714,285;

Provided, That the Administration shall not use the per centum of guarantee requested as a criterion to establish priorities in approving guarantee requests nor shall the Administration reduce the per centum guaranteed to less than 90 per centum pursuant to subparagraph (B) other than by a determination made on each application.

"(3) No loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed $500,000: Provided, That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed $350,000.

"(4) The rate of interest on financings made on a deferred basis shall be legal and reasonable but shall not exceed a rate prescribed by the Administration, and the rate of interest for the Administration's share of any direct or immediate participation loan shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 per centum, and an additional amount as determined by the Administration, but not to exceed 1 per centum per annum: Provided, That for those loans to assist any public or private organization for the handicapped or to assist any handicapped individual as provided in paragraph (10) of this subsection, the interest rate shall be 3 per centum per annum.

"(5) No such loans including renewals and extensions thereof may be made for a period or periods exceeding twenty-five years, except that such portion of a loan made for the purpose of acquiring real property or constructing, converting, or expanding facilities may have a maturity of twenty-five years plus such additional period as is estimated may be required to complete such construction, conversion or expansion.

"(6) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: Provided, however, That—

"(A) for loans to assist any public or private organization or to assist any handicapped individual as provided in paragraph (10) of this subsection any reasonable doubt shall be resolved in favor of the applicant;

"(B) recognizing that greater risk may be associated with loans for energy measures as provided in paragraph (12) of this subsection, factors in determining 'sound value' shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: Provided further, That such status need not be as sound as that required for general loans under this subsection; and

"(C) the Administration shall not decline to participate in a loan on a deferred basis under this subsection solely because such loan will be used to refinance all or any part of the existing indebtedness of a small business concern, unless the Administration determines that—

"(i) the holder of such existing indebtedness is in a position likely to sustain a loss if such refinancing is not provided, and

"(ii) if the Administration provides such refinancing through an agreement to participate on a deferred basis, it will be in a position likely to sustain part or all of any loss which would have otherwise been sustained by the holder of the original indebtedness: Provided further, That the Administration may decline to approve such refinancing if it determines that the loan will not benefit the small business concern.

On that portion of the loan used to refinance existing indebtedness held by a bank or other lending institution, the Administration shall limit the amount of deferred participation to 80 per centum of the amount of the loan at the time of disbursement: Provided further, That any authority conferred by this subparagraph on the Administration shall be exercised solely by the Administration and shall not be delegated to other than Administration personnel.

"(7) The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern.

"(8)(A) Any loan made under the authority of this subsection by the Administration in cooperation with a bank or other lending institution through an agreement to participate on a deferred basis, may, upon the concurrence of the Administration, borrower and such bank or institution, have the term of such loan extended or such loan refi-

nanced with an extension of its term: Provided, That the aggregate term of such extended or refinanced loan does not exceed the term permitted pursuant to paragraph (5): And provided further, That such extended loans, or refinancings shall be repaid in equal installments of principal and interest.

"(B) An additional service fee not exceeding 1 per centum of the outstanding amount of the principal may be paid by the borrower to the lender in consideration for such lender extending the term or refinancing of such borrower's indebtedness if such extension or refinancing results in the term of such indebtedness exceeding ten years.

"(C) The authority provided in this paragraph shall not be construed to otherwise limit the authority of the Administration to set terms and conditions of the loan.

"(9) The Administration may provide loans under this subsection to finance residential or commercial construction or rehabilitation for sale: Provided, however, That such loans shall not be used primarily for the acquisition of land.

"(10) The Administration may provide loans under this subsection to assist any public or private organization for the handicapped or to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

"(11) The Administration may provide loans under this subsection to any small business concern, or to any qualified person seeking to establish such a concern when it determines that such loan will further the policies established in section 2(c) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals.

"(12) The Administration may provide loans under this subsection to assist any small business concern, including start up, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures: Provided, however, That such loan proceeds shall not be used primarily for research and development.

"(13) The Administration may provide financings under this subsection to State and local development companies for the purposes of, and subject to the restrictions in, title V of the Small Business Investment Act of 1958.

"(14) The Administration under this subsection may provide extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: Provided, however, That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.

"(15)(A) The Administration may guarantee loans under this subsection to qualified employee trusts with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 per centum of the stock of the concern.

"(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 per centum of the total stock of such concern shall be allocated to the accounts of at least 51 per centum of the employees of such concern who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.".

SEC. 1903. Section 3 of the Small Business Act is amended by adding thereto the following subsections:

"(d) For purposes of section 7 of this Act, the term 'qualified Indian tribe' means an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act, which owns and controls 100 per centum of a small business concern.

"(e) For purposes of section 7 of this Act, the term 'public or private organization for the handicapped' means one—

"(1) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

"(2) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(3) which, in the production of commodities and in the provision of services during any fiscal year in which it received financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services.

"(f) For purposes of section 7 of this Act, the term 'handicapped individual' means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

"(g) For purposes of section 7 of this Act, the term 'energy measures' includes—

"(1) solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types;

"(2) photovoltaic cells and related equipment;

"(3) a product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures list of the Secretary of Energy or which the Administrator determines to be consistent with the intent of this subsection;

"(4) equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy;

"(5) equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste;

"(6) hydroelectric power equipment;

"(7) wind energy conversion equipment; and

"(8) engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in paragraph (1) through (7).

"(h) For purposes of this Act, the term 'credit elsewhere' means the availability of credit from non-Federal sources on reasonable terms and conditions taking into consideration the prevailing rates and terms in the community in or near where the concern transacts business, or the homeowner resides, for similar purposes and periods of time.

"(i) For purposes of section 7 of this Act, the term 'homeowners' includes owners and lessees of residential property and also includes personal property.".

SEC. 1904. Section 10(b) of the Small Business Act is amended by striking out "subsection" and all that follows and by inserting in lieu thereof, "this Act. Such report shall provide such information separately on each type of loan made under paragraphs (10) through (15) of section 7(a) and separately for all other loan programs. In addition, the information on loans shall be supplied on a monthly basis to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives.".

SEC. 1905. Section 20 of the Small Business Act is amended by striking out all after subsection (j) and inserting the following:

"(k) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $195,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $45,000,000 in loans as provided in paragraph (11), and $10,000,000 in loans as provided in paragraph (12).

"(2) For the programs authorized by 7(a) of this Act, and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,140,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $17,000,000 in loans as provided in paragraph (12), and $250,000,000 in loans as provided in para-

graph (13) and guarantees of debentures as provided in section 503.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchase of debentures and preferred securities and to make $160,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,400,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration shall not enter into any loans, guarantees, or other obligations or commitments.

"(6) For the programs authorized in section 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250,000,000.

"(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7 (b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1982, $623,000,000. Of such sum, $362,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (3); $30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $227,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,526,000 shall be available for procurement and technical assistance; of which amount not less than $2,318,000 shall be available for technical assistance, and of this amount not less than $903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business.

"(2) $26,638,000 shall be available for management assistance of which amount not less than $1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,400,000 shall be used to develop an external small business data bank and small business index; not less than $1,350,000 shall be used for research; and not less than $1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out these functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, and to the installation of terminals in Administration field offices.

"(6) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

"(m) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(l) of this Act: Provided, however, That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(n) The following program levels are authorized for fiscal year 1983:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $195,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $45,000,000 in loans as provided in paragraph (11), and $10,000,000 in loans as provided in paragraph (12).

"(2) For the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,140,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $17,000,000 in loans as provided in paragraph (12), and $350,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchases of debentures and preferred securities and to make $160,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,400,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration shall not enter into any loans, guarantees, or other obligations or commitments.

"(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250,000,000.

"(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

(o) There are authorized to be appropriated to the Administration for fiscal year 1983, $675,000,000. Of such sum, $408,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (n), paragraphs (1) through (3); $30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958, $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $233,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,526,000 shall be available for procurement and technical assistance; of which amount not less than $2,318,000 shall be available for technical assistance, and of this amount not less than $903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business.

"(2) $29,638,000 shall be available for management assistance of which amount not less than $1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,400,000 shall be used to develop an external small business data bank and small business index; not less than $1,350,000 shall be used for research; and not less than $1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, and to the installation of terminals in Administration field offices.

"(6) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

"(p) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses author-

ized in paragraphs (1) through (5) of section 20(o) of this Act: Provided, however, That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(q) The following program levels are authorized for fiscal year 1984:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $195,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $45,000,000 in loans as provided in paragraph (11), and $10,000,000 in loans as provided in paragraph (12).

"(2) for the programs authorized by 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,140,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $17,000,000 in loans as provided in paragraph (12), and $350,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchases of debentures and preferred securities and to make $160,000,000 in guarantees of debentures.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,400,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration shall not enter into any loans, guarantees, or other obligations or commitments.

"(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250,000,000.

"(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(r) There are authorized to be appropriated to the Administration for fiscal year 1984, $804,000,000. Of such sum, $531,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (q), paragraphs (1) through (3); $30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $239,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,526,000 shall be available for procurement and technical assistance; of which amount not less than $2,318,000 shall be available for technical assistance, and of this amount not less than $903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business.

"(2) $32,138,000 shall be available for management assistance of which amount not less than $1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,400,000 shall be used to develop an external small business data bank and small business index; not less than $1,350,000 shall be used for research; and not less than $1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, and to the installation of terminals in Administration field offices.

"(6) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

"(s) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(r) of this Act: Provided, however, That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.".

SEC. 1906. Section 20(h) of the Small Business Act is hereby amended by striking from paragraph (9) the figure "$110,000,000" and by inserting "$180,000,000".

SEC. 1907. Not later than February 28, 1984, and February 28, 1985, the Small Business Administration shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report which shall contain—

(1) with respect to section 7(a)(5) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of all loans (other than for the acquisition of real property or for construction) having a maturity not in excess of ten years, and the aggregate number, dollar value, and default rate of all loans made for the purpose of acquiring real property or for construction having a maturity of between ten years and twenty years plus such additional period as is estimated may be required to complete such construction; and

(B) the aggregate number, dollar value, and default rate of all loans (other than for the acquisition of real property or for construction) made since the effective date of this section, having a maturity in excess of ten years, and the aggregate number, dollar value, and default rate of all loans made for the purpose of acquiring real property or for construction made since the effective date of this section, having a maturity in excess of twenty years plus such additional period as is estimated may be required to complete such construction;

(2) with respect to section 7(a)(8)(A) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of loans extended or refinanced pursuant to such section; and

(B) the average term of loans before such extension or refinancing and the average term of such loans after such extension or refinancing; and

(3) with respect to section 7(a)(6)(C) of the Small Business Act, the aggregate number, dollar value, and default rate of all loans refinanced pursuant to such provision.

SEC. 1908. Section 4(c)(1)(B) of the Small Business Act is amended by deleting "7(e), 7(h), 7(i), 7(l),".

SEC. 1909. Section 502 of the Small Business Investment Act of 1958 is amended by striking paragraphs (1) and (5) and by renumbering paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

SEC. 1910. Sections 7(a)(6)(C) and 7(a)(8) of the Small Business Act as enacted herein are repealed October 1, 1985.

SEC. 1911. Sections 7(b)(1) and 7(b)(2) of the Small Business Act are amended to read as follows:

"(b) The Administration also is empowered to the extent and in such amounts as provided in advance in appropriation Acts—

"(1)(A) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to repair, rehabilitate or replace property, real or personal, damaged or destroyed by or as a result of floods, riots or civil disorders, or other catastrophes: Provided, That such damage or destruction is not compensated for by insurance or otherwise;

"(B) to refinance any mortgage or other lien against a totally destroyed or substantially damaged home or business concern: Provided, That no loan or guarantee shall be extended unless the Administration finds that (i) the applicant is not able to obtain credit elsewhere; (ii) such property is to be repaired, rehabilitated, or replaced; (iii) the amount refinanced shall not exceed the amount of physical loss sustained; and (iv) such amount shall be reduced to the extent such mortgage or lien is satisfied by insurance or otherwise;

"(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to any small business concern located in an area affected by a disaster, if the Administration determines that the concern has suffered a substantial economic injury as a result of such disaster and if such disaster constitutes—

"(A) a major disaster, as determined by the President under the Act entitled "An

Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes", approved September 30, 1950, as amended (42 U.S.C. 1855–1855g); or

"(B) a natural disaster, as determined by the Secretary of Agriculture pursuant to the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1981); or

"(C) a disaster, as determined by the Administrator of the Small Business Administration; or

"(D) if no disaster declaration has been issued pursuant to subparagraph (A), (B), or (C), the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns (1) have suffered economic injury as a result of such disaster, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster stricken area. Upon receipt of such certification, the Administration may then make such loans as would have been available under this paragraph if a disaster declaration had been issued.

Provided, That no loan or guarantee shall be extended pursuant to this paragraph (2) unless the Administration finds that the applicant is not able to obtain credit elsewhere.

SEC. 1912. Section 7(c) of the Small Business Act is amended by adding the following:

"(4) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b) shall be—

"(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum but not to exceed 8 per centum per annum;

"(B) in the case of a homeowner able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum:

(C) in the case of a business concern unable to obtain credit elsewhere, not to exceed 8 per centum per annum;

"(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the rate prevailing in private market for similar loans and not more than the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under section 7(a) of this Act. Loans under this subparagraph shall be limited to a maximum term of three years.

Such loans, subject to the reductions required by subparagraphs (A) and (B) of paragraph (1), shall be in amounts equal to 100 percent of loss if the applicant is a homeowner and 85 percent of loss if the applicant is a business or otherwise. The interest rates for loans made under paragraphs (1) and (2), as determined pursuant to this paragraph (4), shall be the rate of interest which is in effect on the date the disaster commenced: Provided, That no loan under paragraphs (1) and (2) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

SEC. 1913. (a) Section 7(b) of the Small Business Act is amended by striking out paragraphs (3) through (9) and inserting in lieu thereof the following:

"(3) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to, alterations in, or reestablishment in the same or a new location of its plant, facilities, or methods of operation made necessary by direct action of the Federal Government or as a consequence of Federal Government action or to meet requirements or restrictions imposed on such concern under any Federal law heretofore or hereafter enacted or any State law enacted in conformity therewith, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury or be unable to market a product without assistance under this paragraph: Provided, That the maximum loan made to any small business concern under this paragraph shall not exceed $500,000 and the amount thereof shall be based solely on a determination made on each application: Provided further, That no loan or guarantee shall be extended unless the Administration finds that the applicant is unable to obtain credit elsewhere.";

(b) Section 4(c)(1) of the Small Business Act is amended by striking all of subparagraph (A) after "7(b)(3)," and by inserting in lieu thereof "and 7(c)(2) of this Act; and".

(c) Section 7(g) of the Small Business Act is hereby repealed.

SEC. 1914. Section 7(c)(3) of the Small Business Act is amended by striking "to October 1, 1983" and by inserting "the effective date of this Act".

SEC. 1915. Section 4(c)(5)(B)(ii) of the Small Business Act is amended by striking all of the first sentence after "are made" and by inserting "from amounts appropriated for the disaster loan fund after October 1, 1980 or are made from repayments of principal of loans made from funds appropriated to the disaster loan fund, or from amounts appropriated to the business loan and investment fund on or after October 1, 1981 or are made from repayments of principal of loans made from funds appropriated to the business loan and investment fund and received on or after October 1, 1981.".

SEC. 1916. (a) Notwithstanding section 5(b)(6) of the Small Business Act, or any other provision of law, any business concern applicant for assistance made pursuant to paragraph (1), (2), or (4) of subsection 7(b) of the Small Business Act whose application was received but not approved by the Small Business Administration on or before March 19, 1981, shall be offered loan assistance by the Small Business Administration as provided in this section.

(b) The Small Business Administration is specifically directed to reconsider and act upon any such application and to make, remake, obligate, reobligate, commit or recommit such financing as provided herein.

"(c) If the applicant was a business concern able to obtain credit elsewhere, the terms and conditions shall be those specified in section 7(b)(3) of this Act; but if the Administrator determines that imposition of these provisions would impose a substantial hardship on the applicant, he may, in his discretion on a case-by-case basis waive these provisions and provide assistance in accord with rules and regulations in effect for the date the disaster commenced for applicants able to secure credit elsewhere. If the applicant was a business concern unable to obtain credit elsewhere, or was an applicant under sections 7(b)(2) or 7(b)(4) of the Small Business Act, the terms and conditions shall be those in effect for such applicants on the date such application was first received. As used herein, the term 'credit elsewhere' shall have the meaning prescribed by the Small Business Act as amended herein.

SEC. 1917. Section 231 of the Disaster Relief Act is hereby repealed.

SEC. 1918. Sections 1908, 1909, and 1913 of this title shall be effective October 1, 1981, and section 1910 of this title shall be effective as provided therein. All other provisions of this title shall be effective immediately but shall not affect any financing made, obligated, or committed under the Small Business Act or the Small Business Investment Act of 1985 prior to the effective date hereof.

TITLE XX—VETERANS' PROGRAMS

BURIAL BENEFITS

SEC. 2001. (a)(1) Section 902(a) of title 38, United States Code, is amended by striking out "Where a veteran dies—" and clauses (1) and (2) and inserting in lieu thereof "When a veteran dies who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or in receipt of pension,".

(2) The amendment made by paragraph (1) shall take effect with respect to deaths occurring after September 30, 1981.

(b) Section 903(b) of such title is amended by inserting "who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war" after "such subsection,".

OUTPATIENT DENTAL TREATMENT

SEC. 2002. (a) Section 612(b) of title 38, United States Code, is amended—

(1) in clause (2)—

(A) by striking out "and (B)" after "service" and inserting in lieu thereof a comma and the following: "(B) if the veteran had served not less than 180 days of active military, naval, or air service immediately before such discharge or release, (C)";

(B) by striking out "within one year" both places it appears and inserting in lieu thereof "within 90 days"; and

(C) by striking out the semicolon and inserting in lieu thereof a comma and the following: "and (D) if the veteran's certificate of discharge or release from active duty does not bear a certification that the veter-

an was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed;"; and

(2) by inserting before the second sentence the following:

"The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days provide to such member a written explanation of the provisions of clause (2) of this subsection and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation).".

(b)(1) The amendments made by clauses (1)(A), (1)(C), and (2) of subsection (a) shall take effect on October 1, 1981.

(2) The amendment made by clause (1)(B) of subsection (a) shall apply only to veterans discharged or released from active military, naval, or air service after September 30, 1981.

TERMINATION OF EDUCATIONAL ASSISTANCE FOR PURSUIT OF FLIGHT TRAINING

SEC. 2003. (a)(1) Section 1631(c) of title 38, United States Code, is amended by striking out "either" and "or a program of flight training".

(2) Section 1641 of such title is amended to read as follows:

"§1641. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1683, and 1691(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of sections 1777, 1780(c), and 1787) shall be applicable to the program.".

(b)(1) Section 1662(c) of such title is amended by striking out "or flight training within the provisions of section 1677 of this chapter,".

(2) Section 1673(b) of such title is amended by striking out "Except as provided in section 1677 of this title, the" and inserting in lieu thereof "The".

(3)(A) Section 1677 of such title, relating to flight training, is repealed.

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 1677.

(4) Section 1681 of such title is amended—

(A) in subsection (b), by striking out "or a program of flight training"; and

(B) by striking out subsection (c) (including the center heading preceding such subsection).

(5) Section 1682(a)(1) of such title is amended by striking out "1677 or".

(c) Section 1780(a) of such title is amended by striking out "or a program of flight training".

REDUCTION IN LEVEL OF EDUCATIONAL ASSISTANCE FOR CORRESPONDENCE COURSES

SEC. 2004. (a) Section 1786(a)(1) of title 38, United States Code, is amended by striking out "70 percent" and inserting in lieu thereof "55 percent".

(b) The amendment made by subsection (a) shall not apply to correspondence lessons completed and submitted to the educational institution concerned before October 1, 1981.

EDUCATION LOAN PROGRAM

SEC. 2005. (a) Section 1631 of title 38, United States Code, is amended by striking out subsection (d).

(b) Section 1686 of such title is amended by inserting "to whom section 1662(a)(2) of this title is applicable" after "eligible veteran".

(c) Section 1737 of such title is amended by inserting a comma and "before October 1, 1981," after "shall be entitled".

(d) Section 1798(a) of such title is amended—

(1) by striking out "Each" and inserting in lieu thereof "(1) Subject to paragraph (2) of this subsection, each"; and

(2) by adding at the end the following new paragraph:

"(2) Except in the case of a veteran to whom section 1662(a)(2) of this title is applicable, no loan may be made under this subchapter after September 30, 1981.".

EFFECTIVE DATES WITH RESPECT TO FLIGHT TRAINING

SEC. 2006. (a) Except as provided in subsection (b), the amendments made by sections 2003 and 2005 shall take effect on October 1, 1981.

(b) The amendments made by such sections shall not apply to any person receiving educational assistance under section 1677 of title 38, United States Code, as such section was in effect on August 31, 1981, for the pursuit of a program of education (as defined in section 1652(b) of such title) in which such person was enrolled on that date, for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of chapters 34 and 36 of such title, as in effect on that date.

TITLE XXI—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH

SHORT TITLE OF SUBTITLES A, B, AND C; TABLE OF CONTENTS OF TITLE

SEC. 2100. Subtitles A, B, and C of this title may be cited as the "Medicare and Medicaid Amendments of 1981".

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SUBTITLE A—PROVISIONS RELATING TO MEDICARE AND MEDICAID

CHAPTER 1—REIMBURSEMENT CHANGES

PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

SEC. 2101. (a) Part C of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

"SEC. 1884. (a) Any hospital may file an application with the Secretary (in such form and including such data and information as the Secretary may require) for establishment of a transitional allowance under this title with respect to the closing or conversion of an underutilized hospital facility. The Secretary also may establish procedures, consistent with this section, by which a hospital, before undergoing an actual closure or conversion of a hospital facility, can have a determination made as to whether or not it will be eligible for a transitional allowance under this section with respect to such closure or conversion.

"(b) If the Secretary finds, after consideration of an application under subsection (a), that—

"(1) the hospital's closure or conversion—

"(A) is formally initiated after September 30, 1981,

"(B) is expected to benefit the program under this title by (i) eliminating excess bed capacity, (ii) discontinuing an underutilized service for which there are adequate alternative sources, or (iii) substituting for the underutilized service some other service which is needed in the area, and

"(C) is consistent with the findings of an appropriate health planning agency and with any applicable State program for reduction in the number of hospital beds in the State, and

"(2) in the case of a complete closure of a hospital—

"(A) the hospital is a private nonprofit hospital or a local governmental hospital, and

"(B) the closure is not for replacement of the hospital,

the Secretary may include as an allowable cost in the hospital's reasonable cost (for the purpose of making payments to the hospital under this title) an amount (in this section referred to as a 'transitional allowance'), as provided in subsection (c).

"(c)(1) Each transitional allowance established shall be reasonably related to the prior or prospective use of the facility involved under this title and shall recognize—

"(A) in the case of a facility conversion or closure (other than a complete closure of a hospital)—

"(i) in the case of a private nonprofit or local governmental hospital, that portion of the hospital's costs attributable to capital assets of the facility which have been taken into account in determining reasonable cost for purposes of determining the amount of payment to the hospital under this title, and

"(ii) in the case of any hospital, transitional operating cost increases related to the conversion or closure to the extent that such operating costs exceed amounts ordinarily reimbursable under this title; and

"(B) in the case of complete closure of a hospital, the outstanding portion of actual debt obligations previously recognized as reasonable for purposes of reimbursement under this title, less any salvage value of the hospital.

"(2) A transitional allowance shall be for a period (not to exceed 20 years) specified by the Secretary, except that, in the case of a complete closure described in paragraph (1)(B), the Secretary may provide for a lump-sum allowance where the Secretary determines that such a one-time allowance is more efficient and economical.

"(3) A transitional allowance shall take effect on a date established by the Secretary, but not earlier than the date of completion of the closure or conversion concerned.

"(4) A transitional allowance shall not be considered in applying the limits to costs recognized as reasonable pursuant to the third sentence of subparagraph (A) and subparagraph (L)(i) of section 1861(v)(1) of this Act, or in determining whether the reasonable cost exceeds the customary charges for a service for purposes of determining the amount to be paid to a provider pursuant to sections 1814(b) and 1833(a)(2) of this Act.

"(c) A hospital dissatisfied with a determination of the Secretary on its application under this section may obtain an informal or formal hearing, at the discretion of the Secretary, by filing (in such form and within such time period as the Secretary establishes) a request for such a hearing. The Secretary shall make a final determination on such application within 30 days after the last day of such hearing.".

(2) Section 1903 of such Act is amended by inserting after subsection (d) the following new subsection:

"(e) A State plan approved under this title may include, as a cost with respect to hospital services under the plan under this title, periodic expenditures made to reflect transitional allowances established with respect to a hospital closure or conversion under section 1884.".

(b)(1) Notwithstanding section 1884(a) of the Social Security Act, the Secretary of Health and Human Services may not establish under such section transitional allowances with respect to more than 50 hospitals prior to January 1, 1984.

(2) The Secretary of Health and Human Services shall evaluate the effectiveness of the program of transitional allowances established under section 1884 of the Social Security Act and shall, not later than January 1, 1983, report to the Congress on such evaluation and include in such report such recommendations for such legislative changes as he deems appropriate.

(c) The amendment made by subsection (a) shall apply only to services furnished by a hospital during any accounting year beginning on or after October 1, 1981.

ADJUSTMENT IN PAYMENT FOR INAPPROPRIATE HOSPITAL SERVICES

SEC. 2102. (a)(1) Section 1861(v)(1)(G)(i) of the Social Security Act is amended by striking out "the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more" and inserting in lieu thereof "there is not an excess of hospital beds in such hospital and (subject to clause (iv)) there is not an excess of hospital beds in the area of such hospital".

(2) Clause (iv) of section 1861(v)(1)(G) of such Act is amended to read as follows:

"(iv) In determining under clause (i), in the case of a public hospital, whether or not there is an excess of hospital beds in the area of such hospital, such determination shall be made on the basis of only the public hospitals (including the hospital) which are in the area of the hospital and which are under common ownership with that hospital.".

(b)(1) The amendments made by subsection (a) shall apply to services provided on or after the first day of the first month beginning after the date of the enactment of this Act.

(2) For amendments respecting reimbursement for inappropriate hospital services under medicaid, see section 2173 of this subtitle.

LIMITATION ON MEDICARE AND MEDICAID PAYMENTS FOR CERTAIN DRUGS

SEC. 2103. (a)(1) Section 1862 of the Social Security Act is amended by inserting after subsection (b) the following new subsection:

"(c) No payment may be made under part B for any expenses incurred for—

"(1) a drug product—

"(A) which is described in section 107(c)(3) of the Drug Amendments of 1962,

"(B) which may be dispensed only upon prescription,

"(C) for which the Secretary has issued a notice of an opportunity for a hearing under subsection (e) of section 505 of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug product under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling, and

"(D) for which the Secretary has not determined there is a compelling justification for its medical need; and

"(2) any other drug product—

"(A) which is identical, related, or similar (as determined in accordance with section 310.6 of title 21 of the Code of Federal Regulations) to a drug product described in paragraph (1), and

"(B) for which the Secretary has not determined there is a compelling justification for its medical need,

until such time as the Secretary withdraws such proposed order.".

(2) The amendment made by paragraph (1) shall apply with respect to expenses incurred on or after October 1, 1981.

(b)(1) Section 1903(i) of such Act is amended by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or" and by adding after such paragraph the following new paragraph:

"(5) with respect to any amount expended for any drug product for which payment may not be made under part B of title XVIII because of section 1862(c).".

(2) The amendment made by paragraph (1) shall apply to amounts expended on or after October 1, 1981.

WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

SEC. 2104. Part C of title XVIII of the Social Security Act is amended by adding after section 1884 (added by section 2101 of this subtitle) the following new section:

"WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

"SEC. 1885. (a) The Secretary may adjust, in accordance with this section, payments under parts A and B to any institution which has in effect an agreement with the Secretary under section 1866, and any person who has accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), where such institution or person—

"(1) has (or previously had) in effect an agreement with a State agency to furnish medical care and services under a State plan approved under title XIX, and

"(2) from which (or from whom) such State agency (A) has been unable to recover overpayments made under the State plan, or (B) has been unable to collect the information necessary to enable it to determine the amount (if any) of the overpayments made to such institution or person under the State plan.

"(b) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall—

"(1) assure that the authority under this section is exercised only on behalf of a State agency which demonstrates to the Secretary's satisfaction that it has provided adequate notice of a determination or of a need for information, and an opportunity to appeal such determination or to provide such information,

"(2) determine the amount of the payment to which the institution or person would otherwise be entitled under this title which shall be treated as a setoff against overpayments under title XIX, and

"(3) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XIX and to which the institution or person would otherwise be entitled under this title.

"(c) Notwithstanding any other provision of this Act, from the trust funds established under sections 1817 and 1841, as appropriate, the Secretary shall pay to the appropriate State agency amounts recovered under this section to offset the State agency's overpayment under title XIX. Such payments shall be accounted for by the State agency as recoveries of overpayments under the State plan.".

CHAPTER 2—OTHER ADMINISTRATIVE CHANGES

CIVIL MONETARY PENALTIES

SEC. 2105. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1128 the following new section:

"CIVIL MONETARY PENALTIES

"SEC. 1128A. (a) Any person (including an organization, agency, or other entity) that presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines—

"(1) is for a medical or other item or service—

"(A) that the person knows or has reason to know was not provided as claimed, or

"(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), 1862(d), or 1866(b)(2), or

"(2) is submitted in violation of an agreement between the person and the United States or a State agency,

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each item or service. In addition, such a person shall be subject to an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

"(b)(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty or assessment under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by them.

"(2) The Secretary shall not make a determination adverse to any person under subsection (a) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

"(c) In determining the amount or scope of any penalty or assessment imposed pursuant to subsection (a), the Secretary shall take into account—

"(1) the nature of claims and the circumstances under which they were presented,

"(2) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and

"(3) such other matters as justice may require.

"(d) Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court (within sixty days following the date the person is notified of the Secretary's determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the Court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(e) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

"(1)(A) In the case of amounts recovered arising out of a claim under title XIX, there shall be paid to the State agency an amount equal to the State's share of the amount paid by the State agency for such claim.

"(B) In the case of amounts recovered arising out of a claim under an allotment to a State under title V, there shall be paid to the State agency an amount equal three-sevenths of the amount recovered.

"(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds.

"(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty or assessment has been assessed.

"(f) A determination by the Secretary to impose a penalty or assessment under subsection (a) shall be final upon the expiration of the sixty-day period referred to in subsection (d). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a

defense to a civil action by the United States to collect a penalty or assessment assessed under this section.

"(g) Whenever the Secretary's determination to impose a penalty or assessment under subsection (a) becomes final, he shall notify the appropriate State or local medical or professional organization, and the appropriate Professional Standards Review Organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty or assessment has become final and the reasons therefor.

"(h) For the purposes of this subsection:

"(1) The term 'State agency' means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act or designated to administer the State's program under title V of this Act.

"(2) The term 'claim' means an application submitted by—

"(A) a provider of services or other person, agency, or organization that furnishes an item or service under title XVIII of this Act, or

"(B) a person, agency, or organization that furnishes an item or service for which medical assistance is provided under title XIX of this Act, or

"(C) a person, agency, or organization that provides an item or service for which payment is made under title V of this Act or from an allotment to a State under such title,

to the United States or a State agency, or agent thereof, for payment for health care services under title XVIII or XIX of this Act or for any item or service under title V of this Act.

"(3) The term 'item or service' includes (A) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (B) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim.

"(4) The term 'agency of the United States' includes any contractor acting as a fiscal intermediary, carrier, or fiscal agent or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.".

(b) Section 1128 of such Act is amended—

(1) by striking out ", for such period as he may deem appropriate," in subsection (a)(1),

(2) by striking out "subsection (a)" in subsection (c) and inserting in lieu thereof "subsection (a) or (b)",

(3) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(4) by inserting after subsection (a) the following new subsection:

"(b) Whenever the Secretary makes a final determination to impose a civil money penalty or assessment against a person (including an organization, agency, or other entity) under section 1128A relating to a claim under title XVIII or XIX, the Secretary—

"(1) may bar the person from participation in the program under title XVIII, and

"(2)(A) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of such determination, and (except as provided in subparagraph (B)) may require each such agency to bar the person from participation in the program established by such plan for such period as he shall specify, which in the case of an individual shall be the period established pursuant to paragraph (1), and

"(B) may waive the requirement of subparagraph (A) to bar a person from participation in such program where he receives and approves a request for such waiver with respect to that person from the State agency referred to in that subparagraph.".

(c) Section 1902(a)(39) of such Act is amended by striking out "individual" and inserting in lieu thereof "person" each place it appears.

TECHNICAL CORRECTIONS FOR ERRORS MADE BY THE MEDICARE AND MEDICAID AMENDMENTS OF 1980

SEC. 2106. (a) Section 1833(a)(2) of the Social Security Act (as amended by section 942 of the Medicare and Medicaid Amendments of 1980, P.L. 96-499) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) with respect to home health services and to items and services described in section 1861(s)(10), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph)—

"(i) the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of such reasonable cost, or

"(ii) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, 80 percent of the amount determined in accordance with section 1814(b)(2), or

"(iii) if (and for so long as) the conditions described in section 1814(b)(3) are met, the amounts determined under the reimbursement system described in such section; and".

(b)(1) Section 1835(a)(2) of such Act is amended—

(A) by adding "and" at the end of subparagraph (D), and

(B) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof a period.

(2) The paragraph after section 1838(b) of such Act is amended by striking out "and such notice shall not be considered a disenrollment for the purposes of section 1837(b)".

(3) Section 1903(n) of such Act is amended by striking out "of this section" after "section 1866".

(c) The amendment made by subsection (a) is effective as of December 5, 1980, and the amendment made by subsection (b)(2) is effective as of April 1, 1981.

CHAPTER 3—PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSRO'S)

MAKING DELEGATED REVIEW OPTIONAL

SEC. 2111. Section 1155(e) of the Social Security Act is amended by striking out "shall utilize" and inserting in lieu thereof "may utilize".

ASSESSMENT OF PSRO PERFORMANCE

SEC. 2112. (a)(1) Section 1154 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall, not later than September 30, 1981, identify and specify those requirements imposed by the Secretary with respect to the performance of Professional Standards Review Organizations which the Secretary will use for the assessment of the performance of such Organizations under this subsection. Such requirements shall include requirements relating to the effectiveness of such Organizations in (A) monitoring the quality of patient care, (B) reducing unnecessary utilization, and (C) managing its activities efficiently.

"(2) Based on such requirements, the Secretary shall assess and determine the relative performance of each of such Organizations designated, conditionally or otherwise, as of September 30, 1981.

"(3) If the Secretary determines that such an Organization has a relatively ineffective or inefficient performance, the Secretary may refuse to renew an agreement with the Organization under this part, except that, in exercising the Secretary's authority under this paragraph in fiscal year 1982, the sum of the number of Organizations with respect to which agreements are not renewed under this paragraph and under any other provision of this Act in the fiscal year may not exceed 30 percent of the number of such Organizations with agreements under this part on May 1, 1981.".

(2)(A) Section 1152(d) of such Act is amended—

(i) by striking out "for a term of 12 months" and inserting in lieu thereof "for a term of not longer than 12 months";

(ii) by striking out "at such time and upon such reasonable notice to the organization as may be prescribed in regulations" and inserting in lieu thereof "upon 90 days notice to the organization"; and

(iii) by striking out "(after providing such organization with an opportunity for a formal hearing on the matter)".

(B) Sections 1152(d) and 1154(d) of such Act are each amended by adding at the end the following sentence: "A termination of an agreement by the Secretary under this subsection shall not be subject to judicial review.".

(C) The amendment made by subparagraph (A)(iii) shall apply to agreements entered into on or after the date of the enactment of this Act.

(D) The Secretary of Health and Human Services shall, not later than September 30, 1982, report to the Congress on his assessment (under section 1154(g) of the Social Security Act) of the relative performance of Professional Standards Review Organizations and on any determinations made not to renew agreements with such Organizations on the basis of such performance.

(b)(1) The first sentence of subsection (b) of section 1154 of such Act is amended—

(A) by striking out "(other than ancillary, ambulatory care, and long-term care services)" and

(B) by striking out "under subsection (f)(2) or subsection (f)(4)" and inserting in lieu thereof "under subsection (f)".

(2) Subsection (f) of such section is amended—

(A) by striking out the parenthetical phrase in paragraph (1);

(B) by striking out paragraphs (2) and (3);

(C) by redesignating paragraph (4) as paragraph (2) and amending it to read as follows:

"(2) Where the Secretary finds that the review of particular health care services is cost-effective or yields other significant benefits, the Secretary may require Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) to review such services under this part."; and

(D) by striking out the parenthetical phrase in paragraph (5) and redesignating such paragraph as paragraph (3).

OPTIONAL USE OF PSRO'S UNDER STATE MEDICAID PLANS

SEC. 2113. (a) Section 1151 of the Social Security Act is amended—

(1) by striking out "under this Act" and inserting in lieu thereof "under title XVIII of this Act"; and

(2) by striking out "the Social Security Act" and inserting in lieu thereof "title XVIII of this Act".

(b) Section 1152(e) of such Act is amended by inserting "title XVIII of" before "this Act" each place it appears.

(c) Section 1152 of such Act is amended by striking out subsection (h), and section 1154 of such Act is amended by striking out subsection (e).

(d)(1) Section 1155(a) of such Act is amended by inserting "title XVIII of" before "this Act" each place it appears in paragraphs (1) and (2).

(2) Section 1155(a)(1) of such Act is amended by adding after and below subparagraph (C) the following new sentence: "Each agreement with an Organization under this part shall require the Organization, if requested by a State with a plan approved under title XIX, to enter into a contract with the State, for the performance of review functions in the case of health care services and items provided under such State plan under terms and conditions similar to those contained in the agreement between the Organization and the Secretary under this part.".

(3) Section 1155(a) of such Act is amended by striking out paragraph (7).

(4) Section 1155(e)(1) of such Act is amended by striking out ", or intermediate care facility, as defined in section 1905(c)" and "or intermediate care facility".

(e)(1) Section 1158(a) of such Act is amended by striking out "under any title of this Act (other than title V)" and inserting in lieu thereof "under title XVIII" and by striking out "or any program established pursuant thereto".

(2) Section 1158(c) of such Act is amended—

(A) by striking out "(subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act" and inserting in lieu thereof "(subject to section 1159) for purposes of payment under title XVIII"; and

(B) by striking out ", or single State agencies" and all that follows through "under title XIX".

(3) Section 1158(d) of such Act is amended by striking out "or section 1902(h)".

(f) Section 1159(a) of such Act is amended by striking out "under this Act (other than title V)" and inserting in lieu thereof "under title XVIII".

(g)(1) Section 1160(a)(1) of such Act is amended by striking out "under this Act" the first place it appears and inserting in lieu thereof "under title XVIII (or under a State plan approved under title XIX, where the services furnished by the person are subject to review under a contract between the State and an Organization under section 1155(a))", and by striking out "under this Act" the second place it appears and inserting in lieu thereof "under such title (or such State plan)".

(2) Section 1160(b)(1) of such Act is amended by striking out "under this Act" and inserting in lieu thereof "under title XVIII".

(h) Section 1162(e)(1) of such Act is amended by striking out "any program established by or pursuant to this Act" and inserting in lieu thereof "title XVIII".

(i) Section 1164 of such Act is repealed.

(j) Section 1168 of such Act is amended—

(1) by inserting "and" at the end of paragraph (a);

(2) by striking out "and" at the end of paragraph (b);

(3) by striking out paragraph (c) and redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively;

(4) by striking out "subsections (a), (b), and (c)" and inserting in lieu thereof "paragraphs (1) and (2)";

(5) by amending the second sentence to read as follows: "The Secretary shall make such transfers of moneys between such funds as may be appropriate to settle accounts between them."; and

(6) by striking out the second parenthetical phrase in the third sentence.

(k) Section 1171 of such Act is repealed.

(l) Section 1172(4) of such Act is amended by striking out "V, XI, XVIII, and XIX" and inserting in lieu thereof "XI and XVIII".

(m) Section 1902 of such Act is amended by inserting after subsection (c) the following new subsection:

"(d) If a State contracts with a Professional Standards Review Organization designated, conditionally or otherwise, under part B of title XI for the performance of medical or utilization review functions required under this title of a State plan with respect to specific services or providers (or services or providers in a geographic area of the State), such requirements shall be deemed to be met for those services or providers (or services or providers in that area) by delegation to such Organization (or Organizations) under the contract of the State's authority to conduct such review activities if the contract provides for the performance of activities not inconsistent with part B of title XI and provides for such assurances of satisfactory performance by such Organization (or Organizations) as the Secretary may prescribe.".

(n) Section 1903(a)(3) of such Act is amended—

(1) by striking out "plus" at the end of subparagraph (B) and inserting in lieu thereof "and", and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) 75 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of medical and utilization review by a Professional Standards Review Organization under a contract entered into under section 1902(d); plus"

(o) The amendments made by this section apply to agreements with Professional Standards Review Organizations entered into on or after October 1, 1981.

SECRETARIAL DETERMINATION IN LIEU OF PSRO CERTIFICATION

SEC. 2114. Section 1861(v)(1)(G)(i) of the Social Security Act is amended by striking out "an organization or agency with review responsibility as is otherwise provided for under part A of title XI" and inserting in lieu thereof "the Secretary or such agent as the Secretary may designate".

Subtitle B—Provisions Relating to Medicare

CHAPTER 1—CHANGES IN SERVICES AND BENEFITS

ELIMINATION OF PART A COVERAGE OF ALCOHOL DETOXIFICATION FACILITY SERVICES

SEC. 2121. (a) Section 1812(a) of the Social Security Act is amended—

(1) by inserting "and" at the end of paragraph (2),

(2) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period, and

(3) by striking out paragraph (4).

(b) Section 1814(a)(2) of such Act is amended—

(1) by inserting "or" at the end of subparagraph (D),

(2) by striking out "or" at the end of subparagraph (E), and

(3) by striking out subparagraph (F).

(c) Section 1861(u) of such Act is amended by striking out "detoxification facility,".

(d) Subsection (bb) of section 1861 of such Act is repealed.

(e) The first sentence of section 1154(b) of such Act is amended by striking out "and to review of alcohol detoxification facility services".

(f) Section 1155 of such Act is amended by striking out subsection (i).

(g) Section 1158 of such Act is amended—

(1) by striking out "subsections (d) and (e)" in subsection (a) and inserting in lieu thereof "subsection (d)", and

(2) by striking out subsection (e).

(h) Section 931 of the Medicare and Medicaid Amendments of 1980 (P.L. 96-499; 94 Stat. 2634) is amended by striking out subsection (f) (relating to a study of medicare coverage of certain additional detoxification-related services).

(i) The amendments made by this section (other than by subsection (h)) shall apply to services furnished in detoxification facilities for inpatient stays beginning on or after the tenth day after the date of the enactment of this Act.

ELIMINATION OF OCCUPATIONAL THERAPY AS A BASIS FOR INITIAL ENTITLEMENT TO HOME HEALTH SERVICES

SEC. 2122. (a)(1) Sections 1814(a)(2)(D) and 1835(a)(2)(A) of the Social Security Act are each amended by striking out "needed skilled nursing care on an intermittent basis, or physical, occupational, or speech therapy" and inserting in lieu thereof "needs or needed skilled nursing care on an intermittent basis or physical or speech therapy or, in the case of an individual who has been furnished home health services based on such a need and who no longer has such a need for such care or therapy, continues or continued to need occupational therapy".

(b) The amendments made by this section shall apply to services furnished pursuant to plans of treatment implemented after the third month beginning after the date of the enactment of this Act.

CHAPTER 2—CHANGES IN COINSURANCE, DEDUCTIBLES, AND COPAYMENTS

MAKING PART A COINSURANCE CURRENT WITH THE YEAR IN WHICH SERVICES FURNISHED

SEC. 2131. (a) The first sentence of section 1813(b)(2) of the Social Security Act is

amended by striking out "any spell of illness beginning" and inserting in lieu thereof "any inpatient hospital services or post-hospital extended care services furnished".

(b) The amendment made by subsection (a) is effective for inpatient hospital services or post-hospital extended care services furnished on or after January 1, 1982.

MAKING PART A COINSURANCE AND DEDUCTIBLE MORE CURRENT

SEC. 2132. (a) Section 1813(b)(2) of the Social Security Act is amended by striking out "$40" and inserting in lieu thereof "$45".

(b) The amendment made by subsection (a) shall apply to inpatient hospital services and post-hospital extended care services furnished in calendar years beginning with calendar year 1982.

ELIMINATION OF CARRYOVER FROM PREVIOUS YEAR OF INCURRED EXPENSES FOR MEETING THE PART B DEDUCTIBLE

SEC. 2133. (a) The first sentence of section 1833(b) of the Social Security Act is amended by striking out "the amount of the deductible for such calendar year" and all that follows through "(2)", and by redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(b) The amendments made by subsection (a) first apply to the deductible for calendar year 1982 with respect to expenses incurred on or after October 1, 1981.

INCREASE IN PART B DEDUCTIBLE

SEC. 2134. (a) Section 1833(b) of the Social Security Act is amended by striking out "$60" and inserting in lieu thereof "$75".

(b) The amendment made by subsection (a) shall take effect on January 1, 1982, and shall apply to the deductible for calendar years beginning with 1982.

CHAPTER 3—REIMBURSEMENT CHANGES

LIMITATION ON ROUTINE NURSING DIFFERENTIAL

SEC. 2141. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(J) Such regulations shall provide that an inpatient routine nursing salary cost differential shall be allowable as a reimbursable cost of hospitals, at a rate not to exceed 5 percent, to be applied under the same methodology used for the nursing salary cost differential for the month of April 1981.".

(b) The Comptroller General shall conduct a study to determine the extent (if any) to which the average cost of efficiently providing routine inpatient nursing care to individuals entitled to benefits under title XVIII of the Social Security Act exceeds the average cost of providing such care to other patients. The Comptroller General shall submit a final report with respect to the results of such study to the Congress within six months after the date of the enactment of this Act.

(c)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to cost reporting periods ending after September 30, 1981.

(2) In the case of a cost reporting period beginning before October 1, 1981, any reduction in payments resulting from the amendment made by subsection (a) shall be imposed only in proportion to the part of the period that occurs after September 30, 1981.

LIMITATION ON REASONABLE COST AND REASONABLE CHARGE FOR OUTPATIENT SERVICES

SEC. 2142. (a) Section 1861(v)(1) of the Social Security Act is further amended by adding after subparagraph (J) (added by section 2141 of this subtitle) the following new subparagraph:

"(K) The Secretary shall issue regulations that provide, to the extent feasible, for the establishment of limitations on the amount of any costs or charges that shall be considered reasonable with respect to services provided on an outpatient basis by hospitals (other than bona fide emergency services provided in an emergency room) or clinics (other than rural health clinics), which are reimbursed on a cost basis or on the basis of cost related charges, and by physicians utilizing such outpatient facilities. Such limitations shall be reasonably related to the charges in the same area for similar services provided in physicians' offices. Such regulations shall provide for exceptions to such limitations in cases where similar services are not generally available in physicians' offices in the area to individuals entitled to benefits under this title.".

(b) Section 1842(b)(3) of such Act is amended by adding at the end thereof the following new sentence: "The amount of any charges for outpatient services which shall be considered reasonable shall be subject to the limitations established by regulations issued by the Secretary pursuant to section 1861(v)(1)(K).".

LIMITS ON REIMBURSEMENT TO HOSPITALS

SEC. 2143. (a) Section 1861(v)(1) of the Social Security Act is further amended by adding after subparagraph (K) (added by section 2142 of this subtitle) the following new subparagraph:

"(L) The Secretary, in determining the amount of the payments that may be made under this title with respect to routine operating costs for the provision of general inpatient hospital services, may not recognize as reasonable (in the efficient delivery of health services) routine operating costs for the provision of general inpatient hospital services by a hospital to the extent these costs exceed 108 percent of the mean of such routine operating costs per diem for hospitals, or, in the judgment of the Secretary, such lower percentage or such comparable or lower limit as the Secretary may determine. The Secretary may provide for such exemptions and exceptions to such limitation as he deems appropriate.".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to costs reporting periods ending after September 30, 1981.

(2) In the case of a cost reporting period beginning before October 1, 1981, any reduction in payments resulting from the amendment made by subsection (a) shall be imposed only in proportion to the part of the period that occurs after September 30, 1981.

LIMITS ON REIMBURSEMENT TO HOME HEALTH AGENCIES

SEC. 2144. (a) Subparagraph (L) of section 1861(v)(1) of the Social Security Act (added by section 2143 of this subtitle) is amended by inserting "(i)" after "(L)" and by adding at the end the following new clause:

"(ii) The Secretary, in determining the amount of the payments that may be made under this title with respect to services furnished by home health agencies, may not recognize as reasonable (in the efficient delivery of such services) costs for the provision of such services by an agency to the extent these costs exceed (on the aggregate for the agency) the 75th percentile of such costs per visit for home health agencies, or, in the judgment of the Secretary, such lower percentile or such comparable or lower limit (based on or related to the mean of the costs of such agencies or otherwise) as the Secretary may determine. The Secretary may provide for such exemptions and exceptions to such limitation as he deems appropriate.".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to cost reporting periods ending after September 30, 1981.

(2) In the case of a cost reporting period beginning before October 1, 1981, any reduction in payments resulting from the amendment made by subsection (a) shall be imposed only in proportion to the part of the period that occurs after September 30, 1981.

INCENTIVE REIMBURSEMENT RATE FOR RENAL DIALYSIS SERVICES

SEC. 2145. (a) Section 1881(b) of the Social Security Act is amended—

(1) by inserting "and consistent with any regulations promulgated under paragraph (7)" in paragraph (2)(B) after "section 1861(v))";

(2) by striking out the second sentence of paragraph (2)(B);

(3) by inserting "(which effectively encourages the efficient delivery of dialysis services and provides incentives for the increased use of home dialysis)" in paragraph (3)(B) after "or other basis";

(4) by inserting "or on the basis of a method established under paragraph (7)" before the period at the end of paragraph (4);

(5) by inserting "(except as may be provided in regulations under paragraph (7))" in the second sentence of paragraph (6) after "in no event" and by striking out "70 percent" in such sentence and inserting in lieu thereof "75 percent";

(6) by inserting "(including methods established under paragraph (7))" in the fifth sentence of paragraph (6) after "any other procedure";

(7) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(8) by inserting after paragraph (6) the following new paragraph:

"(7) The Secretary shall provide by regulation for a method (or methods) for determining prospectively the amounts of payments to be made for dialysis services furnished by providers of services and renal dialysis facilities to individuals in a facility and to such individuals at home. Such method (or methods) shall provide for the prospective determination of a rate (or rates) for each mode of care based on a single composite weighted formula (which takes into account the mix of patients who receive dialysis services at a facility or at home and the relative costs of providing such services in such settings) for hospital-based facilities and such a single composite weighted formula for other renal dialysis facilities, or based on such other method or combination of methods which differentiate between hospital-based facilities and other renal dialysis facilities and which the Secretary determines, after detailed analysis, will more effectively encourage the more efficient delivery of dialysis services and will provide greater incentives for increased use of home dialysis than through the single composite weighted formulas. The Secretary shall provide for such exceptions to such methods as may be warranted by un-

usual circumstances (including the special circumstances of sole facilities located in isolated, rural areas). The Secretary may provide that such method will serve in lieu of any target reimbursement rate that would otherwise be established under paragraph (6).".

(b) The amendments made by subsection (a) apply to services furnished on or after October 1, 1981, and the Secretary of Health and Human Services shall first promulgate regulations to carry out section 1881(b)(7) of the Social Security Act not later than October 1, 1981.

MEDICARE PAYMENTS SECONDARY IN CASES OF END STAGE RENAL DISEASE SERVICES COVERED UNDER CERTAIN GROUP HEALTH POLICIES

SEC. 2146. (a) Section 1862(b) of the Social Security Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) In the case of an individual who is entitled to benefits under part A or is eligible to enroll under part B solely by reason of section 226A, payment under this title may not be made, except as provided in subparagraph (B), with respect to any item or service furnished during the period described in subparagraph (C) to the extent that payment with respect to expenses for such item or service (i) has been made under any group health plan (as defined in section 162(h)(2) of the Internal Revenue Code of 1954) or (ii) the Secretary determines will be made under such a plan as promptly as would otherwise be the case if payment were made by the Secretary under this title.

"(B) Any payment under this title with respect to any item or service to an individual described in subparagraph (A) during the period described in subparagraph (C) shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under a plan described in subparagraph (A). The Secretary may waive the provisions of this subparagraph in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

"(C) The provisions of subparagraphs (A) and (B) shall apply to an individual only during the 12-month period which begins with the earlier of—

"(i) the month in which a regular course of renal dialysis is initiated, or

"(ii) in the case of an individual who receives a kidney transplant, the first month in which he would be eligible for benefits under this title (if he had filed an application for such benefits) under the provisions of section 226A(b)(1)(B).

"(D) Where payment for an item or service under such plan is less than the amount of the charge for such item or service, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(i) such payment under this title may not exceed an amount which would be payable under this title for such item or service in the absence of such group health plan; and

"(ii) such payment under this title, when combined with the amount payable under such plan, may not exceed the combined amount which would have been payable under this title and such plan if this paragraph were not in effect.".

(b) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) GROUP HEALTH PLANS.—

"(1) GENERAL RULE.—The expenses paid or incurred by an employer for a group health plan shall not be allowed as a deduction under this section if the plan differentiates in the benefits it provides between individuals having end stage renal disease and other individuals covered by such plan on the basis of the existence of end stage renal disease, the need for renal dialysis, or in any other manner.

"(2) GROUP HEALTH PLAN.—For purposes of this subsection the term 'group health plan' means any plan of, or contributed to by, an employer to provide medical care (as defined in section 213(e)) to his employees, former employees, or the families of such employees or former employees, directly or through insurance, reimbursement, or otherwise.".

(c)(1) The amendments made by subsection (a) shall become effective on October 1, 1981.

(2) The amendments made by subsection (b) shall be effective with respect to taxable years beginning on or after January 1, 1982.

CHAPTER 4—MISCELLANEOUS CHANGES

ELIMINATION OF UNLIMITED OPEN ENROLLMENT

SEC. 2151. (a)(1) Section 1837(e) of the Social Security Act is amended to read as follows:

"(e) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year.".

(2) Section 1837(g)(3) of such Act is amended by striking out "the month in which the individual files an application establishing such entitlement" and inserting in lieu thereof "the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section)".

(3) Section 1838(a)(2)(E) of such Act is amended by striking out "the first day of the third month" and inserting in lieu thereof "the July 1".

(4) The second sentence of section 1839(d) of such Act is amended by striking out "the month after the month in which he reenrolled" and inserting in lieu thereof "the close of the enrollment period in which he reenrolled".

(b) The amendments made by this section shall not apply to enrollments pursuant to written requests for enrollment filed before October 1, 1981.

UTILIZATION GUIDELINES FOR PROVISION OF HOME HEALTH SERVICES

SEC. 2152. (a) Section 1862 of the Social Security Act is amended by adding at the end the following new subsection:

"(f) The Secretary shall establish utilization guidelines for the determination of whether or not payment may be made, consistent with paragraph (1) of subsection (a), under part A or part B for expenses incurred with respect to the provision of home health services, and shall provide for the implementation of such guidelines through a process of selective postpayment coverage review by intermediaries or otherwise.".

(b) The Secretary of Health and Human Services shall establish, and provide for the implementation of, the guidelines described in section 1862(f) of the Social Security Act not later than October 1, 1981.

REPEAL OF STATUTORY TIME LIMITATION ON AGREEMENT WITH SKILLED NURSING FACILITIES

SEC. 2153. Section 1866(a)(1) of the Social Security Act is amended by striking out the second sentence.

REMOVAL OF LIMITATION ON NUMBER OF MEDICARE DEMONSTRATION PROJECTS

SEC. 2154. Section 903 of the Medicare and Medicaid Amendments of 1980 (P.L. 96-499; 94 Stat. 2615) is amended by striking out subsection (c).

REPEAL OF TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS (PIP)

SEC. 2155. Section 959 of the Medicare and Medicaid Amendments of 1980 (Public Law 96-499; 94 Stat. 2650) is repealed.

STATUTORY DEADLINES FOR IMPLEMENTING AFDC HOME HEALTH AIDE DEMONSTRATION PROJECTS

SEC. 2156. Section 966 of the Medicare and Medicaid Amendments of 1980 (Public Law 96-499; 94 Stat. 2652) is amended—

(1) by adding at the end of subsection (c)(2) the following new sentence: "The Secretary shall, not later than October 1, 1981, establish such guidelines and establish such regulations as may be necessary to assure that agreements are entered into under this section by not later than January 1, 1982.", and

(2) by striking out "The Secretary" in subsection (h) and inserting in lieu thereof "The Secretary shall, during January 1982, submit to the Congress a report on steps taken by January 1, 1982, to enter into agreements under this section, including a general description of each of such agreements entered into by such date and the timetable under which he anticipates other such agreements will be entered into. Thereafter, the Secretary".

Subtitle C—Provisions Relating to Medicaid

CHAPTER 1 —CHANGES IN PAYMENTS TO STATES

REDUCTION IN MEDICAID PAYMENTS TO STATES AND OFFSET FOR MEETING FEDERAL MEDICAID EXPENDITURE TARGETS

SEC. 2161. (a) Section 1903 of the Social Security Act is amended by adding at the end the following new subsection:

"(s)(1)(A) Notwithstanding any other provision of this section (except as otherwise provided in this subsection), the amount of payments which a State is otherwise entitled to receive under this title for any quarter in—

"(i) fiscal year 1982, shall be reduced by 3 percent,

"(ii) fiscal year 1983, shall be reduced by 4 percent, and

"(iii) fiscal year 1984, shall be reduced by 4.5 percent,

of the amount to which the State is otherwise entitled (without regard to payments under subsection (t) and without regard to payments for claims relating to expenditures made before fiscal year 1981).

"(B) No reduction may be made under subparagraph (A) for a quarter unless, as of the first day of the quarter, the Secretary has promulgated and has in effect final regulations (on an interim or other basis) implementing paragraphs (10)(C) and (13)(A) of section 1902(a) (as amended by the Medicare and Medicaid Amendments of 1981).

"(C) For purpose of this paragraph, the term 'State' only includes the fifty States and the District of Columbia and does not include any State which did not have a plan approved under this title as of July 1, 1981.

"(2) The percentage reduction imposed by paragraph (1) for a State for a quarter shall be reduced—

"(A) by one percentage point if the State has a qualified hospital cost review program (described in paragraph (3)) for the quarter,

"(B) by one percentage point if the State has a high unemployment rate (as determined under paragraph (4)) for the quarter, and

"(C) by one percentage point if the total amount of the State's third party and fraud and abuse recoveries (as defined in paragraph (5)(A)) for the previous quarter is equal to or exceeds one percent of the amount of Federal payments that the Secretary estimates are due the State under this title for that previous quarter (without regard to payments under subsection (t)).

"(3) For purposes of paragraph (2)(A), a State has a qualified hospital cost review program for a calendar quarter if such program meets the following requirements:

"(A) The program must have been established by statute and in effect on July 1, 1981, and at the beginning of the quarter.

"(B) The program must be operated directly by the State and must apply (i) to substantially all nonfederal acute care hospitals (as defined by the Secretary) in the State and (ii) to review of either all revenues or expenses for inpatient hospital services (other than revenues under title XVIII of this Act, unless approved by the Secretary) or at least 75 percent of all revenues or expenses for inpatient hospital services (including revenues under title XVIII of this Act).

"(C) The State must provide the Secretary with satisfactory assurances as to the equitable treatment under the program of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients.

"(D) The Secretary determines that the annual rate of increase in aggregate hospital inpatient costs per capita or per admission (as defined by the Secretary) in the State during the most recent calendar year ending at least nine months before such quarter (or, at the State's option, during the 2 or 3 calendar-year period ending with that calendar year) is at least two percentage points less than the annual rate of increase during that calendar year (or that period, as the case may be) in such costs per capita or per admission for hospitals located in the States (excluding from such computation, with respect to any calendar year in any period, any State which had in existence a qualified hospital cost review program (or, in the case of periods before January 1, 1982, had a hospital cost review program which the Secretary determines met for such periods the provisions of subparagraphs (A), (B), and (C) of this paragraph) during that entire calendar year).

"(4)(A) For purposes of paragraph (2)(B), a State has a high unemployment rate with respect to a quarter if the average of the monthly unemployment rates (as determined by the Bureau of Labor Statistics) for the State for the three months immediately before such quarter is equal to or greater than 150 percent of the average of such rates for the United States for such months.

"(B) For purposes of subparagraph (A), the term 'United States' only includes the fifty States and the District of Columbia.

"(5)(A) For purposes of paragraph (2)(C), the term 'third party and fraud and abuse recoveries' means, for a State for a previous quarter—

"(i) the total amount that State demonstrates to the Secretary that it has recovered or diverted in the quarter on the basis of (I) third-party payments (described in section 1902(a)(25)), (II) its operation of its State medicaid fraud control unit (defined in subsection (q)), and (III) other fraud or abuse control activities, plus

"(ii) any amount carried forward from the previous quarter under subparagraph (B).

Subclause (I) of clause (i) shall only apply to quarters during fiscal year 1982.

"(B) If the total amount of the State's third party and fraud and abuse recoveries (defined in subparagraph (A)) for a quarter (beginning on or after October 1, 1981) exceeds one percent of the amount of Federal payments that the Secretary estimates are due the State under this title for that quarter (without regard to subsection (t)), the amount of such excess shall be carried forward to the following quarter for purposes of clause (ii) of subparagraph (A).".

(b) Section 1902 of such Act is further amended by adding after subsection (s) (added by subsection (a) of this section) the following new subsection:

"(t)(1) The Secretary shall determine for each State (as defined in subsection (s)(1)(C)) for each of fiscal years 1982, 1983, and 1984, a target amount of Federal medicaid expenditures. Such target amount for a State for fiscal year—

"(A) 1982, is equal to 109 percent of the estimate (based upon the last such estimate for such State received by the Secretary before April 1, 1981) of the Federal share of expenditures under this title (other than interest paid under subsection (d)(5), without taking into account reductions in payment under subsection (s) or additional payments under this subsection, and without regard to payments for claims relating to expenditures made prior to October 1, 1980) in fiscal year 1981 for such State;

"(B) 1983, is equal to the target amount determined under subparagraph (A) for the State increased or decreased by a percentage equal to the percentage increase or decrease (as the case may be) in the index of the medical care expenditure category of the consumer price index for all urban consumers (published by the Bureau of Labor Statistics) between September 1982 and September 1983; and

"(C) 1984, is equal to the target amount determined under subparagraph (A) for the State increased or decreased by a percentage equal to the percentage increase or decrease (as the case may be) in the index of the medical care expenditure category of the consumer price index for all urban consumers (published by the Bureau of Labor Statistics) between September 1982 and September 1984.

"(2) Notwithstanding any other provision of this section (except as otherwise provided in this subsection), the amount of payments which a State (with a State plan approved under this title) is otherwise entitled to receive for the first quarter of any fiscal year (beginning with fiscal year 1983 and ending with fiscal year 1985) shall be supplemented by an amount equal to the lesser of—

"(A) the amount by which the Secretary determines or estimates (subject to appropriate subsequent adjustments) the Federal share of expenditures under this title (other than interest paid under subsection (d)(5), without taking into account reductions in payment under subsection (s) or payments under this subsection, without regard to payments for claims relating to expenditures made prior to October 1, 1980, and subject to paragraph (3) of this subsection) under the State's plan for the previous fiscal year was less than the target amount of Federal medicaid expenditures for that State for that fiscal year determined under paragraph (1), or

"(B) the amount of the reductions imposed with respect to the State under subsection (s) for the quarters in the previous fiscal year.

"(3) Only for the purpose of computing under this subsection the Federal share of expenditures for a State for fiscal year 1984 (in the case of the payment which may be made for the first quarter of fiscal year 1985), the Federal medical assistance percentage for fiscal year 1984 shall be the Federal medical assistance percentage for States in effect for fiscal year 1983, disregarding any change in such percentage between fiscal year 1983 and fiscal year 1984.".

(c)(1) Effective for calendar quarters beginning on or after October 1, 1984, subsection (s) of section 1902 of the Social Security Act (added by subsection (a) of this section) is repealed.

(2) Effective after payments for the first quarter of fiscal year 1985, subsection (t) of section 1902 of the Social Security Act (added by subsection (b) of this section) is repealed.

PAYMENTS TO TERRITORIES

SEC. 2162. (a)(1) Section 1101(a)(1) of the Social Security Act is amended (1) by striking out "American Samoa and" in the third sentence and inserting in lieu thereof "American Samoa, the Northern Mariana Islands, and", and (2) by inserting after the third sentence the following new sentence: "Such term when used in title XIX also includes the Northern Mariana Islands.".

(2) Clause (2) of section 1905(b) of such Act is amended by striking out "and Guam" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".

(b)(1) Subsection (c) of section 1108 of such Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed $45,000,000,

"(2) the Virgin Islands shall not exceed $1,500,000,

"(3) Guam shall not exceed $1,400,000, and

"(4) the Northern Mariana Islands shall not exceed $350,000.".

(2) The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1982.

ELIMINATING TIME PERIOD LIMITATION ON PAYMENT OF INTEREST ON DISPUTED CLAIMS

SEC. 2163. Section 1903(d)(5) of the Social Security Act is amended by striking out "(but not to exceed a period of twelve months" and all that follows through "disallowances made thereafter)".

ELIMINATING FEDERAL MATCHING FOR CERTAIN LABORATORY TESTS

SEC. 2164. (a) Section 1903(i) of the Social Security Act, as amended by section 2103 of this subtitle, is further amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or" and by adding at the end the following new paragraph:

"(6) with respect to any amount expended for inpatient hospital tests (other than in emergency situations) not specifically ordered by the attending physician or other responsible practitioner.".

(b) The amendments made by subsection (a) shall apply to tests occurring on or after October 1, 1981.

STUDY OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE FORMULA AND OF ADJUSTMENTS OF TARGET AMOUNTS FOR FEDERAL MEDICAID EXPENDITURES

SEC. 2165. (a) The Comptroller General, in consultation with the Advisory Committee for Intergovermental Relations, shall conduct a study of—

(1) the formula, under section 1905(b) of the Social Security Act, defining the Federal medical assistance percentage, as it applies to distribution of Federal funds to States (as defined for purposes of title XIX of such Act) under that Act, and

(2) the validity and equity of any adjustment to the target amount of Federal medicaid expenditures (under section 1903(t) of the Social Security Act, added by section 2161 of this subtitle) for all States or any particular State which ought to be made for fiscal year 1983 or fiscal year 1984 (including methodology for calculating and implementing such adjustments) to reflect economic and demographic factors affecting such State which are out of the ordinary sphere of control of such State.

Specifically, pursuant to paragraph (1) the Comptroller General shall examine the feasibility and consequences of revising the medicaid matching formula so as to take into account the relative economic positions and needs of the different States, the different amounts of support and income payments made by different States under the Social Security Act, the relative cost of living and the unemployment rates in the different States, the relative taxable wealth and amount of taxes raised per capita by the different States, and other relevant factors bearing on an equitable distribution of Federal funds to States under that Act.

(b) The Comptroller General shall report to the Congress on the study required under this section not later than October 1, 1982.

CHAPTER 2—INCREASED FLEXIBILITY FOR STATES COVERAGE OF, AND SERVICES FOR, THE MEDICALLY NEEDY

SEC. 2171. (a) Section 1902(a)(10) of the Social Security Act is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including pregnant women deemed by the State to be receiving such aid as authorized in section 406(g) and individuals considered by the State to be receiving such aid as authorized under section 414(g)), or with respect to whom supplemental security income benefits are being paid under title XVI;";

(2) by striking out "clause" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph" and by striking out "and" at the end of subparagraph (B); and

(3) by striking out paragraph (C) and by inserting in lieu thereof the following:

"(C) that if medical assistance is included for any group of individuals described in section 1905(a) who are not described in subparagraph (A), then—

"(i) the plan must include a description of (I) the criteria for determining eligibility of individuals in the group for such medical assistance and (II) the amount, duration, and scope of medical assistance made available to individuals in the group;

"(ii) the plan must make available medical assistance—

"(I) to individuals described in section 1905(a)(i), and

"(II) to pregnant women, during the course of their pregnancy, who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A);

"(iii) such medical assistance must include (I) with respect to children under 18 and individuals entitled to institutional services, ambulatory services, and (II) with respect to pregnant women, prenatal care and delivery services; and

"(iv) if such medical assistance includes services in institutions for mental diseases or intermediate care facility services for the mentally retarded (or both) for any such group, it also must include for all groups covered at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (17) of such section; and

"(D) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing facility services;".

(b) Section 1902(a)(13) of such Act is amended by striking out subparagraphs (A), (B), and (C).

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

FLEXIBILITY IN COVERAGE OF INDIVIDUALS AGED 18–20

SEC. 2172. (a) Paragraph (2) of section 1902(b) of the Social Security Act is amended to read as follows:

"(2) any age requirement which excludes any individual who has not attained the age of 19 and is a dependent child under part A of title IV;".

(b)(1) Clause (i) of section 1905(a) of such Act is amended to read as follows:

"(i) under the age of 21, or, at the option of the State, under the age of 20, 19, or 18 as the State may choose, or any reasonable category of such individuals,".

(2) Section 1905(a)(ii) of such Act is amended by striking out ", except for section 406(a)(2),".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

REIMBURSEMENT OF HOSPITALS

SEC. 2173. (a)(1) Section 1902(a)(13) of the Social Security Act is amended—

(A) by striking out subparagraph (D);

(B) in subparagraph (E)—

(i) by striking out "skilled nursing facility and intermediate care facility" and inserting in lieu thereof "hospital, skilled nursing facility, and intermediate care facility";

(ii) by inserting "and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and provide, in the case of hospital patients receiving services at an inappropriate level of care (under conditions similar to those described in section 1861(v)(1)(G)), for lower reimbursement rates reflecting the level of care actually received (in a manner consistent with section 1861(v)(1)(G))" after "determined in accordance with methods and standards developed by the State";

(iii) by inserting before the first semicolon the following: "and to assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to inpatient hospital services of adequate quality"; and

(iv) by striking out "each skilled nursing or intermediate care facility" and inserting in lieu thereof "each hospital, skilled nursing facility, and intermediate care facility"; and

(C) by redesignating subparagraphs (E) and (F) as subparagraphs (A) and (B), respectively.

(2) Section 1902(a)(20) of such Act is amended—

(A) by inserting "and" at the end of subparagraph (B);

(B) by striking out "and" at the end of subparagraph (C); and

(C) by striking out subparagraph (D).

(b)(1) Subsection (h) of section 1902 of such Act is repealed.

(2) The amendment made by paragraph (1) shall not apply with respect to services furnished before the date the Secretary of Health and Human Services first promulgates and has in effect final regulations (on an interim or other basis) to carry out section 1902(a)(13)(A) of the Social Security Act (as amended by this subtitle).

(c) Part A of title XI of such Act is amended by adding after section 1134 the following new section:

"DEVELOPMENT OF MODEL PROSPECTIVE RATE METHODOLOGY

"SEC. 1135. (a) The Secretary shall develop a model system or systems for the payment of hospitals for inpatient hospital services on a prospective basis which may be applied for reimbursement of hospitals under title XVIII or under a State plan approved under title XIX.

"(b) The Secretary shall report to the Congress on the development of such system or systems not later than July 31, 1982.".

REMOVAL OF MEDICAID REASONABLE CHARGE LIMITATION

SEC. 2174. (a) Section 1902(a)(30) of the Social Security Act is amended by striking out "(including payments" and all that follows through "reasonable charges" and inserting in lieu thereof "are".

(b) Section 1903(i) of such Act is amended by striking out paragraph (1).

(c) The amendments made by this section shall apply to services furnished on or after October 1, 1981.

INAPPLICABILITY AND WAIVER OF FREEDOM-OF-CHOICE AND OTHER STATE PLAN REQUIREMENTS

SEC. 2175. (a) Section 1902(a)(23) of the Social Security Act is amended—

(1) by inserting "except as provided in section 1915 and" after "(23)", and

(2) by striking out all that follows the first semicolon.

(b) Title XIX of the Social Security Act is amended by adding at the end the following new section:

"PROVISIONS RESPECTING INAPPLICABILITY AND WAIVER OF CERTAIN REQUIREMENTS OF THIS TITLE

"SEC. 1915. (a) A State shall not be deemed to be out of compliance with the requirements of paragraphs (1), (10), or (23) of section 1902(a) solely by reason of the fact that the State (or any political subdivision thereof)—

"(1) has entered into—

"(A) a contract with an organization which has agreed to provide care and services in addition to those offered under the

State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic; or

"(B) arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a)(3) or medical devices if the Secretary has found that—

"(i) adequate services or devices will be available under such arrangements, and

"(ii) any such laboratory services will be provided only through laboratories—

"(I) which meet the applicable requirements of section 1861(e)(9) or paragraphs (11) and (12) of section 1861(s), and such additional requirements as the Secretary may require, and

"(II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or part B of title XVIII; or

"(2) restricts—

"(A) for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual has utilized such items or services at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), or

"(B) (through suspension or otherwise) for a reasonable period of time the participation of a provider of items or services under the State plan, if the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the provider has (in a significant number or proportion of cases) provided such items or services either (i) at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), or (ii) of a quality which does not meet professionally recognized standards of health care,

if, under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.

"(b) The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this title, may waive such requirements of section 1902 and section 1903(m) as may be necessary for a State—

"(1) to implement a case-management system or a specialty physician services arrangement which restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain primary care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary,

"(2) to allow a locality to act as a central broker in assisting individuals (eligible for medical assistance under this title) in selecting among competing health care plans,

"(3) to share (through provision of additional services) with recipients of medical assistance under the State plan cost savings resulting from use by the recipient of more cost-effective medical care, and

"(4) to restrict the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain services (other than in emergency circumstances) to providers or practitioners who undertake to provide such services and who meet, accept, and comply with the reimbursement, quality, and utilization standards under the State plan, which standards are consistent with access, quality, and efficient and economic provision of covered care and services, if such restriction does not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services.

"(c) No waiver under this section may extend over a period of longer than two years unless the State requests continuation of such waiver, and such continuation shall be deemed granted unless the Secretary denies such request in writing within 90 days after the date of its submission to the Secretary.

"(d)(1) The Secretary shall monitor the implementation of waivers granted under this section to assure that the requirements for such waiver are being met and shall, after notice and opportunity for a hearing, terminate any such waiver where he finds noncompliance has occurred.

"(2) The Secretary shall report, not later than September 30, 1984, to Congress on waivers granted under this section.".

(d)(1) Section 1902(a)(9) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding after subparagraph (B) the following new subparagraph:

"(C) that any laboratory services paid for under such plan must be provided by a laboratory which meets the applicable requirements of section 1861(e)(9) or paragraphs (11) and (12) of section 1861(s), or, in the case of a laboratory which is in a rural health clinic, of section 1861(aa)(2)(G);".

(2)(A) The amendments made by paragraph (1) shall (except as provided under subparagraph (B)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1981.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendment made by paragraph (1)(C), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

WAIVER TO PROVIDE HOME AND COMMUNITY-BASED SERVICES FOR CERTAIN INDIVIDUALS

SEC. 2176. Section 1915 of the Social Security Act (added by section 2175 of this subtitle) is amended—

(1) by inserting "(other than a waiver under subsection (c))" in subsection (c) after "No waiver", and

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary may by waiver provide that a State plan approved under this part may include as 'medical assistance' under such plan home or community-based services (other than room and board) approved by the Secretary which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) the State will provide, with respect to individuals who are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan and who may require such services, for an evaluation of the need for such services;

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives, if available under the waiver, at the choice of such individuals, to the provision of skilled nursing facility or intermediate care facility services;

"(D) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

"(E) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of subsection (a)(1) (relating to statewideness) and subsection (a)(10). A waiver under this subsection shall be for an initial term of three years and, upon the request of a State, shall be extended for additional three-year periods unless the Secretary determines that for the previous three-year period the assurances provided under paragraph (2) have not been met.

"(4) A waiver granted under this section may, consistent with paragraph (2)—

"(A) limit the individuals provided benefits under such waiver to individuals with respect to whom the State has determined that there is a reasonable expectation that the amount of medical assistance provided with respect to the individual under such waiver will not exceed the amount of such medical assistance provided for such individual if the waiver did not apply, and

"(B) provide medical assistance to individuals (to the extent consistent with written plans of care, which are subject to the approval of the State) for case management services, homemaker/home health aide services and personal care services, adult

day health, habilitation services, respite care, and for such other services requested by the State as the Secretary may approve.".

TIME LIMITATION FOR ACTION ON REQUESTS FOR PLAN AMENDMENTS AND WAIVERS

SEC. 2177. (a) Section 1915 of the Social Security Act, (added by section 2175 of this subtitle) is further amended by adding at the end thereof the following new subsection:

"(f) A request to the Secretary from a State for a proposed State plan or plan amendment or a waiver of a requirement of this title submitted by the State pursuant to a provision of this title shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.".

(b) The amendment made by this section shall become effective 90 days after the date of the enactment of this Act.

FLEXIBILITY IN PREPAID PROVIDER (HMO) PARTICIPATION IN STATE PLANS

SEC. 2178. (a)(1) Paragraph (1)(A) of section 1903(m) of the Social Security Act is amended by striking out "means" and all that follows through the end thereof and inserting in lieu thereof the following: "means a public or private organization, organized under the laws of any State, which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or which—

"(i) makes services it provides to individuals eligible for benefits under this title accessible to such individuals, within the area served by the organization, to the same extent as such services are made accessible to individuals (eligible for medical assistance under the State plan) not enrolled with the organization, and

"(ii) has made adequate provision against the risk of insolvency, which provision is satisfactory to the State and which assures that individuals eligible for benefits under this title are in no case held liable for debts of the organization in case of the organization's insolvency.".

(2) Paragraph (2)(A) of section 1903(m) of such Act is amended—

(A) by striking out "and" at the end of clause (i),

(B) by striking out "one-half of the membership of the entity" in clause (ii) and inserting in lieu thereof "75 percent of the membership of the entity which is enrolled on a prepaid basis";

(C) by striking out the period at the end of clause (ii) and inserting in lieu thereof a semicolon, and

(D) by adding at the end the following new clauses:

"(iii) such services are provided for the benefit of individuals eligible for benefits under this title in accordance with a contract between the State and the entity under which prepaid payments to the entity are made on an actuarially sound basis;

"(iv) such contract provides that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain (I) to the ability of the entity to bear the risk of potential financial losses, and (II) to services performed or determinations of amounts payable under the contract;

"(v) such contract provides that in the entity's enrollment, reenrollment, or disenrollment of individuals who are eligible for benefits under this title and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of their health status or requirements for health care services;

"(vi) such contract (I) permits individuals who have elected under the plan to enroll with the entity for provision of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and (II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment; and

"(vii) such contract provides that, in the case of medically necessary services which were provided (I) to an individual enrolled with the entity under the contract and entitled to benefits with respect to such services under the State's plan and (II) other than through the organization because the services were immediately required due to an unforseen illness, injury, or condition, either the entity or the State provides for reimbursement with respect to those services.".

(3) Paragraph (2) of such section is further amended by adding after subparagraph (C) the following new subparagraph:

"(D) In the case of a health maintenance organization that is a public entity, the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that (i) special circumstances warrant such modification or waiver, and (ii) the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.".

(b) Section 1902(e) of such Act is amended by inserting "(1)" after "(e)" and by adding at the end the following new paragraph:

"(2)(A) In the case of an individual who is enrolled with a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act) under a contract described in section 1903(m)(2)(A) and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such organization.

"(B) For purposes of subparagraph (A), the term 'minimum enrollment period' means, with respect to an individual's enrollment with a health maintenance organization under a State plan, a period, established by the State, of not more than six months beginning on the date the individual's enrollment with the organization becomes effective.".

(c) The amendments made by this section shall apply with respect to services furnished, under a State plan approved under title XIX of the Social Security Act, on or after October 1, 1981; except that such amendments shall not apply with respect to services furnished by a health maintenance organization under a contract with a State entered into under such title before October 1, 1981 unless the organization requests that such amendments apply and the Secretary of Health and Human Services and the single State agency (administering or supervising the administration of the State plan under such title) agree to such request.

(d) The Secretary of Health and Human Services shall conduct a study evaluating the extent of, and reasons for, the termination by medicaid beneficiaries of their memberships in health maintenance organizations. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in health maintenance organizations and the quality of such care when provided on a fee-for-service basis. The Secretary shall submit an interim report to the Congress, within two years after the date of the enactment of this Act, and a final report within five years from such date containing, respectively, the interim and final findings and conclusions made as a result of such study.

CHAPTER 3—MISCELLANEOUS CHANGES

REPEAL OF EPSDT PENALTY

SEC. 2181. (a)(1) Subsection (g) of section 403 of the Social Security Act is repealed.

(2) Section 1902(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (42),

(B) by striking out the period at the end of paragraph (43) and inserting in lieu thereof "; and", and

(C) by inserting after paragraph (43) the following new paragraph:

"(44) provide for—

"(A) informing all persons in the State who are under the age of 21 and and who have been determined to be eligible for medical assistance including services described in section 1905(a)(4)(B), of the availability of early and periodic screening, diagnostic, and treatment services as described in section 1905(a)(4)(B),

"(B) providing or arranging for the provision of such screening services in all cases where they are requested, and

"(C) arranging for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.".

(b) The amendment made by subsection (a)(1) shall apply to reductions for calendar quarters beginning on or after June 30, 1974, and the amendments made by subsection (a)(2) shall take effect on October 1, 1981.

FLEXIBILITY IN REQUIRING COLLECTION OF THIRD-PARTY PAYMENTS

SEC. 2182. Section 1902(a)(25)(C) of the Social Security Act is amended by inserting "and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery" after "of the individual".

PERMITTING PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS TO PROVIDE CERTAIN RECERTIFICATIONS

SEC. 2183. (a) Section 1903(g)(1)(A) of the Social Security Act is amended—

(1) by striking out "(and recertifies" and inserting in lieu thereof "(and the physician, or a physician assistant or nurse practitioner under the supervision of a physician, recertifies", and

(2) by inserting "(or, in the case of services that are intermediate care facility services described in section 1905(d), every year)" after "every 60 days".

(b) The amendments made by subsection (a) shall apply to payments made to States for calendar quarters beginning on or after October 1, 1981.

REPEAL OF OBSOLETE AUTHORITY FOR MEDICAL ASSISTANCE

SEC. 2184. (a)(1) The heading of title I of the Social Security Act is amended by striking out "and medical assistance".

(2) Section 1 of such Act is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "for self-care" in the first sentence, and

(C) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in the second sentence.

(3) Section 2 of such Act is amended—

(A) by striking out "AND MEDICAL ASSISTANCE" in the heading;

(B) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in subsection (a) before paragraph (1);

(C) by striking out "; and" at the end of subsection (a)(10) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (11), (12), and (13) of subsection (a).

(4) Section 3 of such Act is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by amending paragraph (2) of subsection (a) to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan, not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus"; and

(C) by striking out subsection (d).

(5) Section 6 of such Act is amended by striking out subsections (b) and (c).

(b)(1) Section 403 of such Act is amended—

(A) by striking out "(including expenditures for premiums" and all that follows through "the cost thereof)" in subsection (a)(1) in the matter before subparagraph (A);

(B) by striking out "plus (ii)" and all that follows through "clause (i) or (ii)" in subsection (a)(1)(A) and inserting in lieu thereof "plus (ii) the number of individuals, not counted under clause (i)"; and

(C) by striking out "(including expenditures" and all that follows through "the cost thereof)" in subsection (a)(2).

(2) Section 406 of such Act is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," and "or medical care or any type of remedial care recognized under State law" in subsection (b) in the matter preceding subparagraph (A), and

(B) by inserting "(for which such individual is not entitled to medical assistance under the State plan under title XIX)" in subsection (e)(1)(A) after "recognized under State law".

(c)(1) Sections 1001 and 1401 of such Act are each amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Sections 1003(a) and 1403(a) of such Act are each amended—

(A) by striking out paragraph (1), and

(B) by striking out "(including expenditures for" and all that follows through "the cost thereof)" in paragraph (2).

(3) Sections 1006 and 1405 of such Act are each amended by striking out ", or (if provided" and all that follows through "under State law in behalf of," in the matter before paragraph (1).

(d)(1) The amendments made by this subsection are to the title XVI of the Social Security Act which only applies in the case of Puerto Rico, Guam, and the Virgin Islands under section 303(b) of the Social Security Amendments of 1972 (Public Law 92-603).

(2) The heading of such title is amended by striking out "AND MEDICAL ASSISTANCE".

(3) Section 1601 of such title is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "or self-care" in the first sentence, and

(C) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in the second sentence.

(4) Section 1602 of such title is amended—

(A) by striking out ", or for such aid and medical assistance for the aged" in the heading;

(B) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in subsection (a) in the matter before paragraph (1);

(C) by inserting "and" at the end of paragraph (13) of subsection (a);

(D) by striking out the semicolon at the end of paragraph (14) of subsection (a) and inserting in lieu thereof a period;

(E) by striking out paragraphs (15), (16), and (17) of subsection (a);

(F) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" in the second sentence of subsection (a);

(G) by striking out "(A) in the case of applicants for aid to the aged, blind, or disabled" in subsection (b)(2);

(H) by striking out "and (B)" and all that follows through "who resides in the State" in subsection (b)(2); and

(I) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" each place it appears in the third sentence of subsection (b).

(5) Section 1603 of such title is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by striking out "(including expenditures for premiums" and all that follows through "cost thereof)" in paragraph (2)(A);

(C) by striking out "the larger of the following amounts: (i)", "(I)", and ", or (II)" and all that follows before the semicolon, in paragraph (2)(B); and

(D) by striking out subsection (d).

(6) Section 1605 of such title is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," in subsection (a) in the matter before paragraph (1), and

(B) by striking out subsection (b).

SUBTITLE D—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SHORT TITLE OF SUBTITLE

SEC. 2191. This subtitle may be cited as the "Maternal and Child Health Services Block Grant Act".

MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SEC. 2192. (a) Title V of the Social Security Act is amended to read as follows:

"TITLE V—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. (a) For the purpose of enabling each State—

"(1) to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services,

"(2) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and children (especially by providing preventive and primary care services for low income children, and prenatal, delivery, and postpartum care for low income mothers),

"(3) provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI of this Act, and

"(4) provide services for locating, and for medical, surgical, corrective, and other services, and care for, and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling;

and for the purpose of enabling the Secretary to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and crippled children, for genetic disease testing, counseling, and information development and dissemination programs, and for grants relating to hemophilia (without regard to age), there are authorized to be appropriated $373,000,000 for fiscal year 1982 and for each fiscal year thereafter.

"(b) For purposes of this title:

"(1) The term 'consolidated health programs' means the programs administered under the provisions of—

"(A) this title (relating to maternal and child health and crippled children's services),

"(B) section 1615(c) of this Act (relating to supplemental security income for disabled children),

"(C) sections 316 (relating to lead-based paint poisoning prevention programs), 1101 (relating to genetic disease programs), 1121 (relating to sudden infant death syndrome programs) and 1131 (relating to hemophilia treatment centers) of the Public Health Service Act, and

"(D) title IV of the Health Services and Centers Amendments of 1978 (Public Law 95-626; relating to adolescent pregnancy grants),

as such provisions were in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act.

"(2) The term 'low income' means, with respect to an individual or family, such an individual or family with an income determined to be below the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 624 of the Economic Opportunity Act of 1964.

"ALLOTMENTS TO STATES AND FEDERAL SET-ASIDE

"SEC. 502. (a)(1) Of the amount appropriated under section 501(a), the Secretary

shall retain an amount equal to 15 percent thereof in the case of fiscal year 1982, and an amount equal to not less than 10, nor more than 15, percent thereof in the case of each fiscal year thereafter, for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional and national significance, training, and research and for the funding of genetic disease testing, counseling, and information development and dissemination programs and comprehensive hemophilia diagnostic and treatment centers. The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

"(2) For purposes of paragraph (1)—

"(A) amounts retained by the Secretary for training shall be used to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children; and

"(B) amounts retained by the Secretary for research shall be used to make grants to, contracts with, or jointly financed cooperative agreements with, public or nonprofit institutions of higher learning and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or crippled children's programs for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof.

"(3) No funds may be made available by the Secretary under this subsection unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and containing and accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title.

"(b) From the remaining amounts appropriated under section 501(a) for any fiscal year, the Secretary shall allot to each State which has transmitted a description of intended activities and statement of assurances for the fiscal year under section 505, an amount determined as follows:

"(1) The Secretary shall determine, for each State—

"(A)(i) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1)), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1981,

"(ii) the proportion that such amount for that State bears to the total of such amounts for all the States, and

"(B)(i) the number of low income children in the State, and

"(ii) the proportion that such number of children for that State bears to the total of such numbers of children for all the States.

"(2)(A) For each of fiscal years 1982 and 1983, each such State shall be alloted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(ii)) of the amounts available for allotment to all the States under this subsection for that fiscal year.

"(B) For fiscal years beginning with fiscal year 1984, if the amount available for allotment under this subsection for that fiscal year—

"(i) does not exceed the amount available under this subsection for allotment for fiscal year 1983, each such State shall be allotted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(ii)) of the amounts available for allotment to all the States under this subsection for that fiscal year, or

"(ii) exceeds the amounts available under this subsection for allotment for fiscal year 1983, each such State shall be allotted for that fiscal year an amount equal to the sum of—

"(I) the amount of the allotment to the State under this subsection in fiscal year 1983 (without regard to paragraph (3) of this subsection), and

"(II) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.

"(3)(A) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subparagraph.

"(B) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subparagraph.

"PAYMENTS TO STATES

"SEC. 503. (a) From the sums appropriated therefor and the allotments available under section 502(b), the Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State provided such an allotment under section 502(b), for each quarter, of an amount equal to four-sevenths of the total of the sums expended by the State during such quarter in carrying out the provisions of this title.

"(b) Any amount payable to a State under this title from allotments for a fiscal year which remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year. No payment may be made to a State under this title from allotments for a fiscal year for expenditures made after the following fiscal year.

"USE OF ALLOTMENT FUNDS

"SEC. 504. (a) Except as otherwise provided under this section, a State may use amounts paid to it under section 503 for the provision of health services and related activities (including planning, administration, education, and evaluation) consistent with its description of intended expenditures and statement of assurances transmitted under section 505.

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services provided to crippled children or to high-risk pregnant women and infants and such other inpatient services as the Secretary may approve;

"(2) cash payments to intended recipients of health services;

"(3) the purchase or improvement of land, the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or the purchase of major medical equipment;

"(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) providing funds for research or training to any entity other than a public or nonprofit private entity.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

"(c) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

"(d) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 505 on a temporary basis. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"DESCRIPTION OF INTENDED EXPENDITURES AND STATEMENT OF ASSURANCES

"SEC. 505. In order to be entitled to payments for allotments under section 502 for a fiscal year, a State must prepare and transmit to the Secretary—

"(1) a report describing the intended use of payments the State is to receive under this title for the fiscal year, including (A) a description of those populations, areas, and localities in the State which the State has identified as needing maternal and child health services, (B) a statement of goals and objectives for meeting those needs, (C) information on the types of services to be provided and the categories or characteristics of individuals to be served, and (D) data the State intends to collect respecting activities conducted with such payments; and

"(2) a statement of assurances that represents to the Secretary that—

"(A) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this title among such individuals, areas, and localities identified under paragraph (1)(A) as needing maternal and child health services, and

the State will identify and apply guidelines for the appropriate frequency and content of, and appropriate referral and followup with respect to, health care assessments and services financially assisted by the State under this title and methods for assuring quality assessments and services;

"(B) funds allotted to the State under this title will only be used, consistent with section 508, to carry out the purposes of this title or to continue activities previously conducted under the consolidated health programs (described in section 502(b)(1));

"(C) the State will use—

"(i) a substantial proportion of the sums expended by the State for carrying out this title for the provision of health services to mothers and children, with special consideration given (where appropriate) to the continuation of the funding of special projects in the State previously funded under this title (as in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act), and

"(ii) a reasonable proportion (based upon the State's previous use of funds under this title) of such sums will be used to carry out the purposes described in paragraphs (1) through (3) of section 501(a);

"(D) if the State imposes any charges for the provision of health services assisted by the State under this title, such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed with respect to services provided to low income mothers or children, and (iii) will be adjusted to reflect the income, resources, and family size of the individual provided the services; and

"(E) the State agency (or agencies) administering the State's program under this title will participate—

"(i) in the coordination of activities between such program and the early and periodic screening, diagnosis, and treatment program under title XIX, to ensure that such programs are carried out without duplication of effort,

"(ii) in the arrangement and carrying out of coordination agreements described in section 1902(a)(11) (relating to coordination of care and services available under this title and title XIX), and

"(iii) in the coordination of activities within the State with programs carried out under this title and related Federal grant programs (including supplemental food programs for mothers, infants, and children, related education programs, and other health, developmental disability, and family planning programs).

The description and statement shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and statement and after its transmittal. The description and statement shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in any element of such description or statement, and any revision shall be subject to the requirements of the preceding sentence.

"REPORTS AND AUDITS

"SEC. 506. (a)(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this title. In order properly to evaluate and to compare the performance of different States assisted under this title and to assure the proper expenditure of funds under this title, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (A) to secure an accurate description of those activities, (B) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes of this title, and (C) to determine the extent to which funds were expended consistent with the State's description and statement transmitted under section 505. Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(2) The Secretary shall annually report to the Congress on activities funded under section 502(a) and shall provide for transmittal of a copy of such report to each State.

"(b)(1) Each State shall, not less often than once every two years, audit its expenditures from amounts received under this title. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the State shall submit a copy of that audit report to the Secretary.

"(2) Each State shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the State, not to have been expended in accordance with this title and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the State is or may become entitled under this title or may otherwise recover such amounts.

"(3) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this title in accordance with the requirements of this title and with the statement of assurances transmitted by the State under section 505(2). The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

"(c) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(d)(1) For the purpose of evaluating and reviewing the block grant established under this title, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such block grant, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

"(2) In conjunction with an evaluation or review under paragraph (1), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with paragraph (1).

"(3) For other provisions relating to deposit, accounting, reports, and auditing with respect to Federal grants to States, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"CRIMINAL PENALTY FOR FALSE STATEMENTS

"SEC. 507. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this title, or

"(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(b) For civil monetary penalties for certain submission of false claims, see section 1128A of this Act.

"NONDISCRIMINATION

"SEC. 508. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this title are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

"(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 502(b), has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"ADMINISTRATION OF TITLE AND STATE PROGRAMS

"SEC. 509. (a) The Secretary shall designate an identifiable administrative unit with expertise in maternal and child health within the Department of Health and Human Services, which unit shall be responsible for—

"(1) the Federal program described in section 502(a);

"(2) promoting coordination at the Federal level of the activities authorized under this title and under title XIX of this Act, especially early and periodic screening, diagnosis and treatment, related activities funded by the Departments of Agriculture and Education, and under health block grants and categorical health programs, such as immunizations, administered by the Secretary;

"(3) disseminating information to the States in such areas as preventive health services and advances in the care and treatment of mothers and children;

"(4) providing technical assistance, upon request, to the States in such areas as program planning, establishment of goals and objectives, standards of care, and evaluation;

"(5) in cooperation with the National Center for Health Statistics and in a manner that avoids duplication of data collection, collection, maintenance, and dissemination of information relating to the health status and health service needs of mothers and children in the United States; and

"(6) assisting in the preparation of reports to the Congress on the activities funded and accomplishments achieved under this title from the information required to be reported by the States under sections 505 and 506.

"(b) The State health agency of each State shall be responsible for the administration (or supervision of the administration) of programs carried out with allotments made to the State under this title, except that, in the case of a State which on July 1, 1967, provided for administration (or supervision thereof) of the State plan under this title (as in effect on such date) by a State agency other than the State health agency, that State shall be considered to comply the requirement of this subsection if it would otherwise comply but for the fact that such other State agency administers (or supervises the administration of) any such program providing services for crippled children.".

(b)(1) The Secretary of Health and Human Services shall, no later than October 1, 1984, report to the Congress on the activities of States receiving allotments under title V of the Social Security Act (as amended by this section) and include in such report any recommendations for appropriate changes in legislation.

(2) The Secretary of Health and Human Services, in consultation with the Comptroller General, shall examine alternative formulas, for the allotment of funds to States under section 502(b) of the Social Security Act (as amended by this section) which might be used as a substitute for the method of allotting funds described in such section, which provide for the equitable distribution of such funds to States (as defined for purposes of such section), and which take into account—

(A) the populations of the States,

(B) the number of live births in the States,

(C) the number of crippled children in the States,

(D) the number of low income mothers and children in the States,

(E) the financial resources of the various States, and

(F) such other factors as the Secretary deems appropriate,

and shall report to the Congress on the examination of such formula not later than June 30, 1982.

REPEALS AND CONFORMING AMENDMENTS

SEC. 2193. (a)(1)(A) Section 316(g) of the Public Health Service Act is amended by inserting ", and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $8,300,000 for the fiscal year ending September 30, 1982" before the period.

(B) Section 1101(b) of that Act is amended by inserting "and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $9,680,000 for the fiscal year ending September 30, 1982" before the period.

(C) Section 1121(d)(1) of that Act is amended by inserting "; and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $2,075,000 for fiscal year 1982" before the period.

(D) Section 1131(f) of that Act is amended by inserting ", and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $2,765,000 for the fiscal year ending September 30, 1982" before the period.

(2) Section 607 of the Health Services and Centers Amendments of 1978 (Public Law 95-626) is amended by inserting ", and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $8,530,000 for the fiscal year ending September 30, 1982" before the period.

(3) Section 501 of the Social Security Act (as in effect before the date the amendment made by section 2192(a) becomes effective) is amended by striking out "for each fiscal year thereafter" and inserting in lieu thereof "and for each of the next three fiscal years, and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $317,580,000 for the fiscal year ending September 30, 1982".

(4)(A) Section 1615(e)(1) of the Social Security Act is amended by inserting "and subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act" after "paragraphs (2) and (3)".

(B) Effective for fiscal year 1982, section 1615(e)(3) of such Act is amended by striking out "$30,000,000" and inserting in lieu thereof "$24,070,000".

(b)(1) Sections 316, 1101, 1121 and 1131 of the Public Health Service Act are repealed.

(2) Section 1104(a) of such Act is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(3) Section 1104 of such Act is further amended (A) by striking out subsections (b) and (d), (B) by striking out "or under section 1101" in subsection (c), and (C) by redesignating subsection (c) as subsection (b).

(4) Sections 1106 and 227 of such Act are repealed.

(5) Section 1107 of such Act is amended by striking out "appropriated under section 1101(b)" and inserting in lieu thereof "allotted for use under section 502(a) of the Social Security Act".

(c)(1) Section 1108(d) of the Social Security Act is amended by striking out "section 502(a)" and all that follows through "1967" and inserting in lieu thereof "section 421".

(2) Section 1101(a)(9)(D) of such Act is amended by striking out "V, XVIII, and XIX" and inserting in lieu thereof "XVIII and XIX".

(3) Section 1122 of such Act is amended—

(A) by striking out "V, XVIII, and XIX" and inserting in lieu thereof "XVIII and XIX" each place it appears, and

(B) by striking out "V, XVIII, or X" in subsection (d)(2) and inserting in lieu thereof "XVIII or XIX".

(4) Section 1129 of such Act is amended—

(A) by striking out "V or" each place it appears in subsection (a), and

(B) by striking out "V, XVIII, or" in subsection (b)(2) and inserting in lieu thereof "XVIII or".

(5) Section 1132(a)(1) of such Act is amended by striking out "V,".

(6) Section 1134 of such Act is amended by striking out "V, XVIII," and inserting in lieu thereof "XVIII".

(7) Section 1172(4) of such Act is amended by striking out "V,".

(8)(A) Subsection (a) of section 1615 of such Act is amended by striking out "appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases" and inserting in lieu thereof "State agency administering the State program under title V, and (except for individuals who have not attained age 16 and except in such other cases".

(B) Subsections (b) and (e) of such section are repealed.

(9) Section 1861(w)(2) of such Act is amended by striking out "V or".

(10) Section 1902(a)(11)(B) of such Act is amended—

(A) by striking out "for part or all of the cost of plans or projects under" and inserting in lieu thereof "under (or through an allotment under)", and

(B) by striking out "such plan or project under title V" and inserting in lieu thereof "such title or allotment".

(d)(1) The second sentence of section 402(a)(1) of the Social Security Amendments of 1967 (P.L. 90-248) is amended—

(A) by striking out "title XVIII of such Act," and inserting in lieu thereof "title XVIII of such Act and", and

(B) by striking out the ", and a program established by a plan of a State approved under title V of such Act".

(2) Section 402(a)(2) of such Act is amended by striking out "titles V and XIX" and inserting in lieu thereof "title XIX" both places it occurs.

(3) Section 402(b) of such Act is amended by striking out ", XIX, and V" and inserting in lieu thereof "and XIX".

(e)(1) Section 222(a)(1) of the Social Security Amendments of 1972 (P.L. 92-603) is amended by striking out "titles XIX and V" and inserting in lieu thereof "title XIX".

(2) The first sentence of section 222(a)(3) of such Act, is amended by striking out ", XIX, and V" and inserting in lieu thereof "and XIX".

(3) Section 222(a)(4) of such Act is amended by striking out "titles V and XIX" and inserting in lieu thereof "title XIX" both places it appears.

(f) Titles VI and VII of the Health Services and Centers Amendments of 1978 (P.L. 95-626) are repealed.

(g) Section 914(d) of the Omnibus Reconciliation Act of 1980 (P.L. 96-499; 94 Stat. 2622) is amended by striking out "V, XVIII," and inserting in lieu thereof "XVIII".

EFFECTIVE DATE; TRANSITION

SEC. 2194. (a) Except as otherwise provided in this section, the amendments made by sections 2192 and 2193 of this subtitle do not apply to any grant made, or contract entered into, or amounts payable to States under State plans before the earlier of—

(1) October 1, 1982, or

(2)(A) in the case of such grants, contracts, or payments under consolidated State programs (as defined in subsection

(c)(2)(C)) to a State (or entities in the State), the date the State is first entitled to an allotment under title V of the Social Security Act (as amended by this subtitle), or

(B) in the case of grants and contracts under consolidated Federal programs (as defined in subsection (c)(2)(B)), October 1, 1981, or such later date (before October 1, 1982) as the Secretary determines to be appropriate.

(b)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") may not provide for any allotment to a State under title V of the Social Security Act (as amended by this subtitle) for a calendar quarter in fiscal year 1982 unless the State has notified the Secretary, at least 30 days (or 15 days in the case of the first calendar quarter of the fiscal year) before the beginning of the calendar quarter, that the State requests an allotment for that calendar quarter (and subsequent calendar quarters).

(2)(A) Any grants or contracts entered into under the authorities of the consolidated State programs (as defined in subsection (c)(2)(C)) after the date of the enactment of this subtitle shall permit the termination of such grant or contract upon three months notice by the State in which the grantee or contractor is located.

(B) The Secretary shall not make or renew any grants or contracts under the provisions of the consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or an entity in the State) after the date the State becomes entitled to an allotment of funds under title V of the Social Security Act (as amended by this subtitle).

(3)(A) In the case of funds appropriated for fiscal year 1982 for consolidated health programs (as defined in subsection (c)(2)(A)), such funds shall (notwithstanding any other provision of law) be available for use under title V of the Social Security Act (as amended by this subtitle), subject to subparagraphs (B) and (C).

(B) Notwithstanding any other provision of law—

(i) the amount that may be made available for expenditures for the consolidated Federal programs for fiscal year 1982 and for projects and programs under section 502(a) of the Social Security Act (as amended by this subtitle) may not exceed the amount provided for projects and programs under such section 502(a) for that fiscal year, and

(ii) the amount that may be made available to a State (or entities in the State) for carrying out the consolidated State programs for fiscal year 1982 and for allotments to the State under section 502(b) of the Social Security Act (as amended by this subtitle) may not exceed the amount which is allotted to the State for that fiscal year under such section (without regard to paragraphs (3) and (4) thereof).

(C) For fiscal year 1982, the Secretary shall reduce the amount which would otherwise be available—

(i) for expenditures by the Secretary under section 502(a) of the Social Security Act (as amended by this subtitle) by the amounts which the Secretary determines or estimates are payable for consolidated Federal programs (as defined in subsection (c)(2)(B)) from funds for fiscal year 1982, and

(ii) for allotment to each of the States under section 502(b) of such Act (as so amended) by the amounts which the Secretary determines or estimates are payable to that State (or entities in the State) under the consolidated State programs (as defined in subsection (c)(2)(C)) from funds for fiscal year 1982.

(c) For purposes of this section:

(1) The term "State" has the meaning given such term for purposes of title V of the Social Security Act.

(2)(A) The term "consolidated health programs" has the meaning given such term in section 501(b) of the Social Security Act (as amended by this subtitle).

(B) The term "consolidated Federal programs" means the consolidated health programs—

(i) of special projects grants under sections 503 and 504, and training grants under section 511, of the Social Security Act, and

(ii) of grants and contracts for genetic disease projects and programs under section 1101 of the Public Health Service Act,

(iii) of grants or contracts for comprehensive hemophilia diagnostic and treatment centers under section 1131 of the Public Health Service Act,

as such sections are in effect before the date of the enactment of this subtitle.

(C) The term "consolidated State programs" means the consolidated health programs, other than the consolidated Federal programs.

(d) The provisions of chapter 2 of subtitle C of title XVII of this Act shall not apply to this subtitle (or the programs under the amendments made by this title) and, specifically, section 1745 of this Act shall not apply to financial and compliance audits conducted under section 506(b) of the Social Security Act (as amended by this subtitle).

TITLE XXII—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

TABLE OF CONTENTS OF TITLE

Sec. 2201. Repeal of minimum benefit provisions.
Sec. 2202. Restrictions on the lump-sum death payment.
Sec. 2203. Payment of certain benefits only for months after month in which entitlement conditions are fulfilled.
Sec. 2204. Temporary extension of earnings limitation to include all persons aged less than seventy-two.
Sec. 2205. Termination of mother's and father's benefits when child attains age sixteen.
Sec. 2206. Rounding of benefits.
Sec. 2207. Requests for information; cost reimbursement.
Sec. 2208. Reduction in disability benefits on account of other related payments; extension of offset to disabled worker beneficiaries aged 62 through 64 and their families; change in month in which payments are offset.
Sec. 2209. Reimbursement of States for successful rehabilitation services.
Sec. 2210. Elimination of child's insurance benefits in the case of children aged 18 through 22 who attend postsecondary schools.

REPEAL OF MINIMUM BENEFIT PROVISIONS

SEC. 2201. (a) Section 215(a)(1)(C)(i) of the Social Security Act is amended to read as follows:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).".

(b)(1) Section 215(a)(1)(C)(ii) of such Act is amended by striking out "For purposes of clause (i)(II)" and inserting in lieu thereof "For purposes of clause (i)".

(2) Section 215(a)(3)(A) of such Act is amended by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(3) Section 215(a)(4) of such Act is amended—

(A) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)"; and

(B) in subclause (I) thereof, by striking out "but without regard to clauses (iv) and (v) thereof".

(4) Section 215(f)(8) of such Act is amended by striking out "subsection (a)(1)(C)(i)(II)" and inserting in lieu thereof "subsection (a)(1)(C)(i)".

(5) Section 215(i)(2)(A)(ii)(II) of such Act is amended by striking out "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the matter following subclause (III) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(7) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph".

(8) Section 215(i)(2)(A) of such Act is amended by striking out clauses (iv) and (v) thereof.

(9) Section 215(i)(2)(D) of such Act is amended by striking out "subparagraph (C)(i)(II)" each place it appears and inserting in lieu thereof in each instance "subparagraph (C)(i)".

(10) Section 202(m) of such Act is repealed.

(11) Paragraphs (1) and (5) of section 202(w) of such Act are each amended by striking out "section 215(a)(1)(C)(i)(II)" and inserting in lieu thereof in each instance "section 215(a)(1)(C)(i)".

(12) Section 233(c)(2) of such Act is amended to read as follows:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.".

(c)(1) Section 215(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) The table of benefits in effect in December 1978 under this section, referred to in paragraph (4) in the matter following subparagraph (B) and in paragraph (5), revised as provided by subsection (i), as applicable, shall be extended for average monthly wages of less than $76.00 and primary insurance benefits (as determined under subsection (d)) of less than $16.20.

"(B) The Secretary shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).".

(2) Section 215(a)(4) of such Act is amended, in the matter following subparagraph (B), by inserting ", as modified by paragraph (6)," after "table of benefits in effect in December 1978".

(3) Section 215(a)(5) of such Act is amended—

(A) by inserting before the period at the end of the first sentence the following: ", and the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)"; and

(B) in the last sentence by inserting ", modified by the application of paragraph (6)," after "December 1978".

(4) Section 215(f)(7) of such Act is amended by adding at the end thereof the following new sentence: "The recomputation shall be modified by the application of section 215(a)(6), where applicable.".

(5) Section 215(i)(4) of such Act is amended by inserting ", modified by the application of subsection (a)(6)," after "December 1978" each place it appears.

(6) Section 203(a)(8) of such Act is amended by inserting ", modified by the application of section 215(a)(6)" before ", except that".

(7) Section 217(b)(1) of such Act is amended by inserting before the period at the end of the first sentence the following: ", and as modified by the application of section 215(a)(6)".

(d)(1) Section 202(q)(4) of such Act is amended by striking out "increased" and "increase" each place they appear and inserting in lieu thereof "changed" and "change", respectively.

(2) Section 202(q)(10) of such Act is amended in the matter preceding subparagraph (A) by striking out "increased", "increase", and "increases" each place they appear and inserting in lieu thereof "changed", "change", and "changes", respectively.

(e)(1) The Secretary of Health and Human Services shall recalculate the primary insurance amounts applicable to—

(A) beneficiaries whose benefits are based on a primary insurance amount that was computed under section 215(a)(1)(C)(i)(I) of the Social Security Act, and

(B) beneficiaries with average monthly wages of less than $76.00 and primary insurance benefits of less than $16.20 whose benefits are based on primary insurance amounts computed under section 215(a)(4) or section 215(a)(5) of such Act.

(2) In the case of individuals to whom sections 215(a)(1) and 215(a)(4) of such Act as in effect after December 1978 do not apply, the Secretary shall recalculate the primary insurance amount computed under section 215 as in effect in December 1978 as though the individual had first become entitled in December 1978; except that—

(A) the table in, or deemed to be in, the law as the result of the amendments made by subsection (c)(1) of this section shall be used in lieu of the table in effect in December 1978;

(B) in the case of individuals who were born after January 1, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, after the year of attainment of age 21) and before 1961 or, if later, the earlier of the year in which such individual died or attained age 62.";

(C) in the case of individuals who were born prior to January 2, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read:

"For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 and before 1961 or, if later, the earlier of the year in which such individual died or attained, in the case of a man (except as provided by section 104(j) of Public Law 92-603) age 65, or in the case of a woman, age 62.";

(D) section 215(b)(4) of the law as so in effect shall be disregarded;

(E) section 215(d)(2)(C) of the law as so in effect shall be disregarded;

(F) section 215(d)(4) of the law as so in effect shall be deemed, for purposes of such recalculation, to read:

"(4) The provisions of this subsection as in effect in December 1977 (but without regard to paragraph (2)(C)) shall be applicable to individuals who became eligible for old-age or disability insurance benefits or died prior to 1978.";

(G) in the case of individuals who became disabled, died, or attained age 65 prior to 1951, the Secretary shall by regulations provide an alternative computation in lieu of the computation provided by the law as so in effect (and modified by this paragraph); and

(H) in no event may the recalculated primary insurance amount exceed the primary insurance amount that is based on an average monthly wage of $76.00 or the primary insurance amount that is based on a primary insurance benefit of $16.20.

(3) In the case of individuals to whom either section 215(a) (1) or (4) of such Act apply, the primary insurance amount shall be recalculated under section 215 as in effect after December 1978; except that the table in or deemed to be in the law as a result of the amendments made by subsection (c)(1) of this section shall be used (where appropriate) in lieu of the table in effect in December 1978.

(f) The first sentence of section 202(i) of such Act is amended by inserting after "primary insurance amount" the following: "(as determined without regard to the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981, relating to the repeal of the minimum benefit provisions)".

(g) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS FORMERLY RECEIVING MINIMUM BENEFITS UNDER TITLE II

"SEC. 1622. (a) Any individual who—

"(1) is 60 years of age or older but has not attained the age of 65;

"(2) would be an eligible individual or eligible spouse under section 1611 if such individual were 65 years of age;

"(3) is not otherwise eligible for a benefit under section 1611;

"(4) for the month of February 1982 was entitled to a monthly benefit under title II of this Act for which he made application prior to March 1, 1982, as determined without regard to any deductions on account of work required by section 203, which entitlement amount (as so determined) was reduced for any month by reason of the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981 (relating to the repeal of the minimum benefit provisions); and

"(5) is not entitled under title II to a monthly benefit, as determined without regard to any deductions on account of work required by section 203, in an amount equal to or greater than such entitlement amount (as so determined) for February 1982;

shall be eligible for a benefit for each month in which he meets the requirements of this subsection in an amount determined under subsection (b) or (c).

"(b) The amount of the monthly benefit payable under subsection (a) shall be the amount of the monthly benefit which would otherwise be payable to such individual under this title if he were 65 years of age; except that—

"(1) the amount of such monthly benefit shall not exceed—

"(A) in the case of an individual described in subsection (a) who does not have an eligible spouse, an amount equal to the amount by which such individual's monthly benefit entitlement under title II for such month as determined without regard to any deductions on account of work required by section 203, is less than the amount of such individual's monthly benefit entitlement under title II for February 1982 (as so determined); or

"(B) in the case of an individual and his spouse, both of whom are individuals described in subsection (a), an amount equal to the amount by which the combined amount of their monthly benefit entitlements under title II for such month (as so determined), is less than the combined amount of their monthly benefit entitlements under title II for February 1982 (as so determined);

"(2) the benefit amount shall be determined on the basis of the dollar amounts applicable under this title for February 1982 (without regard to cost-of-living adjustments made after February 1982 under section 1617) in the case of any individuals described in paragraph (1); and

"(3) in the case of an individual described in subsection (a) who has a spouse eligible for benefits under this title, other than by reason of this section, the amount of such monthly benefit for such individual (described in subsection (a)) shall be determined under subsection (c), and the amount of the monthly benefit for such spouse shall be determined in the same manner as for an individual who does not have an eligible spouse.

"(c) The amount of the monthly benefit for an individual described in subsection (b)(3) shall be an amount equal to the amount by which—

"(1) the monthly benefit amount for which such individual and his spouse would be eligible for such month under this title if both he and his spouse were 65 years of age, determined on the basis of the dollar amounts applicable under this title for February 1982 (without regard to cost-of-living adjustments made after February 1982 under section 1617); exceeds

"(2) the monthly benefit amount under this title for which his spouse is eligible for such month;

except that the amount of such monthly benefit shall not exceed the amount by which such individual's monthly benefit entitlement under title II for such month, as determined without regard to deductions on account of work under section 203, is less than his monthly benefit entitlement under title II (as so determined) for February 1982.

"(d) An individual who is entitled to a benefit under this section shall not be considered to be an individual receiving supplemental security income benefits under this title for purposes of section 1616 of this title or of any provision of law other than this title.".

(h)(1) This section and the amendments made thereby shall be effective with respect to—

(A) benefits payable for months after October 1981 in the case of individuals who ini-

tially become eligible for benefits under title II of the Social Security Act after October 1981; and

(B) benefits payable for months after February 1982 in the case of all other individuals.

(2) For purposes of this subsection, eligibility shall be determined in accordance with paragraphs (2)(A) and (3)(B) of section 215(a) of the Social Security Act.

RESTRICTIONS ON THE LUMP-SUM DEATH PAYMENT

SEC. 2202. (a)(1) Section 202(i) of the Social Security Act is amended—

(A) in the second sentence, by striking out paragraphs (1), (2), (3), and (4) and inserting in lieu thereof the following:

"(1) to a widow (as defined in section 216(c)) or widower (as defined in section 216(g)) who is entitled (or would have been so entitled had a timely application been filed), on the basis of the wages and self-employment income of such insured individual, to benefits under subsection (e), (f), or (g) of this section for the month in which occurred such individual's death; or

"(2) if no person qualifies for payment under paragraph (1), or if such person dies before receiving payment, in equal shares to each person who is entitled (or would have been so entitled had a timely application been filed), on the basis of the wages and self-employment income of such insured individual, to benefits under subsection (d) of this section for the month in which occurred such individual's death."; and

(B) in the third sentence, by striking out "(except a payment as authorized pursuant to clause (1)(A) of the preceding sentence)".

(2)(A) Section 216(c) of such Act is amended by inserting "the first sentence of" before "section 202(i)".

(B) Section 216(g) of such Act is amended by inserting "the first sentence of" before "section 202(i)".

(b) The amendments made by subsection (a) shall apply only with respect to deaths occurring after August 1981.

PAYMENT OF CERTAIN BENEFITS ONLY FOR MONTHS AFTER MONTH IN WHICH ENTITLEMENT CONDITIONS ARE FULFILLED

SEC. 2203. (a) Section 202(a) of the Social Security Act is amended by striking out so much of the first sentence as follows paragraph (3) and inserting in lieu thereof the following:

"shall be entitled to an old-age insurance benefit for each month, beginning with—

"(A) in the case of an individual who has attained age 65, the first month in which such individual meets the criteria specified in paragraphs (1), (2), and (3), or

"(B) in the case of an individual who has attained age 62, but has not attained age 65, the first month throughout which such individual meets the criteria specified in paragraphs (1) and (2) (if in that month he meets the criterion specified in paragraph (3)),

and ending with the month preceding the month in which he dies.".

(b)(1) Section 202(b)(1) of such Act is amended by striking out the matter that follows subparagraph (D) and precedes subparagraph (E) and inserting in lieu thereof the following:

"shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month, beginning with—

"(i) in the case of a wife or divorced wife (as so defined) of an individual entitled to old-age benefits, if such wife or divorced wife has attained age 65, the first month in which she meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

"(ii) in the case of a wife or divorced wife (as so defined) of—

"(I) an individual entitled to old-age insurance benefits, if such wife or divorced wife has not attained age 65, or

"(II) an individual entitled to disability insurance benefits,

the first month throughout which she is such a wife or divorced wife and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month she meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs—".

(2) Section 216(b) of such Act is amended by adding at the end thereof the following new sentences: "For purposes of clause (2), a wife shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of her marriage to such individual. For purposes of subparagraph (C) of section 202(b)(1), a divorced wife shall be deemed not to be married throughout the month in which she becomes divorced.".

(c)(1) Section 202(c)(1) of such Act is amended by striking out the matter that follows subparagraph (C) and precedes the colon and inserting in lieu thereof the following:

"shall be entitled to a husband's insurance benefit for each month, beginning with—

"(i) in the case of a husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband has attained age 65, the first month in which he meets the criteria specified in subparagraphs (A), (B), and (C), or

"(ii) in the case of a husband (as so defined) of—

"(I) an individual entitled to old-age insurance benefits, if such husband has not attained age 65, or

"(II) an individual entitled to disability benefits,

the first month throughout which he is such a husband and meets the criteria specified in subparagraphs (B) and (C) (if in such month he meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs".

(2) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of clause (2), a husband shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of his marriage to her.".

(d)(1) Section 202(d)(1) of such Act is amended by striking out so much of the first sentence as follows subparagraph (C) and precedes subparagraph (D) and inserting in lieu thereof the following:

"shall be entitled to a child's insurance benefit for each month, beginning with—

"(i) in the case of a child (as so defined) of such an individual who has died, the first month in which such child meets the criteria specified in subparagraphs (A), (B), and (C), or

"(ii) in the case of a child (as so defined) of an individual entitled to an old-age insurance benefit or to a disability insurance benefit, the first month throughout which such child is a child (as so defined) and meets the criteria specified in paragraphs (B) and (C) (if in such month he meets the criterion specified in paragraph (A)),

whichever is earlier, and ending with the month preceding whichever of the following first occurs—".

(2) Section 202(d)(7) of such Act is amended by adding at the end of subparagraph (A) the following new sentence: "An individual who is determined to be a full-time elementary or secondary school student shall be deemed to be such a student throughout the month with respect to which such determination is made.".

(3) Section 216(e) of such Act is amended by adding at the end thereof the following new sentences: "For purposes of clause (2), a child shall be deemed to have been the stepchild of an individual for a period of one year throughout the month in which occurs the expiration of such one year. For purposes of clause (3), a person shall be deemed to have no natural or adoptive parent living (other than a parent who was under a disability) throughout the most recent month in which a natural or adoptive parent (not under a disability) dies.".

(4) Section 216(h) of such Act is amended by adding at the end of paragraph (3) the following new sentence: "For purposes of subparagraph (A)(i), an acknowledgement, court decree, or court order shall be deemed to have occurred on the first day of the month in which it actually occurred.".

(e) Section 226(a)(2) of such Act is amended—

(1) by striking out "or" after "section 202,"; and

(2) by inserting, immediately after "therefor" the following:", or would be entitled to such benefits but for the failure of another individual, who meets all the criteria of entitlement to monthly insurance benefits, to meet such criteria throughout a month,".

(f)(1) The amendments made by subsections (a), (b), and (c) of this section shall apply only to monthly insurance benefits payable to individuals who attain age 62 after August 1981.

(2) The amendments made by subsection (d) of this section shall apply to monthly insurance benefits for months after August 1981, and only in the case of individuals who were not entitled to such insurance benefits for August 1981 or any preceding month.

(3) The amendments made by subsection (e) of this section shall apply only to individuals aged 65 and over whose insured spouse attains age 62 after August 1982.

TEMPORARY EXTENSION OF EARNINGS LIMITATION TO INCLUDE ALL PERSONS AGED LESS THAN SEVENTY-TWO

SEC. 2204. (a) Notwithstanding subsection (e) of section 302 of the Social Security Amendments of 1977 (91 Stat. 1531; Public Law 95-216), the amendments made to section 203 of the Social Security Act by subsections (a) through (d) of such section 302 shall, except as provided in subsection (b) of this section, apply only with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 1982.

(b) In the case of any individual whose first taxable year (as in effect on the date of the enactment of this Act) ending after December 31, 1981, begins before January 1, 1982, the amendments made by section 302 of the Social Security Amendments of 1977 shall apply with respect to taxable years beginning with such taxable year.

TERMINATION OF MOTHER'S AND FATHER'S BENEFITS WHEN CHILD ATTAINS AGE SIXTEEN

SEC. 2205. (a)(1) Section 202(s)(1) of the Social Security Act is amended by striking

out "the age of 18" and inserting in lieu thereof "the age of 16".

(2) The heading of section 202(s) of such Act is amended by striking out "Child Aged 18 or Over Attending School" and inserting in lieu thereof "Child Over Specified Age to be Disregarded for Certain Benefit Purposes Unless Disabled".

(b) The amendments made by subsection (a) shall apply with respect to wife's and mother's insurance benefits for months after the month in which this Act is enacted; except that, in the case of an individual who is entitled to such a benefit (on the basis of having a child in her care) for the month in which this Act is enacted, such amendments shall not take effect until the first day of the first month which begins 2 years or more after the date of the enactment of this Act.

ROUNDING OF BENEFITS

SEC. 2206. (a) The text of section 215(g) of the Social Security Act is amended to read as follows:

"(g) The amount of any monthly benefit computed under section 202 or 223 which (after any reduction under sections 203(a) and 224 and any deduction under section 203(b), and after any deduction under section 1840(a)(1)) is not a multiple of $1 shall be rounded to the next lower multiple of $1.".

(b)(1) Section 202(q)(8) of such Act is amended—

(A) in the first sentence, by striking out "after application of section 215(g)" and inserting in lieu thereof "before application of section 215(g)"; and

(B) in the last sentence, by striking out "reduced to the next lower" and inserting in lieu thereof "increased to the next higher".

(2) Section 203(a)(1) of such Act is amended in the last sentence by striking out "increased to the next higher" and inserting in lieu thereof "decreased to the next lower".

(3) Section 203(a)(3)(B)(iii) of such Act is amended in the parenthetical phrase immediately preceding the semicolon at the end thereof by striking out "higher" and inserting in lieu thereof "lower".

(4) Section 203(a)(8) of such Act is amended by inserting at the end the following new sentence: "For purposes of the preceding sentence, the phrase 'rounded to the next higher multiple of $0.10', as it appeared in subsection (a)(2)(C) of this section as in effect in December 1978, shall be deemed to read 'rounded to the next lower multiple of $0.10'".

(5) Section 215(a)(1)(A) of such Act is amended by striking out "rounded in accordance with subsection (g)," and inserting in lieu thereof "rounded, if not a multiple of $0.10, to the next lower multiple of $0.10,".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the sentence immediately following subclause (III) by striking out "increased to the next higher" and inserting in lieu thereof "decreased to the next lower".

(7) Section 215(i)(4) of such Act is amended by inserting before the period at the end of the first sentence the following: ", except that for this purpose, in applying paragraphs (2)(A)(ii), (2)(D)(iv), and (2)(D)(v) of this subsection as in effect in December 1978, the phrase 'increased to the next higher multiple of $0.10' shall be deemed to read 'decreased to the next lower multiple of $0.10' ".

(c) The amendments made by this section shall apply only with respect to initial calculations and adjustments of primary insurance amounts and benefit amounts which are attributable to periods after August 1981.

REQUESTS FOR INFORMATION; COST REIMBURSEMENT

"SEC. 2207. Section 1106 of the Social Security Act is amended—

(1) by striking out "as provided in part D of title IV of this Act" in the first sentence of subsection (a) and inserting in lieu thereof "as otherwise provided by Federal law"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding sections 552 and 552a of title 5, United States Code, or any other provision of law, whenever the Secretary determines that a request for information is made in order to assist a party in interest (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) with respect to the administration of an employee benefit plan (as so defined), or is made for any other purpose not directly related to the administration of the program or programs under this Act to which such information relates, the Secretary may require the requester to pay the full cost, as determined by the Secretary, of providing such information.".

REDUCTION IN DISABILITY BENEFITS ON ACCOUNT OF OTHER RELATED PAYMENTS; EXTENSION OF OFFSET TO DISABLED WORKER BENEFICIARIES AGED 62 THROUGH 64 AND THEIR FAMILIES; CHANGE IN MONTH IN WHICH PAYMENTS ARE OFFSET

SEC. 2208. (a) Section 224 of the Social Security Act is amended—

(1) in the caption, by striking out "ON ACCOUNT OF RECEIPT OF WORKMEN'S COMPENSATION";

(2) in subsection (a), in the matter preceding paragraph (1), by striking out "age of 62" and inserting in lieu thereof "age of 65";

(3) by amending subsection (a)(2) to read as follows:

"(2) such individual is entitled for such month to periodic benefits on account of such individual's total or partial disability (whether or not permanent) under—

"(A) a workmen's compensation law or plan of the United States or a State, or

"(B) any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in section 218(k)),

other than benefits payable under title 38, United States Code, benefits payable under a program of assistance which is based on need, benefits based on service all, or substantially all, of which was included under an agreement entered into by a State and the Secretary under section 218, and benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 210,";

(4) in subsection (a)(4), by striking out "the workmen's compensation law or plan" and inserting in lieu thereof "such laws or plans";

(5) in subsection (b), by striking out "under a workmen's compensation law or plan" and inserting in lieu thereof "for a total or partial disability under a law or plan described in subsection (a)(2)";

(6) in subsection (d), by—

(A) striking out "workmen's compensation law or plan" and inserting in lieu thereof "law or plan described in subsection (a)(2)", and

(B) inserting before the period at the end thereof the following: ", and such law or plan so provided on February 18, 1981";

(7) in subsection (e), by striking out "workmen's compensation"; and

(8) by adding at the end thereof the following new subsection:

"(h)(1) Notwithstanding any other provision of law, the head of any Federal agency shall provide such information within its possession as the Secretary may require for purposes of making a timely determination of the amount of the reduction, if any, required by this section in benefits payable under this title, or verifying other information necessary in carrying out the provisions of this section.

"(2) The Secretary is authorized to enter into agreements with States, political subdivisions, and other organizations that administer a law or plan subject to the provisions of this section, in order to obtain such information as he may require to carry out the provisions of this section.".

(b) The amendments made by subsection (a) shall be effective with respect to individuals who first become entitled to benefits under section 223(a) of the Social Security Act for months beginning after the month in which this Act is enacted, but only in the case of an individual who became disabled within the meaning of section 223(d) of such Act after the sixth month preceding the month in which this Act is enacted.

REIMBURSEMENT OF STATES FOR SUCCESSFUL REHABILITATION SERVICES

SEC. 2209. (a) Section 222(d) of the Social Security Act is amended to read as follows:

"Costs of Rehabilitation Services From Trust Funds

"(d)(1) For purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse the State for the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of nine months. The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity and the determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(2) In the case of any State which is unwilling to participate or does not have a plan which meets the requirements of paragraph (1), the Commissioner of Social Security may provide such services in such State by agreement or contract with other public or private agencies, organizations, institu-

tions, or individuals. The provision of such services shall be subject to the same conditions as otherwise apply under paragraph (1).

"(3) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

"(4) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be reimbursed for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(5) For purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned to it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.".

(b) The amendment made by subsection (a) shall apply with respect to services rendered on or after October 1, 1981.

ELIMINATION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF CHILDREN AGE 18 THROUGH 22 WHO ATTEND POSTSECONDARY SCHOOLS

SEC. 2210. (a)(1) Section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(III), (6)(D)(i), (6)(E)(i), (7)(A) (three places), (7)(B), and (7)(D), by striking out "full-time student" each place it appears and inserting in lieu thereof "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended in paragraphs (7)(A) (two places), (7)(B) (three places), and (7)(D), by striking out "educational institution" each place it appears and inserting in lieu thereof "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located.

"(ii) For the purpose of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(5)(A) Section 202(d) of such Act is further amended in paragraphs (1)(B)(i), (1)(F)(ii), (1)(G)(IV), (6)(D)(ii), (6)(E)(ii), and (7)(D) by striking out "22" each place it appears in each of those paragraphs and inserting in lieu thereof "19".

(B) Section 202(d)(6)(A) of such Act is amended to read as follows:

"(A)(i) is a full-time elementary or secondary school student and has not attained the age of 19, or (ii) is under a disability (as defined in section 223(d)) and has not attained the age of 22, or".

(b) Except as provided in subsection (c), the amendments made by subsection (a) shall apply to child's insurance benefits under section 202(d) of the Social Security Act for months after July 1982.

(c)(1) Notwithstanding the provisions of section 202(d) of the Social Security Act (as in effect prior to or after the amendments made by subsection (a)), any individual who—

(A) has attained the age of 18;

(B) is not under a disability (as defined in section 223(d) of such Act);

(C) is entitled to a child's insurance benefit under such section 202(d) for August 1981; and

(D) is a full-time student at a postsecondary school, college, or university that is an educational institution (as such terms are defined in section 202(d)(7) (A) and (C) of such Act as in effect prior to the amendments made by subsection (a)) for any month prior to May 1982;

shall be entitled to a child's benefit under section 202(d) of such Act in accordance with the provisions of such section as in effect prior to the amendments made by subsection (a) for any month after July 1981 and prior to August 1985 if such individual would be entitled to such child's benefit for such month under such section 202(d) if subsections (a) and (b) of this section had not been enacted, but such benefits shall be subject to the limitations set forth in this subsection.

(2) No benefit described in paragraph (1) shall be paid to an individual to whom paragraph (1) applies for the months of May, June, July, and August, beginning with benefits otherwise payable for May 1982.

(3) The amount of the monthly benefit payable under paragraph (1) to an individual to whom paragraph (1) applies for any month after July 1982 (prior to deductions on account of work required by section 203 of such Act) shall not exceed the amount of the benefit to which such individual was entitled for August 1981 (prior to deductions on account of work required by section 203 of such Act), less an amount—

(A) during the months after July 1982 and before August 1983, equal to 25 percent of such benefit for August 1981;

(B) during the months after July 1983 and before August 1984, equal to 50 percent of such benefit for August 1981; and

(C) during the months after July 1984 and before August 1985, equal to 75 percent of such benefit for August 1981.

(4) Any individual to whom the provisions of paragraph (1) apply and whose entitlement to benefits under paragraph (1) ends after July 1982 shall not subsequently become entitled, or reentitled, to benefits under paragraph (1) or under section 202(d) of the Social Security Act as in effect after the amendments made by subsection (a) unless he meets the requirements of section 202(d)(1)(B)(ii) of that Act as so in effect.

TITLE XXIII—PUBLIC ASSISTANCE PROGRAMS

Subtitle A—Aid to Families With Dependent Children; Child Support Enforcement

CHAPTER 1—AID TO FAMILIES WITH DEPENDENT CHILDREN

DISREGARDS FROM EARNED INCOME FOR AFDC

SEC. 2301. Section 402(a)(8) of the Social Security Act is amended to read as follows:

"(8)(A) provide that, with respect to any month, in making the determination under paragraph (7), the State agency—

"(i) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or a part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(ii) shall disregard from the earned income of any child or relative applying for or receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $75 of the total of such earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month);

"(iii) shall disregard from the earned income of any child, relative, or other individual specified in clause (ii), an amount equal to expenditures for care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount (for each such dependent child or incapacitated individual) does not exceed $160 (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month); and

"(iv) shall disregard from the earned income of any child or relative receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, an amount equal to the first $30 of the total of such earned income not already disregarded under the preceding provisions of this paragraph plus one-third of the remainder thereof (but excluding, for purposes of this subparagraph, earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and

"(B) provide that (with respect to any month) the State agency—

"(i) shall not disregard, under clause (ii), (iii), or (iv) of subparagraph (A), any earned income of any one of the persons specified in subparagraph (A)(ii) if such person—

"(I) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(II) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such

employer is determined by the State or local agency administering the State plan, after notification by the employer, to be a bona fide offer of employment; or

"(III) failed without good cause to make a timely report (as prescribed by the State plan pursuant to a paragraph (14)) to the State agency of earned income received in such month; and

"(ii)(I) shall not disregard, under subparagraph (A)(iv), any earned income of any of the persons specified in subparagraph (A)(ii), if, with respect to such month, the income of the persons so specified was in excess of their need, as determined by the State agency pursuant to paragraph (7) (without regard to subparagraph (A)(iv) of this paragraph), unless the persons received aid under the plan in one or more of the four months preceding such month and subparagraph (A)(iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan; and

"(II) in the case of the earned income of a person with respect to whom subparagraph (A)(iv) has been applied for four consecutive months, shall not apply the provisions of subparagraph (A)(iv) for so long as he continues to receive aid under the plan and shall not apply such provisions to any month thereafter until the expiration of an additional period of twelve consecutive months during which he is not a recipient of such aid;".

DETERMINATION OF INCOME AND RESOURCES FOR AFDC

SEC. 2302. Section 402(a)(7) of the Social Security Act is amended to read as follows:

"(7) except as may be otherwise provided in paragraph (8) or (31), provide that the State agency—

"(A) shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid;

"(B) shall determine ineligible for aid family the combined value of whose resources (reduced by any obligations or debts with respect to such resources) exceeds $1,000 or such lower amount as the State may determine, but not including as a resource for purposes of this subparagraph a home owned and occupied by such child, relative, or other individual and so much of the family member's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe; and

"(C) may, in the case of a family claiming or receiving aid under this part for any month, take into consideration as income (to the extent the State determines appropriate, as specified in such plan, and notwithstanding any other provision of law)—

"(i) an amount not to exceed the value of the family's monthly allotment of food stamp coupons, to the extent such value duplicates the amount for food included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income; and

"(ii) an amount not to exceed the value of any rent or housing subsidy provided to such family, to the extent such value duplicates the amount for housing included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income;".

INCOME LIMIT FOR AFDC ELIGIBILITY

SEC. 2303. Section 402(a) of the Social Security Act is amended by inserting before paragraph (19) the following new paragraph:

"(18) provide that no family shall be eligible for aid under the plan for any month if, for that month, the total income of the family (other than payments under the plan), without application of paragraph (8), exceeds 150 percent of the State's standard of need for a family of the same composition;".

TREATMENT OF INCOME IN EXCESS OF THE STANDARD OF NEED; LUMP SUM PAYMENTS

SEC. 2304. Section 402(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:

"(17) provide that if a person specified in paragraph (8)(A) (i) or (ii) receives in an any month an amount of income which, together with all other income for that month not excluded under paragraph (8), exceeds the State's standard of need applicable, to the family of which he is a member—

"(A) such amount of income shall be considered income to such individual in the month received, and the family of which such person is a member shall be ineligible for aid under the plan for the whole number of months that equals (i) the sum of such amount and all other income received in such month, not excluded under paragraph (8), divided by (ii) the standard of need applicable to such family, and

"(B) any income remaining (which amount is less than the applicable monthly standard) shall be treated as income received in the first month following the period of ineligibility specified in subparagraph (A);".

TREATMENT OF EARNED INCOME ADVANCE AMOUNT UNDER AFDC

SEC. 2305. Section 402(d)(1) of the Social Security Act is amended to read as follows:

"(d)(1) For purposes of this part, an individual's 'income' shall also include, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this part) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.".

INCOME OF STEPPARENTS LIVING WITH DEPENDENT CHILD

SEC. 2306. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (29);

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (30) the following new paragraph:

"(31) provide that, in making the determination for any month under paragraph (7), the State agency shall take into consideration so much of the income of the dependent child's stepparent living in the same home as such child as exceeds the sum of (A) the first $75 of the total of such stepparent's earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in fulltime employment or not employed throughout the month), (B) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the dependent child and claimed by such stepparent as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under paragraph (7), (C) amounts paid by the stepparent to individuals not living in such household and claimed by him as dependents for purposes of determining his Federal personal income tax liability, and (D) payments by such stepparent of alimony or child support with respect to individuals not living in such household.".

(b) Section 412(b) of the Social Security Act is amended by striking out "does not include any such relative" and inserting in lieu thereof "does not include a stepparent whose income is taken into consideration under section 402(a)(31) (regardless of whether such income exceeds the sum specified in such section) or any other such relative".

COMMUNITY WORK EXPERIENCE PROGRAMS

SEC. 2307. (a) Section 409 of the Social Security Act is amended to read as follows:

"COMMUNITY WORK EXPERIENCE PROGRAMS

"SEC. 409. (a)(1) Any State which chooses to do so may establish a community work experience program in accordance with this section. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be utilized in making appropriate work experience assignments. A community work experience program established under this section shall provide—

"(A) appropriate standards for health, safety, and other conditions applicable to the performance of work;

"(B) that the program does not result in displacement of persons currently employed, or the filling of established unfilled position vacancies;

"(C) reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

"(D) that the participants will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight;

"(E) that the maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal or the applicable State minimum wage; and

"(F) that provision will be made for transportation and other costs, not in excess of an amount established by the Secretary, reasonably necessary and directly related to participation in the program.

"(2) Nothing contained in this section shall be construed as authorizing the payment of aid under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this section.

"(3) Nothing in this part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part (C)) a community work experience program in accordance with this section.

"(b)(1) Each recipient of aid under the plan who is registered under section 402(a)(19) shall participate, upon referral by the State agency, in a community work experience program unless such recipient is currently employed for no fewer than 80 hours a month and is earning an amount not less than the applicable minimum wage for such employment.

"(2) In addition to an individual described in paragraph (1), the State agency may also refer, for participation in programs under this section, an individual who would be required to register under section 402(a)(19)(A) but for the exception contained in clause (v) of such section (but only if the child for whom the parent or relative is caring is not under the age of three and child care is available for such child), or in clause (iii) of such section.

"(3) The chief executive officer of the State shall provide coordination between a community work experience program operated pursuant to this section and the work incentive program operated pursuant to part C so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in both such programs are not denied aid under the State plan on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in the other. The chief executive officer of the State may provide that part-time participation in both such programs may be required where appropriate.

"(c) The provisions of section 402(a)(19)(F) shall apply to any individual referred to a community work experience program who fails to participate in such program in the same manner as they apply to an individual to whom section 402(a)(19) applies.

"(d) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, expenditures for the proper and efficient administration of the State plan, for purposes of section 403(a)(3), may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such costs attributable to such programs as are permitted by the Secretary.".

(b) Section 403(a)(3) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or which is a service provided in connection with a community work experience program or work supplementation program under section 409 or 414".

(c) Section 204(c)(2) of the Social Security Amendments of 1967 (Public Law 90-248) is repealed.

PROVIDING JOBS AS ALTERNATIVE TO AFDC

SEC. 2308. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK SUPPLEMENTATION PROGRAM

"SEC. 414. (a) It is the purpose of this section to allow a State to institute a work supplementation program under which such State, to the extent such State determines to be appropriate, may make jobs available, on a voluntary basis, as an alternative to aid otherwise provided under the State plan approved under this part.

"(b)(1) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this section.

"(2) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part C) a work supplementation program in accordance with this section.

"(3) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(4) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this section may provide that the needs standards in effect in those areas of the State in which such program is in operation may be different from the needs standards in effect in the areas in which such program is not in operation, and such State may provide that the needs standards for categories of recipients of aid may vary among such categories as the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(5) Notwithstanding any other provision of law, a State may make further adjustments in the amounts of aid paid under the plan to different categories of recipients (as determined under paragraph (4)) in order to offset increases in benefits from needs related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(6) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this section may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c)(1) A work supplementation program operated by a State under this section shall provide that any individual who is an eligible individual (as determined under paragraph (2)) may choose to take a supplemented job (as defined in paragraph (3)) to the extent supplemented jobs are available under the program. Payments by the State to individuals or to employers under the program shall be expenditures incurred by the State for aid to families with dependent children, except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines shall be eligible to participate in the work supplementation program, and who would, at the time of his placement in such job, be eligible for assistance under the State plan if such State did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law.

"(3) For purposes of this section, a supplemented job is—

"(A) a job position provided to an eligible individual by the State or local agency administering the State plan under this part;

"(B) a job position provided to an eligible individual by a public or nonprofit entity for which all or part of the wages are paid by such State or local agency; or

"(C) a job position provided to an eligible individual by a proprietary entity involving the provision of child day care services for which all or part of the wages are paid by such State or local agency, but only if such entity does not claim a credit for any part of the wages paid to such eligible individual under section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of the work incentive program) or section 44B of such Code (relating to credit for employment of certain new employees).

A State may provide or subsidize any job position under the program as such State determines to be appropriate, but acceptance of any such position shall be voluntary.

"(d) The amount of the Federal payment to a State under section 403 for any quarter for expenditures incurred in operating a work supplementation program shall not exceed an amount equal to the difference between—

"(1) the amount which would have been paid under section 403 to such State for such quarter under the State plan if it did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law; and

"(2) the amount paid to such State under section 403 for such quarter exclusive of the amount so paid for such quarter for the work supplementation program.

"(e)(1) Nothing in this section shall be construed as requiring a State or local agency administering the State plan to provide employee status to any eligible individual to whom it provides a job position under the work supplementation program, or with respect to whom it provides all or part of the wages paid to such individual by another entity under such program.

"(2) Nothing in this section shall be construed as requiring such State or local agency to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks during which they fill such position.

"(3) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) Any work supplementation program operated by a State shall be administered by—

"(1) the agency designated to administer or supervise the administration of the State plan under section 402(a)(3); or

"(2) the agency (if any) designated to administer the community work experience program under section 409.

"(g) Any State which chooses to operate a work supplementation program under this section may choose to provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving aid under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(h) No individual receiving a grant under the State plan shall be excused, by reason of the fact that such State has a work supplementation program, from any requirement of this part or part C relating to work requirements.".

WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. 2309. Part C of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK INCENTIVE DEMONSTRATION PROGRAM

"SEC. 445. (a) Notwithstanding any other provision of this part and part A of this title, any State may elect as an alternative to the work incentive program otherwise provided in this part, and subject to the provisions of this section, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of this Act, and to receive payments under the provisions of this section.

"(b)(1) Not later than sixty days following the date of the enactment of this section, the Governor of a State which desires to operate a work incentive demonstration program under this section shall submit to the Secretary of Health and Human Services a letter of application stating such intent. Accompanying the letter of application shall be a State program plan which must—

"(A) provide that the agency conducting the demonstration program within the State shall be the single State agency which administers or supervises the administration of the State plan under part A of this title;

"(B) provide that all persons eligible for or receiving assistance under the aid to families with dependent children program shall be eligible to participate in, and shall be required to participate in, the work incentive demonstration program, subject to the same criteria for participation in such demonstration program as are in effect under this part and part A during the month before the month in which the demonstration program commences;

"(C) provide that the criteria for participation in the work incentive demonstration program shall be uniform throughout the State;

"(D) provide a statement of the objectives which the State expects to meet through operation of a work incentive demonstration program, with emphasis on how the State expects to maximize client placement in nonsubsidized private sector employment;

"(E) describe the techniques to be used to achieve the objectives of the work incentive demonstration program, which may include but shall not be limited to: maximum periods of participation, job training, job find clubs, grant diversion to either public or private sector employers, services contracts with State employment services, prime sponsors under the Comprehensive Employment and Training Act of 1973, or private placement agencies, targeted jobs tax credit outreach campaigns, and performance-based placement incentives; and

"(F) set forth the format and frequency of reporting of information regarding operation of the work incentive demonstration program.

"(2) A State's application to participate in the work incentive demonstration program shall be deemed approved unless the Secretary of Health and Human Services notifies the State in writing of disapproval within forty-five days of the date of application. The Secretary of Health and Human Services shall set forth the reasons for disapproval and provide an opportunity for resubmission of the plan within forty-five days of the receipt of the notice of disapproval. An application shall not be finally disapproved unless the Secretary of Health and Human Services determines that the State's program plan would be less effective than the requirements set forth in this title, other than this section.

"(3) The Secretary of Health and Human Services shall furnish copies of approved plans, statistical reports, and evaluation reports to the Secretary of Labor.

"(c) Subject to the statement of objectives and description of techniques to be used in implementing its work incentive demonstration program, as set forth in its program plan, a State shall be free to design a program which best addresses its individual needs, makes best use of its available resources, and recognizes its labor market conditions. Other than criteria for participation in the State's work incentive demonstration project, which shall be uniform throughout the State, the components of the program may vary by geographic area or by political subdivision.

"(d) A State's work incentive demonstration program, if initially approved, shall be in force for a three-year period. During this period, the State may elect to use up to six months for planning purposes. During such planning period, all requirements of part A and this part C shall remain in full force and effect.

"(e) The Secretary of Health and Human Services shall conduct two evaluations of a State's work incentive demonstration program. The first evaluation shall be conducted at the conclusion of the first twelve months of operation of the demonstration program. The second evaluation shall be conducted at the conclusion of the demonstration program. Both evaluations shall compare placement rates during the demonstration program with placement rates achieved during a number of previous years, to be determined by the Secretary of Health and Human Services.

"(f)(1) For each year of its demonstration program, a State which is operating such program shall be funded in an amount equal to its initial annual 1981 allocation under the work incentive program set forth in this part, plus any other Federal funds which the State may properly receive under any statute for establishing work programs for recipients of aid to families with dependent children.

"(2) Such funds shall only be used by the State for administering and operating its work incentive demonstration program. These funds shall not be used for direct grants of assistance under the aid to families with dependent children program.

"(g) Earnings derived from participation in a State's work incentive demonstration program shall not result in a determination of financial ineligibility for assistance under the aid to families with dependent children program."

EFFECT OF PARTICIPATION IN A STRIKE ON ELIGIBILITY FOR AFDC

SEC. 2310. Section 402(a) of the Social Security Act is amended by inserting after paragraph (20) the following new paragraph:

"(21) provide—

"(A) that, for purposes of this part, participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment; and

"(B)(i) that aid to families with dependent children is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and (ii) that no individual's needs shall be included in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike;".

AGE LIMIT OF DEPENDENT CHILD

SEC. 2311. Section 406(a)(2) of the Social Security Act is amended to read as follows: "(2) who is (A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training);"

LIMITATION ON AFDC TO PREGNANT WOMEN

SEC. 2312. (a) Section 406(b) of the Social Security Act is amended by striking out "dependent children" the second place it appears in the matter that precedes clause (1) and inserting in lieu thereof "dependent children, or, at the option of the State, a pregnant woman but only if it has been medically verified that the child is expected to be born in the month such payments are made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment, would be eligible for aid to families with dependent children".

(b) Section 406 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean any—

"(A) amount paid to meet the needs of an unborn child; or

"(B) amount paid (or by which a payment is increased) to meet the needs of a woman occasioned by or resulting from her pregnancy, unless, as has been medically verified, the woman's child is expected to be born in the month such payments are made (or increased) or within the three-month period following such month of payment.

"(2) Notwithstanding paragraph (1), a State may provide that for purposes of title XIX a pregnant woman shall be deemed to be a recipient of aid to families with dependent children under this part if she would be eligible for such aid if such child had been born and was living with her in the month

of payment, and such pregnancy has been medically verified.".

AID TO FAMILIES WITH DEPENDENT CHILDREN BY REASON OF UNEMPLOYMENT OF A PARENT

SEC. 2313. (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "DEPENDENT CHILDREN OF UNEMPLOYED PARENTS";

(2) subsection (a) is amended by striking out "his father" and inserting in lieu thereof "the parent who is the principal earner";

(3) subsection (b)(1) is amended—

(A) by striking out "such child's father" in subparagraph (A) and inserting in lieu thereof "whichever of such child's parents is the principal earner", and

(B) by striking out "father" in subparagraph (B) and inserting in lieu thereof "parent";

(4) subsection (b)(2) is amended—

(A) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "unemployed parents", and

(B) by striking out "father" in subparagraph (C) (i) and (ii) and in subparagraph (D) and inserting in lieu thereof "parent described in paragraph (1)(A)";

(5) subsection (c) is amended by striking out "father" both times it appears and inserting in lieu thereof "parent";

(6) subsection (d) is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the phrase 'whichever of such child's parents is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent, for each consecutive month for which the family receives such aid on that basis."; and

(7) subsection (e) is amended by striking out "fathers" and inserting in lieu thereof "parents".

(b) Section 402(a)(19)(A) of such Act is amended—

(1) by striking out "mother" in clause (v) and inserting in lieu thereof "parent";

(2) by striking out "mother or other female caretaker of a child, if the father or another adult male relative" in clause (vi) and inserting in lieu thereof "parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative";

(3)(A) by striking out "or" at the end of clause (vi);

(B) by striking out the semicolon at the end of clause (vii) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new clause:

"(viii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by the preceding clauses of this subparagraph;"; and

(4) in the matter following the numbered clauses—

(A) by striking out "her option" and inserting in lieu thereof "his or her option";

(B) by striking out "if she so desires" and inserting in lieu thereof "if he or she so desires";

(C) by striking out "to her" and inserting in lieu thereof "to him or her"; and

(D) by striking out "she should decide" and inserting in lieu thereof "he or she should decide".

(c)(1) Section 402(a)(19)(F) of such Act is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following new clause:

"(ii) if the parent who has been designated as the principal earner, for purposes of section 407, makes such refusal, aid will be denied to all members of the family;".

(2) Section 407(b)(2)(C)(i) of such Act is amended by striking out "not registered" and inserting in lieu thereof "not currently registered".

WORK REQUIREMENTS FOR AFDC RECIPIENTS

SEC. 2314. (a) Section 402(a)(19)(A)(i) of the Social Security Act is amended to read as follows:

"(i) a child who is under age 16 or attending, full-time, an elementary, secondary, or vocational (or technical) school;".

(b) Section 402(a)(19)(A)(v) of such Act (as amended by section 2313(b)(1) of this Act) is amended to read as follows:

"(v) the parent or other relative of a child under the age of six who is personally providing care for the child with only very brief and infrequent absences from the child;".

RETROSPECTIVE BUDGETING AND MONTHLY REPORTING

SEC. 2315. (a) Section 402(a) of the Social Security Act is amended by inserting after paragraph (12) the following new paragraphs:

"(13) provide that—

"(A) except as provided in subparagraph (B), the State agency (i) will determine a family's eligibility for aid for a month on the basis of the family's income, composition, resources, and other similar relevant circumstances during such month, and (ii) will determine the amount of such aid on the basis of the income and other relevant circumstances in the first or, at the option of the State but only where the Secretary determines it to be appropriate, second month preceding such month; and

"(B) in the case month, or at the option of the State but only where the Secretary determines it to be appropriate, the first and second months, in a period of consecutive months for which aid is payable, the State agency will determine the amount of aid on the basis of the family's income and other relevant circumstances in such first or second month;

"(14) provide that the State agency will require each family to which it furnishes aid to families with dependent children (or to which it would provide such aid but for paragraph (22) or (32) to report, as a condition to the continued receipt of such aid (or to continue to be deemed to be a recipient of such aid), each month to the State agency on—

"(A) the income received, family composition, and other relevant circumstances during the prior month; and

"(B) the income and resources it expects to receive, or any changes in circumstances affecting continued eligibility or benefit amount, that it expects to occur, in that month (or in future months);

except that with the prior approval of the Secretary the State may select categories of recipients who may report at specified less frequent intervals upon the State's showing to the satisfaction of the Secretary that to require individuals in such categories to report monthly would result in unwarranted expenditures for administration of this paragraph;

and that, in addition to whatever action may be appropriate based on other reports or information received by the State agency, the State agency will take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to furnish a timely report), and will give an appropriate explanatory notice, concurrent with its action, to the family;".

(b) Section 403(a) of such Act is amended by adding at the end thereof the following sentence: "No payment shall be made under this subsection with respect to amounts paid to supplement or otherwise increase the amount of aid to families with dependent children found payable in accordance with section 402(a)(13) if such amount is determined to have been paid by the State in recognition of the current or anticipated needs of a family (other than with respect to the first or first and second months of eligibility).".

PROHIBITION AGAINST PAYMENT OF AID IN AMOUNTS BELOW TEN DOLLARS

SEC. 2316. Section 402(a) of the Social Security Act (as amended by section 2306 of this Act) is amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32) provide that no payment of aid shall be made under the plan for any month if the amount of such payment, as determined in accordance with the applicable provisions of the plan and of this part, would be less than $10, but an individual with respect to whom a payment of aid under the plan is denied solely be reason of this paragraph is deemed to be a recipient of aid but shall not be eligibile to participate in a community work experience program.".

REMOVAL OF LIMIT ON RESTRICTED PAYMENTS IN A STATE'S AFDC PROGRAM

SEC. 2317. (a) Section 403(a) of the Social Security Act is amended by striking out the first unnumbered paragraph following paragraph (5).

(b) Section 406(b) of such Act is amended by adding at the end thereof the following new sentence: "Payments of the type described in clause (2) shall not be subject to the requirements of clauses (A) through (E) of such clause (2), when they are made in the manner described in clause (2) at the request of the family member to whom payment would otherwise be made in an unrestricted manner.".

ADJUSTMENT FOR INCORRECT PAYMENTS

SEC. 2318. Section 402(a) of the Social Security Act is amended by inserting after paragraph (21) the following new paragraph:

"(22) provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of aid under the State plan, and, in the case of—

"(A) an overpayment to an individual who is a current recipient of such aid, recovery will be made by repayment by the individual or by reducing the amount of any future aid

payable to the family of which he is a member, except that such recovery shall not result in the reduction of aid payable for any month, such that the aid, when added to such family's liquid resources and to its income (without application of paragraph (8)), is less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income (and, in the case of an individual to whom no payment is made for a month solely by reason of recovery of an overpayment, such individual shall be deemed to be a recipient of aid for such month);

"(B) an overpayment to any individual who is no longer receiving aid under the plan, recovery shall be made by appropriate action under State law against the income or resources of the individual or the family; and

"(C) an underpayment, the corrective payment shall be disregarded in determining the income of the family, and shall be disregarded in determining its resources in the month the corrective payment is made and in the following month;".

REDUCED FEDERAL MATCHING OF STATE AND LOCAL AFDC TRAINING COSTS

SEC. 2319. (a) Section 403(a)(3)(A) of the Social Security Act, as in effect in the fifty States and the District of Columbia, is repealed.

(b) Section 403(a)(3)(A)(iii) of such Act, as in effect in Puerto Rico, Guam, and the Virgin Islands, is repealed.

(c) The first sentence of section 403(d)(1) of such Act is amended by striking out all that precedes "with respect to" and inserting in lieu thereof "Notwithstanding any provision of subsection (a)(3), the applicable rate under such subsection shall be 90 per centum".

(d) The repeals made by this section shall apply to expenditures made after September 30, 1981.

ELIGIBILITY OF ALIENS FOR AFDC

SEC. 2320. (a) Section 402(a) of the Social Security Act (as amended by section 2316 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (31);

(2) by striking out the period at the end of paragraph (32) and inserting in lieu thereof "; and"; and

(3) by adding immediately after paragraph (32) the following new paragraph:

"(33) provide that in order for any individual to be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, such individual must be either (A) a citizen, or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act).".

(b)(1) Section 402(a)(7) of such Act (as amended by section 2302 of this Act) is further amended by inserting "and section 415" after "paragraph (31)".

(2) Part A of title IV of such Act (as amended by section 2308 of this Act) is further amended by adding at the end thereof the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

"SEC. 415. (a) For purposes of determining eligibility for and the amount of benefits under a State plan approved under this part for an individual who is an alien described in clause (B) of section 402(a)(33), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determinig his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(a)(7);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for aid under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be eligible for aid under a State plan approved under this part, be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of aid under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) the provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) A Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).".

(c) The amendments made by subsection (a) shall be effective on the date of the enactment of this Act. The amendments made by subsection (b) shall be effective with respect to individuals applying for aid to families with dependent children under any approved State plan for the first time after September 30, 1981.

EFFECTIVE DATE

SEC. 2321. (a) Except as otherwise specifically provided in the preceding sections of this chapter or in subsection (b), the provisions of this chapter and the amendments and repeals made by this chapter shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part A of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this chapter to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a States legislature" includes any regular, special, budget, or other session of a State legislature.

CHAPTER 2—CHILD SUPPORT ENFORCEMENT

COLLECTION OF PAST-DUE CHILD AND SPOUSAL SUPPORT FROM FEDERAL TAX REFUNDS

SEC. 2331. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

"SEC. 464. (a) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support which has been assigned to such State pursuant to section 402(a)(26), the Secretary of the Treasury shall determinine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past-due support, and pay such amount to the State agency (together with notices of the individual's home address) for distribution in accordance with section 457(b)(3).

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, prescribing the time or times at which State must submit notices of past-due support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of past-due support to which the offset procedure established by subsection (a) may be applied, and the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure, and provide that the Secretary of the Treasury will advise the Secretary of Health and Human Services, not less frequently than annually, of the States which have furnished notices of past-due support under subsection (a), the number of cases in each State with respect to which such notices have been furnished, the amount of support sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State.

"(c) As used in this part the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".

(b) Section 454 of such Act is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by striking out the period at the end of paragraph (17) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(18) provide that the State has in effect procedures necessary to obtain payment of past-due support from overpayments made to the Secretary of the Treasury as set forth in section 464, and take all steps necessary to implement and utilizes such procedures.".

(c) Section 6402 of the Internal Revenue Code of 1954 is amended—

(1) striking out in subsection (a) thereof "shall refund" and inserting in lieu thereof "shall, subject to subsection (c), refund"; and

(2) by adding at the end thereof the following new subsection:

"(c) OFFSET OF PAST-DUE SUPPORT AGAINST OVERPAYMENTS.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State to which such support has been assigned and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenues tax".

COLLECTION OF SUPPORT FOR CERTAIN ADULTS

SEC. 2332. (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting in lieu thereof "children and the spouse (or former spouse) with whom such children are living" and by striking out "child support" and inserting in lieu thereof "child and spousal support".

(b)(1) Section 454(a) of such Act is amended—

(A) in paragraph (1), by inserting "and support for the spouse (or former spouse) with whom the absent parent's child is living" after "child support";

(B) in paragraph (7), by inserting "and spousal" after "child"; and

(C) in paragraph (10)(C), by inserting "(with separate identification of the number in which collection of spousal support was involved)" after "child support cases".

(2) Section 454(b) of such Act is amended—

(A) by inserting, "including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A, assigned to the State" in the first sentence;

(B) by striking out "court order" in the second sentence and inserting in lieu thereof "court or administrative order"; and

(C) by striking out "United States" in the second sentence and inserting in lieu thereof "Secretary of the Treasury"; and

(D) by inserting immediately after the second sentence the following new sentence: "All reimbursements shall be credited to the appropriation accounts which bore all or part of the costs involved in making the collection.".

(c) Section 453(c)(1) of such Act is amended by striking out "child support" and inserting in lieu thereof "child and spousal support".

(d) Section 454 of such Act is amended—

(1) by striking out "CHILD SUPPORT" in the heading and inserting in lieu thereof "CHILD AND SPOUSAL SUPPORT";

(2) by striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(3) in paragraph (4)(B) by striking out the comma immediately following the first parenthetical phrase and inserting in lieu thereof "and, at the option of the State, from such parent or his spouse (or former spouse) receiving aid to families with dependent children (but only if a support obligation has been established with respect to such spouse),";

(4) in paragraph (5), by striking out "child support payments" and inserting in lieu thereof "support payments" and by striking out "collected for a child" and inserting in lieu thereof "collected for an individual";

(5) in paragraph (9)(C), by striking out "of a child or children" and inserting in lieu thereof "of the child or children or the parent of such child or children";

(6) in paragraph (11), by striking out "child"; and

(7) in paragraph (16), by striking out "child" each place it appears.

(e) Section 457 of such Act is amended—

(1) by striking out "child" in the portion of subsection (b) that precedes paragraph (1); and

(2) by striking out "child" each place it appears in subsection (c).

(f) The heading of section 460 of such Act is amended by striking out "CHILD".

(g) Section 6305(a)(4) of the Internal Revenue Code of 1954 (relating to collection of certain liability) is amended by striking out "court order" and inserting in lieu thereof "court or administrative order".

COST OF COLLECTION AND OTHER SERVICES FOR NON-AFDC FAMILIES

SEC. 2333. (a) Section 454(6) of the Social Security Act is amended—

(1) by striking out "such services" in clause (B) and inserting in lieu thereof "services under the State plan (other than collection of support)"; and

(2) by amending clause (C) to read as follows: "(C) the State will retain, but only if it is the State which makes the collection, the fee imposed under State law as required under paragraph (19);".

(b) Section 454 of such Act (as amended by section 2331(b) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provide that a fee shall be imposed on the individual who owes a child or spousal support obligation, in accordance with State law, with respect to all such child and spousal support obligations for which collection is made by the State agency under this part on behalf of an individual not otherwise eligible for collection services (as determined for purposes of paragraph (6)) in an amount equal to 10 percent of the amount so owed (and for purposes of this part, no

part of the amount collected shall be considered to be a fee collected except amounts which exceed the actual amount of support owed).".

(c) Section 453(a) of such Act is amended by adding at the end thereof the following new sentence: "In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.".

CHILD SUPPORT OBLIGATIONS NOT DISCHARGED BY BANKRUPTCY

SEC. 2334. (a) Section 456 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11, United States Code.".

(b) Section 523(a)(5)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: "(other than debts assigned pursuant to section 402(a)(26) of the Social Security Act)".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. 2335. (a) Section 454 of the Social Security Act (as amended by section 2333(b) of this Act) is amended by striking out "and" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(20) provide that the agency administering the plan—

"(A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency, and

"(B) shall enforce any such child support obligations which are owed by such an individual but are not being met—

"(i) through an agreement with such individual to have specified amount withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law, or

"(ii) in the absence of such an agreement, by bringing legal process (as defined in section 462(e) of this Act) to require the withholding of amounts from such compensation."

(b)(1) Subsection (e) of section 303 of the Social Security Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) The State agency charged with the administration of the State law—

"(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of this subsection),

"(ii) shall notify the State or local child support enforcement agency enforcing such obligation, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

"(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 454(20)(B)(i) of this Act, or

"(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 462(e)), and

"(IV) shall pay any amount deducted and withheld under clause (iii) to the appropriate State or local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

"(B) For purposes of this paragraph, the term 'unemployment compensation' means any compensation payable under the State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law).

"(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency.".

(2) Paragraph (3) of section 303(e) of such Act (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (2)".

(3) The last sentence of paragraph (1) of such section 303(e) is amended by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not be requirements under section 454 or 303 of the Social Security Act before October 1, 1982.

EFFECTIVE DATE

SEC. 2336. (a) Except as otherwise specifically provided in the preceding sections of this chapter or in subsection (b), the provisions of this chapter and the amendments and repeals made by this chapter shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part D of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.".

Subtitle B—Supplemental Security Income Benefits

RETROSPECTIVE ACCOUNTING

SEC. 2341. (a) Section 1611(c) of the Social Security Act is amended to read as follows:

"(c)(1) an individual's eligibility for a benefit under this title for a month shall be determined on the basis of the individual's (and eligible spouse's, if any) income, resources, and other relevant characteristics in such month, and, except as provided in paragraph (2), the amount of such benefit shall be determined for such month on the basis of income and other characteristics in the first or, if the Secretary so determines, second month preceding such month. Eligibility for and the amount of such benefits shall be redetermined at such time or times as may be provided by the Secretary.

"(2) the amount of such benefit for the month in which application for such benefits is filed or, if the Secretary so determines, for such month and the following month, and for any month following a month of ineligibility for such benefits (or, if the Secretary so determines, such month and the following month) shall be determined on the basis of the individual's (and eligible spouse's, if any) income and other relevant circumstances in such month.

"(3) for purposes of this subsection, an application shall be effective as of the first day of the month in which it is filed.

"(4) the Secretary may waive the limitations specified in subparagraphs (A) and (B) of subsection (e)(1) on an individual's eligibility and benefit amount for a month (to the extent either such limitation is applicable by reason of such individual's presence throughout such month in a hospital, extended care facility, nursing home, or intermediate care facility) if such waiver would promote the individual's removal from such institution or facility. Upon waiver of such limitations, the Secretary shall apply, to the month preceding the month of removal, or, if the Secretary so determines, the two months preceding the month of removal, the benefit rate that is appropriate to such individual's living arrangement subsequent to his removal from such institution or facility.".

(b) Section 1612(b)(3) of such Act is amended—

(1) by striking out "calendar quarter" each place it appears and inserting in lieu thereof "month";

(2) by striking out "such quarter" each place it appears and inserting in lieu thereof "such month";

(3) by striking out "$60" and inserting in lieu thereof "$20"; and

(4) by striking out "$30" and inserting in lieu thereof "$10".

(c)(1) The amendments made by this section shall be effective with respect to months after the first calendar quarter which ends more than five months after the month in which this Act is enacted.

(2) The Secretary of Health and Human Services may, under conditions determined by him to be necessary and appropriate, make a transitional payment or payments during the first two months for which the amendments made by this section are effective. A transitional payment made under this section shall be deemed to be a payment of supplemental security income benefits.

ELIGIBILITY OF SSI RECIPIENTS FOR FOOD STAMPS

SEC. 2342. (a) Section 8(d) of Public Law 93-233 is amended to read as follows:

"(d) Upon the request of a State, the Secretary shall find, for purposes of the provisions specified in subsection (c), that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month so as to include the bonus value of food stamps (and that such State meets the applicable requirements of subsection (c)(1)) if—

"(1) the Secretary has found (under this subsection or subsection (c), as in effect in December 1980) that such State's supplementary payments in December 1980 were increased to include the bonus value of food stamps; and

"(2) such State continues without interruption to meet the requirements of section 1618 of such Act for each month after the month referred to in paragraph (1) and up to and including the month for which the Secretary is making the determination.".

(b) The amendment made by subsection (a) shall become effective July 1, 1981.

PAYMENT TO STATES WITH RESPECT TO CERTAIN UNNEGOTIATED CHECKS

SEC. 2343. (a) Section 1631 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Payment to States With Respect to Certain Unnegotiated Checks

"(i)(1) the Secretary of the Treasury shall, on a monthly basis, notify the Secretary of all benefit checks issued under this title which include amounts representing State supplementary payments as described in paragraph (2) and which have not been presented for payment within one hundred and eighty days after the day on which they were issued.

"(2) the Secretary shall from time to time determine the amount representing the total of the State supplementary payments made pursuant to agreements under section 1616(a) of this Act and under section 212(b) of Public Law 93-66 which is included in all checks payable to individuals entitled to benefits under this title but not presented for payment within one hundred and eighty days after the day on which they were issued, and shall pay each State (or credit each State with) an amount equal to that State's share of all such amount. Amounts not paid to the States shall be returned to the appropriation from which they were originally paid.

"(3) The Secretary, upon notice from the Secretary of the Treasury under paragraph (1), shall notify any State having an agreement described in paragraph (2) of all such benefit checks issued under that State's agreement which were not presented for payment within one hundred and eighty days after the day on which they were issued.

"(4) The Secretary shall, to the maximum extent feasible, investigate the whereabouts and eligibility of the individuals whose benefit checks were not presented for payment within one hundred and eighty days after the day on which they were issued.".

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

FUNDING OF REHABILITATION SERVICES FOR SSI RECIPIENTS

SEC. 2344. Effective October 1, 1981, section 1615(d) of the Social Security Act is amended—

(1) by striking out "is authorized to pay to" and inserting in lieu thereof "is authorized to reimburse";

(2) by inserting "for" before "the costs incurred"; and

(3) by striking out "individuals referred for such services pursuant to subsection (a)" and inserting in lieu thereof "individuals who are referred for such services pursuant to subsection (a) if such services result in their performance of substantial gainful activity which lasts for a continuous period of nine months. The determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria determined by him in the same manner as under section 222(d)(1)".

Subtitle C—Block Grants for Social Services

SHORT TITLE

SEC. 2351. This subtitle may be cited as the "Social Services Block Grant Act".

TITLE XX BLOCK GRANTS

SEC. 2352. (a) Title XX of the Social Security Act is amended to read as follows:

TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES

"PURPOSES OF TITLE; AUTHORIZATION OF APPROPRIATIONS

"Sec. 2001. For the purposes of consolidating Federal assistance to States for social services into a single grant, increasing State flexibility in using social service grants, and encouraging each State, as far as practicable under the conditions in that State, to furnish services directed at the goals of—

"(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

"(2) achieving or maintianing self-sufficiency, including reduction or prevention of dependency;

"(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabiliting or reuniting families;

"(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

"(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,

there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this title.

"PAYMENTS TO STATES

"SEC. 2002. (a)(1) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to its allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

"(2) For purposes of paragraph (1)—

"(A) services which are directed at the goals set forth in section 2001 include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate conbinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts; and

"(B) expenditures for such services may include expenditures for—

"(i) administration (including planning and evaluation);

"(ii) personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions); and

"(iii) conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining (and this clause shall apply with respect to all persons involved in the delivery of such services).

"(b) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (4 U.S.C. 4213) to each State from its allotment for use under this title.

"(c) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

"(d) A State may transfer up to 10 percent of its allotment under section 2003 for any fiscal year for its use for that year under other provisions of Fedeal law providing block grants for support of health services, health promotion and disease prevention activities, or low-income home energy assistance (or any combination of those activities). Amounts allotted to a State under provisions of Federal law referred to in the preceding sentence and transferred by a State for use in carrying out the purposes of this title shall be treated as if they were paid to the State under this title but shall not affect the computation of the State's allotment under this title. The State shall inform the Secretary of any such transfer of funds.

"(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the States determines that such assistance is required in developing, implementing, or administering programs funded under this title.

ALLOTMENTS

SEC. 2003. (a) The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana shall be an amount which bears the same ratio to the amount specified in subsection (c) as the amount which was specified for allocation to particular the jurisdiction involved for the fiscal year 1981 under section 2002(a)(2)(C) of this Act (as in effect prior to the enactment of this section) bore to $2,900,000,000.

"(b) The allotment for any fiscal year for each State other than the jurisdictions of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Island shall be an amount which bears the same ratio to—

(1) the amount specified in subsection (c), reduced by

(2) the total amount allotted to those jurisdictions for that fiscal year under subsection (a),

as the population of that State bears to the population of all the States as determined by the Secretary (on the basis of the most

recent data available from the Department of Commerce) and promulgated (subject to subsection (d)) prior to the first day of the third month of the preceding fiscal year.

"(c) The amount specified for purposes of subsections (a) and (d) shall be—

"(1) $2,400,000,000 for the fiscal year 1982;

"(2) $2,450,000,000 for the fiscal year 1983;

"(3) $2,500,000,000 for the fiscal year 1984;

"(4) $2,600,000,000 for the fiscal year 1985; and

"(5) $2,700,000,000 for the fiscal year 1986 or any succeeding fiscal year.

"(d) The determination and promulgation required by subsection (b) with respect to the fiscal year 1982 shall be made as soon as possible after the enactment of the Omnibus Budget Reconciliation Act of 1981.

"STATE ADMINISTRATION

"SEC. 2004. Prior to expenditure by a State of payments made to it under section 2002 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under this title, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the previous sentence.

"LIMITATIONS ON USE OF GRANTS

"SEC. 2005. (a) Except as provided in subsection (b), grants made under this title may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this title—

"(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

"(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelter provided as a protective service);

"(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

"(4) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this title;

"(5) for social services (except services to an alcoholic or drug dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

"(6) for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income;

"(7) for any child day care services unless such services meet applicable standards of State and local law; or

"(8) for the provision of cash payments as a service (except as otherwise provided in this section).

"(b) The Secretary may waive the limitation contained in subsection (a) (1) and (4) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this title.

"REPORTS AND AUDITS

"SEC. 2006. (a) Each State shall prepare reports on its activities carried out with funds made available (or transferred for use) under this title. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every two years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the reports required by section 2004. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every two years, audit its expenditures from amounts received (or transferred for use) under this title. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this title, in accordance with generally accepted auditing principles. Within 30 days following the completion of each audit, the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this title, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"CHILD DAY CARE SERVICES

"SEC. 2007. (a) Subject to subsection (b), sums granted by a State to a qualified provider of child day care services (as defined in subsection (c)) to assist such provider in meeting its work incentive program expenses (as defined in subsection (c)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed for purposes of section 2002 to constitute expenditures made by the State in accordance with the provisions of this title for the provision of child day care services.

"(b) The provisions of subsection (a) shall not be applicable with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used to pay wages to any employee at an annual rate in excess of $6,000 in the case of a public or nonprofit private provider, or at an annual rate in excess of $5,000, or to pay more than 80 percent of the wages of any employee, in the case of any other provider.

"(c) For purposes of this subsection—

"(1) the term 'qualified provider of child day care services', when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 percent thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under a program conducted pursuant to this title; and

"(2) the term 'work incentive program expenses' means expenses of a qualified provider of child day care services which constitute work incentive program expenses as defined in section 50B(a)(1) of the Internal Revenue Code of 1954, of which would constitute work incentive program expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.".

(b) Section 1101(a)(1) of such Act is amended by adding at the end thereof the following new sentences: "Such term when used in title XX also includes the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 2353. (a)(1) Section 3(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(2) Section 3(c) of such Act is repealed.

(b)(1) Sections 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15) 403(a)(3), 403(e), and 406(d) of such Act as in effect with respect to Puerto Rico, Guam, and the Virgin Islands are repealed.

(2) Sections 402(a)(5), 402(a)(15), and 403(a)(3) of such Act as they apply to the fifty States and the District of Columbia shall be applicable to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 248(b) of the Social Security Amendments of 1967 (Public Law 90-248) is repealed.

(c) Section 402(a)(15) of such Act is amended—

(1) by striking out "as part of the program of the State for the provision of services under title XX"; and

(2) by striking out "or clause (14)".

(d) Section 403(a)(3) of such Act is amended by striking our "service described in section 2002(a)(1)" and inserting in lieu thereof "service described in section 2002(a)".

(e)(1) Section 1003(a) of such Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(2) section 1003(c) of such Act is repealed.

(f) Section 1108(a) of such Act is amended in the matter preceding paragraph (1) to read as follows:

"(a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and E of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(g) Section 1115(a) of such Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903", and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(h) Section 1116 of such Act is amended—

(1) in subsections (a)(1) and (b), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904"; and

(3) in subsection (d), by striking out "XIX, XX" and inserting in lieu thereof "or XIX".

(i) Section 1124(a) of such Act is amended—

(1) in paragraph (1), by striking out "XIX and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (D).

(j) Section 1126(a) of such Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(k) Section 1128(a) of such Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(l)(1) Section 1403(a) of such Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and official administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(2) Section 1403(c) of such Act is repealed.

(m)(1) Section 1601 of such act is amended—

(A) by inserting "and" before "(b)" the first time it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of such Act is amended—

(A) by inserting "and" after the semicolon at the end of paragraph (2)(B);

(B) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(C) by striking out paragraph (5).

(3) Section 1603(c) of such Act is repealed.

(n) Section 1616(e)(2) of such Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(o) Section 1619 of such Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX", and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(p) Section 1620(c) of such Act is amended by striking out the matter following the end of paragraph (7).

(q) Section 407(d)(1) of such Act is amended by striking out "a community work and training program under section 409 or any other work and training program subject to the limitations in section 409, or" and inserting in lieu thereof "a community work experience program under section 409, or".

(r) Section 471(a)(10) of such Act is amended by striking out "standards referred to in section 2003(d)(1)(F)" and inserting in lieu thereof "standards in effect in the State with respect to child day care services under title XX".

(s) Section 3(f) of the Social Security Amendments of 1974 (Public Law 93-647) is repealed.

EFFECTIVE DATE

SEC. 2354. Except as otherwise explicitly provided, the provisions of this subtitle, and the repeals and amendments made by this subtitle, shall become effective on October 1, 1981.

STUDY OF STATE SOCIAL SERVICE PROGRAMS

SEC. 2355. The Secretary of Health and Human Services shall conduct a study to identify criteria and mechanisms which may be useful for the States in assessing the effectiveness and efficiency of the State social service programs carried out with funds made available under title XX of the Social Security Act. The study shall include consideration of Federal incentive payments as an option in rewarding States having high performance social service programs. The Secretary shall report the results of such study to the Congress within one year after the date of the enactment of this Act.

TITLE XXIV—UNEMPLOYMENT COMPENSATION

ELIMINATION OF NATIONAL TRIGGER

SEC. 2401. (a) GENERAL RULE.—Paragraphs (1) and (2) of section 203(a) of the Federal-State Extended Unemployment Compensation Act of 1970 are amended to read as follows:

"(1) shall begin with the third week after the first week for which there is a State 'on' indicator, and

"(2) shall end with the third week after the first week for which there is a State 'off' indicator.".

(b) Technical Amendments.—

(1) Section 203 of such Act is amended by striking out subsection (d) and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) Subparagraph (B) of section 203(b)(1) of such Act is amended by striking out "by reason of a State 'on' indicator".

(3) Paragraph (2) of section 203(b) of such Act is amended by striking out "(or all the States)".

(4) Subsection (e) of section 203 of such Act (as redesignated by paragraph (1)) is amended—

(A) by striking out "subsections (d) and (e)" in paragraph (1) and inserting in lieu thereof "subsection (d)",

(B) by striking out "all State agencies (or, in the case of subsection (e), by the State agency)" in paragraph (1)(A) and inserting in lieu thereof "the State agency", and

(C) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Determinations under subsection (d) shall be made by the State agency in accordance with regulations prescribed by the Secretary.".

(4) Subsection (a) of section 204 of such Act is amended—

(A) by striking out paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3).

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to weeks beginning after the date of the enactment of this Act.

CLAIMS FOR EXTENDED OR ADDITIONAL COMPENSATION NOT INCLUDED IN DETERMINING RATE OF INSURED UNEMPLOYMENT

SEC. 2402. (a) GENERAL RULE.—Subparagraph (A) of section 203(e)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (as redesignated by section 2401(b)(1) of this Act) is amended by striking out "individuals filing claims" and inserting in lieu thereof "individuals filing claims for regular compensation".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether there are State "on" or "off" indicators for weeks beginning after the date of the enactment of this Act. For purposes of making such determinations for such weeks, such amendment shall be deemed to be in effect for all weeks

whether beginning before, on, or after such date of enactment.

CHANGE IN STATE TRIGGER FOR EXTENDED COMPENSATION

SEC. 2403. (a) GENERAL RULE.—Subsection (d) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (as redesignated by section 2401(b)(1) of this Act) is amended—

(1) in paragraph (1)(B), by striking out "4" and inserting in lieu thereof "5"; and

(2) in the matter following paragraph (2), by striking out "the figure '4' contained in subparagraph (B) thereof were '5'" and inserting in lieu thereof "the figure '5' contained in subparagraph (B) thereof were '6'".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to weeks beginning after September 25, 1982.

QUALIFYING REQUIREMENT FOR EXTENDED COMPENSATION

SEC. 2404. (a) GENERAL RULE.—Subsection (a) of section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following:

"(5) Notwithstanding the provisions of paragraph (2), an individual shall not be eligible for extended compensation unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment, or the equivalent in insured wages. For purposes of this paragraph, the equivalent in insured wages shall be earnings covered by the State law for compensation purposes which exceed 40 times the individual's most recent weekly benefit amount or 1½ times the individual's insured wages in that calendar quarter of the base period in which the individual's insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter). The State shall by law provide which one of the foregoing methods of measuring employment and earnings shall be used in that State.".

(b) CONFORMING AMENDMENT.—Section 202(a)(6) of such Act (as redesignated by subsection (a)) is amended—

(1) by striking out "paragraphs (3) and (4)" and inserting in lieu thereof "paragraphs (3), (4), and (5)"; and

(2) by inserting "extended compensation or" before "sharable regular comparsion".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to extended compensation and sharable regular compensation payable for weeks which begin after September 25, 1982.

ELGIBILITY REQUIREMENTS FOR EX-SERVICEMEMBERS

SEC. 2405. (a) GENERAL RULE.—Section 8521(a)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) with respect to that service, the individual—

"(i) was discharged or released under honorable conditions;

"(ii) did not resign or voluntarily leave the service; and

"(iii) was not released or discharged for cause as defined by the Department of Defense;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to terminations of service on or after July 1, 1981, but only in the case of weeks of unemployment beginning after the date of the enactment of this Act.

ADJUSTMENTS TO PROVISIONS WHICH INCREASE FEDERAL UNEMPLOYMENT TAX IN STATES WITH OUTSTANDING LOANS

SEC. 2406. (a) LIMITATIONS ON CREDIT REDUCTION IN CERTAIN CASES.—Section 3302 of the Internal Revenue Code of 1954 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsection:

"(f) LIMITATION ON CREDIT REDUCTION.—

"(1) LIMITATION.—In the case of any State which meets the requirements of paragraph (2) with respect to any taxable year beginning before January 1, 1988, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers subject to the unemployment compensation law of such State shall not exceed the greater of—

"(A) the reduction which was in effect with respect to such State under subsection (c)(2) for the preceding taxable year, or

"(B) 0.6 percent of the wages paid by the taxpayer during such taxable year which are attributable to such State.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines (on or before November 10 of such taxable year) that—

"(A) no State action was taken during the 12-month period ending on September 30 of such taxable year (excluding any action required under State law as in effect prior to the date of the enactment of this subsection) which has resulted or will result in a reduction in such State's unemployment tax effort (as defined by the Secretary of Labor in regulations),

"(B) no State action was taken during the 12-month period ending on September 30 of such taxable year (excluding any action required under State law as in effect prior to the date of the enactment of this subsection) which has resulted or will result in a net decrease in the solvency of the State unemployment compensation system (as defined by the Secretary of Labor in regulations),

"(C) the State unemployment tax rate for the taxable year equals or exceeds the average benefit cost ratio for calendar years in the 5-calendar year period ending with the last calendar year before the taxable year, and

"(D) the outstanding balance for such State of advances under title XII of the Social Security Act on September 30 of such taxable year was not greater than the outstanding balance for such State of such advances on September 30 of the third preceding taxable year (or, for purposes of applying this subparagraph to taxable year 1983, September 30, 1981).

The requirements of subparagraphs (C) and (D) shall not apply to taxable years 1981 and 1982.

"(3) CREDIT REDUCTIONS FOR SUBSEQUENT YEARS.—If the credit reduction under subsection (c)(2) is limited by reason of paragraph (1) of this subsection for any taxable year, for purposes of applying subsection (c)(2) to subsequent taxable years (including years after 1987), the taxable year for which the credit reduction was so limited (and January 1 thereof) shall not be taken into account.

"(4) STATE UNEMPLOYMENT TAX RATE.—For purposes of this subsection—

"(A) IN GENERAL.—The State unemployment tax rate for any taxable year is the percentage obtained by dividing—

"(i) the total amount of contributions paid into the State unemployment fund with respect to such taxable year, by

"(ii) the total amount of the remuneration subject to contributions under the State unemployment compensation law with respect to such taxable year (determined without regard to any limitation on the amount of wages subject to contribution under the State law).

"(B) TREATMENT OF ADDITIONAL TAX UNDER THIS CHAPTER.—

"(i) TAXABLE YEAR 1983.—In the case of taxable year 1983, any additional tax imposed under this chapter with respect to any State by reason of subsection (c)(2) shall be treated as contributions paid into the State unemployment fund with respect to such taxable year.

"(ii) TAXABLE YEAR 1984.—In the case of taxable year 1984, any additional tax imposed under this chapter with respect to any State by reason of subsection (c)(2) shall (to the extent such additional tax is attributable to a credit reduction in excess of 0.6 of wages attributable to such State) be treated as contributions paid into the State unemployment fund with respect to such taxable year.

"(5) BENEFIT COST RATIO.—For purposes of this subsection—

"(A) IN GENERAL.—The benefit cost ratio for any calendar year is the percentage determined by dividing—

"(i) the sum of the total of the compensation paid under the State unemployment compensation law during such calendar year and any interest paid during such calendar year on advances made to the State under title XII of the Social Security Act, by

"(ii) the total amount of the remuneration subject to contributions under the State unemployment compensation law with respect to such calendar year (determined without regard to any limitation on the amount of remuneration subject to contribution under the State law).

"(B) REIMBURSABLE BENEFITS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), compensation shall not be taken into account to the extent—

"(i) the State is entitled to reimbursement for such compensation under the provisions of any Federal law, or

"(ii) such compensation is attributable to services performed for a reimbursing employer.

"(C) REIMBURSING EMPLOYER.—The term 'reimbursing employer' means any governmental entity or other organization (or group of governmental entities or any other organizations) which makes reimbursement in lieu of contributions to the State unemployment fund.

"(D) SPECIAL RULES FOR YEARS BEFORE 1985.—

"(i) TAXABLE YEAR 1983.—For purposes of determining whether a State meets the requirements of paragraph (2)(C) for taxable year 1983, only regular compensation (as defined in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970) shall be taken into account for purposes of determining the benefit ratio for any preceding calendar year before 1982.

"(ii) TAXABLE YEAR 1984.—For purposes of determining whether a State meets the requirements of paragraph (2)(C) for taxable year 1984, only regular compensation (as so defined) shall be taken into account for purposes of determining the benefit ratio for any preceding calendar year before 1981.

"(E) ROUNDING.—If any percentage determined under subparagraph (A) is not a multiple of 0.1 percent, such percentage shall be reduced to the nearest multiple of 0.1 percent.

"(8) REPORTS.—The Secretary of Labor may, by regulations, require a State to furnish such information at such time and in such manner as may be necessary for purposes of this subsection.

"(9) DEFINITIONS AND SPECIAL RULES.—The definitions and special rules set forth in subsection (d) shall apply to this subsection in the same manner as they apply to subsection (c)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

INTEREST ON LOANS MADE TO STATE UNEMPLOYMENT FUNDS

SEC. 2407. (a) GENERAL RULE.—Section 1202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b)(1) Except as otherwise provided in this subsection, each State shall pay interest on any advance made to such State under section 1201. Interest so payable with respect to periods during any calendar year shall be at the rate determined under paragraph (4) for such calendar year.

"(2) No interest shall be required to be paid under paragraph (1) with respect to any advance made during any calendar year if—

"(A) such advance is repaid in full before the close of September 30 of the calendar year in which the advice was made, and

"(B) no other advance was made to such State under section 1201 during such calendar year and after the date on which the repayment of the advance was completed.

"(3)(A) Interest payable under paragraph (1) which was attributable to periods during any fiscal year shall be paid by the State to the Secretary of the Treasury not later than the first day of the following fiscal year. If interest is payable under paragraph (1) on any advance (hereinafter in this subparagraph referred to as the 'first advance') by reason of another advance made to such State after September 30 of the calendar year in which the first advance was made, interest on such first advance attributable to periods before such September 30 shall be paid not later than the day after the date on which the other advance was made.

"(B) Notwithstanding subparagraph (A), in the case of any advance made during the last 5 months of any fiscal year, interest on such advance attributable to periods during such fiscal year shall not be required to be paid before the last day of the succeeding taxable year. Any interest the time for payment for which is deferred by the preceding sentence shall bear interest in the same manner as if it were an advance made on the day on which it would have been required to be paid but for this subparagraph.

"(4) The interest rate determined under this paragraph with respect to any calendar year is a percentage (but not in excess of 10 percent) determined by dividing—

"(A) the aggregate amount credited under section 904(e) to State accounts on the last day of the last calendar quarter of the immediately preceding calendar year, by

"(B) the aggregate of the average daily balances of the State accounts for such quarter as determined under section 904(e).

"(5) Interest required to be paid under paragraph (1) shall not be paid (directly or indirectly) by a State from amounts in its unemployment fund. If the Secretary of Labor determines that any State action results in the paying of such interest directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) from such unemployment fund, the Secretary of Labor shall not certify such State's unemployment compensation law under section 3304 of the Internal Revenue Code of 1954. Such noncertification shall be made in accordance with section 3304(c) of such Code.

"(6)(A) for purposes of paragraph (2), any voluntary repayment shall be applied against advances made under section 1201 on the last made first repaid basis. Any other repayment of such an advance shall be applied against advances on a first made first repaid basis.

"(B) For purposes of this paragraph, the term 'voluntary repayment' means any repayment made under subsection (a).

"(7) This subsection shall only apply to advances made on or after April 1, 1982, and before January 1, 1988.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 1201 of the Social Security Act is amended by striking out "without interest" and inserting in lieu thereof "with interest to the extent provided in section 1202(b)".

(2) Section 1202 of such Act is amended by striking out "SEC. 1202." and inserting in lieu thereof "SEC. 1202. (a)".

CERTIFICATION OF STATE UNEMPLOYMENT LAWS; EFFECTIVE DATES

SEC. 2408. (a) GENERAL RULE.—Section 3304(c) of the Internal Revenue Code of 1954 is amended by striking out the last two sentences and inserting in lieu thereof the following: "On October 31 of any taxable year, the Secretary of Labor shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of provisions required by law to be included therein (including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection (a)(11)), or has, with respect to the twelve-month period ending on such October 31, failed to comply substantially with any such provision.".

(b) TRANSITIONAL RULES.—

(1) Except as otherwise provided in paragraph (2)—

(A) The amendments made by sections 2401 and 2402 shall be required to be included in State unemployment compensation laws for purposes of certifications under section 3304(c) of the Internal Revenue Code of 1954 on October 31 of any taxable year after 1980; and

(B) the amendments made by sections 2403 and 2404 shall be required to be included in such laws for purposes of such certifications on October 31 of any taxable year after 1981.

(2)(A) In the case of any State the legislature of which—

(i) does not meet in a session which begins after the date of the enactment of this Act and prior to September 1, 1981, and

(ii) if in session on the date of the enactment of this Act, does not remain in session for a period of at least 25 calendar days, the date "1980" in paragraph (1)(A) shall be deemed to be "1981".

(B) In the case of any State the legislature of which—

(i) does not meet in a session which begins after the date of the enactment of this Act and prior to September 1, 1982, and

(ii) if in session on the date of the enactment of this Act, does not remain in session for a period of at least 25 calendar days, the date "1981" in paragraph (1)(B) shall be deemed to be "1982".

TITLE XXV—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Adjustment Assistance for Workers

GROUP ELIGIBILITY REQUIREMENTS FOR ADJUSTMENT ASSISTANCE

SEC. 2501. Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by amending paragraph (3) by striking out "contributed importantly to" and inserting in lieu thereof "were a substantial cause of", and by striking out "to such decline" and inserting in lieu thereof "of such decline"; and

(2) by amending the last sentence to read as follows:

"For purposes of paragraph (3), the term 'substantial cause' means a cause which is important and not less than any other cause.".

BENEFIT INFORMATION TO WORKERS

SEC. 2502. Subchapter A of chapter 2 of title II of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 225. BENEFIT INFORMATION TO WORKERS.

"The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 and of projections, if available, of the needs for training under section 236 as a result of such certification.".

QUALIFYING REQUIREMENTS FOR WORKERS

SEC. 2503. Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended to read as follows:

"SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

"(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221, if the following conditions are met:

"(1) Such worker's total or partial separation before his application under this chapter occurred—

"(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

"(B) before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and

"(C) before the termination date (if any) determined pursuant to section 223(d).

"(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker—

"(A) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

"(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States, or

"(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision,

shall be treated as a week of employment at wages of $30 or more, but not more than the following number of weeks may be treated as such weeks of employment under this sentence:

"(i) 3 weeks if no weeks described in subparagraph (B) occurred during the 52-week period concerned.

"(ii) 7 weeks if all are weeks described in subparagraph (B).

"(iii) 7 weeks in the case of weeks described in subparagraphs (B) and (A) or (C), or both, except that not more than 3 of such weeks may be other than weeks described in subparagraph (B).

"(3) Such worker—

"(A) was entitled to (or would be entitled to if he applied therefor) unemployment insurance for a week within the benefit period (i) in which such total or partial separation took place, or (ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;

"(B) has exhausted all rights to any unemployment insurance to which he was entitled (or would be entitled if he applied therefor); and

"(C) does not have an unexpired waiting period applicable to him for any such unemployment insurance.

"(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of such Act.

"(b) If the Secretary determines with respect to any labor market area that—

"(1) a high level of unemployment exists,

"(2) suitable employment opportunities are not available, and

"(3) there are facilities available for the provision of training under section 236 in new or related job classifications,

the Secretary may, in accordance with such regulations as he shall prescribe, require all adversely affected workers who were totally or partially separated in such area and for whom such training is approved under section 236—

"(A) to accept such training, or

"(B) to search actively for work outside such area,

whichever the worker may choose; except that no worker may be required (i) to accept training or undertake a job search under this subsection until after the first 8 weeks of his eligibility for trade readjustment allowances has expired, or (ii) to accept, or to participate in, such training for a period longer than the remaining period to which he is entitled to such allowances. For purposes of this subsection, the term 'labor market area' has the same meaning as is given such term in the Introduction to the Directory of Important Labor Areas, 1980 edition, published by the Department of Labor; except that for any portion of any State which is not included within that term in such Introduction, the county or counties in which that portion located shall be treated as the applicable labor market area".

AMOUNT OF TRADE READJUSTMENT ALLOWANCES

SEC. 2504. (a) Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Subject to subsections (b) and (c), the trade readjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B)) reduced (but not below zero) by—

"(1) any training allowance deductible under subsection (c); and

"(2) income that is deductible from unemployment insurance under the disqualifying income

(2) by striking out subsections (c), (e) and (f);

(3) by redesignating subsection (d) as subsection (c); and

(4) by amending subsection (c) (as redesignated by paragraph (3))—

(A) by striking out "unemployment insurance, or" and "subsection (c) or (e) or to" in the first sentence thereof, and

(B) by striking out "the unemployment insurance, or" in the second sentence thereof.

(b) Any reference in any law to subsection (d) of section 232 of the Trade Act of 1974 shall be considered a reference to subsection (c) thereof.

TIME LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

SEC. 2505. (a) Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended to read as follows:

"SEC. 233. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

"(a)(1) The maximum amount of trade readjustment allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the trade readjustment allowance payable to the worker for a week of total unemployment (as determined under section 232(a)), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 231(a)(3)(A).

"(2) A trade readjustment allowance shall not be paid for any week after the 52-week period beginning with the first week following the first week in the period covered by the certification with respect to which the worker has exhausted (as determined for purposes of section 231(a)(3)(B)) all rights to that part of his unemployment insurance that is regular compensation.

"(3) Notwithstanding paragraph (1), in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period following the last week of entitlement to trade readjustment allowances otherwise payable under this chapter in order to assist the adversely affected worker to complete training approved for the worker under section 236. Payments for such additional weeks may be made only for weeks in such 26-week period during which the individual is engaged in such training and has not been determined under section 236(c) to be failing to make satisfactory progress in the training.

"(b) A trade readjustment allowance may not be paid for an additional week specified in subsection (a)(3) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 236 within 210 days after the date of the worker's first certification of eligibility to apply for adjustment assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 231(a)(1).

"(c) Amounts payable to an adversely affected worker under this part shall be subject to such adjustment on a week-to-week basis as may be required by section 232(b).

"(d) Notwithstanding any other provision of this Act or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under this part. For purposes of this paragraph, the terms 'benefit year' and 'extended benefit period' shall have the same respective meanings given to them in the Federal-State Extended Unemployment Compensation Act of 1970.".

(b) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) by striking out "or" at the end of clause (A); and

(2) by inserting before the period at the end thereof the following: ", or (C) paid for any week with respect to which such benefits are not payable by reason of section 233(d) of the Trade Act of 1974".

TRAINING AND OTHER EMPLOYMENT SERVICES

SEC. 2506. Subchapter B of chapter 2 of title II of the Trade Act of 1974 is further amended—

(1) by amending the center heading for part II of such subchapter to read as follows:

"PART II—TRAINING, OTHER EMPLOYMENT SERVICES, AND ALLOWANCES";

(2) by amending subsections (a) and (b) of section 236 to read as follows:

"(a)(1) If the Secretary determines that—

"(A) there is no suitable employment (which may include technical and professional employment) available for a worker,

"(B) the worker would benefit from appropriate training,

"(C) there is a reasonable expectation of employment following completion of such training,

"(D) training approved by the Secretary is available to the worker from either governmental agencies or private sources (which

may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers), and

"(E) the worker is qualified to undertake and complete such training,

the Secretary may approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training paid on his behalf by the Secretary. Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

"(2) A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under paragraph (1), because of leaving work which is not suitable employment to enter such training, or because of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work. The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under paragraph (1) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

"(3) For purposes of this subsection the term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

"(b) The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize—

"(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

"(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations."; and

(3) by striking out the following:

"PART III—JOB SEARCH AND RELOCATION ALLOWANCES".

INCREASED JOB SEARCH ALLOWANCES

SEC. 2507. Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended as follows:

(1) Subsection (a) thereof is amended to read as follows:

"(a) Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by regulations of the Secretary; except that—

"(1) such reimbursement may not exceed $600 for any worker, and

"(2) reimbursement may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b) (1) and (2).".

(2) Subsection (b) thereof is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;"; and

(B) by amending paragraph (3) to read as follows:

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation; or

"(B) the 182d day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.".

INCREASED RELOCATION ALLOWANCES

SEC. 2508. Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) by amending subsection (a)—

(A) by striking out "who has been totally separated"; and

(B) by striking out the period and inserting in lieu thereof the following: ", if such worker files such application before—

"(1) the later of—

"(A) the 425th day after the date of the certification, or

"(B) the 425th day after the date of the worker's last total separation; or

"(2) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.";

(2) by amending subsection (b) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(3) is totally separated from employment at the time relocation commences.";

(3) by amending subsection (c) to read as follows:

"(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days after the filing of the application therefor or (in the case of a worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training."; and

(4) by amending subsection (d)—

(A) by amending paragraph (1) to read as follows:

"(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2)) specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family, if any, and household effects, and", and

(B) by striking out "$500" in paragraph (2) and inserting in lieu thereof "$600".

FRAUD AND RECOVERY OF OVERPAYMENTS

SEC. 2509. Section 243 of the Trade Act of 1974 (19 U.S.C. 2315) is amended to read as follows:

"SEC. 243. FRAUD AND RECOVERY OF OVERPAYMENTS.

"(a)(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

"(A) the payment was made without fault on the part of such individual, and

"(B) requiring such repayment would be contrary to equity and good conscience.

"(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this chapter by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

"(b) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual—

"(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

"(2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this chapter to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter.

"(c) Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

"(d) Any amount recovered under this section shall be returned to the Treasury of the United States.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2510. Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

"SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Labor, for each of fiscal years 1982 and 1983, such sums as may be necessary to carry out the purposes of this chapter.".

DEFINITIONS

SEC. 2511. Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) by repealing paragraphs (3) and (7);

(2) by amending paragraph (12) to read as follows:

"(12) The term 'unemployment insurance' means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms 'regular compensation', 'additional compensation',

and 'extended compensation' have the same respective meanings that are given them in section 205 (2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).";

(3) by amending paragraph (14) to read as follows:

"(14) The term 'week of unemployment' means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law."; and

(4) by adding at the end thereof the following:

"(15) The term 'benefit period' means, with respect to an individual—

"(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

"(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.".

EXTENSION OF ADJUSTMENT ASSISTANCE

SEC. 2512. Section 285 of the Trade Act of 1974 (19 U.S.C. 2395) is amended by striking out "shall terminate on September 30, 1982." and inserting in lieu thereof "chapters 2 and 3 shall terminate on September 30, 1983. Chapter 4 shall terminate on September 30, 1982.".

CONFORMING AMENDMENTS

SEC. 2513. (a)(1) Subsection (c) of section 224 of the Trade Act of 1974 (19 U.S.C. 2274(c)) is repealed.

(2) The section heading for such section 224 is amended by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING".

(b) Section 241 of such Act of 1974 (19 U.S.C. 2313) is amended by striking out the last sentence in subsection (a), and by striking out "and credited to Adjustment Assistance Trust Fund" in subsection (b).

(c) Section 246 of such Act of 1974 (19 U.S.C. 2318) is repealed.

(d) The table of contents to such Act of 1974 is amended—

(1) by striking out "; action where there is affirmative finding" in the reference to section 224;

(2) by inserting after the reference to section 224 the following:

"Sec. 225. Benefit information to workers.";

(3) by striking out "Time limitations" in the reference to section 233 and inserting in lieu thereof "Limitations";

(4) by amending the center heading to part II of subchapter B of title II to read as follows:

"PART II—TRAINING, OTHER EMPLOYMENT SERVICES AND ALLOWANCES";

(5) by repealing the following:

"PART III—JOB SEARCH AND RELOCATION";

(6) by amending section 239 by striking out "who apply for payments under this chapter" in subsection (a);

(7) by striking out "Recovery" in the reference to section 243 and inserting in lieu thereof "Fraud and recovery";

(8) by amending the reference to section 245 to read as follows:

"Sec. 245. Authorization of appropriations."; and

(8) by striking out the reference to section 246.

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 2514. (a)(1) Except as provided in paragraph (2), this subtitle shall take effect on the date of the enactment of this Act.

(2)(A) The amendments made by section 2501 shall apply with respect to all petitions for certification filed under section 221 of the Trade Act of 1974 on or after the 180th day after the date of the enactment of this Act.

(B) The amendments made by sections 2503, 2504, 2505, and 2511 shall apply with respect to trade readjustment allowances payable for weeks of unemployment which begin after September 30, 1981.

(C) The amendments made by sections 2506, 2507, and 2508 shall take effect with respect to determinations regarding training and applications for allowances under sections 236, 237, and 238 of the Trade Act of 1974 that are made or filed after September 30, 1981.

(D)(i) Except as otherwise provided in clause (ii), the provisions of sections 233(d) and 236(a)(2) of the Trade Act of 1974 (as amended by this Act), and the provisions of section 204(a)(2)(C) of the Federal-State Extended Unemployment Compensation Act of 1970 (as added by this Act) shall apply to State unemployment compensation laws for purposes of certifications under section 3304(c) of the Internal Revenue Code of 1954 on October 31, of any taxable year after 1981.

(ii) In the case of any State the legislature of which—

(I) does not meet in a session which begins after the date of the enactment of this Act and prior to September 1, 1982, and

(II) if in session on the date of the enactment of this Act, does not remain in session for a period of at least 25 calendar days,

the date "1981" in clause (i) shall be deemed to be "1982".

(b) An adversely affected worker who is receiving or is entitled to receive payments of trade readjustment allowances under chapter 2 of the Trade Act of 1974 for weeks of unemployment beginning before October 1, 1981, shall be entitled to receive—

(1) with respect to weeks of unemployment beginning before October 1, 1981, payments of trade readjustment allowances determined under such chapter 2 without regard to the amendments made by this subtitle; and

(2) with respect to weeks of unemployment beginning after September 30, 1981, payments of trade readjustment allowances as determined under such chapter 2 as amended by this subtitle, except that the maximum amount of trade readjustment allowances payable to such an individual for such weeks of unemployment shall be an amount equal to the product of the trade readjustment allowance payable to the individual for a week of total unemployment (as determined under section 232(a) as so amended) multiplied by a factor determined by subtracting from fifty-two the sum of—

(A) the number of weeks preceding the first week which begins after September 30, 1981, and which are within the period covered by the same certification under such chapter 2 as such week of unemployment, for which the individual was entitled to a trade readjustment allowance or unemployment insurance, or would have been entitled to such allowance or unemployment insurance if he had applied therefor, and

(B) the number of weeks preceding such first week that are deductible under section 232(d) (as in effect before the amendments made by section 2504);

except that the amount of trade readjustment allowances payable to an adversely affected worker under this paragraph shall be subject to adjustment on a week-to-week basis as may be required by section 232(b).

Subtitle B—Adjustment Assistance for Firms

TECHNICAL ASSISTANCE

SEC. 2521. Section 253 of the Trade Act of 1974 (19 U.S.C. 2343) is amended to read as follows:

"SEC. 253. TECHNICAL ASSISTANCE.

"(a) The Secretary may provide a firm, on terms and conditions as the Secretary determines to be appropriate, with such technical assistance as in his judgment will carry out the purposes of this chapter with respect to the firm. The technical assistance furnished under this chapter may consist of one or more of the following:

"(1) Assistance to a firm in preparing its petition for certification of eligibility under section 251 of this chapter.

"(2) Assistance to a certified firm in developing a proposal for its economic adjustment.

"(3) Assistance to a certified firm in the implementation of such a proposal.

"(b)(1) The Secretary shall furnish technical assistance under this chapter through existing agencies and through private individuals, firms, or institutions (including private consulting services), or by grants to intermediary organizations (including Trade Adjustment Assistance Centers).

"(2) In the case of assistance furnished through private individuals, firms, or institutions (including private consulting services), the Secretary may share the cost thereof (but not more than 75 per cent of such cost may be borne by the United States).

"(3) The Secretary may make grants to intermediary organizations in order to defray up to 100 percent of administrative expenses incurred in providing such technical assistance to a firm.".

LIMITATION ON PROVISION OF DIRECT LOANS

SEC. 2522. Section 254(c) of the Trade Act of 1974 (19 U.S.C. 2344(c)) is amended to read as follows:

"(c) No direct loan may be provided to a firm under this chapter if the firm can obtain loan funds from private sources (with or without a guarantee) at a rate no higher than the maximum interest per annum that a participating financial institution may establish on guaranteed loans made pursuant to section 7(a) of the Small Business Act.".

CONDITIONS FOR FINANCIAL ASSISTANCE

SEC. 2523. Section 255 of the Trade Act of 1974 (19 U.S.C. 2345) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) The rate of interest on direct loans made under this chapter shall be—

"(A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity that are comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 percent, plus

"(B) an amount adequate in the judgment of the Secretary of Commerce to cover administrative costs and probable losses under the program.

"(2) The Secretary may not guarantee any loan under this chapter if—

"(A) the rate of interest on either the portion to be guaranteed, or the portion not to be guaranteed, is determined by the Secretary to be excessive when compared with

other loans bearing Federal guarantees and subject to similar terms and conditions, and

"(B) the interest on the loan is exempt from Federal income taxation under section 103 of the Internal Revenue Code of 1954.";

(2) by amending subsection (c)—

(A) by amending the first sentence to read as follows: "The Secretary shall make no loan or guarantee of a loan under section 254(b)(1) having a maturity in excess of 25 years or the useful life of the fixed assets (whichever period is shorter), including renewals and extensions; and shall make no loan or guarantee of a loan under section 254(b)(2) having a maturity in excess of 10 years, including extensions and renewals.",

(B) by amending the second sentence by striking out "limitation" and inserting in lieu thereof "limitations", and

(C) by amending paragraph (2) by inserting "or servicing" immediately after "liquidation";

(3) by amending subsection (d)—

(A) by inserting "(1)" immediately after "(d)"; and

(B) by adding at the end thereof the following:

"(2) For any direct loan made, or any loan guaranteed, under the authority of this chapter, the Secretary may enter into arrangements for the servicing, including foreclosure, of such loans or evidences of indebtedness on terms which are reasonable and which protect the financial interests of the United States."; and

(4) by amending subsection (e) to read as follows:

"(e) The following conditions apply with respect to any loan guaranteed under this chapter:

"(1) No guarantee may be made for an amount which exceeds 90 percent of the outstanding balance of the unpaid principal and interest on the loan.

"(2) The loan may be evidenced by multiple obligations for the guaranteed and nonguaranteed portions of the loan.

"(3) The guarantee agreement shall be conclusive evidence of the eligibility of any obligation guaranteed thereunder for such guarantee, and the validity of any guarantee agreement shall be incontestable, except for fraud or misrepresentation by the holder.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2524. Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(1) by striking out "firms," and inserting in lieu thereof "firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this chapter),"; and

(2) by adding at the end thereof the following new sentence: "Direct loans and commitments to guarantee loans may be made under this chapter during any fiscal year only to such extent and in such amounts as are provided in advance in appropriation Acts.".

ADMINISTRATION OF FINANCIAL ASSISTANCE

SEC. 2525. Section 257 of the Trade Act of 1974 (19 U.S.C. 2347) is amended by adding at the end thereof the following new subsections:

"(d) To the extent the Secretary deems it appropriate, and consistent with the provisions of section 552(b)(4) and section 552b(c)(4) of title 5, United States Code, that portion of any record, material or data received by the Secretary in connection with any application for financial assistance under this chapter which contains trade secrets or commercial or financial information regarding the operation or competitive position of any business shall be deemed to be privileged or confidential within the meaning of those provisions.

"(e) Direct loans made, or loans guaranteed, under this chapter for the acquisition or development of real property or other capital assets shall ordinarily be secured by a first lien on the assets to be financed and shall be fully amortized. To the extent that the Secretary finds that exceptions to these standards are necessary to achieve the objectives of this chapter, he shall develop appropriate criteria for the protection of the interests of the United States.".

REPEAL OF TRANSITIONAL PROVISIONS

SEC. 2526. Section 263 of the Trade Act of 1974 (19 U.S.C. 2353) is repealed.

ASSISTANCE TO INDUSTRIES

SEC. 2527. Chapter 3 of title II of the Trade Act of 1974 is amended by adding at the end thereof the following:

"SEC. 265. ASSISTANCE TO INDUSTRIES.

"(a) The Secretary may provide technical assistance, on such terms and conditions as the Secretary deems appropriate, for the establishment of industrywide programs for new product development, new process development, export development, or other uses consistent with the purposes of this chapter. Such technical assistance may be provided through existing agencies, private individuals, firms, universities and institutions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit industry organizations in which a substantial number of firms have been certified as eligible to apply for adjustment assistance under section 251.

"(b) Expenditures for technical assistance under this section may be up to $2,000,000 annually per industry and shall be made under such terms and conditions as the Secretary deems appropriate.".

CONFORMING AMENDMENTS

SEC. 2528. The table of contents of the Trade Act of 1974 is amended—

(1) by striking out the reference to section 263; and

(2) by inserting after the reference to section 264 the following:

"Sec. 265. Assistance to industries.".

EFFECTIVE DATE

SEC. 2529. (a) Subject to subsection (b), the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) Applications for adjustment assistance under chapter 3 of title II of the Trade Act of 1974 which the Secretary of Commerce accepted for processing before the date of the enactment of this Act shall continue to be processed in accordance with the requirements of such chapter as in effect before such date of enactment.

TITLE XXVI—LOW-INCOME HOME ENERGY ASSISTANCE

SHORT TITLE

SEC. 2601. This title may be cited as the "Low-Income Home Energy Assistance Act of 1981".

HOME ENERGY GRANTS AUTHORIZED

SEC. 2602. (a) The Secretary of Health and Human Services is authorized to make grants, in accordance with the provisions of this title, to States to assist eligible households to meet the costs of home energy.

(b) There is authorized to be appropriated to carry out the purposes of this title $1,875,000,000 for each of the fiscal years 1982, 1983, and 1984.

DEFINITIONS

SEC. 2603. As used in this title:

(1) The term "energy crisis intervention" means weather-related and supply shortage emergencies.

(2)(A) The term "household" means all individuals who occupy a housing unit.

(B) For purposes of subparagraph (A), 1 or more rooms shall be treated as a housing unit when occupied as a separate living quarters.

(3) The term "home energy" means a source of heating or cooling in residential dwellings.

(4) The term "poverty level" means, with respect to a household in any State, the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and as adjusted annually pursuant to section 673(2) of this Act) as applicable to such State.

(5) The term "Secretary" means the Secretary of Health and Human Services.

(6) The term "State" means each of the several States and the District of Columbia.

(7) The term "State median income" means the State median income promulgated by the Secretary in accordance with procedures established under section 2002(a)(6) of the Social Security Act (as such procedures were in effect on the day before the date of the enactment of this Act) and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

STATE ALLOTMENTS

SEC. 2604. (a)(1)(A) Except as provided in subparagraph (B), the Secretary shall, from that percentage of the amount appropriated under section 2602(b) for each fiscal year which is remaining after the amount of allotments for such fiscal year under subsection (b)(1) is determined by the Secretary, allot to each State an amount equal to such remaining percentage multiplied by the State's allotment percentage.

(B) From the sums appropriated therefor, if for any period a State has a plan which is described in section 2605(c)(1), the Secretary shall pay to such State an amount equal to 100 percent of the expenditures of such State made during such period in carrying out such plan, including administrative costs (subject to the provisions of section 2605(b)(9)(B)), with respect to households described in section 2605(b)(2).

(2)(A) For purposes of paragraph (1), a State's allotment percentage is the percentage which the amount the State was eligible to receive for fiscal year 1981 under the allotment formulas of the Home Energy Assistance Act of 1980 bears to the total amount available for allotment under such formulas.

(B) For purposes of subparagraph (A), the allotment formulas of the Home Energy Assistance Act of 1980 shall be treated as including the rules provided by, and the rules referred to in, section 101(j) of the Joint Resolution entitled "A Joint Resolution making further continuing appropriations for the fiscal year 1981, and for other purposes", approved December 16, 1980 (Public Law 96-536; 94 Stat. 3168), except that such allotment formulas shall not include the reallotment procedures established in section 260.108 of title 45, Code of Federal Regulations (relating to reallotment of funds under the low-income energy assistance program).

(3) If the sums appropriated for any fiscal year for making grants under this title are not sufficient to pay in full the total amount allocated to a State under paragraph (1) for such fiscal year, the amount which all States will receive under this title for such fiscal year shall be ratably reduced.

(b)(1) The Secretary shall apportion not less than one-tenth of 1 percent, and not more than one-half of 1 percent, of the amounts appropriated for each fiscal year to carry out this title on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary shall determine the total amount to be apportioned under this paragraph for any fiscal year (which shall not exceed one-half of 1 percent) after evaluating the extent to which each jurisdiction specified in the preceding sentence requires assistance under this paragraph for the fiscal year involved.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 2605.

(c) Of the funds available to each State under subsection (a), a reasonable amount based on data from prior years shall be reserved by each State for energy crisis intervention.

(d)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing organization of an Indian tribe within the State that assistance under this title be made directly to such organizations; and

(B) determines that the members of such tribe would be better served by means of grants made directly to provide benefits under this title;

the Secretary shall reserve from amounts which would otherwise be paid to such State from amounts allotted to it under this title for the fiscal year involved the amount determined under paragraph (2).

(2) The amount determined under this paragraph for a fiscal year is the amount which bears the same ratio to the amount which would (but for this subsection) be allotted to such State under this title for such fiscal year (other than by reason of section 2607(b)(2)) as the number of Indian households described in subparagraphs (A) and (B) of section 2605(b)(2) in such State with respect to which a determination under this subsection is made bears to the number of all households described in subparagraphs (A) and (B) of section 2605(b)(2) in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to—

(A) the tribal organization serving the individuals for whom such a determination has been made; or

(B) in any case where there is no tribal organization serving an individual for whom such a determination has been made, such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

(4) In order for a tribal organization or other entity to be eligible for an amount under this subsection for a fiscal year, it shall submit to the Secretary a plan (in lieu of being under the State's plan) for such fiscal year which meets such criteria as the Secretary may by regulations prescribe.

(e) At the option of a State, any portion of such State's allotment under this title may be reserved by the Secretary for the purpose of making direct payments to households described in section 2605(b)(2)(A)(ii) (taking into account the application of section 2605(i)), for low-income energy assistance in accordance with guidelines issued by the Secretary.

(f) A State may transfer up to 10 percent of its allotment under this section for any fiscal year for its use for such fiscal year under other provisions of Federal law providing block grants for—

(1) support of activities under subtitle B of title VI (relating to community services block grant program);

(2) support of activities under title XX of the Social Security Act; or

(3) support of preventive health services, alcohol, drug, and mental health services, and primary care under title XIX of the Public Health Service Act, and maternal and child health services under title V of the Social Security Act;

or any combination of the activities described in paragraphs (1), (2), and (3). Amounts allotted to a State under any provisions of Federal law referred to in the preceding sentence and transferred by a State for use in carrying out the purposes of this title shall be treated as if they were paid to the State under this title but shall not affect the computation of the State's allotment under this title. The State shall inform the Secretary of any such transfer of funds.

APPLICATIONS AND REQUIREMENTS

SEC. 2605. (a)(1) Each State desiring to receive an allotment for any fiscal year under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will meet the conditions enumerated in subsection (b).

(2) After the expiration of the first fiscal year for which a State receives funds under this title, no funds shall be allotted to such State for any fiscal year under this title unless such State conducts public hearings with respect to the proposed use and distribution of funds to be provided under this title for such fiscal year.

(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this title for the purposes described in section 2602(a) and otherwise in accordance with the requirements of this title, and agrees not to use such funds for any payments other than payments specified in this subsection;

(2) make payments under this title only with respect to—

(A) households in which 1 or more individuals are receiving—

(i) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act);

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or handicapped individuals, or both, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a manner consistent with the efficient and timely payment of benefits, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs in relation to income, taking into account family size;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that—

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier

under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated any differently because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) assure that any home energy supplier receiving direct payments agrees not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made;

(8) provide assurances that the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that—

(A) in each fiscal year, the State may use for planning and administering the use of funds available under this title an amount not to exceed 10 percent of its allotment under this title for such fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining costs;

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that at least every year the State shall prepare an audit of its expenditures of amounts received under this title and amounts transferred to carry out the purposes of this title;

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for public participation in the development of the plan described in subsection (c); and

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness. The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(c)(1) As part of the annual application required in subsection (a), the chief executive officer of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (b). The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (1) shall be made available for public inspection within the State involved in such a manner as will facilitate review of, and comment upon, such plan.

(d) Whenever the Secretary determines that a waiver of any requirement in subsection (b) is necessary to assist in promoting the objectives of this title, the Secretary may waive such requirement to the extent and for the period the Secretary finds necessary to enable the State involved to carry out the program under the plan.

(e) Each audit required by subsection (b)(10) shall be conducted by an entity independent of any agency administering activities or services carried out under this title and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(f) Notwithstanding any other provision of law, the amount of any home energy assistance payments or allowances provided to an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(h) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this title in order to assure that expenditures are consistent with the provisions of this title and to determine the effectiveness of the State in accomplishing the purposes of this title.

(i) A household which is described in subsection (b)(2)(A) solely by reason of clause (ii) thereof shall not be treated as a household described in subsection (b)(2) if the eligibility of the household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments under title XIX of the Social Security Act with respect to such individual;

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of the Social Security Act applies; or

(3) a child described in section 1614(f)(2) of the Social Security Act who is living together with a parent, or the spouse of a parent, of the child.

(j) In verifying income eligibility for purposes of subsection (b)(2)(B), the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under subtitle B of title VI of this Act (relating to community services block grant program), under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act, or under other income assistance or service programs (as determined by the State).

(k) Not more than 15 percent of the greater of—

(1) the funds allotted to a State under this title for any fiscal year; or

(2) the funds available to such State under this title for such fiscal year;

may be used by the State for low-cost residential weatherization or other energy-related home repair for low-income households.

(l)(1) Any State may use amounts provided under this title for the purpose of providing credits against State tax to energy suppliers who supply home energy at reduced rates to low-income households.

(2) Any such credit provided by a State shall not exceed the amount of the loss of revenue to such supplier on account of such reduced rate.

(3) Any certification for such tax credits shall be made by the State, but such State may use Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to households described in subsection (b) and suppliers will not be impeded by the use of such data.

NONDISCRIMINATION PROVISIONS

SEC. 2606. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 also shall apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

PAYMENTS TO STATES

SEC. 2607. (a) From its allotment under section 2604, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968, for use under this title.

(b)(1) If—

(A) the Secretary determines that, as of September 1 of any fiscal year, an amount allotted to a State under section 2604 for any fiscal year will not be used by such State during such fiscal year;

(B) the Secretary—

(i) notifies the chief executive officer of such State; and

(ii) publishes a timely notice in the Federal Register;

that, after the 30-day period beginning on the date of the notice to such chief executive officer, such amount may be reallotted; and

(C) the State does not request, under paragraph (2), that such amount be held available for such State for the following fiscal year;

then such amount shall be treated by the Secretary for purposes of this title as an amount appropriated for the following fiscal year to be allotted under section 2604 for such following fiscal year.

(2)(A) Any State may request that an amount allotted to such State for a fiscal year be held available for such State for the following fiscal year. Any amount so held available for the following fiscal year shall

not be taken into account in computing the allotment of such State for such fiscal year under this title.

(B) No amount may be held available under this paragraph for a State from a prior fiscal year to the extent such amount exceeds 25 percent of the amount allotted to such State for such prior fiscal year. For purposes of the preceding sentence, the amount allotted to a State for a fiscal year shall be determined without regard to any amount held available under this paragraph for such State for such fiscal year from the prior fiscal year.

(3) During the 30-day period described in paragraph (1)(B), comments may be submitted to the Secretary. After considering such comments, the Secretary shall notify the chief executive officer of the State of any decision to reallot funds, and shall publish such decision in the Federal Register.

WITHHOLDING

SEC. 2608. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment substantially in accordance with the provisions of this title and the assurances such State provided under section 2605.

(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this title or the assurances provided by the State under section 2605. For purposes of this paragraph, a violation of any one of the assurances contained in section 2605(b) that constitutes a disregard of such assurance shall be considered a serious complaint.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this title in order to evaluate compliance with the provisions of this title.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this title by such State in order to ensure compliance with the provisions of this title.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this title by a State in order to ensure compliance with the provisions of this title.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 2609. Grants made under this title may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this title, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

STUDIES

SEC. 2610. (a) The Secretary, after consultation with the Secretary of Energy, shall provide for the collection of data, including—

(1) information concerning home energy consumption;

(2) the cost and type of fuels used;

(3) the type of fuel used by various income groups;

(4) the number and income levels of households assisted by this title; and

(5) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

(b) The Secretary shall submit an annual report to the Congress containing a summary of data collected under subsection (a).

REPEALER

SEC. 2611. Effective October 1, 1981, the Home Energy Assistance Act of 1980 is repealed.

TITLE XXVII—NATIONAL HEALTH SERVICE CORPS; HEALTH PROFESSIONS EDUCATION; NURSE TRAINING

REFERENCE

SEC. 2700. Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

CHAPTER 1—NATIONAL HEALTH SERVICE CORPS

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS

SEC. 2701. (a) Section 331(a)(1) (42 U.S.C. 254d(a)(1)) is amended to read as follows: "(1) shall consist of—

"(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

"(B) such civilian employees of the United States as the Secretary may appoint, and

"(C) such other individuals who are not employees of the United States,

(such officers, employees, and individuals hereinafter in this subpart referred to as 'Corps members'), and".

(b) Section 331(b) is amended by striking out "shall" and inserting in lieu thereof "may".

(c) The first sentence of section 331(c) is amended by inserting "(including individuals considering entering into a written agreement pursuant to section 338C)" after "positions in the Corps".

(d)(1) Section 331(d)(1) is amended by inserting after "each member of the Corps" the following: "(other than a member described in subsection (a)(1)(C))".

(2) Section 331(d)(1)(A) is amended by striking out "shall" and inserting in lieu thereof "may".

(3) Section 331(d)(1)(B) is amended by striking out "shall" and inserting in lieu thereof "may".

(4) Section 331(d) is further amended by adding at the end the following:

"(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) shall when assigned to an entity under section 333 be subject to the personnel system of such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.".

(e) Section 331(g) is amended to read as follows: "(g)(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C), becomes a commissioned officer in the Regular or Reserve Corps of the Service.

"(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this Act which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C).".

(f)(1) Section 331(h)(1) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Section 331(h)(2) is amended by striking out "section 751" and inserting in lieu thereof "section 338A".

(3) Section 331(h)(3) is amended by inserting "Commonwealth of the" before "Northern Mariana Islands".

DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

SEC. 2702. (a) Section 332(a)(1)(A) (42 U.S.C. 254e(a)(1)) is amended by inserting before the comma at the end thereof "and which is not reasonably accessible to an adequately served area".

(b) Section 332(h) is amended by striking out "shall" and inserting in lieu thereof "may".

(c) Effective October 1, 1981, the Secretary of Health and Human Services shall—

(1) evaluate the criteria used under section 332(b) of the Public Health Service Act to determine if the use of the criteria has resulted in areas which do not have a shortage of health professions personnel being designated as health manpower shortage areas; and

(2) consider different criteria (including the actual use of health professions personnel in an area by the residents of an area taking into account their health status and indicators of an unmet demand and the likelihood that such demand would not be met in two years) which may be used to designate health manpower shortage areas.

Not later than November 30, 1982, the Secretary shall report to the Congress the results of the activities undertaken under this subsection.

(c) Section 332(e) is amended by inserting "(1)" before "Prior" and by adding at the end thereof the following:

"(2) Prior to the designation of a health manpower shortage area under this section, the Secretary shall, to the extent practicable, give written notice of the proposed designation of such area to appropriate public or private nonprofit entities which are located or have a demonstrated interest in such area and request comments from such entities with respect to the proposed designation of such area.".

ASSIGNMENT OF CORPS PERSONNEL

SEC. 2703. (a) Section 333(a)(1)(D) (42 U.S.C. 254f(a)(1)(D) is amended—

(1) by striking out beginning with "in the case of" through "which has expired,";

(2) by striking out "continued need" in clause (i) and inserting in lieu thereof "need and demand";

(3) by inserting "intended" before "use of Corps members" in clause (i);

(4) by striking out "previously" before "assigned to the area" in clause (i) and inserting in lieu thereof "to be";

(5) by striking out "fiscal management by the entity with respect to Corps members previously assigned" in clause (i) and inserting in lieu thereof "the fiscal management capability of the entity to which Corps members would be assigned";

(6) by striking out "continued need" in clause (ii)(I) and inserting in lieu thereof "need and demand";

(7) by striking out "has been" in clause (ii)(II) and inserting in lieu thereof "will be";

(8) by striking out "previously" in clause (ii)(II);

(9) by striking out "continued" in clause (ii)(IV) and inserting in lieu thereof "unsuccessful";

(10) by striking out "has been" in clause (ii)(V) and inserting in lieu thereof "is a reasonable prospect of"; and

(11) by striking out "previously" in clause (ii)(V).

(b)(1) Paragraph (1) of subsection (a) of section 333 is amended by adding after and below subparagraph (D) the following: "An application for assignment of a Corps member to a health manpower shortage area shall include a demonstration by the applicant that the area or population group to be served by the applicant has a shortage of personal health services and that the Corps member will be located so that the member will provide services to the greatest number of persons residing in such area or included in such population group. Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under section 332(b) and on additional criteria which the Secretary shall prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.".

(2) Subsection (a) of section 333 is amended by adding at the end the following:

"(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this Act.".

(c) Section 333(c) is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(d) Effective October 1, 1981, section 333 is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by adding after subsection (c) the following new subsection:

"(d)(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

"(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

"(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(e)(1) Section 333(g)(1) (as redesignated by subsection (d) of this section) is amended

(A) by striking out "shall" and inserting in lieu thereof "may";

(B) by striking out "or have a demonstrated interest"; and

(C) by adding at the end thereof the following: "Assistance provided under this paragraph may include assistance to an entity in (A) analyzing the potential use of health professions personnel in defined health services delivery areas by the residents of such areas, (B) determining the need for such personnel in such areas, (C) determining the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice, and (D) determining the types of inpatient and other health services that should be provided by such personnel in such areas.".

(2) Section 333(g)(2) (as redesignated by subsection (d) of this section) is amended by striking out "shall" and inserting in lieu thereof "may" and by striking out "or have a demonstrated interest".

(3) Section 333(g)(3) (as redesignated by subsection (d) of this section) is amended by striking out "shall" and inserting in lieu thereof "may".

(4) Section 333(g) (as redesignated by subsection (d) of this section) is further amended by adding at the end the following:

"(4)(A) The Secretary shall undertake to demonstrate the improvements that can be made in the assignment of members of the Corps to health manpower shortage areas and in the delivery of health care by Corps members in such areas through coordination with States, political subdivisions of States, agencies of States and political subdivisions, and other public and nonprofit private entities which have expertise in the planning, development, and operation of centers for the delivery of primary health care. In carrying out this subparagraph, the Secretary shall enter into agreements with qualified entities which provide that if—

"(i) the entity places in effect a program for the planning, development, and operation of centers for the delivery of primary health care in health manpower shortage areas which reasonably addresses the need for such care in such areas, and

"(ii) under the program the entity will perform the functions described in subparagraph (B),

the Secretary will assign under this section members of the Corps in accordance with the program.

"(B) For purposes of subparagraph (A), the term 'qualified entity' means a State, political subdivision of a State, an agency of a State or political subdivision, or other public or nonprofit private entity operating solely within one State, which the Secretary determines is able—

"(i) to analyze the potential use of health professions personnel in defined health services delivery areas by the residents of such areas;

"(ii) to determine the need for such personnel in such areas and to recruit, select, and retain health professions personnel (including members of the National Health Service Corps) to meet such need;

"(iii) to determine the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice;

"(iv) to determine the types of inpatient and other health services that should be provided by such personnel in such areas;

"(v) to assist such personnel in the development of their clinical practice and fee schedules and in the management of their practice;

"(vi) to assist in the planning and development of facilities for the delivery of primary health care; and

"(vii) to assist in establishing the governing bodies of centers for the delivery of such care and to assist such bodies in defining and carrying out their responsibilities.".

(f) Section 333(h) (as redesignated by subsection (d) of this section) is amended by striking out "shall" and inserting in lieu thereof "may".

(g) Section 333(i) (as redesignated by subsection (d) of this section) is amended by striking out "or dentistry" and inserting in lieu thereof "dentistry, or any other health profession".

COST SHARING

SEC. 2704. (a)(1) Section 334(a) (42 U.S.C. 254g(a)) is amended by inserting "for the assignment of a member of the Corps" after "section 333".

(2) Subparagraphs (A) and (B) of section 334(a)(3) are amended to read as follows:

"(A) an amount calculated by the Secretary to reflect the average salary (including amounts paid in accordance with section 331(d)) and allowances of comparable Corps members for a calendar quarter (or other period);

"(B) that portion of an amount calculated by the Secretary to reflect the average amount paid under the Scholarship Program to or on behalf of comparable Corps members that bears the same ratio to the calculated amount as the number of days of service provided by the member during that quarter (or other period) bears to the number of days in his period of obligated service under the Program; and".

(3) Section 334(a)(3)(C) is amended (A) by inserting "or a grant under section 333(d)(2)" after "section 335(c)", and (B) by inserting "or grant" after "such loan" each time it occurs.

(4) Section 334(b) is amended by adding at the end the following:

"(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity.".

(b) Section 334(e) is amended by striking out "this subpart" and inserting in lieu thereof "sections 331 through 335 and section 337".

PROVISION OF HEALTH SERVICES BY CORPS MEMBERS

SEC. 2705. (a) Clause (2) of section 335(a) (42 U.S.C. 254h(a)) is amended to read as follows: "(2) in a manner which is cooperative with other health care providers serving such health manpower shortage area.".

(b) The first sentence of section 335(c) is amended—

(1) by inserting "and" before "(3)"; and

(2) by striking out "; and (4) establishing appropriate continuing education programs".

PREPARATION FOR PRACTICE

SEC. 2706. (a) Section 336 (42 U.S.C. 254i) is redesignated as section 336A.

(b) Subpart II of part D of title III is amended by inserting after section 335 (42 U.S.C. 254h) the following new section:

"PREPARATION FOR PRACTICE

"SEC. 336. (a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities for the conduct of programs which are designed to prepare individuals subject to a service obligation under the National Health Service Corps scholarship program to effectively provide health services in the health manpower shortage area to which they are assigned.

"(b) No grant may be made or contract entered into under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

NATIONAL ADVISORY COUNCIL

SEC. 2707. (a) Section 337(a) (42 U.S.C. 254j) is amended to read as follows:

"(a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the 'Council'). The Council shall be composed of not more than 15 members appointed by the Secretary. The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.".

(b) The last sentence of section 337(b)(1) is amended by inserting "not" before "be reappointed".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2708. (a) Section 338(a) (42 U.S.C. 254k) is amended—

(1) by striking out "and" after "1979;"; and

(2) by inserting before the period a semicolon and the following: "$110,000,000 for the fiscal year ending September 30, 1982; $120,000,000 for the fiscal year ending September 30, 1983; and $130,000,000 for the fiscal year ending September 30, 1984".

(b) Section 338(b) is amended by striking out "this subpart" and inserting in lieu thereof "sections 331 through 335, section 336A, and section 337".

NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 2709. (a) Sections 751, 752, 753, 754, 755, 756, and 757 (42 U.S.C. 294t-294y-1) are redesignated as sections 338A, 338B, 338C, 338D, 338E, 338F, and 338G, respectively.

(b)(1) Section 338A(a) (as redesignated by subsection (a) of this section) is amended by inserting "clinical psychologists," after "pharmacists,".

(2) Section 338A(c)(1) (as redesignated by subsection (a) of this section) is amended by striking out "section 754" and inserting in lieu thereof "section 338D".

(3) Section 338A(c)(2) (as redesignated by subsection (a) of this subsection) is amended by inserting "information respecting meeting a service obligation through private practice under an agreement under section 338C and" after "(2)".

(4) Section 338A(f)(1)(A)(ii) (as redesignated by subsection (a) of this section) is amended by striking out "subpart II of part D of title III" and inserting in lieu thereof "sections 331 through 335 and section 337".

(5) Section 338A(f)(2) (as redesignated by subsection (a) of this section) is amended by striking out "subpart II of part D of title III" and inserting in lieu thereof "sections 331 through 335 and sections 337 and 338".

(6) Section 338A(f)(3) (as redesignated by subsection (a) of this section) is amended by striking out "section 754" and inserting in lieu thereof "section 338D".

(7) Subsection (j) of section 338A (as redesignated by subsection (a) of this section) is repealed.

(c)(1) Section 338B(a) (as redesignated by subsection (a) of this section) is amended—

(A) by striking out "section 753" and inserting in lieu thereof "section 338C"; and

(B) by striking out "section 751" and inserting in lieu thereof "section 338A".

(2) Paragraphs (1) through (4) of section 338B(b) (as redesignated by subsection (a) of this section) are amended to read as follows:

"(b)(1) If an individual is required under subsection (a) to provide service as specified in section 338A(f)(1)(B)(iv) (hereinafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

"(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

"(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

"(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

"(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

"(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.".

(3) Section 338B(c)(1) (as redesignated by subsection (a) of this section) is amended by striking out "or as a member of the Corps" and inserting in lieu thereof "or is designated as a member of the Corps under subsection (b)(3) or (b)(4)".

(4) Section 338B(c)(2) (as redesignated by subsection (a) of this section) is amended by striking out "section 753" and inserting in lieu thereof "section 338C".

(5)(A) The first sentence of section 338B(d) (as redesignated by subsection (a) of this section) is amended by striking out "subpart II of part D of title III" and inserting in lieu thereof "sections 331 through 335 and sections 337 and 338".

(B) The second sentence of such section is amended by inserting after "written contract" the following: "and if such individual is an officer in the Service or a civilian employee of the United States".

(6) Section 338B(e) (as redesignated by subsection (a) of this section) is amended to read as follows:

"(e) Notwithstanding any other provision of this title, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 472(a)(1) shall be counted against the period of obligated service which the individual is required to perform under the Scholarship Program.".

(d)(1) Section 338C(a) (as redesignated by subsection (a) of this section) is amended—

(A) by inserting a comma and "to the extent permitted by, and consistent with, the requirements of applicable State law," after "shall";

(B) by striking out "section 752(a)" and inserting in lieu thereof "section 338B(a) or under section 225 (as in effect on September 30, 1977); and

(C) by striking out "which has a priority for the assignment of Corps members under section 333(c)" in paragraph (2).

(2) Section 338C(b)(1)(B) (as redesignated by subsection (a) of this subsection) is amended (A) by inserting "(i)" before "shall not", and (B) by inserting before the semicolon a comma and the following: "and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan".

(3) Section 338C (as redesignated by subsection (a) of this section) is further amended by adding at the end thereof the following new subsections:

"(c) If an individual breaches the contract entered into under section 338A by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

"(d) The Secretary may pay an individual who has entered into an agreement with the Secretary under subsection (a) an amount to cover all or part of the individual's expenses reasonably incurred in transporting himself, his family, and his possessions to the location of his private clinical practice.

"(e)(1) The Secretary may make such arrangements as he determines are necessary for the individual for the use of equipment and supplies and for the lease or acquisition of other equipment and supplies.

"(2) Upon the expiration of the written agreement under subsection (a), the Secretary may (notwithstanding any other provision of law) sell to the individual who has entered into an agreement with the Secretary under subsection (a), equipment and other property of the United States utilized by such individual in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property, except that the Secretary may make such sales for a lesser value to the individual if he determines that the individual is financially unable to pay the full market value.

"(f) The Secretary may, out of appropriations authorized under section 338, pay to individuals participating in private practice under this section the cost of such individual's malpractice insurance and the lesser of—

"(1)(A) $10,000 in the first year of obligated service;

"(B) $7,500 in the second year of obligated service;

"(C) $5,000 in the third year of obligated service; and

"(D) $2,500 in the fourth year of obligated service; or

"(2) an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.

"(g) The Secretary shall, upon request, provide to each individual released from service obligation under this section technical assistance to assist such individual in fulfilling his or her agreement under this section.".

(e)(1) Section 338D (as redesignated by subsection (a) of this section) is amended by striking out subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) Section 338D(a) (as redesignated by subsection (a) of this section and paragraph (1) of this subsection) is amended—

(A) by striking out "section 751" and inserting in lieu thereof "section 338A";

(B) by striking out "or" at the end of paragraph (2);

(C) by inserting "or" at the end of paragraph (3); and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,".

(3) Section 338D(b) (as redesignated by subsection (a) of this section and paragraph (1) of this subsection) is amended—

(A) by striking out "(c) If" in the first sentence and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), if";

(B) by striking out "(for any reason)" in the first sentence and inserting in lieu thereof "(for any reason not specified in subsection (a) or section 338F(b))";

(C) by striking out "section 752 or 753" in the first sentence and inserting in lieu thereof "section 338B or 338C";

(D) by striking out "section 752" in the first sentence and inserting in lieu thereof "section 338B";

(E) by striking out "section 753" in the first sentence and inserting in lieu thereof "section 338C";

(F) by inserting in the second sentence "(or such longer period beginning on such date as specified by the Secretary for good cause shown)" after "written contract"; and

(G) by adding at the end the following:

"(2) If an individual is released under section 753 from a service obligation under section 225 (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 753, subsection (f) of such section 225 shall apply to such individual in lieu of paragraph (1) of this subsection.".

(4)(A) Section 338D(c)(2) (as redesignated by subsection (a) of this section and paragraph (1) of this subsection) is amended by inserting "partial or total" before "waiver".

(B) Section 735(c)(1) (42 U.S.C. 294h(c)(1)) is amended—

"(i) by striking out "clauses (A) and (B) of"; and

"(ii) by striking out "section 753" each place it appears and inserting in lieu thereof "section 338C".

(f)(1) The section heading for section 338E (as redesignated by subsection (a) of this section) is amended by striking out "grants" and inserting in lieu thereof "loans".

(2) Section 338E(a) (as redesignated by subsection (a) of this section) is amended—

(A) by inserting a comma and "out of appropriations authorized under section 338," after "The Secretary may";

(B) by inserting "or one loan" after "grant";

(C) by striking out "(other than an individual who has entered into an agreement under section 338C)"; and

(D) by inserting "at least two years of" after "completed" in paragraph (1).

(3) Section 338E(a)(2)(A) (as redesignated by subsection (a) of this section) is amended by striking out "and described in paragraphs (1) and (2) of section 338C(a)".

(4) Section 338E(a)(2)(B) (as redesignated by subsection (a) of this section) is amended by striking out "section 753(b)(1)" and inserting in lieu thereof "section 338C(b)(1)".

(5) Section 338E(b) (as redesignated by subsection (a) of this section) is amended by inserting "or loan" after "grant".

(6) Section 338E(c) (as redesignated by subsection (a) of this section) is amended by inserting "or loan" after "grant" and by adding at the end thereof the following new sentence: "The Secretary shall, by regulation, set interest rates and repayment terms for loans under this section.".

(7) The second sentence of section 338E(d) (as redesignated by subsection (a) of this section) is amended to read as follows: "If within 60 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual—

"(1) in the case of an individual who has received a grant under this section, an amount determined under section 338D(c), except that in applying the formula contained in such section "ϕ" shall be the sum of the amount of the grant made under subsection (a) to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, "t" shall be the number of months that such individual agreed to practice his profession under such agreement, and "s" shall be the number of months that such individual practices his profession in accordance with such agreement; and

"(2) in the case of an individual who has received a loan under this section, the full amount of the principal and interest owed by such individual under this section.".

(g)(1) Section 338F(a) (as redesignated by subsection (a) of this section) is amended by inserting before the last sentence the following new sentence: "For the fiscal year ending September 30, 1982, and each of the two succeeding fiscal years, there are authorized to be appropriated such sums as may be necessary to make 550 new scholarship awards in accordance with section 338A(d) in each such fiscal year and to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1984.

(2) The last sentence of such section is amended by—

(A) striking out "1981" and inserting in lieu thereof "1985", and

(B) striking out "1980" and inserting in lieu thereof "1984".

(h) The amendments made by paragraphs (2), (3), and (5)(B) of subsection (c) shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act after the date of the enactment of this Act. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.

CHAPTER 2—HEALTH PROFESSIONS EDUCATION

LIMITATION OF USE OF APPROPRIATIONS

SEC. 2715. Section 700 (42 U.S.C. 292) is repealed.

DEFINITIONS

SEC. 2716. (a) Section 701(2) (42 U.S.C. 292a(2)) is amended to read as follows:

"(2) The term 'nonprofit' refers to the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.".

(b) Section 701(4) is amended—

(1) by striking out "a school which" and inserting in lieu thereof "an accredited public or nonprofit private school in a State that"; and

(2) by adding at the end thereof the following: "The term 'graduate program in health administration' means an accredited graduate program in a public or nonprofit private institution in a State that provides training leading to a graduate degree in health administration or an equivalent degree.".

(c) Section 701 is further amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), and (10) as paragraphs (6), (7), (8), (9), (11), and (12), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The term 'accredited', when applied to a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health, or a graduate program in health administration, means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title, if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school or program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program."; and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) The term 'school of allied health' means a public or nonprofit private junior college, college, or university—

"(A) which provides, or can provide, programs of education in a discipline of allied health leading to a baccalaureate or associate degree (or an equivalent degree of either) or to a more advanced degree;

"(B) which provides training for not less than a total of twenty persons in the allied health curricula;

"(C) which includes or is affiliated with a teaching hospital; and

"(D) which is accredited by a recognized body or bodies approved for such purposes by the Secretary of Education, or which provides to the Secretary satisfactory assurance by such accrediting body or bodies that reasonable progress is being made toward accreditation.".

(d) Section 701(11) (as redesignated by subsection (c)(1) of this section) is amended by inserting "the Commonwealth of" before "the Northern Mariana Islands,".

(e) Section 701(12) (as redesignated by subsection (c)(1) of this section) is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

ADVANCE FUNDING

SEC. 2717. Section 703 (42 U.S.C. 292c) is amended—

(1) by striking out "(a)", and

(2) by striking out subsection (b).

RECORDS AND AUDITS

SEC. 2718. The second sentence of section 705(a)(42 U.S.C. 292e(a)) is repealed.

HEALTH PROFESSIONS DATA

SEC. 2719. (a) Section 708(a) (42 U.S.C. 292h(a)) is amended by inserting "chiropractors, clinical psychologists," after "medical technologists,".

(b) Subsections (c) and (d) of section 708 are amended to read as follows:

"(c) Any school, program, or training center receiving funds under this title or title VIII shall submit an annual report to the Secretary. Such report shall contain such information as is necessary to assist the Secretary in carrying out this section and evaluating the efficacy of these programs in addressing national health priorities. The Secretary shall not require the collection or transmittal of any information under this subsection that is not readily available to such school, program, or training center. Information provided pursuant to this subsection shall be collected or transmitted only to the extent permitted under subsection (e).

"(d) The Secretary shall submit to Congress on October 1, 1983, and biennially thereafter, the following reports:

"(1) A comprehensive report regarding the status of health personnel according to profession, including a report regarding the analytic and descriptive studies conducted under this section.

"(2) A comprehensive report regarding applicants to, and students enrolled in, programs and institutions for the training of health personnel, including descriptions and analyses of student indebtedness, student need for financial assistance, financial resources to meet the needs of students, student career choices such as practice specialty and geographic location and the relationship, if any, between student indebtedness and career choices.".

SHARED SCHEDULED RESIDENCY TRAINING POSITIONS

SEC. 2720. (a) Section 709 (42 U.S.C. 292i) is repealed.

(b) Sections 710 (42 U.S.C. 292j) and 711 (42 U.S.C. 292k) are redesignated as sections 709 and 710, respectively.

PAYMENT UNDER GRANTS

SEC. 2721. Section 709 (as redesignated by section 2720(b) of this Act) is amended to read as follows:

"APPLICATIONS, PAYMENTS, AND ASSURANCES UNDER GRANTS

"SEC. 709. (a) Grants made under this title may be paid (1) in advance or by way of reimbursement, (2) at such intervals and on such conditions as the Secretary may find necessary, and (3) with appropriate adjustments on account of overpayments or underpayments previously made.

"(b) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) Whenever in this title an applicant is required to provide assurances to the Secretary, or an application is required to contain assurances or be supported by assurances, the Secretary shall determine before approving the application that the assurances provided are made in good faith.

"(d) The Secretary may provide technical assistance for the purpose of carrying out any program or purpose under this title.".

TUITION AND OTHER EDUCATIONAL COSTS

SEC. 2722. Section 710 (as redesignated by section 2720(b) of this Act) is amended to read as follows:

"DIFFERENTIAL TUITION AND FEES

"SEC. 710. The Secretary may not enter into a contract with, or make a grant, loan guarantee, or interest subsidy payment under this title or title VIII, to or for the benefit of, any school, program, or training center if the tuition levels or educational fees at such school, program, or training center are higher for certain students solely on the basis that such students are the recipients of traineeships, loans, loan guarantees, service scholarships, or interest subsidies from the Federal Government.".

CONSTRUCTION ASSISTANCE FOR CONVERSIONS

SEC. 2723. (a) Section 720(a) (42 U.S.C. 293(a)) is amended by adding at the end the following:

"(3) The Secretary may make grants to schools providing the first 2 years of education leading to the degree of doctor of medicine to assist in the construction of the teaching facilities which the schools require to become schools of medicine.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of grants under subsection (a)(3), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1983, to remain available until expended.".

(c) Section 721(b)(1) (42 U.S.C. 293a(b)) is amended (1) by inserting after "(1)" the following: "To be eligible to apply for a grant under section 720(a)(3) the applicant must be a public or nonprofit school providing the first 2 years of education leading to the degree of doctor of medicine and be accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.", and (2) by striking out "under this part" and inserting in lieu thereof "under paragraph (1) or (2) of section 720(a)".

(d) Subsection 721(g)(1) is amended by striking out "section 720(a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of section 720(a)".

(e) Subsection (a) of section 722 (42 U.S.C. 293b(a)) is amended by adding at the end the following:

"(3) The amount of any grant under section 720(a)(3) shall be such amount as the Secretary determines to be appropriate after obtaining advice from the Council, except that no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary.".

(f) Section 723(a) (42 U.S.C. 293c(a)) is amended by striking out "section 720(a)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 720(a)".

REPEAL OF ENROLLMENT INCREASE REQUIREMENT

SEC. 2724. (a) Paragraph (2) of section 721(c) (42 U.S.C. 293a(c)(2)) is amended (1) by inserting "and" after "the facility,", and (2) by striking out ", and (D)" and all that follows in that paragraph and inserting in lieu thereof a semicolon.

(b) The Secretary of Health and Human Services shall unilaterally release all recipients of grants, loan guarantees, and interest subsidies under sections 720(a) and 726 (as such sections were in effect prior to October 1, 1981) from any contractual obligation to fulfill enrollment increases incurred pursuant to such sections or under regulations published to implement such sections.

(c) The amendment made by subsection (a) shall apply with respect to any entity which received a grant, loan guarantee, or interest subsidy under section 720 or section 726 irrespective of the date of the grant, loan guarantee, or interest subsidy.

LOAN GUARANTEES AND INTEREST SUBSIDIES

SEC. 2725. (a) Section 726(b) (42 U.S.C. 293i(b)) is amended (1) by inserting "before October 1, 1981," after "loan has been made", and (2) by striking out ", during the period beginning July 1, 1971, and ending with the close of September 30, 1980,".

(b) The second sentence of section 726(e) is amended by striking out "and" after "1979," and by inserting before the period a

comma and "and $4,300,000 for the fiscal year ending September 30, 1982, and each of the next 2 fiscal years".

(c) Section 726(g) is repealed.

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 2726. (a)(1) The first sentence of section 728(a) (42 U.S.C. 294a(a)) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and "and $200,000,000 for the fiscal year ending September 30, 1982; $225,000,000 for the fiscal year ending September 30, 1983; and $250,000,000 for the fiscal year ending September 30, 1984".

(2) The last sentence of such subsection is amended by striking out "1982" and inserting in lieu thereof "1987".

(b) Section 728(c) is amended to read as follows:

"(c)(1) Subject to paragraph (2), the Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, consolidate, or otherwise deal in loans which are insured by the Secretary under this subpart, except that if any loan made under this subpart is included in a consolidated loan pursuant to the authority of the Association under part B of title IV of the Higher Education Act of 1965, the interest rate on such consolidated loan shall be set at the weighted average interest rate of all loans offered for consolidation and the resultant per centum shall be rounded downward to the nearest one-eighth of 1 per centum, except that the interest rate shall be no less than the applicable interest rate of the guaranteed student loan program established under part B of title IV of the Higher Education Act of 1965. In the case of such a consolidated loan, the borrower shall be responsible for any interest which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of any provision of the Higher Education Act of 1965. Special allowances payable with respect to consolidated loans made by the Association pursuant to the terms of this subsection—

"(A) shall be computed in accordance with section 438(b)(2)(A) of the Higher Education Act of 1965, and

"(B) shall be reduced (i) by subtracting 7 percent from the weighted average interest rate of a loan computed according to this subsection, and (ii) by subtracting the resultant remainder from such special allowance.

"(2) No loan insured by the Secretary under this subpart may be included in a consolidated loan pursuant to the authority of the Student Loan Marketing Association under part B of title IV of the Higher Education Act of 1965 if as a result of such inclusion the Federal Government becomes liable for any greater payment of principal or interest under the provisions of section 439(o) of the Higher Education Act of 1965 than the Federal Government would have been liable for had no consolidation occurred.".

LIMITATIONS

SEC. 2727. Section 729(a) (42 U.S.C. 294b(a)) is amended to read as follows:

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

"SEC. 729. (a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $20,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry, and $12,500 in the case of a student enrolled in a school of pharmacy, public health, or chiropractic, or a graduate program in health administration or clinical psychology. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry, and $50,000 in the case of a borrower who is or was a student enrolled in a school of pharmacy, public health, or chiropractic, or a graduate program in health administration or clinical psychology. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.".

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED LOANS

SEC. 2728. (a)(1) Section 731(a)(1)(A) (42 U.S.C. 294d(a)(1)(A)) is amended by striking out clause (iii) and redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(2) Clause (iii) of such section (as redesignated by paragraph (1) of this subsection) is amended by striking out "and" before "other reasonable educational expenses" and by inserting "and reasonable living expenses," after "and laboratory expenses,".

(b) Section 731(a)(2) is amended—

(1) by striking out "15 years" in subparagraph (B) and inserting in lieu thereof "25 years";

(2) by striking out "23 years" in such subparagraph and inserting in lieu thereof "33 years";

(3) by striking out "installments of principal need not be paid, but interest shall accrue and be paid" in subparagraph (C) and inserting in lieu thereof "installments of principal and interest need not be paid, but interest shall accrue";

(4) by striking out "three years" in subparagraph (C)(ii) and inserting in lieu thereof "four years";

(5) by striking out "the 15-year period or the 23-year period" in subparagraph (C) and inserting in lieu thereof "the 25-year period or the 33-year period";

(6) by inserting "except as provided in subparagraph (C)" after "period of the loan" in subparagraph (D);

(7) by striking out "otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal," in subparagraph (D);

(8) by inserting "for the purposes of calculating a repayment schedule" before the semicolon in subparagraph (D);

(9) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(10) by inserting after subparagraph (D) the following:

"(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;".

(c) Section 731(c) is amended by inserting before the period a comma and "except as provided in section 731(a)(2)(C)".

CERTIFICATE OF FEDERAL LOAN INSURANCE

SEC. 2729. Section 732 (42 U.S.C. 294e) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this section shall be construed to preclude the lender and the borrower, by mutual agreement, from consolidating all of the borrower's debts into a single instrument, except that the portion of such debt that is insured under this subpart shall not be consolidated on terms less favorable to the borrower than if no consolidation had occurred and no loan under this subpart may be consolidated with any other loan if, as a result of such consolidation, the Federal Government becomes liable for any payment of principal or interest under the provisions of section 439(o) of the Higher Education Act of 1965.".

DEFAULTS

SEC. 2730. Section 733(g) (42 U.S.C. 294f(g)) is amended to read as follows:

"(g) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title 11, United States Code, only if such discharge is granted—

"(1) after the expiration of the 5-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 731(a)(2), when repayment of such loan is required;

"(2) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and

"(3) upon the condition that the Secretary shall not have waived the Secretary's rights to apply subsection (f) to the borrower and the discharged debt.".

DEFINITIONS; STUDENT ASSISTANCE

SEC. 2731. (a) Section 737(1) (42 U.S.C. 294j(1)) is amended to read as follows:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health or chiropractic, or a graduate program in health administration or clinical psychology.".

(b) Section 737 is further amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) (as amended by subsection (a) of this section) the following new paragraphs:

"(2) The term 'school of chiropractic' means a school which provides training leading to a degree of doctor of chiropractic or an equivalent degree and which is accredited in the manner described in section 701(5).

"(3) The term 'graduate program in clinical psychology' means a graduate program in a public or nonprofit private institution in a State which provides training leading to a doctoral degree in clinical psychology or an equivalent degree and which is accredited in the manner described in section 701(5).".

ELIGIBLE STUDENTS

SEC. 2732. Subpart I of part C of title VII is amended by inserting after section 737 the following new section:

"DETERMINATION OF ELIGIBLE STUDENTS

"SEC. 737A. For purposes of determining eligible students under this part, in the case of a public school in a State that offers an

accelerated, integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four-year school of medicine which provides the remaining training leading to a degree of doctor of medicine, whenever in this part a provision refers to a student at a school of medicine, such reference shall include only a student enrolled in any of the last four years of such accelerated, integrated program of study.".

ELIGIBILITY OF INSTITUTIONS

SEC. 2733. (a) Section 739(a) (42 U.S.C. 294k(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out "whether" in paragraph (3) and inserting in lieu thereof "whenever";

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) the collection of information from the borrower, lender, or eligible institution to assure compliance with the provisions of section 731.".

(b) Section 739(b) is amended to read as follows:

"(b) The Secretary shall require an eligible institution to record, and make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

AUTHORIZATIONS

SEC. 2734. (a) The first sentence of section 742(a) (42 U.S.C. 2940(a)) is amended by striking out "and" after "1979," and by inserting before the period a comma and $12,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984".

(b) The second sentence of section 742(a) is repealed.

INTEREST RATE

SEC. 2735. Section 741(e) (42 U.S.C. 294n(e)) is amended by striking out "7" and inserting in lieu thereof "9".

DISTRIBUTION OF ASSETS FROM LOAN FUNDS

SEC. 2736. Section 743 (42 U.S.C. 294p) is amended by striking out "1983" each place it appears and inserting in lieu thereof "1987".

EXTENSION OF SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

SEC. 2737. (a) Section 758(d) (42 U.S.C. 294z(d)) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "$6,000,000 for the fiscal year ending September 30, 1982, $6,500,000 for the fiscal year ending September 30, 1983, and $7,000,000 for the fiscal year ending September 30, 1984".

(b) Section 758(c) is amended (1) by striking out "distribute grants under this section among all schools of the health professions, but shall", and (2) by striking out "such grants" and inserting in lieu thereof "grants under subsection (a)".

DEPARTMENTS OF FAMILY MEDICINE

SEC. 2738. (a) Section 780(a) (42 U.S.C. 295g(a)) is amended by striking out "and maintain" and by inserting in lieu thereof a comma and "maintain, or improve".

(b) Section 780(b)(1)(D) is amended—

(1) by striking out "have control over" and inserting in lieu thereof "have control over (or in the case of a school of osteopathy, have control over or be closely affiliated with)"; and

(2) by striking out "twelve" and inserting in lieu thereof "nine".

(c) Section 780(c) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,500,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984".

AREA HEALTH EDUCATION CENTERS

SEC. 2739. (a) Section 781(c)(2) (42 U.S.C. 295g-1(c)(2)) is amended by adding a new sentence after the sentence at the end thereof to read as follows: "The Secretary may waive, for good cause shown, all or part of the requirement of paragraph (2) as it applies to a medical or osteopathic school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.".

(b) Section 781(d)(2)(C) is amended by inserting "a rotating osteopathic internship or" after "conduct".

(c) Section 781(d)(2)(E) is amended by striking out "support services" and inserting in lieu thereof "educational support services".

(d) Section 781(g) is amended (1) by striking out "and" after "1979,", and (2) by inserting a comma before the period and the following: "$21,000,000 for the fiscal year ending September 30, 1982, $22,500,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984,".

(e)(1) Effective October 1, 1981, subsection (a) of section 781 is amended to read as follows:

"SEC. 781. (a)(1) The Secretary shall enter into contracts with schools of medicine and osteopathy for the planning, development, and operation of area health education center programs.

"(2) The Secretary shall enter into contracts with schools of medicine and osteopathy, which have previously received Federal financial assistance for an area health education center program under section 802 of the Health Professions Educational Assistance Act of 1976 in fiscal year 1979, or under this section to carry out under area health education center programs—

"(A) projects to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system;

"(B) projects to encourage the regionalization of educational responsibilities of the health professions schools; and

"(C) projects designed to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps scholarship program to effectively provide health services in health manpower shortage areas.".

(2) The first sentence of subsection (e) is repealed.

(3) Subsection (e) is amended by adding after paragraph (3) the following: "The Secretary may vest in entities which have received contracts under section 802 of the Health Professions Educational Assistance Act of 1976, section 774 as in effect before October 1, 1977, or under subsection (a) of this section for area health education centers programs title to any property acquired on behalf of the United States by that entity (or furnished to that entity by the United States) under that contract.".

(4) The first sentence of subsection (f) is amended to read as follows: "For purposes of this section, the term 'area health education center program' means a program which is organized as provided in subsection (b) and under which the participating medical and osteopathic schools and the area health education centers meet the requirements of subsections (c) and (d).".

(5) Subsection (g) of such section is amended by adding at the end the following: "The Secretary may obligate not more than 10 percent of the amount appropriated under this subsection for any fiscal year for contracts under subsection (a)(2).".

PHYSICIAN ASSISTANTS

SEC. 2740. (a) Section 783(e) (42 U.S.C. 295g-3(e)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$5,000,000 for the fiscal year ending September 30, 1982, $5,500,000 for the fiscal year ending September 30, 1983, and $6,000,000 for the fiscal year ending September 30, 1984".

(b) Section 783(c) is amended by striking out "830" and inserting in lieu thereof "822".

(c)(1) Subsection (a) of section 783 is amended to read as follows:

"(a) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(7)).".

(2) The heading for section 783 is amended to read as follows:

"PROGRAMS FOR PHYSICIAN ASSISTANTS".

(d) Section 783 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

SEC. 2741. (a) Section 784(a) (42 U.S.C. 295g-4(a)) is amended—

(1) by inserting ", public or private nonprofit hospital, or any other public or private nonprofit entity" after "osteopathy";

(2) by striking out "and" after the semicolon in paragraph (1);

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new paragraphs:

"(3) to plan, develop, and operate a program for the training of physicians who plan to teach in a general internal medicine or general pediatrics training program; and

"(4) which provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a general internal medicine or general pediatrics training program.".

(b) Section 784(b) (42 U.S.C. 295g-4(b)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$17,000,000 for the fiscal year ending September 30, 1982, $18,000,000 for the fiscal year ending September 30, 1983, and $20,000,000 for the fiscal year ending September 30, 1984".

FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

SEC. 2742. (a) Section 786(d) (42 U.S.C. 295g-6(d)) is amended—

(1) by striking out "and" after "1979,";

(2) by inserting after "1980" a comma and the following: "$32,000,000 for the fiscal year ending September 30, 1982, $34,000,000 for the fiscal year ending September 30, 1983, and $36,000,000 for the fiscal year ending September 30, 1984"; and

(3) by adding at the end thereof the following new sentence: "In making grants and entering into contracts under this section with amounts appropriated under this subsection for the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, the Secretary shall give priority to grants and contracts for residency or internship programs under paragraphs (1) and (2) of subsection (a)."

(b) Section 786(a)(1) is amended by striking out "a continuing education program or".

(c) Section 786 is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

SEC. 2743. Effective with respect to fiscal years beginning after September 30, 1981, section 787 (42 U.S.C. 295g-7) is amended—

(1) by inserting "allied health," after "pharmacy," in subsection (a)(1), and

(2) by amending subsection (b) to read as follows:

"(b) There are authorized to be appropriated for grants and contracts under subsection (a)(1), $20,000,000 for the fiscal year ending September 30, 1982, $21,500,000 for the fiscal year ending September 30, 1983, and $23,000,000 for the fiscal year ending September 30, 1984. Not less than 80 percent of the funds appropriated in any fiscal year shall be obligated for grants or contracts to institutions of higher education and not more than 5 percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers."

CONVERSION AND CURRICULUM GRANTS

SEC. 2744. (a)(1) Subsections (a) and (b) of section 788 (42 U.S.C. 295g-8) are repealed.

(2) Notwithstanding the amendment made by paragraph (1), a school which received a grant under section 788(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, may continue to receive grants under such section (as in effect on the day before the date of the enactment of this Act) for each year such school is a new school as determined under such section. For purposes of making such grants, there are authorized to be appropriated such sums as may be necessary.

(b) Subsection (c) of such section is redesignated as subsection (a) and effective with respect to fiscal years beginning after September 30, 1981, is amended to read as follows:

"(a)(1) The Secretary may make grants to schools which provide the first two years of education leading to the degree of doctor of medicine to assist the schools in accelerating the date they will become schools of medicine.

"(2) The amount of a grant under paragraph (1) to a school shall be equal to the product of $25,000 and the number of full-time, third-year students which the Secretary estimates will enroll in the school in the school year beginning in the fiscal year in which such grant is made. Estimates by the Secretary under this paragraph of the number of full-time, third-year students to be enrolled in the school may be made on assurances provided by the school.

"(3) To be eligible to apply for a grant under paragraph (1), the applicant must be a public or nonprofit school providing the first two years of education leading to the degree of doctor of medicine and be accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.".

(c) Subsection (d) of such section is redesignated as subsection (b) and is amended—

(1) by inserting "dentistry," before "optometry" in paragraph (6),

(2) by striking out "and" at the end of paragraph (20),

(3) by striking out the period at the end of paragraph (21) and inserting in lieu thereof a semicolon, and

(4) by adding at the end the following:

"(22) training of health professionals in the diagnosis, treatment, and prevention of diabetes and other severe chronic diseases and their complications;

"(23) dental education, the training of expanded function dental auxiliaries, and dental team practice; and

"(24) training of allied health personnel.".

(d) Subsections (f) and (g) of such section are repealed.

(e) Subsection (e) of such section is redesignated as subsection (f) and effective with respect to fiscal years beginning after September 30, 1981, is amended to read as follows:

"(f) For purposes of this section, there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1982; $6,500,000 for the fiscal year ending September 30, 1983; and $7,000,000 for the fiscal year ending September 30, 1984.".

(f) Section 788 is amended by inserting after subsection (b) (as redesignated by subsection (c) of this section) the following new subsections:

"(c)(1) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or other appropriate public or nonprofit private entities to assist in meeting the costs of planning, establishing, and operating projects to provide support services to health professionals practicing in health manpower shortage areas designated under section 332. Such support services may include continuing education, relief services, specialist referral services, and placement of students in a preceptorial relationship with the practitioner.

"(2) No grant may be made to or contract entered into with an entity under paragraph (1)—

"(A) unless the entity agrees to provide support services to any physician, dentist, veterinarian, optometrist, podiatrist, or pharmacist (as appropriate to the category of health professionals proposed to be served by the grant or contract) who requests such services within the health manpower shortage area proposed to be served, including any member of the National Health Service Corps;

"(B) to carry out activities required to be carried out under section 781; or

"(C) unless the amount of the award under this section is matched by a no less than equal amount from non-Federal sources.

"(3) Not more than 15 percent of funds available to carry out this subsection may be used by the Secretary to fund eligible recipients to carry out research relating to the support needs of practitioners in health manpower shortage areas, nor shall more than 30 percent of such funds be used to provide continuing education.

"(d) The Secretary may make grants to and enter into contracts with schools of medicine or osteopathy or other appropriate public or nonprofit private entities to assist in meeting the costs of such schools or entities of providing projects to—

"(1) plan, develop, and establish courses, or expand or strengthen instruction in geriatric medicine; and

"(2) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(e) The Secretary may make grants to and enter into contracts with schools of podiatry to assist in meeting the costs to such schools of providing projects to—

"(1) recruit students who reside in areas having shortages of podiatric manpower, as determined by the Secretary; and

"(2) to operate clinical training programs at public or nonprofit entities located in such areas.".

FINANCIAL DISTRESS; ADVANCED FINANCIAL DISTRESS

SEC. 2745. Title VI is amended by inserting after section 788 the following new sections:

"FINANCIAL DISTRESS GRANTS

"SEC. 788A. (a) The Secretary may make grants to, and enter into contracts with, a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health that is in serious financial distress for the purposes of assisting such school to—

"(1)(A) meet the costs of operation if such school's financial status threatens its continued operation; or

"(B) meet applicable accreditation requirements if such school has a special need to be assisted in meeting such requirements; and

"(2) carry out appropriate operational, managerial, and financial reforms.

"(b) Any grant or contract under this section may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree to—

"(1) disclose any financial information or data necessary to determine the sources or causes of such school's financial distress;

"(2) conduct a comprehensive cost analysis study in cooperation with the Secretary; and

"(3) carry out appropriate operational, managerial, and financial reforms including the securing of increased financial support from non-Federal sources.

"(c) No school may receive a grant under this section if such school has previously received support for three or more years under this section or under section 788(b) (as such section was in effect prior to October 1, 1981).".

"ADVANCED FINANCIAL DISTRESS ASSISTANCE

"SEC. 788B. (a) The Secretary may enter into a multiyear contract with a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy to provide financial assistance to such school to meet incurred or prospective costs of operation if the Secretary determines that payment of such costs is essential to remove the school from serious and long-

standing financial instability. To be eligible for a contract under this section, a school must have previously received financial support under section 788A or under section 788(b) (as such section was in effect prior to October 1, 1981) for a period of not less than three years.

"(b) No school may enter into a contract under this section unless—

"(1) the school has submitted to the Secretary a plan providing for the school to achieve financial solvency within five years and has agreed to carry out such plan;

"(2) such plan includes securing increased financial support from non-Federal sources;

"(3) such plan has been reviewed by a panel selected by the Secretary and consisting of three experts in the field of financial management who are not directly affiliated with the school or the Federal Government; and

"(4) the Secretary determines, after consultation with such panel, that such plan has a reasonable likelihood of achieving success.

"(c) The panel described in subsection (b)(3) shall be appointed by the Secretary within thirty days after the date of receipt of the school's plan and shall be dissolved no later than forty-five days after the panel's recommendation has been transmitted to the Secretary. Members of the panel shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they perform duties.

"(d) Any contract under this section may be entered into upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree to—

"(1) disclose any financial information or data necessary to determine the sources or causes of such school's financial distress;

"(2) conduct a comprehensive cost analysis study in cooperation with the Secretary; and

"(3) carry out appropriate operational, managerial, and financial reforms including the securing of increased financial support from non-Federal sources.

"(e) Pursuant to the approved plan in subsection (b), funds received under this section may be used to pay short-term or long-term debts of such school, meet accreditation requirements, or meet other costs, payment of which is essential to the continued operation of the institution or to permit such institution to achieve financial solvency within the period of the contract.

"(f) No school may receive support under this section for more than five years. No contract may be entered into under this section, or continued, in a fiscal year in which the school receives support under section 788A.

"(g) An application for a contract under this section shall contain or be supported by assurances that the applicant will, in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, expend during the fiscal year for which such contract is sought, an amount of funds from non-Federal sources (other than funds for construction and any contract under this section) at least as great as the average annual amount of funds from non-Federal sources expended by such applicant in the preceding two years.

"(h) For the purpose of entering into contracts to carry out this section and section 788A, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, and each of the succeeding two fiscal years. Of the amounts appropriated under the preceding sentence, not more than $2,000,000 shall be available under section 788A. Funds provided under this section shall remain available until expended without regard to any fiscal year limitation.".

PUBLIC HEALTH AND HEALTH ADMINISTRATION

SEC. 2746. (a)(1) Section 770(e)(4) (42 U.S.C. 295f(e)(4)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$6,500,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $7,500,000 for the fiscal year ending September 30, 1984,".

(2) Section 771(e) (42 U.S.C. 295g(e)) is amended by striking out ", in addition to the requirements of subsection (a)," and by adding at the end thereof the following sentence: "The requirements of subsection (a)(1) shall not apply to schools of public health.".

(b)(1) Section 791(d) (42 U.S.C. 295h(d)) is amended by striking out "and" after "1979," and by inserting before the period the following: ", $1,500,000 for the fiscal year ending September 30, 1982, $1,750,000 for the fiscal year ending September 30, 1983, and $2,000,000 for the fiscal year ending September 30, 1984".

(2) Section 749 (42 U.S.C. 249s) is inserted after section 791, redesignated as section 791A, and amended in subsection (c) (A) by striking out "and" after "1979;", and (B) by inserting before the period a semicolon and the following: "and $500,000 for the fiscal year ending September 30, 1982, and the next two fiscal years".

(c) Section 792 (42 U.S.C. 295h-1) is repealed.

(d) Section 748 (42 U.S.C. 294r) is inserted after section 791A, redesignated as section 792, and amended (1) by striking out "749" in subsection (a)(2) and inserting in lieu thereof "791A", (2) by striking out "postbaccalaureate" in subsection (b)(3)(A)(i) and inserting in lieu thereof "baccalaureate", (3) by striking out "and" after "1979;" in subsection (c), and (4) by inserting before the period in such subsection a semicolon and the following: "$3,000,000 for the fiscal year ending September 30, 1982; $3,500,000 for the fiscal year ending September 30, 1983; and $4,000,000 for the fiscal year ending September 30, 1984".

(e) Part C of title VII is amended by striking out "Subpart III—Traineeships for Students in Schools, Public Health and Other Graduate Programs".

(f) Section 793 (42 U.S.C. 295h-3) entitled "statistics and annual report" is redesignated as section 794 and the following new section is inserted after section 792:

"TRAINING IN PREVENTIVE MEDICINE

"SEC. 793. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and public health to meet the costs of projects—

"(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine; and

"(2) to provide financial assistance to residency trainees enrolled in such programs.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(c) For the purpose of grants under subsection (a), there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1982, and $1,500,000 for the fiscal year ending September 30, 1983, and $2,000,000 for the fiscal year ending September 30, 1984.".

PHYSICIAN STUDY

SEC. 2747. (a) The Secretary of Health and Human Services shall arrange, in accordance with subsection (c), for a study to determine—

(1) the implications of the increase in the supply of physicians and the projected distribution of the increased number of physicians in the various medical specialties for—

(A) the cost of health care,

(B) the distribution of all physicians by geographic area, and

(C) the quality of health care; and

(2) the implications of the patterns of payments of physicians by Federal and other public and private third-party payers (including differences in the levels of payments to physicians in various medical specialties and geographic areas and differences in the amount of payments which support post-graduate training programs in such specialties) for—

(A) the distribution of physicians in the various medical specialties,

(B) the cost of health care,

(C) the distribution of physicians by geographic area, and

(D) the quality of health care.

(b) An interim report on such study shall be completed not later than March 30, 1983. Such interim report shall include an analysis of the most effective means of providing financial assistance to graduate medical education in the United States in general internal medicine, general pediatrics, and family medicine, with particular attention to identifying ways of reducing or eliminating the need for special Federal financial assistance for such programs. A final report of such study shall be completed not later than September 30, 1984. Both reports shall be submitted to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives.

(c)(1) The Secretary shall enter into a contract with the Institute of Medicine of the National Academy of Sciences to conduct the study described in subsection (a). If the Institute of Medicine is unwilling to enter into a contract to conduct such study, then the Secretary shall enter into a contract with another appropriate nonprofit private entity to conduct such study and prepare and submit the reports thereon as provided in subsection (b).

(2) The authority of the Secretary to enter into a contract under paragraph (1) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

CHAPTER 3—NURSE TRAINING

REPEAL OF ENROLLMENT INCREASE REQUIREMENT

SEC. 2751. The Secretary may waive the enforcement of assurances given by any school under section 802(b)(2)(D) (42 U.S.C. 296a(b)(2)(D)).

FINANCIAL DISTRESS GRANTS

SEC. 2752. Section 815(c) (42 U.S.C. 296j(c)) is amended by striking out "and" after "1977," and by inserting before the period a comma and "$3,000,000 for the fiscal year ending September 30, 1982, $2,000,000 for the fiscal year ending September 30, 1983, and $1,000,000 for the fiscal year ending September 30, 1984".

SPECIAL PROJECTS

SEC. 2753. (a)(1) Section 820(a) (42 U.S.C. 296k(a)) is amended (A) by striking out paragraphs (1), (2), and (8), (B) by inserting "or" at the end of paragraph (6), (C) by striking out the semicolon and "or" at the end of paragraph (7) and inserting in lieu thereof a period, and (D) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively.

(2) Notwithstanding the amendment made by paragraph (1) of this subsection and paragraph (2) of subsection (b), an entity which received a grant or contract under section 820(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, for a project described in paragraph (1), (2), or (8) of such section (as in effect when it received the grant or contract) may receive one additional grant or contract under such section for such project.

(b) Section 820(d) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,500,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984"; and

(2) by amending the last sentence to read as follows: "Of the funds appropriated under this subsection for any fiscal year beginning after September 30, 1981, not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(1), not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(4), and not less than 10 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(5).".

ADVANCED NURSE TRAINING

SEC. 2754. (a) Section 821(a)(1) (42 U.S.C. 296l(a)(1)) is amended by striking out "to each" and inserting in lieu thereof "to teach".

(b) Section 821(b) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$14,000,000 for the fiscal year ending September 30, 1982, $15,000,000 for the fiscal year ending September 30, 1983, and $16,000,000 for the fiscal year ending September 30, 1984".

(c) Section 821(a) is amended (1) by striking out "(1)" after "(a)", and (2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

NURSE PRACTITIONER PROGRAMS

SEC. 2755. (a) Section 822(b)(1) (42 U.S.C. 296m(b)(1)) is amended by striking out "who are residents of a health manpower shortage area (designated under section 332)" and inserting in lieu thereof a period and the following: "In considering applications for a grant or contract under this subsection, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332.".

(b)(1) Section 822(b)(3) is amended by inserting before the period the following: "for a period equal to one month for each month for which the recipient receives such a traineeship".

(2) Section 822(b) is amended by adding after paragraph (3) the following:

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

"(C) Any amount which the United States is entitled to recover under subparagraph (A) or (B) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.".

(c) Section 822(e) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$12,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984".

TRAINEESHIPS

SEC. 2756. Section 830(b) (42 U.S.C. 297(b)) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,500,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984"; and

(2) by adding at the end the following: "Not less than 25 percent of the funds appropriated under this subsection for any fiscal year shall be obligated for traineeships described in subsection (a)(1)(A), except that if the obligation of that amount of the funds appropriated under this subsection will prevent the continuation of a traineeship to an individual who received a traineeship under subsection (a) for the fiscal year ending September 30, 1981, the Secretary shall reduce the amount to be obligated for traineeships described in subsection (a)(1)(A) by such amount as may be necessary for the continuation of traineeships first awarded in such fiscal year. Priority in the award of traineeships under subsection (a)(1)(C) shall go to nurse midwife trainees.".

STUDENT LOANS

SEC. 2757. (a) Section 835(b)(4) (42 U.S.C. 297a(b)(4)) is amended by striking out ", and that while the agreement remains in effect no such student who has attended such school before October 1, 1980, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958".

(b) Section 836(b)(5) (42 U.S.C. 297b(b)(5)) is amended by striking out "3" and inserting in lieu thereof "6".

(c) Section 837 (42 U.S.C. 297c) is amended (1) by striking out "and" after "1978,", (2) by inserting after "September 30, 1980" a comma and the following: "$14,000,000 for the fiscal year ending September 30, 1982, $16,000,000 for the fiscal year ending September 30, 1983, and $18,000,000 for the fiscal year ending September 30, 1984", (3) by striking out "1981" in the second sentence and inserting in lieu thereof "1985", (4) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1984", and (5) by adding at the end the following: "Of the amount appropriated under the first sentence for the fiscal year ending September 30, 1982, and the two succeeding fiscal years, not less than $1,000,000 shall be obligated in each such fiscal year for loans from student loan funds established under section 835 to individuals who are qualified to receive such loans and who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least seven years. A loan to such an individual may not exceed $500 for any academic year.".

(d) Section 839 (42 U.S.C. 297e) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1987".

SCHOLARSHIPS

SEC. 2758. (a) Section 845(b) (42 U.S.C. 297j(b)) is amended by striking out "and for each of the two succeeding fiscal years".

(b) Section 845(c)(1)(B) is amended by striking out ", and for each of the two succeeding fiscal years".

(c) Section 846 (42 U.S.C. 297k) is repealed.

GENERAL PROVISIONS

SEC. 2759. (a) Section 851(a) (42 U.S.C. 298(a)) is amended by striking out "and the Commissioner of Education, both of whom shall be ex officio members" and inserting in lieu thereof "and an ex officio member".

(b)(1) Section 853(2) (42 U.S.C. 298b(2)) is amended by inserting "in a State" before the period.

(2) Section 853(6) is amended by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary".

(c) Section 856 (42 U.S.C. 298b-3) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

CHAPTER 4—SURGEON GENERAL

SURGEON GENERAL

SEC. 2765. (a) The first sentence of section 211(a)(1) of the Public Health Service Act (42 U.S.C. 212(a)(1)) is amended (1) by striking out "shall be retired on" and inserting in lieu thereof "shall, if he applies for retirement, be retired on or after", and (2) by amending the last sentence to read as follows: "This paragraph does not permit or require the involuntary retirement of any individual because of the age of the individual.".

(b) Section 204 of the Public Health Service Act (42 U.S.C. 205) is amended by strik-

ing out the second sentence and inserting in lieu thereof the following: "The Surgeon General shall be appointed from individuals who (1) are members of the Regular Corps, and (2) have specialized training or significant experience in public health programs.".

(c) The first sentence of section 207(b)(1) of the Public Health Service Act (42 U.S.C. 209(b)(1)) is amended by inserting "(other than an appointment under section 204)" after "no such appointment".

(2) The second sentence of such section 204 is amended to read as follows: "Upon the expiration of such term, the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular or Reserve Corps that he would have occupied had he not served as Surgeon General.".

And the Senate agree to the same.

Solely for consideration of title I of the House bill (except that portion of section 1015 entitled "International Programs, Public Law 480", and the 9th, 14th, 15th, 16th and 17th paragraphs of such section 1015), and title I (except parts D and G and section 142) of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr. (except for sections 1015, 1021, 1027, and 1029 of the House bill and section 112 of the Senate amendment),
DAVID R. BOWEN (except for sections 1001-14 of the House bill and sections 151-169 of the Senate amendment),
FREDERICK RICHMOND,
CHARLES ROSE (only for sections 1027 and 1029 of the House bill and section 112 of the Senate amendment),
JIM WEAVER (only for section 1015 of the House bill),
TOM HARKIN (only for sections 1001-14 and 1021 of the House bill and sections 151-169 of the Senate amendment),
BILL WAMPLER,
PAUL FINDLEY (except for section 1015 of the House bill and sections 131-33 of the Senate amendment),
JAMES M. JEFFORDS (except for sections 1023-6, 1027, and 1029 of the House bill and sections 111 and 112 of the Senate amendment),
TOM HAGEDORN (except for sections 1001-14 and 1015 of the House bill and sections 151-169 of the Senate amendment),
WILLIAM M. THOMAS (only for sections 1015, 1023-6, and 1029 of the House bill and sections 111 and 131-33 of the Senate amendment),
LARRY J. HOPKINS (only for sections 1027 and 1029 of the House bill and section 112 of the Senate amendment),
E. THOMAS COLEMAN (only for sections 1001-14 of the House bill and sections 151-169 of the Senate amendment),
RON MARLENEE (only for section 1015 of the House bill and sections 511-13 and 516-19 of the Senate amendment),
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
Managers on the Part of the Senate.

Solely for the consideration of that portion of section 1015 entitled "International programs, Public Law 480" and title VII, sections 7001(12), 7002(10), and 7003(9) of the House bill, and title I, part D, of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr. (except for the section 1015 provision),
DAVID R. BOWEN,
FREDERICK RICHMOND,
JIM WEAVER (for the section 1015 provision only),
BILL WAMPLER,
JAMES JEFFORDS,
TOM HAGEDORN (except for the section 1015 provision),
WILLIAM M. THOMAS,
RON MARLENEE (for the section 1015 provision only).
From the Committee on Foreign Affairs:
CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
BEN ROSENTHAL,
LEE H. HAMILTON,
JONATHAN BINGHAM,
WM. BROOMFIELD,
ED DERWINSKI,
PAUL FINDLEY,
LARRY WINN, Jr.,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
EDWARD ZORINSKY,
Managers on the Part of the Senate.

Solely for consideration of the 14th through the 17th paragraphs in section 1015, and section 8002, of the House bill, and title V, subtitle B, part 1 of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
DAVID R. BOWEN,
FREDERICK RICHMOND,
JIM WEAVER,
BILL WAMPLER,
PAUL FINDLEY (except for section 1015 of the House bill),
JAMES M. JEFFORDS,
WILLIAM M. THOMAS (for section 1015 of the House bill only),
RON MARLENEE.
From the Committee on Interior and Insular Affairs (for title V, subtitle B, part 1 of the Senate amendment and section 8002 only):
MO UDALL,
PHIL BURTON,
ROBERT W. KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, Jr.,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY.
From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 8007 of the House bill and title VI, subtitle B, part B, of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr.,
DAVID R. BOWEN,
FREDERICK RICHMOND,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
TOM HAGEDORN.
From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN.
From the Committee on Interior and Insular Affairs (for title V,

subtitle B, part 1 of the Senate amendment and for section 8002 only):
MO UDALL,
PHIL BURTON,
ROBERT W. KASTENMEIER,
ABRAHAM KAZEN, JR.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, JR.,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title V, section 5112 of the House bill.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS A. FOLEY,
ED JONES,
GEORGE E. BROWN, JR.,
DAVID R. BOWEN,
FRED RICHMOND
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
Managers on the Part of the Senate.

Solely for consideration of section 15452 of the House bill.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN JR.,
FRED RICHMOND,
TOM HARKIN,
BILLY WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
E. THOMAS.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, JR.,
HAROLD FORD,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PAT LEAHY.
From the Committee on Finance:
ROBERT DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
HARRY F. BYRD, JR.,
Managers on the Part of the Senate.

Solely for consideration of section 1117(e) of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, JR.,
DAVID R. BOWEN,
FRED RICHMOND,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title V, subtitle B, part 2, and section 142, of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
DAVID R. BOWEN,
FRED RICHMOND,
JIM WEAVER,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
RON MARLENEE.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
TIM WIRTH,
PHILIP R. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON.
From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PAT LEAHY,
Managers on the Part of the Senate.

Solely for consideration of the 9th paragraph of section 1015 of the House bill.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS L. FOLEY,
ED JONES,
DAVID R. BOWEN,
FRED RICHMOND,
JIM WEAVER,
BILL WAMPLER,
JAMES M. JEFFORDS,
WILLIAM M. THOMAS,
RON MARLENEE,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title II of the House bill and title II of the Senate amendment.

From the Committee on Armed Services:
MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
RICHARD C. WHITE,
BILL NICHOLS,
JACK BRINKLEY,
WILLIAM L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
DONALD J. MITCHELL,
Managers on the Part of the House.

From the Committee on Armed Services:
JOHN TOWER,
GORDON J. HUMPHREY,
ROGER W. JEPSEN,
J. J. EXON,
CARL LEVIN,
Managers on the Part of the Senate.

Solely for consideration of title III, subtitle A (except sections 3110(d) and 3301(g)), section 3676, and subtitle C of House bill, and title III, subtitles A and C of the Senate amendment.

From the Committee on Banking, Finance and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
CHALMERS P. WYLIE,
STEWART MCKINNEY,

THOMAS B. EVANS, Jr.,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:
JAKE GARN,
JOHN HEINZ,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

Solely for consideration of section 3110(d) and title VI, subtitle B of the House bill.

From the Committee on Banking, Finance and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
CHALMERS P. WYLIE,
STEWART MCKINNEY,
TOM EVANS.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO.
From the Committee on Energy and Commerce:
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 3301(g) of the House bill and title V, subtitle E of the Senate amendment.

From the Committee on Banking, Finance, and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
CHALMERS P. WYLIE,
STEWART B. MCKINNEY,
TOM EVANS,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of title III, subtitle B (except section 3676) of the House bill.

From the Committee on Banking, Finance, and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
STEWART B. MCKINNEY,
TOM EVANS,
Managers on the Part of the House.

From the Committee on Foreign Relations:
CHARLES H. PERCY,
CHARLES MCC. MATHIAS, JR.,
NANCY LANDON KASSEBAUM,
CLAIBORNE PELL,
Managers of the Part of the Senate.

Solely for consideration of title IV of the House bill and section 904 of the Senate amendment

From the Committee on the District of Columbia:
RONALD V. DELLUMS,
WALTER E. FAUNTROY,
ROMANO L. MAZZOLI,
MICKEY LELAND,
WILL H. GRAY,
MERVYN M. DYMALLY,
STEWART B. MCKINNEY,
STAN PARRIS,
TOM BLILEY,
MARJORIE S. HOLT,
Managers on the Part of the House.

From the Committee on Governmental Affairs:
W. V. ROTH, Jr.,
TED STEVENS,
TOM EAGLETON,
DAVID PRYOR,
Managers on the Part of the Senate.

Solely for consideration of title V, section 5001, subtitles A and B (except sections 5112, 5130, 5131, and 5133), subtitle C, chapter 1, subchapters B and C (except section 5397), subtitle C. chapter 1, subchapter E, and subtitle C, chapter 2, subchapter B of the House bill, and title XI, section 1101-8(16) through (19), part B (except section 1117(e)), and parts C, D, F, and G (except sections 1137 and 1163 and subparts 2 and 3 of part D) of the Senate amendment.

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Area A: (1) sections 5101, 5104, 5105, 5109, 5113, 5114, 5117, 5120, 5121, 5122, 5124, 5125, 5126, 5132, 5140, 5143, and 5211(2)-5211(12) of the House bill; (2) title V, subtitle C, chapter 1, subchapter B of the House bill; (3) title V, subtitle C, chapter 1, subchapter E of the House bill; (4) sections 1111, 1112, 1113, 1115, 1116, 1117(a), 1117(i), 1117(j), 1119, and 1120-1 of the Senate amendment; and (5) title XI, part C of the Senate amendment.

Area B: title V, subtitle C, chapter 1, subchapter (c) (except section 5397) of the House bill.

Area C: (1) sections 5103, 5106, 5107, 5108, 5110, 5115, 5116, 5118, 5119, 5123, 5128, 5135, 5139, 5140, 5142, 5144, 5211(1), 5211(13), 5211(14), and 5211(17)-(21) of the House bill; (2) sections 1117(g) and 1131-1 of the Senate amendment; (3) title XI, part D, subparts 3 through 5 of the Senate amendment; (4) sections 1152 of the Senate amendment; and (5) title XI, part G (except section 1163) of the Senate amendment.

Area D: (1) sections 5102, 5108, 5111, 5127, 5129, 5134, 5136, 5137, 5138, 5211(15), and 5211(16) of the House bill; (2) title V, subtitle C, chapter 2, subchapter B of the House bill; and (3) sections 1117(b)-(f), (except 1117(e)) 1118, and 1120 of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
AUGUSTUS F. HAWKINS (solely for area C),
WILLIAM D. FORD (solely for areas A and D),
PHIL BURTON (solely for area B),
WILLIAM CLAY (solely for area C),
MARIO BIAGGI (solely for area C),
IKE ANDREWS (solely for areas A and C),
PAUL SIMON (solely for area D),
GEO. MILLER (solely for areas A and B),
AUSTIN J. MURPHY (solely for areas B and C),
TED WEISS (solely for area D),
BALTASAR CORRADA (solely for area A),
PETER PEYSER (solely for area D),
PAT WILLIAMS (solely for area B),
WILLIAM R. RATCHFORD (solely for area B),
DENNIS ECKART (solely for area D),
JOHN M. ASHBROOK (for all areas except B),
JOHN N. ERLENBORN (solely for areas A and D),
JAMES M. JEFFORDS (solely for areas A and C),
WILLIAM F. GOODLING (solely for area A),
E. THOMAS COLEMAN (solely for area D),
ARLEN ERDAHL (solely for area C),
THOMAS E. PETRI (solely for area C),
LAWRENCE J. DENARDIS (solely for area D),
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of title V, subtitle C, chapter 2, subchapter A of the House bill and title I, part G of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
WILLIAM D. FORD,

IKE ANDREWS,
GEO. MILLER,
BALTASAR CORRADA,
JOHN M. ASHBROOK,
BILL GOODLING,
JAMES M. JEFFORDS,
LARRY E. CRAIG,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
RICHARD G. LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PAT LEAHY,
EDWARD ZORINSKY,
Managers on the Part of the Senate.

Solely for consideration of title V, sections 5114 and 5133, and of the House bill and title X, section 1002 of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
IKE ANDREWS,
JOHN M. ASHBROOK,
THOMAS E. PETRI,
BALTASAR CORRADA,
PAT WILLIAMS,
HAROLD WASHINGTON,
For all provisions except section 5114:
E. THOMAS, COLEMAN,
WENDELL BAILEY,
Managers on the Part of the House.

From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MC C. MATHIAS, JR.,
PAUL LAXALT,
J. R. BIDEN, JR.,
DENNIS D. DECONCINI,
Managers on the Part of the Senate.

Solely for consideration of section 1104-5 (a)(2) and (b)(9) of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
PHIL BURTON,
JOSEPH M. GAYDOS,
GEORGE MILLER,
RAY KOGOVSEK.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH L. DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH.
From the Committee on Labor and Human Resources:
CALIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title V, subtitle C, chapter 1, subchapters A and D; title XV, subtitle C, chapters 4 and 5 of the House bill and title VII, part I;. title XI, part D, subparts 2 and 3 of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
IKE ANDREWS,
BALTASAR CORRADA,
PAT WILLIAMS,
JOHN M. ASHBROOK.
For title V, subtitle C, chapter 1, subchapter A and title XV, subtitle C, chapter 5 of the House bill and title VII, part I and title XI, part D, subpart 3 of the Senate amendment:
MARIO BIAGGI,
AUSTIN J. MURPHY,
ARLEN ERDAHL.
For title V, subtitle C, chapter 1, subchapter D and title XV, subtitle C, chapter 4 of the House bill and title XI, part D, subpart 2 of the Senate amendment:
AUGUSTUS F. HAWKINS,
WILLIAM CLAY.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
PETE STARK,
ANDREW J. JACOBS,
HAROLD FORD,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
PHILIP R. SHARP,
J. J. FLORIO,
J. H. SCHEUER,
TOBY MOFFETT.
From the Committee on Energy and Commerce:
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORLEAD,
Managers on the Part of the House.

From the Committee on Finance:
ROBERT DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE.
From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS.
From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, JR.,
PAUL LAXALT,
Managers on the Part of the Senate.

Solely for consideration of title XV, sections 15427, 15428, and 15429, subtitle E of the House bill and title VII, sections 757, 758, and 759 of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
JOHN M. ASHBROOK.
For all matters except title XV, subtitle E of the House bill:
AUGUSTUS F. HAWKINS,
WILLIAM CLAY,
IKE ANDREWS,
BALTASAR CORRADA,
PAT WILLIAMS,
JAMES JEFFORDS.
For title XV, subtitle E of the House bill:
PHIL BURTON,
JOSEPH M. GAYDOS,
GEO. MILLER,
RAY KOGOVSEK.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, JR.,
HAROLD FORD,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Finance:
ROBERT DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
HARRY F. BYRD, JR.,
Managers of the Part of the Senate.

Solely for the consideration of section 5397 of the House bill.

From the Education and Labor Committee:
CARL D. PERKINS,
PHIL BURTON,
GEO. MILLER,
PAT WILLIAMS,
WILLIAM R. RATCHFORD.
From the Post Office and Civil Service Committee:
WILLIAM D. FORD,
PAT SCHROEDER,
GERALDINE A. FERRARO,
MARY ROSE OAKAR,
WILLIAM CLAY,
MICKEY LELAND,
EDWARD J. DERWINSKI,
GENE TAYLOR,
BENJAMIN A. GILMAN,
TOM CORCORAN,
Managers on the Part of the House.

From the Labor and Human Resources Committee for matters within their jurisdiction:
ORRIN G. HATCH,
ROBERT T. STAFFORD,

DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title V, sections 5130 and 5131 of the House bill.

From the Committee on Education and Labor:
CARL D. PERKINS,
WILLIAM D. FORD,
JOHN M. ASHBROOK,
JOHN N. ERLENBORN.
For section 5130 of the House bill:
IKE ANDREWS,
GEO. MILLER,
BALTASAR CORRADA,
BILL GOODLING,
JAMES M. JEFFORDS.
For section 5131 of the House bill:
PAUL SIMON,
PETER A. PEYSER,
DENNIS ECKART,
LAWRENCE J. DENARDIS,
Managers on the Part of the House.

From the Select Committee on Indian Affairs:
BILL COHEN,
MARK ANDREWS,
SLADE GORTON,
JOHN MELCHER,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapter 15, subtitle E, chapter 1 (except subchapter I, and (in section 6531(a)) paragraph (1) and the first sentence following paragraph (5) of the proposed new section 17), and subtitle E, chapter 2, subchapter C of the House bill, and title IV, parts A, B, and E and sections 421, 422, and 423 of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title VI, sections 6102 and 6103 and subtitle C, of the House bill, and title V, subtitle D, part 3 and subtitle G of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapter 2 (except section 6212) and chapter 11, subchapter A of the House bill, and title VII, parts C and D of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Finance:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

Solely for the consideration of title VI, subtitle E, chapter 2, subchapters A and B of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapters 1, 3, 4, (except subchapter 3), 5–10, 12, 13, and 14, and subtitle E, chapter 1, subchapter I, of the House bill, and title XI, part A (except sections 1101–4, 1104–5(a)(2) and (b)(9), 1101–8(16) through (19), and 1101–12), part E, and section 1163 of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapter 4, subchapter B of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SHEUER,
TOBY MOFFETT,
Managers on the Part of the House.

JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT
EDWARD MADIGAN,
CARLOS J. MOORHEAD.
From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, JR.,
PAUL LAXALT,
J. R. BIDEN, JR.,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Solely for consideration of sections 8004 (except the proviso at lines 2 through 24 on page 381 of the House engrossed bill) and 8010 of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,

J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
BENNETT J. JOHNSON,
Managers on the Part of the Senate.

Solely for consideration of section 8009 of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of section 8005 of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
ANTHONY TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Interior and Insular Affairs:
MO UDALL,
PHIL BURTON,
BOB KASTENMEIER,
ABRAHAM KAZEN, JR.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, JR.,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Select Committee on Indian Affairs:
WILLIAM S. COHEN,
MARK ANDREWS,
SLADE GORTON,
Managers on the Part of the Senate.

Solely for consideration of section 6101 and the proviso in section 8004 (lines 2 through 24 on page 381) of the House bill, and title V, subtitle D, parts 1 and 2 (except sections 534-11(a)(1)(A) and (G), 534-12(a)(1)(A), and 534-13(c), (e), (h), and (i)) of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
NORMAN F. LENT,
EDWARD MADIGAN
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of the sentence following paragraph (5) of the proposed new section 17 in section 6531(a) of the House bill, and section 427 of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of paragraph (1) of the proposed new section 17 in section 6531(a) of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
CARROL HUBBARD,
GERRY STUDDS,
GENE SNYDER, (GENE SNYDER for myself and Mr. FORSYTHE with his consent),
PAUL MCCLOSKEY,
JOEL PRITCHARD,
Managers on the Part of the House.

Solely for consideration of title VI, subtitle C, part B of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,

TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for the consideration of section 10003 and subtitle D, chapter 6 of title XV of the House bill.

From the Energy and Commerce Committee:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
From the Post office and Civil Service Committee:
WILLIAM D. FORD,
PATRICIA SCHROEDER,
GERALDINE A. FERRARO,
MARY ROSE OAKAR,
WILLIAM CLAY,
MICKEY LELAND,
EDWARD J. DERWINSKI,
GENE TAYLOR,
BENJAMIN A. GILMAN,
TOM CORCORAN.
From the Ways and Means Committee:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Finance Committee:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
HARRY F. BYRD, Jr.,
Managers on the Part of the Senate.

Solely for consideration of title VI, section 6212 and subtitle D, chapter 11, subchapters B and C, and title XV, sections 15600, 15602, 15614-16, 15622-24, 15631, 15632, 15633, and 15634 and subtitle D, chapter 5, of the House bill, and title VII, sections 711, 712, 714, 715, 716, 718, 719, 720, 720A-720G, and 729 of the Senate Amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.
From the Committee on Way and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Finance:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
HARRY F. BYRD, Jr.,
Managers on the Part of the Senate.

Solely for consideration of title VII (except sections 7001(12), 7002(10), and 7003(9)) of the House bill and title VIII of the Senate amendment.

From the Committee on Foreign Affairs:
CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
BENJAMIN S. ROSENTHAL,
LEE H. HAMILTON,
JONATHAN BINGHAM,
WM. BROOMFIELD,
EDWARD J. DERWINSKI,
PAUL FINDLEY,
LARRY WINN, Jr.
From the Committee on the Budget:
L. PANETTA,
Managers on the Part of the House.

From the Committee on Foreign Relations:
CHARLES PERCY,
CHARLES McC. MATHIAS, Jr.,
NANCY LANDON KASSEBAUM,
CLAIBORNE PELL,
J. R. BIDEN, Jr.,
Managers on the Part of the Senate.

Solely for consideration of title XVI of the House bill and sections 905 and 906 of the Senate amendment.

From the Committee on Government Operations:
JACK BROOKS,
L. H. FOUNTAIN,
DANTE B. FASCELL,
BEN ROSENTHAL,
DON FUQUA,
JOHN CONYERS,
FRANK HORTON,
JOHN N. ERLENBORN,
CLARENCE J. BROWN,
PAUL McCLOSKEY,
Managers on the Part of the House.

From the Committee on Governmental Affairs:
W. V. ROTH, Jr.,
TED STEVENS,
TOM EAGLETON,
DAVID PRYOR,
Managers on the Part of the Senate.

Solely for consideration of sections 8001, 8003, 8006, 8011, and 8012 of the House bill and title V, subtitles A, C, F, and H of the Senate amendment.

From the Committee on Interior and Insular Affairs:
MO UDALL,
PHIL BURTON,
BOB KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, Jr.,
DON YOUNG,
ROBT. J LAGOMARSINO,
DAN MARRIOTT.
From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN.
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. McCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
BENNETT J. JOHNSTON.
From the Committee on Environment and Public Works (solely for consideration of section 8003 and 8006 of the House bill and title V, subtitle C of the Senate amendment):
JIM ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of section 8008 of the House bill.

From the Committee on Interior and Insular Affairs:
MO UDALL,
PHILLIP BURTON,
BOB KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Select Committee on Indian Affairs:
WILLIAM S. COHEN,
MARK ANDREWS,

SLADE GORTON,
JOHN MELCHER,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title X (except section 1002) of the Senate amendment.

From the Committee on the Judiciary:
PETER W. RODINO,
BOB KASTENMEIER,
DON EDWARDS,
JOHN F. SEIBERLING,
GEORGE DANIELSON,
R. L. MAZZOLI,
ROBERT MCCLORY,
TOM RAILSBACK,
HAMILTON FISH, JR.,
CALDWELL BUTLER,
Managers on the Part of the House.

From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, JR.,
PAUL LAXALT,
J. R. BIDEN, JR.,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Solely for consideration of section 1137 of the Senate amendment.

From the Committee on the Judiciary:
PETE W. RODINO,
ROBERT W. KASTENMEIER,
DON EDWARDS,
JOHN F. SEIBERLING,
GEORGE E. DANIELSON,
ROMANO L. MAZZOLI,
ROBERT MCCLORY,
TOM RAILSBACK,
HAMILTON FISH, JR.,
M. CALDWELL BUTLER,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of sections 13016 and 13017 of the House bill.

From the Committee on the Judiciary:
PETE W. RODINO,
ROBERT W. KASTENMEIER,
DON EDWARDS,
JOHN F. SEIBERLING,
GEORGE E. DANIELSON,
ROMANO L. MAZZOLI,
ROBERT MCCLORY,
TOM RAILSBACK,
HAMILTON FISH, JR.,
M. CALDWELL BUTLER.
From the Committee on Small Business:
PARREN J. MITCHELL,
NEAL SMITH,
HENRY GONZALEZ,
JOHN J. LAFALCE,
BERKLEY BEDELL,
Managers on the Part of the House.

From the Committee on the Judiciary:
STROM THURMOND,
PAUL LAXALT,
J. R. BIDEN, JR.
From the Committee on Small Business:
LOWELL P. WEICKER, JR.,
RUDY BOSCHWITZ,
S. I. HAYAKAWA,
DALE BUMPERS,
Managers on the Part of the Senate.

Solely for consideration of title IX, subtitle A of the House bill and section 426 of the Senate amendment.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
NORMAN D'AMOURS,
CARROLL HUBBARD,
GERRY STUBBS,
GENE SNYDER,
PAUL N. MCCLOSKEY, JR.,
EDWIN B. FORSYTHE,
JOEL PRITCHARD,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title IX, subtitle C; and title XI, subtitle B, chapter 4 of the House bill.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
NORMAN D'AMOURS,
CARROLL HUBBARD,
GERRY E. STUDD,
GENE SNYDER,
PAUL MCCLOSKEY,
EDWIN B. FORSYTHE,
JOEL PRITCHARD.
From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title IX, subtitle B of the House bill and section 1101-4 of the Senate amendment.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
NORMAN D'AMOURS
CARROLL HUBBARD
GERRY STUDDS,
GENE SNYDER
PAUL MCCLOSKEY
EDWIN B. FORSYTHE,
JOEL PRITCHARD.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for the consideration of title X (except section 10003) of the House bill and sections 901-903 of the Senate amendment.

From the Post Office and Civil Service Committee:
WILLIAM D. FORD,
PATRICIA SCHROEDER,
GERLADINE A. FERRARO,
MARY ROSE OAKAR,
WM. CLAY,
MICKEY LELAND,
EDWARD J. DERWINSKI,
GENE TAYLOR,
BEN GILMAN,
TOM CORCORAN,
Managers on the Part of the House.

From the Governmental Affairs Committee:
W. V. ROTH, JR.,
TED STEVENS,
TOM EAGLETON,
D. PRYOR,
Managers on the Part of the Senate.

Solely for consideration of title XI, subtitle A, chapter 1 and sections 11022 (except those provisions relating to the Federal Highway Administration Highway Safety Programs) and 11023 of the House bill, and sections 424, 425, and 431-437 of the Senate amendment.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,

JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title XI, section 11021, section 11022 (to the extent relating to the Federal Highway Administration Highway Safety Program), subtitle 3, chapters 1, 2, and 3, and subtitle C of the House bill, and title VI, subtitle A, subtitle B, part A, subtitle C, part A, and subtitles D, E, and F of the Senate amendment.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title XI, subtitle A, chapter 3 of the House bill, and title III, part B of the Senate amendment.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:
JAKE GARN,
JOHN HEINZ,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

Solely for consideration of title XII of the House bill, and sections 534-11(a)(1)(A) and (G), 534-12(a)(1)(A), and 534-13(c), (e), (h), and (i) of the Senate amendment.

From the Committee on Science and Technology:
DON FUQUA,
ROBERT A. ROE,
TOM HARKIN,
MARILYN BOUQUARD,
DAN GLICKMAN,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 1101-12 of the Senate amendment.

From the Committee on Science and Technology:
DON FUQUA,
DOUG WALGREN,
GEORGE F. BROWN, Jr.,
BOB SHAMANSKY,
STAN LUNDINE,
MERVYN M. DYMALLY,
LARRY WINN, Jr.,
MARGARET M. HECKLER,
VIN WEBER,
JUDD GREGG,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title XIII (except sections 13016 and 13017) of the House bill and title XII of the Senate amendment.

From the Committee on Small Business:
PARREN J. MITCHELL,
NEAL SMITH,
HENRY GONZALEZ,
JOHN J. LAFALCE,
BERKLEY BEDELL,
JOSEPH M. MCDADE,
WM. S. BROOMFIELD,
DAN MARRIOTT,
LYLE WILLIAMS,
Managers on the Part of the House.

From the Committee on Small Business:
LOWELL P. WEICKER,
RUDY BOSCHWITZ,
S. I. HAYAKAWA,
SAM NUNN,
DALE BUMPERS,
Managers on the Part of the Senate.

Solely for consideration of title XIV of the House bill and title XIII of the Senate amendment.

From the Committee on Veterans' Affairs:
G. V. MONTGOMERY,
DON EDWARDS,
BOB EDGAR,
SAM B. HALL, Jr.,
MARVIN LEATH,
JOHN PAUL HAMMERSCHMIDT,
MARGARET M. HECKLER,
CHALMERS P. WYLIE,
HAROLD S. SAWYER,
Managers on the Part of the House.

From the Committee on Veterans' Affairs:
ALAN K. SIMPSON,
BOB KASTEN,
FRANK H. MURKOWSKI,
ALAN CRANSTON,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

Solely for consideration of title XV, subtitles A and B, subtitle C (except chapters 4 and 5), and sections 15601, 15611-13, 15621, 15625, 15633, 15635, and 15636 of the House bill, and title VII, part A (except sections 711, 712, 714, 715, 716, 718, 719, 720, 720A-720G, and 729), part E, part F (except sections 757, 758, and 759), and parts G, H, and J of the Senate amendment.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Finance:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

For consideration of the entire House bill and Senate amendment (including sections 1 and 2 of the House bill and section 1 of the Senate amendment).

From the Committee on the Budget:
JAMES R. JONES,
NORMAN Y. MINETA,
STEPHEN J. SOLARZ,
LEON E. PANETTA,
RICHARD A. GEPHARDT,
LES ASPIN,
DELBERT L. LATTA,
RALPH REGULA,
BUD SHUSTER,
BOBBI FIEDLER,
Managers on the Part of the House.

From the Committee on the Budget:
PETE V. DOMENICI,
RUDY BOSCHWITZ,
ERNEST F. HOLLINGS,
LAWTON CHILES,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3982) entitled, "An Act to Provide for Reconciliation Pursuant to Section 301 of the First Concurrent Resolution on the Budget for Fiscal Year 1982," submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment.

The joint statement of managers which follows was prepared by the Committees on Jurisdiction, but is arranged by title of the conference agreement. A brief overview by the Committees on the Budget appears at the beginning.

STATEMENT OF BUDGET COMMITTEE MANAGERS

By approving the First Budget Resolution for Fiscal Year 1982, which included reconciliation instructions, Congress continued and expanded its efforts to maintain control over Federal expenditures. Those reconciliation instructions directed fourteen Senate and fifteen House committees to report legislation achieving uprecedented reductions which impact on Federal spending during fiscal years 1981, 1982, 1983 and 1984.

The provisions of the Omnibus Budget Reconciliation Act of 1981 are the culmination of the work of the committees in complying with the reconciliation directives. Real savings have been achieved which compare favorably with the reconciliation bills as passed by the House and Senate.

The managers for the Committees on the Budget wish to acknowledge the extraordinary efforts of the conference participants, particularly the chairmen and ranking Members of the House and Senate committees, in achieving these savings.

What follows in this statement of managers is a title by title explanation of the conference agreement. This explanation has been prepared by the committees which determined the provisions of the conference agreement which are in their separate jurisdictions.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—FOOD STAMP PROGRAM REDUCTIONS AND OTHER REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS

PART 1—FOOD STAMP PROGRAM REDUCTIONS

(1) Family unit requirement

The House bill requires that, in order to be considered a food stamp household, groups of individuals must constitute and "economic unit" (sharing living expenses) as well as purchase and prepare food in common.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(2) Drug addiction and alcoholic treatment programs.

The Senate amendment eliminates food stamp eligibility for residents of drug addiction and alcoholic treatment and rehabilitation programs and removes from the Food Stamp Act provisions recognizing these programs as eligible to accept food stamp coupons for meals served to these residents. The Senate amendment also deletes the work registration exemption for resident and non-resident participants of those programs.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(3) Gross income eligibility standard

The House bill restricts program eligibility to households with gross monthly income at or below 130 percent of the applicable Federal poverty level.

The Senate amendment is the same except that it exempts households with elderly or disabled members from this new gross income test. The income standards of eligibility for these households would continue to be based on net (rather than gross) income at 100 percent of the applicable Federal poverty levels, as under existing law.

The Conference substitute adopts the Senate provision.

(4) *Adjustment of deductions*

(a) While both the House bill and the Senate amendment require that home ownership costs be factored out of the Consumer Price Index (CPI) used to calculate inflation adjustments to the standard deduction and the ceiling on shelter/dependent care expense deductions, the Senate amendment requires that the index be adjusted by Bureau of Labor Statistics after consultation with the Secretary of Agriculture.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The House bill retains annual inflation adjustments each January in levels of the standard deduction and the ceiling on dependent care/excess shelter deductions reflecting inflation through the preceding September.

The Senate amendment holds the amount of the standard deduction and the ceiling on dependent care/excess shelter expense deductions at 1981 levels through June 30, 1983. On July 1, 1983, both deduction levels would be adjusted to reflect changes in the CPI for the 15 months ending on March 31, 1983. On October 1, 1984, both deduction levels would be adjusted to reflect changes in the CPI for the 15 months ending June 30, 1984. Thereafter, deduction levels would be adjusted each October 1 to reflect changes in the CPI for the 12 months ending the preceding June 30.

The Conference substitute adopts the Senate provision.

(5) Earned income deduction

The Senate amendment lowers the "earned income deduction" to 15 percent of household earnings. Existing law provides that 20 percent of a household's earned income be deducted from its gross income in computing net income and benefits.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment setting the "earned income deduction" at 18 percent of household earnings.

(6) Benefit reduction rates

The House bill increases the food stamp "benefit reduction rate" to 31.5 percent in fiscal year 1983 and 32.5 percent in fiscal year 1984 and later years. The "benefit reduction rate" (now set at 30 percent) determines the proportion of a household's net income that is subtracted from food stamp maximum benefits in order to determine a household's actual monthly benefit.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Bilingual requirements

The Senate amendment deletes the Federal requirement that States use bilingual personnel and printed materials in areas where a substantial number of low-income persons speak a language other than English.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(8) Disqualification penalties for fraud and misrepresentation; improved recovery of overpayments; waiving and offsetting claims

(a) The Senate amendment expands the bases for disqualifying individuals by including the commission of any act that constitutes a violation of a State statute related to using, transferring, etc., food stamp coupons or authorization cards.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The House bill retains the current penalties of 3 months disqualification after a determination by an administrative agency and 6 to 24 months disqualification upon a determination by a court.

The Senate amendment provides disqualification periods (for both administrative and court determinations) of: 6 months for the first determination, 1 year for the second, and permanent disqualification for the third. In addition, the Senate amendment prohibits any increase in benefits to a household with a disqualified member as a result of the disqualification.

The Conference substitute adopts the Senate provision.

(c) The Senate amendment requires the Secretary to promulgate regulations to ensure that information concerning disqualified individuals is forwarded to the Secretary.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) While both the House bill and the Senate amendment require households with disqualified members to repay overissued benefits, the Senate amendment requires households to repay double the value of any overissuance deriving from fraud or misrepresentation.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(e) The House bill permits States to collect overissued benefits in nonfraud cases (which are not the result of State error) by reducing future allotments to the household, but only in cases and amounts as are reasonable considering the income and resources of the household as determined under regulations of the Secretary.

The Senate amendment requires States to collect overissued benefits in nonfraud cases (which are not the result of State error) by reducing future allotments to the household, but limits such collections to 10 percent of the monthly allotment or $10 per month, whichever results in faster collection. The Senate amendment also allows States to retain 25 percent of these collections.

The Conference substitute adopts the Senate provision.

(f) The Senate amendment gives the Secretary of Agriculture expanded authority to waive claims under the Food Stamp Act and to offset claims against amounts due to States.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(9) Puerto Rico

(a) While both the House bill and the Senate amendment convert the food stamp program in Puerto Rico into an $825 million per year food assistance block grant, the House bill makes the block grant conversion effective October 1, 1982.

The Senate amendment makes the conversion effective April 1, 1982.

The Conference substitute makes the block grant conversion effective July 1, 1982, and requires that the Commonwealth of Puerto Rico submit to the Secretary of Agriculture by April 1, 1982, its plan for carrying out the block grant in the last quarter of fiscal year 1982 and in fiscal year 1983 in order to be eligible to receive the block grant funds for those periods.

The nutritional assistance block grant that is provided for Puerto Rico by the Omnibus Reconciliation Act of 1981 is designed to permit the Commonwealth to make effective use of Federal assistance dollars. It is, therefore, the intent of the conferees to allow the government of the Commonwealth considerable latitude in formulating a plan under this section for provision of assistance to needy persons. In this regard, the Conferees understand that the requirement that assistance be provided to the most needy persons in the jurisdiction can in certain circumstances be satisfied by means other than an expenditure for direct food assistance. Thus, it would be permissible to employ a small proportion of the block grant funds to finance projects that the government of the Commonwealth believes likely to improve or stimulate agriculture, food production, and food distribution (e.g., food cooperatives, local markets, or farming techniques) which will increase the self-sufficiency and nutritional standard of needy citizens residing in the Commonwealth. However, the conferees expect the Commonwealth to be able to demonstrate in the plan of operation to the Secretary's satisfaction that such projects are indeed directly related to improvements in the nutritional status of the needy.

(b) Additionally, from October 1981 through March 1982, the Senate amendment lowers the income eligibility limits in Puerto Rico to 55 percent of those used in the continental United States.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(10) Effective date for food stamp provisions

The Senate amendment provides that the amendments made to the Food Stamp Act of 1977, except as otherwise provided, shall be effective and implemented upon such dates as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

PART 2—OTHER REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS

(11) Agricultural and related programs; water and waste grants

The House bill establishes maximum limits on the amounts authorized to be appropriated and on outlays for the following designated programs of the Department of Agriculture during each of the fiscal years 1982, 1983, and 1984:

(a) For expenses involved in making indemnity payments to dairy farmers under the Act of August 13, 1968—

	1982	1983	1984
Authorizations	$200,000	$200,000	$200,000
Outlays	$187,000	$182,000	$179,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the outlay ceilings.

(b) For payments to States and possessions for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946—

	1982	1983	1984
Authorizations	$1,571,000	$1,651,000	$1,723,000
Outlays	$1,616,000	$1,688,000	$1,749,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the outlay ceilings.

(c) For grants in connection with rural water and waste disposal projects pursuant to section 306(a)(2) of the consolidated Farm and Rural Development Act and for development of plans for such projects pursuant to section 306(a)(6) of that Act—

	1982	1983	1984
Authorizations	$197,944,000	$211,404,000	$214,795,000
Outlays	$241,860,000	$205,653,000	$201,602,000

The Senate amendment limits authorizations for grants for rural water and waste disposal projects pursuant to section 306(a)(2) of the Consolidated Farm and Rural Development Act for fiscal year 1982 and each subsequent fiscal year to $100,000,000.

The Conference substitute adopts the Senate provision with an amendment to set the authorization at $154,900,000.

(d) For grants for rural community fire protection pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978—

	1982	1983	1984
Authorizations	$3,565,000	$3,821,000	$4,038,000
Outlays	$3,519,000	$4,039,000	$3,990,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the outlay ceilings.

(e) For grants for rural development planning pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act—

	1982	1983	1984
Authorizations	$4,767,000	$4,959,000	$5,155,000
Outlays	$4,992,000	$5,522,000	$5,571,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the outlay ceilings.

(f) For grants for the development of private business enterprises in rural areas pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act—

	1982	1983	1984
Authorizations	$5,007,000	$5,280,000	$5,553,000
Outlays	$9,069,000	$4,332,000	$4,741,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the outlay ceilings.

(g) For expenses for carrying out the programs administered by the Soil Conservation Service—

	1982	1983	1984
Authorizations	$558,875,000	$566,767,000	$572,865,000
Outlays	$586,586,000	$573,797,000	$576,006,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment increasing the authorization limit by $30 million for each of the 3 years and deleting the outlay ceilings.

(h) For expenses for carrying out the Agricultural Conservation Program under the provisions of the Soil Conservation and Domestic Allotment Act and the Agricultural Act of 1970—

	1982	1983	1984
Authorizations	$191,325,000	$199,647,000	$208,216,000
Outlays	$196,329,000	$195,471,000	$203,252,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment increasing the authorization limit by $10 million for each of the 3 years and deleting the outlay ceilings.

(i) For expenses for carrying out the experimental Rural Clean Water Program—

	1982	1983	1984
Authorizations	$19,811,000	$21,106,000	$22,104,000
Outlays	$11,325,000	$16,087,000	$19,468,000

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(j) For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives authorized in the Cooperative Forestry Assistance Act of 1978—

	1982	1983	1984
Authorizations	$13,090,000	$14,913,000	$16,314,000
Outlays	$13,730,000	$12,289,000	$13,679,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment increasing the authorization limit by $2 million for each of the 3 years and deleting the outlay ceilings.

(k) For expenses for carrying out the Water Bank Program pursuant to the Water Bank Act—

	1982	1983	1984
Authorizations	$9,876,000	$9,854,000	$9,813,000
Outlays	$9,396,000	$10,157,000	9,995,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment increasing the authorization limit by $1 million for each of the 3 years and deleting the outlay ceilings.

(l) For expenses for carrying out the emergency conservation program under title IV of the Agricultural Credit Act of 1978—

	1982	1983	1984
Authorizations	$10,069,000	$10,507,000	$10,958,000
Outlays	$19,329,000	$14,612,000	10,501,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the outlay ceilings.

(12) Bankhead-Jones Act

The House bill limits authorizations for appropriations to carry out the provisions of section 22 of the Bankhead-Jones Act to zero dollars for fiscal years 1982, 1983, and 1984.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(13) Forest Service

The House bill limits authorizations and outlays for expenses for forest research, State and private forestry, and National Forest System, with the limits established as follows:

FOREST RESEARCH

	1982	1983	1984
Authorizations	$125,346,000	$125,263,000	$126,882,000
Outlays	$126,016,000	$127,020,000	$127,779,000

STATE AND PRIVATE FORESTRY

	1982	1983	1984
Authorizations	$64,354,000	$65,355,000	$66,199,000
Outlays	$65,747,000	$66,272,000	66,667,000

NATIONAL FOREST SYSTEM

	1982	1983	1984
Authorizations	$884,876,000	$898,631,000	$910,245,000
Outlays	$904,029,000	$911,240,000	$916,681,000

The provision further provides that the amounts authorized for the National Forest System shall include not less than $102,270,000 in fiscal year 1982, $105,943,000 in fiscal year 1983, and $109,847,000 in fiscal year 1984 for reforestation and timber stand improvement.

The House bill also limits authorizations and outlays for Forest Service expenses for construction and land acquisition for each of the fiscal years 1982, 1983, and 1984 as follows:

	1982	1983	1984
Authorizations	$372,999,000	$385,989,000	$397,687,000
Outlays	$397,194,000	$400,724,000	$399,921,000

This provision further provides, with respect to forest road construction, that authorizations for appropriations shall not exceed $185,940,000 for fiscal year 1982, $194,237,000 for fiscal year 1983, and $202,949,000 for fiscal year 1984.

The House bill further provides that none of the funds authorized for the National Forest System or for construction and land acquisition may be used for carrying out the Bald Mountain road and timber sale in the Siskiyou National Forest.

In addition the House bill limits authorizations for appropriations for Forest Service programs wholly or partially within the jurisdiction of the House Committee on Interior and Insular Affairs (involving certain permanent appropriations for Forest Service land acquisitions relating to erosion and flood damage in certain western forests) to not more than $1,081,000 for fiscal year 1982, $1,399,000 for fiscal year 1983, and $1,487,000 for fiscal year 1984.

The Senate amendment establishes a general cap on amounts authorized to be appropriated to the Secretary of Agriculture for programs within the forest research, State and private forestry, and National Forest System, Youth Conservation Corps, Timber Salvage Sales, Rangeland Improvements, other general appropriations, Forest Service permanent appropriations, and construction and operation of recreational facilities in amounts not exceeding $1,381,564,000 for fiscal year 1981, $1,320,878,000 for fiscal year 1982, $1,324,202,000 for fiscal year 1983, and $1,324,717,000 for fiscal year 1984.

The Conference substitute provides authorizations for appropriations in the aggregate for the items forest research, State and private forestry, National Forest System and construction and land acquisition, of $1,575,552,000 for fiscal year 1981; $1,498,000,000 for fiscal year 1982; $1,560,000,000 for fiscal year 1983; and $1,620,000,000 for fiscal year 1984. The Conference substitute also prohibits the use of any funds authorized to be appropriated for construction of the Bald Mountain road in the Siskiyou National Forest, but contains no such restriction with respect to the Bald Mountain timber sale.

The Conference substitute deletes all other provisions of the House bill and Senate amendment which set minimum and maximum spending levels (including outlays).

The conferees intend, in establishing the aggregate spending "cap" for Forest Service programs in forest research, State and private forestry, National Forest System and construction and land acquisition, that the allocation of monies to these programs will be done in a fair and equitable manner in accordance with existing law, including the Forest and Rangeland Renewable Resources Planning Act of 1974.

The conferees understand that the prohibition on the Bald Mountain road will not reduce the timber volume offered for sale on the Siskiyou National Forest. Timber that would have been accessed by the construction of the road shall remain available for harvest by other means. Additional sales shall be offered elsewhere on the Siskiyou National Forest should there be any reduction in timber available for harvest as a consequence of this action.

(14) Alcohol fuel

The Senate amendment reduces the authorization for appropriations to the Secretary of Agriculture for biomass energy development activities under the Biomass Energy and Alcohol Fuel Act of 1980 from $600 million to $460 million plus an additional amount of $20 million authorized in section 519 of the Senate bill.

In addition, the Senate amendment reduces the authorization for appropriations to the Secretary of Agriculture for biomass energy and alcohol fuel programs under the Biomass Energy and Alcohol Fuel Act of 1980 to no more than $10,000,000 for fiscal year 1981 and to zero dollars for fiscal year 1982, 1983, and 1984.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment setting the authorization level for the Secretary of Agriculture at $460 million. (The Conference substitute provision can be found in section 1061 of the bill.)

(15) Assistance to land-grant colleges

The Senate amendment provides that authorizations for appropriations to land-grant colleges under the Act of August 30, 1980 ("Second Morrill Act") or any other similar provision of Federal law providing assistance to land-grant colleges shall not exceed $2.8 million for each of the fiscal years 1981, 1982, and 1983.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the provision to fiscal year 1984 and make clear that the reference to the other similar provision of Federal law was solely to the Act of March 4, 1907 (34 Stat. 1281 and 1282).

(16) Public Law 480 interest rates and appropriations limits

(a) The Senate amendment increases the minimum interest rates on Public Law 480 title I loans from the present 2 percent per annum during the grace period and 3 percent thereafter, to 4 percent and 6 percent respectively (but not for any repayments that may be required under a title III agreement). The Senate amendment also makes certain conforming changes in Public Law 480 consistent with an interest rate increase.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

Adoption of the Conference substitute allows time for additional review of the entire Public Law 480 issue, including the issue of interest rate levels. The House Foreign Affairs Committee has requested an Executive Branch study on Public Law 480 by December 31, 1981, including the potential for using terms and interest rates on title I loans as incentives for developmental use of Public Law 480. House and Senate committees have expressed their intention to hold hearings on the subject. The Conference action will thus allow for careful review of these important matters without prejudice to eventual congressional action.

(b) The House bill in title I limits authorizations of appropriations and outlays for Public Law 480 as follows: for fiscal year 1982, appropriations of $1,304,836,000 and outlays of $1,311,557,000; for fiscal year 1983, appropriations of $1,354,844,000 and outlays of $1,355,966,000; and for fiscal year

1984, appropriations of $1,424,982,000 and outlays of $1,415,849,000.

The House bill in title VII places ceilings on the total Public Law 480 program of $1,856,400,000 in fiscal year 1982, $1,949,000,000 in fiscal year 1983, and $2,071,600,000 in fiscal year 1984. The program ceiling covers Public Law 480 funding both from appropriations, and from loan reflows and carryover from prior years.

The Senate amendment places ceilings on appropriations for Public Law 480 of $1,362,000,000 in fiscal year 1982, $1,193,000,000 in fiscal year 1983, and $1,252,000,000 in fiscal year 1984.

The Conference substitute places ceilings on appropriations for Public Law 480 of $1,304,836,000 for fiscal year 1982, $1,320,292,000 for fiscal year 1983, and $1,402,278,000 for fiscal year 1984.

PART 3–DEPARTMENT OF AGRICULTURE PERSONNEL

(17) Establishment of personnel ceiling

The House bill limits the amounts authorized to be appropriated for salaries and expenses for administering the programs of the following agencies, offices, and functions of the Department of Agriculture to not more than $1,348,032,000 for fiscal year 1982, $1,364,186,00 for fiscal year 1983, and $1,419,352,000 for fiscal year 1984:

Office of the Secretary, offices funded under the account "Department Administration", activities funded under the account "Governmental and Public Affairs", Office of the Inspector General, Office of the General Counsel, Federal Grain Inspection Service, Animal and Plant Health Inspection Service, Food Safety and Quality Service, Economics and Statistics Service, Agricultural Cooperative Service, World Food and Agricultural Outlook and Situation Board, Agricultural Marketing Service, including the Transportation Office, Agricultural Stabilization and Conservation Service, Federal Crop Insurance Corporation, Farmers Home Administration, Rural Electrification Administration, and Office of International Cooperation and Development.

The Senate amendment establishes a ceiling on the total number of employees that the Department of Agriculture can employ during each of the fiscal years 1982, 1983, and 1984. This ceiling fixes the total personnel level at no more than 118,360 full-time equivalent staff years for each of the specified fiscal years. This provison includes all of the agencies, offices and functions listed in the House bill plus the Food and Nutrition Service, Foreign Agricultural Service, Forest Service, Science and Education Administration, and Soil Conservation Service.

The Conference substitute adopts the Senate provision with an amendment to change the ceiling to 117,000 staff years and to specifically include overtime within the ceiling.

SUBTITLE B—REDUCTION IN DIRECT SPENDING

PART 1—COMMODITY CREDIT CORPORATION PROGRAMS

(1) Milk Price Support

The House bill amends section 201 of the Agricultural Act of 1949 to provide that for the period October 1, 1981, through September 30, 1985, the price of milk for each marketing year would be supported at a minimum level of 75 percent of parity. The details of the House provision are as follows:

(a) The minimum support level would on a sliding scale between 75 percent of parity and a ceiling of 90 percent of parity based upon projected purchases of surplus milk products by the government for the marketing year. As projected acquisitions decline, the minimum support level would increase.

(b) If the Secretary determines that the inventory on hand at the end of the marketing year exceeds 500 million pounds of nonfat dry milk, or 5.5 billion pounds milk equivalent of butter or cheese, the support price is fixed at the minimum level indicated by the schedule, and the Secretary would not have discretion to establish a support level higher than that minimum.

(c) If there were increases in dairy product import quotas during the marketing year the support price is required to be redetermined by reducing the final estimate of net government purchases by the equivalent of the increased imports.

(d) No semiannual adjustment would be made in the marketing year beginning October 1, 1981. Semiannual adjustments, however, are required during the period beginning October 1, 1982, through September 30, 1985 to reflect estimated changes in the parity index during the semiannual period. If, however, purchases are being made at an annual rate exceeding 5.5 billion pounds milk equivalent (butterfat basis) or 500 million pounds of nonfat dry milk, the support price need not be adjusted except as necessary to prevent a support price of less than 75 percent of parity at the beginning of the semiannual period.

(e) The Secretary must notify in writing the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the Chairman of the House Committee on Agriculture of the Secretary's decision and the reasons therefor 30 days prior to the effective date of the support level for the marketing year and each semiannual adjustment therein.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. The conferees recognize that this action is being taken as an interim measure and that the support price for milk will need to be reconsidered along with the support price for other commodities during consideration of the farm bill in order to meet the budget targets in the concurrent budget resolution for the fiscal year ending September 30, 1982.

(2) Farm Storage Facility Loans

The Senate amendment makes the farm storage facility loan program discretionary with the Secretary of Agriculture after September 30, 1981.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. In doing so, the conferees intend that the Secretary shall continue to make the farm storage facility loan program available in storage deficit areas.

(3) Reduction in CCC Administrative Expense Limitation

The House bill provides that not more than $52,000,000 in Commodity Credit Corporation funds shall be available for administrative expenses of the Commodity Credit Corporation for fiscal year 1982.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(4) Elimination of Interest Waiver on 1980 and 1981 Grain Placed in Farmer Reserve

(a) The House bill deletes the requirement that the Secretary waive interest on loans made on the 1980 and 1981 crops of wheat and feed grains placed in the farmer-held reserve.

The Senate amendment deletes the interest waiver requirement on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held reserve but requires a waiver of interest on any crop of wheat or feed grains during any period that the commercial export sale of such commodities to any country or area has been suspended by the President or other member of the executive branch of the government if, during such period, the United States otherwise continues commercial trade with such country or area.

(b) The House bill provides that producers of 1981 crop wheat and feed grains shall have the option to obtain a price support loan under the farmer-held reserve program immediately after such grain is harvested.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House and Senate provisions in view of the enactment of Public Law 97-24 which eliminates the interest waiver on 1980 and 1981 grains placed in the farmer-held reserve.

PART 2—COMMODITY INSPECTION FEES

(5) Grain inspection and weighing

Both the House bill and the Senate amendment contain similar provisions regarding the imposition of user fees to cover the cost of services of the Federal Grain Inspection Service, including administrative and supervisory expenses, related to inspection and weighing under the Federal Grain Inspection Act.

(a) The House bill makes the provisions effective for the period October 1, 1981, through September 30, 1984.

The Senate amendment makes the provisions effective October 1, 1981, but does not provide any termination date.

The Conference substitute adopts the House provision.

(b) The House bill limits the total administrative and supervisory costs for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) to 35 percent of the total costs for such activities.

The Senate amendment limits the total administrative and supervisory costs for inspection and weighing (without the exclusion provided in the House bill) to 30 percent of the total cost for providing the inspection and weighing services.

The Conference substitute adopts the House provision.

(c) The House bill authorizes appropriations for monitoring in foreign ports of grain officially inspected and weighed under the Act.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(6) Cotton classing and related services

(a) While both the House bill and the Senate amendment amend section 5 of the United States Cotton Standards Act, by providing that the Secretary shall collect fees and charges for functions performed under sections 3, 4 and 6 of the Act, and provide how such collected funds may be expended, the House bill provides that such funds shall be available to pay the expenses of the Secretary incident to providing services not only under the Cotton Standards Act and the Cotton Futures Act but also the Cotton Statistics and Estimates Act.

The Senate amendment contains no comparable provision relating to the Cotton Statistics and Estimates Act.

The Conference substitute adopts the Senate provision.

(b) The House bill amends section 3a of the Cotton Statistics and Estimates Act (the Smith-Doxey amendment) to provide that user fees collected under sections 3a and 3d of that Act may be deposited in an interest bearing account with a financial institution.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

The Conference substitute provides for the Department to collect user fees directly from participating producers. The conferees recognize that in some cases the producer and the sampling agent or other third party may find it more feasible to have the Department bill such agent or other third party for the service and subsequently be reimbursed by the producer. It is the conferees' intent that such a procedure be allowed only in those cases where the procedure is mutually agreeable between the producer and the sampling agent or other third party.

In the administration of the various amendments provided in the Conference report relating to cotton classing and related services, it is the obligation of the Secretary to ensure that the universal cotton standards system is preserved and that the government cotton classification system continues to operate so that the United States cotton crop is provided an official quality description. Accordingly, it is the intent of the conferees that the Secretary shall provide a program that will result in reasonable fees for producers to ensure the continued participation of producers in the cotton classing program. To this end during fiscal years 1982-1984, the Secretary's net estimate cost of cotton classification must be based on 97 percent of the number of running bales to be produced from such crop as determined by the Secretary.

(c) The House bill provides that the amendments to the United States Cotton Standards Act and the United States Cotton Futures Act shall become effective October 1, 1981.

The Senate amendment makes those provisions effective July 1, 1981.

The Conference substitute adopts the House provision.

Tobacco inspection and related services

The House bill amends the Tobacco Inspection Act to provide for the imposition of user fees for tobacco inspection and related services effective October 1, 1981.

The Senate amendment contains the same provisions for user fees but makes them effective July 1, 1981.

The Conference substitute adopts the House provision.

(8) Warehouse examination, inspection, and licensing

(a) The House bill provides that user fees collected for warehouse examination, inspection and licensing activities under the United States Warehouse Act may be deposited by the Secretary in an interest bearing account with a financial institution.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The amendments to the United States Warehouse Act provided in the House bill would become effective upon enactment.

The Senate amendment provides for the amendments to the United States Warehouse Act to become effective October 1, 1981.

The Conference substitute adopts the Senate provision.

(9) Naval stores inspection and related services

The House bill repeals the Naval Stores Act effective upon the date of enactment of the bill. Inspection, grading and standardization of naval stores products (spirits of turpentine and rosin) would be continued on a cost recovery basis under the Agricultural Marketing Act of 1946.

The Senate amendment amends the Naval Stores Act to require user fees for the establishment of standards and for examinations, analyses, classifications, and other services under the Act to cover the cost of providing such services and standards, including administrative and supervisory costs. Such fees and charges would be collected from processors and warehousers of naval stores. Fees and charges when collected would be available without fiscal year limitation to defray the cost incurred by the Secretary under the Act.

The Conference substitute adopts the Senate provision.

PART 3—FARMERS HOME ADMINISTRATION PROGRAMS

(10) Water and waste disposal and community facility loans

The House bill increases the interest rates on loans (other than guaranteed loans) to public bodies and nonprofit associations for water and waste disposal facilities and essential community facilities from the current maximum of 5 percent per annum to rates set by the Secretary of Agriculture but not to exceed the current market yield for outstanding municipal obligations of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The House bill provides, however, that the rate shall not exceed 5 percent per annum for any such loans which are for the upgrading or construction of facilities as required to meet health or sanitary standards in areas where the median family income of persons to be served by the facility is below the poverty line and in other areas as the Secretary may provide where a significant percentage of the persons to be served by the facility are of low income, as determined by the Secretary.

The Senate amendment increases the interest rates on these loans to rates as determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding municipal obligations of comparable maturities, less 3 percentage points, adjusted to the nearest one-eighth of 1 percent.

The Conference substitute adopts the House provision.

In administration of the FmHA water and waste disposal loan and grant programs, the conferees intend that the Secretary should implement a project selection system which provides for at least an annual review of pending loan and grant applications and the establishment of priorities for those applications based on the following criteria: percentage of low income population to be served, severity of the threat to health, and size of community with priority to the smallest communities. In addition, because of the significant reductions in loan and grant funds for these programs, it is the intent of the conferees that the Secretary employ at least 75 percent of all grant funds for water and waste systems serving communities in which a significant percentage of the persons to be served are of low income, as determined by the Secretary.

(11) Farm ownership and operating loans to low income, limited resource borrowers

(a) The House bill provides that interest rates on farm ownership and operating loans to low income, limited resource borrowers shall be as determined by the Secretary of Agriculture, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States of comparable maturities and not less than 5 percent per annum.

The Senate amendment provides that the interest rates on these loans shall be rates as determined by the Secretary of Agriculture, not in excess of the current average market yields on outstanding marketable obligations of the United States of comparable maturities (plus not to exceed 1 percent), less 3 percentage points.

The Conference substitute adopts the House provision with respect to farm ownership loans and the Senate provision with respect to farm operating loans.

(b) The Senate amendment provides that not less than 15 percent of the insured loans authorized for farm ownership and farm operating purposes for fiscal year 1982 shall be for low income, limited resource borrowers.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment increasing to not less than 20 percent the portion of loans for low income, limited resource borrowers.

(12) Loans involving use of prime farmland

The House bill provides that the interest rates on certain loans (other than guaranteed loans) for activities that involve the use of prime farmland shall be 2 percent per annum higher than the rate that would be otherwise be applicable. The kinds of loans to which this provision applies include recreation loans or other loans needed to supplement farm income; loans for outdoor recreational enterprises or the conversion of farming or ranching operations to recreational uses; small business enterprise loans; soil and water conservation loans; water and waste disposal facility loans; certain electric transmission loans; business and industrial loans; loans made jointly with other governmental agencies for private business enterprises; and recreation or other loans needed to supplement the farm income of low-income borrowers. The House bill also provides that, whenever practicable, construction by a State, municipality, or other political subdivision of local government supported by such loans shall be placed on land that is not prime farmland and that if the governmental authority nevertheless desires to carry out the construction on prime farmland, the 2 percent interest increase shall apply unless other options for locating the construction do not exist.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(13) Emergency (disaster) loans

(a) The House bill requires the Secretary to make emergency (disaster) loans available to applicants seeking assistance based on production losses if the applicant shows that a single enterprise that is a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least

20 percent loss of normal per acre or per animal production, as a result of the disaster, based upon the average monthly price in effect for the previous year, and the applicant otherwise meets eligibility requirements. Also, such loans are required to be made available based on 90 percent of the total calculated actual production loss sustained by the applicant.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment substituting 30 percent for 20 percent as the level of loss making an applicant eligible for assistance and 80 percent for 90 percent as the minimum amount of actual loss to be covered by the loan, and permitting the Secretary to relax these requirements. The new figures inserted reflect changes recently made through administrative action. The revised provisions were included in the bill to ensure that the program will not be further restricted by the Secretary. The conferees urge the Secretary to review the action he has taken in this matter.

(b) The Senate amendment provides that emergency loans shall be made and insured only to the extent and in such amounts as provided in advance in appropriations Act.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. This provision does not contemplate any change in the manner in which appropriation Acts have been providing for emergency loans, and it is intended that such Acts could continue to provide for emergency loans "in amounts necessary to meet the needs resulting from natural disasters".

(c) The Senate amendment provides that for emergency loans for the actual loss caused by the disaster, the interest rates shall be established by the Secretary of Agriculture, but (A) in the case of applicants who are not able to obtain sufficient credit elsewhere, not more than the rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an additional charge of not to exceed one percent; and (B) in the case of applicants who are able to obtain sufficient credit elsewhere, not in excess of the rate prevailing in the private market for similar loans, as determined by the Secretary of Agriculture.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment establishing the rate of interest on loans to applicants who are unable to obtain sufficient credit elsewhere at not to exceed 8 percent.

The conferees expect the Secretary of Agriculture and the Administrator of the Small Business Administration to consult and establish substantially similar interest rates for disaster loans for businesses and agricultural producers. The interest rates approved by the conferees conform with those adopted by the conferees from the Small Business Committees with regard to interest rates for disaster assistance from the Small Business Adminstration. This was done to ensure that farmers must continue to seek disaster assistance first from the Farmers Home Administration pursuant to Public Law 96-302.

(14) Insured loan limits

The Senate amendment establishes limits for insured farm ownership and farm operating loans for fiscal year 1982 as follows:

—farm ownership loans: $700,000,000;

—farm operation loans: $1,325,000,000.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

PART 4—RURAL ELECTRIFICATION ADMINISTRATION PROGRAMS

(15) Rural Electrification Act amendments

(a) The Senate amendments establishes the interest rate for insured electric and telephone loans under the Rural Electrification Act at 5 percent per annum, except that the Administrator may make insured loans at a lesser rate, but not less than 2 percent, if the Administrator finds that the borrower has experienced extreme financial hardship or cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and those charged for similar services in the same or nearby areas by other suppliers, provide service consistent with the objectives of the Act.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment making the new interest rates applicable to loan applications received after July 24, 1981.

The conferees believe that borrowers should be required by the REA Administrator to initiate an energy conservation program within their area of distribution. The program should include such elements as assistance to consumers for weatherization and other energy conservation measures, improvement in loan management systems and similar energy conservation measures. The conferees recommend that the program be designed so as to provide identifiable energy savings on an annual basis and request that the Administrator evaluate the results annually.

Additionally, the conferees urge the REA Administrator to begin immediately to work with other Federal agencies within and outside the Department of Agriculture on research, development, demonstration, and consumer education programs appropriate to energy conservation in rural areas.

(b) The Senate amendment requires the Federal Financing Bank, on the request of any borrower, to make a loan that is guaranteed by the Administrator. The rate of interest on such loan shall be not more than the rate of interest applicable to other similar loans then being made or purchased by the Bank.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

Strategic and critical materials

The Senate bill contains a provision that would authorize the sale of all the silver from the strategic stockpile, subject to a presidential determination that silver in the stockpile is excess to defense needs.

The House amendment contains a provision that would authorize sales of various excess materials, including silver, from the strategic stockpile, authorize $2.14 billion for the acquisition of strategic and critical materials, and make improvements in stockpile management.

The conferees agree to adopt the provisions in the House amendment related to the authorization of sales of various excess materials, including silver, from the stockpile and to the improvements in stockpile management. The conferees agree to limit the authorization for the acquisition of strategic and critical materials to $535 million and to restrict the sale of silver subject to a presidential determination that silver in the stockpile is excess to defense needs.

The Senate recedes with amendments.

Open enrollment period for survivor benefit plan

The House amendment contains a provision that would authorize an open enrollment period for the Survivor Benefit Plan to permit current non-participating military retirees to elect survivor protection.

Under that provision if the retiree were to die within a year of making the election, the survivor would only receive a refund of contributions rather than an annuity from the plan.

The Senate bill contains no similar provision.

The Senate recedes with an amendment specifying that if death occurs within two years following the election, only a refund of contributions would be made.

Reductions for consultants and travel

Section 905 and 906 of the Senate bill would require reductions of $500 million in consultants and $550 million in travel of persons and transportation of things. Such reductions would be allocated governmentwide by the Office of Management and Budget. Based on spending for these categories, approximately 80 percent of the reductions would be allocated to the Department of Defense.

The apparent intent of sections 905 and 906 is to curtail spending for studies and analyses performed by outside consultants and to reduce administrative travel by government employees. The actual effect in the Department of Defense would be severe reductions in readiness.

In one service, for example, 97 percent of total contracts covered by section 905 are for engineering of prime weapon systems, training operation and maintenance personnel, recruit advertising, satellite technical support, intelligence collection and other readiness related activities. Only 3 percent of the funds are used for "studies and analyses."

Administrative travel, the presumptive target of section 906, constitutes about 6 percent of total travel. The bulk of the Defense Department's spending covered by section 906 is for transportation of things, such as fuel to using units, war materiel to U.S. forces in NATO, and resupplies to forces in the Indian Ocean. Almost half of the personnel travel involved is related to permanent change of station, and the remainder is principally in support of military exercises and deployments, technical training and support, National Guard and reserve training, and travel for recruiting, audit and investigation.

The conferees from the Committees on Armed Services find such potential military readiness shortfalls totally unacceptable and support a position to revise or eliminate the reductions required by sections 905 and 906.

SUBTITLE A—HOUSING, COMMUNITY DEVELOPMENT, AND RELATED PROGRAMS

PART I—COMMUNITY DEVELOPMENT

Community Development Block Grant program

Statement of activities and review

The House bill contained a provision that prior to receipt of grant, the entitlement community or state shall prepare a final statement of community development objectives and use of funds. The Senate amendment contained a similar provision, except that where the nonentitlement community receives a grant directly from HUD such community must also prepare statement of objectives and use of funds. The conference report contains the Senate provision.

Citizen participation requirement

The House bill contained a provision that a proposed statement of objectives and use of funds must be published to permit citizens or units of general local government the opportunity to submit comments. The Senate amendment contained a similar provision except it clarified that: the requirement applies to each grantee (state, entitlement community and, in some cases, nonentitlement community); citizens must be furnished information on the amount of funds available for community development, and housing activities and on the range of activities that may be undertaken; citizens and units of general local government may submit comments on the community development performance of the grantee; and one or more public hearings must be held on community development housing needs. The conference report contains the Senate provision. The Conferees instruct the Secretary not to include in the regulations specific times that the grantees must hold the required public hearings. The Conferees, however, expect the grantees to make all reasonable efforts to schedule public hearings in ways and at times that will provide for full participation in public hearings by all citizens in the community.

Certification

The House bill contained a provision that in addition to certifications that are identical between House and Senate versions, a grant may be made only where the grantee certifies, to the satisfaction of the Secretary, that the grantee is in full compliance with the publication requirement. The Senate amendment contained a similar provision except that the grantee must certify that it is in full compliance with publication and citizen participation requirements and has made the final statement available to the public. The conference report contains the Senate provision.

Housing assistance plan

The House bill contained a provision which deleted the requirement that nonentitlement communities prepare a Housing Assistance Plan as part of the community development application. It retained existing law regarding the content of the HAP, including an estimate of housing needs of lower-income persons expected to reside in the community as a result of existing or projected employment opportunities in the community. The Senate amendment contained a similar provision except it amended the estimate of housing needs to refer to lower-income persons residing or expected to reside in the community as a result of existing or projected changes in employment opportunities and population in the community and its surroundings. The conference report contains the Senate provision with an amendment deleting the consideration of changes in surrounding communities from the requirement. The Conferees wish to make it clear that these changes made to the HAPs are designed to add flexibility to a community's determination of what its housing needs will be in the future. It is expected that communities will utilize the new census data to update the projection of employment and population and to determine the extent of vacant units available in other nearby jurisdictions which would serve to reduce the need for additional housing in the community where the employment is projected. Such a "netting out" of housing needs will help avoid the excess counting of such needs and the pressure for building new units in one community which aggravates the vacancy problems of a neighboring community.

Performance review

Annual performance review.—The House bill contained a provision that at least on an annual basis, the Secretary must review and audit entitlement community performance to determine whether the activities and the Housing assistance plan have been carried out in a timely manner; whether the activities and certifications have been carried out in compliance with the title and other laws; and whether the grantee has continuing capacity to carry out the activities. The Senate amendment contained a similar provision except that the review also applied to nonentitlement communities receiving grants directly from HUD and it must determine whether the activities and certifications are carried out in a manner which is not plainly inconsistent with the requirements and the primary objectives of the title. The conference report contains the Senate provision amended to delete the reference to plainly inconsistent and to provide that the review be to determine whether the activities and certifications are carried out in accordance with the requirements and primary objectives of the title and with other laws. The Conferees wish to make clear that the changes made to the Community Development Block Grant program, with respect to performance reviews under section 104(d), the requirements for certifications under section 104(b) and (c), and the approval of housing assistance plans (HAPs) under section 104(c) as amended by this Act, are intended to reduce HUD's level of involvement in local affairs. As a result, it would not be the intent of these provisions to permit HUD to establish a standard of review for the acceptance of certifications or the approval of HAPs which is more restrictive than the current standard, which requires that the applications be approved unless the applicants' stated needs and objectives are plainly inconsistent with generally available facts or data or that the applicants' proposed activities are plainly inappropriate to meeting those needs and objectives. In addition, the Department should establish a similar standard of restraint in dealing with performance review.

*Grant adjustments.*The House contained a provision that in accordance with the annual review, the Secretary may make adjustments in the annual grants. It also provided that with respect to assistance made available to nonentitlement communities through the states under section 106(d), the Secretary may adjust, reduce or withdraw assistance or take other appropriate action; except that funds already expended on eligible activites shall not be recaptured or deducted from future assistance to such unit of general local government. The Senate amendment contained a similar provision except that it also provided that in addition to adjusting grant amounts, the Secretary may provide assistance directly to units of general local government. The conference report contains the House provision.

Effective date—The House bill contained a provision that the amendments regarding performance review and grant adjustments shall be effective on October 1, 1982, except that in the case where a state elects not to receive an allocation for fiscal year 1982 the amendments shall be effective on October 1, 1983, and until that date, the performance of nonentitlement communities shall be governed by existing law. The Senate amendment contained a provision that the amendments regarding performance review and grant adjustment shall be effective on October 1, 1982. The conference report contains the Senate provision.

Eligible activities

The House bill contained a provision which added as activities eligible for CDBG funds, the development of strategies and action programs to implement a comprehensive plan, evaluation or studies related to such plan, and OMB Circular A-95 clearinghouse functions which were formerly eligible under the section 701 Planning Assistance Program. The Senate amendment contained no similar provision. The conference report contains the House provision. While both the Senate and House provisions contained a limitation on public services, the Conferees intend that the ten percent limitation will apply to energy conservation services but will not apply to the purchase and installation of energy conservation improvements.

Reallocation of metropolitan city and urban county CDBG funds

The House bill contained a provision which required that amounts allocated to an entitlement community which are not received by such city or county for a fiscal year, which become available as a result of grant adjustments, administrative hearings, or civil suits related to noncompliance with section 104 or section 111 be added to the amounts available in the succeeding fiscal year for allocation to all entitlement and nonentitlement communities. The Senate amendment contained a similar provision except that funds becoming available shall be reallocated in the succeeding fiscal year among the entitlement communities of the same state on the basis of a formula under which the amount reallocated to each such community bears the same ratio to the total amount reallocated to the entitlement communities within that state as the ratio which the amount allocated to that entitlement community bears to the total amount allocated to the entitlement communities within the state.

The conference report contains the Senate provision with an amendment to provide that funds that are not received by an entitlement community for a fiscal year because of a failure to meet the requirements of section 104 (a), (b) or (c); or as a result of actions taken under section 104(d) or section 111 would be proportionally reallocated in the subsequent fiscal year to other entitlement communities in the same SMSA that certify to the Secretary that they would be adversely affected by the loss of such funds from the SMSA.

The portion of the funds available for reallocation to all of the qualifying entitlement communities in the same SMSA that each qualifying community receives shall

bear the same ratio as that community's share of the funds awarded to all of the qualifying communities in the same SMSA in the subsequent fiscal year bears to all of the funds awarded to all of the qualifying entitlement communities in that SMSA in the succeeding fiscal year. Three conditions affect the share of the reallocated funds that a qualifying community receives: (1) in determining the amounts awarded to entitlement communities for purposes of calculating appropriate shares, any funds that become available for reallocation as a result of a section 111 action against such community shall be excluded from the award credited to such community; (2) the entitlement community against which an action under section 104(d) or section 111 was taken shall not share in any of the funds that become available for reallocation as a result of such action; and (3) the share of the reallocated funds that any qualifying entitlement community receives may not exceed 25 percent of the funds awarded to such community under section 106(b) for the fiscal year in which the reallocated funds become available. Finally, where no entitlement community in the same SMSA qualifies for reallocated funds, those funds will be added to the amounts available to be distributed to all entitlement communities in the subsequent year.

The Conferees reaffirm the presumption that when community development block grant funds are not received by or are withdrawn from an entitlement community, other entitlement communities in the same metropolitan area are adversely affected. However, where a community does not apply for funds or does not receive funds because it has failed to meet the certification and other requirements of the program, it cannot expect to share in the funds that become available for reallocation in that fiscal year. Similarly, a community that has lost funds pursuant to a section 104(d) or section 111 action will not be able to share in a reallocation of those funds. Finally, in order to assure that one community in an SMSA does not receive reallocated funds in an amount that would severely distort the basic and equitable distribution formula established by the statute, no entitlement community will receive a portion of the reallocated funds that exceeds 25 percent of its basic award for that fiscal year. Where an entitlement community's share of the reallocated funds exceed 25 percent of its basic award, where metropolitan area contains only one entitlement community, or where no additional entitlement communities qualify to share in the reallocated funds, such funds shall be added to those funds available for allocation on a national basis to all entitlement communities in the succeeding fiscal year.

The Conferees intend that the Secretary reallocate funds expeditiously and to make them available to a qualifying community at the same time that the basic entitlement formula funds are awarded in the succeeding fiscal year. The Secretary's review of the certification of expected adverse impact should be no more stringent than the review that is otherwise required for the award of the basic entitlement amount. It is expected that the statement of projected use of funds, which is submitted by the community in applying for basic entitlement formula funds each year, will include proposals for the use of any available reallocated funds.

Nonentitlement, small cities program

State option not to participate in program.—The House bill contained a provision that a state may elect not to receive its allocation of funds for fiscal year 1982. Where a state makes such an election, HUD shall administer funds for that state in accordance with the provisions of existing law (except the HAP requirements) that govern grants to nonentitlement communities. The Senate amendment contained a provision that a state may elect, without a time limitation, not to distribute its allocation of funds. Where a state makes such an election, HUD shall distribute funds pursuant to statements submitted by nonentitlement communities and other requirements of section 104 as amended. The conference report contains the Senate provision. The Conferees intend that once a state has participated in distributing its allocation of funds, the Secretary may require such state to give the Secretary one year or more notice that it has elected not to administer the small cities, nonentitlement program. The Secretary is expected to accommodate the various fiscal year periods of the states when complying with the requirements of this section.

Distribution of State funds by HUD.—The Senate amendment contained a provision not contained in the House bill which provided that amounts allocated to the states shall be distributed to nonentitlement communities of the state by the Secretary of HUD where the state has elected not to distribute the funds, where the state has failed to submit required certifications, or where necessary as a result of annual review and audit. The conference report contains the Senate provision amended to delete the administration by HUD where necessary as a result of an annual review or audit.

The Conferees recognize that under the existing Small Cities Program, many small cities projects are approved for funding over a three-year period. It is the Conferees intent that these commitments not be disturbed in the transition to the new nonentitlement program established in this Act unless a city fails to meet its original program commitments. Thus, if in a given state, HUD continues to administer the nonentitlement program and there are nonentitlement communities in that state with which HUD had multi-year commitments prior to October 1, 1981, then HUD should fund those cities first from the state's allocation before funding any other new cities until the multi-year commitments have been satisfied. Where a state administers the nonentitlement program in its state and there are nonentitlement cities in that state with multi-year commitments received from HUD prior to October 1, 1981, then the Conferees intend that the state shall fund those commitments from its allocation first, prior to distributing funds to any other community until the multi-year commitments have expired.

Conditions for state participation.—The Senate amendment contained a provision requiring, with respect to nonentitlement communities receiving assistance through the states, that the Governor of each grantee state certify that the state (1) engages or will engage in community development planning; (2) provides, or will provide technical assistance to units of general local government in connection with community development programs; (3) will provide state funds for community development activities which are at least 10 percent of CDBG amounts allocated for use in the state; and (4) in determining the method of fund distribution, has consulted with local elected officials from nonentitlement communities of the state. The House bill required only that a state shall distribute amounts allocated to it consistent with the statement submitted under section 104(a) and shall be responsible for administration of such funds. The conference report contains the Senate provision amended to clarify that the Governor of the State certifies that all of the specified activities are being carried out by the state with respect to nonentitlement communities in that state.

Administrative costs.—The House bill contained a provision that amounts allocated to states may be used by a state for administrative expenses in carrying out the program. The Senate amendment contained a provision that amounts allocated to the states may not be used by a state for administrative expenses in carrying out the program. The conference report contains the House provision with an amendment limiting the amount of HUD programmatic funds that a state may use for administrative expenses to not more than fifty percent of the costs incurred by the state, and providing further that the state may not use any more than 2 percent of its CDBG funds for its administrative expenses. This provision is not intended, however, to suggest limits for the overall cost to a state for administering the program. A state may spend as much of its own resources as it deems necessary to properly carry out its responsibilities. This provision merely limits the amount by which the state may be reimbursed from the Federal funds it is distributing to 2 percent of that amount and further requires that that 2 percent be matched by the state on a dollar for dollar basis.

Reallocation of state funds

The House bill contained a provision which required that where a state elects not to receive the fiscal year 1982 allocation, except for amounts for which preapplications have been approved by the HUD Secretary prior to October 1, 1982, and which have been obligated by January 1, 1983, amounts which are or become available for obligation after fiscal year 1982, shall be available for use by the state for which the allocation was made.

In addition, any amounts allocated to a state which are not received by the state for a fiscal year or which become available as a result of post-audit adjustments or which result from administrative hearings or civil suits related to noncompliance with the title shall be added to amounts available for allocation to all states in the succeeding fiscal year. The Senate amendment contained a provision which required that where a state elects not to distribute the state allocation those funds shall be available for use in the state to which the funds were allocated, and any amounts allocated for use in a state which are not received by the state or nonentitlement communities of that state or which become available as a result of post-audit adjustments or which result from administrative hearings or civil suits related to noncompliance with the title shall be added to amounts available for use in that state in the succeeding fiscal year. The conference report contains the Senate provision with an amendment to provide that any amounts that become available as a result of actions under sections 104(d) or 111, shall: (1) in the case of actions against nonentitlement communities be added to the amounts available to be distributed within the state in the fiscal year in which the amount becomes available and (2) in the case of actions against the state be added to amounts avail-

able in the state in the next fiscal year. The amounts so allocated shall be available to be distributed by either the Secretary or the state, whichever is distributing the state allocation in the fiscal year in which additional funds become available.

Nondiscrimination

The House bill contained a provision which made clear that the age discrimination prohibitions of the Age Discrimination Act of 1975 and discrimination against handicapped persons prohibitions of the Rehabilitation Act of 1973 applied to activities under the Housing and Community Development Act of 1974. The Senate amendment contained a provision which referred to similar age discrimination prohibitions only. The conference report contains the House provision.

Reallocation of funds during transition period

The House bill contained a provision that any community development or UDAG funds appropriated prior to fiscal year 1982 which are or become available for obligation shall remain available and shall be used in the succeeding fiscal year according to the reallocation provisions of the House bill. The Senate amendment was similar except it did not make any changes in the reallocation provisions in existing law affecting UDAG and provided that community development funds appropriated prior to fiscal year 1982 which are or become available for obligation shall be used in the succeeding fiscal year according to the reallocation provisions contained in the Senate amendment.

The conference report contains the Senate provision amended to provide in addition that entitlement and nonentitlement grants awarded from amounts appropriated during fiscal year 1981 shall be made in accordance with provisions of law that existed prior to the effective date of this title except that (1) any amounts which are not obligated for use by entitlement communities before January 1, 1982, shall be reallocated in accordance with the entitlement community reallocation provisions included in the conference report, and (2) any amounts for nonentitlement communities for which preapplications have not been approved by the Secretary prior to October 1, 1981, and which have not been obligated by January 1, 1982, shall become available for distribution in the state in which the grants were made, by the state or by the Secretary, whichever is distributing the state allocation in the fiscal year in which such amounts become available.

The conference report also provides that any funds appropriated to the Secretary's discretionary fund prior to fiscal year 1982 which are or become available for obligation on or after October 1, 1981, shall be used in accordance with the provisions governing the section 107 discretionary fund as amended by this title. Finally, any grant or loan which, prior to the effective date of any provision in this title affecting the CDBG or UDAG program, was obligated and governed according to prior law will continue to be governed by the provisions of law that existed immediately before the effective date of these changes.

The changes affecting the basic CDBG program are effective on October 1, 1981. The changes affecting the UDAG program are effective on the date regulations implementing such changes become effective and the Secretary of HUD is to issue such final rules and regulations as soon as practicable, but not later than January 1, 1982.

Discretionary Fund and Urban Development Action Grants

Action grant set-aside

The House bill contained a provision which transferred the administration of revised Urban Development Action Grant authority from section 119 to section 107 of the Act, as amended, and provided that of the amounts approved in the appropriations Acts for CDBG, pursuant to section 103 for each of the fiscal years 1982 and 1983, the Secretary of HUD has the discretion to set-aside not more than $500 million for fiscal year 1982 for Urban Development Action Grants. The Senate amendment contained a provision which retained the Urban Development Action Grant authority within section 119 of existing law with substantially similar revisions as contained in the House bill and provided, of the amounts approved in the appropriation Acts, $500 million for each of fiscal years 1982 and 1983. The conference report contains the Senate provision.

Transfer of UDAG funds to CDBG program

The House bill contained a provision which provided that in the event no set-aside for UDAG is provided or appropriations are precluded after fiscal year 1982, any amount which is or becomes available for action grants after fiscal year 1982 shall be added to the amount for the CDBG Program under section 103. The Senate amendment contained a similar provision that applied after fiscal year 1983 instead of after fiscal year 1982. The conference report contains the Senate provision.

Civil rights provisions

Applicability.—The House bill contained a provision not contained in the Senate amendment which provided that except for grants to Indian tribes and trust territories applicants must provide satisfactory assurances that the grants will be conducted and administered in conformity with the civil rights provisions as contained in Public Laws 88-352 and 90-284. The conference report contains the House provision.

Certification.—The House bill contained a provision not contained in the Senate amendment which provided that the Secretary may accept a certification from the applicant that it has complied with the civil rights provisions. The conference report contains the House provision.

Conforming amendments

The House bill contained several technical provisions not contained in the Senate amendment to conform the statute if, as proposed in the House bill, UDAG was shifted from section 119 to section 107. The Senate amendment contained a provision which amended section 121 of the Act to conform the reference to section 119(c)(7)(B) with the revised action grant program by striking "subsection (c)(7)(B)" and inserting in lieu thereof "subsection (c)(4)(B)". The conference report contains the Senate provision.

Eligibility of metropolitan cities and urban counties

The House bill contained a provision which retained entitlement status in the CDBG Program for metropolitan cities and urban counties through fiscal year 1983 even though their population falls below the entitlement threshold according to a decennial census. The Senate amendment contained a similar provision except that it retained entitlement status through fiscal year 1982 and did not apply the provision to urban counties. The conference report contains the House provision amended to apply only for one year, through fiscal year 1982 and to clarify that a qualifying urban county is one which qualified as an urban county in fiscal year 1981, the population of which includes all of the population of the county (other than the population of metropolitan cities located in the county) and whose population fell below the required amount by reason of 1980 decennial census.

Limits on appropriations

The Senate amendment contained a provision not contained in the House bill that no funds may be appropriated to carry out title I of the Housing and Community Development Act of 1974 unless the amendments to title I which are included in this bill are enacted. The conference report does not contain the Senate provision.

REHABILITATION LOANS AND URBAN HOMESTEADING PROGRAM

Authority for 312 rehabilitation loan program

The House bill contained a provision which repealed the program except that it provided that the revolving loan fund shall remain in effect through fiscal year 1982, or such earlier time as the assets and liabilities of the fund are transferred to the revolving fund for liquidation of programs established pursuant to title II of the Independent Offices Appropriation Act of 1955, and shall be available for the purpose of servicing and liquidating loans, including reimbursement for services provided by GNMA and public or private agencies. The Senate amendment contained a provision that extended the program through fiscal year 1982 but repealed the authorization of $129 million for fiscal year 1982, so that loans might only be made from proceeds available in the revolving loan fund. The conference report contains the Senate amendment.

Relationship between 312 program and CDBG plan

The Senate amendment contained a provision not contained in the House bill which amended the provision requiring the 312 rehabilitation program to be part of, necessary or appropriate to an approved CDBG plan or an approved urban homesteading plan, by deleting the requirement that the CDBG plan be approved. It also deleted the provision requiring all multifamily rehabilitation loans to be consistent with an overall community development strategy developed pursuant to the CDBG Program. The conference report contains the Senate provision amended to require only that the rehabilitation be part of community development activities.

Use of 312 funds for urban homesteading and multifamily properties

The Senate amendment contained a provision not contained in the House bill that on or after October 1, 1981, 312 loans may be made only in connection with urban homesteading or multifamily properties. It also removed the limitation in existing law which permitted only ⅓ of the funds to be used for multifamily rehabilitation. The conference report contains the Senate amendment with an amendment that retains the current uses of section 312 loans for single family, urban homesteading and multifamily units and removes the limitation on funds used for multifamily properties. The Conferees recognize the need for multifamily rehabilitation, and encourage the HUD Secretary to use 312 funds for that purpose.

URBAN HOMESTEADING PROGRAM

The House bill contained a provision which authorized such sums as may be necessary for the urban homesteading program for fiscal year 1983. The Senate amendment contained a provision which authorized not to exceed $13,467,000 for fiscal year 1983. The conference report contains the Senate provision.

NEIGHBORHOOD REINVESTMENT CORPORATION

The House bill contained a provision which authorized not in excess of $13,514,000 for fiscal year 1982 for the Neighborhood Reinvestment Corporation. The Senate amendment contained a provision which authorized not in excess of $13,426,000 for fiscal year 1981, $14,950,000 for fiscal year 1982, and $14,950,000 for fiscal year 1983. The conference report contains the Senate provision amended to delete the authorization for fiscal year 1983.

REPORTS ON BLOCK GRANT PROGRAM

Annual CDBG report due date

The House bill contained a provision not contained in the Senate amendment which changed the deadline for submission of the annual block grant report from 180 to 300 days after close of each fiscal year. The conference report does not contain the House provision.

Special block grant report

The Senate amendment contained a provision not contained in the House bill that required the HUD Secretary to submit a report, within 180 days of enactment of this Act, on administrative and legislative steps that can be taken to require all grantees: to concentrate block grant funds in distressed geographic areas so visible improvements can be achieved and ensure that benefits to low- and moderate-income persons are occurring; reduce the current broad list of eligible activities to focus on the most urgent revitalization needs; develop overall income eligibility for recipients of block grant rehabilitation and to limit rehabilitation work to that essential to restore a housing unit to decent, safe and sanitary or energy efficient condition, prohibiting nonessential and luxury items. The conference report contains the Senate provision with an amendment providing that the report would be submitted 270 days from the date of enactment of this Act.

PART II—HOUSING ASSISTANCE PROGRAM

LOW-INCOME HOUSING ASSISTANCE

Total contract authority

The House bill contained a provision increasing the authorization for the Secretary to enter into contracts for annual contributions contracts by $922,469,430 on October 1, 1981, and by such sums as may be necessary on October 1, 1982. The Senate amendment contained a similar provision, except that it authorized an increase of $891,500,000 on October 1, 1981, and of $899,800,000 on October 1, 1982. The conference report contains a provision which increases the Secretary's authority to enter into annual contracts by $906,985,000 on October 1, 1981.

Limitation on budget authority

The House bill contained a provision which provided that the aggregate amount which may be obligated over the duration of the annual contributions contacts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, and $18,359,638,525 with respect to the additional authority provided on October 1, 1981. The Senate amendment contained a similar provision, except that it provided that such amount many not exceed $17,815,100,000 with respect to the additional authority provided on October 1, 1981, and $17,810,600,000 with respect to the additional authority provided on October 1, 1982. The conference report contains the House provision amended to provide that the aggregate amount which may be obligated may not exceed $18,087,370,000 with respect to the additional authority provided on October 1, 1981.

Limitation on annual contributions contract authority

Comprehensive improvement assistance.—The House bill provided that of the additional authority approved in Appropriation Acts and made available on October 1, 1981, the Secretary shall make available $75,000,000 for assistance to projects under section 14 of the United States Housing Act of 1937. The Senate amendment provided that of the additional authority approved in Appropriation Acts and made available on October 1, 1981, and October 1, 1982, the Secretary shall make available at least $75,000,000 for each fiscal year for assistance to projects under section 14. The conference report contains the House provision amended to provide that the Secretary shall make available at least $75,000,000 for assistance under section 14. The Conferees wish to make clear that any amount made available by the Secretary under this provision would be in addition to other federal housing assistance which local governments may elect to make available for use under section 14.

Allocation between new and existing units.—The House bill provided that of the balance of the additional authority which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary may not enter into contracts aggregating (i) more than 45.4 percent of such balance for existing units assisted under the U.S. Housing Act of 1937, and (ii) more than 54.6 percent of such balance for newly constructed and substantially rehabilitated units assisted under such Act. The Senate amendment provided that of the balance of the additional authority which remains for each fiscal year after deducting the amount to be provided for assistance to projects under section 14, the Secretary shall allocate funds for use in different areas and communities in accordance with section 213(d) of the Housing and Community Development Act of 1974, except that on a national basic the Secretary may not enter into contracts aggregating (i) more than 45 percent of such balance for existing units assisted under the U.S. Housing Act of 1937, and (ii) more than 55 percent of such balance for newly constructed and substantially rehabilitated units assisted under such Act. The conference report contains the Senate provision amended to provide that instead of allocating "funds" the Secretary shall allocate such "contract authority" for use in different areas and communities in accordance with section 213(d).

Accommodation of preferences.—The Senate amendment, but not the House bill, also provided that notwithstanding the preceding percentage limitation, after making the allocations referred to above, the Secretary shall accommodate the desires of states and units of local government regarding the mix between newly constructed or substantially rehabilitated and existing or moderately rehabilitated housing if the contract and budget authority allocated are suffcient to provide assistance with respect to such mix. It further provided that any contract or budget authority which remains after assistance is set aside for such mix shall be reallocated in accordance with the fair share allocation process under section 213(d) of the Housing and Community Development Act of 1974; and that in any case where a state or unit of local government determines that funds allocated under this paragraph would be more effectively used for the modernization of existing public housing, the Secretary may approve the use of all or a part of such funds in accordance with the provisions of section 14.

The conference report contains the Senate provision amended to provide that after making the allocations referred to above, the Secretary shall, to the extent allowable within the national percentage limitations on the use of authority and within the available contract and budget authority, accommodate the preferences of units of general local government, which preferences shall be established after consultation with the appropriate public housing agencies, regarding (i) the mix among newly constructed, substantially rehabilitated, existing, or moderately rehabilitated units; (ii) the programs under which assistance is to be provided; and (iii) the extent to which such allocations should be used for comprehensive improvement assistance under section 14. The conference report does not contain the Senate provision regarding reallocation under section 213(d) because the Conferees intend that existing law regarding section 213(d) will continue to be applicable.

The Conferees direct HUD to set aside at least 17,000 section 8 units for use by state housing finance agencies, not more than 4,000 section 8 units for FmHA, and at least 2,500 units under the Indian Housing Program. The Conferees also expect that sufficient section 8 units will be reserved for use under the section 202 program. The Conferees recognize that a local government's ability to fully achieve its assisted housing preferences will be limited by the percentage limitations on the assistance which is being authorized, by the set-asides which the Conferees have prescribed, and in cases where allocation areas include multiple jurisdictions. However, the Conferees expect that, in cases where program requirements can be met, the Secretary will make a concentrated effort to assist communities in achieving their preferences regarding how assistance is to be utilized to the greatest extent feasible. In this regard, the Conferees expect that HUD will use its resources at the local, regional and federal level (including a reasonable portion of the Secretary's assisted housing discretionary funds) to facilitate the ability of communities to achieve these preferences, and that any adjustments to a local government's assisted housing allocation should occur within a reasonable time period so as not to impede the timely reservation of contract authority.

Reservation of contract authority.—The Senate amendment contained a provision not contained in the House bill providing that the Secretary may not make reservations from the total amount of budget authority provided to carry out the U.S. Housing Act of 1937 in any fiscal year in a manner which would cause the amount reserved to exceed 30 percent of the total amount for the last quarter of any fiscal year or 15 percent of the total amount for any month of the last quarter of any fiscal year. Although the conference report does not contain this provision, the Conferees be-

lieve that all participants in the assisted housing programs would benefit from an earlier allocation of funds. To this end, the Conferees urge the Department and OMB to take all necessary steps to allocate assisted housing funds prior to the end of the first quarter of the fiscal year. In addition, the Conferees believe that, once funds are allocated, project processing should commence as quickly as possible. The Conferees expect that, at a minimum, HUD should attempt to evenly distribute the assisted housing reservations over the last two quarters of the fiscal year.

PUBLIC HOUSING OPERATING SUBSIDIES

The House bill contained a provision increasing the authorization for public housing operating subsidies by not to exceed $1,640,700,000 on or after October 1, 1981. The Senate amendment contained similar provision, except that it authorized amounts not to exceed $970,800,000 on or after October 1, 1980; $1,204,600,000 on or after October 1, 1981; and $1,350,400,000 on or after October 1, 1982. The conference report contains the House provision amended to increase the authorization for public housing operating subsidies by not to exceed $1,500,000 on or after October 1, 1981.

DISCRETIONARY FUNDING

The Senate amendment, but not the House bill, contained a provision to amend section 213(d) of the Housing and Community Development Act of 1974 to provide that with respect to fiscal years beginning after September 30, 1981, the Secretary of HUD is authorized to retain a portion of the contract authority available during any fiscal year under the authorities cited in section 213(a)(1), not to exceed 10 percent of the available contract authority on an aggregate basis. It provided that such contract authority shall be available for subsequent allocation to specific areas and communities, and may be used for (A) unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements; (B) support for the needs of the handicapped or for minority enterprise; (C) applications for assistance with respect to housing in new communities; (D) providing for assisted housing as a result of the settlement of litigation; (E) small research and demonstration projects; (F) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and (G) innovative housing programs for alternative methods for meeting lower-income housing needs approved by the Secretary. The conference report contains the Senate provision amended to provide that: (1) such provision would be notwithstanding any other provision of law; (2) the Secretary of HUD may not retain more than 15 percent of the financial assistance made available by the Secretary during any fiscal year under the programs described in subsection (a)(1) of such Act; (3) such assistance may only be used for the purposes described in the Senate provision; except that assistance may not be used for applications for assistance with respect to housing in new communities; and (5) such assistance may be used for innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary, including assistance for infrastructure in connection with the Indian Housing Program.

The Conferees recognize that there is a continuing problem in coordinating the activities of the Bureau of Indian Affairs (BIA) (with respect to roads) and the Indian Housing Service (IHS) (with respect to water and sewer installations) with the HUD Indian Housing Program despite repeated attempts to correct them through interagency agreements. This problem has frequently resulted in slowing the development of approved housing projects and in some instances has resulted in units being constructed without either the necessary roads or water and sewer facilities. This has unnecessarily added to the cost of Indian housing units. Therefore, the Conferees have acted to permit in limited circumstances the use of housing development funds for necessary infrastructure installation where the Secretary, in consultation with BIA and IHS, determines that the construction of HUD assisted projects will be delayed by waiting until BIA and IHS funded roads or water and sewer facilities are constructed. It is not the intent of the Conferees to remove the burden of providing these infrastructure facilities from the IHS or the BIA nor to substitute HUD resources for IHS on BIA resources. In this respect the Conferees expect that adequate and continuous funding will be provided for BIA and IHS activities consistent with the requirements of the pipeline and any additional assisted units. The interagency coordination task force is urged by the Conferees to act expeditiously to conform the planning and implementation of the respective responsibilities of BIA and IHS, to assure that the necessary infrastructure is planned, funded and put in place in a timely manner that does not impede the construction of housing under the HUD Indian Housing Program.

TROUBLED PROJECTS

Authorization

The House bill contained a provision to amend section 201(h) of the Housing and Community Development Amendments of 1978 to authorize to be appropriated for the purpose of providing assistance to troubled multifamily housing projects not to exceed $4 million for the fiscal year 1982. The Senate amendment contained a similar provision, except that it authorized to be appropriated not to exceed $50,176,000 for the fiscal year 1982, and $50,176,000 for the fiscal year 1983. The conference report contains the House provision with an amendment to provide that the Secretary may not use any of the amount of assistance available under the Troubled Projects Program during any fiscal year beginning on or after October 1, 1981, to supplement any contract to make rental assistance payments which was made pursuant to section 101 of the Housing and Urban Development Act of 1965.

It is not the intention of the Conferees to preclude the Secretary from making Troubled Projects assistance to Rent Supplement projects where necessary to improve project management, restore reserves, or fund deferred maintenance or energy conservation improvements. Both the House bill and the Senate amendment provided that assistance under section 5(c) of the U.S. Housing Act of 1937 may be used to supplement existing Rent Supplement contracts to provide needed rent increases; the Conferees wish to emphasize that Troubled Projects funds should not be used for that purpose. It is also the intent of the conferees that where the section 5(c) assistance is used to supplement existing Rent Supplement contracts that it be provided for a term of at least 5 years.

Section 236 fund

The House bill contained a provision to extend through September 30, 1982, the period during which amounts in the section 236 rental housing assistance fund may be used in the Troubled projects program. The Senate amendment contained a similar provision, except it extended such use through September 30, 1983. The conference report contains the House provision.

ASSISTED HOUSING TENANT RENTAL PAYMENTS AND INCOME ELIGIBILITY

Minimum rent

The House bill provides that public housing and section 8 tenants would pay as rent the highest of 30 percent of the family's monthly adjusted income, 10 percent of the family's monthly income, or that part of a family's welfare payments which is specifically designated to meet housing costs in those States where the welfare payment is adjusted in accordance with the family's actual housing cost. The Senate amendment was similar except that 15 percent of the family's monthly income would be established as the minimum rent for the section 8 program. The conference report contains the House provision.

Definitions of lower income and very low-income families

The House bill contained a provision not included in the Senate amendment which defined very low-income families as lower income families whose incomes do not exceed 50 percent of the median family income for the area as determined by the Secretary with adjustments for smaller and larger families. The conference report contains the House provision with an amendment to limit the Secretary's discretion to establish income ceilings for lower income families which are higher or lower than 80 percent of the median to situations where they are necessary because of prevailing construction costs or unusually high or low family incomes.

Tenant income

The House bill defined income for the purposes of the assisted housing programs to mean income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary of HUD. The Senate amendment was similar except it also included the amount of income which a member of the household would have received with respect to any resource owned with the preceding 24 months if such member gave away or sold such resource at less than the fair market value in order to be eligible for assistance under this section, and the amendment provided that household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income. The conference report contains the House provision. The conferees are concerned, however, that in allowing adjustments to income for the purpose of determining how much rent a tenant should pay, the Secretary should retain a deduction related to those child care expenses that are necessary to permit a tenant to be employed.

Occupancy by very low-income families

The House bill contained a provision not included in the Senate amendment requiring that at least 30 percent of the dwelling units made available for initial occupancy in a public housing project in any fiscal year shall be occupied by very low-income fami-

lies, and at least 30 percent of the families assisted under section 8 with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units. The conference report does not include this provision (see Income Eligibility).

Limitation on increases in rental payments

The Senate amendment contained a provision not included in the House bill which prohibited any increase in rents required by the amendments made by this section (other than any part of those increases attributed to increases in family income) in excess of ten percent for a family during any twelve-month period. The conference report contains this provision amended to included in the ten percent limitation any rent increases that might result from amendments to other federal laws redefining which governmental benefits are required to or may be considered as income. This limitation shall remain in effect unless changed or superseded by a future law amending this particular subsection. When Congress originally considered the proposal to increase the percentage of a tenant's adjusted income which would be paid as rent in the assisted housing programs, certain types of assistance provided tenants through other federal programs were not considered income for purposes of the assisted housing program. In order to avoid unanticipated hardship to tenants receiving benefits under such programs, the Conferees have extended the limitation that would insure the tenant's rents would not increase by more than ten percent annually to include changes in other federal laws redefining what benefits are required to or may be considered as income.

Income eligibility

The Senate amendment contained a provision not included in the House bill which amended the definition of "lower-income families" used to determine eligibility under section 8 and public housings to lower the income ceiling from 80 percent of area median income to 50 percent of area median income (with adjustments for family size as determined by the Secretary). The conference report does not contain the Senate definition. It includes an amendment which retains eligibility for assisted housing for persons whose income is 80 percent of median or below but restricts that eligibility to a certain percentage of total available units. The conference report provides that of those dwelling units which are available for occupancy under public housing annual contributions contracts and section 8 housing assistance payments contracts before October 1, 1981, and which will be leased on or after such date, only 10 percent will be available for leasing to families whose income is between 50 and 80 percent of median. Of those additional or new dwelling units which become available for occupancy under the public housing and section 8 programs on or after October 1, 1981, no more than 5 percent shall be available for leasing by families whose income is between 50 and 80 percent of median.

The Conferees, by establishing national percentage limitations, do not intend that each lower income housing project or each individual program be limited to the specified percentage. The HUD Secretary has the discretion to set differing percentages for separate programs (such as public housing, section 8 new-family, section 8 new-elderly, or section 8 existing) which, when aggregated, will comply with the overall national limitation. The Conferees do not intend that these amendments regarding tenant eligibility for section 8 assistance will affect the conditions established for project eligibility under section 167(k) or 103(b)(4)(A) of the Internal Revenue Code of 1954.

SECTION 8 PROGRAM

Design of newly constructed projects

The Senate amendment contained a provision to amend section 8(b)(2) of the U.S. Housing Act of 1937 to provide that to increase housing opportunities for very low-income families, the Secretary shall assure that newly constructed housing to be assisted under such section is modest in design and shall reduce the types and number of unnecessary amenities and features. The House bill did not include a similar provision. The conference report contains the Senate provision amended to provide that to increase housing opportunities for very low-income families, the Secretary shall assure that newly constructed housing to be assisted under section 8 is modest in design. The Conferees wish to clarify that in assuring such projects are "modest in design," the Secretary should review the planned amenities to preclude unnecessary amenities and other unnecessary features, the extent to which room sizes can be reduced to meet the Minimum Property Standards, and should encourage an appropriate use of efficiency and one or more bedroom units. However, the Conferees do not believe that it would be appropriate for the Secretary to require that more than 25 percent of the units in a project be efficiency units.

Limitation on rent increases

The Senate amendment contained a provision to amend section 8(c)(2) of the U.S. Housing Act of 1937 to provide that notwithstanding any other provision with respect to rent increases, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred by owners of comparable projects in the area. The House bill did not contain a similar provision. The conference report contains the Senate provision amended to clarify that comparison should be with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families assisted under this section, and that where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units.

Limitation on assistance payments to unoccupied units

The Senate amendment contained a provision not contained in the House bill to amend section 8(c)(4) of the U.S. Housing Act of 1937 to limit to 30 days the period for which assistance payments may be made to unoccupied units. While the conference report does not contain the Senate provision, the Conferees direct the Secretary to report to the Congress by January 1, 1982, regarding the extent to which provisions in current law regarding the Secretary's authority to make assistance payments to vacant units have been utilized, the cost of such payments to the Federal Government and the impact on contracts and on section 8 investors of limiting such payments in the future.

Consideration for review of section 8 proposals

The Senate amendment contained a provision to provide that the Secretary shall give a weighted average consideration of 33⅓ percent for cost considerations when reviewing proposals for assistance under section 8. The House bill did not contain a similar provision. The conference report contains a provision requiring that after selection of a proposal involving newly constructed or substantially rehabilitated units for assistance under section 8, the Secretary shall limit cost and rent increases (except for adjustments in rent pursuant to section 8(c)(2)) to those approved by the Secretary; and that the Secretary may only approve those increases for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary. The Conferees wish to clarify that the term "unforeseen factors beyond the owner's control" should be limited to such factors as strikes, weather delays, acts of God and unexpected delays caused by local governments. The Conferees are concerned that HUD should place a greater emphasis on the cost of section 8 projects during the initial selection process than is currently being done, but believe that this should only be done in the context of other factors which are critical to the success of assisted housing projects, such as site selection, the previous experience of the developer, and the extent to which the project is consistent with local housing needs and goals. In addition, the Conferees note that HUD is in the process of developing procedures to limit cost increase amendments during project construction, and urge the Secretary to implement these procedures at the earliest possible date.

Priority to projects on land provided by state or local governments

The Senate amendment but not the House bill contained a provision which provided that for the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a priority in entering into contracts under section 8 for projects which are to be located on specific tracts of land provided by states or units or local government if the Secretary determines that the tract of land is suitable for such housing, and that affording such priority will be cost effective. The conference report contains the Senate provision with an amendment to substitute "preference" for "priority". The Conferees wish to clarify that the intent of this provision is that where projects are considered substantially equal in other respects the Secretary should give a preference to projects on land provided by state or local government.

Limitation on unit size

The Senate amendment but not the House bill contained a provision to provide that the Secretary shall not enter into any contract with respect to a newly constructed project under section 8 if the sizes of the units in such project exceed (1) the sizes specified in the minimum property standards by more than 10 percent or the sizes specified by other applicable federal standards, or (2) the sizes specified in the applicable local codes, whichever are greater. The conference report does not contain the Senate provision (see Design of Newly Constructed Projects).

Efficiency units for elderly or handicapped

The Senate amendment but not the House bill also included a provision which provided that in the case of newly constructed or substantially rehabilitated projects for occupancy by elderly or handicapped persons or families with respect to which federal housing assistance is provided pursuant to contracts entered into on or after October 1, 1981, to the maximum extent practicable, the Secretary of HUD shall, on a nationwide basis, assure that not less than 25 percent of the units are efficiency units. The conference report does not contain this provision. (see Design of Newly Constructed Projects)

Single room occupancy housing

The House bill contained a provision to amend sec. 8(e)(5) of the U.S. Housing Act of 1937 to provide that the Secretary may provide assistance under the sec. 8 Moderate Rehabilitation Program with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if (i) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary, and (ii) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose. The House provision also provided that assistance made available with respect to such units may be made available for the benefit of lower income single individuals without regard to the limitation and priority described in the provisions of the third sentence of sec. 3(2) of such Act (percentage limitation and priority affecting lower income single individuals who can receive assistance under the Act). The Senate amendment contained a provision which provided that the Secretary of HUD may not deny or withold federal housing assistance with respect to any property in which some or all of the dwelling units do not contain bathroom or kitchen facilities because of the lack of such facilities; and which defined the term "federal housing assistance" to mean assistance under any program pursuant to the U.S. Housing Act of 1937, the National Housing Act, sec. 101 of the HUD Act of 1965, sec. 202 of the Housing Act of 1959, title V of the Housing Act of 1949, or title I of the Housing and Community Development Act of 1974. The conference report contains the House provision with an amendment to permit the Secretary to also provide assistance to such properties under the sec. 8 Substantial Rehabilitation Program and to provide that, in appropriate cases, the Secretary may waive the 15 percent limitation under sec. 8 on the number of units occupied by single individuals. The Conferees wish to clarify that the Secretary is also permitted to provide assistance for Single Room Occupancy units where moderate or substantially rehabilitated sec. 8 assistance is provided in conjunction with FmHA sec. 515 loans and, in addition, a community may use its CDBG funds to rehabilitate Single Room Occupancy units. However, the Conferees do not expect Single Room Occupancy units to be assisted in cases where sec. 8 assistance is provided in conjunction with the sec. 202 program. The Conferees intend that the 15 percent single individual limitation may be waived where a Single Room Occupancy project would exceed the limitation for a particular community. This authority to waive the limitation is not intended, however, to allow a series of Single Room Occupancy projects to exceed the 15 percent limitation.

Prohibition on assistance to communities with rent control

The Senate amendment contained a provision not contained in the House bill to prohibit the Secretary, after the date of enactment of this section, from entering into any contract for a newly constructed or substantially rehabilitated project under sec. 8 which is located in a jurisdiction of a state or unit of local government which applies rent controls or rent stabilization to some or all newly constructed multifamily residential projects or to units in any multifamily residential project which become vacant. The conference report does not contain the Senate provision. In rejecting the Senate provision, the Conferees nonetheless believe that the rapid expansion of rent control ordinances and laws is one of the many factors which have contributed to the crisis in multifamily housing. Rent control tends to result from the very decline in rental housing to which it contributes. Communities faced with substantial increases in rents often find it necessary to restrict the ability of owners to receive rent increases; this in turn provides a disincentive to owners to maintain existing rental buildings. Though the Conferees are sympathetic with the concerns of local government, they believe that rent control actually acts contrary to the interests of tenants. Rent control discourages development of new rental housing and encourages the conversion of rental housing to condominium or cooperative use; in doing so it places increased pressures on the rental market and significantly narrows the housing opportunities of all families. It appears to the Conferees that the most responsible response of local governments to the decline in rental housing is to provide greater inducements for its construction, particularly since in some areas restrictive zoning and land use controls have been the source of pressures on rents which have ultimately caused the local governments to institute rent control. In sum, the Conferees believe that local governments must address themselves to the underlying reasons for increases in rent and not simply add to the problem by instituting rent control.

Notification of rent increases in section 8 projects

The Senate amendment contained a provision not in the House bill that requires each contract under sec. 8(c) to provide that the owner shall notify tenants at least six months prior to any rent increase which may occur after the expiration of the contract. The conference report contains the Senate provision with an amendment providing that the owner shall notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of contract. The Conferees intend the notice provision to apply only to contracts for newly constructed or substantially rehabilitated section 8 housing.

Survey of section 8 owners

The Senate amendment but not the House bill contained a provision providing that within one year after the date of enactment of this Act, the Secretary shall conduct a survey to determine the number of projects which are assisted under sec. 8 and owned by developers or sponsors with five-year annual contributions contracts who plan to withdraw from the sec. 8 program when their contracts expire and who will increase rents in those projects to levels that the current residents of those projects will not be able to afford; and that the Secretary shall notify affected residents of possible rent increases where applicable. The provision also required the Secretary to report to Congress recommending methods to recapture the front-end federal investment in such projects. The conference report contains this provision amended to provide that where the survey indicates that an owner intends to withdraw from the program, the Secretary shall notify affected residents of possible rent increases and that the report should indicate alternative methods that may be available for the recapture of the front-end investment. The Conferees expect that such notification will only be required once, and that where the Secretary finds that it is impractical to notify each tenant in projects where owners intend to withdraw, the Secretary will require such owners to post a notice in an appropriate location in each building. The Conferees wish to clarify that the term "front-end investment" includes the value of interest subsidies from the GNMA Tandem Program and of tax expenditure subsidies as a result of special tax treatment allowed for sec. 8 projects.

Prohibition on financial profit under section 8 by federal, state or local officials

The Senate amendment but not the House bill contained a provision to amend sec. 8 of the U.S. Housing Act of 1937 to provide that the Secretary shall assure that no federal, state or local official financially profits by participating in the development of housing to be assisted under such section. The conference report contains a provision providing that the Secretary of HUD shall, after consultation with the Attorney General, develop regulations to prevent possible conflicts of interest on the part of federal, state and local government officials with regard to participating in projects assisted under sec. 8 and shall make such regulations effective not later than 180 days after the date of enactment of this Act.

Retention of wrongfully paid amounts

The Senate amendment contained a provision not in the House bill directing the Secretary of HUD to permit public housing agencies to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the housing assistance program under sec. 8 of the United States Housing Act of 1937, an amount equal to the greater of (A) the legal expenses incurred in obtaining such judgments, or (B) 50 percent of the amount actually collected on the judgments. The conference report contains the Senate provision. The Conferees intend that where the Secretary has incurred costs on behalf of the PHA in obtaining such judgements, such costs shall be deducted from the PHAs 50 percent share of the judgement awarded.

Legal action brought by PHA's

The Senate amendment, but not the House bill, contained a provision providing that the Secretary of HUD shall include in the annual report under sec. 8 of the Department of Housing and Urban Development Act a summary of cases brought to its attention by public housing authorities for prosecution or civil action, and shall describe the handling of such cases by such authorities and by the Department of Housing and Urban Development and the resolution of such cases in the court system. The conference report contains the Senate provision.

Termination of tenancy

The Senate amendment contained a provision not included in the House bill which

deleted the requirement that, with respect to the sec. 8 existing housing program, the public housing agency shall have the sole right to give notice to vacate, with the owner having the right to make representation to the agency for termination of tenancy, and provided that the procedural and substantive rights of the tenant with respect to occupancy of the unit shall be determined by the terms of the lease and applicable state and local law. The conference report contains the Senate provision amended to require that in the case of leases entered into after the beginning of fiscal year 1982 under the section 8 existing program, the lease shall be for not less than one year or the term of the assistance contract, (whichever is shorter), and shall contain other requirements specified by the Department of HUD, and to also require that the owner shall not terminate the tenancy except for serious or repeated violation of the lease, applicable state, local or federal law, or for other good cause.

It is not the intention of the Conferees that these statutory provisions govern the relationship between a landlord and a tenant after a landlord has, in good faith, terminated his participation in the sec. 8 existing program.

Economic Mix in Assisted Housing Programs

The Senate amendment contained several provisions not included in the House bill which relate to the policy of encouraging the inclusion in assisted housing projects of families with a broad range of lower incomes. One provision directed the Secretary of HUD to rescind 24 CFR 880.603(c) which provides that during the initial renting of assisted units an owner must lease at least 30-percent of units to very low-income families; after the initial renting the owner must use his or her best efforts to maintain at least 30 percent occupancy by such families; and that at all times the owner will use his best efforts to achieve leasing to families so that the average of incomes of all families in occupancy is at or above 40 percent of area median income. A second provision limited a purpose of the sec. 8 program, the promotion of economically mixed housing, to situations where this purpose is consistent with the purpose of aiding lower-income families in obtaining a decent place to live. A third provision deleted the requirement that public housing agencies establish tenant selection criteria designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of low-income families. The conference report does not contain these provisions. However, given the changes in income eligibility required by this conference report, the conferees direct the Secretary of HUD to rescind the cited regulation. The conferees are also concerned that in carrying out the policy of creating a mix of families having a broad range of lower incomes in assisted housing that families whose incomes are between 50 and 80 percent of median not be given a priority for occupancy by virtue of their income. In addition, the conferees do not intend that a community should be required to achieve the same distribution of incomes between lower income families living in assisted housing and lower income families living in the community at large. Such a rigid formula can inhibit a community from fulfilling the basic purpose of the assisted housing programs without delay—to aid lower income families in obtaining a decent place to live.

Rental to Ineligible Families

The Senate amendment but not the House bill contained a provision to provide that each contract entered into under sec. 8 after the date of enactment of the Housing and Community Development Amendments of 1981 shall provide that a family which is not eligible for assistance under this section at the time of its initial occupancy may rent a unit in a newly constructed or substantially rehabilitated project assisted under this section only if the number of units in the project which are occupied by families eligible for assistance under this section equals or exceeds the number of units in the project which were to be available for occupancy at initial rent-up by families eligible for assistance under this section. The conference report contains a provision which provides that each contract to make assistance payments for newly constructed or substantially rehabilitated housing assisted under this section entered into after enactment of the Housing and Community Development Amendments of 1981 shall provide that during the term of the contract, the owner shall make available for occupancy by families which are eligible for assistance under this section at the time of their initial occupancy, the number of units for which assistance is committed under the contract.

Modification of Preference to Partially Assisted Projects

The Senate amendment but not the House bill amended sec. 8(c)(5) of the U.S. Housing Act of 1937 which permits the Secretary, within the category of projects for the nonelderly or nonhandicapped containing more than 50 units, to give preference to applications for assistance involving not more than 20 percent of the units in a project, to limit such preference to those projects which in addition are not subject to mortgages purchased under section 305 of the National Housing Act and not financed with the proceeds of obligations the interest on which is exempt from taxation under chapter 1 of the Internal Revenue Code of 1954. The conference report contains the Senate provision amended to limit any preference to those projects which in addition are not subject to mortgages purchased under sec. 305 of the National Housing Act.

Section 235

The Senate amendment contained a provision not included in the House bill which provided that the HUD Secretary may not enter into new assistance contracts under section 235 after September 30, 1981, except pursuant to commitments issued on or before September 30, 1981. The conference report contains the Senate provision amended (1) to prohibit the Secretary from entering into new contracts for assistance payments after March 31, 1982, except pursuant to a firm commitment issued on or before that date or pursuant to other commitments issued by the Secretary prior to June 30, 1981, reserving 235 funds to be used in conjuction with a UDAG project; and (2) to provide that in no event may the Secretary enter into new contracts for assistance payments after September 30, 1983.

Restriction on Use of Assisted Housing

The House bill contained a provision prohibiting the Secretary of HUD from making financial assistance available under the public housing, section 8, section 235, section 236 or rent supplement programs for any alien who is not lawfully admitted for permanent residence or who is not otherwise permanently residing in the United States under color of law. The Senate amendment contained a similar provision prohibiting assistance to an alien unless the alien is a resident of the United States and either: is lawfully admitted for permanent residence as an immigrant (excluding visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country); entered prior to June 30, 1948, has continuously maintained residence in the United States, is not eligible for citizenship, but is lawfully admitted for permanent residence; is lawfully present and granted asylum; is lawfully present because permitted by Attorney General for strictly public interest or emergency reasons; or is lawfully present because deportation is withheld by the Attorney General. The conference report contains the Senate provision. As was the case with section 214 of the Housing and Community Development Act of 1980, which dealt with nonimmigrant student-aliens, this section is intended to reserve scarce housing assistance resources for persons with the most legitimate claim—namely, citizens and other persons lawfully present in the United States.

It is not the intention of the bill to authorize the Secretary of Housing and Urban Development or any other public official to invade the privacy of occupants of assisted housing in an effort to identify illegal aliens and to secure their removal. However, the Secretary is required to take reasonable steps to identify such persons by methods which may include a request for documentation of an occupant's legal status, and which will protect the rights of all those being assisted. The Secretary should also take steps to provide for an orderly transition which will satisfy the intent of the proposal to make assisted housing available to lawful residents exclusively. In undertaking this task, the Secretary is specifically directed to ensure that persons administering assisted housing programs deal fairly and humanely with all persons discovered to be occupying housing in violation of this section.

In establishing procedures to assure that future applicants for participation in assisted housing programs are persons lawfully present in the United States, the Secretary should take care to assure that all applicants are subjected to procedures which are fair, which protect applicants from embarrassment or humiliation, and which are impartially applied without regard to any official's subjective judgment or opinion concerning whether a particular applicant might or might not be a person not lawfully present in the United States.

Disposal of HUD-Owned Projects

The Senate amendment contained a provision not included in the House bill to amend section 203(a) of the Housing and Community Development Amendments of 1978 to provide that to the maximum extent feasible, the Secretary shall seek to dispose of projects owned by the Secretary to tenant-owned cooperatives, While the conference report does not contain this provision, the Conferees direct the Secretary not to preclude consideration of disposing of projects as tenant-owned cooperatives, so long as it would be consistent with the overall purposes of the Disposition Program.

Payment for Development Managers

The Senate amendment contained a provision not included in the House bill which required the Secretary of HUD to develop and implement a revised fee schedule for development managers of lower income housing projects assisted under the United States

Housing Act of 1937 so that the percentage limitation applicable to fees chargeable in connection with smaller projects is increased to a minimum level which is practicable. The conference report contains the Senate provision. In setting such fees the Secretary should allow fees that are adequate for both small and large projects. It may be necessary in order to comply with this requirement to establish a larger per unit fee for a small project than for a large project, but in all cases such fees should be reasonable and cost-verifiable, as determined by the Secretary.

Operating Subsidy Formula

The Senate amendment, but not the House bill, contained a provision calling for a review of the operating subsidy formula and to report to Congress by March 1, 1982, recommendations for one or more new operating subsidy formulas which contain incentives to achieve good management, full rent collection and improved maintenance of projects developed under the U.S. Housing Act of 1937. The conference report contains the Senate provision amended to provide that the study shall examine alternative methods for distributing operating subsidies which provide such incentives.

Computer Feasibility Study

The Senate amendment contained a provision not in the House bill calling on HUD to examine the feasibility of a computer system that could be used by public housing agencies to comply with HUD's reporting requirements. The conference report does not contain the Senate provision.

Energy Efficiency Efforts Under Troubled Projects Program

Secretarial approval of rents

The Senate amendment, but not the House bill, amended section 201 of the Housing and Community Development Amendments of 1978 to provide that, notwithstanding any other provision of law, in exercising any authority relating to the approval or disapproval of rentals charged tenants residing in projects which are eligible for assistance under this section, the Secretary (A) shall consider whether the mortgagor could control increases in utility costs by securing more favorable utility rates, by undertaking energy conservation measures which are financially feasible and cost effective, or by taking other financially feasible and cost-effective actions to increase energy efficiency or to reduce energy consumption; and (B) may, in his discretion, adjust the amount of a proposed rental increase where he finds the mortgagor could exercise such control. The conference report contains this provision.

Waiver of certain requirements

The Senate amendment, but not the House bill, also contained a provision permitting the Secretary to waive one or more of the requirements of the Troubled Projects Program and to provide financial assistance to an owner of a project which is eligible for assistance under this section in order to assist the owner in carrying out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary. The conference report contains a provision that projects otherwise eligible for Troubled Projects assistance may, in addition to other amounts specified in statute, receive amounts necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.

Kansas Department of Economic Development

The Senate amendment contained a provision instructing the Secretary of HUD to permit the Kansas Department of Economic Development to participate as a public housing agency for the purposes of programs carried out under the United States Housing Act of 1937 and as a state agency for the purpose of section 883.203 of title 24 of the Code of Federal Regulations as in effect June 1, 1981. The House bill contained no similar provisions. The conference report contains the Senate provisions.

Limitation on Appropriations

The Senate amendment contained a provision not in the House bill, providing that no funds may be appropriated pursuant to the amendments made by section 322-1 of the Senate amendment unless the provisions of sections 322-2 through 322-13 of the Senate amendment are enacted. The conference report does not contain the Senate provision.

PURCHASE OF PUBLIC HOUSING OBLIGATIONS

The House bill, but not the Senate amendment, provided that in addition to any authority provided before October 1, 1981, the Secretary of HUD may, on and after October 1, 1981, enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purpose of financing public housing projects authorized by section 5(c) of the United States Housing Act of 1937. It provided that notwithstanding any other provision of law, such contracts may be entered into only to the extent approved in appropriation Acts, and the aggregate amount which may be obligated over the duration of such contracts may not exceed $400,000,000; and authorized to be appropriated any amounts necessary to provide for such payments. It also provided that such authority to enter into contracts shall be in lieu of any authority (except for authority provided specifically to the Secretary before October 1, 1981) of the Secretary to enter into contracts for such purposes under section 16(b) of the Federal Financing Bank Act of 1973. The conference report contains the House provision. The Conferees are aware of the concerns of HUD and the OMB regarding HUD's ability to continue to roll over short-term, tax-exempt public housing notes under current market conditions. However, the Conferees note that HUD has available previously appropriated authority and a $1.5 billion line of credit from the Department of Treasury should HUD be unable to refinance its outstanding obligations, and that this amount may be increased at any time by the President.

TENANT PARTICIPATION

The House bill, but not the Senate amendment, contained a provision to limit existing requirements regarding tenants' opportunity to comment to HUD on a multifamily project owner's actions to requests for increases in rents, conversion to other uses, and partial release of security or major physical alterations. The conference report contains the House provision.

FIRE SAFETY

The House bill, but not the Senate amendment, contained a provision that amends the Comprehensive Improvement Assistance Program to provide that assistance for emergency and special purpose needs should be made available to projects especially for emergency and special purpose needs related to fire safety. The conference report contains the House provision.

SECTION 8 ASSISTANCE FOR MANUFACTURED HOMES

The House bill contained a provision not included in the Senate amendment which would permit assistance under the section 8 program to be provided without regard to whether the manufactured home park and the manufactured home units located in the park are existing, substantially rehabilitated or newly constructed. Where assistance is made in the case of units located in a substantially rehabilitated or newly constructed manufactured home park, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed the mortgage amount limit applicable to manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high-cost areas in the manner described in such section. In addition, such assistance could be provided with respect to the rental of a space on which is placed a manufactured home which is rented, as well as owned. In the case of a rented manufactured home, the monthly assistance payment to a family would be the difference between 25 percent of the family's monthly income and the sum of the monthly utility payments made by the family and the maximum monthly rent permitted with respect to the manufactured home and space, except that the assistance may not exceed the total amount of such maximum monthly rent. Finally, any contract for section 8 assistance provided in connection with a substantially rehabilitated or newly constructed manufactured home park may not be less than 240 months nor more than 360 months.

The conference report contains the House provision amended to clarify that (1) the fair market rents for manufactured homes will be established in the same way they are established for other types of housing, (2) in the case of a rented manufactured home, the maximum monthly rent shall be the difference between the rent the family is required to pay under section 3(a) of the United States Housing Act of 1937 (as amended by this title) and the sum of the monthly utility payments made by the family and the maximum monthly rent permitted for a manufactured home and space, and (3) the section 8 contract provided in connection with a substantially rehabilitated or newly constructed manufactured home park may not be less than 240 months nor more than the maximum term for a manufactured home loan permitted under section 2(b) of the National Housing Act.

STUDIES AND REPORTS

Homeownership opportunities

The House bill, but not the Senate amendment, contained a provision requiring the Secretary to undertake a study of the use of the authority under section 8 permitting local public housing agencies to purchase and resell structures to provide eligible tenants with homeownership opportunities and to provide Congress with a legislative proposal establishing a demonstration project for such purpose. The conference report contains the House provision with an amendment providing that the Secretary shall transmit recommendations regarding the establishment of a demonstration

project in which the Secretary would utilize section 8(c)(8) for the purpose of increasing homeownership opportunities for lower-income families.

Fire safety

The House bill contained a provision requiring the Secretary to conduct a study and report to Congress not later than six months after the enactment of this Act on the fire safety standards in low-income housing projects. The Senate amendment contained no similar provision. The conference report contains the House provision with an amendment making the report due in one year. The Conferees intend that the study should involve a sample survey regarding the extent to which low-income housing projects fail to meet applicable local fire safety standards as well as related standards under the Comprehensive Improvement Assistance Program.

PART III—PROGRAM AMENDMENTS

FHA EXTENSIONS OF INSURING AUTHORITY

The House bill contained a series of provisions extending for one year all of the mortgage insuring authorities of the HUD Secretary under the National Housing Act. The Senate amendment contained no similar provisions. The conference report contains the House provisions.

The Conferees wish to make clear that sec. 232(b)(2) of the National Housing Act, which authorizes mortgage insurance for intermediate care facilities, is intended to include facilities that provide off-premises day training for otherwise full-time developmentally disabled residents. When Congress expanded the coverage of section 232 in the Housing and Community Development Amendments of 1978 to include facilities for the resident care of elderly persons and others who are able to live independently but who require care during the day, it did not intend to exclude facilities because their residents receive training, rehabilitation or care outside of the facility during the day. To exclude such facilities from being eligible for sec. 232(b)(2) insurance would be detrimental to many otherwise eligible persons, especially developmentally disabled persons, and would be contrary to the Congressional intent. The standard of "continuous care" required under sec. 232 is satisfied when off-premises day training, rehabilitation or care is provided as part of the total care program of the developmental disabled residents of the facility.

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

The House bill contained a provision extending through September 30, 1982, the Secretary's authority to administratively set the FHA interest rate to meet the market at rates above the statutory maximum of 6 percent. The Senate amendment did not contain a similar provision. The conference report contains the House provision.

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE

The House bill contained a provision extending the Emergency Home Purchase Assistance Act of 1974 through fiscal year 1982. The Senate bill did not contain a similar provision. The conference report does not contain the House provision.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Increase in mortgage purchase authority.—The House bill contained a provision to increase GNMA's mortgage purchase authority under the Special Assistance Functions by $1.1 billion on October 1, 1981. The Senate amendment contained a similar provision, except that it increased GNMA's authority by $2,300,000,000 on October 1, 1981, and provided that not more than $942,800,000 of that amount shall be available for the purchase of or commitments to purchase mortgages secured by projects which do not contain units assisted under sec. 8 of the U.S. Housing Act of 1937. The conference report contains the House provision.

Limitation on purchase commitments.—The House bill also included a provision not contained in the Senate bill providing that (1) during fiscal year 1982, GNMA may not enter into commitments to purchase mortgages, with an aggregate principal amount in excess of $1,973,000,000; and (2) that such amount shall not include any authority to enter into commitment which was authorized for use during fiscal year 1981 but was not utilized during such year. The conference report contains the first part of the House provision with an amendment to provide that, in addition, GNMA may not enter into commitments to purchase mortgages secured by projects which do not contain units assisted under sec. 8 of the U.S. Housing Act of 1937 with an aggregate principal amount in excess of $580 million.

The conferees believe that this limitation will be sufficient to finance those projects that will reach FHA firm commitment during fiscal year 1982. The Senate conferees believe that no more than an additional $1.2 billion in mortgage purchase commitments will be necessary with respect to the Tandem pipeline for fiscal year 1983.

Mortgage sales

The House bill, but not the Senate amendment, contained a provision to require the Government National Mortgage Association to sell, during fiscal year 1982, mortgages of at least $2,000,000,000 which were purchased under section 305 of the FNMA Charter Act. The conference report does not contain this provision.

Mortgage-backed securities

The House bill contained a provision to provide that GNMA may enter into commitments to issue guarantees under the Mortgage-Backed Securities Program not to exceed $69,542,000,000. The Senate amendment contained no similar provision. The conference report contains the House provision.

Conditions on purchase of mortgages

Order of purchase commitments.—The House bill, but not the Senate amendment provided that in entering into commitments to purchase below-market, Tandem plan mortgages (during the period beginning June 15, 1981, and ending October 1, 1982) under sec. 305 of the Federal National Mortgage Association Charter Act, GNMA may enter into such commitments only with respect to multifamily projects for which firm commitments for mortgage insurance under title II of the National Housing Act have been made by the Secretary of HUD before the expiration of the 90-day period beginning on the date of the enactment of this Act. Commitments by the Association shall be made with respect to such projects in the order in which such projects received such firm commitments from the Secretary. The conference report contains the House provision amended to provide that GNMA, in entering into commitments to purchase Tandem plan mortgages from the date of enactment through fiscal year 1982, may enter into commitments only with respect to projects for which firm commitments for title II mortgage insurance have been made by the Secretary of HUD. The conference report also provides that the Secretary of HUD shall continue to process applications for mortgage insurance for a reasonable period which will continue for not less than 90 days during fiscal year 1982. The conferees expect that GNMA will not be precluded from making commitments from the date of enactment through the period which could end 90 days after the beginning of fiscal year 1982. However, it is also expected that projects that receive a firm commitment from FHA between the date of enactment and the period that will extend at least through December 29, 1981, will be able to apply for GNMA funds made available for fiscal year 1982.

Type of insurance commitment and effective date.—The House bill contained two provisions not included in the Senate amendment. The first provision required that in making commitments to purchase mortgages during fiscal year 1982 and in processing firm commitments for mortgage insurance for such mortgages, GNMA and the Secretary of HUD, respectively, shall not (during the period beginning June 15, 1981, and ending October 1, 1982) make any distinction, based on the receipt of a conditional commitment for such insurance, between applicants who have received such a conditional commitment and applicants who received notification from the Secretary that receipt of such a conditional commitment was not a prerequisite to their obtaining a firm commitment for such insurance. The second provision made these changes effective as of June 15, 1981. The conference report does not contain either of these provisions.

The conferees are concerned with the impact of FHA's February 13, 1981, notice (that only multifamily projects that were in a stage of conditional commitment, application in process, or beyond prior to that date could continue to be processed on the assumption that GNMA Tandem financing would be available) on developers of insured multifamily projects who were encouraged by FHA to by-pass FHA review at the conditional commitment stage and to proceed directly to firm commitment. The conferees expect that FHA, in continuing to process insured multifamily projects, and GNMA, in making such mortgages eligible to apply for purchase commitments, not discriminate between those projects that had a conditional commitment and those that were encouraged to by-pass that processing stage. In addition, it is expected that GNMA will not preclude a project from eligibility for a GNMA purchase commitment if that project received an FHA firm commitment for mortgage insurance within the time period which is no less than 90 days after the beginning of fiscal year 1982.

FHA GENERAL INSURANCE FUND

The House bill contained a provision to increase the existing overall limitation on appropriations authorized to cover losses of the FHA General Insurance Fund by $127,248,000 on October 1, 1981. The Senate amendment contained no similar provision. The conference report contains the House provision amended to increase the limitation by $126,673,000 on October 1, 1981.

LIMITATION ON FHA INSURANCE AUTHORITY

The House bill contained a provision which provided that during fiscal year 1982, the Secretary may not enter into commitments to insure under the National Housing Act loans and mortgages with an aggregate principal amount in excess of $41 billion.

The Senate amendment contained no similar provision. The conference report contains the House provision.

SECTION 202 HOUSING FOR THE ELDERLY OR HANDICAPPED

Authorization

The House bill contained a provision to increase the limits on authority to borrow (subject to appropriations) for the Section 202 Program to $5,551,348,000 on October 1, 1981. The Senate amendment contained a similar provision, except that it retained the provision in current law to increase the limit to $5,752,500,000 on October 1, 1981, and provided further that the limit be increased to $6,102,500,000 on October 1, 1982. The conference report contains the Senate provision amended to delete the fiscal year 1983 increase.

Gross loan limitation

The House bill contained a provision which provided that not more than $850,848,000 may be approved in appropriation Acts for loans under section 202 for fiscal year 1982. The conference report contains the House provision.

RESEARCH AUTHORIZATION

The House bill contained a provision authorizing $25 million for research for fiscal year 1982. The Senate amendment authorized $35 million for each of fiscal years 1982 and 1983. The conference report contains the Senate provision amended to delete the fiscal year 1983 authorization.

AMENDMENTS RELATING TO MANAUFACTURED HOME AND PROPERTY IMPROVEMENT

General home improvement loans for single family homes

The Senate amendment contained a provision not contained in the House bill to amend section 2(b) of the National Housing Act to increase the maximum loan limits on property improvements from $15,000 to $17,500 ($20,000 where financing the installation of a solar energy system) for existing single family structures or manufactured homes. The conference report contains the Senate provisions.

General home improvement loans for apartments

The Senate amendment contained a provision not contained in the House bill to amend section 2(b) of the National Housing Act to increase home improvement loan limits from $37,500 to $43,750 for the entire building or from $7,500 per family unit to $8,750 per family unit ($50,000 and $10,000 per family unit where financing installation of a solar energy system) for an existing structure to be used as an apartment house for two or more families. The conference report contains the Senate provision.

Loans for manufactured homes

The House bill contained a provision not contained in the Senate amendment to amend section 2(b) of the National Housing Act to increase the maximum insurable loan amounts from $20,000 to $22,500 for a single module manufactured home, and from $30,000 to $35,000 for a manufactured home with two or more modules. The conference report contains the House provision.

Loans for manufactured homes and lots

The House bill contained a provision not contained in the Senate amendment to amend section 2(b) of the National Housing Act to increase the maximum insurable loan amounts for a manufactured home and lot from $30,550 to $35,000 for single module and lot, and from $40,550 to $47,500 for two or more modules and lot. The conference report contains the House provision.

Loans for manufactured home lots

The House bill contained a provision not contained in the Senate amendment to amend section 2(b) of the National Housing Act to provide the maximum insurable amount for the purchase of a lot on which to place a manaufactured home be increased from $6,950 in the case of an undeveloped lot and from $10,425 in the case of a developed lot to a maximum of $12,500 for a suitably developed lot. The conference report contains the House provision.

Increase in loan amounts for lots in high-cost areas

The House bill contained a provision not contained in the Senate amendment amending section 2(b) of the National Housing Act to allow the Secretary to increase the maximum loan amounts by up to an additional $7,500, in areas where an increase is needed to meet the higher costs of land acquisition, site development, and construction in connection with the purchase of a manufactured home and lot or a lot alone. The conference report contains the House provision.

Increase maximum maturity on manufactured home loan

The House bill contained a provision not contained in the Senate amendment amending section 2(b) of the National Housing Act to provide an increase from 15 to 20 years for the maximum maturity of an insurable loan to finance the purchase of a single module manufactured home. The conference report contains the House provision.

Condominium interest or cooperative share

The Senate amendment contained a provision not contained in the House bill to amend section 2(b) of the National Housing Act to define the term "developed lot" to include an interest in a condominium project or share in a cooperative association. The conference report contains the Senate provision.

Manufactured home loans allowance for appurtenances

The Senate amendment contained a provision to permit loans made to finance the purchase of a manufactured home with or without a lot to include the purchase of a garage, patio, carport or comparable appurtenance. The House bill contained no similar provision. The conference report contains the Senate provision with an amendment that permits such a loan if it is secured by a first lien.

Title I insurance available for refinancing

The House bill contained a provision not contained in the Senate amendment to amend section 2(b) of the National Housing Act to provide that Title I insurance be available for the refinancing of a lot owned by an individual (and purchased without Title I assistance but otherwise meeting the requirements of this section) when the refinancing is made in connection with the purchase of a manufactured home and the borrower certifies that the home and lot are, or within 6 months after the date of the loan will be, his or her principal residence. The conference report contains the House provision.

Increase in maximum loan limit for manufacturers home parks

The House bill contained a provision not contained in the Senate amendment to amend section 207(c)(3) of the National Housing Act to increase the maximum loan amount which may be insured in connection with a manufactured home park from $8,000 to $9,000 per manufactured home space. The conference report contains the House provision.

Model manufactured housing zoning code

The Senate amendment contained a provision not included in the House bill which directed the Secretary of HUD to develop a model manufactured housing zoning code. The conference report does not contain this provision.

Mortgage insurance for condominiums

The Senate amendment contained a provision to include manufactured home condominiums in the provision of mortgage insurance for condominiums under section 234 of the National Housing Act. The House bill contained no similar provision. The conference report provides that a condominium eligible for insurance may include a project in which the dwelling units are attached, semi-attached or detached. A manufactured home condominium may be insured under this provision if it meets all of the requirements of section 234, including the requirement that the structure meet the FHA minimum property standards.

HOUSING COUNSELING ASSISTANCE

Authorization

The House bill contained a provision authorizing to be appropriated not to exceed $6 million for housing counseling services for fiscal year 1982. The Senate amendment contained no provision. The conference report contains the House provision amended to authorize to be appropriated not to exceed $4 million for housing counseling services for fiscal year 1983.

Limitation on use of funds

The Senate amendment, but not the House bill, contained a provision that limited the use of housing counseling funds to default and delinquency counseling for homeowners. The conference report does not contain the Senate provision.

LOWER COST TECHNOLOGY

The Senate amendment contained a provision authorizing the Secretary of HUD to develop and implement a demonstration program utilizing lower cost building technology for projects located in innercity vacant lots. The House bill contained no similar provision. The conference report contains the Senate provision.

REDUCTION OF 1981 AUTHORITY

The Senate amendment contains a provision to rescind the authority of the Secretary to obligate $5,552,000,000 of budget authority appropriated for fiscal year 1981. The House bill contained no similar provision. The conference report contains the Senate provision amended to provide that the provision becomes effective on the date of enactment of this Act.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Authorization

The House bill contained a provision to limit the authorization for the National Institute of Building Sciences to $500,000 for each fiscal years 1982, 1983 and 1984. The Senate amendment contained no similar provision. The conference report contains the House provision. The Conferees expect the National Institute of Building Sciences to become financially self-sustaining by the beginning of fiscal year 1985 and that no further appropriations of Federal funds will be necessary.

Composition of Board

The House bill contained a provision requiring that after the first 5 years of its operation two members representing the public interest will be appointed to the Board of the National Institute of Building Sciences by the President of the United States. The Senate amendment contained no similar provision. The conference report contains the House provision.

NEW COMMUNITIES FUND

The House bill contained a provision that was not contained in the Senate amendment to provide not more than $30 million in additional authority that the Secretary may obligate for the New Communities Fund for fiscal year 1982. The conference report contains the House provision with an amendment to provide $33,250,000 of additional authority for the Fund for fiscal year 1982. The Conferees note that with revenues of $10 million from collections, $43,250,000 will be available for fiscal year 1982 to finance necessary activities from the Fund. The Conferees are concerned, however, that this authority to obligate funds from the U.S. Treasury for certain new communities program purposes be utilized in a prudent manner. Treasury and new community debenture interest payments and redemption of new community debentures constitute the only obligations that must be met from the Fund, and the Conferees believe these are adequately covered for fiscal year 1982. These include funds for program staff, consultant and project operations. Any reductions resulting from the action taken by the Conferees are expected to be made from these particular discretionary program cost items.

PURCHASER-BROKER ARRANGEMENT

The House bill contained a provision that permits the Secretary to include in the principal amount to be insured by FHA any sum paid by the buyer to a broker who has been an agent of the buyer in the purchase of a one- to four-family unit. The Senate amendment contained no similar provision. The conference report contains the House provision with an amendment that limits the principal amount of the mortgage, when the broker's fee is included, to the maximum mortgage amount provided in title II.

MORTGAGE INSURANCE FOR HOSPITALS

The Senate amendment contained a provision that gives the Secretary of HUD authority to approve a mortgage increase for changes approved by the Secretary on any hospital mortgage which uses tax-exempt financing and is eligible for insurance under section 242(d)(5) when the application for such increase has been made within 2 years of enactment. The House bill contained no such provision. The conference report contains the Senate provision with an amendment that deletes the 2-year application deadline and clarifies that such mortgage increase may not be approved for the cost of constructing any improvements not included in the original plans and specifications approved by the Department of Health and Human Services, unless such increase is approved by the Secretary of Housing and Urban Development and by the Secretary of Health and Human Services.

HUD SALARIES AND ADMINISTRATIVE EXPENSES

The House bill contained a provision authorizing to be appropriated not to exceed $513,037,000 for HUD administrative and nonadministrative expenses for fiscal year 1982. The Senate amendment contained no similar provision. The conference report does not contain the House provision.

CONGREGATE SERVICES PROGRAM

The House bill, but not the Senate amendment, contained a provision to delete from existing law the fiscal year 1982 authorization of $40 million for the congregate services program. The conference report does not contain this provision.

FHA SINGLE-FAMILY MORTGAGE LIMITS

The House bill contained a provision to increase the insurable mortgage amounts on one- to four-family residences in high-cost areas from 133⅓ percent of the specified dollar amount to 148 percent. The Senate amendment contained no similar provision. The conference report does not contain the House provision.

Last year, the Congress authorized a method by which the FHA mortgage limits under section 203(b) of the National Housing Act could be established on an area-by-area basis to accommodate the needs of moderate- and middle-income persons whose housing opportunities are limited due to the high prevailing prices of houses. This was accomplished by permitting the Secretary to increase the mortgage limit up to the greater of 95 percent of the area's basic median sales price or 133⅓ percent of the basis statutory limit. While the Congress intends that the concept of "median sales price" refer to the median of the aggregated sales prices of new and existing homes, in cases where the median one-family home price does not reasonably reflect the sales prices of newly constructed homes because of an existing stock whose value is static or declining, the conferees expect the Secretary to give greater weight to the sales prices of new homes in determining median sales price in such cases, so that the housing opportunities of moderate- and middle-income persons will be maximized.

COMPILATION OF BASIC LAWS

The Senate amendment contained a provision directing HUD to publish a new edition of the basic laws reflecting changes and additions necessitated by this Act. It also provided that the new edition include annotations reflecting periodic changes to basic laws and a description of provisions which are replaced or amended, and be ready within 180 days after enactment of this Act; and that a revised edition shall be published within 180 days of any later housing and community development housing authorization. The House bill contained no similar provision. The conference report does not contain the Senate provision.

PART IV—FLOOD, CRIME, AND RIOT REINSURANCE

FLOOD INSURANCE

Flood insurance studies

The House bill contained a provision not contained in the Senate amendment which authorizes to be appropriated not to exceed $42,600,000 for flood elevation studies. The conference report contains the House provision.

Flood insurance extensions

The House bill contained a provision not contained in the Senate amendment which extends the program expiration date after which no new contracts may be entered into until September 30, 1982, and extends the Emergency Implementation of the Program until September 30, 1982. The conference report contains the House provision with an amendment authorizing the Director of FEMA to hold harmless agents and brokers who sell flood insurance from any judgments for damages against such agents and brokers as a result of any court actions by policyholders or applicants resulting from errors or omissions on the part of FEMA, providing court costs and reasonable attorney fees arising out of errors or omissions on the part of FEMA and its contractors, further providing that agents and brokers may not be held harmless by FEMA for their own errors or omissions.

Limitations on flood insurance funds

The House bill contained a provision, not contained in the Senate amendment, amending the National Flood Insurance Act to provide that with respect to any fiscal year beginning on or after October 1, 1981, the National Flood Insurance Fund shall be subject to appropriations for all purposes except for the adjustments and payment of claims. The conference report contains the House provision.

The Conferees are aware of certain transitional problems in FY 1982 with respect to agents' commissions and fees, payment to the Treasury of interest on existing borrowing, and claims under the hold-harmless agreement as set forth in section 341(c)(2) of this act. The Conferees support any effort on the part of the Conference on HUD-Independent Offices Appropriations to resolve these transitional problems by approving payment of those expenses.

Purchase and elevation of certain flood damaged property

The House bill contained a provision, not contained in the Senate amendment, which limited to the principal residence of the owner, the authority under the National Flood Insurance Act of 1968 to purchase certain severely flood damaged property or to provide a two percent loan for purposes of elevating the property. The conference report does not contain the House provision. However, the Conferees direct the FEMA, in utilizing this authority in a particular area and when the funds available are insufficient to accommodate all affected properties, to give priority to property which is the principal residence of the owner. FEMA is also directed to use this authority only where it determines that such a purchase or loan for purposes of elevating the property is of financial benefit to the Federal Government. The Conferees believe that financial benefit to the Federal Government would be found in cases where the high degree of risk of further flood related loss makes the purchase or elevation of the property less expensive than continued flood insurance coverage at the existing elevation level.

Undeveloped coastal barriers

The House bill contained a provision, not contained in the Senate amendment, providing that no new flood insurance coverage can be provided for any new construction or substantial improvements of structures located on undeveloped coastal barriers designated by the Secretary of the Interior. For purposes of this section, coastal barrier means:

—depositional geologic features consisting of unconsolidated sedimentary materials subject to waves, tidal and wind energies and protects landward aquatic habitats from direct wave attack;

—all associated aquatic habitats including wetlands, marshes, estuaries, inlets and nearshore waters;

—coastal barrier or portion thereof shall be treated as undeveloped only if there are few people made structures and human activities do not impede geomorphic and ecological processes.

The provision also required the Secretary of the Interior to designate these areas within 90 days of date of enactment.

The conference report contains the House provision with an amendment providing that this prohibition for new flood insurance on undeveloped barrier islands shall not be effective until October 1, 1983. The conference report contains a further amendment directing the Secretary of the Interior to conduct a study for purposes of designating the undeveloped coastal barriers which will be designated by this section, and that not later than one year after the enactment the Secretary shall submit to the Congress a report of the findings and conclusions of this study, together with any recommendations regarding the definition of term "coastal barrier".

The Conferees note that in 1981, in response to a request from the Congress, the Department of the Interior developed a list of undeveloped coastal barriers which may meet the criteria in this section. The Conferees expect that this inventory may provide a basis for the designations by the Secretary. However, the Conferees expect the Secretary to review carefully the definition contained in section 1321 in preparing the report of findings and proposed designations of areas covered in this section. Further, such designations shall be published in the Federal Register after appropriate notice and opportunity for public comment.

The conference report also contains an amendment that, with regard to undeveloped barrier islands that will not be eligible for flood insurance, federally insured financial institutions may make loans secured by structures on these barrier islands.

The conference report also requires that coastal barriers which are included within the boundaries of an area established under federal, State, or local law, or held by a qualified nonprofit organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes shall not be designated as an undeveloped coastal barrier for purposes of the prohibition of flood insurance. It is the intention of the Conferees that a qualified non-profit organization is one which has the intent and capability to maintain the natural character of coastal barrier ecosystems.

CRIME AND RIOT REINSURANCE

The House bill contained a provision, not contained in the Senate amendment, extending the authority for crime insurance through September 30, 1982, extending the authority for riot reinsurance through September 30, 1982, and authorizing crime and urban riot reinsurance coverage through September 30, 1985. The conference report contains the House provision with an amendment deleting the so-called Holtzman amendment to the Urban Riot Reinsurance Program which barred rates on FAIR Plan policies from exceeding those rates or advisory rates set by the principal State-licensed rating organization for essential property insurance in the voluntary market. The Conferees direct the Administration of FEMA to study FAIR Plan rate structures and the adequacy of the national insurance development fund to continue to fund claims under the Crime Insurance Program, and to report back to the Congress by July 1, 1982. It is the expectation of the Conferees that the deletion of the Holtzman amendment will offer those States which have dropped out of the Reinsurance Program an opportunity to reenter, thereby increasing the reserves in the National Insurance Development Fund. Increased reserves in this Fund could provide increased resources to continue funding crime insurance claims and keep the Reinsurance rates at a reasonable level.

PART V—RURAL HOUSING

Guaranteed loan authorizations

The House bill contained a provision not contained in the Senate amendment which deleted the amounts specified in existing law for above-moderate income guaranteed loans that may be available from the overall FmHA insured and guaranteed loan authority. The conference report contains the House provision.

Individual program authorizations

Section 504 repair loans and grants.—The House bill contained a provision which provided not to exceed $50 million for section 504 home repair loans and grants for fiscal year 1982, of which not more than $25 million shall be available from grants. The Senate amendment contained a provision which provided not to exceed $49 million in all, of which $25 million is for grants and $24 million for section 504 loans. The conference report contains the House provision.

Section 516 farm labor housing grants.—The House bill contained a provision which provided $25 million for domestic farm labor housing grants for fiscal year 1982. The Senate amendment contained a similar provision except that only $24 million was provided for fiscal year 1982. The conference report contains the House provision.

Section 525(a) supervisory and technical assistance grants.—The House bill contained a provision not contained in the Senate amendment which provided for fiscal year 1982, $2 million for rural housing technical assistance grants of which not less than $1 million shall be used for counselling purchasers and delinquent borrowers. The conference report contains the House provision.

Construction defects payments and compensation.—The Senate amendment contained a provision not included in the House bill which provided a direct authorization for appropriation of $2 million for fiscal year 1982 for payments for construction defects made pursuant to section 509(c) of existing law. The conference report contains the Senate provision.

Rental assistance payments.—The House bill contained a provision which extended for one year (through fiscal year 1982) the Secretary's authority to enter into rental assistance payments contracts but deleted the clause in existing law that would reduce the amount available for rental assistance payments by any amount approved in the appropriations Acts for Homeownership Assistance Payments (HOAP) to section 502 borrowers pursuant to section 521. The Senate amendment contained a similar provision except that it did not delete the clause related to HOAP. The conference report contains the House provision.

Mutual and self-help housing

Grant and authorizations and restrictions.—The House bill contained a provision which extended through fiscal year 1982 the authorization in existing law for $5 million in appropriations for mutual and self-help housing assistance grants pursuant to section 523(f). The Senate amendment contained a similar provision except that in addition grant funds were prohibited from being available for self-help site and acquisition loans made pursuant to section 523(b)(2)(B). The conference report contains the House provision.

Land development fund—

Authorization.—The House bill contained a provision which provided, to the extent approved in appropriation Acts, an authorization for fiscal year 1982 of $3 million to add to the capitalization of the Mutual Self-Help Housing Land Development Fund. The Senate amendment contained a similar provision except that only $1 million was authorized and the provision was not limited "to the extent approved in appropriation Acts." The conference report contains the House provision.

Limit of activity.—The House bill contained a provision not contained in the Senate amendment which limited to $5 million the amount of site and acquisition loans that may be made from the Fund in fiscal year 1982. The conference report contains the House provision.

Definition of low income

The Senate amendment contained a provision not contained in the House bill which amended the existing definition of the terms "persons of low income" and "persons and families of low income" to mean persons and families whose incomes do not exceed those levels established for any area by the Secretary with adjustments for smaller and larger families. The conference report does not contain the Senate provision. The Conferees urge the Secretary of Agriculture to expeditiously issue the regulations implementing sub-State area based income eligibility limits in accordance with existing law. The Conferees wish to make clear that, for the purposes of establishing income eligibility limits under title V, the Secretary may ignore state boundaries in defining the area and shall not utilize an entire state as an area. It is expected that the Secretary shall define areas according to their income and cost characteristics. Within these limitations the Secretary has the authority to define areas in a manner consistent with administrative efficiency.

Reports

The Senate amendment contained a provision not contained in the House bill which provided that the Secretary of Agriculture shall transmit a report to the Congress not later than March 1, 1982, containing: various options for presenting the budget of the Farmers Home Administration and alternatives to the use of Federal Financing Bank financing for rural housing programs; workable definitions of "low income" which will target Farmers Home Administration housing assistance programs to a population substantially equivalent to the population served by the Department of Housing and Urban Development's assisted housing programs; the effect of a requirement that 30 per centum of assistance provided by the Farmers Home Administration be provided to families with incomes at or below 50 per centum of area median income and recommendations for rent contribution requirements which will achieve equity with the contribution requirements of the Department of Housing and Urban Development's assisted housing programs; recommendations for insuring that subsidy levels for assisted families are minimized and that assisted families within similar circumstances in different regions of the country are treated equally; and a description of the Farmers Home Administration's efforts to minimize the cost of housing subsidized under its programs and of the Farmers Home Administration's use of existing lower cost housing

technology. The conference report contains the Senate provision.

PART VI—MULTIFAMILY MORTGAGE FORECLOSURE

The Senate amendment contained a title not included in the House bill which provided a uniform nonjudicial procedure, which preempts a variety of state laws, for foreclosing FHA-insured or HUD-assisted multifamily properties which are held by the HUD Secretary and which are in default. The conference report includes the Senate provisions with two modifications. The Senate amendment provided that as a condition and term of the foreclosure sale, the Secretary may require that the purchaser agree to continue to operate the property in accordance with the terms, as appropriate of the section 312 loan program, the title II insurance program under which the property was originally insured or any applicable agreement in effect immediately prior to the foreclosure. The conference agreement contains this provision amended to provide that in any case where a majority of the residential units in the property are occupied by residential tenants at the time of sale, and the purchaser is not the Secretary of HUD, the Secretary shall require the property to be operated according to the appropriate terms of prior programs. In addition, in any case where the Secretary of HUD is the purchaser, the Secretary is required to operate the property in accordance with section 203 of the Housing and Community Development Amendments of 1978 which defines the federal policy regarding the management, preservation and disposition of HUD-owned multifamily housing projects. The amendment is intended to assure wherever possible and practicable that the multifamily properties be preserved as low or moderate income rental housing. The Conferees are concerned that HUD take steps to assure that property owners not intentionally evict residential tenants prior to the foreclosure sale in order to avoid the mandatory requirements of this section regarding the use of the property after foreclosure. In addition, where less than a majority of the residential units are occupied by residential tenants at the time of foreclosure and the financial problems affecting the project are related to the mismanagement by the owner and not to circumstances beyond the owner's control, the Conferees urge the Secretary to exercise his discretion to require the continued operation of the project under the appropriate terms of the original insurance or assistance program.

The second amendment included in the conference report provides that a purchaser at the foreclosure sale shall be entitled to possession of the property upon passage of title, subject to any interests senior to the mortgage and subject to the terms of any residential tenant's lease, for the remaining term of such lease or for one year, whichever period is shorter.

PART VII—EFFECTIVE DATE

The House bill contained a provision not included in the Senate amendment which established October 1, 1981, as the effective date for changes made by this subtitle. The conference report contains the House provision amended so that, except as otherwise provided in the subtitle, October 1, 1981, will be the effective date and the amendments made by sections 324, 325 and 326(a) will apply only with respect to contracts entered into on and after October 1, 1981.

SUBTITLE B—BANKING AND RELATED PROGRAMS

Export—Import Bank

The Senate Amendment provided a limit on direct loans for fiscal year 1981. The House bill had no similar provision. The Senate receded to the House.

The House bill provided a direct loan limit of $5.065 billion for fiscal year 1982 and a limit of $5.413 billion for fiscal year 1983. The Senate amendment provided the same aggregate amount for the two years, and "designated" the same amounts for each fiscal year. However, the Senate amendment permitted the Administration, under extraordinary circumstances, to use amounts designated for one year to be used in another year if necessary to enhance the negotiating position of the United States delegation to the OECD export credit negotiations. The House receded to the Senate.

The House bill provided a direct loan limit for fiscal year 1984. The Senate amendment had no similar provision. The House receded to the Senate.

The House bill required the Secretary of the Treasury to transmit to the Congress a report on the status of negotiations to reform existing international agreements on export credit by March of 1982. The report would include a recommendation as to whether the Congress should enact legislation to enhance the ability of the Export-Import Bank to offer credit fully competitive with the subsidized export credit offered by other governments, in order to improve the prospects for a successful conclusion of these negotiations.

The Senate amendment had no similar provision. The Senate receded to the House with the amendment which provided that the report will be submitted by December 15, 1981.

Treasury, Office of the Secretary

The House bill limited, for the fiscal years 1982, 1983, and 1984, the authorization for the salaries and expenses of the Office of the Secretary of the Treasury. The limits are $32,760,000 for 1982, $33,516,000 for 1983, and $34,252,000 for 1984.

The Senate amendment has no similar provisions. The House receded to the Senate.

Treasury International Affairs Authorization.

The House bill authorized, for fiscal year 1982, $22,962,000 to be appropriated for the international affairs administrative expenses for the Treasury Department.

The Senate amendment had no similar provisions. The Senate receded with an amendment that provided an authorization of $23,896,000 and provided a permanent authorization for that part of the Treasury.

Subtitle B—Banking and Related Programs

Bureau of Government Financial Operations—Salaries and Expenses

The House bill limited, for the fiscal years 1982, 1983, and 1984, the authorization for the salaries and expenses of the Bureau of Government Financial Operations, the Treasury's government-wide disbursing, banking and bookkeeping function. The limits were $154,869,000 for 1982, $162,837,000 for 1983, and $170,610,000 for 1984.

The Senate amendment contained no similar provision. The House receded to the Senate.

New York City Loan Guarantee Program—Salaries and Expenses

The House bill limited, for fiscal years 1982, 1983, and 1984, the authorization for the salaries and expenses to carry out the New York City Loan Guarantee Act of 1978. The limits were $891,000 for 1982, $963,900 for 1983, and $1,028,700 for 1984.

The Senate amendment contained no similar provision. The House receded to the Senate.

Chrysler Corporation Loan Guarantee Program—Salaries and Expenses

The House bill limited, for fiscal years 1982, 1983, and 1984, the authorization for the salaries and expenses to carry out the Chrysler Corporation Loan Guarantee Act of 1979. The limits were $1,291,000 for 1982, $1,319,400 for 1983, and $1,347,300 for 1984.

The Senate amendment had no similar provisions. The House receded to the Senate.

Bureau of the Mint—Salaries and Expenses

The House bill terminated the permanent authorization for appropriations for salaries and expenses of the Bureau of the Mint (31 U.S.C. 369). It authorized an appropriation of $52,206,000 for fiscal year 1982.

The Senate amendment had no similar provisions. The Senate receded to the House with an amendment providing a FY 1982 authorization of $54,706,000.

Council on Wage and Price Stability Authorization

The House bill repealed the authorization for the Council on Wage and Price Stabilization.

The Senate amendment had no similar provision. The Senate receded to the House.

Usury Provision

The Senate amendment contained a provision which made it clear that manufactured homes are considered "real estate" for purposes of the override of State usury laws provided in the Depository Institutions Deregulation and Monetary Control Act.

The House bill contained no similar provision. The House receded to the Senate.

Five-Year Reserve Transition Rule for Hawaiian Financial Institutions

The Senate amendment provided that Federally-chartered non-Federal Reserve member depository institutions and nonmember depository institutions chartered by states other than Hawaii would be permitted the same 5-year exemption from reserve requirements that the Monetary Control Act gave to state-chartered banks in Hawaii.

The House bill contained no similar provision. The House receded with a technical amendment. This amendment insures that all depository institutions that were brought under reserve requirements for the first time by the Monetary Control Act have the same phase-in now granted to state-chartered nonmember commercial banks in the State. It retains the stipulation in the Senate amendment that only deposits taken in Hawaii are covered by the special exemption.

SUBTITLE C—NATIONAL CONSUMER COOPERATIVE BANK ACT AMENDMENTS

The National Consumer Cooperative Bank was chartered by the Congress in 1978 as a credit facility for cooperatives formed by senior citizens, students, inner city residents, rural craftsmen, suburban families, workers and other consumers in communities across the Nation. The cooperatives, op-

erating under democratic principles including one-member, one-vote, provide their members a variety of consumer goods and services including housing, health, and food. Under the 1978 Bank Act, the original capitalization was to be provided from appropriated funds with the money to be repaid as cooperatives borrowed from the Bank. The Act provided that the cooperatives would gradually assume control of the Bank and operate it under an elected board of persons with background in cooperatives.

The House provided for continued funding of the Bank including the Office of Self-Help Development which assists newly developing low-income cooperatives. The House bill clarified the original Act to assure that the public could invest in the Bank, but made no substantive changes in the authorities of the Bank as provided in Public Law 95-351.

The Senate adopted provisions terminating the Bank's authority to make loan commitments and ending the institution's authority to obtain funds through the sale of bonds or other obligations. The Senate provisions required that the Bank return to the Treasury all amounts received as repayments from cooperatives on principal and interest on loans previously made by the Bank.

Action of the Conference

The Conferees agreed to a substitute providing for an orderly conversion of the Bank from a mixed ownership Government corporation to a private bank owned and controlled by its cooperative stockholders and eligible to borrow funds in the private market.

The amendment, adopted by the conferees, provides two possible triggers for the conversion of the Bank to private status. The amendment provides that the conversion shall occur either on December 31, 1981 or, in the alternative, no later than 10 days after the first act providing appropriations for FY 1982 for Department of Housing and Urban Development and Independent Agencies. The conversion to private status would occur on whichever is the latest of the two dates.

The conversion will be accomplished by the Bank's exchange of Class A notes for Class A stock held by the Secretary of the Treasury. On the redemption of the Government's stock in this manner, the Bank shall be under the control of the cooperative stockholders and the Federal Government will not be responsible for obligations of the Bank incurred after that date and the Bank will not be considered a Federal agency. The Secretary of the Treasury is required to transfer all funds appropriated for the Bank for FY 1981 and FY 1982 to the Bank in a timely manner so that the conversion to a private institution may take place expeditiously. It is the intention of the Managers of the Conference that the Bank and the Treasury Department coordinate these activities and that the present board of directors adopt by-laws to assure the orderly transition of the Bank to a private status without delay.

The amendment provides no further authorizations after FY 1982, but the Conferees believe the FY 1981 and FY 1982 funding is essential if the Bank is to have an adequate, if limited, capital base for the conversion to private status and the ability to meet the Act's requirements for mandatory repayments of the Government's debt.

Until September 30, 1990, repayment of the Class A notes issued to the Treasury in exchange for the stock will be accomplished in the same manner prescribed in the original Bank Act (P.L. 95-351), except that 30 percent of the proceeds from sales of nonvoting stock shall also be paid into the Treasury as payments on the notes. After September 30, 1990, the Bank is required to maintain a repayment schedule that will assure retirement of the Class A notes by no later than December 31, 2020.

The amendment, adopted by the conferees, will allow the cooperatives to elect 12 of the 15 members of the Board which will govern the Bank. The remaining three will be appointed by the President of the United States and his appointments must include a representative of the small business community and another representing low-income cooperatives.

The Bank will be treated as a cooperative for Federal tax purposes and will continue its exemption from state and local taxes except real estate taxes.

The Farm Credit Administration, which oversees credit entities with structures similar to the Consumer Cooperative Bank, and the General Accounting Office, are given authority for examinations and audits of the Banks. Reports from these examinations and audits are to be forwarded to the Congress.

While retaining requirements that recipients of loans and assistance from the Bank be operated under principles of economic democracy, the conference adopted provisions from the Senate-passed bill which would make a non-profit housing cooperative in existence on March 21, 1980, eligible under the Act although its organizational form did not meet the specific one-vote, one-person structure. The conferees also agreed to a modification of requirements that a federation of cooperatives be entirely owned by cooperatives to be eligible for loans from the Bank. The conference, instead, provided that such organizations be primarily owned by eligible cooperatives if they are to qualify. It is the intention of the Managers of the Conference that primarily owned be defined as an organization which derives at least 80 percent of its revenues from entities which are truly non-profit cooperatives as defined in Section 105 of the National Consumer Cooperative Bank Act. It is not the intention of the conferees that the Bank deviate from its primary role as a lender to true cooperative entities, as defined in the Act, as it moves from mixed-ownership to private status.

The conferees adopted provisions which would move all functions of the Office of Self-Help Development and Technical Assistance into a non-profit corporation. The corporation will carry out all the functions contained in Title Two of the National Consumer Cooperative Bank Act, as a source of credit and assistance for newly developing and low-income cooperatives. It is intended that the "eligible cooperatives" referred to in the sections incorporated in the non-profit corporation be defined by Section 105 of the Bank Act. Section 203 of the Bank Act, incorporated as part of the powers of the non-profit corporation, provides guidelines for eligibility of low-income cooperatives to receive assistance from the corporation. The corporation will be accorded tax-exempt status under 501(c)(3) of the Internal Revenue Code and that status will continue pending final IRS determination on the formal application to be filed after formation of the corporation. The corporation will carry out all the functions and retain all the powers now accorded it under Title II of the National Consumer Cooperative Bank Act and all these functions shall be regarded as charitable purposes under 501(c)(3) of the Internal Revenue Code for this particular non-profit corporation.

The Managers of the Conference intend that the Bank and the non-profit corporation be separate entities, but that the two continue close coordination and working relationships so that cooperatives of all classes may receive services at the lowest possible cost and greatest efficiency.

It is the intention of the conferees that the Bank provide the non-profit corporation substantial assistance and that the corporation avoid unnecessary duplication of staffing and functions. So that the coordination and savings may be accomplished, it is anticipated that the non-profit corporation and the Bank shall be housed together and that the various regional offices established by the Bank shall continue to disseminate information about the availability of assistance to low-income cooperatives and process applications at the regional level for the non-profit corporation.

The amendment adopted by the conference provides that the Bank shall have the authority to provide administrative and staff support to the Self-Help corporation and that it may make tax deductible contributions to assist the corporation. The board of directors of the corporation will be appointed by the board of directors of the Bank from representatives of cooperatives eligible for assistance from the corporation. Members of the Bank Board will be eligible to be members of the board of the non-profit corporation. It is suggested that the board be established in a manner that will provide for the election of one-third of the members each year after its first year of operation.

It is the intention of the Managers of the Conference that the Bank and the non-profit corporation adopt policies and rules of procedures that will allow the maximum participation by stockholders and eligible cooperatives in all phases of the operations. It is intended that policies and procedures of the Bank and the non-profit corporation be promulgated in an open manner and that positive steps be taken to inform eligible cooperatives about the policies at all times. It is also the intention of the Conferees that stockholders, potential investors, and consumer cooperatives be provided the fullest disclosure about the activities, financial condition, and future plans of both the Bank and the non-profit Corporation at all times. To help accomplish this, the conferees agreed to make any securities issued by the Bank subject to Federal securities laws under the jurisdiction of the Securities and Exchange Commission.

The conferees adopted language from the House-passed bill providing authorizations of $47 million for Title I activities and $14 million for Title II (Self-Help Development and Technical Assistance). It is intended that all funds appropriated for both titles be transferred to the Bank prior to redemption of the Government stock and prior to the formation of the non-profit corporation.

TITLE IV—DISTRICT OF COLUMBIA

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982

submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Limitation on the Amount of Funds Authorized for Loans for Capital Projects

The House bill, H.R. 3982, Title IV, section 4001, authorized to be appropriated for loans under section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-241 note) the sum of $155,000,000 for the fiscal year ending on September 30, 1982, the sum of $155,000,000 for the fiscal year ending on September 30, 1983, and the sum of $155,000,000 for the fiscal year ending on September 30, 1984.

The Senate amendment, section 904, authorized to be appropriated for loans under section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-241 note) not more than $155,000,000 per year for fiscal years 1982 and 1983. The Senate amendment did not include an authorizing provision for fiscal year 1984.

The Conference substitute conforms to the House bill.

Limitation on the Amount of Funds Expended for Loans for Capital Projects

The House bill also provided for outlays of no more than the sum of $145,000,000 during the fiscal year ending on September 30, 1982, no more than the sum of $145,000,000 during the fiscal year ending on September 30, 1983, and no more than the sum of $145,000,000 during the fiscal year ending on September 30, 1984.

The Senate amendment deleted this provision.

The Conference substitute conforms to the Senate action.

Effective Date

The House bill further provided that the amendment made by section 4001 of H.R. 3982 shall take effect on October 1, 1981.

The Senate amendment contained no such provision.

The Conference substitute conforms to the House bill.

TITLE V—EDUCATION PROGRAMS

General Provisions

The House bill is a free-standing piece of legislation, while the Senate amendment, in most instances, amends the text of current law.

The Senate recedes.

The Senate amendment, but not the House bill, contains limits on appropriations for FY 81.

The Senate recedes.

The House bill provides that laws not consistent with the provisions of Title V of the bill are superseded and have only such effect in FY 1982, 1983 and 1984 as may be consistent with Title V. The House further, notwithstanding any other law, precludes appropriations in excess of the limitations provided in Title V of the reconciliation bill. The Senate amendment precludes appropriations for FY 1981, 1982 or 1983 to the Department of Education, the National Endowment for the Arts or the National Endowment for the Humanities unless there was either an appropriation for the activity in FY 1980 or there is a specific authorization for the activity in these reconciliation provisions.

The Senate recedes.

The Senate amendment precludes appropriations for FY 1981, 1982 or 1983 to pay for the expenses of any "advisory counsel" which provides advice to a program for which there are no authorizations of appropriations made in these reconciliation provisions. There is no comparable House provision.

HOWARD UNIVERSITY

The House bill provides an appropriation ceiling for Howard University of $153,199,000 for FY 1982-84, while the Senate amendment provides a limit of $133,983,000 for FY 1981-83 and $140,000,000 for FY 1984.

The Senate recedes with an amendment establishing a limit of $145.2 million for each of the fiscal years 1982, 1983 and 1984.

IMPACT AID

The House bill authorizes $401 million for each of the fiscal years 82, 83, and 84 for impact aid. This includes $20 million for construction of (P.L. 81-815), $10 million for section 2, and $371 million for section 3. Higher payment rates would be authorized for districts (1) where the total number of "A" and "B" children is at least 50% of their enrollment; or (2) where the total number of "A" children is at least 20%; or (3) where the total number of "A" and "B" children, counting civilian "B"s as one-half a child, is at least 25%. Districts meeting one of these three criteria will receive 100% of the FY 81 payment for each "A" child for FY 82, 83, and 84. These districts will receive 80% of their FY 81 payment for each "B" child in FY 82; 70% of their FY 81 military "B" payments in FY 83; and 50% of their FY 81 military "B" payments in FY 84. No "B" payments are authorized for FY 85 and beyond. From the amounts remaining after allocations are made to the aforementioned districts, the Secretary shall proportionately distribute funds for "A" payments to districts which do not meet one of the criteria for heavy impact. District which are not heavily impacted will receive no "B" payments in any of the fiscal years. The House bill authorizes no funds for sections 3(e), 4, and 6 of P.L. 81-874. The House bill also specifies that the prohibition in section 402(d) against other agencies using their appropriations to pay for free public education shall not apply in fiscal years 1982 through 1984.

The Senate amendment, in contrast, authorizes $500 million for each of the fiscal years 82 and 83 for sections 2, 3, 4, and 6 of P.L. 81-874. The Senate amendment authorizes the Secretary of Education to pro-rata reduce the entitlements of local educational agencies under sections 2, 3, and 4 of such Act.

The conferees agreed to a substitute which includes the following provisions: First, there would be an authorization of $475 million for both Public Laws 81-874 (maintenance and operations) and 81-815 (school construction). Second, of this authorization $20 million would be used for construction under Public Law 815, $10 million would be available for disaster assistance, and another $10 million would be available for the land acquisition reimbursement section (Sec. 2 of P.L. 874). Third, there would be a three-year phase out of payments for "B" children. Fourth, the Appropriations Committee would decide the allocation of funds among categories as it does under current law. Fifth, the schools funded under Section 6 would be transferred to the Department of Defense budget although administration would continue as it is now.

The Senate amendment unlike the House bill also authorizes $631,750,000 for fiscal year 1981 for sections 2, 3, and 4.

The Senate recedes.

ADULT EDUCATION ACT

The House bill provides a limitation on appropriations of $100,000,000 for each of the fiscal years 1982, 1983 and 1984. The Senate amendment limits appropriations for fiscal year 1981 to $100,000,000. The Senate amendment limits appropriations to $122,000,000 for each of the fiscal years 1982 and 1983.

The Senate recedes.

The Senate amendment, unlike the House bill, restricts appropriations for fiscal years 81, 82, and 83 to the state grant provisions of Section 304.

The House recedes.

Unlike the House bill, the Senage amendment precludes any of the appropriations for fiscal years 81, 82, and 83 for adult education from being used to pay the cost of the administration and development of state plans. The existing law authorizes 5 percent of the amount appropriated for state grants to be used for such purposes.

The Senate recedes.

Alcohol and Drug Abuse Education Act

The House bill limits appropriations to carry out the Alcohol and Drug Abuse Education Act to $3,000,000 for 1982, $3,240,000 for 1983 and $3,499,000 for 1984. The Senate amendment contains no comparable provision, but specifically repeals the Act in provisions relating to education consolidation.

The House recedes with an amendment limiting the authorization for the Alcohol and Drug Abuse Education Act to $3 million for FY 1982 and incorporating the program into Title II of the Education Consolidation and Improvement Act beginning in FY 1983.

Career Education Incentive Act

The House bill limits appropriations for the Career Education Incentive Act to $10,000,000 for each fiscal year 1982 through 1984. The Senate amendment authorizes $10,000,000 for fiscal year 1981 and no funds for fiscal year 1982 or 1983. For Postsecondary Educational Demonstration Projects the Senate amendment changes the expiration date from FY 1983 to FY 1981.

The conferees agreed on substitute language incorporating the programs authorized under the Career Education Act into Title II of the Education Consolidation and Improvement Act beginning in fiscal year 1983. The conferees also agreed to increase the authorization for the block grant by $5 million to accommodate the inclusion of career education. For fiscal year 1982, the Career Education Incentive Act would remain in existence with its authorization limited to $10 million.

Civil Rights Act of 1964

The House bill, unlike the Senate amendment, limits appropriations to carry out sections 403, 404, and 405 of Title IV of the Civil Rights Act of 1964 to $37,100,000 for each of the fiscal years 1982, 1983 and 1984.

The Senate recedes. The conferees wish to make clear that although the technical assistance and training activities authorized under Title IV are permissable uses of funds under Title II of the Education Consolidation and Improvement Act, Title IV of the Civil Rights Act will continue to exist as a separate piece of legislation and is not to be folded into the block grant.

Department of Education

The House bill limits appropriations for salaries and expenses of the Department of Education to $308,000,000 for each of the fiscal years 1982, 1983 and 1984. By contrast, the Senate amendment limits "management" of the Department of Education to $243,137,000 for FY 1981, $210,882,000 for FY 1982, and $210,882,000 for FY 1983. The Senate amendment limits Overseas Education Research and Training to $3,000,000 in 1981, $1,000,000 in 1982 and $1,000,000 in 1983. The Senate amendment limits the Office for Civil Rights in the Department to $51,902,000 in FY 1981, $48,028,000 in FY 1982 and $48,028,000 in FY 1983. The Senate amendment also limits funds for the Office of the Inspector General in the Department of Education to $11,464,000 for FY 1981, $10,967,000 for FY 1982, and $10,967,000 for FY 1983. The Senate amendment allocations to the department for the above items total $309,503,000 for FY 1981 and $270,877,000 for each of the fiscal years 1982 and 1983.

The Senate recedes with an amendment which limits the authorization for Department of Education Salaries and Expenses to a total of $308 million for each of the fiscal years 1982, 1983, and 1984, including $49,396,000 for the Office for Civil Rights and $12,989,000 for the Office of Inspector General.

Education Amendments of 1978

The House bill authorizes no funds to be appropriated for section 1015 of the Education Amendments of 1978 (impact aid study), for Part A of Title XV (International Year of the Child), and for Part B of Title XV (National Academy of Peace and Conflict Resolution) for fiscal years 1982 through 1984.

The Senate amendment is silent on these provisions.

The Senate recedes.

The House bill authorizes no funds to be appropriated in FY 82-84 for Section 1524 of the Education Amendments of 1978, which provides for general assistance for the Virgin Islands.

The Senate amendment provides authorizations for Section 1524 as follows:

	House	Senate
Fiscal year:		
1981		$2,700,000
1982	No funds	No funds
1983	No funds	No funds
1984	No funds	

The House recedes with an amendment limiting the authorization for general assistance for the Virgin Islands to $2.7 million for each of the fiscal years 1982, 1983, and 1984.

The House bill, but not the Senate Amendment, authorizes no funds to be appropriated in FY 82-84 for Section 1525 of the Education Amendments of 1978, which provides for territorial training assistance programs.

The House recedes.

The House bill authorizes no funds to be appropriated in FY 82-84 for Section 1526 of the Education Amendments of 1978, which provides for a study of evaluation practices and procedures at the national, State and local levels with respect to federally funded elementary and secondary education.

The Senate amendment does not specifically refer to this authorization.

The Senate recedes.

The Senate amendment, but not the House bill, provides the following levels of authorization for Section 1527 of the Education Amendments of 1978, which provides for television program assistance:

	House	Senate
Fiscal year:		
1981		$6,000,000
1982		$6,000,000
1983		$8,000,000
1981		

The conferees agreed to a substitute which deletes the separate authorization for television assistance under section 1527, and instead increases the Secretary's discretionary fund under Title II of the Education Consolidation and Improvement Act to 6% of the total authorization for Title II.

EDUCATION AMENDMENTS OF 1980

The House bill, but not the Senate amendment, authorizes no funds to be appropriated for FY 82-84 for Section 1303 of the Education Amendments of 1980, the science education programs.

The House recedes.

The House bill authorizes no funds to be appropriated for FY 82-84 for part D of title XIII of the Education Amendments of 1980, which provides for the Native Hawaiian Study. The Senate amendment does not specifically refer to this authorization.

The Senate recedes.

The House bill authorizes no funds to be appropriated for fiscal years 1982 through 1984 for Part H of Title XIII of the Education Amendments of 1980 which provides funding for several memorials (Chappie James, Levi Dawson, and the Taft Institute). The Senate amendment does not specifically refer to these authorizations.

The Senate recedes.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

The House bill authorizes $3,544,343,000 for FY 82 for Title I of the Elementary and Secondary Education Act; the Senate amendment authorizes $3,104,317,000 for FY 81, and $3,348,000,000 for each of the fiscal years 82 and 83 for this program.

The Senate recedes with an amendment limiting the authorization for Title I of the Elementary and Secondary Education Act to $3,480,000,000 for FY 82.

The House bill specifies that not more than 14.6 percent of the amount appropriated for Title I for FY 82 shall be used for the State agency programs. The Senate amendment specifies that the amount available for each separate program under Title I shall have the same ratio to the total appropriation for fiscal years 1981, 1982 and 1983 as it did in FY 80.

The Senate recedes with an amendment limiting the State agency programs to 14.6% of the total appropriation for Title I for fiscal year 1982, and specifying that the amount available for concentration grants shall have the same ratio to the total Title I appropriation in fiscal year 1982 as it did in fiscal year 1980. The conferees also agreed that these same rules shall apply to appropriations for the State agency programs and the concentration grant program under Title I of the Education Consolidation and Improvement Act for fiscal years 1983 and 1984.

The House bill, but not the Senate amendment, provides for separate authorization levels for Titles of the Elementary and Secondary Education Act of 1965 for FY 82 as follows:

Title II	$31,500,000
Title III*:	
Sec. 303	$25,500,000
Part B (Metric Education)	$1,380,000
Part C (Arts in Education)	$3,150,000
Part E (Consumer Education)	$3,600,000
Part G (Law-Related)	$1,000,000
Part L (Biomedical)	$3,000,000
Title IV:	
Part B	$161,100,000
Part C	$66,130,000
Part D	$15,000,000
Title V:	
Part B	$42,075,000
Part C	$0
Title VI	0
Title VIII	$3,138,000
Title IX:	
Part A (Gifted and Talented)	$5,652,000
Part B (Education Proficiency)	No funds
Part C (WEEA)	$8,125,000
Part D (Safe Schools)	No funds
Part E (Ethnic Heritage)	$2,250,000

*No funds are authorized to be appropriated by the House bill for Parts D, F, H, I, J, K, M, and N.

The Senate recedes with an amendment limiting the authorization for title VI, ESEA to $149,292,000 for FY 82.

The House bill and the Senate amendment provide the following levels of authorization for title VII of the Elementary and Secondary Education Act, bilingual education.

	House	Senate
Fiscal year:		
1981		$157,467,000
1982	$85,340,000	$163,000,000
1983	$85,340,000	$163,000,000
1984	$85,340,000	

The Senate recedes with an amendment limiting the authorization for Title VIII to $139,970,000 for each of the fiscal years 1982, 1983, and 1984.

The Senate amendment, but not the House bill, provides authorization levels for the Elementary and Secondary Education Act for fiscal year 1981 as follows:

Title II	$31,500,000
Title III*:	
National Diffusion Network (Sec. 303)	8,750,000
Cities in Schools (Sec. 303)	2,745,000
Part B (Metric Education)	1,380,000
Part C (Arts in Education)	3,150,000
Part E (Consumer Education)	1,356,000
Part L (Biomedical)	3,000,000
Title IV:	
Part B	161,100,000
Part C	66,130,000
Title V	42,075,000
Title VI and Title IV-C Civil Rights Act	186,312,000
Title VIII	3,174,000

Title IX:

Part A (Gifted and Talented)	$6,280,000
Part B (Education Proficiency)	0
Part C (WEEA)	8,125,000
Part D (Safe Schools)	0
Part E (Ethnic Heritage)	2,250,000

*No funds are authorized for Parts D, F, G, H, I, J, and K of Title III fiscal year 1981.

The House is silent on fiscal year 1981 funding levels.

The Senate recedes.

The Senate amendment, but not the House bill holds harmless the Inexpensive Book Distribution Program (Reading is Fundamental) during FY 81 at the FY 80 funding level.

The Senate recedes.

The Senate amendment provides authority only for the Title III programs, including activities funded under Section 303, which are specifically designated for authorization under the Senate amendment. No funds are authorized for Parts D, F, G, H, I, J, & K of Title III.

The Senate recedes.

The Senate amendment repeals the authorization for Title III, Parts B, C, E, L after fiscal year 1981.

The Senate recedes.

The Senate amendment, but not the House bill, specifies that if the amount available for Part B of Title IV in FY 81 is less than the amount available for fiscal year 1980, no funds may be expended on any other program except the library resources authorized under the provisions of such Part B.

The Senate recedes.

The Senate amendment, but not the House bill, repeals the authorization for parts A and C of Title V of ESEA after FY 80.

The Senate recedes.

The Senate amendment, but not the House bill, provides that no funds shall be available in fiscal years 1981-1983 for State apportionment grants under Title VI of ESEA.

The Senate recedes.

The Senate amendment repeals the authorization for the following programs after fiscal year 1981:

Title VIII State grant program (community education)	
Title IX-A Gifted and talented	
Title IX-C WEEA	
Title IX-E Ethnic Heritage	

The Senate recedes.

The House bill authorizes no funds for the Elementary and Secondary Education Act for FY 1983 or 1984.

The House recedes.

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

The House bill and the Senate amendment provide an authorization level for the Education Consolidation and Improvement Act of 1981 as follows:

Fiscal Year	House	Senate
Title I:		
1981		$3,104,317,000
1982	3,544,343,000	3,348,000,000
1983	3,544,343,000	3,348,000,000
1984	3,544,343,000	
Title II:		
1981		
1982		584,226,000
1983	584,368,000	534,926,000
1984	584,368,000	(1)

[1] Such sums.

The Senate recedes with an amendment that limits the authorization for Title I of the Education Consolidation and Improvement Act to $3,480,000,000 for each of the fiscal years 1983 and 1984, and limits the authorization for Title II to $589,368,000 for each of the fiscal years 1982, 1983, and 1984, notwithstanding the authorizations contained in the text of the Education Consolidation and Improvement Act for both titles.

GENERAL EDUCATION PROVISIONS

The House bill limits the appropriations for section 405 of the General Education Provisions Act (N.I.E.) to $55,614,000 for each of fiscal years 1982, 1983, and 1984. The Senate amendment, unlike the House bill, sets appropriations limits at $65,614,000 for fiscal year 1981 and at $59,000,000 for each of the fiscal years 1982 and 1983.

The Senate recedes. The Managers note that the $55.6 million level represents a 25 percent decrease in the level of funding originally available to the National Institute of Education in fiscal year 1981. Therefore, if necessary to meet its statutory priorities and its FY 82 contractual obligations, the Institute should adjust its budget for all grantees and contractors (except the National Center for Research in Vocational Education established pursuant to section 171(a)(2) of the Vocational Education Act of 1963) proportionately. The Managers do not intend that such proportionate reduction be rigidly interpreted, but do intend that such proportionate reduction be within a reasonable range. The Managers emphasize that the Regional Educational Laboratories and Educational Research Centers described in subsection 405(f) of the General Education Provisions Act shall, upon completion of existing contracts, receive future funding in accordance with government-wide competitive bidding procedures and in accordance with principles of peer review involving scholars and State and local educators to ensure the quality and relevance of the work proposed.

The authorization levels for the National Center for Education Statistics in the House bill and the Senate amendment are as follows:

Fiscal year	House	Senate
1981		$8,947,000
1982	$8,947,000	8,900,000
1983	8,947,000	8,900,000
1984	8,947,000	

The Senate recedes.

The Senate Amendment authorizes $1,875,000 for fiscal year 1981 for the Pre-College Science Teacher Training Program. The House bill authorizes the same amount for this program for fiscal years 1982, 1983, and 1984.

The Senate recedes with an amendment limiting the authorization for the Pre-College Science Teacher Training Program to $1,875,000 for FY 82 and incorporating this program into Title II of the education consolidation act beginning in FY 83.

Unlike the Senate amendment, the House bill limits appropriations to $5 million for the Minority Institutions Science Improvement Program for fiscal years 1982, 1983, and 1984.

The Senate recedes with an amendment authorizing $5 million for each of those fiscal years.

FOLLOW THROUGH

The House bill restricts appropriations for Follow Through to $44,300,000 for each of the fiscal years 1982, 1983 and 1984. The Senate bill restricts appropriations for Follow Through to $26,250,000 for FY 1981. The Senate bill repeals Follow Through in the Education Block Grant provisions.

The conferees agreed to a substitute which phases Follow Through into the Education Consolidation and Improvement Act over a three-year period. The conference agreement would limit the authorization for Follow Through, as a separate program, to $4,300,000 for FY 82, $22,175,000 for FY 83, and $14,767,000 for FY 84.

HIGHER EDUCATION ACT OF 1965

The House bill limits appropriations to $10,200,000 for Part B of Title I of the Higher Education Act for each of the fiscal years 1982-1984. The House also precludes funding for Part A of Title I of the Higher Education Act for those years. The Senate amendment authorizes $2,200,000 for fiscal year 1981 for Education Outreach, and provides that no sums may be authorized to be appropriated for fiscal years 1982-84.

The Senate recedes with an amendment limiting appropriations to $8 million for each of fiscal years 1982, 1983 and 1984 for Education Outreach (HEA I-B).

The House bill precludes funding for Part A of Title II of the Higher Education Act, the College Library Program. The Senate amendment limits appropriations to $2,988,000 for fiscal year 1981 and $5 million for each of the fiscal years 1982, 1983 and 1984.

The House recedes with an amendment limiting appropriations to $5 million for each of fiscal years 1982, 1983 and 1984 for College Library Learning Resources (HEA II-A).

The House bill limits appropriations to $10.2 million for each of fiscal years 1982, 1983, and 1984 for Title II-B, College Library Training and Development, while the Senate amendment limits are $917,000 for fiscal year 1981 and $1.2 million for fiscal years 1982 through 1984.

The House recedes with an amendment. Appropriations limits for each of fiscal years 1982, 1983 and 1984 are $1.2 million for College Library Training and Development Programs (HEA II-B).

The House bill limits appropriations for Title II, Part C, the Research Library Program, to $5 million for fiscal years 1982, 1983 and 1984, while the Senate amendment limits such to $6 million for fiscal year 1981 and $8 million for each of the fiscal years 1982 through 1984.

The House recedes with an amendment limiting appropriations for each of the fiscal years 1982, 1983 and 1984 to $6 million for the College Research Library Programs (HEA II-C).

The House bill but not the Senate amendment provides that no funds are authorized to be appropriated for the National Periodical Center, Part D of Title II of the Higher Education Act. The House bill but not the Senate amendment provides that Title II-A and II-B funds be targeted for small colleges and universities.

The Senate recedes with an amendment. No funds available for carrying out Part A and Section 224 of Part B of Title II for any fiscal year shall be made available to any institution, organization or agency which is a recipient of assistance under Part C of the title.

Both the House bill and the Senate amendment limit appropriations to $129.6 million for Title III, Institutional Aid, for each of the fiscal years 1982, 1983, and 1984. The Senate amendment but not the House bill provides that higher education institutions which serve substantial numbers of minority and educationally disadvantaged students and which provide a medical education program are eligible for Title III Challenge Grants.

The House recedes. The Conferees have limited appropriations for Title III, Institutional Aid, to $129.6 million, in accord with the Administration recommended funding levels. The Conferees specifically intend that the resulting $9.6 million above the actual appropriation level for fiscal year 1981 for such years be used to fund the new Part C, Challenge Grant Program.

Pell grants and campus-based student assistance

The House bill provides appropriation limits of $2.466 billion in fiscal year 1982, $2.353 billion in fiscal year 1983 and $1.965 billion in fiscal year 1984 for the Pell Grant Program, while the Senate amendment limits such to $2.82 billion, $3.0 billion and $3.3 billion in fiscal years 1982, 1983, and 1984, respectively.

The House recedes with an amendment establishing such limits at $2.650 billion for fiscal year 1982, $2.80 billion for fiscal year 1983, and $3.0 billion for fiscal year 1984.

The House bill but not the Senate amendment limits the Pell Grants to 50 percent of the cost of attendance. The Senate amendment but not the House bill specifies procedures to be followed by the Secretary for any waiver of the provisions (Part A, subpart 1 of HEA-IV) for Pell Grants.

The House recedes on both points. The Secretary must get Congressional approval for waivers under the Pell Grant Program.

The House bill, but not the Senate amendment, limits maximum Pell Grants for academic years 1982-1983, 1983-1984, and 1984-1985 to $1,800.

The House recedes.

The House bill limits appropriations to $370 million for the Supplemental Educational Opportunity Grant Program for each of fiscal years 1982, 1983 and 1984, while the Senate amendment limits such to $370 million for fiscal year 1981 and $400 million for each of the fiscal years 1982, 1983 and 1984.

The Senate recedes.

The House bill limits appropriations for the State Student Incentive Grant Program to $76,800,000 in each of fiscal years 1982, 1983, and 1984, while the Senate amendment limits appropriations to $76,750,000 for each of the fiscal years 1981 through 1984.

The Senate recedes.

The House bill, but not the Senate amendment, limits appropriations to $286,000,000 for the National Direct Student Loan Program for each of the fiscal years 1982, 1983 and 1984.

The Senate recedes.

The House bill limits appropriations to $550 million for each of the fiscal years 1982, 1983 and 1984 for the College Work Study Program. The Senate amendment limits such to $550 million for each of the fiscal years 1981, 1982, 1983 and 1984.

The Senate recedes.

The House bill, but not the Senate amendment, limits appropriations to $1 million for fiscal year 1982 and $2 million for fiscal year 1983 for the National Commission on Student Financial Assistance.

The Senate recedes.

The House bill limits appropriations to $159,500,000 for the TRIO programs for each of the fiscal years 1982 through 1984, while the Senate amendment limits such to $156,500,000 in fiscal year 1981, $169,500,000 in fiscal year 1982 and $186,000,000 in each of fiscal years 1983 and 1984.

The House recedes with an amendment limiting appropriations to $165 million for fiscal year 1982 and $170 million for each of fiscal year 1983 and fiscal year 1984.

The House bill limits appropriations in each of the fiscal years 1982, 1983 and 1984 to $7.5 million for Subpart 5, Part A, Title IV of the Higher Education Act of 1965, as amended (HEP/CAMP). The Senate amendment limits such to $7,303,000 in fiscal year 1981 and $7,553,000 in each of the fiscal years 1982 through 1984.

The Senate recedes.

The House bill limits appropriations to $12 million for the Veterans Cost of Instruction Program for each of the fiscal years 1982, 1983 and 1984, while the Senate amendment limits such to $6,019,000 in fiscal year 1981 and precludes appropriations of funds for fiscal years 1982 through 1984.

The Senate recedes.

The House bill limits appropriations for the Teacher Corps to $22.5 million for each of the fiscal years 1982, 1983 and 1984. The Senate amendment would place the Teacher Corps in the education block grant effective in fiscal year 1982.

The conference agreement would limit appropriations for the Teacher Corps to $22.5 million in fiscal year 1982. Effective October 1, 1982, the Teacher Corps would be consolidated in the block grant.

The House bill limits appropriations for the teacher centers program to $9.1 million for each of the fiscal years 1982, 1983 and 1984. The Senate amendment would place teacher centers in the educational block grant effective in fiscal year 1982.

The conference agreement would limit appropriations for teacher centers at $9.1 million in fiscal year 1982. Effective October 1, 1982, teacher centers would be consolidated in the block grant.

The Senate amendment, but not the House bill, precludes funding for section 546, Teacher Training Program, in fiscal year 1981. The House bill and Senate amendment eliminate authorizations of appropriations for this section for fiscal years 1982, 1983 and 1984.

The Senate recedes.

The House bill, but not the Senate amendment, precludes appropriations for Part D of Title V of the Higher Education Act, the Coordination of Education Professional Development Program in fiscal years 1982, 1983 and 1984.

The Senate recedes.

The House bill limits appropriations to $30,600,000 for the International Education and Foreign Language Studies Program (HEAV VI) for each of the fiscal years 1982, 1983 and 1984, while the Senate amendment provides limit on such of $28 million in fiscal year 1981, $22 million in fiscal years 1982 and 1983, and $28 million in fiscal year 1984.

The Senate recedes.

The House bill provides that no funds are authorized to be appropriated in fiscal years 1982, 1983 or 1984 for Parts A and B of Title VII of the Higher Education Act (Construction Grants for Academic Facilities), while the Senate amendment limits appropriations to $26 million in fiscal year 1981 and $25 million in each of the fiscal years 1982 through 1984.

The Senate recedes.

The House bill makes no reference to authorizations for the Higher Education Facilities Revolving Loan Fund, while the Senate amendment authorizes no funding in fiscal year 1981, $18,300,000 for fiscal year 1982 and $1,800,000 for fiscal years 1983 and 1984.

The Senate recedes.

The House bill limits appropriations to $23 million for Cooperative Education (HEA VIII) for each of the fiscal years 1982, 1983 and 1984, while the Senate amendment authorizes $23 million for fiscal year 1981, $18.4 million for fiscal year 1982 and $20 million for each of the fiscal years 1983 and 1984.

The House recedes with an amendment, in which appropriations are limited to $20 million for each of the fiscal years 1982, 1983 and 1984 for Cooperative Education.

The House bill for each of the fiscal years 1982, 1983 and 1984 precludes appropriations for Parts A, B and C of Title IX, the Graduate Programs, and limits appropriations to $1 million for Part D, the Assistance for Training in the Legal Profession (CLEO), and to $3 million for the Law School Clinical Experience Progam.

The Senate amendment authorizes $15 million for Part A, $4 million for Part D and $1 million for Part E in fiscal year 1981 and $19 million for Part A and $1 million for Part E in each of the fiscal years 1982 through 1984.

The House recedes with an amendment limiting appropriations for HEA IX-B (GPOP) to $14 million for each of the fiscal years 1982, 1983 and 1984; for HEA IX-D (CLEO) to $1 million for each of the fiscal years 1982, 1983 and 1984; and to $1 million for IX-E (Law School Clinical Experience) for each of the fiscal years 1982, 1983 and 1984.

The Conferees have provided sufficient levels of authorizations to continue the programs funded under Title IX-B and Title IX-D at the fiscal year 1981 levels. The authorization for Title IX-E, the Law School Clinical Experience Program, is reduced to $1 million for each of the fiscal years 1982, 1983 and 1984. No funding is provided for Parts A and C.

The Conferees intend that the $14 million in funding for Part B, Fellowships for Graduate and Professional Study, be divided among public service, mining, and graduate professional fellowships for minorities and women. Each of these programs should be funded—to the extent of available appropriations—at no less than the fiscal year 1979 levels. The Conferees do not intend, however, that the fiscal year 1979 appropriation levels be interpreted as "caps" in allocating funds among the three programs.

The House bill for each of the fiscal years 1982, 1983 and 1984 limits appropriations to $13.5 million for the Fund for the Improvement of Postsecondary Education (FIPSE), while the Senate amendment authorizes $13.5 million for fiscal year 1981 and $15 million for each of the fiscal years 1982 through 1984.

The Senate recedes.

The House bill, for each of the fiscal years 1982 through 1984, provides that no funds are authorized to be appropriated for Title

XI, the Urban Grant University Program. The Senate amendment does not specifically refer to Title XI.

The House recedes.

INDIAN EDUCATION

The House bill, but not the Senate amendment, provides for an authorization of appropriations for title IV of the Education Amendments of 1972, the Indian Education Act, as follows:

	House	Senate
Fiscal year—		
1982	$81,700,000	
1983	81,700,000	
1984	81,700,000	

The House bill, but not the Senate amendment, provides for an authorization of appropriations for the Johnson-O'Malley Act, the education portion of the Snyder Act, the Tribally Controlled Community College Assistance Act, and the Navajo Community College Act as follows:

	House	Senate
Fiscal year—		
1982	$200,000,000	
1983	200,000,000	
1984	200,000,000	

The House bill, but not the Senate amendment, provided for the general extension of authorizations for appropriations through fiscal year 1984 to carry out the provisions of the Indian Education Act, the Navajo Community College Act, and the Tribally Controlled Community College Assistance Act of 1978. The Senate recedes.

The House bill, but not the Senate amendment, provided that the total amount of appropriations to carry out the Indian Education Act shall not exceed $81.7 million for each of fiscal years 1982, 1983, and 1984. The Senate recedes with an amendment providing that the total amount of appropriations to carry out such Act shall not exceed $81.7 million for fiscal year 1982, $88.4 million for fiscal year 1983, and $95.3 million for fiscal year 1984.

The House bill, but not the Senate amendment, provided that the total amount of appropriations to carry out the Johnson-O'Malley Act, to carry out all education programs under the direction of the Bureau of Indian Affairs Office of Indian Education Programs authorized under the Snyder Act, and to carry out the Navajo Community College Act and the Tribally Controlled Community College Assistance Act shall not exceed $200 million in each of the fiscal years 1982, 1983, and 1984. The Senate recedes with an amendment providing that the total amount of appropriations for these activities shall not exceed $262.3 million for fiscal year 1982, $276.1 million for fiscal year 1983, and $290.4 million for fiscal year 1984.

The conference committee is concerned with the adequacy of the authorizations for appropriations for BIA education programs and Indian Education Act programs for the out-years. These programs are fully federally funded. In addition, many treaties between the United States Government and Indian tribes contain provisions obligating the United States to provide educational services to Indians. With the educational achievement of Indians ranking at the bottom when compared to that of other groups in the American population, the conference committee believes that the authorizations for the out-years should be closely scrutinized and appropriately adjusted in subsequent legislation if it is found that such authorizations will not adequately meet the educational needs of Indian people.

Library Services and Construction Act

The Senate amendment places an overall limitation on authorizations of appropriations for the Library Services and Construction Act at $74.5 million for fiscal year 1981 and $84.5 million for each of fiscal years 1982 and 1983. The Senate amendment also extends the Library Services and Construction Act one additional year from its fiscal year 1982 expiration. By contrast, the House bill limits appropriations for Title I of the Library Services and Construction Act to $62,500,000 for each of the fiscal years 1982, 1983 and 1984, and precludes the appropriation of funds for Title II in fiscal years 1982, 1983 and 1984, and limits appropriations for Title III to not more than $12 million for each of such years.

The Senate recedes with an amendment. Such limits on appropriations for each of the fiscal years 1982, 1983 and 1984 are $80 million ($65 million for Title I and $15 million for Title III of the Library Services and Construction Act).

Unlike the Senate amendment, the House bill limits to $700,000 appropriations for each of the fiscal years 1982, 1983 and 1984 for the National Commission on Libraries and Information Science.

The Senate recedes.

Arts, Humanities and Museums

The House bill limits appropriations to $12.9 million for the Institute for Museum Services for each of the fiscal years 1982 through 1984, while the Senate amendment limits appropriations to $12.9 million for fiscal year 1981 and $9.6 million in each of the fiscal years 1982, 1983 and 1984.

The House recedes.

In the House bill the National Endowment for the Arts and Humanities is authorized for a total appropriation of $223.1 million for each of fiscal years 1982, 1983 and 1984. The Senate amendment authorizes $159.1 million for fiscal year 1981 and $119.3 million for each of fiscal years 1982 and 1983 for the National Endowment for the Arts. The Senate amendment authorizes $151.7 million for fiscal year 1981 and $113.7 million for each of fiscal years 1982 and 1983 for the National Endowment for the Humanities.

The House recedes with an amendment. Authorizations for the Arts are $119.3 million for fiscal years 1982, 1983 and 1984 and authorizations for the Humanities are $113.7 million for fiscal years 1982, 1983 and 1984. It is the Conferees' intention that the important catalytic role of Federal support for cultural activities in generating support from other sources be recognized, and that Federal involvement in these activities helps encourage artistic development and the preservation of the American cultural heritage.

The House bill, but not the Senate amendment, prohibits any appropriation for the Herbert Hoover Memorial for fiscal years 1982-84.

The House recedes.

The House bill, but not the Senate amendment, precludes any appropriation to carry out the Arts and Artifacts Indemnity Act for fiscal years 1982, 1983, and 1984. The Senate amendment does not specifically refer to this authorization.

The House recedes.

The House bill, unlike the Senate amendment, precludes appropriations for FY 82, 83, and 84 for Land Grant status for the Virgin Islands and the University of Guam.

The House recedes.

The House bill provides that, for the Harry S. Truman Memorial Scholarship Act, no funds are authorized to be appropriated in FY 1982, 1983 and 1984. The Senate amendment does not specifically refer to these authorizations.

The House recedes. The Conferees intend that funds appropriated in previous years to finance the Memorial can continue to be spent in future years and are in no way jeopardized by the Conference action.

REFUGEE EDUCATION CONSOLIDATION

The House bill, but not the Senate amendment, authorizes the Consolidated Refugee Education Assistance Act at $50 million for each of the fiscal years 1981, 1982, and 1983.

The Senate recedes with an amendment limiting the authorization for the Consolidated Refugee Education Assistance Act to $5 million for fiscal year 1982, $7.5 million for fiscal year 1983, and $10 million for fiscal year 1984.

CUBAN AND HAITIAN REFUGEE PROGRAMS

The Senate amendment, but not the House bill authorizes the following amounts for refugee assistance and the sea grant program:

	Fiscal year 1981	Fiscal year 1982	Fiscal year 1983
Cuban and Haitian Reception	$157,100,000	$20,000,000	. [1]
Cuban and Haitian Domestic Assistance	96,000,000	40,000,000	$30,000,000
Indochinese Refugees	596,525,000	360,600,000	200,000,000
Sea Grant College Program	39,000,000	35,000,000	35,000,000

[1] No funds.

The House recedes with an amendment which deletes the references to the sea grant program and the Indochinese refugee program and which corrects the limitations on authorizations for Cuban and Haitian domestic assistance so that they stand at $94 million for fiscal year 1982 and $59 million for fiscal year 1983.

VOCATIONAL EDUCATION ACT OF 1963

The Senate amendment extends the Vocational Education Act through fiscal year 1983. The House bill extends it through fiscal year 1984.

The Senate recedes.

The House bill authorizes an amount not to exceed $791,200,000 for vocational education for each of the fiscal years 1982, 1983 and 1984 as a lump sum.

The Senate bill makes the following authorizations for vocational education as line items:

Part A—Subpart 2—Basic Grants:	
FY 1981	$518,139,000
FY 1982	490,000,000
FY 1983	490,000,000
Part A—Subpart 3—Program Improvement and Support:	
FY 1981	93,323,000
FY 1982	163,300,000
FY 1983	163,300,000
Part B—Subpart 2—Programs of National Significance:	

FY 1981	7,477,000
FY 1982	9,500,000
FY 1983	9,500,000
Part A—Subpart 4—Special Programs for the Disadvantaged:	
FY 1981	14,954,000
FY 1982	23,600,000
FY 1983	23,600,000
Part A—Subpart 5—Consumer and Homemaking:	
FY 1981	30,347,000
FY 1982	30,000,000
FY 1983	30,000,000
Sec. 107—5 Year State Plans.	
Sec. 108—Annual Program Plans and Accountability Reports.	
Sec. 112—Federal and State Evaluations:	
FY 1981	3,738,000
FY 1982	4,000,000
FY 1983	4,000,000
Sec. 105(f)(1)—State Advisory Councils:	
FY 1981	6,500,000
FY 1982	4,400,000
FY 1983	4,400,000
Subpart 3—Bilingual:	
Sec. 184—Authorization of Grants.	
Sec. 186—Grants for Instructional Training.	
Sec. 186—Development of Instructional Materials, Methods and Techniques:	
FY 1981	3,960,000
FY 1982	3,000,000
FY 1983	3,000,000
Smith-Hughes Act of 1917:	
FY 1981	7,200,000
FY 1982	7,200,000
FY 1983	7,200,000

The Senate line item authorizations total $685.6 million for fiscal year 1981, $735 million for fiscal year 1982, and $735 million for fiscal year 1983.

The House recedes with an amendment limiting the authorization for the Vocational Education Act to $735 million for each of the fiscal years 1982, 1983, and 1984 and deleting the Senate line items, thus leaving the distribution of funds among the subparts up to the Appropriations Committee. The Conferees hope that the individual subparts will be funded at a level at least equal to the amount each subpart received in fiscal year 1981.

GENERAL EXTENSION OF AUTHORIZATIONS

The House bill extends through fiscal year 1984 several statutes within the Education and Labor Committee's jurisdiction that are due to expire within the next three fiscal years.

The Senate amendment has no comparable provision.

The Senate recedes with an amendment which extends through fiscal year 1984 the following statutes: P.L. 81-815, P.L. 81-874, the General Education Provisions Act, the Indian Education Act, Title XI, XIV, and XV of the Education Amendments of 1978 and Part H of Title XIII of the Education Amendment of 1980, the Adult Education Act, section 342 of the Education Amendments of 1976, the Asbestos School Hazards and Detection and Control Act, the Joint Resolution of October 19, 1972, the Vocational Education Act, Title IV of the Civil Rights Act, the Library Services and Construction Act, the Navajo Community College Act, the Tribally-Controlled Community College Assistance Act of 1978, and Part C of Title IX of the Elementary and Secondary Education Act.

STUDENT ASSISTANCE PROVISIONS

The House bill, but not the Senate amendment provides for a title of "Postsecondary Student Assistance Amendments of 1981."

The Senate recedes.

The House bill, but not the Senate amendment, limits Guaranteed Student Loan (GSL) eligibility to remaining need subject to a $1,000 minimum loan. The Senate amendment limits GSL eligibility to students from families with adjusted gross income of $25,000 or less and to remaining need above $25,000.

The House recedes with an amendment establishing a $30,000 cap with remaining need above the cap. The Secretary of Education will regulate with respect to remaining need subject to a statutory schedule and a one House veto. A $1,000 minimum loan is established if at least $500 need is shown. If remaining need is less than $500, the loan size will be limited to that amount of need.

The House bill specifies that financial need is the estimated cost of attendance less expected family contribution less estimated financial assistance. The Senate amendment specifies that financial need means estimated cost of attendance less expected family contribution less other resources and financial assistance.

The Senate recedes.

The Senate amendment, but not the House bill, defines cost of attendance as "the tuition and fees applicable to the student together with the institution's estimate of other expenses reasonably related to attendance."

The House recedes.

The Senate amendment, but not the House bill, specifies that only for the Guaranteed Student Loan need analysis estimated financial assistance equals Pell Grants, Supplemental Educational Opportunity Grants (SEOG), College Work Study (CWS), Social Security student benefits, GI Bill and Veterans Education Assistance Program (VEAP) benefits, National Direct Student Loans (NDSL) plus other available assistance.

The House recedes.

The House bill and the Senate amendment authorize the Secretary, for the purpose of the GSL need analysis, to determine the need analysis system to be used by the institution. The Senate amendment, but not the House bill, specifies that the GSL need analysis determined by the Secretary is to be approved by the Congress. The House bill, but not the Senate amendment, permits the Pell Grant Family Contribution Schedule to be used for determining need for the GSL program.

The House recedes. Separate Family Contribution Schedules must be submitted for GSLs and Pell Grants.

The Conferees urge the Secretary to exclude home equity in determining family assets, to use the Bureau of Labor Statistics (BLS) low budget standard for the family size offset and to establish a series of progressive assessment rates on family discretionary income.

The House bill, but not the Senate amendment, eliminates provisions that permit counting GSLs as part of the expected family contribution in determining eligibility for Pell Grants, SEOGs, NDSLs, CWS, and State Student Incentive Grants (SSIG). The House bill, but not the Senate amendment, permits loans received under the parent loan program to be substituted for part or all of the expected family contribution of the student.

The Senate recedes.

The Senate amendment, but not the House bill, adds to the existing publication schedule in the Federal Register for the Family Contribution Schedule used for the Pell Grant program the dates of August 15, 1981, May 15, 1982 and May 15 of each succeeding year for amendments for the GSL need analysis. The Senate amendment also modifies the Congressional approval process applicable to the Pell Grant Family Contribution Schedule to include the GSL need analysis schedule and amends the General Education Provisions Act to exclude the Family Contribution Schedule and the GSL need analysis schedule from provision specifying a 45 day review of regulations by Congress before becoming effective.

The House recedes with a technical amendment. In complying with the October 1, 1981 effective date regarding remaining need loans, the Secretary shall submit a Family Contribution Schedule for GSLs by August 15, 1981. For succeeding years a schedule must be submitted by June 1 with approval by July 15.

The Senate amendment, but not the House bill, restricts special allowance payments to loans on which interest subsidies are paid.

The House recedes.

The House bill, but not the Senate amendment, eliminates Social Security student benefits and GI bill benefits from consideration as effective family income in the Pell Grant Family Contribution Schedule.

The House recedes.

The House bill, but not the Senate amendment, includes as expected family contribution for both Pell Grants and GSL programs all Social Security student benefits and GI bill student benefits. The Senate amendment includes GI bill and Social Security student benefits only for determining GSL need, not Pell Grant need.

The House recedes.

The House bill, but not the Senate amendment, allows the Secretary to set an assessment rate or series of assessment rates on parental discretionary income under the Pell Grant Family Contribution Schedule.

The Senate recedes with an amendment mandating the Secretary to set a series of assessment rates on parental discretionary income.

The House bill, but not the Senate amendment, amends the Family Contribution Schedule treatment of assets to: permit consideration of home equity, raise net asset reserve from $10,000 to $25,000 and raise net asset reserve for farms and businesses from $50,000 to $100,000.

The House recedes. Current law provisions on home equity and net asset reserves for Pell Grant computations are not altered.

The House bill, but not the Senate amendment, amends Pell Grant cost-of-attendance criteria as follows: allows the Secretary to determine allowance for books, supplies, transportation and personal expenditures; allows the Secretary to determine, for Pell Grants only, an allowance for commuting students, students living in off-campus housing, and students with dependents; allows the Secretary to determine allowable cost for correspondence, study abroad, child-care expenses, and handicapped student cost.

The House recedes. Current law as it relates to Pell Grant cost-of-attendance criteria will remain in effect.

The House bill and the Senate amendment increase the interest rate for parent loans from 9% to 14%. The House bill specifies an October 1, 1981 effective date. The Senate amendment specifies a July 1, 1981 effective date.

The Senate amendment provides for a 12% interest rate on parent loans if the 12-month average of 91-day Treasury bill rates drops below 14 percent. The Senate amendment also permits lenders to charge less than the applicable interest rate.

The House recedes with an amendment. Parental loan interest rates are raised from 9 to 14 percent. The effective date of the provision is October 1, 1981. If the 12-month average on 91-day Treasury bill rates drops below 14%, the interest rate will be reduced to 12%. If the annual 91-day T-bill rate average rises above, the interest rate will be increased back to 14%. Lenders are allowed to charge less than the applicable rate.

The House bill and the Senate amendment eliminate the higher annual and aggregate loan limits for independent undergraduate students. Limits for borrowing are reduced to $2,500 per year, and $12,500 aggregate.

The Senate recedes.

The House bill, but not the Senate amendment, extends eligibility for parent loan borrowing to independent, undergraduate students. A student may borrow $2,500, less the amount of any Guaranteed Student Loan received. An overall restriction on combined GSL and parent loan aggregate borrowing is left at $12,500.

The Senate recedes.

The Senate amendment, but not the House bill, extends eligibility for parent loan borrowing to graduate students or their spouses.

The House recedes with an amendment. Graduate students are allowed to borrow under the program but their spouses are not.

The House bill, but not the Senate amendment, precludes parent loans from being consolidated with Guaranteed Student Loans under agreements with the Student Loan Marketing Association.

The House recedes. Parent loans and Guaranteed Student Loans may be consolidated.

The House bill and the Senate amendment both eliminate the grace period only after deferments.

The House bill, but not the Senate amendment, eliminates deferments for Peace Corps Volunteers, VISTA Volunteers, volunteers for tax-exempt organizations, and interns.

The House recedes.

The House bill and the Senate amendment eliminate the $10 institutional allowance for the GSL program. The House bill, but not the Senate amendment, eliminates the $10 institutional allowance for the Pell Grant Program. The House bill, but not the Senate amendment specifies that institutions may charge a reasonable fee to offset costs to the institution under both programs.

The Senate recedes with an amendment. Institutions may not charge students a fee for processing Guaranteed Student Loans and Pell Grants. There will be a $5.00 institutional allowance for Pell Grants.

Both the House bill and the Senate amendment provide for loan origination fees. The House bill specifies a 4-percent origination fee effective on the date of enactment. The Senate amendment specifies a 5-percent origination fee effective on loans made after July 1, 1981. The House bill specifies that Truth-in-Lending disclosure is not required until April 1, 1982. The Senate amendment exempts lenders, institutions, and officers from liability under the Truth-in-Lending Act. (However, the Senate amendment does not provide for an effective date.) The House bill specifies that the loan origination fee be used to reduce the in-school interest subsidy.

The Senate amendment specifies that the loan origination fee be used to reduce the special allowance payment.

The House recedes to the Senate establishing a 5-percent origination fee. The Senate recedes on the effective date with an amendment. This provision will become effective 10 days after the date of enactment.

The Truth-in-Lending provisions will become effective August 1, 1982. The origination fee will be applied against the combination of the special allowance and the interest subsidy.

The House bill but not the Senate amendment increases the minimum annual GSL repayment requirement from $360 to $600.

The Senate recedes.

The House bill and the Senate amendment provide for the assignment of collections to the Department of Education. The Senate amendment provides for assignment by a guaranty agency to the Secretary of any loan for which the Secretary has made payment under the guaranty agreement.

The House bill permits assignment by guarantee agencies only of loans of which they are the holder.

The Senate recedes.

The Senate amendment, but not the House bill, eliminates provisions providing for the rounding up of special allowance payments to lenders to the nearest one-eighth percent.

The House recedes. Provisions allowing rounding-up of special allowance payments to lenders to the nearest one-eighth percent are eliminated for loans made on or after October 1, 1981.

The House bill and the Senate amendment grant various new authorities to the Student Loan Marketing Association (Sallie Mae): (1) Sallie Mae is authorized to deal with non-insured student loans in terms of warehousing and secondary markets; (2) Sallie Mae's responsibility is broadened to assure nationwide coverage of loan insurance. (This authority is subject to agreements with the Secretary); (3) Sallie Mae is authorized to deal in obligations issued by state agencies or eligible lenders; (4) Sallie Mae is authorized to act as a loan insurer in a state where the Department of Education determines that loan demand is not being met by the established state agency or that the state agency is not fulfilling its obligations; (5) The Sallie Mae Board of Directors is authorized to pursue activities it deems necessary; and (6) Sallie Mae obligations are considered as government obligations for the purpose of bankruptcy proceedings. Several technical differences exist between the House bill and the Senate amendment.

The Senate recedes with a technical amendment. The Sallie Mae provisions will not become effective until 30 days after the enactment of the bill. The Conferees intend that the authority given Sallie Mae is only stand-by authority.

The Student Loan Marketing Association (Sallie Mae) amendments, included in both the Senate and House-passed reconciliation bills, were virtually identical. The Conferees wish to emphasize the stand-by nature of Sallie Mae's new authority to make loans under certain circumstances. This stand-by authority is to be exercised only in States where there is no state guarantee or nonprofit agency (or the agency is either unable or unwilling to make/insure student loans) or students are unable to obtain student loans. The Conferees believe that this stand-by authority is necessary to assure that loans are available to all eligible borrowers, regardless of geographic location. Under no circumstance is this amendment to diminish the strengths and viability of new or existing state guarantee or nonprofit agencies. The Conferees have delayed the effective date of the Sallie Mae amendments to thirty (30) days after the date of enactment of this bill.

The Senate amendment, but not the House bill, increases the interest rate in the National Direct Student Loan program from 4% to 7% effective July 1, 1981.

The Senate recedes with an amendment. There will be a 5% interest rate on all National Direct Student Loans processed after October 1, 1981.

The Senate amendment, but not the House bill, establishes a committee to review special allowances, the loan origination fee, insurance fees and rates of reinsurance formulae.

The Senate recedes.

The House bill provides for an effective date "upon enactment" for provisions relating to loan origination fees, cost of attendance provisions, and the Student Loan Marketing Association. All other provisions under the House bill become effective on or after October 1, 1981. The Senate specifies a July 1, 1981 effective date on all provisions except for the $25,000 cap, which is effective on October 1, 1981.

The Senate recedes with an amendment. The effective date for the provisions of this Act is October 1, 1981 with the following exceptions. The origination fee will become effective ten (10) days after the date of enactment of the Act. Provisions relating to the Student Loan Marketing Association will become effective thirty (30) days after the date of enactment of the Act.

The managers on the part of the House and the Senate also wish to clarify and explain certain provisions included in the Conference Report and referred to in the joint statement of the managers.

Grace periods

The Conferees have determined that all grace periods for the repayment of Guaranteed Student Loans (GSL) should be eliminated except for the one immediately following the in-school deferment period. For the sake of clarity, it is the Conferees' intention that a student be eligible for only one grace period. Therefore, if a student who has completed a course of instruction and has enjoyed the 6-month grace period for repayment of GSLs re-enters school and accepts another GSL, he or she will not be eligible for a second grace period at the completion of the in-school period.

Independent student income

It is the intention of the Conferees that for the purposes of determining eligibility of undergraduate independent students for Guaranteed Student Loans only the income of the student and his or her spouse will be counted. Income of the student's parents is not to be counted.

Congressional review

It is intention of the Conferees that the Congress maintain its historic role of review and oversight in the area of higher education loan and grant programs. Therefore, the Family Contribution Schedule (need analysis test) for the Guaranteed Student Loan programs (GSL), as well as the Family Contribution Schedule for the Pell Grant program which are set by the Secretary of Education must be submitted to the Congress subject to a one-House veto. If either the House of Representatives or the Senate adopts a resolution of disapproval for the GSL need analysis test or the Pell Grant Family Contribution Schedule, the Secretary shall submit within 15 days a new proposal incorporating those recommendations made in the disapproval resolution.

The Conferees have also mandated the time schedule the Secretary is to follow in submitting the GSL need analysis test. Because of current time constraints, a different time schedule has been developed for the first year. The Secretary must submit the need analysis test to the Congress by August 15, 1981. This proposal shall not be subject to the usual public comment period or amendment. Should either House adopt a disapproval resolution, the proposal shall not take effect and the expected family contribution will be determined by currently existing methods used for either the campus-based or Pell Grant programs.

The Conferees also understand that because of the limited time frame involved in implementing the initial need analysis test, the Secretary may allow institutions to use a need analysis test currently used for campus-based and Pell Grant programs as part of the proposal. In future years the Secretary is to submit the proposed need analysis test to the Congress no later than June 1. The Congress then has 45 days to review the proposal. The Conferees agree that the Congress may disapprove the proposed need analysis test for any reason. If there is no disapproval resolution, the need test will become effective on July 15. The proposal shall also be published in the Federal Register no later than June 1 with a 30-day period for public comment. There is to be no public comment period on Congressional amendments.

The Conferees have further determined that the Secretary must get Congressional approval for any waiver to provisions contained in Section 411 of the Higher Education Act regarding Pell Grants.

Need analysis

The Conferees wish to emphasize that the need analysis system to be developed for the Guaranteed Student Loan Program is a matter of great concern. The Conferees intend that the Secretary consider the following factors as the elements of the GSL need analysis system:

1. Exclusion of all equity in a single principal place of residence from the computation of assets; deduction of an asset reserve of not less than $25,000 from the net value of all assets; and if net assets include farm or business assets, deduction of an additional asset reserve of not less than $100,000 from the net assets.

2. Assessment of a series of progressive rates on parental discretionary income, but such rates shall not result in requiring an expected family contribution in excess of an effective rate of 20 percent of such parental discretionary income.

3. Utilization of the most recently published Bureau of Labor Statistics Lower Living Standard as the Family Size Offset to be included in the GSL Family Contribution Schedule submitted to Congress.

4. Inclusion of the number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

The Conferees expect that the GSL need analysis system to be submitted to the Congress will take into consideration that this needs test is being used to judge eligibility for a loan to be repaid, not a grant. It is the expressed intent of the Conferees that the Secretary develop a GSL need analysis system which gives adequate opportunity to students from middle income families with adjusted gross incomes above $30,000 to qualify for a GSL. The Conferees will carefully follow the Secretary's development of the GSL need analysis system and the final result.

The Conferees expect that the Secretary will develop a financial need test for the GSL program by August 15, 1981 for use during the academic years 1981-82 and 1982-83. The Conferees understand that it may be necessary, for purposes of academic year 1981-82, for the Secretary to permit postsecondary institutions to use an established need analysis system, such as those used for Pell Grants and the campus-based program in determining remaining need. However, it is the expressed intent of the Conferees that the Secretary submit a proposed need analysis on August 15, 1981 which includes a system that considers the four factors outlined above. The Conferees intend that the four factors shall be considered for the GSL need analysis for the 1981-82 academic year, and all subsequent years.

The existing need analysis systems can only be used by institutions until the Secretary can effectively implement the GSL need analysis.

The Conferees expect that the Secretary will implement the GSL need analysis by amending the August 15, 1981 proposal before the 1982-83 academic year in order to take into consideration any necessary adjustments. The August 15 submission plus the required amendment for the 1982-83 academic year will be subject to Congressional review, as will all subsequent submissions.

Effective dates

The Conferees have determined that the effective date for provisions of the Act shall be October 1, 1981 with the following exceptions:

(a) The provision for the Student Loan Marketing Association will become effective thirty (30) days after enactment of the Act;

(b) The origination fee is applicable to loans other than parent loans or consolidated loans, for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after ten (10) days after the date of enactment of the Act. This provision allows only a short period of time for information on implementation of the fee to be disseminated to lending institutions. It is therefore the intention of the Conferees that all official and unofficial channels available be used to notify lending institutions of the provision as soon as the Act is enacted.

The effective date for the Guaranteed Student Loan program is October 1, 1981. It is the decision of the Conferees that the amendments regarding the $30,000 cap and the need analysis test shall apply to all loans for which the required institutional statement showing the student's estimated cost of attendance and financial assistance is completed on or after October 1, 1981.

REFUGEE EDUCATION CONSOLIDATION

The House bill creates a new program which consolidates several existing authorities for refugee education into a single authorization. The Senate amendment contains no such provision.

The Senate recedes with an amendment clarifying the definition of refugee and the method of payment to school districts.

ELEMENTARY AND SECONDARY EDUCATION BLOCK GRANT

The House bill is entitled "Education Consolidation and Improvement Act of 1981". The Senate amendment is entitled "Elementary and Secondary Education Program Consolidation & Improvement Act."

The Senate recedes.

The Senate amendment in the heading of this subpart specifies that this assistance is to meet the special educational needs of "disadvantaged" children.

The House recedes.

The Senate amendment, but not the House bill, uses the adjective "unnecessary" in the Declaration of Policy to describe the paperwork and the Federal supervision the bill seeks to eliminate.

The House recedes.

The Senate amendment, but not the House bill, uses the word "may" immediately prior to the word "adversely" in describing a policy statement related to the LEA's ability to provide education to children from low-income families.

The Senate recedes.

The Senate amendment uses the words "overly prescriptive" to describe the regulations the bill seeks to eliminate. The House bill uses the word "detailed."

The House recedes.

The House bill authorizes the Act from October 1, 1982, through September 30, 1987. The Senate amendment authorizes the Act from October 1, 1981, through September 30, 1984.

The Senate recedes.

The House bill states that the Secretary shall make payments on the basis of the provisions of Title I, ESEA, as in effect on September 30, 1982. The Senate date is September 30, 1981.

The Senate recedes.

The heading of this section in the House bill is "applicable repealed provisions". The heading in the Senate amendment is "applicable Title I provisions of law".

The House recedes.

Because of the interstate nature of the Title I migrant education program, it is imperative that a coordinating, national effort be maintained through the office of the Secretary of Education. One particularly essential aspect to this effort is the Migrant Student Record Transfer System, which makes an annual head count of migrant students and is used to determine the allocations for participating States. It is the intent of the Conferees that national focus be maintained in the migrant education program for purposes of interstate coordination and cooperation and that the setaside provided for in Part B, Subpart 1, section 143(a) of Title I of the Elementary and Secondary Education Act be maintained.

The Conferees also intend that the Program for Indian Children authorized under the setaside for the Secretary of the Interior be continued under the Education Consolidation and Improvement Act.

The House bill directs the Secretary, in making grants, to use certain provisions of

Title I, ESEA as in effect on September 30, 1982. The Senate amendment is the same but the date is September 30, 1981.

The Senate recedes.

The Senate amendment, but not the House bill, explicitly makes inapplicable those provisions of current Title I, ESEA law which are not retained by the Senate amendment.

The House recedes with an amendment clarifying State and local responsibilities for regular record-keeping and reporting under both Titles I and II of the education consolidation act.

The Senate amendment uses "each" before SEA and LEA.

The House recedes.

The House bill permits LEAs to use funds for expenditures authorized under Title I, ESEA as in effect September 30, 1982. The Senate amendment is the same but the date is September 30, 1981.

The Senate recedes.

The House bill requires LEAs to conduct Title I programs in attendance areas having the highest concentrations of low-income children or in all attendance areas where there is a uniformly high concentration of low-income children. The Senate amendment requires these programs to be conducted in attendance areas having the highest concentration of educationally-deprived children or in all attendance areas where there is a uniformly high concentration of educationally-deprived.

The Senate recedes.

The Senate amendment permits selection of "such (educationally deprived) children who have the greatest need". The House bill refers to "those children who have the greatest need."

The Senate recedes.

The House bill, but not the Senate amendment, requires that an LEA application to the SEA under Title I of the Act must include assurances that the programs were designed and implemented in consultation with parents and teachers of children being served.

The Senate recedes.

The Act requires that the parents and teachers of children served by Title I be consulted regarding the design and implementation of Title I programs. The conferees believe that parental and teacher involvement is an important component of Title I programs and wish to make clear that it is an option of the local educational agencies to continue using Parent Advisory Councils (PACs) to comply with the consultation requirement.

The House bill, but not the Senate amendment, requires these evaluations to include "objective" measurements of educational achievement.

The Senate recedes.

The Act requires that the programs and projects carried out under Title I be evaluated for effectiveness and that such evaluations include objective measurements of educational achievement. The conferees wish to clarify that the use of the term "objective" is not to be construed to mean any form of national competency testing and that the decision on which tests to use is purely a State or local decision.

The House bill, but not the Senate amendment, provides language which will "grandfather" any bypass arrangements under Title I, ESEA, in existence prior to the effective date of this Act, to the extent consistent with the purposes of this part.

The Senate recedes.

Maintenance of effort

The House bill and the Senate amendment revise the maintenance of effort requirements for Title I to allow for a 10 percent leeway and to provide that allocations be proportionately reduced for local educational agencies that do not meet the requirements. The conferees intend these provisions to take effect in school year 1982-1983. The conferees also intend that beginning in school year 1982-1983, school districts' compliance with these provisions shall be judged by the new, more flexible standards, even though the data on which the determination of compliance will be based, will have been accumulated in the prior years to which a stricter standard of maintenance of effort applied.

The Act provides greater flexibility in measuring maintenance of effort than exists presently. Yet, the conferees intend that the waiver authority granted to the State educational agency be applied only in limited circumstances. If a local education agency suffers declining revenues as a result of severe economic conditions, natural disaster, or similar circumstances, Congress would consider these exceptional or uncontrollable circumstances for waiver purposes. However, the conferees do not consider tax initiatives or referenda as exceptional or uncontrollable circumstances.

The House bill, but not the Senate amendment, provides that "this subsection not be construed to require the provision of services to eligible children outside the regular classroom or school program."

The Senate recedes with an amendment providing that in order to comply with this provision, a local educational agency shall not be required to provide services under this part outside the regular classroom or school program.

As regards the applicability of this section to migrant programs, practical necessity dictates that many migrant classrooms cannot be located within schools. They may be located in mobile vehicles or in structures near their parents' workplace. It is not the intent of the conferees to restrict this practice in any way, but instead to encourage adaptation to the needs of migrant children to ensure that they have access to the Title I program.

The House bill provides that an LEA must provide the SEA with assurances that it has established equivalence among schools with regard to the provision of curriculum materials and supplies. The Senate amendment establishes that equivalence among schools is to be measured by the amount of expenditures from general funds for these supplies.

The Senate recedes.

The House bill stipulates that unpredictable changes in student enrollments or personnel assignments which occur after the school year shall not be included as a factor in determining comparability. The Senate amendment contains a similar provision but refers to unpredictable changes in "pupil-teacher ratios."

The Senate recedes.

The Senate amendment, but not the House bill, makes specific statutory reference in the Statement of Purpose to all separate authorizations included under Title II of the Act. The House bill makes specific reference only to ESEA programs included.

The House recedes.

The Senate amendment, but not the House bill, exempts from consolidation Title III (Part A) of ESEA, which relates to the Secretary's discretionary authority.

The Senate recedes.

The Senate amendment, but not the House bill, includes the Alcohol and Drug Abuse Education Act and the Follow Through Act in Title II of the amendment.

The conferees agreed to a substitute which consolidates the Alcohol and Drug Abuse Education Act into Title II effective in FY 83 and which phases the Follow Through Act into Title II over a period of three fiscal years, 1983 through 1985.

The House bill, but not the Senate amendment, provides that Congress will "financially" assist State and local educational agencies.

The Senate recedes.

The House bill provides that the main responsibility for carrying out the provisions of Title II shall be with "local boards of education," while the Senate amendment uses the words "local educational agencies" to describe the same.

The House recedes.

The House bill provides a such sums authorization for Title II of the bill for each of the fiscal years 83-87. The Senate amendment provides for an authorization of $584,226,000 for FY 82 and $583,926,000 for each of the fiscal years 83-84. (Note: in another section of the reconciliation bill, the House bill limits the authorization for Title II.)

The Senate recedes with an amendment authorizing such sums as may be necessary for title II for each of the fiscal years 1982-1987 and which specifies that the duration of assistance for Title II is July 1, 1982 through September 30, 1987.

The House bill provides for a minimum payment of 0.4 percentum under the Title II allocation to states. The Senate amendment provides 0.6 percentum for the same purposes.

The Senate recedes with an amendment providing for a minimum payment of 0.5 percentum.

The Senate amendment, but not the House bill, permits regional school administrators to be represented on the advisory committee established by Title II.

The House recedes.

Regional school systems (i.e., county, intermediate, or area school districts) are found in many states and take on a variety of different roles. In a number of the states, they play a significant role in coordinating and providing various educational services. It is intended that in these states, the regional school district should be represented on the Gubernatorially-appointed advisory committee by a regional school district administrator.

The House bill, but not the Senate amendment, provides for a representative of the State legislature to be a member of the advisory committee established by Title II of the bill.

The Senate recedes.

The House bill, but not the Senate amendment, charges the advisory committee with advising the SEA on the formula for allocation of funds to LEAs.

The Senate recedes.

The House bill, but not the Senate amendment, requires that the State application set forth an allocation of funds required to implement section 5366 (non-public school section).

The Senate recedes with an amendment which inserts in section 5354(a)(3) after "sets forth the planned allocation of funds" the words "reserved for State use under section 5355(a)." This clarifies the intention that the State allocation—including the allocation of funds required to implement the

requirements of section 5366 for the equitable participation of nonprofit private school children and personnel in instructional or personnel training programs funded by the State educational agency—apply only to those funds reserved for State use and not allocated to local educational agencies.

The Senate amendment, but not the House bill, specifies that the State application allocate the administrative costs of carrying out SEA programs from the amount reserved for State agency programs.

The House recedes.

Both the House bill and the Senate amendment require an annual evaluation of the effectiveness of programs assisted under Title II. The House bill establishes FY 85 for the first evaluation. The Senate bill establishes FY 84 for the first evaluation.

The House recedes.

The House bill provides that SEAs shall distribute not less than 80 percent of the funds under Title II to LEAs which have the greatest "numbers of percentages" of children whose education imposes a higher than average cost per child. The Senate provision refers to LEAs which have the greatest "numbers of percentages" of the same.

The House recedes.

The Senate amendment, but not the House bill, provides that LEAs can qualify for funds based on high concentrations of children living in economically depressed urban areas.

The House recedes with an amendment which applies this provision to both economically depressed urban areas and economically depressed rural areas.

The House bill, but not the Senate amendment, contains a provision which requires the LEA to include in its application to the SEA for funding an allocation plan showing how programs for private school children shall be funded.

The Senate recedes.

It is the intent of the Conferees to insure that the determination of the LEA fund allocation for the implementation of this Section, the equitable participation of private school children, rest solely and completely with the LEA, subject to conformity with the requirement of section 557.

The Senate amendment, but not the House bill, contains a provision under Title II, Part A, allowing SEAs to use funds they receive under the bill for technical assistance for State boards of education.

The House recedes.

The conferees wish to make clear that this provision is designed to provide funds to the State boards to help them fulfill their increased policymaking responsibility under the grants consolidation.

Under both the House bill and the Senate amendment, SEAs may support activities designed to enlist the assistance of parents and volunteers working with the schools to improve the basic skills performance of children. In the House bill, such activities shall be conducted only with "approval of and in conjunction with programs of LEAs." The Senate amendment provides that the activities "be conducted by LEAs."

The Senate recedes.

The House bill provides in the Statement of Purpose that both SEAs and LEAs are permitted to use the Federal funds under this subpart.

The Senate amendment specifically mentions LEAs as eligible grantees.

The House recedes to the Senate and the Senate recedes to the House, so that both provisions are included in the bill.

The statement of purpose in the House bill and the Senate amendment differ in that the Senate amendment makes reference to consolidating the activities of the Teacher Corps, Teachers Centers, and the National Science Foundation Pre-college Teacher training program. The House bill consolidates these items in subpart C.

The House recedes.

The House bill, but not the Senate amendment, includes a provision which allows funds to be used to meet the educational needs of handicapped children.

The House recedes.

The Senate amendment, but not the House bill, includes teacher training and in-service staff development as authorized activities.

The House recedes.

The Senate amendment, but not the House bill, includes programs to assist LEAs in meeting the needs of children in schools undergoing desegregation and developing and implementing plans to eliminate "desegregation" as authorized activities under the subpart.

The House recedes.

The conferees wish to clarify that the term "desegregation" means the elimination of judicially-determined segregation.

The Senate amendment, but not the House bill, states that it is the intent that funds available under Subchapter III are permitted to be used to make grants to "local educational agencies." Under both the Senate amendment and the House bill, however, funds can be used to make grants to "educational agencies."

The House recedes.

The House bill, but not the Senate, makes general reference to the "supporting authorizations" relating to the current authorizations for the Teacher Center, Teacher Corps and National Science Foundation Pre-college Teacher Training programs, and activities authorized under Title IV of the Civil Rights Act. The Senate amendment specifically lists in the Statement of Purpose all programs included in this subpart: Title III, VIII, and IX of ESEA and the Alcohol and Drug Abuse Education Act and Part B of Title V of the Economic Opportunity Act of 1964 (Follow Through.) The House bill does not make such reference.

The House recedes on the format of specifically listing in the Statement of Purpose each program that is consolidated.

The Senate amendment, but not the House bill, includes Alcohol and Drug Abuse Prevention Activities.

The conferees agreed to a substitute which places Alcohol and Drug Abuse prevention activities under the Secretary's Discretionary authority in Subchapter D, not in this subchapter. The agreement also specifies that Alcohol and Drug Abuse Education will be funded by the Secretary at a level not less than the program's FY 81 level.

The Senate amendment but not the House bill, included activities previously authorized under Follow Through.

The House recedes.

The House bill, but not the Senate amendment, includes pre-school partnership programs in conjunction with Headstart-Follow Through.

The Senate recedes.

The House bill makes reference to "legal institutions". The Senate amendment refers to "underlying principles.

The House recedes to the Senate and the Senate recedes to the House so that both provisions are included in the bill.

The House bill, but not the Senate Amendment, lists the pre-college science teacher training program as an authorized activity under this subpart.

The House recedes.

The House bill, but not the Senate amendment, includes teacher centers and teacher corps as authorized activities under this subpart.

The House recedes.

The House bill, but not the Senate amendment, provides that LEAs may use funds under this subpart to provide support for training and advisory services currently authorized and funded under Title IV of the Civil Rights Act of 1964.

The Senate recedes.

The House bill refers to "fiscal effort per student". The Senate amendment refers to "*combined* fiscal effort per student."

The House recedes.

The House bill, but not the Senate amendment, makes this section applicable to instructional or personnel training programs funded by the SEA from funds under this title.

The Senate recedes.

The House bill, but not the Senate amendment, contains a provisions which states that the requirements of section 5366 relating to the participation of children, teachers, and other personnel serving children enrolled in private schools shall apply to programs and projects carried out directly or indirectly by contract or grant.

The Senate recedes.

The House bill makes the Secretarial waiver applicable "if by any providing of law a State or local educational agency fail or refuses" to provide for the participation of private school children. The Senate amendment provides that the waiver shall take effect "if a State is prohibited by law" from providing for the participation of such children.

The Senate recedes to the House and the House recedes to the Senate so that the legislative language reads, "If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation. . . ."

The House bill, but not the Senate amendment, contains a provision which "grandfathers" any bypass determination made by the Secretary under the Elementary and Secondary Education Act, Titles II-VI and VIII and IX, prior to the effective date of this subpart, to the extent consistent with the purposes of this subpart.

The Senate recedes.

The House bill, but not the Senate amendment, authorizes the special mathematics program the National Diffusion Networks, and the programs previously authorized under the Women's Educational Equity Act to be funded from the Secretary's discretionary program, at a level necessary to sustain their levels of operation in FY 81. Both the House bill and the Senate amendment include the Inexpensive Book Distribution Program under the Secretary's discretionary program. The House bill includes the "national program" of arts in education, while the Senate amendment includes the entire Arts in Education program.

The conferees agreed to a substitute which includes the following provisions: First, the Inexpensive Book Distribution Program and the national program of Arts in Education will remain under the Secretary's discretionary authority with their funding protected at the FY 81 level. Second, the Alcohol and Drug Abuse education program will be placed under the Secretary's discretionary authority with its funding protected at the FY 81 level. Third, the

National Diffusion Network will be included under the Secretary's discretionary authority. Fourth, the special mathematics program will be removed from the Secretary's discretionary authority and instead included as an authorized activity under Subchapter A of Title II of this Act. Fifth, the Women's Educational Equity Act will be removed from Title II altogether and be continued as separate legislation with an authorization of $6 million for each of the fiscal years 1982, 1983, and 1984.

The national programs of arts in education are those run by the National Committee, Arts for the Handicapped and the John F. Kennedy Center for the Performing Arts programs for Children and Youth.

In agreeing to place the Special Math Program in the state block grant the Managers hope the Secretary will look favorably on continuing "Project Seed" with discretionary funds. The program has been extremely successful in improving the math skills of disadvantaged youngsters and the unique nature of this program merits continued national support.

The provisions of this subchapter of the House bill take effect October 1, 1982. The Senate amendment takes effect October 1, 1981.

The Senate recedes.

The House bill repealers take effect on September 30, 1982. The Senate amendment repealers take effect on October 1, 1981.

The Senate recedes.

The House bill, but not the Senate amendment, repeals Title III (Part A) of ESEA. The Senate amendment, but not the House bill, repeals the Alcohol and Drug Abuse Education Act and the Follow Through Act.

The Senate amendment, but not the House bill, repeals the Alcohol and Drug Abuse Education Act and the Follow Through Act.

The Senate recedes on the repeal of Title III-A.

The House recedes with an amendment to repeal the Alcohol and Drug Abuse Act on October 1, 1982 and the Follow Through Act on October 1, 1984.

The House bill, but not the Senate amendment, provides that funds appropriated in FY 82 for programs repealed are for use in school year 1982-83 to carry out the provisions of the education consolidation bill.

The Senate recedes.

YOUTH CONSERVATION CORPS ACT OF 1970

The House bill provided that no funds are authorized to be appropriated for the Youth Conservation Corps (Y.C.C.) for FY 1982, 1983, or 1984. The Senate Amendment contained no comparable provision. The Senate recedes with an amendment which prohibits appropriations for Y.C.C. for FY 1982, 1983, or 1984.

The language of the Conference Report does not repeal the Y.C.C. Authority for the activities of the Y.C.C. continues for the period covered by the provison provided that funding for such activities is derived from other sources.

The House agrees to the same.

TITLE VI—HUMAN SERVICES PROGRAMS

GENERAL PROVISIONS

The House bill is a free-standing piece of legislation, while the Senate amendment, in most instances, amends the text of current law.

The Senate recedes.

The Senate amendment, but not the House bill, contains limits on appropriations for FY 81.

The Senate recedes.

The House bill provides that laws not consistent with the provisions of Title V of the bill are superseded and have only such effect in FY 1982, 1983, and 1984 as may be consistent with Title V. The House further, notwithstanding any other law, precludes appropriations in excess of the limitations provided in Title V of the reconciliation bill. The Senate amendment precludes appropriations for FY 1981, 1982, or 1983 to the Department of Education, the National Endowment for the Arts or the National Endowment for the Humanities unless there was either an appropriation for the activity in FY 1980 or there is a specific authorization for the activity in these reconciliation provisions.

The Senate recedes.

EDUCATION OF THE HANDICAPPED PROGRAMS

The House bill limits appropriations to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, to $932,000,000 for each of the fiscal years 1982, 1983, and 1984. By contrast, the Senate amendment limits appropriations to $969,850,000 for fiscal year 1982, and $1,017,900,000 for 1983.

The House recedes with an amendment authorizing appropriations of $1,017,900,000 for 1984.

Special studies

The House bill limits appropriations to carry out section 618 to $2,300,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $2,300,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Preschool incentive grants

The House bill limits appropriations to carry out section 619 of such Act to $25,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $25,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Severely handicapped projects

The House bill limits appropriations to carry out sections 621 and 624 of such Act (pertaining to projects for severely handicapped children) to $5,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $5,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Regional resource centers

The House bill limits appropriations to carry out section 621 of such Act to $9,800,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $9,800,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Deaf-blind centers

The House bill limits appropriations for section 622 of such Act to $16,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $16,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Early childhood projects

The House bill limits appropriations for section 623 of such Act to $20,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $20,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Regional vocational, adult and postsecondary projects

The House bill limits appropriations to carry out section 625 of such Act to $4,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $4,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Personnel development

The House bill limits appropriations to carry out sections 631, 632 and 634 to $58,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $58,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Recruitment and information

The House bill limits appropriations to carry out section 633 of such Act to $1,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this section to $1,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Innovation and development

The House bill limits appropriations to carry out part E of such Act to $20,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this part to $20,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Media services

The House bill limits appropriations to carry out part F of such Act to $19,000,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits appropriations for this part to $19,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

VOCATIONAL REHABILITATION PROGRAMS

Evaluation

The House bill limits appropriations for section 14 of the Act to $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,400,000 for fiscal year 1984. The Senate amendment limits appropriations for section 14 to $650,000 for each of the fiscal years 1982 and 1983.

The conference agreement provides that no funds are authorized to be appropriated for this section for each of the fiscal years 1982 and 1983.

Ceiling on authorization of appropriations

The House bill, unlike the Senate amendment, includes no limitation on appropriations for the entire Rehabilitation Act. The Senate amendment authorizes appropriations of $1,009,260,000 for the fiscal year 1982 and $1,054,160,000 for the fiscal year 1983 to carry out provisions of the Act.

The House recedes.

Information clearinghouse

The House bill limits appropriations for section 15 of the Act to $500,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment includes no comparable provision.

The conference agreement provides that "such sums as may be necessary" are authorized to be appropriated for this section for each of the fiscal years 1982 and 1983. It is the conferees' understanding that the Clearinghouse will continue to be funded

through appropriations for salaries and expenses of the Department of Education and its funding is, therefore, not included in the total funding for the Rehabilitation Act.

Administration of the act/technical assistance

The House bill unlike the Senate amendment, includes no provision affecting section 12(d) of the Act. The Senate amendment limits appropriations for section 12 (d) to $250,000 for each of the fiscal years 1982 and 1983.

The House recedes.

State grants

The House bill limits appropriations for part A of title I of the Act to $714,500,000 for the fiscal year 1982, $774,500,000 for the fiscal year 1983, and $775,200,000 for the fiscal year 1984. The Senate amendment authorizes for section 100(b)(1) of the Act $899,000,000 for the fiscal year 1982 and $943,900,000 for the fiscal year 1983.

Client assistance and maintenance of efforts

The House bill limits appropriations for part B of title I of the Act to $13,400,000 for the fiscal year 1982, $14,300,000 for the fiscal year 1983, and $14,900,000 for the fiscal year 1984. The Senate amendment authorizes $3,500,000 for each of the fiscal years 1982 and 1983 for section 112(a) of the Act.

The House recedes with an amendment providing that the requirement for the setting aside of funds established in the first sentence of section 112(a) of such Act shall have no force or effect for the fiscal years 1982 and 1983.

Innovation and expansion

The House bill precludes appropriations for section 120(a)(1) of the Act for the fiscal years 1982, 1983, and 1984. The Senate amendment authorizes appropriations for section 120(a)(1) at "such sums as may be necessary" for each of the fiscal years 1982 and 1983.

The Senate recedes with an amendment deleting reference to the fiscal year 1984.

American Indian tribes

The House bill limits appropriations for part D of title I to $700,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment authorizes appropriations for such part at $650,000 for each of the fiscal years 1982 and 1983.

The House recedes.

National Institute of Handicapped Research

The House bill limits appropriations for section 202 of the Act to $38,000,000 for the fiscal year 1982, $40,500,000 for the fiscal year 1983, and $36,000,000 for the fiscal year 1984. The Senate amendment authorizes appropriations for section 201(a) at $35,000,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Construction of rehabilitation facilities

The House bill precludes appropriations for section 301 of the Act for the fiscal years 1982, 1983, and 1984. The Senate amendment allows to stand the authorization of such sums as may be necessary for the fiscal year 1982 and does not extend the authorization of appropriations for the fiscal year 1983. The Senate amendment extends the date prior to which amounts appropriated under section 301(a) remain available for expenditure from October 1, 1983 to October 1, 1984.

The Senate recedes with an amendment deleting reference to the fiscal year 1984.

Training services for handicapped individuals

The House bill limits appropriations for section 302 of the Act to $3,200,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment extends the authorization of "such sums as may be necessary" for section 302 until October 1, 1983.

The conference agreement provides that no funds are authorized to be appropriated for this section for the fiscal years 1982 and 1983.

Personnel training

The House bill limits appropriations for section 304 of the Act to $27,400,000 for the fiscal year 1982, $29,300,000 for the fiscal year 1983 and $33,800,000 for the fiscal year 1984. The Senate amendment authorizes for such section $25,500,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Comprehensive rehabilitation centers

The House bill limits appropriations for section 305 of the Act to $2,200,000 for the fiscal year 1982 and $2,300,000 for the fiscal years 1983 and 1984. The Senate amendment authorizes appropriations of $2,000,000 for such section in each of the fiscal years 1982 and 1983.

The conference agreement provides that no funds are authorized to be appropriated for this section for the fiscal years 1982 and 1983.

Special projects

The House bill limits appropriations for part B of title III of the Act (other than section 313) to $4,800,000 for the fiscal year 1982, $5,100,000 for the fiscal year 1983, and $5,300,000 for the fiscal year 1984. The Senate amendment authorizes appropriations for such part (other than section 313) at $13,580,000 for each of the fiscal years 1982 and 1983. The Senate amendment, further, provides that up to $1,530,000 may be appropriated for section 312, Migratory Workers projects, in fiscal years 1982 and 1983. The House bill includes no comparable provision.

The conference agreement authorizes for part B of title III, exclusive of sections 313 and 316, $12,210,000 for each of the fiscal years 1982 and 1983. The agreement deletes the existing set-aside in the Act for section 312, Migratory Workers projects, and provides an authorization of $2,000,000 for section 316, Special Recreation Programs, for each of the fiscal years 1982 and 1983.

Helen Keller National Center

The House bill limits appropriations for section 313 of the Act to $3,800,000 for the fiscal year 1982 and $4,000,000 for the fiscal years 1983 and 1984. The Senate amendment authorizes appropriations of $3,500,000 for such section in each of the fiscal years 1982 and 1983.

The House recedes.

National Council on the Handicapped

The House bill limits appropriations for title IV of the Act to $300,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment authorizes appropriations for such title at $256,000 for each of the fiscal years 1982 and 1983.

The House recedes.

Architectural and Transportation Barriers Compliance Board

The House bill limits appropriations for section 502 of the Act to $2,800,000 for the fiscal year 1982 and authorizes no funds to be appropriated for such section in fiscal years 1983 and 1984. The Senate amendment contains no comparable provision.

The conference agreement provides that "such sums as may be necessary" are authorized to be appropriated for such section in each of the fiscal years 1982 and 1983.

Secretarial responsibilities/technical assistance

The House bill limits appropriations for section 506 of the Act to $300,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment includes no comparable provision.

The conference agreement provides that no funds are authorized to be appropriated for this section for each of the fiscal years 1982 and 1983.

Community service employment pilot programs

The House bill precludes appropriations for part A of title VI of the Act for the fiscal years 1982, 1983, and 1984. The Senate amendment authorizes "such sums as may be necessary" for such part in fiscal years 1982 and 1983.

The Senate recedes with an amendment deleting reference to the fiscal year 1984.

Comprehensive services for independent living

The House bill limits appropriations for part B of title VII of the Act to $19,400,000 for the fiscal year 1982, $20,000,000 for the fiscal year 1983, and $15,000,000 for the fiscal year 1984. The House bill includes no provision affecting parts A, C, and D of such title. The Senate amendment authorizes appropriations for parts A, B, and C of title VII at $18,000,000 for each of the fiscal years 1982 and 1983, and "such sums as may be necessary" for part D of such title for the fiscal years 1982 and 1983.

The conference agreement provides that $19,400,000 is authorized to be appropriated for part B of title VII for each of the fiscal years 1982 and 1983. The agreement further provides that no funds are authorized to be appropriated for parts A, C, and D of such title for each of the fiscal years 1982 and 1983.

Projects with industry and business opportunities

The House bill limits appropriations for part B of title VI of the Act to $11,400,000 for the fiscal year 1982, $12,100,000 for the fiscal year 1983 and $12,800,000 for the fiscal year 1984. The Senate amendment authorizes appropriations of $5,800,000 for such part for each of the fiscal years 1981, 1982, and 1983.

The conference agreement provides that $8,000,000 is authorized to be appropriated for such part for each of the fiscal years 1982 and 1983.

American Printing House for the Blind

The House bill limits appropriations for the American Printing House for the Blind to $5,595,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits such appropriations to $5,000,000 for each of the fiscal years 1982 and 1983.

The conference agreement limits appropriations to $5 million for each of the fiscal years 1982, 1983, and 1984.

Gallaudet College

The House bill authorizes not to exceed $61,532,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment authorizes appropriations of $50,000,000 for each of the fiscal years 1982 and 1983.

The House recedes with an amendment authorizing appropriations of $52,000,000 for each of the fiscal years 1982, 1983 and

1984. This appropriation includes the operation of Kendall Demonstration Elementary School and the Model Secondary School for the Deaf.

National Technical Institute for the Deaf

The House bill limits appropriations for the National Technical Institute for the Deaf Act to $32,811,000 for each of the fiscal years 1982, 1983, and 1984. The Senate amendment limits such appropriations to $20,300,000 for each of the fiscal years 1982 and 1983.

The House recedes with an amendment authorizing appropriations of $26,300,000 for each of the fiscal years 1982, 1983 and 1984.

Committee on Purchases of Blind-made Products

Unlike the House bill, the Senate amendment limits appropriations for the Act to Create a Committee on Purchases of Blind-made Products to $500,000 for each of the fiscal years 1982 and 1983.

The Senate recedes.

OLDER AMERICAN PROGRAMS

The House bill limits appropriations for Title IV of the Older Americans Act (research, training and discretionary programs) to $24,700,000 for each of the fiscal years 1982, 1983, and 1984.

Senate amendment contains no comparable provision.

The House recedes.

The House bill authorizes such sums as may be necessary to be appropriated for fiscal years 1982, 1983, and 1984 for programs authorized under the Older Americans Act.

The Senate amendment limits appropriations for all Titles of the Older Americans Act, except Title V, to $749,555,000 for fiscal year 1982, and $793,312,000 for fiscal year 1983, but provides further that no sums may be appropriated for fiscal year 1982 or fiscal year 1983 unless the "Older Americans Amendments of 1981" have been enacted.

The House recedes with an amendment striking the restriction that no funds may be appropriated without enactment of subsequent amendments; an amendment limiting appropriations for all Titles of the Older American Act, except Title V, to $715,000,000 for fiscal year 1982; and an amendment to section 213 of the Act to eliminate the requirement that for-profit organizations receiving grants and contracts under the Act demonstrate clear superiority to non-profit organizations.

The conferees emphasize that this legislation does not amend the existing USDA elderly commodity program. Further, the conferees are agreed that in reaching the $715 million authorization ceiling, the programs under the Act, with the exception of Title IV, should be based upon CBO current services levels for fiscal year 1982.

The conferees intend that the total amount of appropriations for Title IV should not exceed $23,200,000 for fiscal year 1982, and $24,700,000 for fiscal year 1983. The conferees fully intend that the House and Senate respectively, will move to act in this Congress on previously reported bills to reauthorize the Older Americans Act of 1965 through fiscal year 1984.

The House bill authorizes such sums as may be necessary for fiscal years 1982, 1983 and 1984, for Title V of the Older Americans Act.

The Senate Amendment authorizes $277,100,000 for fiscal year 1982, and $293,726,000 for fiscal year 1983 for Title V.

The House recedes with an amendment to authorize for Title V, $277,100,000 in fiscal year 1982, and $293,726,000 in fiscal year 1983, or such sums as may be necessary to maintain the existing activity level of 54,200 20-hour job slots. The conferees believe that sufficient administrative savings can be achieved to continue the 54,200 20-hour job slots within the $277,100,000 and $293,726,000 authorizations. However, in the event such savings cannot be achieved, the conferees have provided authority for additional appropriations to be made to assure continuation of the existing activity level.

For the past twelve years, the Senior Community Service Employment Program has successfully demonstrated the useful and valuable contribution that older workers can make toward enhancing the quality of life for their neighbors and has given older persons a renewed sense of accomplishment and self-worth. It is the intent of the conferees that the SCSEP continue to build on its past accomplishments and that the Secretary of Labor encourage sponsors to increase their efforts to transfer program participants into private sector jobs. The trend toward longer work force participation because of improved health, changing attitudes of workers and employers, and the erosion of retirement income by inflation compels us to move in this direction.

WHITE HOUSE CONFERENCE ON AGING

The House bill limits appropriations to carry out the White House Conference on Aging to $3,200,000 for the fiscal years 1982, 1983 and 1984.

The Senate amendment contains no comparable provisions.

The House recedes.

DOMESTIC VOLUNTEER SERVICE PROGRAMS

The House bill extends Title I of the Domestic Volunteer Services Act through fiscal year 1984 and limits appropriations to $25,763,000 for fiscal year 1982, $15,391,000 for fiscal year 1983, and $9,000,000 for fiscal year 1984.

The Senate amendments extends Title I only through fiscal year 1983, setting the appropriations limit for fiscal years 1982 and 1983 at the same levels as the House.

The House recedes with an amendment providing a floor for the funding of the VISTA program through 1983. Of the amounts appropriated for Title I in fiscal year 1982, no less than $16 million shall first be available for VISTA and of the funds appropriated for Title I in fiscal year 1983, no less than $8 million shall first be available for VISTA.

The Senate amendment changes section 114 of the Domestic Volunteer Services Act by eliminating the ceiling of 22 percent of the first $4,000,000 appropriated under Part B of Title I for programs other than the University Year for ACTION program.

The House bill contains no comparable provision.

The House recedes.

The House bill extends Title II of the Domestic Volunteer Services Act at such sums as may be necessary for 1982, 1983, and 1984.

The Senate amendment extends these programs for only two years and authorizes $95 million for fiscal year 1982 and $100 million for fiscal year 1983. The Senate amendment also provides, for the first time, a separate appropriations authorization for the Senior Companions Program.

The Senate amendment places an overall ceiling on the authorization of appropriations for the Domestic Volunteer Services Act of $150,325,000 for fiscal year 1982, and $149,945,000 for fiscal year 1983.

The House bill contains no comparable provision.

The House recedes with an amendment to specify an authorization ceiling for program support, and to eliminate an overall cap on the programs under the Domestic Volunteer Services Act of 1973.

HEAD START PROGRAMS

The Senate amendment provides for a "Head Start Act".

The House bill contains no authorization for Head Start, which expires September 30, 1981, and no provision comparable to the Senate amendment.

The House recedes with a technical amendment.

The Senate amendment would extend Head Start and authorize the Secretary to continue migrant and Indian programs.

The House recedes.

The Senate amendment provides that "Secretary" means the Secretary of Health and Human Services; "State" means a State, Puerto Rico, the District of Columbia, or the Territories; and "financial assistance" includes assistance provided by grant, agreement, or contract.

The House recedes with a technical amendment.

The Senate amendment authorizes the Secretary to provide assistance to programs focused "primarily upon children from low-income families" which provide comprehensive services and provide for parental involvement.

The House recedes.

The Senate amendment authorizes $820 million for FY 1982, $1,007,000,000 for FY 1983, and $1,058,357,000 for FY 1984.

The House recedes with an amendment raising the authorization for Head Start to $950 million in FY 1982.

The Senate amendment provides a new formula for the distribution of funds. Puerto Rico and the Territories would not be considered States. The Territories would be eligible for no more than 2 percent of the appropriation to be divided among them, however, Puerto Rico would be totally excluded. Financial assistance would not exceed 80 percent unless a waiver is granted by the Secretary. The Secretary must establish policies to assure that at least 10 percent of the Head Start enrollees are handicapped and shall report annually regarding compliance with this requirement.

The House recedes with an amendment reinstating the hold harmless and indexing provisions for Indian and migrant Head Start programs; reducing the Secretary's discretionary reserve to 13 percent; limiting payments to the Trust Territories to one-half of 1 percent; and clarifying that Puerto Rico shall be considered a State for the purposes of allocation of funds.

The Senate amendment authorizes the Secretary to designate Head Start agencies according to selected criteria. The Secretary must require the continuation of parental involvement.

The House recedes.

The Senate amendment sets forth fiscal requirements under which a Head Start agency can be designated. In addition, in order to be designated, a Head Start agency must assure parental and community participation.

The House recedes with an amendment adding the requirement that Head Start agencies seek reimbursement from other service agencies as a condition of designation.

The Senate amendment provides that in order to receive assistance, plans must be submitted and not disapproved by the Governor within 30 days. The Secretary is authorized to reconsider disapprovals.

The House recedes.

The Senate amendment requires each Head Start agency to observe specified standards. Costs for developing and administering programs may not exceed 15 percent of total costs, including non-Federal contributions.

The House recedes.

The Senate amendment authorizes the Secretary to establish regulations pertaining to eligibility for participation.

The House recedes.

The Senate amendment authorizes the Secretary to establish procedures concerning appeals, notices, and hearings.

The House recedes.

The Senate amendment requires each recipient to make available such records as required by the Secretary and authorizes the Secretary and the Comptroller General to have access to such records.

The House recedes.

The Senate amendment authorizes the Secretary to provide technical assistance and specialized training.

The House recedes.

The Senate amendment authorizes the Secretary to provide assistance for research, demonstration, and pilot projects and requires the Secretary to establish an overall plan to govern approval of such projects.

The House recedes.

The Senate amendment authorizes the Secretary to make public announcements regarding results or findings from assisted projects within specified periods of time.

The House recedes.

The Senate amendment requires the Secretary to carry out continuing evaluations. Programs of evaluation carried out by the Secretary must adhere to Head Start performance standards.

The House recedes with a perfecting amendment requiring that, in carrying out evaluations under this program, the Secretary establish working relationships with faculties in colleges or universities, unless no such institution is willing and able to participate in the evaluation. The conferees agree that the Secretary shall establish such relationships with those colleges and universities which have the greatest capability to assist in such evaluations.

The Senate amendment requires the Secretary to annually revise the poverty line by multiplying the official poverty line by the percentage change in the Consumer Price Index. Revisions must be made not more than 30 days after the Consumer Price Index information becomes available.

The House recedes.

The Senate amendment requires the Secretary to assure that persons employed by Head Start do not receive more than the average or lower than the minimum wage rate for comparable work in their area.

The House recedes.

The Senate amendment prohibits discrimination on the basis of race, creed, color, national origin, sex, political affiliation, or beliefs.

The House recedes with a technical amendment to include the Rehabilitation Act of 1973.

The Senate amendment prohibits Head Start employees from involvement in unlawful demonstrations, rioting, or civil disturbances.

The House recedes.

The Senate amendment prohibits grant funds from being used to support partisan or nonpartisan political activities.

The House recedes.

The Senate amendment authorizes appropriations to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

The House recedes with an amendment which is contained in the resolution of difference discussed in the following issue.

CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

The House bill repeals the Child Abuse Prevention and Treatment Act of 1974 and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. The Senate amendment authorizes $7,000,000 for the Child Abuse Prevention and Treatment Act for each of the fiscal years 1982 and 1983 provided that a program relating to child abuse prevention and treatment is enacted after June 15, 1981.

The House recedes with an amendment which authorizes $7,000,000 for grants to the states under Sec. 4(b)(1) of the Child Abuse Prevention and Treatment Act for each of the fiscal years 1982 and 1983. In addition, it authorizes the Secretary of the Department of Health and Human Services to provide for activities of a national scope related to child abuse prevention and treatment and adoption reform, including a national center to publish and disseminate information regarding child abuse and neglect, and operation of a national adoption information exchange to facilitate the adoption of children. In carrying out these discretionary authorities the Secretary is directed to provide for the continued operation of the National Center on Child Abuse and Neglect in accordance with the provisions of Sec. 2(a) of the Child Abuse Prevention and Treatment Act. If the Secretary carries out any of the activities enumerated under Sec. 2(b) of the Child Abuse Prevention and Treatment Act, he is directed to carry out such activities through the National Center on Child Abuse and Neglect.

In addition, the amendment to the Senate language authorizes to be appropriated $12,000,000 for each of the fiscal years 1982 and 1983 to carry out the discretionary authorities in the act of which no less than $2,000,000 is to be used for Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act.

The Conferees also agree that the amounts authorized to be appropriated are not to be made available for disbursement under any block grant program established in the Omnibus Reconciliation Act.

COMMUNITY SERVICES BLOCK GRANT

The Senate amendment establishes a Community Services Block Grant.

The House bill contains no comparable provision.

The House recedes.

The Senate amendment would authorize $354,375,000 for fiscal year 1982 and each of the four succeeding fiscal years.

The House recedes with an amendment to authorize $389,375,000 for fiscal year 1982 and each of the four succeeding fiscal years.

The Senate amendment provides that the term "poverty line" refers to the line established by the Secretary (sic) of OMB; that the term "Secretary" means the Secretary of HHS; and that the term "State" means the several States, the District of Columbia, Puerto Rico, and the territories.

The House recedes with a technical amendment and an amendment to clarify the definition of "poverty line".

The Senate amendment provides that from 99 percent of the appropriation, each State would receive an allotment based on the percentage of individuals and families below the poverty line in such State except that no State would receive less than one-half of 1 percent of the amount appropriated.

The House recedes with an amendment setting aside one-half of 1 percent for the Trust Territories and reducing the small State minimum to one-quarter of 1 percent.

The Senate amendment provides that for the purpose of making allocations, Puerto Rico and the Territories would not be considered States. One percent of the appropriation would be divided among these areas on the basis of need. If the Secretary receives a request from the governing body of an Indian tribe that assistance be made directly to that tribe and the Secretary determines that such tribe would be better served, the Secretary can reserve amounts for that tribe from a State's allotment based on the ratio that tribe's population bears to the population of all eligible households in the State. In order to be eligible, an Indian tribe shall submit a plan. "Indian tribe" and "tribal organizations" are defined according to the same criteria established in the Indian Self-Determination and Education Assistance Act.

The House recedes with an amendment clarifying that Puerto Rico shall be treated as a State for the purpose of making allocations, clarifying the definitions of "Indian tribe" and "tribal organizations", and limiting the setaside for the Territories to one-half of 1 percent.

The Senate amendment provides that each State desiring an allotment must submit an application as required by the Secretary. After the first year a State receives an allotment, the State legislature must hold public hearings on the proposed use and distribution of funds. In its application, a State must agree to use the funds to provide services having a "measurable and potentially major impact on the causes of poverty and to provide activities designed to assist participants in areas of employment; education; utilization of available income; housing; emergency assistance; self-sufficiency; community participation; and service utilization. States would be required to use at least 95 percent of their allotments to make grants to local governments for the purposes of the block grant which the local government may use directly, or give to nonprofit private community organizations having boards meeting specified requirements, or to seasonal farmworker organizations. States would not be able to spend more than 5 percent of their allotment for administrative purposes. States would be required to assure that any community action agency board or non-profit private organization will be constituted so that:

(1) one-third of the members are elected public officials;

(2) one-third are chosen democratically to represent the poor in the area served; and

(3) one-third are members of business, industry, labor, religious, welfare, education, or other major community groups.

The State would be required to give special consideration to existing community action agencies. The State may transfer not more than 5 percent of its allotment to services under the Older Americans Act, Head Start, or energy crisis intervention. The

State must prohibit political activities, including activities to provide voters transportation to the polls or similar assistance. The State must provide coordination between antipoverty programs and emergency energy crisis intervention programs, and provide for fiscal controls and accounting procedures. However, the Senate amendment stipulates that the Secretary cannot prescribe regulations for State compliance with any of the subsection's requirements.

Additionally, the State must submit a plan and revise plans as appropriate. Revised plans must be submitted to the Secretary. Each plan must be available for public inspection. Audits must be completed by an independent entity and submitted within 30 days to the Secretary and the State legislature. The State must repay misspent sums and the Comptroller General must, from time to time, evaluate State expenditures.

The House recedes with a technical amendment, and an amendment to specify the status of existing community action agencies and programs in fiscal year 1982 under the Community Services Block Grant, and to decrease from 95 percent to 90 percent the required pass through to local units of government or non-profit private community organizations, or migrant and seasonal farmworker organizations, in fiscal year 1983.

The Senate amendment would create an Office of Community Services within the Department of Health and Human Services to be headed by a Director.

The House recedes. The conferees emphasize that the Community Services Administration, as an agency, is terminated and that the Community Services Block Grant is clearly a new program within the Department of Health and Human Services, not a transfer of authority.

The Senate amendment prohibits discrimination on the basis of race, color, national origin, sex, age, or handicap and provides for administrative remedies and legal remedies for non-compliance.

The House recedes.

The Senate amendment provides that allotments shall be made in accordance with provisions of the Intergovernmental Cooperation Act of 1968 and that funds be expended in the same fiscal year or the succeeding fiscal year.

The House recedes.

The Senate amendment authorizes the Secretary to withhold funds from States who do not utilize their funds appropriately and requires the Secretary to respond expeditiously to "serious complaints" regarding misutilization. The Senate amendment stipulates that the Secretary may not withhold funds for minor failures to comply. The Senate amendment would require the Secretary to conduct investigations each fiscal year regarding compliance, particularly when the Secretary determines that there is a pattern of complaints. The Comptroller General may also conduct investigations. While States are directed to make appropriate documents available to the Secretary or the Comptroller General, the Secretary or Comptroller General may not request information not readily available.

The House recedes with technical amendments. The Conferees agree that the Secretary, in making a determination as to substantial compliance, shall make each decision on a case-by-case basis.

The Senate amendment provides that, with exceptions, grants may not be used to purchase or improve land or to purchase, construct, or permanently improve buildings or facilities, other than low-cost residential weatherization or energy-related home repairs.

The House recedes.

The Senate amendment would repeal all of the Economic Opportunity Act except for the Community Economic Development Program (Title VII) and the Legal Services Corporation (Title X).

The House recedes with an amendment, (1) repealing Title VII of the Economic Opportunity Act of 1964, and reinstating Title VIII of the Act; (2) providing discretionary authority for the Secretary to operate training activities and activities of national or regional significance; (3) adopting new authorizing language relating to various activities authorized under the discretionary authority above; and (4) adopting new transition provisions under which the Secretary of HHS may, for FY 1982 only operate programs under the provisions of law in effect on September 30, 1981, if a State has made a determination not to operate such programs under the block grant under this subtitle. The transition provision also includes the requirement that any State which has determined to allow the Secretary to operate programs under the provisions of law in effect on September 30, 1981, shall notify the Secretary of this determination prior to the first quarter of FY 82, and at least 30 days prior to the beginning of any subsequent quarter in FY 82. If the Secretary is operating the State's program under the provisions of law in effect on September 30, 1981, he may not reserve more than 5 percent of that State's allotment for administration of the State's program. Finally, the transition provision authorizes the Director of OMB to terminate the affairs of the Community Services Administration, and provides for transfer authority, effective upon enactment.

The Conferees intend that, if a State so chooses, a State may notify the Secretary prior to the beginning of fiscal year 1982 that it does not intend to operate the block grant under this subtitle at any time during fiscal year 1982, and notification to that effect shall be sufficient notification to the Secretary for the purposes of the transition provisions.

The House bill extends through fiscal year 1984 several statutes within the Education and Labor Committee's jurisdiction that are due to expire within the next three fiscal years.

The Senate bill contains no comparable provision.

The House recedes with respect to Parts C, D, E, and F of the Education of the Handicapped Act, the Rehabilitation Act of 1973, the Domestic Volunteer Services Act and the Older Americans Act, and the Senate recedes with respect to Title VII of the Economic Opportunity Act of 1964, with a technical amendment changing the reference to Title VII to Title VIII.

TITLE VII—LABOR AND EMPLOYMENT PROGRAMS

Comprehensive Employment and Training Act

Fiscal year 1981

The Senate amendment limits appropriations for Fiscal Year 1981. The House was not under reconciliation instructions for Fiscal Year 1981.

The Senate recedes.

Fiscal year 1982

COMPARISON OF AUTHORIZATION AMOUNTS

	House	Senate	Conference agreement
Overall total		$3,900,515,000	(1)
For parts A, B, and C of title II	$1,335,000,000	1,495,775,000	$1,430,775,000
For title III	213,000,000	219,015,000	219,015,000
For part A of title IV	600,000,000	406,200,000	576,200,000
For part B of title IV	607,000,000	628,263,000	628,263,000
For part C of title IV	865,000,000	766,100,000	766,100,000
For title VII	192,500,000	309,700,000	274,700,000
For expenses of CETA administration	(1)	75,462,000	75,462,000

[1] No provision.

The Senate amendment increased the percentage of Title IV A funds going to Prime Sponsors from the current 75 percent to 85 percent thus reducing Secretary's discretionary funds from 16 to 6 percent. The House bill had no comparable provision. The House recedes.

The Senate amendment provided for a 20-percent transferability of funds between the youth program under Title IV A and the summer youth program under Title IV C. The House bill had no comparable provision. The House recedes.

The Senate amendment provided that Youth Community Conservation and Improvement Program funds may at the Prime Sponsor's discretion be used for Youth Employment and Training Programs and any YCCIP funds reallocated by the Secretary may be used for YETP. The House bill had no comparable provision. The House recedes. The Conference agreement is intended to provide flexibility to the Prime Sponsor, but is not intended to discourage continued funding of successful YCCIP projects.

The Senate amendment increased the percentage of Title II B funds distributed to Prime Sponsors from 85 to 86.5 percent with a related reduction of funds going to the Governors (see below). The House bill had no comparable provision. The House recedes.

The Senate amendment provided that the 12 percent available for Governors programs (6 percent for Vocational Education, 1 percent for the Employment and Training Council, 1 percent for linkages and 4 percent for special services) be reduced to 10.5 percent with the Governor given discretion in how to allocate the cut. The House bill had no comparable provision. The House recedes.

The Senate amendment repealed the provision providing for mandatory $3-$5 million set-aside for National Occupational Information Coordinating Committee. The House bill had no comparable provision. The House recedes with an amendment that not more than $3 million of Title III funds may be transferred to the National Occupational Information Coordinating Committee.

The Senate amendment repealed provisions relating to advance funding, two years availability of appropriations, a two year period for expending funds and the 20 percent ceiling relationship between Title III and remaining CETA Titles. The House bill had no comparable provision. The House recedes with an amendment to restore the provision relating to advance funding.

Neither the House bill nor the Senate amendment provided a separate authorization for the National Commission for Employment Policy (Title V), although the

House bill retains the open ended authorization for Title V in existing law. The National Commission has responsibility for examining broad issues of development, coordination, and administration of employment and training programs and for advising the President and the Congress on national employment and training issues. The Commission is currently funded from the overall appropriation for Title III of CETA. The Conference agreement provides a combined authorization for Titles III and V of $219,015,000 and supports continued funding for the National Commission for Employment Policy out of that amount.

The Conferees support consideration for funding national organizations under Title III. The Conferees recognize the statutory requirement for funding migrant and Indian programs under this Title and the commitment to meet expenses for unemployment compensation attributable to the elimination of public service employment programs. The Conferees anticipate that the Department of Labor will give careful consideration to continued support of national and regional organizations previously funded under Title III. Included in these national and regional organizations are CBO's defined in section 3(4) and other national and regional organizations.

The House bill authorized $600,000,000 for Title IV-A; the Senate amendment authorized $406,200,000 for Title IV-A. The Senate recedes with an amendment to authorize $576,200,000 for this Part and an amendment to delete the maintenance of effort requirement for serving youth under Title II ABC.

The House bill authorized $192,500,000 for Title VII; the Senate amendment authorized $309,700,000 for this Title. The Senate recedes with an amendment to authorize $274,700,000 and a further amendment to delete the ten percent setaside to promote coordination with economic development activities and increase the amount distributed by formula to prime sponsors from 85% to 95% of the Title VII appropriation. Economic development activities will remain an eligible activity under Title VII and the Conferees want to make plain that this amendment is not in any way intended to suggest a lesser priority for such activities. The reason for the amendment to increase the percentage of funds going by formula to prime sponsors and eliminate the set-aside was to prevent adverse effect on previously planned activities that might otherwise result from the reduction in new budget authority for the Title VII program.

The Conferees recognize that the amendments to CETA contained in the Conference agreement will require some change in the Labor Department regulations or instructions which can obviously not be issued by May 15, as ordinarily required by Section 104(e) of the Act. As these new regulations will relieve the Prime Sponsors from restrictions, the Conferees believe the intent of that section will be met if the revised instructions are issued as promptly as possible.

The Conferees recognize that certain legislative changes made in this Conference Report will require amendments to the Department of Labor's regulations which can obviously not be made by May 15, as ordinarily required by section 104(e)(2). These changes include the provisions relating to Governors' grants, the elimination of the maintenance of effort provisions, and the transferability provisions affecting youth programs. As these provisions are intended to be applicable to FY 1982 funds, prime sponsors and Governors will need immediate information if they are to plan their programs in accordance with these amendments. Accordingly, the Conferees expect the Department of Labor to publish promptly notice of these changes and then engage in expedited rule-making procedures to ensure that final rules are in place by October 1. The Conferees also expect the Department to give early and favorable attention to plan modifications that may be required because Governors and prime sponsors were not able to take advantage of these amendments in developing the plans that are due to be submitted to the Department of Labor by September 1. The Conferees also reiterate the need for the Department to publish the Title IV-C allocations at the same time as the Title IV-A allocations in order to enable prime sponsors to take advantage of the transferability provisions.

Fiscal years 1983 and 1984

The Senate amendment did not reauthorize CETA beyond its current authorization date. The House bill reauthorized for 2 additional years.

The House recedes with an amendment to provide a one-year extension of the provisions of the Act applicable in fiscal year 1982 in the event that neither the House nor the Senate has passed new legislation either amending or replacing the Comprehensive Employment and Training Act by September 10, 1982. The Conferees are committed to moving new legislation by the end of FY 1982 and note that the Conference agreement does not automatically reauthorize CETA for 1983. The Conference agreement is intended to assure program continuity if neither the House nor the Senate has completed action by the September deadline.

The House bill provided, for fiscal years 1983 and 1984, that funds under Title II-B may be used for programs previously funded under Title IV-A and IV-C and provided no funding for such titles. The Senate had no comparable provision.

The House recedes.

Wagner-Peyser Act

The Senate amendment limited the amount that the Secretary of Labor may certify as necessary for the administration of the Employment Service to $607.8 million for fiscal year 1982 through fiscal year 1984. The House bill had no provision relating to Wagner-Peyser.

The House recedes with an amendment to limit the amount which the Secretary may certify for administration of the Employment Service to $677,800,000 in fiscal year 1982 only, and further amends this provision to specify that the term "proper and efficient administration of its public employment offices" shall mean only such functions as are necessary to carry out the provisions of the Wagner-Peyser Act and shall not include functions authorized under the Internal Revenue Code, the Immigration and Nationality Act of Chapter 41 of Title 38 of the U.S.C.

The Conferees do not intend to diminish support for serving veterans under the Disabled Veterans Outreach Program authorized under Chapter 41 of Title 38 but rather to ensure that the program is funded under the appropriate authorization.

Youth Conservation Corps Act of 1970

The House bill provided that no funds are authorized to be appropriated for the Youth Conservation Corps (Y.C.C.) for FY 1982, 1983, or 1984. The Senate amendment contained no comparable provision. The Senate recedes with an amendment which prohibits appropriations for Y.C.C. for FY 1982, 1983 or 1984.

The language of the Conference Report does not repeal the Y.C.C. Authority, for the activities of the Y.C.C. continues for the period covered by the provision provided that funding for such activities is derived from other sources.

FEDERAL EMPLOYEES' COMPENSATION

Sections 5391 through 5398, Subchapter C, Subtitle C of Title V of the House bill significantly amends the Federal Employees' Compensation Act, as amended (5 U.S.C., Chapter 81). The Senate amendment contains no provision.

The House recedes.

TITLE VIII—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

(1) School lunch—general assistance (section 4) reimbursement rates

The House bill establishes two different rates for general assistance reimbursements. The rate for "paid" lunches is set at 8.0407 cents for each such lunch. For "free and reduced-price" lunches the rate is set at 16.0815 cents for each such lunch. These rates are to be adjusted each July 1, beginning July 1, 1981.

The Senate amendment sets the general assistance reimbursement rate at 8.8315 cents for all lunches. This rate is to be adjusted each July 1 beginning July 1, 1981. An additional 2 cents is provided for lunches served in school districts where 60 percent or more of the lunches are served free or at reduced price.

The Conference substitute adopts the Senate provision with an amendment setting the general assistance rate at 10.5 cents for lunches served in school districts where less than 60 percent of the lunches are served free or at reduced price and 2 cents more for lunches served in school districts where more than 60 percent of the lunches are served free or at reduced price. These rates are to be adjusted each July 1 beginning July 1, 1982.

(2) School lunch—special assistance (section 11) reimbursement rates

The House bill maintains the same rate as current law (83.6165 cents) for free lunches and lowers the reduced-price rate to 40 cents less than the free rate (instead of 20 cents less than the free rate as under current law). The rates are adjusted each July 1, beginning July 1, 1981.

The Senate amendment increases the rate for free lunches to 89.1165 cents per lunch, and sets the reduced-price rate at 40 cents less than the free rate. The rates are also adjusted each July 1 beginning July 1, 1981.

The Conference substitute adopts the Senate provision with an amendment establishing a rate of 98.75 cents for free meals and setting the reduced price at 40 cents less than the free rate. These rates are to be adjusted each July 1 beginning July 1, 1982.

(3) School breakfast program

(A) The House bill establishes three distinct reimbursement rates for paid, free, and reduced-price breakfasts. The paid rate is set at 7.5 cents per breakfast; the free rate is set at 52.027 cents; and the reduced-price rate is set at 25.9 cents per breakfast. Rates are adjusted each July 1, beginning July 1, 1981.

The Senate amendment sets the free rate at the same rate as the House bill, but sets

the reduced price rate at one-half the free rate, and sets the paid rate at 7.4325 cents. The rates are adjusted each July 1 beginning July 1, 1981.

The Conference substitute adopts the Senate provision with an amendment that sets the reduced-price breakfast rate at half the free rate or 30 cents less than the free rate whichever is greater and provides that the price charged for a reduced-price breakfast not exceed 30 cents.

(B) The House bill changes eligibility for receipt of "severe need" assistance to include only those schools required by State law to operate a breakfast program and those in which during the second preceding school year, a minimum of 40 percent of lunches were served free or at reduced price, and for which the average rate is insufficient to cover costs.

The Senate amendment is similar to the House bill except that it does not provide severe need eligibility to schools required to operate school breakfast programs by State law.

The Conference substitute adopts the Senate provision with an amendment allowing schools with State mandated programs to continue receiving severe need assistance until July 1, 1983, if the State legislature meets annually, or July 1, 1984, if the legislature meets biennially.

(C) The House bill deletes a provision under which severe need schools are entitled to receive 100 percent of the operating costs of their breakfast programs or the maximum payment rate for such schools whichever is less.

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(4) Commodity assistance

(a) The House bill sets separate rates for commodity assistance for free and reduced price lunches and for paid lunches. The rate for free and reduced price lunches is set at a cash value of 13.54 cents per lunch, and for paid lunches at a cash value of 7.23 cents per lunch. These rates are annually adjusted each July 1, beginning July 1, 1981.

The Senate amendment sets the cash value of commodity assistance for all lunches at 11.29 cents per lunch. This value is also adjusted each July 1 beginning July 1, 1981.

The Conference substitute adopts the Senate provision with an amendment setting the commodity rate at 11 cents for all lunches. This rate is to be adjusted each July 1, beginning July 1, 1982.

(5) Application forms for free and reduced price lunches

The House bill requires that application forms and descriptive material be made available in a timely manner to parents of children attending schools.

The Senate amendment requires that application forms and descriptive material be distributed to parents of children attending schools.

The Conference substitute adopts the Senate provision.

The Conferees do not intend that local school food authorities be required to mail free and reduced price application forms when distributing these forms to parents of children attending schools.

(6) Verification of eligibility

The House bill requires local school food authorities to undertake verification of application information as prescribed by the Secretary by regulation.

The Senate amendment requires State and local school food authorities to undertake verification of such information on the application as the Secretary may prescribe. The Senate amendment also specifically permits the Secretary, State, and local school authorities to seek verification of application information.

The Conference substitute adopts the Senate provision with an amendment deleting the requirement that State undertake verification of applicant information. It is the intent of the conferees that the States share with the local school food authorities any relevant data that would assist the local authorities in verifying application information.

(7) Income reporting period

(A) The House bill requires that determination of eligibility for free and reduced-price meals be based on the applicant's estimate of the annual household income for the school year for which the application is submitted.

The Senate amendment requires that determination of eligibility for free or reduced-price meals be based on annual household income at the time of application.

The Conference substitute adopts the Senate provision.

It is the intent of the Conferees that the current law provision be continued which allows families to reapply for free and reduced-price meals during a school year if the family income changes due to unemployment.

(B) The House bill retains current law provision in both sections 9(b)(1) and 9(b)(2) of the National School Lunch Act relating to prohibitions on overt identification of children participating in the free and reduced-price school lunch program.

The Senate amendment retains this provision only in section 9(b)(2) of the National School Lunch Act.

The Conference substitute adopts the House provision.

(8) Documentation of eligibility

As a condition of eligibility for free and reduced-price meals, the House bill requires the Secretary to require that documentation of household income be provided to the appropriate local school food authority. Such documentation may include pay stubs, documentation of public assistance status, unemployment insurance documents and written statements from employers.

The Senate amendment is similar except that it sets as a condition of eligibility, appropriate documentation of income as prescribed by the Secretary without specifying what documentation may be required by the Secretary.

The Conference substitute adopts the Senate provision.

It should be noted that the Conferees also wrote into the National School Lunch Act the requirement now contained in section 624 of the Economic Opportunity Act for adjustment of the Office of Management and Budget poverty guidelines. These guidelines are used as the base for setting income eligibility guidelines for free and reduced-price lunches. Since both the House bill and the Senate amendment repeal title VI of the Economic Opportunity Act, which includes section 624, the conferees believe that writing the requirements and procedures of section 624 into the National School Lunch Act would be the best way to preserve the current adjustment method.

(9) Verification pilot study

The Senate amendment requires the Secretary to conduct a pilot study to verify data on a sample of applications. Households may be required to provide social security numbers of all household members, and other information the Secretary may require including pay stubs, documentation of participation in public assistance programs, unemployment insurance documents, and written statements from employers.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(10) Matching requirements

(A) The House bill requires that each year State matching revenues are to represent at least 30 percent of the section 4 funds made available to the State in the preceding school year.

The Senate amendment also requires State revenue matching set at 30 percent of section 4 funds, however this percent is permanently tied to the amount of section 4 funds made available to the State in the school year beginning July 1, 1980.

The Conference substitute adopts the Senate provision.

(B) The House bill eliminates the current law provision which requires, to the extent the State deems practicable, that State revenues used in meeting the matching requirements, be disbursed to schools in the same proportion that the State distributes Federal funds to such schools for the school lunch, school breakfast, and food service equipment assistance programs.

The Senate amendment requires that to the extent the State deems practicable, the State matching revenues be disbursed to schools participating in the school lunch program.

The Conference substitute adopts the Senate provision.

The Conferees wish to clarify that their intent is to give the States the discretionary authority to target State matching funds to schools in greater need.

(11) Nutrition education and training

The House bill authorizes appropriations not exceeding $2.5 million for the Nutrition Education and Training Program for fiscal year 1982, and subsequent years.

The Senate amendment authorizes appropriations not exceeding $10 million for fiscal year 1981, and subsequent years.

The Conference substitute adopts the House provision with an amendment authorizing appropriations of $5 million for fiscal year 1982 and subsequent years through fiscal year 1984.

(12) Limitation on private school participation

The House bill excludes from the definition of "school" in both the National School Lunch Act and the Child Nutrition Act of 1966 those private schools whose average yearly tuition exceeds $1,500 per child.

The Senate amendment is the same except that it does not specify "average" yearly tuition.

The Conference substitute adopts the House provision.

It is not the intent of the Conferees to disqualify from participating in the school lunch program certain schools that receive funds from public authorities for the cost of educating handicapped and other special needs children. Accordingly, it is the intent of the Conferees that the Department of Agriculture define the word "tuition" in its

regulations so that it does not include any moneys paid for educating handicapped and other special needs children by State, county or local authorities to private schools, when such schools are operated principally for the purpose of educating handicapped or other children for whose education the State or local government is primarily or solely responsible.

In addition, in establishing the limitation based on "average" tuition it is not the intent of the Conferees to eliminate private schools with standard tuitions over $1,500 if such schools have a high percentage of students who are receiving some form of scholarship aid. In such a case the scholarship aid should be eliminated in the calculation of average tuition. There are also schools that have sliding tuition scales for multiple-family members in attendance. The first child normally pays full tuition while the second and third child receive a rateably reduced rate. There are other schools which charge higher tuition for students in high school grades than for those in the elementary grades. In the case of these schools the tuition would be averaged in determining whether the $1,500 limitation has been exceeded.

(13) Summer food service program

The House bill limits sponsorship of summer food service programs to public or private nonprofit school food authorities, local, municipal or county governments, and residential nonprofit summer camps. Programs sponsored by local, municipal, or county governments must be operated directly by these local entities.

The Senate amendment terminates authority for this program after fiscal year 1982, and permits operation of programs during fiscal year 1982 only if sponsored by school food service authorities in areas where at least 50 percent of the children meet the income eligibility criteria for free and reduced-price school lunches.

The Conference substitute adopts the House provision with an amendment restricting the summer program to areas where at least 50 percent of the children meet the income eligibility criteria for free and reduced-price lunches.

(14) Child care food programs

(A) The House bill limits Federal meal reimbursements in outside school hour day care programs to children 12 years of age or younger except for handicapped children and children of migrant workers.

The Senate amendment limits Federal meal reimbursements for all child care food programs to children 12 years of age or younger except for handicapped children.

The Conference substitute adopts the Senate provision with an amendment exempting migrant children 15 years of age or younger from the age 12 limit.

(B) The House bill eliminates participation by family or group day care homes in which less than one-third of the children are from families with income at or below 185 percent of the OMB poverty guidelines.

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(C) The House bill lowers the reimbursement rates for supplements to 2.5 cents for paid; 27.5 cents for free and one-half the free rate for reduced-price supplements. These rates are to be adjusted each July 1, beginning July 1, 1981.

The Senate amendment sets the same reimbursement rates as the House bill for free and reduced-price supplements, but eliminates Federal reimbursements for paid supplements. The payment rate for free supplements is to be adjusted beginning July 1, 1981.

The Conference substitute adopts the House provision.

(D) The House bill eliminates Federal reimbursements for meals and supplements served to children of Family day care home providers whose annual income exceeds 185 percent of the OMB poverty guidelines.

The Senate amendment is similar except that it extends this prohibition to children of a person acting as a group day care home provider, but does not prohibit Federal reimbursements for supplements.

The Conference substitute adopts the House provision with an amendment to include group homes with family day care homes.

(E) The House bill strikes the provision in current law which provides that no institution, other than those providing child care to school children outside school hours, may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day.

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision.

(F) The Senate amendment lowers family, and group day care meal reimbursements by 10 percent, and lowers the reimbursement for administrative expenses by 10 percent while increasing the economy of scale factor used to distinguish institutions that sponsor a large number of homes from those that sponsor a smaller number of homes.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(G) The Senate amendment eliminates eligibility for sponsorship of child care food programs by private for-profit organizations that receive funds under title XX of the Social Security Act.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make eligible only those for-profit institutions which receive compensation under title XX for at least 25 percent of the children for which the institution provides care.

(15) Revision of special supplemental food program (WIC)

The House bill changes the WIC authorization from such sums as may be necessary through fiscal year 1984 to an authorization of $1.037 billion for each of fiscal years 1982 through 1984.

The Senate amendment also caps the WIC authorization level, but at $998 million in fiscal year 1982, $1.060 billion in fiscal year 1983 and $1.126 billion in fiscal year 1984.

The Conference substitute adopts the Senate provision with an amendment increasing the authorization level for fiscal year 1982 to $1.017 billion.

(16) Regulatory changes in nutrition and other requirements

The House bill instructs the Secretary to review regulations governing programs under the National School Lunch Act and the Child Nutrition Act of 1966, for the purpose of determining ways in which to accomplish cost savings at the local level without impairing the nutritional value of meals. The House bill also directs the Secretary to promulgate changes in regulations on the basis of such review within 90 days of enactment in order to effectuate such savings.

The Senate amendment is comparable except that the provision is an amendment to section 10 of the Child Nutrition Act of 1966 and there is no specific instruction to review regulations.

The Conference substitute adopts the House provision.

It is the intent of the Conferees that, before the Secretary changes current meal pattern requirements, he shall exhaust all alternatives for lowering local program costs. Further, any proposed change must have a demonstrated local fiscal impact and a sound nutritional basis. The Conferees understand that the phrase "without impairing the nutritional value of meals" should not be interpreted as requiring one-third RDA for every meal provided.

(17) State plan requirements

The House bill eliminates the current requirement that each State educational agency must provide to the Secretary each year, a State plan outlining for the following school year: (a) the use of funds, (b) the expansion of the school lunch programs to all schools, and (c) the use of summer food program funds and school breakfast funds to reach needy children.

The Senate amendment in addition to the elimination of these requirements, also eliminates the requirement that schools and State educational agencies report the average number of children participating in the free and reduced-price school lunch program. It also eliminates the requirement that school and State educational agencies make estimates as of October 1 and March 1 of each year of the number of children eligible for free or reduced-price meals.

The Conference substitute adopts the Senate provision with an amendment retaining the current requirement that schools and State education agencies report each month the average number of children receiving free and reduced-price meals.

(18) Limitations on the Secretary's authority to directly administer programs

The Senate amendment prohibits the Secretary from directly administering any school lunch, breakfast, child care food or special milk programs unless such program has been administered by the Secretary continuously since October 1, 1980. The Senate amendment also explicitly permits States to assume administration of programs the Secretary is directly administering.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing the Secretary to directly administer a program in a nonpublic school if that nonpublic school is in a State where the State education agency is prohibited by State law from administering the program.

(19) Offered vs. served

The Senate amendment extends to all grade levels, when approved by local school districts or nonprofit private schools, the option for children not to accept foods they do not intend to consume.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(20) Commodity only schools

The Senate amendment expands commodity assistance and offers cash assistance to commodity-only schools. Commodity-only

schools are to be defined as schools that do not participate in the school lunch program, but receive commodities made available by the Secretary for use in a nonprofit school lunch program. These schools would be eligible to receive donated commodities in an amount equal in value to the national average commodity assistance rate and general (section 4) reimbursement rates for each school lunch. In addition they would be eligible to receive up to 5 cents of this amount per meal in cash for the costs of processing and handling commodities. Commodity-only schools would also be eligible to receive special assistance cash payments for free and reduced-price lunches. Lunches served in commodity-only schools must meet the same nutritional requirements established for the school lunch program. Such schools may not participate in the special milk program.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(21) State administrative expenses

The Senate amendment changes the minimum State administrative expense funds which must be allocated to each State to the larger of $100,000 or the amount made available to the State in fiscal year 1981, instead of the larger of $100,000 or the amount made available in fiscal year 1978. It also allows State Administrative Expense Funds made available in one year to be obligated or expended in the next year provided that the Secretary receives a plan for the disbursement of these funds. The Secretary is to reallocate unused funds to other States.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(22) Claims adjustment authority

The Senate amendment gives the Secretary power to determine, adjust and settle claims and to compromise or deny all, or part of claims arising under the National School Lunch Act and the Child Nutrition Act of 1966. It further specifies that this authority will not diminish the authority of the Attorney General.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(23) Miscellaneous and conforming amendments

(A) The Senate amendment deletes or makes several changes, not included in the House bill, in provisions of current law relating to cost accounting requirements. These include:

(1) Deletion of provisions which prohibit any requirement for schools to account separately for the costs incurred in school lunch and breakfast programs and which specify that reimbursement may not exceed the net cost of operating both together.

The Conference substitute adopts the Senate provision with an amendment continuing the prohibition against any requirement for schools to account separately for the school lunch and breakfast programs.

(2) Deletion of reference to "financing the cost of" meals under the National School Lunch Act and the Child Nutrition Act of 1966.

The Conference substitute adopts the Senate provision.

(3) Deletion of a sentence specifying that food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, transporting, storing, or handling such foods and commodities.

The Conference substitute deletes the Senate provision.

(4) Replacement of the term "Federal food-cost contribution rate" with the "per meal reimbursement rate" in setting the maximum amount of funds disbursed to schools for school lunches.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(B) The Senate amendment changes current law to require that the National Advisory Council on Child Nutrition's reports be submitted to Congress every other year instead of annually.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(C) The Senate amendment makes conforming amendments in cross references to the Older Americans Act and requires that the Secretary of Health and Human Services reimburse the Secretary for commodity purchases made for the elderly feeding program under title III of the Older Americans Act.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting the requirement for reimbursement by the Secretary of Health and Human Services.

(D) The Senate amendment strikes all reference with regard to the summer food service program in provisions of the National School Lunch Act and the Child Nutrition Act of 1966.

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(E) The Senate amendment strikes all reference to food service equipment assistance in the provisions of the National School Lunch Act and the Child Nutrition Act of 1966.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

Effective Dates

The House bill specifies that all provisions are to take effect August 15, 1981.

(A) Under the Senate amendment, the following are made effective September 1, 1981 or the first day of the month following enactment:

(1) Changes in reimbursement rates (except for child care food program reimbursements other than supplements);

(2) Elimination of for-profit child care sponsors;

(3) The meal limit in the child care food program;

(4) Reduction in reimbursement for family day care centers;

(5) Maximum price charge for reduced price meals.

(B) The following are made effective July 1, 1981:

(1) Reduction in commodity assistance;

(2) Revision of income elgibility criteria;

(3) Revision of matching requirement.

(C) The following provisions are made effective July 1, 1981 or the first day of the second month following enactment:

(1) Revision of Special Milk Program;

(2) Limitation on private school participation.

(D) The following are made effective October 1, 1981:

(1) Termination of Food Service Equipment Assistance;

(2) Change in Summer Food Service Program;

(3) Repealing food service equipment assistance and State plan requirement for child care food program;

(4) Limitation on Secretary's authority to directly administer programs;

(5) Elimination of State plan requirements;

(6) Changes in State Administrative expenses;

(7) Reduction in Nutrition Education Training authorizations;

(8) Conforming and miscellaneous amendment.

(E) Changes in commodity ———— only school reimbursements become effective 90 days after enactment.

(F) The limitation of the child care food program to children under 12 will become effective the first day of the second month following enactment.

(G) The revisions in child care food program reimbursements are effective January 1, 1982 except those provisions reducing supplement reimbursements which are effective September 1, 1981, or the first day of the month following enactment.

(H) The changes in the WIC authorization and the Secretary's claims adjustment authority are to be effective on the date of enactment.

(I) Conforming changes are also made in P.L. 96-499, the Omnibus Reconciliation Act of 1980.

(J) Regulations implementing amendments in this Act are to be issued no later than 60 days after enactment.

The Conference substitute adopts the Senate provision with an amendment making the effective date of the provision relating to for-profit child care sponsors October 1, 1981, and both the revision of the income eligibility criteria and the provision changing the maximum price for reduced-price meals effective upon date of enactment.

NATIONAL HEALTH SERVICE CORPS

House bill

The bill would extend and revise the National Health Service Corps and the National Health Service Corps Scholarship programs through FY 1984. The bill authorizes appropriations of $110 million for FY 1982, $120 million for FY 1983, and $130 million for FY 1984 for the National Health Service Corps; and $55 million for FY 1982, $50 million for FY 1983, and $55 million for FY 1984 for the National Health Service Corps scholarship program to provide authorizations for existing scholarships in addition to 1,000 new scholarships.

The bill would amend the authorities for both the NHSC field and scholarship program. Among other things, it authorizes the Secretary to assign members of the National Health Service Corps to private nonprofit and public organizations as employees of those organizations, rather than as Federal employees, and to make grants to those organizations to assist them in meeting the salary requirements of a National Health Service Corps member. The bill would expand the number of health manpower shortage areas in which a National Health Service Corps scholarship recipient can enter into the private practice of his or her

profession to fulfill service obligations. The bill would also provide for the establishment of a National Health Service Corps revolving fund to receive deposits under the current cost-sharing provisions and repayments of scholarships, which would be used to carry out future program operations.

Senate amendment

While the Senate bill S. 1377 did not contain specific authorization for the National Health Service Corps, it assumed passage of S. 801.

S. 801 would extend and revise the National Health Service Corps and the National Health Corps Scholarship program through 1984. This bill authorized appropriations of $99 million for FY 1982, $110 million for FY 1983, and $120 million for FY 1984 for the National Health Service Corps; and such sums as necessary for existing scholarships with no new scholarships available in FY 82, FY 83 and FY 84.

The bill had several major provisions which included redesignation of the health manpower shortage areas; conversion at the Secretary's discretion of scholarships to loans in order to reduce the anticipated surplus of physicians; a revision of the private practice option; and more flexibility for the Secretary in dealing with excess supply of Corps obligees.

Conference agreement

The major features of the Conference agreement are:

(1) an authorization level for the NHSC scholarship program to provide for continuation awards and 550 new awards in FY 1982, 1983 and 1984.

(2) revision of the program's private practice options to make them more attractive and to provide a partial subsidy for individuals choosing to set up their own practice.

The Conference bill would reduce the size of the Corps in the future by reducing the number of new scholarship awards from 1,700 in 1980 to 550 for the next three years.

The Conferees requested a study be completed no later than 11/30/82 of the current health manpower shortage area designation process to consider the use of indicators of unmet demand for health services and the likelihood that such demand would be met within 2 years. The conferees intend that in designating a population group as a "medically underserved population" that only those persons who would have reasonable access to a N.H.S.C. provider be included in the designated group.

The Conferees emphasize that one goal of the Corps is to place individuals in underserved areas who will remain in private practice after that Corps obligation is completed. This is admittedly a difficult objective when Corps placements are in fact made to needy communities, but the Conferees intend that this philosophy be emphasized whenever possible.

The Conferees are concerned that the current cost sharing provisions of the NHSC work to the detriment of some sites with NHSC assignees. In order to spread the costs of an assignee across all sites, it is the Conferees intent that sites reimburse the Federal government in a manner prescribed by the Secretary for the average costs associated with an assignee including the cost of the NHSC scholarship.

In an effort to strengthen the private practice option, the conference substitute allows the Secretary more flexibility in encouraging individuals to serve, at their financial risk, in underserved areas during their obligated period. It is the Conferees' intent that since individuals serving under the private practice options are furthering the mission of the NHSC, that they be considered members of the NHSC although appropriated funds will not be required to pay their salaries.

The Conferees are aware that, to some extent, the success of the private practice options depends on easing the placement strategy of serving priority one and two HMSA's. As long as the emphasis for placing the salaried members of NHSC remains on these priority areas, it is acceptable to the Conferees that a more broad-based range of HMSA's receive individuals under the private practice option. A new provision under the private practice option allows the Secretary to pay the malpractice insurance and a partial income supplement to individuals who choose this option. Such payments are still a considerable savings over having these individuals serve on the Federal payroll. The private practice option also provides greater incentives for service-obligated individuals to develop good relationships with the community they serve and to stay in that community for longer periods of time.

Finally, the Committee is concerned that the NHSC take into account the increasing number of health care providers. Re-evaluating the HMSA designation process and requiring careful targeting of NHSC placements will minimize this problem, as will increased use of the private practice option. In addition the agreement directs NHSC health care services to be provided "in a manner which is cooperative with other health care providers serving health manpower shortage areas."

PRIMARY CARE BLOCK GRANT

The Primary Care Block Grant is established in the following manner. In FY 82, the Secretary would continue to administer the Community Health Center (CHC) program in all States; but States could apply for a grant to plan for assuming these administrative and health services delivery responsibilities. In FY 83 and FY 84, States could apply to the Secretary for an allotment of CHC funds. If the Secretary approves the application, then the States would assume the responsibilities of making grants to CHCs which meet the requirements of section 330. In FY 83, any State with an allotment would be required to fund every CHC which was funded during FY 82 unless a center failed to apply for funds or the State determined that a center did not comply with the requirements of section 330 under which the center was funded in FY 82. The Secretary would review any such State determination and would have to approve it before the State could terminate or reduce funds to the center.

During FY 83 and 84, the Secretary would continue to administer the CHC program in any State which did not apply to obtain approval for State administration of the program.

The purpose of the application process is to assure that States are capable of administering the CHC program since States have not previously been involved in the program. The conferees expect the Secretary to assure himself that States are able to assume all responsibilities of administering the grant program.

In order to be eligible for an allotment, a State would have to match the Federal funds with State funds and in-kind services and supplies. In FY 83 the match is 20% and in FY 84 it is 33⅓%. No Federal funds could be used for State administrative costs, but the State could use its funds or count State personnel and supplies, for instance, as part of its match. If a State counts such State personnel, there must be a fair appraisal of the time they commit to the CHC program. Those State funds not used for State administrative expenses would be available for making grants for services in new CHCs in the State or for increased funding in existing CHCs.

In FY 84 States could use all Federal and State funds (except those State funds for administration) for awarding grants for CHCs. If a State decided to discontinue receiving an allotment, the Secretary would again assume responsibility for administering the program.

In making grants in FY 83 and 84, the States would be required to continue services to those medically underserved populations which are now served by CHCs. If possible, the State should not disrupt the provider-patient relationship established under the section 330 CHC program.

All CHCs funded under either the federally run program (under 330) or a State program would meet all definitions and requirements of section 330.

States are also required to establish the fiscal control and fund accounting procedures necessary to assure the proper disbursal of an accounting for Federal funds received under the block grants and to prepare, at least once a year, an independent audit of funds received. Insofar as practical, this audit should be done in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. In addition, the Comptroller General is required to evaluate, from time to time, the expenditure by States of funds received, in order to assure that they are consistent with the provisions and requirements of the block grants.

The bill also provides for withholding power for the Secretary. The Conferees intend that this authority be used by the Secretary to ensure that all expenditure by States and entities receiving funds from States are directed to the intended beneficiaries of the services programs and in accordance with the requirements of the part and certifications provided by the State. The Secretary could do so, however, only after adequate notice and an opportunity for a hearing conducted within the State and after the Secretary has conducted an investigation.

AGE DISCRIMINATION AMENDMENT

Conference Agreement

Conferees agreed to H.R. 3831 with Senate amendments. The present law restricts any individual over the age of 64 from being appointed Surgeon General of the United States Public Health Service Corps. This bill removes this arbitrary age restriction and specifies that the nominee have significant experience and specialized training in public health programs.

The post of Surgeon General is filled by presidential appointment subject to confirmation by the United States Senate. It is not the intention of this amendment to limit the responsibility of the Senate to determine the qualifications of the nominee.

BLACK LUNG CLINICS

Senate Bill

The Senate bill proposed to repeal the authority for the black lung clinics contained in Section 427(a) of the Federal Mine Safety

and Health Act of 1977 and to include this program in its health services block grant.

House Bill

No comparable provision.

Conference Agreement

The conference agreement does not repeal the black lung clinic authority and does not include it in a block grant.

MATERNAL AND CHILD HEALTH BLOCK GRANT

1. Authorization of Appropriations

(a) House bill.—The House bill provides for the consolidation of the following programs into a block grant to the States under Title V of the Social Security Act: Maternal and Child Health (MCH) and Crippled Children's (CC) Services; Supplemental Security Income for Disabled Children; Lead-based Paint Poisoning Prevention; Sudden Infant Death Syndrome; Hemophilia Treatment Centers; and Adolescent Pregnancy.

Senate amendment.—Similar provision, except does include Genetic Diseases programs in the MCH block grant but does not include Adolescent Pregnancy under the MCH block grant.

Conference agreement.—The conference agreement includes the Senate provision with modification to include the adolescent pregnancy program.

(b) House bill.—The House bill authorizes an appropriation of $394,000,000 in fiscal year 1982 for the MCH block grant.

Senate amendment.—The Senate amendment authorizes an appropriation of $334,500,000 in fiscal year 1982 for the MCH block grant.

Conference agreement.—The conference agreement provides for an authorization of $373,000,000 for fiscal year 1982 for the MCH block grant.

(c) House bill.—The House bill authorizes increases in appropriations for the MCH block grant for fiscal year 1983 and each fiscal year thereafter by a percentage equal to one-half of the percentage increase in the Consumer Price Index.

Senate bill.—The Senate bill authorizes an appropriations of $334,500,000 in fiscal year 1983 and each fiscal year thereafter.

Conference agreement.—The conference agreement includes the Senate provision with modification to authorize appropriations of $373,000,000 for fiscal year 1983 and each fiscal year thereafter.

2. Allotments to States and Federal Set-Aside

(a) House bill.—The House bill requires the Secretary to use 15 percent of the amounts appropriated for the MCH block grant each fiscal year for special projects of regional or national significance, for research, for training, and for the continuation of funding of grants to (1) public or nonprofit private institutions of higher learning for training personnel, (2) multi-State regional resource centers for handicapped children, and (3) hemophilia diagnostic and treatment centers.

Senate amendment.—The Senate amendment includes a similar provision, except requires that in fiscal year 1982 the Secretary retain 10 percent of the amount appropriated, and in fiscal year 1983 and fiscal year 1984 an amount not to exceed 10 percent for special projects, training, and research.

Conference agreement.—The conference agreement follows the Senate provision with modifications to (1) provide for a 15 percent set aside in fiscal year 1982, and up to 15 percent but not less than 10 percent in fiscal years thereafter; and (2) include the funding of voluntary genetic disease testing, counseling, and information development and dissemination programs, and comprehensive hemophilia diagnostic and treatment centers within the purposes of the set-aside. The conferees intend that, in administering this section, the Secretary give special consideration to the continuation of existing genetic disease and hemophilia programs. The conferees further intend that, if they so choose, States may fund genetic disease programs from their allotments.

(b) House bill.—The House bill provides for allocation of the remainder of each fiscal year's total MCH block grant appropriation among States on the basis of each State's relative share of the fiscal year 1980 expenditures under the programs consolidated into the block grant.

Senate amendment.—The Senate amendment includes a similar provision, except that the allotment would be based on each State's relative share of fiscal year 1981 expenditures under the programs consolidated into the block grant.

Conference agreement.—The House recedes.

(c) House bill.—The House bill provides that, if the amount available for allotment to the States in any fiscal year exceeds the total amounts expended under the consolidated programs in fiscal year 1980, the excess would be based upon each State's relative share of low-income children in all the States.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with modification providing that the allocation of excess funds shall be applied in fiscal year 1984 and fiscal years thereafter, and that this excess refers to the amount exceeding the funds available for allotment in fiscal year 1983.

(d) House bill.—The House bill provides that if any States do not qualify for allotments, do not request full allotment, or are subject to offset of amounts determined by audits to have been improperly spent, the excess amounts are to be distributed among the remaining States.

Senate amendment.—No provision.

Conference agreement.—The Senate recedes.

(e) House bill.—The House bill requires the Secretary, in consultation with the Comptroller General, to study and report to Congress by January 1, 1983, on equitable allotment formulas which take into account the State population, number of live births, number of handicapped children, number of low income mothers and children, and State financial resources.

Senate amendment.—The Senate amendment requires the Secretary to devise a formula for equitable distribution of funds among the States and to report to Congress with recommendations by September 30, 1982.

Conference agreement.—The conference agreement includes the House provision with modifications to (1) change the effective date to June 30, 1982, and (2) include consideration of "other factors" deemed appropriate by the Secretary in devising an equitable formula.

3. Payments to States

(a) House bill.—The House bill requires the Secretary to make payments as provided by section 203 of the Intergovernmental Cooperation Act to the State health agency of each State.

Senate amendment.—Similar provision, except requires that payment be made to each State.

Conference agreement.—The House recedes.

(b) House bill.—The House bill limits Federal allotments to one-half of the total amount spent each quarter by a State for purposes of the block grant.

Senate amendment.—The Senate amendment requires that the amounts of State funds spent by a State for the purposes of the block grant bear a certain ratio to its Federal allotment. This ratio is determined by dividing the amount a State was required to spend in fiscal year 1981 under Title V by the amount of Federal funds received by the State under Title V and the other consolidated programs that year. The Secretary is required to reduce the amount allotted to a State where necessary to assure that this ratio is achieved.

Conference agreement.—The conference agreement follows the House provision with a modification to require expenditure of three State dollars for each four Federal dollars received through the block.

4. Use of Allotment Funds

(a) House bill.—The House bill requires States to pass one-third of their block grant allotments through to counties and municipalities.

Senate amendment.—No provision.

Conference agreement.—The House recedes. In adopting the Senate amendment, the conferees seek to avoid creating difficulties for those States where local health departments play no role, or a more limited role, in providing maternal and child health services. However, it is the intention of the conferees that States maximize the amount of funding available for the direct delivery of services, and that local health departments (where they exist) and other local public health entities receive at least the same proportion of funding in future years as they have in the past for the provision of appropriate services.

(b) House bill.—The House bill prohibits the use of block grant funds for:

(1) inpatient services, other than inpatient services provided to handicapped children and such other inpatient services as the Secretary may approve;

(2) cash payments to intended recipients of health services;

(3) purchase or improvement of land or buildings; the purchase or major medical equipment; or the funding of depreciation or interest expense relating to such purchase or improvement;

(4) satisfying any requirement for the expenditure of non-Federal funds;

(5) providing financial assistance to other than a public or nonprofit private entity.

Senate amendment.—The Senate amendment prohibits the use of block grant funds for:

(1) inpatient services to extent disapproved by the Secretary;

(2) similar provision;

(3) similar provision, except does not bar use of funds to purchase major medical equipment or to fund depreciation or interest expenses; and authorizes waivers if justified by extraordinary circumstances;

(4) similar provision;

(5) no provision.

Conference agreement.—The conference agreement includes:

(1) House provision with a modification to include inpatient services for high-risk pregnant women and infants.

(2) Senate provision.

(3) Senate provision with a modification to bar use of grant funds to purchase major medical equipment.

(4) Senate provision.

(5) House provision with a modification to specify applicability to providing funds for research and training.

(c) House bill.—No provision.

Senate amendment.—The Senate amendment authorizes the State to transfer up to 10 percent of its allotments for use under other Federal block grants for health services, prevention, social services, or home energy and emergency assistance, if those block grants also allow funds to be transferred to this maternal and child health block grant.

Conference agreement.—The Senate recedes.

(d) House bill.—The House bill requires that at least 85 percent of a State's allotment must be used for the provision of health services to mothers and children, with special consideration (where appropriate) to the funding of special projects previously funded in the State under Title V. States would be authorized to spend up to 15 percent of their allotments for program administration, training, technical assistance, and program evaluation.

Senate amendment.—The Senate amendment provides that a State may use a portion of its allotment to purchase technical assistance from public or private entities if the State determines that such assistance is appropriate in carrying out programs under this title.

Conference agreement.—The conference agreement modifies the House bill to require that a substantial portion of all funds, Federal and State, expended by a State under this block grant be used for the provision of health services to mothers and children, with special consideration to the funding of special projects previously funded in the State under title V. States would be authorized to use their Federal allotment to purchase technical assistance where necessary. In removing the 15 percent ceiling on administrative services, the conferees do not intend that States spend that amount or more on administrative and other nonservice expenditures. It is the understanding of the conferees that administrative outlays under the current title V program average about 7.5 percent of total program outlays. The conferees intend that States, and if a State chooses to pass funds through those localities, would at least hold their administrative expenses to 7.5 percent of the total outlays, and expect that they economize even further to the maximum extent possible. The conferees expect that, in evaluating the performance of the States under this block grant, the Secretary and the Comptroller General will give particular consideration to a State's (or locality's) compliance with this standard.

(e) House bill.—The House bill requires that a State use a reasonable proportion of its funds (based upon its previous funding patterns) to reduce infant mortality, reduce preventable diseases and handicapping conditions, increase maternity care, increase child immunizations, and increase assessments of, and services to, low-income children.

Senate amendment.—No provision.

Conference agreement.—Senate recedes.

(f) House bill.—The House bill requires Secretary to assure that applicants for special projects, research, or training funds setaside in the Federal allotments, establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds.

Senate amendment.—No provision.

Conference agreement.—Senate recedes.

(g) House bill.—The House bill allows for the continuation of the practice of assigning Federal specialists to assist in the operation and management of State and local programs and counting the cost of this assignment against the grant.

Senate amendment.—No provision.

Conference agreement.—Senate recedes. The conferees intend that this arrangement is to continue on a temporary basis, with such assignments lasting, on the average, 6 months.

5. Description of Intended Expenditures and Statement of Assurances

(a) House bill.—The House bill requires that States transmit to the Secretary a description of intended use of block grant funds each fiscal year, including the services to be provided, the categories of persons to be served, and the data to be collected. Requires the Secretary to determine promptly whether the description meets these requirements.

Senate amendment.—The Senate bill requires that States make available to the Secretary a report on the intended use of block grant funds, including a consideration of the needs of the State for services, a statement of goals and objectives for meeting those needs, information on the types of services to be provided and the categories of individuals to be served, and a description of the progress made in meeting the State's service and outcome goals.

Conference agreement.—The conference agreement includes the Senate provision with modifications to (1) require transmittal of the report to the Secretary, and (2) delete the requirement that the report include a description of progress made.

(b) House bill.—The House bill requires States to transmit to the Secretary a statement of assurances that:

(1) the State health agency will be responsible for administration of the State's allotment;

(2) the State has identified populations, areas and locations with a need for maternal and child health services and will provide a fair method (as determined by the State) for allocating funds;

(3) funds will be used only to carry out the purposes of the block grant;

(4) charges for services provided under the block grant will be public, will not be imposed on low income mothers or children, and will reflect income, resources, and family size. ("Low income" means an individual or family with an income determined to be below the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 624 of the Economic Opportunity Act of 1964); and

(5) the State will identify guidelines for delivery of appropriate care and methods for assuring quality.

Requires the Secretary to determine promptly whether the statement meets these requirements.

Senate amendment.—The Senate amendment includes no such provision except that it requires that the State health agency administer the State's allotment.

Conference agreement.—The conference agreement provides that:

(1) the House recedes.

(2) the Senate recedes.

(3) the Senate recedes.

(4) the Senate recedes.

(5) the Senate recedes, with a modification deleting the requirement that the Secretary review the State's submission.

6. Reports and Audits

(a) House bill.—The House bill requires States to submit to the Secretary annual reports of their activities under the block grant.

Senate amendment.—The Senate amendment requires States to prepare reports on their activities under the block grant at least once every 2 years, and to make such reports available for public inspection within the State.

Conference agreement.—The conference agreement includes the House provision.

House bill.—The House bill requires that the reports be in a form and contain information determined by the Secretary, in consultation with the States and the Comptroller General, to be necessary to assure:

(1) an accurate description of activities;

(2) a complete record of the purposes for which funds were spent, the recipients of funds, and the progress made toward achieving the goals of the block grant; and

(3) the extent to which funds were expended consistent with the State's description of activities and statement of assurances.

Senate amendment.—The Senate amendment requires that the reports be in such form and contain such information as the State finds necessary to:

(1) assure an accurate description of activities;

(2) secure a complete record of the purposes for which funds were spent; and

(3) determine the extent to which funds were expended consistent with the State's report on intended use of payment.

Conference agreement.—The conference agreement includes the House provision.

(c) House bill.—The House bill requires the Secretary to report annually to the Congress on special projects, research, and training activities funded under the Federal set-aside.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision, with a modification requiring the Secretary to provide reports to the States.

(d) House bill.—The House bill requires the States to provide for an annual audit of Federal block grant funds through an independent entity in accordance with the Comptroller General's standards and to transmit a copy of this audit to the Secretary.

Senate amendment.—The Senate amendment requires the States to provide for an audit at least every 2 years of Federal block funds through an independent entity in accordance with generally accepted auditing standards.

Conference agreement.—The conference agreement includes the House provision, with a modification requiring audits every 2 years. The conferees have adopted the Comptroller General's standards as the appropriate standards for audits under this title. These standards incorporate the standards for financial audits established by the American Institute of Certified Public Accountants and are required by statute to be used by Inspectors General in auditing federally assisted programs. In addition, the Office of Management and Budget currently requires State and local governments to adhere to the Comptroller General's standards through Attachment P to Circular A-102.

The conferees expect that the States will initiate efforts to conduct audits of program economy, efficiency, and effectiveness in ac-

cordance with the Comptroller General's standards. Further, the Committee expects that, to the extent practicable, HHS' Inspector General and the Comptroller General will provide technical assistance to the States in planning and carrying out these audits.

To help ensure that Federal program funds are used only for authorized purposes and are used economically, efficiently and effectively, the Committee believes that the Comptroller General must exercise his traditional audit responsibilities. Accordingly, the Committee bill authorizes access to program-related records of the States, their political subdivisions, or their subrecipient organizations.

7. Fraud and Abuse

(a) House bill.—The House bill provides criminal penalties (up to $25,000 in fines or 5 years' imprisonment, or both) for fraudulent statements or concealment of material facts relating to payments for services under the MCH block grant.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

(b) House bill.—The House bill provides for imposition of civil money penalties and assessments for fraudulent or otherwise unlawful claims for payment for services under the block grant.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

8. Nondiscrimination

(a) House bill.—The House bill provides that the current prohibitions against discrimination on the basis of age, handicap, sex (in educational institutions), race, color, or national origin in Federal programs also apply to programs and activities funded under the MCH block grant.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

(b) House bill.—The House bill prohibits discrimination on the basis of sex and religion in any programs or activities funded under the MCH block grant.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision. It is the intent of the conferees that nothing in the bill could be construed to require a State under the MCH block grant to compel an individual to undergo any medical screening, examination, diagnosis, or treatment or to accept health care or services (other than services to prevent the spread of infectious or contagious diseases or for environmental health purposes) if such services would be contrary to his religious beliefs.

(c) House bill.—The House bill requires that the Secretary provide the Governor of a State notice and an opportunity to correct any noncompliance within the State before referring the matter to the Attorney General or taking other actions authorized by law.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

9. Administration

(a) House bill.—The House bill requires the Secretary to administer the block grant through an identifiable administrative unit with expertise in maternal and child health that is responsible for coordinating Federal maternal and child health efforts and for providing technical assistance and information to the States and that is authorized to collect, maintain, and disseminate information relating to health status and need of mothers and children.

Senate amendment.—The Senate amendment includes a similar provision, except it does not authorize collection of information relating to health status and needs of mothers and children.

Conference agreement.—The conference agreement includes the Senate provision with modifications specifying that the unit (1) must have expertise in maternal and child health, and (2) must collect information on the health status of mothers and children. The conferees intend that such data will be collected in a manner that avoids duplication.

(b) House bill.—The House bill requires the Secretary to report to Congress by October 1, 1984, on the activities of the States under title V and recommend any appropriate changes in legislation.

Senate amendment.—The Senate amendment includes a similar provision, except it does not establish a deadline and does not require recommendations for appropriate changes.

Conference agreement.—The conference agreement includes the House provision.

10. Effective Date; Transition

(a) House bill.—The House bill provides that the new authorities for special projects, research, and training under the Federal set-aside are to take effect at any point between October 1, 1981, and October 1, 1982, as the Secretary deems appropriate.

Senate amendment.—The Senate amendment provides that the new authorities for special projects, research, and training under the Federal set-aside are to take effect on October 1, 1981.

Conference agreement.—The conference agreement includes the Senate provision.

(b) House bill.—The House bill provides that the new authorities for State block grant allotments are to take effect, at the State's option, no earlier than the first calendar quarter beginning more than 3 months after enactment and not later than October 1, 1982. Authorizes the Secretary to continue making grants under existing programs until a State opts into the block grant.

Senate amendment.—The Senate amendment provides that the new authorities for State block grant allotments are to take effect on October 1, 1981.

Conference agreement.—The conference agreement includes the House provisions with a modification providing for the transition period that begins on October 1, 1981.

11. State Agency

(a) House bill.—The House bill requires that States give assurances that block grant allotments will be administered by the State health agency.

Senate amendment.—The Senate amendment requires that block grant allotments be adminstered by the State health agency, except for States which on July 1, 1967, used separate agencies to administer their CC programs.

Conference agreement.—The conference agreement includes the Senate provision.

(b) House bill.—No provision.

Senate amendment.—The Senate amendment requires the coordination at the State level between block grant and related programs administered by the Secretary and other Federal programs. Such programs include the medicaid early and periodic screening, diagnosis, and treatment (EPSDT) program, the supplemental food program for mothers, infants, and children administered by the Department of Agriculture, related education programs administered by the Department of Education and other health and developmental disability programs administered by the Secretary, and family planning services authorized under title XX of this Act.

Conference agreement.—Includes the Senate provision with a modification moving the coordination requirement to the statement of assurance.

AUTHORIZATION CAPS

HEALTH PLANNING, HEALTH FACILITIES, HEALTH PROFESSIONS AND NURSE TRAINING

House Bill

The House bill acomplished reductions by reauthorizing appropriations for Health Professions and Nurse Training Programs (titles VII and VIII of the Public Health Service Act). In addition, the House bill reduced the authorization of appropriations for local health planning programs for fiscal year 1982 and made substantive revisions in the existing health planning authorities.

Senate Amendment

Section 1101-1 of the Senate bill S. 1377 provided that the total amount of authorizations to carry out reductions in authorizations of appropriations for Health Planning, Health Facilities, Health Professions and Nurse Training Act shall not exceed $268,300,000 for the fiscal year ending September 30, 1982 and $176,715,000 for the fiscal year ending September 30, 1983. The reductions assumed passage of S. 799, The Health Professions Education & Nurse Training Amendments of 1981.

Conference Substitute

The conference substitute conforms to the provisions of the House bill in that it does not provide for a cap on authorizations for programs administered by the Health Resources Administration. The conference agreement for health planning and Health Professions and Nurse Training reauthorization and legislation are contained in other sections of this report.

HEALTH SERVICES ADMINISTRATION

House Bill

The House bill accomplished reductions by reauthorizing appropriations for National Health Service Corps and Public Health Service Hospitals.

Senate Amendment

Section 1101-3 of S. 1377 provided that the total amount of authorizations to carry out reductions in authorizations of appropriations required for Health Services Administration shall not exceed $247,200,000 for the fiscal year ending September 30, 1982 and $259,200,000 for the fiscal year ending September 30, 1983. The reductions assumed passage of S. 801 dealing with the National Health Service Corps.

Conference Substitute

The conferees agreed to remove the authorization cap that was attached to Health Services Administration. National Health Service Corps reauthorizing legislation and the repeal of the Merchant Seaman Entitlement and closure of the Public Health Services Hospitals are contained in other sections of this report language.

NATIONAL INSTITUTES OF HEALTH

House Bill

The House will accomplished reductions by reauthorizing appropriations for National Research Service Awards.

Senate Amendment

Section 1101-5 of S. 1377 provides that the total amount of authorizations to carry out reductions in authorizations of appropriations required for National Institutes of Health shall not exceed $3,762,300,000 for fiscal year ending September 30, 1982, and $3,950,420,000 for the fiscal year ending September 30, 1983.

Conference

The Conferees agree to remove the authorization cap that was attached to the National Institutes of Health. Authorizing language for National Research Service Awards is found in another section of this report.

CENTER FOR DISEASE CONTROL

House Bill

The House bill accomplished reductions by reauthorizing appropriations for major categorical programs including immunization.

Senate Amendment

Section 1101-7 of S. 1377 provides that the total amount of authorizations to carry out reductions in authorizations of appropriations for Centers for disease control shall not exceed $201,100,000 for the fiscal year ending September 30, 1982 and $211,050,000 for the fiscal year ending September 30, 1983 including not less than $24 million be spent for categorical immunizations programs.

Conference

The Conferees agreed to remove the authorization cap that was attached to the Centers for Disease Control. Reauthorization of major programs within the Centers for Disease Control are found in other sections of this report language.

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

House Bill

The House bill accomplished reductions by reauthorizing appropriations for Health Maintenance Organizations and the National Centers for Health Services Research, Statistics and Technology.

Senate Amendment

Section 1101-8 of S. 1377 provides that the total amount of authorizations to carry out reductions in authorizations of appropriations for the Office of the Assistant Secretary for Health shall not exceed $304,200,000 for the fiscal year ending September 30, 1982, and $319,410,000 for the fiscal year ending September 30, 1983. Assumed under this cap was passage of S. 1029, reauthorizing Health Maintenance Organizations, and passage of S. 800, dealing with the National Centers for Health Services Research, Statistics and Technology.

Conference Substitute

The Conferees agreed to remove the authorization cap that was attached to the Office of the Assistant Secretary for Health. Reauthorization of major programs within the Office of the Assistant Secretary for Health are found in other sections of this report language.

MENTAL HEALTH RESEARCH AND TRAINING

House Bill

No provisions to carry out reductions of appropriations for Mental Health Research and Training were in the House bill.

Senate Amendment

Section 1101-6 of S. 1377 provides that the total amount of authorizations to carry out reductions in authorizations of appropriations for Mental Health Research and Training shall not exeed $234,800,000 for the fiscal year September 30, 1982 and $244,440,000 for the fiscal year ending September 30, 1983.

Conference Substitute

The Conferees agreed to remove the authorization cap that was attached to Mental Health Research and Training.

ST. ELIZABETHS HOSPITAL

House Bill

No provisions to carry out reductions of appropriations for St. Elizabeths Hospital were in the House bill.

Senate Amendment

Section 1101-9 of S. 1377 provides that the total amount of authorizations to carry out reductions in authorizations of appropriations required by House Concurrent Resolution 115 for St. Elizabeth's Hospital shall not exceed $98,900,000 for the fiscal year ending September 30, 1982 and $103,845,000 for the fiscal year ending September 30, 1983.

Conference Substitute

The Conferees agreed to remove the authorization cap that was attached to St. Elizabeth's Hospital.

FOOD AND DRUG ADMINISTRATION

House Bill

No provisions to carry out reductions of appropriations for Food and Drug Administration were in the House Bill.

Senate Amendment

Section 1101-10 of S. 1377 provides that the total amount of authorizations to carry out reductions in authorizations of appropriations required by House Concurrent Resolution 115 for Food and Drug Administration shall not exceed $336,000,000 for the fiscal year ending September 30, 1982 and $352,800,000 for the fiscal year ending September 30, 1983.

Conference Substitute

The Conferees agreed to remove the authorization cap that was attached to Food and Drug Administration.

SUBTITLE D

STATEMENT OF MANAGERS—FAMILY PLANNING

The House reconciliation bill reauthorized Title X, Voluntary Family Planning and Population Research, as a categorical program to be run by the Federal Government. The House version contained authorizations for four years, fiscal years 1982 through 1985 for sections 1001 (family planning services), 1003 (family planning training), 1004 (population research), and 1005 (family planning information).

The Senate reconciliation bill repealed Title X of the Public Health Service Act and included the program in its newly created Preventive Health Services block grant. The block grant was authorized for four years. The Senate directed that population research (Section 1004) continue to be funded under Section 301 of the Public Health Service Act, the general research authority.

The Conferees agreed that the family planning program should remain categorical, with authorizations for three fiscal years, 1982 through 1984, of $130 million, $143 million, and $156 million, respectively.

Three changes were made in Title X by the Conferees. The first was a statement added to section 1001 that "To the extent practical, recipients of grants shall encourage family participation." The conferees believe that, while family involvement is not mandated, it is important that families participate in the activities authorized by this title as much as possible. It is the intent of the Conferees that grantees will encourage participants in Title X programs to include their families in counseling and involve them in decisions about services.

The Conferees also repealed sections 1004(b)(1) and 1004(b)(2) of Title X. Section 1004 authorizes the Secretary to conduct and make grants for reproductive and population research. The Conferees decided not to repeal section 1004(a) which describes the research. The sections deleted provide the actual authorizations and a prohibition on the use of funds other than those appropriated under this section for this research. It is the intent of the Conferees that the repeal of sections 1004(b)(1) and (b)(2) shall not operate to terminate the existing program of research and training conducted at the National Institutes of Health (NIH) under the authority of section 1004, or substantially modify its breadth of scope. The NIH has sufficiently broad authority under sections 301 and 441 of the Public Health Service Act to continue the existing human reproduction research and population research and training program and it is the intention of the Conferees that such authority be exercised in this manner.

The Conferees included in the reauthorization of Title X a requirement that the Secretary conduct a study of the willingness and ability of States to administer the family planning program. The Secretary must report to Congress on the results of this study eighteen months after the enactment of this Act. Despite the fact that the Congress has put a number of programs into block grants, the Conferees have kept the family planning program categorical. Before any future decisions are made as to the disposition of Title X, it is important that the Congress have information on the ability of the States to manage this program.

DEVELOPMENTAL DISABILITIES REPORT LANGUAGE

The House bill limited appropriations to $51,000,000 for fiscal year 1982, $55,000,000 for 1983 and $59,000,000 for 1984. In contrast, the Senate authorized $61,100,000 for each of the fiscal years of 1982 and 1983.

A Senate amendment authorized $43,180,000 for State Grants, $8,000,000 for Protection and Advocacy, $7,500,000 for University Affiliated Facilities and $2,500,000 for Special Projects. Funding was extended through 1984 at $61,100,000.

The House receded to the Senate authorization levels and the Senate accepted the House language with an amendment to repeal the contract-grant authority section and the mandatory evaluation system with the following provisions:

Evaluation

Although a specific evaluation section has been deleted from current law, this should not imply that states receiving funds under the Act should not continue to develop standards and a system of evaluation that:

(1) provides objective measures of the developmental progress of persons with developmental disabilities

(2) provides a method of evaluating programs providing services for individuals with developmental disabilities

(3) provides effective measures to protect the confidentiality of records of, and information describing, persons with developmental disabilities.

Such a system, although not mandated by law, should be of a design developed by the

states. The Secretary of HHS shall not be responsible for designing the evaluation system.

Special projects

Every effort should be made to ensure that project goals truly be of national significance with emphasis on priority service areas. Projects which are funded should not be a duplication of activities already being conducted by another agency or organization under part C of the Act.

Bill of rights

With reference to the Supreme Court's decision in *Pennhurst State School and Hospital, et al.* v. *Halderman, et al.*, the Conferees re-emphasize that they believe that developmentally disabled persons have a right to habilitative services in a setting which is least restrictive of their personal liberty in accordance with section 111 of the Developmental Disabilities Assistance and Bill of Rights Act. The Congress will continue to examine this issue to ensure that developmentally disabled persons truly have a right to habilitative services in a setting least restrictive of their personal liberty and that Federal funds are expended in a manner which achieves the goals of section 111.

Length of funding

Although authorization levels were extended through 1984, this action does not preclude the possibility of considering a future consolidation of programs dealing with handicapped individuals.

SUBTITLE C—HEALTH SERVICE, RESEARCH, STATISTICS, AND TECHNOLOGY; MEDICAL LIBRARIES; AND NATIONAL RESEARCH SERVICE AWARDS

The House extended and revised the authorizations for the National Center for Health Services Research (NCHSR), the National Center for Health Statistics (NCHS), the National Center for Health Care Technology (NCHCT) for fiscal years 1982 through 1984. The National Research Service Awards (NRSA) program and the Medical Libraries Assistance Act (MLAA) were extended for fiscal year 1982. The Senate did not include specific language concerning these programs. Rather, the Senate assumed enactment of S. 800 and included funding ceilings for these activities in its authorization for the Office of the Assistant Secretary for Health and the National Institutes of Health.

The Conferees have agreed to extend the NCHSR, NCHS and the NCHCT for three years, with a number of revisions to their statutory authority. The NRSA program is extended for two years and the MLAA for one year.

A. National Center for Health Statistics (NCHS)

The Conferees have been impressed with the quality and usefulness of the annual report on health care costs and financing, resource utilization, and the health of the nation's people. The Conferees recognize that the frequency of such a report imposes a strain on the limited resources of the National Center for Health Statistics and the National Center for Health Services Research, the agencies with lead responsibility. Nevertheless, the Conferees view it as essential that the President and the Congress have available such up-to-date statistical information on a regular basis. It is sufficient, however, to have detailed reports such as the present one submitted every two years, with update reports to be submitted during the alternate years.

Section 306(1)(2)(A) is amended to make the establishment of guidelines regarding statistical information on environmental health effects a joint activity of the NCHS and the Office of Federal Statistical Policy and Standards (OFSPS). The mandate of the OFSPS cuts across all departments and agencies of government. As the relevant statistics and information are generated in many different organizational units throughout the government, the successful development and implementation of guidelines requires full participation of OFSPS.

B. National Center for Health Care Technology (NCHCT)

The Conferees wish to reaffirm their intention that the National Center for Health Care Technology not engage in activities designed to inhibit the technological development, innovation and diffusion of potentially beneficial technologies.

The Conferees have found the existing authority of the NCHCT to make recommendations on reimbursement policy to be an important activity that provides current information on the safety and effectiveness of health care technologies. In concert with the Center's responsibility for coordination and the assurance of non-duplication of technology assessment activities in the Department, the Conferees intend that the Center shall make the provision of reimbursement recommendations a continuing priority. The Center should continue to consult relevant interest groups, including those in the scientific and medical communities, private industry, third-party payors, consumers and other interested parties in making these recommendations to the Secretary.

At a time when both the Administration and the Congress seek to eliminate overlap and duplication of Federal programs it is critical for agencies with similar responsibilities to coordinate their efforts. The Conferees intend that the NCHCT shall not duplicate technology assessment activities that fall within the purview and authority of other Federal agencies. The Center should, through the Department's Technology Coordinating Committee, assure that unnecessary duplication does not occur and that the respective efforts of the agencies are coordinated.

The Conferees have noted the role and contribution of members of the business community in the development and production of health care technology. Accordingly, the membership on the National Council on Health Care Technology of representatives of such business entities is increased from two to three members of the Council.

The Conferees have noted that since its inception, there has been expressed concern that the NCHCT is a regulatory agency, with authority to control the development, diffusion and utilization of technology and therefore interfere with the practice of medicine. The Conferees reiterate their view that the role and activities of the NCHCT are not regulatory. Rather, the NCHCT provides guidance which may be applied voluntarily by decisionmakers who have a need for evaluative information about health care technologies.

In repealing subsection 309(g) the Conferees intend that all appropriate Federal agencies continue to participate fully with the NCHCT in carrying out this section.

C. National Center for Health Services Research (NCHSR)

The Conferees are aware of the important role that NCHSR has played in stimulating and supporting the development of medical information systems and in devising ways for using computers to enhance the delivery of health services. In amending Section 305(b) to remove the specific reference to computer science and medical information systems, the Conferees do not intend to preclude NCHSR from supporting research in these areas. However, the Conferees believe that this area of research should be reduced in emphasis given the limited resources available for health services research and the need for better information on such major policy issues as the role of market forces in the health care system.

The Conferees have reviewed the status of the several centers for multi-disciplinary health services, research, evaluations and demonstrations and find that this activity has demonstrated its value in assuring the promotion and dissemination of health services research and has had a demonstrated impact on the quality, accessibility, distribution and financing of health services. Thus, the Conferees have continued support for this activity. Extramural health centers are an important component of a balanced health services research program, and the Conferees anticipate that the NCHSR will maintain three such centers over the next three years. The reduction in extramural health services research centers from six to three is consistent with overall reductions in the authorizations for NCHSR. The Conferees intend that NCHSR support three such extramural research centers at a total funding level not to exceed $1,500,000 (including indirect costs) in each of the three fiscal years covered by this authorization.

D. National Research Service Awards (NRSA)

The purpose of this program is to guarantee that highly trained scientific manpower will be available in adequate numbers and in the appropriate disciplines, fields, and specialties for the nation's biomedical and behavioral research agenda.

The Conferees have agreed to reauthorize the program for fiscal year 1982 and fiscal year 1983 at levels of $182 million and $195 million respectively. Though below the current program level, this authorization should permit the award of stipends to a number of trainees reasonably close to that presently receiving support and, at the same time, should not reduce the level of funding of institutional allowances and indirect cost reimbursement too far below that now prevailing. The exact prescription of the number of trainees and the level of allowances will be set by the Department under the above general guideline.

The training of scientists is a long and arduous process. Thus, a deficit, once developed, cannot be quickly remedied, no matter how much money and effort is thrown into the breach. For this reason, the Conferees decided to authorize the NRSA program at levels above those recommended by the Administration. Moreover, to alleviate potential concern about commitment to the program, occasioned by reauthorization for one year only, a two-year extension was agreed upon.

The Conferees wish to make clear that they attach a high value to the non-stipendiary components of NRSAs. Institutional allowances have enabled the Federal agencies to create centers of excellence for the development of young scientists. Scientists produced in these environments will, in future years, shoulder large individual and group responsibility for the deployment of

very substantial amounts of Federal biomedical and behavioral research funds. Nonfederally sponsored trainees should profit from the Federal investment in these training environments. The Conferees also recognize that indirect costs are as real as direct costs, and that the government, in arbitrarily limiting these, has thereby required institutions to cost share, i.e., to subsidize, what are basically Federal programs for the nation's well-being. Under no circumstances should institutional allowances and indirect cost reimbursement be stripped or markedly reduced from National Research Service Awards.

The Conferees also agreed to accept three other provisions implicit in the basis for the recommendations of Conference agreement. One of these is to reduce the payback requirements imposed on NRSA recipients to the extent of excluding the first year of training from the computation of the payback obligation. It has been suggested that talented students who might undertake research training have been discouraged or intimidated by the payback provision. This legislation will allow such individuals to explore their fitness for a research career for one year without incurring a pay-back obligation.

Another provision of the conference bill relates to a program, created several years ago, to use NRSA funds to provide exposure of prebaccalaureate minority students to biomedical research during their junior and senior years with the objective of encouraging them to undertake research careers in this field. Since it would clearly be self-defeating to require it for this experience, the Conferees have agreed to exempt such awards from payback.

Finally, the Conferees believe the agencies should continue to give special consideration to physician applicants for NRSAs in the clinical disciplines. The number of physicians applying for training awards has declined since 1974, and the proportion of physicians as principal investigators on NIH research grants has fallen. The Conferees urge the relevant Federal agencies to continue to take appropriate measures to stimulate the training of physicians for clinical investigation.

Finally the conferees are concerned about the federal income tax status of the National Research Service Awards. In 1977, the Internal Revenue Service ruled that NRSA stipends must be included in gross taxable income (Revenue Ruling 77-319). In 1978, the Committee on Interstate and Foreign Commerce expressed its views in the report on "The Biomedical Research and Research Training Amendments of 1978" that the Internal Revenue Service's ruling on NRSAs represented a misreading of the purpose of these awards. The Committee stated that in its opinion the primary purpose of such awards is payment, not for service, but rather for the training of individuals in order that they might be better equipped to pursue research careers. The Committee then expressed the hope that the IRS would reverse its ruling in light of the statement of the Committee's intent. Further expression of Congressional purpose is contained in Section 161 of the Revenue Act of 1978, which, in order to rectify the situation, included a provision that expires on December 31, 1981 requiring that awards be treated as a scholarship or fellowship grant under the Internal Revenue Code.

The Conferees recognized that the jurisdiction of a permanent tax exemption for NRSAs remains with the House Ways and Means and the Senate Finance Committees. However, as the purpose of the awards—a matter directly in the purview of the Conferees—is at the heart of the dispute, the Conferees feel obligated to clarify their intent regarding the primary purpose of the NRSA program. National Research Service Awards are not made for the purpose of receiving services designated by the grantor. Rather the payback requirement offers benefits to the Nation from the participation of NRSA recipients in the research enterprise. As the Committee does not believe that the payback requirement is a *quid pro quo*, the tax exemption should be applicable.

E. Medical Libraries Assistance Act (MLAA)

The Conferees have agreed to extend the Medical Libraries Assistance Act for one year. No other changes have been made to existing authority.

HEALTH SERVICES RESEARCH, STATISTICS, AND TECHNOLOGY; MEDICAL LIBRARIES; AND NATIONAL RESEARCH SERVICE AWARDS AUTHORIZATION

[In millions]

Program	Base	Conference agreement—fiscal year		
		1982	1983	1984
National centers:				
Health services research	$32.9	$20.0	$22.0	$24.0
Health statistics	40.9	39.0	39.0	39.0
Health care technology	4.3	3.0	4.0	5.0
Subtotal	78.1	62.0	65.0	68.0
National Research Service awards	217.0	182.0	195.0	.....
Medical library assistance	10.5	7.5	.....	.....
Grand total	305.6	251.5	.....	.....

SUBTITLE F: HEALTH PROFESSIONS

H.R. 3892 the House reconciliation bill revised and extended the provisions of the health professions and nurse training authorities with total authorizations of $265 million. The Senate subsequently passed S. 1377 which included a cap of $168 million in total authorizations for the same programs. The managers on the part of the House and Senate have agreed to amend Titles VII and VIII of the PHS Act as recommended in the accompanying report.

AUTHORIZATION OF APPROPRIATIONS

The Conference substitute would authorize appropriations for the health professions and nurse training programs totaling $218.8 million in fiscal 1982.

STUDENT ASSISTANCE

Health Education Assistance Loan (HEAL) Program. The conference agreement extends the authority for this program of insured loans for health professions students through fiscal year 1982 and specifies the maximum amount of loans which may be guaranteed under this authority for each fiscal year. For fiscal year 1982, this total is $200 million; for fiscal year 1982, $225 million, and for fiscal year 1984, $250 million.

The conference agreement includes several other amendments to the HEAL program:

(1) It allows the Student Loan Marketing Association ("Sallie Mae") to consolidate HEAL loans with other loans, but prohibits such consolidation if the Federal government becomes liable for any greater payment of principal or interest under the provisions of the Higher Education Act of 1965 as amended than it would have been liable for if no consolidation had occurred. The agreement also provides that if a HEAL loan is included in a consolidated loan made available by the Student Loan Marketing Association under part B of title IV of the Higher Education Act of 1965 as amended (see P.L. 96-374 for the new loan consolidation authority), the interest rate on that consolidated loan should be set at the weighted average interest rate of all loans offered for consolidation. For a consolidated loan, the student would be responsible for any interest accrued on the HEAL loan prior to the beginning of the repayment period. The special allowance otherwise payable toward the interest on a consolidated loan (i.e., the allowance representing the difference between the market rate of interest at a rate of 7 percent for the student under Department of Education loan programs) would not be payable toward the part of the weighted average interest attributable to the HEAL loan.

(2) The conference agreement increases to $20,000 the maximum total of loans which may be insured in any academic year ($80,000 aggregate) for students enrolled in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry and podiatry. It also increases to $12,500 the maximum total of loans which may be insured in any one year ($50,000 aggregate) for students enrolled in schools of pharmacy, chiropractic, public health, or a graduate program in health administration or clinical psychology.

(3) HEAL loan agreements could provide that installments of principal and interest need not be paid, but interest would accrue, until the date upon which repayment of the first installment falls due. Payment of principal and interest could be deferred for up to 4 years (formerly 3 years) of internship or residency training.

(4) The conference agreement also provides an option for borrowers under the HEAL program to elect a graduated repayment plan, with larger payments due later in the repayment period. The maximum repayment period for principal of a loan is increased from not more than 15 years to 25 years, and the maximum period of the loan is increased from 23 years to 33 years from the date of execution.

Health Professions Student Loans. The conference agreement extends the existing authority for federal capital contributions to school loan funds for low-cost loans to health professions students in need of assistance. The interest rate on loans would be increased from 7 percent to 9 percent.

EXCEPTIONAL FINANCIAL NEED SCHOLARSHIPS

The conference agreement extends the existing authority for grants to health professions schools for scholarships to first year students in exceptional financial need, with an amendment to delete the requirement that funds be distributed to all health professions schools. In deleting the requirement that grant for Exceptional Financial Need scholarships be distributed among all schools of the health professions, the managers intend that scholarships grants be awarded on the basis of the relative need of schools for scholarship funds. Priority would continue to be required to be given in the distribution of grants to schools of medicine, osteopathy, and dentistry.

Under existing law, recipients of Exceptional Financial Need scholarships have priority, if they apply, for the award of National Health Service Corps scholarships for their second and succeeding years of study. The managers intend that this policy be continued and that new Corps Scholarship awards to former recipients of Exceptional

Financial Need scholarships be considered in the category of continuing awards.

PRIMARY CARE TRAINING

The conference agreement extends the authority for grants to schools of medicine and osteopathy for the establishment of family medicine departments equivalent to other academic departments. The amended authority would allow the Secretary to make grants not only for the establishment and maintenance of family medicine departments but also for the improvement of existing departments. It is the consensus of both the House and Senate that the Nation requires more primary care physicians for the immediate future. The conference agreement has extended the family medicine department authority in order to continue to encourage the training of more primary care physicians. For the same reason, it has also extended eligibility for grants to schools to maintain departments which have been established in the past. At a time when States are faced with limited resources to fund a variety of worthwhile projects and when it is necessary to reduce funding for Federal health manpower training programs, access to Federal support for existing family medicine departments is as vital to continued growth in numbers of primary care practitioners as support for the establishment of new departments.

Priority is provided under family medicine for residency training projects.

AREA HEALTH EDUCATION CENTERS (AHECS)

The conference agreement extends the authority for the AHEC program which was established in 1971 to improve the accessibility and quality of health care in underserved areas, as well as to provide increased educational opportunities for area residents. Of the total appropriation in any fiscal year, up to 10 percent may be provided to AHEC programs which have previously received initial development support and which might not otherwise be eligible for continued support under this authority.

A number of AHEC programs (for example, those at the University of Illinois Medical Center and the University of North Carolina), have significantly improved the geographic and specialty maldistribution of health professionals in shortage areas in their States. These programs would continue to make such contributions, but are in jeopardy at a time when it has been necessary to reduce funding for other health professions and health services programs and when States are hard-pressed to assume responsibility for the continuation of the program. Under these circumstances, Federal support is critical for such AHEC programs, and it is the purpose of this provision to assure that these programs continue their efforts and achievements.

DISADVANTAGED ASSISTANCE

The conference agreement would extend the existing authority for aid to health or educational entities for projects to assist individuals from disadvantaged backgrounds to undertake and complete education to enter a health profession. Schools of allied health would be made specifically eligible to participate in the program. Of funds appropriated, 80 percent would be required to be obligated for grants or contracts to institutions of higher education and not more than 5 percent, for grants or contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

CURRICULUM PROGRAMS

The conference agreement accepts the extension of a revised general special project authority for support of health manpower projects and programs in a wide variety of curriculum development fields. The revised authority would incorporate aid for shortage area support services, geriatric medicine, and podiatric manpower training.

The conference agreement also would provide new authority for one-time grants to assist 2-year medical schools such as Morehouse Medical School, in converting to 4-year schools. These grants would be in the amount of $25,000 times the number of 3rd-year students enrolled. There would be a single authorization for the conversion grants and the curriculum development aid described above. The agreement also authorizes $5 million in FY 1983 for support of construction for schools converting from 2 to 4 year medical schools.

FINANCIAL DISTRESS

The conference agreement extends the existing authority for aid to health professions schools to assist in meeting costs of operation of schools in serious financial distress or meeting accreditation requirements, and carrying out operational, managerial, and financial reforms. In addition, the conference agreement adds new authority for multi-year "advanced financial distress" contracts with schools that have serious and long-standing financial instability. For "advanced" aid, schools would be required to have a plan to achieve financial solvency within 5 years. Of the $10 million authorized for the combined authorities no more than $2 million could be made available for basic financial distress grants.

The managers expect these authorizations to provide vital support for the few health professions schools which are in financial distress. These schools currently include four minority schools which provide unique opportunities for students to enter into health professions careers. The conferees recognize the contribution of these schools—The Meharry medical and dental schools, the Tuskegee veterinary school and the Xavier pharmacy school—to meeting the Nation's need for more minority health professionals.

PUBLIC HEALTH AND PREVENTIVE MEDICINE

The conference agreement extends the authorities for capitation grants to schools of public health and institutional grants for health administration programs. The public health and health administration traineeship authorities would also be extended. New authority for support of preventive medicine residency training would be provided: grants and contracts would be available to schools of medicine, osteopathy, or public health.

PHYSICIAN STUDY

The conference agreement includes the House bill's requirement that the Secretary arrange for a study of physician supply and distribution with particular attention to the implications of various third-party payment patterns for distribution of physicians by specialty, the cost of health care, the geographic distribution of physicians, and the quality of health care. The study would be conducted by the Institute of Medicine, if they are willing, or by another appropriate nonprofit private entity. The Secretary's authority to enter into a contract for the study would be effective only as funds were provided in advance by appropriation acts. The managers intend that the overall cost of the proposed study not exceed $2 million.

NURSE TRAINING

The conference agreement includes provisions allowing capitation grants to schools of nursing to expire, extending special projects, advanced nurse training, traineeship, student loans and nurse practitioner programs. Because the conferees are concerned that the abrupt elimination of capitation support may cause short-term serious financial problems for some nursing schools, the conference substitute includes funding for financial distress awards. In the provision for professional nurse traineeship not less than 25 percent of the funds appropriated would be required to be used for students training to teach. Priority in the awarding of traineeships to nurse practitioners shall go to students training in nurse midwifery programs.

The managers are aware of the difficulties being experienced by recipients of nurse practitioner traineeships in fulfilling commitments to serve in health manpower shortage areas upon completion of their training. Failure to perform service is attributable in many instances to the lack of available positions for nurse practitioners in the designated areas. For this and other reasons, the Conference substitute requires that the Secretary by regulation provide for the waiver or suspension of obligations whenever compliance would be impossible or involve extreme hardships. An effective date for this requirement is not specified. It is the managers' intention that waivers be allowed as necessary and appropriate to individuals awarded traineeships prior to the enactment of this Act.

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE AND NURSE TRAINING AUTHORIZATIONS

[In millions]

Program	Base	Conference agreement—Fiscal year		
		1982	1983	1984
I. Health Professions:				
A. Data: Health professions data (708)				
B. Construction:				
Conversion (720)			$5.0	
Interest subsidies (726)		$4.3	4.3	$4.3
Subtotal		4.3	9.3	4.3
C. Student Assistance:				
Student loans (742)	$18.0	12.0	13.0	14.0
Excep. Need Schol. (758)	10.9	6.0	6.5	7.0
Subtotal	28.9	18.0	19.5	21.0
D. Capitation: MODVOPP (770)	71.2			
E. Project Grants and Contracts:				
Depts.—Fam. Med. (780)	10.3	10.0	10.5	10.5
Area Health Educ. Centers (781)	22.8	21.0	22.5	24.0
Phys. Assistants (783)	14.3	5.0	5.5	6.0
Gen. Int. Med./Peds (784)	21.2	17.0	18.0	20.0
Fam. Med./Gen. Dent. (786)	44.1	32.0	34.0	36.0
Ed. to Disadvantaged (787)	21.3	20.0	21.5	23.0
Financial Distress (New 788A&B)	10.9	10.0	10.0	10.0
Curriculum Develop. (788)	11.2	6.0	6.5	7.0
Subtotal	156.1	121.0	128.5	137.0
F. Public Health:				
Capitation—PH (770(e)(4))	7.1	6.5	7.0	7.5
PH Traineeships (748)	7.6	3.0	3.5	4.0
PH/HA Special Projects (792)	5.4			
Health Administration (791)	3.3	1.5	1.75	2.0
HA Traineeships (749)	2.2	.5	.5	.5
Prev. Medicine		1.0	1.5	2.0
Subtotal	25.6	12.5	14.25	16.0
G. Allied Health:				
AH Special Projects (796)	5.7			
AH Traineeships (797)	1.6			
Subtotal	7.3			
Total Health Professions (Title VII)	375.6	155.8	171.55	178.3
II. Nurse Training				
Capitation—nurse (810)	26.1			
Special Projects (820)	16.3	10.0	10.5	11.0
Ad. Nurse Training (821)	13.1	14.0	15.0	16.0
Nurse Practitioner (822)	14.1	12.0	13.0	14.0

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE AND NURSE TRAINING AUTHORIZATIONS—Continued

[In millions]

Program	Base	Conference agreement—Fiscal year		
		1982	1983	1984
Nurse Traineeships (830)	14.1	10.0	10.5	11.0
Nurse Student Loans (837)	14.7	14.0	16.0	18.0
Nurse Financial Distress (815)		3.0	2.0	1.0
Total Nurse Training	98.4	63.0	67.0	71.0
Total Health Manpower (Titles VII and VIII)	387.5	218.8	238.55	249.3

MERCHANT SEAMEN ENTITLEMENT AND PUBLIC HEALTH SERVICE HOSPITALS

House Bill

The House bill contained provisions that would authorize the Secretary of the Department of Health and Human Services to close or transfer to community control (on a financially self-sufficient basis), the operation of Public Health Service hospitals and clinics. Potential local sponsors for community takeover must have their applications received by the Secretary by September 1, 1981, with facilities submitting viable plans allowed continued operation through fiscal year 1982 until a transfer could be consummated. The House bill would authorize such sums as necessary for the transfers.

In addition, the House provision under "Title IX, House Committee on Merchant Marine and Fisheries, Subtitle B," provided for the end of entitlement of seamen as defined in Section 322(a) of the Public Health Services Act to free medical care at PHS hospital and clinics as of October 1, 1981. The bill would also provide medical care coverage at whatever PHS facilities which may remain open for those merchant seaman who chose to reimburse the Public Health Service according to regulations prescribed by the Secretary of Health and Human Services.

Senate Amendment

The Senate authorization contained with S. 1377, repealed the current law entitlement which authorized free medical care to merchant seamen at Public Health Service hospitals and clinics. The Senate language also provided for closure of the Public Health Service Hospitals unless viable plans for transfer are approved by the Secretary of Health and Human Services. The bill would permit the Secretary to enter into contract with public or private entities for feasibility studies as to the acquisition and continued operation by non-Federal entities of Public Health Service hospitals and clinics. Transfer of the hospitals to local or state control must be done by March 1, 1982. Plans for such transfer must be submitted to the Secretary by September 1, 1981.

Conference Agreement

The Committee of Conference on the disagreement of the two Houses to Title IX, Subtitle B (Merchant Seamen Entitlement to Medical Care) of Title IX of the bill H.R. 3982 and to Section 1101-4 (a) of the bill S. 1377 (Title XI, Part A, Health Reconciliation Provisions) have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to Section 9052 of the bill H.R. 3982, that the House recede from its disagreement to 1101-4 (a) of the bill S. 1377 and agree to Title IX, Subtitle B of H.R. 3982 with an amendment.

While the agreement reached ends the 200 year entitlement to free medical care, the bill provides a limited one-year extension of free care to American seamen who have been admitted for care before October 1, 1981, and who are, for that illness or injury, unable to receive care elsewhere. The Secretary, who would determine whether the beneficiary qualifies for continued care, is governed by provisions limiting the duration of care to that care necessary to complete the treatment started prior to October 1, 1981. The conference managers understand that whatever small costs may result will have no measurable impact on the substantial savings achieved by the elimination of free care generally.

Thus, Section 930 provides a humanitarian transition for those seamen who, at the time of termination of the entitlement to free care generally, have been admitted for care and who are without means to continue their treatment.

HEALTH MAINTENANCE ORGANIZATIONS

The agreement reflects the conferees' intention to permit HMOs significant flexibility to compete successfully while maintaining standards necessary to assure the quality and accessibility of basic health services, and the fiscal soundness of HMOs. New flexibility is provided to the HMOs in establishing organizational arrangements. At the same time the basic health services required by existing law have been retained.

The bill authorizes the loan fund through 1986 and authorizes appropriations to be made to it for three specific purposes during the next three fiscal years (fiscal years 1982-1984). The authorization is such sums as may be necessary to carry out the three purposes, which are:

(a) to assure that the loan fund has a balance of at least $5 million at the end of each fiscal year so that new loans can be awarded;

(b) to meet the obligations of the loan fund resulting from defaults on loans made from the fund; and

(c) to meet the other obligations of the loan fund, such as losses due to discounting of loans when selling them.

Predictions as to the number of defaults during the next three fiscal years are understandably difficult to make. The bill also authorizes the Secretary to continue to make new loans so that new HMOs will have access to the necessary capital to establish themselves. This is purely a banking function, though, because the loans would continue to be made at market rates. The conferees are concerned over the extent of losses from the loan program, and expect the Secretary to carefully evaluate the fiscal soundness of an applicant before making any loans as authorized by this section.

The bill amends the "community rating system" so that an HMO, while still using a form of community rating, could set different premium rates for different groups. This new system can be called "community rating by class." The conference agreement allows HMOs to use both the existing community rating system of this new system, but only one of these systems could be used in any one group. The new system would work in the following manner:

First, it is necessary to explain the terms "group" and "class." The main market for HMOs is groups of individuals. A group is usually the employees of one employer; but it also could be composed of the employees of a number of small employers or the members of an association or club. As used in the bill, the term "group" refers to these types of employee groups or other aggregations of individuals who wish to purchase HMO membership under contract. Current regulations describe a "group" in this manner. A group could not be established based on characteristics such as sex or race.

Under this new community rating by class system, an HMO would establish "classes" of individuals and families. A class could not be a "group" (such as one employer's employees), or a combination of two or more groups (such as steel workers), or be based upon any proxy for a group or groups (such as occupation). A class would be actuarily derived or based on other factors which predict differences in the use of HMO services by individuals or families with the characteristics of the class. For example, individuals between the ages of 18 and 40 could be one class of people of that age are expected to have similar health care utilization patterns and people younger and older are expected to use services differently. The purposes of these classes is to put all individuals and all families who are expected to have similar utilization experiences (and thus similar costs to the HMO) into the same class, regardless of which groups they are from. The number of classes and the other factors used to establish classes are left to the discretion of the HMO; except that the Secretary would review the factors when an HMO applies for federal qualifications (or when an existing HMO applies for authority to change to this new rating system) and could prohibit the use of any factor which he determined could not reasonably be used by an HMO to predict the use of its health services by its members.

An HMO currently operating would take all enrolled individuals and families (individuals of a group who have coverage for their family) from all groups to which it markets and distribute them into the classes the HMO has established. It also would distribute any new enrollees from a group to which it currently markets, or a new group to which it is marketing for the first time, into these same classes. An HMO which is developing would distribute members into these classes as they enroll.

The HMO would then establish the amount of revenue required from each class to provide covered services to that class based upon that class' projected utilization.

The HMO would then establish, for each group, a composite premium rate for all individuals in the group and for all families of similar composition in the group. (Composition refers only to size.) The rate would be the same for all individuals in the group and for all families of similar composition in the group. The composite rate for the individuals in one group would be derived by (1) multiplying the revenue requirements for each class by the number of individuals from the group in that class; (2) adding the revenue requirements for all classes of individuals from the group; and (3) dividing the total revenue requirements for all individuals by the total number of individuals in the group. The process is similar for families; except that if classes are established based only on the number of persons in a family, the premium rate for families of the same size would be equivalent to the revenue requirements for that class.

The following chart shows how the composite rate is established for two hypothetical employers.

COMMUNITY RATING BY CLASS

Class No. 1—individuals under 30
Class No. 2—individuals between 30-55
Class No. 3—individuals between 55-65
Class No. 4—families of 2
Class No. 5—families of 3 or more
Group No. 1—Franklin Clothing
Group No. 2—City of Jacksboro

	Group No. 1: number of persons	Revenue requirements per person per month	Group No. 2: number of persons
Class No. 1	50	$10	10
Class No. 2	20	20	20
Class No. 3	10	30	50
Class No. 4	40	20	10
Class No. 5	40	40	70

PREMIUM RATES

	Group No. 1	Group No. 2	Community rate (under current law)
Class No. 1	$500	$100	
Class No. 2	$400	$400	
Class No. 3	$300	$1,500	
Total	$1,200	$2,000	$3,200
Number of individuals	80	80	160
Composite rate for individuals	$15	$25	$20

Note.—These classes of families vary only by family size; so the premium rates for classes No. 4 and No. 5 are the same as the revenue requirements.

This new rating system will permit an HMO to establish different premium rates for different groups, and thereby to reflect the different risks faced by it in providing health services to the enrolled members of each group. In one group of employees composed of relatively young individuals with few families, the premium rates will be lower than for a group of employees composed of relatively older individuals with many large families. This new system does not permit experience rating, which involves the establishment of premium rates for a group based solely on the utilization experience of that group in the previous contract year. This system will provide substantial new flexibility in rate-setting and will allow HMO's to set more competitive rates.

The conferees have agreed to two provisions which will help assure the fiscal integrity of federally qualified HMOs and protect the members from personal liability. HMOs are required to adopt an arrangement satisfactory to the Secretary to protect their members from incurring liability for any fees that are the legal responsibility of the HMO. These arrangements may include "hold harmless" clauses with any hospital that is regularly used by the HMO member, insolvency insurance, adequate financial reserves or other arrangements acceptable to the Secretary. The agreement also requires each federally qualified HMO to demonstrate to the Secretary that it continues to meet the standards for federal qualification. While the conferees do not intend this requirement to be burdensome to the HMO, or to require an extensive demonstration, the conferees do intend that the Secretary use this provision to assure all those who deal with federally qualified HMO that the HMO continues to meet all relevant standards.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

Alcohol and Drug Abuse Project Grants and Contracts

House Bill

The House bill repealed the authorities for project grants and contracts, including the authorization for the State Uniform Alcoholism and Intoxication Treatment Act incentive grants.

Senate Amendment

The Senate amendment authorized $30 million in fiscal year 1982 for project grants and contracts ($15 million for alcohol abuse, and $15 million for drug abuse) to encourage the demonstration of new and more effective alcohol and drug abuse prevention, treatment and rehabilitation programs, and for other related activities (detailed under S. 755, the Comprehensive Alcohol and Drug Abuse Amendments of 1981, reported by the Labor and Human Resources Committee on July 8, 1981).

Conference Agreement

The Conference substitute adopts the Senate amendment, intending that the Secretary will employ the authority to support high quality projects showing the greatest promise of leading to new and more effective prevention, treatment and rehabilitation approaches. Such project grants and contracts are for a maximum of five years, and non-Federal financial participation is not required in the first year of a grant or contract. The Federal share of any such grant or contract is a maximum of 80 percent of costs in the second year, a maximum of 70 percent in the third year, and a maximum of 60 percent in each of the fourth and fifth years. The Secretary is required to give special consideration to applications for projects aimed at traditionally underserved populations. Grants and contracts for projects aimed at both alcohol and drug abuse concurrently are allowed, and at least 25 percent of appropriated funds are to be used for prevention programs and projects. Finally, the State Uniform Act incentive grant authority is repealed, and public inebriates are added to the list of traditionally underserved populations.

Alcohol and Drug Abuse Research

House bill

The House bill authorized $25 million in fiscal year 1982 and $27 million in fiscal year 1983 for alcohol abuse research, including grants to national research centers; provided that no more than 35 percent of funds appropriated would be used to support National Alcohol Research Centers (NARC); and required the Secretary to make a grant in fiscal year 1982 to a designated NARC for research on the effects of alcohol on the elderly. The House bill further authorized $45 million in fiscal year 1982 and $48 million in fiscal year 1983 for drug abuse research, including research to determine the cause of drug abuse in a particular area and to improve drug maintenance and detoxification techniques and programs.

Senate amendment

The Senate amendment authorized $25 million in fiscal year 1982 for alcohol abuse research, including grants to National Alcohol Research Centers, and $50 million in fiscal year 1982 for drug abuse research (detailed in S. 755).

Conference Agreement

The Conference substitute conforms to the House provision except: 1) authorization levels for fiscal year 1983 are deleted and 2) language found in S. 755 authorizing drug abuse research in the areas of prevention, treatment, and rehabilitation is incorporated.

ADOLESCENT FAMILY LIFE

House bill

No comparable provision

Senate bill

S. 1090 as reported by the Senate Labor and Human Resources Committee (S. Res. 97-161) S. 1090, the Adolescent Family Life Act, as amended, repeals the Adolescent Health Services and Pregnancy Prevention and Care Act, P.L. 95-626 and establishes a new title XIX under the Public Health Service Act. It authorizes appropriations for demonstration grants for 3 fiscal years beginning fiscal year 1982 for services and research relating to premarital adolescent sexual relations and pregnancy. The bill requires that at least two-thirds of the funds appropriated be used to make grants for services and that no more than one-third of the funds may be used for making grants for research; grants for services may be made to provide care services for pregnant adolescents and adolescent parents, and for prevention programs or for programs which provide both kinds of services. However, no more than one-third of the service dollars may be spent for prevention services. Service grantees are required to provide "necessary services" which in the judgment of the Secretary of Health and Human Services best address the multidiciplinary needs of pregnant adolescents and the problem of premarital sexual relations; caring programs must provide a "core" of services to assure that the programs are comprehensive and the Secretary may prescribe a core of services for preventive programs. Research grantees must perform scientific research on the societal causes and consequences of premarital adolescent sexual relations and pregnancy; and, evaluations of the effectiveness of the individual projects and the program as a whole must be done by independent sources. It mandates the involvement of parents, in instances where an unemancipated minor is receiving services, except where a minor has requested pregnancy testing; and encourages the involvement of the family and the community, through religious, charitable, and voluntary associations, in helping adolescent boys and girls understand the implications of premarital sexual relations, pregnancy, and parenthood. Finally, it prohibits the use of program funds for abortion activities.

Conference agreement

The conferees agreed to the bill with three amendments. First, the exception prohibiting the use of funds to support research on fetuses is deleted. The Conferees recognize that these types of research are not consistent with the purposes of this program and that research on these issues is already being conducted under other authorities. However, grants or contracts may be made to conduct research relating to the consequences of abortion. Second, the requirement for parental notification and consent is modified so that such notification and consent is not required of any unemancipated minor who requests testing or treatment for venereal disease, who is a victim of incest involving a parent, or if notification of the parents or guardian of the minor would result in physical injury to the minor if such notification were made as certified by an adult blood relative. With regard to the last exclusion, the grantee shall notify

the Secretary of the exact number of instances without disclosing the identity of the adolescent in which such grantee does not notify the parents or guardian. Since family participation is a major goal of the Adolescent Family Life program, the purpose of this reporting requirement is to permit the Secretary to carry out the responsibility to assure that the requirement for parental notification is complied with. Third, the prohibition on abortion related activities is consolidated and clarified. Grants shall be made only to grantees who do not provide abortion related activities or subcontract with an entity who does, and who do not advocate, promote, or encourage abortion. If, however, the adolescent and parents or guardian both request information on abortion, a grantee may, at its option, provide referral for abortion counseling. This demonstration program is designed to foster alternatives to abortion and to encourage adolescents to bring their babies to term. Therefore, it is the intent of the Conferees that the Secretary will immediately withhold payments made under this program if the Secretary determines that there has been a violation of this provision.

RADIATION HEALTH AND SAFETY

The conference agreement requires the Secretary, in consultation with specified Federal and State agencies and professional groups, to establish Federal minimum standards for (a) accreditation of educational programs to train individuals to perform radiologic procedures, and for (b) certification of persons (other than physicians, dentists, and certain other practitioners) who administer radiologic procedures.

The Secretary also would be required to provide a model state law for radiologic procedure safety and to promulgate Federal radiation guidelines with respect to radiologic procedures (to minimize unnecessary radiation exposure).

Inadequate training or ability of persons administering radiologic procedures is not the sole cause of the public's unnecessary exposure to radiation in the healing arts. Faulty radiation equipment, defensive medicine, economic incentives, and unnecessary screening programs also contribute to unnecessary exposure. However, the Senate amendment was based on the belief that exposure will be substantially reduced if radiologic procedures are only performed by trained and qualified persons.

In recognition of the antipathy of the States to receipt of Federal funds being conditioned upon compliance with Federal directives, the Senate amendment did not incorporate any penalty or condition of participation requirements in the Act. However, the amendment was based on the assumption that the States would fully comply with the legislation within the specified three-year time period.

The managers are aware of the substantial work that already has been done by the Health Resources Administration and the Food and Drug Administration in the development of standards for radiologic personnel and for the provision of radiologic services. Adequate resources should be made available to these and other appropriate agencies to allow their continued collaboration in the implementation of the new legislation.

Concerning the section dealing with the promulgation of Federal radiation guidelines, the Secretary is directed to consult with suitable professional societies of physician specialists and other radiation scientists when defining the kinds of guidelines that might be appropriate for Federal programs relating to medical radiation, imaging, or therapeutic applications.

ALCOHOL ABUSE, DRUG ABUSE AND MENTAL HEALTH SERVICES

House Bill

Section 6231 of the House bill consolidated four categorical alcohol and drug abuse programs into a single State block grant for alcohol and drug abuse services.

The authorization of appropriations in fiscal year 1982 for community mental health services is contained in the Community Mental Health Centers Act and the Mental Health Systems Act. These authorizations were unaffected by the House bill.

Senate Amendment

Section 1104-3 of the Senate amendment consolidated Federal appropriations for community based mental health and drug and alcohol abuse programs in a State Health Services Block Grant. Specific protections were included to assure continued support for community based mental health services and protections were accorded existing community mental health center grantees for a period of two years.

Conference Substitute

Part B of the conference substitute establishes a new Federal block grant program to assist States in providing alcohol, drug abuse and mental health services to its residents. The substitute authorizes appropriations of $491 million in fiscal year 1982, $511 million in fiscal year 1983 and $532 in fiscal year 1984.

STATE ALLOTMENTS

The conference agreement provides that an individual state's allotment should be determined through a two-part formula. The conferees hope reliance upon this formula will minimize any disruptions that might arise in converting previously categorical grant programs to a block grant mechanism.

The conferees' substitute requires that the allotment for a given state in Fiscal Year 1982 will be related to the amount of Federal funds received by the State and entities in the State for alcohol and drug abuse services in Fiscal Year 1980 and the amount of Federal funds the state and entities within the state would have received in Fiscal Year 1981 for mental health services under the provisions of Public Law 96-536.

The conference agreement establishes Fiscal Year 1980 as the base year for determining a State's proportional allotment for alcohol and drug abuse services due to the impact of Fiscal Year 1981 rescissions on alcohol and drug abuse formula and project grants and contracts. In addition, the absence of timely and accurate estimates for State alcohol and drug abuse allotments under Public Law 96-536 precludes the use of Fiscal Year 1981 as a base year for calculating a State's allotment for alcohol and drug abuse services.

The conference agreement establishes the appropriations for mental health services under the Community Mental Health Centers Act and the Mental Health Systems Act in P.L. 96-536 as the most appropriate base for the distribution and allocation of funds under this part. The Conferees believe that the Secretary's estimates of how these funds would have been distributed among States are sufficiently reliable to allow the creation of meaningful proportions and allocations of funds.

The conferees anticipate that this two-part formula will result in national allocations for mental health and substance abuse programs which are approximately equal.

The conferees believe reliance upon a state's receipt of past Federal funding is an appropriate method for minimizing program disruption in the transition from categorical project grants to State-run block grants. The conferees recognize that there have been inadequacies in the historical allocation of Federal drug and alcohol abuse and mental health services monies among the States. The conferees hope a more equitable formula can be developed and have required the Secretary of the Department of Health and Human Services to prepare and submit a report to the Congress on suitable options no later than October 1, 1983.

In Fiscal Year 1982, the conference substitute requires the State to spend its allotment to support community-based mental health and substance abuse services in a manner that is proportional to the way Federal funds were used to support these services in the relevant base years. In Fiscal Year 1983, 95% of a State's allotment and in Fiscal Year 1984 85% of a State's allotment must be obligated in the above manner. In the case of each such fiscal year, the remainder of a State's allotment may be used for any purpose authorized under the block grant.

ALCOHOL AND DRUG ABUSE SERVICE

The conference substitute requires the chief executive officer of the State to certify compliance with certain statutory protections for drug and alcohol abuse services and activities. The conferees have adopted the allocation strategy for drug and alcohol abuse services contained in §1204(c) of the House bill which provides that of the total appropriation received by each state for alcohol and drug abuse services, at least 35% must be used for drug abuse services and at least 35% for alcoholism and alcohol abuse services. This earmarking strategy will nevertheless allow state discretion in allocating a substantial amount of the total grant. Thus, the conferees' proposal provides much needed state flexibility to allocate funds between drug and alcohol abuse programs while preserving the basic integrity of discrete programs.

With respect to prevention, the conferees are concerned about the lack of a broad and sustained effort at the Federal and state level to promote, develop and maintain programs and activities to discourage the abuse of alcohol and other drugs. The conferees believe that a statewide program of alcohol and drug abuse services cannot be effectively conducted without a comprehensive and highly visible prevention component. The conferees recognize that States will be under pressure to discontinue current prevention activities in order to restore losses experienced by treatment programs due to reductions in Federal funding. Nevertheless, the Committee believes it is in the interest of a strong public health policy that states be responsible for the development and maintenance of statewide prevention activities as a requirement for receipt of Federal funds. If states are to be granted a larger role in the management of Federal alcohol and drug abuse funds through the block grant mechanism, they must also assume increased responsibility for developing health promotion activities to discourage the abuse of alcohol and other drugs. The Committee believes prevention programs and activities are the best hope for one day reducing the enormous social and financial costs associated with the abuse of alcohol and other drugs. The conference substitute requires that of funds available to a state for drug

and alcohol programs, no less than 20% be allocated for prevention and early intervention programs and services.

MENTAL HEALTH SERVICES

The Conference substitute also provides for mental health services to be funded by allotments to States.

The conferees intend that the States, in using the funds provided to them, emphasize outpatient care for the chronically mentally ill and those at risk of becoming chronically mentally ill.

The conference agreement also contains protections for CMHC's which have received funding and which are still eligible to receive grants. States are required to agree to fund such a center unless it fails to provide a mandated service or has engaged in a substantial misuse of funds. While there is no minimum grant required for such centers, the conferees do not intend that this provision be used as a "backdoor" means of defunding centers.

The conferees also expect that demonstration funds will continue to be directed toward community support programs for the chronic mentally ill.

The conference agreement authorizes the Secretary to provide technical assistance to States for activities such as developing standard measures of quality and performance of community mental health centers as well as manpower development and in-service training for personnel providing services to the mentally ill.

In addition to the specific requirements for funding various activities indicated above, the conference agreement requires States to certify that they will establish (1) reasonable criteria to evaluate the effective performance of entities which receive funds under the block grant, and (2) procedures for substantive independent State review of failure to provide funds to entities which had previously received funds under this block grant or under the Federal categorical programs that have been included in the block grant.

As part of the application process, the State must also certify that it has identified those populations, areas and localities in the State with a need for preventive health and health services. It is the intent of the Conferees that the State provide a fair method for allocating its allotment in accordance with the needs of its population, areas and localities as determined under this assessment.

In addition, it is the intent of the Conferees that the State provide for an equitable geographic distribution of monies provided under the block grant.

Federal funds provided under the block would have to supplement and increase the level of State, local and other non-Federal funds that would have been expended in the absence of the block grant funds for such programs and activities and may not supplant such expenditures.

States are also required to establish the fiscal control and fund accounting procedures necessary to assure the proper disbursal of an accounting for Federal funds received under the block grants and to prepare, at least once a year, an independent audit of funds received. In so far as practical, this audit should be done in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. In addition, the Comptroller General is required to evaluate, from time to time, the expenditure by States of funds received, in order to assure that they are consistent with the provisions and requirements of the block grants.

The Conferees feel that these various features of the Alcohol & Drug Abuse and Mental Health Block Grant address the problems of inflexibility, lack of coordination, redundancy and burdensome regulation which characterized some parts of the categorical grant system, but at the same time address genuine concerns over State accountability without detracting from the State's authority to allocate block grant funds. The various requirements specified for the block grant are meant to be definitive and are intended to establish explicit boundaries for the Federal role in these programs.

The bill also provides for withholding power for the Secretary. The Conferees intend that this authority be used by the Secretary to ensure that all expenditure by States and entities receiving funds from States are directed to the intended beneficiaries of the services programs and in accordance with the requirements of the part and certifications provided by the State. The Secretary could do so, however, only after adequate notice and an opportunity for a hearing conducted within the State and after the Secretary has conducted an investigation. The Secretary could not withhold funds from a State for a minor failure to comply with the requirements and certifications of the block grant and would have to respond in an expeditious manner to complaints of a substantial or serious nature that the State has failed to comply.

In addition, the Secretary is required to conduct in several States in each fiscal year investigations of the use of funds received by the States under the Alcohol and Drug Abuse and Mental Health Services Block Grant. The Comptroller General is also authorized to conduct such investigations. States would be required to make appropriate books, documents, papers, and records available for such investigations and to permit any reasonable request for examination, copying, or mechanical reproduction, on or off the premises, of such papers and records. However, the Secretary or Comptroller General could not request any information not readily available to the State or entity and could not make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

The Conference agreement provides for criminal penalties for false statements made with regard to services or items funded with the block grant funds.

The application and certification process under this block grant has been greatly streamlined. The Secretary is prohibited from prescribing the manner of compliance with the certification process. This prohibition is intended to avoid complex pre-award review by the Secretary. The Conferees do not, however, intend that this prohibition preclude the Secretary from carrying out his duties to ensure that the allotments are spent in conformity with the law.

The Conference agreement requires States to prepare annual reports on its activities under the block grant. These reports would be in such form and contain such information as the Secretary determines to be necessary (A) to determine whether funds were expended as required by the block grants and consistent with the needs of the State; (B) to secure a description of the activities of the State; and (C) to secure a record of the purposes for which funds were spent, of the recipients of funds and the progress made toward achieving the purposes for which the block grant was awarded to the States. However, in determining the information which must be included in this report, the Secretary may not establish reporting requirements that are burdensome.

SUBTITLE G—HEALTH PLANNING

The House bill reduced the authorizations for Health Systems Agencies (HSAs) for fiscal year 1982 to $90 million and made a number of revisions in the statutory authority for the health planning program. The Senate amendment did not include specific authorizations or any revisions to current authority, but provided for an overall authorization for programs managed by the Health Resources Administration which assumed that expenditures for HSAs would not exceed $7 million in fiscal year 1982.

The conference agreement authorizes $102 million for HSAs, State agencies and planning centers in fiscal year 1982 of which not more than $65 million is to be expended for HSAs. A number of amendments to the statutory authority are included in the agreement.

AUTHORIZATIONS

The conference agreement reduces authorizations for HSAs, state agencies and centers for health planning for Fiscal Year 1982 to $102 million and provides that not more than $65 million of this amount may be expended for HSAs.

With an appropriation of $65 million or less it is clear that the Federal government will no longer financially sustain all the statutory obligations placed upon local planning agencies. If any health service area in which funding is not adequate to support an effective HSA, the committee expects that the Secretary will not renew the designation of the HSA. In such cases, the Governor may propose to the Secretary, under the provisions of Section 1511, a consolidation of the affected area with one or more other areas.

Consistent with the reduced authorization levels, the conference agreement reduces the minimum grant for HSAs from $245,000 to $100,000 and allows HSAs to accept contributions from health insurance companies. The term "health insurance" is meant to include all forms of third party payment for health care; *e.g.*, service prepayment plans as well as indemnity plans. This provision complements the existing provision allowing major employers, whether self insured or otherwise, to contribute to HSAs.

The agreement also allows the Secretary to waive by regulation or on a case by case basis for any or all HSAs, the current requirements for conducting appropriateness review, proposed use of federal funds review, and the collection and publication of data on hospital costs.

STATE HEALTH PLANNING

The proposed amendment to Section 1536 would allow any Governor of a State to request that the Secretary eliminate the Federal designation and funding of HSAs located within that State. The Governor must apply to the Secretary by November 1 of the fiscal year in which the change is to take place. Such application must certify that the State is willing and able to carry out the purposes of the planning program without HSAs in the State. It is expected that, when a Governor makes such a certification by November 1, the State Health Planning and Development Agency in that State, in its next grant year, will begin to

handle its health planning activities with the advice of a Statewide Health Coordinating Council (SHCC) constituted according to current regulations for SHCCs in 1536 States. The conferees have selected November 1 as the deadline for application for 1536 designation in order to allow HSAs to receive their FY 82 grants without disruption of their established funding cycle.

The conference agreement provides for the states which currently have 1536 designations—Rhode Island and Hawaii—and states with less than 600,000 population and only one HSA—Vermont, Delaware and Wyoming—to share in funds appropriated under section 1516 for HSAs.

CERTIFICATE OF NEED REQUIREMENTS

The conference agreement extends for 12 months the time for imposition of any penalties on States not in compliance with the CON and other Federal requirements. Given the current status of the program, it is not reasonable to retain the current deadline for the exercise of sanctions on noncomplying states.

The agreement also changes the Federal minimum requirements for CON programs by eliminating the need to review many projects now being reviewed by the planning agencies. Currently the law requires review of any new capital expenditure of $150,000 or more, or the purchase of any major medical equipment of $150,000 or more, or the start of any new institutional health service whose annual operating costs equal $75,000 or more. The agreement would change those thresholds to $600,000, $400,000, and $250,000 respectively. These changes will promote focusing the resources available for CON reviews on the most expensive and future cost-generating new investments in medical care.

TITLE X—ENERGY AND ENERGY-RELATED PROGRAMS

SUBTITLE A—DEPARTMENT OF ENERGY AUTHORIZATIONS

In the Omnibus Budget Reconciliation Act of 1981, the Conferees from the Senate Committee on Energy and Natural Resources, the House Committee on Energy and Commerce, the House Committee on Interior and Insular Affairs, and the House Committee on Science and Technology took a common approach in the formulation of their recommendations regarding authorizations for the Department of Energy. The agreement is to establish limitations by appropriation account for programs of the Department of Energy for fiscal years 1982, 1983, and 1984. Where substantial changes were made in the policy assumptions behind the budget proposed by President Reagan, they are discussed herein. The limitations on fiscal years 1983 and 1984 appropriations were established by a projection of the fiscal year 1982 recommendations on a basis of the policy established herein for fiscal year 1982. Changes in the assumptions behind these projections will be considered by the Congress during review of the fiscal year 1983 and 1984 budgets, and in its action on associated authorization bills. In the case of certain appropriations accounts (Energy Supply Research and Development, Energy Conservation, and Uranium Supply and Enrichment Activities), the authorizations for different programs within those accounts appear in two or more chapters of the subtitle. The authorizations are additive.

Fiscal year 1983 and 1984 authorization ceilings

The conference report establishes out-year authorization ceilings which limit individual appropriations accounts for fiscal years 1983 and 1984. The conference report out-year ceilings specifications follow the current format for appropriations accounts, except for Departmental Administration where funds for operating expenses and for plant and capital equipment expenses were combined.

Where changes were made from the Administration's request for a particular appropriations account for fiscal year 1982, the resulting change in activity was projected into future years to arrive at a new appropriations limitations ceiling. For instance in the energy supply R & D PACE account the amounts for projects added to the budget in fiscal year 1982 were included with the Administration's projected levels to arrive at the amounts specified for the fiscal years 1983 and 1984. As indicated in the conference report, out-year ceilings for some accounts such as uranium supply and enrichment activities represent the aggregate of all the program activities independent of the fact that the funds are research and development as well as commercial services. The operating expenses for fossil energy research and development decline in out-years consistent with the Administration's general policy even though the numbers for each of the three years exceed the Administration's proposed level of expenditure.

CHAPTER 1—CIVILIAN RESEARCH AND DEVELOPMENT AUTHORIZATION

GENERAL SCIENCE AND RESEARCH

Operating expenses (Sec. 1001(1))

Within the Nuclear Medicine Program $600,000 is redirected from life sciences to nuclear medicine for construction of a prototype imaging device ($400,000) and for research in neutron capture therapy ($200,000).

ENERGY SUPPLY RESEARCH AND DEVELOPMENT (SEC. 1001(2))

Deferred funds

Operating expenses.—The total authorized budget authority for fiscal year 1982 was $2,159,148,000. These funds include $2,057,460,000 in new budget authority and $101,688,000 in funds deferred from fiscal year 1981.

Plant and capital equipment.—The total authorized budget authority for fiscal year 1982 was $406,779,000. These funds include $370,132,000 in new budget authority and $36,647,000 in funds deferred from fiscal year 1981.

Construction

Construction projects initiated in prior years are authorized for fiscal year 1982 at levels listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget (February, 1981—DOE/CR-0011/3) except as provided in Title X. Appropriations for such projects falls within the aggregate amounts authorized for the relevant appropriations accounts. New construction projects are also authorized in fiscal year 1982 within the aggregate amounts authorized for the relevant appropriations accounts.

Authorization limitations are established at the total current estimated costs of new projects as presented in the budget documents submitted to the Congress for fiscal year 1982. Appropriations are limited, however, in fiscal year 1982 to those levels requested for that fiscal year. The Department is directed to continue to make an annual request for authorization for appropriations for projects so that they may be reviewed by the appropriate committees of the Congress.

SOLAR ENERGY

Operating expenses.—In the photovoltaic energy systems subprogram, the Federal government should take steps to maintain the cost reduction objectives of P.L. 95-590, the "Solar Photovoltaic Energy Research, Development and Demonstration Act of 1978". The funds for FY 1982 are available for purposes of P.L. 95-590 as well as the cost-shared 1 MWe Sacramento Municipal Utility District project. Funds are included within the total authorization to implement a decision on the Southeast Regional Residential Experiment Station.

In the solar thermal energy systems subprogram, $8.6M would be shifted from Research and Advanced Development to Technology Development for central receiver and parabolic dish systems.

The conference has provided $6M for cost-shared repowering project designs and directs the Department to expedite release of the Program Opportunity Notice. Of the funds authorized for appropriations in the solar thermal program, the Department is directed to provide up to $4M for the 5MWe Crosbyton solar hybrid electric power project, in Crosbyton, Texas. However, no funds are authorized to be obligated or expended for this project unless the fossil-fired portion of the project, including the fuel costs during the operational period, is privately funded. The Senate Conferees are concerned that no recent cost estimates or Departmental project evaluations are available for this project. These should be completed and made available to the appropriate Committees of Congress no later than December 31, 1981.

The $48.8 million authorization level for the Wind Energy Systems program will assist in achieving the goals of Public Law 96-345 the Wind Energy Systems Act without the need for the financial assistance and commercialization activities called for in the Act. The recommendation contains $18M for the continuation of a parallel MOD-5 program with the requirement that cost-sharing of at least 50/50 will be required from each of the two contractors and/or utilities for the completion of design, fabrication and installation of three MOD-5 wind turbines by each contractor. The Department should continue a reasonable level of activity on vertical axis machines to maintain a broad technology base for the program.

The fiscal year 1982 DOE request proposed to terminate the Federal support for the ocean thermal energy conversion program, despite the requirements of Public Law 96-320. The OTEC program will be continued in FY 1982. This total authorization of $25M includes $6.3 million in construction expenses and $700,000 in capital equipment for Phase I and commencement of Phase II design activity for a 40 MWe OTEC pilot plant. These funds are not available for activities beyond Phase II. This total OTEC authorization is not in addition to existing authorization contained in Public Law 96-310. Of the funds available for the OTEC pilot plant Program Opportunity Notice, the Department should fund as many proposals as feasible. The Conference recommendation retains the non-OTEC program activities. The transfer of the OTEC-1 to the State of Hawaii in order to offset the costs of completing the Seacoast Test Facility is recommended.

Geothermal

Operating Expenses.—Operating funds are included for the Raft River project and for the second 50 MWe geothermal demonstration project at Heber, California.

Plant.—The Conferees authorized $7M in new budget authority for project 80-G-2, the second 50 MWe geothermal demonstration project. The total budget authority available to the project in fiscal year 1982 is $11M, which includes $4M of funds deferred in fiscal year 1981.

NUCLEAR FISSION R&D

Operating expenses

Conventional reactor systems.—The agreement provided $38M for high temperature reactor technology for establishment of a HTGR lead plant project including the development of materials and components as described in the House report, and for continued international cooperation.

Breeder reactor systems.—The Clinch River Breeder Reactor project is funded at $228 million. This technology demonstration plant, as set forth in the existing project arrangements, is a key step in the development of the Liquid Metal Fast Breeder Reactor. The conferees intend that the plant should be constructed in a timely and expeditious manner, so that a decision on the commercialization and deployment of breeder reactors can be made on the basis of information obtained in the operation of the plant. The plant should therefore be constructed on the basis of that objective, and not on the basis of providing needed power in the specific region of the Clinch River site.

Water-cooled breeder.—Funding for the Water-Cooled Breeder Reactor program is reduced by $13M and further the DOE is directed to remove the LWBR core in fiscal year 1983 to assure an orderly termination of the Shippingport subprogram by the end of that fiscal year so that the private sector can make a decision on commercialization of this approach.

Fuel cycle R&D.—In view of the need for LWR reprocessing technology, $8M was added to the request to carry out the program outlined in the House report. The breeder fuel cycle program is funded at the request level; $4M is provided for the thorium fuel recycle program outlined in the House report. However, the Conferees suggested that the Department provide an analysis of reprocessing R&D and technology demonstration needs for all reactor types with appropriate priorities for each and a program plan. This report should be submitted to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources by January 31, 1982. The Conferees believe that the Barnwell facility offers a unique opportunity to conduct RD&D in irradiated fuel reprocessing and recommend $10M for continued R&D of which no more than $6M shall be utilized for R&D and testing at Barnwell.

Three Mile Island.—None of the funds authorized for research and development activities under this Act may be used for releasing any radioactively contaminated water from the Three Mile Island nuclear station reactor No. 2 into the Susquehanna River or its watershed.

Capital Equipment.—A total of $53.3M is authorized which includes $2M for the HTGR subprogram.

Construction.—Additional authorization of $17.8M above the Administration fiscal year 1982 request is provided for Project 78-6-F. This additional amount was the level requested in the fiscal year 1981 supplemental request. The action of the Conference is to offset the additional authority request by amounts deferred into fiscal year 1982 for the Energy Supply R&D PACE (Plant and Capital Equipment) account.

*Advanced isotope separation**

Although it is intended that a process selection should not be made until fiscal year 1983, there should be an optimum use of funds in the program and the Department is urged to chart a development strategy aimed at expeditious determination of the engineering feasibility of this technology for uranium enrichment.

Small-scale hydropower

Funding of $2M is provided to sustain a continuing federal involvement in R&D as outlined in the House report.

Electric energy and energy storage systems

Electric Energy Systems.—A total of $24.6M is provided for Electric Energy Systems with increases in systems architecture, power delivery (including $1.5M for domestic development of a submarine cable for use at great depth in Hawaiian waters), and storage applications (including $2M for the BEST Facility) as delineated in the House report.

Energy Storage Systems.—An additional $3M is provided to maintain an aggressive program.

Magnetic fusion energy

Within the authorized $320.7 million operating budget, $12.7 million is to be allocated for the Mike McCormack Fusion Materials Test facility (formerly FMIT), and $14.15 million is to be allocated for the Center for Magnetic Fusion Engineering subprogram.

The Conferees believe that an industrially managed Center for Fusion Engineering (CFE) should be established at least two fiscal years prior to a commitment to the next major construction project (e.g., Fusion Engineering Device (FED)) in order to allow a smooth transition of technical information and manpower from existing organizations.

Environmental R&D

The following changes were made within the President's fiscal year 1982 budget request in environmental research and development. The Environmental Assessment Program is decreased by $6,000,000,000 to eliminate unnecessary studies; the Human Health Program is increased by $400,000 to permit additional research on inhalation toxicology; the Health Effects Biology Program is increased by $1,100,000 for study of the health effects of synthetic fuel-related pollutants ($900,000) and for the large animal pulmonary biology ($200,000); the Environmental Studies Program is increased by ($3,500,000 to restore funding for research in land reclamation ($2,900,000) and for environmental studies on synfuel pollutants ($600,000); the Physical and Technical Studies Program is increased by $1,000,000 for research and monitoring synfuel-related pollutants. The Action taken on the land reclamation research program is not meant to prejudice the proposed transfer of this program in any way, however, a timely resolution of the proposed action is expected so that on-going research will not be adversely affected.

* Funded from uranium enrichment Appropriation account.

SUPPORTING RESEARCH

Plant

Multi-program General Purpose Facilities. This program is authorized at the level of the Administration's request. Projects previously approved in this category by the Authorizing Committees have, in some cases, been modified in their scope by the Department in the fiscal year 1982 request. It is expected that projects considered and funded in previous years will be completed as originally proposed. For example, Project 1981-E-325 was approved as a three component facility including light lab offices, a heavy lab, and a technology transfer center. The fiscal year 1982 request reflects only the light lab office facility. The project should be completed as originally envisioned.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

The Committee wishes to make clear that the Geothermal Loan Guarantee program, which was authorized by Public Law 93-410 as amended by Public Law 95-238, remains in effect regardless of the availability of funds for a reserve account in anticipation of default. Any actions reducing the availability of default funds will not revoke the Secretary's basic authority to commit to guarantees. The Department should continue to implement the loan guarantee program.

Fossil energy research and development (Sec. 1001(5))

The coal mining and preparation programs were reduced $4M from the President's request. The conferees are concerned about the uncosted balance of over $100M in the mining activity. If the decision is made to transfer the mining activity to the Bureau of Mines in the Department of Interior, the coal preparation program is to remain with the other coal research and development programs in the Department of Energy.

Within the funds provided for the coal liquefaction programs an additional $10M is available for the H-coal pilot plant at Cattlettsburg, Kentucky. Also, within the amount for coal liquefaction, funds are available for the orderly close out of the SRC pilot plant at Fort Lewis, Washington. If the flash hydropyrolysis liquefaction project is terminated, the funds are directed to be used for the development of the flash hydropyrolysis gasification project within the surface gasification program.

Within the total provided for the surface coal gasification program, $8M is available for the Bi-Gas pilot plant and a total of $7M is available for the low btu fluidized bed gasifier at Waltz Mill, Pennsylvania. Further, funds are to be used for continuation of the molten salt gasification process and the peat gasification program.

Within the funds available for the combustion systems program, $9M is available for continuation of the International Energy Agency Project for Pressurized Fluidized Bed Combustion at Grimethorpe, England. Further, additional funds are made available to pursue conversion of the waste residues at the atmospheric fluidized bed project in Shamokin, Pennsylvania.

The increase in funds for the fuel cell program will enable the Department of Energy to reorder its priority within the program to enhance the electric utility applications of phosphoric acid fuel cell technology. A total increase of $11.4M is available for the phosphoric acid activities. These funds should be utilized to complete the 4.8MWe power plant experiment at the Consolidated

Edison site in New York City and to expedite the design and component testing efforts in the phosphoric acid fuel cell electric utility program. The funds are intended to support the development of several competing versions of phosphoric acid fuel cells and should emphasize using alternative domestic fuels such as coal-based methanol. The molten carbonate fuel cell activity was reduced by $4.1M.

The Magnetohydrodynamic research and development authorization for fiscal year 1982 should be utilized by the Department of Energy to maintain a vital MHD development program consisting of the essential program elements. Engineering development (with industrial participation) of the coal combustor, the MHD generator and the downstream plant must continue at the major MHD test facilities.

The Light Oil subactivity was authorized at the level of the Administration request.

Funds were authorized within the oil shale activity to continue the cost-shared in situ demonstration program for in situ conversion, including funds for the Department's supporting research for evaluating both fracturing and retorting processes.

In the enhanced gas recovery program additional funds are available to complete the Eastern Mineback Facility, permit the start-up of a stimulation test in the Eastern Devonian Shales and also permit mineback rock fracturing tests in the western tight gas sands. These funds also provide for development of advanced diagnostic instrumentation and field testing of instruments.

Construction

The Managers believe that the SRC-I project should be continued with deferred funds from fiscal year 1981, and the $135 million made available by the Supplemental Appropriations Act should be used toward completion of the detailed engineering design of the project. The Manager's decision not to authorize funds specifically for use in fiscal year 1982 beyond the $135 million is not to be construed as a diminished interest in the project, but rather a realization of the budgetary constraints for that fiscal year.

No construction funds for the SRC-I demonstration project are included in the authorization ceilings limiting appropriations for fiscal year 1983 and fiscal year 1984. The action does not reflect a decision on future funding for the project; funding in fiscal year 1983 and fiscal year 1984 will require specific action by the Congress. If additional funding is provided for the SRC-I project in these years, then the ceilings will be adjusted upward to reflect that action.

CONSERVATION RESEARCH AND DEVELOPMENT

Funds are provided to continue the community systems activity with special emphasis on district heating.

The industrial energy conservation program is continued. The funds provided will continue the projects in the waste energy reduction activity, industrial process efficiency activity, and the industrial congeneration activity.

In transportation, the Conferees agreed to $34,800,000 for Vehicle Propulsion R.D. & D., to continue the proof-of-concept development of both the advanced Stirling and gas turbine engines and to provide for continued supporting research in vehicle systems.

The Conference Managers intend that the Department should allocate appropriated funds among the various activities and subactivities as described in the following tables, for fiscal year 1982. The status of expenditures in these categories and proposed modifications should be transmitted to the authorizing Committees of the Congress in a manner similar to reports made to the appropriating Committees.

FOSSIL ENERGY

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Coal:			
Coal Mining & Preparation	40,169	21,000	17,000
Coal Liquefaction	184,497	105,200	113,200
Surface Coal Gasification	69,618	53,400	56,300
In-Situ Gasification	9,960	8,300	8,300
Adv. Rsrch & Tech. Dev	51,483	60,100	54,100
Adv. Environ. Control Tech	32,587	26,400	22,400
Heat Engines & Recovery	31,468	15,600	15,600
Cumbustion Systems	37,368	27,800	31,800
Fuel Cells	32,012	28,600	35,900
Magnetohydrodynamics (MHD)	66,533	0	29,000
Program Direction	10,818	12,520	10,075
Subtotal, Coal	566,513	358,960	393,675
Oil and Gas:			
Enhanced Oil Recovery	16,158	20,100	20,100
Oil Shale	32,151	16,250	22,350
Drilling & Offshore Tech	2,009	0	0
Adv. Process Tech	3,528	3,700	3,700
Program Direction	1,475	1,620	1,225
Subtotal, Oil	55,321	41,670	47,375
Enhanced Gas Recovery	30,098	10,000	14,000
Program Direction	415	460	300
Subtotal, Gas	30,513	10,460	14,300
Total, Operating Expenses	647,533	411,090	455,350
Capital Equipment:			
Coal	4,600	3,800	3,000
Oil	2,470	2,250	2,250
Gas	500	200	200
Total, Capital Equipment	7,570	6,250	5,450
Construction:			
Prior-Year Projects: 80-FE-11,PFB Comb. Cycle Plant		11,000	11,000
New Construction:			
82-F-505, Plant Projects		6,000	6,000
82-F-506, Surface Water Containment		1,000	1,000
Total, Construction	333,900	18,000	18,000
Total, Fossil Energy	993,817	435,340	478,960

SOLAR ENERGY

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Active & Passive Solar Technology	71,550	21,100	19,400
Photovoltaics	144,600	55,900	93,650
Solar Thermal	102,170	42,650	59,500
Biomass	30,900	19,500	19,500
Wind	75,400	19,200	47,800
Ocean Thermal	33,900	0	18,000
Alcohol Fuels R&D	18,000	10,000	10,000
Program Direction	6,786	4,000	4,000
Subtotal	483,306	172,350	271,850
Certain Solar:			
Solar International	10,800	4,000	*4,000
Solar Information	1,400	6,700	*6,700
Subtotal, Other Solar	12,200	10,700	10,700
Total, Operating Expenses	495,506	183,050	282,550
Capital Equipment	16,550	10,250	10,250
Construction:			
Prior-Year Projects:			
80-ES-19, 250 KW, Small Community Solar Thermal Power Plant		0	4,000
81-ES-1, OTEC, 40 Megawatt Pilot Plant		0	6,300

SOLAR ENERGY—Continued

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Total, Construction	39,350	0	10,300
Total Solar	551,406	193,300	303,000

*This amount is contained in Chapter 4 of the Conference Report.

GEOTHERMAL

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Hydrothermal Industrial	50,000	2,124	2,124
Geopressured Resources	35,600	20,336	20,336
Geothermal Technology Dev	48,806	19,576	19,576
Program Direction	1,400	1,600	1,600
Total, Operating Expenses	135,800	43,636	43,636
Capital Equipment	1,310	863	863
Construction:			
Prior-Year Projects:			
80-G-1, Geothermal Demo Valles Caldera, NM	10,911	3,876	3,876
80-G-2, 50 MWe Geothermal Binary Demo, Heber, CA	[1] 4,000	0	[1] 11,000
Total, Construction	14,911	3,876	14,876
Fiscal year 1981 Deferral	4,000		−4,000
Total, New Construction B/A	18,911	3,876	10,876
Total, Geothermal	156,021	48,375	55,375

[1] Reflects fiscal year 1981 deferral of $4 million for 80-G-2, Geothermal Binary Demo, Heber, CA.

SMALL-SCALE HYDROPOWER

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Research and Development	6,409	0	1,750
Program Direction	789	0	250
Subtotal, R&D	7,198	0	2,000
Other Hydropower:			
Demonstration	0	0	*1,000
Feas. Studies Loan Prog.	−4,000	0	0
Subtotal, Other Hydropower	−4,000	0	1,000
Total, Hydropower	3,198	0	3,000

*This amount is contained in Chapter 4 of the Conference Report.

NUCLEAR FISSION

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Conventional Reactor:			
HTGR	38,000	0	38,000
Other Reactor Programs	39,500	58,800	54,550
Program Direction	1,465	1,500	1,500
Subtotal, Conventional Reactors	78,965	60,300	94,050
Civilian Waste Mgt	178,185	214,774	194,124
Spent Fuel Storage	6,013	6,417	6,417
Adv. Nuclear Systems	37,881	35,100	35,100
Breeder Reactor Systems:			
LMFBR	412,469	566,700	540,686
Water-Cooled Breeder	59,000	57,000	44,000
Program Direction	11,181	10,574	10,574
Subtotal, Breeder	482,650	634,274	595,260

NUCLEAR FISSION—Continued

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Fuel Cycle R&D	42,100	23,000	45,000
Total Operating	825,794	973,865	969,951
Other Fission:			
Civ. Waste Mgt. West Valley	5,000	12,800	*9,800
Licensing/Supporting Studies	3,400	3,500	*3,500
Spent Fuel, Non-R&D	3,500	0	0
Total, Other Fission	11,900	16,300	13,300
Total, Fission Operating	837,694	990,165	983,251
Capital Equipment:			
Research and Development	36,250	53,343	53,343
Other Fission Capital Equipment (Waste Mgt.)	0	200	*200
Total, Fission Capital Equipment	36,250	53,543	53,543
Construction:			
Prior-Year Construction:			
78–6–c, SAREF		8,000	8,000
78–6–e, ETEC		4,900	4,900
78–6–f, FMEF	[1] 17,800	24,200	[1] 42,000
New Construction:			
82–N–310, Mods. to Reactors		2,000	2,000
82–N–312, GPP		11,000	11,000
82–N–315, GPP, Waste		1,100	1,100
Total, Construction	76,526	51,200	69,000
Fiscal year 1981 Construction Deferrals			−17,800
Total, New Construction B/A	76,526	51,200	51,200
Totals:			
Fission R&D	938,570	1,078,408	1,074,494
Fission—Other	11,900	16,500	*13,500
Total, Nuclear Fission	950,470	1,094,908	1,087,994

*This amount is contained in Chapter 4 of the Conference Report.
[1] This combines the fiscal year 1982 request with the fiscal year 1981 supplemental request, which was provided for in the House Energy and Water Appropriation for fiscal year 1982.

MAGNETIC FUSION

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Applied Plasma Physics	65,000	70,400	67,700
Confinement Systems	92,800	133,470	133,470
Development & Technology	59,150	67,650	62,650
Center for Magnetic Fusion Engineering	3,450	9,150	14,150
Planning & Projects	34,500	26,130	38,830
Program Direction	3,117	3,900	3,900
Total, Operating Expenses	258,817	310,700	320,700
Capital Equipment	36,900	42,000	43,000
Construction:			
Prior-Year Projects:			
76–5–a, Tokamak		40,100	40,100
78–3–a, Mirror Fusion Test Facility		41,500	41,500
78–3–b, Mike McCormack Fusion Materials Irradiation Test Fac	[1] −14,000	0	14,000
80–MF–3, Elmo Bumpy Torus		14,000	14,000
81–T–314, ISX–C Experiment	[2] −2,000	0	3,500
80–MF–4, Large Coil Test Fac		6,000	6,000
New Construction:			
GPP–82, General Plant Projects		5,700	5,700
Total, Construction	82,400	107,300	124,800
Fiscal year 1981 Construction Deferrals	16,000		−15,000
Total, New Construction B/A	98,400	107,300	109,800
Total, Magnetic Fusion	394,117	460,000	473,500

[1] Fiscal year 1981 appropriations deferral of $14 million for 78–3–b, McCormack Fusion Materials Irradiation Test Facility.
[2] Fiscal year 1981 appropriations deferral of $2 million for 81–T–314, ISX–C.

ELECTRIC ENERGY SYSTEMS AND STORAGE

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Electric Energy Systems:			
Syst. Architecture and Integration	19,000	4,100	8,900
Power Delivery	18,500	4,525	12,725
Storage Application	[1] 6,200	0	2,100
Program Direction	923	875	875
Subtotal, EES	44,623	9,500	24,600
Energy Storage Systems:			
Electrochemical (battery)	37,800	25,550	25,550
Physical (thermal & mech.)	31,300	11,850	14,850
Program Direction	1,000	500	500
Subtotal, ESS	70,100	37,900	40,900
Total, Operating Expenses	108,523	47,400	65,500
Capital Equipment	3,200	1,500	1,500
Total, Electric Energy Systems & Storage	111,723	48,900	67,000

[1] Not included in total as this was carried in Energy Storage Systems in fiscal year 1981.

ENVIRONMENTAL R&D

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Overview & Assessment:			
Overview Management	5,747	3,000	3,000
Environ. Assessment	13,700	12,500	6,500
Environ. & Safety Eng'g	17,680	16,100	16,100
Oper. & Environ. Safety	9,343	14,000	14,000
Subtotal	46,470	45,600	39,600
Biological/Environmental Rsch.:			
Human Health Research	27,500	31,400	31,800
Health Effects Biol	46,547	46,500	47,600
Environ. Research	28,386	29,800	33,300
Phys. & Tech. Research	30,720	28,400	29,400
CO_2 & Climate	12,934	16,700	16,700
Risk Analysis	3,985	4,000	4,000
Subtotal	150,072	156,800	162,800
Program Direction	10,133	10,700	10,700
Total, Operating Expenses	206,675	213,100	213,100
Capital Equipment	13,740	13,700	13,700
Construction:			
New Construction:			
82–GPP–1, Gen'l Plant Proj		3,000	3,000
82–V–305, Mods to Research		1,000	1,000
Total, Construction	6,400	4,000	4,000
Total, Environment	226,815	230,800	230,800

SUPPORTING RESEARCH

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Basic Energy Sciences	220,994	255,500	255,500
Technical Assess. Proj	9,500	3,000	3,000
University Research Support	11,800	10,600	10,600
Advisory & Oversight Program Direction	3,098	3,311	3,311
Total, Operating Expenses	245,392	272,411	272,411
Capital Equipment: Basic Energy Sciences	15,000	16,900	16,900
Construction:			
Prior-Year Projects:			
Multi-Prog., General Purpose Facilities:			
81–E–309, Plant Rehab		4,000	4,000
81–E–310, Trans. & Dist		5,050	5,050
81–E–317, Roof Replacement		1,000	1,000
81–E–318, Upgrade ORNL		2,800	2,800
81–E–321, Site Facilities		5,550	5,550
81–E–323, Fire Safety		1,800	1,800
81–E–324, Fire Protection		1,000	1,000
81–E–325, Energy Tech. Lab		5,500	5,500
81–ES–11, INEL Facility		5,000	5,000
Subtotal Projects		31,700	31,700
New Construction:			
Multi-Program—General Purpose Facilities:			
82–E–301, 300 Util		1,000	1,000
82–E–302, Security Fac		1,500	1,500
82–E–305, Traffic Safety		3,800	3,800
82–E–306, Railroad Mods		2,000	2,000
Subtotal Facilities		8,600	8,600
Basic Energy Sciences:			
82–E–321, Accelerator Improv		300	300
82–E–320, GPP		300	300
82–E–322, High Temp. Mat		3,500	3,500
Subtotal Sciences		4,100	4,100
Total Construction	28,500	44,100	44,100
Total Supporting Research	281,342	333,711	333,711

CONSERVATION

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Buildings & Community Systems:			
Building Systems	22,475	17,547	23,500
Community Systems	13,550	0	4,400
Urban Waste	4,990	9,000	*6,500
Technology & Consumer Products	20,100	0	11,000
Analysis & Technology Transfer	3,800	0	*2,000
Program Direction	6,778	3,100	5,000
Subtotal, buildings and community systems	71,693	29,647	52,400
Industrial:			
Waste Energy Reduction	24,800	0	12,400
Industrial Process Efficiency	17,500	0	8,000
Industrial Cogeneration	16,500	0	5,200
Implementation and Deployment	7,500	0	*4,000
Program Direction	2,600	965	2,465
Subtotal, industrial	68,900	965	32,065
Transportation:			
Vehicle Propulsion R&D	55,400	11,000	34,800
Alternative Fuels Utilization	3,875	5,150	5,150
Electric/Hybrid Vehicle	36,820	19,600	19,600
Program Direction	2,930	1,280	1,600
Subtotal, transportation	99,025	37,030	61,150
State/Local: Energy Extension Service	20,000	0	*15,000
Multi-Sector:			
Energy Conversion Technology	8,000	11,700	9,200
Inventors Program	5,800	5,400	5,400
Appropriate Technology	12,000	0	*5,000
Program Direction	700	190	400
Subtotal, multi-sector	26,500	17,290	20,000
Total, Operating	286,118	84,932	180,615
Capital Equipment:			
Research & Development	3,275	1,003	1,329
Urban Waste	800	100	*100
Total	4,075	1,103	1,429
Total, Conservation	290,193	86,035	182,044

*This amount is contained in Chapter 4 of the Conference Report.

GENERAL SCIENCE AND RESEARCH

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
High Energy Physics	243,380	290,400	290,400
Nuclear Physics	89,500	99,100	99,100
Life Sciences/Nuclear Medicine	44,000	48,300	48,300
Program Direction	1,135	1,360	1,360
Total, Operating Expenses	378,015	439,160	439,160
Capital Equipment:			
High Energy Physics	37,500	41,700	41,700
Nuclear Physics	9,400	10,500	10,500
Life Sciences/Nuclear Medicine	1,900	2,200	2,200
Total, Capital Equipment	48,800	54,400	54,400
Construction:			
Prior-Year Projects:			
High Energy Physics:			
81-E-218, Tevatron 1		18,000	18,000
79-9-b, Energy Saver		2,600	2,600
78-10-b, Isabelle		21,000	21,000
Nuclear Physics: 80-GS-5, National Superconducting Cyclotron		4,500	4,500
New Construction:			
High Energy Physics:			
82-E-204, GPP		6,000	6,000
82-E-205, Accelerator Improvements		7,000	7,000
82-205-Tevatron 11		6,000	6,000
Nuclear Physics:			
82-E-221, Accelerator Improvements		2,000	2,000
82-E-222, GPP		2,800	2,800
82-E-223, Atlas		4,000	4,000
Total, Construction	82,600	73,900	73,900
Total, General Science and Research	509,415	567,460	567,460

URANIUM ENRICHMENT ADVANCED ISOTOPE SEPARATION TECHNOLOGY

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Adv. Isotope Separation Technology	63,355	79,087	79,087
Program Direction	944	1,205	1,205
Total, operating exp	64,299	80,292	80,292
Capital Equipment	9,000	5,500	5,500
Construction:			
New Construction: 82-N-402, Gen'l Plant Projects		650	*650
Total, Construction	6,945	650	650
Total, Adv. Isotope Separation Technology	80,244	86,442	86,442

*This amount is contained in Chapter 4 of the Conference Report.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Program Direction	192	200	200
Administration of Loan Guarantee Program	1,092	0	0
Total, Operating Expenses	1,284	200	200
Total, Geothermal Resources Development Fund	1,284	200	200

CHAPTER 2—CONSERVATION, INFORMATION, AND REGULATION

Energy conservation (sec. 1005(1))

	thousands
State and Local Programs	$336,000
Other Programs	40,000
Subtotal	376,000
Less Deferral	12,944
Net New BA	363,056

The total program authorization for energy conservation for FY 1982 under this section is $376,000,000. These funds include $363,056,000 in new budget authority and $12,944,000 in funds deferred from FY 1981.

Of the $376,000,000 total for conservation, $336,000,000 is authorized for State and local programs and $40,000,000 for other energy conservation programs.

These authorizations are intended to provide sufficient funds to carry out all statutorily mandated programs. Termination of funds was not recommended for any programs recommended for termination by the Administration.

Programs authorized under the $336,000,000 for State and Local Programs include energy conservation grants for Schools and Hospitals, the Low-Income Weatherization Program, the State Energy Conservation Program authorized under the Energy Conservation and Production Act of 1976 and the Energy Policy and Conservation Act of 1975, and the State emergency planning grants under the Emergency Energy Conservation Act of 1979.

The $40,000,000 for other energy conservation programs provided authorization for the following programs: the Residential Conservation Service; building energy performance standards; appliance energy efficiency; transportation utilization systems; and residential commercial retrofit.

Low-income weatherization

Regarding low-income weatherization, the conferees agreed to delete section 3119(d) of H.R. 3982 which repealed the statutory authority for the DOE low-income weatherization program and in addition agreed to delete a specific FY 82 authorization of $193,436,000 in section 3301(f). The managers wish to state their strong support for continuation of the low-income weatherization program in the Department of Energy and their expectation that within the amount authorized for State and Local Programs, as much as $175,000,000 may be available to continue this important program activity.

The conferees direct the Secretary of Energy, when making a determination pursuant to Section 413(d) of the Energy Conservation and Production Act whether low-income Indian tribe members are receiving benefits equivalent to assistance provided other low-income persons in a State and whether an Indian tribe would be better served by a direct grant to the tribe, to consider carefully any information which an Indian tribe may submit directly to the Secretary for purposes of making the determination required by section 413(d).

Regulation and information (Sec. 1005(2))

The authorizations in the Regulation and Information functions are intended to provide sufficient funds to carry out all statutorily mandated programs.

Further, certain areas of concern are identified which indicate relative priorities for the Department in allocating resources to specific programs.

Federal Energy Regulatory Commission	$80,400,000
Economic Regulation (net new BA)	44,600,000
Total program authorization	82,800,000
Less deferral	38,200,000
Net new BA	44,600,000
Energy Information Administration	84,986,000

Economic regulation.—The Conferees agreed to a significant increase in funding for compliance efforts to recover an estimated $10 billion in overcharges and other violations of law. The funding authorized for compliance is intended to carry the program forward to completion and not to be used for any severance pay or annual leave costs associated with reductions in force. The Conferees are committed to an aggressive, fully-staffed compliance program.

In addition, the Conferees have identified $12.2 million as an appropriate level for funding for emergency preparedness in Fiscal Year 1982. The Conferees agree that the $2 million requested by the Department is insufficient to prepare adequately for a potential oil shortage and further agree that the Department should put adequate resources at the disposal of the newly created Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness so that necessary emergency planning can occur. The collection of information for emergency preparedness is considered to be an important element in planning. The Conferees believe that emergency preparedness is a matter of national security and are concerned that the lack of a coherent, effective plan for emergencies could be the Achilles heel of the program for economic recovery.

The Conferees believe that funding in excess of the amount requested by the Administration for utility programs is necessary to insure that sufficient assistance be provided to State public utility commissions and others to implement that authorities contained in the Energy Conservation and Production Act.

Funding is provided for the Fuels Conversion program in order to assure continued and timely issuance of exemptions or prohibition orders.

Energy Information Administration.—Provision of timely and accurate information, independently developed, is one of the important missions of the Department of Energy. Industry, Congress, policy-makers, consumers, and scholars are among those dependent upon the information collected, analyzed and published by the Department of Energy.

The Conferees intend to insure adequate funds to continue all of the information programs mandated under various provisions of law.

Specifically, the Conferees have added funds to restore some of the programs assumed to be terminated under the Administration's budget request.

Among others, the Oil and Gas Information System is a vital program, since government has now become the sole collector of reserve data and industry as well as government is dependent on this information.

In the areas where funding reductions occur, the Conferees expect the reductions to be borne by reducing or eliminating outside contracts for work which can, and

should, be performed by Department employees.

Federal Energy Regulatory Commission.—The Conferees reduced the funding requested by the Administration by $1.773 million. In so doing, the Conferees acknowledged that reductions in certain areas can be accomplished without impairing the effective operation of the Commission. The Conferees believe that savings can be effected in a variety of activities including contracting and travel and through more efficient personnel management to increase productivity and reduce staff turnover.

In the area of contracting, the Conferees identified funding for several contracts which are no longer necessary. In addition, the Conferees would expect the Commission to rely less upon contract services and more upon Commission employees.

The Conferees believe that improvements in productivity are essential to the effectiveness of the Commission.

Strategic petroleum reserve (Sec. 1005(3))

In addition to funds authorized in Subtitle C for the Strategic Petroleum Reserve, during fiscal year 1982, there is authorized on-budget $366,319,000 for fiscal year 1983 and $364,429,000 for fiscal year 1984 for other than (1) acquisition, transportation, and injection of petroleum products for the Strategic Petroleum Reserve and (2) the carrying out of any drawdown and distribution of the Reserve.

Chapter 3—Power Marketing Administrations

Funds are authorized for power marketing Administration activities for fiscal years 1982, 1983, and 1984 consistent with the Administration's request.

Chapter 4—Other Activities

Uranium enrichment (Sec. 1007(1))

Funding for the uranium enrichment program is consistent with the currently planned completion dates for all phases of the new gas centrifuge facility project, which will provide approximately 8.8 million SWU of additional enrichment capacity. The $68,000,000 reduction in fourth-quarter construction authorization for the new gas centrifuge facility (GCEP, Project 76-8-g) is not intended to delay these completion dates, but is deferred for fiscal year 1982 and incorporated in the uranium enrichment authorization for appropriation in fiscal year 1983, which has been increased $68 million to assure that the project continues on schedule.

The Managers estimate uranium enrichment revenues to total at a minimum $1,805,000,000 in 1982; $2,470,000,000 in 1983, and $2,686,000,000 in 1984.

The amounts authorized to be appropriated for uranium enrichment activities are intended to be offset by program revenues in accordance with section 111(h) of public Law 93-438, as amended. These amounts when reduced by receipt spending authorizations for uranium enrichment activities are intended to total no more than the net amounts requested except as noted for the GCEP facility at Portsmouth, Ohio.

URANIUM ENRICHMENT

[Dollars in thousands]

	Fiscal year 1981 budget authority	Fiscal year 1982 request	Conference
Operating Expenses:			
Gaseous Diffusion Operations & Support	$847,426	$978,900	$978,900
Gas Centrifuge Operations & Support	64,800	81,200	81,200
Program Direction	3,060	3,100	3,100
Total, operating	915,286	1,063,200	1,063,200
Capital Equipment:			
Gaseous Diffusion	24,000	23,600	23,600
Gas Centrifuge	3,300	3,600	3,600
Total, capital equipment	27,300	27,200	27,200
Construction:			
Prior-Year Projects:			
81-R-503, Utilities Upgrade		17,000	17,000
81-R-504, Supervisory control		7,000	7,000
81-R-506, Env. Protec.		7,000	7,000
80-UE-2, Cont. Water Poll.		4,000	4,000
80-UE-3, Security Improv.		4,000	4,000
80-UE-5, Motor & Switchgear		6,600	6,600
76-8-g, Portsmouth		669,000	601,000
New Construction:			
82-R-410, GPP		17,500	17,500
82-R-411, UF6 Cylinders		11,000	11,000
82-R-412, Cooling Tower Mods		8,000	8,000
82-R-413, Improved UF6		7,100	7,100
82-R-414, Purge & Cascade		9,000	9,000
82-R-415, Fire Alarm		4,700	4,700
82-R-416, Phase 11 Environ. Mods		2,000	2,000
82-R-417, Air Distribution		2,700	2,700
82-R-418, Adv. Centrifuge		6,000	6,000
Total, construction	417,215	782,600	714,600
Total, Uranium Enrichment	1,359,801	1,873,000	1,805,000

Departmental Administration (Sec. 1007(2))

The overall funding level for Fiscal Year 1982 for Departmental Administration will be $246,963,000, with $206,000,000 applicable to operating expenses and $40,963,000 available for plant and capital equipment.

These sums reflect a reduction of $26,068,000 from the total amount requested by the Administration, including a general reduction of $10,371,000 and specific changes resulting in a net reduction of $15,697,000.

It is intended that where budget reductions are implemented, these will occur first by reducing the use of outside contractors. Responsibilities for the administration of the Department are to be carried out to the maximum extent possible by employees of the Federal Government, and not by contractors, thus obviating the need for reductions-in-force.

The following breakdown represents the funding levels agreed upon:

Departmental Administration

[In thousands of dollars]

Operating expenses for Departmental Administration activities:	
1. Office of Secretary/Executive Secretary	$3,200
2. General Management	70,054
3. Program Administration	6,249
4. Field Offices	64,738
5. Other expenses, travel and services	150,406
6. Policy Analysis and Systems Studies	5,017
7. International Policy Study	2,250
8. Intergovernmental Affairs	9,365
9. Public Affairs	900
10. Energy Management	4,000
11. Work for others/Inventory changes	55,214
12. Consumer Affairs	240
13. Technical Information Services	12,678
14. Miscellaneous Revenues (less)	−167,900
Total (less revenues)	216,371
General Reduction	−10,371
Total operating expenses	206,000
Plant and Capital Equipment	40,963
Department Administration Total	246,963

In order to reach the appropriate funding level, the general reduction of $10,371,000 is to be apportioned between the categories of the Office of the Secretary/Executive Secretary; General Management; and Other Expenses, Travel and Services (items numbered 1, 2 and 5 in above list).

Office of the Secretary/Executive Secretary.—The number of personnel proposed (93 FTP) to staff the Office of the Secretary/Executive Secretary was excessive in light of the reductions faced by the rest of the Department, particularly at the program levels. A portion of the general reduction of $10 million could provide the Department the ability to achieve significant economies in the Office of the Secretary. The Department should maintain separate personnel accounts for the Office of the Secretary and the Office of the Executive Secretary.

Policy analysis and system studies.—There is serious concern about contracts in the area of Policy Analysis and System Studies. Therefore a significant reduction from the Administration request has been made and the Department is expected to manage more effectively the funds authorized for this function to achieve key policy study objectives. Future contracting should be better selected.

International policy study.—In the area of International Policy Studies, there should be a strong analytical, independent policy and technical information development role for the Department in the international arena. This function should not be ceded to any other agency or Department. International Affairs was included as a primary Department of Energy function in the DOE Organization Act. Funding for the Country Energy Assessment program which can play an important foreign policy and international energy role is continued.

In-house energy management.—Vigorous pursuit of energy savings with a minimum of Contractor-performed surveys is compatible with a reduced funding level in the area of In-House Energy Management.

Consumer affairs.—An increase of $72,000 has been agreed to in addition to the Administration's request for the Office of Consumer Affairs to continue an acceptable level of field hearings and other activities of the Citizen Participation program.

Technical information services.—The Technical Information Center will continue to provide scientific and technical information. To the extent that the Center has distributed educational materials in addition to its scientific and technical responsibilities, it is expected that such services will be continued by the Department, but not within Technical Information Services, with sufficient funding to insure continuation of such information dissemination.

Plant and capital equipment.—The reduction of $8,100,000 in the authorization for In-House Energy Management, Project 82-A-601, various locations, is expected to leave

a new project authorization level of $14,100,000 for fiscal year 1982 for this project.

General reduction.—In the three categories subject to the general reduction of $10,371,000 reductions can be achieved in certain priority areas, as described below.

Within the General Management category it is expected that the procurement and contract management staff functions can be reallocated so that considerably more staff resources are dedicated to direct procurement operations. In addition, it is expected that a significant increase will be allocated to Contract Execution Divisions using Departmental staff. Much negative attention has been focused on procurement operations in the past. An infusion of higher level staff personnel into the line organization is expected to result in a noticeable improvement.

In the Office of the General Counsel, close scrutiny of staffing levels and program-related activities could result in spending reductions which will not impair the ability of the Department to pursue violations, interventions or to defend itself in Court. The number of lawyers responsible for preparation of Office of Enforcement (OE) documents and OE litigation should be continued at a level consistent with the actions of Congress in the 1981 Supplemental Appropriation (Public Law 97-12) for compliance.

In the area of Other Expenses, Travel and Services, while specific amounts for reduction have not been identified, it is expected that aggressive management improvements can achieve significant savings. Management and policy functions should, to the greatest extent practicable, be performed by Department employees. In this regard, should the Department find that authorization levels are insufficient to achieve the desired goal of utilizing Department employees for these functions, the Department will advise the Congress of the deficiency, and seek additional funds and/or personnel levels.

Greater economies should be sought in expenses for communications, rent and utilities.

Energy Supply Research and Development (Sec. 1007(3))

*Fiscal year 1982**

Solar Information	$6,700,000
Solar International	4,000,000
Hydropower	1,000,000
Total	11,700,000

*Funds for these programs in fiscal year 1982 and fiscal year 1983 appear in section 1001(a) (B) and (C) of the bill.

Solar and renewables

Of the $6.7 million recommended by the Conference for the Solar Information, up to $3.5 million is available for the continued operation of the National Solar Heating and Cooling Information Center (NSHCIC). With these funds, and consistent with the comprehensive program management plan described below, NSHCIC will be able to expand its informational support activities for all available incentives for renewables, not limited to just Solar Heating and Cooling.

Funds are provided for technological demonstration using small-scale hydropower particularly ultra low-head hydropower for the generation of electricity.

Within six months after the date of the enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive program and management plan for the conservation and renewable energy technology transfer programs in the Department of Energy, including the Energy Extension Service, the National Solar Heating and Cooling Information Center, and the Regional Solar Energy Centers. Such plan shall include a detailed description of the roles, division of responsibilities, and relationships of such Centers with other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. Such plan shall also include a detailed description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

COMMERCIAL NUCLEAR WASTE

Research and development and other waste management activities are intended to be supported at a level consistent with the objective of submitting an application for a license for a full-scale facility for the permanent disposal of high-level nuclear waste in the 1987-1989 time period. Thus, in assimilating the reduction in the Terminal Waste Isolation program, the Department is expected to maintain a priority emphasis on site survey and characterization activities.

A reduction of $4 million in the remedial action program reflects delays in entering into cooperative agreements with states under the Uranium Mill Tailings Radiation Control Act. The Department is encouraged to plan clean-up activities to minimize to the extent practical transportation costs for remedial actions.

Funding in this authorization for appropriations for commercial waste management activities other than research and development activities for fiscal year 1982 is as follows:

[Dollars in thousands]

	Fiscal year 1981 appropriation	Fiscal year 1982 Request	Fiscal year 1982 Authorization
Operating Expenses			
Repository Licensing	$1,900	$2,000	$2,000
Assistance to States	500	1,000	1,000
Low Level Waste Mgt	1,000	1,000	1,000
West Valley Demonstration	5,000	12,800	9,800
State Planning Organization	1,000	1,500	1,500
Remedial Action	38,000	55,070	51,070
Capital Equipment and Construction			
West Valley Demonstration	0	200	200
Remedial Action	4,550	775	775

Energy conservation (Sec. 1007(4))

Energy conservation, operating; expenses:	Thousands
B&CS, urban waste	$6,500
Analysis & technology transfer	2,000
Industrial, implementation & deployment	4,000
State & Local, Energy Extension Service	15,000
Multi-Sector, appropriate technology	5,000
Total	32,500
Energy conservation, capital equipment not related to construction, B&CS, urban waste	100

Within the amounts provided for conservation, funds are available to continue the analysis and technology transfer activity and the industrial implementation and deployment activity.

Language is included in the conference report to require not less than 20 percent State cost-sharing in the Energy Extension Service program. This requirement was adopted in order to secure adequate State participation in the program. Cost-sharing may be satisfied through either a service, capital or cash contribution.

CHAPTER 5—UNITED STATES ENERGY TARGET

Pursuant to the requirements of the Energy Security Act, the conference agreement includes in Section 1012, energy targets, within the understanding, as expressed in the statement of managers on the Energy Security Act, that such targets ". . . shall not have legal force or effect."

SUBTITLE B—POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 PROVISIONS

The conference agreement adopts the House amendments to the Powerplant and Industrial Fuel Use Act of 1978 concerning fuel use restrictions and natural gas outdoor lighting with some changes. The principal changes are discussed below.

The new Section 301(a) gives the owner or operator of an existing electric powerplant the opportunity voluntarily to certify to the Secretary that the powerplant is capable of using coal or another alternate fuel as its primary energy source, rather than requiring all powerplants to so certify as was the case under the House bill. The agreement adds a Section 301(c) which gives the same opportunity for a powerplant capable of using a mixture of petroleum or natural gas and coal or another alternate fuel as its primary energy source.

The purpose of the new Section 301 is to limit issuance of the prohibition orders to those utilities that voluntarily certify that they are eligible for such orders. The Secretary would not act until there is a certification in effect. The certification would be subject to 18 U.S.C. 1001. Even after a certification is received, the Secretary has discretion whether or not to issue an order. When a certification is received, the Secretary would review the factual basis for the certification and actually concur therein in exercising his discretion to issue a prohibition order.

This provision would encourage coal use by enabling voluntary powerplant conversions. Since the conversions would take place pursuant to prohibition orders, they could not be treated as a new source under Section 113(d)(5) of the Clean Air Act, to the same extent as is the case today under the existing Section 301 (b) and (c) of the Fuel Use Act. This provision is not intended to alter the existing relationship between the Fuel Use Act and Clean Air Act.

Provision is also made to preserve final prohibition orders issued under Section 301 (b) or (c) of the Fuel Use Act as enacted in 1978. A utility subject to a proposed order under that section may elect not to be subject to that proposed order.

Under the new Section 808 (which was formally Section 301(d) of the House bill's amendment to the Fuel Use Act), an electric utility is required to develop, submit for approval, and implement a conservation plan that meets the requirements specified in the new section.

The conference agreement deletes the House bill requirement that the plan must be updated and approved every five years.

Instead, an approved conservation plan must be implemented over one five year period which would begin on the date the plan is approved. All obligations of the utility under the statute to implement the plan cease at the end of that five year period.

The conference agreement deletes the House bill requirement that the Secretary must provide an opportunity for a public hearing on a plan. Instead, the conferees intend that the proposed plan will be available to the public, and that the public will have an opportunity to submit comments on the plan.

The conference agreement requires the Secretary to approve or disapprove a utility's plan within 120 days of submission. The Secretary must approve the plan if it meets the requirements of Section 808(c). If the Secretary disapproves a plan, written reasons for disapproval must be provided. The Secretary is required to provide a reasonable period of time for a utility to resubmit a new plan if the original plan is disapproved. Additionally, a utility is permitted to amend its plan at any time, subject to approval by the Secretary and consistent with the requirements of this section. One requirement for approval of a plan by the Secretary is that the plan be designed to achieve the required conservation goal not later than the fifth year after its approval. The conferees expect that most of the measures that a utility elects to use to achieve its conservation goal will be lasting in nature. The conferees encourage the utilities to continue the actions taken to achieve conservation under the plan beyond the five year period.

SUBTITLE C—STRATEGIC PETROLEUM RESERVE

The Strategic Petroleum Reserve (SPR) has for more than half a decade held considerable importance to Congress and to three Administrations. Once, again, in the context of the Omnibus Reconciliation Act of 1981, Congress expresses its concern that the Nation establish and maintain an adequate supply of stored oil to minimize the adverse effects of any serious interruption in petroleum supplies.

In this Act, the Conferees have agreed to create an off-budget Strategic Petroleum Reserve Account within the United States Treasury, with an authorization of $3.9 billion for fiscal year 1982. From that account, the Secretary of Energy may obligate funds for oil acquisition, transportation, injection, and expenses associated with drawing down the Reserve in response to an energy emergency.

An additional authorization of $260 million is provided for fiscal year 1982, on the budget, for all other functions relating to the Reserve other than those specifically provided for in the off-budget account. The $260 million is expected to cover the cost of operations (including the drawdown system), maintenance, construction, program direction and administration. This figure is $60 million higher than the amount requested by both the Carter and Reagan Administrations, with the increase reflecting the Conferees' concern that sufficient funds be available to support accelerated acquisition and construction of storage capacity.

The Secretary may obligate up to $3.9 billion from the off-budget account for oil acquisition, transportation, and injection, and for the costs of drawdown. Secretary of Treasury must provide sufficient funds into the account to meet obligations incurred by the Secretary of Energy. Funds in the off-budget account are subject to the provisions of Section 660 of the Department of Energy Organization Act, and the Conferees intend that any funding for the account in years after fiscal year 1982 would be subject to authorization and appropriation by the Congress.

If a drawdown of Reserve oil occurs, the Secretary of Energy may obligate funds from the off-budget account in an amount equal to the receipts from the sale of SPR oil, to purchase replacement oil. These recipients from drawdown may be expended for such replacement oil without additional Congressional authorization or appropriations. The Conferees expect that the SPR will be refilled subsequent to a drawdown at the earliest date consistent with suitable oil market conditions, and to a level at least equal to that prior to the drawdown. If funds in the off-budget account are insufficient for complete refill, the Congress expects that the Department of Energy will request additional funds, subject to Section 660 of the Department of Energy Organization Act.

This Act requires the President to seek a fill rate for the reserve of at least 300,000 barrels per day. Because the ultimate size under present policy was approved during a period when U.S. imports of oil was substantially greater than it is at present, the basic premise upon which the ultimate size was based has changed considerably. Therefore, this Act requires the Department of Energy to complete a detailed study of the optimal ultimate size of the Reserve. The Conferees expect that Congress will want to review the report and reevaluate the ultimate size with the possibility at that time of decreasing or increasing the 750 million barrel level referenced in this Act. The Conferees intend that the study will compare the costs to the Nation of various levels of storage with the expected benefits, including such benefits as increased national security.

A fill rate to 300,000 barrels per day will require a change in the Administration's plan for acquisition of storage capacity for the Reserve. Given that existing law provides clear authority for leasing storage capacity, the Conferees expect that the Administration will consider the possible advantages of leasing facilities on either a long-term or short-term basis, in order to permit a rapid increase in capacity.

The Conferees agreed to delete a provision relating to the storage of State royalty oil in the Reserve. The withdrawal of that provision is without prejudice to ongoing negotiations on the issue. The Conferees acknowledge that current law provides the option for the Secretary of Energy to enter into agreements with States, such as Alaska, for oil storage. The Conferees encourage the Secretary, to use the maximum flexibility under current law to proceed with the negotiations with States, such as Alaska, for storage of royalty oil in the Strategic Petroleum Reserve.

SUBTITLE D—BUILDING ENERGY PERFORMANCE STANDARDS

Conferees adopted House language which amends the Energy Conservation Standards for New Buildings Act of 1976. Under these amendments, the Building Energy Performance Standards would be developed solely as voluntary guidelines for all buildings, except for federal buildings which would remain subject to mandatory standards.

PUBLIC MASS TRANSPORTATION

AUTHORIZATIONS

House bill

This section reduces fiscal year 1982 authorization levels under the Urban Mass Transportation Act as follows: Section 3 authorizations are reduced from $1,600,000,000 to $1,515,000,000; section 18 authorizations are reduced from $120,000,000 to $75,000,000; and miscellaneous authorizations are reduced from $105,000,000 to $100,000,000. Total section 5 authorizations are reduced from $1,755,000,000 to $1,480,000,000. In addition, a provision is included which limits the amount that is made available for public mass transportation projects under section 103(e)(4) of Title 23, United States Code, to $600,000,000 during fiscal year 1982.

Senate amendment

This provision limits the fiscal year 1982 authorizations for appropriations under the Urban Mass Transportation Act to $3,950,000,000. The Senate intended that this sum exclude administrative expenses and include $210,000,000 deferred from prior years.

Conference substitute

The House provisions, except that new authorizations for appropriations in fiscal year 1982 are limited to $3,792,000,000. Thus sum excludes funds deferred from prior years or transferred from other appropriations.

HIGHWAY SAFETY PROGRAM

SHORT TITLE

Senate amendment

This section provides that this part may be cited as the "Highway Safety Act of 1981".

House bill

No comparable provision.

Conference substitute.

No comparable provision.

AUTHORIZATION FOR APPROPRIATIONS

Senate amendment

This section provides the National Highway Traffic Safety Administration with an authorization level of $77 million in each of the fiscal years 1982, 1983, and 1984 to carry out section 402 of title 23, United States Code, relating to highway safety programs and an authorization level of $31 million for each of the fiscal years 1982, 1983, and 1984 for highway safety research and development.

It also provides the Federal Highway Administration with an authorization level of $10 million for fiscal year 1982 and $13 million in each of the fiscal years 1983 and 1984 for highway safety research and development.

This section repeals authorizations for fiscal year 1982 for enforcement of the 55 miles per hour speed limit and incentives for state compliance with the 55 miles per hour speed limit.

This section also repeals authorizations in fiscal year 1982 for carrying out sections 406 and 407 of title 23, United States Code, relating to school bus driver training and innovative project grants, respectively. This section also repeals the unobligated balances of contract authority established under paragraphs (1) and (10) of section 202 of the Highway Safety Act of 1978.

House bill

The House bill makes no changes in the authorizations in existing law to carry out

sections 403, 406 and 407 of title 23, United States Code.

This section repeals $173 million in prior year contract authority for carrying out section 402 of title 23, United States Code, authorizes $100 million for fiscal year 1982 to carry out section 402 of title 23, United States Code, administered by the National Highway Traffic Safety Administration, and authorizes $10 million for fiscal year 1982 for carrying out section 402 of title 23, United States Code, administered by the Federal Highway Administration.

This section also provides $20 million for fiscal year 1982 for enforcement of the 55 miles per hour speed limit and repeals the authorization for innovative safety grants.

The House bill imposes a $100 million obligation limitation for fiscal year 1982 for highway safety programs and school bus driver training carried out by the National Highway Traffic Safety Administration and imposes an obligation limitation of $10 million for highway safety programs carried out by the Federal Highway Administration.

Conference substitute

The authorizations for carrying out section 402 of title 23, United States Code, are as contained in the House bill for fiscal year 1982, except that identical authorizations are also provided for fiscal years 1983 and 1984. Of the amounts apportioned for each fiscal year for carrying out section 402 of title 23, United States Code, not less than $20 million shall be obligated for enforcement of the 55 miles per hour speed limit.

The authorizations for carrying out section 403 of title 23, United States Code, are as contained in the Senate amendment. The conference substitute repeals separate authorizations for enforcement of the 55 miles per hour limit, incentive grants for compliance with the 55 miles per hour speed limit, innovative project grants, and outdated incentive grant authorizations for enactment of state seat belt laws and reduction of the traffic fatality rate. Authorizations for school bus driver training would be phased out by fiscal year 1984. This section provides an obligation limitation of $100 million for carrying out section 402 of title 23, United States Code, administered by the National Highway Traffic Safety Administration, for each of the fiscal years 1982, 1983, and 1984 and a limitation of $10 million for carrying out section 402 of title 23, United States Code, administered by the Federal Highway Administration, for each of the fiscal years 1982, 1983, and 1984.

HIGHWAY SAFETY PROGRAM

Senate amendment

The Senate amended section 402(a) of title 23, United States Code, to restructure the highway safety program. The Secretary of Transportation is authorized to focus Federal funding for State highway safety programs in those areas determined to be most effective in reducing highway deaths and injuries.

The Senate amendment repealed specific requirements that a State highway safety program include: maintenance of funding levels (maintenance of effort), driver education programs, curb cuts for the handicapped and encouragement of the use of safety belts.

The Senate amendment provides that a State's highway safety program be under the control of either the Governor of a State or any other agency authorized by State law.

The Senate amendment repeals section 402(h), thereby authorizing the Secretary of Transportation to amend the 18 uniform standards.

House bill

The House bill has no comparable provisions thereby retaining the provisions in present law for the State highway safety programs.

Conference substitute

The Conferees agreed to retain the 18 highway safety standards for fiscal year 1982. After that time, the standards may be changed by the Secretary by rulemaking. Further, the Secretary of Transportation shall commence a rulemaking by September 1, 1981, to determine the most effective safety programs or the process for determining the most effective safety programs eligible for Federal funding in fiscal year 1983. The rule shall be promulgated taking into account consideration of the States having a major role in establishing these programs.

By April 1, 1982, a final rule shall be submitted to Congress along with a report which analyzes and justifies the areas selected for funding or the process for determining the most effective safety programs eligible for funding. If the rule is not submitted by April 1, 1982, the rule shall not take effect until October 1, 1983. The effective date of the Secretary's final rule shall be October 1, 1982, unless one House of Congress vetoes the rule before June 1, 1982. In the event one House vetoes the rule, the Secretary shall not apportion or obligate section 402 funds for fiscal year 1983 or fiscal year 1984. In such a case, the Conferees intend that Congress reauthorize a highway safety program for fiscal years 1983 and 1984.

The Conferees agreed to retain section 402(b) as in present law with the exception of section 402(b)(1)(D) relating to maintenance of funding levels which the Conferees agreed to repeal.

The Conferees agreed that the Governor of a State would retain responsibility for the State highway safety program, recognizing that the responsibility may in some cases be limited as where the day-to-day responsibilities are administered through a State highway commission and the governor exercises his responsibility chiefly by his allocation of the highway safety funds apportioned to the State.

UNIFORM STANDARDS AND INCENTIVE GRANTS

Senate amendment

The Senate amendment repealed subsections (h) and (j) of section 402 of title 23 (prohibiting the Secretary from changing the uniform safety standards and incentive grants).

House bill

No comparable provision.

Conference substitute

Senate provision, except authority to amend standards shall not take effect until October 1, 1982.

SCHOOL BUS DRIVER TRAINING

Senate amendment

This section repeals the school bus driver training program.

House bill

No comparable provision.

Conference substitute

No comparable provision, except that authorizations are phased out by fiscal year 1984.

INNOVATIVE PROJECT GRANTS

Senate amendment

This section repeals the innovative project grants program.

House bill

No comparable provision, except that the authorization for innovative grants for fiscal year 1982 is repealed.

Conference substitute

Same as the House bill.

NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE

Senate amendment

The Senate bill sets the percentage of compliance with the 55 miles per hour speed limit in each State at 50 percent with a penalty of up to 5 percent of highway funds for noncompliance.

House bill

No comparable provision.

Conference substitute

Senate provision except provide for 5 percent loss of highway funds for noncompliance in FY 1980 and FY 1981 and 10 percent loss for noncompliance thereafter.

HIGHWAY PROGRAM

OBLIGATION LIMITATION

House bill

This provision imposes a limitation on obligations of $8,200,000,000 for fiscal year 1982 for Federal-aid highways and highway safety construction programs, excluding obligations for emergency relief and three emergency bridge projects in Washington, Ohio and West Virginia. This limitation also applies to obligations for Federal-aid projects on the Great River Road.

To ensure an equitable distribution of available obligational authority, this section distributes obligational authority on the basis of legislative formulae and discretionary and other non-formula fund allocations during fiscal year 1982. No more than 25 percent of the total $8,200,000,000 in obligational authority, less amounts for forest highways and administrative expenses, may be obligated during the first quarter of fiscal year 1982. Subject to this overall constraint, individual States may, however, use up to 35 percent of their total obligational authority during the first quarter.

This section requires the Secretary of Transportation to provide sufficient authority to all States to prevent lapse of apportioned or allocated funds except to the extent States indicate their intention to lapse Interstate construction funds. After August 1, 1982, obligational authority shall be withdrawn from any State not able to obligate its share during fiscal year 1982 and redistributed to States which are able to obligate.

Senate amendment

This section imposes an obligation limitation of $8,100,000,000 for fiscal year 1982, $8,600,000,000 for fiscal year 1983, and $8,800,000,000 for fiscal year 1984 for Federal-aid highways and highway safety construction programs, excluding obligations for emergency relief. This section distributes obligational authority for fiscal year 1982 on the basis of legislative formulae and prohibits any State from obligating more than 25 percent of the amount distributed during the first quarter.

The Senate amendment requires the Secretary of Transportation to provide sufficient authority to all States to prevent lapse of apportioned funds except to the extent States indicate their intention to lapse

Interstate construction funds. The redistribution of obligational authority after August 1, 1982, is identical to the House provision.

Nothing in the Senate amendment shall be construed as preventing the appropriations committee from taking any actions properly within its jurisdiction in regard to the annual review and control of this program in annual appropriations Acts.

Conference agreement

The conference agreement imposes a limitation on obligations of $8,200,000,000 for fiscal year 1982 and $8,800,000,000 for fiscal year 1983 for Federal-aid highways and highway safety construction programs, excluding obligations for emergency relief and two emergency projects carried out under section 147 of the Surface Transportation Assistance Act of 1978 in Ohio and West Virginia. The Administration has indicated that Federal funds for a third emergency bridge project in Washington will be totally obligated during fiscal year 1981. In this case, an exemption for the West Seattle bridge after fiscal year 1981 is unnecessary.

As with other Federal-aid programs, the conferees intend that these limitations shall also apply to obligations for Federal-aid projects on the Great River Road. A separate limitation shall not apply solely to obligations for Federal-aid projects on the Great River Road.

The conferees have adopted the Senate provision which distributes obligational authority for fiscal year 1982, except that the Senate method is to be applied for fiscal year 1983 as well as fiscal year 1982. In adopting the House approach with respect to the limitation imposed on first quarter obligations, the conferees expect the Secretary to seek an obligation schedule from the States prior to the commencement of the 1982 and 1983 fiscal years to determine the number of States which will not obligate 25 percent of their full allocation in the first quarter. That portion of the guaranteed 25 percent of a State's allocation for the first quarter not being used by a State may be allocated to other States whose obligation schedules indicate they could exceed the 25 percent limitation on obligations. No State may, however, exceed 35 percent of its allocated share of the obligation ceiling.

The conferees adopted the Senate provision which requires that sufficient authority be provided for fiscal year 1982 to avoid lapse of apportioned funds (except where States indicate their intention to lapse Interstate construction funds), except the conference agreement also applies to fiscal year 1983.

The conference agreement adopts Senate and House provisions with respect to redistribution of obligational authority after August 1, except the conference agreement applies to fiscal year 1983 as well as fiscal year 1982.

The language in the Senate amendment regarding the jurisdiction and authority of the appropriations committee is not retained.

The conferees are aware that the obligation limitations imposed by this agreement constrain the highway and highway safety construction programs severely below known needs. It is the intention of the conferees to review these limitations in connection with any multiyear highway legislation hereafter considered by the Congress.

STATEMENT OF MANAGERS—RECONCILIATION BILL—AVIATION

PART 1—FISCAL YEAR 1981 AIRPORT DEVELOPMENT

House bill.—No provision.

Senate amendment.—Authorizes $450 million to be spent for airport and airway development, planning and noise abatement in fiscal year 1981.

Conference substitute.—Follows Senate amendment in authorizing $450 million to be spent for airport development, planning, and noise abatement programs in fiscal 1981. This authorization is accomplished by continuing programs established in the Airport and Airway Development Act of 1970, as amended, and the Aviation Safety and Noise Abatement Act of 1979. The substitute continues all provisions of the 1970 and 1979 Acts, as amended, governing the allocation of funds between various kinds of airports, and the minimum funding levels for various programs. The substitute also provides that projects which were begun during fiscal year 1981, when there was no program in effect, are eligible for 1981 grants. The substitute further provides that the Secretary shall obligate from funds available for fiscal 1981, $15 million for carrying out noise compatibility programs in accordance with section 104(c) of the Aviation Safety and Noise Abatement Act of 1979, at Cannon International Airport in Reno, Nevada.

All the funds authorized in the substitute must be obligated by September 30, 1981. Obligations may be made only for projects which meet all eligibility and other requirements of the Airport and Airway Development Act and the Aviation Safety and Noise Abatement Act, except that projects begun during the lapse in ADAP authorization need not meet the requirement under the 1970 Act as amended that projects begun before grant approval are not eligible.

The substitute also includes a conforming amendment to section 208(f) of the Airport and Airway Revenue Act of 1970. The amendment simply authorizes expenditures from the Trust Fund in conformity with the Conference Substitute. This conforming amendment does not affect the user charges supporting the Trust Fund; user charges will be considered by the House Ways and Means and Senate Finance Committees in connection with legislation to authorize the Airport and Airways Programs for fiscal years 1982 and beyond.

PART 2—ADDITIONAL PROVISIONS RELATING TO AIRPORT DEVELOPMENT

House bill.—Provides that if the Senate and the House approve a conference report on the Airport and Airway Improvement Act of 1981, which includes new budget authority for fiscal year 1982 for airport development and planning and noise abatement planning and programs which in total exceeds $650 million, then before the bill is enrolled, the Secretary of the Senate or the Clerk of the House of Representatives is directed to include in the bill a provision that notwithstanding any other provision of law, the total amount which may be obligated for airport development and planning and noise abatement planning and programs during fiscal year 1982, from amounts in the Airport and Airway Trust Fund which were not available for obligation during a previous fiscal year, shall not exceed $650 million.

Senate amendment.—Provides that notwithstanding any other provision of law, the total amount of grants which the Department of Transportation is authorized to make from the Airport and Airway Trust Fund for airport development and planning and noise abatement programs shall not exceed an aggregate amount of $450 million for fiscal year 1981; $900 million for fiscal years 1981 and 1982; $1.350 billion for fiscal years 1981, 1982, and 1983, and $1.8 billion for fiscal years 1981, 1982, 1983, and 1984.

Conference substitute.—Provides that if the Senate and House adopt a conference report on the Airport and Airway Improvement Act of 1981, which includes new budget authority for airport development, airport planning, airport noise compatibility planning, and carrying out noise compatibility programs, which exceeds $450 million for fiscal 1981 or an aggregate amount of $1.050 billion for fiscal years 1981 and 1982, then before the bill is enrolled the Secretary of the Senate and the Clerk of the House of Representatives must include a provision in the bill that notwithstanding any other provision of the law, the total amount which may be obligated for airport development, airport planning, airport noise compatibility planning and carrying out noise compatibility programs from amounts from the Airport and Airway Trust Fund which were not available for obligation in a previous fiscal year shall not exceed $450 million for fiscal 1981 and shall not exceed an aggregate amount of $1.050 billion for fiscal years 1981 and 1982. The substitute provision is designed to ensure that spending for the listed programs will not exceed the specified amounts, thereby creating a ceiling or "cap" on these programs. The substitute does not preclude establishing lower funding levels in legislation authorizing these programs for fiscal 1982.

PART 3—AIR CARRIER SUBSIDY

House bill.—Provides that the Civil Aeronautics Board shall establish rates of compensation under sections 406 and 419 of the Federal Aviation Act of 1958 so that the total amount of compensation payable by the Board for services performed during the fiscal year ending September 30, 1982, does not exceed $75 million.

Senate amendment.—No provision.

Conference substitute.—No provision.

TITLE IV, SECTION 427

TRANSPORTATION RESEARCH AND SPECIAL PROGRAMS

Senate amendment

This section limits the amounts authorized to be appropriated for carrying out the functions of the Research and Special Programs Administration of the Department of Transportation for fiscal years 1982, 1983, and 1984. The limits are as follows: $30,047,000 for fiscal year 1982; $32,300,000 for fiscal year 1983; and $32,300,000 for fiscal year 1984.

House bill

No comparable provision.

Conference substitute

The Conference agreement modifies the Senate provision by adding $1 million for fiscal year 1984. This money was added to cover necessary costs that will occur as a result of commencing the State grant program provided for in section 205 of the Hazardous Liquid Pipeline Safety Act of 1979. Thus, the limit on authorizations to be appropriated for fiscal year 1984 is $33,300,000.

INTERSTATE COMMERCE COMMISSION AUTHORIZATION

Senate amendment

This section limits the amounts authorized to be appropriated for the necessary expenses of the Interstate Commerce Commission for fiscal years 1982, 1983, and 1984. The limits are as follows: $77,900,000 for fiscal year 1982; $80,400,000 for fiscal year 1983; and $80,400,000 for fiscal year 1984.

House bill

No comparable provision.

Conference substitute

The Conference agreement adds $1.1 million for fiscal year 1982, thus, the limit on the amount authorized to be appropriated for fiscal year 1982 is $79 million.

TITLE XI

JOINT STATEMENT OF MANAGERS TO THE CONFERENCE REPORT ON H.R. 3982

RAILROAD RETIREMENT ACT AMENDMENTS

1. Credit actual months of service

The House bill provided that an employee would receive credit for his or her actual months of service in the railroad industry.

At present, an employee receives credit for his full years of service and the actual number of months in excess of the number of full years of service; however, if the employee has an additional six months or more of service, the employee receives credit for another full year of service, producing inequitable results.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1116(a) adopts the House provision.

2. Current connection

The House bill added the National Transportation Safety Board to the list of agencies for which a former railroad employee can work without breaking his current connection. In 1974, it was decided that certain railroad related jobs with specified government agencies should not cause a former railroad employee to break a current connection, as would normally be the case when an individual works outside the industry. One specified agency is the Department of Transportation which, in 1974, contained the National Transportation Safety Board. Subsequent to the enactment of the 1974 Act, the National Transportation Safety Board became an independent agency. To extend current connection protection to employees of the National Transportation Safety Board, reference to that agency must be added to the Act.

The House bill also expanded the definition in "current connection with the railroad industry" so that, for purposes of entitlement to a supplemental annuity and survivor benefits, an individual who has completed 25 years of railroad service would be deemed to have such a current connection of that individual's railroad service where he was terminated involuntarily and without fault on his part and he did not thereafter decline an offer of suitable employment in the railroad industry. Under this provision, a termination of railroad service is voluntary unless there is no choice available to the individual to remain in service. Accordingly, an employee who accepts a separation allowance in lieu of retention of his employment would be deemed to have voluntarily terminated his railroad service. This change in the law would relate only to employees who left the industry after October 1975, or who were on leave of absence, furlough, or absent for injury in October, 1975.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1116(b) (1) and (2) adopted the House provision with an amendment designed to remedy an oversight in the drafting of the 1974 Act by providing for a current connection for survivor purposes only for those individuals whose annuity began to accrue prior to 1948.

3. Supplemental annuity

The House bill eliminated a restriction which barred payment of supplemental annuities to any individual who renders any service as an employee for compensation after his supplemental annuity closing date.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1117(a) adopts the House provision with an amendment. The amendment adds a new eligibility condition for supplemental annuity entitlement: at least one month of service prior to October 1, 1981. The effect of this is that employees hired after October 1981, will not qualify for supplemental annuities at retirement. The maximum supplemental annuity payment is $43.00 per month.

4. Divorced wives

The House bill added provisions for payment of annuities to divorced wives of railroad employees. Currently, divorced wives can get benefits under the Social Security Act, but not under the Railroad Retirement Act. The bill would provide a divorced wife (who meets the Social Security Act eligibility criteria) a tier I annuity amount (the social security level component). Divorced wives would not be eligible for tier II or windfall components. The divorced wife would have to have been married to the employee for at least 10 years, be unmarried, and be at least 65 (or 62 for a reduced annuity) in order to be eligible for an annuity.

The Senate amendment had no comparable provisions.

The Conference substitute in Section 1117(b)(1) adopts the House provisions.

5. Age reduction factor for spouses

The House bill increased the age reduction from 1/180 to 1/144 for each month a spouse, otherwise eligible to receive an annuity only upon attaining age 65, is under age 65 when he or she elects to receive a reduced benefit after attaining age 62. This conforms to the age reduction factor required under the Old-Age, Survivors and Disability Insurance (OASDI) provisions of the Social Security Act.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1117(b)(2) adopts the House provision.

6. Surviving divorced wives, remarried widows and surviving divorced mothers

The House bill provided for Tier I annuities to surviving divorced wives and remarried widows of employees and surviving divorced mothers of children of the employee if such individuals would have qualified for social security benefits if the railroad service upon which their entitlement is based had been covered by the Social Security Act. These additional categories of social security beneficiaries which are not currently covered by the Railroad Retirement Act. Such individuals would not be eligible for tier II or windfall components.

The Senate amendment had no comparable provisions.

The Conference substitute in Section 1117(c) adopts the House provision.

7. New annuity components based on highest earnings

The House bill provided a new annuity component (a new "staff" component) for each qualified employee. Current provisions of the Act require that, with respect to each award of an employee annuity, the Board compute a 1937 Act annuity rate for the individual based on his compensation and years of service prior to January 1, 1975, and reduce this amount by the amount of an imputed social security benefit based on the same compensation and service. The current provisions are among the most complex in the Act, and it is virtually impossible to provide a simple explanation of the provisions to individuals affected by them. The bill would provide a more simplified method of computation. Under the new method, the annuity amount will equal .7 percent of the employee's average monthly compensation for his or her 60 highest months of earnings for each year of service. As average wages increase through the years, the amount computed under this provision will also grow automatically. For any year that the Board does not have monthly earnings reports, annual compensation (divided by months of service) can be used in computing the high 60 months. This new component will replace the 1937 Act annuity component (currently 3(b) of the Act), the "bonus amount" (currently 3(c) of the Act) and the post-1974 annuity component (currently 3(d) of the Act). The new tier II component will be reduced by 25 percent of the windfall amount for any employee entitled to a windfall, which preserves a similar offset in current law. For an individual whose current connection is preserved by the exclusion for employment with agencies specified in section 1(o) of the Act, and whose major employment during the 60 months preceding the month in which his annuity began to accrue was with one of those agencies, indexing is provided to put the high 60 months in terms of current dollars. The term "major employment" is intended to include employment with such agencies when that employment was for a greater period of time during the 60 months preceding the annuity beginning date than was employment not for such agencies.

The Senate amendments had no comparable provisions.

The Conference substitute in Section 1118(a) adopts the House provision.

8. Conforming amendments to new annuity component

The House bill repealed sections 3 (c) and (d) of the Act since the new annuity component in the House bill (now incorporated in the Conference substitute) replaced the annuity component in those sections. Since sections 3 (c) and (d) were repealed, cross-references to it were changed to refer to section 3(b) alone. In addition, references to sections 3 (c) and (d) in section 3(h) of the Act were deleted. Language relating to the computation of average monthly compensation in section 3(j) of the Act was deleted since that language was in the new section 3(b) added in the House bill. The bill made a word transformation correction in section (f)(i).

The Senate amendments had no comparable provisions.

The Conference substitute in Section 1118 (b), (c) (1) and (2), and (e)(1), and (f) adopts the House provision.

9. Employee tier II COLA

The House bill extended the cost-of-living increase provision in that section which must, under current law, be reenacted or updated periodically in order to provide tier II annuity increases. The new provision continues the pattern of providing tier II increase at 32.5 percent of the Social Security Act level of increases each year for individuals who are on the rolls of the effective date of the increases.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1118(d) adopts the House provisions.

10. Pre-retirement windfall COLA

The House bill provided for the elimination of future pre-retirement indexing of windfall benefits.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1118(e)(2) adopts the House provision.

11. Dual entitlement benefits

The House bill sought to clarify the law in the light of the recent *Gebbie* case (*Gebbie, et al.* v. *United States Railroad Retirement Board,* 631 F. 2d 512 (C.A. 7 1980). Prior to 1975, dual entitlement (entitlement by an individual to various benefits on a single employment record under the Railroad Retirement Act and the Social Security Act simultaneously) was bankrupting the railroad retirement system. To prevent further deterioration of the program, the 1974 Act was enacted requiring that railroad retirement annuities be reduced by social security benefits individuals receive.

Rights to dual benefits were preserved, however, for certain individuals who met coverage requirements prior to 1975. The annuities of these individuals are still reduced by their social security benefit, but they receive a "windfall" annuity component to partially offset the reduction. This places such individuals back into a position similar to that which existed before the dual benefit restriction was put into the law.

One type of dual benefit which was rated under the 1937 Act was the case of a male railroad employee (and most railroad employees are male) receiving a social security benefit based on his wife's wage record under the Social Security Act. Males could not qualify for spousal benefits under the Social Security Act unless they could meet a dependency requirement. A male with enough employment to qualify for a railroad retirement annuity obviously would not, in most cases, meet the Social Security Act's dependency requirement. Accordingly, when the 1974 Act was drafted to terminate the right of individuals to acquire the right to full dual benefits in the future (with "windfall" components being used to protect expectations in cases where full dual benefit rights had already accrued), it was not contemplated that male railroad employees would qualify for or need windfalls based on their wives' social security earnings. Windfalls were meant to preserve expectations of receiving certain benefits, and at the time the windfall component was established, husband's benefits were being paid under the Social Security Act only to dependent males. For several years, the 1974 Act worked as intended. However, in 1977, a series of Supreme Court decisions had the effect of stripping the dependency requirements out of the Social Security Act and, consequently, male railroad annuitants applied for and received social security benefits as "husbands" of social security covered female workers. The Board, as required by the 1974 Act, reduced the annuity of these employees by the amount of the newly awarded social security benefits. The Board determined that the Social Security Act as in effect in 1974 (which is the measure of the "windfall" component) is zero because such non-dependent males could not have qualified for a husband's social security benefit in 1974. The Court in *Gebbie* reversed the Board's determination in that case, saying, in effect, that the Social Security Act "as in effect in 1974" should be interpreted in the light of the 1977 decisions. The House bill thus amended the law to make clear that the phrase "the Social Security Act as in effect on December 31, 1974" is intended to mean "the Social Security Act as it was in effect and being administered on December 31, 1974."

The House bill made two other changes in the windfall provisions. No new windfalls would be payable in connection with annuities awarded after 1986 to any employee based on a spouse's Social Security Act employment and after 1981, cost-of-living increases in unawarded windfalls would be based on social security increases between January 1, 1975, and the earlier of the annuity beginning date or January 1, 1982. Under current law, the windfall amount, which is computed under the Social Security Act as in effect in 1974, is increased by the compounded total percentage increase applicable to social security benefits between 1974 and the effective date of the windfall award. After it is awarded, the windfall is not subject to cost-of-living increases.

The Senate amendment addressed the *Gebbie* issue by providing that no new windfalls would be payable in connection with annuities awarded after May, 1981, or the enactment date, to any employee based on a spouse's Social Security Act employment. The intent of the provision "unless entitlement of such individual to such amount had been determined prior the date of the enactment of this subdivision" is to cut off windfall awards in all cases where the processing has, for whatever reason, not been completed and the determinations have not been made.

Gebbie, which involved windfall benefits to employees based upon their spouses' Social Security Act employment, also has relevance to two other categories: Spouse annuity windfalls payable under section 4(e) and survivor annuity windfall benefits payable under section 4(f)(2). The Senate amendment limited these latter benefits in the same manner as it limited employee windfall benefits.

The Conference substitute in Section 1118(e)(3), 1119(d) and 1119(f) adopts the Senate version in its entirety and that portion of the House provision which classifies that no windfall is payable to surviving divorced wives, remarried widows, and surviving divorced mothers. The conference substitute also clarifies the law by providing that the survivor 4(h) component takes into consideration the reduction required under section 4(i)(2) of the Act.

12. Institute application of OASDI rules to COLA's

The House bill provided for the application of the social security rules in calculating post-retirement annuity increases or decreases for an early retiree whose benefit was reduced by reason of his early entitlement.

Under the current provisions of the Social Security Act, an annuity increase for an early retiree whose benefit was reduced by, for example, one-fifth, is similarly reduced by one-fifth, thereby keeping the reduction factor mixed. Under the comparable Railroad Retirement Act provisions, patterned after the Social Security Act Amendments of 1972, post-retirement annuity increases are reduced by a smaller factor than the one applied to the initial benefit amount. (The Congress corrected this anomaly with respect to the Social Security Financing Amendments of 1977.)

The House bill also amended the Railroad Retirement Act so that the reduction factor applied to future increases would be consistent with current social security practice and would remain fixed at the level applied when the benefit was first awarded or, if the annuity began before October 1981, at the level applied for September 1981. The new subsection (2) which was added to section 3(1) of the Act provided a clear method for computation of annuities by individual components which was made necessary by virtue of the change in law made by this section.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1118(g) adopts the House provision.

13. Uniform application of age reduction in dual entitlement cases

The House bill applied the age reduction factor in a uniform manner in the benefit calculation which occurs when an early retiree would be entitled to both a social security equivalent benefit based solely on railroad compensation and a social security benefit based solely on social security covered wages.

Under the current law, the social security equivalent benefit based solely on railroad compensation is determined by:

1. Computing the full (i.e., actuarially unreduced) benefit based on combined railroad and social security earnings;

2. Computing the actuarially reduced social security benefit based solely on social security wages;

3. Taking the difference between 1 and 2; and

4. Reducing 3 by the age reduction factor.

This inconsistent manner of applying the age reduction factor in computing social security equivalent benefits arbitrarily undoes a portion of the age reduction made in the social security benefit.

The House bill provided that the age reduction would be uniformly applied when initially computing each benefit component. Under this amendment, the social security equivalent benefit based solely on railroad compensation would be determined by:

1. Computing the social security equivalent benefit based on combined railroad and social security earnings;

2. Computing the social security benefit based solely on social security wages; and

3. Taking the difference between 1 and 2; and

4. Reducing 3 by the actuarial reduction factor.

The House bill also inserted a phrase, "before any deduction on account of work." This was necessary because of other changes made in the law to simpify work deductions. Since work deduction would no longer be made in tier I components for individuals also entitled to social security benefits, it was necessary that the tier I reduction on account of social security entitlement use the social security benefit before age reduction so as not to restore the social

security work reduction by giving a bigger tier I.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1118(h) adopts the House provision.

14. Tier I benefits for divorced wives

The House bill provided that a divorced wife will receive social security level benefit amount (a tier I) as her annuity under the Railroad Retirement Act. Since other annuity components provided to individuals married to employees are payable only to a "spouse," as defined in the Act, such components would not be payable to a "divorced wife," a term also defined in the Act. The term "spouse" does not include a divorced wife.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1119(a) adopts the House provision.

15. Spouse annuity computations

The House bill made a number of changes in spouse annuity computations, including reference corrections and conforming changes.

Under current law, the spouse tier II annuity component is equal to 50 percent of the employee's tier II with a spouse maximum (provided for under section 4(c) of the Act). The House provided 45 rather than 50 percent of the employee's tier II to the spouse as her tier II; however, the House eliminated the spouse maximum.

Section 4(i)(2) of the Railroad Retirement Act causes a spouse's tier I component, which is computed under section 4(a) of the Act, to be reduced by the tier I amount of any employee annuity she also is entitled to receive under the Act. This reduction is "restored," that is, it is added back into the tier II component of her spouse's annuity under the second proviso of 4(b).

The House further eliminated from the law a reference to the spouse maximum provision, since it was removed from the law. The House bill modified Section 4(i)(1) of the Act so that spouse annuity age reductions are made prior to reduction for social security benefits. To make this applicable to all social benefits, the term "husband's or wife's" is being deleted from 4(i)(1). The House bill made a similar change in section 4(c) of the Act.

The Senate amendment had no comparable provisions.

The Conference substitute in Section 1119(b) adopts the House provisions with an amendment clarifying existing law by providing that the restored amount should be fixed and not increased with future cost-of-living increases.

16. Conforming amendment relating to new tier I annuitants

The House bill provided for surviving divorced wives, remarried widows, and surviving divorced mothers of employees to receive tier I annuity amounts. No direct change in the tier I computation section, section 4(f) of the Act, is necessary to accomplish this since these new categories of beneficiaries specifically come within the term "survivor" contained in section 4(h) of the Act. However, to preclude them from being subject to the deeming provisions contained in section 4(f)(2) of the Act, the House excluded them from operation of section 4(f)(2) of the Act.

The Senate amendment had no comparable provisions.

The Conference substitute in Section 1119(d) adopts the House provisions.

17. New survivor tier II benefits

The House bill amended entirely the tier II survivor annuity computation section of the Act, section 4(g). Under current law, a survivor's tier II is equal to 30 percent of the survivor tier I, which is itself the social security level widow's or widower's annuity which would be payable to such survivor if railroad service were covered by the Social Security Act. The House bill provides instead, a tier II for widows and widowers equal to 50 percent of the employee's tier II which would be payable to the employee if he were still living. Children would get a tier II of 15 percent of the employee's tier II, parents 35 percent; the family minimum would be 35 percent, and the family maximum would be 80 percent.

The effective dates make the new formula applicable to new awards in cases where the employees did not retire and did not die prior to the changeover date, or in all cases if the annuity is awarded on or after 10/1/86. In other cases, the old formula applies for the initial award; however, in all cases, cost-of-living increases for survivors' tier II would be by the same percentage as employee and spouse tier II cost-of-living increases (under current law, such increases are indexed by 100 percent of the Consumer Price Index). The restored amount and the spouse minimum will continue to be determined as under current law.

The House bill also clarified that divorced wives, remarried widows, and surviving divorced mothers do not receive a tier II amount.

The Senate amendment provided for the re-indexing of survivors Tier II COLA's to 32.5% of C.P.I., equal to that of other Tier II beneficiaries.

The Conference substitute in Section 1119(e) adopts the House provision.

18. Dual benefits payments account—board authority

The House bill created a separate Dual Benefits Payments Account.

Under current law, appropriations for dual benefits (the so-called "windfall" components paid under sections 3(h), 4(e) and 4(h) of the Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445) are paid directly into the Railroad Retirement Account. Dual benefits are then paid from such Account. The House bill amended section 7(c) of the Act to provide that after September 1981, dual benefits will be paid from a special Dual Benefits Payments Account (which is established elsewhere in the House bill).

The House bill also gave the Board authority to allocate windfall benefit payments so as to insure that appropriations extend all year and that within each month of such year there is an equitable distribution of funds allocated to beneficiaries entitled to dual benefits for such month. Such allocation will take into account only currently and prospectively due benefits and will not include back payments.

The Senate amendment had no comparable provisions.

The Conference substitute in Section 1122(c) adopts the House provision, with an amendment that entitlement to Dual Benefits will be limited to the amount actually appropriated to that Account.

19. Creation of Dual Benefits Payments Account

The House bill established the Dual Benefits Payments Account. Appropriations from the Federal Treasury for dual benefits payments will be placed into this account, from which these payments will be made to beneficiaries. Because there is generally a lag between the time appropriations are enacted and the time money is received, the regular retirement account will loan funds temporarily each year to the Dual Benefits Payments Account to continue windfall payments between the start of a fiscal year and the date the dual benefits appropriation is received. This loan will be repaid, with interest, when the dual benefit appropriation is received.

It might be noted that under current law dual benefit financing is on a level payment basis. Creation of the Dual Benefits Payments Account will obviate the need for long-term guesswork required by the level payment basis (which requires each three years that the Board estimate interest and inflation rates into the indefinite future in order to determine what equal installments to that year will totally offset all dual benefit payments which will ever be made). The separate dual benefits account provision requires simply that the Board determine each year the amount of money which will be needed during the next fiscal year to pay dual benefits. This information will be furnished to the Appropriations Committees with aggregate benefit payments subject to the actual appropriation to the Dual Benefits Payments Account.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1124(b) adopts the House provision.

20. Technical change relating to disability freeze

The House bill changed section 18(2) of the Act to allow the Social Security Administration to take into consideration railroad compensation when determining whether applicants under that Act can qualify for a disability freeze. A similar provision was contained in the Railroad Retirement Act of 1937 but was left out through inadvertence. Both the Social Security Administration and the Board have urged adoption of this amendment as soon as possible so that qualified disabled individuals can get a disability freeze established.

The Senate amendment had no comparable provision.

The Conference substitute in Section 1125 adopts the House provision.

21. Presidential Report and "Benefit Preservation"

The Conference substitute requires the President to analyze options that will assure the long-term actuarial soundness of the railroad retirement system and report his finding to Congress by October 1, 1982. In addition, section 1126 adds a new section 22 to the Railroad Retirement Act, requiring the Board to submit to the President and the Congress, and publish in the Federal Register within 20 to 30 days thereafter, a report by April 1 of any fiscal year in which it estimates it will utilize fifty percent or more of its authority to borrow from the Treasury against annual due payments from Social Security. The report will include: The amount the Board will need to borrow, and the amount it is otherwise authorized to borrow against the financial interchange obligations due the Board; the first fiscal year in which benefits would have to be reduced in absence of funding adjustments; the fiscal year in which the Board would recommend suspension of the authority to borrow under the Railroad Unemployment Insurance Act in order to prevent depletion of the Railroad Retirement Account; and, the

funding adjustments needed to preserve the system's solvency.

Not later than 180 days after an activation of this provision rail labor and management are required to come forward and submit to the President and Congress separate or joint funding proposals to preserve the system, and the President would likewise submit to Congress his recommendations including proposals to insure continued payment of the social security equivalent benefit and to separate the social security equivalent from the industry pension equivalent. Within 180 days after submission of its initial report to the President and Congress stating the first fiscal year benefits under the Act would have to be reduced, the Board would publish in the Federal Register regulations to accomplish such reductions while assuring maximum possible benefit payments. These regulations would stipulate that no one would receive less than what he or she would have otherwise received if railroad service had been covered by the Social Security Act. Unless enactment of a law to the contrary intervenes, or the situation changes as reflected by a subsequent Board report, the reduction regulations will go into effect at the time indicated in the Board's initial report.

The conferees emphasize that these regulations should ensure fair and equitable allocations. In particular, the conferees note that there are certain categories of beneficiaries who are entitled to railroad retirement benefits but not social security benefits. The regulations should take account of these cases. In addition, in promulgating these regulations, the Board should provide ample but expeditious notice and opportunity for comment.

It should be understood that, in the event of the activation of the benefit preservation mechanism, the traditional role of rail labor and management in developing proposals will be respected, but in the event that a satisfactory agreement to restore financial balance in the Railroad Retirement Account cannot be reached, it is the intent of Congress to protect the Federal government's primary responsibility for the payment of social security equivalent benefits, even if that may require the extension of direct social security coverage to the participants of the railroad retirement system.

22. Limited borrowing authority

The Conference substitute in Section 1127 creates a new subdivision (2) for section 15(b) of the Act giving the Board authority to borrow from the Treasury against the Board's assets represented by the financial interchange obligations already due and owing to the Railroad Retirement Account. The Board could not borrow more in any month than is needed in order to meet benefit obligations to be paid during the following month and could not have loans outstanding in a fiscal year in excess of the expected financial interchange for such year. Repayments will be made when account resources permit, but in any event, any amount outstanding must be repaid with interest within 10 days of the financial interchange transfer to the Railroad Retirement Account.

23. House reference, conforming, and technical amendments

The House bill contained several reference, conforming, and technical provisions. The phrase "divorced wife" was referenced in Sections 2(e), 2(f)(2), 2(h), 4(i), 5, 6 (c), and (d) and 7 (b) and (d) in the Act to conform the Act to the new House bill. The phrase "Dual Benefits Payments Account" was also referenced in Sections 15 (e) and (g) of the Act for the same reason. Section 4(i) of the Act was also technically amended to include the uniform application of age reduction changes.

The Senate amendment had no comparable provision.

The Conference substitute in Sections 1117 (d), (e), (g); 1119(i); 1121 (a), (b), (c); 1122 (b)(2) and 1124 (b) and (c) adopts the House provisions.

In addition, the Conference includes several technical and conforming amendments in order to clarify existing law. Section 1117(e)(2) adds two new subdivisions to Section 2(f) of the Act for purposes of simplifying the method of assessing work deductions due to an employee's or spouse's earnings in excess of a specified amount. Section 1119(e) clarifies tier I annuity amounts for widows of employees who had no service after 1936. Section 1120(a) clarifies the beginning dates of dual entitlement benefits. Section 1120(b) clarifies procedural application for benefits. The conferees expect the Board to continue its current practice of insuring that applicants for benefits understand that an application for Railroad Retirement benefits is considered to be an application solely for benefits under Title II of the Social Security Act. Section 1120(d) provides for suspension of annuity payments in cases where an employee disappears. Section 1121(c) (1) and (2) clarifies that aspect of existing law regarding supplemental annuity reduction in relation to residual elections. Section 1121(a)(2) clarifies the Act by adding a reference to the Railroad Unemployment Insurance Act. Section 1122(b)(1) clarifies eligibility for Medicare coverage for those not entitled to annuity under the Railroad Retirement Act. Section 1123 clarifies the Board authority regarding recovery of overpayments. Section 1128(a) increases the appeal period of the Board from 15 to 30 days. Section 1128(b) corrects an oversight resulting from the 1978 Railroad Unemployment Insurance Act.

24. Effective dates

The House bill provided necessary effective dates.

The Senate amendment provided necessary effective dates.

The Conference substitute adopts necessary effective dates. The conferees note that to insure adequate financing the Conference substitute ties the effective date of the new tier II formula and tier II COLA continuation provisions to effective date of the agreed upon tax increases contained in pending tax legislation (H.R. 4242).

SUBTITLE E OF TITLE XI

The provisions of this subtitle as they appear in the conference substitute, and the corresponding provisions of the House bill and Senate amendment, are discussed in the explanatory statement which is to be printed in the Congressional Record in accordance with section 1199A.

TITLE XII

House bill.—The House bill provided that this Act may be cited as the "Consumer Product Safety Amendments of 1981." It also provided that all provisions of the Act amend or repeal a section or other provision of the Consumer Product Safety Act (CPSA), unless otherwise specified.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute adopts the House provision.

CONSUMER PRODUCT SAFETY STANDARDS

House bill.—The House bill amended section 7 of CPSA to eliminate the offeror process, to require that the agency promulgate safety standards with performance requirements rather than design requirements, and to eliminate the prohibition against the use of sampling plans in certain consumer product safety standards.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute provision also amends section 7 to eliminate the offeror process and the prohibition on use of sampling plans. It eliminates the Commission's authority to promulgate standards containing design requirements and requires the agency to express standards in terms of performance requirements.

The Conference substitute adds a new provision, now section 7(b), requiring the Commission to rely upon voluntary consumer product safety standards, rather than mandatory standards, whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards. This provision parallels the requirement of the new section 9(f)(3)(D) insofar as the latter provision relates to standards.

In evaluating whether compliance with a voluntary consumer product safety standard would eliminate or adequately reduce the risk of injury addressed, the Commission is expected to consider whether the risk will be reduced to a sufficient extent that there will no longer exist an unreasonable risk of injury.

In evaluating whether there will be substantial compliance with a voluntary consumer product safety standard, the Commission should determine whether or not there will be sufficient compliance to eliminate or adequately reduce an unreasonable risk of injury in a timely fashion. In most situations, compliance should be measured in terms of the number of complying consumer products rather than in terms of the number of complying manufacturers.

Finally, the Conference substitute retains in a new subsection (c) the agency's existing authority to contribute to the cost of a person participating in a standard development effort.

ADMINISTRATIVE PROCEDURE AND REGULATORY ANALYSIS

House bill.—the House bill amended section 7 and section 9 of the CPSA, section 3 of FHSA, and section 4 of FFA, to modify the agency's standard setting procedures, to require the agency to perform regulatory impact analyses, and to require three additional findings before the agency may promulgate a consumer product safety rule or a safety regulation.

The House bill amended section 7 of the CPSA to provide that the agency publish a *Federal Register* notice before commencing a standard development proceeding which: (1) identifies the consumer product and the risk of injury; (2) states the agency's preliminary determination that a standard is necessary to address the risk of injury; (3) includes information regarding relevant existing standards (including an explanation why such standards do not eliminate or adequately reduce the risk of injury); (4) invites any person to submit an existing standard as a proposed rule within 60 days; and (5) invites comments on the existence and nature

of the risk of injury and on the necessity for a safety standard.

If no existing standard is submitted in response to the *Federal Register* notice, or if the submitted standard does not adequately address the risk of injury, then the agency must publish a second *Federal Register* notice which: (1) states either that no standard was submitted or that the agency has determined that the submitted standard does not adequately address the risk of injury; and (2) invites any person to develop and submit a voluntary standard to address adequately the risk of injury within 150 days or a longer period of time if so determined by the agency.

If the agency determines that a voluntary standard submitted in reponse to the second *Federal Register* notice adequately addresses the risk of injury, then the agency must terminate any further standard development efforts and publish a *Federal Register* notice which: (1) states that the voluntary standard adequately addresses the risk of injury; (2) notifies the public that the agency will rely upon the voluntary standard to address the risk of injury; and (3) defines the preemption to be accorded the voluntary standard under section 26 of CPSA.

If no voluntary standard is submitted in response to the second *Federal Register* notice or if a submitted standard is inadequate, then the agency may develop and publish a proposed rule.

The House bill amended section 9(c) of CPSA to require the agency to perform a regulatory impact analysis before publishing a proposed rule or promulgating a final rule. The regulatory impact analysis must include: (1) a description of the potential benefits of the rule, including those which cannot be quantified in monetary terms, and identification of those likely to benefit; (2) a description of the potential costs of the rule, including any adverse effects which cannot be quantified in monetary terms, and identification of those likely to bear the costs; (3) a determination of the potential net benefits of the rule, including an evaluation of effects that cannnot be quantified in monetary terms; and (4) a description of major alternative approaches (including voluntary standards) that could substantively achieve the same regulatory goal at lower cost, an analysis of the potential benefits and costs of the alternative approaches, and a brief explanation of why such alteranatives, if proposed, could not be adopted.

The House bill further amended section 9(c) of CPSA to require three additional findings before the agency may promulgate a rule: (1) the agency must find that any voluntary industry standard is inadequate because (i) compliance with the voluntary standard is not likely to eliminate or adequately reduce the risk of injury; or (ii) there will not be substantial compliance with a voluntary standard; (2) the rule imposes the least burdensome requirement which eliminates or adequately reduces the risk of injury; and (3) the costs of compliance with the rule are justified by the benefits of its application.

Finally, the House bill amended section 3 of FHSA and section 4 of FFA (1) to make the rulemaking procedures in those Acts similar to the amended rulemaking procedures in CPSA; (2) to require that regulatory impact analysis similar to the ones required under CPSA be performed before the agency publishes a proposed rule or promulgates a final rule under FHSA and FFA; and (3) to require the agency to make the same three additional findings before promulgating rules under those Acts.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—Under the Conference substitute, the administrative procedure for promulgating both section 7 consumer product safety standards and section 8 bans are consolidated under section 9 of CPSA, which also contains new provisions similar to the House bill requiring preliminary and final regulatory analyses and additional findings for agency rulemaking.

Under the amended CPSA section 9(a), a proceeding to develop a consumer product safety rule must be commenced with an advance notice of proposed rulemaking. This advance notice must:

(1) identify the product and the risk of injury at issue;

(2) summarize each of the regulatory alternatives under consideration, including the alternative of assisting voluntary efforts to modify or develop safety standards under new CPSA section 5(a)(3) created by the Conference substitute;

(3) summarize information with respect to any relevant existing standard known to the Commission, with a summary of the reasons why the Commission believes preliminarily that the standard does not eliminate or adequately reduce the risk of injury identified in the advance notice;

(4) invite public comment with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other reasonable alternatives for addressing the risk;

(5) invite any person other than the Commission to submit an existing standard or portion of a standard as a proposed mandatory consumer product safety standard; and

(6) invite any person other than the Commission to submit a statement of intention to modify or develop a voluntary consumer product safety standard to address the risk of injury identified in the advance notice.

A statement of intention to modify or develop a voluntary consumer product safety standard should describe the procedures and plans proposed for developing the voluntary standard and provide the Commission a basis for assessing the likelihood that the voluntary standard will be modified or developed in a way sufficient to eliminate or adequately reduce the identified risk of injury. The statement should include a request for assistance pursuant to section 5(a)(3) of the CPSA, if assistance is sought, setting forth the type and extent of assistance requested.

Under the amended CPSA section 9(b)(1), if the Commission determines that any existing standard or part of a standard submitted to it in response to the invitation in subsection (a)(5), if promulgated as a consumer product safety standard, would eliminate or adequately reduce an unreasonable risk of injury, the Commission may propose such a standard or part of a standard as a proposed rule under the procedures established in section 9(c).

Under amended section 9(b)(2), the Commission must terminate any rulemaking proceeding if the agency determines that a voluntary standard developed in response to the invitation contained in section 9(a)(6) is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with such standard.

In determining whether or not compliance with a voluntary consumer product safety standard is likely to result in the elimination or adequate reduction of a risk of injury, the Commission is expected to consider whether the risk will be reduced to a sufficient extent that there will no longer exist an unreasonable risk of injury.

In determining whether or not it is likely that there will be substantial compliance with such voluntary consumer product safety standard, the Commission should determine whether or not there will be sufficient compliance to eliminate or adequately reduce an unreasonable risk of injury in a timely fashion. Therefore, compliance generally should be measured in terms of the number of complying products rather than in terms of complying manufacturers.

If at any time after the Commission terminates a rulemaking proceeding under this section the Commission determines that the voluntary standard is not likely to eliminate or adequately reduce the risk of injury or it is unlikely that there will be substantial compliance, the agency may initiate a new rulemaking under section 9(a).

Under amended CPSA section 9(c), the Commission must wait at least 60 days after publishing its advance notice before proposing to promulgate a mandatory standard or ban. The notice of proposed rulemaking must include the text of the proposed rule, including any proposed alternatives, and a preliminary regulatory analysis of the proposed rule containing:

(1) a preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (a)(5) was not made a part of the proposed rule;

(3) a discussion of the reasons for the Commission's preliminary determination that voluntary efforts proposed following the advance notice, and assisted by the Commission as required by CPSA section 5(a)(3), would not, within a reasonable time, be likely to result in the development of an adequate voluntary standard; and

(4) a description of any reasonable alternatives to the proposed rule (including alternatives under consideration by the Commission and any additional reasonable alternatives suggested in the public comments), together with a summary description of their potential costs and benefits and a brief explanation of why such alternatives should not be proposed.

For a proposed product ban under CPSA section 8, the Commission should provide a concise statement of the reasons why no consumer product safety standard was proposed. Both the advance notice and notice of proposed rulemaking required by this section must be transmitted within 10 calendar days to the appropriate congressional committees.

The requirement of CPSA section 9 that consumer product safety rules be promulgated under procedures specified in 5 U.S.C. §553, along with the opportunity for oral testimony, would remain unchanged. However, prior to promulgating a rule, the Commission must perform a final regulatory analysis containing:

(1) a description of the potential benefits and potential costs of the rule, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs;

(2) a description of any alternatives to the final rule which were considered by the Commission, together with a summary description of their potential benefits and costs and a brief explanation of the reasons why these alternatives were not chosen; and

(3) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

Whenever feasible, the potential costs and benefits of the rule in the final regulatory analysis should be described in monetary terms. Because it is difficult to achieve consensus, for example, on the value of a human life or pain and suffering, the Commission need not quantify these elements. In these areas, however, and for other costs and benefits of the rule that are difficult to quantify, the Commission should attempt to describe the effects of the rule in as much specificity as the circumstances and the Commission's resources and priorities permit.

In describing alternatives considered during the rulemaking process, the Commission need only include alternatives it considered to be realistic and reasonable options to the rule it chose to adopt, including significant voluntary efforts.

The Conference substitute adds to existing requirements, now contained in section 9(f), the following three findings the agency must make before promulgating consumer product safety rules:

First, in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to the rule have adopted and implemented a voluntary consumer product safety standard, the Commission must find that (i) compliance with the voluntary standard is not likely to result in the elimination or adequate reduction of such risk, or (ii) it is unlikely that there will be substantial compliance with the voluntary standard.

The voluntary standards adopted and implemented at the time of the finding are the relevant ones for purposes of this determination. The voluntary consumer product safety standard must be "adopted" in the sense that it has been finally approved in accordance with reasonable procedures, such as those utilized by groups that develop national consensus standards, for the adoption of voluntary consumer product safety standards. The standard must be "implemented" in the sense that substantial industrywide production of products that comply with the standard has begun.

Under the second new finding added to section 9(f), the Commission must find that the benefits of the rule bear a reasonable relationship to its costs. This provision codifies the cost-benefit test articulated by the court in *Southland Mower Co.* v. *Consumer Product Safety Commission*, 619 F. 2d 499 (5th Cir. 1980).

Third, in order to promulgate a consumer product safety rule, the Commission must find that the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated. To make this finding the agency must compare the relative compliance costs of those alternatives studied that would eliminate or adequately reduce the risk of injury. There is no requirement that the agency analyze every theoretical alternative. Rather, the feasible alternatives actually considered during the rulemaking process must be analyzed.

The conferees recognize the inherent difficulty in proving or disproving the potential efficacy of labels and instructional data in determining the least burdensome requirement which prevents or adequately reduces a risk of injury. While the conferees intend to require the Commission to undertake positive steps to study contemplated labeling or instructional rules, they do not intend to require that the need for performance standards or bans be proved with mathematical accuracy. For example, a study of the reaction of a sample of consumers to warning labels or instructions might be sufficient to determine whether or not performance requirements were justified under this section. More general studies, or studies of warnings or instructions regarding related risks of injury, might be sufficient as well. The conferees do not intend to require the Commission to undertake specific studies of the specific wording for labeling or instructional rules once the agency has decided to issue such rules. The Commission need not actually promulgate section 7(a)(2) or section 27(e) rules before determining that performance requirements or bans are needed. Furthermore, the Commission is not required to conduct experimental or actual use studies with respect to labeling when such studies could endanger human safety.

In evaluating whether labels or instructions, or rules requiring notification of data, would adequately reduce the risk of injury addressed, the Commission is expected to consider whether the risk will be reduced to a sufficient extent that there will no longer exist an unreasonable risk of injury.

The preliminary or final or regulatory analyses prepared under section 9 are not subject to independent judicial review. This section clarifies, however, that when an action for judicial review of a rule is instituted, the contents of any such regulatory analysis constitute part of the rulemaking record and to the extent relevant may be considered in connection with that review.

The requirements for advance notice of proposed rulemaking, preliminary and final regulatory analyses, and the three additional findings required for rulemaking under section 9 of the CPSA are extended to rulemaking proceedings authorized by section 2(q)(1) and section 3(e) of the FHSA and section 4 of the FFA. These amendments are not intended to alter rulemaking procedures under other rulemaking authority contained in the FHSA and the FFA.

PUBLIC DISCLOSURE

House bill.—The House bill amended section 6(a)(2) of CPSA to treat as confidential and to prohibit the disclosure by the agency of information: (1) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18;[1] (2) which is information (other than that submitted under section 15(b)) which the submitter certifies is not available to the public from such person and is not customarily disclosed to the public by the submitter; or (3) which the agency has in good faith obligated itself not to disclose. False certification of such information or improper disclosure are prohibited acts which could result in civil and/or criminal liability. Notwithstanding these restrictions, such information may be disclosed to agency personnel carrying out any Act administered by the agency or when relevant in any proceeding under such an Act.

The House bill also amended section 6(b) of CPSA to prohibit the agency from publicly disclosing information submitted under section 15(b) of CPSA unless: (1) the agency has issued a complaint under sections 15(c) or (d) of CPSA alleging that such product presents a substantial product hazard; (2) the agency accepts a settlement agreement dealing with such product; and (3) the submitter of the information under section 15(b) of CPSA agrees to its public disclosure. These restrictions do not apply to the public disclosure of information regarding a product which: (1) is the subject of an action under section 12 of CPSA; or (2) the agency has reasonable cause to believe is in violation of section 19 of CPSA.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The conference substitute amends section 6(a) by providing additional protection for business information which is truly confidential. The procedural rights accorded by this amendment provide an opportunity for the manufacturer or private labeler identifiable from the confidential information to preserve its commercial research and marketing advantages without impairing the public right to be aware of significant public health and safety information.

Under amended section 6(a), information is to be considered confidential if it contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code or subject to Exemption 4 of the Freedom of Information Act, 5 U.S.C. §552(b)(4). The leading case interpreting the scope of Exemption 4 is *National Parks and Conservation Assn.* v. *Morton*, 498 F. 2d 765 (D.C. Cir. 1974).

The court of appeals established an objective test and held that "such information came within the exemption if disclosure would be likely to cause substantial harm to the competitive position of the person from whom the information was obtained." 498 F. 2d at 770. Subsequently, the court applied this test to the materials at issue and found that most were properly withheld, "in view of the nature of the material sought and the competitive circumstances in which the (submitters) do business * * * ." *National Parks and Conservation Ass'n* v. *Kleppe*, 547 F. 2d 673, 683 (D.C. Cir. 1976).

The conferees intend that a similarly realistic view be taken of the nature of documents obtained by the Commission and of the competitive circumstances in which the submitter does business. It is wholly improper, and forbidden by this section, for the Commission to disclose information provided by a company if, taking a realistic view of the environment in which that company operates, such disclosure would result in any significant competitive harm to the company. While no conclusive formula can be devised, factors such as these are to be taken into account in determining whether a document comes within the prohibition: whether the information is considered confidential by the submitter and given appropriate protection; whether the information would reveal to competitors operational strengths and weaknesses or other valuable information to which the submitter does not have access about those competitors; whether the information is readily available from other sources. The following kinds of information would generally come within that category: profit and loss statements, confidential balance sheets, financing details and strategies, product costs, detailed sale statistics, detailed production and strategies, marketing or advertising plans and strategies, plans for future organizational

[1] 18 U.S.C. 1905 (1978).

changes, product plans, key employees salaries and benefits, and customer names.

It should be noted that Exemption 4 of the Freedom of Information Act (FOIA), exempts an agency from being compelled to disclose confidential commercial or financial information through an FOIA request. This section, however, mandates that the Commission may not make public information which falls within the scope of Exemption 4.

Under the new subsection (a), the Commission must, prior to the disclosure of any information reported to or otherwise obtained by the Commission which would permit the public to ascertain readily the identity of a manufacturer or private labeler of a consumer product, offer the manufacturer or private labeler the opportunity to mark the information confidential. Information marked confidential, either at the time of submission or subsequently, shall not be disclosed without notice to the manufacturer or private labeler that the Commission considers such material to be outside the scope of confidential information. If the Commission determines such information is not within the protection of subsection (a)(2), and that the information should be disclosed, the Commission shall notify the manufacturer or private labeler that it intends to disclose the information on a date not less than 10 working days from the date of receipt of notification. The Conferees expect that the manufacturer or private labeler will accompany a marking of confidentiality in response to a notice given under subsection (a)(3), with information which will assist the Commission in its evaluation of whether the information marked as confidential is subject to the protections provided in subsection (a)(2). The Conferees intended that the Commission establish a system of review within the agency to evaluate the information provided in support of the claim of confidentiality. Any person receiving notification under subsection (a)(5) may make application for a temporary restraining order in a U.S. district court against the disclosure of material within the protection of subsection (a). During the pendency of any request for a stay of disclosure, the Commission is prohibited from disclosing the material at issue. This assures that the Commission will not disclose contested documents prior to the time that the appropriate district court or court of appeals has had an opportunity to consider an application for a stay of disclosure of the documents.

Subsection (a)(7) makes clear that information governed by this subsection may be disclosed to Congress, except that the Commission must give the manufacturer or private labeler immediate notice of a request for the information from Congress. Subsection (a)(8) clarifies that confidential information may be disclosed to other officers and employees concerned with carrying out the Act or in administrative or judicial proceedings under appropriate in camera procedure or court protective order to safeguard confidential information. In this regard, subsection (a)(8) requires that the Commission's rules establish such a procedure for in camera treatments in such proceedings.

Inaccurate information

Under section 6(b)(1) as currently enacted, if the Commission determines that it will disclose information about a consumer product from which the public can ascertain readily the identity of a manufacturer or private labeler of such product, the Commission is required to take reasonable steps to assure, prior to its public disclosure of such information that such information is accurate and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. The Commission administratively determined that these requirements did not apply to Freedom of Information Act requests, but this view was rejected by the Supreme Court in *Consumer Product Safety Commission* v. *GTE Sylvania, Inc.* 447 U.S. 102,100 S. Ct. 2051 (1980). The amendments to section 6(b) are designed to provide additional procedural safeguards.

Section 6(b)(1), as amended, further provides that the Commission may include in any written disclosure any comments or other information or a summary thereof submitted by the manufacturer or private labeler, and would be required to do so upon their request.

The conferees expect the Commission to establish a system for review within the agency to evaluate issues of accuracy. The conferees expect that when comments are made in response to a notice given under subsection (b)(1) the manufacturer or private labeler will provide information which will assist the Commission in its evaluation of the information.

Under section 6(b)(2), as amended, if the Commission determines that information claimed to be inaccurate by a manufacturer or private labeler should be disclosed, after taking reasonable steps to assure that the information is accurate and that the disclosure would be fair in the circumstances and reasonably related to effectuating the purposes of the Act, the Commission shall notify the manufacturer or private labeler that it intends to disclose the information on a date not less than 10 working days from the date of receipt of notification. (The Commission may provide a lesser period of notice if it finds that the public health and safety requires a lesser period and publishes such finding in the Federal Register. Disclosure of such information may be made concurrently with filing of the Federal Register notice.) Section 6(b)(3) as amended, provides that any manufacturer or private labeler receiving such notification may bring a civil action in a U.S. district court to enjoin disclosure. The district court may enjoin disclosure if the Commission has failed to take the reasonable steps prescribed by subsection (b)(1). The conferees do not intend de novo review of the Commission's determination under section 6(b)(1).

As in the original section 6(b)(2)(A) of the Consumer Product Safety Act, section 6(b)(4)(A) provides exceptions from the requirements of paragraph (1) for information about a consumer product with respect to which the Commission has filed an action under section 12, relating to imminent hazards or, which the Commission has reasonable cause to believe is in violation of a prohibited act.

Section 6(b)(4)(B) would clarify the exceptions that were contained in section 6(b)(2)(B). For purposes of section 6(b)(4)(B), a rulemaking proceeding would commence upon the publication of an advance notice of proposed rulemaking, (or where no advance notice is issued, a notice of proposed rulemaking), and an adjudicatory proceeding would commence upon the issuance of a complaint. Section 6(b)(4)(B) also provides exception for other administrative or judicial proceedings, including a proceeding to grant or deny a petition and a proceeding in which motions are filed before the Commission to quash or limit a subpoena or a special or general order (subject to any applicable in camera rules).

The provisions of new section (b)(5) resolve a problem of publicity of information submitted under section 15(b). There is a need to accommodate the public's right to prompt notice where risks, in fact, exist, but that right carries a corresponding responsibility to make the public fully aware when there is more than a mere unsubstantiated assertion. Accordingly, under section (b)(5) as amended, the Commission would be prohibited from disclosing information submitted to the Commission pursuant to section 15(b) unless: (a) the Commission has issued a complaint alleging that the product presents a substantial product hazard; (b) the Commission has accepted in writing a remedial settlement agreement; or (c) the person who submitted the information agrees to its public disclosure. The conferees do not intend that a settlement agreement must be made by a formal written agreement, but rather, for example, may be made by an exchange of letters. Information may be reported to the Commission pursuant to section 15(b) which is not specifically required by law or regulation, but is voluntarily submitted to assist the Commission's evaluation of the information required to be submitted. These restrictions would apply to this information as well. However, the prohibition does not apply to the public disclosure of information with respect to a consumer product which is the subject of an action brought under section 12, or which the Commission has reasonable cause to believe is in violation of section 19, or information in the course of or concerning a judicial proceeding.

Paragraph 6 requires the Commission to establish procedures designed to ensure that all product safety information that it affirmatively disseminates to the public, such as press releases, fact sheets, speeches and the like, is accurate and not misleading. These clearance procedures would be applicable to all affirmative disseminations whether or not the information would enable the public to ascertain readily the identity of the manufacturer, so long as such information reflects on the safety of a consumer product or class of consumer products. The procedures extend to information relating to a class of consumer products as well as to information relating to a specific consumer product. This requirement is solely a direction to the Commission to establish internal clearance procedures and is not intended to extend the kinds of protections contained in amended sections 6(b)(1)-(b)(5) to information that would not permit the public to ascertain readily the identity of a manufacturer and private labeler.

However, under the new paragraph (7), if the Commission finds it has publicly disclosed inaccurate or misleading information which reflects adversely upon the safety of a specific consumer product or a class of consumer products, it would be required to take reasonable steps to publish a retraction of such information in a manner equivalent to that in which disclosure is made. Thus, if the Commission finds that it has disclosed inaccurate or misleading information in the Federal Register, in a press release, or in a fact sheet, for example, it would be required to retract that inaccurate or misleading information by publishing a corrected Federal Register notice, by issuing a corrected press release or by publishing a corrected fact sheet. The Commission would be expected

to send a copy of the corrected information with an explanatory statement to those persons to whom it disclosed the inaccurate or misleading information that it is retracting and make further steps taking into account the Commission's limited resources, to publicize the retraction. For example, if the original inaccurate or misleading information had been widely publicized by third persons, the Commission may hold a press conference to further call attention to the retraction, but would not be required to purchase advertising space.

Under paragraph (8) if the Commission has commenced rulemaking or initiated an adjudicatory proceeding and then decides to terminate it before taking final action, the Commission would be required to take reasonable steps to publicize its decision to terminate the proceeding in a manner equivalent to that in which it publicized the commencement or initiation. Thus, if the Commission commenced an adjudicative proceeding, for example, and published a notice of such commencement in the Federal Register and issued a press release announcing the commencement, the Commission would be required to publish a notice of termination of that proceeding in the Federal Register and be required to issue a press release announcing termination of the proceeding. As in paragraph (7) the Commission should take further reasonable steps to publicize, taking into account Commission limited resources, if the initial action has been widely publicized by third persons. However, the Commission is not required to purchase advertising space to duplicate the publicity generated by third persons.

Subsection (d)(2) contains a provision ensuring that the requirements of section 6 would apply to information to be disclosed to the public by the Commission as an entity or by its individual members, employees, or representatives of the Commission in their official capacity.

Subsection (d)(1) would extend the requirements of section 6 to information obtained under the transferred acts, or to be disclosed to the public in connection therewith. The Commission also is expected to apply the exceptions to section 6(b)(1) to equivalent provisions found in the transferred acts.

ADVISORY COUNCILS

House bill.—The House bill repealed section 28 of CPSA to eliminate the Product Safety Advisory Council and amended section 12 of CPSA to make conforming changes. In addition, the House bill repealed section 17 of FFA to eliminate the National Advisory Committee for the Flammable Fabrics Act. Finally, it repealed section 6 of the Poison Prevention Packaging Act of 1970 to eliminate the Technical Advisory Committee.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute adopts the House provision.

CHRONIC HAZARDS

House bill.—The House bill amended section 28 of CPSA to create a Chronic Hazards Advisory Panel to advise the agency on product hazards relating to the risk of cancer, birth defects and genetic mutations. The CHAP would be composed of 12 scientists including three from Federal agencies and nine from the public sector. Public scientists would be appointed by the Commission from a list of nominees submitted by the Director of the National Institutes of Health. Members of the CHAP would be appointed for fixed three year terms, would elect a Chairman and Vice Chairman from among their members and be granted access to all documents necessary to discharge their statutory responsibilities.

The House bill also amended section 31 of CPSA to require the agency to consult with the CHAP prior to the issuance of a notice of proposed rulemaking relating to the risk of cancer, birth defects, or genetic mutations. The agency could only issue such a proposed notice upon receipt of a report from the CHAP stating their agreement that the consumer product subject to the agency's proposed regulatory proceeding contained a carcinogen, mutagen, or teratogen.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute provides for the appointment of independent chronic hazard advisory panels to advise the Commission in regulating consumer products posing hazards of cancer, birth defects and gene mutations. The conferees believe that providing the Commission with an independent source of advice will be an important guide to the Commission's decisionmaking and will enhance the reliability of the scientific bases upon which the Commission's regulatory initiatives are premised, without interfering with the Commission's responsibility to make regulatory judgments.

Each Panel will be composed of seven experts appointed by the Commission from a group of qualified individuals nominated by the President of the National Academy of Sciences. The conferees anticipate that the Academy will assemble a list of expert scientists who have demonstrated the ability to assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances.

No federal employee is permitted to serve on a Panel. The conferees intend that state employees, including professors and administrators of institutions of higher learning, will be eligible to serve on a Panel. The conferees do not intend that recipients of federal grants, or recipients of funding from industry in the past, should be excluded. In order to ensure a Panel's objectivity, the statute provides that Panel members do not presently receive compensation from or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product. The conferees expect that the Commission will issue appropriate conflict of interest regulations to guide the selection of nominees.

Panel members will be selected on the basis of their qualifications on a case-by-case basis, and will be called upon as necessary to analyze and evaluate materials submitted for their consideration by the Commission. The Committee anticipates that several panels could be operating simultaneously, in accordance with the Commission's regulatory priorities. Each panel will terminate upon completion of its report unless extended by the Commission.

Panel members will be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day during which the member is engaged in the actual performance of the duties of a Panel. Panel members shall also receive per diem and travel expenses. The Commission will provide administrative support services to each Panel as required.

The Commission may not issue an advance notice of proposed rulemaking relating to a chronic risk of cancer, birth defects, or gene mutations from a consumer product unless a Panel has submitted, and the Commission has considered, a report to the Commission with respect to whether a substance contained in such product is a carcinogen, mutagen, or teratogen. If a Panel answers this question in the affirmative, then the Panel will be required, if feasible to do so, to estimate the risk to human health that could result from exposure to the substance. In making this estimation, the conferees expect that a Panel will use established methodologies, explain fully the methodologies used in estimating the magnitude of the risk, including the rationale for adopting that methodology, and set forth fully the uncertainties attached to any estimates it makes.

The Conferees anticipate that a Panel's consideration of a scientific issue or question will be initiated only by referral from the Commission. To permit the Panel to complete its work within 120 days, as required by the statute, the Conferees contemplate that the Commission will first identify the risk to be addressed by the Panel and then gather and analyze the existing scientific data and other available information regarding the risk. The Commission will provide the data and analysis to the Panel for its review.

The Conferees intend that the Commission will serve as a clearinghouse for information needed by a Panel and will be permitted to utilize its information-gathering mechanisms, including compulsory process, to obtain such information. Agencies and departments of the Federal Government will be required to provide the Panel with such information and data as the Commission requests on behalf of the Panel. Restrictions contained in other statutes on the authority of agencies to share information will not apply to information provided to a Panel. A Panel is not permitted to disclose data or to respond to requests for information from persons other than the Commission. The Commission is required to respond to requests for information generated or obtained by a Panel. Disclosures by the Commission will be subject to the requirements of section 6 of the Consumer Product Safety Act. These restrictions will also apply to information a Panel obtains from other agencies, states, and private sources.

A Panel's report shall contain a complete statement of the basis for the Panel's determination. The Conferees do not intend that a Panel's determination be legally binding upon the Commission, but expect the Commission to consider carefully a Panel's determination in deciding upon subsequent regulatory action. The Commission is required to incorporate a Panel's report into an advance notice of proposed rulemaking and the final rule.

CONGRESSIONAL VETO

House bill.—The House bill required the agency to submit a copy of certain rules promulgated under CPSA, FHSA, and FFA to the Secretary of the Senate and the Clerk of the House. A submitted rule would not take effect if: (1) both Houses adopt a concurrent resolution disapproving the rule within 90 days of continuous session after the date of the rule's promulgation; (2) one House adopts a concurrent resolution disapproving the rule within 60 days and the other House does not disapprove such concurrent resolution within 30 days. The

House bill also amended section 27(e)(1) of CPSA to eliminate the requirement that certain rules promulgated under CPSA, FHSA, FFA, and the Poison Prevention Packaging Act not become effective until 30 days after their submission to Congress.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute adopts the House provision.

REPORTS

House bill.—The House bill amended section 27(b) of CPSA to limit the agency's information gathering authority to that necessary to carry out a specific regulatory or enforcement function of the agency. The House bill also required the agency to state in any order for information the reason why it needs the information to carry out a specific regulatory or enforcement function of the agency. Finally, the House bill directed the agency to draft orders for information so as to place the least practicable burden upon the person subject to the order and still obtain the information necessary to carry out the specific regulatory or enforcement function of the agency.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute adopts the House provision.

VOLUNTARY STANDARDS

House bill.—The House bill amended section 5(b) of the CPSA to require the agency to assist public and private organizations, to the extent feasible, in the development of voluntary safety standards and test methods.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The conference substitute amends section 5(a) of the CPSA to require the Commission to provide reasonable assistance to groups seeking help in developing voluntary standards to address the risk of injury identified in an advance notice of proposed rulemaking or a notice of proposed rulemaking for a product safety rule under any rulemaking authority administered by the Commission. Although the Commission is required to provide assistance to such groups, it may determine the level of assistance in accordance with the level of its own administrative and technical resources and in accordance with its assessment of the likelihood that the groups being assisted will successfully develop a voluntary standard that will preclude the need for a mandatory standard.

In determining the level of assistance, the Commission may consider the willingness of such groups (1) to establish reasonable time periods for the development of voluntary standards; (2) to establish procedures reasonably designed to afford interested persons, including manufacturers, suppliers, retailers and consumers, notice and an opportunity to participate in the development of such standards; (3) to establish procedures designed to reduce any anticompetitive aspects of such standard; (4) to establish procedures designed to update the requirements of such standard on a regular basis; (5) to develop plans to consider reasonable alternatives to eliminate or adequately reduce the identified risk of injury; and (6) to develop plans for achieving substantial compliance with such standard.

In addition to the requirement that the Commission assist groups in the development of voluntary consumer product safety standards for the risk of injury identified in rulemaking proceedings, the Commission is encouraged otherwise to assist such groups to the extent practicable and appropriate (taking into account the resources and priorities of the Commission) in the development of product safety standards and test methods.

This section also expands the Commission's annual report to include information about the voluntary consumer product safety standards in which the Commission is involved, either because the Commission participated in the development of the voluntary standard, or because the standard relates to a risk of injury which is the subject of regulatory action by the Commission.

PETITIONS TO COMMISSION

House bill.—The House bill repealed section 10 of CPSA which permits any interested person to petition the agency to issue, revoke or amend a rule, requires the agency to act upon a petition within 120 days of filing, and provides for *de novo* court review if the agency denies or fails to act upon a petition.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The conference substitute adopts the House provision. Thus, petitions filed after the date of enactment of this Act would not be subject to the provisions of section 10 of CPSA. Notwithstanding the repeal of section 10 of CPSA, an interested person retains the right to petition the agency for action under the Administrative Procedures Act.[1] While the agency would not be required to respond to a petition within a fixed period of time as provided for in section 10 of CPSA, interested persons who are "adversely affected"[2] could seek judicial review under the Administrative Procedures Act[3] for agency rejection of, or failure to act upon, a petition.

INSPECTIONS

House bill.—The House bill amended section 16 of CPSA to require agency personnel to obtain a search warrant if objection is made to an entry and inspection to implement CPSA. If objection is made, then a search warrant must be obtained from a judicial officer who shall issue such warrant upon a showing of probable cause. Probable cause justifying the issuance of a warrant is: (1) that the entry and inspection is necessary because the structure, conveyance, or area is involved in a violation of section 19 of CPSA; or (2) that the entry and inspection will be conducted pursuant to a reasonable administrative plan for enforcement of CPSA. The House bill also amended section 11 of FHSA to apply the same requirements with respect to inspections conducted under that Act.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The House recedes.

MISCELLANEOUS

House bill.—The House bill amended section 20(b) of CPSA to require the agency to consider two additional factors in compromising civil penalties: (1) the occurrence or absence of injury; and (2) the number of products distributed.

The House bill also amended section 24 of CPSA to include business within the definition of "interested persons" for purposes of bringing private actions.

Third, the House bill repealed section 25(a) of CPSA which provides that compliance with consumer product safety rules or orders under CPSA does not relieve any person from liability at common law or under State law.

Fourth, the House bill repealed section 27(m) of CPSA which required the agency to begin a review of its rules.

Fifth, the House bill amended section 14(a) of FFA to eliminate the requirement that the agency submit annually a separate report on its investigations and studies conducted under FFA.

Finally, the House bill amended section 15 of FHSA to provide that, if an article or substance is a banned hazardous substance and the agency determines (after affording interested persons an opportunity for a hearing) that notification is required to adequately protect the public, then the agency may order any manufacturer, distributor, or retailer to do one or more of the following: (1) to give public notice that the article or substance is a banned hazardous substance; (2) to mail notice of such designation to each manufacturer, distributor, or retailer; (3) to mail notice of such designation to each person known to have been delivered or sold such article or substance. In addition, if the agency determines (after affording interested persons an opportunity for a hearing) that it is in the public interest, the agency may order a manufacturer, distributor, or retailer to elect and perform one of the following actions: (1) to repair or change the article or substance so it will not be a banned hazardous substance; (2) to replace the banned hazardous substance; and (3) to refund the purchase price of such article or substance.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute amends section 20 of CPSA to require the agency to consider certain factors in determining the amount of a civil penalty to be sought upon commencement of an action for any violation of section 19 of CPSA. The factors which the agency must consider are: (1) the nature of the product defect; (2) the severity of the risk of injury; (3) the occurrence or absence of injury; (4) the number of defective products distributed; and (5) the appropriateness of such penalty in relation to the size of the business. The Conference substitute further amends section 20 of CPSA to require the agency to consider the same five factors in compromising a civil penalty in an action for any violation of section 19 of CPSA.

Second, the Conference substitute amends section 24 of CPSA to clarify that business is an "interested person" for the purpose of bringing a private action under this section.

Third, the Conference substitute repeals section 27(m) of CPSA which required the agency to begin a review of its rules. Since this rule review has begun and is continuing, section 27(m) is no longer necessary.

Fourth, the Conference substitute repeals the last sentence of section 14(a) of FFA which requires the agency to submit a separate annual report on studies and investigations conducted under FFA. Such information will instead be included in the agency's comprehensive annual report to Congress required by section 27(j) of CPSA.

Fifth, the Conference substitute amends section 15 of FHSA to provide that, if an article or substance is a banned hazardous substance as defined in section 2(q)(1) of FHSA and the agency determines (after affording interested persons an opportunity for a hearing) that notification is required to adequately protect the public, then the

[1] 5 U.S.C. 553(e) (1978).
[2] 5 U.S.C. 702 (1978).
[3] 5 U.S.C. 706 (1978).

agency may order any manufacturer, distributor, or dealer to do one or more of the following: (1) to give public notice that the article or substance is a banned hazardous substance; (2) to mail notice of such designation to each manufacturer, distributor, or dealer; (3) to mail notice of such designation to each person known to have been delivered or sold such article or substance. In addition, if any article or substance is a banned hazardous substance as defined in section 2(q)(1) of FHSA and the agency determines (after affording interested persons an opportunity for a hearing) that it is in the public interest, the agency may order the manufacturer, distributor, or dealer to elect and perform one of the following actions: (1) to repair or change the article or substance so that it will not be a banned hazardous substance; (2) to replace the banned hazardous substance; or (3) to refund the purchase price of such article or substance. While the election among the remedies of repair, replacement, or refund is left to the person subject to the order, an order may require such person to submit a plan for implementing the selected remedy which is satisfactory to the agency. To be satisfactory, the plan must demonstrate that it will reasonably protect the public. Under the Conference substitute, the agency may only issue an order requiring notification, repair, replacement, or refund after providing the manufacturer, distributor or dealer an opportunity for a hearing in accordance with section 554 of title 5.[1]

The purposes of the hearing are threefold. The first purpose of the hearing is to determine if a product is banned either by operation of the FHSA and regulations thereunder, or by a specific banning regulation. If there is in effect a banning regulation, the purpose of hearing is not to determine the validity of the regulation, but only to determine if the product is within the scope of the regulation.

If a product is determined to be banned, either by operation of statute or by a banning regulation, then the second purpose of the hearing is to determine if the hazard presented by the product is such that some form of remedial action is necessary, including public notice of the hazard, repair of the product, replacement of the product or refund of the purchase price of the product.

If it is determined that remedial action is necessary with respect to a banned hazardous substance, the third purpose of the hearing is to determine the specific appropriate remedial action.

Sixth, the Conference substitute repeals section 13 of CPSA which gave the agency authority to require manufacturers to submit a description of any new product prior to its introduction into commerce.

Finally, the Conference substitute makes a number of technical amendments to CPSA.

LAWNMOWER STANDARD

House bill.—The House bill required the agency to amend its lawnmower standard[1] so that manually started rotary-type lawnmowers which stop the engine within three seconds of release of the handle by the operator and which require a manual restart of the engine would be deemed in compliance with the standard. The House bill provided that the engine starting controls must be within 24 inches of the top of the mower's handles or that the mower must be equipped with a 360° protective foot shield. In promulgating this amendment, the House bill provided that the CPSA does not apply. The House bill further required the agency to study and report on the effect on consumers of the alternative to the lawnmower standard within two years. The House bill prohibited the agency from further amending the amendment to the lawnmower standard until the study is filed.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute adopts the House provision. Thus, the agency must amend its lawnmower standard under the procedures of section 553 of the Administrative Procedures Act[2] in accordance with this provision. Comment during the rulemaking proceeding and judicial review of the rule as amended is limited to the issue of whether the rule as amended complies with the statute. Questions regarding the basis or adequacy of the amendment to the lawnmower standard are not within the purview of the rulemaking proceeding nor are they subject to judicial review.

AMUSEMENT PARKS

House bill.—The House bill amended section 3(a)(1) of CPSA to define "consumer product" so as to include any mechanical device which: (1) carries or conveys passengers over a fixed or restricted route or within a defined area for the purpose of giving its passengers amusement; (2) is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device; and (3) is not permanently fixed to a site. Such devices which are permanently fixed to a site are not "consumer products" under the House bill.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute adopts the House provision. Thus, the agency does not have jurisdiction over amusement rides that are operated by a fixed-location amusement park or similar facility. The Conferees recognize that an amusement park may alter the location of an amusement ride that it operates to improve the operation of the ride, to carry out the major maintenance on the ride or to dispose of the ride. Infrequent alteration of the ride for such purposes does not give the agency jurisdiction over the ride.

PREEMPTION FOR VOLUNTARY STANDARDS

House bill.—The House bill amended section 26 of CPSA to provide that those voluntary standards which the agency has stated in the *Federal Register* it will rely upon to address risks of injury preempt all State and local laws which are not identical. In addition, the House bill provided that the submittor of such a standard could seek to amend it by notifying the agency in writing of the proposed change and the reasons for the change. The agency must then publish a *Federal Register* notice identifying the voluntary standard and the proposed change as well as providing a reasonable opportunity for interested persons to comment, either orally or in writing. Within 120 days, the agency must determine whether the voluntary standard as proposed to be amended is likely to eliminate or reduce adequately the risk of injury. If the agency determines that the amended standard is likely to address the risk of injury, then it must publish a *Federal Register* notice informing the public of the agency's reliance upon the amended standard.

The House bill accorded voluntary standards relied upon by the agency under FHSA and FFA preemptive effect identical to that provided for in CPSA.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The House recedes.

EXTENSION OF ACT

House bill.—The House bill authorized appropriations of $33 million, $35 million, and $37 million for fiscal years 1982, 1983, and 1984, respectively. In addition, it authorized to be appropriated such funds as may be necessary for the payment of accumulated and accrued leave under section 5551 of Title 5, United States Code, and severance pay under section 5595 of Title 5, United States Code.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute authorizes appropriations of $33 million and $35 million for fiscal years 1982 and 1983. In addition, such funds are authorized to be appropriated as may be necessary for the payment of accumulated and accrued leave under section 5551 of Title 5, United States Code, and other expenses related to a reduction in force in the agency. The Conferees recognize that these reduced authorization levels will necessitate a significant reduction in agency personnel. The Conferees intend that most of the reductions be effected through the elimination and consolidation of field offices.

EFFECTIVE DATE

House bill.—The House bill provided that the congressional veto provisions apply to rules promulgated under CPSA, FHSA, and FFA after the date of enactment. The House bill also provided that the amendments to the agency's rulemaking procedures contained in sections 6382, 6383, 6384 and 6391 apply to rules under CPSA, FHSA, and FFA for which notices of proposed rulemaking are issued after May 8, 1981. Finally, the House bill provided that all other sections take effect upon enactment.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute provides that the Congressional veto provisions apply to rules promulgated under CPSA, FHSA and FFA after the date of enactment. The Conference substitute also provides that the amendments to the agency's rulemaking procedures contained in sections 1202, 1203 and 1204 apply to rules under CPSA, FHSA, and FFA for which notices of proposed rulemaking are issued after August 14, 1981. The Conferees have changed the effective date of these provisions so that the agency will not be required to re-publish proposed notices of rulemaking dealing with flammability standards applicable to disposable diapers and CB base station antennas. It is the understanding of the Conferees that this change will affect no other regulatory effect. Finally, the Conference substitute provides that all other sections take effect upon enactment.

[1] 5 U.S.C. 554 (1978).
[1] 16 C.F.R. 1205.
[2] 5 U.S.C. 553 (1978).

TITLE XII—STATEMENT OF MANAGERS

SUBTITLE B—COMMUNICATIONS

CHAPTER I—PUBLIC BROADCASTING

Public Broadcasting Amendments Act of 1981, Conference Report

(All section references are to the Public Broadcasting Act of 1967, as amended)

Section 391, Facilities

S. 720 authorized appropriations for NTIA's facilities program of $16 million, $11 million, and $7 million for fiscal years 1982, 1983, and 1984, respectively. H.R. 3238 authorized appropriations of $25 million, $20 million, and $15 million for fiscal year 1982-84, permitted facilities to be leased out for commercial activities, and provided that the Secretary could not assume more than 50% of the costs of any facilities planning grant under Section 392.

The conference agreement (1) authorizes appropriations for the facilities program of $20 million, $15 million, and $12 million for fiscal years 1982, 1983, and 1984, respectively; (2) accepts the House amendment regarding commercial use of facilities; and (3) retains existing law regarding planning grants.

Section 396(a), Declaration of Policy

S. 720 altered the declaration of policy regarding the Corporation for Public Broadcasting by stressing the growth and development of "public audio and video programs, however delivered." H.R. 3238 left Section 396(a) unchanged.

The conference agreement accepts the House position. The conferees believe that the existing mandate is sufficient to meet the broad needs public broadcasting is to serve. The conferees, however, take note of the concerns that certain responsibilities public broadcasting does have, such as to the blind, cannot, in every instance, be met through the delivery of public telecommunications services via public television and radio stations alone, and hope that the Corporation will give continuing attention to this issue.

Section 396(c), Board of Directors

S. 720 reduced the size of the CPB Board from 15 to 9, consisting of 8 directors appointed by the President, with the advice and consent of the Senate, and the President of the Corporation, chosen by the other directors, who would also serve as the ninth director and Chairman of the Board. S. 720 made several other modifications in the structure and operation of the Board.

H.R. 3238 maintained the current size of the Board, but provided for the placement of 2 representatives of public television stations and 2 representatives from public radio stations on the Board. The House bill also contained a procedure whereby the Board would convey to the President a list of potential nominees to fill vacancies on the Board.

The conference agreement reduces the size of the CPB Board from 15 to 11, consisting of 10 directors selected by the President, with the advice and consent of the Senate, and the president of the Corporation, chosen by the other Board. The agreement also provides for the nomination by the President, after consultation with representatives of public television and radio licensees, of 1 representative of public television stations, and 1 representative from public radio for service on the Board, with the advice and consent of the Senate. The transition to the smaller Board shall be by attrition beginning October 1, 1983. Although the President has full discretion in selecting the television and radio representatives, the conferees urge the President to give the most careful consideration to the suggestions made by the stations. The stations may wish to submit to the President a list of individuals they believe worthy of service on the Board.

The conference agreement further provides that no more than 6 members of the Board appointed by the President may be of the same political party. The conferees accepted the Senate provisions reducing terms of service from 6 to 5 years, the attendance requirement for meetings, election of the Vice Chairman, per diem compensation, officers and employees of the Corporation, and the limitation for reimbursement for Board members. The conferees are concerned over the expenses incurred by the Board, and urge the Board to consider taking steps to eliminate the payment of per diems to Board members for routine work involving little time commitment.

The provisions restricting Board meetings to Washington, D.C., as contained in S. 720, and the provisions establishing a process to submit a list of qualified individuals to the President to fill Board vacancies, as contained in H.R. 3238, are deleted. However, the conferees note that there is absolutely nothing preventing the Corporation, the stations, and others from establishing, as circumstances warrant, a blue-ribbon panel to help advise the President on outstanding potential nominees for the Board. The reductions in funding for public broadcasting contained in this bill place a premium on CPB's leadership, and all concerned about the future of public broadcasting should be working on mechanisms to strengthen it.

Section 396(g), Purposes and Activities of the Corporation

The conferees retained existing provisions of law regarding Section 396(g), including the requirement that CPB's program fund use peer review panels in reaching its decisions, and accepted the House provision deleting the study contained in Section 396(g)(5), relating to non-federal financial support.

Section 396(h), Interconnection Service

S. 720 made certain minor modifications in the language of this section. H.R. 3238 made no such amendments. The Senate receded to the House position.

Section 396(i), Report to Congress

The Senate accepted the House amendment to section 396(i)(1), changing the date of transmittal of the Corporation's annual report to Congress from February 15 to May 15.

Section 396(k), Financing; Open Meetings and Financial Records (1) Financing

S. 720 authorized appropriations for the Corporation for Public Broadcasting for fiscal years 1984, 1985, and 1986 of $110 million, $100 million, and $100 million, respectively. The Senate bill retained the 2:1 match of federal and non-federal funds. S. 720 provided that public broadcasting stations were to receive no less than 60% of the funds appropriated to the Corporation. S. 720 required that the Corporation pay 50% of the costs of facilities and operations of interconnection. S. 720 deleted Section 396(k)(7), the so-called "50% rule," which limits the amount any station can receive from CPB to no more than 50% of its non-federal financial support. The Senate bill required community serve grants (CSG's) to be used by the stations for purposes "related primarily" to programming, but further provided that CSG payments to a station would be reduced by an amount equal to the amount of unrelated business income tax paid by the station because of such unrelated business activities.

H.R. 3238 authorized appropriations for CPB for fiscal years 1984, 1985, and 1986 of $160 million, $145 million, and $130 million, respectively. H.R. 3238 also retained the 2:1 match. The House bill provided that CPB's funds are to be disbursed from the Treasury on an annual, rather than quarterly, basis. H.R. 3238 also established a detailed formula specifically allocating CPB's budget, while providing that the stations would assume the full costs of interconnection. The conferees agree to the following authorizations for CPB: $130 million for each of fiscal years 1984, 1985, and 1986. The conference agreement adopts the House provision regarding the annual disbursement of funds from the Treasury to CPB. Further, the conferees accepted the allocation formula for CPB's budget proposed by the House with the following modifications:

(1) Of the funds allocated to television under paragraph (3)(A)(ii), 75% shall be available for community service grants, and 25% for CPB's national program fund.

(2) In order to ensure the ability of the Corporation to meet its fixed costs for the payment, under paragraph (3)(A)(i)(II), of capital costs of the satellite, copyright royalties, and its share of the interconnection, a new provision, paragraph (3)(A)(v), was added. It states that should CPB's fixed costs for the satellite, copyright, and interconnection exceed 60% of the funds allocated to CPB pursuant to paragraphs (3)(A)(i)(I) and (II), then the stations shall pick up the balance of such costs on a pro-rata basis through reductions in allocations under (3)(A)(ii)(I) and (3)(A)(iii)(I)—the television and radio community service grants, respectively. Three-quarters of the balance of such costs shall be met by television, and one-quarter by radio. The conferees trust that this arrangement will enable CPB to meet its obligations without fear that its costs will exceed the cap on funds allocated to it under the formula. However, the conferees state their firm intent that this "60% trigger" be used only as a last resort by the Corporation because of the substantial burden it would impose on the stations. There is nothing in this provision which would bar any other voluntary arrangement undertaken by the Corporation and public television and radio licensees to share any or all of these fixed costs on any other basis—and the conferees hope such arrangements will in fact be undertaken. Should CPB use the trigger when its costs for the three items mentioned above reach the critical level, the conferees ask the Corporation to carefully consider using its non-federal income—interest income by virtue of the annual disbursement of funds by the Treasury, revenues from leasing the interconnection, and such other funds as may be available—to defray such costs before passing the balance on to the stations. The Corporation should consider, for example, using its revenues from leasing interconnection facilities to defray its share of operating the interconnection. Further, the Corporation is to avoid any "loading" of these three fixed costs in a way that will make use of the trigger inevitable. In sum, the conferees ask the Corporation, in consultation with the stations, to resolve this matter of CPB's fixed costs for the satellite, copyright, and interconnection in a way that will avoid a chron-

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ic and imminent danger that the 60% trigger will be breached in the budgets established pursuant to this legislation.

The conference agreement also maintains the current commitment to independent producers.

CPB annual appropriations, fiscal year 1984–86

[In millions of dollars]

CPB—10 percent	130.00
Administrative expenses and contingency—no more than 5 percent (maximum)	6.50
Interest, satellite, copyright, interconnection, research, training, education, engineering—no less than 5 percent (minimum)	6.50
Total CPB	13.00
Television and radio—90 percent	117.00
Television—75 percent	87.75
Community service grants—75 percent [1]	65.81
National program fund—25 percent [2]	21.94
Radio—25 percent	29.25
Community service grants—no less than 50 percent (minimum) [1]	14.62
National programming—no more than 50 percent (maximum) [2]	14.62

[1] Total station support—62 percent: 80.43 million.
[2] Total programming support—28 percent: 35.36 million.

With respect to interconnection, the House conferees accepted the Senate amendment that the Corporation assume 50 percent of the costs of interconnection, but added an amendment to provide that CPB share with the stations 50 percent of the revenues yielded from leasing the interconnection for commercial purposes. This section is not intended to apply to stations that own their own ground terminals. In such cases, stations should retain their right to revenues derived from facilities they own, subject only to their prior contractural obligations to CPB.

The House accepted the Senate amendments deleting the so-called "50 percent rule" (Section 396(k)(7) of current law) and requiring CSG's to be used "primarily" for programming.

The House accepted the Senate amendment regarding the relationship of community service grants and taxable unrelated business income. The conferees intend that this "recapture provision" apply only to funds distributed to public telecommunications entities.

Community Advisory Boards

S. 720 deleted the requirement that public television and radio stations establish community advisory boards. H.R. 3238 retained this requirement, and clarified their structure.

The conference agreement accepts the House provision, but limits the requirement only for so-called "community" licensees—those not owned or operated by a State, its subdivisions, or a public agency. Indeed, it is hoped that all stations recognize the value of having strong and effective boards, and will continue their existence and participation in station activities.

Section 396(1), Records and Audit

The House accepts the Senate amendments to Section 396(1), regarding shared institutional advertising and biannual audits.

Section 397, Definitions

S. 720 made several minor, technical, and conforming changes to this section. H.R. 3238 retained current law, with the exception of a technical amendment to Section 397(15). The Senate accepted the House provisions.

Section 398, Equal Employment Opportunity

The conferees agreed to retain current law, as provided in the House bill.

Section 399, Editorials; Recordings of Certain Broadcasts

S. 720 and H.R. 3238 were substantially similar in their amendments to Section 399. The Senate accepted the House amendments.

Section 399A, Logograms

H.R. 3238 authorized public television and radio stations to broadcast the logos of corporate underwriters. The Senate had no comparable provision.

The Senate accepted the House proposal with an amendment that the FCC is explicitly authorized to consider further rulemakings, consistent with the purposes of this provision, in this area.

Section 399B, Commercial Activities.

H.R. 3238 authorized public broadcast stations to offer certain facilities, services, and products for remuneration, but barred the broadcast of advertisements. S. 720 continued no comparable provision.

The Senate accepted the House amendment.

Studies/Advertising Experiment

S. 720 contained a study by the FCC of its rule regarding on-air sponsorship indentification by the stations, and related issues. H.R. 3238 established a Temporary Study Commission to explore and report to Congress its review of all financing alternatives, and related issues, available to public broadcasting, and provided for an 18-month experiment whereby selected stations could broadcast advertisements.

The conference agreement accepts the House amendment, with an amendment that renders optional the advertising experiment. However, if the Study Commission does decide to conduct the experiment, it shall proceed as outlined in H.R. 3238.

CHAPTER II—RADIO AND TELEVISION BROADCASTING

RADIO AND TELEVISION LICENSE TERMS

The Senate bill amended Section 307(d) of the Communications Act of 1934 to extend license terms for radio indefinitely from the present three year period, and to extend television license terms and from three to five years. The conference agreement accepts the Senate proposal to extend television license terms to five years. The conferees, however, decided to extend radio licenses from 3 years to 7 years. Broadcast licenses presently in effect could not be extended until the time of renewal. The conferees note that the evidence demonstrates that the marketplace is more competitive in the radio industry than in the television industry—enough so to justify a longer term.

The conferees note that the extension of terms for broadcast licenses would help to reduce costs to broadcasting and the Commission costs, while at the same time allowing the Commission to do a better job reviewing broadcasters' performance. Periodic license review occasionally brings to light certain matters with respect to a broadcaster's performance that may otherwise have gone undetected. However, the most serious station deficiencies are generally brought to the Commission's attention through complaints filed during the license term. Since this complaint process will continue, the public will have ample opportunity to bring such matters promptly to the Commission's attention. Thus, an extenion of the license term will not lessen the Commission's oversight and enforcement powers necessary to protect the public.

OTHER RADIO AND TELEVISION PROVISIONS

The Senate reconciliation bill contained numerious provisions with respect to the deregulation of radio and television. The Senate receded from its position with respect to the following sections of its bill: 1) Section 444-2(a) extending radio license terms indefinitely; 2) Section 444-2(b) creating new procedures with respect to license revocation; 3) Section 444-4 prohibiting the FCC from requiring radio licensees to:

a) provide news, public affairs, or locally produced programs;

b) adhere to a particular programming format;

c) maintain program logs;

d) ascertain needs and interests, of the area served;

e) restrict the length or frequency of commercials;

4) Section 444-4 requiring the Commission to report annually to Congress on the elimination of regulation relating to radio broadcasting; 5) Section 445-3 prohibiting the Commission from considering a competing television broadcast applicant while it is considering whether to renew the existing license; 6) Section 445-3 creating a new standard for television license renewal; 7) Section 445-4 providing that a station be reassigned to states presently without any existing commercial VHF station when a channel assignment becomes available in a neighboring State;

RANDOM SELECTION OF INITIAL LICENSES

The Senate bill included amendments to section 309 of the Communications Act which permitted the Federal Communications Commission, in its discretion, where there is more than one applicant for a radio or television broadcast frequency that becomes available, to grant the application based on a system of random selection (i.e., lottery) to be developed by the Commission. The conference agreement adds a new subsection to section 309 directing the FCC to establish rules within 180 days of enactment of this legislation, setting forth the procedures to be followed in any Commission proceeding in which the FCC, in its discretion, decides to grant any initial license or construction permit on the basis of random selection. The conferees intend that this provision may be applied by the Commission to the grant of any license for use of the electromagnetic specturm in which there are mutually exclusive applicants for the same license.

The legislation provides that the Commission is to determine, prior to conducting any random selection procedure, that each applicant who is to be included in the random selection meets the minimum or basic qualifications set forth in Section 308(b) of the Act. It is the firm intention of the conferees that Section 309(j)(2) requires the Commission to conduct at most a "paper"

hearing in making a determination of minimum qualifications rather than a trial-type hearing. See *U.S.* v. *Florida East Coast Railway Co.*, 410 U.S. 224, 238-246 (1973). The conferees direct that the Commission expedite its determination of minimum qualifications in order that the random selection proceeding itself not be delayed. The Commission could, for instance, delegate authority to determine such qualifications to the appropriate Bureau Chief. The provisions of Section 409(c)(2) of the Act shall not apply to the Commission's determination of minimum qualifications.

Section 309(j)(3) is added directing the Commission to establish rules and procedures to ensure that significant preferences are given to any groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties. It is the firm intention of the conferees that ownership by minorities, such as blacks and hispanics, as well as by women, and ownership by other underrepresented groups, such as labor unions and community organizations, is to be encouraged through the award of significant preferences in any such random selection proceeding. These are groups which are inadequately represented in terms of nationwide telecommunications ownership, and it is the intention of the conferees in establishing a random selection process that the objective of increasing the number of media outlets owned by such persons or groups be met.

The conferees note that the current system (based on comparative proceedings) of awarding licenses where mutually exclusive applicants exist often produces substantial delays and burdensome costs on both the applicant and the Commission. It is the intention of the conferees by authorizing the Commission to conduct random selection of licenses that these costs and burdens be alleviated. By making a determination that all applicants participating in the random selection process meet the Section 308(b) basic qualifications, however, the public continues to be protected from unqualified licensees.

By the establishment of basic qualifications and the elimination of initial comparative hearings, the conferees intend that much of the present delay and expense can be eliminated with no adverse effect on the provision of services to the public.

The conferees wish to emphasize that a random selection proceeding is to be used by the Commission in its discretion, and that the conferees do not intend to discourage the use of the comparative hearing process by the Commission where, due to a sufficiently small number of applicants or for other reasons, a comparative proceeding would better serve the public interest, convenience and necessity.

The conferees note that delays and expense which are often incurred with respect to certain comparative proceedings can, in and of themselves, present a substantial barrier to entry into telecommunications markets by those who are presently unable to incur such costs. Thus, a random selection proceeding will encourage those presently discouraged by these barriers to seek a license award.

The conferees are particularly concerned with the delay that will result if comparative proceedings are used to award licenses for low-power television service. The Commission has already received over 5,000 applications, most of which are, or will be, mutually exclusive with other applications. Unless alternate procedures are devised, the Commission will have geometric increase in comparative hearings and many years of delay in action on these applications. The conferees note that a matter such as this is ideally suited for the application of random selection procedures. By authorizing the Commission to apply random selection to any license application already submitted, but not yet designated for hearing, it will be possible to process low-power television applications rapidly on a random selection basis.

Section 309(j)(4) directs the Commission, after notice and opportunity for hearing, to prescribe rules establishing a system of random selection. The conferees intend that the Commission will implement this section in accordance with 5 U.S.C. 553.

FRIVOLOUS LICENSE APPLICATIONS

Section 1243 adds a new subsection 311(d) to the Communications Act of 1934. This subsection makes it unlawful, without approval of the FCC, for the applicants for a broadcasting station license to effectuate an agreement whereby one or more of the applicants withdraws their application or applications in exchange for the payment of money, or the transfer of assets or any other item of value from the remaining applicant or applicants.

Subsection 311(d) is intended to prevent a situation in which a person files a frivolous application for a station license in order to harass an incumbent which is applying for renewal of its license (or any other legitimate applicants for the same license), and offers to withdraw the frivolous applications upon payment of money or a transfer of assets by the legitimate applicant. Payment or transfer could be either to the frivolous applicant or to third parties.

Under paragraph (d)(3), the FCC may approve an agreement between or among applicants, as described in paragraph (d)(1), only if the Commission finds that the agreement is consistent with the public interest, convenience and necessity, and also that no party to the agreement filed its license application for the purpose of reaching or carrying out such an agreement.

ALLOCATION OF VHF TELEVISION STATION TO NEW JERSEY AND DELAWARE

The House conferees wish to note that they argued strongly for an amended version of a provision in the Senate bill which would have provided that a VHF television license be reassigned, if technically feasible, from a neighboring state to New Jersey or Delaware if such license was revoked or denied by the Commission. The Senate would not accept any provision dealing with this issue in the context of the legislation agreed to in this conference. However, the Senate conferees were sympathetic to the situation in New Jersey and Delaware.

CHAPTER III—REGULATORY AGENCIES

SUBCHAPTER A—FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION OF APPROPRIATIONS

The Senate bill included section 441-1(a) authorizing expenditures for the Federal Communications Commission (FCC). The House bill had no such provision, but had passed similar legislation, H.R. 3239, on June 9, 1981. The conferees agreed to the Senate's provision authorizing the FCC at a level of $76,900,000 with the following changes: the term of the authorization was changed from three to two years; sec. 441-1(b) establishing charges for services performed by the FCC was deleted.

In adopting this provision the conferees believe that Congress is exercising its appropriate role to ensure that the American people benefit from competition and deregulation. It is appropriate, therefore, that Congress be given the opportunity for regular and systematic oversight of the FCC's implementation of Congressional policy. A two-year authorization instead of the prior permanent authorization for the FCC will provide that opportunity.

Regular and systematic oversight will increase Commission accountability for the implementation of Congressional policy. Congress will benefit from greater exposure to the Commission's expertise on the policy implications presented by the new telecommunications services made possible by rapidly changing technologies. The Commission, in turn, will have a better appreciation of Congressional intent.

Section 1252 requires the FCC to appoint a Managing Director and to report its goals and priorities to Congress annually. The Commission now has an Executive Director who has responsibility for various administrative functions such as procurement, personnel management, and budget preparation, but who has no authority to direct the activities of the bureaus and offices. Consequently, no one individual functions as the chief operating officer at the Commission, and the Commission's bureaus and offices have operated independently of one another with resultant problems in coordination, communications, and direction. The conferees believe that a central locus of management authority—a Managing Director—is needed. We emphasize the importance of a strong Managing Director in improving overall Commission management. This position is now required.

Section 1253 requires that the FCC complete its rulemaking on a new Uniform System of Accounts as soon as practicable. The conferees concur with the General Accounting Office's criticism of the resources and staff to revise the USOA (Docket 78-196). The conferees expect the Commission to respond to the clearly demonstrated need for a revised USOA by establishing a schedule, together with the necessary staff and resources, that will ensure completion of this proceeding within two years.

SUBCHAPTER B—NATIONAL TELECOMMUNICATIONS AND INFORMATION AGENCY AUTHORIZATION OF APPROPRIATIONS

The Senate bill included section 442-1 authorizing expenditures of $16,500,000 in Fiscal Year 1981 for the National Telecommunications and Information Agency (NTIA). There was no similar provision in the House bill, but the House passed H.R. 3240 on June 9, 1981 authorizing $16,467,000 for NTIA.

Section 1255 authorizes appropriations of $16,483,500 for the National Telecommunications and Information Agency (NTIA) for Fiscal Year 1982. NTIA is in the Department of Commerce, and now has an indeterminate or permanent authorization.

At the present time, NTIA has two functions. First, it (through delegation from the Secretary of Commerce) discharges the President's statutory responsibilities to manage the federal government's use of the radio frequency spectrum. Second, it is the primary agency responsible for the formulation of telecommunications and information policy and is the spokesman for the executive branch on these issues.

In view of NTIA's important responsibilities, and because they directly relate to

matters before the FCC, the conferees believe it appropriate to strengthen Congressional review of NTIA activities through the process of an annual authorization.

TITLE XIII—FOREIGN AFFAIRS AND INTERNATIONAL ACTIVITIES

Foreign Assistance and Foreign Affairs Agencies

The House bill contains language setting forth the instructions to the House Foreign Affairs Committee under the First Concurrent Resolution on the Budget for Fiscal Year 1982 regarding reconciliation.

The Senate amendment contains no comparable provision.

The Conference substitute is the same as the Senate position.

The House bill establishes the following ceilings on the amounts authorized to be appropriated for the following programs for fiscal years 1982, 1983 and 1984:

[In thousands of dollars]

Fiscal year 1982:	
1. American schools and hospitals abroad	$20,000
2. International organizations and programs (voluntary contributions)	225,650
3. International narcotics control	37,700
4. International disaster assistance	27,000
5. Inter-American Foundation.	12,000
6. Peace Corps	105,000
7. International organizations and conferences (assessed contributions)	494,591
8. International communication agency-salaries and expenses	452,187
9. Arms Control and Disarmament Agency	18,268
10. Board of International Broadcasting	98,317
11. African Development Foundation	2,000
Fiscal year 1983:	
1. American schools and hospitals abroad	20,000
2. International organizations and programs (voluntary contributions)	278,403
3. International narcotics control	41,055
4. International disaster assistance	27,000
5. African Development Foundation	2,178
6. Peace Corps	114,345
7. International organizations and conferences (assessed contributions)	491,159
8. Board of International Broadcasting	115,031
9. Arms Control and Disarmament Agency	19,894
Fiscal year 1984:	
1. American schools and hospitals abroad	20,000
2. International organizations and programs (voluntary contributions)	295,831
3. International narcotics control	43,625
4. International disaster assistance	27,000
5. African Development Foundation	2,314
6. Peace Corps	121,507
7. International organizations and conferences (assessed contributions)	493,100
8. Board for International Broadcasting	122,232

The Senate amendment provided fiscal year 1982 authorizations for the same programs which were contained in the House bill, except for the African Development Foundation, and International Communication Agency-Salaries and Expenses. The Senate amendment also set the fiscal year 1982 authorizations at the same levels as the House fiscal year 1982 ceilings except for the following:

1. American Schools and Hospitals Abroad	12,000
2. International Organizations and Programs (Voluntary)	229,050
3. International Organizations (Assessed)	454,491

The Senate amendment provided fiscal year 1983 authorizations only for the following:

1. International Organizations (Assessed)	451,159
2. Board of International Broadcasting	98,317

The Senate amendment provided no fiscal year 1984 authorizations.

The Conference substitute establishes ceilings on the amounts authorized to be appropriated for the following programs for fiscal year 1982 only:

1. American schools and hospitals abroad	20,000
2. International organizations and programs voluntary contributions	255,650
3. International narcotics control	37,700
4. International disaster assistance	27,000
5. Inter-American Foundation.	12,000
6. Peace Corps	105,000
7. International organizations and conferences (assessed contributions)	454,591
8. International communication agency-salaries and expenses	452,187
9. Arms Control and Disarmament Agency	18,268
10. Board of International Broadcasting	98,317

The Senate amendment provides an effective date of October 1, 1981.

The House bill contains no comparable provision.

The Conference substitute is the same as the House position.

PUBLIC LAW 480

Public Law 480 interest rates and appropriation limits

(a) The Senate amendment increases the minimum interest rates on Public Law 480 title I loans from the present 2 percent per annum during the grace period and 3 percent thereafter, to 4 percent and 6 percent respectively (but not for any repayments that may be required under a title III agreement). The Senate amendment also makes certain conforming changes in Public Law 480 consistent with an interest rate increase.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

Adoption of the Conference substitute, allows time for additional review of the entire Public Law 480 issue, including the issue of interest rate levels. The House Foreign Affairs Committee has requested an Executive Branch study on Public Law 480 by December 31, 1981, including the potential for using terms and interest rates on title I loans as incentives for developmental use of Public Law 480. House and Senate committees have expressed their intention to hold hearings on the subject. The Conference action will thus allow for careful review of these important matters without prejudice to eventual congressional action.

(b) The House bill in title I limits authorizations of appropriations and outlays for Public Law 480 as follows: for fiscal year 1982, appropriations of $1,304,836,000 and outlays of $1,311,557,000; for fiscal year 1983, appropriations of $1,354,844,000 and outlays of $1,355,966,000; and for fiscal year 1984, appropriations of $1,424,982,000 and outlays of $1,415,849,000.

The House bill in title VII places ceilings on the total Public Law 480 program of $1,856,400,000 in fiscal year 1982, $1,949,000,000 in fiscal year 1983, and $2,071,600,000 in fiscal year 1984. the program ceiling covers Public Law 480 funding both from appropriations, and from loan reflows and carryover from prior years.

The Senate amendment places ceilings on appropriations for Public Law 480 of $1,362,000,000 in fiscal year 1982, $1,193,000,000 in fiscal year 1983, and $1,252,000,000 in fiscal year 1984.

The Conference substitute places ceilings on appropriations for Public Law 480 of $1,304,836,000 for fiscal year 1982, $1,320,292,000 for fiscal year 1983, and $1,402,278,000 for fiscal year 1984.

SUBTITLE B—INTERNATIONAL DEVELOPMENT BANKS

Summary

The House bill contained authorizations and annual ceilings for multilateral development bank programs and provisions addressed to United States policy toward multilateral development banks. The Senate version contained no references to multilateral development banks, because the Foreign Relations Committee did not make reductions in the President's request for multilateral development banks in the programs within its legislative jurisdiction in order to conform to the instructions contained in the First Concurrent Budget Resolution (H. Con. Res. 115).

The Senate and House conferees agreed to retain authorizations and annual ceilings for multilateral development bank programs in the final bill, but to insert the appropriate figures to provide for United States participation in the multilateral development banks in accordance with the President's program and the action taken earlier by the Senate on authorizing legislation (the Senate passed S. 786 containing authorizations for the International Development Association and African Development Bank on April 29, 1981, and S. 1195 containing authorizations for the International Bank for Reconstruction and Development, the Inter-American Development Bank and Asian Development Bank on June 16, 1981). The Senate and House conferees also agreed at the insistence of the Senate conferees, to delete most of the policy provisions contained in the House bill. The conferees retained only three such provisions: repeal of certain reporting requirements, a requirement for consultations with Congress before financial commitments are made to any multilateral development bank by the Executive Branch in the future, and a provision directing the Secretary of the Treasury to consult with representatives of other member countries of multilateral development banks in order to establish guidelines specifying the proportion of lending by each

bank which ought to benefit needy people. The Senate conferees receded to the House conferees on retaining the latter provision primarily because a nearly identical provision had already passed the Senate in S. 1195.

The disposition of specific provisions of the House bill are as follows:

International Bank for Reconstruction and Development

The House provision, which authorizes United States participation in the general capital increase of the World Bank (International Bank for Reconstruction and Development) on the schedule proposed by the Administration and previously passed by the Senate in S. 1195, was agreed to. Not more than $109,720,549 could be made available for this purpose for each of the fiscal years 1982, 1983, and 1984.

International Development Association

The House provision, which authorizes United States participation in the sixth replenishment of the International Development Association, was agreed to with modifications to limit the maximum U.S. contribution for fiscal year 1982 at $850,000,000, and the maximum for fiscal year 1983 at $945,000,000, the remainder to be provided in fiscal year 1984.

African Development Bank

The House provision, which authorizes United States membership in, and a capital subscription to, the African Development Bank, was agreed to. Not more than $17,986,679 could be made available for this purpose for each of the fiscal years 1982, 1983, and 1984.

Inter-American Development Bank and Asian Development Bank

The House provision, which authorizes subscriptions of capital and contributions to the Inter-American Development Bank and Asian Development Bank, was agreed to with modifications to set the limits on U.S. participation in those institutions at the levels requested by the Administration and provided for by Senate passage of S. 1195 on June 17th. Not more than $175,000,000 could be made available to the Fund for Special Operations of the Inter-American Development Bank for fiscal year 1982, and not more than $105,000,000 for fiscal year 1983. Not more than $111,250,000 could be made available to the Asian Development Bank for fiscal year 1982 and not more than $44,500,000 for fiscal year 1983.

Opposition to assistance to certain countries

The House provisions requiring U.S. representatives to certain multilateral development banks to actively oppose loans to certain countries in certain circumstances were deleted at the request of the Senate conferees. The action was taken without prejudice to the disposition of similar provisions in other legislation in the future, and in accordance with the overall agreement to hold to a minimum the inclusion of non-financial items in the bill.

Targeting assistance to the needy

The House provisions, as modified and agreed to by the conferees (1) notes that the Inter-American Development Bank has adopted a target of directing 50% of its lending to needy people; (2) directs the Secretary of the Treasury to consult representatives of other member countries of multilateral development banks in order to establish guidelines specifying the proportion of the annual lending of each institution which should be designed to benefit needy people (those who are classified as "absolutely or relatively poor" under standards adopted by the World Bank and IDA—the standards specify that the incomes of those people are insufficient to provide adequate food, shelter, and the other essential requirements for achieving a basic minimum standard of living in their respective countries); and (3) requires the Secretary to report annually to Congress on progress toward meeting the specified targets. The version agreed to by the conferees is a compromise between very similar provisions in S. 1195 previously passed by the Senate and in the House bill. The conferees noted that the appropriate proportion of the lending of multilateral development banks which ought to be designed to benefit needy people would vary somewhat with the nature of the bank and conditions in member borrowing countries. The International Development Association, for example, might appropriately set a higher target than 50%. On the other hand, a 50% target may be too high for some institutions in some situations.

Miscellaneous provisions

The House conferees accepted the Senate position that the fewest possible substantive provisions should be retained in the agreed version. Provisions concerning coordinating assistance, re-examining basic funding mechanisms, reporting on a new lending facility, and reporting on lending procedures, were deleted from the bill at Senate insistence. The conferees noted, however, that each of the specific points raised in the House provisions was currently under study by the Administration or would be studied in the near future. The conferees expect Congress to receive full and timely reports from the Administration covering all the items deleted from the bill.

The Senate conferees receded to the House with respect to retention of a House provision requiring the Secretary of the Treasury to consult extensively with the appropriate committees of the Congress prior to and during negotiations which could lead to U.S. financial commitments to multilateral development banks.

The Senate receded to the House with respect to retention of a House provision repealing certain reporting requirements established in previous legislation which are no longer justified. The conferees agreed to modify the House provision in order to delete a reference which would have eliminated the present statutory requirement for the Secretary of the Treasury to report annually on actions by multilateral development banks with respect to renewable energy resources in developing countries.

The conferees on the part of the House Committee on Interior and Insular Affairs and the Senate Committees on Energy and Natural Resources and the Select Committee on Indian Affairs (concerning their respective jurisdictions) met and agreed to recommend that the House recede from its disagreement with the above-captioned portion of the Senate amendment to H.R. 3982 and agree to the same with such changes as are necessary:

(1) to limit spending levels for programs of the Department of the Interior (as defined) to $4,095,404,000 for fiscal year 1981, $3,970,267,000 for fiscal year 1982, $4,680,223,000 for fiscal year 1983, and $4,797,281,000 for fiscal year 1984;

(2) to include in the definition of the Department of the Interior the following:

(A) Alaska Native Fund amounts included in Bureau of Indian Affairs programs funded from Miscellaneous Trust Funds and Miscellaneous Permanent Appropriations accounts;

(B) Bureau of Land Management programs;

(C) Bureau of Mines programs;

(D) National Park Service programs other than the John F. Kennedy Center for the Performing Arts (including those programs formerly administered by the Heritage Conservation and Recreation Service as of October 1, 1980);

(E) Offices of the Solicitor and the Secretary;

(F) Office of Surface Mining Reclamation and Enforcement program;

(G) Office of Territorial Affairs programs;

(H) United States Geological Survey program; and

(I) Bureau of Reclamation (including those programs formerly administered by the Water and Power Resources Service);

(3) to change the mandated minimum appropriation levels for various specified programs and activities contained in the House-approved legislation to minimum funding targets which should be a guide in the budget and appropriation process;

(4) to modify the House provisions dealing with increased application and rental fees for the oil and gas leasing program so that the application fee would be "not less than $25" rather than a $25 fixed fee and to replace the rental fee increase approved by the House with a study of the rental fee questions; and

(5) to limit spending levels for the Advisory Council on Historic Preservation, the Office of Federal Inspector for Alaska Natural Gas Transportion System, the Pennsylvania Avenue Development Corporation, and the United States Holocaust Memorial Council, for fiscal years 1981 through 1984.

Indian programs not covered

In making these recommendations, the managers on the part of the House and Senate emphasize that the programs administered by the Bureau of Indian Affairs, the Indian health program, and the Navajo-Hopi Commission have been removed from the reconciliation process and are not subject to the spending limitations contained in the recommendations outlined above. Specifically, with respect to the provisions of the House approved version of H.R. 3964 dealing with these matters, the Managers on behalf of the House are recommending that the House recede to the Senate amendment which contained no "caps" on these programs. The result of this recommendation is—and is intended to be—that these Indian-related programs continue to be implemented as heretofore authorized by the Snyder Act, the Indian Health Care Improvement Act, and the Navajo-Hopi Settlement Act, as amended.

Water programs not covered

Similary, it is clear that programs administered by the Office of Water Research and Technology and the Office of Water Policy have, by definition, been excluded from the spending limitations imposed on the Department of the Interior.

Appropriation target levels

While the Managers on the part of the House agree to modify the mandatory spending levels included in the House-passed bill, they do so with the understanding that this concession is not intended to diminish the overriding interest in the program involved. The Managers strongly urge the executive agencies and the appropria-

tions committees to take cognizance of these minimum funding targets in order to assure reasonable progress to accomplish the intended objectives and to assure a "good faith" effort to meet the commitments of prior Congresses.

Oil and gas leasing program

The Managers of the House and Senate agree that a minimum lease application fee of $25 is reasonable and recognize that, perhaps, a higher fee could be justified. The rental fee increase approved by the House, however, is not recommended by the Managers at this time. Rather, it was the consensus that this phase of the proposed change should be fully reviewed by the Secretary of the Interior and that a report, including such recommendations as he may deem appropriate, should be transmitted to the Congress no later than one year from the date of enactment of this provision. Such a delay in implementation of an increased rental fee will have minimal impact on the revenue side of the Federal budget and could result in the formulation of a more comprehensive solution better suited to the energy needs of the Nation and to producing income to offset the cost of the government.

TITLE XV—DEPARTMENT OF JUSTICE AND RELATED PROGRAMS

JOINT STATEMENT OF MANAGERS—SUBCONFERENCE 44

FEDERAL PRISON SYSTEM

House bill

The House bill contains no provision regarding the Federal Prison System.

Senate amendment

Section 1001 of the Senate amendment authorizes to be appropriated $358,282,000 for certain activities of the Federal Prison System for FY 1982.

Conference agreement

The Conferees agree to not include in the bill any provision regarding the Federal Prison System.

FOREIGN CLAIMS SETTLEMENT COMMISSION

House bill

The House bill contains no provision regarding the Foreign Claims Settlement Commission.

Senate amendment

Section 1003 of the Senate amendment authorizes to be appropriated $705,000 for the activities of the Foreign Claims Settlement Commission for FY 1982.

Conference agreement

The Conferees agree to not include in the bill any provision regarding the Foreign Claims Settlement Commission.

COMMUNITY RELATIONS SERVICE

House bill

The House bill contains no provision regarding the Community Relations Service.

Senate amendment

Section 1004 of the Senate amendment authorizes to be appropriated $5,313,000 for the activities of the Community Relations Service for FY 1982.

Conference agreement

The Conferees agree to not include in the bill any provision regarding the Community Relations Service.

INDOCHINESE REFUGEE ASSISTANCE

House bill

The House bill contains no provision regarding Indochinese refugee assistance.

Senate amendment

Section 1005 of the Senate amendment authorizes to be appropriated for Indochinese refugee assistance $583,705,000 for FY 1982, $570,214,000 for FY 1983, and $470,000,000 for FY 1984.

Conference agreement

The Conferees agree to a provision authorizing the appropriations authorized by the Senate amendment in FY 1982 only. The managers on the part of the Senate point out that the Conference agreement, by not authorizing appropriations for the Refugee Act of 1980 for fiscal years 1983 and 1984, changes nothing agreed to by the Senate Committees on Labor and Human Resources and the Judiciary (See CONG. REC. June 25, 1981, Part II, at 13880).

PATENT AND TRADEMARK OFFICE

House bill

The House bill contains no provision regarding the Patent and Trademark Office.

Senate amendment

Section 1006 of the Senate amendment authorizes to be appropriated for the payment of salaries and expenses of the Patent and Trademark Office $118,961,000 for FY 1982, $118,067,000 for FY 1983, and $118,193,000 for FY 1984. The provision also authorizes the appropriation of such additional and supplemental amounts as may be necessary for increases in salary, pay, retirement or other employee benefits authorized by law.

Conference agreement

The Conferees agree to a provision authorizing the appropriations authorized by the Senate for FY 1982 only.

JOINT STATEMENT OF MANAGERS

Equal Access to Justice Act

Section 13016 of the House bill amends section 504 of title 5 U.S. Code, and section 13017 of the House bill amends section 2412 of title 28 U.S. Code. The effect of these amendments is to amend the Equal Access to Justice Act in the following ways:

(1) modify the eligibility requirements to:

(a) require prevailing parties to have pecuniary loss in excess of $500 in their individual capacity;

(b) require prevailing parties to be engaged in carrying on a trade or business for profit where the amount in controversy is in excess of $500 in an adversary adjudication and is directly related to the conduct of such trade or business;

(c) require prevailing parties to be engaged in carrying on a trade or business for profit and the adjudication involves a violation of the Regulatory Flexibility Act;

(d) remove the section 501 (c) (3) organization's eligibility exception;

(e) remove an agricultural cooperative's eligibility exception;

(2) require an itemized statement of the computation method for attorney's fees;

(3) require that the amount to be awarded shall not be disproportionate to the amount in controversy;

(4) require that awards be limited to the amount of any legally enforceable obligation that the party would have been required to pay in the absence of an award under the Equal Access to Justice Act;

(5) require that the fees and expenses awarded shall be paid by the particular agency over which the party prevails from its own appropriations and that no specific appropriation for this purpose shall be made.

The Senate bill contains no such provisions.

The conferees agree that the House shall recede, thereby leaving no provisions in the bill with regard to the Equal Access to Justice Act.

JOINT STATEMENT OF MANAGERS

LEGAL SERVICES CORPORATION

Section 1137 of the Senate amendment provides an amendment to the Legal Services Corporation Act authorizing appropriations for the Corporation of $100 million for fiscal year 1982 and $100 million for fiscal year 1983.

The House bill has no such provision.

The Conferees agree that the Senate shall recede, thereby leaving no provisions in the bill with regard to the Legal Services Corporation.

Also include in the explanatory statement accompanying the Conference Report the following:

It is the intention of the Conferees that the Office of Juvenile Justice and Delinquency Prevention focus increased attention to problems of the serious juvenile offender, particularly with regard to restitution programs and Project New Pride. The Conferees also recommend that continued attention be paid to training, education, technical assistance and practical research related to police, prosecutors, youth workers, volunteers and others working with juveniles and juvenile delinquency related problems.

The House agrees to same.

House Managers:
CARL D. PERKINS,
IKE ANDREWS,
BALTASAR CORRADA,
PAT WILLIAMS,
HAROLD WASHINGTON,
JOHN M. ASHBROOK,
THOMAS E. PETRI,
E. THOMAS COLEMAN,
WENDELL BAILEY.

Senate Managers:
STROM THURMOND,
PAUL LAXALT,
DENNIS DECONCINI.

TITLE XVI—MARITIME AND RELATED PROGRAMS

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The mangers on the part of the House and the Senate at the conference on the disagreement of the Senate to the bill, H.R. 3982, Title IX, Subtitle A (Maritime Programs), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommend in the accompanying conference report:

Authorization for Maritime Administration

Consistent with funding levels requested by the President, section 9001 authorizes $502.5 million for FY 82 for certain maritime programs: (1) $417.1 million for payment of obligations incurred for operating differential subsidies (paid to U.S. companies to enable them to operate U.S.-flag ships competitively in the U.S.-foreign trade by offsetting the excess cost of operating U.S. vessels over comparable foreign vessel operating costs); (2) $10.5 million for research and development, including operation of the Computer Aided Operations Research Facility (CAORF) located at Kings Point, N.Y.; and (3) $74.9 million for operations and training (including reserve fleet expenses, the U.S. Merchant Marine Academy, the six state maritime academies, and other expenses).

The conferees have increased the amount authorized for reseach and development by $2 million over the House figure in a compromise designed to insure continued operation of CAORF, a highly sophisticated maritime research simulator built in 1975 at a cost to the government of $14.5 million. While other training simulators are currently operating, CAORF is the first simulator dedicated to research. It is capable of testing vessel operations in ports and waterways, standards for training and licensing, bridge system design and criteria, standards for watchkeeping performance, and ship response requirements. In addition to conducting its own research and development at CAORF, the Maritime Administration has cost-shared programs and joint ventures with other government agencies and industry users. CAORF thus represents an important vehicle for cooperative efforts to improve safety and productivity in the U.S. merchant marine. Because the $2 million being directed to CAORF is substantially less than the $3.2 million available last year, the conferees expect to see efforts to increase industry participation in underwriting the cost of its operation.

This compromise also authorizes approximately $2.5 million more in assistance to the state maritime academies than the Senate bill would have authorized. This money should be used for the necessary rehabilitation of the five training vessels provided by the federal government so that the cadets can continue to meet sea-time requirements.

TITLE XI—AUTHORITY

The conferees have agreed to increase by $700 million the Title XI loan guarantees available for merchant ship construction by transferring $350 million from the fishing vessel and fishery facility program and $350 million from the ocean thermal energy conversion (OTEC) program. This means that loan guarantees in the amount of $850 million will be available for fishing vessels and fishery facilities and that $1.65 billion will be available for OTEC demonstration projects.

By setting an $850 million ceiling on commitments to guarantee loans for fishing vessels and shoreside processing plants the conferees intend to set this program squarely on its own two feet. Instead of incidentally benefitting from adjustments to the general Title XI fund, the requirements of the fishing industry for future increases in loan guarantee authority can be addressed directly. Loan guarantees for this program will be committed on the basis of a single economic soundness test. The $850 million ceiling exceeds the roughly $350 million in currently outstanding obligations, thus leaving substantial room for growth of the program. This ceiling demonstrates continued support for inducing investment in this ailing industry.

Despite the reduction from $2 billion to $1.65 billion in Title XI loan guarantees for OTEC demonstration plants, the Conference Committee recognizes the importance of OTEC as an alternative to fossil fuels and the export potential of the technology. This reduction does not represent a change in the support of OTEC by the Congress, reflected in two major 1980 laws—the Ocean Thermal Energy Conversion Act of 1980 (P.L. 96-320) and the OTEC Research, Development, and Demonstration Act (P.L. 96-310). Nor does it represent a precedent for future cuts.

On the contrary, because of the high initial cost and long lead time associated with an OTEC demonstration plant and the variety of plant concepts and sites required to demonstrate the commercial viability of this new industry, the Conference strongly opposes future reductions in the fund.

The commercialization of OTEC requires the cooperation of the evolving industry, the federal government, financial institutions, and the Congress. The loan guarantee program is an essential element in helping the industry get started, providing a significant incentive for investment and contributing to a predictable investment climate.

Freight-forwarder regulation amendment

The Shipping Act amendment broadens competition in the freight forwarder business while protecting the public from illegal rebating. The managers wish to provide the Federal Maritime Commission with the opportunity to determine the enforceability of the protections provided by the amendment. Thus, they agree that the new definition and the revised "independence" test be effective through 1983. The Federal Maritime Commission must report to Congress six months prior to the expiration date on its ability to regulate the economic activity that is the subject of this legislation. The conference managers do not, by establishing a cut-off date, imply that the provisions amending the Shipping Act, 1916, not be made permanent; on the contrary, the managers established the termination date expressly to allow the Federal Maritime Commission to assess its enforceability, so that Congress will benefit from the experience gained by this trial period when it reconsiders this issue.

Build Foreign Amendment

The Conference managers agreed to the temporary authority to approve operating subsidy contracts for operators of foreign-built, United States-flag vessels because of the lack of new funding for construction differential subsidy in fiscal year 1982 and the possibility that funding may be at relatively low levels in succeeding years. However, they modified the requirement that the provision be effective "only if the President, in his annual budget message . . . requests at least $100,000,000 in Construction Differential Subsidy" by allowing, as an alternative, the proposal of an equivalent program. "Equivalent merchant shipbuilding" means non-governmental ship construction or reconstruction, having a value of at least $200,000,000 (the estimated value of the shipbuilding which would have been generated by the appropriation of $100,000,000 to the Construction Differential Subsidy program). The managers further agreed that "alternate program" may include, but need not be limited to, a program of tax incentives which are targeted for the merchant marine. For example, it is not the intent of the managers that a tax depreciation benefit that is available generally, be construed as an "alternate program."

Deferral of fiscal year 1981 construction differential subsidy monies

The Conference Managers agreed to strike Section 9015 of H.R. 3982.

Under current law, $37 million of the funds appropriated for CDS have been deferred to fiscal year 1982 pursuant to the Supplemental Appropriations bill for fiscal year 1981 (P.L. 97-12). The conference managers believe that the limited CDS money deferred to fiscal year 1982 could prudently be used for strengthening the National Defense Reserve Fleet (particularly the Ready Reserve Fleet), to trade in commercially obsolete vessels, for national defense features, or possibly for the reconstruction or reconditioning of existing vessels serving current trade routes, if such vessels are not authorized to be reconstructed abroad.

"The Merchant Marine and Fisheries Committee proposed that ocean dumping fees of $5.00 per wet ton be imposed in fiscal years 1983 and 1984. This action satisfied the assumption of the First Concurrent Budget Resolution that the Committee would effect savings of $200 million in FY 1983 and $300 million in 1984, an instruction that originated with the Senate Budget Committee's desire to impose Coast Guard user fees. In fact, the CBO estimates that the savings resulting from ocean dumping fees would be $400 million per year.

In view of the conflict between section 9401 and section 11141, added by the House Public Works and Transportation Committee, and the absence of language on ocean dumping fees in S. 1377, the conference managers recommend that the House recede to the Senate position. In doing so, the managers recognize that the Merchant Marine and Fisheries Committee has fully complied with its reconciliation responsibilities in this area. The conference managers observe that dropping of the ocean dumping fee proposal will not lead to a future reconciliation instruction to the Merchant Marine and Fisheries Committee to achieve savings in FY 1983 and FY 1984 by imposing ocean dumping fees or assessing fees on users of Coast Guard services.

There is strong bipartisan opposition to Coast Guard user fees in that such a proposal represents a dramatic reversal of traditional policy."

Joint explanatory statement of the committee on conference

The managers on the part of the House and the Senate at the conference on the disagreement of the Senate to the bill, H.R. 3982, Title IX, Subtitle A, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommend in the accompanying conference report:

Continued care for hospitalized seamen

While the agreement reached ends the 200 year entitlement to free medical care, the bill provides a limited one-year extension of free care to American seamen who have been admitted for care before October 1, 1981, and who are, for that illness or injury, unable to receive care elsewhere. The Secretary, who would determine whether the beneficiary qualifies for continued care, is governed by provisions limiting the duration of care to that care necessary to complete the treatment started prior to October 1, 1981. The conference managers understand that whatever small costs may result will have no measurable impact on the substantial savings achieved by the elimination of free care generally.

Thus, section—provides a humanitarian transition for those seamen who, at the time of termination of the entitlement to free care generally, have been admitted for care and who are without means to continue their treatment.

TITLE XVII

SUBTITLE A—CIVIL SERVICE PROVISIONS

Pay cap on Federal employees (Sec. 1701)

Section 10001 of the House bill and section 901 of the Senate amendment provide that the fiscal year 1982 pay adjustment for both General Schedule and prevailing rate employees shall not exceed 4.8 percent. Under both bills, the President's authority

to submit an alternative pay plan calling for even a lower pay adjustment is not disturbed. The House bill, but not the Senate amendment, limits the fiscal year 1983 and fiscal year 1984 pay adjustment to 7 percent each year.

The House recedes to the Senate.

Annualization of cost-of-living adjustments (Sec. 1702)

Section 10002 of the House bill and section 902 of the Senate amendment amend the civil service retirement law to shift from twice-a-year to once-a-year cost-of-living adjustments for civil service retirees and their survivors. Under the amendment the September COLA is eliminated and the March COLA is based on the change in the consumer price index occurring over the preceding 12-month period ending in December. As a result of a provision contained in the Department of Defense authorization bill for fiscal year 1981 (Public Law 96-342), this amendment will trigger an identical change in the cost-of-living adjustments for military retirees.

Coordination of Federal employees health benefits program and medicare

Section 10003 of the House bill amends the Federal Employees Health Benefits (FEHB) law to prohibit any FEHB plan from paying for any item or service for any individual who is covered under Medicare if payment would be made for such item or service by Medicare if the individual were not covered under the FEHB program. The effect of this amendment is to fix in law the existing relationship between Medicare and the FEHBP. Under existing law, Medicare is the primary payor of medical expenses of retired Federal employees who are eligible for Medicare benefits and the FEHBP provides supplemental coverage.

The Senate amendment contains no comparable provisions.

The House recedes to the Senate.

Awards for the disclosure of waste, fraud, and mismanagement (Sec. 1703)

Section 10004 of the House bill authorizes payment of cash awards to employees whose disclosures of waste, fraud, or mismanagement result in cost savings to the Government. At the agency level, Inspectors General are authorized to pay cash awards limited to the lesser of $10,000 or one percent of the agency's cost savings. The President is authorized to give up to 50 awards of $20,000 each year to employees whose disclosures result in substantial cost savings to the Government.

The Senate amendment contains no comparable provisions.

The conferees agreed to the House provision with two significant amendments. The first amendment requires the agency Inspectors General to furnish to the Comptroller General documentation substantiating any cash award made under the new provisions. The Comptroller General is required to review periodically both the awards which are made by the Inspectors General and the procedures used in making such awards in order to verify the cost savings for which the awards were made. The Comptroller General oversight requirement was added by the conferees to assure integrity in the cash awards program. The conferees want assurance that awards are made only for real cost savings and not for cost savings achieved merely by shifting costs to another agency or by contracting work out to the private sector.

The second amendment agreed to by the conferees provides that no award may be made under the new cash awards program after September 30, 1984. The three-year life of the program conforms with the three-year reconciliation instructions and provides opportunity for Congressional review of the effectiveness of the cash awards program.

Reductions in force of career senior executives (Sec. 1704)

Section 10005 of the House bill provides that a career appointee in the Senior Executive Service (SES) whose position is abolished or modified due to a reduction in force is entitled to be assigned to another SES position for which the appointee is qualified. If no suitable position is available in the agency, the Office of Personnel Management (OPM) must place the career appointee in a SES position in some other agency of the Government. An appointee who is not reassigned within his agency and who declines a reasonable offer of placement by OPM may be removed from the civil service. A removed appointee may challenge the reasonableness of the placement offer by appealing to the Merit Systems Protection Board (MSPB).

The Senate amendment contains no comparable provision. The conferees agreed to the House provision with an amendment making several changes discussed below.

The conference report provides that agencies must establish competitive procedures for determining who shall be removed from the Senior Executive Service in any reduction in force of career appointees. It also provides that such determinations shall be based primarily on the performance of the appointees subject to the reduction in force.

The conference report generally retains the House provisions protecting career appointees, although only those who have completed the required probationary period are protected. Under existing law, appointees removed during the probationary period already have certain protection. The conferees intend that individuals who were not required to complete probationary periods because they converted to career SES appointments under section 413 of the Civil Service Reform Act of 1978, shall be deemed to have successfully completed a probationary period for purposes of qualifying for the protection provided.

One major modification permits the removal of a career appointee who OPM is unable to place during the 120-day period following certification by the employing agency head that there is no vacant SES position in that agency for which the career appointee is qualified. The report also expressly provides that OPM must take all reasonable steps to place a career appointee, and that it is the agency head who makes the determination of whether a career appointee is qualified for any position to which placement is proposed. Until a career appointee is either placed by OPM or removed, the appointee remains on the agency payroll. An appointee who is removed is entitled to severance pay under section 5595 of title 5, United States Code.

The conference report retains the House provision permitting a career appointee to appeal any removal for failure to accept a reasonable offer for placement, and provides additional appeal rights with respect to (1) whether an agency reduction in force complied with the competitive procedures required and (2) in the event the career appointee is not placed in a position by OPM, whether OPM took all reasonable steps to place the career appointee.

The conference report provides additional protection for those career appointees who were on board on May 31, 1981. Such a career appointee may not be removed as the result of a reduction in force unless the Director of OPM certifies to the Committees on Post Office and Civil Service and Governmental Affairs that (1) the Office has taken all reasonable steps to place the career appointee, and (2) due to the highly specialized skills and experience of the career appointee, the Office has been unable to place the career appointee. In addition such a career appointee, if removed due to a reduction in force, is entitled to be reinstated to any vacant SES position in his former agency for which he is qualified if he applies for that vacant position within one year after OPM receives the agency head's certification discussed above. An appointee may appeal to MSPB an agency head's determination that he is not qualified for the position to which he is seeking reinstatement.

The conference report retains those provisions of the House bill which amend subchapter V of chapter 75 of title 5, United States Code, to ensure the procedures therein relating to removal or suspension of career appointees are limited to cases involving disciplinary action. Consistent with existing policy, the conferees intend that failure to accept a directed reassignment or failure to accompany a position in a transfer of function would constitute grounds for disciplinary action under the subchapter. The regulatory authority of OPM is unchanged by these provisions, and the conferees stress that any exercise of this regulatory authority should be consistent with the provisions of section 2302(b)(10) of title 5, concerning the relationship between conduct and job performance.

Voluntary State income tax withholding for annuitant (Sec. 1705)

Section 10006 of the House bill requires the Office of Personnel Management to enter into agreements with States to withhold State income taxes from the annuities of civil service annuitants who request such withholdings. The amounts withheld will be disbursed to the States on a quarterly basis.

The Senate amendment contains no comparable provisions.

The conferees agreed to the House provision with several technical amendments designed to assist the Office of Personnel Management in the administration of the new withholding provisions.

The first amendment provides that the amounts withheld from annuities for State income taxes shall be held in the Civil Service Retirement Fund pending quarterly disbursement to the States. This ensures that any interest earned on such amounts will accrue to the benefit of the Fund.

The second amendment limits the number of withholding requests that an annuitant may have in effect to two requests during any one calendar year.

The third amendment provides that any change in withholding requested by an annuitant shall be effective on the first day of the month after the month in which the request for change is processed by OPM but in no event later than on the first day of the second month beginning after the day the request is received by OPM. This amendment will allow OPM at least 30 days in which to act on an annuitant's request even when the request is received at the end of the month.

The fourth amendment provides authority for OPM to collect any erroneous payments to States which may occur under the withholding program.

The final amendment makes the Civil Service Retirement and Disability Fund available for any administrative expenses incurred by OPM in the initial implementation of the withholding program.

SUBTITLE B—POSTAL SERVICE PROVISIONS

Authorizations for public service appropriations (Section 1721)

Section 10101 of the House bill authorizes $200 million for FY 1982, $100 million for FY 1983, and zero for FY 1984, resulting in savings of $444 million, $452 million, and $460 million respectively. The House bill does not alter the existing permanent authorization of $460 million for each year after FY 1984.

Section 903 of the Senate amendment authorizes $300 million for FY 1982, $150 million for FY 1983, and zero for FY 1984, resulting in savings of $344 million, $402 million, and $460 million respectively. The Senate amendment eliminates the existing permanent authorization of $460 million for each year after FY 1984.

The Senate recedes to the House with an amendment providing for an authorization of $250 million for FY 1982.

Continuation of six-day mail delivery (Section 1722)

Section 10102 of the House bill provides that, during fiscal years 1982 through 1984, the Postal Service shall take no action to reduce or to plan to reduce the number of days each week for regular mail delivery.

The Senate amendment contains no comparable provision.

The Senate recedes to the House.

Reduction of authorization for revenue foregone (Section 1723)

Section 10103 of the House bill reduces authorizations to $728 million for FY 1982, $792 million for FY 1983, and $877 million for FY 1984, resulting in savings of $384 million, $383 million, and $424 million respectively. The savings are achieved by terminating the "phasing" authorization for second-class in-county mail and for third-class bulk nonprofit mail, and by reducing the authorizations for the other second-class and fourth-class subclasses by 10% in FY 1982, 10% in FY 1983, and 20% in FY 1984.

Section 903 of the Senate amendment permanently "caps" the total revenue foregone authorization for all subsidized classes of mail at $500 million for FY 1982 and every year thereafter. The resultant savings are $612 million for FY 1982, $675 million for FY 1983, and $801 million for FY 1984.

The conference report provides that the amount authorized to be appropriated for revenue foregone shall not exceed $696 million for FY 1982, $708 million for FY 1983, and $760 million for FY 1984. Authorizations for years after FY 1984 are not altered by the conference report.

The conference report further provides that if, in any of these three fiscal years, the full amount which would have been authorized to be appropriated for revenue foregone exceeds these limitations, the Postal Service will adjust rates for third-class bulk nonprofit mail to the level necessary to recover the difference in the two amounts. And so, for example, if the amount necessary to fully fund revenue foregone for FY 1982 is $780 million, the shortfall resulting from the limitation of $696 million would be $84 million. The Postal Service would then adjust the third-class bulk nonprofit rates to the level necessary to recover that $84 million. That adjustment would be made in accordance with the same procedure used to adjust rates under section 3627 of title 39, United States Code. The Postal Service need not seek a recommended decision from the Postal Rate Commission.

The conference agreement further provides that if, for any of the three fiscal years, the amount actually appropriated for revenue foregone is less than the maximum amount of the limitation imposed by the conference agreement, then the difference between those two figures may be recovered by the Postal Service by adjusting rates for all subsidized classes of mail (except the free for the blind and handicapped class) in accordance with section 3627 of title 39, United States Code. And so, for example, the maximum amount authorized to be appropriated for revenue foregone for FY 1982 is $696 million. If the amount necessary to fully fund revenue foregone for FY 1982 is $780 million, but Congress only appropriates $600 million, under the conference agreement the following would happen. First, the difference between the authorized maximum amount for FY 1982 ($696 million) and the full funding amount ($780 million) would be recovered by the Postal Service by adjusting third-class bulk nonprofit rates. Then, the difference between the authorized maximum amount for FY 1982 ($696 million) and the amount actually appropriated ($600 million), would be subject to recovery by the Postal Service in accordance with section 3627 of title 39, United States Code, which would entail proportional rate adjustments for all subsidized classes of mail (including all second-class, third-class, and fourth-class categories), except that the free for the blind and handicapped class is completely exempted from adjustment by the conference agreement.

Reduction of transitional appropriations (Section 1724)

Section 10104 of the House bill defers until FY 1985 the authorization of $69 million for FY 1982, $69 million for FY 1983, and $51 million for FY 1984, and requires that the Postal Service meet its transitional obligations from other revenues.

The Senate amendment contains no comparable provision.

The Senate recedes to the House.

Quarterly payments of appropriations to the Postal Service fund (Section 1725)

Section 10105 of the House bill requires that yearly appropriations to the Postal Service pursuant to sections 2401 and 2004 of title 39, United States Code, be made in equal quarterly segments, rather than in one lump sum, as under current law. This provision would result in interest savings to the U.S. Treasury of $46 million in FY 1982, $39 million in FY 1983, and $34 million in FY 1984.

The Senate bill contains no comparable provision.

The Senate recedes to the House.

Prohibition of 9-digit zip code (Section 1726)

Section 10106 of the House bill prohibits the Postal Service from taking any action to implemnent its "ZIP+4" program during the period beginning on the date of the bill's enactment and ending on September 30, 1983. During the same period, no Executive agency is permitted to take any action to conform its mailing procedures to the requirements of the "ZIP+4" program.

The Senate amendment contains no comparable provision.

The conference report prohibits the Postal Service from implementing the "ZIP+4" program before October 1, 1983, but allows the Postal Service to take all steps preparatory to implementation. These steps include, but are not limited to, the purchase of optical character readers, channel sorting machines, bar code printers, and all other necessary equipment; the dissemination of information concerning the program; assistance to mailers who convert their mailing procedures to conform to the new program; the training of personnel in the operation of the new system; and any necessary litigation before the Postal Rate Commission or the Federal courts.

The conferees intend that the Postal Service shall be prohibited from offering any rate discount for nine-digit coded mail before October 1, 1983.

Although the Postal Service may install the necessary equipment for use with "ZIP+4", the conferees intend that, prior to October 1, 1983, it may be used only with existing 5-digit ZIP codes, except that 9-digit testing by mailers and the Postal Service may begin as currently scheduled in January 1983.

The conference report prohibits any Executive agency from taking any steps to conform its mailing procedures to the requirements of the "ZIP+4" program before January 1, 1983.

The conferees agree to ask the General Accounting Office to study the "ZIP+4" system and report its findings to Congress on December 1, 1982. GAO will be directed to study the accuracy and reliability of the new machinery and the cost effectiveness of the "ZIP+4" system as a whole; in addition GAO will be asked to suggest improvements in the Postal Service proposal.

Effective date (Section 1727)

Section 10107 of the House bill specifies that the bill's postal provisions shall take effect on October 1, 1981, except for section 10106 (the ZIP code provision), which shall be effective upon enactment.

The Senate amendment contains no comparable provision.

The conference agreement provides that its postal provisions shall take effect on October 1, 1981, except that the ZIP code provision (and the effective date provision itself) shall take effect upon enactment.

SUBTITLE C—GOVERNMENTAL AFFAIRS GENERALLY

PART 1—CONSULTANTS AND TRAVEL

SECTION 1731—REDUCTION IN EXPENDITURES FOR CONSULTANTS

House bill.—The House bill contains no provision relating to reduction in expenditures for consultants.

Senate amendment.—Section 905 of the Senate amendment requires a reduction in obligations for consultant services, management and professional services, and special studies and analyses for all departments, agencies, and instrumentalities of the Executive Branch. Such obligations are to be $500 million less than the total proposed in the President's Budget for fiscal year 1982, as amended and supplemented. The Director of the Office of Management and Budget is responsible for allocating such reductions among the departments, agencies, and instrumentalities of the Executive Branch.

Conference agreements.—The conferees agreed to the Senate provisions with an amendment.

Under Section 1731, as agreed upon by the conference, the President is to submit a rescission bill in January 1982 to reduce the amount of funds appropriated for fiscal year 1982 which may be obligated for consultant services, management and professional services, and special studies and analyses for the Executive Branch. The bill must be accompanied by a special message containing matters required under the Impoundment Control Act and must allocate the reduction within the Executive Branch.

The amount of reduction required to be contained in the rescission bill is $500 million less the difference between the amounts which can be identified in the January 15, 1981, Budget for fiscal year 1982 for consultant services, management and professional services, and special studies and analyses and the amounts appropriated for fiscal year 1982 for such purposes. The special message accompanying the rescission bill must identify amounts in the appropriations acts and in the budget on the basis of which the reduction is calculated.

For purposes of this provision, the conferees expect that the Executive Branch's definition of the types of services included, as found in Executive Branch directives including OMB Circular A-120, OMB Bulletin 81-8, and Federal Procurement Data System codes R401-R499 and R501-R599, will be used in order to facilitate a uniform and consistent application of the provision.

SECTION 1732—REDUCTION IN EXPENDITURES FOR TRAVEL BY FEDERAL EMPLOYEES

House bill.—The House bill contains no provision relating to reduction in expenditures for travel by Federal employees.

Senate amendments.—Section 906 of the Senate amendment requires a reduction in obligations for travel and transportation of persons and transportation of things for officers and employees of all departments, agencies, and instrumentalities of the Executive Branch. Such obligations are to be $550 million less than the total proposed in the President's Budget for fiscal year 1982, as amended and supplemented. The Director of the Office of Mangaement and Budget is responsible for allocating such reductions among the departments, agencies, and instrumentalities. The Director is prohibited from reducing amounts to be allocated for debt collection, supervision of loans, necessary and essential law enforcement activities, all emergency defense activities. In addition, no department's obligations for such items may be reduced by more than fifteen percent of the amount proposed in the fiscal year 1982 Budget.

Conference agreement.—The conferees agreed to the Senate provision with an amendment. Section 1732 will effect a $100 million reduction in the direct administrative travel of persons within the Executive Branch of the Federal Government. Under this section, the President is required to submit a rescission bill in January 1982 to reduce the amount which may be obligated for direct administrative travel of persons within the Executive Branch. The amount of the reduction required to be contained in the rescission bill shall be $100 million less the difference between the amounts which can be identified in the Budget for Fiscal Year 1982 transmitted on January 15, 1981, for direct administrative travel, and the amounts appropriated for fiscal year 1982 for such purposes.

A special message specifically allocating the reduction within the Executive Branch must accompany the rescission bill. The special message must also identify amounts in the approriations acts and in the budget on the basis of which the reduction is calculated.

The President's allocation of such reductions contains the same restrictions as did Section 905 of the Senate amendment.

PART 2—BLOCK GRANT FUNDS

House bill.—Title XVI of the House bill sets forth administrative and procedural requirements that must be met by States receiving block grant funds. The individual provisions of Title XVI of the House bill are as follows:

SECTION 1601—DISTRIBUTION OF BLOCK GRANT FUNDS

Section 1601(a) provides a generic description of the block grant programs which are to be subject to the requirements of Title XVI. Such programs are those receiving funds under the Budget Reconciliation Act or any other law, as long as they (1) distribution money only to States, and (2) prescribe the amount such States will receive on the basis of the amount they received under a terminated program which previously had distributed money to political subdivisions of the States. The subsection further requires that the State establish a formula for the distribution of block grant funds on an equitable basis in accordance with the requirements of Section 1601(b) and make the report required by Section 1602.

Section 1601(b) specifies requirements that the States must meet in distributing block grant funds under programs defined in Section 1601(a). These requirements include (1) assuring that effective programs which service demonstrated needs, and which previously were funded under programs consolidated into the block grants, continue to be funded, (2) assuring parity in distribution of funds for rural areas and small cities, and (3) assuring fairness of competition in applying and bidding for funds.

SECTION 1602—REPORTING

Section 1602(a) requires that the chief executive officer of the State, before distributing block grant funds, prepare a public report on the intended use of funds. The subsection specifies required elements of the report, including information on what activities will be supported, geographic areas to be served, who will receive the services to be funded by the block grant, and the method and formula which has been established to distribute the funds.

Section 1602(b) requires that the above report be publicized in a manner that will facilitate comment both while the report is being developed and after it is completed. It also requires that the report describe a process allowing for public review, appeal of programs selected to be funded, and appeal of selection of delivery mechanisms. The subsection also requires revision of the report throughout the year as necessary to reflect substantial changes in the activities which are funded by the block grants.

Section 1602(c) contains requirements of documentation which must be included in the State's block grant report. Under this subsection, the documentation must be sufficient to substantiate (1) that funding is adequate to carry out the purposes of funded programs, (2) the selection of entities to receive funds, (3) that a previously funded program which was consolidated into a block grant for which funding is discontinued or reduced by more than one-half has not proven effective, and (4) that a delivery entity for which funding is discontinued has not proven effective in carrying out the program.

Senate amendment.—The Senate amendment contains no comparable provision.

Conference agreement.—The conference agreement provides for five new sections, Sections 1741 through 1745, setting forth procedural and administrative requirements for block grant funds. The purpose of the first three of these sections is to provide for a participation and reporting process at the State level to help assure that local governments, interested individuals and groups within a State have an opportunity to comment on planning for the expenditure of block grant funds authorized in this Act. These sections provide minimum requirements and are not intended to supersede more detailed reporting and participation provisions that may be part of individual block grants contained in this Act. In addition, it is not the conferees' intent to effect any change in the delivery mechanism or administering entity of any block grant program.

By providing a process for public comment, it is anticipated that programs of highest priority in terms of the needs of the residents of a State will be identified and that the funding and design of these programs will result in a distribution that treats urban and rural local governments, their residents and other entities, such as non-profit organizations, in an equitable manner.

The last two sections pertain to grant auditing.

SECTION 1741—DISTRIBUTION OF BLOCK GRANT FUNDS

Section 1741(a) sets forth the purposes of the requirements of this part. The requirements are intended to help assure the allocation of block grant funds for programs of special importance to meet the needs of local governments, their residents, and other eligible entities. In addition, they are designed to assure that all eligible urban and rural local governments, their residents, and other eligible entities are treated fairly in the distribution of such funds. In this regard, it is the intent of the conferees that rural areas will be treated fairly in relation to urban areas in the distribution of block grant funds.

Section 1741(b) defines the terms "block grant" and "State". For purposes of this part, the term "block grant" applies only to programs authorized in this Act which are intended to be used to any extent, at the discretion of State governments, for programs discontinued by this Act, and which were funded, immediately before its enactment, by Federal government allocations to units of local government or other eligible entities, or both. It is the intent of the managers that this definition of a block grant not apply to that portion of funds (for example, as in the Educational Program Consolidation) that are paid to a State with the requirement that they automatically be passed through to sub-State entities under a formula established by Federal law.

SECTION 1742—REPORTS ON PROPOSED USE OF FUNDS; PUBLIC HEARINGS

Section 1742(a) requires each State to prepare a report on the proposed use of block grant funds received by that State. The subsection specifies information required in the report, including (1) a statement of goals

and objectives, (2) information on the types of activities to be supported, geographic areas to be served and categories or characteristics of individuals to be served, and (3) the criteria and method established for the distribution of the funds, including details on how the distribution of funds will be targeted on the basis of need to achieve the purposes of the block grant funds. Beginning in fiscal year 1983, the report also must include a description of how the State has met the goals, objectives, and needs in the use of funds for the previous year which the report for that year had identified. The conferees do not intend that the report required by this subsection by voluminous or more extensive than is necessary to publicize adequately the information specified in this subsection.

Section 1742(b) requires that the report prepared by a State pursuant to subsection (a) and any changes in such report be made public within the State on a timely basis and in such manner as to facilitate comments from interested local governments and persons.

Section 1742(c) prohibits any State from receiving block grant funds for any fiscal year until the State has conducted a public hearing, after adequate public notice, on the use and distribution of funds proposed by the State as set forth in that year's report.

SECTION 1743—TRANSITION PROVISION

Section 1743 applies to fiscal year 1982 only and requires a State to certify to the Federal agency administering the block grant that it has met the public report and public hearing requirements of Section 1742. The State must make this certification prior to October 1, 1981, or no less than thirty days before January 1, April 1, or July 1, 1982. A State may certify its compliance for a portion of block grant funds and would then be eligible to receive that portion of block grant funds for which the certification is applicable.

The conferees intend that until a State has submitted its certification, the appropriate Federal agencies shall use that portion of block grant funds not yet claimed by the State to continue those categorical programs operating in the State in FY 1981 for which the State has not yet assumed responsibility. This is to be done in such a manner that, when FY 1981 and FY 1982 funding is compared, each such program not assumed by the State shall receive the same percentage reduction or increase in its funding. The Federal agency shall use the same method of distributing funds as was used in FY 1981 and the program shall be administered in a manner as similar as practicable to the way in which the original categorical programs were administered.

In administering such transitional assistance, it is the intention of the conferees that a Federal agency shall minimize its own administrative expenses. Any transition provision contained in a block grant program authorized by this Act shall supersede this section.

SECTION 1744—ACCESS TO RECORDS BY COMPTROLLER GENERAL

Section 1744 provides that the Comptroller General of the United States shall have access to records for the purpose of evaluating and reviewing the use of block grant funds, consolidated assistance or other grant programs established or provided for in this Act. Under this provision the Comptroller General must be permitted to inspect and review any books, accounts, records, correspondence, or other documents that are related to block grant funds, assistance or programs that are in the possession, custody, or control of any State or political subdivision.

This provision makes clear that needed and desired records may not be withheld from the Comptroller General. The conferees intend through this access by the Comptroller General to help keep the Congress informed on the manner by which these monies are being spent and whether or not the purposes of the legislation are being met.

SECTION 1745—STATE AUDITING REQUIREMENTS

Section 1745 requires each State to conduct financial and compliance audits of all funds which the State receives under block grant or consolidated assistance programs established or provided for by this Act.

The audits are to be conducted with respect to each entire two-year period after October 1, 1981. To the extent practicable, the audits are to be conducted in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions.

Section 1745(d) provides that the audits required by this section shall be in lieu of any other financial and compliance audits of the same funds which the State is required to conduct under any other provision of this Act, unless that other provision, by explicit reference to Section 1745, otherwise provides.

The conferees adopted Section 1745 to insure that State block grant and consolidated assistance programs established or provided for under this Act would be audited effectively on a regular basis in accordance with well-recognized and clearly-established standards, and that the standards governing the audits would be uniform from State to State and among grant programs. The provision was adopted in response to inquiries by conferees who were concerned that the reconciliation legislation included a number of audit provisions and requirements which differed from grant to grant. The conferees agreed that without this section, the Act could impose unreasonable burdens on the States and would not assure maximum protection against possible waste, fraud and abuse in the expenditure of the funds provided to the States. Accordingly, Section 1745 establishes a single audit provision to govern all block grant and consolidated assistance programs in this Act. It supersedes any other audit provisions in this Act which do not explicitly provide otherwise, except that it is not intended to dilute or otherwise change the compliance requirements of any grant programs.

This section addresses only the audit requirements imposed upon the States by this Act. This in no way limits the authority of the Comptroller General, the Inspectors General of the Federal agencies, or other Federal authorities from conducting audits and investigations authorized by this Act or by other Federal statutes.

XVIII—STATEMENT OF MANAGERS

Noise control

Section 6651 of the House bill amends the Noise Control Act of 1972 in several respects and Section 6652 reauthorizes the Noise Control Act for fiscal years 1982 and 1983.

The Senate bill includes no reference to the Noise Control Act.

The House conferees recede to the Senate position, to include no reference to the Noise Control Act. Both Houses have made substantial progress in their respective bills to reauthorize and amend the Noise Control Act, apart from reconciliation.

With this in mind, the House language has been deleted without prejudice to either bill.

Toxic Substances Control Act

Section 6655 of the House bill reauthorizes the Toxic Substances Control Act for fiscal years 1982 and 1983.

The Senate bill contains no reference to the Toxic Substances Control Act.

The House conferees recede to the Senate position, to include no reference to the Toxic Substances Control Act, without prejudice to pending bills in both Houses to reauthorize the Toxic Substances Control Act.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SUBCONFERENCE NO. 30: NUCLEAR REGULATORY COMMISSION

Statement of managers language

Section 8009 of the House bill established "caps" on the total amounts that could be appropriated for programs of the Nuclear Regulatory Commission for each of the fiscal years 1982, 1983 and 1984. The Senate bill included no references to the Nuclear Regulatory Commission.

The House conferees recede to the Senate position which is to include no reference to the NRC. Both Houses have made substantial progress in the development of legislation to authorize appropriations for the NRC for both fiscal year 1982 and fiscal year 1983. The conferees believe there is great likelihood that a 2-year authorization will become public law this fall. With this in mind, the House caps have been deleted without prejudice.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—FOOD STAMP PROGRAM REDUCTIONS AND OTHER REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS

PART 1—FOOD STAMP PROGRAM REDUCTIONS

(1) Family unit requirement

The House bill requires that, in order to be considered a food stamp household, groups of individuals must constitute an "economic unit" (sharing living expenses) as well as purchase and prepare food in common.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(2) Drug addition and alcoholic treatment programs

The Senate amendment eliminates food stamp eligibility for residents of drug addiction and alcoholic treatment and rehabilitation programs and removes from the Food Stamp Act provisions recognizing these programs as eligible to accept food stamp coupons for meals served to these residents. The Senate amendment also deletes the work registration exemption for resident and non-resident participants of those programs.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(h) For expenses for carrying out the Agricultural Conservation Program under the provision of the Soil Conservation and Domestic Allotment Act and the Agricultural Act of 1970—

	1982	1983	1984
Authorization	$191,325,000	$199,647,000	$208,216,000
Outlays	196,329,000	195,471,000	203,252,000

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment increasing the authorization limit by $10 million for each of the 3 years and deleting the outlay ceilings.

(i) For expenses for carrying out the experimental Rural Clean Water Program—

	1982	1983	1984
Authorization	$19,811,000	$21,106,000	$22,104,000
Outlays	11,325,000	16,087,000	19,468,000

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

SUBTITLE C—WATER PROJECTS

PART 1—WATER POLLUTION CONTROL

The House bill amends Section 207 of the Federal Water Pollution Control Act by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

It further authorizes to be appropriated to the Administrator of the Environmental Protection Agency for the fiscal year ending September 30, 1982, not to exceed $100,000,000 to carry out section 205(g) of the Federal Water Pollution Control Act. The Administrator shall make such authorization available to the States in accordance with such section 205(g) in the same manner and to the same extent as would be the case if $5,000,000,000 had been authorized under section 207 of such Act, using the same allotment table as was applicable to the fiscal year ending September 30, 1981.

The Senate amendment amends Section 301 of the Public Works Employment Act of 1976 (Public Law 94-369) by striking "$700,000,000" and inserting in lieu thereof "$416,000,000".

It also amends Section 207 of the Clean Water Act by striking "September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year" and inserting in lieu thereof "not to exceed $5,000,000,000; for the fiscal year ending September 30, 1980, not to exceed $2,520,000,000; for the fiscal year ending September 30, 1981, not to exceed $2,548,837,000; and for the fiscal year ending September 30, 1982, not to exceed $0, unless there is enacted legislation reducing the eligibility of projects for grants for treatment works, establishing an allotment formula for fiscal year 1982 funds, and otherwise reforming the municipal sewage treatment construction grant program under this title in which case the authorization for the appropriation of budget authority for the fiscal year ending September 30, 1982, shall not exceed $2,400,000,000".

It also provides that the share of any State in the funds appropriated under the authorizations amended by this section shall not be reduced due to this section by an amount greater than the unobligated balance of that appropriation for such State as of the date of enactment of this Act, as determined by the Administrator of the Environmental Protection Agency. The reduction in each appropriation under section 207 of the Clean Water Act for fiscal years 1980 and 1981 shall be distributed among the States in accordance with the allotment formula specified in section 205(c) of the Clean Water Act. Whenever the share of a reduction exceeds the unobligated balance of that appropriation for such State, the shortfall shall be distributed according to such allotment formula among all the States which still have unobligated balances of such appropriation in excess of their share of the reduction.

The conference substitute provides that section 207 of the Federal Water Pollution Control Act is amended by striking out "September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year." and inserting in lieu thereof "not to exceed $5,000,000,000; for the fiscal year ending September 30, 1981, not to exceed $2,548,837,000; and for the fiscal year ending September 30, 1982, $0, unless there is enacted legislation establishing an allotment formula for fiscal year 1982 construction grant funds and otherwise reforming the municipal sewage treatment construction grant program under this title, in which case the authorization for fiscal year 1982 shall be an amount not to exceed $2,400,000,000.

It also provides that there is authorized to be appropriated to the Administrator of the Environmental Protection Agency for the fiscal year ending September 30, 1982, not to exceed $40,000,000 to carry out section 205(g) of the Federal Water Pollution Control Act. The Administrator shall make such authorization available to the States in accordance with such section 205(g) in the same manner and to the same extent as would be the case if $2,000,000,000 had been authorized under section 207 of such Act, using the same allotment table as was applicable to the fiscal year ending September 30, 1981.

The Conferees, in agreeing to the conditional authorization for appropriations for fiscal year 1982, commit themselves to exert every effort to secure the passage in 1981 of a bill making necessary changes in the construction grants program, and to secure passage in 1982 of a comprehensive bill addressing the entire Federal Water Pollution Control Act.

PART 2—RIVER AND HARBOR, FLOOD CONTROL, AND RELATED PROJECTS

Appropriations for construction

The House bill provides that notwithstanding any other provision of law, the total amount authorized to be appropriated for the fiscal year ending September 30, 1982, to the Secretary of the Army, acting through the Chief of Engineers, for construction of river and harbor, flood control, shore protection, and related authorized projects (other than the project for the Mississippi River and tributaries) and detailed studies, and plans and specifications, of projects authorized or made eligible for selection by law, shall not exceed $1,588,000,000.

The Senate amendment provides that notwithstanding any other provision of law, no funds are authorized to be appropriated to the Corps of Engineers for the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications of projects authorized or made eligible for selection by law, in excess of $1,505,510,000 for the fiscal year ending September 30, 1982, in excess of $1,688,948,000 for the fiscal year ending September 30, 1983, and in excess of $1,575,750,000 for the fiscal year ending September 30, 1984.

The conference substitute provides that notwithstanding any other provision of law, the total amount authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers, for construction of river and harbor, flood control, shore protection, and related authorized projects (other than the project for the Mississippi River and tributaries) and detailed studies, and plans and specifications, of projects authorized or made eligible for selection by law, shall not exceed $1,546,755,000 for the fiscal year ending September 30, 1982, $1,688,948,000 for the fiscal year ending September 30, 1983, and $1,575,750,000 for the fiscal year ending September 30, 1984.

Special user fees

The House bill provides that notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Defense for special recreation user fees programs of the Corps of Engineers in excess of $5,200,000 for the fiscal year ending September 30, 1982, in excess of $6,000,000 for the fiscal year ending on September 30, 1983, or in excess of $6,000,000 for the fiscal year ending September 30, 1984.

The Senate amendment provides that notwithstanding any other provision of law, there is not authorized to be appropriated to the Secretary of Defense during the fiscal year ending on September 30, 1981, in excess of $5,000,000, for special recreation user fees programs of the Corps of Engineers.

It further provides that notwithstanding any other provision of law, there is not authorized to be appropriated to the Secretary of Defense for special recreation user fees programs of the Corps of Engineers in excess of $5,200,000 for the fiscal year ending on September 30, 1982, in excess of $6,000,000 for the fiscal year ending on September 30, 1983, and in excess of $6,000,000 for the fiscal year ending on September 30, 1984.

The conference substitute provides that notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Defense for special recreation user fees programs of the Corps of Engineers in excess of $5,000,000 for the fiscal year ending on September 30, 1981, in excess of $5,200,000 for the fiscal year ending on September 30, 1982, in excess of $6,000,000 for the fiscal year ending on September 30, 1983, or in excess of $6,000,000 for the fiscal year ending September 30, 1984.

Water resources policy

The House bill provides that notwithstanding any other provision of law, there shall not be appropriated for programs of the National Board of Water Resources Policy in excess of $12,500,000 for the fiscal year ending on September 30, 1982, in excess of $12,500,000 for the fiscal year ending on September 30, 1983, or in excess of $12,500,000 for the fiscal year ending on September 30, 1984.

The Senate amendment provides that there is hereby authorized to be appropriated to the President for the purposes of water resources planning grants to the States, and river basin commissions, Federal coordination of water resources policy, and water resources research the sum of $36,150,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, and the sum of $34,150,000 for the fiscal year ending September 30, 1984.

The conference substitute provides that subject to enactment of legislation establishing a National Board on Water Resources Policy, there is hereby authorized to be appropriated to such board for the purposes of coordination of water resources policy and water resources planning grants to the states the sum of $12,500,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984. Upon establishment of a National Board on Water Resources Policy, all unobligated funds of the Water Resources Council are transferred to such National Board.

It also provides that no funds are authorized to be appropriated to the Secretrary of the Interior for the purposes of water resources research and development including the State water resources institutes, saline water research, development and demonstration, and associated activities in excess of $23,650,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.

OCEAN DUMPING FEES

The House bill contains a provision, from the Committee on Public Works and Transportation, that no fees may be charged by the Secretary of the Army, acting through the Chief of Engineers, the Administrator of the Environmental Protection Agency, or by any other officer of the Federal Government for the transportation for the purpose of dumping, or the dumping, of any material into the oceans.

The House bill also contains a provision, from the Committee on Merchant Marine and Fisheries, that section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended by redesignating sections 102(b), (c), (d) and (e) as sections 102(c), (d), (e) and (f), respectively, and inserting the following new subsection 102(b):

"(b)(1) To become effective on October 1, 1982, the Administrator shall establish a system for the imposition of ocean dumping fees to be paid by the permittee or, in the case of a water resources navigation project of the Army Corps of Engineers, by the nonfederal interest, for materials which are ocean dumped including, but not limited to, sewage sludge, industrial wastes, and dredged materials.

"(2) The ocean dumping fee shall be established at an amount not greater than five dollars per wet ton of materials dumped. The Administrator may, however, established a fee less than this amount for materials dumped based on the following factors:

"(A) The extend to which the dumping of such materials results in a risk of degrading the marine environment; and

"(B) The area of the ocean in which such materials are dumped, and the assimilative capacity of such ocean areas.

"(3) The Administrator may waive ocean dumping fees in the event that it can be demonstrated by the permittee, or in the case of a water resources navigation project of the Army Corps of Engineers, by the nonfederal interest, that it will incur an undue economic burden as a result of such fees.

"(4) Fees collected pursuant to this subsection shall be deposited in the Treasury as offsetting receipts.

"(5) This legislation shall in no way be used to sanction or demonstrate the intent of Congress that ocean dumping activities as addressed by the Marine Protection, Research and Sanctuaries Act of 1972, as amended, be permitted to continue beyond those dates and deadlines as established by said Act for the cessation of the ocean disposal of sewage sludge and harmful industrial wastes."

The Senate amendment contains no similar provisions.

The conference substitute deletes both provisions of the House bill.

The Merchant Marine and Fisheries Committee proposed that ocean dumping fees of $5.00 per wet ton be imposed in fiscal years 1983 and 1984. This action satisfied the assumption of the First Concurrent Budget Resolution that the Committee on Merchant Marine and Fisheries would effect savings of $200 million in FY 1983 and $300 million in FY 1984, an instruction which originated with the Senate Budget Committee's desire to impose Coast Guard user fees. In fact, the CBO estimates that the savings resulting from ocean dumping fees would be $400 million per year.

In view of the conflict in H.R. 3982 between section 9401 and section 11141, added by the House Public Works and Transportation Committee, and the absence of language on ocean dumping fees in S. 1377, the conference managers recommend that the House recede to the Senate position. In doing so, the managers recognize that the Merchant Marine and Fisheries Committee has fully complied with its reconciliation responsibilities in this area. The conference managers observe that dropping of the ocean dumping fee proposal will not lead to a future reconciliation instruction to the Merchant Marine and Fisheries Committee to achieve savings in FY 1983 and FY 1984 by imposing ocean dumping fees or assessing fees on users of Coast Guard services.

There is strong bipartisan opposition to Coast Guard user fees in that such a proposal represents a dramatic reversal of traditional policy.

PART 3—TVA PROJECT

The House bill provides that no amount shall be authorized to be appropriated for the fiscal years ending September 30, 1982, to the Tennessee Valley Authority to carry out the North Alabama Coal Gasification Project at Murphy Hill, Alabama.

The Senate amendment provides that notwithstanding any other law, no appropriations to the Tennessee Valley Authority were authorized for a coal gasification plant at Murphy Hill, Alabama, in the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984.

The conference substitute provides that no amount shall be authorized to be appropriated for the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to the Tennessee Valley Authority to carry out the North Alabama Coal Gasification Project at Murphy Hill, Alabama. The Tennessee Valley Authority shall provide for the repayment out of its proceeds from the project with interest at the rate established in accordance with section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(e)) of all Federal funds invested in the North Alabama Coal Gasification Project at Murphy Hill, Alabama.

EPA REGULATORY AND RESEARCH ACTIVITIES

House bill.—This section limits to $540 million the total amount authorized to be appropriated for fiscal year 1982, to the Administrator of the EPA for non-energy research and development activities and for the abatement control and compliance activities.

Senate amendment.—This provision provides that no funds are authorized to be appropriated to the Administrator of the EPA for non-energy research and development activities and for abatement control and compliance activities in excess of $540 million in each of fiscal years 1982, 1983, and 1984.

Conference substitute.—The Conference Substitute deletes both the House and Senate provisions.

Both the House Public Works and Transportation Committee and the Senate Committee on Environment and Public Works proposed that the Environmental Protection Agency research and regulatory activities be capped at $540 million. This action satisfied the assumption of the First Concurrent Budget Resolution that these committees would effect savings in budget authority of $209 million in FY 1982, $264 million in FY 1983, and $317 million in FY 1984, an instruction which originated with the Budget Committee's desire to impose a cap on EPA research and regulatory activities.

In view of the fact that the House Committee on Energy and Commerce, which has jurisdiction over a number of EPA programs that would be affected by this limitation, did not include a similar provision in its title, the Conference Managers recommend that both the House and Senate provisions be deleted. In doing so, the Managers recognize that the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee have fully complied with their reconciliation responsibilities in their areas.

The conferees further agree that as each bill authorizing appropriations for EPA operating programs is considered in the regular legislative process, every reasonable effort will be made to achieve savings of the magnitude contemplated in the reconciliation instruction.

TITLE XIX

1. Disaster loans—credit elsewhere test

Existing law applies a credit elsewhere test solely to business disaster loan applicants and solely to determine the interest rate.

The House bill does not change existing law.

The Senate amendment applies a credit elsewhere test to determine eligibility of all applicants. All credit worthy borrowers would be excluded from disaster loan assistance.

The conference substitute extends the credit elsewhere test to homeowners solely to determine the interest rate.

2. Disaster loans—interest rate for homeowners

Existing law sets the interest rate on SBA disaster loans to homeowners for repair or replacement of a primary residence at 3 percent on the first $55,000.

The House bill increases this rate to 5 percent.

The Senate amendment increases this rate by using a formula based on cost of money to the Federal government for comparable length Federal borrowings plus up to 1 percent at the Small Business Administration's discretion, less 5 percent. Based on the current cost of these Federal borrowings, this rate could be up to 15.3 percent.

The conference substitute sets the interest rate for homeowners unable to obtain credit elsewhere at one-half the cost of money to the Federal government for comparable length Federal borrowings plus up to 1 percent at SBA's discretion, but not to

exceed 8 percent. The rate for homeowners able to obtain credit elsewhere is set at full cost of money plus up to 1 percent.

3. Disaster loans—rates for businesses without credit elsewhere

Existing law sets the interest rate on SBA disaster loans to businesses unable to obtain credit elsewhere at 5 percent.

The House bill increases this interest rate to 7 percent.

The Senate amendment increases this rate by using a formula based on cost of money to the Federal government for comparable length Federal borrowings plus up to 1 percent at the Small Business Administration's discretion. Based on the current cost of these Federal borrowings, this rate could be up to 15.3 percent.

The conference substitute sets this interest rate at not to exceed 8 percent.

4. Disaster loans—rates for businesses with credit elsewhere

Existing law sets this rate based on a formula involving the cost of money to the Federal government for comparable length Federal borrowings, plus up to 1 percent at SBA's discretion, on up to $500,000 but existing law further limits these loans to an initial term of three years.

The House bill reduces the initial term to two years.

The Senate amendment does not contain a comparable change as these borrowers would have been made ineligible for such loans by the Senate amendment (see item 1).

The conference substitute authorizes the Administrator of SBA, after discussion with the Secretary of Agriculture, to set the rate but not to exceed the rate prevailing in the private market and not to exceed the maximum rate for guaranteed loans as determined by SBA pursuant to section 7(a) of the Small Business Act. In addition, the Conference Substitute sets the maximum term of the loan at three years.

5. Disaster loans—SBA regulation of March 19th

On March 19, 1981, SBA limited business disaster loan applicants to 60 percent of the amount of net actual loss and denied disaster loans to credit worthy businesses. SBA also limited economic injury loans under section 7(b)(2) of the Small Business Act to $100,000 per borrower. The change was made effective immediately and applied to *pending* and future applicants.

The House bill did not change existing law or SBA's regulation.

The Senate amendment overruled the regulation as to applications pending on March 18, 1981. SBA would be permitted to apply the changes to applications received after that date even though the disaster had occurred previously, but they would be required to reverse action previously taken.

The conference substitute requires SBA to revise its action as to pending applications and to provide the following assistance:

(a) Credit worthy business applicants (who previously were denied any assistance) would receive loans for 85 percent of net actual loss. These loans would be made for a maximum term of three years and would bear interest at a rate determined by the Administration as not exceeding that prevailing in the private markets and also not exceeding the maximum rate as prescribed by SBA for regular business loans; but, if the Administrator determines that imposition of these provisions would impose a substantial hardship on the applicant, he would be authorized, in his discretion on a case-by-case basis, to waive these provisions and provide assistance as was provided to credit worthy applicants under rules and regulations in effect at the time the disaster commenced.

(b) Non-credit worthy business applicants (who previously were limited by SBA to loans for 60 percent of net actual loss) would receive loans for 100 percent of net actual loss. The interest rate would remain the rate in effect at the time the disaster commenced.

(c) The maximum ceiling for economic injury loans would be restored to $500,000 per borrower.

The Conferees expect the Administrator to promptly notify and inform those applicants who were denied disaster assistance or received assistance at 60 percent of loss pursuant to the March 19, 1981 regulations, who would receive additional benefits under this provision, of its enactment.

6. Disaster loans—limit on loans to percent of actual loss

Existing law requires loans of 100 percent of the amount of actual loss (OMB interpretation to the contrary).

The House bill limits businesses to 85 percent of the amount of the actual net loss.

The Senate amendment contains no comparable provision.

The conference substitute adopts the House provision.

7. Disaster loans—program level

Existing law authorizes the appropriations of whatever is necessary to carry out the disaster loan program, i.e., an open-ended authorization, and does not specify a maximum annual program level.

The House bill imposes an annual maximum program level and specifies the amount authorized to be appropriated annually.

The Senate amendment does not contain a comparable provision.

The conference substitute does not change existing law.

8. Disaster loans—economic injury

Existing law authorizes loans to small businesses who have suffered substantial economic injury (i.e., loss of business) due to their being located in an area struck by a physical disaster. The physical disaster must have been of such magnitude as to warrant a declaration by the President, SBA, or the Secretary of Agriculture; however, the governor of the state can request SBA assistance even if there has been no declaration. SBA imposes a credit elsewhere test by regulation to determine eligibility.

The House bill does not change existing law.

The Senate amendment eliminates eligibility if the declaration was only by the Secretary of Agriculture or on the request of the state governor. Also, it imposes a statutory credit elsewhere test to determine eligibility.

The conference substitute continues existing law regarding FmHA declarations and governors' requests, but imposes a statutory credit elsewhere test.

9. Nonphysical disaster loans

Existing law establishes seven categories of nonphysical disaster loans (for example, regulatory compliance, product disaster, economic dislocation, etc.) and water pollution control loans.

The House bill rewrites these eight programs into a new Federal action loan program.

The Senate amendment repeals these eight programs and provides no new substitute.

The conference substitute adopts the House change but expressly provides that there will be no funds in fiscal years 1982–1984 for this program.

10. Farmer eligibility at SBA

Existing law permits agricultural producers to apply for and receive SBA assistance if they meet eligibility criteria applied to non-agricultural producers. This includes all types of SBA assistance except that if the assistance sought is a disaster loan, the farmer must be declined for or would be declined for emergency loan assistance at substantially similar inerest rates from the Farmers Home Administration.

The House bill makes no change in existing law.

The Senate amendment repeals those provisions which now preclude SBA from denying assistance to agricultural producers who are otherwise qualified.

The conference substitute does not change existing law.

The Conferees expect the Administrator of SBA and the Secretary of Agriculture to consult and establish substantially similar interest rates for credit worthy and non-credit worthy borrowers. Statutory language, approved by the Conferees conforms with that adopted by the Agriculture Committees Conferees with respect to interest rates for disaster assistance from Farmers Home Administration. This was done to insure that farmers must seek disaster assistance first from FmHA pursuant to Public Law 96-302.

11. 1981 program levels and authorizations

Existing law provides 1981 authorizations and specifies program levels and salary and expense levels.

The House bill makes no change in existing law.

The Senate amendment modifies existing law, primarily with reductions.

The conference sustitute does not change existing law except on one program; it increases the maximum amount of pollution control contract guarantees up to $180 million in lieu of existing law of $110 million and the increase in the Senate bill of $250 million.

12. 1982 program levels

The amounts of 1982 program levels authorized by the House bill, the Senate amendment, and the Conference substitute are as follows:

[in millions of dollars]

Item	House	Senate	Conference substitute
Regular business direct	(155)	(83)	(125)
Regular business guaranteed	2,785	3,500	2,808
Handicapped direct	(15)	(7)	(15)
Handicapped guaranteed	5	5	5
Economic opportunity direct	(45)	(21)	(45)
Economic opportunity guaranteed	50	65	60
Solar and energy conservation direct	(10)	(11)	(10)
Solar and energy guaranteed	15	20	17
Development company direct	(0)	(23)	(0)
Development company guaranteed	150	250	250
Small business investment company direct	(35)	(35)	(35)
Small business investment company guaranteed	145	160	160
Total direct	(260)	(180)	(230)
Total guaranteed	3,150	4,000	3,300
Nonphysical disaster loans	40	0	0
Surety bond guarantees	1,200	1,600	1,400

[in millions of dollars]

Item	House	Senate	Conference substitute
Pollution control contract guarantees	250	250	250

The Conferees note that these amounts are reductions, in some instances very substantial reductions, from existing law and even from 1981 appropriations. Compliance with "savings instructions" in the Budget Resolution compelled these reductions.

13. 1983 program levels

The amounts of 1983 program levels authorized by the House bill, the Senate amendment, and the Conference substitute are as follows:

[In millions of dollars]

Item	House	Senate	Conference substitute
Regular business direct	(155)	(75)	(125)
Regular business guaranteed	2,785	3,395	2,708
Handicapped direct	(15)	(7)	(15)
Handicapped guaranteed	5	5	5
Economic opportunity direct	(45)	(22)	(45)
Economic opportunity guaranteed	50	65	60
Solar and energy conservation direct	(10)	(12)	(10)
Solar and energy conservation guaranteed	15	25	17
Development company direct	(0)	(23)	(0)
Development company guaranteed	150	350	350
Small business investment company direct	(35)	(35)	(35)
Small business investment company guaranteed	145	160	160
Total direct	260	174	230
Total guaranteed	3,150	4,000	3,300
Nonphysical disaster loans	40	0	0
Surety bond guarantees	1,200	1,600	1,400
Pollution control contract guarantees	250	250	250

The Conferees note that these amounts are reductions, in some instances very substantial reductions, from existing law and even from 1981 appropriations. Compliance with "savings instructions" in the Budget Resolution compelled these reductions.

14. 1984 program levels

The amounts of 1984 program levels authorized by the House bill, the Senate amendment, and the Conference substitute are as follows:

[In millions of dollars]

Item	House	Senate	Conference substitute
Regular business direct	155	116	125
Regular business guaranteed	2,785	3,345	2,708
Handicapped direct	15	13	15
Surety bond guarantees	1,200	1,600	1,400
Pollution control contract guarantees	250	250	250

The Conferees note that these amounts are reductions, in some instances very substantial reductions, from existing law and even from 1981 appropriations. Compliance with "savings instructions" in the Budget Resolution compelled these reductions.

14. 1984 program levels

The amounts of 1984 program levels authorized by the House bill, the Senate amendment, and the Conference substitute are as follows:

[In millions of dollars]

Item	House	Senate	Conference substitute
Regular business direct	(155)	(116)	(125)
Regular business guaranteed	2,785	3,345	2,708
Handicapped direct	(15)	(13)	(15)
Handicapped guaranteed	5	5	5
Economic opportunity direct	(45)	(38)	(45)
Economic opportunity guaranteed	50	65	60
Solar and energy conservation direct	(10)	(20)	(10)
Solar and energy conservation guaranteed	15	25	17
Development company direct	(0)	(23)	(0)
Development company guaranteed	150	400	350
Small business investment company direct	(35)	(35)	(35)
Small business investment company guaranteed	145	160	160
Total direct	(260)	(245)	(230)
Total guaranteed	3,150	4,000	3,300
Nonphysical disaster loans	40	0	0
Surety bond guarantees	1,200	1,600	1,400
Pollution control contract guarantees	250	250	250

The Conferees note that these amounts are reductions, in some instances very substantial reductions, from existing law and even from 1981 appropriations. Compliance with "savings instructions" in the Budget Resolution compelled these reductions.

15. 1982 salaries and expenses

For 1982, the House bill authorizes $227.618 million for salaries and expenses; the Senate amendment authorizes $227 million; and the Conference substitute authorizes $227 million.

The House bill earmarks the following amounts:

(1) $12.526 million for procurement and technical assistance; of which amount not less than $2.318 million shall be available for technical assistance, and of this amount not less than $903 thousand shall be used to pay for the continued development of a procurement automated source system, and not less than $175 thousand shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small business;

(2) $27.876 million for management assistance, of which amount not less than $1.46 million shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

(3) $5.668 million for economic research and analysis and advocacy, of which amount not less than $2.818 million shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1 million shall be used to develop an external small business data bank and small business index; not less than $850 thousand shall be used for research; and not less than $1 million shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

(4) $22.566 million for the Office of Minority Small Business and Capital Ownership Development, $10 million of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act; and

(5) $11.546 million for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices.

The Senate amendment earmarks the following amounts:

(1) $14.52 million for procurement and technical assistance; of which amount not less than $2.1 million shall be available for technical assistance, and of this amount not less than $692 thousand shall be used to pay for the continued development of a procurement automated source system, and not less than $907.5 thousand shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small business;

(2) $25.4 million for management assistance, of which amount not less than $968 thousand shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

(3) $9.68 million for economic research and analysis and advocacy, of which amount not less than $2.42 million shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1.815 million shall be used to develop an external small business data bank and small business index; not less than $1.815 million shall be used for research;

(4) $30.25 million for the Office of Minority Small Business and Capital Ownership Development, $13.655 million of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act; and

(5) $10.9 million for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices and to the development of an indicative small business data base comprised of names and addresses and related information which amount not less than $1.21 million shall be used to pay for development of such indicative small business data base; and

(6) $12 million for matching grants to small business development centers, and an additional $550 thousand for the administration of the small business development center program.

The conference substitute earmarks the following amounts:

(1) $12.526 million for procurement and technical assistance; of which amount not less than $2.318 million shall be available for technical assistance, and of this amount not less than $903 thousand shall be used to pay for the continued development of a procurement automated source system, and not less than $175 thousand shall be used to de-

velop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small business;

(2) $26.638 million for management assistance, of which amount not less than $1.214 million shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist; and the Small Business Development Center program shall not be funded solely hereunder;

(3) $8 million for economic research and analysis and advocacy, of which amount not less than $2.42 million shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1.4 million shall be used to develop an external small business data bank and small business index; not less than $1.35 million shall be used for research; and not less than $1 million shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

(4) $30.25 million for the Office of Minority Small Business and Capital Ownership Development, $13.655 million of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act; and

(5) $10.546 million for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices.

The conference substitute also authorizes to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of the small business development center program.

16. 1983 salaries and expenses

For 1983, the House bill authorizes $233.213 million for salaries and expenses; the Senate amendment authorizes $233 million; and the conference substitute authorizes $233 million.

The House bill earmarks the same amounts and for the same purposes as it did for 1982 except that it increases the earmark for management assistance to $33.876 million.

The Senate amendment earmarks the same amounts and for the same purposes as it did for 1982.

The conference substitute earmarks the same amounts and for the same purposes as it did for 1982 except that it increases the earmark for management assistance to $32.638 million (see item 15).

17. 1984 salaries and expenses

For 1984, the House bill authorizes $238.646 million for salaries and expenses; the Senate amendment authorizes $239 million and the conference substitute authorizes $239 million.

The House bill earmarks the same amounts and for the same purposes as it did for 1982 except that it increases the earmark for management assistance to $38.876 million.

The Senate amendment earmarks the same amounts and for the same purposes as it did for 1982.

The conference substitute earmarks the same amounts and for the same purposes as it did for 1982 except that it increases the earmark for management assistance to $32.138 million (see item 15).

18. 1982 authorizations

For 1982, the House bill authorizes the appropriation of $623.228 million, of which: $272 million is for business loan programs; $32.61 million is for surety bond guarantees; $87 million is for disaster loans; $4 million is for real estate lease guarantees; and amounts as specified in item 15 for salaries and expenses.

The Senate amendment authorizes the appropriation of $623 million, of which $362 million is for business loan programs; $30 million is for surety bond guarantees; $4 million is for real estate lease guarantees; amounts as specified in item 15 for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes appropriations as provided in the Senate amendment.

19. 1983 authorizations

For 1983, the House bill authorizes the appropriation of $689.193 million, of which: $364 million is for business loan programs; $34.98 million is for surety bond guarantees; $53 million is for disaster loans; $4 million is for real estate lease guarantees; and amounts as specified in item 15 for salaries and expenses.

The Senate amendment authorizes the appropriation of $675 million, of which $408 million is for business loan programs; $30 million is for surety bond guarantees; $4 million is for real estate lease guarantees; amounts as specified in item 15 for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriations as provided in the Senate amendment.

20. 1984 authorizations

For 1984, the House bill authorizes the appropriation of $837.816 million, of which: $484 million is for business loan programs; $37.17 million is for surety bond guarantees; $74 million is for disaster loans; $4 million is for real estate lease guarantees; and amounts as specified in item 15 for salaries and expenses.

The Senate amendment authorizes the appropriation of $804 million, of which $531 million is for business loan programs; $30 million is for surety bond guarantees; $4 million is for real estate lease guarantees; amounts specified in item 15 for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes appropriations as provided in the Senate amendment.

21. Loan consolidation

SBA requested that specific programs for trade adjustment loans under section 7(e), handicapped assistance loans under section 7(h), economic opportunity loans under section 7(i), and solar and energy conservation loans under section 7(l) be repealed and consolidated so that all direct loans, except disaster (and specifically including development company loans), would be made solely pursuant to the provisions of section 7(a). Section 7(a) would be rewritten into general purpose language but specific provisions would be retained regarding the use of 7(a) loans to provide export assistance and to provide financing to employee stock ownership plans (ESOP's).

The House bill consolidates these programs into section 7(a) and repeals all other loan programs, except disaster; however, in addition to the export assistance and ESOP loan provisions as retained in the SBA request, the revised section 7(a) also contains a specific enumeration of all now permissible uses and those contemplated under the consolidated program. That is, in addition to the general language, section 7(a) contains provisions specifying that this program can provide assistance to homebuilders, to handicapped, for economic opportunity, for energy conservation, to development companies, for export financing, and for ESOP's.

The Senate amendment contains no comparable provision.

The conference substitute includes the House provision.

22. Maximum guaranteed loan

SBA requested that a uniform maximum amount of a guaranteed loan be established and that it be increased from the current amount to $750,000.

The House bill establishes a uniform limit but does not increase this limit beyond $500,000 per borrower due to the impact of budgetary constraints.

The conference substitute includes the House provision.

23. Maximum maturity

SBA requested that it be given the discretion to set the term of loans to coincide with practices in the private markets, but not to exceed thirty years.

The House bill increases the maximum maturity to twenty-five years plus construction time.

The conference substitute includes the House provision.

24. Direct loan interest rates

SBA requested that the interest rate on all direct loans be increased to a rate equivalent to that prevailing in private markets (today about 22 percent), but not less than the Treasury rate plus 1 percent.

The House bill effective October 1, 1981, authorizes SBA to prescribe the direct loan interest rate but not to exceed that determined under a formula involving the average market yield on comparable length marketable obligations of the Government, plus an additional amount as determined by the SBA Administrator, but not exceeding 1 percent per year (this would yield 15.3 percent presently), except that loans to handicapped individuals or to organizations for the handicapped would be continued at a 3-percent interest rate.

The conference substitute includes the House provision but makes it effective upon enactment.

25. Sale of notes

The House bill requires the SBA to sell such amounts of direct loans now held in its portfolio as would be necessary to supplement appropriations in order that the agency could carry out its programs at the levels specified.

The Senate amendment does not contain a comparable provision.

The Conference substitute does not include the House provision; however, for direct business loans made in 1981, the Conference Substitute provides that interest received by SBA shall be paid to Treasury.

For direct financings made in fiscal year 1981 from the business loan and investment fund, SBA would not be required to also pay Treasury the difference between interest received and cost of money to the Government. For loans made after 1981 SBA is required to pay Treasury based on cost of money interest rates as described in section 4(c)(5)(A) of the Small Business Act.

26. Use of SBA loans for refinancing

The House bill specifies conditions under which SBA loans may be used to refinance prior indebtedness and limits loans for such purpose to an 80-percent guarantee rather than 90 percent. SBA would report on the effectiveness of this provision and it is sunset October 1, 1985.

The Senate amendment contains no comparable provision.

The conference substitute includes the House provision.

27. Guarantee fee

The House bill specifically prohibits financial institutions from directly passing on to the borrower the 1-percent guarantee fee which SBA imposes on the bank.

The Senate amendment contains no comparable provision.

The conference substitute does not contain the House provision. However, the conferees instruct SBA to take such action as may be necessary to assure that those financial institutions which require borrowers to pay this fee to notify prospective borrowers that they will be required to do so. The notification should be well in advance of the contemplated loan closing.

28. Percent of loan guaranteed

The House bill provides that guaranteed loans of $100,000 and less must carry at least a 90-percent guarantee; that guaranteed loans over $100,000 up to about $715,000 receive a guarantee of between 70 percent and 90 percent; that SBA only reduce such guarantees below 90 percent on a case-by-case basis; and that SBA not use the guarantee percentage as a test of giving priority consideration. Guaranteed loans over approximately $715,000 must have a guarantee of less than 70 percent.

The Senate amendment contains no comparable provision.

The conference substitute includes the House provision.

29. Optional loan repayment plan

The House bill provides that at the election of all parties to a 7(a) loan (either direct or guaranteed), the loan may have a repayment provision which provides for interest only payments during the first two years of the loan, if such loan has a maturity of at least eight years; during the first three years of the loan if the loan has a maturity of at least ten years; and during the first four years of the loan if the loan has a maturity of at least fifteen years. If a bank or other participating lender agrees to structure the repayment schedule as described above, it could obtain a one-time fee of 1 percent of the loan principal which may be paid directly out of the proceeds of the loan.

The Senate amendment contains no comparable provision.

The conference substitute does not change existing law.

30. Extending term of existing loans

The House bill authorizes SBA to agree to an extension of the term, or refinancing (if it results in an extension of term) of an outstanding SBA 7(a) guaranteed loan if: (1) all parties to the loan so agree: (2) the extended term does not exceed the maximum term of a SBA 7(a) loan permitted by law; and (3) the extended loan or refinancing is to be repaid in equal installments of principal and interest, except as may be provided for under the optional loan repayment plan.

If the extended loan or refinancing results in a new term of longer than ten years, the lender is authorized to charge the borrower a one-time fee of 1 percent of the outstanding principal of the loan.

The Senate amendment contains no comparable provision.

The conference substitute includes the House provision.

31. "Sunset" provisions and reporting requirements

The House bill sunsets the new refinancing and optional loan repayment programs on October 1, 1985.

SBA is required to submit two separate reports to the Congress on the operation of its 7(a) loan program, as modified by the bill. The first report would be due by February 28, 1984; the second one year later.

Such reports would contain statistical data on the number, dollar amount and default rates of loans made subject to the new provisions of this bill and similar data for loans that are not affected by such new provisions.

The Senate amendment contains no comparable provision.

The conference substitute includes the House provision except on the optional loan repayment program which was dropped (see item 29).

32. Elimination of reports on energy conservation loans and loans to assist low income and disadvantaged individuals

SBA requested that these reports now required under sections 7(i) and 7(l) of the Small Business Act be eliminated.

The House bill provides that these individual reporting requirements be repealed but that the general reporting requirements of section 10(b) be rewritten to include these matters.

The Senate amendment contains no comparable provision.

The conference substitute includes the House provision.

TITLE XX—VETERANS' PROGRAMS

1. Burial benefits

House bill.—The House bill would limit payment of non-service-connected burial benefits—$300 for burial and funeral expenses and a $150 plot allowance—to those cases in which the deceased veteran's annual income, including spouse's income, does not exceed $20,000. This limitation would be effective only with respect to deaths occurring during fiscal years 1982 through 1984.

Senate amendment.—The Senate amendment would generally limit the payment of both benefits to those cases in which the deceased veteran was entitled to receive Veterans' Administration service-connected disability compensation for a disability rated at 30 percent or more in the cases of deaths occurring in the last three months of fiscal year 1981, for a disability rated at 20 percent or more in the cases of deaths occurring in fiscal year 1982, and for any compensable disability in the cases of deaths occurring in fiscal year 1983 and thereafter; and to those cases in which the veteran was entitled to receive VA pension or met the income and wartime service eligibility requirements for pension. (Other pension eligibility requirements relate to disability, age, and duration of service.)

Conference agreement.—The conference agreement would limit, effective October 1, 1981, the payment of the $300 burial and funeral expenses benefit, which would be payable thereafter only in the cases of deceased veterans who were entitled to receive VA compensation or pension. (Pursuant to present section 3021(a) of title 38, United States Code, a veteran would be deemed to have been so entitled if the evidence on file at date of death was sufficient to support a determination of entitlement.) The $150 plot allowance would not be affected. The Senate recedes with respect to fiscal year 1981 and the House recedes with respect to having the limitation apply only during fiscal years 1982 through 1984.

This provision is estimated to save $75.2 million in budget authority and outlays in fiscal year 1982, $79.8 million in budget authority and outlays in fiscal year 1983, and $84.4 million in budget authority and outlays in fiscal year 1984.

2. Outpatient dental benefits

House bill.—The House bill would terminate, effective October 1, 1981, benefits for outpatient treatment for certain non-compensable service-connected dental conditions.

Senate amendment.—The Senate amendment would, effective October 1, 1981, restrict eligibility for these dental benefits in three ways. First, the period of time after discharge within which the veteran must apply would be reduced from one year to six months. Second, a 180-day minimum service requirement would be imposed. Third, these benefits would not be provided to a veteran who had been certified by the armed service concerned as having received a complete dental examination and all indicated treatment during the 90 days immediately prior to discharge.

Conference agreement.—The House recedes with an amendment reducing the period of time after discharge within which the veteran must apply to three months. In addition, the Secretary of the service concerned would be required to provide the servicemember, at the time of discharge from a period of active duty of not less than 180 days, with actual notice (verified by a statement, signed by the servicemember—or if the servicemember refuses to sign, a certification by an authorized official—to be made a part of his or her permanent military records) of the new three-month limitation.

This provision is estimated to save $17.7 million in budget authority and outlays in fiscal year 1982, $18.9 million in budget authority and outlays in fiscal year 1983, and $20.3 million in budget authority and outlays in fiscal year 1984.

3. Flight training

House bill.—The House bill would terminate, effective October 1, 1981, GI Bill education benefits for the pursuit of flight training.

Senate amendment.—No provision.

Conference agreement.—The Senate recedes with an amendment providing that those who are enrolled in approved vocational flight training programs on August 31, 1981, may continue to use their benefits for the purpose of such programs as long as they remain continuously enrolled.

This provision is estimated to save $14.1 million in budget authority and outlays in fiscal year 1982, $20 million in budget authority and outlays in fiscal year 1983, and $17 million in budget authority and outlays in fiscal year 1984.

4. Correspondence training

House bill.—The House bill would terminate, effective October 1, 1981, GI Bill education benefits for the pursuit of training by correspondence courses.

Senate amendment.—No provision.

Conference agreement.—The conference agreement would reduce, from 70 percent to 55 percent, effective October 1, 1981, the portion of the cost of correspondence training paid by the Veterans' Administration. The 70 percent rate would apply only to lessons completed and submitted (that is, postmarked, if submission is by mail) before October 1, 1981.

This provision is estimated to save $3.2 million in budget authority and outlays in fiscal year 1982, $3 million in budget authority and outlays in fiscal year 1983, and $2.6 million in budget authority and outlays in fiscal year 1984.

5. Education loan program

House bill.—The House bill would terminate, effective October 1, 1981, the VA education loan program.

Senate amendment.—The Senate amendment would, with two exceptions, terminate the program effective October 1, 1982. Under those exceptions, education loans would remain available for use by certain Vietnam-era veterans pursuant to current law: (1) those continuing their full-time training in the first two years after the expiration of the GI Bill delimiting period, and (2) those pursuing flight training courses.

Conference agreement.—The conference agreement incorporates the House termination date with the Senate exceptions.

This provision is estimated to save $6 million, in outlays only, in fiscal year 1982, $5 million, in outlays only, in fiscal year 1983, and $4 million, in outlays only, in fiscal year 1984.

6. Health care cost recovery

House bill.—No provision.

Senate amendment.—The Senate amendment would clarify the VA's authority to recover the costs of non-service-connected health care in certain situations in which the veteran would be eligible to have those costs paid by a workers' compensation carrier, an automobile no-fault insurer, or a state that pays health-care costs for victims of crimes of personal violence.

Conference agreement.—The Senate recedes. It is noted that H.R. 3499, as passed by the House on June 2, 1981, contains a very similar provision, and the Veterans' Affairs Committees expect such a provision to be enacted in that bill.

TITLE XXI—PROVISIONS RELATING TO MEDICARE AND MEDICAID

1. Nutritional therapy under end stage renal disease program

House bill.—The House bill allows coverge under the medicare program for nutritional therapy (when it is used as a means of delaying or substituting for the provision of kidney dialysis) for those beneficiaries who would otherwise qualify for medicare benefits.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision. However, it is the intention of the conferees that the Secretary conduct and promptly complete all studies and experiments required under present law which pertain to the use of, or reimbursement for, nutritional therapy; and, that the Secretary transmit a full and complete report with respect to each study and experiment (containing evidence of the use of statistically valid methods) and including relevant findings and any conclusions or recommendations to the appropriate committees of the Congress not later than January 1, 1983.

2. Elimination of carryover from previous year of incurred expenses for meeting the part B deductible

House bill.—The House bill repeals the provision of current law that permits beneficiaries to count expenses incurred in the last quarter of the previous calendar year in determining whether they have met the annual part B deductible for the current year. The provision would apply to the deductible for calendar year 1982 with respect to expenses incurred on or after October 1, 1981.

Senate amendment.—The Senate amendment contains the same provision.

Conference agreement.—The conference agreement includes the House provision.

3. Increase in part B deductible

House bill.—The House bill increases the $60 part B deductible to $70 in calendar year 1982. Under the bill, beginning in 1983, the deductible would be increased each year by the same percentage as the annual social security cash benefits increase.

Senate amendment.—The Senate amendment increases the part B deductible to $75 beginning in calendar year 1982. The Senate amendment did not include an indexing provision.

Conference agreement.—The conference agreement includes the Senate amendment.

4. Changes to part B premium to conform to title II changes

House bill.—The House bill moves the date of the annual part B premium increase from July 1 to October 1, consistent with proposed title II changes which were deleted from the bill by an amendment on the floor of the House.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

5. Increases in the part B premium

House bill.—No provision.

Senate amendment.—The Senate amendment sets the part B premium for both the aged and disabled at an amount equal to 24 percent of program costs for the aged, based on estimates made by the Secretary each December for the 1-year period beginning the following July.

Conference agreement.—The conference agreement does not include the Senate provision.

6. Adjustment in payment for inappropriate hospital services

House bill.—The House bill amends the provision of Public Law 96-499 which provides that, where a beneficiary who no longer requires acute hospital services must remain in the hospital because no long-term care bed is available in the area, the hospital will be reimbursed at a daily rate equal to the adjusted average medicaid skilled nursing facility (SNF) rate in the State for persons needing SNF services, and for purposes of medicaid, at the intermediate care facility (ICF) rate for patients needing ICF services. Public Law 96-499 provided that the reduced level of reimbursement does not apply where a hospital's annual occupancy rate is equal to or greater than 80 percent. The House bill eliminates, for both medicare and medicaid, the occupancy test as a factor in determining reimbursement rates, except for public hospitals. The House bill also provides that no reduction will be made where the Secretary determines that there is no excess of hospital beds in the area in which the hospital is located. The provision is effective for services provided beginning with the month following the date of enactment.

Senate amendment.—The Senate amendment eliminates the occupancy test for both medicare and medicaid. The amendment provides for no reduction in the payment rate where the Secretary determines that there is no excess of hospital beds in either the individual hospital or in the area which could be converted for use in providing long-term care services.

Conference agreement.—The conference agreement generally follows the Senate amendment, but with the House effective date and with a modification which provides that no reduction will be made in the case of a public hospital if: (a) such hospital itself has no excess beds and is part of a public hospital system which, in the aggregate, has no excess of hospital beds; or (b) such hospital, which is not part of a public hospital system in the area, has no excess of hospital beds.

It is the intention of the conference committee that the Secretary, in determining whether there is an excess of hospital beds, should take into account whether skilled nursing facility beds are actually available for patients of public and private hospitals and whether it is feasible for a hospital to convert its beds to long-term care use.

Although the bill eliminates the 80 percent occupancy test, the conference committee does not intend to preclude its use as a measure of whether excess hospital beds exist; instead, the Secretary would have flexibility to take into account size of hospitals and other factors in determining whether there are excess beds.

The conference committee intends that determinations regarding excess beds and reductions in reimbursement should be made on the basis of criteria promulgated in advance, and at intervals and with data requirements so as not to impose major administrative burdens on hospitals.

7. Incentive reimbursement rate for renal dialysis services

House bill.—The House bill requires the Secretary of Health and Human Services to prescribe in regulation a method (or methods) for determining the amounts of payments to be made for renal dialysis services incorporating in a single reimbursement rate structure, reimbursement for dialysis treatments in a facility and dialysis treatments in the home setting. The House bill requires the method promulgated by the Secretary to provide for a prospectively set rate (or rates) for each mode of care, and to be established on the basis of a single composite weighted formula taking into account the proportions of patients dialyzing in a facility and those dialyzing at home. The House bill further permits the Secretary to promulgate an alternative rate setting method if he determines, after detailed analysis, that an alternative rate setting method would provide greater incentives for increased use of lower-cost home dialysis than would a single composite rate.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with modifications. Separate composite weighted formulae would be calculated for hospital-based and for other renal dialysis facilities.

Both formulae would continue to take into account the proportions of patients dialyzing in a facility and those dialyzing at home and the relative costs of providing services in such settings.

In addition, if the Secretary determines, after detailed analysis, that another method (or methods) of determining prospectively the amounts of payments to be made for dialysis services would more effectively encourage the more efficient delivery of dialysis services and would provide greater incentives for increased use of less costly home dialysis than the dual composite weighted formula, the Secretary may use such other method, (which must differentiate between hospital-based facilities and other renal dialysis facilities). The payment method adopted must provide for exceptions for unusual circumstances (including the special circumstances of sole facilities in isolated, rural areas).

The conference committee expects that an area wage adjustment will be used in determining the reimbursement rates.

8. Limits on reimbursement to home health agencies

House bill.—The House bill reduces from the 80th to the 75th percentile the medicare reimbursement limits currently applied to home health agency costs. Such limits, established by regulation, are set at the 80th percentile of average per visit costs, calculated by type of service but applied as a single aggregate limit. The House bill permits use of an alternative methodology providing the resulting limits are no less stringent than those that would be achieved using the 75th percentile under the current methodology.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House provision with a clarification to permit continuation of the Secretary's authority to grant exemptions and exceptions from the reimbursement limits. Although home health agency reimbursement limits are currently being imposed as a single aggregate limit, the conference committee urges the Secretary, as soon as feasible, to begin to impose the limits by type of service.

The provision is effective for cost reporting periods of home health agencies ending after September 30, 1981, but the lower limits are applicable only in proportion to that portion of the reporting period occurring after that date. For the sake of clarity, the following example is given:

A home health agency has a cost reporting period ending December 31, 1981 with aggregate medicare costs of $175,000. The aggregate cost limit for the period beginning January 1, 1981 was $160,000 and the aggregate limit under the bill was $150,000. The disallowance in this situation would be $17,500. This is computed as follows: The disallowance under the old limit ($15,000) plus the proportionate share of the disallowance resulting from the application of the new limit. The proportionate share of the disallowance resulting from the application of the new limit is $25,000 (new limit disallowance) minus $15,000 (old limit disallowance) multiplied by the portion of the cost reporting period after September 30, 1981 (25 percent). Thus the total disallowance is $17,500 ($15,000 + $2,500).

9. Civil money penalties

A. *House bill.*—The House bill authorizes the Secretary to impose a civil money penalty of up to $2,000 for fraudulent claims under medicare or medicaid, to impose an assessment of twice the amount of the fraudulent claim, and to bar from participation persons determined to have filed a fraudulent claim. There would be a right to written notice and an opportunity for a hearing on the record.

Senate amendment.—The Senate amendment includes a similar provision.

Conference agreement.—The conference agreement includes the Energy and Commerce Committee language of the House provision. The conference agreement includes a technical amendment deleting language in section 1128(a)(1) of the Social Security Act to conform the provision to that in section 1862(d) of the Act.

B. *House bill.*—The Ways and Means Committee provision of the House bill provides that a person would be entitled to a trial *de novo* in any case in which the penalties imposed exceeded $15,000 for services during a 2-year period or where the person was barred from participation for more than 5 years. The Energy and Commerce provision of the House bill provides for a trial *de novo* for penalties of $25,000 in a 1-year period; no trial *de novo* would be provided when an individual was barred from participation.

Senate amendment.—No provision.

Conference agreement. The conference agreement does not include either of the House provisions.

C. *House bill.*—The House bill provides that no penalties will be assessed nor payment prohibited until all administrative and judicial remedies have been exhausted.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House provision with an amendment deleting the reference to exhaustion of judicial remedies and providing that no penalties will be assessed nor payment prohibited until all administrative remedies have been exhausted.

10. Utilization guidelines for the provision of home health services

House bill.—The House bill requires the Secretary of Health and Human Services to establish and provide for the implementation of utilization guidelines for home health services by October 1, 1981. The bill requires the Secretary to issue instructions to medicare intermediaries for a program of post-payment coverage review of submitted claims, on a sample basis, to monitor compliance with the medical necessity and other requirements of present law for medicare coverage of home health services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

11. Technical corrections for errors made by the "Medicare and Medicaid Amendments of 1980"

House bill.—The House bill restores a provision that was erroneously deleted by Public Law 96-499 (the provision limited part B reimbursement to the lower of the provider's customary charge or the reasonable cost of the covered services). The House bill makes several other minor technical and clerical corrections.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision, with a technical correction.

12. Statutory guidelines for implementing AFDC home health aide demonstration

House bill.—The House bill requires the Secretary to establish by October 1, 1981, such guidelines and regulations as are necessary to assure that agreements with the States for the conduct of demonstration projects for the training and employment of AFDC recipients as homemakers and home health aides, as provided for by Public Law 96-499, are entered into by January 1, 1982. The House bill requires the Secretary to report to Congress during January 1982 on the current and anticipated progress of the projects.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision. It is the intention of the conference committee that the Secretary will speed up the implementation of the provision of Public Law 96-499 and enter into as many agreements as possible subject to the 12 State limit.

13. Professional standards review organizations

A. *House bill.*—The House bill directs the Secretary to assess, not later than September 30, 1981, the relative performance of each Professional Standards Review Organization (PSRO) in: (1) monitoring the quality of patient care, (2) reducing unnecessary utilization, and (3) managing its activities effectively. The bill authorizes the Secretary, based on this assessment, to terminate up to one-half of current PSROs by the end of fiscal year 1982.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with an amendment to limit the number of PSROs which the Secretary can terminate by the end of fiscal year 1982 to 30 percent of the current PSROs.

B. *House bill.*—The House bill provides States the option of contracting with PSROs for medicaid review and provides for a 75 percent Federal matching rate for the costs of review. (Currently, the Secretary of HHS contracts with PSROs to conduct medicare and medicaid review with the Federal government financing 100 percent of the cost.)

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

C. *House bill.*—The Energy and Commerce Committee provision of the House bill requires the Secretary, in conjunction with termination of ineffective PSROs, to consolidate PSRO areas so that there would be no more than five PSROs in any State.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

D. *House bill.*—The Ways and Means Committee provision of the House bill repeals the PSRO program effective September 30, 1983.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

E. *House bill.*—The House bill permits, instead of requiring, as under current law, PSROs to delegate review to hospitals where the hospital demonstrates its effectiveness in conducting such review.

Senate amendment.—No provision.

Conference agreement. The conference agreement includes the House provision.

F. *House bill.*—The House bill repeals the provision of current law which authorizes the Secretary to require review of ancillary, ambulatory, and long-term care services only where the cost effectiveness of such review has already been demonstrated. The House bill thereby allows the Secretary to permit PSROs to review such services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

14. Repeal of utilization review committee requirement

House bill.—The House bill repeals the statutory requirement for utilization review committees in institutions for medicare and medicaid.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

15. Medicare as secondary payor to Federal Employees Health Benefits (FEHB) program

House bill.—The Ways and Means provision of the House bill provides that, for persons age 65 and over, who are entitled to coverage under both medicare part B and FEHB, medicare would become the secondary payor. Under the provision, medicare part A would become the secondary payor to the FEHB program only with respect to those persons reaching age 65 on or after January 1, 1982. (The Post Office and Civil Service Committee provision calls for maintaining the present law relationship between FEHB and medicare.)

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include either of the House provisions.

16. Medicare hospital reimbursement experiments

House bill.—The House bill repeals the provision of current law limiting the number of statewide medicare hospital reimbursement demonstration projects to six.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

17. Payments to promote closing and conversion of under-utilized facilities

House bill.—The House bill premits medicaid matching (other than in medically underserved areas) for cost associated with eliminating excess bed capacity, discontinuing and underutilized service for which there are adequate alternative resources in the area, or substituting for the underutilized service some other service which is needed in the area. The House bill provides that such matching would be available only to the extent that such expenditures are consistent with a State statutory program for reduction of the number of hospital beds (where there is such a program) and secondly that fair and equitable arrangements have been made to protect the interests of employees affected by any discontinuance of hospital services. The House bill further provides that Secretarial approval would be required to the extent payments exceeded the medicare reasonable cost level.

Senate amendment.—The Senate amendment provides for reimbursement under titles V, XVIII, and XIX for capital-related and increased operating costs associated with closing or conversion to approved use, of underutilized beds or services in hospitals. The Senate amendment establishes a Hospital Transitional Allowance Board to advise the Secretary regarding such payments and provides that the Secretary's final determination with respect to a hospital's request for a transitional allowance is not subject to judicial review. The Senate amendment further provides that, prior to January, 1, 1984, transitional allowance payments could be made to no more than 50 hospitals; and requires the Secretary to report to Congress by January 1, 1983 on this program.

Conference agreement.—The conference agreement follows the Senate amendment with modifications. The Conference agreement eliminates the provision establishing a Hospital Transitional Allowance Board and provides the Secretary of HHS with authority to make transitional allowance payments. A transitional allowance may not be paid unless the proposed closing or conversion is consistent with the findings on an appropriate health planning agency and with any applicable State program for reduction in the number of hospital beds in the State. Further, the agreement deletes the provision specifying that the Secretary's final determination with respect to a hospital's request for a transitional allowance is not subject to judicial review. The provision permitting transition allowance payments under title V would be deleted. A State may, at its option, include as a cost in hospital reimbursement under medicaid (title XI) periodic expenditures made to reflect transition allowances under medicare (title XV.)

It is the intention of the conference committee that transitional allowance payments for closure will not be made to hospitals located in medically underserved areas. It is also the intention of conference committee that, as a condition for granting a transitional allowance, the Secretary is satisfied that fair and equitable arrangements have been made to protect, to the extent feasible, the rights and benefits of employees affected by any discontinuance of hospital services, with respect to their employment, as provided for under contractual arrangements with the hospital.

18. Limitation on medicare and medicaid payments for certain drugs

House bill.—The House bill prohibits payments under medicare part B and medicaid for those prescription drugs which were approved prior to the 1962 amendments to the Federal Food, Drug and Cosmetic Act and which the Secretary, or his delegate, determines to be less than effective in use. The House bill also terminates reimbursement for all identical, related, or similar drug products which are not medically necessary by publishing a notice of an opportunity for hearing under section 505(e) of the Federal Food, Drug and Cosmetic Act.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

19. Withholding of payments for certain medicaid providers

House bill.—The House bill authorizes the Secretary to offset, from reimbursements due to medicare providers, overpayments made to them under medicaid in cases where the provider has terminated or substantially reduced his participation in medicaid. The House bill provides that State medicaid agencies would be reimbursed from amounts recovered.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

20. Elimination of need for occupational therapy as a basis for entitlement to home health services

House bill.—No provision.

Senate amendment.—The Senate amendment eliminates occupational therapy as a qualifying criterion for home health benefits.

Conference agreement.—The conference agreement follows the Senate amendment with a modification which provides that where an individual has otherwise qualified for home health benefits (i.e., on the basis of his need for skilled nursing care, speech therapy or physical therapy), his eligibility for home health services may be extended solely on the basis of his continuing need for occupational therapy.

21. Elimination of unlimited open enrollment; restrictions on new State buy-in agreements

A. *House bill.*—No provisions.

Senate amendment.—The Senate amendment repeals the provision of Public Law 96-499 which provided for continuous open enrollment under medicare part B and reinstitutes the annual January-March enrollment period.

Conference agreement.—The conference agreement includes the Senate provision.

B. *House bill.*—No provisions.

Senate amendment.—The Senate amendment repeals the provision of Public Law 96-499 which allowed States, during calendar year 1981, to enter into or modify their medicare part B buy-in agreements on behalf of their medicaid eligibles.

Conference agreement.—The conference agreement does not include the Senate provision.

22. Pneumococcal vaccine

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the pneumococcal vaccine coverage under medicare as authorized by Public Law 96-611. The Senate amendment provides that vouchers would be made available on a one-time basis to non-institutionalized recipients of Federal Supplemental Security Income (SSI) payments who are aged 65 and older. The value of the voucher would be the medicaid allowable charge by, or cost to, a physician or other provider in administering pneumococcal vaccine (including the cost of the vaccine) but not to exceed $10. In addition, the Senate amendment provides that Federal matching would be made available on a permanent basis under title XIX, equal to 100 percent of the reasonable cost incurred, not to exceed $10 per vaccination, for pneumococcal vaccine provided to any individual age 65 or older who is eligible under the State medicaid plan or who is receiving Supplemental Security Income benefits.

Conference agreement.—The conference agreement does not include the Senate provision. The conferees intend that a one-time announcement informing medicare beneficiaries of the pneumococcal vaccine benefit be included in a regular mailing of social security checks.

23. Criteria for determining reasonable charge for physician's services

House bill.—No provision.

Senate amendment.—The Senate amendment requires the calculation under medicare (in any State with more than one locality) of statewide median charges in addition to prevailing charges in the locality. The amendment provides that to the extent that any prevailing charge in a locality is more than one-third higher than the statewide median charge for a given service, such prevailing charge would not be automatically increased each year. The Senate amendment also permits new physicians in localities which are designated by the Secretary as physican-shortage areas to establish their customary charges at the "prevailing" level (i.e., generally at the 75th rather that the 50th percentile) of customary charges in the locality.

Conference agreement.—The conference agreement does not include the Senate provision.

24. Limitation on reasonable charge for outpatient services

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Secretary to establish by regulation limitations on costs or charges

that will be considered reasonable for outpatient services provided by hospitals, community health centers or clinics and by physicians utilizing these facilities. The Senate bill provides that limitations are to be reasonably related to the reasonable charges in the same area for similar services provided in physicians' offices.

Conference agreement.—The conference agreement follows the Senate provision with the following modifications: (A) the limitations will not apply with respect to *bona fide* hospital emergency room services; (B) actual charges, not medicare-determined reasonable charges of physicians, will be used in developing the limitations; (C) the Secretary is required to establish such limitations only to the extent feasible; and (D) exceptions may be provided in areas where physician services are not generally available.

25. Medicare payments secondary in cases of end-stage renal disease

House bill.—No provision.

Senate amendment.—The Senate amendment provides that medicare would become the secondary payor for the first 12 months after an individual has been determined to be eligible for end-stage renal benefits under the medicare program, but only where such individual has private health insurance coverage, and provided that the individual is under age 65 and is eligible as a renal disease beneficiary. The Senate amendment provides that medicare would become the primary payor beginning with the thirteenth month following the month in which entitlement to end-stage renal benefits is established. The Senate amendment would also deny, as a business expense deduction under the Tax Code, the expenses paid or incurred by an employer for a health plan, if such plan contains a discriminatory provision that reduces or denies payment of benfits for renal patients.

Conference agreement.—The conference agreement follows the Senate provision with modifications.

The conference agreement would require, in the case of renal disease beneficiaries, that medicare would pay for the beneficiary's care in the usual manner and then obtain reimbursement from the beneficiary's private group health insurance plan for the items and services covered by that plan until such time as the Secretary determines that the beneficiary's plan has begun to make payments promptly or will be able to make such payments as promptly as would be the case if medicare were making the payment. It is the conferees' intent, in providing for such administrative discretion with respect to the point at which medicare need no longer be the first payor, that the Secretary's decision will be made in recognition of the need to assure prompt payment, avoid inconvenience to the patient, and encourage home dialysis. The payment arrangements contemplated by the conferees are intended to minimize patient anxiety about the source of promptness of payment and to avoid delays in reimbursement for expenses incurred in connection with the use of renal equipment, supplies or services. Under the conference agreement, the secondary payor arrangement would apply only where the private coverage of the medicare beneficiary is through an employer group health plan.

The conference committee is also concerned about potential job discrimination resulting from this provision, and directs the Secretary to investigate promptly complaints of this nature, and report its findings to the Congress periodically.

PROVISIONS RELATING TO MEDICARE

1. Elimination of coverage of alcohol detoxification facility services

House bill.—The House bill repeals the provision in present law under which reimbursement for inpatient alcohol detoxification services in freestanding facilities is authorized. The House bill also repeals the requirement that the Secretary conduct studies and demonstration projects related to alcohol and drug detoxification and rehabilitation. The provision in the House bill regarding reimbursement would apply to inpatient stays in detoxification facilities beginning on or after the tenth day after the date of enactment.

Senate amendment.—The Senate amendment contains the same provisions as the House bill, except for the effective date. Reimbursement could not be made with respect to services furnished after the month of enactment.

Conference agreement.—The conference agreement includes the House provision.

2. $1 copayment for each of first 60 days in hospital

House bill.—The House bill imposes a $1 copayment on medicare inpatients for each of the first 60 days of care during a spell of illness.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

3. Making part A coinsurance current with the year in which services are furnished

House bill.—The House bill bases the part A coinsurance on the current year's deductible, rather than the deductible in effect at the time the beneficiary's spell of illness began.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

4. Making part A coinsurance and deductible more current

House bill.—The House bill makes the part A deductible and coinsurance more current by adding $5 to the base figure of $40 in the formula that is used in the annual determination of the inpatient hospital deductible. The provision would apply with respect to inpatient hospital services furnished in calendar years beginning with 1982.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

5. Offset of interest and other income on funded depreciation

House bill.—The House bill requires the offset of interest and other income earned on funded depreciation against allowable interest expense reimbursable under medicare.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

6. Limits on reimbursement to hospitals

House bill.—The House bill lowers medicare's reimbursement limits on hospital inpatient general routine operating costs from 112 percent to 108 percent of the mean costs of each comparable group of hospitals under the methodology now used to make such determinations, or to some other no less stringent limit.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision with a modification that continues the Secretary's current authority to permit exemptions (e.g. for a sole community provider) and exceptions from the limits.

The provision is effective for cost reporting periods of hospitals ending after September 30, 1981, but the lower limits are applicable only in proportion to that portion of the reporting period occurring after that date. For the sake of clarity, the following example is given:

A hospital has a cost reporting period ending March 31, 1982 with a per diem routine operating cost of $160. The limit effective for the cost reporting period beginning April 1, 1981 was $150 and the limit issued pursuant to the bill was $140. The disallowance under the old limit was $100,000 and under the new limit $200,000. The actual disallowance in this case would be $150,000 which is computed as follows: Disallowance under old limit ($100,000) plus the proportionate share of the disallowance resulting from application of the new limit. The proportionate share of the disallowance resulting from the application of the new limit is $200,000 (new limit disallowance) minus $100,000 (old limit disallowance) multiplied by portion of cost reporting period after September 30, 1981 (50 percent) equals $50,000. Thus, the total disallowance is $150,000 ($100,000+$50,000).

7. Repeal of statutory time limitation on agreements with skilled nursing facilities

House bill.—The House bill repeals the provision in present law that requires skilled nursing facility provider agreements to be renewed on an annual basis.

Senate amendment.—Same provision.

Conference agreement.—The conference agreement follows the House provision.

8. Repeal of temporary delay in periodic interim payments (PIP)

House bill.—The House bill repeals the provision in Public Law 96-499 relating to a temporary delay in periodic interim payments.

Senate amendment.—Same provision.

Conference agreement.—The conference agreement includes the House provision.

9. Reduction in the 8½ percent routine nursing salary cost differential

House bill.—No provision.

Senate amendment.—The Senate amendment provides for a reduction in the routine nursing salary cost differential to 4.5 percent, and requires the Comptroller General to conduct a study to determine the extent to which higher payments are justified and report back to Congress.

Conference agreement.—The conference agreement follows the Senate amendment, except that the reduction in the routine nursing salary cost differential would be to 5 percent.

10. Elimination of certain dental coverage

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the provision added by Public Law 96-499 which authorized hospitalization coverage under medicare where the severity of the non-covered dental procedure warrants inpatient care.

Conference agreement.—The conference agreement does not include the Senate provision.

PROVISION RELATING TO MEDICAID

1. Reduction in medicaid payments to the States

House bill.—The House bill provides that Federal matching payments to States would be reduced by 3 percent in FY 1982, 2 percent in FY 1983, and 1 percent in FY 1984, from the amounts to which States would otherwise be entitled. The statutory matching formula would not be altered. Under this temporary pro rata reduction in Feder-

al payments, a State would determine the total Federal payment due for Medicaid services and administrative costs by applying current matching rates. This total dollar amount would then be reduced by 3 percent, 2 percent, or 1 percent in the applicable year. A State could lower the amount of its reduction by one third for each of the following: (a) operating a qualified hospital cost review program; (b) sustaining an unemployment rate exceeding 150 percent of the national average; or (c) demonstrating recoveries from fraud and abuse and third party liability activities equal to 1 percent of Federal payments.

The House bill increases the ceiling on Federal matching payments in fiscal year 1982 for Puerto Rico (to $35 million), the Virgin Islands (to $1.5 million), and Guam (to $1.4 million). It establishes ceiling beginning in fiscal year 1982 for the Northern Mariana Islands ($350,000), and authorizes the participation of the following territories and establishes a ceiling for each: American Samoa ($350,000), and Trust Territory of the Pacific Islands ($1.4 million).

Senate bill.—The Senate bill provides that Federal matching payments to each state would be capped in FY 1982 and each succeeding fiscal year. For FY 1982, the cap on Federal payments would be set at 9 percent above estimated outlays for FY 1981. For FY 1983 and thereafter, Federal payments would be allowed to rise at the rate of inflation for that fiscal year as measured by the GNP Deflator. The bill excludes the following items from a cap: (a) Medicaid Management Information Systems; (b) State Medicaid Fraud Control Units; (c) payments to Indian Health Service Facilities; (d) interest payment owed to States on disputed claims; (e) payments owed to States for prior year claims; and (f) payments for pneumococcal vaccine for the aged. The bill also establishes a Medical Assistance Commission to report to the President and Congress on the validity and equity of adjustments in Federal matching payments under the cap to reflect factors out of a State's control, including population shifts, demographic changes, unemployment rates, eligibility and benefits policies, and changes in economic conditions. The bill also increases the ceiling in fiscal year 1982 for Puerto Rico (to $45 million).

Conference agreement.—The conference agreement follows the House provision with modifications. Under the conference agreement, the amount of Federal matching payments to which a State is otherwise entitled is to be reduced by 3 percent in fiscal year 1982, 4 percent in fiscal year 1983, and 4.5 percent in fiscal year 1984. A State could lower the amount of its reduction by one percentage point for each of the following: (a) operating a qualified hospital cost review program, (b) sustaining an unemployment rate exceeding 150 percent of the national average; and (c) demonstrating recoveries from fraud and abuse and, with respect to FY 82, third party recoveries equal to 1 percent of Federal payments. A State is entitled to a dollar for dollar offset in its reductions if total Federal Medicaid expenditures in a year fall below a specified target amount. In no case can the amounts recovered by a State through this means exceed the total amount withheld. In 1982, the target amount is equal to 109 percent of the State's estimates for FY 81 which were received by the Secretary prior to April 1, 1981. In 1983 and 1984 the target amounts are equal to the 1982 target amount increased or decreased by the same percentage as the increase or decrease in the index of the medical care expenditure component of the consumer price index over the same period.

For purposes of calculating whether a State has met its target amount in FY 84, its Federal medical assistance percentage for FY 84 shall be deemed to be equal to such percentage for FY 83. This is done to assure that no rewards would be given to a State simply because of a change in the share of their program the Federal government pays for. The conference agreement excludes the following items from the determination of whether a State spends less than its target amount for a year: (a) adjustments with respect to prior year claims; (b) interest paid on disallowances for prior years; and (c) any offset payments the State has received for spending less than its target amount in the previous year, and (d) any of the reductions in the Federal funds a State receives that are imposed by this provision.

The conference agreement provides that no percentage reduction may be made for any quarter unless, as of the first day of the quarter, the Secretary has promulgated regulations pertaining to modified requirements for medically needy programs, and modifications in requirements for hospital reimbursement as provided for in this conference agreement and SNF/ICF reimbursement as provided for in the 1980 reconciliation bill. The conference committee expects that while regulations will initially be issued on an interim basis, the Secretary will move as rapidly as possible to issue them in final form, consistent with the requirements for review, comment, and the hearing process.

The conferees note that this approach to reducing Federal Medicaid expenditures does not preclude Arizona, which does not currently have Medicaid program, from establishing one. The reductions and bonuses are applicable to the existing programs in the 49 States and the District of Columbia.

The territories are excluded from the reduction and offset provisions. The territories are subject to the following limitations on Federal expenditures: Puerto Rico—$45 million; Virgin Islands—$1.5 million, Guam—$1.4 million, and the Northern Mariana Islands—$350,000.

The conference agreement provides that a qualified hospital cost review program is one which has been established by statute, is operated directly by a State, applies to substantially all non-Federal hospitals, and reviews all non-Medicare inpatient revenues or expenses or at least 75 percent of all revenues or expenses including those arising under Medicare. All qualifying programs must assure the Secretary that each entity which pays for hospital services, employees, and patients (including the Medicare and Medicaid programs) is provided substantially equal treatment with regard to the costs or rates approved by the State agency in each hospital. To be approved the State must show that the annual rate of increase in aggregate hospital inpatient costs per capita or per admission have risen at least 2 percentage points less (using a one, two, or three year base) than the rate of inflation in all States without qualifying programs. The increase in inpatient expenditures per capita is generally considered to be the most suitable measure to judge effectiveness because it recognizes the effects of population changes on hospital costs and it produces incentives to the cost review programs to discourage excess hospital use as well as to contain unit costs. However, this measure could affect adversely States experiencing a changing pattern of persons crossing State borders to obtain hospital care or States with an acceleration of population decline. For this reason, the conferees expect that States will be permitted to demonstrate effectiveness using data on inpatient hospital expenses per case.

The conference committee notes that some State programs do not actually process reports from hospitals with projected cost increases below an announced target. The revenues or expenses of such hospitals should be considered by the Secretary as reviewed for the purposes of determining if a program reviews sufficient revenues or expenses to be a qualified program.

Further, the conference committee further notes that the test set forth to determine a qualified hospital cost review program is not meant to preclude State or substate experiments with approved waivers.

The conferees understand and intend that the States which have qualified hospital cost review programs are Connecticut, Maryland, Massachusetts, New Jersey, New York, and Washington.

2. Federal Medical Assistance Percentage Formula

A. *House bill.*—No provision.

Senate amendment.—The Senate bill lowers the minimum Federal share of State's payments for Medicaid from 50 percent to 40 percent, effective for State expenditures made on or after October 1, 1981.

Conference agreement.—The Conference agreement does not include the Senate provision.

B. *House bill.*—The House bill requires the Comptroller General, in consultation with the Advisory Committee on Intergovernmental Relations, to study the existing matching formula and report to Congress by March 31, 1982, with recommended revisions.

Senate amendment.—The Senate amendment establishes a Medical Assistance Commission to report to the President and Congress on the validity and equity of adjustments in Federal matching payments under the cap to reflect factors out of State's control, including population shifts, demographic changes, unemployment rates, eligibility and benefit policies, and changes in economic conditions.

Conference agreement.—The conference agreement follows the House provision with an amendment. The conference agreement provides for a study by the General Accounting Office of the Federal medical assistance percentage. The study shall include the feasibility and consequences of revising the formula to take into account the relevant factors bearing on an equitable distribution of Federal funds. The study should also include an analysis of the impact of appropriate modification of the target rate for a State if it experiences substantial changes in composition or characteristics of its population (e.g., increased unemployment or aging of the population) which are out of the ordinary and effectively not within the control of the State.

3. Hospital reimbursement rate determination

A. *House bill.*—The House bill repeals the provision of current law which requires State Medicaid programs to pay for inpatient hospital services on a reasonable cost basis as defined under medicare except where the Secretary has approved an alternative reimbursement method. The House bill requires that State payments for inpatient hospital services (a) be "reasonable

and necessary to the efficient and economical delivery of services," (b) take into account the special costs of hospitals whose patients are disproportionately Medicaid eligible or without third party coverage, and (c) are sufficient to assure that Medicaid patients have reasonable access to services of adequate quality.

Senate amendment.—The Senate amendment also repeals the current law provision. It requires that State payments for inpatient hospital services be "reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities" in order to meet applicable laws and quality and safety standards. The Senate amendment provides that the amount paid cannot, in the aggregate, exceed the amount determined to be reasonable under Medicare.

Conference agreement.—The conference agreement follows the Senate amendment with a modification providing that States, in developing their payment rates, take into account the atypical costs incurred by hospitals which serve a disproportionate number of low income patients. The conferees recognize that public hosptials and teaching hospitals which serve a large Medicaid and low income population are particularly dependent on Medicaid reimbursement, and are concerned that a State take into account the special situation that exists in these institutions in developing their rates. Further, the conferees intend that State hospital reimbursement policies should meet the costs that must be incurred by efficiently-administered hospitals in providing covered care and services to medicaid eligibles as well as the costs required to provide care in conformity with State and Federal requirements. It also is recognized that States may limit increases to the increases that result from price increases for goods and services purchased by hospitals, as measured by such indices as the national hospital input price index, for example.

B. *House bill.*—The House bill requires States as of October 1, 1983, to use a prospective payment system for inpatient hospital services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

C. *House bill.*—The House bill requires the Secretary to develop, by March 31, 1982, a prospective payment methodology for inpatient hospital services.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House provision with a modification which requires the Secretary to develop a model prospective payment methodology for inpatient hospital services which could be used both under the Medicare and Medicaid programs. At least one model developed should include the use of case-mix groupings for the classification of hospitals. The conference agreement further provides that the Secretary shall report on the progress in developing his system by July 1, 1982.

D. *House bill.*—No provision.

Senate amendment.—The Senate amendment requires that States provide assurances satisfactory to the Secretary, for the filing of uniform cost reports by each hospital and periodic audits by the State of such reports.

Conference agreement.—The conference agreement includes the Senate amendment.

4. Competitive arrangements for payment for laboratory services, medical devices, and drugs

House bill.—The House bill amends the current freedom of choice requirements to authorize States to purchase laboratory services, medical devices, or drugs through a competitive bidding process or otherwise in order for such arrangements to be approved, the Secretary must find that adequate services, devices, or drugs will be available; in the case of laboratory services, that the laboratories selected meet applicable quality standards and do no more than 75 percent of their business with Medicaid and medicare; and that the charges to medicaid for devices, drugs, and laboratory services are at the lowest rate charged in the area.

Senate bill.—No similar provision (See Item No. 5).

Conference Agreement.—The conference agreement follows the House provision with an amendment which deletes the provision that specifies that competitive or similar arrangements must assure that the prices charged the program would not exceed the lowest amount generally charged to others for similar items, and which eliminates drugs from the services which can be provided under these competitive bidding arrangements. (Note: See Item No. 5 for a discussion of the "freedom-of-choice" provision and for provisions relating to cost effective arrangements for drugs).

5. Waiver of medicaid requirements

House bill.—The House bill authorizes the Secretary to waive any Federal Medicaid requirements necessary to enable a State to (a) implement a primary care case management system, (b) lock individuals who overutilize services into particular providers, (c) limit the participation of providers who abuse the program, and (d) allow a locality to offer competing health plans to eligible persons. The bill requires the Secretary to act upon a State request for a waiver within 90 days of receiving the request and information necessary to make a determination. The Secretary is authorized to waive any Federal Medicaid requirements necessary to enable a State to share with program eligibles through direct payments or additional services the savings resulting from the use of cost-effective methods of health care delivery. The bill terminates the Secretary's waiver authority on September 30, 1985, and requires Secretary to report to Congress on waivers granted.

Senate amendment.—The Senate amendment repeals the freedom of choice provision of current law. It authorizes States to restrict Medicaid eligibles to obtain services through "cost-effective arrangements". It requires that such arrangements (a) provide for reasonable payment and (b) assure that Medicaid eligibles have reasonable access to covered services.

Conference agreement.—The conference agreement amends current law to permit a State to: (a) require individuals who overutilize services to use particular providers, and (b) limit the participation of providers, which the State has found (after notice and opportunity for a hearing in accordance with State administrative practices) to have, in a significant number or proportion of cases, abused the program. A restriction is permitted provided individuals eligible for a service have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.

The conference agreement authorizes the Secretary to waive certain requirements of law to achieve certain program purposes provided he finds them to be cost effective, efficient, and not inconsistent with program intent. Under the waiver authority the Secretary to the extent necessary to implement a case management or speciality physician services arrangement is authorized to restrict the provider from or through whom individuals can obtain primary care services (other than under emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality. Under the waiver authority, a locality is permitted to act as a central broker in assisting individuals in selecting among competing health plans. Further, the Secretary may waive requirements necessary to enable a State to share with recipients the savings resulting from use of more cost-effective service arrangements.

The conference agreement also provides that the Secretary may approve under the waiver authority, State restrictions on providers or practitioners from or through whom an individual may obtain services (other than emergency services and including drugs) provided: (a) such providers or practitioners must accept and comply with the reimbursement quality and utilization standards under the State plan; (b) such restrictions are consistent with access, quality, and efficient and economic provision of care and services; and (c) such restriction does not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiencies in providing services. The Secretary shall for purposes of evaluating waiver requests, develop performance standards for cost effective provision of services, based on such criterion as length-of-stay or cost per admission.

The conference agreement requires the Secretary to approve waiver requests within 90 days of submission. The conferees have approved a time limit in order that the States may implement program changes on a timely basis. The conferees intend that in cases where the Secretary has received incomplete information, it is expected he will deny such request until it meets standards outlined in regulations.

The conferees recognize the Secretary may begin granting waivers under this section shortly after enactment. They intend, however, that regulations be issued as soon as possible, consistent with hearing and comment requirements, so that States will receive guidance concerning the standards for waiver requests the Secretary will apply.

6. Elimination of EPSDT penalty

House bill.—The House bill repeals the current law provision which subjects States to a 1 percent reduction in Federal matching payments under their Aid to Families with Dependent Children program (AFDC) if they fail to meet certain performance standards for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services under Medicaid. The House bill further incorporates the EPSDT standards under title XIX.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision. It is the intention of the conference committee that States should continue to develop fully effective EPSDT programs. However, the current EPSDT reporting requirements, which entail a large volume of paperwork, should be significantly streamlined.

7. Repeal of required medicaid coverage for individuals aged 18-20

A. *House bill.*—The House bill repeals the requirement that States provide Medicaid

coverage to persons under 21 who would be eligible for AFDC if attending school and instead makes coverage of such individuals optional.

Senate amendment.—Similar provision.

Conference agreement.—The conference agreement includes the Senate provision.

B. *House bill.*—No provision.

Senate amendment.—The Senate amendment allows States which choose to cover children under Medicaid who would be eligible for AFDC except for a school attendance requirement to limit such coverage to children under 21, 20, 19, or 18, or any reasonable category of such children.

Conference agreement.—The conference agreement includes the Senate amendment.

8. Removal of medicare reasonable charge limitation

House bill.—The House bill repeals the requirements that State Medicaid payments for physicians' services and certain medical supplies and laboratory services cannot exceed reasonable charge levels established under Medicare.

Senate amendment.—The Senate amendment modifies the House bill to provide that the existing Medicare limit must be applied in the aggregate.

Conference agreement.—The conference agreement includes the House provision.

9. Options for the provision of home and community-based care and requirement of preadmission screening for long-term care patients

A. *House bill.*—The House bill authorizes States, subject to approval by the Secretary, to provide Medicaid coverage for a range of home and community-based services pursuant to an individual plan of care to persons determined through a comprehensive assessment, to be in need of long-term skilled nursing facility (SNF) or intermediate care facility (ICF) services.

Senate amendment.—The Senate amendment authorizes the Secretary to waive Federal requirements to enable a State to cover personal care services and other services pursuant to an individual plan of care to persons who would otherwise require institutionalization.

Conference Agreement.—The conference agreement includes the Senate provision with the following modifications: (1) States must determine that individuals would otherwise need institutional care. Currently, certification by a physician is often all that is required for nursing home placement. The conferees recognize that many medical and non-medical factors bear on a decision to seek long-term care, and thus all factors relating to the need for institutionalization should be taken into account in the evaluation of such need. (2) States must determine that it is reasonable to provide individuals with alternative services, available at their choice, pursuant to a plan of care. While it is expected that the existence of alternatives will encourage the acceptance of community care, the conferees emphasize that the integrity of patient choice should be preserved. The determination of which long-term care options are feasible in a particular instance should be based on the individual's needs, as determined by an evaluation, and not short-term cost savings. While the conferees anticipate that the provision of community-based care will have a long range and significant impact on the size of States' Medicaid budgets, they do not believe that States should make decisions regarding the feasibility of community-based care on the basis of whether or not such arrangements will produce short-term cost savings. (3) The State must provide for the formulation of a written plan of care for persons provided waivered services, and must determine that the making available of alternative services to such persons would not result in overall expenditures in excess of those which would be incurred if that person were institutionalized. The cost of physician visits, hospitalization, prescription drugs, etc. that the individual would have received would be included in the State's estimates of Medicaid expenditures in addition to the cost of SNF or ICF care for that individual. (4) The following services may be included in the State program: nursing, medical supplies and equipment, physical and occupational therapy, and speech pathology and audiology, now authorized. Additional services which may be included are homemaker/home health aide personal care services; adult day health; habilitation; case management; respite care; and other services requested by the State and approved by the Secretary. Homemaker and adult day health care are defined in Title XX of the Social Security Act. Habilitation encompasses both health and social services needed to insure optimal functioning of the mentally retarded and the developmentally disabled. Respite care services are given to an individual unable to care for him/herself and which are provided on a short-term basis to such an individual because of the absence or need for relief for those persons normally providing such care. Services can be offered in the home of an individual or in an approved facility such as a hospital, nursing home, foster home, or community residential facility. Case management is a system under which responsibility for locating, coordinating and monitoring a group of services rests with a defined person or institution. (5) The State may set limitations on the amount, duration and scope of services provided to individuals pursuant to the waiver which may vary from that made available to other Medicaid recipients. The Conferees recognize that in order to provide an appropriate mix of services tailored to the individual, it might be inadvisable to set definitive limits on each service, since the written plan of care delineates the number and frequency of services, and the State may establish a per capita ceiling on the total cost of each client's care.

B. *House bill.*—The House bill provides that the Secretary may not approve such coverage unless the State provides assurances that implementation would not result in a level of expenditures for all long-term services greater than the level of expenditures without coverage for such noninstitutional services.

Senate amendment.—No provision.

Conference Agreement.—The conference agreement follows the House provision with a modification to specify that the total of all medical assistance for services provided to individuals who would qualify for community-based care under the State program may not exceed, on an average per capita basis, the total expenditures which would be incurred for such individuals if they were institutionalized. In determining the per capita costs the conferees expect the costs of medical assistance for these community-based care recipients will be divided by the number of individuals who are determined likely to be institutionalized without these services. The conferees believe this will provide protections to assure that aggregate costs will not be greater than they would have been without these alternative services.

C. *House bill.*—The House bill would permit the Secretary to approve coverage for room and board services.

Senate amendment.—The Senate amendment would not authorize coverage for such services.

Conference agreement.—The conference agreement does not include the House provision.

D. *House bill.*—No provision.

Senate amendment.—The Senate amendment authorizes the Secretary to grant a waiver only if State assures that necessary safeguard have been taken to protect the health and welfare of any recipients of such services.

Conference agreement.—The conference agreement follows the Senate amendment with an additional amendment requiring States to provide assurances that they will maintain appropriate financial records documenting the cost of services provided pursuant to the waiver; such records must be made available on request to the Secretary.

E. *House bill.*—The House bill provides that effective October 1, 1982, Federal matching payments would not be available for SNF or ICF services provided to individuals who had not received a comprehensive assessment of their need for long-term institutional care prior to admission to an SNF or ICF, except in urgent circumstances as provided by the Secretary.

Senate bill.—No provision.

Conference agreement.—The conference agreement does not include the House provision. However, the conferees note that if a State has an assessment system for persons needing long-term care, the costs of that system are eligibile for Federal matching under the current Medicaid program.

F. *House bill.*—The House bill provides that a waiver granted a State under this provision shall be for three years, and may include a one-time waiver of Statewideness. Upon the request of the State, the waiver shall be extended for additional three-year periods unless the Secretary determines the assurances provided by the State have not been met.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House provision.

The conferees note that the Department of Health and Human Services has supported demonstrations in 13 States, chiefly through waiver authority, to allow Medicare and Medicaid funds to pay for a variety of home and community-based services under different systems of organization and reimbursement. While these programs on the whole have States have received little encouragement to make permanent changes in long-term care provision, and many of these projects will terminate in the near future. The Conferees feel these projects will provide data useful to States requesting waivers under this section. Therefore, they direct the Secretary of HHS to review the progress of these demonstrations, and to consider continuing funding for those projects which are meeting their stated goals.

10. Encouraging HMO participation in State medicaid plans

A. *House bill.*—The House bill maintains the current law requirement that States enter into prepaid risk arrangements only with federally qualified HMO's. It requires that States entering into agreements with HMO's do so under a contract containing financial accountablity, nondiscrimination, and voluntary disenrollment provisions.

Senate amendment.—The Senate amendment repeals the current law provision that

requires States that choose to enter into prepaid capitation or other risk-based arrangments to do so only with entities that meet Federal HMO standards (under title XIII of the Public Health Service Act), with certain exceptions. The Senate amendment permits a State to make payment on a prepaid capitation or other risk basis to any providers of services.

Conference agreement.—The conference agreement follows the House provision with an amendment to permit States to enter prepaid arrangements with other entities provided that such entity: (a) make covered services to Medicaid enrollees accessible on the same basis as to other Medicaid eligibles in the area; (b) has made adequate provision against risk of insolvency. Individuals eligible for benefits under a prepaid arrangement would in no case be held liable for debts of the organization in case of the organization's insolvency.

B. *House bill.*—The House bill modifies the current requirement that provided that within three years of entering into a Medicaid contract with a State an HMO must have an enrollment that consists of less than 50 percent Medicaid and Medicare beneficiaries. The House bill raises the current ceiling on Medicaid and Medicare beneficiaries in HMO's to 75 percent of enrollment and authorizes the Secretary to waive this ceiling altogether for public HMO's.

Senate amendment.—The Senate amendment repeals the current ceiling.

Conference agreement.—The conference agreement includes the House provision.

C. *House bill.*—The House bill authorizes the State to enter into arrangements with HMO's establishing minimum enrollment periods for Medicaid beneficiaries of not more than 6 months. Federal matching would be available for services provided to enrollees even if they lose their Medicaid eligibility during the minimum enrollment period.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision, but limits applicability to Federally qualified HMO's.

D. *House bill.*—The House bill authorizes the Secretary to waive any Federal Medicaid requirements necessary to enable a State to share with program eligibles, through direct payments or additional services, the saving resulting from the use of cost-effective methods of health care delivery, such as HMO's.

Senate amendment.—The Senate amendment modifies the House provision to preclude the sharing of savings through direct payments to program eligibles.

Conference agreement.—The conference agreement includes the Senate provision.

11. Eliminating Federal matching for excessive preoperative stays and unnecessary tests

A. *House bill.*—The House bill prohibits Federal matching payments for hospital services furnished to medicaid eligibles admitted for elective surgical procedures (as defined by the Secretary) more than one day before the date of the operation.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not include the House provision.

B. *House bill.*—The House bill prohibits Federal matching payments for inpatient hospital tests furnished to Medicaid eligibles not specifically ordered by the attending physician (except in emergency situations).

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

12. Permitting physician assistants and nurse practitioners to provide certain recertifications

House bill.—The House bill amends the current provision that requires a physician to recertify every 60 days the need for institutional services for Medicaid eligibles in a hospital, skilled nursing facility (SNF) or intermediate care facility (ICF). The House bill allows States to use physician assistants and nurse practitioners (within the scope of their practice under State law) to perform the recertification function.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

13. Limitation on requirement for Collection of Third-Party Payments

House bill.—The House bill amends current law which requires States to recover payments due for services provided to a Medicaid eligible with private insurance or other third party coverage. The House bill provides that States need not collect third party liabilities in cases where the amount of reimbursement the State can reasonably be expected to recover is less than the costs of recovery.

Senate amendment.—No provision.

Conference agreement.—The conference agreement includes the House provision.

14. Recovery of disputed claims

House bill.—No provision.

Senate amendment.—The Senate amendment modifies current law provisions pertaining to recovery of amounts of Medicaid claims in dispute. The Senate amendment requires the Secretary to recover from a State any disputed claims after the issuance of a final notice of dissallowance. If the State is successful on appeal, the Secretary would be required to return the disputed funds to the State, with interest (at a rate based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period). The Senate amendment applies to all disputed claims for which a notice of disallowance has been issued as well as for claims disallowed after enactment.

Conference agreement.—The conference agreement follows the Senate provision with a modification which permits the State to retain the funds in controversy except that the State would be liable for interest payments for the full time period it holds the funds if the disallowance is upheld on appeal. The conferees emphasize their intent that the Department should make every effort to expedite settling disputed claims as rapidly as possible.

15. Services for the medically needy

House bill.—No provision.

Senate amendment.—The Senate amendment modifies current law pertaining to conditions a State must meet if it chooses to offer coverage to its medically needy population. The Senate amendment repeals the following requirements: (a) a State must provide coverage to all medically needy groups; (b) services for all medically needy groups must be comparable in amount duration, and scope; (c) States must offer a minimum number of services to this population group; and (d) States must offer a mix of institutional and noninstutional care services (except that a State would continue to be required to offer home health services to any person eligible for skilled nursing facility care).

Conference agreement.—The conference agreement follows the Senate amendment with the following modifications (A) if a State provides medically needy coverage to any group it must provide ambulatory services to children and prenatal and delivery services for pregnant women; (B) if a State provides institutional services for any medically needy group it must also provide ambulatory services for this population group; and (C) if the State provides medically needy coverage for persons in intermediate care facilities for the mentally retarded (ICF/MRs), it must offer to all groups covered in its medically needy program the same mix of institutional and noninstitutional services as required under current law.

The conferees understand the term "ambulatory services" to mean physician, clinic, nurse practitioner, dental, and preventive services. The conference committee expects the State to offer a service of sufficient amount, duration, and scope to achieve its purpose.

In the past the comparability language of the statute has been interpreted to mean identical treatment for eligibility criteria and scope of services within the medically needy program and between the categorically needy and medically needy programs. The intent of the amendment is to provide States' with flexibility in establishing eligibility criteria and scope of services within the medically needy program to address the needs of different population groups more appropriately. Nothing would allow, however, the State to cover individuals not covered under current law.

PREVENTIVE HEALTH SERVICES BLOCK GRANT ACT OF 1981 AND HEALTH SERVICES BLOCK GRANT ACT OF 1981

House bill.—In addition to reauthorizing categorical programs, the House bill consolidated certain health programs into two block grants. One block grant consolidated funding for preventive health services programs for control of rodents, and community and school-based fluoridation in the 314(d) authority of formula grants to the States for comprehensive public health services (health incentive grants).

Senate bill.—The Preventive Health Services Block Grant Act of 1981 (S. 1027) and the Health Services Block Grant Act of 1981 (S. 1028) consolidated a total of 17 formerly categorical health programs into two health block grants. These block grants would allocate to the states the same proportion of funds under the blocks as the state received in FY 1981 under the various separate categorical programs included in the block. After the first fiscal year in which a state received funds under both block grants, the legislature of the state would be required to conduct public hearings in order to be eligible to receive its allotment. The Chief Executive of a State would be required to prepare and furnish the Secretary of the Department of Health and Human Services a plan which would not be required to be elaborate, which describes how the state would carry out certain assurances and requirements contained in these acts. While the plans would have to be made available to public inspection within the state in a manner to facilitate comment, Federal approval of state plans would not be required.

CONFERENCE AGREEMENT

Health prevention and services block grant

The committee's bill consolidates into a Health Prevention and Services Block Grant the following categorical health programs:

Emergency Medical Services—Sec. 1202, 1203, 1203, PHS Act.
Health Incentive Grants—Sec. 314(d), PHS Act.
Hypertension Control—Sec. 317(j)(3), PHS Act.
Rodent Control—Sec. 317(a)(2) and 317(j)(2), PHS Act.
School-Based Fluoridation—317(j)(4), PHS Act.
Health Education/Risk Reduction—Sec. 401 and 420, P.L. 95-626.
Home Health—Sec. 339, PHS Act.
Rape Crisis Center—Sec. 602 Mental Health Systems Act.

The bill authorizes for this block grant $95 million for fiscal year 1982, $96.5 million for FY 1983 and $98.5 million for fiscal year 1984.

The Conferees agreed to include a number of health programs in the Preventive Health and Health Services Block Grant. With the exception of the allotments for services for rape victims and the prevention of rape, each state's proportion of the new block grant allotments is equal to the percentage of funds received by the state or entities within the state in FY 1981 under the categorical programs that have been included in the block grant.

The conference substitute also provides for State continuation of present Emergency Medical Services grants for one year. While no minimum award is specified for these grants, the conferees do not intend that this provision be used as a "backdoor" or indirect method of defunding an existing grantee. Block grant funds used for emergency medical systems may not be used for purchasing equipment or to pay for the costs of operating such systems.

Special provision has been made to assure that states will continue the on-going efforts to combat hypertension by requiring that in FY 1982, each state must provide for hypertension programs at least 75% of the amount provided by the Federal government to that State or entities within the state in FY 81. In FY 1983, the required amount would be 70% of the FY 81 level, and in FY 1984, 60%.

In addition to the specific requirements for funding various activities indicated above, the conference agreement requires States to certify that they will establish (1) reasonable criteria to evaluate the effective performance of entities which receive funds under the block grant, and (2) procedures for substantive independent State review of failure to provide funds to entities which had previously received funds under this block grant or under the Federal categorical programs that have been included in the block grant.

As part of the application process, the State must also certify that it has identified those populations, areas and localities in the State with a need for preventive health and health services. It is the intent of the Conferees that the State provide a fair method for allocating its allotment in accordance with the needs of its population, areas and localities as determined under this assessment.

In addition, it is the intent of the Conferees that each State provide for an equitable geographic distribution of monies provided under the block grant.

Federal funds provided under the block would have to supplement and increase the level of State, local and other non-Federal funds that would have been expended in the absence of the block grant funds for such programs and activities and may not supplant such expenditure.

The application and certification process under this block grant has been greatly streamlined. The Secretary is prohibited from prescribing the manner of compliance with the certification process. This prohibition is intended to avoid complex pre-award review by the Secretary. The Conferees do not, however, intend that this prohibition preclude the Secretary from carrying out his duties to ensure that the allotments are spent in conformity with the law.

The Conference agreement requires States to prepare annual reports on its activities under the block grant. These reports would be in such form and contain such information as the Secretary determines to be necessary (A) to determine whether funds were expended as required by the block grants and consistent with the needs of the State; (B) to secure a description of the activities of the State; and (C) to secure a record of the purposes for which funds were spent, of the recipients of funds and the progress made toward achieving the purposes for which the block grant was awarded to the States. However, in determining the information which must be included in this report, the Secretary may not establish reporting requirements that are burdensome.

States are also required to establish the fiscal control and fund accounting procedures necessary to assure the proper disbursal of an accounting for Federal funds received under the block grants and to prepare, at least once a year, an independent audit of funds received. In so far as practical, this audit should be done in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. In addition, the Comptroller General is required to evaluate, from time to time, the expenditure by States of funds received, in order to assure that they are consistent with the provisions and requirements of the block grants.

The Conferees feel that these various features of the Preventive and Health Services Block Grant address the problems of inflexibility, lack of coordination, redundance and burdensome regulation which characterized some parts of the categorical grant system, but at the same time address genuine concerns over State accountability without detracting from the State's authority to allocate block grant funds. The various requirements specified for the block grant are meant to be definitive and are intended to establish explicit boundaries for the Federal role in these programs.

The bill also provides for withholding power for the Secretary. The Conferees intend that this authority be used by the Secretary to ensure that all expenditure by States and entities receiving funds from States are directed to the intended beneficiaries of the services programs and in accordance with the requirements of the part and certifications provided by the State. The Secretary could do so, however, only after adequate notice and an opportunity for a hearing conducted within the State and after the Secretary has conducted an investigation. The Secretary could not withhold funds from a State for a minor failure to comply with the requirements and certifications of the block grant and would have to respond in an expeditious manner to complaints of a substantial or serious nature that the State has failed to comply.

In addition, the Secretary is required to conduct in several States in each fiscal year investigations of the use of funds received by the States under the Preventive and Health Services Block Grant. The Comptroller General is also authorized to conduct such investigations. States would be required to make appropriate books, documents, papers, and records available for such investigations and to permit any reasonable request for examination, copying, or mechanical reproduction, on or off the premises, of such papers and records. However, the Secretary or Comptroller General could not request any information not readily available to the State or entity and could not make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

Finally, the Conference agreement provides for criminal penalties for false statements made with regard to services or items funded with the block grant funds.

II. PROVISIONS RELATING TO SOCIAL SECURITY (OASDI)

1. Elimination of the minimum benefit for all current and future beneficiaries

House bill.—Eliminates the minimum benefit for all present and future beneficiaries. The amount payable to individuals already receiving benefits based on the minimum primary insurance amount would be recomputed based on their actual earnings record and according to recomputation procedures to be prescribed in regulations issued by the Secretary of Health and Human Services (HHS). All benefits payable to new beneficiaries would be based on their actual earnings, with no minimum payment level, effective for benefits payable after November 1981 for newly eligible beneficiaries, and for all others (current beneficiaries) beginning with benefits payable March 1982. In addition, persons aged 60 to 64 who are entitled to a minimum benefit before December 1981 would become eligible for a special SSI benefit if they qualify under all SSI rules except that pertaining to age. The amount of the special SSI payment would be limited to the difference between the minimum benefit the individual was receiving (without regard for the earnings test) and the recalculated benefit. These SSI payments would not be adjusted for increases in the cost of living; nor would these 60- to 64-year-old persons become eligible for certain other benefits including state supplementation, food stamps, medicaid, or social services as a result of this provision.

Senate amendment.—Same as House provision, except that the provision would be effective for all benefits payable beginning in August 1981.

Conference agreement.—The conference agreement provides for the House effective date with regard to new benefits (payable after November 1981); and all other beneficiaries would be affected in benefits for February 1982 (payable March 3) and thereafter. The Social Security Administration is directed to notify in writing on or before December 3, 1981 all current recipients of the minimum benefit. The notice shall read as follows:

This is to inform you that as a result of the elimination of the minimum benefit; your benefit may be reduced to some degree beginning with your March check. To determine the extent of the reduction, if any, and your possible eligibility for SSI and other assistance programs you may contact your local social security office.

2. Restrictions on payment of lump-sum death benefits

House bill.—The House provision would eliminate the lump-sum death payment ef-

fective for deaths occurring after August, 1981 in cases where there is neither an eligible spouse nor an entitled child. Under the proposal, only surviving spouses who were living with deceased worker or are eligible to receive monthly cash survivor benefits upon the worker's death would receive the lump-sum death payment. If there were no eligible spouse, the lump-sum death payment would be payable to any child of the deceased worker who was eligible to receive monthly cash benefits as a surviving child. If there were no surviving spouse and the no children of the worker eligible for monthly benefits, then no one would be eligible to receive the lump-sum death payment.

Senate amendment.—The Senate amendment is identical to the House bill, except that it is effective with respect to deaths occurring after July 1981.

Conference agreement.—The Conference agreement adopts the restrictions on the payment of the lum-sum death benefit as passed by both the House and Senate. The provision is effective with respect to deaths occurring after August 1981.

3. Modification of month of initial entitlement for certain workers and their dependents

House bill.—The House provision would provide that in the case of workers retiring at exact age 62 and in case of dependents (first claiming benefits at age 62) of retired workers, entitlements to benefits would begin with the first month throughout all of which the individual met all the requirements for eligibility. This change would not affect the disabled and their dependents who become entitled at the same time as the worker, although it would apply to dependents who came onto the benefit rolls at some time after the disabled worker becomes entitled. The provision would not affect entitlement to survivors' benefits, to reduced benefits for workers retiring after the month in which they attain age 62, to unreduced benefits in the month (and later months) that an otherwise entitled individual attains age 65, or to Medicare benefits. The provision is effective for months after August 1981.

Senate amendment.—No provision.

Conference agreement.—The conference agreement adopts the House provision.

4. Temporary extension of earnings limitations to include all persons under age 72

House bill.—The House provision would keep the exempt age under the earnings test at age 72 for 1982. Beginning in 1983, it would be lowered to age 70.

Senate amendment.—No provision.

Conference agreement.—The conference agreement adopts House provision.

5. Termination of mother's and father's benefits when youngest child attains age 16

House bill.—The House provision would end entitlement to benefits for the mother or father caring for a child or children receiving child's insurance benefits, when the youngest child reaches age 16 (rather than age 18, as under current law). The provision would not apply in the case of a parent caring for a disabled child aged 16 or over. The provision would be effective with respect to current beneficiaries only at the end of two years after the month of enactment, but would be effective for parents becoming newly entitled in or after the second month after enactment. Benefits to the child or children in the family would not be affected. This provision is effective with respect to current beneficiaries two years after the month of enactment. It would be effective for parents becoming newly entitled in or after the second month after enactment.

Senate amendment.—No similar provision.

Conference agreements.—The conference agreement adopts the House provision.

6. Modification of rounding rules

House bill.—The House provision would provide for rounding benefit amounts down to the lower ten cents at each stage of computing benefits, except at the last step—the actual benefit amount payable per beneficiary. This would be rounded to the next lower dollar. For those beneficiaries electing supplementary medical insurance (SMI), the rounding would occur after the SMI premium was deducted from the OASDI benefit check. The provision applies to all beneficiaries, except for "transitionally" (Byrnes) and "uninsured" (Prouty) cases and applies to benefit amounts, including cost-of-living adjustments and benefit recomputations, for periods after August 1981.

Senate amendment.—The Senate amendment would provide that benefit amounts would be calculated to the nearest penny, with the final amount rounded to the next lower dollar. The provision applies to all beneficiaries, except for "transitionally" (Byrnes) and "uninsured" (Prouty) cases and applies to benefit amounts, including cost-of-living adjustments and benefit recomputations, for periods after June 1981.

Conference agreement.—The conference agreement adopts the House provision.

7. Cost reimbursement for provisions of earnings information

House bill.—The House provision would make clear that reimbursement of costs incurred by SSA in providing earnings information to employers seeking to comply with the Pension Reform Act of 1974 is not governed by the Freedom of Information Act or by the Privacy Act, which contain provisions limiting the extent to which the cost of furnishing information can be recovered, and would permit the Department to recover from the requesting party the full cost of retrieving and transmitting information for purposes of enabling pension plans to comply with the Pension Reform Act.

In addition, this provision would provide that the Department would have authority to recover the full cost of retrieving and transmitting any information requested for any other purpose not directly related to the administration of the program or programs under the Social Security Act. Changes made by this subsection are effective on date of enactment.

Senate amendment.—The Senate amendment is identical to the House-passed provision except that SSA is authorized to recover full costs only for information requests arising from requirements of the Pension Reform Act of 1974.

Conference agreement.—The conference agreement adopts the House provision.

8. Recency of work test for disability insurance

House bill.—No provision.

Senate amendment.—Would add an eligibility requirement for disability insurance benefits that an individual have 6 quarters of coverage during the 13 calendar quarters preceding the onset of disability in addition to the present law requirement of fully insured status and 20 quarters of coverage out of the last 40 quarters.

Conference agreement.—The Conference agreement adopts the House position with the understanding that this issue will be considered, along with the Administration's request for substituting a requirement of 30 quarters of coverage in the last 40 quarters the quarter requirement for 20 out of 40, in the social security financing bills pending before both Committees.

9. Modification of worker's compensation offset

House bill.—No provision.

Senate amendment.—Makes four modifications of the present worker's compensation offset. First, the offset provision would be expanded to include other disability benefits provided by Federal, State and local governments, except that needs-tested benefits, Veterans Administration disability benefits, and benefits based on public employment covered by social security would not be taken into account. Private insurance benefits also would not be taken into account. The amount of the reduction would be calculated as under the present worker's compensation offset provision. Second, the reduction in DI to take account of disability benefits provided under other Government programs would apply not only to workers under 62 and their families, but also to workers 62 through 64 and their families. Third, the reduction would be made beginning with the month during which the concurrent payments (Social Security disability and the other governmental disability payments) actually began. Fourth, the provision would amend existing law (which allows States to enact offsets so that Federal offset will not apply) February 18, 1981.

Conference agreement.—The conference adopts the Senate amendment with technical amendments by granting the waiver of the federal offset only in cases where the other public disability program began offsetting on or before ——.

The provision would be effective with respect to initial entitlements to disability benefits for individuals who become disabled after the sixth month preceding the month of ——.

10. Reimbursement of States for successful rehabilitation services

House bill.—Eliminates reimbursement from the OASI and DI trust funds to the state vocational rehabilitation agencies for rehabilitation services except in cases where the services have resulted in the beneficiary's performance of substantial gainful activity for a continuous period of 9 months. Such nine-month period could begin while the individual is under a vocational rehabilitation (VR) program and may also coincide with the trial work period and during the individual's waiting period for benefits. The services must be performed under a state plan for vocational rehabilitation services under title I of the Rehabilitation Act. In the case of any State which is unwilling to participate or which does have a plan which meets the requirements of the vocational Rehabilitation Act, the Commissioner of Social Security may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals. The determination that the VR services contributed to the successful return of the individual to work and the determination of the costs to reimburse shall be made by the Commissioner of Social Security. Payments under this provision shall be made in advance or by way of reimbursement, with necessary adjustment for overpayments or under payments. The provision would be effective as to services rendered October 1, 1981 and subsequently.

Senate amendment.—Eliminate reimbursement from the trust funds in all cases.

Conference agreement.—The conference agreement adopts the House provision.

11. Elimination of benefits for post-secondary students.

House bill.—The House provision would eliminate new benefits for child beneficiaries 18 or older in post-secondary school and 19 or older in elementary or secondary school effective August 1982. However, students 18 or older who were entitled to a child's benefit in August 1981 and who began post-secondary school before May 1982 would be able to continue receiving benefits. The amount of their benefits, however, would not be adjusted for changes in the cost-of-living after August 1981. Further, beginning in August 1982, the amount of their benefits would be reduced each year by 25 percent of the August 1981 amount. Benefits would continue until the student turned 22, discontinued his education, or for some other reason ceased to qualify for benefits. In no case could benefits to post-secondary students 18 or older continue beyond July 1985.) In addition, beginning in 1982, no benefits would be payable to these post-secondary students during the summer months, defined as the months of May through August.

Senate amendment.—The Senate amendment is identical to the House provision.

Conference agreement.—The conference agreement adopts the House and the Senate provision.

AID TO FAMILIES WITH DEPENDENT CHILDREN; CHILD SUPPORT ENFORCEMENT

Aid to Families with Dependent Children

1. Disregards from earned income for AFDC

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Current law provisions requiring States to disregard certain amounts of earned income for purposes of determining benefits in the AFDC program would be amended to standardize the work expense disregard at $75 per month for full time employment, cap the child care disregard at $160 per month, and change the order of the $30 plus one-third disregard.

States would be required to disregard the following amount of earnings, in the following order:

(a) *Eligibility Determination*—the first $75 of monthly earnings for full time employment (in lieu of itemized work expenses); and the cost of care for a child or incapacitated adult, up to $160 per child per month.

(b) *Benefit Calculation*—the first $75 of monthly earnings for full time employment; child care costs up to $160 per child per month; and $30 plus one-third of earnings not previously disregarded.

The $30 plus one-third disregard would only be allowed during the first 4 consecutive months in which a recipient has earnings in excess of the standard work expense and child care disregards. After 4 months, the benefit would be determined without the $30 plus one-third disregard for each month the family continues to receive AFDC and for 12 consecutive months after AFDC is terminated.

2. Determination of income and resources for AFDC

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

In determining eligibility for AFDC, States would be required to limit allowable resources to $1,000 (equity value) per family, excluding the home and one automobile. The value of the automobile would be limited by regulations.

In addition, States would be permitted to take into account the value of benefits received from food stamps or housing subsidies. This would be done by treating the value of the food stamp coupons or housing subsidy as income, up to the value for food or shelter that is included in the State payment standard.

3. Income limit for AFDC eligibility

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Eligibility for AFDC would be limited to families with gross incomes at or below 150 percent of the State's standard of need.

4. Treatment of income in excess of the standard of need; lump sum payments

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

For purposes of AFDC, income received in a month must be considered available as income in the month it is received and also in future months. Thus, if such income exceeded the standard of need in the months of receipt, the family would be ineligible in that month. In addition, any amount of the income that exceeds the initial month's needs standard would be divided by the monthly needs standard, and the family would be ineligible for aid for the number of months resulting from that calculation.

5. Treatement of earned income advance amount under AFDC

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

In determining earned income for AFDC, the State must assume that an individual is receiving that earned income tax credit (EITC) advance payment that he or she is eligible to receive, regardless of whether the person has applied for the advance payment (i.e., if the individual does not receive advance EITC payments, an amount equal to what he or she could get as advance payment is counted as earned income).

6. Income of stepparents living with dependent child

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

The income of a stepparent must be counted in determining eligibility and benefit amounts for AFDC applicants and recipients. (Countable income would include any amount which exceeds: (1) the first $75 of earned income (a smaller amount may be prescribed for less than full-time work); (2) the amount specified in the State's standard of need as the amount required by the stepparent to support himself and his dependents living in the same household; (3) amounts paid by the stepparent to dependents living outside the household; and (4) payments of alimony or child support to individuals not in the same household. The law would be amended to preclude prorating of shelter allowances with regard to persons to whom this provision applies.

7. Community work experience programs

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States would be authorized to operate community work experience programs which serve a useful public purpose, and to require AFDC recipients to participate in these programs as a condition of eligibility. These programs would have to meet appropriate standards for health and safety, and could not result in displacement of persons currently employed, or the filling of established unfilled vacancies. Provision would have to be made for payment of reasonably necessary work expenses incurred by participants. Participants would not be required to work in excess of the number of hours which, when multiplied by the greater of the Federal or the applicable State minimum wage, equals the sum of the amount of aid payable to the family. Persons exempt from WIN registration would also generally be exempt from participation in this program, except that parents caring for a child under 6 (but not under 3) could also be required to participate if child care is available.

8. Providing jobs as alternative to AFDC

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States would be permitted to use savings from reduced AFDC grant levels to make jobs available on a voluntary basis. Under this approach, recipients would be given a choice between taking a job or depending upon a lower AFDC grant than now exists. States implementing this provision could do so in addition to or as an alternative to the community work experience approach.

States would use the savings from the reduced AFDC grant levels to provide or underwrite job opportunities for AFDC eligibles. For example, States could pay nonprofit and governmental entities a subsidy to cover part of the wage costs of hiring AFDC eligibles. (This type of subsidy would also be available to proprietary as well as nonprofit child day care providers but only if taken in lieu of the tax credit which is otherwise available.) Acceptance of any job offered as a part of this program would be entirely voluntary on the part of the individual involved. At State option, medicaid coverage could be continued for participants in subsidized employment under this amendment.

States would have flexibility to implement the amendment for particular areas within the State or for particular categories of recipients and would also have the flexibility to modify the rules for treatment of income so as to avoid situations which would undermine the proposal. For example, modifications might be needed to adjust for offsetting increases in food stamp entitlement or to limit or eliminate the earned income disregard as it applies to those who choose to continue receiving AFDC. (States would not have authority under the proposal to enlarge the disregards otherwise allowable under Federal law.)

If a State elected to utilize this provision, its costs would be contained within the overall level of welfare costs as they would otherwise exist. The total amount of Federal funding for regular AFDC payments and for subsidies provided to employers under the voluntary jobs program could not exceed the present level of estimated AFDC spending in the State (after enactment of the other AFDC changes in the bill).

9. Work incentive demonstration program

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States would be authorized to operate a 3-year work incentive demonstration program

as an alternative to the current WIN program. Not later than 60 days after enactment, the governor of a State wishing to conduct a demonstration would have to submit to the Secretary of HHS a letter of application expressing this intent. There would have to be an accompanying State program plan specifying (1) that the operating agency will be the State welfare agency, and (2) that required participation criteria will be the same (statewide) as are applied under the WIN program. However, the components of the program could be varied in different regions or political subdivisions of the State.

Participating States would be funded at a level equal to their 1981 WIN allocation augmented by any other Federal funding which may be available for establishing AFDC work programs in the State.

The purpose of the demonstration authority is to test the States' ability to develop alternatives to the current AFDC work requirements. Techniques to be used could include job training, job find clubs, grant diversion to either public or private employers, services contracts with State employment services, performance-based placement incentives, and others. A State's application would be deemed approved unless the Secretary notified the States within 45 days of application. An application could not be finally disapproved unless the Secretary determined that the State's program plan would be less effective than the WIN program.

10. Effect of participation in a strike on eligibility for AFDC

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

AFDC would not be payable to a family if a caretaker relative (mother or father) is, on the last day of the month, participating in a strike. If an individual in the family other than a caretaker relative is on strike, that individual's needs would not be included in determining the amount of the AFDC payment. In addition participation in a strike would not constitute good cause to leave or to refuse to seek or accept employment.

11. Age limit of dependent child

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Eligibility would be limited to a child under age 18, or, at State option, under 19, but only if the child is a full-time student in a secondary or technical school and may reasonably be expected to complete the program before he reaches age 19.

12. Limitation on AFDC to pregnant women

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States would be prohibited from paying to pregnant women with no other children until the 6th month of pregnancy. However, a State could provide medicaid for AFDC-eligible pregnant women with no children from the determination of pregnancy.

13. Aid to families with dependent children by reason of unemployment of a parent.

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Eligibility for AFDC on the basis of a parent's unemployment (AFDC-UP) would be limited to those families in which the principal earner is unemployed. The principal earner would be the parent who earned more income during the 2 years preceding the application for benefits. The entire family would be ineligible for AFDC if the principal earner is not registered for work or training.

14. Work requirements for AFDC recipients

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

AFDC work requirements would apply to children age 16 and over unless they are in elementary, secondary, or vocational school (not college). Parents caring for a child under 6 would be exempt from work requirements only if they are providing care with only brief or infrequent absences from the child.

15. Retrospective budgeting and monthly reporting

House bill.—States would be required to adopt a retrospective accounting and monthly reporting system. A family's eligibility for benefits would be determined on the basis of income and other factors in the current month, but the amount of benefits would be determined on the basis of income and other circumstances in the previous month. For the first month of eligibility, however, both eligibility and benefit amount would be determined on the basis of income and circumstances in the current month.

States would have to require all recipients to provide monthly reports on income, family composition, resources, and other relevant factors. However, the Secretary of HHS could allow a State to require less frequent reporting for specified classes of recipients if the State demonstrates that the administrative cost of monthly reporting for these recipients is not worthwhile.

Senate amendment.—The Senate amendment is the same as the House bill, except that it does not allow waiver by the Secretary of the monthly reporting requirement.

Conference agreement.—The conference agreement follows the House bill.

16. Prohibition against payment of aid in amounts below ten dollars

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States could not make AFDC payments in amounts less than $10 a month. Individuals denied a benefit as a result of this provision would be considered recipients for all other purposes, including medicaid eligibility.

17. Removal of limit on restricted payments in a State's AFDC program

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

The provision removes all restrictions on the number of cases in which vendor payments may be made by a State, and allows recipients to choose to have vendor payments made even though they could otherwise receive payments directly. There would not have to be a determination that the household cannot manage funds for those who elect to receive vendor payments.

18. Adjustment for incorrect payments

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States would be required to take prompt action to correct both overpayments and underpayments. Current recipients could either repay the amount of an overpayment or have the amount of their AFDC payment reduced. The AFDC payment for any month in which overpayments are being recovered, together with the recipient's liquid resources and all income, would have to equal at least 90 percent of the payment that a family would receive if it had no other income. Payments correcting underpayments could not be considered as income and could not be considered as resources in the month of receipt or the next month.

19. Reduced Federal matching of state and local AFDC training costs

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Federal matching for costs of training employees of State or local agencies administering AFDC would be reduced from 75 percent to 50 percent, effective with respect to expenditures made after September 30, 1981.

20. Eligibility of aliens for AFDC

House bill.—The House bill provides that, for the purposes of eligibility for AFDC, legally admitted aliens who apply for benefits for the first time after September 30, 1981 would be deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States. The eligibility of such aliens for AFDC would be contingent upon their obtaining the cooperation of their sponsors in providing necessary information to the State welfare agency to carry out this provision. The alien and the sponsor would be jointly and severally liable for repayment of any benefits incorrectly paid because of misinformation provided by the sponsor or because of his failure to report, and any such incorrect payments not paid would be withheld from any subsequent payments for which the alien or sponsor would otherwise be eligible under the Social Security Act.

A sponsor's income deemed to the alien would be considered unearned income and would result in a dollar-for-dollar reduction in the alien's AFDC benefit. The amount to be deemed would be equal to the total monthly amount of earned and unearned income of the sponsor and the sponsor's spouse reduced by an amount equal to the sum of (1) the lesser of 20 percent of earned income, or $175; (2) the standard of need of the State for a family of the same size and composition as the sponsor and other individuals claimed by him as dependent (for Federal income tax purposes) who are living in the same household as the sponsor; (3) any amounts paid by the sponsor to individuals not living in the household who are claimed as dependents (for Federal income tax purposes); and (4) any payments of alimony or child support with respect to individuals not living in the household.

The amount of resources deemed to the alien would be equal to the amount of the resources of the sponsor and spouse as determined under the State's AFDC resource rules, reduced by $1,500.

Under the provision, an alien applying for AFDC would be required to make available to the State agency any documentation concerning his income or resources or those of his sponsor (if he has one) which he provided in support of his immigration application. The Secretary of Health and Human Services would be authorized to obtain copies of any such documentation from other agencies (i.e., State Department or

Immigration and Naturalization Service), and to provide the information, upon request, to a State agency. The Secretary of HHS would also be required to enter into cooperative arrangements with the State Department and the Justice Department to assure that the persons sponsoring the immigration of aliens are informed at the time of sponsorship that, if the alien applies for AFDC, the sponsorship affidavit will be made available to the public assistance agency and the sponsor may be required to provide further information concerning his income and assets in connection with the alien's application for assistance.

Under the provision, the income and resources of a sponsor which are deemed to an alien in a family would not be considered in determining the need of other, non-sponsored family members (e.g. a child born after entry into the U.S.) except to the extent such income or resources are actually available to them.

The provision would not apply to any alien who is (1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; (2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act; (3) paroled into the United States as a refugee under section 212(d)(5) of such Act; (4) granted political asylum by the Attorney General under Section 208 of such Act; or (5) a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

21. Effective date

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Except as otherwise specified, the effective date of all AFDC provisions is October 1, 1981, unless the State agency demonstrates that it cannot, by reason of State law, comply with the requirement. In such cases the Secretary of HHS may prescribe an effective date no later than the first month which begins after the close of the first session of the State's legislature ending on or after October 1, 1981.

Child Support Enforcement

1. Collection of past-due child and spousal support from Federal tax refunds

House bill.—The authority which is provided in current law for collection by the Internal Revenue Service of amounts which represent delinquent child support payments would be amplified in the following way. Upon receiving notice from a State child support agency that an individual owes past-due support which has been assigned to the State as a condition of AFDC eligibility, the Secretary of Treasury would be required to withhold from any tax refunds due that individual an amount equal to any past-due support. The withheld amount would be sent to the State agency, together with notice of the taxpayer's current address. The Secretary of Treasury would be required to issue regulations, approved by the Secretary of HHS, prescribing the timing and contents of notices by the States. States would be required to reimburse the Federal Government for the cost of the procedure. "Past-due support" is defined as the amount of a delinquency determined under court order or an order of an administrative process established under State law for support and maintenance of a child, or of a child and the parent with whom the child is living.

Senate amendment.—The Senate amendment is the same, except for technical differences.

Conference agreement.—The conference agreement follows the Senate amendment.

2. Collection of support for certain adults

House bill.—The authority which exists in present law to enforce obligations for support of a child is expanded to include, in addition, authority to enforce obligations for support of the parent with whom the child is living. Authority would also be added to use IRS collection procedures to collect support obligations with respect to the parent with whom the child is living and who is receiving AFDC. (Present law limits use of the IRS to collection of child support.) IRS collection procedures could also be used for the collection of obligations established by administrative process under State law. (Present law limits their use to obligations established by court order.)

Senate amendment.—The Senate amendment is the same as the House bill, except that, generally, spousal support may only be enforced in the case of parents who are receiving AFDC.

Conference agreement.—The conference agreement follows the House bill (except for technical differences).

3. Cost of collection and other services for non-AFDC families

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

States would be required to retain a fee equal to 10 percent of the support collected on behalf of a non-AFDC family. This 10 percent fee would be charged against the absent parent and added to the amount of the collection.

4. Child support obligations not discharged by bankruptcy

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

A provision of the Social Security Act, previously in effect, would be reinstated, declaring that a child support obligation assigned to a State as a condition of AFDC eligibility is not discharged in bankruptcy. The provision would be effective upon enactment.

5. Child support intercept of unemployment benefits

House bill.—The House bill would require child support enforcement agencies to determine on a periodic basis whether any individuals who owe child support obligations enforceable by the agency are receiving unemployment compensation or trade adjustment assistance benefits (under chapter 2 of the Trade Act of 1974). The child support enforcement agency would be required to collect any outstanding child support obligations owed by an individual receiving unemployment benefits—through an agreement with the individual or, in the absence thereof, the legal processes of the State—by having a portion of the individual's employment benefits withheld and forwarded to the State child support agency. As a condition for receipt of Federal administrative grants under title III of the Social Security Act, agencies charged with the administration of the State unemployment compensation laws would be required to withhold and forward to the child support agency the amount of the individual's unemployment benefits specified in the agreement or otherwise required to be withheld as a result of legal process. An agreement to withhold less than the full amount owed would not excuse the individual's legal obligation. Amounts withheld would be forwarded to the child support agency. The provision has an effective date of Oct. 1, 1981, except that State plan requirements would not have to be met before Oct. 1, 1982.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

6. Effective date

Both the House bill and the Senate amendment included the following identical provision which was agreed to by the conferees:

Except as otherwise specified, the effective date of all child support enforcement provisions is October 1, 1981, unless the State agency demonstrates that it cannot, by reason of State law, comply with the requirement. In such cases the Secretary of HHS may prescribe an effective date no later than the first month which begins after the close of the first session of the State's legislature ending on or after October 1, 1981.

SUPPLEMENTAL SECURITY INCOME BENEFITS

1. Retrospective accounting

House bill.—The House bill provides generally for changing the present quarterly prospective method of accounting for SSI to a monthly retrospective system. The bill requires that the SSI *benefit amount*, in general, be determined on the basis of the prior month's income and circumstances, i.e. retrospectively. *Eligibility* would be determined on the basis of income and other circumstances of the current month, i.e. prospectively. However, both eligibility and benefit amount would be determined on a current (prospective) basis (1) for the month in which an application is filed, or (2) for any month in which a significant change occurs (as determined by the Secretary) in the recipient's living arrangements.

The bill also provides authority for the Secretary to waive the requirement that the SSI benefit standard be reduced to $25 in the case of individuals in certain medical institutions in order to promote the individual's removal from the institution. In addition, the Secretary would be allowed to make transitional payments for the period immediately following the effective date of the amendment. The amendment is effective with respect to months after the first calendar quarter which ends more than five months after the month of enactment.

Senate amendment.—The Senate amendment is the same as the House bill, except that it does not give the Secretary authority to determine eligibility and benefits on a current basis in the case of recipients who experience a significant change in living arrangements, and includes minor differences in the provisions giving the Secretary authority to grant waivers and to make transitional payments.

Conference agreement.—The conference agreement follows the Senate amendment.

2. Eligibility of SSI recipients for food stamps

House bill.—The House bill modifies current Federal SSI food stamp "cash-out" requirements so that a State could continue to "cash-out" food stamps for SSI recipients so long as it (1) had previously increased its supplementary benefits to include the bonus value of food stamps, (2) was providing a cash payment in lieu of food stamps as

of December 1980, and (3) continued to pass-through the Federal cost-of-living increases as required under section 1618 of current SSI law.

The provision affects SSI recipients in Massachusetts, Wisconsin and California. The effective date is July 1, 1981. (A bill providing this authority on a temporary basis, to Aug. 1, 1981, was signed into law on June 30 as Public Law 97-118.)

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

3. Payment to States with respect to certain unnegotiated checks

House bill.—The House bill would limit the negotiability of SSI checks to 180 days from date of issuance. The amount from such unnegotiated checks which represent a State supplementation payment would be returned or credited to the State. The bill would require the Social Security Administration, to the maximum extent feasible, to determine the whereabouts and eligibility of those individuals whose benefit checks were not negotiated within the 180 day limit.

Senate amendment.—No provision.

Conference agreement.—Under the conference agreement, the negotiability of SSI checks would continue to be unlimited. However, the Secretary of the Treasury would be required, on a monthly basis, to notify the Secretary of HHS of all benefit checks which have not been presented for payment within 180 days after the date of issuance. As provided in the House bill, the Secretary of HHS would be required to return (or credit) amounts which represent State supplementary payments to the State. In addition, the Social Security Administration would be required to attempt to determine the whereabouts and eligibility of those recipients whose checks were not negotiated within 180 days of issuance. The provision is effective October 1, 1981.

4. Funding of rehabilitation services for SSI recipients

House bill.—No provision.

Senate amendment.—The Senate amendment would repeal the authority under SSI for the Secretary to reimburse State vocational rehabilitation agencies for services provided to blind and disabled recipients of the SSI program.

Conference agreement.—The conferees agreed to allow the Secretary to reimburse State vocational rehabilitation agencies only for services provided to SSI recipients who subsequently perform substantial gainful activity which lasts for a continuous period of 9 months, under the same conditions as are applicable with respect to reimbursement for services to social security beneficiaries (as provided in this Act). The provision is effective October 1, 1981.

5. Special interim cost-of-living increase in SSI benefits

House bill.—The House bill provides that any temporary cost-of-living increase in title II (OASDI) benefits made in 1982 by the Reconciliation Act would result in the same percentage increase in benefits under title XVI (SSI). (This provision is contingent on a Committee-approved provision to change title II cost-of-living increases which was deleted by the Latta floor amendment. Without the title II amendment it is inoperative.)

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the Senate amendment.

SOCIAL SERVICES BLOCK GRANT

House bill.—Effective October 1, 1981, the House bill would repeal the following programs and consolidate activities and funding in a new freestanding social services block grant: title XX social services and training; Child Abuse Prevention and Treatment and Adoption Reform Acts; Runaway and Homeless Youth Act; and titles I, II, III, IV, VI, VII, and IX of the Community Services Act. The bill would make no change from present law in the title IV-B child welfare services and title IV-E foster care and adoption assistance programs.

The bill would authorize (subject to appropriations) $3.123 billion for the new block grant in fiscal year 1982 and each of the three succeeding fiscal years. This amount represents a 16 percent decrease from the CBO 1982 baseline estimate for the consolidated programs. Funds would be allotted to States on the basis of State allotments or obligations in 1981 under programs repealed by the Act, and under foster care maintenance payments authorized by title IV of the Social Security Act, and the special social services provisions for Puerto Rico, Guam and the Virgin Islands under section 1108(a) of the Social Security Act. There would be no State matching requirement under the block grant program. States would be allowed to transfer up to 10 percent of their social services block grant allotment for use under block grants for health services, health promotion and disease prevention, and energy assistance. (In 1982 and 1983 each State could transfer only an amount equal to its share of $255 million to the energy assistance block grant.) Funds could be used to provide foster care maintenance payments and adoption assistance without limitation as to the amount.

The current, separate title XX training program would be repealed. Funds provided under the new block grant could be used to pay all training costs, including training provided through tax-exempt nonprofit organizations, or by individuals with social services expertise. Restrictions on use of funds would be similar to those in present law, including restrictions which generally prohibit funding of medical or remedial care; the purchase, construction, or major modification of land, buildings, or equipment; educational services which are generally available; and others.

Services would be authorized to be provided to individuals and families, particularly those most in need, but would not have to be targeted toward any particular group.

Before States could use their allotment in any fiscal year, they would be required to report on their intended use of funds. The report would describe services to be provided and the populations to be served and would be available to the general public for review and comment. States could revise the plan throughout the year.

States would be required to prepare reports at least every 2 years, in order to provide a description of activities, to secure a record of purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the States' annual report on planned activities. States would also be required to audit their expenditures at least every 2 years. Audits would be submitted to the State legislature and the Secretary. States would either repay amounts found not to have been spent in accordance with the Act, or the Secretary could offset these amounts against future payments.

The Secretary of HHS would be authorized, either directly or through grants and contracts, to provide training related to the purposes of the Act, and to conduct ongoing activities of national or regional significance similar to those authorized under present law.

Senate amendment.—Effective October 1, 1981, the Senate amendment would repeal the following programs and consolidate activities and funding in a new social services block grant, authorized under title XX of the Social Security Act: title XX social services and training; title IV-B child welfare services; and title IV-E foster care and adoption assistance.

The Senate amendment would premanently authorize (on an entitlement basis) $2.639 billion annually for the new social services block grant. This amount represents a 25 percent decrease from fiscal year 1981 budget authority for the consolidated programs.

States would be required to implement foster care, adoption assistance and child welfare services programs in accord with requirements of present law. These include provisions for individual case plans, case review systems, services programs designed to assist children in returning to their homes, and per-placement preventive services. If a State failed to meet the requirements, its title XX block grant funding would be reduced. The reduction would be equal to the same proportion of its block grant allocation for the year in question as the funds it received in 1981 for AFDC foster care, adoption assistance and child welfare services were of the combined amount of funds it received for those programs and title XX social services.

Specifically, the requirements that would have to be met are: (1) Beginning October 1, 1982, States would have to have in effect a foster care and adoption assistance program that meets the specifications of the current title IV-E program. (2) In addition, beginning in 1985, States would have to meet all the foster care protection requirements (including pre-placement preventive services) that would be required under the present IV-B child welfare services law if the full $266 million authorized for the program were actually appropriated.

States would be required to spend for foster care, adoption assistance and child welfare services at least 75 percent of the amount they spent for these programs in 1981. And, foster care maintenance payments could not represent a greater proportion of a State's total title XX block grant expenditures than such payments in 1981 represented of the State's total allotment under the foster care, child welfare services, adoption assistance and social services programs.

State allotments would be based on State allotments or obligations in 1981 under the existing title XX, title IV-B, title IV-E, title IV-A and section 1108 (a) of the Social Security Act. There would be no State matching requirement for the new block grant program.

As under the House bill, the current, separate title XX training program would be repealed, and authority would be provided for funding training under the new block grant. Unlike the House bill, the Senate amendment would not authorize training provided by tax-exempt nonprofit organizations or individuals with social services expertise. Like the House bill, the Senate amendment would allow inter-block transfer of funds.

The Senate amendment generally would prohibit funding for the same kinds of activities as the House bill (which are similar to present law). It would require that day care provided with block grant funds meet

applicable State and local standards. It would also authorize States to make grants to qualified day care providers to pay wages of welfare recipients hired as day care workers, as provided in current law.

Requirements for reports and audits would be similar to those in the House bill, except that reports would also have to include information relating to the State's programs for foster care and adoption assistance, and would have to be transmitted to the Secretary.

Conference agreement.—The conference agreement provides for amending the existing title XX of the Social Security Act to establish a new block grant to States for social services. Under the conference agreement, which generally follows the Senate amendment, the new block grant would not incorporate the child welfare services, foster care, and adoption assistance programs.

The new title XX would provide that each State be entitled to an annual allotment for operating social services programs aimed at meeting the following goals:

(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitation, or reuniting families;

(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

The amount of the allotment for each State would be its share of a national total of $2.4 billion in 1982, $2.45 billion in 1983, $2.5 billion in 1984, $2.6 billion in 1985, and $2.7 billion in 1986 and years thereafter. Allotments would be based on State population. (The share allotment for Puerto Rico, Guam and the Virgin Islands and the other Mariana Islands would be based on their share of the amounts alloted to them in 1981 under title XX, reduced to reflect the new funding levels.)

As under the Senate amendment, the program would operate as an appropriated entitlement in which the Federal Government is obligated to appropriate an amount sufficient to meet all qualified State expenditures up to the amount of the State allotment. As under both the House bill and the Senate amendment, there would be no non-Federal matching requirement, and States would be able to claim funds within their allotments for expenditures in the fiscal year to which the allotment applies or in the following year. Unexpended funds would not be reallotted. However, each State would be authorized to transfer up to 10 percent of its annual title XX allotment for expenditures under health, or energy assistance block grant programs.

Expenditures for services could include expenditures for administration (including planning and evaluation); personnel training and retraining directly related to provision of those services (including both short- and long-term training at educational institutions through grants to institutions or by direct financial assistance to students); and conferences or workshops, and training or retraining through grants to nonprofit organizations or to individuals with social services expertise.

As under both the House bill and the Senate amendment, before expending funds under the new title XX program for any fiscal year, States would be required to develop and make public a report on how the funds are to be used, including information about the types of activities to be funded and the characteristics of the individuals who will be serviced. This report would be revised thoughout the year, as necessary. As under the Senate amendment, the report would have to be submitted to the Secretary.

As under both the House bill and the Senate amendment, each State would determine the types of services to be provided, and, unlike present law, there would be no requirement that a specific portion of the funds be used for welfare recipients, or that services be limited to families with incomes below 115 percent of State median income.

Title XX funds could not be used for the following specified purposes:

(1) the purchase or improvement of land or buildings;

(2) room and board cost (except for certain short-term or emergency shelter);

(3) wage payments other than payments under the provisions for subsidizing the costs of hiring welfare recipients in child care jobs;

(4) medical care (except where it is an integral part of another service) other than initial detoxification of an alcoholic or drug dependent individual, family planning services, or rehabilitation services;

(5) institutional services provided by the institution (except for rehabilitation services or services for alcoholic or drug dependent individuals);

(6) educational services which are generally available; and

(7) services in the form of cash payments.

As in both the House bill and the Senate amendment, the Secretary of HHS would have authority to waive the prohibition against medical services and against the purchase or improvement of land or buildings where he finds extraordinary circumstances justify such uses.

As under the Senate amendment, child care provided with title XX funds would have to meet applicable State and local laws. The conference agreement follows the Senate amendment in continuing the provisions in present law which authorize use of social services funds to make grants to qualified day care providers to pay wages (with specified restrictions) of welfare recipients hired as day care workers.

As under the House bill and the Senate amendment, States would be required at least every 2 years to prepare and make available reports showing in detail how the program funds were expended and demonstrating that such expenditures meet the requirements of title XX. The report would also have to be transmitted to the Secretary, as required in the Senate amendment. In addition, States would be required to audit their programs at least every 2 years (with the audit being conducted by an entity which does not receive title XX funds). Any amounts expended which did not comply with title XX requirements would be recovered by the Federal Government.

As under the Senate amendment, the Department of Health and Human Services would be required to conduct a study to identify ways States could evaluate their programs. The study would consider Federal incentive payments as an option, and would be submitted to Congress within a year of enactment.

TITLE XXIV

Provisions Relating to Unemployment Compensation

1. Elimination of national trigger under the extended benefits program

Present law.—Under current law, up to 13 additional weeks of extended unemployment compensation, beyond the usual maximum of 26 weeks of State benefits, are payable to unemployed individuals who exhaust their State benefits during periods of high unemployment. Extended benefits are paid in all States, regardless of State unemployment rates, when the national insured unemployment rate (IUR—the percentage of workers covered by the State unemployment compensation program who are currently claiming State or extended benefits) reaches 4.5 percent. Fifty percent of the costs of extended benefits are paid from proceeds of the Federal unemployment tax and fifty percent are paid from State unemployment taxes.

House bill.—Repeals the national trigger, effective for weeks beginning after the date of enactment.

Senate amendment.—Same as House bill, except effective July 1, 1981.

Conference agreement.—The conference agreement adopts the House provision.

2. Modification of optional state trigger level for extended benefits

Present law.—Under current law, extended benefits are payable in any State in which the insured unemployment rate (IUR) is at least 4 percent and, in addition, is 20 percent higher than the average of the same period in the previous years. When the "20 percent factor" is not met, a State, at its option may provide extended benefits when the State IUR reaches 5 percent, regardless of the IUR in previous years.

House bill.—No similar provision.

Senate amendment.—The Senate provision raises from 4 percent (plus 20 percent factor) to 5 percent (plus 20 percent factor) the IUR at which extended benefits would be payable in any State, and also raises the optional trigger rate from 5 percent to 6 percent. The provision is effective for weeks beginning after September 25, 1982.

Conference agreement.—The conference agreement adopts the Senate amendment.

3. Exclude extended benefits claimants in determining rate of insured unemployment for extended benefit trigger calculation

Present law.—Under current law, the insured unemployment rate (IUR)—used to determine unemployment levels for the purpose of triggering "on" extended unemployment compensation benefits—is calculated by dividing the average weekly number of individuals filing claims for regular State unemployment benefits or Federal/State extended benefits by the average monthly covered employment for the first four of the most recent six calendar quarters.

House bill.—The House provision excludes extended benefit claimants from the calculation of the IUR for extended benefits trigger purposes. Only individuals filing claims for regular State unemployment compensation would be included in calculating extended benefits trigger rates. The provision is effective July 1, 1981.

Senate amendment.—Same as House bill, except effective on date of enactment.

Conference agreement.—The conference agreement adopts the Senate amendment.

4. Require 20 weeks of work or equivalent wages for extended benefits

Present law.—Under present law, all States require an individual to have worked

for a certain length of time or to have earned a specified amount of wages in the base year to be eligible for State unemployment compensation benefits. There are no additional work or wage requirements for receipt of extended benefits. A person who exhausts State benefits during a period when extended benefits are payable, and who continues to meet all State and Federal requirements, is eligible to receive extended benefits for one-half of the number of weeks (up to a maximum of 13 weeks) he or she received State benefits.

House bill.—No similar provision.

Senate amendment.—The Senate provision requires extended benefits claimants to have worked at least 20 weeks, or have an equivalent amount of wages, during the base period in order to receive extended benefits. A State could use one of the following measures of equivalent wages:

Wages equal to 40 times the claimant's weekly benefit amount; or

Wages equal to 1.50 times the claimant's wages earned in the quarter with the highest wages.

The provision is effective for weeks beginning after September 25, 1982.

Conference agreement: The conference agreement adopts the Senate amendment.

5. Limitations on unemployment benefits paid to ex-servicemen

Present law.—Under current law, Federally funded unemployment benefits are provided to former military personnel upon their separation from military service if they meet the eligibility requirements of the State in which they apply for unemployment compensation. The military service of an individual qualifies as wages or employment in the determination of eligibility for unemployment benefits only if the person has (1) served 365 or more continuous days of active duty (unless separated after a shorter period because of a service-incurred injury or disability) and (2) was separated under other than dishonorable conditions. Leaving the military at the end of a term of enlistment, even if the person was eligible to reenlist, is not considered a "voluntary quit" under state law in the determination of eligibility for unemployment benefits.

House bill.—The House provision (1) increases from 365 to 730 days the length of continuous military service a person must have in order for such service to qualify as employment for unemployment compensation purposes; (2) requires a four-week waiting period between the week in which an individual is separated from the military and the week in which he or she first becomes entitled to compensation; and (3) limits an eligible ex-servicemember's total entitlement (including extended benefits) to no more than 13 times the weekly benefit amount payable. The provision would be effective with regard to new claims filed on or after October 1, 1981.

Senate amendment.—The Senate provision disqualifies for unemployment compensation those ex-servicemembers who leave the military at the end of a term of enlistment and are eligible to reenlist, effective July 1, 1981.

Conference agreement.—The conference agreement adopts the Senate amendment with modification in the effective date so that provision applies to individuals who leave the military on or after July 1981, but only to weeks of unemployment compensation payable after date of enactment.

7. Certification of State unemployment laws

Present law: Under current law, a payroll tax of 3.4 percent on the first $6,000 of wages paid to employees is levied on employers (Federal Unemployment Tax Act, FUTA). If a State's unemployment compensation program is certified by the Secretary of Labor as meeting certain requirements of Federal law, employers in that State receive a 2.7 percent credit against the 3.4 percent FUTA tax.

House bill: No similar provision.

Senate amendment: The Senate amendment (1) prohibits certification by the Secretary of Labor of any State which has failed to amend its unemployment compensation law so that it contains provisions required to be included by this bill, including provisions of the Federal-State Extended Unemployment Compensation Act; (2) delays for 1 year the effective dates of Senate amendment sections 741 and 742 for any State whose legislature does not meet at least 25 calendar days after the date of enactment and before September 25, 1981; (3) delays for 1 year the effective dates of Senate amendment sections 743 and 744 for any State whose legislature does not meet at least 25 calendar days after the date of enactment and before September 25, 1982.

Conference Agreement: The Conference agreement adopts the Senate amendment.

6. Federal unemployment compensation loans to States (sec. 746 of the Senate amendment)

Present law: Under present law, the costs of regular State benefits and one-half of the costs of extended benefits are funded by State unemployment payroll taxes. If State unemployment tax revenues exceed benefit costs, the surplus amounts are retained by the State in an interest bearing account in the Federal Unemployment Trust Fund. If the benefit costs exceed revenues, States draw down their accumulated surpluses from prior years. If those surpluses become depleted, States are allowed to receive interest-free Federal advances from an account which is funded through the Federal unemployment payroll tax (FUTA). If there are insufficient Federal unemployment tax revenues for this purpose, additional funds are obtained as interest-free advances from the general fund of the Treasury.

The standard *net* Federal unemployment tax, which is paid by employers in all States, is currently 0.7 percent on the first $6,000 paid annually to each employee. The *gross* FUTA tax rate is 3.4 percent; however, employers are eligible for a 2.7 percent credit against this Federal tax (unless, as explained below, the State is subject to a reduction in this credit because of outstanding Federal advances). The 2.7 percent credit reduces the *gross* tax rate from 3.4 to the *net* tax rate of 0.7 percent.

States with an outstanding advance from the Federal Government must repay it fully within two to three years. (Technically, it must be repaid by November 10 of the calendar year in which the second consecutive January 1 passes with the State still having an outstanding advance. This means that a State may have from 22 months and 10 days to 34 months and 10 days to repay the advance, depending on when it obtained the outstanding advance.)

If a State does not fully repay an advance within the 22 to 34 month period, employers in the State become subject to a reduction in the 2.7 percent credit against the 3.4 percent Federal tax. This credit reduction is applied to the calendar year beginning with the second consecutive January 1 in which the advance has been outstanding and continues until the advance is repaid fully. The increased tax resulting from the credit reduction is payable no later than January 31 of the next calendar year. The proceeds from the increased tax are used to reduce the principal of the State's outstanding loan.

House bill: No similar provision.

The Senate bill would cap the credit reduction under certain conditions and would charge interest on advances under certain conditions:

I. Cap on Credit Reduction.

A. *Limit on Credit Reduction.* Employers in States otherwise subject to a credit reduction and meeting certain solvency requirements would be eligible for a cap on the credit reduction equal to the higher of: (1) the credit reduction in effect during the previous year; or (2) 0.6 percent. An additional 0.3 percent would be added to the cap on the credit reduction, allowing the credit reduction to increase to 0.9 percent, if a State has an insured unemployment rate for the taxable year that does not exceed 80 percent of the average insured unemployment rate for the last two years.

B. *Solvency Requirements.* On November 10 of the tax year of the solvency requirements are met if the Secretary of Labor determines that: (1) the State's outstanding advances on the immediately preceding September 30 are not greater than on the second preceding September 30; (2) the State did not lower its unemployment tax effort in the fiscal year ending on the immediately preceding September 30; and (3) the State did not take action that caused a net decrease in the solvency of its unemployment compensation program.

C. *Consecutive January Firsts Ending before October 1, 1984.* If a State qualifies for the cap in any year, but fails to qualify for the cap in later years, the "capped" years will not be counted in determining the level of credit reduction for those later years. This rule applies only to years prior to 1984.

D. *Waiver of Solvency Requirement B. (1) During Periods of Recession.* The solvency requirement dealing with net, new borrowing may be waived at State option if a State meets the following conditions in the fiscal year ending with the immediately preceding September 30: (1) the State average total unemployment rate for the preceding 3 taxable years is at least 110 percent of the national average, and (2) the State average employer tax rate on total wages was at least 150 percent of the national average employer tax rate on total wages for such fiscal year. No State may use this waiver for more than two consecutive years.

E. *Repayment Requirements.* Any State that used the waiver on the net new borrowing provision (B)(1) must repay the additional advances received under this waiver within 24 months of the beginning of the fiscal year in which it did not meet the waiver requirements. Any State that does not repay the new advances under these conditions will be ineligible for the cap on the credit reduction for the tax year in which the 24-month period ends and will be ineligible until the tax year starting in the Federal fiscal year in which the repayment of this new borrowing has been made.

Effective dates: Applies to taxable years 1981 through 1983.

II. *Interest on Advances.* Any advance made to a State unemployment program after May 5, 1981, and before October 1, 1984, would be charged a 10 percent interest

rate to be compounded quarterly. Such interest would be waived, however, if: (1) the State repays the advance fully within the Federal fiscal year in which it was made; and (2) the Secretary of Labor certifies by September 1 of the fiscal year in which the advance was made that the State unemployment account has sufficient reserves and income to pay 6 months worth of benefits after the beginning of the next fiscal year. The State may not pay the interest charged directly or indirectly from its State unemployment account. If it does, the Secretary of Labor would not certify the State unemployment compensation law, meaning that employers in that State would be subject to the full Federal payroll tax. Interest on an advance made and not repaid within a fiscal year would be due by the end of that year. Interest on prior borrowing would be required to be paid before the last day of the quarter in which it is due.

Any repayments by the State (including repayments resulting from a credit reduction) would be first applied to reducing the oldest loan balance. (An exception to this rule would apply in the case of trust fund payments which entirely repay borrowing within the fiscal year so as to meet the interest waiver requirement. Interest on advances before October 1, 1981, would be due after October 1, 1981, on a date that the Secretary of Treasury deems appropriate.

Effective May 6, 1981, through September 30, 1984.

Conference Agreement: The conferees agreed to the following.

1. Limit on Federal Tax Credit Reduction

Effective October 1, 1981, through December 31, 1987, in States that meet the solvency requirements described below, reductions in the Federal tax credit resulting from outstanding Federal loans would be limited to 0.6 percent or, if higher, the level that was in effect in the year prior to the year the State qualifies for the limitation. The years in which a State meets the requirements, and therefore qualifies for a limitation in the credit reduction, would not count in determining the level of the increase in the *net* Federal tax in subsequent years in which the State does not meet the solvency requirements.

In order to qualify for the limitation on the credit reduction for tax years 1981 and 1982, a State would have to meet the conditions of (A) and (B) described below. In subsequent years a State must meet the conditions of (A), (B), (C) and (D) described below.

(A) no State action was taken during the 12-month period ending on September 30 of the such taxable year in question (excluding any action required under State law as in effect prior to the date of the enactment of this subsection) which has resulted or will result in a reduction in such State's unemployment tax effort (as defined by the Secretary of Labor in regulations);

(B) no State action was taken during the 12-month period ending on September 30 of the taxable year (excluding any action required under State law as in effect prior to the date of the enactment of this subsection) which has resulted or will result in a net decrease in the solvency of the State unemployment compensation system (as defined by the Secretary of Labor in regulations);

(C) the estimated average unemployment tax rate in the State for the year in question (total unemployment taxes paid by State employers in the calendar year divided by total wages of employers subject to State unemployment taxes) is equal to or greater than the average of the ratio of benefit expenditures (minus reimbursable benefits) to total wages of employers subject to State unemployment taxes for the last 5 calendar years. (For purposes of this requirement, for tax years 1981–1983, all Federal unemployment taxes in excess of the standard amount (currently 0.7 percent)—using the Federal tax rate the State would pay if it qualifies for the limit on the tax credit reduction—would be added to all State unemployment taxes in determining the average tax rate in the State. For tax year 1984, only the amount of Federal unemployment taxes in excess of the standard 0.7 percent plus 0.6 percent would be added to State unemployment taxes. Beginning with tax year 1985, only State taxes would be counted. For tax years 1981–1983, in making the determination of benefit expenditures for the previous 5 years, only expenditures for regular State benefits would be counted for all years up through 1981. For tax year 1984, the State share of extended benefits payments would be added to State benefit expenditures for 1981; and, for tax year 1985, extended benefit payments would be added to State benefit expenditures for 1980 and 1981. For all years beginning with 1982, benefit expenditures would include payments for regular State benefits, extended benefits and interest charges on Federal loans); and

(D) the amount of the State's outstanding loans on September 30 of the tax year in question was not greater than the amount of outstanding loans for the State on September 30 of the third preceding taxable year (or, for purposes of applying this subparagraph to the taxable year 1983, September 30, 1981).

This means that, for tax year 1983, the State's loan balance as of September 30, 1983 will be compared to, and must not be greater than, the State's loan balance as of September 30, 1981. For tax year 1984, the loan balance as of September 30, 1984, must not be higher than the balance on September 30, 1981. For tax year 1985, the loan balance on September 30, 1985, must not be higher than the balance on September 30, 1982. For tax year 1986, the loan balance on September 30, 1986, must not be higher than the balance on September 30, 1983. And, for tax year 1987, the loan balance on September 30, 1987, must not be higher than the balance on September 30, 1984.

The conferees are concerned that the provisions of the conference agreement be approached by the States with a good faith effort to restore solvency and not be manipulated as a means of evading the difficult measures that must be taken to put the unemployment program on a sound footing. Consideration must be given to the need for benefit constraint and not simply for tax increases. It would be clearly inconsistent with the intent of the agreement if States were to use the need for increased taxes to meet the benefit cost ratio test as an occasion for unjustified benefit increases or if they were to meet the requirement of not increasing their loan balance by continually reborrowing the reductions in loan balance which result from the reduced Federal tax credits.

2. Interest on Federal Unemployment Compensation Loans to States

Interest would be charged on unemployment loans to States received between April 1, 1982 and December 31, 1987. The rate of interest charged in any year would be the same rate as that paid by the Federal government on balances in State unemployment trust funds for the quarter ending December 31 of the preceding year, but no higher than 10 percent per annum.

A State would *not* have to pay interest on a loan that is repaid by September 30 of the calendar year in which the advance was received, if the State receives no new advances during the period remaining in the calendar year following the repayment. If a State does receive additional loans during the period remaining in a calendar year after such a repayment, interest would be charged on the repaid loan from the date it was received until the date it was repaid.

Interest would be payable on the last day of the fiscal year in which the loan is received. The payment of interest on loans received in the last (5) five months of any fiscal year could be delayed until the last day of the following fiscal year; however, interest at the rate specified above would be charged against the amount of interest for which payment was delayed. A State could *not* pay interest on Federal loans out of its unemployment trust fund.

3. Non-FUTA Repayments

Any non-FUTA State repayments (not including the lump sum repayment in lieu of the credit reduction in Item #2 above) would be credited first to the most recent loans received by the State that have not triggered a credit reduction.

4. Expiration Date

The limitation on credit reduction provisions are effective for the period October 1, 1981 through December 31, 1987. However, years in which a State qualified for a limitation on the credit reduction while these provisions were in effect would not count in determining the level of the credit reduction in years after the expiration of these provisions.

Interest would be charged on loans received during the period April 1, 1982 through December 31, 1987. States would be required to pay any interest that accrued during and after April 1, 1982 on loans received during this period.

7. Certification of State unemployment laws (sec. 747 of the Senate amendment)

Present law.—Under current law, a payroll tax of 3.4 percent on the first $6,000 of wages paid to employees is levied on employers (Federal Unemployment Tax Act, FUTA). If a State's unemployment compensation program is certified by the Secretary of Labor as meeting certain requirements of Federal law, employers in that State receive a 2.7 percent credit against the 3.4 percent FUTA tax.

House bill.—No similar provision.

Senate amendment.—Prohibits certification by the Secretary of Labor of any State which has failed to amend its unemployment compensation law so that it contains provisions required to be included by this bill, including provisions of the Federal-State Extended Unemployment Compensation Act.

Delays for 1 year the effective dates of Senate amendment sections 741 and 742 for any State whose legislature does not meet at least 25 calendar days after the date of enactment and before September 25, 1981.

Delays for 1 year the effective dates of Senate amendment sections 743 and 744 for any State whose legislature does not meet at least 25 calendar days after the date of enactment and before September 25, 1982.

Conference Agreement.—House recedes with conforming amendments.

XXV STATEMENT OF MANAGERS ON H.R. 3982

I. TRADE ADJUSTMENT ASSISTANCE (TAA) PROVISIONS

A. Workers

1. Group certification criteria

House bill.—The House bill, as compared to present law, tightens the causal link between increased imports and worker layoffs and declining firm production/sales from the current "contributed importantly" standard to a standard of "substantial cause." Substantial cause is defined as "a cause which is important and not less than any other cause." The change is effective for petitions for certification filed on or after date of enactment.

Senate amendment.—The Senate amendment contains the same provision as the House bill, and also adds—

a. An additional requirement for certification, that the Secretary of Labor find "there is a substantial probability that the resulting lower level of employment at the firm or subdivision will be permanent."

b. A statutory stipulation that the "substantial cause" standard be administered as it is under the import relief provisions of the Trade Act of 1974.

The changes in the Senate amendment would be effective for petitions for certification filed on or after 180 days after the date of enactment.

Conference agreement.—The conference agreement includes the House provisions without the two Senate additions, (a) and (b), above. The conferees agree that the "substantial cause" standard, as defined in the bill, is to be administered insofar as possible, in the same way as the standard for relief under section 201 of the Trade Act of 1974, as described on page 267 of House Report 97-158 Volume III. The conference agreement includes the Senate provision on the effective date of the group certification criterion change.

2. Benefit information to workers

House bill.—As compared to present law, the House bill broadens the Secretary of Labor's information responsibilities to include workers in any industry; expands information required to include program benefits and services, applications procedures, and filing dates, and to informing State vocational education and other agencies and employers of certifications issued and possible training needs; requires the Secretary to make every effort to insure and review State agency compliance with provision of program payments and services. This provision would be effective upon date of enactment.

Senate amendment.—The Senate amendment makes no change in present law.

Conference agreement.—The conference agreement follows the House bill.

3. Qualifying requirements for individual workers

House bill.—The House bill:

a. Limits a worker to payment of trade readjustment allowances (TRA) for any weeks of unemployment which begin more than 60 days after the date the petition was filed;

b. Liberalizes the 26-week pre-layoff employment requirement by:

1. Permitting qualifying weeks to be with more than one firm or subdivision if in adversely affected employment covered by a certification;

2. Including a week of employment in which separation occurs as a qualifying week; and

3. Counting as qualifying weeks up to 6 weeks of employer-authorized leave for vacation, sickness, injury, maternity, military, or to serve as a full-time union representative; or up to 13 weeks of disability covered by workmen's compensation; or up to 13 weeks combining disability and not more than 6 weeks of employer-authorized or union leave.

c. Adds requirements that a worker:

1. Have received credit for any waiting week period required under applicable State or Federal unemployment insurance (UI) law;

2. Have exhausted all rights to UI in his most recent benefit period under State or Federal law;

3. Not be entitled to payment of any further UI or waiting period credit under State or Federal law;

4. Comply with the "suitable work" test under the Federal-State Extended Unemployment Compensation Act of 1970 (EB); and

5. Cannot collect another round of TRA benefits under the same certification after exhaustion of a subsequent UI benefit period.

d. Authorizes the Secretary of Labor to require all workers in a labor market area, after their first 8 weeks of TRA eligibility, to accept training for a period no longer than their remaining TRA benefits or to extend job search beyond the area if unemployment is high, suitable employment opportunities are not available, and training facilities are available in that area, and if training is approved as an alternative choice for the individual worker.

The House provisions are effective for TRA payable for weeks of unemployment beginning after September 30, 1981.

Senate Amendment.—The Senate amendment contains the same provisions in substance as described in paragraphs 3(a) and (c) above of the House bill. The Senate amendment makes no changes in present law with respect to the 26 weeks pre-layoff employment requirement described in paragraph 3(b) above of the House bill. The Senate amendment contains a provision with respect to labor market areas similar to the provision of the House bill described in paragraph 3(d) above except that the authority applies to categories of workers as the Secretary deems appropriate rather than to all workers in an area under specified circumstances, workers may be required to extend job search irrespective of whether the choice of training is available, training length is not linked to the remaining period of TRA eligibility, and "labor market area" is not defined.

Conference Agreement.—The conference agreement follows the House bill with respect to labor market area job search and training requirements as described in paragraph 3(d) above. The agreement limits the liberalization of the 26-weeks pre-layoff employment requirement by including as qualifying weeks only the week of employment in which the separation occurs, and up to 3 weeks of employer-authorized leave for vacation, sickness, injury, maternity, military, or to serve as full-time union representative; or up to 7 weeks of disability covered by workmen's compensation; or up to 7 weeks combining disability and not more than 3 weeks of employer-authorized or union leave. The effective date of these provisions is for weeks of unemployment beginning after September 30, 1981.

4. Time Limit on TRA Benefits.

House Bill.—The House bill provides that if UI extended benefits are not triggered "on" until a worker exhausts UI and collects one or more weeks of TRA, the number of weeks he was entitled to TRA will be deducted from the number of weeks of EB to which he would otherwise be entitled, so as to limit combined UI and TRA benefits to a maximum 52 weeks.

Senate Amendment.—The Senate amendment contains no similar provision.

Conference Agreement.—The conference agreement follows the House bill, with a technical amendment concerning the relationship of the provision to State laws.

5. Training and Other Employment Services.

House Bill.—The House bill provides that the Secretary of Labor, through cooperating State agencies, must develop an employability plan (jointly with worker, State vocational education agency, CETA prime sponsors, other appropriate agencies and employers) for any unemployed or underemployed certified worker who registers with the State Job Service or equivalent agency and for whom no suitable employment is available. It also provides that the Secretary of Labor must provide and pay training costs if he approves training after determining (a) no suitable employment is available, (b) the worker would benefit from training, (c) there is reasonable expectation of employment after training, (d) approved training is available, and (e) the worker is qualified. The Secretary would be required to submit quarterly reports to Congress of training expenditures and demand.

In addition, the House bill provides that—

a. When institutional training is appropriate, priority shall be given to public rather than private area vocational schools if public schools are as effective and efficient.

b. The employability plan, employment services, and training are available even if EB "suitable work" is available. The worker cannot be disqualified or ineligible for UI or TAA benefits by leaving lower-level or minimum wage EB-required work for training.

c. Supplemental assistance for "reasonable" expenses will be increased not to exceed actual per diem expenses or 50 percent of Federal per diem allowances for subsistence and the Federal Travel Regulations mileage rate.

These provisions are effective for registrations for services and applications for allowances made or filed after September 30, 1981.

Senate Amendment.—The Senate amendment contains no similar provisions.

Conference Agreement.—The conference agreement follows the House bill on training costs and the provisions of the House bill described in paragraph (b) and (c) above on the availability of employment services (except an employability plan) and qualification for UI and TAA benefits after leaving EB-required work for training, and on supplemental assistance for reasonable expenses. The conference agreement does not include the House provisions on employability plans or a priority for public over private area vocational schools. The provisions included in the conference agreement are effective as provided in the House bill, with a technical amendment to permit changes in State laws necessary to implement the provisions of the House bill described in paragraph (b) above.

6. Job Search and Relocation Allowances.

House Bill.—As compared to present law, the House bill:

a. Increases the job search allowance from 80 to 90 percent of necessary expenses and the maximum to $600. It increases the relo-

cation allowance limit from 80 to 90 percent of reasonable and necessary expenses and maximum lump sum payments to $600. It also increases the job search and relocation allowance expenses to the same levels as supplemental assistance above.

b. Provides that certified workers partially laid off may file applications for job search or relocation allowances, but must be totally separated to receive benefits. Job search applications must be filed within 1 year after certification or total layoff, whichever is later, or 6 months after completing training. Relocation applications must be filed within 14 months after certification or total layoff, whichever is later, or 6 months after training completion.

The House provisions are effective for applications filed after September 30, 1981.

Senate Amendment.—The Senate amendment increases the job search allowance to $600 and increases the relocation allowance from 80 percent to 90 percent of reasonable and necessary expenses and the maximum lump sum payment to $600. It makes no change in present law with respect to filing of applications.

Conference Agreement.—The conference agreement follows the House bill.

7. Authorization of Appropriations.

House Bill.—The House bill authorizes such sums as may be necessary, except that no less than $112 million for each of fiscal years 1982 and 1983 is authorized for training, job search, and relocation allowances and 5 percent for program evaluation.

Senate Amendment.—The Senate amendment authorizes such sums as may be necessary for each of fiscal years 1982, 1983, and 1984.

Conference Agreement.—The conference agreement follows the Senate amendment with respect to the amount authorized and the House bill providing authorization for each of fiscal years 1982 and 1983.

B. FIRMS

8. Certification Criteria.

House Bill.—Compared to current law, the House bill tightens the causal link between increased imports and worker layoffs and declines in a firm's production or sales from the current standard of "contributed importantly" to "substantial cause," defined as "a cause which is important and not less than any other cause."

Senate Amendment.—The Senate amendment makes no change in present law.

Conference Agreement.—The conference agreement does not include the House provision.

9. Technical Assistance.

House Bill.—The House bill contains amendments to the Trade Act to provide authorities to continue current practice under Economic Development Administration law for technical assistance to firms in preparing petitions for certification; for furnishing technical assistance through grants of up to 100 percent of administrative expenses to intermediary organizations such as regional Trade Adjustment Assistance Centers; and for industry-wide technical assistance of up to $2 million annually per industry. These provisions are effective upon date of enactment.

Senate Amendment.—The Senate amendment contains no similar provisions.

Conference Agreement.—The conference agreement follows the House bill.

10. Financial Assistance.

House Bill.—As compared to present law, the House bill:

a. Provides the Secretary of Commerce greater latitude in determining whether to guarantee loans by prohibiting guarantees if he determines that the interest rate is excessive when compared with other loans bearing Federal guarantees and subject to similar terms and conditions, or if the interest on the loan is exempt from Federal income taxation;

b. Provides maximum maturities of 10 years on direct loans or loan guarantess to supply working capital, and 25 years or the useful life of the fixed assets, whichever period is shorter, on direct loans or loan guarantees for other purposes;

c. Adds provisions to make participation in loan guarantees more attractive to private lenders;

d. Limits the principal amount of loans made or guaranteed to the amount provided in advance in appropriation Acts;

e. Authorizes the Secretary of Commerce to treat information received in connection with an application for financial assistance as privileged or confidential; and

f. Requires direct loans or guarantees to acquire or develop capital assets ordinarily to be secured by a first lien and to be fully amortized.

These provisions are effective upon date of enactment.

Senate Amendment.—The Senate amendment makes no changes in present law.

Conference Agreement.—The conference agreement follows the House bill.

C. COMMUNITIES

11. Community adjustment assistance program

House Bill.—The House bill repeals the program as of date of enactment.

Senate Amendment.—The Senate amendment makes no change in present law.

Conference Agreement.—The conference agreement does not include the House provision.

D. TERMINATION DATE

12. Termination date of adjustment assistance programs

House Bill.—The House bill reauthorizes the worker and firm programs through September 30, 1983.

Senate Amendment.—The Senate amendment reauthorizes the worker program through September 30, 1984; the firm and community programs would terminate by operation of law on September 30, 1982.

Conference Agreement.—The conference agreement follows the House provision of September 30, 1983 as the termination date for the worker and firm programs. The community program would expire on September 30, 1982 under the terms of current law.

TITLE XXVI

PROPOSED CONFERENCE AGREEMENT

1. *Program:* Low-Income Assistance program is authorized under a free standing act—Low-Income Home Energy Assistance Act of 1911.

2. *Authorized Appropriation:* $1.875 billion authorized for each year for fiscal years 1982, 1983, and 1984.

3. *Allotments to States:* Each State would receive the same proportion of Federal funds appropriated that it received of funds allocated for fiscal 1981. The territories would receive funds from a set-aside of no more than 0.5 percent and no less than 0.1 percent of the funds appropriated. A State may transfer up to 10 percent of its allotment under these programs for any fiscal year for its use for such fiscal year under other provisions of Federal law providing block grants for support of activities under the Community Services block grant; support of activities under Title XX of the Social Security Act; support of health service grant programs under the Public Health Service Act and under Title V of the Social Security Act, or any combination of these activities.

4. *Federal Share of Program Costs:* Programs would be 100 percent federally financed. The Federal share of State administrative costs would be limited to 10 percent of a State's allotment.

5. *Reallocation and Carry-Over of Unused Funds:* The Secretary is empowered to reallocate funds that he determines, by September 1 of any fiscal year, will not be used in that fiscal year. In this event, the Secretary would be required to provide 30 days' notice to the State, which would have the opportunity to request to retain 25 percent of that fiscal year's State allotment. In the event that any remaining funds are returned to the Secretary under this provision, such funds shall be added to allotment to the States for the next fiscal year.

6. *Funding for Indians:* Indian tribes would be permitted to receive direct funding if (1) the Secretary receives a request from an Indian tribe for such direct funding and (2) determines that the tribe would be better served by direct funding. If he or she determines there is no tribal organization serving the individual, the Secretary may designate another entity to serve that individual. The tribal organization or other appropriate entity receiving the funds for the Indian tribe would have to submit a plan meeting the requirements set by the Secretary. The Indian tribe would receive the same proportion of a State's allotment as its proportion of all eligible households in a State.

7. *Eligibility:* Householders may receive assistance under this Act if they are eligible for assistance under Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, Veterans' and Survivors' Pensions; or have incomes which do not exceed the greater of 50 percent of the poverty level of the State or 60 percent of State median income. SSI recipients would not automatically qualify for Federal funds if they live in an institution receiving Medicaid or in shared households resulting in reduced benefits or who are child recipients at home.

8. *Payments to SSI Recipients:* At the option of the State, the Federal Government would be able to make direct payments to qualified SSI recipients.

9. *Income Eligibility Verification:* State may use income verification procedure used in AFDC, Title XX, the Community Services block grant, under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of enactment of this Act or other income assistance or service programs.

10. *Regulations and Requirements:* States would be required to submit an application for funds to the Secretary. As a part of the annual application, the chief executive officer of the State would be required to make certain assurances, and include a plan detailing how these assurances would be carried out. He also could not prescribe the manner in which the States comply with the assurances made by the chief executive officer.

11. *State and Local Administration:* To the extent it is necessary to designate local administrative agencies in order to carry out

the purposes of the program States would be required to give special consideration in the designation of local administrative agencies to any local public or private nonprofit agency which is or has been receiving Federal funds under any low-income energy assistance or weatherization program on the date of this program's enactment; except that the State must first determine that the agency meets program and fiscal requirements set by the State. If there is no such agency because of a change in programs for the economically disadvantaged, the State would be required to give special consideration to any successor agency which is operated in essentially the same manner.

12. *Benefits for Home Energy:* States may make payments directly to eligible households, or to home energy suppliers on behalf of eligible households. If States choose to pay home energy suppliers directly the suppliers would be required 1. to notify participating households of the amount of assistance paid on their behalf; 2. not to discriminate; and 3. to charge the eligible households the difference between the amount of the assistance and the actual cost of home energy.

13. *Weatherization:* Not more than 15 percent of the funds available to each State may be used for low cost residential weatherization or other energy related home repair. Low-cost energy assistance should not be deemed to be unduly restrictive as to dollar amounts per household, but should not provide full cost of extensive weatherization.

14. *Energy Crisis Intervention:* States would be required to reserve a reasonable amount, based on data from prior years for energy crisis intervention.

15. *Priority for Assistance:* In a manner consistent with the efficient and timely payment of benefits, the State is to provide the highest level of assistance to households which have the lowest incomes and the highest energy costs in relation to income, taking into account family size.

16. *Renters.* The State is to provide assurances that owners and renters will be treated equitably.

17. *Public Participation:* States must provide for public participation in development of the State plan.

The State plan submitted to the Secretary must be made available for public inspection within the State in such a manner as will facilitate review of and comment on the plan. After the expiration of the first fiscal year in which a State receives funds under this program, the State would not be allowed to receive further funds unless the State legislature conducts public hearings on the proposed use and distribution of the funds.

The Conferees expect that the Governor will fully inform the legislative branch of the State of the elements of the State plan, and shall assist and encourage the legislature to conduct independent oversight hearings into the operation of the program at the State level.

18. *Opportunity for Hearing:* States must provide an opportunity for a fair administrative hearing to individuals whose claim for assistance is denied or is not acted upon with reasonable promptness.

19. *Coordination With Other Federal Programs:* States would be required to coordinate their activities under the Low Income Home Energy Assistance program with similar and related programs administered by the Federal Government and States. This includes low-income energy-related programs under the Community Services block grant program; the SSI, AFDC and Title XX Social Services programs under the Social Security Act; the weatherization assistance program under the Energy Conservation and Production Act; or other provisions of law which carry out programs which were administered under the Economic Opportunity Act of 1964 before the date of enactment of this Act.

20. *Outreach:* States would be required to conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or handicapped individuals, or both, are made aware of the assistance available under this program, and any energy-related similar assistance available under the Community Services block grant programs or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act.

21. *Financial Controls and Withholding:* The State must provide that fiscal control and fund accounting procedures will be established to assure proper dispersal of and accounting for Federal funds paid to the State. The Secretary is authorized to withhold funds from States he determines to be in violation of the provisions of the program. Before withholding funds the Secretary would be required to give "reasonable" notice and an opportunity for a hearing within the State.

In addition, under the conference agreement a State would be required to prepare an audit at least once a year of expenditures under this program. These audits would have to be conducted by an entity independent of any agency administering activities under the program and in accordance with generally accepted accounting principles. The State's chief executive officer would be required to submit this audit to the State legislature and the Secretary within 30 days of their completion, States would be required to repay amounts found not to have been spent in accordance with the Act, or the Secretary may offset these amounts against future payments. The Secretary shall, upon determining a pattern of complaints within a State, conduct an investigation of the State's use of funds under this program. The Comptroller General would be required to evaluate State expenditures periodically to assure that expenditures are consistent with the provisions of the Act and to determine the effectiveness of States in accomplishing the purposes of the Act.

22. *Waivers:* Whenever the Secretary determines that a waiver of any requirement related to the assurances required of the chief executive officer is necessary to assist in promoting the objectives of the program, the Secretary may waive such requirement to the extent and for the period the Secretary finds necessary.

23. *Tax Credits:* States may use Federal funds to provide tax credits to energy suppliers who supply home energy to low-income households at reduced rates. Credits may not exceed the lost revenue caused by the reduced rates.

24. *Federal Administration:* The Secretary of Health and Human Services, after consultation with the Secretary of Energy, shall provide for the collection of certain data. This includes: information concerning home energy consumption; the cost and type of funds used; the type of fuel used by various income groups; the number and income levels of households assisted by the low-income Home Energy Assistance Act; and any other information which the Secretary determines to be reasonably necessary to carry out the provisions of the program. The Secretary is to submit an annual report to the Congress containing a summary of the data collected.

25. *Disregard of Income:* Assistance provided under the program is not to be considered as income for any other purpose under State and Federal law.

26. *Nondiscrimination:* No person could be discriminated against on the basis of race, color, national origin, or sex, or handicapping condition. The Secretary is given authority to investigate and take appropriate action in cases of noncompliance.

27. *Limitation on the Use of Grants for Construction:* Grant funds may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low cost residential weatherization or other energy-related home repairs) of any building or other facility.

Solely for consideration of title I of the House bill (except that portion of section 1015 entitled "International Programs, Public Law 480", and the 9th, 14th, 15th, 16th and 17th paragraphs of such section 1015), and title I (except parts D and G and section 142) of the Senate amendment.

From the Committee on Agriculture

E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr. (except for sections 1015, 1021, 1027, and 1029 of the House bill and section 112 of the Senate amendment),
DAVID R. BOWEN (except for sections 1001-14 of the House bill and sections 151-169 of the Senate amendment),
FREDERICK RICHMOND,
CHARLES ROSE (only for sections 1027 and 1029 of the House bill and section 112 of the Senate amendment),
JIM WEAVER (only for section 1015 of the House bill),
TOM HARKIN (only for sections 1001-14 and 1021 of the House bill and sections 151-169 of the Senate amendment),
BILL WAMPLER,
PAUL FINDLEY (except for section 1015 of the House bill and sections 131-33 of the Senate amendment),
JAMES M. JEFFORDS (except for sections 1023-6, 1027, and 1029 of the House bill and sections 111 and 112 of the Senate amendment),
TOM HAGEDORN (except for sections 1001-14 and 1015 of the House bill and sections 151-169 of the Senate amendment),
WILLIAM M. THOMAS (only for sections 1015, 1023-6, and 1029 of the House bill and sections 111 and 131-33 of the Senate amendment),
LARRY J. HOPKINS (only for sections 1027 and

1029 of the House bill and section 112 of the Senate amendment),
E. THOMAS COLEMAN (only for sections 1001-14 of the House bill and sections 151-169 of the Senate amendment),
RON MARLENEE (only for section 1015 of the House bill and sections 511-13 and 516-19 of the Senate amendment),
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
Managers on the Part of the Senate.

Solely for the consideration of that portion of section 1015 entitled "International programs, Public Law 480" and title VII, sections 7001(12), 7002(10), and 7003(9) of the House bill, and title I, part D, of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr. (except for the section 1015 provision),
DAVID R. BOWEN,
FREDERICK RICHMOND,
JIM WEAVER (for the section 1015 provision only),
BILL WAMPLER,
JAMES JEFFORDS,
TOM HAGEDORN (except for the section 1015 provision),
WILLIAM M. THOMAS,
RON MARLENEE (for the section 1015 provision only).
From the Committee on Foreign Affairs:
CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
BEN ROSENTHAL,
LEE H. HAMILTON,
JONATHAN BINGHAM,
WM. BROOMFIELD,
ED DERWINSKI,
PAUL FINDLEY,
LARRY WINN, Jr.,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
EDWARD ZORINSKY,
Managers on the Part of the Senate.

Solely for consideration of the 14th through the 17th paragraphs in section 1015, and section 8002, of the House bill, and title V, subtitle B, part 1 of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
DAVID R. BOWEN,
FREDERICK RICHMOND,
JIM WEAVER,
BILL WAMPLER,
PAUL FINDLEY (except for section 1015 of the House bill),
JAMES M. JEFFORDS,
WILLIAM M. THOMAS (for section 1015 of the House bill only),
RON MARLENEE.
From the Committee on Interior and Insular Affairs (for title V, subtitle B, part 1 of the Senate amendment and section 8002 only):
MO UDALL,
PHIL BURTON,
ROBERT W. KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, Jr.,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY.
From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 8007 of the House bill and title VI, subtitle B, part B, of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr.,
DAVID R. BOWEN,
FREDERICK RICHMOND,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
TOM HAGEDORN.
From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN.
From the Committee on Interior and Insular Affairs (for title V, subtitle B, part 1 of the Senate amendment and for section 8002 only):
MO UDALL,
PHIL BURTON,
ROBERT W. KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, Jr.,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title V, section 5112 of the House bill.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS A. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr.,
DAVID R. BOWEN,
FRED RICHMOND,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
Managers on the Part of the Senate.

Solely for consideration of section 15452 of the House bill.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN Jr.,
FRED RICHMOND,
TOM HARKIN,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PAT LEAHY.
From the Committee on Finance:
ROBERT DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
HARRY F. BYRD, Jr.,
Managers on the Part of the Senate.

Solely for consideration of section 1117(e) of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr.,
DAVID R. BOWEN,
FRED RICHMOND,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title V, subtitle B, part 2, and section 142, of the Senate amendment.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
DAVID R. BOWEN,
FRED RICHMOND,
JIM WEAVER,
BILL WAMPLER,
PAUL FINDLEY,
JAMES M. JEFFORDS,
RON MARLENEE.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
TIM WIRTH,
PHILIP R. SHARP,
JAMES J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON.
From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
DICK LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PAT LEAHY,
Managers on the Part of the Senate.

Solely for consideration of the 9th paragraph of section 1015 of the House bill.

From the Committee on Agriculture:
E DE LA GARZA,
THOMAS L. FOLEY,
ED JONES,
DAVID R. BOWEN,
FRED RICHMOND,
JIM WEAVER,
BILL WAMPLER,
JAMES M. JEFFORDS,
WILLIAM M. THOMAS,
RON MARLENEE,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title II of the House bill and title II of the Senate amendment.

From the Committee on Armed Services:
MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
RICHARD C. WHITE,
BILL NICHOLS,
JACK BRINKLEY,
WILLIAM L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
DONALD J. MITCHELL,
Managers on the Part of the House.

From the Committee on Armed Services:
JOHN TOWER,
GORDON J. HUMPHREY,
ROGER W. JEPSEN,
J. J. EXON,
CARL LEVIN,
Managers on the Part of the Senate.

Solely for consideration of title III, subtitle A (except sections 3110(d) and 3301(g)), section 3676, and subtitle C of House bill, and title III, subtitles A and C of the Senate amendment.

From the Committee on Banking, Finance and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
CHALMERS P. WYLIE,
STEWART B. MCKINNEY,
THOMAS B. EVANS, Jr.,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:
JAKE GARN,
JOHN HEINZ,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

Solely for consideration of section 3110(d) and title VI, subtitle B of the House bill.

From the Committee on Banking, Finance and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
CHALMERS P. WYLIE,
STEWART MCKINNEY,
TOM EVANS.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
TIMOTHY E. WIRTH,
PHILIP R. SHARP,
JAMES J. FLORIO.
From the Committee on Energy and Commerce:
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 3301(g) of the House bill and title V, subtitle E of the Senate amendment.

From the Committee on Banking, Finance and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
CHALMERS P. WYLIE,
STEWART B. MCKINNEY,
TOM EVANS,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of title III, subtitle B (except section 3676) of the House bill.

From the Committee on Banking, Finance and Urban Affairs:
FERNAND J. ST GERMAIN,
HENRY S. REUSS,
HENRY GONZALEZ,
JOE MINISH,
FRANK ANNUNZIO,
PARREN J. MITCHELL,
J. W. STANTON,
STEWART B. MCKINNEY,
TOM EVANS,
Managers on the Part of the House.

From the Committee on Foreign Relations:
CHARLES H. PERCY,
CHARLES MCC. MATHIAS, Jr.,
NANCY LANDON KASSEBAUM,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title IV of the House bill and section 904 of the Senate amendment.

From the Committee on the District of Columbia:
RONALD V. DELLUMS,
WALTER E. FAUNTROY,
ROMANO L. MAZZOLI,
MICKEY LELAND,
WILL H. GRAY,
MERVYN M. DYMALLY,
STEWART B. MCKINNEY,
STAN PARRIS,
TOM BLILEY,
MARJORIE S. HOLT,
Managers on the Part of the House.

From the Committee on Governmental Affairs:
WILLIAM V. ROTH, Jr.,
TED STEVENS,
TOM EAGLETON,
DAVID PRYOR,
Managers on the Part of the Senate.

Solely for consideration of title V, section 5001, subtitles A and B (except sections 5112, 5130, 5131, and 5133), subtitle C, chapter 1, subchapters B and C (except section 5397), subtitle C. chapter 1, subchapter E, and subtitle C, chapter 2, subchapter B of the House bill, and title XI, section 1101-8(16) through (19), part B (except section 1117(e)), and parts C, D, F, and G (except sections 1137 and 1163 and subparts 2 and 3 of part D) of the Senate amendment.

INDEX

Area A: (1) sections 5101, 5104, 5105, 5109, 5113, 5114, 5117, 5120, 5121, 5122, 5124, 5125, 5126, 5132, 5140, 5143, and 5211(2)-5211(12) of the House bill; (2) title V, subtitle C, chapter 1, subchapter B of the House bill; (3) title V, subtitle C, chapter 1, subchapter E of the House bill; (4) sections 1111, 1112, 1113, 1115, 1116, 1117(a), 1117(i), 1117(j), 1119, and 1120-1 of the Senate amendment; and (5) title XI, part C of the Senate amendment.

Area B: title V, subtitle C, chapter 1, subchapter (c) (except section 5397) of the House bill.

Area C: (1) sections 5103, 5106, 5107, 5108, 5110, 5115, 5116, 5118, 5119, 5123, 5128, 5135, 5139, 5140, 5142, 5144, 5211(1), 5211(13), 5211(14), and 5211(17)-(21) of the House bill; (2) sections 1117(g) and 1131-1 of the Senate amendment; (3) title XI, part D, subparts 3 through 5 of the Senate amendment; (4) sections 1152 of the Senate amendment; and (5) title XI, part G (except section 1163) of the Senate amendment.

Area D: (1) sections 5102, 5108, 5111, 5127, 5129, 5134, 5136, 5137, 5138, 5211(15), and 5211(16) of the House bill; (2) title V, subtitle C, chapter 2, subchapter B of the House bill; and (3) sections 1117(b)-(f), (except 1117(e)) 1118, and 1120 of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
AUGUSTUS F. HAWKINS (solely for area C),
WILLIAM D. FORD (solely for areas A and D),
PHIL BURTON (solely for area B),
WILLIAM CLAY (solely for area C),
MARIO BIAGGI (solely for area C),
IKE ANDREWS (solely for areas A and C),
PAUL SIMON (solely for area D),
GEORGE MILLER (solely for areas A and B),
AUSTIN J. MURPHY (solely for areas B and C),
TED WEISS (solely for area D),
BALTASAR CORRADA (solely for area A),
PETER PEYSER (solely for area D),
PAT WILLIAMS (solely for area B),
WILLIAM R. RATCHFORD (solely for area B),
DENNIS ECKART (solely for area D),
JOHN M. ASHBROOK (for all areas except B),
JOHN N. ERLENBORN (solely for areas A and D),
JAMES M. JEFFORDS (solely for areas A and C),
WILLIAM F. GOODLING (solely for area A),
E. THOMAS COLEMAN (solely for area D),
ARLEN ERDAHL (solely for area C),
THOMAS E. PETRI (solely for area C),
LAWRENCE J. DENARDIS (solely for area D),
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of title V, subtitle C, chapter 2, subchapter A of the House bill and title I, part G of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
WILLIAM D. FORD,
IKE ANDREWS,
GEORGE MILLER,
BALTASAR CORRADA,
JOHN M. ASHBROOK,
BILL GOODLING,
JAMES M. JEFFORDS,
LARRY E. CRAIG,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:
JESSE HELMS,
S. I. HAYAKAWA,
RICHARD G. LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
PAT LEAHY,
EDWARD ZORINSKY,
Managers on the Part of the Senate.

Solely for consideration of title V, sections 5114 and 5133, and of the House bill and title X, section 1002 of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
IKE ANDREWS,
JOHN M. ASHBROOK,
THOMAS E. PETRI,
BALTASAR CORRADA,
PAT WILLIAMS,
HAROLD WASHINGTON,
For all provisions except section 5114:
E. THOMAS COLEMAN,
WENDELL BAILEY,
Managers on the Part of the House.

From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, Jr.,
PAUL LAXALT,
JOSEPH R. BIDEN, Jr.,
DENNIS D. DECONCINI,
Managers on the Part of the Senate.

Solely for consideration of section 1104-5(a)(2) and (b)(9) of the Senate amendment.

From the Committee on Education and Labor:
CARL D. PERKINS,
PHIL BURTON,
JOSEPH M. GAYDOS,
GEORGE MILLER,
RAY KOGOVSEK.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
TIMOTHY E. WIRTH,
PHILIP R. SHARP,
JAMES J. FLORIO,
JAMES H. SCHEUER,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,

DAN QUAYLE,
DON NICKLES,
JEREMIAH L. DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH.
From the Committee on Labor and Human Resources:
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title V, subtitle C, chapter 1, subchapters A and D; title XV, subtitle C, chapters 4 and 5 of the House bill and title VII, part I; title XI, part D, subparts 2 and 3 of the Senate amendment.
From the Committee on Education and Labor:
CARL D. PERKINS,
IKE ANDREWS,
BALTASAR CORRADA,
PAT WILLIAMS,
JOHN M. ASHBROOK.
For title V, subtitle C, chapter 1, subchapter A and title XV, subtitle C, chapter 5 of the House bill and title VII, part I and title XI, part D, subpart 3 of the Senate amendment:
MARIO BIAGGI,
AUSTIN J. MURPHY,
ARLEN ERDAHL.
For title V, subtitle C, chapter 1, subchapter D and title XV, subtitle C, chapter 4 of the House bill and title XI, part D, subpart 2 of the Senate amendment:
AUGUSTUS F. HAWKINS,
WILLIAM CLAY.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
PETE STARK,
ANDREW J. JACOBS,
HAROLD FORD,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
PHILIP R. SHARP,
J. J. FLORIO,
J. H. SCHEUER,
TOBY MOFFETT.
From the Committee on Energy and Commerce:
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Finance:
ROBERT DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE.
From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS.
From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, JR.,
PAUL LAXALT,
Managers on the Part of the Senate.

Solely for consideration of title XV, sections 15427, 15428, and 15429, subtitle E of the House bill and title VII, sections 757, 758, and 759 of the Senate amendment.
From the Committee on Education and Labor:
CARL D. PERKINS,
JOHN M. ASHBROOK.
For all matters except title XV, subtitle E of the House bill:
AUGUSTUS F. HAWKINS,
WILLIAM CLAY,
IKE ANDREWS,
BALTASAR CORRADA,
PAT WILLIAMS,
JAMES JEFFORDS.
For title XV, subtitle E of the House bill:
PHIL BURTON,
JOSEPH M. GAYDOS,
GEO. MILLER,
RAY KOGOVSEK.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, JR.,
HAROLD FORD,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Finance:
ROBERT DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
HARRY F. BYRD, JR.,
Managers on the Part of the Senate.

Solely for the consideration of section 5397 of the House bill.
From the Education and Labor Committee:
CARL D. PERKINS,
PHIL BURTON,
GEO. MILLER,
PAT WILLIAMS,
WILLIAM R. RATCHFORD.
From the Post Office and Civil Service Committee:
WILLIAM D. FORD,
PAT SCHROEDER,
GERALDINE A. FERRARO,
MARY ROSE OAKAR,
WILLIAM CLAY,
MICKEY LELAND,
EDWARD J. DERWINSKI,
GENE TAYLOR,
BENJAMIN A. GILMAN,
TOM CORCORAN,
Managers on the Part of the House.

From the Labor and Human Resources Committee for matters within their jurisdiction:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title V, sections 5130 and 5131 of the House bill.
From the Committee on Education and Labor:
CARL D. PERKINS,
WILLIAM D. FORD,
JOHN M. ASHBROOK,
JOHN N. ERLENBORN.
For section 5130 of the House bill:
IKE ANDREWS,
GEO. MILLER,
BALTASAR CORRADA,
BILL GOODLING,
JAMES M. JEFFORDS.
For section 5131 of the House bill:
PAUL SIMON,
PETER A. PEYSER,
DENNIS ECKART,
LAWRENCE J. DENARDIS,
Managers on the Part of the House.

From the Select Committee on Indian Affairs:
BILL COHEN,
MARK ANDREWS,
SLADE GORTON,
JOHN MELCHER,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapter 15, subtitle E, chapter 1 (except subchapter I, and (in section 6531(a)) paragraph (1) and the first sentence following paragraph (5) of the proposed new section 17), and subtitle E, chapter 2, subchapter C of the House bill, and title IV, parts A, B, and E and sections 421, 422, and 423 of the Senate amendment.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title VI, sections 6102 and 6103 and subtitle C, of the

House bill, and title V, subtitle D, part 3 and subtitle G of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapter 2 (except section 6212) and chapter 11, subchapter A of the House bill, and title VII, parts C and D of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Finance:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

Solely for the consideration of title VI, subtitle E, chapter 2, subchapters A and B of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapters 1, 3, 4, (except subchapter 3), 5–10, 12, 13, and 14, and subtitle E, chapter 1, subchapter I, of the House bill, and title XI, part A (except sections 1101–4, 1104–5(a)(2) and (b)(9), 1101–8(16) through (19), and 1101–12), part E, and section 1163 of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title VI, subtitle D, chapter 4, subchapter B of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SHEUER,
TOBY MOFFETT,
Managers on the Part of the House.

JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT
EDWARD MADIGAN,
CARLOS J. MOORHEAD.
From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, JR.,
PAUL LAXALT,
J. R. BIDEN, JR.,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Solely for consideration of sections 8004 (except the proviso at lines 2 through 24 on page 381 of the House engrossed bill) and 8010 of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 8009 of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of section 8005 of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
ANTHONY TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Interior and Insular Affairs:
MO UDALL,
PHIL BURTON,
BOB KASTENMEIER,

ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, Jr.,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Select Committee on Indian Affairs:
WILLIAM S. COHEN,
MARK ANDREWS,
SLADE GORTON,
Managers on the Part of the Senate.

Solely for consideration of section 6101 and the proviso in section 8004 (lines 2 through 24 on page 381) of the House bill, and title V, subtitle D, parts 1 and 2 (except sections 534-11(a)(1)(A) and (G), 534-12(a)(1)(A), and 534-13(c), (e), (h), and (i)) of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of the sentence following paragraph (5) of the proposed new section 17 in section 6531(a) of the House bill, and section 427 of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of paragraph (1) of the proposed new section 17 in section 6531(a) of the House bill.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
J. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
CARROLL HUBBARD, Jr.,
GERRY STUDDS,
GENE SNYDER, (Gene Snyder for myself and Mr. Forsythe with his consent),
PAUL MCCLOSKEY,
JOEL PRITCHARD,
Managers on the Part of the House.

Solely for consideration of title VI, subtitle C, part B of the Senate amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for the consideration of section 10003 and subtitle D, chapter 6 of title XV of the House bill.

From the Energy and Commerce Committee:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
From the Post office and Civil Service Committee:
WILLIAM D. FORD,
PATRICIA SCHROEDER,
GERALDINE A. FERRARO,
MARY ROSE OAKAR,
WILLIAM CLAY,
MICKEY LELAND,
EDWARD J. DERWINSKI,
GENE TAYLOR,
BENJAMIN A. GILMAN,
TOM CORCORAN.
From the Ways and Means Committee:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Finance Committee:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
HARRY F. BYRD, Jr.,
Managers on the Part of the Senate.

Solely for consideration of title VI, section 6212 and subtitle D, chapter 11, subchapters B and C, and title XV, sections 15600, 15602, 15614-16, 15622-24, 15631, 15632, 15633, and 15634 and subtitle D, chapter 5, of the House bill, and title VII, sections 711, 712,

714, 715, 716, 718, 719, 720, 720A-720G, and 729 of the Senate Amendment.

From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES H. SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD.
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Finance:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
RUSSELL B. LONG,
HARRY F. BYRD, Jr.,
Managers on the Part of the Senate.

Solely for consideration of title VII (except sections 7001(12), 7002(10), and 7003(9)) of the House bill and title VIII of the Senate amendment.

From the Committee on Foreign Affairs:
CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
DANTE B. FASCELL,
BENJAMIN S. ROSENTHAL,
LEE H. HAMILTON,
JONATHAN BINGHAM,
WM. BROOMFIELD,
EDWARD J. DERWINSKI,
PAUL FINDLEY,
LARRY WINN, Jr.
From the Committee on the Budget:
L. PANETTA,
Managers on the Part of the House.

From the Committee on Foreign Relations:
CHARLES PERCY,
CHARLES MCC. MATHIAS, Jr.,
NANCY LANDON KASSEBAUM,
CLAIBORNE PELL,
J. R. BIDEN, Jr.,
Managers on the Part of the Senate.

Solely for consideration of title XVI of the House bill and sections 905 and 906 of the Senate amendment.

From the Committee on Government Operations:
JACK BROOKS,
L. H. FOUNTAIN,
DANTE B. FASCELL,
BEN ROSENTHAL,
DON FUQUA,
JOHN CONYERS,
FRANK HORTON,
JOHN N. ERLENBORN,
CLARENCE J. BROWN,
PAUL MCCLOSKEY,
Managers on the Part of the House.

From the Committee on Governmental Affairs:
W. V. ROTH, Jr.,
TED STEVENS,
TOM EAGLETON,
DAVID PRYOR,
Managers on the Part of the Senate.

Solely for consideration of sections 8001, 8003, 8006, 8011, and 8012 of the House bill and title V, subtitles A, C, F, and H of the Senate amendment.

From the Committee on Interior and Insular Affairs:
MO UDALL,
PHIL BURTON,
BOB KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN, Jr.,
DON YOUNG,
ROBT. J. LAGOMARSINO,
DAN MARRIOTT.
From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON.
From the Committee on Environment and Public Works (solely for consideration of section 8003 and 8006 of the House bill and title V, subtitle C of the Senate amendment):
JIM ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of section 8008 of the House bill.

From the Committee on Interior and Insular Affairs:
MO UDALL,
PHILLIP BURTON,
BOB KASTENMEIER,
ABRAHAM KAZEN, Jr.,
JONATHAN BINGHAM,
JOHN F. SEIBERLING,
MANUEL LUJAN,
DON YOUNG,
ROBERT J. LAGOMARSINO,
DAN MARRIOTT,
Managers on the Part of the House.

From the Select Committee on Indian Affairs:
WILLIAM S. COHEN,
MARK ANDREWS,
SLADE GORTON,
JOHN MELCHER,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title X (except section 1002) of the Senate amendment.

From the Committee on the Judiciary:
PETER W. RODINO,
BOB KASTENMEIER,
DON EDWARDS,
JOHN F. SEIBERLING,
GEORGE DANIELSON,
R. L. MAZZOLI,
ROBERT MCCLORY,
TOM RAILSBACK,
HAMILTON FISH, Jr.,
CALDWELL BUTLER,
Managers on the Part of the House.

From the Committee on the Judiciary:
STROM THURMOND,
CHARLES MCC. MATHIAS, Jr.,
PAUL LAXALT,
J. R. BIDEN, Jr.,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Solely for consideration of section 1137 of the Senate amendment.

From the Committee on the Judiciary:
PETE W. RODINO,
ROBERT W. KASTENMEIER,
DON EDWARDS,
JOHN F. SEIBERLING,
GEORGE E. DANIELSON,
ROMANO L. MAZZOLI,
ROBERT MCCLORY,
TOM RAILSBACK,
HAMILTON FISH, Jr.,
M. CALDWELL BUTLER,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of sections 13016 and 13017 of the House bill.

From the Committee on the Judiciary:
PETE W. RODINO,
ROBERT W. KASTENMEIER,
DON EDWARDS,
JOHN F. SEIBERLING,
GEORGE E. DANIELSON,
ROMANO L. MAZZOLI,
ROBERT MCCLORY,
TOM RAILSBACK,
HAMILTON FISH, Jr.,
M. CALDWELL BUTLER.
From the Committee on Small Business:
PARREN J. MITCHELL,

NEAL SMITH,
HENRY GONZALEZ,
JOHN J. LAFALCE,
BERKLEY BEDELL,
Managers on the Part of the House.

From the Committee on the Judiciary:
STROM THURMOND,
PAUL LAXALT,
J. R. BIDEN, Jr.,
From the Committee on Small Business:
LOWELL P. WEICKER, Jr.,
RUDY BOSCHWITZ,
S. I. HAYAKAWA,
DALE BUMPERS,
Managers on the Part of the Senate.

Solely for consideration of title IX, subtitle A of the House bill and section 426 of the Senate amendment.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
NORMAN D'AMOURS,
CARROLL HUBBARD,
GERRY STUDDS,
GENE SNYDER,
PAUL N. MCCLOSKEY, Jr.,
EDWIN B. FORSYTHE,
JOEL PRITCHARD,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title IX, subtitle C; and title XI, subtitle B, chapter 4 of the House bill.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
NORMAN D'AMOURS,
CARROLL HUBBARD,
GERRY E. STUDDS,
GENE SNYDER,
PAUL MCCLOSKEY,
EDWIN B. FORSYTHE,
JOEL PRITCHARD.
From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title IX, subtitle B of the House bill and section 1101-4 of the Senate amendment.

From the Committee on Merchant Marine and Fisheries:
WALTER B. JONES,
MARIO BIAGGI,
JOHN BREAUX,
NORMAN D'AMOURS,
CARROLL HUBBARD,
GERRY STUDDS,
GENE SNYDER,
PAUL MCCLOSKEY,
EDWIN B. FORSYTHE,
JOEL PRITCHARD.
From the Committee on Energy and Commerce:
JOHN D. DINGELL,
RICHARD OTTINGER,
HENRY A. WAXMAN,
T. E. WIRTH,
P. SHARP,
J. J. FLORIO,
JAMES SCHEUER,
TOBY MOFFETT,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
JAMES M. COLLINS,
NORMAN F. LENT,
EDWARD MADIGAN,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for the consideration of title X (except section 10003) of the House bill and sections 901-903 of the Senate amendment.

From the Post Office and Civil Service Committee:
WILLIAM D. FORD,
PATRICIA SCHROEDER,
GERALDINE A. FERRARO,
MARY ROSE OAKAR,
WM. CLAY,
MICKEY LELAND,
EDWARD J. DERWINSKI,
GENE TAYLOR,
BEN GILMAN,
TOM CORCORAN,
Managers on the Part of the House.

From the Governmental Affairs Committee:
W. V. ROTH, Jr.,
TED STEVENS,
TOM EAGLETON,
D. PRYOR,
Managers on the Part of the Senate.

Solely for consideration of title XI, subtitle A, chapter 1 and sections 11022 (except those provisions relating to the Federal Highway Administration Highway Safety Programs) and 11023 of the House bill, and sections 424, 425, and 431-437 of the Senate amendment.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:
BOB PACKWOOD,
BARRY GOLDWATER,
HARRISON SCHMITT,
HOWARD W. CANNON,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

Solely for consideration of title XI, section 11021, section 11022 (to the extent relating to the Federal Highway Administration Highway Safety Program), subtitle 3, chapters 1, 2, and 3, and subtitle C of the House bill, and title VI, subtitle A, subtitle B, part A, subtitle C, part A, and subtitles D, E, and F of the Senate amendment.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Environment and Public Works:
JAMES ABDNOR,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
STEVE SYMMS,
JENNINGS RANDOLPH,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Solely for consideration of title XI, subtitle A, chapter 3 of the House bill, and title III, part B of the Senate amendment.

From the Committee on Public Works and Transportation:
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
JOHN G. FARY,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
TOM HAGEDORN,
Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs:
JAKE GARN,
JOHN HEINZ,

RICHARD G. LUGAR,
Managers on the Part of the Senate.

Solely for consideration of title XII of the House bill, and sections 534-11(a)(1)(A) and (G), 534-12(a)(1)(A), and 534-13(c), (e), (h), and (i) of the Senate amendment.

From the Committee on Science and Technology:
DON FUQUA,
ROBERT A. ROE,
TOM HARKIN,
MARILYN BOUQUARD,
DAN GLICKMAN,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources:
JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

Solely for consideration of section 1101-12 of the Senate amendment.

From the Committee on Science and Technology:
DON FUQUA,
DOUG WALGREN,
GEORGE F. BROWN, Jr.,
BOB SHAMANSKY,
STAN LUNDINE,
MERVYN M. DYMALLY,
LARRY WINN, Jr.,
MARGARET M. HECKLER,
VIN WEBER,
JUDD GREGG,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:
ORRIN G. HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
DON NICKLES,
JEREMIAH DENTON,
PAULA HAWKINS,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
Managers on the Part of the Senate.

Solely for consideration of title XIII (except sections 13016 and 13017) of the House bill and title XII of the Senate amendment.

From the Committee on Small Business:
PARREN J. MITCHELL,
NEAL SMITH,
HENRY GONZALEZ,
JOHN J. LAFALCE,
BERKLEY BEDELL,
JOSEPH M. MCDADE,
WM. S. BROOMFIELD,
DAN MARRIOTT,
LYLE WILLIAMS,
Managers on the Part of the House.

From the Committee on Small Business:
LOWELL P. WEICKER,
RUDY BOSCHWITZ,
S. I. HAYAKAWA,
SAM NUNN,
DALE BUMPERS,
Managers on the Part of the Senate.

Solely for consideration of title XIV of the House bill and title XIII of the Senate amendment.

From the Committee on Veterans' Affairs:
G. V. MONTGOMERY,
DON EDWARDS,
BOB EDGAR,
SAM B. HALL, Jr.,
MARVIN LEATH,
JOHN PAUL HAMMERSCHMIDT,
MARGARET M. HECKLER,
CHALMERS P. WYLIE,
HAROLD S. SAWYER,
Managers on the Part of the House.

From the Committee on Veterans' Affairs:
ALAN K. SIMPSON,
BOB KASTEN,
FRANK H. MURKOWSKI,
ALAN CRANSTON,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

Solely for consideration of title XV, subtitles A and B, subtitle C (except chapters 4 and 5), and sections 15601, 15611-13, 15621, 15625, 15633, 15635, and 15636 of the House bill, and title VII, part A (except sections 711, 712, 714, 715, 716, 718, 719, 720, 720A-720G, and 729), part E, part F (except sections 757, 758, and 759), and parts G, H, and J of the Senate amendment.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
Managers on the Part of the House.

From the Committee on Finance:
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

For consideration of the entire House bill and Senate amendment (including sections 1 and 2 of the House bill and section 1 of the Senate amendment).

From the Committee on the Budget:
JAMES R. JONES,
NORMAN Y. MINETA,
STEPHEN J. SOLARZ,
LEON E. PANETTA,
RICHARD A. GEPHARDT,
LES ASPIN,
DELBERT L. LATTA,
RALPH REGULA,
BUD SHUSTER,
BOBBI FIEDLER,
Managers on the Part of the House.

From the Committee on the Budget:
PETE V. DOMENICI,
RUDY BOSCHWITZ,
ERNEST F. HOLLINGS,
LAWTON CHILES,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. VOLKMER. Mr. Speaker, on Tuesday, July 28, I was unavoidably absent having been called away to my district which is experiencing extensive rainfall and flash flooding and extensive damage to the Cannon Dam cofferdam and to Cannon Dam and to the farms, crops, and homes along the Salt River when the House agreed to rollcall No. 171, an amendment to reduce by $5 million the funding for salaries and expenses to the Bureau of Alcohol, Tobacco and Firearms. The measure was agreed to by a vote of 279 ayes to 141 noes. Had I been present I would have voted "aye."

GENERAL LEAVE

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Oklahoma (Mr. SYNAR).

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE PLIGHT OF RAISA RUDENKO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DOUGHERTY) is recognized for 60 minutes.

GENERAL LEAVE

Mr. DOUGHERTY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DOUGHERTY. Mr. Speaker, we are here today to protest the treatment of Raisa Rudenko, the wife of the famous Ukrainian poet and founder of the Ukrainian Helsinki Group, Mykola Rudenko.

Mr. Rudenko is currently serving a 12-year sentence in a Mordovian "corrective labor colony" in the Soviet Union. However, we have just learned that Mrs. Rudenko may have been placed under arrest as well, for attempting to smuggle her husband's poems out of prison. How many years of "corrective labor" has she been sentenced to for this miniscule offense? Where has she been sent for her punishment? Have her relatives been informed of her status?

To ascertain this information, the Ad Hoc Congressional Committee on the Baltic States and Ukraine will be sending a letter to the Secretary of State, asking for the State Department's assistance in this matter. In the letter, we seek information regarding Mrs. Rudenko and ask for her release from prison. I urge all Members

of Congress to cosign this letter to Secretary Haig as soon as possible. If we let the Soviets know that we are aware of Mrs. Rudenko's detention, we may prevent her from being lost in the huge Soviet prison system.

There is an additional reason for conducting this special order today, Mr. Speaker. As you may know, this weekend marks the sixth anniversary of the signing of the Helsinki Accords of 1975. At that time, 35 nations signed an agreement to honor, among other things, the human rights of their citizens, as well as their freedom of thought, conscience, religion, and beliefs. To monitor the progress of the Soviet Union regarding human rights, several Helsinki groups throughout that country were formed. Mykola Rudenko cofounded the Ukrainian Helsinki Group, and he is now in prison. Now his wife may be in prison. Many of the other Helsinki group members have also been arrested for highly questionable reasons. It is not difficult to see what is happening in the Soviet Union. The Government does not want the outside world to learn of its many human rights violations. This week of the sixth anniversary of the Helsinki agreement, let us loudly protest this policy of the Soviet Government.

As Members of Congress, we have a duty to constantly remind the Soviets of the terms in the Helsinki accords they agreed to in 1975. Let us assure the Soviet Union that the inhumane treatment of Ukrainian citizens such as Mykola and Raisa Rudenko will not go unnoticed by the people of the United States, who fortunately know the true meaning of the word freedom.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I am happy to yield to my colleague, the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I, too, would like to speak on behalf of Raisa Rudenko and her husband, Mykola. We have been writing for many years urging that he be released. He is far away in this camp, and now she, too, has disappeared from her apartment and answers no calls, and we do not know what happened to her.

□ 1740

This is another sad chapter in the history of this brave family. What can we do here in the United States except to speak up to let the Rudenko's know that they are not forgotten and to let the world know that these things are happening in that prison country.

It was well said in the United Nations by one of our representatives, I am proud to say, that "when we know of injustice and we say nothing, it is as though we condone it."

I go further. When we know of injustice and we say nothing, we become almost accomplices in those wicked acts.

I think my colleague is to be commended and congratulated for asking for this time today here in Washington on the 29th of July so near the signing of the pact in Helsinki. So much was promised and so many hopes and in the cities and sections of the Soviet Union and in many other parts of the Warsaw Pact countries, these little groups were formed and when they spoke of their own constitution sometimes they were jailed.

So I speak on behalf of this woman, I hope not lost in the prison system, and for her husband and urge that they may be released.

I thank my colleague for yielding.

Mr. DOUGHERTY. Mr. Speaker, I thank my colleague, the gentlewoman from New Jersey, who has a long history of involvement in the area of human rights.

I would just say that it seems doubly tragic if she has been arrested it would be for smuggling poems out of prison.

How insecure must the Soviets be when they have to stop the flow of poems by one of their citizens from having it published. They really must have a tremendous guilt complex that they are embarrassed by poetry.

I think it is also a rather sad commentary that this Saturday being the sixth anniversary of the Helsinki accords that they would dare to take such a well-known woman and just take her away without any word or any comment so close to this anniversary.

You know, actions always speak louder than words. I think in this instance it simply shows that the Soviets are guilty of fraud, that they really have no intention of abiding by the Helsinki accords.

Mrs. FENWICK. Mr. Speaker, would my colleague yield further?

Mr. DOUGHERTY. It is my pleasure.

Mrs. FENWICK. Words have wings and people die for ideas and the Soviets know that. When you speak, whether it is in a poem of the freedom of the human spirit, of the right to worship, those words have wings and perhaps they are dangerous.

Mr. DOUGHERTY. That is the very thing the Soviets agreed to in Helsinki, the freedom of belief.

Mrs. FENWICK. That is just it.

Mr. DOUGHERTY. Mr. Speaker, I yield to my colleague, the gentleman from Pennsylvania (Mr. NELLIGAN).

Mr. NELLIGAN. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania.

It was just a few weeks ago that my colleague and I, the gentleman from Pennsylvania, in a hotel in Jerusalem, sat and listened to the wife of a former Jewish naval officer who has since been labeled as a "refusnik." At that time we had heard of a new effort by the Soviet Union to further persecute and to trump up charges of atrocities committed by these people who will not be subjugated and will speak out, even though they know of the extreme and severe penalties they might suffer if they do so.

One might get the feeling that because Jews have been persecuted for centuries around this world of ours that only they are the ones being persecuted by the Soviets. That is not so. It is the Polish, it is the Czechoslovakians, it is everybody who has been subjugated by the Soviet Union and all those who are behind the Iron Curtain and not least of all the Ukrainians.

Now we find that those same tactics that have been used against Soviet Jews, these trumped-up charges, are increasing and now being used against Ukrainians.

Mr. Speaker, I recently became aware of the disappearance of Raisa Rudenko, the wife of Mykola Rudenko, a Ukrainian prisoner of conscience who is serving a 12-year sentence in a corrective labor colony in the Soviet Union.

The disappearance of his wife, Raisa Rudenko, adds another sad chapter to the cause of human rights in the Ukraine. Mykola Rudenko, who was arrested in 1977, was one of the founders and served as head of the Ukrainian Helsinki Group. This group was established to promote compliance with the humanitarian provisions of the Helsinki Act, signed by the Soviet Union.

Since its inception, the Ukrainian Helsinki Group has been subject to systematic persecution. All members of this group have been arrested on a variety of charges which must be considered highly suspect, if not totally fabricated. The Soviet Government has apparently adopted the tactic of pressing criminal charges against group members instead of relying on the standard political charge of "anti-Soviet agitation and propaganda."

For example, Petro Vins was sentenced to 1 year in 1978 for the crime of parasitism. That is, he was charged with being unable to get a job. Just imagine how full and overflowing our prisons would be if we had trumped up charges along that line.

Vasyl Ovisiyenko was sentenced to 3 years in 1978 for resisting the militia.

Mykola Horbal was sentenced to 5 years in 1980 for attempted rape and resisting arrest.

Yaroslav Lesiv was sentenced to 2 years in 1980 for possession of narcotics.

Petro Rozumny was sentenced to 3 years in 1979 for illegal possession of a weapon, the weapon was a hunting knife. Again imagine how overflowing our prisons would be if anybody with a

hunting knife was confined to imprisonment.

Vasyl Striltsiv was sentenced to 2 years in 1979 for violation of internal passport regulations. Internal passport regulations, imagine that.

Mykola Matsevych was sentenced to 12 years in 1977 for anti-Soviet agitation and propaganda including a charge of hooliganism.

Oleksa Tykhy was sentenced to 15 years in 1977 again for anti-Soviet agitation and propaganda including 1 year for the criminal charge of possession of a firearm. The firearm was a rusted World War II rifle.

Thus the disappearance of Raisa Rudenko appears as a worrisome development in the pursuit of human rights under the Helsinki accords. In view of the history of arrests, harassment and imprisonment of Ukrainian Helsinki group members, and in view of the central role of Mykola Rudenko in this group, I believe the Soviet Union must immediately account to the world for the whereabouts of Raisa Rudenko. There must be a full, clear, and responsible explanation of this incident and America and the world, we tell the Soviet Union, is waiting for that explanation.

I thank my colleagues for the opportunity to participate in this special order and express my deep concern for the persecution of the Ukrainians.

Mr. DOUGHERTY. Mr. Speaker, I thank my colleague from Pennsylvania, because he has been involved in this issue in the past with us.

I think we ought to take just a moment and comment on our meeting in Jerusalem with the wife of that Soviet dissident.

You know, so frequently we take a special order on something and we do not always get across the human dimension, that we really are not talking about names out of history or characters in some book of fiction. We are talking about human beings.

To have sat in Jerusalem with a young woman of about 26 years of age who had not seen her husband, nor had their child seen its father in some 3½ years because the Soviets would not let the man emigrate because he had been in the military 10 years ago, and under their own law after 7 years he could have been allowed to go; that they trump up these charges.

I think the interesting point in the gentleman's comments, if I could, is that every name the gentleman mentioned is the name of a Ukrainian. I think that is the point to be made. Too frequently people do not recognize that Soviet suppression of human rights goes against the whole gamut of occupied territories that are dominated by the Soviets, including the Ukrainians, the Lithuanians, the Soviet Jews, the Afghans, and many more.

I want to thank the gentleman for bringing that particular point of view to our discussion today.

Mr. Speaker, I yield to my colleague, the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Speaker, I am very grateful to my colleague, CHARLES DOUGHERTY, a cochairman of the Ad Hoc Congressional Committee on the Baltic States and Ukraine, of which I am proud to be a member, for requesting this special order for Raisa Rudenko. Mrs. Rudenko, as we know, is the wife of Ukrainian dissident poet and writer Mykola Rudenko, who was put in jail by the Soviet authorities for his activities in monitoring Soviet compliance with the human rights provisions of the Helsinki Conference accords of 1975. It now appears that Raisa Rudenko is being detained and perhaps tortured by the KGB as a way of applying more pressure on her husband in prison.

By calling attention today to the case of Mrs. Rudenko, I hope that we can improve the treatment she is meted out by the Soviet authorities. But as we observe the sixth anniversary of the signing of the Helsinki accords this coming Saturday, let us also keep in mind what they tell us about the Soviet Union. No matter what kind of agreements the Soviets sign with us, they remain masters of a police state who continue to wage a campaign of ideological warfare against us that involves interpreting agreements in whatever fashion is most advantageous to them in their struggle. We can strike back in this battle of ideas by bringing to the forefront of public concern the plight of those like Mrs. Rudenko who have been victims of this silent Soviet warfare.

□ 1750

The gentleman from Pennsylvania (Mr. DOUGHERTY) is to be commended for giving us this opportunity to speak and also for drawing attention to this case, and not only cases like the Rudenko case, but many other people who are affected.

Mr. DOUGHERTY. I want to thank the gentleman very much and appreciate the fact the gentleman has participated in this dialog today.

I think the very interesting thing in the whole situation is despite the attempts of the Soviets to diminish or destroy this concept of freedom, even the word of Mrs. Rudenko being taken by the police got out. I guess that must have disturbed the Soviets so very much, because here they are trying to pressure her husband, who is a poet, by having her arrested secretly, and yet we in the West who believe in freedom still found out about it. It should tell the Soviets no matter what they try to do they cannot cloak this, you could call it illegal, but I think inhumane is a more appropriate word, this inhumane activity behind some shroud that says we will never know. But we do know, and we are obligated to help those people.

I want to thank the gentleman for his participation.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to my colleague from New York (Mr. BIAGGI).

Mr. BIAGGI. I want to thank the gentleman for yielding and not only thank him for yielding but also to commend him for his activities in this area. He talks about Raisa Rudenko, and it is important we focus attention on a single individual because we have witnessed over the period of time I have been in the Congress that once you highlight a certain individual the pressure mounts, and we have ofttimes effected the release and improved treatment of that individual.

But while we are talking about Raisa, remember that there are countless legions of Raisa Rudenkos in each of those captive nations. Now it is the Ukraine. At other times we have talked in terms of human rights and Soviet Jewry. But we have some 27 captive nations with the same conditions existing year in and year out. It is not simply Raisa Rudenko, it is not simply the Soviet Jews. It is humanity across the board being shackled and oppressed by a nation that is notorious for its conduct, that is notorious for its deprivation of human rights, civil rights, and common liberties, as the gentleman and I know and enjoy and embrace and cherish in this country.

I could not commend the gentleman more for taking this special order out so that we can talk about Raisa for one and the issue for another. I congratulate the gentleman.

Mr. DOUGHERTY. I thank my colleague from New York for his comments. I think the point is well taken that the Soviets, by their actions, speak much louder than they could by their words. The fact that they would do something as horrendous as this so close to the anniversary of the Helsinki accords just shows that they have no regard at all for what they have signed as an international agreement.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to my colleague from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I wish to take this opportunity to thank the gentleman from Pennsylvania for yielding and for taking the time this evening to lead the discussion on this most important subject.

It is indeed most appropriate that we should be discussing the plight of Mykola Rudenko and his wife Raisa as we approach the sixth anniversary of the signing of the Helsinki accords

this Saturday, August 1, 1981. As leaders of the Ukrainian human rights movement, and founding members of the Kiev-based Ukrainian Helsinki Group, they have come to symbolize the struggle for human dignity that exists around the world.

Mykola Rudenko, age 60, a writer and a nominee for this year's Nobel Peace Prize, was arrested in 1977 on charges of anti-Soviet agitation and propaganda and sentenced to 12 years in a labor camp. Earlier this year, Amnesty International issued an urgent action memorandum on Mr. Rudenko, pointing out that after more than 30 years since being seriously disabled as a World War II Soviet hero, the Government has declared that he is no longer exempt from doing corrective labor. The prospects of his completing his full sentence alive are now in doubt.

Not content on this total attack of Mykola Rudenko, the Soviet Government has now turned its attention on his wife Raisa. Due to Government censorship, word has just recently arrived in the West that Mrs. Rudenko has been missing since April. Since that date, she has failed to keep prearranged appointments, telephone friends, and has failed to return home. In the past, such disappearances have indicated the Government has arrested the victim.

It is important, therefore, that we stand up today and tell the world of our outrage at this action. We must let the Soviets know we are aware of her case and hold the Government accountable. In many cases, it is only through such international outrage that prevents such Soviet victims from complete disappearance.

Mrs. Rudenko, like her husband and every other member of the Helsinki monitoring group, has apparently paid the price for daring to stand up for her rights. The Helsinki accords bind its signers, including the Soviet Union, to "respect * * * human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief." Since that historic day in 1975 when the Helsinki accords were signed, more than 500 person have been imprisoned in the Soviet Union for simple expressions of conscience.

Just yesterday, our Subcommittee on Human Rights and International Organizations of the House Foreign Affairs Committee had the opportunity of hearing the testimony of Dr. Nina Strokata, a member of the Ukranian Helsinki Group and a colleague of Mykola Rudenko. She had served 4 years in prison in the Soviet Union for having been an outspoken advocate of human rights in the Ukraine. She informed our committee that the observance of human rights in the Soviet Union has not improved, but on the contrary has further deteriorated.

On the occasion of the sixth anniversary of the Helsinki accords let us once again rededicate ourselves to those important principles or human rights.

□ 1800

Mr. DOUGHERTY. Mr. Speaker, I would like to thank my colleague from New York for his long-term involvement in the area of human rights. Just to reiterate the points that the gentleman made, Mr. Rudenko himself is a candidate for a Nobel Peace Prize and was indeed a hero in the Soviet Army in World War II.

Mr. ATKINSON. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Pennsylvania.

Mr. ATKINSON. Mr. Speaker, I am proud to join with my colleagues today in tribute to the valiant people of Ukraine. It is with a heavy heart that we must once again observe the sad example of oppression in the Ukraine by the Soviet Union.

Once more we hear the story of yet another individual who has faced the ruthlessness of a cruel state. I refer to the plight of Mykola Rudenko, a Ukrainian Prisoner of Conscience who is serving a 12-year sentence in a Mordovian corrective labor colony in the Soviet Union. This great man and famous writer was a founding member of the Ukrainian Helsinki Group which was formed to monitor human rights conditions in the Ukraine in conformance with the Helsinki accords. Like many others who have volunteered to serve the cause of freedom behind the Iron Curtain, Mykola Rudenko is now in a prison camp.

Recently it was learned that his wife, Raisa, has been missing from her home since April 14. It has been speculated that her disappearance may be used as a tool by the Soviets to stop her husband from hunger strikes in his prison cell and to otherwise control him.

We will soon observe the sixth anniversary of the signing of the Helsinki accords. Mr. Speaker, I join with my colleagues and all freedom loving people around this Nation and world in calling for an investigation of the disappearance of Raisa Rudenko. Her whereabouts must be ascertained and her welfare reported.

If the Helsinki accords are to mean anything other than mere marks on paper, surely we must speak out at this obvious repression. The Soviet Union must be held accountable. If they cannot live up to their treaty commitments of the past, how can this Nation begin to trust them in negotiations on such items as nuclear nonproliferation and arms control.

I urge my colleagues to make their views known to the Soviet Government through Ambassador Anatoly Dobrynin, as soon as possible.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Speaker, it has been brought to my attention that Mrs. Raisa Rudenko, wife of the Ukrainian prisoner, Mykola Rudenko, has been missing from her home in Kiev since April 14 of this year.

Mykola Rudenko is a writer and poet and numbers among the vanguard of human rights activists, who have spoken out against the Communist tyranny over the people of the Ukraine.

This is not simply a case of a prisoner in a Soviet labor camp. We have all heard Mr. DOUGHERTY's eloquent remarks suggesting that Mrs. Rudenko's disappearance may be a device employed by the Soviets to break her husband's spirit. Mr. Rudenko is currently conducting a hunger strike to protest prison conditions and the Soviets have probably kidnapped his wife in an effort to silence him.

Of all of the civil liberties which we cherish there are none more important than the right to live without fear of intimidation and the right to express one's ideas without fear of reprisal. If the United States stands for its cherished principles of liberty then we cannot, we must not permit the imprisonment of Mykola Rudenko, coupled with the abduction of his wife, to go unnoticed.

I urge my colleagues, therefore, to address the special order of the gentleman from Pennsylvania. We must demand that the Soviets satisfactorily demonstrate that Mrs. Rudenko is at liberty.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, I rise today to join my colleagues in an expression of concern for Raisa Rudenko, wife of Ukrainian prisoner of conscience, Mykola Rudenko.

Most of us already are aware of the sad plight of Mykola Rudenko. A well-known Ukrainian poet and founding member of the Ukrainian Helsinki Group, Mykola Rudenko is now serving a 12-year prison sentence in the Mordovian corrective labor colony in the Soviet Union. Only 4 months ago, many of us joined together in an outpouring of concern for Mr. Rudenko, whose health was failing and who was then on a hunger strike as a protest against both the terms of his imprisonment and the increasing harassment of both himself and his wife. The response, at that time, by this House and by the Ukrainian-American community was highly encouraging.

Today, however, I rise with yet another unhappy report. Several days ago it was brought to my attention

that Raisa Rudenko had been reported missing from her home in Kiev since April 14 of this year. I was then advised that Mrs. Rudenko had, in fact, been arrested on the 15th of April, under article 62 of the Ukrainian Criminal Code, for anti-Soviet agitation and propaganda. Apparently, smuggling several of her husband's poems out of prison had provided enough incriminating material to prompt Mrs. Rudenko's arrest and a charge of anti-Soviet agitation.

Unfortunately, this is only one more chapter in a long history of Soviet harassment and repression not only of the Rudenkos, but thousands of other Ukrainians as well. In fact, if I may point out, all of the founding members of the Ukrainian Helsinki Group have either been harassed or imprisoned. Any yet, what I find to be most inspiring is that despite the obvious personal risk, the Rudenkos and other dissidents in the Ukraine continue to fight for those rights—those very same rights which we, in the United States, have always held as inalienable and self-evident—which have been denied throughout the Soviet Union's long record of domination of the Ukraine.

Although our own pleas to the Soviet Union seem to go unanswered, I believe, along with many others, that world opinion can, in fact, force the Soviet Union to abide by the Helsinki agreement and live up to the responsibilities agreed upon by all signatory nations. It is particularly important, therefore, that we, as Americans, reaffirm our own commitment to human rights the world over and let Soviet officials know that the preservation of these human rights, as spelled out at Helsinki, remains vital to the American people.

At this time, I would ask Soviet officials to account for the whereabouts of Raisa Rudenko and, ultimately, to grant Raisa and Mykola Rudenko permission to emigrate.

The lives of Raisa and Mykola Rudenko and thousands of men and women like them depend on our efforts.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

As a member of the Commission on Security and Cooperation in Europe, the Helsinki Commission, I would like to commend my colleague for taking this special order on behalf of Mykola Rudenko and also for formulating this very important group on the Ukraine and on the Baltic States to call attention to the very severe violations of human rights and human dignities that these nations are subjected to by their Soviet masters.

It is ironic that on the eve of the sixth anniversary of the signing of the Helsinki accords, the violations proceed apace. It is ironic that the person whom we are talking about, Mykola Rudenko, happens to be a poet. It is ironic that poets within the Soviet Union are somehow considered to be public enemy No. 1. I suppose it is because the spirit of the poet is not to be deadened by the force of the state, that in a totalitarian society the poet is considered so dangerous.

Mr. Speaker, in March of this year, it was learned that imprisoned human rights activist Mykola Rudenko, the well-known Ukrainian writer and founder of the Ukrainian Helsinki Monitoring Committee, had been denied desperately needed medical attention. At that time I joined with 68 of my colleagues in urging President Brezhnev to release the 68-year-old Rudenko, and short of that to exempt him from performing the rigors of hard labor and provide him with adequate medical attention. Unfortunately, the Soviets have refused to respond as Mr. Rudenko, still in failing health, remains incarcerated in a Soviet prison camp.

This sad and tragic story now has taken yet another painful twist. Mykola's wife Raisa, it has recently been learned, is missing. Friends claim she has not been heard from since mid-April. Although the Soviets have not acknowledged her whereabouts, it is feared that with all the unlawful and unjustified treatment directed at her husband and other Ukrainians by the Soviet leadership, we have just cause to be concerned about her fate.

The fate of the Ukarainian Helsinki Monitoring Group is similar to the fate of other groups formed shortly after the signing of the Helsinki accords by the Soviets in 1975. Today many of these people, none of whom has committed any crime, are spending their lives away in Soviet prison camps even during hard regimes. In essence, they have been punished for their convictions that the commitments made by their Government, by the Soviet Union, by signing the Helsinki accords would be honored.

Again, it is ironic that by supporting an agreement made by their Government, they have been labeled anti-Soviet and imprisoned.

During the recent observance of Captive Nations Week, I had the pleasure of meeting with Yaroslav Stetsko, who served briefly as the president of the Free Ukraine in 1941 and who now is president of the Anti-Bolshevik Bloc of Nations. Mr. Stetsko and his wife recounted to me the suffering and oppression that is common in the Ukraine today. He left an inspiring and heartfelt message from the patriarch of the Ukrainian Catholic Church, Metropolitan Yosyf Cardinal Slipyi. As we think of the suffering of the Rudenkos, I would like to share this patriarchial message with my colleagues which holds freedom for the Ukraine dear and hopes for a brighter era for the Ukrainian nation. I would ask this message be placed at the end of my remarks in the RECORD.

I would also like to point out that yesterday a letter was circulated—and I had the opportunity to sign it—that went from a group of Members of the House and the Senate to the Soviet Ambassador to the United States, Ambassador Anatoliy Dobrynin, expressing concern about the disappearance of Raisa Rudenko and asking that Mykola Rudenko be released from the labor camp and be allowed to travel to the United States for medical treatment and that his wife Raisa be allowed to accompany him.

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Short of that, that she be permitted communication with her husband as to her whereabouts and her condition.

I think it is part and parcel of the way the Soviets treat those who do not agree with them, this situation and the disappearance of Mrs. Rudenko. It is a kind of terror designed to frighten their friends, designed to further deteriorate the condition of Mykola Rudenko.

I do not think there is any doubt that the Soviets would like to see this poet die in prison, severely affected in his health by the regime of hard labor, so that his voice will no longer extend to Ukrainians all over the world, because his voice, his simple human voice, is considered to be dangerous to the state.

I would like to close once more with a commendation of my colleague from Philadelphia for taking the time and giving the effort to this most important concern. I think he knows full well that the Ukraine is a country of nearly 60 million people with traditions and culture independent from the dominant Soviet state, who long for freedom, who one day will have it, and perhaps through the valiant efforts of my colleague from Philadelphia, will approach a step nearer that freedom.

The material I previously mentioned follows:

PASTORAL LETTER BY THE PATRIARCH OF THE UKRAINIAN CATHOLIC CHURCH METROPOLITAN YOSYF CARDINAL SLIPYI ON THE 40TH ANNIVERSARY OF THE ACT OF RESTORATION OF THE UKRAINIAN INDEPENDENT STATE

In the first half of the troubled twentieth century the Ukrainian nation twice found itself in the midst of dreadful wars which shook the world, changed its political face and created new and complicated circumstances with tensions and crises in the economic, cultural and even church life. Empires and states fell, small humbled people rose, ruling social classes vanished, new both healthy and damaging trends and ideologies came into being. This, in fact, is the image of man who has gone through history carrying the burden of the wound of the original sin while with his troubled heart

searched for the highest good, which is God. But, unfortunately, man frequently substituted God for his theories, selfishness, and dreams about a paradise on earth.

After two centuries of existence on their land under foreign and enemy occupation, the Ukrainian people in those two wars could say in the words of priest Mattathias, the father of the famous Maccabees: "Is there a nation that has not usurped her sovereignty, a people that has not plunder her? She has been stripped of all her adornment, no longer free, but a slave" (I Mac. 2: 10–11). It is for this reason that on the stormy sea of history because of wars, our people wanted to secure a free harbour of their own, a state on their own land with their own Church and their own rights, and based on their own truth and will—just as it is with other nations. This is why, like other neighbouring nations, our nation courageously plunged into the vortex of events ready to sacrifice the life of its sons in order to secure its own statehood.

The struggle for a nation's statehood has its roots in the natural law of man, who was created to lead a community life. The state has its roots in human nature which, in turn, has an inborn propensity to unite into larger communities for the purpose of safety and public order, for the progress and development of man. The state, as a need of human nature, is a requirement of that eternal moral law that the Creator instilled in the human heart and which we call the Natural Law. This is why the state and its respective authority do not derive from some casual circumstances, but rather from the Natural Law. In this context the Church teaches that both the state and the state authority come from God, the Creator of the Natural Order. Man as a person existed before the state and has his natural rights. This is why the individual cannot be discarded in a state organism because the state is neither an end in itself nor is it a goal for man. Rather, the goal and mission of the state is the welfare of the individual person, the defense of the natural law, moral principles and the observance of the Ten Commandments.

A state is for a people what home is for a family. The state is a spiritual edifice where a nation rears itself, leads a free life, fulfills freely and with dignity its duties with respect to God and fellow men, happily and justly arranges its earthly life and peacefully contributes its spiritual and material share to the coexistence of all the peoples of the world. Statehood is both a dream and a right of every nation. In the history of our salvation we see how God cares that a nation, through whom God's design for salvation was to be realized, has a land of its own, has a free existence in its own state for the observance of God's Commandments and God's word.

The worth of a nation can be judged precisely by this healthy desire to have its own home, its own state. Even the great nations in history fell and perished when they lost that will to be themselves and live a free life on their own land in peace and justice. How numerous are in history those peoples who became extinguished for having led a nomadic life of pillage living at the expense of others without ever thinking about a state of their own, about peace with other peoples, and about justice! Our nation, who, having been given by God a fertile and rich land, lived on that land, defended it, and always yearned to be its sovereign master. It is for this reason that when our nation became subjugated it defended its liberty and its land with courage and selflessness and built its state whenever it managed to secure it. However, not always such endeavour met with success. This happened not only because of man's historic wickedness and greed for the riches of others, but also because we ourselves lacked high and noble statesmanly Christian qualities which resulted in our historical humbling and which, nevertheless, God turned to our advantage: "It is good for me that I have been afflicted; and I might learn thy statutes" (Psalms, 119:71).

This year we observe the fortieth anniversary of our nation's second attempt in this century to regain and secure its own state with the Proclamation of Restoration of the Ukrainian State in June 1941. Those were hard times and the circumstances were cruel. But we did not surrender ourselves to a soulless drift on the waves of events hoping for man's pity. As soon as the right moment came we courageously declared before history and the world our desire for statehood. We proclaimed this statehood in order to emphasize our rights and our place amongst the nations of the world. That was a bold step taken by a nation whose spirit never perished during its long bondage. At the time when mad theories about race, "new Europe" and a "new world" with one people ruling over all others were on the march to enforce by fire and sword such an ideology, and on the other side the greatest tyranny in history oppressed our land and was implementing its godless and inhuman order at the cost of millions of victims of famine and terror, our nation proclaimed its natural right to independence and statehood. This is a great act which should educate us and make us better regardless of our personal thinking or different political beliefs. A nation ought to want a state of its own; a nation in bondage ought to think about it and strive for it if it wants to join the "community of free nations", if it does not want to be constantly a slave of its stronger or more clever neighbours.

Let us remember this event of the Restoration of our statehood in 1941 with gratefulness towards God who guarded us in the midst of menacing historical events and kept us for His great designs according to God's principle that "My strength is made perfect in weakness" (2 Cor. 12:9). Let us remember those great sons of our Ukraine who laid their lives so that the entire nation may be free. This is a great offering of love and self-sacrifice. Let us remember in our prayers also those of our sons who in prisons and exile continue this great testimony on behalf of freedom, truth and justice, wishing only one thing—that we may be free.

May the observance of this event give us unity and a common wish to be a free nation in the family of free nations for the glory of God.

May God bless you.

YOSYF,
Patriarch and Cardinal.

ROME, *1 June 1981.*

U.S. SENATE,
Washington, D.C., July 28, 1981.

HON. ANATOLIY DOBRYNIN,
Ambassador, Embassy of the U.S.S.R., Washington, D.C.

DEAR MR. AMBASSADOR: we are writing to express our concern about the disappearance of Raisa Rudenko, the wife of Mykola Rudenko.

Recent reports have indicated that Mrs. Rudenko might have been arrested on 15 of April, 1981. It is believed that she has been charged with a violation of article sixty-two of the Ukranian Criminal Code for allegedly smuggling poetry from her husband in prison.

We urgently request that Raisa Rudenko be released from detention, and that she be permitted communication with her husband as to her whereabouts and condition. Finally, and most importantly, we reiterate our request that Mykola Rudenko be released from the labor camp and allowed to travel to the United States for medical treatment and that his wife, Raisa, be allowed to accompany him.

Sincerely,

ALFONSE D'AMATO,
U.S. Senator.

Mr. DOUGHERTY. I thank my colleague from Pennsylvania for his participation in this special order today.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this special order.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DOUGHERTY. Mr. Speaker, I yield to my colleague, the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, at the outset I want to express my appreciation to the distinguished gentleman in the well, Mr. DOUGHERTY, for yielding to me at this time and to commend him for asking for this special order and refocusing our attention on the unlawful, illegal, cruel incarceration of Mykola Rudenko and on the disappearance of his wife, Raisa, and again especially for calling our attention to the fact that we are on the eve of the sixth anniversary of the Helsinki accords.

The Soviet Union has demonstrated time after time, year after year, that apparently only under the greatest of pressure will it even acknowledge the obligations that it assumed under those accords.

Whenever a violation of human rights occur in the Ukraine, in the Soviet Union itself, in the Union of South Africa, the Philippines, South Korea, or anyplace across the globe, I think it is especially necessary for those of us who live in freedom and in a democracy such as ours to focus our attention on those who are being persecuted and deprived of their human rights. By a special fate of history we have the good fortune to live in a country which is populated by those who come from other lands where persecution has been the norm of the day, and it will only be eliminated, that kind of persecution, if the efforts such as those the gentleman in the well has undertaken continue unabated.

Again, I want to express my appreciation and commendation to the gentleman.

Mr. DOUGHERTY. I thank my colleague, the gentleman from New York, for his comments and for his participation in today's special order.

Mr. Speaker, I would just like to close by noting for those from the Soviet Embassy who might care to listen that this is a special order in which almost a dozen Members of the Congress personally participated. I think it says a lot. It says that those of us who have this cherished gift of freedom, and too frequently take it for granted, are going to be personally reminded time and again about the plight of those who are less fortunate and those who live in occupied Soviet territory, in territory that by rights is theirs and should be theirs as a free people.

Mr. Speaker, I would like to ask all of the Members of Congress who are interested in this subject to join in a letter that I will circulate tomorrow to Secretary Haig, asking for him to make the Rudenko case a point of discussion with Mr. Dobrynin and also with the Soviet Government, and I would hope, Mr. Speaker, that we here in the United States would recognize the efforts that have been made by the Ukrainian Helsinki Observation Committee, a group of private citizens of the United States of Ukrainian heritage, who care enough about the concept of freedom, who believe that some day, as I do, that the Ukraine will be free and who will not allow the activities of the Soviet Union to go unnoticed and unresponded to. I want to acknowledge their participation in the preparation of this special order.

Mr. Speaker, on Saturday we celebrate the sixth anniversary of the Helsinki accord. The only word, the single word, that can evaluate the Soviet's sincere attempts regarding the Helsinki accords has been that they have been guilty of fraud. One single word definition of what the Helsinki accords means to the Soviet Union is that the Soviet Union is guilty of fraud. They do not believe in the accords. They have not participated in the accords. They do not honor the accords. If they had, indeed they would not take a woman off the street secretly, back in April, hold her without any kind of acknowledgment that she was being held. They certainly, Mr. Speaker, would not be afraid of a poem. Indeed, it is a good commentary on the Soviet Union that they find a poet, a man being considered for a Nobel Prize, they find a poet as a man they must imprison, they find the wife of a poet to be a woman who is a danger to society. Indeed, if a poet is so guilty of actions against the Soviets, if one poet can mean so much to the people of the Ukraine, if indeed the Soviets are so afraid of a poet on this, the sixth anniversary of the Helsinki accords, we indeed know exactly what the Soviet Union is. The mighty, mighty bear of the Soviet Union must stomp out a poet. Indeed that is a commentary on what the values are of the Soviet Government.

In closing, Mr. Speaker, let me just say to the Soviets that the freedom, that the spirit of commitment of the Ukrainian people both in the United States and in Western Europe and indeed in the Ukraine will not be stomped out. They may still the voice of one poet. They will not still the voice of a free people. And although that people may be occupied by a Soviet force today, the spirit that brought freedom to America will bring freedom to the Ukraine, and the Soviets, as the international criminals that they are, will get their just due.

● Mr. CARNEY. Mr. Speaker, as we approach the sixth anniversary of the signing of the Helsinki accords, we are continually reminded by Soviet actions that the U.S.S.R. has failed to live up to its part of the bargain. In recent years, we have witnessed the every-increasing campaign of repression against dissidents—those free-thinkers, intellectuals and artists who cannot be silent in the fact of Soviet violations of human freedoms and political rights.

It comes to our attention that the crude Soviet tactics have been put to special use in the Ukraine. Mrs. Raisa Rudenko has disappeared from her home in Kiev. Her husband, Mykola Rudenko, is serving a prison term for his role as one of the founders of the Ukranian Helsinki Group. Mr. Rudenko has been in chronically poor health while in prison. The disappearance of Mrs. Rudenko should be of special concern to people in the free world. It is yet another act which a former victim of oppression, Nina Strokata-Karavansky, has aptly termed internal terrorism. Of all the Soviet terror tactics, none can be more heinous than the harrassment and imprisonment of innocent family members.

Mr. Speaker, eight members of the Helsinki Monitoring Committee in the Ukraine already are serving sentences under the most severe repression. The Soviets' focus on innocent family members is especially hateful. We must voice our repudiation of these inhuman actions and request not only that Mrs. Rudenko be freed, but that all the innocent people now imprisoned be released throughout the Ukraine, throughout the Baltic States, and throughout the entire Soviet Union.●

● Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues another blatant violation of human rights. The 4 month disappearance of Raisa Rudenko has justifiably caused her family to worry. She is the wife of political prisoner, Mykola Rudenko. Mr. Rudenko, a Ukrainian poet and member of the Ukrainian Helsinki Group has been imprisoned since 1977. The mysterious disappearance of his wife, Raisa, demonstrates yet another act of internal terrorism by Moscow against Ukrainian dissidents.

It is both an outrage and insult to the free world that incidents such as this one takes place.

I would like to commend Congressman CHARLES F. DOUGHERTY, chairman of the Congressional Ad Hoc Committee on Baltic States and Ukraine for bringing it to our attention and scheduling a special order for today. The Soviet Government must be aware of our concern, and that of every freedom loving people for the courage and perserverance of people like the Rudenkos. As advocates for world justice and universal human rights, we cannot overlook the Soviet's uncalled for actions and violations of the Helsinki agreement, and we call for the release of the Rudenkos.●

● Mr. HUGHES. Mr. Speaker, 6 years ago this Saturday, our Nation, the Soviet Union, and other nations agreed to the Helsinki accords which, among other things, affirmed the fundamental principles of human rights, civil liberties, and self-determination which civilized peoples hold dear. In our country, we see constant evidence of commitment to these principles—open, reasoned dissension unpredictable political outcomes, and popular role. Our country may well mark this anniversary with a renewed affirmation to the right of all our citizens to have access to the ballot box.

Citizens of the Soviet Union, however, have not been so fortunate. A case in point is Mykola Rudenko, a Ukrainian imprisoned for 12 years for what, to the Soviets, is apparently a heinous crime—a commitment to human rights. This Ukrainian poet and writer had the audacity to co-found and chair the Ukrainian Helsinki Group, and for that he must suffer 12 long years of "re-education."

Now, compounding this affront to the principles of Helsinki and of civilized people, Raisa Rudenko, Mykola's wife, has disappeared. In a nation where the activities and location of all dissidents and their families is carefully monitored by the government, the whereabouts of Mrs. Rudenko cannot be accounted for. That this is accidental defies probability. That this is the work of the Soviet Government conforms to experience. In all likelihood, her disappearance is connected to Soviet efforts to subdue the continued dissidence of her imprisoned husband.

For this reason, I would like to join my colleagues, CHARLES DOUGHERTY and BRIAN DONNELLY in asking the Soviet Union to account for the whereabouts of Raisa Rudenko. At the same

time, we must also ask, and pray, for an improvement in the conditions that led to the arrest of Mykola and the disappearance of Raisa, as one small step towards Soviet compliance with the Helsinki accords.●

● Mr. ADDABBO. Mr. Speaker, in the last 24 hours news has reached this country via underground sources in the Soviet Union that Raisa Rudenko, wife of imprisoned Ukrainian poet and writer, Mykola Rudenko, and missing from her home since April 14, is indeed being held against her will by Soviet authorities. In light of these recent developments and of the continuous inhuman treatment of her husband in a Soviet labor camp, I rise with a deep sense of urgency and concern in joining my distinguished colleagues in protesting to the Soviet Union yet another example of their callous, oftentimes total disregard for human rights.

It is most ironic and sad that as the sixth anniversary of the signing of the Helsinki accords approaches, it is evident that the people of the Ukraine and of the Soviet Union as a whole, still find themselves people who are prisoners in their own country, devoid of the most basic human rights, along with the right to be treated with dignity and respect by the State. The story of the Rudenko's is one that has been repeated all to often in the Soviet Union. It is the story of a man who bravely founded the Ukrainian Helsinki Group in November of 1976 to monitor compliance with the Helsinki accords. It is the story of a man who upon founding that group suddenly became a threat to his country in the eyes of the Soviet Union and who today languishes in a Soviet labor camp, protesting his imprisonment and harsh living conditions with hunger strikes. And it is also the story of Raisa Rudenko, harassed, persecuted, and now arrested because of the common practice of "guilt by association" found so convenient by the Soviet authorities.

As we take this opportunity to highlight the tragic plight of Mykola and Raisa Rudenko we are calling to the attention of the world the suffering and despair of all Soviet prisoners of conscience, most not as famous or visible than these two people, yet all equal in the pain and horrors they are forced to endure in labor, psychiatric, and prison camps sprinkled throughout the Soviet Union. The world is waiting to hear of the condition and whereabouts of Raisa Rudenko and thousands like her, and the United States, along with the other free nations of the world, must continue to pressure the Soviets to honor the agreements of the Helsinki accords. Freedom, human rights, and dignity is not something reserved to the special few. Rather, it is a state of mind and a right guaranteed to all.●

● Mr. JAMES K. COYNE. Mr. Speaker, as Americans, we live in a society free of overt and deliberate governmental repression. It is difficult for us to understand the hardships experienced by individuals living under totalitarian regimes. We are not tortured. We are not driven from our homes in the middle of the night by security agents. We are not jailed without trials nor are we charged with crimes that have no legal justification. Finally, we do not live in a constant state of anxiety for everything we do and say.

This lack of freedom, this lack of respect for individual rights is unknown to most Americans, but these conditions are a day-to-day reality for millions of individuals throughout the world.

Two individuals who are particularly familiar with the repressive nature of the totalitarian government are Mykola and Raisa Rudenko. Mykola Rudenko, a founding member of the Ukrainian Helsinki Monitoring Group, and a Nobel Peace Prize nominee, has been imprisoned in a Mordovian corrective labor colony on charges of "anti-Soviet agitation and propaganda." His term is 12 years. Mrs. Rudenko has been missing from her home in Kiev since April 14. It is believed that her disappearance is being used to pressure or influence her imprisoned husband.

The "crimes" allegedly committed by the Rudenkos against the Soviet Union are acts of freedom and conscience. By signing the Helsinki accords in 1975, the Soviet Union pledged to "respect . . . human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief." The Rudenkos and approximately 500 other persons like them have been arrested for merely speaking out in favor of those accords and for documenting where those agreements have been breached.

Our thoughts are with the Rudenkos and I urge that Mrs. Rudenko's whereabouts and her condition be disclosed by Soviet officials. Further, I ask that Mykola Rudenko's physical health be revealed. Finally, I urge that the Soviet Union adhere to those agreements outlined in the Helsinki accords.

We as Americans, fortunate to live in a society void of systematic repression, cannot accept the unnecessary suffering which countless individuals under totalitarian regimes must endure. We must continue to strive for fulfillment of that universal desire—freedom.●

● Mr. BLANCHARD. Mr. Speaker, I would like to bring to your attention another sad chapter in the story of Mykola Rudenko, A Ukrainian prisoner of conscience who is serving a 12-year sentence in a Mordovian corrective labor colony in the Soviet Union. Mr. Rudenko was a founding member of the Ukrainian Helsinki Group, which monitors human rights conditions in the Ukraine. Recently it was learned that Mr. Rudenko's wife, Raisa, has been missing from her home since April 14. News from behind the Iron Curtain is that Raisa Rudenko has not appeared at scheduled appointments and calls to her house have gone unanswered. It has been speculated that her disappearance may be used as a tool by the Soviets against her husband, who has reportedly conducted hunger strikes in his prison cell.

Our experience has been that we can sometimes alleviate the suffering of certain Soviet prisoners by focusing public attention on their plight. This is why I am joining my colleagues today in support of Raisa Rudenko. We are asking that her whereabouts be accounted for immediately by the Soviet Union.

It is particularly fitting to point out that this request is being made within a few days of the sixth anniversary of the signing of the Helsinki accords.

I urge my colleagues to join me in asking the Soviet Union to account for the whereabouts of Raisa Rudenko.●

● Mr. BAILEY of Pennsylvania. Mr. Speaker, it is with heartfelt sincerity that I join this special order today to help bring attention to a woman, Raisa Rudenko, whom we hope will be found safe and sound. Raisa is the wife of a famous writer, Mykola Rudenko, a founding member of the Ukrainian Helsinki Group, which monitors human rights in the Ukraine. Sadly and unjustly, Mykola is being held prisoner of conscience serving a 12-year sentence in a Mordovian corrective labor colony in the Soviet Union.

This, in and of itself is a tragedy. Mykola should be accorded respect and admiration for his great efforts to promote human rights. He was instrumental in fashioning the list of agreements of the Helsinki Conference which were agreed to by some 35 nations, including the U.S.S.R. One of the agreements was that the signing nations "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief."

Incredibly, more than 500 persons have been imprisoned in Russia for expressions of conscience since then. Soviet authorities deemed the acts and words "anti-Soviet agitation." It most certainly is not agitation. These expressions of dedicated concern for fellow human beings are of the most important emotions than any one person can harbor. We, as a nation which enjoys Democratic freedom and inalienable rights, cannot turn our backs on injustices such as the cruel imprisonment and torture of such a

fine man as Mykola. We also cannot ignore the most recent injustice to him—the disappearance of his wife Raisa. She has been mysteriously missing from her home since April 14, 1981. She has not appeared at scheduled appointments and calls to her home have gone unanswered. It is believed that her disappearance may be used as a tool by the Soviets against her husband, who has reportedly conducted hunger strikes in his prison cell.

If it is true that by bringing attention to certain Soviet prisoners, we in the United States can sometimes alleviate their suffering, I offer my wholehearted support to the effort. Remembering the sixth anniversary of the Helsinki accords is upon us, I join my colleagues in requesting that Mykola's health, nourishment, and well-being is given the appropriate attention and that a full search for his wife be instituted by the proper authorities. This type of inhuman and cruel treatment can never and will never be tolerated by our country.●

● Mr. PEPPER. Mr. Speaker, distinguished colleagues, it has recently come to my attention that Mykola Rudenko's wife, Raisa Rudenko, has disappeared just before the sixth anniversary of the signing of the Helsinki accords, in which the Soviet Union pledged its solemn faith and promise to allow greater democratic freedoms and civil rights in Communist Europe, including the Soviet Union.

One of the measures of internal despair and dissatisfaction with the Soviet government is the degree to which free expression of opinion is suppressed and the covert, brutal means of their physical repression. Mr. Rudenko, a writer and Ukrainian nationalist, who spoke out against brutal domination of his homeland, the Ukraine, has been languishing in Russian jails under a 12-year sentence for being a member of a group to monitor internal freedoms in the Soviet Union. Now his wife has "disappeared" from public and cannot be found at home. There is something rotten in a system promising happiness and throwing people in jail for using innocent and nonviolent means of seeking their physical and intellectual integrity and satisfaction within the benign framework of untrammeled human society.●

● Mr. DERWINSKI. Mr. Speaker, we recently commemorated the 23d observance of Captive Nations Week in the House. On that date, we directed attention to the plight of those people held captive in the U.S.S.R. and in other Communist countries. Today, we bring attention to the Soviet violation of the Helsinki human rights agreement and to the plight of Mykola Rudenko and his wife, Raisa, who are Ukrainian nationalists.

The people of the Ukraine continue to be victimized by the repressive internal policies of the Soviet Government, which deprive them of their cultural, political, and religious freedoms. One such victim is Mykola Rudenko. Rudenko, serving a 12-year sentence in a Mordovian correction labor camp in the Soviet Union, is a founding member of the Ukrainian Helsinki Group, which is responsible for monitoring human rights conditions in the Ukraine. The one-time politically oriented charges used by Soviet authorities against prisoners of conscience is now being replaced by fabricated criminal charges. Rudenko was arrested in February 1977, on the charges of anti-Soviet agitation and propaganda. He went on a prolonged hunger strike in 1980, and then underwent surgery early this year.

Soviet authorities have, in the meantime, released no information on his physical condition. However, in the most recent news concerning the repressed member of the Ukrainian Helsinki Group, information from the Ukraine indicated that Mrs. Rudenko has been missing from her home since April 14.

Mr. Rudenko's wife, Raisa, has not appeared at scheduled appointments and meetings since this time. It has been speculated that her disappearance may be a Soviet ploy to bring pressure on her husband to end his hunger strike. Her disappearance is a subject of major concern. As to whether she is alive or another victim of the planned internal terrorism in the U.S.S.R. are questions that remain unanswered.

It is important for the United States to continue to champion the rights of national, cultural, and religious freedoms for all peoples held captive. I have introduced a resolution (H. Con. Res. 123) which urges diplomatic action in helping to restore the free exercise of religion in the Ukraine. The Soviet rulers continue to ruthlessly suppress the freedom of religion as a method to diminish the spirit and longing for independence among Ukrainian nationals. From the viewpoints of human rights, religious genocide, and U.S. interest in the largest non-Russian nation in Eastern Europe, this resolution has considerable significance. The Senate companion measure, Senate Concurrent Resolution 18, recently passed the full Senate, and it is my hope that the House will act in the same manner.

I join with my colleagues in sharing our hopes that Raisa and Mykola Rudenko will one day be free and their country will no longer suffer under Soviet domination.

In closing, I wish to insert a pastoral letter by the patriarch of the Ukrainian Catholic Church, Yosyf Cardinal Slipyi on the occasion of the recent commemoration of the 40th anniversary of the act of restoration of the Ukrainian independent state:

PASTORAL LETTER BY THE PATRIARCH OF THE UKRAINIAN CATHOLIC CHURCH METROPOLITAN YOSYF CARDINAL SLIPYI ON THE 40TH ANNIVERSARY OF THE ACT OF RESTORATION OF THE UKRAINIAN INDEPENDENT STATE

In the first half of the troubled twentieth century the Ukrainian nation twice found itself in the midst of dreadful wars which shook the world, changed its political face and created new and complicated circumstances with tensions and crises in the economic, cultural and even church life. Empires and states fell, small humbled peoples rose, ruling social classes vanished, new both healthy and damaging trends and ideologies came into being. This, in fact, is the image of man who has gone through history carrying the burden of the wound of the original sin while with his troubled heart searched for the highest good, which is God. But, unfortunately, man frequently substituted God for his theories, selfishness, and dreams about a paradise on earth.

After two centuries of existence on their land under foreign and enemy occupation, the Ukrainian people in those two wars could say in the words of priest Mattathias, the father of the famous Maccabees: "Is there a nation that has not usurped her sovereignty, a people that has not plunder her? She has been stripped of all her adornment, no longer free, but a slave" (I Mac. 2:10-11). It is for this reason that on the stormy sea of history because of wars, our people wanted to secure a free harbour of their own, a state on their own land with their own Church and their own rights, and based on their own truth and will—just as it is with other nations. This is why, like other neighbouring nations, our nation courageously plunged into the vortex of events ready to sacrifice the life of its sons in order to secure its own statehood.

The struggle for a nation's statehood has its roots in the natural law of man, who was created to lead a community life. The state has its roots in human nature which, in turn, has an inborn propensity to unite into larger communities for the purpose of safety and public order, for the progress and development of man. The state, as a need of human nature, is a requirement of that eternal moral law that the Creator instilled in the human heart and which we call the Natural Law. This is why the state and its respective authority do not derive from some casual circumstances, but rather from the Natural Law. In this context the Church teaches that both the state and the state authority come from God, the Creator of the Natural Order. Man as a person existed before the state and has his natural rights. This is why the individual cannot be discarded in a state organism because the state is neither an end in itself nor is it a goal for man. Rather, the goal and mission of the state is the welfare of the individual person, the defense of the natural law, moral principles and the observance of the Ten Commandments.

A state is for a people what home is for a family. The state is a spiritual edifice where a nation rears itself, leads a free life, fulfills freely and with dignity its duties with respect to God and fellow men, happily and justly arranges its earthly life and peacefully contributes its spiritual and material share to the coexistence of all the peoples of the world. Statehood is both a dream and a right of every nation. In the history of our salvation we see how God cares that a

nation, through whom God's design for salvation was to be realized, has a land of its own, has a free existence in its own state for the observance of God's Commandments and God's word.

The worth of a nation can be judged precisely by this healthy desire to have its own home, its own state. Even the great nations in history fell and perished when they lost that will to be themselves and live a free life on their own land in peace and justice. How numerous are in history those peoples who became extinguished for having led a nomadic life of pillage living at the expense of others without ever thinking about a state of their own, about peace with other peoples, and about justice! Our nation, who, having been given by God a fertile and rich land, lived on that land, defended it, and always yearned to be its sovereign master. It is for this reason that when our nation became subjugated it defended its liberty and its land with courage and selflessness and built its state whenever it managed to secure it. However, not always such endeavour met with success. This happened not only because of man's historic wickedness and greed for the riches of others, but also because we ourselves lacked high and noble statesmanly Christian qualities which resulted in our historical humbling and which, nevertheless, God turned to our advantage: "It is good for me that I have been afflicted; that I might learn thy statutes" (Psalms, 119:71).

This year we observe the fortieth anniversary of our nation's second attempt in this century to regain and secure its own state with the Proclamation of Restoration of the Ukrainian State in June 1941. Those were hard times and the circumstances were cruel. But we did not surrender ourselves to a soulless drift on the waves of events hoping for man's pity. As soon as the right moment came we courageously declared before history and the world our desire for statehood. We proclaimed this statehood in order to emphasize our rights and our place amongst the nations of the world. That was a bold step taken by a nation whose spirit never perished during its long bondage. At the time when mad theories about race, "new Europe" and a "new world" with one people ruling over all others were on the march to enforce by fire and sword such an ideology, and on the other side the greatest tyranny in history oppressed our land and was implementing its godless and inhuman order at the cost of millions of victims of famine and terror, our nation proclaimed its natural right to independence and statehood. This is a great act which should educate us and make us better regardless of our personal thinking or different political beliefs. A nation ought to want a state of its own; a nation in bondage ought to think about it and strive for it if it wants to join the "community of free nations", if it does not want to be constantly a slave of its stronger or more clever neighbours.

Let us remember this event of the Restoration of our statehood in 1941 with greatfulness towards God who guarded us in the midst of menacing historical events and kept us for His great designs according to God's principle that "My strength is made perfect in weakness" (2 Cor. 12:9). Let us remember those great sons of our Ukraine who laid their lives so that the entire nation may be free. This is a great offering of love and self-sacrifice. Let us remember in our prayers also those of our sons who in prisons and exile continue this great testimony on behalf of freedom, truth and justice, wishing only one thing—that we may be free.

May the observance of this event give us unity and a common wish to be a free nation in the family of free nations for the glory of God.

May God bless you.

YOSYF, *Patriarch and Cardinal.*

ROME, *1 June 1981.*●

● Mr. DWYER. Mr. Speaker, there is a sad irony in that today, as we embark on the sixth anniversary of the signing of the Helsinki accords, we find the Soviet Union in total violation of the precepts of that pact, now adding the wives of its prisoners of conscience to its hit list.

Raisa Rudenko, wife of Ukrainian human rights activist and prisoner of conscience, Mykola Rudenko, has been mysteriously absent since early spring, and there is deep and growing concern that her disappearance can be attributed to Soviet authorities, frustrated in the face of the powerful inspiration provided by her husband. To their chagrin, the Soviets have discovered that even imprisonment cannot still the profound message of this prolific Ukrainian patriot.

So the Soviets must attack his spouse, wage their battle on yet another front, which causes us to wonder exactly what those landmark Helsinki agreements really mean 6 years hence.

Apparently not much as far as the Soviets are concerned. The principles of self-determination and the protection of fundamental freedoms of thought, conscience, religion, and belief, as well as support for the freer movement of people, ideas, and information are pivotal elements of the Final Act.

Yet, these provisions have been conveniently ignored by the Soviets when it suits them, which lately, has been most of the time. We are witnessing stepped-up acts of repression and a marked decrease in the current rate of emigration, despite the internationally recognized right of repatriation espoused by the Helsinki accords and their 35 participating nations.

I want to thank my two colleagues on the Ad Hoc Congressional Committee on the Baltic States and the Ukraine, Mr. DOUGHERTY and Mr. DONNELLY, for calling this special order and join them in their urgent call for the Soviets to account immediately for the whereabouts of Raisa Rudenko.

This action provides yet another test of the strength of the Soviet commitment to the Helsinki accords, after 6 years of an implementation that has been at its best, minimal compliance, and at its worst, has proven to be a continued policy of repression: forced allegiance to a Soviet authority that by its very nature preempts such loyalty and breeds discontent among those, like the Rudenkos, who are too brave and proud to give up their dream of freedom.●

● Ms. OAKAR. Mr. Speaker, the Ukrainian Helsinki Monitoring Group was formed nearly 5 years ago in November 1976. The organizer and leader of the group was a distinguished Ukrainian poet and novelist, Mykola Rudenko. Mr. Rudenko had reached the top of his profession, selling many hundreds of thousands of books, heading the Writers' Union of Ukraine and enjoying all the benefits accorded the top achievers and the privileged in the Soviet Union. He gave all of that up to become an outspoken activist for human rights in the Ukrainian S.S.R. The Ukrainian Helsinki Group demanded the implementation of the elementary human rights enumerated in Basket III of the Helsinki Final Act. They wanted to see them guaranteed in fact, not just on paper. They also demanded the inclusion of the Ukrainian S.S.R. in all international gatherings. A nation of 50 million people, they argued, has every right to its own equal voice in international life.

For speaking out so boldly, Mykola Rudenko and the other members of the Ukrainian Helsinki Monitoring Group were subjected to harsh repression. It began with vandalism and harassment and ended with long prison terms in atrocious conditions. Mykola Rudenko—a decorated war veteran with severe back wounds—was given a 12-year sentence. He is still in the camps of the Gulag Archipelago.

Throughout his ordeal, Mykola Rudenko had a courageous partner who aided his work, supported his efforts and shared his risks and triumphs. I speak of his wife, Raisa Rudenko, who had been waging a lonely 3-year campaign in defense of her imprisoned husband. Now she too, apparently, has fallen victim to KGB terror. She has been missing from her home since April 14. Since then she has not appeared at any scheduled appointments, nor has been at her home in Kiev. Inquiries about her have fallen on deaf ears. I share the concern of Ukrainian Americans and others who are committed to human rights for the well-being of Raisa Rudenko. I urge the United States to make inquiries as to her whereabouts and her health. I call for the release of her husband, Mykola Rudenko—a Nobel Peace Prize nominee—as well as the release of all those who had acted on their rights—the very rights listed in the Helsinki agreement and ratified by the Soviet Union in 1975. It should not be a crime to work for the establishment of a more humane, more democratic society in the Ukrainian S.S.R. or anywhere else in the Soviet Union. The fact that the Soviet Government considers such actions criminal speaks of the poverty of their system and the greatness of people like Mykola and Raisa Rudenko.●

LEGISLATION TO SAVE THE SOCIAL SECURITY SYSTEM "MINIMUM BENEFIT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation to save the social security system "minimum benefit" under the old-age, survivors, and disability insurance program.

Recently, Mr. Speaker, both Houses of Congress passed, within the budget reconciliation package, provisions that will eliminate the "minimum benefit" to present and future social security beneficiaries. On Tuesday, July 21, I voted with the overwhelming majority of the Members of this House—by a margin of 405–13—for House Resolution 181. This measure urged the joint House-Senate Conference Committee to preserve this benefit, and not to report legislation which would strike the "minimum benefit." Unfortunately, the conferees have recently recommended that this benefit be eliminated.

In an effort to counter the Conferees' action, I am sponsoring this legislation which would strike section 2201 of the Omnibus Budget Reconciliation Act of 1981 on the day it is due to become effective. This is the section of the Reconciliation Act which would eliminate the "minimum benefit" for 3 million current beneficiaries.

Mr. Speaker, an analysis of actual program data supplied by the Social Security Administration indicates that most beneficiaries of the minimum payment are women and retired workers over the age of 65. Among retired workers alone there are about 1.5 million beneficiaries 70 years or older, about 532,000 beneficiaries 80 or older, and about 80,000 beneficiaries 90 or older.

The Social Security Administration estimates that of the 3 million minimum beneficiaries, only 1.2 million would experience no actual reduction in monthly benefit amounts. One million of the 1.2 million are dually entitled so that their spouse's benefit would simply increase so as to replace their workers benefit formerly based on the minimum payment. Another 200,000 minimum beneficiaries actually have earned benefits as large as the minimum benefit, but for some reason have been designated minimum beneficiaries.

This leaves, however, 1.8 million remaining minimum beneficiaries who would experience some loss of social security benefits. About 450,000 to 500,000 persons probably would receive supplemental security income (SSI) to offset their loss from elimination of the "minimum-benefit." Perhaps as many as 1 million more could apply for SSI benefits but is questionable whether they would. This would still leave at least 800,000 persons unaccounted for and without alternative sources of income.

Mr. Speaker we must concern ourselves with all of these people when we consider the legislation I am proposing, Like most of my colleagues in this House, I am concerned that people who are accustomed to receiving a certain dollar level from social security each month will face a severe hardship if their benefits are cut. I feel it is imperative to continue this benefit due to the large numbers of women, surviving children, and very elderly who depend upon this small check to help make ends meet.

I urge all of my colleagues who share this concern to work for the passage of this important legislation.

Mr. Speaker, I am proud that several Members here joined me today and have cosponsored my bill.

These include: Mr. NAPIER, Mr. MOLINARI, Mr. NELLIGAN, Mr. SHELBY, Mr. CONYERS, Mr. MOLLOHAN, Mr. ADDABBO, Mr. EDGAR, Mr. GILMAN, mr. HOLLENBECK, Mr. MAZZOLI, Mrs. HECKLER, and Mr. EMERSON.

□ 1820

THE 13th ANNIVERSARY OF THE SOVIET DAY OF SHAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on August 21, the people of Czechoslovakia and Americans of Czechoslovakian descent will commemorate the 13th anniversary of the 1968 invasion of Czechoslovakia by the Soviet Union. On this day, about 500,000 men, who were sent by the Soviet totalitarian oppressor took over this peace-loving Czech nation and suppressed all moves toward freedom and liberty, repudiating and negating almost every article in the United Nations Declaration of Human Rights.

This unprovoked act by the Soviet Union serves as a bitter and grotesque reminder to the world that there is no place for belief in human freedom and human dignity in the ideology of the barbaric Soviet authorities running the Kremlin. Today, Soviet brutality and inhumanity still rule in the captive nation of Czechoslovakia. Therefore, we, as Americans, must be persistent in our continual just support of Czechoslovak people in their genuine desire for self-determination and freedom from outside domination.

Mr. Speaker, a statement on the Soviet invasion of Czechoslovakia follows by the Czechoslovak National Council of America:

FREEDOM IS INDIVISIBLE

On this sad occasion of the thirteenth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations.

The brutal Soviet aggression and occupation:

(1) Violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) Was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) Violated the principle of self-determination of peoples (Article 1, Section 2);

(4) Was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) Was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a Day of Soviet Shame in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "The withdrawal of Soviet troops from Czechoslovakia."●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOUGHERTY) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. COLLINS of Texas, for 30 minutes, today.

Mr. MCCLOSKEY, for 60 minutes, on July 30.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mr. LAFALCE, for 30 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SYNAR, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOUGHERTY) and to include extraneous matter:)

Mr. GREEN in three instances.
Mr. COURTER in two instances.
Mr. MCDADE.
Mr. DORNAN of California.
Mr. FINDLEY.
Mr. GILMAN in three instances.
Mr. DERWINSKI in three instances.
Mr. SMITH of New Jersey.
Mr. DANNEMEYER.
Mr. MCGRATH.
Mr. RITTER.
Mr. LOWERY of California.
Mr. PORTER.
Mr. RAILSBACK.
Mrs. HOLT.
Mr. JAMES K. COYNE.
Mr. MCCLOSKEY.
Mr. COLLINS of Texas in two instances.
Mr. GUNDERSON.
Mr. FISH.
Mr. HYDE.
Mr. FIELDS.
Mr. SMITH of Oregon.
Mr. LEE.
Mr. PHILIP M. CRANE.
Mr. CORCORAN.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. UDALL.
Mr. BAILEY of Pennsylvania.
Mr. STOKES in five instances.
Mr. DWYER.
Mr. HAMILTON.
Mr. SYNAR.
Mr. HUBBARD.
Mr. HOWARD in two instances.
Mr. IRELAND.
Mr. MAVROULES.
Mr. MINETA in two instances.
Mr. EDGAR.
Mr. LEHMAN.
Mr. ROSENTHAL.
Mr. FRANK.
Mr. LAFALCE.
Mr. LELAND in two instances.
Mr. BLANCHARD.
Mr. SWIFT.
Mr. SCHEUER in two instances.
Mr. LONG of Maryland in two instances.
Mr. GEJDENSON.
Mr. ROYBAL.
Mr. ROSE.
Mr. DONNELLY.
Mr. MAZZOLI.
Mr. HALL of Ohio.
Mr. WIRTH.
Mr. BEDELL.
Mr. SOLARZ.
Mr. CONYERS.
Mr. DORGAN of North Dakota.
Mr. WEISS.
Mr. LUNDINE.
Mr. FAZIO.
Mr. GRAY.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Thursday, July 30, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows;

1920. A letter from the Deputy Director, Defense Mapping Agency, transmitting notice of the agency's intention to study the conversion from in-house operation to commercial contract of various functions at sundry locations, pusuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

1921. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-70, "To extend the legal effectiveness of documents not published in the District of Columbia Municipal Regulations," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1922. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-71, "To establish a procedure for consideration of reorganizations of the District of Columbia government, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1923. A letter from the Acting Secretary of the Interior, transmitting a proposed 5-year leasing program for offshore oil and gas, pursuant to section 18 of the Outer Continental Shelf Lands Act, as amended; to the Committees on Interior and Insular Affairs.

1924. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on equal opportunity in the foreign service, pursuant to section 104(c) of Public Law 85-315, as amended; jointly, to the Committee on the Judiciary and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. House Joint Resolution 207. Joint resolution to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial; with amendment (Rept. No. 97-206). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 772. A bill to provide for the retention of the name of Mount McKinley; with amendment (Rept. No. 97-207). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. ANDERSON:

H.R. 4320. A bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws; to the Committee on the Judiciary.

Mr. BEDELL:

H.R. 4321. A bill to amend the Federal Property and Administrative Service Act of 1949 to require the General Services Administration to acquire alcohol-fueled vehicles for use by the Federal Government; to the Committee on Government Operations.

Mr. COLLINS of Texas:

H.R. 4322. A bill to amend the Internal Revenue Code of 1954 to provide that the credit for producing natural gas from a nonconventional source shall apply only to natural gas sold at a lawful price which is neither an uncontrolled price nor an incentive price; to the Committee on Ways and Means.

Mr. CONYERS:

H.R. 4323. A bill to amend the Internal Revenue Code of 1954 to encourage economic growth and improve fairness through reductions in individual income tax rates, reform of the treatment of depreciable property, incentives for small businesses, and for other purposes; to the Committee on Ways and Means.

Mr. DOWNEY:

H.R. 4324. A bill to reduce the tariff on caffeine; to the Committee on Way and Means.

By Mr. GREEN (for himself, Mr. HORTON, Mr. VENTO, Mr. ZEFERETTI, Mr. ADDABBO, Mr. BONKER, Mr. FORSYTHE, Mr. SCHEUER, Mr. STARK, Mr. BENJAMIN, Mr. ROE, Mr. YATRON, Mr. SIMON, Mr. ROSENTHAL, Mr. IRELAND, Mr. SCHUMER, Mr. MURPHY, Mr. BAFALIS, Mr. SOLARZ, Mr. BURGENER, Mr. FAZIO, Mr. MARKEY, Mr. COTTER, Mr. FISH, Mr. CORCORAN, Mr. CORRADA, Mr. BINGHAM, Mr. RICHMOND, Mr. GUARINI, Mr. STOKES, Mr. HUGHES, Mr. CROCKETT, Mr. PEPPER, Ms. FERRARO, Mr. OTTINGER, Mr. GILMAN, Mr. AUCOIN, Mr. GARCIA, Mr. NAPIER, Mr. BEILENSON, and Mr. LANTOS):

H.R. 4325. A bill to enhance the detection of motor vehicle theft and to improve the prosecution of motor vehicle theft by requiring the Secretary of Transportation to issue standards relating to the identification of vehicle parts and components, by increasing criminal penalties applicable to trafficking in stolen vehicles and parts, by curtailing the exportation of stolen vehicles and self-propelled mobile equipment, and by establishing penalties applicable to the dismantling of vehicles for the purpose of trafficking in stolen parts, and for other purposes; jointly, to the Committees on Energy and Commerce, Foreign Affairs, the Judiciary, Post Office and Civil Service, and Ways and Means.

By Mr. LAFALCE:

H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for

technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; to the Committee on Small Business.

By Mr. MAZZOLI (for himself, Mr. SAM B. HALL, Jr., Mrs. SCHROEDER, Mr. FRANK, Mr. FISH, Mr. LUNGREN, and Mr. MCCOLLUM):

H.R. 4327. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. NAPIER, Mr. MOLINARI, Mr. NELLIGAN, Mr. SHELBY, Mr. CONYERS, Mr. MOLLOHAN, Mr. ADDABBO, Mr. EDGAR, Mr. HOLLENBECK, Mr. GILMAN, Mr. MAZZOLI, Mrs. HECKLER, and Mr. EMERSON):

H.R. 4328. A bill to assure the continued payment of the statutory minimum benefit under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. COURTER:

H.J. Res. 314. Joint resolution to provide for the designation of December 7, 1981, as "National Pearl Harbor Remembrance Day" on the occasion of the 40th anniversary of the attack on Pearl Harbor; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FRANK introduced a bill (H.R. 4329) for the relief of Jesse Epstein, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 644: Mr. HAGEDORN.

H.R. 808: Mr. HYDE and Mr. BRINKLEY.

H.R. 2319: Mr. GINGRICH, Mr. LAGOMARSINO, Mr. GUNDERSON, Mr. EDGAR, and Mr. MITCHELL of Maryland.

H.R. 3575: Mr. BRINKLEY, Mr. DUNN, Mr. GRADISON, and Ms. OAKAR.

H.R. 3778: Mr. STENHOLM and Mr. KRAMER.

H.R. 3793: Mr. O'BRIEN and Mr. ROBERT W. DANIEL, JR.

H.R. 4147: Mr. WRIGHT.

H.J. Res. 273: Mr. LEBOUTILLIER, Mr. RAHALL, Mr. HUTTO, and Mr. SIMON.

H. Res. 176: Mr. MARKS.

H. Res. 197: Mr. ADDABBO, Mr. AKAKA, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. AUCOIN, Mr. BAILEY of Pennsylvania, Mr. BARNES, Mr. BEDELL, Mr. BINGHAM, Mr. BROWN of California, Mr. CONYERS, Mr. CROCKETT, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DOWDY, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. FRANK, Mr. GORE, Mr. GRAY, Mr. HAMILTON, Mr. HARKIN, Mr. HERTEL, Mr. HOYER, Mr. KASTENMEIER, Mr. KILDEE, Mr. LEHMAN, Mr. LONG of Maryland, Mr. MARKEY, Mr. MATSUI, Mr. MOFFETT, Mr. MURTHA, Mr. OBERSTAR, Mr. OTTINGER, Mr. PATMAN, Mr. Patterson, Mr. REUSS, Mr. RICHMOND, Mr. SABO, Mr. PEPPER, Ms. OAKAR, Mr. BONIOR of Michigan, Mr. BROOKS, Mr. CLAY, Mr. COELHO, Mrs. COLLINS of Illinois, Mr. WILLIAM J. COYNE, Mr. D'AMOURS, Mr. DWYER, Mr. DYMALLY, Mr. EARLY, Mr. ECKART, Mr. EDGAR, Mr. EDWARDS of California, Mr. ERTEL, Ms. FERRARO, Mr. FORD of Michigan, Mr. HEFTEL, Mr. HOWARD, Mr. LELAND, Mr. LOWRY of Washington, Mr. MCHUGH, Mr. MATTOX, Ms. MIKULSKI, Mr. MILLER of California, Mr. PEASE, Mr. PEYSER, Mr. RATCHFORD, Mr. ROYBAL, Mr. SAVAGE, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SIMON, Mr. STRATTON, Mr. WALGREN, Mr. WYDEN, Mr. WEISS, Mr. WOLPE, Mr. ST GERMAIN, Mr. SANTINI, Mr. SCHEUER, Mr. STOKES, Mr. WASHINGTON, Mr. WEAVER, Mr. RODINO, Mr. YOUNG of Missouri, Mr. MURPHY, Mr. MAVROULES, Mr. FITHIAN, Mr. KOGOVSEK, Mr. SHARP, Mr. NEAL, Mr. FARY, Mr. BLANCHARD, Mr. UDALL, Mr. FLORIO, Mr. DASCHLE, Mr. HAWKINS, Mr. TRAXLER, Mr. ALBOSTA, Mr. BRODHEAD, Mr. MOLLOHAN, Mr. SOLARZ, Mr. JONES of Tennessee, Mr. MICA, Mr. SYNAR, Mr. NOWAK, Mr. WILLIAMS of Montana, Mr. DOWNEY, Mr. LUNDINE, Mr. GEJDENSON, Mr. LEHMAN, Mr. BENNETT, Mr. WRIGHT, Mr. GILMAN, Mr. GARCIA, Mr. JEFFORDS, Mr. MITCHELL of Maryland, Mr. ROE, Mr. RAHALL, Mrs. HOLT, Mr. LUKEN, Mr. ZEFERETTI, and Mr. GONZALEZ.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3603

By Mr. FRANK:

—Page 61, line 4, strike out "AND SUNFLOWER".

Page 61, beginning on line 10, strike out "sugarcane, and sunflower seeds" and insert in lieu thereof "and sugarcane".

Page 61, line 11, insert "and " at the end thereof.

Page 62, strike out line 8 and all that follows through line 15.

H.R. 4121

By Mr. SIMON:

—Page 10, line 14, insert immediately before the period the following: *": Provided,* That except in accordance with section 404 fo title 39, United States Code, no part of any funds appropriated under this title shall be available to plan, administer, or implement the closure or consolidation of any post office".

H.R. 4169

By Mr. SENSENBRENNER:

—On page 26, strike line 7 and all that follows through line 14.

By Mr. FARY:

—On Page 14, line 6, strike out the colon and all that follows through and including line 9 and insert in lieu thereof a period.

EXTENSIONS OF REMARKS

HONORING ABRAHAM MARGOLIES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LANTOS. Mr. Speaker, the freedom and opportunities of this country have blessed many with success.

Today I would like to honor one such American—one who continues to work diligently for this land and its people. Abe Margolies was born in New York City's Harlem. His parents were penniless immigrants from Russia. Along with his five brothers and two sisters, Abe was raised with strong values and high ideals that compensated for the lack of material wealth in his home.

Due to poor eyesight and a serious leg injury, Abe's strong effort to enlist for military service during World War II was rejected by the Army. About this time he married his wife, Gertrude, who glowingly refers to her husband of 40 years as "the most wonderful man in the world."

The success that met him as he launched his career in the jewelry and diamond setting business, Abe modestly attributed to "being in the right place at the right time."

He now employs hundreds in the manufacturing of diamond and gold jewelry, in restaurant management, plus periodically in major theatrical productions. But Abe Margolies is known for devoting substantial portions of time and energy to important philanthropic activities outside of business.

Always an enthusiastic sportsman, he takes particular pleasure in sponsoring a ghetto basketball team and providing playground equipment for ghetto sports and activities.

The chemotherapy lab set up by Abe Margolies at Mount Sinai Hospital offers hope and help to hundreds of patients of all faiths yearly.

It has been Americans like Abe Margolies who replenished the greatness of this country not only by providing jobs for hundreds, but by devoting his own life to bettering and enriching the lives of those around him. His wife, his two daughters, his five granchildren, and countless others join my family in grateful tribute today to a fine American.●

BITTER REACTION TO CBS's "BITTER VICTORY"

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. DORNAN of California. Mr. Speaker, on June 29, 1981, CBS began airing a special news report entitled "Vietnam Today: Bitter Victory," an allegedly closeup look at Communist Vietnam today. The CBS news team, noted for its hardnosed reporting when it comes to such countries as Chile, Argentina, and El Salvador, appeared uncharacteristically timid in its treatment of the totalitarian regime of Vietnam. No mention was made of the boat people, no discussion of how many political prisoners are being held, nothing about freedom of the press, civil liberties, or housing. Instead, the media message was that Hanoi wants desperately to normalize relations with the industrialized countries of the West, including the United States.

Accuracy in Media's chairman, Reed Irvine, has once again done the Nation a service by exposing the double standard employed by some members of the news media when it comes to the criticism of socialism or communism. I submit Mr. Irvine's excellent analysis for the RECORD.

BITTER REACTION TO CBS'S "BITTER VICTORY"

On June 29, CBS ran an ad in The New York Times that was headed, "Vietnam Today: Bitter Victory." It said: "Six years ago, Americans fought a war—and lost. Today, the country that won is losing the peace. Starting tonight, CBS News takes a close-up look at what's happening in Vietnam now. The disastrous economy. The patchwork military. The looming threat of China. The uneasy presence of Russia . . . Exclusive footage reveals a country in turmoil—threatened by the East and isolated from the West. And most unusual of all—looking to the United States for help."

Captions on accompanying pictures read: "Infant malnutrition is everywhere;" "Cannibalized spare parts for Vietnam's makeshift industry;" and "Sagging productivity." Viewers were urged to watch a half-hour special report, "Vietnam Today" and also two segments about Vietnam that were to be shown on the CBS Evening News.

The ad seemed to promise that CBS was going to demonstrate that the communist victory in Vietnam had been a disaster for the Vietnamese people. It would presumably make the point that the promises of the communists are worthless. They fool people into thinking they are going to bring them a better life, and they deliver misery. Perhaps CBS News would even contrast what has happened in Vietnam with that famous headline in The New York times on April 13, 1975 which read, "Indochina Without Americans: For Most, a Better Life."

Some even thought that the CBS program might show that the only hope for the people of Vietnam was to get rid of the communist tyranny that has ruled their economy, robbed them of their liberties, and driven hundreds of thousands into exile and into watery graves in their desperate effort to escape communist rule.

A PARTIAL PICTURE

The programs showed Vietnam to be in terrible shape, but the picture was incomplete. No one at CBS News had planned a comprehensive feature on what has happened to Vietnam under communist rule. Had they done so, here are some of the things that they would have been obliged to discuss:

1. The state of agriculture, industry, and commerce
2. The number and treatment of political prisoners
3. The forced movement of over a million city dwellers to undeveloped and barren regions
4. Wages and prices, working conditions, trade unions
5. The expulsion of the Chinese residents
6. The "boat people," the flight of hundreds of thousands into exile
7. The disappearance of the Viet Cong leaders
8. The rule of the Northerners over the Southerners
9. Vietnam's expansion into Cambodia and Laos
10. What has happened to health, housing, and education
11. What has happened to freedom of the press
12. What has happened to civil liberties, free elections
13. The standard of living, availability of food and consumer goods
14. What the Soviets are giving and what they are getting
15. Why the system is failing and what those who helped the communists win are now thinking.

Against this list, here is what CBS actually discussed:

1. The state of industry, as exemplified by a plant making electric fans. Conditions were bad, with shortages of needed materials and low productivity.

2. One prison camp was shown where 460 former high-ranking South Vietnamese officials and officers are held. Those interviewed said they were well treated. There was no mention of how many political prisoners are held in such camps, nor were there any interviews with any exiles who had been imprisoned in the concentration camps, which CBS referred to by the communist name, "re-education camps." CBS did interview former Vietnam Vice President Nguyen Cao Ky, who said that one of the prisoners who spoke favorably of the Americans would surely be punished. He also observed that the camp was undoubtedly one of the best, since the communists had allowed pictures to be taken. However, Ky had no personal experience with the camps, and his credibility is not high among those who were critical of the war. Doan Van

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Toai, a former anti-war student leader who was imprisoned by the communists and who has written a book, The Vietnam Gulag, (published in France) would have been a better witness on this point. Toai put the number of prisoners in the labor camps at 800,000 two years ago, when he made his escape.

3. Health came in for considerable discussion. The absence of medicines was emphasized. Children suffering from blindness said to be caused by malnutrition were shown, as were babies who were dying or had died of malnutrition. A Vietnamese doctor was shown saying of one of these babies, in French; "It's always the same problem. The mothers don't have enough to eat and at the same time they can't breastfeed the babies." Dan Rather translated that simply as, "Always malnutrition of mothers, of babies," says Dr. Hoa. "Always the same problem. Always malnutrition." Some viewers who understood French wondered if the incomplete translation had anything to do with the infant feeding formula controversy. An accurate translation might have reminded viewers that there is a place for substitutes for mother's milk in impoverished countries. CBS Producer Sam Roberts denied any such connection.

4. The shortage of food was also discussed by showing empty shelves in the state-run market, with the comment that there are shortages of food, shortages of everything.

5. It was reported that the Soviets are providing mainly military aid, not much in the way of economic aid. Nothing was said about amounts.

6. The main reason for the economic problems that came through in the programs was the inadequacy of foreign aid. The Soviets aren't giving enough, and the U.S. is giving nothing. However, at one point in the segment aired on the Evening News on June 29, Morley Safer did suggest another explanation, saying: "They blame the weather and the war, but the real enemy is that plague of socialism—of any centrally authorized system—distribution, the unwillingness of country people to easily give up the work of their own sweat." That was as close as CBS News came to suggesting that there might be a fundamental flaw in the socialist system. But note that Safer didn't say the flaw was socialism itself. It was the difficulty of getting the farmers to surrender the fruits of their labor.

WHAT WAS OMITTED

1. There was no discussion of the country's main economic activity, agriculture, except to note that farmers are permitted to cultivate small private plots and sell the produce on free markets. No mention of what has happend to such important crops as rice and rubber. There was no discussion of industrial production except for the plant producing electric fans. There was no discussion of domestic or foreign commerce, except to show one state-run market with empty shelves and a bustling market where produce was being sold at uncontrolled prices.

2. There was no discussion of how many political prisoners are being held and how they are being treated. Nor was there any mention of the city dwellers forced into the "new economic zones."

3. There was no mention of wages, prices, working condition or trade unions.

4. Nothing was said about the boat people, the exiles or the expulsion of the Chinese.

5. Nothing was said of the disappearance and imprisonment of the former Vietcong leaders or of the North's takeover of the South.

6. Nothing was mentioned about Vietnam's domination of Laos, and the only mention of the occupation of Cambodia came in an interview with Secretary of State Haig at the end of the program, when he said it would be a useful signal if the Vietnamese would withdraw their forces from that country.

7. Nothing was said about housing, and education was alluded to very briefly in a statement about the indoctrination of the young starting early.

8. Freedom of the press, civil liberties, and elections were not discussed.

9. Nothing was said about the Soviets being allowed to use bases in Vietnam, nor was there any mention of exports from Vietnam to the Soviet Union.

10. There was no informed analysis about the reasons for the economic troubles of Vietnam today, nor were there any interviews with any of those who thought that a communist victory would mean a better life for most but who have since been disillusioned.

THE MESSAGE

It is clear from the omissions cited above that "Vietnam Today: The Problems of Peace" was not an attempt to provide a comprehensive report on conditions in Vietnam today. If not, what was it?

The answer appears if we list the important points CBS covered.

1. Industrial production is hard hit by lack of supplies.

2. There are many shortages, including food and medicine, and babies are dying of malnutrition.

3. The Soviets are not providing sufficient economic aid.

4. The Russians are not liked by the people. The Vietnamese want to be independent of the Soviets.

5. They are desperately looking for Western ties. Prime Minister Pham Van Dong is shown saying, "Regarding Western countries, we are ready to establish relations of peace, friendship and mutually beneficial cooperation with them . . . Western countries should not let themselves be excessively burdened by the past . . ." The cameraman, Erik Durchmied, is shown telling Dan Rather that the most important thing he came away with was that "they are desperately looking for ties with industrial powers, including the United States."

6. They may revamp their government and make some "fundamental" changes, but don't look for them to reject Ho Chi Minh and his legacy. Morley Safer confidently predicted that Ho's "place in Vietnamese history will never change. No revisionist will dare defame him."

The special report climaxed with the touching scenes of the babies blinded and dying of malnutrition. We were reminded of our own responsibilities by pictures of the children fathered by American servicemen. That was followed by Durchmied's statement that they are desperately seeking Western ties. Dan Rather had led off the segment the previous night saying that Vietnam is giving indications of eagerness for better relations with China and the United States and that it might even consider breaking with Moscow.

It was against this background that the program ended with an interview with Secretary of State Haig. Haig said he could see no signs of a rift between the Soviets and Vietnam, and he would like to see some sign from Hanoi that they were changing their policies—such as a withdrawal from Cambodia. CBS said the administration is taking "a hard line." The Secretary of State appeared insensitive to the tragedy of those starving babies.

BITTER REACTION FROM THE VIETNAMESE

Vietnamese exiles who are fighting for the freedom of their homeland were angered by the CBS presentation. Mrs. Le Thi Anh, executive director of the Committee for the Unification of Vietnamese Overseas, said that Hanoi was launching a major campaign to win recognition from the United States. She said the CBS programs dovetailed nicely with that campaign. Doan Van Toai, a former anti-war student leader, who was imprisoned by the communists, said it appeared that the American media were pushing for aid to Vietnam.

Both Vietnamese freedom fighters were firmly opposed to such aid, on the grounds that it would reduce the growing pressure on the communist regime. The growing hatred of the communists extends to Ho Chi Minh, they both agreed. Toai said that even the former Vietcong minister of justice, Truong Nhu Tang, who is now living in Paris, had said, "The myth of Ho is dead." They said that in Vietnam songs and slogans praising Ho are now parodied to ridicule him.

They wondered why CBS News had not interviewed any of the Vietnamese exiles in this country who have actually experienced the horrors of the communist prisons and concentration camps. Le Thi Anh said she could have given them a hundred names of such expert witnesses. Toai said he would have been happy to have told his experiences. He said CBS never sought to interview him.

MANIPULATING CBS NEWS

Sam Roberts, the producer of the program, denied that the programs were designed to influence the public to support reconciliation with Vietnam, pointing to the concluding interview with Secretary Haig. Perhaps that was not the intention, but Hanoi certainly got what if wanted from CBS News. The program was built around the films brought back by Erik Durchmied, who was permitted to spend five weeks in Vietnam with his camera. CBS bought the rights to his film, which is unusual. Roberts said all he knew about Durchmied was that he was born in Austria, had Canadian nationality and lived in France. He didn't know what else he had produced or what his political leanings were.

The message Durchmied brought back was that Hanoi wants desperately to normalize relations. The message incorporated into his film was that we are accessories to the starving of innocent children if we refuse. The message Dan Rather grafted on was that we might even engineer a Vietnam-Soviet split, if we would only make the right moves. The "we're-being-beastly-to-children" theme was echoed a few days later in the New York Times in an op-ed page article by Elizabeth Becker, formerly a reporter for the Washington Post, one of three journalists honored by Pol Pot with an invitation to visit Cambodia shortly before the Vietnamese drove that infamous murderer back into the jungles. Becker, who was conspicuously insensitive to the suffering of the Cambodian people under Pol Pot, condemned the U.S. opposition to aid Vietnam, saying that our policy "contradicts" the United States' traditional practice of aiding victims of disaster, especially children, regardless of national affiliation."

The harmony is remarkable.

WHAT YOU CAN DO

Write to Bill Leonard, President, CBS News, 524 West 57th St., N.Y., N.Y., 10019. Commend him for his interest in informing us about conditions in Vietnam, but point out that there are now many Vietnamese refugees in this country and in Europe who could give a far more revealing picture of conditions in Vietnam and who have views about policies toward Hanoi that deserve to be aired.●

CORRECT THE EXCESSES

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. HUBBARD. Mr. Speaker, Mr. W. P. Paxton II, president of Southern Textile Machinery Co. of Paducah, Ky., has written an excellent letter to me concerning the excesses of the past in the United States and the need to change our economic course. I believe Perce Paxton's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

DEAR CARROLL: I understand your reasoning for voting against the President's Budget Package but the time has come to correct the excesses of the past. There is no way to rectify this situation without someone getting hurt. Unfortunately right now I'm also being squeezed in business but we must be prepared to take it for the greater good of America. Naturally I don't like it, but if we don't correct the rampant spending and waste, we're facing total collapse, or at least the possiblity of a situation similar to that which exists in Argentina. As you are aware their inflation runs in three digits and the business situation is almost impossible. The Swedish Government is having similar problems as is the British Government. We are presently following the same path, pell mell to disaster. If we are to avoid this trap we must harden our hearts and return to the work ethic which is what help make U.S. the greatest nation on earth. The time for "Party" Politics is past and we must all work together to accomplish a turn around with the smallest possible damage to innocent people who have been led to expect more than we can provide. I didn't really mean to sermonize but, I feel so strongly that I just had to elaborate.

Best to you and family,

Sincerely,

W. P. PAXTON II,
President.●

IMPUTED INTEREST RATES

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. DASCHLE. Mr. Speaker, yesterday afternoon the Senate approved by a 100-to-0 vote the Melcher amendment to the tax measure being considered by that body. The amendment offered by Senator MELCHER nullifies the IRS-instigated increase in the interest rate imputed on contract for deed sales.

The unanimous approval by the Senate of the Melcher amendment is a victory for the American taxpayer and a triumph over unwarranted bureaucratic efforts to increase interest rates. Senator MELCHER is to be congratulated for his leadership and perseverance on this important issue.

The House has shown strong opposition to the increase in imputed interest rates mandated by the IRS as evidenced by the biparitisan support for H.R. 953, legislation I introduced to prohibit the administrative increase in imputed interest rates. The House conferees on the tax bill should accept the Senate amendment on imputed interest rates and complete the job done by the Senate.●

OBSERVATIONS ON THE NATION'S DEFENSE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 29, 1981, into the CONGRESSIONAL RECORD:

OBSERVATIONS ON THE NATION'S DEFENSE

Most Americans know by now that the Reagan Administration has commenced a major expansion of the nation's armed forces. Over the next five years defense outlays will more than double, from $159 billion to $336 billion. We will be spending for defense at the rate of $38.4 million per hour by 1986. The total military expenditure proposed by Mr. Reagan will fall somewhere between $1 trillion and $1.5 trillion. These figures mean that the defense budget will be surging upward an average of 8.7 percent each year after adjustment for inflation, yet even they may be conservative. Just last week Congress heard that the Pentagon's spending, already at a record level, is likely to run $10 billion above projections this year.

Such a large rise in military spending brings several questions to mind. Beyond the simple desire to enhance our national security, what is the basic global strategy behind the increase? What impact will it have on the economy? Will it improve our security? Will present public support for a larger defense budget last?

Few people doubt that there is valid justification for increased defense spending. Over the past two decades the Soviet Union has engaged in an impressive expansion of nuclear and conventional arms. Its ability to project power in various regions around the world is greater than ever before. The world remains a dangerous place for this and other reasons, and the interests of the United States and the allies are threatened in many areas. As the global power among the western countries, the United States must accept added duties (in the Persian Gulf, for example) to help deter Soviet aggression and guarantee stability; in the face of local conflicts. America's capacity to deploy conventional forces rapidly, a key ingredient of our worldwide strategy, needs to be improved. At least one "leg" of our nuclear triad—our force of land-based intercontinental ballistic missiles—is, or will soon become, vulnerable to surprise attack, and it, too, must be improved.

Although some strengthening of our armed forces is warranted, I am concerned that the military expansion is proceeding without clear purpose, except perhaps to send a signal of American will and resolve to our adversaries. In my view, however, any major increase in defense spending should be driven by an explicit strategy. We should lay out more money for arms only if we know how best to deploy them. We should understand the threats we face and how best to meet them. We should not automatically assume that more arms will make us stronger and safer. The debate on military spending focuses on not how much to spend, but the right question is what to spend it for.

The economic impact of the military expansion also concerns me. The loss of economic power would be as detrimental to us as would a decline in military power, yet it is possible that a "binge" of defense spending could cause grave problems for our economy. The danger is that as we launch into a military expansion of large proportions, we may overburden the economy, accelerate inflation, and become less competitive in world markets. There is serious doubt today whether this nation's defense industry can deliver massive amounts of goods on time and within budget. With a defense industry substantially less vital than in years past, there already are scattered shortages of skills and raw materials at current levels of production. The lengthening leadtimes and inordinate overruns in cost we have already experienced are troubling signs.

It seems to me that an increase in defense spending alone does not solve all our problems of national security. The power of the United States should be measured not only in military terms, but by taking into account all elements of national power. These include our political stability, our geographic strength, our national resources, our industrial might, our finances, leadership, and technology, and—most important of all—the character, mood, and number of our people. Given an all-inclusive concept of strategic advantage, I believe that the United States is ahead of all its competitors, including the Soviet Union. It follows that national security cannot be maintained solely through greater defense spending. Most of the difficulties that we encounter around the world today cannot be overcome by force or threat of force. Many are made worse by it.

National security also requires vigorous efforts at arms control. Without them, the dangers of military competition become more grave. Negotiations on theater nuclear forces in central Europe may not begin until the end of the year. Talks on the limitation and reduction of strategic nuclear weapons have been postponed. The negotiations on a comprehensive nuclear test ban, transfers of conventional arms, forces in the Indian Ocean, chemical warfare, biological warfare, and radiological warfare seem to be in abeyance. Such negotiations and talks, however, should be viewed as an integral part of our national security.

I am concerned that present public support for increased military spending will crumble quickly if the Pentagon does not manage it money well, if the economy deteriorates rapidly, if higher spending is not guided by a coherent foreign policy, or if

military forces show no real improvement. The wise course is to enhance our national security through a balanced effort to bolster each element of our national power. That effort certainly includes a gradual, steady improvement of our military forces.●

SRI CHINMOY

SPEECH OF

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1981

● Mr. MITCHELL of New York. Mr. Speaker, I am pleased to have this opportunity to extend sincere best wishes to a distinguished poet, author, artist, and spiritual leader, Sri Chinmoy, on the occasion of his 50th birthday.

Born on August 27, 1931, Sri Chinmoy has become a true renaissance man. He has inspired thousands of individuals to enrich themselves spiritually and physically through sports and meditation. A marathon runner and cyclist, he has encouraged the participation of many youth in such activities through his sponsorship of many public races. A foremost authority on Eastern philosophy, his writings have received numerous awards and much critical acclaim. His prolific artistic and musical creations are equally impressive. His contribution to international understanding and his endeavors to promote world peace deserve the praise of all Americans.

In his 50 years, he has accomplished much. I am sure, however, that his greatest achievements are yet to come. I wish him continued success in his many endeavors.●

GEN. JOHN REILEY GUTHRIE

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. COURTER. Mr. Speaker, on September 1, one of New Jersey's native sons, Gen. John Reiley Guthrie, will retire from the U.S. Army after 39 years of service. I wish to bring to my colleagues' attention some of the highlights of General Guthrie's distinguished career, particularly those he has made during his past 4 years as Commanding General of the U.S. Army Materiel Development and Readiness Command, and pay special tribute to an exemplary military officer.

General Guthrie was born in Phillipsburg, N.J., and is a 1942 ROTC honor graduate of Princeton University where he was commissioned as a second lieutenant in the U.S. Army Field Artillery. Since then, he has served his country in positions of increasing responsibility in the United States, Europe, the Pacific, and the Far East. His assignments include tours in postwar London and Japan, and he is a veteran of the Korean conflict.

In May of 1977, General Guthrie began his current assignment. During this period, the Army has continued its major modernization program, and under his leadership, its materiel development and supply functions have been significantly improved. His influence on Army aviation, armor, combat and transportation vehicles, communications, electronics, missiles, and munitions—virtually every piece of equipment that supports the Army mission and the individual soldier—is most evident. Some of the more prominent systems developed during his tenure are the M1 Abrams tank, the M2 infantry fighting vehicle, the Blackhawk and advanced helicopters, the Patriot air defense missile, and the division air defense gun. In addition, General Guthrie has modernized the Army supply system, streamlining the flow of materiel to the soldiers and units throughout the world who maintain and use it.

In these and many other ways, General Guthrie has helped to improve the Nation's military readiness posture. He has made a major contribution to modernizing the Army's combined arms teams whose integrated armor, infantry, artillery, air defense, and combat engineering units safeguard so many throughout the world.

General Guthrie has not confined his attention and energies to the equipment which the Army needs. He has also worked unceasingly in behalf of civilian and military personnel quality of life programs. He has, for example, taken measures to assure the fair distribution of awards, recognition, and training opportunities, and is recognized for his strong support of Federal upward mobility, equal employment opportunity, and women's programs. In short, he has been strongly people-oriented as well as product-oriented.

One of General Guthrie's subordinate commands—the U.S. Army Armament Research and Development Command—is located in the district which I represent. I have personally found General Guthrie to be a most cooperative partner in matters concerning national defense and the well-being of thousands of civilian employees. He is truly concerned about the impact that Washington has on those who serve their country outside of the Capital.

Mr. Speaker, the Garden State is proud of this native son who has served his country so unselfishly. His record is an inspiration to all of us. I am struck by his aggressive leadership, attention to his people, and his distinguished and impressive list of contributions to the welfare and defense of our country. He has been the consummate soldier in time of war and peace and has served the United States of America loyally and faithfully. On behalf of all Americans, I thank General Guthrie and his wife Rebecca and wish them the very best in the future.

Thank you Mr. Speaker.●

PETROLEUM PIPELINE REFORM

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. SYNAR. Mr. Speaker, while we have been primarily occupied in recent weeks with Government spending and Government taxation, I am certain that most, if not all, Members of the body remain concerned over another area of Government activity—the area of Government regulation. I believe we are all committed to regulatory reform in those areas where reform is obviously appropriate. Such reform is obviously appropriate when the removal of burdensome regulation would promote competition without adversely affecting the American consumer.

For these reasons, Mr. Speaker, I take this opportunity to announce my intention to introduce, in the not too distant future, a bill aimed at achieving regulatory reform in the area of petroleum and petroleum-product pipeline rates. I hasten to add at this point that I am talking only about petroleum pipelines—pipelines which are not franchised by the Government and which are not, in any sense of the term, a legally protected monopoly.

In my view, the Government has the right, if not the obligation, to regulate rates of industry when the Government extends to that industry a franchise, a license, or any mechanism to protect it from competition. With regard to petroleum pipelines, however, the Government affords no protection from competition. Competition in the industry is extensive; shippers have multiple options to serve their transportation needs; and the consumers are the beneficiaries of the competition provided by the private sector.

Nonetheless, Congress has largely through oversight in my opinion, continued the rate regulation of these pipelines. When we created the Federal Energy Regulatory Commission, in Public Law 95-91, we transferred to the Department of Energy and the FERC the authority to regulate pipelines, including petroleum pipelines. Unfortunately, the broad transfer authority included the authority to set and prescribe rates for petroleum pipelines.

Back in 1906, when rate regulation of these pipelines was first established, there was some justification for

it, because shippers had relatively few options available to them for transport of their petroleum commodities. Today, however, shippers enjoy a great variety of options, which include intramodal, intermodal, and shipper exchanges. The recent history of the industry reveals that these options have created competitive pressures resulting in the establishment of fair and equitable prices for shippers and for the ultimate consumers.

Despite this healthy competition and the shipper/consumer protection it provides, the FERC remains saddled with the responsibility to set rates for this industry. Almost from its creation, the FERC has been struggling with the question of how to set these rates. It has yet to come up with a satisfactory answer—simply because there is no satisfactory method for setting rates for a competitive industry. Where there is no need for regulation, there is no satisfactory way to regulate.

I am not calling for the complete deregulation of petroleum pipelines. They are common carriers and their obligations as such should continue to be regulated by the FERC. The FERC should continue to enforce the legal prescriptions against possible discriminatory or preferential behavior.

It is only the rate regulation that is unnecessary; and it is only that function that I want to extinguish. For reasons that I am certain will be brought out at hearings, rate regulation discourages competition. It imposes an unnecessary burden upon the petroleum pipeline industry, especially the independents.

I have discussed this issue with the chairman of the Energy and Commerce Committee, Mr. DINGELL, and with the chairman of the Fossil and Synthetic Fuels Subcommittee, Mr. SHARP, to solicit their support in developing legislation to achieve this regulatory reform. I invite my colleagues to join me in this endeavor. I am pleased to announce that my colleague from Oklahoma, Senator NICKLES, will be leading a similar effort in the other body.●

THE 20TH ANNIVERSARY OF THE BERLIN WALL

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. DANNEMEYER. Mr. Speaker, on August 12, the free world will mark an anniversary, the memory of which we would like to forget, but the significance of which remains undiminished 20 years later. I am referring, of course, to the infamous Berlin Wall, which first rose in the form of a chain link fence on August 12, 1961, and which had as its purpose ever since the containment of thousands of East Germans dissatisfied with life under communism.

The fact that the Communist Government of East Germany, backed by the Soviet Union, should have had to put up a fence and then begin replacing it with an actual wall 3 days later speaks louder than any words could to the human bankruptcy of the Communist system. That action said then, and it says now, that if given the choice between coercive egalitarianism and economic liberty, Communist rulers will always choose the former and their subjects the latter. It also reinforced the lesson of Hungary in 1956, which was to be repeated in Czechoslovakia in 1968, and Afghanistan in 1979, that Communist powers will do whatever is necessary, irrespective of world opinion, to protect what they perceive to be their vital interests.

The particular relevance of the Berlin Wall today can be seen with respect to Poland. In that repressed nation, the workers have been struggling for rights that are taken for granted in the free world. Moreover, they are threatened by the prospect of serious food shortages the likes of which are unheard of in well-developed countries with free market, or semifree market systems. Yet, it is painfully obvious that, if they carry their protests too far, the Soviets will take remedial action—just like they did in Berlin 20 years ago. That such is the case underscores one of the basic premises of communism: "What's ours is ours, what's yours is negotiable." Third world countries, torn between allying themselves with the Soviet bloc on the one hand, or the forces of freedom on the other, would do well to remember that reality. Dealing with communism is a one-way street, no better reminder of which is the wall that cuts the roads from East to West Berlin.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 117 Orange County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy, healthy, and prosperous life in their new homeland:

NEW CITIZENS

Gloria Cecilia Collado Abreu, Nerissa Estores Alegre, Hannelore Brigitte Amundson, Magdalena Gonzaga Anoche, Higinio Alfonso Aponte, Maria Teresa Arias, Manuel Alfonso Arias, Suresh Chandra Arya, Gerard Irvelt Bazile, Jean Louis Beauvilet, Monika Gertrud Bennett, Maria Elena Bertolino, Patricia Carreira, Gerardo Casparriello, Peter Wai-Man Chang, Jiing-I Chiou, Yee-Wen Chou, Mary Ethel Daughton, Octavius Delinois, Frantz Herby Desamour.

Vijaya Shashi Deshpande, Mikhail Deyoukarov, Manekchand Ranmal Dodhia, Christina Rose Doherty, Anastasia Eftychiou, Nicos Eftychiou, Henedina Pamiloco Eliazo, Gwendolyn Clara Maude Ellis, Hubert Byron Ellis, Maria De Lourdes Esteves, Anioneva Falceso, James Kevin Fitzsimmons, Lea Fliegman, Victor Isidoro Flores, Raquel Bernardina Flores, Christopher Hugh-McKenzie Forrest, Reuven Roman Freuman, Bella Freuman, Sara Friedman, Zipora Friedman.

Joseph Frederick Fumuso, Jean Philippe Galette, Andrene Veronica Harris, Hildegard Sofia Hartmann, Mery Hernandez, Yves Pete Ilie, Andre Jean Jean, Baby Joseph, Fritz Lamartiniere Joseph, Claudette Marie Joseph, Mohamad Hisham El Kadi, Mariamma Kandoth, Ethel Libby Kennedy, Hak Hee Kim, Kwang Won Kwon, Sun Ye Kwon, In June Kwon, Ester Lefkowitz, Miriam Elka Lewartowski, Marcelo Liranzo.

Gulen Fatma Lukas, Pedro Antonio Luna, Joseph Macri, Jose Nicolas Martinez, Luz Martinez, Jose Israel Martinez, Persio Matrinez, John Keith McCartney, Guiry Mehu, Alexander Mendlovic, Celia Leano Miravite, Goher Darayes Mobed, Roseline Mombrun, Annapurna Mukherjee, Helen Ann Murphy, Finina Sencio Nanton, Kenneth Michael Neumann, Chun Ying Ng, Kaprivel Nishan Nishanian, Martha Ostreicher.

Konstantinos Panteliodis, Jyotiben Patel, Ioannis Aristedis Patentas, Jagdish Prasad, Jocelyn Princivil, Tina Pamela Rabinovitch, Benamanahalli Rajegowda, John Edward Redman, Moliere Ridore, Margarita Rusak, Valentia Rusak, Arturo Garcia Salgado, Rita Chanyungco Salgado, Isaiah John Samuel, Nicolasa Santos, Maria Luisa Serna, Juan De Jesus Serna, Ila Anilkumar Shah, Fayyaz Ahmed Sheikh, Chaya Steiner.

Kjeld Tidemand-Joannessen, Francisco Jose Uribe, Maria Mercedes Vargas, Delfia Altagracia Vasquez, Juan Carlos Velastegui, Daniel Joe Vella, Cynthia Susara Victoria, Nandan Dilip Wadgaonkar, John Francis Walsh, Jannett Sevenia Warren, Elsie West, Jose West, Mao Cheng Wong, Chia-Cheng Wu, Ufuk Yaslowitz, Yehiel Zadok, Josefina Zapata.●

PORK—U.S. PRIME

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. EDGAR. Mr. Speaker, I would like to call to the attention of my colleagues a commentary I noticed in today's New York Times. Last week, Congressman Joel Pritchard and I

made another attempt to end construction on the Tenn-Tom Waterway and to strike a blow for reason and merit in our Nation's water policy. I appreciate the support given us by 196 of our colleagues. I think the following article very clearly states the arguments about the inequity of funding projects like the Tenn-Tom in this critical year of budget crisis.

PORK—U.S. PRIME

(By John B. Oakes)

How many Americans outside of Nebraska have ever heard of the "O'Neill unit"? How many even inside Nebraska? How many Americans outside of Mississippi and Alabama have heard of Tennessee-Tombigbee? Or of a score or more of similar multi-billion dollar construction projects in the South and West that have no redeeming *national* social or economic value? They are, in reality, nothing more than major political payoffs that President Reagan's "austerity" budget-cutting has somehow missed.

The President slashes Federal expenditures everywhere except for the military and for the pork-barrel. Yet the American public even now is not fully aware of the enormity of the kind of legalized political bribery represented by Tenn-Tom and O'Neill. Both projects involve a maximized misappropriation of public funds for a minimal public purpose.

The Tennessee-Tombigbee barge canal and waterway in Mississippi and Alabama will provide barge operators with a profitable shortcut to the Gulf of Mexico, doing irrevocable environmental damage along the way, at a hopelessly uneconomic public cost of $3 billion. The O'Neill irrigation unit, in northern Nebraska, will furnish water through an elaborate dam and canal system to a handful of farmers, will destroy an important part of a major natural preserve, and will cost the Government an officially admitted $335 million but, almost certainly, anywhere from $600 million to $1 billion before the project is completed 10 years from now.

The Army Corps of Engineers has already poured more than a billion taxpayer dollars into Tenn-Tom. The General Accounting Office estimates that "more than $1.6 billion would be saved if the Tennessee-Tombigbee project were halted now." However, a 10-vote margin in the House last week kept it alive for fiscal 1982 with a Reagan-approved appropriation of nearly $200 million.

The O'Neill unit is thus far only 2 percent complete. In contrast to Tenn-Tom, if it is permanently stopped now, relatively little money will have been wasted. But if it is not stopped, it will:

Bail out some 250 farmers with a federally subsidized investment of at least $1.3 million per farm, even at the wildly understated official cost figure;

Require a Federal taxpayers' investment of more than $4,000 per acre, when the going market price of comparable farmland in the area is around $1,000 per acre;

Irrigate 77,000 acres, of which only 12 percent is considered prime agricultural land;

Spend *eight times* the average cost to the private sector of irrigating an acre of Nebraska land;

Condemn 30,000 acres of productive, private lands upstream to build the project, of which the key is the proposed Norden Dam (not yet begun) on the Niobrara River;

Flood out some 10,000 acres of a unique 54,000-acre ecological preserve along the Niobrara that protects one of the most significant and valuable privately held conservation areas in the United States.

This extraordinary tract that the Norden Dam would destroy is at the center of the nation's "biological crossroads," a confluence of six distinctly different ecosystems in an area that is rich in varied plant, bird, and animal life. It was purchased last year by The Nature Conservancy, one of the country's leading land-conservation organizations, at a cost of nearly $11 million in private funds. Nothing like the Niobrara Preserve exists anywhere else in the United States.

In an Administration that is so deeply concerned with economizing, it may seem surprising that such obvous boondoggles as the O'Neill unit should have President Reagan's imprimatur. The answer is simple. The O'Neill unit's sponsor is Representative Virginia Smith of Nebraska's 3d District, who happens to be a Republican member of the very powerful House Appropriations Committee.

But this crude project is so inherently indefensible that not even Nebraska's own Congressional delegation is united in its favor.

Mrs. Smith's Republican neighbor, Representative Doug Bereuter, of the 1st District, has been leading the fight against it. In a devastating report on the O'Neill unit, Mr. Bereuter charges the Bureau of Reclamation of the Interior Department with "improper and illegal activities" in managing the project and substantially enlarging it without Congressional authorization.

In response, the House last week reduced the Reagan-budget appropriation for O'Neill to a minimal sum, bringing the project to a temporary halt pending a new "study." But it's only temporary.

At a time when President Reagan has been axing every social and human service in the Federal budget, from school lunches to Social security, it shouldn't take much political courage—and it might even be politically profitable—to eliminate the O'Neill unit and similar extravaganzas altogether. Until the President does so, despite his vaunted budget-cutting, the nation's economic and natural resources will continue to be grossly squandered.●

NEPTUNE CITY'S CENTENNIAL

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. HOWARD. Mr. Speaker, this year the borough of Neptune City, N.J., is celebrating its 100th anniversary.

As a child growing up in the next town, I often played ball in Neptune City's parks, walked its streets, got to know its shopowners and, while in high school, delivered soda to its stores and restaurants. For the last 16 years, I have been proud to represent this fine community of 5,500 people in the U.S. House of Representatives.

Neptune City boasts many devoted public servants who have contributed long hours to making the centennial celebration a success. The man who may very likely know more about the borough than anyone else, Police Chief Richard F. Cottrell, has written a comprehensive history of Neptune City. It is appropriate during this 100th anniversary year to recount some of the book's highlights.

Neptune City was incorporated on March 19, 1881, when 37 citizens voted to create their own government. It was a landslide for prohibition party candidates. As Chief Cottrell noted, it was not until 1899 that the Democrats and Republicans made some headway in borough politics.

With Shark River forming one of its boundaries, Neptune City has been a center for fishing and boating for many years. It is said that in the late 1800's, more seafood came from the Shark River to the New York City fish markets than from any other source.

Neptune City was the home of Scotty's Swank Road House which was the place to be in the early 1900's. Well-known political leaders from north Jersey and tourists from all over visited Scotty's with great frequency and relish. Gov. Woodrow Wilson made two speeches at the restaurant during his 1912 campaign for the Presidency.

The borough was also the location from 1907 to 1940 of Camp Newark, a summer camp for poor children from Newark, N.J. Though it closed with the onset of our World War II involvement, the camp for many years provided relief for thousands of children from the summer heat and the city environment. The camp brought with it problems and expenses for the borough's taxpayers, but they did not shrink from what was viewed as a civic responsibility for the less fortunate.

To this day, Neptune City is a bustling community which plays host to many fishermen and boating enthusiasts. Its school system, fire, police, and first-aid squads are first rate, providing services to residents and visitors all year long. People come from miles around to enjoy the entertainment and the food in its restaurants and popular night spots.

Mr. Speaker, I congratulate the past and present residents of Neptune City for creating and maintaining such a fine community. I join with them in celebrating their 100th anniversary.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment, I was unable to be present and voting today on a motion to approve the House Journal of Tuesday, July 28. Had I been present, I would have voted for the motion to approve the Journal.●

NEW YORK AREA'S RELIANCE ON IMPORTED FOOD GROWS

HON. BARNEY FRANK
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. FRANK. Mr. Speaker, I wish to share with my colleagues an important article from the New York Times about a pressing issue which has received too little attention. We in the Northeast are guilty over a long period of having neglected the needs of our local agricultural sector. Within recent years, many States, including my own State of Massachusetts, have taken steps to correct that trend. But we need the cooperation of the Federal Government as well.

It would be poor economic, social, and environmental policy for us to sit by and let the remaining farmland in the Northeast dwindle away. Indeed, we should be pressing for an expansion of our local agricultural capacity.

This issue is especially important to me now because in my district, in the towns of Wayland and Sudbury, a large farm was recently taken over after a default by the Farmers Home Administration. I have been working with a very wide coalition of people from these towns to preserve this important farm for agricultural use, but the Farmers Home Administration remains unclear as to its ability to help us keep this important agricultural asset.

Mr. Speaker, I am hopeful that the Agriculture Department understands the point made in this article, and that it will be willing to cooperate with my efforts, and those of my constituents, to stop the erosion of farmland in Massachusetts and elsewhere in the Northeast.

The article follows:

NEW YORK AREA'S RELIANCE ON IMPORTED FOOD GROWS

(By William Serrin)

New York State and its neighbors, once major agricultural producers, have grown dangerously dependent on food imported from other parts of the nation and abroad, food experts and public officials say.

"The Northeast is deplorably, fool-hardily vulnerable to any breakdown in food processing," said Harold Breimeyer, professor of agricultural economics at the University of Missouri.

The infestation of California crops by the Mediterranean fruit fly, threatening that state's supply of food for export, is cited as an example of a distant incident that could disrupt the New York area's food supply. Others could include trucking strikes and weather disasters.

From the flatlands of south central New Jersey to the hills and mountains of Pennsylvania and New York State, to the often-rocky valleys and hillsides of New England, agriculture has always been a diverse and important part of the region's economy and its life. While farms have grown fewer and larger, the region has so far not seen the rise of large agricultural businesses, largely because of the hills and mountains that characterize much of the region's countryside.

The region's family farms, with the farmhouses, barns and fields that make the area picturesque, have produced sweet corn, oats, wheat, potatoes, tobacco, milk, butter, cheese, apples, tomatoes, cranberries—almost all the farm products people consume.

A RELIANCE ON FROZEN FOOD

But as the nation's food industry has come to rely less on fresh produce and more on canned or frozen fruits and vegetables, highly integrated grower-processors have looked for large-scale locations, often in the Southwest, where the companies could take advantage of cheaper energy and labor costs.

"So you can grow a million tons of green beans in New Jersey," said J. Patrick Madden, professor of agricultural economics at Pennsylvania State University. "So what? There are not enough roadside stands in New Jersey to sell that million tons of green beans."

But elsewhere, he said, the vast economies of scale available are immensely attractive. In the area of Salinas, Calif., for instance, it is possible to grow nearly all the nation's artichoke crop in one place. In the Northeast, because farms are smaller and because the amount of farmland has declined, artichokes would have to be grown on scattered farm sites.

"The cost of handling would be enormous compared to the guy on the Coast," Professor Madden said.

Moreover, with some vegetables, West Coast producers can spread their costs over perhaps three crops a season. Northeast producers, under present technologies, are confined to one crop, he said.

In a paper presented in June to the Northeast Agricultural Economics Council, Professor Madden and M. C. Hallberg, also a professor of agricultural economics at Pennsylvania State, argued that little attention has been paid to the consequences of the region's lack of locally grown food supplies.

EIGHTY PERCENT OF FOOD IMPORTED

The Northeastern states generally import from other states and abroad more than 80 percent of the food they consume, according to the Federal Department of Agriculture. A department report says agriculture is now less important to the economy of the Northeast than it is in any other section of the country.

The report said, for example, that in 1977, farm sales in the nine-state Northeast area—New York, New Jersey, Connecticut, Pennsylvania, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine—accounted for 0.6 percent of the area's total personal income.

In 1978, the report said, the region produced $5.7 billion worth of farm goods, about 5 percent of the value of the nation's farm production. The region accounts for 2.4 percent of the nation's farmland.

New York State imports nearly 85 percent of the food it consumes, according to Arthur Schiff, staff member of the New York State Assembly Subcommittee on Food, Farm and Nutrition Policy. Mr. Schiff said the state was capable of producing four times as much—or 60 percent—of its own food.

Robert A. Lewis, coodinator of direct marketing for the New York State Department of Agriculture and Markets, said that even during the growing season in New York, the state—the nation's No. 1 producer of sweet corn—produced only 55 percent of the sweet corn it consumed.

In the growing season, he said, the state produces only 4 percent of the tomatoes it consumes, 4 percent of the carrots, 14 percent of the celery, 15 percent of the cucumbers, and 17 percent of the radishes. The only product in which the state has self-sufficiency, he said, is milk.

VULNERABILITY FEARED

What worries agricultural planners like Assemblyman Maurice D. Hinchey, Jr., a Saugerties, N.Y., Democrat, is that without a local food supply, the Northeast would be vulnerable to the same disruptions in the food market that appeared in the petroleum market during the oil embargo of 1973: higher prices, unavailability of some products, panic buying, and rationing of the products available. Some say there are fewer geographic sources of some food supplies than there are of petroleum.

Assemblyman Hinchey helped gain passage of two bills intended to provide marketing assistance for New York's farmers. The bills allow school districts to purchase livestock, fish, dairy products excluding milk, and other items without competitive bidding. He also is executive director of the Northeast Task Force on Food, Farm and Nutrition Policy, a private group working to upgrade agricultural self-sufficiency in the Northeast.

Professor Breimeyer of the University of Missouri said that in case of a disaster, the lack of regional self-sufficiency both in food production and food storage would cause havoc. And he said no one is planning for such possibilities.

And food experts note that there has already been a drastic decline throughout the region in jobs for farmers and farm workers. Agricultural economists say that each lost farm job multiplies several times over as food moves from farmer to processor to consumer.

For example, New York State in 1970 had 58,000 farms and 11 million acres in farmland. Today it has 44,000 farms and 9.9 million acres in farmland. It is estimated that the state will lose 7,200 farms—25 percent of its farming capacity—by the year 2000.

FOOD PRICES GOING UP

Pennsylvania, which imports more than 70 percent of its food, had lost 61 percent of its farms in the last 30 years and each year loses 164 square miles of farmland, according to the Cornucopia Project of Rodale Press Inc., a farm research and publishing organization.

Furthermore, the food experts said, the lack of regional agriculture has helped raise food prices for the region's consumers. One reason is the increased reliance on truck transportation as fuel costs have risen.

Professor Madden, like other experts, said that decades in which cheap energy was available helped turn the nation to what farm and fruit experts describe as monoculture, in which certain areas grow one crop or raise one kind of meat—the Southwest concentrating in vegetables, the Great Plains and Middle Western farms often specializing in large beef or pork operations, large areas of the Pacific Northwest specializing in wheat or potatoes.

This kind of agriculture is generally made possible by use of vast amounts of fertilizers, pesticides and herbicides, which often are petroleum-based. And beginning in the late 1950's, it also became dependent on construction of the nation's expressway system,

which made it possible for the food industry to depend heavily on truck transportation.

According to the American Trucking Association, nearly 100 percent of the nation's meats as well as, in many cases, nearly all Florida and California fruits and vegetables are hauled by truck.

THE FOCUS OF CONCERN

As a result, the Northeast has become the focus of concern about food self-sufficiency, said Catherine Lorza, executive director of the National Family Farms Coalition in Washington.

Among the proposals to increase the region's locally grown food supply are efforts to preserve the family farm and calls for expanded programs of direct marketing for the region's farmers at the wholesale and retail levels.

The New York City school system, which operates a $121 million school food program and feeds 500,000 children a day, applauds the concept, but now buys virtually no food directly from New York farmers because of a bidding regulation and a lack of large marketing facilities.

The agricultural activists would particularly like to introduce expanded markets for farmers in New York City. Mr. Lewis recently attempted to establish a farmers' retail facility at Hunts Point, the large food distribution center in the Bronx.

But the plan fell through, he said, largely because of opposition by private vendors. He said his goal was to make farmers and consumers understand that urban problems and rural problems were not separate. He said he wanted to "help put money in the pockets of farmers" and bring what he said was cheaper, better food to the city's consumers.●

McCLELLAN AIR FORCE BASE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. FAZIO. Mr. Speaker, McClellan Air Force Base has been an active, contributing member of the U.S. Air Force and the Sacramento metropolitan community for more than 42 years. From its early mission as a bomber depot following World War II, to its present fighter aircraft and technology repair center responsibilities, McClellan has been a vital cornerstone of defense readiness.

As one of only five air logistics centers in the Air Force, McClellan today manages more than 135,000 individual items. The center is responsible for vital hydraulic, flight control, ground communication, and electronic systems, as well as the critical A-10 and F/FB-111 aircraft. The base's 16,400 military and civilian personnel contribute not only highly technical work skills, but an estimated $750 million to the greater Sacramento economy through created jobs and salary.

On Saturday, August 15, McClellan AFB will host its annual open house, inviting the public to learn firsthand about its varied missions and responsibilities. The city of Sacramento and Sacramento County will honor the base with proclamations designating August 15 as McClellan Day. As the base and its dedicated people reflect upon 42 years of service to our Nation, we join Sacramento in recognizing the base's many noteworthy achievements and wish them success in helping our great country meet the challenges of the future.●

CONABLE-HANCE TAX CUT PROPOSAL

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. SMITH of Oregon. Mr. Speaker, I am delighted with actions taken by the House of Representatives today in passing the Conable-Hance tax cut proposal. I believe this is a great day for America and one that marks a new direction for this country.

Oregonians were not fooled by the rhetoric on the committee bill. Their phone calls and messages the past few days supported the tax cut embraced by President Reagan. We listened.

This was the only responsible decision that could have been reached today. We have insured a true tax cut by passing the only proposal that removes the cruelest tax of all from the taxpayers' burden. Bracket creep has made the Federal Government the only beneficiary of inflation. Indexing is the key to restoring opportunity and incentive to all Americans.

I voted for the Conable-Hance tax cut proposal because I believe it is an integral part of the comprehensive economic recovery package and is designed to operate within the framework of a balanced Federal budget by 1984.

Through 2 years of campaigning, I heard the cries of Oregonians that inflation was continuing to deplete their income. What inflation did not get—taxes did. Our Government had grown too big and too expensive.

The economic dilemma could only be resolved through a comprehensive package like the one endorsed by the President.

The tax cuts are the center of the economic package and the most viable part of the solution. I commend my colleagues for their support of the Conable-Hance tax cut proposal.

As an executive of a small company for 12 years and also as an employee of Pan American World Airways, I have seen what can result by overtaxation by the Federal Government. In recent years, we have seen social security taxes take a tremendous increase as well as a growth in personal income taxes. Citizens are feeling a loss of freedom through the tax system.

That loss of freedom is best exemplified by the fact that the 16th amendment to the Constitution originated with just 30 words providing the authority for the Federal Government to levy taxes. Today, the IRS has convoluted those 30 words into 44,000 pages of code and regulation and has more than 80,000 employees to enforce the law.

The tax system has been unfair and unequitable * * * the burden has been too heavy on all Americans. In 1977, the Carter administration saddled Americans with the largest tax increase in peacetime history—a move that neither solved the social security problem * * * nor stimulated the economy. In the last 10 years, we have had five so-called tax cuts which have resulted in a $400 billion increase in Federal revenues. In fact, taxes more than doubled between 1976 and 1980.

The Reagan tax cut which was passed by the House of Representatives today is the largest single tax cut in history * * * it is designed to restore opportunity and incentive to Americans and provide millions of new jobs.

One of the most positive features of the Reagan tax cut is that it does not teeter on a phony trigger—it includes a provision to take inflation out of the tax bite by "indexing" the tax rates. The bracket creep phenomenon is especially cruel to low-income taxpayers because brackets are closer together at the bottom of the marginal tax scale.

The tax bill we passed here today addresses our stagnant economy by providing increased savings incentives and by changes in the depreciation laws for plant and equipment. Through our tax cut, businesses, as well as individuals, will be assured of a more stable climate for their proposed investments. This much needed stimulus will afford many new jobs and provide an economic revival for America.

I listened to the mandate of Oregonians and supported the President in his efforts to complete phase II of his program for economic recovery. I am proud to be a part of this body and a part of the movement to return to the people the freedoms established in the Constitution. I want our children and future generations to know what it is like to live in a nation of opportunity and prosperity—the United States of America.●

TRIBUTE TO JAMES BURKE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. MAVROULES. Mr. Speaker, I rise to pay tribute to former Congressman James Burke. Although I was not privileged to serve with Jimmy Burke in this House, I have the honor of being one of his many friends. Indeed,

few who have met Jimmy Burke have not become his friends, because few could resist his warmth, his humor, and his strength of character. All of these combine to make Jim Burke the great man that he is.

Earlier this week, we voted to honor Jimmy Burke by naming after him the Quincy Post Office, where for 20 years his district office was located. This action was highly appropriate, for Jim Burke was known, above all else, for service to his constituents. Despite the power and prestige he accumulated in this House, he never forgot the working men and women of the 11th district. All of us can profit by this example.

But Jimmy Burke was concerned with more than local interests. By the time of his retirement, he was acknowledged to be the leading expert in this House on the social security system. As chairman of the Subcommittee on Social Security, Jim warned of the problems the system was destined to face. Many of his predictions have come true.

Mr. Speaker, I am sure all of my colleagues join me in wishing Jimmy Burke a long and healthy retirement, and applauding this small recognition of his distinguished service.●

THE PEOPLE—OUR REAL BOSSES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. FIELDS. Mr. Speaker, I am today submitting an editorial from a recent edition of the Baytown Sun for the RECORD. The editorial explains quite clearly why Ronald Reagan has won so many legislative victories on Capitol Hill over the strong opposition of his liberal Democrat foes.

Why have the President's programs been accepted here in the Democrat-controlled House? And why have the Speaker's own programs and policies been killed in the Chamber he nominally heads?

Because while Speaker O'NEILL has been listening to Mr. WRIGHT, Mr. BOLLING, and Mr. ROSTENKOWSKI, Ronald Reagan has been listening to the people. He hears their opposition to a bigger Federal bureaucracy—while the Speaker hears only from three voices committed to the now-discredited bigger-is-better philosophy of Government from the 1960's.

President Reagan hears the concerns of Americans forced to pay higher and higher taxes, with no end in sight—while the Speaker hears only those whose livelihoods depend on keeping taxes high to pay for countless Federal programs.

President Reagan hears the despair of parents unable to pay the inflated prices of groceries, college educations for their children, housing, and the other necessities of life.

Yes, President Reagan hears what Speaker O'NEILL claims not to hear. And that is why the President has won support in the Congress for his programs, as the excellent editorial from the Baytown Sun below points out.

Thank you.

[From the Baytown Sun, June 23, 1981]

COALITION PAVES ROAD TO POWER

Having lost the presidency and the Senate in the November elections, the Democrats may now have, in effect, lost the House of Representatives, at least on some rather basic issues.

A growing number of Democratic congressmen come from districts where constituencies are conservative on economic and national defense matters.

Explaining this political phenomena, Rep. Jerry Huckaby (D-La.) said, "The people in my district are 97 percent registered Democrats. But on a national level, most of them think more in tune with Republicans. It's just that they've been Democrats since the Civil War."

Rep. Charles Stenholm (D-Texas) remarked, "The similarities between my personal platform and the president's program are such that if I did not support the president I could not explain it to my constituents in any manner except that he's Republican."

Conservative Democrats in the House banded together right after the November elections in a loose group called the Conservative Democratic Forum. It now has 46 members and holds the balance of power in budget votes.

The House of Democratic leadership, still under the sway of fiscal liberals, is unhappy with the party dissidents. House Speaker Thomas (Tip) O'Neill, Jr., sent a letter reprimanding 44 Democrats, mostly conservative, for voting against party leadership on a procedural question. The note only angered the dissidents.

Among the leadership's latest efforts to keep Democratic conservatives from straying was one concerning an amendment of a resolution to add $6.7 billion to the military. The amendment was endorsed by Mr. Reagan. Sixty-three Democrats voted with the president against their leadership's counsel.

This has caused some liberal Democrats to grumble about the leadership of O'Neill, whom they look upon as an ineffectual boss in "rallying the troops." But O'Neill is probably as clever and hard-working a leader as either party could have. It's just that some of the Democratic "troops" are listening to their real bosses—the folks back home, who want a strong economy and a strong military.●

NEW CITIZENS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 38 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in welcoming these new Americans:

Chong K. Ho, Che H. Ho, Su Kyong Ho, Theresa S. Konarski, Mary Bahadoor, Choon Lee, Jung W. Lee, Jung S. Lee, Wen Lee, Sammy Liu, Moses Perry, Fung Cheung, Alpaslan Karahasanoglu, Maria Suhomlin, Constantin Atzoutzoulas, Teresa Ronchetta, Sell Y. Kung, Shiang-Sheng Chen, Ding-Ping Chen, Eudoxia Koppinger, Young J. Barta, Fokko Boersman, Thirumalairaj Jayakumar, Minas M. Houvardas, Young S. Kim, Young S. Kim, Jung L. Lee, Shio M. Lee, Chin M. Lee, Chang H. Yoo, Luigi Salvi, Vundyala Reddy, Kalavatiben Contractor, Uday Patel, Anna Battaglia, Mei-Ling Chen, Norah Neagoe, Shuli Oh.●

A TRIBUTE TO NANCY HARRINGTON

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. DONNELLY. Mr. Speaker, I rise today to pay tribute to a truly great American and an individual who I proudly represent in the U.S. Congress. As a fellow Bostonian I have always been aware of Nancy Harrington's generous contribution to the city and especially the Dorchester neighborhood. As I entered public office I became more aware of the commitments, sacrifices, and efforts of this tireless woman. Nancy was born, raised, and spent her entire life in the Neponset section of Dorchester. While many city neighborhoods met with decay and urban flight during the late 1960's and early 1970's, individuals such as Nancy made Neponset a viable, growing, and comfortable community. Nancy kept us informed through her work on local newspapers such as the Dorchester Argus Citizen and the Neponset Scene and her role in the development of the Murphy Community School gave the area one of Boston's most modern schools. Nancy's active participation in the Pope's Hill Neighborhood Association, where she later served as president, gave the residents of the area an effective forum to express their opinions. Nancy and her husband, Bernard, have raised nine children who have proven to be a credit to their parents and the community.

Last August, Nancy suffered grievous physical setbacks, which included several heart attacks and a stroke. Nancy not only survived this ordeal but continues to be a pillar of strength in the community. I would like to take this opportunity to publicly thank

Nancy, not only for her role in the community in which I was raised and now represent, but also for the assistance she has offered me throughout my career. I know I speak for all of Dorchester when I thank Nancy and wish her good luck.

I enclose an article written by Jeremiah Murphy which appeared in the July 18 edition of the Boston Globe which clearly shows the respect enjoyed by this wonderful woman:

SAYING THANKS TO ONE WHO HELPS

(By Jeremiah Murphy)

Listen, I have to tell you about Nancy Harrington of Neponset, because I have been trying to understand her and the situation there.

The first time I met her was at a candidates' night a few years ago at the McKeon Post in Neponset. We hit it off pretty good right from the beginning, perhaps because she also is middle-aged and has a bunch of kids and was working for a newspaper. We have a lot in common.

But the thing I remember most vividly about that night was that everybody seemed to know Mrs. Harrington. The pols and campaign workers and the everyday people would stop by and chat for a while and politely ask about her husband and their nine children. Everybody knew and apparently liked Nancy Harrington in Neponset.

I would bump into her later from time to time, mostly at political gatherings, because politics always has been very big in Dorchester with its 38,000 population, and the reaction was always the same. People sought her out, and I figured that she must be a go-through guy, as they say over in Southie. That means somebody you can count on when the going is tough and you need help.

That was part of it, as it turned out. Nancy Harrington was always there to try and give somebody a lift, but that wasn't the whole story. That was only part of it.

The former Nancy Hughes was born in Dorchester 49 years ago and grew up on Pope's Hill in Neponset with the Finnegans and Kenneallys and Galvins and the O'Briens. She's a little woman, perhaps carrying the too-many pounds that are characteristic of most middle-age, motherly types everywhere. She graduated from Emmanuel College in the early 1950s, married Bernard Harrington of North Quincy and settled in Neponset and started raising a large family. Neponset was always home. "I never once thought of leaving," she said the other day.

The family now lives on Spaulding Street near the top of Pope's Hill in Neponset. The Harringtons bought a duplex and converted it into one home, because when you have three sons and six daughters you need room. Lots of room.

After her third child was born, Mrs. Harrington decided it was time to become more active in the community she loved—Neponset. She joined the Pope's Hill Neighborhood Assn., and Dorchester Historical Society and a dozen other organizations. She started working in former representative Paul Murphy's campaigns and later for Rep. Paul White and Brian Donnelly (D-Mass.) She worked to help make Neponset, that most parochial enclave of middleclass Irish, a better community, a section to live in despite the turmoil of busing and high property taxes and teenage vandalism. She did more than just talk about Neponset over coffee at Gerard's or lunch at Sonny's restaurants.

You can find talkers almost anywhere, but you absolutely need the doers, and Nancy Harrington is a doer. She started writing for the Dorchester Argus-Citizen, remained active in her organizations and tried to help whenever she could along the way. She said, "I wasn't much of a housekeeper." It was not that simple.

Her kids are between 22 and 7 years old, and her husband, a state surveyor, rules the household in the old-fashioned family way, and somehow everything turned out well until last August when Mrs. Harrington was struck by a heart attack. That started 10 solid months of more heart attacks, at least four different types of operations and then a massive cerebral hemorrhage. She was in the intensive care unit for eight weeks.

She survived the stroke but nobody knows how. She said it was faith and the prayers of her friends. Nancy looked pretty good the other afternoon even though she was using a cane, but she has lost the ability to read. Her kids hold up flash cards and she has started to learn all over again. But the thing that got to me was that almost 700 people showed up last month at a Time for Mrs. Harrington at the Florian Hall in Neponset. Old friends Eileen Norton and a bunch of others arranged the party. People paid $10 a head to help pay her staggering medical expenses. Entire families showed up.

She isn't a politician and she couldn't directly help anyone that way, but she had been trying to help Dorchester through the years when others were putting the knock on Neponset and Savin Hill and Meeting House Hill and all the rest. So the big crowd turned out that night to say thanks and wish her well. Maybe that's the answer.

Mrs. Harrington's 20-year-old daughter Ann said to me the other afternoon: "Tell her how lucky she is."

Before I could reply, Nancy Harrington answered matter-of-factly, "I know how lucky I am." The feeling here is that Neponset also is very lucky.●

TEMPLE ADATH YESHURUN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LEHMAN. Mr. Speaker, I was recently privileged to participate in ground-breaking ceremonies for Temple Adath Yeshurun's new facade, five new classrooms, and new offices. Located in North Miami Beach, Temple Adath Yeshurun, in existence for 23 years, serves a conservative congregation of some 1,200 adults and 1,000 children under the excellent spiritual leadership of Rabbi Simcha Freedman.

Morris N. Katz, congregational president and member of Temple Adath Yeshurun for over 20 years, envisions this new project as a further development in the growth of the synagogue and in its ability to serve the community. Others sharing in this vision at the ground-breaking ceremony on Sunday, July 12, were Councilman Harry Cohen, Mayor Marjorie McDonald, Commissioner Barry Schreiber, and Representative Ronald Silver.

During the past 5 years, Temple Tifereth Israel and Congregation B'nai Raphael, both of Miami, have merged with Adath Yeshurun. The temple conducts a nursery school with over 100 children enrolled as well as a Sunday and religious school program for children aged 8 through 16. The new youth facilities being planned will serve the several youth groups housed at present in the temple. These include the largest Young Judaea contingent in the Southeast as well as the Temple Adath Yeshurun Youth Group.

It is with great pleasure and pride that I share this event with my colleagues. Delays in the implementation of the project over the last 2 years made this occasion sweeter and even more meaningful. The new facade was designed by Architect Richard Lefcourt and will symbolize the receiving of the Ten Commandments by Moses on Mount Sinai. In Rabbi Freedman's words:

It will be a reminder to all those who enter that it is our responsibility to translate what is learned here into action in our daily lives.●

A TRIBUTE TO QUENTIN MEASE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LELAND. Mr. Speaker, I wish to bring to the attention of my colleagues an article from the Houston Post, by Mary Jane Schier, on July 12, 1981.

Quentin Mease has served on the board of the Harris County Hospital District for 16 years, almost 10 as chairman. He has served with a quiet strength that has benefited this, the fourth largest public hospital system in the country. As a result of his leadership, this system is in sound financial health.

Mr. Speaker, I offer this tribute to Quentin Mease because the recognition of contributions made by people, especially black people, are often left out of history. I seek to change that, in this case.

MEASE SAYS HARRIS CARE A "BARGAIN"

(By Mary Jane Schier)

Local taxpayers will provide nearly $100 million for operating the Harris County Hospital District in fiscal 1981-82, and board chairman Quentin Mease believes the money "may be the best bargain" for any large public hospitals in the country.

Some people will recall when a national best seller portrayed Houston's public hospitals as literal rats' nests and a deplorable political football.

"You almost have to have been here then to appreciate just how far we've come," Mease said in an interview.

With such first-hand insight plus nearly 16 years on the district's seven-member

board of managers, the last 10 as chairman, Mease could remain more serene than most hospital officials during the recent budget battles caused by a controversial abortion clinic.

"That whole matter of the VTP (voluntary termination of pregnancy) Clinic was distasteful and so unnecessary," Mease said of the charges that hospital staff members were "murderers" and "butchers."

The VTP Clinic at Jefferson Davis Hospital was opened almost seven years ago to give poor women the same accessibility to abortions as any others after a 1973 Supreme Court ruling making some abortions legal. A total of 846 VTP procedures were done at JD during fiscal 1980-81.

A recent survey showed about 13,000 abortions in public facilities in New York City last year and one Los Angeles County official estimated at least one in every four poor pregnant women in his area elect to abort.

It was a $127,000 allocation for the VTP Clinic that forced a month-long debate on the hospital district's $129.4 million budget for the fiscal year which began April 1.

The hospital board finally yielded and closed the VTP Clinic in mid-June to win Harris County Commissioners Court approval for the record budget covering both general operations and expansion of facilities. But the members did so "under protest."

Some hospital board members talked about resigning since they firmly felt commissioners had usurped the managers' policy-making powers. Mease quietly appealed to his colleagues to remain.

"Being on a voluntary board like this sometimes seems like a thankless job . . . we're often hampered by having to conduct business largely in a fishbowl," noted Mease, the only remaining charter member from the time the district was created in late 1965 and charged with curing the dying former city-county system.

Mease, 61, twice declined his first appointment and has tried at least three times since to leave when his two-year terms were up.

"Hmmmm, yes, it might be a good time (to leave the board) at the end of this term," Mease said with a smile and the familiar shrug when he doesn't want to answer a direct question.

By most standards, the hospital district, the fourth largest public hospital system in the country, is in good financial health. Other metropolitan public hospital leaders consulted all agreed the Houston area is fortunate and likely won't face closing or curtailing services as has occurred in New York, Chicago, Philadelphia.

The district operates Ben Taub and JD with 475 and 272 licensed beds, respectively, and a network of nine outreach health centers, including the only comprehensive dental clinic for the poor in the nation.

Statistics from the last fiscal year show 35,463 admissions to the two hospitals plus 14,160 deliveries at JD, where more babies are born annually than any other maternity facility in the United States, 114,027 visits to the Ben Taub Emergency Center and 365,216 visits to all of the out-patient clinics in the system for a daily average of 1,455.

National standards suggest a minimum of four beds per 1,000 potential patients.

Taking current population and poverty data, the hospital district has less than half the recommended beds for the estimated 517,000 people financially eligible for services.

The total does not include the growing numbers of non-poor who use the Ben Taub Emergency Center or the projected rise in ineligible maternity cases at JD, where almost 40 percent of patients are already above-scale or out-of-county cases.

As Mease was talking, administrators at the two hospitals were resolving an almost-routine bed "crisis." Nine Ben Taub patients were transferred to JD to spend the night and made the 5-mile return trip when beds were available the next day.

The hospital board last week bought the old Christian Home for the Aged to remodel for about 200 beds, which will be designated for non-emergency services like physical medicine, some psychiatry and less-acute medical and surgical patients.

But Mease noted the facility will not be remodeled and ready for patients for close to two years.

With the recent increase, the local hospital district tax rate now is 58 cents per $100 of assessed property valuation based on 32 percent of the market value. The legal ceiling in Texas is 75 cents per $100 assessment.

Comparatively, both the Bexar (San Antonio) and Dallas County hospital districts have almost twice the net effective tax rate as Harris County.

Based on population studies of the three largest public hospital systems in the state, Harris County spends $53.70 per capita annually while Bexar spends $57.75 and Dallas $63.79. Per patient day costs for the three are $263 for Harris, $271 for Bexar and $305 for Dallas.

Asked what he loses sleep over when looking to the future, Mease quickly replied, "The growth in overall population and the increasing numbers of people who are temporarily if not fully indigent."

Mease said he believes the district will soon need to plan for another general hospital, probably in the northeast section of the city.

And, he notes major strides in the last five years to collect non-tax revenues (from patients and insurance sources), explaining that the $29.6 million collected in fiscal 1980-81 was 12 percent over the goal set for the year and 18.5 percent over collections for the previous year.●

THE 13TH ANNIVERSARY OF INVASION OF CZECHOSLOVAKIA

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mrs. HOLT. Mr. Speaker, August 21 is the 13th anniversary of what has come to be called the Soviet Day of Shame, the day Russian troops invaded Czechoslovakia.

The Soviets continue to occupy Czechoslovakia, in violation of the sovereignty of a U.N. member country; in violation of several articles of the U.N. Charter; and in conflict with resolutions of the U.N. General Assembly, including the Soviet's own motion prohibiting any intervention in the domestic affairs of any state. The occupation is a crime against the right of a nation to determine its own destiny and aspirations.

That 13 years after the invasion Russian troops are still maintained in Czechoslovakia is a tribute to the efforts of the Czechs to regain their freedom. It is also an indictment of the Soviet Communist philosophy, which requires armed intervention to remain dominant.

Hungary in 1956, Czechoslovakia in 1968, Afghanistan in 1979—we cannot allow ourselves to placidly accept these brutal acts of imperialism. Nor can we turn our backs on the innocent people who suffer under the iron claws of the Soviet bear. This 13th anniversary of the invasion of Czechoslovakia is cause to demand a withdrawal of the Soviet troops stationed there. It is also the time to call for the withdrawal of the Soviet troops in Afghanistan and all of the other countries around this world that have tried the promises of communism and found they are false hopes that steal the individualism of a people and force some to work for others, while party members serve as dictators. The United States stands as the beacon of freedom for all people of the world and we must continue to shine our light strongly and without flicker for the oppressed people in other nations.●

THE TAX CUT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. SWIFT. Mr. Speaker, today the House acted on the most sweeping tax program in the history of the United States. I hope it helps solve the problems of inflation. But the form it was in after all the maneuvering was done raises serious questions about whether it can work.

The process began with two very different approaches to cutting taxes for all Americans. The President supported Kemp-Roth which called for a 30-percent cut in taxes over 3 years with the cuts being heavily weighted in favor of the wealthy, on the assumption that they—more than middle-income people—would invest their dollars and that, in turn, would result in increased industrial productivity.

The House Ways and Means Committee had a different approach. It was to give a permanent tax cut this year, aimed more at the middle-income wage earner. It added certain other features such as charging no tax on interest earned on savings up to $2,000 per couple, elimination of the marriage tax, a better tax break for small businesses, and so forth. Integral to this idea was to pass the cut this year and then reexamine the state of the economy next year and develop another tax cut package that would be tailored to the needs of the economy—at that time, thereby avoiding the very real risk of the tax cut itself fuel-

ing inflation by increasing the Federal deficit.

I favored the latter approach, but both were clear-cut programs. Then the bidding started.

In an effort to obtain the votes necessary to pass its package, the Ways and Means Committee began modifying its bill. It slipped from 1 year to 2 years and then to 3 with "triggers." At that point the major distinction between the prudent approach it had been following and the President's more radical approach began to disappear. Then, to pull 15 votes from the oil States a huge tax cut for the oil industry was included. And then the race was on. The Ways and Means bill offered to the House today was a vague shadow of what it started out to be.

Meanwhile, back at the ranch, the President was not about to be outbid. He gave up 5 percent of the total cut, but offered the oil industry even bigger tax breaks than Ways and Means and came up with a tax cut for big business that amounts to $1 trillion over the decade.

Then he adopted virtually all of the other Ways and Means committee sweeteners.

And then, he added the Senate's tax indexing to the whole thing and went on TV to say his was a "closely knit, carefully constructed" bill. In fact it was thrown together with bailing wire and scotch tape in the last 10 days. His television presentation briefly mentioned his original Kemp-Roth program but stressed the add-ons. Just as the Ways and Means bills looks nothing like what it started out to be, the President's original Kemp-Roth program was buried underneath all the goodies he's added to it in his counter effort to get votes.

What happened was that both sides forgot what they had started out to achieve in their eagerness to win, not minding what they won with, just win. It became a macho game of whose name was going to be on the tax cut rather than what the tax cut contained.

In fact, in the major provisions, it would be hard to slip a piece of tissue paper between the two; they are so similar.

There are differences. The President's plan has indexing, which is an approach to elimination of bracket creep that I have long supported. But it is added to Kemp-Roth rather than being used as the basic vehicle for tax cuts. That is a big difference.

The Ways and Means bill gives a much better break to wage earners making less than $50,000. It is better for small business. It has a better provision for eliminating the marriage tax than does the administration's bill.

Ways and Means included in its bill good provisions to encourage savings, to ease the burden of inheritance taxes on farmers and small businessmen and some others, all of which were adopted, virtually untouched, by the President as well.

But what is remarkable about the bills is not their differences, but their similarities. Both sides strayed a long ways from what they had intended to do and come up with very similar bills which they then touted as significantly better than the other guys. Tweedle-dum and Tweedle-dee.

Then to add insult to injury, the Rules Committee reported out a rule for deliberation of this bill that was so tight it did not give Members the chance to correct any of these flaws on the floor.

Our choices were the Udall/Obey bill—which had the virtue of being clean, straightforward, not possessing tax breaks for oil and containing provisions for a balanced budget in 1983. It had some drawbacks too, but looked awfully good compared with the other two "Pictures of Dorian Gray" that we are presented with. I voted for Udall-Obey, knowing that it had no chance of passage. But it was an opportunity to protest the packages offered by both President and Ways and Means.

I also voted against the rule, which gave us no chance to offer or vote for amendments to add indexing, or eliminate oil and big business tax breaks that run into the billions and even trillions.

Ultimately, however, we had just the two approaches, bloated with sweeteners and tainted by the process of bidding for votes. Of the two, the Ways and Means bill has the edge because it deals better with the middle American than does the President's bill. I'm sorry it failed.

Finally, I would call my colleagues attention to an article on the front page of the Washington Post this morning. It was an interview with three families. The one thing they had in common was their skepticism that there would be any real tax cut at all. "I will believe it when I see it" was their attitude.

I am deeply concerned that by passing a multiyear tax package, in the name of providing certainty to investors, we have in fact set ourselves and the country up for a big fall. The chances are good that by the second or third year, events will have changed our economic climate in such a way that we will have to change the tax laws we passed today. We may have to respond to huge deficits caused by the combination of reduced revenue and massive defense spending. Other events in the uncertain economy could force revision.

If that happens, and the chances are very good that it could, not only will the much lauded certainty for investors fly out the window, but the skepticism of those three couples in the Post this morning, will be fully justified.

In the end, I voted for the President's program. I did so with a strong foreboding that after all the rhetoric, all the wheeling and dealing, after all the vote buying and compromise and inflated claims, the plan was not going to work; I sincerely hope that time proves me wrong.●

PLIGHT OF SOVIET JEWS EMPHASIZED

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. IRELAND. Mr. Speaker, the plight of the Soviet Jews is a matter which I feel is critical at this time.

In August 1979, I participated in a study mission to various nations, including the Soviet Union. It was during this visit that I was able to meet many "refuseniks" including Mr. Anatoly Scharansky's mother.

I learned, firsthand, the ordeal which they have and will continue to face until they are permitted to emigrate to the country of their choice.

I would like to take this time to call our attention to one particular family which has been trying to emigrate to Israel since 1973. Ilya Khakham, his wife Clara, and their child were separated from Ilya's parents when they were refused permission to emigrate together to Israel.

Ilya, a carpenter by trade, was denied permission because of his service in the army between 1969 and 1971. The Soviet Union determined that he was a security risk and has refused his attempts for permission to emigrate. Mr. Khakham's plight is made even more poignant by the fact that his parents were allowed to leave in February 1973, and now reside in Israel with the hopes that they will soon be joined by their children and grandchildren.

This is just one of many cases to which I hope, through our efforts, we will be able to bring about a positive outcome. Perhaps through our continued interest, concern, and participation, we will be able to influence the Soviet Union to alter its emigration policies and, on a larger scale, their human rights policies.

I look forward to the time when participation in the congressional Soviet Jewry vigil will no longer be necessary, and we will, instead, be celebrating the freedom and reunion of these individuals who are struggling now.●

CONGRESSIONAL HEARING ON AFGHANISTAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. DERWINSKI. Mr. Speaker, on July 20, the Subcommittee on Human Rights and International Organizations and the Commission on Security and Cooperation in Europe held a joint hearing on Soviet human rights violations in Afghanistan. Chaired by my distinguished colleague, the Honorable DANTE FASCELL, the panel heard witnesses who included a schoolgirl who led a demonstration of unarmed students against the automatic weapons of Soviet troops, and a leader of freedom fighters who described the lethal effect of the wide array of Soviet weapons used against the poorly armed Afghan patriots.

Human Events, in its August 1, 1980, issue, carried an excellent article on the Afghanistan hearing, titled "Expert Refutes ABC Afghan Weapons Story." The article mentioned the active role of my distinguished fellow Member, the Honorable DON RITTER, in promoting the hearing. It also refuted the contention by Carl Bernstein that the Afghan freedom fighters are receiving substantial aid from abroad in their heroic struggle against terrible odds.

On July 16, I introduced a resolution on the right of the Afghan people for independence and autonomy. I am seeking cosponsors for this resolution, House Concurrent Resolution 157. In the meanwhile, you will be interested in the full text of the Human Events article.

EXPERT REFUTES ABC AFGHAN WEAPONS STORY

A leading expert on the situation in Afghanistan has testified that he has found "no evidence" to substantiate ABC reported Carl Bernstein's claim that the Afghan freedom fighters are getting the kind of sophisticated weapons they need to fight the Soviets.

Thomas E. Gouttierre, director of the Center for Afghanistan Studies at the University of Nebraska, told a congressional subcommittee hearing on Soviet human rights violations in Afghanistan that "recent assertions by Carl Bernstein on ABC's '20-20' program and in The New Republic notwithstanding, little of the weaponry essential to confronting Soviet air superiority has reached" the freedom fighters.

Gouttierre told the panel, chaired by Rep. Dante Fascell (D.-Fla.), "the contention is that the Afghans are enjoying the kind of weaponry that they need to combat Soviet military and technological superiority. There is even a claim that some 60 Soviet helicopter gunships have been destroyed. I have found no evidence whatsoever that would in any way substantiate this particular claim or any other claim that would indicate that the amount of support the Afghans are enjoying is anywhere near the levels that Mr. Bernstein has been talking about."

Gouttierre, a leading authority on Afghanistan, spent 10 years in the country as a Peace Corps volunteer and as director of the Fulbright Foundation. He left in 1974, but returned twice in 1978. He is known to have excellent contacts in the Afghan resistance.

His July 22 testimony at a hearing held jointly by the Human Rights subcommittee of the House Foreign Affairs Committee and the Commission on Security and Cooperation in Europe, which monitors Soviet compliance with the Helsinki accords, suggests that the Bernstein report on ABC and in The New Republic is just factually incorrect. Fears that the Bernstein report could be damaging to the Afghan freedom fighters has already been expressed (see last week's Human Events).

In an interview with Human Events, Gouttierre said that while Bernstein's claim that five nations—the U.S., China, Egypt, Saudi Arabia and Pakistan—are helping the freedom fighters "seems plausible," the suggestion that the resistance is getting the equipment it needs to fight the Soviets is "very, very misleading." He said such a report creates "a tremendous misperception."

Gouttierre told the hearing that the freedom fighters are getting most of their weapons by capturing them from the Soviets. He added, however, that "I think the freedom fighters are getting a certain amount of weaponry—Soviet weaponry—from the supplies that the Egyptians and the Chinese might have had."

He also testified that "I believe that the Reagan Administration has made a decision—a moral if not physical commitment—to provide some assistance to the freedom fighters. I don't know to what extent in terms of numbers and kinds of weaponry."

Although the resistance has scored some major victories against the Soviets, he said, "it has by no means gained the upper hand." He said the Soviets "are expanding their policy of dual genocide—corporal and migratory.

"Villages and valleys are denuded of their populations through increased bombing and intimidation. Chemical warfare, including the possible use of hydrogen cyanide, and mines disguised as toys, are being used. Areas of major cities have been destroyed in heavy bombardment. Whole villages have been reduced to rubble and their populations executed en masse for being suspected of aiding or harboring freedom fighters."

There are, he said, two million Afghan refugees in Pakistan and a half-million in Iran. Another half-million Afghans have been killed or wounded. "We're talking about anywhere from one-fifth to a seventh of the population of a country that has been eliminated from that country," he said.

More information contradicting Bernstein's claim about what is happening in Afghanistan came from someone who should know—an Afghan freedom fighter. Malik Muhammed Hussain Wardak, a tribal leader in the war of resistance who traveled for nearly three weeks in order to appear at the hearing spoke of "the tragic and cruel conditions that confront us in Afghanistan."

Speaking through Thomas Gouttierre, his interpreter, Wardak said, "We inside Afghanistan obtain almost all of our weapons from captured Soviet convoys, defecting Afghan troops, and purchases in the border areas."

"The types of aerial weaponry utilized by the Soviet forces are devastating to us," he said. "There are six basic types that I have seen ranging from reconnaissance planes, to deep penetrating bombs with wide devastation capacity, to fast white jets dropping fire bombs, to MI-24 helicopters launching rockets, artillery fire, bombs, and rapid machine gun fire, to immobilizing gas bombs, which also include residue explosive articles, and camouflaged bombs in the forms of toys and pens, capable of blowing off limbs."

Wardak emphasized that "not only are freedom fighters being killed, but so are our women and children. No life remains in those areas bombed by the Soviet warships."

Even school girls are not spared, according to an 18-year-old woman identified as "Nahid," who told the hearing about an anti-Soviet demonstration she led in April 1980 at her high school in Kabul, the capital city of Afghanistan. Seventy of her friends were killed. Another 300 were wounded.

Nahid was expelled from school for her activities and she eventually made her way across the border into Pakistan, where she stayed for two months before coming to the U.S. In Pakistan, she said, "I saw freedom fighters there; they are in a bad situation because they lack weapons, they were sitting idle. Some of the freedom fighters fought in the mountains and had to eat grass because they had no food. The wounded died because they had no medicine to stop their bleeding."

"The war continues and many are being killed," she said, "Therefore, we have asked America to give us aid."

Thomas Gouttierre urged Congress to act. "I would hope Congress would accept the responsibility to encourage assisting the Afghan freedom fighters with the weapons necessary to resist the Soviet occupation and to combat the genocidal policies that proceed from it."

Leading efforts in Congress to help the freedom fighters is Representative Don Ritter (R.-Pa.), who played a major role in making last week's hearing possible. Representative Ritter has visited refugee camps in Pakistan to learn first hand about the problems faced by the Afghan people.

Representative Ritter told us that he is developing an "Action Group on Afghanistan," consisting of liberal and conservative members in Congress, that will try to focus attention on the problem and prod the Administration into action. The congressman said that a group headed by Lord Nicholas Bethell, a member of the House of Lords in London, will perform similar work in Europe.

A key purpose of the groups, he told us, is to create a climate in which free world governments can aid the resistance with food, medical supplies or weapons. But if media coverage of last week's hearing is any indication, it will be extremely hard to establish that kind of climate. It was ignored by the three network news programs, the Washington Post and the New York Times.●

CALL TO CONSCIENCE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. MINETA. Mr. Speaker, today I am proud to participate in the "Call to

Conscience" Congressional Vigil for Soviet Jewry.

Since its birth, America has committed itself to protecting the rights of individuals to life, liberty, and the pursuit of happiness. Included in these rights is the opportunity for a man to freely leave his home and reside in a foreign country.

Another nation which wields great influence in international affairs, the Soviet Union, has neglected to recognize these inalienable rights. On countless occasions, the fundamental liberties which Americans enjoy—from freedom of the press to freedom of religion—have been restricted or denied. Religious and cultural persecution make emigration particularly important to many Soviet Jews; yet, implementation of emigration laws has left many individuals virtual prisoners in the country of their birth.

By participating in the "Call to Conscience" Congressional Vigil for Soviet Jewry, I support the continuous struggle of Mark Novikov to leave Russia and join his family in Israel. Mark, his wife Susannah, and their two children first applied for emigration in 1971 but were denied because of the alleged secret nature of Susannah's work. After further attempts to emigrate, Susannah and her children succeeded in 1976; Mark, however, was refused this time on the grounds of the classified quality of his employment. Ironically, two of his colleagues at the same electrical engineering institute have since been permitted to emigrate.

Today—more than 10 years after his first appeal to leave Russia—Mark remains separated from his family, retired, and alone at the age of 62. Recently his name surfaced in connection with testimony he gave at the trial of Victor Brailovsky.

The tragic case of Mark Novikov is not an unfamiliar story. Thousands of Soviet Jews were given new hopes of emigration by the Helsinki agreements in 1975. While 50,000 Soviet Jews did emigrate in 1979, in 1980 the total was cut to 21,000 and during the first 6 months of 1981 only 6,600 have been allowed to leave the U.S.S.R. Thousands more of the 2 million Jewish citizens in the Soviet Union await their chance to leave today.

The decline in Soviet Jewish emigration has cast many doubts on the Soviet commitment to abide by the accords signed at the Helsinki Conference. I am very concerned with the increasing trend toward restricting Soviet Jewish emigration, and call on the Soviet Government to help promptly resolve this issue.

Last, I commend the Union of Councils for Soviet Jews for the determination and perseverance which has marked their efforts to obtain freedom for Soviet Jews.●

CHAIRMAN OF HUNGARIAN COMMITTEE CALLS FOR POLISH SOLIDARITY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. GILMAN. Mr. Speaker, on July 8, 1981, Monsignor Bela Varga, the chairman of the Hungarian Committee—an organization of democratic Hungarian politicians exiled by the Communist regime in Hungary—issued a statement on Poland which should be of interest to my colleagues. Msgr. Bela Varga, who currently resides in New York, was the Speaker of the Hungarian Parliament after the relatively free 1945 election but had to flee following the Communist coup in Hungary at the end of May 1947.

For his work in aiding and saving French prisoners of war in Hungary during World War II, he had received the Legion of Honor from President Charles de Gaulle. Varga was also active in saving Polish refugees and officers in Hungary during the war and many Jews during the German occupation of Hungary after March 20, 1944.

Msgr. Varga's remarks demonstrate the affinity between the Polish and Hungarian peoples and their aspirations to independence and political freedom and shows that the Polish workers movement is regarded as the harbinger of radical change in all of the region, not just in Poland.

STATEMENT OF MSGR. BELA VARGA, CHAIRMAN, HUNGARIAN COMMITTEE AND FORMER SPEAKER OF THE HUNGARIAN PARLIAMENT, 1946–47

The Hungarian people are historically tied to their Polish brethren.

The fate of both nations has been indeed similar. They fought valiantly against their occupiers and sacrificed grievously in order to retain their independence. Only thus could they have survived oppression and remain living parts of the cultural, political and economic life of Europe.

Today, the Polish people strive for their independence alone. Its workers commenced the struggle and in their hands rests the future of Poland as they forged the national unity now prevailing. Their weapon is their faith and the participation of the overwhelming majority of the nation, though their fate is still tied to Moscow. Yet no matter what the final decision will be in the Kremlin, it may decelerate the drive for Polish freedom but never defeat it.

The Hungarian people at home cannot openly endorse and sympathize with the people of Poland and, therefore, it is necessary for us to do so in their behalf.

We sincerely wish that the wisely and valiantly conducted Polish struggle for independence should attain its goals. Such success would not only solve Poland's problems but benefit all peoples behind the Iron Curtain and would certainly weaken the colonizing power of the Soviet Union.

The Hungarian Committee warns the Government of Hungary from participating in any Soviet action against the Polish people. The martyr Hungarian premier, Paul Teleki prevented at the outbreak of World War II German use of Hungarian territory during their invasion of Poland. After the Soviet and German invasions, Hungary became the second home for civilian and military refugees from Poland.

If the Hungarian regime is unable to support the independence struggle of Poland, it at least should not harm it or inflict irreparable damage on the historical Polish-Hungarian friendship and Hungarian honor.

May God help the Polish nation.●

NEW CITIZENS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 43 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in welcoming these new Americans:

Daphne Roseboro, Jamshid Hamed, Gautam Patel, Mohammad Farzanfar, Miro Monghi, Alla Klichevski, Efim Klichevski, Philip Wei, Norma Kogelschatz, Tian Mullinix, Ineza Chikvashvili, David Chikvashvili, Chun Yu, Maria Razpopov, Spas Razpopov, Todor Razpopov, Winston Subero, Hue Dao, Panagiotis Orfandidis, Huong Ngoc Mendell, Bach Mai, Hieu Nguyen, Duk Han, Ashok Narula, Soung Yoo, Jyoti Kumta, Valentina Shvarts, Felix Shvarts, Geethamma Elengical, Zosimo Balan, Sylvia Moore, Ellen Kampler in behalf of Juan Kampler, In S. Lim, Hwa S. Taylor, Michael Pais, Eutimia Lebowitz, Froilan Saradpon, Kamal Hamod, Carmita Juta, Maria Calabretta, Tien T. Nguyen Feusner, Sun Black.●

ALL PALESTINIANS SHOULD ADHERE TO THE CEASE-FIRE IN LEBANON

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. FINDLEY. Mr. Speaker, the cease-fire in Lebanon is critical to the welfare of the people of the region as well as to future efforts to assure their security through a broader and lasting settlement. Therefore, it is deeply disturbing that some Palestinian elements closely attached to Libya and the Soviet Union have refused to adhere to the cease-fire. I condemn these violations and believe that responsible parties in the Middle East should likewise condemn them and

exert their influence to stop all violations.

The PLO, under its chairman, Yasser Arafat, has already taken some measure to bring to a halt some of the cease-fire violations by Palestinians including the arrest of violators. I hope that the PLO will continue to recognize the necessity of such measures and of the critical importance of adhering to the cease-fire.

Israel, which has expressed concern about the Palestinian violations, including the shelling of northern settlements, has demonstrated restraint by not retaliating and by continuing to adhere to the cease-fire. I hope that Israel can continue to abide by the cease-fire, recognizing that the vast majority of Palestinians desire it and are willing to abide by it.

The observance of this cease-fire is essential to a settlement in Lebanon that will enhance Israel's security. It is up to the United States, acting with friendly parties in the Middle East and beyond, to look upon this cease-fire not as a final goal in Lebanon but as an opportunity to achieve a more lasting settlement that will bring peace to that troubled land and justice to all parties.

In sharp contrast to the role of the United States, which has attempted to mediate differences and bring peace to the region has been the role of Libya and the Soviet Union. These two nations have encouraged the Palestinian splinter group violating the cease-fire with Israel to continue its acts of violence. It is up to all parties who desire peace not to let these two nations act as a spoiler of the cease-fire. Instead, Libya and the Soviet Union deserve universal condemnation for their attempts to disrupt the fragile cease-fire and hopes for peace and security in the Middle East.●

A GOOD WORD FOR CONGRESS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. WEISS. Mr. Speaker, as Members of Congress we have been subject to more than our share of criticism in recent years. Some of it is well deserved, but much, in my humble opinion, is not.

One outside observer agrees. Norman J. Ornstein, a professor of politics at Catholic University, wrote an enlightening account recently in Newsweek of what he sees as the reality behind the unfair image of Congress. I commend the article to my colleagues.

[From Newsweek, July 13, 1981]

DON'T BE BEASTLY TO CONGRESS

(By Norman J. Ornstein)

America's second favorite indoor sport is knocking politicians. True, this has long been the case—it goes back well before Mark Twain referred to Congress as America's only native criminal class, or Will Rogers said we have the best politicians money can buy. But lately, the criticism of our government and our leaders has been at almost a fever pitch. If the news on Congress doesn't focus on Abscam, sex scandals or alcoholism, it feature tales of overseas junkets, overgenerous political perks or oversize Congressional office buildings. Political cynicism and public bitterness over our politicians' venality are rising at an even faster rate than the national debt.

None of the news stories are made up, but they tell only a small part of the story. I have watched Congress and Washington closely for more than a dozen years, most of it from the outside, and I can add with total confidence the following startling assertions:

1. Congress is clean and honest.—I would bet a lot of money that the proportion of alcoholics, drug abusers, homosexuals, bribe takers and sex maniacs is no greater in Congress than it is among any other group of people with similar high-pressured jobs, whether they be doctors, lawyers, dentists, journalists, bankers or industrialists. In fact, it is probably less. But a congressman sleeping with a lobbyist or even his own wife (if it's on the Capitol steps) is news, while a businessman's affair is not—and even if the latter makes the headlines, it's not generalized in the same way. The plain fact is, however, that the overwhelming majority of people in Congress are of the basic, dull, family-oriented variety.

2. Congress works hard.—The average member of Congress works 70 to 80 hours a week on public business, ranging from committee hearings to floor debate to meetings with constituents. The workweek is usually seven days, four or five in Washington and the weekend back in the district—a nomadic existence that strains family life and physical well-being. Everyone derides Congressional recesses including the President, and newsmen are especially fond of poking fun at the Congress's own term for them, "district work periods." In fact, they are district work periods. Most legislators go back to their districts and work long hours—meeting with individuals, visiting senior-citizen homes or community centers. We all try to have it both ways, we accuse the member of Congress of "losing touch" if he doesn't spend a lot of time back home, and of "laziness" if he misses a vote or a meeting in Washington—but then we deride him when he tries to meet all our demands.

3. Most Congressional "junkets" are in the public interest.—It is the rare trip that is taken for pleasure alone. Most Congressional travel is brief, with as much time in the air as on the gound, and involves far more work than play. Our domestic and foreign policies are shaped by Congress; we need to have congressmen travel. We would be in a fine mess if we forced our legislators to become insulated from the outside world. We cannot possibly set the best policies for the United States in agriculture, arms sales, energy or any other area without seeing how our key allies in Europe do things or how they feel about our policies. We also need direct contact with the Russians, the Chinese, the Salvadorans and every other nation. Congressional trips inform and educate, and an informed and educated Congress is in everyone's interest.

4. Congress' working conditions should be improved.—Capitol Hill is filled with uncomfortable offices. It may be hard to believe—for those who read about expensive, posh office buildings (and the cost overruns are inexcusable)—but, despite the odd exception, legislators and their staffs do not luxuriate in plush offices with fancy furniture. They sweat and strain in overcrowded offices with too many people and too much noise. Few if any businesses would tolerate such a setup. Congress should have better office arrangements.

5. Members of Congress are underpaid.—Every attempt to increase Federal pay results in a cacophony of screams of outrage. Of course, it is hard for the average citizen to feel sorry for a poor congressman trying to get by on "only" $60,000 a year. But the fact is that in Washington—where a truly modest family home in a decent location goes for $200,000 and up—$60,000 does not go very far. This is especially true for a member of Congress, who must maintain two residences, including one in the district. Moreover, for most members, serving in Congress means a substantial financial sacrifice; their "peers"—lawyers, lobbyists and consultants—command anywhere from two to five times a Congressional salary. Our best public servants regularly receive lucrative opportunities out of government. We should keep Congressional pay at a level where legislators like Sen. Pete V. Domenici (with eight kids waiting to go through college) are not forced out of public life because they can't afford it.

I am well aware that many people will greet my claims about Congress with disbelief and outrage. But many others—including, I suspect, some who make their living reporting on Congressional scandal and sloth—will recognize their truth. I hope the latter group will start to echo my themes, or at least to counter some of the worst negative excesses. I hope the people and organizations with some clout and prestige will apply some resources to recognizing and rewarding our best public servants, instead of publicizing and emphasizing our worst.

For the foreseeable future we will be living in a political system where citizen demands exceed public supplies, where government services are cut back and redistributed, taking more from some than from others. There is no better way to commit societal suicide than to reinforce the erroneous belief that Congress is a collection of corrupt, venal, greedy and hypocritical characters who, by extension, make unfair and illegitimate decisions. I for one would rather have Congress making tough decisions than any other legislature on earth, or than any other collection of people I could name.

NOTE. Ornstein is professor of politics at Catholic University, scholar at the American Enterprise Institute and political editor for public television's "The Lawmakers."●

CONGRATULATIONS TO LINDA REMITZ OF MOLINE

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. RAILSBACK. Mr. Speaker, several weeks ago I received a box from Linda Remitz of Moline, Ill., containing more than 2,000 post card sized messages that read:

Sacrifice and dedication created the United States. Innovation and competition made the United States the most powerful and prosperous country in the world. We are losing this power and prosperity through several of our governing policies. Too many have come to expect too much from too few.

Therefore I am asking you to pass President Reagan's program of budget and tax reform.

I want an end to government and welfare waste, fraud and mismanagement. I want tax cuts for business, new equitable tax formulas by 1982, and an accounting of Congressional spending. I want less government. I want to assume responsibility for myself and my future.

The campaign to collect these signatures was initiated by my constituent who formed an organization called Citizens for Government Reform. Of the nearly 2,000 collected 700 of the messages came from my district alone. The remainder came from other sections of the United States. As most Members of Congress will agree, constituent mail has more than doubled over the amount received last year. I am pleased to receive these messages of encouragement from all over the United States, and while I could not answer all 2,000 messages, I have attempted to respond personally to the more than 700 from my district.

In this week when we meet to debate and hopefully pass, President Reagan's tax bill and with anticipation of considering the Conference Report on the Budget Reconciliation let us reflect on the messages that I received as a result of Linda's campaign.

I want to congratulate Linda for her commitment and dedication to the President's program of budget and tax reform.●

A TRIBUTE TO AMY KUSSKE

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LUNGREN. Mr. Speaker, I would like to apprise the Members of the remarkable accomplishment of a 14-year-old student in my district.

Amy Kusske, a student at Hill Junior High School in Long Beach, Calif., is the youngest student in the Nation and the only student west of the Mississippi to have her science project selected for launching aboard the Space Shuttle.

She has developed an advanced scientific experiment involving blood protein levels and will work closely with NASA scientists to prepare it for space flight. She competed against some 20,000 students from across the country in a competition sponsored by NASA and the National Science Teachers Association.

Amy competed against high school juniors and seniors—students some 3 and 4 years older than her—and she was the only junior high school student to win.

Mr. Speaker, I think it is fairly obvious that Amy's achievement is a truly remarkable one and is indicative of the great promise that she and many other young people hold for our Nation's future. I would like to commend her and wish her the best of fortune in all her future endeavors, which, no doubt, will be very formidable ones.●

THE GOP—THE PEOPLE'S PARTY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. FIELDS. Mr. Speaker, in recent weeks, Americans have been subjected to a great deal of talk about so-called fat cats and special interests in Washington, and those groups' supposed control over the Republican Party. As a Republican, I always rejected that kind of talk—I know from personal experience that we Republicans come from every economic segment of our Nation, not just from the upper rungs of our country's economic ladder.

I recently read an excellent article in the Houston Chronicle which discussed the level of citizen participation in the country's two major political parties. The article provides an excellent camparison of the two major political parties and the degree to which each has solicited and received the support of average Americans in recent years.

The article demonstrates that while the Democratic Party has been content to continue to receive the bulk of its operating budget and political contributions from labor unions, big business and the wealthiest of Americans, the Republican Party has aggressively built a grassroots citizens party boasting of more than 2 million individual contributors, most of whom donate about $25 a year to help the party that best represents their interests here in Washington.

Compared to the Republicans' 2 million-person contributor list, the Democrats have only 75,000 names. And compared to the 75 percent of total income that we Republicans raise from small contributors, Democrats receive only about 10 percent of their funds from such small contributors.

Mr. Speaker, this article so effectively counters many of the misconceptions about the membership of the Republican Party that I would like to share it with my colleagues. I hereby submit it for the RECORD.

Thank you.

[From the Houston Chronicle, July 13, 1981]

WHICH 'FAT CAT' PARTY?

(By Richard E. Cohen)

Plans by Democratic leaders to recover from their 1980 debacle face a serious obstacle: money.

House Speaker Thomas P. "Tip" O'Neill, Jr., D-Mass., has criticized President Reagan and his Republican cohorts as the "fat cat" party, insensitive to working people. But there is an ironic twist to this tale. Reports filed by the two parties dramatize the fact that the Republicans have built a vast network of ordinary citizens who regularly give $25 or so to their party, while the Democratic Party has become almost entirely dependent on wealthy contributors and the support of big labor and business committees.

The harsh reality is that, in addition to their other headaches. Democrats have allowed their national fund raising to wither to the point that the party apparatus gives candidates nowhere near the financial or technical help that the GOP provides across the country. A few figures highlight the disparity.

In 1979-80, the Republican National Committee and separate committees run by House and Senate Republicans raised $111 million. Three comparable Democratic operations took in $19 million. Each party gave to or spent directly on behalf of its candidates about 10 percent of its total.

The GOP has nearly 2 million names of regular contributors in its computer; the Democrats have roughly 75,000. As a result, the Republican Party groups raise approximately 75 percent of their income from small donors, compared with less than 10 percent for the Democrats.

And things could get worse. Aided by their new incumbency power, the Republicans are making inroads into the big givers. For example, this spring's GOP dinner in Washington raised $3 million—a record sum for a party affair—while a comparable Democratic bash raised $1.5 million, less than party leaders had hoped.

To escape the doldrums, the Democrats have turned to three Californians, who have proved successful statewide organizers and fund raisers in the past and who have already infused new enthusiasm into the national effort. They are Democratic National Committee Chairman Charles T. Manatt, Sen. Alan Cranston and Rep. Tony L. Coelho.

Along with others who have studied the Democrats' financial woes, they recognize that appearances can be deceiving. On the one hand, Democratic candidates for the House and Senate raised $129 million overall in 1979-80, compared with a total of $122 million for the Republicans. on the other hand, the fact that most Democrats could not look to their national organization for much help meant that they were more likely to act independently of the party on other matters, as has become all too clear in the recent party disarray in Congress. Furthermore, the financial and logistical aid that the GOP provides for its candidates has encouraged challengers to run against entrenched Democratic incumbents.

Although it is too early to suggest the Republicans are about to replace the Democrats as the nation's majority party, they are clearly reaping the benefits of the intensive party-building campaign led by Bill Brock, who was chairman of the Republican National Committee from 1977 to 1981.

Brock was subsequently named by Reagan as the U.S. trade representative.

Borrowing fund-raising techniques pioneered by New Right direct-mail specialist Richard A. Viguerie, Brock helped the party raise enough money so that in addition to roughly $10 million in direct support, it gave Republican candidates an unprecedented range of services that undoubtedly promoted the GOP's net gain of 12 Senate and 33 House seats in 1980. Perhaps the best-known activity was the nationwide TV commerical featuring an O'Neil-like character at the wheel of a car running out of gas. Republicans designed the novel advertising campaign to help voters draw a connection between the Democratic-controlled Congress and the nation's problems. The TV attack, which cost several million dollars, undoubtedly was worth the investment.

Another Republican innovation that candidates later credited as important to their success were week-long campaign management schools for both the candidates and their aides to learn techniques in such areas as fund raising, issue development, polling and media efforts.

The Democrats ran cheaper replicas of some of the GOP activities but they did not have the same impact, partly because party leaders did not urge participation, as did their GOP counterparts. As a result, Democratic congressional candidates have continually found themselves on the defensive, in contending with both the issues and the selling of their campaigns.

The Reagan budget-cutting campaign, which most Republicans support, gives Democrats some hope they can take the offensive once the impact of program reductions starts to hit the local areas. Cranston and Coelho, among others, are counting on resistance to mount as the 1982 campaign moves into full swing next spring.

But Democrats face the problem of assuring adequate money and organization to assist their candidates and to combat Republicans, who obviously plan to use their superior resources to convince voters they are making progress in dealing with the nation's economic woes. Although Democratic leaders finally agreed this spring to develop a direct-mail program to match the Republicans, such an effort typically requires several years of patient search for supporters and the commitment to reinvest dollars raised by direct mail to attract even more money. Such long-term prospects will offer little solace to embattled Democrats in 1982, as they campaign against Reagan's expected appeal for more time and for more Republican votes in Congress.

The imbalance between the two national parties is reinforced by the far-more-wealthy and experienced political action committees representing conservative interests, as compared with liberal groups. Using Viguerie's direct mail fund raising, numerous conservative groups such as the National Conservative Political Action Committee directed by John T. (Terry) Dolan and the North Carolina Congressional Club, organized by Sen. Jesse A. Helms, R-N.C., spent more than $13 million in 1980 elections.

Several liberal leaders have decided they cannot allow such conservative efforts to go unchallenged in 1982 as they did last year. As a result, half a dozen groups have been organized in Washington by disgruntled and worried Democrats, and nearly all of them plan to copy the conservatives' tactic of seeking a broad base of small contributions. In this way, they hope that Democratic candidates will have some of the auxiliary support that proved so helpful to Republicans in 1980.

Their fund-raising problems show that Democrats may face an uphill battle in the key election battle ground of 1982—The Republican attempt to take control of the House. Many party and liberal leaders fear the chips are stacked against them—that as business and conservative groups see the prospect of eliminating the final vestige of Democratic control, they will abandon their parochial interests and do whatever they can to put the GOP over the top.

The Republicans almost surely will have the organizational advantage. Whether they succeed probably will come down to one factor—the voter popularity of Ronald Reagan.●

RAILROAD TANK CARS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LaFALCE. Mr. Speaker, I have several major producers of chemicals in my congressional district. As late as today, they brought an issue to my attention which I believe is worthy of our future consideration.

They allege that the tax bills presently being considered by the Congress provide that all new railroad tank cars be classified as 10-year property for depreciation purposes; and that all other railroad rolling stock would be classified as 5-year property.

They further allege that the exception for tank cars was sought by major car builders; and that the committee apparently concluded that all tank car manufacturers and owners supported the 10-year classification.

The chemical industry is one of the largest users of tank cars. In today's fleet of approximately 70,000 cars used by the chemical industry, 25,000 are owned by the chemical companies. I am advised that the current trend of these companies is to increase the ratio of cars they own.

These representatives of the chemical industry allege that the purpose of such provisions in this tax bill is to stimulate capital expenditures, and that it should then follow logically that purchasers of the new tank cars should not be excluded from consideration.

Major chemical shippers urge that railroad tank cars they purchase should be classified as 5-year property. They state that this would not deny the incentive for those who manufacture and lease rather than sell.

They have asked for speedy future consideration of this issue. It does appear to me that the least we can do is give that type of consideration to it.●

THE KING OF TORTS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. LELAND. Mr. Speaker, I wish to bring to the attention of my colleagues a column from the Dallas Morning News by Ken Biffle dated February 11, 1979, about the King of Torts, Joe Jamail, of Houston, Tex.

Joe Jamail is recognized in legal circles as a person who has made significant contributions to his profession. He has, over the years, been responsible for setting many precedents in the law.

Joe Jamail is King of Torts because of his relentless effort on behalf of his clients; and he wins. And he loves to battle the giants; he has never lost a case to the U.S. Government, for example. He loves his work, and often will work for nothing more than the satisfaction of winning.

Mr. Speaker, I thought it would be interesting for my colleagues to read about this man. Even though this article is dated, Joe Jamail still reigns today as the "King of Torts."

TEXAS' KING OF TORTS LOVES TO BATTLE THE GIANTS

(By Kent Biffle)

HOUSTON.—Joe Jamail reigns as the king of torts. Other injury lawyers have topped Jamail's largest awards—but the other lawyers, for one reason or another, somehow never seem to collect the big ones.

Jamail consistently collects for his injured clients—more than $20 million last year, for example.

It's surprising that he flunked his course in torts at the University of Texas School of Law.

It's not surprising, however, in view of his winning ways, that he was recently invited to serve as special prosecutor if Tarrant County again decides to try multi-millionaire Cullen Davis on criminal charges arising from killings at his mansion and alleged death plots.

A championship courtroom fight was lost to Texas when Jamail declined the invitation. It would have pitted him against the seemingly unbeatable Richard (Racehorse) Haynes, who has frustrated the Tarrant County district attorney's office twice in court.

Jamail won't confirm or deny that he was approached to take part in a possible third prosecution of Davis. But there are people in Houston, home base for both Jamail and Haynes, who know it happened.

Jamail, who won't talk about it, apparently declined for a number of reasons. For one thing his schedule is as crowded as a Houston freeway. For another, he hasn't done much criminal work since his first year out of law school, which he spent as a prosecutor in the Harris County DA's office.

"The last time I tried a criminal case, I defended a lawyer friend against a DWI charge and damn near got him the chair."

You can bet, however, that it wasn't the fearsome reputation of Racehorse that caused him to turn down the offer. Jamail loves to battle giants.

He's left a lot of them financially bruised and bleeding in courtrooms all over the nation. He's whipped General Motors, Firestone Tire & Rubber, Chrysler, RCA, Southwestern Bell Telephone and even the general counsel for the State Bar of Texas.

He's never lost a case against the U.S. government. Half a dozen times federal attorneys have been carried home on their shields after mixing with Jamail.

The courtroom magic of Joseph Dahl Jamail is difficult to define. Not even Jamail can explain it.

He is usually a tiger in court and so well prepared that he's seldom surprised by his opponents' moves (or motions). Certainly, one factor in his favor is that he's in a position to choose his cases. No more than one of 10 prospective clients wins his services.

The other side of that coin, of course, is that many contenders for the crown are eager to go to the mat with Jamail when a wiser lawyer might attempt to settle a case out of court.

"I really think that's what we're seeing here," he said of a federal trial last week in which he had sued the Southern Pacific for three McAllen men whose car was hit by a train.

He indicated the two clean-cut, carefully barbered, young lawyers for Southern Pacific who were winding up their case.

Jamail sat at the counsel table looking bored and twirling between his fingers a paperclip he had bent straight. Occasionally, he would rise to attempt to demolish a defendant's witness. But, mostly, he sat looking bored. Soon, the jurors were looking bored, also.

At 53, Jamail, physically, is the kind of man who would blend into any crowded courthouse elevator. In a courtroom, his style is rarely spectacular. Although adroit with words and gestures, he's seldom melodramatic in the manner of, say, Melvin Belli or many other stellar injury performers. Jamail, for example, almost never uses artificial limbs or similar contraptions in courtroom demonstrations.

He normally wears quietly muted suits. Even his out-of-order brown hair is exactly the color of the hardwood paneling of the courtroom. The only thing flashy about his dress is his heeled boots that tap noisily on the floor when he gets to his feet—perhaps his signal to judge and jury to pay attention because something important is about to happen.

When he approaches the bench or witness stand it is with the rolling, round-shouldered gait of a boxer slightly out of shape. His manner is aggressive. And his blue eyes seem designed for pinning a squirming liar to a witness chair.

After court adjourns for the day, he heads for his big suite three blocks from the federal courthouse.

Splitting almonds with a silver nutcracker and sipping 12-year-old Scotch, he slumps in a comfortable chair and unwinds.

"I'm hoping we can argue this sumbitch tomorrow. Whatdya think, Gus?"

Gus is the Kolius in Jamail and Kolius, attorneys at law, on the church door entrance to the firm.

Gus agrees. Jamail adds, "They're just screwin' around now."

Munching almonds, Jamail, satisfied with the day's work, takes another slug of Scotch and starts reminiscing about one of the many civil cases in which he represented the legendary Houston criminal lawyer Percy Foreman.

"Percy had left the Old Capitol Club about midnight. He went down to the Rice Hotel parking garage, got his T-Bird and started home. He said he was struck from behind and injured his neck. He was hit by somebody driving a truck for Blue Bonnet Express.

"Their defense was that Percy, while on his way home, missed a turn. You know how Memorial and Woodway make a 'Y?' If you take the wrong turn there, well, (bleep), you're out of luck. Anyhow, they claimed he was backing down Woodway and trying to get on Memorial at the time of the accident. Well, I don't know how plausible that sounds.

"Now, picking the jury, I selected that sumbitch knowing full well how so much had been written about Percy. The ordinary juror would probably be very suspicious of him. And, in his case, he hadn't even suffered a loss of income. In fact, his income had increased during that period. Anyhow, I needed a sophisticated jury. The foreman turned out to be an engineer, a graduate of MIT, someone who was fairly high up in the hierarchy of one of the space companies out at NASA."

Jamail crunched another almond and took another sip.

"Well, I put Percy on the stand. He denied that he'd ever had any problems with his neck or back, except, he said, that when he was a young man a very large horse had fallen on him and hurt his back—but being young he had overcome and hadn't had any problems since.

"On cross examination, I saw something was coming . . . but that's getting ahead of the story . . .

"We were trying that lawsuit under the toughest judge in the county courthouse at that time."

Jamail cracked an almond.

"John Snell. He's now dead. I called him 'Big Foot.' He had a foot big as a baseball bat almost.

"Well, at the start of the trial, I was voir diring the jury . . . You must understand that I was a much younger lawyer than I am now. Hell, that was 10 or 12 years ago. Anyhow, a woman juror spoke in a low voice, answering my questions.

"Percy grabbed me by the back of my coat and damn near pulled me down. He said, 'Make her speak up. I can't hear her.'

"I really don't know what made me do it. Percy at that time was the most famous criminal lawyer in the country . . . maybe he still is. But something made me decide that either I was going to try this lawsuit or he was. It was just a flash in my mind.

"I turned to him and in a loud voice, I said, 'Mr. Foreman, it isn't important whether you hear her or not. The only thing important is that I hear her. Now, shut up.'

"Judge Snell jumped him. 'You've got a lawyer, Mr. Foreman. Now, sit down and be quiet.'

"From that minute on, Percy was a model child.

"But when they took him over on cross examination, I knew something was wrong . . ."

Jamail, wincing at the memory, sipped his Scotch.

"That lawyer for Blue Bonnet Express brought out a trunk. It was like one of those damn old steamer trunks that they used to carry on ships. And, damn, he began to fish out of that thing hospital records. He must have had 200 pounds of hospital records in there. He had hospital records that showed Percy Foreman had on nine occasions prior to the accident checked into one hospital or another in this county for neck problems."

Jamail sighed.

"And Percy was suing for a popped neck. And he had denied having any problems.

"I was appalled.

"Hell, he hadn't told me (bleep). He had denied it on the stand . . ."

Gus added, "He'd denied it in a deposition."

Jamail said, "I thought, well, if the big man has stuck me out here in front, and hasn't given me all the facts, I'll just run it right at him.

"I said, 'Suppose, you tell this jury and, more importantly, me why you didn't mention those hospital admissions for your neck.' I was mad. I was almost screaming at him.

"Well, you've seen a kid dig his toe in the sand when he gets caught at something? That's kind of the way he was. He said to me (Jamail mimicking Foreman's somewhat Wallace Beery style): 'Aw, Joe, don't be mad at me. I didn't think that was important.'

"I said, 'Well, I don't either. The important thing is that you were hurt in this wreck.' We just went from there.

"The part of the trial when Percy really got angry with me was in the argument to the jury. I tried to explain away his testimony. I honestly didn't believe the man had any prior neck trouble."

Jamail laughed. "Hell, any man set for trial as much as Percy Foreman might check into a hospital just for a rest.

"I told the jury that they should go out and think long and hard before they went out and stamped 'liar' on the man's professional tombstone. 'He's been a great lawyer. But you could see his demeanor in here on the stand, shouting and carrying on. He's an old man. He's over the hill. He's bordering on senility. . . '

"There was a shout.

"It came from Percy.

"He yelled: 'You damn sumbitch!'

"The courtroom froze.

"I just said, 'See what I mean? He doesn't even know where he is.'"

Jamail's blue eyes crinkled in a grin over his glass.

"Anyway, the jury went out and for some strange reason gave us $4 more than we asked for: $75,004. The judge took away the $4, but Percy collected every penny of the $75,000."

Jamail remains on good terms with the fabulous Foreman. In fact, he figures he's represented Percy Foreman in something approaching 100 civil actions over the years.

Jamail is confidant and legal advisor to many Texas celebrities, people like UT Athletic Director Darrell Royal and country music stars like Willie Nelson, Waylon Jennings and lyricist Billy Joe Shaver.

"Beer drinking buddies," he described them.

Asked about the country musicians who hang around his house, he explained, "Actually, it's not the country music I like as much as the characters who're into country music."

A Marine veteran, Jamail, the son of an immigrant Lebanese grocer, seems an all-American success story, except for his almost constant assaults on the establishment.

For Kenneth E. Porter of Nassau Bay: a million dollars from Firestone.

For Ms. Maryanna Dickens of Galveston: $2.5 million from a pilot and the U.S. government.

For Ms. Beverly Ann Gray: $2 million from the U.S. government and Eli Lilly & Co.

For James Alexander: $7.5 million from a group of insurance companies.

The list goes on an on. A Los Angeles man wins $2.5 million from RCA because his radio station doesn't work.

Is Jamail's philosophy anti-establishment?

"I really enjoy what I'm doing. It sounds corny. But I get a hell of a kick out of the helping someone who is apparently helpless against the government for the railroad or General Motors. Now, Gus . . . he just likes to pick on people . . ."

Gus laughs.

"But anti-establishment? Hell, no. I love the establishment. I wish they'd never change a damn thing they're doing. Why, I'd fight to keep them going the same damn way they're going."

It has been said that the name of Joe Jamail signed to a petition is worth an added $100,000 in a settlement. Who can say for sure?

He cracks an almond and, chewing, says, "We're gonna win this sumbitch with Southern Pacific. Right, Gus?"

Gus said, "That's right," Gus only spends half a year at legal work. The other half he sails the Caribbean, preferably without Jamail, a poor sailor who jumps ship in every port.

Jamail doesn't need the money. But he works like a hard scrabble farmer.

When he fumbles, he admits it. When, a couple of years ago, he was sued for negligence by a couple of men who claimed he'd failed to file a product liability case before the statute of limitations expired, Jamail's response was: "I goofed."

Maybe.

But when the Southern Pacific jury came in, they awarded Jamail's clients one third of a million dollars.

One third is Jamail's customary fee for a case he takes on contingency. Sometimes, in particularly heart-rendering cases involving widows and orphans, he has been known to cut fees drastically—or even forget them altogether.

Clearly, the man isn't in it for the money.

He loves the game.

When will he quit?

"When I have my stroke," he grinned, pouring another glass of Scotch.●

INGREDIENT DISCLOSURE REQUIREMENT FOR ALCOHOLIC BEVERAGES RESCINDED BY THE DEPARTMENT OF THE TREASURY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. ROSENTHAL. Mr. Speaker, I rise to voice my objection to the recent decision by the Department of the Treasury to rescind an ingredient disclosure regulation for all alcoholic beverages—a decision which I regard as a serious setback for the American consumer. The regulation, known as ATF-66, was scheduled to take effect in January of 1983 and would have required that ingredients in wine, beer, and distilled spirits be printed on the bottle label, or in its place, an address be furnished where the information could be obtained.

The regulation was promulgated in an equitable fashion, assuring that vital information be made available to consumers at a minimum cost to manufacturers. Under the guidelines, the producer would have been exempted from the requirement by making an address available where such information could be obtained. Furthermore, the rule would exclude those ingredients which were inserted during production and removed before final packaging, and the producer would not have been obligated to list the ingredients in any order of predominance.

Because of the large number of people who are allergic to ingredients which are commonly found in alcoholic beverages, and the magnitude of alcohol consumption in the United States, there are specific costs to consumers who are denied the right to know exactly what is contained in the wine, distilled spirits, and malt beverages they consume. Between one-half million and 1.7 million Americans are reportedly allergic to ingredients commonly found in alcoholic beverages. Some of the ingredients, like FD and C yellow dye No. 5, which causes hyperactivity, an increase in tumor incidence, and even animal mortality, affect as many as 100,000 Americans. Yeast, another common ingredient, is in the same category. This substance, which has been linked to decreased cardiac output in animals and is a primary cause of hyperactivity, is included in almost every clinical list of the 10 most allergic substances. Other ingredients, although less common, also cause chronic illnesses. Wheat, for example, causes asthma, exzema, and headaches requiring medication, while wheat glutton has been cited in a number of medical studies as having a major schizophrenia-promoting effect. The list of allergy producing substances goes on, but there are other dangers of inadequate disclosure that also merit close attention.

In addition, rescinding the regulation would increase the probability that a dangerous substance inserted into the alcoholic beverage goes undetected. Given the magnitude of alcoholic consumption, this is an issue which should not be overlooked. The addition of cobalt sulphate by a few foreign breweries during the midsixties is a case in point. Added to increase the toxic level of the beer, the cobalt substance unexpectedly reacted with the alcohol causing a number of deaths. Many doctors today agree that these deaths may have been avoided had the presence of the cobalt derivative been known.

BDM Corp., the research firm which was hired by the Department of the Treasury in 1979 to conduct a cost-benefit analysis on the then-proposed regulation, estimated the total cost, in terms of consumer benefits, to be between $31 million and $188 million each year if the regulation is promulagated. The savings in terms of preventive medicine alone, was calculated to amount to between $12.5 million and $50 million annually. In contrast, the cost to the manufacturer is estimated to be minimal—as low as $12 million a year. Translated into per unit costs, this amounts to less than a penny for each six pack of beer or 750 ml of distilled spirits, and less than 2 cents per average size wine bottle.

Moreover, studies indicate the consumer would be more than willing to incur the additional cost. A series of 15 surveys which the BDM Corp. reviewed in the course of its evaluation showed that between half and three-quarters of those polled indicated a willingness to pay more for the product if it included ingredient information. Furthermore, between 72 percent and 92 percent of all respondents claimed they read the labels "sometimes," "often," or "always," and between 73 percent and 88 percent of all respondents believed that ingredient labeling should be mandatory for all consumer products.

The facts lead to only one answer: ingredient disclosure represents prudent policymaking. When the Department of Treasury promulgated the proposed regulation in June of 1980, it properly concluded:

> We are convinced that the disclosure of ingredients used in the production of alcoholic beverages is of real value. This disclosure will provide consumers with adequate information about the identity and quality of the product which will enable a consumer to make an informed choice in the purchasing of alcoholic beverages.

Given the careful consideration accorded the original decision, many were understandably shocked by the administration's April 1981 proposal to withdraw the labeling requirement before it even had an opportunity to take effect. As chairman of the Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, I sent a letter to Treasury Secretary Donald Regan expressing my continued support for the regulation and urging him to reconsider the Department's action. I hope that my colleagues will join me in supporting the consumer's right to adequate and truthful disclosure requirements.●

VLADIMIR KISLIK BEING KILLED BY SOVIET INJUSTICE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. PORTER. Mr. Speaker, I address the House today, as I have on many other occasions, to protest the Soviets' outrageous violations of the

basic human rights of Vladimir Kislik. It is with great sadness that I advise the Congress that Mr. Kislik has recently suffered a major heart attack while a prisoner in the Lukyanovskaya Prison.

Mr. Kislik, a distinguished scientist at the Kiev Institute of Nuclear Research in the 1960's, has been struggling to gain simple justice from his Soviet tormentors for years. He asks only to leave the Soviet Union and join his family in Israel.

Mr. Kislik has been harassed, beaten, and interrogated by the Soviets since 1973 when he was forcibly separated from his family. Last July, Kislik was committed by Soviet authorities to a state mental institution for no apparent reason.

In May, Mr. Kislik was convicted on the fabricated charge of hooliganism and sentenced to 3 years at hard labor in a work camp. He was denied an appeal 10 days ago. Mr. Speaker, the Soviets are killing Kislik for the crime of standing up for what he believes in.

We see what is taking place in the Soviet Union, and we protest it. If the Soviets wish to send us a message with this inhuman treatment, then let them know that it is received and that it does not create a favorable climate for interaction. Let the world take note of this further Soviet injustice and cruelty.●

MADRID CONFERENCE RECESSES

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. RITTER. Mr. Speaker, I was deeply distressed by the recent statements made by the leader of the Soviet delegation to the Plenary Session of the Madrid Conference on the Commission on Security and Cooperation in Europe charging that the United States was hiding behind the issue of human rights to launch a militarist policy against the Soviet Union. The purpose of the Madrid Conference is to seek a means to finding a lasting world peace and a renewal to the commitment by all nations to respect the basic human rights of all people. While the United States has strictly observed its commitments to the 1975 Helsinki accords, the Soviets have stepped up their campaign against anyone who seeks the rights guaranteed to them at Helsinki. With their invasion of sovereign Afghanistan, the Soviets have broken all 10 principles of the Helsinki accords. The Soviets have demonstrated their blatant disregard for human rights by leveling villages, destroying crops, and using poison gases. In addition, today 2 million Afghans live in refugee camps along the Pakistan border, their villages and homes destroyed by Soviet troops and helicopter gunships.

One of the more positive notes, however, to emerge from this recent session of the Madrid Conference, which has recessed until October 27, 1981, is the performance of the American delegation and especially its very able leader, Max Kampelman. Mr. Kampelman's depth of knowledge and eloquence has made him a very able spokesman for our Nation. Time and time again he has demonstrated America's continuing commitment to achieve a lasting world peace and observing the basic rights of all individuals. For the benefit of my colleagues, I am enclosing the remarks Max Kampelman made during the recent Madrid Conference.

STATEMENT BY MAX M. KAMPELMAN

Mr. Chairman, it was discouraging to listen to the Delegate of the Soviet Union this morning. The Delegate of the Federal Republic of Germany has already referred most ably to the reasons most directly related to our Madrid meetings which explain one basis for my feeling of discouragement; but there are other reasons as well, which I now intend to set forth.

Last Wednesday the head of the Soviet delegation, inexplicably and contrary to the spirit of our meeting, attacked the American Government in vituperative terms as seeking military domination and as being a threat to the peace of the world. He made those attacks without facts. We responded that day and at the next plenary session last Friday in a studied effort to counterbalance the Soviet propaganda presentation with clear, unequivocal, and unchallengeable facts: about Soviet military strength, Soviet military aggression, Soviet offensive planning, Soviet aggressive intentions. We presented evidence for our belief that the Soviet Union is today a major military power, willing to use military force to gain its ends.

I fully understand the unhappiness of the Soviet delegate with the detailed factual presentation made by us last Friday. It was discouraging, however, to hear the response this morning. I have rarely heard such an array of dissembling allegations designed to misrepresent the realities.

There were not many specific areas of factual data presented by us last Friday that were raised by the Soviet delegation today. I shall, however, deal with those that were raised.

Let us turn first to the issue of our respective defense budgets. The United States and our Allies live in free societies. We have free elections, free press, and free debate. If decisions are to be made, proposals are publicly presented to our Congress. Free discussion follows. Our press reports on those proposals and on differences of opinion with respect to them. Our data is readily available to the press, to the public, and to the Soviet Union and other nations of the world.

In contrast, the Soviet Union is a closed society, with secret data and with all the limitations of that secrecy. The secrecy presents handicaps for us in our pursuit of what is happening in the Soviet Union. But modern technology assists us in unravelling many of those secrets. We extrapolate and we analyze. As a result, we know. No matter how the Soviet Union may try to manipulate its data, we know the facts. It is those facts that I set forth last Friday. The manipulation of facts by the Soviet Union cannot hide the reality. It was discouraging to observe that manipulation here this morning.

Let me go on. The head of the Soviet delegation ended his presentation this morning by asking an important question, which I shall use as my theme: "Why, and who needs, the arms race?" All of us here know that our peoples do not need the arms race and have no desire to perpetuate it. Let me state without equivocation that the Government of the United States does not need or want to perpetuate an endless competition in arms which puts a burden on our resources.

The Soviet delegate informed us that the Soviet Union does not want an arms race. Let me say, Mr. Chairman, that the Soviet Union may well not wish to have an arms race. It would far prefer to have the field to itself, without competition and without the deterrence that comes from the requirement felt by us and other nations to match its intensive arms buildup program. When we armed, the Soviet Union armed; when the United States cut back on its armaments, the Soviet Union continued to arm—and continues to arm with full speed at this very moment.

The Soviet delegate, in discussing our presentation of last Friday, referred to tanks. He acknowledged that there was a Soviet advantage in tanks, but he called it "insignificant." Let me remind this body that the advantage is five to one—with the Soviets possessing 50,000 tanks to the American tank arsenal of 10,500. This is not insignificant. Furthermore, the Soviet Union continues to produce tanks at a rate of 2,000 per year, which is more than double the number produced by the United States.

Equally important, however, and perhaps more important than the numbers, is the fact that tanks are obviously an integral part of offensive capability and utilization. These are being developed for offensive use, for invasion. The Soviet representative stated that the Soviet advantage in tanks was offset by the large number of anti-tank missile weapons being developed in the United States. Mr. Chairman, that is just the point. The offensive weapon, the tank, is being developed with intensity by the Soviet Union. We are developing the defensive weapon, which represents absolutely no threat to any nation which does not intend to invade its neighbors.

The Soviet delegate also referred to the SS-20 data which I presented to this body on Friday. He said the SS-20 was nothing but a modern replacement for existing SS-4's and SS-5's in the Soviet arsenal. Mr. Chairman, I respectfully suggest that this too is a distortion of the reality. I remind this body of what I pointed out last Friday. Each new modern SS-20 missile carries three independently targetable warheads; each of the older Soviet systems has only one. Thus the SS-20 represents a real and direct increase in Soviet military offensive capability. Let me also remind this body that one new SS-20 is deployed by the Soviets every five days. More than forty SS-20's have been deployed since our conference began. We are talking about a continued and intensive military threat to the peace of Europe. These missiles, Mr. Chairman, are directed at the cities and peoples of Europe.

The Soviet delegate referred to 7,000 nuclear missiles that the United States has in Europe. The fact is that he is referring to

tactical nuclear missiles—not one of which can reach the Soviet Union. Let me repeat what I stated on Friday. The United States has not had, nor does it now have, the capability to launch any land-based missile attack from Western Europe against the Soviet Union.

It was discouraging, therefore, Mr. Chairman, to hear the Soviet Union's attempt to persuade us that somehow we do not understand the offensive nature of the tank, or the real, direct threat that emanates from the Soviet SS-20's.

We hear words of peace from the Soviet Union, but they are not accompanied by deeds of peace. We hear words and I have here at my hand today's newspaper with headlines reminding us of the invasion of Afghanistan. I have here a headline reminding us of the "Polish Crisis" and new projected threats and intimidations.

The United States fully understands that it is essential for the sake of world peace to find a satisfactory accommodation between all of our States. There is a crucial need to reduce the terrible burden of arms spending. We want that accommodation. It is, however, only when we come to believe that a true accommodation is universally desired that we can accept the seriousness of proposals made here by some delegations. When we see that the invasion of Afghanistan is coming to an end, then we will come to believe. When we see that the military policies of the Soviet Union match its words of peace, then we will come to believe. When we see the Soviet Union ceasing its relentless flexing of muscles in order to intimidate others, then we will come to believe. It is only then that the time will be reached when we can sit down and agree on mutual, binding, significant and verifiable arms reductions.

The Madrid meeting is essential to our objectives. It is a vital aspect of this need for us to accommodate to one another. It provides an opportunity for us, all of us, to explore ways of reducing arms spending. But until the time is reached when Soviet actions—and not just words—reveal a dedication to peace, we cannot take those words seriously. We will engage in arms control negotiations when we have confidence that the Soviet Union is serious about peace. Until then, we and our friends will restore our strength in every facet of our society, including the military, in the hope that by doing so we can persuade the Soviet Union to join us in a serious effort to meet the aspiration of our peoples.

Thank you, Mr. Chairman.●

TRIBUTE TO SRI CHINMOY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1981

● Mr. GREEN. Mr. Speaker, it has recently come to my attention that on August 27 the Honorable Sri Chinmoy Kumar Ghosh, the spiritual leader who has received international recognition for his contributions to world peace, will be celebrating his 50th birthday. On behalf of my colleagues in the U.S. Congress and the citizens of the 18th Congressional District in New York, I would like to take this occasion to pay tribute to the achievements of this extraordinary man.

Born in India, Sri Chinmoy arrived in the United States 17 years ago. Since that time he has generously spent his considerable talents and energy to found and become director of the Sri Chinmoy Centre, a nonprofit organization dedicated to the dual goals of public service and personal growth. This organization has performed significant community services through its sponsorship of free art exhibitions, concerts, poetry festivals, lectures, runs, tennis tournaments, meditation classes, and many other cultural and civic events.

I would also like to take this opportunity to recognize the important services Sri Chinmoy has made to the furthering of international understanding through the meditation sessions he holds twice weekly for foreign diplomats at the United Nations, which is located in my district. In honor of these services to the United Nations, Secretary General Hon. Kurt Waldheim presented him with the Silver Medallion.

In addition to his work at the United Nations, Sri Chinmoy is also a highly esteemed artist, composer, musician, writer, and poet who has been nominated for the Nobel Prize for Literature. Exhibits of his paintings have been shown at the School of Visual Arts and many other galleries in New York City. As a musician and composer he has performed in concert in New York at Carnegie Hall, Lincoln Center, and Town Hall.

Through these offerings and in personal contact, Sri Chinmoy has inspired countless Americans to combine an active public life with regular inner reflection. I join my colleagues in saluting him on the occasion of his 50th birthday.●

HERBERT WEHNER: THE GREY EMINENCE OF THE FEDERAL REPUBLIC IN BONN SINCE 1969

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. McDONALD. Mr. Speaker, there is certainly no lack of proposals for the solution of the distressing German question; such ideas have been developed in the East as well as in the West. It is not surprising that the Communist proposals are based on a prototype, the Rapacki plan, since they originate from a uniform concept and serve a common targeted policy with regard to Germany which is the annexation of the Federal Republic. Strikingly, also, the plans of Western authors always revolve around the core of the Rapacki plan—demilitarization and neutralization of free Germany so that the last barrier protecting Europe from the Red flood will be torn down.

As is generally known, the former Polish Foreign Minister, Rapacki, offered a generous exchange: three countries of the Warsaw Pact against a single one of the Western alliance. The main point—the Federal Republic becomes defenseless and unprotected. She would have to withdraw from NATO, and the American troops would have to leave the Federal Republic. The concept on which the Rapacki plan is based is quite simple: Western Europe and particularly the central bastion, the Federal Republic, are deprived of the American nuclear umbrella. Since the end of the Second World War, the East has pushed toward the withdrawal of the American defense troops from the free part of Europe. The demand "evacuation of foreign territories by foreign troops" has been a constant component of each and every Soviet program toward alleged East-West détente and the securing of peace. Apart from the fact that the United States would have to withdraw her troops to the other side of the ocean with a neutralization of Central Europe while the Soviets, with their overwhelming conventional armed forces, would have to withdraw only a few hundred kilometers, the free world would accept a fatal handicap in such a situation: The West is restricted to purely defensive tactics in the cold and concealed war, while the East would proceed immediately with the attack against the militarily deprived Federal Republic.

It is essentially impossible that the free countries would encourage the people in the three demilitarized Eastern bloc countries toward an anti-Communist rebellion.

After the withdrawal of the Federal Republic from the North Atlantic Treaty and that of the Americans from the territory of the Federal Republic, as well as the dissolution of the Federal Armed Forces, it would only be a question of time before the gigantic subversive apparatus of the East would enter into action on the west side of the Elbe River. The army of 16,000 fulltime Eastern agents in the Federal Republic and the thousands of combatants of the fifth column would plot political strikes and unrest in the Ruhr and other agglomerations of population upon a hint from the general staff of the world revolution in the Kremlin.

At a given time, the combat groups of the SED regime, which have been prepared for civil war, will infiltrate the Federal Republic in order to "protect the poor working people in Western Germany against the terror of the monopoly of capital." The Federal Republic of Germany would be incorporated into the Socialist camp by a coup de main in accordance with the proven model of the Prague putsch in February 1948.

The best that could happen would be civil war in Germany, as in Korea, which was also invaded after the withdrawal of the American troops.

As is well known, Eastern aggression and bloody civil wars developed so far in two of the three divided countries: Korea and Vietnam. It would be in contradiction to the entire world Communist strategy if the third of these countries, Germany, were spared. The Federal Republic could change overnight into a Vietnam. The only difference against Germany would be the fact that a highly technical society is by far more susceptible to actions of concealed combat than Korea or Vietnam. A single saboteur could eliminate the supply of electricity and water of large cities.

Western politicians well disposed toward the German people who see a magical recipe in a neutralization of the Federal Republic in accordance with the Rapacki model are, in the final issue, in favor of unleashing a terrible civil war and of West Germany's unavoidable annexation by the Communist East.

On March 18, 1959, the Social-Democratic opposition party in West Germany submitted proposals for the solution of the question concerning Germany in a memorandum. The so-called German plan of the SPD, a production of Herbert Wehner, was to overcome the stalemate in the central question of the German policy through flexibility and "new" ideas. The leading SPD politician proceeds from the fact that there are two German countries which are to be led together on a step-by-step basis. Convening an overall German conference of equal composition would be considered as the first stage. Fifty representatives each from the Soviet occupied zone and from the Federal Republic of Germany would negotiate the reunification of the two countries into an overall Germany. Already this phase involves the danger that the delegation from the Federal Republic could be overruled, since a totally coordinated and disciplined delegation from Pankow would be confronted by a group from Bonn which would represent anything but a solid bloc.

The Soviet and Eastern German thesis that reunification must be a matter concerning exclusively the Germans and be resolved only by them would be sanctioned de facto by Bonn with such a conference. Thus, the Western powers would be relieved of the responsibility of overcoming the division of Germany.

The flexible Wehner plan did not represent progress toward an accelerated reunification but was to deepen and harden the split.

In accordance with this concept, the Federal Republic must withdraw from NATO and must be deprived of the American military protection. As a compensation, the Soviet occupied zone was also to be taken out of the Warsaw Pact. In this way, the SPD obliged the Soviet imperialists even more than Rapacki because they offered the neutralization of the Federal Republic in exchange for the withdrawal from the Warsaw Pact of not only East Germany, but also of Poland and the CSSR.

If the SPD plan for Germany had been prepared by another Social-Democratic politician, one could possibly grant him political blindness and lack of comprehension, since he would have been considered guilty of a punishable ignorance of the Soviet objectives in their policy toward Germany. However, by no means can we assume naive ignorance in the case of Herbert Wehner, the former member of the Politburo of the Communist Party of Germany and leading functionary in the Comintern, the command center of world revolution.

The thought cannot be dismissed that Herbert Wehner knew exactly what purpose his proposal had—the cold annexation of the Federal Republic to the Communist East. He knows better than anybody else in Bonn the Eastern methods of overrunning free countries. Wehner is certainly not less experienced than Shelepin in the techniques of Communist concealed combat. In 1960, the SPD plan concerning Germany was placed ad acta. For good? Wehner, the author of this draft, has not yet made known in one word that he has recognized the deadly danger involved in this plan. He has not declared in public that he and his party definitively renounce this form of the solution of the reunification question.

Within the framework of the dispute concerning the unfortunate exchange of speakers of SPD-SED, Wehner acknowledged again the idea of a confederation between the legal state of the Federal Republic and of the illegal state of the Soviet zone. If, some day, the SPD were to form the Federal Government on its own, it would be quite thinkable that the "filed" Wehner plan could be revived. Then? Good night, Germany.●

ROBERT MOSES

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. MOLINARI. Mr. Speaker, I rise today to inform the House of the passing of a great citizen of New York State. Robert Moses died this morning in a hospital in West Islip, N.Y. Mr. Moses was 92. Bob Moses was responsible for the building of more public works projects than any other single person in American history. Although I did not agree with all of Mr. Moses' tactics during his tenure in public life, he truly deserved his title of "Master Builder."

Among Mr. Moses' many projects the Triborough Bridge, the New York Coliseum, Lincoln Center, the Robert Moses powerplant, 75 State parks, including Jones Beach, nine other bridges and the roads to connect them. Over 481 miles of roads, that included the Saw Mill Parkway, the Hutchinson River Parkway, the Grand Central Parkway and the Westside Highway.

However, the project that Mr. Moses initiated that most affects my district is the Verrazano-Narrows Bridge. Until recently the longest single suspension bridge in the world, the bridge as it is known on Staten Island, has made my community the second largest growing county in New York State. Connecting Staten Island with the rest of New York State, the Verrazano-Narrows has been responsible for the growth and development of Staten Island. The impact of Mr. Moses will continue to influence my district.

Pursuing his goals with a single-mindedness and vision that few other men have achieved, Bob Moses literally changed the face of New York and its suburbs.

My condolences go out to his family. They can be comforted at this time knowing that Bob Moses' dreams will live on in the future of New York City and State.●

SEND IN THE CLOWNS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. ROYBAL. Mr. Speaker, I have been a Member of this distinguished body for over 18 years. In this time I have witnessed many heated and emotional debates, both here on the House floor and outside in public forums. However, I have never been so appalled as I am now by the childish antics displayed by many supporters of the Republican tax cut alternative. The circus atmosphere which has surrounded much of the "politicking" for this legislation was especially evident today as I witnessed a gentleman, dressed in organ grinder garb, serenading one of my distinguished colleagues from New York. The "singing telegram" was an idea engineered by DoAll Co. of Des Plaines, Ill., a multimillion dollar machine tool distributor. According to the director of Eastern Onion, the company delivering this message, DoAll has contracted to deliver similar messages to 74 Congressmen in all, at a cost of $30 each, for a grand total of $2,220.

I find the entire idea repulsive. In an effort to save money for the taxpayer,

the Republican Congressional Campaign Committee has spent thousands of dollars on a last minute media blitz to convince the American people of the worthiness of their tax bill. I was forced to drive to work this morning listening to the call of the Republicans on my local radio station. Republican sympathizers have spent thousands of dollars on mass mailing projects denouncing Speaker O'NEILL and his "puppets" and thousands of dollars more on a lobbying effort that appears to be right out of our local circus show. We are dealing with serious economic issues, and some of our loyal opposition seems to think it is time to send in the clowns.●

WATER TO BURN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. HALL of Ohio. Mr. Speaker, we all recognize the importance of reducing U.S. dependence on fossil fuels and promoting the use of renewable energy resources. That is why Congress passed provisions of the Energy Tax Act of 1978 creating special tax credits for equipment utilizing geothermal, solar, and wind energy.

Unfortunately, when the Internal Revenue Service issued regulations to implement the law, it defined "geothermal energy" in such narrow terms that it excluded an important source of renewable energy from the Earth: ground water.

By means of simple equipment, ground water can be converted into a virtually unlimited source of hot water for home and commercial heating. Yet purchasers of that equipment are denied the same renewable energy tax credit offered for other renewable energy devices.

To better acquaint my colleagues with the potential of ground water heating systems and why we should encourage use of this renewable energy resource, I refer them to an article by Gene Bylinsky in the October 20, 1980, issue of Fortune Magazine.

WATER TO BURN

(By Gene Bylinsky)

Beneath our feet lies a surprising substitute for fossil fuels: water. A multilayered resource that comes at different temperatures, depending on its depth in the ground, water is easily accessible almost everywhere. Yet the energy it contains in the form of heat has barely been exploited. This is true even though the heat in the water can be extracted and put to use by reliable technology that is already available—giving just about every house owner a potential source of economical energy right in the backyard.

Ordinary groundwater—the water that permeates the earth close to the surface—is the most likely source of household heat. Geothermal water—hotter water found at greater depths—can be used to heat bigger structures such as apartment houses, stores, and factories, and in certain industrial processes. Geothermal water has long been exploited in the West, but recent discoveries have been made in many other parts of the country; 41 states, all but those in the north-central U.S., are known to have geothermal deposits. And where geothermal energy is not to be found (or even where it is), water can be pumped 10,000 feet or more into the earth to be heated by hot rocks to temperatures sufficient to drive the turbines of an electric-generating plant.

Costs of the well-tried technology needed to exploit heat from groundwater and from geothermal sources are known—and so far no one has formed an Organization of Water Producing Countries. The hot-rock system has been proved only experimentally, and the engineering and the economics are still being worked out. But the outlook is promising.

For the householder, groundwater is the heat source to look to. The earth is a huge solar-energy collector and insulator that keeps groundwater at a constant temperature the year round. Wells as shallow as 50 feet will produce groundwater with temperatures of 77° F. in Florida and about 40° F. at the Canadian border.

WATER IN THE PLACE OF AIR

The device that makes this heat usable is the heat pump. The most familiar type extracts heat from outside air or, to cool a building, transfers heat from the inside to the outside. But when the outside temperature drops to 25° F. or so, the air-breathing heat pump doesn't work efficiently as a furnace substitute and requires a backup system using conventional energy sources—an expensive duplication. For some years now, in such southern states as Florida and Alabama, industrial and residential buildings have used groundwater instead of air with heat pumps. The groundwater heat-pump technology is now creeping northward.

The heat pump works like a refrigerator, but one that can either heat or cool. Its operation depends on an elementary physical fact: heat energy moves from a warm surface to a cooler one whenever the two come together. Even water that seems cold to the touch contains heat, and through the use of a transfer agent, or refrigerant, that heat can be put to use.

The heat pump works its magic by manipulating the physical state of the refrigerant—usually Freon, a Du Pont product that is an excellent medium for transmitting heat. Liquid Freon boils at extremely low temperatures—minus 41° F. at normal atmospheric pressure. In a heat pump, Freon is stored under pressure as a liquid. Released from pressure within the pump, the Freon becomes a gas and readily absorbs heat from air or groundwater. The heat pump compresses the gas to make it hotter and moves it through a heat exchanger. The coils containing the gas come in contact with cool return air from the house, warming the air. That cools the Freon, which condenses into a liquid again, and the cycle is repeated.

Using groundwater, the heat-pump system heats three to five times as efficiently as a fossil-fuel system, in terms of heat output per unit of energy put in. Groundwater systems are far more efficient than systems depending on such other alternative energy sources as solar energy. But energy from water has no billion-dollar, federally financed scheme behind it. It is a grass-roots movement, cultivated by private contractors, heat-pump manufacturers, and well-drillers.

NO FUEL BILLS

One booster is James Costello, president of Energy Savings Products, an air-conditioning and heating contractor in Wilkes-Barre, Pennsylvania. Costello has installed heat pumps using groundwater in about 30 private houses. During construction, signs boast: "This house is heated by geothermal energy." Groundwater is not literally geothermal, because its heat comes primarily from the sun instead of from the earth's interior. But it is close enough to geothermal to satisfy Costello—and customers like Keen Cornell, the president of a $10-million-a-year iron works. Cornell is building a 2,900-square-foot house about 15 miles from Wilkes-Barre in Bear Creek that will be heated by a groundwater heat-pump system. "No fuel bills!" says the 43-year-old businessman. "And we own our fuel."

To install the system cost $13,000—$10,400 for the heat pump and duct work, $2,600 for drilling a 200-foot well for reinjecting used water into the earth (the other well required for the system was needed anyway to supply household water). The system is large enough to supply hot water for the household and to heat a swimming pool. A hot-air system based on an oil furnace would have cost about $7,500, Cornell figures. But the groundwater system is so much cheaper to operate that he expects to make up the difference in initial investment within four years.

Instead of the $2,000 for oil that he would pay annually at present rates, he will pay only $600 for the electricity needed to run the heat pump. Electric baseboard heat would have cost him about $2,400 a year. Natural gas, which also costs more than groundwater, isn't available in Bear Creek at present.

The economics of groundwater heat-pump systems are so attractive that Jay H. Lehr, a hydrologist and president of the National Water Well Association, in Columbus, Ohio, makes the exuberant prediction that by the end of this decade all free-standing houses in the U.S. built on quarter-acre or larger lots will be heated by groundwater heat pumps.

Filled with evangelical zeal, Lehr argues: "Heat-pump installations will start to snowball because all the rises in fossil-fuel costs are in our favor. We really don't have to do anything but sit back and let it happen." Lehr sees the 12 million American houses that already have water wells as the first big market. He expects 600,000 a year to be switched to heat pumps, because groundwater energy is cheap enough to allow the owners to keep their house as warm as they like.

The easiest house to switch would be one with a hot-air heating system or central air conditioning. The chief expenses would be the heat pump, the wells, and the cost of enlarging the air ducts (necessary because the heat pump provides larger volumes of air, at somewhat lower temperatures, than an ordinary oil-fired hot-air system).

BIG SAVINGS FOR BIG USERS

Some major manufacturers such as Westinghouse, Carrier, and York already make groundwater heat pumps for large users—industrial plants, office and commercial buildings, and apartment houses. These big users find impressive savings in heat-pump systems. In St. Paul, Minnesota, a big new office building-shopping complex called St. Paul Town Square is being heated and

cooled with a groundwater heat-pump system at annual savings in fuel costs of $300,000 to $400,000. In Harrogate, Tennessee, Lincoln Memorial University saves $1,785 a year by heating a dormitory with water drawn from a small stream—the ultimate form of groundwater—instead of LP gas.

In the few places where groundwater lies too deep for economical use, other heat-pump systems are capable of gathering the earth's heat. They involve construction of small, underground warming pools, or the installation of buried water tanks or a network of water-filled plastic pipes. The operating costs are somewhat higher than those of systems relying on well water—but these novel furnaces are still cheaper to run than the usual fossil-fuel systems.

One great advantage of underground water is that its temperature remains virtually constant year round. Even in northern climes, where air temperatures fall to freezing or below, the owner of a heat-pump system using groundwater will need no backup source of heat.

For larger structures, and to provide energy for certain industrial processes, geothermal water is a better fuel than groundwater. Deep-water sources have been found in many parts of the country in addition to western states, where their existence has long been known. Campbell Soup Co. is studying using the energy in newly found geothermal water at its frozen-food processing plant in Salisbury, Maryland. Campbell figures it could reduce fuel costs by 60 percent from its present $459,200 annual fuel-oil bill. Not far away Columbia Gas System is thinking of warming the liquefied natural gas it imports from Algeria with hot water from the earth near its terminal at Cove Point, Maryland.

From Georgia to New Hampshire, scientists have located at least seven "plutons"—plugs of granitic rock where radioactive uranium and thorium heat water trapped in soil above the rock. The water is separated from the plutons by many thousands of feet of earth, and is not radioactive. Eastern sites that are potential hot water producers from fairly shallow plutons include such surprising locales as Fort Monmouth, New Jersey, about 30 miles from Times Square. Other hot spots are in Virginia, upstate New York, and even Maine, as well as many places in the Midwest: near St. Louis, in Wisconsin, and elsewhere.

ENERGY FOR ELECTRICITY

Besides drawing hot water from the earth, it is possible to pump water into the earth to be heated. At Fenton Hill, near Los Alamos, New Mexico, Department of Energy scientists are generating electricity with water heated by hot, dry rocks far below the surface. The Los Alamos scientists are in the midst of constructing a much larger hot-rock reservoir at Fenton Hill, hoping to extract quantities of water hot enough, at about 475° F., to yield 20 to 50 megawatts of electricity—sufficient to supply a town of 20,000 to 50,000 people. The Los Alamos scientists are also doing a study for Crown-Zellerbach Corp. on what it would take to run a paper plant with heat and electricity from a hot-rock reservoir.

A small private company, HDR Energy Development Corp. of Augusta, Georgia, is raising funds to create what its chief scientist calls a "man-made oven" 22,000 feet below ground over two plutons near Conway, New Hampshire. The system would cost about $40 million for the drilling and another $40 million for the power plant, which would generate 62 megawatts of electricity. HDR Energy officials say that if the $40 million for drilling is viewed as the fuel cost, their "oven" could yield energy at costs equivalent to using $25-a-ton coal or $6.20-a-barrel oil. Coal has lately fetched $40 and oil $32.

At those prices, the U.S. can hardly afford not to turn to water as a major energy source. With groundwater everywhere, we've got the stuff to burn.●

UNDER ANTINUKE GUISE, LEFTIST GROUPS MOBILIZE TO BATTLE REAGAN POLICY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. FIELDS. Mr. Speaker, a coalition of experienced activists have formed the Mobilization For Survival. Leftist remnants from the Vietnam War have a new cause: to counteract the efforts of President Reagan and to fight for liberal causes under the guise of an antinuclear stance. This group uses the media to effectively play upon public fear of nuclear power in an attempt to gather support for their cause.

The following text from the July 11, 1981, News World, clearly explains how this group, the MFS, will persist to undermine the alleged "brutality of the Reagan policies." I submit this article to the record for the consideration of my colleagues.

[From the New World, July 11, 1981]

UNDER ANTI-NUKE GUISE, LEFTIST GROUPS MOBILIZE TO BATTLE REAGAN POLICY

(By John Howard)

On Jan. 20, our new president took office, pledging to revitalize the economy, diminish our reliance on foreign energy sources, strengthen our military defenses, restore the United States to a position of firm and honorable leadership in world affairs and give support to the traditional family unit.

Ten days later, a formidable legion of activists known as Mobilization For Survival (MFS) assembled in Pittsburgh to plan a campaign for achieving precisely the opposite goals. Although their meeting was scarcely mentioned in the dominant print and broadcast media, the projects they agreed upon and elaborated are already surfacing in the news, and will, through the months ahead, offer powerful counterforce to the efforts of the new president and his administration.

WHO ARE THESE PEOPLE?

The end of the Vietnam War represented a monumental triumph for leftist forces in America, but it also confronted them with a crisis. The war has served as a magnet issue, attracting to their activities and organizations a swelling army of people who were not initially supportive of their political objectives. Once the war was over, it was essential to fix on a new cause that could stir the juices of public fear and enlist new partisans for "The Movement." Ideally, the new theme would prove troublesome for the government, the economy and the United States military forces.

What could better serve these ends than objecting to the development of nuclear power? Most people were nervous about things nuclear, knowing little about them apart from the terrifying devastation wrought by nuclear bombs. Fear could be readily generated. The blockage of this energy source would increase the American reliance on oil from the volatile Mideast. And perhaps the most persuasive of all, public passions could be aroused by insisting that the enormous cost of nuclear plants was a diversion of funds needed by the poor.

So the question became how best to label the project in order to maximize its propaganda potential. The name "Mobilization For Survival" was chosen.

The coalition so named was pieced together during the winter of 1976-77 and held its first meeting in Philadelphia in April of 1977. The organizers were experienced activists and ideologues from a variety of leftist organizations, including the War Resisters League, the Chicago Peace Council, the American Friends Service Committee, the Fellowship of Reconciliation, Clergy and Laity Concerned and the Women's International League for Peace and Freedom.

Soon other groups became involved, among them the Institute for Policy Studies, the Movement for a New Society, the New American Movement, the Catholic Peace Fellowship, the Gray Panthers and the United Electrical Workers.

Their first effort was to enlist and gain control of the numerous uncoordinated local groups of nuclear power opponents that had been formed near nuclear plant construction sites in various parts of the country. With the exception of the agitators at the Seabrook, N.H., plant where some of the founders of MFS had been experimenting with tactics borrowed from antinuclear groups in France and Germany, the scattered local groups were comprised mostly of area citizens concerned about property values or the environment, seeking through court action to block nuclear construction projects.

Many of these local groups were among the 144 organizations that assembled at the University of Chicago in December 1977 for the second MFS conference. The nonideological conferees were startled by the MFS leadership in the Chicago meeting, but the pros won the day. Out of the December meeting emerged MFS task forces focusing on 13 topics: weapons facilities, the United Nations, the arms race, finances, religion, labor, feminism, the gay/lesbian; issue, the Third World, South Africa, the right of service personnel to organize, a "save our communities" project and militarism and the arms trade. In no case was the leader of a task force an environmentalist. Three came from The War Resisters League, one came from the Institute for Policy Studies, another was a member of the National Committee of the Communist Party, and so on.

SURVIVAL BOOK EMERGES

What a field day the MFS people have had ever since, orchestrating the fears of America in newspapers and magazines, on the radio and television, and at every public forum they could find. And they have been joined by many other radical groups in this action, the foremost of which is the Campaign for Economic Democracy led by Jane Fonda and her husband, Tom Hayden, who was a founder of and chief theorist for the SDS.

If the major purpose of MFS had truly been to arrest the development of nuclear energy, the elaborations and distortions of the Three Mile Island problem could have kept the whole crew busy for years to come. That, however, was not the case. The 13 task forces were hard at work establishing contact and developing joint plans with organizations sharing their respective purposes throughout the United States and abroad.

Much of this effort culminated in an 87-page booklet entitled "Survival Guide." This was a manual for action for the use of radical groups of every stripe in their attack on established institutions during the summer of 1980.

"With their backpacks and rough khaki jackets, their business suits and embroidered peasant blouses, with neatly coifed gray hair, and bushy beards, they gathered, 350 of them from more than 29 states. They came to Pittsburgh for the MFS 4th National Conference, Jan. 31 to Feb. 1 at Duquesne University." So begins the lead article in the first issue of The Mobilizer, a new tabloid published by MFS.

Three of the four keynote addresses at the conference were given by heavyweights of long standing in radical activities. Anna Gyorgy gave the first one, speaking of the antinuclear movements. Her affiliations as listed in the program are Women and Life on Earth and Women's Pentagon Action. She was a participant in the student uprising at Columbia University, went to Cuba with one of the Venceremos Brigades and was a member of the Clamshell Alliance devoted to harassing actions at the Seabrook nuclear plant.

The second address in the series was given by Paul Mayer, whose subject was the implications of the Middle East crisis for "the movement's" strategy. Listed on the program as a member of the MFS Religious Task Force and of the Coalition for Peace and Justice in the Middle East, he has other credentials of even greater interest. Among them, he was named a co-cospirator of the "Harrisburg Seven" accused of conspiring to kidnap Henry Kissinger and set off explosions under federal buildings in Washington, was a sponsor of the Puerto Rican Solidarity Committee which openly supports the terrorist FALN and held a leadership role in the People's Coalition for Peace and Justice, one of the large anti-Vietnam war coalitions.

Eqbal Ahmad also gave a keynote address. He is a fellow of the Institute for Policy Studies, supported Counterspy, the publication given to revealing the identification of CIA agents, and is an apologist for the Soviet invasion of Afghanistan. He was also a defendant in the "Harrisburg Seven" trial.

Conferees were invited to participate in any two of the 20 workshops. The workshop topics ranged across the whole spectrum of leftist causes: gay liberation; the American Indian survival struggle; using the Fairness Doctrine to combat the utility media blitz; working with labor; South Africa; El Salvador; the Middle East crisis; and U.S. nuclear-weapons strategy. Workshops on the latter two topics were led by David Dellinger and Sidney Lens, respectively. Lens, a veteran of the Chicago labor wars of the 1930s and a former official of the Revolutionary Workers League, has been credited by WIN magazine with being the initial theorist for MFS. Dellinger was one of the Chicago Seven accused of leading the riotous actions at the Democratic National Convention, was a key figure in the anti-Vietnam war effort, maintaining contact with the North Vietnamese leaders, and ran the radical magazine Seven Days until its recent demise.

THE OUTCOME

"Through an extraordinarily difficult but exciting process of small group discussion, painstaking consensus-seeking by representatives of the small groups, and plenary discussion, the conference participants found relative unity on a new strategy for MFS," wrote MFS staff member Cynthia Adcock in The Mobilizer.

That strategy includes four major program priorities, including (1) extensive preparation to exert pressure on the United Nations' special session on disarmament in 1982; (2) mounting an extended "Jobs with Peace" initiative which involves continuous criticism of "wasteful military spending"; and (3) development of "local multi-issue conferences" and "organizer training" programs.

Official support for 10 programs was authorized. The list begins with support for the General Electric boycott, includes a variety of antinuclear projects as well as "anti-registration and anti-draft work," native American land-rights struggles, and the "decolonization of Puerto Rico."

Seven formal endorsements were passed. Among them were the Gray Panthers plan for "The People's Shadow Congress" and the campaign to block the "Peace Through Strength" resolution in the Congress. And 13 formal resolutions were approved which cover much of the same ground in addition to a declaration against sexual violence. An attempt had been made to sidetrack a controversial resolution by the Feminist and Lesbian and Gay Task Forces openly endorsing "reproductive and sexual freedom for all people, including the right to free, safe, legal abortion on demand, and access to free, safe and effective birth control and birth control information and . . . the right of lesbians, gay men and bisexuals to love whom they choose." Just before the conclusion of the general session, the resolution was introduced. It fell two votes short of the required ⅔ majority, a number of the radical religious delegates voicing their opposition. The matter was then referred to the Coordinating Committee.

JUST THE BEGINNING

It is not possible to read reports of this conference, shuffle through the voluminous "how-to" materials made available there, or consider the enormous range of activist groups and the experienced, sophisticated leaders engaged in this coalition without a keen sense that the radical dynamism of the 1960s was merely a trial heat for the events that lie ahead.

These people don't just hold a meeting and go home to vegetate until the next gathering. Follow-up literature has gone out reporting on the plans for specific local actions against the draft and against U.S. involvement in El Salvador. It gives a progress report on efforts to resolve the abortion argument and makes an appeal for materials for the new MFS tabloid—position papers, sample resources, program ideas in support of the MSF goals, articles, photos, letters, local reports, cartoons and graphics.

The conference follow-up message, signed by all the MFS staff says, "We believe—and early signs confirm—that with solidarity, we can turn back the brutality of the Reagan policies."●

LECH WALESA'S REMARKS TO THE INTERNATIONAL LABOR CONFERENCE

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. GEJDENSON. Mr. Speaker, a short time ago the delegates to Poland's emergency congress of Communist Party elected a new leadership by secret ballot for the first time in Soviet bloc history. The secret ballot, in fact the entire sequence of events leading up to this extraordinary congress, reflects the potent desire for democracy among the Polish people.

This is a remarkable time for both the Poles and, indeed, for all those who believe in the ideals of democracy. In an age in which the security of human and political rights are in jeopardy in many places around the world, the American people can take heart in the recent events in Poland.

Americans have been supportive of the Polish workers through their 10-month struggle for greater rights and freedoms. Labor groups across the United States have been particularly sympathetic to the efforts of the Polish workers. I would like to call the attention of my colleagues to the words of one man who has been central to the making of recent history in Poland: Lech Walesa, the chairman of the independent Polish trade union, Solidarity.

The speech of this courageous man, delivered to the International Labor Conference meeting in Geneva, Switzerland, was printed in the AFL-CIO Free Trade Union News, June-July 1981. The article reads as follows:

REMARKS OF LECH WALESA

I have come to this Conference as a delegate of Polish workers, accompanied by my colleagues from the Solidarity trade union and colleagues from the two other trade union federations in Poland, the branch unions and the autonomous unions.

This is clear proof of the pluralism of the Polish trade union movement. However, I have taken the floor here, first of all, as a representative of the largest Polish trade union organization, the independent self-managed trade union Solidarity.

This organization was born late in August 1980 as a result of the memorable events in the shipyards of Gdansk, Gdynia and Szczecin and in the coal mines of Silesia.

In just a few months, we have brought together in our ranks millions of workers in every sphere of the national economy and Solidarity has become the largest social organization in the history of my country. Its members have different levels of education, different occupations and vocations, different philosophical and religious opinions, but they are joined by one common aspiration, that of ensuring for the Polish workers, blue-collar and white-collar alike, a life in civic freedom, freedom of thought and speech, human dignity and national sovereignty.

We all hoped that Pope John Paul II would honor this conference with his presence, but this hope was frustrated by the criminal attack on his life. I should like to refer here to some of the Pope's thoughts.

At a meeting with the delegation of Solidarity in Rome, Pope John Paul II described the Gdansk agreement and the birth of our union in the following way: "Against the background of events which are so numerous in this world of ours and in which violence and brutal force prevail only too often as a method of action, against the background of terrorism in so many countries which does not spare the lives of innocent people, this way of acting without violence and without force, this way of seeking solutions through a thoughtful dialogue that takes into account the common good, is a tribute both to the representatives of the working people from the Baltic coast, from Silesia and from other regions who now belong to Solidarity and to the representatives of the Polish Government."

These words are for us an important message whose significance goes beyond the limits of one country only.

The independence of our union, which has brought about a new social situation in my country, sometimes gives rise to various fears and comments.

I should like, from the international forum, to tell everybody, all the peoples and all the countries in the world, that the Poles are capable of settling their own internal affairs among themselves and by themselves. It is in the common interest that no external intervention should prevent the process of consolidation of the Polish society which began on 31 August 1980.

Our union was born out of protest. Using the traditional methods of workers' struggle—demonstrations and strikes—it contributed in a definitive way to initiating a thoroughgoing transformation of the social and political life of the country. There is no area which has remained unaffected by this process of renewal. And even though we are aware that this is only the beginning of these changes, no one in Poland has any doubt that there is no way to return to the old methods of ruling the country and governing its economy.

The Director-General's Report mentions the circumstances in which our union was registered. I should like to add to the information given there that, in recent weeks, a further step was taken toward creating new trade unions in Poland. On 12 May an independent trade union of individual peasants, Solidarity, was registered whose membership consists of several million peasant owners of small family farms. Thus a cornerstone has been placed under a true alliance of workers and peasants, under the lasting co-operation of all the working people in Poland.

The whole world knows what a difficult economic situation my country is in as a result of the political errors and the irresponsible economic and social policies pursued by the leaders of my country in past years. Overcoming this deep crisis is not a matter of weeks or months. The independent self-managed trade union Solidarity has declared its readiness to co-operate in implementing any rational program aimed at overcoming the crisis and reforming the existing structures of the social and economic life of our country. We are conscious of the fact that to find a way out of the present difficulties will require sacrifices and self-denial on the part of every Pole, even though he bears no responsibility whatever for our economic collapse. We have recommended to every section of Solidarity not to make any wage demands and not to go on strike without the agreement of the leadership of Solidarity. But we shall continue our struggle so that no one in Poland remains jobless and so that the vital interests of the most deprived segments of the population in town and country are well protected.

Our trade union attaches great importance to setting up, in accordance with the traditions of our workers' councils set up in 1956, a genuine system of workers' self-management of socialist-inspired enterprises, in conjunction with a fundamental change in the methods of managing the national economy. The self-management bodies and all the trade union sections will be faced with the arduous task of improving rapidly the protection of the employment and health of our workers, where there is still much room for improvement.

May I emphasize that Polish workers belonging to the independent, self-managed trade union Solidarity greatly appreciate the possibility of cooperating with the ILO and are ready to participate actively in the formulation and development of international labor laws and other ways of bringing about social progress on a world scale.

It is a matter of personal privilege and honor to me to be able to participate in the present session of the ILO Conference and to be able to meet and cooperate with so many trade unionists from all the countries of the world.

Polish trade unionists have cooperated with the ILO wholeheartedly throughout the 62 years of its existence. When in August 1980 we decided to create independent self-managed trade unions, we used in full the provisions of the ILO Conventions Nos. 87 and 98 on freedom of association with trade union rights to strengthen Solidarity. I hope that in the future, too, our cooperation with the ILO will be a lasting element in the mutual relations of Polish trade unionists with trade unions from all over the world and with international organizations working for social progress and social justice.

I should like to express our solidarity with working people throughout the world, with the struggle waged by trade union organizations in defense of the social interests of the working people, in defense of dignity of work, for the protection of human rights wherever they are being infringed. A man of our times cannot have a clear conscience so long as there are areas in the world where poverty and famine prevail, so long as heartrending contrast in material and social well-being exists between different countries or classes of people, so long as man's natural pursuit of freedom, a decent life and happiness are countered by violence, oppression and exploitation.

May I express the hope that—irrespective of any dividing line between States, blocs or systems—the principles of social justice, democratic freedom and independence of the trade union movement, which are the guidelines of Solidarity, may be the common property and underlying force of the entire trade union movement.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 30, 1981, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 31

9:00 a.m.
Foreign Relations
Closed briefing, on the military situation in El Salvador.
S-116, Capitol

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume oversight hearings on the implementation of the Freedom of Information Act, and on S. 1247, S. 1235, and S. 587, bills providing for the protection of certain confidential information from the disclosure requirements of the Freedom of Information Act.
5110 Dirksen Building

10:00 a.m.
*Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings to examine issues relative to the Cuban-Haitian mass asylum in the United States.
2228 Dirksen Building

Conferees
Closed, on S. 815, authorizing funds for fiscal year 1982 for military procurement programs of the Department of Defense.
S-407, Capitol

AUGUST 24

9:00 a.m.
Select on Ethics
*Closed meeting, to discuss the Special Counsel's report on the investigation of Senator Williams.
6228 Dirksen Building

SEPTEMBER 10

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 41, proposed constitutional amendment prohibiting the United States or any State from making or enforcing any law which makes distinctions on account of race, color, or national origin.
2228 Dirksen Building

2:30 p.m.
Labor and Human Resources
To hold hearings on the nominations of Robert P. Hunter, of Virginia, and John R. Van de Water, of California, each to be a Member of the National Labor Relations Board.
4232 Dirksen Building

SEPTEMBER 15

9:30 a.m.
Banking, Housing and Urban Affairs
Business meeting, to mark up S. 708, clarifying the intent and modifying certain provisions of the Foreign Corrupt Practices Act of 1977, and S. 1230, authorizing the minting of special coins commemorating the 1984 summer Olympic games in Los Angeles, California.
5302 Dirksen Building
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on primary intervention in addressing societal problems.
4232 Dirksen Building

10:00 a.m.
Governmental Affairs
Federal Expenditures, Research, and Rules Subcommittee
To hold hearings on S. 719, requiring the disclosure of Federal agency use of consultants.
3302 Dirksen Building

SEPTEMBER 16

9:30 a.m.
Banking, Housing and Urban Affairs
Business meeting, to continue markup of S. 708, clarifying the intent and modifying certain provisions of the Foreign Corrupt Practices Act of 1977, and S. 1230, authorizing the minting of special coins commemorating the 1984 summer Olympic games in Los Angeles, California.
5302 Dirksen Building
*Veterans' Affairs
Business meeting, to mark up S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces, and S. 266 and amendment No. 62 of S. 636 (Veterans' Administration Health Care Amendments), measures implementing procedures and guidelines for the interagency sharing of health resources between the Department of Defense and the Veterans' Administration.
412 Russell Building

SEPTEMBER 22

10:00 a.m.
Veterans' Affairs
To hold hearings on fiscal year 1982 legislative recommendations of the American Legion.
318 Russell Building

SEPTEMBER 23

10:00 a.m.
Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold oversight hearings on the activities of the Occupational Safety and Health Administration.
4232 Dirksen Building

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Investigations and General Oversight Subcommittee
To continue oversight hearings on the activities of the Occupational Safety and Health Administration.
4232 Dirksen Building

SEPTEMBER 29

9:30 a.m.
*Veterans' Affairs
Business meeting, to mark up S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

CANCELLATIONS

JULY 31

9:00 a.m.
*Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

AUGUST 3

9:30 a.m.
Labor and Human Resources
Business meeting, to consider the nominations of Robert P. Hunter, of Virginia, and John R. Van de Water, of California, each to be a member of the National Labor Relations Board.
4232 Dirksen Building

SENATE—*Thursday, July 30, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Holy God, patient, caring, forgiving Father, we thank Thee for Thine unconditional, impartial love. Help us to understand that Thou dost love us with perfect love and that we can do nothing to make Thee love us more; we can do nothing to make Thee love us less, for Thy love is unchanging, irrevocable, and eternal.

We thank Thee for Thy grace, for the unmerited favor by which Thou dost bid us receive Thy love. We allow guilt to corrode our souls when it is so unnecessary. Thou hast promised to—

Blot out our transgressions like a cloud and our sins like mist.—Isaiah 44: 22.

Thou hast said:

If we confess our sins, Thou art faithful and just to forgive us our sins and to cleanse us from all unrighteousness.—I John 1: 9.

Dear God, help us in humility to confess to Thee and receive Thy forgiveness. Then help us to forgive ourselves and especially to forgive others as Thou hast forgiven us. We ask this in the name of Him who gave His life for sinners. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no need for my time under the standing order. I am prepared to yield it to any Senator who may wish it as a supplement to his time on special orders or to the distinguished minority leader if he requires it.

Mr. President, I yield control of the remainder of my time under the standing order to the distinguished minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR NICKLES

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. I thank the Chair.

TAX REFORM LEGISLATION

Mr. NICKLES. Mr. President, I want to pay my compliments to the distinguished majority leader and the Senator from Kansas for their excellent leadership in the tax bill yesterday, to the Senator from Louisiana, and also to the President of the United States, because I think that, together, they worked exceptionally well. The real beneficiaries of their hard work and the work done in the Senate yesterday and the work done in the House yesterday will be the taxpayers of America.

I think the bill that was passed yesterday will go down in history as one of the truly significant pieces of tax reform legislation that has ever come about in this country's history.

We did reduce taxes, we did set up the momentum to turn our country around as far as the growth of Government is concerned. Government has been growing out of control for the past many years and I think with the action that was taken on the floor of both Houses yesterday, we shall reverse that growth through significant reductions in personal income tax, through the indexing feature which, Mr. President, I predict will probably be the most significant and most important part of the legislation that was passed, through reduction in the unfair and unequitable inheritance tax, through some modification, certainly, of the unfair windfall profit tax and many of the other tax provisions. In my opinion, Mr. President, they are exceptional and all the aforementioned individuals are to be complimented for their efforts.

Certainly, the people we should add to our compliments are the people of America, who spoke out loud and clear, stating that they wanted a turn in the direction of their country when they spoke to their Congressmen and Senators. I think the majority listened. I think the real beneficiaries of yesterday's action will be the taxpayers.

S. 1541—RETIREMENT INCOME INCENTIVES AND ADMINISTRATIVE SIMPLIFICATION ACT OF 1981

Mr. NICKLES. Mr. President, today, I am introducing a bill, the Retirement Income Incentives and Administrative Simplification Act of 1981, to amend the Employee Retirement Income Security Act of 1974. I am pleased that Senator WALLOP is joining with me in cosponsoring this legislation.

The primary purpose of ERISA was to insure that employees covered by private pensions received the benefits promised them by their employers or labor unions or both. Encouragement was to be provided to both employers and individuals to develop private welfare benefit and pension plans.

Whether ERISA encouraged growth in these plans or not is doubtful. However, the growth rate is staggering. Since 1940, the assets of private pension arrangements have increased from $2.4 billion to over $150 billion in 1975.

For 1980, assets in private defined benefit plans were $341 billion while another $50 to $62 billion was in private defined contribution plans.

It is estimated that today there are some 1.8 million private pension and welfare plans covering 70 million-plus participants. In 1978, nearly 90 percent of total corporate after-tax profits were spent on retirement benefits.

Another goal of the act was to improve the administration of pension plans. Nearly 7 years of ERISA oversight experience has demonstrated that the administrative goals of this act have not been met.

ERISA has been repeatedly included in a list of Government programs known for excessive bureaucracy. It earned this reputation through well documented examples of duplication and waste, confusion and delay, complexity and lack of inter- and intra-agency coordination. Each of ERISA's three administrative agencies—the Department of Labor, the Internal Revenue Service, including the Treasury Department, and the Pension Benefit Guaranty Corporation—has pursued its own individual and distinct policy, leaving ERISA without a consistent comprehensive policy of its own.

Not only has this multiple administration frustrated the development of a uniform policy, but the flood of regulations promulgated thereunder has resulted in unnecessary governmental costs, organizational waste, and inefficiency. This regulatory chaos has adversely affected the interests of plan participants, beneficiaries, and sponsors. Problems with this duplication are compounded by the fact that both the Department of Labor and the Internal Revenue Service have their own reporting requirements.

To eliminate these problems and to provide for the implementation of a national retirement income policy, this bill consolidates all Federal pension regulation under a single agency to be known as the Employee Benefit Administration.

The need for a national retirement income policy is also evident in the lack of a comprehensive policy in ERISA to encourage individual savings to meet the needs of employees and their families in the event of death, disability, or retirement.

In fact, certain provisions of the Internal Revenue Code of 1954 have actually created disincentives for this type of employee participation. This bill will provide those incentives to encourage retirement savings.

Mr. President, I might also add that the tax bill passed by the Senate yesterday will also include many of the necessary changes to encourage retirement savings.

Another major problem area in ERISA is the termination insurance program for single-employer pension plans. The current plans limit an employer's liability at the time of a voluntary plan termination. This encourages employers to terminate their plans prematurely and thereby transfer to remaining plans the cost of underwriting large unfunded pension liabilities.

Also jeopardizing the stability of this program are the current minimum funding standards which often are inadequate to contain the growth of unfunded pension liabilities within supportable levels. The bill which Senator WALLOP and I are introducing today will modify both the termination insurance provisions and the current minimum funding standards for single-employer pension plans.

As a matter of fact, the majority of pension plans today, in my opinion, constitute one of the most serious liabilities to the funding of pension plans, to the inadequacy of a large number of pension plans, and I think it jeopardizes the future security of a large number of individuals, not to mention the present liability payments under PBGC.

It is imperative that Congress take action to move at a very early date to make some significant changes to protect not only the PBGC funds but also the basic retirement benefits that have been guaranteed to employees throughout the country.

There are numerous other improvements to ERISA contained in this Bill. These improvements are being presented at a time when concerns about the adequacy of retirement income are increasing due to the alarming condition of our social security system. Coupled with this is the projection that in the year 2000 there will be 31.8 million people over the age of 65 in the United States.

The time to simplify the administration of retirement plans for these individuals and to provide incentives for increased retirement savings is now.

Mr. President, this is an extremely lengthy bill—about 300 pages in length. I do not ask that it be printed in the RECORD, because of the obvious cost involved. I look forward to holding hearings sometime in the late fall on this issue.

There are thousands of employers who have been wrestling with the bureaucracy, trying to comply with ERISA, the act of 1974—as I did, as a small employer—having to meet the various reporting requirements of various agencies, somewhat in conflict. I am positive that our colleagues will receive a great deal of input from the frustration of employers throughout the country.

I hope that the bill, which is approximately 300 pages in length, can be reduced, can be simplified, can make it easier to protect employees across the country, and can make it easy for employers to comply with these regulations.

● Mr. WALLOP. Mr. President, this morning I join my colleague from Oklahoma (Mr. NICKLES) in introducing the Retirement Income Incentives and Administrative Simplification Act of 1981. This act represents a major effort to protect and to expand our Nation's private retirement system.

It is a well-known fact that retired workers derive their retirement income from three sources—personal savings, private pension plans, and social security. For many retirees, the social security program is the major, if not only, source of income upon retirement. But now, this pay-as-you-go system is experiencing a period of economic strain. High inflation and unemployment rates are chief culprits behind this strain. However, it is also the result of the incredible demands we place on the system.

This fall, the Senate will begin work on legislation to insure the financial soundness of social security. Years ago, the Congress would diligently work every 2 years to increase social security benefits, usually right before an election. Now it seems that every few years we have to figure out a new scheme to rescue social security. The program is too important to our senior citizens to allow it to falter. We will restore social security to a sound basis, both for the short and the long range.

At the same time, we must give greater attention to the two remaining sources of retirement income. Our retirement program is often compared to a three legged stool. However, it is a very wobbly stool since one leg, social security, dominates. It is time to balance our retirement system by strengthening the other two legs.

The Economic Recovery Tax Act, which has just passed the House and the Senate, provides a number of incentives to expand personal savings. These incentives mean more funds for capital formation and economic expansion—which indirectly helps social security—more money for retirement savings, and more money for private pension plans. But merely making more money available for private pension plans is not enough to strengthen the third leg of the stool. What is also needed is comprehensive reform of the Employee Retirement Income Security Act.

ERISA has been in effect since 1974. Since then, our private pension program has achieved a certain amount of stability. Still, over the past 8 years, we have seen little expansion of the private pension system. What is worse is that employers have become increasingly frustrated with the cost and the complexity have refused to start up new plans.

ERISA, unfortunately, is responsible for the increased expense, delay, and confusion for employers who have sought to provide their workers with adequate pension plans. As a result, plans have terminated, and employers have refused to start up new plans.

We have a way out of this mess. The bill we are introducing today will provide for more effective and efficient administration of private pension plans. The bill will encourage greater investment by individuals in retirement plans. and will stimulate the establishment of new plans.

The bill has six titles. Title I would consolidate administration of ERISA in one agency, the Employee Benefit Administration.

Not only do we have four congressional committees with legislative jurisdiction over ERISA, but we have four departments and agencies in the executive branch trying to administer the program. No wonder employers are frustrated with ERISA. This title achieves one of the major goals of the Reagan administration, regulatory relief and reform.

Title II provides incentives for individual retirement savings. The provisions are the same as S. 1218, the Employee Retirement Income Security Act, which I introduced earlier this year. Provisions of this bill are included in the Economic Recovery Tax Act.

Title III provides corrections, clarifications and simplifications in ERISA to make the act a more reasonable law while protecting worker's pension rights. Title IV amends the Internal Revenue Code to insure sound funding of private pension plans, revise the tax treatment of contributions, and for other purposes. Title V provides individual retirement payroll deduction arrangements for employees not covered by pension plans. Title VI revises single-employer termination insurance provisions in ERISA.

In recent years, the Congress has held oversight hearings on ERISA. The Federal Paperwork Commission, the President's Commission on Pension Policy, and the President's Task Force on Regulatory Relief have all delved into problems associated with ERISA. The bill we are introducing today reflects this work. It is a responsible and needed reform. I urge my colleagues to join us in supporting this legislation.●

● Mr. HATCH. Mr. President, I am pleased to join Senator NICKLES and Senator WALLOP in introducing legislation to reform ERISA. Although the purpose of the 1974 act is unquestionably laudable, the last 7 years of experience under

the act has disclosed a number of problems. On an administrative level, the act has proved unduly burdensome and expensive.

The onerous reporting requirements and the plethora of regulations issued by the Government have been a nemesis to private pension plans and in the end probably have not fulfilled the goals of the act, which was to assure employees that benefits promised them at retirement would be paid.

In addition, the dual administration exercised by the Department of Labor and the Treasury Department has been demonstrably unworkable. The time has come to seriously examine an alternative enforcement scheme, such as the single agency—an Employee Benefit Administration—proposed in the bill.

Accompanying this structural change would be a number of changes in the existing reporting requirements and standards designed to simplify the administration and oversight of private pension plans.

Besides addressing the problems found in titles I, II, and II of the act, the bill also proposes a fundamental restructuring of the termination insurance provisions of title IV pertaining to single employer plans. In the last Congress, we changed the law with respect to multiemployer pension plans, opting for a system that triggers relief to the financial condition of the plan rather than the unilateral decision of the employers. Similarly in this bill we propose an insurance system that is not geared to the voluntary termination of the plan by an employer but is rather geared to the liquidation of the employer's business.

Finally, it should be noted that the bill proposes financial incentives for people to utilize personal savings as a source of retirement income.

It is evident that this is a comprehensive bill, but it should not be considered the final word on the reforms to ERISA. I anticipate that the committee will be devoting a substantial amount of time to studying this legislation, to hearing from representatives of the administration, industry, and labor, and to shaping eventually a reform package that strikes a fair and equitable balance.●

RECOGNITION OF SENATOR ZORINSKY

The PRESIDING OFFICER (Mr. DENTON). The Senator from Nebraska is recognized.

THE SITUATION IN NICARAGUA

Mr. ZORINSKY. Mr. President, 2 years ago I rose in the Senate to support aid to the fledgling government in Nicaragua because I strongly believed that we should meet, in a constructive way, the challenge to our interests posed by elements of the Nicaraguan revolution. Today I feel no less strongly about the necessity of facing up to the complex problems of this hemisphere. But circumstances must dictate our response, and so I rise to express to my colleagues and to the American people my very grave concerns about the increasingly troubled path and direction of the Nicaraguan revolution. Disturbing developments over past weeks have caused me to conclude that the Nicaraguan Government seems to be backing off from its original commitment to political pluralism and a mixed economy made to the Nicaraguan people when the Sandinistas took power 2 years ago.

That commitment, made personally to me, was the basis of my support for aid to the new Nicaraguan Government, 60 percent of which was earmarked for the private sector and all of which was designed to strengthen the moderate forces in Nicaragua's struggle to seek its path.

That commitment assured that Nicaraguan moderates would have a role to play in determining the nation's destiny after years of repression under Somoza's dictatorship.

That commitment assured a role for the private sector in developing a mixed economy that would benefit the great majority of the Nicaraguan people.

That commitment promoted support within the United States and created a climate for a relationship between the United States and Nicaragua that was in the best interests of both countries.

And most importantly that commitment had the overwhelming support of the Nicaraguan people.

Some disturbing trends in Nicaragua have concerned me for some time, although, with patience, I have hoped that various problems could be worked out. Recent events, however, seem to have underlined these negative trends and my patience has worn thin.

The 2-day closing of the most popular newspaper, La Prensa, was an especially serious development. The closing of La Prensa was the latest in a series of acts of harassment against the newspaper and its officials in response to its highly critical reporting of Government policies. Intimidation of this brave opposition voice, so instrumental in the campaign against Somoza, has not succeeded, but has caused me to openly question the Nicaraguan Government's desire to have a free and independent press. A related concern is the Government's 4-day closing of Radio Cooperacion, also an independent and critical voice. Criticism of Government by the media is one of the major healthy consequences of a free and open society and must be accepted and tolerated if that society is to remain free.

Equally disturbing are reports that the Catholic Church in Nicaragua is having difficulties with the Government. During a visit to Italy, Nicaraguan Archbishop Obando y Bravo voiced concern over the influence of Marxists and Cubans in Nicaragua. In response, the Government banned the archbishop's weekly televised sermon. Not only is such action an unprincipled attack on freedom of religion, but also a highly unpopular decision at odds with the overwhelmingly Catholic and devoutly religious people of Nicaragua.

The matter of free elections has long been a concern of mine, and I have expressed these concerns personally and repeatedly to the Nicaraguan leadership. The Government likes to call attention to the dialog with the opposition parties as evidence that it is on track with its plan to begin the electoral process in 1984 and national elections in 1985. As much as I commend efforts to increase communication, I am increasingly skeptical as I read and hear reports that the Government is not really serious about either the substance of the dialog or holding direct, representative elections.

And one political group, the Democratic Conservative Party, has dropped out of the talks charging that the Nicaraguan Government believes the issue to be what the political parties can do to help the Sandinistas rather than what the Sandinistas can do to reverse their deviations from their original commitments. Compounding the ominous signs of a weakening commitment to political pluralism is the continued absence from the Council of State of 11 groups which dropped out of active participation in the Government last November.

The economic measures announced by junta President Daniel Ortega at the July 19 anniversary of the revolution are no less a cause for concern about the way things are done today in Nicaragua. Ortega announced that 13 companies were immediately being nationalized because their owners were believed to be smuggling capital out of the country. No one can deny that it is the Government's right to respond to illegal activity but it is the arbitrary manner of this response which has serious implications to me.

Measures that fail to observe due process can only serve to further intimidate and isolate the private sector in Nicaragua. The Government, which lately has been extremely sensitive to the private sector's involvement in politics, must recognize such involvement as a fact of life in a free society.

Finally, I am concerned with the developing arms buildup under which Nicaragua already has Soviet T-55 tanks which recently came from Algeria. Plans to substantially increase the size of the armed forces and the influence of Cuba within the military and security organizations are extremely worrisome to me—and should be as well to those in Nicaragua who seek to preserve its nonalined status.

It is only fair and right to acknowledge that some attempts have been made to improve the lives of the Nicaraguan people, but it is not enough to build hospitals and schools. It is not enough to work to rebuild the nation and the economy. It is not enough to seek to provide jobs. It is not enough to teach people to read and write. These are among the shared

responsibilities of government, but its preeminent responsibility is to represent a free people—to undertake its other responsibilities with the consent and at the direction of the people. Both the Fascists and the Communists make the same mistake: They believe people can be bought. But humans have proven time and again that they will sacrifice position for freedom. They will sacrifice prosperity for freedom. They will sacrifice education for freedom. They will sacrifice health—and indeed life—to breathe free.

I earnestly appeal to the leadership of the Nicaraguan Government to remember the objectives and the hopes represented in the revolution that the people of Nicaragua celebrated July 19. The people of Nicaragua who have lived for decades under a repressive tyranny deserve a free and open system which they can support and which they have placed in power by free elections. They deserve to live in a country where there is freedom of the press and where private and public sector cooperate in the economic system. Unless and until the Nicaraguan Government rededicates itself to the principles for which the revolution was fought, neither the majority of the Nicaraguan people, nor their friends in the United States will continue to lend their support.

I feel it is appropriate at this time to make public a portion of a letter I wrote to junta member Sergio Ramírez on December 3, 1980, when I expressed privately my concerns about developments which I felt had further implications. In that letter, I stated:

> Let there be no mistake about my own position: I did not support the overthrow of the Somoza regime in order that others be given a chance to circumscribe the rights and freedoms of the Nicaraguan people. They have had enough of that and too often with the willingness of the United States to look the other way. Rather, I supported Somoza's removal because I believed his opponents—the people of Nicaragua—deserved the chance to create something better than the past knew. I shall continue to support this goal without reservation and qualification. And conversely, I cannot support either personally or politically any measure or measures which deviate from it or do not have the blessing of the people.

When the Nicaraguan leadership rededicates itself to the principles of economic and political pluralism, when there is a renewed dedication to free and direct elections, when the church can function without hindrance, when the press can publish in an atmosphere free of intimidation, I once again will proudly stand in these halls to support assistance to the Government of Nicaragua.

Thank you, Mr. President.

I yield back the remainder of my time.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I be yielded 5 minutes from the special order of the distiguished Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

ROTH-KEMP

Mr. COCHRAN. Mr. President, some people may have been amused and others saddened when they picked up their Washington Post this morning to find on page A9 a photograph of BOB MICHEL, JACK KEMP, and some of the others who were being identified as having an influential role to play in the passage of the tax legislation yesterday in both the House of Representatives and the Senate. In the caption Representative TOBY ROTH was identified as being in the picture. I looked around, trying to find where Representative TOBY ROTH was. I did not see anyone in the photograph I did not recognize. There was Senator BILL ROTH. It became obvious what had happened was that BILL ROTH, who had helped hatch the Kemp-Roth bill back in 1977, had been incorrectly identified as TOBY ROTH.

I thought we had seen an awful lot of praise being heaped on the shoulders of the President, and justifiably so, for the magnificent job that was done in moulding a bipartisan coalition of support behind this tax initiative that was approved yesterday here on Capitol Hill.

But we also probably shou'd recognize the tremendous contribution which has been made by the two individuals who really started the ball rolling in the beginning, JACK KEMP, Congressman from New York, and BILL ROTH, Senator from Delaware, both Republicans, both deciding when they called their first news conference back on July 14, 1977, that they were going to commit themselves to a nationwide campaign to attract attention to the necessity for reducing the heavy burden of taxes on the shoulders of American business and individuals.

So this morning, it is my great pleasure, having known these two outstanding lawmakers, to pay tribute to them for the outstanding job they have done.

I know that JACK KEMP has gone all over the country talking to groups wherever he could find them, at party fundraisers, civic clubs, conventions of trade associations, all over this great country since that time preaching the gospel according to KEMP, supply-side economics. Some were worried that this would be too much of a tax cut, that the cut would be too deep for too long a period of time, and these were criticisms heard from the very beginning. But enthusiasm, perseverance, and commitment to that cause could not be ignored and people began to pay attention and listen.

At the same time Senator BILL ROTH was engaged in this same kind of campaign.

What is apparent from yesterday's photograph also is not just the fact that the Washington Post has someone who does not know who Senator BILL ROTH is—maybe they should call the Washington Star people and see where they are going so they can make room for that person also—but it also illustrates that JACK KEMP and BILL ROTH were willing to share the cause with others who wanted to become interested and involved in helping push this measure to final passage.

Senators will notice Kemp-Roth in the House became Conable-Hance, and many others have gotten involved in a very direct and effective way in making this tax reduction plan a reality; the President for his decision to make this a keystone of his platform in his campaign for the Presidency last year, and successfully convincing Americans that this was a sensible and needed part of an economic recovery program for the Nation; leaders of our Finance Committee in the Senate, the Ways and Means Committee in the House, on the Republican side at first but then later attracting support from others in key positions on the Democratic side who were essential to the victory.

But none of it would have been possible had it not been for JACK KEMP and BILL ROTH.

We have seen many successes and victories here in Congress probably through the years, but this Senator can remember none as dramatic and as important as the victory that was won yesterday.

Well, one thing I guess we can say in closing, Mr. President, is that it sure better work because we, this Republican Party and this administration, and now this Congress, have just wagered the whole plantation on it.

I thank the Chair and I yield back the floor.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The minority leader has 10 minutes remaining on the special order.

Mr. ROBERT C. BYRD. I thank the Chair.

AFGHANISTAN—THE MOSLEM HOLY WAR

Mr. ROBERT C. BYRD. Mr. President, the tenacity of the Afghan freedom fighters deserves the admiration of all the world's people. Some 85,000 Soviet soldiers and the most modern equipment in the Russian army and air force cannot subdue this fiercely proud people.

As noted in a recent edition of The Wall Street Journal:

> The Moslems aren't winning against these odds, but diplomats and others observing the clash of cultures describe the situation as a stalemate. They say the Russians appear to have decided to protect the cities and their military bases, leaving the countryside to the insurgents. The Kabul government hasn't any presence in 95% of the country, one observer says. . . .

It is a holy war for this predominantly Moslem population. As one 19-year-old Moslem youth pointed out:

> We'll fight until the last breath in our bodies. If the Communists decide not to leave for 100 years, then we will still fight them.

If the Soviets believe they can wear down the freedom-fighters, history is not on their side. The British found they could not subdue these proud and independent people. And the Soviets will discover the same. Yet, this tragic bloody occupation continues. The world should

note with horror Soviet action in Aghanistan. The Stalinist purges have been revised in what was a neutral, Third World Moslem nation whose people dared to challenge the Red army.

I ask unanimous consent that the article from the July 24, 1981 Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFGHANISTAN TRIBESMEN FIGHT COMMUNIST ARMY TO A STALEMATE AND RULE MOST OF THE COUNTRYSIDE

(By Barry Kramer)

PESHAWAR, PAKISTAN.—Despite the adolescent crack in his voice, Haji Murad is a seasoned veteran of the Moslem holy war against communism in Afghanistan.

"We'll fight until the last breath in our bodies," the turbaned 19-year-old Tadjik tribesman says. He is here with other *mujahideen*, or Moslem holy warriors, to get arms from an Afghanistan resistance group. "If the Communists decide not to leave for 100 years, then we will still fight them," he says with the mujahideen conviction that they can't lose because God is on their side.

Afghanistan's Moslem tribesmen began their crusade after a Communist government took over in Kabul in a 1978 military coup. They have continued the fight against 85,000 Russian soldiers who arrived in 1979 to save the Communist government from the incursions of the Moslem warriors.

The Moslems aren't winning against these odds, but diplomats and other observing the clash of the cultures describe the situation as a stalemate. They say the Russians appear to have decided to protect the cities and their military bases, leaving the countryside to the insurgents. The Kabul government hasn't any presence in 95% of the country, one observer says, and the morale of the mujahideen remains high.

GAINS IN THE CITIES

Even in the cities, the Moslems have made some gains. The mujahideen have taken control of large parts of Kandahar, the second-largest city, after hand-to-hand combat with Russian and Afghan troops. At night, diplomatic sources say, Herat and Jalalabad are in rebel control.

The mujahideen can cut off major highways for days at a time, and many roads are passable only in the daytime by armed military convoys. But the various groups of the mujahideen remain separate, disorganized entities, rarely coordinating their attacks. "They pay lip service to unity," a Western diplomat says, "but whenever they bury the hatchet, it's in somebody else's back."

Few tribesmen think of themselves as part of a nation. "Their world is their valley, and they resist anyone who claims the right to tell them how to live in their valley," an observer says.

Said Muhiudden, a shopkeeper from a village near the northern city of Kunduz, says he joined the mujahideen after Kabul instituted a land-reform program. "I didn't own the smallest piece of land," he says, "but giving one man's land to another man goes against God Almighty."

Because mujahideen believe that they are fighting a holy war and that to die is to become a martyr, casualties among the insurgents are high. Almost no medical care is available in Afghanistan, and usually only the rebels with less serious wounds survive the long trek to Pakistan for treatment.

Soviet troops are making retaliatory raids against villages that aid the mujahideen, refugees say. Scores of villages have been scorched by Russian artillery, jets and helicopter gunships following mujahideen ambushes nearby, adding to the flow of refugees. More than two million Afghan refugees now are in neighboring Pakistan, and up to a million more are in Iran, totaling 15 percent to 20 percent of Afghanistan's population.

The Russian presence in Afghanistan has failed to stop the murderous infighting among the factions of the Afghan Communists or to broaden the base of the government of President Babrak Karmal, who was installed when the Russians invaded. "Things have gotten to the stage where the majority of the Afghan people won't accept anyone who's acceptable to the Russians," a diplomat in Pakistan says.

The Soviets also have been unable to stem the disintegration of the Afghan army currently thought to number fewer than 20,000, compared with its original 80,000 men. Some of this is explained by defections to the mujahideen side. For instance, two 14-year-olds, Abdul Waheed and Abdul Sayyaf, say they were in their village market early this year when they were abducted by soldiers and flown to Kandahar for military training. After a month, they say, they and 25 other draftees escaped and joined the Moslem tribesmen.

SOURCES OF ARMS

The insurgents say that most of their weapons come from soldiers defecting from the Afghanistan army. At least a small part of the mujahideen arsenal, however, apparently comes by way of the Pakistan military from Egypt, Saudi Arabia, Oman, China and possibly the U.S. Pakistan denies it is conduit for the arms, and the U.S., at least, denies supplying any arms to Afghanistan.

Journalists who have accompanied the mujahideen inside Afghanistan say they suffer from the lack of advanced weapons, especially antiaircraft weapons for use against the armor-plated helicopters that the Russians use with devastating effect against the mujahideen.

No one expects the Russians to tire of Afghanistan. In fact, they may hope to wear down the rebels' resistance. What's at stake for the Russians is their "Brezhnev Doctrine," under which Moscow views all Socialist revolutions as irreversible. To pull out of Afghanistan could weaken Soviet credibility among its allies, it is reasoned, much as the U.S. pullout from Vietnam caused America's allies to question Washington's reliability.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I understand that we are almost ready to commence consideration of our first regular appropriation bill for this year. I commend the distinguished Senator from Oregon (Mr. HATFIELD), the chairman of the Appropriations Committee, for making it possible for us to do that in advance of the August recess. I am personally grateful, and I am sure the Senate is grateful, that we have reached the 1st of the 13 regular appropriation bills in a good and expeditious way.

As we wait now for the managers to assemble, and those who will have the first business to transact in connection with the bill, I am prepared to create a brief time for routine morning business. If the manager of the bill, Senator GARN, who is the subcommittee chairman, is agreeable, I will provide now for a brief period for the transaction of routine morning business.

Mr. GARN. That will be fine.

Mr. BAKER. I thank the Senator from Utah.

Let me thank him as well for his work in bringing this matter to us at this time. It is an extraordinary thing that we have the level of competence in his subcommittee and others, and in the Appropriations Committee, that permits us to reach this point at this relatively early time in this legislative year.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not longer than 15 minutes, in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. QUAYLE). Without objection, it is so ordered.

RECEIPT OF MIDYEAR MONETARY POLICY REPORT TO CONGRESS PURSUANT TO THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the midyear monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978. This report is available for review by my colleagues in my office.

ACT NOW ON THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, one of the common traits of human nature is our reluctance to take decisive action in the absence of a crisis. I submit to my colleagues that this reluctance stands in the way of ratification of an important treaty, the Genocide Convention.

We can see examples of this problem in our personal lives, in business decisionmaking, and in public affairs, to name a few instances.

We have all had the experience of hearing strange sounds from our car, but not taking it in for a tuneup because we were too busy. Then, inevitably, the car breaks down just when we are in a hurry and have no alternative transportation. We get it fixed, but by not

acting early to prevent a breakdown, we aggravate the problem and end up in a crisis.

We have a tendency to react to crises instead of preventing predictable problems in the realm of public affairs, too. One example which comes to mind is the public pressure for Presidential security which followed the attempted assassination of President Reagan. Throughout the world, security is tightened after an attempt on someone's life. People do not act to solve problems that are not pressing—people act when disaster strikes.

From this common, but destructive, habit comes the adage, "an ounce of prevention is worth a pound of cure." In the case of the Genocide Convention, this is undoubtedly true.

We must apply all the wisdom and forethought we can muster. We must act now to prevent genocide instead of reacting later as if we could cure it. If we wait until a case of genocide occurs, we risk losing thousands of human lives and the security of important, unique human groups.

Mr. President, I urge my colleagues speedily to ratify the Genocide Convention. The U.S. Senate must join with the world community in working to prevent all future genocidal acts.

LUTHERAN WOMEN SUPPORT U.N. CODE ON INFANT FORMULA REGULATION

Mr. PROXMIRE. Mr. President, the influential organization of the American Lutheran Church Women recently gave a resounding endorsement to the Senate's action on June 18 urging the U.S. Government to support the international code regulating the marketing of infant formulas. Though the United States cast the only negative vote out of 119 participating countries, both Houses of Congress have gone on record in opposition to our Government's official position.

The code, which is supported by a varied and broad group of religious and health organizations here and overseas, is based on the very practical considerations of infant mortality. Infant mortality in developing countries is two to seven times higher for bottle-fed babies than breast-fed babies. To some degree, this results from formulas being mixed with contaminated water or from being overdiluted—thus causing infant malnutrition.

The House of Representatives passed Joint Resolution 287 by a 301-to-100 vote. The Senate followed suit with a vote of 89 to 2. Thus, the consensus in Congress is not only clear but also overwhelming. Nonetheless, the administration sought to make an argument based on narrow constitutional grounds which have no merit in this case.

I applaud the American Lutheran Women's organization for their continued dedication to this important issue. It is an issue with moral, economic, and even strategic consequences. The United States should not be blind to the long-term consequences of taking the wrong position on the Infant Formula Code.

Mr. President, I ask unanimous consent that the resolution passed by the American Luthern Church Women be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION AFFIRMING CONGRESSIONAL VOTE ON INTERNATIONAL INFANT FORMULA

Whereas, on May 21, 1981, in Geneva, Switzerland, at the 34th meeting of the World Health Organization, the U.S. cast the sole vote (118 to 1) against adoption of an international Code regulating the marketing of breastmilk substitutes, and

Whereas, the groundswell of citizen outrage in the U.S. against this ill-advised negative vote by the U.S. representative was immediate and widespread, and

Whereas, the WHO Code caps ten years of concentrated consultation by governments, health professionals, industry, and consumer groups, and

Whereas, adoption of the Code is an explicit recognition by the world's highest health authorities that breast feeding and infant health must be protected from aggressive advertising and unethical marketing by baby milk companies, and

Whereas, scientists estimate that each year ten million infants suffer malnutrition, disease, and often death due to misuse of artificial infant formulas, and

Whereas, on June 16 the U.S. House of Representatives passed Joint Resolution No. 287 by a 3 to 1 ratio, (1) expressing its shock and dismay at the negative vote by the U.S. on the WHO Marketing Code, (2) urging the Reagan administration to cooperate with other nations in implementing the Code, (3) urging the U.S. infant formula industry to abide by Code guidelines, and, (4) reaffirming the dedication of the U.S. to the protection of the lives of all the world's children, and

Whereas, on June 18 the U.S. Senate approved by a vote of 89 to 2 a resolution urging the U.S. government and the breast milk substitute industry to support the basic aims of the Code and to cooperate with governments of all countries in their efforts to implement the Code objectives,

Now therefore be it resolved that the American Lutheran Church Women, assembled in Dallas, Texas, in convention, express their wholehearted affirmation and support of the senators and representatives who so courageously cast their votes in favor of these resolutions, and

Be it further resolved that ALC Women be urged to send letters to their individual senators and representatives congratulating them on their enlightened stand, and

Be it further resolved that ALC Women pay close attention in the months ahead, and give their encouragement and support in every way possible to consumer groups, health professionals, law enforcement agencies and governments who will be working to implement the objectives of the International Infant Formula Code on behalf of the world's children, both here in the U.S. and in lands across the seas.

INFANT FORMULA RESOLUTION

Mr. SYMMS. Mr. President, since the Senate vote on the Infant Formula Resolution, I have been criticized for being against motherhood, having no concern for others and insensitive to innocent children. I suppose my colleague, Senator EAST, who joined me in opposition to that resolution, has had the same experience. Apparently our votes were read that way by those who refused to look at the underlying arguments.

The Senate vote on that resolution condemning the Reagan administration for voting against a World Health Organization code on baby formulas raised a number of complex issues.

One can view the Senate vote in two ways. Most of my colleagues saw it as an opportunity to express mild disapproval of the administration for its Geneva vote against that international advertising code, a code which, by the way, was not a simple statement that breast feeding is better, but an effort to limit freedom of expression. I saw my vote on the Senate resolution as an opportunity to express strong disapproval for an unpleasant trend in international affairs.

Most of the international organizations of the world operate on the fringes of reality. They are governed by international bureaucrats, intellectuals, and elitists from many nations. These international bureaucrats are irresponsible. They are elected by no one; they answer to no one; they draw large salaries, but they have no power. Power is what they seek.

They attempted to assert control over the natural resources of the world through the Law of the Sea Conference. They sought power over the world's press by proposing a UNESCO-sponsored system of press censorship. They sought control over some of the large commercial enterprises of the world by proposing an advertising code which instead of working toward the aim of resolving the persistent malnutrition problems of mothers and infants in developing areas demands that all advertising of infant formula to the public be forbidden. That is absurd.

Anton Keller in a recent article in the Wall Street Journal summarized it best when he stated:

> The code sets yet another precedent for experts, commissions and international officials to become bona fide legislators, with international "service" organizations being their vehicle for establishing mostly self-serving norms beyond the effective control of national legislatures.

Most of our troubles in international affairs are due to a refusal to deal with the world as it is. We persist in pretending that international negotiations, through the U.N. can make everything right. The international bureaucrats encourage that pretense, and seek to extend it, for their own purposes.

My vote against the Senate resolution was a vote expressing the need to resist this kind of trend and to express my view that we should be very careful about strengthening the hand of international bureaucrats in their efforts to bind sovereign nations of the world.

It was not a vote against breast feeding. I recognize the superiority of breast feeding, when it can be done. In some cases it cannot be and in those cases, substitutes are needed.

It was not a vote condoning the specific advertising and marketing practices carried out by infant formula companies. I think some of it is reprehensible, though I think it is at least as subject to first amendment protections as other forms of advertising.

It was not even a vote to defend the contribution that infant formula companies have made to improved nutrition in underdeveloped countries, providing protein and other food supplements that increased survival rates and cut down on disease and malnutrition. The efforts of the companies have been widely recognized by international health authorities.

My vote on that Senate resolution was a chance to remind those international bureaucrats that they do not have real power yet, and as long as the United States will defend its real interests, they will never have it.

Mr. President, the respected columnist Smith Hempstone, in the July 8 Washington Star, has written perceptively on this infant formula controversy. His article makes good sense, and I wish other Senators had taken the time to consider his arguments before the vote. Since they did not have the chance then, I offer it to them now and ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALL THIS BREAST-BEATING ABOUT INFANT FORMULA

(By Smith Hempstone)

When the Reagan administration finds itself outvoted 118–1 in the World Health Organization and opposed by both the U.S. Senate (89–2) and the House of Representatives (301–100), the White House is in the wrong, right?

Not necessarily. And, in the case of the current breast-feeding brouhaha, almost certainly not.

For the past six years, an odd assortment of liberal activists and other gollywogs (Ralph Nader, Cesar Chavez, Dr. Benjamin Spock, Mother Jones) have been after the scalp of the baby-food industry, and particularly Nestle, the venerable Swiss giant (with annual sales of $13 billion) that markets about a third of the baby formula sold in Asia, Africa and Latin America. The charge: that use of the formula causes 1 million infant deaths a year in the Third World.

That is, of course, hogwash. The infant formulas, which are used extensively in the United States, are not responsible for a single death. When such deaths occur—and they do occur—the cause inevitably is the mother's improper dilution of the formula, the use of polluted water or the failure to sterilize bottles.

No one would argue that breast-feeding, when the mother is healthy, is the cheapest healthiest and most emotionally satisfying method of infant nutrition. Unfortunately, not all Third World mothers are healthy, or able and willing to breast-feed their children.

TRADITIONAL SUBSTITUTES

When this is the case, the woman denied access to nutritionally balanced baby-food formulas obviously will use traditional substitutes such as gruel, sugar-water or mashed fruits, foods that are lacking in nutritional value and hard to digest. Since such substitutes invariably are mixed with the same polluted water, it is difficult to see how the rate of infant mortality is reduced.

The code passed recently by WHO, with the U.S. casting the sole dissenting vote, rests on the incorrect assumption that marketing practices are the primary cause of the decline of breast-feeding in the underdeveloped world.

There is not a scintilla of evidence to support this thesis, and more than a little to contradict it.

In the U.S., for instance, where baby formulas are heavily advertised, there has been a dramatic increase in breast-feeding over the past decade; in the Soviet Union, where there is no advertising, use of baby formula has been equally dramatically on the upswing. WHO's own 1975–77 survey of 23,000 mothers in nine disparate countries showed no causal link between breast-feeding decisions and marketing practices.

A cynic might observe that, since the WHO vote was only a recommendation, many nations that have not the slightest intention of enforcing it voted for it, not to save the lives of children but to indict multinational corporations, and to avoid admitting the existence of primitive and unsanitary conditions in their own countries.

But how to explain last month's votes in the U.S. Senate and House?

CORRECT SIDE OF THE ISSUE

Rep. Larry McDonald, a Georgia Democrat who is a medical doctor, suggests that many of his colleagues "didn't have the foggiest idea what they were voting on . . . but simply wanted to be perceived . . . as being on the 'correct' side of this issue."

McDonald, who calls the WHO code "absurd," points out that it prohibits all advertising and promotion of formula, and bans all sales incentives to salesmen and efforts by marketing personnel to educate mothers on the proper use of these products.

The code "will not improve infant health but rather have the opposite effect," concludes McDonald.

It is clear that special precautions ought to be taken in marketing products in semiliterate societies lacking in hygienic traditions and refrigeration. But the baby-food corporations themselves have done much to regulate their marketing practices, and there is no reason to believe that supranational organizations such as WHO are better placed to dictate such procedures.

At least in theory, the WHO code could be translated into regulations that would be binding on all nations, including the U.S. Sec. of Health and Human Services Richard Schweiker, however, has made it plain that, in his view, application of the code here would violate constitutional guarantees of free speech and association, and violate anti-trust laws.

Rather than castigating a 100-year-old firm such as Nestle as "a baby-killer," the liberal activists who created this phony issue might better spend their energy and money teaching Third World mothers to read labels and boil polluted water.

But then the health of the world's children is not their genuine concern, is it? They prefer a grievance to a solution.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1982

The PRESIDING OFFICER. The pending business will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4034) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes.

Mr. GARN. Mr. President, the bill before the Senate contains $60.5 billion in budget authority and an estimated $56.2 billion in outlays for the Department of Housing and Urban Development and 19 other agencies. This is $3.9 billion in budget authority and $700 million in outlays below the 302(b) allocation. The reported bill is $2.7 billion below the request and $9.0 billion below the fiscal year 1981 level.

The Senate bill is $2.1 billion in budget authority less than the House version and is also below the House version in outlays. In this regard, it should be noted that the Senate version contains $115 million for civil defense and $147.7 million for the operation of low-income housing subsidies—both of which are fiscal year 1982 requirements not funded by the House. With these items considered, we would be another $200 million in outlays below the House version.

In each case, the impact of the subcommittee's recommendations on authorization and reconciliation was considered. Many of the items in this bill are awaiting authorization. The staff has discussed each recommendation with the appropriate authorizing committees and in each case, the consensus was that these recommendations would not unduly compromise the Senate's position in the authorization and reconciliation conferences. I believe that we must avoid undercutting our conferees.

The total amount proposed in this bill does not exceed the amount contained in the Senate authorization or reconciliation bills.

HUD—INDEPENDENT AGENCIES APPROPRIATIONS SUBCOMMITTEE

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The committee recommended a limitation on annual contribution contracts for assisted housing of $891,500,000 and an overall limitation of $17,815,100,000 in the new budget authority. The limitation on annual contract authority recommended by the committee is $95,936,250 less than the budget estimate and the House allowance. The recommended limitation on new budget authority is $1,927,545,500 less than the budget estimate and the House allowance.

The amount provided by the committee is estimated to result in the reservation of 156,205 housing units, of which 59,892 will be new construction; 10,569 rehabilitation; and 85,744 existing. Within the units provided are 4,000 Indian housing units.

In addition, within the funds provided, the committee has included $1,500,000,000 in new budget authority and $75,000,000 in contract authority for modernization. Additionally the bill includes a provision releasing an additional $300,000,000 in budget authority and $15,000,000 in contract authority

that was deferred in the supplemental bill (Public Law 97–12), thus bringing the fiscal year 1982 program level to $1,800,000,000.

Finally, the committee included a provision in the bill requiring the Secretary to transfer no less than 6.3 percent and no more than 17 percent of the funds in this account for public housing new construction to support the operation of low-income housing projects. The effect of this provision is to adjust the number of public housing new construction units from 16,000 to no more than 14,992 and no less than 13,280. This provision would give the Secretary the flexibility of trading off new construction for operating subsidies on existing units and would hopefully preclude the need for a separate supplemental action in fiscal year 1982.

RENT SUPPLEMENT

The committee agree with the House in approving the administration's proposed rescission of $1,037,000,000 in budget authority and $30,500,000 in contract authority for the rent supplement program. In fiscal year 1982, the Department proposes to continue to phase in the conversion of units currently assisted under the rent supplement program to the section 8 program. The conversion of rent supplement assisted units will provide a long-term solution to the existing problem of inadequate funding to amend rent supplement contracts.

HOUSING PAYMENTS (LIQUIDATION OF CONTRACT AUTHORITY)

The committee recommended an appropriation of $8,759,000,000 for the liquidation of housing contract authority. The amount recommended will provide housing payments for an estimated 3,751,000 eligible units, including 1,588,000 section 8 units; 1,238,000 public housing units. The aggregate number of units eligible for payment in fiscal year 1982 represents an increase of 230,000 units over the current estimate for fiscal year 1981.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

The committee recommended a loan limitation of $830,848,000 for the section 202 housing program for the elderly or handicapped program in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

Of the $830,848,000 recommended for reservations in fiscal year 1982, $50,000,000 would be loaned for housing designed expressly for nonelderly handicapped individuals. The amount recommended will provide for an aggregate total of 17,200 units in fiscal year 1982, including 1,035 units for nonelderly handicapped persons.

Additionally, language requested to permit the use of up to $20,000,000 in 1982 of recaptured authority from prior year reservations is included in the bill.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

The committee has recommended an appropriation of $1,204,600,000 for payments for the operation of low-income housing projects. This amount is the same as the budget estimate and the House allowance.

The committee continues to be concerned with the need for annual supplementals to cover shortfalls in operating expenses and notes that such supplemental amounts have not been authorized. For example, recently HUD has informed the committee of an additional unfunded requirement of about $147,700,000 in fiscal year 1981.

In order to address this recurring problem, the committee has included language in the bill under the annual contributions for assisted housing account permitting the Secretary to transfer no less than 6.3 percent and no more than 17 percent of the funds available for public housing new construction to this account to cover shortfalls in operating subsidies. The committee believes that this mechanism will provide the Secretary with the flexibility needed to respond to unexpected large increases in utility costs without requiring further legislative action. The 6.3 percent transfer is designed to cover the expected fiscal year 1981 shortfall. If the Secretary exercises the option up to 17 percent provided, a total of $400,248,000 could be made available for operating subsidies during fiscal year 1982. Coupled with the amounts appropriated, this should be sufficient to meet the 1981 and 1982 anticipated shortfall.

TROUBLED PROJECTS OPERATING SUBSIDY

The committee recommended an appropriation of $50,176,000 for troubled projects operating subsidies. This amount is the same as the budget estimate and the House allowance. The committee expects this amount to support 1,663 projects during fiscal year 1982.

NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION HOUSING COUNSELING ASSISTANCE

The committee recommended an appropriation of $5,000,000 for housing counseling assistance in fiscal year 1982. This amount is $1,000,000 more than the budget estimate and the same as the House allowance.

Under the committee recommendation approximately 62,500 clients will receive default counseling and comprehensive counseling. This is 12,500 clients more than would have been served under the administration's request, which would restrict the program to default counseling. The committee directs that the additional $1,000,000 only be used for those activities eligible under S. 1377.

FEDERAL HOUSING ADMINISTRATION FUND

The committee recommended an appropriation of $222,148,000 for this account. This amount is the same as the budget estimate and the House allowance.

The budget also requested language limiting mortgage assistance payments to $75,960,000. The temporary mortgage assistance payments (TMAP) program was authorized to prevent further assignments of single family mortgages by helping those homeowners who have experienced temporary financial problems and cannot meet monthly mortgage payments. The committee approved the use of funds for this purpose and included bill language which will implement the program.

The revised 1982 budget proposed credit control language to limit commitments for mortgage insurance to $35,000,000,000. Testimony from HUD officials indicated that it is unlikely that the limitation would be reached. However, the committee is concerned, as was the House, that the proposed limitation could have a negative effect on the already depressed housing industry and has recommended a $41,000,000,000 limitation. This is the same amount included in the first concurrent resolution for fiscal year 1982 (H. Con. Res. 115).

LOW RENT PUBLIC HOUSING—LOANS AND OTHER EXPENSES

The committee agreed with the House in denying without prejudice the request of $1,100,000,000 to fund the difference between the total debt service cost under existing annual contributions contracts and the requirements of the Federal Financing Bank based on the respective borrowing costs at the taxable rate from the Treasury.

The committee's action is taken in view of the fact that denying the appropriation will still permit the estimated sale of $1,300,000,000 of instruments in 1981 and 1982 and is not likely to result in exceeding the existing $20,000,000,000 administrative ceiling.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION SPECIAL ASSISTANCE FUNCTIONS FUND

The committee has recommended an appropriation of $1,973,000,000 for mortgage purchase commitments under the Government National Mortgage Association's section 8 tandem and targeted tandem programs. This amount is $1,627,000,000 less than the budget estimate and the House allowance.

The amount approved by the committee would go to support the production of approximately 780 section 8 and targeted tandem project applications representing an estimated 51,000 new rental units. These applications had the status of conditional in process to firm commitment for insurance purposes as of February 13, 1981.

MORTGAGE-BACKED SECURITIES

The revised 1982 budget request proposed credit control language to limit commitments for guarantees of mortgage-backed securities to $64,000,000,000. However, the committee shared the House's concern that the proposed limitation could have a negative effect on the already depressed housing industry and has recommended a $69,500,000,000 limitation. This is the same amount included in the first concurrent resolution for fiscal year 1982 (H. Con. Res. 115).

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

The appropriation recommended by the committee will cover insufficiencies for sales authorized in 1968, including $84,000 for public facility loans and $1,880,000 for the special assistance functions fund. An additional $121,000 will be provided through a permanent, indefinite appropriation to cover insufficiencies for sales authorized in 1967.

SOLAR ENERGY AND ENERGY CONSERVATION BANK
ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

The committee concurred with the administration in not recommending an appropriation for this bank in fiscal year 1982. This represents a $50,000,000 decrease from the House allowance.

The committee believes that current market factors and existing tax credits provide ample incentive for conservation and solar improvements. Energy tax credits alone are expected to cost the Federal Government $538,000,000 in foregone revenue in 1981.

COMMUNITY PLANNING AND DEVELOPMENT
COMMUNITY DEVELOPMENT GRANTS

The committee recommended an appropriation of $4,166,000,000 for community development grants in fiscal year 1982. This amount is the same as the budget estimate and $134,000,000 less than the House allowance when the funds recommended for the urban development action grant program are taken into account.

The amount provided is also the full amount authorized under S. 1197. Within this amount is included $500,000,000 for the urban development action grant program. In combining the UDAG program with the CDBG program, the committee has followed the structure recommended by the administration and the Senate authorizing bill.

The committee has not reduced the loan limitation under section 108 of the Housing and Community Development Act of 1974, as amended, as did the House. The committee has provided the full $250,000,000 loan limitation request by the administration for this program.

REHABILITATION LOAN FUND

The committee recommended no additional funding for the rehabilitation loan program. This amount is the same as the budget estimate and the House allowance.

Although the committee did not provide additional funding for this program in ficsal year 1982, it did not agree with the administration that the program should be terminated. In the 1981 Supplemental Appropriations and Rescission Act (Public Law 97–12), the Congress agreed to rescind the estimated program balance of $110,856,954. However, the act did not terminate the program.

Both the 1981 Housing Amendments (S. 1197) and the reconciliation bill (S. 1377) continue the program as a revolving account. Therefore, the committee has recommended that the program be continued on a reduced scale. An estimated $85,000,000 from repayments and other income sources will be available in 1982 for new loans and other expenses. The committee has included language in the bill to continue the program in 1982 with repayments. The Department is directed to allocate sufficient staff years to maintain the appropriate program level.

This level of funding should support approximately 3,800 section 312 loans.

POLICY DEVELOPMENT AND RESEARCH
RESEARCH AND TECHNOLOGY

The committee has recommended an appropriation of $30,000,000 for the Department's research and technology program. This amount is $5,000,000 less than the budget estimate and $10,000,000 more than the House allowance.

The $5,000,000 reduction below the budget request is a result of the committee's concern that the Department intends to spend $10,000,000 during fiscal year 1982 on the annual housing survey. Testimony before the committee indicated that it is not necessary to conduct this survey on an annual basis.

In addition, during the past several years, HUD has provided financial support to the Housing Assistance Council. The committee directed HUD to apply $1,000,000 of the funds provided to support the activities of the Housing Assistance Council during fiscal year 1982.

FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE

The committee has recommended an appropriation of $5,700,000 for the fair housing assistance program. This amount is the same as the budget estimate and the House allowance. Of the appropriation recommended by the committee, $2,000,000 would be targeted for assistance to community housing resource boards (CHRB's). Contributions for capacity building, compliant processing, training, and compliant monitoring systems (noncompetitive) would amount to $2,700,000. The balance of $1,000,000 would be distributed to specialized fair housing projects. The $5,700,000 appropriation would provide assistance to approximately 70 State and local agencies and 130 community housing resource boards in 1982.

MANAGEMENT AND ADMINISTRATION
SALARIES AND EXPENSES

The committee has recommended $323,664,000 in appropriated funds plus transfers of $266,752,000 from various Federal Housing Administration funds for the salaries and expenses of the Department. This amount is $15,000,000 less than the budget estimate and the same as the House allowance.

WORKING CAPITAL FUND

The committee recommended an appropriation of $600,000 for the working capital fund. This is the same as the budget estimate and the House allowance.

TITLE II—INDEPENDENT AGENCIES
AMERICAN BATTLE MONUMENTS COMMISSION
SALARIES AND EXPENSES

The committee recommended an appropriation of $10,507,000 for the salaries and expenses of the American Battle Monuments Commission. This amount is the same as the budget estimate and the House allowance. The appropriations provided by the committee will allow the American Battle Monuments Commission to maintain 129,000 graves and headstones; 40 memorial structures with an estimated replacement value of $190,000,000; 67 miles of asphalt roads and paths; 908 acres of flowering plants, lawns, and meadows; shrubs and hedges with a surface area of 3,000,000 square feet; and 11,000 ornamental trees. The Commission will also use its 1982 resources to provide information and assistance on request to relatives and friends of the war dead interred in or commemorated at its facilities.

CONSUMER PRODUCT SAFETY COMMISSION
SALARIES AND EXPENSES

The committee recommended an appropriation of $32,983,000 for the salaries and expenses of the Consumer Product Safety Commission. This amount is the same as the budget estimate and the House allowance.

The committee has agreed that there is a need for substantial reform of the Commission, and commends the Senate Authorizing Committee for moving ahead in this regard. However, the committee has noted with some concern that the authorization for CPSC expires on October 1, 1981, and that there is a possibility House action on that reauthorization may not occur before the expiration date is reached. Therefore, the committee has noted the difficult position the Commission will be placed in if the CPSC authorization runs out, and has suggested that, in the event the authorizing legislation is not enacted, the committee will review the funding level for CPSC in fiscal year 1982.

CEMETERIAL EXPENSES, ARMY
SALARIES AND EXPENSES

The committee recommended an appropriation of $5,086,000 for the cemeterial expenses of the Department of the Army. This amount is the same as the budget estimate and the House allowance. Of the funds recommended by the committee, $4,466,000 will be used for operation and maintenance of Arlington and Soldiers' Home National Cemeteries, including support for 153 FTE and the procurement of necessary operating supplies and equipment. Construction projects at Arlington National Cemetery are estimated to cost $320,000 in 1982. The balance of $300,000 will be spent on administration.

ENVIRONMENTAL PROTECTION AGENCY

The committee recommended an appropriation of $1,418,953,200 for all of EPA's programs in fiscal year 1982. This amount is $493,800 less than the budget estimate and $10,652,800 less than the House allowance. The committee took $21,419,800 in reduction in various EPA programs and recommended a series of additions.

SALARIES AND EXPENSES

For EPA salaries and expenses, the committee recommended an appropriation of $583,747,000 associated with administering the programs of the Environmental Protection Agency. This amount is $978,000 more than the budget estimate and $56,000 more than the House allowance.

The House increased the construction grants program in salaries and expenses by $350,000 and 10 positions for the headquarters review of advanced waste water treatment plants. The committee has eliminated this add on.

The committee has included an additional $1,478,000 for water quality manpower planning and training over the request. The committee is concerned, as was the House, that inadequately trained operators may be a significant factor in many improperly operating treatment plants.

The committee has restored the $750,-

000 cut by the House for the Office of Air, Noise, and Radiation. It is the committee's understanding that this reduction would eliminate the Office's ability to post notices in the Federal Register and would also significantly reduce the salaries available to the Office. The committee has also restored $150,000 for the Office of Press Services.

The committee has restored a $1,000,000 reduction taken by the House for EPA planning and management studies. The committee believes that the review of EPA regulations in terms of their potential benefits and economic impacts will require EPA to expend additional funds in this area.

The committee has added $500,000 to the request for the Great Lakes program. These additional funds are needed to support the higher program level provided by the committee in the R. & D. and abatement, control, and compliance accounts.

The committee has reduced EPA's rent, communications, and utilities request by $1,000,000. This reduction has been taken in light of testimony indicating EPA's poor use of existing space.

At this level of funding, EPA will be able to support 12,277 FTE during 1982, or 853 less than last year's level.

RESEARCH AND DEVELOPMENT

The committee recommended an appropriation of $181,250,700 for EPA's research and development program in fiscal year 1982. This amount is $9,384,300 less than the budget estimate and $9,996,300 less than the House allowance.

Within the amounts provided, the committee has included an additional $1,500,000 for the Great Lakes research program. These funds would be used to continue toxic loading studies to determine the sources and distribution of toxic substances in the Great Lakes.

ABATEMENT, CONTROL AND COMPLIANCE

The committee recommended an appropriation of $421,840,500 for abatement, control, and compliance activities. This amount is $7,912,500 more than the budget estimate and $712,500 less than the House allowance.

In recommending $7,912,500 more than the budget estimate, the committee has provided an additional $323,000 for the National Rural Water Association, State rural water training and technical assistance program. This will bring the total contract effort up to $1,823,300.

The committee has also provided an additional $12,000,000 to complete the projects currently underway in the clean lakes program.

In addition, during the March budget revisions, the administration decreased funding for the last year of the Chesapeake Bay program from $2,991,000 to $1,006,000. The committee has recognized the importance of the Chesapeake Bay program, not only to the contiguous States, but to the Nation as a model program. Consequently, the committee included an additional $1,000,000 for the bay program.

The committee has also added $2,625,000 for water quality manpower planning and training, restoring the program to the level requested in the January submission and $1,000,000 for academic training, to be equally divided between graduate training and research fellowships.

Finally, the committee also included an additional $1,500,000 for the Great Lakes program in this account.

BUILDINGS AND FACILITIES

The committee recommended an appropriation of $4,115,000 for buildings and facilities in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

PAYMENT TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

The committee recommended an appropriation of $28,000,000 for this account. This amount is the same as the budget estimate and the House allowance.

HAZARDOUS RESPONSE TRUST FUND

The committee recommended an appropriation of $200,000,000 for the Hazardous Response Trust Fund. This amount is the same as the budget estimate and the House allowance.

Associated with these funds are an estimated FTE level of 584 in fiscal year 1982 or 424 more than the fiscal year 1981 level. EPA current estimates indicate that $397,000,000 will be credited to the trust fund through various sources during fiscal year 1982. Given the expected level of activity during fiscal year 1982 the trust fund will have a remaining end-of-year balance of $197,000,000.

CONSTRUCTION GRANTS

The committee has reluctantly recommended no funding for 1982 in agreement with the administration's revised request. The committee is concerned however, that the combined effect of the 1981 rescission and the possibility that 1982 funding will not be available until late in the fiscal year may be a grave disruption of program operations. Concurrently, the committee has recognized the need for reforms in the construction grants program and urges the legislative committees to act on the proposed amendments.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

The committee recommended an appropriation of $1,044,000 for the salaries and expenses of the Council on Environmental Quality. This amount is the same as the budget estimate and the House allowance. These funds will provide for 16 FTE during fiscal year 1982. This represents a decrease of 16 from the fiscal year 1981 level. The change in staffing levels reflects the President's desire to utilize more fully the available resources of line agencies working in unison with Council staff.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The committee recommended an appropriation of $1,793,000 for the salaries and expenses of the Office of Science and Technology Policy. This amount is the same as the budget estimate and the House allowance.

This level of funding will support 12 full-time permanent positions and 10 full-time equivalents, the same as in the current fiscal year.

FEDERAL EMERGENCY MANAGEMENT AGENCY

The committee recommended an appropriation of $654,614,000 for the Federal Emergency Management Agency (FEMA) in fiscal year 1982. This amount is $10,507,000 less than the budget estimate and $119,151,000 more than the House allowance.

The following is a breakdown of the funds recommended for FEMA in fiscal year 1982.

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

The committee recommended an appropriation of $369,000,000 for disaster relief assistance in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

SALARIES AND EXPENSES

The committee recommended an appropriation of $83,369,000 for the salaries and expenses in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

STATE AND LOCAL ASSISTANCE

The committee recommended an appropriation of $134,789,000 for the State and local assistance activities of FEMA in fiscal year 1982. This amount is $4,000,000 less than the budget estimate and $80,705,000 more than the House allowance.

The reduction of $4,000,000 recommended by the committee from the budget request is to be applied in the following civil defense activities: —$1,000,000 in supporting materials; —$2,000,000 in nuclear attack civil preparedness; and —$1,000,000 in communications and warning policy. Funds for all other civil defense activities in this account are funded at the requested level.

EMERGENCY PLANNING AND ASSISTANCE

The committee recommended an appropriation of $67,456,000 for the emergency planning and assistance activities of FEMA in fiscal year 1982. This amount is $6,507,000 less than the budget estimate and $38,446,000 more than the House allowance. The reduction of $6,507,000 from the budget request is to be applied in the following activities: —$800,000 in resource preparedness, resource assessments: —$1,882,000 in continuity of government, national security plans and policy; and —$3,825,000 in national readiness/evaluation. Funds for all other civil defense activities in this account are provided at the requested level.

NATIONAL FLOOD INSURANCE FUND

The committee recommended no appropriation to repay funds borrowed from the Treasury by FEMA to carry out the national flood insurance program in fiscal year 1982. This amount is $373,000,000 less than the budget estimate and the House allowance. Based on information provided by FEMA, this repayment to the Treasury will not be needed in fiscal year 1982. Sufficient borrowing authority will remain to meet expected program needs.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

The committee recommended an appropriation of $1,344,000 for the Consumer Information Center. This amount

is $30,000 more than the budget estimate and the House allowance.

The committee has provided an additional $30,000 for a study to examine the effects of imposing a charge on consumers ordering free publications through the Pueblo, Colo., distribution facility.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

The committee recommended an appropriation of $2,000,000 for the salaries and expenses of the Office of Consumer Affairs. This amount is the same as the budget estimate and the House allowance.

This funding level will provide for 43 full-time permanent and 6 other than full-time positions, as requested. This is a reduction of 11 permanent positions from the current fiscal year.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The committee recommended an appropriation of $4,994,500,000 in fiscal year 1982 for the research and development activities of the National Aeronautics and Space Administration. This amount is $91,400,000 more than the budget estimate and $56,400,000 more than the House allowance.

The additional $91,400,000 recommended by the committee partially restores the $549,500,000 reduction in this account contained in the March budget revisions. The amount provided is $7,200,000 less than authorized under Senate bill S. 1098.

CONSTRUCTION OF FACILITIES

The committee recommended an appropriation of $104,800,000 for facilities activities in fiscal year 1982. This amount is the same as the budget estimate and $9,000,000 more than the House allowance.

The administration requested $9,300,000 for construction in the space flight operations facility at the Jet Propulsion Laboratory. The House, however, reduced this request by $8,000,000. The committee has recommended restoring these funds.

In addition, the committee has also restored the $1,000,000 deleted by the House for NASA's minor construction budget. The total budget request for such activities is only $3,000,000 and the cut of $1,000,000 proposed by the House could severely jeopardize essential NASA programs and activities.

RESEARCH AND PROGRAM MANAGEMENT

The committee recommended an appropriation of $1,114,300,000 in fiscal year 1982 for research and program management. This amount is the same as the budget estimate and $14,300,000 more than the House allowance.

Approximately 75 percent of the appropriation recommended by the committee is needed to provide for salaries and related expenses of a civil service workforce of about 21,900 permanent civil service personnel at 10 installations and headquarters. This represents a reduction of 840 from the fiscal year 1981 appropriation.

NATIONAL CONSUMER COOPERATIVE BANK

SELF-HELP DEVELOPMENT

The committee has recommended no additional funds for the self-help development fund in fiscal year 1982. This amount is the same as the budget estimate and $5,000,000 less than the House allowance.

The committee has noted that officials of the Bank testified that additional funding for the Bank would not be required in fiscal year 1982 if the fiscal year 1981 rescission was overturned, which it was in Public Law 97–12. The committee has included bill language parallel to that included in Section 323–11 of the Senate reconciliation bill (S. 1377). This provision will restrict the Bank from making further loans.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

The committee recommended an appropriation of $100,000,000 of emergency lending authority by the Secretary of the Treasury. This amount is the same as the budget estimate and the House allowance. With the approval of these funds the CLF will end its dependence on the Federal Financing Bank for the financing of its loan programs and begin borrowing in private markets.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SALARIES AND EXPENSES

The committee recommended an appropriation of $1,500,000 for the salaries and expenses of the National Institute of Building Sciences in fiscal year 1982. This amount is $1,000,000 more than the budget estimate and the House allowance.

The Institute has estimated that it will need a total of some $5,173,000 in additional capital funding over the next 3 years to achieve the goal of self-sufficiency and at the same time be in a position to carry out its mission. The institute can forecast raising approximately $2,503,000 of this amount itself. This would leave a shortfall of $2,670,000.

Rather than extend the Institute's authorization, the Committee has proposed that the $2,670,000 shortfall be met by a final appropriation of $1,500,000 for fiscal year 1982, and $1,170,000 in earned overhead on service grants/contracts from executive agencies which should be utilizing the services of the Institute in carrying out their mission as intended by the Congress. The Institute's effective overhead rate is 26 percent, therefore, it will require $1,500,000 per year in such grant/contract activity over the next 3 years to produce the needed $1,170,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The committee recommended an appropriation of $1,024,100,000 for research and related activities. This amount is $4,000,000 more than the budget estimate and $40,900,000 less than the House allowance.

The committee has added $2,000,000 to the NSF budget to fund the U.S. contribution to the International Institute for Applied Systems Analysis. The committee has also provided $3,000,000 for NSF's intergovernmental programs.

For biological and behavioral sciences, the committee has restored funding to the fiscal year 1981 level. The additional $12,620,000 will provide support for important research that impacts on current policy decisions in a variety of social areas.

The committee has also included an additional $150,000 for the continuation of the Alan T. Waterman award. The committee believes that this national award provides a significant incentive to young scientists at a relatively modest cost to the Government.

SCIENCE AND ENGINEERING EDUCATION ACTIVITIES

The committee recommended an appropriation of $19,900,000 for the Foundation's science education activities in fiscal year 1982. This amount is $10,000,000 more than the budget estimate and $15,100,000 less than the House allowance.

The additional funds provided by the committee for science and engineering education should be distributed as follows: $9,900,000 for existing graduate fellowships; $5,000,000 for new graduate fellowships; $4,500,000 for the highest priority science and engineering education activities as determined by the Foundation and $500,000 for a study on the future direction of the NSF's science and engineering education program.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

The committee recommended an appropriation of $3,500,000 for the Foundation's scientific activities overseas program in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

NEIGHBORHOOD REINVESTMENT CORPORATION

The committee recommended an appropriation of $14,950,000 for the salaries and expenses of Neighborhood Reinvestment Corporation in fiscal year 1982. This amount is the same as the budget estimate and $1,000,000 more than the House allowance. Based on the level of funding recommended by the committee, the Corporation will have 240 FTE in fiscal year 1982, 15 more than the current fiscal year.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

The committee recommended an appropriation of $20,000,000 for the salaries and expenses of the Selective Service System in fiscal year 1982. This amount is $1,174,000 less than the budget estimate and the same as the House allowance.

The committee has also retained House bill language which would limit obligations to not more than $1,000,000 per month in the event that continuous registration is terminated.

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

The committee recommended an appropriation of $4,566,700,000 for payments to the State and local government fiscal assistance trust fund in fiscal year 1982. This amount is $3,249,000 less than the budget estimate and the same as the House allowance.

The reduction of $3,249,000 from the budget request recommended by the committee was made to conform with the authorizing legislation (Public Law 96–604).

OFFICE OF REVENUE SHARING SALARIES AND EXPENSES

The committee recommended an appropriation of $6,986,000 for the salaries and expenses of the Office of Revenue Sharing in the Department of the Treasury. This amount is the same as the budget estimate and the House allowance. At the funding level recommended by the committee, the Office will employ 152 authorized and 148 average positions, which is a decrease of 6 over the fiscal year 1981 level.

NEW YORK CITY LOAN GUARANTEE PROGRAM ADMINISTRATIVE EXPENSES

The committee recommended an appropriation of $934,000 for the administrative expenses of the New York City loan guarantee program in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

At the level of funding recommended by the committee, the program will maintain a staff of 14 during fiscal year 1982, which is 2 less than the fiscal year 1981 level.

INVESTMENT IN NATIONAL CONSUMER COOPERATIVE BANK

The committee did not recommend additional funding for the Bank in fiscal year 1982. This is the same as the budget estimate and $58,000,000 less than the House allowance.

The committee has noted that officials of the Bank testified that additional funding for the Bank would not be required in fiscal year 1982 if the fiscal year 1981 rescission was overturned, which it was in Public Law 97–12. The committee has included bill language parallel to that included in section 323–11 of the Senate reconciliation bill (S. 1377). This provision will restrict the Bank from making further loans.

VETERANS' ADMINISTRATION COMPENSATION AND PENSIONS

The committee recommended an appropriation of $12,857,400,000 for veterans compensation and pensions. This amount is $99,400,000 less than the budget estimate and $57,400,000 less than the House allowance.

The reduction from the budget estimate recommended by the committee, reflects the anticipated savings from the elimination of burial benefits for certain individuals. This anticipated savings is based on the Senate reconciliation bill (S. 1377) and represents $99,400,000, or $57,400,000 more than the savings assumed in the House version of that bill. The savings from this account has been used as an offset to increases in the medical care appropriation. The committee has noted that supplemental funding will be necessary when final disposition of proposed legislation is known.

READJUSTMENT BENEFITS

The committee recommended an appropriation of $1,658,000,000 for readjustment benefits. This amount is the same as the budget estimate and $32,000,000 above the House allowance.

The committee has provided $32,000,000 over the House in order to restore correspondence and flight school training. The Senate authorization bill does not deauthorize these programs. The committee also notes that it expects that a supplemental will be required to cover the full year costs of the readjustment program.

VETERANS' INSURANCE AND INDEMNITIES

The committee recommended $8,500,000 for veterans' insurance and indemnities in fiscal year 1982. This amount is the same as the budget estimate and the House allowance. The appropriation recommended by the committee will cover the cost to the various insurance funds of death claims on policies under waiver of premiums while the insured was on active duty.

MEDICAL CARE

The committee recommended an appropriation of $6,996,418,000 for VA medical care in fiscal year 1982. This amount is $291,527,000 more than the budget estimate and $1,757,000 more than the House allowance.

The committee has provided, as did the House, an additional $1,716,000 to treat 200 additional patients in community nursing homes.

Other changes to the request recommended by the committee include a $10,000,000 reduction in funds for equipment, supplies and a decrease of $12,900,000 related to legislation eliminating presumptive service connection for certain outpatient dental treatment now provided up to 1 year after discharge.

MEDICAL AND PROSTHETIC RESEARCH

The committee recommended an appropriation of $145,699,000 for medical and prosthetic research activities. This amount is the same as the budget estimate and $8,000,000 less than the House allowance. At the level of funding recommended by the committee, the VA will be able to maintain a staff level of 4,293 in fiscal year 1982 or 76 less than the fiscal year 1981 level.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

The committee recommended an appropriation of $62,400,000 for medical administration and miscellaneous operating expenses. This amount is $4,000,000 more than the budget estimate and $172,000 less than the House allowance. At the funding level recommended by the committee, the VA will be able to support an employment level of 866 staff years, or 27 more than the fiscal year 1981 level. Also included in this account is $4,000,000 for the nurse scholarship program authorized by the Veterans Administration Health Care Personnel Act of 1980, Public Law 96–330.

GENERAL OPERATING EXPENSES

The committee recommended an appropriation of $659,512,000 for general operating expenses in fiscal year 1982. This amount is $55,784,000 more than the budget estimate and the same as the House allowance.

The January budget requested $670,028,000 and 22,089 staff years for general operating expenses. The March budget amendments reduced the request to $603,728,000 and 20,067 average employment (FTEE). The committee does not believe it is possible to reduce fiscal year 1982 funding and employment as proposed without severe disruption to nonmedical veterans programs. Accordingly, the committee has increased the amount recommended by $55,784,000 and 1,891 average employment (FTEE) above the budget request.

The amount recommended above the budget request also includes the following: +$6,390,000 for State approving agencies, providing for a total program of $14,500,000; +$100,000 for training activities, providing for a total program of $1,118,000; and +$49,294,000 and 1,891 average employment (FTEE), including 1,679 average employment (FTEE) for the Department of Veterans' Benefits of which 115 average employment for the Vocational Rehabilitation and Counseling Service program. The balance of the increased funds and average employment (FTEE) is to be distributed at the discretion of the Veterans' Administration.

CONSTRUCTION, MAJOR PROJECTS

The committee recommended an appropriation of $434,603,000 for the construction of major projects in fiscal year 1982. This amount is $4,673,000 more than the budget estimate and the same as the House allowance.

The increase of $4,673,000 over the budget estimate recommended by the committee, is the net effect of a $6,000,000 reduction in the advanced planning fund (leaving $10,000,000) and an appropriation of $10,673,000 for funding to complete the Brooklyn (St. Albans) laundry consolidation project.

CONSTRUCTION, MINOR PROJECTS

The committee recommended an appropriation of $110,000,000 to finance the construction of minor projects. This amount is $6,979,000 less than the budget estimate and the same as the House allowance.

The committee has directed that this $6,979,000 reduction below the request be applied at the discretion of the VA.

The recommendation will provide for a total of 765 staff years in fiscal year 1982, an increase of 30 above the current level.

CONSTRUCTION AND OPERATION OF GARAGE AND PARKING FACILITIES

The committee recommended an appropriation of $4,692,000 for this account. This amount is the same as the budget estimate and $4,692,000 more than the House allowance. This is the first time this fund has been activated.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

The committee recommended an appropriation of $18,000,000 for grants for the construction of State extended care facilities in fiscal year 1982. This amount is the same as the budget estimate and the House allowance. The level of funding recommended by the committee is an increase of $3,000,000 above the fiscal year 1981 appropriation.

TITLE III—CORPORATIONS

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES

The committee recommended a limitation on administrative expenses of $22,320,000 and a limitation on non-

administrative expenses of $37,540,000 for the Federal Home Loan Bank Board in fiscal year 1982. This is the same as the budget estimate and the House allowance.

The committee's recommendation includes funding of 494 FTE within the administrative expenses account and 915 FTE in the nonadministrative expense account.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The committee recommended a limitation of $1,030,000 on the administrative expenses of the Federal Savings and Loan Insurance Corporation in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

The committee's recommendation includes funding for 20 FTE within the administrative expenses account.

TITLE IV—GENERAL PROVISION

The committee has concurred with the general provisions that apply to the Department and agencies funded through this legislation in fiscal year 1982 as approved by the House with the following deletions:

Section 413: This new provision would have required both House and Senate committees to approve any reprogramming. The committee believed this provision was overly restrictive and could seriously hamper the agencies' ability to manage their programs.

Section 409: This provision would have prohibited the transfer of funds from personnel compensation and benefits to any other object class without the prior approval of the committees. Section 413 covered the activities that fell under this section and the committee had the same objections to this provision as it did to section 413.

Section 414: This new provision would have prohibited overtime pay for employees over GS–9 paid through this act. The committee believed that this provision, if enacted, would cause legal, administrative and morale problems.

In addition the following new provision was included by the committee:

Section 415: This provision would prohibit the use of funds in this bill to pay for employee travel which involves the taking of annual leave while the employee is away from his/her official duty station.

TECHNICAL CORRECTIONS IN THE COMMITTEE REPORT

On page 3 of the committee report, the total difference in budget authority between the Senate bill and the budget estimate should be —$2,705,934,300 rather than —$22,705,934,300.

On page 25 of the committee report, in the chart for the Department of Housing and Urban Development, management and administrative section, the total for salaries and expenses for both the House and Senate recommendation should be $590,416,000 rather than $594,416,000.

On page 63 of the committee report, the total personnel for the National Credit Union Administration Central Liquidity Facility, should be 15 rather than 700 personnel in fiscal year 1982. In addition, the reference to the 1982 personnel level being four less than the 1981 level, should be deleted.

On page 89 of the committee report, in the chart for the Veterans Administration, construction, major projects section, funding for the new ambulatory care building in St. Louis, Mo., should be $43,421,000 for the administration's request and the House and Senate recommendations.

Mr. HATFIELD. Mr. President, this is the first regular appropriations bill for fiscal year 1982. As chairman of the Committee on Appropriations, I am especially pleased that this bill reflects the continuing efforts of the committee to be responsive to human, social, and economic needs, while at the same time is consistent with the ambitious budgetary reform program to control Federal spending.

Consideration of this measure involved long hours of work and many difficult choices, and I commend and congratulate the distinguished Senator from Utah (Mr. GARN), who, as chairman of the HUD and Related Agencies Subcommittee, is the principal architect of the bill.

I might mention that in addition to this heavy responsibility that Mr. GARN carries on the Appropriation Committee, he serves as chairman of the Senate Committee on Banking, Housing, and Urban Affairs, which gives him a great number of headaches as well, I am sure.

Equally deserving credit for this measure is the ranking minority member of the subcommittee, the Senator from Kentucky (Mr. HUDDLESTON). Together, they have crafted a bill which balances the financing needs of a broad array of programs with the constraints adopted by Congress in the first concurrent budget resolution.

Mr. President, I believe the Senate should pay careful attention to this point: H.R. 4034, the Housing and Urban Development and Independent Agencies appropriations bill, as reported by the Senate Committee on Appropriations, is within the subcommittee's section 302(b) allocation for both budget authority and outlays. In the weeks ahead, the committee will be reporting to the Senate other appropriations bills, and it is my intention to do everything possible to assure that they too comply with these spending targets.

This is an ambitious goal, and it reflects the urgency of this issue in restoring the economic health and strength of our Nation. The Committee on Appropriations is responsible for the "nuts and bolts" decisionmaking for the Federal Government. We must translate the often vague and inconsistent budgetary aggregates adopted in the budget resolutions into a workable and efficient expenditure plan for individual Federal agencies and programs. We have to be conscious of financing requirements which often have been ignored in the "assumptions" underlying the budget resolution or even "awaiting later transmittal" by the administration.

Added to the budgetary responsibilities of the committee is the ongoing oversight and review of Federal activities. This is a natural and important advantage that annual funding programs yield, and one reason that I am very concerned over the continuing trend of locking more and more of the Federal budget in mandatory or uncontrollable programs.

Mr. President, the bill we have before us today reflects the work of the Committee on Appropriations at its best. The committee has recommended a net reduction of $2.7 billion from the amounts requested by the administration and $2.1 billion from the level approved by the House. Despite these cuts, financing was also provided for anticipated utility costs of the Public Housing Administration operating subsidies program, a need which would otherwise have to be met through a supplemental appropriation later this year.

The committee action also leaves room for anticipated supplementals to cover the mandatory costs of veterans compensation and pensions and readjustment benefits. There is concern that unless rigorous constraint is exercised here, on the Senate floor, and in conference with the House, there may not be sufficient room remaining after this bill is adopted to cover all these mandatory costs. This concern is legitimate, but I would point out that it is the clear intention of this Senator, and the intention of the other members of the Committee on Appropriations to continue to hold down any spending which is not absolutely necessary or which would threaten to breach the spending targets established by Congress.

Furthermore, it must be made clear that the programs financed in this bill do not operate according to neat assumptions or economic plans. A whole world of very dynamic factors influences and directs the spending patterns of these programs, and no one on Capitol Hill, or downtown, or anywhere else can flatly predict with certainty the precise funding needs which must be provided.

Congress will shortly begin consideration of the second budget resolution for fiscal year 1982, and if history is any guide, there will be a third budget resolution next spring. What will remain unaltered is our commitment to curb unnecessary Federal spending, and I can assure any Senator that this approach will continue as we consider the other regular appropriations bills and any supplemental appropriations requests we may receive during the course of the fiscal year.

Mr. President, I again commend the Senator from Utah (Mr. GARN) for his extrordinary performance here of duty and responsibility within the constraints of the budget resolution. His leadership has been outstanding not only in this instance but also in every aspect of his Senate service.

I also commend the staff for their outstanding support to Senator GARN and Senator HUDDLESTON as they have worked up this bill and brought it to the floor at this time.

I am very proud of this record and of this beginning of the appropriations process under the leadership of Senator GARN.

Mr. HUDDLESTON. Mr. President, as the distinguished chairman of the sub-

committee has indicated, H.R. 4034, the HUD-independent agencies appropriations bill for fiscal 1982, as reported from committee, includes $60.5 billion in budget authority and $56.2 billion in outlays. This makes the bill $3.9 billion below the budget authority allocated to the subcommittee under the first concurrent resolution on the budget and $2.7 billion below the budget request.

As everyone knows, this has been a difficult year during which we have had to balance a number of considerations from program needs and requirements to budgetary constraints. We have not been able to fully fund a number of worthwhile programs, but we have, I believe, worked to achieve viable recommendations within the spending limitations which do exist. This is not a perfect bill, but it is a good bill in view of today's circumstances.

I do not intend to cover the bill in detail, but I do want to mention a few particular items.

We have allowed for the reservation of 156,205 new units. While this is not as many as requested in the budget or provided by the House, it was the level in the Senate authorization and reconciliation bills. And, hopefully, we will be able to do a little better in conference.

We have provided a loan limitation of $830.8 million for the section 202 housing for the elderly or handicapped program, the same amount as the budget request and the House allowance.

While the recommendation for public housing operating subsidies is at the budget request—$1.2 billion—the subcommittee developed what I consider an innovative and viable mechanism for dealing with a problem which has plagued us for several years now, that is, estimating and covering utility costs in public housing projects. In fiscal 1981 there was a serious shortfall in the amount requested and early projections for fiscal 1982 suggest that that estimate is already understated.

Under the mechanism, between 6 and 17 percent of new construction authority may be transferred to operating subsidies in fiscal 1982. This will compensate for the fiscal 1981 shortfall and allow for adjustment of the fiscal 1982 program. While additional units are undoubtedly needed, it seems more appropriate to insure the viability of the units one has prior to constructing more.

The bill also contains the Gramm-Latta figures for FHA mortgage insurance and for GNMA mortgage-backed securities. In subcommittee, I recommended that we move to these figures—$41 billion and $69.5 billion, respectively—and the chairman accepted the motion. The limits imposed on these programs have no budget impact. Nevertheless, these levels together with the subcommittee language regarding the financing adjustment factor (FAF) for section 8 projects should provide some minimal encouragement to the housing industry, which, as we all know, is severely depressed at the moment.

Unfortunately, we were able to provide only $1.973 billion for the GNMA tandem program. That cannot possibly meet the need in the section 8 and targeted tandem programs. Under this circumstance, I think we will have to consider continuing the program beyond fiscal 1982, when the administration proposed to terminate it.

As reported, H.R. 4034 continues the UDAG program as a program separate from the community development block grant program. UDAG has been very successful in leveraging local funds and has contributed to economic redevelopment in a number of downtown areas. For fiscal 1982, $500 million is provided.

Under HUD's policy development and research account, we have earmarked $1 million for the Housing Assistance Council (HAC). This is particularly important, I believe, because HAC has operated quite effectively in a number of rural areas where HUD programs, often designed with urban areas more in mind, have not proven directly applicable.

For the Environmental Protection Agency (EPA), the additional funding over that included in the supplemental for the hazardous substance response fund should allow for much needed action on spills and waste sites. While no funding has been provided for the wastewater construction grant program, we do have room within the subcommittee allocation to fund the program later if appropriate authorizing legislation is forthcoming. I hope the administration will soon submit its legislative proposals so that we can move ahead.

For the National Aeronautics and Space Administration (NASA), we have further funding for the Space Shuttle, which, as you know, recently completed its first test flight. We also added $45 million for aeronautical research and technology. This is designed to help the United States maintain its technological base in this area and continue as a major aircraft exporter. The inclusion of funds for the International Solar/Polar Mission (ISPM) and the solar electric propulsion system (SEPS) should allow the United States to move ahead on two significant efforts. And, just as importantly, the technology utilization program will seek to apply the discoveries and developments of the space program to immediate practical concerns of business and industry.

For the National Science Foundation, the restoration of the full fellowship program under science education activities will not only help our Nation train a continuing supply of new scientific talent but also provide the human resources necessary to maintain and enhance our scientific and technological base.

In our full committee markup, we added $115 million for the civil defense program. This included the full request for State planning efforts.

For the Veterans' Administration, the committee recommendations include $12.8 billion for compensation and pensions, and $6.9 billion for medical care which will allow for an increase of 4,445 personnel to more than 185,000. The committee also restored the funds proposed for reduction in the budget for State approving agencies.

Mr. President, this is a big bill, covering 20 agencies; it is an expensive bill, the third largest regular appropriation bill we will have to deal with. I hope my colleagues will examine closely the recommendations which we have made and will conclude, as we did, that they are appropriate in view of current budgetary and economic circumstances.

Mr. President, I say that we are indebted and grateful for the tremendous amount of work going into this bill by the distinguished floor manager and subcommittee chairman, the Senator from Utah (Mr. GARN).

As I just indicated, we were operating under constraints that we never before have had to operate under in developing this particular legislation as all of the other appropriations bills that will come before this Chamber.

And it is only because of the willingness to look at priorities, to make priorities and to make cuts, as painful as they were in some cases, that we have been able to arrive at an overall package that I feel meets the basic needs to the fullest extent that we possibly can under our budgetary restraints and at the same time protect the taxpayer from unnecessary expenditures.

Thank you, Mr. President.

Mr. GARN. Mr. President, as has been outlined by both the full committee chairman and Senator HUDDLESTON, this has been a difficult bill because of the large size of the cuts from the current fiscal year. As I said in my opening statement, this bill is more than $9 billion below the fiscal year 1981 level.

But, I would be remiss if I did not thank my colleague from Kentucky. It has been a great pleasure to work with both him and his staff this year, and I appreciate very much the cooperation. Although we happen to serve in different parties, I wish I got along as well with some of my colleagues on this side of the aisle as I do with Senator HUDDLESTON.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded for purposes of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 13, strike "$987,436,250", and insert "$891,500,000";

On page 2, line 21, strike "$19,742,645,500", and insert the following: $17,815,100,000:

Provided further, That no less than 6.3 per centum and no more than 17 per centum of the budget authority provided herein which would otherwise be used for purposes other than under sections 8 and 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f and 1437l) shall be transferred from amounts which would otherwise be used for new construction other than pursuant to section 8(b)(2) of such Act (42 U.S.C. 1437f) on or prior to July 1, 1982, by the Secretary of Housing and Urban Development to Payments for Operation of Low-Income Housing Projects, and appropriations for payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as

amended (42 U.S.C. 1437g) are increased to the extent budget authority is transferred:

On page 7, line 8, after "expended", insert the following: *Provided*, That during fiscal year 1982, gross obligations of not to exceed $75,960,000 are authorized for payments under section 230(a) of the National Housing Act as amended by section 341 of the Housing and Community Development Act of 1980 (Public Law 96-399), from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

On page 7, line 23, strike $39,000,000,000", and insert "$41,000,000,000";

On page 8, line 20, strike "$3,600,000,000", and insert "$1,973,000,000";

On page 9, line 21, strike "$67,000,000,000", and insert "$69,500,000,000";

On page 10, strike line 1, through and including line 8;

On page 10, beginning on line 13, strike "a community development grant program", and insert the following: "local community and economic development programs";

On page 10, line 17, strike "$3,800,000,000", and insert "$4,166,000,000";

On page 11, line 3, strike "$200,000,000", and insert "$250,000,000";

On page 11, strike line 6, through and including "1985." on line 9;

On page 12, line 21, strike "$20,000,000", and insert "$30,000,000";

On page 16, line 15, strike "$583,691,000". and insert "$583,747,000";

On page 16, line 21, strike "$191,247,000", and insert "$181,250,700";

On page 16, line 23, beginning with ": Provided", through and including line 9 on page 17;

On page 17, line 12, strike "$422,553,000", and insert "$421,840,500";

On page 20, line 21, strike "$54,084,000", and insert "$134,789,000";

On page 21, line 16, strike "$29,010,000", and insert "$67,456,000";

On page 21, strike line 18, through and including "$373,000,000." on line 23;

On page 22, line 7, strike "$1,314,000", and insert "$1,344,000";

On page 22, line 23, beginning with ": and" through and including the sum on line 8, and insert "$4,994,500,000";

On page 23, line 16, strike "$95,800,000", and insert "$104,800,000";

On page 24, line 19, strike "$1,100,000,000", and insert "$1,114,300,000";

On page 25, strike line 4, through and including line 15, and insert the following:

"During 1982, the National Consumer Cooperative Bank (Bank)—

"(A) may not make any new commitment for a loan or guarantee; and

"(B) may not issue any obligations pursuant to section 107 of Public Law 95-351, the National Consumer Cooperative Bank Act (12 U.S.C. 3017).

"All amounts received by the Bank as repayments of principal and payments of interest or other charges or fees in connection with loans, guarantees, or investments shall be paid into the Treasury of the United States as miscellaneous receipts not later than thirty days after receipt by the Bank, except that the Bank may pay out of such amounts its operating expenses in an amount each year not to exceed that amount determined by the Comptroller General of the United States to be necessary for that year, but the total amount of such expenses shall not exceed the cost which would have been incurred if the Bank were terminated during fiscal year 1981 and its functions transferred to the Secretary of the Treasury."

On page 27, line 9, strike "$500,000", and insert "$1,500,000";

On page 28, line 3, strike "$1,065,000,000", and insert "$1,024,100,000";

On page 28, line 13, after "Proportionally:", insert the following: "*Provided further*, That not more than $184,600,000 shall be available for biological, behavioral, and social sciences."

On page 28, line 22, strike "$35,000,000", and insert "$19,900,000";

On page 29, line 19, strike "$13,950,000", and insert "$14,950,000";

On page 31, strike line 8, through and including line 14;

On page 32, line 1, strike "$12,914,800,000", and insert "$12,857,400,000";

On page 32, line 8, beginning with ": Provided,", strike through and including line 10;

On page 33, line 12, strike "$6,964,661,000", and insert "$6,966,418,000";

On page 33, line 18, strike "$153,699,000", and insert "$145,699,000";

On page 34, line 1, strike "$62,572,000", and insert "$62,400,000";

On page 36, after line 2, insert the following:

CONSTRUCTION AND OPERATION OF GARAGE AND PARKING FACILITIES

For construction, alteration, operation, and maintenance of garages and parking facilities as authorized by law (38 U.S.C. 5009), $4,692,000.

On page 47, strike line 16, through and including line 20;

On page 47, line 21, strike "410", and insert "409";

On page 48, line 3, strike "411", and insert "410";

On page 48, line 16, strike "412", and insert "411";

On page 49, strike line 6, through and including line 14;

On page 49, line 15, strike "415", and insert "412"; and

On page 49, line 20, strike "416", and insert "413".

UP AMENDMENT NO. 334

Mr. GARN. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 334.

Mr. GARN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 14 strike "$25,120,000" and insert "$25,112,000".

Mr. GARN. Mr. President, this amendment merely changes the number that was inadvertently mistyped as $25,120,000. It should instead read $25,112,000. Mr. President, I ask that the amendment be adopted. It is just merely a change in the typographical error.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 334) was agreed to.

VA MEDICAL CARE ACCOUNT FTEE'S

Mr. CRANSTON. Mr. President, as I have discussed with the distinguished chairman of the subcommittee (Mr. GARN), I am very concerned—as are other members of the Committee on Veterans' Affairs—about the Appropriations Committee's recommended level of average employment in the VA's medical care account, which represents a reduction from the House-passed level for this account of 736 full-time-employee-equivalent—FTEE's.

As the Senator knows, since the President submitted his budget revisions on March 10, the matter of staffing levels in VA health-care-related accounts—in particular the medical care account—has generated substantial activity and much discussion within the Congress resulting in the Reagan-endorsed Gramm-Latta budget level for function 700 Veterans Benefits and Services, in House Concurrent Resolution 115, the first concurrent resolution on the budget for fiscal year 1980. This level was predicated on restoring the medical care FTEE's that had been requested in the Carter January budget, 186,287 FTEE's. Not only was this staffing level an essential part of the assumption underlying the budget resolution, but that level has been endorsed by the administration and the new Administrator of Veterans Affairs at his July 9 confirmation hearing, and agreed to by the House in this appropriations measure on July 21.

Those participating in the discussions that led to this broad-based staffing level agreement as part of the budget process believe that the number of FTEE's contained in that agreement would meet the present employment needs of the VA in connection with providing health-care services to eligible veterans. It is my very firm conviction that the medical care account average employment level contained in the administration-supported agreement should not be reduced.

Mr. THURMOND. I share the concern of my good friend from California and the ranking minority member of the Veterans' Affairs Committee (Mr. CRANSTON) about the Appropriations Committee's recommended medical care staffing level.

The VA health-care system should provide the best quality of care possible to our Nation's veterans, and at the very heart of making sure the VA is capable of providing that care to veterans is making sure the VA is properly staffed.

The chairman of the subcommittee (Mr. GARN) is aware of how hard we worked with the House and with the President to achieve agreement on a staffing level in this account that would be adequate. Having worked that hard to iron out our agreement, I certainly would urge the Senator to do what is necessary to see that agreement carried to completion.

Mr. SIMPSON. I have listened to the remarks of my two colleagues on the Veterans' Affairs Committee, and I very much share their concerns.

Mr. CRANSTON. Mr. President, I thank my colleagues from South Carolina and Wyoming for their good words. They are both staunch supporters of the VA medical system.

Because of my strong concern about this matter, I considered offering an amendment to provide the funds necessary to add the 736 FTEE's deleted by the committee from the medical care account. As a result of my discussions with the subcommittee chairman (Mr. GARN), however, I do not believe it will be necessary to proceed with an amendment in light of the substantial amount of room for maneuverability in this almost $7

billion account. I fully understand the constraints of the budget resolution under which the Appropriations Committee is working and want, to the greatest extent possible, to defer to the Senator from Utah's judgment at this time and to continue to work closely and cooperatively with him and his subcommittee in connection with VA appropriations matters.

Based on our discussions and all that has transpired on this important question, it is my expectation, and I know that of the Senators from South Carolina (Mr. THURMOND) and Wyoming (Mr. SIMPSON), that in conference with the House the administration-endorsed staffing level for the medical care account will be sustained and explicitly endorsed.

Mr. SIMPSON. Both Senator THURMOND and I concur. That is our expectation as well.

Mr. GARN. I appreciate very much the concerns that the Senators have expressed and how important it is that the VA health-care system be properly staffed. I know how hard my colleagues from the Veterans' Affairs Committee have worked to see that that is the case and how much time and effort was put into gaining agreement between the Congress and the Reagan administration on the medical care staffing level.

The subcommittee staff already has discussed this matter with its counterpart staff in the House, and we expect the House to be adamant in support of its medical care staffing level.

The Senators have my assurances that their expressions of concern and their strongly felt views on this question will be very much in my mind and given every consideration as our committee works with the House to develop the final components of the VA medical care account.

Mr. CRANSTON. I thank the Senator for his assurances. I know he will do everything he can to be helpful.

Mr. THURMOND. Senator SIMPSON and I also appreciate the remarks of the Senator from Utah and thank him for his sympathetic consideration of this matter.

LARGE LAKE RESEARCH STATION

Mr. RIEGLE. Is it true that without the Large Lake Research Station at Grosse Ile, Mich., the United States would have extreme difficulty in fulfilling its responsibility to Canada under the Water Quality Agreement of 1978 which calls for the mutual surveillance, research, and exchange of data concerning pollution on the Great Lakes?

Mr. GARN. Yes, that is my understanding. In addition, as you are well aware, Grosse Ile conducts a substantial proportion of the fresh water research in the Nation including toxic substance transport, waste disposal and general water quality.

Mr. RIEGLE. Further, the data gathered at Grosse Ile is necessary for making the decisions about how restrictive the discharge permits for factories should be. If the permits are too restrictive it can hamper the operations of a plant, and if the permit is too lenient, the fragile ecosystem of the Great Lakes could be imperiled and that the monitoring work done at Grosse Ile has a substantive impact on the economic vitality of the Great Lake States?

So does it not make sense that this facility at Grosse Ile which conducts research with such vital national and international ramifications continue these worthy programs?

Mr. GARN. As the Senator knows, the committee included at Senator PROXMIRE's request, an additional $3.5 million for the Great Lakes research and abatement and control program.

Mr. RIEGLE. Am I correct in assuming that at least some of the money that you have designated for Great Lakes research will be directly allocated to the Large Lake Research Station at Grosse Ile?

Mr. GARN. We have provided $500,000 for salaries and expenses. I understand that this will be enough to fund the 10 Government employees working at the lab.

Mr. RIEGLE. Finally are we certain that EPA will continue support to Grosse Ile?

Mr. GARN. Well, the financial resources have been provided, however, the staffing decision will have to be made by EPA. They are faced with an overall decrease of 818 FTE and that is a lot to swallow.

Mr. RIEGLE. Would you support the continuation of the lab?

Mr. GARN. Certainly.

Mr. RIEGLE. I thank the Senator. I would also like to say that Senators LEVIN, HEINZ, and MOYNIHAN join me in supporting this extremely worthwhile project.

Mr. GLENN. Mr. President, I should like to associate myself with the remarks made by the Senator from Michigan (Mr. RIEGLE), and add my support for the EPA water quality Great Lakes research program conducted by the Large Lake Research Station at Grosse Ile, Mich. I am gratified that the Committee on Appropriations has had the foresight to restore funds so that the station may continue its fine research efforts.

Another EPA research program I have strongly supported, along with a number of my colleagues from the Great Lakes region, is the EPA energy research Great Lakes research program conducted by Argonne National Laboratory (ANL). The ANL Great Lakes research program is carried out by an experienced multidisciplinary group which has a proven record of accomplishment and which is backed by the resources of a major, multipurpose national laboratory. Among the program's many accomplishments are the following research highlights:

Definitive radionuclide studies that have obtained most of what is now known on the cycling and fate of nuclear fall-out in the Great Lakes.

Quantitative evaluation of pollutant removal from Great Lakes waters sedimentation processes, using naturally-occurring PB-210, a lead isotope, to date sediments.

Delineation of an area of relatively rapid sedimentation off the eastern shore of Lake Michigan as the present repository of as much as 97 percent of the fall-out radionuclides introduced to the southern basin of Lake Michigan since the beginning of the nuclear age.

Discovery of organic tin compounds in Lake Michigan sediments.

First direct measurements of mass balance budgets of trace metals in Lake Michigan; present accumulation rate of zinc plus results of related effects research suggest plankton community changes in 10 to 20 years.

Demonstration that silica is not being depleted in Lake Michigan, as suggested by others as evidence of eutrophication; year-round studies show that the available silica is recycled through annual plankton bloom and decay.

First direct meaasurements of total atmospheric input (dry as well as wet) of airborne pollutants to the Great Lakes; measurements made from off-shore towers show that more than half of some trace metals enter Lake Michigan's southern basin from the atmosphere—inputs which will increase with the projected increased use of coal.

Unique, direct measurements over open waters of pollutant-specific rates of dry deposition using micrometeorological instrumentation based on off-shore towers.

Experimental studies of sediment resuspension and pollutant remobilization processes on the bottom of the Lakes and systematically evaluating these least-known factors in pollutant mass budgets.

Discovery that the relative sensitivity of fresh-water plankton to zinc is not a function of water hardness as assumed by present water quality criteria, but rather varies with the amount of dissolved organic matter; these results indicate Great Lakes plankton are more sensitive to zinc (and possibly to other trace metals) than previously expected.

Discovery that salmon and Lake trout attracted to Great Lakes power-plant outfalls (a) move in and out of warm plumes to maintain viable average body temperatures, (b) benefit from this cycle thermal regime to the extent of growing faster and becoming heavier, and (c) thereby collect greater proportions of water-borne pollutants (such as PCB's) in body tissues than do fish living in constant thermal regimes.

Development of modified fishery-stock models capable of quantitively estimating the entrainment and impingement effects of power-plant water intakes of fish populations in the Great Lakes.

Development of laboratory microcosms representing the three major Great Lakes biological communities: (1) the plankton (the most sensitive component and a potential source of early-warning), (2) free-swimming fish and their food-chain (the principal pathway to man), and (3) the benthic community (the major biological component involved in determining pollutant fate and the potential for pollutant remobilization).

Year-round, cost-effective ship operations in the southern basin of Lake Michigan using a fast, modified crew boat, the 58-foot research vessel Ekos, based just inside the locks at the mouth of the Chicago River.

The ANL Great Lakes research program was originally established by the U.S. Atomic Energy Commission in 1969 to investigate the cycling and potential effects of radionuclides in the Great Lakes. The program undertook and expanded the sphere of research responsibility that included studies of all major pollutants released in the lakes by large-scale, energy-generation processes when the Atomic Energy Commission became the Energy Research and Development Administration (ERDA) and ERDA was incorporated into the Department of Energy.

Effective in fiscal year 1979, the ANL program was transferred from the DOE to EPA by the Office of Management and Budget to provide the EPA Office of Re-

search and Development with long-term environmental research capabilities. EPA sorely needs such a long-term basic research program from which to develop scientifically sound data bases to be used in formulating regulations. Far too much of EPA's research effort has tended to be of the short-term "fire-fighting" variety.

In its revised budget request for fiscal year 1982, I have been advised that EPA did not provide the very modest level of funding—a mere $1,059,000—to maintain this important research program. The Appropriation Committee's report accompanying H.R. 4034 states that $3.5 million was added by the committee for EPA Great Lakes programs, including $1.5 million for Great Lakes research. I understand that these additional amounts were provided as a result of the committee's adoption of an amendment by the distinguished ranking minority member of the Committee on Appropriations, the Senator from Wisconsin (Mr. PROXMIRE). I would like to ask the Senator if, within the moneys appropriated in this bill, funds are available to provide for the continuation of the Argonne National Laboratory Great Lakes research program?

Mr. PROXMIRE. A portion of the funds we have recommended could certainly be used for this purpose if the Environmental Protection Agency decided to use the money in this way. The committee provided a total of $1.5 million for Great Lakes research and these funds are available for work at Grosse Ile and the Argonne National Laboratory.

Mr. GLENN. I thank the Senator from Wisconsin for clarifying this matter. I hope that the EPA funds both these Great Lakes research programs at adequate levels to maintain the high quality of research performed at Grosse Ile and Argonne. The Great Lakes Basin serves as an industrial center and the home of nearly 40 million Americans and Canadians. The continued vitality and viability of the Great Lakes is vital to the economic health of both nations and deserves the continued commitment of the Federal Government.

Mr. DIXON. Mr. President, I express my sincere appreciation to my distinguished colleague and friend, the Senator from Ohio (Mr. GLENN), for his efforts in behalf of the Great Lakes region. I wish to associate myself with his remarks and those of my colleague Senator RIEGLE.

I also thank the distinguished ranking minority member of the committee on appropriations, the Senator from Wisconsin (Mr. PROXMIRE), for offering an amendment to H.R. 4034 which will greatly benefit EPA Great Lakes programs, and for his clarification.

Senator GLENN has pointed to the topflight accomplishments of Argonne National Laboratory's Great Lakes research program. Little more need be said on this subject.

Yet, I do want to emphasize that neither Argonne, nor Grosse Ile, can continue to build upon their past accomplishments unless the EPA allocates adequate sums to support future research.

Such a prudent investment now by the Federal Government will pay off great dividends in the future.

FLATHEAD RIVER BASIN FUNDING

Mr. BAUCUS. Mr. President, will the distinguished chairman of the HUD and Independent Agencies Appropriations Subcommittee yield for clarification?

Mr. GARN. I am happy to.

Mr. BAUCUS. I thank the distinguished Senator from Utah.

For the past few years, a unique undertaking has been taking place on the Flathead River Basin area in northwest Montana under EPA auspices. I refer to the Flathead Basin Environmental Impact Study. The Flathead Basin is an environmentally sensitive and pristine area in northwest Montana, increasingly impacted by natural resource development. The Flathead Basin lies within Montana and the Province of British Columbia.

Congress has designated all three forks of the Flathead River as national wild and scenic rivers. This amounts to a distance of over 200 miles. In addition, the North Fork of the Flathead River comprises the western border of Glacier National Park.

The Flathead Environmental Study is unique in the development of solid base line environmental data before the onset of significant deterioration of air and water quality. In this fashion, local, State and Federal officials can anticipate environmental problems and move to meet them in advance. The Flathead Basin study also represents, I believe, a unique precedent which will serve as an example for other regional studies in the United States. It is, as well, an example of constructive United States-Canadian cooperation.

The study is at its most critical juncture. A considerable sum of money already has been invested, and the remaining year of the study's life is upon us.

I simply want to clarify that funds are available in EPA's budget for completion of this most important study. As I review EPA's budget, I understand that $410,000 are programed into the budget to complete the study. I simply want to ask the Chairman if that is correct.

Mr. GARN. Mr. BAUCUS is correct. I commend the Senator from Montana for his testimony and efforts on behalf of the Flathead River Basin study.

Mr. BAUCUS. I thank the distinguished chairman of the HUD and Independent Agencies Appropriations Subcommittee very much.

CONSUMER PRODUCT SAFETY COMMISSION

Mr. KASTEN. Mr. President, I note that on page 30 of the committee report there is some language regarding changes in the field structure of the Consumer Product Safety Commission. More specifically, the Commission is urged to—

Reduce the number of field staff to not more than 145 FTE in the field and 5 FTE in headquarters and limit its funding to $6,000,000.

I would like to ask the distinguished manager of the bill and chairman of the subcommittee, is it your understanding that these figures are fixed in concrete, or does the Commission have some flexibility in this area?

Mr. GARN. I would assure the distinguished Senator from Wisconsin, who is also the chairman of the Consumer Subcommittee which has jurisdiction over this agency, that the committee will give full consideration to any revised field structure plan the Commission may submit, giving the Commission flexibility in meeting these staff-reduction goals. We understand that we now have a new Chairman of the CPSC and we want to give her flexibility and latitude in her management of the agency. We would hope that there would be some reduction of field offices and personnel but we do not wish to hold her to a specific number of offices or employees.

Mr. KASTEN. I thank the distinguished manager of the bill. I would also note that, as a part of the reconciliation bill, the House and Senate conferees have decided to authorize reduction-in-force severance payments. Is it your understanding that when and if the administration or the Commission itself submits a specific dollar requirement to Congress, the committee will give favorable consideration to such estimates?

Mr. GARN. Yes, it is the intent of the chairman that the committee would give favorable consideration to such a revised appropriations request, if made.

Mr. KASTEN. I would like to thank the Senator again for all his assistance on this matter.

Mr. HUDDLESTON. Mr. President, I want to discuss very briefly with the distinguished floor manager and chairman of the subcommittee a related matter that is of some concern to me, and that is the apparent failure thus far of the Department of Housing and Urban Development to follow the decisions of the Congress with respect to fiscal 1981 funding for the 701 Comprehensive Planning, the housing counseling and the neighborhood self-help programs. In each instance, the administration proposed a rescission of fiscal 1981 funds. In the supplemental and rescission bill, the Congress clearly rejected certain of the administration's proposals.

Yet, there is every indication that the Department and OMB are seeking to thwart the will of Congress through delay, obstruction and misinterpretation of laws, regulations and congressional intent. I think it was crystal clear that Congress intended that $19 million be made available for the 701 program. It did not intend some prolonged debate over regulations to undermine the appropriation. Nor did it intend limitations on fourth quarter spending which were obviously designed to counter another type of problem to undercut its decision.

Furthermore, it did not intend such procedures to be used to jeopardize the level of housing counseling assistance and the self-help projects for which it specifically provided.

We have a process here. As we know, Congress appropriates. The administration can recommend deferrals and rescissions. But the congressional role is then clear. Congress decides whether rescissions are to be accepted or rejected. And, I, for one, cannot see how anyone

could mistake our intent with regard to these programs. Consequently, I think we should emphasize to the Department here and now that we expect our determinations in these bills to be honored and followed.

I would be very interested in the views of the distinguished floor manager.

Mr. GARN. Mr. President, let me add one thought in response to the Senator from Kentucky. I feel that the statement he has made is certainly very good, but I intend to go further and carefully consider HUD's responsiveness in implementing the will of Congress before I make my recommendation on their fiscal year 1982 supplemental pay request.

Too often we have report language or even legislative language which executive branch agencies simply ignore. They go on about their business. So I suggest HUD take note of what Senator HUDDLESTON and I are saying today as we will be taking a very careful look at their supplemental pay request for 1982.

Mr. HUDDLESTON. I thank the distinguished Senator from Utah. I think the suggestion he is making is entirely appropriate. Sometimes you have to take rather drastic action to get the attention downtown. I believe that certainly will do that. I think we can move ahead on this particular area.

Mr. GARN. I thank the Senator from Kentucky.

NATIONAL SCIENCE FOUNDATION

Mr. KENNEDY. Mr. President, for three decades, the National Science Foundation has spurred American scientific research and technological achievement. It has been the crucial partner in both expanding science education and supporting science research.

The National Science Foundation has been our country's primary support for basic and applied research, for encouraging young people to enter scientific and technical fields, for keeping scientists aware of the constantly changing body of knowledge in their fields and for offering to the general public an understanding of how science affects every aspect of their lives.

Last year, Congress took an important step in strengthening the mission of the National Science Foundation by passing the Science and Technology Equal Opportunities Act which sought to expand the numbers of women and minorities able to pursue careers in the sciences. The passage of the act represented a recognition that too many talented individuals were being blocked from pursuing their goals and that the Nation's research community was being denied their contributions.

Since its enactment, the National Science Foundation has set in motion a series of sound programs to implement the letter and spirit of the law. These mechanisms span national research opportunity grants for women, visiting professorships for women, research improvements in minority institutions, minority research initiation and minority institution and graduate fellowships and traineeships. Many of these programs are administered under the auspices of the science and engineering directorate. I am therefore pleased that the appropriations committee has recommended that $10 million over the President's request be appropriated for science and engineering education activities. I notice that $4.5 million of that amount is to be used for the "highest priority science and engineering education activities." I would like to take this opportunity to inquire of the Senator from Utah whether the committee intends that the science and technology Equal Opportunities Act should qualify as one of those priorities?

Mr. GARN. Yes.

Mr. KENNEDY. At the NSF reauthorization hearings held by the labor and human resources committee last April, Dr. Slaughter pledged the foundation's strong commitment to carry out the spirit and intent of the Equal Opportunities Act. I would hope that the NSF appropriations bill and this colloquy today will reemphasize congressional intent in this regard.

I would also like to take this opportunity to commend the members of the appropriations committee for highlighting the importance of preserving adequate funding at the National Science Foundation for the behavioral and social sciences, the international institute for applied systems analysis and small business innovation research. The challenges which this Nation faces in its struggle to regain economic strength and to maintain our Nation's security demand a vigorous and creative scientific community. We need the contributions of behavioral and social scientists as well as physical scientists. We need the unique and innovative research which can come from the private sector. And we need to continue our participation in international cooperative efforts to share vital scientific knowledge.

I am pleased that the funding levels recommended by the appropriations committee recognizes not only the critical nature of our national investment in scientific research and development but also the importance of preserving multifaceted approaches in our scientific endeavors.

ADVERTISING AND PUBLIC RELATIONS BUDGETS

Mr. BAUCUS. Mr. President, last year I offered an amendment to the HUD appropriations bill to cut by 10 percent the advertising and public relations budgets of the agencies funded by that bill. This amendment was accepted by the Senate and signed into law.

I offered that amendment because I believe the Federal Government is wasting millions of dollars on public relations materials that are irrelevant and unnecessary. For example, I found an article in a magazine published by HUD called the International Bulletin, entitled "How to Get an Apartment in Poland."

This was just one example of what I found when I looked into the public relations operations. In fact, some of my colleagues may recall that I brought some 40 pounds of brochures, pamphlets, and magazines to the Senate floor to prove my point.

Federal agencies have a responsibility to inform Americans about many things, and not all advertising is bad. But the advertising bureaucracy seems to have grown out of control. My amendment to cut 10 percent of the advertising and public relations budgets was an attempt to help us regain control of the Federal Government's advertising efforts.

Unfortunately, I am not sure how successful it has been. Recently the Billings, Mont., Gazette published an editorial about HUD's public relations operation. This editorial entitled "Waste Mills Still Grinding it out in Nation's Capital," Reports that the city editor of the Gazette received 28 different press releases from HUD in one single day. And each of these press releases was in a separate envelope, separately postmarked.

What did HUD do during that day to warrant 28 press releases? Here, according to the Gazette, is what they said.

The 28 separate envelopes dealt with such earth shaking subjects as an Ohio man being named Assistant HUD Secretary, the meeting of a housing task force in Washington to exchange ideas with outside experts, the HUD Secretary praising President Reagan, an Alabamian named special HUD advisor for handicapped persons and a Pennsylvania woman sworn in as an Assistant Secretary for Administration.

Other self-serving stuff in the envelopes announced the former mayor of Rochester, New York, sworn in as another Assistant HUD Secretary, a former Puerto Rico official sworn in as a HUD official, and something dealing with "speedy reform of property disposition programs is one of the most urgent jobs facing the new leadership of the Department of Housing and Urban Development, under Secretary Donald I. Hovde told a departmental task force on housing."

I ask unanimous consent that the full text of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WASTE MILLS STILL GRINDING IT OUT IN NATION'S CAPITAL

If economy and budget tightening have taken over in Washington, D.C., it isn't evident in the deluge of publicity releases spewing out of the federal capital.

The city editor of this newspaper received 28 different purported news releases in just one day from the U.S. Department of Housing and Urban Development's Office of Public Affairs.

Please understand it is the nature of city editors to like to receive news tips. It is the bread and buttter on which they feed. Our man would have relished additional information on what is happening to the HUD stuff in Billings or for that matter any place in Montana or our circulation area.

Is that what he got? No. The 28 separate envelopes dealt with such earth shaking subjects as an Ohio man being named assistant HUD secretary, the meeting of a housing task force in Washington to exchange ideas with outside experts, the HUD secretary praising President Reagan, an Alabaman named special HUD advisor for handicapped persons and a Pennsylvania woman sworn in as an assistant secretary for administration.

Other self-serving stuff in the envelopes announced the former mayor of Rochester, N.Y., sworn in as another assistant HUD secretary, a former Puerto Rico official sworn in as a HUD official and something dealing with "Speedy reform of property disposition programs is one of the most urgent jobs

facing the new leadership of the Department of Housing and Urban Development, Under Secretary Donald I. Hovde told a departmental task force on housing."

Now it is possible that the envelopes containing all this news were bunched up in a U.S. Postal Service aging plant someplace. Or that the mail person at HUD waited until he had a big enough bag to make the trip to the post office worthwhile. At the rate the stuff poured onto our city editor's desk, the HUD hustler must have been making mail runs every few minutes to service this nation's 1,700 daily newspapers.

Oh yes, the mail also came franked, with that U.S. Mail eagle flying in the upper righthand corner of the envelope instead of the 18 cents the rest of us must use.

Remember, too, it took people to write those releases, people to approve their being released and people to perform the mundane chore of getting them from the information specialist's desk to the city editor's wastepaper basket.

This one incident in the comparatively isolated, off-the-beaten-path (at least of Amtrak) American hinterlands is an indication of what is going on in Washington, D.C. What many of the federal force are doing is not only a waste of time, it is wasting the time of others all across the nation.

If this is an example of "Your tax dollars at work for you," let's have less, not more of both, no matter what party is supposedly in charge in Washington, D.C.

Mr. BAUCUS. Mr. President, the administration has made much of its efforts to cut waste in Federal agencies and programs. And, like administrations in the past, the Reagan administration has pledged to reduce the advertising and public relations spending of the Federal Government.

I applaud their efforts so far.

But clearly there is much more to be done. There is no reason the city editor of a newspaper should receive 28 separate press releases in one day. These releases were not newsworthy, and in fact, as the Gazette pointed out, the only newsworthy thing was that HUD would waste so much money mailing press releases to 1,700 daily newspapers.

Mr. GARN. Will my distinguished colleague from Montana yield for a moment?

Mr. BAUCUS. I will be happy to yield to the distinguished Senator from Utah.

Mr. GARN. I was on the Senate floor last year when my good friend from Montana offered his amendment to cut HUD's advertising and public relations budget by 10 percent. I fully supported that amendment and I support the administration's current efforts to cap public relations spending. I certainly agree with my colleague from Montana and the editors of the Billings Gazette that HUD needs to take a closer look at what they are doing and reduce their expenditures.

Mr. BAUCUS. I thank the distinguished chairman for his support. I believe we must impress upon those who control the publicity mills at HUD that this body is serious about cutting the fat from their operations. Would the distinguished chairman from Utah coauthor a letter with me to the Secretary and Inspector General of HUD asking for an immediate review of their press release operation to determine if the taxpayers' money really needs to be spent on 28 separate press releases in a single day?

Mr. GARN. I would be happy to coauthor such a letter. I assure my colleague that this chairman is serious about cutting the waste at the agencies under his jurisdiction.

Mr. BAUCUS. I once again thank the chairman for his support. Once we receive the report, I ask the chairman to coauthor an amendment with me to cut HUD's advertising and public relations budget by the amount found to be a waste of the taxpayers' money.

Mr. GARN. I would be glad to do so.

Mr. BAUCUS. Thank you.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the hour has arrived for the Senate to go into executive session.

UP AMENDMENT NO. 335

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may call up my amendment so I may have an amendment pending after this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 335:

On page 23, line 8, delete $4,994,500,000 and insert in lieu thereof $4,908,100,000.

Mr. GARN. Mr. President, I ask unanimous consent that we may lay aside the pending amendment and briefly consider an amendment by the Senator from California.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered?

UP AMENDMENT NO. 336

(Purpose: To disapprove Deferral No. D81–98 with respect to the construction of a research and education building at the Long Beach Veterans' Administration Medical Center)

Mr. CRANSTON. Mr. President, I thank my colleague very much for his cooperation in this matter.

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment of the Senator from Wisconsin will be laid aside.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 336:

On page 35, line 5 strike out "23,361,000" and insert in lieu thereof "35,961,000".

Mr. CRANSTON. I shall be brief. The amendment I propose would provide for the express disapproval of the proposed deferral of the $12.6 million thus far appropriated for the construction of an urgently-needed research and education building at the Long Beach VA Medical Center. The House-passed bill and the committee bill already include one such express disapproval of a proposed deferral for construction of a nursing home and a garage facility at the VA Medical Center in Washington, D.C., involving $23.4 million in previously appropriated funds. My amendment would simply increase the amount in that provision to approximately $36 million to take care of the Long Beach project.

Mr. President, this is a matter about which, on July 16, I wrote to the chairmen of the subcommittee (Mr. GARN) and the full committee (Mr. HATFIELD), as well as the very able ranking minority members of the subcommittee (Mr. HUDDLESTON) and the full committee (Mr. PROXMIRE). I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., July 16, 1981.

Hon. JAKE GARN,
Chairman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR JAKE: I am writing to you as Chairman of the Subcommittee on HUD-Independent Agencies to urge that you take steps during upcoming Appropriations Committee consideration of the fiscal year 1982 HUD-Independent Agencies Appropriations Act to disapprove the proposed deferral (D81–98, dated March 10, 1981) of $12.6 million thus far appropriated for the construction of the urgently-needed research and education building at the VA Medical Center in Long Beach, California. This is a matter of immediate personal concern to me.

As you know, planning for this construction project began in FY 1971 and, after a great delay, appropriations for the actual construction of the Long Beach research and education building finally were provided in the FY 1981 HUD-Independent Agencies Appropriations Act (Public Law 96–526). There is no question that the research/education program at the Long Beach VA Medical Center is a critical part of the VA facility's very valuable affiliation relationship with the College of Medicine at the University of California at Irvine (UCI) and that that relationship contributes greatly to patient care at the VA medical center.

The Senate Appropriations Committee has recognized for many years the urgency of this situation (see page 69 of S. Rept. No. 95–280, accompanying the FY 1978 HUD-Independent Agencies Appropriations Act, where funding for the Long Beach research and education building was described as "badly needed"), and I am very grateful for the Committee's support for providing appropriations for the project in the FY 1981 Act.

The proposed deferral of the Long Beach research and education building will result in a requirement for $3.3 million in additional funding (based on a projected inflation rate for construction activities of one percent per month). Because the need for

this project is so clear, I can find no reason to place an additional $3.3 million burden on the VA construction program or American taxpayers. Thus, I strongly urge that you take the appropriate steps to amend the amount shown in H.R. 4034 under Veterans' Administration, Construction, Major Projects (Disapproval of Deferral)—page 32, line 17, of the Act as reported by the House Appropriations Committee—to include the $12.6 million associated with the Long Beach research and education major construction project in proposed deferral D81-98.

I would deeply appreciate your help on this matter.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking minority member.

Mr. CRANSTON. Mr. President, at the committee's July 22 markup of the pending bill, the distinguished Senator from Arizona (Mr. DECONCINI) raised this matter on my behalf. However, his motion was not adopted because a question was raised by the Senator from Utah (Mr. GARN) in connection with a small shortfall of $800,000 caused by the inflation that has occurred in the 2 years since the Research and Education Building at Long Beach was submitted in the administration's budget request for fiscal year 1981.

Subsequent to last week's committee markup, I discussed this deferral disapproval with my colleagues from Utah (Mr. GARN) and Wisconsin (Mr. PROXMIRE) and I believe that it is now agreed that the additional requirement for $800,000—an increase of just 6.3 percent over the original estimate—can be dealt with appropriately through a normal reprograming of unobligated construction funds.

Mr. President, I did not protest the deferral of this project earlier this year when it was proposed in March and implicitly agreed to by the Congress in the context of Public Law 97-12, the Supplemental Appropriations Act, fiscal year 1981. I wanted then to cooperate with efforts to control fiscal year 1981 spending and also to be absolutely certain that this project was as badly needed as ever. I have since carefully reevaluated the need and find that it is still as great as ever—greater actually—to improve the provision of and the quality of health care services at this largest general medical hospital in the VA medical system.

The justification for this project is already a matter of public record. The Appropriations Committee itself has recognized the urgency of the situation at Long Beach for many years and in its report accompanying the fiscal year 1978 HUD-Independent Agencies Appropriations Act (S. Rept. No. 85-280) described the funding for the project as badly needed. The research and education program at Long Beach is a critical part of an affiliation relationship with the medical school at the University of California at Irvine (UCI) which is very beneficial to the quality of patient care at that VA medical center.

Mr. President, the research program at Long Beach currently is located in several one-story buildings that were built for the use of the Navy in the early part of World War II. The floors for the buildings are raised off the ground and vibrate with personnel movement. There is no centralized heating and air conditioning system, which presents problems with respect to the maintenance of a controlled environment. The nine buildings now in use have a total of 618 windows and dust is continually filtering through causing personnel to be continually engaged in housekeeping activities and rendering the operation of some electronic equipment almost impossible. The plumbing system—which has not been replaced since the buildings were constructed—is not adequate for chemical laboratories. The present animal research facilities do not comply with the Department of Agriculture's minimum standards and the buildings, in general, do not comply with fire and safety codes.

Certainly these physical conditions in addition to the severe shortage of space available at the medical center for education and training purposes has hampered the growth of the research program and the ability of the research and education program to make substantial contributions to improvements in patient care.

Mr. President, there is no question of the need for this construction project, and I am very grateful for the committee's support in providing appropriations for it in the fiscal year 1981 act. I hope the distinguished floor managers will accept my amendment so that the construction phase of the project can get underway as soon as possible.

Mr. GARN. Mr. President, as Senator CRANSTON knows, I discussed the Long Beach deferral with Senator DECONCINI at full committee. I have informally checked out the justification for this facility with the VA, OMB, and GAO and can find no reason to oppose the distinguished Senator's amendment. Furthermore, I understand that the deferral of this research and education building would result in the requirement for an additional $3.3 million.

I am sure that the VA can find the additional $800,000 within the over $900 million in unobligated balances in their major construction account.

Mr. President, I am willing to accept this amendment.

Mr. CRANSTON. I thank the Senator for his help.

Mr. President, I am very grateful that the Senator from Utah supports the amendment.

I also would like to take this opportunity to express my deep appreciation to him and to the ranking minority member of the full committee (Mr. PROXMIRE), and to their very able staff members, Wally Berger and Tom Van Der Voort, for all of their assistance on this amendment and on various other VA-related matters in the bill and in the committee report.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 336) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES—EX. N—96TH CONGRESS, 2D SESSION

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL—EX. H. 96TH CONGRESS, 2D SESSION

REVISED CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS—EX. M: 95TH CONGRESS, 1ST SESSION

AMENDMENTS TO THE INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION CONVENTION—EX. K: 96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now go into executive session to proceed with the consideration of four treaties, Executive Calendar Nos. 6 to 9. There is a total of 20 minutes' debate on all four treaties, the time to be equally divided and controlled by the Senator from Illinois (Mr. PERCY) and the Senator from Rhode Island (Mr. PELL).

Mr. PERCY. Mr. President, the four treaties before the Senate today have all been approved unanimously by the Foreign Relations Committee without reservation and with the full support of the administration. I know of no opposition to any of them.

The first two agreements are part of the international response to terrorism. The Hostages Convention establishes an international legal framework for the apprehension and punishment of people who take hostages for the purpose of international political extortion. The Convention on the Physical Protection of Nuclear Material also creates a framework for preventing the diversion of sensitive nuclear material for unauthorized purposes—an objective which many terrorist groups would no doubt consider.

In each case, countries who ratify these treaties undertake an obligation to make adjustments in their domestic laws to properly implement their obligations. I understand that legislation to implement the nuclear materials convention is presently before the Senate Judiciary Committee and I would urge its early approval. Legislation to implement the Hostage Convention is expected to be proposed soon by the administration.

Each treaty will come into force for the United Sates as soon as the specified number of States has ratified them.

In that connection. I note that the committee's report on the Nuclear Materials Convention is inaccurate in saying that the convention is already in force for parties who have ratified it. We are in fact still 20 States short of the requisite number. I should note that although both of these treaties are noncontroversial, they are by no means unimportant in our efforts to prevent, restrict and punish acts of international terrorism. Both were assigned the highest priority in the administration's recent request to the Foreign Relations Committee for action on treaties.

The other two treaties involve very technical matters. Both were originally reported to the Senate last session. They were never taken up simply because the Senate adjourned without doing so.

One treaty deals with an increase in the size of the governing Council of the Inter-Governmental Maritime Consultative Organization (IMCO) and with the procedures for agreeing to amendments to the IMCO Convention. The other treaty concerns customs certificates for the transportation of goods by truck across State boundaries.

For additional details on these four treaties I commend to my colleagues the committee reports on each of them.

I urge the Senate to give its advice and consent to all of the treaties before us.

Mr. PROXMIRE. Mr. President, will the distinguished chairman of the Foreign Relations Committee yield?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. First, I commend my good friend, the Senator from Illinois, on the reporting of these treaties. As I understand it, the hostage treaty was sent to the Senate some time ago. Is that correct?

Mr. PERCY. Yes—the end of last summer.

Mr. PROXMIRE. Of course, I will support the treaty, as other Senators will. However, I ask the Senator this: Why is it that the Genocide Treaty, which has been pending in the Foreign Relations Committee and before the Senate for 32 years—32 years—has not been reported, despite the fact that it has been supported overwhelmingly by all administrations? Secretary Haig supported it at his confirmation hearing. Yet, we cannot get that treaty before the Senate. Why is that?

Mr. PERCY. I know of the Senator's deep interest in the Genocide Treaty. I previously committed myself to make this a matter that can be dealt with and will be dealt with by the Senate this year.

The problem has been that the Senate Foreign Relations Committee has been involved in almost steady hearings just putting together an organization, the State Department authorization bill, the defense and economic assistance program bill. Those matters have taken up a great deal of time. We have moved on 90 different nominations, and it is literally impossible to find Senators to chair hearings.

We are trying to schedule those hearings for the fall. I can assure the Senator, as chairman—and I know that the ranking minority member will agree—that we will do everything we can to move this matter forward.

Obviously, this treaty is not without controversy. It has been before the Foreign Relations Committee for 23 years.

So I trust that the exasperation of the Senator will not all be taken out on the committee this year.

The Senator has been in the Senate for how many years now?

Mr. PROXMIRE. I have been in the Senate for 24 years next month, but this treaty has been before the Senate for 32 years, since 1949. The father of the distinguished ranking minority member, Senator PELL, the distinguished Senator from Rhode Island, of course, had a great deal to do with the original adoption of the treaty before the United Nations. So I am sure there is strong sentiment in the committee for reporting it out.

I cannot tell the Senator from Illinois how delighted I am and how happy he has made my day, believe me, by telling me that he will use his influence as chairman to report that treaty out at long last this year.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I join the Senator from Wisconsin in thanking the chairman of our committee for his support of the genocide convention and his commitment to push ahead with its consideration. I assure the Senator from Wisconsin I will do all I can to assist in this effort.

I am continually impressed with the way the Senator from Wisconsin has kept all of our feet to the fire on this issue over the years. It is my fervent hope that we will have success this year. I will do my best to make it happen.

Mr. President, the four treaties before us are noncontroversial and have received the unanimous endorsement of the Foreign Relations Committee. They also have, as the chairman noted, the support of the administration.

The use of innocent civilians to extort concessions from governments has, sadly, become commonplace in this age. The hostage convention provides a legal framework to prosecute or extradite the perpetrators of hijacking and international kidnapings.

The Convention on the Physical Protection of Nuclear Materials establishes international standards for the shipment of and storage of nuclear materials to prevent their unlawful seizure or diversion. The convention also obligates parties to cooperate in the prosecution or extradition of people who steal or otherwise fraudulently obtain such materials.

The final two treaties are technical in nature. One treaty deals with the governance of the Intergovernmental Maritime Consultative Organization (IMCO) and the method of amending the IMCO Convention. The other treaty brings up to date, and expands the scope of the 1959 customs convention which governs the international transport of goods by motor carrier.

Mr. President, I urge that the Senate give its advice and consent to these treaties.

The PRESIDING OFFICER. Do Senators yield back the time?

Mr. PERCY. Mr. President, have the yeas and nays been ordered on these treaties?

The PRESIDING OFFICER. They have not.

Mr. PERCY. Mr. President, I ask unanimous consent that the four treaties be considered en bloc, and I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PERCY. Mr. President, I yield back our time.

All time is yielded back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolutions of ratification.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Georgia (Mr. MATTINGLY) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. HEFLIN) is necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Votes Nos. 241, 242, 243, 244 Ex.]

YEAS—98

Abdnor	Ford	Mitchell
Andrews	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baker	Goldwater	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Pell
Boren	Hatch	Percy
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Bumpers	Hayakawa	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	McClure	Weicker
East	Melcher	Williams
Exon	Metzenbaum	Zorinsky

NOT VOTING—2

Heflin	Mattingly

The PRESIDING OFFICER (Mr. WEICKER). Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES—EX. N—96TH CONGRESS, SECOND SESSION—(ROLLCALL VOTE NO. 241)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention Against the Taking of Hostages, adopted by the United Nations General Assembly on December 17, 1979 and signed on behalf of the United States of America on December 21, 1979.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL—EX. H, 96TH CONGRESS, 2D SESSION—(ROLLCALL VOTE NO. 242)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Physical Protection of Nuclear Material, adopted at a Vienna Meeting of Government Representatives on October 26, 1979, and signed by the United States on March 3, 1980.

REVISED CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS—EX. M.S. 95TH CONGRESS, 1ST SESSION—(ROLLCALL VOTE NO. 243)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Revised Customs Convention on the International Transport of Goods Under Cover of Transport International Routier Carnets (TIR Convention), done at Geneva on November 14, 1975, with annexes.

AMENDMENTS TO THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION CONVENTION—EX. K: 96TH CONGRESS, 2D SESSION—(ROLLCALL VOTE NO. 244)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the acceptance of the Amendments to the Convention on the Inter-Governmental Maritime Consultative Organization signed at Geneva, March 6, 1948 (the IMCO Convention), which amendments were adopted on November 15, 1979, by the Assembly of the Inter-Governmental Maritime Consultative Organization at its Eleventh Session.

(Later the following occurred:)

Mr. PERCY. Mr. President, as in executive session, I move to reconsider the votes by which the resolutions of ratification were agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. GARN. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. GARN. Mr. President, what is the pending business?

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1982

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Wisconsin to H.R. 4034.

The Senate resumed consideration of the bill.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment of the Senator from Wisconsin (Mr. PROXMIRE) to consider an amendment of the Senator from Colorado (Mr. ARMSTRONG).

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 337

(Purpose: Vacant unit subsidies)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 337:

At the end of the bill add the following new section: No funds appropriated in this Act may be used to assist or subsidize beyond 30 days any unoccupied housing unit which is built or otherwise assisted under Section 8 of the U.S. Housing Act of 1937.

Mr. ARMSTRONG. Mr. President, I am not one of those who thinks that the weight of an argument depends upon its length. I intend to be very, very brief.

Current law permits HUD to pay 60 days of full market rent for vacant units, plus an additional 10 months' worth of debt service as long as the landlord is making a good-faith effort to fill the unit. This amendment simply limits such subsidy payment to no more than 30 days with respect to vacant unit subsidies.

Mr. President, this amendment has been previously adopted by the Senate during the course of debate on another piece of legislation. It has been cleared with the managers on both sides. Unless there is need for greater discussion, I will simply call for the adoption of this amendment.

Mr. GARN. Mr. President, I have discussed this amendment with the distinguished Senator from Colorado. The substance of the amendment has passed the Senate, I believe, on two previous occasions. On behalf of the majority, I am willing to accept the amendment.

Mr. HUDDLESTON. Mr. President, we, likewise, on this side are willing to accept this amendment and have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. ARMSTRONG).

The amendment (UP No. 337) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 335

Mr. PROXMIRE. Mr. President, I understand the Senate now reverts to my amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, my amendment would reduce the amount contained in the HUD-independent agencies appropriation bill for NASA's research and development programs by $86.4 million, bringing the total within $5 million of the President's budget request. We are way over the President's budget request now.

The amendment would preserve $10 million added to the administration's request by the Appropriations Committee for the international solar polar mission in view of our commitment to the European Space Agency, which is our partner in this joint venture. This increase would be offset in part by the committee's deletion of $5 million requested for a fifth Shuttle orbiter, leaving a net increase in the budget request of $5 million.

There are a number of reasons why I believe the Senate should support my amendment. First, although H.R. 4034 as reported by the Senate Appropriations Committee makes a number of reductions in the House passed version of the bill, NASA is a notable exception. The research and development portion of NASA's budget as approved by the committee exceeds the House-passed totals by $56.4 million and is $91.4 million above the President's budget. I see no reason why we should bust the budget in this high technology area, especially in view of our willingness to support substantial cuts in social programs. In fact this very bill includes a subsidized housing cut of $1.9 billion below the President's budget, which I supported. But I cannot in all good conscience vote to increase support for the aerospace industry at a time when we are making drastic cuts in housing for the poor.

Second, the $91.4 million added to the NASA research and development budget by the Appropriations Committee includes $45 million for aeronautical research and technology—an increase of almost 17 percent in the President's budget. This sort of increase is unnecessary at a time when the President is attempting to stimulate industrial productivity with a major tax cut and when the aeronautics industry will be getting billions of additional dollars from a sharply accelerating defense budget.

Mr. President, President Reagan is certainly one who is deeply concerned with industry, with research, with assistance for the aerospace industry. All I am asking is that we accept his proposed level of funding for NASA. The defense sector is getting an enormous increase in his 1982 budget, which I support because of the necessity for improving our defense efforts. If ever there was a sector of our economy that ought to be able to make its own research and investment expenditures, it is the aeronautics industry. Increasing Federal aeronautical research and development funding at this time is like making a charitable contribution to a billionaire. And it is a contribution this Government can ill afford.

Third, we should not provide seed money for new projects that will require us to accelerate spending in the out years at a time when Space Shuttle overruns may well have a major impact on the total NASA budget. Just 2 weeks ago the

Los Angeles Times reported that NASA will seek an additional $300 million to $700 million on top of the $1.6 billion it had planned to request for the Shuttle's development, manufacture and operation in fiscal 1983. If we add funds to the NASA budget before us today for other projects, we may well force NASA into making commitments that the agency will have trouble in pursuing in fiscal year 1983 because of these Shuttle add-ons.

Two witnesses who appeared before the House Science and Technology Committee's Subcommittee on Space Science and Applications on June 25 made this case very well. The first witness was Norman Augustine, an ex-Secretary of the Air Force, who said:

I think it is very important that programs be prioritized by the Congress, by the Administration and to fund only those programs which can be fully funded and not attempt to fund all the worthwhile programs with some money, but to pick the ones that you really think are important, fund them fully, and don't even start the other ones.

Mr. Augustine is now vice president for operations of Martin Marietta Aerospace and I think we should heed his advice by not adding funds for lower priority projects as the committee amendment would do.

The second witness was John W. Townsend, Jr., president of Fairchild Space and Electronics. Mr. Townsend said:

I think NASA has hung on too long in some things expecting that the next year will be better. I would recommend that a lot more care be exercised in how many of these things they let or start up as if it were indeed a flight project. I can think of some projects right now. For example, the UARS, the upper atmosphere research project. That's idling right now, awaiting a chance for a new start. I'm not sure that process is efficient.

That is Mr. Townsend's statement, yet the committee add-ons include $10 million for the upper atmosphere research satellite experiment.

In conclusion, I hope we will not take from the poor, whose social programs we are cutting, to feed the rich aerospace industry.

I hope that while we look to the stars by providing funding for NASA's highest priorities we can also keep our feet on the ground by not adding money to the President's budget to start or accelerate projects that we cannot finish without busting the 1983, 1984, and 1985 budgets.

I hope that my colleagues will support the President of the United States by voting with me to eliminate this significant add-on to the administration's 1982 NASA research and development budget.

Mr. GARN. Mr. President, the Senator from Wisconsin is proposing not only to go back to the budget request level but, in effect, to accept the House authorization bill.

The House and Senate conferees are, this week, working out their differences. The subcommittee's recommendations support the Senate Authorizing Committee's bill, as approved by the full Senate on May 21. The proposal would undermine their position by providing the same funding as recommended under the House bill.

Senator SCHMITT, chairman of the Authorizing Committee, can tell you that the levels contained in that bill were the result of carefully balancing the space programs benefits against the need to reduce Federal spending. And the final levels were the result of recommendations from both sides of the aisle. In this respect, Senator CANNON was very influential in determining the final numbers.

Each of NASA's three accounts will be in conference. I can assure you that I will move to reduce each of these accounts to no more than the authorized levels at that conference, after the authorizing committees have acted.

I am not going to argue the need for these funds in each of the program areas, but I would like to make some general observations. First, NASA's entire R. & D. budget is up 13 percent from fiscal year 1981, which translates to a 3-percent increase when adjusted for inflation. Seventy-five percent of this increase is associated with the Space Shuttle. When you look at specific programs such as space science and aeronautics, you find a decrease of 1.5 percent and 8.5 percent in constant dollar terms.

In this case, I believe that the proposed additions to the budget are justified in terms of the potential scientific, technological, economic and national security benefits.

My good friend from Wisconsin has talked a great deal about taking from the poor and giving to the rich aerospace industry. I might point out that the entire NASA budget is one-third of the budget for food stamps, without regard to welfare and all of the other social programs. The total budget for NASA is a little over $6 billion. That is for the Space Shuttle and for all NASA's other aeronautical research.

I do not think most people are aware that NASA is not just involved in space. If you want to look at the new more efficient wings being placed on our aircraft, they were developed at NASA.

If you want to look at the new quieter engines that solve some environmental problems and burn 25- to 30-percent less jet fuel, look at NASA.

In addition, NASA has done research on airplane crashes. I think everyone wants to fly in a safe aircraft.

So the very area that funds were added were primarily for NASA's aeronautical programs. I believe these additional funds are tremendously important since so much of NASA's work in this area affects our daily lives.

I oppose the amendment of the Senator from Wisconsin, believing it is shortsighted since it would cut back aeronautical research. The overall NASA budget is incredibly small in relationship to just one social welfare program.

Mr. PROXMIRE. Mr. President, I greatly respect my good friend, the Senator from Utah, the manager of the bill, but I have to point out that we cut housing in this bill about 40 percent. We are cutting EPA by $1 billion, about a one-third cut. On the other hand, as he pointed out, we are increasing the amount available for NASA research, even if we cut back to the President's request.

Now, Mr. President, research and development is important. It should be encouraged. We have encouraged it. We just acted on a tax bill that provides a 25-percent salary credit for research and development. Of course, that means tens of millions of dollars will be available in the aeronautical area and other areas for research and development that were not available last year.

So making a cutback to the President's request seems to me to be a very logical, very modest, and very limited step.

Furthermore, Mr. President, there are a number of changes in the House authorization bill from the President's NASA budget. We are not simply endorsing the House authorization bill, although it has the same total as the President's budget. In conference there would still be an opportunity for the conferees to go over or under Presidential budget requests, but overall I am simply saying that we should go back to the level requested by President Reagan. President Reagan has requested funding in the NASA budget that would certainly provide increased assistance if we take it in conjunction with the tax credit, which we have just included in the tax bill, for research and development.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the distinguished subcommittee chairman and floor manager of the bill has presented the case in opposition to the amendment of the Senator from Wisconsin.

He is well known and recognized for his expertise in the area of aviation. I support the position taken by the subcommittee chairman.

I think we need to remember that the United States has a commanding position at the present moment in aircraft exports. Next to agriculture, it is one of our most profitable and productive export areas. That position is being threatened.

The research that NASA does will unquestionably help our industry maintain the position of leadership that we have at the present time.

Mr. President, we looked into the matter with some care before adding the funding. The type of aeronautical research involved has already been detailed to some extent by my colleague from Utah. It is a type of research that cannot reasonably be expected to be conducted by even the largest of our aircraft production companies. Its application is quite broad and it does help us maintain a leadership position.

We are being challenged now, Mr. President, by a number of other countries. I think those of our colleagues who visited the recent airshow in Paris got an indication of the kind of competition that we confront. In order to continue to enjoy the sales to foreign countries of American-produced aircraft we must not only stay abreast of competition, but also stay out in front of it. I think this ap-

propriation, though modest, will help assure that we stay ahead.

For that reason, Mr. President, I oppose the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I shall take only another minute or so.

I appreciate the reasons for the opposition of my friends, but I should like to point out that the amount we are talking about as far as aeronautical research is concerned is $45 million. Do you really think Boeing, McDonnell-Douglas, General Dynamics, Fairchild, Lockheed, the biggest defense manufacturers in the country, cannot afford $45 million, when they will get a tax credit, something they did not get before, a 25-percent salary tax credit for their research and development expenditures? That credit should exceed the $45 million add-on by a substantial amount.

Mr. President, we are not cutting NASA's research budget below present levels. We are still providing NASA with plenty of funding. It seems to me it makes sense for the Senate to try to comply with President Reagan's budget request. We have passed a very generous tax measure, which I supported. We have passed budget cuts in other areas, which I have supported. Now I am trying to say we should have some fairness, some equity, in the way we reduce Federal spending. That is all my amendment would do.

Mr. President, I am prepared to vote on this matter.

Mr. HAYAKAWA. Mr. President, I am opposed to Senator PROXMIRE'S amendment to reduce the appropriations for the National Aeronautics and Space Administration (NASA). I am very impressed with the achievements of NASA but I do not believe we should be content to rely on past achievements.

Our Nation's space program is unequaled in its ability to take the dreams of space exploration and its potential and transform them into reality.

We have all benefited in many ways from our advancement in space. The technology generated by NASA programs and research creates many new products and jobs, and makes everyone's life safer and easier. Some of the byproducts of NASA programs and research are improved communications, better weather detection devices, more accurate naval and air navigation, and many products for medicine, computers, education, and energy. As we reflect upon these accomplishments we should not be lulled into inactivity, but invigorated by new challenges to seek new frontiers. I recognize as well as anyone that the Federal budget must be kept under control, but the HUD appropriations bill is already below the level suggested by the President. I believe that to reduce it further by cutting the appropriations for NASA would be a mistake.

We must continue to fund NASA at a level that will allow it to continue to establish the goals of the future and maintain the U.S. leadership in space and technology. I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 335) was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 338

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 338:

On page 23, line 9, immediately before the period, insert the following:

Provided: That none of these funds shall be used to support the definition and development of techniques to analyze extraterrestrial radio signals for patterns that may be generated by intelligent sources.

Mr. PROXMIRE. Mr. President, 3 years ago, NASA requested $2 million for a program titled "Search for Extraterrestrial Intelligence"—SETI for short.

The idea was that they are going to try to find intelligence outside the solar system. Our best scientists say that that intelligent life would have to be beyond our galaxy. I have always thought if they were going to look for intelligence, they ought to start right here in Washington. It is hard enough to find intelligent life right here. It may even be harder, I might say, than finding it outside our solar system. At any rate, this $2 million would have funded the initiation of an all-sky, all-frequency search for radio signals from intelligent extraterrestrial life using existing antennas of the Deep Space Network at Goldstone, Calif., and some state-of-the-art hardware that was to be developed specifically for the program. The total cost of the program was to be $15 million over 7 years.

These funds were stricken from the fiscal year 1979 HUD-independent agencies appropriation bill a few months after I gave NASA a "Golden Fleece" for the proposed project, which I thought should be postponed for a few million light-years.

I have since discovered that the project has been continued at a subsistence level despite our decision to delete these funds 3 years ago. In 1980 NASA spent $500,000 on the project. The 1981 budget was $1 million. NASA plans to spend an additional $1 million in 1982 to continue the definition and development of techniques to analyze extraterrestrial radio signals for patterns that may be generated by intelligent sources.

Mr. President, clearly the Congress intended to stop this research back in 1978 when it terminated funding for the program. However, NASA has quietly continued the work under its exobiology program. I believe the rationale for the reduction we made 3 years ago still applies, and the amendment I have just sent to the desk would reaffirm that decision by prohibiting NASA from using funding provided in today's bill to pursue the search for extraterrestrial intelligence.

Why should we stop this program, Mr. President?

First, if NASA launches a full scale SETI program the total cost will be at least $50.9 million over 10 years. This is a luxury we can ill afford at a time when we are making a herculean effort to cut Federal spending.

Second, there is an excellent chance that extraterrestrial intelligent beings do not exist. An article appearing in the April 1981 issue of Physics Today, written by a professor of mathematical physics at Tulane University, Frank J. Tipler, spelled out this thesis in great detail. Professor Tipler's central point is that if intelligent beings did exist elsewhere and possessed the technology for interstellar communication they would have developed interstellar travel and thus would already be present in our solar system. Certainly, there is not a scintilla of evidence that intelligent life exists beyond our solar system.

Third, even if a radio message had been beamed to our planet from some distant civilization, it could well have originated well over a million years ago. The Earth itself is 4½ billion years old while some solar systems are even older and millions of light-years from Earth. Thus the intelligent life that sent the message might well be extinct by the time we received it or, certainly, by the time we responded. Communication over such great distances is almost meaningless.

Finally, Mr. President, if we continue to allow NASA to pursue this effort to intercept signals from some hypothetical intelligent civilization, we are sending exactly the wrong signal to the American taxpayer.

We should worry more about improving our ability to communicate with our neighbors on planet Earth and worry a little less about interstellar conversations. In this year of all years we should not fritter away precious Federal dollars on a project that is almost guaranteed to fail. I hope my colleagues will support my amendment to stop this ridiculous waste of the taxpayer's dollars.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, on this amendment, the Senator from Wisconsin and I do not disagree. I realize he has a great deal more experience, having been in the Senate a lot longer than I and trying to find intelligence in Washington. I suppose that, at the very least, if we were going to spend the money, it would make more sense to transfer it for that search, but that probably would be just as wasteful as the Senator has pointed out. I am willing to accept the amendment.

Mr. HUDDLESTON. Mr. President, on this side, we, too, are willing to accept the amendment of the Senator from Wisconsin and commend him for his diligence in ferreting out unnecessary expenditures and seeking to reduce them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 338) was agreed to.

ANNUAL LEAVE PROHIBITION WHILE ON OFFICIAL TRAVEL STATUS

Mr. CRANSTON. Mr. President, with regard to section 415 of the bill as reported, which would prohibit the employees of the agencies covered in the bill from taking annual leave while on official travel status, I share the committee's concern—and in particular the concern of the distinguished ranking minority member, Mr. PROXMIRE, about the cost to the taxpayers of official travel, and I share the committee's desire to restrain spending in that area as much as possible. In my view, the Appropriations Committees' expression of concern about this matter in recent years has resulted in the development of tighter guidelines by some agencies to curtail possible abuses that might occur by employees taking annual leave in connection with official travel.

The VA is one agency that has taken substantial steps to deal with the concerns the committee has raised.

Mr. President, I ask unanimous consent that two VA circulars entitled "Restriction On Use of Annual Leave While On Temporary Travel Duty" be printed in the RECORD at this point.

There being no objection, the circulars were ordered to be printed in the RECORD, as follows:

RESTRICTION ON USE OF ANNUAL LEAVE WHILE ON TEMPORARY DUTY TRAVEL

1. Purpose: This circular prescribes revised policy and procedure to be followed prohibiting employees, under normal circumstances, from taking annual leave while on travel status except in unique or emergency situations.

2. Background. The Joint Conference Committee on the HUD-Independent Agencies FY 1980 Appropriation Bill requested that the agencies and departments funded by the bill prohibit the taking of annual leave by employees who are in a temporary duty travel status except in unique or emergency situations.

3. General. An employee's pay and leave status during a period of official travel will be subject to the hours of duty, pay, and leave regulations of the VA. All time must be properly reported on Time and Attendance Reports, and travelers must assure that leave taken while in travel status is promptly reported to unit timekeepers for recording in official records.

4. Policy. Approving officials may not approve official travel where any extended annual leave is involved except in unique or emergency situations. The approving official is responsible for assuring that only essential travel is authorized, and that travel as stated on the travel order is the sole reason for the trip at Government expense. When annual leave is proposed to be used, the Travel Authority for Temporary Duty, VA Form 60–3036, will reflect in block 10, Remarks, the number of days that annual leave is granted and brief statement of justification. A consolidated Travel Authority may not be used for travel involving annual leave.

a. The following are examples of unique situations:

(1) Employees on temporary duty for extended periods (normally more than 2 weeks of official duty).

(2) Employees traveling under permanent change of station orders.

(3) Traveler agrees to take annual leave to take advantage of economy or other types of reduced fares which will result in significant savings to the Government in travel costs.

(4) Other situations where it is not reasonable or economical to the Government to return the person to the official duty station.

b. Annual leave for brief periods, not to exceed 3 days, may be authorized when the approving official determines that the official travel was required to be taken, both as to location and timing; that there is no additional cost to the Government; and that the requested annual leave is purely incidental to the official travel situation.

c. Emergency unscheduled annual leave necessitated by a sudden, urgent, or unforeseen occurrence is not prohibited. Post-approval of the emergency leave will be accomplished on the travel voucher and will be supported by a complete documentation of the circumstances.

5. Other requirements.

a. Each travel authorization for trips which include annual leave in other than an emergency situation must be approved prior to departure by the approving official who must be at least one level higher than normally required, unless such approving official is the head of the VA facility or the highest ranking official of the department or staff office involved. In addition, the justification for the annual leave must be documented and attached to the travel voucher.

b. See MP–1, part II, chapter 2, and MP–5 for explanation of computing per diem on days when annual leave and sick leave are taken while in travel status.

6. Effective date. The provisions of this circular are effective immediately. Management should meet their labor relation responsibilities when implementing this circular.

7. Rescission: This circular expires December 31, 1980.

By direction of the Administrator,
RUFUS H. WILSON,
Deputy Administrator.

RESTRICTION ON USE OF ANNUAL LEAVE WHILE ON TEMPORARY DUTY TRAVEL

1. The Senate Appropriations Subcommittee for HUD-Independent Agencies has requested data concerning incidents where annual leave has been taken in conjunction with official travel by VA employes. Accordingly, field station heads and each department and staff office head in VA Central Office is required to submit a report providing the following information regarding each incident of annual leave taken in conjunction with a travel assignment performed within the period beginning July 1, 1980, and ending September 30, 1980.

2. Reporting Requirements:

a. Traveler's:

(1) Name.

(2) Grade.

(3) Position.

(4) Duty station (name of VA facility).

b. Points of travel (origin, destination).

c. Purpose of travel.

d. Inclusive dates of travel.

e. Number of hours of annual leave taken in conjunction with travel assignment (for title 38 personnel, number of days of annual leave taken should be indicated and separately identified).

f. Reason for permitting annual leave to be taken (response required only for incidents of travel where annual leave in excess of 3 days was taken).

3. This information should be forwarded to reach VA Central Office Reports and Statistics Service (02B21) no later than November 4, 1980. Reports Control Symbol 64–3 has been assigned to this report. This report will be continued on a quarterly basis. Subsequent reports will be input so as to reach VA Central Office (042B21) no later than 10 workdays following the end of each fiscal year quarter, beginning with the quarter ending December 31, 1980.

4. Extension: VA Circular 00–80–38 is extended to December 31, 1981.

5. Rescission: This supplement is automatically rescinded December 31, 1981.

By direction of the Administrator:
RUFUS H. WILSON,
Deputy Administrator.

Mr. CRANSTON. Mr. President, these VA circulars contain strong guidelines that include the restriction that extended annual leave may not be approved in connection with travel except in unique or emergency situations, such as if the employee is traveling in connection with a permanent transfer to a different VA facility, is able to take advantage of reduced travel rates resulting in significant savings to the Government, is detailed on extended temporary duty, or if it is not convenient or economical to the Government for the employee to return to his or her permanent location. Clearly, these guidelines substantially restrict the situations in which annual leave in connection with a business trip would be approved for a VA employee. Thus, I am concerned that an across-the-board blanket prohibition on such travel has been included in the bill even though it is apparent that at least one agency covered by the bill has taken significant steps to curb abuses.

I ask the Senator from Wisconsin (Mr. PROXMIRE) if he agrees that the steps taken by the VA, particularly the express requirement in the guideline that the official travel in question must be the sole reason for the trip at government expense, are responsive to the concerns the committee has expressed about this issue?

Mr. PROXMIRE. The prohibition contained in section 415 of the bill is intended to curb travel-related abuses in order to cut unnecessary Federal spending to the greatest extent possible. I do, however, agree that the VA is being responsive, and congratulate the VA for its responsiveness in this connection. I thank my good friend from California, who is the ranking minority member of the Veterans' Affairs Committee, for raising this matter.

Mr. CRANSTON. I appreciate the remarks of the Senator with respect to the VA's efforts to restrict annual leave in connection with official travel. I think it is important to note that under its guidelines the VA retains some managerial flexibility that provides an opportunity to deal with employee requests for annual leave in a reasonable manner while still curbing the abuses of concern to the committee.

I believe that such managerial flexibility should be preserved especially where an agency is making every effort to place tight controls on leave requests that involve travel at Government expense. I trust that the section 415 problem is not intended to punish agencies that have complied with the committee's previous direction in this regard.

Mr. PROXMIRE. The Senator is correct as to our intention.

Mr. CRANSTON. That being the case, at the very least, I hope that the Senate conferees will make certain that any statutory provision that might be agreed to is carefully focused so as to prevent the abuses that continue to occur while

not penalizing agencies that have already placed significant restrictions on leave granted in connection with official travel.

Mr. SIMPSON. Mr. President, if I might interject at this point. I have listened with care to the Senator's exchange on this point and find myself in full agreement with the concerns expressed by our committee's ranking minority member, Mr. CRANSTON, as well as the goals sought by the committee provision. I have looked into this matter, however, insofar as the VA is concerned, and I believe it has taken the necessary and appropriate steps through its internal guidelines and see no need for any legislation applicable to the VA on this point.

Mr. PROXMIRE. The Senators have my assurances that I will keep their concerns very much in mind and that I will do all I can to make sure that the effort of agencies that have complied, such as the VA, will be taken into account in the agreement that is reached with the House on this provision.

Mr. CRANSTON. I thank the Senator from Wisconsin very much for his help in this matter. I wonder whether the distinguished floor manager, Mr. GARN, would care to comment on this matter.

Mr. GARN. I believe my friend from California, Mr. CRANSTON, and the chairman of the Veterans' Affairs Committee, Mr. SIMPSON, raise a good point. I assure them that I will work with the distinguished ranking minority member of this committee, Mr. PROXMIRE, to develop an agreeable and appropriate resolution of the questions raised with respect to section 415.

Mr. CRANSTON. I thank the Senator from Utah.

THE ST. PAUL DATA PROCESSING CENTER

Mr. DURENBERGER. Mr. President. I wish to share with the senior Senator from Utah a couple of observations and a couple of concerns relative to a portion of the measure that is before the Senate. It is, I suppose, a small part of the responsibility he has here; but in the context of service to veterans, it is fairly significant.

Since the decision was made about 3 years ago to start a process of consolidation of some data processing within the Veterans' Administration, there has been a gradual erosion of appropriate talents and skills from various computer centers serving the needs of veterans in this country, including a major facility that exists in St. Paul, Minn.

The Veterans' Administration's St. Paul Data Processing Center has played an important role in the efficient operation of the Veterans' Administration for nearly 18 years. The center, which employs more than 250 Minnesota people, provides computer support for all VA insurance programs, for debt collection efforts, for a variety of other matters administered through the regional center.

The Veterans' Administration recently proposed termination of the St. Paul center. That termination apparently comes as part of a broader program that consolidates computer services at a single location. I question the rationale for that decision. If services now performed in St. Paul are shifted to another location, the regional center will lose any guarantee of receiving printouts in a timely and efficient manner. The change will mean an increase in manual data processing, and increased costs for the users of the CARS system.

Earlier this year, my colleague, Senator BOSCHWITZ and I sent inquiries both to OMB and the Veterans' Administration, seeking a detailed justification for the closing. We have yet to receive that response. But the House Appropriations Committee apparently shares our concern. Page 49 of this report states that:

One of the primary reasons that the VA has been able to maintain its AVP productivity in the face of constantly changing requirements has been a management philosophy designed to retain flexibility and to resist becoming an overly centralized, rigidly operated bureaucracy. The current plan to close the St. Paul facility discussed above and to centralize its systems and programing personnel at one location represents a departure from that philosophy. While not a unique approach, the physically decentralized ADP systems organization operated by the VA has certainly demonstrated one essential characteristic: It works. The committee urges the VA to reassess the need, the projected economies, and especially the potential affects on customers services priorities which may attend this plan to centralize systems analysis operations. The Veterans Administration should move cautiously in this area, and then only after fully exploring the potential consequences and with broad based management participation.

The Veterans' Administration also appears to be having second thoughts on the consolidation process. I ask unanimous consent that two items be placed at this point in the RECORD—the first, a letter from VA Administrator Robert Nimmo, canceling implementation of the centralized development center program. In that letter, the Administrator states that:

The CDC concept with its commitment to a highly centralized mode of development management, does not offer the flexibility and access to options that are foreseen to be necessary in dealing with the complex issues that the next few years will bring.

I am also enclosing a teletype message from Joe Garrett, chief of the resources division of the department of data collection and telecommunications regarding funding for the center for the next fiscal year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
July 23, 1981.

[Memorandum]

1. I have thoroughly reviewed the decision to proceed with the remaining phases of the Centralized Development Center (CDC) program. This action was consistent with the philosophy of step-by-step review that was explicitly included in the planning documentation and in the authorization to proceed that was signed by the Administrator on September 1, 1980.

2. The emphasis in this review was directed toward the needs of the VA ADP programs in the next decade, many of which are already coming into focus. Those needs include conversion of the large library of assembly language software, the large scale replacement of obsolete hardware, the system-wide establishment of medical ADP systems and the consolidation of diverse functional systems and data bases. Accomplishment of such tasks must be within stringent funding limitations and with minimum risk involved in maintaining critical programs. The success with which the VA meets these objectives will impact the character of VA operations and service to a degree not experienced in recent years.

3. I have concluded that the CDC concept, with its commitment to a highly centralized code of development management does not offer the flexibility and access to options that are foreseen to be necessary in dealing with the complex issues that the next few years will bring. Therefore, the CDC implementation program is cancelled as of this date. Compensation, pension and education development functions will remain at the Hines Data Processing Center (DPC). The Philadelphia DPC will retain development responsibility for the Insurance System. Development functions presently in place in Austin will be retained but the transfer and recruiting programs related to the cancelled DPC programs will be suspended immediately and development center personnel will be organizationally restored to the Austin DPC as it existed prior to January 1981. Please forward to me by August 24, 1981, your plans for organizing a single DPC with two components (development and operations) in Austin.

ROBERT P. NIMMO, *Administrator.*

WASHINGTON, D.C.,
July 28, 1981

Present congressional action indicates that the St. Paul DPC will remain open during fiscal year 1982. Until such time that we are able to establish overall staffing levels. All hiring of new employees and transferring of current employees between divisions must be approved by me.

JOE GARRETT,
Chief Resources Division, Department of Data Collection Telecommunication.

Mr. DURENBERGER. Mr. President, I recognize that the individual centers are not line items in this appropriations bill. But it is my understanding that the committee has not accepted the administrations position, and has not eliminated funding that could be used by the VA for the center's continuation.

Mr. GARN. Mr. President, I might say to my distinguished colleague that because the subcommittee was sensitive to the concerns that he had and wanted to look into the matter in more depth, we did not support the administration's position, and I am aware of the telegram that the Senator will now place in the RECORD.

I certainly intend to keep an open mind and take a careful look at this situation.

Mr. BOSCHWITZ. Mr. President, at this time I would like to join my colleague Senator DURENBERGER in a colloquy with the distinguished floor manager of H.R. 4034, the HUD-Independent Agencies appropriations bill.

Earlier this year the Reagan administration announced its intention to close the St. Paul Data Processing Center and consolidate its activities with other VA computer centers around the country. The two most significant computer operations performed at St. Paul are a debt collection facility and an insurance facility. A total of approximately 240 people are employed at the center.

The administration said it wanted to

transfer the debt collection facility to a computer center in Austin, Tex., and the insurance operation to Philadelphia. It projected a personnel reduction of about 90, and a corresponding budget savings of $3 million.

However, Mr. President, my colleague Senator DURENBERGER and I asked in letters to the Office of Management and Budget, whether there would be costs in moving these facilities which would negate the projected cost savings.

For example, VA officials in Minnesota estimate that moving the employees who agree to transfer to Texas and Pennsylvania would cost $20,000 per employee. If 100 employees agree to move, that is a cost of $2 million. Further, if some employees decide to retire early as a result of the transfer then retirement benefits must be added to the total cost of the move.

I have requested from OMB a detailed analysis of the cost savings from the shutting down of the St. Paul Data Processing Center. I have received no response.

In the House version of HUD-Independent Agencies appropriations bill there is an explicit directive to the Veterans' Administration not to shut down the St. Paul DPC in the coming fiscal year. The House bill also directs the VA to furnish Congress, as soon as possible, with a plan covering all VA computer needs for the next 3 years.

Senator DURENBERGER has already submitted for the RECORD a memorandum from Robert Nimmo, the new Administrator of the VA. In this memo Mr. Nimmo points out that a highly centralized computer system would be inflexible and ultimately unworkable. He therefore cancels the VA's plans for consolidating a number of computer functions around the country.

UP AMENDMENT NO. 339

(Purpose: To provide an appropriation of $10,000,000 for the congregate housing services program)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania Mr. HEINZ (for himself, Mr. CHILES, Mr. GLENN, Mrs. KASSEBAUM, Mr. COHEN, Mr. PRYOR, Mr. GRASSLEY, Mr. CRANSTON, Mr. PACKWOOD, Mr. WILLIAMS, Mr. BRADLEY, Mr. TSONGAS, Mr. BURDICK, Mr. MELCHER, Mr. DURENBERGER, Mr. PERCY, Mr. ROBERT C. BYRD, Mr. PRESSLER, Mr. LEVIN, Mr. RIEGLE, Mr. DODD, Mr. SASSER, Mr. KENNEDY, and Mr. BENTSEN), proposes an unprinted amendment numbered 339.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, between lines 19 and 20, insert the following:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000 to remain available until expended.

Mr. HEINZ. Mr. President, I shall take only a few moments of my colleagues' time to explain that this amendment would add $10 million to H.R. 4034, the HUD and independent agencies appropriations, to fund the congregate housing services program. Without the amendment, no new fiscal year 1982 project funds will be provided.

Last spring the Congress rescinded the $10 million fiscal year 1981 appropriation for the congregate housing services program. At the time the Senate acted on the rescission, I voiced a number of concerns. In my statement I emphasized my special concern about the Appropriations Committee's simultaneous recommendation that no funding be provided to the congregate housing services program in fiscal year 1982. I had hoped that the Appropriations Committee would review the data on the program, which indicate enormous potential savings to the Federal Government, and reverse their recommendation on the necessity of providing additional funding. I was most disappointed that the committee's position has remained unchanged.

I have been talking extensively with the chairman of the Appropriations Subcommittee, Chairman GARN, about this amendment. He has been extremely sensitive and understanding. I believe he feels that he will be able to accommodate my proposal because he has his own amendment to reduce the amount originally recommended by the committee for troubled projects. The amount of reduction is required to bring appropriation in line with the level of authorization agreed to by the housing conferees. The result of our two amendments will be a net decrease to the total appropriations reported by the committee. I am pleased that the Senate will be continuing its support for the congregate housing services program in fiscal year 1982. Hopefully, Chairman GARN will be able to persuade the House to agree with the Senate on this issue during the upcoming conference on the bill.

Because of the present and future importance of the congregate housing services program to the many low-income elderly and handicapped in this Nation, I would like to offer some comments on the program's merits and my amendment.

The congregate housing services program was first authorized in 1978. The major purposes of the legislation were threefold. First, to prevent the unnecessary institutionalization of low-income elderly and handicapped persons who have some functional disabilities. At the time, it was conclusively demonstrated that placement in nursing homes could be delayed or prevented if some basic support services were made available in a residential setting. Second, to encourage the construction of housing projects that are designed to meet the needs of the partially impaired elderly and handicapped. Third, to reduce medicare, medicaid, and other health-related expenditures.

Under the program, HUD awards 3- to 5-year grants to local public housing authorities and nonprofit 202 housing sponsors. The grants provide for nutritional meals and other supportive services, such as personal care. The law specifically prohibits the duplication of existing local services. Program participants are required to pay for the services they receive based on their ability to pay.

Since enactment of the legislation, 40 congregate housing services projects have become operational serving almost 1600 elderly and handicapped citizens. Another 15 projects should become operational in the near future. Preliminary data collected by HUD and the American Association of Homes for the Aged from currently operating projects indicates that the program has been overwhelmingly successful in achieving its purposes. Premature institutionalization is being prevented, thereby protecting low-income elderly and handicapped individuals from an unnecessary loss of independence, an immeasurable tragedy.

Further, the development of housing designed for the partially impaired elderly and handicapped is being stimulated. Lastly, Federal health-related expenditures are being reduced. Using the most conservative of analytic assumptions, every dollar spent in congregate housing services potentially is saving two medicaid dollars. Information from some projects suggest even greater savings.

Because of the demonstrated success of the congregate housing services program, I am somewhat baffled by the lack of support it has been given by the previous and current administrations, as well as the Senate Appropriations Committee. In this instance, it would seem that our zeal to reduce Federal spending is undermining the very goal of fiscal responsibility we are seeking to achieve. The cost of the unnecessary institutionalization of elderly and handicapped persons eligible for assisted housing is already being borne by the Government. Information from the Department of Health and Human Services indicates that up to 40 percent of our older Americans currently in nursing homes could return to the community if more appropriate services were available. If these figures regarding inappropriate placement are correct, potential savings to the medicaid program through funding of community-based services programs—like the congregate housing services program—is high.

Last spring the Appropriations Committee stated its preference for funding the program as a limited pilot until its effectiveness could be evaluated. For that reason the committee argues that the $20 million appropriated in two previous years would be sufficient to assure an adequate evaluation. But the authorizing committee never intended the program to be a pilot program. Nothing in the statute of the committee's report

language characterizes the program in this manner. And nothing in the program's experience indicates the need to wait for further funding until an evalution on cost efftctiveness can be made. The program was assumed to be cost effective when it was authorized. Therefore, the real question is not whether but how much can be saved.

During the last few days the newspapers have indicated that the elderly, in particular, believe that their legislators may not continue funding for programs assisting them. By not providing funding for the congregate housing services program, many older Americans could have their fears confirmed. My amendment has been cosponsored by 24 Members of the Senate representing a wide variety of political views. It affords the Senate the opportunity to continue a proven, cost-effective form of community-based care and, at a savings to the American taxpayer. Finally, it is consistent with our intent to target Federal assistance to the neediest of our citizens. Needless to say, I am very grateful to Chairman GARN and Senator HUDDLESTON for their help, on this amendment.

Mr. GARN. Mr. President, I am sure the Senator from Pennsylvania knows that Senator HUDDLESTON and I have had a difficult time with this bill in meeting our budget targets, and so I do not object to the amendment. The Senator from Pennsylvania has stated it correctly. However, it is necessary for me immediately upon accepting his amendment to offer another amendment which will reduce funding in another HUD account, so that we are not increasing budget authority or outlays in the bill.

So with that understanding, I am willing to accept the amendment of the Senator from Pennsylvania, and then will immediately, if it is accepted by the minority, propose an amendment to cover the costs.

Mr. HEINZ. Mr. President, I thank the Senator from Utah for his great assistance in this matter.

Mr. DODD. Mr. President, the Congress passed the Congregate Housing Services Act in 1978 to provide necessary meal, housekeeping and personal care services for our senior citizens and handicapped individuals who do not require continuous institutionalized nursing home care. Congregate housing is a proven concept which provides the infirmed elderly or handicapped with a variety of services in a coordinated, efficient fashion, thus enabling them to live on their own. The only alternative to congregate housing for those who qualify is nursing home care, an alternative which often takes away the right to control one's personal destiny and dignity. Nursing home care is viewed as a last resort option because like other forms of institutionalization, it may easily lead to apathy, loss of self-esteem, dependency, and depression. Recent studies have shown that anywhere from 20 to 40 percent of the patients in nursing homes do not need 24-hour-a-day institutional care. Given assistance with daily tasks, they can enjoy the independent lives they have been accustomed to.

Mr. President, nursing homes are not only costly in terms of a patient's self-esteem, but they also cost much more in Federal revenues that congregate housing projects do. Of the $9.68 spent daily to house each resident of a congregate housing project, only $6.14 comes from the Federal Government. In contrast, the Federal Government pays from $10 to $33 per day to keep one patient in a nursing home. Given the severe fiscal constraints we are facing now in this country, we must use the most cost effective and humane means possible for housing our frail and semidependent senior citizens. Congregate housing is clearly that means. I wholeheartedly support this amendment and am pleased to be included as a cosponsor of this action to provide $10 million to support these services in the upcoming fiscal year.

Mr. PERCY. Mr. President, I am pleased to cosponsor the amendment offered by the distinguished Senator from Pennsylvania and chairman of the Special Committee on Aging (Mr. HEINZ).

The amendment we are offering simply adds to the bill $10 million for congregate housing services for fiscal year 1982 which H.R. 4034 chose to delete. This amount will be more than offset by the amendment Senator GARN will offer later.

The Congregate Housing Services Act enacted in 1978 with my cosponsorship authorized the Department of Housing and Urban Development to award grants to PHA and section 202 housing sponsors to provide nutritional meals and supportive services to partially impaired elderly and handicapped persons allowing them to remain in their own dwellings and out of expensive institutions. These 3- to 5-year grants require supplemental funding from other community sources to support the delivery of social services. The law specifically prohibits the duplication of existing services and sets up a procedure for coordinating existing services with congregate housing services through the area agencies on aging. Program participants are required to pay a fee for the services they receive based on their ability to pay.

The congregate housing services program provides at least two meals per day, 7 days per week at a central dining facility; homemaker, housekeeping and personal assistance; and counseling and transportation can be included if the need exists.

In enacting the congregate housing services bill, Congress was responding to two pressing realities—the growing number of frail Americans and the skyrocketing cost of health care. At that time, overwhelming evidence was presented to the authorizing committee demonstrating that the provision of relatively low-cost meals and other support services in a residential setting would prevent premature, expensive institutionalization in nursing homes as well as unnecessarily long hospital stays. Thus, it was assumed that successful implementation of the CHSP would result in significant savings to the medicare and medicaid programs. Equally important, the program was created to protect low-income elderly and handicapped individuals from a loss of independence, which when unnecessary, is a human tragedy.

Forty CHSP projects are now operational. HUD assumes that when all projects are operating 1,800 to 2,000 elderly and handicapped will be served by CHSP. Preliminary data indicates that at least $2 can be saved for every $1 spent under the congregate services program.

I hope the Senate will accept this amendment and keep a very worthwhile and cost effective program running.

Mr. DURENBERGER. Mr. President, I support this amendment to transfer funds to continue the congregate housing services program (CHSP). It is a proven method of allowing senior citizens greater freedom and independence while also saving substantial sums for the taxpayers.

The CHSP program was first passed in 1978 and funded in 1979 in response to the growing number of elderly and the mushrooming cost of health care. The program authorized HUD to award grants to public housing authority and section 202 housing sponsors to provide nutritional meals to partially impaired elderly and handicapped persons.

CHSP projects provide at least two meals daily every day of the week, housekeeping services, and other services such as transportation if the need exists. The law clearly prohibits duplication of local services.

This is not an indiscriminate giveaway program. Participants pay a fee for the services they receive based on their ability to pay. According to HUD the daily cost of providing these services is $9.85 per person with the Federal portion being only $6.14. This is a tremendous savings compared to daily nursing home reimbursements ranging from $25 to $65.

Even more importantly, CHSP grantees have shown again and again that many of their residents who have been scheduled to move into institutions have been able to remain in their own apartments with the help of these services. This is an infinitely better solution for the mental health and vitality of the elderly and quite possibly the physical health as well.

The authorizing committees never intended for this program to serve as just a pilot program. CHSP projects are now underway, serving approximately 1,800 elderly and handicapped persons. More are needed.

The Department of Health and Human Services has data suggesting that up to 40 percent of the elderly who are currently institutionalized could return to the community with sufficient support service availability. There are 660,000 elderly residents in PHA and section 202 housing projects and many of them could take advantage of congregate housing services.

I think it is vitally important that we continue to fund this program. There is strong evidence that it is saving $2 for every $1 spent. We are going to experience a tremendous surge in our elderly population in the coming years. We must continue the evaluation process, but we cannot afford to let such an outstanding effort lag. It is an innovative, caring way

to help many of our most vulnerable citizens in an efficient, cost-effective manner.

I urge my colleagues to support this amendment.

● Mr. HAYAKAWA. Mr. President, I am pleased to lend my support to a housing plan that could revitalize the lives of our frail and low-income senior citizens. Today we have the opportunity to give congregate housing a chance by approving the funds needed to continue these demonstration projects.

With the aid of HUD section 202 dollars, 40 congregate housing projects are open and operating, in the third year of their 4-year authorization. Are we going to limit the program by cutting off appropriations for fiscal year 1982 when we should approve them so that sufficient evidence for its evaluation can be obtained?

I support the intent of Senator HEINZ'S amendment—to continue the congregate housing program. I would also like to emphasize that Mr. GARN'S amendment has compensated for the $10 million needed to finance these projects next year. This additional money will not increase the total HUD and independent agencies appropriation for fiscal year 1982.

Congregate housing for the elderly is not a new idea. Especially in the last decade, this concept has gained popularity and many types of group living situations have been tested. These were radically different, however, from today's proposal. They were basically shelters with no nutrition programs and no on-site support systems. The residents, anxious to preserve their independence, actually lost it due to lack of support systems to meet their daily needs.

Today's proposal would preserve the benefits of the previous congregate housing arrangements—noninstitutional facilities where frail and low-income senior citizens can live and maintain their independence. But it will enhance the former programs with support services for physical, mental, and social assistance and enrichment. I would like to outline some of the support provisions currently being tested at these pilot housing projects.

Each resident lives in his own apartment unit and pays rent totaling 25 percent of his disposable income minus medical costs. Occupants may cook meals in a basic kitchen or eat in the congregate dining room at each facility. The availability of nutritious, low-cost meals at the facility is a major improvement over past congregate housing plans. In addition, residents can use the dining room between mealtimes for enrichment and community activities. Congregate dining rooms are hosting adult education courses, recreational activities, and other extensions of the community which frail residents can experience without leaving the building.

Aides at the congregate housing complexes assist residents with grooming, house cleaning, and personnel care needs such as bathing, dressing, and changing bandages. Use of prescription medicines is monitored by on-site licensed practical nurses and registered nurses who administer all medicines prescribed by physicians for residents.

Janet Levy, director of the California State Department of Aging, has worked with many of the current pilot projects. She has observed that the congregate living arrangement fosters informal support systems among the residents themselves. She attributes this to the assurance provided by the on-site support systems. When the elderly are not struggling to survive on their own, they reach out to each other. In many of the existing demonstration projects, the residents take care of one another. They often build their own support systems, and have a sense of sharing in each other's lives. This is all possible while they preserve their self-esteem and independence in their own living unit.

At the time of congressional approval of these projects, overwhelming evidence was presented about projected health care savings. It was believed that the support systems of these residences would prevent and/or delay nursing home placement and hospitalization. Early studies of existing projects show that the original congressional expectations for savings are being realized. The projects are paying for themselves through savings resulting from lower medicaid claims among residents.

I urge my colleagues to support the amendments proposed by Senator GARN and Senator HEINZ. Together, they will allow for the continuance of the congregate housing projects which are proving to enrich the golden years of America's frail and low-income senior citizens.●

Mr. HUDDLESTON. Mr. President, on this side of the aisle we accept this amendment, also, under the conditions that have been outlined by the Senator from Utah.

Mr. HEINZ. Mr. President, I thank the Senator from Kentucky for his great help in this matter, also. I am deeply appreciative, and I am prepared to yield back the remainder of my time.

Mr. GARN. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 339) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 340

(Purpose: Reduces amounts provided for HUD Troubled Projects to conform to reconciliation agreement)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes unprinted amendment numbered 340.

Mr. GARN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 7, strike "50,176,000" and insert "4,000,000".

Mr. GARN. Mr. President, last week the House-Senate conferees on the reconciliation bill accepted a House provision which reduced the amount available for trouble projects from $50.176 million to $4 million. The House bill contained a provision to amend section 201(h) of the Housing and Community Development Amendments of 1978 to authorize to be appropriated for the purpose of providing assistance to the troubled multifamily housing projects not to exceed $4 million for fiscal year 1982. The Senate amendment contained a similar provision, except it authorized to be appropriated not to exceed $50.176 million for fiscal year 1982 and $50.176 million for fiscal year 1983. The conference report contains the House provision.

Therefore, this amendment that I have sent to the desk is to make the necessary change, and I call for its immediate consideration and ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 340) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 341

(Purpose: To prohibit the Environmental Protection Agency from forcing States to adopt vehicle emission control inspection and maintenance programs)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. SYMMS, Mr. HATCH, Mr. ANDREWS, Mr. LUGAR, Mr. HELMS, Mr. D'AMATO, and Mr. LAXALT, proposes an unprinted amendment numbered 341.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 19, strike the period and insert in lieu thereof the following: ": *Provided further*, That none of these funds may be expended for the purpose of requiring any State to adopt, implement, or enforce a vehicle emission control inspection and maintenance program.".

On page 17, line 20, strike the period and insert in lieu thereof the following: ": *Provided further*, That none of these funds may be expended for the purpose of requiring any State to adopt, implement, or enforce a vehicle emission control inspection and maintenance program.".

Mr. HEINZ. Mr. President, today I am proposing an amendment that I believe is absolutely essential of, we believe, one

word of the rhetoric in this Capitol about reining in runaway bureaucracy, because in this instance we have a bureaucracy at the Environmental Protection Agency that is running at this very moment amok in some 29 States and maybe more as we talk.

I am referring to the EPA mandate that is absolutely needlessly imposing costs on consumers, on taxpayers, and imposing nuisance burdens as well on American motorists, on virtually every single motorist in this country. EPA is doing so before Congress has an opportunity to review the Clean Air Act, which could be quite some time.

Specifically, this amendment provides for a 1-year moratorium on the use by EPA of coercion and the threat of sanctions to force States to adopt potentially extremely costly vehicle emissions or tailpipe inspection and maintenance programs, the so-called inspection and maintenance programs.

I have tried to be very, very restrained and responsible in this amendment. It is a 1-year amendment. It is a 1-year moratorium. It is not an attempt to change the policy for all time, but it is an amendment to try to get us enough time so that we can address the substance of the issue—and I see the Senator from Vermont here on the floor—in the Clean Air Act reauthorization that the Environment and Public Works Committee is working on.

This 1-year moratorium is necessary for three reasons. The first is that despite the insistence that States adopt the tailpipe inspection and maintenance program, the fact is—and we looked high and low and it does not seem to make any difference where we look—that the Environmental Protection Agency is totally unable to demonstrate that the inspection and maintenance program is a cost-effective means of reducing ambient air levels of ozone and carbon monoxide—or, for that matter, leaving aside the question of cost-effectiveness, whether it will even lower those levels of ozone or carbon monoxide at all.

The second reason for the moratorium is that there is considerable reason to believe that EPA already has the discretionary authority to go slow on the inspection and maintenance program until Congress completes its review of the Clean Air Act, but is unwilling or unable or blind, but certainly is unwilling, to halt or go slow on the use of this provision. That, I believe, Mr. President, is contrary to the intent of Congress.

The third reason I propose this amendment is for the sake of consumer protection, so that those who can least afford to pay the additional costs—and in some cases they are going to be very large, very heavy, and very unexpected—of an inspection, and mandatory maintenance will not have to do so. You go and drive into a garage, and the guy is going to say, "That needle tells me you have got to do a whole bunch of things to your car, and here is the bill. I just did them." I do not think that people really are going to welcome having to shell out another $50 or $100 or maybe even more than that amount once, maybe even more than that, twice a year.

Mr. President, let me expand briefly on some of those points.

Despite its insistence that States adopt inspection and maintenance, EPA has been unable to demonstrate that inspection and maintenance is a cost-effective means of reducing ambient levels of ozone and carbon monoxide—or that inspection and maintenance is even effective at all.

By way of background, let me explain that in my State of Pennsylvania, an inspection and maintenance program is mandated to begin on May 1, 1982. In both houses of the Pennsylvania general assembly, the bipartisan leadership has expressed its intense opposition to the inspection and maintenance mandate—to the point where last year the legislature was willing to risk Federal sanctions by voting to cut off inspection and maintenance funding for the Pennsylvania Department of Transportation. In addition, the Governor has expressed his strong opposition to the program and has repeatedly sought a delay. I ask unanimous consent that a letter from Governor Thornburgh to the speaker of the Pennsylvania House of Representatives, Matt Ryan, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Harrisburg, Pa., June 2, 1981.

Hon. MATTHEW J. RYAN,
Speaker of the House, House of Representatives, Harrisburg, Pa.

DEAR MATT: On May 20, 1981, U.S. District Court Judge Louis Bechtle in Philadelphia ordered the Commonwealth to file on or before June 1, 1981, a plan for the immediate implementation of the inspection and maintenance of automobile emission systems, known as the "i/m program," in southeastern counties, including Philadelphia, and southwestern counties, including Allegheny.

I do not agree with this order, and yesterday, at my instruction, the Office of General Counsel through its attorneys assigned to the Pennsylvania Department of Transportation, filed with the Court a motion for reconsideration and will be seeking a stay of the order to implement the i/m program. I have serious reservations about the program as presently proposed, as well as the growing tendency of federal courts to dictate how state funds should be appropriated and expended.

I believe that the Court's action was based on incomplete and inappropriate air quality information provided to it by the U.S. Environmental Protection Agency (EPA). The Court failed to provide an opportunity for the Commonwealth to respond to the EPA's contentions. Most importantly, it denied the postponement of implementation of the tests despite EPA's public position in favor of such relief.

The Commonwealth is seeking permission from the District Court to defer the start-up date for the i/m program until Jan. 1, 1983. Such a postponement will insure that any emission program on Pennsylvania places the least economic burden on our citizens while the state continues to work for the improvement of air quality under present federal law. This also will allow time for new, more efficient testing equipment to be manufactured and for proper certification of inspection stations.

The i/m program was mandated by a 1978 consent decree which was negotiated and signed by then Gov. Milton J. Shapp, the EPA and the Delaware Valley Citizens' Council for Clean Air. That agreement required Pennsylvania to begin testing automobile emissions. Since my Administration assumed office in January, 1979, we have consistently raised questions and expressed concerns about the effectiveness and fairness of this program. These questions and concerns have yet to be answered. In the meantime, under the Carter Administration, we were threatened with the loss of substantial federal highway and sewage disposal funds if we did not proceed with this program.

At our initiative, the original consent decree was amended in July of 1980 to postpone commencement of the program until May 1, 1981. During 1980, the state also initiated discussions with EPA regarding utilization of an improved emission analyzer for this program. A September, 1980, EPA report recommended "the use of a computer operated emission analyzer which features automated quality control and data handling and collection functions." The report said that "this type of instrument will significantly improve the quality of data and tests where it is used, and will dramatically reduce the likelihood of operator error or maloperation."

Thereafter, responding to national policy direction, EPA's regional office agreed to the Commonwealth's request for a further extension of the i/m start-up date until Jan. 1, 1983. The Delaware Valley Citizens' Council for Clean Air, however, would not agree to the extension and objected to it in federal court.

The EPA's agreement to an extension reflects its recommendation that states adopt the new EPA analyzer specifications. As cited in EPA Technical Report No. EPA–AA–IMA–80–5–A:

"This report recommends state adoption of the EPA instrument specification because it is the only specification which can assure instrumentation that will provide accurate and repeatable emission measurements. . . Additional lead time to procure instruments meeting the computer operated instrument specification may be required. . ."

Immediate implementation of the Shapp consent decree would require the state to impose mandatory inspection and maintenance of pollution control systems for gasoline-powered passenger vehicles and light trucks owned by citizens residing in Allegheny, Beaver, Butler, Washington, Westmoreland, Philadelphia, Bucks, Chester, Delaware and Montgomery counties. Experience in other states which have emission inspection programs has shown that they result in considerable repair costs to consumers. If this program is permitted to take effect, the Department of Transportation estimates that 3.7 million vehicles would be affected with total inspection and repair costs as high as $55.6 million. The Department estimates that it would cost $1.3 million alone to put this program into operation.

Finally, it should be noted that EPA's analysis of ambient levels of ozone, which was relied upon by the court, is misleading and was not even conducted in accordance with EPA's own published trend analysis procedures. We are seeking the opportunity to present to the court the facts regarding this matter.

This Administration remains committed to ongoing efforts to improve air quality for the citizens of Pennsylvania. We have an obligation, however, to take all appropriate steps to insure that any federally-mandated program to achieve that goal be as equitable and cost-effective as possible. We believe that substantial costs and regulatory burdens should not be imposed on any group of citizens in this state, particularly when the justifications for such burdens remain subject to legitimate questions.

We stand ready to work with you as we attempt in every possible way to obtain a just and equitable resolution of this matter. We will keep you informed of future developments.

Sincerely,

DICK THORNBURGH,
Governor.

Mr. HEINZ. Now, I wish to continue with the case history of inspection and maintenance in Pennsylvania.

Because of the overwhelming opposition to inspection and maintenance in my State, back in February I asked EPA to delay the mandatory requirement until the agency could demonstrate that inspection and maintenance represented a cost-effective method of improving air quality in Pennsylvania. I am incredulous that this question was not asked—and answered—by EPA before the State of Pennsylvania was threatened with losing its Federal highway money, with losing its sewage treatment construction grants, money, and with no growth permitting requirements. So I sent a letter to EPA in February asking this and a few other simple questions; I ask unanimous consent that a copy of this letter be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 11, 1981.

Mr. WALTER BARBER,
Acting Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. BARBER: This is to request that the Environmental Protection Agency delay the requirement that a vehicle emissions inspection and maintenance (i/m) program begin in 12 Pennsylvania counties on May 1, 1981. Such a delay should be granted until EPA can conclusively demonstrate that the i/m program will provide a cost-effective means of reducing ambient levels of ozone and carbon monoxide in those Pennsylvania counties where it is to be required.

As you know, the National Commission on Air Quality will present its recommendations for amendments to the Clean Air Act to Congress on March 1. A preliminary staff draft report of the Commission suggests possible modifications to the i/m requirement now contained in the Clear Air Act, including:

Requiring I/M programs only in areas that cannot demonstrate attainment by 1985 or 1987; and

Eliminating the requirement that i/m be mandatory in areas not attaining ambient air quality standards, leaving it to State and local discretion to adopt i/m.

Because congressional debate on amendments to the Clean Air Act will begin shortly after the Commission's report on March 1, I am now in the process of reviewing legislation that would make the i/m program optional and allow it to be required only where it can be demonstrated to represent the most cost-effective means of obtaining ambient air quality standards for ozone and carbon monoxide. During the next few weeks I plan to hold a series of meetings in areas of Pennsylvania subject to the i/m requirement to solicit citizen comment and determine what the effects of the i/m program are likely to be. Based upon these meetings—and the evaluation I am requesting from EPA—I shall then decide what modifications to the Clean Air Act may be necessary.

I therefore request that implementation of the i/m program be delayed until EPA can provide satisfactory answers to the following questions:

(1) What evidence is there that the i/m program will result in significant improvement in ambient levels of ozone and carbon monoxide in Pennsylvania?

(2) Is the i/m program the most cost-effective means of effecting these reductions in Pennsylvania?

(3) Is the i/m requirement mandated in the 1977 amendments now obsolete in view of the effect of higher gasoline prices, which is reducing automobile travel, and the improved pollution control equipment installed on new automobiles?

(4) Because vehicles coming off the assembly line are inspected only on a random basis—whereas all vehicles will be subject to the i/m requirement—is it possible that consumers will end up paying to repair equipment that was defective at time of purchase?

(5) Is EPA's performance warranty for pollution control equipment an equitable, workable, and enforceable means of protecting the consumer from unjustified expense and repair shops from questionable claims?

(6) Is the i/m requirement consistent with other provisions of the Clean Air Act, which set ambient air quality standards but in most instances leave the attainment mechanisms to the discretion of the States in the development of state implementation plans (SIP's).

Thank you for your prompt attention to this request.

Sincerely,

JOHN HEINZ,
U.S. Senate.

Mr. HEINZ. I am amazed that here we are at July 30, and to this day EPA has not given us an answer to this question. Instead, EPA is proceeding with its threats, threatening to cut off our sewage treatment grant money, threatening to cut off Federal highway funds, threatening us with stringent no-growth requirements. So what EPA is doing is they are saying, "We are going to run your State from Washington and we are not going to bother to justify that action to you or your constituents."

Mr. President, there are nearly 30 States that are in exactly the same situation. I know because I have talked to a number of the Members from those States who are pretty concerned about this issue, and they were over in the House of Representatives. Congressman DANNEMEYER offered an amendment over there which just barely failed by a handful of votes, by seven votes to be precise. I know there are a lot of people in here, even though their States are not under a direct mandate, who know that some day they could be, and that this kind of precedent, if they allow it to go unchallenged, is the kind of precedent that will come back and bite not once but several times.

Well, we have been bitten enough. There was a vote last November by the people of the United States—a very overwhelming vote. It brought us a new change of leadership in the Senate and very different people downtown. What they said in no uncertain terms to Washington, D.C., and to the overzealous regulators is: "Stop biting us. You took a chunk last year and the year before and those bites have got to stop." And I will leave it to your imagination where people feel they are being bitten—it is very close to the pocketbook.

Well, Mr. President, I said that EPA did not come up with any evidence to support their alleged allegation or supposition or whatever it is they believe, because, frankly, they have not told us what they believe, that this program is cost-effective.

I am still waiting for some facts from EPA, although I never expect to receive an answer, because I do not think that EPA can justify the program—on cost-effectiveness grounds, on health effects grounds, or on any other grounds.

In fact, there is considerable evidence that the program is a colossal waste of money.

I have in front of me, for example, a copy of remarks recently given by Dr. Kay H. Jones, professor of environment engineering at Drexel University in Philadelphia. Dr. Jones' remarks were entitled: "Are i/m Programs Necessary to Achieve the Nation's Air Quality and Public Health Goals?" Dr. Jones answers this question by concluding:

In summary it does not appear that the i/m program espoused by EPA has merit insofar as air quality and public health needs are concerned . . . let's not continue to deceive the public into believing that a 0.2 billion dollar per year expenditure is needed to protect public health and welfare.

Nor is Dr. Jones alone in his assessment.

The Illinois Environmental Protection Agency testified before the Senate Environment and Public Works Committee last month—

For many localities where the law now mandates i/m careful examination of the costs and benefits of the program may lead to a conclusion that it is simply not warranted.

In fact, Illinois estimated the cost per ton of reducing hydrocarbons by i/m at $4,767 per ton—four times as great as the weighted average cost per ton of stationary hydrocarbon source controls adopted by Illinois in 1979.

The Texas Air Control Board analyzed the costs and benefits of i/m and recommended to the 67th Texas Legislature:

The Board is unable to recommend implementation of a vehicle emissions testing program as a prudent air pollution control strategy at this time.

In California, the reduction in pollution resulting from i/m was estimated at 3 percent back in 1979 by Air Resources Board Chairman Tom Quinn—at a cost of close to $500 million the first year alone. For this and other reasons the California Legislature has refused to appropriate funds for the program and the State is now facing Federal sanctions.

How has EPA responded to all this evidence?

By continuing to force State after State to adopt i/m—or else. Or else face a cut off of Federal highway moneys. Or else face a cut off of sewage treatment construction grant moneys. Or else face no-growth permitting restrictions on industrial expansion.

The bureaucrats at EPA have already subjected two States to these sanctions: California and Kentucky.

Eleven other States adopted i/m programs after being threatened with sanctions: Pennsylvania, Michigan, Missouri, New York, Maryland, New Mexico,

Colorado, Idaho, Indiana, Virginia, and Ohio.

In my State, the program is being implemented in 12 counties—only 12 out of 67. Now not all of my constituents have a Ph. D. in environmental engineering as does Dr. Kay Jones; but most of them have been able to figure out that air sometimes crosses county lines. And many of them have already been figuring out ways to circumvent the county-by-county requirement.

Now how might they be planning to do that? Well, there seems to be a run on post office boxes in adjacent counties in Pennsylvania. And there seems to be some suspicion that people are going to register their cars in those adjacent counties that are not covered by this mandate.

Now I do not happen to condone anybody violating the letter or the spirit of the law. But, frankly, Mr. President, this is the kind of law that invites not only disrespect for the law in general but for Government in general.

Now we are all politicians. We are, in Government, very proud of our chosen professions. And I think that when we give an untenable grant of authority to an agency and it is wrongly used and we do not do anything about it, that we do not invite the public to hold us in the high repute we would like them to.

But to get back to my point that the program is not cost effective. Although no one seems able to quantify the benefits of i/m, the costs are very quantifiable indeed. The Pennsylvania Department of Transportation estimates that total inspection and repair costs will be as high as $55.6 million. Many elderly residents with older cars fear that the costs of repairs may force them to sell their only means of transportation.

How can all this be justified?

EPA says that regardless of the cost, regardless of its inability to document the benefits, regardless of the fact that i/m will be receiving careful scrutiny by Congress whenever the Clean Air Act reauthorization is taken up, it has to threaten and browbeat States into adopting i/m because that is the law.

But does the law really say what EPA says it does?

That brings me to the second major justification for this amendment.

There is considerable reason to believe that EPA already has the discretionary authority to "go slow" on i/m until Congress completes its review of the Clean Air Act.

By now most of you have probably seen a "Dear Colleague" letter signed by the distinguished chairman and ranking minority member of the Environment and Public Works Committee. This letter claims that the Clean Air Act as amended in 1977 requires nonattainment areas for ozone and carbon monoxide to have implemented i/m programs by 1981—or automatically face Federal sanctions.

But what does the law really say?

Section 172 of the act requires the State implementation plan to include certain provisions for nonattainment areas—including an i/m program.

Section 176 requires Federal sanctions, and I quote:

Where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982).

The key word, Mr. President, is "considers."

As I understand the verb "consider," it means to think about, to ponder, to weigh, to contemplate, to analyze.

The Texas Air Quality Board considered i/m—and found it to be an imprudent pollution control strategy.

But EPA defines "consider" to mean "reaching the conclusion that the bureaucrats at EPA say you should reach."

In fact, Representative WILLIAM E. DANNEMEYER, Republican of California, who offered an amendment similar to mine that was narrowly defeated on the House floor, asked the Congressional Research Service to analyze just what EPA was actually required to do by the statute and in view of the legislative history.

The American Law Division at CRS responded with a 16-page analysis, the full text of which I ask unanimous consent be inserted in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., July 16, 1981.

From American Law Division.

Subject Issues Related to Vehicle Inspection and Maintenance Programs Under the Clear Air Act

This memorandum is to review our discussion of the above subject at a meeting on June 27, 1980.

You asked us whether there was statutory Authority elsewhere in the Clean Air Act for the Administrator of EPA to impose the ban on new construction in non-attainment areas that is mentioned in section 110(a)(2)(I) of the Clean Air Act.

In response to this question, your attention is directed to section 113(a)(5) of the Act which states:

"(5) Whenever, on the basis of information available to him, the Administrator finds that a State is not acting in compliance with any requirement of the regulation referred to in section 129(a)(1) of the Clean Air Act Amendments of 1977 (relating to certain interpretative regulations) or any plan provisions required under section 110(a)(2)(I) and Part D, he may issue an order prohibiting the construction or modification of any major stationary source in any area to which such provisions apply or he may bring a civil action under subsection (5)."

Your second question addressed the relationship of section 172 to section 176 of the Act and specifically asks if the EPA's interpretation of its authority to cut off funds under section 176 is consistent with the Act.

Sections 172 and 176 are in Part D of the Act—Plan Requirements for Non-attainment Areas.

Section 172 requires the state implementation plan that is required under Section 110 to include certain provisions with respect to areas that have not attained the primary or secondary national ambient air quality standards. Section 176 requires that the approval of certain projects and the awarding of certain grants under the Clean Air Act and Title 23 of the United States Code, be withheld as to air quality controls regions in which transportation control measures are necessary to attain national ambient air quality standards and

"(3) where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982)."

The establishment of a schedule for implementation of a vehicle emission control inspection and maintenance program (referred to in this memorandum as an I/M program), is one of the elements listed under section 172(b) of the Act.

As will be discussed more fully, the EPA has issued guidelines as to what it deems to be adequate consideration of the required elements of section 172. It is possible that the agency may have indicated a different stance in its communications with your state, but because these documents are not available to us, the issue will be analyzed in terms of the agency's published position.

The EPA has indicated that adequate consideration of all the required elements of section 172 includes an affirmative duty to incorporate required elements into a revised SIP in a manner consistent with the intent and purpose of the Act. With respect to I/M programs, this means the inclusion in the January 1, 1979 SIP revision (which are the revisions now under review) of a schedule that in all cases provides for the implementation of an I/M program as expeditiously as practicable, but definitely by the deadlines set by the agency.

You have asked us whether, in view of the use of the general word "consider" in section 176, the Administrator can terminate federal grant funds to a state that had made the demonstration for an extension of time under section 172(a)(2) and whose SIP revision has considered an I/M program but has not yet complied with EPA guidelines interpreting the requirements of section 172.

Each of these parts to the whole must be analyzed in greater detail—the meaning of the word "considers" in section 176, the requirements of section 172, and the agency interpretation of those requirements.

According to 8A Words and Phrases, courts frequently have held "consider" to mean to think about, ponder, reflect upon, give close attention to, weigh, analyze, and other similar meanings which revolve around mental contemplation without further action. This also is its ordinary meaning. However, in other cases, the same word has been held to mean to give heed, or to give due weight to enumerated items. It has also been held to require action as well as mere thought—e.g. the "consideration of the court" means judgment by the court. The required action may be implied or understood implicitly because of the common understanding of the circumstances.

Therefore, it seems from reading the case summaries, that the meaning of the word is derived from its context and from the circumstances to which it will be applicable. For instance, *Carrigan* v. *Illinois Liquor Control Commission*, 166 N.E. 2d 574 (Ill. 1960) held that a statute that stated that a certain Commission shall receive and "consider" an application for a rehearing within 20 days of filing did contemplate that the Commission would take action but that whether action within the 20 days period was mandatory or directory depended on the statute as a whole, its nature, objects, and the consequences that would result from construing it one way or another.

Although none of the cases summarized were on point with the situation at hand—i.e. a provision that requires "consideration"

of a list of items, some of which are specific affirmative requirements and some of which are not—it is clear that the word "consider" can include taking action if that meaning is appropriate under the circumstances.

If the word "consider" can include a requirement to perform some action based only on common meaning or general context, it would appear that a stronger argument can be made that the word includes a requirement for action if that action expressly is required by one of the provisions that are to be considered.

It is also important to keep in mind, however, that Congress chose the word "considers" instead of more express language such as "complies with." It is possible that the word "considers" was used in section 17b because some of the items listed in section 172 do not require a specific response from a state, but rather require that the state devise an individualized response that fulfills the broadly worded requirements of section 172. For example, section 172(b)(1) states that the plan provisions shall "be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing; . . ."

It is also possible that Congress chose the word "considers" to indicate that the sanction of funding cut offs was not to be invoked in less than clearcut instances.

The legislative history is not very illuminating on this point.

The Conference Report, H. Rep. 95–564, 95th Cong., 1st Sess., at 158 states that the Senate highway and air pollution fund sanctions were retained. At 156, the Senate provisions are described: "Certain highway funds and air pollution grants may be withheld from States where a Governor fails to submit the required plan revision." The Senate report, S. Rep. 95–127, 95th Cong., 1st Sess., at 37 describes the relevant provision of S. 252:

"The Secretary of Transportation shall not approve any projects or award any highway funds after January 1, 1979, to a State which is not meeting the oxidant or carbon monoxide standard and which has not submitted a revised implementation plan by January 1, 1979."

Therefore, "considers" can be read to include executing required actions, but the word must be analyzed in context. But, Congress may have intended by its use in section 176 to allow the states some flexibility. This point will be considered again after an examination of section 172.

Next, section 172 must be analyzed to determine what it requires as to vehicle I/M programs, when those requirements must be met and whether the EPA's interpretation of those requirements are reasonable.

Section 172(a)(1) states that the provisions of a state plan for attainment and maintenance of national ambient air quality standards in any nonattainment area that are required by section 110(a)(2)(I) as preconditions for the construction or modification of any major stationary source in a nonattainment area on or after July 1, 1979, must provide for attainment "as expeditiously as practicable," and in the case of national primary ambient air quality standards, this must be not later than December 31, 1982.

Section 172(b) states: "The plan provisions required by subsection (a) shall . . ." and lists eleven items. Item (2) reads: "provide for the implementation of all reasonably available control measures as expeditiously as practicable: . . ."

Item (3) reads: "require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, as a minimum, of reasonably available control technology; . . ."

Item (8) reads: "contain emission limitations, schedules of compliance and such other measures *as may be necessary* to meet the requirements of this section; . . . (emphasis added).

Therefore, section 172 so far appears to allow considerable flexibility as to whether a state was required to provide for the implementation of a vehicle I/M program in its January 1979 revision. However, depending on the clarity of the facts involved, if an I/M program was reasonably available and necessary, and the other criteria set out under section 176 were met, it is possible that the Administrator could cut off funds to a state whose plan under 172(a)(1) did not include an I/M program and did not realistically provide for "reasonable further progress" or assure attainment by December 31, 1982. However, you have asked about an area for which the demonstration for an extension under 172(a)(2) has been made.

Item (11) of section 172(b) does contain an express requirement as to I/M programs, and item (11) applies only to states that received an extension for an area under 172(a)(2). That subsection allows an extension of time to December 31, 1987 for the attainment of national primary ambient air quality standards for photochemical oxidants or carbon monoxide or both. These pollutants are associated with motor vehicle pollution. (Note that the standards for "photochemical oxidants" now are referred to as "ozone" standards—40 C.F.R. 50.9, as revised 44 Fed. Reg. 8220 (February 8, 1979).)

Section 172(b)(11) provides that if a state plan meets the requirements for an extension to 1987 of the deadline for compliance with the standards for photochemical oxidants or carbon monoxide, then the State must submit a revised plan that does certain additional things, one of which is: "(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; . . ."

Therefore, it is clear that if a state secures an extension to 1987 with respect to the pollutants associated with vehicle pollution, a schedule for implementation of a vehicle I/M program must be included in a revised state implementation plan.

Section 172(c) adds: "In the case of a State plan revision required under the Clean Air Act *Amendments of 1977* to be submitted before July 1, 1982, by reason of a demonstration under subsection (a)(2), effective on such date plan shall contain enforceable measures to assure attainment of the applicable standard not later than December 31 1987." (Emphasis added.) (The reference to (a)(2) again means a plan that met the requirements for an extension to 1987 for compliance with standards for photochemical oxidants or carbon monoxide.)

Section 172 does not provide a complete timetable for submittal of revisions. The reference in section 172(c) to plans required to be submitted before July 1, 1982 by the "Clean Air Act Amendments of 1977" is a reference to an uncodified section of those amendments that provides missing pieces as to the sequence of necesary SIP revisions.

Section 129(c) of Pub. L. 95–95 as amended by section 14(b) of Pub. L. 95–190 is set out as a note under 42 U.S.C.A. 7502 and reads as follows:

"(c) Notwithstanding the requirements of section 406(d)(2) (relating to date required for submission of certain implementation plan revisions), for purposes of section 110(a)(2) of the Clean Air Act each State in which there is any nonattainment area (as defined in part D of title I of the Clean Air Act) shall adopt and submit an implementation plan revision which meets the requirements of section 110(a)(2)(I) and part D of title I of the Clean Air Act not later than January 1, 1979. In the case of any State for which a plan revision adopted and submitted before such date has made the demonstration required under section 172(a)(2) of the Clean Air Act (respecting impossibility of attainment before 1983), such State shall adopt and submit to the Administrator a plan revision before July 1, 1982, which meet the requirements of section 172(b) and (c) of such Act."

Therefore, a possible interpretation of these provisions in §§ 129(c), 172, and 176 is that in order to avoid the ban on new construction, a state with nonattainment areas had to submit a revised implementation plan that met the requirements of section 110(a)(2)(I)—the construction ban—and part D of title I of the Act—which includs sections 172 and 176—by January 1, 1979. Normally, this 1979 revision was to contain the elements listed in 172(b) and assure attainment of the primary national air quality standards by December 31, 1982.

However, if a state had particularly severe problems with respect to compliance with the primary air quality standards for photochemical oxidants and carbon monoxide and had made an acceptable demonstration to this effect under 172(a)(2) in its 1979 revision (and thereby received an extension for attainment as to these pollutants until 1987), then such state had until July 1, 1982 to adopt and submit to the Administrator a plan revision which met the requirements of section 172(b) and (c).

The EPA has interpreted the sequence for revisions differently. The guidelines promulgated by the EPA read the statute as requiring that a state in its January 1, 1979 SIP revision 1) provide for basic attainment by 1982 for all but section 172(a)(2) areas; 2) make the demonstration required by 172(a)(2) where necessary; and 3) provide for all the elements listed in 172(b), even with respect to 172(a)(2) areas, leaving for future revision only the final step of making those elements enforceable as to 172(a)(2) areas by July 1, 1982.

The EPA guidelines are: 43 Fed. Reg. 21674 et seq., May 19, 1978: 44 Fed. Reg. 20372, April 4, 1979; 44 Fed. Reg. 38471, July 2, 1979; 45 Fed. Reg. 24692, April 10, 1980, and also include some guidance which was sent directly to the states and is not available to us. Copies of all but the April 4, 1979 documents have been given to your staff previously and the April 4 document is now attached.

Section 129(c) is mentioned as to 1987 attainment in footnote (4) at 44 Fed. Reg. 20372, but there is no discussion in the guidelines of its dates for revisions where a demonstration under 172(a)(2) is made. You will also note that at 43 Fed. Reg. 21676 and 44 Fed. Reg. 20377, final implementation of an I/M program is due by 1981 in the case of a decentralized program, or 1982 for a centralized program. Obviously, if a court were to agree that a state that made the required demonstration under 172(a(2) had until some reasonable time before July 1, 1982 to submit a revision that established the schedule for an I/M program (to be enforceable by July 1, 1982), that court would not agree that the I/M program had to be implemented by 1981.

An attorney for EPA General Counsel office asserts that the legislative history does not support the sequence of revision dates here suggested as a possible interpretation. While the legislative history of the Clean Air Act fills six volumes and could not be reviewed in detail at this time, excerpts of the relevant sections from the Senate report and the Conference report were given your staff which do support the EPA position. Note especially S. Rep. 95–127, 95th Cong., 1st Sess. at 37, 39, and H. (Conf.) Rep. 95–564, 95th Cong., 1st Sess. at 155–158. This latter report at 157 states:

CONFERENCE AGREEMENT

"As a condition for permitting major new sources to locate in a nonattainment area, States are required to have approved revised implementation plans. The plans must pro-

vide for attainment of primary ambient standards no later than December 31, 1982, except that with respect to especially severe oxidants and carbon monoxide problems, the deadline may be as late as December 31, 1987. Providing for attainment in the context of a 1987 deadline means a State must submit a plan in 1979 requiring implementation of all reasonably available control measures. In addition, the plan must list other measures, if any, which may not be reasonably available but which would be needed to meet a 1987 deadline. The State need not make a commitment in 1979 to implement these latter measures. A second plan revision must be submitted by July 1, 1982, if implementation of all reasonable measures contained in the earlier revisions are not sufficient to meet the 1987 deadline. The plan revision submitted in 1982 must require implementation of enforceable measures needed to attain the primary standards by 1987.

"A plan submission in 1979 which demonstrates that oxidant or carbon monoxide standards will not be met by 1982 must contain certain specified provisions: (1) it must require alternative site analysis for major emitting facilities proposing to locate in a nonattainment area; (2) it must establish a schedule for implementing a vehicle I/M program; and (3) it must require that funds reasonably available to the State or local government be used to improve public transportation."

Therefore, while the wording of the statute allows an interpretation different from EPA's, the wording also allows the interpretation proffered by the EPA. Since the latter interpretation is supported by the legislative history, a court is more likely to support the agency's version.

The revision that was due on January 1, 1979 that made the demonstration under 172(a)(2) also had to include the elements listed in 172(b)—which are modified as to an (a)(2) area by (b)(11). Section 172(b)(11)(B) and (C) required that the 1979 plan establish a specific schedule for implementation of a vehicle emission control I/M program, and that the plan identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

This conclusion brings us to the next issue. Section 172 required the inclusion in the 1979 revisions of all reasonable available measures—which may or may not include I/M programs. The legislative history seems to indicate that Congress considered I/M programs in general to be a reasonable measure, with final determination of the issue in any specific instance dependent on such facts as the necessity for the I/M program, the level of control to be obtained compared to the economic or social cost, and the particular framework of the implementation program that is established. The Senate report, supra, at 39 lists alternative measures for states to consider and notes:

"Inclusion of a measure in this statutory list of alternatives is not a determination that the strategy is reasonable, but it is assumed that most of the list will be found to be so: . . ."

This list now appears under section 108(f)(1)(A) as items about which the Administrator shall publish and make available information. As to the issue of whether a measure is reasonable, the Senate report at 40 continues:

"In determining whether a measure is reasonable, a State or the Administrator must consider the time provided for implementation. For example, a vehicle inspection and maintenance program may not be reasonably available by mid-1978 or 1979. There may be a need for lead time to train mechanics, build facilities and educate the public. The program would, however, be reasonable if sufficient lead time is allowed to phase it in. The bill makes clear that an inspection and maintenance program is a reasonable measure. Such a program is made a precondition for extension of deadlines for attainment of oxidant and carbon monoxide standards beyond 1982. At the discretion of the State, an inspection and maintenance program may include pre-sale inspection, inspection at resale, or inspection only in areas where standards are not being attained.

"Another example where time may be a factor in determining reasonableness is the institution of measures to discourage low-occupancy automobile travel. A plan which banned automobiles in the absence of adequate public transportation would be unreasonable. One which limited auto travel only after a public transportation system offered an adequate alternative might be reasonable.

Whether a measure is reasonable also depends on the level of control to be obtained compared to the economic or social cost. Retrofitting existing cars with currently available devices is not reasonable. If a new and relatively inexpensive device were developed, States or the Administrator could determine that this was reasonable to require.

"It should be emphasized that this bill does not define reasonable measures. State and local officials, in cooperation with EPA must do this in order to preserve maximum flexibility to take into account varying local and regional conditions."

The structure of the statute itself, by requiring in 172(b)(11) that states with severe vehicular pollution problems submit a schedule for implementation arguably indicates that Congress intended some area by area flexibility.

You also will note that section 208 of the house bill expressly required annual inspection of light duty vehicles in certain nonattainment areas for which a state plan could not otherwise provide for the attainment and maintenance of the national ambient air quality standards. See H. Rep. 95-294, 95th Cong., 1st Sess., at 20-21, 208-209, 281-291 (attached). This express requirement passed the House, but does not appear in the final 1977 Clean Air Act Amendments. Unfortunately, the Conference Report provides little guidance on the removal of the section from the bill. See the excerpts from the Conference Report that are attached.

The criteria set out at 43 Fed. Reg. 21674 et seq., May 19, 1978 make it clear that the EPA considers I/M programs reasonably available per se and that the word "schedule" as used in 172(b)(11) means a schedule that provides for implementation as expeditiously as possible—which the criteria also define as meaning by the definite deadlines that are specified. 44 Fed. Reg. 20377 states:

Final implementation of the program (including adoption and submission to EPA of all necessary requirements for mandatory inspection and repair of failed vehicles) must be scheduled for no later than the end of 1982 for a centralized program, or the end of 1981 for a decentralized program. Failure to submit by the required deadlines the legal authority and all regulatory requirements necessary for mandatory inspection and mandatory repair of failed vehicles will make the SIP no longer adequate to satisfy the requirements of Part D.

* * * * *

In addition, 44 Fed. Reg. 20376 at n. 21 states:

Section 172(c) of the Act establishes a July 1, 1982 deadline for the SIP to contain all enforceable measures necessary for attainment by the end of 1982. The July 1, 1982 deadline applies only to measures not reasonably available earlier. The state may not delay adoption and implementation of measures that are reasonably available earlier on account of section 172(c). *See* Clean Air Amendments of 1977. Conference Report to accompany H.R.——H.R. Rep. No.——95th Cong., 1st Sess. — (August 3, 1977).

In other words, the guidelines indicate that EPA considers an I/M program in every instance to be a reasonably available measure that can and generally must be implemented before 1982, and that an i/m program is not one of the measures envisioned by 172(c) as having to be enforceable by July 1, 1982.

It is obvious from the structure of section 172 that Congress intended some necessary connection between the demonstration by a state of the necessity for an extension under 172(a)(2) and the establishment of an I/M program. This is clear both from the legislative history and from 172(b)(11).

It is possible that if there were a miraculous technological breakthrough such that those areas with severe vehicular pollution problems no longer needed to implement an I/M program in order to assure attainment by 1987, then an I/M program would not be mandated as one of those measures that must be enforceable by 1982. Absent such a breakthrough, the question remains as to whether an I/M program must be implemented by 1982 in all cases because it is a reasonably available measure per se or whether a state in some instances—for example, a state that can document particularly difficult problems in setting up an i/m program or some reasons why such a program would best be implemented if phased in at the same time as some other crucial provisions—can still be in compliance with the statute as long as the I/M program is enforceable by July 1, 1982. Considering the legislative excerpts set out above, it is at least arguable that Congress intended to allow states some flexibility on this issue to allow for consideration of particular circumstances.

This possibility for a difference in interpretation is important in determining the propriety of cutting off grant funds section 176.

Section 176 requires the Administrator of EPA and the Secretary of Transportation to disapprove projects and grants in certain air quality control regions if they find either that the governor of that state "has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982)."

The EPA guidelines at 45 Fed. Reg. 24695 state:

"The language of Section 176(a) and its legislative history indicate that the limitation will not be improved if a reasonable program which considers each of the elements in Section 172 is submitted on good faith efforts to submit such a plan are demonstrated.

"In cases where a finding is made that the plan does not adequately consider the required elements, or where no plan is submitted, the question of whether good faith efforts are being made will need to be examined. This decision will be made on a case-by-case basis and rely on evidence submitted by the Governor demonstrating that he is moving toward submittal of an adequate plan in an orderly and expeditious manner."

It is not unreasonable for the EPA to require progress toward implementation of an i/m program through the establishment of a legislated framework of authority and the allocation of the necessary funds and personnel. (See 172(b)(3), (7), (9), and (10).) But if a court agrees that whether an i/m program is a "reasonably available" measure is to be determined after consideration of particular circumstances in each case, this deci-

sion obviously will affect the court's determination as to whether the plan in question complies with section 172(b)(11) and the applicable statutory time deadlines.

This decision in turn, also will guide the court in determining whether the plan adequately "considers" the elements of section 172 for purposes of section 176 funding cut offs. A court may even conclude that sanctions may not be imposed until after July 1, 1982 against a state that has made a demonstration under 172(a)(2) and is attempting to enact appropriate legislation.

Furthermore, even if the court agrees with EPA as to its interpretation of what is required under 172 and the relevant deadlines, the court may conclude that the use of the ambiguous and less than forceful word "considers" in section 176, together with that section's requirement that the agency also consider whether "reasonable efforts" are being made by a state to submit a complying plan, preclude a funding cut off against a state that was attempting in good faith to pass the necessary legislation. Arguably, where Congress twice used moderating language with respect to the imposition of a sanction, that sanction should only be imposed where non-compliance and bad faith are clear.

If the EPA proceeds to cut off funds under section 176 and a court is asked to review that action, some deference will be given the agency interpretation. However, the extent to which a court will defer to agency interpretation depends on many variables.

The court in *Alabama Power* v. *Costle*, 13 E.R.C. 1993, 2003 (D.C. Cir. 1979) recently said of the EPA's interpretation of the Clean Air Act: "We are cognizant that in general a court defers to the interpretation of a new statute by the agency that is charged with putting it into effect, meshing the wheels, and that presumably has some awareness of the approaches of legislators particularly concerned with the legislation." However, the court in that case disagreed with agency interpretation in several respects, saying at one point:

"Rather, we have here an instance where the Congress, presumably after due consideration, has indicated by plain language a preference to pursue its stated goals by what EPA asserts are less than optimal means. In such a case, neither this court nor the agency is free to ignore the plain meaning of the statute and to substitute its policy judgment for that of Congress." Ibid., at 13 ERC 2013.

It is possible that a court, after considering the statute and its legislative history as discussed above, the particular factual circumstances of the area involved, and the attempts of a particular state to comply may not agree that the conditions necessary for a cutoff of funds under section 176 have been met.

PAMELA BALDWIN,
Legislative Attorney.

Mr. HEINZ. But for the benefit of my distinguished colleagues, Mr. President, let me quote from the relevant portion of this analysis:

It is not unreasonable for the EPA to require progress toward implementation of an i/m program through the establishment of a legislated framework of authority and the allocation of the necessary funds and personnel. (See 172(b)(3), (7), (9), and (10).)

But if a court agrees that whether an i/m program is a "reasonably available" measure is to be determined after consideration of particular circumstances in each case, this decision obviously will affect the court's determination as to whether the plan in question complies with section 172(b)(11) and the applicable statutory time deadlines. This decision in turn, also will guide the court in determining whether the plan adequately "considers" the elements of section 172 for purposes of section 176 funding cut offs. A court may even conclude that sanctions may not be imposed until after July 1, 1982 against a state that has made a demonstration under 172(a)(2) and is attempting to enact appropriate legislation.

Furthermore, even if the court agrees with EPA as to its interpretation of what is required under 172 and the relevant deadlines, the court may conclude that the use of the ambiguous and less than forceful word "considers" in section 176, together with that section's requirement that the agency also consider whether "reasonable efforts" are being made by a state to submit a complying plan, preclude a funding cut off against a state that was attempting in good faith to pass the necessary legislation. Arguably, where Congress twice used moderating language with respect to the imposition of a sanction, that sanction would only be imposed where non-compliance and bad faith are clear.

In short, if IPA arguably has the authority to delay sanctions until July 1, 1982—why force motorists in the affected States to expend huge sums of money for a program that is virtually certain to be modified in the near future?

Before closing, Mr. President, I have a final point that I would like to make.

Because all vehicles on the road are subject to i/m—but vehicles coming off the assembly line are only spot-checked—I am very concerned that motorists will be forced to pay repair costs for equipment that was defective at the time of purchase.

The final argument against i/m and for this amendment is this: consumers should not be forced to pay for repairs that may be necessary as a result of defective equipment at the time of purchase—even though the consumer may have properly maintained it.

Cars coming off the assembly line are only spot-checked to determine whether the emissions control equipment functions properly. Only 60 percent have to pass.

But cars on the road are all checked—and they all have to pass.

Now EPA says it has taken care of that problem with a 50,000-mile performance warranty. Even if consumers, manufacturers, and repair shops did not all maintain that EPA's warranty was inequitable, unworkable, and unenforceable, anyone who has tried to enforce a warranty knows how difficult it can be—especially for the unsophisticated consumer who does not have ready access to legal counsel. And EPA's performance warranty requires the consumer to document that he has properly maintained the emissions testing equipment over the years.

In short, the fact that EPA has proposed a warranty offers little reassurance that consumers will not be the worse for this program.

To summarize, Mr. President, this amendment does not represent an attempt to rewrite the Clean Air Act on the Senate floor via an appropriations rider, not at all. Rather, for the next year, it prevents the bureaucracy at EPA from usurping Congress authority to rewrite the act—as part of the reauthorization process.

We are going to have a very major job ahead of us in reauthorizing the Clean Air Act. I have always been a very strong supporter of the Clean Air Act. I was on the Health and Environment Subcommittee in the House of Representatives for 4 years. I helped write the 1976 amendments that did not quite make it through here. I supported the committee's efforts the last time around. I guess that was 1977, as I recollect. I believe that air pollution is a national problem and that we need good, strong, workable legislation to deal with it.

But let me tell you that when you get a provision into the act that is abused, it gives the entire act a bad name. Perhaps the surest way to make passage of a strong and responsible Clean Air Act more difficult to accomplish is for the Congress to acquiesce in the unreasonable, arbitrary, unjustifiable administration of that act.

That is why, Mr. President, I bring this amendment to the floor and I urgently solicit the support of my colleagues for it.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Vermont.

Mr. STAFFORD. Mr. President, I rise in opposition to the amendment of the Senator from Pennsylvania. Since none of us have created precisely, in my judgment, what we are talking about on the i/m program, so-called, let me say a word in connection with it. The inspection and maintenance program, or i/m, as it is called, may be explained in this way:

Automobiles emit harmful pollutants such as carbon monoxide and hydrocarbons. Carbon monoxide causes chest pain and aggravation of cardiovascular diseases. The hydrocarbons react in the atmosphere to form photochemical smog that causes asthma attacks, eye irritation, and difficulty in breathing, which is particularly harmful to elderly people.

Because of the Clean Air Act, automobile manufacturers have designed and produce cars which emit much less pollution than older vehicles. Most 1981 cars emit 90 percent less hydrocarbons and carbon monoxide than uncontrolled cars. But experience has shown that cars may emit much more pollution when operated on the road later than when tested on the assembly line or in the laboratory.

The reason for this is a lack of appropriate maintenance by motorists as cars get older. Often drivers neglect to have their cars kept in tune. Some even poison the pollution control equipment on the car by using leaded gasoline or by tampering with the equipment.

For these reasons, Congress, in 1977, decided that motorists had to be given an incentive to maintain their cars properly. Congress decided that auto inspection and maintenance programs had to be done by the States under certain circumstances. Under the law these programs must be implemented in areas that would not be able to meet the public health standards for air pollution by 1982 if the State sought an extension for compliance to 1987.

So a State or any area within a State that appears unlikely to meet the 1982 deadline for healthy air can get 5 more years by implementing an inspection and maintenance program.

I think that should be made clear at the outset of this discussion.

My friend, the distinguished Senator from Pennsylvania, commented at length on the cost to consumers of inspection and maintenance. Most costs, according to our information, are not going to be unreasonable. The National Commission on Air Quality reports show that inspection and maintenance fees will range from a minimum of $2.50 to a maximum of $14. The average repair cost for programs already in operation is between $18 and $35 for those cars that require it.

Some question has been raised about the cost effectiveness of the i/m program. A study of New Jersey's i/m program shows that carbon monoxide in the State improved at a rate 25-percent greater than the non-i/m State with which it was compared, and the net cost per ton of carbon monoxide removed from the atmosphere was $17.47.

Mr. President, the amendment proposed by the Senator from Pennsylvania should be defeated for two major reasons:

First, it will not resolve problems in States which are required to implement auto inspection and maintenance programs. And, second, it will complicate the job of the Environment and Public Works Committee which is moving expeditiously to complete a comprehensive review of the Clean Air Act.

As the chairman of that committee, Mr. President, I feel compelled to oppose this amendment as a clear invasion of the jurisdiction of the committee at the very time when it is trying to complete its work on the Clean Air Act. Moreover, we have not, in the committee nor the Congress, in my judgment, heard from the administration as to what it proposes in the way of the Clean Air Act. So the Senator from Pennsylvania at this point appears to be trying to get his amendment adopted before the administration can indicate what its position is on any of these various aspects at issue in the clean air program.

The Environment and Public Works Committee has completed 23 days of hearings on the Clean Air Act. We have developed a record that includes assessments of the effectiveness and cost of i/m programs, the tradeoffs between control of motor vehicle emissions and control of pollution from industrial sources, and the movement of pollution from motor vehicles from one State to another.

I mention these matters because they show how difficult it is to address one aspect of the Clean Air Act without affecting many others.

Suspending auto inspection and maintenance requirements could mean an increased cleanup burden on industrial facilities. The amendments could also add to the inequity that already exists between States that impose strong air pollution controls and those that do not.

Several States have acted already to put in place auto inspection and maintenance programs. The benefits from these measures in reducing ozone concentrations could be seriously impaired by ozone transported many hundreds of miles from States which fail to control emissions from cars on the road.

Whether changes should be made in the i/m provisions of the Clean Air Act is a question that ought to be decided in the overall review of the act.

The Environment and Public Works Committee is well into just such a review. If adopted, the proposed amendment would dramatically increase the difficulty of distributing the responsibility for controlling air pollution in an equitable fashion.

Interfering with equitable and comprehensive amendments to the Clean Air Act is reason enough to resist the proposed amendment. But a second and compelling reason is that it will not achieve its professed purpose; it will not provide certainty to States in advance of comprehensive reauthorization of the Clean Air Act.

The amendment would not lift the construction ban or funding sanctions that have already been imposed in States for failing to adopt an i/m program.

Nor would the amendment relieve States that have adopted i/m programs from the responsibility for implementing them. Even if EPA could not enforce the act's requirements, citizens would remain free to do so and almost certainly would in some cases.

For example, in the State represented by the sponsor of this amendment, the order to implement an i/m program came from a court, not EPA, as the result of a 5-year fight by citizens' groups.

The amendment offered by the Senator from Pennsylvania would not affect the schedule for inspection and maintenance in his own State. The only effect of the Heinz amendment would be to make achievement of that court-mandated schedule more difficult to reach.

Mr. President, in closing, I point out that the Committee on Environment and Public Works will be examining the i/m program closely during the review of the Clean Air Act as a whole, whether this amendment is agreed to or not. I fully anticipate that during that review some Members will examine not only changes in the i/m program, but the suggestions which some have made that it be eliminated. A "No" vote here does not foreclose any Member of the Senate from asking the kind of hard questions which ought to be asked during our review of the act. But a vote here will guarantee that those hard questions can be examined in a rational and reasonable atmosphere.

Mr. President, I hope every Member of the Senate will join us in opposing this amendment.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD: An editorial published in the Philadelphia Inquirer, the leading paper in Philadelphia, Pa., headlined "Heinz Emission Amendment Deserves Senate Rejection"; letters in opposition to the Heinz amendment from the United Steel Workers of America, the State and Territorial Air Pollution Program Administrators—of which, incidentally, Mr. James K. Hambright of Pennsylvania is the president; a letter from the National League of Cities—principally involved in this matter, incidentally.

Mr. HEINZ. I am sure I have some mayors who are members of the National League of Cities.

Mr. STAFFORD. Mr. President, I do not yield at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, July 28, 1981]

HEINZ EMISSION AMENDMENT DESERVES SENATE REJECTION

Pennsylvania Sen. John Heinz plans this week to use the legislative process to circumvent a controversial program instituted under the federal Clean Air Act. He will sponsor an amendment to the appropriations bill for the Environmental Protection Agency that would prohibit EPA from using any of its funds for automobile emission inspection-maintenance programs.

Legislating through de-funding is in vogue these days in Washington, and the favorite target of the Reagan administration and Republicans in the Congress has been a wide variety of federal regulatory programs. The White House Office of Management and Budget and the Congress have chosen to eliminate programs simply by cutting off funding, rather than proceeding in the more traditional manner of opening legislation to hearings and then to amendments. As a result of that tactic, debates on substance are avoided and the public is shut out of the decision-making process.

That becomes especially critical on an issue like the Clean Air Act. Public opinion surveys show that most Americans support the Clean Air Act as written. Opposition comes from powerful special-interest groups such as the auto makers and industry. All voices in the debate over clean air must be heard before any legislative changes are considered.

The auto emission inspection-maintenance program, or i/m, is an effort to go after the single greatest polluter: the automobile. The program consists of regular maintenance, enforced by periodic inspections to reduce the levels of pollutants that create unhealthy smog in many areas. The i/m program is part of overall air-quality improvement efforts required of the states under the Clean Air Act, and has been the subject of much controversy since first proposed.

Pennsylvania is under a federal court order to implement an i/m program in 12 urban counties by May 1, 1982. The order came as a result of a five-year fight by environmental groups to force the state to comply with provisions of the Clean Air Act as it applies to reducing carbon monoxide and hydrocarbon emissions. A federal judge set the May deadline after finding that the state has not lived up to past agreements to institute an i/m program in the Philadelphia, Pittsburgh and Allentown areas.

This fall, Congress will take up legislation to re-authorize the 10-year-old Clean Air Act, and the i/m program is expected to draw lively debate. Proponents argue that it is a cost-effective means of reducing pollution, with motorists required to spend a small amount to keep their vehicles in compliance. Opponents claim that the cost far exceeds the program's overall benefit. The issue already has been the subject of a number of public hearings, with more scheduled.

During the EPA appropriations vote in the House of Representatives, an effort to slash funds for i/m was rejected. Among those voting to appropriate money were some House members who expressed reservations about the program as presently constituted but who believed the re-authorization debate this fall represents the proper forum for making changes in the program.

There is the potential for considerable legal problems if the Heinz amendment is approved. The Clean Air Act authorizes the federal government to withhold a wide variety of funds to those states not in compliance with air-quality standards set out in the act. In addition, it authorizes citizens to sue state governments if the states are not in compliance with the federally mandated standards. Thus, if those portions of the act are retained, but the Heinz amendment cuts off all funds for them, a flurry of lawsuits most likely will follow.

Laws weren't mean to be changed through the appropriations process. His colleagues should remind Sen. Heinz of that fact.

STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS,
July 28, 1981.

Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: STAPPA, the national association of state air pollution officials, is hopeful that any consideration of substantive amendments to the Clean Air Act will be addressed through the relevant authorizing committees rather than through the appropriations process.

Sincerely,

S. WILLIAM BECKER.

UNITED STEELWORKERS OF AMERICA,
Washington, D.C., July 28, 1981.

DEAR SENATOR: On July 17, 1981 the House defeated an amendment to the HUD-Independent Agencies appropriations bill which would have prohibited EPA from using funds to implement inspection and maintenance programs (I & M) of automobile pollution control systems.

It is likely that Senator HEINZ might offer a similar amendment to the HUD-Independent Agencies appropriations bill this week.

The Steelworkers oppose this amendment, if it is offered, for the following reasons:

1. The I & M program is a necessary part of efforts to move the dirty air areas toward attainment of the health standards.

2. The I & M program is the only part of the Clean Air Act which assures that automobiles which are in use actually meet federal standards. The emission equipment which is already installed in automobiles should be kept in good working condition in order to achieve the results for which it is intended. In order to determine the operative efficiency of the control systems, it is necessary to monitor the automobiles in current use.

3. The I & M program is necessary only in those areas which will not meet the 1982 deadline for carbon monoxide and ozone. The monitoring of the automobiles in these areas will assure continued progress to meet the 1987 deadline.

4. The I & M program will bring about real reductions in pollution levels where it is required. The National Commission on Air Quality stated that by 1987 the reductions created by the I & M program will be approximately 20 percent for hydrocarbon emissions. These are substantial improvements for the urban areas which suffer the bulk of this type of pollution.

5. The program has not proven to be a financial burden to the automobile owners in those areas where it has been required. The average repair costs have been in the $18 to $35 range. In fact, the program results in better-tuned automobiles which in turn produces greater gasoline mileage for the owners. Some studies show that the fuel economy could be in the 3 percent to 5 percent range for the average automobile. The fuel efficiency over a period of time would more than make up for any cost to the owner required by the I & M program.

6. The I & M program has public support. In New Jersey, 87 percent of those polled favored retention of the current I & M program. In Chicago, over 60 percent were in favor of an I & M program.

7. The result of a moritorium on i/m implementation would be confusion and a deterioration of progress in the areas where the program is required. If the I & M program is required as part of the state plan, then a state which did not implement the program would be in violation of its plan. This violation could lead to suits to prohibit the issuing of permits for new source construction. This situation could cause serious economic problems for those areas and the plants which wished to locate there.

The Clean Air Act is a complex piece of legislation. Any changes in the Act should be given careful consideration by the Congress. This sort of piecemeal legislation is not the manner in which th Act should be considered. We urge you to defeat this amendment which is neither appropriate nor beneficial.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., July 28, 1981.

DEAR SENATOR: During consideration of the HUD/Independent Agencies Appropriation bill, H.R. 4043, Senators Heinz and Specter may introduce an amendment to prohibit the use of federal funds from the Environmental Protection Agency to be used for implementing and enforcing automobile inspection and maintenance. The National League of Cities urges you to oppose this amendment.

NLC believes that consideration of this amendment at this time would be premature. The Senate Environment and Public Works Committee is currently conducting extensive hearings of the Clean Air Act. The Administration has stated it will submit its proposed legislation in mid-August. Thus, to use an appropriations bill at this time both to amend a very complex act and to alter existing national environmental policy would be inappropriate.

We believe consideration on this complex issue deserves to be considered in the context of all other clean air issues.

We hope you agree.

Sincerely,

GEORGE GROSS,
Director.

Mr. STAFFORD. Mr. President, I also ask unanimous consent to have printed in the RECORD the following material, all in opposition to the Heinz amendment; a statement from the National Clean Air Coalition, a statement from the League of Women Voters, a statement from the National Audubon Society, a statement from the American Lung Association, and a letter from the Sierra Club.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CLEAN AIR COALITION,
Washington, D.C., July 28, 1981.

SENATE TO CONEIDER AN AMENDMENT TO CRIPPLE CLEAN AIR ACT PROGRAM

During consideration this week of the HUD-Independent Agencies appropriations bill, H.R. 4034, Senator Heinz or Senator Specter may offer an amendment aimed at preventing the Environmental Protection Agency from implementing automobile Inspection/Maintenance programs under the Clean Air Act. A similar amendment was defeated by a bipartisan majority in a recorded vote in the House on July 17. The National Clean Air Coalition strongly urges you to oppose such an amendment for the following reasons:

Inspection/Maintenance (I/M) is the only part of the Clean Air Act which insures that automobiles in use actually meet federal emissions standards. The program only applies to areas of the country which can not meet public health standards for automobile emitted pollutants (carbon monoxide and ozone) by 1982. Studies show that these programs effectively reduce emissions, are reasonably priced, and have majority support among the public.

Cars in Portland, Oregon (which are under an I/M program) have 34 percent lower emissions of carbon monoxide and 24 percent lower emissions of hydrocarbons than cars in Eugene, Oregon, where there is no i/m program.

The average repair cost for the small fraction of cars that need any repairs ranges from a low of $18 to a high of $35 in Los Angeles. In addition, I/M increases fuel economy on the repaired cars by 3 to 4 percent.

Public support for the program is shown by surveys in areas where I/M is operating. For example, in New Jersey 83 percent of those surveyed favored the I/M program. Similar majorities support I/M in other cities where it is already in place.

The Amendment attempts to amend the Clean Air Act by an appropriations rider, short-circuiting the standing committee system. The Clean Air Act is a major piece of legislation. It should be carefully reviewed by the relevant House and Senate committees. These committees have already devoted a good deal of time to hearings on the Act. Their work should not be undercut by hasty, ill-considered riders. Riders of this sort are an attack on the committee system of the Senate.

The Amendment would disrupt new source construction in many states. The amendment would encourage states to delay required steps for implementing their I/M program schedules. But states which delayed taking the required steps could not legally issue permits to new industrial source under Section 173 of the Act. Any industrial source which attempted to build in such an area would therefore be subject to legal challenge by anyone. The result could be serious disruption of economic development in such areas.

For these reasons, the Senate should reject this inspection/maintenance (I/M) rider.

The National Clean Air Coalition includes these national organizations: American Lung Association, Center for Auto Safety, Citizens for a Better Environment, Environmental Action, Environmental Defense Fund, Environmental Policy Center, Environmentalists for Full Employment, Friends of the Earth, International Association of Machinists and Aerospace Workers, Izaak Walton League of America, League of Women Voters of the United States, National Audubon Society, National Consumers League, National Farmers Union, National Parks and Conservation Association, National Wildlife Federation, Natural Resources Defense Council, Oil, Chemical and Atomic Workers International Union, Sierra Club, United Steelworkers of America, The Wilderness Society, Western Organization of Resource Councils.

LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES,
Washington, D.C., July 28, 1981.

To Members of the Senate.

From Ruth J. Hinerfeld, President; Ruth Robbins, Action Chair; and Merilyn Reeves, Natural Resources Director.

Re Heinz Amendment to HR 4034, the HUD and Independent Agencies Appropriations Bill.

Senator Heinz is expected to offer an amendment to the HUD and Independent Agencies appropriations bill which would prevent the Environmental Protection Agency from requiring implementation of inspection and maintenance programs for automo-

biles as provided under the Clean Air Act. The League of Women Voters strongly opposes the Heinz amendment.

The air in many areas of the country is still unfit to breathe. A major cause is pollution from automobiles. Where health standards cannot be met by the 1982 deadline because of pollutants from automobiles, the Clean Air Act allows a five year deadline extension to 1987 and requires the implementation of automobile inspection and maintenance programs. Thus, inspection and maintenance programs are targeted only for those areas with persistent and dangerous air quality problems which have not been cured through other means.

Pollution from automobiles is a significant health threat. Carbon monoxide interferes with the blood's ability to absorb oxygen, impairing perception and thinking, slowing reflexes and causing drowsiness, unconsciousness and death. Inhaled by pregnant women, carbon monoxide may threaten the unborn child's growth and mental development. Long-term exposure is suspected of aggravating arteriosclerosis and vascular disease. Nitrogen oxides can increase susceptibility to viral infections such as influenza, irritate the lungs, and cause bronchitis and pneumonia. Ozone, formed in the atmosphere from nitrogen oxides and hydrocarbons, causes coughing, choking, impaired lung functions, and reduced resistance to colds and other diseases such as pneumonia. It also aggravates chronic heart disease, asthma, bronchitis and emphysema.

Automobiles in use often don't meet prescribed emissions standards. Inspection and maintenance programs, coupled with warranties to protect consumers, are a proven, cost-effective way to ensure that automobiles in use operate up to their design standards. Inspection and maintenance programs are needed to protect the nation's, and the consumer's, multi-billion dollar investment in pollution control devices on automobiles.

Inspection and maintenance programs also improve fuel economy. Because better operating automobiles use less gasoline inspection and maintenance helps conserve fuel.

The League of Women Voters strongly urges you to oppose the Heinz amendment.

NATIONAL AUDUBON SOCIETY,
New York, N.Y., July 28, 1981.

DEAR SENATOR: Senator Heinz may offer an amendment to the HUD-Independent Agencies Appropriations bill prohibiting the Environmental Protection Agency from implementing the motor vehicle emission Inspection and Maintenance program (I/M) mandated by the Clean Air Act. This amendment is likely to be considered on the Senate floor Wednesday, July 29.

On behalf of the nearly one-half million members of the National Audubon Society, I strongly urge you to oppose this amendment or any amendment which would prevent EPA from carrying out this important and badly needed program.

The I/M program is the only mechanism we have to ensure that automobiles meet the public health emission standards for such hazardous pollutants as carbon monoxide and hydrocarbons. This program only applies in those parts of the country which do not yet meet the standards.

Automobiles are major sources of carbon monoxide and hydrocarbon pollution. They emit roughly 84 percent of all carbon monoxide in the air and 40 percent of the hydrocarbons. Both pollutants are hazardous to human health. The I/M programs have effectively and inexpensively reduced the levels of carbon monoxide and hydrocarbons in the air. Moreover, the I/M programs enjoy majority support among the public.

I am concerned that this amendment, which substantially and significantly alters the Clean Air Act, has not received the careful and deliberate attention of the appropriate committees. This amendment would be a major change to the Act and should not be hastily enacted as a rider on an appropriations bill. Moreover, the Environment and Public Works Committee will be spending the fall carefully debating the entire Clear Air Act, including the I/M program. I urge you to wait and listen to this debate before making up your mind.

The House of Representatives recently defeated a similar amendment. I hope the Senators will do the same.

Sincerely,

RUSSELL PETERSON,
President.

AMERICAN LUNG ASSOCIATION.

To Members of the Senate.
From Robert G. Weymueller, Director of Government Relations, American Lung Association.
Re Heinz Amendment to H.R. 4034, the HUD/Independent Agencies Appropriations Bill.

Senator Heinz is expected to offer an amendment to the HUD/Independent Agencies Appropriations Bill which would prohibit the U.S. Environmental Protection Agency from requiring inspection and maintenance programs for automobiles in areas with serious, auto related air pollution problems. The American Lung Association strongly opposes the Heinz Amendment.

The Lung Association feels that it is inappropriate to deal with piecemeal amendments to the Clean Air Act when the entire Clean Air Act is currently under review by the Senate Committee on Environment and Public Works. This Committee should be given a chance to present its entire package of amendments to the Clean Air Act to the Senate for consideration.

In many of America's cities pollution from automobiles represents a serious public health problem. The auto related pollutants which cause the most difficulty are: carbon monoxide, nitrogen oxides, and ozone. Carbon monoxide interferes with the blood's ability to absorb oxygen, impairing perception and thinking, slowing reflexes and causing drowsiness. It also causes chest pain in persons with coronary heart disease. When carbon monoxide is inhaled by pregnant women it may threaten the unborn child's growth and mental development. Exposure to ozone aggravates existing respiratory disease, such as asthma, emphysema and chronic bronchitis. Ozone also reduces the body's ability to fight infection, thus increasing the incidence of colds, flu and serious respiratory diseases such as pneumonia. Nitrogen oxides can increase the body's susceptibility to viral infections, irritate the lungs and cause chronic bronchitis and pneumonia.

Currently in-use automobiles don't always meet prescribed emissions standards. It does little good to require that all new cars meet strict emission standards if the emission controls systems designed to meet those standards are not maintained. Inspection and maintenance programs, coupled with warranties to protect consumers are a cost effective way to insure that the nation's substantial investment in automobile pollution control devices is protected.

For the foregoing reasons the American Lung Association strongly urges that you oppose the Heinz Amendment.

SIERRA CLUB,
Washington, D.C., July 28, 1981.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: On Wednesday, Senator John Heinz intends to offer an amendment to the HUD and Independent Agencies FY '82 Appropriation bill, H.R. 4034, which would prohibit the use of EPA funds to require or enforce automobile inspection and maintenance programs under the Clean Air Act. The Sierra Club asks you to oppose the Heinz amendment.

The I/M program is needed to provide healthy air in cities.

The National Commission on Air Quality found that nearly all state air quality implementation plans rely on requirements controlling new automobile emissions as a principal means of providing healthy air to people in the most polluted urban areas. If new car emissions control systems are allowed to degenerate, these pollution reductions on which such plans depend will evaporate. An inspection and maintenance (I/M) program is the only means by which the pollution reductions on which these plans rely can actually be realized.

The I/M program is cost effective.

The Commission found the I/M program to be as cost effective as many stationary source control measures for reducing ozone pollution. The cost of these programs in the existing communities that operate them has not been found to be excessive.

The I/M program reduces pollution and improves fuel economy.

An EPA study in Houston found that a 5 percent improvement in fuel economy was achieved among autos which failed the I/M procedures and were subsequently repaired. A study in Chicago found that among 1975 to 1980 model cars, I/M could achieve a 3–4 percent better fuel economy among all cars, even those that passed the I/M test. In Oregon, the I/M program has lowered emission of carbon monoxide by 34 percent and hydrocarbons by 24 percent.

The Heinz amendment would create uncertainty and confusion.

While the Heinz amendment will freeze EPA's ability to enforce the I/M requirement, the requirement remains an integral part of 29 state air quality implementation plans. It is therefore enforceable by any citizen concerned that such plans are not being properly implemented. Thus, confusion and uncertainty will abound.

The I/M program enjoys popular support where it is operating.

In New Jersey and Rhode Island, which both have state-wide programs, public opinion surveys show 83 and 85 percent support for I/M programs, respectively. Elsewhere, 58 percent favor I/M in Arizona and 67 percent in southern California favor I/M. In the Chicago area, which has not yet implemented an I/M program, over 60 percent of those surveyed supported the use of I/M.

The Sierra Club joins with other member groups of the National Clean Air Coalition in opposition to the Heinz amendment. If you have any questions, please call Blake Early at 547–1141.

Sincerely,

JOSEPH FONTAINE,
President.

[From the Philadelphia Inquirer, July 28, 1981]

HEINZ EMISSION AMENDMENT DESERVES SENATE REJECTION

Pennsylvania Sen. John Heinz plans this week to use the legislative process to circumvent a controversial program instituted under the federal Clean Air Act. He will sponsor an amendment to the appropriations bill for the Environmental Protection Agency that would prohibit EPA from using any of its funds for automobile emission inspection-maintenance programs.

Legislating through de-funding is in vogue these days in Washington, and the favorite target of the Reagan administration and Republicans in the Congress has been a wide variety of federal regulatory programs. The White House Office of Management and Budget and the Congress have chosen to

eliminate programs simply by cutting off funding, rather than proceeding in the more traditional manner of opening legislation to hearings and then to amendments. As a result of that tactic, debates on substance are avoided and the public is shut out of the decision-making process.

That becomes especially critical on an issue like the Clean Air Act. Public opinion surveys show that most Americans support the Clean Air Act as written. Opposition comes from powerful special-interest groups such as the auto makers and industry. All voices in the debate over clean air must be heard before any legislative changes are considered.

The auto emission inspection-maintenance program, or I/M, is an effort to go after the single greatest polluter: the automobile. The program consists of regular maintenance, enforced by periodic inspections, to reduce the levels of pollutants that create unhealthy smog in many areas. The I/M program is part of overall air-quality improvement efforts required of the states under the Clean Air Act, and has been the subject of much controversy since first proposed.

Pennsylvania is under a federal court order to implement an I/M program in 12 urban counties by May 1, 1982. The order came as a result of a five-year fight by environmental groups to force the state to comply with provisions of the Clean Air Act as it applies to reducing carbon monoxide and hydrocarbon emissions. A federal judge set the May deadline after finding that the state has not lived up to past agreements to institute an I/M program in the Philadelphia, Pittsburgh and Allentown areas.

This fall, Congress will take up legislation to re-authorize the 10-year-old Clean Air Act, and the I/M program is expected to draw lively debate. Proponents argue that it is a cost-effective means of reducing pollution, with motorists required to spend a small amount to keep their vehicles in compliance. Opponents claim that the cost far exceeds the program's overall benefit. The issue already has been the subject of a number of public hearings, with more scheduled.

During the EPA appropriations vote in the House of Representatives, an effort to slash funds for I/M was rejected. Among those voting to appropriate money were some House members who expressed reservations about the program as presently constituted but who belived the re-authorization debate this fall represents the proper forum for making changes in the program.

There is the potential for considerable legal problems if the Heinz amendment is approved. The Clean Air Act authorizes the federal government to withhold a wide variety of funds to those states not in compliance with air-quality standards set out in the act. In addition, it authorizes citizens to sue state governments if the states are not in compliance with the federally mandated standards. Thus, if those portions of the act are retained, but the Heinz amendment cuts off all funds for them, a flurry of lawsuits most likely will follow.

Laws weren't meant to be changed through the appropriations process. His colleagues should remind Sen. Heinz of that fact.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. STAFFORD. I am glad to yield to the distinguished Senator.

Mr. HUDDLESTON. To the Senator from Vermont and the Senator from Pennsylvania I say that I do not disagree with some of the sentiments expressed by the Senator from Pennsylvania and the necessity to get control of some of the regulations with which we are confronted and to deal with them in the proper manner.

I do have some concerns about this particular move at this particular time on this particular bill, and I am wondering whether the distinguished chairman of the Committee on Environment and Public Works can give me some information regarding what I believe could be the effect of the pending amendment. He has touched upon these matters already. But, I would like to hear what he has to say about a situation. We frequently have to condition our positions on various pieces of legislation with our own experience, and that of our own States.

There has been a great deal of controversy in the four counties in my home State that were determined not to be able to meet primary air quality standards for ozone by 1982. Two of these counties, Jefferson and Boone, are moving to implement the required inspection and maintenance programs. However, two others, Kenton and Campbell, have decided not to take this course and, as a result, have had the funding sanctions called for in the Clean Air Act imposed on them for the failure to adopt I/M programs.

In establishing their I/M programs, Jefferson and Boone Counties have received approximately $350,000 in Federal funds to help get the programs underway. I am told that to continue the I/M programs additional Federal assistance would be forthcoming in fiscal year 1982 for these two counties and that funds would be available for Kenton and Campbell Counties should they decide to adopt an I/M plan.

Is it the understanding of the chairman of the Public Works Committee that the pending Heinz amendment would jeopardize the availabiilty of Federal funds to help the four counties implement programs they are required to have under Federal law?

Mr. STAFFORD. I say to the Senator that it is my opinion that the language of the amendment could have that effect.

Mr. HUDDLESTON. Assuming that the counties do not have any Federal assistance, does the amendment insulate States and counties from the imposition of the sanctions for failure to implement an I/M program?

Mr. STAFFORD. In response to my friend, no, the amendment would not change the substantive law that requires I/M programs. Even if EPA did not move to impose sanctions, the Clean Air Act would require the Department of Transportation to cut off certain highway funds and citizens could still sue to have the construction ban imposed.

Mr. HUDDLESTON. Is it the chairman's views that enactment of the pending amendment would lift the sanctions currently in effect in those two counties of Kenton and Campbell?

Mr. STAFFORD. In the judgment of this Senator that amendment would not have that effect.

Mr. HUDDLESTON. So, Mr. President, it is the Senator's view that notwithstanding what my position with respect to the overall inspection and maintenance issue might be, my support for the amendment we have before us today would have the effect of doing nothing to relieve the sanctions presently in place in Kenton and Campbell Counties and at the same time it would present Boone and Jefferson Counties with the real possibility of having sanctions imposed upon them because they do not have the adequate I/M programs in place for lack of Federal financial support. What I see here is the possibility that, if the amendment passes, perhaps all four counties that are in question here could end up on the losing end of this particular situation.

Mr. STAFFORD. Mr. President, I say to my distinguished friend from Kentucky that I believe he has described the situation quite well.

Mr. HUDDLESTON. I thank the distinguished chairman.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, the amendment proposed by the Senator from Pennsylvania would prohibit the EPA from doing anything to carry out the clear congressional mandate of the Clean Air Act, that in order to get an extension of the normal 1982 deadline for meeting the national air quality standards, a State must adopt an automobile inspection/maintenance program.

There are at least four reasons why I urge my colleagues to join me and the Senator from Vermont in opposing the amendment. The reasons are:

First, as the Senator from Vermont has so aptly said, we should not bypass the normal legislative process on an important issue in this manner.

In addition, the inspection and maintenance requirement is an appropriate part and an important part of the system that Congress has established for letting States get extensions from the 1982 deadline.

In addition, inspection and maintenance has proved, as determined by the National Commission on Air Quality, to be a very effective way to reduce pollution.

Finally, this amendment would not even serve the purpose for which it is offered.

Mr. President, the Senator from Vermont, as chairman of our committee, I think, has made a very apt argument, that we are in the process now after 3 years of study of undertaking the renewal of the clear air laws for this Nation. It is not appropriate, nor is it timely to undertake in the Chamber in an unrelated bill to change a major part of that undertaking begun from 10 years ago.

We have had hearings. We have 3 years of study embodied in the report of the National Commission on Air Quality, which Senators have available to them, upon which we can legislate in a normal course of events.

I think that normal course should be pursued, and I think it should be pursued quickly. I am hopeful that the administration will come forward at the earliest possible time with its recommendations in this area so we can move forward.

I know it is the intention of the committee chairman to get the committee underway in any case.

But, in addition, the inspection and maintenance requirement—and EPA's implementation of that requirement—is both a reasonable and appropriate part of the system that Congress has approved in 1970 and 1977 to let States get extensions from the 1982 deadline for meeting the national air quality standards.

No area is actually required to have an inspection and maintenance program. Instead, under the law passed by Congress, inspection and maintenance is a condition that Congress requires of a State to let that State get an extension of the 1982 deadline. In 1977, Congress realized that certain parts of the country would be unable to meet the 1982 deadline for complying with the national air quality standards for carbon monoxide and ozone, unless those areas drastically curtailed automobile traffic, a proposal that I think we all felt was unrealistic. To avoid that, Congress established a system to let those areas get an additional 5 years, until 1987, to meet the air quality standards for just those two auto-related pollutants, carbon monoxide and ozone.

But Congress wanted to make sure in doing so that those areas that had the most difficult transportation problems and were asking for those extensions were doing all they reasonably could to meet the air quality standards in the meantime, and Congress, therefore, explicitly required that these areas have some form of inspection and maintenance program.

Mr. President, having been involved in that very serious and prolonged debate, beginning in 1975 and culminating in 1977, I know that this requirement is an appropriate one.

We have to remember that these areas that we are discussing here have pollution levels high enough to affect adversely public health, and these areas are getting extra time to meet the health standards because of the difficulty of pollution control.

But in the meantime, we must keep in mind these areas are exceeding the national standards.

EPA implementation of the statutory requirements, especially the requirement that certain Federal funds be withheld from areas requesting extensions of 1982 deadlines but not adopting inspection and maintenance, has been instrumental in getting States to follow the law. This has been true in my own home State of Colorado, where the State Legislature adopted an inspection and maintenance program only because EPA took steps to implement the congressionally required sanctions which constitute the stick that goes along with the carrot of letting States adopt their own clear air programs.

Prohibiting EPA from carrying out its role would destroy the system that Congress has adopted to both give States the primary role in clean air programs, and that is extremely important, and at the same time to make sure that the air is cleaned up.

Mr. President, inspection and maintenance has proved to be a very effective way to reduce pollution. The problem which inspection and maintenance addresses is that cars actually being driven on the road have, on the average, substantially higher "in use" emissions than the national emission standards allow.

Mr. President, I ask unanimous consent to have printed in the RECORD a National Commission on Air Quality table which shows EPA and the National Commission's calculations of average in-use emissions for different model year cars compared to the standards.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 22.—AVERAGE LIFETIME (100,000 MILES) EMISSIONS OF GASOLINE AUTOMOBILES

Pollutant and year model	Standard (gm/mi)	Average emissions (gm/mi)		Ratio of emissions to standard	
		EPA	NCAQ	EPA	NCAQ
Hydrocarbons:					
Pre-1968	None	8.15			
1975-76	1.5	2.74	2.41	1.8	1.6
1977-78	1.5	2.74	2.55	1.8	1.7
1979	1.5	2.74	1.83	1.8	1.2
1980	.41	1.74	.94	4.2	2.3
1981	.41	1.34	.87	3.3	2.1
1982	.41	1.34	.82	3.3	2.0
1983	.41	1.34	.76	3.3	2.1
1984 plus	.41	1.34	.79	3.3	1.9
Carbon monoxide:					
Pre-1968	None	89.5			
1975-76	15.0	34.5	29.8	2.3	2.0
1977-78	15.0	34.5	32.9	2.3	2.2
1979	15.0	34.5	22.6	2.3	1.5
1980	7.0	20.4	16.9	2.9	2.4
1981	3.4	19.4	16.9	5.7	5.0
1982	3.4	19.0	14.7	5.6	4.3
1983	3.4	18.8	11.7	5.5	3.4
1984 plus	3.4	18.8	12.4	5.5	3.6
Nitrogen oxides:					
Pre-1968	None	3.44			
1975-76	3.1	2.63	2.55	.8	.8
1977-79	2.0	2.19	2.10	1.1	1.1
1980	2.0	2.06	2.10	1.0	1.0
1981	1.0	1.50	1.34	1.5	1.3
1982 plus	1.0	1.50	1.44	1.5	1.4

Note: EPA emission estimates include impact of use of leaded gasoline on vehicles equipped with catalytic converters; Commission estimates do not take this into account.

Mr. HART. Mr. President, for example, as this table shows, the 1981 model year cars are certified by EPA as meeting the national standard of 3.4 grams per mile on carbon monoxide. The EPA calculates that the average 1981 car actually emits almost 20 grams per mile, 19.4 grams per mile to be exact, and the National Commission on Air Quality calculated that the actual emissions are almost 17 grams per mile as opposed to the national standard of 3.4, larger by a factor of 5 or 6.

The major causes of the high in-use emissions can be discovered and corrected through appropriate inspection and maintenance programs. Those causes for 1975 to 1980 care are primarily improper maintenance, such as poor adjustment of the carburetor or of the ignition timing.

For later cars, 1981 and later, a major cause will be the failure of the complex fuel systems which are being used to decrease pollution and increase mileage. These failures will occur on a very small percentage of the cars, but if the failures are not detected and corrected, they can have an enormous effect on total pollution. Tests in California show that if just 4 percent of a car fleet experience fuel system failures, those few cars will produce as much total pollution as all the pollution coming from the remaining 96 percent of the car fleet.

The present inspection and maintenance is the best single way to solve this problem of high in-use emissions.

The National Commission on Air Quality studied inspection and maintenance as part of its comprehensive 3-year examination of the Clean Air Act.

Highlights of that Commission's conclusions are:

Unanimous recommendations that Congress continue to require inspection and maintenance in large cities with severe auto-related pollution problems.

Unanimous finding that inspection and maintenance is the most effective method that has been demonstrated to reduce the emissions from in-use vehicles.

Unanimous finding that inspection and maintenance can reduce tailpipe emissions of carbon monoxide in an area by 26 percent and of hydrocarbons by 20 percent.

Mr. President, finally, because of the way that this amendment had to be drafted to fit on an appropriations bill, this amendment actually would not even serve the intended purpose of removing the statutory requirement of inspection and maintenance in areas getting extensions.

The amendment would prohibit the EPA from spending money to implement the inspection and maintenance requirement, but would not actually repeal the statutory inspection and maintenance requirement.

So a State would continue to have to adopt inspection and maintenance if it is not meeting the air quality standards by 1982.

The difference would be only that if a State tried to take advantage of the amendment to cancel an inspection and maintenance program, the enforcement of the statutory requirement would be left up to the Federal courts, ruling on lawsuits brought by private citizens.

Those lawsuits could result in court ordered inspection and maintenance programs and in court ordered bans on the construction of new plants and factories because of the State's failure to comply with the Clean Air Act.

So, Mr. President, the amendment would result, in the judgment of the Senator from Colorado, in chaos, not in an orderly repeal of the inspection and maintenance program.

I urge my colleagues, together with my distinguished colleague from Vermont, to oppose this amendment.

It would not be the right policy, even if it were considered in the normal legislative process and if it were drafted so as to accomplish its purpose.

There are especially compelling reasons to reject this amendment when it is offered at this time in this fashion and drafted in this form.

Mr. DOMENICI. Mr. President, I won-

der if the distinguished Senator from Colorado would just answer a couple of questions of the Senator from New Mexico.

Mr. HART. I would be glad to.

Mr. DOMENICI. I have been on the committee with our distinguished chairman for as long as I have been in the Senate, and I think you know I have been part of drawing the last two Clean Air Acts, and I am very concerned about getting a new Clean Air Act that is adequate and good.

Let me ask the Senator from Colorado first, Senator, it is true, is it not, that your excellent commission which you chaired recommended some significant changes in this program; is that not correct?

Mr. HART. The commission recommended significant changes in the law and the way it was being administered. But it found this particular program to be effective where it was being adopted.

Mr. DOMENICI. Yes. It said the inspection and maintenance program has some significant qualities about it to help with automobile kinds of pollution. But, as I recall, your commission recommended, first, that cities, only large cities, be under it, and I think you said cities of 500,000 and less should not be under inspection and maintenance; is that not one of the recommendations?

Mr. HART. The Senator is correct.

Mr. DOMENICI. Then the Senator recommended that it not only be applied where primary air standards were violated but that there be a 50 percent in excess of the standards for the inspection and maintenance to be mandated, did it not?

Mr. HART. The Senator is correct.

Mr. DOMENICI. That is not the law now, is it?

Mr. HART. Those requirements are not in the law now.

Mr. DOMENICI. And they cannot be changed administratively, can they? We have got to change the law to say in excess of 50 percent, if that is what the Congress wants?

Mr. HART. The Senator is correct.

Mr. DOMENICI. I thank the Senator and I have no further questions.

I want to comment here that this presents a dilemma for me and, I think, the distinguished chairman knows it, but I think we also have placed American cities in a dilemma, a terrible dilemma, and I will give you a couple of examples.

Your 500,000-population city, 380,000, 260,000, you have been working at this problem, you are about to enter into an agreement or you are about to enforce an ordinance that puts into motion a very extensive and expensive program for the people of that community, and I might say, as an aside, without any assurance it is going to work. But let us even assume it works.

Then the Congress of the United States comes along in 5 or 6 months, as they are going to do, and they change the law, as I predict they are going to do. They are not going to leave this inspection and maintenance program as is. I do not say that about very many laws, but I would risk my legislative reputation that this program will be changed because it does not work very well. It has got enormous problems. We did not build in sufficient flexibility.

When a city exceeds the primary standards in these two pollutants, ozone and CO, the Administrator, within his discretion, says "You have a maintenance and inspection program by a certain time, and if you do not we take away all kinds of program moneys elsewhere." That is what they are going to end up doing, this. Some cities would like to provide other things, but they are not going to be able to.

But what if a city with 400,000 population is on the fence right now. They have been working year after year trying to figure out one of these programs. It is a mess. They have eight hot spots they are trying to take care of. They are wondering if they could do a little land use planning, and here is the deadline and it is a 10-year act. It happens to be a city I know of. They have a 5-year contract with a private sector company to come in and charge for the cars, charge a fee, and the city is going to have such a contract for 6 or 7 months, and then the Congress comes along and says, "this is not working too well, and we accept the recommendations of the distinguished panel headed by the Senator from Colorado."

You do not even come under it anyway, you are exempt, you can do what you want. You can try other methods of controlling automobile pollution. Is not that a nice position to put one of the most controversial programs we have in clean air, referendums in cities for the most part, which have thrown these kinds of ordinances out, the people are frightened to death, asking, "How much are you going to charge to repair each car?" Some are saying, "No more than $75." That is how you solve some of the problems. If the car does not meet inspection they say, "We assure you, you will not pay more than $75 to that automobile repairman."

Then you ask "What if it is supposed to cost $150 to fix it?" They are saying, "You do not have to fix it then because we do not want you to spend more than $75." Some have $60, some have $50, estimates are all over the place. Some say every car in the city will only pay for inspection, and 15 percent will not pay over $50. Another group studies it and says that is too high and it is only going to cost $30 per year. If there is a program that works, if we are not ambivalent on it in the Congress, so be it.

But I ask the Senate if they are confident that the U.S. Congress is not going to alter this rather soon. I am sure the distinguished chairman of the committee, with whom I want to agree, I do not want to offer an amendment, I do not like the Heinz amendment, I want one that changes the sanctions for 6 or 7 months, and which says that "You cannot use any money to enforce the sanctions for 6 or 7 months until we change the law." I think that is a better approach. You still have citizen suits as a possibility, but at least you leave the city in kind of a neutral posture to see if they want to wait a few months and see what Congress does and see what their flexibility might be.

But I think the chairman would agree with me that we are going to have a new Clean Air Act, I think you hope, before the year is out. But I think you would be willing to say in 7, 8, 9 months we are going to get one, and a lot of attention is going to be directed at this.

I assure you that with a couple of days of working this floor amendment over, this amendment like the Heinz amendment is apt to pass. If that is the case you are certain that when we bring this Clean Air Act here it is going to have the same provisions in it, the ones that have been there for the last 4 years. I mean that is almost a foregone conclusion.

I am asking the chairman and Senator HART if that is the case can we not do something to sort of leave this in limbo for 6 or 7 months, for everyone should know—and I think I can say this without any fear that I am wrong—this is a long-term strategy. This is not going to have any material effect in 6 or 7 months. In fact, there are a number of cities that are being right now ordered to do it and they are being told by clean air people, "Even when you are finished we are not sure you are going to have primary air standards in compliance. They are still going to be out after they get it in," and some say after 5 years it has been in.

I am not asking for throwing this program out forever. It is no good, it is part of a good strategy, it is not flexible enough, I will say that right going in, and it is going to be changed. Can we not offer some kind of help? What would the Senator from Vermont say about an amendment that said, "You cannot spend money to enforce sanctions until Congress amends the law," and just state the section of the law that we are working with? That lets them go ahead and work together, but they have an option of looking at it kind of carefully and saying, "Well, they cannot bring the whole house down on us if we do not do it, and we are kind of looking up to Washington to see what they are going to do with the law."

Mr. HART. Mr. President, will the Senator yield?

Mr. DOMENICI. I would be pleased to yield.

Mr. HART. First of all, the Senator misstated, I am sure unintentionally, when he said the Administrator could not provide flexibility insofar as imposing inspection and maintenance.

I remind my colleague that the law says if you want an extension beyond 1982 in areas that exceed what have been determined scientifically to be in excess of public health air quality standards then you have to have an inspection and maintenance program. If you can meet the standards without it, if you find some other way to do it, you do not need it.

What the Congress found in 1975, 1976, and 1977 was that there were just a lot of areas that had two choices, shut down traffic or clean up the cars, and we found the best way to clean up the cars, the most effective method for doing that, was the i/m program.

The fact of the matter is, to respond to

the Senator, I suspect the Congress will adopt some flexibility measures here to eliminate marginal cases. But I would wager, in opposition to the Senator, that a majority of Senators are going to support the requirement that continues inspection and maintenance programs. There is no other choice if we are to have clean air in this country.

Mr. DOMENICI. Senator, I do not think we are disagreeing. Would you say you have confidence in the recommendation of your commission?

Mr. HART. I certainly do.

Mr. DOMENICI. In this area?

Mr. HART. I certainly do. But I do not know whether the committee will adopt them or not.

Mr. DOMENICI. All right.

When you say we are going to keep them are you suggesting we are going to keep them like they are now or the way they were recommended by your superb study group?

Mr. HART. Well, the way they are now is a great deal of flexibility on the part of any State of this Union as to what kind of an inspection and maintenance program they can have. It does not say "Here is an i/m program and you are going to adopt it or we are going to cut off your funds." You can have any one of a dozen i/m programs to pick from.

Mr. DOMENICI. I thank the Senator.

I would repeat to the Senate once again that even though the commission that Senator HART chaired said the way you have a primary air violation in cities of CO and ozone that inspection and maintenance was a good approach, I suggest to you that they have also found that there are some problems with the rigidity of it because they have also recommended that that is not enough; that you only ought to apply it to cities that exceed the primary by 50 percent, and they have also suggested that cities of 500,000 and less not be included.

Now, we are not operating in a vacuum. There are a number of American cities that are under this threat that are 5,000 and less. There are a number that are under it that do not violate primary by 50 percent as recommended by the study commission.

What are we doing to those cities in the meantime? We are saying, "Go right ahead. Everybody knows there is going to be some change but, city councilman, you fight those people. You have those recall votes out there. They want to throw you out of office. You have those referendums. You have lost them, but you have got to go ahead and we are going to change it in some way."

I hope that we can work out something here which would let the administrator proceed and let the cities continue where they are working well with the director, but not impose the sanctions until we have a new Clean Air Act.

I will tell you what my city will probably do, if you are wondering about Albuquerque. The distinguished chairman probably also already talked to Albuquerque because he knew I might come down here and join with Senator HEINZ. My mayor says, "I think we will go ahead with it, even if you don't mandate it." But his experts are saying, "We might do it a little differently if you weren't there with a hammer. We might defer it for some period of time. We might try some other things to mix with it."

But their problem is this: They are going to have to enter into a contract with a private sector company very soon. To get a reasonable deal, they are going to have to sign long-term contracts and they will have it regardless of what the Congress of the United States does.

I imagine if we look across the country that we have this coloration of a problem in hundreds of cities. It would seem to me that 6, 7, or 8 months of leaving it in some sort of limbo would not be doing violence to anyone.

I am going to suggest to the distinguished Senator from Pennsylvania—and I will circulate to the other Senators an amendment that approaches it differently. I am not going to insist on it now. I will yield the floor momentarily. But it will say, basically, that you cannot expend funds to impose the sanctions for a period of time or until we have enacted legislation amending the section or addressing the section that we refer to. I would hope that we could get some agreement.

Mr. RANDOLPH. Will my colleague yield?

Mr. DOMENICI. I am pleased to yield.

Mr. RANDOLPH. Mr. President, I am appreciative, as always, for the privilege of joining with the able Senator from New Mexico, (Mr. DOMENICI) on many projects, programs, and issues within the Environment and Public Works Committee.

I shall make remarks on the pending amendment a little later, but I believe that I heard the Senator say that referendums were going against the programs that are now in effect. If I am in error about what the Senator said, I would like to be corrected.

But I call the Senator's attention to this fact: We have checked this matter of referendum and it is only in Phoenix, Ariz., that the matter has been before the people. I say to my friend that there the men and women, the citizenry of that city, voted not to repeal this program. I am thinking that I am correct about this being the only city that has had this subject before them for determination.

Mr. DOMENICI. Mr. President, I say to the Senator that, in terms of specific votes by the populace of a city or region. I have no specific information and, therefore, no reason to doubt the Senator.

I only know that in a number of cities, including mine, where the public has been asked in some kind of questionnaire, some kind of "Will you support?", that it seems to be rather overwhelming that they do not want this mandated type of program.

The Senator knows that that does not mean they are conclusive. They could be wrong, too. In my State legislature, they are refusing to go along because they felt they were being dictated to and if they had some flexibility they might go along. So if I left the impression that there were a lot of them, I do not know about them.

My hunch, however—and I will stand on this last part because it is nothing more than mine—is that if you put the facts before the public, in terms of smaller-sized cities, medium-sized cities, if you put the facts before them as to what it will cost and what the ultimate good is and all the problems you know about in getting it repaired properly, how much are they going to get charged, I think you would have a very difficult time passing those in populous cities.

Mr. RANDOLPH. Will the Senator yield further?

Mr. DOMENICI. I am pleased to yield.

Mr. RANDOLPH. I want to be careful in commenting on a statement that the Senator has made. I think that if he checks the record he will see that he indicated what I have said that he told the Members of the Senate a few minutes ago and that is the reason I called attention to it. The word "referendum" was used and that communities were turning i/m down.

The reading of the record will so indicate that. That is the reason I said that in only one city, Phoenix, has there been a direct vote of the people. And in Phoenix there was no repeal of the program.

If I may be indulged for just this further comment. Surveys clearly indicate that citizens in States that have been considering the i/m program have been solidly in favor of these programs. I point to Denver, Colo., 81 percent; Los Angeles, a vote of over 65 percent, I do not have the exact figure; New York City, 80 percent; Miami, Fla., 70 percent; and in New Jersey, as a State, 87 percent.

I am sure that we have differences of opinion on these matters, and we want to fully and realistically do what we should do in reference to the pending amendment here today. But we must not permit the record to indicate that there has been a deterioration in the support for this type of program across America; quite the opposite is true.

A recent Harris survey indicates that the Clean Air Act has the support of 86 percent of the American people. They believe that it should not be changed or only changed to strengthen it.

I do not say any poll is correct. Democratic and Republican Parties use them to support either their strengths or hoped for strengths. But, in this matter, we have that poll that indicates the figure that I have just stated of 86 percent are against the tearing apart of the basics of the Clean Air Act, passed first in this Congress, not yesterday, but in 1963.

Mr. DOMENICI. Mr. President, let me respond to the Senator. I think he knows the record of the Senator from New Mexico in the Clean Air Act. I have been with you, I have been through the conferences with you, I have battled for the last one here on the floor. I think you will recall that Senator MCCLURE and I were staunch allies with Senator Muskie or we would not have passed the last one. Looking back at some of the interpretations, I wonder whether we should not have been a little reluctant then.

Mr. RANDOLPH. I am counting on it in the future.

Mr. DOMENICI. I am going to be a strong supporter in the committee, as I have always been.

I want to get a new Clean Air Act and I am not for gutting it, as some people have been suggesting we ought to do. But, I say to the Senator, on this specific problem, I really think we ought to consider some way to build in some flexibility for a few months while we consider the whole section of attainment. This is in the attainment section. There is no question it is going to be one of the most difficult ones for us to look at.

I would hope that we might be able to come up with some compromise for the period of time from now until we actually amend that section in any way so that those cities can truly have the option of seeing what Congress is ultimately going to do and not be forced into one approach only to find that it is not necessary a few months from now or that even before this year is out we might have this resolved.

I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in opposition to the amendment sponsored by Senator HEINZ to prohibit EPA from enforcing the auto inspection and maintenance program.

In this whole debate, if it proves nothing else, it proves that this amendment should not be on this particular bill. The subject of auto emissions belongs in the debate on the Clean Air Act.

The distinguished Senators from New Mexico, Vermont, and West Virginia have great expertise in this area. They have had hours and hours of hearings before the Committee on Environment and Public Works.

They should be allowed to come forward in the Senate with a bill directed at the Clean Air Act based on the record, based on the testimony, and permit Members of the Senate to prepare for that bill, prepare for that debate. To pull it in as a rider does not make sense at all.

Among those testifying before the committee was the former secretary of the Wisconsin Department of Natural Resources. He stated that 36 percent of the hydrocarbons and 87 percent of the carbon monoxide in southeast Wisconsin comes from automobile emissions.

Sampling by the department showed that over 80 percent of all cars on the road in that area did not meet their intended levels of pollution control.

But with simple repairs, generally costing no more than $25—though in some cases costing more—most cars could meet the standards and get better gas mileage as well.

In addition, a city of Milwaukee study estimates that an inspection and maintenance program would reduce hydrocarbon emission by 40 percent and carbon monoxide emissions by 50 percent.

Clearly these regulations produce benefits. As the Senator from West Virginia pointed out so well, they won overwhelming popularity in city after city where citizens have had the opportunity to act on them.

They may need some improving. There may even be changes which could make them more efficient or cost effective. But such changes should be discussed as part of the general Clean Air Act debate and not rushed through as an appropriations rider.

There is a committee for it. They have the jurisdiction, the expertise, the knowledge. They ought to handle it.

Mr. CHAFEE. Mr. President, I rise in opposition to the amendment presented by the Senator from Pennsylvania. This amendment, as has been pointed out, would prohibit the use of EPA funds to require or enforce auto inspection and maintenance programs under the Clean Air Act.

I think the principal reasons against this amendment have been very well set forth, not only by the Senator from Wisconsin but the Senator from Colorado, the Senator from West Virginia, and others. The key point is we have a committee that has held hearing after hearing on this very complicated piece of legislation. We had a distinguished commission, headed by the senior Senator from Colorado, which met for over a year and a half on it. They came forward with a report.

This is a matter that should not be brought in as it has been brought in, as an amendment to an appropriation bill.

Mr. President, if we are going to amend the Clean Air Act, let us not amend it piecemeal on appropriation legislation but address it within the context of the changes that should take place.

Second, Mr. President, this amendment would not eliminate the i/m requirement for States and, therefore, the States would legally have to comply with the i/m provisions or risk having a citizen file suit in which case the EPA could apply sanctions against the State.

So, Mr. President, based on the very forceful arguments that have been presented here this afternoon, plus these points, I would urge that my colleagues reject this amendment.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in opposition to the amendment offered by my good friend, the Senator from Pennsylvania.

I must say that I do so with great reluctance, in light of the good relations I have had with my good friend from Pennsylvania on several other measures during the past 2 weeks.

Before getting into the substance of my argument, Mr. President, the Senator from New Mexico (Mr. DOMENICI) suggested that maybe something else ought to be done while we wait for the Clean Air Act to move through committee and come to the floor of the Senate. I think the best thing we might do in this particular circumstance is not to do anything until the committee of jurisdiction has the opportunity to work its will and to bring before this body its suggestions when they are dealing with the Clean Air Act amendments.

We have, under the law presently, until the end of 1982 before any of the jurisdictions not in compliance would have to come into compliance. So we have a good year and a half, in effect, before this provision would take effect anyway. If there is, as I suspect, a sense of urgency about the Clean Air Act amendments, then I think the best course of action would be to wait until that piece of legislation comes before us.

Certainly, as has been mentioned by the Senator from Wisconsin and others, it is highly questionable, I think, to bring up a matter of such importance as this particular suggestion on an appropriations bill.

But more importantly than the legislative vehicle, Mr. President, is the impact that this amendment would have on both the environmental quality and the economic recovery in many metropolitan areas across this country.

The Heinz amendment would bar the Environmental Protection Agency from using funds from the HUD and Independent Agencies Appropriations Act to enforce the auto inspection and maintenance provisions of the Clean Air Act. That is the effect of this amendment.

The inspection and maintenance programs are required after 1982 under the Clean Air Act for highly polluted areas to be eligible for a 5-year extension of the deadline for meeting the national ambient air quality standards. That is the law. That is what the Clean Air Act says.

So we are operating under that particular provision of law.

The Environmental Protection Agency anticipates that areas in 25 States will not meet the clean air standards by January 1, 1983, and they will be required to implement inspection and maintenance programs in order to qualify for deadline extensions.

Let me be very candid with my colleagues. My own State of Connecticut is one of those 25 States that is not going to be able to qualify given our present air quality problems. But the point is, despite what Connecticut is doing—and we have some of the toughest air quality standards in the country—we still have some of the worst air quality in the country. Despite the fact that the State legislature, the localities, industry, have been striving very, very hard to improve our air quality, our problem just does not originate in Connecticut. It comes from other parts of the country, particularly the greater New York metropolitan area. So we have problems. We will need some time to deal with these problems.

All four of Connecticut's air quality regions violate the air quality standard for ozone, the chief source of which is auto emissions. Also, many cities in Connecticut regularly exceed carbon monoxide levels which are safe for humans.

We have determined that the implementation of the inspection and maintenance program is absolutely essential to achieving the air quality standards by the end of the deadline extension, 1987. Connecticut is depending on its planned i/m program to achieve 35 percent of the hydrocarbon and a substantial portion of the carbon monoxide reductions

needed to adequately reduce emissions under its control.

The immediate response would be, I suppose, from my good friend from Pennsylvania or others, "If Connecticut wants an i/m program to clean up its air, it can go ahead with one. They have the right to do that. Why do you have to impose this on other jurisdictions?"

Well, the answer to that question is, in part, the response I gave a minute ago, that is, that our air pollution just does not originate in Connecticut. Such a response would also deny the Federal assistance to States using the inspection and maintenance program to combat air pollution.

It is a small amount, $150,000 in the case of Connecticut. More importantly, the amendment ratifies interstate pollution. This is the most important point.

Studies show, for example, that two-thirds of the extremely high and dangerous ozone levels observed across Connecticut on warm, sunny days during the summer when the winds are from the southwest come from emissions generated in the New York area and other points to the southwest of Connecticut. I do not go so far in these remarks to say Pennsylvania, but it is possible that we are also getting some of our problems from that part of the country.

Connecticut, in this regard, is by no means atypical. It does provide, however, a clear example of the broader implications of this amendment. A study done for the National Commission on Air Quality only last year found that if sources of all ozone-forming emissions in the State of Connecticut were shut down, the State would still not meet the health standards for ozone. The point is that the people of Connecticut and other States will continue to be subjected to unhealthy levels of ozone pollution until the surrounding States also reduce their auto emissions substantially. Inspection and maintenance programs in those areas that cannot meet the 1982 deadline for achieving the national ambient air quality standards are vital to reducing the dangerously unhealthy air pollution levels in most of our metropolitan areas.

Without inspection maintenance programs, there is no assurance whatsoever that the emission control equipment installed in Detroit will continue working on the highways.

The point has been made that new car emissions are 90-percent lower than in automobiles manufactured prior to implementation of emission control standards, but that is true only if the emission control system on recent model cars is working. It is also true only if motorists keep their cars reasonably well tuned.

It was suggested earlier by the distinguished Senator from New Mexico that these costs could be skyrocketing. I am not going to argue that they cannot go up. We know that most costs are rising.

I believe it is worth pointing out to those interested what the experience has been with respect to programs currently operational in the country—in States that already have an inspection and maintenance program—what their costs have been. In New Jersey, in Oregon, in Los Angeles, and in Arizona, the average inspection and maintenance repair cost has been between $18 and $35. That is not insignificant, but it certainly is not a staggering sum, considering the tremendous benefits that could be achieved in terms of cost with respect to human health. It is difficult to anticipate exactly how much money that would save by keeping people healthy. It is trying to prove a negative, I suppose. There has been tremendous improvement in the health of people as a result of this act.

It is well known that emission controls on automobiles cost several hundred dollars per vehicle. Those controls are not simply to raise the price of a car, although I have had my suspicions about the cost of automobiles recently. I do not believe that is the reason they are going up in price. These emissions control costs are to prevent poisonous emissions and protect human health.

I can hardly think of any greater waste of money on pollution control measures than to require several hundred dollars of pollution control equipment and then prohibit measures to keep them working. That would be a total waste of money.

As I have pointed out, experience in the four States that already have voluntarily implemented i/m programs demonstrates that maintenance costs have not been great.

The Heinz amendment, in addition to being bad environmental policy would totally disrupt efforts already under way in many States to meet the requirements of the Clean Air Act.

This amendment—and I want to make this point, because I believe we have been off the point on several occasions in talking about the effect of this amendment—will not relieve any State from the obligation to meet established deadlines presently in the clean air bill. Nothing in this amendment is going to relieve any State of that obligation. Whether they get the money or not, they still will have to meet the requirements of the law, unless we change the law.

So this amendment is not even going to address that particular point. It would not lift the sanctions contained in the Clean Air Act that would be imposed against any State that does not comply with the law. Those sanctions include a cutoff of Federal funds for highways and sewage treatment projects.

A failure to meet the requirements of the Clean Air Act—which, I repeat, will not be lifted by this amendment—could also result in blocking all new industrial permits in the affected States.

This would be devastating to the economies and the workers in the 25 States that have not implemented the i/m provisions under the Clean Air Act after December of 1982.

I emphasize: We want to clean up our air in Connecticut. We do not want to find sanctions imposed upon us by having the loss of funds for Federal highways and sewage treatment facilities, which we need badly.

Our air quality—and I believe this is true of most other jurisdictions in the country—is impacted by what goes on in other States. It is not an issue that can be resolved by creating some imaginary borders that block out poor air coming into a jurisdiction.

So, Mr. President, I sincerely hope that my colleagues on both sides of the aisle will recognize that the proper way to proceed is as suggested by the Senator from Vermont, the Senator from Wisconsin, and the Senator from West Virginia, and that is to wait until the legislation comes up. That is the way to deal with it. That is the proper way to approach this problem.

This amendment is bad law with regard to the environment and is certainly bad law with regard to economic planning in our metropolitan areas.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. HEINZ. Mr. President, the Senator from Connecticut is not alone in making the statement that this legislation would have no effect on any State that is subject to the inspection and maintenance program mandate. I strongly disagree with what the Senator is saying.

A few moments ago, the Senator from New Mexico gave a very practical, real life case history of what the existing law and its enforcement without any discretion by EPA is doing to a city in his State and what it is doing in my State of Pennsylvania. It is forcing some 12 counties into a program that is written here in Washington, without any exceptions.

You cannot include or exclude a certain particular set of cars. You cannot exclude the pre-1975 cars. You cannot write a program just to have the pre-1975 cars. You cannot include or exclude the set of cars built and marketed between 1975 and 1980 or the 1981 or 1982 models. There is absolutely no flexibility at all.

The practical effect of this amendment is to buy some time until there is a new law, and we hope one will be written very shortly.

The practical effect on those States that are not under court order would be to tell EPA that they cannot force or coerce this kind of program on the States. Some States are under court orders or consent decrees, such as Pennsylvania and Kentucky.

Let me tell the Senator what the issue is in Pennsylvania. The issue in Pennsylvania is time. We are supposed to have our entire program in by May 1, 1982. The Governor and the legislature have practically unanimously asked for a delay because certain testing equipment will not be available for some time.

The Senator may say, "Well, Senator, you are under a court order. This is a court decision. What possible effect would this amendment have?"

I suggest that the effect would be that EPA would go to the judge in question and say, "Your Honor, we have a message here from Congress, and we suggest that, at a minimum, you modify your order to do one of two things: in Pennsylvania, either wait until October 1, or wait until Congress decides the issue in the Clean Air Act, 3, 6, 8, or 9 months from now."

That, I submit, is the practical effect, and it is not inconsiderable, nor is it unreasonable.

I thank the Senator for yielding.

Mr. MITCHELL and Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I understand that the Senator from Oregon wishes to speak at this time.

Mr. HATFIELD. I thank the Senator from Washington.

I should like to interject at this moment in the debate. I say to the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), and others who are debating this issue that I oppose the amendment—not on the substance, even though I have a particular viewpoint on the substance of the amendment, but on the procedure.

I indicated earlier, in the Republican Conference, as the Senator from Pennsylvania recalls, that it would be my hope, as the chairman of the Appropriations Committee that, under the Republican majority in this Congress, we could refrain from offering amendments using the appropriations as a vehicle for legislative matters.

I fought a losing battle on the abortion question earlier on in this Congress, I gathered from that vote that that was not to be declared as a precedent to break faith, in effect, with what had been generally agreed in the Republican majority caucus.

However, I do want to reemphasize that this is not an appropriation matter. This is not relevant in that sense or germane to the appropriation bill that is pending before the Senate at this time.

I will be happy to argue the issue on the substance or the merit of the case at a later time through the authorization process. But I must say that I speak at this time to oppose this amendment purely on the procedural basis that this constitutes legislating on an appropriation vehicle.

I wish to reiterate one point I made earlier: I can recall 1 year when we went from June until December in a total stalemate in the appropriations process purely because we are trying to legislate a controversial subject on the appropriation bill.

So I must remain true to the commitment I made and the agreement I thought we had reached in the caucus of the Republican Party.

I realize that no one is bound unequivocally, because there are always emergencies and there are always unforeseen issues that arise. I am not suggesting in any way that the Senator from Pennsylvania is reneging on a commitment.

I am saying that we tried to establish it with that caveat—under most extraordinary circumstances, we would all be released from that commitment—that the Republican majority committed itself to the particular proposition that we were going to resist, as much as possible, the action that is being taken here today—putting a legislative issue on an appropriation measure.

With respect to the earlier remarks and the opening remarks made by Mr. BAKER today on the floor, in commending the Appropriations Committee for the expeditious way of having this HUD program on the floor so quickly in the appropriations process, I must say that that is due in part to the fact that we in the subcommittee and in the full Appropriations Committee have resisted the traditional, historic effort to try to affix legislative issues to the appropriation bill.

So I oppose this proposal at this time. Again, I want to make it clear that I recognize the total, legitimate right of the Senator from Pennsylvania to offer this amendment. But I must say that I resist it because it does, in a sense, break away from a general policy that we were trying to establish at the beginning of this Congress under a new majority status leadership, and to expedite the appropriations process.

Let me say one closing word.

We have probably 2 additional working days before the recess: today, Friday, and Saturday. We come back on September 10. We have about 18 working days in September before the end of the fiscal year.

This is the first of 13 appropriations measures. We cannot act in the Senate until the House of Representatives has acted. We have marked up the Interior appropriations measure in the Senate appropriations process. We are ready to move on the legislative, Agriculture, and a few others.

But I must say that under the most desirable circumstances that we could imagine, I still do not see how we can move the appropriations process by September 30 to the point where we will not have to have a continuing resolution.

That was one thing that the new majority party status of the Republicans had tried to commit themselves to, and that is let us get out of this old business of continuing resolutions. They are disastrous, really. They are, I think, one of the worst things that could happen to the legislative process to get ourselves into a continuing resolution where we are locked into the previous year's funding levels.

If we are going to minimize that probability and I must say, in all honesty, I do not know how we can avoid it, at least, on the defense bill and the health and human resources, and maybe two or three others, but let us minimize the encumbrances that we make for ourselves by legislating on appropriations at this time so we can try to expedite the whole appropriation process and come out on September 30 with at least the overwhelming number of the 13 Senate appropriations measures passed, acted upon and thereby escaping the continuing resolution vehicle that we may have to adopt for maybe two or three at the most.

So I must say this pains me to find myself on the other side of the issue with the Senator from Pennsylvania and probably our voting records are more similar than dissimilar on controversial issues. I do rise to oppose this amendment on this procedural basis.

I thank the Senator from Washington for yielding.

Mr. GORTON. I thank the Senator.

Mr. President, I stand to oppose the amendment proposed by the Senator from Pennsylvania, both as inappropriate procedure and as a dangerous policy.

The Senator from Oregon has already indicated in eloquent fashion one of the reasons that this procedure is inappropriate: it is legislation in an appropriations bill.

It is inappropriate, also, because of the fact that the Committee on Environment and Public Works has spent more of its time during the course of this Congress on a careful examination of the Clean Air Act, leading toward its revision and reenactment, than it has, in all probability, on all other matters which have come before that committee combined.

In addition, the amendment proposed by the Senator from Pennsylvania represents, I am convinced, bad policy.

No new direction chartered by Congress during the course of the last decade has been more enthusiastically accepted by the people of the United States than has been the Clean Air Act. It is the legitimate desire of the people of this country to breathe air as clean as it is reasonably possible for us to create.

This acceptance is evidenced by a recent Harris poll, which showed the percentage of acceptance of the Clean Air Act to be in the high 80. The mail which I have received from my constituents in the State of Washington, and I rather suspect from citizens from every one of the States of the United States, confirms the Harris poll. The poll results clearly accord with my own experience at home in the kind of questions which people ask me about the work of Congress during the course of this year.

During the decade of the 1970's, the United States made significant progress toward cleaning up industrial air pollution. In some parts of the country that progress could better be described as vast than as merely significant. Many billions of dollars have been put into creating clean air for the people of the United States and most of it spent by business and industrial concerns.

But the quality of the air in metropolitan areas in almost every part of the United States is still worse than it is in less heavily developed areas. Most of the future improvement in the quality of that air in most metropolitan areas of the United States depends upon control over auto emissions. Even in this field, there have been clear gains due to constantly more stringent requirements on the manufacturer of automobiles.

The single area in which there has been the least progress is in the actual emissions of automobiles as they are driven and used on the streets and roads of the United States as opposed to abstract requirements dealing with their manufacture.

Inspection and maintenance is one of many, but nevertheless very important, tools in the continuing battle to create clean air. It has, of course, as the Senator from Pennsylvania pointed out, created apprehension on the part of a number of people in a number of metropolitan areas, often I am convinced because they do not understand precisely what it will require of them. Nevertheless, if we are to control auto emissions in the long run we are clearly going to be required to have an inspection

and maintenance system at least in a number of major metropolitan areas. One of the scare tactics, one of the reasons for apprehension on the part of many individual citizens in the United States results from the fact that people fear unlimited inconvenience and almost unlimited cost in bringing their automobiles into compliance.

I submit that that simply will not be the case in fact. The Senator from New Mexico, who is sympathetic with this amendment, though he, I believe, wants a slightly different one, pointed out already that many metropolitan areas in States limit the amount of money which any individual may be required to invest in order to comply with an inspection and maintenance system, $50, $60, perhaps $75. That, of course, is one very effective way of seeing to it that a disproportionate load is not imposed on any individual.

The State of New Jersey, on the other hand, which has an inspection and maintenance system and which encourages its continuation, charges a fee, according to testimony before the environment and Public Works Committee, of $2.50 for the inspection. The average repair cost in that State is $19 per rejected vehicle, an investment which I am convinced the vast majority of the people of the United States would be willing to make in clean air.

In addition to the fact that inspection and maintenance is, while a controversial set of proposals, one which is likely to be successful and one which may well be necessary in a number of major metropolitan areas, it is important to point out that the amendment proposed by the Senator from Pennsylvania may very well not have the effect which he desires since it does not go to the actual requirements of the Clean Air Act themselves at all, but simply to what the EPA can do in order to enforce it. Enforcement actions, at least to a certain degree, could certainly continue to be brought by individual citizens or by environmentally oriented organizations.

The subordination of the committee process, as the chairman of the Environment and Public Works Committee, pointed out, is particularly serious in this case, it seems to me, where it is a certainty that this body will have before it by no later than early next year a comprehensive proposal for the updating and renewal of the Clean Air Act.

The Senator from New Mexico spoke, I think, very eloquently about some problems in connection with the present system, the fact that there may be some changes in the course of the renewal of the act.

I suggest to the Senator from New Mexico, for that matter I will suggest to the Senator from Pennsylvania, that they vote against this amendment which I think very clearly goes far beyond what any changes in the Clean Air Act will actually cost. If the Senator from New Mexico feels that there are some areas in which we will march up the hill of an inspection and maintenance program and then very likely march down the hill within 6 or 8 months or so, that he propose an amendment carefully crafted to deal only with those relatively smaller communities and not with the larger ones which are involved in this kind of program.

I am inclined to think, as a matter of fact I am convinced, that even such an amendment would be inappropriate at this time and under these circumstances, but it would at least be not so damaging, not so inappropriate, and not so destructive of our demand for clean air in the United States as would that of the Senator from Pennsylvania, whose amendment I believe should be rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Maine is recognized.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield.

Mr. KENNEDY. Mr. President, I am use its full authority to implement the amendment of the Senator from Pennsylvania.

This amendment would forbid EPA to use its full authority to implement the inspection and maintenance program required by the Clean Air Act.

I consider this the first major vote on the Clean Air Act which will be considered in great detail later this year. By my vote against this amendment I want to make clear to the people of Massachusetts that I intend to be a firm supporter of the act.

I believe that the Clean Air Act is essential to protect the health of our people, the integrity of our environment, and the health of our economy.

I intend to vote for and to work for the Clean Air Act.

For all my years in the Senate public health protection has been one of my foremost concerns.

I would like to point out to my colleagues that the only areas in which inspection and maintenance programs can be required is where minimum public health standards are not met. It is fashionable now to attack bureaucracy and redtape. But one man's redtape is another man's life line.

The OCS drilling protections which the oil industry calls red tape are the only protections of thousands of fishermen's jobs.

The clean air requirements the polluters call "excessive bureaucracy" are the key of freedom and life itself to tens of millions of Americans.

Dirty air imprisons asthmatics in their homes.

Dirty air afflicts the elderly with pneumonia.

Dirty air attacks the health of our children.

I believe it is time to move forward not back.

I believe it is time to enforce the law not repeal it.

Mr. MITCHELL. Mr. President, I join my colleague from the Committee on Environment and Public Works in opposing this amendment. As others have said many times here today, the issue of inspection and maintenance of automobiles and its role in maintaining air quality in America is an issue which is and which should be part of the comprehensive review of the Clean Air Act. That review is presently occurring in our committee. It would be wrong to simply remove this subject from the jurisdiction of our committee by this amendment for the 1-year moratorium suggested. So that our review of the Clean Air Act in the coming months would be less than comprehensive.

The inspection and maintenance programs are an important pollution reduction tool for areas which have the most unhealthy air in the country. EPA only has the authority to require implemention of such a program if an area cannot meet the health-related air quality standards by 1982. As a condition of receiving a 5-year extension of the 1982 deadline, a State must set up inspection and maintenance programs.

Mr. President, this is not an unreasonable requirement. It is but one method, shown to be cost effective, which can contribute to achievement of healthy air. This amendment will result in the anomolous situation in which EPA could not enforce the inspection and maintenance requirement, or aid States in setting up these programs.

Failure of a State to comply would leave EPA with no choice but to impose the sanctions in the Clean Air Act for failure of an area to comply with the conditions of its extension. I remind my colleagues that these sanctions are not trivial: A State stands to lose all funds made available through the Environment Protection Agency, including millions in sewage treatment grants, as well as Federal highway funds. The Congress has given the States with severe air pollution—flexibility in the form of the 5-year extension—to deal with that problem. Adoption of this House amendment will in effect remove that flexibility.

One witness who testified recently before the Committee on Environment and Public Works likened the strategy of the Clean Air Act to a diversified investment strategy. He was referring to the diversified approaches of the act to cleaning up and maintaining the quality of the air we breathe. Inspection and maintenance is one of those strategies. To follow the analogy the effect of this amendment is to prohibit investment in a particular form of security. Such a decision would be unwise if it made it more difficult to achieve future investment objectives. This amendment is similary unwise.

Another witness who testified before the Committee on Environment and Public Works recently. Tom Austin, executive officer of the California Air Resources Board, explained the contribution of automobile pollutants to smog. Every one of those pollutants, hydrocarbons, oxides of nitrogen, fine particles, and notably, sulfur dioxide, also contribute to the problem of acid rain. If automobile inspection and maintenance programs can reduce any of those pollutants, then the problem of acid rain will be similarly mitigated. I am committed as I hope the Senate will be to the resolution of the acid rain problem.

I encourage all Members to vote against the Heinz amendment.

Mr. SYMMS. Mr. President, I would

first like to say to the distinguished chairman of the Environment and Public Works Committee (Mr. STAFFORD) whom I see here on the floor—if I could have the distinguished chairman's attention—I rise in opposition to his position with a great deal of personal regret. I would like to also say and pledge to him that when the issue on which we are now starting to work—we have been very busy with the President's economic package and I have been busy with my other committee assignments—but it is my intention to put a top priority on working with the chairman, although I might have a differing point of view, with the hope that we can work out something in the remainder of this year and resolve this issue.

I was quite interested in the proposition that the Senator from New Mexico, another member of our committee, brought up here, and I am sorry he is not on the floor right at the moment. I was wondering if he was planning to offer his amendment. Does the Senator from Pennsylvania have an idea?

Mr. HEINZ. I will say to the Senator from Idaho that I do not know what Senator DOMENICI's present intention is.

Mr. SYMMS. I yield to the chairman of the committee.

Mr. STAFFORD. If the distinguished Senator will yield to me, I can only say as he left here for a meeting on the other side of the Capitol in connection with budget matters, I believe, the Senator was not sure whether he would offer the amendment or not.

Mr. SYMMS. I thank the distinguished chairman of the committee for that comment.

Mr. HEINZ. I think that is an accurate statement made by the Senator from Vermont. I do know the Senator from New Mexico intends to come back. He has a great interest in this subject and, as apparent from his remarks, he will be back in the not too distant future.

Mr. SYMMS. I will just say to my friend from Pennsylvania, and I know, I was here on the floor and heard our distinguished chairman of the Appropriations Committee make his remarks, that procedurally I guess I would have to say that I agree with the Senator from Oregon that it may be bad legislative procedure but, on the other hand, I would say over the last several years that the Environmental Protection Agency has attempted as much as any other agency in Government to coerce the State legislatures of nearly 30 States into adopting legislation which imposes an annual inspection and maintenance program upon their citizens who, in many cases, do not want to do it, and I think if you talk to the State legislators in the States, you will find they are outraged by it.

In my own State they have become so outraged with EPA that they have done away with the Idaho Clean Air Commission. They say, "If EPA wants to run everything, we will let them come in and run it." So there has been a great deal of outrage expressed.

It is, as I view it, as much as any other thing fundamentally an issue of federalism versus States' rights, and I think for that reason I would feel constrained to support the amendment even though maybe I do not like the procedure, and I think I personally would prefer the approach that the Senator from New Mexico has suggested, and I hope he will bring it in here and offer it so that the Senate can dispose of that first. I think it offers somewhat of a compromise between the parties on both sides of this argument to which I have listened in this debate here on the floor.

Ironically, as the Federal effort to force States into line has intensified, it has become increasingly clear that for most areas to which it applies, inspection and maintenance is a marginal or unnecessary control measure. In the words of the head of the Division of Air Pollution Control of the Illinois Environmental Protection Agency:

> For many localities where the law now mandates I and M, careful examination of the costs and benefits of the program may lead to a conclusion that it is simply not warranted.

The Clean Air Act generally allows the individual States to determine how they will achieve national air quality standards. It is now clear that there is no justification for excepting inspection and maintenance programs from this policy.

I think it has been asserted that the Heinz amendment would deny Federal technical and financial assistance to areas which do seek to implement I/M programs. I am not convinced that there is any basis for that assertion. The amendment, as I understand it, and the Senator from Pennsylvania can correct me if I am wrong, only applies to funds expended for the purpose of requiring States to set up programs. Funds expended for States, to assist States, will clearly not be covered; is that correct?

Mr. HEINZ. The Senator is entirely correct. The amendment applies only to actions by EPA to force or coerce States into this inspection and maintenance program.

Mr. SYMMS. I thank the Senator very much for clarifying that. I think that is a point that needs to be well taken by our colleagues here, as to just exactly what it is you are trying to get at.

It has also been asserted that the Heinz amendment would not change the Clean Air Act, which provides the statutory basis for mandatory i/m. Unquestionably, the Clean Air Act will have to be amended to adequately address this problem.

I think, I hope, that we have an understanding that we are going to get that done this year. I personally was concerned earlier that it might be difficult to get that accomplished. We have made better progress. I think, on the President's economic program than many of us had hoped for earlier, so I am very optimistic.

Mr. HEINZ. Let me say to the Senator if I was really confident that the Environment and Public Works Committee and Congress would complete action on the Clean Air Act this year I probably would not offer this amendment because, there being only a few months left, I doubt that much damage would be done.

But, unfortunately, there just are no assurances that we are going to get a thorough review of the act, notwithstanding that the National Commission on Air Quality has recommended specifically numerous changes and much more flexibility in the inspection and maintenance program we are discussing here.

Mr. SYMMS. I think the Senator also is not—and those of us who support his position are not—trying to say this is going to solve the problem. But it may help us get a revision of the Clean Air Act passed which, I think, if for no other reason, makes the amendment laudable.

Mr. HEINZ. I would say further to the Senator that it is this Senator's intent not to try to make policy through this amendment. What I am trying to do very simply is buy some time until the Environment and Public Works Committee finally comes to a conclusion on this issue. As a matter of fact, I personally prefer the wording of Senator DOMENICI's amendment, even though he has not introduced it, because it is entirely consistent with this Senator's intent.

It is entirely possible that I could support in some modified form a vehicle emission i/m program.

I have a very open mind on that, and I do not think that support for this amendment commits anybody either for or against the program per se.

Mr. SYMMS. But it would give the opportunity for the people in the respective States to have a little breathing room for the next 6 to 8 months until something can be done here later this fall.

I think if one looks at the timetable—and our majority leader has made it very clear we are talking about hopefully an early adjournment this fall, so that the economic recovery program can have a chance to take effect—it may be that this will not be possible, even with the good intentions of our committee and all the other Senators in this body.

So for that reason I feel constrained to go against the two chairmen who have spoken here, and support the Senator from Pennsylvania's amendment. I hope it is adopted.

Mr. HEINZ. Mr. President, will the Senator yield further?

Mr. SYMMS. I yield.

Mr. HEINZ. I thank the Senator for his support. I think his points are excellent and well-taken, and I very much appreciate his very thoughtful analysis of the problem.

Mr. SYMMS. I thank the Senator.

Mr. BAUCUS. Mr. President, frankly, I am a little perplexed why this amendment is here. I fully understand that the Senator from Pennsylvania and other Senators have interests in their own States to be here on the floor in support of this amendment. But, Mr. President, this amendment purely and simply does not belong here for various reasons.

First of all, this is an appropriations bill; purely and simply an appropriations bill. We all know the troubles we have had in the past years with so-called limitations on appropriations bills, which are essentially authorizing in nature, which have stalled this body many, many times, speaking primarily of Federal aid to abortion and other such issues.

I thought that this year we were em-

barking upon a policy of not stalling the Senate, not setting a precedent again of adopting limitations if you call it on appropriations bills, and certainly not adopting authorizing amendments in nature on appropriations bills. It just does not make good sense. And that is what this is. It is in the nature of an authorizing amendment, styled as a limitation on an appropriations bill and it should not be here today.

Second, it does not belong here because this is the wrong committee. The Committee on Environment and Public Works is presently very deeply and thoroughly conducting hearings and coming up with a new bill on the Clear Air Act. The amendment before us deals very, very much with the act that we are now considering in the Environment and Public Works Committee. It goes, if not to the heart of the Clean Air Act, certainly to a very integral part of the Clean Air Act.

We have had many days of hearings. We have very thoroughly explored the question, that is the Clean Air Act. We have had hearings on the i/m program and the i/m program is a program which should not apply specifically to one city or to another but should be a program that applies to the country. And that is why the proper forum, the proper place and the proper manner in which we should consider this question should be in the committee in the national context, not in the piecemeal context when we look at this question city-by-city.

The third reason this amendment should not be heard is because, as the chairman of the Environment and Public Works Committee has stated, we should not destroy the Clean Air Act piecemeal. And that is what this amendment will do. If this amendment is adopted, then other special interest groups will be tempted to use this appropriations bill process or some other process to try to, if not gut the Clean Air Act, certainly try to dismantle it.

Mr. President, I suggest that the American people do not want to gut the Clean Air Act. There are some problems with it. There are some unnecessary delays. But America wants clean air. All polls show that and all discussions with people indicate that. They do want clean air.

I do not think the American people want to jeopardize the act by adopting, let alone considering, amendments in this fashion; that is, amendments on the appropriations bill and also amendments to the Clean Air Act before the committee has had a chance to report out a comprehensive bill.

I think it would be a sad day, frankly, if this body adopts this amendment here today. It violates the process, it violates the spirit, and it violates the substance of the act.

Mr. President, I strongly urge that the Members of this body reject this amendment. This question will come up. It has come up in the proper place and in the proper forum. And this question will come up at the appropriate time on this very floor in this very forum when the Clean Air Act bill is reported out of committee. That should be the time and place that we consider this question, not now.

I commend the chairman of the committee for opposing this amendment. It does not belong here and he has, I think, taken a very responsible approach to this question.

Again, I urge that the Members of the Senate do not adopt this amendment. I thank the Chair.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I understand that the Senator from Pennsylvania has indicated that Tom Quinn, former director of the California Air Resources Board, had reservations about the i/m requirement. The fact is that Mr. Quinn and his replacement, Mary Nichols, the present director of the ARB in California, supports strongly the i/m requirement. The ARB opposes this amendment, as do I.

On June 3, Mrs. Nichols testified before the Senate Environment and Public Works Committee, indicating that control of auto emissions was the heart of California's air quality strategy. No single program was more important, she said.

Yet, without i/m, the auto emissions strategy in California would have limited future effect.

On June 23, Tom Austin, executive officer of the California ARB, supported i/m as a means of future control of auto emissions, which is absolutely critical to California eventually achieving clean air standards.

The Senator from Pennsylvania is not on the Environment and Public Works Committee and probably did not have the benefit of this testimony when he made his statement.

But that is why the Clean Air Act and the i/m requirement should be handled in an orderly fashion in committee, and not as a rider on an appropriations bill.

I oppose this amendment beyond that for the following reasons:

The 1977 Clean Air Act Amendments allowed States which will not meet Federal air quality standards by the end of 1982 to get a 5-year extension on the deadline provided they submit an implementation plan which includes an annual vehicle emission inspection and maintenance program.

Why have such a requirement?

Because in those States which contain areas that will not be able to comply with Federal air quality standards by 1982, auto emissions—almost without exception—are a significant contributing source of air pollution.

In my State, control of auto emissions is vital in all major metropolitan areas if we are ever to meet Federal air quality standards. And without annual inspections, there is now no effective way or insuring that in-use vehicles continue to meet emission standards.

I am not convinced by the arguments for repeal of the i/m requirement: The benefits of this program far outweigh its costs.

While there is some cost, the result is a reduction in the health hazards to the heart, lungs and eyes—particularly among children, the elderly and those with respiratory and heart ailments—which many scientists believe are caused by concentrations of carbon monoxide and other automobile-related pollutants in the air.

Another benefit of the inspection and maintenance program is a 4-percent increase in fuel economy.

The Senate Environment and Public Works Committee has heard testimony from States where i/m programs are now operating, indicating that i/m programs significantly reduce emissions with only moderate average vehicle costs.

As part of its comprehensive review of the Clean Air Act, the Environment and Public Works Committee will evaluate the effectiveness of the i/m requirement in accomplishing the purpose of the act.

This piecemeal attack on this portion of the act is ill-advised, and certainly premature.

The argument for increasing State flexibility in this instance is merely an argument for weakening the Clean Air Act.

Although my State has been a leader in other phases of the fight to improve air quality, I deeply regret that it is in noncompliance with the i/m requirement.

As a result, EPA last December undertook to impose sanctions—by withholding certain Federal highway and construction funds—as provided for in the act.

Despite the sanctions, the California Legislature—encouraged by the changing Federal administration and the introduction of proposals like the pending amendment to eliminate the i/m requirement—has not yet adopted i/m legislation.

I believe the proposal to eliminate the i/m requirement is misguided, and I have repeatedly urged the California Legislature to move forward on the i/m legislation.

I believe they will if the requirement is maintained.

But if it is effectively eliminated by cutting off funds for its implementation and enforcement—as this amendment would do—California's legislature will probably not adopt an i/m program, and the effectiveness of the State's vehicle emissions control program—the very heart of its clean air program—will be severely damaged.

I urge that the amendment be defeated.

● Mr. D'AMATO. Mr. President, I support the amendment offered by my distinguished colleague from Pennsylvania. As a member of the Appropriations Committee and a supporter of the committee system, my decision to support the 1-year moratorium on the auto emission inspection and maintenance program is not an easy one. Certainly, it is important that we not make a common practice of attaching legislative riders to appropriations bills. Just as important is my belief that the Senate Environment and Public Works Committee should be given the opportunity to properly address the reauthorization of the Clean Air Act. But this program has

been the subject of great controversy and a source of continuous difficulty to carowners and service station operators in the Metropolitan New York area.

In New York, so many problems and controversies have arisen in regard to this program that the State department of motor vehicles is currently considering withdrawal of its financial support for the monitoring of the program. The New York State Senate has adopted four separate bills this year which would have altered the boundary lines of the auto emission inspection and maintenance program. This action is an indication of how disturbed some of our State officials have become concerning the problems which have arisen in regard to enforcement of this program.

In Rockland County, which is just north of New York City, the regulations that the Environmental Protection Agency has issued under the Clean Air Act, and the implementing program adopted by the State, have proven exceptionally unpopular. This county has been arbitrarily made a part of the New York City metropolitan zone, even though it is 25 miles from downtown New York City and does not have a significant concentration of vehicular traffic. The auto inspection stations in the county have been required to purchase testing equipment at costs of up to $6,000, with no assistance from either the Federal or State government.

As for the cost-effectiveness of this program, I believe the report of the National Commission on Air Quality makes clear there are better ways to achieve clean air goals. According to the NCAQ, in the New York metropolitan-Connecticut region, inspection and maintenance is estimated to cost between $1,035 per ton of hydrocarbons removed in Connecticut and $1,563 per ton of hydrocarbons removed in New York City. Many of the controls currently proposed for implementation are more cost-effective, such as can coil, wire, fabric, paper, and large appliance coating activities, with costs ranging between $25 and $350 per ton. Other controls, such as those on degreasing activities, cut-back asphalt, miscellaneous refinery sources, bulk plants, and gasoline terminals, may result in savings, up to $450 per ton.

Furthermore, the mandatory inspection program penalizes the inspection station owners and automobile owners, neither of whom are responsible for the manufacture of the cars on the road. I believe that this program is just another example of unwanted government regulation into our everyday lives. Last November, the people said, enough is enough.

I submit for the RECORD a letter from New York State Senator Linda Winikow, illustrating the problems I have described below.

THE SENATE,
STATE OF NEW YORK,
February 20, 1981.

Hon. ALFONSE D'AMATO,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR D'AMATO: Earlier this year I wrote to you regarding the New York State automobile emission inspection and testing program. This program, established to comply with the State Implementation Program, mandated by the United States Environmental Protection Agency to enforce the Clean Air Act, is causing serious problems for Rockland County.

It is the feeling of many residents, and I agree, that Rockland should not be included in this program.

If New York State acts to exempt Rockland, either legislatively (I have introduced a bill, S. 906, to that end) or administratively (assuming that the state D.E.C. could fund the needed testing to determine that Rockland's air was good enough—an unlikely, at best, assumption), the EPA will still have to approve the amendment to the SIP reflecting exemption of Rockland.

It does not appear that EPA will, on the merit of the issue, approve any such amendment to the SIP.

Thus, the only hope for Rockland County lies with you. Only your efforts, in coordination with your colleagues, can bring about the pressure on EPA needed to gain acceptance of an amendment to the SIP. If New York acts without EPA approval, it is likely that EPA will take retaliatory action, through the courts to enforce the emissions program in Rockland and/or administratively through the withholding of federal funds for highway and sewage treatment construction. This latter course was recently taken against California and Kentucky.

On behalf of my constituents, and yours, in Rockland County, I urge you to do everything that you can to convince EPA to acquiesce in the removal of Rockland County from the emissions inspection program.

Thank you for your cooperation and consideration. If I can be of any assistance to you, please do not hesitate to contact me. Best personal regards.

Very truly yours,

LINDA WINIKOW,
State Senator.

Mr. President, my vote on this particular amendment does not reflect an opposition to the goals of the Clean Air Act. In fact, I, along with an overwhelming majority of my colleagues and constituents stand firmly behind the commitments we have made to a clean and healthy environment. Recent nationwide polls on the quality of the environment show that 75 percent of Americans believe it is possible to maintain strong economic growth in the United States and still maintain high environmental standards. Nearly 60 percent believe that government regulations and requirements to protect the environment are worth the extra costs added to the products and services the average person buys. But this inspection and maintenance program is not the proper way to go about achieving the goals we all desire.

It had been my hope, and I have expressed it to the chairman of the Senate Environment Committee and to President Reagan, that the Clean Air Act could have been reauthorized and amended this year. But given the time we have necessarily spent on budget and tax measures, and the absence of a program submitted to the Congress by the administration, this seems all to unlikely. I even doubt whether we will seriously consider this law during the second session of this Congress. Therefore, it is incumbent upon us to deal with this problem today, and not force the States to proceed with an unpopular program that may be modified anyway during the reauthorization of the Clean Air Act.

Mr. President, finally, this amendment will merely put a moratorium of 1 year on the spending of money by EPA to enforce this law against the States. It does not preclude a State from adopting an inspection and maintenance program if it so chooses. And it gives Congress the opportunity to address this controversial program during the debates concerning the reauthorization of the Clean Air Act. But it does remove the interference of the Federal Government in the rightful domain of the State governments. I believe it is in the interest of the consumers of this Nation that we adopt the amendment.●

Mr. GARN. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside so that the Senate may consider two amendments which I believe will be agreed to.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. GARN. Mr. President, the Senator from Washington has an amendment which he has discussed with me. I have not been willing to accept any add ons to this bill. However, he will present an amendment and I will then offer an offsetting amendment.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 342

(Purpose: To increase funding for the Council on Environmental Quality)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an unprinted amendment numbered 342:

On page 19, line 6, strike "$1,044,000" and insert in lieu thereof "$1,544,000".

Mr. GORTON. Mr. President, this simply makes the appropriation for the Council on Environmental Quality equal to that authorized by the Committee on Environment and Public Works. There will be a much larger EPA R. & D. account, which has also been utilized for some other changes the Appropriations Committee made.

This was carefully considered in the Environment and Public Works Committee, and I ask for its approval.

Mr. GARN. Mr. President, I am willing to accept the amendment of the Senator from Washington.

Mr. HUDDLESTON. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (UP No. 342) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 343

(Purpose: Reduction of $500,000 in EPA's R. & D. account)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 343.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 22, strike "$181,250,700" and insert in lieu thereof "$180,750,700".

Mr. GARN. Mr. President, this amendment would delete $500,000 from EPA's R. & D. account to provide funds for the amendment just proposed by the Senator from Washington, which was agreed to. I am obviously willing to accept my own amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 343) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

UP AMENDMENT NO. 341

Mr. RANDOLPH. Mr. President, for a brief time earlier this afternoon I had the privilege of a colloquy with the able Senator from New Mexico (Mr. DOMENICI), a valued member of our committee.

I indicated at that time that I would desire later, as the debate proceeded on the pending amendment of the Senator from Pennsylvania (Mr. HEINZ), perhaps even after including language of the Senator from New Mexico (Mr. DOMENICI), to address my remarks in opposition to the effort being made in this body to begin what I sense as a demolition of the basics of the Clean Air Act.

I want to say in the presence of my friend from Pennsylvania, and I note he is on the floor at this time, that I would like to have him agree with me that when we had the legislative effort begun last year in the 96th Congress to have a necessary stretchout to aid the steel industry, it was on a case-by-case basis. That was a modification of the Clean Air Act.

We did that, however, not in any amendment offered to an appropriations bill in this body. We did it after careful and extended hearings. The Senator from Pennsylvania, knowledgeable in matters of steel and coal, and the products of the State that he represents, was active in bringing to passage that legislation.

I am only stressing the fact that on an important matter of that kind it was not through an amendment offered in this body to an appropriations bill, but it was through the orderly process of hearings within the Committee on Environment and Public Works.

Because of that process, we were able to work out a reasoned approach which called upon almost all segments intensely interested in the steel industry and the Clean Air Act to have a uniformity of support for the measure. The Senate action on the bill demonstrates that support.

I am regretful that the Senator from Pennsylvania would now deviate from a course which he followed in that earlier action, in which we both joined because we felt it was very important. But I remind him it was an amendment to the Clean Air Act. Here, this afternoon, we face not an amendment that comes from the committee, or on a bill where jurisdiction would lodge within the committee, but, as has been said by other Senators who oppose the bill, what we face is certainly an illogical way to consider the amendment.

For that reason, Mr. President, I have used perhaps more time than I should to refer to the fact that the Clean Air Act came into being not overnight; the Clean Air Act came into being over a long period of years.

The first statute, to begin that which earlier, we should have done with the support of the American people, the first step along the road of cleaning the air came in the Senate in 1963.

That legislation came out of the committee of jurisdiction.

In 1965 we included for the first time Federal auto emission standards. This was a matter that came before us. We considered it carefully and legislation was brought to this body and was passed.

The same was true, in a sense, 2 years later, in 1967, when further attention as a result of hearings, discussions, debates, differences that were compromised, consensus was brought into being. In the 1970 legislation, I say to those in charge of this legislation, those handling this bill, Senator GARN and HUDDLESTON, this was a departure. It was a move forward. So the 1970 act was a major development in the evolution of the Clean Air Act.

But we were not to stop there. We came back in 1974. Then we were discussing a subject very close, I am sure, to the interests of many Members of this body. We believe very much in the conversion of utility plants from gas and petroleum to the use of coal; and in that matter, the Senator from Pennsylvania and I are joined, that that should take place. It should take place, however, so that you could burn coal, use coal, cleanly, without damaging either the health or the safety of people.

That was the subject of the 1974 act. At the same time, we were to consider that matter which was very controversial—the matter of emissions from automobiles that operate across America, on our roads, including the vast interstate system. We took a very important vote when that came before us. Then, in 1975 and on through 1977, we made revisions to the Clean Air Act. They should have been made. They had the support of not only the Senate but also the House of Representatives. They became the law of the land.

Frankly, I am disappointed that that procedure, which has always been productive, over a period from 1963 to and including the action just a few weeks ago in this body, in 1981, of making those necessary, well-reasoned changes within a law which is basic to the well-being, the safety, and the protection of the people of the United States of America.

I wish the amendment had not been offered. I am sorry that I have to be rather vigorous—but I do not call it vigorous. I am very earnest in my opposition to the amendment. I hope that the Members of the Senate will turn back the effort of the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. I am delighted to yield.

Mr. HEINZ. I thank the Senator for yielding.

I wonder how the Senator would answer the following semihypothetical question.

Let us assume, for the moment, that there is a State or a city that has to enter into a contract or to pass enabling legislation, has to do something to comply with this EPA mandate by January 1, 1982; that, in fact, privately we could all agree today that the mandate as currently written in the law really did not make all that much sense; that there are some modifications that should be made. For example, the National Commission on Air Quality has suggested that the vehicle emissions maintenance inspection program should be applied only to densely populated cities, cities of 500,000 or more.

Let us assume that we all privately agree that the National Commission on Air Quality, which is chaired by Senator HART, was actually right in that; but at the same time, for other reasons, the Clean Air Act being an inherently contentious piece of legislation, we knew that we were not going to pass the Clean Air Act until April, May, or June of next year—not that we wish it to be so, but that for the purpose of this hypothetical example it is so.

How would the Senator from West Virginia or, for that matter, the Senator from Vermont, suggest that we address this kind of issue? I should like to know that.

Mr. RANDOLPH. We cannot agree, of course, that the act's requirement for this type of program is not wise or that it will be detrimental, as the Senator seems to indicate it would be.

It is difficult to answer the Senator, because the Senator is working on an assumption, and he has so said. And we do not share his assumptions.

Mr. HEINZ. I am just giving the Senator a hypothetical example.

Let me restate the example, so that there is no misunderstanding. I am not trying to entrap the Senator or any other of my colleagues. It is simply a practical question, when it comes to dealing with something with which we might disagree.

If an agency has a certain set of

powers and, hypothetically, we are going to modify or restrict those powers or limit them in some way and we know we are going to do that—this, again, is hypothetical—but we know that the enabling legislation is going to take a long time to pass——

Mr. RANDOLPH. Who says we are going to do that?

Mr. HEINZ. It is a hypothetical example.

Mr. RANDOLPH. I understand.

Mr. HEINZ. How do you deal, in the meantime, with what, in this hypothetical example, we all could agree was an inequity, that our wisdom had caught up with our previous actions, as so often happens around here? How do you deal with that?

I am not in the habit of offering riders on appropriations bills. I may have offered one, but I cannot think of one I have offered before.

How do you deal with this kind of situation? The Senator from Vermont has said that this is the wrong way to deal with this. How would he deal with this?

Mr. RANDOLPH. Does the Senator from Vermont wish to answer? I am speaking on my time, and I am delighted to yield.

Mr. STAFFORD. I say to the Senator from Pennsylvania that I do not really see any great point in rehashing all the arguments that have been going on here this afternoon. I am not going to respond to a hypothetical question.

The problem is that the committee, which I have the privilege to chair in this Congress, is hard at work on the Clean Air Act. We have had 23 days of hearings, 1 day devoted to the i/m issue. We had a meeting today with the committee staff to discuss the work coming up in the next few weeks.

In the judgment of this Senator, the i/m issue, as the Senator from Pennsylvania is raising it, is a very small part of a very large, complex, and difficult question with which the committee is trying to deal. We do not want to deal with it bit by bit. If we deal with any single bit of the legislation now, we distort the equities of the whole measure and make it that much more difficult for our committee to come to an equitable result.

We are moving as fast as we can, I say to the Senator from Pennsylvania, and the deadline he refers to is not until January 1, 1982. One reason for an inspection and maintenance program is to get 5 more years, to 1987, in which to reach compliance with the national standards.

Mr. HEINZ. I thank the Senator.

Mr. RANDOLPH. Let me respond further, since the matter has been raised and has been partially answered from our standpoint—although it is difficult to work on a hypothetical question—we cannot pass or defeat legislation on hypothetical levels. I cannot agree that the act's requirement for the i/m programs is not wise. I do not think it is going to be greatly changed.

The sanctions for changes in State schedules to install i/m programs are not mandatory, I say to the Senator. They are discretionary, and he knows that to be a fact.

If a city with, let us say, a minor clean air problem wishes to defer signing a contract or taking some other steps, I do not believe that EPA will impose further sanctions. I would work with EPA and its officials to see that that would not be done.

Mr. HEINZ. I appreciate the Senator saying that. Perhaps he and Senator STAFFORD together would prevail.

I say to the Senator from West Virginia that our Governor requested a delay until October 1, 1982. To the best of my knowledge, EPA did not support that delay; and, as a result, the judge decided on a May 1, 1982, date. The result is that we run the risk of having a very arbitrary and not very well run inspection and maintenance program in our State, because the equipment that the State would like to have in order to run it properly will not be available until the fall of 1982.

Do I correctly understand the Senator to say that he and Senator STAFFORD would be willing to try to prevail upon EPA to go to the judge and try to get him—without any guarantee that he will do so—to change his mind on the date?

(Mr. ABDNOR assumed the chair.)

Mr. RANDOLPH. First of all, I am sure that Senator STAFFORD and Senator RANDOLPH would not go directly to the judge.

Mr. HEINZ. No.

Mr. RANDOLPH. I understand.

Mr. HEINZ. I said go to the EPA.

Mr. RANDOLPH. I understand. I certainly have many, many times talked to the Administrator of EPA. I am sure that every Senator almost who has had problems in connection with EPA feels no reluctance to discuss the matters with the Administrator. We have had several of them. By and large I would say they are, if not eager, certainly understanding of the problems that are brought by individual Senators in reference to certain conditions that exist within certain plants, we will say, or certain political jurisdictions such as a city, in this case, and would discuss those problems with us if we felt that the case was a matter of timing, as the Senator indicates he is concerned about in reference to the problems of inspection and maintenance.

Mr. HEINZ. Let me be as direct as I can in my question. Will the Senator from West Virginia together with, if he agrees to it, the Senator from Vermont, be willing to join me in urging EPA to go on record here for what amounts to about a 5-month delay?

Mr. RANDOLPH. First of all I would not be possessed of the facts to be able to say that this afternoon. The Senator would not expect me to.

But it is certainly appropriate for the able Senator from Pennsylvania to talk to the chairman of the committee and with the ranking minority member of the committee to go into the problem that we discuss today in connection with the matters that the Governor of the State of Pennsylvania and presumably the courts would have to cope with.

Is that sufficient, to talk it over, the three of us as the Senator talks matters over in connection with other agencies of the Federal Government? This agency is not isolated. There are no walls around it and those Administrators that we have had, both in Democratic administrations, I will remind the Senator, as well as Republican administrations, have by and large, although disagreeing often with the legislation, seen the need to modify positions in connection with some pending matter of concern.

Mr. HEINZ. I appreciate what the Senator from West Virginia says.

I note the Senator from Vermont has been temporarily called away from the Chamber. I yield the floor.

Mr. QUAYLE. Mr. President, will the Senator yield to me?

Mr. HEINZ. I yield the floor.

Mr. RANDOLPH. The Senator does not have the right to yield. I have the floor.

Mr. HEINZ. I apologize.

Mr. RANDOLPH. That is all right. I am delighted to yield to my colleague for the asking of a question or speech. I am only observing the rules of the Senate. That is all.

Mr. HEINZ. That is right.

Mr. RANDOLPH. I am delighted to yield for the purposes of the Senator questioning or discussing any matter.

Mr. QUAYLE. Let me explain to the Senator. I wish to associate myself with the Senator from Pennsylvania, if the Senator will yield for that purpose. I wish to have some time for this moment. Or if not I will request it. Is it all right to have this time?

Mr. HEINZ. If the Senator will yield, it is my understanding there is no time limitation.

Mr. RANDOLPH. There is no time limitation. Is that correct?

Mr. GARN. That is correct.

Mr. RANDOLPH. That is my understanding. I know that Senator QUAYLE certainly should be heard in the matter of this kind and others who have perhaps different viewpoints than those of us who are in the committee, and I will say that in this matter there is no majority or minority within the committee. The committee itself feels strongly, both Republicans and Democrats. That does not mean there is any solidarity within the committee—we would not expect it upon this floor in a question of this kind—but I frankly hope that with no time limitation those Senators who feel deeply about this matter will come into the Chamber and express themselves as the Senator who is now on his feet is prepared to do. I feel that that is important.

If I may continue in the remarks that I was making when the hypothetical question was asked, I am joined with the chairman of our committee, Senator STAFFORD, and other members of the committee, both Republican and Democrat, in connection with our desire to turn back, if there is a rollcall, the amendment offered by Senator HEINZ.

We know that there are some members of the Appropriations Committee, who feel as do we on the authorizing committee, but I will not attempt to speak for the Appropriations Committee.

I believe, and I have said this over and over again, that inspection and maintenance programs are a very vital and valuable part of the Clean Air Act.

Later this year, as the committee begins its markup, I say to the members who are on the floor, particularly the Senator from Pennsylvania, as we begin not months away, but we begin the markup on the Clean Air Act amendments, we certainly have every right and responsibility, because of what Senators may feel in this matter, to check into the value of requiring inspection and maintenance programs.

The committee and Congress certainly will make its collective judgment on the wisdom or a lack of wisdom in retaining this requirement which I believe is important.

I expect that this program will be continued. That is my expectation, that it will be continued to be required, certainly for the larger metropolitan areas which have much greater distances to go to meet the health protective air quality standards of our country. That is nothing against the big city. It is only because of the congestion of people. It is only because of the impact of the business and commerce of the city itself that these problems surface and are felt in the larger metropolitan areas of the country.

But that should not be the subject of a debate in the Senate today on an appropriation bill. This is not the hour for that decision. We are, and that has been said before, discussing a bill with appropriation funds for EPA's operations, not a bill, I reinforce, that makes or remakes regulatory policy of the Environmental Protection Agency.

Senator HEINZ' amendment is—I do not wish to speak perhaps too strongly—but I think it is out of place here this afternoon. In fact, by restraining EPA funding and behavior on this matter, his amendment would actually complicate matters for the communities that are required by the Clean Air Act to develop inspection and maintenance programs.

They really, I say to my friend from Pennsylvania, would be left in limbo, without assistance to carry out the programs to which they are already committed.

And if affected States pull back from the i/m program, I say it will make a shambles of the State implementation plans which depend upon vehicle inspection for sizable emission reductions.

Every State which requires a program of vehicle inspection has complied except for California, which is trying to comply, and parts of Kentucky. The only sanctions under the Clean Air Act which would apply to a State which is committed to a program and tries to adjust its schedule for compliance, are discretionary sanctions.

So it seems to me that the Administrator of EPA will not impose discretionary sanctions on States where the vehicle inspection programs will make a minor contribution, if they choose to reasonably delay implementation.

I think we must be very, very careful, I say especially to my colleague from Pennsylvania, not to send a wrong signal out to the States by supporting this amendment. This is not the time, as I have indicated earlier, to indicate to the States a premature abandonment of vehicle inspection programs, that we have done something here on an appropriation bill.

These programs, I repeat and repeat, are basic. They are valuable. They improve the air quality by assuring that emission control systems meet the standards when in actual use. They are protective of the consumers—I speak of the consumer investment in pollution control equipment—making sure that they work. And they will be helpful in giving a basis for warranty claims.

They will yield fuel economy benefits to the owners of automobiles across America. If there is any relaxation, I say to my colleagues, of motor vehicle emission standards or of new car certification or assembly line testing, as the auto industry has suggested, we will need vehicle inspection and maintenance programs even more than we need them as we discuss this matter today.

I again say we should not even send up a little flame or signal to the States to back away from these programs and lose the momentum for clean air, clean cities, health and safety hazard protection under which people can build their lives. If we do so, the advances we have made, the momentum under which we are operating, if once stopped or thwarted or we turn aside from it would be difficult to regain. We have done much on the plus side since 1963, including the most recent bill supported by the Senator from Pennsylvania to help the steel industry on a case-by-case basis.

I hope the pending amendment, therefore, will not have the approval of the Members of this body.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Indiana be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, I want to commend the distinguished Senator from Pennsylvania for introducing this amendment. The amendment is very simple and straightforward. It says that none of these funds may be expended for the purpose of requiring any State to adopt, implement, or enforce a vehicle emission control inspection and maintenance program.

There has been a justified argument, perhaps, that this is not the right time, the right place. But some time has to be the right time and the right place. I certainly congratulate the Senator for offering this amendment and presenting it to the attention of the Senate.

I would just like to tell him what has happened in Indiana. At the last session of the general assembly in Indiana they decided to eliminate the vehicle inspection program as costly to consumers, and it was overwhelmingly decided by the Indiana General Assembly that they would do away with the program.

Then, in comes EPA and "Big Brother" and says, "Well, if you are going to do that then we are going to take away your highway funds."

So what we are experiencing today, Mr. President, is "Big Brother" terrorism in this country where the States are not allowed to make their own decisions.

If these automobiles are not properly attaining the emission controls, maybe we ought to take it up with Detroit or the people that are manufacturing them. Why do we have to take it out time and time again on the consumers of this country?

In March of 1980, Indiana faced the cutoff of $50 million in Federal highway funds because the general assembly failed to enact an inspection and maintenance program. Only through negotiations with EPA, the Indiana attorney general's office and the State air pollution control board could the withdrawal of funding be forestalled. The attorney general's office determined that the air pollution control board had the authority to promulgate rules and regulations for a vehicle inspection and maintenance program. Indiana is in the precarious position of maintaining its good faith efforts in the eyes of EPA for implementing this program in the four counties.

The Indiana Air Pollution Control Division expects the program to be self-supporting. Vehicle owners will be charged a fee, approximately $8.50, for the inspection. These fees are expected to total $6 million per year and will cover the cost of operating the program. The initial capital cost for inspection stations and equipment will be around $10 million, which must be supplied by the independent contractor chosen by the State to operate the facilities. Indiana is now in the process of requesting bids from contractors to operate the program.

The inspection program in Indiana is expected to reduce hydrocarbon emissions in the participating fleet by 25 percent. The overall hydrocarbon emission reduction will only be around 3 percent in the northwest counties and around 6.5 percent in the southeast counties.

The adoption of an inspection program will not guarantee attainment of air quality standards according to the Indiana Air Pollution Control Division. During public hearings held by the air board it became clear that the program is not popular.

The Indiana General Assembly is concerned that a mandatory inspection and maintenance program would be costly to Hoosiers and would not accomplish the goals for which it is intended. Many legislators view the program as an unnecessary intrusion by the Federal Government. I concur in this view. The Clean Air Act in 1970 was written with the intent that the Federal Government could set the standards, but the States would be left to design programs fitting the individual needs of the States; 28 States and the District of Columbia must institute inspection and maintenance programs because they have not attained standards. This is a poor record for an agency which is supposedly worked with the States and not against them.

Legislation was introduced during the last session of the Indiana General Assembly to prohibit the State air pollution control board or the State board of health from implementing the inspection program. Although the legislation enjoyed considerable support, the assembly is hopeful that Congress will take action this year as it reviews the Clean Air Act. I am informed by members of the assembly that should the Congress fail to act, it is possible that action will be taken in Indiana early in the 1982 session to prevent the implementation of such programs.

I want to be associated with the Senator from Pennsylvania, and again I congratulate him for bringing this to the attention of this body.

Mr. HEINZ. Mr. President, if the Senator will yield, I just want to thank him for his support of this initiative. I want to thank him for his very supportive words. I know he has a problem in Indiana like we have in a number of States.

This amendment is not an attempt to rewrite the act, as I know the Senator understands, but is an attempt just to achieve some commonsense, some regulatory moderation, pending disposition of this issue by all of us later.

Mr. GARN. Mr. President, I ask unanimous consent that the Heinz amendment be temporarily laid aside while we consider an amendment of the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 344

(Purpose: To increase the appropriation for housing assistance)

Mr. CANNON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 344.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike out all after "by" on line 13 through line 21 and insert in lieu thereof the following: "$906,985,000 of which $25,112,000 shall be for assistance in financing the development or acquisition cost of low-income housing for Indian families as authorized by section 5(c) of the aforementioned act and of which $75,000,000 shall be for the modernization of existing low-income housing projects: *Provided*, That budget authority obligated under such contracts shall be increased above amounts heretofore provided in annual appropriation acts by $18,087,370,000".

Mr. CANNON. Mr. President, my amendment will increase assisted housing by $272 million. This will bring it to the level provided for in the budget reconciliation bill. This level of funding will support approximately 159,000 units which is still 16,000 units below what President Reagan has requested. I feel this is a modest amendment but one which will show that even in this time of major effort to reduce the Federal budget we still have a level of concern for those who must live in dilapidated or overcrowded housing.

Mr. President, the need remains enormous. According to the Congressional Budget Office, over 11 million Americans are income eligible for housing assistance, yet Congress has assisted only about 600,000 of those needing housing aid. Mr. President, at the present time we are helping less than 10 percent of our Nation's citizens. And, what are we doing with this bill, Mr. President? We are cutting assisted housing even below the conference report on the reconciliation measure.

Now, let me say, I am and always have been one of the strongest supporters of efforts to reduce runaway inflation by sharply cutting Federal spending. But, Mr. President, where else can these people go to get relief? My amendment would meet both goals of keeping within the reconciliation dollar figures and at least helping those who need housing assistance by an additional 3,000 units.

I want to commend the distinguished Senators from Utah and Kentucky for their leadership in fashioning this bill to help meet the goals we have set for ourselves in balancing the Federal budget. I entirely agree that this must be one of our urgent priority efforts. However, we have already cut the housing programs by some 40 percent and I find it most reasonable to provide assistance for assisted housing to the level we have deemed appropriate through the budget reconciliation process.

Mr. President, I ask the Senator from Utah if he might be willing to accept this amendment.

Mr. GARN. Mr. President, I would love to accommodate my friend from Nevada, my fellow Senator from a State where we share an entire boundary together north and south, but, unfortunately, I am not able to accept the amendment and the reason is simply dollars.

The House has appropriated $19,742,645,500, and that is $1.9 billion more than the Senate Appropriations Committee has appropriated. That is far, far beyond what we were able to assimilate as far as the reconciliation process is concerned. It increases our outlays considerably, and this bill is already slightly over what we are allowed in outlays for fiscal year 1982.

There is no doubt that when we get into conference that the Senate position that much below will not be able to hold. So there is going to be additional money provided in housing.

But if I accept more where there is such a very large difference between the House and the Senate here on the floor and add money to it, it reduces the bargaining power and puts me in a difficult position versus the House in conference.

But I expect there will be additional housing money made available. I certainly cannot accept it here in the Senate version with that large difference between the House and the Senate.

Mr. CANNON. Mr. President. I understand what the Senator is saying. I am sure he is supportive of our trying to get more housing in this area. He has certainly indicated he will try in conference to come up with a higher figure. I certainly hope that will take place and I would be very pleased—I think we ought to at least have a voice vote on this issue.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. CANNON. Yes.

Mr. HUDDLESTON. I would say to my friend from Nevada that the distingushed subcommittee chairman, The Senator from Utah, has been interested in attempting to increase the number of unit reservations. This is an area in which I, too, have had some interest. I regret that we are not able to add additional funding at this particular time.

But, as I said in my opening statement, we do hope that we will be in a position in conference to come out with a better figure. The House appropriation figure is higher so we do have some room for compromise. At this time, however, I will have to reluctantly join in opposition to this amendment because of the situation that has been described by the floor manager of the bill.

Mr. CANNON. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (UP No. 344) was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, may I just ask my colleagues if they will do everything they can in conference to take care of this need that is a very urgent need, keeping in mind our overall budgetary situation.

Mr. GARN. Let me respond that, in fact, I think it is inevitable. I doubt very much that the House will accept our figure. So I am sure it will be a compromise some place between the House and Senate figures.

Mr. CANNON. I thank my colleagues.

Mr. GARN. Mr. President, I understand we will now return to the Heinz amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I understand that the present business before the Senate is the Heinz amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Mr. President, I have listened carefully to the debate here this afternoon. I think I can accurately say that the arguments pro and con on the amendment fall in two camps. There is a considerable body of people who understand the thrust of the amendment and

the reason for offering the amendment; namely, to try and rein in regulatory excess.

I would say, based on the substance of the amendment, that we probably have a substantial majority of the Members of this body in favor of the policy. I also sense a number of Senators, particularly those on the Appropriations and the Environment and Public Works Committees, who have very grave procedural reservations. As I have listened to some of the comments, some of the members of the Environment and Public Works Committee have gone out of their way to stay either neutral on the substance of the amendment or, in some instances, support the substance, but even in those cases on procedural grounds indicate strong reservations.

This amendment was defeated in the House of Representatives by only 7 votes. Frankly, I think we would have a very, very close vote here in the Senate with the number of people who might vote against it simply on procedural grounds. Frankly, I would hate to risk seeing this amendment defeated by 1 or 2 votes simply on procedural grounds and thereby create a record that somebody might misconstrue. I think, in this instance, that that would be a mistake.

I have discussed this with some of my other colleagues. Rather than run the risk of sending the wrong message to the Environment and Public Works Committee, I am going to withdraw the amendment. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment (UP No. 341) is withdrawn.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I wish to express my deep appreciation to the Senator from Pennsylvania. It has been a good debate. I think, for many of us, the issues have been clarified.

I wish to tell the distinguished Senator from Pennsylvania that I invite him to work with our committee in trying to work this out as expeditiously as possible so that the guidelines that he is concerned about may be modified as quickly as possible, if that is necessary and if that is the will of my committee.

But, in any event, the Senator from Pennsylvania has an open invitation to work with us in the committee.

Mr. HEINZ. I thank my friend and colleague from Vermont. I look forward to working with him in that regard.

PUBLIC HOUSING AGENCIES

Mr. D'AMATO. Mr. President, I would like to address my remarks to the distinguished floor manager.

I have been extremely concerned about the adequacy of the resources which we are providing to public housing agencies to operate and maintain their existing housing stock.

In recent years, Federal operating subsidies have not kept pace with the growing discrepancy between public housing income and operating costs; and public housing agencies in New York and across the country have had to cut back basic maintenance and security services to dangerously low levels. The accumulation of deferred maintenance and growing tenant dissatisfaction are making ongoing operations increasingly more difficult and are creating a backlog of major capital costs.

In recognition of this problem, the Banking Committee conferees approved a level of $1.5 billion for public housing operating subsidies: An amount which is nearly $300 million above the administration's request. Yet the bill before us contains an appropriation of only $1.2046 billion: The amount requested by the administration.

Now, I recognize that this bill contains a method for covering past and future unanticipated increases in public housing operating subsidies by providing discretion for the Secretary to transfer budget authority from public housing development funds to cover shortfalls in operating subsidy amounts, and I believe that this is an innovative approach to the problem. But, my concern is this:

Although HUD's own figures show that there is a shortfall of $247.7 million in funding for operating subsidies for fiscal year 1981, at no time did the administration come forward to request funding for this purpose; in fact, they withdrew the $100 million supplemental request which had been put forth by the Carter administration. I further understand that the administration is opposing this bill based upon their opposition to this very provision. I am concerned that we make the committee's intent clear.

Mr. GARN. Mr. President, if I may respond. The bill before us requires the Secretary to use no less than 6.3 percent of the budget authority allocated for public housing development to make up the balance of the shortfall in fiscal year 1981 operating subsidies, estimated at $147.7 million when adjusted for the $100 million supplemental already allocated.

We have provided the Secretary discretion to use up to 17 percent of the funds available, which totals a little over $400 million, because it is not clear at this time exactly how much will actually be needed to fund housing authorities in fiscal year 1982. One of the principal purposes—and, in fact, the principal appeal—of this provision is that it provides the flexibiilty to respond to needs as they arise, without having to go through the flurry of emergency supplemental appropriations as we have done over the past 2 years.

Mr. D'AMATO. I understand and appreciate the wisdom of this provision in dealing with the troublesome problem of the past of accurately projecting operating subsidy needs. I am just concerned, in light of the administration's serious opposition to this provision, that we make it clear that it is the committee's intent that the Secretary use the discretion provided under this section to the extent required to fund public housing agencies in accordance with the performance funding system.

Could I ask the distinguished chairman if it would be possible to amend the committee's report language to clarify this point, so that there is no question as to the intent of the committee. Otherwise, I fear we may have developed a very innovative solution to a very difficult problem which will end up being no solution at all, because it will not be put into effect by the Department.

Mr. GARN. I would be pleased to add the clarifying language, if my colleague on the other side of the aisle agrees; and I appreciate the Senator's suggestion.

Mr. HUDDLESTON. The intent of the committee in providing this transfer provision was certainly as the Senator described it: that public housing agencies be funded as required under the performance funding system in fiscal years 1981 and 1982. I believe that the clarifying language could be very helpful in light of the administration's opposition to this provision. I would be pleased to accept it.

Mr. DOMENICI. Mr. President, as chairman of the Senate Budget Committee, I must comment on the HUD-independent agencies appropriation bill, H.R. 4034. This legislation is important not only because of the many billions of dollars in public funding which it provides for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the National Science Foundation and other independent agencies, but also because it is the first appropriation bill considered by the Senate for fiscal year 1982. Since this is the first of the regular fiscal year 1982 appropriations bills to be considered by the Senate, we must undertake the consideration of this bill with the utmost care and caution.

Mr. President, 1981 has been a most remarkable year. It has seen, at long last, a congressional response to the cries of the people for lower Government spending and a lessening of the terrible tax burden imposed on our citizens. Time after time this year in the House and the Senate, we have voted for spending controls which virtually no one thought possible 6 months ago. Led by our courageous President, we have forsaken the spending habits of the past. On the most difficult and sensitive issues, this body has made hard choices. It has followed the President. It has done what had to be done. As we stand here today, with final action underway on the omnibus reconciliation bill of 1981, we are faced with another hard choice: the choice of whether or not to stand with the President and stand with the people, and enforce the spending restraint we have publicly pledged ourselves to time and again this year.

This is the moment when the need for spending restraint is greatest. We must not fail now lest we begin to renounce the progress we have made to this point. Mr. President, the Congress has put the Nation on a spending diet in 1981. This bill essentially follows that prescription.

Outlays under this bill, together with spending already approved and anticipated supplementals, will breach the HUD Subcommittee's allocation under the section 302(b) Budget Act crosswalk for outlays by about $300 million. The conference with the House could increase this figure. Please observe, though, that this bill holds the line properly on budget authority, coming in $230 million under its target.

Chairman GARN has crafted this appropriation in the spirit of his outstanding work on the reconciliation bill. While the product before us is not perfect on the outlay side, careful administration of the funds by this tightfisted administration, coupled with our staunch resistance to unnecessary supplemental appropriations next year, should repress spending sufficiently. It is imperative that the Appropriations Committee and the Senate continue to enforce restraint in conference and next year if we intend to win the ultimate victory for the President's economic recovery plan.

Throughout 1981, the Members of this body, on both sides of the aisle, have risen repeatedly to express their support of the President and his program for economic recovery. We have proudly associated ourselves with the battle to control Government expenditures.

Mr. President, the Senate conferees must staunchly defend their position in conference in the spirit of reconciliation and the President's program.

Now is the time to stand firm and make good on our commitments. Now is the time to reaffirm the message that the Senate will endure in this fight and hold the line against spending.

Mr. President, I ask unanimous consent that a table showing the relationship of H.R. 4034, the HUD-independent agencies appropriation bill, 1982, to the first budget resolution for fiscal year 1982 be inserted in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HUD-INDEPENDENT AGENCIES SUBCOMMITTEE
[In billions of dollars]

	Fiscal year 1982	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed		23.4
H.R. 4034, as reported in Senate	60.5	32.7
Possible later requirements:		
Veterans' compensation and readjustment benefits	1.1	1.0
October 1981 pay raise	.2	.2
Environmental Protection Agency construction grants pending reauthorization	2.4	(1)
Total	64.2	57.1
Subcommittee crosswalk 302(b) allocation under First Budget Resolution	64.4	56.8
Possible underage/overage	−.2	+.3
H.R. 4034:		
President's request	63.2	32.5
House-passed	62.6	32.7

[1] Less than $50,000,000.

Note: Totals may not add due to rounding.

NATIONAL SCIENCE FOUNDATION

● Mr. GLENN. Mr. President, I believe we should provide additional appropriations for the National Science Foundation's research and related activities account, above the funding provided by the committee in H.R. 4034, the HUD-Independent Agencies Appropriations Act.

The National Science Foundation's research and related activities appropriation account supports the Foundation's science, engineering, policy, international research programs, and expenses. NSF's January budget request for fiscal year 1982 for this account was cut by $218 million or 17.6 percent in the administration's revised budget—from $1,238,100,000 to $1,202,100,000.

As the Committee on Appropriations report indicates, the committee, as I do, disagrees with many of these cuts. Specifically, the committee recommended increases totaling $17.75 million as follows: $12.6 million for biological, behavioral and social sciences; $2 million to fund the U.S. contribution to the International Institute for Applied Systems Analysis; $3 million for intergovernmental programs; and $150,000 for the Alan T. Waterman award.

In addition, the committee report states that it "expects the Foundation to find funding" for the experimental program to stimulate cooperative research (EPSCOR), the small-scale instrumentation program for 2- and 4-year colleges, and the planning and evaluation program, all of which the administration zeroed out in its revised budget—although the January request for these three programs totaled $10.05 million.

Thus, the committee's report language could be interpreted to mandate that NSF spend as much as $27.8 million in these targeted program areas, but provides it with only $4 million above the administration's request level—a short fall of $23.8 million. What will be the logical result of this action? We will simply be robbing Peter to pay Paul. If we have this shortfall of $23.8 million, then other basic research areas funded by NSF will suffer. We will, in effect, be aiding and abetting the diversion of funds from such worthwhile areas of basic research as mathematical and physical sciences; engineering; astronomical, atmospheric, earth, and ocean sciences; and the antarctic research program.

While I may not agree with some of the committee's specific recommendations for these funds, I do not believe that we should require other worthy basic research programs supported by the Foundation to suffer. I would point out that the House allowance for the NSF research and related activities appropriation account is $40.9 million more than the Senate's recommendation—more than enough to cover the potential $23.8 million shortfall. I would hope that my colleagues would join with me in supporting the higher level of funding in the conference committee—at least enough to insure that the funding levels of NSF's other basic research programs will not be decreased.●

GREAT LAKES RESEARCH CENTER

Mr. RIEGLE. Mr. Preident, I would first like to thank the committee for approving the funding for Great Lakes research and second for realizing the value of the research performed at the Large Lakes Research Station at Grosse Ile, Mich.

In 1978, the United States signed a water quality agreement with Canada. Under the terms of the agreement, the United States is required to perform surveillance and research on pollution in the Great Lakes, and to participate in a mutual exchange of data with Canada. The Large Lakes Research Station at Grosse Ile, Mich., enables the United States to uphold the agreement.

Along with providing information on water quality, the lab conducts a large portion of all freshwater research in the Nation. Because of the potential impact on the general public health, the research of the lab is vitally important to all of us. Its work covers toxic substance transport and waste disposal, both of which are critical to water quality.

Grosse Ile also has a substantial impact on the economy of the entire region. Employing the data from the lab, decisions are made as to how restrictive discharge permits for factories should be. It is through this procedure that Grosse Ile can be a major factor to economic development in the Great Lakes States.

Mr. President, I am glad to see that the committee has realized the critical importance that the Large Lakes Research Station has for the entire Nation. Without the data that the lab provides, the United States would suffer an irreparable loss both nationally and internationally.

Mr. GARN. Mr. President, I know of no further amendments to be offered. I ask for third reading and I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Georgia (Mr. MATTINGLY), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. HEFLIN) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 87, nays 6, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—87

Abdnor	Byrd, Harry F., Jr.	DeConcini
Andrews	Byrd, Robert C.	Denton
Baker	Cannon	Dixon
Baucus	Chafee	Dodd
Bentsen	Chiles	Dole
Biden	Cochran	Domenici
Boren	Cohen	Durenberger
Boschwitz	Cranston	East
Bradley	D'Amato	Exon
Bumpers	Danforth	Ford
Burdick		Garn

Glenn	Levin	Riegle
Gorton	Long	Roth
Hart	Lugar	Rudman
Hatch	Mathias	Sasser
Hatfield	Matsunaga	Schmitt
Hawkins	Melchers	Simpson
Hayakawa	Metzenbaum	Specter
Heinz	Mitchell	Stafford
Hollings	Moynihan	Stennis
Huddleston	Murkowski	Stevens
Inouye	Nickles	Thurmond
Jackson	Nunn	Tower
Jepsen	Packwood	Tsongas
Johnston	Pell	Wallop
Kassebaum	Percy	Warner
Kasten	Pressler	Williams
Kennedy	Pryor	Zorinsky
Laxalt	Quayle	
Leahy	Randolph	

NAYS—6

Eagleton	Helms	Proxmire
Grassley	Humphrey	Symms

NOT VOTING—7

Armstrong	Mattingly	Weicker
Goldwater	McClure	
Heflin	Sarbanes	

So the bill (H.R. 4034) was passed.

Mr. GARN. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BOSCHWITZ. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Madam President, let me just thank those who participated in the passage of this bill, particularly the staff, Wally Berger, Carolyn Fuller, Colleen Fisher, and Cathy O'Connor, and my high regard for the chairman of the Appropriations Committee, Senator HATFIELD. It has been a great pleasure to serve with him this year. He has done a remarkable job as the new chairman of the Appropriations Committee. He has treated each subcommittee chairman with great respect and fairness.

Madam President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 4034.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Madam President, I move that the Senate insist on its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mrs. KASSEBAUM) appointed Mr. GARN, Mr. WEICKER, Mr. LAXALT, Mr. SCHMITT, Mr. D'AMATO, Mr. SPECTER, Mr. HATFIELD, Mr. HUDDLESTON, Mr. STENNIS, Mr. PROXMIRE, Mr. LEAHY, and Mr. SASSER conferees on the part of the Senate.

THE SENATE AGENDA

Mr. ROBERT C. BYRD. Madam President, I take the floor to inquire of the distinguished majority leader as to what the program is for the remainder of the day, for tomorrow, for the week, and if he can foresee it.

Mr. BUMPERS. Madam President, may we have order?

The PRESIDING OFFICER. There will be order in the Chamber.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. I thank the Chair.

Madam President, I am getting a lot of questions on my side of the aisle from my colleagues as to what the program is for the remainder of the week and as far into next week as possible, if the Senate is going to be in next week, and I am sure the distinguished majority leader may not be able to answer all questions, but we would appreciate it if he could tell us what he can at this time with respect to the program for the remainder of the week and if we are in next week what it will be then.

Mr. BAKER. Madam President, I thank the minority leader.

I, indeed, have had some informal conversations on this subject. I wish now to give an overview of where we are and where I think we are heading.

The major business, of course, to be dealt with is the reconciliation conference reports on the budget and the tax bill. As a result of meetings that have gone on for much of the day today and consultations with the minority leader and others, it appears now likely that an arrangement will be reached which will permit us to go to final consideration of the budget reconciliation conference report this week, tomorrow. I expect a vote on that conference report tomorrow.

In addition to that, on tomorrow I expect that I will ask the Senate to proceed in executive session to the nomination of Rex Lee whose name has been on the calendar for some time.

Beyond that, the situation is less clear. For the remaining item, the conference on the tax bill and the disposition of the conference report is something that will require further examination from the standpoint of time required to deal with it by the distinguished chairman of the Finance Committee, Mr. DOLE, and his counterpart on the House side, Congressman ROSTENKOWSKI, the chairman of the House Ways and Means Committee.

There seems to be a division of authority or a division of opinion on whether we can finish the tax bill conference report and have it back to the Senate in time to dispose of it by Saturday. Frankly, that is my hope. I hope we can have it back and complete action on the tax bill conference report by Saturday night late.

But, if it is clear that we cannot do that, if it is not possible to do that on Saturday, I would not presume to ask the Senate to be in on Sunday. Instead, I would ask that the conferees proceed to do the best they can and set a day in the following week, this coming week, for disposition of that conference report. The estimates are either Tuesday or Wednesday of next week. And we would not then be in on Saturday or Sunday, but I reiterate that has not yet been finally determined, and I ask Senators to bear with me for a little while longer while Senator DOLE and Congressman ROSTENKOWSKI attempt to get a better reading on how long it will take them to complete the voluminous details attendant on passage of the tax bill.

Madam President, if I could yield at this point to the distinguished chairman of the Finance Committee. I will do this so he may give us some additional information.

Mr. DOLE. I thank the majority leader and I thank the minority leader for asking the question.

Madam President, it is my view that we can finish our work on the conference sometime on Saturday. It is not the problem of the conference. It is the problem of drafting, and I have just discussed this with the Joint Tax Committee. They believe they can tell me later this evening whether or not it is humanly possible—there is a lot of drafting involved—to have that back in form for us to act on it if we were still in session Saturday evening.

I will be able to report that to the majority and minority leaders late this evening or early tomorrow morning.

Mr. BAKER. Madam President, I thank the distinguished chairman of the committee.

Then either tonight, more likely in the morning shortly after we convene, I will try to have a definite statement for the Senate on whether we will be in on Saturday, and if we are in next week what day we will be in next week.

Mr. KENNEDY. Madam President, will the Senator yield?

Mr. BAKER. Let me make one further remark if I may.

Madam President, the Rules Committee of the House of Representatives will meet at 6 p.m. tonight to try to deal with certain aspects of the arrangement we have attempted to work out with the Speaker and others. Dependent on the outcome of that meeting and the construction of the language for the agreement that has been discussed in respect to the budget reconciliation conference report and the tax bill, I expect to be able to ask the Senate to consider the tax bill and appoint conferees either tonight or tomorrow. I will give all Senators notice at the time of the incoming of that message from the House of Representatives so that they may be present if they wish and in the Chamber.

In the meantime, I have a unanimous-consent request, since we have kept the House messenger at bay for some time, that I believe has been cleared. In any event I hope so.

Madam President, I ask unanimous consent that the bill H.R. 4242 when received by the Senate be held at the desk and the majority leader after consultation with the minority leader be authorized to call it up without debate any time thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Madam President, did the Senator from Massachusetts wish me to yield?

Mr. ROBERT C. BYRD. Madam President, I ask one further question, with the Senator's indulgence. As I understand the distinguished majority leader, there will be no business other than the action on the tax legislation, the conference report, the action on the reconciliation measure, and the action on the nomination of Mr. Lee?

Mr. BAKER. Yes; with the exception of any matters that we might agree by

unanimous consent that could be dealt with in the meantime.

These are the major items that remain to be done before the Senate adjourns for the August recess.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader and I thank the distinguished Senator from Kansas.

Mr. BAKER. Madam President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Madam President, I thank the majority leader.

He has answered my question by indicating that we would have some notice prior to the time the conferees or at the time the conferees were going to be appointed on behalf of the Senate.

Mr. BAKER. I am sorry. I was distracted.

Mr. KENNEDY. Will the Senator advise us as to when the conferees are going to be appointed by the Senate to the Finance Committee bill?

Mr. BAKER. Yes. I might say to the Senator that it is possible that we will do that tonight. It is more likely that we will do it in the morning.

I am advised by the Speaker that the House of Representatives will appoint their conferees on tomorrow.

Mr. BUMPERS. Madam President, will the Senator yield further?

Mr. KENNEDY. Madam President, if the Senator will yield further, I hope to be able to make a statement at the time the conferees are appointed, but I wish to just indicate, since the majority leader is trying to give some guidance to the Members of the Senate on this issue, about when we might consider the final disposition of the tax bill. I respect the rights of the conferees to make judgments and decisions on those matters that will be considered in conference. But this one Senator, and I think there are a number of other Senators, who believe very strongly that if there is a substantial or significant yielding to the House position on the additional tax relief to the major oil companies, that issue will be debated and discussed at some length.

I make this observation recognizing the conferees are going to have to do their job, but I also make it as one who voted in opposition to the tax bill because of that particular provision.

I thank the Chair.

Mr. BAKER. Madam President, I understand and appreciate the interest of the Senator in the subject, particularly in the procedure that will lead to the final resolution of the tax bill.

He has my personal assurance that I will give him notice to the extent that it is humanly possible to do so of the time when I will ask the Senate to proceed to the consideration of this measure.

Mr. KENNEDY. Madam President, the majority leader and the chairman of the Finance Committee have been extremely fair during the whole discussion and debate with both those who supported their position and those who opposed it.

I thank the Senator and am grateful.

Mr. BUMPERS. Madam President, will the Senator yield?

Mr. BAKER. I yield first to the Senator from Arkansas.

Mr. BUMPERS. Madam President, let me inquire of the leader, I do not think anybody has any glimmering doubts about what the outcome of the vote will be once the conference report on the tax bill is sent back here. Has the majority leader considered, in light of the fact that there are an awful lot of schedules involved here, getting some request to have a voice vote on that?

Mr. BAKER. Madam President, I personally would not object to that. But we are dealing with the biggest tax bill, I guess, in history.

Would the Senator permit me to consult a little with others before I give an answer to that? I will examine that and give him a further answer as soon as possible.

Mr. CHILES. Madam President, would the leader give any indication, if he can, when we can look for the conference report vote on the reconciliation?

Mr. BAKER. Yes, Madam President, it would be my hope that the conference report would be before the Senate sometime late tomorrow afternoon, and we could dispose of it during the day.

Mr. CHILES. Late in the afternoon?

Mr. BAKER. It depends really on when the House gets through with it. I really just do not know how soon it will turn its attention to the conference report, but sometime in the afternoon, probably late afternoon, would be my best judgment at this time.

I will also try to have more information for the Senator from Florida when the House will act on the conference report either later today or the first thing in the morning.

Mr. LEAHY. Madam President, I may have missed part of this, but is it the intention of the distinguished majority leader if he feels these matters can be disposed of, say, by Saturday, even a late Saturday session, to do it then rather than coming back on a day certain next week?

Mr. BAKER. That is my distinct preference.

Mr. LEAHY. Has consideration been given—I almost hestitate to ask this question—concerning the fact that, as the Senator from Arkansas stated, it is almost a preordained thing as to what will happen in the final vote on the tax bill both here and in the other body, and has consideration been given to the possibility of voting on it in September if conferees are still working into the middle of next week?

Mr. BAKER. No, Madam President. I will say in all candor and deference to my friend from Vermont it is my determination to dispose of the tax bill in August.

Mr. LEAHY. Madam President, I appreciate the candor of the majority leader and I thank him very much.

Mr. DOLE. Could I just respond to the Senator from Vermont?

Mr. BAKER. Yes.

Mr. DOLE. We have made a quick check of the differences between the Senate-passed tax bill and the so-called Conable-Hance proposal. Many of the provisions are identical. In fact, the major provisions are identical. We have identified about 17 or 18 areas where we think there will be some controversy, whether it is straddles, whether it is oil or whether it is refundable credits in day care. There are about 16 of them that I think will take some time. So we are not talking about a big conference on an abnormally large tax bill, because the rates are the same, the business cuts were substantially the same, and it is only the so-called add-ons that will take some time.

There are some of those that will take a little time. I hope we can have this finished if we start tomorrow—Chairman ROSTENKOWSKI must be gone tomorrow in the morning, he has a prior commitment, but he will be back at 1 o'clock. We will have an informal meeting of myself, Senator LONG, Congressman CONABLE, and Congressman ROSTENKOWSKI, and then meet later with all the other conferees, and I think we can work this out by tomorrow night.

Mr. BAKER. Madam President, I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the majority leader for yielding.

Am I correct in understanding that if we dispose of the reconciliation conference report and the Lee nomination, which you mentioned, at some time between now and the close of business on Saturday, if we are in Saturday and get those things done, will we still have to carry over until next week with the tax bill conference report, which everybody hopes will not happen, but it may happen; is the majority leader saying that that will be the only matter taken up in the subsequent week or whenever we finally take it up, the tax bill?

Mr. BAKER. Yes, Madam President, that is what I am saying, except by unanimous consent where there might be other matters that we can deal with an should deal with, but I do not anticipate any effort to schedule other business.

In that connection, I responded to a query from the minority leader as to whether this would be the only business, and I answered in the affirmative, with the exception of items which we can do by unanimous consent.

I wonder if I may ask the minority leader if he will share that view with me, that no other business be presented to the Senate except those measures?

Mr. ROBERT C. BYRD. Madam President, I hope that would be the case.

Mr. MATHIAS. Madam President, will the majority leader yield before this gets cast in concrete?

Mr. BAKER. Yes, I yield.

Mr. MATHIAS. I have one small item, the President's nominee to be the Public Printer who has been waiting a long time to be confirmed. The Rules Committee is going to make a very special effort this afternoon to report that nomination, and I hope the Senate will agree to consider it. I do not believe it is a controversial matter.

Mr. ROBERT C. BYRD. Madam President, will the Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Because I want to change the answer I gave to the majority leader. I said I hoped it would. The answer is, "yes," to his question, that

this is the only business remaining, as he has said, the conference report on the tax bill, the conference report on the reconciliation bill, and the nomination of Mr. Lee. That is all.

Mr. BAKER. May I say to the Senator from Maryland that I will make an effort to clear that nomination by unanimous consent, and assuming we can gain that consent in the time we have left before we go out.

YEAS AND NAYS ORDERED ON LEE NOMINATION

Mr. METZENBAUM. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. METZENBAUM. First, I would like to ask with reference to the position of those of us who want to have a rollcall vote on the Lee nomination that, perhaps, could be agreed upon now.

Mr. BAKER. Yes. I ask unanimous consent that it be in order to ask for a rollcall vote on the Lee nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Would the majority leader be good enough to indicate whether the Senator from Ohio is correct in his understanding that when the conference report comes to the floor of the Senate the rules require that it be printed?

Mr. BAKER. Madam President, I assume the Senator is speaking of the tax bill conference report?

Mr. METZENBAUM. I am.

Mr. BAKER. Madam President, once again I would not presume to interpret the rules of the Senate. That is a matter that addresses itself to the Chair, or in some cases to the entire Senate.

I hope the Senator is not suggesting that he would ask for the conference report to be read. It may indeed be voluminous, and I will be glad to supply him with a copy in advance in order to reduce the possibility, if he would make that request.

Mr. METZENBAUM. Well, the Senator from Ohio has always tried to be very candid and very clear with the distinguished majority leader, and the majority leader has always been candid with the Senator from Ohio. The majority leader and the chairman of the Finance Committee have been extremely cooperative in the handling of this measure.

I think the majority leader is aware of the fact that a number of us have had some very strong views with respect to the extra $26 or $32 billion that is to be included in the House bill for the oil companies over and above the $20 billion that is in the Senate bill.

Since the Senator from Ohio has definite feelings that our Nation is concerned about getting this tax bill brought to an early conclusion, but also recognizes that the people of this country are not aware of what the House bill contains in this respect, I wanted to advise the majority leader that I think it may take some time to let the people of the country become aware of what the whole issue is about, and by putting it over during the printing period it might very well give them an opportunity to digest better what the actual facts are. So I thought I ought to let the Senator know what my thinking is.

Mr. BAKER. Madam President, as always I am grateful for his consideration and concern and for the advance notice. I know what I am about to say will be accepted in the best of spirit, and since he has been kind enough to give a preview of what he has in mind, I think he should know it is not beyond the realm of possibility that it will be necessary to file a cloture motion to limit debate on the bill. So I think we sort of understand each other.

As in the past, the Senator from Ohio is a worthy adversary, when he is an adversary, and a great ally when we are together, but always a distinguished Senator. So one way or the other we will resolve this issue, and I would only express the hope that we will do it very promptly.

Mr. METZENBAUM. The majority leader may or may not know that I voted for the Senate bill. It was a little difficult to digest. It was quite a bit more than I thought should have been in it. But I think we will address ourselves clearly on the subject tomorrow, and we will see what happens at that point.

I hope the Senate conferees will do such a superb job with the leadership of the Senator from Kansas and the Senator from Louisiana that we will be able to get out of here very promptly, which would be my wish, and I know reflects the views of my fellow Members of the Senate.

ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 6 o'clock and that Senators may speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, I wish to announce again that there will be no more record votes tonight and I will not make an effort to appoint conferees on the tax bill tonight.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER (Mr. COHEN). The Senator from Illinois.

OMNIBUS RECONCILIATION ACT—UNEMPLOYMENT COMPENSATION PROVISIONS

Mr. PERCY. Mr. President, last month when the Senate had under consideration the Omnibus Budget Reconciliation Act of 1981, I offered an amendment on behalf of myself and my colleague from Illinois, ALAN DIXON, to qualify Illinois for the cap, provided for in the Finance Committee section, on the Federal penalty tax which is imposed on employers in States which have defaulted on their debts to the Federal Unemployment Trust Fund. The Finance Committee language would have frozen the penalty tax, which normally escalates at a rate of 0.3 percent a year, at 0.6 percent provided certain requirements were met. Our amendment was modified by the Senator from Pennsylvania (Mr. HEINZ) and subsequently passed by the Senate.

Although our amendment moved the State of Illinois closer to a position of qualifying for the cap, it did not accomplish all that we had hoped for. I was considerably reassured by the commitment made to me at the time by the distinguished chairman of the Finance Committee that he would seek to accommodate the needs of the State of Illinois to the greatest extent possible when the reconciliation bill reached conference.

I am very pleased that the Senate and House conferees have reached agreement on this issue in a way that measurably will assist the State of Illinois.

Under the compromise agreed to, Illinois will be eligible for a cap of 0.6 percent on the penalty tax for the first 2 years during which the provisions are in effect, provided that it neither reduces State UI taxes nor increases State UI benefits. During the final 2 years of the UI legislation, Illinois will undoubtedly continue to qualify for a cap under other requirements adopted by the conferees with respect to the state's tax-benefit ratio and a prohibition on net new borrowing.

Mr. President, like many of the Northern and Midwestern industrial States, Illinois has suffered high unemployment in recent years which has required State borrowing from the Federal trust fund in order to meet benefit payments. While the State clearly intends to repay its debt and has taken dramatic steps in recent weeks to get its own UI system in order, we still have a State economy in bad condition. An escalating penalty tax on Illinois employers over the next few years would hamper even more the effort we are all making to improve the Illinois business climate and turn its economy around. The sooner we recover, the sooner we will be able to have a stronger State trust fund and this will be of benefit to everyone. Therefore, it was of critical importance that Illinois qualify for this cap.

At this time I would like to extend my sincere thanks to the chairman of the Finance Committee for all he has done to resolve the matter in Illinois' favor. It has been a special privilege to work with him on this issue and, in light of all the responsibilities he has had over the last few weeks, I particularly appreciate his attention to a matter that meant so much to my State.

I would also like to thank my distinguished colleague and friend, Senator DIXON, for his splendid cooperation and for the diligence with which he worked his side of the aisle to convince them of the genuine need for relief in our State. Finally, I am grateful to both the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Pennsylvania (Mr. HEINZ) for their assistance and attention to this matter in conference.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, yesterday President Reagan won easy approval of

his 3-year tax cut, virtually assuring enactment of his entire economic program. After the vote, which passed by margins of 238 to 195 in the House and 89 to 11 in the Senate, President Reagan said that he believes the first 6 months of 1981 "will mark the beginning of a new renaissance in America."

Let me state here that I believe the tax cut passed yesterday will serve to strengthen the American economy, but only if something is done to lower the present high rates of interest which will only serve to stifle any of the benefits provided by the tax cut. We cannot afford to have our fiscal and monetary policies running on a collision course.

Virtually everyone seems to agree that we need a massive program of investment in new plant and equipment in order to boost productivity, lower costs and make American products more competitive. But how much investment is going to take place with the prime rate hovering at 20 percent?

Thus, we see that we are placed in a no-win situation, Mr. President. There is widespread agreement on the need for major investments in the construction of housing, industrial capacity, energy facilities and public works. Yet, we have a monetary policy which makes investment incredibly costly. The Congress is granting major new tax incentives to try to lower the cost of investment. At the same time, the action of monetary authorities are raising investment costs. The Government has stated its intention to make controlling inflation a top priority, yet the present interest rate policy may be the single greatest contributor to inflation.

IN SUPPORT OF THE ECONOMIC RECOVERY TAX ACT OF 1981

Mr. MURKOWSKI. Mr. President, as the Senate completes its consideration of the Economic Recovery Tax Act of 1981, we stand at the threshold of fundamental change in the economic policies of this country. This bill represents a critical part of a comprehensive plan to solve our Nation's economic problems of high inflation and low productivity. I am confident that the provisions contained in this bill will work to solve both of these problems and will bring much-needed relief to the taxpayers of this Nation.

The President in his forthright proposals for economic recovery, and the Senate in its endorsement of these proposals, are offering a program that will benefit both individuals and businesses in the United States. Our Nation has needed a long-term, commonsense approach to treating our economic ills. Previous attempts to fine-tune our economy have not worked. I commend the President for his courage in addressing the problems in our economy in a comprehensive manner.

This bill will reduce marginal tax rates for individuals by 25 percent across-the-board in the next 3 years: A 5-percent reduction on October 1, 1981, 10-percent reduction on July 1, 1982, and a further 10-percent reduction on July 1, 1983. At the same time, the top marginal rate of 70 percent will be reduced to 50 percent, regardless of source, eliminating the distinction between earned and investment income.

The bill also provides for an accelerated cost recovery system that will help business in America to keep pace with inflation. This provision allows an accelerated write-off of capital expenditures for tangible property by means of simplified rules. Businesses will be able to depreciate machinery, equipment, and real estate in 3, 5, and 10 or 15 years, respectively.

I am confident that these changes in our tax laws will encourage savings and provide relief from the effects of inflation that push individuals into higher and higher tax brackets. By allowing wage-earners to keep more of their real income, we can rein till the incentive to work. On the business side, accelerated depreciation schedules and other tax cuts will allow all businesses, both big and small, to keep pace with inflation and to make greater investments that will encourage expansion. The result of this tax relief will be a higher level of productivity and a growing economy that will benefit everyone.

Also, both the House of Representatives and the Senate adopted a provision which will index tax rates to increases in the Consumer Price Index. To take effect in 1985 this will eliminate the effect of inflation pushing wage earners into higher tax brackets which robs Americans of their real income.

In addition to these provisions of the bill, I am pleased that the Senate included measures to encourage a greater level of savings, reduce the marriage tax penalty, allow a greater level of contribution to retirement accounts, encourage charitable contributions, and reduce the estate and gift tax. These additional tax cuts will help to reduce further the effect of inflation on everyone.

Mr. President, the performance of our economy has fallen far below its potential. Without this tax cut package, the performance of our economy would continue to decline. The real growth of the economy—a true measure of our economic health—slowed in 1978 and again in 1979, and came to a halt in 1980. At the same time interest rates and inflation rose to exceptional levels. I share the belief of the President that a program of multiyear tax cuts and Federal budget reductions will reverse this situation. It will, in brief, revitalize our economy.

I would like to express my admiration for Senator DOLE, chairman of the Finance Committee, for his dedicated leadership in guiding this bill through the Senate.

THE SOURCES OF TERRORISM IN TURKEY

Mr. HAYAKAWA. Mr. President, I call to your attention an article which appeared in the Wall Street Journal on June 22, 1981, "The Sources of Terrorism in Turkey." It illuminates a most distressing and serious problem. A small but radical and violent group of terrorists is following a policy of worldwide violence to further their Marxist war of liberation against Turkey. The Secret Liberation Army of Armenia's latest act of violence involved the assassination of two Turkish diplomats in Paris on March 4, 1981. This raises the number of victims killed by this group to 17 since the assassination of the Turkish Consul General and Consul in Los Angeles in 1973.

Turkey, in the past beset with various economic and political problems, is now finding its way to a freer, firmer future. As a NATO ally, we should provide sympathy and support to help stop this kind of violent terrorism.

These Marxist terrorists do not represent the true and legitimate concerns of the Armenian people in Turkey. Bombings and assassinations do nothing to help the Turkish Armenians, and can serve only to promote international hostility. Acts of violence such as these violate fundamental standards of international and diplomatic behavior, and must be universally condemned. The inviolability of diplomatic personnel is essential in maintaining international order, and must be rigorously defended in these uncertain times. Public recognition and understanding is the first step in supporting that order. I therefore ask unanimous consent that Professor Yalcin's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 22, 1981]

THE SOURCES OF TERRORISM IN TURKEY

(By Aydin Yalcin)

ANKARA.—General Kenan Evren, the Turkish head of state declared in one of his speeches recently that 5,000 people had been killed by terrorists in Turkey in the last two years, a heavier toll than that of the Sakary Battle in 1921, which was one of the bloodiest fights in Turkey's war of independence. The shooting of Pope John Paul II by Mehmet Acqa, and the unsuccessful hijacking recently of a Turkish airliner to Bulgaria further dramatize the agony Turkey has been going through the last few years.

The deep transformation that has been taking place in Turkish society the last three decades was bound to have repercussions. To suggest the breadth of the social change that has occurred in the last 25 years, I would mention the fact that almost 50% of Turkey's 45 million population now live in urban centers, compared to 25% in 1960. The rise in literacy and in the numbers of students and industrial workers in urban centers brought many unanticipated social, psychological and political consequences.

INTENSE MARXIST PROPAGANDA

One outgrowth of this upheaval was that the emergence of terrorism in Turkey followed on the global wave of student disturbances in the late 1960s. The disturbances here resulted in no small part from intense Marxist propaganda on Turkey's university campuses. Though contemporary Marxism is considered by many social historians to be a childhood disease of Western industrial society, it has scored some success with Turkish intellectuals.

Campus demonstations, boycotts of classes, the use of force against professors, destruction of furniture and laboratories, defamatory writing on walls, the disruption of curriculums and collapse of discipline all became routine here in the 1970s. In the last

three years this anarchy and lawlessness spread beyond university campuses, accelerating the rate of killing throughout the country.

Communism as an *electoral* force, however, has been negligible and ineffective in our parliamentary politics. Marxist parties have never obtained significant support beyond 2.9% of the vote in their best period, the 1965 general elections. Yet in the media and university circles they have been vocal and militant. Their intense campaign of propaganda, depicting Turkey as "a country occupied by American imperialists" prepared the ground psychologically for a "war of liberation to be "carried out by the enlightened leadership of the working class under the guidance of the proletariat." The terror followed.

A "war of liberation" started inside the country in the late 1960s, not only against a regime considered a "stooge of Western imperialism and its arm, the NATO alliance," but also against Turkish representatives in foreign countries by the Armenian "liberation army," Asala. Turkish ambassadors were assassinated in Paris, Rome, and Vienna.

As this terrorism spread within the country and abroad, Turkish public opinion became more aware of the identity of the forces of "national liberation." On April 6, 1980, a press conference was held in Sidon, Lebanon, under the protection of the Palestinian Liberation Organization (PLO), by Armenian and Kurdish organizations from Turkey. According to a Reuters account, the Kurdish Marxist secessionists, in collaboration with the Armenian organization Asala, were making common cause to "liberate their land under Turkish occupation"; in other words, to dismember eastern Turkey which borders the Soviet Union.

(The spokesman at this joint press conference said that the liberation of Soviet Armenians was out of the question, on the theory that the area is a separate Armenian state.)

The Marxist terrorist organization "PKK," whose spokesman in Sidon, Lebanon, last year declared a war of liberation on Turkey, has today been almost wiped out by Turkish security forces in the area near the Syrian border. Its underground organization was unearthed entirely a few months ago, and one of its captured spokesmen was interviewed on Turkish television March 2. He said openly that they had been trained in PLO camps in Syria and Lebanon and received all sorts of help from "friendly socialist countries."

Indeed the Soviets have been quite outspoken recently in their full support for the Kurdish secessionists through their proxies in East Berlin, where the Turkish Communist party's clandestine radio broadcasts are directed daily into Turkey. The outlawed Turkish Communist party operating in East Germany gave instructions to underground party members about the recent May Day celebration slogans, which included for the first time, "Independence to Turkish Kurdistan."

The number of weapons of Eastern European origin discovered in terrorist dens up to now has further established this Eastern European connection. Kalashnikov automatic weapons had become almost a part of normal household instruments here. (A Turkish social anthropologist reported from eastern Turkey bordering Soviet Russia that Kalashnikovs were offered as valuable dowry for young brides in that region.)

Two years ago, a report in the Turkish newspapers about a large cache of arms and 44S Soviet made anti-tank rockets found in the mountain caves near the Syrian border town of Mardin became the vivid subject of joke, when Bulent Ecevit, then prime minister, said that the rockets were probably passing in transit through our country.

In a speech early this year Gen. Evren commenting on the number of arms captured since the army took over last September 12, said the value of this enormous amount of weaponry was more than 25 billion Turkish lira (about $250 million).

Such a huge financial deal is impossible, he said, without outside help, as the total of the proceeds of terrorist bank robberies in Turkey does not add up to 2 percent of the 25 billion Turkish lira worth of armament.

A Turkish daily in Instanbul, Hurriyet, published in December 1980 a feature series on arms smuggling from Bulgaria, depicting quite clearly the close collaboration of Bulgarian state agencies with a Turkish mafia of arms smugglers.

The Bulgarian government's involvement in arming Turkish terrorists became a subject of a sharp diplomatic exchange three years ago, when the foreign office asked the Bulgarian ambassador to give an account for some arms originally purchased from Argentina by a Bulgarian government agency. These arms ended up a short time later in the hands of Turkish terrorists captured by the police.

Turkey's right wing terrorist groups developed after 1973 as a countervailing power against Marxist violence. Supported and trained by the right-wing National Action Party through some front organizations, right-wing extremists have given the Marxists a valuable pretext for continuing the bloodshed with reciprocal killings. They have also given the Marxists an opportunity to propagandize further about the "threat of fascism."

The National Action Party leadership has indeed been implicated in quite a number of political crimes and mass killings.

FACING THE DEATH PENALTY

But the right-wing's underground and its legal organizations have been completely disbanded, and there has been almost no right-wing violence since the army takeover. They are now waiting for the result of their prosecution, and about 100 of them face the death penalty for their terrorist activities.

The threat of Communist terrorism, however, is far from eradicated. It is true that the terrorists can no longer kill 25 people daily as they did before last September. Gen. Evren pointed out the other day that their strength has been reduced at least 90 percent. However, they have done much harm to our social and political institutions and caused complications in our international relations.

They succeeded in disrupting our parliamentary institutions and civil government, and they fulfilled their aim of installing a military government as a preliminary for their second stage of struggle. But they seem to have miscalculated.

The military, far from alienating large sections of the Turkish population through harsh rule, enjoys full public support. The left's second aim of isolating Turkey from the West seems also to have misfired. The terrorists expected the repudiation of a Turkey depicted as being under a military regime, with no respect for human rights or the rule of law, and therefore eligible for punishment and isolation by her friends. That has not happened.

The Turks have recovered their self-confidence and regained their poise after dealing effectively with terrorism and making absolutely clear their vow to abide by the principles of Western civilization and to restore free institutions as soon as possible.

A strong stand by the Western alliance on the question of international terrorism and subversion among NATO members will strengthen Turkey's hand in its struggle against terrorism and will dissuade certain powers from resorting to indirect aggression against the members of the alliance.

Mr. HAYAKAWA. Mr. President, on July 22, 1981, Dr. Guy J. Pauker, a senior staff member of the Rand Corp., and an internationally recognized expert on Southeast Asia, testified before by Subcommittee on East Asia and Pacific Affairs on trade, investment, and general economic relations between the United States and the Association of Southeast Asian Nations (ASEAN). His observations and recommendations were most informative and helpful to the subcommittee.

Dr. Pauker had just returned from Tokyo where he attended the regional consultative meeting on energy alternatives held at the United Nations University. For the meeting he prepared a paper to be used as a guideline at the United Nations Conference on New and Renewable Sources of Energy, which is to be held in Nairobi in August of this year. The paper, entitled "What Can the Asia-Pacific Region Expect From the the Nairobi Conference?", provides an analysis of the problems of global management with respect to agrarian reform and rural development, science, and technology, and the most recent crisis—locating and developing energy resources now and in the future.

Mr. President, as I believe that Dr. Pauker's insights are important for the development of the Asia-Pacific region, I ask unanimous consent that this paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

WHAT CAN THE ASIA-PACIFIC REGION EXPECT FROM THE NAIROBI CONFERENCE?

(By Guy J. Pauker)

The contemporary human predicament is marked by some absurd paradoxes. By 1980 the five-fold increase in the price of crude oil in real terms since 1972 had resulted in an annual expenditure of $50 billion for oil imports by developing countries. The World Bank, concerned about the considerable strain on the balance of payment of oil importing developing countries, initiated a modest $13 billion program of loans for the development of energy resources over the five-year period 1981-1985. Yet, according to SIPRI, the Stockholm International Peace Research Institute, in 1980 the Third World spent $80 billion on defense.

The ten-year investment schedule for an expanded energy program in the oil importing developing countries, which the World Bank considers desirable and feasible, would require $450 to $500 billion (in 1980 dollars). According to SIPRI, the world spent $500 billion in 1980 alone on defense. Obviously, the energy crisis is not due to an absolute lack of resources but to their misallocation. A modest transfer of ten percent of global defense expenditures—which would not leave any nation at the mercy of its enemies—to an energy resources development fund would advance considerably the modernization of the Third World and also reduce international tensions caused by the sharpening competition for natural resources.

Unfortunately, the time is not yet ripe for such a global "energy tithe." The proposal to transfer resources from armaments to development is not new. It has even been the object of special studies within the United Nations system.

It is easy to be angered or discouraged by the wasteful use of resources on military expenditures to the detriment of the world's poor, especially in developing countries. Pessimism is the prevailing mood of our times

and belief in progress has given way to despair among those concerned with the human condition. Yet, factual evidence will support the assertion that humanity has recorded great achievements in the decades since World War II.

Unlike some contemporary prophets of doom and gloom, I believe that the eighteenth century philosophers of the Enlightenment would be thrilled to witness the role that reason is currently playing in human affairs. Despite the many horrors and inequities with which we are all familiar, greater numbers of people, everywhere, live better than ever before. Except for a few anarchronistic aberrations, which cannot last, colonialism has been abolished, and so has slavery. There are, to be sure, some fifteen million refugees in the world today, or one out of every three hundred people alive, but they are not ignored by the international community. Neither are those who are the victims of drought, floods, or other calamities. Famines killing millions of people are a thing of the past, and so are major epidemics.

Slowly, public health and education are reaching remote backward areas which never had a clinic or school before. Few people live in total isolation from the outside world in this age of electronic marvels. While human rights are still in jeopardy in many places their violation causes a global hue and cry. Few knowledgeable people would trade their present circumstances for those of their ancestors.

The accumulation of knowledge is making it possible to apply reason to the solution of human problems. It takes, of course, giant steps to translate insights into policies, but until very recently even the facts were not known. Only in the last three decades have innumerable national institutions and the United Nations system developed humanity's capacity to monitor global developments.

This recent information explosion and the growth of the technology facilitating the use of accumulating data is bound to have a beneficial impact in the long run. Without getting involved in a simplistic debate concerning the respective merits of market decisions versus central planning. It is clear that no rational solutions of global problems could be expected as long as humanity remained ignorant to its true circumstances.

The United Nations Conference on New and Renewable Sources of Energy should be viewed in this perspective. The very fact that it is being held is one of the rays of hope marking the dawn of a new historical epoch, the future era of global management. We need not be reminded that prior to the twentieth century only a few superior minds, endowed with bold imagination, were able to see the human condition in global perspective.

It took centuries of seemingly utopian speculations and then the shock of World War I before it became possible to establish the League of Nations. Although that first experiment in international organization was unable to carry out its limited peace-keeping mission, its short existence was valuable. After World War II there was widespread readiness to establish and support a similar institution, the United Nations. Besides its peace-keeping functions, the new organization was given the broader task of enhancing human welfare.

The lessons of the Great Depression, which had spread misery from the industrialized nations to the rest of the world, the widespread suffering caused by World War II, and the indignation generated by the misery in which colonialism had left the great majority of the human race created awareness that the urgency of economic and social planning transcended national and ideological boundaries. International public opinion had become committed to the concept that all nations should modernize and all people should share in the benefits of that process. But how this could be achieved was far from obvious. Economic and social planning was new and controversial. Experience was lacking and factual knowledge almost nonexistent. The efforts of a whole generation of students of human affairs had to be concentrated on overcoming humanity's ignorance of its situation. The United Nations system played a major role in the accumulation of factual data, analytic insights, and theoretical conceptualizations. Undoubtedly much more is known about the human condition at present than a generation ago.

While we were all learning, the world's rapidly increasing population and the growing requirements of expanding economies generated demands of unprecedented magnitude on the life-sustaining systems of our planet. Lacking cohesion as well as comprehension of the significance of exponential growth, the international community did not even attempt to develop a rational and efficient resources policy.

Global mismanagement prevailed unchecked until astronauts and cosmonauts gave us a first chance to see our small "Spaceship Earth" from afar and made us realize how fragile the basis for human survival was. Reflecting this awakening, the United Nations initiated the historical series of world conferences of which the first was the 1972 Stockholm meeting on the human environment. These are extensive surveys which are making a major contribution to the broadening of the scope of human consciousness on issues that require global management, such as environment, food, population, water, desertification, habitat, the NIEO, disarmament, agrarian reform and rural development, science and technology and most recently energy.

Participating nations which represent an overwhelming majority of the world's population have been induced by these conferences to examine these global problems from the perspective of their domestic interests, to develop national policies, and to define their positions in the broader setting of the international community.

Pessimists and skeptics could argue that the practical impact of this first decade of global stocktaking has been very limited. This is not so. Actually, a vast store of factual data, analytic insights, and innovative ideas has been accumulated as the result of these world conferences. Many governments have created new agencies, committees, and study groups concerned with major issues of global relevance. Besides their intrinsic educational value, such efforts, without precedent in many countries, are creating the human and institutional foundations for the new patterns of global management, which will make it possible to enhance the welfare of the world's population in the twenty-first century and beyond.

Far from being slow, the preparatory stage for this new era of global management has made amazingly fast progress in a very short time. Issues that were only discussed in small circles of specialists are now well understood items of the global agenda.

Viewed in this broader historical perspective, the forthcoming Nairobi Conference is a link in a long chain of actions that is preparing a better future for all humanity. Naturally, the August meeting cannot be expected to solve the world's current energy problems. Like the preceding world conferences sponsored by the United Nations, if it is successful the Nairobi gathering will plant seeds that should bear fruit in the twenty-first century. What then, can the Asia-Pacific region expect from the Nairobi conference?

The needs of the Asia-Pacific region are clear. Like the rest of the world, it has to achieve in the most rational and efficient way possible the transition from dependence on petroleum products to reliance on alternative sources of energy. But the crisis caused by the oil price increases does not have the same significance for the developed and the developing countries of the region.

In the developed countries, more than three-quarters of the population is urban. Its modern life style requires energy for a wide variety of end-uses. Electricity for household amenities and liquid fuels for transportation seen indispensable. Alternative sources of energy would have to supply the same end-uses as are currently established in these industrial societies, if major socioeconomic dislocations are to be avoided.

Yet the energy needs of developing societies should perhaps have higher priority, because it is imperative that they overcome extreme poverty through rapid modernization. In the developing countries of the Asia-Pacific region about three-quarters of the total population is rural. Their agricultural economies are still primarily dependent on traditional sources of energy namely fuelwood and organic wastes. In the villages, transition to the use of petroleum products for cooking and lighting is a mark of progress. Electrification is still beyond the means of most village households and even of many city dwellers.

Could the development of new and renewable sources of energy help the developing countries of the Asia-Pacific region to bypass the age of oil and create new patterns of modernization and industrialization? Or should the developed countries of the region use their superior economic and technical resources to speed up their transition to new and renewable sources of energy, reduce their dependence on petroleum products, and thus liberate larger quantities of nonrenewable fossil fuels for the economic growth needs of developing countries? This dilemma obviously raises a host of ethical, political, economic, social, and technical questions.

The preparatory work for the Nairobi Conference has focused primarily on the state of the art of new and renewable energy technologies. This Regional Consultative Meeting has the task to identify central issues of particular concern to the region, develop regional options for transition to a broader mix of energy sources, seek to develop a regional consensus on proposals for consideration in Nairobi and specify what assistance is considered necessary from the United Nations system for the development of a well-balanced program.

To place the contribution that new and renewable sources of energy can make in perspective, we have to understand the immense potential energy demand of the Asia-Pacific region. Its growth will be determined by two major trends, namely the conservation policies of the mature industrial countries of the region and economic growth of the developing countries.

Conservation will not reduce the absolute volume of demand in the industrial countries but only slow down the rate of growth of their energy demand. Meanwhile demand in the developing countries will increase. Therefore the total volume of energy demand of the Asia-Pacific region will increase considerably. The long-term implications of this process are graphically illustrated by a study completed in November 1980 by the Institute of Energy Economics located here in Tokyo.

The Japanese analysts established that the level of commercial energy consumption per capita in 1978 in various countries of the region corresponds to their respective stages of economic development. Measured, in accordance with United Nations practice, in kg of coal equivalent per person, the values were 302 kg for Indonesia, 347 kg for Thailand, 364 kg for the Philippines, 726 kg for

Malaysia, 1,178 kg for Taiwan, 1,384 kg for South Korea, 4,822 for New Zealand, and 6,819 kg for Australia.

The Institute of Energy Economics compared these figures with the per capita energy consumption of Japan at various points in time and concluded that Indonesia's per capita energy consumption is equivalent to that of Japan in the take-off period of the 1880s, that of Thailand and the Philippines very close to Japan's around 1915, that of Taiwan and South Korea, which have reached a stage of economic development equivalent to that of Japan between 1930 and 1960, is close to the Japanese per capita consumption in the latter half of the 1950s, that in New Zealand, where industrialization is lower than in Japan, per capita energy consumption is also lower, whereas in Australia, where per capita GNP and automobile ownership ratios to total population are higher than in Japan, energy consumption per capita is also higher.

Economic forecasts of future energy demand in the Asia-Pacific region would have to determine future rates of economic growth and population growth for each country and elasticities of energy consumption with respect to GNP or GDP. The reliability of such estimates is open to question. Many factors can distort the trends from which one extrapolates. But one should assume that eventually the rest of the Asia-Pacific region will reach a stage of economic development comparable to Japan's in the 1980s, although neither the paths that these processes of economic growth will follow nor the time they will require are predictable. There is no reason to believe that all possible paths by which the scientific and technological revolution of the last two centuries is spreading have been exhausted. Also, although the stage of economic development of certain countries, say Indonesia, may be comparable to that of Japan in 1880, it may not take those countries a century to reach Japan's present stage of economic development.

The present situation, where people in the United States and Canada use more than five times the global average of per capita energy consumption, while the people of the developing countries of Asia use only one-tenth of the global average of per capita energy consumption cannot last. It is merely a manifestation of the early stages of the economic revolution which is spreading around the globe at an uneven rate.

After seven years of research, involving 140 specialists, the Energy Systems Program Group of the International Institute for Applied Systems Analysis concluded that "it is possible to provide enough energy for a world of eight billion people in the year 2030." But the study assumed that fifty years from now the people of the developing countries of Asia would use only 25 to 30 percent of the global average of per capita energy consumption, whereas the people of North America would still use four to five times the global average.

One need not anticipate with prophetic vision the shape of things to come in half a century, to assume that electronic mass-media, global air travel, and international education are creating everywhere attitudes and expectations which will make it impossible for people in North America to consume in the year 2030 fifteen to twenty times as much energy per capita as the people in the developing countries of Asia.

Differences in energy consumption of such magnitude would maintain a gap in life styles that the future generations in the Third World would find intolerable. The grandchildren of the present generation of villagers who are still living predominantly without the basic amenities that electricity provides—particularly light, TV, and food refrigeration—will not accept the perpetuation of these conditions.

Energy specialists argue that low demand is a major constraint on the expansion of electricity-generation capacity in developing countries. Evidently, poor people cannot afford the cost of connecting their homes to the distribution grid, the purchase of electrical appliances, and the charges for the electricity they would consume. Poverty is indeed an obstacle to electrification under current market conditions. But, looking fifty years ahead, the clamor for modernization is bound to reach such intensity that electricity will probably have to be provided to the poor as a social service.

The political pressure that this demand will put on the governments of developing countries will in turn have international repercussions that will make new global patterns of energy allocation imperative. To assume that global energy demand in 2030 will be determined by the market mechanisms of 1980 requires excessive lack of imagination and vision. In fairness to the authors of the IIASA study, it should be mentioned that they observe, in passing, that failure of the developing countries to achieve their economic growth targets would increase global instability and "the probability for economic warfare in ways that are difficult to anticipate."

There is widespread agreement among energy specialists that new and renewable sources of energy will not provide a substantial substitute for conventional energy sources in the near- and medium-term. Coal and nuclear energy, the two major resources that can replace in part oil and gas during the next two decades, raise complex risk assessment, environmental and economic problems.

The Nairobi Conference is not scheduled to discuss the transition from petroleum products to coal and nuclear power, but the Asia-Pacific region will undoubtedly face in the next twenty years a number of issues requiring co-operation among nations, on matters such as the creation of a coal market and of coal liquefaction plants, uranium enrichment facilities nad nuclear waste disposal sites, to name just a few salient ones.

The rational and efficient use of energy is also not on the Nairobi agenda, but the Regional Consultative Meeting could profitably exchange information on some very successful conservation policies implemented in the Asia-Pacific region in recent years.

The Governments of the Asia-Pacific region could make a genuine contribution to global energy management if they agreed on ways to remind the participants in the Nairobi Conference that new and renewable sources of energy can only contribute to the solution of the world's energy problem as part of a broader mix. If not in Nairobi then at a later date members of the United Nations will have to discuss how to facilitate the expanded use of coal and nuclear power in ways that would reduce to acceptable levels the various risks associated with these primary energy sources. How to maximize the rational and efficient use of energy should also be discussed eventually on a global basis under United Nations auspices, as conservation is of crucial importance in gaining the time needed for the eventual creation of a sustainable global energy system.

In view of the excellent preparatory work of the Secretariat of the Nairobi Conference, this Regional Consultative Meeting could concentrate its attention on the discussion of action-oriented priorities. Although from a technical point of view the development of all new and renewable energy sources deserves attention and is challenging to specialists, the practical importance of these energy sources varies greatly. In the developing countries of the Asia-Pacific region fuelwood and charcoal are still a dominant energy source for cooking and heating, and draught animals are still extremely important for agriculture and transportation.

Any significant contribution to a more efficient and rational use of these two energy sources would have an immediate impact on the lives of hundreds of millions of people. It would also reduce very substantially the rate of growth of demand for petroleum products, by slowing down the transition from fuelwood to kerosene and from the use of draught animals to mechanized agriculture and transportation.

Hydropower is an important renewable source of energy, but the technology for its utilization is mature. Knowledge of potential resources is usually adequate at the national level and international cooperation for the development of that resource has a well-established tradition.

Several other new and renewable sources of energy are only of marginal significance in terms of the total volume of energy that they could contribute under current conditions. There is danger in misunderstanding or overestimating the possible role of solar, wind, geothermal, and ocean power, or of oil shale, tar sands, and peat, because of the diversionary effect that excessive reliance on these energy sources could have.

What the Nairobi Conference could do for the Asia-Pacific region with regard to these exotic sources of energy is to help countries avoid duplication in research, development, and demonstration and coordinate collection of meteorological, geophysical, and oceanographic information. But these activities, although useful, will have only a marginal impact on the region's energy situation in the next two decades.

By contrast, fuelwood and draught animals are of such importance to a vast majority of the region's population, who live mostly in villages, that a successful international effort concerning these major energy sources would have an immediate and widespread impact. Obviously, forestry, animal husbandry, and home economics do not have the glamor of futuristic technology such as solar satellite power stations or ocean thermal energy conversion (OTEC).

But reforestation in accordance with sound ecological principles, and energy plantations whose quick-growing trees and shrubs are cultivated for areas suffering from extreme fuel shortages are of vital importance to villagers who cannot afford the cost of kerosene and to governments lacking the foreign exchange to import petroleum products.

Draught animals have many advantages over mechanized agriculture in the specific circumstances of Asian agriculture. Rural underemployment, the cost and availability of fuel especially in remote areas, the problem of maintenance and spare parts for machinery in societies lacking industrial infrastructure and technical skills make draught animals economically and socially attractive alternatives. For short-distance transportation, draught animals will also remain a useful option for a long time to come. As modern breeding methods and veterinary care can greatly improve the quality of the livestock, there is clearly room for regional cooperation in this field.

The efficient use of fuelwood and of draught animals can be substantially increased by the diffusion of simple technological innovations. Conventional cooking stoves use only about ten percent of the thermal energy of fuelwood. Improved stoves can be twice as efficient and would thus conserve half of the fuelwood currently used for cooking. The problem is technically simple but socially difficult, because of the lack of extension services for the promotion of the more efficient stoves. Similarly, the productivity of draught animals could be greatly improved by the development and distri-

bution of more efficient agricultural implements, harnesses, hitching devices, vehicles, and frames for pack animals.

In the July 7, 1981 version of the "Preliminary Draft of a Programme of Action", the alternate text proposed by China provides a particularly clear statement on what should be done to meet rural energy requirements:

(a) Cultivate fast-growing trees that can be used as fuelwood; make rational use of forest by-products and agricultural wastes;

(b) Popularize small-scale biogas digesters for use in peasant households to solve the problems of fuel and fertilizer and also to improve environmental hygiene;

(c) Improve traditional rural cooking stoves; increase heat efficiency; conserve fuels;

(d) Wherever possible, make full use of solar energy, e.g., solar cooker, solar water heater, agricultural by-product desiccator, passive solar house etc., as well as use of solar cells in outlying pastures.

(e) In the light of local conditions, make full use of indigenous energy sources; develop independent small-scale electricity supply system such as small-scale hydropower, wind power and use of geothermal energy and industrial residual heat;

(f) Improve animal husbandry practices to produce an increase in the quantity and quality of draught animals and improve different types of equipment used in conjunction with draught animals;

(g) Enhance public scientific knowledge concerning rural energy; mobilize the masses to actively participate in the reform of rural energy.

The goal of the programme is to ensure that during a rather long period, the energy needs of the rural areas can be met on a sustainable basis in the light of the different situations in all countries so that by the year 2000, the surface of the Earth will be covered with more vegetation, the vicious circle of soil erosion can be broken and the ecological imbalance can be gradually redressed. Within the next 5 years, emphasis should be placed on overcoming the serious shortage of fuelwood in the rural areas so as to start building up people's confidence that they can solve the rural energy problem in a self-reliant way.

Vigorous action concerning cultivation and use of fuelwood, breeding and employment of draught animals would contribute greatly to the welfare of the rural population of the Asia-Pacific region. It should be given top priority at the Nairobi Conference. Need we be reminded that the spraying of stagnant waters by WHO teams was also not a glamorous activity, but it virtually eliminated malaria and made an enormous contribution to human welfare? If the Nairobi Conference succeeds in the adoption of action programmes that would solve the fuelwood crisis which is threatening particularly the Asia-Pacific region and would increase the availability and efficiency of draught animals, it will become a historical landmark on the road toward a sustainable global energy system, even if it does not contribute significantly to the development of advanced energy technologies.

TRIBUTE TO DR. JOSEPH H. McLAIN

Mr. MATHIAS. Mr. President, with the death of Dr. Joseph H. McLain earlier this week, Maryland and the Nation have suffered a great loss. Dr. McLain, who had been president of Maryland's historic Washington College for the past 8 years, was only 65 years old. In view of the demographic changes that have taken place in our society, he was still in his prime and his death must be accounted untimely.

However, even in the foreshortened span allotted him, Dr. McLain compiled a record of achievement in so many different areas of human endeavor that he leaves a heritage few can match. He was a scientist who loved sports; a declaimer of poetry who guided the destinies of banking institutions, an educator with an abiding interest in pyrotechnics sparked at a young age by the gift of a home chemistry set. And, perhaps above all else, he was a family man, very much in the Scottish tradition of his forebears of whom it has been said:

The home was an educational institution where the intellect was stimulated. In Scotland they say they have five universities—Edinburgh, St. Andrews, Glasgow, Aberdeen and the Scottish home.

Several years ago, I had the opportunity to address the graduating class at Washington College and to spend the day there as Dr. McLain's guest. It was a source of deep satisfaction to me to see that historic educational institution maintaining its singular commitment to an education in the liberal arts and sciences under the aegis of this very remarkable man.

It is a source of deep regret to me that Dr. McLain did not live to participate in Washington College's 200th anniversary observances to which he had devoted so much of his time in the recent past. In October, when the college inaugurates its bicentennial year with a great convocation, Dr. McLain's presence will surely be felt in every aspect of the celebration. Perhaps more than anyone else, Dr. McLain was in a position to appreciate the great institution he headed, the Nation's 10th oldest college, for he knew it as an undergraduate, as a professor and finally as its president.

So that my colleagues may gage the extent of our loss, I ask unanimous consent that the article from the Baltimore Sun detailing Dr. McLain's life and accomplishments be printed in the RECORD at the conclusion of my remarks.

Mrs. Mathias joins me in sending our deepest sympathy to Mrs. McLain, their children and grandchildren. In speaking to them of Dr. McLain, I am reminded of Emerson's description of Thoreau at the latter's funeral:

His soul was made for noble society . . . wherever there is knowledge; wherever there is virtue; wherever there is teaching, he will find a home.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASHINGTON COLLEGE'S DR. JOSEPH McLAIN DIES

Dr. Joseph H. McLain, scientist, inventor and president of Washington College on Maryland's Eastern Shore since 1973, died yesterday at Johns Hopkins Hospital after a short illness. He was 65.

Dr. McLain, who was widely known here and abroad as an expert in solid-state chemistry, was an active conservationist. He was also chairman of the Governor's Advisory Science Council and served as chairman of the Maryland Water Pollution Control Commission for its first six years.

A former president of the Maryland Independent College and University Association and a trustee of the Chesapeake Bay Foundation, he organized and was the first chairman of a state task force to study the puzzling disappearance of subaquatic grasses in the bay and possible links to either silting or chemical pollutants.

He was the author of three textbooks on pyrotechnics, the field of research and invention in which he specialized from the time he was a second lieutenant at the Army's Edgewood Arsenal during World War II.

His more than 30 patents included smoke grenades used by the Army to camouflage the movements of advancing troops; specially treated metals used in computer memory systems; improvements to underwater torches used by the Navy that allowed them to cut through up to 4 inches of stainless steel in fractions of a second, and land and sea rescue and warning flares—including types used on hundreds of highways throughout the country.

He also helped develop rocket propellant formulas and pyrotechnic actuation devices used for stage separations in space flights.

A member of Washington College's class of 1937, he was a magna cum laude graduate, class president in both his junior and senior years and a member of Omicron Delta Kappa, a national leadership fraternity.

Dr. McLain became a professor of chemistry at Washington College in 1946 after earning his Ph. D. at the Johns Hopkins University, where he was elected to Phi Beta Kappa. He became head of the chemistry department in 1955, and also held the W. Alton Jones chair in chemistry. He was an acting dean for a brief period.

In 1973, he became the 22d president of the college, which is in Chestertown in Kent county. He was the first alumnus to hold that post.

Dr. McLain combined scholarship with a lifelong interest in athletics. He won varsity letters in four sports: basketball, football, lacrosse and track. From the time he was a young professor, he was almost always on the sidelines as a fan during sports contests in the college, and often accompanied the lacrosse and basketball teams to away-from-home games.

He relaxed on hunting trips for ducks or geese, and on the golf course. He also played bridge and took part in a weekly poker game with a group of Chestertown residents that included Bill Nicholson, a onetime all-state athlete at Washington College and National League home-run king during an earlier baseball era.

Reading—from the Bible and Shakespeare to works on advanced theories of solid-state chemistry and other scientific subjects—was another favorite avocation. Adopting the Scottish accent of his forebears, he often entertained students on informal occasions with readings from the poetry of Robert Burns.

He won a Lindback Foundation award for distinguished teaching in 1965, and in a campus poll was voted the most popular professor on campus.

Dr. McLain's most recent book—"Pyrotechnics from the Viewpoint of Solid-State Chemistry"—was published last year by the Franklin Institute. More than 200 pages of his summer lectures over a period of years at the Franklin Institute Research Laboratories in Philadelphia were published in 1968 as a book on pyrotechnics, a field he once described as "a poor cousin or worse" in the field of science.

The Franklin Institute seminars were attended by experts from many countries, and led to lecture invitations that took Dr. McLain to Europe, Asia and Africa. He spent a sabbatical year in 1962 at the University of Edinburgh in Scotland and in 1970 at the

University of Munich as a visiting professor, lecturing and helping to guide research projects.

His latest book, family members said, was an attempt to define and explain pyrotechnics as an integral and important part of solid-state chemistry.

For more than a year before his death, Dr. McLain spent much of his time on preparations for Washington College's 200th anniversary observances, which will start with a convocation in October. They will bring four winners of the Nobel Prize to Chestertown, along with the head of Scotland's Aberdeen University, where Dr. William Smith, founder of the college, the 10th oldest in the country, was educated.

Most of Dr. McLain's research was conducted on the campus in Chestertown. For some projects, he enlisted the aid of students who later distinguished themselves academically while obtaining their own graduate degrees. "He loved teaching. He loved to see a spark [in students] and have it ignite," said Dr. McLain's wife of nearly 40 years, the former Ann Hollingsworth of Church Hill.

Except for the two sabbaticals, Dr. McLain was away from Washington College only once after 1946—as research liaison manager for Olin Mathieson Corporation in the New York area during parts of 1950 and 1955. He returned to the college "because he missed teaching so much," his wife said.

For years after that, he remained a consultant to Olin Mathieson—carrying a full teaching load in Chestertown, commuting to New York or Connecticut Thursday nights for committee meetings and consultations each Friday and returning to teach classes Saturday mornings.

He was a consultant for other major corporations and for the Navy on many safety aspects of pyrotechnics.

Dr. McLain had been a director of the Baltimore branch of the Federal Reserve Bank of Richmond since 1978 and was elected chairman for the Baltimore district less than a year ago. He was also a former president and board chairman of the Maryland National Bank in Chestertown.

He was also appointed by Governor Hughes to represent Maryland on the national Education Commission of the States.

A native of Weirton, W. Va., Dr. McLain grew up in Baltimore and graduated from Poly in 1933. His interest in pyrotechnics—"the art of fire"—was sparked when, as a youngster, he received a home chemistry set as a gift. The set, he said, enabled him to create rudimentary "red and green fires."

That interest revived when he majored in chemistry at Washington College and during his graduate studies at Johns Hopkins, which were interrupted by World War II.

Dr. McLain's home is on Chestertown's Water street, near the banks of the Chester river.

Funeral services will be held at 11 a.m. Wednesday in Chestertown's Emmanuel Episcopal Church.

Besides his wife, he is survived by two daughters, Elizabeth Deppman, of Middlebury, Vt., and Lynn Cook, of Baltimore, a brother, John McLain, of St. Augustine, Fla.; and three grandchildren.

The family requests that memorial gifts be made to Washington College's Third Century Fund.

REFLECTIONS ON ATATURK CENTENARY

Mr. MATHIAS. Mr. President, this year marks the 100th anniversary of the birth of one of the remarkable leaders of our time. Mustafa Kemal Ataturk, "Father of the Turks," was the man responsible for shaping the State of Turkey from the ruins of a decaying empire into the modern state we know today. It is to him that Turkey owes its national identity and cultural unity, to him that the world owes the establishment of a stable Western power bridging the European and Asian continents.

Ataturk was a charismatic leader with a passion for rationalism and organization, and it was this unique combination which enabled him to achieve a dramatic national revitalization. His extraordinary determination, dedication, and dynamic leadership combined with an unwavering vision of Turkey's role in the world drove him to a relentless reform of Turkey's social and political structure. From a defeated, divided dynasty torn between East and West, he created a modern democratic republic with an unwavering commitment to the West. In Alex Toynbee's words:

> It was as if, in our Western world, the Renaissance, the Reformation, the secularist scientific, mental revolution at the end of the 17th century, the French Revolution, the Industrial Revolution had all been telescoped into a single lifetime.

The Kemalist revolution was secular in nature; it called for the separation of church and state, and thereby allowed scope for the sacredness of all religions. The Ataturk movement successfully replaced theocracy, Koranic education, and antiquated Islamic laws with parliamentary government, Western legal institutions, and secular education.

In concentrating much of his energy on cultural reform, Ataturk demonstrated the type of insight which made him a remarkable leader. His genius lay in perceiving the primacy of culture in national life and its interrelationship with socioeconomic factors. By altering Turkey's cultural base, he gave the country a national identity and consciousness which allowed it to embrace democratic participatory institutions. He was successful because he recognized that a strong national culture can provide a nation with sufficient stability to undergo radical modernization without irrevocably disrupting the fabric of everyday life.

Ataturk's pragmatic and enlightened approach to reform can be seen in his attitude toward the role of women. He wrote:

> To keep women secluded is to waste one-half of Turkey's most precious resources. The two sexes must progress together on terms of equality.

Ataturk was equally pragmatic in the sphere of political reform. In forming a republic, he followed his instincts, his vision of Turkey, and his keen understanding of the Turkish people. He observed:

> The fundamental reality of our present-day existence has demonstrated the general tendency of the nation, and that is populism and people's government. It means the passing of the government into the hands of the people.

Ataturk stressed popular sovereignty and civic participation; his reforms provided the base for Turkey's later evolution into a full-fledged democracy.

Freedom was one of the tenets upon which Ataturk based his revolution. Inspired by the ideals of the American Revolution, he fought for individual liberty applying equally to all. "The Republic," Ataturk asserted, "wants new generations whose intellect is free, whose conscience is free, whose learning is free."

George Washington served as a symbol of leadership for Ataturk; this, combined with his commitment to democratic principles and international peace, prompted him to forge the strong and lasting bonds between Turkey and the United States which continue to hold fast today. In addressing the American people, he made clear his belief in the commonality of interests on which a lasting friendship could be based:

> You have expelled tyranny and despotism from your country. You have obtained and established your freedom and independence after a long and sanguinary struggle, and you have built up a civilized, strong, and democratic state based on the sovereignty of the people.
>
> Keep your hearts open to the Turkish people, who are fighting for freedom and independence, and sincerely striving to become an element of progress and justice in the world, like yourselves.

On the strength of this commitment to democracy, individual freedom, and the Western style of life, Turkey has also proved an invaluable and steadfast NATO ally. The strength of Turkey's loyalty to the West grew out of its participation in the League of Nations during Ataturk's rule, which established Turkey as a member unwavering in its cooperation and support.

It was with the support provided by this international body that Ataturk made the first decisive moves to resolve the historical conflict between Greece and Turkey. In this, as in other situations, he exercised restraint in the use of force because of his ultimate dedication to and sincere desire for international peace. He is noted for saying, "There certainly is a right, and right is above force."

Similarly, although Ataturk was a fervent nationalist, his nationalism was of a unique nature. He recognized the nation as the emerging unit of political and cultural unity, but he also recognized the necessity and desirability of establishing an international system of cooperation. His watchword was, "Peace at home, peace abroad," and his vision encompassed an era when a federation of nations would pave the way to international harmony:

> We must think of the whole of mankind as being a single body and of each nation as constituting a part of that body. . . . We must not say, "If there is sickness in a certain place in the world, what does that matter to me? . . . If there is such sickness, we must be just as much concerned with it as though it happened right in our midst."

This year, UNESCO is sponsoring an international symposium in tribute to Ataturk's achievements. He is being officially recognized as a successful cultural reformer, as the first national leader to actively oppose colonialism and imperialism, and as a visionary striving to create a harmonious world free from discrimination based on race, religion, or sex.

The most appropriate monument to Ataturk's memory, however, in both the Turkish and the international spheres,

will be positive and decisive measures to make the dreams for which he worked lasting realities.

The mark of success in the founder of a commonwealth is the strength of his legacy or his ability, in Rousseau's words, "to toil in one century and to reap in another." The challenge Turkey faces continues to be the realization of Ataturk's vision.

INTERSTATE IDENTIFICATION INDEX (III)

Mr. MATHIAS. Mr. President, last March, Attorney General William French Smith formed a task force on violent crime to recommend what the Federal Government should do to combat violent crime. At that time, the Attorney General announced that the task force would report its recommendations in two phases:

The first phase will focus on what can be done within existing statutory law and existing resources, and I will ask that this phase be completed within 60 days of the formation of the group.

The second phase of the report will focus on recommendations for necessary and appropriate changes in Federal laws, funding levels and allocation of resources which would increase the coordinated Federal-State-local fight against violent crime.

On July 17, 1981, the Attorney General's task force issued its phase 1 recommendations. Among the recommendations is that the Federal Bureau of Investigation establish the Interstate Identification Index (III), a national criminal records system through which arresting States could learn of the out-of State criminal history of their arrestees. The goal of this recommendation—timely exchange of accurate criminal history information among agencies and jurisdictions—is a laudable one. How that goal is achieved and whether III is an appropriate vehicle to achieve that goal are legitimate topics for public discussion.

One of the first articles to appear in the press regarding III was written by Kenneth C. Laudon, professor of sociology and statistics at the John Jay College of Criminal Justice of the City University of New York. In his article in the New York Times entitled "A Risky Index of Crime," Professor Laudon expresses concern about the privacy implications and accuracy of the data maintained in such a system.

So that my colleagues may have the benefit of Professor Laudon's views on the creation of such a criminal record system, I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A RISKY INDEX OF CRIME

(By Kenneth C. Laudon)

CROTON-ON-HUDSON, N.Y.—The Attorney General's Task Force on Violent Crime recently approved the Federal Bureau of Investigation's 10-year-old proposal to create a national computerized criminal-history system—a system that President Reagan should reject.

The system, known as the Interstate Identification Index, would link together existing state criminal-record systems to form one massive Federal register of perhaps 30 million names. Because the system would record arrest information for virtually any sort of crime from misdemeanor to felony, more than one-fourth of the labor force could be included.

The Federal Bureau of Investigation's proposal would have an infinitesimal effect on violent crime, be indiscriminate in purpose and content, and threaten other important national values such as due process, equity, and the goal of full employment.

In addition, taking into account state and local expenditures, as well as Federal outlays, the final system could cost an estimated $350 million.

Most Americans want a society in which violent recidivist felons receive swift justice, but the Federal Bureau of Investigation's system would not help achieve this goal.

Prosecutors estimate that well over 90 percent of violent street crime is committed by local criminals who are already known both to cities' and states' computerized systems.

The F.B.I. system would not give local crime fighters any new information and therefore would be irrelevant to the solution of local violent crimes.

Worse, the Bureau's electronic dragnet would needlessly make many of us public "enemies" overnight.

There are an estimated one million serious career criminals in the United States with multi-state arrests. But the proposed 30-million-record F.B.I. system would indiscriminately include millions of people who were arrested once for misdemeanors—many of whom were never convicted.

Furthermore, the criminal records that would be fed into the system contain so many errors that millions of citizens would be wrongly labeled as criminals.

In research that was supported by the Office of Technology Assessment of the Congress, from 1979 to 1981 I conducted an audit of 1,500 records that were randomly selected from three states' computerized record systems. An incredible 90 percent, 82 percent, and 50 percent of the records in the states were either incomplete, inaccurate, or ambiguous.

In a similar sample that I took from the 22-million-record F.B.I. manual system, 74 percent of the records suffered from these problems.

How these poor-quality records could be used by the police, prosecutors, and judges to fight violent crime remains a mystery.

Although the Federal Bureau of Investigation's plan would have a minuscule effect on crime in the United States, the system might have a considerable, and undesirable, effect on employment practices.

The fastest-growing use of criminal records in the United States is for employment screening by Federal, state, and local authorities. Currently, of the three million requests for criminal information that the Bureau receives from the 50 states each year, one million are for employment screening by states and localities. Federal agency use of the Bureau's criminal records is more extensive: 40 percent of the agency requests received by the F.B.I. are for employment purposes.

With more than one-fourth of the labor force on file, the proposed Interstate identification Index would spur use of these records but not for criminal-justice purposes. The index would be enormously tempting both to public- and private-sector employers.

In states all over the country, business and industry have sought, often successfully, to obtain access to state systems. Existing safeguards, often weak, crumble.

Many of the 30 million people in the F.B.I. system would be denied access to even the most menial public- and private-sector jobs. Since many of them would be poor or members of minority groups, the goal of integrating these individuals into the economic life of the nation would be jeopardized.

Why would a conservative Administration want to build such a Federal octopus? Although the F.B.I. has been pursuing this scheme for 10 years, the final decision will hinge on the politics of crime.

The Reagan Administration can still drop the Federal Bureau of Investigation's proposal as just another Federal boondoggle inherited from the past.

Or, the Administration could make the F.B.I. Interstate Index the centerpiece of its own war on crime. Realizing that the F.B.I. cannot do much about local violent street crime, but convinced that it must "do something," the Administration could support the F.B.I. proposal as a symbol of its tough line on crime, and as a further demonstration of its support for the F.B.I. If this path were chosen, we all would have to wonder if the public itself was not the enemy.

TAX REFORM

Mr. BRADLEY. Mr. President, yesterday I stated for the record my concerns that the administration's tax legislation would prolong inflation and high interest rates and lead to slower economic growth. These concerns are shared by many of the American people—in particular, retired persons and others with fixed income. I ask unanimous consent that the statement of the National Retired Teachers Association and the American Association for Retired Persons be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Sustained high rate inflation is the chief threat to, and concern of the elderly. Consequently, the 13 million member National Retired Teachers Association—American Association of Retired Persons are mandated by their leadership to oppose all actions which promise to increase inflation, and to evaluate fiscal and monetary policies, as well as other actions, in terms of their effects on inflation. Viewed from that perspective, the Economic Recovery Tax Act of 1981 is at variance with the kind of fiscal policy the nation needs at the present time.

The across-the-board cuts in personal income taxes for which this legislation provides, although reduced somewhat from the administration proposal, are still too large, particularly in conjunction with the planned very large increase in defense spending. This is so even taking into accout the approved expenditure reductions in other budget categories. The basic policy approach of relying on stringent monetary policy to (hopefully) restrain inflation while pursuing a stimulative fiscal policy is the wrong policy combination.

It is simply asserted, without convincing proof, that large personal income tax rate cuts, which will certainly increase federal budget deficits, will quickly generate large gains in output and incomes, the taxes on which will more than offset the initial re-

nue loss. It seems far more likely that the revenue loss will not be offset, because taxpayers are not likely to change their behavior radically and save a significantly larger proportion of their incomes—especially in the current, high inflation economic environment.

While wo do not share the belief that federal deficits have been the only cause of inflation, they have certainly contributed to it in a major way. Large federal budget deficits, year-after-year, are not something that can safely be ignored. Inflation is much too high. The federal budget must be brought into balance and the sooner the better.

Apparently, thinking is that budget deficits can be ignored because monetary policy can and will be used to restrain inflationary pressures. While monetary policy certainly has an important role to play in restraining inflation, all the burden cannot be put on monetary policy without severe damage to the economy. The "tight" monetary policy which is now being pursued by the federal reserve, and which it apparently intends to continue, works through restricting credit, specifically by limiting the growth in bank lending capacity.

The natural tendency of this limitation and its accompanying high interest rates is to curtail investment, both by business in new or modernized production facilities and by consumers in housing and automobiles. Although the tax bill contains provisions intended to encourage business to devote a larger share of profits to investments, the effect of monetary policy, which will make credit more expensive, will discourage investment.

All of these factors lead to the conclusion that a better policy mix would be to have a less stimulative fiscal policy and a less restrictive monetary policy. There is, however, an even more fundamental failing of current policy, and that is that it assumes that the primary cause of inflation is excess demand—"Too much money chasing too few goods".

There is ample evidence to suggest that the cost-push (wage-price spiral) part of the inflation is the larger and more intractable part. The abolition of the Council on Wage and Price Stability removed whatever stabilizing influence the wage-price guidelines supplied, and it may not have been much, but nothing has been put in their place.

It is vitally important not to be lulled into complacency by the recent slackening pace of inflation as measured by the CPI. This is due largely to the current weakness in prices of oil, not to any abatement of the underlying or "core rate of inflation." As we have found out before, the only constant in oil prices is their volatility.

The U.S. has been lucky in the current weakness of oil and other commodity prices, but it has made little or no progress in reducing the basic inflation rate, and the tax package now being considered in the Senate offers no promise that it will do so.

Proponents of this tax package make much of its supposed beneficial effect in increasing employment, but this misses the point. The economy has been quite successful in creating jobs over the past decade. What it has not done, in addition to bringing inflation under control, is maintain an adequate level of productivity growth, the basis for the increase in standards of living we all want.

One way to stimulate productivity growth is to invest in more productive facilities, but investments in human capital—education and training—are also necessary, and these are not being increased. Some of the budget cuts, in fact, would reduce them.

If we are going to invest more we will have to save more, and the tax bill does not do nearly enough to stimulate savings. It reduces the $200/$400 exclusion of dividend and interest income, which is much too low to begin with, in favor of an untried instrument that, to the extent it does stimulate savings, does so at a very high cost to the Treasury in order to furnish a barely concealed subsidy to the thrift industry. We acknowledge that the thrift industry has severe problems (most of which are the result of inflation), but the "so-called" "all-savers" certificate is a very poor way to try to solve them.

We also question the utility of the indexing provisions added to the Senate's bill at the last minute. While we agree that "bracket-creep" is an undesirable product of inflation, the solution is to curb inflation, not to set up a new rigidity in the tax system.

It is past time for Congress and the administration to establish a comprehensive and effective anti-inflation program, unconstrained by ideology. Inflation is seriously damaging the economy and social fabric of the nation, and the elderly in particular.

Signed,

PETER W. HUGHES,
Legislative Counsel.

MESSAGE FROM THE HOUSE

At 1:18 pm., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 304. An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2120. An act to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes.

H.J. Res. 223. Joint resolution to provide for the awarding of a special gold medal to Fred Waring.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 1100) to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans Administration, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the bill (S. 1098) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, disagreed to by the Senate, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. FUQUA, Mr. FLIPPO, Mr. GLICKMAN, Mr. NELSON, Mr. BROWN of California, Mr. WINN, Mr. GOLDWATER, and Mr. HOLLENBECK as managers of the conference on the part of the House.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by unanimous consent, and referred as indicated:

H.J. Res. 223. Joint resolution to provide for the awarding of a special gold medal to Fred Waring; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE BILL HELD AT THE DESK

The following bill was held at the desk, by unanimous consent, pursuant to the order of July 30, 1981:

H.R. 2120. An act to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation with amendments:

S. 1096. A bill to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes (Rept. No. 97–172).

By Mr. WEICKER, from the Committee on Labor and Human Resources: S. Res. 195. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1533; referred to the Committee on the Budget.

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 1549. An original bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes (Rept. No. 97–173).

By Mr. WARNER, from the Committee on Armed Services:

S. Res. 196. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1549. Referred to the Committee on the Budget.

By Mr. DOMENICI, from the Committee on the Budget, without amendment and without recommendation:

S. 43. A bill to amend the Congressional Budget Act of 1974 to require the Director of the Congressional Budget Office to prepare and submit, for every bill or resolution reported in the House or the Senate which has certain specific economic consequences, an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution (Rept. No. 97–174).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Kathleen M. Bennett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

John P. Horton, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

Thomas Morgan Roberts, of the District of Columbia, to be a Member of the Nuclear Regulatory Commission.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Robert G. Dederick, of Illinois, to be an Assistant Secretary of Commerce.

Rear Admiral Herbert R. Lippold, Jr., NOAA, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission.

Henry M. Rivera, of New Mexico, to be a Member of the Federal Communications Commission.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S. Res. 178. A resolution to commemorate the two-hundredth anniversary of the birth of Robert Mills.

H.J. Res. 141. A joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 4, 1981, through October 10, 1981, as "National Schoolbus Safety Week".

S.J. Res. 98. A joint resolution to authorize and request the President to issue a proclamation designating October 16, 1981, as "World Food Day".

S. J. Res. 87. A joint resolution to authorize and request the President to designate September 13, 1981, as "Commodore John Barry Day."

S.J. Res. 62. A joint resolution to authorize and request the President to designate the week of September 20 through September 26, 1981, as "National Cystic Fibrosis Week".

S.J. Res. 53. A joint resolution to provide for the designation of September 6, 1981, as "Working Mothers' Day".

By Mr. WEICKER, from the Committee on Small Business:

Frank S. Swain, of the District of Columbia, to be Chief Counsel for Advocacy, Small Business Administration.

(The above nomination from the Committee on Small Business was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission.

Richard S. Cohen, of Maine, to be United States Attorney for the District of Maine.

A. Melvin McDonald, of Arizona, to be United States Attorney for the District of Arizona.

R. Lawrence Steele, Jr., of Indiana, to be United States Attorney for the Northern District of Indiana.

Thomas E. Dittmeier, of Missouri, to be United States Attorney for the Eastern District of Missouri.

Richard A. Stacy, of Wyoming, to be United States Attorney for the District of Wyoming.

John C. Bell, of Alabama, to be United States Attorney for the Middle District of Alabama.

J. B. Sessions, III, of Alabama, to be United States Attorney for the Middle District of Alabama.

Joseph J. Farnan, Jr., of Delaware, to be United States Attorney for the District of Delaware.

James A. Rolfe, of Texas, to be United States Attorney for the Northern District of Texas.

Michael R. Spaan, of Alaska, to be United States Attorney for the District of Alaska.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Robert A. Rowland, of Texas, to be a Member of the Occupational Safety and Health Review Commission.

Daniel Oliver, of Connecticut, to be General Counsel, Department of Education.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Joseph A. Sickon, of Virginia, to be Inspector General, General Services Administration.

By Mr. MATHIAS, from the Committee on Rules and Administration:

Danford L. Sawyer, Jr., of Florida, to be Public Printer.

(The above nomination from the Committee on Rules and Administration was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1691. A communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1692. A communication from the Deputy Director of the Defense Mapping Agency, transmitting, pursuant to law, information concerning a study to convert to contract performance commercial or industrial functions now being performed by Department of Defense employees; to the Committee on Armed Services.

EC–1693. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, copies of the Pennsylvania Avenue Development Corporation's Annual Report for 1980; to the Committee on Energy and Natural Resources.

EC–1694. A communication from the Acting Secretary of the Department of the Interior, transmitting, pursuant to law, information concerning the proposed leasing program for the United States Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC–1695. A communication from the United States Trade Representative, transmitting pursuant to law, the semiannual report for the prior six month period on the cases pending, new petitions received, and actions taken by the President; to the Committee on Finance.

EC–1696. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of an Act of the Council, dated June 30, 1981; to the Committee on Governmental Affairs.

EC–1697. A communication from the Chairman of the Council of the District of Columbia, transmitting pursuant to law, a copy of an Act of the Council, dated July 14, 1981; to the Committee on Governmental Affairs.

EC–1698. A communication from the Administrator of the General Services Administration, transmitting pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1699. A communication from the Secretary of Education transmitting, pursuant to law, a copy of final regulations on the College Housing Program; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and Joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES (for himself, Mr. WALLOP, and Mr. HATCH):

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; to the Committee on Finance.

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1542. A bill to amend the Mineral Lands Leasing Act of 1920; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. JEPSEN, Mr. LEAHY, Mr. D'AMATO, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. GARN, Mr. BURDICK, and Mrs. HAWKINS):

S. 1543. A bill to amend the Federal Alcohol Administration Act to require a health warning on the labels of containers of certain alcoholic beverages; to the Committee on Commerce, Science, and Transportation.

By Mr. McCLURE (for himself and Mr. DOMENICI):

S. 1544. A bill entitled "The State and Local Energy Block Grant Act of 1981"; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 1545. A bill for the relief of Monchito O. Entena, Antonio V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala; to the Committee on the Judiciary.

By Mr. SYMMS (for himself and Mr. McCLURE):

S. 1546. A bill to define and clarify terms used in that patent from the United States dated June 29, 1911, granting certain lands to the State of Idaho; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 1547. A bill for the relief of Alberto Hernandez Perez; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. ABDNOR, Mr. CHAFEE, Mr. GORTON, and Mr. HATFIELD):

S. 1548. A bill to repeal the Federal outdoor advertising control program, and for other

purposes; to the Committee on Environment and Public Works.

By Mr. WARNER from the Committee on Armed Services:

S. 1549. An original bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes placed on the calendar.

By Mr. HELMS (for himself, Mr. EAST, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. LAXALT, Mr. SYMMS, and Mr. THURMOND):

S. 1550. To amend the Federal Election Campaign Act to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

By Mr. MATHIAS (for himself and Mr. PRYOR):

S. 1551. A bill to amend title 5, United States Code, to extend the period within which physicians comparability contracts may be entered into, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HUMPHREY:

S. 1552. A bill to lower the duty on certain imported sachet parts; to the Committee on Finance.

By Mr. ABDNOR (for himself and Mr. PRESSLER):

S. 1553. A bill to authorize the Secretary of the Interior to proceed with the development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. WILLIAMS, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. NUNN, Mr. CHILES, Mr. HEFLIN, Mr. STENNIS, Mr. JOHNSTON, Mr. TOWER, Mr. MATSUNAGA, Mr. COCHRAN, Mr. CRANSTON, Mr. METZENBAUM, Mr. CANNON, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LONG, Mr. MITCHELL, Mr. BENTSEN, Mr. INOUYE, Mr. BIDEN, Mr. HAYAKAWA, Mr. COHEN, Mr. EAST, Mr. KENNEDY, and Mr. DURENBERGER):

S.J. Res. 103. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the seven calendar days beginning October 4, 1981, as "National Port Week."; to the Committee on the Judiciary.

By Mr. MELCHER:

S.J. Res. 104. Joint resolution directing the President to consult with the Governors of the Federal Reserve System for the purpose of substantially reducing interest rates within the next 90 days; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES (for himself, Mr. WALLOP, and Mr. HATCH):

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; to the Committee on Finance.

(The remarks of Mr. NICKLES on this legislation appear earlier in today's RECORD.)

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1542. A bill to amend the Mineral Lands Leasing Act of 1920; to the Committee on Energy and Natural Resources.

MINERAL LANDS LEASING ACT AMENDMENTS

● Mr. McCLURE. Mr. President, Senator JACKSON and I are today introducing legislation which will allow railroad companies as well as their affiliates to acquire Federal coal leases.

Our bill will repeal a provision of the Mineral Lands Leasing Act of 1920—section 2(c) presently codified in title 30, United States Code, section 202—which prohibits a company operating a common carrier railroad from holding Federal coal leases unless the coal is used for railroad purposes.

While the legislative history of the provision of the 1920 act, which restricts the rights of railroads, is not particularly clear, Congress apparent concern was that the western railroads would dominate the production of coal if they were permitted to hold Federal coal leases. In addition, there was general concern at the time that railroads were economic giants which threatened to control the economy of the West.

While such concerns about railroads may have had some validity in 1920, it has become obvious in recent years that there is no longer any reason for the blanket prohibition embodied in section 2(c). Several laws and regulations enacted during the 1970's enable Federal agencies to respond effectively to any competitive questions which might arise as a consequence of the proposed acquisition of Federal coal leases by railroad companies.

These conclusions are supported by a number of current analyses of competition in the coal industry. One recent study was prepared by the Department of Justice in connection with its responsibility to provide an annual assessment of competition in the coal industry under the Federal Coal Leasing Act Amendments of 1976. The Department's 1980 report, which was the culmination of nearly 4 years spent analyzing competition issues, studying railroad coal reserves in the West, and surveying utilities, concluded:

Plainly, whatever the merits of a general prohibition on leasing to railroads in 1920, the broad sweep of section 2(c) is now an impediment to rather than a bulwark (sic) of competition. The Department therefore recommends that section 2(c) be repealed.

In recommending repeal of section 2(c), the Justice Department report acknowledged that there have been numerous changes in the Federal statutes which make the general prohibition of 2(c) not only unnecessary but anticompetitive in its effect. One of the most important changes occurred as a part of the sweeping reforms embodied in the Federal Coal Leasing Act Amendments of 1976. This change, contained in section 15 of the act, requires the Justice Department to review each Federal coal lease prior to its issuance and to make a determination whether issuance would create or maintain a situation inconsistent with the antitrust laws. As the Justice Department stated in its 1980 report to Congress:

Competitive concerns embodied in section 2(c) could be handled on a case-by-case basis under the antitrust review procedure without the detrimental effect on competition that arises from prohibiting Federal coal leasing to all railroads.

While the policy conclusions and recommendations of the Justice Department's report are very clear, the same report creates an ambiguous, and I believe urgent, situation with respect to the proper interpretation of section 2(c)—a situation which I believe requires the legislative action I am proposing today. Because of a legal interpretation included as a part of the Justice Department's report, a question has arisen whether the barrier of section 2(c) allows further development of Federal coal leases by companies that are separate from but affiliated with railroads as part of a corporate holding company structure.

The Interior Department's solicitor has held repeatedly that section 2(c) does not automatically disqualify affiliates of railroad companies from holding Federal coal leases. The Justice Department has developed a different interpretation of the provision, arguing that railroad affiliates (including companies owned by a parent that also owns a railroad company) are ineligible to hold Federal coal leases under section 2(c).

On its face, this dispute appears to be a totally legalistic one, since the Justice Department has reported to Congress its policy conviction that both railroad affiliates and railroads themselves should be allowed to participate in Federal coal leasing. Unfortunately, however, the legalistic dispute between the two agencies stands as an invitation to opponents of new Federal leasing, disgruntled losing bidders, and others to tie up the leasing program in controversy over the validity of participation by railroads or their corporate affiliates in the bidding and leasing process. This result would be unjust, would restrict competition, and would frustrate the planning of companies which plan to compete in competitive bidding.

Section 2(c) repeal legislation has been passed by the Senate on three occasions since 1957, but each time the legislation has been stalled in the House. At the time of the most recent attempt at repeal in 1975, Members of Congress were preoccupied with several developments of significance, the competitive implications of which were not then totally clear.

These included the explosive escalation in demand projected for coal as a result of the 1973–74 OPEC oil embargo, the revelation of widespread acquisition of Federal coal reserves for apparently speculative purposes during the 1960's, and the entry of the oil companies into Western coal. All of these factors combined to cause Members of Congress to be

wary of any legislative changes which might affect this rapidly evolving and, at the time, ill-defined environment.

In addition, when repeal was considered in 1975, the comprehensive studies of the structure of the coal industry and the potential effect of railroad participation were not available to Members of Congress.

Mr. President, given the fact that nearly a decade has passed since major Federal lease sales have occurred, I believe it is especially important that this coal leasing program should now proceed. Congress, through a series of reforms, including the abolition of preference right leasing, the requirement that fair market value be received for all Federal coal, and provisions for extensive public review and comment on leasing plans, has set the stage for coal development to occur in an orderly and competitive environment. In this new environment, section 2(c) is an anachronism that is now anticompetitive in its effect. It is time for it to be repealed. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 2(c) of the Act of February 25, 1920 (41 Stat. 438), as amended (62 Stat. 289) (presently codified in 30 U.S.C. sec. 202), is hereby repealed.●

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. JEPSEN, Mr. LEAHY, Mr. D'AMATO, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. GARN, Mr. BURDICK, and Mrs. HAWKINS):

S. 1543. A bill to amend the Federal Alcohol Administration Act to require a health warning on the labels of containers of certain alcoholic beverages; to the Committee on Commerce, Science, and Transportation.

HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES

Mr. THURMOND. Mr. President, along with my distinguished colleagues, Mr. HATCH, Mr. JEPSEN, Mr. GRASSLEY, Mr. LEAHY, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. D'AMATO, Mrs. HAWKINS, Mr. GARN, and Mr. BURDICK, I am pleased to introduce today legislation that will require a health warning label on all containers of alcoholic beverages which have more than 24 percent alcohol by volume. The warning would read as follows:

Caution: The Surgeon General has determined that consumption of alcoholic beverages during pregnancy can cause serious birth defects. Alcohol can also impair driving ability, create dependency or addiction, and can contribute to other major serious health hazards.

Alcoholism and alcohol abuse are together recognized as one of the most serious health problems in our Nation. Alcohol is not only a prevalent beverage in our society, it has become a much abused drug, as have cocaine, heroin, barbiturates, amphetamines, and others. The consequences of alcohol abuse are a serious national problem in terms of the number of individuals affected, the cost to society, and the damage to the human body.

Alcoholism is a disease that can strike persons of any social or economic level with tragic results. No one really knows how many lives this disease has ruined, or how many healthy people it has adversely affected. The behavior of the abuser often harms not only himself, but also his family, employer, and society at large.

Mr. President, perhaps the most serious health consequences of alcohol abuse are those resulting from the consumption of alcoholic beverages by pregnant women. In 1980, the Department of Health, Education, and Welfare and the Bureau of Alcohol, Tobacco, and Firearms reported that as little as two drinks a week during pregnancy increases the chance of having a miscarriage.

The Surgeon General, in a recent report to Congress, summarized current scientific knowledge about health hazards associated with alcohol consumption during pregnancy, and concluded that such consumption can: First, significantly decrease birth weight among the children of some women who average only 1 ounce of absolute alcohol per day during pregnancy; second, significantly increase spontaneous abortions in women with alcohol consumption levels as low as 1 ounce of absolute alcohol twice a week; and third, increase the chances of birth defects.

The report also concluded that the fetal alcohol syndrome (characterized by various deformities and mental retardation) may result from alcohol consumption. This syndrome of birth defects is frequently associated with retardation and is also characterized by central nervous system disorders, growth deficiencies, a specific cluster of facial abnormalities, and other malformations, particularly skeletal, urogenital, and cardiac. Alcohol consumption by a nursing mother can produce in an infant the pseudo-Cusling syndrome, evidenced by such abnormalities as a "moon" or "balloon" face, truncal obesity, and easy bruising.

Alcohol abusers are also subject to a disproportionate number of violent deaths. The American Council on Alcohol Problems, in a 1976–79 Iowa study, found that between the hours of 9 p.m. and 3 a.m. alcohol-related, fatal traffic accidents accounted for 56.9 percent of the total number of traffic deaths in that period. In a 1978 report to Congress, the Department of Transportation stated that more than 23,000 individuals died in automobile crashes in which a drinking driver was involved.

Mr. President, I believe it would actually be in the best interest of the liquor industry to place these warnings on the labels of their products. According to the president of the U.S. Distilled Spirits Council, who appeared before the Senate Subcommittee on Alcoholism and Drug Abuse last year, the warning label would cost "less than a penny" per label. By using such labels, it seems to me the manufacturers of these products would be protecting themselves against the legal liability which may very well accompany an absence of warnings. This possibility was addressed in an article in the spring, 1981 edition of the American Issue, a quarterly news magazine of the American Council of Alcohol problems. That article poses the questions:

Is there a duty on the part of the manufacturer of alcoholic beverages to warn the public in some way of the dangers in the use of the product? Is there a duty on the part of the private and governmental seller of the product to see that the purchaser of the product is warned? When a youth who has just reached legal drinking age goes into a store to buy a bottle of liquor, is there a duty on the part of the seller to see that the person is informed of dangers? We believe the courts will so hold when cases come before them where there has been no warning and a youth is injured or killed.

Whether or not the premise advanced by the American Issue ultimately proves true, I believe it raises a valid point, one which the liquor industry would do well to consider. Apparently, however, the industry has chosen to ignore this potential danger.

This legislation will serve to provide individuals with the knowledge necessary to make an informed decision on whether or not to consume alcoholic beverages. This label provides for no restrictions or penalties to be imposed on those who do not choose to heed its warning. It merely gives notice that the consumption of alcohol may entail serious consequences in certain situations.

I feel it is important that these consumers, particularly pregnant women, should at least be aware of the dangers associated with the use of alcohol. The legislatures of Utah and Kansas have both passed resolutions endorsing the idea of alcohol warning labels, and similar resolutions are being considered in the legislatures of Oregon, Missouri, Minnesota, Iowa, Illinois, and Michigan.

Doing something to curb the growing abuse of alcohol is what this bill is all about. If such a warning label deters a potential abuser of alcohol from taking a drink, or prevents a casual drinker from climbing behind the wheel of a car when he has had "one too many," or prevents a pregnant woman from potentially causing harm to her unborn child, then this legislation will be effective and worthwhile.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 5(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended—

(1) by striking out "and" before "(5)";

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and the following: "and (6) as will require, in the case of any container of distilled spirits, wine, or malt beverage con-

taining more than 24 per centum of alcohol by volume, the following statement to appear on the label of any such container in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such label: 'CAUTION: The Surgeon General has determined that consumption of alcoholic beverages during pregnancy can cause serious birth defects. Alcohol can also impair driving ability, create dependency or addiction, and can contribute to other major health hazards.'.".

ALCOHOL WARNING LABELS

Mr. HATCH. Mr. President, I rise to support the bill introduced today by my friend and colleague, the distinguished Senator from South Carolina, Senator THURMOND, which would require a warning label on containers of alcoholic beverages. I would like to recognize Senator THURMOND's leadership on this significant issue, both in the current Congress and during the 96th Congress. I know that Senator THURMOND has introduced this bill out of a genuine interest in the health and well being of our people, which I certainly share; and I am pleased to work together with him on the issue of warning labels, as I have in the past.

Mr. President, alcohol use is widely accepted in our society and considered by many to be a part of their social activities. Personally I am a teetotaler, but I have no quarrel with those who choose to consume alcoholic beverages. However, the misuse and abuse of alcoholic beverages can and does pose a most serious threat to the economic, social, and emotional health of our society, and I feel that the magnitude of the problem of alcohol misuse and abuse is so large that it cannot be ignored by Congress. Indeed, during the past decade we have developed a significant national thrust in understanding the problems of alcohol abuse, and in treating and preventing those problems. Partially as a result of the research that has been conducted by the National Institute on Alcoholism and Alcohol Abuse we are coming to understand the scope of the alcohol abuse problem. As our understanding has increased we have been confronted with facts which wisdom dictates should be presented to all of our people. It is with a desire to educate and disseminate information, that I am pleased to be a principal cosponsor of this alcohol warning label bill.

Our distinguished colleague in the House of Representatives, Congressman GEORGE E. BROWN of California introduced an alcohol warning bill earlier this year in the House. We are also pleased to be able to join with him in what is truly a bipartisan effort to inform consumers about the hazards of alcohol misuse. Congressman BROWN has been a leader in the House for this warning label issue in both the 96th and 97th Congress. His foresight and concern in promoting this idea set a good example for us to follow. I know he will continue to work from that side of Capitol Hill to get support from other Members of the House for this idea.

Mr. President, the idea of a warning label on alcoholic beverages is likely to generate some differences of opinion, though I believe that all responsible parties would agree that efforts to combat alcohol abuse must be strengthened. I would like to give some of the reasons why I am supporting this initiative at this time.

We have a long tradition of Government-mandated warning labels as a means of providing information about potential hazards associated with using certain products. Warnings about dosage for drugs are considered to be necessary even for such common substances as cough drops and headache remedies. Occasionally when research indicates that a substance may cause health problems with continued use, warnings to that effect have been required on packages and containers.

The most recent and relevant examples are the saccharin warnings, and the warning label required on tobacco products. Research with animal models indicated that there was a slight chance of saccharin's contributing to the development of cancer. Even though susbtantial evidence was not available that saccharin would cause cancer in humans, it was considered advisable to warn of the potential relationship between saccharin use and cancer. After considerable study in the late fifties and early sixties, the Surgeon General issued a health advisory about the potential harmful effects of tobacco smoke on health.

The Surgeon General's initial report was considered to be sufficiently strong in evidence linking smokers to increased heart problems, lung cancer and other health problems that Congress decided to act and require warnings on cigarettes. I would note in passing that at the same time of the Surgeon General's initial report there was some controversy about the direct link between cigarette smoking and health problems. That action of Congress in requiring warning labels has been clearly vindicated.

Over the years, evidence linking tobacco smoke and health hazards has continued to mount. The health warning on tobacco products has been strengthened, and has undoubtedly contributed to increasing awareness of these health hazards in the minds of our population. Partially as a result of these warnings, overall per capita cigarette consumption in the United States has declined significantly since 1964 when the first Surgeon General's report was issued.

On three occasions declines have been particularly marked, and each of these declines occurred following the release of information regarding the negative consequences of smoking. A recent report published jointly by the Departments of Health and Human Services and the Treasury concluded:

The cigarette warning label has undoubtedly contributed to changes in health beliefs and smoking behavior.

Though the report goes on to note that a warning label by itself will not contribute to those changes as effectively as when such a warning is combined with an array of media and other education efforts.

The same HHS-Treasury report declared that warning labels are, "one of the Government's most important forms of health alert." And the report further expressed concern that warning labels not be overused. With this I completely agree. Warning labels are a powerful tool because they bring the weight of the consensus of Congress to bear on the specific problem. I also agree that they should not be over-used. In the instance of alcohol warning labels, I believe that the case is so strong that it would be irresponsible should Congress not require them.

Many of us are concerned with Government over-regulation and redtape. We would like to see the heavy hand of Government bureaucracy lifted from our personal lives and our business pursuits. Some may question the advisability of a warning label because it seems like another form of Government regulation. In fact, I see a warning label as an appropriate mode of Government action.

A warning label educates, without requiring a particular behavior, leaving the individual free to govern his own conduct, while better informed about the consequences. A warning label requires a minimum of Government intrusion into industry.

According to testimony of the president of the Distilled Spirits Council (the Liquor Trade Association) before the Senate Subcommittee on Alcoholism and Drug Abuse, the cost of a label would be less than a penny per bottle, so the cost is not really an issue either.

From the perspective of the alcohol industry, there are other considerations which need to be raised. I personally believe that the alcohol industry is very interested in preventing the misuse of their product. I know they have long engaged in advertising against alcohol abuse, and I have every reason to believe they will continue in these efforts, and in fact, increase them in the months and years to come. Beyond the obvious issue of social responsibility which the industry must consider, there are issues of legal liability which may be relevant.

I would like to insert into the RECORD at this point, if there is no objection, excerpts from an article in the American Issue, in which the author, Mr. William Plymat, a lawyer from Iowa, argues that the liquor industry could be held liable for failing to warn about the dangers of alcohol misuse.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

THE APPARENT LEGAL DUTY OF PRIVATE AND GOVERNMENTAL SELLERS OF ALCOHOLIC BEVERAGES TO WARN OF THE DANGERS IN THE USE OF THEIR PRODUCTS AND THEIR POSSIBLE LEGAL LIABILITY FOR FAILING TO DO SO

These days the multiplicity of court decisions imposing legal liability on manufacturers of products has raised the consciousness and concern of all businessmen. The applicable principles are these:

(1) Under products liability law, the maker of a product may be held liable to one injured due to a defect in that product—whether in design or manufacture, or which results from the lack of adequate warning—that renders the product "unreasonably dangerous to normal use."

(2) The term "normal use" is a term of the art in the parlance of products liability law, delineating the scope of a manufacturer's duty and consequent liability. It

encompasses all reasonably foreseeable uses of a product.

Is there a duty on the part of the manufacturer of alcoholic beverages to warn the public in some way of the dangers in the use of the product? Is there a duty on the part of the private and governmental seller of the product to see that the purchaser of the product is warned? When a youth who has just reached legal drinking age goes into a store to buy a bottle of liquor, is there a duty on the part of the seller to see that the person is informed of dangers? We believe the courts will so hold when cases come before them where there has been no warning and a youth is injured or killed.

The lengths to which courts have gone in imposing duties of this kind is manifest by a court decision handed down by the United States Court of Appeals for the Fifth Circuit on August 11, 1980 in a case involving the Ford Motor Company. Ford marketed a sports car with a recognized appeal to youthful drivers, equipped with a 425 hp. engine. It provided a capability of speeds over 100 miles per hour. It was foreseeable that the car would on occasion be driven in excess of 85 miles per hour, which was the proven maximum safe operating speed of the tires on the car. Ford did not warn the purchaser of the limitations of the tires and that the car could not be safely driven over 85 miles per hour. In this case the buyer of the car was driving the car while obviously intoxicated (blood alcohol level .18 percent) and exceeded 100 miles an hour.

There was a separation of tread from a tire, resulting in a fatal accident. The lower court held that the use of this tire on the car, in absence of an adequate warning of the danger of tread separation at the high speeds which were foreseeable, rendered the car and tire unreasonably dangerous. The court further held that while excessive speed was a contributing cause of the accident the intoxication was not, and that neither plaintiff (the driver and passenger) in the action voluntarily assumed the risk of the tragedy that befell them. The appeal court affirmed the lower court decision and held the Ford Motor Company liable for failure to warn the purchaser of the tire limitations. (LeBouef vs. Goodyear Tire & Rubber Co. and Ford Motor Company.)

If the Ford Motor Company is to be held to have a duty to warn in these circumstances, is there not a duty on the part of the manufacturer of alcoholic beverages to warn of the dangers in the foreseeable use of its product? Is there not a similar duty on the part of the seller of the liquor to the purchaser? We believe that the courts will so hold when a proper case comes up.

Mr. HATCH. Mr. President, I believe that the argument Mr. Plymat makes here has some merit. Since I know the industry wants people to act responsibly in using their products, I believe they will want to avoid any potential accusations that they have not done all they could do to encourage people to use their products with reason, and on the basis of the best information available as to the potential hazards involved.

The warning label we have proposed is specific and addresses the major issues that have been identified with alcohol problems. The label reads:

Caution: The Surgeon General has determined that consumption of alcoholic beverages during pregnancy can cause serious birth defects. Alcohol can also impair driving ability, create dependency, or addiction and can contribute to other major health hazards.

The HHS-Treasury report on health hazards associated with alcohol identified five major health hazards, and discussed each of these in detail. They are: First, fetal alcohol syndrome (FAS) and other alcohol-related birth defects; second, alcoholism; third, major medical consequences; fourth, alcohol-drug interactions; and fifth, accidental death and injuries.

Our proposed label specifically identifies all of these issues, combining the problem of alcohol drug interactions under "other major health hazards." I believe a brief comment is in order relating to each of these.

In July 1981 the Surgeon General issued an advisory on alcohol and pregnancy. If there is no objection I ask unanimous consent to submit a copy of this advisory to be printed in the RECORD.

There being no objection, the advisory was ordered to be printed in the RECORD, as follows:

SURGEON GENERAL'S ADVISORY ON ALCOHOL AND PREGNANCY

The Surgeon General advises women who are pregnant (or considering pregnancy) not to drink alcoholic beverages and to be aware of the alcoholic content of foods and drugs.

A recent report to the President and Congress [1] summarizes current scientific knowledge about health hazards associated with alcohol consumption, including those during pregnancy. The report concludes that alcohol consumption during pregnancy, especially in the early months, can harm the fetus.

Among the findings of the report are the following:

Significantly decreased birth weight has been observed among the children of some women who average only one ounce of absolute alcohol (two standard drinks) per day during pregnancy.[2]

Sizeable and significant increases in spontaneous abortions have been observed at reported alcohol consumption levels as low as one ounce of absolute alcohol twice a week.[3, 4]

A woman who consumes alcohol at amounts consistent with a diagnosis of alcoholism risks bearing a child with a specific cluster of severe physical and mental defects known as the fetal alcohol syndrome (FAS) (See September-October 1977 Drug Bulletin). This syndrome of birth defects is frequently associated with mental retardation, and is also characterized by central nervous system disorders, growth deficiencies, a specific cluster of facial abnormalities, and other malformations, particularly skeletal, urogenital, and cardiac. Many of these characteristics are individually subtle but are readily apparent to trained dysmorphologists.

Even if she does not bear a child with full FAS, a woman who drinks heavily is more likely to bear a child with one or more of the birth defects included in the syndrome. Microcephaly, which is associated with mental impairment, is one of the more common of these defects.

The reported effects of pregnancy outcome appear to be independent of potentially confounding variables including nutrition and smoking.

In addition, it has been demonstrated that alcohol readily enters breast milk and thus is transmitted to the nursing infant. Heavy alcohol consumption is known to decrease the mother's milk.

Research to establish the mechanisms by which alcohol consumption affects fetal and neonatal growth and development is underway.

Health professionals are urged to inquire routinely about alcohol consumption by patients who are pregnant or considering pregnancy. This information should be included in their medical records.

Each patient should be told about the risk of alcohol consumption during pregnancy and advised to not drink alcoholic beverages and to be aware of the alcoholic content of foods and drugs.

Interested practitioners can obtain material about techniques for obtaining accurate drinking information from patients, as well as written material for pregnant patients, by contacting the National Clearinghouse for Alcohol Information (NCALI).[5, 6]

Mr. HATCH. Mr. President, this advisory is equivalent to the advisory in the 1960's which generated the interest in getting tobacco warning labels. The major difference between them is that the scientific evidence is much stronger that alcohol is a causal agent for birth defects in humans, than was the original evidence that smoking was related to health hazards.

We know it is a scientific fact that alcohol can cause birth defects in humans. The Surgeon General advises women who are pregnant, or considering pregnancy, not to drink alcohol at all. There is no known safe level of alcohol consumption during pregnancy. Alcohol and pregnancy do not mix. Even small amounts of alcohol can interfere with normal developmental processes in the fetus. During pregnancy the baby is completely dependent on the mother to provide the nutrients for physical development. The first 70 days after conception are particularly important because it is then that the vital organs and other body parts—legs, arms, fingers, and so forth—are formed. Growth of the body and brain continue throughout pregnancy, and the building blocks for this growth continue to be taken from the mother's blood stream through the placenta. Alcohol in the mother's blood passes directly through the placenta into the baby's blood stream, and can adversely affect the baby's development.

Since pregnant women are typically highly motivated about insuring the well-being of their children, it is felt that they may be very susceptible to warning labels. Quoting again from the HHS-Treasury report:

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[1] *Report to the President and Congress on Health Hazards Associated with Alcohol and Methods to Inform the General Public of these Hazards.* U.S. Department of the Treasury and U.S. Department of Health and Human Services, Nov. 1980. Available for $4.25 from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[2] Little RE. Moderate alcohol use during pregnancy and decreased infant birth rate. *Am J Public Health.* 67: 1154, 1977.

[3] Kline J., Shrout P., Stein Z. *et al.: Lancet,* 2: 176, 1980.

[4] Harlap S and Shiono PH: Alcohol, smoking and incidence of spontaneous abortions in first and second trimester. *Lancet,* 2: 183, 1980.

[5] Sokol RJ and Miller SI: Identifying the alcohol abusing obstetric/gynecologic patient: a practical approach. In *Alcohol Health and Research World,* 4: 36–40, 1980. Available as document RPO 258 from NCALI, P.O. Box 2345, Rockville, MD 20852.

[6] *Alcohol and Your Unborn Baby,* Pub. No. PH–90, NIAAA, 5600 Fishers Lane, Rockville, MD 20857.

Women of childbearing age are thought to be particularly susceptible to a message concerning the health of their unborn child. A warning label would alert the family and friends of pregnant women, as well as the women themselves, helping to develop a support system for the short-term behavior change required. A warning label directed toward alcohol consumption during pregnancy may fit some of the conditions under which such labels tend to be effective—the threat to health is unequivocal, will be manifested relatively quickly, and requires only a short-term behavior change.

Mr. President, the problems of alcohol consumption during pregnancy are extremely serious. In a task force report to the Governor of New York on fetal alcohol syndrome, it was estimated that in New York State alone 386 babies were born with FAS, and approximately 1,563 more babies were born in 1978 with alcohol-related birth defects (ARBD). The lifetime costs of caring for babies born in New York State with FAS/ARBD in a single year were estimated at almost $155,000,000. Using those figures and considering that in 1979 New York State had fewer than 10 percent of the 3,473,000 live births in the Nation, it is reasonable to estimate that the lifetime costs of the children born throughout the Nation in a single year with FAS/ARBD would be about $1.5 billion. When we consider that that is multiplied by the number of children born each year, year in and year out, who are adversely affected by alcohol related problems, the cost to society of this one alcohol hazard becomes truly staggering.

We have heard considerable concern during the past few months from colleagues on both sides of the aisle about how important it is to take care of our handicapped individuals, and how important it is to take care of those with mental retardation. In these sentiments I heartily agree. But, Mr. President, I cannot understand how anyone can be concerned for these individuals and not be concerned with reducing the major preventable cause of these conditions. Not only do birth defects affect the victim, but parents, siblings, and society at large are adversely affected. Quoting from the New York Task Force report:

Data now suggest that FAS is among the three leading congenital disorders associated with mental impairment, along with Down's syndrome and spina bifida. Of these only alcohol related birth defects are preventable.

Mr. President, surely it is time for Congress to take a stand and warn people about a preventable problem.

The second issue our warning label addresses is auto accidents. Let me quote from the fourth special report to the U.S. Congress on alcohol and health.

In the United States traffic accidents are the major cause of violent death and a significant factor in serious injury. Between 35 and 64 percent of the drivers in fatal accidents . . . had been drinking prior to the accident. Motor vehicle crashes caused by alcohol abuse cost American society $5.14 billion a year.

This is a particularly serious problem for our young people. Accidents are the most common cause of death for youth, and alcohol is related to far too many of these needless tragedies. I feel we need a constant reminder that these accidents can be prevented when they are alcohol related, just by a little prudence and caution.

The third problem is alcoholism itself. It is estimated that there are 10 million alcoholics in America today. This makes alcoholism our No. 1 drug problem. Approximately 15 percent of those who drink report behaviors and characteristics associated with alcohol dependence or loss of control during the 12 months prior to one national survey. Considering only levels of consumption, and knowing of the high correlation between alcohol consumption and alcoholism, the NIAAA estimates that about 15 percent of the adult male drinkers and 3 percent of the adult female drinkers are drinking at levels that indicate substantial risk for the development of either alcoholism or serious problem drinking. Alcoholism is both preventable and controllable. I believe we need to move ahead with education programs, of which warning labels are an important part, which will promote prevention and reduce the need for treatment.

Finally, our warning label recognizes the substantial risks involved with other areas of health when too much alcohol is consumed. These risks are very well documented in the HHS-Treasury report, and elsewhere in NIAAA publications, so I will briefly allude to them here. They include:

Esophageal, gastric and duodenal lesions; pancreatitis; liver disease; nutritional deficiency; nervous system disorders; peripheral neuropathy; endocrine system malfunctions; cardiovascular prolems; and cancer of the mouth, pharynx, larynx, esophagus, and liver.

Mr. President, the evidence regarding the health hazards associated with alcohol is overwhelming. Alcohol abuse costs our great Nation between $40 and $50 billion each year. We know what the cause is. We know it is preventable.

This year in my home State of Utah, both houses of the legislature passed, and the Governor signed, a resolution petitioning Congress to require a warning label on alcoholic beverages. The legislature in Kansas has passed a similar resolution. One house of the legislatures in Oregon, Missouri, Minnesota, Iowa, Illinois, and Michigan have passed similar resolutions. There is a great ground swell of agreement developing about the need for educating and reminding people about the potential hazards of alcohol abuse. If there is no objection I ask unanimous consent to submit a copy of the Utah resolution for printing in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

[State of Utah]

ALCOHOL WARNING LABEL RESOLUTION

Be it resolved by the Legislature of the State of Utah, the Goveror concurring therein:

Whereas, consumption of alcoholic beverages constitutes the United States' most severe drug problem, resulting in more illness, injury, and death than from all other drugs combined;

Whereas, the consumption of alcoholic beverages presents a special danger for youth;

Whereas, the National Institute on Alcohol Abuse and Alcoholism in its Fourth Special Report to Congress on Alcohol and Health of 1979, estimated that the excessive consumption of alcoholic beverages in that year alone cost the United States approximately $42,750,000,000, breaking down the cost as follows:

Lost production	$19, 640, 000, 000
Health and medical	12, 740, 000, 000
Motor vehicle accidents	5, 140, 000, 000
Violent crime	2, 860, 000, 000
Social responses	1, 940, 000, 000
Fire losses	430, 000, 000
Total	42, 740, 000, 000

Whereas, the United States Department of Health and Human Services and the Bureau of Alcohol, Tobacco and Firearms reported in 1980 that the consumption of alcoholic beverages by pregnant women can be hazardous to the health of unborn children;

Whereas, the Comptroller General of the United States has stated in his report to Congress that the consumption of alcoholic beverages is the single largest factor in highway deaths with some 25,000 persons dying annually in drunk driving or drinking related accidents;

Whereas, it has been medically established that the consumption of alcoholic beverages over a short period of time can cause sickness or death;

Whereas, lack of public awareness concerning the dangers of alcohol use and abuse is widespread and there is an urgent need to educate the public concerning those dangers;

Whereas, warning labels are now required on other drugs and products and have been helpful in warning the public of potential health hazards caused by the use of those products;

Whereas, the health warnings on cigarette packages and in advertisements have produced many beneficial results;

Whereas, a proper, concise limited warning on the labels of alcoholic beverage containers would be beneficial and cause people to seek detailed information about the dangers in the use and abuse of alcohol, and in many instances would be preferable to other forms of government action, which might be more intrusive or more costly; and

Whereas, warning labels can effectively supplement other private and public health education efforts.

Now, therefore, be it resolved, that the General Session of the 44th Legislature of the State of Utah, the Governor concurring therein, urge the Congress of the United States to pass a bill that mandates a warning label on all alcoholic beverage containers sold in interstate commerce, and that due consideration be given to a proposed warning which includes the following:

"WARNING

"Using this product may be hazardous to your health; may impair driving ability; may create dependence or addiction; and during pregnancy may harm the unborn. Legal age required for purchase."

Be it further resolved, that the Lieutenant Governor forward copies of this resolution to members of the Utah Congressional Delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, and the chairpersons of the Senate and House Committees to which such bills may be referred.

Mr. HATCH. Mr. President, we are not proposing alcohol warning labels as a cure-all. We know that other public awareness campaigns are necessary and essential. We agree with the HHS-Treasury report that Government and industry should develop and conduct a broad based, diverse and highly visible public information campaign on alcohol re-

lated problems. We will support and encourage such efforts. I hope that they are underway right now, and if they are not, I hope that our encouragement here today will provide an added incentive to move in these directions.

Congress cannot now stand idly by, and trust that things will work out for the best. We have acted in the past to put warning labels on potentially dangerous products. The Senate has voted in the last Congress to put a warning label on alcoholic beverages, even before the Surgeon General's advisory about alcohol consumption during pregnancy being related to birth defects. While we do not know exactly the extent of the effect such a warning label will have in reducing alcohol-related health hazards, most experts agree that in combination with other public awareness campaigns the effect will be positive.

Certainly no one would argue that warning labels would make matters worse. If one baby could be spared the agony of going through life hampered by an alcohol-related birth defect, or if one teen could be saved from a fatal car accident, the trivial expense of a warning label would be well worth it.

But in fact, Mr. President, we have every reason to believe that many thousands of babies could be so spared, and many thousands of lives saved if we can increase the awareness of the problem via warning labels. We need the sense of the Congress and the Government that alcohol health hazards are real, and that we stand behind efforts to educate the public to them. Such evidence of congressional interest and concern is best witnessed by a warning label.

A warning label on hard liquor does not mean that alcohol in beer and wine is any less damaging to the fetus or less of concern to driving and other health risks. An alcohol warning label does not mean that we believe that this is all we must do to deal with these serious problems. An alcohol warning label does not mean that we want the heavy hand of big Government controlling our lives. What an alcohol warning label does mean is that Congress feels obligated to address the problem of alcohol abuse head on. A warning label is a clear indication that Congress trusts Americans to make the right decision, when they are provided with accurate information. I know that is my determination, and I believe that this bill will have significant positive value in our continuing efforts to reduce the economic, social, and emotional toll that alcohol misuse and abuse takes from our society.

The case for issuing a warning label has never been so strong, the evidence so persuasive, and the potential good that can be done so great as they are with this issue. I urge all my colleagues to consider this issue carefully. I hope they will give it their full support.

By Mr. McCLURE (for himself and Mr. DOMENICI):

S. 1544. A bill entitled "The State and Local Energy Block Grant Act of 1981"; to the Committee on Energy and Natural Resources.

STATE AND LOCAL ENERGY BLOCK GRANT ACT OF 1981

● Mr. McCLURE. Mr. President, the administration has submitted two reports to the Committee on Energy and Natural Resources regarding S. 1166, the "National Home Weatherization Act." The reports were received from David Stockman, Director of the Office of Management and Budget, and R. Tenney Johnson, General Counsel of the Energy Department. Both reports state the administration's opposition to S. 1166 and to the reauthorization of the numerous existing Federal categorical energy conservation grant programs, as proposed by S. 1166.

The existing Federal categorical programs include weatherization assistance for low-income persons, energy extension service, State energy conservation plans, energy conservation in schools and hospitals, State emergency conservation activities and several other programs. Both reports, however, propose as an alternative a new energy block grant program at an authorized level not in excess of $200 million per year. In order to provide the Senate with a fully developed legislative proposal of the energy block grant alternative, I requested the Energy Department to prepare a legislative draft reflecting details of the program envisioned by the administration.

Today, I am introducing the DOE draft legislation to establish an energy block grant, "The State and Local Energy Block Grant Act of 1981." It is my hope that this bill will facilitate the Senate's consideration in this Congress of the most appropriate and fiscally responsible approach to any continued and local energy programs. As chairman of the Energy and Natural Resources Committee which authorizes these programs and as chairman of the Interior Appropriations Subcommittee which appropriates annually the funds for these programs, I am convinced, as I am sure many other Senators are, that it is time now for a thoughtful review of this proliferation of Federal categorical programs. I believe that the DOE-drafted bill I introduce today will facilitate that review.

Mr. President, I ask unanimous consent that Mr. Stockman's letter of July 17, 1981, Mr. Johnson's letter of July 24, 1981, the text of the DOE drafted bill, and an outline of the bill prepared by DOE be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Energy Block Grant Act of 1981".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term "State" means the 50 States, the District of Columbia, and Puerto Rico.

SEC. 3. ALLOCATION OF FUNDS.

(a) For the purposes of providing the financial assistance authorized by this Act, the Secretary of Energy shall allocate annually the sums available for financial assistance under this Act among the States in the following manner—

(1) 75 percent shall be allocated on the basis of the resident population of the States; and

(2) 25 percent shall be allocated equally among the States.

(b) Notwithstanding subsection (a) of this section, the Secretary of Energy may set a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 4. PAYMENTS TO STATES.

(a) Upon annual application, the Secretary of Energy shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. § 4213) to each State, not to exceed its allocation under section 3 of this Act, for use by the State as provided in section 5 of this Act.

(b) Any State receiving financial assistance under this Act shall provide matching funds from non-Federal sources in an amount equal to—

(1) 30 percent of the amount awarded, for fiscal year 1982;

(2) 50 percent of the amount awarded, for fiscal year 1983; and

(3) 50 percent of the amount awarded for fiscal year 1984.

SEC. 5. USE OF GRANT MONEY.

(a) A State may use amounts paid to it under section 4 for energy conservation and supply activities, including but not limited to—

(1) energy conservation,

(2) energy conservation measures and weatherization in public or nonprofit institutional buildings, including schools, hospitals, public care institutions and local governmental buildings,

(3) weatherization for low-income persons,

(4) residential and commercial building conservation,

(5) residential and commercial energy audits and technical assistance,

(6) energy emergency preparedness.

(7) renewable energy research, development, and demonstration,

(8) energy supply, research and development,

(9) transportation energy efficiency, and

(10) energy conservation and supply development in the agricultural sector.

(b) Amounts described in subsection (a) may not be used for costs of administration in excess of 10% of the amount awarded under section 4.

(c) A State shall obligate amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which those amounts were appropriated.

SEC. 6. REPORTS AND AUDITS.

(a) The Secretary of Energy, by general or special orders, shall require any grantee, subgrantee or other recipient of financial assistance under this Act to provide, in the form the Secretary of Energy prescribes, whatever reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary of Energy to ensure that funds made available by this Act are properly spent.

(b) Each person responsible for the administration of any project receiving financial assistance under this Act shall keep whatever records the Secretary of Energy prescribes in order to assure an effective financial audit and performance evaluation of that project.

(c) The Secretary of Energy, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this Act that are pertinent to the financial assistance received under this Act.

(d) Payments under this Act may be made in installments and in advance, or by way of

reimbursement, with necessary adjustments on account of overpayments or underpayments.

SEC. 7. APPROPRIATIONS AUTHORIZATION.

There is authorized to be appropriated for purposes of section 4 of this Act $200,000,000 for each of the fiscal years 1982, 1983, and 1984.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Energy Security Act is amended—

(1) in title V, by striking out subtitle F (42 U.S.C. §§ 8285–85c.), relating to energy auditor training; and

(2) by striking out the items in the table of contents relating to subtitle F of title V.

(b) The National Energy Conservation Policy Act is amended—

(1) in title II, by striking out parts 1 (42 U.S.C. 8211–26) and 5 (42 U.S.C. 8235–351) and section 233 (92 Stat. 3227), relating to residential energy conservation and weatherization assistance for low-income persons:

(2) by striking sections 303 and 304 (92 Stat. 3248) and section 312 (42 U.S.C. 6371j.), relating to energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions;

(3) by striking out title VII (42 U.S.C. 8281–84), relating to the commercial and apartment conservation service; and

(4) in the table of contents, by striking out the items relating to—

(A) parts 1 and 5 and section 233 of part 2 of title II,

(B) sections 303, 304 and 312, and

(C) title VII.

(c) The Energy Research and Development Administration Appropriation Authorization Act of 1977 is amended by—

(1) striking out section 112 (42 U.S.C. 5907–a), relating to the appropriate technology grants program; and

(2) striking out title V (42 U.S.C. 7001–7011), relating to the Energy Extension Service.

(d) The Energy Policy and Conservation Act is amended—

(1) by striking out parts D (42 U.S.C. 6321–27), and G and H (42 U.S.C. 6371–721.) of title III, relating to State energy conservation plans and energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions; and

(2) by striking out the items in the table of contents relating to parts D, G and H of title III.

(e) The Energy Conservation and Production Act is amended—

(1) by striking out part A of title IV, (42 U.S.C. 6851–72), relating to weatherization assistance for low-income persons; and

(2) by striking out the items in the table of contents relating to part A of title IV.

(f) The National Housing Act of 1949 is amended by striking out section 504(c) (42 U.S.C. 1474(c)), relating to the rural weatherization grant program.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 17, 1981.

Hon. JAMES A. MCCLURE,
U.S. Senate, Washington, D.C.

DEAR JIM: Thank you for requesting a statement of the Administration's position on S. 1166, the National Home Weatherization Act of 1981.

This bill is intended to reauthorize certain categorical grant programs administered by the Department of Energy, including weatherization assistance for low-income people, energy extension service activities, State energy conservation planning, State energy emergency plans and activities and energy conservation in schools and hospitals, as well as any other State energy conservation program authorized by Federal law. States would be authorized to submit a single annual application for financial assistance to implement the programs authorized under this Act. Unless waived by the Secretary of Energy, States would be required to utilize not less than 65 percent of such assistance for low income weatherization. Funding for these programs would be authorized at a level of $400,000,000 in FY 1982, FY 1983 and FY 1984.

The Administration is in agreement with the findings of this bill that the public sector has an important role to play in supplementing private energy conservation initiatives, particularly in assisting low-income persons adjust to higher energy costs, and that the existing energy conservation grant programs include a myriad of unnecessary, costly and redundant Federal requirements which constitute an inefficient use of scarce Federal financial resources.

The proposed bill would have the advantage of improving the process of applying for assistance under the existing categorical programs. Yet, we believe that more far-reaching reforms can and must be taken to address the concerns we share. The President's budget reform plan has sought to consolidate as many narrow categorical grants as possible into a few block grants to facilitate reduction of State and local overhead and to permit State and local officials to allocate funds to the most urgent areas of need. In keeping with this principle, and in light of the powerful market incentives being created by higher energy prices, the Administration has proposed to terminate the categorical grant programs that would be reauthorized by S. 1166.

Where institutions or individuals are clearly less able to adjust to higher energy prices without undue hardship, we have proposed to continue providing Federal assistance through State and local governments. In particular, the Administration has supported continuation of the schools and hospitals grant program and of weatherization and fuel payment assistance for low-income households. Moreover, assistance for low-income weatherization would be available both through the $4.2 billion Community Development Block Grant administered by the Department of Housing and Urban Development and through the $1.9 billion Low-Income Energy Assistance Block Grant administered by the Department of Health and Human Services.

Because the Administration has already taken these steps to address the concerns raised by S. 1166 and because the spending levels proposed for the bill substantially exceed those we have proposed for Department of Energy conservation programs, we oppose this particular bill. However, the Administration recognizes that the House-Senate budget reconciliation conference now underway is seriously contemplating conservation spending levels in excess of those we have requested, particularly for grants to State and local governments. Under these circumstances, in a spirit of compromise, the Administration would not oppose legislation authorizing a State and Local Energy Block Grant for energy supply, conservation and low-income weatherization activities which would repeal and replace all the existing categorical conservation grant programs, including the Residential Conservation Service, and for which funding would be authorized at a level not in excess of $200 million per year.

Thank you again for providing us with an opportunity to express our views on this important matter.

Sincerely,

DAVID A. STOCKMAN,
Director.

DEPARTMENT OF ENERGY,
Washington, D.C., July 24, 1981.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your July 17 request for Department of Energy (DOE) views on S. 1166, the "National Home Weatherization Act of 1981".

The bill would reauthorize certain energy conservation grant programs to the States. The programs include weatherization assistance for low-income persons, energy extension service activities, State energy conservation plans, State emergency conservation plans and activities, energy conservation in schools and hospitals, and any other State energy conservation program authorized by Federal law. A State could submit a single annual application for funds to implement these programs. The State would have to spend at least 65 percent of the grant funds for low-income weatherization assistance. These programs would be authorized to be funded at a level of $400,000,000 in FY 1982, FY 1983 and FY 1984.

The Administration agrees with the bill's findings that the public sector has an important role to play in supplementing private energy conservation initiatives, particularly in helping low-income persons to adjust to higher energy costs, and that the existing energy conservation grant programs include a myriad of unnecessary, costly and redundant Federal requirements which constitute an inefficient use of scarce Federal financial resources.

S. 1166 would improve the process of applying for assistance under the existing categorical programs. Yet, we believe that more far-reaching reforms can and must be taken to address the concerns we share. The Administration favors consolidation of as many narrow categorical grants as possible into a few block grants to facilitate reduction of State and local overhead and to permit State and local officials to allocate funds to the most urgent areas of need. In keeping with this principle, and in light of the powerful market incentives being created by higher energy prices, the Administration has proposed to terminate the categorical grants programs that would be reauthorized by S. 1166.

To prevent undue hardship to those less able to adjust to higher energy prices, the Administration has supported continuation of the schools and hospitals grant program and of weatherization and fuel payment assistance for low-income households. Assistance for low-income weatherization would be available both through the $4.2 billion Community Development Block Grant administered by the Department of Housing and Urban Development and through the $1.9 billion Low-Income Energy Assistance Block Grant administered by the Department of Health and Human Services.

We oppose enactment of S. 1166 because of its high spending levels and because these conservation measures can be accomplished in other ways. However, we understand that the House-Senate budget reconciliation conference now underway is seriously contemplating conservation spending levels in excess of those we have requested, particularly for grants to State and local governments. Under these circumstances, in a spirit of compromise, the Administration would not oppose legislation authorizing a State and Local Energy Block Grant for energy supply, conservation and low-income weatherization activities which would repeal and replace all the existing categorical conservation grant programs, and for which funding would be authorized at a level not in excess of $200 million per year.

The Office of Management and Budget has advised that, from the standpoint of the President's program, there is no objection to

submission of this report for the Committee's consideration.

Sincerely,

R. TENNEY JOHNSON,
General Counsel.

OUTLINE OF BILL'S MAJOR PROVISIONS

Secretary of Energy makes payments to States for energy block grants:

Allocation formula for payments to States; 75 percent of total allocated on basis of resident population, 25 percent of total allocated equally among States.

No allocation required for payments by States to locals.

State matching requirement: 30 percent in fiscal year 1982, 50 percent in fiscal year 1983, and 50 percent in fiscal year 1984.

States may use funds for:

Energy conservation and weatherization in public or non-profit institutional buildings, including schools, hospitals, public care institution and local government buildings.

Weatherization for low-income persons.

Residential and commercial buildings conservation.

Residential and commercial energy audits and technical assistance.

Energy emergency preparedness.

Renewable energy research, development, and demonstration.

Energy supply, research and development.

Transportation energy efficiency.

Energy conservation and supply development in the agricultural sector.

Reports and audits required.

Authorization level of $200,000,000 for each of fiscal years 1982, 1983, and 1984.

Following programs repealed:

Residential energy conservation.

Weatherization assistance for low-income persons.

Commercial and apartment conservation service.

Energy auditor training.

Appropriate technology grants program.

Energy extension service.

State energy conservation plans.

Rural weatherization grant program (at Farmer's Home Administration).

Energy conservation for schools and hospitals and for buildings owned by units of local governments and public care institutions.●

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 1546. A bill to define and clarify terms used in the patent from the United States dated June 29, 1911, granting certain lands to the State of Idaho; to the Committee on Energy and Natural Resources.

HEYBURN STATE PARK

Mr. SYMMS. Mr. President, today I join my colleague, Senator MCCLURE, in introducing legislation to resolve an unfortunate situation which has been troubling our State and many of our constituents for over 6 years. The bill which we introduce at the request of the Idaho Attorney General will serve to define and clarify terms used in that patent from the United States dated June 29, 1911, granting certain lands to the State of Idaho for use as a public park. The language merely states that for purposes of this patent, use of the land as a public park shall be deemed to include leasing of certain parcels within the park boundaries to the general public for recreational homesites, and granting of permits for float homes on waters within the park. It is similar to legislation introduced in the House and Senate during the 96th Congress.

Mr. President, the land in question encompasses the Heyburn State Park, which has been owned, maintained, and operated by the State of Idaho as a public outdoor recreation area since its purchase from the Federal Government in 1911. It is a uniquely beautiful site encompassing approximately 5,000 acres in the Idaho panhandle. The park is named for Senator Weldon Heyburn, who represented Idaho in this body from 1903 until his death in 1912, and who was the prime mover behind the park's creation. Senator Heyburn had initially hoped to create a national park on this site; and while the Senate approved his plan, efforts to bring the House into concurrence were not successful. What was finally agreed to was language allowing the State of Idaho to buy the tract for use as a park. Soon after Congress had opened the way, the State purchased the park for the sum of $11,379.19, the appraised value of the site.

In June 1911, title to the land was issue to the State; however, Secretary of the Interior Walter L. Fisher had prepared a patent that not only required the land to be used in perpetuity as a public park, but also included other restrictions. Breach of these provisions would result in reversion of the land to the Federal Government. Senator Heyburn was outraged by the limited deed; and with the support of Governor Hawley of Idaho, he introduced Senate Joint Resolution 114 directing the Secretary of the Interior to issue a good and sufficient conveyance, in lieu of the conditional patent which had been given. The Senate quickly passed this resolution.

In October 1912, Senator Weldon Heyburn died in office. His resolution had not been considered in the House, and without the Senator to push it, the resolution and the issue it represented dropped from sight. Heyburn State Park continued under the conditional deed granted to Idaho in 1911. I have obtained a copy of that patent, which I shall ask to have printed in the RECORD at the conclusion of my remarks.

Mr. President, history has proven Senator Heyburn's concern about this conditional patent was well-founded. It is uncertainty about this conditional language which necessitates the legislation we are introducing today.

Almost from the outset, the State, as a part of its park operation, began leasing cottage sites on a small portion of the park lands. This practice continued from that time uninterrupted and unchallenged, until March 3, 1976, when the Solicitor of the Department of the Interior, notified the State that in the Solicitor's opinion, the cottage leases do not carry out the required public park purposes, and that the State has therefore violated the conditions of the patent. The Solicitor has opined that the reversionary interest is held by the United States on behalf of the Coeur d'Alene Indian Tribe, and that title to the park land should be confirmed in the United States in trust for the tribe. On December 30, 1976, the State filed suit to obtain a declaratory judgment on the status of Heyburn State Park, and the Federal Government later filed a quit title action against the State. The situation has been further complicated by intervention of the tribe and leaseholders as parties to the actions.

Last year, Federal District Judge Callister ruled in favor of the State in the suit in which the United States and the Coeur d'Alene Indian Tribe requested the Heyburn State Park lands revert to the United States in trust for the tribe.

Subsequently, the tribe filed an appeal from that decision. All of the briefs have been filed in the case with the Court of Appeals for the Ninth District in San Francisco, but the parties have been advised by the court that because of the court's calendar, oral arguments on the case may not be set until the fall of 1982.

Even if the decision is upheld, there will always be uncertainty as to whether or not the State of Idaho is in violation of the terms of the patent because of questions arising from the opinion itself. At any time in the future, the tribe and/or the United States might again file suit based upon leasing practices that were in effect at that time, or other park management practices which they would contend violated the patent restriction. Such an action would again cost leaseholders and the State of Idaho many thousands of dollars in litigation expenses. Also, it would once again subject that State of Idaho to the prospect of the loss of the entire park, as the leaseholders would again face the prospect of the loss of their leaseholds and the improvements which they have constructed pursuant to their leases with the State of Idaho.

Consequently, the leaseholders and the State of Idaho will continue to incur legal expenses in connection with the case, and continue to wait for the opportunity to present their oral arguments in the court of appeals. Even after those arguments are made, perhaps in the fall of 1982, it will be sometime thereafter before the court of appeals renders its decision, and if there is an appeal to the U.S. Supreme Court, there could well be additional years of uncertainty even as to the outcome of the present litigation. During those years and even after a final decision in this case is reached, assuming the district judge's opinion was not reversed and the park turned over for the benefit of the tribe, the leaseholders and the State of Idaho will continue to live under the shadow of the loss of their improvements and the park in the future.

There is another problem that underscores the importance of a legislative solution in this matter. On the 13th day of March 1975, the Idaho State Board of Land Commissioners for the State of Idaho declared a moratorium against further improvements on cabins and float homes situated on the leaseholds at Heyburn State Park because of the patent claims and the uncertainty that action caused. The action in the Federal court was filed in December of 1976, and the litigation has continued since that time. The board of land commissioners at that time also advised the leaseholders that they would not consent to any assignment or sale of the leaseholds until such time as the litigation was concluded.

The moratorium prohibiting improvements continued at this time, as well as

the moratorium against assignment or sale of the leaseholds, although the leaseholders may now make necessary repairs and maintenance on their cabins and float home sites. Because of the uncertainty arising out of the continuing litigation, however, the leaseholders and cabin site holders are justifiably reluctant to invest moneys for the repair and maintenance of the cabins and float homes since they may well be forced to vacate and abandon them in the event the litigation is finally decided against the State of Idaho and the leaseholders. As a result, the cabins and float homes in Heyburn State Park are continuing to deteriorate. Since the moratorium has now been in effect for 5 years, I think one can imagine the effect upon the cabins and float homes. Such deterioration constitutes a problem for the leaseholders, and also constitutes a problem for the State of Idaho which has the responsibility for the management and the esthetics of Heyburn State Park.

Another problem caused by the litigation, and which is not as apparent as the others, is the fact that the State of Idaho is restricted in implementing its continuing and future plans for development of the park. Since the possibility that the State will lose the park remains, it is very difficult to justify the expenditure of additional moneys by the State of Idaho for development of the park at this time. Those matters will continue to be affected during the future because of the uncertainty mentioned above, even assuming that the present litigation and any appeals therefrom are concluded favorably to the State of Idaho.

The purpose of our legislation is to preserve the park for the use and enjoyment of all the people of Idaho, including members of the Coeur d'Alene Tribe who are now, and have always been able to enjoy the park, just as equally as the other citizens of the State. Even though the State is fully confident in the correctness of its legal position, the matter has already gone on for 5 years without resolution. If the litigation is allowed to drag on it could be many more years before the status of the property is resolved. This bill merely attempts to provide equity for the people of Idaho whose tax dollars purchased the park in the first place, and for those people who have entered into the leases in good faith and have invested significant amounts in improvement of the lots in question.

The portion of the park which has been subject to lease constitutes less than one-third of 1 percent of the total park area. In all cases, the leases provide that public access to the sites shall not be inhibited. It is unconscionable that the Government should reclaim this State park, important to the economic and recreational life of the region as it is, after all these years on the basis of such a questionable violation of a faulty patent. The situation has already cost the parties a great deal of time and money, and it is, in our judgment, utterly ridiculous that it has gone as far as it has. It is time for us to resolve this matter, as it should have been in 1911, and we are certain our colleagues will agree. I ask unanimous consent that the bill and a copy of the patent be printed in the RECORD.

There being no objection, the bill and patent were ordered to be printed in the RECORD, as follows:

S. 1546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of that patent dated June 29, 1911 and recorded with the General Land Office as Patent Number 213295 wherein the United States conveyed to the State of Idaho for value received those certain lands now encompassing the Heyburn State Park of Idaho, and for no other purpose, use as a public park as required by such patent shall be deemed to include leasing of certain parcels of land therein to members of the general public for homesites and granting of permits to the general public to operate and maintain float homes on the waters of said Heyburn State Park, which acts shall be deemed not to constitute an alienation, as described in the aforementioned patent, of said lands or any portion thereof; provided such definition shall apply only to those parcels which have been subject to lease up to and including January 1, 1979, and shall apply to and thereby allow only that number of float home permits which does not exceed the maximum number of float home permits issued and outstanding at any one time up to and including January 1, 1979.

RESOLUTION

Whereas, the act of Congress approved April 30, 1908—35 Stat., 70, 78—, authorizes the conveyance to the State of Idaho of the following described subdivisions or any part thereof, formerly a part of the Coeur d'Alene Indian reservation in Idaho, viz: sections one, two, and twelve, township forty-six north, range four west, Boise meridian: sections thirty-five and thirty-six, township forty-seven north, range four west, Boise meridian; all of those portions of sections two, three, four, five, six, seven, eight, nine, ten, and eleven, township forty-six north, range three west, Boise meridian, lying south and west of the Saint Joe River in said township; all of those portions of sections thirty-one and thirty-two, township forty-seven north, range three west, Boise meridian, lying south and west of the Saint Joe River in said township, to be maintained by said State as a public park, for such consideration and upon such terms and conditions as the Secretary of the Interior shall prescribe; and

Whereas, by appraisement under direction of and approved by the Secretary of the Interior, the purchase price to be paid by the State of Idaho for the said lands has been fixed at $11,379.17, and said Secretary has directed that said lands be conveyed to the State, upon payment by it of said sum, upon the following terms and conditions, to wit: the lands are to be by said State held, used, and maintained solely as a public park, and for no purpose inconsistent therewith, the title to revert to the United States of America, absolutely if the said lands, or any portion thereof, shall not be, or shall cease to be, so used and maintained by the State, or shall be alienated by said State; and

In event of the violation by the State of any of the conditions or covenants herein contained, or its failure to carry out the same, then the United States may thereupon or at any time thereafter enter upon, and into the exclusive possession of, the said lands and the whole thereof, and of all improvements thereon, and have, hold, seize, and possess the same: Expressly excepting and reserving to the United States of America, however, all valuable mineral deposits in the said lands, together with the exclusive right to mine and remove the same, and to permit, license, or authorize the mining and removal thereof, in such manner, upon such terms, and under such conditions as the Congress may prescribe; and also the right to flood or overflow the said lands, and to permit, license, or authorize the same, for domestic, irrigation, and power purposes; and

Whereas, the State of Idaho, by the act of the legislature thereof approved March 16, 1909, has appropriated out of the public moneys of said State, and made available, the aforesaid sum so fixed by the said appraisement, for the purchase from the United States of the lands aforesaid; and

Whereas, the State of Idaho has applied to purchase, under and by virtue of the said acts of Congress and the legislature of the State, all of the above described lands and has made full payment therefor:

Now know ye, that the United States of America, in consideration of the premises, and pursuant to the said act of Congress, has given and granted, and by these presents does give and grant, unto the said State of Idaho, all and singular the tracts above described; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said State of Idaho forever; upon and subject, however, to the terms, conditions, and reservations prescribed by the Secretary of the Interior and hereinabove set forth.

By Mr. STAFFORD (for himself, Mr. ABDNOR, Mr. CHAFEE, Mr. GORTON, and Mr. HATFIELD):

S. 1548. A bill to repeal the Federal outdoor advertising control program, and for other purposes; to the Committee on Environment and Public Works.

BILLBOARD DEREGULATION ACT OF 1981

Mr. STAFFORD. Mr. President, I am introducing a bill today, the "Billboard Deregulation Act of 1981," which will return the control of outdoor advertising to the States. I am very pleased that my distinguished colleagues, Senator ABDNOR, Senator CHAFEE, Senator GORTON, and Senator HATFIELD are cosponsoring this legislation.

When the Highway Beautification Act was passed in 1965, I strongly supported its goal of significantly reducing the number of billboards permitted along our rural interstate and primary highways. I still strongly support programs which enhance the scenic quality of our highways.

However, changes which have been made to the Highway Beautification Act over the years have made attainment of its original goals impossible. The act has become a protection for billboards rather than the cause for their removal. Not only does the act protect billboards that have any commercial value, but it also permits new signs to be erected.

In 1978, the billboard industry was successful in extending the act's original requirement for cash compensation for signs removed under the act to cover even those signs that State or local governments decided to remove for reasons unrelated to the Federal program. I believe this is an unacceptable intrusion into the traditional zoning and police powers of State and local jurisdictions.

The effect of the 1978 amendments has been to increase the potential cost for removing nonconforming signs to over $1 billion. The Carter administration and the Reagan administration have

requested no funding for this program for the past 3 years. Congress has provided a minimal amount of funding during these years. Until Federal funds are available, no signs come down. At current funding levels it will take over 100 years to remove all nonconforming signs.

The Federal Highway Beautification Act has served its purpose. After more than 15 years, 100,000 nonconforming signs have been removed. But over 200,000 nonconforming signs remain and new signs are still being erected. Most of the signs that have come down were removed in the early, enthusiastic days of the law, and were those of little value or importance to the industry.

Those States committed to highway beautification have completed their programs. Those States that have preferred to leave their billboards in place or erect new signs have not been dissuaded by the federal law, despite the threat of the loss of Federal highway construction funds.

Mr. President, the Highway Beautification Act, in its present form, has put the States in an untenable position. With nonconforming billboards still standing, States are not in compliance with the law. Without Federal funds, however, no nonconforming billboards can be taken down unless the State is willing to pay 100 percent of the cost of removing the sign.

The Environment and Public Works Committee held hearings on the Highway Beautification Act during the last session of Congress. Spokesmen for the billboard industry were the only witnesses who testified in support of continuation of the Federal billboard program. State, county and local governmental organizations, environmental groups and garden clubs urged that the program be returned to the States.

In committee hearings in South Dakota on June 29 and 30 of this year, witnesses representing a wide variety of roadside businesses supported State, not Federal, control of outdoor advertising.

Recognizing that the Highway Beautification Act was not working, the Department of Transportation established the National Advisory Committee on Outdoor Advertising and Motorist Information to evaluate the effectiveness of the act. At its final meeting on June 19, 1981, the Advisory Committee voted 13 to 11 in favor of repealing the act.

What would be the effect of repealing the Federal controls on outdoor advertising?

Federal decontrol would provide greater freedom for those States who want to achieve highway beautification.

Those States which depend on the tourist industry would have flexibility in determining which signs should remain. Under current Federal law, consideration of such hardship cases must be dealt with through costly and complex Federal regulations. States would also have the ability to experiment with alternative tourist information systems.

Some States may permit billboards to flourish along the roadside. However, these are the same States that have not removed nonconforming billboards under current law. Repeal would permit proliferation of billboards in these States if that is their decision.

Mr. President, this legislation will save the taxpayers money, reduce Federal spending, and eliminate complex and costly Federal regulations. I believe repeal of the Highway Beautification Act, in its current form, is the kind of deregulation the American taxpayers are demanding.

I believe environmental organizations will agree that the existing law no longer promotes highway beautification. I also believe that Federal, State, and local officials who have to work with the changes and complexities of the present law will agree it is time for a change. And, finally, I am sure we can expect that the outdoor advertising industry will welcome the opportunity to free itself of Federal regulation under a law it has opposed for so long.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with a section-by-section analysis, and a brief statement on the effect of the most recent amendment of 1978 to the Highway Beautification Act.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Billboard Deregulation Act of 1981".

SEC. 102. (a) Subsection (a), (b), (c), (d), (e), (g), (h), (k), (l), (m), (n), (o), (p), and (q), of section 131 of title 23, United States Code, are hereby repealed.

(b) Subsection (j) of section 131 of title 23, United States Code, is amended by striking the last sentence.

(c) Subsection (j), (f), and (i) of section 131 of title 23, United States Code, are relettered as subsection (a), (b), and (c) of new section 131 of title 23, United States Code, respectively.

(d) The analysis of chapter 1 of title 23 is amended by deleting "131. Control of Outdoor Advertising," and inserting in lieu thereof "131. Roadside Information.".

SEC. 103. All authorizations of appropriations for section 131 of title 23, United States Code, remaining unappropriated upon enactment of this section are hereby rescinded.

SEC. 104. Section 136 of title 23, United States Code, is amended by adding the following new subsection:

"(n) Not later than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, the Secretary shall give written notice to the State of the proposed determination and a statement of the reasons therefor, and during such period the State shall be given an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth the final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section, the amount so withheld shall not be reapportioned to the other States so long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.".

SECTION-BY-SECTION ANALYSIS

Section 101. Title of the Act.

Sec. 102. (a) Removes Federal requirements for controlling outdoor advertising.

(b) Deletes reference to control of outdoor advertising from the Bonus Program.

(c) Retains payments to States which entered into agreements with the Secretary to control signs along the Interstate System under the Bonus Act. Requires the Secretary to provide within the Interstate right-of-way for signs giving information of use to travelers and permits the Secretary to provide for such signs along the primary system. Permits States to provide travelers' information and advertising at safety rest areas and provides for Federal assistance in establishing information centers or systems.

(d) Renames section.

Sec. 103. Rescinds all unappropriated authorizations for section 131 upon enactment of this Act.

Sec. 104. Moves the notice and appeal process which now applies both to the outdoor advertising control program and the junkyard control program, to section 136, to apply only to the junkyard control program.

BACKGROUND

The Highway Beautification Act, enacted in 1965, requires the states to pass laws prohibiting billboards along Interstate and primary highways, except that signs can be permitted in commercial and industrial zones. The Act further requires compensation for signs removed, on a 75–25 federal-state matching basis. A state that fails to pay for signs removed faces the loss of 10 per cent of its Federal highway funds.

Several state courts have ruled that signs removed pursuant to local ordinances stricter than, and not related to, the Federal Highway Beautification Act, are not entitled to compensation, whether or not the signs are adjacent to Interstate or primary highways.

EFFECT OF 1978 AMENDMENTS

The amendment in the 1978 Surface Transportation Act requires payment of compensation for removal of any off-premise sign adjacent to an Interstate or primary route. This would severely restrict zoning practices in urban areas where billboards, along with other types of nonconforming land uses, have traditionally been removed under the police powers of the jurisdiction, without compensation, but with provision for amortization.

One example of the effect of the change can be seen by looking at a recent decision by Maryland's Court of Appeals. An urban renewal ordinance in Baltimore's oldtown area required removal of all off-premise signs in the area after a five-year amortization period. Sign owners challenged the ordinance, claiming that two signs adjacent to a Federal-aid primary street had to be compensated under the Highway Beautification Act. Both signs were in commercial or industrial zones and thus were permissible under

the Act. The Court decided that the control exercised by the city, which was stricter than required by the Act, was not subject to the Act's compensation requirements. Had the 1978 amendment been in effect, the sign owners would have had to receive compensation or Maryland would have lost 10 per cent of its Federal-aid highway funds. Similar situations exist in many States.

One point to be noted in connection with the amendment is that it will substantially increase the costs of the Highway Beautification Act without promoting highway beautification. Signs which previously were removed for local purposes without compensation may have to be paid for out of very limited Highway Beautification funds. The change greatly increases the number of signs covered by the compensation requirement, thus slowing down sign removal along rural portions of the Interstate where the Federal program was intended to have its greatest effect.

By Mr. HELMS (for himself, Mr. EAST, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. LAXALT, Mr. SYMMS, and Mr. THURMOND):

S. 1550. To amend the Federal Election Campaign Act to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

UNION DUES FOR POLITICAL PURPOSES

● Mr. HELMS. Mr. President, in recent years a deluge of legislation has been introduced to regulate the election process in the United States. Among these various proposals have been efforts to regulate cash contributions from individuals and private organizations of citizens and to require full disclosure of the sources of all campaign money. We have even created a new Federal regulatory bureaucracy to administer the increasingly complex Federal election campaign laws.

In such a climate of campaign regulation, one might conclude that our electoral system is perhaps better protected from the abuses of political power-mongers. But the evidence clearly stands to the contrary. In all of the zeal to reform our political processes, the power source driving the biggest political machine of all has been overlooked. I refer to the use of compulsory union dues for politics. Millions of Americans are forced against their will every year to support political candidates and causes which they would individually oppose. Congress has so far failed to address this great threat to the political freedom of American voters.

Recently enacted and currently proposed campaign reforms have been based on the fallacious notion that all special interest groups contribute to political candidates in the same way. But while business, trade, and issue-oriented organizations contribute voluntary money through direct cash and reported in-kind contributions, the officials of organized labor funnel the bulk of their political efforts into direct in-kind political services spent on behalf of candidates.

These political services, of course, cost money. And the greatest bulk of that money comes from workers—workers who would be fired if they refused to pay their union dues.

Only labor unions, out of all the private organizations in the country, can require that a person pay dues to that organization as a condition of getting and keeping a job. Under this unique grant of special privilege, unions collect an estimated $3.5 billion a year from individuals who have to pay up or be fired.

The Federal Election Campaign Act, as amended in 1976, gives the appearance of restricting the use of compulsory union dues for political purposes. The law prohibits the use of compulsory dues for direct and indirect "in-kind" cash contributions to political candidates.

It does not, however, prohibit the use of forced union dues for a number of other indirect means of supporting union-backed political candidates and causes.

The FECA specifically permits union officials to use money taken from workers as a condition of employment to communicate with union members and their families, to urge their support for a particular candidate, to conduct unquestionably partisan get-out-the-vote drives, and to operate and administer the extensive union PAC's.

In short, the law prohibits union officials from giving a worker's dollars directly to a candidate which the worker may oppose—although the often substantial cost of raising those funds (salaries, parties, raffle prizes, et cetera, are paid with forced dues). The law does, however, permit these union officials to use the worker's compulsory dues dollars to support that same candidate through numerous indirect means.

In light of this dichotomy created by Federal legislation, union officials have divided their political expenditures into two categories.

The first is commonly referred to as union hard money. It consists of money given directly to candidates in the form of cash or in-kind contributions, taken from funds given voluntarily by union members.

The second category is referred to as union soft money, spent by union officials on behalf of—but not contributed directly to—political candidates.

"Soft money" comes directly from compulsory union dues. It finances the operations of union PAC's and provides extensive "in-kind" political services. While it represents the overwhelming bulk of union political expenditures, it is neither documented nor reported to the FEC.

A relatively small portion of the millions of dollars in "soft" compulsory union dues money is used to operate the union PAC's. This portion pays the salaries of numerous full-time union political operatives across the Nation. It provides PAC supplies, finances mass mailings and travel expense accounts, and purchases sophisticated office machinery and computers.

Even voluntary PAC contributions from union members originate with this compulsory dues "soft money." Compulsory dues bankroll the administrative overhead costs of union partisan political fundraisers. And the overhead for the average union political fund totals close to 50 percent of the fund's total expenditures.

Compulsory dues "soft money" used for financing union PAC's runs well into the millions every year. In July 1976, AFL–CIO public relations director, Bernard Albert, admitted that the annual budget of the national COPE alone ran to approximately $2 million.

But in spite of the vast sums of compulsory union dues which finance the operating costs of union PAC's the bulk of compulsory dues "soft money" goes for unreported, unlimited "in-kind" political expenditures.

An example of this misuse of compulsory union dues has recently come to light in Federal court in Maryland, where Harry Beck, 18 of his fellow nonunion employees of the Chesapeake & Potomac Telephone Co., and one nonunion employee of American Telephone & Telegraph Co. are suing the Communications Workers of America Union. Mr. Beck and his coworkers object to the union's use of compulsory agency shop fees for purposes not directly related to collective bargaining, contract administration, and grievance adjustment; in other words, for political purposes.

In a landmark decision released in March 1979, the U.S. District Court for Maryland held that the union's use of agency fees for purposes unrelated to collective bargaining violated the first amendment rights of employees who object. The court ordered the union to refund to the nonunion employees the percentage of its budget not related to collective bargaining. A special master was appointed to take evidence and compute the percentage.

The union alleged that more than 86 percent of the agency fees collected were used for collective bargaining, contract administration, and grievance adjustment. But the special master found that only 19 percent of the agency shop fees collected were used for these permissible purposes. The master found that the union spent 81 percent of the compulsory agency shop fees for impermissible purposes, such as support of political candidates, legislative lobbying, charitable and social activities, and organizing drives.

Another example of these kinds of expenditures is the 1976 controversy involving the AFL–CIO's 60-million-piece political mailing. That mailing was paid for with compulsory dues, and at 10 cents a piece, that amounts to $6 million in one shot.

The July 1979 issue of Steelabor, the official newspaper of the United Steelworkers of America, offered its readers a surprisingly candid and straightforward explanation of "in-kind" political spending. Union dues money, reported the union paper, "can't go for direct political contributions—but it can do a lot; mailings supporting or opposing political candidates, phone banks, precinct visits, voter registration and get-out-the-vote drives."

In spite of these admissions, Steelabor's account only tells half of the story. To fill out the picture, several key expenditures need to be added to the list: Weeks, sometimes months, of the staff

time of literally tens of thousands of union employees devoted almost solely to partisan politics; election day workers, paid overtime rates from compulsory dues; millions of political pamphlets and flyers; and paid election day carpools and babysitters, to name a few.

Once again, these indirect union "in-kind" political expenditures are not subject to any limitations under the FECA. They are paid for with dues money taken from workers as a condition of employment. And without question they represent the overwhelming bulk of union political expenditures. AFL-CIO COPE director, Alexander Barkan, has boasted that "money is just a minor feature of the support we can give a candidate." No official statistics for total union "in-kind" expenditures are available, because the FECA requires no documentation or reporting of "soft" union "in-kind" political spending of compulsory dues. Labor columnist Victor Riesel, however, has put the 1976 total at $100 million—not including cash donations.

Any meaningful campaign reform must deal with this abusive use of compulsory union dues. The time has come to return to individual workers the right to choose for themselves which political candidates and causes their dollars will be used to support.

In the final analysis, to simply focus on the amount of money spent by union officials would be to miss the point. I do not question the right of union officials to communicate with their members on behalf of a candidate. If we were to refuse to permit unions to operate political phone banks, to mount get-out-the-vote drives or to engage in precinct visits, we would be guilty of gross violations of freedom of speech.

But because of my commitment to freedom of speech for all Americans, I must object strenuously to the widespread practice of using forced union dues for partisan politics. Until we act to put an end to this abuse, millions of American workers will continue to be forced to finance the campaigns of political candidates chosen by union officials—regardless of the worker's own convictions.

Many union members resent having their union dues used for political business and for other activities not related to union business. The average union member wants to vote as he pleases; he wants to support the candidates of his—not the union's leaders—choice. He does not want his political decisions to be dictated to him; he does not want the dues that are extracted from him to be used for political purposes.

Because of the continuing menace of the use of involuntary union dues for political purposes, I am introducing legislation today, the purpose of which is to guarantee that all political expenditures will come from money voluntarily contributed.

The situation which I seek to correct is the result of the exceptions to title II, United States Code, section 41(b)(2) and (4), which appear at first glance merely to insure the full exercise of first amendment rights of communication.

In actuality, these provisions allow corporations and labor organizations to use general treasury moneys for blatantly partisan political activities such as sending partisan communications, conducting registration and get-out-the-vote campaigns, to cover the overhead cost of a political action committee, and to solicit stockholders, executive or administrative personnel, union members, and the families of such individuals. I include registration and get-out-the-vote campaigns. Although the statute requires that they be nonpartisan, Federal Election Commission regulations allow the sponsoring corporation, or labor organization, to urge registration with a particular party, or voting for a particular candidate or candidates. Partisan pressure is, therefore, exerted during such drives.

Congress should be neutral in matters of political conscience. We should seek neither to favor nor to elevate certain groups as a result—intended or unintended—of Federal law.

But as I pointed out earlier, labor unions have been favored and elevated because they are the only organizations involved here which can collect money for their treasuries through the use of force.

Enactment of this important legislation will guarantee the voluntary nature of each person's participation in the political process by prohibiting the use of compulsory union dues for political purposes. This bill will insure that in matters of political conscience, Federal election laws will be neutral while voluntary participation will continue to be protected. I respectfully urge my colleagues to give this legislation their fullest consideration.●

By Mr. MATHIAS (for himself and Mr. PRYOR):

S. 1551. A bill to amend title 5, United States Code, to extend the period within which physicians comparability contracts may be entered into, and for other purposes; to the Committee on Governmental Affairs.

BONUS PAY FOR FEDERAL PHYSICIANS

Mr. MATHIAS. Mr. President, today I am introducing a bill to extend for 1 year the authority under which Federal physicians may enter into service agreements for the purpose of bonus pay.

It is important that our Federal Government attract and retain highly qualified physicians, and it has become increasingly difficult to do so as the ceiling remains on Federal salaries and private sector salaries continue to rise. We have had a program in place that provides a means of compensating those physicians employed by an agency experiencing recruitment or retention problems. The program allows these Federal physicians to enter into contractual agreements to receive increased, or bonus, pay for a specific period of time. Simply, it is a means to providing incentive awards.

After September 30 of this year, no such agreement may be entered into and, further, no current agreement may last longer than September 30, 1983. My bill will amend section 5648 of title 5 to extend both these deadlines for 1 year.

Inadequate salaries should not be considered an intrinsic condition of Federal employment. And the reality of skyrocketing medical school costs will prevent bright young doctors from entering Federal service unless we provide some necessary incentives. The merits of this policy have been proven time and again. My bill would tackle the problem of recruitment and retention of well trained physicians, and would not undermine the asutere budget we have just put into place. I am aware that these are times of fiscal caution and restraint, but I firmly believe this legislation represents a sound investment. I urge its early consideration, and I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows;

S. 1551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948 (d) of title 5, United States Code, is amended—

(1) by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1984".

By Mr. HUMPHREY:

S. 1552. A bill to lower the duty on certain imported sachet parts; to the Committee on Finance.

FAIR DUTY ON EMBROIDERED GOODS

● Mr. HUMPHREY. Mr. President, I am introducing legislation today that will amend the tariff schedule of the United States (19 U.S.C. 120) to establish fair duty on sachet parts of cotton and/or man-made fibers, embroidered.

Sachet parts are presently being imported into the United States from Switzerland. The reason for importing these sachet parts is the unique Swiss "Schiffli" embroidery. To my knowledge, this type part is not produced by anyone in this country. The item in its finished condition, after processing in the United States, would be considered a sachet. Only the outer covering is imported, which is a small round or square piece of cloth with Schiffli embroidery thereon made of two layers of material. Previously, the chief component of the cloth was cotton, resulting in a classification under the tariff schedules of the U.S. Annotated Item No. 386.40 at a 40-percent rate of duty. The back and embroidery thread has now been changed to man-made material resulting in a lower classification under item 386.09 at 25 percent ad valorem. The specific tariff provision is one for articles of textile materials not covered elsewhere in the tariff schedules and the subheading is lace or net articles, whether or not ornamented, and other articles ornamented. This sachet part falls into this catchall category by default rather than by design, since the assessed tariff items cover only items in chief value of man-made fiber which are not specifically provided for somewhere else in the tariff schedules.

A duty rate of 7.5 percent on embroidered sachet parts would be commensurate with the duty on handkerchiefs, cosmetics and other toilet preparations.

No less than seven U.S. companies provide materials required to finish the

sachets. Many hours go into the stuffing and packing of this item. In addition, U.S. materials, to include cotton, pellets, perfume, trays, lids, cards, and cartons, are used to complete the final product. It can be clearly seen that the imported sachet parts generate considerable employment in the United States. Therefore, an amendment to the tariff schedule is required to establish fair duty on embroidered sachet parts.

Mr. President, the bill I am introducing will accomplish this objective.●

By Mr. ABDNOR (for himself and Mr. PRESSLER):

S. 1553. A bill to authorize the Secretary of the Interior to proceed with the development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; to the Committee on Agriculture, Nutrition, and Forestry.

SOUTH DAKOTA WATER DEVELOPMENT

● Mr. ABDNOR. Mr. President, today Congressman CLINT ROBERTS and I are introducing legislation to reauthorize the WEB rural water development project, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to authorize the Secretary of the Interior to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power. We are joined in cosponsorship by Senator PRESSLER and Congressman DASCHLE.

This measure has been drafted pursuant to long and arduous discussions with the administration, congressional officials, the Governor, and officials of the South Dakota Department of Water and Natural Resources, South Dakota's conservancy subdistricts, and local citizens. There have been extensive discussions among the members of the congressional delegation and among our staffs, and this measure reflects our best thinking as to how the needs and wishes of South Dakotans may be served. Our legislative proposal today should be considered an extension of last year's agreement between the delegation and the Carter administration, and the primary provisions appear to have the support of the Reagan administration.

Mr. President, I ask unanimous consent that a summary and brief analysis of the provisions of the bill be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Section 1.—Reauthorizes the WEB Pipeline Project to eliminate the pass-through of funds to the Department of Agriculture. Funding is authorized by Section 9 of P.L. 96-355 to be appropriated to the Secretary of the Interior and transferred to USDA. In view of budgetary limitations, objections have been raised to the expenditure of Interior funds by Agriculture. While the intent of the transfer was to have the Farmers Home Administration oversee construction of the project in light of the agency's expertise in the development of rural water systems, which department administers the authority is not so important as is actual funding for the project itself.

One million nine hundred thousand dollars ($1.9 million) has been appropriated to Interior for the WEB project in fiscal year 1981, and OMB and Interior have indicated that substantial funding is available for the project in fiscal year 1982 as well. Thus, eliminating the pass-through to Agriculture appears to be the logical way to address the funding jurisdictional dispute and enhance chances for prompt construction of the project.

Section 2.—Authorizes the Secretary of the Interior to study in cooperation with the State of South Dakota the possible development of a number of water projects in lieu of the Oahe and Pollock-Herreid irrigation projects, as previously designed and authorized.

Specifically, potential alternative uses of the already-constructed Oahe Unit facilities would be investigated in a effort to achieve productive utilization of the substantial sum of federal funds already expended and to determine whether the so-called CENDAK irrigation proposal, which has a great deal of local interest and support, is feasible.

Second, the possibilities would be investigated with respect to the use in South Dakota of water delivered to the James River by the Garrison Unit in North Dakota. South Dakota is scheduled to receive return flows from the project, and Canada has not been willing to agree to do so. Many South Dakotans would be pleased to have a stabilized flow in the James, however, and it appears the Garrison Unit could provide the means.

Third, a modified version of the Pollock-Herreid Unit would be investigated. The Bureau of Reclamation has determined that much of the acreage in the authorized plan is not certifiable for irrigability under federal standards. Interest has been expressed by the local people in the possible development of a reformulated plan which overcomes some of the problems with and objections to the authorized plan of the development.

Fourth, the Secretary would be authorized to consider and recommend to Congress for construction authorization any water project proposed by the State of South Dakota under the State water planning process. The State planning process was given emphasis by the Carter Administration, which promised to give prompt consideration to proposed projects, and the Reagan Administration, too, has admonished the State to "get its act together." Section 2(a)(4) would provide express statutory recognition for the State planning process, so that the avowed intent of the present and past administrations will be observed.

The Secretary would report back to Congress on the results of the studies and would make recommendations on the disposition of the Oahe Unit and the possible development of a reformulated Pollock-Herreid Unit. In determining the feasibility of projects identified for consideration and in making his recommendations to Congress, the Secretary would take into account South Dakota's sacrifice of over 500,000 acres inundated to provide flood control for downstream States and the promise of Federal irrigation assistance to offset the great economic loss suffered by the State.

Since the Bureau of Reclamation has closed its Huron, South Dakota office, the Secretary would be authorized to contract with the State to facilitate the prompt and efficient completion of the necessary studies. Projects proposed by the State would be considered for feasibility on the same bases as the Oahe Unit was authorized; but, if the Secretary does not feel that he can recommend development of projects on those bases, in light of current budgetary and other realities, he could negotiate with the State to use more acceptable criteria. The incentive for the State, of course, would be to gain a favorable recommendation from the Secretary for construction.

Section 3.—Would permit the Secretary to cancel immediately the existing contracts on the Oahe Unit and release the reserve funds being held by the Oahe Conservancy Subdistrict. Some members of irrigation districts feel the contracts constitute an encumbrance upon their land for a project that will not be built, and the subdistrict would like to devote the reserve funds to more productive use. Subsection (b) would specify that no construction should occur on facilities designed solely to serve the Spink and West Brown irrigation districts, but that the Secretary could recommend construction of other features of the authorized plan in conjunction with alternative uses identified under section 2(a)(1).

Section 4.—Would authorize the Secretary, in cooperation with the Department of Energy, to make available Missouri River Basin pumping power to irrigation projects authorized by the Flood Control Act of 1944 to receive such power. Subsequent acts of Congress to limit appropriations to initiate new construction under the Missouri Basin Program have been interpreted to deny the authorized pumping power as well. This language will clarify that those projects authorized to receive such power are indeed eligible to receive it, since they have never been deauthorized nor have they been expressly precluded from receiving the authorized power.

This legislative clarification is important most directly and immediately to the Lower Brule Sioux Tribe, which is in the process of developing the Grass Rope irrigation project with non-Reclamation funding, but it could be important for other projects as well. Local project sponsors should not be penalized through the denial of authorized pumping power when, due to the lack of Reclamation funding, they proceed to construct their project with other funds.

Section 5.—Will contain an authorized funding ceiling yet to be determined and set during committee action on the bill. The only new funding authority provided is for study purposes and may be offset by savings in scaling back the Pollack-Herreid authorization and in deauthorizing the Oahe Unit at the appropriate time. Furthermore, it seems likely that the Secretary would require a State and/or local financial commitment as a condition for undertaking studies of previously unauthorized projects.

Mr. ABDNOR. Mr. President, as I said, we have had intensive discussions with the administration on this proposal and believe that it represents the best and most realistic legislative actions which can be taken at this time. The following article entitled, "South Dakota Has 'Edge' in Water-Funding" from the Friday, July 10, 1981, edition of the Sioux Falls Argus Leader is evidence of our discussions with the administration and our progress in gaining the support of the Department of the Interior, and I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

S.D. HAS "EDGE" IN WATER FUNDING

(By Chuck Raasch)

Although Gov. William Janklow's widely anticipated water plan is still secret, South Dakota has done enough in recent months to put it ahead of other states for future fed-

eral money, a top Interior Department official said Thursday.

Some discussions have also been about the need for South Dakota to chip in money for future water projects, said Garrey Carruthers, undersecretary for water in the Department of the Interior.

On the surface, South Dakota's water plans appear as muddled as ever, with divergent groups arguing over priorities and funding possibilities. But Washington and South Dakota officials said a series of state-federal negotiations—including a secret meeting last week in Washington, D.C., between Janklow and key federal water officials—have been going on for some time.

Although President Reagan's budget cuts have priority over water funds, states that plan for water projects in the meantime will get the first wave of federal money if Reagan's economic plan works, Carruthers said.

"Right now, South Dakota has a slight edge in that regard," Carruthers said.

But Janklow said there will be "no magical moment in time" his plan is revealed to South Dakotans, and warned that people should not make too much of his impending water announcement.

Janklow said three weeks ago that he'd announce in about three weeks a comprehensive water plan for South Dakota.

But he said that his work has been hampered by "a press release battle" and refused to discuss specifics earlier this week.

Janklow acknowledged that he and state Water and Natural Resources Secretary Warren R. Neufeld met with Carruthers in Washington last week. It was later learned that the meeting included Bureau of Reclamation Commissioner Robert Broadbent and Owen Ambur, an aide to Sen. James Abdnor, R-S.D.

The two federal officials control crucial funding and construction arms of the administration's water body.

One participant described the meeting as "a further discussion toward specifics" of what federal water development help South Dakota could reasonably expect from the tight-money Reagan administration.

The secret gathering came a week after Interior Secretary James Watt told Janklow and the congressional delegation that there would be no major federal water money until the mid-1980s or 1990.

Janklow said the proposed Cendak Project was the result of groundwork he laid two years ago, and would be included in his plan. However, he warned that others interested in water should not hold up their work for his plan.

"It will be an attempt to get things moving off dead center, but if you build it into something it isn't, it's going too far," Janklow said.

Even South Dakota's congressional delegation doesn't fully know what to expect.

"We understand the governor has been working intensively on a very specific proposal for some specific project authorizations and we're waiting anxiously to see that," Ambur said.

Some recent discussions have apparently been over Reagan's desire for states to provide more up-front water money.

"His (Janklow's) comments lead me to believe he thinks South Dakota probably ought to look for some financing opportunities within the state," Carruthers said.

If South Dakota is to get future water projects, they will probably be smaller than the crippled Oahe—at least initially, Carruthers said.

He said Reagan's water plan will include cost-sharing and "phase-in" approaches. The administration would also like to cut down on the amount of construction time, he said, which would indicate a possible easing of federal environmental and planning requirements.

Although Reagan officials have said they're sympathetic toward water development, congressional sources said states are rapidly learning that the administration means what it says about tight water money for at least the near future.

"The meeting with Watt may have been enlightening to the governor (Janklow) insofar as he didn't realize before how tough the budget really is down here," Ambur said.

Mr. ABDNOR. Mr. President, Secretary Watt's July 10 letter offers a more formal statement of the Department's position, with the pertinent points being first, continued support for WEB; second, support for studies of CENDAK and the Garrison extension into South Dakota; and third, affirmation of the prerogative of Congress to determine the disposition of the Oahe Unit. I ask unanimous consent that the Secretary's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 10, 1981.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, D.C.

DEAR JIM: This is in response to the letter of April 22 signed by you and the other members of the South Dakota delegation concerning the $1.9 million of fiscal year 1981 funding for the WEB Pipeline Project (WEB) in South Dakota.

The Appropriations Committees of Congress, in their deliberations on a combination of general supplementals and rescissions in the fiscal year 1981 budget, directed that the $1.9 million for WEB be deferred until the Oahe Unit has been deauthorized. Further, the Committees directed that the project be reauthorized through the Farmers Home Administration and that appropriations be authorized to be made to that organization. Although this action has not affected the Department of the Interior's support for WEB, we are deferring obligation of the funds until these conditions are met.

With regard to other matters of mutual interest, we recognize that the deauthorization of the Oahe Unit is a matter best left to the Congress to decide, but we do not intend to ask for construction appropriations if it is not deauthorized. In addition, we are not opposed to undertaking new studies for South Dakota water resources development, including CENDAK and Governor Janklow's proposal to irrigate 100,000 acres in the James River Basin from the Garrison Diversion Unit.

We look forward to working with you on those matters.

Sincerely,

JIM,
Secretary.

Mr. ABDNOR. Mr. President, it would be less than honest to deny that a portion of the blame for the failure of the Federal Government to live up to its commitment to South Dakota lies in the failure of South Dakotans to speak with clarity through their governmental entities and their elected officials. We are attempting to correct that problem, particularly in section 2 of our bill, which directs the Secretary to look to the State for guidance; but the following editorial from the Wednesday, July 1, 1981, edition of the Huron Daily Plainsman discusses the problem, and I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TO SILENCE A BABEL

One thing South Dakotans should have learned about water development over the past decade is that a babel of voices demanding myriad projects, some of dubious feasibility, is not an effective approach.

If there were any lingering doubts about such an approach they should have been put to rest last Friday by U.S. Interior Secretary James Watt. Watt, after admitting that the federal government has a moral obligation to give the state a hand with water development, bluntly told our congressional delegation and Gov. Bill Janklow that the state must get its act together and speak with one voice before it can expect anything.

Watt was quoted as saying, "I keep hearing different voices from different regions out there. Until you decide what you want, it's unlikely that you will get anything."

This week Rep. Tom Daschle is touring the conservancy sub-district boards in an effort to gather information on the projects those boards have in mind and the priorities that might be developed. We suspect that he will come up with the same 30-odd projects that the Legislature wrapped into a package called The State Water Plan last winter. And we presume each of the subdistricts will want its projects first.

That sort of survey will probably produce the same sort of babel that the state has just been warned against.

The problem in recent years is that we have had not only conservancy subdistricts but numerous other groups purporting to speak for the state. As a matter of fact many of these groups speak only for special interests. The Oahe subdistrict board for example does not speak for the majority of people within its borders.

Late last month Gov. Bill Janklow promised to unveil a comprehensive state water plan that has been in the works for months. And his original timetable called for that plan to be ready for public exposure within 10 days or so. At least the time interval is short enough that it would seem wise to test reaction to that plan before proposing alternatives.

If the state is ever going to speak with one voice it is going to have to unite behind one course of action and one set of priorities. And those will not be developed in any one single conservancy subdistrict, nor will they be worked out by any one special interest group.

Janklow's comprehensive water plan seems to offer the only visible solution to the problem of how to achieve unity on priorities for water development. That plan should be given a fair hearing before any other action is considered.

Mr. ABDNOR. Mr. President, in addition to its focus on the planning activities and priorities of the State, our bill would direct the Department to consider the possible reformulation of plans for the Pollock-Herreid and Oahe irrigation projects, in line with the wishes of the local people.

My colleagues will note the emphasis the Governor places upon local support and his belief that CENDAK has garnered ample support to be considered as a potential reformulation of the Oahe Unit plan:

I ask unanimous consent that the text of a May 11, 1981 letter from Governor Janklow to Mr. Don Faulstich of the

CENDAK Steering Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,
Pierre, S. Dak., May 11, 1981.

DON FAULSTICH,
President, Hyde County Water Association, Highmore, S. Dak.

DEAR MR. FAULSTICH: This is in response to your recent letter in which you requested my support for the Cendak project. As I stated at the meeting with members of the Cendak Steering Committee on May 1, 1981, I feel that the local support shown for the Cendak project has been outstanding, and that the concept has been developed and is being pursued in the proper manner at the local level. This has confirmed my faith in the ability of the citizens of this State to develop an irrigation concept that is acceptable to a majority of the people. I endorse the Cendak concept and strongly support its further study. I am willing, upon your request, to do whatever I can to assist in development of the concept; however, I want the people to be assured that the government will not coerce them into building a project they do not want.

As to your concern about retaining the benefits of the Oahe authorization, Senator Abdnor has proposed a bill that would basically protect the benefits of the Oahe authorization but would release the obligations of the Oahe Conservancy Subdistrict and the West Brown and Spink County Irrigation Districts. I have asked Secretary Neufeld to work with Senator Abdnor on this bill. If you have any comments on this matter, please feel free to communicate your comments to Mr. Neufeld.

I appreciated the opportunity to listen to your proposal and view the areas that farmers have expressed an interest in irrigating. I believe that your further study of the concept needs to include an analysis of how the potential users of Cendak would prefer to fund the study, construction, operation and maintenance of the project. This funding concept could then be pursued in any negotiations with the Department of Interior on the Oahe authorization. Other project aspects that should be analyzed and negotiated include: soil irrigability standards, construction design, development schedule, repayment schedules, interest rates, power rates, and operation and maintenance provisions. A valuable lesson should have been learned from the problems that occurred with the Oahe project in that the local people must be involved throughout the study and development of the project. Thus it is important that the local people, the State and the Congressional delegation work together in establishing an acceptable package for implementing this concept.

Please contact me or the Department of Water and Natural Resource if further assistance is needed.

Sincerely yours,

WILLIAM J. JANKLOW.

Mr. ABDNOR. Mr. President, the prospective beneficiaries of the Pollock-Herreid Unit have recently, in response to a bill introduced by Senator PRESSLER to deauthorize their project, expressed a rekindled interest in attempting to identify an acceptable plan of development. The following correspondence will document the local view and my reactions to it.

I ask unanimous consent that certain correspondence relating to this be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 27, 1981.

Mr. ROGER HANSON,
Rural Director, Campbell and McPhereson Counties, Oahe Conservancy Sub-District Board, Pollock, S. Dak.

DEAR ROGER: Thank you very much for the copy of your letter to Senator Pressler of July 7th concerning his bill to deauthorize the Oahe and Pollock-Herreid units.

As the original sponsor of the Pollock-Herreid authorization, I would certainly be dismayed to see it fall by the wayside, and I am pleased to learn that there is local interest in trying to rejuvenate it in a modified form. As you know, that is exactly what the CENDAK Steering Committee is trying to do with respect to the Oahe authorization—convert it to a form which will provide irrigation water for their area.

It would not be proper to imply that it will be easy to achieve development of either a reformulated Pollock-Herreid plan or a reformulated Oahe-CENDAK plan. I will be introducing very soon a bill designed to serve the local wishes with respect to both Pollock-Herreid and CENDAK, however, and your support would be very much appreciated.

As you know, I circulated a draft bill months ago (in April) and have actively solicited suggestions ever since that time as to how best to preserve the WEB project and to maximize any gain to the people of South Dakota through the use of the Oahe authorization. During the time we have had repeated contacts with Administration and Congressional officials, as well as with South Dakota officials and citizens. I believe these contacts and our long and careful deliberations have enabled us to focus more realistically the intent of the draft which was circulated in April.

Again, I shall be introducing my bill very shortly (prior to the August recess), and I hope that it will gain your active support.

The time for unachievable proposals and for bickering is past. We now must come together for the good of the people.

With best wishes,

Sincerely,

JAMES ABDNOR,
U.S. Senator.

OAHE CONSERVANCY, SUB-DISTRICT,
Pollock, S. Dak., July 7, 1981.

Re: Pollock/Herreid Project.

Senator LARRY PRESSLER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PRESSLER: I am writing you on behalf of the Pollock/Herreid Irrigation Project, which is located in Campbell County. I represent Campbell and McPherson Counties on the Oahe Conservancy Subdistrict Board.

Senator Abdnor's office proposed that the Pollock/Herreid Project be deauthorized to provide the first portion of funding for the WEB Pipeline, or other projects. Recently, you drafted legislation which called for deauthorization of the Oahe Project and the Pollock/Herreid Project to provide funding for projects in the State Water Plan. I am concerned that this action was taken apparently without consulting the local Pollock/Herreid Irrigation District Board. While the Oahe Conservancy Sub-district Board is in support of deauthorization of the Oahe Project, and efforts to negotiate an Oahe settlement which might provide funding for other projects in the state, the Sub-district Board has never proposed nor supported deauthorization of the Pollock/Herreid Irrigation Project. In fact, in my opinion, there is still interest in developing irrigation in the Pollock/Herreid area. Rather than deauthorize the Pollock/Herreid Irrigation Project to provide funding for some other project in the state, it is my opinion that the people in this area would rather try to adjust the federal authorization so that funding could be secured for a private irrigation development using more buried pipe delivery systems and possibly serving a smaller area.

In my opinion, there were several problems associated with the project plan developed by the Bureau of Reclamation. First of all, local people became frustrated because the planning process was extended over a period of 15 years, and the only funds secured were used for study and re-study of the project plan. There would have been more support for the Bureau plan had they responded to local desires and included more buried pipe in the proposed delivery system. Excessive cost estimates by the Bureau of Reclamation were also a problem. Bureau estimates showed the per acre project cost at about $3,000 an acre, whereas private irrigation development has been constructed in the last year along the Missouri River at a cost of less than $700 an acre, using a practically buried pipeline delivery system. It was hard to understand why the federal project would have to cost so much more. Another potential problem was that the federal plan called for acquisition of some 2,000 acres of farmland in Campbell County for wildlife mitigation purposes.

In short, I feel the local people had some difficulty working with the Bureau of Reclamation in securing an acceptable plan, but that does not diminish the fact that there is interest in developing irrigation in this area. Certainly, Campbell County, which lost thousands of acres of land to the construction of the Oahe Reservoir, deserves some sort of water resource development.

Presently, the local irrigation district, the county agent, and others are looking into the possibility of hiring a private engineer and attempting to convert the Pollock/Herreid Irrigation Project into a private development. No action should be taken by the Congressional Delegation or state officials to deauthorize the Pollock/Herreid Irrigation Project until (1) local interests have had an opportunity to pursue the "private development" option, (2) possibilities for converting the Pollock/Herreid authorization into federal funding for a "private development" are exhausted, and (3) the locality elected Pollock/Herreid Irrigation District Board endorses such action. Until such time as these three points are met, it would be premature to talk of deauthorizing the Pollock/Herreid Irrigation Project either separately or as any part of an Oahe deauthorization settlement.

Sincerely yours,

ROGER HANSON,
Rural Director.

Mr. ABDNOR. Mr. President, our bill provides authority for the Secretary to contract with the State of South Dakota to conduct the necessary studies of Pollock-Herreid, CENDAK, the Garrison extension and other priority projects identified by the State. Besides more accurately reflecting the local viewpoint, this may be a necessity due to the closure of the Huron, S. Dak., office of the Bureau of Reclamation.

Back in April Congressman ROBERTS and I conveyed to the regional administrator our view of the role of the Bureau in our State. Since that time, the Bureau has reverted to its traditional name and has decided for budgetary and personnel reasons to close the Huron office.

I ask unanimous consent that my letter to the regional administrator be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 10, 1981.

M:. JOE MARCOTTE,
Acting Director, Upper Missouri Region Water and Power Resources Service, Billings, Mont.

DEAR MR. MARCOTTE: This is in response to your inquiry regarding the role of the Huron office of the Water and Power Resources Service in the investigation and development of water projects in our state in the years to come.

Obviously, the activities of Water and Power Resources Service in South Dakota have been characterized by controversy and less than satisfactory results—for a number of reasons, most of which have been beyond the control of anyone. We would hope, however, that there could be a productive role for WPRS in the future of water developments in our state. Certainly, the role WPRS was to have played in our state under the Pick-Sloan Missouri Basin Program—development of federal assisted irrigation—has not been fulfilled, and we must insist that every effort be made to see that it is fulfilled, if not by WPRS, then by other means.

In our view, the scope of WPRS activities in South Dakota should be based upon the degree to which your agency can assist in achieving prompt and complete consideration of water development projects proposed by the State and by local, sponsoring groups and to achieve prompt development of those projects which are feasible under the terms of the Pick-Sloan Missouri Basin Program. In our view, the State must set the priorities in this regard and our role should be to help ensure that those priorities are observed in terms of federal authorizations and funding.

The State Water Plan sets forth the projects which have been identified to date for potential development and ascribes a general priority rating to each. Hopefully, the State water planning process will continue to be sharpened and will become able to identify specific priorities in relation to federal planning and development capabilities and funding for each subsequent fiscal year.

At this point, however, and lacking such specific direction from the State, it seems to us that there are several projects and studies in which WPRS involvement would be useful in the near-term future. Those are:

(1) Development of a reauthorized Belle Fourche irrigation project as a unit of the Missouri Basin Program. It is our hope the necessary reauthorization can be accomplished during the 97th Congress;

(2) Possible development of the Slip Up Creek Unit, depending upon the need and expression of local support for the project;

(3) Study of the feasibility of Governor Janklow's proposal to derive irrigation and domestic water supply benefits in South Dakota from the Garrison Unit. We have had legislation drafted to authorize a feasibility study, but WPRS involvement in this project should be guided by the requests of the State. The preliminary indication we have is that Congress may look with favor upon the feasibility study authorization, but it would be helpful if there were some documentation which could pass for an appraisal study report;

(4) Study of potential uses of existing facilities constructed and property acquired for use in conjunction with the Oahe Unit. In our view, the previous administration was remiss in ignoring this issue in the context of its "termination study." We believe Congress would be remiss, too, in acting on deauthorization without considering potential uses of the existing federal investment; and we certainly would oppose any such action. We believe that the CENDAK and Lower James-Ft. Randall projects in particular ought to be considered from a technical standpoint as potential uses of the existing facilities. Obviously, the political question of whether the facilities will actually be used for these purposes is not for WPRS to decide, but your agency may be in a position to provide technical advice in the context of the Lower James-Ft. Randall feasibility study and additional legislative authority we are pursuing to direct that potential uses of the existing facilities be investigated;

(5) As you know, there is a great deal of support for irrigation development in Gregory County, South Dakota. We are planning to offer legislation to authorize a feasibility study of the Landing Creek and Whetstone Bay irrigation projects and intend to endeavor to see that potential irrigation development in conjunction with the Gregory County hydropower project is fully investigated as well;

(6) There are a number of potential Indian water development projects in which WPRS involvement may be helpful. As you know, our first choice for development of the Grassrope irrigation project has been that it be accomplished as a WPRS unit of the Missouri Basin Program. Due to the lack of movement through WPRS channels, though, we have been forced to pursue other means toward development, and it appears that BIA funding will continue to be more expedient. Of course, we shall endeavor to do whatever is necessary to ensure the availability of low-cost Missouri River Basin hydropower for the project as well.

In addition, we will be pursuing feasibility study authorizations and funding for the proposed Isanti and Little White River units on behalf of the Flandreau Santee and Rosebud Sioux tribes, respectively; and, finally,

(7) While it is our intent to convert the Oahe authorization to a form which is useable in the best interest of water development in our state and that form at this point would, in our preference, have the State do the planning and selection of projects, we would hope that WPRS could play a substantial and active role from a technical standpoint in assisting the state in achieving fulfillment of the irrigation commitment made to us in the Flood Control Act of 1944.

We hope that this expression of our point of view is helpful to you in planning for the scope of WPRS activities in our state in the years to come. Please let us know if you have additional questions or comments and especially if you have suggestions as to how we might be of greatest influence in seeing that the water development interests of our state are served.

Sincerely,

JAMES ABDNOR,
U.S. Senator.
CLINT ROBERTS,
Member of Congress.

Mr. ABDNOR. Mr. President, on June 18, 1980, then-Secretary Andrus sent the South Dakota delegation a letter confirming our agreement with respect to the authorization and first-year funding of the WEB project. One of his commitments related to the point of Congressman ROBERTS and my letter to Acting Director Marcotte; namely, that the Bureau would maintain an active role from a technical standpoint in assisting with the development of South Dakota's water resources.

I ask unanimous consent that the Secretary's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., June 18, 1980.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: I am writing in response to your letter of May 12, 1980, and pursuant to the consultations which have occurred between us since that time.

I want to begin by thanking you for the constructive nature of your letter, and the extraordinary effort and care you have given to resolving the difficult questions regarding the future water resource needs of South Dakota. In spite of differences which may exist regarding some specific issues, I am convinced we share a commitment to meeting South Dakota's needs through sound water management and development, and seeing that the Federal role is a major and cooperative one.

The Administration has made clear its view that it cannot support the permanent authorization of the WEB project in the absence of a deauthorization of the Oahe Unit, and I believe the reasons for this are well understood. You have made clear, in return, two central points. First, that if Oahe is to be deauthorized, you must consider and address other water development needs in the state in addition to the WEB project. Second, that additional time is needed to identify and analyze other proposals and to permit adequate public consideration of them.

Our reaction to these points is favorable, and with some variation, we are able to accept the basic premise of your May 12 letter. What we propose is a process which would create the time and opportunity for development of other responses to state needs, yet leave you in a position in mid-1981 similar to that which exists today—a choice between the continued authorization of Oahe (but without an authorization for WEB) or a deauthorization of Oahe, predicated on authorization and funding for WEB plus other proposals which might be agreed upon in the interim.

Specifically, we would not object to the authorization of the WEB project immediately, as well as first-year funding of approximately $1.9 million if provided within the Administration's overall budget request for the Department. By mutual agreement with you, a provision would be included in the WEB authorization which would establish a "trigger date" of September 30, 1981 (the end of FY 1981), at which time the future of the WEB and Oahe projects would be firmly decided. Should Oahe be deauthorized by this date, WEB automatically would be authorized for completion, including adequate authority for all necessary funds. (A copy of the proposed language to achieve these purposes is enclosed as amendments to H.R. 6320.)

As you suggest, a "clean" deauthorization bill for the Oahe project will be introduced immediately with the joint sponsorship of the delegation (a draft of such legislation is enclosed). We would have no objection to the introduction of such a bill on request. While the Administration favors passage of such a bill, it would be understood that actual passage is not anticipated until mid-1981, after consideration of other South Dakota water needs. Accordingly, the "clean" bill for Oahe deauthorization would be agreed to be introduced again at the beginning of the net Congress.

During the period between now and mid-1981, when a definitive choice on Oahe deauthorization will be required, a concerted and cooperative effort will be made to better assess South Dakota water resource needs, and to develop agreement on other possibilities for development in addition to the

WEB pipeline. We realize that, within the State and even within the delegation, views may differ on various alternatives and priorities, and the Administration has strong view as well. We should use the next 12 to 14 months as a period of working together toward agreement on issues important to the water resource needs of South Dakota and the appropriate contribution of the Federal Government to those needs.

We would approach this effort with great but realistic expectations, and expect all others to do the same. A common initial understanding of the conditions which will determine ultimate agreement will vastly improve our capability to work together. Obviously, there must be a mutual understanding that the package put together in the coming months will require Administration agreement. From the Administration's viewpoint, you should understand that support for any additional future projects or programs will be based on established planning and evaluation procedures, consistency with existing Federal programs, standards set forth in the President's water policy message of June 6, 1978, and consistency with existing budgetary constraints. Such standards are indeed more demanding, in some cases, than those being applied to the WEB proposal itself.

It should also be understood that, the prior decision to authorize and fund the Oahe unit, or any speculative evaluation of that authorization, cannot serve as a measure of what might be agreed upon in coming months. While no reasonable alternative can be ruled out at the beginning of this process, it is equally important to understand that agreement is unlikely if it is predicated on unresolvable budgetary, legal or political bases. We have previously indicated our feeling that the formulation advanced by the South Dakota legislature cannot be the basis of agreement, and although you may initially wish to use it for discussion, we believe it is important for our views to be known at the outset.

The greatest opportunity for success rests in an effort to focus on water resource needs and sound planning to address them, rather than on settlement of legal or political differences. We are willing to take a number of steps to facilitate this effort, and ensure that it is as constructive as possible. For instance, we will support a decade-long reservation of Missouri River water for the state, as proposed by Senator McGovern, in an amount of water equal to that anticipated for the Oahe unit. In addition, we will take several specific steps related to the role of the Water and Power Resources Service in South Dakota. We will retain adequate staff in the Huron office to assist in this effort, and will review all presently authorized planning in South Dakota, and where possible, accelerate work on individual projects.

Most importantly, we want to contribute to the establishment of a new atmosphere of cooperation among state, Federal and local interests to address common problems. We will gladly enter into such an effort at the field and policy levels with the possibility of identifying new appraisal and feasibility level studies which can be supported for authorization by all the parties concerned.

Overall, we believe this approach meets the basic objectives set out in your May 12 letter, and does so in the manner most likely to yield subsequent agreement based on cooperative efforts over the coming months. We would appreciate an early response from the delegation, as time is drawing short to address the various legislative matters which are essential.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Mr. ABDNOR. Mr. President, let me comment briefly on several points of our agreement with the Carter administration, per the Secretary's letter:

First, Secretary Andrus stated that the Carter administration could not support WEB unless the Oahe unit is deauthorized. There is nearly unanimous agreement in South Dakota that such a trade would not be fair and should not be accepted. The Governor and all four members of the congressional delegation are in full agreement on that point.

Furthermore, President Reagan's Secretary of the Interior, James Watt, has, in his July 10 letter to the South Dakota delegation clearly stated that deauthorization of the Oahe unit is for Congress to decide. His Assistant Secretary for Land and Water Resources, Garrey Carruthers, has been even more explicit in our discussions in saying that he could see no reason why the two projects should have been linked in the first place.

If my colleagues would like further clarification of my State's position on the Carter administration's linkage of WEB and Oahe, I would refer them to page 25342 of the September 15, 1980, RECORD, containing my remarks on the WEB authorization. I would call their attention in particular to my June 30, 1980, letter to Governor Janklow, which is reprinted on pages 25343–440.

There should be absolutely no doubt that we have preserved South Dakota's options to consider alternative uses of the Oahe authorization, as provided by the bill we are introducing today; and our right to do so has been acknowledged by both the Carter and the Reagan administrations.

Second, Secretary Andrus explicitly acknowledged in his June 18 letter that the South Dakota delegation—

must consider and address other water development needs in the state in addition to the WEB project and that additional time is needed to identify and analyze other proposals and to permit adequate public consideration of them.

He proposes a "process under which other proposals * * * might be agreed upon in the interim" between authorization of WEB and deauthorization of Oahe, but that process has not reached fruition to date. Our bill is drafted to facilitate the realization of the process to which we agreed with the Carter administration.

The need for this legislation is apparent because the Secretary's commitments do not square with the results over the past year. For example, the Secretary promised to retain adequate staff in the Huron office, but the office is being closed. Secretary Andrus promised to review all presently authorized planning in South Dakota, and where possible, accelerate work on individual projects, but none have been accelerated. In fact, the Grass Rope and Belle Fourche projects have been delayed by the Carter administration's so-called water policy initiatives.

Secretary Andrus supported first-year funding for WEB to be obligated immediately and unconditionally, but the $1.9 million which was to have been provided without delay has been deferred by Congress at the insistence of House Interior Appropriations Subcommittee Chairman YATES. Thus, the essence of last year's agreement with Secretary Andrus, that is to accelerate development of WEB, has been contravened by Congress. What is more, the Secretary himself failed to live up to the spirit of the agreement by failing to include funding in the Carter administration's fiscal year 1982 appropriations request specifically to continue construction on WEB.

One other offer made by Secretary Andrus which has not been upheld, thankfully in this case, is to provide a limited, 10-year Federal reservation of water for South Dakota. Doing so would be no service to South Dakota because, if the Federal Government does not honor its commitment to provide irrigation development assistance to my State, the water will not be used in the next 10-year period anyway and what the Federal Government gives, it can also take away. Having set the precedent, with which the State does not agree, that the Federal Government has the right to allocate water for use in South Dakota, the Federal Government would be in position to allocate the water elsewhere when, after 10 years of nonuse in South Dakota, it is needed by Exxon, ETSI, or some other energy concern or when it is needed by other States of the High Plains which are already irrigating to excess and drawing down the Ogallalla aquifer.

The phrase "use it or lose it" is undeniably true when it comes to water, and South Dakotans are wary of Greeks bearing gifts. We have been burned too often, and we are not about to concede to the Federal Government a right which it does not have, to control South Dakota's water resources. We know all too well how we have been baited and switched, promised one thing and given another, under the Pick-Sloan Missouri Basin program and I am greatly relieved that we now have a new administration which is not going to be pursuing back-door efforts to gain control of South Dakota's water resources.

I am hopeful, too, that with the support of the Reagan administration, particularly Secretary Watt and Assistant Secretary Carruters, that the Federal Government will begin to live up to its commitment to my State. The most recent commitment which has been broken is for first-year funding for WEB, but that broken promise is indicative of the much larger failure of the Federal Government to live up to its promise to my State under the Pick-Sloan Missouri Basin program.

One June 3, I wrote Chairman YATES on the issue of first-year funding for WEB. He has not responded, and it can only be assumed that he would not support funding for WEB through his subcommittee under any circumstances, regardless of whether the Oahe unit is deauthorized. In other words, we are being asked to buy a "pig in a poke," to give up the Oahe authorization and get nothing in return.

Mr. President, I ask unanimous consent that my letter to Chairman YATES and the enclosure be printed in the RECORD.

There being no objection, the letter and enclosure were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 3, 1981.

Hon. SIDNEY YATES,
Chairman, Subcommittee on Interior, House Committee on Appropriations, Rayburn Building, Washington, D.C.

DEAR SID: As you know, the history is not good with respect to the Federal Government living up to its commitment to South Dakota to provide water development assistance to offset our sacrifice of over 500,000 acres for the flood control benefit of downstream states. It is a history of changing authorizations through appropriations to delay and deny the water development needed and promised to my state.

You are well aware that I consider the action just taken by the appropriations conference committee to be a continuation of that history, as per the seven points on the attached sheet. Be that as it may, however, can we be assured that if the conditions of Section 9(b) of Public Law 96–355 regarding deauthorization of the Oahe Unit have been met, that you will support funding the WEB project to completion?

More specifically, officials at OMB have indicated to WEB that $33 million is available for their project in the FY82 budget, under the Interior Secretary's contingency fund. I have attempted to obtain some assurance from Interior and OMB that these funds will, in fact, be made available to WEB. The language which you moved in conference would seem to imply that WEB's funding problems will be resolved when continued authorization is assured. Is that the case as far as your subcommittee is concerned, and will you support the provision of $33 million for WEB in FY82?

Again, Sid, I sincerely believe that the interests of my state are being deeply wronged. In fairness, any further consideration you can give us will be appreciated, particularly with respect to the prospect of FY82 funding for WEB.

With best wishes,
Sincerely,

JAMES ABDNOR,
U.S. Senator.

ENCLOSURE

(1) Per section 9(a) of P.L. 96–355, fiscal year 1981 funding for the WEB project in the amount of $1.9 million is *not* contingent upon deauthorization of the Oahe Unit.

(2) The agreement between the Carter Administration and the South Dakota Congressional delegation and enacted by Congress provides for a period, ending September 30, 1981, during which the terms of deauthorization of the Oahe Unit should be negotiated.

(3) In view of critical water supply needs, now aggravated by the drought, the WEB project was to be initiated without delay as part of the Oahe "settlement."

(4) The South Dakota Congressional delegation is working to achieve an acceptable settlement and has requested Congressional field hearings on the necessary legislative action.

(5) Deferring FY81 funding for WEB will contravene the intent of P.L. 96–355 and negate the agreement between the Carter Administration and the South Dakota Congressional delegation which was reached through long and arduous discussions.

(6) South Dakotans have been waiting for years for the Federal Government to live up to its commitment to provide water development assistance to offset over 500,000 acres relinquished for flood control reservoir for the benefit of downstream states.

(7) Deferring FY81 funding for WEB is not consistent with the clear intent of the authorization act and would be further evidence to the people of South Dakota that the Federal Government cannot be trusted to live up to its commitments. (The Oahe Unit was initially authorized in the Flood Control Act of 1944, which also authorized construction of the dams and reservoirs which have taken so much of our land, only to be supposedly deauthorized in an appropriations act in 1964. It was reauthorized in 1968, only to be stymied again. Now an appropriations act has been used to contravene the first year funding for WEB, in clear contradiction to the authorization.)

Mr. ABDNOR. Mr. President, as I stated earlier, South Dakotans have been baited and switched. We have been given a promise of water development, but the promise has proven empty. We have relinquished in good faith over 500,000 acres inundated to provide flood control to downstream States, only to learn that the Federal Government cannot be trusted to live up to its part of the bargain; namely, to give us irrigation development assistance in return.

Secretary Watt has privately and publicly acknowledged that the interests of South Dakota have been treated shabbily and that the Federal Government has a moral obligation to rectify the situation. That is exactly what the South Dakota delegation has in mind in introducing our bill today. We intend to continue the process we thought we had initiated with the Carter administration but which, based upon the results to date, seems in doubt. We mean to provide statutory recognition of the process to insure that it will not be further thwarted.

In closing, let me reiterate the thrust of our agreement with the Carter administration by quoting several pertinent passages from the June 18, 1980, letter from Secretary Andrus reprinted in full earlier in my remarks.

The Secretary said:

During the period between now and mid-1981 . . . a concerted and cooperative effort will be made to better assess South Dakota water resource needs.

That has not happened, as promised by the Secretary, but the State of South Dakota has made progress in its water planning and priority-setting activities. Our bill will recognize and give meaning to those activities, pursuant to our agreement with the Carter administration.

Our bill is a hearty reaffirmation of the words of Secretary Andrus:

Most importantly, we want to contribute to the establishment of a new atmosphere of cooperation among State, Federal, and local interests to address common problems. We will gladly enter into such an effort at the field and policy levels with the possibility of identifying new appraisal and feasibility level studies which can be supported for authorization by all the parties concerned.

The Carter administration, including the Office of Management and Budget, supported the agreement into which Secretary Andrus entered with the South Dakota delegation. While the terms of the agreement have yet to be realized, the bill my South Dakota colleagues and I have introduced today is a step toward that end. Based upon Secretary Watt's public and private comments on the obligation of the Federal Government to my State, I am confident the Reagan administration will help us in carrying through the process which has begun, and I urge my colleagues in the Senate to support prompt passage of this measure of great importance not only to water development in South Dakota but to the integrity of the word of the Federal Government as well.

I ask unanimous consent that the text of the bill be printed in the RECORD, as follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) The WEB Rural Water Development Project, authorized by section 9 of Public Law 96–355, is reauthorized.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to proceed with the development of the WEB Rural Water Development Project, consistent with the terms of section 9(e) of Public Law 96–355, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981, except that such funds shall be made available directly to the WEB Association and shall not be transferred to the Department of Agriculture.

SEC. 2. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a study pursuant to this Act which shall include consideration of—

(1) alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James division, Pick-Sloan Missouri River Basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison Unit, Pick-Sloan Missouri River Basin program, North Dakota;

(3) a modified plan of development for the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri River Basin program, South Dakota, including alternative lands or reduced acreages; and

(4) the potential for development of any other water project or projects proposed by the Governor of the State of South Dakota, in accordance with the policies and priorities of the State, which the Secretary determines may qualify for Federal construction funding under the terms of this section.

(b) In formulating his recommendations to Congress the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri Basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944. In determining the feasibility of projects proposed by the State under this section the Secretary shall use criteria no less favorable than those under which the Oahe Unit, initial stage, was authorized, except that the Secretary may use other criteria with the consent of the State.

(c) The Secretary shall report to Congress the findings of the studies, along with his recommendations for disposition of the Oahe Unit, initial stage, for development of the Pollock-Herreid unit, and for Federal involvement in other projects proposed by the State.

(d) The Secretary may contract with the State to carry out the studies authorized by this section.

(e) The studies performed and the reports made under this section shall be of reconnaissance, appraisal, or feasibility grade as is appropriate to determine whether fur-

ther action on the development of the Secretary's recommendations is warranted.

SEC. 3. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe Unit, initial stage, and to release any and all funds accumulated by the Oahe Conservancy Subdistrict under the master contract.

(b) Those features of the authorized plan of development for the Oahe Unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2(a)(1) of this Act.

SEC. 4. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Missouri River Basin program pumping power to irrigation projects constructed in South Dakota by Indian tribes or by public entities organized under State law and which have been authorized by the Flood Control Act of 1944 to receive such power. Such power shall be made available at the request of the State of South Dakota or an Indian tribe, regardless of the source of construction funding for such irrigation projects.

SEC. 5. There are authorized to be appropriated $——— to carry out the provisions of this Act.●

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. WILLIAMS, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. NUNN, Mr. CHILES, Mr. HEFLIN, Mr. STENNIS, Mr. JOHNSTON, Mr. TOWER, Mr. MATSUNAGA, Mr. COCHRAN, Mr. CRANSTON, Mr. METZENBAUM, Mr. CANNON, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LONG, Mr. MITCHELL, Mr. BENTSEN, Mr. INOUYE, Mr. BIDEN, Mr. HAYAKAWA, Mr. COHEN, Mr. EAST, Mr. KENNEDY, and Mr. DURENBERGER):

S.J. Res. 103. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the 7 calendar days beginning October 4, 1981, as "National Port Week."; to the Committee on the Judiciary.

NATIONAL PORT WEEK

Mr. HOLLINGS. Mr. President, I introduce and send to the desk a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the first calendar week of October 1981 as "National Port Week," and for other purposes. In past years, Mr. President, Congress has seen fit to make a similar designation. Because of the vital role the Nation's ports play as economic centers this year should be no different.

Additionally, Mr. President, I am personally pleased to introduce this resolution because Mr. W. Don Welch, president of the South Carolina State Ports Authority has been elected to serve as president of the American Association of Port Authorities for this year. This association, Mr. President, is one of the driving forces behind the maintenance and improvement of the Nation's ports as vital contributors to commerce and trade.

I am pleased to introduce this resolution and urge timely consideration and approval of this recognition of our ports. Joining me as cosponsors are: Senators THURMOND, WILLIAMS, SARBANES, STAFFORD, TSONGAS, NUNN, CHILES, HEFLIN, STENNIS, JOHNSTON, TOWER, MATSUNAGA, COCHRAN, CRANSTON, METZENBAUM, CANNON, BRADLEY, MOYNIHAN, LONG, MITCHELL, BENTSEN, INOUYE, BIDEN, HAYAKAWA, COHEN, EAST, KENNEDY, and DURENBERGER. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES 103

Whereas the past development of the public ports of the United States is the result of a fruitful partnership in which State and local authorities have assumed major responsibilities for land-based port development with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States;

Whereas our Nation's commercial seaports and inland river ports are indispensable to foreign and domestic waterborne commerce and to the economic well-being and national security of the United States;

Whereas the maintenance and development of a national network of commercial ports is vital to expanded international trade and to the attainment of a favorable trade balance;

Whereas commercial ports serving the waterborne commerce of the United States are responsible for the continued employment of more than one million workers and in 1980 generated a total of $66,000,000,000 in direct and indirect dollar income from gross sales and services to their users;

Whereas there is a continuing need to focus public attention upon the value to our Nation of a viable and competitive system of commercial ports; and

Whereas the "National Port Week" observance promotes public recognition of the vital role that our ocean and inland ports have played in the economic growth and development of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the seven-day period beginning October 4, 1981, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that week with appropriate ceremonies and activities.

By Mr. MELCHER:

S.J. Res. 104. Joint resolution directing the President to consult with the Governors of the Federal Reserve System for the purpose of substantially reducing interest rates within the next 90 days; to the Committee on Banking, Housing, and Urban Affairs.

REDUCING INTEREST RATES

● Mr. MELCHER. Mr. President, today I am introducing a joint resolution directing President Reagan to begin immediate consultations with the Federal Reserve Board for the purpose of modifying the Board's economic policies in connection with reserve requirements, open market committee control over the money supply, and Federal Reserve discount rates so as to substantially reduce interest rates within the next 90 days.

We simply cannot wait any longer to begin getting interest rates back to reasonable levels.

During most of this century, real interest rates—that is, the rate after discounting inflation—have held steady at about 2 or 3 percent. Today, real interest rates are running at 10 to 12 percent—four times their historical average.

I have been holding a series of Senate forums to document the impact that current high interest rates are having on various sectors of our economy. Farm representatives have told me that "high interest rates will cost us an entire generation of young farmers." Housing representatives have testified that "current interest rates are breaking the back of the housing industry." Economists pointed out that, "with current money supply levels there can be no growth whatsoever in the economy."

Because of current high interest rates, housing starts are at record lows, bankruptcies are at record highs, and unemployment is on the rise.

These interest rates must come down, and come down now, or they will snap the back of our economy.

I believe that the only reason there has not been more of an outcry over high interest rates in the past several months is that President Reagan keeps assuring us that approval of his economic program would quickly bring down interest rates. As recently as the Ottawa Summit, President Reagan assured other heads of state that high U.S. interest rates were only temporary.

However, that tune has now changed. In a Washington Star interview on July 8, Treasury Secretary Regan broke with earlier administration statements that the prime rate would fall to between 10 and 13 percent by the end of the year. He said:

I'd say if we got near the 13 percent level by the end of the year, we'd be lucky.

Other administration spokesmen are now echoing his belief that interest rates will stay high.

The view that interest rates will not come down as the administration earlier predicted was reinforced by Federal Reserve Board Chairman Paul Volcker's recent statement that the Board had decided to further tighten the money supply for the remainder of 1981 and for 1982, thereby insuring interest rates will stay high for the foreseeable future. Chairman Volcker announced on July 13 that the Board will only permit a 3.5-percent growth in the remainder of this year, and that money growth targets for 1982 will be cut by three-fourths of 1 percent.

Further, in testimony before my Senate forum on high interest rates held on July 27, Federal Reserve Board Governor Lyle Gramley said that the Board would have to see a "fundamental breakthrough on inflation" before easing up on high interest rates. When I asked what he would determine as a "fundamental breakthrough," he responded that one of the important signs would be a decline in wages. I find it astounding that the Federal Reserve Board has decided to keep the money supply tight, and to keep interest rate levels at record levels until they see a decline in the wages of working people. I am sure this is not Congress' attitude, and I hope it is not President

Reagan's. Further, I believe we must make this perfectly clear to the Federal Reserve Board.

The statements of Chairman Volcker and the testimony I received from Governor Gramley have persuaded me that there is no chance of convincing the Federal Reserve Board to be reasonable on the question of interest rates.

Therefore, we are left with only one choice—to direct President Reagan to press the Federal Reserve Board with the aim of reversing current monetary policies. That is what this joint resolution will do. I hope that we can quickly enact it and send it to President Reagan so that he will understand just how serious the Congress believes this problem to be.●

ADDITIONAL COSPONSORS

S. 53

At the request of Mr. HAYAKAWA, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 53, a bill to amend the Voting Rights Act of 1965 to repeal certain requirements relating to bilingual election requirements.

S. 131

At the request of Mr. INOUYE, the Senator from North Dakota (Mr. BURDICK), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 131, a bill to incorporate the Pearl Harbor Survivors Association.

S. 178

At the request of Mr. DURENBERGER, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 178, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on the production of coal.

S. 195

At the request of Mr. GOLDWATER, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 195, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 517

At the request of Mr. BENTSEN, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 517, a bill to amend the Clean Air Act to provide for further assessment of the validity of the theory concerning depletion of ozone in the stratosphere by halocarbon compounds before proceeding with any further regulation of such compounds, to provide for periodic review of the status of the theory of ozone depletion, and for other purposes.

S. 854

At the request of Mr. PERCY, the Senator from Ohio (Mr. GLENN), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 854, a bill to promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of the United States missions abroad.

S. 961

At the request of Mr. BENTSEN, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 961, a bill to require that a Federal agency may not require that any person maintain records for a period of 5 years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after 5 years from the date of the act which is the subject of the enforcement action or fine, and for other purposes.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1338

At the request of Mr. MCCLURE, the Senator from Montana (Mr. MELCHER), the Senator from Nevada (Mr. LAXALT), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of S. 1338, a bill to amend the Strategic and Critical Materials Stock Piling Revision Act of 1979 in order to prescribe the method for determining the quantity of any material to be stockpiled under such act, and for other purposes.

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of S. 1338, supra.

S. 1486

At the request of Mr. MITCHELL, the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 1486, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide compensation for medical expenses caused by hazardous substance releases, and for other purposes.

S. 1528

At the request of Mr. PROXMIRE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1528, a bill to amend the Social Security Act to provide for improved management of the social security trust funds and increase the return on investments to those funds.

SENATE JOINT RESOLUTION 62

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Joint Resolution 62, a joint resolution to authorize and request the President to designate the week of September 20 through 26, 1981 as "National Cystic Fibrosis Week."

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 62, supra.

SENATE JOINT RESOLUTION 65

At the request of Mr. PELL, the Senator from New Hampshire (Mr. RUDMAN), and the Senator from Illinois (Mr. DIXON) were added as cosponsors of Senate Joint Resolution 65, a joint resolution proclaiming Raoul Wallenberg to be an honorary citizen of the United States, and requesting the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom.

SENATE JOINT RESOLUTION 97

At the request of Mr. MITCHELL, the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the second full week in October as "National Legal Secretaries' Court Observance Week".

SENATE RESOLUTION 65

At the request of Mr. DURENBERGER, the Senator from Washington (Mr. GORTON), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Resolution 65, a resolution to promote alternative nonanimal testing procedures.

SENATE RESOLUTION 178

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Resolution 178, a resolution to commemorate the 200th anniversary of the birth of Robert Mills.

SENATE CONCURRENT RESOLUTION 25—CONCURRENT RESOLUTION TO DISAPPROVE PROPOSED RULE RELATING TO INCREMENTAL PRICING

Mr. MCCLURE submitted the following concurrent resolution, which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 25

Resolved by the Senate (the House of Representatives concurring), That the Senate does not approve the proposed rule under section 206(d) of the Natural Gas Policy Act of 1978 (relating to incremental pricing) a copy of which was transmitted to the Congress on July 27, 1981.

● Mr. MCCLURE. Mr. President, I am submitting today a concurrent resolution of disapproval, pursuant to subsections 206(d) and 507(c)(3) of the Natural Gas Policy Act of 1978, relating to the proposed rule of the Federal Energy Regulatory Commission on Incremental Pricing transmitted to the Congress on July 27, 1981. The act provides that the rule shall take effect only after the first 30 days of continuous session, defined so as not to include adjournments of more than 3 days to a day certain, such as the August recess, provided that the Congress by concurrent resolution does not disapprove the rule.

Mr. President, I ask unanimous consent that the letter of transmittal and the Commission's order on the rule be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, July 27, 1981.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: With this letter, the Federal Energy Regulatory Commission (FERC) respectfully submits for Congressional review a rule which provides for an exemption from incremental pricing pursuant to Section 206(d) of the Natural Gas Policy Act of 1978 (NGPA). This rule will take effect unless either House of the Congress adopts a resolution of disapproval

within the time period specified in Section 507(c)(3) of the NGPA.

Title II of the NGPA requires the FERC, within certain guidelines, to institute and administer an incremental pricing program designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the Act to certain industrial facilities that use natural gas as boiler fuel. The purposes of the program are to shield high-priority customers from the natural gas price increases permitted under Title I and to prepare the market for deregulation of natural gas pricing in 1985.

The rule submitted herein would permanently exempt all facilities subject to incremental pricing from Section 204(e) of the NGPA, insofar as that Section requires surcharges above the price of high-sulfur No. 6 fuel oil. This exemption would be accomplished by establishing a single-tier alternative fuel price ceiling at the level of high-sulfur No. 6 fuel oil.

The Commission has extensively examined the relative merits of a single-tier price ceiling as opposed to the three-tier system now scheduled to take effect on November 1, 1981. As discussed in detail in the attached rule, the Commission has concluded that the goals of incremental pricing would not be furthered by a three-tier system and that permanent adoption of a single-tier system would prevent potentially wasteful capital expenditures and, in some cases, economic failure of marginal facilities.

Sincerely,

KENNETH F. PLUMB,
Secretary.

[Order No. 167]

FEDERAL ENERGY REGULATORY COMMISSION

Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling; Docket No. RM81-27

FINAL RULE

(Issued July 24, 1981)

The Federal Energy Regulatory Commission (Commission) is amending its regulations on incremental pricing (18 C.F.R. Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. §§ 3301-3432). Specifically, §§ 282.204(e)(2)(iii), 282.402 and 282.403 are amended to permanently exempt all facilities subject to incremental pricing from the No. 2 fuel oil ceilings and in so doing establish a single-tier, high-sulfur No. 6, alternative fuel price ceiling.

I. BACKGROUND

Title II of the NGPA requires the Commission, within certain guidelines, to institute and administer an incremental pricing program. The program is designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the NGPA to certain industrial facilities that use natural gas as boiler fuel. The purpose of the program is to shield high-priority customers from the natural gas price increases permitted under Title I and to prepare the market for deregulation of natural gas pricing in 1985.

Generally under Title II of the NGPA the incremental pricing surcharge applicable to a particular facility is the difference between the price that otherwise would have been paid for natural gas by that facility and the price at which the facility can purchase alternative fuel. The price of the alternative fuel (the alternative fuel price ceiling) is determined in accordance with section 204(e) of the NGPA. Section 204(e)(1) provides that the alternative fuel price ceiling for an incremental pricing region is the price of No. 2 fuel oil that is determined by the Commission to be paid by industrial users in that region. Section 204(e)(2) provides that the Commission may reduce the alternative fuel price ceiling to an amount not lower than the price for No. 6 fuel oil, if it determines that the reduction is necessary to prevent an increase in rates and charges to residential, small commercial, and other high priority customers.

On September 28, 1979, the Commission issued a rule in Docket No. RM79-21 (Order No. 50) implementing section 204(e) by establishing a three-tier system for alternative fuel price ceilings.[1] Under this system, three alternative fuel price ceilings are to be published for each incremental pricing region. The three price ceilings are calculated on the basis of sales in the region of No. 2 fuel oil, low-sulfur No. 6 fuel oil, and high-sulfur No. 6 fuel oil.[2] The price ceiling applicable to any industrial boiler fuel facility is the price of No. 2 fuel oil in the region in which the facility is located, unless the facility can demonstrate that it has the installed capability and legal authority to burn a lower priced fuel oil. If so, the ceiling which corresponds to the lowest priced fuel oil that the facility has the installed capability and legal authority to burn becomes the facility's price ceiling.

The Commission determined that immediate implementation of the three-tier system was inappropriate (for reasons discussed below), and, accordingly, issued a second rule in Docket No. RM79-21 (Order No. 51),[3] postponing the application of the three-tier, alternative fuel price ceilings. Order No. 51 provided that from January 1, 1980 until November 1, 1980, the alternative fuel price ceiling for each region would be established by the price of high-sulfur No. 6 alternative fuel oil. This "single-tier" system was issued under the authority of section 206(d) of the NGPA,[4] and essentially, temporarily exempted industrial facilities from incremental pricing surcharges which would otherwise result from application of an alternative fuel price ceiling above the price of high-sulfur No. 6 fuel oil.

Because the Commission subsequently foresaw that its concern regarding the three-tier system would not be resolved by November 1, 1980, it issued another rule in Docket No. RM79-21 (Order No. 81),[5] which extended the application of a single-tier, high-sulfur No. 6 fuel oil, ceiling until October 31, 1981. Presently, the three-tier system is scheduled to take effect on November 1, 1981.

On April 22, 1981, the Commission issued a Notice of Proposed Rulemaking,[6] proposing to amend its incremental pricing regulations at §§ 282.402 and 282.403 to permanently exempt all facilities subject to the program from the No. 2 fuel oil ceiling, and in so doing, to establish a single-tier, high-sulfur No. 6 alternative fuel price ceiling. Interested persons were afforded the opportunity to present data, views and comments at a public hearing held May 28, 1981 and to file written comments by May 29, 1981.[7]

A number of written and oral comments were received in response to the Commission's Notice of Proposed Rulemaking in this docket, with most of the comments supporting the proposed rule. The Commission has carefully considered these comments as well as the effect that a three-tier system would have in furthering the goals of incremental pricing and the impact it would have on certain industrial facilities and on the economy. In view of these considerations, the Commission has decided to exempt all facilities subject to the program from the No. 2 fuel oil ceiling, and in so doing, establish on a permanent basis, a single-tier alternative fuel price ceiling at the level of high-sulfur No. 6 fuel oil. The Commission's authority to establish this price ceiling is based on section 206(d) of the NGPA.

Footnotes at end of article.

II. DISCUSSION

Price shielding

As previously discussed, the incremental pricing program was designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the NGPA to certain industrial facilities that use natural gas as boiler fuel. One purpose of the program is price shielding, *i.e.* the shielding of high-priority customers from the natural gas price increases permitted under Title I.

One factor the Commission must consider in implementing the incremental pricing program is that the potential impact of the program has been minimized by the relatively small number of facilities subject to incremental pricing. The number of participants in the program is limited for several reasons.

First, under the statutory scheme of Title II, facilities served by intrastate pipelines are generally not subject to incremental pricing. This factor keeps a large segment of the industrial gas market, particularly the market in the gas producing states traditionally served by intrastate pipelines, out of the program.

Second, the scope of incremental pricing has been significantly reduced. At the time of enactment of the NGPA incremental pricing program was envisioned as eventually being imposed on a wide variety, and large number, of industrial users. As required by section 202 of the NGPA, the Commission issued a rule[8] that would have expanded the incremental pricing program to cover industrial facilities not originally included in the program.[9] That rule was subject to Congressional review and was vetoed. As a result, the scope of the incremental pricing program has been significantly curtailed.

Finally, Congress has established a number of statutory exemptions including small users[10], schools, hospitals, electric generation by utilities, qualifying electric cogeneration facilities, and agricultural facilities.[11] Similarly, the Commission has promulgated rules exempting new small users[12] and mechanical cogeneration facilities.[13]

These exemptions leave only approximately 1500 facilities[14] in the incremental pricing program to bear the impact of the surcharges and to shoulder the burden of meeting the goals of incremental pricing. In most cases, this burden amounts to surcharges in the thousands or hundreds of thousands of dollars per year.[15] However, although these surcharges may be substantial there is very little benefit to consumers by way of price shielding because there are so few incrementally priced users and so many high-priority consumers to share the benefits.

The Commission promulgated the three-tier system to maximize the surcharge absorbed by industrial facilities, and at the same time prevent the loss of consumers who have the option of switching to alternative fuels less expensive than No. 2 fuel oil. However, the Commission now believes that imposition of the three-tier rather than the single-tier program will not significantly increase the price shielding impact of incremental pricing. The Commission believes that the large increases in price ceilings which would result from implementation of the three-tier system would cause facilities that do not now possess the capability for using No. 6 fuel oil as an alternative fuel to make substantial investments to acquire that capability, primarily for the purpose of qualifying for a lower incremental pricing surcharge.

Many of the comments provided information which supports the view that the additional surcharges incrementally priced facilities would have to pay under a three-tier system could economically justify in-

vestment by such facilities in high-sulfur No. 6 fuel oil capability.[16] Many of these facilities have not previously made this investment because it was not to their economic advantage given the limited need for an alternative fuel. Several areas of the country have historically experienced little or no curtailment. Facilities located in such areas either have no alternative fuel capability or possess No. 2 fuel oil capability that is used solely as a back-up. The higher priced No. 2 fuel oil has never been an economic alternative fuel for these facilities over the long run. The record shows that imposing a No. 2 fuel oil price on a permanent basis would provide sufficient incentive for many of these facilities to install No. 6 capability.

Testimony and data submitted by the commentors indicate that investments in the purchase and installation of equipment to burn high-sulfur No. 6 fuel oil can usually be recovered by means of reduced incremental pricing surcharges in less than a year, and in some cases, substantially shorter periods of time.[17] For example, comments submitted by Armour and Co. at the public hearing [18] demonstrate that if a three-tier system were implemented, the increased cost to the Armour-Dial Soap manufacturing plant in Aurora, Illinois, would be approximately $4,750,000 per year. By contrast, the cost of installing No. 6 capability would be $228,000. Armour states that it would immediately install this capacity for the sole purpose of avoiding the higher surcharges.[19] For all practical purposes, such expenditures would result in the three-tier system evolving into a single-tier system using the price of No. 6 fuel oil. Any benefits derived from a three-tier system would be short-lived as it evolved into a single-tier system.

The Commission believes that the three-tier system would not only evolve into a single-tier system, but that it would do so at great expense to incrementally priced users of natural gas. As illustrated by the above example, incrementally priced users would be encouraged to make wasteful capital investments in alternative fuel facilities for the primary purpose of avoiding the additional surcharges arising from a three-tier system. Such expenditures would divert funds from more useful capital investments.

The Commission also shares the concerns raised by several commentors about the economic consequences that implementation of the three-tier system would have on those remaining facilities that do not possess sufficient capital to install residual oil capability or whose gas consumption is too small to economically justify installation of residual oil capability. As United Distribution Companies, Process Gas Consumers Group and others commented, an additional surcharge in the range of two or three dollars per Mcf would likely force some facilities to shut down or sharply curtail their production. United Gas Pipeline Company stated that in some cases these plants are the primary source of income for the community in which they are located and their closure would have a severe economic impact on the community. The New York Public Service Commission expressed similar concerns, noting that older facilities in the state might be closed, and jobs and related taxes transferred to other regions of the country where energy costs are not as high. High priority gas customers may also experience greater costs due to the load loss on the distributor's system.

The Commission expects that those facilities which remain in business but are unable to install alternative fuel capability will encounter severe financial problems. The financial problems encountered by facilities under the single-tier program have been demonstrated by the Commission's experience with adjustment requests filed pursuant to section 502(c) of the NGPA. The number of adjustment requests filed with the Commission seeking relief due to financial hardship from incremental surcharges has increased markedly during this past winter heating season as the incremental price ceilings have increased. Many of these facilities have paid surcharges of $1 per Mcf or more in the past few months. The Commission is concerned that the number of facilities encountering financial hardships could dramatically increase if facilities were paying additional surcharges in excess of $2 per MMBtu as determined under a three-tier system.

One comment urging adoption of a three-tier system suggested that capital investment in No. 6 fuel oil burning equipment could be discouraged by providing that facilities may not qualify for the lowest-tier price unless they used high-sulfur No. 6 fuel oil on the date on which they last used a petroleum-based fuel or on a date specified by the Commission.

For the following reasons, the Commission does not accept this suggestion. Adopting a rule tying the ceiling to the alternative fuel last used would simply encourage industrial users to invest in and use alternative fuel capability for the purpose of avoiding the incremental pricing surcharge. Moreover, as to incrementally-priced users, it would discourage the use of any fuel oil other than high-sulfur No. 6.

The second alternative, fixing a date after which installation of No. 6 fuel oil capability would not qualify the facility for the No. 6 fuel oil ceiling, would simply be unfair. Such a rule would not respond to legitimate changed circumstances. The Commission believes that the price ceiling applicable to an industrial boiler fuel user should change as his fuel use capability changes.

In summary, the Commission believes that the adverse economic consequences of implementing a three-tier approach overshadow the possible benefits of any short-term price shielding. If a large number of facilities were to install No. 6 capability, as the record indicates, and if marginal firms were forced to shut down because of the increased cost of their fuel, the additional surcharges collected under the three-tier approach would be minimal. At the same time, it is likely that implementation of the program would, in many cases, promote extensive wasteful capital expenditure, and, in some cases, failure of marginal firms. The Commission therefore does not believe implementation of the three-tier approach would provide an overall benefit to high priority users.

Market ordering

Another purpose of incremental pricing is to prepare the market for deregulation in 1985. Congress recognized that under the NGPA pricing scheme interstate pipelines would be in a position to outbid intrastate pipelines in acquiring new gas supplies after deregulation. The potential of interstate pipelines to pay more for new supplies results from the fact that only a portion of all interstate gas will be deregulated in 1985 under Title I of the NGPA.[20] Because much of the "old" interstate gas will remain under price regulation after 1985 the interstate pipelines will be able to "roll in" high-priced, new gas with the lower-priced, regulated gas so that the average price will remain competitive with alternate fuels.

Incremental pricing is designed to minimize this effect by allocating a portion of the price increases resulting from deregulation to the interstate end-users who ideally are the most responsive to price changes (*i.e.*, the low-priority users). Since it was expected that these end-users would reduce their gas consumption (through conservation or fuel switching) as their gas costs increase, the interstate pipelines were expected to be faced with decreased demand and a shrinking market, and thereby to be induced to restrain their bidding for high-priced supplies. If the ability of the interstate pipelines to pay extremely high prices for new gas were so limited, the intrastate pipelines could remain in the market for such supplies. Other market-ordering functions would also be served, such as restraining the average price of interstate gas and limiting the windfall profits which producers would obtain from the high prices.

The Louisiana Resources Company (Louisiana Resources), an intrastate pipeline, filed comments expressing its concern that a single-tier system would not adequately serve this "market-ordering" function of the incremental pricing program. Louisiana Resources expects that it will be unable to obtain new gas supplies once deregulation occurs. Specifically, it is concerned that the single-tier program will minimize the market ordering impact of the incremental pricing program.

The Commission recognizes that the incremental pricing program was originally designed by Congress to serve a market-ordering as well as a price shielding function.[21] However, a number of factors undermine the program's effectiveness in meeting those goals. As previously discussed in this rule and at greater length in Docket No. RM80-10, only a small fraction of the total interstate market is subject to incremental pricing. The Commission estimates that 900 Bcf is consumed for non-exempt uses, while approximately 14 Tcf is sold in the interstate market. Thus, less than 7% of the market is subject to the program. It appears reasonable to expect that such a very small portion of the market could do little to restrain the wellhead price of natural gas.

Moreover, the relationship between the wellhead price of gas and the burner tip price paid by non-exempt customers has become quite tenuous. Because there are so few non-exempt users in the incremental pricing program and state regulatory authorities are retaining the benefits of incremental pricing within their own state, non-exempt users generally have been priced at the incremental pricing ceilings. With all non-exempt users already at the ceilings, most price increases for gas in the field flow directly to exempt users. Consequently, the customers who are least able to respond to price increases (*i.e.*, the high-priority customers) bear the effect of wellhead price increases and little bidding restraint results.

Louisiana Resources' comments indicate that they are aware of some of the practical limitations on the efficacy of incremental pricing as a market-ordering mechanism. Nevertheless, Louisiana Resources argues that: (1) a market-ordering mechanism is needed; (2) incremental pricing is the only such mechanism available, and (3) the three-tier system will probably serve to restrain interstate demand more than a single-tier high-sulfur No. 6 oil price ceiling. Louisiana Resources proposes two alternatives to implementing a single-tier system on a permanent basis. First, they propose that the Commission develop a companion rule designed to deal with the market-ordering problem. Consideration of the proposed rule in this docket would be deferred until the companion rule is developed. In the alternative, they propose that the Commission reject the proposed rule and implement the three-tier system on a trial basis. Louisiana Resources further states that the Commission should "at the very least" adopt another temporary one-year exemption to the three-tier pricing scheme.

The Commission does not accept these proposals. The first proposal offers no suggestion as to the type of market-ordering alternative the Commission should consider in a companion rulemaking. The Energy Information Administration (EIA) will require several months to implement the three-tier price ceilings. Because the three-tier ceilings are scheduled to go into effect on November 1

Footnotes at end of article.

of this year, the EIA must know within a very short period of time whether to begin the difficult and costly implementation process. The soliciting of suggestions and the development of such market-ordering alternatives in a companion rulemaking would require more time than is available.

The second proposal, implementation of the three-tier ceilings on a trial basis, is defective for other reasons. The market for gas at the wellhead is presently ordered by the ceiling prices under Title I of the NGPA. The market-ordering function of incremental pricing will not be needed until those ceiling prices are lifted in 1985. A trial period of the three-tier system at the present time, when nearly all gas is subject to price controls (well below the price of competing fuels), would be an empty exercise.

It is simply not reasonable to expect that wellhead prices would be reduced below their statutorily-mandated price ceilings by the implementation of a three-tier incremental pricing program. The ability of interstate pipelines to market gas, at least to non-exempt users, may be restrained under the three-tier price ceilings. But demand restraint for its own sake is not in the public interest at this time.

The Commission recognizes the potential seriousness of the market-ordering problem raised by Louisiana Resources. However, the Commission does not believe that imposing a three-tier incremental pricing program in November of 1981 is an appropriate response to the problem. To the extent this issue remains relevant when natural gas is deregulated, individuals may request the Commission to reconsider implementing a more effective market-ordering mechanism at that time.

Other considerations

The Commission believes that the reasons discussed above provide a sufficient basis for implementing the single-tier alternative fuel price ceiling at the level of high-sulfur No. 6 fuel oil on a permanent basis. However, the Commission is also concerned that expanding the incremental pricing surcharge to a three-tier system would exacerbate the already existing problems associated with the calculation of price ceilings. Under the single-tier program, the Commission has experienced serious difficulties, in view of the present fluctuations in oil prices, in developing a methodology that yields alternative fuel price ceilings which accurately reflect the current price of fuel oil, on a monthly basis, for the individual states. Other problems have involved price disparities among neighboring regions, and the fact that many facilities could buy alternative fuel in neighboring states at a lower price than the price ceiling calculated for their own state. If such facilities purchased lower priced alternative fuels, load loss on the system may result. Thus a higher proportion of fixed system costs will be shifted to high-priority gas customers,[1] thereby defeating one purpose of the incremental pricing program, the partial shielding of high-priority users from high natural gas costs. The Commission believes that such problems will only be exacerbated under a three-tier system.

Finally, in its Notices of Proposed Rulemaking in this docket, the Commission stated that the permanent single-tier alternative fuel price ceiling proposed in that Notice and established by this Final Rule would be issued pursuant to section 206(d) of the NGPA as were Order Nos. 51 and 81. However, interested persons were invited to submit comments and data relating to the required findings under section 204(e)(2) of the NGPA.

Many commentors expressed views on the Commission's authority to establish a single-tier alternative fuel price under section 204 (e) or section 206(d) of the NGPA. In particular, comments submitted by the National Consumer Law Center and the Midwest Fuel Oil Council questioned the Commission's authority to establish a single-tier system under section 206(d) of the NGPA.

It is the Commission's view that section 206(d) of the NGPA provides the authority to exempt all boiler fuel facilities subject to the program from section 204(e) of the NGPA insofar as that section requires surcharges above the price of high-sulfur No. 6 fuel oil. This view is supported by the statutory language of section 206(d), the legislative history and Congressional intent behind section 206(d), and the recent decision in *Ohio Association of Community Action Agencies et al.* v. *Federal Energy Regulatory Commission, et al.*, No. 81–1208 (D.C. Cir. June 15, 1981) affirming the Commission's use of section 206(d) authority in promulgating Order No. 51.

IV. SUMMARY OF THE RULE

This rule amends §§ 282.204(e)(2)(iii), 282.402, and 282.403 of the Commission's current regulations. Current § 282.402(a), which states that a facility's alternative fuel capability is to be determined in accordance with § 282.403, is deleted. Current § 282.402 (b)(1), which provides for the determination and publication of alternative fuel price ceilings based on sales of No. 2 fuel oil, low-sulfur No. 6 fuel oil and high-sulfur No. 6 fuel oil, is also deleted.

Current § 282.402(b)(2), with three changes, now becomes the general exemptive rule in revised § 282.402. The changes are: (1) all industrial boiler fuel facilities subject to incremental pricing are exempt from section 204(e) of the NGPA insofar as it requires surcharges above the price of high-sulfur No. 6 fuel oil; (2) the published price ceiling is the price ceiling for high-sulfur No. 6 fuel oil; and (3) the clause relating to the alternative fuel capability of the facility is deleted. Thus, revised § 282.402 exempts all industrial boiler fuel facilities subject to the program from any surcharge in excess of the price of high-sulfur No. 6 fuel oil, and provides that the alternative fuel price ceiling applied to a non-exempt industrial boiler fuel facility for any month is the ceiling which is published for high-sulfur No. 6 fuel oil for that month for the incremental pricing region in which the facility is located.

Current § 282.402(c), which provides the temporary imposition of a single-tier system, is deleted.

Current § 282.403(a) provides that an incrementally-priced facility is deemed to have the capability of using No. 2 fuel oil as an alternative to natural gas, unless the facility is certified to have the capability to burn other specified fuel oils. Paragraphs (b) through (i) of current § 282.403 establish the requirements for obtaining certification. Since under the proposed rule, the alternative fuel price ceiling applicable to all facilities would be high-sulfur No. 6 fuel oil, current § 282.403 is deleted in its entirety. Section 282.204(e)(2)(iii), which requires non-exempt industrial boiler fuel facilities to indicate the alternative fuel capability of each facility, is deleted because section 282.403 is deleted.

V. CERTIFICATION OF NO SIGNIFICANT ECONOMIC IMPACT

The Regulatory Flexibility Act (RFA)[2] requires certain statements, descriptions and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities."

Pursuant to section 605(b) of the RFA, the Commission finds that the provisions of that Act do not apply to this rulemaking. This rulemaking permanently establishes the program already in effect for alternative fuel price ceilings. The program continues to use the single-tier price ceiling (at the level of high-sulfur No. 6 fuel oil) and does not impose any additional requirements. Those who are required to comply with the EIA data filing requirements of this program are generally large oil dealers whose individual sales of high-sulfur No. 6 fuel oil are in excess of 4000 gallons.

Therefore, this rulemaking does not impose any regulatory or administrative burden upon small entities, nor does it require an expense of resources by such entities. For these reasons, the Commission hereby certifies that this rulemaking does not have a significant impact on a substantial number of small entities.

VI. CONGRESSIONAL REVIEW AND EFFECTIVE DATE

Rules issued pursuant to section 206(d) of the NGPA are required to be submitted to Congress prior to becoming effective. After submission to each House of Congress the rule will take effect following 30 days of continuous session of Congress (as set forth in section 507(b) of the NGPA), unless either House of Congress adopts a resolution of disapproval within the 30-day period. Accordingly, this rule will be effective on the day following expiration of the 30-day period for Congressional review.

Congress will therefore have the opportunity to review the considerations inherent in the choice between a single-tier or three-tier system. If Congress disapproves this exemption, the three-tier system will go into effect.

(Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.* Department of Energy Organization Act, 42 U.S.C. § 7701 *et seq.* E.O. 12009, 42 C.F.R. 46267 (1978)).

In consideration of the foregoing, the Commission is amending Part 282, Subchapter I of Chapter I, Title 18 of the *Code of Federal Regulations*, as provided below.

1. The Table of Contents in Part 282 is amended by deleting the title of § 284.403 and inserting in lieu thereof "[Reserved.]"

2. Section 282.204 is amended by deleting paragraph (e)(2)(iii) in its entirety, and redesignating paragraph (e)(2)(iv) as paragraph (e)(2)(iii).

3. Section 282.402 is revised to read as follows:

§ 282.402 *Exemptive rule.*

(a) All industrial boiler fuel facilities subject to incremental pricing shall be exempt from section 204(e) of the NGPA insofar as it requires surcharges above the price of high-sulfur No. 6 fuel oil in the region in which the facility is located.

(b) The alternative fuel price ceiling which shall be applied to an industrial boiler fuel facility for incremental pricing purposes for any month shall be the ceiling which has been published for No. 6 high-sulfur fuel oil for that month, in accordance with § 282.404, for the incremental pricing region in which the facility is located, except as permitted in § 282.405.

4. Section 282.403 is amended to read as follows:

§ 282.403 [Reserved.]

FOOTNOTES

[1] "Regulations Implementing Alternative Fuel Cost Ceilings on Incremental Pricing under the Natural Gas Policy Act of 1978," Docket No. RM79–21, Order No. 50, issued September 28, 1979, 44 *Fed. Reg.* 57754 (October 5, 1979).

[2] No. 2 fuel oil (also known as distillate fuel oil) is the highest priced of the three tiers. High-sulfur No. 6 fuel oil (also known as residual fuel oil) is the lowest priced of the three tiers.

[3] "Rule Exempting Industrial Boiler Fuel Facilities from Incremental Pricing Above the Price of No. 6 Fuel Oil," Docket No. RM79–21, Order No. 51, issued September 28, 1979, 44 *Fed. Reg.* 57778 (October 5, 1979).

[4] Section 206(d) of the NGPA permits the Commission, by rule or by order, to provide for the exemption, in whole or in part, or

any other incrementally priced facility or category from the incremental pricing program, subject to Congressional review.

[5] "Rule Further Exempting Industrial Boiler Fuel Facilities From Incremental Pricing Above the Price of No. 6 Fuel Oil and Applying Ceiling Prices to Forty-Eight Incremental Pricing Regions," Docket No. RM79–21, Order No. 81, issued May 7, 1980, 45 *Fed. Reg.* 31300 (May 13, 1980).

[6] "Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling", Docket No. RM81–27 issued April 27, 1981, 46 *Fed. Reg.* 23947 (April 29, 1981).

[7] The deadline to submit written comments was extended from May 22, 1981 to May 29, 1981 by notice issued May 21, 1981, 46 *Fed. Reg.* 28672 (May 28, 1981).

[8] "Rule Required under Section 202 of the Natural Gas Policy Act: Incremental Pricing", Docket No. RM80–10, issued May 6, 1980, 45 *Fed. Reg.* 31622 (May 13, 1980.)

[9] "Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978", Docket No. RM79–14 Order No. 49, issued September 28, 1979, 44 *Fed. Reg.* 57726 (October 5, 1979).

[10] A small user is one whose average daily use of natural gas was 300 Mcf or less during a statutorily-established historical period. *See* 18 C.F.R. § 282.203(a)(1).

[11] Agricultural facilities were originally exempt pursuant to section 206(b)(1) of the statute and are currently exempt pursuant to a rule adopted by the Commission and approved by the Congress pursuant to section 206(d). *See* 18 C.F.R. § 282.23(a)(2).

[12] 18 C.F.R. § 282.203(b).

[13] 18 C.F.R. 282.209.

[14] This figure includes facilities in states that have a statewide plan, i.e., in states that have raised the retail rate of natural gas to non-exempt industrial facilities to the level of the alternative fuel price ceiling established by the federal plan.

[15] *See* interstate pipeline data submitted pursuant to 18 C.F.R. § 282.603.

[16] *See, e.g.* written comments of: United Distribution Companies (and supporting affidavits), Southern California Gas Company, Northern Illinois Gas Company, Wisconsin Gas Company, Indiana Gas Company; and oral comments of Armour and Co. at the May 29, 1981 public hearing, transcript at pp. 35–45.

[17] The recovery time is further shortened by investment tax credits and other tax incentives for capital investments, thereby enhancing the economic incentive to invest in high-sulfur No. 6 fuel oil capability.

[18] See transcript of the May 29, 1981 meeting, pp. 36–38.

[19] Comments submitted by Southern California Gas Company (SoCal) confirm the economics of such investment in California. SoCal states that the California Public Utilities Commission implemented two-tier rates for low priority users. As of April 20, 1981, SoCal received affidavits from 47 customers indicating they have installed the necessary facilities to burn No. 6 fuel oil to take advantage of a 30 cents per MMBtu price differential. By comparison the price difference between No. 2 fuel oil and high-sulfur No. 6 fuel oil is generally in excess of $2 per MMBtu.

[20] *See* section 121 of the NGPA.

[21] See the discussion in the "Rule Required Under Section 202 of the Natural Gas Policy Act: Incremental Pricing," Docket No. RM80–10 issued May 6, 1980, 45 *Fed. Reg.* 31622 *et seq.*, (May 13, 1980).

[22] Peoples Gas Light and Coke Company submitted an affidavit stating that the potential price increase to residential customers from large volume load loss is almost $75 per year.

[23] 5 U.S.C. §§ 601–612 (Pub. L. 96–354, September 19, 1980).

VIEWS OF C. M. BUTLER III

(Chairman of Commissioners, Federal Energy Regulatory Commission)

The primary purpose of these separate concurring views is to consider specifically the comments of one respondent who raises, in my opinion, the most critical issues of this rulemaking. Indeed, the questions raised have implications that range well beyond the direct subject of the rulemaking, as will be pointed out.

Louisiana Resources Company (Louisiana Resources) does not describe itself in detail in its comments. However, the company is an intrastate pipeline serving Louisiana consumers, and apparently is affiliated with The Williams Companies. Louisiana Resources' interest in this proceeding is described by it as follows:

"Louisiana Resources has an interest in this rulemaking because of the proposed rule's effect on the balance between the interstate and intrastate natural gas industries. Briefly put, Louisiana resources suggests that . . . the rule . . . will . . . significantly alter the balance created by the [Natural Gas Policy Act (NGPA)] between similar classes of customers served by interstate and intrastate pipelines. Louisiana Resources thus argues that the proposed rule, resulting as it does, in light of the NGPA, in the patent discrimination against the intrastate natural gas industry, must not be adopted." Louisiana Resources Comments at 3–4 (footnotes omitted).

Louisiana Resources explains that its problems stem from the manner in which the NGPA altered competitive characteristics of the interstate and intrastate natural gas industries. Prior to the passage of the NGPA, interstate pipelines were permitted to pay only cost-based rates for natural gas, while intrastate pipelines were able to pay higher market prices for gas. Thus, prior to the NGPA, intrastate pipelines had a significant buying advantage relative to interstate pipelines, a fact which Louisiana Resources failed to point out. However, the advantage was not without its adverse consequences because, as a general proposition, the weighted average cost of gas to intrastate pipelines evolved to a higher level than that of the interstate pipelines.

Additionally, price redetermination clauses have resulted in substantially increased average gas costs to intrastate pipelines. The differential in average gas costs between interstate and intrastate pipelines combined with the effects of the NGPA has reversed the relative buying advantages of the two classes of pipelines. This is the present market-ordering problem.[1]

Under the regime of the NGPA the market-ordering problem develops this way: First, the NGPA provides for only partial decontrol of natural gas. Some gas was deregulated rather quickly. More will be deregulated by 1985. And the remainder, the so-called old gas, will remain under price controls until it is exhausted. Much of this relatively low-cost old gas is under contract to interstate pipelines, resulting in lower average costs of gas to interstate pipelines, as described above.[2] The difference between one pipeline's endowment of price-controlled gas, and thus its weighted average cost of gas, and another's, is the source of an advantage to the one with the lower average cost of gas when the two compete for incremental supplies of gas. The differential allows advantaged pipelines to bid the price of deregulated gas above the market-clearing level because high-priced gas can be averaged ("rolled in") with the low-cost gas and still be marketable.

This phenomenon can be illustrated by a very simple example. Assume that there are only two pipelines. Pipeline 1 and Pipeline 2 have gas supply contracts that provide each with 1,000 units of gas. Because Pipeline 1 got into the game when gas was still cheap, it has only one contract, which requires it to pay $1.00/unit. Pipeline 2 started later, and it has two contracts. One enables it to purchase 500 units of gas for $1.00/unit, and the other 500 units of gas for $2.00/unit. In all material respects, all of these contracts are identical except for price.

The result of these arrangements is that Pipeline 1 pays $1,000 for its 1,000 units of gas, while Pipeline 2 pays $1,500 for its 1,000 units. Their respective weighted average gas costs are $1.00/unit and $1.50/unit, and the 50-cent difference represents Pipeline 1's bidding advantage. Now assume that 1,000 units of gas are available for sale, and the alternative fuel price at the margin is $2.00, establishing the ceiling above which gas cannot be marketed. Pipeline 1 has the buying advantage since it can offer a maximum price of $3.00/unit for the gas. When it averages the cost with its gas already under contract, it can sell the gas at an average price of $2.00 and clear the market. Pipeline 2, however, can offer no more than $2.50/unit for the gas, because to offer a higher price would push its average gas costs above $2.00/unit, disabling it from clearing the market.

The real world is more complex than the example. However, the example is useful for two reasons. First, it illustrates how control of price-regulated gas creates competitive dislocations, and thus how one pipeline can be disadvantaged in purchasing natural gas supplies relative to another under the scheme of the NGPA. Secondly, it illustrates why the Commission is seeing requests by pipeline companies to include in their PGA accounts contract prices that clearly exceed market clearing levels.[3] Incidentally, this phenomenon also relates to the Commission's apparent witch-hunt under the rubric of Section 601(c)(2) in which pipelines are sought to be penalized on "fraud, abuse or similar grounds" for doing exactly what the NGPA impels them to do, and that which anyone with an iota of economic education could predict they, in their economic best interest, would do.

How does all of this relate to the incremental pricing rules? The answer is that those rules were adopted by Congress as a mechanism to reduce the magnitude of the market-ordering problem and also to shield certain classes of consumers from the higher costs of gas resulting from the NGPA. Louisiana Resources accurately describes what Congress sought to do, if not the track record and prospects of incremental pricing, as follows:

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[1] The advantages of intrastate pipelines pre-NGPA had created a market-ordering problem of a similar kind. Instead of focusing on the nature of the problem and seeking to eliminate it, the NGPA merely reversed fields, substituting a new market-ordering problem for the old one.

[2] The difference in average gas costs is much more extensive, we think, than Louisiana Resources describes. The implication of its comments is that this difference exists just between interstate and intrastate pipelines. The implication is most likely wrong. The endowment of old gas is unevenly distributed among all pipelines, interstate and intrastate. It is probable that intrastate pipelines are more disadvantaged as a class than interstate pipelines. It is also probable that some interstate pipelines are substantially disadvantaged relative to other such pipelines.

[3] See Semiannual Purchased Gas Adjustment filed by Tennessee Gas Pipeline Company, Docket No. TA81–2–9–000 (PGA 81–2, IPR 81–2, DCA 81–2, R&D 81–2, LFCT 81–2) filed May 29, 1981. One of the company's contracts represented the purchase of deregulated gas at a price of $9.60/Mcf.

"Essentially, the market-determined cost determined by Congress resulted from the legislative determination that certain large-volume industrial customers would bear a disproportionate share of the higher gas costs paid by their pipeline suppliers for 'new' gas supplies. As conceived by the Congress, the higher retail gas costs which would thus result to such customers would both encourage increased energy conservation by the customers so affected (thus reducing the demand on the pipeline for 'new' gas), and discourage interstate pipelines from paying economically unjustified . . . prices for the 'new' gas supplies that were acquired." Louisiana Resources Comments at 11 (footnotes omitted).

Problematically, however, incremental pricing is a failure. It will not accomplish either its shielding or its market-ordering goals, although for somewhat different reasons. Incremental pricing cannot accomplish its shielding objective because the number of nonexempt users is too small. Incremental pricing therefore burdens nonexempt users without significantly reducing the price paid by exempt users. In this connection, a change from a single-tier system to a three-tier system would do little if anything to increase the shielding effect, and whatever benefit did result would be purchased at too high a price in uneconomic investment and administrative complexity. We are statutorily bound, unfortunately, to implement incremental pricing, but we are also statutorily bound to implement it in the least disruptive way possible. There is clear and substantial record evidence in this proceeding to substantiate the proposition that a three-tier system will encourage substantial fuel switching, with correlative loss of markets to pipelines and imposition of fixed costs on exempt users that they would not otherwise be required to bear. For this reason particularly we are permanently adopting a single-tier alternative fuel price ceiling based on high-sulfur No. 6 fuel oil.

There are also more fundamental causes for incremental pricing's failure as a market-ordering device, causes that would not be eliminated simply by increasing the number of nonexempt users. Incremental pricing is a form of retail rate structure regulation that does in principle offer a partial solution to the market-ordering problems. It could restrain the pipelines, as Louisiana Resources points out, from bidding the unregulated price of gas above competitive market levels if it imposed a marginal-cost price on the pipeline's most price responsive customers. However, the incremental pricing scheme established by Title II of the NGPA cannot solve even this part of the market-ordering problem. The burner-tip price paid by nonexempt users is not directly related to the marginal cost of natural gas to the pipelines.

Nor does Title II's distinction between nonexempt and exempt users correspond very closely to the distinction between price-responsive and price-unresponsive customers. Large boiler fuel users are generally considered to be the most important price-responsive category of natural gas users, and large boiler fuel users are in fact generally subject to incremental pricing if they are industrial firms.

If they are electric utilities or agricultural users, however, they are exempt. Incremental pricing therefore leads to a higher price and lower consumption for industrial boiler fuel users, but a lower price and higher consumption for electric utility and agricultural boiler fuel users. An incremental pricing scheme based on such categories can favor some kinds of companies over others, but it is doubtful that it can contribute meaningfully to the alleviation of the market-ordering problems.

It is also clear that the incremental pricing scheme has no effect on the distribution of price controlled gas among the nation's pipelines. Furthermore, the unregulated field price confronted by the pipelines will vary widely even with incremental pricing. Thus the impact of partial deregulation will be unevenly distributed among both interstate and intrastate consumers depending solely on the fortuity of which pipeline serves them, and the retail rate regulation envisioned by incremental pricing will do little to even the burden.

Finally, there is a fundamental conflict between incremental pricing's two functions. Section 204(e) requires us to set the alternative fuel price at a level that will avoid excessive loss of nonexempt customers to the pipelines. This limitation is a logical adjunct to incremental pricing's shielding function. It is, however, inconsistent with incremental pricing's market-ordering function. It is precisely the danger of losing customers that could be expected to restrain pipelines from bidding for unregulated gas.

In connection with Louisiana Resources' comments, several observations should be made. First, Louisiana Resources suggests that the Commission seeks administratively to repeal incremental pricing, and that it should have given incremental pricing a "trial" to see if it worked. Louisiana Resources also suggests that the Commission take other, unspecified steps to mitigate the market-ordering problem if it adopts the rules, and that not to do so is to act in a discriminatory and capricious manner. The response is that the Commission is doing what Congress told the Commission to do if it found such necessary to avert a disaster to interstate consumers. To ask the Commission to give incremental pricing a "trial" in the face of probable massive, permanent fuel switching and the resulting imposition of heavy fixed costs on exempt consumers is like suggesting that the military test a bomb in a crowded city to see if it works. Furthermore, it is not the Commission's rule that is discriminatory, but the NGPA which merely reversed the pre-NGPA discrimination instead of seeking a more even-handed solution to the problem.

I empathize deeply with the not inconsiderable problems faced by intrastate pipelines. The unfortunate interregional bickering that characterized the last legislative debate on natural gas policy obscured serious implications of intrastate dislocations in a cloud of rhetorical smoke. It ignored the fact that much primary industry upon which the rest of the country depends is served by intrastate pipelines. Ask Detroit, for example, about the shortage of plastics that could result from dislocations in the Louisiana-Texas petrochemical complex. Ask the rubber companies in Ohio the same question.

There are other examples. Additionally, these dislocations can be predicated to occur on some interstate pipelines, whose customers could be faced with higher gas prices than they would face under total deregulation of the wellhead prices of natural gas.

The solution which Louisiana Resources asks the Commission to find can only be found by Congress and the new Administration. The choices, as I see them, are (i) regulation of all gas, (ii) an entitlements program, or (iii) complete deregulation of all gas prices. The first would be to enact as a solution what, in my view, is actually the problem. The second would be another exercise in corporate welfare that has no more prospect for success than the program devised for refiners. The third option has some hope for success if answers to numerous mechanical problems of implementation can be fashioned. A revised incremental pricing scheme could make some contribution to solving the problem, but will do nothing to prevent the uneven impact of partial deregulation. It appears that only complete deregulation offers a solution to the market-ordering problem.

Complete deregulation is not without its costs. Any honest debate over natural gas policy must begin with the recognition that decades of price controls have created a problem for which there is no easy solution. Any alternative will adversely affect the interests of many persons.

This is true of complete deregulation, but it is also true of partial deregulation now projected to occur in January 1985. There is, and will continue to be, debate over the precise magnitude of the market-ordering problem that we will confront in the absence of legislative action.

However, there is good reason to fear that it will be severely disruptive of both interstate and intrastate natural gas markets. Experience with deregulated Section 107 gas strongly suggests that the direct benefit of continued price controls on some categories of natural gas will go to producers of deregulated gas, through prices well above the level that would prevail under complete deregulation.

For customers of some interstate pipelines, the high cost of deregulated gas will be offset by the pipelines' supply of low-cost deregulated gas. Customers of other interstate pipelines and most intrastate pipelines will, however, pay more for natural gas than they would under complete deregulation. Possibly the average price of gas to all consumers will be lower under partial deregulation than under complete deregulation.

Any benefit to consumers from this lower average price will, however, be at least partially offset by the inefficient allocation of the natural gas supply, as low-valued users are served by some pipelines while elsewhere customers to whom the gas would be more valuable are priced out of the market simply because their pipeline has little price-controlled gas.

The latter customers may include many of the nation's most important industrial users of natural gas, and the resulting disruption of their operations is unlikely to be confined to the companies concerned.

Uncertainty, confusion, and delayed institutional responses are likely to further aggravate the market-ordering problem. In the end, the uneven impact of partial deregulation is likely to create a game in which many will lose and few will win.

It is against that prospect that the costs of complete deregulation must be measured. Unfortunately, incremental pricing is no solution, whether the Commission adopts a one-tier rule or a two-tier rule.

C. M. BUTLER III.●

SENATE RESOLUTION 195—ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. WEICKER, from the Committee on Labor and Human Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 195

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1533. Such waiver is necessary to permit reauthorization of the Legal Services Corporation Act. The delay in reporting S. 1533 resulted from a number of factors, including the difficult consideration by the Senate Committee on Labor and Human Resources of the reconciliation legislation pursuant to section 301 of the first concurrent resolution on the budget for fiscal year 1982.

SENATE RESOLUTION 196—ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. WARNER, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 196

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1549, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1549 as reported by the Committee on Armed Services.

SENATE RESOLUTION 197—A RESOLUTION REGARDING DISTINCTION BETWEEN CAPITAL EXPENDITURES AND CURRENT OUTLAYS

Mr. HART submitted the following resolution, which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977:

S. RES. 197

Whereas, the United States is in a new economic era of increased interest in the magnitude and disposition of Federal spending;

Whereas, the Budget of the United States Government, as presently submitted to the Congress, recommends funding of Federal programs according to their missions and functions, and from this the Congress and the public can judge the amount of resources that are applied to meeting various purposes and objectives of the Government;

Whereas, the Budget contains levels of total spending and levels of income from Federal taxes and presents the anticipated size of the Federal deficit, and by looking only at the Federal deficit and the Budget according to missions and functions, the public may receive an incomplete financial picture;

Whereas, under non-emergency circumstances, the Government should not borrow to pay for current programs or purposes which provide benefits primarily in the year they are made, since it is basically unfair, and financially unwise, to obligate future populations to pay for a previous population's consumption;

Whereas, if at all, the Government should borrow funds only for capital items and investment-type programs or purposes that yield benefits in future years, since a long-term investment made in one year will benefit citizens in future years and it is fair, under these circumstances, to obligate future citizens to pay for some present investments;

Whereas, it is sound financial and customary business practice to borrow funds for capital items and long-term investments;

Whereas, while Federal borrowing for long-term investments is good business practice, a Federal deficit can be inflationary under ordinary economic circumstances and thus should be avoided; and

Whereas, by providing a Budget distinguishing capital and investment spending for current programs or purposes, the President and the Congress will show the American people the degree to which a budget deficit, which may be needed in some circumstances to promote economic growth, is also appropriate from a financial management viewpoint: Now, therefore, be it

Resolved, That it is the sense of the Senate to increase the public's general understanding of the objectives of Federal spending, especially in relation to revenue-raising practices, the Budget submitted by the President for each fiscal year under section 201 of the Budget and Accounting Act, 1921, and the budget reported by the Committee on the Budget pursuant to Section 301 of the Congressional Budget Act of 1974 should prominently and accurately distinguish proposed outlays for capital items and investment-type programs and purposes from proposed outlays for other programs and purposes and should, therefore, divide proposed outlays between those for capital items and investment-type programs or purposes, those for operating or current programs or purposes, and those for other purposes.

● Mr. HART. Mr. President, today I am submitting a Senate resolution requiring the President and the Congress to structure the Federal budget in a new way. This resolution requires the President's annual budget message to Congress to distinguish between two types of Federal spending—spending on long-term investments and spending on current programs which provide benefits primarily in the year they are made.

Most people do not understand that $1 of every $5 in the Federal budget goes to long-term capital investments by the Government. Although most businesses would account for this capital expenditure separately from current outlays, the Federal Government makes no such distinction.

This resolution is designed to make the Federal Government structure its budget the way a sound business does. It is not directly related to the current debate over the nature and size of budget deficits. Rather, it will help people to understand better where their tax dollars are actually going.

First, let me explain the difference between "investment" outlays and "current" outlays.

Current programs provide benefits primarily in the year they are made. They include: Retirement, disability, and other income maintenance payments; social and employment service benefits; subsidies or other payments—to agriculture, business, transportation systems, and other institutions—that are not directly used to purchase physical assets; payments for the repair, maintenance, and operation of established physical assets; and regulatory, law enforcement, and other operating costs of the Federal Government.

Investment type or capital programs are those that yield benefits in future years, through the acquisition of physical assets, financial assets, or through expenditures for less tangible long-term benefits such as education. They include the construction, rehabilitation, or acquisition of physical assets; education, training, and vocational rehabilitation; research and development; international development; and financial investments such as loans.

The Federal Government has never produced a capital budget in which capital or investment-type programs are accounted for separately from current expenditures. However, the Office of Management and Budget does distinguish between the two types of spending in an annual volume entitled "Special Analyses, Budget of the U.S. Government."

This analysis indicates that more than $161 billion of the total estimated outlays in fiscal year 1982 are for capital or investment-type programs. We will spend about $66 billion for defense purposes, primarily for the acquisition of major equipment. Another $95 billion will be spent in nondefense areas, including $32 billion for construction of physical assets such as highways, mass transit, and pollution control facilities; $19 billion for research and development; $28 billion for education and training; $7 billion for loans.

More than half the spending for these capital or investment-type programs is for investment in physical assets such as military equipment and highways—about $83.4 billion in the 1982 budget.

Spending on these physical assets, whether they are owned by the Federal Government or by State, local or private entities, should not be considered in the same category as current outlays. On an accountant's balance sheet, they would be listed as the country's fixed assets. But in the Federal budget, they are ordinary expenditures.

Another type of investment is for education and training. In the past 20 years, economists have been working to measure the financial rewards from investment in education. As we might expect, such investments provide a return—one that is roughly comparable to the return on investment in physical assets.

Of course, a private firm cannot place a value on the education-capital invested in its workers, because workers cannot be "owned" or sold. But from a public perspective, a more highly educated work force is desirable because productivity and wages can be increased without causing inflation.

It is noteworthy that the projected fiscal year 1982 budget deficit at $37 billion is less than half of the $83.4 billion we are spending for physical investments. Nondefense spending on construction alone totals more than $31 billion, which almost equals the projected Federal deficit.

We should eliminate the deficit and balance the budget to prevent inflation. But it is obvious that if we organized the budget correctly the Federal deficit question would look very different.

The American people need a better understanding of what their tax dollars do for them. By restructuring the Federal budget to show capital expenditures separately from the current ones, the taxpayers will be better informed. In this spirit, I urge my colleagues to support this resolution.●

SENATE RESOLUTION 198—RESOLUTION RELATING TO THE IMPRISONMENT OF BENEDICT SCOTT

Mr. PERCY (for himself, Mr. DIXON, Mr. HAYAKAWA, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 198

Whereas, Benedict Scott (Vytautas Skuodis) was born on March 21, 1929 in Chicago, Illinois, and is by right of birth a citizen of the United States of America; and

Whereas Scott and his parents emigrated to the independent Republic of Lithuania in 1930, which in June 1940 was invaded and annexed by the Union of Soviet Socialist Republics; and

Whereas Scott is a highly respected scientist, having served on the faculty of the University of Vilnius as a lecturer on hydrology and geological engineering, and is a founder of the Lithuanian environmental protection group; and

Whereas Scott fully supported the work of the Lithuanian national and religious movement, assisted in the work of the Catholic Committee for the Defense of Believers' Rights in Lithuania, and joined the Lithuanian Helsinki Group; and

Whereas on January 9, 1980 Benedict Scott was arrested in his home, tried and sentenced on December 22, 1980 to seven years in a hard labor camp and five years internal exile under Article 68–1 of the Lithuanian SSR Criminal Code for "anti-Soviet agitation and propaganda," a sentence he is currently serving in a Soviet prison camp in the Mordovian ASSR; and

Whereas on June 15, 1981 it is reported that Scott began a hunger strike to protest violations of human rights and spiritual deprivations by Soviet authorities; and

Whereas the Government of the United States has never recognized the occupation and annexation of Lithuania into the Soviet Union; and

Whereas the United States has repeatedly expressed its support for the right of self-determination for Lithuania; and

Whereas it is the responsibility of the Government of the United States to protect and support its citizens unjustly held captive by foreign governments; Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) Benedict Scott be released from prison and be allowed to emigrate to the land of his birth, if he so chooses, and

(2) the Senate urges the President, the Secretary of State and the United States Delegation to the Madrid Conference on Security and Cooperation in Europe to express at each opportune moment and in the strongest terms the opposition of the United States to the imprisonment of Benedict Scott.

Mr. PERCY. Madam President, Benedict Scott, whose Lithuanian name is Vytautas Skuodis, was born in Chicago in 1929. The next year he and his family emigrated to the independent Republic of Lithuania, which 10 years later was invaded and annexed by the Soviet Union.

Scott, a very bright fellow, grew up to be a highly respected lecturer on hydrology and geological engineering at the University of Vilnius. He was a founder of the Lithuanian Environmental Protection Group. He assisted in the work of the Catholic Committee for the Defense of Believers' Rights in Lithuania, and is a member of the Lithuanian Helsinki Group.

On January 9, 1980, Scott was arrested. Then, on December 22, 1980, he was sentenced after trial to 7 years in a hard labor camp and 5 years of internal exile for so-called "anti-Soviet agitation and propaganda." He is currently serving this sentence in a Soviet prison camp in the Mordovian ASSR, and it is reported that he has been on hunger strike since June 15 to protest violations of human rights by the Soviet Government.

With Senators DIXON, HAYAKAWA and DODD, I am at this time introducing a Senate resolution expressing the sense of the Senate that Benedict Scott (Vytautas Skuodis) should be released from prison and allowed to emigrate to the United States, the land of his birth, if he so chooses.

Scott is a U.S. citizen by birth. He deserves our protection and support. We must let the Soviet Government know that we stand by him in the ordeal he is suffering.

Mr. DIXON. Madam President, I am proud to join the distinguished senior Senator from Illinois in submitting this resolution about Benedict Scott.

On two occasions within the past 6 months I have risen to voice my concern for the welfare of the Lithuanian people. Today, we shift our focus to the plight of a single Lithuanian; an individual who reflects both the tragedy and the proud traditions of the Lithuanians.

Benedict Scott, an American citizen by birth, emigrated to Lithuania in 1930 with his family. We are all aware of the events of June 1940, when Lithuania was invaded and annexed by the Union of Soviet Socialist Republics.

Even under the yoke of Soviet oppression, the spirit of Benedict Scott flourished. Mr. Scott became a respected scientist. He served on the faculty of the University of Vilnius.

In an atmosphere of forced spiritual deprivation, Mr. Scott assisted the Catholic Committee for the Defense of Believers' Rights, in a country where the voices of free expression had been stilled, Mr. Scott joined the Lithuanian Helsinki group.

Then, as we have witnessed all too often, Benedict Scott was arrested and sentenced, in 1980, to 7 years of hard labor and 5 years of internal exile in the Soviet Union, for the offense of "anti-Soviet agitation and propaganda."

Approximately 1 month ago, it is reported that Benedict Scott began a hunger strike to protest his imprisonment.

Senator PERCY and I offer this resolution today to signal our great concern for the welfare of this brave man. I urge my colleagues to join us in this effort. Let us not forget the plight of people such as Benedict Scott.

In closing, Madam President, I would commend to the attention of my colleagues an article about Lithuania which appears in the August 3 edition of Newsweek magazine.

Moscow Bureau Chief Andrew Nagorski draws parallels between Poland and Lithuania. Unfortunately, Lithuanians can only look upon the internal Polish reforms with amazement. The Soviets are not likely to allow such liberalization in other occupied territories. Such is the state of affairs in Lithuania.

I conclude with a quote from Mr. Nagorski's article, which again points to a flicker of hope through the darkness surrounding the Lithuanian spirit. A Lithuanian dissident laments:

We can only envy the poles—and we can only be happy for them if they succeed . . . our poor Lithuania.

AMENDMENTS SUBMITTED FOR PRINTING

SECURITY ASSISTANCE, PEACE CORPS, AND OPIC AUTHORIZATION ACT

AMENDMENT NO. 525

(Ordered to be printed and to lie on the table.)

Mr. KASTEN (for himself, Mr. HATFIELD, Mr. DOMENICI, Mr. INOUYE, Mr. PROXMIRE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by them to bill (S. 1196) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize appropriations for development and security assistance programs for the fiscal year 1982, to authorize appropriations for the Peace Corps for the fiscal year 1982, to provide authorities for the Overseas Private Investment Corporation, and for other purposes.

SPECIAL DEFENSE ACQUISITION FUND

● Mr. KASTEN. Mr. President, on behalf of myself and Senators HATFIELD, DOMENICI, INOUYE, PROXMIRE, and HOLLINGS, I submit an amendment to S. 1196. The purpose of this amendment is to provide that any funds made available for the special defense acquisition fund may be made available only to such extent or in such amounts as are provided in advance in appropriation acts.●

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Small Business Committee will hold a hearing on September 23, 1981, on "interest rates and business credit needs."

The hearing will convene at 9:30 a.m. in room 424, Russell Senate Office Building, Washington, D.C. Senator WEICKER will chair.

For additional information contact Jim O'Connell of the committee staff at 224–5175.

SUBCOMMITTEE ON ADVOCACY AND FUTURE OF SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Advocacy and the Future of Small Business of the Small Business Committee will hold a field hearing on August 27, 1981, in Los Angeles, Calif.

The hearing will be in continuation of the subcommittee's examination of the extent of Government competition with the small business sector.

The hearing will convene at 10 a.m., in the Customs Courtroom, eighth floor, Federal Building, 300 N. Los Angeles

Street, Los Angeles, Calif. 90012. Senator HAYAKAWA will chair the hearing.

For additional information contact Kim Elliott of the committee staff at 224–5175, or Grace Hussie, Senator HAYAKAWA's legislative assistant for Small Business at 224–3841.

SUBCOMMITTEE ON PRODUCTIVITY AND COMPETITION

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Productivity and Competition of the Small Business Committee will hold a field hearing on August 14, 1981, in Seattle, Wash.

The purpose of the hearing will be to examine the Employee Retirement Income Security Act of 1974 (ERISA) and the Multiemployer Pension Plan Reform Act of 1980 (MPPRA) and their effects on competition and productivity.

The hearing will convene at 9 a.m., in the New Federal Office Building, Second and Marion, Seattle, Wash. Senator GORTON will chair the hearing.

For additional information contact Brian Hartman of the committee at 224–5175 or Bob Thomas, Senator GORTON's legislative assistant for Small Business at 224–2621.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER AND SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing which will be held jointly before the Subcommittee on Public Lands and Reserved Water and the Subcommittee on Energy and Agricultural Taxation regarding land protection alternatives in Teton County, Wyo. This oversight hearing will be held on Friday, August 28, beginning at 9 a.m. at the Virginian Convention Center in Jackson, Wyo.

Witnesses who have been invited to testify at the hearing will include Governor Herschler of Wyoming; Mayor Shervin of Jackson, Wyo.; Senator Clifford P. Hansen; representatives of the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service of the Department of the Interior; representatives of the U.S. Forest Service, Department of Agriculture; and representatives of the Teton County Commissioners and the Landowners Association.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Public Lands and Reserved Water, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510; or to Pam Redfield, office of Senator WALLOP, P.O. Box 1014, Lander, Wyo. 82520, by close of business Monday, August 24.

For further information regarding this hearing, you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224–5161.

ADDITIONAL STATEMENTS

JUDGE SANDRA DAY O'CONNOR

● Mr. GOLDWATER. Mr. President, the town of Paradise Valley, Ariz., has added its backing to the appointment of Sandra O'Connor to the Supreme Court. On July 23, the town council unanimously adopted a resolution endorsing her nomination and I have been informed it reflects the views of all of the citizens of the town of Paradise Valley. I ask that the resolution be printed in the RECORD.

RESOLUTION 354

Whereas, Judge Sandra Day O'Connor has distinguished herself as an attorney and a legislator, and by her dedicated and competent service in the Arizona Judicial System, and

Whereas, Judge O'Connor has been an outstanding citizen of the Town of Paradise Valley, Arizona, having brought honor to the Town and its citizens through her many achievements, and

Whereas, Judge O'Connor is possessed of an uncommon intellect, and the highest degree of ability, integrity and dignity,

Now therefore be it resolved, That the Common Council of the Town of Paradise Valley, Arizona, does hereby wholeheartedly and without reservation recommend to the United States Senate the expeditious and unanimous confirmation of the appointment of Judge Sandra Day O'Connor as an Associate Justice of the United States Supreme Court.●

COUNCILMAN BILLY ROGELL

● Mr. LEVIN. Mr. President, last Tuesday was an historic day in Detroit. It was the filing deadline for the city council election, and, for the first time in 40 years, Councilman Billy Rogell did not file.

Billy Rogell has served since 1941 on the Detroit City Council, with the exception of the years 1948–49, which makes him the longest serving council member in the United States.

I sat next to him for 8 years, and they were wonderful years. He is a man who is full of spirit and fire, speaks his mind directly, and is marked by an innate modesty and fairness. He was chairman of the annual Board of Tax Review where thousands of citizens brought appeals of their tax assessments and learned to respect the evenhandedness and the patience of Billy Rogell. We called him "old ironpants" because of his legendary willingness to sit and listen to citizens.

He held and holds so many other positions in city and county government that there is no way I can do him justice in that regard. He came to the council as a legend and he leaves as a legend.

He was the Detroit Tiger shortstop from 1929 to 1940, where his great fighting spirit helped glue the team together and helped make them American League champs in 1934 and world champs in 1935. The 1934 Tiger infield holds the record for r.b.i.'s, totaling 472 that year, with Billy getting 100 of them.

We have named the airport drive after him and a golf course after him, and even a horse has been named after him—all small efforts to repay a large debt to a man who will always be young in spirit and old fashioned in values that guide his life, such as personal loyalty, patriotism, and hard work.

In fact, the hours that Billy Rogell works are part of his legend. You can go to his office at 6 or 6:30 a.m. and Billy is there. He will always be there in spirit even after the dean of the Nation's city councils leaves for his extraordinarily well deserved retirement.●

WHY THE EQUAL RIGHTS AMENDMENT IS STALLED

● Mr. GARN. Mr. President, back when the Congress passed an extension to the ratification period for the equal rights amendment, I proposed a "fairness" amendment which would recognize that States have the right to withdraw their ratification of an amendment up until the time when the necessary three-fourths have ratified.

My amendment was rejected because the supporters of the ERA were not interested in fairness, but in enforcing on the public their own views on a substantive issue. Their commitment to the substance led them to override their own good judgment and dedication to neutral principles.

Well, the ERA has not been ratified in the meantime. In fact, not a single State has been added to the list of ratifying States. Less than a year remains of the illegal and unconstitutional extension extracted from the Congress, and I predict that that year will pass without the ratification of the ERA by the requisite number of States.

Diane Ravitch, an associate professor of history and education at Columbia University's Teacher's College has some similar thoughts on the future of the ERA. In an article in the Wall Street Journal of July 20, she outlines four reasons why the ERA is stalled. They include the leadership style of the proponents, the tactics of the ERA's supporters, the attack on traditional roles, and confusion about the goals of the ERA.

These are all points I raised during the extension debate. I thought they were telling then; I think they are telling now.

Professor Ravitch does not mention the extension ploy in her discussion of tactics, but other than that her treatment is faultless. I ask that the article be printed in the RECORD.

The article follows:

WHY THE EQUAL RIGHTS AMENDMENT IS STALLED

(By Diane Ravitch)

With less than a year to go before the deadline for consideration by the states, the Equal Rights Amendment is stalled. Among the 15 states that have not ratified it, none appears to be close to approving it. Of the 35 that ratified it, five (Idaho, Nebraska, Tennessee, Kentucky and South Dakota) have tried to rescind or nullify their earlier action. Not since January 1977 has a state endorsed it.

If the amendment fails, as appears possible, its supporters are likely to claim that it lost because of sex discrimination or because of the inflammatory tactics of ERA's opponents. While there is merit in both explanations, there are others that must be

seriously considered if anything is to be learned from the ERA experience.

The amendment had some unusual advantages. It directly appealed to half the population; it received favorable treatment in the mass media; it had the support of a dedicated and tireless cadre of workers; and, when it failed to win the necessary number of states within the seven years provided in the Constitution, the deadline for ratification was extended for three years by Congress. Yet the campaign bogged down after Indiana ratified ERA in January 1977; even the support of President Carter and his wife failed to produce a single new state during his four years in office.

Future historians might consider some of the following as causes to the plight of ERA:

LEADERSHIP STYLE

Although the overwhelming majority of ERA supporters are women and men from every walk of life, during a crucial period the leaders of the campaign projected an image of association with Lesbian and radical causes. So long as this was true many potential supporters backed away. Only last December, Gloria Steinem told a meeting of the Socialist International that women could achieve equality only under socialism, an opinion scarcely calculated to gain new adherents in the states where ERA remains in limbo.

TACTICS

In their eagerness, supporters of ERA resorted to undemocratic tactics to coerce individuals and groups to go along. ERA partisans have made the secondary boycott a principal weapon in their campaign, urging organizations to refuse to meet in states where ERA has not been ratified. For years, civil libertarians have rejected the secondary boycott as an unfair tactic, when used for example by the Arab states to isolate Israel from commercial contacts. Similarly, the insistence that the Democratic Party platform specifically disavow any candidate who did not support ERA was a coercive tactic to force dissenters into line by submitting to a single-issue, ideological test. It did not help either ERA or the Democratic candidates.

ATTACKS ON TRADITIONAL ROLES

Polls show that substantial numbers of women oppose ERA. Much of this opposition is founded on the belief that its supporters deride the traditional activities of women as mothers, wives and volunteers. ERA partisans, who customarily tie their own causes to issues like abortion and day care, appear to believe that no woman would actually WANT to be with her children, whatever their age, or to forgo a "career" or to work in an unpaid job. To the extent that these attitudes were conveyed as hostility to the traditional family, potential supporters were alienated.

CONFUSION ABOUT GOALS

It never became clear whether the supporters of ERA wanted to achieve absolutely equal, gender-blind treatment for women or to win special preferences for them as a historically oppressed group. Sometimes, as in discussion about the draft, gender-blind treatment seemed to be the goal, but when affirmative action was at issue, the same people were quick to seek special treatment for women. Similarly, the surge of "consciousness-raising," which led to women's caucuses, to special facilities for women, and to something akin to separatism within institutions and organizations, contradicted the appeals to gender neutrality. This occasionally reached absurd proportions, as in professional women's meetings where men were barred or in the decision of a New England women's college to create a "women's center" in the middle of its all-female campus.

In the end, if the amendment fails, it will be because, in the eyes of both its supporters and opponents, it came to symbolize an effort to impose a new lifestyle on men and women. Those who did not want a new lifestyle felt threatened in a way that aroused unexpected passion. No amendment other than the one that outlawed alcoholic beverages tried comparably to change social mores; that it not only failed but was repealed suggests the futility of using the constitutional amendments to rearrange social patterns. The very nature of amending the Constitution requires that any change must be practically noncontroversial in order to be adopted, since approval is required by overwhelming majorities in individual states and in the nation as a whole. If we are to keep the Constitution free of amendments intended to impose solutions on difficult social issues, like abortion and busing, then women would do well to rest their case for equal rights on the Fourteenth Amendment, like other citizens, rather than on the ERA.

Whatever happens to ERA, the social and legal position of women has changed in significant ways. As David Riesman has often pointed out, there have been multiple women's movements, not just one. These will survive regardless of the fate of ERA.●

IGNORANCE OF CURRENT FEDERAL FIREARMS STATUTES CLOUDS GUN CONTROL ARGUMENT

● Mr. McCLURE. Mr. President, the arguments of those who call for more Federal restriction on firearm ownership are cast from misconceptions and a lack of knowledge about the current Federal firearms statutes.

Indeed, a poll taken in October of 1975, by the decisionmaking information organization found the following:

It is obvious that Americans are lacking rudimentary knowledge about Federal gun laws. The majority believes that a person can drive across the State line and buy a handgun and also believes that one can buy a gun by mail-order from another State.

I am afraid that misconceptions still persist, even among Members of the Senate.

On June 23 of this year, the senior Senator from Massachusetts made remarks stating his reasons for introducing his anti-handgun bill, S. 974.

The Senator made the following statement:

Substantial numbers of firearms that are sold via the mail-order route in the United States are foreign imported firearms, either of the military surplus category or the category of inexpensive, small-caliber firearms which have been termed "unsafe" and as Saturday Night Specials.

When the Senator asserts that law enforcement officials have testified that from 50 to 90 percent of confiscated crime guns fall into these descriptions he must be using old statistics, since all of these categories are illegal under the Gun Control Act of 1968.

Mail-order firearm sales were specifically outlawed by this law. No private citizen in this country has been able to pick up a catalog and buy a gun through the mail in the last 13 years.

Firearm transfers from manufacturer to retail purchasers are complex transactions. A serial numbered firearm, produced by a federally licensed and taxed manufacturer, is sent to a firearm wholesaler, who must maintain copious Federal records of each firearm he receives and transfers. Then the firearm is transferred to a federally licensed firearms dealer, who also must record the firearm's make, model and serial number as required by current Federal law.

The retail purchaser of this firearm must fill out Treasury form 4473, which is required by law to be maintained as a permanent record by the gun dealer. And of course, all transfers must be in accordance with State and local restrictions as well.

Second, military-type weapons were also specifically prohibited from importation into this country by the 1968 Gun Control Act.

Indeed, many high-quality rifles, shotguns, and handguns that are highly prized by knowledgeable firearms collectors may not be brought into the United States simply because they have been accorded "military type" firearms status.

Third, the reference to the "inexpensive small-caliber firearms, which have been termed "unsafe" and as "Saturday Night Specials," also shows a lack of understanding of firearms statutes and Federal regulations.

The Gun Control Act of 1968 outlawed the importation of all handguns which do not meet certain U.S. Government-established technical criteria. The Federal Bureau of Alcohol, Tobacco, and Firearms, the agency charged with enforcing the Gun Control Act, applies a rigid "Factoring Criteria for Weapons Test," which ascribes point values for various physical characteristics of a firearm, in order to determine whether or not it can be brought into this country.

Additionally, each foreign nation has a governmentproof house which conducts safety testing on each and every newly manufactured gun. Thus, before an imported handgun can be sold in the United States, it already has undergone foreign proof testing and has been subjected to stringent U.S. technical criteria.

The Senator from Massachusetts and his House colleague from New Jersey have introduced two bills, S. 974 and H.R. 3200, which they call the Handgun Crime Control Act of 1981. The measures called for in these bills, frankly, have little chance of thwarting violent crime.

Under this legislation, whether it would be permissible to import, manufacture, assemble, sell, or deliver a firearm would rely entirely on the judgment of the attorney general. There are no specific guidelines, no concrete standards to pin down this nebulous Saturday Night Special.

The attorney general would have only the subjective standard of usefulness for sporting purposes. An attorney general hostile to our second amendment rights could leave honest American citizens possessing firearms that they could not sell, give away, or even bequeath to their heirs.

To offer as the solution to crime a bill banning the importation of foreign handguns or handgun parts is to send

out exactly the wrong message: That the firearm, rather than the criminal is responsible for violence.

Any ban on imported handgun parts is going to prohibit the importation of replacement parts for millions of high-quality, well-made and expensive target pistols, including the $500 Walthers and Brownings. Competitive target shooters, including our future Olympic competitors, may soon find themselves unable to obtain target triggers, sights and other sporting accouterments.

How, I ask, is this going to curtail instances of violent crime in this country? It is not. It is only going to impede legitimate gun collectors and competitive target shooters. These, Mr. President, are not the people responsible for America's crime.

The Police Foundation, in a study of firearms abuse, found that there was no link between cost or configuration of a firearm and its likelihood for criminal use. By the Senator's own statistics, 73 percent of the firearms used in a crime were not what he terms Saturday Night Specials. I think these studies prove one thing—the Saturday Night Special is the person who uses a firearm in furtherance of robbery, murder or rape. Yet some of my colleagues would confiscate the tool, and turn the criminal free, lest his confinement be uncomfortable.

The thrust of S. 974 and H.R. 3200 is aimed not at the criminal but at the law-abiding citizens who wish to acquire handguns legally for collections, for sport and for self-defense.

I find it ironic that those who are ignorant of the existing gun law's provisions have called for more stringent restrictions on firearm ownership and possession.

Fifty-seven of my senatorial colleagues, and over 140 of my colleagues in the House, are well aware of the inequities and injustices created by the 1968 Gun Control Act.

Accordingly, we have introduced the Firearm Owners Protection Act, S. 1030 and H.R. 3300, which will correct the maladies of the current Federal firearms statutes and its enforcement by the Federal Bureau of Alcohol, Tobacco, and Firearms.

The bill will protect law-abiding citizens from BATF's illegal searches, unwarranted seizures of property and denial of due process, all of which have been well documented before congressional subcommittees.

There have been two major results of the Gun Control Act: The first has been a deplorable, steady erosion of American civil liberties; the second, no diminution in this country's crime rates.

The Firearms Owners Protection Act, if passed and correctly enforced, will amend both of these tragic situations. It will protect the law-abiding American gun owner while it establishes mandatory penalties for those who criminally misuse a firearm in a crime of violence.

Almost 200 Members of this Congress have cosponsored this bill because they know that this country can afford neither a continuance of the Gun Control Act nor legislation such as that proposed by Senator KENNEDY.

Reform of the Federal Gun Control Act has been supported by Members of this Congress both conservative and liberal, Republican, and Democrat. It is an idea, obviously, whose time is long overdue.●

THE SOVIET DAY OF SHAME

● Mr. HEINZ. Mr. President, August 21, 1981, will mark the 13th anniversary of the Soviet invasion of Czechoslovakia. Freedom loving Czechs everywhere are once again commemorating this date as the "Soviet Day of Shame;" a reminder that this Soviet oppression is a flagrant violation of the United Nations Charter which should not be tolerated.

The Russian invasion of this proud country not only violated article 2, section 4, of the United Nations Charter, prohibiting the use of military force in the relations between individual members of the United Nations, but also violated the principles of self-determination, sovereignty, and nonintervention in the domestic affairs of other states. Abridging these fundamental principles reveals to the world the hypocrisy of the Soviet regime.

Since 1968, when the Soviets used military force to prevent the Czechs and Slovaks from establishing an independent social and political order according to their own desires, the Russians have continually restricted basic human rights in Czechoslovakia. Freedoms guaranteed by the Helsinki Final Act, signed by the Soviets, are consistently disregarded. A systematic suppression of civil rights is accomplished by means of central management of all mass media, including publishing and cultural institutions.

As of today, more than 1,000 courageous people of Czechslovakia have signed Charter 77 which appeals to their Government to cease its repressive policies and adhere to the Helsinki Final Act. In spite of increased oppression by the Soviets, the number of signatories of this manifestation of popular discontent continues to grow and expand to reach every ethnic, professional and ideological group.

I urge my colleagues to observe August 21, 1981 as the "Soviet Day of Shame." Soviet oppression must not be tolerated and the United States must continue to object to the Soviet occupation of Czechoslovakia. We must continue our efforts to help the proud and courageous people of Czechoslovakia to secure their basic human rights.●

THE DRAFT

● Mr. EAST. Mr. President, there are few issues more divisive, more emotional, and more fraught with misgivings than the issue of compulsory military service. Opposition to the draft is not a phenomenon unique to the Vietnam war. The draft has always been controversial.

For an excellent historical perspective on this issue, I recommend to my colleagues an article by Dr. William R. Hawkins that appears in the August 7, 1981, issue of the National Review. Dr. Hawkins, a lecturer in economics at the University of North Carolina at Asheville, argues that the draft is an American tradition. Opponents could retort that many of our patriotic forebears would have driven a peacetime draft officer from their doors with a squirrel gun. Perhaps we can take some comfort from the fact that the Republic has agonized over this issue on many previous occasions—and survived.

I ask that Dr. Hawkins' article be printed in the RECORD.

The article follows:

THE DRAFT AND THE CONFUSION OF AMERICAN CONSERVATIVES

In one of his syndicated columns, James J. Kilpatrick observed that "conservatives are of two minds" on the question of military conscription. "It is an abiding principle among many of us," he wrote, "that the best government is the least government. . . . But there is another abiding principle and it is to this effect—that in terms of national affairs the first obligation of government is national security. Upon the fulfillment of these responsibilities all else depends."

This dilemma has been viewed from another perspective by Milton Mueller in Libertarian Review. He stated that "for conservatives and many liberals the draft represents a crisis of ideology. In the past thirty years, conservatives like Barry Goldwater have been sincere and heroic opponents of conscription. Yet at the same time they have been staunch defenders of U.S. military might and troop commitments. What happens now, when a choice between these two predilections is becoming inevitable?"

For Goldwater the answer is to favor a renewal of draft registration, for Mueller it is to abandon America's defense commitments, and for Kilpatrick it is still up for debate.

There is, however, no clear philosophical reason why conservatives should oppose the draft if it is necessary to the defense of American interests and if it is confined to military service. Conservatives would and should oppose the sort of national service that would induct young people into the apparatus of the welfare state; there is no obligation to serve the dogma of socialism. But an obligation to provide for the common defense does exist, and in an increasingly hostile world there is a pressing need to strengthen that defense.

There is nothing new or unique about this obligation or the use of compulsion to ensure its fulfillment. Compulsory military service was standard in the American colonies, with over two hundred laws laying out terms and conditions of service. The military historian D. E. Leach has stated that there was a general "assumption that the colonists themselves would be ready and able to serve as soldiers, an assumption resting mainly on the English tradition and practice of compulsory military obligation." This ancient English tradition dated back to the days of Alfred the Great and the Anglo-Saxon fyrol, and continued through the reigns of William the Conqueror, Edward III and Henry V (the freeman militias of Crécy and Agincourt), Elizabeth I, the Stuarts, and Cromwell. It was rebel control of the militia organization in America that provided one of the foundations for a successful revolution. Throughout this period the militia claimed the services of all healthy males.

The colonies were not always able to rely solely on patriotic fervor to supply enough Minutemen to fill out their militia units. Several states which had been in the forefront of the independence movement, in-

cluding Massachusetts, Virginia, and North Carolina, had to legislate a draft in order to field their armies. In 1778 the Continental Congress agreed to General Washington's request for the power to draft men from the militia into the Regulars. Five years later Washington could write that "It may be laid down as a primary position and the basis of our system that every Citizen who enjoys the protection of a free government owes not only a proportion of his property but even of his personal services to the defense of it."

In 1792 the Congress passed legislation to enroll "each and every free able-bodied white male citizen" in the militia and to call the militia into national service. The term of obligation to the militia was to extend from age 18 to 54. The militia was to be armed and undergo periodic training.

The Second Amendment, which is near and dear to the hearts of conservatives, embodies a direct reference to the militia. The image of the responsible, armed citizen responding to the call of the colors when danger threatened has been the most powerful of all our patriotic symbols.

Some have attempted to argue that all this was superseded by the Thirteenth Amendment, which prohibits "involuntary servitude." However, this argument has never found favor in the courts. The definitive ruling on conscription remains that of 1918 which sustained the use of the draft in World War I. Speaking for a unanimous Supreme Court, Chief Justice Edward D. White dismissed the Thirteenth Amendment in a single sentence. The Amendment, he said, was clearly enacted for an entirely different reason. It would have been a paradox indeed if slavery in the South had been abolished by a Union Army that was partially conscript, if there were not a clear difference between the two. White based the Court's decision firmly on the power of Congress to raise and support armies under Article I, Section 8 of the Constitution, strengthened by the Fourteenth Amendment, which caused "citizenship of the United States to be paramount and dominant instead of being subordinate and derivative." Using impeccable Hamiltonian logic, the Court could not conceive of Congress as having the power to raise armies without the power to provide the men, by compulsion if necessary. The Court thus maintained continuity with the spirit of the Founding Fathers.

There was wide agreement among the Founders as to the military obligation of citizenship and the utility of such service to the national security. Thomas Jefferson, in a letter to Secretary of State James Monroe in 1813, argued that "We must train and classify the whole of our male citizens and make military instruction a regular part of collegiate education. We cannot be safe till this is done." Jefferson believed that such universal military training must be implemented in peace as well as war, and he reiterated his argument two years later in a letter to Jean Baptiste Say. And this is from a statesman whose pacifist and libertarian reputation is unassailable.

Alexander Hamilton was an advocate of professional armies rather than militias because his experiences in the Revolution led him to believe that they were more reliable. Still, he could not deny that the government had a right to call the citizens to arms if necessary. In *Federalist* Number 23 he wrote: "The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. . . . the Union ought to be invested with full power to levy troops. . . ."

John C. Calhoun, a foe of centralized government, was also alert to military problems. He observed on the floor of Congress in 1816 that "All free nations of antiquity entrusted the defense of the country, not to the dregs of society, but to the body of free citizens." He called for the lengthening of the training required of the militia, though he realized that he uttered "truths unpleasant to those who wish to enjoy liberty without making the necessary efforts to secure it."

Calhoun's statement could be paraphrased today and used against those who argue vocally for a strong foreign policy, military preparedness, and containment, even victory, over Communism but refuse to support measures necessary to make these commitments credible.

There is every indication that our capability to wage conventional war is no longer credible. Since the end of draft calls in 1971, military manpower has declined by over 600,000 men (24 per cent). The Reserves and National Guard were 543,000 men (42 per cent) short of their requirements in 1978, according to a study by Kenneth J. Coffey for the American Enterprise Institute. A recent Defense Department study concluded that the United States would have to use nuclear weapons to stop the Soviets should they decide to send troops into the Persian Gulf. Since it is highly unlikely that any American Government would resort to such a first use of nuclear weapons, what the report is actually saying is that given our current inadequate force levels we could not defend a region vital to the West.

In addition to the material decline of our forces, there is the psychological aspect. The draft was abandoned under intense pressure from the New Left in the streets and the liberals in the Congress. Even though its replacement, the All Volunteer Army, was implemented by a Republican President who did not share the antiwar philosophy of the leftists, it was accepted by many conservatives not out of conviction but out of expediency, as a tactic to cool off the campuses. Hence the birth of the Volunteer Army is directly associated with the Vietnam syndrome which has paralyzed our foreign policies for a decade.

It is interesting to note that the Republican President involved, Richard Nixon, has since called for a resumption of the draft in his book "The Real War." He gives as his reasons for reversing his position the fact that the All Volunteer Force has not lived up to expectations and his belief that the draft is a necessary symbol of American resolve.

Among our major allies, only England, Japan, and Canada do not use conscription, and all three contribute less than their share to Allied defense. Sixty per cent of the forces of our other NATO allies are conscripts. Americans often complain that our allies do not do enough, but our allies have been willing to shoulder the burden of conscription in peacetime while we have not.

The essential point to remember is that conscription is not unusual. Our country has always turned to it when it proved impossible or impractical to provide what was needed for security by voluntary enlistment alone. It was used by both sides in the Civil War, and again in World War I and World War II and the wars in Korea and Vietnam. Twice in the past forty years we have implemented peacetime conscription, in 1940 and 1948, when international dangers threatened. The period of conscription begun in 1948 lasted until 1973. Conservatives can argue over the timing or the method of conscription, but I do not understand how they can reject the principle of conscription without abandoning both history and common sense, two elements to which conservatives normally and quite rightly adhere.●

THE SO-CALLED MILITARY EXPERTS

● Mr. GOLDWATER. Mr. President, now that we have a President who is determined to rebuild our military into an acceptable strength, we are beginning to have experts, or so-called experts, pop up on every side to criticize the efforts, mostly because of the money that is being spent.

Now, I do not like this money in its big amounts any more than anybody else does and I think it is incumbent upon the military committees of both Houses to eliminate every overly priced instrument of the military that exists, and I am trying to do this with my subcommittee.

But to have television networks, newspapers, and magazines come out with so-called reports on the defense that are so misleading that those of us who know a little bit about defense find it almost impossible to believe that anybody ever got near the subject they were talking about because they either write out of an inability to understand what they saw and experienced, or they write out of a sheer determination to continue to undermine the military.

We have recently had several examples of this perpetrated by CBS and some of their top reporters. Mr. Benjamin Schemmer, the editor of Armed Forces Journal International, the oldest monthly magazine that covers defense issues, has written on this subject and done it so well, I wish to place it in the RECORD.

The article follows:

THE ONE-AND-A-HALF-TRILLION-DOLLAR MISUNDERSTANDING

(By Benjamin T. Schmemer)

National defense has become the hot topic in American journalism. As Ronald Reagan begins to "rearm America," our TV sets, newspaper op-ed pages, and magazines warn us that the trillion and a half dollars he plans to spend over the next five years won't buy much more security—because the Pentagon inevitably will screw things up.

A trillion and a half dollars is a lot of money, and it makes good copy at a time when the public wonders if new tanks will come only at the expense of Social Security and welfare checks; it makes even better copy when the tanks and planes and submarines don't quite work as advertised and cost from a million to a billion dollars each.

Unfortunately, many of the media pundits bringing you all this insight into defense don't know their ass from their elbow. Take Dan Rather's hype on the CBS Evening News on June 17 boosting Richard Threlkeld's "complete investigation" of the military-industrial complex that was aired later that night. Rather showed a dramatic clip of the Air Force's F–16 fighter with this voice-over: "The planes used by the Israelis to bomb Iraq were US F–16s, developed by General Dynamics. They are widely acknowledged to be the world's best fighter-bombers; they are also the most expensive [and] technologically sophisticated, requiring massive maintenance."

Airmen the world over must be wondering whom CBS polled to conclude that the F–16 is the "world's best fighter-bomber." Pilots debate such issues endlessly, and even General Dynamics has never made such a claim for the F–16—as good as it is.

While that description of the F–16 is debatable, CBS's flat statement that it is also the world's "most expensive" fighter-bomber is not: CBS is just plain wrong. In fact, the F–16 may be the world's cheapest fighter-bomber. An F–16 bought in this year's defense budget costs about $14 million in "fly-away prices" (without spare parts or amortized research-and-development costs); an Air Force F–15 costs about $28 million; the

Navy's F/A–18 costs about $34 million; the British-German Tornado about $23 million.

As for the F–16's "massive maintenance" . . . the plane had the third-lowest maintenance man-hours per flight hour of all eight USAF first-line fighters or bombers last year. And that was its first year of operational use. Its design goal is 25 maintenance man-hours per flight hour—once the plane and its spare-parts pipeline are mature. In its first year of operational use, the F–16 beat that goal by 17 percent.

So why did CBS use the term "massive maintenance"? Was it to back up Rather's contention, when he introduced Threlkeld's "complete investigation," that what is "disturbing" about the "one-point-three trillion dollars" we will spend to defend ourselves in the next five years "besides the cost, is that many of the weapons we're already building don't work as well as they're supposed to"? Later in the broadcast, Threlkeld cited results of the Air Force/Navy ACEVAL tests at Nellis Air Force Base, Nevada, six years ago to argue that "high technology is not much help" in the air-to-air combat arena, suggesting that we should be aiming for "quantity over quality." He called ACEVAL "the most realistic dogfight in American history."

That was not the conclusion of the pilots flying those tests. The final chart of their briefing said simply, "ACEVAL Bottom Line: the tests did not achieve the objective of quantifying the influence of numbers versus performance on the outcome of our engagements." In fact, the pilots objected strenuously that the dogfights were limited to day-only visual flight rules, thus negating the impact of all-weather radar and weaponry which the technologically sophisticated F–15, F–14, and F–18 carry.

The pilots objected also because, in the tests, they were not allowed to engage their opponents until the enemy had been visually identified—a rule of engagement that Robert McNamara and Lyndon Johnson imposed on US aircrews flying over North Vietnam, and one reason the US spent three years, $22 billion, and 3,091 lives after the Paris peace talks began to bring 566 American prisoners of war home from the dungeons of Hanoi.

The visual-identification requirement further nullified any advantage of the technology that differentiates planes like the F–15 and F–16 from ones like the F–5 and Mirage 2000; Their radars were blinded and their long-range missiles rendered inert by the rules under which the planes were tested against "small, simple, and cheap" ones like the F–5.

Finally, Threlkeld failed or forgot to note, the Nellis tests were flown directly over the runways from which the planes took off—so the extra range built into America's "sophisticated" fighter-bombers counted for naught.

"The most realistic dogfight in American history"? I doubt that CBS could produce one pilot who flew those tests who would do much more than laugh at the statement. The most common way pilots describe ACEVAL is that it was like trying to evaluate a pistol against a rifle by firing them in a jail cell.

CBS's widely touted five-part study of national security rates a B+ for theater, a D for journalism, and an F for accuracy. Toward the close of Threlkeld's "investigation" into horror stories about the way the Pentagon buys weapons, he told us: "But we couldn't find a single instance of the Pentagon ever recommending canceling one of its programs."

Who does CBS use as "investigators"? Doesn't the network run even a superficial check of its "facts"? One phone call from Threlkeld or his writers would have produced a list of scores of major programs the Pentagon has canceled in recent years—on its own, not just because of congressional or White House objections. Here are a few: the Army's Cheyenne helicopter, its Infantry Manportable Anti-Tank Assault Weapons System (right after contracts to develop it were awarded last fall), and its Roland air defense missile (a decision Harold Brown made last fall, which was later reversed by Caspar Weinberger); the Navy's F–111B and its Captor mine (another Brown decision reversed by Weinberger); the Marine Corps' AV–8B jump jet (a Brown decision that Congress overruled three years running); and the Air Force's B–1 (Brown recommended that Carter kill it in favor of air-launched cruise missiles), Medium Range Mobile Ballistic Missile, Manned Orbiting Laboratory, KC–10 cargo tankers (a Brown decision overruled by Weinberger), and A–10 close-support planes (a Brown decision overruled by Congress and later by Weinberger).

CBS, in fact, could have done an entire program on the money the Pentagon has spent developing weapons that it later decided to cancel outright or quit buying far earlier than expected. That subject would have been worthy of comment: One reason defense costs so much is that under tight defense budgets there has been little constancy of purpose in the way we buy things. Even when weapons work as advertised (the F–16, Roland, KC–10, and the AV–8B are but a few examples), we buy so few of them or abort the projects so prematurely that the individual cost of what few weapons do reach the field soars higher than the apogee of some satellites.

But CBS's special series on defense was unprecedented: Never has a network invested so much prime time to ruin its own reputation. It was ironic that CBS set its new standard for defense reporting right after naming former Defense Secretary Harold Brown to its board of directors.

But CBS has no monopoly on bum dope. Some of the worst stuff is coming from people who know better, but are just as loose as CBS with their "facts." Former CIA director Stansfield Turner, for instance, wrote recently on "Why We Shouldn't Build the M–X" in the New York Times Magazine. It was a provocative, thoughtful piece, well written—and punctuated with gross errors.

For example, Turner said that building bases for the M–X missile system would "require, according to some estimates, 40 percent of the country's total cement production for three years." He must have gotten his numbers from the same sources who persuaded him in mid-1978 that the Shah of Iran would remain in power for another decade. Turner was off by a factor of 80. The largest number I can track down that anyone has ever estimated for M–X cement needs is about one half of one percent of US production. Turner is writing a book, the Times told us, on "military strategy." It ought to be hilarious.

But the subject is not funny.

President Jimmy Carter's chief speech writer, James Fallows, has just come out with a best-selling book called National Defense (Random House). Like so much of the reporting now getting into print on national-security matters, the Fallows book fails to heed an admonition Joseph Califano cites in his book, Governing America. In order to understand American politics, Califano writes, "Try to tell the difference between tides, waves, and ripples." Most of Fallow's book is about ripples. His horror stories of how the Pentagon screwed up its last five or six two-car funerals (the M–16 rifle, F–16 fighter, and so on) are fascinating, engagingly written—but not new.

It's the tides and waves that should concern America: How can we get our allies to contribute a proportionate share of their national treasuries to their own defense in Europe? If Japan refuses to increase its defense spending above nine-tenths of one percent of its gross national product (while we spend nearly five percent of ours helping guarantee Japan's oil lifeline), would Japan consider an alternative? Like investing four percent of its GNP in finding a way to gasify or liquify coal economically? If the US really wants to sell China arms, why not ask China for a friendly quid pro quo: recognize South Korea, a move that would allow us to redeploy some of our forces there to locations where they can better protect Persian Gulf oil supplies?

Those are the sorts of national-defense issues that a former presidential speechwriter should be addressing. Those are the sorts of strategic initiatives that could ease our defense burden by many billions of dollars. Fallows doesn't touch them; instead, he assaults us with trivia—for which his publisher wants us to pay six cents a page.

Fallow's indictment of the ripples that the Pentagon's way of doing business has caused in our national defense would ring truer if he had given equal time to the tidal waves that micro-management by the White House and Congress cause in national-security affairs. A President should be concerned about multi-billion-dollar issues like M–X versus Trident sub, or B–1 versus cruise missile, issues where survival is at stake. But Fallows doesn't tell us of the years his boss, Jimmy Carter, spent micro-managing a $6.5 million defense issue into a $40 million international flap—all over a little commercial air terminal in Iceland. Accounts vary somewhat even among those who were directly involved in the fiasco, but they add up to this:

Soon after Carter took office and asked NATO's fifteen nations to contribute more to their common defense, Carter turned down a $6.5 million Pentagon request to build a civil air terminal at Keflavik, Iceland—so that nation's civil air carrier, Icelandic Airways, wouldn't have to process its passengers through the small and slightly dingy US Navy terminal there.

Carter scoffed at arguments that the Icelanders have a deep-rooted disinclination toward things military, couldn't afford the air terminal out of their meager $600 million annual government budget, represented one of NATO's most critical allies, and had not asked for US aid in a long, long time.

After the rejection, Defense Secretary Harold Brown waited almost a year and then appealed to Carter to let the civil air terminal go ahead; its cost, he reported painfully, would now be $11.5 million: The Icelanders had a better design now, or something. Carter turned the appeal down. Brown's NATO advisers were aghast, but finally persuaded Brown to go back to the President once again: By this time, the terminal's cost was up to $23 million. Carter reacted quickly: "No!" During Carter's last months in office, Brown submitted the proposal a fourth time; the cost had grown to almost $40 million. To the Pentagon's surprise, Carter approved it with a hand-scrawled "OK," signed, "JC." But he told one of his military assistants: "Make sure Harold understands that I'm still against this. The only reason I'm approving it is that he's never argued with me four times on the same issue before, so I guess it must be important to him."

That's a strange way to decide important national-security issues. Writing so pejoratively about the way the Pentagon handles such matters, Fallows might have shared with his readers some insight on what happened when those decisions reached the desk of the President he served.

Like CBS, Fallows spends a lot of time indicting the F–16 for its sophistication and complexity, along with its 'high cost" Air Force counterpart, the F–15, and its sister fighters in the Navy, the F–14 and F–18. For much of this insight, Fallows relies on a Pentagon document prepared by a Defense

Department analyst named Franklin C. Spinney and formally titled "Defense Facts of Life"—a 56-page single-spaced tome, with 87 briefing charts attached, whose thesis is summarized:

"Our strategy of pursuing ever-increasing technical complexity and sophistication has made high-technology solutions and combat readiness mutually exclusive."

Spinney has been giving his briefing throughout the Pentagon for years to anyone who will listen. He gave it a few weeks ago to General Wilbur Creech, the four-star officer who heads the US Air Force Tactical Air Command. Creech told Spinney that the four-hour briefing was fascinating and contained lots fo useful data. But, Creech said, he wasn't quite sure how it related to his real-world problem of trying to field a fighter-bomber force that could cope with a Soviet air threat that outnumbers NATO by 2,850 combat planes to 1,500. Spinney didn't know either. He told Creech, in effect:

"That's your problem, General."

Creech makes this analogy: Spinney supporters are like cost analysts looking at the Oakland Raiders football team. They tell the owner: "What you should do is get rid of the quarterback and the wide receivers and buy more guards." The owner answers: "But I can't win in this league with more guards." And the cost analysts tell him: "Don't bother me with those kinds of details; you ought to get rid of the quarterback and your wide receivers—they cost too much and break too often."

Fallows would have the U.S. design its fighter forces around Spinney's prescription: simple, cheap, non-radar-carrying planes like the Korean War F–86, planes the U.S. could buy in vast quantities and fly often because they are simple to maintain and turn around quickly for more combat flights than "hangar queens" like the F–15.

Spinney and Fallows ought to read a little more history. The F–86 had an accident rate than ranged from 8 to 26 times higher than that of today's F–15: In its first seven years of use, the Air Force lost 1,972 F–86s just in accidents! (The "complex" F–15 has the lowest accident rate of any fighter ever produced, and the "sophisticated" F–16 has the lowest accident rate of any single-engine fighter ever produced.) In one single year, 1954, the Air Force lost 487 F–86s—one and a half a day—because pilots couldn't bring the simple little mother down to a safe landing. That year the F–86 had an accident rate of 61 planes lost for every 100,000 hours flown; the F–15 averages 5.

What Spinney and Fallows—and analysts they both quote widely, like former Pentagon whiz kid Pierre Sprey, now a consultant—really want is for the Air Force to go back to the propeller-driver P–47 Thunderbolts and P–51 Mustangs of World War II. A fascinating thesis: Simple is good, more simple is better.

But the facts in the case are these. Each F–15 averages two to three sorties (missions) per day in realistic wartime "surge" exercises in Germany, in weather that grounds $45 million civil airliners. The highest World War II sortie rate that the P–51 and P–47 ever attained was less than one mission per plane per day. During the Battle of the Bulge, when Omar Bradley and George Patton prayed for all the air support they could get, the planes averaged only half a sortie a day.

Like slime mold, the impressions created by all this new defense reporting will stick around for a long time. Born of the same kind of fictional alchemy that created the monster Frankenstein, Turner's cement estimate, for instance, is already taking on a life of its own. A June 22 article in New York magazine titled "$1.5 Trillion for Defense?" reads like a seven-page summary of Fallow's book, with a few new "facts." One of them reads in full, "Construction of the MX complex would tie up 40 percent of the nation's concrete capacity for three years." What the hell: If Stansfield Turner said so, it must be true. New York didn't credit Turner with the cement estimate, so investigative reporters looking into the Pentagon's corner on the cement market now have two sources to cite.

The New York article, like a Texas Monthly June feature on the F–16 ("The Plan the Pentagon Couldn't Stop"), reads straight Fallows. It's very attractively laid out. A big sell line across one two-page spread tells you, "The top military brass likes sophisticated weapons, but technology has become the new Maginot Line. . . ." Michael Kramer wrote the New York piece; Michael Ennis, the one in Texas Monthly. But their articles read as if Fallows had cloned himself.

Fallows is ubiquitous: A big interview in a recent issue of People magazine ("Is the Reagan defense boom a bust? It's flying too high on technology, warns Jim Fallows"); excerpts in the Boston Globe, the Atlantic Monthly (where he is Washington editor) and the Washington Monthly (where he is contributing editor); and prominent reviews in magazines and newspapers all over the country—all have helped turn his modest work into the Holy Writ. Fallows, CBS, and Stansfield Turner would have you believe that war now boils down to an issue of quantity versus quality, and that to win we need only to buy more simple weapons.

They don't tell you how we will pay all the extra pilots needed to fly all those simple planes, or where we will find airfields in Europe to park them.

They don't tell you that the F–15's "complicated" F–100 engine used to have major reliability and maintenance problems, but that these have been reduced almost by a factor of 10 in the past two years. They tell you that on an average day in 1978, 44 percent of the F–15s were not fully ready for combat. They don't tell you that today F–15s are fully mission-capable over 64 percent of the time; that only one Air Force plane now has a higher combat-readiness rate; and that the F–15 is now ready for combat more often the the F–4, which it replaced.

They don't tell you that one reason Navy officers prefer to hunt Soviet submarines with the costly DD–963 destroyer is that the much simpler FFG–7 frigate can't carry a sonar big enough to do more than locate schools of fish.

They don't tell you that nuclear ballistic-missile submarines cost a lot because, for one thing, they're built to last. The 41 subs have made more than 2,000 combat patrols, totaling more than 100,000 days under water since 1960.

Fallows, CBS, and Turner give you a simplistic view of an enormously complicated problem in a world that is uncertain, uneasy, and unpredictable.

You deserve to be better informed on trillion-and-a-half-dollar issues like national defense.●

THE DRAFT, THE COURT, AND THE CONGRESS

● Mr. GARN. Mr. President, when the Supreme Court handed down its decision in the case of Rostker against Goldberg, the validity of a male-only draft, it robbed me of the chance to make some really good speeches about judicial usurpation of legislative authority. Luckily, the Court did exercise some much needed restraint, upholding the right of Congress to deal, at least in this area, pretty much as it wishes.

One of the editorialists of the Washington Star agreed with me on the wisdom of the decision. Mr. Edwin Yoder plainly outlined his view, which is to a large extent mine, that the Court must cede considerable latitude to the Congress on this and other issues. As he notes, "the issue is who is to decide." I am glad that this time, at least, the decision was that Congress is to decide.

Mr. President, I ask that Mr. Yoder's article, from the Star of July 2, be printed in the RECORD.

The article follows:

THE BROADER WISDOM OF THE DRAFT DECISION

(By Edwin M. Yoder, Jr.)

Anyone who confesses relief at the Supreme Court's decision on draft registration probably convicts himself, ipso facto, of male bias. According to Bella Abzug, the Court is a "sexist institution . . . an exclusively male preserve," and that explains why it tolerates an all-male draft.

Nowhere, of course, does Justice Rehnquist say that women should leave war to men and stick to nursing and bandage-folding. He dryly confined himself to the congressional war powers and the judicial duty to defer to Congress in their exercise.

Of the many strange aspects of the draft-registration case, perhaps the strangest is that it was, in origin, a Vietnam-era case aimed at obstructing all conscription, not securing the conscription of women. That motive was not concealed by one lawyer for the (male) plaintiffs who wished, he said, to "make the political cost of declaring war much more immediate for a president and for a Congress, and much more costly."

ANTI-WAR SYMPATHIES

Judging by her comments to Ellen Goodman about last week's decision, Ellie Smeal of the National Organization for Women is sympathetic to that aim. "We are coming," she said, "to the conclusion that war is not a rational foreign policy . . . Now we're afraid our kids will be fighting for some damn oil well. By keeping women on the sidelines," she went on to say, the justices "have taken away our voice and protest. We can't even say, 'Hell no, we won't go.'"

The rationality of war is always debatable; and in a free society pacifists may agitate unmolested, embracing the exotic view (it was among those originally pressed upon the lower court in Philadelphia) that conscription is a form of "involuntary servitude" forbidden by the 13th Amendment.

But I am relieved that the people of these unworldly sentiments have been thwarted in their effort to convert the Constitution into a pacifist document and draft registration into an instrument for raising "the political cost of declaring war." That, not the rejection of mandatory registration for women, is the importance of the Court's decision in *Rostker* v. *Goldberg, et al.*

One hardly expects those who view all public matters from one parochial perspective to applaud. It would be pleasant, however, if Ms. Smeal and other scolds bothered to determine what has, and hasn't, been said about the military status of women.

Ms. Smeal told a Star reporter that the decision is "disgusting" because, among other things, its "immediate impact . . . is on women in the military, who will have their promotion and pay opportunities limited"—this, because the exclusion of female personnel from combat (which was not at issue) also excludes them from certain benefits that lead to promotion.

But a reading of the Court's opinion would reveal, to the contrary, that there is a reverse-discrimination policy, validated by the courts, allowing women officers longer time in grade to achieve promotion than men—an accommodation designed to redress any unfair male advantage arising from combat status.

But again, the decision the Court actually made is that Congress, within broad limits,

has discretion in supplying the nation's military manpower needs as it sees fit and may, to that end, choose to treat men and women differently without offending the Fifth Amendment equal protection clause. (It cannot do so whimsically or unreasonably, however, as Justice Rehnquist makes amply clear.)

SENSIBLE RULING

The holding is both sensible and fundamental. A decision to the contrary would not only have confided our military fortunes to the judges but also have involved a perverse reading of the phrase "equal protection of the laws."

Equal protection, as usually construed, has primarily to do with the fair distribution of burdens and benefits. Most of us think of liability to conscription as a burden, not a benefit, and the same may be said of exposure to shot and shell on the front lines. It is the unstated premise of critics of the Court's decision that these have suddenly become benefits, not burdens, which it is naughty of Congress and the courts to deny to women. The Court wisely balked at this weird inversion of common sense, which would have gone far to make an absurdity of the Fifth Amendment and equal protection.

It is fair to ask how one who expresses the above views actually feels about women in the military. My own views are mixed. I know of no evidence that women would be inferior performers in any military rank or function; indeed, the congressional testimony of informed military and defense officials on last year's registration bill was to the contrary. My instincts—call them chauvinist if you like—recoil at the idea of women in combat.

But the "place" of women in the military, however one feels about it, is irrelevant. The issue is who is to decide, Congress or the courts. There is no assurance that Congress will decide the issue correctly, or to the taste of all, but better that Congress decide. That is what the framers of the Constitution unquestionably intended, and wisely too. The Court has merely reaffirmed their intention. ●

NEVER GIVE MONEY AWAY TO ANYONE

● Mr. EAST. Mr. President, the American people are generous, but not foolish. They know that you cannot buy friends. Yet our Government has squandered hundreds of billions of the taxpayers' dollars for foreign aid over the last generation.

In the July 24, 1981 issue of National Review, Mr. Lawrence W. Beilenson, lawyer and historian, makes a strong argument that foreign aid does not work. I ask that his article be printed in the RECORD.

The article follows:

NEVER GIVE MONEY AWAY TO ANYONE—PARKINSON'S RULE THREE ANNOTATED

(By Lawrence W. Beilenson)

Never give money away to anyone.* Although C. Northcote Parkinson relied on historical experience in enunciating this, his Rule Three, the rule has not enjoyed the happy fate of becoming a cliché. Instead, we have turned the Founding Fathers over in their graves by stretching the general welfare clause of the Constitution to include the world and by practicing our own cardinal rule: "Always give money away to everybody."

Parkinson believed we had formed our post-World War II habit of giving to everybody in order to save ourselves the trouble of thinking. He did not do justice to the inspired leadership of our paladins of compassion. By 1977 their desire to care for all and sundry (with other people's money) had become such a habit that Jimmy Carter was able to announce that, if we "normalized" our relations with Vietnam, he would respond with "normal economic aid processes." Under such normality, putting our entire diplomatic corps out to pasture would save us billions.

For paying money to foreigners other than in trade, we have learned divers ways. We can bribe officers of a foreign government. (We have.) We can pay money to dissidents to foster rebellion against an unfriendly government. (We have, but mostly in the wrong place, in the wrong way.) We can indirectly pay Japan and our allies by bearing the cost ourselves of maintaining our troops stationed in their lands. (We are.) But although each of these methods merits attention, none falls within Rule Three or this annotation, both of which are strictly about foreign aid.

When the Marshall Plan was announced, a pessimistic friend decried my advocacy of it. In his opinion the plan would be admirable if we would stop with it, but we wouldn't. How right he was. At the end of World War II, our national debt was roughly $260 billion; when it had swollen some $600 billion more, I calculated that over one-third of the increase was accounted for by foreign aid. To avoid headaches I have stopped counting; but if we add amounts which are in fact foreign aid but otherwise classified plus loans that never will be repaid, the percentage probably is even higher.

"Giveaways" and complaints about them are old. In the sixth century the historian Procopius wrote: "On every occasion [Justinian] bestowed handsome presents upon all the barbarians alike, those of East and West, and North and South, as far as the inhabitants of the British Islands and of the whole world, nations of whom we had not even heard before, and whose names we did not know, until we became acquainted with them through their ambassadors. When these nations found out Justinian's disposition, they flocked to Byzantium from all parts of the world to present themselves to him. He, without any hesitation, overjoyed at the occurrence, and regarding it as a great piece of good luck to be able to drain the Roman treasury and fling its wealth to barbarians or the waves of the sea, dismissed them every day loaded with handsome presents."

Since Justinian was noted for avarice rather than for generosity, his gifts must have been a subsidy to advance the interest of the Byzantine Roman Empire by appeasing the barbarians. In contrast, charitable foreign aid is given for moral reasons rather than to forward the self-interest of the donor nation. Our own debates on foreign aid have been confusing because to justify our aid charity and self-interest have been confusingly joined. For clarity the two grounds must be divorced. To win votes in Congress for aid abroad, our politicians have appealed to special-interest groups at home. When our warehouses were bulging with grain, the interest of farmers in lowering the surplus to raise the price was invoked. Now we are told that donating money to poor nations will enable them to buy our products, and thus "create jobs." In fact, if Congress wants to subsidize any domestic special-interest group, it would be cheaper to do so directly.

Meanwhile, contrasted to our comparative abundance, many abroad live at the bare subsistence level and below. Charity is sweet and benefits both giver and receiver. In the poor parts of the world the need is so enormous that private giving cannot fill the void. Briefly stated, this is the case for charitable foreign aid.

Anyone who opposes it is likely to be stigmatized as a Scrooge unvisited by the good spirits. Our Uriah Heeps, however, claim a charitable bent when they dip into the public treasury instead of into their own purses. And they take the justice of their action on faith, never considering the actual consequences.

A BOTTOMLESS PIT

The money we give drops into a bottomless pit. The increase in population in Latin America, Asia, and Africa has canceled all the funds spent for foreign aid on those continents.

Most of the aid has not reached the needy; it has added to the luxury of dictators and their henchmen. And much of it goes into American bureaucratic bins.

Our government owes no duty to the poor nations; the United States did not make them poor. If our national conscience is nonetheless trouble about the material benefits we enjoy in a world where many are ill fed, ill clothed, and ill housed, we can discharge our ethical duty without the present drain on the public purse. Let those who believe in charity abroad appeal to the generosity that the American people have so frequently and so abundantly exhibited. The donors would have the opportunity of selecting the objects of their bounty, and they could entrust its administration to experienced charitable organizations of their own choice. Probably not as much would be collected from private charity as we are now giving from the public purse; but charity abroad should be voluntary.

Charitable foreign aid has contributed to weakening our fiscal soundness at home without a corresponding betterment in the lot of the poor. If the United States had a continuing Treasury surplus, that happy fact might be an argument for donating some of it as charitable foreign aid. Burdened as we now are with a huge national debt that increases daily from our deficit financing, it hardly seems prudent to borrow at home in order to give away abroad.

In contrast to charitable foreign aid, subsidy abroad is for self-interest, and hence is an old tool of statecraft. Subsidy is money paid or property transferred (other than in commerce) by one government to another government for the purpose of forwarding a real or supposed interest of the paying government. Despite new names, our Lend-Lease before and during World War II and our noncharitable foreign aid since were typical subsidies. Usually subsidy agreements have been embodied in treaties, which, like other political treaties, have been regularly broken. Niccolo Machiavelli condemns and Parkinson ridicules all subsidies. Never, however, say never.

Sometimes a subsidy treaty has taken the form of a payment to induce a nation to stay neutral in a war. Breach has been habitual, and the treaties ineffective. If it has been to the receiving nation's interest to stay neutral, it has done so; when the interest has changed, so has the neutrality, payment or no payment.

More commonly a subsidy has been promised or paid in connection with an alliance. Machiavelli declared: "Republics and princes that are really powerful do not purchase alliances by money, but by their valor and the reputation of their armies." From a long list of subsequent supporting examples, the Florentine would have selected Louis XIV as the best, which is to say, the worst.

To his coat of arms Louis should have added a cornucopia spilling out French coins; he was addicted to paying subsidies. In 1668 he decided to attack Holland as soon as his diplomacy had isolated it by paper chains whose links were gold. To that end, from 1668 to 1672 when war began, Louis made treaties, most of which were accompanied by payment of a subsidy, which contained promises to France: to join the war on its side, to remain neutral, to allow passage of French troops through foreign terri-

*"The Five Other Rules," *Foreign Policy*, Winter 1972–73.

tory, to permit foreign territory to be used as a base for French troops. The pacts were with England, the Habsburg Emperor, Brandenburg, Sweden, and a number of small German states, all of which broke them. Because the interests of the other European countries, as they saw them, clashed with the interest of France, Louis had to fight most of Western and Central Europe. The subsidy was wasted. In terms of dishonoring their promises, however, there was no appreciable difference between the bought and the unbought.

Despite Machiavelli's and Parkinson's animadversions about the fatuity of buying allies and notwithstanding the unreliability of subsidy treaties, some have had efficacy for the payer. Because Austria was dependent upon a British subsidy paid in installments during the War of the Austrian Succession (1740–1748), Britain was able to induce Queen Maria Theresa to yield to terms that galled her but were to Britain's advantage. During the war against Revolutionary and Napoleonic France, Pitt opened wide the British purse to pour its contents into the coffers of the Continental nations. While they nevertheless deserted Britain again and again in breach of their treaties, Pitt's shower of gold bought ever new Continental soldiers to fight against France. Although our aid to Britain before Pearl Harbor exacted no substantial, tangible quid pro quo, our subsidy kept Britain alive when it stood alone and thus helped us. Our Lend-Lease to the USSR furnished it the arms to kill or capture many German soldiers who otherwise would have been available to kill Americans.

PAY NOW, LOSE LATER

In a *mémoire* of February 1765 to Louis XV, his Foreign Minister the Duke of Choiseul told his sovereign that the French practice of paying in advance should be discarded in favor of the English method, which paid only after the desired action or inaction had been taken by the subsidized government. That, however, is not always possible. The best substitute is a payment in installments made substantially concurrent with the deeds or abstentions purchased.

The whole history of subsidy may be briefly summarized: The only effective subsidies have been to aid in or deter war. If the action or inaction bought has been imminent, the chance of performance has been enhanced. If what the subsidized nation was to do or not do in return for the payment has conflicted with its own interest, the subsidy has been of no avail.

The primary tool of V. I. Lenin was subversion: giving to the outs to overthrow the ins. He wrote about all the tools of statecreft except subsidy and bribery. Perhaps he was silent about these money tools because, during most of his adult life, money was in short supply. A more likely explanation is that his absorption in overthrowing governments by subversion left Lenin no time for disquisitions on paying them by subsidy. In any event, decisions of the USSR since World War II to give money or property to other governments have been made without guidance from its mentor.

The European satellites have paid for whatever they have received from the Soviet Union, but Moscow's financing of Fidel Castro's Cuba has imposed a large drain on the USSR. The Cuban troops sent to Africa have been a form of repayment, but they were not in return merely for money already paid; the expectation of future funds probably influenced the furnishing of the men, and probably Castro was eager to show his prowess.

In the Third World—or is it the Fourth, or by now the Fifth?—from time to time the USSR has made extensive deliveries of arms to various governments, notably to those of Egypt, Syria, and Iraq. Some of the munitions have been paid for by the rich Arab states, but probably there has been a net money loss to the USSR. The Third World countries have been skillful in extracting money from both sides. Some Kremlin official sometime must have said to himself: "Wouldn't it be wonderful to end the cold war? Then when those Third World blanketyblanks try to bleed us, it will be a pleasure to tell them to jump into the lake." Similar thoughts may have crossed the minds of some Washington officials.

When both the United States and the USSR pursue the same course, to assume that each must have chosen it wisely is natural, but through the ages most nations have duplicated the mistakes of others. The Soviets have copied us in dispensing money for influence; by now each antagonist is merely aping the other. There is no historical experience to justify the benefit to a government of paying money to another government to buy influence or friendship. When in their nineteenth century imperialism England or France used its purse, it bought something tangibly valuable, such as a mineral or trade concession. In addition, both were ready to send troops to ensure delivery of what they had purchased.

Having ample money to pay eases the immediate task of the diplomat; consequently he rejoices in its availability. When in 1976 we shifted our so-called African policy, Henry Kissenger traveled far and wide, promising his hosts large sums of American money to buy influence or friendship. We used to buy votes in the Assembly of the United Nations—not worth a dime—by promising continued foreign aid. Our recent futility in the Assembly speaks ill of our past profligacy. The Third World spits in our face, yet we continue to curry its favor with money.

LET'S NOT DO IT

Our subsidies to the Third World have been paid in pursuit of containment, to prevent countries not now Communist-ruled from becoming so. Our money has propped up many oppressors. In our long, just contest with the Communist masters, we have, by supporting the status quo, lost friends among non-Communists who wish to uproot injustices in their countries, and the long future belongs to them.

We are not forced to buy influence in the Third World because the Soviets do. They will waste their money, and will receive no more gratitude than we have. If a number of Third World countries become Communist-ruled, and the USSR finances them as it has Cuba, doing so will strain the Soviet treasury. And it will be much cheaper for us to help overthrow such governments by external subversion—money to the outs—than it is to uphold the dictatorial ins. Such subversive aid from France and Spain in 1776–77 helped us to become a nation.

It is an even graver error for the United States to give foreign aid—or loans—to Communist-ruled nations. So doing will teach non-Communist recipients that they can take any line they please and still get our money. More importantly, it is not to our interest to better the lot of the Communist-ruled peoples. The sooner it becomes intolerable enough to provoke revolution, the better for us.

Yugoslavia is often cited as a case where our money kept a country from becoming a Soviet satellite. Whether Yugoslavia would have so become had we not helped is speculative. But even if it had become a satellite, one more in the Balkans would have made no great difference, and the South Slavs might have been more prone to revolt against their Communist rulers had we let nature take its course. Our attitude here is the important thing. Until we make clear that Communist governments will not receive American money, but dissidents against them will, we shall discourage revolt where it will help us most.

Unlike buying friends and influence, paying for the use of such foreign bases as we need for national defense is sensible. But we shall lose our investment if we are forced to leave, as we were in Libya and Thailand.

If our alliances in Europe, with Japan, and with South Korea are required for our defense (a large question), then our subsidies to our allies have historical support. Of all treaties, defensive alliances, despite habitual unreliability, have been the most efficacious in deterring attack. Nevertheless, we are making a bad bargain. West Germany is able to pay for its own defense, yet we contribute substantially to it. Japan has grown rich because we have provided its protection.

We do not draw from a bottomless well. We badly need to spend huge additional sums on civil defense, active nuclear defense, and deterrence. Parkinson's Rule Three should be the starting point for any consideration of charitable foreign aid or subsidy, with a heavy burden of proof on the advocates of giving. When in doubt, say no. And despite "Never say never," never give borrowed money. ●

THE "BIG QUARTERLY": DELAWARE'S CELEBRATION OF BLACK RELIGIOUS FREEDOM

● Mr. BIDEN. Mr. President, whatever our problems of the moment may be as a nation, it is good to be an American, and we all know it.

Each August in Delaware, we are reminded by the unique celebration of the "Big Quarterly," that our State was the birthplace of black religious freedom in the United States of America.

The greatness of our Nation is a direct result of the contributions made to our society by the diverse ethnic origins, philosophical and political viewpoints, and religious convictions that characterize our people. Our success in maintaining the democratic traditions and ethnic variety of our society is vitally important to our continued vitality as a nation and to our historic national role as a model and an inspiration to people everywhere.

The many contributions Afro-Americans have made to our society are beyond question. Their culture and their heritage should take their rightful place in the history of this country. Of no less importance to Delaware is the role Afro-Americans have played in the history of our State.

Mr. President, in Wilmington, Del., the Association for the Study of Afro-American Life and History and the Mother African United Methodist Protestant Church are sponsoring the production of a 1-hour documentary film about the history of the "August Quarterly Celebration" and of the first independent black church established in the United States. Production of this film, "The Big Quarterly," will enable Americans across the country to know that black religious freedom in America began 168 years ago in Wilmington.

Cultural Encounters, Inc., a minority media company that will produce the documentary, has described the historical significance of the Big Quarterly:

Delaware is well known as the First State because Delaware was the first of the 13 original states to ratify the Constitution, on December 7, 1787. Not as well known is the fact that 26 years later, during the depths of slavery, Delaware was again the

First State in recognizing an independent black church. The events and personalities involved in this unique achievement are a little-known but highly significant aspect of Delaware's rich heritage.

Wilmington, Delaware, was the cradle of black religious freedom in the United States. Absolom Jones, the first black Episcopal priest, was a Delawarean. Richard Allen, founder of the African Methodist Episcopal Church, was a Delawarean. And it was another Delawarean, Peter Spencer, who established the first completely independent black denomination in 1813. Spencer's first church, the Union Church of Africans, was built in Wilmington on land acquired with the help of Quakers. It was built by congregants who followed the theological and ethical tenents of Methodism.

The Union Church of Africans was the forerunner of a widespread movement toward religious freedom for blacks that has resulted today in more than 26 predominantly black denominations with a combined membership of 13,988,000 in 60,360 churches nationwide. Although Wilmington was a major point of origin for the development of this movement, which combines religious, social and political dimensions, this fact remains obscure and virtually unknown outside of the region's black religious community.

Since 1813, Wilmington has been the home of the oldest continuously celebrated black religious street festival in the Nation, the Big Quarterly. The Big Quarterly commemorates the founding of the Union Church of Africans and honors its founder, Peter Spencer. Up to 30,000 people have attended this annual celebration from as far away as New England and Virginia. It is an occasion of great pride to those who know of its origins and its significance in the struggle for religious freedom.

Today the direct successor to Spencer's first church is the Mother African United Methodist Protestant Church in Wilmington. The Mother A.U.M.P. Church has continued the annual tradition of the Big Quarterly on the last Sunday in August on the site of the original church on French Street in Wilmington. The celebration includes preaching, praying, singing, refreshments, family reunions, and other cultural and religious activities.

From its inception, the Big Quarterly has combined religious, social and political elements. It was through the work of Peter Spencer that blacks won the right to preach from their own pulpits and to worship God in their own manner. Slave owners permitted their slaves to attend the Big Quarterly for one weekend a year of religious freedom and association with both freed and enslaved blacks who came from many states in the region.

We can only speculate about the importance of this annual gathering to the unification of blacks in their political struggle for freedom, but it would be difficult to believe there has been no connection. During slavery times, Wilmington was a gateway to freedom, a major stop on the Underground Railroad. The Union Church of Africans provided a forum for political debate and action, and it was an important link in the anti-slavery movement. In recent times, the black churches have provided the leadership and social structure for the modern civil-rights movement that gained momentum in the 1960's.

Today the original United Church of Africans has been torn down and replaced by a public plaza and the Boggs Federal Building. But the Big Quarterly is still celebrated and remains the focus of rememberance of the events that led first to black religious freedom and now toward equality in political and economic opportunity.

Mr. President, the Big Quarterly continues to attract large numbers of people to Wilmington every year in August. I remember well the Big Quarterlies of my youth, and I have participated in the celebration in more recent years. Now, as then, it is an occasion that blends solemnity and gaiety in commemorating the contributions of Peter Spencer and his independent black churches toward black religious freedom. Now, as then, it expresses the dignity and joy of a people who passed a major milestone on their pathway to liberty 168 years ago in Wilmington and still pursue the great goal of the fullest possible participation in our society today.

That was a major milestone, not only in the history of Delaware and the history of Afro-Americans, but also in the history of the United States of America. I am glad Americans all across this land are to have the opportunity to become better acquainted with the historic and spiritual dimensions of this unique celebration.●

MUTUAL AND BALANCED FORCE REDUCTION TALKS

● Mr. PRESSLER. Mr. President, two recent occurrences drew my attention once again to the Mutual and Balanced Force Reduction (MBFR) Talks in Vienna, Austria. The first was the publication of the most recent issue of Strategic Survey by the International Institute for Strategic Studies. The second is the conclusion of July 23 of the 24th round of the MBFR talks, which began October 1973.

Although it has been easy to point to the MBFR talks and characterize them as unproductive and unworthy, I firmly believe that MBFR has performed a valuable role in maintaining stability and can continue to do so. Strategic Survey (pages 110–111) astutely observed that—

even if movement remains sluggish the transformation of Vienna into a kind of de facto multilateral standing consulative committee to exchange information and query suspicious developments has some virtue, notwithstanding the lack of progress in the data discussion. MBFR might therefore become at least a forum for providing reassurance about the force deployments of East and West in Europe.

The conclusion of the 24th round of the talks underscores the difficulty of reaching an agreement, but, nevertheless, provides evidence that there is value in continuing the talks, which will resume in late September. MBFR is the only alliance-to-alliance negotiation in progress, and, for that reason alone, serves the United States well. We can exchange information with the Eastern Bloc on subjects such as new weapons or troop deployments. The negotiation also serves an equally valuable function in providing a forum for exchange of information and ideas of all kinds with our allies. This opportunity to assure our allies of our continued commitment to arms control and discuss their increasing concerns about an arms race may itself well justify the talks, especially since the theater nuclear forces TNF and SALT talks are still some time from beginning. The MBFR talks then have served as a safety valve for venting suspicions, even if the reductions once hoped for have not materialized.

It is my opinion that the talks must continue even if they only serve this general purpose. I think that this is especially true in that the Conference on Security and Cooperation in Europe has not produced any forum during its meeting in Madrid that could serve as a substitute for MBFR. I also believe that the negotiations in Vienna have provided invaluable insights into Soviet thinking and force structure, the sort of information that is readily available in the West but which the East carefully obscures.

There is still hope, in addition to these general advantages, that the MBFR talks can achieve success in more specific ways. I trust that the Reagan administration will give full attention to these possibilities. I personally continue to believe that the United States can withdraw some of its forces from Europe without damaging our defense posture, and that these withdrawals can serve as bargaining chips. If what one hears of repositioning our forces closer to the East German border is a serious possibility, that, too, is grist for the negotiating mill.

There are other possibilities for substantial breakthroughs as well—in the area of associated measures, for example. Two excellent studies of MBFR, which have recently appeared, John G. Keliher, The Negotiations on Mutual Balanced Force Reductions and Jeffrey Record, Force Reductions in Europe, discuss associated measures and other options in detail.

As I have noted elsewhere, the Reagan administration's potential for making far-reaching arms control agreements is analagous to President Nixon's opening of diplomatic relations with China. A Republican could do what a liberal Democrat could not do, and so it may be with President Reagan. Let us not limit our hopes for a dramatic breakthrough in arms control to strategic systems. The conventional forces in central Europe are a fertile ground for dynamic reductions or comparable arms control advances and MBFR remains a splendid springboard for such proposals. If the Soviets turn a cold shoulder, then so be it, and the onus rests upon them. But let us leave no stone unturned in a bold search for a just peace.●

BIGGEST LITTLE STATE IN THE UNION

● Mr. PELL. Mr. President, Rhode Island is the "biggest little State in the Union." That is the message of an upbeat song and a new campaign to highlight Rhode Island's variety, history and vitality—"everything under the Sun."

The campaign, kicked-off yesterday by Governor J. Joseph Garrahy, is designed to encourage Rhode Islanders to take pride in our State's attractions—including a rich historical setting and 100 miles of beaches within easy reach.

As designed by the Governor's "Business-Labor Partnership," the Department of Economic Development &

Creamer, Inc./New England, an advertising agency, the campaign also will spread the word to those outside Rhode Island.

That word, of course, is that Rhode Island has much to offer residents, visitors, business, and industry as the "biggest little State in the Union."

Bright buttons and bumper stickers, in Rhode Island's white, gold, and blue colors, will pick up that theme that we are proud to have the "biggest little State in the Union."

The song that will be the linchpin of the campaign is the work of Bill Comeau of Creamer, who wrote the lyrics, and Rob Carlson, a Rhode Islander who wrote the music and sings the song.

There's a story to be told,
It's new and yet it's old.
It's small but its as big as the deep blue sea.
It's younger than today, and
Three hundred years away.
Take my hand and come with me.
We're the biggest little state in the union.
Rhode Island, Rhode Island,
We're the biggest little state in the union.
Rhode Island, Rhode Island,
There's something here for everyone,
Everything beneath the sun
In the biggest little state in the union.
There's a special kind of magic,
A place where dreams can grow.
If you've come to work or come to play,
You're never far from everything,
No matter where you go.
Rhode Island is a place you'll want to stay.
It's a hundred miles of beaches,
And a taste of history,
From Providence to Newport
With its castles by the sea.
And when tall white sails are shining out
On Narragansett Bay,
Point Judith to Block Island sail away.

I must caution any of my colleagues who would like sheet music, however, that the demand has been so great in Rhode Island that copies will not be available, at least for a while.●

LT. GEN. WILLIAM GINN, JR.

● Mr. WARNER. Mr. President, I rise to say a few words in tribute to Lt. Gen. William Ginn, Jr., of the U.S. Air Force, who is retiring after a career spanning more than 34 years in the service of his country, and soon will be taking up residence in Alexandria, Va.

In his distinguished career, General Ginn served most recently as commander of 5th Air Force, where he commanded all Air Force units in Japan. He also wore a second hat as commander of U.S. Forces, Japan, and took the lead in discussions aimed at upgrading Japan Self-Defense Forces (JSDF). His efforts to improve Japan's entire defense posture set in motion a process that promises to have a positive impact on United States-Japan relations for years to come.

As commander of 5th Air Force, General Ginn's forces were strategically located at bases in Japan and Korea to provide immediate credibility to the strength and purpose of our national policy in the Pacific. During the period of his command, there were significant improvements in Air Force facilities and weapons systems in that area.

General Ginn's exemplary service in this extremely sensitive assignment during a period marked by increasing geopolitical tensions has been of immeasurable value to our Nation's military posture and strategy in Northeast Asia.

In addition to his assignment in Japan, General Ginn has served in recent years at SHAPE and USAFE headquarters in Europe, and as commander of U.S. logistics group in Ankara, Turkey. Prior to his overseas assignments, he had been commandant of the Air Command and Staff College and Squadron Officer School at Maxwell Air Force Base, Ala.

He is a command pilot with more than 6,000 flying hours in 75 different aircraft. He logged more than 300 combat missions in 17 types of aircraft while serving as deputy commander for operations of the 14th Special Operations Wing in Vietnam.

Among his several awards and decorations are the Distinguished Service Medal, Legion of Merit, Distinguished Flying Cross with oak leaf cluster, Meritorious Service Medal, Air Medal with 12 oak leaf clusters, Joint Service Commendation Medal, Air Force Commendation Medal, Army Commendation Medal, Air Force Outstanding Unit Award with "V" device and two oak leaf clusters, Combat Readiness Medal, and the Republic of Vietnam Gallantry Cross with gold star.

From his first year in the U.S. Marine Corps to his 33 years in the U.S. Air Force, General Ginn has served his country long and faithfully. By his record, he has brought great credit upon himself and his service.

As he retires, I am very pleased to pay well-deserved tribute to my fellow Virginian and to commend him for his distinguished career.●

OIL THEFTS FROM INDIAN AND FEDERAL LANDS

● Mr. MELCHER. Mr. President, in November of 1980, the Select Committee on Indian Affairs, which I then had the privilege to chair, began an investigation of oil thefts from Indian and Federal lands. The investigation was precipitated by allegations of oil thefts on the Wind River Reservation in Wyoming which were brought to the attention of the Select Committee on Indian Affairs through news accounts primarily in the Denver Post.

On December 18, 1980, I sent the committee's staff director to Denver to meet with Mitchell Rogovin, the attorney retained to represent the Wind River tribes, and with Touche-Ross, Co., the accounting firm retained by the tribe to determine whether the proper amount of oil royalties had been paid.

The following day, December 19, 1980, I met in Billings, Mont., with George Jennings, assistant area director, and Tom Whitford, deputy area director, Billings, Bureau of Indian Affairs, Tom Richmond, acting district supervisor, Conservation Division, U.S. Geological Survey, and Tom Acevedo, Field Solicitor's Office, Department of the Interior.

The purpose of the meeting was to brief me on the procedures involved in protecting Indian and Federal royalty owners and insuring that Federal and Indian oil is properly accounted for.

As a result of this meeting, Bureau of Indian Affairs personnel photographed all of the oil and gas production facilities in the Wind River Reservation. This process was completed on December 22, and 380 photographs were sent to the committee office.

The photographs emphasized those areas where oil may have or could be stolen.

For the next 6 weeks, the staff proceeded to meet with General Accounting Office investigators working in the area of oil royalty accounting procedures, and with a number of tribal officials from Montana and Wyoming who were concerned about protecting their oil royalties.

In addition, on February 26, I met with Secretary of the Interior, James Watt, to discuss the problems associated with the monitoring and inspection of Federal and Indian oil leases.

These preliminary meetings raised serious questions in my mind about whether the Federal Government, through the U.S. Geological Survey, was fulfilling its mandate to protect, with due diligence, Federal and Indian resources and royalties.

Mr. President, the Federal responsibility, which rests mainly with the U.S. Geological Survey, to ferret out any abuse of these Indian and public resources, includes the verification and collection of royalties and the monitoring of all phases of mineral operations. The USGS is required to inspect oil and gas well drilling, producing lease sites, abandoned wells, and oil and gas meters.

If this responsibility is not met, the victims are not only Indian tribes but also the U.S. Treasury and consequently all U.S. taxpayers. In addition, the States, which are entitled to one-half of all royalties from oil and gas on public lands, are losing their share of royalties.

In light of the challenges raised in November and December of 1980 to the adequacy of Federal safeguards in protecting Federal and Indian oil, the Select Committee on Indian Affairs embarked on a series of investigative hearings designed to examine how oil thefts have been possible and how they can be prevented on Federal and Indian lands.

Three hearings were held: The first in Billings, Mont., on February 27, 1981, the second in Washington, D.C., on April 6, 1981, and the third in Albuquerque, N. Mex., on June 1, 1981.

These hearings as well as onsite oilfield inspections by myself and committee staff are the basis for an interim report currently being drafted by committee staff.

Attached at the conclusion of these remarks are my own preliminary findings and recommendations. These recommendations address the need to create a new system or restructure the current system, the USGS Conservation Division, in order to promote good management and supervision of oil leases and reduce opportunities for fraud and abuse to minimal levels.

This kind of management and supervision, which includes streamlined and continuous auditing at every production level through the refinery stage, will no

doubt take time and a substantial investment of money.

However, I firmly believe that the stakes are too high and the resources too critical for the cost to be a deterrent.

Mr. President, on July 15, 1981, as the committee staff was in the process of drafting its interim report. Interior Secretary James Watt announced the creation of a panel that will spend the next 6 months studying the Federal oil royalty accounting system as well as possible theft on Federal and Indian oil lands. This action is commendable.

The Secretary's announcement of this new investigative panel seems to lay all the blame at the feet of an antiquated royalty management system. There is plenty wrong with that system.

In fact, just about everything is wrong with it. But, bad as it is, the virtual indifference of Interior's Conservation Division personnel—of the U.S. Geological Survey—to their own inspection and enforcement regulations poses the most serious threat to Indian and Federal oil revenues.

Mr. President, I agree with the Secretary that little has been done in the past by the Interior Department to put a stop to the loss of oil and gas royalties and oil thefts from Indian and Federal lands.

Secretary Watt has known about problems with the royalty management system and the reports of theft since he took office; and, after some personal pleading, I am delighted to see him acting to correct the shortcomings plaguing Federal and Indian oil and gas productions.

I only hope this Commission finds out that the Senate Select Committee on Indians Affairs has just spent 9 months covering the same ground.

Besides holding three investigative hearings, the committee staff poured over cartons of correspondence, memoranda, and filed notes taken directly from USGS Conservation Service district offices. And we have directed that these offices scour their files for more data on suspected theft.

Moreover, we have ordered up the schematic diagrams for the piping in these fields so that, probably for the first time in the history of many of these leases, we will be able to determine what has been going on.

We have a serious problem in the oil fields that a hidebound bureaucracy has been unable to resolve. A cooperative effort now between the Senate's Indian Affairs and Energy and Natural Resources Committees and Secretary Watt and the new panel will save everyone time and a great deal of money.

Such a cooperative effort will, however, require a continued, intensified and expanded effort on the part of the Select Committee on Indian Affairs and its staff. Mr. President, this effort in turn, calls for additional funds. At a committee business meeting held on July 25, there was a clear consensus among committee members that we must with all due dilligence pursue this investigation.

The committee also agreed that supplemental funding would be necessary if we are to pursue a thorough and comprehensive investigation of oil theft and Federal management of oil leases and royalties for Indian and Federal lands.

Mr. President, I am hopeful that the committee will soon report a Senate Resolution requesting a supplemental budget for this purpose. There are a number of findings and recommendations. I would like to call to the attention of the Senate.

These additional funds are essential for the following specific reasons:

First. According to U.S. Geological Survey, USGS, testimony, an enormous loss of oil royalty payments from Indian and Federal leases may be occurring of up to $1 million per day. Both USGS officials and Secretary of the Interior, James Watt, have noted that $4 billion in royalties are collected annually from Indian and Federal mineral leases with projections of up to $20 billion by 1990.

Because of inefficient, inaccurate and incomplete accounting procedures, the possibility of a million dollars per day being unaccounted for could increase as production of oil and gas on Federal and Indian leases increases.

Second. There can be no solid basis for an accurate accounting system without proper Federal inspection and supervision of the production and sale of oil and gas from Indian and Federal leases.

The Conservation Division of the USGS, which has the responsibility of monitoring and supervising production on the Indian and Federal leases, does not have flow diagrams of buried oil pipelines from producing wells nor schematic diagrams of piping at oil storage facilities.

Without this most basic information on production and storage of oil from Federal and Indian leases, the USGS inspectors cannot verify the flow of oil from the pipelines to the storage batteries, nor can they verify, onsite, the actual operation of the pipes and valves at the storage batteries to determine the flow of oil prior to its metering by LACT meters or measurement of the tanks at times of sales.

Third. The USGS Conservation Division in my judgment, fails to adequately inspect lease sites, does not properly enforce its own security regulations requiring seals and locks, and cannot accurately account for the production of oil on Federal and Indian leases at the point of metering or measuring the oil sold at the lease site.

Fourth. I believe the USGC Conservation Division has been derelict in its duties by not requiring correction of unapproved storage facilities, unapproved metering systems, and fraudulent reporting that wells are not producing when, in fact, they are.

They have not eliminated improper flow pipes from storage tanks that bypass LACT meters, just as they have not required operators, in many instances, to lock and seal valves, tanks, meters, and pipes.

Fifth. During the past 7 months, the committee has received numerous reports af alleged oil thefts from Indian and Federal leases. A new reported irregularity—I want to make clear that the irregularity may not be theft—was reported yesterday. Blackfeet oil near Cut Bank was being transported Tuesday without a "run ticket," contrary to regulations.

Sixth. The USGS has no systematic, consistent procedure for identifying, tracking, investigating, and correcting violations of lease agreements, regulations, or highly suspicious occurrences.

Seventh. I believe there is a lack of adequate manpower and training in the USGS Conservation Division.

Eighth. There is no apparent Federal jurisdictional authority to police the flow of Indian and Federal oil from the leases to the point of delivery to refineries or reclaimers or to pipelines off the leases.

Ninth. I believe to properly establish production of oil and gas on Indian and Federal leases, Congress must require a thorough and far-reaching reorganization of the duties of the USGS Conservation Division. This reorganization must mandate inspection and veritification of production from Indian and Federal oil and gas wells, with flow diagrams of underground and surface pipes and with verified schematic drawings of pipes and valves of storage tanks that are measured or subject to LACT meters.

Tenth. I believe that it is necessary that a reorganized, restructured USGS Conservation Division have an increased number of inspectors who are adequately trained, required to enforce the current USGS regulations, and delegated the authority to assure proper accounting of oil and gas from Indian and Federal leases at the point of sale.

Eleventh. The cost of such reorganization, restructuring and increasing the personnel in the USGS Conservation Division will provide the basis of developing an accounting system that will provide more revenue to the Federal Government, to the States and to the Indian tribes. The committee estimates that the cost will be exceeded by an increased revenue of $500 million or more over the next 3 years.

Twelfth. I believe the Secretary of the Interior's trust responsibility to the Indian tribes on their oil and gas production has not been adequately safeguarded during, at least, the past decade.

Thirteenth. In order to quickly correct the inadequacies in the Federal responsibility for inspection and supervision of Indian and Federal leases and to protect the royalties due from such leases to the Federal Government, the States and Indian tribes, during the next 6 months a strong effort by the Select Committee on Indian Affairs and the Committee on Energy and Natural Resources should continue field investigations and documentations of failures and inadequacies of the Conservation Division's responsibilities on Federal and Indian oil and gas leases and to work with Secretary Watt's newly designated "Commission on Fiscal Accountability of the Nation's Energy Resources."●

INTER-AMERICAN RAIL SYSTEM

● Mr. BUMPERS. Mr. President, Alan Boyd, the president of Amtrak, may have had the experience of the Inter-American in mind when he testified before Congress in April 1979 as follows:

We cannot provide safe, modern, fast, convenient and reliable service—as directed by Congress—with locomotives built in the 1930s, passenger cars built in the 1940s and 1950s, trackage and roadbeds whose major characteristic is "deferred maintenance," stations which are falling apart, schedules which serve major markets less than daily or in the middle of the night . . . or both, routings which are circuitous, and a fleet which can never be responsive to peak demand. (Amtrak Annual Report, 1979)

The unfortunate part is that Amtrak could not possibly correct all the system's shortcomings overnight. Even more unfortunate is the fact that the Inter-American will be left out of a rail passenger system because of years of neglect and finally, too little, too late.

From the beginning, the Inter-American has been run so that it is a wonder anyone has ridden the train more than once. A House subcommittee investigated the route in 1974 and 1975, and the report states:

Although sufficient funds ($4.5 million) were appropriated by Congress to provide an adequate service, Amtrak has shifted about $2 million to other purposes. . . . The ridership and the financial results of the Inter-American have been better than expected despite innumerable adversities such as the tri-weekly service limitation, slow running time, circuitous routing, failure to make connections with other trains, inadequate stations and facilities, frequent equipment failure, and poor on-time performance. (Report by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, 1975.)

Much the same could be said today.

Two and a half years ago, when the Carter administration wanted to substantially reduce the size of Amtrak's system I was inclined to go along. I had never heard anything but complaints about the Inter-American from all but the most ardent railroad buffs, and ridership was not high.

In the spring of 1979, of course, America suffered an energy shortage which made all too clear that our love affair with the automobile and relatively inexpensive energy had its limits. I have always been a supporter of Amtrak, though I was not particularly satisfied with the operation of rail service in Arkansas.

Since 1979 I have watched with amazement as ridership on the Inter-American has grown substantially despite major problems. The ridership figures alone are impressive; when other factors are taken into account, they are nothing short of unbelievable.

RIDERSHIP

Ridership on the Inter-American increased 36.8 percent from fiscal year 1979 to fiscal year 1980, and through May of this year, ridership has increased 31.2 percent over fiscal year 1980. This latter increase is the largest among all long-distance routes in this fiscal year and tops other routes that had a ridership base change and superliner equipment introduced early in the year.

The Inter-American received its superliner equipment in late April of this year, so this figure represents just 1½ month of superliner use.

The average increase in ridership on long-distance routes in fiscal year 1980 was 8 percent, while the increase in this fiscal year is 8.2 percent. The fiscal year 1980 increase over fiscal year 1979 ridership on the Inter-American was due in part to the institution of 7-day service on October 1, 1979, and was the third largest among all long-distance trains.

ON-TIME PERFORMANCE

On-time performance, one of the major factors affecting ridership, has deteriorated from fiscal year 1979 to fiscal year 1980 to fiscal year 1981. From October, 1979, through May, 1981, the monthly on-time performance of the Chicago to Houston and Chicago to Laredo trips have exceeded the average monthly on-time performance of long-distance trains only four times. In fiscal year 1981, the monthly on-time percentages have been among the worst three in every month, ranging from 16 to 50 percent below the average.

Equipment breakdowns and freight-train interference are the two principal causes of trains failing to arrive on time. Unfortunately, the equipment on the Inter-American has, up until recently, been the oldest, and Amtrak officials have not aggressively tried to eliminate the freight-train interference.

AVAILABILITY OF EQUIPMENT

There is simply no way to know how many people have been turned away from the Inter-American due to lack of space. I only know that practically every weekend this year the northbound trains through Little Rock were running full and people were turned away at the station.

QUALITY OF EQUIPMENT

The Inter-American just received the Superliner equipment in late April of this year. On other routes where this equipment has been introduced, ridership has increased up to 30 percent according to Amtrak.

In addition, fuel and maintenance costs have decreased with the use of Superliners, while on-time performances have improved. There is no reason to expect that such equipment will not do the same on the Inter-American route.

UNJUSTIFIABLE SERVICE

The continuation of service from Temple, Tex., to Houston and Laredo, Tex., when travel time by car is considerably shorter and when those segments clearly detract from the overall passenger mile per train mile ratio, has been questionable.

An analysis of the ridership in April 1981 yields the following information, which I ask to have printed in the RECORD.

The material is as follows:

Passenger mile/ train mile	*Rouse segment*
285	Chicago-St. Louis
252	St. Louis-Little Rock
221	Little Rock-Dallas
163	Dallas-Temple
150	Congressional criterion
75	Temple-San Antonio
9	San Antonio-Laredo
44	Temple-Houston

SCHEDULING

Mr. BUMPERS. Mr. President, I have never known the Inter-American to pass through Little Rock, a major originator of traffic on the route, at a decent hour. At the present time, the one daily southbound train stops in Little Rock at 5:46 a.m., while the one daily northbound train stops at 12:52 p.m.

For reasons that are not clear to me, Amtrak officials have declined to slow the train between St. Louis and Little Rock—when few passengers would be getting on or off the train—on the southbound trip so that Little Rock passengers could board at a more civilized hour. The train instead slows down after it leaves Little Rock.

STATION FACILITIES

The absence of any facilities at some stops and the rundown condition of existing facilities also adds to the inconvenience and discomfort of passengers.

SUMMARY

Amtrak officials planned to restructure service on the Inter-American earlier this year so that it would meet the criteria contained in Public Law 96–73, the Amtrak Reorganization Act of 1979. I did not object to the restructuring plans, which included the loss of service on some days, though I thought a good case could be made that—given on-time performance and other factors—this route had more than fulfilled the expectations of Amtrak officials who decided to continue it as a regional-balance route.

While Amtrak officials have not always acted on the suggestions made by me to improve the operation of the Inter-American, I also recognize the limitations they faced in trying to upgrade the operation of routes.

The people who will lose if the Inter-American is discontinued are those who have demonstrated their support through their consistent and growing patronage—despite conditions over which they had no control or influence, such as the abysmal on-time performances, the availability and quality of equipment, unjustifiable service, and inconvenient scheduling. They have supported the train anyway.

I ask that tables on ridership and on-time performances that compare the Inter-American to all long-distance routes be printed in the RECORD.

The tables are as follows:

RIDERSHIP

Month	Average percent increase among all long-distance routes	Inter-American percent change over 1 yr earlier	Rank of Inter-American among long-distance routes
October 1979	12.11	67.72	1/16
November 1979	6.5	39.5	2/16
December 1979	8.9	51.6	2/16
January 1980	13.9	20.9	4/16
February 1980	13.0	46.8	3/16
March 1980	17.66	73.3	2/16
April 1980	−1.6	53.7	1/16
May 1980	2.3	38.6	2/16
June 1980	4.3	32.4	4/16
July 1980	5.3	21.7	4/16
August 1980	12.2	22.1	4/16
September 1980	13.7	20.7	5/16
Fiscal year 1980	8.0	36.8	3/16
October 1980	24.3	21.9	7/16
November 1980	4.2	22.2	2/16
December 1980	6.8	9.3	5/16
January 1981	7.1	35.5	2/16
February 1981	6.81	13.0	2/16
March 1981	5.7	27.1	2/16
April 1981	13.1	24.5	4/16
May 1981	7.7	25.5	2/16
To date	8.2	31.2	1/16

MONTHLY ON-TIME PERFORMANCE

Month	Average percent for all long-distance routes	Chicago-Laredo Chicago-Houston (percent)	Rank among all long-distance routes of two Inter-American listings [1]
October 1978	68.3	[2] 59.7	20/25
		56.5	19/25
November 1978	63.1	48.0	17/21
		68.3	10/21
December 1978	51.4	25.0	19/21
		35.5	14/21
January 1979	39.7	3.8	17/21
		3.2	9/21
February 1979	31.1	0	[3] /22
		12.5	15/22
March 1979	48.7	11.5	21/22
		27.4	17/22
		27.4	17/22
April 1979	42.7	11.5	19/22
		31.7	13/22
May 1979	51.6	23.1	16/22
		30.6	17/22
June 1979	43.9	14.0	17/22
		6.7	21/22
July 1979	38.9	22.6	14/20
		16.1	16/20
August 1979	39.3	48.4	7/20
		14.5	16/20
September 1979	57.7	63.3	8/20
		23.3	17/20
October 1979	58.6	69.4	6/21
		50.0	13/21
November 1979	66.7	40.0	17/21
		30.0	20/21
December 1979	69.0	58.1	16/21
		33.9	19/21
January 1980	71.2	77.4	9/24
		59.7	18/24
February 1980	67.7	44.8	22/24
		34.5	23/24
March 1980	66.6	43.5	21/24
		35.5	22/24
April 1980	61.5	10.0	23/24
		23.3	21/24
May 1980	67.9	40.3	21/24
		29.0	22/24
June 1980	59.7	41.7	16/24
		33.3	18/24
July 1980	49.6	27.4	15/21
		25.8	16/21
August 1980	56.5	43.5	15/21
		41.9	16/21
September 1980	77.7	53.3	21/21
		63.3	19/21
October 1980	79.9	58.1	19/21
		62.9	20/21
November 1980	84.4	45.0	21/21
		51.7	20/21
December 1980	72.2	29.0	21/21
		33.9	20/21
January 1981	77.9	59.7	19/21
		56.5	20/21
February 1981	80.4	30.4	21/21
		33.9	20/21
March 1981	81.6	38.7	21/21
		43.5	20/21
April 1981	77.3	31.7	20/21
		30.0	21/21
May 1981	77.6	37.1	21/21
		40.3	20/21

[1] Where ties occur, Inter-American was given lower numerical ranking.
[2] Actually denotes Chicago-Dallas service, this month only.
[3] Tied for last. ●

HELP FOR TELEVISION VIEWERS

● Mr. GRASSLEY. Mr. President, in this day and age, it sometimes seems that big institutions dwarf the individual, and that irresistible forces control our lives.

For years, citizens have felt that way about Government, but their frustration culminated in a mandate for change last November. Together, voters were able to send a message to Washington that one individual alone could not express. The overwhelming vote just yesterday on the tax package indicates just how well Congress has gotten the message.

A similar wave of resentment is welling among television viewers, many of whom feel bombarded by programing which conflicts with their values. But the response to objectionable programing is not further Government control of the industry or censorship. Rather, it is for viewers who are offended by the message TV shows bring across the public airwaves to find a medium to get their own message across—to light a candle instead of cursing the darkness.

Lighting such a candle is the local church I attend when in Washington, Woodlawn Baptist, which is providing a packet of materials entitled "Help for Television Viewers." Prepared by the Southern Baptist Convention, the materials include an in-depth discussion of the effect of television today and advice on what to do and whom to write to help viewers determine the kind of television programing offered in their homes.

I ask that three sections of this report, "How Television Affects Us," "What Individuals Can Do," and "What Families Can Do" be inserted at this point in the RECORD.

The material follows:

HELP FOR TELEVISION VIEWERS

HOW TELEVISION AFFECTS US

Television has a significant impact on people who view it regularly. Responsible studies have demonstrated that behavior, attitudes, and values are influenced by what we see on television. How does television affect our lives? What is the positive as well as the negative moral impact of television? We need to understand how television affects us so that we can affirm the good and change the bad.

Is television addictive?

Not only must Christians be concerned about the content of television programs, but we must also give attention to what the very process of watching television does to us. We must avoid watching morally objectionable programs and work to see that these programs are removed from the airwaves. But watching too many programs, even good programs, can harm us. Viewing television can become addictive. It can keep us from more important pursuits. It can block development of good relationships. It can cause us to neglect family and friends. It can keep us from engaging in worship, helping people in need, reading good books, participating in wholesome recreation, and studying the Bible.

In her book entitled The Plug-In Drug, Marie Winn declares that television is a drug that parents often "give" to their children to keep them quiet by getting them into a passive state.[1] She warns that this "plug-in-drug" is harmful to human health, and she insists that it must be drastically curbed or even eliminated from a family's routine.

It is evident that many children do get dependent upon television and in some sense become addicted to it. Many parents have observed withdrawal symptoms that take place when children are taken away from the television set for a while. But this is not simply a children's malady. It affects adults the same way. They can also become addicted to TV. Since children are in the process of mental and social development, however, it seems to be far more harmful to them than to adults. But television addiction is bad for all ages.

We should work to improve the content of programs, and we must also work to make certain that addiction to television does not hamper the moral and social development of both children and adults.

The impact of television violence

Violence on television is a fact of life. Not all violence on television, of course, is harmful to those who view it. In the showing of "Jesus of Nazareth," for example, there were powerful, responsibly handled scenes of violence such as the one when Jesus was crucified. It is not the fact that violence is shown that is objectionable; it is the exploitive manner in which it is shown that must be condemned. Television has an obligation, because it is a public medium, to present violence in ways that will not violate moral standards of decency and good taste. Violence can be realistically portrayed without being excessive or morally offensive.

Since violence is a gravely serious problem in our society, television can be valuable in educating us to the fact that violence is real. Sometimes TV has done this. Far more frequently, however, television has contributed massively to the problem of violence in America. Those who say that TV has reflected the violence in our society are correct. TV has done this. But TV has also irresponsibly contributed to the high level of violence.

Many parents have expressed their concern about the impact of crime, violence, and horror shows on their children. Such shows often frighten young children, cause them to have bad dreams, and sometimes cause them to reenact morally objectionable scenes. In many studies, Albert Bandura has demonstrated the negative impact of violent TV shows on children. He says: "If parents could buy packaged psychological influences to administer in regular doses to their children. I doubt that many would deliberately select Western gunslingers, hopped-up psychopaths, deranged sadists, slapstick buffoons, and the like, unless they entertained rather peculiar ambitions for their growing offspring."[2] Yet children are now being served exactly this kind of fare by television.

There are many indications that television affects the way people behave. A classic example of this was the showing of a program entitled "The Doomsday Flight," in which there was a bomb threat. When this program appeared on American television in 1966, the Airline Pilots Association protested. They tried to persuade NBC not to show it but were unsuccessful. When the program was shown, there were eight similar bomb threats made at different airports around the country. Fortunately, none of the bombs materialized. In 1971, however, the program was shown again on Australian television and Qantas Airways had to pay out $560,000 in a bomb hoax which was modeled on "The Doomsday Flight."[3] It is clear that this program invited imitation of violent crime and affected the behavior of some adults.

Additional studies prove the impact of television violence on human behavior. Moreover, common sense and daily experience tell us that television influences behavior. The fact that advertisers spend billions of dollars in the belief that television will influence people to buy products is overwhelming evidence of its influence. The television industry enthusiastically agrees with these advertisers that behavior can be influenced. When it then contends that violent programs do not influence people toward violence, it is simply not believable.[4]

Some defenders of current programming claim that television drains off aggressive behavior in children and adults. They maintain that television serves as a catharsis by showing violence which enables people to be purged of their own violent impulses. According to the National Commission on the Causes and Preventions of Violence, however, there is little scientific evidence to support this view: "We believe it is reasonable to conclude that a constant diet of violent behavior on television has an adverse effect on human character and attitudes. Violence on television encourages violent forms of behavior, and fosters moral and social values about violence in daily life which are unacceptable in a civilized society."[5]

Constant exposure to television violence desensitizes people and numbs them to the pain and suffering of others. Seeing so much

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violence causes some to be relatively unaware of the impact that violence can have on people. Violence does have an impact on behavior. Common sense teaches us that behavior is affected by television violence and common sense cries out for something to be done.[6]

Alcohol and TV

Although hard liquor is not advertised on TV, beer relies heavily on TV advertisement and the wine industry has sharply increased its TV advertising in the last few years. The alcohol commercials on television are particularly objectionable, bringing into our homes attractively packaged promotion of the most abused drug in the history of the human race.

Ernest Noble, executive director of the National Institute on Alcohol Abuse and Alcoholism, in testifying before a Senate subcommittee, said: "We cannot afford the luxury of continuing current advertising practices until the full effects of alcohol beverage advertising are known. . . . My fear is that the appeals in beverage alcohol ads offer an instant solution to complex social problems and those who grasp at this solution certainly run a high risk of adopting attitudes that may result in problem-drinking behavior."[7]

The alcohol industry also receives a great deal of free television advertising in that numerous programs favorably depict the consumption of alcoholic beverages. In a recent survey of 250 hours of prime-time TV programming, the Christian Science Monitor noted that there were scenes involving hard liquor 507 times, ten times more than soft drinks were used. In real life, however, soft drinks are consumed sixteen times more frequently than liquor. The consumption of alcoholic beverages is grossly overrepresented on TV and does not reflect real life in an accurate or morally responsible way.

Other objectionable aspects of alcohol use on TV include: (1) the implication that the heavy use of alcohol contributes to sexual attractiveness, financial success, social attainments, maturity, and sophistication; (2) the excessive use of alcohol for so-called comedy purposes; and, (3) the implication that abstaining from the use of beverage alcohol is not socially acceptable.

In short, the advertising and consumption of alcohol on TV intensifies the soaring alcohol abuse problem in our nation.

Television and sexuality

Television serves many functions, and one of the most important is that of teacher. Sometimes television's role as teacher is recognized and sometimes it is not. But day in and day out television teaches us.

One of the areas about which television teaches us is human sexuality. Sometimes television provides wholesome information about sexuality. Recently, for example, a special TV program treated childbirth factually and responsibly. At times television presents models of parents relating to each other with joy, responsibility, and fidelity. But what is true in television's treatment of violence is also true in its treatment of sexuality. Far too often, it has been more negative than positive as its treatment of sexuality has been exploitive, sensational, and morally irresponsible.

Television has actually become the major sex miseducator in our society. It influences millions of people, and it influences them to have sexual views that are biblically and morally wrong. Television often manipulates people through canned audience applause to think of sexual innuendos as funny. Many of these shows ridicule sex. They remove the celebration of sex as God's good gift and replace it with off-color humor.

Claiming to be open and liberated, many of these shows actually are narrow and limited in their treatment of sex. Television often belittles responsible sexual relationships. It presents adultery as glamorous and fidelity as boring. Many TV shows downgrade marriage. They magnify sexual freedom and ignore sexual responsibility.

One of the most serious failings of television is its treatment of women as sex objects through commercials, dramas, situation comedies, and variety shows. We get the clear message through these programs that women are to be used, that the most important thing about a woman is her sex appeal, and that personality, ability, character, decency, responsibility, and fidelity do not really count for much.

Too often when television does treat sexual themes, it takes a sensational and superficial approach. It makes light of homosexuality and takes adultery for granted. The daytime serials present a steady diet of abnormal and immoral sex which prostitutes those who participate in the sexploitive dramas and hammers away at the moral values of those who view them.

Day in and day out, therefore, television serves as society's chief sex miseducator. This is one of its most negative impacts. Even TV's strongest defenders must be ashamed of the shoddy way sexuality is treated on television. Christians concerned about the well-being of society must act to correct this abuse of television.

TV ought not to stop treating sexuality; it ought to start treating sexuality more responsibly.

The impact of television commercials

Television plays a valuable role by providing information to consumers about some products they need. The problem comes when television turns its opportunity to inform into an occasion to manipulate.

Television advertising is big business. It has grown from $300 million in 1952 to $1.8 billion in 1964 to $6 billion in 1976.[8] Television advertisers would not spend this much money if they were not making an impact on viewers. They are getting a lot of people to buy a lot of products. If this were not the case, the sources of money for commercials would dry up.

The television industry often presents the notion that commercial television is free. They say that the public should be grateful to have such wonderful programs provided at no cost. The fact is that television is not free. The $6 billion bill for television advertising in 1976 was added to the cost of the products which consumers bought. So television costs consumers a very great deal of money—billions and billions of dollars each year. But it costs more than money. It costs us in many other ways as well—in exposure to misleading ads, in creation of utterly frivolous appetites, in manipulation of children to buy unneeded products, and in promotion of planned obsolescence which irresponsibly fosters an unworthy stewardship.

What do TV commercials teach us about life? What do they do to us as individuals? At times, commercials are openly deceptive. They make claims which cannot be substantiated. They divert attention from the nature of a product by developing a clever jingle to go with it or by showing a deceptively conceived picture to accompany it.

When it can be documented that commercials are deceptive, the Federal Trade Commission can take corrective action. A major auto maker was restrained from using an ad that showed the clearness of its window glass because the scenes were shot with the windows rolled down. A popular tonic maker can no longer claim a cure for "tired blood" due to FTC action. A mouthwash cannot be advertised as preventing colds. When deceptions are evident, the FTC can, should, and sometimes does, act.

Television advertisements also create a climate of excessive materialism. They nurture a preoccupation with things. Their underlying message is that the more things one possesses, the better one will enjoy life. Christians must be deeply concerned about such a denial of Christ's teaching that a person's life does not consist in the abundance of the things possessed (Luke 12:15). These commercials have a profound impact, in spite of Christian teaching and preaching, on the way Americans today think about money and the possession of things. Christians must be especially concerned about the values that these commercials teach children.

A young boy once badgered his parents before Christmas to buy him a particular toy which had been advertised on television. Wanting to give his son something he desired so much, the father searched many stores for the toy. At last, the father was elated that he was able to find it. He took it home and wrapped it up to be presented to his son on Christmas day. Before he went to bed on Christmas eve, the boy talked constantly about the toy. When the father asked his son to describe the toy, he was amazed to discover that the boy did not know the nature or purpose of the toy. He was not even sure what it looked like. But he had heard the name of it advertised on television and had been trapped by a clever advertisement. Such is the impact of television on the lives of many.

Television and profanity

The negative impact that television has on langugage is lamentable. TV's use of profanity is especially distasteful. Children and adults may hear profanity elsewhere, but this is no justification for television's adding to the problem. Television serves to generalize and legitimize profanity. The stars who appear on television shows represent the essence of glamour and success to multitudes. When these people use profanity, they give it a kind of sophistication and acceptance that it does not deserve.

Blasphermous and casual use of God's name has now become an all too regular occurence on television. Christians resent this profane use of God's name, resent its intrusion into our homes, and resent its acceptance by the TV industry for presentation to the American public.

The incidence of profanity on television has been increasing. It will continue to do so until Americans who want it kept out of their homes work together to protest vigorously. Television is unique. It comes into our homes. It must return to standards of minimal decency if it is to be allowed to continue with its present charter. The acceptance of day-in and day-out profanity on television cannot be tolerated.

Television and the family

Television has offered some good models of family life. "The Waltons" and "Little House on the Prairie" are prime examples of family behavior that is generally morally responsible. Such programs often focus helpfully on the jobs and sorrows that families face in every age. Further, the treatment of family in other dramas and documentary shows is sometimes enlightening and inspirational. We are grateful, therefore, for those TV entertainment and information programs that have treated family responsibly.

Taken as a whole, however, television has failed miserably in its approach to family life. It has ridiculed the family more often than it has honored it. Television has not provided adequate role models for males and females in the family. Woman is often stereotyped as a sex object or as inept while the father is pictured as a bumbling idiot. Families are too frequently pictured as bickering and yelling at each other.

Evidently, television writers mistakenly assume that responsible, joyful family living is not interesting to people. Therefore they consistently pursue themes that put family

Footnotes at end of article.

life in a bad light. They use put-down humor. They exaggerate family hostility. They picture many problems and offer few solutions.

Does television have a responsibility to present healthy family life? Yes, it does. It has this responsibility if it is to be true to life. There are many millions of people who practice loving fidelity, who enjoy parenting, and who celebrate family life. Those aspects of family deserve more attention on television not only because it is a public medium but also because these elements accurately reflect much human life. It also has this responsibility if it is to be true to its duty to help, not hurt, the society that supports it.

Television has failed in its approach to family. Children and adults who turn to TV for information about family are now harmed more than helped. Television's treatment of the family is a problem for individuals, for the churches, and for society at large.

What can we do?

In this presentation we have looked at some ways in which television has an impact on our behavior. We have considered some areas in which television influences us. We have seen that television profoundly affects the ways we think and act.

There is a genuine grass roots concern in this country about television's moral impact. The concern comes from a broad cross section of responsible Americans. Millions of people want to bring about change. Is there anything we can do to shape TV's impact on our lives? Yes. In Sections 3, 4, and 5 ways are explored for individuals, families, and churches to affirm that which is good about television and ways for us to work to change that which is bad.

WHAT INDIVIDUALS CAN DO

Have you ever looked inside a television set? It is a complex mechanism. It contains many elements which must function properly to provide a quality picture. Getting television to live up to its potential for moral good is also complex. We must act positively to guarantee quality programming. Here are some suggestions for individuals to follow in relation to television.

1. Study your television viewing patterns. Keep a record of the programs you watch for one week. Write down the amount of time you view each program.

2. Plan your television viewing. Get the listing of the week's programs usually printed in the Sunday newspaper. Study the programs to be offered. Different weeks offer different numbers of quality programs, so the time spent watching TV may vary from week to week. Select and mark the programs you want to watch. Turn the TV on for specific programs only. You will be controlling TV instead of letting TV control you.

3. Analyze the TV programs you watch to determine the way moral issues are handled. It is important to be aware not only of the amount of time you watch television, but also of the way moral issues are treated on the programs you watch. Study the way that violence, alcohol consumption, sexual behavior, profanity, and family relationships are handled on the programs you view. (Use the form for monitoring TV in Evaluating Television Programs, or devise your own form.)

4. Study resources on the impact of television and what to do about it. Books which can prove helpful include Television: A Guide for Christians by Edward N. McNulty and The Plug-In Drug by Marie Winn. In addition, materials can be obtained from such organizations as the National Association for Better Broadcasting, P.O. Box 43840, Los Angeles, California 90043, and Action for Children's Television, 46 Austin Street, Newtonville, Massachusetts 02160. Resources for Study and Action, page 3, lists other materials that can be used.

5. Write letters to express your convictions about television. It is important to share both positive and negative opinions about TV with people in places of leadership. Here are some people to write:

(1) Local television station managers and/or program directors. Call the station and ask for specific names. Write directly to these people. Your letter may help.

(2) Local and national sponsors of programs. Look up the phone numbers of local advertisers in the Yellow Pages of the phone ask for specific names. Write directly to book. Call and ask for the name of the president of the company. Write to this person.

(3) Write these persons a carefully worded brief letter. President, American Broadcasting Company, Inc., 1330 Avenue of the Americas, New York, New York 10019; President, Columbia Broadcasting System, Inc., 51 West 52nd Street, New York, New York 10019; President, National Broadcasting Company, 30 Rockefeller Plaza, New York, New York 10020; President Public Broadcasting Service, 485 L'Enfant Plaza West, S.W., Washington, D.C. 20024.

(4) Chairman, The Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

(5) Chairman, The Federal Trade Commission, Sixth and Pennsylvania Avenue, Washington D.C. 20580.

(6) Your Congressperson and Senators. Write your own letter in your own words. Be brief. Sign your name legibly and include your address. Here are the correct forms of address for Senators and Representatives: The Honorable ———, United States Senate, Washington, D.C. 20510. (The proper salutation is "Dear Senator ———:"); The Honorable———, House of Representatives, Washington, D.C. 20515, (The proper salutation is "Dear Mr./Mrs./Miss/Ms. ———:").

(7) Newspapers and magazine "Letters to the Editor" columns.

6. Telephone stations and local sponsors to communicate your views. Letters are usually more effective than telephone calls but not always. If you feel strongly about the value or harm of a program, call the local station manager and share your opinion. Local sponsors of television programs can also be called about the programs which they help to sponsor. Note the sponsors as you view the commercials, look up their numbers in the Yellow Pages of your local phone book, and then talk to the person in charge.

7. Work to influence public opinion about television and morality. This issue is so important that it is well worth the time and energy you devote to it. Television is shaping lives daily; we must work to alert people about its impact. We must be angry about the harm TV is doing and seek to motivate the public to demand changes. We must get excited about the morally wholesome programs and encourage the public to support them.

Share the findings of your survey of TV programs with others. Talk about television with other people. Follow suggestions in this pamphlet to write letters and make phone calls. Let this statement of Abraham Lincoln guide you in your involvement: "He who molds public sentiment goes deeper than he who enacts statutes or pronounces decisions. He makes statutes or decisions possible or impossible to execute.

8. Get involved in a group that is working to improve television. Group action to deal with TV can be very effective. Not only do groups have the numbers necessary to get the attention of decision makers, but the varied experiences and insights of others can be valuable in acting to improve television.

The Parent-Teacher Association, for example, is involved in a substantial program to improve television. It encourages continuing action through local PTA chapters. The Christian Life Committee of your church, association, or state Baptist convention can be a very effective group for dealing with television. This committee approaches moral issues from a distinctly Christian perspective. See page 1 of What Churches Can Do for more information about this Committee.

9. Support educational television stations. There are good alternatives to be found in many offerings by educational television. If you are convinced of the value of educational television, support these stations with your contributions and your encouragement. Let the stations know the kinds of programs in which you are interested. Work to get others to join you in supporting them.

10. Practice selective buying. Determine which companies sponsor morally responsible television programs; and when you need products they sell, patronize them. Refuse to buy products from sponsors of programs that are morally objectionable and socially irresponsible. Communicate your objections to the sponsor, to your local dealer, and to the television station. Give specific programs and name specific incidents. Addresses for some sponsors can be found in the Yellow Pages of the phone book. See page 2 of Resources for Study and Action for some major advertisers.

11. Oppose those companies that continually sponsor morally objectionable TV shows. Communicate opposition to the sponsorship of violent, or sexually exploitive, or profane programs. Some have attended meetings of stockholders to register their protests. If companies do not stop sponsoring immoral TV programs, many people and institutions will want to sell their stock and invest in companies that are more committed to the moral welfare of this country.

12. Recognize the impact that television advertising can have in motivating you to over-consume. Television is a strong force in developing a life style which focuses on the possession of things. It informs us about products which we need and can use, of course; but it also seeks to create appetites for products we do not need. Be aware of what commercials say, and how they say it. Here are some questions to ask: Is the advertised product useful? Beneficial to health? Wasteful? Necessary? Is the message about the product presented clearly or deceptively? What does the commercial communicate about males, females, sex, minorities, children? How should the commercial be evaluated in light of Christian teachings about stewardship?

Television action includes prayer

Individuals can and must act out of a sense of urgency and moral responsibility in order to help the television medium to get the message

Pray faithfully for personnel of the Radio and Television Commission and the Christian Life Commission, and for others who are working for improved television programs.

WHAT FAMILIES CAN DO

Television is a dominant influence in the homes of modern Americans. It entertains our families, informs us, and motivates us to buy products. Television is both a blessing for families to enjoy and a problem with which families are compelled to cope.

Here are some suggestions for families facing the challenge of television.

1. Decide how much time your children may watch TV during the week. This requires study, moral judgment, planning, and the setting of family priorities. In light of the fact that many families have the TV set turned on six or seven hours a day, such planning is especially needed.

At the beginning of a week, study the programs to be offered. Circle those which may be watched by your children. Parents face the crucial decision of how much TV to allow children to watch both during school days and on weekends. Older children should be brought into the decision-making process. This provides an ideal opportunity for families to work through differences which may arise.

Some decide that there will be no television on weekdays. Others allow one hour per day on weekdays. Others select special programs to be watched. There must be careful selection and control on weekends also; otherwise most of the leisure hours may be spent in front of a TV set if parents do not plan carefully in light of family priorities, it is likely that most children will watch TV far more than is best for them.

2. Parents should monitor television programs to see what is suitable viewing for children. The need for this monitoring has recently increased. Many parents have been shocked to discover that children are watching programs that contain far too much violence or are otherwise unsuitable for children. By viewing these programs, parents can make informed and necessary judgments about what children should see. In the case of older children, these judgments should be made after discussion together.

3. Families may watch some television programs together to learn about issues encountered in life. Some TV programs offer valuable insights that children and adults need to discuss. Television can be a valuable resource for this discussion. And, if a morally objectionable scene suddenly appears on the screen, this should be used as an occasion for teaching. It does not follow that parents should consciously choose morally objectionable programs in order to teach lessons. There will be more than enough of the negative that will be beamed in unannounced.

4. Parents should discuss commercials with their children. Teaching children to understand the nature and purpose of commercials is extremely important. Children need to learn how to evaluate what the commercials are saying. They must be taught to avoid wanting to acquire every product that is pictured. They must also be guided away from the materialism that may develop after viewing thousands of commercials each year.

As parents watch and discuss commercials with their children, they can find out how the child understands and interprets what is being said. Then they can seek to help the child evaluate commercials in light of biblical teachings about acquiring and using possessions.

5. Write the National Association for Better Broadcasting and secure its annual Television for Family guide. This guide, which presently costs $1.00, evaluates many television programs from the perspective of responsive family life. It is a very useful resource. The address of the National Association for Better Broadcasting is P.O. Box 43640, Los Angeles, California 90043.

6. Avoid using television as a babysitter. It is easy for families to develop a lifestyle in which TV is used to babysit with the children while the parents pursue other activities in the home or even outside it. For example, some parents sleep late on Saturday morning and let the cartoons entertain their children for hours.

The use of TV as a regular babysitter can lead to serious problems for the family. This practice should be avoided. It takes creative energy to find alternatives; but, given the damage that is likely to come from the TV babysitter, it is worth the effort.

7. Parents should discuss with those who keep the children when they are away which programs their children are allowed to watch. Prepare a written schedule or mark the TV section of the paper. Check to make certain that these instructions are carried out.

8. Decide where to place the television set in your home. Where you put the TV set may be a clue to the priority that TV will be given in your family. If the set is in a central location, it may become central in your family's activities. If it is near the table where you eat, for example, it will likely cut down on greatly needed family conversation. Some families decide to purchase a portable set which can be placed in a closet and only brought out for programs selected for viewing. If there are young children in the family, consider having the TV near the center of activity so that parents can be aware of what is being watched. Otherwise, there is real value in moving the TV to a less prominent area. This puts TV in its place and keeps it from dominating family life, family leisure, and family relationships.

9. As a family project, write letters about television. All family members may decide to write to communicate their appreciation or disapproval of a particular TV show. Teaching children how to write to express their views can be a valuable learning experience.

After discussion of a particular program or commercial about which the family feels strongly, encourage and assist in the project of letter writing. Letters should be written to commend positive programming and to condemn harmful programming.

10. Provide opportunities for good religious, social, and cultural experiences as an alternative to constant TV watching. Many children and adults watch TV to fill a social and relational vacuum in their lives. Make a regular place for education, recreation, entertainment, and worship activities which offer opportunities for growth and enjoyment. This is one of the best ways to cut down on excessive dependence on television.

11. Parents should set an example in their television watching. It will be difficult to encourage children to accept responsible TV habits if parents set bad examples themselves in their own viewing. If TV plays a major role in the parents' lives, it will likely do the same in their children's lives. Set a good example in how you handle TV, and your children will be likely to follow you.

12. Older couples should refuse to let TV dominate their lives. A steady diet of athletic events, soap operas, situation comedies, or "whodunits" can banish conversation and undermine relationships between even the most devoted husband and wife.

Retired people and persons not employed outside the home need to give special attention to ways to keep from being intellectually consumed by TV's unreal world of give-away shows and steady diet of melodrama. Diversion is good. Preoccupation is bad.

Counter the tendency to let TV come between you and your spouse. Schedule some time together to watch programs you like. Then do other things together such as games you both enjoy, fellowship with other families, dining out, or gardening, that foster good communication and strengthen the marriage bonds.●

FOOTNOTES

[1] Marie Winn, The Plug-In Drug (New York: Viking Press, 1977), p. 47.

[2] Albert Bandura, "What TV Violence Can Do to Your Child," in Violence and the Mass Media, Newton Minnow and Otto Carson, eds. (New York: Harper & Row, 1968), p. 123.

[3] June Davison, "The Triggered, The Obsessed, and The Schemers," TV Guide (February 2, 1974), p. 6.

[4] National Commission on Causes and Preventions of Violence, To Establish Justice To Insure Domestic Tranquility (Washington: U.S. Government Printing Office, 1969), p. 195.

[5] Ibid., pp. 198–199.

[6] For a more thorough discussion of television and violence, see Harry N. Hollis, Jr., The Shoot-'em-up Society (Nashville: Broadman Press, 1974), pp. 52–63.

[7] "Hearings Before the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare, United States Senate," March 8–11, 1976, pp. 142 ff.

[8] Ben Logan, ed., Television Awareness Training (New York: Media Action Research Center, 1977), p. 172.

RESEARCH AND DEVELOPMENT EXPENSES

● Mr. DENTON. Mr. President, it is gratifying indeed that the Senate, earlier this week, acted to suspend for 1 year an inequitable and ill-conceived administrative interpretation of section 861 of the Internal Revenue Code that for 4 years has created a serious disincentive to the performance and expansion of critically needed research and development activity in the United States.

The 1-year suspension, with instructions to the Treasury Department to study and report to Congress on the pernicious effects of the 861 regulations, will, if reason prevails, result in their permanent elimination.

The 861 regulations now require American companies to allocate against foreign income a portion of research and development expenses incurred entirely within the United States. The result is that the U.S. companies find themselves paying taxes on the same income in more than one country, with little or no offset from foreign tax credits.

I congratulate the distinguished Senator from Ohio, (Mr. GLENN), who offered this important amendment, and Senators DANFORTH and WALLOP, who joined in cosponsoring it, and Senator SCHMITT for his deep interest in the overall issue of the future prospects for R. & D. in our country.

Elimination of the 861 regulations, as they apply to research and development in the United States, will help reduce unnecessary regulations that stifle innovation and productivity. It will also help assure that research and development activity is not driven out of the United States in favor of other countries whose tax policies present no such disincentive to investment.

There are a number of actions that we can take to resolve the problem created by the 861 regulations: First, the Treasury Department should undertake an administrative modification of the regulations immediately. Second, in whatever version of the tax bill Congress sends to the President, there should be included, at a minimum, a provision suspending the application of the regulations for 1 year and requiring the Treasury Department to provide, within 6 months, the Congress with a study on the effect of the regulations.●

ASSISTANCE TO POLAND

● Mr. KENNEDY. Mr. President, the independent trade union movement, Solidarity, has achieved new and important rights and benefits for its members in Poland. Following elections of delegates by secret ballot, a historic party congress has taken place and over 90 percent of the membership of the central committee has changed. And the Polish people continue to show their determination to settle their own affairs without excessive influence from their neighbors.

Poland now faces major food shortages and enormous economic problems. Cooperation among Solidarity, the government and the church will make it possible for the Polish people to address

these problems over the long term. But in the immediate future, it is essential for the United States and the international community, in both the public and private sectors, to provide emergency food aid and longer-term economic assistance and support, as the Polish Government and Solidarity carry out their historic agreements.

In this regard, I welcome the announcement of $50 million in U.S. food credits for Poland. I hope that the administration will now press our friends and allies to offer matching food aid and that it will promptly pursue additional international economic assistance, as recommended in a letter which I and six other Senators sent to President Reagan on July 21. I request that the full text of this letter—in which I was joined by Senators ROBERT C. BYRD, BIDEN, BUMPERS, CRANSTON, PELL, and SARBANES—be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., July 21, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: At this critical time for Poland, we urge you to approve much-needed food aid for that nation, and to work with our allies and other nations to provide longer-term economic assistance as the Polish government and Solidarity carry out their historic agreements.

As you know, the Polish people presently face serious food shortages in their country. U.S. food aid at this time is not only justified on humanitarian grounds, but would be a clear signal of continuing support for the process of reform and democratization in Poland.

We believe that food aid would be of direct and immediate benefit to the Polish people, and would enhance the future prospects for peace and stability. We are confident that this aid is in the best traditions of our nation and would be strongly supported by the American people even at this time of budgetary restraint.

With our thanks and best wishes,
Sincerely yours,

ROBERT C. BYRD.
PAUL SARBANES.
DALE BUMPERS.
TED KENNEDY.
ALAN CRANSTON.
CLAIBORNE PELL.
JOSEPH R. BIDEN.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications have been received: one on July 24 and two on July 29, 1981.

Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, room 4229 Dirksen Senate Office Building.

In the connection, I submit correspondence for printing in the RECORD.

The correspondence follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO Consortium tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, room 4229 Dirksen Building.

The material submitted for printing in the RECORD follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-61 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to the Yemen Arab Republic for defense articles and services estimated to cost $14 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL No. 81-61

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Yemen Arab Republic.

(ii) Total estimate value:

	Million
Major defense equipment*	$11
Other	3
Total	14

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Twenty-two thousand four hundred sixty-four rounds of 105mm main gun ammunition and 2,221,920 rounds of 7.62mm and .50 caliber machine gun ammunition for M60 tanks.

(iv) Military department: Army (UEF).

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending March 31, 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

YEMEN ARAB REPUBLIC—TANK AMMUNITION

The Government of the Yemen Arab Republic (YARG) has requested the purchase of 22,464 rounds of 105mm main gun ammunition and 2,221,920 rounds of 7.62mm and .50 caliber machine gun ammunition for the M60 tank at an estimated cost of $14 million.

This sale would further U.S. efforts to promote peace and stability on the Arabian Peninsula and to assure the security and independence of moderate Arab states. It would assist the YARG in the modernization of its ground forces so as to defend successfully against possible attacks from hostile neighbors.

This ammunition will be used to complete the initial basic load and provide training ammunition and war reserve stocks for the 64 M60A1 tanks delivered to the Yemen Government in the spring of 1979. The sale of tank ammunition does not introduce a new weapon capability into the region.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractors for the 105mm ammunition will be Flinchbaugh Products of Red Lion, Pennsylvania; Chamberlain Manufacturing Corporation of New Bedford, Massachusetts; and Norris Industries of Vernon, California. The 7.62mm and the 50 caliber ammunition will be produced by the Lake City Army Ammunition Plant of Independence, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to the Yemen Arab Republic.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81–72, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81–72

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	Million
Major defense equipment*	$8
Other	1
Total	9

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Eighteen 155mm M198 towed howitzers with spare parts.

(iv) Military department: Army (VDI).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

SAUDI ARABIA—M198 HOWITZER

The Government of Saudi Arabia has requested the purchase of 18 M198 155mm towed howitzers with spare parts at an estimated cost of $9 million.

This sale is consistent with the stated U.S. policy of assisting other nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support the Saudi Arabian effort to improve the security of the country through modernization of the Saudi Armed Forces.

The purchase of the M198 howitzer by the Saudi Arabian Land Forces (SALF) will permit improvement of current ground force artillery support by replacing aging M114 155mm towed howitzers with a modern artillery piece with an extended range. This improvement is required as part of the ongoing military modernization plan to build a ground force capable of deterring external attacks. Acquisition of this equipment by the SALF will not introduce a new military capability into the region.

The sale of this equipment and support will not affect the basic military balance in the region.

The principal work will be done at the Rock Island Arsenal of Rock Island, Illinois.

Implementation of this sale will require the assignment of approximately 10 additional U.S. military personnel to Saudi Arabia for 18 months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81–73 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $98 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81–73

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	Million
Major defense equipment*	$69
Other	29
Total	98

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Nine AN/TPQ–36 mortar locating radars and six AN/TPQ–37 artillery locating radars with support equipment, training, support services, and two years of concurrent spare parts.

(iv) Military department: Army (VDH).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

SAUDI ARABIA—MORTAR AND ARTILLERY LOCATING RADARS

The Government of Saudi Arabia has requested the purchase of nine AN/TPQ–36 mortar locating radars and six AN/TPQ–37 artillery locating radars with required support equipment, training, support services, anl two years of concurrent spare parts at an estimated cost of $98 million.

This sale is consistent with the stated U.S. policy of assisting other nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support tre Saudi Arabian effort to improve the security of the country through modernization of the Saudi Armed Forces.

The purchase of the radars and support will provide the Saudi Arabian Land Forces (SALF) an automated capability for locating mortars, short-range artillery, and high-angle fire weapons firing from multiple positions. The AN/TPQ–36 and AN/TPQ–37 radars will assist the SALF to offset in part any artillery advantages held by neighboring countries.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of an additional nine-man U.S. military training team to Saudi Arabia for approximately six months and the assignment of two contractor personnel for approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81–75, concerning the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $86 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C (b) of that statute.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81–75

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Million
Major defense equipment*	$0
Other	86
Total	86

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two hundred four M48 tank conversion kits and ancillary support equipment to convert M48A1 tanks to the M48A3 and M48A5 configuration.

(iv) Military department: Army (WKP and WKQ).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending March 31, 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

GREECE—TANK CONVERSION KITS

The Government of Greece has requested the purchase of 204 conversion kits and ancillary support equipment to convert M48A1 tanks to the M48A3 or M48A5 configuration at an estimated cost of $86 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the ability of Greece to fulfill its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The Government of Greece needs these conversion kits to continue its program of upgrading its M48 series tanks. Greece will have no difficulty in absorbing and maintaining the converted tanks since trained personnel are available and parts, tools, and test equipment are already in its inventory. The tank conversion kits will be provided in accordance with, and subject to the limitation on use and transfer provided under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or our efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be the Chrysler Corporation Defense Group of Warren, Michigan.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 8, 1981.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act) and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision of tank conversion kits to the Government of Greece is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification of the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-77 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Italy for defense articles and services estimated to cost $25 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81-77

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Italy.

(ii) Total estimated value.

	Million
Major defense equipment*	$23
Other	1
Total	24

*As included in U.S. Munitions List, a part of the Interntaional Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two thousand two hundred eleven I-TOW surface attack guided missiles and 623 TOW practice guided missiles.

(iv) Military department: Army (XHE).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

ITALY—IMPROVED-TOW MISSILES

The Government of Italy has requested the purchase of 2,211 I-TOW missiles and 623 TOW practice missiles at an estimated cost of $24 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Italy; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

These missiles are required by the Government of Italy to enhance their anti-armor capabilities. They have TOW in their inventory and will have no difficulty assimilating these additional missiles into their armed forces.

The sale of this equipment and support will not affect the basic military balance in the region since comparable or identical anti-armor weapons already exist in the region.

The prime contractor will be the Hughes Aircraft Company of Canoga Park, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Italy.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-78, concerning the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $35 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620(b) of that statute.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.

TRANSMITTAL NO. 81-78

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Turkey

(ii) Total estimated value:

	Million
Major Defense Equipment*	$0
Other	35
Total	35

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

As included in the U.S. Munitions List, a part of the International Traffic in arms Regulations (ITAR).

(iii) Description of articles or services offered: Cooperative logistics supply support for follow-on spares and supplies in support of C-130H, F-4E, F/RF-5A, F-100C/D/F, RF/F-104G, T-33, T-37C, and T-38 aircraft and other systems and subsystems of U.S. manufacture.

(iv) Military department: Air Force (KBJ).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to congress: July 29, 1981.

POLICY JUSTIFICATION

TURKEY—COOPERATIVE LOGISTICS SUPPLY SUPPORT

The Government of Turkey has requested the purchase of cooperative logistics supply support for follow-on spares and supplies in support of C-130H, F-4E, F/RF-5A, F-100C/D/F, RF/F-104G, T-33, T-37C, and T-38 aircraft and other systems and subsystems of U.S. manufacture at an estimated cost of $35 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

This cooperative logistics supply support arrangement is necessary to ensure an uninterrupted flow of spare parts to maintain the readiness of the Turkish Air Force weapon systems of U.S. origin. The cooperative logistics support will be provided in accordance with, and subject to the limitation on use and transfer provided for under the Arms Export Control Act, as embodied in the

terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

Procurement of these items and services will be from the many contractors who provide similar items and services to the U.S. Forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 19, 1981.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision of cooperative logistics supply support for U.S. origin aircraft to the Government of Turkey is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification of the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-79 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $19 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C (b) of that statute.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.

TRANSMITTAL NO. 81-79

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Million
Major defense equipment*	$14
Other	5
Total	19

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Fifty TOW launchers and 1,487 surface attack TOW missiles.

(iv) Military department: Army (WLE).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 29, 1981.

POLICY JUSTIFICATION

GREECE—TOW LAUNCHERS AND MISSILES

The Government of Greece has requested the purchase of 50 TOW launchers and 1,487 surface attack TOW missiles at an estimated cost of $19 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Government of Greece (GOG) needs these articles to increase the anti-tank capability of the Hellenic Army (HA). The HA will have no difficulty in absorbing the launchers and missiles since these weapons are already in the inventory. This sale will enable the GOG to increase its defense capability. The TOW missiles and launchers will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be the Hughes Aircraft Company of Canoga Park, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 19, 1981.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision of anti-tank launchers and missiles to the Government of Greece is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification of the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.●

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS—CONFERENCE REPORT

Mr. TOWER. Mr. President, I submit a report of the committee of conference on S. 694 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 694) to authorize supplemental appropriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such fiscal year for construction at certain military installations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. TOWER. Mr. President, this report has the full support of both the House and Senate Committees on Armed Services.

I should like to take this opportunity to thank all of the conferees for their diligent efforts in resolving the differences between the Senate and House version of this bill so that the vitally needed funds which we have identified will be available for use by the Department of Defense in fiscal year 1981.

I express my personal appreciation to my distinguished colleague and ranking member of the committee, Senator STENNIS, and the other members of the Senate Committee on Armed Services for the extraordinary efforts which they made to expedite the committee's consideration of the administration's supplemental request. As Senators know, this bill was reported to the Senate for its consideration by the Committee on Armed Services at the beginning of April 1981 and received overwhelming support by the full Senate.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for morning business be extended to not beyond 6:45 p.m., under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have a number of housekeeping details and unanimous-consent items. But before I do that, is there an order for the Senate to convene on tomorrow?

The PRESIDING OFFICER. There is not.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the following Senators be recognized for not to exceed 15 minutes on special orders: The distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from Alaska (Mr. MURKOWSKI), the distinguished Senator from Arkansas (Mr. PRYOR), the distinguished Senator from Michigan (Mr. LEVIN), the distinguished Senator from Oklahoma (Mr. BOREN), the distinguished Senator from Pennsylvania (Mr. SPECTER), and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, there is one item cleared on my calendar of business for today, calendar 228, Senate Resolution 146.

I wonder if the minority leader can state whether he is in position to proceed to the consideration of that item at this time?

Mr. ROBERT C. BYRD. Mr. President, I am ready to proceed.

Mr. BAKER. I thank the minority leader.

SENATE YOUTH PROGRAM

The Senate proceeded to consider the resolution (S. Res. 146) to amend Senate Resolution 324 of the 87th Congress to provide for the participation of the Department of Defense education system for dependents in overseas areas in the Senate youth program.

The resolution (S. Res. 146) was agreed to.

S. RES. 146

Resolved, That S. Res. 324, Eighty-seventh Congress, agreed to May 17, 1962, is amended by adding at the end thereof the following new section:

SEC. 3. For the purpose of this resolution, the term "State" includes the Department of Defense education system for dependents in overseas areas.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATIONS

Mr. BAKER. Mr. President, I will advise the minority leader on this side, on the other calendar, the Executive Calendar, we have cleared all items under new reports except the nomination of John M. Walker, including all nominations placed on the Secretary's desk.

If the minority leader is agreeable to considering these items I am prepared now to ask the Senate to go into executive session.

Mr. ROBERT C. BYRD. Will the distinguished majority leader make that request?

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering certain nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader state again the clearances he has reference to?

Mr. BAKER. Yes, Mr. President. Beginning on page 2 under new reports, starting with Veterans' Administration, and continuing through pages 3, 4, 5, 6, and 7, including nominations on the Secretary's desk, with the exception of the nomination of John M. Walker, Jr., which is Calendar No. 397 on page 3 under Department of the Treasury. That is not included.

Mr. ROBERT C. BYRD. The minority is ready to proceed with those nominations with the exception of the two nominations under the Department of Agriculture.

Mr. BAKER. I thank the minority leader. I assume those are the nominations of Harold V. Hunter and Charles Wilson Shuman?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration en bloc of the nominations under New Reports on pages 2, 3, 4, 5, 6, 7, including nominations placed on the Secretary's desk, with the exception of the first three nominations on page 3, Harold V. Hunter, Charles Wilson Shuman, and John M. Walker, Jr., of New York.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

VETERANS' ADMINISTRATION

Frank Saburo Sato, of Virginia, to be Inspector General Veterans' Administration, vice Allan L. Reynolds.

Kenneth W. Gideon, of Texas, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service), vice N. Jerold Cohen, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Juan A. del Real, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Joan Zeldes Bernstein, resigned.

Thomas R. Donnelly, Jr., of Virginia, to be an Assistant Secretary of Health and Human Services, vice William Brownlee Welsh, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

Eugene J. Frank, of Pennsylvania, to be a member of the U.S. International Trade Commission for the remainder of the term expiring December 16, 1982, vice George H. Moore, resigned.

DEPARTMENT OF DEFENSE

Edward C. Aldridge, Jr., of Virginia, to be Under Secretary of the Air Force, vice Antonia Handler Chayes, resigned.

Alton Gold Keel, Jr., of the District of Columbia, to be an Assistant Secretary of the Air Force, vice Robert Jay Hermann.

IN THE AIR FORCE

Lt. Gen. Lloyd R. Leavitt, Jr., U.S. Air Force (age 52), for appointment to the grade indicated on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officers under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

Maj. Gen. George D. Miller, [redacted] FR, U.S. Air Force, to be lieutenant general.

Maj. Gen. Charles L. Donnelly, Jr., [redacted] FR, U.S. Air Force, to be lieutenant general.

Maj. Gen. Charles G. Cleveland, [redacted] FR, U.S. Air Force, to be lieutenant general.

Maj. Gen. Robert T. Herres [redacted] FR, U.S. Air Force, to be lieutenant general.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

Brig. Gen. Wayne Paul Jackson, [redacted] to be major general.

Brig. Gen. Thomas Milton Moore, [redacted] to be major general.

Brig. Gen. William Francis Ward, Jr., [redacted] to be major general.

Col. John Alex Arkins, [redacted] to be brigadier general.

Col. John Joseph Diggins, [redacted] to be brigadier general.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

Brig. Gen. Vincent William Lanna, [redacted] to be major general.

Brig. Gen. Elmer Lewis Stephens, [redacted] to be major general.

Col. Carroll Glenn Allen, [redacted] to be brigadier general.

Col. William James Burns, [redacted] to be brigadier general.

Col. Keith Marvin Eggen, [redacted] to be brigadier general.

Col. LeRoy Robert Evans, [redacted] to be brigadier general.

Col. Joe Arlon Forberg, [redacted] to be brigadier general.

Col. Kenneth Wayne Himsel [redacted], to be brigadier general.

Col. Robert George McClellan, [redacted], to be brigadier general.

Col. Kenneth Lester Rieth [redacted], to be brigadier general.

Col. Ivan Fay Smith, [redacted] to be brigadier general.

Col. Michael Thomas Sullivan, Jr., [redacted] to be brigadier general.

Col. Arthur Albert Weller, Jr. [redacted], to be brigadier general.

Col. Edward Herman Wulgaert, [redacted] to be brigadier general.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

Col. Charles Hill Anderson [redacted], to be brigadier general.

Col. Robert Michael Fiorella [redacted], to be brigadier general.

Col. Edward Lawrence Hanson, [redacted] to be brigadier general.

Col. William Arthur Jackson [redacted], to be brigadier general.

Col. Val Elmore McCreary, [redacted] to be brigadier general.

Col. Charles McClung Scott, Jr., [redacted] to be brigadier general.

Col. William Kinney White [redacted], to be brigadier general.

The following named Army Medical Department officers for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

MEDICAL CORPS

Brig. Gen. Garrison Rapmund, [redacted] Medical Corps, Army of the United States (colonel, U.S. Army), to be major general.

Col. Tracy Elmer Strevey, Jr. [redacted], Medical Corps, U.S. Army, to be brigadier general.

Col. Robert Hutchinson Buker, 577–36–5934, Medical Corps, U.S. Army, to be brigadier general.

MEDICAL SERVICE CORPS

Col. France Felton Jordan [redacted], Medical Corps, U.S. Army, to be brigadier general.

DEPARTMENT OF AGRICULTURE

John V. Graziano, of Virginia, to be inspector General, Department of Agriculture, vice Thomas F. McBride.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Air Force nominations beginning Densel K. Acheson, to be colonel, and ending Arthur E. Schmitt, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1981.

Air Force nominations beginning Max L. Abram, to be lieutenant colonel, and ending William R. Gerber, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 1981.

Army nominations beginning Arthur A. Armour, to be major, and ending David C. Weston, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1981.

Navy nominations beginning Leon Eddy Ackart, to be captain, and ending Beverly Jean Sparks, to be captain, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1981.

Marine Corps nominations beginning John T. Garcia, to be colonel, and ending Kurt V. Zirkelbach, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1981.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF FRANK S. SATO

Mr. SIMPSON. Mr. President, I am very pleased to report that the Committee on Veterans' Affairs on July 9, 1981, completed its consideration of the qualifications of Frank S. Sato, the President's nominee to be Inspector General of the Veterans' Administration. His nomination was approved by a unanimous vote of the membership of the Senate Committee on Veterans' Affairs.

The position of Inspector General of the Veterans' Administration is a most important one in the efficient operation of the agency. The Inspector General Act of 1978 requires the office of Inspector General in the Veterans' Administration to conduct and supervise audits and investigations; to provide leadership, coordination, and recommendations to promote economy, efficiency, and effectiveness; to prevent and detect fraud and abuse; to keep the Administrator and the Congress fully informed concerning problems of deficiencies, and review the necessity for—and the progress of—corrective action.

We believe Frank Sato will perform these functions and carry out these requirements capably and effectively.

Frank Saburo Sato is a native of the State of Washington and received his bachelor of arts degree at the University of Washington, in Seattle, Wash. Additional university training was at the University of California at Los Angeles. He is a certified public accountant and has had a long and distinguished career in all phases of governmental auditing in Washington and throughout the country.

Frank Sato has served in the Department of Defense for over 25 years; 14 years of that employment was in the Office of the Secretary of Defense. His most recent position in the Defense Department was as the Deputy Assistant Secretary of Defense in charge of audits from 1974 to 1979.

From May 1979 until January 1981, Frank Sato served as Inspector General of the Department of Transportation.

Mr. Sato has received many professional honors including eight outstanding and significant awards from the Department of the Air Force and the Office of the Secretary of Defense. On July 1 of this year, he received the Robert W. King "Gold Medal Award" from the Association of Government Accountants.

I rise in strong support of the nomination of Frank S. Sato to be the Inspector General of the Veterans' Administration and I urge the Senate to support the unanimous vote of the Committee on Veterans' Affairs in confirming this nomination.

NOMINATION OF EUGENE J. FRANK

Mr. DOLE. Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Eugene J. Frank to be a Commissioner of the U.S. International Trade Commission. As chairman of the committee, it is a privilege and a pleasure to report favorably on the nomination of Mr. Frank. The committee has reviewed Mr. Frank's financial statement and the report of the Office of Government Ethics. We are confident that there are no problems in any of these areas.

Mr. Frank has been nominated to fill a very important position. The U.S. International Trade Commission plays a vital role in the functioning of our fair and unfair trade practice laws. While decisions under statutes like section 201 of the Trade Act of 1974. the so-called escape clause and section 337 of the Tariff Act of 1930 are reviewable by the President, they are an important part of our industrial adjustment process. Under the countervailing duty and antidumping statute the Commission's decisions are not reviewable by the President and can result in the immediate imposition of additional duties. The Commission also serves as adviser to both the Congress and the President on the most sensitive trade issues.

Mr. President, Mr. Frank is well qualified to serve in the position to which he has been nominated.

Mr. Frank received a B.A. degree in economics from Western Maryland College and a masters degree in finance from the University of Pittsburgh. Mr. Frank taught at the graduate school of the University of Pittsburgh and lectured at Fordham University and Robert Morris College. Mr. Frank's 30-year business career has been spent as an investment banker, economist, and financial consultant and through the years he has become a recognized authority on world trade and heavy industry.

As an investment banker he primarily served as a general partner of Singer Deane & Scribner and its director of research. He also served as vice president of Shearson Hayden Stone for Research and Investment Banking, and president of E. J. Frank Associates.

In the area of financial and economic research he has been involved in micro studies of several major industries. His work included a review of these industries' productive capabilities, inventory, research and development, availability of raw materials, competition from other materials and products, and capital requirements along with the industries' labor, energy, transportation, capital costs and its import and export position.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF KENNETH W. GIDEON

Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Kenneth W. Gideon to be Assistant General Counsel of the Department of the Treasury. In this position he will serve as Chief Counsel for the Internal Revenue Service. As chairman of the committee it is a privilege and a pleasure to report favorably on the nomination of Mr. Gideon. The committee has reported favorably on the nomination of Mr. Gideon. The committee has reviewed Mr. Gideon's financial forms and the input of the Office of Government Ethics. We are confident there are no problems in this area.

The position of Chief Counsel for the Internal Revenue Service is an extremely important position, demanding an individual of great expertise and ability. I believe Mr. Gideon's background, education, and experience provide him with the skills necessary for this position.

He is a graduate of Harvard University and Yale Law School. He is presently partner in the law firm of Fulbright and Jaworski of Houston, Tex. He has been active in the practice of Federal and State tax law since joining that firm in 1971. He has been active in the American Bar Association, serving as chairman of the Committee on Court Procedures of the section of taxation from 1979 to

1981. Mr. Gideon has also been active with the Texas State Bar Association.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF JUAN DEL REAL

Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Juan del Real to be General Counsel of the Department of Health and Human Services. As chairman of the committee it is a privilege and a pleasure to report favorably on this nomination. The committee has reviewed Mr. del Real's financial forms and the report of the Office of Government Ethics and we are confident there are no problems in this area.

The position to which Mr. del Real has been nominated is vital to the effective operation of the Department of Health and Human Services. The General Counsel, as chief legal officer, is responsible for providing legal advise and guidance on the entire range of programs and legal issues arising from the agency's substantive jurisdiction. I believe Mr. del Real has the requisite skills and background to carry out the functions of the position.

He graduated from St. Louis University Law School, cum laude, in 1966. After graduating from law school he practiced law in Washington, D.C., and served as special assistant to the president of the Central Aguirre Sugar Co. in Puerto Rico before returning to the practice of law in Washington, D.C. He became a partner in charge of the litigation department of Hill, Christopher, and Phillips. He is married, with three children.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF THOMAS R. DONNELLY, JR.

Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Thomas R. Donnelly to be Assistant Secretary of the Department of Health and Human Services for Legislation. The committee has reviewed Mr. Donnelly's financial forms, and the report of the Office of Government Ethics. We are confident that there are no problems in any of those areas.

The position to which Mr. Donnelly has been nominated is very important to the smooth functioning of the Department of Health and Human Services. The Assistant Secretary for Legislation is responsible for the day-to-day operations of the Office of Legislation and for advising the Secretary on all matters of legislative policy affecting the Department. The Office of Legislation includes divisions responsible for health, human services, appropriations, and contains the Office of Congressional Liaison which is responsible for on-going interaction with the 535 Members of Congress.

Mr. Donnelly brings a broad-range of legislative and management experience to his new assignment. Prior to joining the administration, he served for 7 years as managing partner of Louis C. Kramp and Associates, a Washington-based Government relations counseling firm From 1972–74 Mr. Donnelly served as an advisor to the Presidents' Cost of Living Council and the Office of Economic Opportunity.

After 4 years service at the national headquarters of the U.S. Jaycees in Tulsa, Okla., as the executive vice president and chief operating officer, Mr. Donnelly came to Washington in 1970 to succeed Bud Wilkinson as executive vice president of the National Center for Voluntary Action.

A graduate of Princeton University with a BSE in chemical engineering, Mr. Donnelly served 5 years in industry before joining the Jaycees national staff.

A native of Steubenville, Ohio, Mr. Donnelly is married and the father of three teenage sons.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF EUGENE J. FRANK

Mr. HEINZ. Mr. President, I am pleased to support the nomination of Eugene J. Frank, of Pittsburgh, Pa., to the International Trade Commission. Mr. Frank is a constituent and longtime acquaintance of mine whose work I have long respected.

Mr. Frank brings to the International Trade Commission 30 years of experience in investment banking, economics, and financial consulting, and a particular expertise in analysis of heavy industry.

This kind of background is particularly useful for the Commission since its current members come primarily from other fields. I know that one of the things President Reagan's transition team for the ITC felt strongly about was the need for the Commission to have more members with direct, "real-world" business and industry experience.

The Commission's main task is to determine whether or not an industry is suffering injury from imports and is entitled to relief, pursuant to several different trade laws. Meeting this responsibility accurately and objectively demands an understanding of the way an industry is structured and the way it operates and an ability to closely analyze the fiscal and other data presented by the industry in its petition.

Knowing Mr. Frank as I do, I have full confidence in his ability to handle these responsibilities with the required good judgment and objectivity, and I look forward to him joining the Commission.

LEGISLATIVE SESSION

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 2120 HELD AT THE DESK

Mr. BAKER. I believe this request has been cleared, Mr. President, by the distinguished minority leader.

I ask unanimous consent that H.R. 2120, the risk retention bill, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TOURISM POLICY ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 304.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 304) entitled "An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy."

(The amendment of the House is printed in the RECORD of July 28, 1981 beginning at page 17692.)

Mr. BAKER. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. COHEN) appointed Mr. PACKWOOD, Mr. PRESSLER, Mr. SCHMITT, Mr. GOLDWATER, Mr. CANNON, Mr. INOUYE, and Mr. EXON conferees on the part of the Senate.

EXTENSION OF TIME FOR FILING REPORT ON S. 266 NOT LATER THAN SEPTEMBER 23, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that the deadline for the Veterans' Affairs Committee to report S. 266, the Federal Interagency Medical Resources Sharing and Coordination Act of 1981, be extended to not later than September 23, 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER PRISONER OF WAR BENEFITS ACT OF 1981

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1100.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 1100) entitled "An act to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans Administration, and for other purposes", with the following amendments:

In lieu of the matter inserted by the amendment of the Senate to the text of the bill, insert:

That (a) this Act may be cited as the "Former Prisoner of War Benefits Act of 1981".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. (a) Chapter 3 is amended by inserting after section 220 the following new section:

"§ 221. Advisory Committee on Former Prisoners of War

"(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

"(A) appropriate representatives of veterans who are former prisoners of war;

"(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

"(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

"(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

"(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 220 the following new item:

"221. Advisory Committee on Former Prisoners of War."

SEC. 3. (a) Section 101 is amended by adding at the end the following new paragraph:

"(32) The term 'former prisoner of war' means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

"(A) by an enemy government or its agents, or a hostile force, during a period of war; or

"(B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.".

(b) Clause (7) of section 612(b) is amended to read as follows:

"(7) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than six months is suffering; or".

SEC. 4. (a) Section 312 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b) and amending such subsection to read as follows:

"(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

"(1) avitaminosis,

"(2) beriberi (including beriberi heart disease),

"(3) chronic dysentery,

"(4) helminthiasis,

"(5) malnutrition (including optic atrophy associated with malnutrition),

"(6) pellagra,

"(7) any other nutritional deficiency,

"(8) psychosis, or

"(9) any of the anxiety states,

which became manifest to a degree of 10 per centum or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1981.

SEC. 5. (a) Section 610(a) is amended—

(1) by striking out "and" at the end of clause (3);

(2) by redesignating clause (4) as clause (5); and

(3) by inserting after clause (3) the following new clause:

"(4) a veteran who is a former prisoner of war; and".

(b) Section 612(f) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after clause (2) the following new clause:

"(3) to any veteran who is a former prisoner of war.".

(c) Section 612(i) is amended—

(1) by redesignating clause (4) as clause (5); and

(2) by inserting after clause (3) the following new clause:

"(4) To any veteran who is a former prisoner of war.".

(d) The amendments made by this section shall take effect on October 1, 1981.

SEC. 6. (a) Not later than ninety days after the date of the enactment of this Act and at appropriate times thereafter, the Administrator shall, to the maximum extent feasible and in order to carry out the requirements of the veterans outreach services program under subchapter IV of chapter 3 of title 38, United States Code, seek out former prisoners of war and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits and services to which former prisoners of war are entitled under such title by virtue of the amendments made by this Act.

(b)(1) The Administrator shall, for not less than the three-year period beginning ninety days after the date of the enactment of this Act, maintain a centralized record showing all claims for benefits under chapter 11 of such title that are submitted by former prisoners of war and the disposition of such claims.

(2) Not later than ninety days after the end of the three-year period described in paragraph (1), the Administrator shall, after consulting with and receiving the views of the Advisory Committee on Former Prisoners of War required to be established pursuant to section 221 of such title, submit a report on the results of the disposition of claims described in such paragraph, together with any comments or recommendations that the Administrator may have, to the appropriate committees of Congress. The Administrator may also submit to such committees interim reports on such results.

(c) For the purposes of this section, the term "former prisoner of war" has the meaning given such term in paragraph (32) of section 101 of title 38, United States Code (as added by section 3(a) of this Act).

In lieu of the matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United States Code, to improve certain benefit programs of the Veterans' Administration for veterans who are former prisoners of war, and for other purposes.".

Mr. SIMPSON. Mr. President, this measure is before the Senate now as a privileged matter in lieu of the formal conference report.

SUMMARY

This measure embodies a compromise agreement between the House and Senate Committees on Veterans' Affairs. It is, I believe, a fair and reasonable compromise—worked out after extensive negotiations and discussions. It would provide for an expansion of compensation and health care benefits for an exceptionally deserving group of veterans—former prisoners of war. It would also provide that the Administrator of Veterans' Affairs establish an advisory committee on former prisoners of war. The committee would serve to advise the Administrator on matters concerning policy and procedure which impact on the VA's benefits and services to former prisoners of war.

Mr. President, as chairman of the Senate Veterans' Affairs Committee, I urge concurrence in the House amendments to the Senate amendments to H.R. 1100, the proposed Former Prisoner of War Benefits Act of 1981, in order that this important measure may be sent to the President.

Mr. President, the House amendments incorporated a compromise agreement achieved by the two Veterans' Affairs Committees after extensive negotiations and discussions. Our committee and the House Veterans' Affairs Committee worked extremely hard to reach agreement on the differences between H.R. 1100 as passed by the House on June 3, 1981, and the Senate amendment to the provisions of H.R. 1100, passed by the Senate on June 4. The Senate amendment to H.R. 1100 contained the provisions of S. 468 as reported by our committee on May 13, 1981.

Although the major purposes of the House bill were similar to those of the Senate amendment, there were a number of substantive differences in the various provisions. I am very pleased that we have achieved a fair and reasonable resolution of the differences, and I should wish to highlight the major provisions of the compromise agreement.

ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

Mr. President, the House bill provided that the Administrator of Veterans' Affairs, could establish an advisory committee on former prisoners of war, the members of which would include former POW's for World War II, Korea, and Vietnam, as well as recognized authorities in various relevant medical fields. The House bill provided that officials of other executive departments and agencies might also be included. The com-

mittee would meet according to determinations prescribed by the Administrator and then submit to him a biannual report.

The Senate amendment provided that the Administrator of Veterans' Affairs shall establish an advisory committee on former prisoners of war which would include appropriate representatives of former prisoners of war as well as the same list of recognized authorities as mentioned in the House bill—with an additional authority in the category of geriatrics. The Senate amendment had no discretionary provision to include officials of other executive departments and agencies.

However, the Senate amendment would include the Chief Medical Director and Chief Benefits Director as ex officio members. The committee would consult the Administrator, and advise him on all ex-POW issues contained in a biannual report (the first report to be due July 1, 1982) which would then be submitted to Congress. The compromise agreement includes this provision with certain technical amendments.

COMPENSATION IMPROVEMENTS

Mr. President, both the House bill and the Senate amendment provided for a liberalization of the minimum internment requirement for a former prisoner of war in order for that veteran to be eligible for presumptions of service-connected disability relating to certain mental and physical disabilities and diseases associated with the prisoner of war experience. Current law provides that a prisoner of war must have been held no less than 6 months in order to be eligible for presumptions under section 313 of title 38, United States Code.

The House bill reduced the time of internment to 60 days for all presumptions. The Senate amendment reduced the time of internment to 30 days for nutrition-related disabilities and totally eliminated the minimum internment requirement for psychosis.

Mr. President, the Senate position on this issue is based on an effort to be as responsive as is medically possible to the needs of this group of veterans who, without question, suffered extreme and prolonged deprivation, torture, disease, and other forms of inhumane treatment. A psychosis, which develops as a result of a POW experience, can occur as a result of the first, and often most brutal, days of capture.

A nutritional deficiency can occur only after the passage of some time. An exact determination of time is extremely difficult to make, but in the spirit of trying to be as compassionate and pragmatic as possible, the Senate amendment provided for 30 days, taking into account the many veterans, who, when taken prisoner by the Japanese during World War II were already on extremely reduced rations and suffering the effects of this deprivation. The compromise agreement provides a minimum internment requirement of 30 days for all presumptions.

I and the other committee members agreed to this across-the-board requirement of 30 days—partly due to the Senate's agreement to expand the list of presumptions to include another category of mental disability.

Mr. President, because of the difficulty in determining an absolute definition of the length of time it takes to develop certain other mental disorders associated with the POW experience, the Senate agreed to the House's desire to establish some minimum time requirement. I believe that the 30 days will include most of the former prisoners of war who suffer from mental disorders as a result of their POW experience. The few POW's who were held for less than 30 days were generally held under conditions which were less onerous than most of the other POW's.

Mr. President, both the House bill and the Senate amendment eliminated the requirement that a presumptive mental disorder must occur within 2 years of separation from service. This provision is incorporated in the compromise agreement.

The House bill, but not the Senate amendment added "psychoneurosis" and "psychophysiologic disorders" to the list of presumptions in section 312 of title 38, United States Code.

Mr. President, I want to emphasize that both the House and the Senate committees have labored long and hard to provide expanded benefits which would most appropriately respond to the needs of our Nation's former prisoners of war. In this context, I would note, that the issue of psychoneurosis was one of the most difficult addressed by the committees when drafting a final compromise agreement. Both the House and Senate committees were committed to drafting an appropriate legislative response to the concern expressed during legislative hearings about having a presumption for psychoneurosis under section 312 of title 38.

Several of the bills considered by the committee added psychoneurosis as a presumptive disorder. The VA, in its study, stated that anxiety neurosis is the most prevalent service-connected condition in the sample of former POW's it studied. The VA study concluded that:

A comparison of service-connected anxiety neurosis among former European Theater POW's revealed that anxiety neurosis appears in a significantly greater amount among these former POW's than among other service-connected wartime veterans.

In fact, approximately 15 percent of all service-connected former POW's are service-connected for anxiety neurosis (Anxiety states) compared with approximately 4 percent of all other service-connected veterans. In spite of this evidence the VA, in neither its study nor its testimony before this committee on April 22, 1981, recommended that any form of psychoneurosis be added to the presumptive disorders relative to the POW experience in section 312 of title 38.

There is no doubt that former prisoners of war seem to suffer from anxiety neurosis in greater numbers than other wartime veterans. The issue was whether or not the VA is currently responding in an appropriate manner to claims for service-connection in such cases.

The VA has adopted new guidelines on "post-traumatic stress neurosis" in which former POW's are specifically referenced. According to the VA, these guidelines have been adopted from the American Psychiatric Association's 1980 "Diagnostic Criteria—DSM III" and are now used by the rating boards and the Board of Veterans' Appeals as the clinical information used to classify post-traumatic stress disorders as a new diagnostic finding for the purpose of establishing a service-connected disability.

The committee supports the VA's administrative action in recognizing the new clinical data on delayed psychiatric disorders which may result from the internment suffered by former prisoners of war, and in updating its diagnostic guidelines to be responsive to the possible inclusions of new claims for disability compensation which would not have qualified under old VA guidelines.

The effectiveness of this recent administrative action in meeting the concerns of former prisoners of war with respect to service connecting their psychiatric disorders will soon become evident, as more of the former POW's file claims under the new guidelines. The provisions of section 7 (further VA study) and 8 (claims for mental disorders which have been denied) of the Senate amendment would have provided further evidence of the extent to which these new guidelines are being implemented.

The VA claims that former prisoners of war are being notified of these new guidelines and are being urged to file under the category of "post-traumatic stress disorder," if they believe their delayed psychiatric disorder is a result of their POW experience.

Mr. President, I believe strongly that including psychoneurosis as a presumptive disorder would be a most inappropriate step. The term psychoneurosis covers a wide variety of mental disorders, which include, but are not limited to, hypochondria, hysteria, phobia, depersonalization, and anxiety neurosis. In the process of attempting to clarify the Senate position on this issue, I presented my concerns regarding this matter in a meeting with the very able chairman of the House Veterans' Committee, Mr. "SONNY" MONTGOMERY.

I appreciate the House's concern that this provision of the final bill should meet the very real needs of those surviving prisoners of war suffering with mental disorders. I appreciate and share those concerns. These shared concerns are the basis of the final compromise on this issue.

I am extremely pleased that the two committees have been able to work together to reach an acceptable and equitable agreement—one which provides for an additional rebuttable presumptive category of "anxiety states"—a targeted category of mental disorders which includes disabilities that may be directly linked to the prisoner of war experience. The compromise agreement does not include a persumption for psychophysiological disorders.

HEALTH CARE IMPROVEMENTS

Mr. President, both the House bill and the Senate amendment contained provi-

sions to expand VA health care to provide eligibility for hospital, nursing home, and domiciliary care for former prisoners of war, under section 610(a) of title 38, United States Code. The compromise agreement includes this very equitable provision which will establish in-patient eligibility for the surviving former POW's who are not otherwise currently eligible. The overwhelming majority—over 93,000—of these former POW's, who were interned during World War II and the Korean conflict, are reaching the age when they are beginning to experience greater medical problems.

These health concerns may occur because of the very trying circumstances of the internment of these former POW's and the fact that their health problems may be related to their experience despite the fact that they are unable to establish a service connection. The VA's study on POW's indicated a higher incidence of disability with the resulting greater need for a variety of medical services.

Mr. President, the House bill established eligibility for outpatient health care services at a VA hospital for former prisoners of war under section 612f(3) which would place nonservice-connected veterans—on a level equal to those veterans with a service-connected disability rated from zero to 40 percent who are seeking treatment for a nonservice-connected disability. The compromise agreement contains this provision.

The Senate amendment added a new section (4) and redesignated old (4) as (5) of section 612(i) which defines priorities for outpatient care. Under the Senate provision, all nonservice-connected former prisoners of war would be eligible for outpatient health care in a VA hospital or a private facility contracted by the Administration, and be placed ahead of all other nonservice-connected veterans for pre- or post-hospital care or in order to eliminate the need for hospital care. The House bill (with technical differences) contains this provision. The compromise agreement contains that provision.

I should like to note here, Mr. President that it is with extreme reluctance that the Senate receded to the House provision on outpatient care. It is my belief that service-connected veterans should always be treated first—they are the original mission of the VA hospital system. However, in this instance, the VA supported the expansion of eligibility proposed in the House bill since so many of the former POW's were inadequately examined upon repatriation, and many of their records have been lost, and witnesses' memories are often clouded by time and distance.

These problems contribute to difficulties in proving service connection in many cases. Because of the extraordinary sacrifices made by these veterans in the line of duty, I am making a specific exception to my strong personal belief concerning the VA health care system—with the VA's concurrence—which will now allow any former POW to report to any VA hospital for outpatient treatment for any disability and be admitted and treated on an equal basis with a veteran who is rated 0 to 40 percent for a service-connected disability.

This substantial concession in order to accept the House's provision is concurred in by all the committee members, but it is only since we feel strongly that this special group of veterans is indeed deserving of an extra measure of care, that we agreed to accept this targeted extension—there is no eligibility for contract care—of the VA health-care program.

VA STUDY

Mr. President, the Senate amendment, but not the House bill, provided for a limited study of the health of former POW's to be conducted by the VA to determine whether additional presumptions should be established in the area of physical and mental disabilities in section 312 of title 38, United States Code, that would relate to the POW experience, in order to examine the health services provided by this bill to determine if the VA is appropriately addressing the health care needs of former prisoners of war, and the prior bases upon which a sample of cases of former POW's claims for disability compensation have been denied. The study was to be submitted to the Congress not later than December 31, 1982, after consulation with the POW advisory committee. The compromise agreement does not contain this provision.

CLAIMS FOR MENTAL DISORDERS WHICH HAVE BEEN DENIED

Mr. President, the Senate amendment, but not the House bill would allow a former prisoner of war, whose claim for disability compensation based on a mental disorder had been previously denied before January 1, 1981, to file a claim not later than December 31, 1982, which would, for all purposes, be considered a new claim. Under the compromise agreement, first, within 90 days of enactment, the administration is required to the maximum extent feasible, to notify veterans of the changes in law made by the bill.

The Administrator is also instructed, within reason, to update the notification to veterans of changes in regulations concerning this bill; and second, the Administrator is directed for a period of 3 years, to maintain a centralized detailed record of all disability compensation claims and the outcome of such claims filed under chapter 11 of title 38, United States Code, which have been submitted by former prisoners of war and to submit a report to the Congress within 90 days after the end of the 3-year period.

This provision would direct the VA to be responsive to the requests for compensation by former prisoners of war, and would provide a needed documentation of the types of disabilities for which claims are filed—and their disposition.

I do want to pay particular appreciation and thanks to my colleagues in the House of Representatives who—together with their staffs—worked so diligently to resolve the issues of difference between the House and Senate legislation. I have also greatly appreciated the opportunity of working with Congressman SONNY MONTGOMERY. That has been a most pleasant, fruitful and productive experience for me. I have nothing but admiration and respect for him.

Mr. President, in order that all Senators and the public may have a full understanding of the provisions of the compromise agreement, there will be printed in the RECORD the text of the compromise bill and, in lieu of a joint explanatory statement accompanying a conference report, a document, also to be inserted during consideration in the other body, entitled "H.R. 1100, Former Prisoners of War Benefits Act of 1981—Explanatory Statement of the House Bill, Senate Amendment, and Compromise Agreement."

Mr. President, I would also ask that the Congressional Budget Office estimate of the costs of the provisions of the compromise agreement and a document showing the changes in existing law made by the compromise agreement be printed in the RECORD following the explanatory statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 1100, THE "FORMER PRISONER OF WAR BENEFITS ACT OF 1981"

EXPLANATORY STATEMENT—ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

Both the House bill and the Senate amendment would amend chapter 3 of title 38, United States Code, to add a new section 221 providing for the establishment of an Advisory Committee on Former Prisoners of War. The House bill would provide that the Administrator may establish an Advisory Committee and that the membership of such an Advisory Committee would include former POW's from World War II, the Korean conflict, and the Vietnam era, as well as recognized authorities in such fields as psychiatry, psychology, internal medicine, nutrition, and epidemiology; officials of other executive departments and agencies could also be included. The Advisory Committee would meet on a regular basis as prescribed by the Administrator and would submit reports to the Administrator at least once every two years.

The Senate amendment would require the Administrator to establish an Advisory Committee and provide that the membership would serve for terms to be determined by the Administrator and compromise appropriate representatives of former POW's, individuals who are recognized authorities in fields pertinent to disabilities prevalent among former POW's, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine, appropriate representatives of disabled veterans, and as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees. The Administrator would be required, on a regular basis, to consult with and seek the advice of the Advisory Committee with respect to the administration of benefits to former POW's and the needs of such veterans for compensation, health care, and rehabilitation. The Advisory Committee would be required to submit the report to the Congress; the first biennial report would be due no later than July 1, 1982, and subsequent reports would be due by July 1 of each even-numbered year thereafter. The Advisory Committee would be authorized to submit additional reports and recommendations to the Administrator, and the Administrator would be required to include a summary of such additional reports and recommendations in the Administrator's annual report.

The House recedes with an amendment which provides that the first biennial report would be submitted to the Congress no

later than July 1, 1983, and that subsequent biennial reports would be due by July 1 of each second year thereafter.

DEFINITION OF FORMER PRISONER OF WAR

The Senate amendment, but not the House bill, would amend section 101 of title 38 to add a definition, for the purposes of that title, of the term "prisoner of war" to include persons who, during active service during a period other than a period of war are held under circumstances that the Administrator finds comparable to circumstances involved in internment during a period of war and would amend section 612(b)(7), relating to certain dental benefits, to conform to the new definition.

The House recedes with an amendment changing the term defined to "former prisoner of war" and making technical corrections.

IMPROVEMENTS RELATING TO VA COMPENSATION

Both the House bill and the Senate amendment would amend section 312 of title 38, relating to presumptions of service connection for certain disabilities of former prisoners of war, to reduce the minimum internment period required for the automatic application, in certain circumstances, of presumptions relating to certain diseases that generally result from dietary problems and to psychoses. The House bill would reduce the minimum internment period from 6 months to 60 days. The Senate amendment would reduce that period from 6 months to 30 days in the case of the diseases resulting from dietary problems and would eliminate the length-of-internment requirement with respect to psychosis.

The compromise agreement provides for a 30-day minimum internment requirement in the case of all presumptions.

Both the House bill and the Senate amendment would further amend section 312 to eliminate the requirement that in order to be presumed service connected a psychosis must become manifest within two years of release from active duty.

The compromise agreement contains this provision.

The House bill, but not the Senate amendment, would further amend section 312 to add psychoneuroses and psychophysiologic disorders to the disorders to which specific presumptions apply and provide for those disorders to be dealt with in the same manner as psychoses.

The Senate recedes with an amendment adding any of the anxiety states (including post-traumatic stress neurosis), instead of psychoneuroses and psychophysiologic disorders, to the disorders to which the presumptions (modified as noted above) would apply. The Committees intend that the term "anxiety states" have the meaning prescribed under the heading "Anxiety States (or Anxiety Neuroses)" in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), published by the American Psychiatric Association (pp. 230–239) and, in the event that a subsequent edition of that manual does not contain such a heading, the meaning that is provided in the subsequent edition for a category of disorders that the Administrator determines to be the corresponding category.

The Senate amendment, but not the House bill, would amend further section 312 to eliminate the two-step procedure for the application of the presumptions of service connection.

The House Recedes.

IMPROVEMENTS RELATED TO VA HEALTH CARE

Both the House bill and the Senate amendment, with technical differences, would amend section 610(a) of title 38, relating to Veterans' Administration health-care eligibility, to provide former POW's with eligibility for hospital and nursing home care, prehospital and post-hospital outpatient care, and outpatient care that would obviate a need for hospitalization.

The compromise agreement contains such a provision.

The House bill, but not the Senate amendment, would amend section 612(f), relating specifically to eligibility for outpatient care, to provide former POW's with eligibility—which would not be provided through the above-mentioned amendment to section 610(a)—for VA outpatient health-care services for any disability.

The Senate recedes.

Both the House bill and the Senate amendment would amend section 612(i) of title 38, relating to priorities for VA health care, to place former POW's whose disabilities have not been determined to be service connected in a priority category (in the third priority in the House bill and in a new fourth priority in the Senate amendment) for outpatient care ahead of all other veterans who have no service-connected disabilities.

The House recedes.

REQUIREMENTS FOR ADDITIONAL STUDY AND OUTREACH

The Senate amendment, but not the House bill, would require the Administrator to conduct and submit to the Congress by December 31, 1982, a further, limited study—following up on certain questions not answered by the study conducted pursuant to Public Law 95–479—of specific physical and mental disabilities prevalent among former POW's and denials of claims from former POW's for service-connected disability compensation in order to determine whether additional presumptions should be established and eligibility for health-care benefits should be expanded.

The compromise agreement would require the Administrator, for not less than a three-year period beginning ninety days after the date of enactment, to maintain a centralized record of all claims of former POW's for disability compensation and of the disposition of such claims. The Committees expect that this record would include—to the extent the information can reasonably be discerned from the claims files—a description of each disability for which benefits are claimed, the rating claimed, a statement as to whether the disability is claimed to be a result of the veteran's internment, and the disposition of the claim at each level of adjudication with respect to the issues of both service connection and degree of disability. The Committees further expect that prior to establishing the process for maintaining the centralized record, the Administrator would consult with the new Advisory Committee on Former Prisoners of War, discussed above, so as to take into account that Committee's views on how best to collect and record the required information and on any information or data that such Committee may desire.

Ninety days after the expiration of the three-year data-collection period, the Administrator would be required to submit a final report on the results of the disposition of such claims, together with any recommendations that the Administrator may have, to the appropriate committees of the Congress. The Administrator would also have the authority to submit interim reports on such results, and the Committees would expect the Administrator to submit such reports when there is meaningful data to report.

The Senate amendment, but not the House bill, would permit a former POW whose claim for disability compensation based on a mental disorder had been denied prior to January 1, 1981, to file a new claim that would for all purposes be considered as an original claim.

The Senate recedes.

The Senate amendment, but not the House bill, would require the Administrator, to the maximum extent feasible and in order to carry out the requirements of subchapter IV of chapter 3 of title 38, relating to outreach programs, to seek out and provide information to the former POW's who would be afforded the opportunity to re-file a claim for disability compensation based on a mental disorder.

The compromise agreement (in connection with the record of claims described above) would require the Administrator, no later than ninety days following enactment of this Act and at appropriate times thereafter, to seek out former POW's affected by the provisions of this Act and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits to which they are entitled.

EFFECTIVE DATES

The House bill provides that the provisions relating to compensation and health care would be effective October 1, 1981; the other provisions, those relating to the proposed Advisory Committee, would take effect on the date of enactment. The Senate amendment provides that the provisions of the bill would, except for the provisions relating to compensation, which would be effective on October 1, 1981, take effect on the date of enactment.

The compromise agreement would provide that, except for the provisions relating to compensation and health care, which would be effective on October 1, 1981, the provisions of the bill take effect on the date of enactment.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 30, 1981.

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 1100, the Former Prisoner of War Benefits Act of 1981.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 30, 1981.

1. Bill number: H.R. 1100.

2. Bill title: Former Prisoner of War Benefits Act of 1981.

3. Bill status: As passed by the House of Representatives, July 30, 1981.

4. Bill purpose: To expand the eligibility of former prisoners of war for certain health-care benefits provided by the Veterans Administration (VA), and for other purposes.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	3.1	2.7	2.9	3.1	3.3
Required budget authority	4.8	5.0	5.2	5.4	5.6
Estimated outlays	7.5	7.7	8.1	8.5	8.9

The cost of this bill would fall within budget function 700.

This bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the esimated obligations that would result from enactment of H.R. 1100.

6. Basis for estimate: The following section-by-section cost analysis only addresses

those sections that would be expected to have a budgetary impact.

Section 2: This section would establish an Advisory Committee on Former Prisoners of War. The number, term of service and pay of committee members would be determined by the Administrator of Veterans Affairs. It is not expected that the cost to the government of establishing such a committee would be significant.

Section 4: This section would change from six months to thirty days the length of time a former prisoner of war must have been interned to establish an automatic presumption of service-connection for certain diseases and medical conditions. Under current law, this presumption of service-connection for diagnosis of psychosis would only apply of the condition became manifest within two years from the date of discharge. Section 4 would also remove the two-year time limit. In addition, "anxiety states" would be added to the list of presumptive conditions.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Required budget authority	4.8	5	5.2	5.4	5.6
Estimated outlays	4.4	5	5.2	5.4	5.6

According to a VA study, there are presently 95,000 living former prisoners of war. Of this number 18 percent were held less than six months, the current length of internment required to qualify for a presumption of service-connection for certain medical conditions. Of all former prisoners of war, more than 34 percent are already receiving compensation benefits. There are no data, however, on the number whose applications for compensation have been rejected on the grounds that service-connection could not be established. Since the VA is usually quite lenient in assuming service-connection for disabilities of former prisoners of war, particularly with respect to psychological disabilities, it is expected that the number of new cases entitled by this provision would be small. This estimate assumes 1,540 new cases in the first year after enactment and 50–60 additional cases in each of the following years. The new cases are assumed to receive benefits at the average benefit level for all current compensation cases. If the number of new cases resulting from enactment of this bill should be considerably different from that assumed by this estimate, the cost would vary in the same direction and by the same proportion as the error in the caseload estimate.

Section 5: This section would grant entitlement to all former prisoners of war, regardless of the length of their internment, for inpatient and ambulatory care in VA medical facilities.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	2.4	2.6	2.8	3.1	3.3
Estimated outlays	2.4	2.6	2.8	3.1	3.3

This estimate assumes that only as small number of new applications for VA medical care would result from this provision. Currently, more than 34 percent of all former prisoners of war are receiving compensation benefits, which entitle them to VA care under existing law. Any others who are age 65 or older or who cannot defray the cost of needed care on their own are also entitled under current law. Many of the remainder have private health insurance and would continue to seek treatment in the private sector, despite their new entitlement to VA care. This estimate, therefore, assumes only about 1,400 new requests for treatment a year.

Section 6: This section would direct the Administrator of Veterans Affairs to accomplish the following: 1) to notify all former prisoners of war of the changes in law made by this bill, 2) to maintain for three years a centralized record of all claims for compensation benefits submitted by former prisoners of war and of the disposition of such claims, and 3) at the end of three years, to submit to Congress a report on the disposition of such claims, together with any appropriate comments or recommendations.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	0.7	0.1	0.1	(1)	(1)
Estimated outlays	.7	.1	.1	(1)	(1)

[1] Less than $500,000.

The estimate of this section is based on an Administrative estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 13, 1981 CBO submitted the following cost estimate of H.R. 1100, as ordered reported by the House Committee on Veterans Affairs:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	3.0	2.6	2.8	3.1	3.3
Required budget authority	9.4	9.7	10.1	10.4	10.8
Estimated outlays	11.6	12.3	12.9	13.5	14.1

This version of the bill would have extended the automatic presumption of service-connection to all former prisoners of war with psychoneuroses and psychophysiologic disorders. Since these are far broader diagnostic categories than that contained in the present version of the bill, the older version would have entitled a larger number of veterans to compensation benefits and, thus, would have resulted in a higher cost. The length of internment required for the presumption, however, would only have been lowered to 60 days, somewhat offsetting the higher cost of the broader diagnostic categories.

On May 14, 1981 CBO submitted the following cost estimate of S. 468, the Senate Veterans Affairs Committee's version of this bill, as ordered reported by that committee:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	3.0	2.6	2.8	3.1	3.3
Required budget authority	2.8	2.9	3.0	3.1	3.2
Estimated outlays	5.6	5.5	5.8	6.2	6.5

As would the current version of H.R. 1100, S. 468 would have lowered the length of internment requirement to 30 days; however, no new diagnostic categories would have been added to the list for which service-connection is presumed. The number of cases newly entitled by S. 468, therefore, would be less than in the current estimate.

9. Estimate prepared by: K. W. Shepard (225–7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY COMPROMISE AGREEMENT

Changes in existing law made by the compromise agreement are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

Part I—GENERAL PROVISIONS

* * * * *

Chapter 1—GENERAL

* * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * *

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in lien of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

* * * * *

Chapter 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * *

Subchapter II—Administrator of Veterans' Affairs

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Report to the Congress.
215. Publication of laws relating to veterans.
217. Studies of rehabilitation of disabled persons.
218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations.
219. Evaluation and data collection.
220. Coordination and promotion of other Federal programs affecting veterans and their dependents.
221. Advisory Committee on Former Prisoners of War.

* * * * *

§ 221. Advisory Committee on Former Prisoners of War

(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

(A) appropriate representatives of veterans who are former prisoners of war;

(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the adminis-

tration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Adminisration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.

* * * * *

Part II—GENERAL BENEFITS

* * * * *

Chapter 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

Subchapter II—Wartime Disability Compensation

* * * * *

§ 312. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculosis disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 per centum degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

[(b) For the purposes of subsection (c) of this section, any veteran who, while serving in the active military, naval, or air service, was held as a prisoner of war for not less than six months by the Imperial Japanese Government or the German Government during World War II, by the Government of North Korea during the Korean conflict, or by the Government of North Korea, the Government of North Vietnam or the Viet Cong forces during the Vietnam era, or by their respective agents, shall be deemed to have suffered from dietary deficiencies, forced labor, or inhumane treatment in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949.]

[(c)] (b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of [any veteran who, while serving in the active military, naval, or air service and while held as a prisoner of war by an enemy government, or its agents during World War II, the Korean conflict, or the Vietnam era, suffered from dietary deficiencies, forced labor, or inhumane treatment (in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949)] *a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days,* the disease of—

[(1) Avitaminosis,

Beriberi (including beriberi heart disease),

Chronic dysentery,

Helminthiasis,

Malnutrition (including optic atrophy associated with malnutrition),

Pellagra, or

Any other nutritional deficiency,

[which became manifest to a degree of 10 per centum or more after such service; or

[(2) Psychosis which became manifest to a degree of 10 per centum or more within two years from the date of separation from such service;]

(1) avitaminosis,

(2) beriberi (including beriberi heart disease),

(3) chronic dysentery,

(4) helminthiasis,

(5) malnutrition (including optic atrophy associated with malnutrition),

(6) pellagra,

(7) any other nutritional deficiency,

(8) psychosis, or

(9) any of the anxiety states,

which became manifest to a degree of 10 per centum or more after active military, naval, or air service, shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

* * * * *

Chapter 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * *

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

§ 610. Eligibility for hospital nursing home and domiciliary care

(a) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care which the Administrator determines is needed to—

(1)(A) any veteran for a service-connected disability; or (B) any veteran for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital or nursing home care;

(2) a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty;

(3) a person who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation; [and]

(4) a veteran who is a former prisoner of war; and

[4] (5) any veteran for a non-service-connected disability if such veteran is sixty-five of age or older.

* * * * *

§ 612. Eligibility for medical treatment

(a) * * *

* * * * *

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority, application may be made within one year after the date of correction or date of enactment of this exception, whichever is later;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(6) from which a veteran of the Spanish-American War or Indian Wars is suffering;

(7) from which [any] *a* veteran [of World War I, World War II, the Korean conflict, or the Vietnam era] *who is a former prisoner of war and* who was [held as a prisoner of war] *detained or interned* for a period of not less than six months is suffering; or

(8) from which a veteran who has a service-connected disability rated as total is suffering.

* * * * *

(f) The Administrator, within the limits of Veterans' Administration facilities, may furnish medical services for any disability on an outpatient or ambulatory basis—

(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or (to the extent that the facilities are available) to obviate the need of, hospital admission, or (B) where such a veteran has been furnished hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care (for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); [and]

(2) to any veteran who has a service-connected disability rated at 50 per centum or more[.]; *and*

(3) to any veteran who is a former prisoner of war.

The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities. The Administrator may also furnish outpatient dental services and treatment, and related appliances, to

any veteran described in subsection (b)(7) of this section.

* * * * *

(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To any veteran for a service-connected disability.

(2) To any veteran described in subsection (f)(2) of this section.

(3) To any veteran with a disabiltiy rated as service-connected (including any veteran being examined to determine the existence or rating of a service-connected disability).

(4) To any veteran who is a former prisoner of war.

[(4)](5) To any veteran being furnished medical services under subsection (g) of this section.

* * * * *

●

Mr. CRANSTON. Mr. President, I rise to join the distinguished chairman of the Veterans' Affairs Committee (Mr. SIMPSON) in urging the Senate to concur in the amendments of the House to the amendments of the Senate to H.R. 1100, the proposed Former Prisoner of War Benefits Act of 1981. The provisions of the House amendments embody a compromise agreed to after extensive negotiations by the two Veterans' Affairs Committees and passed by the House of Representatives early this morning.

The compromise agreement contains provisions derived from both the House-passed legislation, H.R. 1100, the proposed Prisoner of War Health Care Benefits Act of 1981, as passed by the House on June 2, 1981, and the Senate amendments to that legislation, the proposed Former Prisoners of War Benefits Act of 1981, which was passed by the Senate in the nature of a substitute to H.R. 1100 on June 4, 1981. I believe the pending legislation represents a fair compromise of the differences between the two bodies which will serve to improve Veterans' Administration benefits and services for veterans who are former prisoners of war.

The Senate's position on the matters addressed by the legislation is well represented in the compromise agreement. A number of provisions in the agreement have been derived from a measure I, joined by Senators MATSUNAGA and DECONCINI, introduced on March 10, S. 670, the proposed Ex-Prisoners of War Benefits Improvements Act of 1981.

BACKGROUND

As chairman of the Senate Veterans' Affairs Committee in the last two Congresses and now as ranking minority member, I have long been very concerned about those veterans who made such special sacrifices and endured extreme hardships as prisoners of war. Their strength, courage, and love of freedom helped to preserve our country, and we truly owe them a debt that can never be fully repaid.

An extraordinary amount of time and effort has been devoted by the Veterans' Affairs Committees of both bodies to addressing the complex issues involved in trying to deal fairly and adequately with the problems of former POW's ever since the VA study was submitted last June pursuant to the study provision, which I authored, in Public Law 95-479. This compromise agreement, which is the final product of those efforts, will, I believe, be of great significance for many of our Nation's ex-POW's.

Mr. President, I would like to take this opportunity to comment very briefly on a number of the provisions of the compromise agreement that I believe are particularly important.

ADVISORY COMMITTEES ON FORMER PRISONERS OF WAR

Section 2 of the compromise agreement would require the Administrator of the VA to establish an Advisory Committee on Former Prisoners of War. The membership of the advisory committee would include appropriate representatives of former POW's, individuals who are recognized authorities in fields pertinent to disabilities prevalent among former POW's, and appropriate representatives of disabled veterans generally. The VA Administrator would be required to consult with and seek the advice of the committee on a regular basis. In addition, the committee would be required to submit a report every 2 years to the Administrator—the first report due no later than July 1, 1983—who would in turn be required to submit the report to the Congress.

The provisions of section 2 of the compromise agreement are generally derived from section 4 of my bill, S. 670—which was incorporated into section 2 of the measure that passed the Senate—that provided for the establishment of an advisory committee. In this regard, I am pleased that the members of both Veterans' Affairs Committees shared my belief that it is important that the advisory committee's biennial report to the Administrator be required by law to be submitted to the Congress. I believe this will serve to enhance the status and assure the permanence of the advisory committee within the VA and will give the Congress, on a continuing basis, a means of assessing the need for any further actions to address the needs of former POW's. Also, a role for involvement of disabled veterans in the work of the committee was agreed to, as I had proposed.

IMPROVEMENTS RELATED TO VA SERVICE-CONNECTED COMPENSATION

Section 4 of the pending legislation would make a number of modifications in existing law that relate to presumptions of the service-connected nature of certain diseases and disabilities of former POW's. The basic purpose of these improvements is to relieve the burden on a former POW to submit evidence to the VA that certain disabilities are service connected.

First, the compromise agreement would reduce from 6 months to 30 days the minimum POW internment period required for the automatic application of presumptions in the case of certain diseases and disorders resulting from dietary deficiencies and in cases of psychosis.

Second, the compromise agreement would eliminate the requirement that in order to be presumed to be service connected a psychosis must become manifest within 2 years after the veteran's release from active duty. This provision is based on a recommendation for legislative change made by the VA in its June 1980 study.

Third, the compromise agreement would add anxiety states to the list of diseases and disorders to which the presumptions, as they would be modified by the compromise agreement, apply. As set forth in the "Diagnostic and Statistical Manual of Mental Disorders" (third edition), published by the American Psychiatric Association, this category of mental disorders includes panic disorder, generalized anxiety disorder, and post-traumatic stress disorders.

This provision was a most difficult one on which to reach agreement between the House position that psychoneuroses and psychophysiologic disorders should be added to the list and the Senate position that additional study an information was necessary in order to determine what, if any, mental diseases or disorders beyond psychoses might be appropriately added. However, I want to stress that I fully support the compromise agreement that has been reached, and I urge my colleagues to do the same.

Fourth, the compromise agreement would, as I proposed in S. 670, eliminate the unduly complicated two-step procedure in current law for the application of the presumptions of service connection. Step one of this current procedure provides that a veteran who was held as a POW for more than 6 months is presumed to have suffered from conditions of dietary deficiencies, forced labor, and inhumane treatment in violations of the Geneva Convention. Step two provides further in the case of a veteran who has suffered from such conditions that the presumptions of service connection for certain diseases apply. The result of this new statutory approach in the compromise agreement is that title 38 would directly provide veterans who were held as POW's for 30 days or more with the benefit of a presumption of service connection for certain disabilities related to dietary deficiencies, for psychosis, and for any of the anxiety states.

Mr. President, I also note that the compromise agreement includes a provision, generally derived from the Senate amendment, defining "former prisoner of war" for purposes of title 38, United States Code, to include those who are held captive during either a period of war or any other period in which he or she was held under circumstances comparable to those under which persons have been held captive during periods of war.

IMPROVEMENTS RELATED TO HEALTH CARE

In the health-care area, section 5 of the compromise agreement contains the House provision providing eligibility, without the need to claim and show the inability to defray the costs of care, for hospital and nursing home care and for VA outpatient care in VA facilities for any disability. Further, the compromise agreement, as proposed in the Senate amendment, would place ex-POW's in a

new fourth priority category for outpatient care ahead of all veterans who have no service-connected disabilities.

REQUIREMENTS FOR OUTREACH AND DATA COLLECTION

Finally, Mr. President, section 6 of the compromise agreement would require the Administrator to seek out formed POW's and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits to which they are entitled. It would also require the Administrator, for not less than a 3-year period beginning 90 days after the date of enactment, to maintain a centralized record of all claims of former POW's for disability compensation and of the disposition of such claims.

As noted in the explanatory statement being included in the RECORD in lieu of a joint explanatory statement accompanying a conference report, I want to stress that—

The Committees expect that this record would include—to the extent the information can reasonably be discerned from the claims files—a description of each disability for which benefits are claimed, the rating claimed, a statement as to whether the disability is claimed to be a result of the veterans' internment, and the disposition of the claim at each level of adjudication with respect to the issues of both service connection and degree of disability.

Further, the explanatory statement cites the committees' expectation that the Administrator, prior to establishing the process for maintaining the centralized record, will consult with the Advisory Committee on Former Prisoners of War that would be established by section 2 of the compromise agreement so as to "take into account that committee's views on how best to collect and record required information and on any information or data that such committee may desire." At the end of the 3-year period, the Administrator would be required to submit a report on the results of the disposition of such claims.

These provisions, which are derived from provisions of the Senate-passed measure, are designed to insure that former POW's are aware of the liberalizing provisions relating to VA compensation and of their new eligibility for expanded VA health care. In addition, they are intended to provide additional information to the Congress that is not now available, that is, the extent to which the diseases and other disorders of former POW's are denied service-connected compensation.

CONCLUSION

In closing, Mr. President, I want to express my thanks and congratulations to those who participated in the development of this important legislation, particularly the chairman (Mr. MONTGOMERY) and the ranking minority member (Mr. HAMMERSCHMIDT) of the House Veterans' Affairs Committee.

I would also like to thank the distinguished chairman of the Senate Committee on Veterans' Affairs (Mr. SIMPSON), for his hard work on this measure and offer my sincere congratulations to him on the occasion of his presenting for the first time to the Senate for final action legislation reported from the Veterans' Affairs Committee under his chairmanship.

Congratulations are also in order for the distinguished Senator from South Carolina (Mr. THURMOND) with whom I collaborated on many provisions and who introduced the original bill reported from our committee, S. 468.

In addition, I want to express my appreciation for their excellent work on this measure to the staff members of the House committee, Mack Fleming, Rufus Wilson, Arnold Moon, and Charles Peckarsky; to the members of our committee staff, Ken Bergquist, Julie Susman, and John Pressly; and the members of the minority staff, Babette Polzer, Ed Scott, and Jon Steinberg.

Mr. President, the compromise agreement now before the Senate is a good one. It represents our recognition of some of the special needs and concerns of this extraordinary group of veterans, and it has my complete support.

I urge my colleagues to approve it unanimously.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments to the Senate amendments.

The motion was agreed to.

Mr. BAKER. Mr. President, I know of no further business to be transacted by the Senate. I ask the distinguished minority leader if there is any business he wishes to present to the Senate this evening.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I have nothing.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, in that event, I move that the Senate now stand in recess, in accordance with the terms of the previous order, until the hour of 11 o'clock a.m. on tomorrow.

The motion was agreed to, and, at 6:41 p.m., the Senate recessed until Friday, July 31, 1981, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 30, 1981:

DEPARTMENT OF AGRICULTURE

John V. Graziano, of Virginia, to be Inspector General, Department of Agriculture, vice Thomas F. McBride.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

VETERANS' ADMINISTRATION

Frank Saburo Sato, of Virginia, to be Inspector General, Veterans' Administration, vice Allan L. Reynolds.

DEPARTMENT OF THE TREASURY

Kenneth W. Gideon, of Texas, to be an Assistant General Counsel in the Department of the Treausry (Chief Counsel for the Internal Revenue Service), vice N. Jerold Cohen, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

Eugene J. Frank, of Pennsylvania, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring December 16, 1982, vice George N. Moore, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Juan A. del Real, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Joan Zeldes Bernstein, resigned.

Thomas R. Donnelly, Jr., of Virginia, to be an Assistant Secretary of Health and Human Services, vice William Brownlee Welsh, resigned.

DEPARTMENT OF DEFENSE

Edward C. Aldridge, Jr., of Virginia, to be Under Secretary of the Air Force, vice Antonia Handler Chayes, resigned.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Wayne Paul Jackson, xxx-xx-x... xxx-...
Brig. Gen. Thomas Milton Moore xxx-xx-xxxx xxx-...
Brig. Gen. William Francis Ward, Jr., xxx-... xxx-xx-x...

To be brigadier general

Col. John Alex Arkins xxx-xx-xxxx
Col. John Joseph Diggins xxx-xx-xxxx.

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. Vincent William Lanna, xxx-xx-x... xxx-...
Brig. Gen. Elmer Lewis Stephns, xxx-xx-x... xxx-...

To be brigadier general

Col. Carroll Glenn Allen xxx-xx-xxxx.
Col. William James Burns xxx-xx-xxxx.
Col. Keith Marvin Eggen xxx-xx-xxxx.
Col. LeRoy Robert Evans xxx-xx-xxxx.
Col. Joe Arlon Forberg xxx-xx-xxxx.
Col. Kenneth Wayne Himsel xxx-xx-xxxx.
Col. Robert George McClellan xxx-xx-xxxx.
Col. Kenneth Lester Rieth xxx-xx-xxxx.
Col. Ivan Fay Smith xxx-xx-xxxx.
Col. Michael Thomas Sullivan, Jr., xxx-xx-x... xxx-...
Col. Arthur Albert Weller, Jr. xxx-xx-xxxx.
Col. Edward Herman Wulgaert xxx-xx-xxxx xxx-...

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be bridgadier general

Col. Charles Hill Anderson, xxx-xx-xxxx.
Col. Robert Michael Fiorella, xxx-xx-xxxx.
Col. Edward Lawrence Hanson, xxx-xx-xxxx.
Col. William Arthur Jackson, xxx-xx-xxxx.
Col. Val Elmore McCreary, xxx-xx-xxxx.
Col. Charles McClung Scott, Jr., xxx-xx-... xxx-...
Col. William Kinney White, xxx-xx-xxxx.

IN THE AIR FORCE

Lt. Gen. Lloyd R. Leavitt, Jr., U.S. Air Force, (age 52), for appointment to the grade lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

DEPARTMENT OF DEFENSE

Alton Gold Keel, Jr., of the District of Columbia, to be an Assistant Secretary of the Air Force, vice Robert Jay Hermann.

IN THE ARMY

The following-named Army Medical Department officers for temporary appointment

in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

MEDICAL CORPS

To be major general

Brig. Gen. Garrison Rapmund, xxx-xx-xxxx xxx-... Medical Corps, Army of the United States (colonel, U.S. Army).

To be brigadier general

Col. Tracy Elmer Strevey, Jr. xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. Robert Hutchinson Buker, xxx-xx-xxxx xxx-... Medical Corps, U.S. Army.

MEDICAL SERVICE CORPS

To be brigadier general

Col. France Felton Jordan xxx-xx-xxxx, Medical Corps, U.S. Army.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, Section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. George D. Miller, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8036, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles L. Donnelly, Jr. xxx-xx-x... xxx-... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles G. Cleveland, xxx-xx-x... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert T Herres xxx-xx-xxxx FR, U.S. Air Force.

IN THE AIR FORCE

Air Force nominations beginning Densel K. Acheson, to be colonel, and ending Arthur E. Schmitt, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1981.

Air Force nominations beginning Max L. Abram, to be lieutenant colonel, and ending William R. Gerber, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 27, 1981.

IN THE ARMY

Army nominations beginning Arthur A. Armour, to be major, and ending David C. Weston, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1981.

IN THE NAVY

Navy nominations beginning Leon Eddy Ackart, to be captain, and ending Beverly Jean Sparks, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1981.

IN THE MARINE CORPS

Marine Corps nominations beginning John T. Garcia, to be colonel, and ending Kurt V. Zirkelbach, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 28, 1981.

HOUSE OF REPRESENTATIVES—*Thursday, July 30, 1981*

The House met at 10 a.m.

Msgr. John J. Murphy, pastor, St. Joseph's Church on Capitol Hill, Washington, D.C., offered the following prayer:

God, our, Father in Heaven, look upon us assembled here.

We have been chosen, in freedom, to be witnesses to the hopes and aspirations of those whose trust we shoulder. May our first duty be to do what is best for our beloved country—and may that best, with all its human imperfections, reflect Your glory and inspire faith in Your divine protection.

As we labor to seek the common good, keep us mindful of the weakest of Your children so that nothing we do or say here will find us distant from their basic human rights—rights about which we speak so eloquently—rights no less ignoble though wrapped in poverty and helplessness.

Make us see O heavenly Father, the power that has been given to us as an instrument of Your presence working through and in us for Your glory and the happiness of mankind.

We humbly ask in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4074. An act to revise the laws pertaining to the Maritime Administration.

RIGHT REVEREND MONSIGNOR JOHN J. MURPHY

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I am pleased to welcome to the House of Representatives the Right Reverend Monsignor John J. Murphy, pastor of St. Joseph's Catholic Church on Capitol Hill. Since February 1, Monsignor Murphy has been the pastor for the U.S. Capitol and the Hill community. He comes to his present ministry after a most distinguished priestly career.

Monsignor Murphy is a native of Boston, Mass., who received his education at the Boston Latin School and Harvard University. During World War II he served in the 10th Mountain Division as a ski trooper and fought in the Italian campaign.

He returned home to change his career from military service to study for the priesthood and was ordained in 1954.

Monsignor Murphy has served in many positions since ordination including 14 years at the National Shrine of the Immaculate Conception in the Nation's Capital, the last 7 years as director.

PERMISSION FOR COMMITTEE ON JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendments under the 5-minute rule, today, July 30, 1981.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HYDE. Mr. Speaker, reserving the right to object, I would like to join in that request because we have been trying to meet for some time on important legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PRESIDENT SHOULD SAVE MINIMUM SOCIAL SECURITY BENEFIT

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I join our fellow Members in congratulating the President on his tax victory of yesterday. Obviously he has mastered the congressional process.

I would now join those who are urging the President to save the minimum benefit for social security. If we can give the oil industry billions of dollars over the next 10 years in the tax bill, certainly we can save $122 a month for the frail and needy under the minimum benefits under social security.

Join us, Mr. President. The frail, the needy, the elderly of America need you and they need you now.

THE REPUBLICAN TRIUMPH

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, yesterday the President of the United States and the Republican leaders in both the House and Senate scored a stunning victory. Democrats for most of the past five decades have had similar victories, and we have always been delighted with them. Today is the time for we Democrats to stand on the sidelines and cheer those who have achieved these triumphs.

With my applause, I make one indisputable observation: The Republican leadership and President Reagan have now won everything, save one. They have lost all their excuses.

PRESIDENT REAGAN—SUPERSTAR

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, when President Reagan came to town last January, you advised him that things would not be so easy from now on. I think the words you used were that, "He is in the big leagues now."

Well, I do not know what you think about that now but I not only think the President made it in the big leagues, I think he is a superstar in a league of his own.

Mr. Speaker, I have never been so proud and so happy to be a Member of Congress as I was yesterday. What we did here yesterday—and I say this from the bottom of my heart and without any politics—what we did yesterday will do wonderful things for the American people, all the American people, whether they make more or less than $50,000. I think we can concede now that all that $50,000 business was just political rhetoric.

I do not know how many of you saw that movie the President made many years ago when he played Grover Cleveland Alexander, a great pitcher. Well, Grover Cleveland Alexander is in the Hall of Fame now, and if there were a Hall of Fame for Presidents, I would be the first to nominate him for it.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ADDITIONAL CUTS PROPOSED FOR CONSIDERATION OF MEMBERS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, we are all celebrating the victory of yesterday and the adoption of a new tax program for the American people, but I do not think we should lose sight of the fact that with this tax reduction program it is estimated that we will have a deficit in the next fiscal year 1982 of some $45 billion, on the budget, and when we consider the off-budget items, probably $60 billion.

I believe that it is incumbent upon those of us serving in this body to look for additional ways to cut Federal spending and reduce this deficit and help reduce high interest rates in this country.

Federal demands for credit in the money markets of the country now consume about 40 percent of the available funds. If we reduce the Federal demand for credit to finance the deficit, we can significantly lower interest rates.

To this end, the Republican Study Committee has produced and published for consideration by the Members of the House a proposed list of cuts in the budget for 1982.

It describes some 272 items totaling some $52.3 billion for additional cuts which can be made in spending in 1982 without doing it on the backs of the poor, the downtrodden, and the handicapped.

I submit this to the consideration of the Members of the House.

□ 1010

THE END OF A PERFECT WEEK—REPUBLICANS 6; DEMOCRATS 4

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, in light of the outstanding results of the Mighty Elephant Team last night, I would like to take this opportunity to describe to you some of the sturdy characters who spelled doom for my colleagues on the other side of the aisle.

First, on first, we had CARL "Nothing Gets By Me" PURSELL, who eats up grounders like a horde of "Gypsy Moths" on a white pine forest. Then, we had a bevy of infielders whose gloves were like vacuum cleaners and arms like bazookas. There is "CAP," "The Night Stalker" HOLLENBECK whose eyesight is decidedly better for night games and GARY "The Stabber" LEE whose quickness at short defies even the sharpest eye to detect whether or not he has moved.

In the outfield we had such stalwarts as PETE "Freight Train" MCCLOSKEY, who assured me that this year he had liability insurance to cover his base running. We also had RON "The Cannon" PAUL who throws like he bats and bats like he throws—whatever that means. Next to him we had the "Human Scoop," DAN CRANE. The only retriever I know that could have beat DAN is my dog Primo. And what a base runner we had—none other than "Crazy Legs" JOEL PRITCHARD.

Mr. Speaker; although we had an all-star lineup which included JACK "The Giant" FIELDS; MIKE, the "Ox" OXLEY; "Beltin" BILL ARCHER; "Dangerous" DUNCAN HUNTER; "Joltin" JOHN HILER; and "Smashin" SID MORRISON; these names were useless without the presence of our "Illustrious Leader," our most "Deadly Companion," our "Scourage of Batter," the one and only JOHN "Razor-Tongue" LEBOUTILLIER. If you think that "Razor-Tongue" has thrown a few at the Democrats in the past, you should have seen him last night. His fast ball was so fast that even he could not see it. And his curve—well everyone already knew how that pitch of his worked.

And to back him up, Mr. Speaker, we had LYLE "Stonewall" WILLIAMS, the human backboard, at catcher, to hold "Razor-Tongue" down—if he tried to walk around anyone. And finally, our designated hitter was, "Clobberin" DON CLAUSEN, who, when used as a relief pitcher, could come at you over or under his belly from any position on the mound.

Mr. Speaker, As you are well aware, it has been a very taxing week, and nothing could have been more taxing to the Democrats than to come up losers to the Republicans by a score of 6 to 4 at the 20th annual congressional Baseball Game.

DEMOCRAT BALL TEAM SHALL RETURN

(Mr. CHAPPELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAPPELL. Mr. Speaker, I shall not try to match the act of the gentleman from Massachusetts (Mr. CONTE). Let me simply say that my good French friend, SILVIO CONTE, finally dug up a team last night that did play good ball. I do not know who coached them, but they looked exceptionally good. They played a good game, and we take nothing from them.

Mr. Speaker, the real truth of the matter is, while we as Democrats sometimes disappoint you, you would not have been disappointed in the way we played ball last night. Although the score was not as we wanted it to be, our men hit well, they played well. You would have been proud of them, with FAUNTROY at first; SABO at second; BONIOR at shortstop; RUSSO at third; MOFFETT, SYNAR, DOWNEY, FAZIO, and MCCURDY handling the outfield; MOTTL pitching; CHAPPELL catching; and with DOWNEY winning our outstanding player award; but like we Democrats sometimes do, we got our signals crossed up a time or two.

But, we put all on notice that our Democratic signals are improving, our ability to work together is improving, and we are going to put our future acts together in a proper and successful way, both politically and on the ballfield.

Mr. Speaker, we shall return to win again, again, and again.

TRIBUTE TO REPRESENTATIVE KEMP OF NEW YORK

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, I think throughout history that the men and women who have served in this Chamber, who have gained the respect of our colleagues, have been those individuals who are men and women of ideals, courage, and determination, those people who have the conviction to go against the grain in those times when the going is pretty tough.

I could single out many people here, leaders and others, who in the last few months have gone against the grain, but I thought, inasmuch as we passed the tax bill yesterday which called for across-the-board rate reductions, it was appropriate to single out someone who for more than 5 years has gone against the grain; a man of ideas, courage, and conviction, who has stood his ground over and over again and has done more to communicate the new day, the new American dream, the American renaissance, the politics of hope, than anyone I know. That is the gentleman from New York, JACK KEMP.

ADMINISTRATION PRESENTS NEW IMMIGRATION POLICY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the United States has had for too long a disastrous immigration policy. The American people have demanded a change. The administration has now set forth eight principles to bring some commonsense back to our immigration policy.

We are a nation of immigrants, yes, but we cannot accommodate all the people and all the world's refugees.

I know that Congress will act expeditiously and with all due dispatch to study these eight principles and to

bring a firm, fair and consistent immigration policy back to our country.

VOLUNTARY LIMITS ON IMPORTED SHOES FROM TAIWAN AND KOREA CALLED FOR

(Mr. NELLIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELLIGAN. Mr. Speaker, I have written President Reagan asking him to negotiate voluntary limits on imported shoes from Taiwan and Korea as a way of providing continuing relief to the domestic shoe industry.

As you know, the President recently rejected the recommendation of the International Trade Commission to extend the international agreements to limit imports.

My district in northeastern Pennsylvania alone has 11 shoe firms which employ more than 2,000 workers. These firms have been devastated by foreign imports, which constitute 48.5 percent of shoes sold nationally.

So that the strides made in the last 4 years will not be eliminated and a successful modernization program can be completed, I am urging the President to negotiate voluntary limits with Taiwan and Korea, just as voluntary limits were negotiated with Japan for the auto industry, where imports were only 27 percent, not 48.5 percent.

In a perfect world, I always would choose to be a free trader. But, in this instance, I am convinced the best route is continued import relief for the domestic shoe industry—at least until the industry has a chance to get on its feet again.

TRIBUTE TO ROBERT MOSES, A GREAT AMERICAN BUILDER

(Mr. McGRATH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGRATH. Mr. Speaker, yesterday I received the sad news of the passing of Robert Moses, a great American whose genius contributed to a better way of life for millions of New Yorkers and residents of other areas throughout our Nation and the world.

The accomplishments of Robert Moses as a scholar, administrator, politician, and builder date back to the first decade of this century. In the grey days of the Great Depression, Robert Moses was recognized as a national leader in the administration of public works projects in parks, roadways, and housing programs. Through the following decades, the projects spurred by his vision and tremendous administrative ability provided New York and neighboring States with an unparalleled transportation system, greater electrical power production, and a tremendous network of parks and recreational facilities.

Engineers, executives, and students from the 50 States and many nations flocked to Moses to benefit from his skills. He attracted many dedicated and professional public servants to government. Others who worked with him went on to the private sector enriched with knowledge and ability.

On July 29, New York and our Nation lost a leader whose foresight helped bring us into the 20th century. The monuments to Robert Moses will remain long into the future for visitors and residents of New York to enjoy. I call upon my colleagues today to join me in a moment of prayer and reflection in memory of Robert Moses.

TRIBUTE TO REPRESENTATIVE JACK KEMP OF NEW YORK

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, in the aftermath of yesterday's historic vote on reducing the tax burden on the American people, I believe we in this Congress should be most grateful. First of all, we should be grateful to the President, who has shown to the American people that Presidential leadership is still possible. We need to be grateful to the hardworking members of the Ways and Means Committee, and particularly the chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI) and the ranking minority member, the gentleman from New York (Mr. CONABLE).

I think we need to express gratitude to the leaders of both parties, the Speaker of the House and the minority leader, for their creative leadership and gentlemanly behavior in bringing their troops into the battle.

□ 1020

But Mr. Speaker I think one Member deserves special recognition for intellectual, economic, and political leadership over a 5-year period which brought tax debate to the point at which it arrived in the House yesterday, and that is the gentleman from New York (Mr. KEMP), the gentleman from New York has labored over the years, at times when those new ideas were very far from the Halls of this Congress. For 5 years he has been taking the message of increased incentives as critical to jobs and economic growth to the American people in a most creative way.

Mr. Speaker, I think, perhaps more than any one person, he deserves responsibility for the outcome yesterday.

FARMERS UNITED FOR THE GOOD OF THE NATION

(Mr. ROEMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I had occasion this morning to attend another breakfast with some Members of the House. We have at least three breakfast invitations every morning. I was glad I went this morning because it was somewhat different. It was a breakfast hosted by the some 480,000 members of the Future Farmers of America, and I saw a great deal of hope for the country there.

I am a farmer myself; I grew up on one and worked as a farmer all my life until I retired and came to Congress. The information, the enthusiasm, and the commitment of this group to their country that I observed this morning was an important message to me.

There was a book written entitled "Out of Africa," and in that book the woman author wrote that "all farmers, wherever they might live, share the feeling of drought. After 30 days without rain, the first drops of rain unite farmers everywhere."

Mr. Speaker, the feeling I got at that breakfast this morning is that America is in good hands.

ROOKIE MAKES GOOD IN THE MAJOR LEAGUES

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, back in November you offered some rather fatherly advice to President-elect Reagan when he visited Capitol Hill. Let me refresh my colleagues on what you said to the rookie President from California. You said, and I quote:

> The Governor of a State plays in the minor leagues. When you're President you're in the big leagues. Things may not move as fast as you want them to.

Mr. Speaker, President Reagan, as demonstrated by yesterday's tax cut vote, is a polished professional who can more than hold his own in the big leagues. With his good pitch, a bipartisan team and the cheering support of the American people, the President has struck out the outdated big spending and high tax policies that your team represents way out there in left field.

Professional baseball players may be on strike, but the heavy hitting has been going on all year here in the House of Representatives. The first strike came early in the season on May 7 with the passage of the Gramm-Latta budget resolution. Strike two came on June 26 with the vote in favor of the budget reconciliation bill the President favored. The third strike, and the one that should keep you on the bench, came just yesterday with the passage of the tax cut package. As much as I disagree with your game

plan, I have to give you credit for going down swinging for what you believe in.

Your team may have struck out, Mr. Speaker, but the American people have won with the passage of a budget and tax package that will put the United States back on the road to economic recovery.

As we prepare for the upcoming recess, we can go back to our districts knowing we had a successful season.

APPOINTMENT OF CONFEREES ON S. 1098, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1098) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. FUQUA, FLIPPO, GLICKMAN, NELSON, BROWN of California, WINN, GOLDWATER, and HOLLENBECK.

EXPRESSING SENSE OF THE HOUSE REGARDING POLAND AND EAST-WEST RELATIONS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 124) expressing the sense of the House of Representatives that the United States could not remain indifferent to any internal repression or external aggression against the people of Poland and that such developments would have serious consequences for East-West relations, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I take this opportunity to yield to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs for an explanation of this resolution.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of House Resolution 124.

House Resolution 124 was introduced by our colleague, the gentleman from Nebraska (Mr. DAUB). This resolution adds to the continuation of the perceptive, constructive role played by the House of Representatives in foreign affairs. The resolution has nearly 100 cosponsors of all ideological persuasions and is a clear bipartisan statement of congressional sentiment of this key foreign policy issue.

House Resolution 124 represents a thoughtful and intelligent approach to the present situation in Poland. It articulates a firm congressional message of support for what must be the guiding principle of U.S. policy toward Poland: Polish solutions to Polish problems. U.S. policy on Poland must be centered on this principle if that policy is to be successful. That must also be the policy of all other states.

The resolution also encourages the implementation of concrete steps to advance U.S. policy toward Poland. These include working with other nations to ease Poland's economic difficulties and support for the sale of surplus food supplies at concessionary prices and with Polish currency. Our country has demonstrated its humanitarian compassion with the sale of 400,000 tons of corn this week and, hopefully, will continue to assist the people of Poland by selling our surplus butter and other commodities to help alleviate Poland's economic problems. The resolution also offers a subtle but effective warning to the Soviet Union that Moscow-sponsored repression or aggression against Poland would have grave consequences for East-West relations.

Mr. Speaker, it is generally agreed that one factor that has deterred Soviet action against Poland and permitted the Polish people to resolve their economic problems in their own way is the clear understanding that the United States would not remain indifferent to such action. House Resolution 124 represents a responsible effort to make that understanding ever more clear. I urge the adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield such time as he may consume to the gentleman from Nebraska (Mr. DAUB), who is the real sponsor of this legislation.

Mr. DAUB. Mr. Speaker, I would like to commend the able chairman of the Foreign Affairs Committee, Mr. CLEMENT ZABLOCKI for his foresight and leadership on the measure at hand. Mr. WILLIAM BROOMFIELD, the ranking member of that committee has also contributed greatly to this opportunity we now have to address the events in Poland. The chairman of the Subcommittee on Europe and the Middle East, Mr. LEE HAMILTON, as well as the ranking member of that subcommittee, Mr. PAUL FINDLEY, are also to be commended for their efforts on this matter.

For some time now, we have all been watching the people of Poland wage an inspirational campaign for fundamental political, economic and social justice. The courage they have shown is strong testimony to the moral integrity of the Polish people and the moral bankruptcy of Soviet-styled communism.

Recently, a special party congress convened in Poland. For the first time in Eastern bloc history, a Communist party elected its leaders from multiple candidates and with secret ballots. Only a united and truly determined populace could have prodded an entrenched Communist bureaucracy into the extraordinary procedures with which we in the West are so well accustomed.

While these developments are encouraging signs for the lives of millions of Poles, they are alarming trends from the Kremlin's perspective. It is clear that the seeds of injustice and inhumanity which the Soviets have sown in the soil of Poland has now borne the Russians a bitter fruit; a fruit which has poisoned their control over that nation.

Mr. Speaker, I do not believe that a Warsaw Pact invasion is inevitable. Neither, however, do I feel that it is impossible.

In my judgment, this body, as one of the highest political forums in the United States, has an obligation to state formally our profound concern over the possibility of aggression against the people of Poland. The Soviets must understand that military intervention in Poland will not be met in this country with a business-as-usual attitude.

House Resolution 124 was introduced to demonstrate that the House is behind the people of Poland in their quest for fundamental liberty. This resolution sends a signal to the Soviets that—

> The United States could not remain indifferent to external aggression or internal repression against the people of Poland and that such developments would have serious consequences for East-West relations.

Mr. Speaker, the fundamental freedoms we have enjoyed since the birth of our Nation are so well established that I think we at times take them for granted. The noble struggle of the Polish people for basic liberty should be an inspirational reminder that our liberty is not only to be cherished, but guarded.

The bold strides toward liberty which the Polish people have taken so far, reaffirms what George Washington once said about foreign tyranny during our own struggle for independence:

> That a free man, contending for liberty on his own ground, is superior to any slavish mercenary on Earth.

Mr. Speaker, I urge adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania (Mr. NELLIGAN), one of the principal sponsors of this resolution.

Mr. NELLIGAN. Mr. Speaker, I believe we are all aware of the tense situation which now exists in Poland.

The recent decision by the Reagan administration to grant Poland $55 million in new long-term credit to purchase U.S. corn is an encouraging development. It demonstrates the commitment of our Nation to aid Poland in its time of need.

However, it is undeniable that Poland faces a volatile political situation in the wake of its extraordinary party congress. Of particular concern is the June letter from the Kremlin to the Polish party leadership which advocated the strengthening of the army and security forces to counter the activities of "antisocialist forces." The Soviets have continuously pressured the Polish Government with thinly veiled threats. They have sought to subvert the will of the Polish people with the force of their arms.

I am one of the original cosponsors of House Resolution 124 because I wish to demonstrate my concern for the security of Poland. The resolution explicitly states that it is "The sense of the House of Representatives that the United States could not remain indifferent to any internal repression or external aggression against the people of Poland."

It also commends the peaceful attempts to resolve the differences between the workers and government officials in Poland and supports President Reagan in his efforts to ease Poland's economic difficulties—especially in his decision to sell surplus food supplies to Poland at concessionary prices.

I believe House Resolution 124 is an important, forceful statement of policy. We, in the Congress of the United States, must make it clear to the Soviet Union that it should cease its intermeddling in Polish affairs. We must make it clear that the United States will consider any intervention to be a grave disruption of international peace and security.

There are many social, cultural, and philosophic ties between our country and the nation of Poland. The United States must support the Polish people in their time of need, and seek a peaceful resolution of the current crisis.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding so that I might personally thank the chairman of the Committee on Foreign Affairs, and the ranking member, the gentleman from Michigan (Mr. BROOMFIELD), and the gentleman from Nebraska (Mr. DAUB), and the gentleman from Pennsylvania (Mr. NELLIGAN), for bringing this very, very vital and important issue to the floor. I urge its unanimous passage.

Mr. Speaker, I rise in support of this resolution. Last March, I filed a very similar resolution but I am very happy to speak in favor of this proposal from my colleague from Nebraska.

The council of the NATO alliance suggested last year that any intervention by the Soviets in Poland would have very severe consequences for East/West relations. Secretary Haig has endorsed those views.

So this resolution is nothing more than putting the U.S. Congress on record as being in support of the administration's policy.

Mr. Speaker, the people of poland are very brave. They have taken courageous steps in the last few months to seek more freedom. The American people share a very close cultural bond with the Poles. Some of our most distinguished citizens have been of Polish descent. They have contributed much to this country.

We are not trying to tell the Polish people how to run their country. They are fully capable of running their own nation. But the Congress must go on record in opposition to Soviet expansionism, whether it is in Afghanistan, Africa, Asia, or Europe. The Soviet leaders must know that the American people will not stand by and watch Soviet tanks roll into another country.

Mr. Speaker, let the people of Poland resolve their own problems. That's all we ask.

Mr. BROOMFIELD, Mr. Speaker, further reserving the right to object, I support House Resolution 124, which accurately and succinctly expresses the sense of the House of Representatives concerning the position of our Nation on the differences which have yet to be resolved between Polish workers and the Polish Government. Most importantly, House Resolution 124 commends the ongoing peaceful negotiations between Polish Government and worker representatives to resolve their differences; and clearly states that the United States will not condone any actions of external aggression or officially sanctioned internal repression which are intended to force or squash the position of either side in the dispute.

Given the tremendous concern of the American people about the current situation in Poland, and the delicate and potentially explosive nature of the recent developments in that country, it is essential that the House of Representatives clearly states the position of our Nation on the issue of Poland. House Resolution 124 performs this essential task well.

In addition, I would like to take this opportunity to express my praise an admiration for Solidarity and the Polish people. I had the distinct honor and privilege of cochairing with our colleague, CLEM ZABLOCKI, the President's delegation to the funeral of Cardinal Wyszynski. During that trip, I was able to talk with Lech Walesa and to get a sense of the attitude of the Polish people. I was very impressed by their dedication to social, economic, and political reform, and their determination to achieve these goals through peaceful means.

It is a great hope of this Nation and all freedom-loving peoples that the process of reform in Poland that is underway will continue. The House of Representatives can help to protect this process of reform by passing House Resolution 124.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Iowa (Mr. HARKIN), one of the original sponsors of this resolution.

Mr. HARKIN. Mr. Speaker, I thank the gentleman for yielding.

I rise in vigorous support of House Resolution 124. I have been very concerned, as Members of this body are aware, with the observance of human rights throughout the world ever since I first came to the House; but nothing has thrilled me so much as the efforts of the Polish people to regain for themselves a modicum of freedom. It is inspiring to people all over the world. It shows them that even in the face of a brutal tyranny sponsored by another country, a determined people can successfully force their government to recognize their basic human rights.

But the Polish drama is not over. The Soviet Union with the Red army always poses a threat to very substantial gains by the Polish people. The House must express itself in the strongest possible words that the United States will not stand idly by if the Soviet armed forces were to invade Poland. We must make it plain to the Soviet rulers that the people of the United States will stand as one in support of severe sanctions if the Soviet Union tries to roll back the tide of history and human freedom in Poland.

All over the world people are struggling for greater democracy and greater observance of their basic human rights. The focus of the world is now on Poland.

I urge my colleagues to support this resolution.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. GILMAN).

□ 1040

Mr. GILLMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of House Resolution 124. As a cosponsor of this resolution, I would first like to commend the author of the resolution, the gentleman from Nebraska (Mr. DAUB) for his leadership on this issue and the chairman and ranking minority member of the Committee on Foreign Affairs, Mr. ZABLOCKI and Mr. BROOMFIELD, respectively, for their role in expeditiously bringing this resolution to the floor.

It is indeed appropriate that we should consider this important resolution on Poland today on the eve of the sixth anniversary of the signing of the Helsinki accords. House Resolution 124 supports those fundamental beliefs of self-determination and rejection of external interference in that country that are such an important part of the Helsinki agreements.

Specifically, the resolution commends the peaceful attempts to resolve the Polish crisis and supports the efforts of the President to work with other nations to ease Poland's economic difficulties and to provide needed food supplies at favorable prices. It also states that while our hope that a peaceful resolution of current difficulties will continue, the United States could not remain indifferent to any external aggression or internal repression. Such aggression or repression would be viewed as a disruption of the international peace and security and would have serious consequences for East-West relations.

Just yesterday, I inserted into the RECORD a recent statement on Polish solidarity by Monsignor Bela Varga, the chairman of the Hungarian Committee, an organization of democratic Hungarian politicians exiled by the Communist regime in Hungary. Monsignor Varga, who formerly served as Speaker of the Hungarian Parliament, expressed the importance of the Polish struggle not only for the Polish people but for all peoples in the region. Their success will certainly benefit all people behind the Iron Curtain as it weakens the colonizing power of the Soviet Union.

For the American people, of which so many are of Polish heritage, there is great concern about developments now taking place in that country. By adopting this resolution we officially voice our concern and clearly state our support for the peaceful self-determination of the Polish people.

Accordingly, I urge my colleagues to join the cosponsors of this resolution in full support of House Resolution 124.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, I yield to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Last fall I had the opportunity to meet with Francois Blanchard, Secretary General of the International Labor Organization, located in Geneva. At that time the Solidarity movement in Poland was beginning to make the news.

Since then, I have been heartened by the apparent willingness of the Polish Communist Party to work with the Solidarity labor movement. Poland's achievement may represent a watershed in the evolvement of the Eastern European Communist countries. For this very reason, however, there still exists the threat of either internal or external repression of these hard-fought freedoms which the Polish people have won. I therefore join my colleagues in this resolution which will convey to the Polish people our support.

Mr. HERTEL. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, I am happy to yield to the gentleman from Michigan (Mr. HERTEL).

Mr. HERTEL. Mr. Speaker, I rise in support of the resolution and I am very happy to see such strong bipartisan support, and also to see such strong language in this resolution so that the Polish people and the Russian Government will know that the United States will not sit idly by and allow any aggression to occur in Poland.

The situation in the last few days again has become more serious. So I think it is very appropriate that we pass this resolution today, and I would hope unanimously.

The American people have a great kinship with the Polish people that has gone on for centuries. We have shared the ideals of democracy, of freedom, and it is so important that this resolution be passed by the House so that the dark days of the Russian onslaught in Hungary and Czechoslovakia will not be allowed to happen again by our Government.

● Mr. MICHEL. Mr. Speaker, I think it is fitting that the Congress should formally express its concern for the situation in Poland.

What has happened in that country is extraordinary. After over 40 years of continual domination by totalitarian powers—Nazi Germany and Soviet Communism—the people of Poland have not only kept alive the flame of liberty but have now shown that flame to the world, as a symbol of determination, courage and faith.

In a sense, the workers of Poland and their families have become teachers of the world—they teach us how important freedom is by their example.

Anyone fortunate enough to be living in a free country owes a debt of thanks to the people of Poland for reminding us how precious freedom is and what people are willing to risk just to get a taste of it.

I know that Radio Free Europe, and the Voice of America will broadcast the news of this resolution to the Polish people and that Radio Liberty will tell people in the Soviet Union. The very fact that the Congress has formally recognized the plight of the Polish people is a victory for solidarity.

Any attempt to put an end to the Solidarity movement either through armed invasion or the more insidious, but just as deadly, policy of internal repression, would indeed have "serious consequences for East-West relations."

So, as we salute the Polish people, let us also thank them. What they are doing now will be seen by history as a turning point in the history of freedom in Europe. It is extremely important that the gains they have made not be taken away and that they continue to express their basic human right for freedom.

The policy of the United States should support that effort. I am glad therefore that we are on record as supporting the peaceful assets of the Polish people to regain what is theirs by right.●

● Mr. PARRIS. Mr. Speaker, I rise in strong support of the resolution offered by my colleague, the distinguished gentleman from Nebraska. This resolution expresses the United States great concern for the people of Poland should any external aggression or internal repression take place. This resolution further states that any such occurrences would have serious consequences for East-West relations.

The entire world is closely watching the situation in Poland, particularly the Soviet Union. This month, Poland held its First National Party Congress since the labor strikes last summer and elected its leadership by democratic ballot. This is the first time in history that any Communist nation has elected its party leadership by secret ballot. The Soviet Union is remaining very cautious toward the Polish Government and Soviet troops are still maintained in a state of readiness on the Polish borders.

This is a bipartisan resolution that is in line with the administration's policy toward Poland. I, therefore, urge my colleagues on both sides of the aisle to support this resolution.●

● Mr. PAUL. Mr. Speaker, the resistence of the Polish people to the pressure from their government to modify their demands for economic and political reform, as well as to the clear threats from the Soviet Union, is an inspiration to all of us.

I approve of many of the sentiments expressed in House Resolution 124, however, I believe it makes the fundamental mistake of confusing the Polish Government with the Polish people.

The people of Poland are demanding an end to the disastrous economic policies, and the intolerable political repression, of the Communist dictatorship. Since such tyranny is integral to the nature of Communist systems, it is only when that system falls that they will be able to permanently achieve their goals. For now, they have only gained "concessions" from the Government—not the rights to which we are all entitled.

The Polish Government, on the other hand, while refusing to abandon its socialist economics—and while remaining ready to pounce on the people if "things go to far"—has managed to enlist the support of the West in propping up a system doomed to failure. Thus, under pressure from Western governments, part of Poland's $25 billion-plus debt has been "rescheduled"—though the country is actually in default on its loan payments—and now the U.S. Government, with the approval of this House, will help the Polish Government quell the rising tide of discontent in Poland over the acute shortages of food by providing $55 million in credits to buy food, and additional amounts in surplus produce of the United States.

Whose side is the United States on? The Communist Party of Poland's? Or, the Polish people? I think that most Americans would choose the latter.

But, there are those in this country who would play "realpolitik" by maintaining that the independence of Poland from the Soviet Union is the main goal we should pursue; therefore, assistance to the Polish Communists to help them maintain power is in our best interests.

I disagree. Whether the totalitarianism is homegrown in Warsaw or fermented in the Kremlin, it is the same to the people crushed by it. Under such circumstances, trying to make things merely marginally better will only delay, and perhaps permanently frustrate, the movement toward liberty.

Rather, we should see what assistance Americans voluntarily are willing to give directly to the people of Poland, not its government, and desist in our counterproductive economic assistance to the oppressors.

As for the national interests of the United States: They remain what they have always been, protection of our own country, resistence to tyranny in any form, and support—both spiritually and in voluntary assistance—to all of those struggling for freedom around the world today. The Soviet Union is not our enemy so much as the ideas on which it was founded; we cannot afford to engage in gamesmanship with a particular tyranny, while failing to see that it is tyranny itself that is our enemy.

For these reasons, Mr. Speaker, I must vote against this resolution, though I recognize the sincere motives of the Members of this body in passing it.●

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ADDABBO). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 124

Whereas the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights provide that "all peoples have the right on self-determination";

Whereas any aggression against Poland by outside forces would be contrary to international law and commitments, including the United Nations Charter and the Final Act of the Conference on Security and Cooperation in Europe; and

Whereas the workers and government officials of Poland have recently dealt with their differences peaceably through negotiations: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the peaceful attempts to resolve differences between the workers and government officials in Poland;

(2) welcomed the visit to the United States by the First Deputy Prime Minister Jagielski;

(3) would consider any aggression against Poland by outside forces to be a disruption of international peace and security;

(4) would view with grave concern the use of officially sanctioned repression by internal forces in Poland;

(5) considers that the United States could not remain indifferent to any external aggression or internal repression against the people of Poland and that such developments would have serious consequences for East-West relations;

(6) supports the President in efforts to work with other nations to ease Poland's economic difficulties and further supports the decision by the United States Government to sell surplus food supplies to Poland at concessionary prices and in the Polish currency provided that neither external aggression nor internal repression occurs; and

(7) expresses the hope that the Polish workers and the Polish Government will continue to resolve their differences through peaceful negotiations.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 410, nays 1, not voting 23, as follows:

[Roll No. 179]

YEAS—410

Addabbo	Dixon	Hubbard
Akaka	Donnelly	Huckaby
Albosta	Dorgan	Hughes
Alexander	Dornan	Hunter
Anderson	Dougherty	Hutto
Annunzio	Dowdy	Hyde
Anthony	Downey	Ireland
Applegate	Dreier	Jacobs
Archer	Duncan	Jeffries
Ashbrook	Dunn	Jenkins
Aspin	Dwyer	Johnston
Atkinson	Dyson	Jones (NC)
AuCoin	Early	Jones (OK)
Badham	Eckart	Jones (TN)
Bafalis	Edgar	Kastenmeier
Bailey (MO)	Edwards (AL)	Kazen
Bailey (PA)	Edwards (CA)	Kemp
Barnard	Edwards (OK)	Kildee
Barnes	Emerson	Kindness
Beard	Emery	Kogovsek
Bedell	English	Kramer
Beilenson	Erdahl	LaFalce
Benedict	Erlenborn	Lagomarsino
Benjamin	Ertel	Lantos
Bennett	Evans (DE)	Latta
Bereuter	Evans (GA)	Leach
Bethune	Evans (IA)	Leath
Bevill	Evans (IN)	LeBoutillier
Biaggi	Fary	Lee
Bingham	Fazio	Lehman
Blanchard	Fenwick	Leland
Bliley	Ferraro	Lent
Boggs	Fiedler	Levitas
Boland	Fields	Lewis
Bolling	Findley	Livingston
Boner	Fish	Loeffler
Bonior	Fithian	Long (LA)
Bonker	Flippo	Long (MD)
Bouquard	Florio	Lott
Bowen	Foglietta	Lowery (CA)
Breaux	Foley	Lowry (WA)
Brinkley	Ford (TN)	Lujan
Brodhead	Forsythe	Luken
Brooks	Fountain	Lundine
Broomfield	Fowler	Lungren
Brown (CA)	Frank	Madigan
Brown (CO)	Frenzel	Markey
Brown (OH)	Frost	Marks
Broyhill	Fuqua	Marlenee
Burgener	Garcia	Marriott
Burton, Phillip	Gaydos	Martin (IL)
Butler	Gejdenson	Martin (NC)
Byron	Gephardt	Martin (NY)
Campbell	Gilman	Matsui
Carman	Ginn	Mattox
Carney	Glickman	Mavroules
Chappell	Gonzalez	Mazzoli
Chappie	Goodling	McClory
Cheney	Gore	McCloskey
Clausen	Gradison	McCollum
Clinger	Gramm	McCurdy
Coats	Green	McDade
Coelho	Gregg	McEwen
Coleman	Grisham	McGrath
Collins (IL)	Guarini	McHugh
Collins (TX)	Gunderson	McKinney
Conable	Hagedorn	Mica
Conte	Hall (OH)	Michel
Conyers	Hall, Ralph	Mikulski
Corcoran	Hall, Sam	Miller (CA)
Coughlin	Hamilton	Miller (OH)
Courter	Hammerschmidt	Mineta
Coyne, James	Hance	Mitchell (MD)
Coyne, William	Hansen (ID)	Mitchell (NY)
Craig	Hansen (UT)	Moakley
Crane, Daniel	Harkin	Moffett
Crane, Philip	Hartnett	Molinari
D'Amours	Hatcher	Mollohan
Daniel, Dan	Hawkins	Montgomery
Danielson	Heckler	Moore
Dannemeyer	Hefner	Moorhead
Daschle	Hendon	Morrison
Daub	Hertel	Mottl
Davis	Hightower	Murphy
de la Garza	Hiler	Murtha
Deckard	Hillis	Myers
Dellums	Holland	Napier
DeNardis	Hollenbeck	Natcher
Derrick	Holt	Neal
Derwinski	Hopkins	Nelligan
Dickinson	Horton	Nelson
Dicks	Howard	Nichols
Dingell	Hoyer	Nowak

O'Brien	Rousselot	Swift
Oakar	Roybal	Synar
Oberstar	Rudd	Tauke
Obey	Russo	Tauzin
Ottinger	Sabo	Taylor
Oxley	Santini	Thomas
Panetta	Sawyer	Traxler
Parris	Scheuer	Udall
Pashayan	Schroeder	Vander Jagt
Patman	Schulze	Vento
Patterson	Seiberling	Volkmer
Pease	Sensenbrenner	Walgren
Pepper	Shamansky	Walker
Perkins	Shannon	Wampler
Petri	Sharp	Washington
Peyser	Shaw	Watkins
Pickle	Shelby	Waxman
Porter	Shumway	Weaver
Price	Shuster	Weber (MN)
Pritchard	Siljander	Weber (OH)
Pursell	Simon	Weiss
Quillen	Skeen	White
Rahall	Skelton	Whitehurst
Railsback	Smith (AL)	Whitley
Rangel	Smith (IA)	Whittaker
Ratchford	Smith (NE)	Whitten
Regula	Smith (NJ)	Williams (MT)
Reuss	Smith (OR)	Williams (OH)
Rhodes	Smith (PA)	Wilson
Richmond	Snowe	Winn
Rinaldo	Snyder	Wirth
Ritter	Solarz	Wolf
Roberts (KS)	Solomon	Wolpe
Roberts (SD)	Spence	Wortley
Robinson	St Germain	Wright
Rodino	Stangeland	Wyden
Roe	Stanton	Wylie
Roemer	Stark	Yates
Rogers	Staton	Yatron
Rose	Stenholm	Young (FL)
Rosenthal	Stokes	Young (MO)
Rostenkowski	Stratton	Zablocki
Roth	Studds	Zeferetti
Roukema	Stump	

NAYS—1

Paul

NOT VOTING—23

Andrews	Fascell	McDonald
Burton, John	Ford (MI)	Minish
Chisholm	Gibbons	Savage
Clay	Gingrich	Schneider
Cotter	Goldwater	Schumer
Crockett	Gray	Trible
Daniel, R. W.	Heftel	Young (AK)
Dymally	Jeffords	

□ 1100

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PRISONER OF WAR BENEFITS AND HEALTH-CARE SERVICES ACT OF 1981

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1100) to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans' Administration, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments and the House amendments to the Senate amendments.

The Clerk read the Senate amendments and the House amendments to the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Former Prisoners of War Benefits Act of 1981".

SEC. 2. (a) Chapter 3 of title 38, United States Code, is amended by adding after section 220 the following new section:

"§ 221. Advisory Committee on Former Prisoners of War

"(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereafter referred to in this section as the 'Committee').

"(2) The members of the Committee shall be appointed by the Administrator from the general public, shall serve for terms to be determined by the Administrator, not to exceed three years, and shall include—

"(A) appropriate representatives of veterans who were held as prisoners of war;

"(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

"(C) appropriate representatives of disabled veterans.

"(3) The Committee shall also include as ex officio members the Chief Medical Director and the Chief Benefits Director, or their designees.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title to veterans who were held as prisoners of war, and the compensation, health care, and rehabilitation needs of such veterans.

"(c) Not later than July 1, 1982, and not later than July 1 of each even-numbered year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans who were held as prisoners of war, and shall include in each such report an assessment of the compensation, health care, and rehabilitation needs of such veterans, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations, including recommendations for administrative and legislative actions, as the Committee determines appropriate. The Administrator shall submit such report to the Congress forthwith with any comments the Administrator determines appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee determines appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator was submitted to the Congress pursuant to such section.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 220 the following new item:

"221. Advisory Committee on Former Prisoners of War.".

SEC. 3. (a) Section 101 of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(32) The term 'prisoner of war' means a veteran who, while serving in the active military, naval or air service was forcibly detained or interned in line of duty by an enemy government or its agents, or a hostile force—

"(A) during a period of war; or

"(B) during any period other than a period of war in which such veteran was held under circumstances which the Administrator finds comparable to the circumstances under which persons have generally been forcibly detained or interned during periods of war.".

(b) Section 612(b)(7) is amended by striking out "of World War I, World War II, the Korean conflict, or the Vietnam era".

SEC. 4. Section 312 of title 38, United States Code, is amended by—

(1) striking out subsection (b) in its entirety;

(2) redesignating subsection (c) as subsection (b); and

(3) amending subsection (b) as redesignated in clause (2) of this section to read as follows:

"(b) For the purposes of this title and subject to the provisions of section 313 of this title—

"(1) in the case of any veteran who was held as a prisoner of war for not less than thirty days, the disease of—

"(A) avitaminosis,

"(B) beriberi (including beriberi heart disease),

"(C) chronic dysentery,

"(D) helminthiasis,

"(E) malnutrition (including optic atrophy associated with malnutrition),

"(F) pellagra, or

"(G) any other nutritional deficiency, and

"(2) in the case of any veteran who, while so serving, was held as a prisoner of war for any period of time, the disease of psychosis which becomes manifest as a disability to a degree of 10 per centum or more after such service, shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.".

SEC. 5. Section 610(a) of title 38, United States Code, is amended by—

(1) striking out "and" at the end of clause (3);

(2) redesignating clause (4) as clause (5); and

(3) inserting after clause (3) the following new clause:

"(4) any veteran who was held as a prisoner of war; and".

SEC. 6. Section 612(i) of title 38, United States Code, is amended by—

(1) redesignating clause (4) as clause (5); and

(2) inserting after clause (3) the following new clause:

"(4) To any veteran described in section 610(a)(4) of this title.".

SEC. 7. (a) In order to assist in the further development of statutory and administrative policies regarding the needs of veterans who are former prisoners of war by address-

ing certain issues not resolved on basis of the study submitted pursuant to section 305 of Public Law 95-479, the Administrator of Veterans' Affairs (hereafter referred to in this section as "Administrator") shall conduct a further study of the health of former prisoners of war. In carrying out such study the Administrator shall examine—

(1) the types, combinations, severity, and frequency of occurrences of physical and mental disabilities (including but not limited to psychoneuroses, arthritis, respiratory and gastrointestinal disorders, and frozen feet residuals) particularly prevalent among such veterans:

(2) a representative sample of the cases of such veterans whose claims for disability compensation under chapter 11 of title 38, United States Code, have been denied; and

(3) any other factors considered relevant to the issues whether (A) additional presumptions should be established to assist such veterans in obtaining determinations that their disabilities are the result of their experiences as prisoners of war, and (B) the eligibility of any such veterans for health-care services from the Veterans' Administration should be expanded.

(b) Not later than December 31, 1982, the Administrator shall prepare and transmit to the Congress a report on the results of the study required by this section. Such report shall include such recommendations for administrative and legislative action as the Administrator considers may be necessary to meet the needs of veterans who are former prisoners of war for disability compensation and health-care services.

(c) In preparing the design of and conducting the study required by this section and in preparing the report required by this section, the Administrator shall consult with the Advisory Committee on Former Prisoners of War established pursuant to section 221 of title 38, United States Code (as added by section 2 of this Act).

SEC. 8. (a) Notwithstanding any provision of law—

(1) any veteran who was held as a prisoner of war (as defined in paragraph (32) of section 101 of title 38, United States Code, as added by section 3(a) of this Act) may, not later than December 31, 1982, file a claim for disability compensation under chapter 11 of title 38, United States Code, based upon a mental disorder with respect to which a previous such claim was disallowed prior to January 1, 1981; and

(2) any claim filed pursuant to clause (1) of this subsection shall for all purposes under such title be considered an original claim.

(b) The Administrator shall, to the maximum extent feasible and in order to carry out the requirements of subchapter IV of chapter 3 of such title seek out and provide information to veterans affected by the provisions of subsection (a) regarding the opportunity to file a claim for disability compensation pursuant to such subsection.

SEC. 9. (a) Except as provided in subsection (b), the amendments made by this Act shall be effective on the date of enactment.

(b) The amendments made by section 4 of this Act shall become effective October 1, 1981.

Amend the title so as to read: "An Act to amend title 38, United States Code, to improve certain programs of Veterans' Administration benefits for veterans who are former prisoners of war, and for other purposes.".

House amendments to Senate amendments: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

That (a) this Act may be cited as the "Former Prisoner of War Benefits Act of 1981".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. (a) Chapter 3 is amended by inserting after section 220 the following new section:

"§ 221. Advisory Committee on Former Prisoners of War

"(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

"(A) appropriate representatives of veterans who are former prisoners of war;

"(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

"(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

"(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

"(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 220 the following new item:

"221. Advisory Committee on Former Prisoners of War.".

SEC. 3. (a) Section 101 is amended by adding at the end the following new paragraph:

"(32) The term 'former prisoner of war' means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

"(A) by an enemy government or its agents, or a hostile force, during a period of war; or

"(B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.".

(b) Clause (7) of section 612(b) is amended to read as follows:

"(7) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than six months is suffering; or".

SEC. 4. (a) Section 312 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b) and amending such subsection to read as follows:

"(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

"(1) avitaminosis,

"(2) beriberi (including beriberi heart disease),

"(3) chronic dysentery,

"(4) helminthiasis,

"(5) malnutrition (incuding optic atrophy associated with malnutrition),

"(6) pellagra,

"(7) any other nutritional deficiency,

"(8) psychosis, or

"(9) any of the anxiety states,

which became manifest to a degree of 10 per centum or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1981.

SEC. 5. (a) Section 610(a) is amended—

(1) by striking out "and" at the end of clause (3);

(2) by redesignating clause (4) as clause (5); and

(3) by inserting after clause (3) the following new clause:

"(4) a veteran who is a former prisoner of war; and".

(b) Section 612(f) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after clause (2) the following new clause:

"(3) to any veteran who is a former prisoner of war.".

(c) Section 612(i) is amended—

(1) by redesignating clause (4) as clause (5); and

(2) by inserting after clause (3) the following new clause:

"(4) To any veteran who is a former prisoner of war.".

(d) The amendments made by this section shall take effect on October 1, 1981.

SEC. 6. (a) Not later than ninety days after the date of the enactment of this Act and at appropriate times thereafter, the Administrator shall, to the maximum extent feasible and in order to carry out the requirements of the veterans outreach services program under subchapter IV of chapter 3 of title 38, United States Code, seek out former prisoners of war and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits and services to which former prisoners of war are entitled under such title by virtue of the amendments made by this Act.

(b)(1) The Administrator shall, for not less than the three-year period beginning ninety days after the date of the enactment of this Act, maintain a centralized record showing all claims for benefits under chapter 11 of such title that are submitted by former prisoners of war and the disposition of such claims.

(2) Not later than ninety days after the end of the three-year period described in paragraph (1), the Administrator shall, after consulting with and receiving the views of the Advisory Committee on Former Prisoners of War required to be established pursuant to section 221 of such title, submit a report on the results of the disposition of claims described in such paragraph, together with any comments or recommendations that the Administrator may have, to the appropriate committees of Congress. The Administrator may also submit to such committees interim reports on such results.

(c) For the purposes of this section, the term "former prisoner of war" has the meaning given such term in paragraph (32) of section 101 of title 38, United States Code (as added by section 3(a) of this Act).

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to improve certain benefit programs of the Veterans' Administration for veterans who are former prisoners of war, and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the proposed House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, under my reservation of objection I yield to the very able chairman of the Committee on Veterans' Affairs to explain exactly what our agreement is with the other body.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding, and I will be brief.

Mr. Speaker, on June 2, 1981, the House passed H.R. 1100, the Prisoner of War Benefits and Health-Care Services Act of 1981. The bill was passed by the Senate on June 4, with amendments.

There were a number of provisions in the House-passed bill which were either deleted or drastically modified by the Senate amendments. I am happy to say that we have resolved our differences and have retained the major parts of the bill.

Mr. Speaker, in the study by the Veterans' Administration mandated by Public Law 95-479, it was clearly demonstrated that one of the most common disabilities affecting former POW's was mental disorders. The VA, in its study, dated June 1980, concluded that—

A comparison of service-connected anxiety neurosis among former European Theater POW's * * * revealed that anxiety neurosis appears in a significantly greater amount among these former POW's than among other service-connected wartime veterans.

Prior to 1980, former POW's with mental disorders were not entitled to service-connected benefits unless the condition was either shown in service or within 2 years after discharge. The VA changed its policy last year for combat veterans, including POW's. The agency will grant service connection for post-traumatic stress neurosis if that disorder is diagnosed. In some cases this takes a long period of time to document. If implemented properly, this provision of the bill would allow the Veterans' Administration to grant service-connected benefits for most mental conditions attributable to former prisoners of war.

The barbaric experiences of American service men and women who were captured by the Japanese on Bataan and Corregidor will never be forgotten by those who survived the infamous death march.

The need to recognize that such events leave lasting marks was clearly demonstrated after thorough consideration of the VA study and of the records established during hearings last year and this year by the Veterans' Affairs Committee. Understandably, the House in approving H.R. 1100 as reported by the committee saw the need for a change to permit the VA to establish service connection for the residual effects of their period of captivity. The House-passed bill would have provided service connection for psychosis, psychoneurosis and psychophysiologic disorders regardless of when they were first shown to exist. The Senate amendments deleted psychoneurosis and psychophysiologic conditions. The compromise agreement to include psychosis, and anxiety states including post-traumatic stress disorder represents the best we could work out with the other body. While these will cover the majority of the mental disorders related to the ordeals suffered by POW's, I am certain that we can expect to hear of some worthy cases which will "fall in the cracks" and not be service connected by the Veterans' Administration. I will expect the advisory committee established under this bill to carefully monitor the claims processing of the VA regional offices and make appropriate recommendations to the Administrator and to the Congress if they see the need for changes in either VA policy or law.

Another House provision deleted by the Senate but restored in the compromise agreement will provide outpatient treatment for all disabilities of former POW's. This was probably the benefit most sought by the former POW's who believe that their ordeals of captivity contribute significantly to what they describe as premature aging. The Veterans' Administration study included this legislative recommendation.

Former prisoners of war will now be able to receive outpatient and inpatient medical treatment on a priority basis. Many prisoners of war who apply to the VA for treatment have been routinely deferred because they have not established that their medical problems are service connected. These veterans, especially those who suffered starvation and torture at the hands of the Japanese during World War II believe that the hardships they endured then may well be the cause of their bad health today and it has often been demonstrated that many of these conditions appearing late in life are found to be service connected, either through the operation of presumptions or simply based upon the facts of the situation. This provision, therefore, would provide prima facie entitlement to prompt medical care and services since delays in treatment are often prejudicial to these individuals' health.

The agreement also provides for a reduction from 6 months to 30 days internment for a finding of malnutrition. Current law provides such presumption only if the prisoner of war was incarcerated for 6 months. Though dietary deficiencies are clearly a function of time and malnourishment, medical evidence reveals that a person can suffer from malnutrition in less than 6 months. diseases incurred as a result of malnutrition are: avitaminosis; beriberi, including beriberi heart disease; chronic dysentery; helminthiasis; optic atrophy associated with malnutrition; and pellagra.

I am pleased that the bill redefines the term "prisoner of war" to include persons who, during active service during a period other than a period of war are held under circumstances that the Administrator finds comparable to circumstances involved in internment during a period of war. This would include the hostages of the U.S.S. *Pueblo* and other related incidents. In addition, section 612(b)(7) relating to certain dental benefits would be

changed to conform to the new definition.

The Senate amendments call for reports from the Veterans' Administration over the next 3 years on the disposition of claims adjudicated under this act. In this manner, the advisory committee and the Veterans' Affairs Committees of the Congress can effectively monitor the actions of the agency in the implementation of the liberalization. In this manner, any need for modification in either the VA policy or the statute can be identified promptly.

In addition, the administration would be required to seek out former POW's affected by the provisions of this act and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits to which they are entitled.

A Senate amendment would have provided that a reopened claim under the provisions of this act be treated as an original claim. Because existing law on reopened claims is more beneficial under these circumstances, the compromise agreement deletes this amendment.

Mr. Speaker, this Nation owes a great debt to our former servicemen who defended their Nation in time of peril. We owe a special debt to those combat veterans who were captured by the enemy and suffered indescribable brutality and torture at the hand of their captors. Many of them attempted to make an adjustment to civilian life after their release from captivity and from service and did not contact the VA for help until many years later. The fact that they did not seek assistance soon after the war has actually worked to their detriment in establishing that their physical and mental problems are the result of their service. This bill will go a long way toward overcoming this hurdle. It will make sure that they receive any needed medical care and that they are compensated for the delayed mental problems they are now experiencing.

Mr. Speaker, the Congressional Budget Office has informed us that the cost of the proposed amendments are within the targets contained in the first congressional budget resolution.

I strongly urge my colleagues to support this bill.

There follows a detailed explanation of the agreement reached with the other body on H.R. 1100:

H.R. 1100, THE "FORMER PRISONER OF WAR BENEFITS ACT OF 1981"—EXPLANATORY STATEMENT

ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

Both the House bill and the Senate amendment would amend chapter 3 of title 38, United States Code, to add a new section 221 providing for the establishment of an Advisory Committee on Former Prisoners of War. The House bill would provide that the Administrator may establish an Advisory Committee and that the membership of such an Advisory Committee would include former POW's from World War II, the Korean conflict, and the Vietnam era, as well as recognized authorities in such fields as psychiatry, psychology, internal medicine, nutrition, and epidemiology; officials of other executive departments and agencies could also be included. The Advisory Committee would meet on a regular basis as prescribed by the Administrator and would submit reports to the Administrator at least once every two years.

The Senate amendment would require the Administrator to establish an Advisory Committee and provide that the membership would serve for terms to be determined by the Administrator and comprise appropriate representatives of former POW's individuals who are recognized authorities in fields pertinent to disabilities prevalent among former POW's, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine, appropriate representatives of disabled veterans, and, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees. The Administrator would be required, on a regular basis, to consult with and seek the advice of the Advisory Committee with respect to the administration of benefits to former POW's and the needs of such veterans for compensation, health care, and rehabilitation. The Advisory Committee would be required to submit the report to the Congress; the first biennual report would be due no later than July 1, 1982, and subsequent reports would be due by July 1 of each even-numbered year thereafter. The advisory Committee would be authorized to submit additional reports and recommendations to the Administrator, and the Administrator would be required to include a summary of such additional reports and recommendations in the Administrator's annual report.

The House recedes with an amendment which provides that the first biennual report would be submitted to the Congress no later than July 1, 1983, and that subsequent biennual reports would be due by July 1 of each second year thereafter.

DEFINITION OF FORMER PRISONER OF WAR

The Senate amendment, but not the House bill, would amend section 101 of title 38 to add a definition, for the purposes of that title, of the term "Prisoner of war" to include persons who, during active service during a period other than a period of war are held under circumstances that the Administrator finds comparable to circumstances involved in internment during a period of war and would amend section 612(b)(7), relating to certain dental benefits, to conform to the new definition.

The House recedes with an amendment changing the term defined to "former prisoner of war" and making technical corrections.

IMPROVEMENTS RELATING TO VA COMPENSATION

Both the House bill and the Senate amendment would amend section 312 of title 38, relating to presumptions of service connection for certain disabilities of former prisoners of war, to reduce the minimum internment period required for the automatic application, in certain circumstances, of presumptions relating to certain diseases that generally result from dietary problems and to psychoses. The House bill would reduce the minimum internment period from 6 months to 60 days. The Senate amendment would reduce that period from 6 months to 30 days in the case of the diseases resulting from dietary problems and would eliminate the length-of-internment requirement with respect to psychosis.

The compromise agreement provides for a 30-day minimum internment requirement in the case of all presumptions.

Both the House bill and the Senate amendment would further amend section 312 to eliminate the requirement that in order to be presumed service connected a psychosis must become manifest within two years of release from active duty.

The compromise agreement contains this provision.

The House bill, but not the Senate amendment, would further amend section 312 to add psychoneuroses and psychophysiologic disorders to the disorders to which specific presumptions apply and provide for those disorders to be dealt with in the same manner as psychoses.

The Senate recedes with an amendment adding any of the anxiety states (including post-traumatic stress neurosis), instead of psychoneuroses and psychophysiologic disorders, to the disorders to which the presumptions (modified as noted above) would apply. The Committees intend that the term "anxiety states" have the meaning prescribed under the heading "Anxiety States (or Anxiety Neuroses)" in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), published by the American Psychiatric Association (pp. 230–239) and, in the event that a subsequent edition of that manual does not contain such a heading, the meaning that is provided in the subsequent edition for a category of disorders that the Administrator determines to be the corresponding category.

The Senate amendment, but not the House bill, would amend further section 312 to eliminate the two-step procedure for the application of the presumptions of service connection.

The House recedes.

IMPROVEMENTS RELATED TO VA HEALTH CARE

Both the House bill and the Senate amendment, with technical differences, would amend section 610(a) of title 38, relating to Veterans' Administration health-care eligibility, to provide former POW's with eligibility for hospital and nursing home care, prehospital and post-hosptial outpatient care, and outpatient care that would obviate a need for hospitalization.

The compromise agreement contains such a provision.

The House bill, but not the Senate amendment, would amend section 612(f), relating specifically to eligibility for outpatient care, to provide former POW's with eligibility—which would not be provided through the above-mentioned amendment to section 610(a)—for VA outpatient health-care services for any disability.

The Senate recedes.

Both the House bill and the Senate amendment would amend section 612(i) of title 38, relating to priorities for VA health care, to place former POW's whose disabilities have not been determined to be service connected in a priority category (in the third priority in the House bill and in a new fourth priority in the Senate amendment) for outpatient care ahead of all other veterans who have no service-connected disabilities.

The House recedes.

REQUIREMENTS FOR ADDITIONAL STUDY AND OUTREACH

The Senate amendment, but not the House bill, would require the Administrator to conduct and submit to the Congress by December 31, 1982, a further, limited study—following up on certain questions not answered by the study conducted pursuant to Public Law 95-479—of specific physical and mental disabilities prevalent among former POW's and denials of claims from former POW's for service-connected disability compensation in order to determine whether additional presumptions should be established and eligibility for health-care benefits should be expanded.

The compromise agreement would require the Administrator, for not less than a three-year period beginning ninety days after the date of enactment, to maintain a centralized record of all claims of former POW's for disability compensation and of the disposition of such claims. The committees expect that this record would include—to the extent the information can reasonably be discerned from the claims files—a description of each disability for which benefits are claimed, the rating claimed, a statement as to whether the disability is claimed to be a result of the veteran's internment, and the disposition of the claim at each level of adjudication with respect to the issues of both service connection and degree of disability. The Committees further expect that prior to establishing the process for maintaining the centralized record, the Administrator would consult with the new Advisory Committee on Former Prisoners of War, discussed above, so as to take into account that Committee's views on how best to collect and record the required information and on any information or data that such Committee may desire.

Ninety days after the expiration of the three-year data-collection period, the Administrator would be required to submit a final report on the results of the disposition of such claims, together with any recommendations that the Administrator may have, to the appropriate committees of the Congress. The Administrator would also have the authority to submit interim reports on such results, and the committees would expect the Administrator to submit such reports when there is meaningful data to report.

The Senate amendment, but not the House bill, would permit a former POW whose claim for disability compensation based on a mental disorder had been denied prior to January 1, 1981, to file a new claim that would for all purposes to be considered as an original claim.

The Senate recedes.

The Senate amendment, but not the House bill, would require the Administrator, to the maximum extent feasible and in order to carry out the requirements of subchapter IV of chapter 3 of title 38, relating to outreach programs, to seek out and provide information to the former POW's who would be afforded the opportunity to re-file a claim for disability compensation based on a mental disorder.

The compromise agreement (in connection with the record of claims described above) would require the Administrator, no later than ninety days following enactment of this Act and at appropriate times thereafter, to seek out former POW's affected by the provisions of this Act and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits to which they are entitled.

EFFECTIVE DATES

The House bill provides that the provisions relating to compensation and health care would be effective October 1, 1981; the other provisions, those relating to the proposed Advisory Committee, would take effect on the date of enactment. The Senate amendment provides that the provisions of the bill would, except for the provisions relating to compensation, which would be effective on October 1, 1981, take effect on the date of enactment.

The compromise agreement would provide that, except for the provisions relating to compensation and health care, which would be effective on October 1, 1981, the provisions of the bill take effect on the date of enactment.

CHANGES IN EXISTING LAW MADE BY COMPROMISE AGREEMENT ON H.R. 1100

Changes in existing law made by the compromise agreement on H.R. 1100 are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

* * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * *

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agent, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

* * * * *

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * *

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Report to the Congress.
215. Publication of laws relating to veterans.
217. Studies of rehabilitation of disabled persons.
218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations.
219. Evaluation and data collection.
220. Coordination and promotion of other Federal programs affecting veterans and their dependents.
221. Advisory Committee on Former Prisoners of War.

* * * * *

§ 221. Advisory Committee on Former Prisoners of War

(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

(A) appropriate representatives of veterans who are former prisoners of war;

(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendation for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.

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PART II—GENERAL BENEFITS

* * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

* * * * *

§ 312. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculosis disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 per centum degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

[(b) For the purposes of subsection (c) of this section, any veteran who, while serving in the active military, naval, or air service, was held as a prisoner of war for not less than six months by the Imperial Japanese Government or the German Government during World War II, by the Government of North Korea during the Korean conflict, or by the Government of North Korea, the Government of North Vietnam or the Viet Cong forces during the Vietnam era, or by their respective agents, shall be deemed to have suffered from dietary deficiencies, forced labor, or inhumane treatment in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949.]

[(c)] *(b)* For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of [any veteran who, while serving in the active military, naval, or air service and while held as a prisoner of war by an enemy government, or its agents during World War II, the Korean conflict, or the Vietnam era, suffered from dietary deficiencies, forced labor, or inhumane treatment (in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949)] *a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days,* the disease of—

[(1) Avitaminosis, beriberi (including beriberi heart disease), chronic dysentery, helminthiasis, malnutrition (including optic atrophy associated with malnutrition), pellagra, or any other nutritional deficiency,

[which became manifest to a degree of 10 per centum or more after such service; or

[(2) Psychosis which became manifest to a degree of 10 per centum or more within two years from the date of separation from such service;]

(1) avitaminosis,

(2) beriberi (including beriberi heart disease),

(3) chronic dysentery,

(4) helminthiasis,

(5) malnutrition (including optic atrophy associated with malnutrition),

(6) pellagra,

(7) any other nutritional deficiency,

(8) psychosis, or

(9) any of the anxiety states,

which became manifest to a degree of 10 per centum or more after active military, naval, or air service, shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

* * * * *

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * *

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

§ 610. Eligibility for hospital nursing home and domiciliary care

(a) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care which the Administrator determines is needed to—

(1)(A) any veteran for a service-connected disability; or (B) any veteran for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital or nursing home care;

(2) a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty;

(3) a person who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation; [and]

(4) a veteran who is a former prisoner of war; and

[4] (5) any veteran for a non-service-connected disability if such veteran is sixty-five years of age or older.

* * * * *

§ 612. Eligibility for medical treatment

(a) * * *

* * * * *

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority, application may be made within one year after the date of correction or date of enactment of this exception, whichever is later;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(6) from which a veteran of the Spanish-American War or Indian Wars is suffering;

(7) from which [any] *a* veteran [of World War I, World War II, the Korean conflict, or the Vietnam era] *who is a former prisoner of war and* who was [held as a prisoner of war] *detained or interned* for a period of not less than six months is suffering; or

(8) from which a veteran who has a service-connected disability rated as total is suffering.

* * * * *

(f) The Administrator, within the limits of Veterans' Administration facilities, may furnish medical services for any disability on an outpatient or ambulatory basis—

(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or (to the extent that the facilities are available) to obviate the need of, hospital admission, or (B) where such a veteran has been furnished hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care (for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); [and]

(2) to any veteran who has a service-connected disability rated at 50 per centum or more[.] *; and*

(3) to any veteran who is a former prisoner of war.

The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities. The Administrator may also furnish outpatient dental services and treatment, and related appliances, to any veteran described in subsection (b)(7) of this section.

* * * * *

(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accord-

ed in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To any veteran for a service-connected disability.

(2) To any veteran described in subsection (f)(2) of this section.

(3) To any veteran with a disability rated as service-connected (including any veteran being examined to determine the existence or rating of a service-connected disability).

(4) To any veteran who is a former prisoner of war.

[(4)] (5) To any veteran being furnished medical services under subsection (g) of this section.

* * * * *

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I am pleased that we have reached agreement with the other body on H.R. 1100. Many former prisoners of war have waited a long time to receive the benefits allowed by this bill.

I am also pleased that our agreement provides that almost all of the provisions that were in the original House-passed version of H.R. 1100 have been retained. Those provisions have already been explained by the distinguished chairman of our committee, Mr. MONTGOMERY, and I need not repeat what he has said. The chairman and I are in complete agreement.

Mr. Speaker, malnutrition, anxiety, other mental illnesses, premature aging, and other conditions are often the common lot of former prisoners of war. It is often many years after incarceration that the disabilities become apparent. H.R. 1100 recognizes this and provides that any condition—no matter when it may occur—which these individuals may have—may be treated by the Veterans' Administration on a priority basis, the bill also provides a presumption that many mental conditions of former POW's—again, no matter when they occur—were incurred during their military service and therefore compensation may be paid for such conditions.

Mr. Speaker, this is a good bill and I urge my colleagues to support it.

I withdraw my objection, Mr. Speaker, and I thank the gentleman from Mississippi for his explanations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi that the amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION, 1982

Mr. ROYBAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4121) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1982, and for other purposes.

GENERAL LEAVE

Pending that motion, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYBAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4121, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 28, 1981, the Clerk had read through line 24 on page 5.

Are there further amendments to this paragraph?

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 5, after line 24, insert:

For necessary expenses connected with any public-debt issues of the United States, in addition to the amount appropriated in the preceding paragraph, $13,500,000.

□ 1110

Mr. MILLER of Ohio. Mr. Chairman, this amendment is a very basic amendment and it states "for necessary expenses connected with any public debt issues of the United States in addition to the amount appropriated in the preceding paragraph, $13,500,000."

What it does is restore funds for the Savings Bond Division. We have information that the Savings Bond Division of the Treasury Department has been very helpful. The arguments used earlier in order to delete from the total amount the appropriation for administration of the Savings Bond Division of the Treasury, in some cases, were very misleading.

There are advantages to savings bonds and without the Savings Bond Division of Treasury we would not have $7 billion of savings bonds sold each year.

The fact that the payroll savings and bond-a-month plans make regular purchases of savings bonds is an automatic and an effective way to save in amounts that can be tailored to any budget. In other words, there are many, many people who are buying savings bonds that do not have $10,000 to purchase a Treasury bill, but it is a place to start. And the interest at the present time, held to maturity, is 9 percent.

We have statements indicating that many people cash in their bonds. Well, under the system they cannot cash in those bonds for 6 months after purchase. So it means that the bonds are worthwhile and, as a matter of fact, they saved the Federal Government about $12 billion in interest in the last 10 years.

It is very important that we have this particular amendment approved, and I offer the amendment along with the gentleman from South Carolina (Mr. CAMPBELL) and the gentleman from New York (Mr. GILMAN).

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

I rise in support of this amendment.

I think that it is important to note that we struck Tuesday $13.575 million for the promotion of the sales of U.S. savings bonds. Well, the differential in the cost to the taxpayers of this country, if we did not have the savings bond program, would be $2.8 billion, if we took the difference in the average current Treasury notes out today and the savings bond rate. So, we are being very penny-wise and pound-foolish to talk of stopping the promotion of a program that in effect gives us $2.8 billion in savings to the taxpayer under the current average rate of the Treasury notes.

I think it is also very important to look at the fact, as the gentleman from Ohio (Mr. MILLER) has stated, that over $12 billion was saved during the last 10 years under this program.

Now, beyond that, I think that we can look at the fact that the cost of promotion of this program is only four-tenths of 1 percent of what the program itself is. It is well worth it. There is no question about it.

If we go on into it and recognize that the average amount of savings bonds outstanding in fiscal year 1980 was $76.5 billion, then we look at the enormity of the program that some are trying to stop the promotion of.

The question is, if we do stop the promotion of the savings bond program, are we prepared then to go back and look at the raising of $2.8 billion in revenues should the program die out. Or, are we prepared to cut spending that much more?

I think that we should also look at the fact that cash raised through savings bonds reduces the amount of borrowing that must be done by the Treasury in the open market, which in turn reduces inflation pressures on market interest rates, and we are all concerned with bringing interest rates down.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 5 additional minutes.)

Mr. CAMPBELL. Will the gentleman continue to yield? Now, when we are looking at the savings bond history, let us look at the 1970's, not at the current aberration we have in the market. The fact is they were a good investment at one time for that small saver, because that small saver was not saving under any other instruments.

We took the time to look at the fact that this vehicle was designed to provide a means to accumulate enough money to either buy something or reinvest in another instrument.

We also looked at how that person who invested a small amount in the stock market vis-a-vis the savings bonds in the 1970's did, and I can tell my colleagues he or she did better in savings bonds.

We are about to wipe something out in the name of fiscal austerity that in fact is a vehicle for many Americans to save.

Beyond that, we are about to cost the taxpayers a whole lot of money in doing it. This is false economy. There is no question about it. I think we need to continue promoting the program, and I support the amendment offered by my colleague from Ohio. I ask that the Members of this House recognize the seriousness of what we are about to do.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the Miller amendment, which would reverse the ill-advised—and ill-informed—vote taken earlier in the debate of this measure which deleted most of the moneys provided in this bill for the promotion of U.S. savings bonds.

The proponent of the earlier amendment, the gentlelady from Colorado (Mrs. SCHROEDER), made a number of statements that were apparently in error.

The important issue which we must bear in mind is that the savings bond program is a thrift program, which needs to be promoted, and which pays benefits in other than direct financial terms—mainly by promoting thrift and allowing the accumulation of capital which can be invested in other vehicles. If there is any question concerning the effectiveness of the savings bond program, we should fully examine it in committee—this kind of back-door approach.

Mr. Chairman, if the entire budget of the Savings Bond Division were spent for raising the interest rate on savings bonds, the interest rate would go up by only two one-hundreths of 1 percent. I believe that this program should be given an adequate opportunity to further prove itself in an improved economy because all indications are that in an era of what we hope will be reduced inflation and interest rates, these savings bonds will become a more and more attractive means of putting aside money.

We should also bear in mind that the savings bond program is cost-effective. If the Government had to raise these moneys through the sales of Treasury bills and notes, interest costs would be higher, as would be the deficit. The difference between the savings bond interest rate and the general Government interest rate is now 3.8 percent. This differential resulted in an actual cash saving to the Treasury and the taxpayers of nearly $2.8 billion in fiscal year 1980. It should be noted during the decade of the seventies the savings bond program saved the Government over $12 billion.

Accordingly, I urge my colleagues to reverse our previous action. By doing so, we will be saving the Treasury money—we will be providing our constituents ready access to information that will permit them to choose, if they so desire, to invest in these bonds and get into the habit of saving. For the savings bond program to be effective, it is essential that small savers be kept informed about the program.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding.

Mr. Chairman, I do have some problems both in the question of not only the fiscal austerity, which the gentleman's party has been so successful in promoting, but the problem with savings bonds.

As the gentleman knows, I have opposed them for years and have fought to raise the rates because we take that savings out of the hide of the poorest people in this country. We embarrass them into buying savings bonds. Any of us who has ever been in the military, as I have, knows that you were embarrassed by your superior officers, your names were posted if you did not sign up, and you bought them, and as soon as you could cash them, you cashed them in because you could not afford to carry them.

We are offering 8 percent in the name of patriotism.

We just passed yesterday a bill which offers 10 or 11 percent tax free in a savings and loan. Why? Why should we ask the poorest of the poor in this country to take 8 percent? We are offering major corporations 10, 15 percent, on Treasury bills. Here we are asking people in the name of patriotism, who can least afford to live on their meager income, to support us.

□ 1120

I think if we pay a reasonable rate, if we get up and offer them Treasury bills in modest amounts, we will have part of the people lining up to buy those certificates, as the money markets have indicated. Free enterprise and free market system will bring savers to the market, but to try and promote with phony advertising in the name of so-called patriotism to get the poor people to support a debt we ought to carry and that bankers ought to be able to carry in the normal course of debt management in this country, I think, is a hoax on the American public and we ought to have no part in perpetuating it. If the gentleman can explain to me why a savings bond is a good investment today, I would be glad to change my mind.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. STARK and by unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 3 additional minutes.)

Mr. STARK. If anybody who offers the amendment and supports it can illustrate to me where the savings bond investment today has any advantage over passbook savings or over the certificates offered by a variety of savings and thrift institutions of this country, both guaranteed by the Government, I might be inclined to change my mind, but I submit that you cannot make a silk purse out of a sow's ear even if we spend the extra $15 million. Why kid the American public?

I thank the gentleman for yielding to me.

Mr. MILLER of Ohio. I would like to explain a few points. One, the rate of interest on savings bonds is not 8 percent; it is 9 percent.

Mr. STARK. The amount on the tax-free bonds is closer to 11 percent.

Mr. MILLER of Ohio. Tax free, and U.S. savings bonds are tax free as far as State and local taxes are concerned.

Mr. STARK. But not Federal taxes, as the gentleman well knows.

Mr. MILLER of Ohio. That is correct. Now, if we wanted to change that interest rate, it is the responsibility of the Congress to give the authority to the administration to raise the rate. It has been increased as much as the law will allow. We have that responsibility because we have many people, as I stated earlier, that do not have $10,000 to invest, and if they have a way to at least invest $50 or $100 a month, they are better off. They are at least saving, and we have many, many people who would like to continue to do that. They need to know about it, and this appropriation that we are attempting to restore would allow those people to have the communication with the Treasury Department so that they could have the deductions made.

It is an easy way to save. Not only that, the rate is higher than what they would receive at a commercial bank with a passbook. They will not receive the 9 percent, so therefore it is better.

Mr. STARK. If the gentleman would yield further, a passbook is available on a daily basis, and interest is paid daily. As the gentleman knows, on a savings bond there is a penalty, or they cannot be redeemed on an early date, so you are doing short-term cash management. About 90 percent of the savings bonds sold are cashed in within the first year. This proves that many are sold to people who cannot afford to hold them. I would agree if we could raise the interest rate on savings to the average Treasury bill rate, the gentleman would receive no quarrel from me. We would not have to have all this advertising to promote them, they would be a darn good buy.

My point is, we are promoting something that is a second-rate security to people who do not have the financial sophistication of the gentleman from Ohio. That seems to me to be unfair. We ought to have truthful advertising.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. FRENZEL and by unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 3 additional minutes.)

Mr. MILLER of Ohio. I would like to comment on what the gentleman has said about 90 percent of the savings bonds being cashed in within the first year. We have information from a study that was made that shows that bonds may not be cashed before 6 months. That is the new ruling, and the latest study indicates that on average only about 11 percent of the bonds sold are cashed at the end of 6 months. So, there is a lot of misleading information that is coming out and we need to get the record straight in that area.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding. I think the reason that people buy these savings bonds is that they find them a convenient method of saving money. People who are saving through these bonds are usually doing it in small amounts. They are doing it as a means to force savings programs upon themselves that they might not be able to handle in any other way.

We have made, under the tax bill passed yesterday, a new certificate available to savers which will be tax-free. We have, of course, Treasury bills for a little grander class of saver.

It seems to me that it is good to have this choice in the marketplace. People can take whichever form of asset they want to buy that fits their needs best. Some need forced savings, some a maximum return, and each should have that choice in the marketplace.

But what the Government gets from the bond program is a means whereby it is able to expand the amount of long-term debt within the U.S. debt management portfolio. We are able to sell bonds despite the very low interest rate partly because we encourage corporations to use their shareholders' money, shared by some of the taxpayers' money, in terms of deductibility, to promote these programs to their employees, and to institute payroll deductions.

As the gentleman from South Carolina pointed out, this gives us a much lower overall interest rate, and if we do not pass the Miller-Campbell-Gilman amendment, we will cost the taxpayers significant extra sums in interest paid. I think the House made a mistake when it passed the Schroeder amendment previously. I think we can undo that by passing the gentleman's amendment.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no doubt about the fact that there are good arguments on both sides. In fact, we just finished hearing those arguments. But the truth of the matter is that in the presentation that was made at the time that the Schroeder amendment was passed, that there were various arguments given that also made a tremendous amount of sense.

First of all, we were told that this would only affect those promoters that went out promoting the sales of bonds, those individuals who traveled throughout the country meeting with various executives, heads of companies that could be induced into promoting the sale of bonds with their personnel.

Then, we were also told that their efficiency rate is quite low, that there has been a drop in the sale of bonds of appoximately 40 percent, therefore indicating that the participation on the part of the employee was no longer at the same rate or the same level as in the past.

Then, we were also told that the sales mechanism for the sale of the bond would not be touched with that amendment, that they could continue to sell bonds just the same as they are doing at the present time without having the promoters going out throughout the country, meeting with executives, promoting the sale of bonds.

Then, we were also told that—perhaps it would be better if I read this: "We were told that bonds paid 5 percent initially, 7.5 percent after 5 years, and 9 percent after 8 years."

This means that the individual, in order to get the 9 percent, would have to leave his money in for 9 years. Now, with the 60-day money market funds now selling for 17¾-percent interest, the argument went on that it was nearly impossible to sell these bonds.

Then, we were also told that it was a downright fraud committed on the unsuspecting citizens by their own Government.

Now, all of these are convincing arguments. Now, we are also told, and we already know, that the bill passed yesterday did in fact contain new incentives for people putting money in savings and loans, and that they would do quite well tax-exempt. This, of course, would make the initiative on selling bonds even more difficult.

□ 1130

I think that the main argument that we must consider at this particular time is the fact that the House has already worked its will. A vote was taken on this issue the day before yesterday. It seems to me that the best way to do anything about the situation would be perhaps to get a separate vote on the same issue when we go into the House instead of trying to reverse it at the present time.

So I sincerely hope, Mr. Chairman, that a vote will not be taken on this issue, because a vote has already been recorded, and I ask the House not to join in approval of this amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to thank the gentleman from California (Mr. ROYBAL), who is chairman of the subcommittee, for his explanation.

This is very important to understand. The House did vote on this issue. I think a lot of the issues we are hearing from the other side are not the issues before the House at all. The issue in front of the House is whether we are going to use 426 people who do

not sell—I underline "do not sell"—but, rather, travel around the country promoting savings bonds.

I think it would be nice for them to promote them, if we had nothing else for Federal employees to do, but when we know what we know about the interest rate, it is very hard to promote effectively that type of security at this time and in this day and age when we are cutting frills, this is one we should cut.

I chair the Civil Service Subcommittee, and I know how very precious slots are in the Federal Government and how many jobs need to be done such as Immigration and Customs that are going undone because we do not have enough people to put in those slots. Therefore, although I would like to be able to have people do all sorts of things, nevertheless because of the limits, we are saying this is something we should do away with.

We have seen the number of sales fall off significantly, almost 40 percent. I suppose in one way we could turn around and say, "Well, that is because they have not been promoting well enough." I am not sure there is anything they could do that would promote savings bonds with the market as it is now.

This does not stop the sale of savings bonds. Employers tend to be the main ones who do this anyway. They offer them as a service, they offer them in the private sector, and this does not stop them from doing that at all. The people who sell them and the people who redeem them will still remain in the Treasury, working in the Government, and the private sector can continue to promote them.

Finally, we left the money in for advertising, and a lot of advertising is free. So I think what we are talking about is that in this kind of economy we have to look at everything with a new look, we have to find the things that are productive, we have to find the things that are working, and we have to go out and do some things that we might not do if things had not changed so rapidly.

So I implore the House to stay with its position. I think that the real issue is whether we want 426 people promoting bonds. It really is, I think, a frill, and a frill that we cannot afford right at this moment.

So I say to the Members, please do not get distracted by the savings and the interest rate issue. That is not what this is really about. It is about civil service slots, Government numbers, and the critical things that we need people to do. Promotion is not critical.

Mr. Chairman, I hope that we will move along and not redo everything that we did on the bill last Tuesday when we met.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am glad to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to thank the gentleman for yielding, and I rise in strong support of this amendment.

There are 7 million people out there who are buying savings bonds. I remember as a kid that is how I learned to save when I was in school. I think it was about 25 cents a week that we would purchase a savings stamp, when we had accumulated the necessary amount, we would be given a savings bond.

If the banks cannot pay the same interest rates as Treasury notes, then should we pass a law here outlawing the savings bank accounts? This is ridiculous. There is no logic to it at all.

The Government makes some money on this. It is not a question of what they make. It is a question that it teaches people how to save, and if people who are patriotic want to buy savings bonds, what is wrong with that?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I agree with the gentleman from Massachusetts, there is nothing wrong with being patriotic and buying bonds. We salute people who do that, and we are not touching that. We are not touching that issue at all.

Savings bonds are not being eliminated by this amendment. The people who are selling them are not being eliminated. All the amendment effects is promotion; this is about 426 people who travel around pushing savings bonds.

Mr. CAMPBELL. Mr. Chairman, if I may, I will reclaim my time.

Mr. CONTE. Mr. Chairman, will the gentleman yield further?

Mr. CAMPBELL. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, if I could go further into this, I cannot understand that logic at all. I usually agree with the gentlewoman from Colorado (Mrs. SCHROEDER). She and I agree on most things, but her logic is wrong on this.

Do we say, "We can have savings bonds, but don't tell anybody about them"?

We have got to have those salesmen out there and let the people know there are savings bonds available and how important it is for these young people to learn how to save and buy these bonds.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I have asked the gentleman to yield just for one observation. The gentlewoman from Colorado (Mrs. SCHROEDER) has mentioned that there would be, I believe, 426 employees. In the bill the cap is 347 people.

I just wanted to make that clear for the record.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman from Ohio (Mr. MILLER) for his point.

Mr. Chairman, I think it is important to review the facts of what we are dealing with. No. 1, the cash savings to the taxpayers of this country through the Treasury for having the savings bond program is $2.8 billion in the differential. The savings due to the savings bonds was 175 times more than the $16 million expended for promotion and education in 1980 alone.

An analysis for the past 10 years indicates the savings bonds have saved the taxpayers over $12 billion. The savings bond program is the most cost effective means of debt financing available to the Treasury. Promotional expenditures account for only, as I said earlier, four-tenths of 1 percent. Interest charges makeup 96.2 percent of the cost, and the agent fees and administrative costs account for the rest.

Research shows that companies with payroll savings promotion and educational campaigns—and I will ask the Members to listen to this—those that have the promotions and utilize these people have an eight times greater rate of savings than those who do not. That is an eight times greater rate of savings than those who do not. So it is a beneficial program, and it does do good. Seven million people have participated.

I think it is also important to note that a tremendous amount of our savings bonds come through payroll deductions, and if those companies that use promotions have an eight times better rate of payroll deductions, does it not make sense to keep this policy?

Let us go on a little further into this issue. We talk about interest. There is an exclusion from State and local taxes. Somebody said, "Oh, yes, but it is not excluded from Federal taxes." But it is deferred if one wishes to defer it. Not only can you defer it, but you can take it and roll it over into another bond. You can take a series EE bond and roll it over into a series HH bond and defer that, and it carries on through.

I think we should get down to the bottom line. We have a vehicle here that helps the people of this country. I would remind the Members that 25 percent of the people in this country have no form of savings whatsoever.

We are talking about those who are entering the savings ladder and build-

ing and accumulating something they can reinvest in the future, not only for the good of this country but for themselves. Should we deny ourselves the vehicle to even tell them about it?

Mr. Chairman, that is what we are talking about doing if we do not put this money back in.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

(On request of Mr. GILMAN, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, the gentleman from South Carolina (Mr. CAMPBELL) certainly makes a sound argument.

I think one of the important considerations in this debate is that savings bonds provide a vehicle for the small investor in Government securities and Government bonds. For $25, the small saver can make what to him is an important investment in our savings institutions.

There is approximately $76.5 billion presently invested in savings bonds. A substantial portion of that, $76.5 billion about 80 percent of that sum, has come about through the savings bond promotion programs in the larger industries as a result of the promotion efforts of the savings bond division that we are considering in this bill.

To do away with that division is shortsighted. It would take away a very important base of financing our Government.

Mr. Chairman, again I urge my colleagues, let us undo what we did the other day and put this division back in place so it can do an important job for our Government.

□ 1140

Mr. CAMPBELL. I thank the gentleman.

Mr. Chairman, in closing, I would just like to make one comment. The United States of America now has one of the lowest rates of savings of any industrialized nation in the world. Are we to kill an encouragement for people to participate and save or are we to keep it alive and encourage savings?

I think that is the basic question. I urge support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Ohio, Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 210, not voting 21, as follows:

[Roll No. 180]

AYES—203

Addabbo	Florio	Oxley
Albosta	Forsythe	Parris
Annunzio	Fowler	Pashayan
Applegate	Frenzel	Peyser
Archer	Gilman	Pickle
Ashbrook	Ginn	Porter
Badham	Goldwater	Price
Bafalis	Goodling	Pursell
Bailey (MO)	Gore	Quillen
Barnard	Gradison	Rahall
Barnes	Green	Railsback
Beard	Gregg	Regula
Benedict	Grisham	Rhodes
Bereuter	Gunderson	Rinaldo
Bethune	Hagedorn	Ritter
Biaggi	Hammerschmidt	Roberts (KS)
Bliley	Hansen (ID)	Roberts (SD)
Boggs	Hansen (UT)	Robinson
Boland	Hartnett	Roe
Bonior	Heckler	Rogers
Breaux	Heftel	Rostenkowski
Brodhead	Hendon	Roth
Broomfield	Hiler	Roukema
Brown (OH)	Hillis	Rudd
Broyhill	Hollenbeck	Sabo
Burgener	Holt	Sawyer
Butler	Hopkins	Schneider
Byron	Huckaby	Schulze
Campbell	Hunter	Schumer
Carman	Hyde	Shannon
Carney	Johnston	Shaw
Chappell	Kastenmeier	Shumway
Chappie	Kemp	Shuster
Cheney	Lagomarsino	Skeen
Clausen	Latta	Smith (NE)
Clinger	LeBoutillier	Smith (NJ)
Coats	Lee	Smith (OR)
Coleman	Lent	Snyder
Collins (TX)	Lewis	Solomon
Conable	Livingston	Spence
Conte	Loeffler	Stangeland
Corcoran	Lott	Stanton
Courter	Lowery (CA)	Staton
Coyne, James	Lujan	Stratton
Coyne, William	Lungren	Tauzin
Craig	Madigan	Taylor
Daniel, Dan	Marks	Thomas
Daniel, R. W.	Marlenee	Trible
Dannemeyer	Marriott	Vander Jagt
Daub	Martin (NC)	Vento
Davis	Martin (NY)	Walker
Derrick	McClory	Wampler
Derwinski	McCollum	Weber (MN)
Dickinson	McDade	Weber (OH)
Dornan	McEwen	Whitehurst
Dowdy	McGrath	Whittaker
Dreier	McKinney	Whitten
Duncan	Michel	Williams (OH)
Early	Miller (OH)	Winn
Emerson	Mitchell (NY)	Wolf
Emery	Molinari	Wortley
Erdahl	Moore	Wylie
Evans (DE)	Moorhead	Young (AK)
Fary	Morrison	Young (FL)
Fenwick	Murtha	Young (MO)
Fiedler	Myers	Zablocki
Fields	Napier	Zeferetti
Fish	O'Brien	

NOES—210

Akaka	Brown (CO)	Dymally
Alexander	Burton, Phillip	Dyson
Anderson	Chisholm	Eckart
Andrews	Clay	Edgar
Anthony	Coelho	Edwards (AL)
Aspin	Collins (IL)	Edwards (CA)
Atkinson	Conyers	Edwards (OK)
AuCoin	Crane, Daniel	English
Bailey (PA)	Crane, Philip	Erlenborn
Bedell	D'Amours	Ertel
Beilenson	Danielson	Evans (IA)
Benjamin	Daschle	Evans (IN)
Bennett	Dellums	Fazio
Bevill	DeNardis	Ferraro
Bingham	Dicks	Findley
Boner	Dingell	Fithian
Bonker	Dixon	Flippo
Bouquard	Donnelly	Foglietta
Bowen	Dorgan	Foley
Brinkley	Downey	Ford (TN)
Brooks	Dunn	Fountain
Brown (CA)	Dwyer	Frank
Frost	Long (LA)	Rodino
Fuqua	Long (MD)	Roemer
Garcia	Lowry (WA)	Rose
Gaydos	Luken	Rosenthal
Gejdenson	Lundine	Roybal
Gephardt	Markey	Santini
Gibbons	Martin (IL)	Scheuer
Glickman	Matsui	Schroeder
Gonzalez	Mattox	Seiberling
Gramm	Mavroules	Sensenbrenner
Gray	Mazzoli	Shamansky
Guarini	McCloskey	Sharp
Hall (OH)	McCurdy	Shelby
Hall, Ralph	McDonald	Siljander
Hall, Sam	McHugh	Simon
Hamilton	Mica	Skelton
Hance	Mikulski	Smith (AL)
Harkin	Miller (CA)	Smith (IA)
Hatcher	Mineta	Smith (PA)
Hawkins	Mitchell (MD)	Snowe
Hefner	Moakley	Solarz
Hertel	Moffett	St Germain
Hightower	Mollohan	Stark
Holland	Mottl	Stenholm
Howard	Murphy	Studds
Hoyer	Natcher	Stump
Hubbard	Neal	Swift
Hughes	Nelligan	Synar
Hutto	Nelson	Tauke
Ireland	Nichols	Traxler
Jacobs	Nowak	Udall
Jeffries	Oakar	Volkmer
Jenkins	Oberstar	Walgren
Jones (NC)	Obey	Washington
Jones (OK)	Ottinger	Watkins
Jones (TN)	Panetta	Waxman
Kazen	Patman	Weaver
Kildee	Patterson	Weiss
Kindness	Paul	White
Kogovsek	Pease	Whitley
Kramer	Pepper	Williams (MT)
LaFalce	Perkins	Wilson
Lantos	Petri	Wirth
Leach	Pritchard	Wolpe
Leath	Rangel	Wright
Lehman	Ratchford	Wyden
Leland	Reuss	Yates
Levitas	Richmond	Yatron

NOT VOTING—21

Blanchard	Deckard	Jeffords
Bolling	Dougherty	Minish
Burton, John	Evans (GA)	Montgomery
Cotter	Fascell	Rousselot
Coughlin	Ford (MI)	Russo
Crockett	Gingrich	Savage
de la Garza	Horton	Stokes

□ 1150

Messrs. LONG of Louisiana, NELSON, and SHARP changed their votes from "aye" to "no."

Messrs. BAILEY of Missouri, GINN, MARLENEE, and EMERY changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1200

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including executive direction, management services, and centrally directed legal, technical, and internal audit and security operations; purchase (not to exceed seventy for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 638a(a)); and services, as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $173,836,000.

AMENDMENTS OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. CONTE: On page 6, in line 10, strike "173,836,000" and insert in lieu thereof "168,436,000".

On page 6, in line 23, strike "942,813,000" and insert in lieu thereof "933,513,000".

On page 7, in line 9, strike "619,428.000" and insert in lieu thereof "617,428,000".

Mr. CONTE. Mr. Chairman, I have offered this amendment to give the House an opportunity to express its will on the number of additional employees for the Internal Revenue Service.

That is Internal Revenue Service, as in tax collectors.

In broad terms, the issue is—how does our Republican government enforce its tax laws equally and equitably, while protecting the people from unwarranted interference and harassment, consistent without constitutional and political tradition of civil liberties, particularly due process of law, and freedom from unreasonable search and seizure?

It is an issue that is older than our Republic, and can be traced directly to the indictment of George the Third, in the Declaration of Independence, that—

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

It is an issue that fills our casework files, and volume upon volume of oversight hearings.

It is an issue where I have the strongest personal feelings. But this appropriation bill is not the proper place to legislate tax collection policy and procedures for the Internal Revenue Service.

The issue before the committee is more narrow—what is the proper allocation of funds and personnel for revenue collection within existing law and policy?

Let me review the facts.

My amendment affects three separate accounts.

The first account is salaries and expenses, where the Department requested an appropriation of $168,436,000, an increase of $4,028,000 over fiscal 1982, and 4,473 positions, a reduction of 32 positions compared to fiscal 1981.

The committee bill adds $5,400,000 and 200 positions over the Department's request.

My amendment would restore the salaries and expenses account to the appropriation level and number of positions requested by the Department, by cutting $5.4 million and 200 positions added in the bill.

The second account is examinations and appeals, where the Department requested an appropriation of $929,813,000, an increase of $29,805,000 over fiscal 1981, and 30,274 positions, an increase of 444 positions compared to fiscal 1981.

The committee bill contains $13 million and 500 positions above the Department's request.

My amendment would reduce the appropriation in the bill for this account by $9.3 million, and would reduce the number of positions in the bill by 350.

The third account is investigations and collections, where the Department requested an appropriation of $602,628,000, an increase of $33,168,000 over fiscal 1981, and 20,388 positions, an increase of 752 compared to fiscal 1981.

The committee bill contains an appropriation of $619,428,000, an increase of $16,800,000 over the request, and 20,988 positions, an increase of 600 over the request.

My amendment would reduce the appropriation in the bill for this account by $2 million.

In total, my amendment to these three accounts would reduce the allowances in the bill for the IRS by $16.7 million and 550 positions.

These are the facts.

The issue, of course, is more complex.

Although our system of taxation is based on self-assessment and voluntary compliance, it is generally accepted that tax avoidance and underpayment is widespread and increasing.

The General Accounting Office has estimated that taxpayers have failed to pay about $30 billion in taxes that are due under current law.

The multibillion dollar "underground economy" is a phenomenon that has only recently been subject to study and analysis.

I accept the premise that noncompliance with tax laws and regulations is a serious national problem.

What I do not accept is the conclusion that this problem can and should be solved by providing an additional $38 million and 1,440 employees that the Internal Revenue Service has not requested, and does not want.

Funds and positions are added by the committee to each of the four accounts for the IRS, including salaries and expenses, and taxpayer service and return processing, which have little or no direct impact on revenue collections.

My amendment targets additional funds and positions for examinations and appeals, and investigations and collections, where a dollar spent for personnel will yield the most additional revenue.

In the examinations and appeals account, the IRS estimates that every dollar spent for additional personnel will yield from $5 to $8 in additional revenue.

Based on these IRS estimates, the $3.7 million that my amendment would retain, above the Department's request, would yield from $18 million to $30 million in additional revenue.

Similarly, the IRS estimates that in the Investigations and Collections account every dollar spent for additional personnel will yield from $12 to $20 in additional revenue.

Based on these IRS estimates, the $14.8 million that my amendment would retain, above the Department's request, would yield from $178 million to $296 million in additional revenue.

In total, based on IRS estimates, the $18.5 million that my amendment would retain, above the Department's request, would yield from $196 million to $326 million in additional revenue.

Of course the Department supports its original budget request, and would prefer to eliminate the $38 million and 1,440 positions added by the committee.

The amendment under consideration represents my best judgment of the political will of the House, and of the most efficient utilization of additional funds and employees.

However, the Treasury Department and the IRS agree that if additional funds and positions are to be added, they prefer the levels and priorities in my amendment, rather than the committee bill.

I ask for your support.

Mr. ROYBAL. Mr. Chairman, I move to strike the last word, and I rise to further clarify the position. If the gentleman would respond to some of my questions, I would greatly appreciate it.

The way I see it, your amendment does, in fact, reduce the amount of money from $38 million which was included by the committee to $21,300,000; is that correct? That is in addition?

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Massachusetts.

Mr. CONTE. That is right.

Mr. ROYBAL. So it is actually, then, a slight decrease below the amount that was added by the committee?

Mr. CONTE. That is right.

Mr. ROYBAL. I am concerned about the fact that the more money that is needed by our treasury, the more that this division, of course, can bring into the Treasury of the United States. The $38 million as put in by the committee was at the request of the Committee on Ways and Means; and the argument, of course, was that they bring in a ratio anywhere from $6 to $7 for every dollar that is expended.

□ 1210

Now, the argument, of course, made a lot of sense at that particular time, and the gentleman was present when the markup took place.

Now, the one thing that concerns me that I really do want to clarify is the matter of the taxpayer services and the return processing appropriations. That, of course, is the one agency of this division of Internal Revenue that actually deals with taxpayer services and return processing. It is my understanding that, under the gentleman's amendment, this is not affected at all?

Mr. CONTE. That is right. That was part of the compromise that we worked out with the gentleman.

Mr. ROYBAL. Under those conditions, if that is not affected, it seems to me that I can, in all deference to my friend, reluctantly accept this amendment.

I still think that the correct figure should be $38 million additional. On the other hand, I do not think that the service would not be hampered to that great extent by this small reduction.

Now, if it is seen later that an increase is necessary, there are ways in which that can be done. And I am sure that the gentleman will join with me in analyzing the situation and that if we come to the conclusion that it is needed, we can both work on that project at that time.

Mr. CONTE. If the gentleman will yield further, I have no doubt about it.

And I might say to the gentleman that I have worked very, very closely with Treasury in working up this amendment, in making sure that this is what they wanted and this would give them the tools to carry out their function.

If I may, and without embarrassing the gentleman from California, for whom I have the deepest respect and with whom I have worked for a long period of time, I would like to advise the committee that this is the gentleman's first year as chairman of this committee, which is the committee that I served on for the first time 23 years ago with our good counsel, Tex Gunnels, who has done a tremendous job down through the years, and the gentleman has some very big shoes to fill there, first with Vaughan Gary as the chairman and then our beloved Tom Steed. I told the gentleman that, that he had big shoes to fill, and the gentleman has filled them well. The gentleman has been a good subcommittee chairman. It is a pleasure to work with the gentleman and I am looking forward to working with him in the future.

Mr. ROYBAL. I thank the gentleman. With those kind remarks, I have no choice but to accept the amendment.

Mr. CONTE. I thank the gentleman.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to rise in favor of this section of the bill as reported by the full committee and opposed to the amendment offered by the gentleman from Massachusetts.

Today all signs point to an expanding "underground economy," a growing number of tax protesters, a proliferation of tax-avoidance schemes, and an ever-widening difference between the amount of tax liability reported and the amount that should have been reported by those filing tax returns.

Taxpayers who voluntarily pay their taxes are becoming increasingly resentful of the fact that many others do not pay their fair share.

Effective, efficient, and fair tax administration obviously requires the commitment of adequate resources.

In May the Oversight Subcommittee of Ways and Means held hearings on the adequacy of IRS staffing as proposed under the administration's fiscal 1982 budget. Every witness at the hearing, including present and former IRS commissioners, as well as data included in the IRS budget submission to Congress, and Treasury Department documents all clearly demonstrate that the IRS will not have the resources to fully and efficiently assess and collect taxes legally due and owed to the Federal Government.

The amount of increase in this bill we are considering today is $38 million more than the President's budget request.

IRS itself told the Appropriations Committee that this increase would enable it to collect $275 million more than it legally obligated to the Government in 1982.

In order to support the economic plan that we have passed here, we must be able to obtain the revenue that we have projected through the proper collection of taxes.

Right now there is $4.5 billion in delinquent accounts because the IRS is unable to devote adequate resources to this task.

I strongly urge all my colleagues to vote against the amendment and to support the bill as reported by the full Appropriations Committee.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to discuss the amendment with the author of the amendment, the gentleman from Massachusetts (Mr. CONTE), just to clarify a point.

As I understand, there will be a balance of $21,300,000 left in the bill by the gentleman's amendment?

Mr. CONTE. That is right.

Mr. MILLER of Ohio. That would reduce the bill $16,700,000?

Mr. CONTE. That is right.

Mr. MILLER of Ohio. Now, also, in his original amendment, the gentleman would have reduced the 1,500 positions that are to be added down to 750 positions. Could the gentleman tell us how many positions would be added now if he left in the $21,300,000?

Mr. CONTE. We cut 550.

Mr. MILLER of Ohio. Cut 550.

Mr. CONTE. That is the bottom line.

Mr. MILLER of Ohio. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. CONTE).

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 104. None of the funds made available to the Department of the Treasury by this Act shall be used to implement changes shortening the time granted, or altering the mode of payment permitted, for payment of excise taxes by law or regulations in effect on January 1, 1981.

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: On page 10, after line 2, insert the following general provisions:

"Sec. 105. None of the funds made available to the Treasury Department by this Act shall be available to formulate, implement, carry out or caused to be carried out by directive, order, regulation or otherwise the Customs Service project known as Pipeline No. 524 in New York City or any similar project of like purpose or nature in whole or in part."

Mr. ADDABBO. Mr. Chairman, this amendment would prohibit the implementation of the New York Regional Customs Service proposal known as Pipeline 524.

Pipeline 524 was, in its original form, designed to change existing procedures that New York customs brokers had been following for years. Under present procedures a broker located at, let us say JFK Airport, could file entries at that location regardless of whether the merchandise was unladen there or at the seaport. In other words, they did not have to maintain offices at both locations; 524 changed that by decreeing that entries had to be filed at the point of unloading. So these small brokers were faced with two alternatives, both of them extremely costly. Either they could open additional offices or they could set up some form of fast, reliable messenger service between points. Even Customs Service recognized this and they then proposed to provide the messenger service, personnel, vehicles, and so forth, at taxpayers' expense. This may sound well and good but critical papers would have to be entrusted to

that messenger and the highly critical factor of time that could be wasted would exacerbate the problems of a highly competitive and necessary service.

What gave rise to this proposal? There had been some problems identified in the Customs region. These have been investigated and some cases have gone through the courts. Wrongdoers should be sought out and punished. That is the correct way to handle such problems. But they should not be addressed by proposals that in no way get at the problem, that could put completely innocent people out of business, that would cost the taxpayers money, and that would achieve absolutely nothing in the public interest.

In the report accompanying this bill, the committee directs that Pipeline 524 not be implemented. Customs has, in fact agreed. This amendment, therefore, simply restates and insures compliance with that position and supersedes the language in the report.

Mr. Chairman, the administration has no objection to this amendment. The only reason I am offering it is in clarification. I have received from the Department of the Treasury, U.S. Customs Service, dated July 17, the following notice:

Some confusion has arisen about the status of Pipeline 524 and its supplements.

Pipeline 524 and all supplements thereto are rescinded and will not be implemented.

So to clear the confusion, I have offered this amendment, which I believe is acceptable to the committee.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I have read the amendment quite carefully, and I would like to ask the gentleman whether or not this is the same amendment already adopted in a previous supplemental?

Mr. ADDABBO. It was adopted in a supplemental; the gentleman is correct.

Mr. ROYBAL. Since it was adopted in a previous supplemental, Mr. Chairman, I see no objection to this amendment, and the committee accepts it.

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, I rise to support the amendment offered by my colleague from New York. The Pipeline 524 project would severely hinder the daily operations of many hard-working, and successful businessmen in the district I represent and the surrounding area. Customs brokers and their clients who would be affected by the proposal are a vital and thriving part of the economy of Long Island.

Although there have been integrity problems in the New York region, the Pipeline 524 proposal does not address them and creates the potential for further difficulties.

The existing procedures for filing entry summaries with the Customs Service have been in effect for well over 10 years in the New York region. Many individuals have established their places of business and organized their activities to adapt to present regulations. Pipeline 524 represents a major departure from the current regulations in New York and Customs Service policy in other parts of the Nation. It would cause undue delay and inconvenience in a business where time is a factor of extreme importance. Pipeline 524 would place many customs brokers in the New York region at a great disadvantage. The Reagan administration has repeatedly stated its policy of reducing unnecessary regulatory burdens from the business community. In accordance with that policy, I ask that my colleagues support the amendment offered by the gentleman from New York.

Mr. MILLER of Ohio. Mr. Chairman, if the gentleman will yield, I have had an opportunity to look at the amendment and to speak to the author of the amendment. We have no objections.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for public service costs and for revenue forgone on free and reduced rate mail, pursuant to 39 U.S.C. 2401 (b) and (c) and for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund and to postal employees for earned and unused annual leave as of June 30, 1971, pursuant to 39 U.S.C. 2004, $869,240,000.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 10, line 14, strike out the period and insert in lieu thereof the following: ": *Provided,* That none of the funds appropriated by this title may be used for advertising or promoting the implementation or use of a mandatory nine-digit ZIP code.".

□ 1220

Mr. SOLOMON. Mr. Chairman, I rise today to offer a crucial amendment to title II, that portion of the bill at hand which deals with the appropriation of Federal funds to the U.S. Postal Service.

My amendment will prohibit the Postal Service from using any funds appropriated under H.R. 4121 for the purpose of advertising or promoting the ill-advised nine-digit ZIP code program for fiscal year 1982.

The reconciliation conferees have agreed to a 2-year delay in the implementation of the nine-digit ZIP code. However, while delaying full implementation, the conferees have allowed the Postal Service to take a wide variety of steps toward implementation during this 2-year period. In addition to allowing the Postal Service to purchase new optical character readers, channel sorting equipment and other equipment necessary to handle and sort nine-digit mail, the conferees have also agreed to permit the Postal Service to disseminate any information to the public it feels necessary concerning the program.

Now, interestingly enough, the conferees have also requested the General Accounting Office to study the ZIP+4 plan, and to report its findings to the Congress by December 1, 1982. The GAO will be directed to study the accuracy and reliability of the new machinery and the cost effectiveness of the nine-digit ZIP system as a whole, and in addition, GAO will be asked to suggest improvements in the Postal Service proposal.

Now this seems a little strange to me.

Why should the Postal Service be allowed to go full force preparing for implementation of the nine-digit ZIP and spending money advertising its merits before the Congress even has the GAO report on the value of the proposal?

Just last week, the Postal Service took out two-page advertisements in both Time and U.S. News and World Report in a blatant attempt to sway public opinion in favor of the nine-digit ZIP code. The cost of these ads run about $98,000 each.

At a time when first-class postal rates have again risen, this time to the astounding level of 18 cents per letter, how can the Postal Service possibly justify the expenditure of funds to advertise the merits of the nine-digit plan in national magazines, when the GAO will not even report its evaluation of the project until December of 1982?

My concern is that allowing the Postal Service to take off on a media blitz promoting the plan before the Congress has its report on the value of the nine-digit proposal, is a little bit like letting the train out of the station with no passengers.

My amendment will not prohibit the Postal Service from purchasing its new nine-digit equipment, but it will prevent the Postal Service from using the funds appropriated under title II to advertise or promote the project before we in Congress have a valid report as to its merits. It only makes good sense to me that this prohibition

be enacted, and I urge all of my colleagues to join with me in prompting just a little restraint on the part of the Postal Service until we have all the facts before us.

Until we know the facts, let us not gamble on adding another hardship on the American people. Let us not gamble by adding $1 billion to the cost of operating the post office and maybe 2 or 3 more cents to the cost of a stamp.

Let us not gamble on adding more than $1 billion to the cost of small business, local governments, schools, hospitals, churches, charities and newspapers just to convert to a nine-digit ZIP code system that no one but the Postmaster General wants.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

My colleague raised a very interesting point, and having been here a number of years I can point out the way the nameless, faceless bureaucracy has gotten its way in the past. It is the gradual, step by step way we have edged into the metric system without any congressional approval. Like sticky paper they get you stuck and proceed little by little. This is the way we have building projects all over this town. In project after project bureaucrats find a way of starting. They use the sticky paper routine.

I congratulate the gentleman for calling this to the attention of this body and I hope we nail this down right now.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding.

Reading the gentleman's amendment, the one word that I think stands out is the word "mandatory." At the present time, as the gentleman knows, the nine-digit ZIP code is on a voluntary basis. But I must commend the gentleman for his amendment in making sure that the implementation of the nine-digit ZIP code is on a basis that would not be made mandatory

May I congratulate the gentleman for his amendment and the committee will accept his amendment.

Mr. SOLOMON. I certainly thank the chairman.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. I have looked at the amendment. I think it is very helpful. As the chairman has stated, the word "mandatory" is very important because this will give the opportunity to the Postal Service at least to find out what kind of savings are involved in the nine-digit ZIP code. I have heard, and we have had some information, that there would be something like $800 million a year savings, but we certainly need to know for sure before any nine-digit ZIP code would be put in place.

I compliment the gentleman.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

I want to commend and compliment the gentleman on his amendment.

I do want to point out a concern which I am sure the gentleman shares with me, and that is, that even with the adoption of the gentleman's amendment, under the conference report language in the Reconciliation Act apparently the Postal Service is going to be authorized not only to purchase the equipment, because that does not bother us, that can be used even if they stay at five digits—but they will be authorized to undertake advertising campaigns even before the decision to implement or before the studies have been completed.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 1 additional minute.)

Mr. WEISS. If the gentleman will yield further. I would hope that as a result of the gentleman's amendment being adopted, the Postal Service will recognize that we do not want them to go forward and spend this money when in fact Congress may very well decide to prohibit them from spending the money for the purpose of moving to a nine-digit ZIP.

Mr. SOLOMON. I thank the gentleman for his remarks and certainly we are talking about $1 million in cost to the Federal Government. We are talking about a billion dollars in costs to hospitals, schools, and local governments. I think we at least ought to know what we are doing before we allow the post office to continue.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York.

Mr. Chairman, last December the Committee on Government Operations unanimously approved House Report 96-1531, condemning the Postal Service's plan for a nine-digit ZIP code. That report castigated the Postal Service for poor planning and recommended that the Service examine less costly alternatives to its proposal. This advice, the concern of over 100 Members of the House who have joined in various resolutions and bills, and, similar expressions by more than one-half the Senate, has been rejected by the Postal Service which, as one witness at our most recent hearing noted, has its rhetoric way out in front of reality on this nine-digit ZIP code project. At this same hearing we also discovered that the Postal Service had grossly understated the cost and overstated the savings associated with its plan—perhaps by as much as $150 million per year.

As you will recall, the Postal Service proposal really has two distinct parts: First, the Service plans to spend $1 billion on new automated mail-sorting equipment; second, the ZIP code will be expanded to nine digits so the new machines can sort mail in small units before it is handed to letter carriers for delivery. The latter aspect of the plan will cost mail users at least $1 billion for a costly conversion to the longer ZIP. According to an executive branch study done at my request, the cost of conversion for Federal agencies alone would exceed $100 million.

These cost figures and the fact that according to the Postal Service, automation with or without the longer ZIP will result in substantial productivity gains, led the House Post Office and Civil Service Committee to propose a 2-year delay in the implementation of the nine-digit ZIP code. The House accepted the committee's recommendation and included the delay provision in the reconciliation bill.

House conferees were, I understand, able to prevail on the 2-year delay; however, because the Senate bill did not contain a comparable provision, the Postal Service will—it seems—be allowed to take steps to "prepare for implementation"—including advertising. Nonetheless, misgivings by the conferees were such that they have decided to ask GAO to study the cost effectiveness of the "ZIP+4" plan and report to Congress by December 1982.

Without Mr. SOLOMON's amendment, the Postal Service will—despite the delay—be able to continue on its present course of marketing the longer ZIP codes. No doubt many of you have seen the type of media blitz we can expect—Time, Newsweek, and U.S. News & World Report all carried expensive two-page ads in their July 27, 1981, editions.

Allowing the Postal Service to continue this PR campaign may result in more than distraction from the automation of the mail-sorting process. Through the commitment of resources, it could well lock the entire country into the longer codes before the GAO completes the report proposed by conferees on the "effectiveness of the entire expanded ZIP code system." This report, to be issued by December 1982, provides what appears to be a logical benchmark for determining whether unfettered preparation by the Postal Service is in order.

For example, the Postal Service could deploy new equipment, and test and perfect conversion tapes before the report is issued and reviewed by the Congress. Assuming a clean bill of health from the GAO, the Postal Service would then have some 10 months to mount a PR campaign.

Mr. SOLOMON'S amendment would bring us within 2 months of the due date of the GAO report. I urge its adoption.

Mr. DERWINSKI. Mr. Chairman, House-Senate conferees on civil service and postal affairs have dealt with this subject in a comprehensive manner.

Under the conference agreement, the Postal Service is prohibited from implementing the expanded ZIP code program before October 1, 1983. In the interim, the Postal Service will be permitted to take all steps preparatory to implementation. The preparatory steps will include the purchase of the optical character reading machines, bar code printers and other necessary equipment, the dissemination of information concerning the program, and providing assistance to mailers who want to convert their mailing procedures to the new program.

Many of the critics of the expanded ZIP code program have been misinformed as to its purpose and goals. It was not dredged up by the Postal Service as some last-minute project. It has been under study for years. It is strictly voluntary, but it will help the Postal Service to improve postal productivity and in the process help stabilize postal rates.

Frankly, I think it was a mistake to delay implementation of the program until 1983, but since that now is a fact of life we certainly should not be tinkering with a carefully structured program which will be cost effective for the Postal Service and the mail-using public.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON).

The amendment was agreed to.

□ 1230

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 10, line 14, insert immediately before the period the following: ": *Provided*, That except in accordance with section 404 of title 39, United States Code, no part of any funds appropriated under this title shall be available to plan, administer, or implement the closure or consolidation of any post office".

Mr. SIMON. Mr. Chairman, I believe this is an acceptable amendment. This is an amendment which simply strengthens what is already language in the report which makes clear that the Congress of the United States does not want to have any wholesale closings of small post offices; that any plan implementing anything like that has to proceed with the present statutes.

I might add that the Postmaster General, in testimony before the committee on March 26, stated that, and I quote:

A cut in this appropriation at the level proposed by the President will challenge the Postal Service to improve its efficiency and productivity. We will not look to changes in 6-day delivery or other major, nationwide services to accomplish this $344 million reduction. I would like to insert that we will not have any wholesale closings of small post offices.

Mr. Chairman, the amendment which I offer today touches upon the future of small post offices in both urban and rural areas. My amendment would prohibit the Postal Service's use of appropriated funds to plan, administer or implement the closure or consolidation of post offices outside of the orderly procedures established by the Congress in 1976. These measures require the Postal Service, before closing or consolidating any post office, to fully consider community impact, to assess the consequences to employees, and to provide adequate notice, as well as to consider the potential budgetary savings involved.

This impact assessment is in keeping with postal statutes which prohibit the closing of post offices solely for financial reasons. I quote here from section 101(b), title 39, of the United States Code:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

This would seem to be sufficient protection for small post offices, but developments in the last decade proved that it is not. In 1975 the Postal Service attempted to launch a program of mass closures under a plan developed by Postmaster General Bolger's predecessor. At that time I led a court challenge to this plan which was joined by more than 50 Members of the House and Senate. This effort led in 1976 to enactment of section 404 of title 39 United States Code, which sets forth the orderly procedures which now govern the closure or consolidation of post offices, and requires a demonstration that such closures or consolidations are clearly in the public interest. Since then the process has worked—and worked well—and it has widespread support. Some 250 post offices have been closed under section 404.

The present Postmaster General respects the value of small post offices. In congressional testimony earlier this year Postmaster Bolger again indicated his intention to absorb the administration's proposed budget reductions without instituting significant reductions in service, including the wholesale closings of small post offices. In its report the Appropriations Committee has underscored this point, while approving postal appropriations in the amounts proposed by the administration, including a reduction of $344 million in the fund used to operate small post offices.

However, budget pressures and changing circumstances could press the Postal Service into a reversal of this policy. Should the Postal Service decide to make up some of its budgetary losses through the closure or consolidation of post offices, it is likely that several thousand would be affected, encompassing every State and every congressional district. Understandably, constituent concerns about the fate of local post offices continue.

These circumstances, and these concerns about the future, require that the Postal Service be discouraged in every way possible from devising plans to circumvent the established section 404 procedures, or to seek repeal of section 404 as a prelude to wholesale post office closures. A strong showing of support for this amendment will discourage the Postal Service from heading down this path.

This amendment will permit realinements and closures where justified. Our intention is to make certain that the wholesale closure initiatives which were launched in the last decade are not launched again.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding. If the gentleman will extend his remarks, the committee will accept the amendment.

Mr. SIMON. I appreciate that, and I understand that it is also acceptable to my colleague from Ohio, although I would not want to speak for him.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. That is correct. We understand the gentleman is just enforcing the public law that is on the books now in the procedures for closing post offices. Is that correct?

Mr. SIMON. That is correct.

Mr. MILLER of Ohio. We have no objection.

Mr. SIMON. It reinforces the law that is in the committee report, and I appreciate the support of my colleagues, particularly the chairman of the subcommittee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President as authorized by 3 U.S.C. 102, $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 701 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

POINT OF ORDER

Mrs. SCHROEDER. Mr. Chairman, I make a point of order against the first paragraph in title III, Compensation to the President.

The CHAIRMAN. The gentlewoman will state it.

Mrs. SCHROEDER. Mr. Chairman, this paragraph contains a proviso stating that none of the funds made available for official expenses shall be considered as taxable to the President. This proviso is legislation in an appropriation bill and violates rule XXI, clause 2 of the Rules of the House of Representatives. In this case the paragraph provides compensation to the President of $250,000 for official expenses but states that none of the funds shall be taxable to the President. This is a change in existing law or at least purports to be a change in existing law by stating the taxable status of the expenses. In effect it construes existing law and is therefore not in order. (See CONGRESSIONAL RECORD, May 2, 1951, pp. 4747-4748.)

The CHAIRMAN. The Chair will inquire of the gentlewoman whether she makes her point of order against this specific proviso in line 25, page 10, through line 2, page 11, or against the paragraph in its entirety.

Mrs. SCHROEDER. The gentlewoman would be making it against the paragraph in its entirety.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, if it is in its entirety we can accept that. We will concede the point of order.

The CHAIRMAN. Does the gentleman from Ohio wish to be heard?

Mr. MILLER of Ohio. Mr. Chairman, I would like to find out just exactly what we are doing. I am not sure. I would like to find out what we are striking.

The CHAIRMAN. The Chair will inform the gentleman that if the point of order were to be sustained, the paragraph on page 10, line 20, through page 11, line 2, would be stricken in its entirety.

Does the gentleman from Ohio wish to be heard on the point of order?

Does the gentleman from California wish to be heard?

Mr. ROYBAL. No.

The CHAIRMAN. Does any Member wish to be heard?

Otherwise, the Chair is prepared to rule.

PARLIAMENTARY INQUIRY

Mr. MILLER of Ohio. Mr. Chairman, a parliamentary inquiry.

Is it possible for the chairman to explain what has been already worked out on this point of order before the Chair rules on the point of order?

The CHAIRMAN. The Chair is in a position to solely restate the point of order and the consequences which would flow from its being sustained by the Chair.

Mr. ROYBAL. Mr. Chairman, may I inform the gentleman from Ohio that I do have a motion at the desk that will restore the full amount. What is being considered at this particular time is language at the bottom of page 10 of the bill and the top of page 11, and that is that none of the funds made available for official expenses shall be considered as taxable to the President. Now, that has not been authorized, and it is because of that fact that we have conceded the point of order.

Now, in order to restore the title III, a motion is now at the desk. That motion will be read, it will be adopted, and then we can continue with the rest of the bill.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield.

Mr. CAMPBELL. I thank the gentleman. Am I correct that in the past we have had a situtation where the salary of the President was set, and then there was $50,000 in an extra account for offical expenses, and that in this instance there was no effort made to raise the Presidential salary or change anything in the moneys. Really, this committee combined the two in an effort to show exactly what was being done, and so in fact—in fact what we had was a statement of what our current situation is except that we put it together here, and it should be corrected by the gentleman's amendment presented at a later time.

Mr. ROYBAL. The gentleman is correct. The committee followed the usual procedure, did exactly what has been done in the past. A point of order has been called on this same item almost ever year. The same thing has happened, and it has been necessary to restore section 3 by a motion which is now at the table, and it can be done and we can proceed immediately after that. But the gentleman is correct, the salary of the President is not $250,000, it is $200,000.

The CHAIRMAN. The Chair will interrupt the gentleman. The point of order made by the gentlewoman from Colorado has been conceded by the gentleman from California and is sustained by the Chair for the reasons stated and the entire paragraph is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 10, line 18, insert the following:

"EXECUTIVE OFFICE OF THE PRESIDENT

"COMPENSATION OF THE PRESIDENT

"For compensation of the President as authorized by 3 U.S.C. 102, $250,000."

□ 1240

Mr. ROYBAL. Mr. Chairman, this amendment merely restores the matter which is not subject to a point of order. I ask the support of the House in restoring this section.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, my question is this: We had, prior to this year, funding for a salary for the President of $200,000 and an expense account of $50,000.

As of now, with the gentleman's amendment, which states, "For * * * compensation of the President, $250,000," we are not changing the salary of the President; am I correct on that?

Mr. ROYBAL. Mr. Chairman, the gentleman is correct. The salary for the President is not being changed at all, but the figure of $250,000 includes $50,000 for expenses that the President may be incurring. This is fully authorized by law. He may or may not spend it all. If he does not, it does not go to the President; it goes back into the Treasury of the United States.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for that explanation, and I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYBAL).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the Office of Administration, $13,200,000, including services authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

AMENDMENTS OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer a series of amendments starting with this section, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. OTTINGER: Page 11, line 6, strike out "$13,200,000" and insert in lieu thereof "$12,200,000".

Page 11, line 21, strike out "$22,278,000" and insert in lieu thereof "$21,278,000".

Page 12, line 3, strike out "$3,674,000" and insert in lieu thereof "$3,374,000".

Page 12, line 12, strike out "$185,000" and insert in lieu thereof "$168,000".

Page 12, line 22, strike out "$1,640,000" and insert in lieu thereof "$1,591,000".

Page 13, line 5, strike out "$2,263,000" and insert in lieu thereof "$2,205,000".

Page 13, line 10, strike out "$3,939,000" and insert in lieu thereof "$3,839,000".

Mr. OTTINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Chairman, these amendments, very simply, restore to the fiscal year 1981 level the appropriations for various offices of the President and the Vice President.

This is done because I feel very strongly that, with cuts of such severe nature having been made and with the American people being required to suffer as a result in so many areas of the budget, the President ought at least to be required to hold the line on his Executive Office expenditures.

Furthermore, with the enormous cuts that the President has proposed and Congress has made, there ought to be a good deal less for the Executive Office of the President to administer, so it would be entirely justifiable to reduce the amount that is appropriated for these purposes.

The total proposed appropriation for the Executive Office of the President, I would note, is already lower than the fiscal year 1981 appropriation, but that is because the committee has eliminated the Council on Wage and Price Stability and has yet to fund the Domestic Policy Office. The items which I am affecting in fact have been increased substantially, and for the White House Office and the Office of Administration they have been increased by $1 million each.

The President's program is anticipated, according to the Wharton economic model, to throw 1,750,000 Americans out of work. The cuts in higher education will result in as many as 2 million people not being able to go to college, and it is estimated that somewhere between 200 and 300 colleges will have to close. The cuts in the school lunch program will deprive a great many students of the opportunity to be able to function effectively in school because they will not have enough to eat. The cuts in housing will mean thousands of marginal tenants are going to endure severe suffering.

With respect to senior citizens, the cuts will hit particularly hard because their social security payments will be reduced and their rents are going to be increased. The amount of food available to them through food stamps is going to be decreased, and in those cold areas of the country, which includes mine, the programs for weatherization and low-income energy assistance are going to be decreased, so we are likely to have a result that many of those senior citizens are going to be forced to make the terrible choice of either having to starve to death or freeze to death this winter.

The services available to thousands of blind, elderly, and disabled are going to be reduced in a block grant program that cuts them some 25 percent. Our cities, which have such grave economic problems, are going to be cut back severely in the block grants that are proposed. Thousands of pregnant women will be deprived of milk to assure they can bear healthy babies by repeal of the WIK program.

In the areas of health and economic assistance, low-income assistance and health-care assistance, we have a pattern formed where in order to be able to reduce Federal expenditures, these programs are block granted and reduced by 25 to 30 percent.

Here we have a request for the White House Office and the Office of Administration for vastly increased sums, in those two cases more than $1 million each, and I just do not think that is justified, as I said. With these drastic cuts in the Federal bureaucracy, certainly it should take less money to be able to administer them, and if the President wants to see the whole Federal budget cut back and the American people suffer considerably as a result, then I think he is under an obligation to set an example with his own office expenditure.

Mr. SWIFT. Mr. Chairman, will the gentleman yield for a question?

Mr. OTTINGER. I yield to my friend, the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, do I understand that what the gentleman proposes is that we merely reduce the President's expenditures to the 1981 levels?

Mr. OTTINGER. The gentleman is correct. I do not propose that the President or his Office be cut back 25 percent, as he has proposed to cut back the health care, education, and benefits for poor people.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(On request of Mr. SWIFT, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. SWIFT. Mr. Chairman, if the gentleman will yield further, the question I want to ask the gentleman is this: Does the gentleman's amendment not deal with the Executive Office of the President more generously than this body dealt with itself and its various committees in our authorization for the committee expenditures in the legislative branch?

Mr. OTTINGER. That is certainly correct.

Mr. SWIFT. There was a 10-percent cut over the previous year's expenditures, generally speaking, across the board by the legislative branch, as passed by this body. So the gentleman is only suggesting that the President be kept at the 1981 spending levels?

Mr. OTTINGER. That is correct. I do not apply to the President what he applied to the rest of the country, particularly the most needy of our citizens in health care, education, and job benefits which have been decreased by 25 percent. I merely say that his Office and the Administrative Office ought not to increase by more than $2 million.

Mr. SWIFT. So that the President will be treated much more generously than the public has been treated, and he will be treated more generously than the legislative branch treated itself?

Mr. OTTINGER. The gentleman is correct.

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield on that point?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I do not think that we should be trying to fool the people when we speak of being "more generous" in one area and cutting the poor, the blind, and the disabled.

The legislative committee of this House raised the expense account about 3 months ago for each Member approximately $10,000. Without a vote in the House, it was raised $10,000.

As a member of fact, I have an amendment——

Mr. OTTINGER. Mr. Chairman, I will reclaim my time, if I may.

Mr. MILLER of Ohio. Well, Mr. Chairman, I wonder if the gentleman would answer this question.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, I would reply to the gentleman from Ohio (Mr. MILLER) by saying that we have not yet considered the legislative appropriations, and indeed there are notices out that would seek to cut the amount which is available to Members

of Congress in order to be able to perform their duties.

We have also gone without a pay increase for some time, which is a matter of great concern to a great number of Members, including this Member, because I do not think it is in the best interest of the country to see Members who are responsible for multibillion-dollar budgets live under financial duress.

So I just think that this is a matter of equity and a manner of good sense. In fact, the President will have much less to administer, and I do not see why appropriation for his costs should go up.

□ 1250

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. OTTINGER. I will be glad to yield.

Mr. MILLER of Ohio. I plan to offer an amendment when the legislative appropriations bill comes up that will take away the average $10,000 increase per office. It is in effect right now and in the fiscal year 1982 budget.

I am wondering whether the gentleman will support me when that amendment comes up.

Mr. OTTINGER. I have not yet seen the amendment. I would certainly consider it very seriously.

My colleague the gentleman from Michigan (Mr. DUNN) has talked to me about making the legislative caps which were adopted by the House Administration Committee obligatory. I do not know whether that conforms to the gentleman's amendment or not, but I said I would support the gentleman from Michigan's amendment.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DUNN. Mr. Chairman, I would like to rise in support of the gentleman's amendment.

I feel very strongly about defining leadership in this body or in the administration. If we are going to have leadership, it should begin at home.

In my own office, I have cut my staff budget, my own salary, by 5 percent.

When we are asking the Nation to pull back, I think the administration is also a good place to do it.

I strongly support the gentleman's amendment.

Mr. OTTINGER. I thank the gentleman for his support.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

As we all know, there are various offices in the Executive Office of the President. I think we must consider the fact that the committee carefully reviewed each of the budget requests and the committee allowed only those increases which were mandatory in nature.

There were no program increases allowed by the committee.

With regard to the largest Office in the Executive Office, the OMB, the committee did not approve any increase at all over 1981.

The committee has allowed no increase in personnel and no program increases. The committee has allowed only modest amounts for mandatory increases, such as increased rental space costs, increased cost of supplies, with in-step increases for employees and other increases that are beyond the control of anyone operating any particular office.

I strongly recommend that we do not arbitrarily reduce these Offices to the 1981 level.

I would like to review very briefly what the committee has done. Approximately $93 million was appropriated in 1981. Approximately $93 million was requested for 1982.

The committee recommended an appropriation of $84.5 million, which is a reduction below both the budget request of 1981 level appropriations; so in effect, the committee did not just make the appropriation simply because it was the President of the United States that was asking for this money. The committee really analyzed each request. We tried to analyze the work of the President, what his needs were.

I can well realize that this can be an economy vote if one would so desire to make it that way: but the truth of the matter is that the Office of the President, we all know, is a most important Office. Who would know more about that Office than the man who is running it? Who would know more how much money is needed to accomplish certain objectives?

The objectives of the President of the United States, I believe, are objectives that should be made his prerogative. He should follow those objectives and I believe that we as Members of this House should make available to the President whenever his request is reasonable, as it is in this instance, the amount of money that he requests.

Again, I wish to repeat, that the committee did not appropriate the full amount requested; that we did, in fact, make reductions. We made reductions based on careful analysis of what was needed. I believe that there is no fat in this request of the President.

I sincerely hope that the amendment is defeated.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I will yield to the gentleman from New York.

Mr. OTTINGER. I think the gentleman and the committee did, in fact, make cuts and I applaud them particularly for holding the Office of Management and Budget, which has been at the point of the lance in trying to cut everybody else, holding them to the 1981 budget.

With respect to the Administrative Office of the President and the Office of the White House, as I understand it, the primary reason for the reduction in funds was the elimination of the Council on Wage and Price Stability. Therefore, the committee did not have to fund that.

It was the decision of the committee not to fund the Domestic Policy Office because the head of that Office refused to appear before the subcommittee to discuss his budget. That was Mr. Anderson; is that not correct?

Mr. ROYBAL. Well, it is probably correct.

I think that the gentleman should also look at the figures the way they really stand. In the Office of Administration, we did decrease the request by $675,000.

Now, a decrease was also made in the White House.

Mr. OTTINGER. A decrease from the request in the appropriation.

Mr. ROYBAL. My point is that the President did not get everything that he requested, that the committee did analyze very carefully the needs and that a reduction was made.

Now, in the White House Office, there was also a reduction. It is a small reduction, I grant.

Mr. RUDD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the chairman of this committee for his very statesmanlike presentation, indicating how energetically, and carefully this subcommittee had worked on this bill, especially on the matter before us.

It is difficult for me to understand why when, as the chairman pointed out, we took testimony on the matter and even reduced funding in some areas that were requested, that even further reductions are requested to a level of the 1981 budget. As the chairman pointed out, the President himself knows better what needs have to be met in the Executive Office of the President.

I would oppose this amendment and hope that we will vote it down.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Chairman, I thank my colleague for yielding.

There is a temptation to support an amendment like this, and for some of us, including the chairman of the subcommittee, who have been on this committee for a number of years, and I formerly served on this subcommittee, this is not a new amendment. Almost every President has had amendments offered to reduce his appropriation by the opposite party.

I have never supported any of those.

There is a rule that has not come up here, called comity. We do not have to

lay down and play dead because a President requests funds; but this subcommittee has already testified, it is obvious they had trimmed down this appropriation, as they should; but it reaches a point where we should not trim any further.

As I listen to the justification and explanation for this amendment, I am sorry to say that I must come to the conclusion that the amendment is offered not to save money, but as a punitive measure.

I hope that this body does not reduce itself to being punitive. It is a conclusion I must draw from the argument made here. I wondered which bill we were talking about, when I listened to the arguments for the amendment, whether it was in this appropriation bill, and I do not find it. I do think the committee has done a good job in reducing the executive appropriation.

I congratulate the chairman, the ranking member, and the members of the committee and I urge the committee of the House here to support its subcommittee in this instance.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, I also would like to commend the chairman of our subcommittee for the statesmanlike stance he has taken on this matter.

I think it is very important to realize a couple things. No. 1, the committee cut back the request by almost $5 million, as the chairman has talked about; but the most important thing to remember is that this Congress mandated on the White House in the Office of Management and Budget the Paperwork Reduction Act of 1980 at a cost of $2,600,000, which our committee saw fit to make them absorb in their existing budget; so in fact you have a major reduction in the White House cost by over $2½ million because they absorbed what we voted for paperwork reduction.

I would only pose to the sponsors of this amendment, did they believe and vote for and support the reduction of paperwork in the Paperwork Reduction Act? If so, we gave no money to fund it. That is absorbed out of the White House budget and that is a direct reduction of the operating cost of operating the White House overall.

□ 1300

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. OTTINGER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chairman announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. OTTINGER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 164, noes 253, answered "present," 1, not voting 16, as follows:

[Roll No. 181]

AYES—164

Anderson	Gray	Oxley
Aspin	Guarini	Panetta
Atkinson	Hall (OH)	Patman
AuCoin	Hall, Ralph	Patterson
Barnes	Hall, Sam	Paul
Bedell	Hamilton	Petri
Benjamin	Hance	Peyser
Bennett	Hansen (UT)	Pursell
Biaggi	Harkin	Rahall
Blanchard	Hawkins	Rangel
Boner	Heckler	Ratchford
Bonior	Hendon	Reuss
Bowen	Hightower	Richmond
Brodhead	Hiler	Rinaldo
Brown (CO)	Hopkins	Ritter
Burton, Phillip	Howard	Roberts (KS)
Carney	Jacobs	Roberts (SD)
Chisholm	Jeffries	Rodino
Clay	Jones (NC)	Roemer
Coats	Jones (OK)	Roth
Collins (IL)	Kastenmeier	Roukema
Collins (TX)	Kogovsek	Russo
Conyers	Kramer	Savage
Coyne, James	LaFalce	Scheuer
Coyne, William	Lantos	Schneider
Crane, Daniel	LeBoutillier	Schroeder
Crane, Philip	Lehman	Schumer
D'Amours	Leland	Seiberling
Daschle	Long (MD)	Sensenbrenner
Daub	Lowry (WA)	Shamansky
Dellums	Lujan	Shannon
Dixon	Luken	Smith (NJ)
Donnelly	Lundine	Snyder
Dorgan	Markey	Solarz
Dornan	Marlenee	Stark
Downey	Mattox	Stenholm
Dunn	Mavroules	Stokes
Dwyer	McCollum	Studds
Dymally	McDonald	Swift
Early	McEwen	Synar
Edgar	Mikulski	Traxler
Edwards (CA)	Miller (CA)	Udall
English	Mineta	Vento
Evans (IA)	Mitchell (MD)	Walgren
Evans (IN)	Moakley	Washington
Fenwick	Moffett	Waxman
Ferraro	Mottl	Weaver
Findley	Murphy	Weiss
Fithian	Neal	Whittaker
Florio	Nichols	Williams (MT)
Ford (MI)	Nowak	Wirth
Ford (TN)	Oakar	Wyden
Garcia	Oberstar	Yatron
Gejdenson	Obey	Young (MO)
Glickman	Ottinger	

NOES—253

Addabbo	Foley	Myers
Akaka	Forsythe	Napier
Albosta	Fountain	Natcher
Alexander	Fowler	Nelligan
Andrews	Frank	Nelson
Annunzio	Frenzel	O'Brien
Anthony	Frost	Parris
Applegate	Gaydos	Pashayan
Archer	Gephardt	Pease
Ashbrook	Gibbons	Pepper
Badham	Gilman	Perkins
Bafalis	Ginn	Pickle
Bailey (MO)	Goldwater	Porter
Bailey (PA)	Goodling	Price
Barnard	Gore	Pritchard
Beard	Gradison	Quillen
Beilenson	Gramm	Railsback
Benedict	Green	Regula
Bereuter	Gregg	Rhodes
Bethune	Grisham	Robinson
Bevill	Gunderson	Roe
Bingham	Hagedorn	Rogers
Bliley	Hammerschmidt	Rose
Boggs	Hansen (ID)	Rosenthal
Boland	Hartnett	Rostenkowski
Bolling	Hatcher	Rousselot
Bonker	Hefner	Roybal
Bouquard	Heftel	Rudd
Breaux	Hertel	Sabo
Brinkley	Hillis	Sawyer
Brooks	Holland	Schulze
Broomfield	Hollenbeck	Sharp
Brown (CA)	Holt	Shaw
Brown (OH)	Hoyer	Shelby
Broyhill	Hubbard	Shumway
Burgener	Hughes	Shuster
Burton, John	Hunter	Siljander
Butler	Hutto	Simon
Byron	Hyde	Skeen
Campbell	Ireland	Skelton
Carman	Jenkins	Smith (AL)
Chappell	Johnston	Smith (IA)
Chappie	Kazen	Smith (NE)
Cheney	Kemp	Smith (OR)
Clausen	Kildee	Smith (PA)
Clinger	Kindness	Snowe
Coelho	Lagomarsino	Solomon
Coleman	Latta	Spence
Conable	Leach	St Germain
Conte	Leath	Stangeland
Corcoran	Lee	Stanton
Coughlin	Lent	Staton
Courter	Levitas	Stratton
Craig	Lewis	Stump
Daniel, Dan	Loeffler	Tauke
Daniel, R. W.	Long (LA)	Tauzin
Danielson	Lott	Taylor
Dannemeyer	Lowery (CA)	Thomas
Davis	Lungren	Trible
de la Garza	Madigan	Vander Jagt
DeNardis	Marks	Volkmer
Derrick	Marriott	Walker
Derwinski	Martin (IL)	Wampler
Dickinson	Martin (NC)	Watkins
Dicks	Martin (NY)	Weber (MN)
Dougherty	Matsui	Weber (OH)
Dowdy	Mazzoli	White
Dreier	McClory	Whitehurst
Duncan	McCloskey	Whitley
Dyson	McCurdy	Whitten
Eckart	McDade	Williams (OH)
Edwards (AL)	McGrath	Wilson
Edwards (OK)	McHugh	Winn
Emerson	McKinney	Wolf
Emery	Mica	Wolpe
Erdahl	Michel	Wortley
Erlenborn	Miller (OH)	Wright
Ertel	Mitchell (NY)	Wylie
Evans (DE)	Molinari	Yates
Fary	Mollohan	Young (AK)
Fazio	Montgomery	Young (FL)
Fiedler	Moore	Zablocki
Fields	Moorhead	Zeferetti
Fish	Morrison	
Flippo	Murtha	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—16

Cotter	Foglietta	Jones (TN)
Crockett	Fuqua	Livingston
Deckard	Gingrich	Minish
Dingell	Horton	Santini
Evans (GA)	Huckaby	
Fascell	Jeffords	

□ 1320

Mr. WHITTEN and Mr. HANSEN of Idaho changed their votes from "aye" to "no."

Messrs. EVANS of Iowa, JAMES K. COYNE, and KRAMER changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1330

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, $1,000,000.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: page 14, after line 2, insert the following new paragraph:

"PROHIBITION ON GIFTS TO INFLUENCE MEMBERS OF CONGRESS

"No part of any appropriation contained in this title may be used for the purchase or provision of any gift or favor (including, but not limited to, cuff links, helicopter rides, visits to Camp David, and barbecues) to members of Congress for the purpose of influencing their votes on legislation."

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment to prohibit any part of an appropriation for the President and the Executive Office from going for gifts to Members of Congress for the purpose of influencing their votes on legislation. Today may be the most important day to discuss this issue.

Earlier this year, when the budget was under discussion, the President invited wavering Members down to the White House, gave them a pair of cuff links, and they came back to the Hill wavering no more. Just last weekend, the President upped the ante on the tax bill by taking a group of Members in a spiffy Army helicopter to Camp David for hot dogs and hamburgers. A month ago, the President tried to buy Members' votes for cuff links; a few days ago, he moved to hot dogs. What is next? Jelly beans?

Well, unless anyone cares to disagree, I can say that I do not think any Member of Congress would sell his vote for a hot dog. And, the President ought to stop using the taxpayer's hard-earned money to attempt to buy something which cannot be sold.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I would like to ask the gentlewoman to explain it very clearly because the Members on this side do not know what the gentlewoman is talking about.

Mrs. SCHROEDER. I really want to thank the gentleman for allowing me to explain my amendment.

The gentlewoman does not understand it either, but there have been rumors in the press and all sorts of stories that I am sure if we allow them to go unanswered we will taint this body and we could also taint the Presidency.

I do not think people really have been going on barbecues and in helicopters and getting all sorts of goodies and favors for votes. It is just impossible for me to believe that.

As the gentleman can tell, I do not have any cuff links and I am sure the gentleman's side of the aisle does not have any and I doubt if anyone on our sides does either, but that is why I thought this amendment could be very brief and very quick. If no one is implicated and this is not going on, this is redundant.

I am sure we know the President would not spend the taxpayers' money this way. I am sure he would fund such things out of either campaign funds, or not do it.

It seems to me that by not passing this we would be just continuing to throw a cloud over the legislative process and what is going on. So I offer this in the sense of good government because we know that Washington is kind of a role model for the rest of the country and the world. I know how many people on both sides of the aisle have worried about legislative agencies lobbying and doing things like that.

I think we should just accept this amendment. I think it is very simple, it is very clearcut, and I think it solves a non problem.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentlewoman for yielding.

I am sorry to hear my colleague speaking as she is on the floor of the House. We have no time for such games and we all know what this is.

Mrs. SCHROEDER. Well, I thank the gentlewoman from New Jersey for her comments. I do not think this is a game. I think that this is serious and I think the American people should be entitled to know that these types of things are not being funded with their money and the amendment makes it very clear.

These are the kind of stories if they grow, become legendary. Such bargaining is not what the United States of America Government is about.

Mr. McEWEN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Ohio.

Mr. McEWEN. I thank the gentlewoman for yielding.

Is the gentlewoman aware of a certain amount of discussion in the media which referred to the fact that previous Presidents did not take the opportunity to meet with the Congress. They were unwilling to come here and reluctant to invite Members to the White House.

Mrs. SCHROEDER. If I could take my time back. I would like to reclaim my time and tell the gentleman I am delighted that the President is meeting with us and I think that is the way it should be and that is why I am so serious about this amendment and do not intend it to be a game at all.

Meetings, conversations, open doors, exchanges back and forth down Pennsylvania Avenue I think are terribly important and this amendment does not affect them. But do Members want this body to be portrayed as collecting trinkets and other goodies? We do not want such stories out in the press, and this will stop such allegations.

So, in essence, I agree with the gentleman. Of course I am delighted to have the conversations. I think that is what we really want, and that is what this amendment clarifies. It does not say they cannot invite us over. This is only for gifts or special little add-ons, which I do not think is being done anyway.

Mr. HEFNER. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from North Carolina.

Mr. HEFNER. I thank the gentlewoman for yielding.

I was one of the fortunate ones who was invited to Camp David last Sunday. And we were supposed to get a pewter mug. Does this cover pewter mugs?

Mrs. SCHROEDER. I hate to say to the gentleman——

Mr. HEFNER. I do not have any pewter mug. I would hate to be cut off until I get my pewter mug.

Mrs. SCHROEDER. I appreciate the gentleman's comment and in all honesty I am afraid it would cut off pewter mugs also. It would only do it in the next fiscal year, if the gentleman can get it delivered before October 1, he would be all right.

Mr. FRENZEL. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentlewoman for yielding.

I have a drawer full of ballpoint pens from Jimmy Carter. Do I turn myself in, Jimmy Carter in, or the pens in?

Mrs. SCHROEDER. I am not talking about pens if they were given at a bill signing.

If the gentleman will listen to the amendment, it talks about favors

handed out before legislation is passed. The pens I assume, were given after the legislation passes.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. We in this House constantly bring up business on a daily business of great importance. What we do here affects every man, woman, and child in the United States, and I can well say that it affects every man, woman, and child in the world. This I believe, that this body, meeting in Washington, D.C., is involved in legislation that affects people throughout the world.

But the business of this House is serious business, Mr. Chairman, and there are very, very few times when we can have some fun and start poking fun at one another. I enjoyed this exchange, and we did have some fun. Things were said on both sides that incidentally made most of us laugh for a brief moment, but now I think it time that we face the reality of the agenda of the day.

□ 1340

Now, we all know very well that the President of the United States is not going to use any of these funds for these purposes. Members probably remember that it was not too long ago that the President was going to remodel the White House, and $50,000 was made available for that purpose. That, of course, was not enough, so the President used private funds, and he can do it again and use those funds in whatever manner he desires with those private funds.

It seems to me that to place this prohibition on this legislation may to some come under the heading of poking fun. It is not for sure a very good, or astute idea. I believe that this amendment should not be included in the legislation that we are considering at present. So, I urge that the Members of this House vote against the amendment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. Yes; I yield.

Mrs. SCHROEDER. In essence, what the gentleman is saying that no money really is appropriated for these types of things. I think what I am trying to clarify is whether or not it is. If it is not appropriated for those types of things, then I will be more than happy to withdraw my amendment.

Mr. ROYBAL. While I cannot speak for the President, I think I can guarantee the gentlewoman from Colorado that the President is not going to use any of these funds for this purpose. He can use private funds if necessary. However, I think that the gentlewoman has already made her point. The point, I think, is well recognized by all those who are here in this House and those who are listening on television and within the hearing of my voice. The truth of the matter is that none of these funds will be used by the President, for the purposes cited in her amendment and, therefore, I urge that this amendment not be included in this piece of legislation.

Mrs. SCHROEDER. If the gentleman will yield further, with his assurances and what I was trying to do with my amendment, is making sure the American public knows that their tax money is not being used for such lobbying and influence buying. I think the gentleman from California would agree with me.

So, with his assurance and with this kind of legislative record, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. HOPKINS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HERTEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am a new Member here, but I see the partisanship escalating all the time. I have asked the gentlewoman to withdraw the amendment and she has done so. I think it is inappropriate to be discussing these things, these types of amendments and taking up the time of the House when we have so many other things to complete work on.

I opposed the last amendment too. I think after yesterday's fierce battle that went on for a few weeks, I think both sides were too partisan. I think there was too much trading of different issues for votes, that I think makes the Congress look bad in a certain light.

I think there has been too much argument between the President and the Congress in many ways. I came here really believing there would be less partisanship and more working together. I think that is what the American people want across the board, not only on this amendment, but on amendments offered by the other side also.

I hope we move away from that kind of operation in this House because in the end the thing that is the most important is not who wins the next election in 1982, but how we govern up until January 1, 1983.

I think all of us as we go into the recess sometime next week can ponder that for a bit in August, and maybe in September things will not be as partisan on either side.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I want to commend the gentleman for his comments, and I commend the gentlewoman for offering to withdraw her amendment. I think she should be allowed to do so. I think we can have our fun and have a little frivolity and break the tense atmosphere that we are in, but I think it is time to put it aside in good faith and allow this to be dropped and go on.

I commend the gentleman for his comments.

Mr. CONTE. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. LATTA. Mr. Chairman, reserving the right to object, let me say that I shall not object. I reserved the right to object to clear up something I think should be cleared up. In reading this Schroeder amendment, it might leave the impression that the cuff links and tie clips that the President of the United States has been handing out—and I might say that everybody has not gotten them—are paid for by the Republican National Committee and not by appropriated funds as the amendment attempts to infer.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. HOPKINS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the last word.

Not only, Mr. Chairman, are the cuff links covered in another area, but the amendment indicates helicopter rides are included. Now, I am not sure whether the lady from Colorado will be offering this in the Department of Defense bill, because we certainly are not covering the Department of Defense in the legislation that is before us right now.

I am not sure what took place in the past because the lady has in her amendment that barbecues also are banned. That means that the Members would not be able, apparently, to even be invited or visit the White House. So, it seems to me that the amendment is covering a lot of areas that would never be covered, by unanticipated needs that are accounted for by our committee for every expenditure out of there. I guarantee the lady that cuff links, barbecues, and helicopter rides hve never been charged to the account that she is talking about.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I want to thank the gentleman for his statement. I believe that the amendment should be withdrawn, and I believe that several Republican Members have asked that the amendment be withdrawn. I would hope that if the gentleman would make the motion or ask unanimous consent that it be withdrawn, that perhaps the Republican Member, Mr. HOPKINS of Kentucky, who has objected to this twice, would not object and the amendment can be withdrawn.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I do not think this amendment should be withdrawn. I think it should be voted on in the spirit of our colleague from the other side of the aisle. This is an amendment that richly deserves a defeat, a unanimous defeat. We should not be sitting here listening to this kind of talk when we should be attending to the serious business of the Nation.

Mr. HOWARD. Mr. Chairman, if the gentleman from Ohio will continue to yield, whatever the lady would want, but I wish the Republican side would get itself together, whether they want it withdrawn or do not want it withdrawn.

Mr. MILLER of Ohio. Mr. Chairman, I would move that we table the amendment.

The CHAIRMAN. That motion is not in order in the Committee of the Whole.

The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendment was rejected.

□ 1350

The Clerk will read.

The Clerk read as follows:

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Federal Election Campaign Act of 1979, $9,662,000.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I note here that the committee has, in its appropriation for the Federal Election Commission, made a slight reduction under the authorization amount approved by this House.

Unfortunately, that authorization has not yet passed because the other body has not acted yet. While this section is subject to a point of order, no useful purpose would be served thereby.

The committee has appropriated less than the President requested, less than the House authorized, and the same amount appropriated last year. Since the other body's appropriation is likely to be less, the FEC will probably get less than last year, a real cut equal to the rate of inflation in its costs, plus a little more.

I wish to commend the committee for its fine work on this section.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Kansas City, 601 E. 12th, $1,960,000

Mr. HARTNETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to bring the attention of my House colleagues to a very pressing need which currently exists in my district involving the U.S. district courts. Specifically, passage of the Omnibus Judgeship Act provided for the addition of a new U.S. district court judge to be domiciled in Charleston. In addition, a U.S. district court judge currently domiciled in Columbia, S.C., will be relocated to Charleston in order to properly handle the increased workload. Currently, one U.S. district judge is domiciled in Charleston, however, with the two additional judges we will have a total of three U.S. district judges, while having only one courtroom available to hold court. As such, with the enactment of the Speedy Trial Act, justice cannot properly be carried out due to the nonexistence of two necessary courtrooms.

To alleviate this untenable situation, there is currently pending before the House Committee on Public Works and Transportation and the Senate Environment and Public Works Committee a prospectus which would provide for the construction of a courthouse annex and alteration of the existing post office and courthouse in Charleston, S.C., at a cost of approximately $5 million. Approval of the project will provide for the construction of the two additional courtrooms. I am hopeful of securing such approval prior to the end of this 1st session of the 97th Congress. In the meantime, however, I am advised that the General Services Administration currently has funds available for reprograming in fiscal year 1982 to begin the design of the proposed project. The cost associated with design is estimated to be $400,000 and I am further advised that funds providing for construction of the total project will be included in President's fiscal year 1983 budget submission to the Congress.

Mr. Chairman, I am advised that advanced design prior to total funding of the project will save approximately 1 year in the total project construction time and allow the U.S. district courts to carry out the will of Congress in a more timely manner. Our taxpayers' dollars are currently being wasted due to the need to transport judges as well as defendants to Columbia, which is approximately 100 miles away from Charleston, to hold court.

The need to proceed with this project in an expeditious manner is warranted, therefore, Mr. Chairman, I respectfully request that all efforts be undertaken by your subcommittee to direct the General Services Administration to proceed with the reprograming of the approximately $400,000 which will provide for design of the Charleston project.

The Congress has clearly spoken with respect to those duties which should be carried out efficiently by the U.S. district courts, however, due to the lack of courtrooms in Charleston, the U.S. district courts are finding such a directive very difficult and costly to comply with. Again, Mr. Chairman, I urge the support of the Appropriations Committee.

Mr. Chairman, I want to thank the chairman of the subcommittee for allowing me to trespass on his valuable debate time.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the subcommittee chairman.

Mr. ROYBAL. Mr. Chairman, I would like to assure the gentleman from South Carolina (Mr. HARTNETT) that the committee will do everything possible to be of assistance in this regard.

I am impressed by the fact that the gentleman stated to the House and to the committee that the project will save approximately 1 year in the total project if it is done now. That is, of course, a substantial saving.

The gentleman's main point, I think, was the fact that the money in programing for the design has already been appropriated. That money is already in place?

Mr. HARTNETT. Yes; it is.

Mr. ROYBAL. Therefore, what is needed, it seems to me, is just a little prodding and some action with regard to releasing the money for the purpose that the gentleman described. I can assure the gentleman that I, as chairman of the subcommittee, and the committee will do everything possible to help the gentleman accomplish this objective.

Mr. HARTNETT. Mr. Chairman, I want to express my sincere appreciation to the subcommittee chairman for his untiring efforts.

Mr. DERRICK. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Charleston, S.C. (Mr. HARTNETT) and say that I am also aware of the acute need in the Charleston area for this new courthouse annex. I thank the gentleman for his remarks.

Mr. HARTNETT. Mr. Chairman, I thank the gentleman from South Carolina (Mr. DERRICK) for his contribution and his untiring efforts, and I know that with the help of the sub-

committee chairman, we will be able to do something about this reprograming.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For necessary expenses in connection with Federal records management and related activities, as provided by law, and for expenses necessary for the review and declassification of documents and for the Information Security Oversight Office established pursuant to Executive Order 12065, directives issued pursuant thereto, and other applicable authorities, including acceptance and utilization of voluntary and uncompensated services, $89,999,000, of which $3,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: On page 23, line 1, strike "$3,000,000" and insert in lieu thereof "$1,000,000".

□ 1400

Mr. DANNEMEYER. Mr. Chairman, this amendment relates to the funding for the National Historical Publications and Records Commission.

Members may recall that on May 19 of this year a request for reauthorization of this commission was defeated 165 to 231 when the item was on suspension.

This Member from California was of a mind initially to offer a point of order to this specific appropriation this afternoon; but after discussion with the persons that are involved in the funding for this commission I have decided, instead, to offer this amendment which will reduce the funding from $3 million to $1 million in fiscal year 1982.

It is my understanding that with this reduction the function of the commission will be narrowed to what its original purpose was designed to do; namely, to spend funds to develop historical references to what the Founding Fathers of our country actually did.

It is my understanding that the amendment will be favorably considered by the chairman of the committee and the ranking minority member.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I will be happy to yield.

Mr. ROYBAL. I have read the amendment. The gentleman has definitely described the situation the way it really is. The amendment is acceptable on this side.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I would be happy to yield.

Mr. CAMPBELL. Mr. Chairman, the minority has looked at the amendment and the minority has no objection to the acceptance of the amendment.

Mr. DANNEMEYER. I thank the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in opposition to the Dannemeyer amendment to reduce the committee's recommendation for the National Historical Publications and Records Commission from $3 to $1 million.

This matter was very carefully considered by the subcommittee before we agreed to recommend the $3 million included in this bill for the Commission. I am aware that the administration has proposed to eliminate funding for this program entirely but I sincerely believe this would be a mistake. For the record I am one of those who voted in the majority against the reauthorization bill for this program when it was first brought to the House floor this spring. However, I do not believe that at the time of the vote many Members of the House, including myself, knew very much about the Commission. Since that time I have taken the time to look into the work of the Commission and I have no reservations about the importance of continuing limited Federal support for its work. I might add that the Senate has also recently considered this matter and has passed a reauthorization bill.

The National Historical Publications and Records Commission has been in existence since 1934 for the express purpose of providing technical and financial support to organizations around the country engaged in the painstaking work of editing, publishing and preserving the papers of this Nation's most distinguished citizens. Papers which the Commission has been involved in preserving include those of George Washington, John Adams, Andrew Jackson, Booker T. Washington, Samuel Gompers, George Marshall and many, many others. The $3 million we appropriate for this program is by no means the only money that is going into this effort. It is however an important stimulus.

The non-Federal share of contributions for projects receiving support from the Commission averages 47.2 percent. This is actual committed dollars from private and corporate sources. If one were to consider inkind support as well, the average private share per project receiving support would be closer to 60 percent.

Mr. Chairman, each year we spend millions in support of the Smithsonian and other museums throughout our country to preserve our historical artifacts. The number of visitors to the Smithsonian and our other museums has increased dramatically in recent years reflecting the keen interest Americans have in their heritage. I believe the American people are interested in the preservation of their documentary heritage and I do not believe the American people think $3 million is too much for this purpose. I support the committee's $3 million recommendation.

Mr. DANNEMEYER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138, $1,106,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 25, line 20, strike out "$1,106,000" and insert in lieu thereof "$845,000".

Mr. OTTINGER. Mr. Chairman, again this year I am offering this amendment to the appropriation for the General Services Administration to reduce funding for former Presidents, this time from roughly $1.1 million to $845,000, a reduction of approximately 25 percent. This reduction will certainly cause the three beneficiaries of this measure no hardship. Given some of the things this money has been spent for in the past, I think the reduction is a necessity. None of us doubt that there is a need to provide some funding for former Presidents.

In addition to the very large pensions they have earned, former Presidents require assistance to deal with the special responsibilities that fall on anyone who has held that high office. At the same time that Congress first approved the idea of financial assistance to former Presidents, Members were rightly concerned about the possibility of a President leaving office penniless, as several of our early Presidents, in fact, did.

Things have changed so drastically since that time that present economic realities make a mockery of that concern. In recent times our Presidents have left office to amass fortunes. Our laws to provide them with financial assistance look more and more like wel-

fare programs to aid people who hardly are in need of aid.

Adding to this embarrassment is the list of items and services that have in the past been purchased with this money. Consider what some of this money is, in fact, used for:

Twenty-nine thousand dollars to move former President Nixon from California to New York.

Thirty-five thousand dollars for former President Ford's annual telephone bill, and both Presidents Nixon and Carter receive similar amounts.

One thousand one hundred dollars for newspaper and magazine subscriptions for Mr. Ford.

Two hundred and fifty dollars for cable television for Mr. Ford and his staff.

Twenty-four dollars to repair Mr. Ford's silver coffee server. I am not sure if this is part of the coffee service we bought for Mr. Ford last year for $890.

Two thousand two hundred and forty dollars for office plants and $100 per month for a watering service in Mr. Ford's office.

Five hundred and eighteen dollars per month for auto expenses for Mr. Nixon, including repair of his golf cart.

Of course, this does not even cover the transition expenses we pay to Mr. Carter, $250 a month of which goes to his mother for the office he rents in a house which she owns.

For these reasons I have introduced H.R. 3904, the Former Presidents' Facilities and Services Reform Act of 1981. It covers a wide variety of expenses that go beyond this particular appropriation, but it also covers the direct payments that we are considering today.

My bill would provide $300,000 for a former President for the first 4 years out of office, $250,000 for the next 4 years, and $200,000 after that. Accordingly, my amendment today for $845,000 allows $250,000 for both former Presidents Nixon and Ford, and $300,000 for former President Carter. It leaves unaffected the $45,000 the Appropriations Committee recommendation for the widows of former Presidents.

The benefits provided in my bill are certainly generous enough and my amendment today would bring the spending of former Presidents in line with this legislation.

Surely this is enough to cover the expenses of those who have gained great wealth as a result of their past position.

I will not bring this amendment to a record vote if I can get some assurances from the chairman and the ranking minority member that they will examine the size to which these appropriations have grown for the future and that the kind of excesses which have been allowed to go through in the past will also be addressed; but I do think that the American people have a right to be outraged at this kind of excess.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield to the chairman.

Mr. ROYBAL. Mr. Chairman, I would like to assure the gentleman that everything possible is being done.

With respect to questionable expenditures, for example, related to former Presidents, the GAO report of September 10, 1979, stated in part that while several unusual office expenditures for former Presidents Ford and Nixon were noted, the GAO believes that GSA has been reasonable under existing legislative guidelines in determining whether to approve expenses.

The committee will further make sure that GAO continues looking at this matter even more carefully, so that these unnecessary expenditures will not continue.

I can assure the gentleman that the committee will do everything possible to see to it that the intent of the bill that the gentleman introduced on June 11, 1981, is carried out when it is enacted.

I commend the gentleman for having introduced that bill. As the gentleman knows, there have been no hearings up to this time; but nevertheless, we hope that we can do something about this particular situation to insure that all expenditures are proper.

Mr. OTTINGER. I thank the gentleman for his assistance.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to support this amendment. This is a serious and important question and I think it deserves a favorable vote in this House. I applaud the Congressman for bringing it up.

Mr. OTTINGER. I thank my good friend, the gentlewoman from New Jersey.

As I say, I will not bring this to a vote, but I do not think the GAO has done its job when it allows the kind of frivolous expenditures that ought to be personal expenditures. The former Presidents are, in fact, adequately compensated. Also, I do not think GAO examination, even if it were adequate, answers my concerns; I want not only to eliminate abuses but also, as a matter of policy, lower the amount taxpayers must pay for office and travel expenditures of former Presidents.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. MILLER of California, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield to my friend, the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to commend the gentleman for bringing this issue to the Congress. I do not think it is a question of having the GAO audit whether it be the expenditures of money are proper or improper. I think it is a determination for this Congress to set an amount of money that we deem to be reasonable for the expenses of a former President and if the former President wishes to spend an amount of money in excess of that, so be it; but when a former President decides that he is going to have two or three houses and then we are obligated to provide security at all of them, I think that is a luxury.

When I go by a former President's house on a golf course in southern California and he is in Aspen, and I see a full complement of security people there, where most of the Members of this House could not get on that golf course, let alone get next to the house, and the American people are paying for the security, I think we have got to be concerned about it.

I think the time has come for us to set a limit, or we are going to slowly drift into creating a class of very special privilege, which is the former Presidency of the United States.

I do not think we have a tradition or much of a future if we make that determination. We would like to believe that the Presidents of the United States come from the ranks of the people in this country and in the tradition of Harry Truman they return to the people of this country.

□ 1410

As we now find out more recently in our past experiences with former Presidents, they do very well financially. We now find that a President, a former President can get $5,000——

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. MILLER of California and by unanimous consent Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. If the gentleman will continue to yield, a former President can get $5,000 for going across town and giving a speech. But we have to provide the security and we have to provide the people to carry his luggage. I think enough is enough, in the words of the gentleman from Indiana (Mr. JACOBS) of this House, because I think we owe it to say that we are prepared to provide a

certain limit but after that you are on your own.

I am sure that this House will be, if we look at our past experience, will be more than generous. But I just do not think in these tight fiscal times, where all of us have experienced making cuts in the Federal budget, that this could not just go on only to be reviewed by the GAO, which is then put into the very difficult position and task of determining whether paying someone to water flowers or whether you ought to water your flowers yourself is proper or not.

I commend the gentleman for bringing this issue before the House. I would hope the House would vote on this or we could get some commitment that we are going to have a smaller amount.

Mr. OTTINGER. In reply to my good friend from California, what he suggests, in fact, is what my legislation does. It limits the amount of a former President for expenses to $300,000 for their first 4 years out of office when there is likely to be a good deal of business. Then it cuts back to $250,000 for the next 4 years and $200,000 after that.

The appropriation in this bill is for $1,106,000 for three Presidents, which is $155,000 over that; it is that amount which my amendment seeks to cut.

Mr. MILLER of California. It may be also, if the gentleman will yield, that we could even reduce that amount to some extent if we provide commissary privileges to former Presidents. Then they could reduce their overhead.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding. I think this is a significant amendment. We can remember that John Adams left the Presidency and went back to a small white clapboard house on the main street of Quincy and then became a Member of this House.

We have no princes in this Nation; we have citizens. We serve for a time as a citizen-Representative here in Congress, or as President of the United States. Obviously the times are different and security has to be provided. But the scale is getting out of hand and I think this is a wise amendment.

Mr. OTTINGER. I thank the gentlewoman.

The amount of money actually involved in comparison to the overall budget consideration is not enormous. But I do think the principle is correct and I would hope the committee, in examining future appropriation requests, would cut back to something along the proportions of the legislation that I have proposed.

I yield back the balance of my time.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

It seems to me that this House has more important business than political nitpicking at the allowances and expenses for former Presidents.

The gentleman from New York has written to Members of the House, and he mentioned it here again, itemizing certain expenses as examples of abuse, such as $1,100 for magazine expenses, $35,000 for annual phone bills, $29,000 for moving expenses, and $890 for a silver coffee service.

The gentleman's examples are very interesting.

I wonder if the gentleman from New York, and I hope he listens, has ever examined the quarterly reports of the Clerk of the House, which itemize expenses for individual Members of Congress.

I have done so, and in particular I have examined the expenses of the gentleman from New York for the 12-month period ending on April 30, 1981.

I am sure that the gentleman expects his own expenses to be subject to the same kind of scrutiny and examination that he has so diligently applied to the expenses for our former Presidents.

Let us look at magazine subscriptions, where the gentleman from New York points out that the expenses for former Presidents includes $1,100.

Subscriptions to newspapers and magazines are a normal expense of any public official or public figure.

The expenses, however, for the gentleman from New York, (Mr. OTTINGER), are extraordinary for newspapers and magazines for the 12 months ending April 30, 1981. They total $3,978.96. He has rich tastes. Outside of Roll Call, he has daily and general news delivery, the Daily Argus, the Pelham Sun, Israel Today, Research Institute of America, Westchester magazine, North Castle News, Scarsdale Inquirer, Washington Post.

I usually buy my own Washington Post.

He has the New York Times, Jewish Council of Yonkers.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend.

Mr. OTTINGER. I do not know if the gentleman would care to tell us what his expenses are, but I happen to have a very literate district. We have a good number of publications in my district, and in order to keep contact with them I have to know what they are saying. So I have no apologies for that. I am sure the gentleman from Massachusetts has a similar experience.

Mr. CONTE. Of course I have a similar district.

For everyone's edification I would like to have them compare my expense accounts and the gentleman's. I will read this glorious list of 36 publications, at a cost of $3,978.96 of the taxpayers' money.

The list follows:

OFFICE OF HON. RICHARD L. OTTINGER, OFFICIAL EXPENSES—SUBSCRIPTIONS FOR 1 YEAR (APRIL 1980-April 1981)

April 10, 1980, 1080101388, Roll Call, Subscr. renewal 15 cc. 1 yr. 1/1/80-12/31/80, $25.00.

April 17, 1980, 1080108059, Dist. Delivery Service, quar. subscr. renewal to DC-NY Times Post, Daily News 4/1/30, $149.48.

April 17, 1980, 1080108047, the Daily Argus, Renewal—1 Yr Subs (7 days) Mt. Vernon Dist Off @ $2 week, $104.00.

April 25, 1980, 1080116237, The Pelham Sun, Annual Subs Renewal, 10 Fiske Pl, Mt. Vernon, $12.00.

May 12, 1980, 1080133015, Israel Today, Subsc. Renewal 1 Yr. 4/30/80-4/30/81, $9.50.

May 15, 1980, 1080136332, Research Institute of America, Report & Wkly. Issues Ann. Subsc. Wash DC 4/7/80-4/7/81, $36.00.

June 12, 1980, 1080164297, Westchester Magazine, One Yr. Subscr. Renewal (New Rochelle) 6/9/80-6/9/81, $12.00.

July 14, 1980, 0196100231, Access, Ann. Subscr. Renewal June 1980-81, $24.00.

July 14, 1980, 0196100410, Dist. Delivery Service, Quar. Subscr. Renewal NY Times, NY News, NY Post (7/1-9/30/80), $149.48.

August 5, 1980, 0217100064, North Castle News, Subsc. Renewal 1 year, $10.00.

August 14, 1980, 0227100025, Scarsdale Inquirer, Subscr. Renewal 1 year daily to NR, $10.50.

September 16, 1980, 0260100058, National Journal Reports, Renewal 1 Yr. Subsc. & 2 binders, $439.00.

September 16, 1980, 0260100066, Cong. Quarterly, Renewal Dec. 80-Nov. 81 Incl. Almanac, $315.00.

October 17, 1980, 0291770017, Federal Systems, Quar. Subscr. to Federal Jobs (9/22-12/1/80, $20.00.

October 17, 1980, 0291810027, Wall Street Journal, Renew 1 Yr. Subsc. (12/1/80-12/1/81) $63.00.

December 8, 1980, 0343800024, Washington Post, 1 Yr. Subsec. D&S (11/21/80-11/20/81) $91.00.

December 8, 1980, 0343800025, Westmore News, 1 Yr. Renewal Weekly $7.00.

December 10, 1980, 0345450028 Hudson's Directory, 1 Yr. Renewal-Contracts Directory (1/1/80-1/1/81), $60.00.

December 17, 1980, 0352810015, NY Times, Quar. Renewal (10/80-1/81) D&S for DC Office, $61.50.

December 17, 1980, 0352810016, Scarsdale Inquirer, 1 Yr. to DC Office, $13.00.

December 31, 1980, 1002460023, Congresswomen's Caucus, Ann. Subsc. to Update 1/5-12/31/81, $125.00.

January 13, 1981, 1013470018, Jewish Council of Yonkers, 1 Yr. Subscr. Renewal 1981, $5.00.

January 13, 1981, 1013470020, Cong. Quarterly, Set of CQ Binders, $23.50.

January 23, 1981, 1022430027, Westchester Rockland Newspapers, 1 Yr. Mail Subsc. (7 days) Del. to New Roch & Wash. Offices (14 Sub.), $1,764.00.

February 18, 1981, 1049730021, NY Times Sales, D&S 2nd Subscr. (1/5-4/5/81), $58.50.

February 18, 1981, 1049730020, NY Times Sales, Addit. D&S Papers (1/5-4/5/81), $58.50.

February 22, 1981, 1052510019, Harrison Independent, 1 Yr. Renewal 1981, New Rochelle, $9.00.

February 22, 1981, 1052510021, Yonkers Record, 1 Yr. Weekly to NR, $5.00.

February 22, 1981, 1052510022, Westmore News, DC Subscr. Renewal, $7.00.

March 6, 1981, 1065600006, Suburban Street, 1 Yr. Renewal to DC, $10.00.

March 6, 1981, 1065600007, Patent Trader, 1 Yr. Renewal to DC, $39.00.

March 6, 1981, 1065600008, Patent Trader, 1 Yr. Renewal to NR, $39.00.

March 6, 1981, 1065600014, Pelham Sun, 1 Yr. Subscr. to NR, $15.00.

March 6, 1981, 1065600015, Federal Jobs, 1 Yr. Subscription, $70.00.

March 6, 1981, 1065600013, Pelham Sun, 1 Yr. Subscr. to DC, $15.00.

March 10, 1981, 1069950018, Cole Publications, Subscr. to Cole Westchester Directory, $124.00.

Annual total, $3,978.96.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will be glad to yield. I do have more to say, however.

Mr. CAMPBELL. I was most interested in the point about a Member having a literate district. I wonder if the thought has been given that a former President has the whole country as a district, and I certainly hope the gentleman who made that comment is not suggesting that the country itself is illiterate and that the President should not be entitled to such publications.

Mr. CONTE. There is another point. These gentlemen are all retired and they have a little time to read. This gentleman is in Congress. Now, if I had to read all of these publications I would be holed up in a room for the rest of my life. I do not know how the gentleman gets in his office with all of these publications. He must have to wade through piles and piles of papers, and magazines.

Mr. OTTINGER. Will the gentleman yield further?

Mr. CONTE. I yield to my good friend. I will tell my colleagues, he must be a fast reader.

Mr. OTTINGER. I would just like to assure the gentleman that when I leave office this will no longer be at public expense.

Mr. CONTE. I just saved the taxpayers some money here.

Now let us go on.

The gentleman notes that the phone bill for former President Ford was $35,000.

The gentleman's phone bill for the 12-month period was $15,674.26. I hope the gentleman is going to pick that one up too. I am sure that we could entertain the House for hours by reading phone expenses for various other Members of the House. But we have comity and we do not do it.

I thought we could both play this little game here for a little bit. I hate to do this because the gentleman is my friend, and we do represent intellectual districts.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. CONTE. In the expenses of any office there are going to be a few items—such as a silver service or a repair to a golf car—that can be held up for selective ridicule.

The fact remains that with one or two exceptions, the expenses for former Presidents are normal and routing office expenses, comparable in nature and magnitude to the expenses of running any other office—such as a congressional office.

The gentleman's amendment should be summarily voted down by the committee.

□ 1420

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, I am opposed to this amendment which seeks to reduce the budget for former Presidents.

The Appropriations Committee's recommendation for fiscal year 1982 is an increase over fiscal year 1981. This increase, however, is necessary to pay the full year costs of former President Carter's pension, office staff, and related expenses.

The appropriation provides for the pensions, office staffs, and related expenses for former Presidents Nixon, Ford, and Carter. It also provides for the pensions and postal franking privileges for the widows of former Presidents Truman and Johnson.

It should be rejected because it attempts to change the authorized amounts for former Presidents through the Appropriations Act rather than through changes in the authorization statute. This is properly a matter to be considered as a separate bill by the entire House as has been proposed by the sponsor of this amendment. To arbitrarily slash the former President's budget without adequate public hearings is unwise.

If there are questionable expenditures being paid out of the former Presidents appropriation, then it is up to the Congress to review them and tighten the rules on what is and what is not to be paid. This should be done in a careful, surgical manner rather than with bias.

I hope my contribution will help us reach a very high level of debate such as the proper mode used by the gentleman from New York (Mr. OTTINGER) in proposing the amendment.

As I understand the legislative situation or the procedure, the gentleman has indicated that he really wants to get the attention of proper committees, which I think is a proper effort. The authorizing committee should look at the legislation he has had drafted. I do not think anybody would object to a good, hard look at the practices of auditing, budgeting, et cetera, for our former Presidents.

Another reason I would like to lift this debate to a higher level is that is the only way we keep the attention of the gentlewoman from New Jersey (Mrs. FENWICK). The gentlewoman has to be challenged intellectually. Unfortunately, this amendment and a few others have come too close to the difficult days we have had recently when there has been a little unnecessary partisanship.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I made quite clear this applied to all the former Presidents, including President Carter, and as was pointed out, excesses which I think have been allowed to him. This is not a question of partisanship.

Mr. DERWINSKI. Mr. Chairman, I am most upset at any cuts in Mr. Carter's budget, in a spirit of bipartisanship.

I happen to think all of our former Presidents are national assets. I realize it is still customary in some circles to criticize Mr. Nixon. I think history will treat him far kinder than he is treated at the moment by the media. I think President Ford has reached the position in the eyes of the American public that shows an admiration they have for him. I think history will treat Jimmy Carter kindly when they look at his Panama Canal Treaty, the Sinai accords, and civil service reform. He will look much better 20 or 30 years from now than he does now when he is still subject to snide political comments.

I would think if we keep in mind that our former Presidents do have obligations, they do have pressures of their former office. They are respected worldwide. I think that we should go through the proper channels at the authorization level.

I really do not think we do justice to the men who have held the Office of President of the United States for, whoever he is, whatever his philosophy, the President of the United States, during his tenure of office, is the most important political figure in the world. As former Presidents of the United States, I think they deserve our respect and appreciation.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I think the gentleman has raised the debate to a high and serious level. I think it is important that we treat

former Presidents well, that we treat them with gratitude and respect. I think that is a rather small amount of money for people who have given in a short time the equivalent of a lifetime of service to the United States. I thank the gentleman for making the point and I think it is a good thing that we discuss these matters.

These people are frequently treated with some kind of derision. As the gentleman from Massachusetts (Mr. CONTE) pointed out, they are criticized for doing things that are done by Members of this House every day; and the gentleman has made an excellent point.

I thank the gentleman for yielding.

Mr. DERWINSKI. Mr. Chairman, I yield back the balance of my time.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am not going to take the full 5 minutes. I would like to call the attention of the House to various facts with regard to this appropriation.

First of all, our former Presidents have and continue to make a contribution to the country. The appropriation that has been made available over the years has been an appropriation recommended by the Appropriations Committee after that amount has been authorized by another committee.

The gentleman from New York (Mr. OTTINGER) has already introduced a bill, which is H.R. 3904, which has not even been the subject of committee hearings. The proper place to make any changes, I would suggest, would be on the authorization level and that no changes should be made at this time.

These funds have been specifically authorized by law. It is a benefit to former Presidents, both Democratic and Republican, and those benefits relate to their duties as former Presidents.

We may not necessarily agree with the individual in question, but nevertheless, he served this country as President of the United States. He is a former President. He is entitled to certain considerations, and those considerations have been made available to him by law.

I also agree that everything possible must be done to see to it that there is no abuse on the part of anyone in the use of these moneys. It seems to me that the assurance that I gave the gentleman from New York, (Mr. OTTINGER), when he first started the debate that the committee will look into the matter, will have some oversight capability that we will use to see to it that the proper agencies actually look into the matter to see to it that everything is being done properly; that should be sufficient.

I thought that the gentleman was going to withdraw his amendment, but that was not the case. I sincerely hope that the amendment does not come to a vote.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Indiana.

Mr. MYERS. I thank the chairman for yielding.

Mr. Chairman, this type of amendment is not new. We have had them every time we have had a former President. I can recall when I served on this subcommittee several years ago there was an amendment offered on this floor trying to take up the landing lights at the LBJ Ranch that had already been installed because some few were mad at Lyndon Johnson. That, too, was not wise.

One can go so far, but have we lost sight, have we lost faith in our committee system that this committee which has heard all the testimony, and maybe this could be cut a few dollars more, maybe it should be? I think maybe we ought to look at it. I have respect and I have faith in the committee system, that the members of this committee and the staff have examined this and cut it as much as the members think is wise to do so.

I believe our committee system is still better than trying to resolve on things like this and impose our judgment, even though we may think it is right, for the judgment of those who have heard the witnesses and heard the testimony.

I am going to support the subcommittee.

Mr. ROYBAL. May I thank the gentleman for his contribution and assure the gentleman this subcommittee will continue to look into the matter.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman from California.

Mr. Chairman, I must say I have substantial confidence in the chairman of this committee and the subcommittee and those that serve on it. This issue, as has already been stated, is not new. The committee, on a continuing basis, as I understand it, is always looking at those expenses to make sure that they are not unnecessary, that they are not unwarranted, and I really feel that this subcommittee, through the years, has done a job to make sure that warranted criticism is not well placed and has made sure that the appropriation itself is appropriate and correct and is not excessive.

Has this subcommittee—I ask the chairman—on a continuing basis, on a regular basis, looked at this appropriation item to make sure that it is not an unnecessary and unwarranted expense?

Mr. ROYBAL. The gentleman is correct. We have that authority.

Mr. ROUSSELOT. On an ongoing basis, the subcommittee has investigators and others who looked at this? I know during the Nixon era there was a tremendous investigative effort put forward to make sure there were not unwarranted expenses.

Mr. ROYBAL. That is correct.

Mr. ROUSSELOT. I compliment the subcommittee on this continuing effort to make sure that we are not appropriating unwarranted dollars and for their continual effort to make sure that it is, in fact, business being carried on by former Presidents in a constructive way.

Mr. ROYBAL. I thank the gentleman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman from California.

Mr. Chairman, I would like to point out that I am not cutting out all money for former Presidents. I do think they deserve their recognition, but that the expenditures have now gotten to a very high point. In addition to their pensions, this total appropriation now comes to $1,106,000.

I have introduced legislation, as the gentleman has indicated. It has not been considered, but certainly it is not unusual in this body—including the gentleman from California, (Mr. ROUSSELOT)—for Members to seek to bring appropriations below the authorization level where it seems excessive.

□ 1430

I appreciate the acknowledgment of the gentleman from California (Mr. ROYBAL), that he will continue his oversight in this matter.

Mr. ROYBAL. I thank the gentleman.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Wyoming.

Mr. CHENEY. I would simply like to thank the chairman. I think he has done an excellent job of presenting the case for continuing funding at its present level. I, too, would oppose the amendment and associate myself with the comments of the gentleman from California.

We expect a great deal of our Presidents. We put them through the meat grinder to elect them, we treat them with great hostility when they are there, we expect abnormal sacrifices from them, and it seems to me that the least we can do is provide the level of assistance that they require once they have retired.

I thank the gentleman for yielding.

Mr. ROYBAL. I thank the gentleman for his contribution.

AMENDMENT OFFERED BY MR. JACOBS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. OTTINGER

Mr. JACOBS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered offered by Mr. JACOBS as a substitute for the amendment offered by Mr. OTTINGER: Page 25, line 20, strike out "$1,106,000" and insert in lieu thereof "$293,500".

(By unanimous consent, Mr. JACOBS was allowed to proceed for 4 additional minutes.)

Mr. JACOBS. Mr. Chairman, this substitute for the amendment would simply provide that former Presidents be accorded their full pensions, that their widows be accorded full pensions, and that they would continue to have Secret Service protection, and that is all that the taxpayers would have to put up.

Now, my good friend, the gentleman from Indiana (Mr. MYERS) said a moment ago, "Have we no faith in the committee system?"

Well, the House said no, yesterday. The House said no, a few days before that.

The matter of income taxes is rather complex, and it went through the committee system and was rejected summarily—a bill that was not even written in this body in any way, as I understand it. So I do not think that at this point in history we should let the argument stand entirely on whether we have faith in the committee system.

I hear another friend saying that we put our Presidents through the meat grinder. I think that is, to some extent, in the sense of a metaphor, true. But in a literal sense, we put young men who go forth to fight for their countries through the meat grinder, and some of them come out of it in far worse shape than Presidents of the United States, and the taxpayers accord them no such luxuries as are accorded former Presidents.

The chairman has said that former Presidents have made and continue to make contributions to the country. I think that is probably true. Certainly someone who has been given the privilege of being President of this country ought to be willing to make some contributions after he or she has enjoyed that privilege. But there is another thing all of the former Presidents, who are living now, have and continue to make, and that is money. Merely by serving as President of the United States, I believe the going rate now is the capacity to collect $12,000 a speech. And under these expenses that are paid for by the taxpayers, the overhead for those speeches are paid by the taxpayers; that is to say, the travel to and from, the Secret Service to go to and from.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Indiana.

Mr. MYERS. I thank the gentleman for yielding.

Mr. Chairman, I do not speak for the former Presidents, but I know that, on one occasion, I was attempting to get a former President to come to our State, and the taxpayers were not going to pay for air transportation. The sponsors of the function had to, if they had the former President come.

Mr. JACOBS. Let me give the gentleman an example. I suppose there are exceptions that prove the rule. Let me give an example of President Ford's recent trip around the world for an oil company, in which the taxpayers paid for the Secret Service protection—the added expense of the Secret Service protection. I believe, at the last minute, President Ford dropped by the White House and somehow was anointed on the trip that he was going to make anyway for business purposes, and it was declared that he was making an official trip.

Generally speaking, these appropriations will pick up such expenses. I could cite examples but probably do not have time to do it.

Mr. Chairman, 4 years of service to the U.S. Government and a $70,000 pension is what I would consider treating former Presidents pretty well, actually. After all, none was treated that well until the year 1958.

The point has been made—one gentleman, I think, said in the debate—that former Presidents do not just merely have a small district; they have the whole United States as their district. That is not true. That is somewhere in the Constitution that I have been unable to define.

The former President of the United States has no official duty, and if the former President of the United States performs any official duty, funds are available to pay the expenses of the performance of that official duty. The plain fact is—Thomas Jefferson said it best, I suppose; he said, when he left the White House, "I go forth to accept a promotion from servant to master." But I do not think he meant master of other taxpayers. I think he meant that he went forth to have the highest office in the land as he conceived our Republic, namely that of a citizen, a private citizen.

That is precisely what a former President is and that is what distinguishes our society and our Government from many other societies around the world. That is one of the things in which we take pride. That was one of the basic premises and the conception of our Republic, that we were all citizens. And some of us have been given the priviledge of serving in public office.

I would suggest to the committee that the dignity of a man or a woman is not according to how many freebees or emoluments are supplied to him or her by the taxpayers, but rather how that person conducts himself or herself as a distinguished citizen of the country.

I barely mention the Bill Mauldin cartoon years ago, when the general was coming into the camp, and everyone was running around and bowing and scraping. The cook in front of the mess tent said, "One more dang mouth to feed."

After all, we are supposed to be in a society where we, as private citizens, even if we have had the privilege of serving in public office, are not supposed to be accorded any greater benefits from taxes, other than pensions, than any other citizen.

So, I believe I perceive the mood of the committee. I perceive the mood of the House on yesterday when it made what has been acknowledged to be the greatest tax cut in the history of the United States. Some say that $40 billion will have to be reduced from the Federal budget beyond what has already been reduced just to meet the projections of this administration on the deficits as we go along on the next few years. Others say—I believe Mr. Stockman has said—that in times like these, only those who can demonstrate clear need should have any call upon the Treasury of the United States.

So here is a $70,000 pension for a former President who can make $12,000 for a speech, write books, and make a million dollars from them, appear on television and get tens of thousands of dollars. At the same time, it is being proposed that the person who is 61 years old today and who has worked a lifetime in the social security system should forget about it next year under a promise for 80 percent of his or her retirement benefits if he or she plan to retire next year.

There is a great incongruity about this. There is a great incongruity about the tremendous tax cut. There is a great incongruity about the cuts that are taking place now in the Congress. Contrast that with the taxpayers of the United States picking up the expenses of the traveling tours and the speaking engagements of ex-Presidents of the United States, who collect the $12,000 and pocket it, and only give that part of it that the reduced taxes require to the U.S. Treasury.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the substitute amendment and the amendment I suppose was something that was beneficial to this House from the standpoint that various indiscretions, perhaps various violations or alleged violations, were pointed out to the Members.

But on the other hand, I think we have a situation here where we are trying to reduce an amount in an appropriation bill without the benefit of a public hearing.

Maybe all of these things that have been said are true. But if they are, they should be made available to an authorizing committee in an open public hearing so that they can be amply discussed and debated, and then that authorization committee can do its work by looking into the situation very carefully and then making the proper recommendation.

□ 1440

So I feel that while all of this may have been beneficial, I still contend that this is not the place to make this kind of a reduction.

I assured the maker of the original motion that the committee would look into this matter. We are mindful of the fact that we have that authority. We want to do something about the situation, if it in fact exists.

The committee will continue to do its utmost to see to it that if these violations do occur that they cease immediately. We will all be insisting that the authorizing committee provide the necessary guidelines that the committee and the House can follow.

So I say to the House, Mr. Chairman, that the proper place will be and should be the authorizing committee and at that time Members of the House of Representatives can go before that committee and present their testimony. They can be heard there just as well as any member of the public. That is the place where these complaints should be made. These recommendations should strongly be recommended, of course, and make it possible for the authorizing committee then to look into this matter thoroughly and then make the proper recommendation to the House of Representatives, first of all, to the Committee on Appropriations who has to follow the authorizing level before anything can be done.

We cannot appropriate over an amount that has been authorized. We have to follow the limitation of the authorizing legislation.

So I firmly believe that this matter should definitely go to the level of the authorizing committee where it can be properly aired and debated and the proper recommendation made both to the Committee on Appropriations and to the House of Representatives.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Indiana.

Mr. MYERS. As I understand the amendment now pending as a substitute, it would allow no travel for Secret Service who are by law required to protect our Presidents and Vice Presidents, thereby really compelling the President and Vice President; am I correct on that?

Mr. ROYBAL. That is not correct.

Mr. MYERS. There would be travel allowed, there is travel money in the gentleman's amendment for Secret Service?

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

My understanding is that this amendment does not touch Secret Service protection in any way.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to use the 5 minutes.

I commend the chairman of the subcommittee for his comments and I do think that this should properly be aired in a forum before a legislative committee.

However, I think as we do that we must recognize that the former Presidents are an asset for this country. Because of the knowledge that they have, their ability to communicate, sometimes conflicting opinions with a present administration even, are valuable to the American citizens. Some of the work that they are supported in doing is in communicating, is in dealing with a constituency that was theirs.

I think we have to ask ourselves as we attempt to curtail them, would we in fact run the risk of losing that service or seriously cutting off the services of their ability, not in the context of going to make a speech, but literally as a spokesman on policy.

Would we silence that voice or would we put it strictly on a basis where they had to go and be compensated for the purpose of speaking.

I realize, and I think any of us who look at it realize that of the vast numbers of speeches made by former Presidents, Carter, Ford, or Nixon, I do not think we will find the compensation. Yes; there are those for compensation. I think we will find many who are not for compensation, who are for the public good, that they are in fact staying involved in keeping the public informed.

I think we would curtail them.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

Would the gentleman be content to have a proviso that the speeches that do command honoraria, that in connection with those speeches travel expenses would not be paid and even maybe even office time that is used for booking those profitable speeches, that that would be charged to the profit made by the former President?

Mr. CAMPBELL. I think there again we would be in a situation of bringing this before a legislative committee. We should bring it before a legislative committee and should discuss it and should have an action on it. I certainly would find that less objectionable than I do the amendment here.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Indiana.

Mr. MYERS. I thank the gentleman for yielding.

My friend from Indiana confuses me. A moment ago I asked if travel were covered by the amendment of the gentleman from Indiana and the gentleman said, no.

Mr. JACOBS. If the gentleman will yield.

Mr. MYERS. In the colloquy earlier the gentleman from Indiana responded, when I inquired that the sponsors of the speech in Indiana were required to pay the former President's transportation. Yet, in the well, the gentleman said, yes, but the Secret Service has to go along, all that expense. Now the gentleman is going back again to say it is not covered. Which is it?

Mr. JACOBS. The gentleman from Indiana is quite right, he is confused.

Mr. MYERS. I may not be the only one from Indiana confused. That is what bothers me.

Mr. JACOBS. Well, I might say I can explain it to the gentleman, but I cannot comprehend it for him.

I simply said travel expenses would be covered here, in this amendment, but Secret Service protection would not.

In other words, the plane fare for the ex-President is involved in these appropriations, but not the expenses of the Secret Service for their equipment and for their presence to protect.

Mr. CAMPBELL. If I may reclaim my time, I think we have devoted a sufficient amount of time to this subject.

I would say in closing obviously there is some confusion, obviously the matter should go before a legislative committee to be discussed, and I do not think that this is the proper time to make such a far-reaching decision and I think that the chairman of our subcommittee was absolutely correct and I think that we should defeat this amendment.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Indiana.

Mr. JACOBS. If the gentleman will yield further, I think it should be understood, as I understand it, the Secret Service protection is not covered under this appropriation at all, it is covered under the appropriations for

the Treasury Department. It simply is not involved here. There should not be any confusion about that.

Mr. CAMPBELL. If I may reclaim my time, I am not questioning that argument. I yielded time for someone else. I think that the whole matter is such that it should in fact be put aside at this time and that we should proceed as the committee has presented this bill to the full body.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

I think the question now has been adequately discussed. I think what the gentleman from Indiana (Mr. JACOBS) and I and a good many other people who have spoken to us, the point we are trying to make is that the expenses covered by the taxpayers have grown excessive, and we would like the Appropriations Committee to take this into account.

I do have legislation in to cut back funds for former President's office expenses through the legislative committee. But this is the first time I ever heard the Appropriations Committee assert that it was not its job to decide within the authorized level what that appropriation ought to be.

I do think our efforts to cut are in the appropriate place; we think this appropriation is too high and we appreciate the commitment, at least on behalf of the chairman, to examine the question of these levels in the future.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

The gentleman is correct in what the chairman has said. We do look at the question, what they have brought before us, what the gentleman has discussed, and the gentleman from Indiana has discussed possibly other corrections, and that should go to the legislative committee. What happened is that the committee justification is the amount that has been provided here.

Mr. OTTINGER. I would be enormously appreciative if my friend from New York would speak to the gentleman from Illinois (Mr. YATES) and the gentleman from Alabama (Mr. BEVILL) in that respect with regard to our energy authorization. We have always authorized a great deal more than they have seen fit to give us in appropriations and if they would abide by our guidance a little better, I think the whole country would be better for it. Indeed, the gentleman from Alabama (Mr. BEVILL) just recently appropriated moneys for the Clinch River breeder reactor that the legislative committee had deauthorized.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

We realize that we in appropriations obviously have the right to cut funds from the authorizing level. I do not recall this argument being made before our subcommittee. I do not recall the gentleman preparing us, giving us the information, giving us the opportunity to go into the particular subject, of presenting his views.

Quite frankly, as a member of that subcommittee, I missed it if the gentleman did that. He might be able to better inform us as to whether he came to the committee.

Mr. OTTINGER. I will reclaim my time. I have written to the subcommittee. I have introduced legislation of which the chairman was aware. I do not know whether we wrote this time or not. I introduced a similar amendment on the floor last year.

I think the committee is now on notice that there is serious concern about these levels and I think we will appreciate a closer examination of the question in the future.

I yield back the balance of my time.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I subscribe to the thoughtful suggestion of the gentleman from New York. We have had more than enough debate on the subject, but truth compels me to observe that the gentleman from Indiana (Mr. JACOBS) had once been described in certain media outlets as being a flamboyant dresser. I wish the record to show that he is dressed in a very sedate, proper fashion this afternoon.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS) as a substitute for the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment offered as a substitute for the amendment was rejected.

□ 1450

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to point out that I have circularized the members of the committee earlier, several days ago, a few weeks ago, concerning the points, both those made by Mr. OTTINGER and the points I made myself. I would like to answer one suggestion, however, that was made earlier in the debate, that perhaps there is some umbrage on the part of those of us who advocate those changes toward one or more of the former Presidents.

I would like to say for my own part that simply is not true. Someone said that President Nixon would eventually be judged better by history than he is now. That is for history to tell us, but I can tell the Members that my father and President Nixon are dear friends. They served together on the same committee in the House of Representatives, and nobody in this country, I think, was more hurt at the developments of Watergate than my father. I felt quite hurt by that as well.

I bear no umbrage to any former President. I bore no umbrage toward Speaker McCormack when he left, and special funds were voted by the House for a special office for him. I simply thought that those things are not ours to give. They belong to the taxpayers. That is why I think this amendment should pass.

The CHAIRMAN pro tempore (Mr. BEILENSON). The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment was rejected.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions, or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against the provisions of title V?

POINT OF ORDER

Mr. FRENZEL. Mr. Chairman, I make a point of order against section 506, on page 34.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Chairman, I am making a point of order against section 506 under rule XXI, clause 2, which provides that, with respect to appropriation bills, "Any provision in any such bill or amendment thereto changing existing law * * *" shall not be in order.

Simply, it is legislating on an appropriation bill. Section 506 provides authority to the Administrator of General Services or his designee to make determinations as to the availability of a

sufficient quantity or satisfactory quantity of stainless steel flatware produced in the United States or its possessions. The operative language is on line 14 of page 34, where the Administrator, or his designee, "* * * shall determine * * *"

The designation of that authority goes beyond the limitation of funds which are the subject of this appropriation. It imposes additional duties, not now required by law, on the Administrator of the General Services Administration, and it thereby constitutes an effort to change existing law under the guise of a limitation.

Therefore, Mr. Chairman, I make my point of order against section 506.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. ROYBAL) desire to be heard?

Mr. ROYBAL. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes.

Mr. ROYBAL. Mr. Chairman, I would like to inform the gentleman that the committee does concede the point of order at this time.

The CHAIRMAN pro tempore. The point of order is conceded and sustained.

Are there other points of order against the provisions of title V?

Are there any amendments to title V? If not, the Clerk will read.

The Clerk read as follows:

SEC. 611. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Buildings Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section, and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b) attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

Mr. ADDABBO (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Are there any points of order against any provisions of title VI?

POINT OF ORDER

Mr. WEISS. Mr. Chairman, I raise a point of order to section 611, only that provision on page 41, line 18, from the word "but" through the word "section" on line 20. I make exactly the same objection raised by the gentleman from Minnesota (Mr. FRENZEL) in that it seeks to change existing law in an appropriation bill. It specifically seeks to waive section 40, United States Code, section 318, which restricts criminal jurisdiction only to certain Federal property.

The CHAIRMAN pro tempore. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee concedes the point of order.

The CHAIRMAN pro tempore. The point of order is sustained against line 18, beginning with the word "but", line 19, and line 20 with the exception of the word "and".

Are there any other points of order against the provisions of title VI?

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 43, immediately after line 21 insert the following new sections:

SEC. 617. Except for services provided for the President and Vice President and their families, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such Department or Agency.

SEC. 618. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

The requirements of this section may be waived by the Administrator of the General Services Administration for special-purpose or special-mission automobiles.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, it is my understanding that the committee will accept this amendment. It is an amendment which I have presented previously. This amendment would prohibit funds under this section from being used for a chauffeur, personal cook, or other personal services. In addition to that, the amendment provides that any vehicle purchased under this act shall, in fact, have an EPA rating in excess of 22 miles per gallon.

The amendment also provides for a waiver of that provision in the event that the Administrator of the General Services Administration determines it is necessary for a special mission or a special purpose. The reason for the last section is because they have emergency vehicles, police vehicles and other types of emergency vehicles which may not meet that particular requirement. However, for a normal standard passenger automobile, it should in fact exceed an EPA rating of 22 miles per gallon.

In addition to that, it excepts from the vehicle provision the vehicles for the President of the United States, the Vice President, and their families and the Secret Service; the reason being, of course, that they have special-type vehicles which would require extra protection that would not reach the limitations as required in the act.

□ 1500

I might point out that since I have started to offer this type of amendment I have been getting a lot of communications in my office about private chauffeurs and abuses of the Federal exchequer. People have been dropping in to my office and dropping off statements to me showing where, in fact, Federal bureaucrats have been abusing tax dollars. Although it does not relate directly to this particular amendment, because this act only applies to Treasury and Post Office. I just thought I might share with the committee some of the things that have come to my office. I do not know if this letter is true or not; it was an anonymous letter delivered to my office. However, I will certainly report to the committee if it turns out to be correct.

The letter states as follows:

Congressman ALLEN ERTEL,
Washington, D.C.

DEAR CONGRESSMAN ERTEL: Good for you with your car or limo amendment! Here is a case.

SBA's new Administrator, Michael Cardenas, has just gotten himself a new government car—top of the line Olds 98, white, mag or wire wheels, landau roof, leather seats, the works. SBA had two 1980 cars, Buick and Olds, with plush seats and telephones, but standard blue in color and apparently not suitable.

What does an SBA Administrator do with a car and a chauffeur? Ride back and forth from Capitol Hill a couple of times a week, go to lunch, get picked up at home in the morning, taken home at night, get driven to parties with his wife.

GSA is said to have objected, refused to buy such a car. It arrived this week and apparently was leased to get around GSA. Someone over at GSA might be helpful to you on this one.

This sort of thing has been bad enough for years, but intolerable when we are cutting money for old folks and poor kids.

SBA has an inspector-general who is supposed to guard against waste, fraud and abuse. He has to know about the car. He can't walk out of the building without seeing it. You might try asking him, in writing, whether he, as inspector-general, thinks this use of public money is justified or a waste.

Mr. Chairman, I intend to follow up with the Inspector General to see if this is true. I do not know. But the point is that my amendment would prevent this kind of activity, which if true certainly is not justified at taxpayers' cost. It just seems to me that what we ought to do is insist that in our efforts to economize—we include the bureaucrats as well as the American people.

That is why I ask that this amendment be adopted. I think it makes sense. It cuts out private chauffeurs, it cuts out private servants and also waiters, and in addition to that, it provides for a standard mileage for our automobiles, which would be a help to the energy problem.

Mr. ROYBAL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in view of the fact that the requirements imposed by this section can be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles, the committee does in fact accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 43, after line 21, insert:

SEC. 617. No funds appropriated by this Act shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions, except where the life of the mother would be endangered if the fetus were carried to term, under such negotiated plans after the last day of the contracts currently in force.

Mrs. SCHROEDER. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN pro tempore. The gentlewoman from Colorado (Mrs. SCHROEDER) reserves a point of order on the amendment.

The gentleman from Ohio (Mr. ASHBROOK) is recognized for 5 minutes in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, my amendment is consistent with past actions of this body and I am told that it is in accord with the Reagan administration's postion on abortion. I believe that most of my colleagues will be able to support it.

Last year, during consideration of the Treasury-Postal Service appropriation bill, I offered an antiabortion amendment which was adopted by a vote of 228 to 170. The amendment was offered again on May 13 of this year during consideration of the supplemental appropriation bill for fiscal year 1981. It was again adopted by the House—this time by a vote of 242 to 155. I am told that the May 13 vote on the Ashbrook amendment represented the largest margin ever given an antiabortion amendment in the House of Representatives.

I want to stress that this amendment does not prohibit a Federal employee from having an abortion. It does prohibit taxpayer participation in the abortion and this is consistent with past actions by this Congress.

The Congress will place itself in a very unusual position if it fails to adopt this amendment. Both the House and the Senate have agreed to ban medicaid-financed abortions yet we have no ban on taxpayer-funded abortions for Federal employees. The Congress has voted to ban federally funded abortions for poor women yet we have been unsuccessful in our attempts to eliminate abortion funding who most probably would not be classified as poor—Federal employees and their families, Members of Congress, White House personnel and their families. It is a strange paradox.

I also want to address the cost to the taxpayers as a result of present policy. We are not talking about a small amount. It is estimated that 25,000 abortions were performed under the Federal employee health plans in 1980, reimbursed under FEHB at an average cost of $625. At that rate, the total reimbursement would be in the neighborhood of $16 million. The cost to the taxpayers—most of whom would not want their tax dollars being used to subsidize abortions—is indeed significant.

Mr. Chairman, let me respond to some of the points raised by my colleagues in opposition to the Ashbrook amendment. I received a "Dear Colleague" letter yesterday, signed by my good friend from Michigan, BILL FORD, chairman of the Post Office and Civil Service Committee and nine of his Democratic colleagues on the committee. The letter urged defeat of the amendment.

My colleagues argue that adoption of the Ashbrook amendment would make the Federal employees health benefit plans less attractive. Let me respond again by stressing that my amendment does not reduce employee coverage in any area other than abortions.

My friends on the other side of the aisle also argue that "the head of every major employee organization has expressed displeasure that Congress may interfere with this organizational tool." Mr. Chairman, I can only add that Government employee unions must be in pretty bad shape if the absence of abortion coverage in an insurance plan would cause great damage to the union.

Finally, the opponents of this amendment argue that "the Ashbrook amendment would make Federal employees and their families the only employees who are precluded, by law, from having abortion coverage included in their health benefit plans. No similar provision applies in the private sector." That is correct. But employees in the private sector do not have their health plans subsidized by the taxpayers.

Mr. Chairman, I believe that most of my colleagues will be able to accept the amendment. I urge an "aye" vote.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentlewoman from Colorado (Mrs. SCHROEDER) insist on her point of order?

Mrs. SCHROEDER. Mr. Chairman, I think it is clear that this is legislation on an appropriations bill, but at this point I will not push that point of order.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I will be delighted to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Why is the gentlewoman not pushing the point of order?

The CHAIRMAN. Does the gentlewoman from Colorado (Mrs. SCHROEDER) reserve her point of order?

The gentlewoman is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Chairman, if I may yield to the gentlewoman from New Jersey, the problem is that my assumption is that if my point of order were sustained the gentleman will then offer a more restrictive amendment which would be even worse.

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield, in the interest of compromise I have talked to the chairman so we could rapidly get this matter dispatched. We have had eight pages of debate on it.

Clearly, the gentlewoman's point of order would lie. I will offer another amendment—and that amendment is at the desk—if the point of order is raised.

From my point of view, it would be better to have an up-or-down vote on the language as I have presented it at this point. Obviously a point of order could be sustained.

Mrs. SCHROEDER. Does the gentleman consider medical complications resulting from an abortion a portion of what the gentleman has put in the exemption in this amendment?

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield, if she would care to use this as a vehicle and offer an amendment of that type herself, all right, but I am not going to offer it. We could start with this, and if the gentlewoman wants to offer it, that would be a good place to debate the issue.

Mrs. SCHROEDER. But this clearly does not rule out medical complications from an abortion.

Mr. ASHBROOK. No; it does not, except where the life of the mother would be endangered if the fetus were carried to term.

The gentlewoman is very correct and precise on that point, from my understanding. Of course, we never know sometimes what the courts might say, but in the understanding of the gentleman who is offering the amendment, the answer to the gentlewoman's question would be yes.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding. I would like to——

The CHAIRMAN pro tempore. Does the gentlewoman from Colorado (Mrs. SCHROEDER) reserve her point of order?

Mrs. FENWICK. Mr. Chairman, I reserve the right to object.

Mrs. SCHROEDER. Continuing to reserve my point of order, Mr. Chairman, I yield to the gentlewoman from New Jersey.

The CHAIRMAN pro tempore. The gentlewoman from New Jersey (Mrs. FENWICK) seeks her own recognition and is recognized for 5 minutes in opposition to the amendment.

Mrs. FENWICK. I thank the Chairman.

Mr. Chairman, may I make this inquiry of the author of the amendment? I am not privy to these arrangements or agreements or compromises, but if I understood correctly what the gentleman said, the proposal here is to deny an abortion except when the life of the mother is in danger under any kind of insurance that Federal employees may have.

Now, what we are saying in effect is that if one is married to a general who has the money to pay for an abortion that may be necessary, although the woman's health—not her life—is in danger, she will be cared for, but if one is married to a soldier who has nothing but his pay, the insurance will not cover that legal procedure which may be necessary to protect her health because her life is not in danger. Is that correct?

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield, I do not believe that is what we are saying. I think it is a little bit of a reverse of that.

What we have already said and what the Supreme Court has affirmed is that the Congress of the United States has a right to withhold taxpayers' funds from medicaid abortions, which in effect includes the poor and more indigent people.

What my amendment says in effect is that with the taxpayers paying 60 percent of the funds in taxes to provide for private insurance, we are saying to these more affluent Americans, "The same shall be applied to you."

So it is not exactly the way the gentlewoman put it. But as for anyone within the military, anyone who is currently getting medical pensions, the military would not be reached by my amendment. The military comes under a different provision.

I am talking about Federal employees who have as a part of their compensation taxpayer-provided or at least taxpayer-participated insurance as a benefit. We are saying that insurance could not be used.

Mrs. FENWICK. But suppose they are in a low grade; suppose they are just starting out in life and they are young?

Mr. ASHBROOK. It would be the same for the low grades as it is for the highest grades.

Mrs. FENWICK. In fact, it is a great penalty for the people in the lowest grades.

I do not know how we can go on debating this and use money to force things on people when they are poor or when they are unable to pay for a legal procedure which is available to any person with money.

Does it not seem to strike anybody in this hall as unfair? Does it not seem somehow unfair that we are using money against those who have little of it and saying, "You can't have what the rich have because you haven't enough money to pay for it?"

□ 1510

Mr. ASHBROOK. Well, if my colleague would further yield, I do not believe that is the situation, although I certainly understand the gentlewoman's position.

Mrs. SCHROEDER. Mr. Chairman, further reserving the point of order, it is my understanding that when the Civil Rights Act was amended by the Pregnancy Disability Act of 1978 that there were two main concerns, and that was the life of the mother and medical complications arising from an abortion.

My understanding is that the gentleman's amendment would comply with those two legislative mandates already in the law.

Mr. Chairman, based on that, I would withdraw my point of order.

The CHAIRMAN pro tempore. The point of order made by the gentlewoman from Colorado is withdrawn.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

I want to make it perfectly clear that no agreement was made and that no compromise was made with regard to this subject matter. At the time of general debate I did state that I was going to ask that debate be limited to approximately 10 minutes.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. ROYBAL. I yield.

Mr. ASHBROOK. My colleague absolutely states the situation. If there was any inference read other than that, I apologize. I do not know how my language could have been construed, but that is precisely what my colleague agreed upon. We had seven pages of debate 1 year ago. Most of us know the issue. It was the thinking of the person offering the amendment in acceding to the request of the chairman to speed this bill along that I had no objection. I cannot speak for any other Members; but the gentleman states the case absolutely correctly.

I offered a similar amendment last August during consideration of the Treasury-Postal Service appropriation bill and it was adopted by a vote of 228 to 170. The amendment was offered again on May 13 of this year during consideration of the supplemental appropriation bill for fiscal year 1981. It was again adopted by the House—this time by a vote of 242 to 155. I am told that the May 13 vote on the Ashbrook amendment represented the largest margin of victory ever given an anti-abortion amendment in the House of Representatives.

In 1980, the Treasury bill failed to be enacted into law by the Congress and this provision was not included in the continuing resolution. Last May, the amendment failed to survive the conference committee deliberations. I am confident that the House will again adopt my amendment and I am hopeful that the other body will do likewise.

I want to reiterate that this amendment does not prohibit a Federal employee from having an abortion. It does prohibit taxpayer participation in the abortion and this is consistent with past action by the Congress. I am also told that the Ashbrook amendment is in accord with the Reagan administration's position on abortion.

The Congress has placed itself in a very unusual position. Both the House and the Senate have agreed to ban medicaid-financed abortions yet we have been unable to ban taxpayer-funded abortions for Federal employees. The Congress has voted to ban federally-funded abortions for poor women yet we have been unsuccessful in our attempts to eliminate abortion funding for women who most probably would not be classified as poor—Federal employees and their families, Members of Congress and their families. It is a strange paradox.

Mr. Chairman, yesterday, I received a "Dear Colleague" letter regarding the Ashbrook amendment, signed by my good friend, the gentleman from Michigan, BILL FORD, the chairman of the Post Office and Civil Service Committee, and cosigned by nine of his Democratic colleagues on the commit-

tee. The letter urged the defeat of the Ashbrook amendment.

Let me respond to some of the points raised by my colleagues in the letter:

Point No. 1: Adoption of the Ashbrook amendment would make the Federal Employee Health Benefit Plan less attractive. Let me just respond to that by again saying that my amendment seeks only to limit abortion coverage. It does not reduce employee coverage in other areas.

Point No. 2: And I quote from the letter:

> The head of every major employee organization has expressed displeasure that Congress may interfere with this organizational tool.

Mr. Chairman, I can only add that Government employee unions must be in pretty bad shape if the absence of abortion coverage in an employee health plan would devastate the union.

Point No. 3: And again, I quote:

> The Ashbrook amendment contains "no life of the mother" exemption. It is a drastic, inflexible prohibition which is not supportable on any ethical grounds.

I think that point needs some clarification. My colleagues are familiar with the rules of the House and know full well that any "life of the mother" exception added to this amendment would constitute legislation on an appropriation bill and would be subject to a point of order. My colleagues will recall that the original Hyde amendment did not include a "life of the mother" provision for that very reason. The exception can be included in the other body and in the conference committee.

Point No. 4:

> The Ashbrook amendment would make federal employees and postal workers the only employees who are precluded, by law, from having abortion coverage included in their health benefit plans. No similar provision applies in the private sector.

That is correct, Mr. Chairman. But employees in the private sector do not have their health plans subsidized by the taxpayers.

I also want to address the cost to the taxpayers as a result of current public law. We are not talking about a small amount. It is estimated that approximately 25,0000 abortions were performed under the Federal employees health plans in 1980, reimbursed under FEHB at an average cost of $625. At that rate, the total reimbursement would be in the neighborhood of $16,000,000. The cost to the taxpayers—most of whom would not want their dollars to subsidize abortions—is indeed significant.

Mr. Chairman, I believe that most of my colleagues will be able to support this amendment and I urge adoption of the amendment.

Mr. ROYBAL. I thank the gentleman for that statement. I just wanted to make sure that we all understood that there was no agreement and no compromise; however, I still oppose the amendment.

I do firmly believe that the right of the individual is paramount in the matter of abortion; but in this amendment we are not talking about the Federal money being used to fund abortions. Health insurance is a form of employee compensation similar to salary and it is paid by the employee as well as the employer.

The fact that the Federal Government is the employer does not justify cutting the employee's own wage package by eliminating abortion coverage.

Now, to adopt this amendment would be to infringe on the rights of labor to engage in collective bargaining. The amendment goes so far as to contradict labor protection only recently assured by Congress in two major pieces of legislation, and that was the Civil Service Reform Act and, second, the Pregnancy Disability Act of 1978.

Now, I am not going to continue to express my views with regard to this subject matter, because I would like to limit this debate; I will state simply that I am not in favor of this amendment; and that the debate that we have had in the past has been more than ample.

Mr. Chairman, I ask unanimous consent that all debate on this subject matter close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mrs. SCHROEDER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. GREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I join the distinguished chairman of the subcommittee in opposing this amendment. I think he has stated the case well, that this is a very different situation from the other cases in which this House has adopted restrictions on the use of Federal funds to procure abortions.

In this case the health insurance which an employee receives is part of the employee's compensation. It is no different from a pension, a salary, sick leave or vacation pay. It is remuneration to the Federal employee for the work that she has done.

We are going many, many steps beyond what we have done in other forms of antiabortion amendments when we seek to deny the Federal employee this form of coverage in the health insurance that she gets as compensation—and to which she contributes.

I think that is plainly wrong. Would anyone here argue that a Federal employee under the present law and under the present constitutional determinations of the U.S. Supreme Court cannot take the dollars that she receives from the U.S. Government as her pay and in accordance with her own decisions and those of her physician pay for an abortion? Of course no one would argue that, and we all know that under the Supreme Court decisions relating to the abortion question, it would be unconstitutional if we tried to prevent that.

I submit that it is just as wrong when that compensation to that employee comes in the form of health insurance, as when it comes in the form of cash, to deny that employee the compensation that she has earned. It is simply making second-class citizens out of Federal employees. I do not think the Congress of the United States wants to do that.

It seems clear to me that this is an attempt to dictate to individuals what they can or cannot do with their own pay, based solely on their status as Federal employees.

I therefore urge my colleagues to oppose this amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, I think it would be unfortunate if this discussion of the Ashbrook amendment was perceived by anyone to be a debate on the issue of whether abortion is or is not a morally or legally acceptable medical procedure.

As chairman of the Committee on the Post Office and Civil Service, which has primary responsibility for representing the House in matters affecting the employment of all of the Federal work force, I think it is my duty to call to the attention of the House an exchange which I had last year with the Director of the Office of Personnel Management and my predecessor, Mr. Hanley. If one can avoid for a moment the emotion which the word "abortion" injects into any discussion, we are talking about well over 3 million employees and their families and dependents.

The gentleman from New York suggested that this is discrimination against female employees. Indeed, it goes much further than that, because it selects out family members who are in the child-bearing years.

In a practical sense, what we are faced with is the fact that at the present time we have more than 100 negotiated contracts with various health benefit carriers which are available to the employees of the Federal Government.

If a Federal employee elects a health program, the Federal Government will pay 60 percent of the premium while the employee pays the balance. The same holds true for private employees. For postal employees, we pay 75 percent of the cost of the premium and the balance is paid by the employee.

The amount that the employee pays and which the Government pays is based on family size and other considerations; but primarily it is based on the content of the contract and what the health carrier agrees to provide in the way of benefits.

Now, in the event that the Ashbrook amendment or any amendment of this kind is adopted, it would require the renegotiation of all these 100-plus health contracts. Adoption of this policy would be a reduction in benefits, no matter how seldom it has been used. And I have no idea how many abortions are paid for because there is no Government agency which asks for an accounting of how people use their health insurance after it is purchased. We do not keep track, so any assertions which are made by someone about how many abortions have been financed in this way is pure guesswork. We do not monitor how many appendectomies are paid for and how many hangnails are removed or any other medical procedure which may occur at any place across the country in private health care facilities which the employer or the employee dependent chooses to use.

Last year when this amendment was offered, Mr. Hanley asked the Civil Service Commission, now the Office of Personnel Management, what the impact on health benefit plans would be. I would like to read a part of the response which came from the Deputy Director of the Office of Personnel Management.

□ 1520

It appears to us that the practical effect of this amendment would be to require the Office of Personnel Management to reopen contract negotiations with the various health benefits plans in order to add to the 1981 contracts an exclusion for abortions. Since the 1981 contracts have been, for the most part, substantially completed, this reopening of negotiations would be a substantial administrative burden.

I might say parenthetically that this is exactly where we find ourselves in the process at this very moment. These contracts have, indeed, been through the process of negotiation. It is a long and expensive process for the Government, for the unions which participate, and for the other employee organizations. The whole process would have to be repeated. According to OPM—

We would have to, for instance, reexamine the present benefit and premium structures to see if the exclusion of abortion coverage would necessitate an offsetting premium reduction or, in the alternative, allow an increase in some other benefit coverage.

This year, the committee renewed its inquiry on this issue with the Office of Personnel Management when it became aware that such an amendment might be offered. There has been a change as a result of the election last fall in that office, and I would like to read my colleagues the short, very direct, clear and concise response which we received this year. The letter is from Mr. Donald Devine, Director of the Office of Personnel Management.

The letter reads as follows:

DEAR MR. CHAIRMAN: This letter is in response to a July 21, 1981, inquiry on your behalf by Mr. Pierce Myers of the Committee Staff concerning OPM's position on a possible amendment to the Treasury Postal Appropriations Act by Congressman John Ashbrook. As we understand it, the amendment would ban the use of federal funds for abortion under the Federal Employees Health Benefits (FEHB) program.

I believe this is an unfortunate choice of words, indeed. It clearly illustrates that whoever wrote the letter for Mr. Devine does not understand the Ashbrook amendment and seems to have less than adequate experience.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. It falls short of their responsibility over there to protect the integrity of the employees' health plans.

The next sentence, however, indicates that there has been a complete change in attitude over there. The sentence reads:

The Ashbrook amendment is in accord with the administration's position on abortion.

I must say I am disappointed that the Director of the Office of Personnel Management misses the entire point. It is not of interest to me what the administration's position on abortion is. I asked the principal official in this Government responsible for the enforcement and administration of employee rights to tell me what the impact of this amendment would be on employee rights. Instead of an answer to that question, what I received is an assertion that the Director of the Office of Personnel Management, by whatever device this is communicated to him, is familiar with "the administration's position on abortion."

I do not know whether that is Mr. Stockman's position, Mr. Meese's position, the President's position, or what it means—this so-called administration's position. It is irrelevant what the administration's position is on abortion.

The real question is whether or not we are going to legislatively interfere with the contractual rights which 3 million Federal employees and their families now have. That is the only question which my committee directed them to answer.

I think the previous chairman of the committee—and I have taken the same position on this issue, even though I know that we voted differently on the issue of abortion when it came up. So it is not the issue of abortion that is before us; it is simply a question of the integrity—the integrity of the Federal work force, and its Federal compensation system.

I have nothing but the highest respect for the gentleman from Ohio. I have worked with him for many, many years. I know that this is not a mischievous amendment. It is one more way that somebody can claim that they voted on the issue of abortion, whether they are for it or against it. I submit to the American people that anyone who claims that a vote on this amendment is a clear-cut vote on whether abortion is or is not a good thing is committing a fraud.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding. I believe my friend and colleague has made his position clear. He has always been very direct and to the point, and always very accurate.

But I honestly think the gentleman has overstated one case when he indicated this might mean opening up all negotiations, might make a loss of benefit, change of premium. My colleague knows very well, as a user of insurance in many areas, that insurance policies change weekly, monthly. Medicines and prescriptions that one could get last year may be banned this year. Techniques that were used last year may not be used this year.

There are changes all of the time on insurance policies. This is merely one more change.

I do not think there is any diminution of benefits, and I think my colleague knows all insurance policies are in a state of flux at all times. As a matter of fact, sometimes the Government even impacts on insurance policies. Things that are promised and insured today may not be insured next year.

So I understand the specter that my friend is holding out, but I wonder if honestly he believes that this would have that much of an impact on insurance policies and the 3 million employees the gentleman is talking about.

Mr. FORD of Michigan. I think the gentleman and I have been able to understand that he is generally perceived to be more conservative than I am.

Mr. ASHBROOK. Not much. A little bit.

Mr. FORD of Michigan. I find myself somewhat in a quandary to be taking what I believe to be the true

conservative position on this kind of an action. I really do not think that we should clutter up the contractual obligations which have been entered into between the Government, its employees, other organizations and private insurance companies with these kinds of extraneous matters.

There are health insurance policies, such as he or I might purchase individually, not to be found as part of a group plan covering public employees, but which could include items which have been "negotiated out" of the group plan. This could result when a private company is willing to take a risk on a particular option because it has enough subscribers desiring a certain type of coverage that it is financially profitable for them to do so. Indeed, we would expect, with 3 million people to pick from, these plans would generally be more generous than anything that an individual could buy with their own money.

Mr. BURGENER. Mr. Chairman, I move to strike the requisite number of words and rise to speak against the amendment.

I used to vote differently on this particular issue and I believe I was wrong. I have changed my position.

I have always supported the Hyde amendment, restrictive in a different way, involving social programs. And I will continue to do so. I do not, however, think the issues are at all parallel.

I think in this particular case, if I am not mistaken, we are dealing with the earnings of Federal employees, in this case female employees. I think it is really none of our business how any Federal employee spends his or her money, which I think is the basic issue.

I think it is a real infringement on the rights of people to do as they will with whatever they have earned by enacting such a measure and I urge the defeat of this amendment.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from California.

Mr. FAZIO. First of all I would like to compliment my colleague and friend from the Appropriations Committee for his statesmanlike position. It is entirely in keeping with the gentleman's reputation to take the time to rethink positions and to conclude, as in this instance, that perhaps we have rushed to judgment on prior occasions. I would like to congratulate the gentleman on his reformulation of his views and laud him for reaching the conclusion that I think is consistent with what most Members of the House would do if they would only take the time to think about what precedent we are setting, about what we are really doing here, and get beyond the code word of "abortion."

We all feel strongly about that issue and we are deeply divided. But in this instance we are invading an area of law which ought to be totally beyond our consideration on such emotional level. I am pleased the gentleman made the decision he has, and I hope that it will lead other Members of the House to reflect on this issue as the gentleman has and conclude that they have rushed to judgment in the past.

□ 1530

Mr. BURGENER. I thank the gentleman for his contribution and for his kind words.

Mr. AuCOIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there were 365 cases of rape reported in the District of Columbia last year. I live in the District of Columbia. I am the father of a teenage daughter who lives in the District of Columbia with me. I have opted for a group insurance plan of my choice just as every Member of this body has done, including the gentleman from Ohio (Mr. ASHBROOK).

The author of this amendment has his views about abortion. But his views are not my views. And I resent very much his telling me that for the purposes of insurance coverage, my daughter, if raped and made pregnant, must have the rapist's child. That is what this amendment does.

Who do the Members of the House think they are if they approve an amendment such as this and subject my daughter—or anyone's daughter—to this particular cruelty? This is not just an issue of Members of Congress being affected. It is an issue that affects an estimated 10 million individuals, families, employees, across the length and breadth of this country in exactly the way I have described.

There is a lot of deliberate confusion being perpetrated here in the offering of this amendment. I think a few facts need to be stated.

First, it needs to be stated that the Government does not determine what medical procedures are or are not covered in Federal employee health benefit plans, nor should the Government. Instead, the Government negotiates the levels of benefits and administers the program. I submit that that is the way it should be.

Mr. Chairman, this is the age in which—under the gentleman's fearless leader—Government is supposed to be getting off people's backs. Yet what we have here is a direct attempt to inject the Congress—to put the fat nose of the Federal Government—into questions of employee group health insurance which, in and of themselves, are private decisions made by these employees exercising their own rights. The Federal Government has no right to do this. I do not believe it is appropriate for the Congress of the United States to be doing this. For those reasons, I think the gentleman's amendment should be rejected.

The gentleman has said in the past that his amendment is in keeping and in concert with the amendments that this body has adopted with regard to medicaid. I want to say to any of my colleagues who may be confused, that no one can honestly compare what this body has, in my judgment, mistakenly done in the case of medicaid and what is being suggested here. Medicaid is an entitlement program which insures that impoverished people have access to health care for their families.

On the other hand, health benefits for employees of the Federal Government or for any employees are contractually earned, like salary. They are a part of the employees' direct compensation. Restrictions on medicaid do not dictate, as this amendment does, the use of an employee's own hard-earned compensation.

We are taking a very large leap when the Government reaches the point where it exercises its powers in such a way.

I say to my colleagues, please think before adopting this language and this amendment. There is broad-based opposition to the Ashbrook amendment.

The American Federation of Government Employees opposes it, as does the National Association of Letter Carriers, the American Federation of State, County & Municipal Employees, the National Association of Government Employees, the National Federation of Federal Employees, the National Treasury Employees Union, the Public Employee Department of the AFL-CIO, Federally Employed Women.

But more importantly, Mr. Chairman, the American people oppose this in principle. A recent Gallup poll revealed that 82 percent of the American people objected to a limitation on abortion involving cases of rape and incest.

This is a frightening precedent. If we can do this to Federal employees, we can do this to private employees.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. AuCOIN) has expired.

(By unanimous consent, Mr. AuCOIN was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. Mr. Speaker, I want to suggest to the Members that this madness has gone too far. It has gone far enough. This amendment ought not to be adopted. I am sick and tired of seeing antiabortion amendments offered on the floor which may make pretty stuff in some Members' campaign brochures, but inflict pain and misery and injustice on American women. That is what we have here. I am tired of seeing Members making this choice in a largely male-dominat-

ed body and then walking off this House floor—exempt from and untouched by the pain and the misery and the injustice that those amendments cause.

Let me share with my colleagues an essay that was written in the New York Times which summarizes the essential meanness of this amendment. It was written by a woman describing a personal discussion that she had with a Catholic priest who was a very close personal friend of hers. Over lunch, the priest told her that he wished that she had more understanding for the antiabortion movement in this country. She wrote this as an open essay, an open letter to that Catholic priest, that close, personal friend. I ask my colleagues to listen to her words.

I understand that one of us can get pregnant and one of us can't. One of us is threatened with an amendment that will usurp the most profoundly personal decision of a lifetime and one of us is not. One of us will face an assault from the anti-abortion movement in this country and one of us will not. One of us can get up from this table and not give the abortion issue another thought—and one of us can't forget it at all. Yes, I understand. I understand that one of us can afford to be dispassionate and apolitical and purely cerebral about this question but one of us cannot at all.

In the name of human justice, in the name of privacy, in the name of a basic respect for the use of employees' compensation, say "no" to this amendment. Defeat this amendment. It is unjust. It is wrong. It is cruel. And it deserves to be defeated.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this issue is not really about abortion. It is a very dangerous precedent. What we are really talking about here is saying that we as a body of Congress are going to start treating the bodies of Federal employees like they are public utilities. We are going to start regulating them. Every year we are going to regulate whatever we happen to decide is the standing morality of the day. I do not think any of us here has a license to practice medicine or theology. I do not think any of us here want to get involved in medical and personal decisions. I think all of us feel that personal decisions belong to an employee and his or her doctor. It is a private personal decision.

An employee buys health insurance that covers whatever is considered proper medical procedures. Obviously, nobody can engage in writing contracts that would not cover proper medical procedures because one would have all sorts of malpractice suits and every other such thing coming down the chute at them. But in this amendment we are saying we are going to select things that are considered proper medical procedures and we are going to say to Federal employees, "You cannot have those, because we now consider you like a public utility subject to our regulation."

I am a little surprised that this kind of amendment is coming out of this side of the aisle where Members are talking about getting Government off citizens' backs, and talking about stopping Government regulation. If this amendment passes we are putting on a very onerous regulation.

□ 1540

I want to emphasize, too, the gentleman from Oregon was very, very eloquent and mentioned some of the Federal employee groups that are against this. I think practically all of them have written against it. You have got the National American Federation of County and Municipal Employees; you have got the American Federation of Government Employees, the American Postal Workers Union; the National Association of Government Employees; and the National Association of Federal Employees.

I do not think it is because all of these groups have taken a vote on abortion. I think they see this as a dangerous precedent. They do not want their members to be treated as public utilities. They think that this is a private decision, that we should be treating public employees with dignity, that we should not treat public employees differently from what we treat private employees. I think if private employees were aware that this debate were going on, they would be scared to death for fear that next year somebody would decide, "Oh, I know what let's do, let's make it equal for them, so we will just extend what we have done for Federal employees to all private employees in their health care insurance."

So all we are saying is, "We do not care if it is legal, we do not care if it is proper, we do not care if rape and incest are considered crimes in other places, we are not going to allow Federal employees to cover them in their policies because they are public employees and we are going to regulate them just like we used to regulate public utilities."

Well, maybe the idea is that we have got to find new things to regulate, because we are now deregulating other things. Are we going to start deregulating human beings so we have something to do? I hope not. I certainly hope not. And I really, really hope that this body will turn down this amendment and will deal with it for what it really is and the dangerous precedent that it creates.

Ms. FERRARO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have stood on this floor before and I have addressed this body on the issue of federally financed abortions. As a lawyer and a former prosecutor in the Queens DA's office, who has dealt with victims of rape and incest, I have very, very strong feelings about those victims. I have previously urged that those of us who are morally opposed to abortion should not impose our morality on others. Today I reiterate that position. But it is not on that basis alone that I oppose this amendment. This amendment breaches a contractual obligation on the part of the Government.

The amendment before us today is not about the Federal Government in its role as a provider of assistance to those in need. The role of the Federal Government addressed in this amendment is that of an employer, like any other employer, with responsibilities to its employees.

Passage of this amendment would put the Federal Government in the position of making one group of American citizens—Federal and postal employees—the only employees in the United States precluded by law from having abortion coverage included in their health benefits plan.

Passage of this amendment would deny labor organizations representing Federal and postal employees the right to provide the kind of coverage in health plans desired by their membership.

Individuals who have chosen to be Government employees should not arbitrarily be denied rights granted to other American workers. Health benefits for an employee are part of a worker's total compensation package. Federal employees contribute 40 percent of their own money to buy the health insurance plan which best fits their needs. The portion paid by the Government as the employer is part of the total compensation paid for the services provided by that employee. It is wrong for this Congress to prohibit one group of citizens from using their own earned compensation in a lawful manner to insure health for themselves and their family.

I think it is imperative that the Members of this House realize that in this instance the Congress is injecting itself into a labor-management issue which goes far beyond its current limited responsibilities to set the level of health insurance benefits for employees in the Federal service.

Congress has provided that Federal employee organizations cannot require any employee to join or pay organization dues. However, Congress has also provided employee organizations the right to provide health benefits plans under the FEHBP and to offer those health benefits only to their members. The ability to offer health plans is one way to encourage membership. The head of every major employee organization has expressed displeasure that

Congress may interfere with this labor organization right.

I was going to offer an amendment to the amendment, Mr. Chairman. The amendment that I was going to offer was that, after the words "abortion," where we are denying the ability of our employee to be paid under Federal health plan, I would have liked inserted "to such Members of Congress as vote in favor of the amendment offered by Mr. ASHBROOK in the House of Representatives on July 30, 1981." Of course, if my colleagues would accept that amendment, I would be happy to offer it. But the thought that we would again not be voting on the merits of the amendment before us would be a real concern to me.

Mr. Chairman, I urge all of my colleagues that, no matter where they stand on the issue of abortion, this vote not be a knee-jerk reaction to the subject. I urge my colleagues to consider the implications of this vote. I urge that they reject the amendment.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to address a question to the author of the amendment, if I could.

Could the gentleman tell me whether he has introduced any legislation along these lines? Has there been a bill introduced that would effect this change in law?

Mr. ASHBROOK. No. This is the same amendment I offered in 1980. But I do not have an H.R. number piece of legislation as such.

Mr. FAZIO. Well, I am wondering whether or not such fundamental legislation ought to be the subject of debate and exposure in hearings before the appropriate committee.

Mr. ASHBROOK. I tell my colleague that this is the appropriate committee for all Members. We are all Members of the Committee of the Whole House on the State of the Union. August 20, 1980, starting at page 22171, there are eight full pages of debate. It has been debated a number of other times. It has clearly been before us as individual Members and in our capacity as Members of this Committee.

Mr. Chairman, we should all readily recall that, just a little more than a year ago, the U.S. Supreme Court brought final resolution to the question of abortion-funding and the right of Congress to prohibit it. It is now our duty to apply this rule across the board. None of us can hide any longer behind the excuse that we should let the courts decide. This, in plain language, is a cop-out.

If the Hyde amendment, which applies mainly to "poor women," as the media so often point out, can stand, by the will of Congress and a ruling of the Court, then, certainly, the law should apply equally to all others, including even Federal employees. We cannot discriminate in this matter.

The amendment I have proposed to the Treasury appropriations bill, calling for a cut-off of funding for abortion and abortion-connected administrative services under the Federal employees health benefit programs, will be proposed again and again until this question is finally resolved and the will of the people is carried out.

The voters are tired of seeing their Government flagrantly spend their hard-earned tax dollars for programs and projects they do not want. The elections last November have made that abundantly clear to everyone. This is true of abortion itself as well. Those who object to this practice are indeed growing in number, and we are just beginning to hear their voices calling for the complete abolition of Government-financed abortions, except where the pregnancy threatens the mother's life. Economic or social need is not sufficient reason for the taking of a human life, and we should certainly put an end to allowing tax dollars to pay for it.

To allow this funding to continue is to frustrate the will of the people. It is bad enough that the Federal Government sanctions this practice of national suicide—the literal eradication of America's future life-blood, but it is worse—much worse—to require its citizens who object to this practice to pay for it.

Mr. FAZIO. I think members of Mr. FORD's committee have every right to take a look at this subject, certainly, in subcommittee, and give it the kind of exposure that obviously the gentleman would like.

It has been my experience that people who advocate the kind of amendment that the gentleman is offering here in general on the issue of abortion have consistently made the argument that the process has frustrated them, that they have not had the opportunity to speak on issues, for example, related to constitutional amendments to ban abortions and to take more fundamental actions, rather than simply to attack around the periphery of this issue by getting at individuals who, because they happen to be part of the Federal budget at one point or another, are vulnerable to the kind of limitation that this amendment represents.

It seems to me that that is a rather inconsistent argument when we understand, as we do, that the gentleman has not taken advantage of the opportunity to follow the normal course that we would hope Members would follow in this body to bring about change.

We now have in the case of the U.S. Senate committees which are constituted in favor of the point of view on the issue of abortion that I know the author of the amendment holds.

It seems to me we ought to go back to the fundamental issues, begin to deal through the normal legislative process, rather than interfere with the kind of approach that the Ford committee normally takes by treating Federal employees equally, rather than coming to the floor with an amendment, we ought to be using the process of the Post Office and Civil Service Committee or we ought to be going to full hearings before the appropriate appropriations subcommittee. We ought not to be taking advantage of very emotional issues out here on the floor when we have not had proper time to fully analyze the impact of this legislation.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman.

Mr. ASHBROOK. I would say that I do not know whether there is a distinction or not, but I probably have more bills pigeonholed in the Judiciary, my own Labor Committee and other committees, than any other Members of Congress. And I know the gentleman's friend and his colleague from California (Mr. JOHN L. BURTON), at one time said something that is very prophetic. "We all agree that the floor of the House is a very poor place to legislate."

I thank my colleague.

Mr. FAZIO. I would simply conclude by saying that I think this body, in fact the Congress of the United States, is now constituted to take a completely objective view of the entire issue of abortion, and I would think that it would be appropriate for us to deal with the more fundamental issues that would allow the law, if need be, to be changed in a manner that would apply equally to all Americans. I think it is no longer necessary to take this kind of peripheral attack on the abortion issue. I would hope that the body would reject this amendment if for no other reason than we have not given it the kind of proper consideration that it is due.

□ 1550

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my understanding is that roughly 60 percent of the Federal employees' insurance rates are paid by the General Treasury; is that not correct?

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. That is correct. This is the understanding; the taxpayers pay roughly that amount of money.

Mr. ROUSSELOT. So that the taxpayers, as a whole, share in the cost of providing the benefits of insurance for our Federal employees. So it is not as though the total cost of that insurance was being borne by the Federal employee? Is that not correct?

Mr. ASHBROOK. I would say that is not impeachable, as a statement of fact.

Mr. ROUSSELOT. A second fact—is this language much different than the language we have had in other appropriations?

Mr. ASHBROOK. Only to the extent that there is a life-of-the-mother exception. In the past, there normally has been an objection raised to that. Then those who objected would normally say, "Is it not awful we do not except the life of the mother?" This time I think there is a more enlightened debate; possibly we have gone to one better level. I think my colleague from Colorado hit it right on the head when she said if this amendment is objected to, the gentleman from Ohio will offer a less moderate and more restrictive amendment.

Yes; I would have had to under the rules. So I appreciate the fact that we are debating a more reasonable amendment.

Mr. ROUSSELOT. So then the life of the mother is protected for all Federal employees that would be covered under this program?

Mr. ASHBROOK. That is the normal language. It has been added in conference in the past, where it could be added, but could not be offered on the floor where a point of order had been made in the past. The gentleman is correct.

Mr. ROUSSELOT. I say to my colleague, since the general taxpayers are paying 60 percent of the cost of this insurance, there is nothing in here that prevents an individual—I think we could all recognize Federal employees are not exactly underpaid—if they wish to, there is nothing in here to prevent them from having an abortion, is there, or their families?

Mr. ASHBROOK. No. We talk about contracts; we talk about rights. There is also something called public policy. This Congress has a right to set public policy in some areas.

Mr. ROUSSELOT. Does the gentleman mean this very Congress?

Mr. ASHBROOK. It is a specious argument to say we cannot. For example, let me give the gentleman something that is not likely to happen. If the gentleman believes, as many of my friends on the other side believe, it would be possible, if an employee with his money can do anything he wants, what would the gentleman do then, for example, if, say, 200,000 of the 3 million employees would say, as part of our contractual rights, we want checkoff for a certain amount of our dues to go to organizations—maybe the Ku Klux Klan? Does the gentleman think this body would say, as a matter of public policy, we do not object?

We have a right to protect public policy. We are not talking about medical services and delivery of services. The Supreme Court, in its June 30 decision, even went out of its way to say this: "Abortion is inherently different from other medical procedures because no other procedure involves the purposeful termination of a potential life."

Mr. ROUSSELOT. Termination of life?

Mr. ASHBROOK. So it is not a question of delivery of services; it is not a question of contractual rights; there is a matter of public policy, that this Congress has spoken out on in the past and I hope speaks out again today. If that limits in some way what has been a degree of contractual rights up to that point, so much the better. We have done that many times over the years.

Mr. ROUSSELOT. But the life of the mother is fully protected?

Mr. ASHBROOK. Yes; and the other point is, my good friend from Oregon, who is most persuasive and made an excellent speech, my amendment in no way would deny employees or even Members of Congress, from that standpoint, the right to obtain finances or contract for coverage of abortion on their own, if they want to.

Mr. ROUSSELOT. On a voluntary basis?

Mr. ASHBROOK. Only where the taxpayers are involved. And I think that is an area where we have the right to set policy and I am hopeful that we set that policy again.

Mr. ROUSSELOT. I appreciate the clarification.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding.

I find it very strange that the gentleman from California makes so much of the fact that the Federal Government pays 60 percent of the cost of the health insurance, when he then goes on to acknowledge that there is nothing in this amendment that stops the Federal employee from having an abortion using her own funds, and the author of the amendment makes the point that there is nothing that stops the Federal employee from taking her pay and buying an abortion or buying an insurance policy that covers abortion.

It seems to me, therefore, the 60 percent means nothing because if 100 percent is being paid, the Federal Government——

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. GREEN. If the gentleman will yield further. If 100 percent of the money that the employee buys her own coverage with is being paid for by the Federal Government, is that any different? One could argue that it was the 40 percent put up by the employee herself that was covering the abortion. Surely, the actuarial cost of abortion coverage is far less than 40 percent of the cost of the policy.

Mr. ASHBROOK. If the gentleman will yield to me—we all get caught in a certain amount, I suppose, of duplicity in our points of view. Many of the people who argue against this amendment, and the fact that we are following the 60-percent Federal fund and enacting some part of public policy here, they are the same ones who do not mind 9-percent Federal money going to our schools and Federal Government telling our schools how to run them.

Mr. ROUSSELOT. Not telling them; in many cases dictating.

Mr. ASHBROOK. A certain amount of our money going to Chicago and then the Government tells them who they can hire on their police force. This is nonsense to say that we do not do this. We do it with 8 percent, I would say to my colleague from New York, in the case of schools. The gentleman talks about leverage. With 8 percent of the taxpayers' money involved in local school districts, they get about 90 percent——

Mr. ROUSSELOT. I had promised to yield to some of my other colleagues.

I know the gentlewoman from New Jersey (Mrs. FENWICK) is anxious to get into this.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I respect the ability of the gentleman to be precise when he wants to and less than precise when he does not want to.

I would like to believe that he is really being mischievous with the House this afternoon when he leads us, a former member of the Post Office and Civil Service Committee——

Mr. ROUSSELOT. A very proud member. I am sorry I was forced to leave it.

Mr. FORD of Michigan. The gentleman served with honor and distinction on that committee. We are sorry to have the gentleman away from us as well.

The gentleman knows full well that the issue here is not the question of the morality of abortion. The issue is whether or not the gentleman can

jump on this floor and willy-nilly change a benefit, no matter how the gentleman may think it is a good or bad benefit. That is not conferred by the Government through a welfare program. It is not given through a grant. It is a payment we make to somebody for having performed services as an employee. It is wages.

Mr. ROUSSELOT. It is an insurance benefit.

Mr. FORD of Michigan. And the gentleman from California, and the gentleman from Ohio, would join me in jumping and screaming if somebody walked out of here and said, "let's automatically cut the pay off every employee 20 cents an hour." The gentleman would recognize immediately that we do not have the right to do that.

The gentleman from Ohio is really sort of kidding himself if he really believes that there is a parallel in setting public policy with respect to these contractual rights that employees have earned by performing services for the Government and the right that a person has or the privilege a person has to use a federally funded program.

The CHAIRMAN. The time to the gentleman from California (Mr. ROUSSELOT) has again expired.

(At the request of Mr. FORD of Michigan and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. If the gentleman will yield further, let me see if I can draw a comparison. A few years ago, some of my colleagues, I am not sure if the gentleman from California was exercising at this time or concerned because the CHAMPUS program, the outside extra medical care that military dependents get, was sometimes paying for cosmetic surgery.

Mr. ROUSSELOT. Right.

Mr. FORD of Michigan. I recall, and I cannot remember the name of the Member on this side who rose to tell the Nation in righteous indignation that, indeed, members of the military and dependents of members of the military were having breast-enhancement operations at Federal expense, and the Congress, quick to react, as a matter of policy, said, "We are not going to let them fool around with something like that," and it was stopped.

A little bit later, somebody decided that maybe they should not be able to get psychiatric assistance for children, and we went down that road. We could not stop people who had whatever kind of a whim putting limitations on the kind of medical care available to the dependents of the military because it was a direct benefit; it had nothing to do with any contractual arrangement.

But that is not what we are talking about here. We are not talking about something that this Government or the taxpayers give to these people. We are talking about something that these people have a contractual right to, and we cannot interfere with that right. We cannot take it away from them.

Whether we like the subject matter of the amendment or not, the fact is that we are setting a precedent for reducing benefits to an employee that has already performed that labor for those benefits, and once that precedent is set, we can kiss goodby any pretense of the Federal Government being a fair employer that deals fairly with its employees, because anybody can get on this floor when they are mad at the air traffic controllers or the postal workers or anybody else, and support taking benefits away.

□ 1600

The fact that the gentleman has a laudable purpose from his point of view at least for putting this kind of a limitation on does not save us from the basic fatal flaw that what he is doing is legislating employee benefits, and he is not legislating public policy in a broad sense.

Mr. ROUSSELOT. Let me quickly comment to my colleague. He knows full well that in the Post Office and Civil Service Committee, they do define benefits for our Federal employees, and especially because of the fact that the taxpayers of America are paying for 60 percent of that benefit, and we do, from time to time, put limitations on the various benefits they are receiving.

Mr. FORD of Michigan. Will the gentleman yield further?

Mr. ROUSSELOT. All right.

Mr. FORD of Michigan. I would just like to remind the gentleman from California that he was a leading member of the committee.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. FORD of Michigan and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. The gentleman joined with us in raising the Federal contribution to these health plans from 40 percent to 60 percent during the Nixon administration. This is a Nixon initiative, to go from 40 percent to 60 percent. He suggested 75 percent and we cut it off at 60 percent. I compliment the gentleman and ask, if he were worried when we went up to paying 60 percent of the peoples' money for this back then, when we were buying something for the employees, why did he not suggest a limitation when we did it then?

Mr. ROUSSELOT. Probably I was not smart enough to think of it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Following up on that one point, because I honestly believe there is something that is happening here that has nothing to do with my amendment, my amendment very clearly says that coverage under such negotiated plans ceases after the last day of the contracts currently in force. In no way am I trying to impinge on a contract. What my friend from Michigan is interjecting here does not apply to my amendment.

If the Supreme Court changes the law 2 years from now, we might have to change contracts. We might say that on the next round of contracts, we are only going to pay 30 percent. We can make many changes. We are not changing current negotiated contracts. We are merely saying that after the last day of the contracts currently in force, from that point on, it will not be something on that table over which they can negotiate. We are not taking anything away under current contracts.

Mr ROUSSELOT. I appreciate the gentleman clarifying that, and it is hard for me to believe that my colleague from Michigan gave us all that fine discussion that was not applicable.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield.

Mrs. SCHROEDER. I think one of the things we have to remember too, though, in the President's Pay Comparability Act and everything, but what we are talking about, health benefits are considered part of pay. All of it.

Mr. ROUSSELOT. It is a fringe benefit.

Mrs. SCHROEDER. We use the measure of comparability as we go out and monitor it, so I think the 60-percent argument really does not amount to anything. I think the gentleman from New York pointed out very well that the 40 percent probably came from the Federal employees' pay, which probably came from the Treasury also.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. I just want to say in conclusion, I still believe that my colleague from Ohio has offered an appropriate amendment on the basis of the taxpayers of this country paying for 60 percent of this health benefit, and therefore we have a right to set limitations and constrictions on it in the future. It does not apply to those underway, and so I certainly think that my colleague's amendment is reasonable. I think it is within the

framework of setting limitations on benefits provided by the taxpayers for Federal employees, and I urge my colleagues' support.

Mr. PEYSER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I have been in the well on this discussion before, as my friend from California and my friend from Ohio have been in their positions before. This particular issue of affecting the benefits of Federal employees nearly proved to be going too far 1 year ago. As the Members may recall, we had one of the closest votes on abortion that we had. Actually, the vote was 228 to 170. After that, when this was won, and I forget now who offered the amendment, but an amendment was offered shortly thereafter dealing with the District of Columbia. I think it was because of the feeling that: We can now do anything if we can win this one, as outrageous as it is. We will now say to the District of Columbia that you cannot spend your money to provide abortions in your city, because after all we in the Congress control Washington, D.C.

We were not even talking about our money. We were talking about their money. Amazing as it may seem, the Congress finally felt we had gone too far, and the Congress rejected that abortion amendment. It was one of the first abortion amendments that had been rejected in nearly 4 years.

I would suggest that what is happening here, where we lost this last year, we can win it this year because people have got to realize that once again we are going too far.

I would like to ask my friend from Ohio, is this not truly a form of compensation that the Federal employees are receiving when they receive this benefit?

Mr. ASHBROOK. If my colleague will yield, I think there is no question about it; yes.

Mr. PEYSER. Well, is the gentleman suggesting, then, that when we take this away from the Federal employees, that we are going to give additional compensation to Federal employees to make up for that loss in order to be able to acquire what the gentleman suggests as outside coverage to provide the right of abortion?

Mr. ASHBROOK. No; I would simply say as a matter of national policy that on future contracts between the Federal Government and Federal employees this should not be one of the benefits offered. My colleague well knows that most contracts, like most benefits, are in a state of flux. Some go up, some go down, some are expanded, some are withdrawn. We may go up to 100 cents on the dollar in helping them 5 years from now. We may go down to 10 cents on the dollar. All things can be changed, so at the end of this contract period I am merely saying that in future contracts coverage for abortion shall not be one of those areas where the Federal Government is offering benefits, fringes, whatever one wants to call them, to Federal employees; that is as precise as I can be.

Mr. PEYSER. I appreciate the gentleman's comment. I would think that if I were bargaining for the employees that were involved in fair negotiations, to have a benefit of this nature taken away, it would be an automatic figure to fight for, to increase compensation to make up for the difference. I think it would be very hard for anybody who is looking at this in a very objective way, a labor negotiator, to say that there should not be additional compensation, which means additional tax dollars, for individuals who wished to replace this coverage that the gentleman is suggesting be removed.

I think it would be fiscally irresponsible for us to pass this amendment, because I am convinced that if we do, and if it ever became part of the law, that we would see in the negotiations a definite reason for increasing the cost to the taxpayer.

Now up to this time, my friend, we are talking dollars and cents, and we are talking of course, on a very economical plane, and the truth is we really should be talking about this on a plane of people—women who are involved in this problem; women who should have the right of making this decision and should have the protection that they now have in order to guarantee them security and safety. I just cannot understand how, when we are not talking now about economic dollars, because if we discontinue this idea, we are going to be more than making it up in outside costs. We are talking about human misery. We are talking about rights of women, and to discriminate against the female Federal employee on this basis I think is inexcusable.

□ 1610

We lost this amendment, as I say, by a vote of 228 to 170, and I hope this time, when we vote on the amendment, we will pick up enough Members who, regardless of how they feel on the abortion issue, will say that this, in any way of fairness, cannot be considered equitable, that this, in anyway of economics, is not equitable, and we can, therefore, with a free conscience vote to defeat this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have been listening to this debate for the last hour or so. I was watching the proceedings on closed circuit TV in my office, and decided to come over and perhaps take part in the debate.

Two points have been made by the oppostion that I find exceedingly difficult to accept and compelled to address.

First, those who oppose this amendment keep referring to the killing of an unborn child as a benefit.

I would argue, Mr. Chairman, that rather than a benefit, an abortion is just the opposite. When you take the life of an unborn child, it is a tragedy for the mother, for everyone. And it certainly isn't a benefit from the child's point of view.

The second argument the opponents of this amendment keep stressing is that today's vote is not a vote for or against abortion. The gentlewoman from Colorado and the gentleman from New York, among others, keep stating this.

Mr. Chairman, the vote we will shortly cast on the Ashbrook amendment will either end or continue the Government's financing of Federal employee's abortions. Clearly, then, this is a vote on abortion funding. Clearly, then, any other contention to the contrary is utter nonsense.

The gentleman from Ohio—and other supporters of this amendment—have repeatedly stated that 60 percent of the moneys in the Federal employees' health benefits plan are contributed by the Federal Government. So, again, it should be crystal clear that this is a vote on abortion funding—and nothing else.

Mr. Chairman, again and again, this Congress has voted to ban funding for abortion. And that, in my opinion, is as it should be.

I do not think the taxpayers should have to pay for the injection of a high concentrated salt solution into the baby's amniotic sac—a procedure that literally poisons the baby. The mother usually delivers the dead baby—badly burned by the saline solution—about 24 to 48 hours later.

I do not think the taxpayers ought to pay for the suction method of abortion—a method that dismembers an unborn child.

I do not think the taxpayers ought to pay for a hysterotomy abortion, a method that is really a C-section. The difference is, however, that when the procedure is employed for abortion purposes, the baby is left to die due to exposure after delivery.

I do not think the taxpayer ought to pay for protaglandin abortions, a method that simply induces delivery at any point in a pregnancy.

Unfortunately, Mr. Chairman, I don't think enough people, including Members of this body, realize the horror, the violence, that is abortion. Very simply, abortion kills children, it ends the life of a an unborn child after it has begun.

Mr. Chairman, a great number of advocates of abortion are beginning to take a second look at their positions on abortion. Some are changing or modifying their opinions. Perhaps most prominent among them is Dr. Bernard Nathanson, a founder of the National Abortion Rights Action League and former director of the Center for Reproductive and Sexual Health in New York, the largest abortion clinic in the world.

Dr. Nathanson quit his job as director of the clinic and wrote these candid, incisive and provocative words in the New England Journal of Medicine in November of 1974:

I am deeply troubled by my own increasing certainty that I had in fact presided over 60,000 deaths.

In another instance, Dr. Nathanson writes: "We are taking life."

A few years ago, Dr. Nathanson wrote "Aborting America" a book in which he describes how he—an acknowledged atheist—came to his new position favoring constitutional protections for the unborn child.

Mr. Chairman, I commend this book to every Member of this House. Indeed you may come to the conclusion that Dr. Nathanson came to: Abortion kills children and is a denial of basic human rights.

I would like to commend the gentleman from Ohio, Mr. ASHBROOK, for his compassion and concern in offering this amendment. I urge its passage by this House.

I yield back the balance of my time.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. Without objection, the gentlewoman from New Jersey (Mrs. FENWICK) is recognized.

There was no objection.

Mrs. FENWICK. Mr. Chairman, I had not intended to rise again, but we have heard one of these dignified, calm, and objective arguments against the right of a human being, a woman, to decide what she shall do. We have listened many times in this House to exactly this kind of calm and reasonable argument, with vivid examples given.

I do not know how this issue can be compared, as it has been compared by others of my colleagues, to a public policy. The argument has been made here this afternoon, in a more reasonable vein, that somehow this is a matter of public policy that should be established, as we have a policy for our schools. We are dealing with something so important to human beings that they will kill themselves; they will kill themselves when they are not helped in this particular situation.

The Supreme Court went on to say a lot more than what the distinguished gentleman from Ohio (Mr. ASHBROOK) has quoted. But we cannot argue this way endlessly.

I wish that I had not been tempted to rise again because I know, with some of the Members here, how useless and unconvincing my arguments are; but if you have lived as long as I have and worked as hard as I have in the poorer sections of my State, you would understand what you are doing.

We have heard the weeping of mothers whose children are caught in this and the weeping of wives who are desperate, with a sick husband and too many children already. This is the kind of thing we are talking about.

Mr. Chairman, I do not know what kind of an image others have, but I know, from what life has taught me, that people suffer too much to let this kind of action go by in silence.

● Mr. WEISS. Mr. Chairman, the amendment offered today by Congressman ASHBROOK is a familiar vehicle for restricting women's freedom of reproductive choice. Almost identical amendments have passed this House twice in the past year. Like those measures, this amendment would prohibit the use of Federal funds to pay administrative expenses for Federal employee health insurance plans that provide coverage for abortions.

I strongly oppose this amendment. Its supporters argue that it would eliminate a Federal subsidy of abortion. Yet the possibility of a subsidy should not even be an issue here. At issue, instead, is the right of Federal employees to use their earned benefits as they see fit. In addition, the right of labor organizations to offer health plans to their members; the right of all individuals to comprehensive medical care, and the right of a physician and patient to determine appropriate medical treatment are all compromised by the Ashbrook amendment.

This amendment is a distinctly unique, unwarranted congressional intrusion into the personal use of employees' earned wages. Health insurance plans are, in fact, benefits that have been earned by Federal employees, and are tantamount to salaried compensation. As an employer, the Federal Government contributes to these plans. But employees have earned that contribution as compensation for their services. Indeed, employees contribute 40 percent of the cost of these plans. To deny them access to full coverage would be not only to violate the individual's right to decide how to spend his or her wages, but would be an outright robbery of the fruits of their labor.

I would like to believe that all of us honor and respect the freedom of all workers, Federal or non-Federal, to use their wages as they choose. The right to choose a health plan that best accommodates their needs is part of that freedom, and a guarantee implicit in the contract with which employees are hired. Withdrawal of that guarantee would set a dangerous precedent that could encourage further attempts to tamper with earned benefits and wages, and with other employees' rights.

The Ashbrook amendment would also interfere with the right of labor organizations who represent many Federal employees to offer health plans to their members. It undermines these employees' right to a fair collective bargaining process, and is nothing less than a wholesale denial of the contractual rights of 3 million Federal employees.

As is the case with other proposals to restrict access to abortion, the Ashbrook amendment attempts to legislate with a very blunt instrument. By barring all abortions except those necessary to save the life of the woman involved, abortions that may be necessary to protect a woman's health are prohibited. This flat prohibition ignores the complexity of decisions that are made every day between doctor and patient for all kinds of medical care. Abortion is one part of that equation, and must remain so.

Only women can become pregnant. This amendment would deny women comprehensive medical care solely on the basis of their sex, whether or not such care might be necessary for a healthy life. In discriminating on the basis of sex, the amendment violated the intent of the Pregnancy Disability Act, which redefined sex discrimination under title VII of the Civil Rights Act to include discrimination related to pregnancy, childbirth and related medical conditions.

In fact, the Pregnancy Disability Act specifies that employers should not be precluded from covering abortion in health plans offered to employees. This amendment obviously violates that clause.

Opinion polls show clearly that the majority of the American people support a woman's right to choose an abortion. Is it not time we stopped imposing the will of a vocal minority on the personal decisions of all women? I urge my colleagues to reject this ill-considered amendment.●

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California (Mr. ROYBAL) is recognized.

There was no objection.

Mr. ROYBAL. Mr. Chairman, I said at the very beginning that I was hoping that this amendment would not be debated at this great length, but it has been.

During this debate, we have heard the same arguments as in the debate last year and the year before. I do not remember yet seeing any of the women that are here in the House at

this moment, all Members of the House of Representatives, argue in favor of such an amendment. None of the women who took the floor this afternoon favor the amendment offered by the gentleman from Ohio (Mr. ASHBROOK); all those that have spoken for the amendment are men.

I think we have discussed this amendment more than enough. I firmly believe that it is an amendment that would violate the Civil Service Reform Act that guaranteed labor organizations health plans for their memberships.

I believe also that it is a violation of the Pregnancy Disability Act of 1978 that we passed when we amended the Civil Rights Act in which we did specify that pregnancy could not be a basis for discrimination because of sex. In that legislation Congress also provided that employers would not be precluded from providing benefits nor would collective bargaining agreements be otherwise affected with regard to abortion. These things were guaranteed in the legislation that this House passed.

What is being done today is an attempt to set aside an agreement already made by the Congress of the United States. It is quite true that the matter of abortion is a very private matter. It is a matter that an individual woman may have to decide, and it seems to me that an attempt is being made at this particular time to force upon others the viewpoint of certain individuals in this legislative body. To legislate restrictions on abortions in this bill would be to impose this viewpoint on all Federal employees regardless of what their own moral and religious convictions may be.

I still take the position that the situation today is different than when we debated the same subject matter under another bill, and that it does in fact infringe upon the rights of collective bargaining.

Mr. Chairman, I strongly urge a "no" vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 167, not voting 14, as follows:

[Roll No. 182]

AYES—253

Albosta	Atkinson	Benedict
Andrews	Badham	Benjamin
Annunzio	Bafalis	Bennett
Applegate	Bailey (PA)	Bereuter
Archer	Barnard	Bethune
Ashbrook	Beard	Bevill
Aspin	Bedell	Biaggi
Bliley	Hamilton	Oxley
Boggs	Hammerschmidt	Patman
Boland	Hansen (ID)	Paul
Boner	Hansen (UT)	Perkins
Bonior	Harkin	Petri
Bouquard	Hartnett	Porter
Bowen	Heckler	Price
Breaux	Hendon	Quillen
Broomfield	Hertel	Regula
Brown (OH)	Hightower	Rhodes
Byron	Hillis	Rinaldo
Campbell	Holt	Ritter
Carman	Hopkins	Roberts (SD)
Carney	Hubbard	Robinson
Chappell	Hunter	Roe
Chappie	Hutto	Roemer
Cheney	Hyde	Rogers
Clausen	Ireland	Rostenkowski
Clinger	Jeffries	Roth
Coats	Jenkins	Rousselot
Coleman	Johnston	Rudd
Collins (TX)	Jones (OK)	Russo
Conte	Jones (TN)	Santini
Corcoran	Kazen	Sawyer
Courter	Kemp	Schulze
Craig	Kildee	Sensenbrenner
Crane, Daniel	Kindness	Sharp
Crane, Philip	Kramer	Shaw
D'Amours	Lagomarsino	Shelby
Daniel, Dan	Latta	Shumway
Daniel, R. W.	Leach	Shuster
Dannemeyer	Leath	Siljander
Daub	LeBoutillier	Simon
Davis	Lee	Skeen
de la Garza	Lent	Skelton
Deckard	Lewis	Smith (AL)
DeNardis	Livingston	Smith (IA)
Derwinski	Loeffler	Smith (NE)
Donnelly	Long (LA)	Smith (NJ)
Dorgan	Lott	Smith (OR)
Dornan	Lowery (CA)	Smith (PA)
Dougherty	Lujan	Snyder
Dowdy	Luken	Solomon
Dreier	Lungren	Spence
Duncan	Madigan	St Germain
Dwyer	Markey	Stangeland
Dyson	Marriott	Stanton
Early	Martin (NY)	Staton
Edwards (OK)	Mavroules	Stenholm
Emerson	Mazzoli	Stratton
Emery	McClory	Stump
English	McCollum	Tauke
Erdahl	McDade	Tauzin
Erlenborn	McDonald	Taylor
Ertel	McEwen	Traxler
Evans (IA)	McGrath	Trible
Evans (IN)	McHugh	Vander Jagt
Fary	Michel	Walker
Fields	Miller (OH)	Wampler
Fish	Mitchell (NY)	Watkins
Fithian	Moakley	Weber (MN)
Flippo	Molinari	Weber (OH)
Florio	Montgomery	White
Fuqua	Moore	Whitehurst
Gaydos	Moorhead	Whitten
Gephardt	Mottl	Williams (OH)
Gibbons	Murphy	Wolf
Goldwater	Murtha	Wortley
Goodling	Myers	Wright
Gore	Napier	Wylie
Gradison	Natcher	Yatron
Gramm	Nelligan	Young (AK)
Gregg	Nelson	Young (FL)
Grisham	Nichols	Young (MO)
Gunderson	Nowak	Zablocki
Hagedorn	O'Brien	Zeferetti
Hall, Ralph	Oakar	
Hall, Sam	Oberstar	

NOES—167

Addabbo	Brooks	Coyne, William
Akaka	Brown (CA)	Crockett
Alexander	Brown (CO)	Danielson
Anderson	Broyhill	Daschle
Anthony	Burgener	Dellums
AuCoin	Burton, John	Derrick
Bailey (MO)	Burton, Phillip	Dickinson
Barnes	Butler	Dicks
Beilenson	Clay	Dingell
Bingham	Coelho	Dixon
Blanchard	Collins (IL)	Downey
Bolling	Conable	Dunn
Bonker	Conyers	Dymally
Brinkley	Coughlin	Eckart
Brodhead	Coyne, James	Edgar
Edwards (AL)	Kastenmeier	Ratchford
Edwards (CA)	Kogovsek	Reuss
Evans (DE)	LaFalce	Richmond
Fazio	Lantos	Roberts (KS)
Fenwick	Lehman	Rodino
Ferraro	Leland	Rose
Fiedler	Levitas	Rosenthal
Findley	Long (MD)	Roukema
Foglietta	Lowry (WA)	Roybal
Foley	Lundine	Sabo
Ford (MI)	Marks	Scheuer
Ford (TN)	Marlenee	Schneider
Forsythe	Martin (IL)	Schroeder
Fowler	Martin (NC)	Schumer
Frank	Matsui	Seiberling
Frenzel	Mattox	Shamansky
Frost	McCloskey	Snowe
Garcia	McCurdy	Solarz
Gejdenson	McKinney	Stark
Gilman	Mica	Stokes
Ginn	Mikulski	Studds
Glickman	Miller (CA)	Swift
Gonzalez	Mineta	Synar
Gray	Mitchell (MD)	Thomas
Green	Mollohan	Udall
Guarini	Morrison	Vento
Hall (OH)	Neal	Walgren
Hance	Ottinger	Washington
Hatcher	Panetta	Waxman
Hawkins	Parris	Weaver
Hefner	Pashayan	Weiss
Heftel	Patterson	Whitley
Hiler	Pease	Whittaker
Holland	Pepper	Williams (MT)
Hollenbeck	Peyser	Wilson
Howard	Pickle	Winn
Hoyer	Pritchard	Wirth
Huckaby	Pursell	Wolpe
Hughes	Rahall	Wyden
Jacobs	Railsback	Yates
Jones (NC)	Rangel	

NOT VOTING—14

Chisholm	Gingrich	Obey
Cotter	Horton	Savage
Evans (GA)	Jeffords	Shannon
Fascell	Minish	Volkmer
Fountain	Moffett	

□ 1630

Mr. JAMES K. COYNE changed his vote from "aye" to "no."

Mr. PRICE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 43, after line 21, insert the following:

SEC. 619. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

□ 1640

Mr. LEVITAS. Mr. Chairman, the amendment I am offering would prevent the use of any funds by the departments and agencies funded by this

bill for the implementation of any regulations or actions which have been vetoed by Congress using the specific veto procedures provided by applicable law.

There are several programs and agencies funded under this bill which are subject to some sort of legislative veto. For example, the President is subject to congressional veto for actions taken under the Executive Reorganization Act, Impoundment Control Act, and War Powers Act. All regulations promulgated by the Federal Elections Commission may be vetoed by Congress. Furthermore, under the Presidential Recordings and Materials Preservation Act, the Administrator of the General Services Administration may make regulations concerning public access to tape recordings and Congress may veto these rules if it so chooses.

The basic issue here, however, transcends the question of legislative veto. Even the few Members who still do not support legislative vetoes, surely must support the doctrine of following the law under which legislative vetoes are enacted and then duly exercised.

I have offered this amendment because past administrations have stated their intentions not to obey the law with regard to legislative vetoes. This unfortunate circumstance became concrete under the Carter administration last year after Congress vetoed four sets of regulations proposed by the Department of Education. In response, the Carter administration, through Attorney General Benjamin Civiletti and Secretary Shirley Hufstedler, announced a decision to ignore these vetoes. In short the Carter administration said it would not obey the law, providing for legislative veto of these regulations, as it was duly enacted by Congress and signed by the President.

The law in this case is very simple. It is very explicit. It says that where both Houses of the Congress have adopted a congressional veto, the regulations become null and void.

However, the problem was not just with the Department of Education. It was the general policy of the Carter administration. While I would hope that the Reagan administration will not be willing to disregard the law, we must be sure that the law is followed. This amendment will act as a safeguard to prevent this disregard for the law from occurring again.

The action of past administrations makes the issue one of whether we in Congress are going to allow the law to be ignored. I do not believe any Member of Congress can stand by and allow our mandates to be treated in such cavalier fashion. The Constitution of the United States requires the President of the United States to faithfully execute the laws. He is not given the authority to pick and choose those laws he wants to implement and those that he does not want to implement.

It is not for the executive branch to decide what laws will be enforced. There is a very important case that illustrated that point, Kendall against United States, decided by the Supreme Court in 1838. In that instance, the President of the United States directed the Postmaster General not to pay a certain sum required to be paid by Congress to a contractor with the Post Office, and in issuing the writ of mandamus, the Court said:

> To contend that the obligation imposed on the President to see the laws faithfully executed implies a power to forbid their execution is a novel construction of the Constitution and entirely inadmissible.

No, the President of the United States does not have the power or the right or the prerogative not to enforce the laws. Where such disputes exist the proper forum for resolving them lies within the court system and ultimately within the jurisdiction of the Supreme Court. The administration's questions about this provision of the law should be resolved in that arena, not by noncompliance.

Mr. Chairman, this is a simple proposition. Once a legislative veto has been exercised, it is a disobedience of the law by those charged with the responsibility of executing the law to disregard it, and I do not think we ought to give them money to disobey the law. The only way we can effectively enforce these provisions of the law is to provide a limitation for funding so that no funds can be used for purposes of implementing disapproved or vetoed actions.

That is the reason I have offered this amendment, Mr. Chairman. We are facing a significant challenge to our constitutional powers, and we must rise to meet it. My amendment will do so in a simple direct fashion. I urge every Member of this body to support its passage.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, this amendment is the same as that previously adopted, there is no objection to it. The committee will accept it.

Mr. LEVITAS. I thank the subcommittee chairman.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK:

Page 43, line 17, after "standard," insert "court order,".

Page 43, line 20, strike out "on the date of the enactment of this Act into law." and insert in lieu thereof "prior to August 22, 1978.".

Mr. ASHBROOK. Mr. Chairman, for 3 years, activists have been trying to impose affirmative action and racial quotas on America's private schools through the Internal Revenue Service. In 1978, IRS proposed affirmative action regulations on the grounds that they were necessary to the agency's job of carrying out the intent of Congress. Congress responded by passing the Ashbrook and Dornan amendments, which prevented this bureaucratic seizure of power over our country's private schools. Today, working with the gentleman from Michigan, (Mr. SILJANDER) as cosponsor, I offer another amendment. The IRS strongly opposed both amendments, making it perfectly clear that they were not interested in Congress own opinion of congressional intent.

Those who failed to impose affirmative action on private schools by misinterpreting congressional intent have now simply switched to misinterpreting the Constitution for the same purpose. In the obvious sweetheart case of Green against Miller, with IRS as the official defendant, U.S. District Court Judge George L. Hart obediently imposed a carbon copy of the proposed IRS affirmative action regulations on all secular schools in Mississippi, and is now considering whether to apply them to other States, and therefore to the Nation as a whole.

This effort has nothing to do with the intent of Congress or the meaning of the Constitution. Liberal activists want racial quotas enforced in America's private schools, and they are looking for a way, anyway, to get them imposed, and they are looking for somebody, anybody, to impose them.

This entire charade is being played out because liberals know that there is no way that this power could be obtained by the Federal Government by the consent of the governed. No supporter of racial quotas in private schools has even bothered to propose that they be enacted into law by the Congress of the United States. They know that the elected representatives of the American people will not do it. They therefore want the judiciary to do it, and to convince us that Congress has no right to prevent it.

Opponents of my amendment must argue that Congress has no right to limit the power of the courts, even in this extreme and obvious attempt to avoid the consent of the governed. The judiciary, they must insist, has the exclusive right to determine the meaning of the Constitution. But the meaning of the Constitution is the

Constitution. They must say, therefore, that the judicial branch is the Constitution incarnate. If the judicial branch is the Constitution, then any concept of a constitutional balance of powers is a farce. If a court has any powers it says it has, its power is unlimitable.

In proposing this amendment, I am asking that this judicial power-grab be opposed by the fundamental building block of our system of representative government: The power of the purse. In its formative days, the only power the English Parliament had was that of voting funds. Only by limiting the use of those funds could parliament limit the power of a king who was held to rule by divine right. To hold the courts immune to the power of the purse is to put them into a position more exalted than that of an English king three centuries ago.

The tradition of limiting the excessive power of other branches of Government by the congressional power of the purse is clear at every stage of the history of the drafting and ratification of our Constitution. It is the reason that money bills must originate in the House of Representatives, the legislative body must directly be the representative of the people. This principle was stated unequivocally by James Madison in the Federalist Papers:

> The House of Representatives cannot only refuse, but they alone can propose, the supplies prerequisite for the support of government. They, in a word, hold the purse—that powerful instrument by which we behold, in the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of government. This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining the redress of every grievance and for carrying into effect every just and salutary measure.

That is the way the Fathers of the American Constitution described the power of the purse, the power opponents of this amendment will insist was never intended by the Framers to be used to stop judicial excesses.

Every one of the so-called social issues of our day is a direct result of Congress refusal to check judicial excesses. Our children are bused, by court order. They are denied the right to pray in school, a right this House exercises every day, by court order. They are denied the right to life itself, again by court order. And liberals insist that Congress has no right to limit this judicial tyranny over the American people.

Forty years ago. liberals were the most vociferous opponents of the judicial usurpation of power. It was liberals who last limited the power of Federal judges with the Norris-LaGuardia Anti-Injunction Act. Today, they make the same arguments against such restrictions that their opponents made against the Norris-LaGuardia Act.

The reason for this liberal about-face is quite simple: 50 years ago, liberalism represented the American people against the Washington establishment. But today they represent the Washington establishment against the people. Now they are as fanatically devoted to judicial supremacy as the business establishment was in the 1930's, and as the slavocracy was to the Supreme Court which handed down the Dred Scott decision legalizing slavery in all the Western territories.

Once again, the courts are being used by the establishment to defy the consent of the governed, as this drive for the imposition of racial quotas on private schools clearly demonstrates. Nothing has changed, except that this establishment is liberal rather than business-dominated or slavocratic. Once again, the courts represent business as usual in defiance of the will of the people.

In November of 1980, voters made it clear that they have had enough of business as usual in Washington. I have proposed that the power of the purse be invoked to prevent the judiciary from being used as a tool to defy the consent of the governed. The only alternative is the modern liberal contention that the doctrine of constitutional checks and balances does not apply to Federal judges.

Mr. Chairman, I close by reciting the record of the sweetheart litigation which posed these threats in 1976, the original plaintiffs in Green against Connally brought suit to reopen the case, seeking an injunction against the Internal Revenue Service to block the IRS from providing tax-exempt status to Mississippi private schools which were established or expanded during periods of desegregation in nearby public school districts. One week later, an identical suit was filed by the Wright plaintiffs from six additional States and the cases were consolidated. The IRS fought the suit vigorously in 1977, but in 1978, it ceased to defend the case and on August 22, 1978, itself proposed similar regulations to be imposed on private schools throughout the United States. In the meetings which led to these regulations, attempting to settle the Green/Wright case out of court, the only Green/Wright intervenor still desiring to argue against the outcome sought by the plaintiffs, and now by the IRS, the Briarcrest Christian School of Memphis, Tenn., which had standing in the case itself, was excluded.

The proposed regulations included the presumption of guilt against private schools expanded during periods of desegregation, including busing, against which IRS had argued in 1977. A school so expanded, even though it had never refused an application by a minority student, would not only have to prove its absence of discriminatory intent, but would have to advertise for minority students and faculty members and meet hiring and enrollment guidelines dictated by the IRS.

Congress repeatedly adopted the Ashbrook and Dornan amendments which prevented the IRS from imposing these burdensome and unfair regulations on private schools throughout the United States. Meanwhile, Judge Hart has ordered the IRS to impose these rules on Mississippi's private schools, and is presently considering whether or not to order them applied, in direct contradiction to clear and repeatedly expressed congressional actions via the Ashbrook and Dornan amendments, on other States and therefore the Nation as a whole. Meanwhile, he has only after a difficult fight allowed actual opponents of the regulations, those who, unlike the titular defendant, the Internal Revenue Service, are against their imposition, to intervene in the case.

Recently, an adverse ruling by the U.S. Court of Appeals for the District of Columbia paved the way for Judge Hart to make these regulations apply to the entire Nation.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, am I correct that Judge Hart's ruling applied to a single State?

Mr. ASHBROOK. The gentleman is correct.

Mr. GRADISON. Was that the State of Mississippi?

Mr. ASHBROOK. That was the State of Mississippi.

Mr. GRADISON. Is it the position of the gentleman in the well that Judge Hart's ruling should not be interpreted by the Internal Revenue Service to apply outside of the State of Mississippi?

Mr. ASHBROOK. That would be my interpretation. That would be my hope; yes.

Mr. GRADISON. Would the gentleman agree that the Internal Revenue Service, however, is bound to apply Judge Hart's ruling in the State of Mississippi since it did apply to nonpublic schools in that State?

Mr. ASHBROOK. I would say that is correct. It is an unfortunate fact of life. I am sure my friend, the gentleman from Ohio, knows that the IRS in 1978 ceased to defend that case.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 4 additional minutes.)

Mr. ASHBROOK. On August 22, 1978, the IRS itself proposed regulations which it was defending against in the previous year in the Green case. There really was no litigation. It was a sweetheart case. It was never defended properly but it was resolved, like it or not. Now they are trying to use that as a handle to go to the other 50 States. That is precisely what I am talking about.

Mr. GRADISON. Will the gentleman's amendment make it possible for the Internal Revenue Service to use funds appropriated today for implementation of Judge Hart's ruling in the State of Mississippi?

Mr. ASHBROOK. It is my understanding, I say to my colleague, that the IRS has already sent out their letters, has already moved to implement the Green decision in Mississippi. It is not my intention to prevent that but I would if I could. I think it was a mistake. I think it was sweetheart litigation at its worst, but I am really talking about—and it is not very fair to my friends from Mississippi; they should have been defending that when it happened—but I am saying this cancer should not spread to the other 49 States.

Mr. GRADISON. I thank the gentleman.

Mr. ASHBROOK. I appreciate my colleague's inquiry.

Mr. DORNAN of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mr. Chairman, my amendment to the Treasury, Postal Service, and General Government appropriations bill which relates to the tax-exempt status of private schools and which prohibits the Internal Revenue Service from using any funds for the implementation of the proposed revenue procedures of August 22, 1978, and February 13, 1979, or parts thereof, is being circumvented in a cavalier fashion by the Federal courts. The courts, as well as the IRS, which claims to be under court order, have ignored congressional intent by ignoring the last three words of my amendment, "or parts thereof." As a result, the IRS, under Federal court order, has been adopting part of the aforementioned revenue procedures by repackaging them as other guidelines.

In 1979, the IRS filed a memorandum in the U.S. District Court for the District of Columbia which suggested that the court might either declare the Dornan and Ashbrook amendments unconstitutional or interpret them narrowly to "permit the implementation of new, more stringent rules." On June 18, 1981, the U.S. Court of Appeals for the District of Columbia in Wright against Regan not only misinterpreted but misquoted my amendment claiming that it only prohibits funds to "carry out the IRS proposals." Correctly quoted, my amendment prohibits funds for the implementation of the initial and revised proposed revenue procedures "or parts thereof." The court's omission of the last three words totally changed the meaning of my amendment. Moreover, as a result of that same decision, Wright against Regan, the way has been paved for a possible, even probable, ruling by Judge Hart of the U.S. District Court for the District of Columbia which would implement significant parts of the proposed IRS revenue procedures forbidden by my amendment and which would threaten the tax-exempt status of every private and religious school in the Nation. A private school would be presumed guilty of discrimination until it proved itself innocent. This would be a flagrant and outrageous inversion of our entire legal tradition which presumes a party innocent until proven guilty.

Mr. Chairman, it is clearly evident that the Federal courts, under the guise of interpreting "public policy," have, in fact, been acting totally contrary to law and public policy by usurping Congress constitutional authority to define the tax policy of this Nation. Congress, not the courts, is empowered to exercise the power of the purse. The attempt on the part of a handful of judges to delegate to themselves the power to determine public tax policy is nothing less than an exercise in raw judicial power and a violation of the separation of powers. To the extent that the legislative process is circumvented in favor of legal proceedings in the courts regarding questions of national public policy, the art of self-government is vitiated. If representative government is to have any meaning, it is the representatives of the people who must have the authority to determine matters of public policy, not unelected judges or unelected bureaucrats.

IRS COVERUP OF "SWEETHEART SUIT" AGGRAVATES A CONFRONTATION BETWEEN CONGRESS AND THE FEDERAL COURTS OVER THE ASHBROOK AND DORNAN AMENDMENTS

BACKGROUND

In 1979 Congress passed two amendments to the Treasury Appropriations Act which prohibited funds for implementation of harsh and unfair IRS quotas and affirmative action requirements for tax-exempt schools. They remain in force under provisions of the continuing resolution for the Treasury Appropriations Act. Unknown to most people, the IRS has devised a scheme to flout the Congressional enactments by intentionally losing a court case, Green v. Miller, so that IRS would be ordered by a federal court to violate the amendments. In other words, the IRS was the defendant in a lawsuit in which the plaintiff had sought identical regulations as the IRS sought to implement. The IRS even made arguments that helped the plaintiff to win its case because the IRS wanted to lose. The IRS lost. The agency made no effort to appeal its loss because it got what it wanted by losing. This type of litigation, known as a sweetheart suit, is an unethical means for two collusive parties to obtain mutually desired objectives by falsely posing as adversaries in court.

The chronological sequence of the most significant developments follows:

1971—The U.S. Supreme Court upheld the U.S. District Court ruling in Green v. Connally that tax exemptions for private segregated schools in Mississippi violate "federal public policy." IRS made the provisions of this order apply to the entire nation in Revenue Ruling 71-447.

July 23, 1976—The original Green plaintiffs reopened the case asking for a drastic new order prohibiting tax exemptions to schools that were "established or expanded" during periods of desegregation in nearby public school districts.

July 30, 1976—The Wright plaintiffs from six states outside Mississippi filed an almost identical suit. The cases were later consolidated and caused the crisis which exists today.

May 10, 1977—The IRS strongly defended against the arguments of the Green and Wright plaintiffs. The IRS noted that there were many valid reasons that a school could be established or expanded "other than an intent to discriminate."

June 28, 1978—The IRS reversed its position and began to advocate the same position as the Green and Wright plaintiffs, that is, that the IRS should adopt new regulations. The litigation became a sweetheart suit at this time. The IRS reached an agreement with the plaintiffs in unethical secret meetings in which the only third party intervenor in either case was neither notified of, nor allowed to participate in the lengthy out-of-court settlement.

August 22, 1978—The IRS published a proposed revenue procedure on tax-exempt schools in the Federal Register in an attempt to settle the sweetheart suit. 150,000 letters of protest were received by the IRS. The IRS held hastily called hearings, but totally disregarded arguments pointing out its total absence of statutory authority, constitutional problems and unfair presumptions of guilt which require harsh quotas and affirmative action requirements in order for a school to prove its innocence.

February 13, 1979—The IRS published its revised proposed revenue procedure for tax-exempt schools in the Federal Register. It was generally considered to be worse than the original proposal because it was more subjective and vague, and it indicated a total disregard for the legal arguments that were presented against it.

September 29, 1979—The Treasury Appropriations Act containing the Ashbrook and Dornan Amendments became law. The Amendments prohibited funds for implementation of any parts of the proposed revenue procedures.

October 25, 1979—The IRS filed a memorandum aimed at getting the Wright case thrown out so that it could lose in Green. The IRS suggested that the court might either declare the Ashbrook and Dornan Amendments to be unconstitutional or interpret them narrowly, "to permit the implementation of new, more stringent rules." The IRS argued that the "difficult issues" should "be more properly addressed in the Green litigation where the question of standing had been decided." Note: This was the key to the IRS scheme to get the court to order the agency to violate the Amendments. The IRS wanted to have the Wright case thrown out because it had a troublesome intervenor, and it would excite too much public opposition if an order were im-

mediately handed down which applied to the entire nation. The Wright case was consolidated with the Green case at this time, and the IRS was especially desirous of having the Wright case thrown out in order to lose the Green case. The IRS plan was to get precedent established in Mississippi in the Green case which would provoke less national opposition. After precedent could be established in Mississippi, the standards set for that state would be applied to the entire nation as the IRS did following the 1971 Green v. Connally decision.

November 26, 1979—Judge George Hart followed the IRS suggestion and threw the Wright case out of court. The Wright plaintiffs appealed, but the IRS was now free to proceed to lose the Green case.

November 27, 1979—The IRS filed its legal memorandum (already prepared!) in the Green case that clearly showed its desire to lose. This is the "smoking gun" of the sweetheart suit. The IRS "defense" argued that "defendants strongly believe that additional guidelines in this area are needed." Furthermore, the IRS claimed that "compliance with the restrictions may raise serious constitutional questions." Again the IRS argued that the Amendments "may be overcome" by a court "either declaring the riders unconstitutional," or "interpreting the riders narrowly, to permit the implementation of new, more stringent rules." These indredible arguments were made so that the IRS would lose its case! The evidence is clear that the IRS actively promoted the interests of the Green plaintiffs at the expense of government interests.

May 5, 1980—Judge George Hart ruled against IRS in the Green case. Yet, the IRS made no effort to appeal because it had wanted to lose.

June 12, 1980—Judge Hart clarified his order of May 5.

July 9, 1980—Judge Hart denied a motion to intervene by First Presbyterian Church of Jackson, Mississippi. This was extremely unfair because neither the IRS nor the Green plaintiffs had anything to lose in the lawsuit, and the church could lose its tax exemption because of their "sweetheart suit."

July 10, 1980—Assistant IRS Commissioner S. Allen Winbourne filed an affidavit in U.S. District Court describing IRS enforcement of the Green order. All the activities that he described were prohibited by the Ashbrook and Dornan Amendments, and they involved substantial illegal expenditure of funds.

May 14, 1981—After lengthy and inexcusable refusals to allow church schools to intervene in the Green case, Judge Hart finally allowed Clarksdale Baptist Church to intervene. (Another church remains unfairly excluded.) Judge Hart is only allowing "discovery," however. He continues to adamantly refuse to allow witnesses to testify in a public trial that can be observed by the press, other churches, Congressional staffs, or even the judge himself!

June 18, 1981—The U.S. Court of Appeals for the District of Columbia ruled 2-1 that the Wright plaintiffs have standing to sue the IRS. This reversed Judge Hart's decision of November, 1979, and it means that a court order for the entire nation is now possible, even probable!

Note: Writing for majority, Judge Ruth Bader Ginsburg not only misinterpreted but she misquoted the Dornan Amendment claiming that it only prohibits funds to "carry out [the IRS proposals]." Correctly quoted, the Dornan Amendment prohibits funds for the initial and revised proposed revenue procedures "or parts thereof." Judge Ginsburg's omission of the last three words totally changed the meaning of the Amendment. The three words were included by Congressman Dornan to prevent exactly what the IRS and the federal courts are now doing, that is, adopting "parts," indeed the most significant parts of the proposed revenue procedures by repackaging them as other guidelines.

Finally, Ginsburg wrote that the Green case "has the earmarks of a fully adversary contest." This is preposterous. As noted above, the defendant (IRS) vigorously promoted adoption of the demands of the Green plaintiffs. When blocked by the two amendments, the IRS made "sweetheart" arguments in federal court so that it would lose its case and be ordered to violate the amendments.

CONCLUSION

The IRS has provoked a major confrontation between Congress and the federal courts by deliberately losing its case in Green v. Miller. Mishandling of both the Green and Wright cases has recently also contributed to the loss in Wright v. Regan. Yet, this is exactly what the IRS wanted—to lose its case, and be ordered by the federal court to violate the Ashbrook and Dornan Amendments.

Although the IRS is fully culpable for its role in helping to cause the present crisis, at least three federal judges are equally guilty of misconduct. Judges Ruth Bader Ginsburg, Skelly Wright and George Hart have openly joined in furtherance of the goals of the collusive litigation.

Judge Wright signed Judge Ginsburg's opinion in which she misquoted the Dornan Amendment and other verifiable facts. This is more than obvious incompetence. It is a deliberate attack on the civil rights of private and religious schools through a "sweetheart suit" which seeks a court order requiring the IRS to adopt discriminatory regulations against innocent schools.

IRS officials and attorneys from the Justice Department's Tax Division have gone to great lengths to conceal their illegal and unethical activities in the collusive litigation. The IRS refuses to answer questions, even from members of Congress, about the "sweetheart suit."

Congress must insist that its legislative prerogatives will not be usurped by Federal judges and bureaucrats through collusive litigation. Congress must halt this sham.

□ 1650

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment for a very simple reason, and that is that this committee and no one on this side even saw the amendment prior to the time that the gentleman from Ohio was in the well.

It is my understanding that the gentleman from Ohio did not even check with the Parliamentarian with regard to the one factor that is most important, and that is whether or not the amendment is germane from the standpoint of whether it becomes legislation in an appropriation bill.

Now, is that correct? May I ask the gentleman from Ohio whether or not all of this has been cleared before the amendment was offered?

Mr. ASHBROOK. The gentleman from Ohio always goes to the Parliamentarian whenever there is a question. I do not know of any question on this amendment. We might vote it up or down, but it certainly is within the province of the Congress to limit.

Mr. ROYBAL. I will ask the gentleman, does the gentleman know whether or not this is in fact legislation on an appropriation bill? I do not know, and I just want to know if the gentleman does have that knowledge.

Mr. ASHBROOK. I would say to my colleague that section 616 now refers to policies, procedures, guidelines, regulations, standards. I am only adding the words "court order."

Mr. ROYBAL. Does the gentleman guarantee then that it is not legislation on an appropriation bill?

Mr. ASHBROOK. No, I do not guarantee. I was prepared to defend it if my colleague had raised a point of order, I would say that; yes.

Mr. ROYBAL. The gentleman was probably prepared to defend it. Had the gentleman given me the amendment prior to the time he took the floor, perhaps I could have read it before that time. But that was not the case.

Mr. ASHBROOK. If my colleague will yield, the amendment was handed to my colleague before the previous amendment was offered by the gentleman from Georgia, I would be frank to say.

Mr. ROYBAL. I beg to differ with the gentleman from Ohio. But if the amendment was in fact given to us on this side, we knew nothing about it and had no time to read it prior to the time the gentleman was in the well.

Now, perhaps the gentleman can further explain the amendment. What does it do?

Mr. ASHBROOK. I will say to my colleague that it merely adds the words "court order" on line 17 after the word "standard."

Mr. ROYBAL. Yes. But it also goes beyond that; does it not?

Mr. ASHBROOK. Prior to August 22.

Mr. ROYBAL. The present language on line 20 says, "unless in effect on the date of the enactment of this Act into law."

That is changed retroactively to August 22, 1978.

Mr. ASHBROOK. The same language which is in line 12 of section 615, the same language that we had in the amendment of 1 year ago, the same language in the amendment of 2 years ago, the same cutoff date. I made it clear at the time that IRS should be able to proceed on the basis of the regulations they had in existence. If they know of discrimination, they can litigate, they can withdraw

the tax-exempt status, anything that they could do prior to August 22, 1978, the time when they endeavored to implement these Draconian regulations, could be implemented by IRS. In no way am I trying to impinge on IRS's ability to withdraw the tax-exempt status of any school which might violate the law. That is why the words "August 22, 1978," are in there. They were a part of the previous debate, and that is why I am implementing them here.

Mr. ROYBAL. But the truth of the matter is that the gentleman does go back to August 22, 1978?

Mr. ASHBROOK. Absolutely correct, yes; as our previous debate set up that date.

Mr. ROYBAL. Since the committee had absolutely no hearings on this matter, and since the committee had no testimony on the matter, I still, Mr. Chairman, urge that this amendment not be agreed to.

□ 1700

Mr. PHILIP M. CRANE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as ranking minority member of the House Ways and Means Subcommittee on Oversight with jurisdiction over the IRS, I strongly support the adoption of the amendment offered by Mr. ASHBROOK. A recent decision by the U.S. Court of Appeals for the District of Columbia greatly increases the likelihood of a Federal court order adversely affecting the rights of every private and religious school in the Nation. The court ruled in Wright against Regan that the Wright plaintiffs have standing to sue for such an order. Writing for the majority, Judge Ruth Bader Ginsburg stated that the decision did not deal with the substance of the arguments in the case. But she did exactly that; she wrote an opinion that deals heavily with the substance of the issues, and she instructed the lower court to ignore many of the arguments that are important in the litigation. Ginsburg and Judge Skelly Wright, who joined her in the split decision, have compounded an already dangerous situation which was created by the mishandling of the litigation by the Internal Revenue Service and attorneys from the Justice Department.

The Ashbrook amendment is necessary to end the crisis which had developed as a result of continued efforts by the Internal Revenue Service to implement unfair affirmative action guidelines and quotas for tax-exempt schools. The problem should have ended 2 years ago when Congress passed two amendments which prohibited funds for implementation of the proposed IRS rules.

Since that time, however, my office has made a careful study of this matter, and I have discovered a far more intriguing scheme for bureaucratic abuse of power than I had previously suspected. What has emerged is a very clear picture of collusive litigation in which the IRS is the defendant. The IRS has acted to promote the interests of the Green and Wright plaintiffs who were suing the agency. Instead of properly defending its case in order to win, the IRS suggested legal arguments in Federal court that would cause it to lose, and be ordered to implement the same type of regulations that Congress had prohibited.

After reviewing the numerous irregularities and unethical conduct of some of the participants in the Green and Wright cases, however, I have found that the most serious wrongdoing that should concern the Congress is that of the IRS and the Federal courts. Those who have studied the two court cases have properly termed the litigation a "sweetheart suit" because the IRS had more interest in losing its case than in winning it.

Although many agreements in the sweetheart suit occurred in secret meetings, the public record is replete with abundant evidence to prove that the litigation was a sham. The chronological summary was introduced by my colleague from California (Mr. DORNAN).

It is beyond dispute that the litigation was collusive, not adversarial. The evidence is clear from court records and public statements by IRS officials.

First. The IRS publicly advocated the same position as the Green and Wright plaintiffs; namely, that the IRS should adopt the new regulations.

Second. The IRS agreed to implement the proposed revenue procedure in secret meetings with the Green and Wright plaintiffs. The only third party intervenor was unethically excluded, indeed, he was not even notified of these closed meetings to which the IRS admitted to having spent "many hundreds of hours." No disciplinary action has yet been taken against those attorneys who participated in this abuse of the intervenor's rights.

Third. The IRS lobbied against the Ashbrook and Dornan amendments.

Fourth. Instead of defending the amendments, the IRS suggested legal interpretations that would lead the Federal court to ignore the amendments, and cause the IRS to lose its case. The IRS lost.

Fifth. The IRS made no effort to appeal its loss in the Green case because it desired the results obtained by losing.

When like-minded plaintiffs and defendants use the Federal judiciary to obtain mutually desired results, it should attract the attention of Congress. Whenever such sham litigation is used to usurp the legislative authority of Congress, strong action is required.

All of this controversy has continued despite the fact that the IRS lacks a single sentence of statutory authority for its actions. How, then, does the IRS claim to have any authority for its actions? Former IRS Commissioner Jerome Kurtz gave us some insight into the mentality which is used for the IRS rationale in a speech of January 9, 1978:

> We have almost no specific statutory guidance; our authority and obligations on racial issues derive from the constitutional doctrine in Brown v. Board of Education in 1954 and cases enforcing it, and from broad national policy announced in the 1964 Civil Rights Act.

Kurtz further stated that these questions put the IRS "on the cutting edge of developing national policy."

Authority, according to the IRS, comes not from written law, but from "national policy" or as it is more often called public policy. Such a doctrine strikes at the heart of the rule of law under the Constitution.

What is public policy? Who decides?

The very first sentence in the Constitution provides the mechanism for Congress to enact a public policy into a written statute if it is to have the force of law. To do otherwise does violence to the Constitution and places free government in peril.

For Congress to acquiesce to any other branch's attempt to rule in the name of public policy sanctions a mechanism which will invite the most irresponsible and promiscuous abuse of authority by unelected officials that our Nation has ever seen. It would write a blueprint for minority rule, a charter for elitist tyranny.

If the IRS feels that it needs more authority, let the agency draft legislation and present it to the Congress for our consideration. No legislation has been forthcoming. Instead, the IRS proceeds down its reckless pathway, violating the civil rights of private and religious schools while reciting the specious arguments that it must conform to "public policy."

Few have weighed the multiplicity of consequences of the course which the IRS now pursues. When the IRS applies its perverse concept of public policy to religious institutions, for example, it necessarily federalizes religion. It makes religion subject to the whims of unelected bureaucrats and judges who insist that religion must reflect public policy. Religious institutions are not instruments of public policy.

We have such a wide diversity of religious groups in this Nation that only the most foolhardy would begin to suggest that they must reflect and conform to public policy. Furthermore, if an integrated religious institution is denied tax exemption because of its refusal to comply with IRS quotas and affirmative action guidelines, we will quickly develop two class-

es of religious groups; those favored by the state and those that are not favored. We will return to an established religion. That is what the first amendment was designed to prevent.

It is significant to note that many of the favored, established religious groups that would be allowed to retain their tax exemption advocate abortion, homosexuality and witchcraft. Other tax-exempt organizations promote pornography, legalization of dangerous drugs, and distribution of contraceptives to minor children without parental consent. The Federal Government has no business in lending itself to the assertion of the doctrinal supremacy of any such religious worldviews over those of law-abiding religious groups that rightfully oppose the wrongful federalization of their schools.

The public policy arguments are attracting some of the harsh criticism that they deserve. Attorney Marvin Braiterman and church-state specialist Dean Kelley of the National Council of Churches have cogently rejected any attempt to make religious institutions subject to public policy as a condition for tax exemption. They noted:

If and when religious bodies show by prevalent misbehavior that they need more careful regulating, there will be time enough to propose closer strictures in the law. But the burden of proof should be upon those who seek to justify such regulation, not upon religious bodies to resist it, and the burden should be a heavy one. It should not be deemed to have been met by pointing to a few isolated instances of supposedly scandalous behavior on the part of a few leaders or adherents of religion, particularly when most such instances could be dealt with by careful but conscientious application of existing law.

Even if public policy were a valid basis for the rule of law, which it certainly is not, it is the IRS and the Federal courts which now violate it, not the innocent private and religious schools that would unfairly suffer because of their actions. If our Constitution means anything concerning what might be called public policy, it clearly means that we have a public policy protecting private and religous schools against the abuses of power by the IRS and Federal courts. There is no public policy that requires, or even allows, what has been called a vendetta against these institutions.

In every sense the actions of the IRS and the Federal courts are illegal and unconstitutional. The amendment makes it clear in the strongest possible terms that those actions are totally contrary to law and public policy.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from Michigan.

Mr. SILJANDER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by Mr. ASHBROOK. My office has learned of a recent ruling by the U.S. Court of Appeals of the District of Columbia in Wright against Reagan which opens the door for a nationwide court order requiring tax exempt private and religious schools to comply with harsh and unfair quotas and affirmative action guidelines.

Most people felt that when the Ashbrook and Dornan amendments passed in 1979, they clarified Congress position on this issue, and that the problem was solved.

The proposed IRS revenue procedures would have resulted in innocent private schools losing tax-exempt status even though they never refused enrollment to a single minority student. According to our constitution Congress has exclusive power over the Nation's purse. Congress simply cannot tolerate Federal agencies and the Federal courts illegally spending funds for purposes which Congress has prohibited.

I think it is significant that not one sentence of statutory authority exists to support the notion that IRS is required to implement the guidelines.

The actions of the IRS and the Federal courts by attempting to implement these regulations have circumvented the Ashbrook and Dornan amendments which clearly prohibit funds for implementing these types of regulations. This is totally contrary to the law and to public policy.

If we do not clarify Congress position, we will be setting a dangerous precedent and will be faced with similar problems in many different areas from year to year.

Mr. PHILIP M. CRANE. I thank the gentleman for his remarks and I urge my colleagues to support the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, we have some checks on the actions of Congress in this country, the Constitution of the United States, and our independent judiciary, two of the great bulwarks of our freedoms.

If any court procedure has been improper, of course we cannot condone it or support it. The laws must be implemented through the just and right decisions of the courts and we cannot condone my procedure that is in defiance of those regulations and rules.

But surely we cannot vote for this amendment. We know what has happened in this country. We know that there are schools that have been set up deliberately in defiance of the law designed to end segregation and to give an equal opportunity for education to all our children.

We know the facts of life; and when the courts intervene, as they must from time to time, saying to Congress, or to any legislature, you have gone too far, you have abridged the rights of the people of this Nation, we must obey. And the courts must do that whenever we have transgressed or violated the provisions of the Constitution and the amendments of the Bill of Rights.

We know what we are doing. We cannot deny the duty—more than the right—the duty of the court to intervene where the law has been defied, where schools or any other institution has been set up to twist or pervert or defy the intent of the Constitution and the law.

We have tried hard in this country, although not hard enough, to make sure that we end the ugly question of discrimination on the grounds of race. We cannot, it seems to me, start now to unravel that fabric which was built with so much effort and good will, and on the basis of so much suffering.

● Mr. LOTT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio, and I would like to review some of the unhappy history which makes the amendment necessary.

The first step in that history makes it absolutely clear that this is not a racial issue. Ten years ago, during the first round of the Green case, the District Court for the District of Columbia ruled that the Internal Revenue Code, not the Constitution, denies income tax exemptions to schools guilty of racial discrimination. The Supreme Court has never reviewed that ruling on the merits, although it will be asked to do so this fall by Bob Jones University, but the validity of that ruling is in no way challenged by this amendment. The IRS remains free to deny exemptions to any school proven guilty of discrimination, and I have no doubt they will continue to enforce that standard as vigorously as they have in the past. Indeed, in the reopened Green litigation the court ruled last year that the IRS had faultlessly enforced the regulations and orders as they existed in 1978, the date specified in this amendment.

The issue, then, is not racial discrimination but simple fairness for parents and schoolchildren. The original version of this amendment was passed because the IRS under the previous administration wanted to do away with the formality of having to prove a school guilty before revoking its exemption. The Congress quite rightly felt that the most basic principles of due process dictated that any person or any organization in a civilized society must be presumed innocent until proven guilty, and we prevented the IRS from changing the law by denying it funds for that purpose.

That should have ended the story, but it did not. A collection of special

interest groups, with the apparent collusion of several of the previous administration's lawyers, went back to court and sought there to impose the very regulations that Congress had acted to block. The district court in Green completely ignored the expressed intent of Congress and ordered the regulations into effect in my home State of Mississippi. The rest of the Nation was inexplicably spared, but the court of appeals, by a 2-to-1 vote, has ordered the district court to begin the process of applying those rules nationwide. By the time this bill comes back to us next year, many other Members of this body will be hearing the same cries for fair play from their constituents that I am hearing from mine.

I must say, at this point, that I am delighted with the cooperation that we in Mississippi have received from Commissioner Roscoe Egger from the IRS. As it is, the IRS was instrumental in securing the intervention of the Clarksdale Baptist Church into the Green case. Now, for the first time, some of the parents and children whose futures are being determined by the court are actually present in the case to have their voices heard. Through their efforts, the court has already ordered the IRS to end its surveillance of church schools in Mississippi until the important first amendment issues raised by the case have finally been resolved.

While this step represents real progress, it may be only a temporary respite for the church schools, and it provides no relief at all for secular institutions. The simple question we must resolve here today is whether this Congress has the will and the power to end this judicial usurpation of legislative authority and to secure the most basic elements of due process for parents and schoolchildren.

What this amendment does is to make sure that the IRS cannot use the taxpayers' money illegally, even though a court may violate the law. If this amendment passes, the IRS will still be free to investigate charges of racial discrimination. It will be free to deny exemptions to any institution proven guilty of racial discrimination through fair hearings. In short, it will be free to enforce the regulations and court orders in effect in 1978. What it will not be free to do is to use one single penny of the taxpayers' funds to enforce the perversions of the law mandated by a single Federal judge in the 1980 Green orders. The IRS will simply have to go to the court and say that they can no longer assist the court in its supervision of private schools.

Some will say that this constitutes legislation on an appropriation bill. It does not. This amendment simply seeks to preserve the existing law, not to change it.

Some will say that this is a dangerous infringement upon the powers of the court. I say that this is an essential check against the court's dangerous infringement upon the powers of Congress. Remember that no court has ever said that these draconian denials of due process are mandated by the Constitution. On the contrary, the courts take the incredible position that they are only enforcing the will of the Congress.

The courts may well have the last word on the Constitution, but this Congress has the first and last word on its own statutes. I urge you to speak that last word today. In our system of checks and balances, the people's elected representatives have full control over the power of the purse. It was the first and most important power which Parliament wrested away from the English kings, and the framers of the Constitution saw to it that it remains in the people's hands. If we surrender that power to the courts, then we throw away centuries of democratic progress. I urge you to use that power today to insure that the people's money is not used to enforce the lawless dictates of a single judge.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 337, noes 83, not voting 14, as follows:

[Roll No. 183]

AYES—337

Addabbo	Brooks	Daub
Akaka	Broomfield	Davis
Albosta	Brown (CO)	de la Garza
Alexander	Brown (OH)	Deckard
Anderson	Broyhill	DeNardis
Andrews	Burgener	Derrick
Annunzio	Butler	Derwinski
Anthony	Byron	Dickinson
Applegate	Campbell	Dicks
Archer	Carman	Dingell
Ashbrook	Carney	Donnelly
Aspin	Chappell	Dorgan
Atkinson	Chappie	Dornan
Badham	Cheney	Dougherty
Bafalis	Clausen	Dowdy
Bailey (MO)	Clinger	Dreier
Bailey (PA)	Coats	Duncan
Barnard	Coelho	Dunn
Beard	Coleman	Dwyer
Benedict	Collins (TX)	Dyson
Bennett	Conable	Early
Bereuter	Conte	Eckart
Bethune	Corcoran	Edwards (AL)
Bevill	Coughlin	Edwards (OK)
Blanchard	Courter	Emerson
Bliley	Coyne, James	Emery
Boggs	Craig	English
Boland	Crane, Daniel	Erdahl
Boner	Crane, Philip	Erlenborn
Bonker	D'Amours	Ertel
Bouquard	Daniel, Dan	Evans (DE)
Bowen	Daniel, R. W.	Evans (GA)
Breaux	Dannemeyer	Evans (IA)
Brinkley	Daschle	Evans (IN)
Fary	Latta	Roberts (KS)
Ferraro	Leach	Roberts (SD)
Fiedler	Leath	Robinson
Fields	LeBoutillier	Roe
Findley	Lee	Roemer
Fish	Lent	Rogers
Fithian	Levitas	Rose
Flippo	Lewis	Rostenkowski
Florio	Livingston	Roth
Foglietta	Loeffler	Roukema
Foley	Long (LA)	Rousselot
Ford (MI)	Lott	Rudd
Forsythe	Lowery (CA)	Russo
Fountain	Lujan	Santini
Fowler	Luken	Sawyer
Frenzel	Lungren	Schulze
Frost	Madigan	Sensenbrenner
Fuqua	Markey	Sharp
Gaydos	Marks	Shaw
Gephardt	Marlenee	Shelby
Gibbons	Marriott	Shumway
Gilman	Martin (NC)	Shuster
Gingrich	Martin (NY)	Siljander
Ginn	Mattox	Skeen
Glickman	Mavroules	Skelton
Goldwater	Mazzoli	Smith (AL)
Goodling	McClory	Smith (IA)
Gore	McCollum	Smith (NE)
Gradison	McCurdy	Smith (NJ)
Gramm	McDade	Smith (OR)
Gregg	McDonald	Smith (PA)
Grisham	McEwen	Snowe
Guarini	McGrath	Snyder
Gunderson	Mica	Solomon
Hagedorn	Miller (OH)	Spence
Hall (OH)	Mitchell (NY)	St Germain
Hall, Ralph	Moakley	Stangeland
Hall, Sam	Molinari	Stanton
Hamilton	Mollohan	Staton
Hammerschmidt	Montgomery	Stenholm
Hance	Moore	Stratton
Hansen (ID)	Moorhead	Stump
Hansen (UT)	Morrison	Tauke
Harkin	Mottl	Tauzin
Hartnett	Murphy	Taylor
Hatcher	Murtha	Thomas
Heckler	Myers	Traxler
Hefner	Napier	Trible
Heftel	Natcher	Udall
Hendon	Neal	Vander Jagt
Hertel	Nelligan	Walgren
Hightower	Nelson	Walker
Hiler	Nichols	Wampler
Hillis	Nowak	Watkins
Holland	O'Brien	Waxman
Hollenbeck	Oakar	Weaver
Holt	Oxley	Weber (MN)
Hopkins	Panetta	Weber (OH)
Howard	Parris	White
Hoyer	Pashayan	Whitehurst
Hubbard	Patman	Whitley
Huckaby	Paul	Whittaker
Hunter	Pease	Whitten
Hutto	Pepper	Williams (OH)
Hyde	Perkins	Wilson
Ireland	Petri	Winn
Jacobs	Peyser	Wolf
Jeffries	Pickle	Wortley
Jenkins	Porter	Wright
Johnston	Price	Wyden
Jones (NC)	Pritchard	Wylie
Jones (OK)	Pursell	Yatron
Jones (TN)	Quillen	Young (AK)
Kazen	Rahall	Young (FL)
Kildee	Railsback	Young (MO)
Kindness	Regula	Zablocki
Kramer	Rhodes	Zeferetti
Lagomarsino	Rinaldo	
Lantos	Ritter	

NOES—83

AuCoin	Collins (IL)	Frank
Barnes	Conyers	Garcia
Bedell	Coyne, William	Gejdenson
Beilenson	Crockett	Gonzalez
Benjamin	Danielson	Gray
Biaggi	Dellums	Green
Bingham	Dixon	Hawkins
Bolling	Downey	Hughes
Brodhead	Dymally	Kastenmeier
Brown (CA)	Edgar	Kogovsek
Burton, John	Edwards (CA)	LaFalce
Burton, Phillip	Fazio	Lehman
Chisholm	Fenwick	Leland
Clay	Ford (TN)	Long (MD)

Lowry (WA)	Ratchford	Solarz
Lundine	Reuss	Stark
Matsui	Rodino	Stokes
McCloskey	Rosenthal	Studds
McHugh	Roybal	Swift
McKinney	Sabo	Synar
Mikulski	Scheuer	Vento
Mineta	Schneider	Washington
Moffett	Schroeder	Weiss
Oberstar	Schumer	Williams (MT)
Obey	Seiberling	Wirth
Ottinger	Shamansky	Wolpe
Patterson	Shannon	Yates
Rangel	Simon	

NOT VOTING—14

Bonior	Kemp	Mitchell (MD)
Cotter	Martin (IL)	Richmond
Fascell	Michel	Savage
Horton	Miller (CA)	Volkmer
Jeffords	Minish	

□ 1720

Messrs. DORGAN of North Dakota, BLANCHARD, and WALGREN changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. BONKER. Mr. Chairman, from a political standpoint I must congratulate President Reagan on his victory yesterday on the tax cut vote. It demonstrates his continued strength and overwhelming persuasiveness.

Mr. Reagan has now had 100 percent of his economic recovery program approved by the Congress—budget cuts and tax cuts. He now has the full opportunity—and the full responsibility—to bring about economic recovery in this country.

From a substantive standpoint, however, I must confess grave misgivings over the President's victory.

I did not support the President's tax package, because I did not believe it to be in the best interests of the people of the Third District. According to most economists, it will prove inflationary, and it will result in massive budget deficits and continued high interest rates over the next 3 years.

The Congressional Budget Office has estimated that the Federal Government will run a budget deficit of $80 billion by 1984 if the President's 3-year tax cut were enacted.

Federal deficits are one of the chief causes of high interest rates, which have devastated the housing and timber industries in my district. Thousands of men and women in my district have been thrown out of work. In some of the counties that I represent, unemployment is a staggering 16 percent. All told, the unemployment rate in my district is 11 percent, compared to a national jobless rate of about 7.3 percent for the same period.

The President's budget cuts and yesterday's tax plan will be a savage one-two punch to the people of my district. Funding for social service programs, including unemployment compensation and job training, will be slashed just as high inflation and continued record interest rates—fueled by this tax cut—throw still more people out of work.

We must balance the budget. The Federal deficit is approaching $1 trillion; it cost $75 billion just to finance that debt last year. Mr. Reagan's tax cut proposal refuses to address these realities.

The vast majority of the people in the Third District agree with me on this point, even though many of them may support the President anyway. It is a testimony to his public relations skill.

In a recent poll I sent to all constituents in the Third District, 64 percent said they would not support a tax cut that results in higher Federal deficits.

Nationwide polls have found that 70 percent of all Americans would rather pass up a tax cut in 1982 in order to balance the budget.

In good conscience, I could not support a policy which would pay for a tax cut by Federal borrowing.

The second central issue in the tax debate was who would benefit.

The Reagan plan skewed the tax cut to the 5 percent of the population earning more than $50,000 a year.

The median income in the Third District is only $9,736, with a mere 18 percent of the families earning more than $15,000.

A tax cut that favors the wealthy simply is not in the best interests of my constituents.

Another disturbing factor in the Reagan proposal is that it ignores the interests of small business, the backbone of the American economy and of the Third District. The President has skewed his proposal to favor the largest corporations.

I supported a third alternative tax cut bill, which would have provided meaningful tax cuts for middle-income Americans and productivity incentives for American businesses but would have resulted in a $2 billion budget surplus next year, and a $20 billion surplus by 1983.

It did so by eliminating the billions of dollars of special interest loopholes for the oil companies and commodity traders found in the Reagan proposal.

A tax cut is overdue, but one that shortchanges working Americans is unfair.●

● Mr. FRENZEL. Mr. Chairman, This bill, even though it is consistent with the budget resolution and even though some of its worst flaws have been improved by amendment, still is not up to the quality we have come to expect from the Appropriations Committee.

This bill, by legislating under the guise of appropriating, has established employment flaws to which the administration objects. It has added unnecessary personnel at IRS. It has killed funds, for the Office of Policy Management, and for the OMB to operate the Paperwork Reduction Act, which are needed by the administration for the efficient management of the executive department.

Therefore, despite the fact that it is fiscally responsible, I will reluctantly be obliged to vote "no."●

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. ROYBAL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4121) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1982, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendments?

Mr. MILLER of Ohio. Mr. Speaker, I demand a separate vote on the so-called Schroeder amendment.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 5, line 24, strike "$206,625,000" and insert in lieu thereof, "$193,050,000".

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 182, nays 233, answered "present" 1, not voting 18, as follows:

[Roll No. 184]

YEAS—182

Akaka	Aspin	Beilenson
Alexander	Atkinson	Benjamin
Anderson	AuCoin	Bennett
Andrews	Bailey (PA)	Bevill
Anthony	Bedell	Bingham

Bowen
Brinkley
Brooks
Brown (CA)
Brown (CO)
Burton, Phillip
Byron
Chappell
Clay
Coelho
Collins (IL)
Conyers
Crockett
Danielson
Daschle
de la Garza
Dellums
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Edgar
Edwards (AL)
Edwards (CA)
English
Erlenborn
Ertel
Evans (IA)
Evans (IN)
Fazio
Ferraro
Findley
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Glickman
Gramm
Gray
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Hawkins
Hefner
Hertel
Hightower
Howard
Hoyer
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lantos
Leach
Leath
Lehman
Leland
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Lundine
Markey
Martin (IL)
Matsui
Mattox
Mavroules
Mazzoli
McCloskey
McCurdy
McDonald
McHugh
Mica
Miller (CA)
Mineta
Moakley
Moffett
Montgomery
Mottl
Murphy
Natcher
Neal
Nichols
Nowak
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Paul
Pease
Perkins
Petri
Rangel
Ratchford
Reuss
Roemer
Rose
Rosenthal
Roybal
Santini
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shamansky
Sharp
Shelby
Skelton
Smith (AL)
Smith (IA)
Snowe
Solarz
St Germain
Stark
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tauke
Traxler
Udall
Walgren
Washington
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams (MT)
Wilson
Wirth
Wolpe
Wyden
Yates
Yatron

NAYS—233

Addabbo
Albosta
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey (MO)
Barnard
Barnes
Beard
Benedict
Bereuter
Bethune
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brodhead
Broomfield
Brown (OH)
Broyhill
Burgener
Burton, John
Butler
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dornan
Dougherty
Dreier
Duncan
Dunn
Early
Eckart
Edwards (OK)
Emerson
Emery
Erdahl
Evans (DE)
Evans (GA)
Fary
Fenwick
Fiedler
Fields
Fish
Fithian
Florio
Forsythe
Fowler
Frenzel
Frost
Garcia
Gilman
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gradison
Green
Gregg
Grisham
Gunderson
Hagedorn
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Heftel
Hendon
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Huckaby
Hunter
Hyde
Johnston
Jones (TN)
Kastenmeier
Kazen
Lagomarsino
Latta
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (NC)
Martin (NY)
McClory
McCollum
McDade
McEwen
McGrath
McKinney
Michel
Mikulski
Miller (OH)
Mitchell (NY)
Molinari
Mollohan
Moore
Moorhead
Morrison
Murtha
Myers
Napier
Nelligan
Nelson
O'Brien
Oxley
Parris
Pashayan
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Rogers
Rostenkowski
Roth
Roukema
Rudd
Russo
Sabo
Sawyer
Schneider
Schulze
Schumer
Shannon
Shaw
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stratton
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Vento
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Williams (OH)
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Rousselot

NOT VOTING—18

Biaggi
Chisholm
Cotter
Fascell
Harkin
Horton
Jeffords
Kemp
Minish
Mitchell (MD)
Oakar
Pepper
Richmond
Rodino
Savage
Simon
Volkmer
Wright

□ 1740

Messrs. DICKS, HUCKABY, and ROSTENKOWSKI changed their votes from "yea" to "nay."

Mr. FAZIO changed his vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 323, nays 94, not voting 17, as follows:

[Roll No. 185]

YEAS—323

Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Anthony
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CA)
Brown (OH)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, William
Craig
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IN)
Fary
Fazio
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Foglietta
Foley
Ford (MI)
Forsythe
Frank
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Hatcher
Hawkins
Heckler
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Howard
Hoyer
Huckaby
Hunter
Hutto
Hyde
Ireland
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Lantos
Latta
Leach
Lehman
Leland
Lent
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Shamansky
Shannon
Shaw
Shelby
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Staton
Stratton
Swift
Tauzin

Taylor	White	Wortley
Thomas	Whitehurst	Wright
Trible	Whitley	Wylie
Udall	Whittaker	Yates
Vander Jagt	Whitten	Yatron
Vento	Williams (MT)	Young (FL)
Walgren	Williams (OH)	Young (MO)
Wampler	Wilson	Zablocki
Watkins	Winn	Zeferetti
Waxman	Wolf	
Weber (OH)	Wolpe	

NAYS—94

Applegate	Glickman	Neal
Archer	Gradison	Ottinger
AuCoin	Gramm	Paul
Barnard	Gray	Petri
Blanchard	Hance	Pursell
Brodhead	Hansen (ID)	Reuss
Broomfield	Hartnett	Ritter
Brown (CO)	Hendon	Roemer
Burton, John	Hubbard	Rousselot
Chisholm	Hughes	Schroeder
Clay	Jacobs	Sensenbrenner
Collins (IL)	Jeffries	Sharp
Collins (TX)	Jenkins	Shumway
Conable	Johnston	Solomon
Coyne, James	Jones (OK)	Stark
Crane, Daniel	Kramer	Stenholm
Crane, Philip	LaFalce	Stokes
Crockett	Lagomarsino	Studds
Dellums	Leath	Stump
Derwinski	LeBoutillier	Synar
Dornan	Lee	Tauke
Dreier	Levitas	Traxler
Edgar	Lewis	Walker
Edwards (CA)	Lowry (WA)	Washington
Evans (IA)	Lujan	Weaver
Fenwick	Luken	Weber (MN)
Fields	Mattox	Weiss
Ford (TN)	McDonald	Wirth
Fountain	Miller (CA)	Wyden
Fowler	Moffett	Young (AK)
Frenzel	Moorhead	
Gejdenson	Mottl	

NOT VOTING—17

Andrews	Hefner	Rangel
Biaggi	Horton	Richmond
Cotter	Jeffords	Savage
Fascell	Kemp	Simon
Florio	Minish	Volkmer
Harkin	Mitchell (MD)	

□ 1800

The Clerk announced the following pairs:

On this vote:

Mr. Hefner for, with Mr. Richmond against.

Until further notice:

Mr. Biaggi with Mr. Jeffords.
Mr. Florio with Mr. Horton.
Mr. Mitchell of Maryland with Mr. Kemp.
Mr. Rangel with Mr. Simon.
Mr. Fascell with Mr. Minish.
Mr. Volkmer with Mr. Harkin.
Mr. Andrews with Mr. Savage.

Messrs. EMERSON, EVANS of Georgia, and MARLENEE changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what report is this?

Mr. BOLLING. If the gentleman will yield, it is the report on a rulemaking in order two items, a separate free-standing bill to repeal the provisions in the conference report on reconciliation on the minimum social security benefit and the conference report on the reconciliation bill to be considered separately.

Mr. ROUSSELOT. Further reserving the right to object, why do they have to be separate?

Mr. BOLLING. Well, they are separate because that was the agreement that was reached between the majority and the minority of both the House and the other body, the leadership of both the majority and the minority of both the House and the other body. If they were together, they would have a direct effect on the reconciliation bill and, according to the situation that exists in the rules of the other body, as I understand it, it would open up the whole matter of the conference on reconciliation entirely.

I think I am correct in my understanding.

Mr. ROUSSELOT. Reserving the right to object, by making it separate, then, does that mean that that does not affect the reconciliation bill in any way?

Mr. BOLLING. No; it means that it could potentially affect the implementation of the reconciliation bill because I assume, that the free-standing bill is going to pass the House. My understanding is that when it goes to the other body, it will be referred to the committee, the Committee on Finance, as I understand it, and it will then be pending in that committee. I would suspect that it would pend for a while.

Mr. ROUSSELOT. How does this potentially affect the ability of the Social Security Subcommittee and the Ways and Means Committee to have a version of what changes should be made in social security?

Mr. BOLLING. It affects it, I would guess, moderately, but not terribly.

Mr. ROUSSELOT. Oh, I see. Well, has it been cleared with the Ways and Means Committee? Have they had an opportunity to discuss this?

Mr. BOLLING. There was participation by the chairman of the Ways and Means Committee in this arrangement, and I have heard no objection to the plan.

Mr. ROUSSELOT. The chairman of the Social Security Committee agrees that this is a great way to go.

Mr. BOLLING. I did not discuss the matter with anybody except those that I mentioned.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader or the majority whip if he might be good enough to lay out a scenario here of events, as he sees them, so that the chairman of the Rules Committee can convene his committee, as we had scheduled, for 6 o'clock.

Mr. FOLEY. If the distinguished Republican leader will yield, Mr. Speaker, it is the intention to take up tonight two additional rules and then to adjourn until tomorrow at 10 o'clock.

As the Members will note, previous agreement was reached for a 9 o'clock session tomorrow, and I will ask unanimous consent subsequently to meet at 10 o'clock rather then 9 o'clock.

Tomorrow we will take up the rule on the reconciliation bill and take whatever action is authorized by that rule. At the conclusion of that action, it would be the intention of the leadership to move that the House adjourn to meet on noon Tuesday.

On Tuesday the House would then consider the conference report on the tax legislation, if ready, and if it did not require any Rules Committee action. If Rules Committee action was required in the conference report, the House would consider an appropriation bill, and the Rules Committee action would then be taken and the House would meet on the following day, Wednesday, to complete action on the conference report.

At the conclusion of the tax conference report either on Tuesday or Wednesday, the House would take up its recess, as provided by law.

Reconciliation action would be taken tomorrow, in accordance with the rule.

Mr. MICHEL. If I might respond to what the gentleman has said, the gentleman would make a request that we come in at 10 o'clock rather than 9 o'clock, and in order to facilitate travel plans of some of our Members who want to utilize this weekend in one way or another, I would suggest and be amenable to our dispensing with 1-minute speeches tomorrow so that we might immediately proceed to the rule, and that would also accommodate our ranking member on Rules, who must necessarily be absent.

Mr. FOLEY. If the gentleman will yield further, such an accommodation would be agreeable to this side.

Mr. MICHEL. We would be happy to do that.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I would like to call attention to the fact that we have tried to cooperate on the Appropriations Committee in reporting out appropriation measures in a timely manner, and will continue to do so; but I would like to call attention to my colleagues that we have only passed 5 bills out of 13 thus far. We will come back here in September and have only 3 weeks before the new fiscal year starts. If the proper appropriation measures are not enacted, on October 1 every Federal building in the country will close, under the opinion of the Attorney General. So the practice of just getting to appropriation bills when you get ready to is not the proper course of action to take. I have tried to point this out regularly. But I just want the Members to know that, to skip over the appropriations business, you are leaving dangling the very thing that is necessary if the Government is to continue to operate. And I think the Members ought to know that.

Mr. MICHEL. I would simply say that I am sure that after a recess, much deserved by the Members, they will come back so refreshed right after Labor Day that we would certainly do our best to accommodate the gentleman's request to expedite those money bills as fast as we can.

Mr. WHITTEN. I greatly appreciate the support of the gentleman. I was addressing the entire membership, as my friend knows.

Mr. LOTT. Did I understand the gentleman to say that he intends to notify the Members or ask unanimous consent or whatever that we come back in here at noon on Tuesday and that it now has been decided we will not be here on Saturday?

Mr. FOLEY. The gentleman is correct.

I might say, if the gentleman from Illinois will yield further, that the conferees, when they are appointed on the tax bill, have, I am advised, approximately 16 relatively major differences between the House and Senate version, even though they are close in many respects.

It is the opinion of the staff of the Ways and Means Committee and of the Joint Committee on Internal Revenue that it would require approximately 2 days to draft the conclusions of the committee in a form suitable for the conference report and so that the idea of finishing on Saturday, which was our original intention, seems to be a difficult concept to achieve in real circumstances because of the time required to do the drafting, even if the conferees can reach almost immediate agreement.

Now it would be our intention to try to avoid what would appear to be the worst consequences, which would be to have a Saturday session, to go late on Saturday and to find that the conference report documents were not available and we would have to go over in any event until next week.

So, it is an attempt to provide some relative information and certainty for the convenience of Members as to what we would be doing.

To repeat again, tonight the Rules Committee is expected to grant a rule for the consideration of the reconciliation bill. It is our intention to ask unanimous consent to come in tomorrow to take up that legislation and any separate legislation dealing with the minimum social security benefit, to then adjourn until Tuesday noon, and if at that time the conference report was ready, proceed immediately with it, and following its adoption, to take up the recess.

If a rule was required, because of any scope or technical problems, the House would consider an appropriation bill on Tuesday and the Rules Committee would meet and we would conclude action on the rule and on the conference report on Wednesday.

So the Members should expect that there would be an adjournment tomorrow as soon as our schedule is completed, that there would be a meeting at noon on Tuesday, and a possible meeting on Wednesday on which votes would be had.

Mr. LOTT. Mr. Speaker, some Members inquired if there would be any possibility of meeting on Monday or Tuesday. I presume the answer is "no" on Monday because of the necessary time for drafting the final decision on the tax bill and putting it into proper technical form and getting it available to the Members so that we could see what has actually been acted on; is that correct?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Washington.

Mr. FOLEY. Yes; the gentleman is right. We are conscious of the fact, because the law requires a recess at midnight this week, on Saturday, and we have already agreed to suspend that, that, nevertheless, Members have made plans and we are trying to minimize the interference with their schedules and plans.

We do not feel that it is likely that this conference report would be ready for certain on Monday or we would probably schedule a Monday session.

It is the idea that Tuesday is the earliest practicable time we believe the conference report would be concluded and documentation ready for consideration by the House, we are suggesting the schedule of Tuesday.

Mr. LOTT. One final question so that the Members will know and can take actions accordingly.

Is that now the schedule that has been agreed upon and will be moved at the appropriate time by the gentleman?

Mr. FOLEY. The gentleman is correct.

The SPEAKER. The Chair would add that the other body has not as yet completed the House-originated tax bill and when they have amended it and sent the papers to the House, at that time conferees will be appointed.

HOUR OF MEETING TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I just asked the gentleman, why could we not come in at 9 o'clock and finish up a little earlier so Members would have a chance to go out of town?

The SPEAKER. The Chair will advise the gentleman that the Chair is attempting to accommodate the gentleman from Tennessee (Mr. QUILLEN), who has a personal commitment in the morning and could not be back by 9 a.m.

Also, the daughter of the chairman of the Committee on Ways and Means is graduating in Atlanta and the gentleman from Illinois (Mr. ROSTENKOWSKI) will not be here.

By mutual agreement it was agreed the House would come in an hour later.

Mr. WALKER. I thank the Speaker, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4169, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1982

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 188 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 188

Resolved, That during the consideration of the bill (H.R. 4169) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year ending September 30, 1982, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 3, lines 1 through 4; beginning on page 3, line 20 through page 6, line 12; beginning on page 8, line 4 through page 10, line 7; beginning on page 13, lines 6 through 23; beginning on page 17,

line 3 through page 23, line 21; beginning on page 25, lines 1 through 14; beginning on page 25, lines 16 through 20; beginning on page 26, lines 7 through 14; beginning on page 26, line 19 through page 33, line 14; beginning on page 33, line 16 through page 34, line 6; beginning on page 34, line 15 through page 36, line 11; beginning on page 39, lines 4 through 18; beginning with the word "to" on page 7, line 19 through page 7, line 20; beginning with the word *"Provided"* on page 24, line 13 through page 24, line 16; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 6, lines 6 through 12: *Provided,* That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

The SPEAKER pro tempore (Mr. FARY). The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Arizona (Mr. RHODES), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 188 waives clauses 2 and 6 of rule XXI against certain provisions of H.R. 4169, Departments of Commerce, Justice, and State, the judiciary, and related agencies appropriation bill for fiscal year 1982. These provisions are specified within the resolution.

Clause 2 of rule XXI prohibits unauthorized appropriations and legislation in an appropriation bill. H.R. 4169 includes various programs which have not yet completed the authorization process and without this waiver would be subject to a point of order.

Clause 6 of rule XXI prohibits reappropriations in an appropriations bill. This waiver is required due to one item in title I permitting administrative costs for the coastal energy impact fund to be derived from unobligated funds in the expired account for environmental grants.

As in House Resolution 171, HUD appropriations, House Resolution 188 includes a provision that insures in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

Mr. Speaker, H.R. 4169 contains fiscal year 1982 appropriations of $8,754,633,000. This amount is $6,469,000 below the administration's request and $868,246,000 less than appropriated in fiscal year 1981.

I believe the committee showed wisdom and foresight in continuing prudent funding for the Economic Development Administration and the juvenile justice program and commend them for their decision. Both programs have proved their effectiveness and deserve continuation.

Mr. Speaker, this is a very straightforward and noncontroversial rule and I urge my colleagues to support its adoption.

□ 1820

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 188 waives certain points of order against H.R. 4169, the fiscal year 1982 appropriations bill for the Departments of Commerce, Justice, State, the judiciary, and related agencies.

As H.R. 4169 includes appropriations for a number of programs for which legislation has not yet been enacted, House Resolution 188 waives all points of order against 13 provisions in the bill for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations and legislation on general appropriation bills.

The resolution also waives clause 6 of rule XXI against one provision in the bill. This waiver will permit reappropriation of funds from an expired account to the coastal energy impact fund.

Further, in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to this rule. The rule contains waivers of points of order for violation of clause 2 of rule XXI in 13 separate instances. In examining H.R. 4169, practically the entire bill is waived as a result of the Rules Committee action. This is a derogation of the authorization process of the Congress.

Included in the items that points of order are waived on are economic and statistical analysis in the Department of Commerce; the International Trade Administration; the Minority Business Development Agency; the National Oceanic and Atmospheric Administration; Coastal Zone Management; Coastal Energy Impact Fund; part of the appropriation for the Patent and Trademark Office; the National Telecommunications and Information Administration; the Maritime Administration; the International Trade Commission; the Marine Mammal Commission; the Office of the United States Trade Representative.

Most of the activities of the Department of Justice, including general administration; the U.S. Parole Commission, the legal activities of the Department of Justice; the Antitrust Division of the Department of Justice; the Foreign Claims Settlement Commission; U.S. attorneys and marshals; support of U.S. prisoners; the Community Relations Service; the Federal Bureau of Investigation; the Immigration and Naturalization Service; the Drug Enforcement Administration; the Federal Prison System; the National Institute of Corrections; the Federal Prison Industries, Inc.; the Commission on Civil Rights; the Legal Services Corporation.

There are various activities of the Department of State, including the administration of foreign affairs; the representation allowances; special foreign currency program; the Diplomatic and Consular Service; the American Institute in Taiwan; International Organizations and Conferences; contributions for international peacekeeping activities; international commissions, including the International Boundary and Water Commission between the United States and Mexico: International Fisheries Commissions; the U.S. bilateral science and technology agreements; the Asia Foundation; the Arms Control and Disarmament Agency; the Board of International Broadcasting; the International Communications Agency; special foreign currency programs; Center for Cultural and Technical Interchange between East and West; the acquisition and construction of radio facilities; salaries of supporting personnel to the U.S. court, and that is all.

Now, it seems to me that if the authorization process is to mean anything, we should not pass a rule that waives points of order so extensively as this rule does. I belive that this rule should be defeated so that the agencies that are unauthorized be placed on a continuing resolution as a way of prodding this Congress to do the authorizing that it should be doing.

Once the authorization legislation is passed, then the agencies can be funded through supplemental appropriations that the Congress considers from time to time. By passing an appropriations bill with the extensive waivers that this rule does provide, it simply will take the heat off the Congress to pass the authorization for the myriad agencies and activities that this Congress has failed to do.

For that reason, I urge the defeat of this rule.

Mr. RHODES. Mr. Speaker, I now yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman very much for yielding. I should like to build for a moment, if I could, on the point that the gentleman from Wisconsin has just made with regard to this rule.

The problem, as I have stated on previous rules, is that in waiving a lot of these points of order, what we are also doing is laying in place appropriations which carry us into the years

that follow at spending levels far in excess of that which we have committed ourselves to in the long-term budgets we have put in place, and many of these waivers are put in there in such a way as to assure that we will make those kinds of spending commitments. We are told by the Appropriations Committee that we are going to come back and appropriate next year and take care of that, but yet we are seeing more and more rules come with more and more waivers that causes this problem.

I think the House should begin to consider what it is we are doing in appropriation bills when time after time we are asked to accept rules which waive points of order on large sections of the bill. Virtually half this bill, if not more than half this bill, is waived, which means legislation included in it in terms of appropriations bills.

Also, matters that concern lack of authorization are virtually waived. I think that is a major concern for this House, and one that we ought to be more cognizant of as we continue this business of putting in place rules which are tied to appropriations bills.

I thank the gentleman for yielding.

Mr. ZEFERETTI. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman. I want to point out that 60 percent of the dollar volume of these agencies have not been reauthorized. What is more, they are not going to be reauthorized by October 1. They are going to be closed down if we do not have this bill. We might just as well not have a bill if we are not going to waive points of order on items that have not been reauthorized. They ought to have been reauthorized last September, but they have not been yet.

Nothing in this bill exceeds the reconciliation package as it passed the House. Without this bill, the continuing resolution may very well continue some of these agencies in excess of what they were in the reconciliation packages, including Legal Services.

□ 1830

Under a continuing resolution it may very well be continued at $321 million instead of the $241 million that is in this package.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding.

I recall that the reconciliation package on Legal Services left this House with a zero amount for the Legal Services Corporation. The other body's reconciliation package had $100 million for the Legal Services Corporation.

The Senate acceded to the House, and the reconciliation conference report will have zero dollars for the Legal Services Corporation, and yet this appropriation bill contains $241 million.

Mr. SMITH of Iowa. Mr. Speaker, the fact of the matter is the reconciliation package that passed the House did not have anything in it for the Legal Services Corporation, but because it was silent, that does not mean it had zero funding levels, and we are not in excess of anything as it left the House.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, if it is the gentleman's understanding with regard to the appropriations that the appropriations do not exceed the reconciliation package with regard to the 1982 fiscal year, can he give the House the same assurances with regard to the outyears?

Mr. SMITH of Iowa. Mr. Speaker, we are only appropriating for 1982. I do not know what it will be in 1983 or 1984. We do not have a 1983 or 1984 appropriation bill. This is only the 1982 appropriations.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that statement, because the Office of Management and Budget has repeatedly said that one of the problems with the appropriation bills is that they are making commitments toward the outyears which we are going to have to fulfill and which are going to be major problems in terms of the budget we have committed ourselves to.

Mr. SMITH of Iowa. Well, this is just the 1982 appropriations.

Mr. RHODES. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I think my colleagues, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Pennsylvania (Mr. WALKER), have raised important questions, and I think we are going to have to look at our whole authorization and appropriation process as we work our way through this new budget process, with the major reconciliation package coming following the first budget resolution.

But I do not think that the solution which they propose in the interim—that we simply not take up appropriation bills indefinitely—is any answer.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I would like to finish my statement first, and then I shall be happy to yield.

Mr. Speaker, in our work in the Appropriations Committee, if we want to hit the October 1 deadline to try to get the appropriations in place by the start of the fiscal year, if we are going to complete our work by October 1, as we are charged by the Congress with doing, then we have to proceed as we have been proceeding. As the gentleman should know, under the Budget Act we have our control, too, under section 302. Under the Budget Act we are assigned by the Budget Committee a lump sum of funds to be appropriated by the Appropriations Committee. Under section 302 we in the Appropriations Committee allocate that among our subcommittees, and our subcommittees have been scrupulous in staying within those section 302 limits.

So I do not think there can be any criticism of the way the Appropriations Committee has exercised its responsibility under the budget resolution. We are simply trying to do that with which we are charged, and for the life of me I cannot see how anyone can suggest that we can govern better by proceeding under continuing resolutions, which are in essence going to need similar exceptions to authorizing legislation. It seems to me far more orderly to pass the appropriation bills so long as we are staying within our section 302 allocations under the Budget Act.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I believe my colleague, the gentleman from Pennsylvania (Mr. WALKER), and I were suggesting that this appropriation bill be brought before the House without all the waivers of points of order that the Rules Committee has granted so that the Congress may work its will in the authorization process and so that we can build in effective reauthorizations of some of these unauthorized programs.

Mr. GREEN. Mr. Speaker, if I may reclaim my time, I would simply point out that the effect of what the gentleman wants, particularly in view of the tradition that the Senate acts on appropriations measures only after the House, is that invariably very few appropriation bills, if any, are going to be enacted by October 1. I do not think that is a sound way to proceed.

I think the gentleman is absolutely correct that we ought to be reviewing our entire budget procedure in view of our experience this year, because obviously we in the Appropriations Committee are not happy in a situation where we have to proceed without the authorizing legislation. But, nonetheless, I simply suggest to the gentleman that given the rules under which we now act, it is less disruptive to the Government of the United States for us to be proceeding in tandem with the authorizing process, fully living up to our obligations under the Budget Act and fully living up to our limitations under section 302 in each sub-

committee. We are not violating the Budget Act; we are living up to it.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

All we are saying is that the rules of the House were put in place for a purpose, and that was to assure that authorizations and appropriations flowed in a certain way. What we are doing here is we are coming in here with rules waiving the rules of the House.

Why is it that we cannot come in with a rule which does not permit those waivers and then allow the Members of the House to work their will? If they decide to raise a point of order against something which deserves a point of order to be raised against it, fine; then we can go ahead.

Mr. GREEN. Mr. Speaker, if I may reclaim my time, I think the answer is very simple. We have a process in here that was not contemplated at the time that rule was written, and that is the reconciliation process.

All of the authorizing committees have been very busy. They have not been delinquent. All of the authorizing committees have been very busy on the reconciliation bill and in the reconciliation conference. Meanwhile, if we are to have most of these bills in place by October 1, then we simply have to move in tandem, and we live by our guidelines under the Budget Act, just as the authorizing committees work their assignments from the Budget Committee and the first budget resolution.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the distinguished ranking minority member of the Appropriations Committee.

Mr. CONTE. Mr. Speaker, the gentleman from New York (Mr. GREEN) is absolutely correct. This is not something new. This has been going on for years.

What happens is that the Appropriations Committee—the "salt mine" committee of the Congress—starts in January. We get the budget, and we work 5 days a week and we get our bills out.

If we were to wait until all the authorization bills were completed, we would never get anything done. It would be very nice if we were living in a little classroom somewhere in college where we could put all of this on the blackboard, but we cannot put all of it on the blackboard and we cannot wait, because come October 1, the beginning of the fiscal year, it is all over with.

This is not the fault of the Appropriations Committee. The gentleman is going to get his chance to work his will. He keeps using that word. If the gentleman does not like anything in here that is not authorized and wants to raise a point of order, he can put an amendment in. The gentleman from Pennsylvania (Mr. WALKER) has more amendments than Carter has liver pills. He can offer amendments to the appropriation bills, and we will consider them.

Mr. ZEFERETTI. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. FARY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 133, not voting 39, as follows:

[Roll No. 186]

YEAS—262

Addabbo	Coughlin	Gephardt
Akaka	Coyne, James	Gibbons
Albosta	Coyne, William	Gilman
Alexander	D'Amours	Gingrich
Anderson	Daniel, Dan	Ginn
Andrews	Danielson	Glickman
Annunzio	Daschle	Gonzalez
Applegate	de la Garza	Gore
Aspin	Deckard	Green
Atkinson	Dellums	Guarini
AuCoin	Derrick	Hall (OH)
Badham	Dicks	Hall, Ralph
Bafalis	Dingell	Hamilton
Bailey (PA)	Dixon	Hance
Barnard	Dorgan	Hatcher
Barnes	Dougherty	Hawkins
Bedell	Dowdy	Heckler
Beilenson	Downey	Hefner
Benedict	Duncan	Heftel
Benjamin	Dunn	Hertel
Bennett	Dwyer	Hightower
Bevill	Dymally	Holland
Biaggi	Dyson	Hollenbeck
Bingham	Early	Howard
Blanchard	Eckart	Hoyer
Boggs	Edwards (AL)	Hubbard
Boland	Edwards (CA)	Huckaby
Boner	Emery	Hunter
Bonior	English	Hutto
Bonker	Erdahl	Hyde
Bouquard	Erlenborn	Ireland
Bowen	Ertel	Jones (TN)
Breaux	Evans (IN)	Kastenmeier
Brinkley	Fary	Kazen
Brodhead	Fazio	Kildee
Brooks	Fenwick	Kindness
Brown (CA)	Ferraro	Kogovsek
Brown (OH)	Findley	LaFalce
Broyhill	Fish	Lantos
Burton, John	Fithian	Latta
Burton, Phillip	Flippo	Leach
Butler	Foglietta	Lehman
Byron	Foley	Leland
Campbell	Ford (TN)	Long (LA)
Carman	Forsythe	Long (MD)
Chappell	Frank	Lowry (WA)
Coelho	Frenzel	Lujan
Coleman	Frost	Luken
Collins (IL)	Fuqua	Lundine
Conable	Garcia	Markey
Conte	Gaydos	Marlenee
Corcoran	Gejdenson	Matsui
Mattox	Pickle	Stokes
Mavroules	Price	Stratton
Mazzoli	Pritchard	Studds
McClory	Rahall	Swift
McHugh	Railsback	Synar
Mica	Ratchford	Tauzin
Mikulski	Regula	Taylor
Miller (CA)	Reuss	Traxler
Miller (OH)	Rhodes	Udall
Mineta	Rinaldo	Vander Jagt
Mitchell (NY)	Robinson	Vento
Moakley	Rodino	Walgren
Mollohan	Roe	Wampler
Moore	Rose	Washington
Morrison	Rosenthal	Watkins
Murphy	Roybal	Weber (OH)
Myers	Rudd	Weiss
Natcher	Russo	White
Neal	Sabo	Whitehurst
Nelson	Santini	Whitley
Nichols	Sawyer	Whitten
Nowak	Scheuer	Williams (MT)
O'Brien	Schumer	Williams (OH)
Oakar	Seiberling	Wilson
Oberstar	Shamansky	Wirth
Obey	Shannon	Wolpe
Ottinger	Shelby	Wright
Panetta	Skeen	Wyden
Pashayan	Skelton	Yates
Patman	Smith (IA)	Yatron
Patterson	Smith (NE)	Young (AK)
Pease	Smith (NJ)	Young (MO)
Pepper	Smith (PA)	Zablocki
Perkins	Solarz	Zeferetti
Petri	St Germain	
Peyser	Stark	

NAYS—133

Anthony	Hall, Sam	Nelligan
Archer	Hammerschmidt	Oxley
Ashbrook	Hansen (ID)	Parris
Bailey (MO)	Hansen (UT)	Paul
Beard	Hartnett	Porter
Bereuter	Hendon	Pursell
Bethune	Hiler	Ritter
Bliley	Hillis	Roberts (KS)
Brown (CO)	Holt	Roberts (SD)
Burgener	Hopkins	Roemer
Carney	Hughes	Rogers
Chappie	Jacobs	Roth
Cheney	Jeffries	Roukema
Clinger	Jenkins	Rousselot
Coats	Johnston	Schroeder
Collins (TX)	Jones (OK)	Schulze
Courter	Kramer	Sensenbrenner
Craig	Lagomarsino	Shaw
Crane, Daniel	Leath	Shumway
Crane, Philip	LeBoutillier	Shuster
Daniel, R. W.	Lee	Siljander
Dannemeyer	Lent	Smith (AL)
Daub	Levitas	Smith (OR)
Derwinski	Lewis	Snowe
Dickinson	Livingston	Snyder
Donnelly	Loeffler	Solomon
Dornan	Lott	Spence
Dreier	Lowery (CA)	Stangeland
Edgar	Lungren	Staton
Edwards (OK)	Madigan	Stenholm
Emerson	Marriott	Stump
Evans (DE)	Martin (IL)	Tauke
Evans (GA)	Martin (NC)	Thomas
Evans (IA)	Martin (NY)	Trible
Fiedler	McCloskey	Walker
Fields	McCollum	Weaver
Fountain	McDonald	Weber (MN)
Goldwater	McEwen	Whittaker
Goodling	McGrath	Winn
Gradison	Michel	Wolf
Gramm	Molinari	Wortley
Gregg	Montgomery	Wylie
Grisham	Moorhead	Young (FL)
Gunderson	Mottl	
Hagedorn	Napier	

NOT VOTING—39

Bolling	Fascell	Marks
Broomfield	Florio	McCurdy
Chisholm	Ford (MI)	McDade
Clausen	Fowler	McKinney
Clay	Gray	Minish
Conyers	Harkin	Mitchell (MD)
Cotter	Horton	Moffett
Crockett	Jeffords	Murtha
Davis	Jones (NC)	Quillen
DeNardis	Kemp	Rangel

Richmond	Schneider	Stanton
Rostenkowski	Sharp	Volkmer
Savage	Simon	Waxman

□ 1850

The Clerk announced the following pairs:

Mr. Richmond with Mr. Broomfield.
Mr. Simon with Mr. Horton.
Mr. Rangel with Mr. Quillen.
Mr. Florio with Mr. Clausen.
Mr. Crockett with Mr. DeNardis.
Mrs. Chisholm with Mr. Davis.
Mr. Jones of North Carolina with Mr. Kemp.
Mr. Conyers with Mr. Jeffords.
Mr. Ford of Michigan with Mr. McDade.
Mr. Fowler with Mr. McKinney.
Mr. Mitchell of Maryland with Mrs. Schneider.
Mr. Rostenkowski with Mr. Sharp.
Mr. McCurdy with Mr. Clay.
Mr. Minish with Mr. Fascell.
Mr. Gray with Mr. Moffett.
Mr. Volkmer with Mr. Waxman.
Mr. Harkin with Mr. Savage.

Messrs. MADIGAN, SNYDER, LAGOMARSINO, SHUMWAY, MONTGOMERY, and ANTHONY changed their votes from "yea" to "nay."

Mr. PASHAYAN and Mr. ROE changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to consider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON NATURAL RESOURCES, AGRICULTURE RESEARCH, AND ENVIRONMENT OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Natural Resources, Agriculture Research, and Environment of the Committee on Science and Technology be permitted to sit during the 5-minute rule tomorrow, Friday, July 31, 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us, is this for testimony only or what? Is the gentleman's committee marking up a bill?

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman.

Mr. SCHEUER. We will not be considering legislation. We are taking testimony.

Mr. ROUSSELOT. Taking testimony only?

Mr. SCHEUER. Exactly.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4209, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION, 1982

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 187 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 187

Resolved, That during the consideration of the bill (H.R. 4209) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1982, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 4 through page 4, line 7; beginning on page 4, line 14 through page 5, line 3; beginning on page 6, line 5 through page 7, line 8; beginning on page 7, line 21 through page 9, line 15; beginning on page 14, lines 13 through 24; beginning on page 16, line 1 through page 17, line 2; beginning on page 17, line 22 through page 18, line 18; beginning on page 21, line 1 through page 22, line 14; beginning on page 24, lines 6 through 17; beginning on page 25, lines 9 through 18; beginning on page 27, line 1 through page 29, line 9; beginning on page 33, line 4 through page 35, line 4; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6 of rule XXI are hereby waived: beginning on page 6, line 5 through page 7, line 8; and beginning on page 21, lines 1 through 16. During the consideration of said bill under the five-minute rule, title I shall be considered as read and open to amendment at any point.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. BEILENSON. Mr. Speaker, House Resolution 187 waives points of order against certain provisions of H.R. 4209, the Department of Transportation and Related Agencies Appropriation Act of 1981. The rule does not provide for the bill's consideration since general appropriations measures are privileged. Also, the time devoted to general debate will be determined by unanimous consent and the bill itself will be open to amendment.

The rule waives points of order against certain sections of the bill under clause 2 of rule XXI—prohibiting unauthorized appropriations and legislation in an appropriations bill—and clause 6, rule XXI—prohibiting reappropriation. The precise sections for which waivers are recommended are fully stated in the rule. The waivers of clause 2 are necessary largely because authorizing legislation for the programs involved has not yet been enacted into law. For most if not all of the programs needing waivers, however, such authorizing legislation is under active consideration at some stage of the legislative process. In addition, the rule waives clause 2 against several provisions constituting legislation in an appropriations bill.

Clause 6 waivers are necessary because in appropriating for two programs, FAA operations and urban discretionary grants, the bill transfers unexpended funds from another account.

Finally, the rule provides that the lengthy first title of the bill be considered as read and open to amendment at any point.

Mr. Speaker, H.R. 4209 contains essential appropriations for Department of Transportation programs in airport and airway development, urban and rural mass transit, Amtrak, and interstate highway development. It will fund several independent agencies and commissions, and continue the Architectural and Transportation Barriers Compliance Board. This bill is below both administration and congressional spending targets.

I urge my colleagues to begin consideration of this important legislation by adopting the rule.

□ 1900

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, the gentleman, in his statement, stated that the waivers in the rule also pertain to the rule that prohibits legislating in an appropriations bill. I wonder if the gentleman is able to identify those provisions which will be legislation in the appropriations bill that otherwise would be out of order?

Mr. BEILENSON. The gentleman can and will be happy to identify those provisions. It will take 4 or 5 minutes, if the gentleman would like to hear them.

Mr. LEVITAS. If the gentleman could furnish me a copy of them, that would be all right.

Mr. BEILENSON. I would be happy to furnish the gentleman from Georgia (Mr. LEVITAS) a copy.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 187 is a rule allowing timely consideration of H.R. 4209, the Transportation and related agencies appropriations bill for fiscal 1982. The resolution waives points of order that would otherwise lie against specified provisions of the

bill for failure to comply with clause 2 or clause 6 of rule XXI.

Clause 2 of rule XXI prohibits appropriations for any expenditure not previously authorized by law and it also prohibits legislation in an appropriation bill. The waiver provided by the rule is necessary because 21 paragraphs of H.R. 4209 have either not yet been authorized or do constitute legislation. In addition, two paragraphs do constitute a reappropriation, which is prohibited by clause 6 of rule XXI.

The 21 paragraphs are specified in the resolution, and at the appropriate time I will ask unanimous consent to place in the RECORD a brief summary of the provisions of the bill for which waivers of points of order are provided for in this resolution.

In addition to the waivers, which the Committee on Rules granted at the request of the Committee on Appropriations, the rule provides that title I of H.R. 4209 shall be considered as read and open to amendment at any point during consideration of the bill under the 5-minute rule.

Mr. Speaker, we once again find ourselves taking up an appropriation bill for which the necessary authorization bills have not been passed. In this case, there are some eight various authorization bills which have either yet to come to the floor or have yet to be enacted into law. We were told in the Committee on Rules that over 80 percent of the appropriations contained in H.R. 4209 have not yet been authorized.

As to the bill itself, H.R. 4209 appropriates $11.1 billion for the Department of Transportation and eight related agencies and commissions for fiscal 1982.

The amount provided in the bill is almost $2 million under the President's requested budget for these agencies, and the Appropriations Committee report notes that the bill is $567.8 million under the new budget authority target set forth in the first concurrent resolution on the budget.

Mr. Speaker, I do want to take a moment to say that the Committee on Rules received no testimony in opposition to our granting of the rule as requested by the Committee on Appropriations.

The waivers were supported by the ranking member of the Subcommittee on Transportation Appropriations, the gentleman from Pennsylvania (Mr. COUGHLIN). As far as I know, we did not receive any communication from any of the authorization committees relative to our granting of the requested waivers.

Without this resolution, it was pointed out in the Rules Committee meeting, it would make little sense to bring this bill to the floor.

Given the growth of general aviation and need to maintain the highest degree of safety or our airway system, I have severe reservations about the level of service that will be provided to airmen and the traveling public. The chairman of the Subcommittee on Transportation Appropriations assured the Rules Committee that he would continue to reassess the need for service in our smaller communites.

Mr. Speaker, I mention this only to make the point that those of us who have questions about the provisions of the Transportation Appropriations bill, or who would like to offer germane amendments to the bill should support this resolution so that House can proceed to consider the bill.

I include at this point in the RECORD a brief summary of the provisions of H.R. 4209 for which the waivers contained in the rule apply:

PROVISIONS OF H.R. 4209 FOR WHICH WAIVERS OF POINTS OF ORDER ARE PROVIDED FOR IN HOUSE RESOLUTION 187

In Title I, Department of Transportation:

Some or all of the appropriations under the paragraphs for operating expenses; acquisition, construction and improvements; alteration of bridges; reserve training; and research, development, test and evaluation of the Coast Guard are not authorized. Authorization for these items is contained in H.R. 2559, which was reported by the Committee on Merchant Marine and Fisheries on May 19, 1981.

Some or all of the appropriations under the paragraphs for operations; facilities and equipment (Airport and Airway Trust Fund); and grants-in-aid for airports (liquidation of contract authorization) are not authorized. Authorization for these programs is contained in H.R. 2643, which was reported from the Committee on Science and Technology on April 27, 1981, and from the Committee on Public Works and Transportation on May 9, 1981.

Part of the appropriation for operations and research for the National Highway Traffic Safety Administration requires authorization.

The appropriation for rail service assistance, Federal Railroad Administration may technically be subject to a point of order, since it includes language disapproving a proposed deferral.

The appropriation for grants to the National Railroad Passenger Corporation is not authorized. The authorization is contained in H.R. 3568, which was reported by the Committee on Energy and Commerce on May 19, 1981. It is also contained in the Omnibus Budget Reconciliation Act of 1981, H.R. 3982, which passed the House on June 26, 1981.

The appropriations for urban discretionary grants, non-urban formula grants and urban formula grants of the Urban Mass Transportation Administration may technically be subject to a point of order.

Parts of the appropriation for research and special programs, of the Research and Special Programs Administration is not authorized. The authorizations for this item are contained in H.R. 3403 and H.R. 3420. Both of these authorization bills were reported by the Committee on Energy and Commerce and the Committee on Public Works and Transportation on May 19, 1981. H.R. 3420 passed the House on June 1, 1981.

In Title II, Related Agencies:

The appropriation for salaries and expenses of the National Transportation Safety Board is not authorized. The required authorization is contained in H.R. 3404, which was reported by the Committee on Public Works and the Committee on Energy on May 19, 1981.

The appropriations for operating expenses and capital outlay for the Panama Canal Commission are not authorized. Authorization for these items is contained in H.R. 2596, which was reported by the Committee on Merchant Marine and Fisheries on May 19, 1981.

The appropriation for administrative expenses of the United States Railway Association is not authorized. The required authorization is included in H.R. 3559, which was reported by the Committee on Energy and Commerce on June 18, 1981. This authorization is also included in the Omnibus Budget Reconciliation Act of 1981, H.R. 3982, which passed the House on June 26, 1981.

In Title III, General Provisions:

The limitation on obligations for Federal-aid highways contained in section 310 of H.R. 4209 may technically be subject to a point of order, since it contains a formula for distributing the funds under the limitation. This language is virtually identical to the language contained in H.R. 3982, the Omnibus Budget Reconciliation Act of 1981.

In addition, the bill contains two paragraphs that do constitute a reappropriation as follows: In Title I, operations of the Federal Aviation Administration (Airport and Airway Trust Fund); and urban discretionary grants of the Urban Mass Transportation Administration.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I might say at the outset that the gentleman from Pennsylvania has some objections to this particular rule, but it is not my intention to ask for a vote on the rule, and I cannot speak for anyone else, but I do not intend to ask for a vote.

The point that I want to make about the rule is the same one that I made about several rules as they have come to the floor; that is, that we are providing waivers for 60 and 70 percent of the spending that is in these bills. We are doing so because they have not been properly authorized by the committee. I understand the reason why the Rules Committee is going through the process.

The gentleman from Missouri (Mr. TAYLOR) has offered a very good explanation for it. It still leaves us in the bind, though, that we are continuing to appropriate in the House without proper authorizations, and that is what is being waived.

We had an explanation in the debate just previous to this on the rules that this does not really matter because we all have the ability to amend the bills that come before us, the appropriations bills. I will say to the Members that is a very interesting argument because everybody who has ever offered an amendment to an appropriations bill knows that our amendments are

subject to points of order. Therefore, we have a problem each time we come and try to do something substantive in an appropriations bill. We are subject to the point of order. It is exactly those points of order that are being waived in these rules as time after time we approach the rules on the floor.

I would hope that we would again take a look at this rule and realize that on so many of the points, on nearly 60 percent of the spending that is in this bill, it has virtually waived points of order. The House does not have an opportunity to work its will.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, it causes me great distress, obviously, to disagree with my very distinguished friend—and he is my friend—the gentleman from Pennsylvania (Mr. WALKER). It distresses me, too, to have to ask for waivers of all of these provisions that are unauthorized in this Transportation appropriations bill. But the fact is, if we are going to have any orderly process of Government, if we are going to try and proceed with funding the various agencies that we have in the Federal Government, we are really left with no alternative but to go to the Rules Committee and ask for this kind of a rule.

I do not like that either. But if we are going to proceed, if we are going to meet our September 15 deadlines, if we are going to have appropriations bills and not have agencies operating under continuing resolutions all the time, we really have to follow this process. It is a difficult process.

Mr. WALKER. I thank the gentleman for his statement. I think some of what I am doing is being interpreted as criticism of the Rules Committee or criticism of the Appropriations Committee. Basically, what I think I am criticizing is the procedures we are operating under around here.

I do want to make the point that it is not my intention to in any way criticize the Appropriations Committee or the Rules Committee. What I am basically criticizing is the fact that we are not able to even operate under our own procedures around here.

□ 1910

Those procedures were put in place for a purpose. That particular purpose was to assure the orderly consideration of the substance of bills and the substance of issues. When we go astray from that, we tend not to consider the substance of many of these programs, and I think that is wrong. It is not meant as a criticism of the committees involved. It is meant as a criticism of the process. Maybe the process needs to be looked at.

Mr. COUGHLIN. I appreciate the gentleman's intentions.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ROBERT MOSES: MAN OF VISION AND IDEAS, 1888–1981

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, it is indeed with great sadness that I rise today to pay tribute to Robert Moses, a man who will long be remembered as one of the State of New York's exceptional public servants, who passed away in New York yesterday at the age of 92. In honor of his life, I would like to take this opportunity to call to the attention of my colleagues in the House the work of Robert Moses, an individual whose impact on the shape and scope of the State of New York, particularly New York City, will never be equaled.

Picture if you will, the city of New York without Lincoln Center, Jones Beach State Park, the United Nations, Shea Stadium, the 1964–65 World's Fair Grounds, and the New York Coliseum. Try to imagine flying into New York City this afternoon and being informed that there is no Verrazano Narrows Bridge connecting Brooklyn and Staten Island, no Queens Midtown Tunnel into Manhattan, no Bronx Whitestone Bridge, no Long Island, Cross Bronx, or Major Deegan Expressways. Where would a "I Love New York" commercial be without one of those glorious State parks in the background?

The massive and remarkable projects I have just listed are only the tip of the iceberg as far as the contributions of Robert Moses were to New York State in his 50-year career. A man of vision, energy, and strength, reflected in his projects, Robert Moses' accomplishments include the development of 75 State parks, the building of 11 bridges, 35 major roads totaling 481 miles of highways, and increasing the number of city playgrounds. He built powerplants and public housing developments, noted social philosopher and authority on city planning, Lewis Mumford, once saying of Robert Moses, "In the 20th century, the influence of Robert Moses on the cities of America was greater than that of any other person."

The mark of a great man is that long after he has left us he still remains a part of our lives. So it is with Robert Moses, his works and ideas will forever remain standing and strong, durable and timeless. To his family and friends who mourn his passing they surely must be conforted in the knowledge that his State and his people will long appreciate all that he did for them, and I offer them my prayers in their time of mourning.

● Mr. GREEN. Mr. Speaker, it was with sadness today that I learned of the death of Robert Moses at the age of 92. Probably no single person has changed the landscape of New York as much as Robert Moses. His imprint on New York City has also served to influence the shape of many other cities in the United States.

As Paul Goldberger, the architectural reporter for the New York Times, observed in this morning's edition.

Robert Moses was, in every sense of the word, New York's master builder. Neither an architect, a planner, a lawyer nor even, in the strictest sense, a politician, he changed the face of the State more than anyone who was.

Mr. Moses held many different appointed posts from 1924 until 1968 in the government of New York State. During this period he often commented that, "The important thing is to get things done." Hundreds of bridges, tunnels, roads, State parks, Lincoln Center, the New York Coliseum, Co-op City in the Bronx, Shea Stadium, and the 1964–65 New York World's Fair in Queens and the United Nations Building in my district remain monuments today to Robert Moses' unique ability to get things done.

I join my colleagues in the U.S. Congress in sending my condolences to this remarkable man's family.●

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and public service of the late Robert Moses.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NATIONAL BLINDED VETERANS RECOGNITION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 64) designating August 13, 1981, as "National Blinded Veterans Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MONTGOMERY. Mr. Speaker, reserving the right to object—and I will not object—I do so for the purpose of providing the chairman of the committee the opportunity to explain this resolution.

Mr. GARCIA. Mr. Speaker, if the gentleman will yield, there are many veterans who have served in our Armed Forces, who, because of disabilities incurred during that period of time, have suffered probably the severest of all disabilities, and that is blindness. These veterans, as far as we are concerned, are deserving of national recognition. I would hope that this joint resolution, which has been cosponsored by well over the necessary 218 Members, could be favorably acted upon.

Mr. MONTGOMERY. Further reserving the right to object, Mr. Speaker, I appreciate the gentleman giving that explanation.

Mr. Speaker, I am delighted this afternoon to have my bill. Senate Joint Resolution 64, designating August 13, 1981, as "National Blinded Veterans Day," before my colleagues for approval. I commend the gentleman from New York and the members of his committee for the fine work on this measure.

I was pleased to introduce this measure in behalf of our Nation's blinded veterans and to work closely with the Blinded Veterans Association for its success. That group has worked very hard to help secure the requisite number of cosponsors, and I applaud them for their hard work and perserverance. I also thank the 237 of my colleagues who have joined me in making this day possible.

I strongly feel this special recognition is in order for thousands of Americans who served their country well. It is estimated that there are over 50,000 blinded veterans in the United States and many of them lost their sight while in the service of their country. The price they have paid to preserve the security and freedoms that we hold so dear has been immense. Certainly, they are deserving of this national recognition.

Senate Joint Resolution 64 was carefully planned to coordinate the designation of the national day with the issuance of a commemorative stamped envelope with a braille overprint honoring blinded veterans. Additionally, the Blinded Veterans Association will hold its annual national convention here in Washington, D.C. during this time. On August 13 they plan a special service honoring America's war dead at Arlington National Cemetery. It is especially fitting that the Congress also honor our blinded veterans by declaring that day as National Blinded Veterans Day.

Thank you.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 64

Whereas there are thousands of Americans in the United States today who, as a result of service in the military forces of their country, incurred the catastrophic disability of blindness;

Whereas, despite the extreme severity of their disability, most of these veterans have received rehabilitation and have returned to and continue to lead useful and productive lives; and

Whereas the sacrifices and contributions that these veterans have made and the service rendered by the many veterans who later suffered blindness from nonservice related causes are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 13, 1981, is designated as "National Blinded Veterans Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups and organizations to set aside this day to honor the sacrifices and service of blinded veterans in an appropriate manner.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RECOGNITION DAY FOR NURSES

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 263) to designate May 6, 1982, as "National Recognition Day for Nurses", and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Mr. Speaker, reserving the right to object—and I shall not object—I do so in order to give the gentleman from New York (Mr. GARCIA) an opportunity to explain for the record the purpose of the joint resolution.

Mr. GARCIA. If the gentleman will yield, Mr. Speaker, nursing men and women have provided significant contributions to the health care of our Nation's citizens for more than 100 years, not only in hospitals, but in nursing homes, clinics, private-duty nurses, and many other places. Nursing is a highly technical, sophisticated, and exacting science.

I might add, Mr. Speaker, that House Joint Resolution 263 has been cosponsored by more than 218 Members of this House.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 263

Whereas nursing women and men have provided significant contributions to the health care of our Nation's citizens of all ages, sex, and creeds for more than one hundred years;

Whereas nurses provide care in hospitals, nursing homes, extended care facilities, clinics, rehabilitation hospitals, physicians' offices, private duty nursing, and industrial nursing;

Whereas nurses' skills and knowledge provide disease and injury prevention, and aim toward restoration of health;

Whereas nurses strive to provide comfort, solace, and education to those entrusted to their care;

Whereas nursing is a highly technical, sophisticated, and exacting science: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate May 6, 1982, as "National Recognition Day for Nurses", and to call upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on Senate Joint Resolution 64 and House Joint Resolution 263 just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

IMMIGRATION STATEMENT

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, the President today released his proposal for a new immigration policy. I find some of his recommendations disturbing. Last week, I made a statement on the floor of the House concerning my views on proposals made by the Presidential task force on immigration. I also wrote a letter to Mr. Reagan explaining my position. The President

apparently has decided to accept the proposals made by the task force. I, again, must respectfully disagree with Mr. Reagan regarding certain aspects of his new policy.

The President has proposed a legalization program for undocumented aliens who were here before January 1980. But part of this legalization program prohibits newly legalized immigrants from bringing in their families. This proposal is unfair. It is unfair to ask these families to begin a new life without the support and comfort of their families. It is equally unfair to keep these people out of the mainstream of American life for a 10-year period. According to the President's program their resident status will be reviewed every 3 years for a 10 year period. This group of newly legalized immigrants is likely to become alienated from the American system if too many restrictions are placed on them.

An experimental guest worker program has also been proposed. I am afraid the administration may be establishing a whole new underclass with this proposal. It seems unfair to take these individual's labor without granting them the legal rights of a permanent resident.

These are just a couple of the difficulties I have with the President's new immigration policy. Of course, there are no clear answers to the problem. But that is no excuse to propose a policy that is not completely fair and which attempts to get political mileage at the expense of poor immigrants. After all, most Americans are descended from poor immigrants. That should be reason enough to give these new immigrants a fair deal.

□ 1920

GENERAL LEAVE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Oklahoma (Mr. JONES).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the special order tonight of the gentleman from California. (Mr. MCCLOSKEY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

ROBERT MOSES

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. DOWNEY. Mr. Speaker, every American who has ever driven along the parkway approaches to New York or played in its parks or on its beaches, or crossed its bridges, or visited the World Fairgrounds at Flushing Meadow Park, has reason to be grateful to Robert Moses. A dedicated and powerful public servant, Robert Moses did more than any other individual to change the appearance of New York City. He devoted over 40 years to the great public works programs which shaped the nature and character of New York. With his bridges and his parkways he transformed the areas lying on the outskirts of New York City from country counties into functioning parts of the larger metropolis. He served as the city park commissioner and city construction coordinator under six New York State Governors and six New York City mayors. His colossal dreams and futuristic visions gave to the people of New York an enduring legacy of parks, beaches, bridges, and highways.

In his youth, a friend said of him, "He is burning up with ideas, just burning up with them." Robert Moses brought imagination, innovation, and strong will to each of his endeavors. In 1914 Moses proposed reform of the city employment system, basing job acquisition on merit rather than on patronage. He was also concerned with improving the quality of city life down to the slightest detail. Little conveniences, such as building shelters in Central Park so that mothers would not need to go all the way home to change their children's diapers, were consistent and distinguishing trademarks in any Moses plan.

And yet Robert Moses is best remembered for his monumental public projects. He built such major landmarks as Lincoln Center, the New York Coliseum, Shea Stadium, and the United Nations. Each of these projects has helped establish New York as one of the great cultural centers of the world.

In his continued commitment to the New York community, Robert Moses built 658 playgrounds and filled New York parks with zoos, skating rinks, boathouses, golf courses, and bridle paths. He built 673 baseball diamonds and 288 tennis courts. In this age of conservation, Moses should be recognized for being a step ahead of his time; he utilized all that New York had to offer. Moses hired trucks to cart the city's garbage to its marshes, then covered over the filled wasteland with earth and grass seed, thereby creating additional park lands. Barges carried literally tons of white sand from the ocean floor to fill the mudflats of New York City creating additional beaches.

Perhaps the two most significant accomplishments of Robert Moses were his expansion of the highway system and his proliferation of bridges connecting all the boroughs of New York. He built every major highway in the New York City area with the exception of the East River Drive. To name just a few: the Major Deegan Expressway, Van Wyck Expressway, the Long Island Expressway, the Brooklyn-Queens Expressway, the Cross-Bronx Expressway, Harlem River Drive, West Side Highway, Northern and Southern State Parkways, Hutchinson River Parkway, Grand Central Parkway, Saw Mill River Parkway, and Sagtikos Parkway. These roads, now crisscrossing the New York metropolis, increased commuter access to the boroughs and prompted the growth of the suburbs. This gave rise to the expansion of middle-class family life on Long Island.

The Bronx is the only borough of New York City that is physically part of the mainland of the Nation. Since 1931, Moses built seven bridges, interconnecting the different boroughs. Commuting daily from Babylon, Moses was acutely aware of the problems facing suburban travelers.

Robert Moses almost singlehandedly built Long Island. In addition to all the highways and bridges he built, he developed Long Island's beach front and parkland potential. He transformed Jones Beach from an undeveloped and desolate sandspit to an extensive recreational facility. Robert Moses had the foresight to develop what some consider the world's greatest ocean front resort area. Among his creations were Sunken Meadow Beach, Fire Island, Orient Point, Montauk, Belmont Lake State Park, Captree, and Heckscher State Park.

He was by far America's master builder. He paved the way for the development of public parks, beaches, and extensive highway systems which are currently the fabric of our Nation. In transforming a single city, and setting a nationwide example for public works, Robert Moses influenced the way an entire country lives and works. At this point I include the following:

NOTES ON ROBERT MOSES FROM THE INTRODUCTION OF "THE POWER BROKER" BY ROBERT CARO

(1) Yale graduate (Phi Beta Kappa).

(2) City Park Commissioner and City Construction Coordinator for NYC under Robert F. Wagner, Jr., Jan. 1, 1954 appointed. Held this position under previous mayors, back to LaGuardia.

Under Wagner not also on Planning Commission (conflict of interest; approves plans he would himself be submitting) until he threatened Wagner with his resignation (example of his power).

(3) "He possessed an iron will that put behind his solutions and dreams a determination to let nothing stand in their way."

(4) Dedicated to a life of public service—"vision of such breadth that he was soon dreaming dreams of public works on a scale that would dwarf any yet built in the cities of America." "burning with ideas . . . for great highways and parks circling the city's waterfront."

Increase the quality of life for city folks—shelters in Central Park—mothers can change kids' diapers without going home.

(5) Reforms—city jobs in NY based on merit, not patronage. 1914 administration of Mayor John Purroy Mitchel. Every aspect of city employees' performance became subject to numerical graded.

After Tammany crushed him in 1918, his idealism was gone. He came to realize that his ideas (dreams) were useless without power to transform them into reality. Brought to task imagination, iron will, and determination.

(6) Remade shoreline of NYC—developed the muck beneath the rivers. Built Major Deegan, Van Wyck, Sheridan, Bruckner, Gowanus, Prospect, Whitestone, Clearview, Throgs Neck, Cross Bronx, Brooklyn-Queens, Nassau, Staten Island, and Long Island Expressways. Also Harlem River drive and West Side Highway.

Only major road he did not build in NY is the East River Drive. He shaped NYC; with major roads for trucks and autos better accessibility to and from NYC. This helps determine where and how a city's people live and work.

(7) Bridges—only one borough of NYC (the Bronx) is on Mainland U.S., bridges link the island boroughs that form NYC. Since 1931, 7 bridges built—Triborough, Verrazano, Throgs Neck, Marine Parkway, Henry Hudson, Cross-Bay, and Bronx-Whitestone.

(8) Urban renewal—tall apartment houses; college lecture halls (Fordham, L.I. University); Lincoln Center; N.Y. Coliseum; Shea Stadium; Co-op City (the Bronx); cleared obstacles to enable NYC to house U.N. on East River.

Playgrounds—658 built; filled parks with zoos, skating rinks, boathouses tennis houses, golf courses, bridle paths; built 288 tennis courts and 673 baseball diamonds.

Trucks hauled the city's garbage to its marshes. When filled, covered over with earth and lawn (became parks).

Barges brought white sand dredged from the ocean floor, piled on mudflats to create beaches.

(9) Parkways—Mosholu, Hutchinson River, Saw Mill River, Sprain Brook, Cross County (Westchester); Grand Central Belt, Laurelton, Cross Island, Interborough, Northern State, Southern State, Wantaugh, Sagtikos, Sunken Meadow, and Meadowbrook Parkways.

Some of these run down to the South Shore of Long Island across the Great South Bay to Jones Beach ("barren, deserted, windswept sandpit when he first happened upon it in 1921."). "transformed into what may be the world's greatest ocean-front park and bathing beach."

(10) L.I. parkways led to parks and beaches—Sunken Meadow, Hither Hills, Montauk, Orient Point, Fire Island, Captree, Bethpage, Wildwood, Belmont Lake, Hempstead Lake, Valley Stream, and Hecksher.

(11) Dam along St. Lawrence River.

(12) 34 years (1934-1968) six governors and six mayors (City Commissioner).

(13) America's "most prolific physical creator . . . America's greatest builder."

In 1968 dollars, he built works costing $27 billion. "No other public official in the history of the U.S. built public works costing an amount even close to that figure."

More significant is when he built it. Put his mark on all the cities of America. In the 1920's 29 states did not have a single state park (six states had only one state park); parks outside of cities generally were limited in number and size (not his).

Before Robert Moses, the wealthy bought the choicest areas on L.I.—beaches and meadows. Hardly any public space left.

End of his leadership:

5,799,957 acres of state parks in U.S.

2,567,256 acres of state parks in NY State.

Forty-five percent of all state parks in the U.S. were in NY State

(14) Parks, highways and urban renewal—Moses was a formative force in all three fields in the U.S. Innovator.

ALL THINGS GREAT AND SMALL FROM "THE POWER BROKER" INTRODUCTION

CITING

At Yale he was a member of the swim team and wrote for Yale literary Mag. Served as Park Commissioner and City Construction Coordinator. Robert A. Caro wrote that Robert Moses "possessed an imagination that leaped unhesitantly at problems insoluble to other men."

In his youth a friend said of him, "He is burning up with ideas, just burning up with ideas."

In 1914 Moses devised a civil service system for the city of New York based on merit rather than patronage. He fought for three years for passage of his system only to be stopped cold by the corrupt powers that be. Caro describes this pre-WWI Moses as "the optimist of optimists, the reformer of reformers, the idealist of idealists."

Caro describes Moses as a powerful man with "imagination, iron will and determination."

"Robert Moses shaped a city and its sprawling suburbs—and to an extent that would have astonished analysts of urban trends had they measured the implications of his decades of handiwork, influenced the destiny of all the cities of twentieth century America."

"Robert Moses shaped New York"

He conceived and directed a program that land-filled over fifteen thousand acres—thus changing the very boundaries of the City of New York.

With the single exception of the East River Drive, Robert Moses, built every major road in the city which "determines how a city's people live and work."

The author cites by name 16 expressways that he built.

Only one borough of the City of New York is on the mainland. Since 1931 seven bridges were built crossing huge expanses (the author lists these bridges) Moses built every single one of these bridges.

The decisions of Robert Moses created Lincoln Center ("the world's most famous, costly and imposing cultural center"), the New York Coliseum, Shea Stadium. He was also the creative force in erecting the private housing developments of Stuyvesant Town and Peter Cooper Village.

"Moses cleared aside the obstacles to bringing New York the closest thing to a world capital the planet possesses, and he supervised its construction."

"When Robert Moses began building playgrounds in NYC there were 119. When he stopped there were 777." Under his direction, thousands of people during the depression built zoos, skating rinks, bridle paths, golf courses, 288 tennis courts and 673 baseball diamonds

"In N.Y.C., for 34 years, Robert Moses played a vital role in establishing the city's priorities."

There are 416 miles of parkways, closed to trucks, leading into the suburbs. "Robert Moses built every mile."

Including only those public works which he personally conceived and completed, from first vision to ribbon-cutting—Robert Moses "built public works projects costing, in 1968 dollars, twenty-seven billion." Needless to say no other single individual in American history comes at all close to that figure. "He was America's greatest builder."

RESTORATION OF MINIMUM BENEFIT

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, today I have introduced legislation to restore the minimum benefit for current recipients. In floor discussions of this issue recently, I pledged that as chairman of the Subcommittee on Social Security I intended to press for this action. This legislation would restore the original Ways and Means Subcommittee unanimous position calling for an elimination of the minimum social security benefit on a prospective basis only, beginning next year. It would restore this benefit to some 3 million current recipients who currently stand to lose it next spring under action in the reconciliation bill.

No member of the Ways and Means Committee, Republican or Democrat, offered in committee the administration proposal to eliminate the minimum benefit for those currently receiving it. A provision similar to that of the administration was included, however, in the Gramm-Latta floor amendment to reconciliation and had also been passed by the Senate. This provision provided for a recalculation of benefits even for those who had been retired for some years—some 3 million current social security recipients in all.

I do not think that very few, if any Members of the House truly intended to reduce in this manner social security benefits of current recipients. The action is harsh and will cause great consternation. It will not help to restore confidence in the social security program, and it is not necessary for the solvency of the program as there are other avenues available to us. Because the matter was passed by both House and Senate, however, it could not be corrected in conference.

There has been much misinformation about the minimum benefit. Arguments have been made that it is an unearned benefit which largely goes to individuals who either will be picked

up by welfare or who have other resources available to them.

In fact, 76 percent of current minimum beneficiaries are workers—in other words, they have paid at least some taxes themselves for this benefit. It is true that they receive a greater amount than the benefit formula actually would provide, but they have paid some amount for this benefit.

In fact, we know very little about the outside resources of these individuals. A widely cited GAO report concerning the public pension and outside income of minimum beneficiaries really was a very small sample of newly entitled minimum beneficiaries and made no attempt to make any conclusions about the makeup of individuals already receiving the minimum. The GAO report recommends the prospective only elimination of this benefit, which is what the committee had done in its own action.

We do know that approximately 360,000 minimum beneficiaries have public pensions, but many of these pensions are expected to be quite small.

We do know that 200,000 are students, mostly survivors of deceased workers.

We do know that 78 percent are over age 65; 50 percent are over age 70; 500,000 are over age 80; and 80,000 are over age 90.

And, perhaps most importantly, we also know that there are 500,000 minimum beneficiaries currently eligible for welfare who have refused to apply for welfare benefits. We also know that the administration's own savings figures assume that no more than one-quarter of those who are now or would become eligible for welfare will apply for welfare benefits. If all those eligible did apply for welfare, the budget savings in the administration provision would be cut by up to one-half.

In short, a retrospective elimination of the minimum benefit asks individuals who possibly lived through the Great Depression without going "on the dole" to do so now at a very late stage in their lives. It assumes that individuals long retired and now 70, 80, and 90 years of age will somehow be able to find other resources to live on when their longstanding social security benefits are abruptly reduced.

I think that this is wrong and I intend to push for a correction of this action and to ask for cosponsors in this effort.

REPUBLICAN KEMP ANNOUNCES SUPPORT FOR VOTING RIGHTS AND THANKS HENRY HYDE FOR HIS LEADERSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

● Mr. KEMP. Mr. Speaker, in recent months we have seen a major debate in this House, and throughout the country, over whether or not the Voting Rights Act of 1965 should be extended. Today I would like to announce my support for renewal of this landmark civil rights legislation.

When Congress passed the Voting Rights Act in 1965, its avowed purpose was to end discriminatory election law practices, and insure that the fundamental right of every American citizen to vote for his or her political representatives was protected and preserved. In the 15 years that followed, during which the law was twice extended, we have seen black voter registration leap from 32 to 64 percent in Louisiana, 23 to 58 percent in Alabama, 7 to 67 percent in Mississippi. The number of black elected officials in the States covered by the act has multiplied by 1,162 percent in the last 12 years. This is why I voted for extension in 1975, and why I support it today.

While many people have chafed, understandably enough, at the requirement that voting changes be "precleared" with the Justice Department, the fact remains that only 2.3 percent of the nearly 35,000 proposed changes submitted over the years have met with an objection from the Justice Department. And in return we have reaped the enormous benefit of seeing more and more black Americans take a leading role in our political process.

I have come to this decision in favor of extending the Voting Rights Act after discussing the issue with civil rights leaders, attorneys, and leading members of my own community in Buffalo. I have also been very impressed by the experience of my good friend and colleague, Mr. HYDE. As ranking Republican member of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, he initially supported ending the preclearance provision of the Voting Rights Act. After hearing days of testimony from witnesses on both sides, he changes his mind and decided that the case for extending the law was compelling. Let me say that I respect both his knowledge and ability in this field, and also his great personal integrity. It is not easy to admit publicly to a change of mind.

Representative HYDE explained his reasons for supporting the Voting Rights Act in a powerful and moving editorial in last Sunday's Washington Post. I commend this article to the attention of all my colleagues.

The article follows:

[From the Washington Post, July 26, 1981]

WHY I CHANGED MY MIND ON THE VOTING RIGHTS ACT

(By Henry J. Hyde)

The 15th Amendment, ratified in 1870, provides that "The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude." As with so many sweeping promises, it wasn't until the Voting Rights Act was passed in 1965 that these voting guarantees began to have substantial impact. The act made illegal certain tests (literacy, property, good character, etc.) that were used to deny blacks access to the electoral process, but it went even further: it required that those areas that had utilized such tests or devices (primarily the Old Confederacy) now "pre-clear" any proposed changes in their election laws with the Department of Justice or, alternatively, secure approval for them from the U.S. District Court in the District of Columbia. This extreme measure of requiring Justice Department pre-clearance of election law changes was held constitutional by the Supreme Court in a subsequent test.

But since pre-clearance applies only to a few "selected" areas of the country, and because in 1970 and again in 1975 Congress chose to prolong its mandate by extending a virtual prohibition against escape from the act's coverage (or "bail-out") until Aug. 6, 1982, the question that now confronts Congress is this: shall we extend the mandatory pre-clearance for these "selected areas" another 10 years (as Rep. Peter Rodino's bill does), or is 17 years in the political penalty box enough?

As the ranking Republican member of the House Judiciary Committee's subcommittee on civil and constitutional rights, I came to this issue with the expressed conviction that, indeed, 17 years was enough, and that if voting rights abuses persisted in these areas, then resort to court action was a sufficient remedy under the act. It was my strong opinion that pre-clearance as an administrative process was an unwarranted intrusion on the federal system—a system that upholds state sovereignty and insists that states and local political subdivisions ought not to be treated as branch offices or agencies of the federal government in Washington.

Other questions troubled me as well—whether the ends of justice on such an important issue are truly served by bypassing the federal courts and resorting to the expeditious and even summary process of administrative pre-clearance. What about politics? Doesn't this power in the hands of employees of the Justice Department lend itself to politicization?

All of these considerations helped shape my initial hostility to another 10-year extension and my preference for substituting access to our federal court system as the proper corrective for voting rights abuses.

Then came the hearings. Witness after witness testified to continuing and pervasive denials of ready access to the electoral process for blacks. As I listened to testimony before the subcommittee, I was appalled by much of what I heard.

Witnesses in Montgomery, Ala., described an atmosphere that was painfully saturated with discrimination. Maggie Bozeman of Aliceville, Ala., complained that in many of the predominantly black counties of Alabama, there is no such thing as "secret" ballot: voters are forced to fill out their ballots on a table, in the presence of white pollwatchers. There are no booths, no curtains, no efforts to provide privacy. She also said that policemen take photographs of persons who attempt to assist illiterate black voters, and that this has a considerable chilling effect.

Sheriff Prince Arnold, of Wilcox County, Ala., testified that, in 1978, 72 federal observers were called in to monitor the elec-

tion, which he won. State troopers were also present. Arnold claimed both were necessary to ensure that black voters were able to proceed safety to the polls. Nevertheless, there was intimidation. Frequently, he said, black voters were turned away or discourged from participating by white polling officials. One such person, Arnold recalled, said, "Old lady, if you can't see, if you can't hear, you should have stayed at home." Witnesses told of "re-identification bills" designed to affect predominantly black counties while sparing white voters the inconvenience.

Michael Brown, field coordinator for the Virginia NAACP, outlined the voter registration procedures in rural areas of Virginia, where many black residents work in the fields during the day. In Pulaski County, he testified, the only place to register is the registrar's office, and then only during regular office hours. In Matthews County, the sole registration facility is in a furniture store, and there is no sign or other notice to indicate that voters may register there. Furthermore, Brown noted that there are "17 cities and counties [in Virginia] where the general registrar's office is open only one day a week" and most of them "are closed during the normal lunch hour." In Emporia, Va., where blacks make up 40 percent of the population, the registrar's office "is closed during some regularly scheduled hours."

In some areas, re-identification of voters can only take place between the hours of 9 a.m. and 4 p.m. City re-identification occurs in one location, and county re-identification in another, some distance away.

Victor McTeer, of Greenville, Miss., noted that the Mississippi delta has the highest concentration of blacks outside of Africa and that there continues to exist a "clear-cut pride on the part of many whites that so few whites could control so many blacks." One state, South Carolina, has a 38 percent black population, but no black state senator.

The cumulative effect of this testimony gradually forced me to several conclusions:

Blacks have made considerable progress toward significant participation in the South's political process since passage of the Voting Rights Act in 1965. For example, Alabama's black registration in 1964 was 23.1 percent, but by 1976 it was 58.1 percent. Greatest progress has been in Mississippi, where only 6.8 percent of blacks were registered to vote in 1964 but 67.4 percent were registered in 1976. In the same time span, South Carolina's 38.8 percent has increased to 60.6 percent, and several major cities have elected black mayors, including Atlanta, Richmond, Roanoke and Birmingham. In the six southern states now covered by the act, there were 156 black public officials; today there are 1,803. Indeed, we are halfway up the mountain—but we have some climbing to do.

Court proceedings, desirable as they are, are too slow and too costly to protect the great number of people—most without adequate resources—who still need protection.

Administrative pre-clearance hasn't always worked, but it has improved things in many areas. It could work even better if the penalty section (Sec. 12) of the act were employed.

The act already, in many respects, has effective nationwide application. For example, under Sec. 3(c), court action can be brought anywhere in the country, and if voting rights abuses can be shown, the court can order pre-clearance as one of its remedial actions.

Those jurisdictions presently covered, in all justice, ought to have available to them a procedure whereby they can seek a judgment from an appropriate federal court upon proving that for the past, say, 10 years they have complied fully with the letter and spirit of the law and hence no longer shall be required to pre-clear their election law changes. This would recognize compliance where it has occurred and provide an incentive to comply where improvement is still needed.

I still believe in the federal system. I regret and resist the accretions of power to the federal government that have occurred in recent years. I want to reverse the flow of power and responsibility back to local governments, as I believe there is a real danger in increasing the authority of the federal government over every aspect of our lives. Concentrations of power have always been dangerous, whether in business, labor or government. They are particularly invidious in government, as history keeps teaching us.

And yet, and yet—who can deny the right to vote is superior even to the right of free speech? What good is all the political rhetoric if you can't express your ideas and values at the polls?

As long as the majestic pledge our nation made in 1870 by ratifying the 15th Amendment remains unredeemed, then its redemption must come first.●

KEEPING WATER DEVELOPMENT ALIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. ROBERTS) is recognized for 5 minutes.

Mr. ROBERTS. Mr. Speaker, today I am introducing legislation to provide for South Dakota water development in lieu of the presently authorized Oahe and Pollock-Herreid projects.

The Pick-Sloan Flood Control Act of 1944 provided for water development in South Dakota to replace over 500,000 acres of prime bottomland inundated by the Missouri River dams. Downstream States have enjoyed the benefits of these dams in the form of flood control and increased navigation. For many reasons, too numerous too mention here, South Dakota has not reaped its share of benefits.

Over the past months, the South Dakota delegation has worked closely with State officials and the Department of the Interior in formulating this bill, recognizing the fiscal realities of today with the commitment made to South Dakota in 1944.

The major features of this bill include: The reauthorization of the WEB pipeline; studies of future water development in South Dakota; and studies of uses for the existing Oahe facilities.

Mr. Speaker, I am hopeful that the Congress will move quickly to compensate South Dakota for the great loss we suffered in agricultural productivity and economic prosperity.

The Pick-Sloan plan of 1944 found four major benefits arising from the construction of the dams; flood control, increased and consistent navigation, hydropower, and irrigation. Upstream States were to receive the low-cost hydropower to operate the replacement irrigation projects. Not 1 kilowatt of Missouri River Basin power has gone to South Dakota irrigation, nor has an irrigation project been built in our State. Downstream States have saved millions of dollars from flood control and established economic stability through the consistent transportation via navigation on the Missouri. The State is now united in its concerns and efforts to receive these benefits.

The Governor and the Board of Water and Natural Resources are working to prioritize the needs of the State and formulate a concise comprehensive State water plan.

The bill I am introducing today is the product of many months of working with the South Dakota congressional delegation, State officials, representatives of local water interests, and the Department of the Interior. The Department has reaffirmed the commitment made to South Dakota in 1944. By working with Secretary Watt's office we have formulated legislation that addresses the needs of South Dakota while recognizing the fiscal restraints of today. I received a letter from the Secretary outlining the administration's support and commitment to South Dakota. It reads as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 10, 1981.

Hon. CLINT ROBERTS,
House of Representatives,
Washington, D.C.

DEAR MR. ROBERTS: This is in response to the letter of April 22 signed by you and the other members of the South Dakota delegation concerning the $1.9 million of fiscal year 1981 funding for the WEB Pipeline (WEB) in South Dakota.

The Appropriations Committees of Congress, in their deliberations on a combination of general supplementals and rescissions in the fiscal year 1981 budget, directed that the $1.9 million for WEB be deferred until the Oahe Unit has been deauthorized. Further, the Committees directed that the project be reauthorized through the Farmers Home Administration and that appropriations be authorized to be made to that organization. Although this action has not affected the Department of the Interior's support for WEB, we are deferring obligation of the funds until these conditions are met.

With regard to other matters of mutual interest, we recognize that the deauthorization of the Oahe Unit is a matter best left to the Congress to decide, but we do not intend to ask for construction appropriations if it is not deauthorized. In addition, we are not opposed to undertaking new studies for South Dakota water resources development, including CENDAK and Governor Janklow's proposal to irrigate 100,000 acres in the James River Basin from the Garrison Diversion Unit.

We look forward to working with you on those matters.

Sincerely,

JIM,
Secretary.

Water development legislation concerning South Dakota must apply to both long range and current problems. I feel that this legislation meets these problems and provides for the future of South Dakota.

First, the bill reauthorizes the WEB rural water development project to provide a clean and consistent water supply to over 2,600 farms and towns located in a semiarid area. Problems arose with the original authorization in the Appropriation Committee over the jurisdiction of the project.

Second, it provides for the study of possible water development in South Dakota. Specifically it explores these four areas: Uses of existing facilities of the Oahe unit valued at over $40 million; revised plans for a Pollock-Herreid unit; study of possible uses of Garrison irrigation returns from North Dakota; and continuing recognition and studies of projects from the State planning mechanisms and procedures.

Third, this legislation provides for the cancellation of the master and supporting security contracts on the original Oahe unit, assuring that the project will not be built in its presently planned form.

Fourth, the bill preserves the benefits indirectly affecting South Dakota water development, the features of the Pick-Sloan legislation of 1944, as amended over the past years. I urge this Congress to follow through with its commitment to South Dakota with passage of this legislation. I have included a copy of the bill to outline its features.

H.R. 4347

A bill to authorize the Secretary of the Interior to proceed with development of the WEB Pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the WEB Rural Water Development Project, authorized by section 9 of Public Law 96-355, is reauthorized.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to proceed with the development of the WEB Rural Water Development Project, consistent with the terms of section 9 (e) of Public Law 96-355, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981, except that such funds shall be made available directly to the WEB Association and shall not be transferred to the Department of Agriculture.

Sec. 2. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a study pursuant to this Act which shall include consideration of—

(1) alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James division, Pick-Sloan Missouri River Basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison Unit, Pick-Sloan Missouri River Basin program, North Dakota;

(3) a modified plan of development for the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri River Basin program, South Dakota, including alternative lands or reduced acreages; and

(4) the potential for development of any other water project or projects proposed by the Governor of the State of South Dakota, in accordance with the policies and priorities of the State, which the Secretary determines may qualify for Federal construction funding under the terms of this section.

(b) In formulation his recommendations to Congress the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri Basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944. In determining the feasibility of projects proposed by the State under this section the Secretary shall use criteria no less favorable than those under which the Oahe Unit, initial stage, was authorized, except that the Secretary may use other criteria with the consent of the State.

(c) The Secretary shall report to Congress the findings of the studies, along with his recommendations for disposition of the Oahe Unit, initial stage, for development of the Pollock-Herreid unit, and for Federal involvement in other projects proposed by the State.

(d) The Secretary may contract with the State to carry out the studies authorized by this section.

(e) The studies performed and the reports made under this section shall be of reconnaisance, appraisal, or feasibility grade as is appropriate to determine whether further action on the development of the Secretary's recommendations is warranted.

Sec. 3. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe Unit, initial stage, and to release any and all funds accumulated by the Oahe Conservancy Subdistrict under the master contract.

(b) Those features of the authorized plan of development for the Oahe Unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2(a)(1) of this Act.

Sec. 4. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Missouri River Basin program pumping power to irrigation projects constructed in South Dakota by Indian tribes or by public entities organized under State law and which have been authorized by the Flood Control Act of 1944 to receive such power. Such power shall be made available at the request of the State of South Dakota or an Indian tribe, regardless of the source of construction funding for such irrigation projects.

Sec. 5. There are authorized to be appropriated $ to carry out the provisions of this Act.

NATIONAL ENERGY POLICY PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, the President has recently sent to Congress the national energy policy plan. The NEPP is an outstanding piece of work because it contains something this country has not seen in a long time: A commitment by the Federal Government to letting the free market take the lead in the development of solutions to our national energy problems.

National energy policy should not be set by Federal planners. It should, as the administration recognizes, instead be determined by millions and millions of individual choices made in a free marketplace. Reliance upon energy supply and demand, unfettered by regulatory controls, will lead to the most appropriate mix of energy resources at prices that are acceptable. The time has come for Government to stop subsidizing energy waste and inefficiency through bad energy regulatory policy, and allow the market to work for Americans as we regain control of our energy future.

Energy is the largest business of Texas. I think the time is appropriate to review our energy situation from the perspective of a State that believes in energy production. Perhaps the one Federal energy regulatory tool that is most negative economic impact is price control. Artificially low or high prices hurt everyone. The recent case of domestic crude oil decontrol is a texbook example of why the removal of price controls is good policy. In response to decontrol, oil well drilling is booming, conservation is increasing, and crude imports are down. There will be 70,000 oil well completions this year, and increase of 12 percent over 1980. These wells would break down into 8,200 new field wildcat completions and more than 1,600 discoveries.

Decontrol largely contributed to a drop in petroleum demand from 18,513,000 barrels per day in 1979 to 16,455,000 barrels per day so far this year. Crude imports are down to 5,368,000 barrels per day this year as compared to 8,389,000 barrels per day in 1979. Put another way, net imports of energy in the first quarter of 1981 were 28.9 percent less than in the first quarter of 1980. Conservation is obviously best achieved through the marketplace; the facts prove that market-directed price shifts have achieved more than Government programs ever could.

Texas energy producers have always been confident that the much-publicized energy resources shortages would disappear if controls were lifted. As if oil decontrol were not enough

proof, look at what has happened under the more liberal prices of the NGPA: 3 years ago, under President Carter, DOE said our gas reserves would be exhausted by the late 1980's. Carter called on gas users to abandon gas and the Congress passed faulty statutes such as the Natural Gas Policy Act and the Fuel Use Act.

Current supply estimates, prepared using realistic data and experience with a free marketplace, are much more optimistic. In the year 2000, there will be in excess of 28 trillion cubic feet of gas available, an increase of 33 percent over the 1979 level of gas supply. The U.S. Geological Survey has just released data that shows an increase of reserves in the Gulf of Mexico Outer Continental Shelf: about 40.2 trillion cubic feet. This is a huge amount of gas that is recoverable if the burden of controls is lifted on domestic natural gas, as has been done with oil.

Decontrol and deregulation should be the cornerstone of American energy policy. Gas is an excellent example why. Over a 5-year adjustment period, natural gas decontrol would reduce U.S. oil imports by 3 million barrels a day; this translates into $40 billion in annual savings. The ultimate irony is that natural gas may actually end up costing more under the NGPA than it would if decontrolled.

Two other energy sources will benefit from less regulation. Coal is perhaps this country's greatest natural energy resource, yet it is currently underused. Because of zero-risk oriented antipollution policies of the past, such as the Clean Air Act, and artifically low prices for other fuels, our abundant coal reserve supplies only one-fifth of our energy needs while oil and gas still account for 75 percent. The United States has 250 billion tons of proven coal reserves; this is the equivalent of 1.37 trillion barrels of oil. A free market with sensible environmental regulations will allow coal to fulfill its potential

Federal lands policy is the second energy resources a reasonable policy of energy development on our vast Federal lands will untie this Nation's hands on energy. It makes no sense to mark "untouchable" lands that contain 85 percent of our oil, 40 percent of our gas, 40 percent of our uranium, and 35 percent of our coal.

The energy industry labors under the most onerous tax environment any business has had to endure. I am amazed at what the industry has achieved despite obstacles Congress and the Federal Government has put in its way. If we are to do what must be done in the next decade, energy businesses must be given a better economic climate to operate in.

The windfall profit tax is the best example of both bad tax and energy policy. Independent producers spend 105 percent of their wellhead revenue drilling 90 percent of U.S. domestic exploratory wells. The billions in windfall profit tax they will pay will reduce the number of wells drilled in the 1980's.

In the first quarter of 1981, 21 of the most important energy companies paid $4.8 billion in windfall profit taxes. This compares to only $400 million in the first quarter of 1980, when the tax was in effect only 1 month. The energy business had to shift to a significantly more hostile economic environment at precisely the time we needed them to produce and explore for domestic energy.

The WPT is one of the largest revenue-raising measures ever passed by Congress. To get an idea of the size of this boondoggle, consider that the WPT is expected to produce $230 billion during the rest of this decade for the Federal Government. The expenses of the Department of Energy during the same time will be about $250 billion internally. We cannot stand by and let U.S. producers subsidize the heavy weight of needless bureaucracy and waste at a time when that money could be spent looking for and producing oil, gas, and coal.

If this country is serious about producing oil, a punitive tax is the worst possible policy, especially since most recoverable oil from now on is going to be expensive and difficult to get to. One very good calculation suggests that 450 billion barrels of oil have been found, while only 100 billion barrels have been produced. Additionally, 30 billion barrels have been proven to exist. If this is true, then there are 320 billion barrels of oil in the ground and recoverable if the economics are favorable. Under these conditions, to tax domestic oil production is to subsidize OPEC imports.

A tremendous amount of work must be done if our national energy goals will be reached. We all know cheap energy is gone. Federal policies must not make industry's job harder than it already will be. For example the cost of drilling continues to go up; in 1981 it will represent a $19.5 billion investment, an increase of $5.7 billion or 41.3 percent from the 1979 total.

Consider what must be done. The American energy industry will make a $297 billion investment in fixed plant by 1990. Between 1980 and 1990, the total expenditures of the U.S. energy industry will exceed $1.1 trillion. Per annum expenditures by 1990 are projected to rise $123 billion, up from $37 billion in 1973, but we will be producing only 25 percent more energy. In other words, it will take more bucks to get only 25 percent more bang. Regulation, control, and taxation should not be allowed to make conditions worse.

In spite of what the energy industry will spend, it is sobering to study its tax forecasts. The taxes paid by 22 of the 25 largest energy companies rose from $20.4 billion in the first quarter of 1980 to $24.6 billion in the first quarter of 1981. Total taxes went up 23 percent while total revenue increased by only 15 percent.

In light of what we are calling on our energy businesses to do, we should put taxes and revenues in perspective. Total taxes in the first quarter of 1981 were 18 percent of total revenue. This proportion represents taxes as being more than 2 times as great as total capital and exploration expenditures; the taxes were 10 times larger than dividends and almost 4 times larger than after-tax profits.

Mr. Speaker, we have a great challenge before us in meeting our country's demand for energy and we have the tool to deal with that challenge—the marketplace. I urge my colleagues to resist legislation which will prevent our country from a sound national energy policy. Instead, the path charted by the NEPP is prudent, realistic, and workable: less-Government, lower taxation, and a faith in the productive capacity of our people.

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MERGER MANIA AND TAKEOVER FINANCING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, as you know, deep concerns exist about the current game being played by the Nation's largest corporations and some international ones as well. These firms are engaged in bidding wars seeking to take over other large firms. The most visible of these involves Conoco. Mobil, Seagrams, and Du Pont have all engaged in a high stakes game to determine who will acquire Conoco.

This international game of monopoly is being fueled by lines of credit from syndicates of the largest banks in the world. U.S. banks are playing a prominent role in developing these lines of credit. These developments suggest that the current restrictive monetary policy is inequitable especially for small business men and women around the country who are starved for credit.

Recently, I wrote to Federal Reserve Board Chairman Paul Volcker expressing my concerns for such use of our scarce credit resources. At that time I strongly urged the Federal Reserve Board to use its power and influence to "make it clear to the Nation's money center banks that this is a very inappropriate moment for huge chunks of the Nation's available credit to be used for corporate takeovers and other nonproductive purposes."

An article in today's Wall Street Journal is a clear indication that these funding endeavors continue unabated. Cities Service Co. according to the article, has arranged a $3 billion line of credit and will fight any takeover bid. The article also suggests that the company might use the funds for acquiring someone itself.

On the other hand, another Wall Street Journal article reports on actions taken in Canada on the same subject. The finance minister of Canada, it is reported, has requested Canadian banks to reduce takeover lending. Apparently my recommendations had more impact in Canada than they did in the United States. I urge the Federal Reserve Board once again to use its influence and power to make it clear that these takeover lines of credit are inappropriate.

My letter to Chairman Volcker and the two articles follow for the RECORD:

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C., July 15, 1981.

Hon. PAUL VOLCKER,
Chairman, Board of Governors, Federal Reserve System, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the pages of the newspapers have been filled in recent weeks with reports of multi-billion dollar financings involving the takeovers of large corporations. One publication referred to the activity as "mob psychology" that promises to generate more billion dollar credits.

Among the activity have been lines of bank credit approaching $15 billion and centered on maneuvers involving oil and gas mergers, including the highly publicized efforts to acquire Conoco. Texaco is reported to have received bank credits totalling at least $5.5 billion; Mobil $5 billion; Shell Oil Company $3 billion. A number of other multi-billion dollar credits apparently are being processed in this takeover mania.

Such activity would require close scrutiny at any time, but at a time of highly restrictive monetary policy it is particularly questionable. Many areas of the U.S. economy, particularly housing and many sectors of the small business community, are at near collapse because of a severe shortage of credit—a shortage clearly not shared by the huge oil companies who desire funds for an international game of monopoly.

It is interesting, and a somewhat sad commentary on our priorities, to note that the credit extended by commercial banks to just two oil companies—Mobil and Texaco—for merger activity almost equals the $11 billion in budget reductions this Committee is required to make in assistance to housing programs for low and moderate income families in FY 1982.

This Administration and the Federal Reserve insisted on pursuing a tight money, high interest policy and have asked, in effect, that everyone in the economy "bite the bullet" in fighting inflation. Public support for such a policy requires, at a minimum, a perception that everyone is sharing in the hardship. Anything less destroys public confidence. These huge multi-billion dollar extensions of credit for non-productive international oil and gas takeovers are bitter pills for small business people who face bankruptcy because of a lack of credit on reasonable terms.

The Federal Reserve and this Administration cannot escape responsibility for the imbalance that is so clearly apparent in the credit markets. While I am sure there are lengthy dissertations available about the limits of the Federal Reserve's authority, I do know that it is possible for you and the other members of the Federal Reserve Board to make it clear to the nation's money center banks that this is a very inappropriate moment for huge chunks of the nation's available credit to be used for corporate takeovers and other non-productive purposes. The Federal Reserve has many implied powers and no banker will ignore a clear signal from the nation's central bank. If the Federal Reserve wants to put an end to the "mob psychology" of corporate takeovers fueled by unlimited bank credit, it clearly has the power and influence to do so.

Sincerely,

FERNAND J. ST GERMAIN,
Chairman.

CITIES SERVICE CO. ARRANGES NEW CREDIT OF OVER $3 BILLION

NEW YORK.—Cities Service Co. said that it is arranging more than $3 billion in new credit and that it would fight any company that tries to take it over.

"We're telling anyone who comes along with an offer to buzz off," said Charles J. Waidelich, president and chief executive officer. A determined Mr. Waldelich told analysts here yesterday that he would take any offer to his board, but emphasized that Cities Service isn't for sale.

"Cities Service isn't a merger candidate," he said. "We aren't planning any mergers, no discussions are being held with anyone and we will resist with every means at our disposal any attempt at a raid on Cities Service."

He added that the board supports his position and that "it is in the best interests of the stockholders."

The company said between 25 and 50 banks will be involved in a syndicate to extend to Cities Service slightly more than $3 billion in new credit, with much of it coming from abroad. When added to the credit Cities Service already has, the company will have about $4 billion in credit lines.

Some of that credit might be used to acquire other companies, Mr. Waidelich said. There isn't any restriction on the use of the funds. The final arrangement will be signed soon, he said.

Among the types of companies Cities Service might be interested in would be a coal-producing company, especially in the West and with low-sulphur coal, or a company with U.S. oil reserves, although Mr. Waidelich only mentioned the existence of assets currently on sale of about 25 million barrels.

Mr. Waidelich remained vague about future acquisition intentions. He said the credit line would be "available for normal business needs to enable Cities Service to pursue long-term strategies more aggressively," and that the money would "provide flexibility and capacity for the company to take advantage of acquisition opportunities that may become available. We are looking for oil, gas and coal properties that would fit into our strategic plans."

While making it clear that the money would also serve defensive purposes, Mr. Waidelich didn't say what the company might do in case of a takeover attempt. "We've considered many strategies of defense in case someone makes a raid on Cities Service, but I'm not going to stand here and give them to you because I want them (the potential acquirers) to be surprised," he said.

He said, however, that the company would be reluctant to repurchase its own shares. "That moves in a direction opposite from the one we want to go in," he said. "We want to preserve our equity base at at least its present size or increase it." Some analysts have said Cities Service should repurchase its own shares to help increase the price of the shares. Such a move would, however, reduce the number of shares outstanding.

Analysts pressed Mr. Waidelich about how he would justify a rebuff to an offer for Cities Service well above market price. Mr. Waidelich said "investors in Cities Service have to be more patient. I think people invest in stocks, especially natural resource stocks for more than a quick turnaround buck. They should."

CANADA ASKS BANKS TO REDUCE THEIR LOANS USED FOR TAKEOVERS

OTTAWA.—In an unusual move designed to aid the sagging Canadian dollar, Canada's finance minister, Allan J. MacEachen, met with senior Canadian banking officials to request a reduction in takeover loans, particularly those converted into U.S. funds.

Emerging from a closed-door meeting late yesterday, Mr. MacEachen said the banking officials "responded to my view quite well and felt that it was a timely action."

However, Mr. MacEachen didn't say whether he had received firm assurances from the banking officials, who weren't identified, or what actions would be taken if takeover loans weren't reduced.

Mr. MacEachen indicated that he had made a broad appeal for reduced lending, not only for take-overs outside Canada but for domestic bids, too. It wasn't disclosed whether specific limits were sought on either the number or the amount of individual loans. Mr. MacEachen said he expected that banks would meet existing commitments.

The Canadian official said he made the unusual request for restraint because of what he called "an epidemic quality" to current conditions. In the past two weeks, the Canadian dollar has fallen almost 1.5 cents (U.S.). On anticipation of a government statement yesterday, the Canadian currency gained 0.33 cents (U.S.) to close at 81.33 cents.

Recent months have marked a wave of Canadian purchases of U.S. assets, in Canada and the U.S. One analysis by Pitfield MacKay Ross Ltd., a Toronto-based brokerage firm, estimates that capital outflows from Canada have totaled $10 billion (Canadian) versus an annual average of $2 billion during the 1970s.

Mr. MacEachen didn't specifically tie such outflows to Canada's nationalist energy policies, but he urged that the policies be applied more slowly. The energy program is designed to encourage Canadian purchases of U.S. assets and has sparked a number of major takeovers, including the $1.46 billion purchase by state-owned Petro-Canada of the assets of Petrofina Canada Ltd., which was controlled by Petrofina S.A.

Concern that these nationalist policies may be extended to other industries isn't merited, Mr. MacEachen said. In a clear appeal to foreign investors, the finance minister said: "Obviously, we still want to encourage the inflow of capital."

"In that connection," he added, "I wanted to assure the Canadian banking community, as well as the population at large, that it is not the intention of the government to extend the policies embodied in the national energy policy to other sectors of the Canadian economy."●

THE FEDERAL RESERVE AND THE ADMINISTRATION SHOULD DISCOURAGE BANK LOANS FOR MERGERS, AND THUS ENCOURAGE INFLATION-FIGHTING LOANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, the House on Tuesday, July 28, passed by a vote of 403 to 17 House Concurrent Resolution 160, expressing the sense of Congress that interest rates should be brought down now, by a variety of methods, including concentration by the banking system of its available credit on "uses which contribute most to long-term productivity improvement and inflation fighting" rather than on such things as corporate mergers and takeovers, which frequently contribute to inflation by simply bidding up the price of existing assets.

The case for encouraging the banking system to soft-pedal loans for speculative mergers, and thus have more available for legitimate business and agricultural loans, was well put in the debate by the gentleman from Rhode Island (Mr. ST GERMAIN), chairman of the House Committee on Banking, Finance, and Urban Affairs (CONGRESSIONAL RECORD, July 28, 1981, at 17714):

Chairman Reuss and I have had Paul Volcker before the committees in the last 2 weeks, and although he indicated little concern about the takeovers before the Joint Economic Committee, by the time he appeared before the Banking Committee last week, the bidding war had begun in earnest, and some lines of credit had been drawn down. At that time Chairman Volcker said he was concerned about the possibility of unproductive mergers, and violations of normal banking practices.

Since that time, 1 week ago today, the bidding wars have further escalated. Yesterday the offers, and counter-offers were flying at supersonic rates. Perhaps one offer, by one bidder, for Conoco could be mistaken for a productive use of resources, but an expensive and elaborate high stakes poker game among the Nation's largest corporations is an exhibition in conspicuous consumption that flies in the face of administration declarations of restraint and evenhandedness. After Seagram boosted its Conoco offer from $85 to $92 a share, Du Pont followed suit with a $95 offer for 50 percent of the stock and Mobil trumped the other leviathans by offering $105 a share, or $8.1 billion. Still this is not enough for some Wall Street plutocrats; as one said, "For $110 Mobil could have gotten my attention. But no way at $105."

Any illusion that this bidding was is an exercise in productive investment, rather than a game is dispelled by one speculator who told the Wall Street Journal this morning that, "I'm staying with Seagram because they'll cut me a check next Monday morning and I'll have the cash Tuesday. Then I'll probably buy some more Conoco and tender it to Du Pont."

Over $40 billion in credit commitments have been locked up through this kind of speculation, and it is being condoned by the Reagan administration which refuses to give any signal that it disapproves of horizontal mergers between the largest corporations in the country. First the administration and the Federal Reserve dry up much of the credit and money growth in the country, and then they stand by as the few remaining drops are sopped up by credit-hungry gamblers and speculators in massive takeover binges.

House Concurrent Resolution 160, before us today, calls on the administration to design and implement a policy of encouraging the banking system to concentrate available credit on those uses which contribute most to long-term productivity improvement and inflation fighting. If the administration would send the signals necessary, it could help restore the sense that this country's policies are designed to help all of its citizens, and not to benefit a few at the expense of the many. This is why I urge you to support this resolution.

Business Week magazine, in its issue of August 3, 1981, makes the same sensible point—let the banking system join the battle against inflation by easing off its lucrative preoccupation with mergers. The text of that editorial follows:

PRIORITIES ON LOANS

The massive bank loans that the great corporations are using to finance the current wave of mergers create a special problem for the money managers of the Federal Reserve. With money tight and interest rates at record levels, the merger loans crowd out other borrowers and make the Fed's anti-inflation policy more painful than it needs to be. Unless the Fed can find a way to give priority to legitimate borrowers, the demand for easier money may become irresistible.

The Fed has always disliked selective credit controls—on the grounds that money managers should not play favorites. Unlike fiscal policy, which targets taxes and spending at particular groups, monetary policy has been framed in terms of aggregates. In theory at least, the Fed should determine the amount of money, but the market should determine who gets it.

The trouble is that when top-drawer borrowers, such as Du Pont, Seagram, and Mobil, hit the banks for multibillion-dollar loans to finance merger bids, there is less left for small business, would-be homeowners, or other borrowers. The merger programs of the big corporations may be justified—and so may the efforts of the target companies to fight them off—but clearly they increase the demand for money and create hardships for ordinary borrowers.

To take some of the pressures off the market without resorting to formal controls, the Fed could go back to a device that once was considered its most effective weapon. The textbooks call it "moral suasion." It is, in fact, a quiet use of financial muscle. The Fed simply reminds the banks, which may at any time need to borrow at the discount window, that they should avoid "nonproductive" loans. All bankers know what this means, and most of them will undertake an informal credit rationing program if the Fed asks for it.

At the May meeting of the Open Market Committee, the money managers noted "the importance of conveying a clear sense of restraint at a critical time." They should also find a way to convey a clear sense of "first things first" to the banks that serve the U.S.

Our friendly neighbor, Canada, is beset with the same problem—the banks going all out for merger loans, and thus neglecting needed lending for productive equipment. Canada's finance minister, Allan J. MacEachen, yesterday asked the Canadian banks to cut down on their merger lending. Today's Wall Street Journal, July 30, 1981, carries that story:

CANADA ASKS BANKS TO REDUCE THEIR LOANS USED FOR TAKEOVERS

Ottawa.—In an unusual move designed to aid the sagging Canadian dollar, Canada's finance minister, Allan J. MacEachen, met with senior Canadian banking officials to request a reduction in takeover loans, particularly those converted into U.S. funds.

Emerging from a closed-door meeting late yesterday, Mr. MacEachen said the banking officials "responded to my view quite well and felt that it was a timely action."

However, Mr. MacEachen didn't say whether he had received firm assurances from the banking officials, who weren't idenified, or what actions would be taken if takeover loans weren't reduced.

Mr. MacEachen indicated that he had made a broad appeal for reduced lending, not only for take-overs outside Canada but for domestic bids, too. It wasn't disclosed whether specific limits were sought on either the number or the amount of individual loans. Mr. MacEachen said he expected that banks would meet existing commitments.

Mr. Speaker, I again call on the administration and the Federal Reserve System to ask the American banking system to cut down on their merger-mania and join the fight against inflation.

EDITORIAL ENDORSES ANNUNZIO APPROACH TO OLYMPIC COINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, there continues to be much debate in both Houses of Congress and in the sports and coin-collecting communities concerning the issue of striking commemorative coins for the 1984 Olympics to be held in Los Angeles. While there is general agreement that the minting of such coins would be beneficial, there is much disagreement over the method that would best accomplish this goal.

I have introduced a bill, H.R. 3879, which would call for the minting of a silver dollar to be sold directly to the public by the Treasury Department.

The proceeds from the sale would go half to reduce the national debt and half to the U.S. Olympic Committee solely to train Olympic athletes. The other approach, set forth in H.R. 3958 and S. 1230, would call for four denominations of gold, silver, and cupronickel coins in 29 designs. The coins would be struck at the mint but would be turned over to the Los Angeles Olympic Organizing Committee for resale to the public by private marketers. Proceeds of the sale would be divided between the Los Angeles Olympic Organizing Committee, the U.S. Olympic Committee and the private marketers of the coins.

An editorial in the August 1, 1981, edition of Numismatic News, one of the leading coinage newspapers, analyzes the differences between the two approaches and strongly favors my bill. The editorial points out that two of the major problems raised by S. 1230 are the excessive number of coins and the error of permitting private marketing of these coins. Under S. 1230 and H.R. 3958 the coins would be marketed by a joint venture owned by the international banking firm of Lazard Freres and the petroleum company Occidental Petroleum. The editorial states the News is opposed to "giving a private group headed by Occidental Petroleum monopoly sales privileges."

In analyzing H.R. 3879, the editorial states that:

> Annunzio's bill addresses nearly all of the problems that we see in S. 1230. Its reduced scale would avoid the problems of diminishing returns characteristic of numerous issues . . . and it avoids renewing the practice of giving non-Government groups marketing control of numismatic coinage issues (avoiding abuse potential).

The editorial also points out a problem with the inflated denominations of the coins proposed in S. 1230 and H.R. 3958. For example, the $10 silver coins authorized in those bills are identical in size, weight, and silver content with the silver dollar coin authorized in my bill. Such coins contain about $6.50 worth of silver at current silver prices. Besides violating a nearly 200-year old American tradition that silver coins of that size are valued at $1, the coins may also create a practical problem for merchants, bankers and the Federal Government. The editorial points out that in Canada many people took artificially denominated Olympic coins to banks for redemption. Besides creating a great inconvenience and a disproportionately high expense in handling such coins, the Canadian Government was also obligated to set up a fund to buy back these coins. According to a report to parliament from the minister of finance dated September 30, 1979, the Canadian Government had redeemed over $3 million of 1976 Montreal Olympic coins. The editorial points out that:

> Annunzio's bill neatly avoids this problem. The bullion value of a silver dollar far exceeds its face [value] and any person pressed for cash after purchasing an Olympic dollar would likely sell it to a dealer for numismatic value, or bullion value at the very least. In either case, they would stay out of commercial channels.

The editorial does contain one mild criticism of my bill in that it suggests that three silver half-dollars and one gold coin would be more successful than a single silver dollar. Even so, four coins is a lot closer to the one coin I propose than to the 29 coins proposed in the other bills.

So that Members may have the advantage of the full views of the editors of Numismatic News, the entire editorial is reprinted below.

[From Numismatic News, Aug. 1, 1981]

MORE ON OLYMPIC COINS

It seems increasing likely that the 28-year dry spell in commemorative coins will come to an end in 1982, with the issuance of a series of coins to honor the 1984 Summer Olympic Games in Los Angeles. The Treasury, private groups and hobby spokesmen all enthusiastically endorsed the idea of striking Olympic commemoratives and using the proceeds from their sale to the public to partially finance the Games and American participation in them. These opinions were expressed July 14 at a hearing held by the Senate Banking, Housing and Urban Affairs Committee in Washington, D.C.

We have already gone on record supporting the idea, but opposing the specific bill under consideration (S. 1230), which calls for the striking of a 53-coin set and giving a private group headed by Occidental Petroleum monopoly sales privileges. This opposition was voiced in Washington by Chester L. Krause, president of the firm that publishes the News, in his testimony before the committee.

Treasurer of the United States Bay Buchanan in her testimony also stated that the Treasury Department "does not support the bill in its present form." She said the department "has serious reservations about the magnitude, scope and nature of S. 1230 and does not consider this bill, as proposed, to be in the best interest of the public or the government." Buchanan's testimony also endorsed the concept of keeping marketing and distribution of Olympic coins under the supervision of the Treasury.

Naturally, we are pleased to see that the Treasury Department's position is very similar to our own and we will support any effort made by Buchanan to pare the number of coins authorized to a realistic level and to insure Treasury control of sales.

We feel a good starting point in Olympic coinage considerations is the bill introduced in the House of Representatives by Rep. Frank Annunzio (D-Ill). It calls for striking a silver dollar commemorative. It would carry just one design, but be struck in the years 1983, 1984 and 1985. If there are proof and uncirculated versions, that would create a six-coin Olympic coin set. Mintage would be restricted to a maximum of 25 million and price would be established by levying a surcharge over and above the cost of production. The bill specifies that this surcharge be not less than 25 percent and that the money raised by the surcharge would be divided evenly between the general fund of the Treasury and the United States Olympic Committee. The Mint would be given sole responsibility for marketing.

Annunzio's bill addresses nearly all of the prolems that we see in S. 1230. Its reduced scale would avoid, to a large extent, the problems of diminishing returns characteristic of the numerous issues of the Moscow and Montreal programs; it avoids renewing the practice of giving nongovernment groups marketing control of numismatic coinage issues (avoiding abuse potential), and it avoids the legal tender problems that are sure to arise with the creation of artificial denominations.

To further elaborate our third point, we look to Canada's experience with its Olympic coinage. After striking silver $5 and $10 coins and gold $100 coins, bullion prices fell far below face value. Some purchasers of these coins took them to their banks to exchange them at face value for folding money. They were refused! Even though the coins were technically legal tender, they were not accepted by that country's financial institutions. Embarrassed by this, Canada eventually set up a fund to buy back all of the coins that found their way into circulation. The damage to their prestige was irreparable, however. Ads in hobby publications at the time offered to pay $8 for the $10s and $4 for $5s.

What would happen in this country if people began showing up at their local banks with silver $10s and gold $100s as would be authorized by S. 1230? Would they be refused as people were in Canada? It would be very embarrassing for the Administration to repeat Canada's mistake. Annunzio's bill neatly avoids this problem. The bullion value of a silver dollar far exceeds its face and any person pressed for cash after purchasing an Olympic dollar would likely sell it to a dealer for numismatic value, or bullion value at the very least. In either case, they would stay out of commercial channels. Alert bank tellers would probably grab any that got to banks. After all, $6 in silver for $1 face is a bargain in anybody's book.

The possibility that S. 1230 $10s and $100s would get into circulation in this country is not remote. Face value on the silver $10s struck to S. 1230 specifications already greatly exceeds the bullion value of $6.70 and the gold $50s and $100s are already at the break-even level. It wouldn't take much to get a person who is pressed for cash to decide to spend them at face, even if he paid a premium for them.

The problem with Annunzio's bill is that it will have as much trouble raising money for the Olympics as S. 1230. What the latter does with overkill, Annunzio's bill does with its modest scope. One design for three years running is not going to attract the public. A date change will not motivate the public to buy a complete set, so sales in the last two years will come in well under the first. To correct this, designs should be changed with the dates.

This is why we feel our plan for three different 90 percent silver half dollars and a half-ounce $10 gold piece as outlined in this space in the June 27 issue is still the best compromise to bring commemorative coinage back to the hobby.●

OLIN E. TEAGUE AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, last Tuesday the Veterans' Administration awarded its third annual Olin E. Teague Award for outstanding rehabilitation of war-wounded veterans to a team of extremely able and gifted individuals in the medical field.

Named in honor of the very distinguished former chairman of the House Committee on Veterans' Affairs, the award was presented to Drs. Mark I. Singer, M.D., and Eric D. Blom, Ph. D., for their development of a simplified yet revolutionary prosthesis for voice restoration.

Former VA Administrator Max Cleland, himself a superb example of successful rehabilitation, established the award upon Mr. Teague's retirement from the House in 1978. It is given annually to the VA employee, or team of employees, whose achievement has been extraordinarily beneficial to the rehabilitation of war-injured veterans.

Drs. Blom and Singer have developed a simple surgical technique and an inexpensive, replaceable prosthesis that channels air directly from the lungs to the throat for speaking. This significant development appears to have solved many of the problems encountered in past attempts to route air from the lungs to the throat after total laryngectomy.

The two distinguished scientists are former VA employees and were on the staff of the VA Medical Center in Indianapolis when they developed the prosthesis. Both are now affiliated with Methodist Hospital in Indianapolis.

This breakthrough will obviously enhance the lives of many seriously disabled veterans and, indeed, many disabled people throughout the world, and I am delighted these dedicated individuals have been recognized by the Administrator for their outstanding work. I am sure my colleagues in the House join me in congratulating Dr. Singer and Dr. Blom for being selected to receive this outstanding award in recognition of their medical achievements.

Mr. Speaker, the occasion of this presentation speaks eloquently for its worthy recipients; for the overall excellence of VA's research and development programs; and, most especially, for the greatness of the man in whose name this award is offered. Indeed, I cannot imagine a more fitting tribute to the man who did more for veterans, particularly the disabled veteran, than any single American in our Nation's history.

Olin Teague's death in January of this year gave rise to a legacy of determination, forthrightness and integrity that can only inspire those of us who come behind him. Never one to be motivated by fame or personal glory, Olin Teague's drive came from his incalculable ability to empathize with those for whom he fought.

Mr. Teague's achievements are not confined to veterans' matters, however, but include helping pave the way for manned space travel and space exploration through his great leadership as chairman of the House Science and Technology Committee. In this role, he also intensified new efforts to apply advanced, space-age technology to the needs of the handicapped.

Such was the man that his achievements and his legacy speak louder and will endure longer than any eulogy to him. He commands our most humble respect and admiration.

I am delighted that Mrs. Olin Teague was able to be present when the award was presented last Tuesday.●

TENTH ANNIVERSARY OF THE ROTHKO CHAPEL OF HOUSTON, TEX.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LELAND) is recognized for 15 minutes to revise and extend his remarks.

Mr. LELAND. Mr. Speaker, on June 20, 1981, an event of moral importance happened in Houston, Tex., the Rothko Chapel, for its 10th anniversary honored an international group of men and women who have placed truth and freedom at the center of their lives, and who have, often at great personal risk, fought oppression in whatever form it might take.

Mr. Speaker, I would like to take a few moments to acknowledge and honor this important celebration of the 10th anniversary of the Rothko Chapel, the recipients of the human rights awards, and the founder and director of the Rothko Chapel, Dominique de Menil, whose profound dedication to the free expression of the human spirit and the cause of human rights, has brought the Rothko Chapel to its 10th year. A recent Houston Post editorial properly and eloquently outlined this achievement:

In its decade, the Rothko Chapel has stretched the minds of people around the world—and of Houston. Houston is privileged to watch as the Rothko Chapel honors men and women of heroic principle.

Twelve awards, each carrying an unrestricted gift of $10,000, were given on that evening.

Las Madres de la Plaza DeMayo were among the recipients of these first Rothko Chapel awards. Their courage and firm stand in denouncing the silence of the Argentinian Government on the fate of thousands of disappeared persons in that country has been described in the CONGRESSIONAL RECORD by Senator KENNEDY. Even as they journeyed to the United States to receive this award, they were charged by the Argentine Government "with a campaign of slander and lies," and upon their return to Argentina, they were detained and several possessions confiscated.

Roberto Cuellar, director of Socorro Juridico, the Legal Aid Department of the Archdiocese of San Salvador also traveled to Houston to receive well deserved tribute for his dedicated and fearless work. Closely associated with the late Archbishop Oscar Romero, murdered on March 24, 1980, Roberto Cueller is carrying on the documentation and denunciation of the daily assassinations of the poor and those who stand with them in El Salvador.

An award was also given to Jose Zalaquett, a Chilean lawyer who was exiled for his courageous work in establishing the human rights division of what is now the Vicaria de la Solidaridád in Chile after the fall of Salvador Allende's government. Jose Zalaquett is currently chairperson of the International Executive Committee of Amnesty International.

Zwelakhe Sisulu, journalist and president of the Media Worker's Association of South Africa, was also singled out to receive an award. Under a strict banning order, it was impossible for him to travel to Houston. He was in fact arrested in South Africa on the very day of of the ceremony. The Rothko Chapel strongly protests the unjust detention of this brilliant young leader.

Another award went to Chief Tom Porter, one of the chiefs of the Mohawk Nation at Akwesasne near Racquette Point, N.Y. He was recognized for his patient and determined efforts to maintain the sovereignty of the Indian nations and to preserve traditional Indian culture.

Four American citizens received awards: Warren Robbin, founder and director of the Museum of African Art here in Washington, D.C., Ned O'Gorman, for his total commitment to bettering the lives of children in New York's Harlem, and Douglas and Joan Grant, who received the award as a couple for their dedicated work in an innovative and successful program involving prisoners within the confines of the penal system of California.

Two prisoners in Soviet labor camps, Tatiana Velikanova and Balys Gajauskas, were selected for their brave and selfless devotion to the cause of human rights and their denunciation of the violations of the Helsinki accords in the Soviet Union.

Two deeply religious persons, a Christian, Giuseppe Alberigo, and a Muslim, Amadou Hampaté Bâ, were also honored with Rothko Chapel awards for their scholarly work and their open and tolerant attitudes.

These are truly men and women of heroic deeds and selfless dedication. They should serve as examples to all of us. They epitomize that upon which the Rothko Chapel was founded and which it commemorates.

What is Rothko Chapel? Rothko Chapel opened in Houston in 1971 as an ecumenical center for religious, intercultural, and human rights activities. It was the product of the longtime vision of John and Dominique de Menil—two of Houston's outstanding citizens, whose devotion to the betterment of this city and of fellow citizens through arts and education, has earned them a special place in the hearts and minds of Houstonians.

The most beautiful and fitting words about the Rothko Chapel and its mission, and on the vocation of all heroes of human rights—those we commemorate here and the many more anonymous—are Dominique de Menil's own: I will read them to you and leave my colleagues with these thoughts:

The Rothko Chapel is a sanctuary open to all, a no-man's land of God—named or unnamed—thus, every man's land. Its spiritual atmosphere comes not from any traditional religious decoration. It emanates from a majestic ensemble of 14 dark, reddish panels, created by the late artist Mark Rothko.

Affiliated with no particular religion, dependent on no particular group, the chapel has attracted people in search of peace, meditation, and a more intense consciousness of our time. It has become a center for intercultural and human rights encounters. Every year the birthday of Martin Luther King, Jr., and the anniversary of the United Nations Universal Declaration of Human Rights are celebrated.

In 1981 we mark the 10 anniversary of the Rothko Chapel. It is a good time to reaffirm its vocation and question our faithfulness to it.

It is a vocation so simple, so basically human that it is understandable by all—yet so difficult to observe. It commits us to honesty, to justice, to compassion. In the end it demands that we recognize "the other" as another "I."

The other. The others.

Millions of them are left to sink. They are asphyxiated, starved, tortured, reduced to silence. Yet, at great risk, a few men and women refuse to bow down in front of hypocrisy, pseudo-truths, inflated authority. Loud or silent, their testimony sends endless echoes around the world.

To such heroic people, many of them anonymous, we dedicate this ceremony. To them and to their struggle for freedom, a freedom which no authority in the world, be it political, ideological, religious or economic, should be able to restrict without consent; a freedom belonging to every human being in search of more justice.

The future cannot be closed; it must remain open as a creative hope for man.

Mr. Speaker, in adding to my comments, I wish to commend to my colleagues and to you the following relevant articles for the RECORD, from the New York Times and the Houston Post:

[From New York Times, June 23, 1981]

RIGHTS AWARDS MARK 10TH YEAR OF THE ROTHKO CHAPEL IN HOUSTON

HOUSTON, June 22—The Rothko Chapel, opened here in 1971 as an ecumenical center for religious, intercultural and human rights activities, observed its 10th anniversary this weekend with the presentation of gifts of $10,000 each to 12 recipients, including two Soviet prisoners.

The gifts were awarded to nine individuals, a California couple and two groups, at the chapel's first Truth and Freedom Awards Program.

The chapel is a product of the longtime vision of the late Houston philanthropist John de Menil and his widow, Dominique, who believed that there was a need for a place of universal worship of all faiths. It is named for the painter Mark Rothko, who, with the architect Philip Johnson, designed the chapel.

Before a ceremony at the chapel Saturday night, Mrs. de Menil said: "Everybody's asking me why, why are we here? Every day I read things that just make me feel we've got to do something, and the 10th anniversary of the Rothko Chapel seemed as good an occasion as any."

CLOSE TO BROTHERS AND SISTERS

In choosing recipients of the awards, Mrs. de Menil said, "We were looking for people who we feel are really close to their brothers and sisters, and who have the courage to act accordingly."

Two of the recipients, Balys Gajauskas and Tatyana Velikanova, are political activists in Soviet labor camps. Mr. Gajauskas was sentenced to 10 years in prison for "disseminating anti-Soviet propaganda" in 1978, after he had spent 25 years in prison for resisting the Soviet occupation of Lithuania in World War II. Miss Velikanova, 49 years old, a mathematician, was sentenced to four years in prison last year for founding a human rights organization.

Another recipient, Zwelakhe Sisulu, a 30-year-old black journalist who is national president of the Media Workers Association of South Africa, was arrested yesterday in South Africa for leading a strike against a white-owned newspaper there.

AWARDS TO BE HELD IN TRUST

Friends of those three accepted the awards at the ceremony. The money will be held in trust, Mrs. de Menil said, until the recipients notify chapel officials about how to dispose of it.

Other recipients of the award are:

Giuseppe Alberigo, 55, church historian and director of the Institute for Religious Sciences in Bologna, Italy.

Amadou Hampate Ba, 82, Islamic spiritual leader from Mali and for eight years a member of the executive council of UNESCO.

Douglas and Joan Grant, behavioral psychologists of Berkeley, Calif., who have set up a rehabilitation project in the California prison system.

Ned O'Gorman, 52, poet and founder of the Children's Storefront in Harlem.

Warren Robbins, 58, founder and director of the Museum of African Art in Washington.

Sakokwenonkwas, or Chief Tom Porter, 36, spiritual leader of the Mohawk Nation at Akwesasne, Racquette Point, N.Y., who is involved in the state's ecological and antinuclear movement.

Jose Zalaquett, 39, a Chilean lawyer living in Washington, chairman of the international executive committee of Amnesty International.

Socorro Juridicio, the legal aid department of the archdiocese of San Salvador, El Salvador.

Las Madres de la Plaza de Mayo, an organization of women who press for information about the 15,000 people believed to be missing in Argentina.

[From the Houston Post, June 19, 1981]

ROTHKO CHAPEL'S 12

Some of them are imprisoned. Some have dedicated themselves to freeing prisoners. Many have risked their lives and fortunes for truth and freedom. To commemorate its 10th anniversary Saturday, the Rothko Chapel will give an award and a $10,000 purse to each of 12 honorees from many faiths and many continents.

In its first decade the chapel has been the scene of remarkable events: The ritual of the Whirling Dervishes, annual observances of Human Rights Day, colloquiums that have brought together religious leaders of the world. John and Dominique de Menil, its founders, let the chapel find itself over the years as a home for denominations without a place for worship, as a center for people united in worship but each in his own tradition, and simply as a place for people to be quiet, to think, to discover their own thoughts and hopes.

"The Rothko Chapel is a sanctuary open to all, a no-man's land of God—named or unnamed—thus, every man's land," the awards ceremony brochure reminds. The tenth anniversary is "a good time to reaffirm its vocation and our faithfulness to it. . . . A vocation to serve truth and freedom, outside of which there is only the infinite sadness of lies and oppression. One that demands that each of us recognize 'the other' as another 'I,' accepting thus a principle of fundamental justice."

Among those to be honored is an Islamic spiritual leader from the Ivory Coast who works for understanding between Islamic, Jewish, Christian and tribal traditions; a Lithuanian historian of the resistance who is in a Soviet labor camp; a California couple, behavioral psychologists, who worked with 18 supposedly intractable prisoners until several finished college and three earned doctorates; a group of women who risk harassment and arrest as they press in search for some 15,000 persons missing in Argentina; a spiritual leader of the Mohawk nation; a South African under house arrest for his crusade against apartheid; the legal aid department of the Archdiocese of San Salvador; a mathematician and human rights advocate in a Soviet labor camp for women; and a poet who started a school in Harlem.

The achievements are of infinite variety. In its decade the Rothko Chapel has stretched the minds of people around the world—and of Houston. Houston is privileged to watch as the Rothko Chapel honors men and women of heroic principle.

[From the Houston Post, July 9, 1981]

AWARD SEIZED—ARGENTINEANS TAKE ROTHKO MEDAL FROM WOMEN

(By Mark Winiarski)

Two Argentine mothers who recently received a Rothko Chapel award for their "commitment to truth and freedom" were detained and the award medal confiscated upon their return to Buenos Aires, officials said Wednesday.

A State Department spokesman said in Washington that the agency made inquiries in Buenos Aires about the Tuesday action and was waiting for "more complete information."

Locally, Dominique de Menil, founder and director of the chapel and donor of the

awards, Wednesday urged "respectful telegrams" be sent to the State Department expressing "dismay and concern and urging the return of the confiscated properties to the mothers." In New York, a human rights group sharply criticized the Argentine government's actions.

A minister in the Argentine Embassy in Washington said he had no information other than a State Department report.

The mothers, Maria Adela Gard de Antokoletz and Hebbe de Bonafini, are two of several thousand women known as Las Madres de la Plaza de Mayo—women who have gained international attention by walking every Thursday in a plaza near the Argentine presidential palace in Buenos Aires to protest the disappearance of family members.

As representatives of Las Madres the two were in Houston June 20 to be among 12 groups and individuals to receive the first Rothko Chapel awards, which included a $10,000 gift, given by de Menil.

The women remained in the United States several weeks meeting with supporters and appearing on television and radio programs.

When de Antokoletz and de Bonafini returned to Buenos Aires Tuesday Argentine Air Force officials detained them at the airport and questioned them for two hours before releasing them, according to Jeri Laber, executive director of Helsinki Watch, a human rights group based in New York.

The Argentine officials "confiscated a number of documents, including the Rothko Chapel award," Laber said.

Other items confiscated, according to Laber, included a tape cassette of a Bill Moyers program in which the women discussed Jacobo Timerman, who said in a recent book that he was tortured while imprisoned in Argentina.

Newspaper clippings and the Rothko Award program were also among the confiscated items, a political refugee from Argentina now living in Washington told The Post.

The refugee said that de Bonafini, in a phone call to the United States, said she was told the materials may be returned in 10 days "pending further study."

Officials also attempted to confiscate the women's passports, according to the refugee who asked that his name not be used. The women had refused to yield them, he said he was told.

The women apparently were unaware of government criticism made public in Argentina during their absence, the refugee said.

La Nacion, a pro-government newspaper, July 1 quoted a spokesman for the Minister of Foreign Affairs who charged the women with a "campaign of lies and slander developed in the last few weeks in the United States."

The officials were responding specifically to charges they believed the women made regarding "disappeared persons" in Argentina.

Apparently, U.S. press accounts quoted the women saying more political disappearances, believed to be the work of Argentine government agents, occurred in 1981. The government spokesman denied the charge in La Nacion.

In Washington Wednesday, Minister Roberto Dalton of the Embassy of Argentina said he had no information other than a State Department report that the women were "delayed" and some possessions confiscated. He said he did not know why the women were singled out.

De Menil, who chose Las Madres as one of the award recipients, issued a statement Wednesday urging "all those who care about freedom to send respectful telegrams to Steven Palmer, acting head of the human rights division of the State Department, conveying dismay and concern and urging the return of the confiscated properties to the mothers."

"It is going to turn out for the good," de Menil added. "International publicity is the only means these mothers have to change the attitudes of their government. It is important that voices from outside the country bring influence to bear on the (Argentinean) government," she said.

Patricia Derian, former assistant secretary of state for human rights and an organizer of a new group called the U.S. Friends of the Mothers of the Plaza De Mayo, said the detainments "demonstrated lawlessness and callousness toward women whose only sin is to demand an accounting of what happened to their children."

When they were in Houston, the women acknowledged they were in danger. "There are no guarantees in Argentina," de Antokoletz said then.

THE COLLECTION SERVICES PROCUREMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 10 minutes.

● Mr. ENGLISH. Mr. Speaker, today I am introducing the Collection Services Procurement Act. The main purpose of this bill is to authorize Federal agencies to contract with private debt collection agencies in order to collect delinquent Federal debts.

My colleagues are already aware of the massive debts owed to the Federal Government and of the enormous amount of this debt that is delinquent. Mismanagement on the part of bureaucrats has permitted these delinquent debts to accumulate. The details of the problem are described in the recently issued report of the Office of Management and Budget debt collection project.

On May 18, 1981, the House passed H.R. 2811, a bill designed to help agencies manage their debts in a more businesslike fashion and to make agency debt collection activities more effective. That bill was only one step in the effort to improve debt collection practices and to increase the revenue from delinquent debts.

Because agencies have such a poor track record in managing their debts, we must recognize that there may be times when agencies need assistance. That is what the bill I have introduced today will do. It will authorize and regulate the use of private debt collection agencies by the Federal Government. I hope that use of private debt collectors in appropriate circumstances will increase the repayment of debts owed to the Federal Government. I am convinced that use of these private collectors can be done in a way that is consistent with the right to privacy, the rules that govern the contracting out of Government functions, and the laws that regulate debt collection practices.

This bill is necessary because it is not clear under present law that agencies have the authority to enter into contracts for debt collection services. For many years, the General Accounting Office took the position that Federal agencies could not legally delegate the debt collection function to private contractors. In order to overcome this restriction, Congress found it necessary to expressly authorize the use of private debt collectors for a specific category of debts in the Education Amendments of 1976, Public Law 94-482.

I was surprised when the General Accounting Office and the Department of Justice reversed this interpretation and amended the regulations for the Federal Claims Collection Act. The amended regulations require agencies to consider contracting for debt collection services. This rule change appeared in the Federal Register for April 17, 1981. No adequate reason for the shift in legal position was cited by the General Accounting Office and the Justice Department in the explanation that accompanied the rule change.

I asked the Congressional Research Service to take a look at the issue of the legality of contracting out for debt collection services. CRS found no clear legal explanation for the change in the opinion of the General Accounting Office and the Justice Department.

It seems to me that if an activity was once considered to violate Federal law, then it takes a legislative change in order to make that activity legal. Neither the Comptroller General nor the Attorney General has the authority to amend Federal statutes.

Because of the tremendous uncertainty engendered by the change to the Federal Claims Collection Act regulations, we need to clarify the law. No agency can responsibly rely on the newly revised rule. I am concerned that any action based on this questionable interpretation will lead to significant disruption of agency debt collection efforts. It will raise questions of possible liability for agencies and agency personnel for improper disclosure of information. Without legislation action, massive confusion will result.

The text of the bill follows:

H.R. 4333

A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to procurement of collection services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Collection Services Procurement Act of 1981".

SEC. 2. (a) Title III of the Federal Property and Administrative Services Act of 1949 (relating to Federal procurement proce-

dures) is amended by adding at the end thereof the following new section:

"PROCUREMENT OF COLLECTION SERVICES

"SEC. 311. (a) In accordance with such regulations as the Director of the Office of Management and Budget may prescribe under subsection (b), each agency head may enter into a contract with any individual or organization for collection services in recovering debts owed to the United States. Any such contract shall include provisions specifying that the agency head retains the authority to resolve disputes, compromise claims, terminate collection, and initiate legal action, and that the contractor shall be subject to section 552a of title 5, United States Code, and, when applicable to Federal and State laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

"(b) The regulations prescribed by the Director of Office of Management and Budget shall insure the maximum practicable use of competitive bidding procedures in the procurement collection services, and may authorize only such other procedures as assure full and free competition among providers of such services.

"(c) The provisions of this section shall not apply to recovery of debts owed the United States under the Internal Revenue Code of 1954.

"(d) For purposes of this section, the term 'agency head' means the head or assistant head of an executive agency.".

(b) The amendment made by subsection (a) of this section shall take effect one year after the date of enactment of this Act.●

LEGISLATION TO IMPLEMENT RECOMMENDATION BY UNITED STATES-JAPAN ECONOMIC RELATIONS GROUP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, today, on behalf of myself, Mr. FRENZEL, and Mr. GIBBONS, I am introducing a bill designed to implement some of the recommendations made by the United States-Japan Economic Relations Group.

This group is often called the "Wisemen," and for good reason. Its members, all of whom are successful businessmen, statesmen, and scholars, have written a very thoughtful and penetrating study of United States-Japan economic relations. Their report stressed that cooperation between our two countries is essential for the economic health of the entire world. As they noted—

Each year, Japan and the United States together produce about 35 percent of the world's new output and engage in almost 20 percent of the world's trade. For this reason, the two countries' success in maintaining a close, mutually beneficial relationship is not only vital to their own prosperity and security, but critical to the world as a whole.

In the past few months, it seems that both countries have been ignoring this excellent advice. Recent events, including the auto trade limitation agreement, have strained the relationship between our two nations. In light of these events, it is particularly important that we try to build some new bridges of cooperation.

My colleagues and I believe that one of the best ways to do this would be to begin implementing some of the recommendations made by the Wisemen. Not only would this encourage the Japanese to do the same, but it would result in some needed improvements in U.S. productivity and in U.S. understanding of Japan.

Obviously, with the Federal Government's severe budget constraints, the steps we suggest must have a very limited budget impact. What we propose, then, is a series of wide-ranging and cost-effective measures including:

Oil swap rights with Japan;

Studies of energy conservation in major Japanese industries in comparison to those in the United States;

Encouragement of a bilateral coal purchase, supply, and investment agreement;

A GAO study of Japanese productivity gains which might be "exportable" to the United States;

Encouragement of Cabinet-level consultation between the United States and Japan;

Establishment of a Japan-United States Interparliamentary Union, similar to the unions we have with Europe and Canada;

Emphasis on country and language studies programs for civil servants;

Limited funding for the Trade Study Group, which has been an important factor in resolving trade disputes between our two nations, and a limited fund to set up similar groups in several nations;

Encouragement of private-sector agricultural purchase and supply agreements with Japan.

This is a discussion bill; we do not expect that it will be enacted in its entirety. But we are hopeful that some portions will become law. We are also hopeful that this bill will spur Americans to think not only about what Japan should be doing to improve trade, but about what America should be doing to improve trade. We hope the bill will lead to serious discussions about the ways in which the United States and Japan can cooperate on trade matters, to the benefit of both our countries.●

● Mr. FRENZEL. Mr. Speaker, today Congressmen JONES, GIBBONS and I have introduced an omnibus bill which contains the recommendations of the United States-Japan Economic Relations Group, better known as the "Wisemen's Group."

As the bill concerns issues which would have multiple committee jurisdictions, we do not expect speedy passage of the bill in its entirety. Rather, we are hopeful that the bill will focus some needed attention on the Wisemen's suggestions as to how we can improve our trade relations with Japan. The United States-Japan Economic Relations Group's report contains some excellent suggestions as to how both the United States and Japan should modify their policies to insure the most beneficial trade relationship between our nations in the future. Our bill responds to the suggestions to the U.S. side.

The Jones-Gibbons-Frenzel bill provides for oil swap rights with Japan; a look at Japan's energy conservation successes for possible application here; encourages a bilateral coal purchase, supply and investment agreement; supports efforts to multilaterally lower the tariff on semiconductors; requests a GAO study regarding which Japanese productivity successes might be applicable to the United States, encourages more education and exchange programs between the United States and Japan; provides more U.S. funding for the successful Trade Study Group which has provided U.S. and Japanese business and government officials a needed forum for discussions; and a resolution to encourage our Government to work with Japan to move away from its agriculture import quotas.

I recommend the above suggestions by the Wisemen's group to my colleagues and hope that we can begin to implement them in an effort to develop the most effective trade relationship between the United States and Japan as possible.●

EXPLANATION AS TO VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON), is recognized for 5 minutes.

● Mr. DANIELSON. Mr. Speaker, I was unable to be present on the floor of the House of Representatives on July 16, 1981, when the House voted on rollcall No. 138, and rejected an amendment to H.R. 3519, Department of Defense authorization, that sought to provide $2.6 billion in funds for the procurement of F-16 aircraft in lieu of A-7K aircraft. Had I been present, I would have voted "aye."

I was also unable to be present for rollcall No. 154 on July 23, 1981, when the House agreed to House Resolution 185, waiving certain points of order against H.R. 4144, energy and water development appropriations. Had I been present, I would have voted "yea."●

THE RETIREMENT INCOME INCENTIVES AND ADMINISTRATIVE SIMPLIFICATION ACT OF 1981 (H.R. 4330)

(Mr. ERLENBORN asked and was given permission to extend his re-

marks at this point in the RECORD and to include extraneous matter.)

Mr. ERLENBORN. Mr. Speaker, the bill I am introducing today with my colleagues, Messrs. ASHBROOK and FRENZEL provides for the consolidation and simplification of the laws and administration relating to employee benefit plans, and also provides new incentives to increase retirement savings and to renew the growth and expansion of benefits and coverage under private pension plans. This bill, the Retirement Income Incentives and Administrative Simplification Act of 1981, sets a new course whereby private pension and other employee benefit plans may grow to meet the retirement income challenges of this Nation in the 1980's and beyond. An identical measure is being submitted today in the other body by Senators NICKLES and WALLOP.

Our national pension system is at a crossroads. The present means of delivering retirement income will be faced with far greater demands in the future. Barring significant changes in our national pension policy, each of the three major components in the delivery or retirement income—employer-sponsored pension plans, social security, and individual savings and investment—will be hard pressed to meet the retirement income needs of our Nation's working men and women.

The expansion of private pension coverage and benefit levels has been stayed for the moment, due to uncontrolled inflation, slower economic growth, and to a lesser extent, the effects of ERISA, the Employee Retirement Income Security Act of 1974.

The demographics of the future cast doubt on health of the social security system. It is difficult to foresee how current levels of support can be maintained, yet far too many workers already depend on social security benefits as their sole source of retirement earnings.

On the other hand, individual incentives for personal retirement savings and investment are not emphasized enough. New inducements will be necessary to encourage individual retirement initiatives, particularly during this era of shrinking disposable income, when this aspect of retirement planning is the first to be dismissed.

The Retirement Income Incentives and Administrative Simplification Act of 1981 sets forth the necessary blueprint for building on the strengths and correcting the weaknesses of our present system of providing retirement income. By preserving our private pension system and strengthening it through tax incentives and other means, the bill sets the stage for expanded capital formation and increased productivity in the 1980's and beyond which will lead to greater retirement income security for all of America's workers and their families.

Title I of the bill establishes the Employee Benefit Administration (EBA), a single independent agency to consolidate Federal regulation with respect to employee pension and welfare benefit plans. The EBA is charged to carry out a newly stated national policy under ERISA to: First, encourage the establishment and growth of employee benefit plans; and second, encourage savings to meet the needs of employees and their families in the event of death, disability, or retirement.

Title II permits Federal income tax deductions for employees who supplement their employer-sponsored pension with individual contributions to their plan or an individual retirement account (IRA). Experience in Canada under a similar provision suggests that nearly one-third of individuals earning $15,000 or more will expand their retirement savings when this provision of the bill is fully effective.

Title III clarifies, corrects, and simplifies current ERISA provisions in order to eliminate unnecessary plan expense and paperwork and to remove existing obstacles to orderly growth and plan formation.

Title IV amends the Internal Revenue Code to conform it with title III and to solve problems certain employees and plans have experienced with respect to lump-sum distributions, rollovers, and tax qualification. The contribution limits to H.R. 10 self-employed plans are doubled. The policy to allow plans to coordinate benefits with social security is updated and simplified.

Title V provides for voluntary IRA payroll withholding arrangements for employees who are not covered by employer-sponsored pension plans.

Title VI restructures the ERISA title IV single-employer plan termination insurance provisions to end abuses which threaten the continued viability and solvency of the program. While at this time it is not considered necessary for the Congress to statutorily alter accounting standards applicable to pension plans, the provisions under title VI changing the insurable event from plan termination to employer liquidation should render moot the current discussion in pension accounting circles as to any need for pension fund liabilities to appear as an item on the balance sheet of sponsoring employers.

In summary, our bill creates a new retirement policy framework in which income security will be enhanced through increased retirement savings and pension plan formation. We appeal to our colleagues in the Congress, and President Reagan as well, to set a new course responsive to the retirement needs of our Nation's workers and their families by quickly enacting the Retirement Income Incentives and Administrative Simplification Act of 1981.

A detailed summary of the bill's provisions follows:

SUMMARY OF H.R. 4330

TITLE I—EMPLOYEE BENEFIT ADMINISTRATION

The key to the successful implementation of a rational retirement income policy is the consolidation of Federal pension regulation under a single agency to be known as the Employee Benefit Administration (EBA). If the principal objective of ERISA, namely assuring that workers receive entitled benefits, is to be fully realized, a single agency must administer the law. Evidence shows that the unnecessary expense, confusion, and delay under ERISA's multiple administration have in the past caused an alarming number of employers to terminate existing employee benefit plans or refrain from establishing new ones. In this respect, multiple administration has thwarted the principal intent of ERISA.

During the development of ERISA, four legislative committees agreed, after considerable effort, to a complex arrangement by which agencies and departments would administer various parts of the law. Regulatory responsibilities in the areas of reporting, disclosure, vesting, funding, and plan termination insurance were divided among the Department of Labor, the Internal Revenue Service, including the Treasury Department, and the Pension Benefit Guaranty Corporation. Although a good faith effort was made to set forth the exact boundaries of each agency's responsibilities, many of us who were most closely involved in ERISA's development expected problems to arise.

After nearly 7 years of ERISA oversight experience, it is quite clear that this administrative design has not worked. ERISA has been repeatedly included in a list of Government programs known for excessive bureaucracy. It earned this reputation through well-documented examples of duplication and waste, confusion and delay, complexity and lack of inter- and intra-agency coordination. Each of ERISA's three administrative agencies has pursued its own individual and distinct policy, leaving ERISA without a consistent policy of its own.

The bill would correct these shortcomings by consolidating all of ERISA's functions under the Employee Benefit Administration whose charter would be "to foster the orderly growth and maintenance of employee benefit plans."

The EBA would be headed by a full-time three-member Board of Directors consisting of a liaison officer from both the Labor and Treasury Departments and the Executive Director of the EBA who would serve as Chairman. The PBGC would retain its present corporate character within the EBA with the membership of the EBA and the PBGC Board of Directors being identical—to prevent any future conflict in EBA and PBGC policies or operations.

By also serving as the Executive Director, the EBA Chairman of the Board would be able to implement the policies set by the Board both efficiently and expeditiously.

The representation on the Board of the Department of Labor and of the Treasury by their liaison officers provides assurance that pertinent labor law and tax law policies will be given due consideration.

The ERISA functions of the Secretaries of Labor and the Treasury would be trans-

ferred to the EBA, as would the functions of all other agencies and departments relating to employee benefit plans, subject to the discretion of the President. All regulations and rulings previously issued by the Treasury, IRS, DOL, and the PBGC would remain in effect. Any other federal agency or department issuing regulations affecting employee benefit plans would be required to consult with the EBA to avoid duplication and inconsistency.

The functions and duties of the Secretary of the Treasury transferred are those under titles I, II, and IV or ERISA; and those under Internal Revenue Code sections 401, 406 (a) and (b), 407 (a) and (b), 410, 411, 412, 413, 414, 415, 418, 418A, 418B, 418C, 418D, 418E, 4971, 4975, 6057, 6058, 6059, 6690, 6692, and 7476; and those under other provisions of the Internal Revenue Code—for example sections 219, 220, 404, et cetera—which relate to the formulation of retirement income policy or to plan qualification and disqualification.

The enforcement functions under both title I and title II of ERISA would be transferred to the EBA. As a result, the enforcement remedies under title II—for example, plan disqualification, excise taxes and other penalties—would be exercised solely by the EBA in a coordinated fashion with the other civil remedies under title I of ERISA. The conflicting or duplicative enforcement activities under present law would be eliminated. Importantly, in order to better protect participants, any action by the EBA leading to the disqualification of a plan would be taken as a last resort only after all other remedies authorized under ERISA or the Internal Revenue Code have been exhausted.

Such officers and employees would be transferred to the EBA as may be necessary to maintain and improve administration of the functions transferred and to assure a competent and qualified field force. In order that the present level of effort and expertise not be diminished, the President is directed to transfer officers and employees in the national and field offices of the Department of Labor and the Department of the Treasury—including the Internal Revenue Service—as may be necessary to accomplish this purpose. The President and the Board are granted the authority needed to accomplish the reorganization without causing disruption to the present level of effort or to employee's careers.

The existing Advisory Council on Employee Welfare and Benefit Plans would be transferred to advise the administration. As the terms of existing members expire, the President would appoint new members to the Council.

The Joint Board for the Enrollment of Actuaries would become the Actuary Enrollment Board, an entity under the jurisdiction of the EBA.

The EBA would be established not later than 2 years after the date of enactment, although the President could delay the transfer of any function which may be necessary to provide for a smooth transition.

The EBA will provide the necessary framework to deal, in a timely fashion, with emerging pension issues.

The creation of the EBA will finally give proper recognition to the vast significance of this Nation's 1.8 million private pension and welfare plans and their 70 million-plus participants.

TITLE II—DEDUCTIONS FOR RETIREMENT SAVINGS

Currently, individuals who are active participants in a retirement plan cannot establish an individual retirement account and cannot receive a tax deduction for their own plan contributions whether such contributions are voluntary or mandatory.

By providing tax deductions to plan participants for their own contributions, the bill will solve several problems which have manifested themselves under the current law. When an employee already participating in a plan desires to establish an IRA but is precluded from doing so, pressure is created for the employee to withdraw from the plan. On a collective scale, this pressure could jeopardize the plan's qualified tax status. The bill will eliminate the current pressure for employees to withdraw from plans.

The current law prohibiting participants from setting up an IRA works as a particular hardship on mobile employees such as engineers. Under the bill, employees who participate in the plan but terminate before they are vested would not receive any plan benefits, but they would at least have their IRA to fall back on.

Finally, under the bill, those who participate in inadequate plans—for example, profit-sharing arrangements when there is minimal profit—will have the freedom to set up their own IRA's or contribute to their own plans, if permitted, and receive a tax deduction.

The bill will also encourage the establishment of new pension plans in cases where employers were previously reluctant or unable to fund for pensions at a meaningful benefit level.

Both titles II and V of the bill provide new inducements for retirement savings among employee groups currently not covered by any pension plan.

The bill provides these necessary inducements: First, by increasing the deductible limit on contribution to individual retirement accounts—IRA's—from $1,500 to $2,000; second, by removing the present 15 percent of earned income limit on IRA's in order to simplify IRA administration and to induce low wage earners to save more; third, by permitting a deduction within the $2,000 limit for voluntary or mandatory contributions to employer-sponsored pension and savings plans; fourth, by permitting all employees to split their contributions in order to pay up to $1,000 into an IRA for their spouse regardless of spousal earnings; and fifth, by removing the age 70½ restriction on contributions to IRA's and raising from 70½ to 75 the age at which distributions must commence.

The bill also equalizes the tax treatment of retirement contributions for private and public employees. Public employees covered under social security and paying the FICA tax could deduct up to $2,000 in contributions to their pension plan or IRA. Public employees not covered under social security would have the $2,000 deductible limit reduced by the amount of the FICA tax they would have had to pay if they had been covered under social security. Besides creating tax equity, a side benefit of this provision will accrue to the ailing social security trust funds. Groups of public employees in plans already covered under social security will in the future be less likely to pull out from under social security, since it would mean the loss of significant tax benefits to individual participants. This would halt the recent hemorrhaging of social security revenues due to the loss of taxes from public employee groups who have voluntarily withdrawn from the system.

The bill gives the Secretary of the Treasury authority to issue regulations concerning the filing of simplified reports in connection with this new deduction.

Conforming estate and gift tax amendments are also made by the bill.

TITLE III—ERISA CORRECTIONS, CLARIFICATION, AND SIMPLIFICATION

After nearly 7 years of congressional oversight of the Employee Retirement Income Security Act of 1974, it is high time for the Congress to make the necessary corrections to the law where shortcomings persist despite the best efforts of the agencies to make such corrections administratively. The establishment of the employee benefit administration under title I of the bill will automatically correct many of the severe and more vexing problems related to multiple agency administration.

ERISA's burdensome reporting requirements and bureaucratic redtape have frustrated the operations of existing plans and discouraged the establishment of new ones. A number of revisions can be made without adversely affecting participant protections, but which will make ERISA a more reasonable law and one that strengthens the private pension system.

Subtitle A—Amendments to definitions

The bill exempts certain severance pay and supplemental retirement income arrangements from the provisions of ERISA relating to pension plans. In many cases, employers have ceased their pre-ERISA practices of supplementing retiree pensions through ad hoc payments made only from the employer's general assets. The bill removes disincentives for employers to make such payments by exempting such practices from ERISA's pension plan requirements. The exemption contains a safe harbor rule for certain arrangements where the supplementary payments are limited to no more than the increase in the Consumer Price Index. The Secretary of Labor may define the parameters of other arrangements to be exempted. This provision modifies a similar provision in existing law which up to this point has been interpreted in an unnecessarily restrictive manner.

The definition of normal retirement age is clarified to permit benefit payments to commence at the beginning of calendar months.

The ERISA title I definitions of "governmental plan" and "party in interest" are amended to conform with such definitions under the Internal Revenue Code. A technical omission in the definition of "relative" is corrected.

Subtitle B—Reporting and disclosure

The bill eliminates the EBS-1 plan description requirement, since the Employee Benefit Administration will have available all necessary plan information through the filing of the plan qualification documents, the annual report form, and the summary plan description.

The bill eliminates unnecessary plan costs related to duplicative work in which accountants and actuaries may now be engaged with respect to plan reporting. The definition concerning the opinions of actuaries and accountants is changed so that the language reads that they "shall" rely on one another's opinions instead of that they "may."

The bill cuts down on unnecessary auditing of the assets and liabilities of common

or collective trusts, separate accounts or separate trusts of financial institutions such as banks or insurance companies which are regulated and subject to periodic examinations by State or Federal agencies. Participants, of course, receive greater protection from a full audit which covers assets in such pooled trusts or accounts, but the cost of doing such an audit cannot be justified where the institution is already subject to periodic examination by a governmental agency.

The bill eliminates unnecessary costs connected with the annual reporting regulations for plans having "master trusts." The amendment provides for adequate reporting of plan financial information, but more appropriately with respect to all assets of the master trust.

The bill recognizes the action taken by the Department of Labor to revise schedule B of the annual report and, thus, eliminates section 103(d)(6) from the law—the requirements of which have been permanently waived by the Department.

The bill provides that simplified annual reporting apply to plans covering less than 100 active participants—that is employees. This modifies the current 100 "participant" rule whereby small plans can become subject to large plan reporting requirements merely through their continued operation over time.

A recent GAO study questions the cost-effectiveness of the requirement that the summary plan description be filed with the Department of Labor. The bill provides that an updated SPD be filed and furnished every 10 years rather than every 5 years as presently required. The lengthening of the filing period will enable the Employee Benefit Administration to determine whether the limited use justifies the costs of filing incurred by both plans and the Government.

The bill modifies the following requirement which has been determined not to be cost-justified. The summary annual report, which must be distributed to pension plan participants each year and which must disclose, among other things, the plan's assets and liabilities as well as its annual receipts and disbursements, is no longer required to be furnished individually. However, a summary annual report containing more meaningful information would have to be posted at employee worksites or published in company or union newsletters. Participants who are interested in the fiscal condition of their plans can request a copy of the full annual report which must be provided by the administrator. To assure that this report is practically available, the bill provides that an administrator can charge no more than $10 for a copy of the full annual report. The bill also makes the revised provision inapplicable to welfare plans.

The notice to interested parties currently required under ERISA section 3001 and section 7476 of the Internal Revenue Code is simplified to require posting (or alternative means of publication under regulation) and notification of collective bargaining agents within 60 days before and 15 days after the request for a determination is filed.

Under the bill, if an employee is interested in the amount of his own accrued benefit or account balance, he can request such information from the administrator who, under newly combined ERISA sections 105 and 209, must provide such information. Upon the separation from service and incurrence of a 1-year break in service by an employee, a plan administrator will be required to automatically disclose to the former participant his accrued benefit only if the benefit is vested. There is little point in requiring an administrator to bear the cost of notifying a former employee that he has no vested benefit. It is intended, however, that such an employee will have the right to request information on his accrued benefit, whether vested or not, before the occurrence of a 1-year break in service.

The bill seeks to preserve individual privacy and eliminate the harassment of employers and others connected with plans by requiring that any information provided individuals by the Department of Labor in computer-compatible form (such as tapes) not be utilized for the mass mailing of solicitations for any commercial purpose.

The bill amends section 110 of ERISA to clarify that alternative methods of compliance with the act's reporting requirements may be extended to welfare plans as well as pension plans. Subject to certain safeguards, the reporting of 3 per cent transactions is curtailed, as well as the filing of certain information relating to insured welfare and pension plans which is already filed with other regulatory bodies or available from other sources.

The bill also provides for alternative methods for distributing information to participants in multiemployer plans subject to certain safeguards and regulations.

Subtitle C—Participation and vesting

The bill permits the determination of pension plan eligibility on a plan-year basis, thus reducing plan administrative costs by allowing a single entry date each year to be used for such purposes.

The bill amends the multiemployer suspension of benefit upon reemployment rules. It clarifies that the term "employed" includes self-employment. It also permits the suspension of benefits for persons who have not retired but continue to work on an irregular basis. Finally, it permits the imposition of financial penalties for failure to notify the plan of re-employment.

The bill eliminates unnecessary confusion and administrative expense by clarifying that the employee notification and election requirement (section 203(c)(1)(13)), triggered when vesting schedules are changed, is only applicable to employees who might be adversely affected by the change.

The bill clarified that 125 days of service in any maritime industry shall be equivalent to 1,000 hours of service.

Under the bill, a multiemployer plan will be able to provide that a participant's accrued benefit upon his separation from the service is the sum of different rates of benefit accrual for different periods of participation as defined by one or more fixed calendar dates or by employment in different bargaining units. For purposes of the 3 percent accural method or the fractional method, the accrued benefit may be determined by projecting the normal retirement benefit to which a participant would be entitled if he continued to accrue benefits at the average of the rates applicable to this period of actual participation.

The bill makes several changes with respect to the calculation of optional forms of benefits which will reduce plan legal and other administrative costs. A new paragraph (24) is added to section 401(a) of the Internal Revenue Code to exempt a plan from a current IRS requirement that a plan be amended each time a change is made in the actuarial assumptions used to compute the actuarial equivalence of optional benefit forms (but only if the plan provides that the actuarial assumptions are set forth in a separate document which is made available to plan participants). Also, a plan offering optional benefit forms would not be treated as altering a participant's accrued benefits by reason of a change in the actuarial assumptions used to compute such benefits as long as the plan makes provision for disclosure as described above.

The current ERISA year of service, year of participation, and break-in-service rules relating to seasonal industries have proven to be inexplicable. Neither the Department of Labor nor the Department of the Treasury (which has assumed jurisdiction over such rules under Reorganization Plan No. 4) has been able to make any headway in developing regulations with respect to these provisions. Neither should they attempt to do so given the present unworkability of such provisions. The bill includes the following new definitions with the intent being only to elicit comments as to their workability and not necessarily to suggest they offer a final solution to the problem. The concepts of "seasonal employee" (one who works less than 1,000 hours in a year) and "seasonal establishment" (one at which employment is limited by regular and recurring climatic conditions directly affecting the ability of the establishment to engage in its normal functions) are introduced, and plans in which a majority of the employees are seasonal employees would be required to use 500 hours, rather than 1,000 hours, for purposes of defining a year of service.

The bill contains several provisions necessary to correct the serious problem of delinquent employer contributions which threatens to undermine the equity and funding of multiemployer plans. Currently such plans are faced with the choice of either "kicking out" long-delinquent employers or curtailing the benefits of employees of delinquent employers. Removal by a plan of a delinquent employer is an unsatisfactory solution since it involves lengthy renegotiations, inordinate subsidies and expenses, and harsh treatment of employees who incur service breaks for purposes of both vesting and benefit accrual. The bill clarifies the circumstances under which a plan may reduce employee benefit accruals (but not service for vesting purposes) proportionate to employer contribution delinquencies, thereby providing plans with an equitable yet effective means of deterring contribution delinquencies. Safeguards require a plan to make diligent efforts to collect delinquent contributions after notice to the employer and employee representatives and to restore employee benefit accruals when such efforts are successful.

The bill clarifies and improves the provisions relating to joint and survivor annuities. Most defined contribution plans have eliminated all optional annuity forms from their plans in order to avoid the current joint and survivor annuity requirements. The bill removes the disincentive for such plans to offer annuity options to their participants by exempting them from the J. & S. requirements (so long as the plan provides for 100 per cent vesting upon death). This provision is in concert with the recent Tax Court holding in *BBS Associates, Inc.* v. *Commissioner* which we endorse. In addition, the bill clarifies that a J. & S. option must be provided to a disability retiree only when the disability begins after the qualified early retirement age. Also, the bill clarifies that a plan need not offer a preretirement survivor annuity option if the preretirement death benefit is automatic and is

at least the actuarial equivalent of the survivor annuity, and the plan allows the participant to elect to have the death benefit paid in the form of a survivor annuity. Also the bill clarifies that the right of a participant to revoke an election of an annuity option is not to extend beyond the later of the participant's annuity starting date, or the date on which the participant first applies for benefits. Finally, the bill clarifies that a person other than the spouse may be designated as beneficiary under a qualified joint and survivor annuity, provided the spouse gives written consent (this provision does not require such written consent for other optional annuity forms which a plan may provide).

Currently, courts are ignoring ERISA's preemption of State law with respect to community property laws and alimony and support decrees. Plans which obey court orders to pay benefits in violation of ERISA's prohibitions against assignment and alienation may be placed in tax jeopardy or found to be in violation of plan provisions. The bill ends this confusion by making the prohibition of benefit assignment and alienation specific in Federal law, with an exemption allowing plans to pay certain benefits pursuant to state court decrees of divorce, annulment, legal separation, or family support. The applicable decree must provide that the payment is required and specify the amount, and that the obligation is the participant's. In addition, the decree could not require a plan to alter its terms of payment. A plan would have to be notified of the court decree to be obligated for future payments. Both the plan and the other party would be required to give certain notification to each other before payments could be made.

The bill would clarify Congressional intent by codifying the existing regulations pertaining to the elapsed time method of determining length of service.

Subtitle D—Funding provisions

The bill clarifies that the amortization (funding) period connected with changes in actuarial methods is the same as the period connected with changes in actuarial assumption.

The alternative funding method is made workable for the well-funded plans using this method by permitting such plans to amortize unfunded past service liabilities over 30 years when the plan switches back to entry-age-normal funding (which usually occurs at the time benefits are increased substantially).

The bill amends the law to require the approval of changes in funding method or plan year only when such changes are made more than once in a 3-year period. This provision eliminates delays and unnecessary plan and governmental costs.

The bill clarifies existing law by specifying that all plan provisions requiring future benefit adjustments must be taken into account for funding purposes (in particular, the actuarial assumptions used in projecting benefits subject to automatic cost-of-living increases would have to conform with the reasonableness and actuary's best estimate tests).

Elsewhere in the bill are additional changes to the funding provisions which will result in greater benefit security by increasing both the maximum contribution limit and the minimum funding standard for single employer plans.

Subtitle E—Fiduciary provisions

In order to make more types of insurance available to plans and to codify the agency's interpretation of ERISA regarding insurance company general accounts, the bill provides with respect to a plan which is funded by a contract, or policy of insurance, including, but not limited to guaranteed benefit policies, that such a plan's assets shall include such contracts or policies, but not the insurer's general account assets.

The bill seeks to simplify and clarify some of the concepts relating to the assignment and allocation of fiduciary duties. Under the bill "named fiduciaries" are to be designated in a plan instrument or pursuant to a procedure in a plan instrument. This will provide certainty as to which plan fiduciaries, jointly or severally, have authority to control and manage the operation and administration of the plan. The bill also makes clear that such named fiduciaries may allocate duties among themselves, may designate others as fiduciaries to carry out specific fiduciary activities, and may direct plan trustees. Plan trustees must be "named fiduciaries" or appointed by a "named fiduciary." Throughout Part 4 the concept of fiduciary "duty" replaces the somewhat cumbersome phrase "responsibility, obligation, or duty" and is intended to encompass the scope of the replaced language.

The bill makes a correction to the exceptions allowed under ERISA's nonreversion provision by clarifying that contributions made by an employer to a plan by a mistake of fact or law may be returned in the case of a collectively bargained plan to which more than one employer contributes (whether such a plan meets the definition of "multiemployer plan" or not). The period for the return of contributions or payments is made uniform under all such exceptions.

The bill modifies the provisions dealing with the general subject of co-fiduciary liability in an attempt to perfect the language consistent with the policy of the Act. Generally the policy of ERISA is to impose fiduciary responsibility for the activities of others in four circumstances:

(1) where the fiduciary is vested with some duty of supervision by the terms of the plan (e.g. section 405(c));

(2) where the fiduciary is a culpable participant in a breach (e.g. section 405(a)(1));

(3) where the fiduciary is guilty of a breach which gives rise to or occasions the breach of another (e.g. section 405(a)(2)); and

(4) where the fiduciary has knowledge of the guilt of another and fails to take action appropriate to the circumstances (e.g. section 405(a)(3)).

The first two circumstances are clearly subject to the sanctions under section 404, and in both cases liability would be imposed under section 409 by operation of section 404. It is intended under the bill that the identical requirements of section 404 carry out the policy as to these two situations. The third circumstance describes not a standard of conduct, but rather, articulates a measure of damages. Like the first two situations the language of ERISA section 405 creates the appearance of a redundancy, in this instance with section 409. The bill eliminates this apparent redundancy, and under section 409, as revised, it is clear that fiduciaries are liable for all losses resulting from their breach. This would be true for those losses they themselves directly occasion as well as those that are causally related to their action. The fourth circumstances is by far the most troublesome to deal with, and the language in section 405 of the ERISA appears not terribly well suited to the policy. The problem arises because the policy in ERISA generally seeks to insure that responsibilities under the Act be directly related to the assumption of duties, and the bill carefully adheres to that policy by requiring that certain persons (named fiduciaries and trustees) assume enumerated duties. These provisions insure that individuals will be responsible for all the activities undertaken by any plan. The dilemma is the extent to which knowledge alone should be relied on to impose responsibility on an individual fiduciary. As it now stands ERISA could be misread to give rise to such a responsibility where a fiduciary has bare knowledge of the acts or events comprising the breach of another. This interpretation is troublesome as it does violence to the principle that those on whom a responsibility is to be imposed need be given some prior notice of the dimensions and possible consequences of their obligation. Generally the bill satisfies the requirement of prior notice by associating the assumption of a duty with either a formal designation or the commission of some overt act. Reliance on knowledge alone would raise the very real possibility of a responsibility being imposed on totally unsuspecting individuals. Additionally, if bare knowledge is to be the "trigger," imposing, by itself, responsibility on a person, many have expressed concern that the net of potential liability will extend well beyond the group that any equitable policy would seek to hold accountable. Certainly, more than bare knowledge of events was intended to be a prerequisite to imposing responsibility under ERISA section 405. Most probably two additional elements were intended, knowledge that a breach has occurred and some incident of the existing fiduciary relationship which gives rise to a duty to act. Unfortunately the language of ERISA is at best uncertain on this point. It is our intention to explore this issue by means of the hearing process in order to reach a clear statutory statement of fiduciary responsibility in this circumstance.

From the time of ERISA's enactment the law has been characterized in numerous press accounts as being excessively burdensome. The oversight record shows that witnesses have directed their most critical comments to the prohibited transaction provision under section 406(a).

The point of their comments is that the scope of the 406(a) prohibitions, insofar as they affect the conduct of parties in interest who are not fiduciaries, is overly broad in relation to the Act's policy objectives. They have not suggested, nor would we consider, changes to the provisions to section 406(b) prohibiting fiduciary self-dealing and disloyalty or to the major fiduciary obligations arising under section 404. ERISA section 406(a) embodies a system of prior restraint directed at all dealings between a plan and any person who has a prior relationship with the plan. The theory on which it is based has, on occasion, been described as the prophylactic inter-position of the public interest in transactions which involve a high risk of abuse. Proponents argue that the probability that parties in interest will influence plan decisions to their own benefit compels the prohibition, subject to an exemption being granted under section 408. In their view, any person with a prior relationship to the plan, is vested with the potential to exercise undue influence over their subsequent dealings with the plan. This viewpoint and the provisions of section 406 have some interesting parallels in the treatment of tax exempt foundations in the 1969 amendments to the Internal Revenue Code.

In that situation dealings between a foundation and certain disqualified persons were prohibited. The thrust of those provisions was to prevent the use of tax exempt charitable funds to further the economic interests of donors, their families, or the managers of foundations. The purpose of that legislation was limited to establishing conditions for tax exemption and the main regulatory effort was left to state law. The use of prior restraint in the context of foundations, because of their few numbers and their non-commercial nature proved to be a relatively workable standard, for the limited purpose of tax qualification. Unfortunately, the parallel does not extend to the effect of section 406(a) on the day-to-day operations of an employee benefit plan. The ERISA hearing record is replete with examples of transactions involving non-fiduciary parties-in-interest being prohibited to no purpose. Based on these examples it is clear that in most employee benefit plans of any size even the most routine transaction can run afoul of section 406(a). Further the breadth of the prohibited group and the difficulty in identifying all parties-in-interest make it problematical whether any fiduciary in an employee benefit plan can really be certain he is not participating in a transaction violating section 406(a). There is a strong suspicion that the practical impediments to complying with the section and the absurdity its application in some cases, may have led many otherwise honest fiduciaries to consciously disregard its requirements. Much has been made of the exemption process and its availability to provide flexibility in the impact of the section. However, few if any past witnesses have expressed any degree of satisfaction in the practical effects of the exemption process. The process has proven to be slow, cumbersome and not surprisingly, bureaucratic. These broad prohibitions, when applied to the commercial transactions which are the lifeblood of any employee benefit plan, impose an enormous burden on these plans. That burden is not mitigated by the exemption process, nor is it offset by any benefit derived from avoiding transactions with non-fiduciary parties-in-interest. Therefore, the bill replaces the draconian standards under 406(a) with the more workable standards originally adopted by the House of Representatives when the House considered the ERISA legislation in 1974. In addition to the general prudence and exclusive benefit requirements under 404, the 406(a) standards require plan transactions with parties-in-interest to meet tests involving adequate consideration, adequate security, and reasonable rates of interest which are not inconsistent with the fiduciary requirements under section 404. Cases involving the more egregious and pervasive violation of ERISA's fiduciary standards transcend mere 406(a) violations, and the bill will provide a more effective enforcement mechanism for dealing with such cases by consolidating all enforcement remedies under ERISA and the Internal Revenue Code within the Employee Benefit Administration.

With respect to the definition of "qualifying employer real property," the bill clarifies that "a substantial number of the parcels must be dispersed geographically" only when three or more parcels are involved. This modifies the current interpretation placed on the definition of qualifying employer real property which has the irrational result that a single parcel of such property cannot qualify because it cannot be dispersed geographically.

Until all enforcement responsibilities can be consolidated under the Employee Benefit Administration, the bill allocates the prohibited transaction enforcement responsibilities relating to pension benefit plans to the Department of Labor which has already been allocated most of the authority to issue exemptions pursuant to the President's Reorganization Plan No. 4. The current 5% and 100% excise tax penalties under the Internal Revenue Code are replaced by discretionary 5% and 100% civil penalties under section 502(i) of ERISA.

As stated earlier, the prohibited transaction provisions under ERISA have been roundly criticized as being excessively burdensome. This has led to the perception that ERISA is an extremely oppressive law and one from which employers, who would otherwise set up a plan for their employees, should steer clear. The failure of the Department of Labor to provide class exemptions for transactions beneficial to plans and important to the expansion of plans, particularly in the small plan area, has greatly hampered the growth in coverage under private pension plans. In order to eliminate present barriers to plan expansion and to spur capital formation, the bill provides a statutory class exemption for loans and leases made by a defined contribution plan to the major employer establishing and maintaining the plan. In addition to the prudence, diversification, and other fiduciary requirements under section 404, such transactions would have to meet specified tests requiring adequate security, and adequate consideration and rates of interest not less than that which would be obtained in an arm's length transaction with an unrelated third party. Under the exemption, such transactions could not total more than 50% of plan assets. The provision is limited in order to target new plans which are principally defined contribution plans for small employers.

The bill clarifies that not only plan fiduciaries but also parties-in-interest may receive plan benefits they are due or reasonable compensation for services they may render to the plan. This provision eliminates any unintentional construction that plan participants, because they are included in the definition of party-in-interest, cannot be paid their benefits without causing the plan to violate the prohibited transaction rules under section 406.

The bill makes a correction to section 408(d) of ERISA which inadvertently makes the exemption procedure relating to prohibited transactions currently unavailable to persons who are "owner-employees."

The bill provides that, for purposes of sections 406 and 407, the assets of a plan shall not include assets in a pooled separate account of an insurer or assets in a collective investment fund of a bank or similar financial institution supervised by the United States or a State. This provision is directed at the unworkability of the prohibited transaction provisions as they relate to institutional investment managers and should lead to reduced employee benefit plan costs. The present statutory framework of prohibiting large blocks of transactions without qualification, including many that constitute long-standing normal business practices, and leaving exceptions to the time-consuming administrative exemption procedure, is an example of clear overregulation for institutional investment manages which are subject to strict regulation by State or Federal agencies.

In a related provision, the bill eases the policing of the 10% limitation under section 407(a) by allowing separate accounts on insurers and common or collective trusts to enter into written understandings with plans that the aggregate fair market value of employer securities and real property will not exceed 10% of the fair market value of the assets of the separate account or trust.

The bill provides clarification (consonant with currently applicable regulations) that ERISA's ban on plan exculpatory provisons is not intended to prevent indemnification of fiduciaries by parties related to the plan. The bill also makes it clear that among the various indemnification practices permitted under ERISA, a multiemployer plan may in certain situations pay the cost of defending plan trustees and may indemnify them subject to a determination that the trustees acted in good faith. The intent is to better enable plans to retain competent trustees by permitting honest fiduciaries to carry out their responsiblities without fear of personal liability for the large potential costs of defending challenges to plan decisions. The provison will also minimize the dependency of plans on costly insurance thus creating cost savings which will insure to the benefit of plan participants.

Subtitle F—Amendments to ERISA title I, part 5

The bill corrects an omission made under sections 515 and 502(g)(2) in connection with the collection of delinquent employer contributions under multiemployer pension plans. First, an express statute of limitations, consistent with the statute of limitations applicable to other provisions under ERISA, is made applicable to section 515. Also, the amendment makes clear that actions to collect delinquent contributions may be brought in state courts as well as Federal courts.

To improve administration, the bill provides that amounts collected by the Department of Labor from persons requesting information are to inure to the Department.

In order to assure small plan sponsors of an adequate voice on the Advisory Council on Employee Welfare and Pension Benefit Plans, the bill requires that at least one member of the Council shall be representative of employers maintaining small plans.

The Department of Labor and the Department of the Treasury have been totally unresponsive to repeated requests by the Congress for information currently reported by plans to the Departments. The bill requires the Secretary of Labor to publish a report at least annually showing the number of plans and plan participants, plan assets, and other plan information by type and size of plan. This report is to be prepared based on existing information already filed with the Departments and requires no additional reporting by plans.

Increasingly the courts are challenging the preemption language under ERISA section 514. The bill affirms the broad Federal preemption of State laws as was the original intent of ERISA. First, the bill provides that a State insurance law which requires that a specific benefit be provided or made available by a contract or policy of insurance issued to an employee benefit plan is preempted and is not saved under the existing insurance exception. The proposal is intended to overrule the decision in Wadsworth against Whaland in which the first circuit held that ERISA did not preempt a State insurance statute requiring insurers to provide coverage in group health insurance policies for treatment of certain illnesses and disorders. If left uncorrected, Wads-

worth would permit indirect State regulation of employee benefit plans and would encourage plans to avoid such regulation through self-insurance. Two exceptions to this general rule are expressly permitted under the bill. The first allows States to require "conversion" features in contracts and policies of insurance, and the second allows the States to require so-called "freedom of choice" provisions in such contracts and policies.

In addition, the bill amends the preemption section to make it a matter of Federal law that benefits provided under an ERISA-covered pension plan may not be assigned or alienated. The purpose of the one exception to this rule is to reserve for the states their traditional control over marital and family matters and to aid plan administrators who are faced with the conflicting duties of obeying State court decrees to pay benefits to plan participants' former spouses and also of complying with the existing antialienation rule under penalty of plan disqualification. The particulars of this exception are contained in the amendment to the antiassignment and alienation provision described earlier under subtitle C.

The bill also clarifies the original intent of Congress in passing ERISA by restating in a positive fashion the areas of State and Federal securities law which are inapplicable in connection with an employee's interest in an employee benefit plan. Firstly, a participant's interest in an employee benefit plan covered under ERISA is not to be considered a security, or similar right, for purposes of the Acts administered by the Securities and Exchange Commission. Secondly, ERISA preempts any provision of State law which defines or treats such a participant's interest in an employee benefit plan as a security or similar right. These provisions underscore the understanding of the Congress at the time of ERISA's passage as to the applicability of the securities laws as stated as follows in the Interim Report of Activities of Private Welfare and Pension Plan Study (Senate Report No. 127, 93d Congress, 1st Session. 4(1973)):

"Pension and profit-sharing plans are exempt from coverage under the Securities Act of 1933 . . ., unless the plan is a voluntary contributory pension plan and invests in the securities of the employer company an amount greater than that paid into the plan by the employer. A voluntary contributory plan is one to which both the employee and employer contribute and in which employees voluntarily participate. If the plan's investment in the employer's securites exceeds the employer's contribution, both the employer's securities and the interest in the plan must be registered under the Securities Act with the SEC."

In *International Brotherhood of Teamsters* v. *Daniel* the Supreme Court stated that the enactment of ERISA "undercuts all arguments for extending the Securities Act to non-contributory, compulsory pension plans." In *Newkirk* v. *General Electric Company* the District Court for the Northern District of California stated that "the rationale behind the *Daniel* holding is applicable also to a contributory, non-compulsory pension plan." In *Tannugi* v. *Grolier, Inc.* the District Court for the Southern District of New York found that even an employee's interest in a voluntary contributory pension plan could not be a security interest demanding and deserving protection under the 1933 and 1934 Securities Acts. We agree with the interpretation by the several courts with respect to the issues presented. The bill merely reemphasizes and clarifies these court decisions as a correct interpretation of Congressional intent.

Subtitle G—Miscellaneous

The bill makes numerous corrections of typographical, grammatical, and other technical errors in ERISA. The bill also provides for the consolidation of the PBGC-1 annual premium payment form with the 5500 annual report form.

Subtitle H—Recommendations by the agencies

Consonant with the policy of the bill to simplify ERISA and to reduce complexity and unnecessary paperwork, the Secretary of Labor and the Secretary of the Treasury are directed to make a joint recommendation as to how ERISA report requirements may be changed to take into account the different types and sizes of plans. For example, administrators of welfare plans should not have to struggle with the more complex instructions and requirements pertaining to pension plans. This provision of the bill also states that no regulation or form relating to cyclical reporting requirements for small plans shall become effective prior to the implementation of this section of the bill.

To encourage the growth of pension plan sponsorship, the bill makes provision for the eventual establishment of special master and prototype pension plans. Within one year after the date of enactment, the Secretary of Labor and the Secretary of the Treasury are to jointly recommend legislation to enable certain institutions, such as banks, savings, and loan associations, and insurance companies, to develop special master and prototype plans for adoption of employers. It is anticipated that many employers who would otherwise be reluctant to establish plans will do so when the sponsoring institution assumes the major administrative and fiduciary burdens under such special plans.

TITLE IV—INTERNAL REVENUE CODE AMENDMENTS

Subtitle A of title IV of the bill conforms the Internal Revenue Code of 1954 to the amendments made to ERISA under title III. Subtitle B contains the following substantive amendments.

Code section 402 is amended to clarify that employee participation in predecessor plans or other plans of related employers is to be counted toward the eligibility requirement for lump sum distribution treatment.

Under the Internal Revenue Code certain defined contribution plans and defined benefit plans of an employer are treated separately for purposes of determining whether an employee has received a "lump sum distribution." However, the code does not contain similar rules for multiemployer plans and plans established by tax-exempt organizations. The bill provides that in the case of multiemployer plans and plans maintained by organizations described in section 501(c)(3) (relating to charitable and educational organizations) or section 501(c)(5) (relating to labor, etc. organizations) separate treatment with respect to defined benefit and defined contribution plans will also apply. Thus, the bill makes clear that plans established by these organizations can be classified as defined benefit and defined contribution plans and that separate distribution from the plans can receive lump sum distribution treatment. With respect to all other employers, all defined benefit, all money purchase, all profitsharing, and all stock bonus plans are to be treated separately for purposes of the lump sum distribution rules.

Because multiemployer plans provide portability of pension credits among the various employers maintaining the plans, and because such plans exist in industries where changes of employment are frequent, difficulty has arisen in some cases in determining when a "separation from the service" occurs in the context of a multiemployer plan for purposes of determining qualification for favored tax treatment of certain lump sum distributions under section 402(e) of the Internal Revenue Code. In order to resolve this issue, the amendment to section 402(e)(4) made by the bill specifies that a separation from service shall be deemed to have occurred in the case of a multiemployer plan if any employee has not worked for a period of 6 consecutive months.

In order to make target benefit plans more attractive in terms of providing past service benefits for older workers, the bill requires new target benefit plans (and allows current plans to elect) to meet the defined benefit rather than the defined contribution limitations of Internal Revenue Code (IRC) section 415.

Currently, employee contributions to a qualified private or public employee pension plan are not deductible and, therefore, upon withdrawal from a plan cannot be rolled over into an individual retirement account (IRA) to accumulate additional tax-deferred earnings. In order to enhance the portability of employee contributions, the bill allows lump sum employee contributions to be rolled over into an IRA and to be rolled over from an IRA back into a qualified pension plan.

Under section 514 of the Internal Revenue Code, the otherwise tax-free income of a tax-exempt organization, including a pension trust, may be subjected to income tax to the extent that it constitutes so-called "unrelated debt financed income." Thus, a pension trust which borrows against the security of its assets, including insurance policies, may find that a portion of the income which is generated for the sole purpose of providing retirement benefits is burdened with income taxes which reduce the amount of trust assets that are ultimately available for retirement benefits. Therefore, the bill amends the term "acquisition indebtedness" under IRC section 514 so as not to include indebtedness incurred by a qualified trust to an insurer to the extent the indebtedness is secured by a contract for life insurance with such insurer.

In order that employees working beyond normal retirement age not be unfairly penalized, the bill clarifies the application of the defined benefit plan limitations under IRC section 415(b)(1)(B) as an amount not less than the actuarial equivalent of the amount which would have been determined if the retirement income benefit had begun at normal retirement age.

Since the passage of ERISA, the minimum funding standards under the Act have in many instances proved inadequate to restrain unfunded liabilities from escalating to unsupportable levels. The legislation passed last year improved funding levels somewhat in connection with multiemployer pension plans. Under title IV of the bill, the funding requirements for single-employer plans are also strengthened to reduce the risk and exposure to the PBGC. In order to retain current levels of funding flexibility and to encourage faster funding, the bill amends IRC section 404 to allow past service liabilities to be amortized over 5 years (a

reduction from the current 10-year limitation).

The current limitations on contributions to H.R. 10 plans has created a flood by self-employed persons and partnerships to incorporate in order to be treated in a less disparate fashion in connection with such pension contributions. In order to eliminate some of the disparity in tax treatment, the bill increases from $7,500 to $15,000 the maximum contribution on the first $100,000 of income under H.R. 10 plans. The accruals under defined benefit plans for the self-employed are also increased proportionately.

The bill contains a provision to clarify Congressional intent in connection with the nondiscrimination rules under IRC section 411(d)(1). The substance of the provision is contained in H.R. 2775, a bill co-sponsored by Reps. Frenzel, Erlenborn, Holland, Perkins, and Ashbrook. The bill codifies as "safe harbors" the "present values" and "cross-section" tests contained in the June 12, 1980, revision to the proposed Treasury regulations under section 411(d). The bill also codifies the result intended by the ERISA conferees that "4/40" vesting be a "safe harbor" except in the event there is found to be a "pattern of abuse" under a plan.

A key element in the development of a rational retirement income policy is a degree to which qualified pension plans can "integrate" or coordinate pension benefits with Social Security and other Federal and State retirement benefits. The current integration rules spelled out in Rev. Rul. 71-446 were issued over a decade ago by the Internal Revenue Service. The rules are complex and out of date, and were originally developed using an esoteric formulation related to the "cost" of Social Security benefits. The bill introduces a conceptual framework intended to spur a discussion which will lead to the issuance of new integration regulations which are less complex and more relevant to present circumstances. The basic tenets of the amendment to IRC section 401(a)(5) are as follows: (1) each benefit type under a plan (retirement, disability, and survivor's) is tested separately to determine if it meets the integration rule; (2) a defined benefit offset plan is used to describe the basic integration rule while other plans with other forms of integration formulas must conform to similar principles; (3) the general rule states that a plan is not to be considered discriminatory if it meets the "minimum combined-benefit rule" and the "benefit-compensation ratio" for lower-compensated participants is not less than the "benefit-compensation ratio" for higher-compensated participants; (4) the "benefit-compensation ratio" is defined as the ratio of (A) the sum of the participant's plan benefit and the applicable Federal and State benefits which are offset (e.g. Social Security) to (B) the participant's compensation; (5) the "minimum combined-benefit rule" requires that a properly integrated plan provide combined pension plan and Federal and State benefits equal to at least 50% of 5-year average compensation for each participant earning less than the average annual wage covered under Social Security (the 50% is adjusted for persons who are under age 65 with less than 40 years of service); (6) in addition or as an alternative, a plan may be integrated by "capping" pension benefits so that in combination with Social Security (or other applicable Federal and State benefits) the combined benefits are not less than 80% of the participant's average annual compensation. The concept of integration is fundamental to the continued growth of the private pension system. We are confident that the above principles can be fine-tuned to form the basis for a reasonable and responsive national pension policy.

TITLE V—INDIVIDUAL RETIREMENT PAYROLL DEDUCTION ARRANGEMENTS FOR EMPLOYEES NOT COVERED BY PENSION PLANS

This title of the bill focuses on individual retirement incentives for employees who do not participate in employer-sponsored plans. In this case, employees would be allowed to participate in an IRA through a payroll withholding mechanism.

All employees not currently or ultimately eligible to be covered under a pension plan would be eligible for IRA withholding. Employers would not have to withhold unless 10 percent or more of the employees sign up to payroll withholding. Once the withholding began, employers would be obligated to forward individual contributions to one or more IRA sponsors of the employer's choosing.

IRA withholding would not be required of all employers. Employers who have not been in business for 5 years and small employers (those having fewer than 20 employees) are encouraged but not required to withhold.

IRA withholding will provide a viable mechanism for individual retirement savings within the workplace to employees who currently lack such a device. Even though the same incentives are currently available under the conventional IRA, voluntary withholding will provide many employees with the discipline to save which they now lack on their own.

To assist employees, the amount withheld under an arrangement established pursuant to title V would be shown on the employee's W-2 wage form. The Employee Benefit Administration established under title I will administer the provisions of title V.

TITLE VI—SINGLE-EMPLOYER TERMINATION INSURANCE AMENDMENTS

In 1979 the Pension Benefit Guaranty Corporation (PBGC) reported to the Congress that the Contingent Employer Liability Insurance (CELI) program under ERISA section 4023 was unworkable, and as a result this provision was repealed by the Multiemployer Pension Plan Amendments Act of 1980. While recommending the repeal of CELI, the PBGC also reported on the weaknesses of the termination insurance program relating to single-employer plans and suggested several fundamental changes.

A principle recommended by the PBGC which was generally supported by an outside panel of experts would require employers to continue funding vested benefits after plan termination. A consensus was also reached that the insurable event under title IV should be changed from plan termination to the insolvency of the employer sponsoring the plan. Recent events have further demonstrated the need to restructure the single-employer termination insurance program along the lines of the PBGC recommendations; and title VI of the bill is intended to implement the suggested changes.

Swift enactment of the bill is imperative in order to protect the financial stability of the single-employer insurance program from potentially devastating losses which are actually encouraged under present law. Currently, employers, even those who continue in business and are not necessarily in any particular financial difficulty, can terminate their pension plans and limit their liability to 30 percent of their then current net worth with the PBGC premium payers picking up the excess liability. In some cases, such employers have terminated their plans and immediately set up new plans paying identical benefits with the exception of an offset for the benefits payable by the PBGC under the terminated plan. Warnings about the termination insurance program were sounded in 1974 before ERISA was enacted, and now they have come to fruition.

In addition, present law allows a controlled group of corporations to "spin-off" a subsidiary and its related pension liabilities, thus removing the controlled group from the reach of the PBGC in the event the subsidiary terminates its plan. In other cases, the liability to the PBGC can be increased dramatically when a company sells its assets and transfers its pension liabilities to a buyer which is financially weaker than the seller.

The potential exposure to the single-employer program of the "abuses" described above has been estimated by the PBGC to be, at a minimum, over $6 billion. Given the shortcomings of present law, the policy of title VI of the bill states that it is therefore desirable:

(1) to modify the current funding and termination insurance provisions relating to single-employer pension plans in order to increase the likelihood of protecting plan participants against the loss of nonforfeitable benefits; and

(2) to modify the termination insurance program for single-employer pension plans by changing the insurable event from the time of plan termination to the time of the liquidation of the plan sponsor in order to place primary emphasis on plan continuation and contain program costs within reasonable limits.

Insurable Event

Under the bill, the insurable event triggering PBGC benefit guarantees is changed from plan termination to the time, as determined by the PBGC, of the liquidation or partial liquidation of the contributing sponsor of the plan. The PBGC is authorized to restore part or all of a plan to the contributing sponsor when circumstances warrant, and by this means may insure only part of a plan in the event an employer is only partially liquidated.

A plan is defined to be "terminated" as a result of (1) the adoption of a plan amendment providing that participants receive no service credit (for any purpose) after the termination date; (2) the plan becoming a defined contribution plan; (3) the withdrawal of all employers from a multiple-employer plan; or (4) the occurrence of an insurable event. Upon plan termination in the first two circumstances, the obligation of the employer is not to the PBGC but is to continue to fund over a period of 15 years any unfunded vested liabilities under the plan. This provides significant relief to employers who under present law must pay over to the PBGC in a lump sum the amount of any unfunded liability for guaranteed-vested benefits under the terminated plan.

Benefit Guarantees and Premiums

The bill makes no changes in the current levels of benefit guarantees or premiums related to single-employer plans, but does change the procedure for making future changes in guarantees and premiums consistent with the procedure applicable to multiemployer pension plans.

In order to encourage the establishment and continuation of small plans, an exemp-

tion from the premium requirement, but not coverage, is made available for plans having fewer than 35 participants. This will eliminate PBGC reporting and collection costs for nearly two-thirds of existing plans.

Benefit guarantees would be triggered under a plan at the time of an insurable event as defined earlier. However, only those benefits which are nonforfeitable at the time of plan termination would be guaranteed. Also, the phase-in of benefit guarantees would be related to the date of plan termination. Additionally, benefit improvements adopted or effective subsequent to other events, such as a title 11 proceeding or a receivership involving the plan sponsor, will not be guaranteed when such events result in the occurrence of an insurable event.

Employer Obligations

If an insurable event (as defined above) occurs in connection with a single-employer plan, the employer's liability to the PBGC is computed in a similar manner as under present law as an amount equal to the current value of guaranteed plan benefits over the current value of plan assets (net of estimated PBGC administrative expenses and including recoverable unpaid contributions). The employer remains obligated for any unpaid contributions to the plan up to the time an insurable event occurs.

While the bill removes the present law 30 percent of net worth cap on an employer's liability, the claim of the PBGC has been reduced significantly. Under present law the PBGC's claim on employer assets is in the form of a lien, and in the case of bankruptcy or insolvency the lien has a priority status in the same manner as a federal tax lien. Under the bill, PBGC's claim is reduced to that of a general unsecured creditor. The lessening of PBGC's claim to general unsecured creditor status is considered appropriate since (1) the more rapid funding of plans required under the bill will serve to reduce the risk and exposure to the PBGC, and (2) the provision will treat employers under single-employer plans consistently with employers under multiemployer plans (in which case the PBGC is also a general unsecured creditor).

The PBGC's claim arises upon an insurable event or may be triggered earlier at the time of the filing of any petition in connection with a bankruptcy, insolvency, or assignment for the benefit of creditors which subsequently leads to an insurable event. A claim to the PBGC applies to (1) each contributing sponsor of a plan, (2) each member of a control group of which a contributing sponsor was a member at the time the claim arises, and (3) each trade or business which was a member of a control group of which a contributing sponsor was a member within five years prior to the time the claim arises (15 years if membership in the control group was changed for purposes of avoiding liability for plan benefits). The definition of "control group" under the bill means a group of trades or businesses under common control (requiring an interest of 50 percent or more).

To protect the single-employer program against unnecessary loss, the bill also provides that in the event of a change in a plan's contributing sponsor, the prior sponsor (including each trade or business which was a member of a control group of which such prior sponsor was a member within five years of the change) will be held liable to the PBGC if an insurable event occurs within 15 years from the date of the change. The 15-year period may be reduced depending on the level of the plan's unfunded accrued benefits at the time of the change (e.g. sale of the business). Of course, the prior contributing sponsor and control group members are only liable to the extent the new contributing sponsor (and related control group members) is unable to satisfy the PBGC claim. Three exemptions apply which serve to limit the obligation of prior contributing sponsors and control group members. Those exceptions apply when:

(1) the net tangible assets of the new contributing sponsor and all trades or businesses under common control with such contributing sponsor, determined immediately after the change of contributing sponsor, are greater than the net tangible assets (determined immediately before the change of contributing sponsor) of the prior contributing sponsor and all trades or businesses under common control with the prior contributing sponsor within five years of the date of the change, or

(2) immediately after the change of contributing sponsor, the net tangible assets of the new contributing sponsor are greater than the value of the unfunded vested benefits under the plan, determined under regulations prescribed by the PBGC, or

(3) immediately before the change of contributing sponsor, there were fewer than a total of 35 participants in all single-employer plans to which contributions were made by or on behalf of the prior contributing sponsor or any trade or business which was a member of a control group of which the prior contributing sponsor was a member.

Special rules also apply in the case of a multiple-employer plan (i.e. a single-employer plan in which all contributing employers are not within the same control group). An employer withdrawing from a multiple-employer plan would be required to pay withdrawal liability to the plan over a 15-year period in order to amortize an equitable share of the plan's unfunded vested benefits attributable to the employer's participation. The amount of withdrawal liability would be offset by the amount of unfunded vested benefits transferred to another plan maintained by the withdrawing employer.

Funding Changes

In many cases the current minimum funding standards for single-employer plans have been inadequate to contain the growth of unfunded pension liabilities within supportable levels, thereby unnecessarily increasing the risk to the insurance program and encouraging financially ailing plan sponsors to limit their liabilities by terminating their plans. The bill modifies the current ERISA standards in order to strengthen plan funding and reduce the ultimate cost of the single-employer programs to PBGC premium payers.

The bill incorporates a variation of the funding standards originally adopted by the House of Representatives when ERISA was first considered in 1974. Under this provision, if the current net charges to the Funding Standard Account amount to less than the first year payment which would be required to amortize over 15 years the plan's unfunded vested benefits, then the latter amount would constitute the new net charges. This new "15-year rolling test" would not be made applicable until the sixth plan year for new pension plans.

In addition, in order to prevent plans from becoming insolvent, the bill requires plans to make contributions sufficient to enable a plan to pay benefits when due.

As described earlier, "terminated" or "frozen" pension plans would be required to amortize plan unfunded vested benefits over a period of 15 plan years from the time of termination.

Terminated Sufficient Plans

The current administration by the PBGC of terminated pension plans with sufficient assets to pay benefits is both costly and unnecessary. Since the passage of ERISA, almost 98 percent of all terminated plans have been found to be sufficient. The bill will reduce PBGC administrative expenses by permitting sufficient plans to certify to the PBGC that all vested benefits have been satisfied.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JEFFORDS (at the request of Mr. MICHEL), for today, on account of an illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WEBER of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes today.

Mr. ROBERTS of South Dakota, for 5 minutes, today.

Mr. COLLINS of Texas, for 30 minutes, today.

(The following Members (at the request of Mr. LELAND), to revise and extend their remarks and to include extraneous material:)

Mr. ADDABBO, for 15 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DE LA GARZA, for 10 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. LELAND, for 15 minutes, today.

Mr. ENGLISH, for 10 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

Mr. GARCIA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DERWINSKI, immediately prior to vote on the Solomon amendment in the Committee of the Whole today.

Mr. ERLENBORN, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,240.

Mr. LOTT, to revise and extend in support of the Ashbrook amendment in the Committee of the Whole today.

Mr. BIAGGI, on the subject of the 1-minute speech today of Mr. ADDABBO, the late Robert Moses.

(The following Members (at the request of Mr. WEBER of Ohio), and to include extraneous matter:)

Mr. ROBERTS of South Dakota.
Mrs. SNOWE in two instances.
Mr. WOLF.
Mr. RITTER in two instances.
Mr. DERWINSKI in four instances.
Mr. DOUGHERTY.
Mr. GREEN.
Mr. MARTIN of New York.
Mr. LUJAN.
Mr. PHILIP M. CRANE.
Mr. MICHEL.
Mr. MCEWEN.

(The following Members (at the request of Mr. LELAND), and to include extraneous matter:)

Mr. EDWARDS of California.
Mr. MOFFETT.
Mr. FORD of Michigan.
Mr. STOKES in five instances.
Mr. SCHEUER in two instances.
Mr. BLANCHARD.
Mr. IRELAND.
Mr. GEJDENSON.
Mr. OTTINGER.
Mr. FRANK.
Mr. EDGAR.
Mr. STUDDS.
Mr. DORGAN of North Dakota.
Mr. JACOBS.
Mr. BOLAND.
Mr. LONG of Maryland.
Mr. PEASE.
Mr. SKELTON.
Mr. HUBBARD.
Mr. RAHALL.
Mr. GAYDOS.
Mr. CLAY.
Mr. SCHUMER.
Mr. DYSON.
Mr. GARCIA.

ADJOURNMENT

Mr. LELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, July 31, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1925. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment and services to Turkey (Transmittal No. 81-78), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1926. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense equipment and services sold commercially to Japan (Transmittal No. MC-20-81), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1927. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Turkey (Transmittal No. 81-78), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620C(b) of the Foreign Assistance Act of 1961, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

1928. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Greece (Transmittal No. 81-79), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620C(b) of the Foreign Assistance Act of 1961, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

1929. A letter from the Administrator of General Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1930. A letter from the Clerk, U.S. House of Representatives, transmitting his quarterly report of receipts and expenditures for the period April 1 through June 30, 1981, pursuant to section 105(a) of Public Law 88-454, as amended (H. Doc. No. 97-79); to the Committee on House Administration and ordered to be printed.

1931. A letter from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a proposal for the use and distribution of Seminole Nation of Oklahoma judgment funds in docket No. 247 before the U.S. Court of Claims, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

1932. A letter from the Attorney General, transmitting notice that the Justice Department will not appeal a decision of a district court which held unconstitutional a statutory classification created by section 416(h)(1)(B) of the Social Security Act, pursuant to section 21 of Public Law 96-132; to the Committee on Ways and Means.

1933. A letter from the Acting Comptroller General of the United States, transmitting a report on sanitation and Federal inspection at meat and poultry slaughter plants (CED-81-118, July 30, 1981); jointly, to the Committee on Government Operations and Agriculture.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under Clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of July 29, 1981*]

Mr. JONES of Oklahoma: Committee of conference. Conference report on H.R. 3982 (Rept. No. 97-208). Ordered to be printed.

[*Submitted July 30, 1981*]

Mr. UDALL: Committee on Interior and Insular Affairs. S. 875. An act to authorize the generation of electrical power at Palo Verde Irrigation District Diversion Dam, Calif. (Rept. No. 97-209). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. Report on allocation of budget totals to subcommittees under the first concurrent budget resolution for fiscal year 1982 (Rept. No. 97-210). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on statutory offices of inspector general (leadership resources) (Rept. No. 97-211). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 203. Resolution providing for the consideration of H.R. 4331 and waiving points of order against the conference report on H.R. 3982 (Rept. No. 97-212). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ERLENBORN (for himself, Mr. ASHBROOK, and Mr. FRENZEL):

H.R. 4330. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. BOLLING:

H.R. 4331. A bill to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Mr. AKAKA, Mr. ALBOSTA, Mr. ANNUNZIO, Mr. ATKINSON, Mr. BAILEY of Pennsylvania, Mr. BIAGGI, Mr. BONIOR of Michigan, Mr. BRODHEAD, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CHAPPIE, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CROCKETT, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. DOWNEY, Mr. DYMALLY, Mr. EDWARDS of California, Mr. ERDAHL, Mr. FAZIO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. GARCIA, Mr. GRAY, Mr. GUARINI, Mr. HALL of Ohio, Mr. HAWKINS, Mr. HEFNER, Mr. HOYER, Mr. KILDEE, Mr. KOGOVSEK, Mr. LANTOS, Mr. LELAND, Mr. MATSUI, Ms. MIKULSKI, Mr. MILLER of California, Mr. MITCHELL of New York, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOTTL, Mr. MURPHY, Mr. MURTHA, Mr. NOWAK, Mr. OBERSTAR, Mr. OTTINGER, Mr. PATTERSON, Mr. PERKINS, Mr. RAHALL, Mr. RANGEL, Mr. RICHMOND, Mr. ROE, Mr. ROSE, Mr. SAVAGE, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. TRAXLER, Mr. VENTOS, Mr. WASHINGTON, Mr. WILLIAMS of Montana, Mr. WON PAT, and Mr. YOUNG of Missouri):

H.R. 4332. A bill to amend title 5 of the United States Code, to promote public

safety by encouraging the employment of highly qualified air traffic controllers, by establishing a salary classification system, by establishing a reasonable maximum number of weekly work hours, by establishing an adequate retirement plan, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ENGLISH:

H.R. 4333. A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to procurement of collection services; to the Committee on Government Operations.

By Mr. ERLENBORN (for himself and Mr. CONABLE):

H.R. 4334. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. FORD of Tennessee:

H.R. 4335. A bill to amend title 38, United States Code, to repeal the December 31, 1989, termination of the period within which a Vietnam-era veteran may use educational assistance benefits under chapter 34 of that title; to the Committee on Veterans' Affairs.

By Mr. FRANK:

H.R. 4336. A bill to amend section 122 of the Elementary and Secondary Education Act of 1965 to permit local educational agencies to use funds under title I of that act for educationally deprived children at schools which, although not otherwise eligible for funds under such title, have in attendance a significant number of educationally deprived children recently transferred to those schools because of school closings; to the Committee on Education and Labor.

By Mr. GRAY:

H.R. 4337. A bill to authorize the appropriation of funds for the Benjamin Franklin National Memorial; to the Committee on Interior and Insular Affairs.

By Mr. HILLIS (for himself, Mr. BENJAMIN, Mr. FITHIAN, Mr. HILER, Mr. COATS, Mr. EVANS of Indiana, Mr. MYERS, Mr. DECKARD, Mr. HAMILTON, Mr. SHARP, and Mr. JACOBS):

H.R. 4338. A bill to designate the Veterans' Administration medical center in Indianapolis, Ind., as the "Richard L. Roudebush Veterans' Medical Center"; to the Committee on Veterans' Affairs.

By Mr. LUKEN:

H.R. 4339. A bill to provide protection from requirements and prohibitions imposed upon persons subject to the jurisdiction of the United States by foreign nations concerning the disclosure of confidential business information, and for other purposes; to the Committee on Energy and Commerce.

By Mr. McEWEN:

H.R. 4340. A bill to amend the Internal Revenue Code of 1954 to provide that amounts paid for health insurance will be allowed as a deduction without regard to the 3-percent limitation on the medical deduction, to allow a deduction for one-half of the social security tax on self-employment income and for certain life insurance premiums, and for other purposes; to the Committee on Ways and Means.

By Mr. McHUGH (for himself, Mr. HOYER, Mr. FAUNTROY, Mr. WOLF, Mrs. HOLT, Mr. BARNES, and Mr. PARRIS):

H.R. 4341. A bill to amend section 1114 of title 18, United States Code, to provide for protection of airport police officers of the Federal Aviation Administration; to the Committee on the Judiciary.

By Mr. PICKLE:

H.R. 4342. A bill to amend title II of the Social Security Act to provide for the elimination of statutory minimum benefits under such title with respect to only those individuals first becoming eligible for such benefits after December 1981, and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Iowa (for himself and Mr. MITCHELL of Maryland):

H.R. 4343. A bill to amend the Small Business Act to strengthen the role of small, innovative firms in federally funded research and development; to the Committee on Small Business.

By Mr. SOLARZ:

H.R. 4344. A bill to provide financial assistance to the States to undertake comprehensive criminal justice construction and personnel programs to improve the criminal justice system of the States, to provide that the Secretary of the Treasury is authorized to make interest subsidy payments on criminal justice facility construction bonds, and for other purposes; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 4345. A bill to amend the Federal Water Pollution Control Act to provide that not less than 30 percent of funds appropriated for grants for construction of treatment works shall be made available for obligation in nonmetropolitan areas; to the Committee on Public Works and Transportation.

By Mr. JONES of Oklahoma (for himself, Mr. GIBBONS, and Mr. FRENZEL):

H.R. 4346. A bill to implement certain recommendations of the United States-Japan Economic Relations Group Report of January 1981, to assist in continued long-range improvements in United States-Japan relations, and for other purposes; jointly, to the Committees on Foreign Affairs, Ways and Means, and Post Office and Civil Service.

By Mr. ROBERTS of South Dakota (for himself and Mr. DASCHLE):

H.R. 4347. A bill to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. IRELAND (for himself, Mr. CHAPPELL, Mr. LAGOMARSINO, Mr. DERWINSKI, Mr. BEVILL, Mr. YATRON, Mr. LENT, Mr. BUTLER, Mr. WON PAT, Mr. WHITEHURST, Mr. GRAY, Mr. MURTHA, and Mr. SKELTON):

H.J. Res. 315. Joint resolution expressing the determination of the United States with respect to claims by U.S. nationals for property seized by the Cuban Government; to the Committee on Foreign Affairs.

By Mr. GRAY (for himself, Mr. MCCLOSKEY, Mr. BONKER, Mr. ERDAHL, Mr. BEILENSON, Mrs. CHISHOLM, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CROCKETT, Mr. DELLUMS, M. DIXON, Mr. DYMALLY, Mr. EDGAR, Mr. FAUNTROY, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FORSYTHE, Mr. LANTOS, Mr. LELAND, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. OBERSTAR, Mr. OTTINGER, Mr. RANGEL, Mr. ROSENTHAL, Mr. STOKES, and Mr. STUDDS):

H. Con. Res. 165. Concurrent resolution calling for recognition by the United States of the present Government of Angola and for the establishment of full diplomatic relations between the United States and Angola; to the Committee on Foreign Affairs.

By Mr. STUDDS (for himself and Mr. PRITCHARD):

H. Con. Res. 166. Concurrent resolution disapproving certain coastal zone management consistency regulations; to the Committee on Merchant Marine and Fisheries.

By Mr. GLICKMAN (for himself, Mr. GOLDWATER, Mr. HARKIN, Mr. FLIPPO, Mr. RALPH M. HALL, Mr. SHAMANSKY, Mr. DYMALLY, Mr. HOLLENBECK, Mr. DUNN, and Mr. CARNEY):

H. Res. 202. Resolution expressing the sense of the House of Representatives that the Administrator of the Federal Aviation Administration should submit to the Committee on Science and Technology full R. & D. program planning documentation with respect to the modernization and replacement of the FAA air traffic control enroute computer system; to the Committee on Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURGENER:

H.R. 4348. A bill for the relief of Ruth Gannon; to the Committee on the Judiciary.

By Mr. EMERY:

H.R. 4349. A bill to direct the Secretary of the Department in which the U.S. Coast Guard is operating to cause the vessel *Jason Collins* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

By Mr. WALKER:

H.R. 4350. A bill for the relief of Arthur J. Grauf; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. CARNEY.

H.R. 52: Mr. JEFFRIES and Mr. GINGRICH.

H.R. 894: Mr. GINGRICH, Mr. WILSON, and Mr. LENT.

H.R. 1359: Mr. WALGREN.

H.R. 1360: Mr. WALGREN.

H.R. 1361: Mr. WALGREN.

H.R. 1603: Mr. MARTIN of North Carolina, Mr. YOUNG of Alaska, Mr. BONER of Tennessee, Mr. KAZEN, Mrs. SNOWE, and Mr. WATKINS.

H.R. 1638: Mr. HUGHES.

H.R. 2041: Mr. JAMES K. COYNE.

H.R. 2052: Mr. MOTTL.

H.R. 2250: Mr. BONER of Tennessee, Mr. FLIPPO, Mr. WINN, Mr. ROEMER, Mr. HENDON, Mr. BONKER, Mr. DICKINSON, Mr. LOTT, Mr. WIRTH, Mr. TAUZIN, and Mr. SMITH of Alabama.

H.R. 2349: Mr. BEDELL, Mr. BINGHAM, Mr. CROCKETT, Mr. DENARDIS, Mr. GILMAN, Mr. HUGHES, Mr. LA FALCE, Mr. MCCLOSKEY, Mr. RINALDO, Mr. ROSENTHAL, and Mr. FITHIAN.

H.R. 2642: Mr. BONER of Tennessee.
H.R. 3079: Mr. ROSENTHAL.
H.R. 3083: Mr. WINN.
H.R. 3204: Mrs. SCHNEIDER.
H.R. 3205: Mrs. SCHNEIDER.
H.R. 3414: Mr. RAILSBACK.
H.R. 3502: Mr. HOWARD.
H.R. 3575: Mr. GOODLING, Mr. HANSEN of Utah, Mr. MCDADE, Mr. MATSUI, Mr. NELLIGAN, Mr. PEPPER, Mr. VENTO, and Mr. WINN.
H.R. 3657: Mr. DANNEMEYER, Mr. CROCKETT, Mr. GREGG, Mr. DAUB, Mr. SAM B. HALL, JR., Mr. EVANS of Georgia, Mr. BENEDICT, Mr. MILLER of Ohio, Mr. HILER, and Mr. WEBER of Minnesota.
H.R. 3786: Mrs. BOGGS, and Mr. BINGHAM.
H.R. 3791: Mr. SHANNON, Mr. WOLPE, Mr. COELHO, Mr. NAPIER, Mr. CAMPBELL, Mr. DUNN, Mr. FRANK, Ms. MIKULSKI, Mr. NEAL, Mr. LANTOS, and Mr. GRAY.
H.R. 3803: Mr. BADHAM, Mr. SIMON, and Mr. HYDE.
H.R. 3816: Mr. HUBBARD and Mr. HUGHES.
H.R. 3942: Mr. HUGHES.
H.R. 3951: Mr. CONYERS, Mr. STUDDS, Mr. RODINO, Mr. MARKEY, Mr. GREGG, Mr. ROSENTHAL, Mr. CHAPPELL, Mrs. COLLINS of Illinois, and Mr. FRANK.
H.R. 3984: Mr. WAMPLER.
H.R. 4041: Mr. EDWARDS of Alabama, Mr. LOTT, and Mrs. BOGGS.
H.R. 4063: Mr. WILSON.
H.R. 4084: Mr. HUGHES.
H.R. 4161: Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. BRODHEAD, Mr. EDGAR, Mr. KILDEE, and Mr. VENTO.
H.R. 4164: Mr. WILSON, Mr. HUCKABY, Mr. NEAL, and Mr. LAGOMARSINO.
H.R. 4313: Mr. DORGAN of North Dakota.
H.R. 4328: Mr. DORNAN of California, Mr. FRANK, Mr. ROE, Mr. CROCKETT, Mr. DOUGHERTY, Mr. BROWN of Colorado, Mr. WEBER of Minnesota, and Mr. LEE.
H.J. Res. 124: Mr. FITHIAN, Mr. FISH, Mr. HOYER, Mr. NELLIGAN, Mr. PERKINS, Mr. SMITH of Iowa, Mr. WILSON, Mr. WIRTH, and Mr. YOUNG of Florida.
H.J. Res. 280: Mr. DWYER, Mr. EDGAR, and Mr. LEE.
H. Res. 158: Mr. CARMAN and Mr. HARKIN.
H. Res. 166: Mrs. BOGGS, Mr. DOUGHERTY, Mr. HUCKABY, Mr. MARKEY, Mr. NICHOLS, Mr. RINALDO, Mr. SCHUMER, Mr. TAUKE, Mr. WATKINS, and Mr. WILSON.
H. Res. 167: Mr. MCCURDY and Mr. PEYSER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

154. By the SPEAKER: Petition of the city council, Oakland, Calif., relative to rent control; to the Committee on Banking, Finance and Urban Affairs.

155. Also, petition of the board of levee commissioners, Orleans District, New Orleans, La., relative to restricting the jurisdiction of the Corps of Engineers over discharge of dredged or fill material; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4209

By Mr. SNYDER:

—Page 38, after line 15, insert the following new section:

"SEC. 322. No funds appropriated by this Act shall be used to pay any salary or other expense for the purposes of putting into effect or enforcing any rule—

"(1) which requires any reduction in the total daily number of flights by air carriers except air taxis, or by air taxis, at Washington National Airport below the number operated on July 20, 1981, and

"(2) which was

"(A) promulgated without issuance of (and public comment on) an initial regulatory flexibility analysis described in section 603 of title 5, United States Code; or

"(B) put into effect prior to 60 days after the issuance of a final regulatory flexibility analysis under section 604 of such title and a final regulatory impact analysis described in section 3 of Executive Order 12291."

EXTENSIONS OF REMARKS

SECTION 22 TESTIMONY

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1981

● Mr. ROSE. Mr. Speaker, on June 24, 1981, the International Trade Commission held hearings in its section 22 investigation on the importation of foreign tobacco.

I submit to you my testimony before the International Trade Commission on this important issue:

STATEMENT BY CONGRESSMAN CHARLIE ROSE REGARDING THE INTERNATIONAL TRADE COMMISSION SECTION 22 INVESTIGATION ON TOBACCO

Mr. Chairman, Commissioners of the International Trade Commission, I would like to thank you for the opportunity to testify before you today concerning the section 22 investigation on imported tobacco. I appreciate very much the opportunity to share with you my observations on the question of whether certain kinds of imported tobacco are "materially interfering with" the price support program for tobacco as mandated by Congress and supervised by the U.S. Department of Agriculture.

I think the facts I will outline for you clearly indicate that domestic producers and just as significantly, the Federal Government, are being adversely affected by the increased imports of foreign tobacco. It is clear from congressional intent that tobacco is a commodity entitled to the same protections enjoyed by all commodities and commodity programs. The tobacco price support program, like all other price support programs governing commodities is a cooperative effort between producers and the Federal Government, sanctioned by Congress.

The tobacco price support program is a program which has worked and continues to work because of the cooperation the farmers have shown with all of the branches of the Federal Government. The tobacco price support program is, however, in jeopardy because of the impact imported tobacco has had and is having on the domestic market.

The economic harm generated by growing imports has escalated greatly in the past few years. In jeopardy are nearly 260,000 family farms and more importantly, a type of farm existence which is crucial to the existence of most of our southern states. Tobacco is grown in 20 states, and while most of these states have tobacco which is under the price support program, all tobacco growing areas would feel the repercussions generated when the price support system and the producers operating under this system are economically threatened.

In areas where tobacco is produced under quota, or under the price support program, financial institutions rely heavily on the U.S. Department of Agriculture price support program and commodity credit loan system, as important criteria in their loan making transactions.

As the sixth largest cash crop, tobacco plays a very important role in our economy. Continued interference as provided by imports can only do harm to the positive net contribution of the nearly $1.7 billion per year tobacco provides to the U.S. international balance of payments. In addition to providing nearly 400,000 individuals in the U.S. with employment, a study by the University of Pennsylvania's Wharton Applied Research Center in 1979 noted that tobacco and its ripple effects have generated nearly $22 billion per year in direct industry taxes.

Since the first Federal tax on tobacco was collected in 1862, tobacco has provided the U.S. Treasury with over $72 billion in revenues. In the last 10 years, tobacco has generally provided the U.S. Treasury with $2.4 billion per year in revenues. State governments have realized approximately $56 billion in revenue due to taxes on cigarettes, and local governments have taken in nearly $2 billion in the same period.

I feel that the contribution of U.S. produced tobacco to the economic well-being of our country is clear. Key to this is the manner in which tobacco, like all other commodities operating under a price support program, is monitored. While the price support program under which tobacco operates is not under scrutiny here, I think it is important, nonetheless, to stress the fact that it is necessary to understand the program, so as to be able to understand the economic harm imports are causing this congressionally sanctioned farm program.

The history of the program is a long one. Beginning in 1933 with the Agricultural Adjustment Act which established the principle of parity prices for tobacco and the farmer committee system. When the Agricultural Adjustment Act of 1933 was ruled unconstitutional by the U.S. Supreme Court in 1936, the Agricultural Adjustment Act of 1938 followed. The AAA of 1938 established tobacco marketing quotas and provided penalties for excess production. Since 1940, quotas have been in effect and the spirit of cooperation with which they have flourished is indicative of a clear understanding between farmers and the Federal Government.

There are basically two components to the Federal price support program for tobacco. Marketing quotas which are mandatory for growers of each class or kind of tobacco operate in conjunction with price supports offered through nonrecourse loans. Producers have the opportunity through the tobacco referenda process to accept or reject marketing quotas. Two thirds approval is required for the acceptance of marketing quotas. Prior to each growing season, the U.S. Department of Agriculture determines what the level of national marketing quotas shall be. The national quota is best described as a projection of the production needed to meet both domestic and export demand, at the same time providing for some amount of carryover stocks.

The U.S. Department of Agriculture translates the marketing quota into a national allotment. For all kinds of tobacco, with the exception of flue-cured and burley, the quota is an acreage allotment. Burley tobacco producers operate under a poundage program as authorized by Congress in 1971. Flue-cured tobacco operates under an acreage-poundage program established by the Congress in 1965. A pro rata share of the national allotment is given to each tobacco farm on the basis of historical production. There are strict penalties for overmarketings over 10 percent of the allotment and these penalties act to control any excess production.

The decision of tobacco producers to voluntarily accept quotas activates the Federal price support program. Price support levels are determined according to a formula specified in law and then each grade of tobacco is assigned a specific support rate in order to reach the legal average support rate.

The U.S. Department of Agriculture provides price supports through the Commodity Credit Corporation by using nonrecourse loans. The Commodity Credit Corporation makes no direct payments to growers; instead producer associations, also known as cooperatives, under contract with the Commodity Credit Corporation arrange for all facets of storing and selling the tobacco under the loan program.

When tobacco is sold at auction, that tobacco which does not receive a bid exceeding the support rate is consigned to the association. The producers of the tobacco are then paid the loan rate. The association then sells the tobacco at a rate approved by the Commodity Credit Corporation.

Receipts from the tobacco sold by the cooperatives are used to reimburse the Commodity Credit Corporation. The reimbursement to the Commodity Credit Corporation also includes interest charges. If sales generated an excess over the loans plus interest, this excess is returned to the producers. If there are losses due to the inability to sell certain crops, the losses are charged to the Commodity Credit Corporation.

The tobacco price support program operates in what many consider to be a model fashion. The individuals who administer this program at the U.S. Department of Agriculture have always told me that the tobacco price support program is one of the better commodity programs administered by the department. Its level of efficiency is well known, and the relatively small losses which have occurred to the Commodity Credit Corporation in the operation of the tobacco price support program, also speak well of this particular program.

In 1980 the U.S. Department of Agriculture released figures which showed that out of the 13 commodities operating under a price support program, tobacco ranked 10th in terms of net losses on commodity inventory and loan operations. This loss represents only 1 percent of the total tobacco loan volume, an astounding figure. In terms of total losses to the Commodity Credit Corporation, tobacco loan losses represent only 0.3 percent of the Commodity Credit Corporation's total cumulative loss of $19.1 billion on all commodity loan inventory operations. Clearly the tobacco price support program has been operating much better than most of the other commodity loan programs.

Farmers in the flue-cured and burley areas, the two types of leaf most commonly imported, have overwhelmingly supported these self-imposed quotas. For the last 15 years, farmer agreement to continuance of the price support program has averaged

over 97 percent. The desire to continue a program which the producers and the Congress feels will work and continues to work is high.

The relationship established by the farmer and the Federal Government is strong. Both parties have recognized the importance of providing stability for this commodity. Other commodities operating under a price support program are no different from tobacco in that a stable supply of that particular commodity is the desire of the Federal Government and is guaranteed. I am sure that there is no one in this room who would like to see a repeat of the chaos and vast outmigration from the farms we saw in the 1930's when there were no price support programs sanctioned by the Congress and administered by the U.S. Department of Agriculture.

The current loss level of $56.7 million is at a peak level. From 1972 to 1978 there was a drop in the cumulative loan loss level. But due to increased imports and increased stocks in stabilization, we have seen a significant increase in the loss level in recent years.

I firmly believe that losses to the tobacco price support program will continue to accrue, at least for flue-cured tobacco, at an alarming rate, unless something is done to protect domestic producers and consequently, the Federal Government's tobacco price support program.

Foreign flue-cured tobacco costs less than domestic flue-cured, for a number of reasons that will be shown to you today. While some would blame the cost difference on the price support program, I feel that this argument is irrelevant with respect to the issue of imposing import restrictions. The relationships that foreign governments maintain with their farm communities are generally not a matter of concern to the U.S.; however, it can be argued that most, if not all countries have the ability and the mechanisms by which to protect their own products.

Many foreign countries support the production of their commodities in a manner which on first glance gives them an unfair competitive advantage over U.S. products. There are high tariffs in many foreign countries which virtually preclude imports or make imports noncompetitive with domestic products. This can be shown to be the case for tobacco quite readily.

The system of production controls which operate to insure a sound price support program for tobacco have necessitated a drop in the amount of flue-cured tobacco produced. The national marketing quota has been reduced every year between 1975 and 1979 with the exception of 1978. The 1980 level was held constant at about 1.1 billion pounds. The program is operating to make allowances for the decreased demand of this kind of tobacco and the increased importation of foreign tobacco. In addition, beginning with the 1978 crop, growers were encouraged, through the four leaf program, to leave the bottom four leaves of the tobacco plant, which was determined to be of lower quality and less competitive in the marketplace, in the field. All of these things show a willingness to adapt to the increased challenge posed by world production and changing world demand, and they are all important mechanisms of control instituted to maintain the viability of the tobacco price support program.

Yet despite these efforts by producers and the federal government, imports of foreign tobacco, specifically that formerly classified as cigarette scrap, and now classified as machine threshed, have continued to grow. Scrap tobacco imports have increased from 27,000 tons in 1972 to 72,200 tons in 1979. When you look at scrap tobacco imports as a percentage of the total imports, you see that imports of scrap increased from about 25 percent of the total imported tobacco in 1972 to 42 percent of the total in 1979. The value of these imports in 1979 was placed at about $114 million. Estimate vary, but the consensus is that flue-cured scrap accounted for about one-half of the total.

I think it is also important to note that while imported tobacco represented about 4 percent of the flue-cured and burley tobacco used in U.S. in the 1973 to 1976 marketing years, that it has risen to 13 percent of the total flue-cured used in the 1979 marketing year and 14 percent for burley.

With the rise in imported tobacco we have also seen an increase in flue-cured tobacco stocks. The commodity credit corporation received 279,656,000 pounds of flue-cured tobacco for the crop years 1970–74. All of the crops received by the Flue-Cured Stabilization Corporation were reported sold with a total or net gain to the program of $21,515,000. However, since 1975, the amount of flue-cured received by the Commodity Credit Corporation has increased to 1,005,635 pounds with crops from each of the years 1975–80 still unsold. The net principal owed to the Commodity Credit Corporation, is now at $710,137,000 with interest owed at $209,027,000. Where the program once proved to be more than self-sufficient, we now see a buildup of stocks in stabilization which is related, I firmly believe, to increased imports of foreign tobacco.

The demand for flue-cured in stabilization is lowered due to the increased imports. While there have been some claims that flue-cured stocks are of lower quality, I find this difficult to believe especially following recent sales from stabilization. In the first quarter of calendar year 1981, 105 million pounds of flue-cured were sold. This amount far exceeds the total amount sold in calendar year 1980—75 million pounds, approaches the total sold in calendar year 1979—108 million, and clearly illustrates that flue-cured stocks are of sufficient quality to compete in the marketplace.

The impact of imported burley tobacco on the domestic burley market has been blunted somewhat by the world-wide shortage of burley tobacco. I shudder to think what will happen when domestic producers and foreign producers manage to catch up with loss production. If the level of burley imports continues to rise and the level of production in the U.S. becomes sufficient, I can only see a buildup of burley stocks, like we are currently seeing for flue-cured.

Where domestic producers of flue-cured tobacco once produced 28 percent of the world's flue-cured tobacco, they now produce only 19 percent of the world's flue-cured tobacco. Domestic producers in cooperation with the U.S. Department of Agriculture, working within the framework established by the tobacco price support program of voluntary controls, have voluntarily agreed to lessen their production in order to protect the integrity of the program. I cannot stress enough how well this is working and how willingly all parties involved are committed to protecting the orderly marketing of this commodity.

One of the most important reasons that imported tobacco is so much more competitive than domestic tobacco at the present time is because of "drawback and substitute drawback." Drawback provides for a 99 percent duty free entry of all products into the United States providing certain conditions are met. Since drawback is such a vital part of U.S. trade practices, it seems important to recognize what role drawback plays at the same time we acknowledge that changing this part of our trade policy will not solve the problem of increased imports.

I am enclosing letters I have received from the U.S. Customs Service documenting the increased reliance on drawback with respect to increased imports of tobacco. The use of drawback as a means of further lowering the cost of imported tobacco has become very important. Changes in the rate at which imported tobacco is taxed will have little or not effect on blunting the impact of foreign tobacco on the domestic market. Because of drawback it will still continue to be more attractive to import foreign tobacco, because the cost of this imported tobacco will still be far below that of domestic tobacco.

It is my concern that when a discussion of remedies occurs, that the issue of drawback enter into the deliberations. I have requested from the U.S. Customs Service a complete analysis of the usage of drawback. I will be more than happy to make this information available to the staff members of the International Trade Commission as soon as I receive this information.

In summary, I would like to thank you once again for the opportunity to appear before you today. I appreciate your consideration of the points that I have raised. As a member of the body charged with monitoring the effective implementation and administration of this program, I feel it is very important that we have the assistance we need to insure the protection of a program with such a long and stable history.●

GREEN REINTRODUCES AUTO THEFT BILL

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. GREEN. Mr. Speaker, on March 19 of this year I introduced the Motor Vehicle Theft Law Enforcement Act of 1981. After having made several minor and technical changes, I am today reintroducing the bill along with 40 cosponsors. For the convenience of the many members and groups interested in the legislation, I ask that a section-by-section analysis of the bill be printed in the RECORD at this point.

MOTOR VEHICLE THEFT LAW ENFORCEMENT ACT OF 1981 SECTION-BY-SECTION ANALYSIS

Section 1—Title

Section 1 of the bill provides that the bill when enacted may be cited as the "Motor Vehicle Theft Law Enforcement Act of 1981."

Section 2—Findings and purpose

Section 2 sets forth findings by the Congress and the purpose of the legislation.

TITLE I—IMPROVED IDENTIFICATION FOR MOTOR VEHICLE PARTS AND COMPONENTS

Section 101—Motor vehicle parts and components security standards

Section 101(a) adds a new paragraph to Section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391), defining "motor vehicle security standard." This is a minimum performance standard relating to methods and procedures for the identification of new motor vehicle parts and components (other than motorcycle parts and components).

Subsection 101(b) adds to section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) a new subsection (j), dealing with the effectuation of such standard. The Secretary of Transportation is required, under subsection (j), to publish a proposed motor vehicle security standard requiring an identification number on key components or parts within 12 months after the date of enactment of the Act, and to promulgate a final Federal motor vehicle security standard not later than 24 months after enactment. Such standard is to take effect between 180 days and one year from the date of promulgation. However if the Secretary finds it is in the public interest and shows good cause, the effective date may be earlier or later. The standard will apply only to parts and components which are (a) included in the assembly of a motor vehicle manufactured after the effective date or (b) manufactured as new replacement parts or components for motor vehicles after the effective date. It is anticipated that the parts manufactured exclusively for use as replacement parts or components that are equivalent to a part or component required by a federal Motor Vehicle Security Standard to bear an identification number, would bear an appropriate marking which identifies such part or component as a replacement. Such a marking would be affixed by the manufacturer of such replacement part or component.

The part or component identification number should be permanently affixed by riveting, welding, stamping, impressing, burning or some other basically equivalent manner such as the use of an adhesive material which is tamper proof and self-destructing, and hence non-reuseable, if the material is removed from the part of the component.

Paragraph (3)(A) of new subsection (j) requires that before promulgating any security standard, the Secretary must conduct a study to determine the cost of implementing such standard and the benefits attainable as a result of such standard. In preparing such a study, the Secretary must consider the effect which such standard may have on production and sales by the domestic manufacturers.

The most desirable number which could be utilized for component identification would be the same as that required for the vehicle identification number (VIN) under U.S. Department of Transportation Federal Motor Vehicle Safety Standard No. 115 (i.e. 17 characters). However, for some methods of application, requiring all 17 characters may be difficult and costly. Accordingly, it may be necessary to make use of a derivative of the VIN for some component parts. Identification of parts and components is to be accomplished in the least expensive way consistent with the purposes of the Act.

Paragraph (3)(B) of new subsection (j) directs the Secretary to include the results of such study in the publication of the proposed Federal motor vehicle security standard. Under paragraph (3)(C), the Secretary shall have no authority to promulgate any such standard unless the Secretary determines the benefits from the standard are likely to exceed the costs of such standard.

Paragraph (4)(A) provides that no security standard promulgated by the Secretary under the section shall impose additional costs upon the manufacturers of motor vehicles in excess of $10.00 (adjusted for inflation beginning in 1982) per motor vehicle. The level of costs per motor vehicle will be determined by the Secretary as part of the cost-benefit study required prior to the promulgation of the standard.

Subparagraph (B) provides that any manufacturer, subsequent to the promulgation of the standard, may petition the Secretary to amend such standard for the purpose of adjusting the standard to be in compliance with the paragraph in paragraph (4)(A). Upon a showing by such manufacturer that the costs of compliance with such standard will result in costs in excess of $10.00 per motor vehicle (adjusted for inflation), the Secretary shall amend such standard to eliminate the costs which exceed $10.00 per motor vehicle.

Subsection (5) states that no security standard may require the numbering or other identification of more than a total of four parts or components for trailers, nine parts or components for trucks, and fourteen parts or components for any other motor vehicle. This limitation is to be exclusive of the VIN (Vehicle Identification Number) currently required under Federal Motor Vehicle Safety Standard 115 (the Public Vehicles Identification Number).

The parts and the components selected by the Secretary of Transportation should be those which will primarily deter professional thieves who either resell the vehicle itself or cut it up for parts. Such parts and components should be part of the vehicle at the time of original manufacture.

The maximum limitation of 14 parts and components to be numbered was derived from a listing prepared by the Justice Department based on a four-door passenger car. It is anticipated that the parts and components for passenger cars required to be identified by the Secretary will be from the Justice Department list. The components the Justice Department believes are necessary to accomplish the purposes of the Act in regard to component identification for passenger cars are: the engine; the transmission; each door allowing entrance or egress to the passenger compartment; the hood; the radiator core support of the front end assembly; each front fender; the deck lid, tailgate, or hatchback (whichever, if present); the trunk floor pan; the frame (or, in the case of a unitized body, the supporting structure which serves as the frame); and one additional confidential location selected each year by the manufacturer with notification to law enforcement of the exact location. There is no intent that the Secretary require that the full authorized number of parts or components be actually marked. However a sufficient number should be marked to accomplish the purposes of the Act. The bill allows that, as the theft profile changes or as cars and body styles change, different components may be marked; any such change, however, will be subject to rulemaking.

Paragraph (6) directs that the Secretary shall take several factors into account in prescribing motor vehicle security standards. First, the Secretary shall consider relevant available motor vehicle security data, including the results of research, development, testing and evaluation activities conducted pursuant to the Act.

Second, the Secretary shall also review available studies carried out by motor vehicle manufacturer which evaluate methods and procedures for the identification of motor vehicle parts and components and the effects which such methods and procedures may have with respect to reducing motor vehicle thefts and with respect to the costs of motor vehicle ownership.

Third, the effect of the implementation of such standard upon the cost of motor vehicle insurance shall be considered by the Secretary.

Fourth, the Secretary shall take into account savings which may be realized by consumers through alleviating inconveniences experienced by consumers as a result of the theft and disposition of motor vehicle parts and components.

Finally, the Secretary should take into account considerations of safety.

Subsection 101(c) amends Section 103(d) of the National Traffic and Motor Vehicle Safety Act of 1966 which applies general Federal supremacy status to standards issued by the Department of Transportation under this bill. The Federal program cannot be modified by State actions. This does not mean that the states are preempted from enforcing, by an appropriate method, identical federal motor vehicle security standards at the pre-consumer level of distribution; provided, however, that such state enforcement scheme does not create an undue burden on interstate commerce or present serious danger of conflict with Federal enforcement programs.

Section 102—Authority of Secretary to study security devices and systems

Section 102 amends section 106 of the National Traffic and Motor Vehicle Safety Act of 1966 by adding a new paragraph which authorizes the Secretary to conduct studies regarding the development of security devices and systems which are designed to deter individuals from entering a locked motor vehicle and starting the motor vehicle for the purpose of stealing the motor vehicle.

Section 103—Report regarding security devices and systems

Section 103(a) requires the Secretary of Transportation, 12 months after the date of enactment, to submit a report to the Congress, regarding security devices and/or systems designed to deter the unauthorized entering or starting of a locked motor vehicle for the purpose of stealing the motor vehicle.

Subsection (b) provides that in this report, the Secretary is to determine whether an objective standard for such systems can be devised so that the systems are not compromised by the demonstrations of them which may be necessary to show compliance with the standard; and whether, it would be more beneficial if security devices and systems were left as options for auto manufacturers to offer in areas of high crime rates.

Subsection (c) states that the report may include any other matters relating to motor vehicle security which the Secretary considers appropriate. The report shall include recommendations for legislative or administrative action and is to be prepared after consulting with the Attorney General.

Section 104—Technical and conforming amendments

Section 104 amends sections of the National Traffic and Motor Vehicle Safety Act to reflect the substantive amendments set out in Sections 101 and 102 and make technical and conforming changes.

Section 105—Termination of certain provisions and amendments

Section 105 provides that the provisions of Title I and the amendments made in Title I shall be repealed, according to Section 104(a)(1), at the end of June 30 of the fourth successive year following the first June 30 which occurs at least 15 months after the effective date of the Federal Motor Vehicle Security Standard to be promulgated, unless the Secretary of Transportation and the Attorney General of the United States submit a joint written statement to Congress which makes several findings.

Subsection 105(b) outlines the findings to be made: (1) a finding based on the most recent available statistics contained in the National Crime Information Center, the most recent available statistics compiled in connection with publication of the Uniform Crime Reports and upon other sources, including the perceptions of the law enforcement community of the Nation which deals with motor vehicle theft and any increases in arrest or prosecution rates relating to motor vehicle theft, that there have been beneficial impact upon the rate of thefts or the rate of recovery of motor vehicles, or motor vehicle parts and/or components during the period the motor vehicle security standard is in effect; (2) a finding that such impact is significantly attributable to the operation and enforcement of such motor vehicle security standard; and (3) a judgment that the provisions of Title I should remain in effect.

Subsection (c)(1) directs that the provisions of paragraphs (2) through (4) shall apply if the repeals and amendments specified in subsection (a) take effect. Paragraph (2) of subsection (c) provides that any Federal motor vehicle security standard shall cease to have any force or effect after the repeals specified in subsection (a) take effect. Paragraph (3) provides that any administrative proceeding relating to any provision of law repealed in accordance with subsection (a) which is pending on the effective date of such repeal shall be continued as if subsection (a) had not been enacted, and orders issued in any such administrative proceeding shall continue in effect until amended or revoked by the Secretary of Transportation in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, or by operation of law.

The provisions of paragraph (4) specify that the repeals provided by subsection (a) shall not affect any suit, action, or other proceeding lawfully commenced before the effective date of such repeals and that all such suits, actions or proceedings shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if subsection (a) had not been enacted.

TITLE II—ANTIFENCING MEASURES

Section 201—Motor vehicle identification numbers: Forfeitures

Section 201 amends Chapter 25 of title 18, United States Code by adding a new section 510. "Altering or removing vehicle identification numbers." Subsection (a) of such section provides that, with exceptions, whoever knowingly removes, obliterates, tampers with, or alters any identification number for any motor vehicle shall be fined not more than $5,000, imprisoned for not more than 5 years or both.

Subsection (b) of new Section 510 provides that the provisions of subsection (a) shall not apply to any motor vehicle scrap processor or motor vehicle demolisher if such person is engaged in the processing of any motor vehicle, or part or component thereof into metallic scrap for purposes of recycling the metallic content and is in compliance with applicable State law regarding the disposition of such items. Such exemption also applies to persons acting under the authority of the Secretary of Transportation or State law to restore or replace such markings.

For purpose of new Section 510: (1) the term "identification number" means any identification number required by the Secretary of Transportation under any Federal motor vehicle security standard, Federal motor vehicle safety standard or other regulation.

(2) The term "motor vehicle" has the meaning given it in section 102 of the National Traffic and Motor Vehicle Safety and Security Act.

(3) "Motor Vehicle Demolisher" is defined as any person, including motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of processing motor vehicles, parts or components which renders the item unsuitable for further use as a motor vehicle, or part or component thereof.

(4) The term "motor vehicle scrap processor" means any person who is engaged in the business of purchasing motor vehicles, parts or components for the purpose of processing such motor vehicles into metallic scrap for recycling. It does not include any activity of such a person relating to the recycling of a motor vehicle or a motor vehicle part or component as a used motor vehicle or used motor vehicle part or component.

(5) The term "processing" means loading, unloading, crushing, flattening, destroying, grinding up, handling, or otherwise reducing a motor vehicle part into metallic scrap.

Section 201 also adds a new section 511 to title 18 of the United States Code which creates a statutory right of seizure for Federal law enforcement officials of any motor vehicle, part or component whose identification number has been removed or altered. Exemptions from this provision apply in the case of such a motor vehicle part or component which has been attached to a motor vehicle without any knowledge by the owner that the identification number has been tampered with. Motor vehicles or parts whose identification numbers have been damaged by fire or accident are likewise exempt from forfeiture. The provision for seizure and forfeiture incorporates by reference the laws relating to seizures and forfeitures under the customs laws.

Effective in 1969, the Department of Transportation issued Federal Motor Vehicle Safety Standard No. 115 requiring a public VIN (Vehicle Identification Number). Under Title I of this Act, the Secretary of Transportation will be given regulatory authority to require identification numbers for components of the vehicle also. Consequently, after the enactment of Section 510 it would be a Federal crime to remove or alter the public VIN on any existing motor vehicle manufactured after January 1, 1969, or future motor vehicle because such identification number is already required by Department of Transportation regulations. On the other hand, the removal or alteration of the identification number for certain components would only become a Federal crime when such removal or alteration occurred after the establishment of a Department of Transportation regulation requiring an identification number for such component. Neither Section 510 or 511 are intended in any fashion or manner to restrict or preclude the States from passing and enforcing their own criminal laws relating to the removal or alteration of identification numbers affixed by the manufacturer to the motor vehicle and its components.

Section 202—Definition of securities

Section 202 amends 18 U.S.C. 2311 to include "motor vehicle title until it is cancelled by the State indicated thereon or blank motor vehicle title" in the definition of securities. At present a fully executed motor vehicle title would qualify as a "security" under the provision "document evidencing ownership of goods, wares, and merchandise" in the definition of "securities" in section 2311 of title 18, United States Code. However, a blank certificate would not be a "security".

Section 203—Sale or receipt of stolen motor vehicles

Section 203 amends 18 U.S.C. 2313 by ensuring that Federal jurisdiction will attach and remain with a stolen motor vehicle once it has crossed a State or United States boundary after being stolen. It thus becomes unnecessary to prove that such a vehicle has retained its interstate character in order to prosecute, as is presently necessary under the Dyer Act. Section 203 also amends 18 U.S.C. 2313 to make a Federal crime of possession of a motor vehicle or aircraft which has crossed a State or United States boundary after having been stolen. Presently, it is a crime to "receive" such a vehicle but possession is not specified.

Section 204—Trafficking in certain motor vehicles, motor vehicle parts, or motor vehicle components

Section 204 creates a new section 2319 of title 18, United States Code, which deals with traffickers in stolen motor vehicles or their parts with knowledge that their identification numbers were removed, obliterated, tampered with, or altered. It provides for criminal penalties of up to $25,000 in fines or 10 years imprisonment, or both. The bill retains the present Dyer Act Policy that the illegal possession of such a vehicle or part must include an intention on the part of the possessor to dispose of the vehicle or part. The section is aimed at the dealers and peddlers of such stolen items. It includes the exemptions provided in section 201. In addition, it is not designed to reach an individual who possesses such a vehicle or part for his own personal use even where the individual knows that the identification number has been removed, obliterated, tampered with, or altered. Such an offense would be subject to prosecution only under appropriate State and local laws; it would not add to the burdens of the Federal courts.

The terms "identification number", "motor vehicle" and "motor vehicle scrap processor" have the meanings given to them in Section 201.

Section 205—Definition of racketeering activity

Section 205 amends section 1961 of title 18, United States Code, commonly known as the RICO statute (Racketeer Influenced and Corrupt Organizations), to allow pros-

ecution under this statute of those individuals and businesses which traffic in stolen vehicles and their parts. The existence of this prohibition and appropriate prosecutions under it should have a significant deterrent impact upon those businesses presently engaging in the knowing receipt and disposition of stolen vehicles and their parts and components.

Section 206—Nonmailable motor vehicle master keys

Section 206 amends the Master Key Act (39 U.S.C. 3002) to prohibit the mailing of devices which are designed or adapted primarily to open or to make inoperable any of the locks or the ignition switches of two or more motor vehicles. The provision also prohibits the mailing of any advertisement for such a device and authorizes the United States Postal Service to issue a mail stop-order in an appropriate case. Violations of this section would be within the investigative jurisdiction of the United States Postal Service.●

THE 1982 AGRICULTURE APPROPRIATION BILL

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DASCHLE. Mr. Speaker, on Monday, July 27, the House of Representatives by a vote of 343 to 22 passed the fiscal year 1982 agriculture appropriations bill. Obviously, some very tough decisions had to be made in light of the first budget resolution, and while I do not agree with every detail of the bill, I did support it and feel that overall the Appropriations Committee did a credible job with the money at hand.

Of immense importance to rural States are loans for rural electric and rural telephone cooperatives. The House Agriculture Committee, on which I serve, had made crystal clear its desire that these REA programs not be gutted, and the Agriculture Appropriations Subcommittee followed suit. This bill contains a floor of $250 million and a cap of $325 million for insured low-interest REA loans to rural telephone systems. Also included is a $30 million refinancing of the Rural Telephone Bank. With regard to insured electrical loans, the bill contains a floor of $850 million and a cap of $1.1 billion—this compares with the Reagan proposal of a $700 million cap.

Two other areas of vital importance to farmers—fuel and conservation—have modest amounts of money in this appropriation bill. The legislation contains, over administration protest, $250 million for loan guarantees for alcohol fuel facility construction and also contains funds for ASCS conservation grants. The high cost of fuel and the alarming loss of topsoil have ominous implications, not only for farmers, but for our entire economy. Alcohol fuel production and ASCS conservation grants must be encouraged.

I am concerned over the level of funding for the crop insurance program—I come from a disaster prone area of the country and am anxious to see the new crop insurance program implemented as fully and as quickly as possible. This will likely be the last year for disaster payments, and it is imperative that the crop insurance program be fully operational.

Again, I am generally pleased, given the required restraints imposed by the first budget resolution, with the allocation of money in the fiscal year 1982 agriculture appropriations bill, and was glad to lend my support to it.●

TRIBUTE TO VINCENT F. ALBANO, JR., A MAN OF STYLE AND PRINCIPLE FOR ALL NEW YORK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. BIAGGI. Mr. Speaker, I love New York. To love New York is a way of life. It is an approach to the changing pattern of events, woven by unique personality, to the beat of city streets. New York breeds its own. Its city fathers and mothers become classic human beings. They have innate, genuine concern for each other, which gushes forth in inimitable style whenever any of their own is challenged by adversity. They are dear friends, and loving protectors. They are born leaders.

Just a short time ago, New York lost one of its own. We lost a great man of style and principle. We lost a community father who, in the classic sense, always made the scene with a cheerful word, or a helping hand. We lost a self-made man, who was our valued friend, and who prided himself first and foremost as being a devoted family man.

For Vincent F. Albano, Jr., was so many things to so many people, and his sudden death has left a vacuum of personality and commitment in the city he loved so much. As longtime chairman of the New York Republican County Committee, his passing is a loss of one of the most unique political personalities whom I and my other colleagues from New York have ever had the pleasure of knowing.

Vince Albano will probably best be remembered for his great warmth. He had a remarkable ability to get along with everyone. He did not recognize differences, party or otherwise, only people to whom he held out his hand of friendship. It is felt that very few men have ever been as genuinely loved by as many people.

Vince is also fondly remembered for his unique ability with language. He addressed everyone as "sweetheart," a term of endearment which has come to represent a special regard for him among all those he touched.

With the responsibility of chairman of the Manhattan County Republican Party, he was greatly outnumbered and outgunned in political matches, but he nonetheless managed to maintain a consistently vibrant and competitive party structure through his great personal skills. "We're in great shape," he would cheerfully say in his own inimitable way, no matter how dire the circumstances.

He was a man who enjoyed his many friends. He can also warmly and easily be remembered as prevailing upon them to have "just one more nightcap." I can tell you those nightcaps often extended until the dawn broke over Manhattan Island, leaving his friends limp but never slowing Vince down for a moment.

He was always deeply interested and involved with what he called the nitty-gritty of his community. One can still readily recall his running a personal carpool during the New York City transit strike. Although it was not his wont, Vince got up at 6 o'clock in the morning to act as dispatcher to see that the senior citizens of Peter Cooper and Stuyvesant Town got safely to their places of work. At tax time, Vince Albano set up a whole battery of tax lawyers at his local Republican club to assist people in filing their returns. At election time, he was indefatigable. He would be virtually everywhere, giving encouragement to his candidates.

Vincent F. Albano, Jr., was born in New York City on May 5, 1914, the oldest of eight children. He rose from humble beginnings in the Hell's Kitchen district of Manhattan, to graduate from St. Francis Xavier High School, and study politics and government at Pace College, which he had to attend at night.

He became a certified public accountant, and rose from the position of personal property appraiser with the New York State Tax Department to chairman of the board of the Century National Bank & Trust Co.

He had a long and distinguished political career commencing in 1948, and culminating in his becoming the senior member of the 62 Republican county chairmen statewide.

Vince Albano served as a delegate to numerous National and State Republican conventions, where he played a key role in the selection of candidates and standard bearers for his party. He was for many years a member of the Republican State Committee, and a member of its executive committee, providing statewide leadership for his party.

Vincent Albano was not only a man of business and politics, he was also a

loving husband and father. In 1935, he married Cathleen Cummings; together they lived a long and happy life. He was the proud father of six children, Melanie, Carole, Elaine, Kathleen, JoAnn, and Vincent III. They made Vince Albano the proud grandfather of seven grandchildren.

Full of energy, good spirits, and bursting with the joy of life, Vince Albano during his 67 years made many thousands of friends, while serving his fellow New Yorkers in a wide range of political, civic, and charitable endeavors. He approached all of those tasks with extraordinary devotion and deep humanitarian concern. Lovable, dynamic, and zestful—just a few ways to describe the marvelous personality that was Vince Albano's.

The Albano family should have a very special pride for their husband, father, and grandfather—for the wonderful person he was, and for all his loving dedication to them, their community, and all New York. We will all—dear family, friends, Democrats, and Republicans—sorely miss him.

We extend our warmest wishes to his wife and family for their happiness and prosperity, as Vince had worked to provide them during his life. We trust that he is now enjoying eternal peace for all his good works that so enriched the lives of all he touched.

His dear friend and successor, New York State Senator Roy Goodman, remarked at Vince's funeral: "Vince, you called everyone 'sweetheart' but the real 'sweetheart' was you!" It captured so well the essence of Vince Albano.●

IN SUPPORT OF H.R. 110

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. GEJDENSON. Mr. Speaker, I rise in support of H.R. 110, the Young Families Homeownership Opportunity Act of 1981, offered by my distinguished colleague from Michigan, Mr. BLANCHARD.

As a result of inflation, young home buyers are finding it difficult to accumulate enough savings to make a downpayment toward the purchase of a home. Mortgage, tax, utility and other basic expenses for an average priced home in the United States now come to about $900 a month. Wages and salaries are not advancing rapidly enough to cover these high costs. Due to the post-World War II baby boom population, this problem is likely to worsen. During this decade, as many as 41 million young people will reach the age at which they will be ready to purchase their first home.

Current prospective home buyers are not the only individuals affected. Realtors and builders face similar difficulties. The inventory of unsold houses, built by construction companies, is reaching a dangerous 9-month supply level. In other words, the product is there, but people cannot afford to buy it. In 1980, more than 1,000 contracting and building companies failed. From 1972 to 1979, the percentage of first time home buyers decreased from 36 percent of the market to less than 18 percent.

The Young Families Homeownership Act of 1981 allows a nonrefundable income tax credit equaling 20 percent of the cash contribution made to an individual housing account during the taxable year. The bill, however, limits the amount of the credit to $1,000 for any taxable year and $3,000 during a lifetime. Another feature of this bill is that it exempts interest earned on an individual housing account from Federal income taxation.

The provisions contained in H.R. 110 are crucially important for the first time home buyer. While the bill does not represent a complete solution to the problem, it is an essential mechanism that will stimulate the housing market by giving young buyers an incentive to save for the purchase of a home.●

KOREA AT A TURNING POINT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DERWINSKI. Mr. Speaker, in mid-July, Washington was privileged to be visited by Mr. Lee Dwang Pyo, Minister of Culture and Information of the Republic of Korea, in connection with the magnificent exhibit, "Five Thousand Years of Korean Art". On July 24, Dr. Richard Walker of the University of South Carolina was sworn in as U.S. Ambassador to Korea. Those two events signaled the further strengthening of traditional bonds between the United States and the Republic of Korea.

On July 17, when Minister Lee spoke at the Heritage Foundation, he reminded us that, in addition to being an Atlantic power, the United States is a Pacific power as well. Korea too is an important Pacific nation and, as it grows and evolves, the partnership between us increases in importance. Korea is, by the way, now America's 12th largest trading partner and gaining. Korea is a success story in which the United States has played an important part. Korea now is "taking it from there."

The Heritage Foundation has also grown in size and scope, expanding its already significant role in public diplomacy. It is to be commended for providing a forum for Minister Lee's remarks, which follow:

REMARKS AT THE HERITAGE FOUNDATION

Korea is at a turning point, about to enter a period of unprecedented opportunities. We call it the beginning of a new era. This is more than a political slogan to bolster a new administration. Korea is in fact entering a new phase of development and a new phase of international responsibility.

This comes at a time when the whole Pacific area is also at a turning point. We look ahead and see the prospects for a great Pacific age which will involve a partnership of all Pacific basin countries—including our two countries.

The nations of Asia now have the resources, the know-how, the cultural maturity and the determination to effect a dynamic renaissance which will lead to great economic advances and a cultural upsurge. In the coming Pacific age, the Asian nations will not simply be on the receiving end of American largesse but will be equal partners with all other Pacific nations.

Let us look at Korea's new age. What are the problems and prospects for our future development? The key to the new era is reform. All of you are well aware, I am sure, that Korea has undergone political and social change at a rate and on a scale that very few of us would have thought possible viewed from the uncertainty which prevailed in the spring of 1980. This reform is aimed at four goals which President Chun has set for the nation: The cultivation of democracy, the construction of a society in which the welfare of all citizens will be guaranteed, the establishment of the values of justice in all areas of life, and the promotion of innovative education and culture.

The nation has already come a long way in setting the groundwork for these goals but it is not the task of a single year or even of one administration. We have established a new republic, distinctly different from the past. We have revised our most basic laws, including the constitution, itself.

Perhaps even more important, there is now a spirit of reconciliation and accommodation which is replacing the old era of confrontational politics in Korea.

The legal and social reforms effected so far have been rapid and widespread and must be nurtured over the years ahead until they are deeply rooted in the national consciousness. Then we will really have achieved a new era, free of poverty, free of political repression and free of the abuses of war.

Of course, Korea's success in attaining these goals is dependent on the continued success of economic development. Internal turmoil and the international economic situation had an adverse effect on the Korean economy during the recent past.

However, the economy is now recovering rapidly thanks to the effective control of inflation, rising exports and the recovery of political and social stability. Economists predict that the economy will return to its former vigor by 1982 with an annual growth rate by then of 7 or 8 percent. They predict a 6 to 7 percent growth rate for 1981.

The greatest threat to all our goals and expectations remains the threat from the North. The great unhappiness and frustration of the Korean people results from the inability to achieve even the slightest advance in our efforts to reduce tension between the South and the North as a step toward peaceful unification.

The North Koreans continue to prepare for war and continue to turn a deaf ear in our direction. In an earnest attempt to

break this deadlock, President Chun has invited North Korean President Kim Il-Sung to visit the South and see for himself what we are doing. He has also offered to go to North Korea. And if that is impossible, President Chun has offered to meet Kim anywhere, anytime to discuss any and all issues.

Pyongyang has responded negatively to these proposals so far, but the invitation stands open as a symbol of our hopes for peace and unification, which we shall continue to seek with patience and in good faith.

It is now approximately six months since President Chun Doo Hwan visited Washington and took part in a summit meeting with President Reagan. But in that short time, I think, relations between the United States and Korea have entered a completely new phase.

On the one hand, we have seen a clear and unmistakable reiteration of the American commitment to Korean security. This sends an important signal to our adversaries and lessens the possibility that the North Koreans will miscalculate by underestimating either the American or the Korean will.

On the other hand, American economic aid to Korea has been completely phased out, and we are on a pay-as-you-go basis in our economic dealings, moving more actively toward expanding trade and mutual business investments. Korea is now America's 12th largest trading partner and we will shortly rank 8th or 9th. For instance, we are one of your best customers for agricultural products in Asia.

We have even started a modest aid program ourselves for the less-developed nations of the world. And, as a final expression of the equality between us, Koreans have begun direct investment in the United States. Our capital is moving abroad and especially toward these shores.

President Chun has just returned from a tour of Southeast Asia. This trip was symbolic not only of the recognition of the economic advantages of regional cooperation but a strategic recognition of the security relationship between Northeast and Southeast Asia. The new relationships which Korea has forged with the United States, Southeast Asia and her other allies will insure that Korea plays a more creative role in the coming Pacific age, a role commensurate with economic, political and social maturity.●

A JOB WELL DONE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. MOFFETT. Mr. Speaker, I would like to take this moment to thank a member of my legislative staff for his efforts to create a reasonable alternative tax-cut proposal: Mr. Eric Lindblom.

Eric worked tirelessly to develop a bill that would have the interests of lower- and middle-income families at its heart. Working with congressional staff and consumer advocates, he was able to help devise a tax-cut package that merited the full consideration of my colleagues, had it been granted a rule. This package was a genuine labor of love and I applaud Eric and all involved for their good work.

I am sorry to say that Eric will be leaving my staff tomorrow to attend Harvard Law School this fall. I hope that his final efforts on the tax package will not leave a losing last impression on his work here in Washington. His assistance on economic issues has been a winning experience for me.

The only issue for which I could have wished Eric greater success is his anchorage of our office softball team. Our record is somewhat blemished, but I would not lay that at Eric's feet. Maybe his throwing arm, but never his feet.

I know Eric will acquit himself well at Harvard. My staff and I wish him the very best of luck and a fond farewell.●

RESOLUTION TO OPPOSE COASTAL ZONE MANAGEMENT REGULATIONS INTRODUCED

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. STUDDS. Mr. Speaker, I am today introducing a resolution to disapprove the final regulations recently promulgated by the Secretary of Commerce pertaining to certain provisions of the Coastal Zone Management Act of 1972. Section 307(c)(1) of that act requires that each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support these activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs. Mr. Speaker, this provision is the heart and soul of the coastal zone management statute. It embodies the philosophical basis of the law by providing those States which develop management programs for their coastal zone with the assurance that their efforts will not be blithely overridden by the sometimes arrogant, wrongheaded or rash actions of the Federal Government.

Unfortunately, Mr. Speaker, the new Secretary of Commerce, under pressure no doubt from the new Secretary of the Interior and the new Director of the Office of Management and Budget, has approved regulations which seriously undermine the legitimate assurances provided to the States under the coastal zone law. On July 14, new regulations published in the Federal Register stated that the administration will no longer consider activities routinely taken in preparation for an offshore oil lease sale to be activities which directly affect the coastal zone. This action, if allowed to stand, will make it unnecessary for the Federal Government to conform its prelease offshore oil drilling activities to the concerns of State governments as articulated in their respective coastal zone management programs.

It is impossible, Mr. Speaker, for me to accept this new interpretation of the law. Experience indicates that prelease oil drilling preparations have an enormous impact on the coastal zone for the simple reason that the decisions to lease, to determine the scope of an oil lease sale, and to develop stipulations regulating the methods by which oil exploration will be accomplished all occur prior to the lease sale itself. The lease sale simply conforms oil exploration and production activity to a series of critically important decisions made prior to the event. If State governments are not accorded a fair voice in these earlier decisions, they will have no substantive role at all in events which have an undeniably major impact on their local economies, their coastal environments, and the quality of life in their beachfront communities.

Offshore oil exploration recently began in the rich fishing area of Georges Bank, which is adjacent to my own State of Massachusetts. Although I still have grave reservations about the decision to initiate oil drilling in this region, I am very grateful for the role which the Massachusetts coastal zone management program played in shaping the scope of the lease sale, and in requiring that a series of stipulations be included in the lease sale to guarantee reasonable protection of the marine environment, and a decent respect for the interests of competing users of the sea, particularly commercial fishermen.

During the last Congress, as chairman of the House Subcommittee on Oceanography, I chaired 11 hearings throughout the coastal regions of our country, compiling a record of testimony from all interested segments of the population. Our findings were conclusive: The consistency provisions of the Coastal Zone Management Act—as then interpreted—were working well throughout the country; Federal-State cooperation was being facilitated; possible problems with respect to offshore leasing were being resolved amicably without the delays and wasted effort which so often result when one party is deprived of a voice at the table and is forced to seek relief through legal action.

It is only logical, and it is only just, that those who have the greatest knowledge about, and the greatest interest in, the areas adjacent to their coasts be permitted a major role in determining what actions should be taken which affect their coastal zone. To believe otherwise is to assume that all wisdom flows from Washington, and that bureaucrats nesting deep within the Department of the Interior

know more about the coasts than the people of Cape Cod, of the Louisiana coast, of Santa Barbara, or of the rugged but beautiful coast of Alaska.

Mr. Speaker, the new regulations which my resolution seeks to disapprove are not the product of reason or sound public policy. They are not part of an emerging consensus about proper methods of conducting ocean policy; 51 of the 71 comments which the administration received concerning this regulation were negative, including protests from 16 coastal States, 12 local governments, and numerous public interest groups.

These regulations are instead the product of a wholly mistaken perception that State coastal zone management programs are somehow the enemy of new offshore leasing activity in our country. This is nonsense. Neither any coastal State nor any coastal zone management program makes any attempt to prohibit offshore petroleum leasing adjacent to its shores. Some of them do anticipate, however, that reasonable steps will be taken to make certain that oil leasing and exploration is conducted in a manner which is sensitive to the many other concerns of people in coastal communities. The past indicates that State concerns will affect only a small proportion of those areas intended for offshore leasing, and that the majority even of these concerns can be relieved through agreements facilitated by the coastal zone management consistency process.

The enemy of offshore leasing is not coastal zone management; the true enemy is and has always been in recent years, Federal arrogance. It has been the courts, not the Congress, which have been able to provide an avenue of relief for those State governments with no other available means to protect their interests. It is court action, not discussions with coastal zone management officials, which delayed oil leasing for several years in the Georges Bank, and which threatens to destroy the working relationship between State and Federal officials in North Carolina and California at the present time. It is court action, and yet more court action, which will become inevitable if the consistency provisions of the Coastal Zone Management Act are not allowed to function as intended.

Mr. Speaker, my resolution is not designed to change past policy. It is intended to preserve the integrity of an existing law which has established a clear and impressive record of success. The law gives Congress 60 calendar days during continuous legislative session in which to disapprove the regulations issued by the Department of Commerce. I urge my colleagues to join me in this effort to preserve the integrity of the Coastal Zone Management Act, to maintain a voice for State and local governments in issues which vitally affect their interests, and to continue a process which has facilitated—not obstructed—a balanced program of offshore oil exploration and development in our country.●

THE ALCOHOL FUELS BILL

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. BEDELL. Mr. Speaker, today I am introducing a bill which would require the General Services Administration to acquire alcohol-fueled vehicles for use by the Federal Government. For the fiscal year ending September 30, 1983, the first 3,000 nonmilitary Government motor vehicles so acquired would be alcohol-fueled vehicles. This number would be increased by an additional 1,000 vehicles each year through the fiscal year ending September 30, 1987.

The reason for my sponsoring this legislation is twofold. First, in realization of the limited nature of our fossil fuels, steps must be taken to develop alternative and renewable fuels. And in view of the highly volatile nature of oil-exporting countries, a rigorous effort must be pursued in order to reduce our dependence on these countries.

Second, in an effort to bridge the gap between a severe dependence on gasoline as our primary fuel source and a variety of alternative energy sources which would complement gasoline, as well as supplement it, an accelerated time frame must be created to make straight alcohol fuels a marketable item today. It is only in this way that we can assure alcohol's significant role in the long run.

The technology exists. Not only can vehicles be easily converted to run on alcohol, but it is also highly feasible to produce ready-equipped vehicles. Both Ford and General Motors have demonstrated—through various tests—that the vehicles can and do run well. In Brazil, for example, the production rate of alcohol-run vehicles has steadily increased over the last few years and the present output is at an all-time high of 300,000 per year. However, manufacturers need a steady demand in order to produce the vehicles. By authorizing the GSA to purchase a set amount of vehicles—increasing the purchases each fiscal year by constant increments—that demand can be created.

The medium exists. The GSA is a major purchaser of passenger vehicles for Federal use. The GSA is responsible for the acquisition of approximately 20,000 passenger vehicles a year which are distributed to 99 motor pools and various agencies such as the Department of Defense. In effect, the GSA buys the cars other agencies use. This creates a centralized network of passenger vehicles which have easy access to few service stations.

The incentives exist. Because the engines are made to run solely on alcohol, 170-180 proof, a higher percentage of water can remain in the fuel. Therefore, the present cost of making alcohol, of 200 proof or anhydrous quality to blend with gasoline for gasohol, can be reduced approximately 15 percent or more.

Thus, the use of alcohol for fuel is both possible and practical. It is also necessary. Foreign oil exporting countries, especially those in the Middle East, have a direct influence on domestic gasoline prices. Our efforts must be directed toward a viable domestic alternative which would help our country to become energy self-reliant.

In closing, I submit that the time to lay the groundwork is now. We must foster the initiative, take the lead, and sustain the drive in our quest for developing alternative fuels.

H.R. ——

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491) is amended by adding at the end thereof the following new subsection:

"(m)(1) In order to promote the purposes set forth in subsection (a) of this section, the Administrator shall, in making acquisitions for motor vehicle pools or systems under this section, ensure that—

"(A) for the fiscal year ending September 30, 1983, the first 3000 non-military Government motor vehicles so acquired shall be alcohol-fueled motor vehicles;

"(B) for the fiscal year ending September 30, 1984, the first 4000 non-military Government motor vehicles so acquired shall be alcohol-fueled motor vehicles;

"(C) for the fiscal year ending September 30, 1985, the first 5000 non-military Government motor vehicles so acquired shall be alcohol-fueled motor vehicles;

"(D) for the fiscal year ending September 30, 1986, the first 6000 non-military Government motor vehicles so acquired shall be alcohol-fueled motor vehicles; and

"(E) for the fiscal year ending September 30, 1987, the first 7000 non-military Government motor vehicles so acquired shall be alcohol-fueled motor vehicles.

"(2) The Administrator shall include in each annual report submitted under section 212 of this title on or after October 1, 1983, an evaluation of the programs conducted under this subsection and any recommendations with respect to its improvement which may be necessary or desirable.

"(3) For purposes of this subsection—

"(A) the term 'nonmilitary Government motor vehicles' means Government vehicles other than armored vehicles for a military department designed exclusively for combat use; and

"(B) the term 'alcohol-fueled motor vehicles' means vehicles designed and manufactured to function effectively on the exclusive use of alcohol fuel; and

"(C) the term 'alcohol fuel' means alcohol (including methanol and ethanol) which is produced from biomass (as such term is defined in section 203(2)(A) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8802(2)(A))) and which is suitable for use by itself as a fuel or as a substitute for petroleum.".●

DEATH OF MR. CHARLES E. MOYER

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. BLANCHARD. Mr. Speaker, I would like to take this opportunity to note the passing of Mr. Charles E. Moyer of Sterling Heights, Mich. Mr. Moyer served the Postal Service for 23 years before being appointed Postmaster of the Freeland, Mich. Post Office in January 1977. He held this position for 4 years before retiring in 1980, shortly before his death. I am sure that his family and friends, as well as the community he served, miss him and mourn his passing. His son, Lawrence, in a moving letter which he sent to my office, describes his father with affection and respect. I would like to quote from the text of the letter. Mr. Moyer writes:

As you are probably aware of, people knock the Postal Service as being inefficient and incompetent. During my Dad's service as Postmaster, he became very well liked and respected for doing a good job running the Post Office. He was respected by his superiors; subordinates and most importantly, the Freeland community.●

CONCERNED ABOUT CHILDREN

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DORGAN of North Dakota. Mr. Speaker, a North Dakota couple who are constituents of mine have suffered a dramatic personal tragedy which has led them to become very active in the field of children's rights. Drs. Douglas and Rita Swan are both faculty members at Jamestown College in Jamestown, N. Dak. This past April, Rita Swan addressed the Fifth National Conference on Child Abuse and Neglect at the University of Wisconsin. At that time, the Milwaukee Sentinel wrote a thoughtful and comprehensive article about Rita Swan's concerns. I would like to share that story with my colleagues.

[From the Milwaukee Sentinel, Apr. 8, 1981]

LEGAL SOLUTION SOUGHT TO OVERRIDE RELIGION, LETTING DOCTORS AID MINORS

(By Joseph G. Boyd)

A mother who is suing the Church of Christ, Scientists, and two of its practitioners for negligence in the death of her infant son said Tuesday that members of religions opposed to medical treatment need governmental help to get medical attendance for dangerously ill children.

"It's difficult to overcome religious prohibitions in a time of emotional crisis," Rita Swan said, arguing for mandatory medical help for the ailing children of parents whose religion prevents them from requesting it.

Often those parents secretly want medical care for a desperately ill child, but their religion and its practitioners discourage them from getting it, Mrs. Swan added.

She spoke at the fifth National Conference on Child Abuse and Neglect being sponsored through Wednesday at the Hyatt Regency Hotel by the Region V Child Abuse and Neglect Resource Center at the University of Wisconsin—Milwaukee and the National Center on Child Abuse and Neglect.

Mrs. Swan said that she and her husband, Douglas—both faculty members at Jamestown College, Jamestown, N.D.—had been "in Christian Science 30 years, all of our lives," when their 16-month-old son, Matthew, contracted meningitis and died July 7, 1977, after a two-week illness.

"We are suing the Mother Church (of Christ, Scientist) in Boston and two Christian Science practitioners," Mrs. Swan said. The case will be tried in Detroit, Mich. Since their appearance on the Phil Donahue TV show, Mrs. Swan said, they have received "more than 180 reports alleging death and injury to Christian Science children when they were deprived of medical treatment.

"During our son's two-week struggle with meningitis, the practitioners never suggested that we report his illness or that there were laws (providing court-ordered medical attendance) that applied," Mrs. Swan said. "They just asked for our patience, faith and humility."

The Swans left the Christian Scientists and now are Methodists, she said.

The Christian Scientists are "not the only church taking terrible risks with children's health," she said, charging that churches which object to immunization have been successful in exempting members' children from immunization programs.

"My talk aims to show that there is no meaningful protection for children in association with faith-healing sects today," Mrs. Swan said. "Tragedies occur because of religious exemptions" from health programs.

"It is the state's duty to protect the rights of its citizens," she added, citing court rulings which state that no one has the right to expose children to disease, ill health and death. Adults have no right to make martyrs of their children, she said.

Mrs. Swan said that Mary Baker Eddy, founder of Christian Science, claimed that medicine shuts off God's help; that reliance on medicine breaks the commandment against false gods; that medical science, rooted in idolatry, is worthless and even causes diseases by the power of suggestion. Christian Science rejects vitamins and diet, and Mrs. Eddy even said that "the less we know about hygiene, the less we are predisposed to illness," the speaker said.

Christian Science church policies require a pledge not to use medicine as a membership qualification, Mrs. Swan said, and forbid Christian Science practitioners from giving "prayerful treatment" for members who voluntarily accept medical treatment. Those sanctions restrain a parent who might otherwise seek medical attendance, she said.

Faced with a possible court ruling that failure to provide medical care could constitute child abuse and neglect, Mrs. Swan said the Christian Science church "decided to change the law and they have succeeded brilliantly."

She said that the church approached the United State House Select Subcommittee on Education which later issued an "observation" in the church's behalf which became codified by the Department of Health, Education and Welfare (now the Department of Health and Human Services) as an eligibility requirement for federal funding.

The code states that an adult "practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian." The code says that courts can order medical services if the child's health requires it.

The flaw in that, according to Mrs. Swan, is that Christian Science members and practitioners are taught to disbelieve in disease and illness, to turn a blind eye on the symptoms. Under those circumstances, Mrs. Swan said, it is not likely that they would recognize and report serious illness in a child.

Thus, she said, the court is unlikely to discover the plight of a desperately ill child and order medical intervention in time to be of any help.

HEW's regulation, widely incorporated into state laws, "appears to mean that Christian Scientists cannot be charged with child abuse, neglect, or by extension, manslaughter, if they deprive their sick children of medical treatment," Mrs. Swan said.

"I have found no charges of child abuse, neglect or manslaughter against parents relying on faith healing after HEW's regulation has come into the laws of that state," she added.

She cited instances in which parents of children who died without medical care have not been charged, including a Philadelphia family, members of the Faith Tabernacle Church, in which five children died of pneumonia.

"The family is being visited regularly by a child protection worker, and we can only hope the workers will happen to be there when another tiny child comes down with pneumonia," she said.

The HEW regulation prevented Indiana from filing charges against the Glory Barn Church, a sect with only 1,760 members. "Yet 10 newborns or their mothers belonging to that church have died without medical attendance in the past four years," Mrs. Swan said.

A member of the audience, identifying himself as Robert Carnes of the Christian Science Committee on Publications for Wisconsin, interjected that Wisconsin has a "good model" code under which children are "not denied" court-ordered medical attendance.

"I don't know of a single case in 20 years in which we lost a child because of neglect when the court was involved," he said.●

A TRIBUTE TO BILL CALDWELL

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mrs. SNOWE. Mr. Speaker, every so often, a book comes along that merits

the attention and praise of the public. Such a manuscript, in my opinion, is the latest work of Bill Caldwell—entitled "Islands of Maine, Where America Really Began."

Mr. Caldwell is a well-known and widely respected columnist in the State of Maine and has devoted a lifetime to the study of the State and its people. Two previous works he has authored are "Enjoying Maine" and "Maine Magic."

"Islands of Maine" spans 1,000 years of history—from the Viking explorations to explorers searching for a new route to Cathay; from Pilgrims looking for a new life, to life today in one of this country's most popular tourist attractions—the islands of Maine.

I highly recommend this book to my colleagues in the Congress and to the public at large for "Here among the islands of Maine is where America really began."●

AIRPLANES AND COVERED WAGONS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. WOLF. Mr. Speaker, I would like to bring to the attention of my colleagues the following July 30, Washington Post editorial concerning the role that Congress plays in determining the future of the Washington Metropolitan Airports Policy. It points out that the Washington community will be scrutinizing our actions very carefully in the weeks ahead.

The editorial follows:

From the hearings that have been going on the last two days at the Federal Aviation Administration, you would think the future of National Airport were about to be decided in a reasoned way. Not likely. A critical vote on the fate of National will probably be taken either today or tomorrow in, of all places, the House of Representatives.

Congressional advocates of unlimited airline service at National plan to ram through legislation blocking—once again—any rational airport policy. They are being aided by some airlines that are spreading scare stories around Capitol Hill concerning the early demise of the particular flights congressmen frequently use. Rep. Gene Snyder, for instance, has sent out a "Dear Colleague" letter that says in large type: "Do you fly out of National? Forget it! Take the * * * to Dulles" The * * * is a drawing of a horse-drawn covered wagon.

Facts, unfortunately, have rarely entered into the congressional reaction to plans for National. Rep. Snyder's broadside for instance, says, "There are no air carriers now going into National that meet the 1986 noise limits." That's true. But by 1986, almost all air carriers will have replaced the engines on the planes now flying into National or the planes themselves. Those replacements, if the airlines are pushed just a little, will meet the noise standards. Similarly an argument is being made in the House that the proposed National policy should be suspended for a year so it can be studied. No one mentions that Congress and the FAA have been studying National since 1965.

The proposals Secretary of Transportation Drew Lewis had made were not perfect. The local civic groups are right in contending the airport should be completely closed at night and that permitted flights should be curtailed more sharply. The complaints of some airlines that the proposals discriminate against them and in favor of their competitors are valid, too. But these provide no justification for congressional intervention at this time. The period for public comment on the proposals doesn't end for another month, and the earliest date on which the proposals could go into effect is late October.

Fortunately, 134 members of the House and 29 members of the Senate have signed letters supporting the general thrust of Secretary Lewis' plan. If their colleagues only take time to examine the issues, they will be able to beat back this latest bold effort to make congressional perquisites the basis of costly and wrongheaded policy.●

A MUSICAL TRIBUTE TO VIETNAM WAR VETERANS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DASCHLE. Mr. Speaker, on July 28 of this year the "Harden and Weaver" program of radio station WMAL, here in our Nation's Capital, broadcasted the premiere performance of "Vietnam Veterans March," a musical work composed by Prof. Charles T. Gabriele, composer-in-residence of the U.S. Naval Academy Band. The march was performed by the Academy's band conducted by its leader-director, Lt. Cmdr. Allen E. Beck, USN.

Mr. Speaker, this march is indeed a splendid tribute to our Nation's Vietnam veterans. It will help to perpetuate our Nation's gratitude to the fine men who served our country and I hope to hear this march performed often.●

H.R. 3327

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. EDGAR. Mr. Speaker, earlier this year I introduced H.R. 3327, a bill that corrects an unfairness in the tax law affecting over 1,400 Sun Oil Co. workers in Pennsylvania. Because this is such a small constituency their plight might be ignored by my colleagues who have been wrapping their minds around monumental tax changes this year. For this reason I am placing into the record a copy of a letter written to chairman of the House Ways and Means Committee DAN ROSTENKOWSKI by one of these workers. The letter illustrates the events leading to these workers being taxed in 1978 on money due them, and even dated in 1973 when unemployment compensation was not taxable under any circumstances. It also clearly shows what a minute amount of money it will cost the U.S. Government to restore the taxes unfairly drawn from these employees who had already suffered the hardship of going without any income during the 4-month-long lockout in 1973.

The letter follows:

OIL, CHEMICAL AND
ATOMIC WORKERS
INTERNATIONAL UNION,
Marcus Hook, Pa., July 7, 1981.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Washington, D.C.

DEAR CHAIRMAN ROSTENKOWSKI: My attention has just been called to the Introduction to the 97th Congress by my U.S. Representative Robert Edgar, of H.R. 3327. If the passage of this Bill or a like bill could be passed during this session of Congress, it would be a blessing in disguise.

Mr. Rostenkowski, this particular subject has been with us (our Union) since 1973. To summarize briefly, we, as a local independent union, had a work stoppage with our employer, Sun Oil Co. of Pennsylvania, from March 19, 1973 until July 19, 1973. The stoppage occurred when the Company instituted work rules changes without the continuation of bargaining. At the end of a two-month period, we had a vote conducted by the National Labor Relations Board, and the outcome of this—we became affiliated with an International Union. We were then and are now known as Oil Chemical and Atomic Workers, Local 8-901.

On or around September, 1973, a Referee decision was handed down in our favor. The work stoppage was upheld but Sun appealed to the Courts. We won in the Lower Courts by a 6-1 ruling, but the President of that Court put a Restraining Order on the money.

We were in every Court in Pennsylvania, the last being the State Supreme Court in, I believe, October 1977. We won there but the injunction stayed with us.

Sun's next appeal was to the United States Supreme Court. The case was never heard and the injunction was lifted. The money was coming, but something else was coming also. We received the monies in April 1979 but we of the Union informed the membership to save some of the money for the Federal Tax. The Unemployment Compensation Tax of 1978 became effective in January, 1979.

The compensation benefits in Pennsylvania in 1973 were $92.00-$98.00 for a man with a family. The benefits in 1979 were upwards of $150.00. Our people claim this is very unjust. These checks, all individual, were printed in 1973. There was no tax law in 1973, so why should we be compelled to pay this in 1979.

In 1973, we had approximately 1750 employees. I figure 1400 received full benefits, about $1,750.00. Some who didn't, worked during this period.

The money claimed for 1979 income on top of our gross earnings was very overbearing. My tax due to the windfall in 1979 was $550.00. I have a wife and four children.

In closing, I urge you and your Committee's support in the passage of Congressman Robert Edgar's Bill, H.R. 3327.

Sincerely,

JAMES P. WARD, *Vice-President.*●

"PEANUT BUTTER WHAMMY"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. FRANK. Mr. Speaker, I want to talk about the "peanut butter whammy." Perhaps I should call it the "double whammy," for it describes the situation in which the American consumer finds himself or herself, sandwiched between an arcane peanut price support program on the one hand and import quota restrictions on the other. With a doubling of supermarket prices for peanut butter in the past 12 months, we have stunning evidence that the present peanut price support program of acreage allotments, poundage quotas, minimum support levels, and import restrictions is hurting the American consumer. Indeed, I suspect that it is hurting the American peanut producers who would like to expand the markets for peanut products. We have only to look at the phenomenal growth in such relatively unencumbered commodities such as soy beans and sunflower seeds and contrast that growth with the stagnant peanut situation to have an object lesson in the adverse effects of the current peanut price support program.

I look forward to cosponsoring legislation to bring about changes in the current peanut price support program. The Reagan administration also advocates changes in the current program. However, these changes cannot come soon enough to bring relief to processors and manufacturers of peanut products or to the consumer. However, a prompt relaxation of the current import quotas offers some hope of relief, if the administration will reconsider their position.

Reprinted below is an article from the Washington Post, dated July 21, 1981, on "Lots of Peanuts Are Coming—But They're Not Coming Ashore," which describes the peanut import situation. The article makes clear that a more liberal peanut import quota policy will serve as an effective constraint upon both high farm and/or processor prices.

[From the Washington Post, July 21, 1981]

LOT'S OF PEANUTS ARE COMING—BUT THEY'RE NOT COMING ASHORE

(By Ward Sinclair)

Somewhere out there on the high seas, coming to the United States from faraway places with strange sounding names, are peanuts—many, many pounds of peanuts—but they're not going to let them ashore.

That is not all. On the docks at Norfolk, San Francisco and other ports are at least 60 million more pounds of peanuts, purchased by American processor, but banned from use on the U.S. market.

You remember the Peanut Crunch of 1980—the serious peanut shortage caused by the drought and heat last summer, the disappearance of peanut butter from store shelves, the high prices for the peanut products that were available.

Well, what we have today is Son of Peanut Crunch.

The processors got the government to approve more imports, then bought more foreign peanuts than the quota allowed and now find themselves with about $80 million worth of goobers they can't get into the country.

"It's an unbelievable situation," said James Mack, Washington agent for the country's major peanut butter and candy makers. "The whole thing is ludicrous. Here we have a shortage and these people who bought peanuts in good faith now find they can't get them into the country."

Before you shed a tear for the peanut folks, understand something: this is part of a full-scale war that processors are fighting with peanut growers. The processors want prices low, the growers want them high; it is that simple. Before too long, the whole thing is going to engulf Congress, where debate is about to begin on peanuts and kindred matters in the 1981 farm bill.

Back to Son of Peanut Crunch.

After last year's nut shortage, the Reagan, administration responded to the processors' appeals and increased the import quotas that are designed to protect American growers from foreign competition. The regular quota is 1.7 million pounds; the administration allowed in 300 million additional pounds this year.

By mid-June, the quota had been met. But importers had many extra peanuts in the pipeline, including millions of pounds heading here in a leisurely way from the People's Republic of China. When the quota was met, Agriculture Secretary John R. Block shut the door. No more can come in, he said.

Last week, the Peanut Butter and Nut Processors Association, in the form of James E. Mack, telegraphed President Reagan, asking for "immediate action" to increase the quota and permit the additional, already purchased 80 million pounds of foreign peanuts into the country.

But a White House official said yesterday that the administration does not intend to bend. The problem with that, Mack responded, is that processors again are going to run short of peanuts before the new—and less expensive—1981 corp reaches market in October.

"We think there can be more closedowns of processing operations, some labels will disappear from the store shelves, with the financial future for a number of small peanut processors threatened," Mack said.

American peanut growers are not taking kindly to the processors' efforts to get more foreign nuts onto U.S. shores. They are even more incensed that the processors are backing legislation that would radically alter the federal peanut price-support program.

The Peanut Advisory Board this year began publishing a newsletter to give the growers' side of the story (peanuts are still a good buy, the 1981 crop looks promising, the federal support program is working just fine).

The same New York advertising agency that does the board's newsletter also is trumpeting a similar message for the Southeastern Peanut Growers of America, who have taken off the gloves and accused the processors of making windfall profits from the short crop of 1980.

"This past year, the average U.S. farm price of peanuts was 24 cents a pound, up only 12.5 percent from the previous year," wrote the growers' Mitch Head in his latest communique. "Yet the retail prices of peanuts and peanut butter continue to skyrocket over 80 percent."

Contrary to the Reagan administration's wishes, the House and Senate Agriculture Committees, chaired and populated by peanut-state legislators, have retained the program unchanged in their respective versions of the farm bill. Reagan proposed a gradual change in the peanut program.

But when the Senate begins debate on its measure, possibly next week, one of the first orders of business will be an amendment by Sen. Richard G. Lugar (R-Ind.) that goes farther than the administration proposal.

Lugar would put tighter controls on the support program and end the exclusive allotment system that precludes many farmers from growing peanuts commercially. Lugar and Sen. Paul E. Tsongas (D-Mass.), his chief ally, already have picked up cosponsorship of a fourth of the Senate and a fierce floor fight is anticipated.

It is though ships are passing in the night. Some of them are carrying peanuts. Peanuts without a country.

The situation in which the American consumer finds himself or herself has prompted me to write the President, asking for a consistent import policy. Surely, if the absence of import quotas on imported shoes from Taiwan and Korea is good for the American consumer, it seems logical to apply the same approach to other commodities such as peanuts and tobacco. It strikes me as grossly unfair to ask the American consumer to pay for higher prices resulting from price support programs, while barring relief through imports because the imports might undercut artifically supported high prices. This surely is giving the American public the double whammy.

Reprinted below is my letter to President Reagan:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 24, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I write to you on behalf of the American consumer to whom peanuts and peanut products, such as peanut butter, are staple products. During the past twelve months, we have seen the supermarket price of peanut butter, for example, double. I support the Administration's efforts to phase out the acreage allotments and reduce the poundage quotas and loan levels for peanuts. However, these are long-range measures, and the American consumer needs relief now. I urge you to take prompt action to ease restrictions on imported peanuts.

I applauded your decision to refuse extension of import quotas on shoes from Taiwan and Korea, so that the consumer might have the benefit of more competitive prices in the marketplace, even at the risk to American shoe producers. It is imperative that the Administration be consistent in its

position on import quotas. If competition from imports in the shoe industry is good for consumers, I see no reason that the same principle should not apply to peanuts. Indeed, the freedom of the marketplace principle, which your Administration espouses and in which I concur, should be applied consistently across the economy, whether the product or commodity is shoes, peanuts, or tobacco.

BARNEY FRANK.●

VICTOR C. TALOTTA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. RITTER. Mr. Speaker, I was privileged recently to take part in the rededication of the Cementon Playground to Victor C. Talotta Memorial Park. Several hundred residents of this community in the Lehigh Valley turned out to honor the memory of a man they had come to love and respect.

Victor Talotta died in March 1980. He left a void in the community. He was a gentle man, a World War II veteran, a loving father, a policeman, a warm human being who cared deeply for his community.

Victor Talotta left his imprint on Cementon. He left his imprint on the Lehigh Valley. In essence, it is the Victor Talotta's across America who help make this Nation so great.

The story of Victor Talotta is, in effect, the story of a community-minded individual in every hamlet in this Nation. Let me just tell you about Vic. You will recognize him. He has a counterpart in your community.

The speech I gave at that dedication follows:

Vic was an unselfish man. He gave many hours of his time to the community and more specifically to the youth of this community—often at the expense of an understanding family.

In his youth, Vic played basketball and baseball, both in high school and in area leagues. He knew that sports molded the character of our youth. He knew that sports molded the leaders of tomorrow.

He was more than a policeman and a police chief. He knew that the cornerstone of an efficient police force was gaining the respect of our youth. Vic gained that respect by working with young people . . . confiding with them . . . helping to solve their problems . . . letting them know they always had someone to come to, be it a personal or deeper problem.

It was not unusual for youngsters in the neighborhood to stop at his house when they needed some quick action. It was second nature for Vic to get his hands greasy in repairing a young girl's bike chain or getting out his first-aid kit to patch up minor bruisers and scrapes.

"It's worth it," he would often tell his wife Theresa.

And it was not unusual for 20 to 25 youngsters to knock on his door at 8 o'clock in the morning, asking if he's coming down to the playground. Of course, they knew the answer would always be, "Yes." They'd hang around a few minutes and then pile into Vic's Model T Ford for the ride to the playground.

Once at the playground, Vic quickly gave the order of the day: "OK; today we pick up stones," or "OK; today let's try to get rid of some of the bumps in the infield and cover up some bare spots in the grass." And so it went . . . day after day . . . week after week. And the kids knew that when they'd finish their chores for the day that Vic would reach down into his pocket and treat each with an ice cream cone.

There was a lesson to be learned for these young people. Someone cared for them and was always there to help.

There were knocks on his door, too, at other hours during the day. "Could I see Vic, please? I have a problem." And Vic would never be too busy to sit down at the breakfast table or at the outside picnic table to help some youngster who had a problem.

He was Vic to young and old alike. He commanded respect because he gave respect. His memory will live on.

Perhaps the finest tribute that could be paid to Vic came in a note Theresa received a few days after he passed away: "We were runny-nosed kids . . . He always had time for us . . ."

Those few words say it more eloquently than I can. Yes, Vic Tallota was what America is all about.●

REMARKS OF MARVIN FELDMAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. GREEN. Mr. Speaker, I would like to take the opportunity to insert in the RECORD excerpts from remarks of Marvin Feldman. Mr. Feldman is president of the Fashion Institute of Technology in New York, and had the opportunity earlier this year to speak at the conference on "Models of Success in Community Colleges" concerning the role and the future of community colleges. I am pleased to bring Mr. Feldman's thoughts to the attention of my colleagues:

There has lately been a kind of cold panic in the air as higher educators contemplate the probability that there will be a 10-15 percent drop in enrollment in higher education in the Eighties. But, just a few weeks ago, Peter Drucker, the wonderful aging sage of Claremont, everybody's favorite management theorist, ventured a contrary prediction: "Demand for education is actually going up, not down. What is going down, and fairly fast, is demand for traditional education in traditional schools." This means, I think, that the community college education can be a booming growth industry.

Let me suggest some of the reasons why. I think two revolutions are going on right under our nose, so close perhaps that we cannot see then very clearly. Remember the sign, from a German university in the Twenties: "In case of rain, the revolution will take place in the hall." I think two related revolutions are right now spilling over into our halls. One is a technological revolution, which I think may in time have consequences which exceed that of the first, mechanical, phase of the industrial revolution—a gathering, post-industrial revolution, so to speak. The other is a related revolution in human consciousness—a re-thinking of the right relationship of people to work. These two revolutions, I feel, will tend to be mutually re-inforcing, and will transform society in ways most of us will applaud. And, of course, these twin revolutions have profound implications for the spirit and content of the curriculum in education, and community colleges will be most affected by them because we are most comfortable with change.

The technological revolution is perhaps the most familiar. In the 1920's, a Czech dramatist named Karl Capek wrote a popular science fiction play called "Rur." In it a firm called Rossums Universal Robots produces so many synthetic men and women that all of the world's industrial workers are displaced. (Capek, in fact, coined the word "Robot," it comes from robit the Czech word for word.) In Capek's play, the robots revolt and having methodically exterminated the human race they take over the world.

Now, 50 years later hundreds of firms around the world are making hundreds of different kinds of robots. Thousands are employed in firms around the world doing work men and women used to do. (We just had our second conference on Robotics at F.I.T. this year.) These robots have computers for brains. They can handle a process with as many as ten thousand steps. They don't get tired and they don't talk back. They can work in the dark, in freezing, torrid or polluted atmospheres. They don't take coffee breaks. The most advanced models can see with TV camera eyes linked to memory systems and feel with sophisticated senors.

Future robots will be able to hear and obey spoken orders. They can be instantly re-educated to complex new tasks simply by plugging them into new software. I think if we clearly understand the meaning of the industrial robot, we will have a fix on future patterns of education. The Luddites notwithstanding, technology, almost by definition increases the demand for, and productivity of, manpower.

But technology changes the people power mix. Robots—and the kind of technology robots represent—arithmetically reduce the need for the lowest skilled workers, but geometrically increase the need for technicians. The industry my institution serves is a near-perfect example. The composition of its labor force is changing. The demand for technicians to tend increasingly complex technology—computer-directed lasers for cutting, sound waves sewing machines, programmed stitching machines and computer graphics will increase. Technical education is, undoubtedly, a major growth industry, but as it grows it will change. The constituency it serves will change. It's content will continue to change.

Lifetime, continuing education was once just something we talked about to pass the heavy time at education conventions. Now it has become a reality for millions of Americans. In what Daniel Bell calls a post-industrial society, employment—both for present and future employees—is requiring more and more education.

The things uneducated people can do are being done by increasingly sophisticated machines. That means uneducated people are having to get educated to get and stay employable. It's happening already. In any large community college system, half the

present enrollments are, properly classified, adults.

Our enrollments are going to continue to grow and adults will be the source of much of that growth. Peter Drucker says, "The fastest growing industry in America today may be" (Note that he does not say mini-computers or micro-wave transmitters or fiber optic cable or cable television or video-records) . . . . "The continuing professional education of highly schooled mid-career adults." and later, he continues, "Above all, attention will shift back to schools and education as the central capital investment and infrastructure of a knowledge society. And at the very center of that infrastructure, I submit, will be the community college.

The other revolution is a quieter revolution, but in my view it is just as real. Masses of people are beginning to see life's larger possibilities and a need to pursue them. This is something new. We have lived through a whole long era in which most people spent their lives working or resting from work. Now most people are consciously or unconsciously yearning to examine and experience a range of life's possibilities that has before been an option open only to a tiny handful.

Higher education was, originally, frankly elitist. Right up until the American Revolution. Harvard students, for example, were listed by social rank. In those days, common people were flatly forbidden to "walk in great boots" or otherwise imitate the behavior of their betters. It was a rigidly hierarchical society. Colleges educated a tiny elite destined for the ministry or the professions or for the easy responsibilities of class and privilege. The education provided was, its essentials, a liberal education. One learned skills in other ways.

But as the democratic tradition blossomed in the United States as it had blossomed nowhere else in the world before, more and more people aspired to more and more education. And the model was the kind of liberal arts education intended for a tiny elite—many of whom had no need to earn a living. "Do you smoke?" The great lady asks her daughter's suitor in Oscar Wilde's play. "Good," she replied when he admits hesitantly that he does, "I think every young man should have an occupation of some kind." But as America democratized, the mark of the new mass nobility became a college education originally intended for the indolent or for the professional scholar.

In 1900, 200,000 students went to college. Last year, the figure was 10,000,000. But a vocationally impractical curriculum simply did not suit the real-world imperatives of the new masses. And so somewhere along the line, regrettably—liberal educators began to make an uneasy, tormented case for the relevance of irrelevant education. The consequences have been disasterous—for the great liberal tradition of education and for millions of students who have either been sold mis-labeled practical education or seduced into believing that liberal education has a vocational relevance that it simply does not, cannot, and should not have.

Now, as a secondary consequence, the culturally indispensable liberal tradition is being discredited because in practice it fails to do what it never should have been represented as doing. And educators are witnessing an unwelcome reaction against liberal education. The situation has grotesque consequences.

We read in the papers that thousands of young people are "over-educated." How can a civilized person know too much? How can the common man who struggled for centuries for the leisure that would free him from his exhausting struggle for survival for some contemplation and personal civilization—be "over civilized?" It is absurd. A student can know more than he or she needs to know to program a computer or sell an insurance policy or manage a supermarket, but be "over-educated?" The word is, to me, as an educator, an obscenity.

In a puzzling, perplexing, heart-rending book called "What Went Wrong?" an English craftsman writes about British working people who have achieved all the material ambitions they sought to achieve half a century ago—and now have no sure sense of purpose. "Is there life after work?" is a question more and more people are asking: or is there only an emptiness to be filled by passive entertainments, recreational chemicals, and a bored indolence.

Clearly, the rehabilitation of the liberal arts, adapted to the needs of a mass aristocracy, has become an urgent necessity. Community colleges may be best able to make the case for the liberal arts. We do not have to pretend they are vocationally relevant. We can say, more forcefully than the traditional educators, that they are vocationally irrelevant, but that they have a desperate importance of their own. John Dewey, that unread and misunderstood genius of educational theory, who retired from Columbia almost exactly half a century ago, pushed this kind of ideal against the powerful contrary tides of the industrial era.

Arthur Wirth, in his book about Dewey and the right relationship of vocational and liberal studies, writes: "Dewey argued that the question of how to interrelate technical and liberal studies in American schools was ultimately related to the question of what quality of life would be obtained in a technological civilization. Can a material, industrial civilization," Dewey himself asked, "be converted into a distinctive agency for liberating the minds and refining the emotions of all who take part in it."

Now history may be catching up with Dewey's vision. The idea of an amalgam of liberal with vocational education ran against the grain of the apparent requirements of the industrial era. But the post-industrial era may permit—may in fact require—a greatly enlarged vision of the role of education in the lives of working people. John Baskin in his splendid book "New Burlington," states, "I think we are all faced with two problems, and they are basic and countervailing: How to live honorably, and how to support an honorable life."

I feel in my bones that in the post-industrial society these two basics may not be countervailing anymore. We can now begin to think of achieving Dewey's goal and with the community college as the principal instrument. The community college is already becoming the major source of skilled people power despite the federal commitment to secondary vocational education. For in the community colleges we do provide the specialization in our vocational programs which do justice to the claims of both the sciences and the humanities. We do temper our occupational programs with the humanistic spirit. And we do liberalize humanism with the entrepreneurial spirit.

So these two revolutions are taking place in a social landscape characterized by headlong diversification. Our traditionally homogenized society is everywhere de-homogenizing itself—making necessary a new diversity in approaching social problems—particularly in education. "The greatest challenge to educators," writes Peter Drucker, "is likely to come from our new opportunities for diversity."

It used to be that on various issues and concerns, the country would eventually swing one way or the other, adopting either solution A or solution B. We are entering into an era where some areas will adopt solution A, some solution B, and some C, D and E—either/or is out. "Multiple options are in." In other words, while we need a better integrated sense of our mission as educators, we need to disintegrate our approach to achieving it. We need a new pluralism in education—a new resolve to let a million flowers bloom. We need to welcome schools of all sorts and shapes and sizes, so our educational response will be as diverse as the needs of our diversifying civilization. So it is a time of unparalleled opportunity for this wonderful invention called the community college.

Let me tell you a little about the one I represent. We are the largest institution in the world specifically designed to serve what is New York's largest industry and the nation's third largest. But that is about the only generalization possible about the place. Are we a two-year institution? We sure are—or I suppose so! It is probably more accurate to say that we are a community-centered, multi-purpose institution offering work in a variety of formats, a two-year module being the most common, but we have one-year programs, two-year programs, three-year programs and four-year programs. We also have one-day programs for high school students which we call Saturday Live. We offer sixteen associate degrees, five baccalaureate degrees and someday soon we will offer three masters degrees. We have even applied to the State University for permission to pioneer a wholly new degree—a master artisan.

Almost as many college graduates apply for admission to F.I.T. as high school graduates. We offer over 300 seminar programs a year for industry retraining and research programs. I suppose half our enrollment are properly classified as adults, coming to us for continuing education. We have lately found that, to an entirely unexpected degree, we have been preparing students for self-employment. This suggests what I have suspected for a long time—namely that students have a clearer idea of why they are coming to us than we have of why we are asking them to come.

While rates of application nationally are declining (the fulfillment of that given, collective premonition that has haunted higher educators ever since the baby boom was followed by the baby bust) our rates of application are increasing. So are most of the other community colleges.

I suppose we are perceived as narrowly vocational, but all our students, all of our associate degree candidates, are required to take a third of their work in fields relevant only to living a fuller, deeper life. I read the other day about a recent graduate from a distinguished century-old liberal arts college in the ivy league who took thirty-six of the thirty-eight courses needed to graduate in mathematics. (I have wondered ever since what redemption this student was able to cram into those two other courses.)

We are open 9:00 a.m. to midnight almost twelve months a year. Are we a community college? You bet your life! The only difference between F.I.T. as a community college and a so-called "typical" community college is that our community is an industry and not geography. For that reason we have

dormitories for about 800 of our 10,000 full and part time students!

Should we offer G.E.D. certificates as well as master degrees? Of course, if that is the need in our community! We do an enormous amount of applied research—should we? Of course, community colleges should if they have the capacity and the community needs it. That's just a sketch of just our model, the one I know best.

The strength of the community college is that there are dozens and dozens of others. Most of you here can describe your own exciting education adventures. Most of you know better what your community needs than distant officials in the Education Department of the State Capital or in Washington. Yet, in spite of all this, in spite of the fact that we community colleges are proving in practice to be the kind of institution that bests fits the times, we lack confidence, we lack national leadership, we lack the ability to speak to people and policymakers with a clear, intelligible voice.

I know this from my own experience in Washington as a Federal official in the highest levels of government. There are programs in higher education, vocational education, elementary and secondary education and somewhere in all these programs are community colleges. I think we are suffering unnecessarily from an inferiority complex, perhaps because we are the youngest institutional form. Perhaps it is because of the doubtful legitimacy of our origins. Or perhaps it is because we somehow fall into a kind of subconscious thoughtless arithmetical mode of thinking which suggests that a four-year college is exactly twice as good as a two-year college. And to that, of course, the answer is, "not necessarily," any more than four-story building is superior to a two-story building. It simply uses more space. Is the GM Building superior to the Parthenon?

In any event, do you really believe the model of community college education in the year 2,000 will be the traditional model of community colleges of the 1950's? Do any of you really believe that educational policymakers can withstand the pressures our communities will put on us for a new diversity of mission? Community colleges are a vast, valid growing force in America. We enroll a stunning 36 percent of the total higher education enrollment. In New York state, we grant more associate degrees than baccalaureate and masters combined in public institutions. It is in the community college that the national commitments that everyone else is talking about are being acted upon. We are the accessible institutions in a nation under a moral commitment to accessability. We are the institutions with great, growing minority enrollments in a nation committed to equal opportunity. We are the institutions with the most extensive vocational offerings, at a time when the nation has rediscovered, that the mastery of a marketable skill, is the inescapable beginning of human liberation. We are the institutions which trigger economic revitalization, by attracting industry with the skilled people they need most—in a nation newly committed to reindustrialization. We are the institutions preparing students most accurately for known job opportunities in a nation newly obsessed with the idea of educational accountability. We are the institutions preparing people most successfully for self-employment, at a time when there is a renaissance of entrepreneurial development, and when the number of self-employed people is increasing for the first time since the Civil War. We are the institutions which, to everyone's surprise are leading the search for the appropriate pattern of general education for working people—in a nation asking urgently if there is life after work.

Finally, we are the institutions that have been given the urgent continuing mission of industry upgrading and retraining at every level of labor and management. Can anyone really believe we are the poor relation in higher education. Yet we clearly lack a sense of our own strength. We are suffering, perhaps, from a soggy sense of institutional identity. We have sat in the back of the bus of higher education so long that we have grown comfortable there.

We are, I believe, desperately in need of the kind of institutional conscious raising that meetings like this are seeking to provide. We also have a desperate responsibility to more forcibly speak out and represent with a passion and commitment the people we serve in higher education. I personally have a deepening sense of commitment to the community college. We are where the action is.

Community colleges are what makes administration interesting—a capacity for change—even a commitment to change. Administration of rigid institutions is too much like taxidermy to suit me. I would rather be at almost any community college than at any other institution and I mean that literally. We are where history is being made. I know of no other faculty fighting harder to bring the future into the classroom; we are making learning an adventure.●

NEW ROCHELLE'S FIVE ISLANDS RECREATION COMPLEX

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. OTTINGER. Mr. Speaker, I want to bring to the attention of my colleagues a fine example of how a successful partnership between the Federal Government and a local government has brought about the development of a public recreational complex which will enhance the quality of life of thousands of people in the Long Island Sound shore area.

On August 23, the city of New Rochelle, N.Y., will dedicate phase I of the five islands recreation complex—a $3 million facility, virtually unique along the entire eastern seaboard. This complex would not have been possible without the countless hours of hard work by many, many, people, most especially officials and staff of the city of New Rochelle together with a group of concerned local citizens.

Phase I of the project is the reconstitution of Oakwood Island in Long Island Sound, the largest of the archipelago in the Echo Bay Inlet of the Sound. The Federal Government through the Land and Water Conservation Fund contributed over $700,000 toward the development of this stage of the five islands complex. I must add that the portion of the Land and Water Conservation Fund which financed the five island project is now facing extinction as a result of recent budgetary goals put forth by the administration. Phase II of the five islands complex, which involves the development of four other islands as well as further improvement of recreation areas on Oakwood Island, will also be financed in part by the Federal Government. Further, Federal funds were used to save Oakwood Island from potential residential development, thus preserving this valuable open space for public use.

The city of New Rochelle, N.Y., is to be commended for its outstanding work in the development of the five island recreation complex. The park was developed according to guidelines which mandate the preservation and enhancement of our marine ecology and the complex is an outstanding example of how a natural environment can be responsibly transformed into a people-serving setting. Through a number of successful redevelopment projects, including five islands, the city has proved again and again its dedication to improving its physical and natural environment in such a way that best benefits its citizens. The five islands recreation complex has had the support of two bipartisan city councils and two local administrations and all of these people must be praised for their vision and their persistence in supporting and pushing this project toward its successful completion.

I bring the five islands recreational complex to the attention of my colleagues as another example of the very positive contributions which Federal programs have made to the lives of the American people—in this case the local citizens of the city of New Rochelle, N.Y.●

THE UNDOCUMENTED ALIEN SITUATION ON THE MEXICAN BORDER

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DE LA GARZA. Mr. Speaker, today the President announced the administration's immigration policy. Other than for a change in terms, the recommendations reminded me of a speech I made on the floor of this House, September 21, 1970.

In that speech, I urged this House to direct its attention to the situation existing along our Mexican border, pointing out the need for understanding economic factors which cause people to leave their country and seek employment elsewhere.

In that speech, I called the illegal aliens "wetbacks," a standard refer-

ence in those days. They are now termed "undocumented aliens."

When I made the speech in 1970, I received no comment either from the administration at that time nor from any other observers.

Changing only the title from "The Wetback Situation on the Mexican Border," to "The Undocumented Alien Situation on the Mexican Border," I respectfully request that the House give attention to its content:

THE UNDOCUMENTED ALIEN SITUATION ON THE MEXICAN BORDER

Mr. DE LA GARZA. Mr. Speaker, recent statements have been made public relating to the wetback situation on our Mexican border.

I represent the southern district of Texas and I might say, somewhat unhappily though perhaps justifiably, that during the last few decades my district has been identified as the focal point of much of—maybe most of—the Nation's wetback traffic.

In connection with public statements often made by well-intentioned persons who are not acquainted by long experience with the wetbacks, it may be well that we should define our terms. Certainly there seems to have been, on the part of men who should know better, a great deal of confusion relating to the identification of groups of people who come to this country from Mexico.

Let me point out that the relationship between the United States and Mexico has existed—geographically—for hundreds and hundreds of years. While the Rio Grande has always flowed between the two countries, closely knit families lived on either sides of those banks—and they traveled back and forth. In the days before this was the formal southern boundary of the Nation they swam the river, boated across the river—and in some places walked across the river to visit with families and friends.

That familiar relationship has existed over the centuries. Mothers, fathers, sisters, brothers are separated by the river. This is a unique relationship and it is one that has spawned a great deal of the existing situation. This is the primary group, the original settlers.

The second group, of course, in any consideration, is that of immigrants—lawful permanent residents—people who come to this country after various inspection processes relating to Consular limitations, Public Health and Immigration for the purpose of living here, working here, and becoming citizens of our country.

The third is that of the so-called "green carder" or commuter. These are the people who have obtained visas and met other requirements entitling them to lawful residence and employment in this country. But they have chosen to avail themselves of only part of that to which they are entitled under law—that is employment. They have met the requirements for living here and working here. But they have chosen only to work here. There are thousands of such people on both our Canadian and Mexican borders. They work here but they do not live here. They have residences in Mexico or Canada and work in this country, thus taking only a portion of that to which they are lawfully entitled by virtue of having complied with our immigration requirements.

There is a fourth class who have come to this country lawfully in the past under programs for the importation of Mexican labor pursuant to executive agreements between the United States and Mexico. These people popularly have been called braceros. They were inspected as to numbers, as to public health, and as to their capacity for doing the job in this country which they sought. The whole program was marked in the years gone by with an ideal agreement and relationship between two countries: Mexico and the United States. The program was marked by success in the achievement of the labor for which they came and the program was marked by success from a law enforcement standpoint inasmuch as only a minute fraction of them failed to return to their homes in Mexico when their jobs were completed in this country. Thus, they supplied a need. They filled a vacuum and took a great deal of the attraction out of coming to this country illegally.

Then we have the wetbacks as the fifth and final class under our consideration of people who come to our country from Mexico and they are the ones who, without inspection and in violation of law, either wade the Rio Grande or cross the border clandestinely or come through the established ports of entry under false pretenses.

It is unfair to these people, however, to assume that they are criminals. As my distinguished colleague, the chairman of the Subcommittee on Appropriations for the Immigration and Naturalization Service recently said in the hearings on that agency's request:

"These are perfectly harmless people who want to come up here and make a day's pay. That is all it is."—part 1, page 861, of the hearings on appropriations, 1971.

They are guilty, of course, of a violation of our laws and good judgment and good government dictates that they should be apprehended and returned to Mexico according to law. However, an unbiased observation inevitably reveals that overwhelmingly these are honest people who simply come to this country to work and who intend, for the most part, to return to their families in Mexico when they have obtained in this rich land of ours a grubstake, let us say—when they have been able to participate in our employment and to participate in the high scale we fortunately are able to pay for labor in this country. I say this not in approbation, not in condonation, of illegal traffic across our borders but only that the situation be kept in proper perspective and emphasis. Lately there has been a change, not in the nature or identity of the wetback, but a change in his objectives as he comes to this country.

Thus it is, in the sense of their objectives, the so-called wetback problem as it existed in the 1940's and the 1950's has, to a great extent, passed. Whereas the wetback movement was formerly a Texas and California agricultural phenomenon, it is now marked by numbers employed in our cities rather than in agriculture.

The Commissioner of Immigration and Naturalization recently said:

"The Mexicans have discovered that they can find work in industry as well as on farms and ranches and they are gravitating toward our large cities, such as Chicago."—part 1, page 857 of the hearings on appropriations, 1971.

My colleagues, the great agricultural demands in this country are hardly fitted to the hundreds of thousands of wetbacks who formerly came. There are no longer cotton field demands for a cotton picker on every row in order to get the crop out in a couple of days to meet a market situation or a problem of the weather. Cotton picking is now done by machines. Instead of vast hundreds of workers with hoes and hand implements only a couple of decades ago, weeding is done with chemicals. Planters space the planting of crops. There is a need for a relatively few tractor drivers, and for intelligent and skilled operators of other comparatively sophisticated farm machinery today.

The wetback movement, however, is again increasing. Ten years ago the Border Patrol was apprehending wetbacks in this country at the rate of nearly 200,000 per year.

Lately, the emphasis in illegal alien employment has been in factories, canneries, hotels, restaurants, and such employment. I understand that industrial employment of illegal aliens in California has increased sixfold between 1968 and 1969 and is still increasing at an accelerated rate. I understand that a similar situation prevails in other States along our Mexican border. The pay is better than it is in agriculture. Working conditions are better. Living conditions are better in the cities. Illegal aliens are finding out that the social agencies and the volunteer groups in the cities are willing and able to help them, even during their illegal stay in the United States. They quickly learn that an illegal alien is less conspicuous in a crowded barrio than in the open fields, the packing plants or on farms and ranches.

The question might arise as to how people can work in such employment as this in view of the need for social security cards. The truth is that the wetback now goes into our cities and immediately applies for a social security card—and gets it. Recently in one of our Southwestern States the Social Security Administration was accused by a three-judge panel of paving the way for illegal aliens to get work in this country. The Social Security Administration issues cards and account numbers to illegal aliens without a question as to their status.

Significantly, wetback income a few years ago reflected the cost of peon labor—slave labor if you would like to call it that—but today a wetback is paid the wage prevailing in the community and this is a prevailing wage in cities with a work force so large that the wetback numbers cannot affect that prevailing wage.

Our Immigration Border Patrol frequently apprehends great numbers of wetbacks who are earning $3 or $4 up to $10 an hour, according to the individual's job and merit. In this connection some serious questions might arise in the minds of some of my colleagues. As there are several million unemployed Americans in this country—and the record indicates that there are—why is it that the wetback who comes without recommendation and who must overcome a serious language barrier, often without experience and without contacts here—how is it that he is able to go to work immediately upon arrival? The record shows that ordinarily from the time of a wetback's entry into this country and the time he is apprehended by the Border Patrol is a period measured in days or sometimes even a few short weeks. During that time these wetbacks, eager for any employment but working at the prevailing wages in the large cities of our country, seem to suffer no unemployment.

The whole panorama of affairs with regard to the wetback is handled most amicably between Mexico and the United States. There is hardly any area of relationship between our two countries which reflects a greater understanding and a friendlier attitude of assistance. The primary

aspect of this splendid relationship is the Mexican Government's cooperation in the return of these thousands of people to their homeland after they are arrested in this country in violation of law. From the standpoint of law enforcement and from the standpoint of decency and humanity, the most effective and most humane way to handle these people is to move them quickly out of this country to places in Mexico nearest their families and their homes.

As a result, literally hundreds of thousands of them are moved to points in the interior of Mexico by airplanes, by trains, and by buses. The Mexican Government offers effective assistance to insure their return to their homes and to assist with their travel, feeding and other humanitarian obligations once they are expelled from the United States. Questions may arise in the minds of some as to why we are not more effective in the prevention of the wetback invasion of our country and why we are not more effective and more prompt in expelling them upon their arrival.

Bear in mind, there are many factors by which one is impelled to see the wetback with sympathy, and with understanding of his objectives and his plight. Nevertheless, he is here in this country in violation of law and in that sense something must be done to dispose of him and his problem according to law.

Bearing on the first problem, the Border Patrol of our Immigration and Naturalization Service, a branch of the Department of Justice, seems to be a neglected instrument of the Government, no matter what administration occupies the seats of authority in Washington. Going back three decades there were around 1,000 border patrolmen on our Mexican border. In the 1950's the numbers were increased slightly during a genuine effort to bring the border under control when, around the middle of that decade, a million wetbacks were returned to Mexico in 1 year. The number of border patrolmen we had last year—and I think this year—was a few more than 1,100. Surely if we intend to cope with a problem which is disturbing to many conscientious people because they see the impact of the illegal alien on the economy, something should be done to augment and to support the men who are charged under law with responsibility for the security of our border.

However, control on the border is not solely the product of a border police function. The problem will not respond to purely a police operation. It is a job which cannot be done without a blending of border police operations, employment concepts and adjustments in our country and, where possible, the achievement of economic balances between our country and Mexico.

The Border Patrol of the Immigration and Naturalization Service is our only uniformed, armed, civilian police organization between the established ports of entry and it is administratively and organizationally hidden from the public view. Within the structure of the Immigration and Naturalization Service, a non-law-enforcement body in the modern sense, the Border Patrol is bedded quietly under a substructure called domestic control—surely an appellation which must arouse curiosity among the nonbureaucratic majority of us as to organizational and functional intent.

The Border Patrol should be identified and structurally set apart in order that we may properly identify the funds appropriated for its purposes and support it where necessary to accomplish its mission on the border.

A few months ago a great emphasis was placed on control of our border as that control related to the illicit introduction of harmful drugs. Now all of us are in favor of preventing marihuana and harder drugs from coming into this country but from the quantities being found in this country and the quantities being used in this country, according to our daily press reports, one might conclude that the various excited efforts—almost hysterical in nature—which recently resulted in clogging our ports for brief periods to legitimate traffic and which have resulted in a great deal of local misunderstanding—these crash programs are not the way to do it.

Mark my words, contraband does not smuggle itself into this country. Contraband is smuggled by people and if we had control of the entry of people over our border, we would have control of the entry of contraband.

Thus, it is that these efforts to deal with things instead of people have been unsuccessful. They are inherently self-defeating. Mere prohibitions do not work in our country. We must take steps which will not interfere with lawful and friendly traffic across our borders. We must reexamine and reorganize the functions of our border agencies to insure that the legitimate objects of law-abiding people are not hindered. As sad as is the condition of drug use and as deplorable as the fact of its introduction into our country, it is still more important that friendly and legitimate international traffic be permitted to cross our border unhindered than that any vigorous, enthusiastic, but noneffective programs be introduced or continued.

In summation, therefore, I urge that those involved in the effort—and perhaps I should say the hopes—of establishing and maintaining order along our Mexican border should have first clearly in mind the identity of the people they are talking about—both as individuals and as groups. A rather full knowledge of the language, the customs and the natural purposes of the people most involved is necessary to a proper understanding.

Second, there must be an understanding of the economic factors which cause people to leave their own country for temporary periods and the economic factors which make it attractive for them to come to this beautiful and rich country of ours.

At the same time we just reevaluate and we must seriously give attention to the fact that although great unemployment problems are claimed for this country—and I do not deny that they exist—why is it that the wetback, when he comes here to work for the same pay that American citizens get, is never unemployed? He never returns to Mexico without having had a job—and he has no problem, either, with this social security. Just as we consider that the Government agencies involved in our border problems are scattered between a number of departments and often without coordination of effort—and rarely with coordination of responsibility—so should we consider perhaps that there has been no fundamental redefining of our concepts of employment for more than three decades—since the middle of the great depression. It might be interesting to require that an individual, in order to be identified as unemployed, be registered with an appropriate agency and that the word "unemployed" would be applied exclusively to those for whom it was not possible to find any kind of work. We deceive ourselves if we deny there are strong interlinking casual relationships between the wetbacks, employment, and welfare concepts and practices in the Southwest.

The instruments of Government in the 1970's must be reorganized and rededicated to meet the challenges of the times.

The Immigration Border Patrol, the U.S. Customs Service and the concepts of border control, both as to wetbacks and to contraband, are, for the most part today products of the 1920's and the 1930's. There have been no basic changes in four decades and the 1970's demand something better than that. This is not intended as any criticism, direct or implied of the men and women who work for these agencies. They do a great job under very difficult circumstances. It is the system that I complain of.

Surely we must learn to cope with these problems in the context of the 1970's and we must devise the instruments of Government which will be able to cope with them in the 1970's, looking forward to periods of greater and friendlier relationships with our sister republic on the south, and our friends to north.

I thank you, Mr. Speaker.●

VIGIL FOR SOVIET JEWRY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to take part in the congressional vigil for Soviet Jewry. For the past several years, I have participated in this vigil on behalf of Soviet Jewish families who remain separated as a result of the Soviet Government's repressive policies.

My adopted prisoner of conscience is Vladimir Kislik, a refusenik from Kiev in the Ukraine. Mr. Kislik, a distinguished scientist at the Kiev Institute of Nuclear Research in the 1960's, has been attempting to emigrate to Israel since 1973. Kislik was forcibly separated from his family when his wife and son were allowed to leave for Israel in 1973—at which time he was given the impression that he would soon be allowed to follow.

However, since the denial of his visa application, Mr. Kislik had only been able to obtain menial jobs and did not work in the scientific field in any capacity. He has been subjected to constant harassment, including threats, KGB surveillance, interrogations, and brutal beatings. Last July, Kislik was committed by Soviet authorities to a state mental institution, and in May of this year, he was tried in the Soviet courts on the charge of malicious hooliganism for having struck a woman passerby in the street near his home. He was convicted and sentenced to 3 years in a labor camp. A recent newsstory reported that Kislik's appeal was denied.

Other refuseniks who are acquainted with Mr. Kislik believe the charges

against him were unfounded, and his conviction was based on the flimsiest of evidence. They further believe his trial was politically motivated and designed to discourage him and other Jewish activists from pursuing their goals of leaving the U.S.S.R.

It is important for us in the Congress to make these public appeals to the Soviets so that they are aware of concern that we have for the fundamental freedoms of thought, conscience, religion, and belief. We must express our interest in Mr. Kislik and those like him who have been persecuted for attempting to exercise internationally recognized human rights. The United States must seek every appropriate diplomatic effort in encouraging Soviet authorities to be more forthcoming in resolving humanitarian cases such as that of Mr. Kislik, who has been separated from his family for many years.

It is my hope that this vigil for freedom will strengthen our resolve to assist the thousands of Soviet Jews who have been illegally denied their right to emigrate and remain separated from their families by political boundaries. Attention must continue to be directed to the inequities of the Soviet emigration system so as to improve the conditions of Vladimir Kislik and other Jewish refuseniks.●

DO NOT SELL CALIFORNIA'S PUBLIC SCHOOLS SHORT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. EDWARDS of California. Mr. Speaker, America's system of public education has been the topic of increasing discontent and frustration in recent years over its perceived failures in providing a quality education. While following this debate, I have been distressed to note the regularity in which these attacks fail to address the issue in a proper context. Our public school system certainly has problems, and must be held accountable for them. However, these schools must also be recognized for their remarkable achievements in spite of conflicting social expectations, reduced revenues, declining enrollments, and growing public apathy.

I am pleased to share with my colleagues the commentary entitled "Don't Sell California's Public Schools Short" as it appeared in the San Jose Mercury News on July 27, 1981. Ed Foglia, the president of the California Teachers Association incisively highlights the challenges facing public education in our State while reminding us of the positive accomplishments witnessed in classrooms daily. I highly recommend the following editorial to my colleagues:

DON'T SELL CALIFORNIA'S PUBLIC SCHOOLS SHORT

(By Ed Foglia)

No other nation in the world is as strong, prosperous and politically free as ours. This is largely due to our public education system, which opens the doors of equal opportunity for all and also provides the knowledge we need to safeguard our political freedom.

In spite of these obvious advantages for all, public schools are under constant attack. Often it's merely politics because of the public nature of the schools. Attacks also come from groups who seek to destroy this daring concept of equal educational opportunity for all Americans.

Over the years, the public schools have weathered these attacks. Our detractors may not want to acknowledge this fact, but Johnny can read, write, compute and think.

Because of our public school system, our country enjoys the highest standard of living in the world, and Santa Clara County is among the top in the country. Other nations come to our state to learn and copy the technology created by graduates of our public school system.

Currently, our biggest concern is the myth that the schools are failing. We are fearful it could become a self-fulfilling prophecy that would cause rejection of our public schools and the adoption of an elitist educational system.

In its series of news articles and editorials, The San Jose Mercury and News, unfortunately, further advanced the self-fulfilling prophecy of failure by underplaying or ignoring positive test results. Good showings on the California Assessment Program were underplayed or belittled. Not mentioned were results of the National Assessment of Educational Progress and the University of Indiana study on reading. All these indicate the overwhelming number of our pupils are doing better than those of the past decade.

In addition, more students than ever are finishing high school and going to college. This includes more students from disadvantaged backgrounds. Also downplayed was the high percentage of June high school graduates who passed their proficiency examinations.

Because of this and other evidence, most teachers and other educators do not agree that our public schools are failing.

For example, we are chagrined over the public and media reaction to our nation's successes in space. In 1957, when the Soviet Union beat us into space with the launching of Sputnik 1, the public schools took it on the chin. It was very disappointing that the public schools received virtually no praise when we put men on the moon six times, starting in May of 1969, and this year successfully orbited and returned to earth the world's first reusable space ship, the Columbia.

We have the same criticism of the general unthinking condemnation of teachers. The research on the quality of teachers presented in the Mercury and News series on education was weak, out of context and inaccurate.

California has a due-process teacher evaluation and dismissal system, often mistakenly referred to as tenure. No teacher has a guaranteed, lifetime teaching position. But most teachers are guaranteed due process. The administrators have the responsibility of frequently evaluating teachers. If the system doesn't work, those responsible are not using the system correctly.

Of course the schools have problems. Teachers are anxious to help solve them. Teachers are dedicated to helping their students learn. The average teacher spends over 50 hours per week preparing lessons, grading papers, as well as working individually with students and parents.

Support by the community regarding discipline, especially from the media, is vital. Discipline, the public's number one concern, is also the teachers' number one concern. We have solid evidence that crowded classrooms contribute to discipline and learning problems. Yet today's average classroom size is in excess of the desirable. In California, our pupil-teacher ratio is the highest in the nation—a fact not mentioned in the series.

Some of our problems at the high school level are due to program cutbacks of recent years caused by reduced school funding and inflation.

In a recent California Teachers Association survey of 137 school districts, one out of four reported program cutbacks in reading, math and science. The day has been shortened for many high school pupils. There are cutbacks in vocational education, advanced science and math, foreign languages, the arts, counseling and much, much more.

Fourteen years ago, California was the sixth highest among the states in its per-pupil support of elementary and high schools. Today, we rate an embarrassing 21st.

In Santa Clara County, in the 1980–81 year, all but three of the 33 school districts spent less on a per-pupil basis than the California and/or the national average. Those districts were Palo Alto, Montebello and Orchard.

To promote better public understanding, we urge the Mercury and News to provide an on-going sounding board for in-depth, pro and con discussion of educational issues. Anything less would put your recent series into the category of a cynical, one-time media event that merely advances a false, self-fulfilling prophecy that public schools are failing.●

DANISH JUNIOR SOCCER TEAM

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. LONG of Maryland. Mr. Speaker, it is with great pleasure that I welcome 23 young men from the Danish junior soccer team from Espergaerde, Denmark, to Washington today.

These young men journeyed to this country at the invitation of Maryland's Soccer Referees' Association to play against numerous Baltimore-area soccer teams.

They have toured the city of Baltimore, visited the Air and Space Museum, the National Gallery of Art, and many of the Smithsonian Institution's Museums. They have also toured the Capitol and have observed the House in session.

I hope my colleagues will join me in wishing them well during the remainder of their 2-week visit.

Members of the Espergaerde junior soccer team are: Claus Fabricius, Birger Hansen, Per Harrit, Rene Jensen, Lars Marcussen, Jannik Seifert, Henrik Stieler, Keld Kjaer, Kim Bengtsen, Rene Frid, Kare Jacobsen, Per Jacobsen, Tom Knudsen, Jimmi Nielsen, Thomas Pedersen, Henrik Singh, Steen Sorensen, Michael Malmquist, Mogens Andersen, Tom Villadsen, Carl Anker, Lizet Anker, and Mose Jens Otto.●

ASSASSINATION OF TURKISH DIPLOMATS BY ARMENIAN TERRORISTS

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. WILSON. Mr. Speaker, international terrorist acts, committed by the various Marxist-Leninist groups and the new left in the Middle East and Europe, may be seen at our TV screens and in our newspaper headlines.

Two terrorist groups—the Secret Army for the Liberation of Armenia and the Justice Commandos of the Armenian Genocide—are, however, hardly mentioned in the media. Yet they display intense activity which, since December 1980, had resulted in the assassination of five Turkish diplomats in Australia, France, and Switzerland, and in the wounding of the Turkish Ambassador to Copenhagen. Since 1973, the overall death toll stands at 19 Turkish diplomats or their family members; the last killing occurred only 1 month ago. The two groups also claim credit for over 40 bombings, many of which have injured innocent bystanders in the United States, Western Europe, and the Middle East.

The Secret Army for the Liberation of Armenia is, according to the article in the Los Angeles Times of January 25, 1981:

> Led by hardened Marxists, its troops are mostly well brought-up children from middle-class Armenian families from Lebanon, France, and the United States. Their goal . . . is to force Turkey to surrender the eastern fifth of its territory to the descendants of the Armenians who once lived there—or failing that, to the Soviet Union. Their method is killing Turkish diplomats.

According to the article, Palestinian and Armenian sources affirm the close connections of the secret army with the radical Marxist Popular Front for the Liberation of Palestine of George Habash who trains and equips them with guns.

The secret army proclaims a pro-Soviet ideology. At their press conference in Beirut—recounted in the Armenian Observer, April 16, 1980—they praised the Soviet Union for "having granted a homeland to the Armenians" and denounced the United States as an imperialist power. According to the January 25, 1981, Los Angeles Times, they are in favor of enlarging Soviet Armenia with areas liberated from Turkey.

The first victims of the secret army were the Turkish consul and the Turkish consul general of Los Angeles, Calif. They were lured by Georgen Yanikian to a hotel room and shot dead. Yanikian is now serving two life terms in Chino, Calif. October 6, 1980, the home of the Turkish consul in Los Angeles was bombed by Armenian terrorists because he had written to the State parole board urging that Yanikian should not be released and that he still represented a danger to the community. Less than 1 week later, another bomb demolished the travel agency of an American citizen of Turkish origin in Los Angeles.

On October 12, 1980, a bomb exploded at the home of the Turkish Mission to the United Nations in Manhattan, bringing home the fact that Armenian terrorism is not a faraway concern, but that the animosities of the Old World were being played out on our streets with bombs and guns.

The second group, the Justice Commandos of the Armenian Genocide, constitute an illegitimate offspring of the old conservative Dashnak Party's youth wing and is less Marxist in ideology. It claimed credit for the killing of two Turkish diplomats in Australia in December 1980 and for the wounding of the Turkish Ambassador in Copenhagen.

The American Armenian community as well as that of Western Europe is deeply concerned about its terrorists. Most Armenians oppose the killings and are reprehensive of the pro-Soviet orientation of the Secret Army for the Liberation of Armenia. Church leaders, the Armenian Assembly, and other organizations condemn the crimes committed in the name of the Armenian people. Others still express a begrudging admiration, like the activist quoted by the Los Angeles Times who has stated that the old (Armenian) parties amount to nothing and only fight among themselves, but the secret army at least does something.

The big question remains: Is the Soviet Union and its KGB involved in Armenian terrorism? The evidence is not clear. Writing in "The Review of the News," British journalist John Rees alleged last year the KGB involvement in the supply of Soviet weapons through East European states and pointed out their common aim: the destabilization of Turkish security. Prof. Aydin Yalcin from Ankara University testifying before the Senate Subcommittee on Security and Terrorism on June 25, 1981, amply demonstrated the arming of Turkish terrorists by the KGB via Bulgaria in the past 5 years and quoted the most recent statement of the secret army to the Middle East Review (England) on June 20, 1981, that "we are fighting for the same cause with the Turkish terrorists." Yalcin concludes that Armenian terrorism is part of international terrorism and not the desperate struggle of a minority for its human and ethnic rights. His conclusion is similar to that of Prof. Stephan Possony testifying before the same subcommittee on June 6, 1981.

Whether the KBG involvement is direct or indirect, explicit or implied, the terrorists are definitely playing Moscow's game; that is, the destabilization of our pivotal NATO ally which controls the straits to the Mediterranean Sea from the Soviet-controlled Black Sea. They aim at the enlargement of the Soviet Armenian S.S.R. by liberating Turkish territories.

The methods of the Armenian terrorists are the most reprehensible and violent. They violate the rudimentary principle of international law and, indeed, of all international relations: the sanctity of the life and property of diplomats.

There are two interesting facets. Despite the secret army's announcement of starting operations in Turkey in April 1980, no terrorist acts by Armenians were committed in Turkey; all the killings had occurred in Europe, Australia, and the United States. Turkey had its share of political violence between 1975 and 1980 and certainly the terrorists would have had the opportunity to kill in Turkey, if they had possessed any strength among the Armenian minority.

Second, neither the secret army nor the Justice Commandos mention the religious, cultural, and national oppression of the 3 million Armenians in the Soviet Union. This is strange, indeed, when their brothers and sisters in the Soviet Union have to struggle, often without avail, in order to preserve their religion and culture against atheistic communism and Russification. The terrorists, however, do not protest against these injustices, but against the Turkish crimes of 1915–16.

Mr. Speaker, I am now joining others in this chamber who in the past months have denounced Armenian terrorism, that is, Messrs. SOLARZ, VANDER JAGT, DAN DANIELS, STANGELAND, SCHULZE, RITTER, FENWICK in 1981 and MCDONALD, DICKINSON and SOLARZ in 1980. I would also like to call upon the media to expose in full details the senseless killings and bombings perpetrated by Armenian terrorists. May I end with a quote from His Beatitude Shnoorkh Kalousdian, the spiritual head of the Armenian Catholic Church in Turkey, printed in "Marmara", January 1, 1981:

> The perpetrators of these abominable crimes should be exposed as soon as possible and brought before justice. The Turkish Armenian Catholic community condemns

these senseless and cruel crimes which are incompatible with the tenets of our religion and humanity, directed against innocent people and which serve no purpose.●

DO NOT DISMANTLE SOCIAL SECURITY

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. MICA. Mr. Speaker, the administration's recent proposals for social security have alarmed Americans all over the country. This anxiety is reflected in the volume of mail pouring into congressional offices. In the first quarter of this year alone, we have received more mail than we did in the entire year of 1980.

Few dispute the administration's mandate to cut Federal spending. However, no one gave them a mandate to dismantle social security, which now covers 90 percent of all workers in the United States.

Along with other Members of Congress, I am determined to stop the implementation of these proposals. I have contacted the President regarding this matter and I personally will continue to urge the President to abandon his proposals. I have told the President that I have tried to be fair and reasonable in my approach to his economic program, but that I have a mandate to maintain the commitment we have given to our social security recipients and that is what I intend to fight for.

I want to be very clear on where I stand in regard to social security:

Yes—We must stabilize the social security system.

Yes—Changes for future recipients should be several years away to allow for appropriate planning for retirement.

Yes—I will continue to seek a separate vote on the social security issues included in previous budget packages.

Yes—Our Government is honor bound to live up to the commitment we have made to 115 million Americans who are now paying into social security and to 35 million Americans who are currently drawing benefits.

No—We should not reduce benefits to current recipients.

No—I will not break my promise to social security recipients and neither should the President when he pledged to defend the integrity of the social security system and make sure that benefits are adjusted to reflect the cost of living.

No—I will vote for no compromise that threatens the basic security of our older citizens.●

A SPEECH BY MR. JAMES V. DAY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mrs. SNOWE. Mr. Speaker, it is with great pleasure that I call to the attention of this distinguished gathering the remarks of a highly respected gentleman, the Honorable James V. Day, Commissioner of the Federal Maritime Commission. His words to the 63d Annual State Convention of the Department of Maine, the American Legion, express with authority the importance of the U.S. Merchant Marine in both our national commerce and our national defense. Commissioner Day's remarks focus on the need for better integration of military and merchant marine planning.

The text of his speech follows:

REMARKS BY JAMES V. DAY, COMMISSIONER, FEDERAL MARITIME COMMISSION

To our distinguished congressional delegation, honored guests, and my fellow members, it is a great honor for me to be here today at the state convention.

Within the confines of the state is one of the finest institutions of higher learning in the maritime field. I am speaking, of course, of the Maine Maritime Academy. The performance of this school over the years had contributed significantly to the high degree of professionalism in the operations of the American Merchant Marine.

These professionals in our Merchant Marine play an important role in two distinct spheres of our national interest. The first, of course, is service to our national commerce. This role is generally viewed as the primary function of our Merchant Marine. The second function is service to our national defense. In this respect, our Merchant Marine serves as a ready reserve. It is the relationship between these functions that I would like to briefly discuss with you today.

As most of you know, it was President Eisenhower who coined the description of the U.S. Merchant Marine as this nation's fourth arm of defense. President Eisenhower, of course, was giving recognition to the vital contribution and significant sacrifices the Merchant Marine made in World War II.

In today's world where technological advances in weaponry and nuclear development have the greatest exposure in discussions of national defense, the question arises—is the merchant marine still an important component of our national defense? Put another way, what would our national defense be without the merchant marine?

I can assure you that this is a question that is being given serious consideration by the Government today even though, understandably, it is not given as much public attention as are questions related to nuclear warfare.

Out of those discussions is emerging the conclusion that the need for available ocean vessels for military support is as great today as it was in World War II. The only other mode available to bridge the world's oceans is air transport and there is no debate on the question of the adequacy of air transport to support a war effort. It has been reported that it would take all our available air transports three weeks to move a division of men and equipment to the middle east. That estimate came from an analysis of our Rapid Deployment Force's capability.

All defense analysts agree that the availability of ocean vessel support is as essential to our national defense today as it was during World War II. There is a divergence, however, among these analysts, as to how to approach the problem.

The two approaches can be generally divided between those who would rely upon the privately owned U.S. merchant fleet to provide sufficient tonnage and crews in an emergency and those who would build a naval support fleet to be manned and operated on a continuing basis under the aegis of the Department of Defense.

Both of these approaches are being actively discussed within and without the Department of Defense. As to the latter approach, Vice Admiral Kent J. Carroll, the Director of Logistics for the Joint Chiefs of Staff, in recent testimony to the House Merchant Marine and Fisheries Committee, expressed the view that he would not favor an increased role for the merchant fleet in defense matters but would favor control by the Department of Navy.

Vice Admiral William Cowhill, the Deputy Chief of Naval Operations for Logistics, testified that the U.S. merchant fleet's emphasis on containerships is "insufficient" to meet most military contingencies.

Whatever your point of view may be as to how to assure that sufficient vessels are available in a time of emergency, the goal is the same.

Vice Admiral Cowhill's testimony regarding the inadequacy of containerships for military support purposes raises an interesting question. Quite clearly, containerships are considered to be essential to successful commercial operations. In the past, it was always assumed that ships designed for commercial use would be adequate for military support. Containership technology has called this assumption into question among military strategists, including Admiral Cowhill. The consensus in the Defense Department seems to be that more high speed, roll-on roll-off vessels are necessary to serve military needs. Such vessels do not depend upon well developed, undamaged port facilities for off-loading operations. But commercial interests have found that for efficiency and economy, slower speed, crane loaded containerships are best suited for capacity and bunker fuel conservation. As you know, today bunker fuel costs represent the major percentage of vessel operating costs.

Should it turn out that the configuration of vessels for commercial use is incompatible with military use, then the time has come to thoroughly analyze the problem.

Clearly, we need better integration of military and merchant marine planning. It is not enough to promote the development of a merchant marine for commercial and military support purposes without regard to whether vessel development is serving or can serve the needs of both. In this regard, we may want to observe what the Soviet Union has done. Its merchant fleet is a true naval auxiliary. Its commercial operations are coordinated with naval operations and vessel types are planned to fulfill military as well as commercial needs. We should be prepared to do whatever is necessary in order to insure adequate preparedness.

Truly, the U.S. merchant marine plays a significant role in our national defense policy. In World War II it made the greatest sacrifices, proportionately, of any service.

We have good reason to be proud of its achievements in military support. I believe we can continue to have pride in our merchant marine, but we must be prepared to do whatever is necessary to assure its viability as the fourth arm of defense.●

A TRIBUTE TO MARVIN SADIK

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. BOLAND. Mr. Speaker, I'd like to take this opportunity to pay tribute to the former Director of the Smithsonian Institution's National Portrait Gallery, Marvin Sadik.

Mr. Sadik recently resigned after 12 years as Director of the National Portrait Gallery. His efforts during his tenure as Director helped to make the Portrait Gallery one of the finest institutions in the country. As my colleagues know, the collections housed in the Portrait Gallery exhibit portraits of men and women who have made significant contributions to American history. Under his stewardship, the Portrait Gallery has grown from a small nucleus of portraits to a collection of more than 2,000. More than 100 special exhibits were shown at the Gallery during Marvin Sadik's directorship; the Hall of Presidents was expanded—to include portraits of John Adams, James Monroe, and other Presidents who had not been represented—and a living self-portrait lecture series was initiated to afford noted Americans the opportunity to talk about their lives and the ideas which motivated them.

Marvin Sadik was born in my hometown of Springfield, Mass., and received his bachelor's degree in art history from Harvard. He remained at Harvard as a Harris fellow in fine arts, earning his master's degree. He served as curatorial assistant in several art museums before becoming a curator at the Bowdoin College Museum. Prior to joining the Smithsonian in 1969, Mr. Sadik was director of the University of Connecticut Museum of Art in Storrs, Conn., for 2 years. He is a member of the Association of Art Museum Directors, advisory board of the Archives of American Art, advisory board of the Charles Willson Peale Papers, American Antiquarian Society, Century Association, the Colonial Society of Massachusetts, the Grolier Club, and the editorial board of the American Art Journal. He also is a fellow of the Pierpont Morgan Library. He has been awarded an honorary doctorate from Bowdoin College and the 1975 Maine State Art Award. In 1978, he was named Knight of Dannerog by the Queen of Denmark.

The National Portrait Gallery will miss Marvin Sadik's creativity and dedication. S. Dillon Ripley, the Secretary of the Smithsonian, recently stated that—

The Smithsonian owes Marvin a great debt for his brilliant leadership of the National Portrait Gallery during the last 12 years.

As a Regent of the Smithsonian, and an admirer of the Portrait Gallery, I certainly concur in that assessment. Marvin Sadik's efforts on behalf of the promotion of a better understanding of our history deserves the gratitude of all Americans.●

DEDICATION OF YORKTOWN DISPLAY IN THE PENTAGON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. SKELTON. Mr. Speaker, on July 7, Hon. John O. Marsh, Jr., Secretary of the Army, addressed the dedication of the Yorktown Display in the Pentagon. I was present, and feel that his remarks on that occasion should be shared with the Members of this body.

COMMEMORATE BICENTENNIAL AT YORKTOWN

As we observe the Bicentennial at Yorktown, we observe an event that is symbolic of victory for the American cause throughout the American Colonies. A victory that was won at other places at other times, by the Army, by the Navy, and by the Marine Corps.

On April 19, 1775, at Concord Bridge, there was fired "the shot heard round the world." The American Revolution had begun.

Over 200 years later, we are approaching the Bicentennial of the end of that epic struggle that raged through 14 Colonies before Independence was obtained for the Original 13 States.

Historians treat the Revolution as having begun in 1763 and lasting for 20 years. The first 12 years are sometimes called the "Golden Age." These are the years that saw the issues raised and heard their debate—debate that led to words like Patrick Henry's "Liberty or Death."

These issues were the grievances cited in the Declaration of Independence, which is more appropriately a Bill of Particulars of injustices and oppression.

Jefferson's eloquent words of unalienable rights of life, liberty, and the pursuit of happiness cause the Declaration to be the most quoted political document in the world.

Yet, we should not ignore the closing lines of that statement of human rights:

"And for the support of this declaration, with a firm Reliance on the Protection of divine Providence, we mutually pledge to each other our lives, our Fortunes, and our sacred Honor."

This is what Yorktown is all about.

Liberty declared had to be achieved. The pledge had to be redeemed. The line was drawn. The die was cast in Philadelphia on July 4, 1776.

In the months and years of adversity, in times of continuing patriot despair, the Army began the embodiment of the American cause. Washington's Continental Line, which was the first Regular Army of the United States, in the face of hardship, constant adversity, and prolonged suffering, gritted their teeth, set their face toward victory, and kept alive the Army, and thereby the hope of their fellow citizens' cause.

In so doing, they redeemed the pledge at Trenton and Monmouth, Brandywine and Germantown, at Saratoga and King's Mountain, Cowpens and Eutaw Springs.

At Valley Forge, Washington would write that you could have tracked the Army into its winter camp by the blood from their feet as they marched in the December snows and icy ruts slashed at ragbound feet.

On the Eve of Yorktown, Lafayette would remark: "The play is nearly ended."

The march which began at Concord Bridge is about to end at Yorktown.

Yorktown is an event that is nearly equidistant timewise between two great American political events—the Declaration of Independence and the U.S. Constitution. The Constitution would harness the forces of liberty of the Declaration and mold them into a system of Government that insures ordered liberty, economic opportunity, equal justice under law, and the pursuit of happiness.

Yet, without Yorktown, the Declaration would not have become a meaningful document. Without Yorktown, there would not have been a Constitution.

On the 14th of October, in a night bayonet assault with unloaded muskets, American infantrymen stormed General Cornwallis' key position in his perimeter defenses and captured Redoubt 10. The Americans were led by a lieutenant colonel on Washington's staff, Alexander Hamilton.

Our French allies, in a like assault, captured Redoubt 9.

The surrender, whose Bicentennial we will observe this October 19th, followed in 5 days. The Colonies were independent. The pledge had been redeemed—but with a price. That price was paid by the Continental Line—our first Army.

It was paid by Americans who served in our first Navy, and it was paid by those who served in our first Marine Corps.

Neither could that victory have been achieved without the help of the French whose unflagging help was at the right time on land as well as sea. Names like Lafayette, Rochambeau, and De Grasse are part of the lexicon of America's history.

This exhibit that we open today as a part of the Bicentennial ceremonies in America's War for Independence seeks to call to the attention of our fellow citizens a great moment from our past—Yorktown.

It is a symbol and a spirit of victory. A reminder of our past, an inspiration to the present, and a dedication to our posterity that the echo of that Colonial musket fired at Concord Bridge—the sound of liberty—shall be heard in America's future.

This is the Army's mission, and in the words taken from our Seal: "This we'll defend."

On the Army flag, there are displayed 167 battle streamers. They begin with the first campaign at Boston to the last in the deltas of South Vietnam. They are ribbons that bear testimony to the sacrifice, suffering and dedication of those who have served in the Army throughout our Nation's history.

These streamers bear witness that the Army has redeemed the pledge of the Declaration and stands ready today to defend the cause of freedom for all of the people of these United States.●

EPA DEREGULATION

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. JEFFRIES. Mr. Speaker, I would like to call the attention of my colleagues to an article that appeared in the Washington Post today. As a member of the Water Resources Subcommittee, this article was especially interesting to me.

According to the story, a Federal appeals court ruled that the Environmental Protection Agency overstepped its authority in requiring industries and businesses to utilize costly antipollution measures. The appeals court found that the EPA regulations were too costly and unnecessary. In fact, savings to the industries are estimated at $2 billion.

Mr. Speaker, this case is a classic example of a regulatory agency imposing too stringent guidelines without having the proper authority to do so. I find it refreshing to see that our Federal agencies can be checked for inappropriate regulations, such as in this case. I hope the Reagan administration will follow the court's lead and continue to lift the regulatory burden off the backs of our citizens.

Mr. Speaker I have included the article in question for the benefit of my colleagues that may have missed it.

[From the Washington Post, July 29, 1981]

CLEAN WATER EPA RULES ARE VOIDED

(By Glenn Frankel)

RICHMOND, July 29—A federal appeals court, in a ruling that American industries contend could save them as much as $2 billion, today struck down Environmental Protection Agency regulations governing the most common forms of water pollution.

The ruling, on a 2-to-1 decision, was a major victory for 34 of the nation's largest chemical and paper manufacturers, food processors and trade associations—firms such as du Pont, Union Carbide, Boise Cascade and Procter & Gamble. They had sought to reverse the 1979 EPA regulations on so-called "conventional pollutants" on the grounds the rules were too costly and unnecessary.

At issue in the case was whether the EPA can direct industries to undertake extremely costly water pollution abatement measures instead of less costly measures that may not be as effective in protecting the environment. Industry lawyers contended Congress had wanted a greater relaxation in regulations than the agency was willing to allow.

The 4th Circuit Court of Appeals agreed, saying that the EPA has issued the water pollution regulations without adequately assessing the cost of implementing the regulations. That failure, the court held, was a violation of 1977 Clean Water Act.

Unless reversed on appeal, the ruling means that the EPA will be forced to redraft the regulations, which were widely applauded by conservationists when they were issued two years ago by the Carter administration.

"It's a strong signal to EPA that the courts will make it follow what Congress has told it to do," said Washington attorney Henry L. Diamond. He and other industry lawyers had argued in court that the agency and its former administrator, Douglas M. Costle, had ignored Congress's intent as expressed in the Clean Water Act.

The agency, which under Reagan appointee Anne Gorsuch already had begun to review the regulations, had no comment today on the decision. James Banks, water pollution specialist for the Natural Resource Defense Council, which supported the regulations, called the court's ruling "a definite setback and one probably worth appealing * * * We believe the court is, in fact, clearly reversing what at least the Senate wanted * * *"

At issue in the complex legal dispute was how to control the thousands of pounds of industrial wastes and byproducts dumped each year that are not toxic, but still dirty enough to foul the Nation's waterways and kill plant and fish life.

Prodded by the Water Pollution Control Act of 1972, Congress believed industries generally had made considerable progress in cleaning discharges of these effluents, which make up the vast bulk of pollutants.

As a result, Congress amended the law in 1977 to ease the Federal requirement that many industries use the "best available technology" to complete their cleanup. In its place, Congress ordered EPA to formulate regulations ordering the "best conventional technology," a subtle and, some experts contend, ambiguous distinction.

EPA contended that the new law required it only to make certain private industry would not be forced to spend more per pound of pollution for cleanup than publicly owned sewage treatment plants were spending. The companies argued EPA also should have taken into account the amounts companies already had spent on pollution controls.

"We didn't feel it was cost-effective to be forced to spend vast sums more to clean up say the last 5 percent than we'd spent on the first 95 percent," said one industry spokesman yesterday.

The dispute was not merely technical. According to an estimate by the American Paper Institute, one of the 34 parties in the suit, the industry's cleanup concept would have cost $200 million to $300 million, while EPA's would have been $2 billion or more.

Today's ruling by Appeals Court Judges Sam J. Ervin III and H. Emory Widener Jr. upholds the industry's contention that Congress intended both the public and private standards to be considered by EPA in formulating its rules. Ervin, son of the former North Carolina senator, wrote that EPA's interpretation of the law was "contrary to the plain meaning of the words contained therein."

In a strong dissenting opinion, Judge J. Dickson Phillips Jr. called the petitioners' interpretation of the law "a construct out of whole cloth * * * that has the happy effect of resolving the issue in their favor." He argued Congress intended only that cost-effectiveness be a "general standard" for EPA to follow and that the agency's method of rule-making was "wholly reasonable."

Diamond, the attorney for the industries, said he believed the ruling's impact could force EPA to reconsider other regulations that he contended went beyond the bounds authorized by Congress. As an example, he cited agency rules governing ocean dumping of sludge and other pollutants, currently the subject of another industry challenge.

"EPA in a number of instances has simply not allowed the relaxation of standards even when Congress has wanted them to," he said.

The Defense Council's Banks said the 4th circuit, noted for overturning EPA regulations, has been overturned itself on appeal. He cited a 1980 Supreme Court ruling rejecting a ruling from the Richmond court, which had allowed Appalachian Power Co. a "variance" from pollution standards requested for economic reasons.●

U.S. PUBLIC DIPLOMACY—THE UNTOLD STORY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DERWINSKI. Mr. Speaker, my distinguished colleague, the Honorable TOBY ROTH of Wisconsin, is an especially effective and knowledgeable member of the House Committee on Foreign Affairs. From his vantage point on that committee, he has expressed strong support for the concept of American public diplomacy and the tools of the trade: Cultural exchange programs, scholarships, libraries abroad, and so forth, but especially our foreign broadcasting effort. I agree with his contention that we are not doing nearly enough to tell America's story abroad.

On July 15, Mr. ROTH spoke before the German-American Interparliamentary Exchange at the Heritage Foundation in Washington, which is itself an active proponent and practitioner of public diplomacy.

As I believe that Mr. ROTH's penetrating remarks are well worth reading, they are printed below, in part, for the benefit of the Members:

U.S. PUBLIC DIPLOMACY: THE UNTOLD STORY

The late philosopher Bertrand Russell once asked: "Why is propaganda so much more successful when it stirs up hatred than when it tries to stir up friendly feeling?" I'm not totally certain about how I would answer Russell's question. But one thing I am sure of is that it is this ability of propaganda to stir up hatred that explains why "propaganda" is a word almost never used in discussions about how the U.S. Government tries to influence opinion abroad.

The term used instead is "public diplomacy," and it has both good and bad features. It's good because it does away with the negative connotations of the word "propaganda." It's also good because by using the word "diplomacy" we suggest that influencing opinion abroad is just as important as the traditional kind of diplomacy practiced by professional Government officials. The bad part about the term "public diplomacy" is that not very many people know what it means. Since there has been a law on the books since 1948 forbidding internal distribution of U.S. Government informational material intended for overseas audiences, the odds are that the number of people understanding what public diplomacy means or is will not increase dramatically in the near future.

The chief organization which carries out U.S. public diplomacy is the International

Communication Agency (ICA), which was established in 1978 when the U.S. Information Agency merged with the State Department's Bureau of Educational and Cultural Affairs. ICA, as it is commonly known, carries out the full range of activities which are part of our public diplomacy effort. It produces international radio broadcasts through the Voice of America, it oversees cultural exchange programs such as the Fulbright scholarships, it maintains American libraries in foreign countries, and it disseminates American magazines, books, and films abroad.

Because international radio broadcasting is such an important part of public diplomacy—it was, after all, the master propagandist Lenin who called radio a newspaper without paper and without distances—it is also supported by the second major institution of U.S. public diplomacy, the Board for International Broadcasting (BIB). The BIB is an independent Government agency which channels public money to Radio Liberty and Radio Free Europe, those two well-known radios headquartered in Munich which beam uncensored news and commentaries to the Soviet Union and Eastern Europe.

You might think that the sheer appeal of disseminating ideas and information instead of bullets and bombs would be reflected in the way the U.S. public diplomacy budget compares with that of the U.S. Defense Department. However, that is not the case. In 1980 the combined budgets of ICA and BIB were about $500 million—less than the cost of 18 Air Force fighter planes. Early this year the Reagan administration requested that the size of the combined budgets be raised to $660 million—the cost of 270 M-1 army tanks.

In my opinion, this level of funding is definitely too low. But I have come to feel that the inadequate funding is just one symptom of the larger, more central failure of U.S. public diplomacy: The failure to convey America's message effectively. I think this failure has shown itself in two ways. First of all, in our public diplomacy effort there has been a reluctance to acknowledge that there is a specific message that America should be disseminating abroad, a message tied to a systematic set of beliefs. Second, much of the effectiveness of our public diplomacy efforts has been lost due to the failure to integrate them with the goals of U.S. foreign policy, especially its most important goal: To prevent the Soviet Union from achieving its ambition of dominating the world in the name of its totalitarian Marxist-Leninist ideology.

Let me stress from the outset that I am not trying to be totally negative, and I am not denying that U.S. public diplomacy has enjoyed some great successes. I am thinking in particular of the international radio broadcasts, the broadcasts of the Voice of America, Radio Free Europe, and Radio Liberty. No matter what the content of these broadcasts, the mere fact that they offer uncensored information to populations whose own national news media are tightly controlled by a totalitarian political party is quite remarkable.

The radios, moreover, are getting through. Andrei Sakharov pointed out last year from his internal exile in Gorky how much he relied on these broadcasts to find out what is really going on in the world. The current crisis in Poland provided another case study of the radios' effectiveness. The Washington Post reported from Warsaw last summer that "Most Poles had learned about the strike by listening to the Polish language broadcasts of Radio Free Europe." Last December a Polish Communist Party official gave the following explanation of why the party has loosened its control of the mass media: "We want the people of Poland to know not only from Radio Free Europe what is going on."

In spite of such triumphs, however, I still do feel that on the whole United States public diplomacy has not told our story the way it should. Let's consider the first symptom of this failure, the reluctance to admit that the United States does have a specific message to convey to the rest of the world. What is this message? Simply that America has combined a commitment to individual liberty, free economic development, and the rule of law in a way that has made it the envy of millions throughout the world. It has also combined these commitments in a way we believe offers a model for the rest of the world—especially the developing world. Now, I do concede that different Americans might stress different parts of our message depending upon their individual political views. Nevertheless, I think that anyone who really stops to think about it would have to agree that it is a national statement of purpose that would be accepted by everyone except those on the political fringe.

Certainly the fact that we offer uncensored news through the Voice of America, Radio Free Europe, and Radio Liberty reflects one important aspect of our commitment to individual liberty: The right of a person to find out what is going on in the world without having this information sifted beforehand by a Government censor.

But once we consider those parts of our international broadcasting other than the news broadcasts we find that many valuable opportunities to present our message are currently being squandered, with disastrous results. Both of the examples I am going to cite concern the Russian-language broadcasts of the Voice of America. First of all, a major, respected statistical study has revealed that only 5 percent of the total air time of these broadcasts is devoted to interpretation and analysis of current events and issues of political significance. According to this study even the impact of that 5 percent is lost because no clear, consistent viewpoint is presented. Now, spending only 5 percent of the time on interpretation and analysis does not seem to me to be enough. And as far as the content of this interpretation and analysis is concerned, I think we should be distilling our message down to three or four basic themes that could be repeated over and over.

Another instance where I think the Voice of America is passing up a chance to transmit our message is by scheduling cultural programs and other features that do not have the remotest connection to the values and beliefs we are trying to convey to the rest of the world. Last year Alexander Solzhenitzyn specifically complained about this. He said the following about the Russian-language VOA broadcasts:

"Apart from news and topical political commentary, hours of the daily program are filled with trite and inconsequential drivel which can do nothing but irritate the hungry and oppressed millions of listeners whose paramount need is to be told the truth about their own history. Instead of transmitting their history to them (with frequent repetition to compensate for difficulties of radio reception), together with readings from those books the very possession of which is punishable by imprisonment in the U.S.S.R., instead of bolstering the Anti-Communist spirit of these potential allies of the U.S.A., hours of radio time are filled with frivolous reports on enthusiastic collectors of beer bottles and on the delights of ocean cruises (the fine food, the casino and discotheque are described with particular relish), with biographical details about American pop singers, any amount of sports news, which the citizens of the U.S.S.R. are not prevented from knowing anyway, and jazz, which they can pick up without difficulty from any of the other foreign stations."

If all of this is true—and I have yet to see an effective rebuttal of Solzhenitsyn's Critique—then our radios have serious content problems which must be dealt with.

Another major way in which we have held back from conveying our message is by falling prey to the notion that all we have to do is to bring people together in exchanges and hope that the type of "communication" we want to see is going to take place. The biggest symbol of the spread of this idea was the way ICA was established in 1978 through a merger of the former U.S. Information Agency and the State Department's Bureau of Educational and Cultural Affairs. At the time this change was made, the slogan "Telling America's Story Abroad" was removed from the U.S. information agency building, which is located just a few blocks from here, and which became the ICA building.

At the time this change was made, President Carter also announced that he was giving ICA a second mandate to accompany its traditional goal of telling America's story abroad. This was going to be to organize exchanges to help Americans learn about the views of other cultures and societies. As admirable as this new goal is, it cannot help but dilute the traditional information transmission functions of U.S. public diplomacy, because although the mandate doubled, the amount of money available to carry it out remained the same.

I think a little commonsense should tell us that merely holding exchanges and proclaiming our devotion to "communication" is insufficient to get our message across. As an example, let's consider the German-American interparliamentary exchange that many of you here today are participating in. Suppose my good friend Ed Feulner had said the following last Monday night when you arrived in Washington: "The purpose of this exchange is to help you learn more about U.S. foreign and domestic policy. You'll be leaving on Friday—you're on your own until then." Clearly, an exchange would be taking place and you would be talking to Americans, but because no attention was being paid to the message you were being transmitted or who was transmitting it the exchange would not have achieved its purpose.

I'm afraid that sometimes our U.S. foreign student exchange programs have the same results. I've seen first hand back in Wisconsin how many of our visiting foreign exchange students actually seem to turn anti-American just because they felt neglected or lonely during their stay in this country, or because they didn't have any real contact with ordinary American families. Let's not forget that while ordinary Americans might not state their belief in our national message as systematically as I am doing here today, in many cases they are probably the best salesmen for it that we have.

So I think that all the examples I've given you illustrate the first reason why U.S.

public diplomacy has failed to tell our story effectively: The reluctance to state that the United States does have a message and that we are going to have to be active and assertive in order to get it across. But, as I mentioned before, there is also a second reason why our national message is going untold. This is the failure to closely coordinate our public diplomacy programs with our primary foreign policy effort of preventing the Soviet variant of Marxism from dominating the world.

People for American Way Ad Campaign More Proof of Failure of Liberal Ideas

Anyone searching for additional evidence further demonstrating the bankruptcy of what passes for liberal thought in this country (and I hasten to add that I can't imagine who might need more evidence) should watch closely a series of so-called public service TV ads being offered by an outfit called People for the American Way (PAW).

For the uninitiated, PAW is a new coalition of such burned-out leftists as the Rev. M. William Howard, president of the National Council of Churches of Christ in the USA, Norman Lear, the writer and producer, and the ex-mayor of New York, John Lindsay. It is seeking to counter what is called "the intolerable messages and antidemocratic actions of moral majoritarians"—that is, the New Right, specifically the religious New Right.

Here's the complete text of a 30-second PAW spot bearing the provocative title "Eggs." The ad shows a variety of individuals saying the following:

"What kind of eggs do I like? I'll tell you what I like. I love Western omelettes."

"Eggs with onion in 'em. That's a horrible thought."

"I like eggs with cream cheese."

"That's kind of disgusting."

"I can't eat eggs."

"They're loaded with cholesterol."

"I still prefer my omelette."

"O.K., you could, but I still like 'em sunny side up and I'm not going to change."

The tagline on this ad is a voice saying: "The right to have and express your own opinions. Freedom of thought. That's the American way."

Ugh. Talk about disgusting horrible thoughts.

One can say what one likes about the religious New Right, but at least they're talking about real issues that touch the lives of tens of millions of Americans: abortion, homosexuality, voluntary school prayer, busing, the family, sex education, drugs, reverse discrimination, etc. And, just for the record, there's not one New Rightist I know who favors any kind of law prescribing the way people ought to eat their eggs.

At a PAW press conference in Washington, D.C., when I asked Norman Lear why his group wasn't taking the religious New Right head on and debating their issues with them, he ducked the question, deferring to the Rev. Howard, president of the NCC. Said Howard:

"Our ads make one feel good. There is a spirit developing in the country that it's not okay to differ. And when you pile on that a rather nonhistorical religious conviction, it really stifles the human spirit." Howard says that the idea that it is legally correct and fun to disagree and debate is an old American notion.

Indeed. But, this is my point: The PAW bunch is not debating the issues with the religious New Right. They are ducking these issues, choosing instead to wrap themselves in the phony banner of some sort of absolute pluralism which has truly become the last refuge of the scoundrel. The PAW is not debating; it is merely calling its opponents names.

In a fundraising letter, Lear accuses the religious New Right of labeling those with whom they disagree as "un-American," "un-Godly" and "immoral." But when I asked Lear specifically who in the religious New Right he is talking about, he was unable to give me a name. I pressed my point, asking Lear if he had been poorly briefed, if his memory was poor or if perhaps he never knew such a name in the first place. He promised me names if I'd call his office. You can't give me just one? I asked. Says Lear: "I feel no shame telling you I can't remember just one."

This is very strange. When Lear and his PAW colleagues speak of the leaders of the religious New Right (they currently threaten "the very essence of individuality" and are "helping to tear our already-splintered society apart"), they are talked about as if they are the spiritual descendants of Hitler or Stalin or Mao. One would think that this dishonor roll of archfiends would forever be seared into the psyche of Norman Lear. But it isn't. Or, at least, that's what he tells me.

The disagreements between PAW and the religious New Right are about something far more tangible than the right of free expression or free thought. This is a battle about whose thoughts or expressions will prevail. This is a fight about whether it should be legal to kill innocent, unborn children; whether those kids who want to should be allowed to pray in the public schools; whether children should be forcibly bused to schools not of their choosing; whether parents should have any say at all about their kids' sex education.

By all means, let's freely discuss and debate these issues. But the PAW crowd should take a stand and let us know where they come down on these matters. As G. K. Chesterton observed, the individual who admires only choice, fails to choose.

American Way Person Does Very Poorly in Debate on Abortion

In the following exchange, admittedly with mixed results, CD editor John Lofton Jr., attempted to discuss a real issue, abortion, with a member of the advisory board of People for the American Way, the Rev. Charles Bergstrom, executive director, office of governmental affairs, Lutheran Council in the U.S.A. This conversation began when Bergstrom maintained that he is "just as concerned" about unborn children as is the Rev. Jerry Falwell, head of the Moral Majority.

Lofton: You mean, like Falwell, you favor legal protection for the unborn?

Bergstrom: What is your question?

L: I repeat the question.

B: I'm against any law that would impose any religious view of abortion on the whole country.

L: But you said you were just as concerned about the unborn as Falwell is, didn't you? And Falwell favors legal protection for the unborn.

B: The terminology on abortion is very difficult these days.

L: But we both know what the word "unborn" means, don't we?

B: No, I don't——

L: It means a baby that hasn't yet been born.

B: The fetus is a future human being, a form of human life. It is not a person.

L: A lower form of human life?

B: A form. We don't make a judgment.

L: Is the fetus a form of human life worthy of any legal protection?

B: All life has protection.

L: Even the unborn?

B: I don't know what the "unborn" means.

L: Okay, the fetus. What is the legal protection for the fetus, as you understand it? How is the life of the fetus presently protected?

B: By the judgment of the individual parents——

L: Legal means, is there a law protecting the fetus? Is there such a law now protecting the fetus at any state of development?

B: Well, what you would call a law to protect the fetus, I would call an oppressive law to force one religious viewpoint on the rest of us.

L: But before we argue that, I want to clearly understand your position. You've already said the fetus is a different form of human life—

B: Not a different form. It's not a person.

L: Is it human life like you and me?

B: It's human life but not a person.

L: Is it a different form of human life than you and me, or is the fetus as alive as you and me?

B: Well, life is a relationship to God.

L: I thought life is God-given.

B: Right, but we have something to do with it.

L: So, even fetal life is God-given?

B: Right.

L: Then should the law protect this God-given fetal life? Is this form of life worthy of some kind of legal protection?

B: See, every one of your questions has a pejorative term like, is it "worthy"?

At this point, the Rev. Bergstrom wisely attempts to shift the discussion to my views on birth control. But, as a former fetus, I am not deterred.

L: Do you support the Supreme Court's 1973 Roe vs. Wade abortion decision?

B: What I support is the Lutheran Church's decision made in democratic convention.

L: Does the church support the court's 1973 decision?

B: Yes, the Lutheran Church in America does.

For the record: The Supreme Court's 1973 Roe vs. Wade decision legalizes abortion-on-demand—a view the precise opposite of that held by Jerry Falwell.

Talking with the Rev. Charles Bergstrom about abortion, one understands why the People for the American Way would rather discuss freedom of choice as regards music, sports and how one likes one's eggs cooked.●

REMEMBERING ROBERT MOSES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. LaFALCE. Mr. Speaker, I rise to join my colleagues in noting and mourning the passage of Robert Moses, New York State's planner, developer, and builder extraordinaire. Although he never held an elective public office, Robert Moses did more than anyone to shape the landscape of our great State. Our great highways and extensive system of parklands—to-

taling over 2.5 million acres—stand as vital, living monuments to this man and his vision.

We in western New York owe a special debt of gratitude to Robert Moses and his vision. The parkway which bears his name is known locally as the gateway to the Niagara frontier. It is the preferred route of area residents and the thousands of tourists who visit our section of the State each year as it winds along the Niagara River next to the world famous Niagara Falls. The Robert Moses Power Plant remains a most vital element in our region's economic health. The powerplant transforms the mighty roar of the Niagara Falls into safe, clean energy and stands as one of the major attractions in western New York. Its continuous supply of hydroelectric power to our region's industries and homes was the key to our area's development and will be the linchpin of the Niagara frontier's renaissance that is now beginning to flower.

Mr. Speaker, few men and women who accomplish as much as did Robert Moses escape the grasp of public criticism. During the latter years of his 40-year tenure in public service, Robert Moses was a figure of great controversy. Throughout these years he pursued his vision of the future with an enthusiasm that characterized his life, that informed the emerging public debate, and that challenged his critics to do the same.

One cannot understand the economic, social, and political fabric of New York without considering the accomplishment and controversy that was Robert Moses. In and of itself, Mr. Speaker, this is sufficient reason for us to join together to mourn his passing and stand in the shadow of his legacy.●

REFLECTING ON 4 YEARS AS A "FIRST"

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. JACOBS. Mr. Speaker, we Hoosiers take pride in this historic term of office just completed by U.S. Attorney Virginia Dill McCarty. As the following article says, she has served her country nobly and has refuted an ancient and costly prejudice.

[From the Indianapolis News, July 22, 1981]

REFLECTING ON 4 YEARS AS A "FIRST"

PACKING BRIEF CASE

(By David Rohn)

U.S. Atty. Virginia Dill McCarty will be packing up the memorabilia of her four years in the district attorney's office and will hand "the government's" brief case over to her successor, Sarah Evans Barker, who will be sworn in Friday.

Four years and nearly a month ago in a White House Rose Garden ceremony, Mrs. McCarty became the first woman in the nation to be sworn in as a Federal district attorney for a full four-year term. The novelty of "the first" quickly wore off as she faced the realities of a demanding job in the glare of the public spotlight.

Mrs. McCarty's first year was a difficult one.

There was the matter of filling vacancies in the office and proving herself to a number of holdover employes who had served under a succession of Republican D.A.s. Office remodeling was in progress, with attorneys and support staff forced to play musical chairs in two-thirds of the required office space.

Furthermore, there were severe internal problems in the Indianapolis office of the FBI, the primary Justice Department investigative agency.

During the first year there were complaints heard around the building that the number of criminal prosecutions was down. Furthermore, a national priority was placed on white collar investigations, particularly of cases involving political corruption, and juries returned not guilty verdicts in the first two Hobbs Act cases filed by Mrs. McCarty.

While the criticism continued, quiet reformations were taking place in the U.S. attorney's office that would ultimately pay dividends. Those reformations and dividends have been spelled out in a 39-page report that Mrs. McCarty released today.

"From my swearing-in at the Rose Garden of the White House to serving back home in Indiana," Mrs. McCarty said in a foreword to the report, "my service has been richly rewarding. My objective on taking the oath was to make Southern Indiana the best United States attorney's office in the country.

"When I became acquainted with the superb quality of many U.S. attorneys' offices, I had to revise my goal to attempt to make this office among the best. I believe that goal has been achieved."

CONVICTION RATE MORE THAN 98 PERCENT

The report's bottom line is that during her tenure the number of civil and criminal cases handled by her office has increased dramatically, the conviction rate on criminal felony cases exceeds 98 percent and the office has collected more than $31.7 million in funds owed the government at a cost of about $2.8 million.

In filling staff positions, Mrs. McCarty, an ardent supporter of the equal rights amendment, practiced what she preached. On a staff of a dozen attorneys, one-fourth were women and a third were blacks.

She also instituted programs to upgrade the skills of support staff so secretaries and clerks were no longer in dead-end positions with no chance of promotions. This paid dividends, because many employes received paralegal training enabling them to handle work that otherwise would have required the attention of attorneys in the office.

Mrs. McCarty instituted a work-study program that further enabled the office to obtain valuable services from law school, college and high school students, augmenting the one legal clerk authorized to the office for the summer term.

According to Mrs. McCarty, the most effective change made in the office was the separation of assistant attorneys into civil and criminal divisions, headed respectively by Charles Goodloe Jr., and Bernard Pylitt. She said this change allowed attorneys in the office to become experts in their assigned fields and prevented civil cases from being neglected in favor of deadlines under the Speedy Trial Act on criminal cases.

GRAND JURY TIME DOUBLED

According to Mrs. McCarty, the amount of grand jury time of assistants doubled over the four years of her term and consequently the hours spent in court increased from 1,823 in 1977 to 4,126 last year.

In 1977 Mrs. McCarty's office brought 181 criminal cases involving 253 defendants. In 1978 the office brought 202 cases with 303 defendants. In 1979 there were 141 cases and 192 defendants and last year there were 213 cases with 321 defendants. Of the total, 15 defendants in 11 cases were found not guilty.

Among cases cited by Mrs. McCarty for exclusive violation of Federal law were 20 prosecutions for illegal deer poaching at Jefferson Proving Ground, immigration and customs violations, 25 prosecutions for illegal dealing with endangered species, the conviction of an Evansville used car dealer for rolling back odometers, two Orange County vote buying indictments and numerous counterfeiting cases.

She also noted 30 indictments have been returned charging fraud against government programs or theft of government property, including investigations into the Community Action Against Poverty, the Comprehensive Employment and Training Act program, food stamps, Medicaid and the Agricultural Soil and Conservation Service.

Other prosecutions she cited were:

Thirty-two bank embezzlement, fraud and larceny indictments, including the conviction of Anthony "Tino" DeAngelis, who made the "Guinness Book of World Records" for the largest swindle in history, and the conviction of former Marion County Municipal Judge David Caldwell on charges of embezzling trust accounts.

Seventy-three drug indictments, including three large heroin distribution rings, a conviction of continuing criminal enterprise on a defendant in a multistate marijuana enterprise that transported 27½ tons of marijuana, the seizure of a phencyclidine laboratory, prosecution of 15 defendants in connection with an international marijuana smuggling organization known as The Company, conviction of Connersville physician Dr. Bertram Sanders on drug charge ad recent busts of cocaine and lysergic acid diethylamide rings.

Sixty-eight tax case indictments, including several tax protesters, seven attorneys, two legislators (Edwards and former state Rep. Spencer Schnaitter, D-Madison), two doctors, two dentists, a gambler and a law enforcement official.

One of Mrs. McCarty's first actions was to organize regular meetings of the heads of Federal law enforcements to discuss common problems and foster cooperation and coordination.

FOCUS ON WHITE COLLAR CRIME

"Through these meetings," she said in her report, "white collar crime priorities for the district were developed, several investigations through the grand jury using two or more agencies have been initiated and each of the agencies is now more aware of the assistance that each can give the others."

She also had a number of meetings with local law enforcement officials, which paid major dividends in drug investigations and sting operations.

The report notes passage of the Tax Reform Act of 1976 prohibited IRS agents from being the government's chief financial investigators. To rectify this the Justice De-

partment had to hire FBI accountant special agents and pursuade the IRS to participate in joint grand jury investigations with other governmental agencies.

"The most significant joint investigation to date by FBI and IRS in this district led to the conviction of former President Pro Tem of the Indiana Senate, Martin Edwards, on extortion, perjury, obstruction of justice and income tax charges, through the exclusive use of agents and assistant attorneys based in this district," Mrs. McCarty noted.

In the report Mrs. McCarty commented on a change of Federal prosecution policy to concentrate resources on cases that were difficult for state and local officers to investigate or prosecute or which were solely Federal crimes. She noted that with the exception of sting operations the number of cases involving stolen vehicles declined as did other prosecutions that could be handled by local officials.

"This policy," she said, "has freed assistant U.S. attorneys and agents to concentrate on investigations of exclusively Federal crimes and those involving activities in numerous jurisdictions and to spend time investigating complicated fraud, embezzlement and public corruption cases requiring detailed financial analysis and large amounts of grand jury time."

The first case brought in the nation under a new statute prohibiting the sexual exploitation of children.

The first conviction of a law enforcement officer in this district in a civil rights prosecution. This conviction involved three Marion County sheriff's deputies accused of beating a man at the Indianapolis Motor Speedway.

The conviction of former Indiana Ku Klux Klan grand dragon William Chaney on arson charges.

The convictions of Speedway bombings suspect Brett Kimberlin on charges of illegal receipt of explosives and illegal use of government insignia.

Interstate transportation of stolen property arrests that aided in the convictions of Howard Willard, Marjorie Pollit and Robertina Herold in the multimillion dollar Marjorie Jackson theft.

Mrs. McCarty noted that during her tenure no evidence secured through Federal search warrants was ever ordered suppressed, no trial was declared a mistrial because of prosecutorial misconduct and no grand jury proceeding was ever found to be improper.

On the civil ledger, the number of cases filed rose from 503 in 1977 to 1,064 in 1980.

Among civil cases Mrs. McCarty cited were:

An employment discrimination case involving the Indianapolis Police and Fire Departments, which was resolved with a consent decree, and a sex discrimination case against the Indiana Department of Correction, which presently involves settlement negotiations.

Successful defense of a suit brought by Eli Lilly & Co. in connection with generic drugs for Medicare and Medicaid recipients using Darvon.

In summing up her tenure, Mrs. McCarty said, "The duty of a prosecutor for the government is to seek justice, not to prevail at any cost.

"We have attempted to fulfill that duty by prosecuting only those cases we believe we can prove beyond a reasonable doubt. We have attempted to exercise our awesome prosecutorial power fairly and impartially, using mature judgment."●

WEST VIRGINIA MOUNTAIN BICYCLE CLASSIC

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. RAHALL. Mr. Speaker, I would like to take this opportunity to inform my colleagues of a thrilling sporting event that has been planned for September 11-13 and which is to take place in my congressional district.

Over this 3-day period, cycle racing teams from across the United States are expected to participate in the West Virginia mountain bicycle classic. The race will cover 200 miles from Bluefield to Huntington, W. Va., on U.S. Route 52. The race, which is sanctioned by the U.S. Cycling Federation, will be one of the most challenging ever, as it runs across terrain stretching from the Blue Ridge Mountains to the Ohio River.

The mountain classic will also be held in conjunction with another traditional activity in southern West Virginia, the King Coal Festival to be held in Williamson, W. Va.

I would like to thank and commend all the people associated with this energetic endeavor, and especially David Burdick of Huntington, W. Va., and James Hannah of Williamson, W. Va. These two individuals have organized the mountain classic, and they plus those who assisted them deserve a great deal of credit for the enthusiasm they have generated in southern West Virginia.●

CHICAGO TRIBUNE URGES AN END TO COMMODITY TAX STRADDLES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. ROSENTHAL. Mr. Speaker, on January 27, 1981, I introduced H.R. 1338—cosponsored by Mr. BRODHEAD of Michigan—a bill designed to discourage and limit tax evasion and shelter activity in commodity "stradle" and "cash and carry" transactions.

Although the Internal Revenue Service ruled 4 years ago that tax-motivated commodity trading was essentially without real economic purpose, unscrupulous promoters continue to attract high-income clients eager to reduce or eliminate tax liabilities by creating and deducting enormous paper losses from their income one year while deferring offsetting gains to a later year. Some try not only to defer their taxes, they also try to convert ordinary income or short-term capital gain to long-term capital gain which is taxed at significantly lower rates.

In a typical commodity straddle the taxpayer buys and sells equal amounts of commodity futures contracts simultaneously on a commodity exchange. Risk is limited or even eliminated because, although the price of a commodity may gyrate widely, the spread between two contracts—the buy contract and the sell contract to deliver the commodity in different future months—remains fairly constant.

In the last few years, the number and variety of these shelter deals have increased, and conservative estimates put the revenue loss to the U.S. Treasury at more than $1.3 billion annually. Straddle shelters have been structured in many commodities. Popular offerings have included straddles in precious metals, especially silver and silver futures contracts, and in financial paper, particularly Treasury bills and GNMA's. Individuals can purchase a single straddle, engage in multiple transactions through matched accounts, or invest in partnerships or subchapter S corporations participating in these shelters. Some persons take advantage of straddle shelters through offshore promoters, especially in foreign countries which refuse the IRS access to their records for audit purposes.

The full collection of tax revenues is perhaps more important now than it has ever been. These revenues could be used to offset the costs to the Treasury of the tax proposals passed yesterday.

More importantly, the effect of these tax straddles and shelters which allow certain very wealthy individuals to evade their legitimate tax responsibilities, increases the tax burden on the rest of us—so that many Americans pay not only their fair share but more. Public policy and basic fairness require the prohibition of phantom losses from becoming income tax deductions.

The largest futures markets are in Chicago where more than 75 percent of all futures trading takes place. On Monday, July 27, 1981, the Chicago Tribune, in its lead editorial, endorsed the concept behind H.R. 1338, now part of the Senate Finance Committee tax bill. Of particular importance is the Tribune's rejection of arguments from opponents to the bill that closing the tax straddle shelter would irreparably damage the futures markets. In fact, the Chicago Tribune concludes that—

nothing in the Finance Committee bill would prevent these markets from performing their valuable functions. It would only prevent them from being used as a giant refuge from the taxes other Americans have to pay.

I would like to submit for the RECORD, and I urge my colleagues to carefully consider, the editorial from the Chicago Tribune, July 27, 1981.

ON TAXING THE STRADDLERS

Are Chicago's commodity futures markets in danger of extinction? They are if you believe officials of the Board of Trade and the Mercantile Exchange, who predict catastrophe if legislation passed by the Senate Finance Committee becomes law.

Everyone should be concerned about the health of these markets, which provide some 20,000 jobs in Chicago and protect million of farmers from unpredictable price fluctuations. But that concern should be balanced by the principle that every citizen should pay his fair share of taxes. The Finance Committee would close a loophole that serves only to allow commodity traders and other wealthy investors to escape taxation. This tax break is so flagrant that even the Reagan administration, which doesn't make the elimination of loopholes a top priority, wants it scrapped. It's high time this loophole was closed.

At issue here is an arcane financial transaction known as a commodity tax straddle. The idea is to purchase contracts to buy and sell the same commodity (silver, say, or Treasury bills) on different dates. Whatever happens to the price, the trader can be reasonably sure that one contract will lose money and the other will gain a roughly equal amount. On its face, this makes as much sense as betting on both teams in a football game. By using the straddle, however, an investor can take his loss (which exists only on paper) early, but postpone his gain until it qualifies as a long-term capital gain (which effectively lowers the tax rate from as high as 70 per cent to 28 per cent). He can even "roll it over" against other losses the following year to defer taxes indefinitely.

The Finance Committee wants to prevent this type of shenanigan by requiring traders to tote up all of their gains and losses at the end of each year and pay taxes on them. This provision is what has gotten local traders so upset. They argue that since a trader may keep his profitable contract beyond that date, he would be taxed on an "unrealized" gain—just as if a homeowner were taxed on the appreciated value of his house every year.

But commodity traders' gains aren't unrealized in the usual sense of the term. Gains and losses are credited or charged at the close of each business day. If a trader's contract makes money, he gets cold cash in his account, which he can withdraw and spend. If it loses money, he has to cover the loss out of his own pocket. If a home-owner could collect daily for the increase in his property's value, it would make sense to tax those "unrealized" gains as well. Using the exchanges' own "mark-to-market" accounting system for tax purposes would not set any dangerous precedent.

It probably is true that it would wreck the futures markets to expose traders to the risk of a 70 per cent tax rate. But that is not proposed. Under the Finance Committee's plan, the rate on all commodity futures profits would be a modest 32 per cent. Traders would no longer have to hold on to a contract for at least 6 months to qualify for a low rate. Board of Trade officials worry that if the capital gains rate is lowered to an effective 20 per cent, as planned, investors will take their money out of the futures markets. But the advantage of having no time requirement should offset the appeal of the lower rate.

The industry prefers the House Ways and Means Committee's version, sponsored by Rep. Marty Russo (D., Ill.). Its effect would be to exempt traders from the change by allowing commodity losses to be written off only against commodity gains. (The "mark-to-market" provision would be dropped.) This change would allow traders to continue using straddles but would keep out doctors, rock stars, and others whose capital gains have nothing to do with the commodity market, thus eliminating "95 per cent" of the abuses. But the straddle itself is an abuse. There's no reason to let traders or anyone else take advantage of it.

This measure shouldn't be taken as an attempt to punish speculators, who don't enjoy the best public image. They serve an important purpose in stabilizing the prices of important commodities. To give them time to adjust, to minimize disruption of the markets, and to avoid inflicting ruinous taxes on long-deferred gains, the change should be phased in over a period of five years or so.

Nothing in the Finance Committee bill would prevent these markets from performing their valuable functions. It would only prevent them from being used as a giant refuge from the taxes other Americans have to pay.●

CONGRESSIONAL SCIENCE FELLOWS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. SCHEUER. Mr. Speaker, the high-quality and significant contributions of congressional science fellows is well recognized by Members in both Houses of Congress.

As many of our Members are aware, the American Chemical Society (ACS) has a program which sponsors two such fellows annually. There are three major goals of this program. The first is to provide an opportunity for scientists to gain firsthand knowledge of the operations of the legislative branch of the Federal Government. The second aim is to make available an increasing amount of scientific and technical expertise to the Government. The third purpose is to broaden the perspective of both the scientific and governmental communities regarding the value of such scientific-governmental interaction.

This year, the Subcommittee—which I chair—on Natural Resources, Agriculture Research, and Environment of the Science and Technology Committee, has been privileged to have had the services of the American Chemical Society's Congressional Science Fellow, Dr. Jim Greene. He has made valuable contributions in various science aspects of the subcommittee's legislative endeavors.

The benefits of such congressional fellows to Congress, the ACS, and to the citizens of the United States are significant.

As fellows return to their permanent position, the transfer of knowledge of the legislative process should serve to help the community outside Washington to address our national problems in a more substantive manner. This two-way flow of scientific knowledge and skills between Congress and society will help to further the example of participatory democracy that is so important to our country.

I would like to commend the ACS for its efforts in the congressional science fellowship program and urge them to continue with this significant contribution to the functions of Congress.●

GREAT PLAINS CONSERVATION PROGRAM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. JONES of Tennessee. Mr. Speaker, I want to call to the attention of my colleagues that August 7, 1981, marks the 25th anniversary of the Great Plains conservation program. Congress authorized this program in 1956 to solve major problems associated with the Great Plains region. These problems include wind and water erosion, drought, and inadequate technical and financial resources to plan and install needed conservation practices on a long-term basis. This conservation program is administered by the Soil Conservation Service in 518 counties in 10 States. More than 13,000 ranchers and farmers are assisted annually with active contracts on approximately 30 million acres of land. Contracts have been written coverning half of the eligible land in the 10 States. Erosion from water and wind has been reduced an estimated 221 million tons annually. Problems related to resource use in the Great Plains are lessened by the long-range conservation plans and the Great Plains conservation program contracts, which assure cost sharing when needed and conservation treatment of the entire operating unit.

A recent program evalutation showed that cost-share funds generate an annual increase in net agricultural income of $3.80 per dollar of Federal cost share. Recent studies in the Dakota's showed 30 percent more of the landowners with completed Great Plains contracts had adequate hay, pasture, and water, and were better able to maintain their base livestock herds than those without a contract during the extreme drought conditions experienced since 1976. To assess the degree of success of this program and future work to be done, I would like to refer to the excellent statement made by the Chief of the Soil Conservation Service, Norm Berg, in the Soil and Water Conservation News, August 1981, volume 2, No 5:

This month marks the 25th anniversary of the Great Plains Conservation Program (GPCP) administered by the Soil Conservation Service. Many of you in the 10 Great Plains States will be involved in activities to commemorate the event. I commend the people in the States and local communities who have worked so hard to plan and coordinate these celebrations.

Great Plains farmers and ranchers are special people. They are guardians of "the breadbasket of the world." They are also gamblers against tough odds—recurring drought, extremes of heat and cold, strong winds, occasional insect plagues, and a dwindling supply of irrigation water.

In 1956, Congress authorized the GPCP to assist farm and ranch operators in coping with the climatic hazards of the region. Through the program, SCS provides technical and financial assistance to landowners in making adjustments in land uses and changes in cropping and grazing systems to conserve soil, water, and related resources.

By 1980, Great Plains farmers and ranchers had signed more than 58,000 GPCP contracts covering more than 110 million acres. With SCS assistance they had established more than 5 million acres of permanent vegetative cover, planted 64,000 acres of windbreaks, installed 98,000 miles of terraces, and installed 13,000 miles of livestock water pipelines. SCS work in the Great Plains has also included assisting landowners with increased irrigation efficiency, brush management, planned grazing systems, waste disposal, and critical area treatment.

SCS, conservation districts, and other Federal, State, and local agencies have done much to help landowners stabilize agriculture in an unstable environment, but much remains to be done. In 1977, when the National Resource Inventories were last conducted, wind erosion in the Great Plains exceeded 5 tons per acre on 23 percent of the cropland and 6 percent of the rangeland. Total tons of soil blown that year topped 1 million.

Great Plains farm and ranch operators have demonstrated their confidence in SCS and the GPCP to help them fight erosion and the loss of soil productivity. Last year, 49 additional counties were designated as eligible for GPCP assistance, bringing the total number of eligible counties to 518. About 50 more counties are interested in becoming eligible.

As we celebrate the anniversary of GPCP, it is a time to look back, but more importantly, it is a time to look forward to the big job remaining.

With these excellent program accomplishments I wonder if Norm would consider including my west Tennessee district in the Great Plains region. We all know this would not be possible, but over the past 2 years the Agriculture Subcommittee on Conservation and Credit, and Rural Development, which I chair, has been working on developing legislation to establish a program fashioned after the Great Plains program. In the 1981 farm bill, H.R. 3603, the committee has included a section known as the special areas conservation program. This legislation offers technical and financial assistance by contract, as in the Great Plains program, in special areas designated by the Secretary of Agriculture. These areas could be established in any area of the Nation where severe soil and water problems exist. We feel that the proposed special areas program could be another excellent tool which could be used to help reduce our staggering loss of 2 billion tons of cropland topsoil per year.

I have traveled to many of the Great Plains States and have seen the excellent conservation work done in this area. Based on my observations and favorable comments by numerous other individuals and groups, congratulations should go to Norm Berg and the Soil Conservation Service on the 25th anniversary of the proven Great Plains conservation program and best wishes for continued success.●

CALL TO CONSCIENCE—HELP IS NEEDED

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. FORD of Michigan. Mr. Speaker, I am proud to be a part of the Congressional Call to Conscience Vigil, the vigil for all Soviet citizens who have been denied the basic dignity of human rights.

Today, I would like to call your attention to Mykola Rudenko, a Ukrainian writer who is presently serving a 12-year term as a prisoner in a Soviet "corrective labor colony." There appears to be no justification for the arrest and subsequent conviction of Mr. Rudenko. In November of 1976, Mr. Rudenko was named chairman of the newly formed Ukrainian Helsinki Group, a group established to monitor human rights conditions in the Ukraine. Three short months later, on February 5, 1977, Mr. Rudenko was arrested and charged with "anti-Soviet agitation and propaganda." He was later convicted and sentenced to serve 7 years in Soviet labor camps followed by 5 years of internal exile.

We, as Members of Congress and citizens of a free country, must speak out and condemn these human rights violations perpetrated by the Soviet Union. I call your attention to Mr. Rudenko not because his case is unique, but because there are many "Mykola Rudenkos" imprisoned in Soviet prison camps. These are men and women who have attempted to insure basic human rights for their fellow citizens, but instead find themselves in Soviet prisons.

On July 23, 1981, it was brought to my attention by two of my colleagues, Congressman DOUGHERTY and Congressman DONNELLY, whom I commend for their work on Ukrainian human rights, that Mr. Rudenko's wife, Raisa, disappeared from her home on April 14, 1981. At this time her whereabouts are unknown. This fact is very alarming, and I call upon the Soviet Union to account for her immediately.

As Members of Congress I encourage you to call for the immediate release of Mykola Rudenko and other prisoners unjustly incarcerated throughout the world. I commend the gentleman from Maryland, Congressman MICHAEL BARNES, for chairing this congressional vigil, and I hope that this Congress will continue to alleviate the suffering of Soviet citizens unjustly imprisoned.●

HOW FEDERAL BUDGET CUTS COULD HURT ELDERLY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. PATTERSON. Mr. Speaker, I wish to draw my colleagues' attention to a splendid example of corporate responsibility, a unique newsletter called The Islander published by the Alameda First National Bank of Alameda, Calif., an island city on San Francisco Bay.

Unlike most corporate newsletters to customers, The Islander often deals with controversial social issues that affect Alameda residents. In the articles, bank president Donald J. Gehb explores the issues, speaks his mind and seeks (and gets) opinions from readers.

It is unusual for private business executives to discuss sensitive public topics so openly, and I wish to applaud Mr. Gehb for doing so and share his most recent article, a timely one indeed, with my colleagues.

[From The Islander, publication of Alameda (Calif.) First National Bank, May 1981]

HOW FEDERAL BUDGET CUTS COULD HURT ELDERLY

(By Donald J. Gehb, president, Alameda First National Bank)

About 12,000 senior citizens—people 60 years of age or older—reside in the city of Alameda. Virtually all of them worked hard through life (some are still working) and ended up with a fixed amount of income to retire on.

Some are quite comfortable, living on pensions, investments and Social Security. Others aren't so fortunate. Their retirement income is sparse. They often go hungry. They have trouble finding affordable housing. They have problems of health, transportation, crime and loneliness.

These are the kinds of problems that most younger people hardly think about as they go about the daily tasks of life, but they are very real and frightening to the elderly. The anxiety level is rising with talk of budget cuts in programs that help older people in areas of nutrition, housing, homemaker assistance, health care, legal assistance, transportation and recreation.

Budget cuts are a fine idea. But if government has any purpose at all, besides the national defense, it is to provide for the coun-

try's elderly in times of need. For millions of Americans, that time has arrived.

A number of our older customers have come into the bank and expressed concern about proposed federal budget cuts. We began wondering how Alameda's population would fare and looked into it.

The current Administration has made numerous general proposals for cuts in certain areas, cuts that can only be implemented through legislation. Unfortunately, few specifics have followed, resulting in a climate of confusion.

"A lot of seniors don't have enough to live on, and it's getting worse because of inflation," Clarence Day told us awhile ago. Mr. Day, 76, is a commissioner on the Alameda County Advisory Commission on Aging. He and his wife, Lallie, have been Alameda residents for 35 years. Clarence wears two pacemakers and recently had open-heart surgery.

The Advisory commission tells the Board of Supervisors how it thinks the county's share of Older Americans Act money should be spent. The money is made available by the federal government to finance day care centers, health clinics, nutrition programs, legal assistance, recreational centers and the like.

There is much competition for the money.

Congressman Pete Stark, who represents Alameda, believes the President's program, if implemented, will have a negative impact on millions of older persons, including many in Alameda. He quoted from an analysis of the proposed cuts prepared by the House Select Committee on Aging:

Medicaid: The proposed "cap" on federal Medicaid expenditures could translate into sharp reductions in the health benefits available to the five million elderly persons who depend on the program.

Food stamps: About 125,000 elderly persons will lose food stamp benefits.

Homemaker service: Over 86,800 elderly and disabled persons could lose homemaker and chore services that make it possible for them to stay in their own homes instead of institutions (which are much more costly).

Social Security: Three million persons now receiving the Social Security minimum benefit will have it reduced.

Housing: Over 727,300 low-income elderly tenants will pay an average of $202 more per year in rent for subsidized housing.

Rent subsidies: Over 52,440 older persons will lose rent subsidies under the Section 8 program.

Jobs—Some 26,000 older workers will lose CETA jobs immediately, and as many as 262,000 older persons will be denied services previously provided by CETA public service employees.

Legal services—About 187,000 older persons will be denied federal legal assistance.

". . . these cuts will have the most severe impact on the neediest elderly," the report continues. "In fact, many of these cuts will only affect those at or below the poverty line."

Similar expressions of pessimism and dismay were voiced by local people we talked to. Clarence Day sees the cuts coming and declares, "You bet they'll hurt! Every program already has a bare bones budget."

Sig Bray, a 75-year-old retired marine engineer who is active in Alameda senior citizen affairs, agrees that the "outlook is pretty bleak." He feels health programs should have top priority, but "with the new Administration, Medicaid could be hit hard."

Mr. Bray, whose open-heart surgery "made me feel like a new man," says medical bills can be a crushing burden on older people. His two operations cost $25,000 each. He noted, pointedly, that "Medicare doesn't pay for everything."

Mr. Bray is especially concerned about the "frail elderly," or the "slow-go" elderly, who may have some infirmities, but still want to keep living in their own homes and, occasionally, make forays outside for recreation and socializing. But they need help, maybe with cooking, washing or housekeeping. They need transportation to appropriate centers. And they need specialized Adult Day Health Care centers that provide hot meals, medical services, opportunities to associate with their peers, and an understanding staff. No such specialized center exists in Alameda, nor in the entire county for that matter, despite enabling state legislation and years of effort by people like Mr. Bray, a member of the Adult Day Care Council.

Mr. Bray and his wife, Romilda, who also has health problems, live on a fixed income and "hope we won't have to change our lifestyle." They reside in a confortable third-floor apartment near Alameda High School.

One of the key organizations providing social services to the elderly in Alameda and elsewhere is the Social Service Bureau of the East Bay, Inc. The Bureau, a voluntary, private, non-profit agency was founded in 1956 by the former Oakland Council of Churches. It is involved in senior nutrition projects, senior recreational activities, senior jobs programs, senior activity centers, transportation projects, legal assistance, outreach programs and help for mentally and emotionally-troubled people.

Because much of its funding comes from federal sources its activities could be severely curtailed.

City Councilman Charles (Charlie) Tillman, 74, a long-time leader of crusades for the elderly, anticipates "devastating" budget cuts in federally-financed programs. "Our whole program stands in jeopardy," he said. "We keep looking over our shoulder and wondering. 'what's next?' "

Two-thirds of Alameda's programs for the elderly are funded by the Comprehensive Employment and Training Act (CETA), the Older Americans Act, and the Housing and Community Development Act. If those funds go—some $400,000 last year—the city will have to rely totally on its general fund.

Assistant City Manager Rob Wonder is confident that Alameda, a boot-straps kind of town anyway, will "maintain its service level for senior citizens. Some programs are too important to discontinue, and we will have to pursue every possible funding source to meet the needs."

"What happens, for example, when an elderly person can't pay the utility bill? Do we turn off the power just because the federal energy assistance program has been terminated?"

Other federally-funded programs expected to end include the CETA van that transport elderly people, CETA home repair for the elderly, and the Low-income Energy Assistance program.

"The CETA program has been super for Alameda and the city will definitely feel the effects after May 31 when it is discontinued," said Mr. Wonder. CETA workers have swept streets, trimmed trees, groomed the golf courses and helped administer the energy assistance and garbage discount programs for low-income people, most of whom are elderly.

Mr. Wonder is confident that the city will be able to maintain Mastick Senior Center, the former Mastick Elementary school, on St. Charles between Lincoln and Santa Clara, which was converted into a recreation and meeting facility for older people.

Mastick is a good example of how hard work by people like Mssrs. Bray, Day and Tillman, etc., and federal funds can be converted into a valuable community asset. Using $353,000 in block grant money from the Housing and Community Development Act program, the city turned the school into a multi-purpose facility that provides a wide range of opportunities and activities for seniors.

"Mastick will be the main facility in Alameda for senior citizens," Mr. Tillman said. "But we'll need another half-million-dollars to complete the kitchen and multi-purpose room.

The city has applied for a $200,000 in block grant funds to proceed with the next phase, but won't know whether they're coming until July.

Among the more serious problems facing older people is nutrition. Pat Stewart, senior centers coordinator for the Social Service Bureau, told us that "a lot of older people are not able to afford the kind of diet that will keep them healthy."

The Bureau's program includes "congregate meals" served at 15 centralized locations throughout the East Bay, including the Alameda Veterans Building at Walnut Street and Central Avenue. The program, which provides 1,100 meals a day, is funded by the Older Americans Act (77 per cent), U.S. Department of Agriculture (13 per cent) and private donations (10 per cent).

Ninety per cent of the money comes from the federal government. Fran Bellman, who runs the congregate meals program, doesn't expect the federal dollar amount to be cut, but believes inflation will force some cutbacks.

The Bureau also operates a home delivery meals program, but Alameda is excluded because of its Meals-on-Wheels program. The privately-financed Meals-on-Wheels project has been highly successful, largely due to the efforts of Alameda *Times-Star* publisher Abe Kofman, who regularly solicits contributions in his column.

After hearing from the people who are actively involved in programs for senior citizens, I was left with the feeling that they are hoping for the best, but not counting on it. Indeed, some are anticipating the worst and girding for battle.

Congressman Stark is in the middle of it. As chairman of the House Subcommittee on Public Assistance, he has jurisdiction over the Administration's proposed cuts in social services affecting millions of aged and disabled persons.

Pete's a former banker who I've known for many years. He's a good businessman, and his heart's in the right place. He's considered a "liberal" by many people, but as one who has worked with him in banking, I can attest that he is actually quite conservative in fiscal matters.

The congressman told me there are ways to reduce government spending, as President Reagan requests, without inflicting harm on those who cannot help themselves.

I believe we can and must reduce the costs of government and still maintain a "safety net" to protect the truly needy. Government must be strong and wise enough to protect its young, its old, and its disabled from distressing circumstances over which they have little or no control. No senior citi-

zen, for example, should be allowed to starve. None should die for lack of proper medical attention. None should go without adequate housing. None should be forced from his or her home. None should have to be alone.

What do you think?

CONTINUED SERVICES TO HANDICAPPED

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. GEJDENSON. Mr. Speaker, I want to take this opportunity to commend my colleagues in the Congress for their courageous decision to continue services to the handicapped under categorical programs. In our refusal to merge handicapped assistance programs with other social services, the House and Senate adopted a stand diametrically opposed to the wishes of the administration.

Those of us who rejected the President's block grant proposal were concerned about the integrity of handicapped programs. We did not want to see programs for the disabled having to compete for limited funds against programs for students, senior citizens, and poor Americans. We believed that many State and local governments were either unwilling or ill-equipped to respond effectively to the needs of the disabled, and so we maintained separate programs to assure that funds we appropriated for handicapped assistance would indeed be spent for this purpose.

Though we won our fight against block grants, we were not so successful at preserving full-funding for handicapped programs. Those members who voted for Gramm/Latta II agreed to cut handicapped services, such as vocational rehabiliation, by a total of 30 percent. Unfortunately, these cuts will serve to diminish the programs we managed to preserve. Thousands of handicapped citizens may now be without the assistance necessary for increasing their independence and productivity.

The administration-supported Gramm/Latta II breaks our promise to provide continued assistance to those in need. As a result of the budget cuts, more than 322,000 disabled persons will be denied vital services, despite the fact that these individuals are among one of the most disadvantaged groups in the Nation. Currently, 75 percent of all disabled Americans have incomes of less than $7,000 per year; 28 percent have incomes of less than $150 per month; 23 percent are on some form of public assistance; 46 percent are totally dependent on their families; and 55 percent are severely disabled.

These cuts are not only unfair, but they are also shortsighted. Their economic consequences will be felt nationwide. One out of every three rehabilitative counselors across the country will lose their jobs and thousands of disabled citizens will lose valuable training.

Decreases in rehabilitation expenditures will cost State and local governments $196 million in lost tax revenues. This loss to the Government will multiply in future years since the earning power of rehabilitated persons increases substantially over time: For every dollar a rehabilitated person has earned before training, his/her lifetime earnings will increase $11 to $13 after training. Our continued investment in such programs would yield more productive and independent lives for the disabled, as well as an increasing tax base for our Nation.

The adoption of the Gramm-Latta cuts signals a grave departure in our national committment to secure equitable treatment for the handicapped. Consider the plight of a disabled Vietnam veteran who, because of these cuts, will now be denied the ability to support his family, to be a tax-paying citizen, and to otherwise function productively in today's society. Such a turn of events is particularly ironic in a year which has been designated by President Reagan as the "International Year of the Disabled."

In conclusion, though we defeated the Reagan proposal to combine handicapped assistance programs into an unwieldy block grant, we were not able to protect these programs from severe budget cuts. It is now up to all Members of Congress to renew our pledge to handicapped Americans and find ways to minimize the impact of the cuts. We must, and can, secure sensible, efficient, and compassionate programs for our disabled citizens.●

THE CASE OF WEN-CHEN CHEN

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. PEASE. Mr. Speaker, as the chairman of the Human Rights Committee of Members of Congress for Peace Through Law, I would like to compliment my colleagues JIM LEACH from Iowa and CARL LEVIN from Michigan for bringing to our attention the case of Mr. Wen-chen Chen.

I would also like to applaud the decision of my colleague STEPHEN J. SOLARZ from New York to hold hearings today on the suspicious circumstances surrounding the death of Mr. Wen-chen Chen, who was a highly regarded professor at Carnegie Mellon University.

Chen, a native Taiwanese whose family had lived in Taiwan for generations, decided to return home earlier this summer to present his first-born son to Chen's parents in a traditional ceremony before the family's ancestral shrine. In the early morning of July 3, a jogger found the battered body of Chen beneath a fire escape on the campus of the National Taiwan University.

In a July 28 article in the Washington Post, "After Police Interrogation, a Death," by Bill Peterson, it was noted that shortly before his death Chen was questioned at length by the Taiwan Garrison Command about his alleged political activities in the United States. According to his colleagues and neighbors in this country, however, he was not a political activist, and the Taiwan independence organizations in this country said that they had never heard of Chen before his death.

Government prosecutors in Taiwan lost no time in issuing a report which cited suicide as the probable cause of death. The fact that the State Department, through the American Institute in Taiwan, has rejected this report as unacceptable leads me to believe that a full hearing is necessary to clear up the suspicious circumstances surrounding this case and to help protect Chen's family in Taiwan.

I commend the following article to the attention of my colleagues:

[From the Washington Post, July 28, 1981]

AFTER POLICE INTERROGATION, A DEATH

PLUNGE OF U.S. PROFESSOR VISITING HOME IN TAIWAN PROMPTS HILL PROBE

(By Bill Peterson)

PITTSBURGH.—At 6:30 a.m. on July 3, an early morning jogger found the battered body of Wen-chen Chen, a highly regarded professor at Carnegie-Mellon University here, beneath a fire escape on the campus of the National Taiwan University in Taipei. He had 13 broken ribs, a broken spine and numerous internal injuries.

Chen's family had last seen him 22 hours before when he was taken away by the Taiwan Garrison Command, the national security police, for questioning about his political activities in the United States. According to the official Taiwanese account, Chen was interrogated for 13 hours about letters, speeches and phone calls he had written or delivered in the United States, escorted part way back to his room, and later committed suicide rather than face jail for his criticism of the ruling Taiwan regime.

Carnegie-Mellon University president Richard Cyert believes differently. "The police got over-enthusiastic in their treatment of Dr. Chen and overdid the violence," he said.

The mysterious circumstances around Chen's death have spurred a congressional investigation, widespread fear among Taiwanese in this country, and a disturbing set of questions with serious international implications:

Was Chen murdered for his political views in the United States? Is the Taiwan government conducting a fair investigation of the case? Were government security forces responsible for Chen's death? And, does Taiwan maintain a network of informers on

American campuses to spy on activities of their countrymen?

Taiwan President Chiang Ching-kuo has pledged an intensive investigation of the incident, and prosecutors last week issued a 7,000-word report on the case. It said Chen, 31, fell from a fifth-floor balcony at the university library about 4 a.m., struck the edge of a second-floor balcony, and died.

"No evidence suggesting murder has been found thus far," the report concluded. "The death could have been an accident or suicide."

Hardly anyone here where Chen lived and worked for the last three years believes that, and the State Department, through the American Institute in Taiwan, has informed the Taiwan government that the report is unacceptable.

Chen, a statistics professor, had everything to live for, his former colleagues claim. He was young, bright and energetic. He had a good job, a wife, a new home and a year-old son. He had been given a three-year teaching contract before he left for a visit to his homeland.

"He's not the kind of person to commit suicide," says his neighbor, Dr. Joseph Mallova, a young physician. "He isn't the type to get despondent or depressed about anything. It isn't in his nature."

The incident has also split this city's small Taiwanese community into rival camps along ethnic lines. Half, most descendants of those who fled the Chinese mainland in the late 1940s, have condemned Carnegie-Mellon president Cyert for pressing for an investigation. The other half, most Taiwanese natives whose families have lived on the island for hundreds of years, are scared to death.

There's nothing new about allegations of human rights problems in Taiwan, a nation that has lived under martial law for three decades. But Chen seems like an unusual target.

He was a husky, athletic man who lived quietly in a $70,000 red brick house where, according to neighbors, he could be found evenings in the back patio reciting Chinese nursery rhymes to his son, Eric.

It was because of Eric that Chen decided to return to his home in Taiwan. Originally just his wife, Sujen, was going. But as the weeks approached for departure, Chen decided to go along so the couple could present their first-born son to Chen's parents in a traditional ceremony before the family's ancestral shrine.

There was nothing to fear, Chen told skeptical friends. "I won't say anything about the government."

Chen was a native Taiwanese, whose family had lived in Taiwan for generations. He shared a feeling of many native Taiwanese that the ruling Kuomintang regime, controlled by officials who fled the Chinese mainland in the late 1940s, should share its power.

"We all understood his political views. He wanted to see more representation of Taiwanese natives in the government. He just hoped for more democracy," said Dr. Morris DeGroot, a fellow statistics professor. "But it couldn't have been a consuming passion of his, or some of his colleagues would have known about it. . . ."

He was, by all accounts here, a political moderate who came to the United States in 1975 and had been enmeshed in academic life since. He earned masters and doctorate degrees in statistics at the University of Michigan. "He was an outstanding student, the best that I'd seen in statistics in 21 years," recalls his old adviser, Bruce Hill.

Chen joined the faculty of Carnegie-Mellon here in 1978 as an assistant professor. "He was generally regarded as one of the bright young researchers in his field," says DeGroot.

If Chen were a political activist, he was a secret one. Spokesmen for the militant Taiwanese independence movement, which favors an overthrow of the government, insist they had never heard of him before his death. His friends are aware of him making only one political speech and that was in 1979. And his only claim to community leadership was a stint as secretary-treasurer of the Pittsburgh chapter of the Taiwan American Association, a group that sponsors pot-luck suppers and softball games.

The initial reports after Chen's death supported these accounts. The Taiwan Garrison Command said Chen hadn't been involved in any activities serious enough to bother it. It claimed the "interview" with Chen was friendly and he had eaten lunch and dinner with his interrogators.

But later the command presented a far different picture of his activities. Garrison Command officials said they had confronted Chen with photocopies of letters he had written to a well-known dissident, and tape recordings of speeches and phone calls he had made in Pittsburgh.

The letters, along with five checks of $1,000 each, were allegedly written to Shih Ming-teh, now serving life imprisonment for anti-government activities, at a time when he was manager of Formosa magazine.

Taiwanese newspapers have also quoted Gen. Wang Ching-hsu, a Garrison Command official, as saying "it is almost positive" Chen committed suicide because he was "sure he was going to prison."

Officials say after 13 hours of interrogation, Chen, healthy and unharmed, was taken to the apartment building where he was staying, dismissing his escorts after they'd taken him only half-way up to his fourth floor apartment. Chen surfaced a couple of hours later at the home of a former University of Michigan roommate. There, according to an account in Taiwan's United Daily News, he raided the refrigerator, sat down and wrote a letter. He said he feared he would be jailed, but "he didn't give any hint of suicide", the newspaper said.

Four hours later, he fell from a fifth-floor balcony at the university library, struck the edge of a second-floor balcony and was killed, according to officials.

Chen's former colleagues don't believe accounts of his death. They doubt that he was ever involved in any activities that would warrant imprisonment, or that he would have been able to scrape up $5,000 from his salary (assistant professors are paid about $25,000 year).

What happened in Pittsburgh after his death is far clearer. A student staying in Chen's home moved out because "he was afraid," recalls neighbor Karen Mallova. "He left because he feared he'd be linked with Chen. He even asked us to take his garbage because he was afraid government spies would go through it."

Taiwanese were reluctant to get involved in Chen's memorial service. They were unable to get a single student to ask the university for a room for the services, or an adult to apply for a parade permit.

At the services themselves, many participants wore masks or paper bags over their heads to protect their identities. "Not even the chairman or the co-chairman of the Taiwan Association wanted to show up," recalls one friend. "Everyone has relatives back there and they're worried about what might happen to them."

The death, Rep. Jim Leach (R-Iowa) says, "sent a very chilling message to Taiwanese in this country." It also gave credence to allegations that the ruling Kuomintang regime has a "very extensive" network of spies on American campuses, said Leach. "We believe some of the agents are paid and some do it to curry favor with authorities." The House subcommittee on Asian and Pacific affairs will hold hearings Thursday.

Robert Hsu, a Taiwan government spokesman, said charges that his government maintains a spy network or in any way was responsible for Chen's death "are totally groundless," and "quite a bit off base."

"Our whole country is deeply saddened by this case," he adds. "If it was a case of suicide, the whole country feels great sorrow."

In addition, a group of 36 Taiwanese in Pittsburgh has sent a letter to university president Cyert voicing support for the ruling Kuomintang. "The Chinese community is very much bothered by rumors there are spies among us. We don't think it's true," said Yuan-Chin Hu, one of the signatories.

How then, did Taiwanese officials receive accounts of Chen's activities in the United States, he was asked. "It's possible that someone just wrote to the Garrison Command. They do it just on their own."

Other Taiwanese here look at it far differently. "Chen was outspoken, but he felt he hadn't done much. That's why he went home," said one of his close friends. "That's what makes us all sleepless at night. The next one could be me."●

DOUBLE-DIPPING MISUNDERSTOOD

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. HUBBARD. Mr. Speaker, from time to time Members of Congress are asked to consider legislation to reduce the military retirement pay from the Federal salary of retirees who work in civil service occupations. That was the case recently when we were about to consider the budget reconciliation bill. Mr. Austin S. Leavell, a veteran who lives in Paducah, Ky., a city that I represent in Congress, has some views on these so-called double-dipping proposals. I would like to share Mr. Leavell's views with you now:

DEAR CONGRESSMAN HUBBARD: I am writing in regard to the proposal to reduce the military retirement pay from the Federal salary of retirees who work for Civil Service.

I am a democrat and cannot understand why just the democrats are pushing for this provision. If this bill passes, I'm sure there will be fewer democrats in the senate and congress next election.

If this provision is passed, I understand that we would be doing the same job as the person we work next to but only getting paid about half the salary. How can they justify this? How is this going to effect the cost of living increases? I understand this will be excluded from our paychecks too.

I don't understand the words "double dipping" and I don't think the people who are pushing this provision do either. We earned our pension. The democrats who are pushing this bill should take a good look at the life of a military man, the hours on the job, the hard work, the low pay, time away from families, etc., and just maybe they would be able to see that this is something we're entitled to and not just something they are giving us. We earned it.

I feel this is small compensation for the number of years I served my country. My family and I have lived on very little money and my wife has always had to work to make ends meet. I've left them alone to get by the best way they could when I was out to sea for 9 months to a year. We've always been second class citizens and I've looked forward to my retirement pay to live a little better than during the years I served my country and to help educate my children.

I work for Civil Service because after spending 20 to 30 years serving your country you're too old to get a job in the private sector and we still have to make a living and educate our children.

I work for the post office and we have a man and wife working side by side earning $40,000 to $50,000 each year. They take home a government check every two weeks and each one can draw a retirement check but nothing is said about this. It is my understanding that when you are drawing disability and getting paid for it you can't hold down a fulltime job. I know of one postmaster (getting paid for this work), draws disability, his wife is working as a rural carrier; both probably draw somewhere in the range of $60,000 to $70,000 a year. Nothing is said about this either and their pension is tax free. I pay state and federal tax on mine. I feel this is just some examples of how the military retiree is penalized.

I served 22 years in the navy, plus 8 years in the fleet reserve. My daughter is a Captain in the U.S. Air Force, her husband also serves. We have a large family and every member has been connected to the military at one time or another.

I urge you to vote against this Provision and put a stop to this term "double dipping" which no one understands anyway.

Respectfully,

AUSTIN S. LEAVELL,
ADRC, USN, (Retired).●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DERWINSKI. Mr. Speaker, it is important for us to look back on the history of the Soviet's political and strategic intentions when forming our current foreign policy. The annual commemoration of Captive Nations Week reminds us once again of the tragedy inflicted upon millions of innocent people by Soviet aggressive and imperialistic policies.

I wish to insert into the RECORD an example of the spirited commemoration of Captive Nations Week which was held in Boston during the week and a very timely proclamation issued by Gov. Edward J. King of Massachusetts.

CAPTIVE NATIONS WEEK

AMERICA MUST SUPPORT AND ENCOURAGE FREEDOM FOR THE CAPTIVE NATIONS

PROGRAM

Invocation: V. Rev. Mykola Newmerzyckyj, St. Andrew's Ukrainian Orthodox Church, Jamaica Plain.

Pledge of Allegiance: Aivars Oga, Lativian Society Daugavas Vanagi of Boston, Inc.

Opening Speech: Orest Szczudluk, Chairman, Captive Nations Committee of Massachusetts.

READING OF CAPTIVE NATIONS WEEK PROCLAMATIONS

President Reagan's: Daina Ule (Latvian American National League of Boston).

Governor King's: Rasa Cepas (Lithuanian-American).

Speaker: Dr. Chester Nowak, Professor of History, Bridgewater State College. Earle W. Tuttle, Publisher and Editor, the truth.

Cultural program: Folk Dancing group of the Ukrainian-American Youth Assoc. of Boston; Lithuanian Folk Dance Group; Latvian Folk Dance Group.

God Bless America: Jan Milun, President, Moniuszko Musical Society (Polish).

Benediction: Rev. Anthony Baltrusunas, St. Peter's Lithuanian Catholic Church, So. Boston.

Master of Ceremonies: Aristids Lambergs, Chairman, 14th of June Latvian Memorial Committee.

Invitations to attend the ceremony have been extended to the Governor and other public and civic officials.

THE CAPTIVE NATIONS LIST

[*Country, people and year of Communist domination*]

Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolia	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Yugoslavia (Serbs, Croats, Slovenians, etc.)	1946
Poland	1947
Rumania	1947
Czecho-Slovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1959
Cambodia	1975
South Vietnam	1975
Laos	1975
Afghanistan	1980

The following books are suggested reading for those who would become more informed concerning the "Captive Nations":

Afghanistan: Afghanistan, Luis Dupree.

Cuba: Dagger in the Heart, Mario Lazo, Funk and Wagnalls (1969).

Estonia: Studies in the History of the Estonian People, Prof. A Voobus, Estonian Theological Society in Exile, Cultura Press, Wetteren, Belgium.

Latvia: Latvia Country and People, Latvain National Foundation, Stockholm, Sweden (1967).

Lithuania: Opposition of Soviet Rule in Lithuania, 1945-1980, Thomas Remeikis, Inst. of Lithuanian Studies Press, Chicago.

Poland: Death in the Forest (Story of the Katyn Forest Massacre), J. K. Zawodny, Univ. of Notre Dame Press, So. Bend, Indiana.

Ukraine: Ukraine in a Changing World, Dr. Walter Dushnyck, Editor. Ukrainian Congress Committee of America, 203 2nd Ave., NY 10003.

CAPTIVE NATIONS WEEK PROCLAMATION

The initial proclamation was issued by President D. D. Eisenhower in 1959, with the proviso that one be issued "each year until such time as freedom for all captive nations will have been achieved."

Whereas many nations throughout the world have been made captive by the imperialistic and aggressive policies of Soviet communism; and

Whereas the peoples of the Soviet-dominated nations have been deprived of their national independence and their individual liberties; and

Whereas the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent; and

Whereas it is appropriate and proper to manifest to the peoples of the captive nations the support of the Government and the people of the United States of America for their just aspirations for freedom and national independence; and

Whereas by a joint resolution approved July 17, 1959, the Congress has authorized and requested the President of the United States of America to issue a proclamation designating the third week in July 1959, as "Captive Nations Week," and to issue a similar proclamation each year until such times as freedom and independence shall have been achieved for all the captive nations of the world;

Now, therefore, I, Dwight D. Eisenhower, President of the United States of America, do hereby designate the week beginning July 18, 1959, as Captive Nations Week.

I invite the people of the United States of America to observe such week with appropriate ceremonies and activities, and I urge them to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the peoples of those captive nations.

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this seventeenth day of July in the year of our Lord nineteen hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fifth.

By the President.

DWIGHT D. EISENHOWER.

THE COMMONWEALTH OF MASSACHUSETTS

(By His Excellency, Edward J. King, Governor)

A PROCLAMATION, 1981

Whereas the week of July 12-18, 1981, is observed nationally as "Captive Nations Week" dedicated to nations under Communist domination; and

Where the imperialistic policies of Russian Communists have led to the enslavement of the peoples of Ukraine, Armenia, Poland, Byelorussia, Cossackia, Georgia,

Idel-Ural, North Caucasia, Turkestan, Estonia, Latvia, Lithuania, Azerbaijan, Albania, Romania, Czecho-Slovakia, Bulgaria, North Korea, Hungary, East Germany, Tibet, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and Afghanistan; and

Whereas the establishment of national and independent States by all captive nations and the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and the freedom of all nations; and

Whereas the 1981 "Captive Nations Week" serves as an appropriate forum to manifest public support for freedom and independence of all captive peoples everywhere;

Now, therefore, I, Edward J. King, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 12-18, 1981, as Captive Nations Week and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

Given at the Executive Chamber in Boston, this twenty second day of May, in the year of our Lord, one thousand nine hundred and eighty one, and of the Independence of the United States of America, the two hundred and fifth.

By His Excellency the Governor.

EDWARD J. KING.

CAPTIVE NATIONS WEEK OBSERVANCE SET FOR JULY 15

BOSTON.—The annual observance of the "Captive Nations Week" will be held on Wednesday, July 15, 1981, starting at 12:00 noon, at the historic Faneuil Hall, Faneuil Hall Square, Boston. Principal speakers will be Dr. Chester Nowak, professor of history at Bridgewater State College and Earl W. Tuttle, publisher and editor of the THE TRUTH—a publication concerned with captive nations. The program will also include cultural entertainment.

President Ronald Reagan and Governor Edward J. King designated the week of July 12-18, 1981, as "Captive Nations Week" in the nation and in Massachusetts respectively.

The Captive Nations Committee of Massachusetts, which is sponsoring the observance, invites the public to attend the observance and make it more meaningful.

According to Orest Szczudluk, chairman of the Captive Nations Committee of Massachusetts, "The purpose of the Captive Nations Week is to salute all captive nations under Communist Russian domination or control and to reaffirm our support for their freedom and national independence."

The Captive Nations Week was established by U.S. Congress in July of 1959. The Captive Nations Week Resolution, known as Public Law 86-90, listed the following nations which lost national independence through direct or indirect Soviet Russian agression: Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam. Added to the list were: Croatia, Serbia, Slovenia, Cuba, Cambodia, South Vietnam, Laos, Afghanistan.

"The strikes in Poland, the struggle in Afghanistan, the arrests of political activists and dissidents in Ukraine, Latvia, Lithuania, Estonia and Armenia, the demands for freedom in Hungary and Cuba indicate that Kremlin dictators are afraid of captive peoples. Our task is to insure that United States of America does not abandon captive nations because they are our friends and best allies in the struggle against Communist imperialism," Mr. Szczudluk concluded.

TO OBSERVE CAPTIVE NATIONS WEEK IN BOSTON

BOSTON, MA. (UCCA).—The annual observance of the Captive Nations Week will be held on Wednesday, July 15, 1981, starting at 12:00 noon, at historic Faneuil Hall, Faneuil Square, Boston. This event will be the highlight of the week beginning July 12 as proclaimed by Governor Edward J. King: "1981 Captive Nations Week serves as an appropriate forum to manifest public support for freedom and independence for all captive nations everywhere."

The program will feature prayers, reading of proclamations, speeches and cultural program. Our speakers will be Dr. Chester Nowak, a Pole who is professor of history at Bridgewater State College and Earle W. Tuttle, publisher and editor of THE TRUTH—a publication dedicated to captive nations. From the Ukrainian community, Very Rev. Mykola Newmerzyckyj, pastor of St. Andrew Ukrainian Orthodox Church in Boston, will deliver the invocation and the Dance Group of the Ukrainian American Youth Association will perform Ukrainian Folk dances. Invitations have been extended the Governor Edward J. King and other prominent political and civic leaders to attend the observance.

The public is cordially invited to come to the observance and make it more meaningful.

On Sunday, July 12, 1981, priests of the Boston Archdiocese will offer prayers for the freedom of all captive nations. Prayers were requested by Humberto Cardinal Medeiros, Archbishop of Boston. Prayers will also be offered in both Ukrainian Catholic and Ukrainian Orthodox Churches in Boston.

Massachusetts Governor Edward J. King declared the week of July 12-18, 1981, as "Captive Nations Week" in the Commonwealth.

The event is sponsored by the Captive Nations Committeee of Massachusetts, with active support from Ukrainian, Afghan, Cuban, Estonian, Hungarian, Latvian, Lithuanian and Polish organizations. Orest Szczudluk, Ukrainian, is chairman of the CNC of Massachusetts; Isabel Rivero-Arguelles, Cuban, serves as secretary and Dr. Ilga K. Dinbergs, Latvian, is treasurer.

The Ukrainian community in Boston is represented through the Ukrainian Congress Committee of America—Boston Chapter.●

CUBAN CLAIMS MUST BE SETTLED PRIOR TO ANY DIPLOMATIC RELATIONS BEING ESTABLISHED

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. IRELAND. Mr. Speaker, today I am proud to join with 12 of my colleagues in reintroducing our House joint resolution expressing the sense of the congress regarding claims by U.S. nationals for property seized by the Government of Cuba some 20 years ago.

Our resolution is intended as a policy guide for the President if and when he decides to proceed toward establishing diplomatic relations with the Government of Cuba, and before trade relations between Cuba and the United States are normalized.

I would like to thank my distinguished colleagues for again joining in introducing this legislation, which we first presented on June 7, 1979, when it appeared that the Carter administration might be interested in pursuing diplomatic relations between Washington and Havana.

Since that time, we have normalized relations with the People's Republic of China. That process has demonstrated that normalization is indeed a "process," one comprised of many steps leading up to the actual exchange of ambassadors, and ironing out the details of trade and other economic relations.

Such a process with Cuba certainly seems more remote now than it did even in 1979, with the then-crisis of Cuban troops in Africa and the newly discovered but long-established Soviet brigade in Cuba.

However, as the original opening with China shows, events, particularly dramatic foreign policy events, have a way of moving very rapidly and without much public activity beforehand.

It is our contention that regardless of the particular political or strategic problems of the moment, the Cuban claims issue is both long standing and fundamental in terms of the normal comity and relations between nations.

The key to this dilemma is the issue of the respect and guarantee of foreign investment and property rights.

To permit these claims to go unsettled, yet to establish full diplomatic relations, would be to ignore the whole legal foundation upon which all commercial intercourse is based. Frankly, it is difficult to see how normal relations, much less normal trade, could exist without respect for property rights.

I would suggest that resolution of Cuban claims has implications far beyond the Cuban situation, for it will be difficult, if not impossible, for us to sustain the principle of respect for property rights in developing nations if we were to normalize relations with Cuba in the absence of a fair and equitable claims settlement.

Our resolution is quite clear and unambiguous toward this end. It supports the consistent U.S. position that the certified property claims must be satisfied before full diplomatic relations are actually established between Washington and Havana. By this, we mean, drawing from the Chinese experience, the actual exchange of ambassadors and the formal opening of embassies.

We make this point, which is a clarification and an amendment to our 1979 bill, because we recognize that normalization is a process with many steps along the way. We simply want to make clear our sense that settlement of Cuban claims be a major step along the road to normalization, should it ever be determined to take that journey.

Our resolution also provides the President with some guidance as to how this can best be achieved in view of Cuba's limited resources and the likelihood that counterclaims will be presented.

The argument has been made that U.S. companies were able to write off most of their losses under our tax system. I have gone into this matter with representatives of the Joint Corporate Committee on Cuban Claims. According to the committee's figures, only about 12 percent of the actual losses were recovered in the form of tax credits.

It should be borne in mind that some companies and individuals who had substantial losses were not able to recover anything through the tax method because they had no income upon which to pay taxes, while some others were able to obtain up to 50 percent of their losses.

For the latter companies, however, tax losses taken on Cuban claims will still leave them open to paying full U.S. corporate income taxes on any amounts they can recover from the Cuban Government in payment on their claims.

We fully recognize that in actual practice, claims are rarely settled for more that 41 percent of actual value. This does not mean that this is either right or fair, in our view, however.

That is why the language of our resolution calls for payment in full, plus interest as a firm precondition for establishment of full diplomatic relations. We feel that this language will help encourage any administration seeking to normalize relations with Cuba also to seek to come as close as possible to the legal and moral objective of full restitution for illegal seizure.

It is our feeling that too often in the past the U.S. Government has been willing to turn a position of strength into one of weakness in order to make a bargain—a bad bargain, we would suggest.

Cuba needs normalization, and particularly trade normalization with the United States far more than we need Cuba.

If and when the time comes, we ought to use that leverage to obtain the best possible deal, the most just settlement, of our citizens' rightful claims against the Government of Cuba.

I now present for the RECORD a copy of the resolution:

SPONSORS OF RESOLUTION

Mr. Ireland, Mr. Chappell, Mr. Lagomarsino, Mr. Derwinski, Mr. Bevill, Mr. Yatron, Mr. Lent, Mr. Butler, Mr. Won Pat, Mr. Whitehurst, Mr. Gray, Mr. Murtha, and Mr. Skelton.

H.J. RES. —

Joint Resolution expressing the determination of the United States with respect to claims by United States nationals for property seized by the Cuban Government

Whereas the Government of Cuba expropriated enormous amounts of private property owned by United States nationals in 1959 and 1960, for which no compensation has been rendered to this date; and

Whereas this property has been certified by the United States Foreign Claims Settlement Commission to have a value in excess of $1,800,000,000 plus interest at 6 per centum as allowed by law; and

Whereas the claims against Cuba total more than the value of Cuban assets in the United States; and

Whereas there exists a trade embargo in the United States against United States nationals doing business with the present Cuban Government; and

Whereas interest sections by each of the two Governments have been exchanged with the view of eventually normalizing relations between the United States and Cuba; and

Whereas the claims against Cuba total more than the value of the United States property expropriated by all other Communist governments combined; and

Whereas the United States has settled its claims against most other Communist countries; and

Whereas it is the stated policy of this administration that the trade embargo will not be lifted until a satisfactory solution to the settlement of these valid claims has been found: Now, therefore, be it.

Resolved, That—

(1) Prior to the establishment of full diplomatic relations between the United States and Cuba the President shall insure that satisfactory arrangements have been made to provide for the payment in full plus interest as authorized by law of the certified claims of United States nationals;

(2) if the President enters into any agreement involving counterclaims made by the Cuban Government against the United States, tax credits shall be provided as cash equivalents by the Department of the Treasury to United States certified claimants with such tax credits assignable; and

(3) the President shall urge the Cuban Government to agree to establish a fund to be administered by the International Monetary Fund or some similar international agency for the purpose of paying these claims (such a fund to be supported by an appropriate royalty on such commodities as minerals including iron ore, nickel, oil, and others plus sugar, rum, seafoods, and tobacco).●

TRIBUTE TO DR. JOSEPH McLAIN

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DYSON. Mr. Speaker, yesterday, July 29, 1981, funeral services were held in Chestertown, Md. for the late Dr. Joseph McLain, president of Washington College.

Academia and the joys of interacting with a broad spectrum of individuals in quest of knowledge were Dr. McLain's life. He devoted all his energies in pursuit of a life consistent with the principles of fellowship, both in the classroom and outside of it. He was widely known and respected both here and abroad for his expertise in the field of chemistry. For those who had the pleasure of knowing him, his good natured sense of humor was endearing.

A member of my staff, a graduate of Washington College, fondly recalls the many times she talked with Dr. McLain and how easily one considered him as a friend. These are the qualities that made him such an inspiration to those around him.

As Washington College nears its 200th anniversary, the celebration will be overshadowed by the loss of Dr. McLain. I am sure, though, that Dr. McLain would want his life celebrated along with the bicentennial celebration of the college.

I think we should look at Dr. McLain's achievements as an affirmation of the limitless possibilities available to man. Dr. McLain never lost sight of those possibilities. So, while I mourn his untimely death, I am heartened that he has enriched the lives of those that knew him. The first district will miss him.●

THE PRICE OF CLEANER AIR

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. RITTER. Mr. Speaker, I would like to add this editorial from the July 27, New York Times to the RECORD. Much has been said lately in the press about the Clean Air Act. I feel that this editorial makes some truly constructive points; worthy for all to consider. For the benefit of my colleagues, the editorial follows:

[From the New York Times, July 27, 1981]

THE PRICE OF CLEANER AIR

The Clean Air Act comes up for renewal this fall with its goal of healthy air for all Americans still unrealized. The act has reduced the number of hazardous days in urban areas and the average concentration of major pollutants. But some areas, like New York and Los Angeles, will find it difficult if not impossible to reduce pollutants to the levels decreed for 1982 and 1987.

It is a complex law and lobbyists from all sides suggest hundreds of revisions. But the most important issues—not yet addressed by the Reagan Administration—concern the way in which standards are set for ubiquitous pollutants like carbon monoxide and rarer hazards like vinyl chloride. Should they be based solely on considerations of

health or also take account of the costs of clean-up and control?

The current statute permits considering cost in choosing the best way to improve air quality, but the standard is supposed to be determined only by concern for health. In deciding how much sulfur dioxide or carbon monoxide is permissible, for example, the Environmental Protection Agency is technically required to protect even the most vulnerable people. And it is supposed to limit smokestack emissions of carcinogens to protect everyone's health, no matter what the cost.

That approach is sharply debated. Industries say they are being forced to spend enormous sums for additional measures that yield only marginal gains in health. Environmentalists retort that life is priceless. Surely health deserves primacy when the hazard is significiant. Just as surely there are cases where regulators need more leeway to weigh costs.

Both sides gloss over the fact that cost already figures powerfully in measures taken to clean the air and always will. Every time Congress extends a deadline for meeting a clean-air requirement, and every time E.P.A. sets a standard to protect the vast majority of people but not literally everyone, they acknowledge that the benefit of full protection is not worth the cost of closing down industries or halting traffic in polluted areas.

The inability to consider costs more openly has actually slowed some control efforts. Since 1970, E.P.A. has identified more than 40 pollutants that may require regulation to prevent cancer or other serious diseases. But because the agency is reluctant to order whole industries shut, as full protection would require, it has set emission standards for only four of them. If it were free to tolerate some emissions when clean-up costs dramatically outweigh the benefits, it could proceed with the regulation of many more.

Moreover, undertanding the connection between costs and benefits would help in determining reasonable air standards. There is much doubt, for example, that it is worth spending billions to reduce airborne ozone concentrations to the current standard. Ozone is not a significant threat to life; the standard is designed primarily to protect asthmatics and other hypersenstive people. Yet the only way New York could meet that standard by the 1987 deadline would be with a draconian ban on traffic, a truly expensive cough cure that is bound to be evaded.

An exclusive concern for health, in sum, can be hypocritical, even self-defeating. The real issue in revising the Clean Air Act is not whether to include a concern for cost, but how best to do so.●

THE ROYAL FAMILY

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. McEWEN. Mr. Speaker, yesterday marked a very special day for the British Commonwealth as Prince Charles, heir to the British throne, married Lady Diana Spencer. People all over the world including millions here in our own country watched the festivities from London on television.

Royalty is not part of the American tradition, but Americans appreciate the role the royal family plays in British society carrying out traditions which span 1,000 years of history. Indeed, the city of Chillicothe, Ohio, which I am pleased to represent, proclaimed yesterday Prince and Princess of Wales Day out of affection and respect for the royal couple.

As Prince Charles and his new bride honeymoon, I believe I speak for all citizens in extending warm and sincere congratulations on their wedding day and offering best wishes for continued happiness and joy in the years ahead.●

HANDGUNS, HOMICIDES, AND THE GUN CONTROL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. PHILIP M. CRANE. Mr. Speaker, it is my opinion that handgun control is not the most appropriate solution to violent crime. The reasons, statistics and examples which demonstrate the senselessness of gun control measures have been enumerated many times in this House. To this extensive public record it is my desire to add the following study by Joseph P. Magaddino and Marshall H. Medoff entitled "Handguns, Homicides, and the Gun Control Act of 1968." Even though this is an abbreviated form of the report it clearly points out that the evidence supporting gun control is tenuous, at best, and fails to consider many variables. A full copy of this report can be obtained by writing: Second Amendment Foundation, 1601 114th SE., Suite 157, Bellevue, Wash., 98004, (206)-454-7012.

If the gun control lobby is to meet the burden of proof necessary to repeal a right explicitly stated in the Constitution, the evidence they present should be clear, convincing, and complete.

HANDGUNS, HOMICIDES AND THE GUN CONTROL ACT OF 1968 [1]

(By Joseph P. Magaddino and Marshall H. Medoff)

In 1968, the U.S. Congress enacted statutes governing the possession, transfer and manufacture of various types of firearms and destructive devices. This body of legislation was the first substantial change in firearm control since the enactment of the Federal Firearms Act of 1934. Passage of this legislation represented the culmination of five years of public debate on firearm control during a decade marked by civil disorders, political assassinations and increasing rates of violent crimes. Proponents of this legislation viewed it as a means of counteracting the rising rates of violent crimes.

The purpose of this study is to analyze the impact of the Gun Control Act of 1968. Specifically, we will address (a) whether, and to what extent, the Gun Control Act of 1968 affected the rate of handgun acquisition, (b) analyze the impact of the Gun Control Act of 1968 upon the homicide rate, and (c) examine the relationship between violent crime and the availability of handguns. We examined yearly handgun purchases using the methodology normally followed in examining the purchases of any other consumer durable good. Using a single equation model that controlled four various socioeconomic factors, the cumulative stock of handguns, and an index of violent crimes; our results showed that there had been a significant increase in handgun purchases since the enactment of the Gun Control Act of 1968. We suggest that this may have occurred because the populace anticipated more restrictive legislation. However, this result did not necessarily imply that the Gun Control Act of 1968 was a failure. It might have been that the Gun Control Act of 1968 reduced the rate of handgun acquisition to groups classified as potentially dangerous or prone toward violence. If the rate of handgun acquisition was reduced among these high risk users, even though there was an overall increase in purchases, then the impact of the Gun Control Act of 1968 would affect the rate or number of homicides rather than the handgun acquisition alone.

To isolate the effect of the Gun Control Act on the homicide rate requires treating homicide as part of an interrelated system taking into account the effectiveness of law enforcement, the judicial system, the punishment meted out, expenditures available to the criminal justice system and handgun availability. A structural model was formulated and the homicide equation was estimated within the context of this model. Our results indicate that the Gun Control Act of 1968 did not reduce the homicide rate, and that yearly handgun purchases were not significantly related to homicide rates.

Since many have suggested that the homicide rate is related to the cumulative number of handguns owned rather than the rate of yearly purchases, the homicide equation was estimated within the context of the structural system of equations, using the stock of handguns rather than yearly handgun purchases. The results showed that, again, the Gun Control Act of 1968 did not have a statistically or numerically significant impact on the homicide rate. We did find, as alleged by proponents of gun control legislation, that the cumulative number of handguns owned did have a significantly positive impact on the homicide rate. However, such a finding does not necessarily imply that the cumulative level of handgun ownership is a cause of homicides. It is entirely possible that the level of handgun ownership and the homicide rate mutually interact (i.e., greater handgun ownership being a reaction to higher violent crime rates). To account for this mutual dependency, the yearly handgun acquisition equation was reestimated within the context of the structural system of equations. Our results indicate that the homicide rate has a positive impact on yearly handgun purchases. Further, we still find that the Gun Control Act of 1968 did not reduce the rate of handgun purchases.

[1] This paper is one of a series of papers which will appear in "Firearms & Violence: Issues of Regulation," edited by Don B. Kates, Jr. (Ballinger Press: 1982). We wish to thank Don B. Kates, Jr. and Professor Charles L. Cole for comments on an earlier draft of this paper.

Our empirical findings that the Gun Control Act of 1968 neither reduced the rate of handgun purchases nor reduced the rate of homicides should not be construed as demonstrating that such legislation can never work. It is conceivable that better designed legislation could reduce the availability of handguns to those most prone toward violence. Our study merely shows that the Gun Control Act of 1968 did not accomplish the social goals explicit in its adoption.

The most important aspect of this study is the structural model which treats homicides and handgun ownership as a complex problem that encompasses the behavior of murderers, society and the criminal justice system. Previous research on gun ownership and on gun control suffers from the methodological shortcoming of ignoring the interdependence of many of the key variables. Such research does not contribute to greater understanding and is open to the criticism it has been dictated more by ideology than detached scholarship.

It must also be understood that theoretical modeling and empirical testing of such models is only the first step in determining appropriate public policy. Even after identifying the causal relationships involved in the criminal choice-criminal justice system, a second stage of the analysis will require specification of the cost associated with each proposal for preventing criminal behavior. As there are many such proposals competing for a limited amount of criminal justice resources, yet a third stage of analysis may require comparison of the costs and benefits between competing potential solutions. In short, it is suggested that effective public policy in this area requires extensive and mature deliberation. Legislators who instead react reflexively to increases in violent crime and wanton acts of violence are likely to effect no more than a cosmetic panacea to the violence in American life.●

SALUTE TO BERTA MAYER TAUBENBERGER

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DOUGHERTY. Mr. Speaker, today, I would like to pay tribute to a woman who has demonstrated throughout her 75 years the spirit and character that have made America great. Mrs. Berta Mayer Taubenberger will soon retire and it is on this occasion that I wish to recognize this noble woman.

Since Mrs. Taubenberger first came to the United States at the age of 18, she has demonstrated the dedication and persistence upon which our country has prospered. Through the difficult years of the Great Depression, Mrs. Taubenberger toiled alongside her husband to raise her family. Together they conquered adversity and by 1954 they were able to make their dream of America come true. Through strong determination and commitment to a goal, the Taubenbergers acquired a business of their own. Success, however, did not come easily. Like so many other aspects of life, this dream, too, suffered setbacks; nevertheless, the Taubenbergers' delicatessen, known affectionately as "Karl's," remains one of northeast Philadelphia's most popular eateries.

Mrs. Taubenberger has demonstrated to us the true value of commitment to a goal. I am sure her retirement will only be a new step in her career. I wish her the same success as in past endeavors and I hope her life will help us all find within ourselves the same courage and commitment.●

THE U.S.S. OHIO

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. MICHEL. Mr. Speaker, Adm. Hyman G. Rickover was kind enough to send to me a letter dealing with the U.S.S. *Ohio*, the first Trident-class nuclear powered ballistic missile submarine. I would like to share with you the information contained in this letter.

At this time I wish to insert into the RECORD a letter from Admiral Rickover:

USS "OHIO" (SSBN 726),
New York, N.Y., June 20, 1981.

Hon. ROBERT H. MICHEL,
House of Representatives

DEAR MR. MICHEL: We are returning from the first sea trials of the USS *Ohio* (SSBN 726), our first Trident Class nuclear powered ballistic missile submarine. The ship completed all tests, including full power operation, surface and submerged.

For more than twenty years, the Polaris and Poseidon ballistic missile submarines have formed the most potentially survivable component in our triad of strategic deterrent forces. With advanced strategic and tactical fire control systems, improved noise reduction, and a more capable propulsion plant, the Trident submarines are a more survivable deterrent than their Polaris and Poseidon predecessors; they are also a major advance in our strategic deterrent forces. Displacing more than 18,000 tons, five hundred and sixty feet long, and armed with twenty-four missiles, the Trident will give the United States, into the twenty-first century, a credible deterrent to nuclear aggression.

This submarine is the fourth naval ship to bear the name *Ohio*. The first was a merchant schooner purchased by the Navy and converted into a man-of-war. She served on Lake Erie in the squadron commanded by Captain Oliver Hazard Perry during the War of 1812.

The second *Ohio*, commissioned in 1838, armed with 104 guns, was long reputed to be one of the best designed ships-of-the-line. On her initial Atlantic crossing she transited from New York to Gibraltar through rough seas in 21 days, at the then impressive average speed of 12 knots. In 1847, the *Ohio* joined in the campaign at Vera Cruz, where she landed sailors and marines to man shore artillery in support of the army assault that led to capture of the city. Although the *Ohio* fought no sea battles, her mere presence served as a deterrent to aggression against the United States. The present *Ohio* has a similar mission. Our Navy serves best when it averts war.

The third *Ohio* (BB-12), a 12,723 ton battleship, was commissioned in October 1904. Designated flagship of the Asiatic Fleet, she steamed from San Francisco to Manila in 1905. There she embarked the then Secretary of War, William Howard Taft, and his party which included Miss Alice Roosevelt, daughter of the President. They remained with the ship for much of an extended inspection tour of the Far East.

On 16 December 1907, at the direction of the President, the *Ohio* sailed from Hampton Roads, Virginia, in company with the other battleships of the Atlantic Fleet. Until she returned to Hampton Roads on 22 February 1909, she showed the American flag worldwide as a member of the Great White Fleet. This cruise, as much as any other event, marked the emergence of the United States as a significant naval, and indeed, a major world power. Throughout World War I, the *Ohio* operated from Norfolk, Virginia as a training ship, providing trained personnel for the rapidly expanding Fleet. She was decommissioned 31 May 1922. A fourth *Ohio* was to have been the BB-68, a battleship of the Montana Class. Authorized in July 1940, construction was canceled in July 1943.

George Washington was well aware of the value of a strong navy for the young nation he fathered. He stated that to command respect in the world, it was necessary to have an adequate navy "ready to vindicate it from assault or aggression. This may even prevent the necessity of going to war by discouraging belligerent powers from committing such violations * * * as may * * * leave no other option."

True then, his words ring even truer and are of even more importance today. The *Ohio* exemplifies Congressional commitment to his words and its continued initiative in providing our country with a navy capable of deterring war. As noted by Senator John Glenn at the ship's launching ceremony, "Ohio" is the Iroquois Indian word meaning "great" or "something great."

In addition to the *Ohio*, we also have 34 Polaris and Poseidon ballistic missile submarines, and 82 attack submarines, making a total of 117 nuclear powered submarines in operation.

In view of the great interest in the Trident program by Members of Congress and the public I have prepared an historical summary of the program. This is attached.

Sincerely,

H. G. RICKOVER.

HISTORICAL SUMMARY OF THE TRIDENT SUBMARINE—JUNE, 1981

The *Ohio* (SSBN 726) is the first of nine Trident submarines authorized by Congress. The ship was laid down April 10, 1976 and launched April 7, 1979. The following summarizes the history of the Trident submarines.

It had its origin in a study—STRAT X—which Robert S. McNamara, Secretary of Defense, initiated November 1, 1977. This called for an examination of "future ballistic missile basing concepts and missile performance characteristics required to counter potential Soviet strategic offensive forces and ABM proliferation." The reason for the study was growing concern over the vulnerability of American intercontinental ballistic missiles to Soviet attack. The study was carried out by the Office of the Secretary of Defense. Completed in August, 1967,

it recommended the Undersea Long Range Missile System (ULMS).

ULMS required development of an extended range missile with a greatly increased payload. The characteristics of this missile required a larger launch tube which dictated development of a new and significantly larger submarine.

Although the impetus for the STRAT X study was concern over the vulnerability of the land based missile system, the conclusion that the best response to the Soviet threat was a long range sea based missile brought the Navy into the picture. On December 11, 1967, the Director of Defense Research and Engineering directed the Navy to start preliminary design of ULMS. Several difficult problems had to be considered: among them the dimensions of the missile, the number of missiles carried, and the speed of the submarine.

In response to the directive, the Navy undertook several studies which considered various configurations, including large missiles which would be encapsulated and carried outside the submarine.

In March, 1968, the Special Projects Office—the Navy organization that had developed the Polaris missile—was designated principal development activity for ULMS. Because of this added responsibility for Navy strategic systems, it was renamed Strategic Systems Project Office on July 29, 1968.

After further studies the Navy, on April 23, 1969, recommended no further consideration be given to missiles carried outside the submarine; instead they would be carried inside the ship, like Polaris. On May 28, the Director of Defense Research and Engineering accepted this recommendation, but asked that the design not foreclose the possibility of encapsulated missiles. He also asked for a study of various submarine designs, missile sizes, and number of missiles (16 to 30) per ship.

Early in the program it was thought that a low power, nuclear propulsion plant capable of propelling the ship at a few knots might be adequate. With long range missiles, the ship could reach its targets from off the coasts of the United States. But a large slow submarine would be more vulnerable. Moreover, it was important to have the ability to conduct distant patrols, should eventualities require this.

For these reasons, three alternative propulsion plant designs of substantial shaft horsepower were considered—a single large unit; two small plants having the same total horsepower as the large unit; and a single plant with lower horsepower.

On October 28, 1970, the Chief of Naval Operations (CNO) decided that a 24-missile ship driven by the single large reactor was the best choice. The Navy recommended this to the Secretary of Defense.

Some in the Navy and the Department of Defense questioned whether the greater speed of a single large plant was worth the added cost. This issue was considered by a panel of senior officers with extensive command and operating experience in nuclear powered attack and Polaris missile submarines. They recommended unanimously that the ULMS be designed with a speed which the single large propulsion plant would provide. On November 19, 1970, however, the President's Scientific Advisory Committee recommended still further studies, as, on December 2, did the Defense Science Board.

With the growing momentum of the program, it became clear that the magnitude of ULMS required a more comprehensive organization than had been required for Polaris. When the decision was made to proceed with Polaris at the highest priority, the Navy already had, on the building ways, submarines that could be cut apart and a missile section inserted; the nuclear propulsion plant had already been developed and was operating successfully. The major undertaking then, became development of the missile and its launching system.

But for ULMS, the missile, the ship, and the propulsion plant had to be developed. On January 19, 1971, the Navy established the ULMS project manager to coordinate the three parts.

On February 26, 1972, agreement was reached in the Navy on the ship size and characteristics. The need to minimize cost precluded using the single, higher shaft horsepower plant initially recommended by the CNO on October 28, 1970. Instead, the lower horsepower, single unit plant was selected. The ship would have 20 missile tubes. The length and diameter of the tubes dictated a 42-foot hull diameter. The desire to reduce the cost per missile delivered on target led to a later decision that the ship carry 24 missiles.

On May 16, 1972, Secretary of Defense Laird renamed the project from ULMS to Trident—the three-pronged spear carried as a scepter by the ancient sea god Neptune.

On July 25, 1974, the contract for the first Trident ship was awarded to the Electric Boat Division of General Dynamics Corporation with delivery of the first ship scheduled for April, 1979.

The *Ohio* will be delivered about 2½ years later than the original contract date, and at greater cost than originally envisioned. The ship represents the most advanced strategic submarine in the free world. The capability of this ship will significantly advance the strategic posture of the United States.

In addition to the *Ohio*, the United States naval strategic force consists of 34 Polaris and Poseidon missile submarines. The *Theodore Roosevelt* and the *Abraham Lincoln* have been decommissioned; and five of the earlier strategic missile submarines have been converted to attack submarines.●

QUESTIONS WAITING TO BE ANSWERED

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. DERWINSKI. Mr. Speaker, the other day I asked, rhetorically, this question: "Ramsey Clark, where are you when we need you?" I was, and am, asking why Ramsey Clark and company, so critical of the Shah when he was in power, are so silent now in the midst of the executions and other excesses being inflicted on Iran.

Afghanistan is another suffering country about which, unfortunately, media interest has diminished. But Soviet crimes and horrors in Afghanistan are not secret and at the House oversight hearing on Afghanistan, on July 22, my distinguished colleague, Hon. DON RITTER, raised some interesting questions. Why, he asked, are so many academic, political, and religious groups, so vocal during the Vietnam war, so silent on Afghanistan? Why are some of the individual voices, raised around the world during the Vietnam war, so silent now? Why are there no demonstrations outside Soviet Embassies? Where are the daily media denunciations? Why are there no war crimes trials of Soviet leaders while the genocide in Afghanistan is taking place?

Mr. RITTER and I are waiting for answers to these questions.●

MINERS ARE THE FIRST LINK IN CHAIN OF PROSPERITY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. GAYDOS. Mr. Speaker, despite distractions and stage-setting alarms about economic Dunkirks, the United States enjoys general prosperity and strength unapproached in the world; and as we tinker now with budgets and how it happens, it is proper to reflect on why it is.

I think of it as the other side of the supply side.

The first link in the chain of industrial prosperity is a hole in the ground, either the dark maze of tunnels and chambers that is an underground mine or the big open pits and quarries.

And there labors the miner at one of the most dangerous occupations in the Nation.

More than 80 miners died through mid-June of this year. They died ripping coal from the earth for export and to turn the wheels of industry and commerce. They died gathering the raw material used to make those wheels.

There is evidence the figure would have been much higher without the Mine Safety and Health Administration (MSHA), which has the responsibility for safety and health in all forms of mining. It comes from a General Accounting Office study of coal mining, but the findings well could have broader application. In MSHA we have a body of knowledge on mining in all its forms, all of which are dangerous. It is growing and its application is being refined.

A chief goal now is to reindustrialize—to produce more of everything and do it more efficiently. The administration is unlocking raw materials so fast that some complain they use boltcutters and hacksaws instead of keys.

Thus the economic goals of the Nation converge with mine safety and miners.

More production means more things will be taken from the earth.

This means more pressure on existing mines and miners, and thousands of new miners in coming years.

I will offer two examples from a list of many, Mr. Speaker. They are coal and silver.

Virtually every American looks on coal as our ace-in-the-hole as far as energy is concerned.

Coal is our comfort. We plan to gasify it and liquify it in the millions of tons to run our factories and our automobiles. We will generate untold megawatts of electric power with it.

It will free us, and the free world, of OPEC tyranny. We plan to export so much we are thinking about making our big ports deeper to handle the traffic.

We are the Saudi Arabia of coal. After all, we have 30 percent of the world's recoverable reserves.

But about 55 of 1981's dead miners were coal miners.

They died in groups of 2 and 3 and 10, and they died alone under 600-square-foot slabs of rock in the kinds of accidents called roof falls and rib rolls.

Nobody can tell you for sure how many more coal miners we will need to play our ace. But there will be thousands more, you can count on that.

More mines, more new miners, more intense production and a higher potential for more accidents, maybe more disasters—the other side of the supply side.

This means there will be a greater need for an effective MSHA, which our own i-dotting, t-crossing GAO found did reduce accidents and virtually eliminated disasters of the kind that killed 50 or more not long ago.

By the way, GAO's judgment is informally verified from an outside source.

One standard reference work listed only mine accidents killing 50 or more miners prior to 1968.

Its listing for the years after 1968 notes every accident that killed five or more.

One reason for the change, the disaster editor said, is that there have been so few big mine disasters in recent years.

Silver is my other example, Mr. Speaker.

Aside from being a precious metal, it is workable and a good conductor; it has many industrial uses in the modern world and demand should rise with activity.

Four of 1981's dead miners were silver miners, and 91 died in a 1972 disaster.

If we realize our hopes in reindustrializing, there will be more men—and now women—in the silver mines and copper pits and wherever miners have to go.

Miners will die this year in almost every State. They have died and will die, digging coal, silver, other metals, barite, bauxite, uranium, sand, gravel, clay, phosphate, limestone, and anything of value that occurs in minable quantities in the United States and its territories.

More demand, more mines, more new miners, more intense production, and a greater potential for accidents—the other side of the supply side.

We have mine safety and health laws and regulations because the people demanded them.

No contradictory mandate has been issued at any time since then, and, if deaths rise, the demand will well up stronger than ever.

So as we tinker with budgets and tax laws and how our prosperity happens—the supply side—it is proper to consider where it begins.

It begins in a hole in the ground with a miner doing dangerous work in places where effective regulation is known to reduce fatal accidents.

It begins on the other side of the supply side.

Mr. Speaker, as chairman of the Subcommittee on Health and Safety, I consider it my duty to work to see that our much-desired economic expansion is not paid for in the blood and bone of miners, and I am sure my colleagues on the committee feel the same way.

These remarks are the first in a series of four that I hope will bring miners, mining, and MSHA to the attention of the House; that I hope will cause us to think about prosperity and why it happens as well as how it happens.●

BASEBALL GAME

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. CHAPPELL. Mr. Speaker, I rise today in order to congratulate my fellow "Democratic Teammates" for their performance in last night's "Congressional Baseball Game." While the outcome of the game is not what I had hoped, there is no question that the Democrats exhibited great skill and sportsmanship. Great thanks to WALTER FAUNTROY, MARTY SABO, DAVE BONIOR, MARTY RUSSO, RON MOTTL, DAVE MCCURDY, TOM DOWNEY, TOBY MOFFETT, MIKE SYNAR, and VIC FAZIO. It is obvious that the time and efforts of these Members made the night a success and contributed greatly not only to the cause of Washington's Children's Hospital but to the great sport of baseball.

At this time I would like to also thank those members of the staff and friends for participating in the event this year. Special thanks to Roll Call and Sid Yudain for the coverage afforded the game and to Rick Holt and Gene Thomas of the Alexandria Dukes for their cooperation and assistance. Thanks also to Chief Powell, Captain Curry and the other members of the Capitol Hill Police and medical team who volunteered their time to make the night safe as well as successful. Other staff members who greatly contributed to the night include: Leslie Schindel, Laura Lisella, Maryellen McClune, Hyde Murray, Dorothy Olson, Eldridge Spareman, Bud Otto, Ken Burkhead, Joe Foley, Robert DuPree, Rick Lee, Shephard Hill and all those staff members who worked to sell tickets to the game. Special thanks also to the "Democratic Darlings" for their great cheerleading.

To Sears, I want to express my appreciation for both donated equipment and organizational assistance and awards.

To the gentleman from Massachusetts, I say only, wait until next year.●

AIR TRAFFIC CONTROLLERS' ACT OF 1981

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. CLAY. Mr. Speaker, today I introduced the Air Traffic Controllers Act of 1981—a bill which would significantly improve the working conditions of our air traffic controllers and would contribute toward improved safety in our Nation's airways. This bill modifies somewhat the worthwhile goals which were included in my prior bill, H.R. 1576, which enjoyed the cosponsorship of 39 of my distinguished colleagues.

Since I introduced H.R. 1576 there have been a number of significant developments. The Congress has embarked upon an ill-advised budget cutting exercise at the expense of the poor and the working classes. A few days ago the air traffic controllers overwhelmingly rejected the recent contract proposal of the administration and the controllers have already sought to reopen contract negotiations with the Department of Transportation.

Accordingly, in an effort to insure fair and just compensation to air traffic controllers, I offer this scaled-down version of H.R. 1576.

The principal provisions of my bill are as follows:

Provides for 32-hour basic workweek—section 3.

Establishes eligibility for full retirement after 20 years of service as a controller—section 4.

Provides 26 days of sick leave annually—section 5.

Provides air traffic controllers' exclusive representative the right to bargain collectively over wages, hours, and other conditions of employment—section 6.

Establishes a wage classification schedule in which controllers are paid

from $22,266 to $59,229 annually—section 7.

Provides salary differentials of 15 percent between 6 p.m. and 6 a.m., 20 percent for the duration of assignment as an on-the-job instructor, and 25 percent on weekends.

My new bill differs from H.R. 1576 in that it makes the following changes:

Maximum salary for controllers' highest pay grade is reduced from $73,420 annually to $59,229 annually and the immediate 10 percent across-the-board pay increase and the twice annual cost-of-living adjustment are both eliminated.

The right to strike is eliminated.

The 20-percent evening differential and the 30-percent differential are modified in favor of a 15-percent differential between 6 p.m. and 6 a.m.

The twice annual retirement cost-of-living adjustment is eliminated.

Annual leave and sick leave is not a negotiable issue and 26 days sick leave is provided annually.

Mr. Speaker, our Nation's air traffic controllers have awesome responsibilities. They are a highly skilled group of public employees. My bill recognizes the uniqueness of their responsibilities. It provides air traffic controllers with compensation which is commensurate with their responsibilities.

I urge my colleagues to support this legislation.●

NATIONAL NURSES DAY

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. LUJAN. Mr. Speaker, if there was ever a cause which would stand on its own merits, without the need for prolonged debate, this is such a cause. This resolution calls for the creation of a National Nurses Day.

The world is familiar with certain individuals in the field of nursing, who have received acclaim over the years. But the thousands upon thousands of nurses, male and female, who work in this dedicated profession, are entitled to our recognition. Clara Barton and Florence Nightingale are, in my opinion, but examples of the selfless and serving dedication which exists in countless hospitals, clinics, rest homes, private homes, and even battlefields. These are the people who are honored by this resolution.

It takes a special kind of person to deal with suffering, pain, injury, and sickness. It takes a wonderful kind of person to treat, administer, and care, day in and day out. Most of us have had personal encounters with sickness and injury, and we remember these times particularly. But, can you imagine dealing with such trauma every day, and still maintain a professional and caring attitude? Such are the nurses we honor with this recognition.

The nurses profession over the years has also been in the forefront of constantly maintaining professional attitudes and continually upgrading their training and skills.

We honor the nurses of America with a National Nurses Day. And we are thankful that from coast to coast, 24 hours of each and every day, our corps of nurses honors us.●

EXPRESSES HIS FEARS OF RECENT BUDGET ACTION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. SCHUMER. Mr. Speaker, I recently received a very moving letter and two very touching poems from a constituent, David Gimbel, who told me of his fears concerning the recent budget actions of this Congress.

A great deal of our discussions of late have centered on the very fortunate of our society. I would like to share with the Members Mr. Gimbel's poetry which focuses on the less fortunate of our society.

I would like to thank Mr. Gimbel for sending these beautiful works to me and I commend them to my colleagues:

THE KEY TO EQUALITY AND HOPE

(By David Gimbel)

When children are handicapped, retarded and such,
Their parents reach out, for it can mean so much.
Some are confined to institutions or at home,
But no matter where, they're so really alone.

Hidden away without pleasure or fun,
These children were denied their place in the sun.
Responsible people, at their usual slow pace,
Make us plenty of promises just to save face.

So last night I dreamed of a day to be,
Where every parent was given a key
To unlock all doors where their innocents were kept
Behind silent walls, where so many wept.

They called it a problem and hid it from sight,
And kept it in darkness, believing it right.
For reasons unknown their voices were stilled
But their broken hearts with anguish were filled.

But suddenly these parents began to see
That locks opened up when they turned the key,
And their children walked out in the sun and rain—
They stood there speechless and could not explain.

They watched their loved ones appear in the light,
And realized at once that this was their right.
So it's up to yourselves to make this all real
By turning your key and breaking that seal.

BIG GIRL, LITTLE GIRL

(By David Gimbel)

When your child is born, that sweet mystery of life
Can bring you such joy, or misery and strife.
And if it's retarded your world falls apart,
You're bewildered and lost and it's breaking your heart.

In so many neighborhoods these children are unwanted,
Looked down upon, ignored, laughed at and taunted.
But Hope is eternal, to that we all cling,
We just can't fly away like birds on the wing.

"Put her away", the family all cried—
Away from home to where love is denied.
But our ears were deaf to their mental blindness,
They don't know the meaning of compassion and kindness.

So you begin to make the rounds asking, searching, groping,
And deep down in your heart you're always hoping
That a new day will dawn in this blessed land
And instead of rejection they will all understand.

Big girl, little girl, how quickly the years have flown,
And now, my precious child, you're so pretty and fully grown,
Throughout our darkest days our children were forsaken,
But now with Faith and Hope most people are beginning to awaken.

We parents all look to the future years
After rejection, isolation, and our endless tears.
Yes Love, sweet Love is a beautiful splendored gift—
So remember these lonely children and it will give your hearts a lift.●

THE 50TH BIRTHDAY OF SRI CHINMOY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. ROSENTHAL. Mr. Speaker, at the United Nations headquarters in New York, the then Secretary General Dag Hammarskjold, urged that there be a room set aside in the Secretariat which could serve as a refuge—a room of quiet for meditation.

Beginning in 1970, a nondenominational group was formed and the distinguished spiritual teacher, Sri Chinmoy, was invited to conduct the meditations. Since that time the group membership has grown considerably and expanded its activities.

Throughout these years, Sri Chinmoy has worked tirelessly in a quiet and steady way to further the cause of international understanding and peace. The main focus of the meditation group's activities in New York and also in Geneva is the twice-weekly

meditations which provide an opportunity for spiritual renewal in an atmosphere reflecting of the highest purposes of the world organization.

The group sponsors an ongoing series of conferences and symposia which provide a forum for Ambassadors, Secretariat officials and staff members, religious leaders, and other world-minded individuals who can share and reinforce their spiritual vision of the United Nations.

Behind much of this activity stands Sri Chinmoy, with his vision and support for the world organization.

While I was serving as a delegate in the 34th General Assembly, I cosponsored a program with Sri Chinmoy, "Meditation at the United Nations," when they honored Members of Congress who have served there.

Today, I congratulate Sri Chinmoy on his 50th birthday which he will be celebrating on August 27, and to wish him continued success in his work at the United Nations and in his activity as an artist, poet, and musician.●

ALAN EMORY'S "CHINA DIARY"

HON. DAVID O'B. MARTIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. MARTIN of New York. Mr. Speaker, Alan Emory, Washington correspondent of the Watertown, N.Y., Daily Times, is a 30-year veteran of the Washington press corps. Many of us know him, not only for his distinguished work as dean of the New York correspondents covering Washington, but as an active and prominent member of the Gridiron Club and a leader in the Washington Chapter of Sigma Delta Chi, Society of Professional Journalists.

Recently, Mr. Emory and his wife, Nancy, returned from a 12-day working vacation to the People's Republic of China. He has shared his experiences in China with us in a series of 11 articles, entitled "China Diary." I recommend it to anyone who wishes to know more about that huge and rapidly changing country.

In today's RECORD, I offer you the first four articles in Mr. Emory's series:

[From the Watertown Daily Times, July 9, 1981]

CHINA DIARY—I: A COUNTRY OF WALLS

(By Alan Emory)

PEKING.—China is a country of walls.

Walls around cities. Walls around towns and communes. Even walls around homes.

China is a country of curious and friendly people. They want to know about the United States, and, far from the bustling population centers of Shanghai, Peking and Canton, they are fascinated by fair-skinned westerners.

China is a country that discourages religion as repugnant to communism, yet boasts proudly of its ancient temples and regales visitors with stories of Buddhism and Taoism.

China is a closed country slowly opening to hordes of tourists, building new hotels as fast as materials can be obtained, but, as in Soviet Central Asia, the hotels are riddled with defects and deteriorate rapidly.

China is a country of paradoxes.

Its billion people are short of water in most sections, yet faucets drip and toilets run on after flushing.

Its cities are clean, yet the Chinese spit on the sidewalks.

The Peking airport is huge, yet when we arrived there were almost no planes on the runways and the few passengers were swallowed up in the terminal.

Farmers crave rain, but it can pour for days at harvest time, threatening the crops. Grain cannot be harvested sopping wet.

China is a country of commitment and self-inspection, anxious to modernize, but not compromise, to expand horizons while restricting much individual initiative. There are production incentives on farms and in factories, but they are very small, running only about $8 to $10 a month.

The economy is rigidly oriented. Job shifts are discouraged to the point of near-impossibility. The farm commune brigade teams meet every morning at the sound of a bell to distribute assignments.

China is a country of many skin colors—copper, bronze and deep brown, along with the more common olive-tan—of ethnic diversity, of so many dialects that, while most sections understand the universal Mandarin, someone from Shanghai has great difficulty in Xian, and in Southeastern China Cantonese is a must.

China is a country of 40-year-old trucks with sprung hoods, of trains drawn by locomotives of ancient vintage, of people riding to and from work on bicycles. Bicycles everywhere, carrying infants on baskets, piled high with boxes and farm goods and paving stones.

China is a country where clothing is simple, but not totally uniform. Contrary to popular impression, everyone is not attired in blue Mao tunics and trousers.

Some wear olive green, many men, and some women, choose white shirts and black trousers, and blue is common, but not universal.

Young women and girls wear dresses, but usually shift to pants as they grow older. Some elderly women still have their feet bound.

Sandals are common footgear, but a few men wear shoes.

China is a country of industry and artistry, and if imagination for the moment is subordinated to the god of progress, that is understandable.

China, despite its ancient culture, realizes it has a long way to go, is eager to move quickly and has little tolerance for those it feels stand in the way of that progress."

[From the Watertown Daily Times, July 10, 1981]

CHINA DIARY—II: TRAIN TRAVEL OPENS COUNTRY TO VISITORS

(By Alan Emory)

CANTON.—The visitor usually enters China via the Hong Kong-to-Canton route.

It is a three-hour train ride from Hong Kong, through the New Territories, bustling with construction, past the South China Sea with its junks and sampans, and rice paddies tended by farmers with their water buffaloes.

There are two express trains daily covering this route and four locals, but the traveler has the option of taking one of three flights a day or one of three hovercraft trips if the China International Travel Service (CITS) specifies.

The only other entry is by plane to Peking.

The train starts out slowly, but eventually picks up speed, passing a refugee camp filled with Vietnamese behind barbed wire.

Meals are served in the dining car family-style, with local cola drinks and American and Chinese beer, along with orange soda, as the beverages, four main dishes, plus soup.

The cars have individual seats that recline and swivel, and there is a small television set at the end with a perpetual movie of a Chinese woman singing, singing, always singing, apparently the same song.

The farms seem to reach right into the communities themselves in China, and often the crops grow in the shadow of factories and power plants. They thrive, curiously, as plumes of industrial exhaust pollute the air above them.

There are uniformed train guards in olive and white uniforms, red stars decorating their collars and caps.

In sharp contrast to the comfort of this train, dingy green local trains, packed with riders and looking like relics of the Old West, pass the other way.

Some trains in China are pulled by ancient locomotives, chugging painfully on difficult stretches of track.

Trees line the railroad tracks throughout the country, and workers swarm in the fields and rice paddies, often dressed in black pajamas and straw hats.

A 320-mile flight from Taiyuan near the Inner Mongolian border to Xian takes about an hour and a half in a DeHavilland Otter. It passes over incredible landscape—desolate arid terraced tabletops, flat areas with "fingers" of rock and trees reaching out; thick, green forested mountains.

The muddy giant Yellow River, widest in China (the Yangtze is the longest), winds its way through the countryside and out into the sea.

Train cars bear Russian influence in the cyrillic writing on wash-up and toilet cabinets.

Along the routes train guards work out of yellow brick buildings.

Passengers on planes are served preserved fruit as candy and offered fans to use until the air conditioning goes on—when it does.

The Russian influence appears also in many Chinese hotels. Service is provided on each floor, and in most cities room doors are left unlocked, so if the visitor does lock the door he must get the attendant to let him in.

In Peking—or Beijing as it is more commonly called today—the tourist can lock his door and leave the key with the attendant.

Some hotels have 110-volt electrical outlets, but they don't work. They have bathrooms on each floor, as well as in the individual rooms.

Laundry taken to the service desk in the morning is often, but not always, available that evening. The visitor pays in cash when he gets it.

The service desks provide tea, usually free, but there is usually loose tea in a canister in the room.

There are two kinds of drinking water, hot boiled water in a huge thermos that remains very hot for a long time, and cold boiled

water in a carafe. Tap water is unsafe throughout China, except for taking baths.

The bellboy bringing the luggage to the hotel room greets the tourist with a pleasant "welcome" in English, but tourists are warned in advance. Tipping is taboo.

As in Russia, the beds in hotels in distant cities like Datong and Taiyuan are pallettes, with quilts and blankets for covering. Electric fans take the place of air conditioning except in the largest cities and most modern hotels.

Getting hot water is a little like playing roulette. It is available during the day, but not usually late at night. Bathtubs are raised on blocks for feet, and sometimes there is just one electrical outlet, which is by no means certain to take an adaptor.

In Taiyuan "new" section of the fanciest hotel, finished in 1976, has plumbing that is already shot, cracked tiles, toilets that groan when flushed and rust in the tubs.

But it also has three electrical outlets, all taking adaptors, though none is in the bathroom.

Terrycloth bathrobes replace bath towels in this hotel.

More modern is the Guest House in Xian, in the center of town, with air conditioning and some suites with a sitting room and bedroom.

Canton—more popularly known now as Gwangzhou—is a center of hotel-building, but its ultra-modern South Lake Hotel is too far from the city to do any shopping, its one-lane road is too narrow for two vehicles to pass abreast, so one has to back up to the intersecting highway, and the airconditioning just barely works.

It is garish, plastic and touristy, and a sign in the lobby says "concierge."

However, the hotel does have television—two channels in color if you can understand Chinese—a refrigerator with cold drinks (and a charge for each used) and indirect lighting, a modern tiled bathroom with up-to-date fixtures, electrical outlets that won't take adaptors and terrible food.

In this hotel, it developed service personnel will enter locked rooms for more than cleaning up. One visitor had a camera stolen the date she was to leave.

[From the Watertown Daily Times, July 11, 1981]

CHINA DIARY—III: MEALS ARE STARCHY; FOOD BETTER IN U.S.

(By Alan Emory)

PEKING—Devotees of Chinese restaurant food in the United States should be forewarned: Chinese food in China is almost totally different (and not as good).

Meals are consistently large and varied, heavy on the starch, lots of eggs.

Some of the food looks simply awful, and some of it tastes that way.

Forget about cheese and water.

In hotels and restaurants a typical lunch or dinner involves at least three cold appetizers, often small slices of meat and separate plates of vegetables, doughy dumplings with or without filling, six main courses, rice and soup.

There is always much more than enough to satisfy a table of eight.

Dessert is a rarity, although in one city we were served one popular in American Chinese restaurants, pieces of fruit covered with a syrup that are plunged into ice water to harden the covering. In a Xian hotel a kind of ice cream close to sherbet was served in three different flavors on successive nights—caramel, pomegranate and vanilla.

The most popular courses are peanuts, usually served alone, and fish—the whole fish, usually fried crisp, with the eye staring at the diner—duck, chicken, pork, eggs, vegetables and, occasionally, beef.

The sauces can be tasty, but are relatively bland, with one comparable to the popular sweet-and-sour sauce in the U.S.

The usual accompanying drinks are beer, warm as often as cold, and a soda pop—a kind of orange; yellow, tasting like bubble gum; red, tasting like sugar water, and clear, tasting like Sprite. These are usually served at room temperature.

The diner can order tea at lunch or dinner, and tea and coffee are breakfast staples.

In many Chinese cities hot meals are sold on street corners, either with separate dishes from counters or all-in-one meals in bowls.

Breakfast in China is western or Chinese. The latter is not different from a small lunch or dinner, but a western-style breakfast involves several different kinds of sweet cakes, toast and marmalade, eggs, for which hot red peppers turn out to be a marvelous condiment, and bread.

The Chinese often eat a kind of fried bread, not as sweet as a cruller, but similar in appearance.

It is a good idea for the tourist to practice with chopsticks before visiting China, but the Chinese will provide silverware if the tourist requests it.

The sugar on the table for tea or coffee is usually cane sugar.

Despite their popularity at U.S. restaurants, very spicy dishes are rare in China. Tourism has not yet blossomed in Szechuan or Hunan, the homes of the hottest varieties, and our trip did not go to either area. In two weeks of travel through China we could count the number of spicy dishes on one hand.

A meal at Peking's finest duck restaurant disclosed that the Peking duck served there was fattier than at the best comparable establishment in the Washington area, though it was delicious.

The meal involved other parts of the duck, including the foot webbing, which proved too rubbery for me to digest, though the sauce was nice and spicy.

The best meal on the trip was served at a farm commune 15 miles from Canton, with a marvelous soup and an especially good fish. Dessert there was watermelon, which we ate with some reservation, but without incident. It is a good rule not to eat any fresh fruit or vegetable in China, especially with the rind on.

On trips to museums or factories tour groups are usually served tea while they are briefed by the museum director or factory supervisor, and occasionally there is a Coca Cola "break."

The box lunches with which tourists are provided on long train rides are extremely starchy—lots of bread, dumplings, almond cakes, a little dried meat and hard-boiled eggs.

There have been many tales about the fiery Mao tai drink, but it turned out to be less than devastating to me, just repulsive-tasting. I did not sample the slightly less explosive product of Taiyuan's Apricot Village, a "wine" made just the way it was 1,500 years ago.

The Chinese also like a sweet plum wine, counterparts of which are available in the U.S.

[From the Watertown Daily Times, July 13, 1981]

CHINA DIARY—IV: PEKING A MIXTURE OF MODERN, OLD; CAPITAL CITY "WHERE THE ACTION IS"

(By Alan Emory)

PEKING.—This is where the action is, for both diplomats and tourists.

The capital of the People's Republic of China is the country's second largest city at 9 million, trailing only Shanghai.

It is where tourists go to view the Great Wall, the Forbidden City and Mao Dzedong's mausoleum. It is where democracy flourished briefly in the rush of posters at Tienanmen Square at what is now called Democracy Wall, but is not shown to visitors voluntarily.

That was after China's leaders decided that a little self-expression was plenty and people should not be given too much encouragement.

Peking has a modern airport, built at the end of 1979. Driving into the city at night the visitor sees cars and buses moving along slowly, using only their parking lights. There are few traffic lights, fewer police.

People sit in the road playing cards wherever pools of vapor-lamp illumination provide bright spots, and the vehicles maneuver around them.

The Peking Hotel, where we stayed, was fairly modern and clean. It was built in three sections, the last in 1958.

According to the Chinese, 70 percent of the city's population has television. Many of the buildings are of brick with sloping tile roofs.

Running through the city is an old canal, once used by an empress for boat trips. According to legend, if she didn't like those providing the royal entertainment she had the performers killed.

Transportation is provided by buses and electrified street cars, many with accordion-pleated sections to make it easier to turn.

Early in the morning residents are out exercising on rooftops and in parks, performing martial arts gestures in groups under supervision or individually, playing badminton on sidewalks without a net or shooting baskets in courtyards. There are lots of joggers, singly or in groups.

Major highways have lanes at either side designated for bicycles, and they need them. Buses are usually jammed, but cyclists are always on the road. A bicycle costs about $100, and roughly one out of every three persons has one even though it means a year's savings.

Rent is not high. It comes to roughly $3 a month for an apartment including a bedroom and sitting room.

In many Chinese cities the farmers dry their wheat in the middle of the road. Sometimes motor vehicles respect that, other times they drive right over it.

The wheat takes about two days to dry properly, and farmers sweep it into long sections.

They swarm over the fields and rice paddies, since they only have about 10 days to harvest the rice.

The Great Wall at Badaling is 45 miles north of Peking. Built to keep out barbarians, it is a series of walls joined together more than 3,000 miles long, 22 feet high and 22 feet thick. It also helps farmers by breaking the strong Mongolian winds.

Young soldiers race up the steep steps, and the view is breathtaking. Of course there are souvenir shops all over. One carries the sign "Great Wall Arts and Crafts Shops."

Visitors take the train to Badaling, and on the way back it stops at the Ming Tombs 15 miles nearer the city. The entrance roadway is lined with huge carved statues, mostly of legendary animals, but some of warriors, to ward off the enemy. Those who built the coffins put jade between them because it was thought that would keep the body forever.

Another stunning site is the Temple of Heaven, whose south section has vivid blue—almost purple—tile on the roofs and walls, a wall at which one can stand and whisper and be heard hundreds of feet away at another section and a circle on which one can stand and speak softly, yet appear to shout.

The temple is at the Summer Palace, where royal families once rested, and visitors take a boat across a picturesque lake there. The boats push off from a mooring spot that is a marble boat itself.

Another famous spot is the Imperial Palace, or Forbidden City, covering 250 acres surrounded by huge walls and covering 9,000 rooms. At one time only emperors and the cream of Chinese society could enter there.

The palace is across Tienanmen Square from the Great Hall of the People, where the government's state functions are held.

One charming, but little-known, part of Peking is Ritan Park, where singers and other performers go to practice in the very early morning hours under the coaching of professionals or retired actors and singers.

Songs and scales fill the air, but a visitor needs a sharp eye to find the singers, usually hidden behind bushes on small hillsides. The park is several blocks behind embassy row, the International Club and the big Friendship Store and charges a small admission fee.

By 5:30 or 6 in the morning almost all the activity has ended. The only way to get to Ritan then is by bus, because no taxis start running until 6.

Bus fare is about six cents, and the collectors are so friendly that sign language and a map will usually result in the visitor's being notified when to get off the proper stop.

Chinese passengers on a crowded bus immediately rise and offer a seat to a woman tourist.

Almost all big Chinese cities have Friendship Stores, designed to serve tourists. They accept hard currency and travelers' checks, as well as Chinese money. Prices are often better, however, at the regular Chinese department stores.

Peking also has a subway which is clean, functional and growing, if somewhat less ornate than its Russian counterpart.●

U.S. NAVAL ACADEMY HONORS PROF. CHARLES T. GABRIELE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. CHAPPELL. Mr. Speaker, Prof. Charles T. Gabriele, resident of my district, a noted composer and conductor served as Composer-in-Residence and Conductor Emeritus of the U.S. Naval Academy Band from July 1976 to July 1981. It is indeed commendable of the Academy to present a beautiful plaque and to honor him by performing a "Bravo Maestro Gabriele Concert."

During the 5-year period, Professor Gabriele enabled the band to premiere more compositions than any previous composer during a span of 5 years. Among them are his "Christopher Columbus March," "John Paul Jones March," "Queen Isabella March," "My Heritage," "Concertino for Clarinet," and many other marches and works for concert band.

Professor Gabriele is a member of ASCAP; American Association of University Professors; American Band Association; and other professional associations. He holds four earned and one honorary college degrees. His awards include the Arturo Toscanini medal; American Legion medal; Knights of Columbus medal; Christopher Columbus medal, and others.

Mr. Speaker, I proudly join the U.S. Naval Academy in saluting Prof. Charles T. Gabriele on the occasion of his retirement.●

HOUSE OF REPRESENTATIVES—*Friday, July 31, 1981*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, You have blessed Your people through the ages and given them the strength to meet the demands of their day. We pray that we may gain the perspective of Your Kingdom and know the encouragement that comes when we realize that You inspire people in good times and bad. When we do the right, reassure us, when we need help, sustain us, and if we lose sight of Your heavenly vision or are anxious about our lives, embolden us with the bounty of Your grace and love. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 694) entitled "An Act to authorize supplemental appropriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such fiscal year for construction at certain military installations, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 1100. An act to amend title 38, United States Code, to expand eligibility of former prisioners of war for certain benefits and health-care services provided by the Veterans' Administration, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 304) entitled "An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. PRESSLER, Mr. SCHMITT, Mr. GOLDWATER, Mr. CANNON, Mr. INOUYE, and Mr. EXON to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 102. Joint resolution to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month."

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 203 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 203

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4331) to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act if called up by Representative Bolling of Missouri, said bill shall be debatable for not to exceed one hour, equally divided and controlled by Representative Bolling and a Member opposed thereto, and the previous question shall be considered as ordered on said bill to final passage without intervening motion except one motion to recommit, which may not contain instructions. After the disposition of H.R. 4331, it shall be in order to consider, any rule of the House to the contrary notwithstanding, the conference report on the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for fiscal year 1982, said conference report shall be considered as having been read and shall be debatable for not to exceed two hours, equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, and all points of order against said conference report are hereby waived.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this is undeniably an unusual rule and, as I guess, it has been reported more or less accurately in the press. It is the result of a compromise by the leadership on how to handle a very difficult situation.

I think what I will do is just describe specifically the contents of the rule and then I think I will reserve most of my time to yield to others or to finalize the debate. In other words, I will speak last on the reason that I think that this is important to be passed.

The rules provides first for the consideration of a bill which would repeal the section reducing minimum benefits in the omnibus reconciliation conference report.

That bill, as passed by the House of Representatives, would then go to the Senate, where it would be referred, as I understand it, or at least sought to be referred by the leadership to the Senate Finance Committee where it would be pending to be handled, as I understand it, routinely sometime, not next month, but the month after next, in September.

That ties in with the fact that we have in the Ways and Means Committee a subcommittee that is dealing with the whole problem of social security.

I should in all fairness at this point give some warning that my interest in this matter is not going to wane with the passage of this rule or the passage of this bill and the reconciliation matter. The Rules Committee is still going to be very much interested in what goes on in the attempts to modify the social security system.

This is not the end of the interest by the Rules Committee and its chairman and members in this whole problem of modifying social security in a responsible way so that the system which is now impaired in a variety of ways will be made whole, I hope without taking away the benefits of those who have retired or those who will retire.

I do not know what the possibilities are going to be, but it is very clear to me that at least one member of the administration has pressed the panic button in a way that has terrified millions of people in this country. There may be others pressing that panic button, but I do not happen to have heard them talk in the House as yet.

So that is the first part of the rule.

And the second part of the rule makes in order the omnibus reconciliation conference report, a matter on which all have worked and with which we are all familiar. It would be taken up routinely and in a very brief time. There would be 2 hours of debate on it and then there would be a vote. There

are no amendments in order on it under this rule.

It seems to me this rule is the best way out of a difficult situation. It is a compromise in every way. I am well aware that there will be bitter opposition to it on the part of people with whom I am essentially sympathetic, but I disagree with their judgment, which I am sure will be that the previous question should be defeated and the rule modified by them.

If we do not adopt this rule, we very well could have considerable delay. We very well could have a complete deadlock between the House and the Senate and, I, therefore, favor the rule and will speak later at greater length on the reason why it is essential.

I intend to yield half of the time remaining to me to the gentleman from Minnesota (Mr. VENTO), so those who are opposed to the rule will have a fair shot at it.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statements just made by the gentleman from Missouri relative to the rule. I support the rule and I also support the agreement that has been worked out on both sides of this Capitol Building and by the leadership on both sides of the aisle relative to the procedures to be used in resolving this social security problem.

Let me say in reference to a comment that the gentleman from Missouri made about the social security system, we do have to do something about the social security system and certainly the confidence of the American people in this system has been eroded.

□ 1010

Let me just refer to a couple of polls.

The study of American Attitudes Toward Pensions and Retirement, commissioned by Johnson and Higgins, conducted by Lou Harris & Associates, as early as 1979 found that more than 8 out of 10—8 out of 10—current employees had less than full confidence that social security will pay the benefits to which they are entitled when they retire. Forty-two percent have hardly any confidence at all. A nationwide survey of attitudes toward social security prepared by the National Commission on Social Security, by Peter D. Hart Research Associates, Inc. found that 61 percent of the nonretired have little confidence that funds will be available to pay their retirement benefits. These doubts were expressed by almost three-fourths—three-fourths of those between ages 25 and 44.

A New York Times-CBS News poll reported in July of this year that a majority of the American people, 54 percent, no longer believe that the social security system will have money available to pay them full benefits at retirement. Now, according to a 1981 report by the social security board of trustees, which manages this fund, the largest of the trust funds, the old-age and survivors insurance, would become insufficient to pay benefits in the latter half of 1982; under all five sets of alternative economic assumptions.

Now, this certainly ought to stir this Congress to some sort of action. The administration has put forth some suggestions that have been immediately shot down. Some Members of this Congress have put forth some suggestions for solving the problem before we go broke in 1982, and they have immediately been shot down. The question in my mind is whether or not this Congress has the courage—the courage—to do anything about it before the checks stop going out in 1982.

Now, what is the argument all about. You know, you can make political hay by always saying to somebody who might invision a diminished check, or somebody who might not get a modification because of some changes in the add-ons in social security that were not adequately prepared for in the rate structure. But you cannot go on with this political posturing forever.

Sometime we are going to have to fish or cut bait, or this fund is going to be depleted and all the people receiving retirement checks in 1982 are going to cease to receive them.

This is what the debate is going to be about today, whether or not we are going to use this time to talk about the facts. Whether or not we have the courage to do something about the flows in the social security system, the fact remains that the figures and statistics all show that something must be done to save the system. I look forward to the opportunity of participating in this debate and, hopefully, something will be done to save this system from default.

Mr. Speaker, I have one request for time. I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in opposition to the rule before the House and I urge my colleagues to vote down the previous question.

Last night along with the gentleman from Minnesota (Mr. VENTO) and the gentlewoman from Ohio (Ms. OAKAR) I appeared before the Rules Committee to ask for a rule that would provide for a separate consideration of the social security minimum benefit issue and from the reconciliation conference report which is presently before us. Regrettably, that request was not granted. Instead, we have before us a rule that will force us to accept the elimination of the minimum social security benefits—after having personally voted to restore that same benefit in a gesture that may now be futile. It may be futile because the Senate may or may not take up the proposed restoration bill—having opposed such an initiative on two prior occasions—and if they do not, 2 million Older Americans who depend on the minimum social security benefits to maintain their standards of living, however low that may already be, will lose benefits that they have counted on and that they cannot afford to lose.

Mr. Speaker, just last week the House voted overwhelmingly, by some 400 votes, to adopt a resolution in support of the social security minimum benefits. I now urge my colleagues to give that vote some real meaning. Symbolic gestures are well and good but they do not put food in senior citizens' mouths or roofs over their heads. This is the only opportunity we will have to do something meaningful for the older Americans to whom we have given our solemn pledge that current benefits will not be cut, that the safety net will not be torn apart.

Never in the history of the social security program have we voted to cut benefits for current beneficiaries. I do not believe that this Congress wants to be the first to do so. I do not truly believe that this House wants to vote to deny benefits to this elderly and dependent group of people, forcing them to swallow their dignity to apply for welfare.

Mr. Speaker, hard facts on this program are difficult to come by because the recipients are so thoroughly mixed in with the general social security population. We know that a great many of them—perhaps 75 percent—are women; and we know that most of them are in their seventies and eighties. The costs of the changeover are estimated at millions upon millions of dollars. A Jack Anderson column this morning noted a report by the Committee on Ways and Means to the effect that the social security system's computers are in such bad shape that the determination of any reduction in these minimum social security benefits will have to be done by hand at immense expense.

Mr. Speaker, last night, when we appeared before the Rules Committee, we were extended a thorough and courteous hearing and I certainly want to commend the distinguished Rules Committee chairman, the gentleman from Missouri (Mr. BOLLING), for his efforts to find an effective resolution—a way out—in proposing this rule—but we can get ourselves off the hook by voting down this rule this morning.

Permit me to stress again that this may be our only opportunity to restore these minimum benefits. I urge my colleagues to reaffirm the commitment we made last week to our Nation's senior citizens and to vote "no" on the previous question.

Mr. Speaker, I am inserting at this point in the RECORD, for review by my

colleagues, this morning's Jack Anderson column:

SOCIAL SECURITY: COMPUTERS ADD TO THE WOES

Millions of elderly Americans subsist on meager Social Security pensions, which leave them too poor even to afford cut-price meats. Some satisfy their craving for meat by eating pet foods; others exist on a diet of starches and water.

Now these forgotten Americans are caught up in a political Sturmund-Drang over President Reagan's move to eliminate the $122-a-month mandatory minimum Social Security payment. His cold-eyed budget director, David Stockman, predicts this would save about $496 million by next April.

It would be a saving, unfortunately, at the expense of the nation's most pathetic individuals who would face reductions in their income of as much as $800 a year. Rep. Jake Pickle (D-Tex.), claims that most of the sacrifice will be borne by women over 65, nearly half-a-million of them in their 80s.

The bureaucrats who will recompute the payments, meanwhile, have another concern. This is spelled out by the staff of the House Ways and Means Committee in an internal memo. The Social Security Administration's computer system, they write, "is in such poor condition that this task cannot be done automatically and must be done through manual reprogramming."

Much of the money that will be taken from the elderly, therefore, will have to be spent either to upgrade the computer system or to pay for the tedious paper work. It would take all the available claims adjusters, working 10 hours overtime each week, at least two full months to execute the cuts.

An internal document from inside the agency's Office of Central Operations warns that the undertaking "would create critical backlogs in other workloads . . . resulting in both underpayments and overpayments. The district offices will be inundated with requests. We can also predict an increase in complaints to congressmen."

This could create another cloud on the horizon. "Beneficiaries in large numbers across the nation," the memo notes, "will be faced with reductions or eliminations in benefits, overpayment notices and poor services." So the question is posed: "Will due process be required before adjusting benefits, and, if so, with what assistance and in what time frame?"

In laymen's language, the question might better be phrased this way: Will the people whose benefits are cut have the right to be notified beforehand and to file objections?

Footnote: An administration spokesman suggested the alarms were so much folderol. The internal report, he assured my associate Tony Capaccio, "doesn't carry much weight."

Mr. BOLLING. Mr. Speaker, I yield 15 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, first of all I want to thank the gentleman from Missouri for his fairness in terms of consideration of the rule and his consideration throughout this process. Certainly, he is without equal with regard to his concern in this issue.

But frankly, Mr. Speaker and Members, I am very concerned about the state of this House and of this reconciliation process. We have virtually stood the legislative process on its head in order to accomplish and to accommodate the forces, the leadership, and the administration, in the process. I believe we have done not just a disservice to the process—I am no great worshiper of process, but I think the injury that we will cause to the people that we represent by virtue of this in not providing the voice and the deliberate process that should characterize this body, this House and the Senate, is an injustice we will long regret.

The fact of the matter is that the result of this reconciliation bill, like the dust from Mount St. Helens and like the boulders, will be falling for years. Today I bring to this well a concern almost of a landslide, it is so obvious in terms of the impact on the people that we represent; that is, of course, the elimination of the minimum benefit.

There are many injustices, many flaws that are attached to this particular reconciliation package, but some we should be able to hear, we should be able to see. We have a proposal before us that affects 3 million recipients of social security, and I heard our distinguished colleague, Mr. LATTA from Ohio, talk about the impact that these add-ons in terms of social security have.

□ 1020

Mr. Speaker, let us keep one thing in mind, that the minimum benefit is something that has been in the social security system since its inception. So I point out to the Members and point out to others today that the only true vote we are going to get in terms of the social security minimum is the vote on the previous question, and I ask the Members to vote no on the previous question for a very good reason.

As to the scope of this conference, the agreement, the so-called leadership agreement that existed, I do not question the intentions of those who participated in that, but I do question the results, what the impacts are in terms of this entire process, and the impact is that we can violate that scope, we can modify it and interpret it any way we want, and the Rules Committee chairman and the Rules Committee were honorbound to provide a rule that put all of the matters in order.

There are any number of single violations of that particular scope. Just to point out one, for instance, there is the urban reinsurance program, which appeared neither in the House nor the Senate bill but miraculously appears in this reconciliation motion. There is the Head Start program which gained headlines. In other words, outside the scope, the Senate had a certain figure and the House had nothing. They could not go beyond the scope for one very important part, and that is the minimum social security benefit program.

What is the record of this House and what are the statements of this President with regard to the minimum benefit? The record is very clear that this House has gone on record by the majority leader's motion or by the majority leader's bill by over 400 votes to a handful against, and this President of the United States got on the television this week, and the President stated that we will not take away benefits from people now receiving them. What his intentions were and what the phrases meant, most people are not semanticists who could sit down and analyze it.

I think the direct result of that is that the people of this country do believe that it is not his intention or his administration to cut any social security benefits. That is the intention. That was intended by the Members, and through this process we now, a few days later, are passing a reconciliation motion that will contradict both our own expressed actions and the words of the President of the United States.

Is there any wonder that there is a credibility gap between the people we represent and the leadership in Washington? Is it any wonder that the people lose confidence and say that Government and the very process that we work in becomes meaningless?

I think we can strike a blow for credibility. We can strike a blow today for the poor and those affected. And make no mistake about it, the people are affected by this benefit. That is who is affected.

We started this process, and we are deceiving and, I believe, deliberately modifying our rules in terms of trying to accommodate this reconciliation process and the elimination of the minimum benefit. I think it has gone on long enough. I do not think the opposition to these social benefits needs a two-touchdown advantage in terms of what is going on in this House and in the future, and I say to them that we should level out the playing field and vote no on the previous question and then put a rule before this House that will call the Senate to account with regard to the benefits they are stripping from millions of Americans, Americans who need them and have come to depend on them.

Mr. Speaker, I ask for a no vote on this previous question so we can hold our heads up during the August recess and show that we have done something to provide a process for correcting this action and any excess that might exist with regard to the minimum benefits. A no vote on the previous question will attain this objective.

Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. MIKULSKI).

The SPEAKER. Without objection, the gentlewoman from Maryland (Ms. MIKULSKI) is recognized.

There was no objection.

Ms. MIKULSKI. Mr. Speaker, I thank the gentleman for yielding me this time, and I would like to compliment the gentleman from Missouri (Mr. BOLLING) on his yeoman efforts on the rule.

However, I will support the move advocated by the gentleman from Minnesota (Mr. VENTO). Of those 3 million people that we are talking about, a significant number of those people are wives and mothers who are being penalized because they chose motherhood as a full-time career.

What we explicitly state as our values, we implicitly deny in our Government programs. We claim to honor motherhood, yet every day, every year, we talk about how much we value mothers. We send them billions of dollars in little greeting cards on Mother's Day. Yet we will not include a recognition of them in social security.

One of the reasons that women qualify only for the minimum balance is that they take time out to raise their families. In this country we count in the gross national product those who are out making hula hoops and even pornographic movies, but we do not count in motherhood. We should at least keep these widows who raised us, fed us, cared for us when we were sick and made sacrifices for us, they should not be treated like paper cups and thrown away.

Mr. Speaker, I would like to speak to those spiritual mothers who fulfilled an important role during our very formative years. I speak of the nuns who have served in the hospitals and schoolrooms and acted as missionaries. We should now certainly keep them in social security.

Mr. VENTO. Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

The SPEAKER. Without objection, the gentleman from Texas (Mr. WRIGHT) is recognized.

There was no objection.

Mr. WRIGHT. Mr. Speaker, it is with some sadness that I have to say that this is an imperfect rule. It is better than no shot at all. It gives us an opportunity to pass a separate bill that undoes the damage that was done to social security recipients in Gramm-Latta II, which was crammed down our throats in one full piece.

I compliment the conferees on having undone some of the other grievous damage. They have saved about $3.5 billion in very worthwhile programs that were ravaged by Gramm-Latta II which we swallowed whole and blindly.

Why is it that we cannot have a rule that permits us quite simply and directly to send this reconciliation bill back to conference, having stricken out that offensive social security provision which 405 Members of this House said they wanted out of that bill? Some did not choose initially to open up the reconciliation bill to seperate amendments so that we could have voted on this matter openly on the floor in the first place. But once directly confronted with it, they voted to repudiate that social security provision which eliminates the minimum benefit. By a vote of 405 to 13, the membership of the House said in effect that it does not want that provision in the bill.

Yesterday there was a meeting. The leadership on the Republican side called our attention to certain agreements that were made and said we should keep our agreements, and of course we should. One of those agreements was that the House leadership will support a rule which makes the conference report in order and waives all necessary points of order. I think we can fulfill that agreement and still open it up to let the membership work its will on this particular provision. I do not see how this action would be violative of that rule.

Another part of the agreement was that the subconferees——

Mr. MICHEL. Mr. Speaker, will the gentleman yield on that point?

Mr. WRIGHT. No; I am not going to yield to the gentleman now because I had a conversation with him yesterday in which we discussed the earlier agreement. I understand his interpretation and I think he understands mine. I am saying that I just do not think a separate vote on social security would violate the agreement. I think we can have a rule that would make the conference report in order and would waive necessary points of order and still open it up to let the membership work its will on the minimum benefits. That is my opinion.

I say further that the gentleman has pointed out to me another of the agreements. The subconferees will not reopen provisions which are the same in both bills. That was an instruction not to the membership of the House but to the subconferees. They fulfilled that instruction. They fulfilled that instruction in face of the manifest will of the Members of the House that they do reopen this particular matter of social security benefits.

All right, we have kept our word. But now I am going to call on somebody else to keep his word. I am going to call on the President of the United States to keep his word. Let me read to you a few of his words uttered recently. Here is what he said last Monday night. I find little equivocation in it. Certainly the impression he sought to leave with the American public was clear.

He said:

> I stated during the campaign, and I repeat now, I will not stand by and see those of you who are dependent on social security deprived of your benefits.

Those were the words of the President of the United States. He continued:

> I make that pledge to you as your President. You have no reason to be frightened. You will continue to receive your checks in the full amount due you. * * * I personally will see that no part of the plan will be at the expense of you who are now dependent on your monthly social security checks.

How is he going to personally see to that when, at his request and urging, we adopted this monstrous Gramm-Latta II which takes those very benefits away from 3 million of them. How is he personally going to see to that if we adopt this conference report that takes it away from them beginning in February?

Can we talk out of both sides of our mouths? Can we take comfort in the belief—or perhaps I should say the hope—that it is going to be given back to them before February? I hope it is. It will be if the President will stand by his word. He could do that by calling on HOWARD BAKER to take this bill we will send him and act on it before the August recess. The President can make good his pledge by doing that.

But for us to say that somehow miraculously, between now and February, we are going to restore these benefits notwithstanding the adoption of this conference report, which takes them away, is like being on a jury and voting to hang an innocent man in February upon the premise that you believe maybe the Governor will reprieve him between now and then.

Well, I do not want to count on that. I read in the morning paper a breakdown of who gets the tax cuts which we voted earlier this week. The top two-tenths of 1 percent of the taxpayers, those who make $200,000 a year and more, will get 10.4 percent of the total tax cut, amounting to $3.5 billion in the first full year. That is $3.5 billion in the first full year and $7 billion in 2 years that will be given to people who make more than $200,000 a year. That is what Gramm-Latta said they would save in 5 years by doing away with the minimum benefit.

Mr. Speaker, I do not think that is fair, and I do not think that is what the Members of the House want to do. So today I stand with the gentleman from Minnesota (Mr. VENTO).

□ 1030

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. OAKAR).

The SPEAKER. Without objection, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 3 minutes.

There was no objection.

Ms. OAKAR. I thank my colleague for yielding. I want to commend him

for his fantastic efforts on behalf of the elderly.

I also want to say the utmost respect that I have for the Rules Committee chairman, who has been very, very gracious and I think really deserves much commendation.

However, I want to urge my colleagues to vote against the previous question. Let me just say why in very, very simple language. I hate to put it on this level, but I think this is where it is.

I honestly do not believe that the full minimum benefit level will be restored by either the other body or the President. Let us look at the language again that the majority leader cited by the President:

> You will continue to receive your checks in the full amount due you.

That three-letter word "due" is, in my judgment, the clincher. I think that the President is trying to say is that if you did not pay in the system as a homemaker and you depended on your spouse's paying in, then you will not get that benefit. That means that the women who are between 70 and 90 years old, 75 percent of these people are older women, they are the grandmothers and the great-grandmothers of this country, they will be cut out if you go according to the gentleman's language. That means that the religious who took the vow of poverty, most of whom again happen to be women, will be cut out because of the consideration we gave them in 1972.

Let us examine that trust fund. Where is the trust fund? Since 1969 the social security trust fund has been part of the unified budget. That is the problem, my friends. There is no other place to dip in for those people who paid into the system but to that trust fund. That is how they are going to pay for their huge tax bill for the rich, make no mistake about it.

The President has proposed initially to cut the social security system by 25 percent and this is just the tip of the iceberg. That is why it is inherent upon us to attach to that conference report the provisions that we want to see, that section with reference to the minimum benefit eliminated. if we do not do that, I am telling my colleagues, as sure as I am standing here, that we will not see the restoration of the minimum benefit for our people.

Let us examine all of the hyperbole that has been given about who these recipients are. Yes, there are some people who receive another pension. Twelve percent receive another pension—not the majority—12 percent. Most of them have another small pension which does not exceed the median income in this country. Let us restore the minimum benefit.

Mr. VENTO. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER).

The SPEAKER. Without objection, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 1 minute.

There was no objection.

Mr. ALEXANDER. Mr. Speaker, yesterday the House and the other body approved a tax cut that is estimated by those who have followed it to produce a deficit in 1984 by about $60 billion. Inasmuch as the President has repeatedly promised, even committed himself to a balanced budget by 1984, the question occurs on the question of from which programs the cuts will come? Where will the future $60 billion deficit, which we created yesterday by enacting the tax bill, come from?

The best evidence that we have thus far is the testimony of Mr. Stockman, the Director of the OMB, before the Subcommittee on Social Security.

When asked by Chairman PICKLE whether the administration's tax cuts could be achieved without touching the social security system, Mr. Stockman replied:

> Yes, but it would require a substantial squeeze both on the non-social security domestic part of the budget . . . or a further squeeze on defense. It would be very difficult to do.

Mr. Speaker, I submit that it would not only be difficult but virtually impossible for the administration not to attempt to drastically reduce social security in the future. The administration has already severely cut back on non-defense spending, except for social security. Since defense and social security make up over 50 percent of Government spending, the administration will have to look to these areas to offset the huge deficit created by its tax cuts. I want to go on record that I will oppose any cuts which strike at the vitality of social security and defense. A deferral of tax cuts would have been preferable to cutting these programs, particularly since the tax cuts will prove illusory because of the deficit they will produce.

One vital part of our social security system which we must address today is the cut to the social security minimum benefit which the Republicans in the House and the Senate passed in budget reconciliation. This action is not aimed at future beneficiaries, but will affect 3 million of the neediest of our present beneficiaries.

Mr. Speaker, if our social security system requires some future reform in order to remain vital and solvent, then this must be achieved carefully, with a scalpel, not with a hatchet as Congress did in passing the Gramm-Latta budget. And let us make those reforms prospectively, so that people can anticipate them and plan their lives accordingly.

I therefore urge my colleagues to restore the minimum benefit.

For the consideration of my colleagues, I am placing in the RECORD remarks made today by Chairman PEPPER before the Special Committee on Aging and, also, an article from today's Washington Star:

REMARKS BY THE HONORABLE CLAUDE PEPPER

Less than half a century ago, our nation was ravaged by the Depression, devastated by poverty, devoured by joblessness, and in the case of millions of our fellow countrymen, stripped of hope. Under the guidance of Franklin Delano Roosevelt, we embarked on a bold new course which changed the lives of everyone in America. The New Deal was the name of that course, of which many ideas, people and programs were a part. No part stands taller, none shines more brightly, none has meant more to more people, than Social Security.

Social Security is the shining star which pierces the gloom of want and despair in old age. Ninety-five out of 100 elderly people in this country depend on Social Security; at least 60 percent would be in poverty without it. But Social Security is not a magical blessing. It draws its lifeblood from the confidence and support of the 115 million Americans who contribute each and every working day to its support. Americans support Social Security like no other program, public or private, because they know it will be there to protect them if they retire, become disabled, or die.

Now, I am sure that I am only one of the Members of this House who is troubled by many of the things we hear from those in high places. Only this morning one of the top representatives of our President stated on television that nobody truly in need would lose any Social Security benefits. Does that mean that this Administration is trying to convert Social Security into a means test, that it's a welfare program only, and that's its real character? And that they will have nothing less than that objective?

People weren't so confident about Social Security at the start. But over a period of time, spanning eight Presidents, 22 Congresses, and 45 years, an unshakable, unbreakable, inviolable bond was forged between the Federal Government and the American people. That bond gave people the confidence that they would not be left to the uncertainty and indignity of charity it they lost their livelihood.

This measure that we have before us this morning on the Floor has been arrested, has been converted into inclusion in the Reconciliation Resolution, and destroyed. But with the hope held out by those who have been responsible for its destruction that they will be able to get some money from SSI, to get off of Social Security and on to SSI, a program created by the Congress to take care of the blind, the disabled, and the impoverished of America, the welfare recipients.

People have proudly looked forward to the receipt of their Social Security checks, without a stigma of being impoverished or in the welfare class. There may be some who doubt it, but there are many millions of our fellow Americans who still have a sense of pride and don't want to go on welfare. In fact, the Administration itself has estimated that only a fourth of the people who lose their minimum Social Security benefits will go on SSI. They think they will save money. They are too proud to go on SSI, and they will save money, to kick them off of Social Security on to a program which they will not accept because they feel it tends to degrade them in their status.

In one cruel blow, this Administration destroyed a half-a-century of confidence. I don't know but what the President made an honest and a very revealing statement yesterday when he spoke to the Legislature in Atlanta, the Legislators of the several States. The President said, "We are in the throes of a new revolution." I thought he inferred, if he didn't say it, that he would never be satisfied, nor would his Administration, until it had dismantled and destroyed the social program erected under the guidance of Franklin D. Roosevelt and his spiritual and political successors.

In one cruel blow, this Administration destroyed a half-a-century of confidence. In one cruel blow, this Administration shattered the dreams of tens of millions. In one cruel blow, this Administration has launched the most devastating assault ever on Social Security.

These people, the group receiving Social Security benefits, minimum benefits, two-thirds of them are over 70 years of age. 500,000 of them are over 80 years of age, and a large number even over 90. I'm sure there are a few over 100. They got into the program long ago, when in many instances the occupation in which they were engaged was not covered by Social Security.

My sister retired two or three years ago from a 38-year period of school teaching. She gets a pension from her teaching of about $700 or $800 a month, and $200 a month from Social Security, because she was only in the last few years eligible for Social Security, as so many of these people involved in this category.

Maybe they need to balance the Federal budget, too. Maybe they needed the money to pay for the billion dollar tax giveaways to the truly needy oil companies and other recipients.

I brought out in the Rules Committee yesterday afternoon that the amount of the cuts that have been brought about and are going to be consummated in the Reconciliation Resolution today are just about the same amount of money that will be given back to the taxpayers of this country, mostly to the well-to-do, by the tax bill that we passed on Wednesday.

I wonder if the rider has shifted to the poor, to give the others a tax benefit. Or maybe they just plain don't like the Social Security system. Maybe it started under Roosevelt. For whatever reason, the Administration wants to pull $88 billion in benefits out of the pockets of beneficiaries over the next five years. They want to cut one-quarter of the program and throw it away.

Each one of the Administration's proposals, I must say is worse than the other. And yet one proposal which stands to save very little money over the long run, stands above the rest in the disregard that we must have for it. The President has proposed, and is within a hairbreadth of succeeding, in slashing the benefits that the people at the very lowest end of the benefit ladder depend on.

The President has made a cruel mockery of his own pledge. "I will not stand by and see those of you who are dependent—" Now, what does "dependent" mean? Is that "Philadelphia Lawyer" writing that address for our President, making nice distinctions like a clever lawyer, to be sure that's how the contract will be construed? "Dependent upon", does that mean only 28 percent of the recipients of Social Security depend entirely on Social Security. Are they the only ones that are going to be protected? Is that what they mean by "dependent"? Or does it mean what if you get Social Security along with some other income? If you are "partially dependent", are you dependent? What do they mean by "dependent"?

In another case they said those will get back what they earn, indicating that they are going to use a different basis of calculation. And so our President said, "I will not stand by and see those of you who are dependent upon Social Security deprived of your benefits." The 3.1 million people in their seventies and eighties and nineties, who took the President at his word, will be in for a very rude shock when they go to their mailboxes after February of next year—unless the Senate concurs in what I hope we will do here today—to receive the checks that they were dependent on for years. These poor old people didn't realize they weren't what the President had in mind when he gave his pledge.

Maybe they ought to get a Philadelphia lawyer to advise them. They are just plain American people, attributing good faith to our highest executive, to our Administration chosen by the people, thinking that words were used in their common understanding, the usual meaning that they had, not with a nice distinction that a technician would draw to safeguard against liability.

There are many compelling reasons not to cut these 3.1 million old people off the minimum Social Security program. Over one-half are near the poverty line, and 1.1 million more live in brutal, abject, grinding poverty.

You know, there are some I'm afraid who have forgotten that a lot of Americans are still desperately and meanly poor. Maybe we should go out more, like Thomas Jefferson when he was in Paris in the throes of a coming revolution. Thomas Jefferson went to many brilliant parties and soirees, but they say in his diaries that the only time Thomas Jefferson ever made any reference to what he did on these excursions into Paris was to go out into the homes of the poor and stick into the mattresses to see how soft the mattresses of the peasants were. I wonder if maybe we shouldn't go on some excursions like that, to see whether there aren't really many poor still left in America.

The proposal will, of course, save money. Much of it is a simple diversion of Federal funds away from Social Security benefits to SSI benefits and administrative costs. And recalculating 3.1 million benefit cases will paralyze the Social Security Administration and cost hundreds of millions of dollars.

But the real reason for keeping our pledge to these people can be said in one word—confidence. There is no reason to eradicate in the blink of an eye the confidence built over the course of 45 years.

Last night I heard a young man speaking to a man from the White House who was standing with me. He said, "I wonder, they are tampering with Social Security so much now, I wonder if there will be anything left when I get there. What will they pay me when I become eligible to receive it."

Today the House will have the first opportunity for a separate vote on the Social Security minimum benefit. This will be legislation today, not an expression of the sentiment of Congress. The 36 million Social Security beneficiaries will be, I'm sure, praying with all their hearts that Congress will take the first step toward restoring confidence in their system.

U.S. Pension System Seen Faring Better

New calculations by Social Security's actuaries indicate that the system is in better shape than the Reagan administration told Congress just three weeks ago.

The analysts now figure that with the cuts in benefits already backed by Congress, Social Security's trust funds will stay in the black until the end of this decade unless the economy takes a real nosedive.

Social Security trustees—three members of President Reagan's Cabinet—warned in their annual report to Congress on July 6 that even under moderate economic projections, the combined trust funds would go broke by 1985. But the report did not take into account the elimination of the $122-a-month minimum benefit and college students' benefits. Those steps, already endorsed by both houses of Congress, will save the system at least $22 billion by 1986.

But the administration is pressing for more cuts in early retirement, disability and other benefits to give the beleaguered program a wider margin of safety for the next five years and to avoid a deeper fiscal crisis in 30 or 40 years.

Robert J. Myers, deputy commissioner of Social Security Administration, revealed in response to questions Tuesday that the actuaries' new calculations show that under moderate economic assumptions, the trust funds will stay out of trouble until 1989.

The trustees had said that only under optimistic assumptions, or under the official Reagan administration forecast for economic recovery, could the trust funds get by—and then only by a thin margin. They reported that under pessimistic or "worst case" economic assumptions—even with the $22 billion in cuts—Social Security would run short of cash in 1984 or 1985.

Reagan administration officials have cautioned Congress against taking a bare minimum of action to fix Social Security. They blame the lawmakers for accepting assumptions in 1977 that proved too rosy when they passed a payroll tax hike that was supposed to keep Social Security solvent until 2030.

Democrats contend that Reagan's Social Security cuts go far deeper than necessary and may actually be intended to help balance the budget. Any cut in Social Security spending narrows the federal deficit.

Reagan has proposed cutting $88 billion in early retirement, disability and other benefits by 1986, while boosting benefits by $6.5 billion for the working elderly.

In his address to the nation Monday, Reagan promised that no one dependent on Social Security will be hurt by his reforms and that retired Americans will keep getting their Social Security checks "in the full amount due."

Senate Democrats have charged that does not square with Reagan's plan to wipe out the $122-a-month minimum benefit for three million people.

White House spokesman David Gergen on Tuesday denied any inconsistency. He said Reagan chose the words "amount due" carefully, and that after the minimum is eliminated next February, those people "will then receive what they have earned."

No one disputes that Social Security's biggest trust fund for Old Age and Survivors Insurance is in trouble. It has shrunk by $19 billion since 1975 and will fall below a level sufficient to pay a month's benefits late next year.

All sides, including Reagan, favor changing the law to allow the old-age fund to borrow from the healthier disability and Medicare funds, which are building up billion dollar surpluses. However, the Medicare

fund is expected to run into difficulties in the 1990s that could wipe it out.

The combined trust funds are expected to drop to 21 percent at the end of this year and to keep falling for several years.

Some economists say the funds need a 9 percent level to pay benefits on time. Myers argues a reserve of 12 percent to 14 percent is needed to deal with monthly fluctuations.

In their annual report, instead of the usual three sets of economic projections, the Reagan trustees gave five; optimistic; intermediate, based on the Reagan economic forecast, intermediate, based on less robust growth; pessimistic, and "worst case," which envisioned inflation nearing 14 percent in 1982 and unemployment of almost 10 percent in 1983.

Myers said that under the less-robust intermediate assumptions, the actuaries' latest calculations show the trust funds would not drop below $40 billion through 1986, when the reserves would stand at 14 percent. They would dip to 13 percent in 1988, 10 percent in 1989 and 6 percent in 1990.

The House Select Committee on Aging figures the trust funds would be safe under the optimistic and both intermediate projections, but would need $34.6 billion more by 1986 under pessimistic conditions and nearly $60 billion under the "worst case" scenario.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. Mr. Speaker, how did this House ever get itself into a position where we are actually here discussing how to save minimum social security benefits for senior citizens over 80 years old, and nuns?

Let me try to shed some light on it from my vantage point. Yesterday morning folks in my hometown of Butte, Mont., woke up to their morning newspaper, the Montana Standard. The top headline reads: "Democrats Pass Reagan Tax Cuts." The next headline says, "Tax Cut Favors Rich." The bottom headline says, "Social Security in Better Shape Than Reagan Reported Earlier." It reports this:

Robert J. Myers, Deputy Commissioner of Social Security, revealed in response to questions Tuesday that the actuaries' new calculations show that under moderate economic assumptions the trust funds will stay out of trouble until 1989.

Using the economic assumption the administration uses to pass its budget and the tax cut, social security will stay out of trouble for the rest of this decade.

I believe that this headline about social security is linked to this headline about the President's tax victory. This administration has painted the worst possible picture for America, and they have done it with the help of full-page ads in the great daily newspapers of this country paid for by multinational corporations. This version of the new renaissance is that teachers cannot teach, judges cannot judge, the social security system is going bankrupt, and our country is falling apart. And the only thing that will save it, my friends, says the President, is the toughest prescription possible, designed by the right wing. Accept those things we have been telling you to accept in this country, and you have mistakenly rejected for 50 years. So we passed a faulty budget and tax bill. Social Security is not about to collapse. Teachers can teach and judges can judge, and this country runs very well.

Let us reject, at least let us reject making senior citizens pay for the rhetoric of this administration.

Mr. LATTA. Mr. Speaker I yield 2 minutes to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Speaker, I rise in opposition to the previous question. I commend President Reagan for his intention to reform the social security system, a revision which is long overdue.

Once again this body is unfortunately subjected to crisis management. But there is no need to cause a crisis for some elderly who are particularly dependent on the minimum social security benefit.

The effort to eliminate the minimum social security benefit will surely amplify the vulnerability of older women in America, and the extent to which they depend on social security in their old age. By eliminating the minimum benefit we will compound the existing economic inequities against women, inequities that will worsen the already precarious financial situation of women nearing their retirement age. Eighty-five percent of all recipients of minimum social security benefits are women. Eighty-five percent are women; 2.4 million women, many who are wives, who are mothers, and who are our grandmothers. They are older women who are the fastest-growing poverty group in America. Two out of three older persons are women, and two out of five older black women are poor. Millions more aged women subsist just above the defined poverty level.

The economic distress of older women is not necessarily the fault of the social security system but, nonetheless, the social security minimum benefit is the only source of income for the millions of older women. Nine hundred thousand women who are 70 and over depend on these minimum benefits.

There is no question in my mind that we must clean up the social security mess, but regrettably, previous administrations have not had the courage to play it straight with the American people, to explain the severity of this situation, nor have previous administrations had the courage to take action.

I commend the President and I commend this Congress for being action oriented. But please, let us not speak and act in haste when so much future security aspects of older women is at stake.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, neither the resolution before us at this time nor the attempt to vote down the previous question should be before this House today. The question of handling the minimum benefit should be handled through the Social Security Subcommittee of the Ways and Means Committee and then acted upon by this House in as fair and as evenhanded a manner as possible.

There has been so much heat generated over this issue that we are attempting now, this minute, to do something prematurely that ought to be handled by the legislative process. I do not like either version before us, but if we have to choose which of the bad procedures, the one that the Rules Committee has advanced is the best approach.

I would ask my colleagues to vote for the previous question. In doing so, I do not take a position that we should never make any changes in the minimum benefit. Your Social Security Subcommittee has already advocated the elimination on a prospective basis, for the future. Between now and the time that action goes into effect, our subcommittee will be making recommendations regarding the minimum benefit, and we will do it in a proper and I hope a positive manner.

I ask my colleagues to keep as calm as possible on the issue of social security because it affects every elderly person in this country. We can take precipitous action in trying to be righteous, but we may not do the right thing. I would ask you to vote for the previous question and give our committee the chance to do the right thing.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman.

Mr. LATTA. I want to thank the gentleman, Mr. PICKLE, for yielding and I commend him for the statement he just made. I think it clarifies the position of the Ways and Means Committee, since he is the chairman of the Social Security Subcommittee.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, of the alternatives before us today I certainly think that the rule brought to us by the gentleman from Missouri (Mr. BOLLING) and the gentleman from Ohio (Mr. LATTA) is by far the more preferable action that we can take. I say that because I think that ultimately the rule will do

a couple of things which are important.

First of all, I think the rule will help us put behind us some of the fears about the social security issue that have been generated. If we go ahead with this rule and go ahead with the bill, some of those fears can be put aside as we proceed along a course toward getting the budget of the country in order. I think that is an important step to reduce fear for all of those millions of Americans who are dependent upon the social security system, fear that their benefits may be reduced.

Second, I think it is important to realize that this rule will provide us with an opportunity to deal with the issue without going back to the provision that was in the Democratic leadership bill, that came to this House as their budget package and which cut benefits to all 36 million social security recipients.

I would hope that we would have a rule on this floor that will not allow us to have some amendment offered in the same vein as that bill, because what they wanted to do as an alternative to the approach that was in the Gramm-Latta was cut benefits to every social security recipient. I thought it was wrong then. I think it is wrong now. And I am glad this rule will not permit that kind of irresponsiblity to come on to the House floor.

Third, this will allow the social security reform to be considered in total, in a comprehensive package, and I think comprehensive social security reform is what we really need.

The gentleman from Texas (Mr. PICKLE) is to be congratulated for what he said because I think his approach is the correct approach.

□ 1040

His approach is a comprehensive plan to assure equity and integrity to all our citizens, to all our social security recipients. Fairness and a guarantee that earned benefits will be available to social security participants and recipients is a proper legislative course to follow.

I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in support of the rule under consideration today allowing for debate on the conference report for H.R. 3982; Reconciliation Act of 1981, and H.R. 4331, a bill to restore the minimum benefit for Social Security. I am sure my support will shock the chairman of the Rules Committee. I guess this is the second time I have supported a rule the gentleman is supporting. In any event, I would hate to shock the gentleman so early in the morning.

I think the Rules Committee has properly separated out the issue of the social security minimum benefit. I want to comment on what the gentleman from Minnesota (Mr. VENTO), in his resolution, would have us do. My colleague from Minnesota (Mr. VENTO) would say in his resolution, "Resolved, that upon the adoption of this resolution, the House shall not consider prior to the opening of the 2d session of the 97th Congress, any bill, resolution, or conference report therein reducing the social security benefits."

In other words, the gentleman would like to prevent the Ways and Means Committee, Social Security Subcommittee, from bringing a bill to the floor this year, an action which needs to be done. Evidently the gentleman does not want to face this important issue this year.

I want to compliment the chairman of our Social Security Subcommittee for stating the case the way it is. Our Social Security Subcommittee has been in markup for better than several weeks to try to solve the problems, not just to talk and complain about them. I am delighted that my colleague from Minnesota comes here to rant and rave today, and to tell us how the gentleman would do it; but the gentleman has not suggested how to really solve the problem of dealing with those who are now receiving the minimum benefit who should not be receiving it. How would Mr. VENTO deal with those who have no right to it, who have not qualified under the 40 quarters?

I say to my colleague, the gentleman has done a wonderful job of complaining, complaining, and complaining, ranting and raving here today, but the gentleman has not said how the law should be improved to solve the problem.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Now, I will yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentleman yielding.

Mr. Speaker, I do not appreciate the gentleman's language. I think the gentleman is capable of expressing himself without that.

I would point out to the gentleman that this is just an example of deliberately solving the issue in terms of the way this was jammed through this House: that the committee has had hearings on this particular issue. I do not doubt that.

Mr. ROUSSELOT. We have had extensive hearings on it.

Mr. VENTO. Why can we not bring the proposal before us and get a separate vote? Why does it have to be jammed through?

With regard to the President's statement, I will take the President at his word. Why do we insist on jamming this through reconciliation to provide adequate understanding of this particular proposal? I do not think we have to spot the proponents of the social security system two touchdowns in order to make their case? It can be made on the merits.

Mr. ROUSSELOT. I will comment to my colleague that we have, in the Social Security Subcommittee, addressed this issue and my chairman has said—the gentleman from Texas (Mr. PICKLE)—that prospectively this Congress will phase out the minimum benefit. We will clearly do this for those that do not deserve it or have not qualified. It is imperative.

If my colleague is saying that the gentleman wants to change the qualification procedure of those who are covered by social security benefits—in others words, if he somehow wants to change the 40-quarter benefit qualification procedure—then the gentleman ought to say just that.

□ 1050

But I will say to my colleague, we have addressed this issue in the Social Security Subcommittee. The reason we are not able to bring the social security bill to this floor is that first we had the budget measure that had to be considered, second, we had the reconciliation bill before us and then the committee had the encompassing tax legislation to consider. The Social Security Subcommittee has met for the past several months this year to work on this issue. It is too bad that the gentleman, in his resolution, has said no, that we could not be able to bring it on the floor this year. Obviously, he does not want us to address this important and demanding issue this year.

I am sorry that the gentleman has decided on this course. I support the rule voted out of the Rules Committee last evening and urge that my colleagues vote in favor of its passage.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I think it is a shame that we are considering probably the most important piece of legislation which has come to this Congress in many, many years and we seem to be off on a tangent, which is an important tangent, but one which need not be discussed today.

Now, I say to my friends who are in favor of voting down this rule that I am sorry that the social security matter is in this conference report. I did not want it to be. I still do not want it to be. I think the appropriate way to handle social security is just as the gentleman from Texas (Mr. PICKLE) said—in the orderly way his subcommittee is taking up the matter. They will, I am satisfied, bring out good legislation which will strengthen and preserve the whole system, and

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provide fair treatment to all Americans.

And also I think it is well to understand that we do have until February to act on the minimun payment.

Now, there has been a lot of impugning of honesty and credibility on this floor, which I deplore and regret. Personally, I believe that the President of the United States, when he said what he did, meant exactly that; and he meant that before February that this situation would be changed and that people who are truly dependent upon the minimum payment of social security, would not be deprived of it. But there are 12 percent of the people—who draw the minimum—and the gentlewoman from Ohio admitted this herself—who are not entitled to it; 12 percent is, I think, something like $400 million. That is a lot of money.

It is necessary for this situation to be handled and I feel sure it will be. The chairman of the appropriate committee of the other body who will handle this legislation when it passes the House, has said that he will bring it up. That does not mean next year. That means that he is going to bring it up in good time. And he will.

The Members of the House have expressed themselves on this. The gentleman from Texas (Mr. WRIGHT) brought forth a resolution which I voted for, as practically everybody did—which I think well stated the sense of the House. I cannot believe that there will not be appropriate action to undo whatever mischief will be done by this very important conference report, and to restore the minimum payment to deserving Americans.

Actually, this very important conference report has to do with getting this Government back on a basis in which we can look forward to a balanced budget. Now, that does not mean that we will do so at the expense of the social security recipients. I never saw or heard of these figures that the newspaper from Montana printed. It is my understanding that the social security trust fund will be dead broke by next September if we do not do something about it. I believe that is true.

So again I say to my good friend, the gentlewoman from Ohio, this is not a means of trying to make somebody's deficit look smaller, because there is not any balance in the trust fund to build up for that purpose.

Mr. Speaker, I hope that the resolution will be adopted, and the previous question will be ordered.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I want to state up front why I am speaking at this time, and it is to urge that the Members vote for the previous question and for the rule.

Now, it may not be a perfect rule, as the gentleman from Texas has pointed out. I do not like it either, because it brings up an issue that I do not think properly should be brought up here. But let us look at what we are really talking about. The rule that we have before us will allow us to go forward on the reconciliation conference report and this freestanding bill, which is a very emotional issue for a lot of people. I would maintain to the Members that you have to realize that all of the eyes of the world are not just on this House. We have a body on the other side, too. And the net result of this whole procedure if we do not pass the previous question and the rule would be to tie this whole thing up, and it could drag on to I do not know when.

Here before me is a reconciliation conference report. Under rules of the other body, it very well could open up the whole thing again. I do not think we want to do this. I do not think the distinguished chairman of the Budget Committee, who has done a great job in conference, and our distinguished leader over here, the gentleman from Ohio (Mr. LATTA), would not want to do that.

What would be the alternative in defeating the previous question is a very questionable thing. The resolution does not even identify here what section is supposed to be deleted. As has been emphazised earlier—but I want to hit it again—it says "shall not consider prior to the opening of the second session of the 97th Congress any bill, resolution or conference report thereon reducing social security benefits," and so forth.

Really, what it is doing is prohibiting any substantial across-the-board action in the first session of this Congress on the very important issue of the social security reform.

We should do this in an across the board, fair, bipartisan manner, as the distinguished gentleman from Texas (Mr. PICKLE) would propose to do, and that is what this process would allow us to do.

I urge a vote for the previous question and for the rule.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the previous question and the rule.

Mr. Speaker, I do not think the issue before us is the issue of the minimum benefit. I happen to be opposed to the retroactive reduction in the minimum benefit. As a member of the Social Security Subcommittee, I am satisfied that the recommendations of that subcommittee will provide that the changes in the benefit which are necessary be made solely on a prospective basis.

What bothers me here today, Mr. Speaker, is the very point that was raised by our chairman, the gentleman from Texas (Mr. PICKLE). We are working on this bill. We have tentatively decided how to act on the minimum benefit. But that is not the only social security issue which we face. It is part of a total package of social security benefits and social security taxes. It involves shortrun and longrun considerations.

I would deeply hope that the Members of this body would give our subcommittee and the full Ways and Means Committee an opportunity to complete our work on social security as a package rather than dealing item by item as this effort would lead us to do.

With regard to the basic question of whether benefits now being received by people should be reduced, I am strongly of the view that they should not. I think it would undermine the support for the system as a whole. I think it could lead to a means tested approach for social security benefits. But I think it is a serious mistake to take this up without looking at the social security financing problem as a whole, which our subcommittee is doing.

For this reason, Mr. Speaker, I would urge my colleagues to vote yes for the previous question and to support the rule brought before us by the Rules Committee.

□ 1100

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker and my colleagues, first of all, let me address myself, if I might, since the majority leader opened up the subject, to the agreement that was printed in the RECORD, July 16.

Normally, one's word among the leadership, I think, would be secure and I would like to assume that when we do have leadership agreements that that word is kept. It might be open to interpretation if done verbally, but for the express purpose of making absolutely sure that everybody knew exactly where we were, we had this printed in the RECORD and it is on the page, as I said 16002.

But in addition to the rules for the reconciliation conference, we also had under a special heading "Leadership Understandings." The majority leader made mention of the third provision:

> Subconferees will not reopen provisions which are the same in both bills and are urged to agree on substantially identical provisions.

Now, the reason for that was not only social security. Many of those items in the bill are very sensitive and touching to any number of Members in this House on both sides of the aisle. We all admitted that reconciliation was going to be a tough, tough

proposition. We were going to make one giant leap forward, hopefully, but it was going to involve an awful lot of touchy issues. We did not want them isolated out here or we would never have made any progress. We all accepted that as a matter of fact in the beginning.

But then, when we get down to provision No. 5:

Assuming that the conference reaches full agreement on a conference substitute, the House leadership will support a rule which makes the conference report in order and waives all necessary points of order.

Now, the gentleman was in that meeting—not the gentleman from Missouri, the chairman of the Rules Committee—and even though he is normally considered to be leadership, was not privy to the meeting in which the Speaker, the majority leader, and others of us were there.

If I really judged one's personal feelings and acceptance of an agreement in that kind of a situation, this was it.

So it really rankles me no little bit when I see the majority leader then, in this kind of situation, making an argument to vote down the previous question. I really have to be somewhat concerned.

I will yield to the majority leader.

Mr. WRIGHT. I do appreciate that. I hope I do not take up too much of the gentleman's time because I think agreements are important and keeping an agreement is important.

Mr. MICHEL. They have to be. That is the only thing we have to depend on around here, is our agreements.

Mr. WRIGHT. I understand that, and I do not want to be too legalistic about it, but I was saying, it seems to me that agreement No. 3 refers to subconferees; that they will not reopen provisions which are the same in both bills.

Mr. MICHEL. That explains the reason.

Mr. WRIGHT. That agreement has been fulfilled. The subconferees did what was said here. I did not understand that we were binding the membership not to be able to assert its will on provisions as they usually can in other conference committee reports. I did not understand the agreement to be that way, I will say to the gentleman. I do not want to take any more of the gentleman's time, and I appreciate his yielding to me for this purpose.

Mr. MICHEL. I will take the gentleman's word for that, but I wanted to let him know in no uncertain terms that we just cannot take this lying down; we have to at least raise the issue again and have it aerated in public. I get no joy in accusing another Member of welching on his word. That is not my intent here. It may have been a misunderstanding, and that I regret.

If I might use the balance of my time simply to clarify a statement of the gentleman, I think from Montana, reading from some particular press story, quoting the Deputy Commissioner, I believe, of Social Security, Mr. Myers, under date of July 30 in a letter written to the gentleman from Texas, Mr. BILL ARCHER, he says:

DEAR MR. ARCHER: The Associated Press story with regard to the financing of the Social Security program that has appeared in various newspapers last night and today is extremely misleading. In essence, the story implied that the system is in better financial shape than we told Congress a few weeks ago in the Trustees Report. Only later in the stories, is it brought out that the situation is more favorable, because the conferees Budget Reconciliation legislation (which includes the elimination of the minimum-benefit provision) will provide significant reductions in outgo—and thus will naturally improve the financial picture—not because the estimates for the existing program have been changed.

I will put the entire text of the letter in the RECORD. But he further goes on to say:

I am convinced—and I will stake my professional actuarial reputation—on the fact that the financial integrity of the Social Security program must be assured over the short range by using worst-case economic assumptions in determining its financial status. Under such assumptions, the three trust funds combined would, even with inter-fund borrowing being possible, become bankrupt in late 1983 unless present law is changed to save the system. Similarly, assuming the passage of the conferees' Budget Reconciliation bill, the point of bankruptcy would be reached only slightly later—probably some time early in 1984.

Now, we cannot discount what the social security actuaries, those responsible for administering the trust funds, are saying to us in unvarnished terms, and for that reason at the appropriate time when we are debating the amendment itself we will have further comments to make on that particular issue.

But for now I would urge Members to vote up the previous question and vote for the rule that has been a rather ticklish situation and subject matter to deal with, but I am convinced this is the way most of the Members would prefer, to have a vote up on the previous question.

Mr. Speaker, at this point I insert the letter from Robert J. Myers.

SOCIAL SECURITY ADMINISTRATION,
Washington, D.C., July 30, 1981.

Hon. BILL ARCHER,
House of Representatives,
Washington, D.C.

DEAR MR. ARCHER: The Associated Press story with regard to the financing of the Social Security program that has appeared in various newspapers last night and today is extremely misleading. In essence, the story implied that the system is in better financial shape than we told Congress a few weeks ago in the Trustees Report. Only later in the stories, is it brought out that the situation is more favorable, because the conferees' Budget Reconciliation legislation (which includes the elimination of the minimum-benefit provision) will provide significant reductions in outgo—and thus will naturally improve the financial picture—not because the estimates for the existing program have been changed.

The story went on to state that, under certain moderate economic assumptions, the combined OASDI-HI Trust Funds will remain solvent until the end of this decade. It is further stated that only under economic conditions where the economy "takes a real nosedive" will there be financing problems for the trust funds.

It is most important to emphasize that our pessimistic economic assumptions do not imply that "the economy takes a real nosedive", as the story stated. Rather, in balance, they assume no worse economic conditions in the next five years than were actually experienced in the last five years. Indeed, as to the most important element, increases in real wages, our assumption for the next five years were much more favorable than that actually experienced in the last five years.

I am convinced—and I will stake my professional actuarial reputation—on the fact that the financial integrity of the Social Security program must be assured over the short range by using worst-case economic assumptions in determining its financial status. Under such assumptions, the three trust funds combined would, even with inter-fund borrowing being possible, become bankrupt in late 1983 unless present law is changed to save the system. Similarly, assuming the passage of the conferees' Budget Reconciliation bill, the point of bankruptcy would be reached only slightly later—probably some time early in 1984.

The facts of the matter just do not bear out the implications of the story. First of all, the situation as to the financial status of the Social Security program is not changed by any new estimates, as the story stated, but rather, quite naturally, by the passage of the conferees' Budget Reconciliation bill, which would prove the situation.

The basic thing that must be kept in mind is that the program must be financed over the short range under worst-case economic assumptions. The trust-fund balances are now at so low a level that there is no margin of safety available if we were to use even intermediate economic assumptions and then the actual situation turned out worse.

With regard to the Associated Press statement that, including the effect of the complete package of changes in the conferees' Budget Reconciliation bill, the actuarial cost estimates would show that, under the so-called moderate economic assumptions in the intermediate estimate, the combined trust funds might not become bankrupt until 1989 is of small comfort. As indicated previously, it is only prudent that the cost estimates based on pessimistic conditions should be used to determine the financing necessary in the short range.

Otherwise, we are running the great danger which actually eventuated after the passage of the 1977 Amendments, for which intermediate assumptions made at the time of enactment showed that the trust funds would get by. However, much worse conditions occurred, and we now have a problem. One big difference with the situation in 1977 was that then we had a fairly sizable contingency reserve on hand, and now we no longer do. Therefore, we must be prudent and fiscally responsible by basing our short-range financing plans on worst-case economic assumptions.

The so-called moderate economic assumptions are by no means certain to occur, and we should not make the same mistake that

we did in 1977 by counting on intermediate conditions to prevail. But even so, it would be extremely unwise to take such course of action, because, even under these conditions, the financial situation of the program would be steadily and certainly deteriorating after 1985, and the combined trust funds would, under these assumptions be bankrupt at some time in 1989. We should not close our eyes to this situation which could arise within this decade, even under assumptions that intermediate economic conditions would prevail.

I am sending copies of this letter also to Senator ARMSTRONG, Senator MOYNIHAN, and Chairman PICKLE.

Sincerely Yours,

ROBERT J. MYERS,
Deputy Commissioner for Programs.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. PANETTA), who undoubtedly knows more about this process of reconciliation than any 10 Members of the House.

Mr. PANETTA. Mr. Speaker, there are obviously emotions and concerns involved here on both sides of the aisle, and I respect those emotions and those concerns, but I do hope that Members understand that this is a vote on the rule. I hope my colleagues will take the time to read the rule that they are voting on.

The rule on page 2 provides, and I quote:

That upon the adoption of this resolution, it shall be in order to consider in the House the bill H.R. 4331 to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act.

The rule as designed by the distinguished chairman of the Rules Committee provides for a vote on restoring the minimum benefit, and Members who are concerned about that issue will have the opportunity to vote. It is not going to be a moral expression, it is not going to be a resolution, it is going to be a change in the law which will be sent over to the Senate and they can dispose of it one way or the other.

But the onus will be on their shoulders, assuming that the House votes to restore the minimum benefits and it is in this rule.

Second, we are talking about the principal vehicle dealing with reconciliation. I understand that there are Members who are concerned about that process. But 250 conferees were involved in this reconciliation conference over a period of 2 weeks. It involved 58 subconferences, 17 committee jurisdictions, conferences that met late into the evening and on weekends to try to look at the difficult issues, to compromise those issues, to reduce, where they could, but also to protect those programs that are important to people.

That was the work that was done by many of the Members in this body and many of the chairmen of these committees and surely they are entitled to a vote up or down on the work that they did in the conference.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield.

Mr. PANETTA. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I want to thank the gentleman for yielding.

As has been pointed out, no one is more responsible for the success of this conference than the gentleman in the well, the gentleman from California (Mr. PANETTA).

I want to underscore as chairman of the Budget Committee, my hope that this body will vote for the previous question and will pass this rule.

There has been some misunderstanding about a previous speaker, the gentleman from Texas (Mr. PICKLE), the chairman of the Subcommittee on Social Security. We have talked. The gentleman also hopes that this previous question will be passed and that the rule will be passed.

I think that this rule carries out the understanding that the bipartisan leadership of the House and Senate had on how this conference was to be addressed.

The issue of social security is one that we can address in this rule. If the Republican-dominated other body refuses to adopt this same bill that we pass here to restore social security funds, then it will be clearly on the other party's shoulders as to who is responsible for cutting the 3 million social security recipients.

I think we should keep that in mind.

Mr. PANETTA. Let me refer to the agreements at the leadership level. I understand that Members do not necessarily have to be bound by those agreements.

□ 1110

But, those agreements did require that the conferees stick within scope, and that they not go beyond the provisions that were the same in both House and Senate versions. While it may not bind many of the Members here, it did bind those 250 conferees in each of their subconferences and there were many chairmen that wished that they could go beyond the scope, not only to deal with the elderly, but to deal with children, to deal with housing, to deal with mass transit, to deal with a myriad of other issues. But, they did not do it because the leadership provided these basic guidelines and basic agreements, and they deserve to be respected.

So, on the basis of reconciliation and on the basis that Members will have the opportunity to vote up or down on the minimum benefit, I urge the Members to support the rule.

The SPEAKER. Each side has 3 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to urge my colleagues to vote against the previous question, in an attempt to provide an opportunity to permit consideration of a substitute resolution that includes a motion to instruct the conferees to delete the section which eliminates the minimum benefit.

Mr. Speaker, it was only 10 days ago that this House voted 405 to 13 in favor of House Resolution 181—a resolution expressing the sense of this body in favor—not opposition—to the minimum benefit.

To date, several bills and resolutions have been introduced in this House in an attempt to save the minimum benefit. A few days ago, I introduced my own bill, H.R. 4328, a bill which would strike section 2201 of the Omnibus Budget Reconciliation Act of 1981 on the day it is due to become effective; 21 Members, including 10 Democrats and 12 Republicans have cosponsored my bill. The point is, Mr. Speaker, a huge majority in this body wants the minimum benefit restored.

Mr. Speaker, an analysis of actual data supplied by the Social Security Administration indicates that most beneficiaries of the minimum payment are women and retired workers alone, there are about 1.5 million recipients over 70 years old, about 532,000 over 80 years old, and about 80,000 over 90 years old.

The Social Security Administration estimates that of the 3 million minimum beneficiaries, only 1.2 million would experience no actual reduction in their monthly benefit.

One million of the 1.2 million are dually entitled so that their spouse's benefit would simply increase so as to replace their worker's benefit formerly based on the minimum payment. Another 200,000 minimum beneficiaries actually have earned benefits as large as the minimum benefit, but for some reason have been designated minimum beneficiaries.

This leaves, however, 1.8 million remaining minimum beneficiaries who would experience some loss of social security benefits. About 450,000 to 500,000 persons may receive supplemental security income (SSI) to offset their loss from elimination of the minimum benefit. Perhaps 1 million more could apply for SSI benefits. This would still leave at least 800,000 persons unaccounted for and without alternative sources of income.

Mr. Speaker, these are the people we must concern ourselves with. These are people who will suffer and whose lives will be greatly disrupted. These are people who made this country great—and we can't abandon them.

Mr. Speaker, I urge my colleagues to vote down the previous question.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as I said at the outset of this debate on the rule, I support the rule. I think it would be foolhardy to vote down the previous question. The reason is that we will have an opportunity between now and the first of March, to make some real improvements in the social security system. Why? As the gentleman from Ohio (Mr. GRADISON) pointed out, they are going to come forward with a social security bill in the Ways and Means Committee, and the gentleman from Texas (Mr. PICKLE) concurred. They are going to have to make some adjustments. There is no question about it, and certainly by having this problem in front of them with a deadline for necessary action, they are going to have to act to save the social security system.

I know it makes a lot of good reading back home to say we are against this, we are against that and just add more benefits and do not worry how you are going to pay for them. Well, that is what has been going on here in the Congress for far too long. The fund is going to be empty next year according to the Social Security Board itself, and something has to be done.

This Congress, as I know—I have been around long enough to know—never seems to step up to an issue until it is forced to do so, and in this case we are going to be forced to do something before the 1st of March. With this March deadline, the Ways and Means Committee and this House will be forced to act. No action is going to be taken, in my humble judgment, with such a deadline for action.

Why? We are going to delay and delay and delay, and we are going to come right up until the time the checks can not go out for want of funds and then take some patchwork action.

The people of this country are going to say: "What were you doing? You had plenty of time to rectify this situation. You had plenty of warning."

It is high time for us to get down to business, and certainly by bringing this matter into this debate is wrong. Certainly, we have a commitment on both sides of the aisle. I think these are honorable gentlemen, and they are. We are going to have a bill, and I think we can resolve this question in a proper manner.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I cannot say that I started this fight, because the gentleman from Minnesota and others started it by putting in their resolution, but I sort of activated it yesterday at 10:15 in a press conference. Let me tell the Members why I am here with this rule. I went to a meeting and discovered that my leadership was committed to a certain process in concluding the reconciliation matter. I had not been a party to that, but I felt bound by it.

I also would like to state that if we had not agreed to this approach rather than another, there would probably not have been another opportunity for the House to act on the reconciliation conference report because the other body was in such a situation that they would have done what the White House and David Stockman wanted from the beginning. They would have passed that monstrosity that we passed straight through the Senate. I assure the Members that the chairmen and the members of the various conferences tell me that that would have been much worse.

Now, how could they have done that? Because they had the papers, and it was made very clear to me that they were going to keep those papers and do that unless we worked out a compromise. So, I am not doing what I am pleased with. I am doing what I though the institution had to do, and I am honoring what I thought I had to honor.

I urge the Members to vote for the previous question on this rule, and then they will have an opportunity to debate and discuss a bill that will hang in the Senate after we pass it, reminding the American people that the Republican Senate—if I may put it that way—has the ball.

Let me say one final thing. It will not just be the Social Security Subcommittee; it will not just be the Committee on Ways and Means that will have all the say on what happens to social security. The Rules Committee clearly has a certain legislative responsibility on all matters on which it is asked to grant a rule. I assure the Members that the Rules Committee and all its members are going to be very careful to see that the people under social security are protected in every sane way.

I urge the Members to vote for the previous question.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 151, not voting 12, as follows:

[Roll No. 187]

YEAS—271

Addabbo	Foley	Mitchell (NY)
Akaka	Forsythe	Moakley
Andrews	Fountain	Molinari
Annunzio	Fowler	Mollohan
Anthony	Frank	Montgomery
Archer	Frenzel	Moore
Ashbrook	Frost	Moorhead
Badham	Fuqua	Morrison
Bafalis	Gaydos	Murtha
Bailey (MO)	Gejdenson	Nelligan
Bailey (PA)	Gephardt	O'Brien
Barnard	Gibbons	Oxley
Beard	Ginn	Panetta
Bedell	Goodling	Parris
Beilenson	Gradison	Pashayan
Benedict	Gramm	Patterson
Benjamin	Green	Paul
Bereuter	Gregg	Pepper
Bevill	Grisham	Petri
Bliley	Gunderson	Pickle
Boggs	Hagedorn	Porter
Boland	Hall (OH)	Price
Bolling	Hall, Sam	Pritchard
Boner	Hamilton	Pursell
Bonker	Hammerschmidt	Quillen
Breaux	Hance	Railsback
Brinkley	Hansen (ID)	Regula
Brodhead	Hansen (UT)	Rhodes
Broomfield	Harkin	Ritter
Brown (CO)	Hartnett	Roberts (KS)
Brown (OH)	Hatcher	Roberts (SD)
Broyhill	Hefner	Robinson
Burgener	Hendon	Roemer
Butler	Hiler	Rose
Byron	Hillis	Roth
Campbell	Holland	Roukema
Carney	Holt	Rousselot
Chappell	Horton	Rudd
Chappie	Hoyer	Russo
Cheney	Hubbard	Sabo
Chisholm	Huckaby	Santini
Clausen	Hunter	Sawyer
Clinger	Hutto	Schulze
Coats	Hyde	Sensenbrenner
Coelho	Ireland	Shannon
Coleman	Jeffries	Shaw
Collins (TX)	Jenkins	Shelby
Conable	Johnston	Shumway
Conte	Jones (NC)	Shuster
Corcoran	Jones (OK)	Siljander
Coughlin	Jones (TN)	Skeen
Courter	Kemp	Skelton
Coyne, James	Kindness	Smith (AL)
Craig	Kramer	Smith (NE)
Crane, Daniel	LaFalce	Smith (OR)
Crane, Philip	Lagomarsino	Smith (PA)
Daniel, Dan	Latta	Snowe
Daniel, R. W.	Leath	Solomon
Danielson	LeBoutillier	Spence
Dannemeyer	Lee	Stangeland
Daub	Lewis	Stanton
de la Garza	Livingston	Staton
Deckard	Loeffler	Stenholm
Derrick	Long (LA)	Stump
Derwinski	Lott	Swift
Dickinson	Lowery (CA)	Tauke
Dicks	Lowry (WA)	Tauzin
Dingell	Lujan	Taylor
Donnelly	Lungren	Thomas
Dorgan	Madigan	Trible
Dougherty	Markey	Udall
Dreier	Marks	Vander Jagt
Duncan	Marlenee	Walker
Dunn	Marriott	Wampler
Edwards (AL)	Martin (IL)	Watkins
Edwards (OK)	Martin (NY)	Weber (MN)
Emerson	Matsui	Weber (OH)
Emery	Mavroules	Whitehurst
English	Mazzoli	Whitley
Erdahl	McClory	Whittaker
Erlenborn	McCloskey	Williams (OH)
Evans (DE)	McCollum	Winn
Evans (GA)	McCurdy	Wirth
Evans (IA)	McDade	Wortley
Fary	McDonald	Wylie
Fazio	McEwen	Young (AK)
Fenwick	McHugh	Young (FL)
Fiedler	McKinney	Zablocki
Fields	Michel	Zeferetti
Findley	Miller (OH)	
Fithian	Mineta	

NAYS—151

Albosta	Glickman	Patman
Alexander	Gonzalez	Pease
Anderson	Gore	Perkins
Applegate	Gray	Peyser
Aspin	Guarini	Rahall
Atkinson	Hall, Ralph	Rangel
AuCoin	Hawkins	Ratchford
Barnes	Heckler	Reuss
Bennett	Hertel	Rinaldo
Biaggi	Hightower	Rodino
Bingham	Hollenbeck	Roe
Blanchard	Hopkins	Rogers
Bonior	Howard	Rosenthal
Bouquard	Hughes	Roybal
Bowen	Jacobs	Scheuer
Brooks	Jeffords	Schneider
Brown (CA)	Kastenmeier	Schroeder
Burton, John	Kazen	Schumer
Burton, Phillip	Kildee	Seiberling
Carman	Kogovsek	Shamansky
Clay	Lantos	Sharp
Collins (IL)	Leach	Smith (IA)
Conyers	Lehman	Smith (NJ)
Coyne, William	Leland	Snyder
Crockett	Lent	Solarz
D'Amours	Levitas	St Germain
Daschle	Long (MD)	Stark
Davis	Luken	Stokes
Dellums	Lundine	Stratton
DeNardis	Martin (NC)	Studds
Dixon	Mattox	Synar
Dowdy	McGrath	Traxler
Downey	Mica	Vento
Dwyer	Mikulski	Volkmer
Dymally	Miller (CA)	Walgren
Dyson	Minish	Washington
Early	Mitchell (MD)	Waxman
Eckart	Moffett	Weaver
Edgar	Mottl	Weiss
Edwards (CA)	Murphy	White
Ertel	Myers	Whitten
Evans (IN)	Napier	Williams (MT)
Ferraro	Natcher	Wilson
Fish	Neal	Wolf
Flippo	Nelson	Wolpe
Florio	Nichols	Wright
Foglietta	Nowak	Wyden
Ford (MI)	Oakar	Yates
Ford (TN)	Oberstar	Yatron
Garcia	Obey	
Gilman	Ottinger	

NOT VOTING—12

Bethune	Gingrich	Rostenkowski
Cotter	Goldwater	Savage
Dornan	Heftel	Simon
Fascell	Richmond	Young (MO)

□ 1140

The Clerk announced the following pairs:

Mr. Young of Missouri with Mr. Goldwater.

Mr. Rostenkowski with Mr. Dornan of California.

Mr. Heftel with Mr. Gingrich.

Mr. Fascell with Mr. Richmond.

Mr. Simon with Mr. Bethune.

Messrs. FLIPPO, ASPIN, GORE, RALPH M. HALL, ATKINSON, ALBOSTA, DAVIS, CARMAN, NAPIER, STRATTON, WHITE, LANTOS, and VOLKMER changed their votes from "yea" to "nay."

Messrs. MICA and FRANK changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

Ms. OAKAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 370, nays 52, not voting 12, as follows:

[Roll No. 188]

YEAS—370

Addabbo	Donnelly	Ireland
Akaka	Dorgan	Jacobs
Albosta	Dougherty	Jeffords
Alexander	Dowdy	Jeffries
Anderson	Dreier	Jenkins
Andrews	Duncan	Johnston
Annunzio	Dunn	Jones (NC)
Anthony	Dymally	Jones (OK)
Applegate	Dyson	Jones (TN)
Archer	Edgar	Kazen
Aspin	Edwards (AL)	Kemp
Atkinson	Edwards (CA)	Kildee
AuCoin	Edwards (OK)	Kindness
Badham	Emerson	Kogovsek
Bafalis	Emery	Kramer
Bailey (MO)	English	Lagomarsino
Bailey (PA)	Erdahl	Lantos
Barnard	Erlenborn	Latta
Barnes	Ertel	Leach
Beard	Evans (DE)	Leath
Bedell	Evans (GA)	LeBoutillier
Beilenson	Evans (IA)	Lee
Benedict	Evans (IN)	Lehman
Benjamin	Fary	Lent
Bennett	Fazio	Lewis
Bereuter	Fenwick	Livingston
Bevill	Ferraro	Loeffler
Biaggi	Fiedler	Long (LA)
Blanchard	Fields	Long (MD)
Bliley	Findley	Lott
Boggs	Fish	Lowery (CA)
Boland	Fithian	Lowry (WA)
Bolling	Flippo	Lujan
Boner	Florio	Luken
Bonior	Foley	Lundine
Bonker	Ford (MI)	Lungren
Bouquard	Forsythe	Madigan
Bowen	Fountain	Markey
Breaux	Fowler	Marks
Brinkley	Frank	Marlenee
Brodhead	Frenzel	Marriott
Brooks	Frost	Martin (IL)
Broomfield	Fuqua	Martin (NC)
Brown (CA)	Gaydos	Martin (NY)
Brown (CO)	Gephardt	Matsui
Brown (OH)	Gibbons	Mavroules
Broyhill	Gingrich	Mazzoli
Burgener	Ginn	McClory
Butler	Glickman	McCloskey
Byron	Gonzalez	McCollum
Campbell	Goodling	McCurdy
Carman	Gradison	McDade
Carney	Gramm	McDonald
Chappell	Green	McEwen
Chappie	Gregg	McGrath
Cheney	Grisham	McHugh
Chisholm	Guarini	McKinney
Clausen	Gunderson	Mica
Clinger	Hagedorn	Michel
Coats	Hall (OH)	Miller (OH)
Coelho	Hall, Ralph	Mineta
Coleman	Hall, Sam	Minish
Collins (TX)	Hamilton	Mitchell (NY)
Conable	Hammerschmidt	Moakley
Conte	Hance	Molinari
Corcoran	Hansen (ID)	Mollohan
Coughlin	Hansen (UT)	Montgomery
Courter	Harkin	Moore
Coyne, James	Hartnett	Moorhead
Craig	Hatcher	Morrison
Crane, Daniel	Hawkins	Murphy
Crane, Philip	Hefner	Murtha
D'Amours	Hendon	Myers
Daniel, Dan	Hertel	Napier
Daniel, R. W.	Hightower	Natcher
Danielson	Hiler	Neal
Dannemeyer	Hillis	Nelligan
Daschle	Holland	Nelson
Daub	Holt	Nichols
Davis	Horton	Nowak
de la Garza	Howard	O'Brien
Deckard	Hoyer	Oakar
Derrick	Hubbard	Oberstar
Derwinski	Huckaby	Obey
Dickinson	Hughes	Oxley
Dicks	Hunter	Panetta
Dingell	Hutto	Parris
Dixon	Hyde	Pashayan
Patterson	Schroeder	Thomas
Paul	Schulze	Traxler
Pepper	Seiberling	Trible
Perkins	Sensenbrenner	Udall
Petri	Shamansky	Vander Jagt
Peyser	Shannon	Volkmer
Pickle	Sharp	Walgren
Porter	Shaw	Walker
Price	Shelby	Wampler
Pritchard	Shumway	Watkins
Pursell	Shuster	Waxman
Quillen	Siljander	Weaver
Rahall	Skeen	Weber (MN)
Regula	Skelton	Weber (OH)
Reuss	Smith (AL)	White
Rhodes	Smith (IA)	Whitehurst
Rinaldo	Smith (NE)	Whitley
Ritter	Smith (NJ)	Whittaker
Roberts (KS)	Smith (OR)	Whitten
Roberts (SD)	Smith (PA)	Williams (OH)
Robinson	Snowe	Wilson
Rodino	Snyder	Winn
Roe	Solomon	Wirth
Roemer	Spence	Wolf
Rogers	St Germain	Wolpe
Rose	Stangeland	Wortley
Rosenthal	Stanton	Wright
Roth	Stark	Wyden
Roukema	Staton	Wylie
Rousselot	Stenholm	Yatron
Rudd	Stratton	Young (AK)
Russo	Stump	Young (FL)
Sabo	Swift	Zablocki
Santini	Tauke	Zeferetti
Sawyer	Tauzin	
Scheuer	Taylor	

NAYS—52

Ashbrook	Gejdenson	Patman
Bingham	Gilman	Pease
Burton, John	Gore	Rangel
Burton, Phillip	Gray	Ratchford
Clay	Heckler	Roybal
Collins (IL)	Hollenbeck	Schneider
Conyers	Hopkins	Schumer
Coyne, William	Kastenmeier	Solarz
Crockett	LaFalce	Stokes
Dellums	Leland	Studds
DeNardis	Levitas	Synar
Downey	Mattox	Vento
Dwyer	Mikulski	Washington
Early	Miller (CA)	Weiss
Eckart	Mitchell (MD)	Williams (MT)
Foglietta	Moffett	Yates
Ford (TN)	Mottl	
Garcia	Ottinger	

NOT VOTING—12

Bethune	Goldwater	Rostenkowski
Cotter	Heftel	Savage
Dornan	Railsback	Simon
Fascell	Richmond	Young (MO)

□ 1150

The Clerk announced the following pairs:

Mr. Young of Missouri with Mr. Goldwater.

Mr. Rostenkowski with Mr. Dornan of California.

Mr. Fascell with Mr. Richmond.

Mr. Simon with Mr. Bethune.

Mr. Heftel with Mr. Railsback.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. FRANK). The gentleman will state it.

Mr. VENTO. Mr. Speaker, I inquire of the Chair whether the papers of the reconciliation package, H.R. 3982, are in the possession of the House.

The SPEAKER pro tempore. Yes, they are.

Mr. VENTO. Mr. Speaker, I would further inquire, is it customary for these papers to remain in the possession of the House at the conclusion of a conference committee, and in this instance, were they retained at the conclusion of the conference committee, or were they more recently delivered to the House?

The SPEAKER pro tempore. Yes, the Chair would say to the gentleman, it is customary for the papers to be transferred to the House which agree to the conference—and is to act first on the report—at the conclusion of a successful conference.

Mr. VENTO. In this case, Mr. Speaker, were the papers retained by the House conferees on the matter of the reconciliation conference?

The SPEAKER pro tempore. Evidently not, because they were brought back to the House this morning at about 9:15 by a messenger from the other body.

Mr. VENTO. Mr. Speaker, in other words, this violated one of the tenets that we have in terms of consideration.

I thank the Chair.

The SPEAKER pro tempore. The Chair would advise the gentleman that this deviated from custom but did not especially violate the rules of the House.

Mr. BOLLING. Mr. Speaker, pursuant to the provisions of House Resolution 203, I call up the bill (H.R. 4331) to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act, and ask for its immediate consideration.

The Clerk read the bill, as follows:

H.R. 4331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) effective as of the date of the enactment of the Omnibus Budget Reconciliation Act of 1981, section 2201 of that Act (relating to repeal of minimum benefit provisions) is repealed.

(b) Subject to section 2 of this Act, the provisions of the Social Security Act affected by the provisions of such section 2201 shall be in effect as of date of the enactment of the Omnibus Budget Reconciliation Act of 1981 as such provisions would be in effect if such section 2201 had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. BOLLING) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I do not know how much of the time we have on this bill is going to be taken up. This is, it seems to me, one of the most important issues that the Congress is going to deal with. This Congress in its two sessions is not going to have a more important issue than the issue of social security. I think it is very, very important for all who are directly involved in the legislative process to understand that this is one issue on which the Rules Committee is going to take a very special interest.

That is so because the Rules Committee is, really—despite its overwhelming Democratic majority—rather successfully representative of all the interests in the House.

I would urge Members to take a look at the list of the Members on both the Democratic side and the Republican side, and they will see that those Members pretty generally cover the views of a very large segment of the institution.

We have two very different points of view at war in this Government on the subject of social security. I suppose that both of them are legitimate. But fundamentally, there are those who feel that there should not be a social security system, that there should be some kind of means tested welfare program which might be called social security. But there is a fundamental difference between a social insurance program that guarantees to its members that as they contribute and as they are blanketed in, they have a right under a social compact.

□ 1200

That I believe is the early theory of social security.

Now it is perfectly legitimate for people whose predecessors fought against the social security system in the thirties to say today that the social security system should be different, that it should be and is in effect a need-oriented program, purely and simply.

I do not have any objection to that argument. It is here. It is with us. But it is terribly important that the people of the country begin to look at that argument and the meaning of the different points of view.

I very strongly hold to the notion that I described as a social security system, a social insurance compact, not means tested, except in a very, very limited degree, but designed to be sensible, fair, and contributory.

I want to serve notice on everybody in the institution—and I have never done this before—that the Rules Committee and its chairman are going to be involved in the legislative process on this. There is not going to be any more of blanketing this issue into general legislation.

Those of my colleagues who do not understand what that means should consult with those who are experts in procedure because it is going to be very difficult to consider the necessary package to cure the problems of the social security system without having a rule on the bill that does it.

I happen to believe that there are problems in the system, short-range problems and long-range problems. I happen to believe that we have to arrive at legitimate, fair compromises to achieve the desired result, and those compromises range all the way from making up the deficit from the general fund to drastically curtailing benefits already committed.

I just want to give the shape of the distance that there is between the sides and to assure the Members on both sides that the Rules Committee is going to attempt to see to it that this matter is dealt with fairly as to the different points of view, and fundamentally fairly to the weakest in this land who could easily be the victims of changes, well intentioned perhaps, but unwise.

That is the only reason that we went through this exercise is to make it very, very clear that there is going to be no cute play on this matter. It is going to be dealt with very carefully, with due consideration for the system that the House provides, a system of committees, broken down into subcommittees, that the legislative process is going to be honored in every way, and it is going to be honored in all of its details. And one of those details gives to the Rules Committee a particular function and the Rules Committee is going to exercise that function in this particular matter with a great deal of care. That is not a threat. It is not a promise. It is a statement of fact.

The SPEAKER. The gentleman from Illinois (Mr. MICHEL) is recognized for 30 minutes.

Mr. MICHEL. Mr. Speaker, here we are again on this very sensitive issue of social security. I must confess that I have not exactly been beseeched for requests on my side to speak in opposition to what the thrust of this bill is here today.

But recognizing the responsibility for what it is, I should like to make a few observations, then yield to those Members who similarly would like to express themselves.

It might surprise some Members of this body to learn that this Member, as outspoken as he has been on this and other issues when he was a junior Congressman, was one of the original sponsors of legislation to tie social security benefits to the cost-of-living index three Congresses before we actually adopted it, because I was so sick and tired of the bidding war that went on between parties on who was going to vote the biggest increase in any given year.

Incidentally, regarding the cost-of-living index, it takes us about 6 or 7 years to devise revisions of that index. It rankles me no end that it takes so long. By the time we get the index re-

vised to reflect new figures, they are already obsolete. But those are the facts of life. But as I said, Mel Laird, Jack Betts, who used to serve on our Ways and Means Committee, and I had talked about tying the social security system to the cost-of-living index for some time, so I do not come to the well of the House today as one insensitive to the social security problem and the need to keep it solvent so that people will continue to receive the benefits to which they are entitled.

I must confess that in those earlier days, we had never dreamed there would be the type of double-digit inflation we have experienced during the past few years. I would be the first to admit today that in view of recent trends, the existing cost-of-living index now somewhat inaccurately measures the actual cost of living for most of those over 65. The housing and medical components in particular produce distortions that should be corrected.

But be that as it may, I would like to address myself now to the particular issue of minimum benefits, what is involved, and why we think there can be some modification in what is contained in reconciliation.

We have until March 1 of next year in which we can act affirmatively to redress any grievances that we feel ought to be addressed.

Now, as my colleagues know, the minimum benefit involves roughly 3 million of our people. However, 1 million of those are only technical beneficiaries of the minimum benefit who are actually receiving today much more than the minimum, and we ought to understand that. Their benefits would not change one dime if we eliminate the minimum benefit requirement.

We have an additional 450,000 people who are currently receiving benefits from a Federal retirement system, one of the most lucrative in the country, as well as the minimum benefit. These are not needy people with no other place to go.

Fifty thousand more have retired spouses receiving benefits from the Federal retirement system as well as the minimum benefit.

Thirty thousand other recipients have working spouses earning an average of $21,000 annually.

Still another 200,000 are receiving an amount equal to the minimum benefit as a result of what they have paid into social security, so their monthly check would not change one dime.

And that is why the President comes down quite hard, to try to make the differentiation between those who actually earned a benefit as distinguished from those who have not earned it, but simply got blanketed in through the minimum provision.

In my judgment, we ought not to have that drag on the trust fund. We ought to take care of the needy through other programs, such as SSI, even if these programs have to be modified to make sure no one falls through the cracks.

Continuing with the breakdown of minimum benefit recipients, there are 500,000 recipients receiving supplemental security income benefits as well as the minimum, and the way the SSI benefits are figured their SSI checks would increase to make up for what they lose from minimum benefits. In other words, their monthly checks would not change one dime.

The key diference here is that the flat minimum benefit under the Social Security Act is, as I said, a real drag on the trust fund, while the benefits from SSI are drawn from the Internal Revenue.

□ 1210

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. MICHEL. Mr. Speaker, I yield myself 5 additional minutes.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, the point I would like to make, and I appreciate the gentleman's sentiment and his efforts to improve this system over the years, and commend him for it; I think the cost-of-living-increase benefit that was put in, while a costly provision, was an equitable one, and I think he has been a leader on the other side of the aisle in terms of the issue on that basis.

I would like to point out that the minimum benefit has been with this system for as long as it has existed. It started out at $10 in the late 1930's. The fact of the matter is that if we look at the benefits, whether they are earned or not earned, I submit to the gentleman that many aspects of the social security program are engaged in so far as like an insurance benefit. I think that is the context in which we ought to look at the minimum.

I think the gentleman is fully aware that there is a freeze starting in 1979 on that minimum in which to calculate benefits. That was a responsible thing that we had.

I appreciate the gentleman yielding and appreciate his comments on that subject.

Mr. MICHEL. Let me just go on to say on that point that many beneficiaries, if we do not change the rules, will be eligible for benefits in 1982 at age 65 who paid in less than $68 in lifetime social security taxes, an amount that they can recoup, mind you, in only 12 days. I have found, in talking to workers in my district—and I have a highly unionized constituency in Peoria—that they are rather incensed over the fact that those people who contributed into the trust fund over a long period of years and actually earned that income, are being somewhat jeopardized by those who contributed so little; as a matter of fact, practically nothing.

So, this is the kind of thing I would like to change and adjust, and do it in a manner, hopefully, in which we will not do violence to anyone who actually has no other place to turn for some minimum benefit.

I would like to say too that on the average a husband and wife getting an initial minimum beneift in 1982 would be paid more than $100,000 during their retirement thereafter, taking the actuarial figures into account from the social security trust funds, which is about 300 times what they paid in. Obviously, that kind of benefit would not have been earned.

Incidentally, did you know that 35,000 social security minimum beneficiaries live outside the United States?

And finally, there are 200,000 others who are adult students or the minor children of those receiving Federal pensions, whose need for the minimum benefit has to come under question.

These people account for 2.7 million of the 3 million.

Now if my arithmetic is still good, that leaves 300,000 recipients with a real problem.

It is in this category where the question of need may be most legitimate. It is at this juncture where we must decide whether it is prudent to restore the entire minimum benefit provisions or find some other means of meeting the needs of those in this category.

We are talking about people who may not qualify for supplemental security income benefits because they have cash or liquid resources in excess of $1,500 or $2,250 for a couple.

It could be argued that even though these individuals may have assets of this size, and do not qualify for SSI, that they still have legitimate need for Federal assistance. I would not argue that point.

I am inclined to think that the means test for SSI eligibility is too stringent. After all, it was established back in 1972. The economy has changed since then.

Congress has done nothing to upgrade the means test, despite massive increases in the cost of living. Adjusting the cash assets level would be one way of making sure minimum benefit recipients do not slip through the cracks.

It would be far wiser and far more prudent to provide an additional $100 million or so in this regard than it would to dump $7 billion back into the minimum benefit provisions of the Social Security Act.

It should be noted here that the value of one's house does not count in

determining SSI eligibility. A person could own a $200,000 house fully paid for, and still be eligible for SSI. So let nobody claim that the elderly will be forced to sell their homes.

A person can own an automobile valued up to $4,500, and household furnishing worth up to $2,000, and still be eligible for SSI.

I should also point out that the reconciliation conference report contains special language making minimum benefit recipients between ages 60 and 64 eligible for SSI. Under current law, you have to be age 65 before being eligible. This will help to prevent people in this age group from falling through the cracks.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Speaker, I applaud the gentleman, who for so many years has shown leadership in this difficult area, and of course I stand with him on his position.

I think, if I understand what the gentleman is saying, to tie it with the words coming from the gentleman who is the chairman of the Rules Committee, the unearned benefit is repugnant to the idea of an insurance fund, and you cannot have an insurance fund that benefits in the same manner and same amount people who do not pay in proportion. That is not consistent with the idea of an insurance fund, and it seems consistent with the idea of an insurance fund the efforts of the gentleman in the well, in fact, to remove the minimum payments from those people who in fact do not contribute in terms of premiums to the insurance fund. So, I think what the gentleman in the well is saying is perfectly consistent with the chairman of the Rules Committee's notion of an insurance fund.

Mr. MICHEL. I appreciate the gentleman's contribution.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, if the gentleman uses that philosophy of earned right, does he realize that he is going to cut out many, many women who are eligible for social security because of the dependent spouse benefit, because they felt that having an option, as we want all women to have, to be a homemaker, raise children, going in and out of the labor force to raise children and so forth, that their economic contribution to a marriage was to be a good mother, if the gentleman uses that philosophy, then I want to tell him as of now that he is cutting out about 30 percent of the future and current recipients.

I really think that is very, very serious, and I think women ought to be very concerned. Some of us want to correct the inequities that occurred for married women who do work, who paid into the system, and indeed are entitled to a better benefit. That is another issue, but is not marriage an economic partnership also? Is the gentleman really saying—and I hope he is not—that he feels that anyone who has not contributed, even if the spouse contributed, that they should not get social security benefits?

The SPEAKER pro tempore. The time of the gentleman from Illinois has again expired.

Mr. MICHEL. Mr. Speaker, I yield myself 2 additional minutes.

I have noted the gentlewoman's remarks from time to time, and I am not sure it is only confined to women, but I think we are in an area now where we are recognizing even in the Social Security Act and beyond, the equality of women.

Ms. OAKAR. I am not speaking of the equality of women.

Mr. MICHEL. I want to say that again we have an option to deal with this issue prospectively. We could, for example, grandfather in those that are currently in, and talk about the future, but not lock ourselves in so solidly today that we have got no place to turn. My feeling is that those members who serve on the Subcommittee on Social Security Revision, whether they are on the gentlewoman's side or on our side, ought not to be deprived of the leeway necessary to put together a good package. Chances are, when that package comes forward this gentleman is going to be supporting it, but I do not want to see those efforts really inhibited by some precipitous action today simply because we are piqued that we did not get our way one way or another in this overall omnibus reconciliation package.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, Members of the House, I think we will all agree that perhaps the cruelest thing that an adult can do is to deceive a child, to make him a promise you do not intend to keep; shaking the confidence that he reposes in his elders.

I would say it is comparable and wrong to make a promise we do not expect to be kept to the elderly of this country who are involved in this matter we discuss today, over two-thirds of whom are above 70 years of age, over half a million of whom are above 80 years of age, many of whom are above 90 years of age, and some above 100 years of age.

They want to know, as they are sitting, many of them, in their loneliness and listening to the telecast of what we say or reading the press tomorrow reporting on what we have done, what did we mean by what we did? Are we in good faith today in voting a resolution, not expressing the sentiment of the Congress, but legislating as a part of the constitutional legislative process of America, repudiating a part of the reconciliation resolution which will soon be adopted, denying to 3,100,000 elderly Americans the minimum social security benefit they now receive?

There were many of us who were very much indisposed to follow the leadership of the distinguished chairman of the Rules Committee because we knew that he too had to move against his conscience to do what he thought was the honorable thing for us to observe, an agreement made in respect to this reconciliation resolution by the leadership of both of our parties.

□ 1220

We agreed in the Rules Committee yesterday that we would support that leadership and would not attempt to bring out a rule that would allow the amendment of the reconciliation resolution to strike out the prohibition against the receipt of these minimum social security benefits by the elderly of America. But we chose to follow the alternative route that was so ably presented here by our distinguished chairman of the Rules Committee to have a separate resolution of legislative meaning and purport, casting the vote of this House, the people's House, that we were adamantly opposed—and, I believe, by a big majority vote—to the inclusion in the law of the feature of the reconciliation resolution that would otherwise make a prohibition against these people receiving this minimum benefit after March 1 of next year.

Now, the question is what is going to happen in the other body. Are we really meaning that we are expecting the other body to concur with us in this important matter, or is this a ploy?

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. Is this a ploy to deceive the elderly of America, that the House of Representatives is going to pass it but with the understanding that the Senate will put it by and, as one Member said, let it pend and pend and pend?

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. So, I ask the distinguished minority leader, will the faith of his President and the faith of his party, if this House today adopts this resolution today, be behind the affirmative action of the Senate on this resolution. Are they in concurrence with what we do?

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, of course, the gentleman, who once served over in the other body with such distinction, knows that there are Members over

there, I am sure, who are just as sensitive as he is about this particular issue, and I would suspect, while they may not be in a position, because of the urgency of the time today and the weekend, to resolve the issue, they know that this is a vehicle for what I expect to be some significant change or adjustment in social security programs, whether it is short range or long range or in one part or another.

I am confident that the bill simply is not going to be languishing over there with no action whatsoever, because there will be the same pressure over there to which the gentleman is referring.

Mr. PEPPER. Mr. Speaker, the Aging Committee this morning, on the motion of the ranking minority member, Mr. RINALDO, unanimously got adopted a resolution that the whole Aging Committee of both parties supported this resolution and called upon the President and the leadership of the Senate to support the pending resolution. I would hope that the minority leadership in this House would do the same thing. Let us support this meaningful resolution pending and call upon our colleagues in the other body to concur with us and the overwhelming sentiment of the people of the country.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. PEPPER) has expired.

Mr. PEPPER. Mr. Speaker, may I ask the gentleman from Missouri (Mr. BOLLING) if he will yield me 1 more minute?

Mr. BOLLING. Mr. Speaker, I regret to say to my friend, the gentleman from Florida (Mr. PEPPER), that I have no more time to yield.

Mr. MICHEL. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I have the privilege of representing a county in Florida that has 250,000 people who get social security checks every month. I have to say in their behalf that we appreciate the fact that Congress and the administration are taking a very close look at the problems of the system. It is esential that we discuss the problems of the system and what we are going to do, not only to protect those who are presently receiving social security but also to protect those who are going to receive social security in the future.

We appreciate the fact that the President of the United States has called attention to the problems in the system because they are many. As we listen to the debate of our leader, the gentleman from Illinois (Mr. MICHEL), we know the information he presents is accurate. Of course we also know that there are a lot of arguments in this matter which need airing. There are obviously people in the system who have not earned their benefits. We know that. There are others who actually have no real need for their social security checks. But Mr. Speaker, let me speak to say for the millions of Americans who need their social security and who have earned them.

I want to focus my comments today on the thought presented by the gentleman from Missouri (Mr. BOLLING) when he talked about the need to approach social security in a sound, businesslike fashion, not haphazardly, not as part of some reconciliation bill, not as an amendment to some other bill, but to approach the entire problem, on its own, in a very realistic way. I can say this to all of my colleagues on both sides of the aisle, that if we do not do that, if we choose to do a little today and a little tomorrow and we drop a few hints here and there, or there is a little speculation, we frighten people.

Some of those 250,000 in my area who receive social security checks came to my area from your areas. They are your constituents as well as mine, and I think we have an obligation to them.

We have an obligation to the 90-year-old lady I talked to last week who is not going to lose anything under any of the plans we talk about today, but she fears that she is. She does not understand the things we are talking about. She thinks that many of these cuts have already taken place, although they have not.

The point is that if we do not do this right, if we do not do it as spelled out by the chairman of the Rules Committee in a realistic fashion, we are going to scare people to death, and they deserve better than that.

Now, consider this 90-year-old lady who came to my district from one of your districts and who has no family; she is by herself. She fears for her life. And because of the way the social security has been handled, she is not sure whether she is going to get that social security check at the end of the month or not. We cannot do that to her; she deserves better than that. She is representative of many people who live today and survive today only because of their social security checks.

So I say to the gentleman from Missouri (Mr. BOLLING), let us do what he said. Let us approach this problem of social security in a realistic way. Let us not frighten the people with a lot of speculation and a lot of possibilities. Let us get down to business and solve the problems, not in a haphazard fashion, and not as a rider or amendment buried in some other legislative vehicle that might be working its way through Congress.

Mr. Speaker, this is a serious matter. Those who do not work on a day-to-day basis with these older Americans who in fact are surviving because they have a social security income, cannot realize the panic that goes through some of their minds when they read a headline story that says social security is going bankrupt or that social security programs are going to be cut and they might not get their checks.

That is just not going to happen. I know that Congress is not going to let it happen, and so do you. I know the President is not going to let that happen, and so do you.

So, Mr. Speaker, I say to the Members, let us approach this issue in a responsible way and quit scaring the older people of America.

Now, Mr. Speaker, let me comment on the bill before us, a bill presented here to undo the piecemeal tampering with social security which occurres in the reconciliation bill.

Mr. Speaker, the action we are about to take will not only maintain the minimum social security benefits for 3 million Americans, more importantly, it will allow a great many senior citizens to maintain a sense of pride and dignity.

As the representative of more than 250,000 social security recipients, I know how proud these men and women who built our Nation through their hard work are to now be able to retire and receive a monthly return on the money they contributed to social security throughout their long years of work. It has been said many times in the past few weeks that the recipients of the minimum social security benefit are receiving unearned benefits, because for some reason they were not able to work enough years to collect a full share.

It has also been said that these men and women who will lose their minimum benefit will be able to make up the loss through supplemental security income, a Federal welfare program for the needy. However, Mr. Speaker, although financially these people will be receiving the same amount of money, there is a very great difference in the actual checks they will receive.

The green social security checks are a symbol of income retired workers earned through years of labor, while the gold-colored welfare checks are a symbol of an unearned Government handout.

Mr. Speaker, the social security recipients of our Nation each month proudly take to the bank their green checks—the symbol of hard work. It would be a serious blow to the dignity of those recipients who would be forced to go on the rolls of welfare to receive the same monetary benefits.

Statistics I have obtained from the Social Security Subcommittee show just how proud these older Americans are. More than 500,000 recipients of the minimum benefit are now eligible for supplemental security income because the benefits they receive are still too low to make ends meet. However, Mr. Speaker, they have been too

proud to apply for supplemental security income because they do not want to spend the remaining years of their lives on welfare.

It would be unfair for us to eliminate the minimum benefit and force these 500,000 people, many in their seventies, eighties, and nineties to swallow their pride and spend the remaining years of their lives on the welfare rolls.

The action we take today, Mr. Speaker, will allow a great many older Americans to live out their final years with dignity and there is no dollar figure we can ever put on that.

And again, Mr. Speaker, to everyone involved in the great debate on social security, let us be responsible in how we approach the issue, let us not create fear and panic in the hearts of many Americans, let us not approach this great issue in a haphazard fashion as an afterthought to some other bill. Let us resolve this matter in a responsible way that will bring credit to this Congress and a feeling of security for our older friends and neighbors.

Mr. NELSON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Florida.

Mr. NELSON. Mr. Speaker, I want to thank the gentleman from Florida (Mr. YOUNG) for his comments. I concur with the gentleman and associate myself with his comments. Mr. Speaker, I rise in support of the bill.

I support the bill to preserve the $122 minimum monthly social security benefit. This proposal is a vehicle to express the overwhelming support in the House to the Senate. The Senate should listen to this mandate and act accordingly.

This bill is made necessary because the budget reconciliation bill backed by President Reagan, included the President's request for elimination of this minimum monthly benefit. At the time of consideration of the budget, the gentleman from Oklahoma (Mr. JONES), the chairman of the Budget Committee, had requested the opportunity to offer an amendment that would have restored the $122 minimum monthly benefit. I supported Mr. JONES' request, but it failed by a razor-thin margin of 212 to 215.

The overall budget reconciliation bill which cut $44 billion of Federal spending and which I supported, contained some spending cuts with which I did not agree—the $122 minimum monthly benefit being one of the items. Therefore, I am grateful to the gentleman from Missouri (Mr. BOLLING) for offering this bill in order to let the House express again its opposition to this social security cut.

This cut recommended by the administration would affect 3 million elderly Americans—1.8 million who are poor senior citizens, and rely on this monthly $122 check for bare subsistence. It is unfair to cut those less fortunate in our society.

I strongly urge adoption of this legislation.

Mr. BOLLING. Mr. Speaker, I yield myself 1 minute.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I rise to lend my support of the pending bill which as I understand would restore the minimum benefit payment under social security for an estimated 3.1 million elderly for whom it will expire on February 28, 1982.

I not only urge my colleagues here to pass this bill today but more importantly, I consider it incumbent on the Senate of the United States to also move expeditiously on final passage. Indications are that the Senate may be inclined to have the legislation languish in the Finance Committee. I contend that an indication of support from the President would motivate the Senate to act with equal dispatch on this proposal.

What is at stake here—is the economic security of over 3 million elderly Americans. If we fail to act expeditiously and approve this bill, we will have the unfortunate place in history of being the first session of Congress to ever have approved a reduction in social security benefits for existing recipients.

I contend that the suffering, in human terms, will far outweigh any cost savings which might be achieved in eliminating the minimum social security benefit. The administration, in proposing this elimination on top of massive budget cuts in this and other programs of direct help to the poor elderly, has shown that its economic policies are clearly more callous than compassionate.

It is outrageous that approval of elimination of the minimum benefit was done without regard for the impact of this elimination upon those individuals who depend on this as their sole or primary source of income. I did not support this elimination and opposed it every step of the way, including my opposition to the so-called Gramm-Latta I and Gramm-Latta II budget proposals authored by the administration.

What will happen to these people after February 28 if this minimum benefit is eliminated? Certainly a fair number of beneficiaries can be transferred to SSI, but clearly not all of them can. A U.S. General Accounting Office survey of minimum benefit recipients could not account for other sources of 26 percent of beneficiaries. This means that as many as 750,000 poor, older Americans could lose their minimum benefit on February 28 with no alternative source of income.

As one who voted consistently against the Reagan budget proposals, including the reconciliation bill which contains the elimination of the minimum benefit, I fervently hope that Congress will see the error of its way and restore these vital benefits. To do anything less will make us accomplices to one of the most grievous injustices ever perpetrated against the elderly of this Nation.

I urge my colleagues to join with me in support of this legislation before us and provide 3 million Americans who rely upon this minimum benefit the guarantee that they deserve—that we will not take away from them that which they worked so hard, so long to earn.

Mr. CORRADA. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 4331, a bill introduced by Mr. BOLLING to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act.

If passed, this bill will repeal section 2201 of the Budget Reconciliation Act of 1981 which repeals the minimum benefit provisions of the Social Security Act, thus restoring those provisions to the law.

Mr. Speaker, this bill will correct a great injustice that would otherwise be prepetrated against more than 2 million of our elderly, disabled, blind, widows, and other social security beneficiaries who are now receiving the minimum benefit payments of $122 per month.

In Puerto Rico there are more than 100,000 social security pensioners who receive the minimum benefit payments whose pensions would be severely and drastically reduced if this bill is not enacted. In the case of Puerto Rico, the elimination of the monthly minimum payments of the social security programs would be even more severe than in the 50 States simply because these pensioners in Puerto Rico will not be able to avail themselves of benefits under the supplemental security income program (SSI) because the SSI benefits have not been extended to the residents of Puerto Rico.

Puerto Rico is subject to the payment of social security taxes and our employers and employees contribute to the social security fund with their payroll deductions and the payments of these taxes since the year 1951.

Many of our pensioners, because we did not come within this program until 1951 have made contributions that only allow them to receive the minimum benefits, and others have made contributions that allow them to be eligible only for the minimum benefits because their wages and salaries were

below Federal minimum wages for many years. Consequently, I fully support H.R. 4331 so that we can restore the minimum benefit payments under the Social Security Act to more than 2 million Americans in the United States mainland and more than 100,000 Puerto Ricans, who as American citizens, should be entitled to these benefits. I urge my colleagues to pass this bill today.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like today to talk about minimum benefits and about what we did in reconciliation and why it is important. I am not trying to change anybody's mind. I know that virtually everybody is going to vote for this legislation. I am going to vote against it. But what I am trying to do here today is clarify the issue.

I think it is important to note what the minimum benefit is, where it came from, and what it represents. In 1939 we established the minimum benefit at $10 a month. The idea was that a lot of people had a long work history before we ever set up social security, and that we would pay them a minimum benefit if they paid anything into social security.

In 1974 we set up SSI, and SSI was aimed at providing supplemental income to people who were needy. At that point the logic of the minimum benefit was really eliminated for two reasons. No. 1, there were very few people working who had significant participation in the labor market prior to 1939; and, second, anybody who met a needs test and an assets test, which excluded things like the value of one's house, the value of one's car, and a reasonable amount of savings and insurance, could qualify for SSI. Today anybody meeting the criteria of SSI receives almost three times as much as they do from minimum benefits.

We hear a lot of people talk about the poor widow who is going to lose minimum benefits as a result of the action taken by the committee. We hear talk about 3 million needy people being terminated. I do not believe I am going to change anybody's mind, but I would like to have as part of the record what the facts are, and here, to the best of my ability to determine the facts, is what we are talking about.

□ 1230

According to the General Accounting Office there are 3 million people who are drawing minimum benefits, part of it earned, part of it unearned. The average minimum beneficiary is due $62 a month from what they paid into social security, $60 less per month than the $122 minimum benefit.

Four hundred and fifty thousand people drawing the minimum benefit have an average Federal retirement pension which exceeds $16,000 a year. These are people that worked a few quarters under social security and are now drawing a minimum benefit in addition to their Federal retirement program.

The budget reconciliation would not deny them a dime that they have earned, but it would deny them a supplemental payment which they are not entitled to, which they did not earn, and which by any needs test they do not need.

Another 50,000 people on the social security minimum benefit have retired spouses that draw pensions exceeding an average of $18,500 a year. They will continue to draw the benefits that they are due based on the amount they paid in.

Three hundred thousand people drawing the minimum benefit today have spouses that have an average annual income which exceeds $21,100 a year. The reconciliation bill would not deny them a dime they are due from social security, but it will eliminate an unearned supplemental payment.

In total, we are talking about 800,000 people whose unearned supplements in the form of minimum benefits will be terminated under this amendment. An additional 1 million people will be unaffected who now draw the minimum benefits, because under the spouse rule they get the minimum benefit, plus a supplemental social security benefit, bringing them to half their spouses' earnings. The supplement will go up as the minimum goes down, and they will be unaffected.

What frightens me here today, Mr. Speaker, is not that we are talking about cutting benefits to needy people. We have clearly targeted a reduction in unearned benefits to people who do not meet the needs test of the SSI and who have not earned the benefits they are paid. The President has committed to set up a special procedure to be sure nobody falls through the cracks, to be sure that we can monitor the transition for the people who will qualify for SSI. What frightens me here is that we cannot deal rationally with this issue—one that affects the financial viability of the social security system—because it is so emotional. That, I think, is a real indictment of the democratic process and of this body.

I thank the gentleman for yielding.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, if the debate we are having today, which is emotional, somewhat factual, and considerably political, is any portent of the difficulties we will have in trying to forge a social security reform bill best for the American people, then I say it is a cause for melancholy, particularly for those on the subcommittee which must produce some kind of a bill that will be fair.

The bill before us now does not address what should happen regarding those coming on the minimum benefit roll in the future—as my subcommittee has done previously and done unanimously.

Yesterday I introduced legislation to restore the original subcommittee position on the minimum benefit. I will continue to urge that position. I seek the cooperation of the Members of this House and ask them to cosponsor it with me.

The basic problem here is that the committee process has been abrogated. It was abrogated in the passage of Gramm-Latta II, and it is further circumvented here today. It is untimely procedure and in many ways, Mr. Chairman, this is a House out of order.

Yet I recognize that this action today is an expected way for Members to protest again the minimum benefit cut. In all likelihood, the fact is that when all of this is over it will still be up to the committee to follow through and settle the issue, both for the past and for the future.

The retrospective elimination of the minimum benefit is an abomination. It was a grievous error and it ought to be corrected. But more than repeated votes, accompaned by much noise and clamor, the elderly of this land need calm and steady hands tending to the overall problem of the social security system.

In social security it is so important that we do the right thing, not just what makes us feel righteous.

I know in the view of the political pundits social security may be the main thing going for Members of Congress, but social security is the main thing some of our elderly people have going for them as well, and that is far more important.

I implore the Members to keep this in mind as we address this and other social security issues in the weeks ahead. It is important to try to think of what is best for our elderly citizens and not what we want with respect to any particular amendment.

Mr. BAILEY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I thank the gentleman for yielding.

There are two points I think important to correct in this debate. There may be some misimpressions.

One is SSI is clearly a welfare benefit. Second, there is a mistaken impression that people receiving, current recipients of the minimum benefit somehow receive in terms of a relationship

between pay-in and pay-out more compared to those people who are not minimum benefit recipients, who also during the life of the system, in fact practically everyone on the system received more in benefits than they paid in, in taxes, over the life of their receiving benefits.

I would like to read just one thing briefly from the social security bulletin:

> The dreaded stigma associated with dependence on welfare does not seem to have been eliminated by the switch from State-administered programs to SSI. Nonparticipants were more consistently likely to report that they will never accept welfare.

There will not be a proper replacement for those people currently on minimum benefits that need that to live, and that is an important point.

Mr. PICKLE. The gentleman is correct. There are over 500,000 or 600,000 people that we know will not apply for SSI, and we know it, and it would be cruel to assume they will.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I agree with much the gentleman in the well said. It is important that we preserve the role of the House in needed reforms for social security. Nobody is more convinced of the need for reform, I know, than the gentleman in the well.

It is ironic, than, that passage of trio retreat on the speedier phase-down of the social security minimum will give the Senate a vehicle to which major reform of the system can be attached, with the result that once again the people's branch may lose an initiative on which the people depend for the short and long term solving of the system. I pledge my best efforts for real reform of social seeming. This separate vote on the minimum works against such reform, substantively, procedurally and politically.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. WEISS).

Mr. WEISS. I thank my distinguished colleague for yielding.

I wholeheartedly support this effort to restore the social security minimum benefits.

I want to commend and compliment the distinguished chairman of the Rules Committee for the statement that he made at the opening of this debate. I hope that in the future he will follow the same line of thinking and the same course of action when it comes not just to social security but to all other legislation such as those hundreds of measures which have been rolled into one bill in the course of this reconciliation process.

The basic mistake was made at the beginning in the consideration of Gramm-Latta. We allowed the basic processes of this House to be turned into a travesty. Those entrusted with safeguarding of this institution, through a misguided sense of accommodation unwittingly rolled over and played dead for Ronald Reagan. By doing so an injustice was done not just to the membership of this House but to the entire American people.

□ 1240

We have legislation packed into a book of over 600 pages that nobody has read in its entirety. We are going to be asked to vote on that today. I hope that we are never put in that position again. I hope the gentleman will be given the support in his committee to make sure that we do not in the future exceed the bounds of the Budget Act.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the distinguished majority leader (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I hope we will pass this bill by an overwhelming vote. By doing that we will send a message to the Senate that we expect them to act expeditiously.

Most of the 3 million people who receive this minimum benefit are old and most of them are poor. Many of them have been domestic workers who, for many years, were not covered by social security. That is the reason some qualify for the minimum benefit, because the number of quarters under which they were covered was limited. Others were homemakers and mothers. Some were religious workers. Few indeed are affluent.

I could scarcely believe my ears when one of those speaking against this bill suggested that most of these people, or a great many of them, had no moral entitlement from the Government to more than $62 a month. I cannot really believe that any of us in a humane sense of fairness would reach that conclusion with today's prices.

I could hardly believe that any of us would ask them to abandon their rightful entitlement, swallow their dignity, and go with tin cups in hand to subject themselves to a needs test which would cut off at $284 a month or at $1,500 of assets.

I think we need to preserve for our elderly the dignity that we promised them when we created the social security program. That is little enough. This program can be maintained in an actuarially sound way. This Congress will maintain its actuarially integrity, and that can be done without reneging on our pledge, on our clear promise to these millions of Americans who now cannot be given back those years of their lives. The only way we can keep our commitment is to maintain good faith in what they have been led to expect they will receive.

So I hope we will pass this bill by an overwhelming vote and reestablish in no uncertain terms the good faith that this Government owes to America's elderly.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, these last several weeks of dealing with budget and tax matters have been most trying on all of us. The Congress has worked its will on a host of measures we hope will revitalize our economy and strengthen our productive sector.

During consideration of the first concurrent budget resolution and the omnibus reconciliation bill, we gave the new President much of what he wants. However, in the omnibus reconciliation bill, both the House and Senate inserted provisions which would eliminate social security minimum benefits; in retrospect, that move was, I think, a little shortsighted. The conference locked in this provision which will now become effective in February of next year, with the March 1982 social security checks reflecting the elimination of the benefits.

On July 21, by a vote of 405-13, we passed House Resolution 181 in an attempt to effect the removal of the minimum benefit elimination provision. That effort was unsuccessful though because of the Senate's refusal to do the same.

Today we have an opportunity, a second chance if you will, to repeal the minimum benefit provision before it takes effect, and perhaps insure that those 1 million or so retirees between the ages of 70 and 90 who cannot qualify for supplemental security income will continue to receive the small $122 per month sum for their remaining years.

I, like most of the Members of this body, received a large volume of mail from elderly constituents asking that their minimum benefits not be eliminated. These are not people who have nice pensions and substantial investments to see them through their remaining years. They are, in most cases, people who live from month to month in an economy where it is difficult at best to make ends meet for most Americans, let alone those on fixed incomes.

I am in agreement with the President on the need to get the Federal budget under control, and I commend him for his efforts to take certain steps toward this end which should have been taken long ago. But in my second thoughts on the provisions of the reconciliation bill, I think we can look to other areas of spending to achieve the President's goal.

In the meantime, let us leave the minimum benefit intact and show a little compassion for those on minimum fixed incomes by repealing the elimination provision. This is what our elderly constituents asked us to do,

and by a 405-13 vote on July 21, we agreed that their requests were not too much to ask for. Let us give this matter a second chance and vote for the bill put forth by the gentleman from Missouri (Mr. BOLLING).

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4331, to restore social security minimum benefits by repealing the section of the Reconciliation Act that seeks to eliminate these benefits.

Earlier today, we lost an opportunity to restore these benefits—the social security minimum benefits—through a procedural move. Now we have one more chance to restore these benefits for the 2 million elderly Americans who depend on these small checks to meet their most basic needs.

Let us take advantage of this opportunity to reaffirm our commitment to maintaining the security of our Nation's older Americans. I strongly urge my colleagues to cast their votes today in favor of the minimum social security benefits in order to assist our senior citizens.

I am hopeful that our adoption of this bill will be followed quickly by like action in the Senate. In addition, I urge that we move quickly toward a full airing of the complex issues surrounding the entire social security program's long-term financial stability. This is a matter of utmost importance to all Americans and it should be addressed by the proper authorizing committees in a rational, deliberate, and considered manner. We must bring the most appropriate measures to bear in maintaining the program's solvency and assuring all Americans that the social security benefits they have earned and that they depend on will continue to be paid to them without any fear of loss or reduction in benefits.

However, in the interim, I urge my colleagues to support H.R. 4331, to assure our minimum beneficiaries that they will not be singled out to bear the brunt of an arbitrary and unfeeling budgetary reduction.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I appreciate the leadership giving us an opportunity to act on this matter today.

Mr. Speaker, I rise in support of the legislation before us to maintain the minimum benefit under the old age, survivors, and disability insurance program.

During the year ahead, Congress must take effective action to insure the integrity of the social security retirement trust fund. Meanwhile, it is imperative that a loud signal be sent throughout the Nation that nothing will be done to endanger the benefits of those currently on social security. Enactment of this legislation would send such a signal.

Most beneficiaries of the minimum payment are women and retired workers over the age of 65. Among retired workers alone, there are about 1.5 million individuals 70 years or older, approximately 532,000 people 80 or older, and about 80,000 beneficiaries 90 or older.

Mr. MICHEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I rise in support of this motion to remove the minimum social security benefit from the reconciliation bill.

Mr. Speaker, I am supporting the repeal of the elimination of the social security minimum benefit for one reason. Despite the allegations on both sides of the aisle and despite the eloquence with which the program has been both revered and maligned, at no time has anyone suggested that the program is all bad or all good.

There has hardly been sufficient evidence in hearings to justify the complete elimination of this program. However—and I want to be quite clear on this point—neither has there been justification for the complete retention of this program. Both sides agree that there are hundreds of thousands of beneficiaries who will either qualify for other assistance or do not need the benefit.

I believe that there are those segments of our society who desperately need this benefit—for example, women who spent too many years as homemakers and too few in the so-called work force to qualify for more than the minimum benefit. And I also believe that there are segments of our society who have taken advantage of the system to augment their pensions with the social security minimum benefit by working just long enough under social security to qualify.

But we cannot tinker with the system by chopping this or that benefit. The minimum benefit must be considered with great care as part of the overall social security reforms. The Congress must consider this benefit based upon who receives it now—and who expects to receive it in the future. It must determine who has no other benefit and who will be covered by other income maintenance programs.

The Ways and Means Subcommittee on Social Security currently has in markup a comprehensive program to revise and reform the social security system and to insure continued benefits to present and future recipients.

In repealing the elimination of the minimum benefit, we shall clear the way for a rational decision—a decision that is based upon intelligence and compassion.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. NELLIGAN).

Mr. NELLIGAN. Mr. Speaker, I fully support this measure.

Mr. Speaker, the vote to reinstate the minimum benefit is an important one. It shows the commitment of this House not to cut off benefits to the truly needy.

The elimination of the minimum benefit would adversely affect a great number of very old people: 1.5 million over 70 years old, 532,000 over 80 years old, and 80,000, 90 years of age or older. While some would have their income made up elsewhere, others would not.

About 1,500,000 of the elderly recipients could turn to supplemental security income. However, I fear that many of these people would refuse what they consider to be welfare or find enrollment in another program difficult if they even know about it. I think it wiser to allow these people to continue to receive the minimum benefit rather than forcing them into the inconvenience of filing for new or increased benefits under another program.

A positive side effect would be that the Social Security Administration would not be forced to go through the paperwork required to reenroll these individuals in SSI.

Even with many present minimum benefit beneficiaries having the freedom to collect SSI, at least 800,000 recipients would not have their benefits replaced. I do not think it is fair to ask these thousands of elderly to give up their minimum benefits.

Among these 800,000 recipients would be two groups of individuals who do not deserve to have their benefits reduced. The first group are the homemakers. They have made their contribution to their country by raising children and making a good home while their husbands have held jobs and paid into the social security trust fund. Their contribution is terribly important. Simply because they have not held paying jobs, they should not be penalized by loss of benefits.

The second group includes vow-of-poverty members of religious orders. They were included under the Social Security Act in 1972 and have had to make tremendous sacrifices to be included under the system.

I am aware of one congregation that had to borrow over $1 million to enroll in the social security system in 1978 with the expectation of a continued minimum benefit. It would be unfair to end it when long-term financial decisions have been based on its continuance. In addition, it is hard to justify forcing these religious to collect wel-

fare when they work hard as teachers and in playing other important roles. I believe, therefore, that these religious—who make many types of sacrifices in their vocations—do not deserve to have their benefits cut.

I think the vote to retain the minimum benefit is crucial. We must show that we have compassion for those who need assistance.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I am pleased to rise in strong support of the restoration of the minimum social security benefit. As I have expressed on other occasions, I feel that the House acted precipitously and without adequate deliberation when it repealed this benefit in the omnibus reconciliation bill of 1981. I do not believe that the vote on this bill is a formality or a symbolic vote. I take the leadership of the Senate on its word: It will consider this legislation in September and will act upon it. Also, it is my hope and my belief that the Senate will pass this bill and that the Congress will undo the damage which it has done to the social security system.

I do not believe that the social security system is without the need for reform or improvement. However, I believe that any change in the system should be carefully considered and fully debated. I also believe that we should consider social security as part of a larger debate on the adequacy of our entire retirement security future and that we should include in our review private savings and pension reform and alternatives for older Americans to continue in the work force if they so desire.

A great deal of the minimum benefit debate has centered on assertions that this benefit is unearned and that it is unneeded. If these are the real issues, then let us face them directly. If the benefit should not be paid out of the social security trust fund, then let the Congress consider how it should be paid. If the benefit is not needed in certain circumstances, then let us identify those circumstances and adjust the benefit for those who have abused the system. The meat-ax approach to totally eliminate the minimum benefit is not one that I find acceptable. For many Americans, the minimum benefit is an essential part of their monthly income and cannot be reduced without causing severe economic hardship. The Congress and the President must recognize this and must be sensitive to this.

Finally, on a week that the Congress has shown great generosity toward some of the richest interests in our Nation by giving the oil companies a $16 billion tax break, I do not think that it is unreasonable for us to show a little compassion and provide the $1 billion necessary to retain the minimum benefit next year. By acting to restore the minimum benefit, the House can take an important step forward in restoring the confidence of elderly Americans both in the social security system itself and in the ability of the Congress to deal with the problems of social security responsibly.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman from Illinois (Mr. MICHEL) for yielding to me.

Earlier in the debate, the gentleman from Missouri (Mr. BOLLING) said there are two points of view that can be expressed about social security. I would agree with him. I think they were both expressed when this issue arose in the consideration of the budget bill. At that time we had the approach taken in Gramm-Latta which said we were going to cut the minimum benefits and that may have been handled in a somewhat clumsy fashion. Hopefully, what we will be doing on the bill today will help correct any problems that might have arisen as a result of the Gramm-Latta process. But the issue was clear. What we were trying to do was, we were trying to insure the integrity of the system for those who paid into that system and deserve full benefits under the system.

Yes, there was another point of view, too, on the floor that day. It was the Democratic leadership's bill. The Democratic leadership's bill, if the Members will remember, cut future benefits for all 36 million social security recipients, every one of them, across the board. It cut those benefits. That was the other point of view before us.

Was that subject to amendment on the floor that day? No. The members of the Committee on Rules were not going to permit us to touch that provision by amendment. What would have been the conferees' choice had we gone to the conference with that particular bill? We would have had a choice between what the Senate passed on minimum benefits or the choice of cutting future benefits for all 36 million social security recipients. I thought a cut for all recipients was wrong. I think it is wrong today. I think that even though we have continued to talk about minimum benefits, that we have not really addressed the other side of the argument which was the Democratic leadership effort to the preservation of welfare aspects of social security while taking benefits away from everyone.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I think the gentleman emphasizes the point some of us are trying to make, that social security should not be considered in a haphazard fashion as part of some other bill. The problems surrounding the social security system should be addressed by this Congress as simply that the social security trust fund, the people who are living on it, and the people planning to live on it in the future.

Mr. WALKER. Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Speaker, I rise in support of this issue.

Mr. Speaker, earlier this week the House passed the largest tax cut in history. As a legislator who feels that the time has come to provide tax relief to help our citizens get out from under the burden of inflation, I supported many of the bill's provisions. I could not endorse the overall tax cut package, however, because I consider its tilt toward major corporations and wealthy individuals, to be unacceptable. By creating unprecedented tax breaks for oil companies, multinational corporations, and large businesses, the bill will place the Federal budget over $60 billion in deficit.

This massive giveaway program will have disastrous ramifications on other areas of the budget.

I rise in support of H.R. 4331, a bill to reinstate the social security minimum benefit which is scheduled to be terminated in March 1982. Efforts to delete this benefit show us the worst effects of irresponsible fiscal policy. It is appalling that some of my colleagues would deny senior citizens of $122 in monthly payments in order to finance billions of dollars in lavish tax cuts for oil companies.

Most minimum benefit recipients are elderly women who did not have the opportunity to attain adequate social security coverage. Nearly two-thirds of the people who receive the benefit are over age 70, and one-half million recipients are over the age of 80. Many of these individuals depend primarily on these meager payments for retirement income.

Those who favor elimination of the minimum benefit argue that the truly needy will have their losses replaced with welfare payments. To qualify for supplemental security income, however, an elderly person can have no more than $1,500 in savings. Many Americans struggle to put aside some savings to supplement their retirement incomes. If the minimum benefit is eliminated, these individuals—thrifty men and women who planned wisely for their senior years—will be rewarded for their diligence by having to choose between a reduction in

income or quick disposal of their hard-earned assets.

Additionally, the contributory nature of social security makes it a workers' insurance program not a general welfare program. Many of our proud senior citizens would rather starve than apply for welfare.

If we eliminate the social security minimum benefit, we will be shifting critically needed funds into a massive giveaway tax plan. I urge my colleague to join me in voting for the passage of H.R. 4331.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I rise today in strong support of H.R. 4331 which would restore the minimum social security benefit.

The minimum social security benefit affects the lives of approximately 3 million Americans, approximately 2 million of whom truly need that money. This benefit, which could be phased out prospectively with far less cost in human suffering, is the difference between eating and not eating for many of our Nation's elderly, especially widows over the age of 80.

Many of my colleagues stood up in this Chamber and said that these elderly citizens could qualify for SSI and that would take care of the problem. If they were going to get their money anyway, just from another budget line, any reasonable person would have to ask how that shows up as a savings on the budget ledger. That is clearly robbing Peter to pay Paul, not saving money.

The explanation has become apparent over the last 2 months. Those who proposed this cut in benefits felt that many of the recipients of the minimum social security benefit would be too proud to accept welfare. They were probably right. The resulting suffering of the cut in benefits and of their pride is far too heartbreaking to contemplate. I hope that respect for our elderly citizens, rather than numbers on a ledger, will be more important today.

Understanding the necessity of maintaining the integrity of the social security system, I support the concept of paying the minimum benefit out of general revenues funds rather than the social security trust funds.

I believe that such a removal shows good sense as well as compassion and I am pleased to be part of this effort today.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, let me first of all thank and commend the gentleman, Mr. BOLLING. I rise in support of this resolution.

I want to make it clear I thought that the rule should not have cleaved off the social security issue from reconciliation. I think it is rather contradictory to pass this one measure—the reconciliation measure—a provision to repeal the minimum benefit and then to pass in the first instance a bill to, in fact, repeal the repealer; sort of a double negative.

I know the intention of the chairman of the Rules Committee, who has championed this cause, and I appreciate his comments and his support for assuring this House of having votes on these provisions. Indeed, the proposals that generally come from the Ways and Means Committee have a very tightly structured rule which do prevent Members from working their will. I take it that the gentleman is commenting that there will be no insulation for those that choose to deal with these social security benefits, that the House in fact is going to deal with any change in social security on a forthright basis. I appreciate the comments of the gentleman from Pennsylvania in pointing out the reconciliation process has the effect of glossing over substantial law change as one of its obvious flaws.

Mr. Speaker, although the House has not agreed to address in reconciliation the retention of the minimum social security benefit, this issue is not dead.

The Vento resolution, cosponsored by over 160 Members, Democrats and Republicans, would have enforced the commitment of the House to eliminate one of the the grossest attempts to violate the people's trust by any Congress or administration. It addressed an egregious error in the reconciliation bill. This strong bipartisan support demonstrates the commitment of the House to this issue.

Reconciliation contains an error for which this Congress and President Reagan must be held accountable, it is one that quietly drains the lifeblood out of the most successful and well-accepted retirement insurance program in the world.

While today we slip the rug out from underneath 3 million social security beneficiaries who are at rock bottom in terms of the benefits they receive, we may also begin the fatal process by which public trust and confidence are drained from the system. And surely that trust and confidence is the lifeblood of this system.

The immediate targets of the move to eliminate minimum benefit payment, our 3 million intended victims, are not welfare cheats; they have not defrauded the system. Their only crime, if indeed it is one, is that they have been living on a benefit each month to which their Government has determined they are legally entitled. They have not misrepresented their incomes or their contributions. It is we who have misrepresented the entire social security system if we say to them now, you are no longer entitled to that which was pledged to you.

In the long run, is not the administration and Congress also saying that to the other 32 million social security recipients? To the millions of American workers who are now paying 6.65 percent of their incomes into social security with the expectation they too will be able to draw its benefits? We have never, never in the history of the social security program cut monthly benefit checks for those already retired. At least until today.

Are our actions, our trail of broken promises, inspired by a mandate of the American people? No. Today's DSG analysis of a recent poll conducted for the Republican Congressional Campaign Committee reveals that two-thirds of the American people do not want social security benefits cut. The overwhelming support for social security is across-the-board, from those first entering the workplace to those already enjoying their social security rights. That is the mandate to which we must listen and act. But maybe that support for social security is the selfish interest we keep hearing about from the President.

This effort to reduce social security benefits for current recipients, to go back on our legal commitment, strikes a cruel blow at a most vulnerable segment of our society. Most of the victims of this unprecedented action do not have large financial reserves upon which to draw. At least half, more than 1.5 million of them are over 70 years old; jobs aren't the answer when they ask "How am I going to make up the difference?"

The victims of this scandal are overwhelmingly female—possibly as many as 85 to 90 percent of them are elderly women. These are wives and widows; they are working women who have labored at low-paying jobs, whose work histories have been short term or sporadic—perhaps as a result of years spent outside the work force at home or in other employment not covered by the system.

The statistics go on and on but they do not tell the full story. I would like to detail for my colleagues a few case histories. John B. is 79 years old. Throughout his life he has worked at several low-paying jobs and has lived on the small family farm. He is now almost totally dependent upon the minimum benefit. In March, he will lose his social security. To live he must receive SSI but the farm, though not productive, disqualifies him. So he will have to sell his home and spend the proceeds before he can get any assistance. Mary S. has recently gone through a traumatic divorce. The only thing that she has after many years of marriage is a car worth over $4,500

and her minimum benefits. Before she can get any aid, her car must be sold. Carol U. lives with her children and collects a minimum benefit. Come March 1, Carol will have the choice of leaving her family or getting no financial assistance because this rent-free room is an in-kind income. The loss of a home and all personal possessions, the stripping away of all dignity and the break up of families are the true impacts of the reconciliation bill.

For what savings are we asking such great sacrifice? It is estimated it will take something in excess of 6,000 staff years on a one-time basis to identify and recompute the benefits of these 3 million individuals. The administrative cost of recomputing the benefits is estimated to be $150 to $250 million. I doubt if even the intended victims of this cut are fully aware that it is their benefit we are axing. Despite the fact that $122 per month is the most frequently mentioned amount of the minimum benefit, this is not in fact the amount on the face of the monthy check these individuals receive. The so-called minimum is reduced even further if the worker retires before age 65. Dependents receive less, including children of retired or deceased workers and dependent spouses and widows, since they receive only a fraction of the worker's benefit.

This minimum benefit has come under attack under the pretense of ridding the social security system of welfare-type benefits, unearned benefits, windfalls, or benefits not originally a part of the social security system. The attack is unjust and unwarranted. The minimum benefit level has always been a part of the social security system, from its earliest inception in the 1930's, the minimum benefit was included as a basic, original feature. When we froze the minimum at $122 for the workers who retires at age 65, an automatic phaseout was built into the system. As earnings rise in our economy and fewer and fewer people have such low earnings to qualify for only $122 per month, the minimum will cease to exist. By forcing the elimination now, the administration is turning its back on small but desperately needy portion of America.

So how much do we actually save when we tally up the administrative costs of executing this proposal? When we deduct the increase in payments for supplemental security income? When we then compute the highest cost of all, the loss of public trust and confidence? When the Congress is willing to go on record that there is nothing sacred in the commitment social security represents, indeed that benefits are subject to the whims of budget balancers at the expense of retired workers there can be no trust.

I urge my colleagues to honor our commitment of 45 years and the promise of House Resolution 181 by supporting continued efforts to reinstate the social security minimum benefit.

I further have reservations about what is going to happen with this particular measure, H.R. 203. I have no doubt that there is a dusty corner waiting in the Finance Committee for dealing with this.

I want to comment a little bit about some of the comments about social security today that have been made. I do not think the solution is to bleed the social security system to restore health to the patient. I want to say that the effort to repeal the minimum benefit proposal does start a process by Congress to take one group at a time off social security insurance benefits. One can phrase it in any terms that they want: earned, unearned. The best face one can put on this is that Congress is going to convert those eligible currently for social security and make welfare recipients out of those that are really the truly needy. Believe me, there are many people in my district and I think in all other districts that will not seek supplemental security income because it is characterized as public assistance, as welfare.

I want to point out that the reason I think we have a panic among the elderly in this country today is because of the irresponsible proposals that came from the administration; unwarranted, unnecessary proposals which take the least optimistic statistics and predictions.

I think it is just this simple. The commitment to social security and the health of the system is as good as the President and Congress want to make it. I think we ought to make a commitment worthy of the people we represent.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

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Mr. RATCHFORD. Mr. Speaker, I rise as a former commissioner on aging in the State of Connecticut, a State in which there are about 600,000 people over the age of 60 and a State in which there are thousands and thousands of frail elderly people in this program.

Now, let me say again what we are talking about are the frailest of the frail and the neediest of the needy. And to talk about cutting these people from that thread of life, that $122 a month, is unconscionable.

Now, let me remind the Members what we did in the tax bill this week. And if you want to talk about fairness, if you want to talk about equity, if you want to talk about justice, can we in conscience cut the frailest of the frail and in the same week give billions of dollars of tax breaks to the oil industry, give several billion dollars of breaks to the savings and loan industry, give a large break to the commodities traders and, yes, to say in the wealthiest of estates, "You are going to get a break"? To give a break to oil, to banking, to commodities, and to large estates in the same week when we propose to cut 3 million of the frailest and the neediest of the elderly is not something I care to engage in. In the name of conscience, in the name of justice, in the name of equity, let us pass this bill and keep our commitment to the older Americans.

Mr. MICHEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Speaker, I rise in support of H.R. 4331, to restore minimum benefits under the Social Security Act.

There are 3 million senior citizens receiving minimum social security benefits. Two-thirds of those citizens are over age 70. Some 500,000 are over age 80. Most are elderly women who never had the opportunity to make a reasonable salary. All are now tenuously balancing the very high costs of health care, food, and housing on budgets that are dependent on the minimum benefit check each month.

The Federal Government long ago made a commitment to these senior citizens, who have worked all of their lives hoping for some retirement security. To suddenly break that commitment would be a cruel and unfair measure. Current recipients of the minimum benefit are very frightened by unknown hardships they will face if assistance is cut off. Many are not able, prepared, or willing to search out welfare benefits they will need to maintain adequate incomes. They are the individuals who are most vulnerable to difficult economic conditions and least able to adapt to them. As we pursue a needed program of economic recovery for this Nation, let us not forget the commitments we have made to senior citizens with the social security program.

Mr. MICHEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I rise in support of H.R. 4331, legislation to amend the Omnibus Reconciliation Act to restore the social security minimum benefit for current recipients. While we must consider the alternatives for social security refinancing, any reforms we pass should not hurt those who are already receiving the benefits for which they have planned.

Eliminating the minimum benefit for current recipients would result in an undue hardship for the majority of these older Americans. We must look closely at exactly who is receiving the minimum benefit. Most minimum beneficiaries have a history of low wages throughout their working years.

In my home State of Maine, many people spend their lives working hard in low-paying jobs with little potential for increased earnings. Maine has the lowest per capita income in the Nation, and my constituents could not afford even the smallest reduction in social security benefits.

Most minimum beneficiaries are women; 76 percent of the workers receiving this benefit are women who characteristically earn lower wages or who have taken time out of the work force to raise families. If we include dependents and survivors, we find that an estimated 85 to 90 percent of minimum beneficiaries are women.

Most minimum beneficiaries are retired workers, and approximately 78 percent of them are at least 65 years of age. Among workers alone, there are about 1.5 million who are over age 70, about 532,000 who are over age 80, and about 80,000 who are 90 or older.

A mere 12 percent of minimum beneficiaries have a public pension and are receiving this benefit because of short-term employment in a social security covered job.

These retirees planned on the minimum benefit as a source of income because Congress promised it to them. They have every reason to believe that they will continue to receive this benefit. Most are already living on a tight budget, and it is too late for them to plan on alternative sources of retirement income. The people of this Nation are rapidly losing faith in the social security system, and a cut in benefits to current recipients will only increase this lack of confidence.

I have heard the argument that if the minimum benefit is changed, needy recipients will be eligible for supplemental security income (SSI). While it is estimated that perhaps 80,000 would become eligible if the minimum was eliminated, it is questionable how many would choose to apply. The older people in Maine see a great difference between the social security benefits which they have earned and the SSI benefits which they view as welfare. Moreover, many needy elderly are not eligible for SSI because they have a small savings or own their home. It is very difficult to tell proud older Americans that Congress has voted to reduce their social security benefits, but that the Government will supplement their losses with SSI if they are willing to sell their home and dispose of their assets.

There is also some skepticism about whether the Social Security Administration could even administer the change in benefits for these 3 million minimum beneficiaries. The benefit formula has changed many times since the program's inception, and recomputing each person's benefit would take in excess of 6,000 staff-years to carry out.

Our support for saving the minimum benefit demonstrates to the senior citizens of this country that they need not fear the reduction of their benefits and that they can continue to have faith in the social security program.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, I think we need to look at why we are debating this issue at all today.

We are debating it because the social security fund is going to be in deficit and unable to pay all retirement benefits at the end of next year if we do not do something. It means we are going to have to make some very difficult choices. They will not go away. We can listen to all of the political rhetoric that we want; the decision still has to be made.

The question on the minimum benefit is whether we continue to pay out to people benefits beyond what they have earned by taxes paid in when they do not need that for the source of their sustenance, when they perhaps have millions of dollars of outside wealth, when they have large pension programs, either governmentally or privately sponsored, and in doing that jeopardize the basic benefits paid to the elderly who do need social security as a major or sole source of support.

That is the issue here.

This bill takes away from the Social Security Subcommittee and the Ways and Means Committee the opportunity to devise a reform program that will implement a policy that will be constructive and beneficial to all in this country who depend on social security.

And what will it do? It will send a bill to the Senate that they will sit on until they are ready to tack on their social security proposals and then be the moving force behind what is done in this vital area, taking away the House's constitutional jurisdiction to originate all tax bills. And make no mistake about it, that is exactly what we are doing today. We are handing a vehicle to the Senate to rewrite the social security bill. I do not think we should do that.

Our chairman, who has done an outstanding job on the Social Security Subcommittee, my friend, the gentleman from Texas, JAKE PICKLE, has committed that we will take into consideration and pass out a reform on the minimum benefit structure. That is the proper way to do it, not in this hurried procedure before the House today.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I rise in support of the bill and commend the chairman of the Rules Committee for offering it.

Mr. Speaker, I have had the privilege for the past 3 years of chairing a task force on social security under the auspices of the Aging Committee, thanks to the gentleman from Florida (Mr. PEPPER). We have had countless hearings and numerous witnesses and, quite honestly, I do disagree with some of the findings of the Ways and Means Subcommittee.

Three former Commissioners testified that there was no immediate crisis, two funds had surpluses, one fund may have an interim problem in the mideighties interfund borrowing would take care of that difficulty for the 1980's. In fact, the trustees report—and this was not the trustees press release, but this was in the report—written by the Secretaries of Treasury, HHS, and Labor, indicated that for the next 25 years the trust fund has at least a 17-percent surplus. The Congressional Budget Office report shows an even greater surplus.

Why are press releases issued by the trustees attempting to have the people believe the system is bankrupt? Why have they induced blind panic on the part of the elderly? I believe it is because as long as the trust fund is part of the unified budget, that trust fund can be used to wash out other expenditures in the areas such as the cost of this tax bill, the cost of our defense increases, and so forth. In effect, they are going to try to balance the budget on the backs of the elderly who paid into the system.

Now, one of my colleagues from Texas talked about this GAO report, which is really a very poor report because, do you know what, it left out 25 percent of the people who collect the minimum benefit. They did not account for 25 percent of the people.

So we have to ask who really are these people. They are not the rich, as the gentleman would have you believe. They are not even the middle class, as the gentleman would have you believe. It has to do with women because the fact is that 75 percent of the people who are affected happen to be older women, two-thirds of whom are between 70 and 90 years of age. Approximately 2 million of the 3 million will suffer reduction of more than one-third by next April, and only about 600,000 of them are likely to even attempt to apply for SSI. The remaining 1.4 million persons, half of whom are estimated to have incomes under $3,200, or $4,800 for a couple, can expect an average net loss in annual income of over $500.

And what about these people who have another pension? I chair a Committee on Compensation and Employee Benefits for Federal Employees; 32 percent of those people receive a pension of under $6,000. These are the groups who are most likely to be among the 12 percent who get that

other pension. Their combined income is less than $11,000 annually.

So I ask you: Is this fair to our people? Are we breaking our promise to the American people? And I invite every Member in this House—and really and truly, the American public and the press—to take a look at our task force findings. They will see a very, very different picture.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I rise in support of H.R. 4331, a bill which would, in effect, amend the conference report of the fiscal year 1982 budget to delete the provisions on the minimum social security benefit provisions. I do this out of a sense of fairness and legislative deliberation.

The social security system is very, very sick. The largest portion of the system, old-age survivors and disability insurance, will be bankrupt within the year. We are, and rightfully should be, worried because ultimately the health of the system affects the financial security of almost all present and future retirees in the country.

However, social security reform has to be approached in a comprehensive fashion. I believe that we should all take our lead from the distinguished chairman of the Social Security Subcommittee, the honorable gentleman from Texas, and look at the actuarial soundness of the system as a whole rather than amending it in the hasty, piecemeal fashion outlined in the budget reconciliation bill.

In all honesty, I recognize that real changes will have to be made in the social security system. We have to get the system back to insuring retirement income for retirees and delete the frills that have been added over the past 40 years. In all honesty, major revisions in the minimum benefit may have to be made. A means test probably should be implemented. I simply cannot believe that 100 percent of all recipients of the $122 per month minimum benefit are over 80, female, and destitute as some claim. This minimum amount has to be guaranteed for those truly dependent on it, though, and I do not think anyone would argue that point.

In sum, Mr. Speaker, I urge passage of this bill so that we can take a long, hard look at the state of the social security system now and what overall changes have to be made to guarantee that those checks still go out to our Nation's elderly who depend so fully on them.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Speaker, I rise in support of the legislation. Today I will vote in favor of retaining the minimum social security benefit. This $122 monthly payment provides 3 million retirees with desperately needed assistance.

The minimum benefit would be deleted by the Gramm-Latta budget bill which the House approved last month. Eliminating this benefit would create a real hardship on those who can least afford it. It would be particularly devastating to those individuals who have worked at low-income jobs throughout their lives and depend on their monthly checks to make ends meet. One of the problems with the social security system is that it does not differentiate between the people who worked at low-income jobs and people who have multiple pensions. We would be placing an unfair burden on millions of retirees if we were to change the rules now. These people are the most vulnerable because they cannot supplement their incomes by going back to work.

Those in favor of eliminating the minimum benefit have said those individuals truly in need will be picked up by welfare or some other Federal program. The problem is that there are already 500,000 minimum beneficiaries currently eligible for welfare who have refused to apply for welfare benefits. Even the administration has said that they expect no more than one-quarter of those who are now or would become eligible for welfare will apply for welfare benefits. If all those eligible did apply for welfare, the budget savings would be cut by one-half. In addition, eliminating this necessary benefit will not help to restore confidence in the social security program. Nor will it help to solve the financial problems that face social security.

About 80 percent of current beneficiaries have paid taxes toward this benefit and they are entitled to the proceeds. Those individuals who have retired or are about to retire have counted on these benefits in planning their retirements. We have a commitment to maintain the minimum benefit.

I hope and I trust this legislation will be adopted.

□ 1300

Mr. MICHEL. Mr. Speaker, to wind up debate on this side, I yield the balance of the time remaining to the distinguished gentleman from California (Mr. ROUSSELOT), who serves with such distinction on the Social Security Subcommittee.

The SPEAKER pro tempore (Mr. BONIOR of Michigan). The gentleman from California (Mr. ROUSSELOT) is recognized for 4 minutes.

Mr. ROUSSELOT. Mr. Speaker, I compliment my colleague from Missouri for providing time for this discussion on this important issue of the minimum benefit. However, I rise in opposition to H.R. 4331.

It is of the highest importance that we, as elected Representatives, proceed in the matter of consideration of restoring integrity to the social security system with great care, addressing not parts of the problem, but by facing the entire problem of the system head on with constructive remedies.

It worries me, however, that some of my colleagues are taking actions based on haste, actions based on partisan efforts, and actions based on emotion rather than rationale.

It worries me, for the sake of the 35.6 million Americans receiving social security benefits, that this action today completely circumvents the committee process of the Congress; this bill having been introduced only yesterday, more importantly H.R. 4331 entirely bypasses the work of the Social Security Subcommittee, which is presently marking up proposals to save the system.

I regret that H.R. 4331 is not part of the overall discussion for the total reform that is needed for the social security system. I think it would be more appropriate if this bill addressed the problems facing the social security program; but I understand the political nature of this issue. It is a very, very hot issue. I can understand my Democratic colleagues wanting to jump on it with both feet and tromp everybody, and in some cases misrepresent the President's position.

But that is all part of the political game. Unfortunately, these social security benefits cannot be viewed as a game.

The main objective is to save the social security system. And I do not care how many figures we quote from the Congressional Budget Office, or anybody else, our social security computers show that unless this Congress takes positive action, those trust funds will be in desperate trouble in November 1982 or thereabouts. No matter how much we want to walk away from that fact, no matter how hard it is to face the system's problems, the truth is social security is facing its most serious crisis in its 46-year history.

I want to compliment my colleague from Texas (Mr. PICKLE), who in a bipartisan manner, has handled this issue very, very fairly and very squarely as the chairman of the Social Security Subcommittee, in trying to bring to this Congress true reform.

I want to compliment my other colleague from Texas (Mr. GRAMM), who gave some very positive constructive statistics that we are all going to have to look at. He is right on the mark in his discussion that, of those 3 million people who are now receiving the minimum benefits, many have not earned the full amount of the benefit they receive. For example, there are many minimum benefit recipients, who are receiving $122 a month from social security, that have paid less than $122 in

social security payroll taxes during their entire working history. He is absolutely correct in his figures and I compliment him for the way that he brought them to our attention.

First, this is a most important point which my colleague from Texas has raised. While many have shown concern today for those who receive the minimum benefit, while not quite having earned the full amount they receive, we are overlooking the majority of those beneficiaries who have paid into the system for many, many years and thereby qualifying for a normal benefit. I ask my colleagues what about these individuals' rights? What about their right for their benefits to be protected? Should not we as a Congress be concerned about the benefits of those who have paid the payroll tax for many years, and not just those who marginally qualify?

As I have already stated, this is the main objective we must address: salvaging social security for those present and future beneficiaries who have truly earned their benefits.

Second, I want to make it clear the way some of my colleagues have tried to emphasize they would believe that the reconciliation bill cuts all of these benefits retroactively. That is bunk. The reconciliation bill, over which 250 conferees have reached agreement, says that those minimum benefits will stop in March 1982.

So, all of the discussion that the beneficiaries were going to be cut off tomorrow, all of that fear that unfortunately many of my colleagues promoted, over the media airwaves, that we were cutting all these people off, is just not correct.

I want to assure the American people who presently receive social security benefits that the intent of our Social Security Subcommittee is not to cut all the benefits as the Democrat reconciliation bill would have done. If their bill had passed, 36 million recipients' benefits would have been slowed down very substantially.

My colleague from Minnesota (Mr. VENTO) did not mention that in his discussion today and I am sure he voted for that bill.

I want to say additionally that there is no doubt about the fact we need to save this system and this minimum benefit is a very sensitive area. But, it is not true that the overwhelming majority of these receiving this benefit are destitute without remuneration and will be dropped through all kinds of cracks or that they will be put out to poverty. That is just also bunk. My colleague from Texas (Mr. GRAMM) has in a very straightforward manner made this point clear.

Mr. Speaker, I think that we should face up to the fact that both President Reagan and the Social Security Subcommittee have genuinely tried to address this issue. I hate to see the House send a bill separately to the Senate, because we know how good the other body is at picking up on legislation, as my colleague from Texas (Mr. ARCHER) said. It could well be that this bill may come back to haunt us even before we have had a chance to really address the issue the way I think it should be fully considered before the whole Congress. The best way to achieve this full and careful consideration is to work within the traditional institutional framework of the Congress—the committee system.

I therefore urge my colleagues to vote against H.R. 4331, allowing for the opportunity for full debate and consideration of proposals to save the social security system by the Social Security Subcommittee, the Ways and Means Committtee, and the House of Representatives.

Mr. HEFTEL. Mr. Speaker, I rise today to defend social security minimum benefits. I refuse to believe that this distinguished body is prepared to ignore the basic needs of millions of older Americans who depend upon their small, monthly checks for their very livelihood and survival.

It is simply not fair to change the rules of the game in midstream, to the detriment of many of our senior citizens, for the sake of shortsighted budgetary considerations. Mr. Speaker, when we established the social security system, we made a solemn promise to all Americans; let us not begin breaking that promise.

Mr. Speaker, I believe that all of my colleagues realize the need to prudently control Government spending. This broad consensus is amply evident from our recent actions in the budget area. But, Mr. Speaker, there is a right way and a wrong way to cut the budget, and cutting out social security minimum benefits is clearly wrong. Let us cut Government spending, let us make the Government cost effective, but let us not do so by breaking sacrosanct promises made long ago, let us not do so by forgetting our elder Americans.

Mr. Speaker, there has been much talk in this Chamber of the "social safety net." I submit to my colleagues that the elimination of social security minimum benefits makes a mockery of this so-called safety net. Years ago, our Nation entered into a sacred contract with the American people to preserve and protect, to uphold and sustain a quality of life which they had justly earned through the fruits of their labor. This contract is now jeopardized by shortsighted policies tendered under the guise of economic progress.

But, Mr. Speaker, I ask this distinguished body, can our great Nation move forward by leaving behind those people who helped forge the American dream? I think not. I urge my colleagues to reject this myopic approach and to reinstate the social security minimum benefits.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I rise in support of the bill (H.R. 4331) to restore minimum benefits under the Social Security Act and commend the distinguished chairman of the Committee on Rules, the gentleman from Missouri (Mr. BOLLING), for his leadership in attempting to provide the House with a method by which this last effort can be made to restore these vital benefits.

Mr. Speaker, last night the Rules Committee was confronted with a distressing dilemma. We were advised that the Senate, by inadvertence or otherwise, had acquired custody of the papers on the reconciliation conference report. We were advised that the Republican leadership in the Senate was prepared, in a showdown, to pass the original Gramm-Latta bill. Not only would programs salvaged in the conference be lost, the minimum benefit itself would be almost immediately lost with some of the minimum benefits cut off in only 90 days.

The choice before the Rules Committee was a simple one, if thoroughly anguishing to all of us: We could call the Senate's bluff and risk an almost immediate cutoff of these benefits, not to mention the loss of more than $3 billion which the conferees had recaptured.

The gentleman from Missouri indicated that the risk was unacceptable and was supported by the committee which reported a rule which lengthens the time available to try to save the minimum benefit and completes half of the legislative process toward doing so on the same day. I recognize that there are some risks regarding Senate action on H.R. 4331. But the chances will be far better than under the dangerous situation which existed last night.

However, Mr. Speaker, I for one continue to believe that even this risk is unacceptable. Today the House will have two more chances to really save the minimum benefit. A motion will be offered to recommit the conference report; I will support the motion and urge my colleagues to do so. If we are successful in this effort, the conferees can be back as early as Tuesday with a revised conference report saving the social security minimum benefit. If that effort fails, I will vote against the conference report itself. It would be regrettable to see the work that went into reconciliation lost but it would be far more regrettable to run any risk that the minimum benefit will not be saved.

Mr. BOLLING. Mr. Speaker, it is a pleasure always to listen to the gentleman from California. I suddenly realized that he must be coaching a fellow Californian. His use of language is extraordinarily apt, skillful, and sometimes quite confusing, but really fascinating.

The only reason that I take this time is to urge Members to vote in the hope that the other body will show good judgment and begin to relieve the fear that is in the land with regard to what this institution is going to do.

I am afraid of what this institution may do. I am afraid it may act on social security the way it has acted on taxes and on reconciliation in a way that is not entirely representative of this institution.

I do not like to see a situation where all the members of one party march in lockstep.

I know the diversity of both parties. I do not like to see a situation in which any President dominates the institution wholly.

It is not the first time I have seen it. But I do hope that when we consider social security we are able to do it like the House of Representatives and like the other body, not like partisans marching in lockstep.

I hope everybody votes for this bill.

● Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 4331, a bill that would restore the minimum benefit under the social security system to law. In perhaps one of the most callous actions this body has taken since I have been in Congress, the House eliminated this benefit when it passed the Gramm-Latta substitute to the omnibus reconciliation bill.

When my committee considered legislative savings as mandated by the first budget resolution, we decided that the elimination of the minimum benefit would break a covenant between the Government and the people; that cutting back on benefits that people expect and have been receiving was not only wrong, but it would shake the trust that we try so hard to instill in our citizens about the integrity of their Government. To me, and to many in my district and I assume across the country, the social security system is one of the great social programs of our time, and it is a source of security to many Americans both young and old. It troubles me to see this President manipulate this system, and cause anguish and worry among our senior citizens, who deserve our support, not our politicking and rhetoric. I strongly urge my colleagues in the House to support this bill, and I hope that the other body will move with dispatch to make this bill law.●

● Mr. BINGHAM. Mr. Speaker, I rise in support of this legislation to restore the minimum social security benefit. As I have argued on many occasions, it is unconscionable that the Congress would eliminate this source of income for 3 million of our most needy citizens. The minimum benefit today is $122 a month. I ask my colleagues to contemplate for just 1 minute what it would be like to live on $122 a month. Could a person living on that amount afford to pay rent, buy food, and pay utility bills too? Yet if we eliminate the minimum benefit, 1.5 million Americans will have to make do with even less than that.

But we are told that we must reduce Federal spending. We are told that our President has pledged to balance the budget, and, besides there are people receiving the minimum benefit who do not really deserve it. I ask how any Member can dare make arguments like that after passing the President's tax bill the other day? That bonanza for the rich may well result in deficits of $87 billion over the next 2 years and even higher deficits later. Those deficits will be caused by billions of dollars in tax cuts for our wealthiest citizens and $16 billion in giveaways to the oil industry. Is it not ironic we will strip tens of thousands of needy Americans above the age of 90 of the minimum benefit at the very time when we are handing over tax revenues to the super rich and to those industries which could mount the most effective lobbying efforts?

I see that some of the same Republicans and conservative Democrats who voted for the Gramm-Latta reconciliation package will be voting for this bill today. Many of these Republicans and conservative Democrats voted against a rule which would have allowed us the opportunity to preserve the minimum benefit. Many of them supported the President's tax package which, in the huge and unprecedented deficits it could create only makes slashes in social security inevitable. Frankly, I am appalled at this hypocrisy.

Mr. Speaker, I am pleased that the House has another opportunity to express its position in favor of retention of the minimum benefit. The chairman of the Rules Committee, Mr. BOLLING, has made it clear that today's action will not be the last of its kind. The House leadership shall continue to press for continuation of this benefit until its continuation is assured. In doing this, this body will only be pushing President Reagan to live up to the pledge that he made during his campaign and repeated again on Monday night. To quote the President:

I will not see those of you who are dependent on social security deprived of your benefits. I make that pledge to you as your President . . . You will continue to receive your checks in the full amount due you.

Mr. Speaker, the House is making its position quite clear on this matter. The President has repeated his pledge. The ball is now in the Senate's court. The Republican Senate has yielded to the President on almost every aspect of the President's economic program. If the President really wants to save the minimum benefit he would have little trouble in convincing the Senate to do so. If he does not do so, the public will surely know where the responsibility lies.●

The SPEAKER pro tempore. Pursuant to House Resolution 203, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOLLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 20, not voting 10, as follows:

[Roll No. 189]

YEAS—404

Addabbo	Clausen	Evans (IN)
Akaka	Clay	Fary
Albosta	Clinger	Fazio
Alexander	Coats	Fenwick
Anderson	Coleman	Ferraro
Andrews	Collins (IL)	Fiedler
Annunzio	Collins (TX)	Fields
Anthony	Conte	Findley
Applegate	Conyers	Fish
Ashbrook	Corcoran	Fithian
Aspin	Coughlin	Flippo
Atkinson	Courter	Florio
AuCoin	Coyne, James	Foglietta
Bafalis	Coyne, William	Foley
Bailey (MO)	Craig	Ford (MI)
Bailey (PA)	Crockett	Ford (TN)
Barnard	D'Amours	Forsythe
Barnes	Daniel, Dan	Fountain
Beard	Daniel, R. W.	Fowler
Bedell	Danielson	Frank
Beilenson	Daschle	Frost
Benedict	Daub	Fuqua
Benjamin	Davis	Garcia
Bennett	de la Garza	Gaydos
Bereuter	Deckard	Gejdenson
Bevill	Dellums	Gephardt
Biaggi	DeNardis	Gibbons
Bingham	Derrick	Gilman
Blanchard	Derwinski	Gingrich
Bliley	Dickinson	Ginn
Boggs	Dicks	Glickman
Boland	Dingell	Goldwater
Bolling	Dixon	Gonzalez
Boner	Donnelly	Goodling
Bonior	Dorgan	Gore
Bonker	Dougherty	Gradison
Bouquard	Dowdy	Gray
Bowen	Downey	Green
Breaux	Dreier	Gregg
Brinkley	Duncan	Grisham
Brodhead	Dunn	Guarini
Brooks	Dwyer	Gunderson
Broomfield	Dymally	Hagedorn
Brown (CA)	Dyson	Hall (OH)
Brown (CO)	Early	Hall, Ralph
Brown (OH)	Eckart	Hall, Sam
Broyhill	Edgar	Hamilton
Burgener	Edwards (AL)	Hammerschmidt
Burton, John	Edwards (CA)	Hance
Burton, Phillip	Edwards (OK)	Harkin
Butler	Emerson	Hartnett
Byron	Emery	Hatcher
Campbell	English	Hawkins
Carman	Erdahl	Heckler
Carney	Ertel	Hefner
Chappell	Evans (DE)	Heftel
Chappie	Evans (GA)	Hendon
Chisholm	Evans (IA)	Hertel

Hightower	Miller (OH)	Schumer
Hiler	Mineta	Seiberling
Hillis	Minish	Sensenbrenner
Hollenbeck	Mitchell (MD)	Shamansky
Holt	Mitchell (NY)	Shannon
Hopkins	Moakley	Sharp
Horton	Molinari	Shaw
Howard	Mollohan	Shelby
Hoyer	Montgomery	Shumway
Hubbard	Moore	Shuster
Huckaby	Moorhead	Siljander
Hughes	Morrison	Skeen
Hunter	Mottl	Skelton
Hutto	Murphy	Smith (AL)
Hyde	Murtha	Smith (IA)
Ireland	Myers	Smith (NE)
Jacobs	Napier	Smith (NJ)
Jeffords	Natcher	Smith (PA)
Jenkins	Neal	Snowe
Johnston	Nelligan	Snyder
Jones (NC)	Nelson	Solarz
Jones (OK)	Nichols	Solomon
Jones (TN)	Nowak	Spence
Kastenmeier	O'Brien	St Germain
Kazen	Oakar	Stangeland
Kemp	Oberstar	Stanton
Kildee	Obey	Stark
Kindness	Ottinger	Staton
Kogovsek	Oxley	Stenholm
Kramer	Panetta	Stokes
LaFalce	Parris	Stratton
Lagomarsino	Pashayan	Studds
Lantos	Patman	Swift
Latta	Patterson	Synar
Leach	Pease	Tauke
Leath	Pepper	Tauzin
LeBoutillier	Perkins	Taylor
Lee	Petri	Thomas
Lehman	Peyser	Traxler
Leland	Pickle	Trible
Lent	Porter	Udall
Levitas	Price	Vander Jagt
Lewis	Pritchard	Vento
Livingston	Pursell	Volkmer
Loeffler	Quillen	Walgren
Long (LA)	Rahall	Walker
Long (MD)	Railsback	Wampler
Lott	Rangel	Washington
Lowery (CA)	Ratchford	Watkins
Lowry (WA)	Regula	Waxman
Lujan	Reuss	Weaver
Luken	Rhodes	Weber (MN)
Lundine	Rinaldo	Weber (OH)
Lungren	Ritter	Weiss
Madigan	Roberts (KS)	White
Markey	Roberts (SD)	Whitehurst
Marks	Robinson	Whitley
Marlenee	Rodino	Whittaker
Marriott	Roe	Whitten
Martin (IL)	Roemer	Williams (MT)
Martin (NC)	Rogers	Williams (OH)
Martin (NY)	Rose	Wilson
Matsui	Rosenthal	Winn
Mattox	Rostenkowski	Wirth
Mavroules	Roth	Wolf
Mazzoli	Roukema	Wolpe
McClory	Roybal	Wortley
McCollum	Rudd	Wright
McCurdy	Russo	Wyden
McDade	Sabo	Wylie
McEwen	Santini	Yates
McGrath	Savage	Yatron
McHugh	Sawyer	Young (AK)
McKinney	Scheuer	Young (FL)
Mica	Schneider	Zablocki
Mikulski	Schroeder	Zeferetti
Miller (CA)	Schulze	

NAYS—20

Archer	Erlenborn	McDonald
Badham	Frenzel	Michel
Cheney	Gramm	Paul
Conable	Hansen (ID)	Rousselot
Crane, Daniel	Hansen (UT)	Smith (OR)
Crane, Philip	Jeffries	Stump
Dannemeyer	McCloskey	

NOT VOTING—10

Bethune	Fascell	Simon
Coelho	Holland	Young (MO)
Cotter	Moffett	
Dornan	Richmond	

□ 1320

The Clerk announced the following pairs:

Mr. Richmond with Mr. Dornan of California.

Mr. Young of Missouri with Mr. Simon.

Mr. Fascell with Mr. Holland.

Mr. Moffett with Mr. Coelho.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3982, OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the provisions of House Resolution 203, I call up the conference report on the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1981.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 203, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of July 29, 1981, part II.)

The SPEAKER pro tempore. Under the rule, the gentleman from Oklahoma (Mr. JONES) will be recognized for 1 hour, and the gentleman from Ohio (Mr. LATTA) will be recognized for 1 hour.

The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I wish to make a unanimous consent request.

Two hours is scheduled for debate, but in an effort to accommodate all Members, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to insert extraneous matter, on the conference report to H.R. 3982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are bringing to the House the conference report on the Omnibus Reconciliation Act of 1981.

It is a great credit to the chairman of the House committees and to the Members who served as conferees that this conference agreement is vastly superior to the hastily thrown together and little understood bill which passed the House on June 26.

Basically, 184 House conferees in 58 subconferences fought long and hard with 69 Senate conferees and brought back to the House a bill cleansed of many of the more misguided proposals which were originally in the Senate- and House-passed versions.

All of us here owe a special thanks to the chairmen of these House committees and to the conferees.

We also owe a special thanks to the gentleman from California (Mr. PANETTA), who has worked almost around the clock to bring this conference to a speedy and effective conclusion. He has done a truly magnificent job in every respect.

Mr. Speaker, on May 20 this year, the Congress directed the authorizing committees of the House and the Senate to bring back savings of $35.116 billion in fiscal year 1982. Based on the latest Congressional Budget Office analysis, this conference has accomplished savings of $35.19 billion; almost precisely on target. Over 3 years this bill will save $130.6 billion in Federal spending.

It is safe to say that it was not easy to make reductions of this magnitude. We were not just cutting the fat. The Education and Labor Committee alone made outlay savings of more than $7 billion.

Many of these cuts will have direct and damaging impact on the lives of millions of Americans. The elimination of the minimum social security benefit is perhaps the most glaring example. That cutback in existing social security benefits was passed by the House in the Gramm-Latta II bill and was backed by the Reagan administration. The same cutback in benefits also passed the Senate, and it will go into effect for beneficiaries now on the rolls as of next February, as soon as President Reagan signs this bill.

Fortunately, the conferees were able to change some of the other damaging provisions. For example, the medicaid cap was rejected. Head Start was funded in this conference at $950 million after it was totally eliminated in the Gramm-Latta II bill which passed the House.

We have seen this year an effort to use the reconciliation process in a way in which it was never intended to be used, and I hope that this will never happen again. Reconciliation should be used to reduce spending in entitlement programs, not to strip away the proper authority of the appropriations and authorizing committees.

But despite those efforts, we have seen a true victory for the legislative process as a result of this conference.

□ 1330

The Congress has demonstrated great resiliency, and those who understand the importance of the legislative process will not desert that process.

Let me again thank the chairmen of the House committees, the conferees,

and the gentleman from California, LEON PANETTA. Special thanks also is due to the many professional and support staff members who contributed to the success and the completion of this conference. Each of them deserves the appreciation of the Congress for the hard work they have put in over the past few weeks.

We also owe our thanks to the House Parliamentarian, William H. Brown, and Assistant Parliamentarians Charlie Johnson and Peter Robinson who have been invaluable to the completion of this conference. The Office of Legislative Counsel, too, has worked diligently and quickly to produce this conference report. Larry Filson and Bob Weinhagen coordinated drafting responsibility for the entire conference report on both the House and Senate sides.

Finally, Mr. Speaker, I would like to pay a very special thanks to the Budget Committee staff itself who demonstrated the highest level of dedication and professionalism without which this demanding task could not have been accomplished.

So I commend my colleagues that this conference report deserves their support, and I hope they will give speedy, and I emphasize speedy, ratification to this conference report.

Mr. Speaker, I intend, after the ranking minority member makes his opening statement, to call on the committee chairmen in the alphabetical order of their committees and let them explain as they wish the part of the conference report pertaining to their committees.

The extraneous material follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C.

SUMMARY OF THE RECONCILIATION CONFERENCE

Dear Colleague: On Wednesday morning conferees completed action on the Omnibus Reconcilation Act of 1981. This event marked the culmination of the largest and most complicated conference in the history of the Congress. For almost two weeks over 250 conferees labored long and hard to resolve differences in 58 subconferences, involving 17 House committees.

As a result of the many agreements reached by conferees, over $35 billion will be saved in 1982, with additional reductions in 1983 and 1984 that largely meet the goals of the Budget Resolution adopted by the Congress. In addition, a number of important programs were funded that are effective in serving the basic needs of people.

The end result is a balanced effort that seeks to achieve mandated budgetary goals while preserving many programs that the House and Senate felt were important to protect in the reconciliation process. The following is a brief summary of the agreement reached by conferees:

AGRICULTURE

A compromise on the food stamp program resulted in reductions $200 million greater than those provided for in the House bill. However, the House position on FmHA water and waste disposal loans and community facility loans was protected. Also, Senate reductions in rural water and waste grants were modified and the House position on the dairy price support reduction (to 75 percent) was adopted.

ARMED SERVICE

Conferees adopted the once-a-year COLA proposal contained in both bills for a reduction of $394 million in fiscal year 1982. Also agreed to was a proposal to sell materials from the strategic stockpile and an open enrollment program for the Military Survivor Benefit Plan.

BANKING, FINANCE AND URBAN AFFAIRS

A Senate proposal to fund the UDAG program separately from the Community Development program was adopted by the conferees. Section 312 Rehabilitation loans, repealed in the House bill, were restored by conferees at a 1982 program level of $85 million. Reductions in subsidized loans for the Ex-Im Bank were agreed to and a 153,000 new unit level in the subsidized housing program was adopted. A restriction on housing assistance for communities with rent control was removed and, finally, conferees agreed to increase (above the baseline) the authorization for Public Housing Operating Subsidies by $135 million in fiscal year 1982.

DISTRICT OF COLUMBIA

Conferees agreed to an authorization cap of $155 million a year on loans to the District of Columbia, a reduction of $40 million in fiscal year 1982.

EDUCATION AND LABOR

Conferees agreed to fund the Head Start program at $950 million for fiscal year 1982—$130 million more than provided for in the Senate bill and a substantial increase over the fiscal year 1981 funding level. Few major differences existed in proposals for Child Nutrition programs and the conferees agreed to reductions totaling $1.4 billion for fiscal year 1982. Conferees also agreed to increase funding for the Community Services Block Grant by $35 million above the Senate proposed level and liberalized GLS provisions as presented in both House and Senate bills. Higher Education programs (including Pell Grants) were capped at a level higher than the House bill, and two Elementary and Secondary Education block grants were adopted.

In a subconference involving Education and Labor, Energy and Commerce and Ways and Means Committees, the House receded from its Social Services block grant and conferees agreed to a Title XX block grant and a community services block grant. Child welfare services and Foster Care and Adoption Assistance were retained as categorical programs. These committees also agreed to a low-income energy assistance block grant with a funding cap of $1.9 billion in fiscal year 1982.

ENERGY AND COMMERCE

Conferees agreed to extend the authorization for the Consumer Product Safety Commission through fiscal year 1983 and to retain it as a separate, independent agency. It was agreed that Conrail could be sold as late as 1985 and a plan was devised to encourage the sale of Conrail as an entity and not in parts. The higher House level for Amtrak funding was adopted by conferees. The Corporation for Public Broadcasting is reauthorized for fiscal years 1984, 1985 and 1986 at $140 million per year and various communication licensing requirements were revised.

The Senate Energy Committee agreed to the House position of an annual authorization and appropriation of an off-budget account for the funding of SPRO, and repeal of the "off-gas" provisions for electric utilities contained in the Fuel Use Act was agreed to. Department of Energy regulatory programs were capped and enegy conservation programs were cut for reductions of $140 million.

Conferees rejected the Medicaid cap proposed by the Senate and agreed to reduce the Federal medicaid program by 3 percent, 4 percent, and 5 percent in the next three fiscal years for savings of $900 million. Maternal and Child Health, Prevention, Alcohol, Drug Abuse and Mental Health and Primary Care Block grants were agreed to by conferees for savings of approximately $250 million in fiscal year 1982. Many health programs included in previous block grant proposals, including family planning, migrant health and immunization were retained as categorical programs with some reductions in funding. Conferees also agreed to fund Health Maintenance Organizations, Health Planning, Alcohol and Drug Abuse Research and the Developmental Disabilities programs.

In a subconference involving the Ways and Means committee, conferees agreed to certain provisions affecting Medicare Part B and providers of health services and rejected a House provision to eliminate PSROs by 1984 for savings of approximately $400 million.

FOREIGN AFFAIRS

Conferees agreed to appropriation ceilings for 11 programs, including the Peace Corps, African Development Foundation, American Schools and Hospitals Abroad and the International Narcotics Control.

GOVERNMENT OPERATIONS

Conferees agreed to provisions requiring future recissions based on reductions from federal travel and consultant accounts.

INTERIOR AND INSULAR AFFAIRS

Conferees adopted the lower Senate cap for Department of Interior programs for reductions of $431 million in fiscal year 1982, and agreed to conference language containing sense of the Congress language that certain appropriation targets be set for the Land and Water Conservation Fund, National Historic Preservation and Urban Park and Recreation Recovery. Increased user fees for non-competitive oil and gas leases were also adopted.

JUDICIARY

Authorizations for Indochinese Refugee Assistance and the Patent and Trade-mark Office were agreed to by conferees and the Legal Services Corporation reauthorization legislation contained in the Senate bill was removed.

MERCHANT MARINE AND FISHERIES

Conferees agreed to authorization for maritime programs with no funding for the contruction differential subsidy program. A subconference including Public Works and Transportation conferees agreed to delete ocean dumping user fees. The Senate receded in a subconference involving the Energy and Commerce and Merchant Marine and Fisheries Committees on the PHS hospital system issue. Conferees agreed to the closing of PHS hospitals at the end of fiscal year 1981, with a transition period of one year, for communities that wish to assume operation of the facilities.

POST OFFICE AND CIVIL SERVICE

Conferees agreed to a cap on federal pay reducing spending by $3.7 billion in fiscal

year 1982, a once-a-year COLA for federal employees for savings of $500 million, and a reduction in the Postal Service Public Service Subsidy and the Revenue Foregone Subsidy for savings of over $800 million in fiscal year 1982.

PUBLIC WORKS

Conferees adopted the House Airport Development and Planning Grants ceiling for fiscal year 1982, the House Highway obligation ceiling for reductions of $500 million in fiscal year 1982 and the House authorization level for Federal Highway Safety Grants. Conferees agreed to fund the Economic Development Administration, terminated in the Senate bill, at $290 million for fiscal year 1982. Reductions in the EPA construction grant program and an authorization ceiling for the Corps of Engineers were also agreed to by conferees.

SCIENCE AND TECHNOLOGY

On the DOE research and development reauthorization issue conferees agreed to compromise on a level of savings somewhat closer to the House bill. It was agreed that authorization for the National Science Foundation be considered outside the reconciliation process.

SMALL BUSINESS

Conferees agreed to reductions in disaster loans and business loans for savings of over $800 million.

VETERANS' AFFAIRS

Conference agreement limits who may receive the $300 VA funeral allowance, limits Class II dental benefits, eliminates flight training reimbursement for new enrollees and restricts reimbursement for correspondence training.

WAYS AND MEANS

Conferees agreed to reductions in Trade Adjustment Assistance totaling $1.3 billion in fiscal year 1982. There was agreement to continue the community adjustment assistance program, terminated under the House bill. Provisions to phase out the Social Security student benefits and to eliminate the minimum benefit were contained in both bills and conferees made only minor changes in these areas. Public Assistance (AFDC and Child Support Enforcement) reductions were also similar in both bills. Conferees agreed to the House position of allowing the continuation of cash payments in lieu of food stamps for certain SSI recipients and adopted Senate provisions relating to eligibility for ex-servicemen for unemployment compensation, state triggers for extended benefits and the 20 week work requirement for extended benefits. A requirement that interest be paid on new U.I. loans after April 1, 1982 was adopted. Medicare provisions contained in the House bill were agreed to and certain provisions affecting Hospital and Nursing Homes were adopted.

While there are those who will disagree with the particulars contained in this conference report, the reality is that the final conference effort is clearly a vast improvement over the Reconciliation bill adopted by the House.

Sincerely,

LEON E. PANETTA,
Chairman,
Reconciliation Task Force.

SUMMARY OF CONFERENCE AGREEMENT OMNIBUS BUDGET RECONCILIATION ACT OF 1981

COMPARISON OF HOUSE INSTRUCTIONS WITH RECONCILIATION CONFERENCE

[In millions of dollars]

	Instructions to committees (May 20, 1981)			Conference agreement (July 29, 1981)		
	fiscal year 1982	fiscal year 1983	fiscal year 1984	fiscal year 1982	fiscal year 1983	fiscal year 1984
Agriculture:						
Budget authority	−2,208	−3,006	−3,671	−2,449	−3,042	−3,930
Outlays	−2,521	−2,842	−3,525	−3,264	−3,878	−4,661
Armed Services:						
Budget authority	−966	−899	−511	−846	−767	−374
Outlays	−966	−899	−511	−882	−731	−374
Banking, Finance and Urban Affairs:						
Budget authority	−13,177	−15,572	−17,827	−13,566	−15,954	−18,402
Outlays	−640	−1,398	−2,369	−481	−1,154	−2,115
District of Columbia:						
Budget authority	−39	−56	−72	−39	−56	−72
Outlays	−40	−64	−79	−40	−58	−69
Education and Labor:						
Budget authority	−12,099	−14,907	−18,344	−10,088	−12,414	−14,261
Outlays	−10,084	−13,522	−17,020	−7,297	−10,749	−13,881
Energy and Commerce:						
Budget authority	−5,385	−5,980	−6,285	−7,955	−7,457	−6,686
Outlays	−5,184	−6,315	−7,036	−7,115	−7,710	−6,961
Foreign Affairs:						
Budget authority	−250	−275	−300	−376	−524	−538
Outlays	−130	−200	−300	−286	−463	−515
Government Affairs:						
Budget authority				(−600)	(...)	(...)
Outlays				(−600)	(...)	(...)
Interior and Insular Affairs:						
Budget authority	−755	−736	−714	−820	+236	−68
Outlays	−309	−504	−594	−736	−111	−5
Judiciary:						
Budget authority				−72	−70	−59
Outlays				−30	−71	−66
Merchant Marine and Fisheries:						
Budget authority	−339	−439	−562	−242	−242	−265
Outlays	−207	−411	−551	−106	−212	−253
Post Office and Civil Service:						
Budget authority	−4,737	−6,304	−7,390	−4,706	−6,253	−7,214
Outlays	−5,163	−6,738	−7,728	−5,163	−6,690	−7,555
Public Works and Transportation:						
Budget authority	−6,346	−5,122	−6,241	−6,606	−5,070	−6,371
Outlays	−1,218	−3,565	−5,720	−1,411	−3,136	−5,418
Science and Technology:						
Budget authority	−78	−90	−102	−1,395	−961	−1,209
Outlays	−39	−59	−83	−828	−1,016	−1,065
Small Business:						
Budget authority	−526	−564	−554	−504	−540	−527
Outlays	−390	−541	−533	−823	−517	−506
Veterans' Affairs:						
Budget authority	−110	−108	−106	−110	−122	−124
Outlays	−110	−108	−106	−116	−127	−128
Ways and Means:						
Budget authority	−4,677	−4,954	−5,158	−4,140	−4,455	−4,763
Outlays	−9,241	−10,559	−11,248	−8,981	−9,822	−10,803
Grand total adjusted for jurisdictional overlap:						
Budget authority	−50,694	−57,599	−66,016	−51,900	−55,734	−61,721
Outlays	−35,116	−46,312	−55,572	−35,190	−44,033	−51,353

Note.—These numbers are subject to final CBO vertification.

MINICONFERENCE No. 1

Committees: House Agriculture/Senate Agriculture, Nutrition and Forestry.

ISSUES

A. Storage facility loans

The Senate required a phaseout of storage facility loans. The House had no comparable provision.

Conference agreement.—The conferees agreed on the Senate version.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−100	−110	−120

B. Grain reserve

The Senate and the House required the elimination of the interest waiver on the first year of the farmer-owned grain reserve. This provision covered the 1980 and 1981 crops.

Conference agreement.—This provision was deleted by the conferees since a separate bill covering this provision has been signed into law. However, the Agriculture Committees will still be credited with these savings.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			−60
Outlays	−165		

C. Farmers Home Administration

The Senate and House raised the interest rates on water and waste disposal and community facility loans. The House had some additional qualifying language for recipients. The Senate eliminated the interest subsidies on farm ownership, operating and disaster loans except for limited resource loans in which case an interest subsidy of at least two percent was provided. The House provided for the interest rate to be not in excess of one-half the cost of money, but not less than 5 percent. The House bill also provided for disaster loans to be available if at least 20 percent loss occurred. The loans were to be available up to 90 percent of the loss incurred.

Conference agreement.—The Senate conferees receded on the water and waste disposal loans and the community facility loans. On the other provisions, the conferees compromised by setting the interest rate for limited resource, farm ownership loans at not more than one-half the cost of money; the limited resource, farm operating loans at not more than 2 percent below the cost of money; and limited resource disaster loans at not more than 8 percent. The conferees compromised on an 30 percent loss provision with an 80 percent coverage on losses.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−179	−267	−272
Outlays	−425	−212	−305

D. Commodity inspection (user fees)

The Senate and House provided for the implementation of user fees to pay for federal inspection of cotton, tobacco, and grain.

Conference agreement.—A compromise was reached by the conferees on the slightly differing versions.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−49	−52	−56
Outlays	−49	−52	−56

E. CCC administration expenses

The House capped the Commodity Credit Corporation's administrative expenses at $52 million per year. The Senate had no comparable language.

Conference agreement.—The Senate conferees receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			−6
Outlays	−6	−7	−7

F. Dairy

The House provided for the dairy price support to be set at a minimum of 75 percent of parity with an annual adjustment in fiscal year 1982 and semiannual adjustments in fiscal years 1983 and 1984. The Senate had no comparable language.

Conference agreement.—The Senate conferees receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			−449
Outlays	−449	−891	−1,188

G. Food stamps

The House reconciliation bill proposed savings of $1.45 billion in fiscal year 1982. The Senate reconciliation bill proposed savings of $1.85 billion in fiscal year 1982. The following major differences existed between the two bills:

The Senate bill lowered from 20 to 15 percent the amount of earnings that can be deducted in calculating a household's income. The House bill had no comparable provision.

The House bill increased the amount by which benefits are reduced for each dollar of earnings from the current rate of 30 percent to 31.5 percent in fiscal year 1983 and 32.5 percent in fiscal year 1984. The Senate bill had no comparable provision.

The House bill provided for a block grant for Puerto Rico beginning in fiscal year 1983. The Senate bill created a block grant beginning April 1, 1982. The Senate also reduced eligibility for the program in Puerto Rico to 55 percent of that of the continental United States beginning October 1, 1981 until the block grant is in place on April 1, 1982.

Conference agreement.—The conferees agreed to reduce the earned income deduction limit from 20 to 18 percent of earnings. The House conferees receded on provisions affecting the benefit reduction rate, thereby maintaining current law at 30 percent. The conferees further agreed to implement a block grant for Puerto Rico beginning July 1, 1981, and rejected the 55 percent reduction contained in the Senate bill.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Bydget authority	−1,658	−2,046	−2,334
Outlays	−1,658	−2,046	−2,334

H. Rural water and waste grants

As part of an across the board reduction in various U.S. Department of Agriculture programs, the House reduced the authorization for these grants by $21 million in fiscal year 1982. The Senate reduced the authorization for these grants by $118 million in fiscal year 1982.

Conference agreement.—The conferees compromised and reduced the authorization for these grants by $63 million in fiscal year 1982.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−63	−82	−99
Outlays	−7	−22	−24

I. Other development and conservation programs

As part of an across the board reduction in various U.S. Department of Agriculture programs, the House reduced the authorizations for various development and conservation programs, including the water bank and agricultural conservation programs, by 9.2 percent in fiscal year 1982. The Senate had no comparable provision.

Conference agreement.—The conferees compromised on the authorizations caps for the various programs. These caps included authorization caps in fiscal year 1982 of $11 million for the Water Bank Program, $201 million for the Agricultural Conservation Program, and $589 million for expenses for carrying out the programs administered by the Soil Conservation Service.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−40	−55	−75
Outlays	−25	−45	−67

J. U.S. Department of Agriculture's salaries and expenses

The House reduced the authorizations for the Department of Agriculture's salaries and expenses resulting in a 9.2 percent reduction in fiscal year 1982. The Senate reduced the Department of Agriculture's personnel ceiling from 121,000 to 118,360 staff years, excluding overtime.

Conference agreement.—The conferees compromised on a personnel ceiling of 117,000 staff years, including overtime.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−175	−187	−200
Outlays	−158	−181	−194

MINICONFERENCE No. 2

Committees: House Agriculture, House Foreign Affairs/Senate Agriculture.

ISSUES

A. Interest rates on Public Law 480 title I loans

The Senate bill included an increase in interest rates on Public Law 480, Food for Peace loans. The House bill made no change in interest rates.

Conference agreement.—The Senate receded and accepted the House position that there be no change in interest rates.

B. Level of annual ceilings on Public Law 480 programs

The three committees had set ceilings on appropriations for Public Law 480, Food for Peace programs, at the different levels indicated below.

[Budget authority in millions of dollars]

	Fiscal year—		
	1982	1983	1984
House Foreign Affairs	1,392	1,448	1,553
House Agriculture	1,305	1,355	1,425
Senate Agriculture	1,362	1,193	1,252

Conference agreement.—The conferees agreed to the House Agriculture Committee level for fiscal year 1982 and split the difference between the Senate Agriculture Committee levels and the House Foreign Affairs Committee levels for fiscal years 1983 and 1984.

The agreement sets appropriation ceilings for Public Law 480 of $1,305 million in fiscal year 1982; $1,320 million in fiscal year 1983, and $1,402 million in fiscal year 1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−132	−199	−224
Outlays	−238	−186	−213

MINICONFERENCE No. 3

Committees: House Agriculture and House Interior and Insular Affairs/Senate Agriculture, Nutrition, and Forestry and Senate Energy and Natural Resources.

ISSUES

A. Forest Service

The above House and Senate committees capped the authorizations for appropriations for the forestry programs under their respective jurisdictions.

Conference agreement.—The conferees agreed on a compromise cap. The House Interior and Insular Affairs cap of one million dollars on their forestry programs was deleted. The House Agriculture Committee's fiscal year 1982 authorization cap of $1,446 million was increased to $1,498 million in the conference agreement.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−94	−94	−93
Outlays	−42	−69	−93

MINICONFERENCE No. 4

Committees: House Agriculture, House Interior and Insular Affairs, House Public Works and Transportation/Senate Environment and Public Works.

ISSUES

A. Water resources

The House bill provided $12.5 million for fiscal years 1982, 1983 and 1984 respectively for a National Board on Water Resources Policy. The Senate bill provided $36.4 million for fiscal years 1982 and 1983 and $32.2 million for fiscal year 1984 for water resources planning grants to the States, river basin commissions, Federal coordination of water resources policy and water resources research.

Conference agreement.—The conferees agreed to $23.065 million for each fiscal year 1982–1984 for water resources research and related activities. The conferees also agreed to $12 million for each fiscal year 1982–1984 for a national water resources board *only* when and if legislation establishing such a board is enacted.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−9	−10	−12
Outlays	−2	−7	−10

MINICONFERENCE No. 5

Committees: House Agriculture and House Education and Labor/Senate Agriculture, Nutrition, and Forestry.

ISSUES

A. Bankhead-Jones

The House eliminated funding for the Bankhead-Jones Act which provides funding for agricultural teaching assistantships in agricultural land grant colleges and universities. The Senate had no comparable provision.

Conference agreement.—The House conferees receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 6

Committees: House Agriculture and House Ways and Means/Senate Agriculture, Nutrition, and Forestry and Senate Finance.

ISSUES

A. Eligibility of SSI recipients for food stamps

The House extended the provision in current law which under certain conditions allows certain states (Massachusetts, Wisconsin, and California) to continue providing a cash payment to certain SSI recipients in lieu of food stamps. The Senate had no comparable provision.

Conference agreement.—The Senate conferees receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−50	−50	−50
Outlays	−50	−50	−50

MINICONFERENCE No. 7

Committees: House Agriculture/Senate Labor and Human Resources.

ISSUES

A. Second Morrill Act

The Senate capped the authorizations for appropriations of funds under this Act at $2.8 billion dollars per year. This Act provides funding for agriculture teaching assistantships in agricultural land grant colleges and universities. The House had no comparable provision.

Conference agreement.—The conferees compromised by providing for annual authorizations for appropriations rather than permanent authorization for appropriations as is contained in current law.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 8

Committees: House Agriculture and House Energy and Commerce/Senate Energy and Natural Resources.

ISSUES

A. Alcohol fuels

Authorizations for biomass energy development activities under the Biomass Energy and Alcohol Fuel Act of 1980 were reduced from $600 million to $460 million. The Senate also capped authorizations for the biomass energy and alcohol fuel programs under the Biomass Energy and Alcohol Fuel Act of 1980 at $10 million for fiscal year 1981 and zero dollars for fiscal years 1982, 1983, and 1984. The House did not have any comparable provisions.

Conference agreement.—The conferees agreed to the first Senate provision of reducing authorization for energy development activities from $600 to $460 million. This results in savings of $65 million in budget authority in fiscal year 1981. The other Senate provisions were dropped.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 9

Committees: House Agriculture/Senate Environment and Public Works.

ISSUES

A. Rural clean water program

The House capped the authorization for appropriations for the rural clean water program resulting in a cap in fiscal year

1982 of $19.8 million. The Senate had no comparable provision.

Conference agreement.—The House conferees receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 10

Committees: House/Senate Armed Services.

ISSUES

A. Once-a-year cost-of-living adjustment for retired military personnel

Both the House and Senate provided for a once-a-year COLA for retired military personnel. There were minor differences in language. The House Bill implemented the once a year COLA by referring to existing legislation, the Department of Defense Authorization Act 1981. The Senate repeated the language contained in the Department of Defense Authorization Act 1981.

Conference agreement—The Conferees agreed to the House version.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−394	−327	−285
Outlays	−394	−327	−285

B. Stockpile sales

Both the House and Senate provided for the sale of materials from the strategic stockpile. The Senate provided for the sale of only silver for a savings of $572 million. The House provided for the sale of various materials, including silver, for a savings of $535 million. Additionally the House authorized the purchase of material for the stockpile. The Senate had no such provision. Various other minor differences existed in language.

Conference agreement.—The Conferees agreed on the House proposed sales from the stockpile with minor changes in language. This proposal would authorize the sale of silver as well as various other materials in all years.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−535	−534	−193
Outlays	−535	−534	−193
Savings do not include authorized stockpile purchases which are subject to appropriation action. Authorized purchases are:			
Budget authority	+120	+130	+139
Outlays	+84	+166	+139

C. Open enrollment for military survivor benefit plan

The House provided an open season for enrollment of those retired military who did not participate in the survivor benefit plan or who did not opt for full coverage to enroll or increase benefits. The Senate did not have such a provision.

Conference agreement.—The Senate accepted the House proposal with a change to extend from twelve to twenty-four months, the period of time required from enrollment until death to qualify for the death benefit.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−37	−36	−35
Outlays	−37	−36	−35

MINICONFERENCE No. 11

Committees: House Banking/Senate Banking.

ISSUES

A. Subsidized housing

The House reduced the authorization for new subsidized housing contracts to $18.36 billion, which would support an estimated 158,000 new units. The Senate reduced the authorization to $17.81 billion, which would support and estimated 150,000 new units.

Conference agreement.—The conference committee compromised on a funding level of $18.09 billion, which would support and estimated 153,000 new units.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−11,557	−13,663	−15,509
Outlays	−116	−335	−721

B. Community development and UDAG

Both the House and Senate bills authorized a total of $4.166 billion for these programs. However, the Senate bill provided a $500 million setaside within that $4.166 billion for a separate UDAG program.

Conference agreement.—The House receded to the Senate, allowing for a UDAG setaside.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−469	−892	−1,257
Outlays	−47	−251	−642

C. Section 312 rehabilitation loans

The House repealed the section 312 rehabilitation loan program. The Senate extended the program, but allowed new loans to be made only from repayments of existing loans not from new budget authority.

Conference agreement.—The House receded to the Senate, resulting in a 1982 program level of $85 million in new loans.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−137	−147	−156
Outlays	−160	−140	−142

D. Public housing operating subsidies (PHOS)

The House authorized $1,640.7 million for PHOS in 1982. The Senate authorized $1,204.6 million.

Conference agreement.—The conferees compromised at an authorization of $1,500 million.

INCREASES ABOVE BASELINE

[In millions of dollars]

	1982	1983	1984
Budget authority	+260	+305	+359
Outlays	+135	+284	+333

E. GNMA mortgage purchases

The House limited 1982 GNMA mortgage purchases to $1.97 billion, the current policy baseline level. The Senate authorized a mortgage purchase level of $3.2 billion.

Conference agreement.—Senate receded to the House.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

F. Export-Import Bank

Both bills contained a 1982 program level of $5,065 million of new subsidized loans for the Ex-Im Bank.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,349	−1,469	−1,578
Outlays	−111	−464	−775

Subconference Total

The items above are the major issues resolved by this Mini-Conference. A long list of smaller and more minor issues were also resolved.

The following table summarizes the total savings achieved by this subconference (in millions of dollars):

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−14,405	−17,072	−19,447
Outlays	−539	−1,292	2,449

MINICONFERENCE No. 12

Committees: House Banking, House Energy/Senate Energy.

ISSUE

A. Low-income weatherization

The House bill contained conflicting provisions on the low-income weatherization program. One section authorized the current policy level of $193.4 million in 1982; another section repealed the authorization for this program. The Senate authorized $350 million for energy conservation grants to States and localities, under which low-income weatherization would be an explicitly permitted activity.

Conference agreement.—The conference agreed to Senate approach with an amendment to include language that up $175 million of energy conservation funds may be used for low-income weatherization.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−18	−20	−21
Outlays	−2	−13	−24

These amounts are also credited as savings in Miniconference No. 24.

MINICONFERENCE No. 13

Committees: House Banking/Senate Energy.

ISSUE

A. Solar bank

The House authorized the current policy program level for subsidizing residential conservation and solar improvements of $132 million a year starting in 1982. The Senate limited the Solar Bank to $50 million a year.

Conference agreement.—The House receded to the Senate.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	+50	+50	+50
Outlays	−46	−108	−102

(The increase in budget authority is an artificial result. The CBO current policy baseline assumes that these subsidies would be funded from the solar and conservation reserve which was scored as budget authority in 1980. However, that reserve was eliminated by a rescission enacted after the CBO current policy baseline was selected. As a result, new budget authority is required by the conference agreement, but it still reflects a permanent reduction in the Solar Bank program level from $132 million down to $50 million.)

MINICONFERENCE No. 13A

Committees: House Banking/Senate Foreign Relations.

ISSUE

A. International financial institutions (IFIs)

The House reduced the authorization for U.S. contributions to the International Development Association (IDA), International Bank for Reconstruction and Development (IBRD), the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank below the current policy baseline and well below the administration request for contributions to the IFIs. The Senate had no comparable provision.

Conference agreement.—The Senate receded to the House with an amendment funding these activities at the level of the administration request.

INCREASES ABOVE BASELINE

[In millions of dollars]

	1982	1983	1984
Budget authority	+807	+1,088	+1,016
Outlays	+106	+259	+460

MINICONFERENCE No. 14

Committees: House District of Columbia/Senate Governmental Affairs.

ISSUES

A. Loans to the District of Columbia

Both Houses had an authorization cap of $155 million per year and minor differences, such as an outlay cap, were worked out in conference.

Conference Agreement.—Cap of $155 million per year for fiscal year 1982, 1983 and 1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−39	−59	−72
Outlays	−40	−58	−69

MINICONFERENCE No. 15 [1]

Committees: House Education and Labor/Senate Labor and Human Resources.

ISSUES

A. Elementary and secondary education (ESEA)

The House bill and Senate amendment proposed two block grants for education programs: one for title I and another for smaller programs, such as emergency school aid, library and learning resources, and support and innovation programs. The House bill capped the title I program authorization at $3,544.3 million in fiscal year 1982, while the Senate capped the program at $3,348.0 million for each of the fiscal years 1982–1984. The House bill also capped the other education block grant authorization at $584.4 million for each of the fiscal years 1983–1984, while the Senate capped the program at $584.2 million in fiscal year 1982, and $583.9 million in fiscal year 1983.

Conference agreement.—The conferees agreed to an authorization cap of $3,480 million for title I in fiscal year 1982. Further, the conferees agreed to cap the new title II block grant authorization (a consolidation of 28 existing programs) at $589 million in each of the fiscal years 1983–1984. The programs to be consolidated in the new title II block grant would continue as categorical programs in fiscal year 1982 with individual authorization ceilings.

B. Employment and training: CETA, youth training, and employment service

The House bill and Senate amendment proposed different funding level ceilings for the various CETA adult training and youth training programs. Further, the Senate amendment capped the appropriation for State employment security agencies at $607 million. The Senate amendment capped the CETA program authorizations in fiscal year 1982 at $3,900.5 million of which $75.5 million would be for program administration. The House bill did not have a similar provision.

Conference agreement.—The House receded with amendments to the various CETA program authorization caps. The total amount of authorization caps is $3,970.5 million for fiscal year 1982. The conferees also agreed to cap the appropriation for State employment security agencies at $677 million.

C. Headstart

The Senate amendment capped the Headstart program authorization at $820 million in fiscal year 1982, $1,007 million in fiscal year 1983, and $1,058 million in fiscal year 1984. The House bill did not have any comparable provisions.

Conference agreement.—The House receded with an amendment capping the program authorization at $950 million in fiscal year 1982, $1,007 million in fiscal year 1983, and $1,058 million in fiscal year 1984.

D. Guaranteed student loans (GSLs)

The House bill provided that GSLs would be available only for a student's "remaining need" for college expenses. The Senate amendment provided the full $2,500 loan to students from families with incomes at or below $25,000 adjusted gross income, and those from families with incomes in excess of $25,000 would be eligible for remaining need.

Conference agreement.—The conferees agrued to cap the eligibility for the full $2,500 loan at $30,000 adjusted gross income and provide "remaining need" to those students from families with incomes in excess of $30,000.

E. Other higher education (Pell Grants)

The House bill and Senate amendment capped the Pell Grant and other higher education program authorizations for each of the fiscal years 1982–1984. The House bill capped the Pell Grant program at $2,466 million in fiscal year 1982, $2,353 million in fiscal year 1983, and $1,965 million in fiscal year 1984. The Senate amendment capped the program at $2,820 million, $3,000 million, and $3,300 million for these years.

Conference agreement.—The Senate receded with an amendment to cap the Pell Grant program authorization at $2,650 million in fiscal year 1982, $2,800 million in fiscal year 1983, and $3,000 million in fiscal year 1984.

F. Federal Employees' Compensation Act (FECA)

The House bill reformed the FECA benefits program. The Senate amendment did not have any comparable provision. (Also see mini-conference #21 for companion House provisions relating to retirement.)

Conference agreement.—The House receded.

G. Community services block grant

The Senate amendment provides for a community services block grant which would be capped at $354 million for each of the fiscal years 1982–1986. The block grant would incorporate most of the programs administered by CSA into a single block grant to the States. The House bill did not have a similar provision. (See Mini-Conference #19 for a discussion of the House bill's social services block grant.)

Conference agreement.—The House receded with technical amendments to the Senate block grant with an authorization cap of $389 million for each of the fiscal years 1982–1986.

H. Refugee Education

The House bill capped the Refugee Education program authorization at $50 million for each of the fiscal years 1982–1984. The Senate amendment did not have a similar provision.

Conference agreement.—The Senate receded with an amendment to cap the authorization at $5 million in fiscal year 1982, $7.5 million in fiscal year 1983, and $10 million in fiscal year 1984.

Subconference Total

The following table summarizes the total savings achieved by this Mini-Conference. CBO estimates for the individual issues are not yet available.

[1] These members are staff estimates subject to CBO verification.

TOTAL SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−8,154	−10,035	−11,419
Outlays	−5,448	−8,418	−11,073

MINICONFERENCE No. 16

Committees: House Education and Labor/ Senate Agriculture.

ISSUE

A. Child nutrition

The House reconciliation bill proposed savings of $1.55 billion in fiscal year 1982. The Senate reconciliation bill proposed savings of $1.50 billion in fiscal year 1982. Overall, the House Senate reconciliation packages contained only a few major differences. Of the differences that existed between the two bills, the following compromises were reached.

School Lunch Reimbursements: The conference agreement set the reimbursement rate for a paid lunch at 21.5¢; a reduced-price lunch at 80.25¢; and a free lunch at 120.25¢.

School Breakfast Reimbursements: The conference agreement adopted the Senate proposals setting breakfast reimbursement for paid at 8.25¢, for reduced-price at 28.5¢, and free at 57.0¢. The conferees also adopted an amendment setting the maximum charge for a reduced-price breakfast at 30¢.

Summer Feeding Program: A compromise was reached between the House and Senate adopting the House language on sponsorship (limited to public or private non-profit school, local, city or county governments, or residential non-profit summer camps); adopting the Senate restriction that the program can only operate in areas where 50 percent or more of children would be eligible for free or reduced-price meals; and adopting the House authorization of the program through fiscal year 1984.

WIC: The conference agreement splits the difference in fiscal year 1982 setting funding for the WIC program at $1.017 billion and adopted the Senate funding levels in fiscal years 1983 and 1984 of $1.06 billion and $1.126 billion, respectively.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,474	−1,579	−1,682
Outlays	−1,457	−1,566	−1,672

MINICONFERENCE No. 17

Committees: House Education and Labor/ Senate Judiciary.

ISSUES

A. Civil Rights Act

The House bill capped the advisory and technical assistance program authorization for schools undergoing desegregation at $37.1 million for each of the fiscal years 1982-1984. The Senate did not have a similar provision.

Conference agreement.—The Senate receded to the House level of $37.1 million for each of the fiscal years 1982-1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−13	−15	−18
Outlays	−1	−11	−15

B. Juvenile justice

The House bill capped the Juvenile Justice program authorization at $70 million for each of the fiscal years 1982-1984. The Senate amendment capped the program at $77 million for each of the years.

Conference agreement.—The House receded to the Senate level of $77 million for each of the years.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−39	−55	−69
Outlays	−4	−25	−50

MINICONFERENCE No. 18

Committees: House Education and Labor and Energy and Commerce/Senate Labor and Human Resources.

ISSUES

A. Black lung clinics

The Senate amendment consolidated the Black Lung Clinic program into one of the health block grants. The House bill did not have a similar provision.

Conference agreement.—The Senate receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 19 [1]

Committees: House Education and Labor, Energy and Commerce, and Ways and Means/Senate Finance, Labor and Human Resources and Judiciary.

ISSUES

A. Social services block grant

The House bill consolidated 10 social services programs including title XX and the Community Services Administration (CSA) programs into one block grant to the States which would be capped at $3,123 million for each of the fiscal years 1982-1985.

The Senate amendment did not have a comparable provision. Instead, the Senate amendment separated title XX from the CSA programs and established 2 block grants to the States.

Conference agreement.—The House receded from its social services block grant in this Mini-Conference and receded to the Senate, with amendments, to the title XX block grant (Mini-conference #58) and to the community services block grant (Mini-Conference #15). The Social Services agreement incorporates the title XX programs into a new block grant with a fiscal year 1982 funding level of $2.4 billion which will be increased by $500 million per year through fiscal year 1986 and retains the current titles IV B (child welfare services) and title IV E (Foster Care and Adoption Assistance) as categorical programs. (The savings associated with this block grant are identified in Mini-Conference #58). The community services block grant agreement incorporates the programs administered by CSA into a new block grant with a funding level of $389 million in each of the fiscal years 1982-1986. (The savings associated with this block grant are identified in Issue E, Mini-Conference #15.)

B. Low-income energy assistance and House energy assistance block grants

The House bill provided for two separate energy assistance block grants: one, a Home Energy Assistance Block Grant in the Education and Labor title of the bill, capped the program at $1,875 million for each of the fiscal years 1982-1984, and the other, a Low-Income Energy Assistance Block Grant in the Ways and Means title of the bill, at $1,400 million in fiscal year 1982 and $1,600 million in fiscal year 1983.

The Senate amendment provided for one low-income energy assistance block grant which was capped at $1,875 million for each of the fiscal years 1982-1984.

Conference agreement.—The House receded from its two separate provisions and amended the Senate version capping the program at $1,875 million.

TOTAL SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,268	−1,662	−2,077
Outlays	−1,189	−1,647	−2,054

MINICONFERENCE No. 19A

Committees: House Education and Labor/ Senate Labor and Human Resources, Finance, and Judiciary.

ISSUE

A. Child abuse

The Senate amendment capped the Child Abuse and Prevention and Treatment Act authorization at $7 million in both fiscal years 1982-1983. The House did not have a similar provision.

Conference agreement.—The House receded with an amendment to cap the program authorization at $19 million of which $2 million would be reserved for adoption opportunities, $7 million for child abuse, and $12 million for discretionary programs.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

Note.—Estimates are not yet available from CBO.

MINICONFERENCE No. 20

Committees: House Education and Labor and Ways and Means/Senate Finance.

ISSUES

A. Black lung

The Senate reconciliation bill contained no provision affecting the Black Lung Trust Fund. The House bill contained major changes including the following:

[1] These numbers are staff estimates subject to CBO verification.

Increase the tonnage tax to $1.00 on coal extracted from surface and underground mines from the current law tax of $.25 and $.50 per ton, respectively.

Reimburse mine operators for paid claims filed for miners whose last coal mine employment ended after 1969 and whose original claim was denied prior to March 1, 1978 but was subsequently approved based on changes made by the Black Lung Reform Act of 1977.

Conference agreement.—The House receded.

B. Community work programs in AFDC

The House and Senate bills authorized States to establish community work experience programs for AFDC recipients. Under these programs, recipients could be required to work on useful public projects in return for their AFDC grants.

Conference agreement.—The House and Senate bills contained identical provisions. This item was not in dispute.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority		−20	−41
Outlays		−20	−41

MINICONFERENCE No. 21

Committees: House Education and Labor and Post Office and Civil Service/Senate Labor and Human Resources.

ISSUES

A. Federal Employees' Compensation Act/ Retirement benefits

The House bill would transfer Federal employees receiving FECA benefits to the Civil Service retirement system after the beneficiary reached retirement age. The Senate amendment did not have a similar provision. (See Issue E, Mini-Conference No. 15 for other FECA issue.)

Conference agreement.—The House receded.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 22

Committees: House Education and Labor/ Senate Select Committee on Indians.

ISSUES

A. Indian education

The House bill capped Indian Education program authorizations at $281.7 million for each of the fiscal years 1982-1984. The Senate amendment did not have any comparable provisions.

Conference agreement.—The Senate receded with an amendment capping the program authorizations at $262.3 million in fiscal year 1982, $276.1 million in fiscal year 1983, and $290.4 million in fiscal year 1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−36	−38	−40
Outlays	−15	−37	−38

MINICONFERENCE No. 23

Committees: House Energy and Commerce/Senate Commerce, Science and Transportation.

ISSUES

A. Consumer Product Safety Commission

The House bill extended the authorization for the Commission through fiscal year 1984; provided for a Congressional veto of agency regulations and standards; requires regulatory impact analyses; standards for lawnmowers and amusement parks, public disclosure rules and advisory councils. The Senate bill had no provisions for the Consumer Product Safety Commission.

Conference agreement.—The conferees reached a compromise decision to reauthorize appropriations for the Commission for the next two years at the level of funding in the House-passed bill of $33 million and $35 million for fiscal years 1982 and 1983 respectively. In addition, the conferees authorized to be appropriated such funds as may be necessary for the payment of accumulated and accrued leave under section 5551 of Title 5, United States Code, and severence pay under section 5595 of Title 5, United States Code. The conferees agreed to retain the Commission as a separate independent agency; the Commission's function will remain separate from the Department of Commerce.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−10	−12	−12
Outlays	−10	−12	−12

B. Railroads

1. Conrail Funding

Senate: Provided $400 million in authorization for labor protection and related expenses and $150 million for additional Federal subsidy for Conrail to help achieve profitability in preparation for sale of Conrail to private interests. Conrail commuter operations would be transferred to a new commuter agency and $50 million in authorization for the program is provided.

House: Provided $315 million in authorization for labor protection and $375 million for additional Federal subsidy for Conrail. Commuter operations would be terminated and transferred to a new commuter agency and $70 million in authorization and an additional $50 million in loan guarantees would be provided.

Conference agreement.—Provides $400 million in labor protection payments and $262 million for continued subsidy of Conrail. Conrail could be sold as late as fiscal year 1985 and the conditions of sale would include a profitability test applied June 1, 1983. If profitable the Secretary would seek to sell Conrail as an entity to June 1, 1984, and if there is no buyer then 90 days would be allowed for the employees to purchase the railroad; 60 days is provided for Congressional review. The intent is to make maximum effort to sell Conrail as an entity and not in parts. The conference agreement also provides for termination of Conrail commuter operations and provides $50 million in new authorization.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−120	−238	−300
Outlays	−355	−113	−90

2. Amtrak Funding

Senate: Provided $735 million in fiscal year 1982 and did not provide for specific train criteria or subprogram breakdown. The Senate bill did not exempt required Amtrak interest payments and assumed a lower service level than the existing system.

House: Provided $735 million in fiscal year 1982 and increased funding in the out-years. The House provisions assumed two-year deferral of Amtrak's interest payments and forgiveness of State and local taxes, thereby providing a higher level of total funding available for Amtrak operations and maintains a substantial percentage of the existing system.

Conference agreement.—Provides a $735 million fiscal year 1982 level and deferral of the Amtrak debt and modified provision of exemption from State and local taxes. A very substantial part of the existing Amtrak system can be funded at the conference agreed to funding levels.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−313	−351	−372
Outlays	−271	−407	−250

3. Northeast Corridor Project

Senate: Restricted total project funding to $385 million and thereby restricted the overall program goals by reducing the existing authorization for the program.

House: Provided $385 million in fiscal year 1982 and 1983 but did not reduce the existing remaining $695 million authorization and thereby allowed for a substantially larger program than the Senate bill; a program generally consistent with current law but on a slowed-down timetable.

Conference agreement.—Provided $385 million for fiscal years 1982 and 1983 combined and does not change existing program authorities since the overall $695 million remaining current law authorization is not reduced.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−186	−124	+200
Outlays	−8	−43	−82

4. Rail Service Assistance

Senate: Reduces the existing rail service programs i.e., local rail service assistance formula program.

House: Reduces the existing rail service programs below the Senate assumptions and attempts to target the local rail assistance branchline program to the most needy States.

Conference agreement.—Continues local rail assistance program at $40 million and the 505 redeemable preference share program at $27 million, the minority business

program at $10 million and $11 million for miscellaneous smaller Federal Railroad Administration programs.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−51	−55	−59
Outlays	−10	−31	−45

5. USRA Administration

Senate: Reduces USRA authorizations.

House: Reduced the USRA operations funding to minimum levels.

Conference agreement.—Reduces the USRA operations funding to minimum levels for continued litigation needs and monitoring needs.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−18	−28	−34
Outlays	−15	−27	−33

6. Rail Labor Assistance

Senate: Eliminates the Title V labor protection program beginning in 1982.

House: Eliminates the Title V labor protection program in 1982, but preserves some funding for leftover claims and miscellaneous requirements.

Conference agreement.—Generally assumes the House position to eliminate the program but provides funding for leftover claims.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−25	−50	−4
Outlays	−25	−50	−5

7. Rail Research and Development

Senate: Reduces the overall authorization available for research and development.

House: Reduces the overall authorization available for railroad research and development below the Senate-recommended amounts.

Conference agreement.—The conference agreement follows the Senate authorization level in fiscal year 1982, and is between the Senate and House positions in the out-years.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−15	−15	−15
Outlays	−5	−10	−14

8. Rail Safety and Department of Commerce General Administration

Senate: No provision.

House: Reduction in overall authorization for miscellaneous sub-programs.

Conference agreement.—Assumes House position.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Rail safety:			
Budget authority	−2	−2	−2
Outlays	−1	−1	−1
Department of Commerce general administration:			
Budget authority	−4	−5	−6
Outlays	−4	−5	−6
Total budget authority	−6	−7	−8
Total outlays	−5	−6	−7

C. Telecommunications

The House-passed bill included no provisions for the Interstate Commerce Commission (ICC), Federal Communications Commission (FCC), Corporation for Public Broadcasting (CPB), radio deregulation and television licensing and extended the Corporation for Public Broadcasting (CPB). The Senate bill lowered the authorization level for ICC; established user fees and reduced authorization for FCC and National Telecommunications and Information Administration (NITA); reduced the authorization for CPB; allowed an indefinite licensing period for radio deregulation, changed the licensing terms and reduced reporting requirements; and extended television licensing periods from 3 to 5 years, allowed random selection for licenses, and reduced reporting requirements.

Conference agreement.—The conferees reached the following compromise in the area of telecommunications: extension of the term of radio licenses from the present three to seven years, lengthening the television licenses from three to five years, establishment of a lottery procedure for awarding new licenses and authority for the Federal Communications Commission (FCC) to throw out challenges to existing licenses at the Commission's discretion. The conferees reauthorized the FCC for fiscal year 1982 and 1983 at $76.9 million a year.

The conferees reauthorized the National Telecommunications and Information Administration (NTIA) for the next two years at $16 million each year.

The conferees compromised on the funding level for the Corporation for Public Broadcasting (CPB) as follows:

CPB facilities are authorized for fiscal year 1982 at $20 million, fiscal year 1983 at $15 million, and for fiscal year 1984 at $12 million.

CPB is reauthorized at $140 million for fiscal years 1984, 1985 and 1986 respectively.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Telecommunications:			
Budget authority	−11	−14	−2
Outlays	−11	−14	−2
Corporation for Public Broadcasting:			
Budget authority	−9	−17	−105
Outlays	−1	−7	−97
Total Budget authority	−20	−31	−107
Total outlays	−12	−21	−99

MINICONFERENCE No. 23a

Committees: House Energy and Commerce and Merchant Marine and Fisheries/Senate Science and Transportation.

ISSUES

A. Coast Guard

Senate: The Senate version contained no such provisions.

House: The House version contained provisions limiting the Secretary of Transportation's use of Coast Guard transportation and dining facilities.

Conference agreement.—Drops reference to restrictions.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 24

Committees: House Energy and Commerce/Senate Energy.

ISSUES

A. Strategic petroleum reserve

The House and Senate versions differed slightly as a consequence of a Senate floor amendment. The House specifically provided for annual authorization and appropriation of an off-budget account for funding the reserve. The Senate provided for a multi-year off-budget approach for funding SPRO.

Conference agreement.—The conferees agreed to create an off-budget account for the funding of the reserve. Funding from this account would be done on an annual authorization and appropriation basis. For fiscal year 1982, the conferees authorized $3.9 billion from the account. All outlays from buying oil in this program in fiscal year 1982 would be off-budget.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−3,833	−3,353	−2,170
Outlays	−3,666	−3,791	−2,342

B. Fuel Use Act Amendments

The House repealed the "off-gas" provision for electric utilities contained in the Fuel Use Act, and relaxed the ban on outdoor gas lighting for presently existing lights. The Senate bill did not deal with these issues.

Conference agreement.—The agreement essentially accepts the House position, with certain minor changes.

C. DOE regulatory programs

The House did not authorize specific program levels for these programs, by subsuming their funding within an overall $5.6 billion cap for DOE civilian activities. The Senate had somewhat more specificity for these programs.

Conference agreement.—The conference agreement provides for program authorization levels generally consistent with House report language, and within the overall $5.6 billion cap on DOE civilian activities.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−175	−138	−145
Outlays	−112	−118	−137

D. Energy conservation programs under Energy and Commerce Committee jurisdiction

The House had not specific authorization for these programs since it provided an overall $5.6 billion cap on DOE civilian activities. In a different title of the House bill the low income weatherization program was repealed, as well as funded at a $193 million level. The Senate provided $350 million for these activities.

Conference agreement.—The conferees essentially adopted Senate program authorization levels with report language indicating that up to $175 million of these funds could be for the low income weatherization grant program.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−252	−268	−298
Outlays	−27	−190	−269

MINICONFERENCE No. 25[1]

Committees: House Energy and Commerce/Senate Finance.

ISSUES

A. Medicaid cap and other medicaid changes

The House proposed a reduction in State funding for the medicaid program which would lower the Federal payment by 3, 2, and 1 percent in fiscal years 1982 through 1984, respectively. In addition, the House proposed certain increases in State flexibility to administer the program. These changes include allowing States to negotiate hospital reimbursement rates, to restrict patients and providers who overuse or abuse the program, and to purchase laboratory services, medical devices and drugs on a competitive basis. A total of $935 million in 1982 outlays would be saved as a result of the changes proposed by the House. The Senate proposed a cap on medicaid which would limit Federal payments to States to 9 percent above the 1981 level. In addition, the minimum match would be reduced from 50 to 40 percent. The Senate also proposed increases in State flexibility which would reduce program costs. The Senate proposed changes include elimination of the medicaid "freedom of choice" provision and increased flexibility for States to determine hospital reimbursement rates. The combined impact of the Senate proposals would save $1,010 million in 1982.

Conference agreement.—The agreement is to reduce the Federal medicaid payment by 3, 4, and 4.5 percent in 1982 through 1984, respectively. States could offset these reductions by limiting their medicaid increases below 109 percent of the 1981 base, by other specified program improvements, or if the State's unemployment level is 150 percent of the national average. In addition, States could negotiate hospital reimbursement rates, increase competitive procurement of laboratory and other services, and limit providers and recipients who abuse the medicaid system.

[1] These numbers are staff estimates subject to CBO verification.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,193	−969	−821
Outlays	−914	−933	−1,084

B. Maternal and child health block grants

The House proposed a block grant to consolidate the maternal and child health, sudden infant death syndrome, adolescent pregnancy and hemophilia programs and to reduce their funding by 18 percent below the 1981 levels. The Senate proposed a similar block grant, excluding adolescent pregnancy but including genetics. Programs to be included in the block grant would be reduced by 25 percent.

Conference agreement.—The agreement consolidates all of the programs, including both adolescent health and genetics, which the House and Senate proposed to combine into a block grant. The 1982 funding level proposed by the House is agreed to for 1982 through 1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−29	−82	−121
Outlays	−17	−49	−73

MINICONFERENCE No. 26

Committees: House Energy and Commerce/Senate Environment and Public Works.

ISSUES

A. Noise control and toxic substances

The House bill provided substantive amendments to the Noise Control Act of 1972 and an authorization of $7.3 million for fiscal years 1982 and 1983. The House bill also provided $62 million for each fiscal year 1982 and 1983 for toxic substances control. The Senate had no comparable provisions.

Conference agreement.—The House agreed to recede. This action results in removing the item from the reconciliation bill.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 27[1]

Committees: House Energy and Commerce/Senate Labor and Human Resources.

ISSUES

A. Health prevention and health services block grant

The House consolidated approximately 10 programs into a prevention block grant and an alcohol/drug abuse block grant. Funding for the programs consolidated into the first of these blocks was reduced by 20 percent and there is a 24 percent funding reduction for programs included in the latter block. The House extended categorical authorizations, but at reduced funding levels, for a number of health programs, including community health and mental health centers, migrant health centers, and family planning programs. The Senate combined approximately 20 programs—including those which the House extended as categorical—into a prevention and health services block grant. Funding for the programs would be reduced by 25 percent.

Conference agreement.—The agreement provides for three block grants which includes the programs shown below:

Prevention

Home health, rodent control, fluoridation, health education/risk reduction, health incentive grants, emergency medical services, rape crisis, hypertension.

Alcohol, Drug Abuse and Mental Health

Alcohol abuse, drug abuse, mental health.

Primary Care

Community health centers.

Funding for the block grants reflects a split between the House and Senate differences for 1982 with an 8 percent increase for each of the years 1983 and 1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−335	−395	−423
Outlays	−129	−299	−375

B. Authorizations for categorical health programs

Health Services and Prevention

The House proposed to provide categorical authorizations for immunization, tuberculosis, venereal disease, family planning, migrant health, and primary care research and development programs at reduced funding levels. With the exception of immunizations and tuberculosis, the Senate proposed to include these programs in a categorical block grant with a 25 percent reduction in funding. The Senate continued the categorical immunization program with a 22 percent reduction in funding, included no provision for tuberculosis, and provided a categorical alcoholism and drug abuse demonstration program to be authorized at $30 million for 1982.

Conference agreement.—All of the above programs are continued as categorical.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−19	−17	−16
Outlays	−13	−16	−17

C. Reauthorizations of discretionary health programs

Health Manpower

The House proposed to reduce funding for manpower programs by 25 percent, including elimination of the capitation program. The Senate placed a cap on health manpower programs which is 45 percent below the current policy level.

Conference agreement.—The agreement splits the difference between the House and Senate authorization levels. A total of 550 new assignees per year would be supported for the National Health Service Corps.

[1] These numbers are staff estimates subject to CBO verification.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−186	−198	−222
Outlays	−31	−140	−190

National Centers for Health Research, Technology and Statistics, National Library of Medicine, and Research Service Awards

The House extended the authorizations for these programs at 16 percent below the current policy levels. The Senate imposed caps on the National Institutes of Health and the Office of the Assistant Secretary for Health which are to include funding for all of the programs. The caps are the same as the funding levels requested by the administration.

Conference agreement.—The agreement funds approximately 80 percent of the current policy level.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority	−43	−41	−43
Outlays	−20	−39	−41

Health Maintenance Organizations

The House continues the categorical authority, providing planning and initial development grants only for entities funded in 1981. The Senate provided no specific authorization, but assumed that the program could be included in the cap for the Office of the Assistant Secretary for Health.

Conference agreement.—The agreement provides for funding to currently funded HMO's and sufficient funds to cover loan defaults plus $5 million for new HMO loans.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority	−6	−20	−23
Outlays	−3	−12	−18

Health Planning

The House provides for continuation of the health planning program at a reduced funding level. The Senate would phase out the program at the end of fiscal year 1982.

Conference agreement.—The agreement provides a fiscal year 1982 authorization of $102 million. The issues of 1983 and 1984 authorization levels are not addressed.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority	−45	−75	−80
Outlays	−18	−51	−73

Alcohol and Drug Abuse Research

For 1982, the House and Senate both recommended the current policy level for alcoholism research. For drug abuse research, the House recommended the 1981 funding level and the Senate recommended an 11 percent increase.

Conference agreement.—The House level was adopted for drug abuse research for 1982. The agreement does not address the issues of funding for 1983 and 1984.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority			
Outlays			

Developmental Disabilities

The House provided continuation of the categorical program with a 25 percent reduction in funding compared to an 8 percent reduction below current policy level recommended by the Senate.

Conference agreement.—The agreement for 3 years is the same as the Senate recommendation for 1982.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority	−5	−10	−14
Outlays	−3	−8	−12

Adolescent Family Life Program

Neither the House nor Senate bills included the provision. However, other family and adolescent health activities are included in the bill. This program originated in S. 1090 which was reported out of the Senate Labor and Human Resources Committee.

Conference agreement.—The agreement provides an authorization of $30 million for adolescent pregnancy prevention and family support activities.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority	+30	+30	+30
Outlays	+10	+10	+10

D. Railroad retirement

The Senate bill repeals benefit provisions which provide windfall benefits to spouses of former rail workers and provide benefits to survivors of deceased railroad workers that increase more rapidly than does the Consumer Price Index. The benefit changes in the House bill are intended to help increase the stability of the system.

Conference agreement.—The conferees accepted the House package with the following modifications: The indexing provisions for the industry component of the pension, which is a cost item, will not go into effect until a tax increase is enacted into law; the House accepts the Senate proposal to eliminate the so-called windfall benefit for spouses of former rail workers; the Railroad Retirement Board must draw up a plan to allocate the trust balances if in any month the balances will be insufficient to make full benefit payments; and a loan provision included in the House-reported tax bill is also included in the conference agreement.

SAVINGS ACHIEVED

	1982	1983	1984
Budget authority			
Outlays	−320	−140	−160

MINICONFERENCE No. 28

Committees: House Energy and Commerce/Senate Judiciary and Senate Environment and Public Works.

ISSUE

A. Controlled Substances Act

The House proposed to repeal the authorization for activities under the Controlled Substances Act. The Senate had no comparable provisions.

Conference agreement.—The agreement is to repeal the authorization. The activities will continue to be funded under more general authorizations available to the Justice Department.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 29

Committees: House Energy and Commerce, House Interior and Insular Affairs/ Senate Energy and Natural Resources.

ISSUES

A. Office of Federal Inspector for the Alaska Natural Gas System

The House provided $36.6 million, $45.5 million and $46.9 million for fiscal years 1982, 1983, 1984 respectively. The Senate provided $21.0 million, $36.6 million, $45.5 million and $46.9 million for fiscal years 1981, 1982, 1983, and 1984 respectively.

Conference agreement.—The conferees agreed to accept the House levels for fiscal years 1982-1984 and the Senate level for fiscal year 1981.

SAVINGS ACHIEVED

[In millions of dollars]

	1981	1982	1983	1984
Budget authority	(1)	+14	+23	+24
Outlays	(1)	+13	+22	+24

[1] Less than $1 million.

MINICONFERENCE No. 30

Committees: House Energy and Commerce, House Interior and Insular Affairs/ Senate Environment and Public Works.

ISSUES

A. Nuclear Regulatory Commission

The House provided $485.9 million, $513.1 million and $544.9 million for NRC for fiscal years 1982, 1983 and 1984 respectively. The Senate had no comparable provision.

Conference agreement.—The conferees agreed that the House would recede to the Senate position. Since the Senate-passed bill did not reconcile NRC, the conference agreement results in removing this item from the bill.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 31

Committees: House Energy and Commerce, House Interior and Insular Affairs/ Senate Indian Affairs.

ISSUES

A. Indian Health Service

The House provided $725.9 million, $781.9 million and $853.9 million for IHS for fiscal years 1982, 1983, 1984 respectively. The Senate had no comparable provision.

Conference agreement.—The House receded to the Senate. The Senate had not reconciled the Indian Health Service so the conference agreement resulted in removing this item from the reconciliation bill.

SAVINGS ACHIEVED

[In millions of Dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 32

Committees: House Energy and Commerce, Interior and Insular Affairs and Science and Technology/Senate Energy.

ISSUES

A. Fair value pricing of uranium enrichment services

The House Interior Committee proposed a change in the basis under which uranium enrichment prices are set by DOE, allowing DOE the flexibility to price its services at price levels comparable to those private enterprise might charge. This change was estimated to increase receipts by $200 million in fiscal year 1982. The Senate did not address this issue.

Conference agreement.—The House receded to the Senate on this issue and did not change present law regarding this issue.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

B. DOE shared jurisdiction program authorization levels

The House generally did not authorize specific program levels for these programs, choosing to place caps on overall program levels instead. For example, the House Energy and Commerce Committee placed a $5.6 billion cap on all civilian activities of DOE for fiscal year 1982. In the House Committee's report there was somewhat more specificity for some of the programs under its jurisdiction. The Senate Energy Committee authorized specific levels for certain individual programs and other levels for groupings of other programs. The Senate, however, authorized a total of DOE activities at nearly a $5.9 billion level. The largest of these programs is the uranium enrichment program.

Conference agreement.—The conference agreement provides for program authorization levels consistent with the House cap of $5.6 billion for DOE programs, while representing compromises with Senate figures for individual programs. The uranium enrichment program was authorized essentially at levels recommended by the administration which happen to be significantly above the CBO current policy baseline used for measuring reconciliation bill savings. This accounts for a large part of the increases reported below. In addition, the bill authorizes the Naval Petroleum Reserve drilling and production program that also is at the President's request level, but above the baseline for reconciliation.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−32	+503	+353
Outlays	−213	+204	+406

MINICONFERENCE No. 33

Committees: House Energy and Commerce, Public Works and Transportation/ Senate Commerce Science and Transportation.

ISSUES

A. Office of the Secretary of Department of Transportation and Department of Commerce

Senate: The Senate had no such provisions.

House: The House version limited the Secretary's use of funds for the office of the Secretary to those funds specifically authorized for that purpose.

Conference agreement.—Drops reference to restrictions on Secretary.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

B. Transportation research and special programs

Senate: The Senate version limited the authorization for the Research and Special Programs Administration to $30 million for fiscal year 1982, and $32 million for fiscal year 1983 and fiscal year 1984.

House: The House had no such provisions.

Conference agreement.—Reduced the research activities by eliminating the cooperative automobile research project.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−76	−16	−17
Outlays	−11	−16	−17

MINICONFERENCE No. 33A

Committees: House Energy and Commerce, Public Works and Transportation, and Merchant Marine and Fisheries/Senate Commerce, Science, and Transportaion.

ISSUES

A. Secretary of Transportation expenses

Senate: The Senate contained no such provisions.

House: The House limited the authorization of funds for the Secretary's discretionary expenses, and for transportation planning, research and development.

Conference agreement.—Reduce funding for the Office of the Secretary by 2 percent (approximately). Dropped reference to Coast Guard and FAA services provided to Secretary.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−5	−7	−8
Outlays	−3	−5	−7

MINICONFERENCE No. 34

Committees: House Energy and Commerce, House Public Works and Transportation/Senate Environment and Public Works.

ISSUES

A. Environmental Protection Agency

The House bill provided a cap of $540 million in fiscal year 1982 for EPA's non-energy research and development, abatement, control and compliance activities. The Senate bill provided the same cap of $540 million for these activities in fiscal years 1982, 1983 and 1984.

Conference agreement.—The conferees agreed to remove this issue from reconciliation.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE COMMITTEES No. 35

Committees: House—Ways and Means, Post Office and Civil Service, Energy and Commerce. Senate: Finance.

ISSUE:

Coordination of medicare and FEHB programs

The Ways and Means Committee include provisions that would make Medicare secondary payor to FEHB program for persons eligible for disability benefits. The Post Office and Civil Service Committee included language that would maintain the existing system unchanged. The Energy and Commerce Committee had no provision affecting the coordination of these programs.

The Senate Finance Committee had Medicare-FEHB coordination provision in S. 1377 which was deleted on the Senate floor.

Conference agreement.—The Ways and Means Committee receded thereby retaining current law.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1983
Budget authority			
Outlays			

MINICONFERENCE: No. 36

Committees: House—Ways and Means, Energy and Commerce/Senate: Finance.

ISSUES

A. Provisions affecting premiums, deductibles and enrollment in medicare part B

1. The House bill eliminated the carryover of incurred expenses from previous years as a means of meeting Part B deductible in current year. Savings: $51 million each year.

2. The House bill increased the Part B deductible to $70 million in 1982 and indexed the deductible to the CPI thereafter. Sav-

ings: 83/200/305 million. The Senate bill increased the Part B deductible to $75 with no indexing. Savings: 111/194/221 million.

3. The Senate bill indexed the Part B premium so that it represented a constant 24% of program costs. Revenue impact only.

4. The Senate bill limited the enrollment period for Part B to January and March of each year and limited States ability to "buy-in" to Part B for their aged Medicaid recipients. Savings: 18/20/22 million.

Conference agreement.—The agreement included the elimination of the House carryover provisions, the Senate change in the Part B deductible and the Senate's limitation on the Part B enrollment period.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	+13	+20	+23
Outlays	−171	−255	−283

B. Provisions affecting providers of services

1. Both bills provided for reduced reimbursement for hospital patients who cannot be transferred to nursing homes because of their unavailability regardless of the hospitals occupancy rate. Certain exceptions to the reduction would be permitted. Savings: House—78/90/103 million; Senate—90/105/115.

2. The House bill established a prospective reimbursement system for renal dialysis services including both institutional and home care. Savings: 105/130/155 million.

3. The House bill limited reimbursement for home health services. Savings: 12/23/27 million.

4. Both bills authorized the Secretary to level civil penalties for fraudulent claims by practitioners and providers. Savings: 21/21/21 million.

5. Both bills provided incentives to promote closure and conversion of underutilized facilities. Savings: 2/9/23 million.

6. The House bill prohibited payment for drugs determined by FDA to be ineffective. Savings: none.

7. The Senate bill eliminated occupational therapy as a sole qualifying criteria for home health services.

8. The Senate bill limited payments for outpatient services in hospitals, community health centers and clinics.

9. The Senate bill provided that Medicare payments be secondary to private insurance in cases of end-stage renal disease.

Conference agreement.—The agreement adopted the House provisions relating to renal dialysis prospective reimbursement with some modifications; the House provisions on payment for home health services; a modified version of the Senate provisions relating to occupational therapy as a criteria for home health services and changes in payment for outpatient services; and the Senate provision making Medicare the secondary payor for renal dialysis services, but requiring the Secretary to collect directly from insurance carriers.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−26	−36	−71
Outlays	−252	−329	−393

C. Provisions affecting Medicare benefits. The Senate bill eliminate coverage for pneumococcal vaccine. Savings: 36/23/23

Conference agreement.—The agreement did not include the Senate provision. No savings, therefore, are achieved.

D. PSRO and utilization review

The House bill repealed the PSRO provision effective in fiscal year 1984 and made other changes in the interim. The House bill also eliminated the requirement for UR committees in hospitals and nursing homes. Savings: 31/34/31 million.

Conference agreement.—The agreement does not include repeal of PSRO and UR provisions, but authorizes the Secretary to terminate up to 30 percent of PSRO base on effectiveness criteria by the end of fiscal year 1982.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−31	−34	−34
Outlays	−31	−34	−31

TOTAL SAVINGS ACHIEVED NO. 36

[In millions of dollars]

	1982	1983	1984
Budget authority	−44	−50	−82
Outlays	−454	−618	−707

MINICONFERENCE No. 37

Committees: House Foreign Affairs/Senate Foreign Relations.

ISSUES

A. Program ceilings

Both bills had put annual appropriations ceilings on specific programs under their jurisdiction. The House had put ceilings on 11 programs, the Senate amendment provided for ceilings on nine of the same programs. The Senate amendment did not address the African Development Foundation and the International Communication Agency.

Conference agreement.—The House and Senate proposals and the ceilings established by the conferees for 1982 are as follows:

	Proposals (in thousands of dollars)		Conference agreement (in thousands of dollars)
	House	Senate	
American schools and hospitals abroad	20,000	12,000	20,000
International organizations and programs	255,650	229,050	255,650
International Narcotics Control	37,700	37,700	37,700
International disaster assistance	27,000	27,000	27,000
Inter-American Foundation	12,000	12,000	12,000
Peace Corps	105,000	105,000	105,000
International Organizations and Conferences	494,591	454,591	454,591
International Communication Agency (salaries and expenses)	452,187	.....	452,187
Arms Control and Disarmament Agency	18,268	18,268	18,268
Board of International Broadcasting	98,317	98,317	98,317
African Development Foundation	2,000	.....	.....

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−244	−325	−314
Outlays	−158	−277	−302

MINICONFERENCE No. 38

Committees: House Government Operations/Senate Government Affairs.

ISSUES

A. Travel

The Senate position required a reallocation of $500 million deducted from travel accounts, but the funds would be available for use in other accounts. The House had no provisions with respect to travel.

Conference agreement.—House receded to the Senate with amendments to require a rescission of $100 million rather than a $500 million reallocation authority to be submitted in a rescission message in the fiscal year 1983 budget.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	[1] (−100)	.....	.....
Outlays	[1] (−100)	.....	.....

[1] These numbers are not included in the total and are contingent on subsequent Congressional enactment of fiscal year 1982 rescission bills.

B. Consulting

The Senate required a reallocation of $500 million deducted from accounts providing for consultants, but the funds would be available for reallocation to other accounts. The House had no provision with respect to consultants.

Conference agreement.—House recedes to the Senate with amendments to require a $500 million rescission.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	[1] (−500)	.....	.....
Outlays	[1] (−500)	.....	.....

[1] These numbers are not included in the total and are contingent on subsequent Congressional enactment of fiscal year 1982 rescission bills.

C. Block grants

The House required public reports and hearings before funds are made available to the States, a transition period of one year and GAO audits. The Senate had no provisions.

Conference agreement.—Senate recedes to the House with an amendment for mandatory State audits unless exempted in the act for a specific block grant and GAO access to State records on block grants. The provision was entirely re-written to accomplish the purpose of public reports and hearings on block grants before funds were made available.

MINICONFERENCE No. 39

Committee: House Interior and Insular Affairs/Senate Energy and Natural Resources.

ISSUES

A. Department of the Interior

The House provided $5.1 billion, $5.8 billion and $5.8 billion for fiscal years 1982, 1983 and 1984 respectively. The Senate provided $3.9 billion, $4.0 billion, $4.7 billion and $4.8 billion for fiscal years 1981, 1982, 1983 and 1984 respectively.

Conference agreement.—The conferees agreed to a cap on the authorization level for Department of Interior programs contained in the jurisdiction of both committees. Jurisdictional differences resulted in

Indian programs contained in the House-passed DOI cap being removed from the conference agreement. The conference agreement provides a cap at the enacted level for fiscal year 1981 and the Senate-passed reconciliation levels for fiscal years 1982-1984. The conference language also contains a sense of the Congress that the appropriation targets for these fiscal years should be not less than $275 million for the Land and Water Conservation Fund, not less than $30 million for National Historic Preservation, not less than $10 million for Urban Park and Recreation Recovery, not less than $105 million for the restoration and rehabilitation of units of the National Park System, not less than $239 million for the Office of Territorial and International Affairs, not less than $6.2 million for Title III of the Surface Mining and Control and Reclamation Act of 1977, and not less than $100 million for payments in lieu of taxes.

SAVINGS ACHIEVED

[In millions of dollars]

	1981	1982	11983	1984
Budget authority	+93	−633	−117	−268
Outlays	+66	−431	−196	−262

B. User fees on oil and gas leases

The House provided an increase from $10 to $25 for each filing fee for non-competitive oil and gas leases. The House also provided an increase from $1 to $3 or $5 per acre for rental fees on non-competitive oil and gas leases. The Senate had no comparable provisions.

Conference agreement.—The conferees agreed to a modified House provision increasing the filing fees for non-competitive oil and gas leases. The conference language provides a filing fee of not less than $25 compared to the House provision that provided simply $25. The conferees also agreed to strike the House language which would have provided an increase in the acreage rental fees. The conference language requires the Secretary of Interior to study and report to Congress within one year regarding the current rental charges and the feasibility and effect of raising such rentals.

SAVINGS ACHIEVED

[In millions of dollars]

	1981	1982	1983	1984
Budget authority		−50	−50	−50
Outlays		−50	−50	−50

C. Pennsylvania Avenue Development Corporation

The House and Senate provided about $19 million for each fiscal year 1982-1984. The Senate also provided $31.5 million for fiscal year 1981.

Conference agreement.—The conferees agreed to the House amounts for fiscal years 1982-1984 and $31.6 million for fiscal year 1981.

SAVINGS ACHIEVED [1]

[In millions of dollars]

	1981	1982	1983	1984
Budget authority		−16	−19	−22
Outlays		−11	−15	−20

[1] Less than $1 million.

D. Holocaust Memorial Council

The House provided $0.9 million, $0.95 million, and $1.0 million for the Council for fiscal years 1982, 1983, and 1984 respectively. The Senate had no comparable provision.

Conference agreement.—The conferees agreed to the House levels.

SAVINGS ACHIEVED

[In millions of dollars]

	1981	1982	1983	1984
Budget authority	[1]	[1]	[1]	[1]
Outlays	[1]	[1]	[1]	[1]

[1] less than $1 million.

E. Advisory Council on Historic Preservation

The House provided $1.9 million, $1.9 million, and $2.0 million for the council for fiscal years 1982, 1983, and 1984 respectively. The Senate provided $1.6 million, $1.7 million, $1.8 million, and $1.9 million for the Council for fiscal years 1981, 1982, 1983, and 1984 respectively.

Conference Agreements.—The conferees agreed to the House amounts for fiscal years 1982-1984 and the Senate amount for fiscal year 1981.

SAVINGS ACHIEVED

[In millions of dollars]

	1981	1982	1983	1984
Budget authority	[1]	[1]	[1]	[1]
Outlays	[1]	[1]	[1]	[1]

[1] less than $1 million.

MINICONFERENCE No. 40

Committees: House Interior and Insular Affairs, House Public Works and Transportation/Senate Environment and Public Works.

ISSUES

A. Corps of Engineers recreational user fees

The House provided $5.2 million, $6.0 million and $6.0 million for this item for fiscal years 1982, 1983 and 1984 respectively. The Senate provided $5 million for fiscal year 1981 and the same amounts as the House for fiscal years 1982-1984.

Conference agreement.—The conferees agreed to $5 million for fiscal year 1981 and the levels provided in both the House and Senate bills for fiscal years 1982-1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1981	1982	1983	1984
Budget authority		[1]	[1]	[1]
Outlays		[1]	[1]	[1]

[1] Less than $1 million.

MINICONFERENCE No. 41

Committees: House Interior and Insular Affairs/Senate Indian Affairs.

ISSUES

A. Navajo/Hopi Indian Relocation Commission

The House provided $15.6 million, $25.3 million and $28.0 million for fiscal years 1982, 1983, and 1984 respectively. The Senate had no comparable provision.

Conference agreement.—The House receded which removed this item from the bill.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 44

Committees: House Judiciary/Senate Judiciary.

ISSUES

A. Department of Justice authorization

The Senate included an authorization for the Department of Justice programs. The House had no such provisions.

Conference agreement.—The conferees agreed to authorizations for Indochinese refugee assistance and the Patent and Trademark Office for fiscal year 1982. No other authorizations were approved.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−72	−70	−59
Outlays	−30	−71	−66

MINICONFERENCE No. 45

Committees: House Judiciary/Senate Labor and Human Resources.

ISSUES

A. Legal Services Corporation

The House was silent on the Legal Services Corporation. The Senate provided a $100 million authorization for 1982 and 1983.

Conference agreement.—The Senate receded to the House.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 46

Committees: House Judiciary and Small Business/Senate Judiciary and Small Business.

ISSUE

A. Equal access to justice

The House had provisions amending the Equal Access to Justice Act. Basically, the amendments would restrict the use of the act to disputes involving $500 or more, or to those involved in regulatory flexibility disputes with the Federal Government, where the Federal Government is not found to be substantially justified. The Senate had no such provision.

Conference agreement.—The House receded to the Senate.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 47

Committees: House Merchant Marine and Fisheries/Senate Commerce, Science and Transportation.

ISSUE

A. Maritime programs authorization (construction differential subsidy)

Senate: Includes only money provisions from the fiscal year 1982 maritime authorization bill and provides no funding for the maritime ship construction differential subsidy as recommended by the Administration.

House: Included the full maritime authorization bill including non-money provisions but also provided no funding for the ship construction differential subsidy program.

Conference agreement—Authorization for the maritime programs are provided for with no funding for the construction differential subsidy program. The non-money provisions provided for in the House bill are included in slightly modified form.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−150	−63	−74
Outlays	−14	−33	−62

MINICONFERENCE No. 48

Committees: House Merchant Marine and Fisheries, House Public Works and Transportation/Senate Commerce, Science and Transportation.

ISSUE

A. Ocean dumping user fees

Senate: did not include any provision relating to ocean dumping user fees.

House: the Merchant Marine and Fisheries Committee proposed the institution of up to $5 a ton ocean dumping user fees for fiscal years 1983 and 1984 whereas the House Public Works Committee included language which prohibited the institution of ocean dumping user fees.

Conference agreement.—No provision for the institution of ocean dumping user fees was included in the reconciliation conference bill.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE No. 49

Committees: House Merchant Marine and Fisheries, House Energy and Commerce/ Senate Labor and Human Resources.

ISSUE

A. Merchant seamen health care entitlement

Senate: The Senate provided for closure of the PHS hospital system and termination of the merchant seamen entitlement: the Senate also allowed transfer of facilities to communities by March 31, 1982.

House: The House proposed to close the PHS hospitals at the end of fiscal year 1981. An additional transition period of one year is allowed for communities that wish to assume operations of the facilities or where the facilities can operate on a self-sufficient basis through third party reimbursements. The House also provided for continuation of the entitlement with recipient paying the cost of care.

Conference Agreement.—The Senate receded to the House with an amendment to repeal the entitlement to merchant seamen.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−92	−179	−191
Outlays	−92	−179	−191

MINICONFERENCE No. 50

Committees: House Post Office and Civil Service/Senate Government Operations.

ISSUES

A. Federal employee pay cap

The Senate bill capped Federal pay at 4.8 percent in fiscal year 1982 only while the House bill capped Federal pay in fiscal year 1982 at 4.8 percent and at 7.0 percent in fiscal years 1983 and 1984.

Conference Agreement.—Senate receded to the House position.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−3,781	−5,227	−6,129
Outlays	−3,694	−5,247	−6,110

B. Once a year COLA for Federal employees

Both the Senate and House bills reduce the current twice a year cost of living increase for retired Federal employees to once a year.

Conference Agreement.—This was not a conferenceable issue.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−513	−414	−357

C. Voluntary withholding for annuitants

The House bill contained a provision to require OPM to enter into agreements with States to withhold State income taxes from the annuities of civil service annuitants who request such withholdings. The amounts withheld would then be disbursed to the States on a quarterly basis. The Senate bill had no similar provision.

Conference agreement.—The Senate receded to the House position to allow voluntary withholdings.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority		+1	+1
Outlays	31	−2	−2

D. Reduction in postal service public subsidy

Both the Senate and House bill proposed a reduction and eventual phase-out by 1984 of the public service subsidy. The primary difference between the House and the Senate position was the speed the subsidy is phased out.

Conference agreement.—The Senate receded to the House position with amendments which will slightly speed the phaseout of the subsidy.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−394	−452	−460
Outlays	−394	−452	−460

E. Revenue foregone postal subsidy

Both the Senate and the House bill contained provisions to reduce the revenue foregone subsidy to the Postal Service. The Senate bill contained a slightly deeper cut in this area than the House bill.

Conference agreement.—The House receded to the Senate position with amendments to accept a larger reduction in revenue foregone.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−416	−467	−542
Outlays	−416	−467	−542

F. Transitional appropriation

The House bill contained a provision to reduce the so-called "transitional appropriation" which liquidates the unfunded liabilities of the old Post Office Department. The Senate had no similar provision.

Conference agreement.—The Senate receded to the House position to reduce the transitional appropriation to the Postal Service.

SAVINGS ACHIEVED [1]

[In millions of dollars]

	1982	1983	1984
Budget authority	−69	−69	−51
Outlays	−69	−69	−51

[1] Staff estimates subject to CBO verification.

G. Quarterly payments to the Postal Service

The House bill contained a provision to make quarterly payments to the Postal Service as opposed to the current practice of making once a year payments; this change would result in interest savings to the U.S. Treasury. The Senate bill contained no equivalent provision.

Conference agreement.—The Senate receded to the House provision which would allow for quarterly payments.

SAVINGS ACHIEVED [1]

[In millions of dollars]

	1982	1983	1984
Budget authority	−46	−39	−34
Outlays	−46	−39	−34

[1] Staff estimates subject to CBO verification.

MINICONFERENCE No. 51

Committees: House Public Works/Senate Commerce, Science and Transportation.

ISSUES

A. Airport development and planning grants (ADAP)

Senate: authorizes $450 million in new contract authority beginning in 1981.

House: provides for a 1982 ADAP obligation ceiling of $650 million contingent upon enactment of a new program.

Conference agreement.—$450 million authorized for the fiscal year 1982 program and $600 million for 1982 expressed as an aggregate of $1,050 million for fiscal years 1981 and 1982.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−189	−209	−226
Outlays	−152	−177	−202

B. National Highway Transportation Safety Administration safety grant funding (NHTSA)

Senate: Reduced authorizations for NHTSA safety grants as well as allowing prior year contract authority to lapse and provides a three year cap on the program.

House: current law budget authority for the NHTSA 402 safety grant program is reduced from $200 million to $100 million. The FHWA program from $25 million to $10 million, as well as reductions in the 55 m.p.h. enforcement and NHTSA's innovative projects programs and rescission of $173 million in unobligated contract authority.

Conference agreement.—Reduces fiscal year 1982 spending by $327 million in budget authority and $118 million in outlays. For fiscal years 1982-1984, $100 million is authorized for NHTSA's section 402 highway safety program with $20 million earmarked for 55 m.p.h. enforcement. For fiscal years 1982-1984, $10 million is authorized for FHWA's section 402 highway safety program, with 1983 and 1984 funding targeted at "most effective programs." $133 million in old NHTSA funding is rescinded and $40 million in old FHWA 402 funding. Schoolbus driver training funding is phased out and innovative grants, 55 m.p.h. incentive grants, accident data and 55 m.p.h. categorical grants are eliminated.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−327	−172	−192
Outlays	−118	−116	−164

C. Interstate Commerce Commission (ICC) funding

Senate: Reduces ICC operations funding in fiscal years 1982-1984.

House: No House provision.

Conference agreement.—Reductions in fiscal years 1982-1984 at slightly below the Senate recommended level.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−11	−11	−13
Outlays	−10	−11	−13

D. Civil Aeronautics Board (CAB) funding

Senate: No provision.

House: Reduce CAB funding by capping the section 406 and 419 programs at $75 million.

Conference agreement.—No provision.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE NO. 52

Committees: House Public Works and Transportation/Senate Environment and Public Works.

ISSUES

A. Federal-aid highways

Senate: Reduces highway outlays by establishing a restrictive obligation ceiling of $8.1 billion and a limitation on obligations by quarter. Provides for reduced program for fiscal years 1982-1984.

House: Provides for a restricted obligation ceiling of $8.2 billion in fiscal year 1982, quarterly obligation controls and addresses only the fiscal year 1982 highway program.

Conference agreement.—Reduces fiscal year 1982 spending by establishing an obligation ceiling at $8.2 billion and a limitation in the first quarter of 25 percent. A fiscal year 1983 obligation ceiling of $8.3 billion is also included. The ceilings do not include emergency relief or certain bridge acceleration projects.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−500	−840	−1,245

B. Federal highway safety grants (FHWA)

Senate: No provision.

House: Reduction in the authorization level for FHWA safety programs.

Conference agreement.—Acceptance of the House-proposed funding reductions.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−15	−16	−18
Outlays	−3	−7	−12

C. Tennessee Valley Authority (TVA) coal gasification project

Senate: Assumes no funding for the TVA coal gasification plant (Murphy Hill) in fiscal year 1982 or beyond.

House: Assumes no Murphy Hill funding in fiscal year 1982 or beyond but allows $50 million in currently available TVA funds plus $42 million from a fiscal year 1981 deferral to be expended.

Conference agreement.—Prohibits the authorization of appropriations for the Murphy Hill project after fiscal year 1982.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−202	−223	−242
Outlays	−45	−125	−184

D. Title V regional commissions

Senate: Proposed elimination of Title V Regional Commissions.

House: Proposed elimination of Title V Regional Commissions.

Conference agreement.—Elimination of Title V Regional Commissions as of September 30, 1981.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−46	−49	−52
Outlays	−36	−45	−50

E. Economic Development Administration (EDA) funding

Senate: Terminates EDA except for trade adjustment assistance and legally required activities under loan guarantee programs.

House: Continues EDA funding at a fiscal year 1982 level of $360 million.

Conference agreement.—Maintains EDA at a fiscal year 1982 level of $290 million. Existing EDA funding for redevelopment loans, supplemental and basic grants to States, bonus grants to economic development distracts, Indian economic development grants, disaster area economic recovery assistance, and job opportunity programs are repealed.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−377	−405	−440
Outlays	−27	−200	−301

F. Appalachian regional development (ARC) funding

Senate: Provides for reduced authorizations in the ARC program by eliminating all but the highway funding.

House: Provides for the same overall funding as the Senate provision but retains some funding for non-highway ARC programs. The House bill only deals with the fiscal year 1982 funding.

Conference agreement.—Overall ARC funding in fiscal year 1982 is reduced to $215 million with $50 million reserved for non-highway projects

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−164	−180	−194
Outlays	−7	−59	−109

G. EPA construction grant funding

Senate: Provides no funding for fiscal year 1982 but contingency language for an authorization of $2.4 billion dependent upon enactment of program reforms.

House: Reserves $100 million in funding for ongoing planning and staffing needs (section 205(g) program) but no funding for grant projects.

Conference agreement.—No funding for the grant program but $40 million reserved for section 205(g) programs and contingency language for a $2.4 billion program based on enactment of program reforms.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−3,550	−1,520	−1,800
Outlays	−105	−425	−940

Corps of Engineers funding

Senate: Provides a cap for designated water resources policy, planning and research in addition to the House limitation on the general construction account.

House: Establishes an authorization ceiling for the Corps of Engineers construction general account at $1,588 million for fiscal year 1982.

Conference Agreement.—Established an authorization ceiling for the Corps of Engineers construction general account at $1,547 million for fiscal year 1982; $1,688 million for fiscal year 1983 and $1,575 million for fiscal year 1984.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−178	−162	−391
Outlays	−135	−156	−336

MINICONFERENCE NO. 53

Committees: House Public Works Transportation/Senate Banking.

ISSUE

A. Urban Mass Transportation Administration (UMTA) funding

Senate: Reauthorizes a lump sum for fiscal year 1982 only.

House: Reauthorizes the various UMTA programs on a reduced individual program basis.

Conference Agreement.—Generally follows the House provisions and both Houses had the same overall funding assumptions.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,298	−1,846	2,471
Outlays	−198	−710	−1,355

MINICONFERENCE NO. 54

Committees: House Science and Technology/Senate Energy and Natural Resources.

ISSUES

A. DOE authorization (R. & D.)

The House bill provided line-by-line authorizations for the research activities under its sole jurisdiction. The Senate bill provided an overall appropriations cap of $5.6 billion for all DOE civilian energy programs. The Senate bill also included authorizations for major DOE appropriations accounts, but not line-by-line authorizations as contained in the House bill.

Conference agreement.—For only the programs under the sole jurisdiction of the House Science and Technology Committee and addressed in this subconference, the conferees agreed to compromise on a level of savings somewhat closer to the House bill. The remaining portions of the DOE Authorization are addressed in subconference No. 32.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,363	−1,464	−1,562
Outlay	−615	−1,220	−1,471

MINICONFERENCE NO. 55

Committees: House Science and Technology/Senate Labor and Human Resources.

ISSUES

A. NSF authorization

The Senate bill contained an overall cap for NSF programs. The House bill contained no comparable provision.

Conference agreement.—The conferees agreed to adopt the House position thereby deleting this authorization from the reconciliation bill. The conferees agreed to consider this authorization in the context of the regular legislative process.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

MINICONFERENCE NO. 56

Committees: House Small Business/Senate Small Business.

ISSUE

A. Disaster loans

Senate: Had an open-ended authorization; interest rate for homeowners and non-credit worthy business figured by a new formula; business loans were not limited to a percentage of actual loss.

House: Imposed an annual maximum program level; interest rate for homeowners was 5 percent; interest rate formula, reduced term and loan limit for credit-worthy businesses; interest rate of 7 percent for non-credit worthy businesses; business loans limited to 85 percent of actual loss.

Conference Agreement.—Open-ended authorization; interest rate for homeowner equals half the cost of money plus one percent; for credit-worthy businesses the interest rate equals the cost of money plus one percent and the loan term is two years; for non-credit worthy business the interest rate is 7 percent. Business loans are limited to 85 percent of actual loss.

Savings Achieved

[In millions of dollars]

	1982	1983	1984
Budget authority	−180	−191	−242
Outlays	−607	−227	−251

B. Business loans

Senate: Program levels were $180 million in direct loans and $4 billion in loan guarantees for fiscal year 1982; did not change existing law on interest rates, which sets different rates for different programs; loan guarantee percentage unchanged.

House: Program levels were $260 million in direct loans and $3.15 billion in loan guarantees for fiscal year 1982; allowed the sale of assets from Business loan and Investment Fund (BLIF) to support these program levels, consolidates five BLIF loan programs into one program and established a uniform interest rate formula plus up to a one percent add-on for all direct loans (except handicapped loans, which remain at 3 percent interest).

LOAN GUARANTEE PERCENTAGE

Loan amount	Guarantee percentage
Up to $100,000	90 percent.
From $100,000 to $714,285	Between 70 percent and 90 percent.
More than $714,285	Less than 70 percent.

Conference agreement.—Program levels are $230 million in direct and $3.3 billion in loan guarantees; adopted House provisions on loan consolidation and interest rates; the SBA interest differential paid to the Treasury (the amount above and beyond interest received which SBA pays) is forgiven for 1981.

SAVINGS ACHIEVED

[In million of dollars]

	1982	1983	1984
Budget authority	−324	−349	−285
Outlays	−216	−290	−255

MINICONFERENCE NO. 57

Committees: House and Senate Veterans' Affairs.

ISSUES

A. Non-service-connected VA burial benefits

The House bill eliminates burial and plot allowance benefit eligibility for veterans whose income exceeded $20,000 in the year prior to death (at an estimated fiscal year 1982 savings of $42 million), effective during fiscal years 1982–1984. The Senate bill limits VA funeral and plot benefits for the last 3 months of fiscal year 1981 to veterans who are eligible for or receiving VA pensions or who are compensation beneficiaries with service-connected disabilities rated at 30 percent or more. In fiscal year 1982 the Senate bill limits VA funeral and plot allowances to veterans with service-connected disabilities rated at 20 percent or more, or eligible for or receiving VA pension. The Senate bill limits these benefits in fiscal year 1983 and thereafter to veterans with any compensable service-connected disability, or to individuals entitled to or in receipt of VA pension. The Senate provisions are estimated to save $99 million in fiscal year 1982.

Conference agreement.—The conference agreement limits the $300 VA funeral allowance to survivors of veterans who were in receipt of VA pension or compensation at the time of death, or who would have been except for the receipt of retirement pay. It does not affect the $150 plot allowance.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−75	−80	−84
Outlays	−75	−80	−84

B. Class II dental benefits

The House bill eliminates Class II dental benefits effective October 1, 1981, at an estimated savings of $36 million in fiscal year 1982. The Senate bill, estimated to save $13 million in fiscal year 1982, limits eligibility to veterans who have served at least 180 days and restricts the application period to within 6 months after military discharge.

Conference agreement.—The compromise limits Class II outpatient dental treatment to veterans who served at least 180 days of active military duty and restricts the eligibility period to within 3 months after discharge.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−18	−19	−20
Outlays	−18	−19	−20

C. Flight training

The Senate bill does not address flight training. The House bill terminates the benefit effective October 1, 1981, at an estimated savings of $23 million in fiscal year 1982.

Conference agreement.—The conferees agreed to eliminate flight training reimbursement for new enrollments after August 31, 1981. Veterans already in the program on that date will be permitted to complete their vocational objectives.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−14	−20	−17
Outlays	−14	−20	−17

D. Education loans

The House bill terminates VA education loans effective October 1, 1981. The Senate bill eliminates for veterans, with two exceptions, beginning October 1, 1982. The first year savings in both provisions would be $6 million.

Conference agreement.—The agreement eliminates the VA education loan program effective October 1, 1981, for all veterans except those enrolled in flight training or currently eligibile for these loans under the special two-year extension provision.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−6	−5	−4

E. Correspondence training

The House bill terminates reimbursement for correspondence training effective October 1, 1981, at an estimated FY 1982 savings of $9 million. The Senate bill has a provision affecting this program.

Conference agreement.—The VA reimbursement rate for veterans eligible for correspondence training will be reduced from 70 percent to 55 percent, effective October 1, 1981.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−3	−3	−3
Outlays	−3	−3	−3

MINICONFERENCE No. 58

Committees: Ways and Means/Finance.

ISSUES

A. Trade adjustment assistance

Excepting minor differences in language and effective dates, both the House and Senate bills had similar changes, which were to limit the duration of trade adjustment assistance benefits to 52 weeks (65 weeks if a worker participates in retraining) and to limit the amount of benefits to what is payable under the regular unemployment insurance program of the State in which a worker resides. The only difference with a budgetary impact was $5 million in additional savings in the House bill as a result of reduced authorization levels for assistance to communities and firms.

Conference agreement.—The conference agreement achieves fiscal year 1982 savings of $1,338 million, which is $2 million below the House level. This difference reflects the conference agreement to continue the community adjustment assistance program which under the House bill would have been terminated.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,300	−803	−454
Outlays	−1,300	−803	−454

B. Social security

The major benefit changes—elimination of the minimum benefit and the phase out of the student benefit—were not at issue in the conference since, except for the effective date of the elimination of the minimum benefit, the provisions in the House and Senate bills were identical.

Conference agreement.—The conferees agreed to eliminate the minimum benefit for current recipients effective February 1982, which means that the elimination will be reflected in the March 1982 checks. The other significant benefit change on which the conference agreement differs from the House-passed bill is that the House accepted the Senate's provision to reduce or offset social security disability benefits by amounts received from other disability programs (not subject to this offset are benefits from certain programs, the most important of which are veterans' disability benefits).

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−2,198	−3,788	−4,631

C. Public assistance (AFDC and child support enforcement)

Except for one provision relating to aliens in the House bill, the AFDC benefit reductions, which would reduce fiscal year 1982 spending by $1 billion, were not at issue in the conference because the House and the Senate provisions were the same. The House provision on aliens provided that for three years after entry into the United States, the income and resources of an alien's sponsor will be deemed available to the alien for the purposes of determining eligibility for AFDC. The fiscal year 1982 savings from this proposal are $15 million in budget authority and outlays.

Many of the AFDC benefit changes not at issue in the conference would tend to reduce the income of persons who are receiving AFDC and also have earnings. For persons without earnings who are subject to the work registration requirements under current law and for certain mothers with children under age 6, the conference agreement will require work on useful public projects in return for their AFDC grant. This requirement is covered in Miniconference No. 20.

The only difference between the House and Senate relating to the Child Support Enforcement program was a provision in the House bill, which saves $20 million in fiscal year 1982, authorizing the withholding of a portion of unemployment or trade adjustment assistance benefits to pay for child support obligations.

Conference agreement.—The conference agreement reflects the savings in the House bill because the Senate receded to the House on the issues involving aliens and child support enforcement.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−1,158	−1,378	−1,419
Outlays	−1,158	−1,378	−1,419

D. Supplemental security income (SSI)

There were two issues on which there were significant House-Senate differences. The first was that the House extended the provision in current law which allows certain States (Massachusetts, Wisconsin and California) to continue under certain conditions providing a cash payment to certain SSI recipients in lieu of food stamps. The second issue is that the Senate bill repealed the authority for the Secretary to reimburse State vocational rehabilitation agencies for services to blind and disabled recipients of the SSI program.

Conference agreement.—The conference agreement includes savings of $95 million, of which $50 million are attributable to the continuation of cash payments in lieu of food stamps for certain SSI recipients. This issue is covered in Miniconference No. 6. The conferees approved the continuation of reimbursement for vocational rehabilitation services, but only if the recipient of the services has been successfully rehabilitated.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−50	−78	−75
Outlays	−50	−78	−75

E. Social services

There were two major differences between the House and Senate proposals for a Social Services block grant for programs under the jurisdiction of the Committee on Ways and Means and the Finance Committee. The first is that the House bill did not include two programs in the block grant which were included in the Senate version. These were the following programs established by the Social Security Act: Title IV B, Child Welfare Services; and Title IV E, Foster Care and Adoption Assistance. The second major difference is that the House bill represented a 16 percent reduction below the CBO baseline estimates for fiscal year 1982, while the Senate reduction was 25 percent.

Conference agreement.—The conference agreement retains Title IV B and IV E of the Social Security Act as separate programs and reduces funding for the Social Security block grant provisions (the former Title XX provisions in the Social Security Act) to $2,400 million, which is a reduction of 22.6 percent from the fiscal year 1982 CBO baseline estimate of $3,099 million. (The savings for this program are included in Miniconference No. 19.)

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	(−699)	(−755)	(−812)
Outlays	(−699)	(−755)	(−812)

F. Unemployment compensation

The House and Senate bills differed in the following areas: both restricted the eligibility of ex-servicemen for unemployment compensation but the Senate provisions were more restrictive; the Senate increased the State trigger requirements for extended benefits effective fiscal year 1983, while the House had no comparable provision; and the Senate had a comprehensive system, while the House had no comparable provision in the reconciliation bill but did include its own loan reform proposal in the Ways and Means tax bill (H.R. 4242).

Conference agreement.—The conferees achieved outlay savings above the House bill of $105 million in fiscal year 1982, $197 million in fiscal year 1983, and $166 million in fiscal year 1984 by accepting the Senate provisions related to eligibility for ex-servicemen for unemployment compensation, State triggers for extended benefits, and the 20 week work requirement for extended benefits. The conferees adopted a comprehensive restructuring of the loan provisions in the unemployment compensation program, which includes a requirement that interest be paid on new loans after April 1, 1982, and places a cap on the effective Federal tax if debtor States have taken steps to improve the financial status of their unemployment systems. This loan reform package has a cumulative revenue impact in fiscal year 1982 of $+5 million.

SAVINGS ACHIEVED

[In millions of dollars

	1982	1983	1984
Budget authority	−270	−414	−594
Outlays	−1,488	−894	−724

G. Medicare

1. *Provisions affecting beneficiary deductibles and coinsurance under medicare.*—The House bill contained the following:

(a) A new $1 copayment for each of the first 60 days of hospitalization. Savings: $106/$108/$110 million.

(b) Applying the Part A coinsurance rate in effect in the year in which services are furnished rather than the rate in effect when the illness began. Savings: 5/9/9 million.

(c) Recalculating Part A coinsurance and deductible rates so that they more accurately reflect inflation. Savings: 170/280/330 million.

The Senate bill did not contain similar provisions:

Conference agreement.—The conference agreements eliminated the $1 per day copayment provision and accepted the other two House provisions affecting deductibles and coinsurance.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−175	−289	−339

2. *Provisions affecting hospital and nursing homes—*

The House bill contained the following provisions:

a. Interest and other income earned by hospitals on funded depreciation would be offset against allowable interest expenses in determining reimbursement rates. Savings: 115/1409/165 million.

b. Reimbursement limits on routine inpatient costs would be lowered from 112 percent to 108 percent of the mean costs of comparable hospitals. Savings: 88/123/145 million.

The Senate bill would reduce the current 8½ percent nursing salary cost differential for medicare patients to 4.5 percent. Savings: 130/150/185 million.

Both bills would repeal the temporary delay in the PIP payments included in the 1980 Omnibus Reconciliation Act (P.L 96-499) and repeal the requirement that skilled nursing home medicare agreements be renewed annually. Savings: 696/4/4 million.

Conference agreement.—The conference agreement adopted the House provision limiting reimbursement for routine hospital costs to 108 percent of the mean costs of comparable hospitals and adopted a modification of the Senate's 4 percent reduction in the nursing differential by allowing a 5 percent nursing differential.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays	−899	−257	−309

3. *Changes in medicare benefits.*—The Senate bill eliminated hospital coverage for severe dental procedures. Both bills eliminated coverage of alcohol detoxification facility services. Savings: 12-13-16 million.

Conference agreement.—The conference agreement excluded the elimination of hospital coverage for severe dental problems.

SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority			
Outlays			

TOTAL SAVINGS ACHIEVED

[In millions of dollars]

	1982	1983	1984
Budget authority	−2,778	−2,678	−2,542
Outlays	−7,268	−7,487	−7,951

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. PAUL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I intend to vote against the conference report on reconciliation for several reasons. At the same time that the conferees recommend the minimum social security benefit be eliminated, they also recommend that an additional $13 billion be authorized for the World Bank and other multilateral development banks. It seems to me that the conference has gotten its priorities backward. Since when are foreign governments more important than American citizens? Why are we cutting social security so that we can increase foreign aid? I find this procedure repulsive.

It is not, however, simply a matter of increasing foreign aid. The language in the conference report about the MDB's was passed by the House Banking Committee on May 6 as H.R. 3439. Knowing, however, that H.R. 3439 would never pass the House of Representatives if it had to be voted on as authorization bills usually are, the Banking Committee buried it into the reconciliation package. Thus, in a bill designed to cut spending, a massive increase in foreign aid was made. In conference, the Senate was pressured into accepting the House language, and today we are presented with a measure that cuts social security by $4 billion, and increases foreign aid by $13 billion.

Parliamentary trickery was relied on throughtout the process to achieve this result.

Let me explain the language of the report in some detail. Below is the list of authorizations the report contains on the international banks:

[In millions]

World Bank, paid-in capital	$658
World Bank, callable capital	8,200

International Development Association	3,240
African Development Bank	360
Asian Development Fund	67
Inter-American Development Bank	345
Total	13,000

It is worthwhile to compare these figures with what we have contributed and subscribed to these institutions in the past. Take the World Bank first:

World Bank

[In millions]

1945	$3,175
1959	3,175
1970	123
1972	560
1974	773
1977	706
Total 1945-1980	8,500
Reconciliation	8,900

In the first 35 years of its existence, the United States subscribed $8.5 billion to the World Bank. Now, in this one bill, we are subscribing more than we did in the entire previous history of the Bank. This is hardly an example of fiscal restraint. It certainly is not an example of how we can cut the growth of the budget, the debt, and the deficit.

But the World Bank is not unique. The International Development Association, which is the "soft-loan window" of the World Bank—the agency that gives 50-year loans with little expectation of repayment—has received $6 billion since 1960:

International Development Association

[In millions]

1960	$320
1965	312
1969	480
1972	1,080
1974	1,640
1977	2,400
Total	6,200
Reconciliation	3,240

In this one bill we are giving more than 50 percent of our total contributions to the IDA in the past 20 years. This is not practicing fiscal restraint; it is not cutting the growth of the budget, the debt, and the deficit.

A similar story, though not quite as egregious, applies to the Inter-American Development Bank, the African Development Bank, and the Asian Development Fund:

Inter-American Development Bank

[In millions]

1959	$450
1965	750
1968	1,300
1970	1,824
1972	340
1974	509
1976	2,200
Total	7,500
Reconciliation	345

African Development Bank

Instead of cutting foreign aid, this bill creates a whole new vehicle for additional foreign aid. Not only are we adding more dollars to our old foreign aid channels, we are creating an entirely new system as well. U.S. membership in the African Development Bank is authorized by this bill for the first time, and our first subsidy amounts to $360 million.

Asian Development Fund

[In millions]

1972	$100
1974	50
1977	120
Total	270
Reconciliation	111

FOREIGN AND DOMESTIC POLICY

There are many reasons for opposing this bill. One is that by spending this money, we are subsidizing the same programs for foreign countries that the administration wants to eliminate or reduce here in this country. For example, the World Bank has loaned over $1 billion to India so that the Indian Government can develop its railroad system. Thus we are subsidizing nationalized railroads in India, while cutting Amtrak and Conrail here at home. This makes no sense at all. Every informed taxpayer will reject these outrageous subsidies.

The Inter-American Development Bank has recently made a grant to the Dominican Republic of half a million dollars for improvement of its urban transportation system. Yet this administration has favored the reduction of mass transit subsidies in this country.

In the past few weeks, the World Bank has approved a $50 million loan for a cooperative in Korea. But the administration is trying to eliminate the National Consumer Cooperative Bank in this country.

The administration has also—and correctly—begun the withdrawal of the Federal Government from our fuel production and distribution system. Yet the World Bank has made many oil and gas development loans in the past 3 years:

[In millions]

India	$150.0
Turkey	2.5
Pakistan	30.0
Egypt	125.0
Thailand	112.0
Congo	5.0
Peru	32.5
Morocco	50.0
Madagascar	12.5
Bolivia	16.0
Honduras	3.0
Tunisia	37.0
Somalia	6.0
Tanzania	30.0
Argentina	27.0
Yemen (People's Republic)	9.0

Worse still, this report seriously contemplates establishing "a new lending facility * * * for the development of new energy resources in developing countries." Why is one and the same policy bad for Americans but good for the Indians and the Tunisians? Why are energy subsidies bad for Americans and good for Peruvians? Why does socialism become not only acceptable but worthy of being subsidized by our tax money when it is practiced outside our borders?

In this bill we are giving away money that we do not have. This global revenue sharing program is not funded out of our surplus, we have no surplus. Every penny in this bill must be borrowed or created out of thin air. If it is borrowed, it will drive interest rates up still higher. For those who think that a 19 percent prime rate is not high enough, a "yes" vote is in order on this bill. When the Federal Government enters the capital market to borrow the $5 billion authorized by this bill, and the World Bank borrows the $8 billion in "callable capital," they will put that much more pressure on interest rates. The next time a taxpayer complains about having to pay 15 percent for a home mortgage loan, it would be appropriate to ask him if he is not glad that Lower Slobovia got a 50-year loan at zero percent interest with no repayment at all for the first 10 years. The next time a social security recipient complains about the smaller benefits, perhaps we should tell him that Congress thought it more important that the Communist Government of Nicaragua continue to receive its grants and loans for collectivizing agriculture.

I do not want to be misunderstood. In any serious attempt to cut the Federal Government down to constitutional size, these domestic programs must be cut. What is unconscionable is cutting them before we cut off the foreign aid, It is doubly outrageous that we should be cutting domestic programs in this bill while increasing foreign aid.

But the increase in foreign aid is not the only objectionable feature of this reconciliation report. The Export-Import Bank, a welfare organization for multinational corporations and banks, is also given another $5 billion. In May, the administration loaned the Communist Government of Romania $120 million through the Export-Import Bank to purchase two nuclear steam turbine generators from the General Electric Co. Why are the Communists in Romania regarded with greater favor than elderly Americans?

Then there is the problem with the announced military budget. How massive increases for the Pentagon—when half of our military budget goes for the defense of foreign nations—are good for the American people escapes me. Such increases might be good for big corporations and banks, but they are not good for the American people. They do not increase our defense; they weaken it. They do not strengthen our economy; they debilitate it.

Furthermore, the planned massive increases for defense cannot be reconciled with the revenue effects of the tax cuts passed last Wednesday. Budget increases, for no matter what purpose, will increase the deficit, enlarge the debt, pushing it past $1,000,000,000,000 follow and aggravate inflation.

This reconciliation report endorses a budget that is far too big, tax revenues that are much too great, a deficit that is inexcusable, and, worst of all, projected increases in the Federal budget. The resolution last November was in favor of lower taxes, less spending, and smaller Government, not a Federal Government that merely grows more slowly than it has in the past. We were elected to reduce the size of the Federal Government, not increase it more slowly than the Democrats were doing.

The budget resolution passed earlier this year included a provision that would increase the debt ceiling $15 billion in fiscal year 1981, and $80 billion in fiscal year 1982. For fiscal year 1984, the year the budget is supposed to be balanced, the debt ceiling, according to the budget resolution, is to be raised almost $40 billion. The reconciliation report is an attempt to lend credibility to a procedure that will not reduce spending, the deficit, or the debt, and I must strongly object.

I intend to vote against this report, for I fear that the lack of large spending cuts will destroy all that the President has achieved with his victory on the tax cuts. This Govenment cannot continue to spend like a drunken Congressman and expect the Reagan program to work. It will not.

Mr. LATTA. Mr. Speaker, For almost 23 years I have had the privilege of representing the people of the Fifth District of Ohio in this House. I would like to think that I have also represented, to the best of my ability, the views and asperations of millions of other Americans beyond my district. While I have stood in this House on literally hundreds of other occasions, this is probably the most historic. After years and years and years of talking about controlling Federal spending, of giving lipservice to the idea of balancing the budget and reducing the national debt, we are finally being given the opportunity of voting on a bill which will reverse the 25-year trend toward bigger and bigger Government. This conference report on the Omnibus Reconciliation Act of 1981 will reduce Federal spending in 1982 by approximately $35 billion; by $44 billion in 1983, and by $51 billion in 1984.

Before going any further, I think it is only appropriate to acknowledge the hard work and dedication of a number of people. This bill is not the product of one committee or a handful of people. I would like to start by thanking the members of the House Budget Committee, starting with our chairman, the gentleman from Oklahoma, and the chairman of the reconciliation task force, Mr. PANETTA. I fully realize that they did not originally support either the President's budget or the reconciliation instructions necessary to achieve all of the savings continued in this bill. Nevertheless, once the House had agreed to the reconciliation bill with our amendments, they did their very best to see that it was carried out in conference. This was no small accomplishment, and without their total and complete support this conference agreement would not have been possible.

I would also be remiss if I did not thank the minority members of the Budget Committee for the support they have given not just me, but President Reagan as well. The American people owe RALPH REGULA, BUD SHUSTER, BILL FRENZEL, JACK KEMP, JIM MARTIN, PAUL TRIBLE, ED BETHUNE, LYNN MARTIN, ALBERT LEE SMITH, GENE JOHNSTON, and BOBBI FIEDLER a great debt of gratitude for seeing to it that the President's program was carried out. Likewise, this conference report is the product of thousands of hours of meetings and negotiations between the 245 House and Senate conferees. I would particularly like to single out the ranking minority members of the House committee involved in reconciliation; First, for their help in writing the amendment we adopted in the House, and second, for their tenacity during the conference.

I hope the American people realize the importance of what we will be doing today. We are about to adopt the largest package of spending cuts in the entire 105 year history of the Congress. Over the next 3 years this bill will save the taxpayers over $130 billion. Never have we ever come close to doing so much. Last year, for example we passed a reconciliation bill saving barely $8 billion, and half of that amount came from increased taxes rather than spending cuts.

I would be less than candid if I did not admit that I am not totally pleased with this final product. There are many things we should have accomplished in conference, but did not. We did not succeed in placing a binding cap on medicaid expenditures. We provided excessive funding for Conrail and Amtrak. We did not face up to the problem we had with mounting dairy surpluses which will mean that the taxpayers must continue to buy thousands of tons of butter, milk, and cheese every year to add to this surplus. The House conferees dropped provisions reforming the scandal-plagued Federal Employees Compensation Act which would have saved $600 million over the next 5 years. We agreed on provisions so loose that many States will not have to repay loans to the Federal unemployment trust funds for many more years. We established caps on Department of Energy programs more than $600 million above the President's budget. We further watered down all of the block grants requested by the President. I could go on and on about the provisions of this bill which fall short of the standard we could have and should have achieved.

But then, remember, that this like all good pieces of legislation, is the result of a series of compromises. On the other hand, I appreciate that to many of my friends on the other side of the aisle, including my close friend of so many years, the Speaker, the bill may appear to go too far. So I suggest that what we have before us is a compromise. I have mentioned a few of the things which I see as shortcomings in this bill. I plan to yield to ranking members of all of the committees involved to explain in more detail what was done in conference in the areas under their jurisdiction. But lest you get the idea that I am unhappy with this bill, let me review some of the more important provisions.

In those items under the jurisdiction of the Agriculture Committee, we accomplished permanent reforms in the food stamp program worth approximately $1.6 billion in 1982. This is not an artificial cap, but rather a guarantee that this program, which started at less than $60 million in 1965 and today is over $11 billion, will not continue to grow at a rate which was clearly out of control.

In Armed Services, we agreed to put military retirees on the same footing as social security recipients by adjusting their pensions once a year for inflation instead of twice yearly. We also agreed to sell $500 million in surplus materials from the strategic stockpile. The total savings for the programs under the Armed Services Committee total $882 billion in 1982.

In matters under the Banking Committee's jurisdiction, we made great progress. The subsidized housing programs in HUD was reduced to a level of 153,000 units, a reduction of over 100,000 units compared with the Carter budget request. While this does not produce substantial outlay savings in the short run, it will save the taxpayers over $41 billion during the next 25 years. We reached a compromise position on barrier island flood insurance which will not harm developments already underway, but will provide for a limitation on new liabilities under this program in areas particularly prone to flooding. The Senate dropped their provisions relating to rent control which would have eliminated section 8 housing assistance to those communities which continued to control rents on new and vacated units. Total savings in programs under

the Banking Committee's jurisdiction will total $5.4 billion in outlays and $53.6 billion in budget authority.

Under Education and Labor, we were able to preserve most of the savings in the House-passed bill. The guaranteed student loan program will be reformed by applying a means test to students from families earning more than $30,000. These students will be able to get loans to the extent that they demonstrate a need for assistance after accounting for a reasonable family contribution. Hopefully, this will do away with those people who have borrowed this interest-free money and then turned around and invested the funds in high-yielding money market certificates. Funding for the Head Start program was set at $950 million, in line with the President's request. The elementary and secondary block grants survived basically as contained in the House-passed version. The school lunch program was reformed to eliminate unnecessary subsidies to childern from middle- and upper-income families, with savings equaling $1.4 billion a year. Total savings for Education and Labor programs will be $7.3 billion in 1982 and $31.8 billion over the next 3 years.

Under the programs from the Energy and Commerce Committee, we did not achieve all that we might have. These subconferences were long, often bitter, but nonetheless achieved savings of $7.1 billion in 1982 and $21.8 billion over 3 years. As you know, the differences between House and Senate were particularly pronounced in this area. The Senate's cap on medicaid payments to States, even though it was almost twice as high as the administration had requested, was none the less dropped in favor of arbitrary reductions in the matching rate of 3, 4, and 5 percent respectively for 1982 through 1984. The block grants for health programs—maternal and child health services, primary care, and prevention, alcohol, drug abuse and mental health services—were adopted to save only about $250 million. Many programs, including migrant health, family planning, and HMO assistance were continued as categorical programs.

The Conrail issue was particularly difficult, but after many hours, the conferees agreed on a plan which would allow the sale of the system beginning in November 1983. There are still, in my mind, excessive labor protection clauses which will cost $400 million, but over all I believe we have made progress in reducing the taxpayers' subsidies to this system. The House level of $375 million for Amtrak was adopted, which will lead to savings of $271 million next year. The committees also agreed to establish the strategic petroleum reserve as an off-budget entity with annual authorizations and appropriations. The so-called off-gas provisions relating to the phaseout of natural gas as a fuel for electric utilities was repealed in line with the House provision, and the conferees agreed to a compromise on the Senate's provisions lengthening the period that radio and TV licenses may run and easing the renewal restrictions.

Under the Government Operations Committee, the conferees accepted modified versions of the Senate bill which will mandate reductions in Government consulting services of $500 million in 1982 and reduce administrative travel of Government employees by $100 million. In both instances, the President will be required to send up a rescission bill in January should the 1982 appropriations bills fail to make the consulting and travel reductions called for.

Under the Judiciary Committee, I am happy to report that the Senate agreed to drop its provisions reauthorizing the Legal Services Corporation at $100 million without any of the restrictions contained in the House-passed legal services bill. The funding and reauthorization of that program do not appear in the reconciliation bill.

The Post Office and Civil Service Committee was one of the very first to finish its portion of the conference. The agreement limits Federal civilian retirees to one cost-of-living increase a year, reduces the general subsidy to the Postal Service by $400 million and the subsidy for revenue forgone special mailing rates by $416 million. Federal civilian pay increases for this October were also capped at 4.8 percent. In all, savings under the Post Office Civil and Service Committee will amount to $5.2 billion in 1982 and $19.5 billion over the next 3 years.

I will leave the descriptions of the agreements reached in several of the other committees to the ranking minority members of those committees. I do not mean to suggest that they did not do a good job, only that I wish to concentrate on those areas involving large savings and issues of particular controversy. Let me conclude by summarizing the actions taken by the Committee on Ways and Means. I do not think it is necessary to discuss any further the social security minimum benefit. I would only hope that today will mark the end of using social security as a political football, and after the August recess we can address the critical funding issues of this vital program in a bipartisan and dispassionate manner.

On other matters under Ways and Means jurisdiction, the conferees agreed to long-overdue reforms of the trade adjustment assistance program which will save $1.3 billion next year. Basically, workers laid off because of foreign competition will not be eligible for TAA benefits until their regular unemployment benefits have expired, and then the TAA benefits may not exceed the amount these workers received under unemployment. I hope that American working men and women will understand that these changes were necessary to save the best aspects of this program; namely, that of providing extended unemployment benefits for those workers who have suffered a permanent job loss due to the importation of foreign products.

Social security benefits to adult students will also be eliminated, with the provision that those adult students in need of assistance to attend college will be able to receive guaranteed student loans and, if eligible based on income, Pell Grants. The reforms in the aid to families with dependent children (AFDC) were similar in both bills, and will result in savings of $1.2 billion in 1982, and $3.9 billion over the next 3 years. By eliminating the national trigger on unemployment extended benefits, as well as other changes in this program, we will save $1.5 billion next year. Various changes in the medicare program will save $1.1 billion, without reducing essential medical benefits to our elderly citizens. These savings will also strengthen the overall condition of the social security trust funds.

The conferees adopted a scaled-down version of the administration's social services block grant which will allow States more flexibility in carrying out activities previously funded under the title XX program while saving $700 million. Adoption assistance and child welfare services were, in accordance with the House position, retained as separate programs outside of the block grant. Low income energy assistance was combined with conservation and weatherization aid into a block grant at a funding level of $1.87 billion. This level of funding was the same in both the Senate and House bills and will result in savings of $1.2 billion. Overall, the Ways and Means Committee has achieved savings of $8.1 billion in 1982, and $26.6 billion through 1984.

As I stated earlier, I intend to call upon the ranking members of each committee to discuss, in more detail, the individual provisions in each of their subconference agreements. Should you have specific questions, I ask that you save them until that time.

Before I conclude, let me make several observations. There is no question that the conferees passed up several opportunities to enact many overdue program reforms, and as a result the savings in this bill are actually lower than either the House or Senate bills by approximately $5 billion over the 3-year period 1982 through 1984. Moreover, this reconciliation bill marks only the beginning of a long, hard, and painful process. This alone will not

produce a balanced budget in 1984. We need more spending cuts in every area of the budget, and I do not exempt defense. I sincerely hope we do not need to go through this again next year. I mean that. But we must continue to examine each and every appropriation bill, every new spending and authorization bill, to keep them within or below the President's budget request. If we do not do that, if we do not originate additional changes in the 75 percent of the budget which is considered by some as uncontrollable, then I must tell you that the painful work we have just completed will have to be repeated again next year. Keep in mind that even though we will reduce spending in fiscal year 1982 by $35 billion, total Federal spending will still exceed $700 billion. That is $50 billion more than in 1981. Interest on the public debt will probably approach or exceed $90 billion next year. The public debt will surpass the $1 trillion mark. Federal borrowing—direct, off budget, and through loan guarantees and insurance, may consume nearly one-third of all available credit. This is not a happy prospect. But after 25 years of talking, we have made a big start in reversing this trend. For the first time each and every one of us can go back to our constituents and say, honestly, that we have turned the tide. I tell the credit markets that high as the public debt may be, it will be $35 billion less next year than it otherwise would have been, and $130 billion less over the next 3 years. Is that enough? No; but it is a good start. I would tell the taxpayers that we intend, we have a commitment, to balance the budget in 1984 at lower rates of taxation than exist today. We will not balance the budget on the backs of the taxpayer. To our elderly citizens, I would tell them that we fully intend to honor our commitments to them, to reverse the tide of inflation which has eroded their savings and to make sure that they will continue to receive the social security benefits they worked so long and hard to earn. To our grandchildren, I can say that we have taken the first step in reducing a burden of debt that they will otherwise shoulder for the extravagance of politicians before they were even born.

But while the Members of Congress can be justly proud of what they have accomplished in this reconciliation bill, the real credit belongs to that man at 1600 Pennsylvania Avenue. Without the leadership of President Reagan, we would not be considering this conference report. Without Ronald Reagan in the White House Federal spending would be $35 billion more next year; interest rates would be even higher with no hope of relief; inflation would be in the double-digit range; the American people would not have the confidence in the future they now have. And let me also say, as unpopular as this may be to some of my colleagues, that we could not have done what we did without the help, the pressure, the leadership of the President's Director of Management and Budget, David Stockman. I am proud to have served in this House with him, and even prouder to have had the privilege of working with him over the last 7 months in helping, in my way, to achieve those essential parts of the President's program for economic recovery.

Mr. Speaker, this bill is much less than I hoped it would be 3 weeks ago when we began conference, but it is so much more than I ever dreamed was possible less than a few months ago. I ask my colleagues not to concentrate on the shortcomings of this bill, but rather to remember that this Congress—in its entire 205-year history—has never before today had the courage to confront the relentless growth of Federal spending. We have that opportunity today. We should be proud of what we have done. We have not buckled under to the executive branch, but rather we have proved that we do have the guts to do what we must do. I urge a unanimous vote on H.R. 3982, the Omnibus Reconciliation Act of 1981.

□ 1340

I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. LATTA) has consumed 9 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the reconciliation task force, the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, before I discuss some of the particulars in reconciliation, I think it is important to make several general comments about this conference report and what it represents.

There is no question but that this has been a very difficult and a challenging process, and it has produced a long and very complex document. I think what is before the House is historic. It is historic in terms of its impact on people and their relationship to Government. It is historic in terms of its impact on the budget process and on reconciliation, and it is historic in confirming faith in the legislative process and in this institution.

I know that there are many who disagree as to its impact and as to its effect, but no one, no one, can disagree with the fact that this institution has reaffirmed its legitimate role and responsibility in the legislative process.

It did not begin that way. Reconciliation left this House raising very real questions about our ability as legislators to control the destiny of our actions. Reconciliation was made up of an amendment that was over 800 pages long, that was done without the knowledge of many of the Members of the House, that contained errors, that contained inequities, that contained inadvertent deletions of programs, without hearings, without consideration, and without knowledge; that was no way to do business.

I do not think that can any longer be said about the document that is before the House. This document is not the work of one Member or one committee or one group either inside or outside of this institution. It is the work of the Members, over 250 conferees, over 30 chairmen on both sides of the Hill, 17 committee jurisdictions involved on the House side, 58 subconferences, many of them meeting late into the evenings and on weekends. It is the result of hard and dedicated efforts to find legitimate reductions, to eliminate inequities and errors, and to preserve programs that committees felt were indeed important to people.

Make no mistake about it. We are dealing with almost $36 billion in reductions in the proposal that is before the House. It will hurt. It will impact on people. There are children that will no longer be able to afford nutrition benefits. There are those that will lose housing assistance and education assistance. There are communities that will lose highway assistance and mass transit assistance.

It will hurt, and I respect those Members who, because of those concerns, will not support reconciliation; but for those who feel that there is a mandate to reduce Federal spending and for those that feel that we must adhere to the goals of the budget resolution that was passed by this House and by the Congress, then I think there is a basis to urge your support for this reconciliation conference.

It is a balanced document. It tries to meet the mandated budgetary goals, but it also tries to preserve those programs that are important to people.

Very briefly, the balance is reflected in each of the committee areas. In Agriculture, while there were reductions in food stamps, programs were protected for the farmers in the Farmers Home Loan area.

In Banking, there were reductions in subsidized housing, but yet there was protection for the 312 rehabilitation program and for UDAG and CDBG.

In the Education and Labor area, while there were cuts in child nutrition, we were able to protect in the conference funding for education programs, for student loans, for child care, and adoption services.

In the Energy and Commerce area, while there were reductions in Conrail and Amtrak, we were able to protect funding for many of the important health programs and energy programs that are before that committee.

In the Public Works area, although there were cuts in highway programs, we were able to preserve the Economic Development Administration.

In the Ways and Means area, while there were cuts in trade assistance adjustment and AFDC, there was protection for programs in the title XX area.

So this document represents that kind of balance because of the work of the conferees. As a result, I want to thank the leadership on both the House side and in the other body for the support they provided in this effort. I want to thank the chairmen and the Members who dedicated themselves to each of these conferences to try to find solutions, to try to find compromises.

I want to thank the gentleman from Oklahoma (Mr. JONES) and his counterpart, the gentleman from Ohio (Mr. LATTA), on the Republican side, as well as the gentleman from Ohio, RALPH REGULA, who worked very closely with me in the task force on reconciliation, as well as the members of the reconciliation task force who covered each of those conferences.

I also want to pay special tribute to the staffs and the support personnel in the House who provided so much help in this effort. There may be those, as I said, who will question the impact of reconciliation on the economy and on the budget process; but there is no one who can question that this document represents the ability of this institution to do its job, and to that extent I think our democracy has been well served.

The SPEAKER pro tempore. The gentleman from California (Mr. PANETTA) has consumed 7 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, before I call on the chairmen of the various committees, I want to state that upon adoption of the conference report, I plan to request unanimous consent for the House to consider a concurrent resolution to make technical corrections in the conference report. I have cleared this with the ranking Republican member.

I yield such time as he may consume to the chairman of the Agriculture Committee, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, we are considering the conference report on the omnibus budget reconciliation bill, legislation which will sharply cut programs vital to the needy and to the farmers of this Nation.

The President and the Congress have spoken. We have our marching orders from the Gramm-Latta budget resolution. Like good soldiers, we have done our duty.

Mr. Speaker, I would like to pay special commendation to the ranking minority member of our committee, the gentleman from Virginia, the Honorable BILL WAMPLER, all of the subcommittee chairmen and all of the ranking members, and all of my colleagues on the committee who stood by me as we worked painfully but diligently in the task we had before us.

I would like to pay a special commendation to the chairman of the Senate conferees, the distinguished Senator from North Carolina, JESSE HELMS, for his patience and understanding as we labored together to accomplish the task which we had before us.

□ 1350

The conferees on aspects of the House and Senate reconciliation bills concerning agriculture, forestry, and related matters faced a formidable task. The bills adopted by the two bodies reflected substantial differences in programs such as food stamps, dairy price supports, and agricultural credit. These are matters about which the House and the Senate conferees held firm and, in some cases, quite divergent views. Very painful choices were presented. However, under the savings directives imposed by the budget resolution, there was no way to avoid pain—to escape cutting programs which in many cases are the lifeblood of rural America and our less fortunate. On a bipartisan basis, the conferees forged a compromise which met the mandate under which we labored.

Congress, in the first concurrent budget resolution, had directed our committee to produce legislation cutting budget spending in fiscal 1982, 1983, and 1984 by a 3-year total of $8.8 billion. The conferees made a 31-percent greater cut, I inform my colleagues, which amounts to a total of $11.6 billion in outlays.

Outlays cuts resulting from the conference agreement total $3.2 billion for fiscal year 1982 compared to our directive of $2.5 billion; $3.8 billion for fiscal year 1983 compared with a directive of $2.8 billion; and $4.6 billion for fiscal year 1984 compared with a directive of $3.5 billion.

This was due largely to differences in the Senate and House measures. While both versions made severe cuts in the food stamp program, the Senate's were deeper. The Senate bill contained no provision for dairy price supports. The House bill did—with outlay savings amounting to $449 million in fiscal 1982; and up to $1.188 billion for fiscal 1984. The Senate achieved its targets by heavily reducing rural credit programs, including those directly benefiting farmers—a course the House had struggled to avoid. The conferees to some degree split the difference on these crucial matters by accepting the House provision on dairy and a number of the Senate provisions dealing with reductions in the rural credit programs.

With respect to food stamps, the conference report provides a number of program changes. It reduces food stamp benefits by more than $6 billion over the next 3 years, for an average of $2 billion a year. The bill reduces food stamp costs by $1.657 billion in fiscal year 1982—or $200 million more than the budget resolution required. In fiscal year 1983, the reduction is $2.046 billion, or about $75 million more than the budget resolution required. In fiscal year 1983, food stamp costs are cut by $2.335 billion, or $8 million more than the resolution required.

These are deep cuts. The great bulk of these savings come from families below the poverty line. Of the 22 million persons now receiving food stamps, about 1 million will be terminated from the program and about 20 million, including virtually all of the poorest participants in the program, will receive lower benefits than current law would provide. The only households who will not be adversely affected by the bill are those receiving the minimum benefit of $10 per month.

I am disturbed by the provision of the report that replaces the food stamp program in Puerto Rico with a block grant. Puerto Ricans are American citizens, they fight in our wars, and they should not be treated in a discriminatory fashion in the food stamp program.

Nevertheless, the report does establish a block grant effective July 1, 1982. The block grant is funded at 75 percent of the 1982 current services level in Puerto Rico. This level is not increased in future years to take account of future increases in food prices. This means that as the years go by, the block grant will fall further and further below the 75-percent level, and that as food prices rise, poor citizens in Puerto Rico will have to eat less.

We did succeed in removing a provision of the Senate bill that would have established special income limits for Puerto Rico—lower than those for the rest of the United States—for the interim period before the block grant is implemented.

The report provides a 4-year dairy price support program, effective October 1, 1982, with supports ranging from 75 to 90 percent of parity and with semiannual adjustments to keep supports from falling below 75 percent during the last 3 years of the program. The conferees agreed, however, that the dairy provision is to be regarded as an interim step and that milk supports will be reconsidered, along with other farm supports, when a general farm bill is debated later this year.

The report also puts a ceiling of 117,000 on the number of full-time equivalent staff years—including overtime—the Agriculture Department may have during the 3 fiscal years be-

ginning October 1, 1981. The Department currently operates at the level of about 121,000 full-time equivalent staff years and had asked for permission to raise this figure to 124,000 in fiscal 1982. I would note that the Department of Agriculture, notwithstanding the budget-cutting crusade of the administration, vigorously opposed provisions in the House bill which would have reduced authorizations for salaries and expenses for most Department agencies by about 9 percent.

A number of USDA programs, which had also been subject to a blanket 9-percent cut in the House bill, were reduced by lesser amounts by the conferees. Final agreements include a decision to cap Forest Service spending on forest research, State and private forestry, the national forest system, and construction and land acquisition at a total of $1.498 billion for fiscal year 1982 instead of the $1.446 billion proposed by the House. The cap does not apply to other authorizations for the Forest Service, including permanent appropriations.

Public Law 480 appropriations were limited to $1.305 billion in fiscal year 1982, $1.320 billion in 1983, and $1.402 billion in 1984.

In the energy field, the report reduces the authorization for spending by the Secretary of Agriculture on biomass energy development under the Biomass Energy and Alcohol Fuels Act of 1980 from the original $600 million to a new level of $460 million.

The report imposes fees to be paid by farmers and others who use Agriculture Department programs of grain inspection and weighing, cotton classing and related services, tobacco inspection and related services, warehouse examination, inspection and licensing, and naval stores inspection.

In provisions dealing with agricultural credit, for fiscal 1982 Farmers Home Administration insured farm operating loans were capped at $700 million and farm operating loans at $1.325 billion. The report earmarks not less than 20 percent of these funds for low-income, limited-resource borrowers in lieu of 25 percent under current law and 15 percent in the Senate provision. Interest rates on disaster loans were raised to market levels for borrowers able to get credit elsewhere, but to not more than 8 percent for farmers who cannot get credit elsewhere. Interest rate provisions for low-income borrowers would be revised to not more than half the cost of money to the Government on farmownership loans, and to a rate set at 3 percent below the cost of money to the Government, plus up to 1 percent, for farm operating loans. Also, the bill makes discretionary with the Secretary after September 30, 1981, the permanent authority for a storage facility loan program. The conferees, however, expect that the Secretary of Agriculture would continue this program in storage-deficit areas. The Members may be further reviewing the action taken on this issue during consideration of the farm bill later this year.

Finally, the report would require the Federal Financing Bank, on the request of any rural electric or telephone borrower, to handle any REA-guaranteed loan. And insured loans to rural utilities would normally be made at a 5-percent rate, as opposed to the current 2-percent rate, but the REA Administrator would have discretionary authority to reduce rates to as low as 2 percent in unusual cases of extreme need or hardship.

Mr. Speaker, I will not burden my colleagues with further details of the cuts made and of the reconciliation process followed in the conference, except to say that we met the mandate; we exceeded the mandate. Everything that we submitted for the reconciliation package which the Members have before them was not adopted unanimously. There were items that we did not agree on individually, but in the end, no one being satisfied completely, all agreed that we had done our work, that we had done our best under the circumstances and that we brought the House a package which surpasses the savings mandated by the Gramm-Latta resolution and by the Budget Committee. While many of the cuts will fall heavily upon the needy and the farmers of the Nation, they respond to the mandate adopted earlier by the Congress. Inasmuch as they meet the standards which have been imposed upon us, I urge their support.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, consideration of this conference report marks the last legislative stage of what has been an historic undertaking for the Congress. It has been a painful process, but I believe it has been a productive one for the American people. The action we are taking today is one part of what I would characterize as a good-faith effort by the Congress to carry out a clear mandate of the electorate—to bring Federal spending under control.

Many adjectives have been used to describe what we are doing here—clumsy, awkward, confusing—and I think most of us would agree that they are not altogether inaccurate. It has been a difficult process, unquestionably. But, given the realities of the legislative process, there is no easy way to do this. It may well be that when the dust settles we will see some areas where we could have done better, some inequities that should be corrected. The Congress is an imperfect vehicle. We hope that such problems will be few.

At the same time, I believe that what we have done here speaks well for the responsiveness of the legislative system to the electorate. To bring Federal spending under control will require some sacrifices and the people of this country have indicated a willingness to make sacrifices if they are equitable and evenly spread.

I doubt if anyone here is altogether pleased with everything that is in this package. I am not. But as a whole, it represents a reasonable effort to do what must be done to place some meaningful constraints on the Federal budget.

The budget resolution directed the Agriculture Committees to produce legislation reducing Federal spending for food stamps and agriculture program by $8.9 billion in fiscal years 1982, 1983, and 1984. That goal has more than been met. The conference agreement would result in budget authority reductions of $9.3 billion, and outlay reductions of $11.7 billion.

The larger outlay reduction reflects the decision of the conferees to include both the dairy program provisions of the House bill and the Farmers Home Administration and farm storage facility program lending modifications of the Senate bill. The conferees agreed that this does not resolve the dairy price support issue as it relates to the pending farm bill.

I will not discuss every item in the conference report on this portion of the bill, Mr. Speaker, but I do want to mention a few of them.

FOOD STAMP PROGRAM

The 1981 Omnibus Reconciliation Act conference report contains several reforms to the food stamp program—some of which are long overdue. I support these reforms. The issue I would like to address concerns the implementation of these food stamp reforms. Unless otherwise stipulated, the effective date of these provisions will be up to the Secretary of Agriculture, taking into consideration the need for orderly implementation.

Many of the provisions in the food stamp section of the Reconciliation Act, in particular those such as the Outreach provision, can and should be implemented upon enactment—October 1, 1981, at the latest. This provision will require that the Secretary rescind regulations concerning Outreach. The current regulations now require States to submit plans every fiscal year that describe the activities they and their local departments of welfare will conduct. The list of activities is long and need not be discussed again. The issue of Outreach has been decided.

It is now important that State agencies be given the authority to stop these activities at the earliest possible time so that they will not be required to submit their plans for the 1982 fiscal year.

It is my hope and my belief that in those instances where it is up to the Secretary of Agriculture to prescribe the implementation dates for the food stamp amendments—that he will do so without delay, taking into consideration both the savings that are realized in 1982 and the need for orderly implementation of this new law.

The results of the House-Senate conference reconciliation efforts on food stamps are as follows:

HOUSE/SENATE RECONCILIATION CONFERENCE, JULY 21, 22 AND 23, 1981 FOOD STAMP PROGRAM

[In million of dollars]

	1982	1983	1984
Total savings	$1.658	$2.046	$2.334
Gramm/Latta savings	1.458	1.971	2.327
Difference	.200	.075	.007

GRAIN INSPECTION

To reduce Treasury outlays for the Federal Grain Inspection Service in the reconciliation bill, we provided that costs for supervision and administration, which are now covered through appropriations, will be paid by the industry through user fees. To limit bureaucratic growth, we provided that user fees for these functions cannot exceed 35 percent of the total Federal Grain Inspection Service budget, adjusted to remove costs for standardization, compliance and foreign monitoring. These last items we believed to be legitimate functions of the Federal Government.

PUBLIC LAW 480

With regard to the provision of this reconciliation package as it affects Public Law 480, I am satisfied that we have not violated the wishes of the House in that we held firm and had most of the provisions that were in the House package accepted by the conferees.

The limitation agreed upon on authorization for appropriations for fiscal years 1982, 1983, and 1984 are within the President's budget request for fiscal year 1982 and his forecasted request for fiscal years 1983 and 1984. Consequently, this should not seriously affect the Public Law 480 program and yet meet the requirements of authorization reductions mandated of conferees.

The provision affecting Public Law 480 which created the most interest was the Senate proposal to increase the minimum interest rates on title I loans from the present 2 percent during the grace period and 3 percent thereafter to 4 percent and 6 percent respectively. It was considered by the House conferees that not enough information was available to determine the ultimate consequences of such a provision so it was better to await more details before implementing such a provision.

USDA presently is conducting a study of this latter entire area which will include "the potential for using terms and interest rates on title I loans as incentives for development use of Public Law 480" and since this study is due by December 31, 1981, the conferees felt there was plenty of time for any future congressional action. Thus, the Senate provision was eliminated.

CREDIT (FMHA) PROGRAMS

In regard to credit programs, the conferees reached agreement on provisions which will tighten up the various programs, produce significant budget savings, and still target services to those borrowers who are most needy and unable to get credit elsewhere. Insured farm ownership loans would be capped at $700 million and farm operating loans at $1.325 billion. These figures match the amounts already approved by the House Appropriations Committee as part of the fiscal 1982 agricultural appropriations bill.

In addition, the legislation earmarks not less than 20 percent of available FmHA farm ownership and operating funds for low-income limited resource borrowers. Interest rate provisions for such borrowers would be revised to not more than half the cost of money to the Government on farm ownership loans, and at a rate set to 3 percent below the cost of money to the Government, plus 1 percent for administrative costs, for operating loans.

The FmHA disaster loan program also was significantly tightened by the conference committee. As you are aware, Mr. Speaker, this program has been badly abused and widely criticized over the past few years. Interest rates on disaster loans would be raised to market levels for borrowers able to get credit elsewhere, but not to more than 8 percent for borrowers unable to obtain credit from agencies other than FmHA. Emergency loan funds will only be made in such amounts as may be provided in advance in annual appropriation acts, and a borrower must sustain at least a 30-percent loss on a basic part of his operation in order to qualify for a disaster loan. I believe these provisions will streamline the services of the emergency program and target its resources to those borrowers who truly need disaster assistance.

The conferees also reduced funds for rural development loans, and interest rates on these loans would be increased to more accurately reflect market conditions. However, interest rates for FmHA water and waste disposal and essential community facility loans shall not exceed 5 percent when such loans are for the required upgrading or construction of facilities to meet health or sanitary standards in areas where the median family income of persons to be served by the facility is below the poverty line.

In other credit areas, the conference agreement permits the administration to phase out its farm storage facility loan program, but the Secretary of Agriculture would be requested to continue this program in storage deficit areas. And finally, in regard to the Rural Electrification Administration, the legislation requires the Federal Financing Bank, on the request of any rural electric borrower, to handle any REA-guaranteed loan. The conference report also repeals a provision under which small REA co-ops meeting designated standards were entitled to REA-insured loans of 2 percent. Under the new bill, all insured loans would normally be made at the 5-percent rate which is already used in most cases. The REA Administrator, however, would have discretionary authority to reduce rates to as low as 2 percent in unusual cases of extreme need or hardship.

FOREST SERVICE FUNDING

The members of the conference committee have also placed a cap on the amount of funds that may be appropriated for programs administered by the Forest Service. This cap is below that recommended in the President's budget but above the figure contained in the House bill. While the cuts may not be as deep as some have suggested, we must remember that the Forest Service is a revenue-producing agency.

The national forests of this Nation return to the Treasury funds from timber sales, mineral, oil and gas exploration, and recreational fees. The appropriations cap set by the conference committee members, although tight, will permit the Forest Service to continue their balanced approach to management of our national forests.

I believe that the committee has acted in a manner that will continue to assure adequate timber supplies for the housing industry, assure continued employment in the timber industry, provide adequate recreational opportunities, and continue to provide revenues to the Treasury and to the State and local governments where the forests are located.

In conclusion, I wish to state that this reconciliation bill together with the tax bill are two of the most important pieces of legislation that this body will have passed in many, many years. They are two integral parts of President Reagan's economic recovery program. One is just as important as the other. I think we all want to see the President's program succeed because it is important for America as a nation and it is important for all of us individually that we see that economic recovery where the President's program will lead us.

I urge you to vote for this measure.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to my colleague, the gentleman from Missouri.

Mr. COLEMAN. Mr. Speaker, I rise in support of the 1981 omnibus reconciliation bill. I would like, at this point, to briefly discuss the food stamp provisions contained in that bill. As you may recall the bipartisan substitute amendment—better known as Gramm-Latta II—contained the Coleman amendments to the food stamp program, agreed to by the Republicans on the House Committee on Agriculture. These amendments achieved the savings levels required over the next 3 years. They contained the necessary changes in law rather than an artificial cap on food stamp program expenditures.

Because of these amendments the conferees, during the food stamp reconciliation conference, were able to compromise and agree on various reforms to the food stamp program, rather than discuss one package of amendments with no legislative reforms and another with several of these reforms.

I support the compromises agreed to during the conference. As in any conference, no one conferee achieves all that he or she would desire—compromise is essential. The Gramm-Latta mandated savings level for the food stamp program are $1.458 billion for fiscal year 1982; $1.971 billion for fiscal year 1983; and $2.327 billion for fiscal year 1984. The savings actually achieved for the program for fiscal year 1982 are $1.658 billion; for fiscal year 1983 they are $2.046; and for fiscal year 1984 they are $2.334. The overall savings surpass the Gramm-Latta levels by $282 million for the 3 years.

It pleases me that most of the conferees from the House were able to agree on the various compromises. I believe that the various options chosen by our Members are sound and represent reform for the food stamp program.

Many of the provisions contained in both reconciliation bills were identical. Others were discussed and agreement was reached. As a result the provisions in disagreement have been resolved as follows:

First, parents and their children living together shall be treated as one household for food stamp purposes. Elderly parents are exempt from this provision.

Second, program eligibility is limited to households with gross income at or below 130 percent of the poverty level. The elderly and the disabled are exempt. Their eligibility will continue to be calculated as it is currently.

Third, the standard and the shelter deductions are frozen until July 1983. They are then indexed, then again in October 1984 and every October thereafter—exclusive of the homeownership component but reweighted.

Fourth, the earned income deduction is reduced from 20 percent of earnings to 18 percent.

Fifth, the penalties for fraud and willful misrepresentation are increased and the method of recovery of overpayments is improved.

Sixth, a block grant is provided for Puerto Rico beginning in July 1982.

I urge you to support the 1981 reconciliation bill and the conference report.

Mr. WAMPLER. I thank the gentleman for his contribution, and I would like to commend him for his effort in making this report possible.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise in support of the conference report on H.R. 3982 and to explain the portion of that report submitted by the Committee on Merchant Marine and Fisheries.

The Merchant Marine and Fisheries conferees participated in four reconciliation subconferences: The maritime authorization; Public Health Service hospital/merchant seamen entitlement; ocean dumping fees; and expenses associated with the Office of the Secretary of Transportation.

MARITIME AUTHORIZATION

The maritime authorization bill was included, in toto, in the committee's submittal to the budget committee and was adopted by the full House when H.R. 3982 was passed. The House version of the maritime authorization bill differed from the Senate version in the level of funding authorized for research and development, operations and training and the House has included several substantive amendments.

The conferees agreed to increase the level of funding for research and development by $2 million over the House figure and to reduce by a comparable amount, funding authorized for State and Federal maritime school assistance and reserve fleet expenses. These adjustments in funding levels are consistent with the overall request by the President of $502.5 million for fiscal year 1982 for maritime programs.

The rest of the maritime authorization bill remains in the conference report with the exception of amendments dealing with title XI and construction differential subsidies (CDS) eligibility for methanol barges, reduced CDS payments for nonseries production, the use of capital construction funds (CCF) for hazardous waste vessels, CDS eligibility for wind powered vessels, and the deferral of certain fiscal year 1981 CDS funds to fiscal year 1982. Amendments dealing with title XI, freight forwarders and an operating differential subsidies (ODS) recipient's option to build in a foreign shipyard, were slightly altered in conference in order to ameliorate certain Senate objections.

PUBLIC HEALTH SERVICE HOSPITAL/MERCHANT SEAMEN ENTITLEMENT

The Senate agreed to the House language on the closure of PHS hospitals, which is solely within the jurisdiction of the Energy and Commerce Committee. However, the Merchant Marine and Fisheries Committee has jurisdiction over the entitlement of merchant seamen to free medical care in PHS facilities. The Senate objected to this committee's language which would continue the seamen eligibility but require that the seamen pay for that care. In lieu of the Merchant Marine and Fisheries Committee language, the Senate proposed, and the House agreed, to repeal the merchant seamen entitlement but retain the House language authorizing continued care for 12 months for those hospitalized on the date of enactment.

OCEAN DUMPING FEES

The conferees have agreed that the House will recede to the Senate and strike sections 9401 and 11141, the provisions dealing with ocean dumping fees. The effect of this action will be to delete the Merchant Marine and Fisheries Committee provision which imposes a fee on material dumped in the ocean and the provision of the Committee on Public Works and Transportation which prohibited such a fee.

As part of the agreement the conferees have placed in the conference report language committing the conferees to resist any effort to direct the Committee on Merchant Marine and Fisheries to achieve savings in future reconciliation bills which would be achieved by the imposition of Coast Guard user fees.

The conference report language is as follows:

The Merchant Marine and Fisheries Committee proposed that ocean dumping fees of $5.00 per wet ton be imposed in fiscal years 1983 and 1984. This action satisfied the assumption of the First Concurrent Budget Resolution that the Committee would effect savings of $200 million in FY 1983 and $300 million in 1984, an instruction that originated with the Senate Budget Committee's desire to impose Coast Guard user fees. In fact, the CBO estimates that the savings resulting from ocean dumping fees would be $400 million per year.

In view of the conflict between section 9401 and section 11141, added by the House Public Works and Transportation Committee, and the absence of language on ocean dumping fees in S. 1377, the conference managers recommend that the House recede to the Senate position. In doing so, the managers recognize that the Merchant Marine and Fisheries Committee has fully complied with its reconciliation responsibilities in this area. The conference managers observe that dropping of the ocean dumping fee proposal will not lead to a future reconciliation instruction to the Merchant Marine and Fisheries Committee to achieve

savings in FY 1983 and FY 1984 by imposing ocean dumping fees or assessing fees on users of Coast Guard services.

There is strong bipartisan opposition to Coast Guard user fees in that such a proposal represents a dramatic reversal of traditional policy.

As the Members may know the administration has proposed legislation to impose a fee on users of Coast Guard services. This provision has virtually no support and not one Member of the House has agreed to introduce this legislation, which I would state is strong evidence of the bipartisan opposition to this proposal.

Due to the action of the Senate, the Committee on Merchant Marine and Fisheries was faced with the option of imposing Coast Guard fees in the reconciliation bill or finding an alternative. Ocean dumping fees represent that alternative. The members of the Merchant Marine and Fisheries Committee and the other conferences believe that if we are to impose any fee on Coast Guard services that it should be done only after a lengthy analysis of this issue and as part of the normal legislative process—not by use of the mechanism of reconciliation to enact controverisal legislation.

LIMITATIONS ON THE OFFICE OF THE SECRETARY

Section 6531 of the reconciliation bill imposes limitations on appropriations of the Office of the Secretary of Transportation. Included in that limitation is a prohibition on the use by the Secretary of Transportation of Coast Guard aircraft and Federal Aviation Administration aircraft, as well as a further prohibition on the use of the private dining facility by the Secretary.

This amendment was offered by the Committee on Energy and Commerce. However, the jurisdiction over the Department of Transportation lies primarily with the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries, who objected to the amendment on the grounds that it was beyond the jurisdiction of the Committee on Energy and Commerce to impose such limitations. As a result, the conferees have agreed to delete the limitations placed upon the Secretary, but have reduced the authorization for appropriations for his Office by 10 percent. In doing so, the conferees note that the aircraft of the Department of Transportation should be available for travel by the Secretary as long as this action is cost effective and necessary to accomplish the mission of the Department.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Banking, Finance and Urban Affairs Committee, the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, the Committee on Banking, Finance and Urban Affairs, as everyone knows, had the largest cut in budget authority of all of the committees of the House under the reconciliation process. I must say that I stand here unable to express any joy or jubilation. If anything, my feeling is one of pain and suffering.

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However, we have indeed carried out our responsibilities with respect to the cuts in as fair and equitable a manner as possible. We were required to adjust existing authorization legislation in a number of vital areas, housing, community development, National Consumers Cooperative Bank, as well as many other areas.

We performed our task, and I think we performed it as well as possible under the circumstances.

I would like to take this opportunity to commend the conferees on the House side who worked with me, both majority and minority.

I want to express my deep appreciation to our ranking minority member, the gentleman from Ohio (Mr. STANTON). As a result of his cooperation, his assistance, we were able to handle this conference in an orderly manner.

We fortunately did not get hung up on any one or two major issues, as many thought would occur. This came about as a result of a bipartisan effort in conjunction with the Senate conferees.

I want also to pay special tribute to the staff, both majority and minority, on the House side, who worked together in a spirit of cooperation and who indeed represented well the House position throughout the deliberations in the difficult technical sessions that were held.

Mr. Speaker, the bulk of the Banking Committee's title of the omnibus reconciliation bill dealt with the budget issues and substantive legislative matters with regard to the housing and community development programs. Adoption of the Latta substitute restricted the Banking Committee in its efforts to negotiate and legislate wisely on the major programmatic changes with regard to the community development block grant program and a large number of assisted housing related changes.

It is not often that the House conferees can, on the housing and community development legislation, say that the Senate legislated in a wiser fashion, but with regard to the community development program we must give credit where credit is due. The Senate simply had a better version of community development block grant revisions and the House conferees adopted in most every instance the better version that was before the conferees. I am happy to report that the urban development action grant program remains a separate identifiable program entity with an authorization level of $500 million each for the next 2 fiscal years. Numerous changes have been adopted with regard to the community development block grant program. The application and review process is revised thoroughly making it more in the nature of a revenue-sharing program with the eligible communities basically certifying that they are making use of Federal funds to principally benefit low- and moderate-income people.

With regard to nonentitlement cities, those under 50,000 population, the conference report provides that the States who administer grants to these units of local government, but with an opting in process that demands that the States are engaging, or will engage, in community development type programs and planning, will provide the technical assistance to these nonentitlement communities and that States will provide their own funds for community development activities of at least 10 percent of the community development funds that it is receiving. The conference report contains the section 312 rehabilitation loan program at approximately $85 million for fiscal year 1982, through the use of loan repayments. This program was terminated in the Latta substitute.

With regard to our assisted housing programs, the Senate version of the reconciliation bill left much to be desired. Their version had lower authorization amounts and a series of severely restrictive provisions that would have made our assisted housing programs in many areas of the country totally unworkable. The conferees split the difference on the authorization level providing budget authority of $18.08 billion that will provide only 153,000 new units beginning in fiscal year 1982. Fifty-five percent of these units will be for existing housing and 45 percent will be for new construction. Our conference report provides a set-aside for State housing finance agencies, the Indian public housing program, the Farmers Home Administration and those section 8 units that are used by the section 202 elderly housing program. The conference report also provides that the preferences of local governments regarding the manner in which these funds are utilized must be accommodated by the HUD Secretary. Rents will be increased for all people living in assisted housing from the current 25 percent of their adjusted income to 30 percent. It permits the HUD Secretary to determine which amounts are to be deducted from the tenants incomes, but limits any increases in rents not related to increases in tenant income, during any 1 year to 10 percent. The conference report deletes the ill-advised Senate provision barring assisted housing

funds to those communities which have rent control or rent stabilization laws.

The most difficult issue that was before the conference was the Senate provision to reduce the eligibility for assisted housing from the current 80 percent of area median income to 50 percent of area median income. While the conference report retains the 80-percent eligibility level that is in existing law, it provides that not more than 10 percent of assisted housing units under contract as of the end of the current fiscal year and not more than 5 percent of addition units available for occupancy on or after beginning of fiscal year 1982 will be available for persons with incomes between 50 to 80 percent of area median income. As I have indicated this was the most difficult issue that we faced and the Senate was adamant, as were we, but I believe that the compromise that was struck here was a realistic one.

With regard to assisted housing, the conference report further provides that newly constructed housing under the section 8 program will be modest in design, limits increases in rental subsidy payments to operating cost increases and provides a preference to section 8 projects located on land provided by local and State governments. Single-room occupancy units are made eligible in certain instances under the section 8 program. The report also will extend the section 235 homeownership program through the end of fiscal year 1982, but prohibits HUD from entering into any new contracts after September 30, 1983.

The House conferees convinced the Senate to extend all of the insuring authorities under the National Housing Act through fiscal year 1982 and provided increased mortgage purchase authority for GNMA at an aggregate amount of $2 billion with no assertion nor assumption that the GNMA tandem program will no longer be available beyond fiscal year 1982. It is the House conferees position that the tandem program will remain available and will continue to be used to provide permanent financing for assisted rental housing projects after fiscal year 1982. Our conference report also clarifies the situation for mortgages eligible for purchase by GNMA that have FHA firm commitments and FHA is to continue processing applications for these mortgages through the end of this year.

I would like to clarify one matter regarding the FHA single-family mortgage loan limit that was increased in the House reconciliation version, but was dropped in conference. In the Statement of Managers, the conferees direct HUD to adjust the manner in which the HUD Secretary determines that an area is a high-cost housing area based on data of involving the sales of single-family homes in a housing market area. Because of a substantially higher proportion of sales of existing housing units, as opposed to newly constructed homes, the median sales price of a single-family home is so low that FHA mortgage limits are unrealistically low and most new homes in these areas cannot be financed with FHA-insured mortgages. In this situation, the conferees also intended for the HUD Secretary to give greater weight to the sales price of new homes in determining the median sales price.

The conference report extends for 1 year flood, crime and riot reinsurance programs. It would bar, beginning in October of 1983, any new flood insurance for so-called undeveloped Barrier Islands. The conference report extends the rural housing programs of the Farmers Home Administration and provides for a new uniform nonjudicial multifamily mortgage foreclosure procedure.

With regard to our energy-related matters that the Banking Committee has jurisdiction over, the conference report provides for a $50 million authorization for Solar Bank for fiscal years 1982, 1983, and 1984. The $336 million has been authorized for fiscal year 1982 for State and local conservation programs in the Department of Energy, and it is the strong expectation of the conferees that $175 million of that amount will be available for the low-income weatherization grant program. While the conference report did not directly authorize this level, the statement of managers contains explicit language regarding the continuation of the weatherization program at the $175 million level. The building energy performance standards have been amended so that these energy standards developed by DOE will voluntarily have all new residential and commercial buildings.

NATIONAL CONSUMER COOPERATIVE BANK

The conference agreement assures long-range stability for the National Consumer Cooperative Bank.

The substitute adopted by the conferees allows the Bank to convert to private status under control and ownership of its consumer co-op members. The conversion will take place by December 31, 1981, or 10 days after enactment of the HUD-Independent Agencies Appropriations Act for fiscal year 1982—whichever is the latest.

The conversion will be accomplished by issuance of class A notes by the Bank in exchange for class A stock currently held by the Secretary of the Treasury. The notes will be repaid in the same manner by the Bank as it would have handled retirement of the stock. The conferees, however, did require that 30 percent of the proceeds of sale of nonvoting stock be applied to retirement of the Treasury debt. Otherwise, the payments, terms, conditions and preferences and other relationships of the class A notes will be identical with those existing in the present act in reference to class A stock.

After the notes are exchanged for the stock, the co-op stockholders will elect 12 of the 15 board members. The President will appoint the remaining three.

The Bank, as intended in the original act, will be eligible to borrow in the private markets and to issue stock to cooperatives and the public. It will retain its mission as a credit facility for cooperatives formed by senior citizens, students, inner-city residents, rural craftsmen, suburban families, workers, and other consumers across the Nation. The cooperatives, operating under democratic principles, provide their members with a variety of goods and services including housing, health care and food.

The conferees provided that the Bank will have regular examinations and audits and that the Securities and Exchange Commission will have jurisdiction in supervising the issuance of securities by the Bank. While both the Farm Credit Administration and the General Accounting Office are given "examination and audit" authority, it is not intended that there be duplicative efforts in this area. Certainly it is not the intention that the Bank undergo two audits each year. Rather, FCA is expected to carry out the type of "examination" process it now employs for its entities such as the Bank for Cooperatives and similar farm banks. The GAO's expertise is in the audit area and this is to be the thrust of its efforts. The conferees anticipate that the GAO and FCA have the ability and imagination necessary to coordinate the authority and that there will be no duplicative audits or examinations or that their frequency will be no greater than that necessary to provide the Congress with a clear picture of the operations of the Bank.

Upon redemption of the Government's stock the Bank will cease to be a "mixed-ownership Government corporation" but its congressionally granted Federal charter will remain. The status under a Federal charter is retained in the same manner as other Federal charters have been retained for Federal instrumentalities that have evolved into a private status. The federally chartered instrumentalities of the Farm Credit System are a primary example of this.

The title II activities of the Bank—designed to assist newly developing cooperatives with a predominantly low-income membership—will be folded into a separate nonprofit corporation with 501(c)(3) status. The nonprofit corporation, although separate, will retain a close working relationship with the Board and the Bank's board of directors will appoint the board of

the corporation, drawing from low-income co-ops.

All assets of the present Office of Self-Help Development will be transferred to the corporation and the corporation is expected to meet its expenses out of income generated from its loans and technical assistance operations. The Bank is authorized to make tax-free contributions to the nonprofit corporation and to make staff and other support available. It is essential that the Bank and the nonprofit corporation work closely together to make certain all elements of the consumer cooperative movement are served and that there is no duplication of efforts or other waste of money.

It is the clear intent of the conference that all moneys from fiscal year 1981 and fiscal year 1982 Appropriations Act be transferred to the Bank without delay so that the conversion to private status can be accomplished without undue delay or confusion. After fiscal year 1982 there will be no further authorizations for the Bank or the Self-Help Fund and the Federal Government will not be responsible for the obligations incurred by the Bank after the redemption of the class A stock.

The future success of the Bank will depend heavily on its acceptance in the private market and the vigor and dedication of the cooperatives in accepting this responsibility. Clearly, the Congress is forcing the Bank to move to private status years ahead of the schedule envisioned in the original act and with a far smaller capital base. But, the conversion does give the Bank an independent status and the freedom and long-range stability so necessary to be accepted in the private market. Clearly, the Bank had no chance of raising private funds while political events continued to cast doubt on its future structure, or even its survivability. This conference agreement removes the doubt and gives the Bank the right to survive on the basis on the market decisions, rather than political decisions.

The next few months will be critical for the Bank as it moves toward the private status assured in this conference report. It is a period in which the Bank needs the maximum stability and the experience of the board members and staff who have been in on the ground floor of implementing the 1978 National Consumer Cooperative Bank. The Bank is obligated to draft bylaws to provide orderly transition to a private bank and it is very important that these changes be transmitted to the consumer cooperatives and that they be given an opportunity to comment before the structure is locked into place. It is their Bank, according to the decisions reached in this conference, and they should govern the transition.

While I know elements of the administration remain philosophically opposed to the Bank and cooperatives, I have been pleased by the cooperation shown by the White House as we attempted to work out the details of this conference substitute. The White House has been straightforward and it has kept its word as these negotiations have gone forward. While I am sure no one has given up their philosophical positions, I appreciate the attitude of "let's make it work" that seems to have developed. I am very hopeful that this attitude will prevail in the Bank's transition and that there is a tacit understanding by all parties that there will be no disruptive moves which would make a mockery of the decision to give private control to the Bank.

It is in the interests of the administration, the Congress, the Bank, and the consumer cooperatives that the plan developed by the conference work. The decision has been made and it should be allowed to go forward in an orderly, open, and expeditious manner.

EXPORT-IMPORT BANK

The conferees adopted the Senate provisions which limited direct loans by the Exim Bank to $10.478 billion for fiscal years 1982 and 1983. Of this amount, $5.065 billion is designated for 1982 and $5.413 is designated for 1983. The administration may, under extraordinary circumstances, use amounts designated for 1 year in another year if necessary to enhance the negotiating position of the U.S. delegation to the OECD export credit negotiations.

The conferees agreed to drop the Senate's direct loan limit for 1981 and the House's limit for 1984. The conferees agreed to a provision in the House bill that requires the Secretary of the Treasury to transmit to the Congress a report on the status of negotiations to reform existing international agreements on export credit by March of 1982. The report would include a recommendation as to whether the Congress should enact legislation to enhance the ability of the Export-Import Bank to offer credit fully competitive with the subsidized export credit offered by other governments, in order to improve the prospects for a successful conclusion of these negotiations.

SALARIES AND EXPENSES—TREASURY DEPARTMENT

The House bill contained various provisions limiting the authorizations for the Treasury Department's salaries and expenses. The conferees agreed to retain the provision repealing the Bureau of the Mint's permanent authorization, also agreeing to a Senate proposal to increase the authorized amount for 1982 by $2.5 million. The conferees also agreed to reauthorize the Treasury's international affairs functions for 1982 and later fiscal years. Other authorization limits, for the Office of the Secretary, the Bureau of Government Financial Operations, and the Chrysler and New York loan guarantee programs, were dropped by the conferees at the request of the Senate.

OTHER MATTERS

The conferees agreed to a Senate provision that makes it clear that manufactured homes are considered "real estate" for purposes of the override of State usury laws provided in the depository institutions deregulation and Monetary Control Act.

They also agreed to adopt a Senate provision that states that federally chartered non-Federal Reserve member depository institutions and nonmember depository institutions chartered by States other than Hawaii would be permitted the same 5-year exemption from reserve requirements that the Monetary Control Act gave to State-chartered banks in Hawaii.

The House bill contained no similar provision. The House receded with a technical amendment. This amendment insures that all depository institutions that were brought under reserve requirements for the first time by the Monetary Control Act have the same phase-in now granted to State-chartered nonmember commercial banks in the State. It retains the stipulation in the Senate amendment that only deposits taken in Hawaii are covered by the special exemption.

INTERNATIONAL DEVELOPMENT BANKS

The House bill contained authorizations for the international development banks. The bill authorized U.S. participation in the World Bank's general capital increase, the sixth replenishment of the International Development Association, and U.S. membership in the African Development Bank. It also provided authorizations for the Inter-American Development Bank and the Asian Development Bank.

In addition to these authorizations, the House bill contained various provisions relating to U.S. policy with respect to these institutions. Except for provisions relating to targeting assistance to the needy, increasing executive-congressional consultations on new U.S. contributions, those sections that did not deal directly with the authorizations were deleted from the reconciliation bill.

Mr. STANTON of Ohio. Mr. Speaker will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Ohio.

Mr. STANTON of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I wish to rise in support of this conference report. I also, of course, want to extend my congratulations to all of the conferees and especially, Mr. Speaker, to, in the other body, the distinguished Senator

from Utah (Mr. GARN) who did an outstanding job. This was our first experience with him as chairman of the Senate Banking Committee and without his cooperation, as the chairman has already reiterated, perhaps this moment could not be possible.

We have had a lot of give and take. It is a bill that is within the limits. Once again the chairman has said that we had to live with it.

Mr. Speaker, I rise in support of the conference report on the reconciliation bill. The subtitle dealing with matters under the jurisdiction of the Banking, Finance and Urban Affairs Committee is worthy of House approval.

HOUSING AND COMMUNITY DEVELOPMENT

The major part of the subtitle is related to programs under the jurisdiction of the Housing and Community Development Subcommittee. It contains the annual authorization for programs administered by the Department of Housing and Urban Development. I would like to briefly comment on some of the major provisions.

The community development programs, which will be funded at $4.166 billion each year for the next 2 years, have been significantly altered. In line with the administration's request, the block grant program has been simplified and streamlined. Cities, both large and small, should find the reduced requirements for grant applications much less burdensome and time consuming.

One of the major changes from existing law is the opening up of the adminstration of the small cities program to the States. Under the conference agreement, however, this administration would be completely optional on the part of the States. Where the States decide not to take on this responsibility, HUD will continue to operate the program as it has in the past. Making this optional on the part of the State is, I believe, a reasonable compromise with the administration's proposal which would have made State participation mandatory after 1 year.

Two other changes from the administration's original proposal were also incorporated in the conference agreement. The first would require participating States to, in effect, buy in to the program. They must provide at least 10 percent of their own funds for CDBG activities in the small cities of their State and they must provide technical assistance to those cities. The other change would cap the amount of Federal money States could use for administrative expenses. This cap is set at 2 percent of the amount received by the State for distribution with the further requirement that the 2 percent be matched by the State on at least a dollar-for-dollar basis. Both of these changes strengthen the program. The first by requiring a commitment from the State and the second by not penalizing States that do assume the responsibility while at the same time making sure Federal funds are not squandered on administrative overhead.

The conference agreements for low-income housing assistance funds for fiscal year 1982 represent splitting the difference between the House and Senate levels and are, therefore, slightly below the funding approved by Gramm-Latta. This compromise agreement will provide funds for 1982 sufficient to assist an estimated 153,000 units of low-income assisted housing.

Several program policy changes requested by the administration and which are designed to reduce assisted housing costs, improve fund allocations, and standardize more equitably low-income tenant rental payments have been incorporated into the basic assumptions for the assisted housing program by this conference report. An additional expected improvement was provided by the restructuring for low-income assistance to be redirected toward those most in need in relation to income eligibility purposes for assisted housing. These changes in combination with a more prudent budgetary approach are designed to build a solid foundation for reforming and improving HUD's performance in delivery of low-income housing assistance and will also provide more flexibility and decisionmaking powers to State and local government.

More attention has been directed, by the conference report, toward the improvement and preservation of the existing public housing stock through increased and more flexible use of the comprehensive public housing modernization improvement program funded at $75,000,000,000 for 1982 and an increase in public housing operating subsidies to be funded at $1.5 billion.

While the conferees agreed to reject the prohibition contained in the Senate bill on providing assisted housing to communities with rent control, the report language, for the first time, recognizes and acknowledges that local rent control restrictions are, in fact, a major barrier and disincentive working against investment in much needed rental housing production.

Part III program amendments of the conference report provide for the extension of all of the basic FHA mortgage insurance programs for 1 year and include increases in loan limits for manufactured homes and property improvement loan limits.

The conferees also agreed to the House limit of an additional $1.1 billion for GNMA tandem purchase assistance which is expected to be sufficient to finance those projects reaching the FHA firm commitment stage in the pipeline for 1982.

The flood, crime, and riot insurance programs were all extended for 1 more year, but there were important changes made in both flood insurance and riot reinsurance. Under the conference agreement, as of October 1, 1983, Federal flood insurance would not be available on certain undeveloped coastal barriers designated by the Secretary of the Interior. The original House provision would have prohibited such insurance as of October 1, 1981. I believe the delay in the effective date is equitable. It provides time for the Secretary of the Interior to inventory the effected coastal barriers and for Congress to examine the Secretary's findings. The developers in the meantime have a good idea as to what areas will be covered in view of the fact that the report that accompanied the Omnibus Reconciliation Act of 1981, when it was reported from the House Budget Committee, provides the Secretary with specific guidance to be used in both determining what is a coastal barrier and what constitutes development. In addition, it should be pointed out that the U.S. Fish and Wildlife Service has developed a list of undeveloped coastal barriers which could provide a basis for the designations that will be made by the Secretary of the Interior.

The riot reinsurance was extended only after deleting the so-called Holtzman amendment. This amendment, which was added in 1978, barred rates on FAIR plan policies from exceeding those rates set for the voluntary market. This provision has driven several States from the riot reinsurance program and has been responsible for severely crippling the program. The conference report, in deleting this amendment, is a step in the right direction in revitalizing the riot reinsurance program and helping to increase the reserves in the national insurance development fund. These increased reserves, in turn, should provide increased resources which could assist in funding the crime insurance program and keep the reinsurance rates at a reasonable level.

The conference report also extends the housing programs of the Farmers Home Administration for an additional year. There were no major programmatic changes in the rural section and the figures the conferees agreed to were extremely close to those requested by the administration.

Part VI of the conference report authorizes a new and innovative title recommended by the administration which will result in significant cost savings for the sale and disposition of HUD-owned multifamily property. The new authority approved in conference will allow for a nonjudicial and expedited foreclosure sale and, thereby, eliminates excessive time delays in the disposition process for HUD multi-

family foreclosure sales resulting in an improved property preservation impact and a more favorable cash flow condition for the applicable FHA insurance funds.

In addition, Mr. Speaker, I would like to address some points that are included in the energy section of this conference report. Members of the Banking Committee also served as conferees on these provisions.

The conference agreements relating to energy conservation programs represent for the most part a reasonable balance between achieving necessary budgetary savings and contributing toward the Nation's energy conservation goals. Funding for the Solar and Energy Conservation Bank has been reauthorized at a reduced rate of $50 million each for fiscal years 1982, 1983, and 1984. However, the questions raised by the administration for the need and cost effectiveness of such Federal subsidies for solar systems remain unanswered.

The conference committee also agreed to reauthorize the DOE weatherization grant program for fiscal year 1982 at an expected funding level of $175 million. The weatherization program, administered by DOE, has had a history of bureaucratic inefficiency. It is hoped that under this administration such management deficiences will be improved.

The final issue under Banking Committee joint jurisdiction to be resolved by the energy conference was the building energy performance standards (BEPS). These standards have been made voluntary for all new commercial and residential buildings, but remain mandatory for new Federal buildings. This represents a fair and reasonable solution for the BEPS program. In addition, the Department of Housing and Urban Development retains responsibility for providing technical assistance and monitoring State and local government adoption of energy conservation standards. The Congress thus will continue to maintain specific oversight control over BEPS through the operation of the legislative review of JUD regulations required in existing law.

NATIONAL CONSUMER COOPERATIVE BANK

Under the conference agreement, the bank is supposed to become more nearly a private entity than it is now. This action by the conference on the National Consumer Cooperative Bank graphically shows the extremes that are possible under the reconciliation process. In that our action will allow the bank to continue lending, the conference report, at least in its grossest terms, is a compromise between the Senate's idea of a shell bank and the House's idea of an on-budget Government instrumentality of reduced size. But by completely amending the bank's chartering act, conference has wildly exceeded the limits of either the House or Senate version.

I note that the full Banking Committee never had an opportunity to vote on these amendments to the bank's chartering act. Few members of the conference committee saw these amendments in any form prior to the Banking Committee's miniconference on reconciliation. No Member of Congress ever saw a final version of the legislative changes before voting to change the bank's form and activities. We merely agreed to several broadly outlined changes we wished to make in the law and instructed the staff to develop legislation based on these changes and based upon legislation which had circulated in the conference. I have attached a copy of these documents at the conclusion of these remarks.

As an additional prefatory note I must add that we, as the Banking Committee acting alone, probably never could have developed this legislation. Because it has sections which affect the Farm Credit Administration, the Securities and Exchange Commission, the General Accounting Office, and the Federal tax laws, the legislation could have been referred to as many as four other committees if it had been introduced as a new bill.

Despite the procedural deficiencies I have outlined, I accept the result. My colleague from Ohio (Mr. WYLIE), has championed the bank over the years. He has worked extensively to achieve the compromise that appears in this conference report. He is to be complimented for his dedication and for his success in resolving an extremely difficult problem.

With the abbreviated procedure which produced the amendments to the National Consumer Cooperative Bank Act, we lack an adequate legislative history. I hope, by these remarks, to add to such history as may appear in the records associated with the Banking conferees' action.

The Banking miniconference sought to preserve the bank by converting it to a private entity. It will have a Federal charter and 3 of its 15 directors will be appointed by the President, but the bank will not be a Federal agency. Its rights and liabilities should be those of a private corporation except where the Congress has expressly provided otherwise, such as an exemption from State and local taxation.

Under this amendment, the bank will not be a Federal agency, nor will it be any longer a mixed-ownership Government corporation. It will not be subject to the several Federal laws governing Federal agencies' contracting, procurement, hiring, and administrative procedure. It will be subject to the Federal laws governing those operations by banks or other private corporations. Similarly its right to sue and be sued will be the right enjoyed by a private corporation, not by a Federal agency or a mixed-ownership Government corporation. Finally, the bank's obligations should be viewed in the market as are other issues of private corporations. The U.S. Government is not to be responsible in any way for these obligations. There is not even to be a moral obligation of the United States behind these obligations.

The bank's capital will consist primarily of the current Class A stock, which is to be converted to Class A notes on the later of December 31, 1981, or 10 days after enactment of the 1982 HUD and independent agencies appropriation. The Treasury, sole holder of Class A stock, will be sole holder of these notes. Following the pattern of other Government-established corporations set free into the private economy, we have provided a period for the bank to repay this initial capital. We expect repayment by 2020. And should the bank sell additional stock to the public, at least 30 percent of the revenues produced by that sale must be dedicated to the retirement of the Class A notes. This latter requirement applies to sales of stock through September 30, 1990.

The bank will no longer be an arm of the Federal Government, but it must be subjected to examination procedures similar to those of other private lenders. We have provided for examination by the Farm Credit Administration because the drafters feel that the FCA examiners are experienced in reviewing cooperatives' loans. The GAO will also have examination and audit authority so that the Congress, especially the Banking Committees, will be able to supervise the bank's operations. Similarly, we have given the SEC jurisdiction over the bank's securities activities when it meets the minimum size or shareholder requirements of the various securities laws. We have terminated a permanent securities law exemption because the entity issuing them will no longer have sufficient attributes of Government to justify the exemption.

Our conference agreement also reorganizes the bank's Office of Self-Help Development and Technical Assistance. The agreement mandates that the Office will become a nonprofit corporation under the District of Columbia Nonprofit Corporation Act. A special provision grants it immediate tax-exempt status when it is chartered as a corporation and provides tax deductibility for contributions. The conferees intend the statutory tax exemption to be only temporary. The corporation must promptly apply for permanent status as a charitable organization under section 501(c)(3) of the Internal Revenue Code. It is not the conferees' intent that the corporation continue in its special status as a 501(c)(3) organization. It must apply to the IRS as

soon as possible and subject to the regulations governing the activities of a charitable organization.

Whether operating in its special statutory status or after the IRS determination the corporation may reform only functions having charitable purposes. Should it exceed its powers as a 501(c)(3) organization the deductibility of contributions will be imperiled.

Because of the hasty construction of this compromise, we have not aired and resolved all possible issues involving the bank. I cite a few examples. As a bank taxable as a cooperative, the bank may be subject to title II of Public Law 95-630, governing management interlocks. Similarly, it may be subject to the Right to Financial Privacy Act.

We will surely encounter the National Consumer Cooperative Bank in a short time. The members and staff who have worked on converting the bank to a private enterprise have found the task extremely complex. Despite the best efforts of the participants, I am sure that certain key aspects of the bank's operations and supervision will prove to be unsatisfactory to someone. We will find that we ignored an important question or that we did not respond adequately to one that we specifically addressed. A technical amendments package will probably be necessary and I sincerely hope we conduct it under more usual legislative procedures.

EXPORT-IMPORT BANK

Our committee was involved in two subconferences with the Senate involving international issues within the jurisdiction of the Banking Committee. Our conference with Senate Banking on authorization levels for the U.S. Export-Import Bank resulted in a 2-year direct lending ceiling for Exim-Bank. The House accepted the Senate version which aggregated a fiscal year 1982 ceiling of $5.065 billion and a fiscal year 1983 ceiling of $5.413 passed by the House into a combined ceiling of $10.5 billion. Under extraordinary circumstances, the administration may use amounts designed for fiscal year 1983 in fiscal year 1982 if necessary to enhance the negotiating position of the United States within the international negotiations to limit export credits. In addition, the Senate yielded to the House on a provision to report to the Congress on the status of these negotiations and whether legislative initiatives could help bring about their successful conclusion.

MULTILATERAL BANKS

In the committee's subconference with the Senate Foreign Relations Committee, House and Senate agreed to adopt the full authorization limits for the multilateral development banks. The Senate had already passed bills apart from reconciliation to achieve this end. The House passed similar authorizing legislation as part of the reconciliation package but was unable to fully fund every program owing to the fact that the committee's CBO baseline was $850 million below what it should have been despite the fact these amounts had originally been included in the President's budget. The House yielded to the figures in the Senate-passed bills but demanded that the Senate accept a stretchout of the International Development Association to 4 years rather than 3 in response to desires of conservative critics of these programs.

The results of this subconference will enable the President to keep a promise made to other heads of state at the Ottawa Summit last week. In addition to previously authorized amounts, the conference report contains authorization language and caps as follows:

[In millions]

	Fiscal year 1982	Fiscal year 1983
World Bank (IBRD)	110	110
IDA	850	945
African Development Bank	18	18
Inter-American Development Bank	0	21
Fund for Special Operations	175	175
Asian Development Fund	111	111

TREASURY SALARIES

The resolution reported by the House Banking Committee contained a number of arbitrary cuts in the salaries and expense accounts of a variety of Treasury Department divisions. During the conference most of these cuts were eliminated.

The Office of International Affairs authorization was increased about $1 million over the House-approved figure and its authorization made permanent as it had been up until a few years ago.

Interestingly enough, the Bureau of the Mint which has always had a permanent authorization had that permanent authorization terminated because members generally agreed more congressional oversight over mint operations was needed.

We favored the elimination of the committee-imposed reductions in these various salary and expense authorizations for the reason that they were made without the benefit of any hearings or other information to determine if they were appropriate or not. In our minority views on the bill we urged that the committee begin now a series of hearings into the operations of these various divisions so that we can determine before next year where realistic reductions can be made in these expenditures. We renew that request here. All should recognize that we are obligated to make further expenditure reductions for fiscal years 1983 and 1984. It will be harder each year to find appropriate places to cut and hearings such as we propose will enable us to cut responsibly.

MISCELLANEOUS SENATE PROVISIONS

The Senate bill contained two miscellaneous provisions which the House accepted.

The first was a provision to make it clear that manufactured homes are considered real estate for purposes of the usury override for mortgage loans contained in the Depository Institutions Deregulation and Monetary Control Act enacted last year. Because these manufactured homes are virtually the only kinds of homes many lower income people can afford this amendment could be important in assuring a flow of credit to finance them.

The second was a fairly technical amendment dealing with the phase-in of reserve requirements in Hawaiian banks.

CONCLUSION

Mr. Speaker, I believe your conferees have done a good job and that all Members can support the conference version of title III in good conscience.

However, I cannot conclude without expressing my conviction that we can and should work together in a bipartisan effort to improve the procedures that have been followed in this budget exercise. I think we can all be proud that we have put some teeth into the Budget Reconciliation Act and proud that by so doing we have demonstrated our commitment to fiscal responsibility. For once we have really tackled the tough problem of establishing firm parameters for the Federal budget. It has been enlightening—and sometimes disheartening—to see how deep some of the cuts must be in budget authority to achieve cuts of any significance in actual outlays. But we can be proud to have taken the first important step in responding to the Nation's mandate to change the direction of Federal involvement in the national economy. What I am not proud of is the fact that we have included in this bill so many legislative proposals essentially unrelated to expenditures that should have been handled under regular order. For the sake of expediency Members of both parties have gone along with this but few would deny that this is an abuse we should eliminate.

For example, I have previously protested the inclusion of the housing bill in title III. It is only an example because other committees have done the same thing. But here is a large and important bill dealing with all aspects of our housing and community development programs. This bill has always been brought to the floor under an open rule so that Members of all persuasions have an opportunity to at least try to change the committee's recommendations if they care to. This is the regular order of business under which our rules are designed to pre-

serve the rights of all Members. Unfortunately, those rights have been denied in this process. I would hope that Members of both parties can work together to develop some rules to assure that in the future no legislation not essential to the achievement of our budgetary objectives will be permitted in budget resolutions. At this point I include the following:

PROPOSED AMENDMENTS TO THE NATIONAL CONSUMER COOPERATIVE BANK ACT, (PUBLIC LAW 95-351, AS AMENDED)

A new Section 116 would be added to the National Consumer Cooperative Bank Act, to read as follows:

"SEC. 116. Notwithstanding any other provision of this Act:

(a) The Final Government Equity Redemption Date shall occur not later than December 31, 1981. On the Final Government Equity Redemption Date, the Secretary of the Treasury shall have purchased all Class A stock for which the Congress has appropriated funds and all such stock held by the United States on that date shall be redeemed by the Bank in exchange for class A notes issued by the Bank to the United States having a total face value equivalent to the total par value of the class A stock redeemed. The terms of the class A notes, including, without limitation, the payments to be made thereon and the preferences thereof, shall be the same as those set forth in Section 104 with respect to the class A stock; provided, that all references to dividends with respect to the class A stock shall be deemed to be references to interest payments with respect to the class A notes after 1990 that will assure full repayment of all such notes by no later than December 31, 2020.

(b) On the Final Government Equity Redemption Date, the Bank shall cease to be a mixed ownership Government corporation. The President of the United States shall continue to appoint, in addition to the member representing small business concerns as set forth in subsection 103(b), two Board members; one of which shall be selected from among the officers of the agencies and departments of the United States and the other of which shall be selected from among persons having extensive experience in the cooperative field representing low-income cooperatives eligible to borrow from the Bank. These two members shall replace the final two Board members selected from among the officers of the United States who resign according to the provisions of Section 103(b). The Director who is a Federal officer shall be entitled to sit on any committee of the Board. After the Final Government Equity Redemption Date, all non-Presidentially appointed vacancies on the Bank's Board of Directors shall be filled according to the Bank's bylaws.

(c) As used in Section 104(a), the terms "class A stock" and "stock" shall, after the Final Government Equity Redemption Date, mean "class A notes." For purposes of Section 107(a), class A notes shall be deemed paid-in capital of the Bank.

(d) Section 109 of the Bank Act is hereby amended as follows:

(a) The present Section 109 shall be designated as subsection (a), and the words "Until the Final Government Equity Redemption Date, but not thereafter" shall be deleted.

(b) The following new subsection (b) is inserted:

"(b) Notwithstanding any other provision of law, for purposes of the Internal Revenue Code of 1954 the Office of Self-Help and Technical Assistance shall be treated as a corporation operating as an organization within the meaning of Section 501(c)(3) of the Code so long as its authorities and activities are limited to those specified in sections 203 to 208 and section 210 of the Act."

(c) The following new subsection (c) is inserted:

"(c) Notwithstanding any other provision of law, for purposes of Subchapter T of the Internal Revenue Code (the 'Code'):

"(i) The Bank shall be treated as a corporation operating on the cooperative basis within the meaning of Section 1381(a)(2) of the Code.

"(ii) The term 'patronage dividend' as it applies to the Bank and as defined in section 1388(a) of the Code shall include any patronage refunds in the form of class B or class C stock or allocate surplus that are distributed or set aside by the Bank pursuant to section 104(i) of this Act.

"(iii) The terms 'written notice of allocation' and 'qualified written notices of allocation' as defined in sections 1388 (b) and (c) of the Code shall include, to the extent of par value, any class B or class C stock distributed by the Bank pursuant to section 104(i) of this Act and shall also include any allocated surplus set aside by the Bank pursuant to section 104(i) of this Act.

"(iv) Patrons of the Bank shall be deemed to have consented under section 1388(c)(2) of the Code to the inclusion in their incomes of any qualified written notices of allocation received by them from the Bank.

"(v) Any amounts required to be included in the incomes of patrons of the Bank with respect to class B or class C stock or allocated surplus shall be treated as earnings from business done by such patrons of the Bank with or for their own patrons."

(e) The date "October 1, 1983" appearing in Section 108(a) is changed to "October 1, 1985."

(f) On the Final Government Equity Redemption Date, Section 115 is repealed and a new Section 115 is substituted therefor to read as follows:

"The Farm Credit Administration and the General Accounting Office shall have the authority to examine and audit the Bank and reports of such examinations and audits shall be forwarded to the Congress."

(g) On the Final Government Equity Redemption Date, Section 301 is repealed, and Section 302 is amended by deleting the words "(123) Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank."

(h) The first sentence of Sec. 104(a) is amended by inserting "by other public or private investors" after "public bodies."

(i) Section 105 of the Bank Act is hereby amended as follows:

(a) In the first sentence of subsection (a), the phrase "legally chartered entity entirely owned and controlled by any such organization or organizations" is deleted and there is inserted in lieu thereof the phrase "federation of cooperatives primarily owned or controlled by eligible cooperatives."

(j) Subsection 104(h) is hereby amended by adding a third sentence which shall read:

"Contributions to the Office of Self-Help and Technical Assistance from any person shall qualify as charitable contributions, as defined in Section 170(c) of the Internal Revenue Code of 1954, for purposes of the charitable contribution deduction provided for in Section 170(a) of the Internal Revenue Code, and shall also qualify for the deductions for estate and gift tax purposes provided for in Sections 2055 and 2522 of the Internal Revenue Code."

(k) Section 107 of the Bank Act is hereby amended as follows:

(a) The phrase "after consultation with the Secretary of the Treasury" is deleted from the second sentence of subsection (a).

(b) The following new subsection is inserted:

"(e) The Bank may issue bonds the interest on which shall be exempt from Federal income taxation: Provided, that the total principal amount of such bonds ever sold shall not exceed $100,000,000 during the life of the Bank."

(l) On December 31, 1981, the Office of Self-Help Development and Technical Assistance shall be abolished and its assets and liabilities shall be transferred to a nonprofit corporation to be established by the Board of Directors of the Bank under the provisions of the District of Columbia Non Profit Corporation Act (D.C. Code, Sec. 29-1001 et seq.). The Board of Directors of the Bank shall name the Directors of such corporation. Such Corporation shall perform the functions of the Office as specified in sections 203 to 208 and section 210 of the Act. Nothing contained in this section shall be interpreted to preclude the Bank from providing administrative or staff support to the Self-Help fund or to preclude members of the Bank's board of directors from serving as directors of the Self-Help Fund."

(m) The Board may make contributions to the corporation established under section (1) above in such amounts as the Board of Directors of the Bank deem appropriate, provided that such contributions may be made only out of the Bank's earnings determined in accordance with generally accepted accounting principles, and provided further, that the Bank shall set aside amounts sufficient to satisfy its obligations to the Secretary of the Treasury for payments of principal and interest on the class A notes and other debt before making any contributions to such corporation.

(n) The first sentence of Sec. 202 of such Act is amended by striking out "10,000,000 dollars for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65 million for the purposes of making advances under Sec. 203 of this Act" and by inserting in lieu thereof, "for the purpose of making advances under Sec. 203 of this Act an amount not to exceed $14 million for fiscal year 1982."

(o) The third sentence of Sec. 202 of such Act is amended by striking out "shall also be deposited in the Account" and by inserting in lieu thereof, "shall be available for use as directed by the Board of Directors of the Bank to cover the expenses of Title II activities."

EXPLANATION OF AMENDMENT TO NATIONAL CONSUMER COOPERATIVE BANK ACT

This amendment privatizes the National Consumer Cooperative Bank. It eliminates the Government involvement. Permitting immediate privatizing of the Bank strikes a middle ground. The amendment would accomplish this by:

1. Requiring the redemption, by December 31, 1981, of all Class A stock in the Bank held by the Secretary of the Treasury on behalf of the United States in exchange for equal value of Bank's debt obligations being issued to the Treasury. The terms and con-

ditions of these debt obligations such as interest payments, principal repayments and maturity would be exactly the same as under the present Bank charter act, except the Bank shall maintain a repayment schedule after 1990 which will assure payment of all Government debt by 2020 and at least 30 percent of revenues from sale of stock to nonborrowers after date of redemption must be used by the Bank to retire class A notes.

2. No further purchase of Class A stock by the Treasury will be permitted unless and until authorized by a further Act of Congress beyond $47 million for the Bank and $14 million for title II.

3. Elected shareholder directors will replace Government board members except that the President shall continue to appoint a representative of small business and two others to the 15-member board.

4. The Farm Credit Administration and GAO shall be responsible for the examination, audit, and supervision of the National Consumer Cooperative Bank. All salaries, administrative and other Bank costs shall be borne by the Bank from its own income on loans.

5. Privatization would take place no later than December 31, 1981 and after all stock purchases required by fiscal years 1981 and 1982 appropriations acts. After that date, the United States shall not be responsible for any obligation of the Bank.

6. The Bank would be treated as a cooperative for Federal tax purposes and the Office of Self-Help Development and Technical Assistance (low-income co-ops) would be treated as a charitable organization for purposes of section 501(c)(3) of the Internal Revenue Code with powers limited to their existing powers under sections 203, 208 and 210. Any additional activities by the Bank must meet the requirements prescribed by section 501(c)(3). The Bank would continue to be exempt from state and local taxes except real estate taxes.

7. The Bank would be authorized to make a portion of its income available to assist low-income co-ops under title II (self-help) which would become a separate non-profit entity under D.C. law.

8. Cooperatives eligible to receive loans from the Bank shall be amended so that any housing cooperative existing on March 21, 1980 would be eligible.

9. The of the Class A notes shall be treated as paid in capital of the Bank and the remainder shall remain first priority debt which cannot be subordinated to any new debt or equity instrument.

10. The Bank will not be authorized to issue tax exempt bonds.

11. Language will be developed by staff—if not, we go back to House language plus matter listed in item 8 above.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I congratulate the managers of the conference, especially the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island (Mr. ST GERMAIN), and our ranking member, the gentleman from Ohio (Mr. STANTON).

Mr. Speaker, I want to commend the managers from the Committee on Banking, Finance and Urban Affairs for their leadership in representing the position of the House with respect to the Omnibus Budget Reconciliation Act of 1981. Both the distinguished chairman of the Banking Committee, Mr. ST GERMAIN, and the distinguished ranking member, Mr. STANTON of Ohio, have skillfully represented the House in prolonged discussions with the other body, and I fully support the product of their efforts.

I would specifically like to address the provision in the Budget Act pertaining to the national flood insurance program and undeveloped coastal barriers on the Atlantic and Gulf of Mexico coasts of the United States. As a conferee from the Banking Committee, and a coauthor of this language along with the distinguished chairman, Mr. ST GERMAIN, it is important to firmly establish the legislative intent of the sponsors of the provision. My comments have been cleared with the chairman and ranking member and represent our joint interpretation of the flood insurance provision.

Section 1321 of title III, chapter 4 of the House-passed version of the Omnibus Budget Reconciliation Act of 1981 prohibited the sale of Federal flood insurance for new construction or substantial improvements of structures located on undeveloped coastal barriers on the Atlantic and gulf coasts. The Secretary of the Interior was given 90 days to designate the affected areas pursuant to several criteria contained in the statute, and the prohibition of Federal flood insurance would have been effective immediately thereafter. The Senate had no comparable language in their version of the Budget Act.

In conference, members of the House and Senate Banking Committees adopted a compromise which established October 1, 1983, as the effective date of the prohibition on flood insurance. The Secretary of the Interior will have 1 year, rather than 90 days, to designate undeveloped coastal barriers. I believe this is a fair compromise. It establishes a date certain to end Federal involvement and taxpayers' subsidies in coastal barrier flood insurance, yet it allows a transition period of 2 years for those who have purchased coastal barrier properties with the expectation of receiving Federal flood insurance. In the following remarks I set forth a more detailed explanation of the provision adopted by the conferees.

Section 1321(a) provides that as of October 1, 1983, there will be a prohibition on the sale of Federal flood insurance for new construction or substantial improvements of structures on undeveloped coastal barriers on the Atlantic and gulf coasts as designated by the Secretary of the Interior. The terms new construction and substantial improvements are standard terms defined in regulations issued by the Federal Insurance Administration (44 CFR 59.1). Prior to October 1, 1983, any structures which may be erected in an area designated as an undeveloped coastal barrier will still be eligible for Federal flood insurance.

Section 1321(b) establishes three standards to guide the Secretary in designating undeveloped coastal barriers. Before describing those standards, it is important to note that the Department of the Interior has, for several years, conducted an ongoing inventory and classification of coastal barriers on the Atlantic and gulf coasts of the United States. In 1981, in response to a request from the Congress, the Department developed a list of undeveloped coastal barriers which met criteria indentical to those specified in section 1321(b). It is the intent of the authors of section 1321 that this inventory, which is presently being reviewed by State and local government officials and other interested parties, will provide the basis for designations by the Secretary. It is expected, of course, that the Secretary will refine the existing inventory after having reviewed this section.

Section 1321(b)(1): the House adopted, and the Senate agreed to, a provision stipulating a definition of the term coastal barrier which only includes true barrier islands, as well as closely related geologic features such as bay barriers, spits, and tombolos. A coastal barrier is defined as a geologic feature that consists of unconsolidated sedimentary materials, is subject to wave, tidal, and wind energies, and protects landward aquatic habitats from direct wave attack. Consistent with the Department's ongoing inventory, including the list developed in 1981, it is not the intent of the authors that this definition include areas such as the interiors of large embayments such as the Chesapeake Bay.

Regarding the determination of which coastal barriers are undeveloped, the House adopted, and the Senate agreed to, section 1321(b)(2) which requires that an undeveloped coastal barrier shall be treated as such only if there are few people-made structures on the barrier, or portion of a barrier, so that these structures and human activities on the barrier do not significantly impede geomorphic and ecological processes. In interpreting the first aspect of this standard, the authors intend that the Department use the same standard which they have used in their ongoing inventory of coastal barriers. That is, an area which averages less than one structure per 5 acres should be considered undeveloped. We also expect, and this was noted in the report from the Banking Committee, that the Department will take into account the level of infrastructure—roads, water, sewers, electric lines, jetties, and so forth—in place in making this determination.

For example, the presence of scattered structures with no associated infrastructure suggests that an area is not developed. On the other hand, an area which has a full complement of infrastructure; that is, some combination of the above-mentioned items, but no structures, should be considered as being already developed. Consistent with the Department's ongoing inventory, we expect that in designating undeveloped portions of coastal barriers that such units will be at least one-quarter mile in length.

The last of the three criteria guiding the Secretary's designations is contained in section 1321(b)(3). This paragraph provides that a coastal barrier which is included within the boundaries of an area established under Federal, State, or local law, or held by a qualified nonprofit organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes shall not be designated as an undeveloped coastal barrier for purposes of denying Federal flood insurance. As is noted in the conference report, our intention is that a qualified nonprofit organization is one which has the intent and capability to maintain the natural character of coastal barrier ecosystems.

Section 1321(c) codifies an opinion of the General Counsel of the Federal Emergency Management Agency that a federally related lending institution, such as a bank or a savings and loan association, may make loans secured by structures which are not eligible for flood insurance by reason of subsection (a) of this section. In other words, this provision severs the linkage between Federal flood insurance and the availability of mortgage money where flood insurance has been denied on undeveloped coastal barriers.

Finally, section 1321(d) requires that the Secretary conduct a study for the purpose of designating undeveloped coastal barriers and, not later than 1 year from the date of enactment, transmit to the Congress a report of the findings and conclusions of such study together with any recommendations regarding the definition of the term coastal barrier as used in this section. Although the Secretary is required to report to the Congress on these matters, the Secretary's designations of undeveloped coastal barriers shall be effective unless altered by act of Congress. Since the prohibition on flood insurance does not take effect until October 1, 1983, it is the intent of the authors that structures which are erected after an area has been designated as an undeveloped coastal barrier—but before October 1, 1983—will be eligible for Federal flood insurance.

Mr. Speaker, this concludes the interpretation of the authors of the provision in the Budget Act pertaining to flood insurance on undeveloped coastal barriers. As the coauthor of this provision with my distinguished colleague from Rhode Island, Mr. ST GERMAIN, I am pleased at the compromise which has been agreed to by the conferees and it has my full support.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, I would like to say a word about the undeveloped coastal barriers provisions of the conference report. Initially the House bill provided that no new flood insurance coverage could be provided for any new construction or substantial improvement of structures on undeveloped coastal barriers designated by the Secretary of the Interior. The Senate bill contained no such provision.

Further, the House bill contained a provision defining a coastal barrier and requiring the Secretary of the Interior to designate coastal barriers within 90 days of the enactment of this bill.

I understand there was serious opposition to the House proposal on undeveloped coastal barriers which was compromised as follows:

First, the prohibition on new flood insurance on undeveloped barrier islands will not become effective until October 1, 1983.

Second, there was a fundamental difference of opinion over the definition of a coastal barrier and the meaning of the word undeveloped. The matter was resolved by accepting for the time being the House definition until the Secretary has an opportunity during the next year to study the problem and make recommendations to the Congress regarding the appropriate definition of the term coastal barrier.

The Secretary must also develop a principled definition of what is undeveloped in order to implement the act's vague standard of few manmade structures.

I understand in defining undeveloped coastal barriers, only coastal barriers which are truly undeveloped, unstable and environmentally fragile, either islands or coastal barriers which are connected to the mainland, but which serve in any event to protect the mainland from the effects of ocean wind, wave and tidal energies, are the subject of this legislation.

I further understand the 90-day period within which the Secretary of the Interior was to designate undeveloped coastal barriers was deleted and the designation period was extended in the compromise by providing that the study to be conducted by the Secretary of the Interior be submitted to Congress within 1 year of enactment. The report of the managers took notice of some maps that were prepared by the staff of the Fish and Wildlife Service earlier this year. I note also that the National Park Service also prepared studies and inventories of barriers in previous years. I understand it was not the intent of the conferees to endorse any of these maps. Rather, it was the expectation that the findings and conclusions of the Secretary's study mandated in this compromise would be used as a basis for the designation process.

Mr. ST GERMAIN. Mr. Speaker, in response to the gentleman from Louisiana, let me state that I would reply in the affirmative to the issues that he has just raised regarding the provision in title III which would prohibit new flood insurance on undeveloped barrier islands.

In response to the last question raised by the gentleman with regard to the list of undeveloped coastal barriers that have been developed by the Department of the Interior, the gentleman states that his impression was that it was not the intent of the conferees to endorse any of these maps. Let me say that it was the conferees expectation that these maps would be used as a basis for the designation.

Mr. Speaker, I would not want to leave the impression that the conferees did endorse or did not endorse any particular maps that have been developed by the Department of the Interior. Let me direct the gentleman's attention to the statement of managers which from our part clearly outlines our intentions with regard to this matter. The statement of managers states:

> The conferees note that in 1981 in response to a request from the Congress, the Department of the Interior developed a list of undeveloped coastal barriers which may meet the criteria in this section. The conferees expect that this inventory may provide a basis for the designation by the Secretary. However, the conferees expect the Secretary to review carefully the definition contained in section 321 in preparing the report of findings and proposed designations of areas covered in this section.

The point that I am trying to make to my colleague is that these maps will serve as a basis upon which the Secretary of the Interior will be reporting back to us in 1 year as to what these barrier islands are. They are not the final list. Certainly there will be changes, revisions, deletions, and additions, but they should serve as a basis upon which the Secretary will be reporting to us.

Mr. GONZALEZ. Mr. Speaker, the Committee on Banking, Finance and Urban Affairs had the difficult and onerous task of making the biggest budget cuts of all. In turn, my own Subcommittee on Housing and Community Development was assigned the greatest budget cuts of any in the House.

Gramm-Latta II forced my subcommittee to cut housing programs by no

less than 40 percent—a disproportionate and disastrous cut. The people in greatest need of housing in this country are going to find it increasingly difficult to find any kind of housing that they can afford, let alone any decent housing, under the program this bill will provide.

Notwithstanding the fact that Gramm-Latta II makes no recognition of the enormous unmet needs the people of this country have for housing, and notwithstanding the fact that it will place tremendous burdens on communities that cannot make up for the losses in Federal assistance that will take place, my subcommittee worked in good faith to produce a bill that reflects the will of the majority of the House that voted for Gramm-Latta II.

Insofar as the housing and community development provisions of the bill are concerned, there were substantial differences between the House and Senate, as the conference report will clearly show. We resolved those differences in a way that produces the fairest bill possible—but a bill that inevitably falls far short of any realistic program for housing and community development. The conference report represents the best product that could be salvaged from the wreckage of Gramm-Latta II. Perhaps I should say Mr. Stockman, since in the case of housing and community development programs, not even the putative authors were allowed to see the language until after it was introduced, so great a control did Mr. Stockman exert over their supposedly independent judgment.

With respect to community development block grants, we provided for a greater amount of community planning than the House bill called for, so that there will be at least some assurance that recipients of the funds will use them for actual development needs. As called for in the House version of the bill, community development block grants would have been reduced to general revenue sharing. The conference report maintains some semblance of citizen participation in community planning efforts, and provides for some extremely modest guidance in what communities can use the funds for.

Further, also with respect to urban development action grants, we accepted the Senate language, which maintains UDAG as a separate program rather than a set-aside within CDBG funds. The conference agreement provides a $500 million authorization for UDAG in both fiscal years 1982 and 1983. We also provide that commitments made under the previous UDAG law will be honored.

With respect to the small cities program of CDBG, the agreement turns administration over to the States, which may or may not elect to take over the program. This particular action has caused great concern among small cities, which feared that the House language would turn CDBG into a kind of slush fund for the States, since there was no limitation on how much the States might take for administrative costs, nor much guidance on how the States would administer the program. The conference agreement limits State administrative expenses, requires a 10-percent match by participating States, and requires States to consult with local officials in determining fund allocations.

The Senate had a provision that allows metropolitan areas to receive funds that are unused by communities within a given area. Some communities around Detroit, for example, do not use CDBG funds. The bill permits central cities or other communities to obtain unused funds within their area, rather than requiring that such unused funds be turned back to HUD for national redistribution.

With regard to assisted housing, the conference agreement splits the difference between the House and Senate funding levels. Of the new units to be provided, 45.4 percent will be existing units, and the balance either new or substantially rehabilitated homes. We expect that 17,000 units will be set aside for State housing finance agencies and 4,000 units for Farmers Home Administration section 8 units. We hope that at least 2,500 Indian housing units will be provided. Altogether, assisted housing production will of course decline substantially—probably on the order of 30 percent, depending on economic developments. At best, I estimate that this bill will provide for only 153,000 new assisted housing units—only one-fourth of what a realistic goal would be in light of the need for decent, low-cost housing in this country today.

The bill will result in tenant rent increases, but hopefully these increases will be held to levels that can be managed by the low-income tenants they are aimed at. By and large these are people who have nothing to spare, and my fear is that those people in public housing who now pay the highest rents will simply elect to move out of adequate public housing and into substandard housing as a means to maintain their income. These are people who must choose between being able to buy clothing and shoes, or paying more rent. Since their total income is likely to be reduced by other elements of Gramm-Latta, there is no way that these people can reasonably be expected to pay the higher rents this bill requires. Nevertheless, this is an area for which there was no maneuvering room and the rent increase was a foregone conclusion.

With respect to other matters, we were able to maintain the House provision permitting section 8 units to be constructed in areas where there is rent control. Section 8 units are exempt for rent control in the first place, and whether or not there is rent control is properly a local matter. The bill extends the crime, riot, and flood control provisions, FHA insuring authorities and GNMA tandem program. I am disappointed that the Senate did not agree to the House provision for higher single-family loan limits—particularly in light of the astonishing increases in home prices that we have seen in the last few months. However, the conferees do expect the Secretary of HUD to be more liberal in his interpretation of high-cost areas, so that there will be a more reasonable application of the loan limits.

There is not time in the few minutes that I have available to discuss all the agreements that we arrived at in conference. The agreement does reach the budget targets required, it represents a reasonable consensus on matters in conflict between the House and Senate, and it clearly reflects a good faith effort on the part of all conferees.

I want to close by commending Chairman ST GERMAIN for his outstanding leadership on this most difficult assignment, and also to thank the staff of my subcommittee for an outstanding effort on a complex and nasty set of problems. We have accomplished a great deal in this conference. The final product is anything but a reasonable program to meet clearly defined national needs, but it is the best that could be obtained in the circumstances. This would not have been possible without the dedicated and effective efforts of Chairman ST GERMAIN and a truly outstanding and professional staff, and I commend them for that effort and leadership.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 6 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, there is no doubt in my mind that the people prefer less taxation to bigger Government.

I am in favor of cutting taxes this year, but I feel the way we went about it was wrong. I, along with many other Members, strived hard to make the best out of a bad situation. But, I think that if you were to look clearly through today's rhetoric to the essence of what is happening by the adoption of this conference report, you will see a dramatic, and I believe harmful, change in the course of our Nation. This bill in my eyes is the first long step in the Federal Government walking away from its efforts to improve the lives of those who are less fortunate in our society.

I can certainly understand why many people in the country want cut-

backs in Federal spending. Our country is clearly being hurt by inflation year after year as it eats away at our real wages.

But, I believe that cutting back on Federal spending for the needy is not the way we are going to cure inflation.

Earlier this year, we had expert objective testimony before the Committee on Education and Labor which showed that all of these cutbacks will have a negligible impact on inflation, less than two-tenths of 1 percent.

Far more important to explaining the high level of inflation is the price of oil. The evidence for that statement is that every major industrialized country has been experiencing a high rate of inflation within the last few years. And these countries vary from those which provide higher levels of social services than the United States, such as West Germany, to countries which provide fewer social services such as Japan. So the extent of Federal spending is being painted as the culprit when it is not the true cause of inflation.

And in the process of attacking the wrong target for inflation we will be inflicting real harm on many of our citizens and long-term harm on the country as a whole.

The cutbacks in spending for housing, food stamps, child welfare services and in many other areas will soon be felt in the country. I am sure that others will talk about them so I would like to concentrate solely on some of the effects which will come from cutbacks in programs within the jurisdiction of the Committee on Education and Labor.

First, there will be an immediate loss of over 300,000 jobs in public service employment through a cutback of over $3 billion in funding for that employment under the Comprehensive Employment and Training Act.

Second, there will be a 33-percent reduction in the other programs under CETA including the basic training programs and the youth employment and training programs.

Third, there will be the elimination of 1 million students from the guaranteed student loan program as well as the possible elimination of thousands more in the Pell grant program.

Fourth, there will be the probability that hundreds of school districts will drop out of the school lunch program due to a 42-percent cutback in the reimbursements for paying students, and if these schools eliminate their lunch programs there will be no free or reduced price meals for thousands of needy children.

Fifth, a whole range of smaller programs will be held at their current funding or decreased such as the school library book program.

Sixth, many programs will be permitted only a nominal increase which will not keep up with inflation and therefore will mean the elimination of services for some children. For instance, the title I compensatory education program will only be increased 12 percent from fiscal year 1981 to fiscal year 1984. Clearly, even a low rate of inflation will exceed 12 percent over those 4 years.

I know that these cutbacks and eliminations are not as draconian as those the President originally proposed. For instance, the President proposed 25 percent in cutbacks in elementary and secondary education funding and the real cutback may be in the range of 5 to 10 percent. But, what must be emphasized is the cumulative impact of all of these cutbacks. Many schools benefit from CETA youth workers; many aging programs also use CETA employees. All of these cutbacks will squeeze programs from many different directions.

And, there is little chance of relief at the State or local levels. The National Conference of State Legislators reported yesterday that almost one-half of the States are facing deficits in their financing. Only 10 States have healthy surpluses. So, it is myth to say that these cutbacks at the Federal level will be picked up at the State and local levels.

For all of these reasons I am opposing the conference report today. I believe that the adoption of this conference report will take this country precisely in the wrong direction, abandoning neediest citizens, while helping very little in the fight against inflation.

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Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in support of the conference report on the Omnibus Reconciliation Act of 1981 and urge its adoption. The conference agreement culminates months of work, requiring much time and energy, as my colleagues well know. Yet the process moved forward more expeditiously than many skeptics had imagined possible, given the complexity and scope of this legislation.

Like any agreement reflecting many compromises on so many diverse subjects, none of us is pleased probably with every decision made. Still, I believe we can take pride in bringing to the floor today an agreement that represents the most significant and concrete response this body has ever made in direct response to our country's need for fiscal restraint and improved Government efficiency.

But I would point out that the hard work is only beginning. It is imperative that we continue to exercise restraint and determination to vigilantly insure that the momentous steps we are taking today succeed in checking the limitless expenditures of the past.

Time and again I have warned of the dangers of reckless overspending and the futility of short-term, stop-gap solutions. I pointed out that we were living in a fool's paradise—overpromising and overspending. The dangers of pursuing that course of action have at last hit home. As a long-time advocate of restraint in Federal spending, I applaud this necessary action in regaining control of Federal spending.

The Budget Committee gave the Education and Labor Committee the unenviable job of coming up with approximately one-third of the total savings required by the first budget resolution. We did not lightly assume this awesome task. We made a sincere effort to distribute cuts equitably, minimize the impact of cuts and retain the integrity of the programs under the committee's jurisdiction.

We are talking about programs that affect educationally disadvantaged and handicapped children, programs which provide financial aid to enable students of low- and middle-income families to obtain a college education, programs which offer training and jobs for American youth, programs which insure the nutritional well-being of millions of youngsters, as well as our needy elderly citizens. We examined these and many other programs to determine where and how we could reconcile proposed expenditures with the totals permitted by the first budget resolution. Then we worked with the conferees of the other body to improve our joint proposals so that necessary reductions were made in the most judicious and responsible manner possible.

The Education Consolidation and Improvement Act included within the Education and Labor title represents a genuine victory for the views of President Reagan and of the vast majority of American educators. Those views are that Federal aid for elementary and secondary schools should continue at a significant level, but should be so structured that education decisions are made at the State and local level, close to the people, and that school officials set their own priorities for funding programs within a wide range of choices, and do so with a minimum of paperwork and interference.

We have accomplished that, and the final product emerging from the elementary and secondary education miniconference was, in my judgment, superior to either the House or Senate versions of the bill standing alone.

We left the huge title I program for disadvantaged children intact as to the formula and method of distributing funds and the purpose for which those funds would be used. We left it without a specified dollar amount authorization, as under existing law, but in a

separate section provided for funding of $3.48 billion, for each of the fiscal years 1982, 1983, and 1984, which is an increase of $380 million over the 1981 level. But we stripped out of title I those detailed requirements and instructions on how to conduct programs which caused most of a staggering 5 million hours of paperwork each year just to administer the program at State and local levels.

We consolidated about 30 smaller programs into a single block grant funded at $589.4 million for each of the fiscal years 1982, 1983, and 1984. At least 93 percent of this goes to the States on a school-age population basis, with up to 1 percent for the outlying territories and up to 6 percent retained by the Secretary as a discretionary fund (much of which we earmarked for the most worthwhile national programs). Of the grants going to States (which includes the 50 States, Puerto Rico, and the District of Columbia), at least 80 percent must be distributed to local school districts, primarily on a school enrollment basis but weighted for extra cost factors such as concentrations of poverty.

This means that, for the first time, every State and school district will have its own pot of Federal funds with which to plan its own programs designed to meet its own needs. And neither the State nor Federal Government can tell a local school district how to spend its Federal funds, so long as it complies with the stated requirements of the law.

One of those requirements, which does not much vary from existing law for the individual programs we have consolidated, is that nonpublic schoolchildren and teachers are to participate equitably in the benefits of the programs, with an equitable share of the funds designated for that participation. This bill is fair. And it is only fair that when we use all the taxpayers' money to improve the education of children, and count all the children to determine the distribution of funds, we insure that all children will participate equitably in those benefits without regard to whether they attend public or private schools. That has been our national policy since the National Defense Education Act of 1958, and this new act continues that in a way guaranteed to be effective.

This act—and I confess to taking enormous pride in being the author of the versions adopted by both the House and Senate—restores the balance of education power to the State and local agencies in dramatic ways. Let me cite a few examples.

First, the Secretary's authority to issue regulations is strictly limited to (1) those necessary to carry out duties specifically assigned to him, (2) those necessary for proper fiscal audit, and (3) those necessary to insure compliance with specific requirements of the act (which are kept to a minimum). Then the bill states:

In all matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this (act).

I will bet most school people never thought they would live long enough to see that kind of language in a Federal aid to education law.

Second, there is a provision stating outright that the regulations which are issued shall not have the standing of a Federal statute. This brings to a screeching halt the practice of executive branch bureaucrats making law through regulation, at least under this act. I think there will be wide support for this among educators.

Third, when the Secretary moves to withhold funds from a State for an alleged infraction of the statute, the legal scales will no longer be heavily weighted in his favor. As things now stand, the courts must sustain the Secretary's findings if based upon "substantial evidence." In law, that really means that the great weight of evidence can be against the Secretary's position and he still wins. This act creates a presumption that State and local educational agencies have complied with the law, and the presumption can only be overcome if the position of the Secretary is "supported by the weight of evidence," which at law means a preponderance of evidence. Moreover, the Secretary can no longer withhold funds and negotiate from that position of strength, because the bill provides for the filing of an action against the withholding pending final determination of the matter in the courts. Again, a dramatic shift in the balance of power, and one long overdue.

There are a number of other less dramatic but important provisions for restoring authority to where it belongs. The necessary protections against supplanting local and State school funds with Federal dollars, and similar provisions, are retained but rewritten in such a way as to conform to actual school practices and not to require expensive procedures to avoid Federal audit exceptions over trivialities.

Finally, the act in very specific terms nails down "complete discretion, subject only to the provisions of this (act)" for local educational agencies in determining how to use funds under the consolidated programs. The act asserts this as a guarantee of local control, close to local voters and the parents of schoolchildren, even against efforts by the State to interfere in the use of Federal funds allocated under this program.

Of course, necessary authority is preserved for the State to insure that the specific requirements of the act are met, and for the Secretary to enforce compliance with those requirements. Essential accountability is preserved, but not at the expense of State and local responsibility and not through constant Federal bureaucratic intervention. The working philosophy of the new act is that educators and school officials are a lot more accountable than Federal bureaucrats. I expect to see this philosophy extended to Federal programs, even beyond education, which are not covered under this act.

In my 20 years as a Member of this body, I have seen a steady movement of power, authority, and responsibility to the Federal Government. One of the most disturbing trends has been the shift away from broad-based grants to narrow categorical programs. With this shift have come innumerable unnecessary requirements that complicate the job of efficient administration by the States.

I am pleased that in my 21st year here we are at last reversing that trend and shifting power back to the States.

If we approve the conference agreement before us today we will demonstrate that we had the courage to take a hard look at the distribution of power and programs and recognize the need for a new set of values—a new way of looking at Government roles.

I have been asked whether States are prepared to take over greater responsibility for administering some of these programs. Perhaps a dozen years ago some of the States would not have possessed the competence or qualified personnel. Today the picture is different.

I have also been asked how we can be sure that the States will be responsive to the special needs of constituencies and localities. The basic safeguard is the requirement that funds must be used for the purposes set forth in the legislation. And, in fact, the various constituencies will have more direct access through local and State officials to the decisionmaking process.

The conference committee action on student financial assistance programs reflects many hours of negotiation and compromise. Well aware of the escalating costs of higher education, we did our utmost to retain the opportunity for a college education for those students who need Federal assistance.

For example, a student from a family with less than $30,000 adjusted gross income will be eligible for a guaranteed student loan up to $2,500. Where the student's family income exceeds $30,000 after adjustment, he or

she will be required to show need in order to be eligible. The need analysis to be used for the GSL program will be determined by the Secretary of Education and subject to a one-House veto by Congress.

Only one substantive change is proposed in the basic educational opportunity grant program, or Pell grants. We establish a progressive assessment rate on family discretionary income in determining the expected family contribution toward the cost of education.

Head Start, a proven program with widespread support, is set up as a separate agency with a 3-year reauthorization. The authorization level for fiscal year 1982 is $950 million, with small increases authorized for the 2 succeeding fiscal years. A change was made in the Head Start formula permitting all States to be funded at a level higher than last year.

The conferees adopted a Senate proposal creating a Community Services Block Grant. This block grant contains all existing authority for the Community Services Administration, which will be terminated as a separate Federal agency. Most of the funds appropriated will be allotted to the States in the same proportion as under existing programs. Under discretionary authority granted to the Secretary of Health and Human Services, he can operate programs such as the Rural Development Loan Fund and programs for seasonal and migrant farmworkers. Efforts are underway to insure that community action programs move forward effectively through the transition.

With respect to the low-income energy assistance block grant, we essentially continue the existing program but reduce paperwork and redtape.

The Juvenile Justice Delinquency Prevention Act program, proposed for inclusion in the Social Services Block Grant requested by the administration, will not be consolidated. It will continue to be operated by the Department of Justice at an authorized level of $77 million. This has been an effective program which I have strongly supported.

For impact aid we authorized $475 million for both Public Laws 81-874 (maintenance and operations) and for 81-815 (school construction). Of this authorization $20 million would be used for construction under Public Law 815, $10 million would be available for disaster assistance, and another $10 million would be available for the land acquisition reimbursement section.

Payments for section "B" children would be phased out over a 3-year period. The Appropriations Committee will decide the allocation of funds among categories as they do under current law. Further, the schools funded under section 6 would be transferred to the Department of Defense budget.

To clear up the muddle caused by slapdash legislation enacted in an attempt to meet the needs of State and local governments impacted by the recent Cuban, Haitian, and Indochinese influx, we have consolidated several existing authorities for refugee education into a single authorization. By clarifying the definition of refugee and the method school districts must use to determine eligibility for assistance, we eliminate existing confusion caused by piecemeal legislation that added layer upon layer to the complex matrix of Federal education refugee programs.

We have authorized funds for the education of the handicapped programs at a higher level than last year and retain it as a separate program. More than $1 billion is authorized for education of the handicapped. The vocational rehabilitation programs are also authorized at a level in excess of $1 billion, and the act is kept in place as a separate program. The Child Abuse Prevention and Treatment Act also continued as a categorical program, with authorized spending limited to $19 million per year.

The child nutrition recommendations were carefully designed to achieve the necessary overall budget reductions while simultaneously guaranteeing the future financial soundness of these programs and insuring the nutritional well-being of the millions of youngsters served under the school lunch, special milk and related programs.

Despite sever cutbacks in the Comprehensive Employment and Training Act, necessitating elimination of public service jobs, we strove to keep in place the job training components necessary to insure the availability of a well-trained work force.

In sum, the provisions of title V of the legislation before us today reflect a reasonable and sensible approach to dealing with the sizable cuts mandated in programs under the Education and Labor Committee's jurisdiction. I strongly support the concept of requiring the committees of the Congress to reconcile the total amount of Federal expenditures under programs within their jurisdictions with the totals established by the budget resolution. And I would urge that we continue to view spending target in a multiyear context. The wisdom of taking a longer look at where we are headed cannot be overstated.

We had a difficult job to do. I firmly believe we can take pride in having done it with compassion in a fashion that will preserve the integrity of necessary Federal programs while at the same time truly moving us toward restoration of Federal financial stability.

AUTHORIZATION CAPS TABLE

Mr. Speaker, I conclude these remarks by placing in the CONGRESSIONAL RECORD a table showing the authorization caps adopted by the conferees pertaining to major programs within the jurisdiction of the Education and Labor Committee. The table lists each program alphabetically by its popular name and shows the authorization cap that was placed on each program for fiscal years 1982-84. This table should be helpful to Members in responding to the many queries they will undoubtedly receive concerning the content of the Omnibus Reconciliation Act.

Education and Labor Committee
alphabetical program list

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Adult Education Act	100.0
Alcohol and Drug Abuse Education Act (fiscal year 1982 only)	[a]3.0
American Printing House For the Blind	5.0
Arts and Artifacts Indemnity Act	[1]
Arts in Education (ESEA III-C)	[b]
Arts, National Endowment	119.3
Bankhead-Jones Act	[2]
Basic Skills (ESEA II)	[c]31.5
Bilingual Education (ESEA VII)	[d]139.970
Biomedical Sciences (ESEA III-L)	[c]3.0
Career Education Act (fiscal year 1982 only)	[e]10.0
Child Abuse Prevention and Treatment Act	[f]19.0
Civil Rights Act of 1964 (title IV)	[g]37.1
CLEO (HEA IX-D)	1.0
College libraries (HEA II) (see Higher Education Act)	12.2
College library resources (HEA II-A)	5.0
College work study (HEA IV-C)	550.0
Community schools (ESEA VIII)	[c]
Community services block grant	[h]
Compensatory education (ESEA I)	[c]3,480.0
Consumer education (ESEA III-E)	[c]
Consumer and homemaking education (see vocational education)	[i]
Cooperative education (HEA-VIII)	20.0
Correction education (ESEA III-J)	[c]
Councils on Equality in Education (ESEA V-C)	[c]
Cuban and Haitian domestic activities:	
Fiscal year 1982	94.0
Fiscal year 1983	59.0
Cuban and Haitian reception activities (fiscal year 1982)	20.0
Dawson, William Levi, Memorial	[3]
Dissemination of information (ESEA III-K)	[c]
Domestic Volunteer Service Act of 1978 (ACTION)	[j]

Education and Labor Committee
alphabetical program list—Continued

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Education and Consolidation and Improvement Act:	
Title I	3,480.0
Title II	589.368
Education, Department of (salaries and expenses)	[k] 308.0
Education of the Handicapped	[l]
Education of the Handicapped Act	
Part A—General Provisions	
Part B—Assistance for Education of All Handicapped Children	
Part C—Centers and Services to Meet Special Needs of the Handicapped	
Part D—Training Personnel for the Education of the Handicapped	
Part E—Research in the Education of the Handicapped	
Part F—Instructional Media for the Handicapped	
Part G—Special Programs for Children with Specific Learning Disabilities	
Education outreach programs (HEA I)	8.0
Educational proficiency (ESEA IX-B)	[c]
Elementary and Secondary Education Act	[c]
Title I—Financial Assistance to Meet Special Educational Needs of Children	3,480.0
Part A—Programs Operated by Local Educational Agencies	
Subpart 1—Basic Grants	
Subpart 2—Special Grants	
Subpart 3—Program Requirements and Applications	
Subpart 4—Exemptions from Certain Program Requirements	
Part B—Programs Operated by State Agencies	
Subpart 1—Programs for Migratory Children	
Subpart 2—Programs for Handicapped Children	
Subpart 3—Programs for Neglected and Delinquent Children	
Subpart 4—General Provisions for State Operated Programs	
Part C—State Administration of Programs and Projects	
Subpart 1—Applicability, State Applications	
Subpart 2—Duties Imposed on State Educational Agencies	
Subpart 3—Responsibilities of State Educational Agencies to Commissioner	
Part D—Federal Administration of Programs and Projects	
Part E—Payments	

Education and Labor Committee
alphabetical program list—Continued

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Part F—General Provisions	
Title II—Basic Skills Improvement	31.5
Part A—National Program	
Part B—State Basic Skills Improvement Program	
Part C—Special Programs for Improving Basic Skills	
Part D—General Provisions	
Title III—Special Projects: [4]	
Part A—General Provisions	25.5
Part B—Metric Education	1.38
Part C—Arts in Education	3.15
Part D—Preschool Partnership Programs	[3]
Part E—Consumer Education	3.6
Part F—Youth Employment	[3]
Part G—Law-Related Education	1.0
Part H—Environmental Education	[3]
Part I—Health Education	[3]
Part J—Correction Education	[3]
Part K—Dissemination of Information	[3]
Part L—Biomedical Sciences	3.0
Part M—Population Education	[3]
Title IV—Education Improvement, Resources, and Support:	
Part A—General Provisions	
Part B—Instructional Materials and School Library Resources	161.0
Part C—Improvement in Local Educational Practice	66.130
Part D—Guidance, Counseling, and Testing	15.0
Title V—State Leadership:	
Part A—Administration of Education Programs and Duties of the State Educational Agency	[1]
Part B—Strengthening State Educational Agency Management	$42.075
Part C—Councils on Equality in Education	[3]
Title VI—Emergency School Aid	149.292
Title VII—Bilingual Education Programs (not blocked)	139.970
Part A—Financial Assistance for Bilingual Education Programs	
Part B—Administration	
Part C—Supportive Services and Activities	
Part D—Continued Bilingual Education Assistance	
Title VIII—Community Schools	3.138
Title IX—Additional Programs:	
Part A—Gifted and Talented Children	5.652
Part B—Educational Proficiency Standards	[3]
Part C—Women's Educational Equity (not blocked)	6.0

Education and Labor Committee
alphabetical program list—Continued

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Part D—Special Grants for Safe Schools	[3]
Part E—Ethnic Heritage Program	2.25
Ellender fellowship program	1.0
Emergency school aid (ESEA-VI)	[c] 149.292
Environmental education (ESEA III-H)	[c]
FIPSE (HEA X)	13.5
Follow-Through	[c]
Gallaudet College	52.0
Gifted and talented (ESEA IX-A)	[c] 5.652
GPOP (HEA IX-B)	14.0
Grants to institutions of higher education (HEA IX-A)	[3]
Guam—land grant status for Virgin Islands and University of Guam	[1]
Guidance and counseling (ESEA IV-D)	[c] 15.0
Headstart:	
Fiscal year 1982	950.0
Fiscal year 1983	1,007.0
Fiscal year 1984	[n] 1,058.0
Health education (ESEA III-I)	[c]
HEP/CAMP (HEA IV A/5)	7.5
Herbert Hoover Memorial	[1]
Higher Education Act of 1965:	
Title I—Continuing postsecondary education program and planning:	
Part A—Commission on National Development in Postsecondary Education	[3]
Part B—Education Outreach Programs	8.0
Title II—College and Research Library Assistance and Library Training and Research:	
Part A—College Library Resources	5.0
Part B—Library Training, Research, and Development	1.2
Part C—Strengthening Research Library Resources	6.0
Part D—National Periodical System	[3]
Title III—Institutional Aid	129.6
Part A—Strengthening Institutions	
Part B—Aid to Institutions With Special Needs	
Part C—Challenge Grants for Insitutions Eligible for Assistance Under Part A or Part B	
Part D—General Provisions	
Title IV—Student Assistance:	
Part A—Grants to Students in Attendance at Institutions of Higher Education:	
Subpart 1—Basic Educational Opportunity Grants:	
Fiscal year 1982	2,650.0
Fiscal year 1983	2,800.0
Fiscal year 1984	3,000.0
Subpart 2—Supplemental Eduational Opportunity Grants	370.0

Education and Labor Committee alphabetical program list—Continued

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Subpart 3—Grants to States for State Student Incentives	76.8
Subpart 4—Special Programs for Students from Disadvantaged Backgrounds:	
Fiscal year 1982	165.0
Fiscal year 1983-84	170.0
Subpart 5—Special Programs for Students Whose Families are Engaged in Migrant and Seasonal Farmwork	7.5
Subpart 6—Assistance to Institutions of Higher Education	(o)
Part B—Federal, State, and Private Programs of Low-Interest Insured Loans to Students in Institutions of Higher Education	(p)
Part C—Work Study Programs	550.0
Part D—Vacant	
Part E—Direct Loans to Students in Institutions of Higher Education	286.0
Part F—General Provisions Relating to Student Assistance Programs	(q)
Title V—Teacher Corps and Teacher Training Programs:	
Part A—Teacher Corps Program (fiscal year 1982 only)	22.5
Part B—Teacher Training Programs (teachers centers, fiscal year 1982)	$9.1
Part C—Training for Elementary and Secondary School Teachers to Teach Handicapped Children in Areas With a Shortage	(s)
Part D—Coordination of Education Professional Development	(s)
Title VI—International Education Programs	30.6
Part A—International and Foreign Language Studies	
Part B—Business and International Education Programs	
Part C—General Provisions	
Title VII—Construction, Reconstruction, and Renovation of Academic Facilities:	
Part A—Grants for the Construction, Reconstruction and Renovation of Undergraduate Academic Facilities	(s)
Part B—Grants for Construction, Reconstruction and Renovation of Graduate Academic Facilities	(s)
Part C—Loans for Construction, Reconstruction and Renovation of Academic Facilities	(t)
Part D—General	
Title VIII—Cooperative Education	20.0

Education and Labor Committee alphabetical program list—Continued

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Title IX—Graduate Programs:	
Part A—Grants to Institutions of Higher Education	(s)
Part B—Fellowships for Graduate and Professional Study	14.0
Part C—National Graduate Fellows Program	(s)
Part D—Assistance for Training in the Legal Profession	1.0
Part E—Law School Clinical Experience Programs	1.0
Title X—Fund for Improvement of Postsecondary Education	13.5
Part A—Establishment and Operation of Fund	
Part B—Establishment of Agencies	
Title XI—Urban Grant University Program	(t)
Howard University	145.2
Humanities, National Endowment	113.7
Impact aid (construction)	(r) 20.0
Impact aid (payments)	(r) 455.0
Impact Aid Study Commission	(s)
Improvement in LEA practice	(c)
Indian Education Act:	
Fiscal year 1982	81.7
Fiscal year 1983	88.4
Fiscal year 1984	95.3
Institutional assistance (HEA III)	129.6
International education (HEA VI)	30.6
International Year of the Child	(s)
James, Chappee Memorial	(s)
Johnson-O'Malley	(s)
Juvenile Justice and Delinquency Prevention Act of 1974	(t)
Kendall School (included under Gallaudet)	(c)
Law-related education (ESEA III-G)	c1.0
Law school clinical (HEA IX-E)	1.0
Library materials (ESEA IV-B)	c161.0
Library Services and Construction Act	80.0
Allocated as follows:	
Title I—Library Services	65.0
Title II—Public Library Construction	(s)
Title III—Interlibrary Cooperation	15.0
Title IV—Older Readers Service	(t)
Loans for construction (HEA VII-C)	(t)
Low-income energy assistance	(u)
Metric education (ESEA III-B)	c1.38
Minority science program	5.0
Model Secondary School for the Deaf Act	(s)
Museum Services Act	9.6
National Academy of Peace and Conflict Resolution	(s)
National Center for Education Statistics	8.947
National Commission on Libraries and Information Services	.7

Education and Labor Committee alphabetical program list—Continued

[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

National Foundation on the Arts and Humanities Act of 1965	(s)
National graduate fellowships (HEA IX-C)	(s)
National Institute of Education	55.614
National Periodical Center (HEA II-D)	(s)
National Technical Institute for the Deaf Act	26.3
National Science Foundation precollege teacher training (fiscal year 1982 only)	(c)
Native Hawaiian study	(s)
Navajo Community College Act	(s)
Older Americans Act of 1965 (title IV)	(v)
Older Americans Act Amendments of 1978	(v)
Pell grants (HEA IV-A/1):	
Fiscal year 1982	2,650.0
Fiscal year 1983	2,800.0
Fiscal year 1984	3,000.0
Population education (ESEA III-M)	(c)
Preschool partnership (ESEA III-D)	(c)
Refugee education consolidation (education provisions):	
Fiscal year 1982	5.0
Fiscal year 1983	7.5
Fiscal year 1984	10.0
Rehabilitation Act of 1973	(w)
Research libraries (HEA II-C)	6.0
Safe schools (ESEA IX-D)	(c)
Second Morrill Act	(7)
SEOG (HEA-V A/2)	370.0
Snyder Act	(s)
Special projects (ESEA III)	(c)
SSIG (HEA-A/3)	76.8
State leadership (ESEA-V)	(c)
Strengthening State educational management (ESEA-V-B)	(c) 42.075
Student assistance (HEA-IV)	(s)
Taft Memorial	(s)
Teacher centers (HEA V-B)	(c) 9.1
Teacher Corps (HEA V-A)	(c) 22.5
Territorial teacher training	(1)
Tribally Controlled Community College Assistance Act	(s)
TRIO (HEA IV-A/4):	
Fiscal year 1982	165.0
Fiscal year 1983-84	170.0
Truman (Harry S) memorial scholarships	(1)
Urban grant universities (HEA XI)	(1)
Virgin Islands, general assistance to	2.7
Virgin Islands and University of Guam land grant status	(1)
Vocational Education Act of 1963	735.0
Part A—State Vocational Education Programs	
Subpart 1—General Provisions	
Subpart 2—Basic Grant	
Subpart 3—Program Improvement and Supportive Services	
Subpart 4—Special Programs for the Disadvantaged	

Education and Labor Committee
alphabetical program list—Continued
[Authorization level as established by the Omnibus Reconciliation Act for each of fiscal years 1982-84, in millions of dollars]

Subpart 5—Consumer and Homemaking Education	
Part B—National Programs	
Subpart 1—General Provisions	
Subpart 2—Programs of National Significance	
Subpart 3—Bilingual Vocational Training	
Subpart 4—Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities	
Part C—Definitions	
Vocational rehabilitation	(w)
Women's Educational Equality Act (ESEA IX-C)	6.0

(a) The Alcohol & Drug Abuse Education Act (ADAEA) is included in the Education Consolidation and Improvement Act (education block grant) under the Secretary's Discretionary program. ADAEA is one of three protected programs in the Secretary's Discretionary program, meaning that with the funds appropriated for discretionary activities, the Secretary must fund the ADAEA at $3.0 million (the fiscal year 1981 level of appropriation). This provision, for all practical purposes, ensures funding for the ADAEA because the Secretary's Discretionary funding is 6 percent of the appropriation for title II of the education block grant.

[Note.—The fact that the Omnibus Reconciliation Act lists $3.0 million as the funding level for fiscal year 1982 only does not affect the protected status of ADAEA in fiscal years 1983 or 1984. The reason behind listing only the fiscal year 1982 authorization level is further explained in footnote C.]

(b) The Arts in Education Act, currently authorized as title III, part C of the Elementary and Secondary Education Act, is folded into the education block grant. This means that a state can use any of the funds allocated under title II of the education block grant to fund arts in education programs at the state level, as can the local educational agency at the local level.

Important is the fact that the national programs under the arts in education provision are among those of protected status under the Secretary's discretionary authority under the education block grant as described in detail in footnote A.

(c) The Education Consolidation and Improvement Act (ECIA) was a major accomplishment in the Omnibus Reconciliation Act. Among those questions most frequently asked about the education block grant are:

How many programs were consolidate in the block grant?

The ECIA has three titles, two of which contain program authorizations. Title I provides financial assistance to meet the special educational needs of disadvantaged children (identical to current law of ESEA, title I with respect to the formula, and similar in other areas except for the reduction of paperwork and administrative burdens). Title II consolidates several categorical programs totaling 33 in number. They are:

Basic Skills (ESEA—title II);

Special Projects (ESEA—title III) (There are 14 separate programs authorized under title III of ESEA.);

Education Improvement, Resources and Support (There are 3 separate programs authorized under title IV of ESEA.);

State Leadership (ESEA-title V). (There are 3 separate programs authorized under title V.);

Emergency School Aid Act (ESEA-title VI);

Community Schools (ESEA-title VIII);

Additional Programs (ESEA-title IX). (There are 5 separate program authorizations under title IX, but only 4 are consolidated. The Women's Educational Equity Act is not included in the education block grant.);

The Alcohol and Drug Abuse Education Act;

Teacher Corps (HEA-title V, part A);

Teacher Center (HEA, section 532);

Follow-Through (on a phased basis);

The National Science Foundation pre-college science teacher training program; and

The Career Education Act.

When will the education block grant go into effect?

The funding schedule for most education programs is currently structured so that the appropriations made in any given fiscal year are used during the following fiscal year (or the next school year). Therefore, under the education block grant, funds appropriated in fiscal year 1982 will be used under the provisions of the block grant in school year 1982-83.

Why is there a separate authorization level in FY 82 for each categorical program that is subsequently merged into the consolidation program?

This is a matter of drafting and has been of significant confusion to those reviewing the block grants. The legal experts conclude that the authority in the education block grant allows the appropriations committee to appropriate funds either as a block or as categorical programs. Either way, the funds will not be obligated prior to July 1, 1982, and at that time they will be obligated under the provisions of the education block grant. This is a confusing provision and should be reviewed in context of the entire bill.

What are the authorization levels of the education block grant?

Funds authorized under the block grant for title I are $3.48 billion for each of fiscal years 1982-84, while funds authorized under the block grant for title II are $589.368 for each of fiscal years 1982-84.

[Note.—If the appropriations committee chose to authorize the act under the separate categorical authorization caps in fiscal year 1982, the level for that year alone could reach.]

(d) The Bilingual Education Act (ESEA-VII) was not included in the education block grant. The authorization level for this program was established at $139.970 for each of the fiscal years 1982-84. (That amount does not include the authorization for bilingual vocational education, which is authorized separately under the Vocational Education Act.)

(e) The Career Education Act was folded into the education block grant during the conference consideration.

(f) The Child Abuse Prevention and Treatment Act was not included in the Social Services block grant. Of the $19.0 million conference-adopted authorization level, $2 million will be spent on the Adoption Reform Act (title II) and $7 million will be set aside for the state grant program, with the remaining funds to be used through the Secretary's discretionary funds.

(g) Title IV of the Civil Rights Act of 1964 provides for technical assistance and training authority (sections 403, 404 and 405) for areas undergoing desegregation. These sections of title IV are not amended or repealed by the education block grant. Rather, they remain a separate authorized provision. The education block grant does contain the authority, however, for local educational agencies to use any of their title II funds to start or supplement existing programs providing technical assistance and training under title IV of the CRA.

(h) The Conferees adopted a Senate proposal creating a Community Services Block Grant. This block grant contains all existing authority for the Community Services Administration which will be terminated as a separate federal agency. Authorizations for the block grants included $395 million in fiscal year 1982; and succeeding fiscal years of which $354 million will be allotted to States in the same proportions as under the existing programs. this authorization for State grants represents a decrease in federal anti-poverty funding of over 30 percent. The block grant also includes a Secretary's discretionary fund of roughly 25 million dollars or 9 percent of appropriations. Under this discretionary authority programs such as the Rural Development Loan Fund and programs for seasonal and migrant farmworkers will be able to be operated. The legislation includes significant transition provisions designed to ensure that existing Community Action Agency networks will be maintained. Local community action programs are likely to continue to have questions regarding implementation of this block grant which should be addressed by emphasizing that the Department of Health and Human Services is gearing up immediately to ensure that no community action program is forced to terminate its operations due to bulky transition administration.

(i) The Vocational Education Act was authorized at a level of $735 million for each of the three fiscal years of the Act (fiscal year 1982-84). No line-item authorizations were determined, which gives the appropriations committee the authority to target the $735 million in the manner they determine is appropriate.

(j) The Conferees adopted the Administration's bill for reauthorization of the domestic programs operated within the ACTION Agency. However, the Administration's proposal to totally remove earmarks for VISTA, was not adopted and earmarks of $16 million for fiscal year 1982 and $8 million for fiscal year 1983 were included in the bill. These earmarks will effect Title I (VISTA, service learning programs, demonstrations) authorization of $25.7 million for fiscal year 1982 and $15.9 million for fiscal year 1983. The reauthorization also includes the Older American Volunteer Program (Retired Senior Volunteer Program (RSVP) Foster Grandparents and Senior Companion). These programs were authorized at the following levels for fiscal year 1982: Retired Senior Volunteer Program—$28.7 million; Foster Grandparents—$49.7 million and Senior Companions—$16.6 million.

(k) Of the $308.0 million authorized for the Department of Education salaries and expenses, $49.396 million and $12.989 million shall be available for the Office of Civil Rights and the Office of the Inspector General, respectively.

(l) The Education of the Handicapped Act was authorized at a level of $1,149.95 million in fiscal year 1982 and $1,198.0 million in fiscal year 1983. The following programmatic breakdown was determined by the conference committee:

Public Law 94-142 (Part B of EHA, Sec. 611)—$969.85 (fiscal year 1982); $1,017.9 (fiscal year 1983-84).

Preschool incentive grants (Part B of EHA, Sec. 619)—$25.0 (fiscal year 1982-83).

Severely handicapped projects (Part C of EHA, Secs. 621 and 624)—$5.0 (fiscal year 1982-83).

Regional Resource Centers (Part C of EHA, Sec. 621)—$9.8 (fiscal year 1982-83).

Special Education Personnel Develop. (Part D of EHA, Secs. 631, 632, and 634)—$58.0 (fiscal year 1982-83).

Special Studies (Part B of EHA, Sec. 618)—$2.3 (fiscal year 1982-83).

Deaf-blind Centers (Part C of EHA, Sec. 622)—$16.0 (fiscal year 1982-83).

Media Services and Captioned Film (Part F of EHA)—$19.0 (fiscal year 1982-83).

Recruitment and Information (Part D of EHA, Sec. 633)—$1.0 (fiscal year 1982-83).

Early Childhood Education (Part C of EHA, Sec. 623)—$20.0 (fiscal year 1982-83).

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Regional, Vocational, Adult and Postsecondary Programs (Part C of EHA, Sec. 625)—$4.0 (fiscal year 1982-83).

Innovation and Development (Part E of EHA)—$20.0 (fiscal year 1982-83).

[m]The Follow-Through program is authorized at a level of $44.3 million in fiscal year 1982; $22.15 million in fiscal year 1983 and $14.8 million in fiscal year 1984. This program was authorized at a separate level for each of the three fiscal years, but at the same time is being phased into the education block grant. For example, in fiscal year 1982 the Follow-Through program will be maintained as a categorical program, while a local educational agency may also use funds it receives under title II of the education block grant to fund activities that are authorized under the block grant that are similar in nature to those under Follow-Through.

[n]Headstart is reauthorized for three years at the following authorization levels: $950.0 million for fiscal year 1982; $1,007 million for fiscal year 1983; and $1,058 million for fiscal year 1984. These figures represent President Reagan's budget request and exceed current appropriations for this program. A change was also made in the Headstart formula, but all states will be receiving amounts in excess of what they received last year if a full appropriation is made.

[o]No funds are authorized to be appropriated under Section 419 of the Higher Education Act, which provides for payments to institutions of higher education.

Funds are authorized at $12.0 million for each of fiscal years 1982-84 for the Veteran's Cost of Instruction program.

[p]The major provisions of the Guaranteed Student Loan program under the Higher Education Act are as follows:

The conferees placed an income cap of $30,000 adjusted gross income on the GSL program. A student from a family with less than $30,000 is eligible for a GSL up to $2,500. A student from a family with income greater than $30,000 will be required to show need in order to be eligible for a loan in the amount of that need. There is a minimum loan provision of $1,000; however, a student must show at least $500 of need in order to qualify for a loan of $1,000.

The need analysis to be used for the GSL program will be determined by the Secretary of Education and subject to a one-House veto by Congress. In the determination of need, Social Security student benefits and Veterans benefits will be counted as expected student contribution. The need analysis for the GSL program is to be effective October 1, 1981. However, if the Secretary has not promulgated the needs test by then, or Congress has disapproved it, institutions may use an approved, pre-existing need analysis for GSL.

A loan origination fee of 5% will be assessed on the principal of the loan payable to the bank to offset the payments the government makes to the banks. This fee will be effective 10 days after the date of enactment of the law. Truth-in-Lending requirements for the loan origination fee will be waived until August 1, 1982.

Parent Loan program interest rates are raised from 9 percent to 14 percent. Provisions are included to permit the 14 percent rate to fall to 12 percent if the annual average of the T-bill declines.

Independent undergraduate student borrowing limits are reduced to those of dependent undergrads ($2,500/year).

Both independent undergraduate and graduate students can borrow under the Parent Loan program at 14 percent with certain aggregate limits.

Minimum annual repayment is increased from $360 to $600.

The rounding-up of the special allowance by ⅛ percent is eliminated.

The $10 institutional allowance for GSLs is eliminated. The $10 institutional allowance for Pells is reduced to $5.

Several amendments are made to Sallie Mae, the Student Loan Marketing Association.

The effective date for these provisions is October 1, 1981.

[q]Funds are authorized at a level of $1.0 million for fiscal year 1982 and $2.0 million for fiscal year 1983 to carry out the National Commission on Student Financial Assistance.

[r]The Impact Aid program is authorized at a level of $475 million with a phase-out of the "b" children over a period of three years.

[s]The total budget authority for Indian education programs operated by the Bureau of Indian Affairs (BIA) are as follows:

Fiscal year 1982—$262.3 million.
Fiscal year 1983—$276.1 million.
Fiscal year 1984—$290.4 million.

This budget authority covers all BIA education programs authorized by the Johnson-O'Malley Act, the education provisions of the Snyder Act; the Navajo Community College Act; and the Tribally Controlled Community College Assistance Act of 1978.

[t]The Juvenile Justice Delinquency Prevention Act program operated in the Department of Justice was continued by the Conferees at an authorized level of $77 million. This juvenile delinquency program which had been slated for consolidation within the Social Services Block Grants will now continue. Allotments to the States under the formula grant program should be reduced by roughly 25 percent.

[u]The Conferees adopted legislation creating a Low Income Energy Assistance Block Grant authorized at $1.875 billion for each year. States will receive an allotment based on the existing formula which was included in the Windfall Profits Tax Act. Basically the block grant continues the existing program but reduces paperwork and red tape. Provisions of special interest are: (1) a 10 percent limitation on administrative expenses; (2) a 15 percent limitation on weatherization activities; (3) a required set-a-side based on data from previous years for energy crisis intervention (warm blankets, base heaters, emergency medical assistance provided during cold snaps or heat waves); and (4) an income disregard provision in existing law to be maintained. Special consideration must be given to service providers on the local level and a provision allowing for a transfer of up to 10 percent of a State's funds under this block grant to other block grants including those for social services or community services.

[v]The Conferees adopted the following figures for all titles of the Older Americans Act except for Title V. For fiscal year 1982, $715 million and for fiscal year 1983, $793 million. These figures correspond to the programs presently operated by the Administration on Aging within the Department of Health and Human Services including nutrition and social services for the elderly. Title V, which is the Senior Community Service Employment Program operated by the Department of Labor, was reauthorized at $277.1 million for fiscal year 1982 and $293 million for fiscal year 1983. This program supports 54,200 part time community service employment opportunities for senior citizens. These figures correspond to Reagan's budget request. The Conferees also specified that additional sums would be authorized if necessary to maintain existing service levels. The Conferees in the Conference Report emphasize their commitment to move on Older Americans Act reauthorization later this year or early next year. For this reason, none of the Administration's substantive changes in the AoA program were enacted in reconciliation. These changes will be considered when the Committee bill, H.R. 3046, is brought to the Floor.

[w]The Vocational Rehabilitation Act was authorized at a level of $1,009,260 million for fiscal year 1982 and $1,054.160 million for fiscal year 1983.

[1]Current law.

[2]Ruled to be in the jurisdiction of the Agriculture Committee.

[3]No funds.

[4]Part N is also authorized at a no funds level.

[5]Included under Gallaudet College.

[6]See Arts, National Endowment and Humanities, National Endowment.

[7]Transferred to the Agriculture Committee.

[8]See specific program.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding. I, too, want to compliment the conferees for a job well done. As the gentleman indicated, it was a very, very painful job for our chairman. I am not as pessimistic as he is. I do not believe there will be too many adverse effects. I am sure the school lunch program will go on as it always has. We saved it and did not really cut too much from it, particularly if we change some of the regulations.

I compliment the chairman. It is going to be painful to him, but not nearly as devastating as one might think.

Mr. ASHBROOK. I thank my colleague, and thank him for his very dedicated work in the area of the school lunch program.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I thank the chairman of the committee very much for this opportunity.

The reason I have taken the floor at this time is because one of the issues that commanded undoubtedly the greatest attention in this Congress and commanded great concern is, what is happening to the students in this country under guaranteed student loans. I am sure no one relishes what happened, because what happened is the students of this country lost.

However, in the conference we did make the best of what I consider a very bad situation. The reason I am taking this time is to go over one section. The report language in this conference dealing with guaranteed student loans was written by Congressman DENARDIS of Connecticut and myself, and in that we are very anxious that the Secretary of Education really recognize that we are serious in this. We do have a one-House veto, and we have told the Secretary basically that in the counting of equity for assessment under these student loans, as to who is eligible, that the principal dwelling of a person and residence shall not be counted as an asset.

Also, what we are saying is that the deduction of an asset reserve of not less than $25,000 from the net value of all assets shall be considered, and in the case of a farm or a business, the assets shall not be counted up to $100,000. We are also saying that an

assessment of a series of progressive rates on parental discretionary income rates shall be set by the Secretary, but shall not be in excess of 20 percent of the parental discretionary income.

Third, we are saying that the utilization of the most recently published Bureau of Labor Statistics lower living standard of a family-size offset be included in consideration of guaranteed student loans.

Finally, we are saying that the inclusion of the number of dependents of the student's family who are in attendance in a program of postsecondary education, and for whom the family may be reasonably expected to contribute for their postsecondary education.

Finally, the conference said that it is the express intent of the conferees that the Secretary develop a guaranteed student loan education analysis system which gives adequate opportunity to the students from middle-income families with adjusted gross income above $30,000 in order that they can qualify for guaranteed student loans, so we have made a step. It is an important one.

The only hope is that in the immediate future we will be able to reinstate guaranteed student loans to the hundreds of thousands that are losing out on this process from this point on.

NEED ANALYSIS

The conferees wish to emphasize that the need analysis system to be developed for the guaranteed student loan program is a matter of great concern. The conferees intend that the Secretary consider the following factors as the elements of the GSL need analysis system:

First. Exclusion of all equity in a single principal place of residence from the computation of assets; deduction of an asset reserve of not less than $25,000 from the net value of all assets; and if net assets include farm or business assets, deduction of an additional asset reserve of not less than $100,000 from the net assets.

Second. Assessment of a series of progressive rates on parental discretionary income, but such rates shall not result in requiring an expected family contribution in excess of an effective rate of 20 percent of such parental discretionary income.

Third. Utilization of the most recently published Bureau of Labor Statistics lower living standard as the family-size offset to be included in the GSL family contribution schedule submitted to Congress.

Fourth. Inclusion of the number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

The conferees expect that the GSL need analysis system to be submitted to the Congress will take into consideration that this needs test is being used to judge eligibility for a loan to be repaid, not a grant. It is the expressed intent of the conferees that the Secretary develop a GSL need analysis system which gives adequate opportunity to students from middle-income families with adjusted gross incomes above $30,000 to qualify for a GSL. The conferees will carefully follow the Secretary's development of the GSL need analysis system and the final result.

The conferees expect that the Secretary will develop a financial-need test for the GSL program by August 15, 1981, for use during the academic years 1981–82 and 1982–83. The conferees understand that it may be necessary, for purposes of academic year 1981–82, for the Secretary to permit postsecondary institutions to use an established need analysis system, such as those used for Pell grants and the campus-based program in determining remaining need. However, it is the expressed intent of the conferees that the Secretary submit a proposed need analysis on August 15, 1981, which includes a system that considers the four factors outlined above. The conferees intend that the four factors shall be considered for the GSL need analysis for the 1981–82 academic year, and all subsequent years.

The existing need analysis systems can only be used by institutions until the Secretary can effectively implement the GSL need analysis.

The conferees expect that the Secretary will implement the GSL need analysis by amending the August 15, 1981, proposal before the 1982–83 academic year in order to take into consideration any necessary adjustments. The August 15 submission plus the required amendment for the 1982–83 academic year will be subject to congressional review, as will all subsequent submissions.

The SPEAKER pro tempore. The Chair will advise the gentleman from Oklahoma that he has 29 minutes remaining, and the gentleman from Ohio has 44 minutes remaining.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I appreciate the chairman of the Budget Committee yielding to me.

Mr. Speaker, I rise in opposition to the conference report on reconciliation.

Just a little over 1 month ago this body was considering the parent of this legislation, Gramm-Latta II, under similar circumstances. At that time debate began on legislation which had not even been printed. I can safely say that no one, not even the bill's authors, had much if any understanding of what was included. It was aptly labeled a travesty of the legislative process, and a violation of congressional procedure.

Yet, today, the Members of this body are in a remarkably similar position. The conference report was filed by the committees on Thursday morning and first became available this morning.

This report is an extraordinary measure. Certainly a conference report which contains cuts of over $35 billion by rewriting time-honored legislation is without precedent. I strongly oppose the process used, the final report, and the haste with which we consider this report.

Can any Member say that he has read the entire report? Although individuals who have had the benefit of being conferees may be familiar with the individual parts of the report, I doubt whether any have had the opportunity to review the entire document.

This report, hastily assembled over the last few weeks, will affect every district, and almost every American. Yet, the estimates of its impact are at best sketchy. Can anyone say with complete confidence what the impact will be on his or her district, on his or her constituents?

Is this the proper way to legislate—to pass a bill which cuts spending and rewrites social legislation that took years to develop yet accept on the basis of faith that this will not hurt the poor, the elderly, the young, students, the middle class, the Nation. I submit that this is not the way to serve our constituents, our districts, or the Nation.

I believe that the budgetary and legislative provisions approved by this report will harm those I have just mentioned, and prepare the way for economic disaster when combined with the tax cut approved this week. These inequitable cuts contradict our basic values: They discriminate against the poor, elderly, and infirm, and encourage war, not peace.

But we are voting today not only on a conference report, but on a process that is out of control. This is truly a historic and pivotal moment in this body's history. Over the last few months we have seen a President attempt to ride roughshod over the will of the Congress, and then attack its Members if they fail to swallow every one of his proposals. In acceding to the President's demands, in adopting Gramm-Latta II sight unseen, this Congress abandoned its role as a deliberative, policymaking body. This report is the offspring of Gramm-Latta II. It has gone through the conference committee process, but there have been no hearings on it and limited opportunity for consideration and debate.

I ask the Members of this body to carefully consider their decision. Even

if you support these cuts, even if you support a rewriting of Federal law, do you support this process? A vote in favor of this report is an endorsement not only of the report, but of the possible institutionalization of this process.

And this is a process that should be discarded, not etched into precedent. It is contrary to our system of checks and balances which gives Congress the role of a deliberate, legislative body.

This is a process that should not go unchecked. Congressional responsibility must not be sacrificed for political expediency. I urge my colleagues to vote against the report.

Mr. LATTA. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Speaker, I simply point out to the gentleman from New York (Mr. PEYSER) who indicated a while ago that the various portions of the needs analysis system which is in the conference language and the report language, only provides that the Secretary have some guidance. He is to consider those particular points. He is not necessarily obligated to follow them.

Mr. Speaker, on the amendment to the guaranteed student loan program it should be pointed out that the conferees have not required the Secretary to use a particular need analysis system or to adopt any specific criteria because the conferees believe it is essential for the Secretary to have flexibility in structuring a need analysis system for the guaranteed student loan program. Flexibility will enable the Secretary to develop a system that is both sensitive to family circumstances and that recognizes the need for fiscal constraint.

The factors in the conference report language are only to be considered as guidelines on the determination of the need analysis and not as mandatory requirements.

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Mr. JONES of Oklahoma. Mr. Speaker, for the purpose of a discussion of the Energy and Commerce Committee provisions, I yield 1 minute to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I would like to address briefly the provisions of the reconciliation bill which are under the jurisdiction of the Subcommittee on Commerce, Transportation, and Tourism of the Committee on Energy and Commerce.

I believe we have brought back to the House a conference report which reflects most of the language from the House bill. In Amtrak, we have preserved a national system with objective criteria for determining which trains should remain part of the Amtrak system.

In the Conrail legislation, we have given Conrail every opportunity to become profitable. All of the savings required in the House bill are contained in the conference report, and if Conrail achieves profitability, the Secretary of Transportation is required to sell Conrail as a single unit. We have done everything possible to continue rail service by keeping the Conrail system together. Some additional funds are needed for Conrail on an interim basis, and those funds are provided and must be made available to Conrail.

While relieving Conrail of its obligations to provide commuter service, we have insured that the more than half a million riders who commute to work each day will have service. That service will be in the hands of those who pay for it, the commuter authorities. It will be their responsibility to insure that the service is as cost effective as possible.

Despite my belief that these matters have been resolved satisfactorily, I do not believe that this process is a sensible one. To alter virtually every program and every law ever enacted by Congress in one bill is to invite disaster. Instead of the careful and responsible deliberation which I believe is our responsibility, we have thrown consideration to the wind in favor of arbitrary ceilings and caps and unthought out budget reductions. Wholesale changes have been made in laws which have no effect whatsoever on the budget.

The budget act was designed to control Federal spending, and it can do so. But it cannot do so in a sensible fashion if we continue our approach to the reconciliation process. We must exercise the discipline to control spending, but not in a manner which abandons our right to examine the issues.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I would like to take this opportunity to explain some of the energy provisions contained in title X of the conference report. As chairman of the Energy Conservation and Power Subcommittee and a conferee on these issues, I am pleased that the agreements reached by the conferees were fair, in light of the positions taken in the two bills. I frankly would have preferred to have done more to restore the balance in funding for various energy programs, but I am pleased that we have restored at least some substantial funding to conservation and renewable energy programs, which the administration proposed to drastically reduce.

In particular, the conservation budget for fiscal year 1982 will be set at $545 million plus at least $13 million in deferrals from fiscal year 1981. Contained within this amount will be $336 million for State and local programs, including low-income weatherization, schools and hospitals conservation, State energy conservation programs, and emergency planning. This ceiling will permit the low-income weatherization program to be funded at current levels, and also provide room for State energy conservation program grants. The repeal of the weatherization program in the House bill has been dropped. There is no provision for consolidating programs, and funding must be made under existing law. However, should the Congress later enact legislation to reorganize these programs, the authorizations could be used for funding the new program, provided its funds are used for the same purpose.

Perhaps most importantly, the conferees have authorized these programs, and others, for 3 fiscal years. This should provide a strong signal to the administration of the congressional intention to fully fund these programs in the future. The Congress continues to reject the administration's attempts to gut energy conservation, and I am pleased that this bill provides a 3-year commitment to these programs.

The conference report also funds each and all of the statutory conservation programs, including the residential conservation service, appliance efficiency standards, voluntary building energy performance standards, residential and commercial retrofit programs, auditor training, and other such programs at a total authorization of $40 million. The administration had proposed to eliminate funding for these programs in an attempt to repeal by budget. The conferees, as noted in the statement of managers, have specifically rejected this attempt and we require the administration to carry out its statutory responsibilities. As in other areas, funding for these programs are now authorized for the next 3 fiscal years.

A variety of programs in energy conservation and solar energy, which are jointly authorized by the House Science and Technology Committee and our Committee on Energy and Commerce, have also been authorized, despite administration proposals to provide no funds. These programs, including the energy extension service, appropriate technology, and solar information and international programs, are authorized for 3 years.

As chairman of the Energy Conservation and Power Subcommittee, I intend to continue vigorous oversight of all of these programs to insure that the administration conforms its actions to the conferees' strong intention that these energy conservation

programs be carried out to the fullest extent of the law.

As a part of the conference report, funds are authorized for the Department of Energy's uranium enrichment program and commercial nuclear waste program. In both cases, the report aggregates the funds for these programs in fiscal year 1983 and in fiscal year 1984, but disaggregates the funds for fiscal year 1982. In the case of the uranium enrichment program, the funding for the advanced isotope separation research and development program appears in chapter 1 of title X, as does the research and development funds for the commercial nuclear waste management programs. However, all funds for fiscal year 1983 and 1984 are combined in chapter 4 of subtitle A of title X, without any distinction being made as to their use. The aggregation of the funds in chapter 4 for these two programs for fiscal years 1983 and 1984 was done without prejudicing the rights of the House committees' having jurisdiction over portions of these programs to establish appropriate funding levels for fiscal years 1983 and 1984 for activities within each such committee's jurisdiction. In establishing the authorizations for future years for these programs, it was assumed that all fiscal year 1982 programs would expand at an equal rate of growth. However, all conferees recognize that the cost of some programs may escalate faster than others, especially in regard to the commercial nuclear waste remedial action program and the repository licensing activities, and that there may have to be future adjustments in the apportionment of funds. Additionally, the funding authorization for the uranium enrichment program is provided on the basis of the assumption that the expenditures will be offset by revenues, as required by law. In estimating revenues, the conference report relies upon the estimates provided by the administration.

The conference report reduces the administration's request for departmental administration funds. Incredibly, the administration proposed substantial increases for the Office of the Secretary and other administrative offices while curtailing many DOE programs. For a Department with a decreasing role and budget, there was no excuse for these increases, and the conferees wisely reduced the amounts.

The conferees also provided sufficient funds to FERC, ERA, and EIA to permit them to carry out all statutorily mandated functions under existing law. Thus, for example, the administration's assumption that FERC will no longer be required to license hydropower facilities up to 15 MW is not accepted by the conference report. Similarly, EIA will still be required to gather information to carry out laws requiring the financial reporting system. In these areas the conferees have expressed their strong intent that any changes in such requirements should be considered in separate legislation, and not by the budget. These regulatory and information bodies in DOE are now authorized for 3 years, and will have sufficient funds to carry out all statutory programs. The ERA budget also contains an increase in the utility programs office to permit grants to State regulatory authorities and utilities to explore innovative rates, and to consumer offices to carry out functions under the Energy Conservation and Production Act of 1976.

The conference report also contains the House provision repealing the prohibitions on natural gas use by existing utilities. The conservation requirement for gas-burning utilities was also retained. This conservation program will help to insure that electricity generated by these utilities is used efficiently. Utilities will be required to submit a conservation plan, get approval for the plan and implement it. Numerous studies have shown that conservation is a far more cost-effective option for utilities facing load growth than is increased construction. Many utilities currently burning gas are located in growth areas, and in the absence of an aggressive effort in conservation, they are likely to consume increasing amounts of gas, at the expense of gas consumers in other parts of the country. Although the conference report does not prevent utilities from increasing their gas use, the implementation of effective conservation efforts, such as low-interest loans, installation of insulation, and thorough energy audits, will operate to reduce fuel consumption. Our subcommittee will aggressively monitor this program to make sure that the law is being carried out and serious conservation efforts are made.

An important element of the conference report is the amendment to the Energy Conservation Standards for New Buildings Act of 1976 that removes the mandatory aspects of the building energy performance standards for non-Federal buildings. This amendment is a House provision. The amendment retains mandatory standards for Federal buildings only.

Under the amendment, the Department of Energy would be required to issue voluntary building energy performance standards by April 1983, to become effective by April 1984. The amendment states that voluntary performance standards "shall be developed solely as guidelines for the purpose of providing technical assistance for the design and construction of energy efficient buildings."

During development of the original building energy performance standards, major concerns were raised by builders, engineers, and consumers, about the cost of compliance, the severity of Federal sanctions and the complexity of the standards.

Testimony before the Energy Conservation and Power Subcommittee, which I chair, indicated that the construction industry and home buyers could benefit from accurate and consistent information on building energy efficiency. In addition, we received testimony supporting the development of voluntary energy efficiency rating systems from the U.S. League of Savings & Loan Associations, the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Society of Real Estate Appraisers, the National Institute of Building Sciences (NIBS), the American Consulting Engineers Council and representatives from the electric utility and building industry.

Several witnesses, including representatives of the lending community, suggested that utilities could provide information about the efficiency of existing buildings collected through utility energy audits. Because of the potential role of utilities in developing energy efficiency ratings, the Department of Energy should include representatives of the utility industry in its consultation with affected groups.

The purpose of this legislation is to develop a variety of measurement techniques with primary emphasis on providing simple yet adequate measures of energy efficiency that can be easily understood and used by builders, consumers, architects, realtors, code officials, lenders, appraisers, and others in the building market. It is intended that DOE examine methods of adapting such measurement techniques for use in existing buildings, as well as new buildings, since existing buildings will compose a majority of the building stock through the end of the century.

The Department of Energy should, at the earliest possible date, improve its consultation with affected constituencies in the building community and should develop the voluntary guidelines in close cooperation with builders, consumers, architects, realtors, code officials, lenders, appraisers, utilities engineers, NIBS, Freddie Mac, and research experts in the energy conservation field.

Because numerous voluntary rating systems have already been developed throughout the Nation, DOE should examine the technical validity of such systems and test out their acceptability in the building and lending communities. At the same time, the conferees expect that the Department of Energy will draw on its extensive research results in building energy conservation developed in preparation for BEPS.

The amendment removes the major role in implementation of BEPS that was reserved for the Department of Housing and Urban Development. Be-

cause of this change, HUD and DOE should work out agreements expeditiously to transfer remaining authority to DOE in such areas as providing technical assistance to States and units of local government, consulting with interested and affected groups and monitoring State and local adoption of voluntary energy conservation standards for buildings.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I rise today to discuss the provisions of the conference report relating to health programs. Considering the drastic reductions in programs the Gramm-Latta proposal mandated, considering the objective of this administration of dismantling many of these programs, considering the provisions of the Senate bill we have been in conference to consider under time pressures which have been extreme, I believe we have achieved as much of a victory in protecting our health and consumer programs as possible. We have beat back the medicaid cap, an ill-conceived and poorly disguised attempt to undermine the Federal commitment to health care for the poor. We have maintained the highly successful family planning program which has been subjected to virulent and unjustified attacks. We have maintained health programs for migrants, fully protected community health centers, and provided protections for community mental health centers as well. We have streamlined and protected the Consumer Product Safety Commission that the administration set out to dismantle. We have reauthorized manpower programs and kept the National Health Service Corps alive as a viable entity by retaining first year scholarships. We protected those very important improvements we made in medicare benefits last year—specifically the pneumococcal vaccine and occupational therapy benefits.

Reconciliation as a process is repugnant to me. It does not provide for careful legislative consideration. It does not serve the legitimate interests of millions who depend on important Government programs. But within the limitations of this process, we have achieved a significant victory. Not everything went as we would have wished, but on the whole I think we achieved a substantial portion of what we wanted. There are a number of programs that I think should be mentioned in this regard.

As many of you are probably aware, we managed to defeat the President's cap on the medicaid program. I am very proud of this, though I am sorry that the penalties States will face if their increases exceed certain target levels of expenditures will be so large in fiscal year 1983 and fiscal year 1984.

I also want to note an omission from the statement of managers. As Chairman DINGELL stated in his remarks, there is an omission in the explanation of the amendment relating to services for the medically needy under medicaid. The relevant language now states:

> The intent of the amendment is to provide States with flexibility in establishing eligibility criteria and scope of services within the medically needy program to address the needs of different population groups more appropriately. Nothing would allow, however, the State to cover individuals not covered under current law.

Inadvertently, the next sentence was omitted. It was to read as follows:

> Moreover, it is not the intent of the conferees to alter the requirements under section 1902(a)(17) of the Social Security Act relating to comparable treatment of income and resources between categorically needy and medically needy programs.

I join both Chairman DINGELL and Senator DOLE, the cochairmen of the subconference in which this issue was resolved, in expressing the intention of the conferees that this sentence be considered as part of the statement of managers.

Another significant achievement in the medicaid agreements is the provision which allows States to cover a variety of home health and community-based services for people who would otherwise have to go to a nursing home. This was part of the Pepper-Waxman Medicaid Community Care Act which had over 130 cosponsors in the House.

A critical medicaid issue before the conferees was a proposed change in the current entitlement to "freedom of choice" of provider. This is the right of persons eligible for medicaid and medicare to receive care from any physician, hospital, nursing home, or other provider that chooses to participate in the program and accept program reimbursement levels and administrative requirements. The Senate amendment would have repealed this basic right entirely, allowing States to restrict program eligibles to "cost-effective arrangements." The conferees agreed to follow the House bill by maintaining the entitlement but by giving States a reasonable degree of flexibility, including authority to "lock in" beneficiaries who have been overutilizing services and to "lock out" providers who have been abusing the program. The conferees also agreed to allow the Secretary to waive the "freedom of choice" protection, but only so long as the State's restrictions are consistent with access, quality and efficient and economic provision of care, and only if the restrictions do not discriminate among classes of providers. In providing this waiver authority, it was not the intent of the conferees to authorize States to establish a two-class system of health care, one for the poor and one for everyone else. Nor was it our intent to authorize restrictions under which one class of providers; for example, community health clinics, could not compete fairly for the State's medicaid business with another providing similar services; for example, physicians.

Turning to other health care programs, I would note that although we have created four block grants, I believe we have managed to protect the programs included in these blocks. The first one I would like to mention is the primary care block grant. This block contains only the community health centers. While it is technically a block, it provides for full program protection. The Secretary will run the program in fiscal 1982 and then the States will take it over only if they are willing to make a financial commitment.

I also want to mention the rape crisis centers. Though this program was included in the preventive health services block, it is protected by a $3 million set-aside.

Certainly not least among these programs, I would like everyone to be aware of our victory in saving the family planning program. This administration and its allies on the extreme right have raised a virulent campaign against family planning and particularly against planned parenthood. However, it is obvious that many Members of the House and Senate believe the family planning has been effective and should continue as categorical program. I am especially proud that we have been able to save title X because of my own commitment to it.

This bill also contains a new alcohol, drug abuse, and mental health block grant, which consolidates five programs concerned with substance abuse and with mental health. The grant contains a formula to insure that historical funding patterns for these two areas remain constant under this block, both nationwide and within each State. Overall, this will result in approximately equal allocation of funds between substance abuse programs and mental health, although the proportions within States may vary according to the State's previous funding history.

This block grant proposal also contains protections for existing community mental health centers which have not yet run out of their initial eligibility for support under the CMHC Act or the Mental Health Systems Act. States which receive funds under the block grant are required to certify that they will continue to support these centers throughout the life of the centers' eligibility and the life of this authorization. While no minimum level is set for State support or grants to these centers, it is clearly the intent of the conferees and is clearly stated in the conference report that this lack

of a specified minimum grant is not to be used as a circumvention of the continuation requirement or as a backdoor method of defunding a center. If a State wishes to defund a center, it must make such a recommendation to the Secretary and receive his approval before doing so. The Secretary may approve such a recommendation only if his review demonstrates that the CMHC is no longer providing one of the required services or has engaged in a substantial misuse of funds. Since some of the required services have been somewhat altered, clearly no one would expect a CMHC to be in full compliance immediately, but it is anticipated that these services will be generally required.

It should also be noted that the conferees agreed not to repeal section 501 of the Mental Health Systems Act. Mindful of these enumerated rights and the requirement of the new section 1915 that services be provided in a manner which preserves human dignity, the conferees fully expect that the States and the Secretary will assure the protection of the rights and dignity of all persons receiving mental health services. We anticipate that the Congress will continue to examine these issues to insure that patients are adequately and appropriately protected.

The block grants created by this bill have several things in common. The three blocks created within the Public Health Service Act all require that the Secretary respond quickly to complaints that a State has used its funds in a manner that is not in accordance with the requirements of the law or the certifications and assurances made by the State to the Federal Government. The provisions go on to require that if the Secretary finds that a State has not used its allotment in accordance with these certifications, assurances and provisions of law, the Secretary must withhold funds from the State until the noncompliance has been corrected and there is reasonable assurance that it will not recur.

This withholding power is vital to the adequate functioning of our block grants, and, as the chair of the Subcommittee on Health and the architect of many of these compromises, I am pleased that our Senate colleagues included it in their original bills and that the conference committee agreed to versions of such provisions in all four health block grants which we are creating in reconciliation. The withholding power—which can operate as a response to a complaint or as an independent enforcement tool—is a clear way for the Secretary, as well as the individual beneficiaries of these health block grants services to insure that States spend their allotted funds appropriately. The programs which we are combining together today have always been for the special benefit of all persons in need of health services and they have aided these persons over the years. It is important to note today that by combining these programs we do not mean to lessen our commitment to the purposes of these programs or the needs of the beneficiaries. These block grants, while routing the Federal dollars differently, are still Federal programs for the special benefit of persons in need of health services—poor people, the mentally ill, those with substance abuse problems, mothers, and children, and all other such beneficiaries and providers of care. By creating this withholding power—and the related offset and repayment provisions—the conferees intended to create a tool by which the Secretary and all beneficiaries of this program will assure that funds and allotments are spent appropriately and well and that these Federal dollars continue to provide quality care, whatever the funding mechanism.

I am also pleased to point out that the conference agreement includes a reauthorization of the developmental disabilities program. This important program to aid the mentally retarded was continued at almost full funding levels and the provisions regarding State plans, and habilitation plans for the individual beneficiaries of the act were retained. All of these provisions—dollars as well as plans—are necessary for the adequate care and the benefit of the retarded children and adults who are the intended recipients of all services and programs of this part. The conference agreement also includes report language requested by the Senate and agreed to by House conferees, specifying that the Congress continues to believe that all developmentally disabled persons have a right to habilitative services in a setting which is least restrictive of their personal liberty. I am pleased that my Senate colleagues have proposed such emphasis, and, as the chair of the Health Subcommittee and sponsor of the reauthorization of the developmental disabilities program, I fully agree with their intent.

The conferees accepted the block grant program I proposed for CHC's. Due to time constraints in filing the statement of managers I want to elaborate further about this new block grant.

Because States have had no role in administering or developing community health centers, only those States which have strong and active commitments to primary care should be encouraged to participate. If all goes well with this new program Congress can reconsider the structure at a later time to encourage more States to participate. To be assured of a State's interest and involvement, the bill requires each State to put up State funds as a match for Federal funds. This is not a disincentive for State participation but an assurance that States are so committed that they will use their own dollars to develop and fund community health centers. The community health centers which they would be funding are those which are currently defined in section 330. This has been a successful program delivering primary care services to hundreds of communities around the country. So the definitions used in it are appropriate for the States' program.

The State match could include funds it uses to cover State administrative costs. Federal administrative costs have been approximately 3 percent of the total appropriation for CHC's. The conferees expect that the States will be at least as efficient which will leave approximately 17 percent of the States match—in fiscal year 1983—for making grants to centers for their costs of operation. Federal funds could not be used for administration, except to the extent that the cost of operation of the center itself involves some administrative expenses. The State's administrative costs include the cost of State employees and State services involved in making grants and monitoring the grant program.

The bill allows States to meet part of their match with in-kind services. For the State's administrative expenses the State could count administrative personnel whose full- or part-time responsibilities are for the CHC program. The allocation of State employees' time to CHC's must be an accurate appraisal of the time they spend on the CHC program. To the extent that a State's in-kind services for matching purposes is comprised of employees or equipment which are provided to the centers they must be at the center's request.

To help States assume responsibility for this program, planning grants would be made in fiscal year 1982. Conferees expect that these grants would only be made to those States which express a willingness and ability to commit State funds for matching funds.

If States take the program over they would be funding CHC's which meet all of the requirements of the current section 330 CHC program. The services which are provided by centers, the areas in which they would be located, the restrictions and requirements for making grants, the amount of the grants the organizational requirements including the involvement of local citizens and users of CHC's on the board of directors, and the restrictions on amounts for centers which do not have such boards would apply to centers funded by the States.

Because centers would be awarding new grants with State moneys it is important to allow them to carry over unobligated funds where there is good cause. In the first year—fiscal year

1983—the application cycle could be long enough that all State funds might not be obligated. The Secretary is allowed to permit States to carry these funds over if there is a valid reason for them not being spent. This authority does not permit the Secretary to allow States to carry over funds because they simply do not want to spend them. In fact, the bill specifically requires that all Federal and State funds—except State funds used for State administrative costs—be used to make grants.

States will be establishing criteria to evaluate and monitor CHC's. In the early years the current Federal criteria should be used or at least be used as a model. Later, as States get more experience they would be able to develop their own criteria. States would also be developing procedural and substantive review criteria procedures for terminating or reducing funds. This must be an objective review of a center's performance. In fiscal year 1982 the Secretary must approve any such reduction of funds.

And last, the Secretary is directed to respond to complaints of CHC's and patients receiving CHC services. The Secretary should be assidous in this regard, particularly, in the early years of the program.

I would also note that the conferees agreed to include in all four of the health block grants established by this bill a nondiscrimination provision which had originally appeared in the House maternal and child health block grant. In applying these nondiscrimination requirements consistently to all four block grants, it was the intent of the conferees to make certain that Federal health care dollars are made available only to those States, and entities receiving funds from States, that comply with Federal prohibitions against discrimination on the basis of age, handicap, sex, religion, race, color, or national origin.

With respect to PHS hospitals and clinics, the conferees agreed to the House provisions relating to transfer, achievement of financial self-sufficiency, or closure of these facilities. The conference agreement provides a reasonable framework that is intended to facilitate the transfer of PHS hospitals and clinics to the control of other Federal agencies—such as the Department of Defense—States, localities, or private nonprofit entities. This framework also would allow PHS clinics that generate sufficient patient revenues—whether from public or private third party payments or direct patient payments—to meet all operating expenses to remain under PHS sponsorship. It is my hope that the Appropriations Committee will recommend levels of funding for the PHS hospitals and clinics in fiscal year 1982 that are adequate to accommodate worthwhile proposals for transfer or achievement of self-sufficiency.

The reauthorization of the Consumer Product Safety Commission in this bill is also a major achievement. It was scheduled to be either abolished or transferred to the Department of Commerce by the administration. This was not allowed to happen and we should all be pleased with this victory for the consumer.

The administration's proposals to eliminate the PSRO and health planning programs were rejected by the conferees. These programs are to be continued at reduced levels and not phased out in 1982. With hospital costs now increasing more than 19 percent a year—over twice as fast as the CPI—it is important to retain our existing cost containment programs. As we have seen so clearly in our deliberations on this bill, unbridled increases in health care costs lead directly to proposals, often ill-conceived, to slash the protection against enormous health care bills available to our people. This year the administration suggested a cap on medicaid payments for the poor. I am afraid that next year we will see proposals, also disastrous in their effect, to cap medicare benefits for our elderly.

The authorities for the health manpower programs are revised and extended by the conference agreement. High priority programs such as student assistance, primary care training, public health, and nurse training are all continued. National Health Service Corps scholarships—perhaps our most important health manpower program because they both assist students and secure health professionals for our most underserved areas—will be available in future years. Altogether, the conference agreement provides for a strong yet streamlined Federal health manpower program.

The National Research Service awards program is extended for 2 years with authorizations of $182 million and $195 million. Funding at this level will preserve the NRSA program. It will insure that our Nation's next generation of biomedical scientists will receive superb training and maintain the excellence of our biomedical research effort. The conference agreement explicitly rejects the administration proposal to eliminate institutional allowances, indirect costs, and awards for behavior scientists from the program.

The authority for the existing National Center for Health Care Technology is extended for 3 years. The Center has been extremely cost effective since its organization in 1979 and, with the adoption of the conference agreement, the Center should continue to operate as it has to date. New language providing that the Center shall not unreasonably inhibit the innovation of new technologies will not alter current Center functions or activities in any way since the Center has never unreasonably inhibited such innovation. The authority for the Center to advise the Secretary with regard to medicare coverage recommendations is strengthened and it is now anticipated that the Center will now give even higher priority to the efficient, thorough review of these recommendations.

In closing, I would like to thank Chairman JOHN DINGELL for his outstanding leadership as chairman of our conference committee and for the commitment and strength he exhibited in fighting for these important health programs. I also want to extend my appreciation to ED MADIGAN, the ranking minority member of the Health Subcommittee. His support for the House position and his development of a workable compromise between the House and Senate were invaluable aids. I think the Members of this House may be justly proud of our achievements in the reconciliation conference.

Mr. LATTA. Mr. Speaker, I yield 6 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I rise in strong support of the conference report on the Omnibus Reconciliation Act. This conference was the largest in history and the issues were as complex as any ever dealt with. Nonetheless, reasonable compromises have been reached and this conference report represents the best efforts of all involved.

I did not get everything that I had hoped for out of this conference. Nor did any other Member. But, with respect to those matters within the jurisdiction of the Committee on Energy and Commerce, we have reached reasonable and workable compromises on every major issue. Let me highlight a few of these agreements:

CONRAIL

The conference agreement follows the main outline of the Lee-Lent-Madigan substitute which was approved by the House. This compromise assures the many communities of shippers throughout the Northeast a timetable for the transfer of Conrail ownership which provides maximum protection for continuation of services to shippers. In addition, the timetable helps to stabilize the economy of the Northeast and, more specifically, insures maximum protection of jobs in the region. In general, the compromise provides that if Conrail is profitable it cannot be sold other than as an entity until June 1984. Second, the agreement provides $400 million for labor protection. And finally, it would provide an additional $262 million in operating subsidies.

MEDICAID

The administration proposed substantial revisions in the medicare/medicaid programs. In conference were two widely different versions providing for cost savings in these areas. The conference agreement provides for a 3-percent, 4-percent, and 4½-percent reduction in payments to the States for medicaid in fiscal year 1982, fiscal year 1983, and fiscal year 1984 respectively. States may receive credit against these reductions if they have certain hospital cost control measures in effect, have an unemployment rate greater than 150 percent of the national average, or demonstrate substantial recoveries from fraud and abuse prevention measures.

HEALTH BLOCK GRANTS

The administration originally proposed creating two block grants in the place of 26 separate categorical health programs. The conference agreement blocks 20 out of 26 of these programs into 4 block grants. These blocks are funded at approximately the administration requested levels. Several programs of keen interest to a number of colleagues have been continued as categorical programs. These include family planning, developmental disabilities, tuberculosis, venereal disease, and migrant health clinics.

Mr. Speaker, this conference report represents a good-faith effort on the part of all involved to reach a legitimate compromise on a large number of complex issues. I think the conferees did their work well, and I therefore support this conference report.

Mr. Speaker, at this point in the RECORD I would like to insert a summary of the conference agreement on those matters within the jurisdiction of the Energy and Commerce Committee.

SUMMARY OF PROVISIONS UNDER JURISDICTION OF THE ENERGY AND COMMERCE COMMITTEE AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

SUMMARY OF COMMUNICATIONS PROVISIONS AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

1. FCC authorization.—$76.9 million for each of fiscal years 1982 and 1983. No provision for user fees.

2. NTIA Authorization.—$16,483,500 for fiscal year 1982.

3. Radio and Television Provisions.—

a. extends radio license terms from 3 to 7 years.

b. extends television license terms from 3 to 5 years.

c. enables FCC to establish a lottery to select among qualified applicants for new licenses.

d. prohibits "shakedowns" by competing applicants at license renewal (offer to drop competing application in exchange for money).

4. Public Broadcasting Act Amendments.—

a. Facilities program: fiscal year 1982, $20 million; fiscal year 1983, $15 million; and fiscal year 1984, $12 million.

b. Corporation for Public Broadcasting (major provisions).—

(1) authorization levels: $130 million for each of fiscal years 1984, 1985, and 1986;

(2) CPB Board of Directors—reduces Board from 15 to 11 members, one of which will represent public television and one of which will represent public radio stations;

(3) provides for annual rather than quarterly disbursement of funds to CPB;

(4) distribution formula—retains House provision on distribution of funds to stations: 10 percent of appropriated funds to CPB for administrative expenses, copyright costs, interconnection (CPB pays 50 percent of interconnection), etc. Of remaining funds, 75 percent to television and 25 percent to radio. Television funds: 75 percent for community service grants and stations' share of interconnection, 25 percent for national program fund. Radio funds: 50 percent to stations, 50 percent to national programming; and

(5) allows use of logograms and retains House provisions on study of funding options for public broadcasting (Dingell amendment) and demonstration program for station advertising (Tauke amendment).

SUMMARY OF ENERGY PROVISIONS AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

1. DOE authorization "Caps".—The conference agreement establishes "caps" on DOE spending for fiscal years 1982, 1983, and 1984. The "caps" are placed on individual DOE appropriation accounts rather than on total DOE spending.

These "caps" compare to the Reagan budget projections for DOE spending as follows:

[In billion of dollars]

Fiscal year	Reagan projection	Conference agreement
1982	$5.2	$5.6
1983	5.4	6.0
1984	5.5	6.1

2. Fuel Use Act.—

The conference agreement—

A. repeals Section 301(a) of the Fuel Use Act, which prohibits existing powerplants from burning natural gas after 1990;

B. allows utilities seeking Section 301(b) and (c) mandatory coal conversion or mixture orders to self-certify their eligibility, with concurrence of DOE; and

C. requires electric utilities using gas as a primary energy source to implement a conservation plan for 5 years following its approval by DOE.

The conservation plan must be designed to reduce the utility's annual electricity output attributable to natural gas by 10 percent, and must include residential conservation service activities and a public information program for conservation. The conservation plan is not required beyond the five years following its approval.

The conferees also agreed to the House passed provision amending Section 402 of the Fuel Use Act to allow existing residential outdoor gas lights to continue using gas.

3. Strategic petroleum reserve.—The conference agreement authorizes $3.9 billion in off-budget funding for oil acquisition and transportation for fiscal year 1982, and $260 million on-budget for all SPR expenses not covered by the Account including construction of storage facilities, planning, and management. (The Administration had requested $3.684 billion for oil acquisition and transportation, and $199 million for the other expenses.) The Conference Report states that the $60 million in extra on-budget funds is available for accelerated storage construction.

4. Building energy performance standards (BEPS).—The conference agreement adopts the House amendments to the Building Energy Performance Standards (BEPS). Under these amendments and technical changes BEPS would be developed solely as voluntary guidelines for non-Federal buildings.

5. Uranium enrichment/fair value pricing.—The conference agreement deletes the House requirement of "fair value" pricing for uranium enrichment services, in return for adoption of the House passed $68 million cut in the Portsmouth, Ohio gas centrifuge project. (The House Appropriations bill included such a cut, and the project sponsors have accepted the cut.)

6. Low income weatherization.—The conference agreement (including the House Banking Committee) included no line-item authorization for low income weatherization in the bill, but contained language in the Statement of Managers indicating support for funding for the program up to a maximum of $175 million. The Banking Committee title in the House passed bill had repealed the program outright, while the Senate Energy Committee authorization was sufficient to fund the program at $175 million. The effect of the report language would be to defer to the Appropriations Committee on a specific funding level for the program.

7. Economic regulation.—The conference agreement authorizes $44.6 million for "economic regulation", i.e., the Economic Regulatory Administration and the Office of Hearings and Appeals. (The Administration had requested only $28.5 million.) The Conference Report indicates that the sum includes a "significant increase in funds for the compliance activities" of ERA, with an admonition that these funds may not be used to RIF compliance personnel.

The Report states that $12.2 million is an appropriate level of funding for Emergency Preparedness. (The Administration had requested $2 million.)

The Report states the Utility Programs (assistance to State public utility commissions) and Fuels Conversion should be funded at a level higher than the Administration's request. (The Administration had "zeroed out" Fuels Conversion.)

8. Energy Information Administration.—The conference agreement authorizes $84.986 million. (The Administration had requested $80 million.) The Conference Report repeats that all information programs mandated under law should be funded, specifically those that the Administration "zeroed out" in its budget request. By staff agreement, "Financial Reporting Systems" and the "National Energy Information System" are not expressly mentioned in the Conference Report. The Report states that the Oil and Gas Information System should be funded. The Administration originally indicated that it wished to zero out this program. It has subsequently changed its mind and now wishes to continue this program.

9. Federal Energy Regulatory Commission (FERC).—The conference agreement authorizes FERC at $80.4 million, striking $1.8 million from the Administration's request. The Conference Report states that the savings are to be realized from reductions in contracting and travel, and from improved personnel management.

10. Departmental administration.—The conference agreement authorizes $246.963

million for Departmental Administration. (The Administration had requested $272.061 million.) The Conference Report contains a specific function-by-function list of funding limits detailing net cuts of $15.697 million, with a further reduction of $10.371 million which must be made in the Office of the Secretary, General Management, and "Other Expenses, Travel and Services".

SUMMARY OF HEALTH PROVISIONS AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

1. Block grants.—The conference agreement provides for blocking 20 categorical programs out of 26 originally proposed to be blocked by the Administration. In aggregate dollar amounts, approximately $1.2 billion out of $1.45 billion is blocked. The 4 block grants include:

(A) Maternal and Child Health Block Grant—which encompasses Title 5; SSI for disabled children; hemophilia; sudden infant death syndrome; genetic diseases; and adolescent health services.

(B) Preventive Health Services Block Grant—which encompasses hypertension; health incentive grants; risk reduction and health education; fluoridation; rat control; home health; primary health care research and demonstration; emergency medical services; and rape crisis.

(C) Health Services Block Grant—which includes mental health; alcohol and drug abuse project and formula grants.

(D) Primary Care Block Grant—Community Health Centers.

Remaining categorical programs are migrant health, family planning, venereal disease, tuberculosis, child immunization and adolescent health services.

Special protections are provided for hypertension, mental health and alcohol and drug abuse.

2. Health manpower.—The conference agreement provides for approximately $375 million for fiscal year 1982 with inflation factor increases in fiscal years 1983 and 1984. The $375 million represents the midway dollar figure between the House and Senate funding levels and further represents a $110 million increase over the Administration's proposed funding level. Of particular concern to many Members is funding for nurse programs which is set at $63 million, a substantially higher amount than the $14 million funding level originally proposed by the Administration. In addition, funding for 550 new National Health Service Corps scholarships is provided pursuant to the agreement.

3. Health planning.—The conference agreement sets funding for fiscal year 1982 at $102 million, out of which not more than $65 million can be alloted to HSAs. Several House provisions calling for programmatic changes are included—most significantly that which would permit a Governor to take over HSAs or to terminate them.

4. Other discretionary health programs.—The conference agreement also includes several other health programs up for reauthorization including (1) HMOs, (2) National Centers for Health Statistics, Health Services Research and Health Care Technology, (3) National Health Service Research Awards, and (4) the National Library of Medicine. Funding levels are somewhat above those contained in the Administration's original proposals and somewhat below those contained in the Dingell/Waxman proposals.

5. Family planning.—Both the Administration proposal and the Senate passed bill would have rolled existing family planning programs into a block grant which would be administered by the States. The House passed bill continued funding family planning as a categorical program. Under the conference agreement, family planning would be continued as a categorical program administered by the Federal government at funding levels close to the House passed provision.

6. Developmental disabilities.—The Administration proposed a repeal of the authorizing legislation for a specific categorical disabilities services and facilities construction program. These services to the developmentally disabled would, under the Administration's proposal, have been eligible activities under the proposed Social Services Block Grant. Both the Senate and House passed bills continued the developmental disabilities program as a separate categorical program. The conferees adopted a modified version of the House language and extended the developmental disabilities program as a separate categorical program.

7. Public Health Service hospitals.—The Administration proposed the elimination of benefits and mandated the closing of Public Health Service hospitals as of October 1, 1981. Both the House and Senate passed bills extended the deadline for phasing out Public Health Service hospitals. Under the conference agreement, Public Health Service hospitals will remain fully funded through fiscal year 1982. Existing patients will continue to receive free medical care.

8. Medicaid cap/medicare, part B.—The Administration proposed substantial revisions in the Medicare/Medicaid areas. The House and Senate passed widely differing versions providing for cost savings in these areas. The conferees agreed to drop the Medicaid cap in favor of a 3 percent, 4 percent, and 4½ percent reduction in payments to the States for Medicaid in fiscal year 1982, fiscal year 1983, and fiscal year 1984 respectively. States may receive credit against these reductions if they have certain hospital cost control measures in effect or have enacted fraud and abuse prevention measures.

SUMMARY OF CONSUMER PRODUCT SAFETY ACT PROVISIONS AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

1. Safety standards.—The conference agreement would require that the CPSC solicit comments from the public on the existence and the nature of the hazard before initiating a rulemaking proceeding. The agency may not propose a rule without allowing persons potentially subject to the rule a reasonable time within which to take action to eliminate the risk. The agency may not issue a mandatory safety rule if a voluntary standard is adequate to address the risk.

The agency would have to publish a proposed and final regulatory analysis.

Before issuing a final rule, the agency would have to make findings that the rule is the least burdensome possible and that the costs of complying with the rule are justified by the benefits.

Mandatory safety rules are subject to legislative veto.

2. Chronic hazards.—The conference agreement establishes a Chronic Hazards Advisory Panel. The agency would be precluded from regulating unless the panel determines that a substance in a consumer product causes a chronic hazard.

3. Private actions.—The conference agreement allows both consumers and business groups to sue for violations of product safety standards.

4. Agency functions.—CPSC jurisdiction over stationary amusement parks is eliminated.

The conference agreement repeals section 10 of the Consumer Product Safety Act authorizing petitions to the agency to set safety standards.

The conference agreement eliminates advisory councils set up under the Consumer Product Safety Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act.

5. Lawn mower standard.—A walk-behind mower which stops the engine when the operator leaves the controls and has a manual restart device is deemed to be in compliance with CPSC standard. (CPSC standard requires a 3 second blade stop time and a blade clutch device or automatic restart device.)

After 2 years the CPSC could amend the standard after reporting to Congress its reasons for further regulating.

6. Extension of the act.—The bill authorizes appropriations of $33 million for fiscal year 1982 and $35 million for fiscal year 1983. It also authorizes funds as necessary for severance pay.

7. Transferred acts.—The majority of the provisions would apply to the Flammable Fabrics Act and the Federal Hazardous Substances Act.

SUMMARY OF TRANSPORTATION PROVISIONS AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

1. Railroad retirement.—The conference agreement incorporates the agreement between the rail labor and management included in the House passed bill. In addition, it provides for a report by the President on recommendations to assure the financial integrity of the system; ties the benefit increases to tax increases; and provides a procedure to assure that Social Security equivalent will be paid.

2. Conrail.—The House and Senate conferees agreed to Conrail language which would do the following:

A. Funding—Conrail will receive $262 million in additional funding. If further Federal funding is required, the Secretary may sell in pieces.

B. Transfer of Conrail—The conference agreement provides for transfer of Conrail in the following steps:

Profitability test given: June 1, 1983—prospective tests; if Conrail not profitable, sale in pieces; and if Conrail profitable, move to October 31, 1983 profitability test.

October 31, 1983—historical test for 5 month period 6/1/83-10/31/83; if Conrail not profitable, sale in pieces; and if Conrail profitable, sale as entity until June 1, 1984.

After June 1, 1984, if the Secretary of DOT notifies the USRA Board that he cannot sell Conrail as an entity, Secretary may transfer in pieces. If USRA Board does not concur with the Secretary, the procedure is repeated every 90 days.

Within 90 days after a determination by the Secretary of DOT, concurred in by the USRA Board, Conrail employees have the option of submitting an offer to purchase. Secretary shall approve the employees offer unless the Secretary determines that the employees are not financially responsible.

75 percent of service available at the time of transfer must be maintained if Conrail is transferred in pieces.

C. Composition of USRA Board—makes profitability determination and reviews Secretary's determination that Conrail cannot be sold as an entity:

Comptroller General (GAO).
Chairman—Interstate Commerce Commission (ICC).
Secretary of Transportation.
Chairman—Conrail.
Chairman—USRA.

D. Labor Protection—Title V replace with sum of $400 million to be divided according to agreement reached by Secretary of Labor and labor union representatives.

E. Labor Protection for Acquiring Carriers—New York Dock, except that collective bargaining agreement of acquiring carrier would apply if nothing else is negotiated. If a non-rail carrier purchase, collective bargaining agreement of Conrail applies if nothing else is negotiated.

F. Abandonments—Expedited abandonment procedures from the House passed bill as modified by the Lent amendment which provides a reasonable amount of time for interested parties to purchase a line before Conrail dismantles the line.

G. Tax exemption—Conrail exempt from all but local taxes.

H. Congressional veto—If Conrail sold in pieces—one-House veto required to disapprove sale. If Conrail sold as entity—two-House veto required to disapprove sale.

3. Amtrak.—The conference agreement includes the following provisions with respect to Amtrak.

A. Board of Directors—reduces the Board from 17 to 9 members as follows: Secretary of Transportation, President of Amtrak, two representatives of the preferred stockholders, two representatives of the commuter authorities, and 3 Presidential appointees from the Railway Labor Executives Association, business, and a Governor from a State interested in rail transportation.

B. Preferred Stock—requires Amtrak to issue preferred stock to the Secretary of Transportation for the value of Federal contributions to Amtrak since its creation.

C. Food and Beverage Service—requires Amtrak to eliminate the deficit in its food and beverage service by the end of fiscal year 1982. Also gives Amtrak the authority to contract with a private entity to provide such service.

D. Performance Criteria—retains performance criteria.

E. 403(b) Service—increases State contributions for new service and current service that is continued after fiscal year 1982 to 60 percent of short term avoidable loss in the first year and 80 percent thereafter. Provides a procedure for implementing fare increases.

F. Commuter Service—provides for continuation under current funding and operating requirements of all the commuter trains which meet the ridership criteria for short-distance service.

G. Cost Recovery—contains mandatory requirement that Amtrak cover 50 percent of its costs out of revenues by the end of fiscal year 1982.

H. Operation Within Available Resources—requires Amtrak to evaluate the financial requirements for operating the basic system and, if it determines that the available funds are insufficient, to take action as enumerated to reduce costs and improve performance.

I. State and Local Tax Exemption—exempts Amtrak from the payment of additional taxes on acquisition, improvement, or ownership of personal property and on the improvement of real property made in connection with the provision of rail passenger service.

J. Interest Deferral and Loan Guarantees—permits Amtrak to defer interest payments on Federal debt for fiscal years 1982 and 1983. Increases Amtrak's loan balance authority from $900 million to $930 million.

K. Authorizations—authorizes $735 million for operating and capital expenses for fiscal year 1982 and $788 million for such expenses for fiscal year 1983.

4. Local rail services assistance program.—The conference agreement retains the House passed provisions amending the Local Rail Service Assistance Program to reduce the Federal share from 80 percent to 70 percent; to encourage greater private sector participation; and to eliminate operating subsidies.

The conference agreement provides that each State shall be entitled to one percent of the appropriated funds for each fiscal year.

The conference agreement authorizes $40 million for fiscal year 1982, $44 million for fiscal year 1983, and $48 million for fiscal year 1984.

5. Northeast corridor improvement project.—The conference agreement deletes the House passed provisions which (1) removed the priority ranking of improvements and (2) required the completion of the project despite the reduction in funding levels for fiscal year 1982 and fiscal year 1983, and, inserted in lieu thereof language which re-emphasizes the Staggers Rail Act.

The reduction in funding levels to $200 million for fiscal year 1982 and $185 million for fiscal year 1983 are retained.

SUMMARY OF MISCELLANEOUS PROVISIONS AGREED TO BY CONFEREES ON BUDGET RECONCILIATION BILL

1. Noise Control Act.—The House passed provisions amending and reauthorizing the Noise Control Act were deleted from the bill.

2. Toxic Substances Control Act.—The House passed provisions reauthorizing the Toxic Substances Control Act were deleted from the bill.

3. Environmental Protection Act.—The Senate passed provision placing a cap of $540 million for EPA's non-energy research and development activities and for abatement, control, and compliance activities (which would include such activities under the Toxic Substances Control Act) was deleted from the bill.

4. Office of the Secretary, Department of Commerce.—The conference agreement reduces funding for the Office of the Secretary.

5. Office of the Secretary, Department of Transportation.—The conference agreement reduces funding for the Office of the Secretary by 10 percent from fiscal year 1981 appropriations adjusted upward for inflation.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York for the purpose of an in-depth discussion of the Conrail issues.

First, I might say that he and the gentleman from Illinois (Mr. MADIGAN) were instrumental in working out these compromises. The conference agreement in fact follows the main outline of what came to be called the Lee-Lent-Madigan substitute, which was approved by the House and by the Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the members of the Budget Committee and my colleagues from the Committee on Energy and Commerce who served, as I did, on the Committee on Budget reconciliation and I rise to offer my support for the Omnibus Reconciliation Act of 1981. Many long hours of work by members and staff have gone into the crafting of this legislation, and I believe we have produced a reasonable and workable measure. The final agreement assures the many communities and shippers throughout the Northeast a timetable for transfer of Conrail ownership, which provides maximum protection for continuation of service to shippers. It also assures taxpayers of maximum protection for their $3 billion investment in Conrail.

In particular, I am pleased with the compromise language reached on Conrail, which provides Conrail with additional time to take advantage of legislatively mandated savings, which gives Conrail a total of $262 million in additional Federal funding, and which relieves Conrail of onerous labor protection requirements. These provisions will, I believe, maximize Conrail's opportunity to become profitable and be sold as an entity—an event which I believe will maximize the chances of preserving vital rail freight service in the Northeast.

AMTRAK

As included in the legislation before us, Amtrak represents an equitable compromise between the House and the other body. Several key cost savings provisions have been included. For instance, the substitute requires Amtrak to operate within the limits of available resources, including Federal grants, State and local assistance, and revenues. Furthermore, commencing in fiscal year 1982, Amtrak is required to recover at least 50 percent of its total operating costs, excluding capital costs, from its revenues. Additionally, Amtrak is required to reduce costs associated with its management and to eliminate the deficit associated with its food and beverage service. We have also increased the required level of State contribution to 403(b) service to 45 percent in the first year and 65 percent thereafter. I would like to note that these levels represent a compromise which is satisfactory to both Amtrak and the States. At the same time, we have also included a provision in the bill which protects the Federal investment in Amtrak by requiring the issuance of preferred stock to the Secretary of Transportation in an amount equal to the Federal Government's contributions to Amtrak since its creation.

Finally, the bill clearly seeks to continue the maximum level of rail passenger service while retaining the performance criteria so as to assure that routes do not fall below a certain standard. Funding levels included in

this bill should be adequate to assure such service.

Mr. MADIGAN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois (Mr. MADIGAN) for the purpose of more detailed remarks with respect to the provisions in the health area of this conference report.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the Omnibus Reconciliation Act conference agreement.

I particularly want to comment on matters contained in the conference agreement pertaining to health matters and involving some 50 discretionary health programs, as well as medicaid, medicare, and Public Health Service hospitals.

The conference agreement pertaining to these health programs is the result of seven very long and difficult months. They have been difficult because we have been required to make budget savings which, over the next 3 fiscal years, will amount to several billion dollars. But because of the grave economic condition our country finds itself in, this task has been essential, and we have met the challenge and made the savings targets.

Under the conference agreement, budget savings in the health area will approximate $2 billion in 1982, $2.3 billion in 1983, and $2.8 billion in 1984. Moreover, Mr. Speaker, the conference agreement reflects reasonable compromises in many areas. For example, of 26 categorical programs proposed by the administration to be placed in block grants, 20 were put in blocks while 6 were not.

In the area of medicaid, requirements for reduced Federal contributions and greater program flexibility were adopted. I believe this is a fair compromise with which all the principals, including the administration and the States, can live.

I wish to acknowledge the work of three members of the Energy and Commerce Committee in the health area—the gentleman from North Carolina (Mr. BROYHILL), the gentleman from Michigan (Mr. DINGELL), and the gentleman from California (Mr. WAXMAN), whose combined leadership was both able and tireless, and truly essential in putting together the final product which gives us the needed budget savings and a majority of the block grant programs while still protecting the continuity of programs which were of concern to many of our Members. These three Members deserve to be congratulated.

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Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, today we will vote on the conference report on the budget reconciliation bill.

The reductions included in this legislation touch virtually every area of our lives, from health care to transportation, from student loans to the school lunch program. In fact, Mr. Speaker, we have never seen such sweeping budget cuts enacted in one piece of legislation in history.

I will support enactment of this bill. I do not support every decision made here—no one could. The changes are so sweeping that even the authors of the legislation will not fully understand the impact of decisions we have made until months from now. However, Mr. Speaker, this is the result of a fight, fairly won, by those who want to use severe budget reductions as a tool in the fight against inflation and big government. I support that fight. I want to give this program a fighting chance. I will give it my vote.

Mr. Speaker, I would like to take a minute to explain some of the decisions that were made in one of the areas I worked in—that of energy.

The Department of Energy authorization contained in this legislation is the first since the Department was established. I hope, Mr. Speaker, its passage will mark the resumption by the authorizing committees of their proper role as primary decisionmakers.

While we reduced the Department's budget to do our share in reducing Federal expenditures, we emphatically did not endorse or ratify proposed changes in the direction of the programs administered by the Department as sought by this administration. We insisted, and got agreement, that the programs enacted by Congress would continue, even if some are at reduced funding levels. We emphatically endorse and will continue to fight for a balanced energy policy which does not allow the expensive mistake of putting all our energy eggs in one basket.

We have restored funding for conservation programs and for alternate energy programs.

We seek to have the Department develop a comprehensive emergency plan for this country in the event that we face another interruption from abroad and we have provided funds to accomplish that purpose. It is inconceivable to us that this administration would allow this country to face an emergency, in effect, unarmed, and we will eagerly await their future actions to mend this very serious chink in our armor.

We have included adequate funds to assure that a vigorous and fully staffed compliance program goes forward to completion. Prosecution of oil companies in violation of the law has resulted in billions of dollars in overcharges being returned to taxpayers. The compliance program is an essential element of public policy, with strong support in Congress, and must be continued.

Mr. Speaker, we made another major change in the budget as requested by this administration that should not go unnoticed. While the administration recommended cuts in the programs administered by the Department of almost 30 percent, it asked for an increase for management and overhead for the Department of almost 16 percent. That gap was simply intolerable, we could not allow such growth in overhead, particularly at a time when the mission of the Department was to be so drastically reduced. Therefore, Mr. Speaker, you will see a reduction of almost $30 million in funds for departmental administration for the Department of Energy. The committee targeted contractors for services and for policy studies for reduction. We felt that Department personnel should be utilized to the maximum extent possible before seeking to contract management services. We were very concerned, Mr. Speaker, that Federal employees would be fired, only to be replaced by outside contractors. Funds provided for management and program functions are not to be used for severance pay, or to otherwise compensate those released due to reductions in force, but are to be used for the programs and purposes of running the Department.

Mr. Speaker, we want to note that we reduced funds available for the Office of the Secretary of the Department to reflect the reductions suffered by programs in the rest of the Department. We also have encouraged additional economies and would applaud further reductions which do not affect the responsiveness or the efficiency of that office.

We were particularly concerned at the rapid growth in so-called fixed costs for rent, telephones, and other administrative areas. It is our hope that significant improvements will be achieved through innovative management techniques as well as by renewed efforts to explore alternate methods of providing these services.

To clarify expenditures for the Office of Consumer Affairs, we have included funds for program direction at or above levels recommended by the administration and have slightly increased funds, as specified in our report, for the citizen participation program.

Our work, Mr. Speaker, is generally in agreement with decisions made by our House Appropriations Committee. I hope that the good and constructive relationship with that committee can continue.

I would like to underline for the RECORD some significant considerations involved in making revisions in

the Powerplant and Industrial Fuel Use Act of 1978.

The amendments repeal the so-called off-gas provision which was included in section 301(a) of the law, but retain sections allowing mandatory conversion orders to be issued by the Secretary of Energy to those powerplants which are certified by their operators as coal-capable or capable of using mixtures of oil or gas and coal or another alternate fuel. The amendments establish a conservation plan requirement for utilities which burn natural gas to generate electricity, with a goal of saving an amount of electricity in the fifth year of a DOE-approved plan equal to 10 percent of the electricity generated in the past year by these utilities through the use of natural gas. The amendments eliminate the requirement of the Fuel Use Act that outdoor natural gas lighting be prohibited in residential installations in use when the Fuel Use Act was enacted.

Repeal of section 301(a) does not indicate any belief that our natural gas supply problems are gone forever, or that natural gas policy questions do not need further answers. We repealed section 301(a) of the Powerplant and Industrial Fuel Use Act because we recognized the burdens placed by that section on electric utilities, and hence on their consumers, to replace existing gas-fired generators by 1990 with coal-fired generators at a cost of millions of dollars. We supported repeal of this section because most of these plants are currently burning gas under temporary exemptions, therefore the incremental use of natural gas should be relatively modest, and because other provisions of the statute give full assurance that gas would be available to higher priority consumers in the event of serious future shortages. The law includes a requirement that the Secretary of Energy continuously obtain the data necessary to be aware of natural gas usage by utilities in case he might have to direct the response to a natural gas emergency.

I want to emphasize that the conference agreement maintains the existing relationship between the Fuel Use Act and the Clean Air Act, and is not intended to require changes in the exemptions currently available from the Clean Air Act under existing law for new sources, modifications, and major modifications. The reference in the statement of managers to section 113(d)(5) of the Clean Air Act is intended merely to assure that coal conversions pursuant to prohibition orders are treated as existing sources and, therefore, can take advantage of the delayed compliance provisions of section 113(d)(5).

Mr. Speaker, let me finally say a few words about the strategic petroleum reserve.

As you know I, and a majority of my committee colleagues, felt that the best way to provide for a strategic petroleum reserve was to fund it on-budget through the normal authorization and appropriation process. Because of three separate decisions by the House, we felt bound to provide a mechanism that would remove funds for the strategic petroleum reserve from the budget. We have faithfully carried out our instructions. However, I would hope that the Congress would reconsider this decision and allow us to fund the strategic petroleum reserve in fiscal years 1983 and beyond through the normal authorization and appropriation procedure.

Our legislation, contained here in the reconciliation bill, fully funds the strategic petroleum reserve for fiscal year 1982. We have removed from the budget the moneys for oil acquisition and have retained on-budget the funds for construction, maintenance and other administrative costs. It was our intent that the reserve continue to be filled without delay as it serves as our only defense in the event of a severe oil supply interruption.

The outlines of the new off-budget strategic petroleum reserve proposal are quite simple. There is a clarification that I think would help my colleagues in understanding the conference decision.

Respecting the use of or storage of State royalty oil in the strategic petroleum reserve, it is not our intention to allow any State to reap any undue benefits, to control access to reserve oil in the event of a drawdown, or to sell any oil at a price higher than that paid for comparable quantities in similar circumstances.

Mr. JONES of Oklahoma. Mr. Speaker I yield 1 minute to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, as chairman of the Telecommunications, Consumer Protection, and Finance Subcommittee and as a House conferee representing the Energy and Commerce Committee, I rise briefly to comment on the intent of the conferees with respect to certain portions of the communications title of this budget package.

I would first like to say that I am extremely pleased with the makeup of the final conference agreement. We were successful in retaining the integrity of the Nation's public broadcasting system. We have passed a periodic authorization for the FCC for the first time since 1934—a device which I am confident will make the exercise of our oversight responsibilities far more effective. Moreover, we refrained from making decisions in the budget reconciliation process which would have fundamentally changed communications regulatory policy.

The full list of communications provisions included in the reconciliation package include measures which accomplish the following:

Reauthorize public broadcasting for fiscal years 1984, 1985, and 1986; reauthorize the Federal Communications Commission for fiscal years 1982 and 1983; reauthorize the National Telecommunications and Information Administration for fiscal year 1982; extend terms for television and radio licenses to 5 and 7 years respectively; permit the FCC to award initial licenses based on a system of random selection which must be weighed in favor of persons underrepresented in telecommunications ownership; and, prevent the transfer of payment between competing applicants during a comparative renewal proceeding where a party has filed against an incumbent license holder for the sole purpose of getting paid to drop the competing application.

The statement of managers that we have filed sets forth the intent of the conferees with respect to these provisions. I would like, though, to take a moment to briefly shed some light on the conferees' intent with respect to the random selection and frivolous license application provisions.

The conferees, in agreeing to the random selection process, intended to provide the FCC with the administrative flexibility necessary to deal with electromagnetic spectrum license award proceedings which cannot be satisfactorily handled through the comparative process. Of course, where the Commission believes a comparative hearing will better serve the public interest than random selection, it can opt for the former process rather than the latter. This decision is entirely up to the FCC's discretion, with no presumption either way imposed by the law. It is the firm intent of the conferees, however, that if random selection is used, the applicants which are underrepresented in the ownership of telecommunications properties, must be given significant preferences. The random selection process may be employed for the grant of any license for use of the electromagnetic spectrum, although the immediate motivation of the conferees was to address the enormous backlog of applications for low power television licenses. Of course, the FCC could use different procedures and different preferences for different types of uses of the electromagnetic spectrum, as the public interest requires.

As to the frivolous license provision, the intent of the conferees was not, in any way, to prevent an incumbent licensee from making a payment in excess of expenses to a party challenging that license as a means of settling the challenge, except in the case where that party may have filed his challenging application, not for the purpose of obtaining the license, but

rather for the sole purpose of obtaining some form of payment for dropping the challenge. Thus, this provision is intended to prevent abuses of the comparative process or what some refer to as the shakedown of licensees.

One technical point that should be addressed with respect to this amendment is that the statutory language makes this provision operative when there are two or more applications for a license pending. However, a challenge to an incumbent station's license usually takes the form of an application for a construction permit, not an actual license application. It is the intention of the conferees that this provision was included to apply to just this type of situation.

I would also like to clarify the legislative intent of the conferees with respect to one of the public broadcasting provisions: The reduction of community service grants by an amount equivalent to the Federal tax paid by a station on its unrelated, business income—that is revenues on its commercial activities. The conferees' intent is that CSG's would be reduced only if the station itself paid any unrelated business income tax, on the return of the station itself filed with the IRS.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Energy and Commerce Committee (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I first pay tribute to the chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES) and the gentleman from California (Mr. PANETTA), to my colleagues who served as conferees, Mr. SCHEUER, Mr. OTTINGER, Mr. WAXMAN, Mr. WIRTH, Mr. SHARP, Mr. FLORIO, Mr. MOFFETT, Mr. BROYHILL, Mr. BROWN, Mr. COLLINS of Texas, Mr. LENT, Mr. MADIGAN and Mr. MOORHEAD, to the staffs of the Budget Committee, the Committee on Energy and Commerce, and all of our colleagues that worked so hard to bring this about. Our colleagues in the Senate, Senator PACKWOOD, and Senator STAFFORD were particularly helpful, as were Senators MCCLURE, HATCH, and DOLE.

The committee has, I believe, accomplished what we set forth to do. We have saved the money we were told to save. We have seen to it that the prerogatives of the House were upheld. We believe we have saved essential programs such as medicaid, health grants, Amtrak, the statutorily mandated energy programs, particularly in energy enforcement and conservation, as well as the Corporation for Public Broadcasting, and we deleted proposed funding caps for the Environmental Protection Agency.

We have also seen to it that attempts to deregulate radio and television have not transpired.

I believe this is very, very important from the standpoint of wise legislative process, the public interest, and from questions that might arise in the future relative to what is the function of the reconciliation process and whether it should ever be utilized to changing statutory programs or existing law.

A number of my colleagues on both sides had an enormously valuable input into this matter. A number of my colleagues on the Republican side of the aisle, such as Mr. PURCELL, and some of my colleagues from the Northeast, and other Republicans were immensely helpful, and their work must not go without compliment and commendation.

In like fashion, some of my colleagues from the South who were much concerned about particular matters, such as Mr. TAUZIN, Mr. HALL, and Mr. SYNAR, have been immensely helpful in achieving the kind of resolution of the questions which were so important to the conclusion of this effort.

The savings are enormous. We have saved in total money $8 billion, $7.5 billion, and $6.7 billion in 1982, 1983, and 1984, respectively. The instruction to us as conferees was to save $5.4 billion, $6 billion, and $6.3 billion in those years.

In terms of outlays, we were told to save $5.2 billion, $6.3 billion, and $7 billion. In the bill, in the years 1982, 1983, and 1984, we have saved $7.1 billion, $7.7 billion, and $7 billion.

Equally important, we have done something else, and that is, we have kept the transportation system in the Northeast alive. We have seen to it that Conrail will not be sold off piecemeal. We have kept Amtrak alive. We have seen to it that the Northeast corridor will be sustained to provide the necessary service.

We also believe that two very essential programs, the Corporation for Public Broadcasting, and the health programs of this country are preserved against rather substantial odds. Let me elaborate.

Let me begin by discussing the health programs. Everyone knows that there was more than one agenda in budget reconciliation. The first agenda was to save money in Federal programs and that was accomplished by shifting Federal spending away from the programs that help people and into military activity and military hardware designed to kill people. But in addition to this goal, the administration sought to abolish or cripple many of the programs that have symbolized the caring and humanity of our country. The health programs that were under attack represented more than a century of Government efforts to provide public health and health services to all Americans. These programs have been cut; they have been severely cut, but they have been preserved and our damage control has succeeded. Many important health programs have been placed in block grants—about a half billion dollars in Federal programs for alcohol abuse, drug abuse, and mental health programs have been placed in the hands of State governments. But, within the new block grant formula, we have assured that the existing projects will be able to continue. Community mental health centers will survive; alcohol and drug abuse treatment programs will continue, and within a block grant structure, States will be required to continue to fund community health centers. Although the States will be managing these grant programs, I feel it is particulary important to note that the Congress and the executive branch of Government will continue to be able to conduct audits and oversight to assure that Federal dollars are wisely and effectively spent for the benefit of the public.

It is important to note that by combining these programs we do not mean to disavow the programs or their beneficiaries. These block grants, while routing Federal dollars differently, are still Federal programs for the special benefit of persons in need of health services—poor people, the mentally ill, those with substance abuse problems, mothers and children, and all other such beneficiaries and providers of care. By creating this withholding power—and the related offset and repayment provisions—the conferees have created a tool by which the Secretary and all beneficiaries of this program must assure that funds and allotments are spent appropriately and well and that these Federal dollars continue to provide quality care, whatever the funding mechanism.

It should also be noted that the conferees agreed not to repeal section 501 of the Mental Health Systems Act. Mindful of these enumerated rights and the requirement of the new section 1915 that services be provided in a manner which preserves human dignity, the conferees fully expect that the States and the Secretary will assure the protection of the rights and dignity of all persons receiving mental health services. We anticipate that the Congress will continue to examine these issues to insure that patients are adequately and appropriately protected.

I am also pleased to point out that the conference agreement includes a reauthorization of the developmental disabilities program. This important aid to the mentally retarded was continued at almost full funding levels and the provisions regarding State plans, habilitation plans for the indi-

vidual beneficiaries of the act were retained. All of these provisions—dollars as well as plans— are necessary for the adequate care and the benefit of the retarded children and adults who are the intended recipients of all services and programs of this part. The conference agreement also includes report language requested by the Senate and agreed to by House conferees, specifying that the Congress continues to believe that all developmentally disabled persons have a right to habilitative services in a setting which is least restrictive of their personal liberty. I am pleased that my Senate colleagues have proposed such emphasis, and, as the Chair of the Energy and Consumer Committee, I fully agree with their intent.

Several of the programs that were scheduled for abolition, but which survived, represent great opportunities for savings in dollars as well as health and life. Assistance to Health Maintenance Organizations will continue, encouraging the development of this efficient form of medical care delivery. The National Center for Health Care Technology was preserved with its great promise for assuring the development of effective treatment and prevention. The program of health planning with its demonstrated ability for reducing unneeded capital investment and services will continue for at least 1 year under the policy direction of the National Advisory Committee.

To avoid wasteful practices during a time when essential services to the poor and disadvantaged are being cut back by the Department of Health and Human Services, the bill reduces the authorization for the office of the Secretary and Under Secretary of Health and Human Services by 25 percent and requires that the Congress be consulted by the Secretary before any funds are reprogramed for use by his office.

Among the programs scheduled for severe cutbacks were those that have helped to redistribute and train health manpower, both for services and research. We can be pleased that the National Health Service Corps will continue to place physicians in communities that are now severely underserved. We can also be pleased that the National Research Service awards will continue to provide support for the training of health scientists. And we can be proud that training programs for all of the needed health professions will continue.

The conferees demonstrated appropriate caution with the block grant approach as several programs were allowed to remain federally funded either because States were as yet unprepared to operate them or because of the national significance of diseases they combat. In this category are immunization, tuberculosis, venereal disease, family planning, and migrant health centers. I want to conclude my comments on health legislation with, perhaps, the greatest achievement of the conference—the preservation of the medicaid program which dates back to 1965 and represents the firm commitment of the Federal Government to assure that States can provide medical care for their indigent populations. The administration had proposed an overall cap on Federal spending in this entitlement program. The long-term effect of this limitation would have been to make the program impossible for the States to sustain. Following fiscal crises in States, it would have led to the ultimate abandonment of the people most in need. Many changes were made within the medicaid law to allow the States greater opportunity to run the program efficiently and, thus, reduce costs. In order to assure that recipients under the program are not denied access to high quality services, many of these flexibility provisions are offered to States through a waiver authority of the Secretary of Health and Human Services. For example, there is an option to provide home and community based care as an alternative to institutional care.

In conclusion, I would like to congratulate the conferees for retaining and maintaining the health programs that have become part of an American tradition of caring about and caring for the people.

I would like to bring to the attention of the Members an inadvertent omission from the statement of managers in House Report 97-208, explaining the conference agreement on the Omnibus Budget Reconciliation Act of 1981, H.R. 3982. In the explanation of subtitle C of title XXI relating to medicaid, reference is made to an amendment regarding services to the medically needy. The language now states, in pertinent part:

> The intent of the amendment is to provide States with flexibility in establishing eligibility criteria and scope of services within the medically needy program to address the needs of different population groups more appropriately. Nothing would allow, however, the State to cover individuals not covered under current law.

Inadvertently, the next sentence was omitted. It was to read as follows:

> Moreover, it is not the intent of the conferees to alter the requirements under section 1902(a)(17) of the Social Security Act relating to comparable treatment of income and resources between categorically needy and medically needy programs.

Both Senator DOLE, the cochairman of the subconference in which this issue was resolved, and I, intend that this sentence be considered as part of the statement of managers.

Everyone knows by now that the administration vigorously sought to either abolish or seriously cripple the Consumer Product Safety Commission, the smallest Federal health and safety agency. I am pleased to state that, as a result of the combined efforts and sensitivities of both the Senate and House conferees, the CPSC will continue as an independent regulatory agency charged with the important task of reducing unreasonable risks of injury associated with consumer products.

The administration supported a substantial reduction in CPSC appropriations for fiscal years 1982 and 1983. This will require that 225 of the agency's 900 personnel be fired. However, thanks to the humane offer of the cochairman of the Senate Commerce conferee, the conferees have authorized severance pay for these employees, and fully expect that sufficient funds will be appropriated for that purpose. Limited resources have also forced us to narrow the focus of the agency, first, to only the most serious hazards which it can effectively address, second, to areas of greatest benefit to consumers, and third, to greater reliance on industry voluntary safety standards.

Some Members have expressed concern that the Secretary may not fund all of the projects under the AFDC home health demonstration project provision in this bill. Specifically, I understand it is the conferees intention that the Secretary will help at least 12 States to develop effective demonstration projects and that he will request an increase in the number of States that may participate, if the experience with the initial demonstrations warrant such action. The Secretary should give priority to those States who have actively demonstrated interest in a support for the concept embodied in the demonstration. These States—listed in last year's reconciliation report language—have been waiting anxiously to prove that savings to the Federal Government can be made through such a demonstration as our own CBO has told us. This demonstration was put into reconciliation this year to reiterate our concern that these 12 projects be awarded in an expeditious manner.

Perhaps the most pleasing result of the negotiations and of this conference report under consideration today is that we have retained our energy laws. I would like to emphasize that we have not used this horrendous budget reconciliation process to achieve what some would have wished—that is, the repeal of law or functional cancellation of programs through zeroing out funding.

Indeed, in the energy area, the conferees have not only retained basic statutory programs—with full expectation that all statutorily mandated programs will be continued—but have further shown our commitment by pro-

viding authorization for funding for 3 years.

My colleagues and good friends, the gentleman from New York (Mr. OTTINGER) and the gentleman from Indiana (Mr. SHARP)—who have done a superb job on this conference—will talk at greater length about the energy matters within their subcommittee jurisdictions, so I will just take a moment to mention some of the highlights.

In the energy conservation area, we have retained programs for low-income weatherization, schools and hospitals conservation programs, and other State and local programs.

In the regulatory area, the conference agreement clearly indicates that there will be no amnesty for oil companies, as promised by Secretary Edwards.

The agreement provides a minimum of $48 million for compliance. None of these moneys are to be used to provide for any reduction-in-force (RIF). Testimony before my Subcommittee on Oversight and Investigation showed that the potential oil company violations in regard to Office of Enforcement cases is $5.8 billion and the special counsel office cases have a potential violation of over $12 billion. At our hearings, the Acting Administrator of the ERA made a commitment to adopt the June 26, 1981, proposals by the heads of these offices of a total funding level in fiscal year 1982 of $43.6 million and a total of 782 FTE's. Even that sum may not be sufficient. We stress that our objective is to insure that all of these cases are promptly and properly resolved. We also want to halt the attrition of qualified personnel in compliance so that these cases are resolved. Despite the administration's desire to devastate the enforcement efforts by reducing funding and personnel levels, the conferees provided sufficient funding and intend vigorous enforcement efforts. This is particularly important, since the estimates are that we could regain up to $13 billion for the Federal Treasury.

I am particularly pleased that we were able to reach agreement on a $1.875 billion program in the Department of Health and Human Services for low-income energy assistance, to help our less fortunate citizens to bear the high costs of energy. One provision of the bill was dropped which would have required State legislatures to conduct public hearings prior to any second-year funding of State programs. While I agree that legislatures have an important role to play, it is by no means our intent to have State legislatures stymie Federal assistance programs designed to help needy persons. It gave me great pleasure to work this matter out with my colleagues on the House side from the Education and Labor Committee and the Ways and Means Committee, and on the Senate side from the Labor and Human Resources Committee. I look forward to working with them in the future.

For the strategic petroleum reserve, I must say that, despite the general consensus among those of us who have committee responsibility for energy that taking the funding off the budget was a bad idea, in response to the Latta mandate, we have crafted what I believe is a responsible program which will insure continued filling of the petroleum reserve to protect the Nation against supply interruptions.

The conferees deleted a provision which would have specifically permitted the Federal Government to store State royalty oil in the strategic reserve and instead retained existing law under which the Secretary already has authority to store such oil. I must point out that equal treatment of all States is what is contemplated in existing law, and that under no circumstances is any State, including Alaska, expected to receive any unfair advantage with respect to the price paid at the time of purchase of the State oil, nor any unfair advantage at any time oil is withdrawn from the reserve, either in terms of price or in terms of controlling the allocation of the drawdown oil. The Energy and Commerce Committee will undertake close scrutiny of this activity, and will continue what has been extensive oversight of the entire SPR program.

Consistent with what conferees agreed upon with respect to several other executive branch departments, we have decreased funding levels for the office of the Secretary of Energy. I was especially concerned about this office in the Department of Energy, since the administration has promoted severe cuts in program areas—often as much as 50 percent—and yet has been attempting to increase funding and staffing in the office of the Secretary.

One matter that concerns me greatly about the Department of Energy all across the board is the extent to which contractors have been hired to perform functions which clearly should be carried out by employees of the U.S. Government. In the interest of efficiency, accountability, and economics, it is essential that contracting be reduced, and that the administration learn that it is both cheaper and more effective to perform Government functions with Government personnel. It has gotten so bad that the Department has contracted for telephone call returns, correspondence—even for the preparation of request for proposal—yet more contracts. My committee has done extensive oversight in the area of contracting, and has just begun some oversight of the personnel situation. Drastic reductions-in-force (RIF's) have been proposed, with little or no understanding on the part of the administration as to the likely results of such RIF's. Specifically in the area of departmental administration, the conference report clearly states that no fiscal year 1982 funds shall be expended for costs associated with reductions-in-force, such as severance pay or annual leave; indeed, the General Accounting Office assisted my efforts this week by informing me that the costs of any RIF's occurring in fiscal year 1982 could not, legally, be paid for with fiscal year 1981 funds. I will continue to watch this situation, too, and trust that the Department will see the wisdom of retaining a strong and capable group of its own employees, rather than painting itself into a corner where it will want to rely more, not less, on contract personnel. Mr. Stockman has said he agrees there should be less contracting, and now all that remains is for him to see the connection between that goal and the obvious need to retain adequate governmental personnel.

In sum, my displeasure at this reconciliation process notwithstanding, I am satisfied that we have done quite well in the energy area.

The conference report changes the permanent authorizations for the Offices of the Secretaries of Commerce and Transportation to periodic authorizations. This will enable the Congress to exercise more effective oversight over the activities and functions of the affected Cabinet departments.

I am most pleased that the conferees agreed to reductions in each of the next 3 fiscal years in the budgets of the Secretaries of Commerce and Transportation. The Committee on Energy and Commerce proposed these reductions in the belief that in these times of fiscal austerity and diminished Federal resources, all Americans should be called upon to sacrifice and economize in the effort to reduce Federal spending and combat inflation. I am quite confident that these Cabinet officials will welcome these reductions and will be able to carry out their statutory responsibilities in a more efficient fashion to ease the burden on the American taxpayer.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, the Government Operations Committee was assigned three provisions in the Budget Reconciliation Act for the purpose of conference with members of the Senate Governmental Affairs Committee for matters within their jurisdictions. The first two were contained in the Senate reconciliation bill and had no counterpart in the House bill. They called for a reduction in obligations for consultant services and related services, and for travel and transportation of persons and transportation of property for the executive branch. Under the Senate provi-

sion, obligations for consultant services were to be reduced by $500 million from the total proposed in the President's budget for fiscal year 1982. Obligations for travel were to be reduced by $550 million.

The conferees amended these provisions to require the President to submit a rescission bill making the required reductions in spending for consultants and travel. For consultants, the rescission is to be in the amount of $500 million, less the amount that Appropriations Committees have already taken away from agencies for spending on consultants for fiscal year 1982. The conference provision dealing with travel calls for a $100 million reduction in direct administrative travel of persons within the executive branch. The President is to submit a rescission bill reducing obligations for this item by $100 million, less the amount Appropriations Committees have already taken away for travel by agencies. The conferees' agreement on travel and consultants means that these provisions will achieve real cuts in expenditures for these items, and that the President will have to verify the figures he uses in formulating the rescissions that he must propose for these items.

The other matter considered by the Government Operating Committee conferees was the provision for administrative and procedural requirements to be met by States receiving block grant funds. Title XVI of the House bill contained extensive requirements on this issue, and the Senate bill was silent.

The conference agreement provides for five new sections, sections 1741 through 1745. They provide a participation and reporting process at the State level to help assure that local governments, interested individuals, and groups within a State have an opportunity to comment on planning for the expenditure of block grant funds authorized in the Budget Reconciliation Act. These are minimum requirements and are not intended to supersede more detailed reporting and participation provisions contained in individual block grants in the act.

The conferees also agreed on a transition provision which will facilitate the States' orderly assumption of block grant funds and the continuation of funding of existing programs until that is possible.

The last two sections of the conference agreement pertain to grant auditing. They insure the Comptroller General's access to records for the purpose of evaluating, reviewing, and auditing the use of block grant funds, consolidated assistance, or other grant programs established or provided for in this act. The last section requires each State to conduct financial and compliance audits of all funds which the State receives under block grant or consolidated assistance programs established or provided for by this act. This provision applies to State audits only and in no way affects the right of Congress to carry out its oversight responsibilities or the rights of any Federal agencies of the General Accounting Office to conduct needed audits.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Science and Technology Committee, the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I am pleased to be able to state for the first time since 1978 that the Congress has, by its actions in this budget reconciliation conference, enacted an authorization bill for the Department of Energy. This is an important milestone. Indeed, our actions reflect a conscious melding of the new administration's priorities with those established and supported by the Congress in the past few years.

The civilian research and development programs and projects contained in the bill for fiscal year 1982 are generally authorized at levels below that of previous years, but in some cases with amounts that are greater than the program requests.

In addition the conferees have acted to enact authorization ceilings for fiscal years 1983 and 1984 for the Department of Energy operating expenses, and for plant and capital equipment. This multiyear authorization will serve to establish congressional intent and direction for the level of program and project funding for the outyears.

To better understand and be able to follow the outyear budget requests for authorization and appropriation the conferees included a statutory requirement that the Department of Energy furnish to the Congress a breakout of the fiscal years 1983 and 1984 budget request at the level of detail contained in the statement of managers. This new provision requires this level of detail for the following 2 years, since the Budget Control Act of 1921 requires submission of 2-year budget requests. Therefore, no program detail was provided beyond the single fiscal year for which the budget was submitted. It is our hope that this multiyear authorization and the program detail to indicate outyear funding will help Federal program planning and projections for subsequent years as well as the Congress and others involved with civilian energy research and development. Another additional requirement in the statute is for a civilian research and development authorization which continues the present practice of a specific authorization request for appropriations for new construction, for additional amounts requested for authorization for prior year projects, and for other plant and capital authorization requests.

SCIENCE AND TECHNOLOGY COMMITTEE: CIVILIAN ENERGY R. & D. PROGRAMS AND PROJECTS

[In thousands]

	Fiscal year		
	1982	1983	1984
Fossil	460,800	430,800	430,800
Construction	18,000		
Energy supply R. & D.	2,159,148		
Less deferral	101,688		
Total	[1] 2,057,460	[2] [3] 2,141,000	[2] [3] 2,258,000
P. & C.E.	370,132	354,000	416,000
General science	439,160	471,000	500,000
P. & C.E.	128,300	137,000	147,000
Conservation	149,444	154,000	158,600
Uranium supply (AIS)	80,292	([4])	([4])
P. & C.E.	6,150		
Geothermal Resources Development Fund	200	200	200
Total	3,720,938		
Less construction deferral	36,800		
Total	3,684,138	3,668,800	3,910,600

[1] Not including certain solar and hydropower operating expenses authorized in Chapter 4.
[2] Including certain solar and hydropower operating expenses authorized in Section 1007(a)(3)(A).
[3] Not including commercial waste management R&D, which is included in totals for the joint programs in Chapter 4.
[4] Uranium supply and enrichment (advanced isotope separation) is included in the totals for joint programs, uranium supply and enrichment activities.

SCIENCE AND TECHNOLOGY COMMITTEE: SHARED CIVILIAN ENERGY PROGRAMS AND PROJECTS

[In thousands]

Renewable Energy and Conservation	Fiscal year		
	1982	1983	1984
A. Certain solar and hydropower programs, operating expenses	11,700,000	([1])	([1])
B. Certain conservation programs, including capital equipment not related to construction	32,600,000	33,600,000	34,600,000
Commercial waste management West Valley, repository licensing, assistance to states	([2])	[3] 284,148,000	[3] 300,000,000
Uranium enrichment activities: [4]			
Operating	1,063,200	1,1261,600	1,973,600
Capital equipment	27,200		
Construction	714,600	[5] 1,002,800	[5] 981,500
Total	1,805,000	2,624,400	2,955,100
Departmental administration	206,000	[5] 246,963	[5] 246,963
P. & C.E.	40.963		

[1] Included in totals for energy supply research and development, Sec. 1001(2)(B) and (2)(C).
[2] The civilian waste management R&D program is contained in Sec. 1001(2)(A).
[3] Includes research and development and all other activities for commercial waste management.
[4] Not including advanced isotope separation which is contained in Sec. 1001(3).
[5] Plant & capital equipment is included in this amount

FOSSIL ENERGY

The conferees agreed to a total authorization of $478,800,000 for fossil energy, which is $43,460,000 above the administration's request. The breakdown is as follows: $455,250,000 for operating expenses; $5,450,000 for capital equipment; and $18 million for construction.

While accepting much of the administration's proposal for fossil R.D. & R., the conferees expressed their preferred priorities in several programs. For example, within the total of $113,200,000 for coal liquefaction oper-

ating expenses, an additional $10 million is available for the H-coal pilot plant at Cattlesburg, Ky. Also, within the amount for coal liquefaction, funds are available for the orderly closeout of the SRC pilot plant at Fort Lewis, Wash.

Within the total of $56,300,000 provided for the surface coal gasification program, $8 million is available for the Bi-Gas pilot plant and a total of $7 million is available for the low Btu fluidized bed gasifier at Waltz Mill, Pa. Further, funds are to be used for continuation of the molten salt gasification process and the peat gasification program.

Within the authorization of $31,800,000 for the combustion systems program, $9 million is available for continuation of the International Energy Agency Project for Pressurized Fluidized Bed Combustion at Grimethorpe, England. Further, additional funds are made available to pursue conversion of the waste residues at the atmospheric fluidized bed project in Shamokin, Pa.

I am pleased that the conferees have agreed to an authorization of $35,900,000 for the fuel cells program. The increase in funds for fuel cells will enable the Department of Energy to reorder its priority within the program to enhance the electric utility applications of phosphoric acid fuel cell technology. Some of the funds are intended to support the development of several competing versions of phosphoric acid fuel cells and should emphasize using alternative domestic fuels such as coal-based methanol.

I am also pleased that the conferees agreed to a fiscal year 1982 authorization of $29 million for the magnetohydrodynamics R. & D. program, rather than eliminate this worthy activity as the administration has proposed.

The conferees authorized $22,350,000 for oil shale activities which would allow continuation of the cost-shared in situ demonstration program and would allow supporting research for evaluating both fracturing and retorting processes.

The conferees authorized $14 million for enhanced recovery, which allows completion of the Eastern Mineback Facility, the startup of a stimulation test in the Eastern Devonian Shales, and mineback rock fracturing tests in the Western tight gas sands. These funds also provide for development of advanced diagnostic instrumentation and field testing of instruments.

Consistent with the fiscal year 1981 Supplemental Appropriation Act and the fiscal year 1982 House Interior appropriations bill, the managers believe that the SRC-I project should be continued with deferred funds from fiscal year 1981, and the $135 million should be used toward completion of the detailed engineering design of the project.

SOLAR ENERGY

The conferees have agreed to an authorization ceiling of $303 million within Energy Supply Research and Development for the DOE's solar energy research and development program. This recommendation is broken down as follows: $271,850,000 in operating expenses for R. & D.; $10,250,000 in capital equipment; $10,700,000 for solar international and information; and $10,300,000 in construction. It is my understanding that the floor statement of June 26, 1981 for the various solar subprograms is instructive with the following differences.

The photovoltaics program is provided an operating expenses authorization of $93,650,000 and $10 million was agreed to for alcohol fuels research and development.

The solar thermal program operating expenses are authorized at $59,500,000. The funding for project 82-ES-1, central receiver utility repowering preliminary designs, was shifted from plant and capital to operating expenses.

Finally, the conferees agreed to the administration's total request for solar capital equipment at $10,250,000.

GEOTHERMAL ENERGY

The conferees agreed to an authorization ceiling of $55,375,000 for geothermal energy, including operating expenses for the Raft River project and construction for the second 50-MWe geothermal demonstration project at Heber, Calif., which would demonstrate the promising binary cycle technology.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

The conferees expressed their desire that the Geothermal Loan Guarantee program, authorized by Public Law 93-410 and amended by Public Law 95-238, is to remain in effect regardless of the current availability of funds for a reserve account.

CONSERVATION R.D. & D.—SCIENCE AND TECHNOLOGY COMMITTEE PROGRAMS AND SHARED PROGRAMS

The conferees agreed to an authorization ceiling of $182,044,000 for the R. & D. conservation programs in chapter 1, Civilian R. & D., or chapter 4, which contains certain other programs. These include building and community systems ($53,479,000); industrial energy conservation ($32,065,000); transportation ($61,400,000); energy extension service ($15 million); and multisector ($20 million). This contrasts with an administration request of $86,035,000 for these programs.

I would like to point out that the House Interior appropriations bill, passed July 23 by the House, contained $176,495,000 in total appropriations for these programs in fiscal year 1982. The Senate Interior appropriations bill, as marked up by the Senate Appropriations Committee, contained $164,610,000 for the same programs. The distribution of funds in both appropriations bills roughly parallels the distribution in the authorization conference.

These actions when taken together reflect strong and continued support for the conservation programs such as vehicle propulsion R.D. & D., industrial energy conservation, technology and consumer products and the energy extension service.

The conference agreement continues these valuable programs in 1983 and 1984 at levels of $154 million and $158 million respectively, for the R. & D. programs. This is a significant commitment for outyear funding at the established levels based on our fiscal year 1982 actions.

It is my understanding of the House conferees' position on specific conservation R.D. & D. programs that the language of my floor statement of June 26 with respect to the Gramm-Latta II substitute is instructive, with the following differences.

BUILDING AND COMMUNITY SYSTEMS

The conferees added $22,829,000 to this program in the following areas:

Building systems—$5,953,000 to continue this subprogram at a level slightly above last year's funding at $22,475,000.

Community systems—$4,400,000 for the activity with a special emphasis on district heating.

Technology and consumer products—$11,326,000 for operating expenses and capital equipment to continue this important program.

Analysis and technology transfer—$2 million to continue this subprogram.

INDUSTRIAL ENERGY CONSERVATION

The conferees added $31,100,000 in operating expenses for waste energy reduction ($12,400,000); industrial process efficiency ($8 million); industrial cogeneration ($5,200,000); implementation and development ($4 million); and program direction ($2,465,000 which is an increase of $1,500,000).

TRANSPORTATION

The conferees increased the amount requested for operating expenses by $23,800,000 to permit the continued proof-of-concept development of both the advanced Stirling and gas turbine engines and to provide for continued supporting research in vehicle systems.

MULTISECTOR

The conferees added $5 million for Appropriate Technology to continue this subprogram; $400,000, which is an increase of $210,000, for program direction; and decreased Energy Conversion Technology by $2,500,000.

SUPPORTING RESEARCH AND GENERAL SCIENCE PROGRAMS

I am pleased that the conferees have adopted the administration's request

for DOE basic energy research and general science programs, $333,711,000 for supporting research activities, and $567,460,000 for general science and research activities. In addition, the conferees have authorized these programs for fiscal years 1983 and 1984 to provide for modest growth and assist in outyear planning.

I believe this action signifies that Congress fully agrees with the administration's view that long-term, high-risk, high-potential, basic research is vital to our national interests and that the Federal Government must play the pivotal role in the support of energy research.

The conferees have endorsed the administration's budget request providing modest real growth in such DOE programs as basic energy sciences, university research support, high energy and nuclear physics, and life science and nuclear medicine applications. The authorization of these programs contains funding for the operation and construction of some of the world's best research facilities.

I wish to point out that the conferees adopted the Senate authorization figure of $21 million for project 78-10-b, Intersecting Storage Accelerator, (ISABELLE) at Brookhaven National Laboratory. This additional project authorization will meet the administration's request for fiscal year 1982 budget authority of $21 million.

Although I strongly support the high energy physics program for construction of advanced research facilities, I am personally concerned about continuing as yet unresolved difficulties associated with the fabrication of the superconducting magnets for the ISABELLE facility. Thus, I expect the Department to continue its thorough evaluation of the technical and management situation for ISABELLE in order to resolve the difficulties during the next several months and to advise the Committee on Science and Technology on actions taken and future plans.

After a review of the project status and revised costs during fiscal year 1982, the Committee on Science and Technology will consider further authorization for ISABELLE as part of the fiscal year 1983 authorization legislation required for prior year civilian R. & D. projects.

NUCLEAR FISSION

The Conferees authorized the Nuclear Fission R. & D. programs at just $4 million below the Reagan request and provided for a committee initiative in the high temperature gas-cooled reactor (HTGR) program. The conference report calls for redirection in reprocessing R. & D. to light water reactors, provides a final year of funding for the Barnwell facility and provides for a strong program across the nuclear fuel cycle. Significant reductions were called for in the water-cooled breeder program, which is to be brought to an orderly termination, and in Civilian Waste Management where the conferees saw the need for a more focused program. In other fission programs, funds are provided for the West Valley Demonstration Project and certain waste management activities.

MAGNETIC FUSION

The conference report provides $473,500,000 in new budget authority for the magnetic fusion program in addition to $15 million of fiscal year 1981 construction deferrals. The conferees emphasized the importance of moving forward with the Center for Fusion Engineering which was provided an additional $5 million. Additional funds were also provided for the Fusion Materials Test Facility (formerly FMIT) and the ISX-C experiment which were not included in the President's request.

ELECTRIC ENERGY SYSTEMS AND ENERGY STORAGE

Electric energy systems and energy storage systems programs were funded at levels to support responsible DOE programs while $2 million was provided to sustain continuing Federal involvement in small-scale hydropower R. & D.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Speaker, I am very pleased that this conference report contains the first Department of Energy authorization bill since Public Law 95-238 which contained the fiscal year 1978 authorization. I have had some concerns about the implementation of the reconciliation process, but the fact that it forced us to a speedy agreement on the DOE bill is a definite plus for the process. I wish to congratulate Chairman JONES, Chairman FUQUA, and my fellow House conferees on the R. & D. bill as well as Senate majority and minority conferees for lending such positive support to the conference process. I also appreciate the cooperation of Chairmen UDALL and DINGELL in working out matters of joint jurisdiction in such an amicable fashion with our Science Committee.

Mr. Speaker, the statement of managers language accompanying the bill speaks for itself and the tables contained with the report language provide detailed direction to the Department of Energy. From that perspective, I shall confine my remarks to highlighting areas of particular interest to members of the Energy Research and Production Subcommittee which I chair and some other specific programmatic items which are of particular interest to me.

I do have some reservations about the adoption of outyear authorization caps for fiscal years 1983 and 1984 if they are to be used as a disincentive to obtaining authorization bills in the Congress for those fiscal years. I share Chairman FUQUA's and Chairman UDALL's concerns that the area of commercial waste management which is largely a civilian waste management R. & D. program under the sole jurisdiction of the Science Committee and a remedial action program with no R. & D. component which is of primary interest to the Interior Committee may pose a significant problem in terms of funding priorities. The conferees recognize that the West Valley demonstration project which is also an element of this program will be requiring significant outyear funding and this combined with significant growth in the technology demonstration phase of the R. & D. program and an enhanced remedial action activity cannot all be accommodated within a modest cap which only includes inflationary projections.

In terms of my primary interest in the nuclear area, I hope the passage of this conference report coupled with the recent vote on the appropriations bill will put the issue of the Clinch River reactor to rest. The conferees' intent is clear on this project, that the DOE should move ahead with all deliberate speed and I trust the administration will obtain the cooperation of other agencies in seeing that constuction will go ahead at a significant pace.

There are several points of clarification that I would like to make with regard to the conferees language on the Clinch River breeder reactor. As the primary author of this particular language, I would like to note that the words were chosen very carefully to convey certain meanings intended by the conferees.

The words "as set forth in the existing project arrangements" reflect the intention of the conferees to affirm the existing project authorization, objectives, and major design concepts and parameters which are intended to form the basis for licensing, construction, and operation of the facility at the existing Clinch River site.

The word "key" in the same first sentence was intended to affirm that this technology demonstration-scale facility is of basic importance to the national program for the development of liquid metal fast breeder reactors, even though it is not a commercial demonstration. The conferees' choice of the words "timely" and "expeditious" were purposely chosen with the intent that licensing, construction, and other related project activities be undertaken promptly and with as little delay as discretion will allow. In the same sentence the phrase "so that a decision on commercialization and deployment of breeder reactors can be made on the basis of information obtained in the operation of the plant"

in conjunction with the words "timely" and "expeditious" means that the effect of unrecoverable delays resulting from the 1977 decision to stop the project should be minimized and that to the maximum extent possible the overall liquid metal fast breeder reactor program should proceed in accordance with the pre-April 1977 project schedule.

The next sentence, "the plant should therefore be constructed on the basis of that objective, and not on the basis of providing needed power in a specific region of the Clinch River site", is simply intended to reaffirm that all activities associated with the construction of the facility including the design, licensing, construction, and operation be undertaken with the understanding that the objective in building this plant is to provide information and experience in a demonstration scale. All other benefits are incidental including the provision of electric energy to the region surrounding the Clinch River facility.

Before turning to the specifics of my subcommittee's programs, let me observe that I am pleased with the balance struck in conference for solar and conservation R. & D. programs. Solar R. & D. is $110 million above the Reagan request and I do not agree with all the specific priorities, but I do feel that this program represents a much more balanced approach to the Federal role in solar energy than what the administration requested. In conservation R. & D. there has also been a very significant add-on roughly doubling the Reagan request. I am pleased that the key industrial and transportation R. & D. programs were given new life by the conference. It is also worth noting that these add-ons are generally supported by the Appropriations Committee in the House. Finally, in the programs outside our subcommittee I should note that the conference supports the request for the high temperature materials lab at Oak Ridge in the basic energy sciences budget. The initiation of this facility to house a materials "center-of-excellence" has already drawn significant industrial support.

In the nuclear programs the conference agreement allows for a strong nuclear fission R. & D. program while supporting major committee initiatives with respect to the high temperature gas-cooled reactor (HTGR) and the Barnwell nuclear fuels plant. The committee was convinced after careful study that the DOE TMI R. & D. program was well conceived and constituted a proper Government role. The conference did provide additional funds for light water reactor reprocessing R. & D. while sustaining the Reagan request in other fuel cycle programs.

I should note that the major reductions for nuclear fission in the conference agreement are in civilian waste management and the water-cooled breeder reactor program. The conferees agreed with our committee that the civilian waste management program is not satisfactorily focused to support the test and evaluation facility which is our committee priority. As for the water-cooled breeder there is general agreement that the program should be brought to an orderly termination to encourage the private sector to make a decision with respect to commercializing this concept.

In magnetic fusion the conference agreement provides for an enhanced program above the Reagan request principally to support a broadened activity for the Center for Fusion Engineering (CFE) and to sustain vital R. & D. on the Mike McCormack Fusion Materials Test Facility. In the case of the CFE it is worth noting that this entity must be organized well in advance of any DOE decision with respect to the next large machine, the so-called fusion engineering device (FED). I hope that the CFE can serve as a core group for a widening industrial involvement in this decade. The conference agreement also supports funding for the impurities study ISX-C experiment at Oak Ridge which is vital to technology for a fusion power reactor.

In electric energy systems and energy storage systems, the conference agreement maintains a meaningful Federal role in these programs where the United States has unfortunately lost international preeminence within the past decade. I hope that the administration recognizes that these are areas where we have overwhelming evidence industry simply will not pick up the ball.

Finally, the conference agreement provides $1 million to retain Federal activity in low-head hydro R. & D. because of the great potential of this distributed resource.

Mr. Speaker, I support the conference agreement under title X because it provides a reasonable balance for energy R. & D. programs and I hope the Office of Management and Budget will recognize that the conferees are serious about continuing these vital programs. Any deliberate delay in committing funds in these areas where the Congress has spoken so clearly will have to be construed as a violation of the intent of the Budget Impoundment and Control Act and I trust the appropriate committees will act accordingly.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I rise in strong support of the conference report for the omnibus reconciliation bill, H.R. 3982. All of my colleagues are to be congratulated on the amazing legislative feat they have performed in putting this reconciliation budget package together. Without the wholehearted cooperation of Chairman JONES, Chairman DOMENICI, Representative LATTA, and Senator HOLLINGS, in addition to the score of conferees, this conference report could not have been done as quickly as it has. Starting with our first subconference meeting on July 15, the Members and staff have worked diligently to fashion this compromise agreement in less than 2 weeks. By comparison, the conference on the Energy Security Act required 7 months to complete its actions.

This bill represents a good beginning toward our goal of a balanced budget in 1984. But I warn my colleagues that we cannot let up on our objective. Our new-found concensus, that the Federal Government's budget must be brought under control, cannot be an agreement just for fiscal year 1982. We must continue to work diligently in fiscal year 1983 and fiscal year 1984 to maintain this wise policy. In fact, we may be called upon to make even more and deeper cuts in those 2 years, below our present projections. This concern for even more diligent efforts in these outyears represents the reason why our four Republican members of the Science and Technology Committee did not sign the subconference report on the Department of Energy.

This year, the overriding and primary issue for Mr. GOLDWATER, Mr. FISH, Mr. LUJAN, and myself has been maintaining the proposed level of spending from the administration. In March, all 17 Republican members of the Science and Technology Committee signed a letter agreeing that this was our most important objective. By the time the committee had finished its budget work on the Department of Energy, the entire committee was in agreement with this goal, and we held our spending levels below those requested by the administration. Both the committee bill to authorize DOE and the Winn substitute for the DOE authorizations were below the Reagan administration requests.

However, when the subconference had finished its work, the majority of conferees had accepted a Senate offer to provide for outyear authorizations in fiscal years 1983 and 1984. Included in this offer was an agreement to exceed the Reagan administration's projected budgets for the Department of Energy by $600 to $700 million in both fiscal years 1983 and 1984. As strong supporters of the President's economic recovery plan we cannot support this action. With these outyear authorizations in place, we have no assurance that we could pass further annual authorization bills in those fiscal years to reduce these outyear authorization ceilings. We feel that this would be giving the Appropria-

tions Committee no guidance, and essentially a free hand in funding DOE programs. It also undermines and reverses all of the work that we have done this year to try to accomplish the goal of spending only at the Reagan-requested levels.

I want to make clear that I have no quarrel with the conference agreement for fiscal year 1982. It represents a fine compromise on the Department of Energy budget. I want to commend Chairman FUQUA for his strong efforts in behalf of the subconference, and to congratulate him for reaching this compromise for fiscal year 1982. Where the conferees decided to take new policy directions in fiscal year 1982 for research and development, they simultaneously sought out reductions in other areas where priorities were less. The result is that we exceeded the requested energy research and development budget by only 2 percent.

Finally, I wish to warn my fellow colleagues of what may appear to be savings, but represents inflexible accounting principles. As I said at the time of the passage of the Winn substitute, I am deeply disturbed by the creative accounting which was done in that reconciliation process. The base line which was chosen resulted in the Committee on Science and Technology appearing to have come $1.8 billion under their assigned levels, when in fact the committee was almost $100 million over the budget levels recommended by the Reagan administration for all of the agencies which the Science Committee authorizes.

We have a similar situation which appears here. Looking at the CBO projections for our subconferences on DOE, it appears that title X saves $5.6 billion in fiscal year 1982, $4.6 billion in 1983, and $3.7 billion in 1984. This appears to be an enormous amount of savings. However, it is also terribly misleading. These savings are based on the policies of the last administration; for example, filling the strategic petroleum reserve by using on-budget funds. The Congress has already spoken and decided that the SPR will be filled using off-budget financing. Therefore, when this policy is reflected in the CBO estimates of reconciliation savings, the savings drop by 68 percent in fiscal year 1982; they drop by 73 percent in fiscal year 1983; and they drop by 58 percent in fiscal year 1984. Furthermore, when the administration's policy of no longer building various fossil fuel, synthetic fuel demonstration plants in the DOE, is factored into the CBO estimates, we have a drastically different situation. The savings for the next 3 fiscal years are as follows: $1 billion, not $5.6 billion, in fiscal year 1982; $1.2 billion, not $4.6 billion, in fiscal year 1983; $0.5 billion, not $3.7 billion, in fiscal year 1984.

And it should be noted that all of these savings are credited, despite the fact that in fiscal years 1983 and 1984 the budgets greatly exceed the Reagan administration's projections for DOE in those years.

However, I intend to work diligently with my colleagues in the next 2 years, as I have had the pleasure of doing in this year, in order to insure that the President's economic recovery program will continue to its ultimate goal of restoring this Nation's economic vitality, with jobs for all able-bodied citizens.

As I said at the beginning, this Omnibus reconciliation bill is a good beginning on this long road, and I urge my colleagues to adopt it.

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Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3982, the Omnibus Reconciliation Act of 1981, but in reluctant opposition to the conference agreement reached on title X, subtitle A, relating to the authorization of appropriations for the Department of Energy's research, development, and demonstration programs for fiscal years 1982, 1983, and 1984. It would be unwise to authorize funding at the present time for the Department of Energy's programs in the outyears—fiscal years 1983 and 1984—at levels far in excess of the President's projected budget request for these fiscal year.

Budgetary pressures have presented the Science and Technology Committee this fiscal year with the hardest choices in the history of its energy jurisdiction. The recent increases in inflation and our overall economic situation have made it painfully aware to us that our Nation is in the midst of the most severe and deep economic troubles since the days of the Depression.

While recognizing that an effective energy research and development program is in our best national interests, I believe that it is obvious that drastic action is necessary to get the economy back under control. This action must include reductions in Federal spending, and every agency and every program will have to take its fair share of cuts no matter how attractive the individual activities sound on their own merits.

In light of these concerns, I supported the recommendations for funding of the Department of Energy's programs contained in the original reconciliation bill—Gramm-Latta II—passed by the House. These recommendations were consistent with the overall budget levels recommended by the President for fiscal year 1982. In certain areas, however, specific Department program funding levels were readjusted in light of the Science Committee's review of program priorities. In effect, these recommendations restructured the President's proposed budget to conform with our past Science Committee philosophy, and continued efforts called for under the many fine statutes which we have authored. Overall, this proposal structured an aggressive energy program within our budget constraints mindful of the nature and extent of the energy problems facing our Nation today.

While I support the more balanced level of effort among all of our Nation's energy options called for in the legislation before us today, I am disappointed to see that the conference agreement contains outyear authorizations for the Department of Energy far in excess of projected administration budget level requests for these years. According to the most recent estimates, which have not yet been confirmed by the Congressional Budget Office but which are the most accurate available at the present time, the conference agreement before us today will exceed the projected fiscal year 1983 administration request for DOE by over $600 million. In fiscal year 1984, the conference agreement will exceed the fiscal year 1984 administration project budget by well over $650 million. These are authorization levels which I believe are not in the Nation's best economic interests at the present time and which I therefore cannot support.

As many of my colleagues are aware, the Science and Technology Committee has spent a great deal of time in examining the concept of multiyear authorizations for the various Federal agencies. This concept has many advantages over the single year authorization process which the Science Committee has followed in previous years. I wholeheartedly support the concept, as one viable method of streamlining the congressional budget process that will still allow the various congressional committees to retain their essential oversight responsibilities. My objections to the conference agreement before us today rest not on the use of the multiyear authorization process, but rather on the overall budget ceilings which have been recommended in the future years.

In my opinion, it is premature to authorize significant increases in energy research and development funding at this time. As all of my colleagues are aware, we have just this week passed an important tax bill which contains a significant new tax incentive for research and development activities. This tax credit will certainly have a substantial impact on the future climate for investment in energy research and development programs. Until we have had a chance to exam-

ine the exact impacts of this new tax incentive, as well as the impacts of the President's entire economic recovery program, I believe it would be unwise to authorize such a substantial increase over the President's projected budget request. For this reason, I cannot support the conference agreement reached on the authorization for the Department of Energy civilian research and development programs for fiscal years 1982, 1983, and 1984, but I do urge my colleagues to strongly support the legislation before us today.

Mr. GOLDWATER. Mr. Speaker, I rise in support of the omnibus reconciliation bill conference report. This is a good first step in our country's efforts to bring the budget of the Federal Government under control, and to revitalize our Nation's economy. I urge my colleagues to support the entire bill, by voting for the passage of this conference report.

This bill contains in title X, the first DOE authorization that has passed this Congress in 4 years. I was a conferee on this subconference, and want to thank my fellow conferees for their cooperation and diligent efforts in putting together this agreement. I believe that the agreement will result in better congressional direction and control of the activities in the Department of Energy. Specifically, I think that the research and development programs will be better managed, with a clear sense of direction from the Congress. The conference agreement requires stricter budget control and accounting procedures to be imposed on the Department of Energy programs. We are anxious to see the results of these new tools, while the Department of Energy, along with all other agencies in the Federal Government, lives on a stricter Federal budget. Even though the budget has been significantly reduced from last year, the conference agreement provided for many significant new policy directions in DOE, which should result in continued progress in developing alternative energy resources.

In the solar energy development area, the conference agreement provides for $6.8 million for the first phase of a photovoltaic utility experiment proposed by the State of California and the Sacramento Municipal Utility District (SMUD). The first increment of the SMUD project will involve the installation of a 1-MWe photovoltaic system over the next 2 years. Cost sharing from the State of California—$2 million—and from the Sacramento Municipal Utility District—$3.2 million—is anticipated for the first increment before this project goes forward.

The committee encourages the Department to give very careful consideration to the entire 100-MWe SMUD proposal. The full project would yield a major utility-owned and operated photovoltaic facility with a relatively small Federal investment leveraging a large private expenditure—$26 million Federal share versus $270 million SMUD share. If this project were successful, then even the $26 million Federal investment would be completely repaid to the Treasury by the time that the 100-MWe project is completed. In geothermal energy, an authorization of $11 million—including $4 million in deferrals from fiscal year 1981—was provided for the second geothermal demonstration plant at Heber, Calif.; operating expenses of $1 million were also authorized. Furthermore, the conference managers inserted strong language endorsing the geothermal resources loan guarantee program, and stated that the Department should continue to implement this program.

The conference agreement also strongly supported the continuation of the Clinch River breeder reactor project, the key next step in the development of the LMFBR technology. It provided funding of $228 million for the next fiscal year. The conference agreement also provided funding for the continuation of another very important nuclear technology development program—the high-temperature, gas-cooled reactor. This program was continued at last year's level, a total of $40 million.

In the area of fossil energy development, the conference agreement strongly supported the continuation of the molten salt gasification program, providing an authorization of $2.5 million in this budget. The conference agreement also directed that if the flash hydropyrolysis liquefaction project should be terminated, the funds are directed to be used for the development of the flash hydropyrolysis gasification project within the surface gasification program. There is authorized a total of $6.5 million for the gasification—$1.1 million—and liquefaction—$5.4 million—portions.

In concluding, I wish to point out to my colleagues that the budget for fiscal year 1982 therefore provides a well-balanced energy research and development program spanning the full range from renewables, fossil fuels, and nuclear energy technologies. It provides for funding which exceeds the administration request by only 2 percent. I wish to thank and congratulate all of my colleagues, especially the hard work of our chairman, DON FUQUA. He has worked with us all in a most accommodating manner in an effort to shape this sound energy research program.

I would now like to discuss the reason why I did not sign the conference report. Although I strongly endorse the work that has been done for fiscal year 1982, the authorizations provided for fiscal year 1983 and fiscal year 1984 far exceed the levels projected for DOE by President Reagan. For each of these 2 fiscal years, the bill would authorize $600 to $700 million over the projected DOE budgets. Since I have strongly supported the President's program for economic recovery, I cannot at the same time endorse a conference report which would exceed the President's budgets by so great an amount. Rather than sign this report, and consider our job done, I intend to revisit the DOE authorization requests for fiscal year 1983 and fiscal year 1984 when they are sent to us, and work within the overall levels to make sure that the program is well balanced, containing necessary new initiatives, and achieving our Nation's energy goals. This can only be done when we have received the budgets for those fiscal years from the administration.

With these caveats, I urge my colleagues to support the President's economic recovery program and vote for speedy passage of this conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. I thank the gentleman from Oklahoma and compliment him on surviving this process.

Mr. Speaker, I believe that two provisions of the budget reconciliation legislation are deserving of special note.

Section 1703 provides two types of awards for Federal whistleblowers. One type will be given by agency Inspectors General and should be used as a tool to gain disclosures of waste, fraud, abuse, and mismanagement. The conference report wisely includes GAO oversight to insure that awards are given for real cost savings and not to the same old boys network which now absorbs a disproportionate share of agency awards. The authority, it must be clear, runs to the Inspector General, without interference from the agency head. Nevertheless, the money to pay for the awards must come from the salary and expense appropriation of the agency, and not just from the Inspector General's own budget.

The other type of awards are for the President to grant. The President is given authority to give 50 whistleblowers each year awards of $20,000. He should be encouraged to do so in a well-publicized manner. Only by rewarding whistleblowers publicly can the President overcome the fear which seizes most would-be whistleblowers. The war on waste would be best served if all 50 awards were made each year.

Section 1704 enunciates the basic congressional policy that valuable and experienced career members of the senior executive service should not be lost to Government service due to re-

organization or budget cuts of a particular agency. This policy is implemented through special placement and reinstatement rights for career senior executives. Questions have been raised about how these SES reduction in force procedures compliment other provisions of law, such as early retirement eligibility. The policy is that career executives are one of the Government's strongest assets and should be retained if at all possible. Their agencies and the Office of Personnel Management are given special responsibility to find work for these people. Hence, the statute should be interpreted in the way which is most likely to result in retention of the skills of the senior executive. Nevertheless, career senior executives should be given equal early retirement rights as are provided to other RIF'd employees.

Despite these two laudable provisions, I will be unable to vote for the conference report. It just does too much violence to the values I hold dear.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Small Business Committee, the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I cannot in good conscience vote for this conference report. I think it is a wrong thing that we have done. However, we on the Small Business Committee did the job that was forced upon us by the Gramm-Latta proposition.

What happened was that, first, we were ordered to come up with $500 million in savings. I wish we would stop using that word "savings" because they are really not savings in the long run, but the committee did this. Then we found that the Senate had cut even more deeply into programs, and we went into conference to try to reconcile those cuts.

In that conference, we fell below the direct loan money that the committee had generally approved, which means that some businesses are not going to survive; others that have the potential to go into businesses will not get their chance.

In addition to that, we had to sustain severe cuts in the disaster loan program. There was a time when this Congress and this Nation were compassionate with regard to those who were the victims of disaster; but under the Gramm-Latta proposition, under the gun that was held to our heads, we were forced to cut into the disaster loan money and jack the interest rates up to victims of disaster who are suffering and cannot really afford to pay any higher interest, but we are going to demand that of them.

I would suggest to my colleagues that we would have been in worse shape coming out of the small business conference had it not been for the enormously good and decent work done by the distinguished ranking minority member, the gentleman from Pennsylvania (Mr. MCDADE) and all of the members of the House committee who worked very, very hard to try to minimize the impact of what we were forced to do.

I would suggest this: Despite the action that this House will take today—and the Members will vote for the conference report, I know; I will not, not under any circumstances—we will come to regret what we have done. I predict that in some future years we are going to be scrambling around trying to make up for the enormous hurt that we have imposed on people. I may be wrong, but I do not think that I am and I do not think that day is far off when we will be paying the penalty.

Mr. Speaker, under the terms of our savings instruction, the Small Business Committee was required to effect savings of about $500 million per year. We did this.

The Senate, however, saved even more and inflicted even greater harm on the small business community and on disaster victims.

The conferees have worked out the differences and I want to commend and congratulate my colleagues who cooperated so well in performing this difficult duty.

We were forced to reduce the amount of direct loan assistance even below the low amounts proposed by the President and approved by the House. This means that even more small businesses and prospective small businesses, who are already denied loan assistance in the private sector, are now also going to have their last hope denied them—the possibility of Government assistance.

In addition, Federal assistance to victims of floods, tornadoes, hurricanes, and other natural disasters is being reduced.

In the past, we have always shown compassion for those people whose lives have been devastated by disasters. We have provided them with low interest loans limited to the net amount needed to restore their property to predisaster conditions. Now we are going to continue some loan assistance, but at interest rates much higher than under existing law and we are limiting businesses to 85 percent of the needed funds. Where are they going to get the rest of the money, especially those who SBA determines cannot obtain the funds elsewhere, I do not know.

Mr. Speaker, I am ashamed of some of the changes we are making in the name of "reconciliation." What we are doing is attempting to balance the Federal budget directly from the hides of the poor, the disadvantaged and the victims of disasters. We are withdrawing the helping hand which we have previously extended and this is wrong. I do believe, however, that we have done our best in the conference to minimize this wrong and to moderate its impact through some program changes. For this effort I again congratulate my fellow Small Business Committee conferees, both majority and minority: Mr. SMITH of Iowa, Mr. ADDABBO, Mr. GONZALEZ, Mr. LAFALCE, Mr. BEDELL, Mr. MCDADE, the ranking minority member, Mr. BROOMFIELD, Mr. MARRIOTT, and Mr. WILLIAMS, of Ohio.

The agreement of the conferees on the small business portion covers the following topics:

SAVINGS

Under the terms of the reconciliation instruction, the House Small Business Committee was required to make the following savings from the baseline (i.e., from current policy levels):

	1982		1983		1984	
	B/A	Outlays	B/A	Outlays	B/A	Outlays
Baseline	1,149	1,709	1,253	1,110	1,392	1,303
Savings	−526	−390	−564	−541	−554	−533
Net	623	1,319	689	569	838	770

Although we have not received an exact computation from the CBO, the Conferees believe that they have achieved these savings. Major items included:

1. DISASTER LOANS—INTEREST RATE FOR HOMEOWNERS

Existing law sets the interest rate on SBA disaster loans to homeowners for repair or replacement of a primary residence at 3 percent of the first $55,000.

The conference substitute authorizes SBA to set the interest rate for homeowners unable to obtain credit elsewhere but not more than one-half the cost of money to the Federal government for comparable length Federal borrowings plus up to 1 percent at SBA's discretion, and not more than 8 percent.

The rate for homeowners able to obtain credit elsewhere would be set by SBA but not more than the full cost of money plus up to 1 percent (today 15.3 percent).

2. DISASTER LOANS—RATES FOR BUSINESSES WITHOUT CREDIT ELSEWHERE

Existing law sets the interest rate on SBA disaster loans to businesses unable to obtain credit elsewhere at 5 percent.

The conference substitute sets this interest rate at not to exceed 8 percent.

3. DISASTER LOANS—RATES FOR BUSINESSES WITH CREDIT ELSEWHERE

Existing law sets this rate based on a formula involving the cost of money to the Federal government for comparable length Federal borrowings, plus up to 1 percent at SBA's discretion, on up to $500,000, but existing law further limits these loans to an initial term of three years.

The conference substitute authorizes the SBA, after discussion with the Secretary of Agriculture, to set the rate but not to exceed the rate prevailing in the private market and not to exceed the maximum rate for guaranteed loans as determined by SBA pursuant to section 7(a) of the Small Business Act (today about 20 percent). In

addition, the Conference Substitute sets the maximum term of the loan at three years.

4. DISASTER LOANS—SBA REGULATION OF MARCH 19TH

On March 19, 1981, SBA limited business disaster loan applicants to 60 percent of the amount of net actual loss and denied disaster loans to credit worthy businesses. SBA also limited economic injury loans under section 7(b)(2) of the Small Business Act to $100,000 per borrower. The change was made effective immediately and applied to pending and future applicants.

The conference substitute requires SBA to revise its action as to pending applications and to provide the following assistance:

(a) credit worthy business applicants (who previously were denied any assistance) would receive loans for 85 percent of net actual loss. These loans would be made for a maximum term of three years and would bear interest at a rate determined by the Administration as not exceeding that prevailing in the private markets and also not exceeding the maximum rate as prescribed by SBA for regular business loans (today 20 percent); but, if the Administrator determines that imposition of these provisions would impose a substantial hardship on the applicant, he would be authorized, in his discretion on a case-by-case basis, to waive these provisions and provide assistance as was provided to credit worthy applicants under rules and regulations in effect at the time the disaster commenced (that is, at lower interest rates).

(b) non-credit worthy business applicants (who previously were limited by SBA to loans for 60 percent of net actual loss) would receive loans for 100 percent of net actual loss. The interest rate would remain the rate in effect at the time the disaster commenced.

(c) The maximum ceiling for economic injury loans would be restored to $500,000 per borrower.

5. DISASTER LOANS—LIMIT ON LOANS TO PERCENT OF ACTUAL LOSS

Existing law requires loans of 100 percent of the amount of actual net loss (OMB interpretation to the contrary).

The conference substitute more clearly requires SBA to provide 100 percent to homeowners and 85 percent to businesses.

6. DISASTER LOANS—ECONOMIC INJURY

Existing law authorizes loans to small businesses who have suffered substantial economic injury (i.e., loss of business) due to their being located in an area struck by a physical disaster. The physical disaster must have been of such magnitude as to warrant a declaration by the President, SBA, or the Secretary of Agriculture; however, the governor of the state can request SBA assistance even if there has been no declaration. SBA imposes a credit elsewhere test by regulation to determine eligibility.

The conference substitute continues existing law, but imposes a statutory credit elsewhere test.

7. NONPHYSICAL DISASTER LOANS

Existing law establishes seven categories of nonphysical disaster loans (for example, regulatory compliance, product disaster, economic dislocation, etc.) and water pollution control loans.

The conference substitute rewrites these eight programs into a new Federal action loan program, but expressly provides that there will be no funds in fiscal years 1982–1984 for this program.

8. 1981 PROGRAM LEVELS AND AUTHORIZATIONS

Existing law provides 1981 authorizations and specifies program levels and salary and expense levels.

The conference substitute does not change existing law except on one program: it increases the maximum amount of pollution control contract guarantees to $180 million in lieu of existing law of $110 million.

9. PROGRAM LEVELS (1982–84)

The conference substitute provides the following program levels for fiscal years 1982–1984:

[In millions of dollars]

	1981 appropriated	1982 authorized	1983 authorized	1984 authorized
Regular business:				
Direct	219	125	125	125
Guaranteed	4,000	2,808	2,708	2,708
Handicapped:				
Direct	25	15	15	15
Guaranteed	5	5	5	5
Economic opportunity:				
Direct	65	45	45	45
Guaranteed	70	60	60	60
Energy conservation:				
Direct	10	10	10	10
Guaranteed	33	17	17	17
Development company:				
Direct	6	0	0	0
Guaranteed	250	250	350	350
Small business investment company:				
Direct	42	35	35	35
Guaranteed	160	160	160	160
Total direct	367	230	230	230
Total guaranteed	4,518	3,300	3,300	3,300
Disaster:				
Physical	2,020	(1)	(1)	(1)
Nonphysical	50	0	0	0
Surety bonds	1,600	1,400	1,400	1,400
Pollution bonds	100	250	250	250

[1] The statute authorizes such sums as may be necessary and appropriate to carry out the physical disaster loan program.

10. SALARIES AND EXPENSES (1982–84)

The conference substitute authorizes $227 million, $233 million and $239 million for salaries and expenses for fiscal years 1982, 1983 and 1984, respectively.

11. AUTHORIZATIONS

The conference substitute provides authorizations for fiscal years 1982-1984 as follows:

[In millions of dollars]

	1981 appropriated	1982 authorized	1983 authorized	1984 authorized
BLIF (business loans and SBIC)	609	362	408	531
Surety bond guarantees	30	30	30	30
Disaster loans	[1] 700	(1)	(1)	(1)
R/E lease guarantees	4	4	4	4
Salaries and expenses	221.945	227	233	239
Total	1,564.945	523	675	804

[1] The statute authorizes such sums as may be necessary and appropriate to carry out the physical disaster loan program.

12. LOAN CONSOLIDATION

The conference substitute consolidates specific programs for trade adjustment loans under section 7(e), handicapped assistance loans under section 7(h), economic opportunity loans under section 7(i), solar and energy conservation loans under section 7(l) and development company loans into section 7(a); however, in addition to the export assistance and ESOP loan provisions as currently contained in section 7(a), the revised section 7(a) also contains a specific enumeration of all now permissable uses and those contemplated under the consolidated program. That is, in addition to the general language, section 7(a) contains provisions specifying that this program can provide assistance to homebuilders, to handicapped, for economic opportunity, for energy conservation, to development companies, for export financing, and for ESOP's.

13. MAXIMUM GUARANTEED LOAN

The conference substitute establishes a uniform maximum amount of a guaranteed loan at $500,000.

14. MAXIMUM MATURITY

The conference substitute increases the maximum maturity of SBA loans to twenty-five years plus construction time.

15. DIRECT LOAN INTEREST RATES

The conference substitute authorizes SBA to prescribe the direct loan interest rate but not to exceed that determined under a formula involving the average market yield on comparable length marketable obligations of the Government, plus an additional amount as determined by the SBA Administrator, but not exceeding 1 percent per year, (this would yield 15.3 percent presently), except that loans to handicapped individuals or to organizations for the handicapped would be continued at a 3-percent interest rate.

16. USE OF SBA LOANS FOR REFINANCING

The conference substitute specifies conditions under which SBA loans may be used to refinance prior indebtedness and limits loans for such purpose to an 80-percent guarantee rather than 90 percent. SBA would report on the effectiveness of this provision and it is sunset October 1, 1985.

17. PERCENT OF LOAN GUARANTEED

The conference substitute provides that guaranteed loans of $100,000 and less must carry at least a 90-percent guarantee; that guaranteed loans over $100,000 up to about $715,000 receive a guarantee of between 70 percent and 90 percent; that SBA only reduce such guarantees below 90 percent on a case-by-case basis; and that SBA not use the guarantee percentage as a test of giving priority consideration. Guaranteed loans over approximately $715,000 must have a guarantee of less than 70 percent.

18. EXTENDING TERM OF EXISTING LOANS

The conference substitute authorizes SBA to agree to an extension of the term, or refinancing (if it results in an extension of term) of an outstanding SBA 7(a) guaranteed loan if: (a) all parties to the loan so agree: (b) the extended term does not exceed the maximum term of a SBA 7(a) loan permitted by law; and (c) the extended loan or refinancing is to be repaid in equal installments of principal and interest.

If the extended loan or refinancing results in a new term of longer than ten years, the lender is authorized to charge the borrower a one-time fee of 1 percent of the outstanding principal of the loan. Major items not included:

1. EXCLUSION OF CREDIT WORTHY DISASTER LOAN BORROWERS

The conference substitute eliminates a Senate proposal to deny eligibility to all credit worthy disaster loan applicants.

2. EXCLUSION OF AGRICULTURAL PRODUCERS

The conference substitute eliminates a Senate proposal to prohibit SBA from denying assistance to small agricultural producers.

3. ANNUAL CAP ON DISASTER LOANS

The conference substitute eliminates a House proposal to cap the annual amount of physical disaster loans.

4. SALE OF NOTES

The conference substitute eliminates a House proposal to direct SBA to sell direct loans now held in its portfolio in order to obtain additional cash flow.

5. SBA GUARANTEE LOAN FFE

The conference substitute eliminates a House proposal to prohibit a financial institution from directly passing on to a borrower the 1 percent fee imposed by SBA on guaranteed loans.

6. OPTIONAL LOAN REPAYMENT PROGRAM

The conference substitute eliminates a House proposal to specifically authorize a new optional SBA loan repayment provision. If SBA, the financial institution and the borrower had agreed, interest only payments could have been made during the first few years of a loan.

7. ATTORNEY FEE REIMBURSEMENT

The conference substitute eliminates a House proposal to tighten eligibility criteria for reimbursement for attorney fees under the Equal Access to Justice Act, and to require payment of such fees from the agency's budget by repealing an authorization for appropriation of amounts specifically for this purpose.

Mr. HOWARD. Mr. Speaker, my good friend and ranking minority member of the Committee on Public Works and Transportation, the Honorable DON H. CLAUSEN, joins me in making the following statement:

One hundred and forty-five years ago last month Abraham Lincoln wrote: "All who share the privilege of the government must assist in bearing its burdens." And, in this same spirit, the Committee on Public Works and Transportation labored to achieve a final legislative savings conference package in full recognition that necessary reductions should be undertaken over the full range of Federal activities.

That package, which will be finalized by the Congress today, represents the culmination of four months of extensive budget-related activity involving most of the Committees of the House and Senate. For the Committee on Public Works and Transportation it began in March with submission of a Views and Estimates Report to the Budget Committee, followed by formulation of a proposed legislative savings package pursuant to the reconciliation directive of the First Budget Resolution, and, lastly, resolution of conference issues to the satisfaction of both Houses.

Overall, for the Committee on Public Works and Transportation, the road from early March to today has been an arduous one. The final product—premised upon the unqualified commitment of this Committee to comply fully with the Budget Resolution directive and upon its recognition of the need to control inflation and to reduce spending to achieve economic recovery—is the result of substantial discussion and painstaking decisions regarding many of the programs over which many Members have labored hard and long.

VIEWS AND ESTIMATES REPORT

Section 301(c) of the Budget Act requires that all standing committees of the House and Senate by March 15 submit to the Budget Committees their views and estimates with regard to all budget matters within their jurisdiction.

In its March 1981 submission, the Committee on Public Works and Transportation addressed the major issues of water resources, surface transportation, public buildings and grounds, aviation, and economic development.

From the needs of the U.S. Army Corps of Engineers the Committee proposed some $230 million in budget cuts. These cuts included 26 water resources studies, 35 water projects, various erosion and flood control projects, cuts in recreation facilities, navigation projects, maintenance activities, and manpower reductions.

The Committee also proposed that the decision to impose increased fees for inland waterways users be delayed until the results of the "User Charge Impact Study" are reviewed, and that in the interim some form of the Water Resources Council be retained.

In considering the Environmental Protection Agency (EPA) wastewater treatment programs, the Committee recognized that reforms would be forthcoming in the construction grants program. Notwithstanding this, the Committee also recommended a minimum appropriation of $100 million to maintain State management programs and staffs until funding becomes stabilized through enactment of legislative changes.

In the area of transportation, the Committee indicated that the section 402 highway program should continue in full force, opposed the transfer of the territorial highway program to the Department of Interior, opposed the elimination of Federal financing of the secondary and urban systems programs, found it premature to limit the Secretary of DOT's authority to incur highway program obligations, and recorded its position that no reconciliation bill should include substantive legislative provisions or specific funding authorizations for public highway programs. The Committee also disfavored any immediate change in authorizations for 55 MPH enforcement, innovative grants, school bus driver training or accident data collection programs. Various cuts in mass transit capital grants programs were also supported.

In the area of public buildings, the Committee recommended a turn-around in the Federal expenditure for leased space.

For aviation, the Committee recommended $450 million in fiscal year 1981 and 1982 for airport and airway development programs and $750 million for each of fiscal years 1981 and 1982 for FAA facilities and equipment.

A level of funding of $360 million was suggested for the Economic Development Administration (EDA) as the minimum level of funding to maintain the agency's operations in fiscal year 1982 at the lowest viable level.

The Committee supported elimination of the Title V regional commission programs and continued fiscal year 1982 funding for the Appalachian Regional Commission (ARC) at $204 million for both highway and non-highway programs. Further, the Committee did not support the transfer of the ARC highway program to DOT, or the financing of it through the highway trust fund.

RECONCILIATION DIRECTIVE

The budget resolution which passed the Congress on May 21, 1981, assumed control of Federal spending as a critical and primary element of any serious anti-inflation policy, and rampant inflation as the single most profound threat to our economy and to our future domestic security. Accordingly, the spending decisions underlying that resolution spanned the programmatic gamut from defense to social issues, from individual to business tax cuts, and from business to investment incentives. It was the latter—investment programs, and specifically those spending reductions associated with public works investment programs—that are of primary concern to the Committee on Public Works and Transportation.

Section. 301(11) of the Conference Report to accompany the First Concurrent Resolution on the Budget for fiscal year 1982 directed the Committee on Public Works and Transportation to change laws within its jurisdiction to achieve savings in authorization programs of $6,346 million in budget authority and $1,033 million in outlays for fiscal year 1982, and in direct spending programs, $185 million in outlays for fiscal year 1982.

In addition, savings amounts were also included for fiscal years 1983 and 1984, as follows: in authorization programs, $5,122 million in budget authority and $2,665 million in outlays for fiscal year 1983; $6,241 million in budget authority and $4,355 million in outlays for fiscal year 1984; and in direct spending programs, $900 million and $1,365 in outlays for fiscal years 1983 and 1984, respectively.

The legislative recommendations submitted by the Committee more than accomplished these reductions. For fiscal year 1982, specific legislative changes were included to effectuate corresponding legislative savings. Since the reductions required for fiscal years 1983 and 1984 were assumed in programs not currently authorized beyond fiscal year 1982, no specific legislative language was included for these, consistent with Budget Committee guidelines. However, when these programs are considered for reauthorization, the Committee stated that it will achieve the aggregate outyear reductions.

In addition, the Congressional Budget Office included some estimates of specific program funding levels for fiscal years 1983 and 1984. The Committee noted that it did not participate in the development of these estimates and did not, therefore, necessarily agree with them. The Committee reserved all of its options in dealing with these programs when they are considered for reauthorization.

In formulating its submission, the Committee not only achieved its overall dollars targets for fiscal year 1982, but demonstrated additional savings of approximately $28 million in budget authority and approximately $429 million in outlays, as estimated by the Congressional Budget Office. In addition, the Committee estimated that net fees in the amount of $102 million would be collected by the Federal government in fiscal year 1982 under the provisions contained in Subtitle D, the so-called Superfund legislation.

BUDGET COMMITTEE AND FLOOR ACTION

Following its markup on the reconciliation submissions, the Budget Committee prepared a substitute bill (H.R. 3964) which, among other things, addressed certain jurisdictional matters contained in the Committee's original submission. One such issue—the comprehensive oil spill liability fund—was not included in that substitute because of differing versions originally submitted by the Public Works Committee and the Committee on Merchant Marine and Fisheries.

Accordingly, the text of that substitute which was made in order pursuant to the

rule as the original bill (H.R. 3982 for purposes of amendment, contained all the submissions from the Committee on Public Works and Transportation, other than Superfund.

None of the amendments to H.R. 3982, including the so-called Gramm-Latta II, directly affected any of the matters under the jurisdiction of the Committee on Public Works and Transportation, and Title XI of the bill.

Accordingly, H.R. 3982, as amended and passed by the House, included the original submission of the Committee on Public Works and Transportation less inclusion of the Superfund issue, pursuant to Budget Committee action.

PROGRAMMATIC CONCERNS

Within the context of addressing the various budget issues, the Committee maintained its belief that minimum funding sufficient to rebuild and revitalize various aspects of the public sector infrastructure must be assured so as to avoid undercutting the long-term impact of the President's program of economic recovery and revitalization.

The record is clear on this.

Today, the Federal Government is contributing to capital investment in highways and bridges, an integrated system of airports and electronically-controlled airways, harbors and waterways, urban and rural transportation systems, flood control structures, industrial parks and municipal wastewater treatment plants.

It is because this Committee shares the President's dream of a revitalized, reindustrialized America that we accord great priority to these programs, on which so much of the private economy's vitality depends.

The construction and preservation of an adequate highway system is an essential element of the national economy. Without such a system, there can be no possibility of achieving the economic recovery and industrial revival the President has called for.

The Federal-aid highway system in which we have invested billions over the past quarter century—$74 billion for the Interstate alone—is deteriorating at an alarming rate because of deferred capital improvements and maintenance. Nearly 26,000 miles of Interstate, arterial and collector highways are in immediate need of major resurfacing or reconstruction, and on the Federal-aid system alone there are more than 55,000 deficient bridges. Merely to restore the highways to their 1975 condition and keep them that way would have required an annual investment of $14 billion a year for capital investments in 1975 constant dollars, according to a 1977 Department of Transportation needs report.

The capital needs of our Federal-aid highway system are only part of the picture. With the nationwide awakening to the new realities of energy and economy in transportation, greater than ever demands have also been placed on our Nation's public transit systems.

Transit use and its capital needs have increased accordingly. In fact, the National Transportation Policy Study Commission projects needs for Federal-aid of about $130 billion (in 1975 dollars) for urban transit capital requirements through the year 2000, with rural public transit capital needs expected to be about $5 billion.

Only through the continued support for capital investment in mass transit can the demonstrated need for this mode be met. The future of public transportation depends on continuation of our financial investment at levels that will assure essential service and reliability for our Nation's transit system.

A similar case can be made for the protection of our capital investment in airports and air traffic control systems. We have fallen behind the needed rate of investment in these facilities to the point where the Department of Transportation and the Federal Aviation Administration are warning that they may be forced to constrain traffic growth in the next few years because of the saturation of runway and air traffic capacity. And we are at the beginning of a decade in which the number of air passengers is expected to double.

According to the National Airport System Plan, it will cost $2.04 billion in 1978-79 dollars to maintain the existing system, a total of $4.36 million to bring it up to standard, or a total of $12.67 billion to expand the system to accommodate increased demand over the years 1980-89. This will move us toward the development of the national plan of integrated airport systems that will be needed to accommodate the Nation's aviation needs.

Consider also the need for continuing capital investment in our waterways, which handle fully one-fourth of all our inter-city commercial cargo at an energy efficiency equal to or better than that of railroads; or what deferred capital investment has meant for our seaports in the new age of supertankers and giant cargo carriers; or the commitment over the past eight years in the form of Federal funding for wastewater treatment plants.

Consider two various targeted economic development assistance programs which have yielded the taxpayers a significant return on their investment.

These and many other public works programs do not represent investment in frills; the needs and health of the public, the environment and the economy as a whole are what is at stake.

Recognizing this, the Committee believes that the only responsible course over the immediate future is to strike a careful balance between spending cuts and programs of public investment. In a spirit of bipartisanship, the Committee fashioned a legislative savings conference package which, it believes, achieved that end.

CONFERENCE AGREEMENT

A program-by-program summary of the major issues (focusing on fiscal year 1982 spending reductions) of that conference agreement is as follows:

ADAP

Reduces fiscal year 1982 spending by $189 million in budget authority and $46 million in outlays from CBO's current policy baseline by setting the total amount available for obligation in fiscal year 1982 for the grants-in-aid to airports programs at $600 million (expressed as an aggregate of $1,050 million for fiscal years 1981 and 1982). For fiscal year 1981, $450 million is authorized for the ADAP program with language also included providing for one-year extension for fiscal year 1981.

Interstate Commerce Commission (ICC)

Reduces fiscal year 1982 spending by $11 million in budget authority and $10 million in outlays by setting authorization caps for the ICC at $79 million for fiscal year 1982; $80.4 million for fiscal year 1983; and $80.4 million for fiscal year 1984.

Federal-aid highways

Reduces fiscal year 1982 spending by $500 million in outlays (from CBO baseline of $8.6 billion) by setting the obligation ceiling for the Federal-aid highways account at $8.2 billion in fiscal year 1982 with a limitation in the first quarter of 25 percent of the total. Also included is a fiscal year 1983 obligation ceiling of $8.8 billion. Neither ceiling applies to emergency relief or certain bridge acceleration projects. Language related to distribution of the limitation is also included.

Highway safety

Reduces fiscal year 1982 spending by $320 million in budget authority and $110 million in outlays.

For each of fiscal years 1982, 1983, and 1984, $100 million is authorized for NHTSA's portion of the Section 402 highway safety program. Of this amount, $20 million is earmarked each year for enforcement of the 55-mph speed limit. In addition, States must use at least 2 percent of their 402 funds each year for programs to encourage the use of safety belts.

For each of fiscal years 1982, 1983, and 1984, $10 million is authorized for FHWA's portion of the Section 402 highway safety program.

For fiscal year 1982, the Section 402 highway safety program will continue to operate as it has in the past.

For fiscal year's 1983 and 1984, funding will be targeted on those programs and activities which are determined to be "most effective" in reducing accidents, deaths and injuries.

On October 1, 1982, the Gray Amendment will be repealed, thereby allowing NHTSA to repeal or revise the 18 highway safety standards after that date.

An obligation ceiling of $100 million is imposed on the NHTSA portion of the program, and of $10 million on the FHWA portion of the program, for each of fiscal year's 1982, 1983, and 1984.

$133 million in old NHTSA 402 funding is rescinded, as is $40 million in old FHWA 402 funding.

No funding is provided for the following programs: innovative grants, 55-mph incentive grants, accident data, and 55-mph categorical grants.

The schoolbus driver training program is phased out over a 3-year period, with $2.5 million authorized in fiscal year 1982, $1.5 million in fiscal year 1983, and zero in fiscal year 1984. This program will not be subject to an obligation ceiling.

The enforcement criteria for the 55-mph speed limit has been reduced to 50 percent, and the 55-mph sanction has been set at 5 percent for fiscal year's 1982 and 1983, and 10 percent for subsequent fiscal years.

Urban mass transit

Reduces fiscal year 1982 spending by $1,321 million in budget authority and $200 million in outlays by curtailing the following UMTA programs—sec. 3, 18, miscellaneous appropriations, sec. 5 Tiers I-III, and sec. 5, bus tier—by limiting the total amount of interstate transfers (for public mass transportation projects), and by setting an overall fiscal year 1982 funding cap at $3,792 million (not including $220 million deferred from fiscal year 1981).

EPA wastewater treatment construction grants

Reduces fiscal year 1982 spending by $3,560 million in budget authority and $228 million in outlays by paring the 1982 authorization for the EPA wastewater treatment construction grants program from the currently authorized level of $5 billion to

zero, with $2.4 billion contingent reform language tied to the general authorization only. In addition, $40 million is provided for the section 205(g) programs.

EPA—Nonenergy R. & D. and abatement

The provisions limiting the total amount authorized to be appropriated to the Administrator of the EPA for non-energy research and development activities and for the abatement control and compliance activities were dropped from the bill.

Corps water projects

Reduces fiscal year 1982 spending by $178 million in budget authority and $133 million in outlays by establishing the authorization ceiling for the Corps of Engineers construction general account at $1,547 million for fiscal year 1982; $1,688 million for fiscal year 1983; and $1,575 million for fiscal year 1984.

TVA project

Reduces fiscal year 1982 spending by $202 million in budget authority and $95 million in outlays by prohibiting the authorization of appropriations of funds for the North Alabama Coal Gasification Project in fiscal years 1982-1984.

EDA

Reduces fiscal year 1982 spending by $376 million in budget authority and $200 million in outlays by limiting the authorization to appropriate funds for EDA programs to a total of $290 million in fiscal year 1982. All existing authorizations to appropriate funds to EDA for redevelopment loans, supplemental and basic grants to states, bonus grants to economic development districts, Indian economic development grants, disaster area economic recovery assistance, and job opportunity programs are also repealed.

All authority to appropriate funds for Title V Regional Commissions in fiscal year 1982 would also be repealed, thereby achieving a savings of $46 million in budget authority and $44 million in outlays.

Appalachian regional development

Reduces fiscal year 1982 spending by $228 million in budget authority and $139 million in outlays by limiting existing 1982 authorizations for both highway construction and regional development activities of the Appalachian Regional Commission to a total of $215 million ($50 million for non-highway; $165 million for highway activities).

Corps of Engineers special recreation user fees

Reduces fiscal year 1982 spending by $200 thousand in budget authority (with minimal outlay savings) by limiting the amount appropriated to DOD for special recreation user fee programs of the Corps at $5.2 million for fiscal year 1982; $6 million for fiscal year 1983; and $6 million for fiscal year 1984. Also included is an fiscal year 1981 funding level of $5 million consistent with appropriations action on this issue.

DOT Office of the Secretary

Reduces fiscal year 1982 spending (minimal amount) by limiting certain amounts authorized for various activities of the Office of the Secretary of Transportation.

Transportation research and special programs

Reduces fiscal year 1982 spending by $16 million in budget authority and $10 million in outlays by setting authorization caps for the DOT Research and Special Programs Administration at $30.047 million for fiscal year 1982; $32.3 million for fiscal year 1983; and $33.3 million for fiscal year 1984.

Water resources policy, planning, and research

Reduces fiscal year 1982 spending by $23 million in budget authority and $15 million in outlays by setting an authorization cap for water research at $23.6 million, and for a National Board on Water Policy at $12.5 million contingent upon enactment of such Board.

Ocean dumping

All provisions relating to ocean dumping were dropped from the bill.

CAB payments to air carriers

The House provision capping the appropriated amount for CAB payments to air carriers was dropped from the bill.

WORD OF APPRECIATION

As mentioned in the beginning of this statement, we have come to the point where we are today after four months of hard work and painstaking decisions.

The original reconciliation directive to the Committee on Public Works and Transportation represented reductions of nearly 25 percent of the Committee's total authorization amount. To achieve more savings than were required, to do so in a bipartisan fashion, and to fashion a package in full recognition of needs as well as savings, is a credit to the professionalism and dedication of all Members of the Committee on Public Works and Transportation.

Accordingly, on behalf of the leadership of the Committee, we would like to take this opportunity to extend our sincere appreciation to all Committee Members on a job well done. In addition, we would like to note special recognition to the conferees representing the Committee on the various reconciliation subconferences: Messrs. Anderson, Roe, Levitas, Oberstar, Fary, Snyder, Hammerschmidt and Hagedorn; as well as Messrs. Mineta and Shuster who, as Budget Committee conferees had the awesome responsibility of monitoring over fifty subconferences.

Each and every Member of the Committee played an important role in achieving a successful resolution of the various spending issues facing this Committee.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Speaker, I rise in support of the conference report.

I want to express my deep gratitude to the chairman of the committee and the members of the conference for the spirit of accommodation under which we all worked. I look forward to the passage of this bill.

The conferees struggled with some very difficult issues and a compromise that pleased no one emerged. The baselines with which we labored were, at best, inaccurate. Moreover, the Senate and House baselines were not the same.

Nonetheless, we have trimmed outlays in order to make the tax reductions possible. Small business owners will be required to make adjustments. However, those business owners are willing to make these sacrifices in the hope that our economy will improve. As with one voice, the small businessmen and women call out to us to lower the interest rates and reduce taxes. They say if relief is not soon in coming the neighborhood business we all know and appreciate will be gone. This reconciliation bill is their pledge of support; we must not fail them. They are our hope for economic revitalization, for innovations of the future and our only hope for employing the thousands of able-bodied unemployed who want to work, but cannot find jobs. Small businesses provide over 90 percent of nongovernmental jobs and we must look to them if we want economic progress.

We have asked small businesses to join with us to cut their programs. They expect to see regulations and paperwork simplified, inflation lowered, and interest rates decline. It is our hope that we have taken an important step yesterday and today in controlling runaway spending and attendant inflation and revitalizing America by enacting the Nation's largest tax cut.

Mr. JONES of Oklahoma. Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I thank the gentleman from Ohio for yielding.

I would like to say first that I think thanks are due to the ranking minority member of the Budget Committee, and also to the gentleman from Oklahoma (Mr. JONES) and the gentleman from California (Mr. PANETTA), who provided the leadership necessary to steer this important bill through conference.

I think with this reconciliation bill and with the tax bill, we are making history. I think we have a real opportunity to change the direction of the country.

This is the easy part, however, because now we have to make it work. On hundreds of appropriations bills over the next decade, on budgets that have to come forth with additional cuts, we have an opportunity to balance the budget and change the direction of the country.

I hope we can use that opportunity. I hope those who are here today supporting this historic piece of legislation will see the effort through in the hard, day-to-day work that it is going to take to make it work.

I thank the gentleman for yielding.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I certainly would be remiss if I did not take this time to thank and commend the gentleman from Texas (Mr. GRAMM) who has just spoken for all the efforts he has put forth to bring us down to this point. I think we owe him a debt of gratitude, as does the Nation.

Mr. LATTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, first a little commercial.

This is Hall of Fame Weekend in Canton, Ohio. We will be inducting four new members into the Pro Football Hall of Fame. The 1981 enshrinees are Morris "Red" Gadgro, George Blanda, Willie Davis, and Jim Ringo.

The festivities began this morning with a mayor's breakfast in the Canton Memorial Civic Center, hosted by Canton's mayor, the Honorable Stanley A. Cmich and attended by over 2,000 people, including the 1981 enshrinees and other celebrities. The afternoon entertainment is Ohio's largest fashion show, attended by an audience of over 3,000. The Enshrinees Civic Dinner this evening will be attended by past enshrinees, film and television stars, football players, coaches, team owners and government officials, along with 2,300 lucky ticket holders.

The program for Saturday includes the Hall of Fame Festival Parade, which ranks as one of the largest and most exciting in the United States. In the early afternoon, the four sports greats will be enshrined into the Hall of Fame, in what promises to be an emotion-packed ceremony. The final event—the nationally televised Hall of Fame Game between the Atlanta Falcons and the Cleveland Browns—will kick off on Saturday afternoon. The game marks the official opening of the 1981 exhibition season, and caps off this very special weekend.

Mr. Speaker, today I believe we are doing exactly what the people told us to do. They said, "Cut the budget and cut taxes, but cut the budget first." In the sequence of events, we are going to approve the budget cuts today, and next week we are going to approve the tax cuts.

We could say many things about the leadership in accomplishing this objective, but I simply would point out that I think both sides of the aisle exercised the highest levels of statesmanship. The leadership abided by its agreements. There was a great spirit of cooperation on both sides. Parochial concerns were submerged in the interest of responding to the will of the House and the will of the people.

We can talk all we might choose to about who are the winners and who are the losers, but I would simply say one thing, that the winners in this historic event were the American people. They are the winners because we are redirecting the Federal Government. This will allow us to have the tax and spending cuts that are necessary to revitalize the economy of this Nation.

Mr. FOLEY. Mr. Speaker, I rise in support of the adoption of the conference report on H.R. 3982, the Omnibus Budget Reconciliation Act of 1981.

As you are aware, the conference on budget reconciliation was the largest and most complicated conference ever held. For nearly 2 weeks 255 Members of the House and the Senate participated as conferees in 58 separate subconferences, working extremely long and hard hours to resolve differences spanning the jurisdiction of 17 different House committees.

I want to compliment the members of the conference for their work in this extremely difficult task and would like to particularly commend the efforts of my distinguished colleagues, Mr. JONES of Oklahoma and Mr. PANETTA of California, for their tireless efforts in helping bring about a final agreement.

This conference agreement will achieve savings of $35 billion in fiscal year 1982, $44 billion in fiscal year 1983, and $51 billion in fiscal year 1984, for a total savings of $130 billion. The agreement itself represents the largest economic measure ever passed in U.S. history. It is a balanced package that achieves the mandated budgetary goals to cut Federal spending while preserving a number of important programs which serve the basic needs of people.

While there may be those who will disagree with particular items contained in the conference report, the final conference package is clearly a vast improvement over the reconciliation bills initially adopted by the House and the Senate.

Mr. Speaker, I support the conference agreement and will cast my vote in favor of the adoption of this proposal.

● Mr. MONTGOMERY. Mr. Speaker, I am very pleased with the compromise reached with the other body on that part of the reconciliation conference agreement relating to veterans' benefits and services.

The compromise agreement, if enacted, will modify eligibility criteria for certain burial benefits and outpatient dental benefits. In addition, the agreement would change the level of the educational allowance paid for correspondence training and would preclude new enrollments for flight training after August 31, 1981.

It should be noted that we have reached the total reduction in spending levels our committee was instructed to bring about—$110 million in budget authority and outlays in fiscal year 1981; $108 million in 1983 and $106 million in 1984.

Mr. Speaker, I want to personally thank the very distinguished chairman of the Senate Committee on Veterans' Affairs, the Honorable ALAN SIMPSON, and the very able ranking minority member of that committee, the Honorable ALAN CRANSTON, for their splendid cooperation in bringing about a resolution of the differences between the House and Senate-passed bills. I also want to thank Senators BOB KASTEN, FRANK MURKOWSKI, and JENNINGS RANDOLPH, who worked with us in reaching our agreement.

I want to pay special tribute to our own distinguished ranking minority member, the very able JOHN PAUL HAMMERSCHMIDT, who devotes so much of his time to helping veterans, for his usual cooperation, advice, and counsel. I am most grateful for the cooperation and understanding of DON EDWARDS, BOB EDGAR, SAM HALL, MARVIN LEATH, MARGARET HECKLER, CHALMERS WYLIE, and HAL SAWYER, our other conferees.

Finally Mr. Speaker, I want to acknowledge the cooperation we received from Wendell Belew and Martha Grundmann of the Budget Committee; Nina Shepherd and Al Peden of the Congressional Budget Office; the entire staff of the Senate Veterans' Affairs Committee, and various members of the central office staff of the Veterans' Administration.

Mr. Speaker, there follows a brief explanation of the agreement reached with the other body and the changes in existing law made by the compromise agreement:

1. BURIAL BENEFITS

House bill.—The House bill would limit payment of non-service-connected burial benefits—$300 for burial and funeral expenses and a $150 plot allowance—to those cases in which the deceased veteran's annual income, including spouse's income, does not exceed $20,000. This limitation would be effective only with respect to deaths occurring during fiscal years 1982 through 1984.

Senate amendment.—The Senate amendment would generally limit the payment of both benefits to those cases in which the deceased veteran was entitled to receive Veterans' Administration service-connected disability compensation for a disability rated at 30 percent or more in the cases of deaths occurring in the last three months of fiscal year 1981, for a disability rated at 20 percent or more in the cases of deaths occurring in fiscal year 1982, and for any compensable disability in the cases of deaths occurring in fiscal year 1983 and thereafter; and to those cases in which the veteran was entitled to receive VA pension or met the income and wartime service eligibility requirements for pension. (Other pension eligibility requirements relate to disability, age, and duration of service.)

Conference agreement.—The conference agreement would limit, effective October 1, 1981, the payment of the $300 burial and funeral expenses benefit, which would be payable thereafter only in the cases of deceased veterans who were entitled to receive VA compensation or pension. (Pursuant to present section 3021(a) of title 38, United States Code, a veteran would be deemed to have been so entitled if the evidence on file at date of death was sufficient to support a determination of entitlement.) The $150 plot allowance would not be affected. The Senate recedes with respect to fiscal year 1981 and the House recedes with respect to having the limitation apply only during fiscal years 1982 through 1984.

This provision is estimated to save $75.2 million in budget authority and outlays in

fiscal year 1982, $79.8 million in budget authority and outlays in fiscal year 1983, and $84.4 million in budget authority and outlays in fiscal year 1984.

2. OUTPATIENT DENTAL BENEFITS

House bill.—The House bill would terminate, effective October 1, 1981, benefits for outpatient treatment for certain non-compensable service-connected dental conditions.

Senate amendment.—The Senate amendment would, effective October 1, 1981, restrict eligibility for these dental benefits in three ways. First, the period of time after discharge within which the veteran must apply would be reduced from one year to six months. Second, a 180-day minimum service requirement would be imposed. Third, these benefits would not be provided to a veteran who had been certified by the armed service concerned as having received a complete dental examination and all indicated treatment during the 90 days immediately prior to discharge.

Conference agreement.—The House recedes with an amendment reducing the period of time after discharge within which the veteran must apply to three months. In addition, the Secretary of the service concerned would be required to provide the servicemember, at the time of discharge from a period of active duty of not less than 180 days, with actual notice (verified by a statement, signed by the servicemember—or if the servicemember refuses to sign, a certification by an authorized official—to be made a part of his or her permanent military records) of the new three-month limitation.

This provision is estimated to save $17.7 million in budget authority and outlays in fiscal year 1982, $18.9 million in budget authority and outlays in fiscal year 1983, and $20.3 million in budget authority and outlays in fiscal year 1984.

3. FLIGHT TRAINING

House bill.—The House bill would terminate, effective October 1, 1981, GI Bill education benefits for the pursuit of flight training.

Senate amendment.—No provision.

Conference agreement.—The Senate recedes with an amendment providing that those who are enrolled in approved vocational flight training programs on August 31, 1981, may continue to use their benefits for the purpose of such programs as long as they remain continuously enrolled.

This provision is estimated to save $14.1 million in budget authority and outlays in fiscal year 1982, $20 million in budget authority and outlays in fiscal year 1983, and $17 million in budget authority and outlays in fiscal year 1984.

4. CORRESPONDENCE TRAINING

House bill.—The House bill would terminate, effective October 1, 1981, GI Bill education benefits for the pursuit of flight training by correspondence courses.

Senate amendment.—No provision.

Conference agreement.—The conference agreement would reduce, from 70 percent to 55 percent, effective October 1, 1981, the portion of the cost of correspondence training paid by the Veterans Administration. The 70 percent rate would apply only to lessons completed and submitted (that is, postmarked, if submission is by mail) before October 1, 1981.

This provision is estimated to save $3.2 million in budget authority and outlays in fiscal year 1982, $3 million in budget authority and outlays in fiscal year 1983, and $2.6 million in budget authority and outlays in fiscal year 1984.

5. EDUCATION LOAN PROGRAM

House bill.—The House bill would terminate, effective October 1, 1981, the VA education loan program.

Senate amendment.—The Senate amendment would, with two exceptions, terminate the program effective October 1, 1982. Under those exceptions, education loans would remain available for use by certain Vietnam-era veterans pursuant to current law (1) those continuing their full-time training in the first two years after the expiration of the GI Bill delimiting period, and (2) those pursuing flight training courses.

Conference agreement.—The conference agreement incorporates the House termination date with the Senate exceptions.

This provision is estimated to save $6 million, in outlays only, in fiscal year 1982, $5 million, in outlays only, in fiscal year 1983, and $4 million, in outlays only, in fiscal year 1984.

HEALTH CARE COST RECOVERY

House bill.—No provision.

Senate amendment.—The Senate amendment would clarify the VA's authority to recover the costs of non-service-connected health care in certain situations in which the veteran would be eligible to have those costs paid by a workers' compensation carrier, an automobile no-fault insurer, or a state that pays health-care costs for victims of crimes of personal violence.

Conference agreement.—The Senate recedes. It is noted that H.R. 3499, as passed by the House on June 2, 1981, contains a very similar provision, and the Veterans' Affairs Committees except such a provision to be enacted in that bill.

CHANGES IN EXISTING LAW MADE BY CONFERENCE AGREEMENT

Changes in existing law made by the conference agreement for Veterans' Benefits and Services are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—VETERANS' BENEFITS

* * * * *

PART II—GENERAL BENEFITS

* * * * *

Chapter 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * *

Subchapter II—Hosptial, Nursing Home or Domiciliary Care and Medical Treatment

* * * * *

§ 612. Eligibility for medical treatment

(a) * * *

* * * * *

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service [and], (B) *if the veteran had served not less than 180 days of active military, naval, or air service immediately before such discharge or release,* (C) if application for treatment is made within [one year] *90 days* after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority, application may be made within [one year] *90 days* after the date of correction or date of enactment of this exception, whichever is later, *and* (D) *if the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed*;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(6) from which a veteran of the Spanish-American War or Indian Wars is suffering;

(7) from which any veteran of World War I, World War II, the Korean conflict, or the Vietnam era who was held as a prisoner of war for a period of not less than six months is suffering; or

(8) from which a veteran who has a service-connected disability rated as total is suffering.

The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days provide to such member a written explanation of the provisions of clause (2) of this subsection and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation. The total amount which the Administrator may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Administrator has contracted under clause (i), (ii), or (v) of section 601(4)(C) of this title may not exceed $500 unless the Administrator determines, prior to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Veterans' Administration (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treat-

ment, or appliances at such cost is reasonably necessary.

* * * * *

Chapter 23—BURIAL BENEFITS

* * * * *

§ 902. Funeral expenses

[(a) Where a veteran dies—

[(1) of a service-connected disability; or

[(2) who was (A) a veteran of any war; (B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or (C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;]

(a) When a veteran dies who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or in receipt of pension, the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $300 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of the death of such veteran, or because of any contribution from any source toward the burial and funderal expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency of political subdivision of the United States, or of a State, or the employer of the deceased veteran. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

§ 903. Death in Veterans' Administration facility; plot allowance

(a) Where death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 610 or 611(a) of this title, the Administrator—

(1) shall pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

(b) In addition to the benefits provided for under section 902 of this title and subsection (a) of this section, in the case of a veteran who is eligible for a burial allowance under such section 902, or under such subsection, *who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war* and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State, the Administrator shall pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran; and

(2) if such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Administrator shall pay a sum not exceeding $150 as a plot or interment allowance to such person as the Administrator prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, an agency or political subdivision of a State, or a former employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

Chapter 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter III—Entitlement; Duration

§ 1631. Entitlement; loan eligibility

(a)(1) Subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration, a participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefits).

(2) The amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

(3) Payment of benefits under this chapter may be made only for periods of time during which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

(4) Payment of benefits under this chapter may be made after a participant has completed his or her first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a) of this title, during the last six months of such member's first enlistment and at any time thereafter.

(c) When an eligible veteran is pursuing [either] a program of education under this chapter by correspondence [or a program of flight training] such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

[(d) Eligible veterans participating in the program shall be eligible for education loans authorized by subchapter III of chapter 36 of this title in such amounts and on the same terms and conditions as provided in such subchapter, except that the term "eligible veteran" as used in such subchapter shall be deemed to include "eligible veteran" as defined in this chapter.]

* * * * *

Subchapter IV—Administration

§ 1641. Requirements

The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, [1677, 1681(c),] 1683, and 1691(a)(1) of this title and the provisions of chapter 36 of this title[, with] (*with* the exception of sections 1777, 1780(c), and [1787] *1787*) shall be applicable to the program.

* * * * *

Chapter 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

SUBCHAPTER III—ENROLLMENT

1670. Selection of program.
1671. Applications; approval.
1673. Disapproval of enrollment in certain courses.
1674. Discontinuance for unsatisfactory conduct or progress.
1676. Education outside the United States.
[1677. Flight training.]

* * * * *

Subchapter II—Eligibility and Entitlement

* * * * *

§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a) * * *

* * * * *

Savings Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before the date for which an educational assistance allowance is first payable under this chapter, the 10-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before the date of enactment of this sentence and who pursues a course of farm co-

operative training, apprenticeship or other training on the job, [or flight training within the provisions of section 1677 of this chapter,] the 10-year delimiting period shall run from the date of enactment of this sentence, if it is later than the date which would otherwise be applicable.

* * * * *

Subchapter III—Enrollment

* * * * *

§ 1673. Disapproval of enrollment in certain courses

(a) * * *

* * * * *

(b) [Except as provided in section 1677 of this title, the] *The* Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

* * * * *

[*§ 1677. Flight training*

[(a) The Administrator may approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, subject to the following conditions:

[(1) the eligible veteran must possess a valid private pilot's license and meet the medical requirements necessary for a commercial pilot's license; and

[(2) the flight school courses must meet the Federal Aviation Administration standards and be approved both by that Agency and the appropriate State approving agency.

[(b) Each eligible veteran who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of subsection (a) hereof, shall be paid an educational assistance allowance to be computed at the rate of 60 percent of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay. Such allowance shall be paid monthly upon receipt of a certification as required by section 1681(c) of this title. In each such case the eligible veteran's period of entitlement shall be charged with one month for each $317 which is paid to the veteran as an educational assistance allowance for such course.]

* * * * *

Subchapter IV—Payments to Eligible Veterans: Veteran-Student Services

§ 1681. Educational assistance allowance

General

(a) The Administrator shall, in accordance with the applicable provisions of this section and chapter 36 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

Institutional Training

(b) The educational assistance allowance of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence [or a program of flight training] at an educational institution shall be paid as provided in chapter 36 of this title.

[Flight Training

[(c) No educational assistance allowance for any month shall be paid to an eligible veteran who is pursuing a program of education consisting exclusively of flight training until the Administrator shall have received a certification from the eligible veteran and the institution as to actual flight training received by, and the cost thereof to, the veteran during that month.]

* * * * *

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), or (c) of this section or section [*1677 or*] 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

* * * * *

§ 1686. Education loans

Any eligible veteran *to whom section 1662(a)(2) of this title is applicable* shall be entitled to an education loan (if the program of education is pursued in a State) in such amount and on such terms and conditions as provided in sections 1798 and 1799 of this title.

* * * * *

Chapter 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter IV—Payments to Eligible Persons

* * * * *

§ 1737. Education loans

Any eligible person shall be entitled *before October 1, 1981,* to an education loan (if the program of education is pursued in a State) in such amount and on such terms and conditions as provided in sections 1798 and 1799 of this title.

* * * * *

Chapter 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

Subchapter I—State Approving Agencies

* * * * *

§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence [or a program of flight training], in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 1504, 1682, 1691, or 1732 of this title. Such payments.

* * * * *

Subchapter II—Miscellaneous Provisions

* * * * *

§ 1786. Correspondence courses

(a)(1) Each eligible veteran (as defined in section 1652 (a) (1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 1701 (a)(1) (B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of [70] *55* percent of the established charge which the institution requires non-veterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term "established charge" as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $342 which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

* * * * *

Subchapter III—Education Loans to Eligible Veterans and Eligible Persons

§1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a) [Each] *(1) Subject to paragraph (2) of this subsection, each* eligible veteran and eligible person shall be entitled to a loan under this subchapter in an amount determined under, and subject to the conditions specified in, subsection (b)(1) of this section if the veteran or person satisfies the requirements set forth in subsection (c) of this section and the criteria established under subsection (g) of this section.

(2) Except in the case of a veteran to whom section 1662(a)(2) of this title is applicable, no loan may be made under this subchapter after September 30, 1981.

* * * * *●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I want to congratulate the very able chairman, Mr. JONES and our capable ranking member, Mr. LATTA, for bringing us this conference report on H.R. 3982.

Mr. Speaker, the distinguished chairman of the committee on Veterans' Affairs, on which I am the rank-

ing member, announced to the House on Friday last that the conferees from the House and Senate Veterans' Affairs Committees have reached agreement on the veterans' affairs part of the reconciliation bill.

The conferees had the difficult task of agreeing on ways to reduce spending authority and outlays by $110 million. In a spirit of bipartisan harmony they accomplished their task in a timely manner. The details of the agreement of the conferees are spelled out in the report under title XX. It is a good agreement which I trust will find widespread support in the House.

I want to congratulate our chairman, Mr. MONTGOMERY, for his work on this agreement. I also congratulate the other conferees on both sides of the aisle, and in both bodies of the Congress.

Mr. Speaker, it is usually very difficult to resolve differences of opinion when benefits to veterans are involved. This is especially true when you are reducing or limiting such benefits. In this instance, we were able to accomplish one task because of hard work and good will. I join the distinguished chairman of our committee in expressing appreciation to our colleagues.

As we know this final agreement between the conferees of the House and the other body in total provides for legislative savings totaling $51.9 billion in budget authority and $35.2 billion in budget outlays in fiscal year 1982, $55.7 billion budget authority and $44 billion in budget outlays in fiscal year 1983, and $61.7 billion in budget authority and $51.4 billion in budget outlays in fiscal year 1984.

This is, indeed, a historic day as the Congress takes this action today in meeting a mandate from the people. It is indeed a new beginning.●

Mr. RAHALL. Mr. Speaker, I rise in reluctant support of the conference report on H.R. 3982, the Omnibus Reconciliation Act of 1981. Fortunately, this conference report contains fiscal year 1982 authorization for the highway and development programs of the Appalachian Regional Commission. While both programs are reduced in size, they both nevertheless will continue.

Appalachia produces 54 percent of all U.S.-mined coal, and over 90 percent of all coal exports. While we recognize the importance of coal in our domestic economy, coal exports have, since last year, enjoyed enormous growth. U.S. coal is attractive to foreign buyers, and Appalachian coal fills that foreign need. The recent experience of coal-carrying vessels lined up in eastern ports for weeks to receive a shipment of U.S. coal attests to the sudden growth in foreign demand.

ARC programs help get that Appalachia coal mined by providing infrastructure in assisting in the transportation of coal, and municipal and community aid provide services to the miners. The Appalachian highway system is currently 60 percent complete, and 60 percent of that completed system carries coal. Over 14,000 miles of all roadway in Appalachia is used to move coal by truck. Miners going into the isolated Appalachian coal fields need housing, water, sewer systems, roads, clinics, training, and other essentials ARC helps provide. Communities which must prepare for the influx of coal miners, and for the adjustments when the coal and the miners, are gone, need ARC financial planning and technical assistance.

Coal has the potential to provide a major part of the investments to ultimately replace the Federal dollars now being used in the economic development of Appalachia. Gov. John Y. Brown, Jr., of Kentucky, in testifying before the House Public Works and Transportation Committee earlier this year, estimated that the resurgence of coal could end the need for ARC area development dollars in 3 to 5 years.

But the use of coal resources to support the development of a strong economy in Appalachia will not automatically come about. The long string of cyclic booms and busts, leaving behind economic, environmental and human devastation, attests to that. ARC can be an invaluable instrument in seeing to it that the same thing doesn't happen this time around.

H.R. 4144, energy and power appropriations for fiscal year 1982, which passed the House earlier this week, contains funds for ARC. The report to accompany the bill calls for a report to be prepared by the Commission and submitted to Congress by December 31, 1981, on a finishup program. The chairman of that subcommittee, the gentleman from Alabama (Mr. BEVILL) stated during consideration of H.R. 4144 that the potential for exporting Appalachian coal in furthering Commission economic development objectives be covered in this report. I concur completely and I support this study effort.

ARC can help us solve our national energy problems by contributing to increased coal production and coal exports. And it can help solve the difficult economic development problems of the region.

Mr. Speaker, although I am very disturbed and do not support language in this conference report which sets back our national efforts to increase the use of domestic coal—and I refer specifically to repeal of the off-gas provisions of the Powerplant Industrial Fuel Use Act, it would be tragic, now that coal and the region have come so far, not to continue ARC long enough to finish the job.

I commend and thank those conferees, led by our distinguished chairman of the House Public Works Committee, Mr. HOWARD, for the long hours and successful efforts they conducted in maintaining House language on this issue and to all members of the conference for their recognition of ARC's valuable and effective work.

● Mr. BIAGGI. Mr. Speaker, I rise in opposition to the pending conference report on H.R. 3982 the Omnibus Budget Reconciliation Act of 1981. My opposition is somewhat lessened from the original passage of Gramm-Latta II on June 26. I believe that some of the more onerous provisions of this legislation were effectively deleted in Conference.

However, the net effect of this resolution is that Federal spending will be reduced by some $35 billion. It seems as though that should be good in terms of fulfilling the so-called mandate of the people to reduce Federal spending. However, we have applied an ax as compared to a scalpel—resulting in dismembering instead of surgery for many social and human service programs.

There is little doubt as to the fact that the impact of these cuts will be felt—the only question is how soon. When will the first senior citizen be turned away from a senior center—when will the first poor family be denied eligibility for food stamps—when will the first college student seeking to start or resume classes in college be turned away from the financial aid office—how about the first school child being told no more school lunches. Once this begins to happen—the impact will be felt.

Fortunately, the conferees did not accept such harsh provisions as capping Federal spending under medicaid of cutting off Federal aid to cities with rent control but other damages were done with this legislation.

As a member of two miniconferences on the Education and Labor Committee I am proud to state that we provided real increases in dollars for major service programs under the Older Americans Act.

The Committee on Education and Labor, where I serve as the senior New York member and a conferee on the programs under our jurisdiction, agreed to major revisions in these programs. While I have fought this reconciliation process every step of the way, I must state that I feel that our work in this area was the best we could attain under very difficult circumstances.

Briefly, in the area of student financial aid, we agree to a compromise that would routinely guarantee loans to students with family incomes under $30,000 per year with a needs test for those above this income level. Incorporated in this compromise was my legislation, House Joint Resolution 259, which express the sense of Congress that changes be effective no earlier

than October 1 of this year. Except for the 5 percent origination fee on the face value of the loan, which begins 10 days after enactment of this bill, students can continue to receive guaranteed student loans under present law until October 1—insuring them the ability to plan for the coming school year, but anticipating changes for next year. As an original cosponsor of legislation last year which extended this and our other student aid programs—Pell grants, SEOG, SSIG, college work study and national direct student loans—I am pleased that we have maintained the integrity of these programs, even at reduced funding levels. This was in large part in response to the national outcry which occured when the administration announced its intention to major severe reductions in these programs. This compromise will allow these programs to continue, serving our most needy students.

In the area of Head Start, the program was retained and funded at $950 million for 1982—a $130 million increase above the Senate version. This will maintain services under this program which has proven its effectiveness in serving preschool, disadvantaged youngsters.

Under CETA, funding was maintained for youth employment programs under title IV, which in my eyes, is the most important piece of this program. With youth unemployment running in New York City as high as 26 percent for minority youth, it is vital that we preserve these funds so that we can provide these youngsters with the technical and educational skills they need to succeed in the world of work. Included in CETA under a ceiling of $3.9 billion is $1.4 billion for training, $600 million for Job Corps, $570 million for special youth programs and $760 million for summer youth programs.

In the area of child nutrition, we have maintained the 2-cent safety net for poverty areas. This was critical for my own city of New York where 96 percent of our children who participate in this program are either free or reduced-price participants.

I am pleased that the conferees decided to reject the House version of the social services block grant and retained our programs for child abuse prevention and treatment as categorical programs. Now financed at $27.9 million, we had to accept reduced levels of funding—$7 million in State grants and $12 million in discretionary funds with $2 million earmarked for our adoption programs from this $12 million. As the author of one of the first bills dealing with this subject and as a police officer in New York City for 23 years, who witnessed this problem on a daily basis, I am gratified that we have reaffirmed the nature of this program which provides essential treatment and prevention services for battered children.

There was bipartisan agreement to reject the President's proposed 50 percent reductions in funds for the National Endowment for the Arts and Humanities. We agreed upon $119.3 million for the arts and $113.7 for the humanities—levels of funding which insure that these programs will continue, especially those community-based programs which are the most in need of these funds.

Two other programs, reauthorized at drastically reduced levels of funding were bilingual and vocational education. New York City receives approximately $18 million to operate each of these programs and under this legislation we stand to lose between $3 and $5 million in vocational education funds and about $4 million in bilingual education funds. This is most distressing at a time when these vital support services are needed more than ever to insure that our youth of today become the working, productive adults of tomorrow.

The other two major issues effecting education in this report—impact aid and the education block grant—could spell major reductions in school-related services for New York. With respect to impact aid, the program was retained at an increased funding level of $550 million yet no provisions remain in statute to address funds being provided to children in federally subsidized housing.

With regard to the education block grant—I must state at the outset that I have been a strong and vocal opponent of block grants from the very beginning. Yet both versions of this budget bill incorporated nearly identical versions of this legislation. Simply stated, title I programs for educationally disadvantaged children are retained as a separately funded program, while title II of the education block grant incorporates the remaining programs for elementary and secondary education. I must state that I am very disturbed, not only by the consolidation of these remaining elementary and secondary programs, but more importantly, with the distribution formula for these funds under title II. On a per capita basis, smaller States such as Vermont receive $24.69 per child, Delaware receives $21.08 per child, and Wyoming a whopping $29.16 per child—these funds being distributed with a floor to insure that no one State receives less than 0.5 percent of the total appropriation. In contrast, larger States such as California and my own State of New York will receive a mere $10.90 per child, at the same time having substantially higher costs of living and thus higher costs of educating these children. I want to state right now that I do not support this formula and intend to rectify this situation at the earliest possible date.

Time does not permit me the opportunity to address other sections of this report in greater detail. Many of them I find most objectionable and hence, my opposition to this report before us. While I wish to commend the efforts of all of my colleagues who contributed to this effort—the best of all worlds, in my opinion—I still know that many of them share my personal revulsion to this process. We have legislated without the benefit of knowing what the impact of virtually any of these cuts will mean in real terms. Our results may mean disaster for millions who depend on these programs, yet I hope, for the sake of everyone concerned, that this course will ultimately work. If it fails, we all will be losers.●

● Mr. JEFFORDS. Mr. Speaker, first of all, I want to take time to thank our distinguished Republican leader, BOB MICHEL, for working with the members of his party from the Northeast and Midwest region during the reconciliation process. He was more than willing to listen to our concerns over various budget cuts affecting our districts, and helped us in our successful effort to restore funds to programs we felt had been excessively cut back. Without BOB MICHEL, I do not think the White House would have enjoyed the kind of success it did on the budget votes.

Now let me turn to the conference report on the budget reconciliation bill which we will vote on today. I am happy to report that most of the concessions which we northern Republicans won in the House version of this legislation have been preserved in this final version. Our conferees have served us well. The general comments I made when the House passed H.R. 3982 still stand. Like everybody else, I am unhappy with some specific provisions, but the sunbelt bias that existed in the original budget resolution has been largely rectified in this conference report.

Among the concessions to the Northeast which have survived the conference are: An $1.875 billion authorization for low-income fuel assistance, a figure half a billion dollars higher than the orginal Reagan budget level; maintenance of the low-income weatherization program as a separate program authorized at $175 million; elimination of the cap on medicaid which was proposed by the administration and supported by the Senate—the conferees have agreed to a reduction in the Federal share of medicaid costs, however; an increase in the guaranteed student loan and pell grant budgets over the House bill numbers and the original budget proposal; funding levels for Amtrak of $735 million for fiscal 1982 and $788 million for fiscal 1983, with $82 million in interest payments deferred until 1984; dropping of dairy price support language which

would have forced a reduction to 70 percent of parity; and the addition of $10 million for the arts and humanities over and above the $50 million we were able to restore in the House bill.

The conference report includes modest reductions from the House measure in the areas of elementary and secondary education, vocational education and youth training programs. However, in light of the substantially lower figures that were in the Senate bill, we achieved, I think, very favorable compromises in each of these programs.

Additionally, compromises were made in the construction of education block grants, but the basic concessions we fought for, to protect the interests of small States and safeguard the rights of specific groups like the handicapped and the disadvantaged, remain in the final product before us now.

A few more points. I am pleased that we have preserved the Economic Development Administration, although the $290 million annual funding level is a bit low. I am glad we have retained the urban development action grant program essentially as a separate entity that we have avoided going as low as the Senate authorizations for the Corporation for Public Broadcasting for fiscal years 1984 through 1986, and that we have given Conrail a reasonable amount of time to become profitable. Along this same line, it is certainly encouraging to see that Conrail made a profit of almost $14 million in the last quarter. Perhaps the conferees confidence in the Corporation was justified.

Although I am sorry we couldn't fund the Legal Services Corporation at an adequate level in the conference, I am hopeful that we will succeed via the authorization process. The House has passed a satisfactory, if overly restrictive, bill, and I hope the Senate will act expeditiously on the measure reported out by its Labor and Human Resources Committee.

The least satisfactory aspect of the conference report, I think, lies in the food stamp section. We basically split the difference with the Senate on the earned income deduction, arriving at an 18 percent deduction for working expenses. Over my vocal objections, we receded to the Senate on freezing the inflation adjustment for the standard and shelter deductions. This was particularly unfortunate because we had made progress in this area in the House bill. We did manage to eliminate the 1983 increase in the benefit reduction rate, however, which was a positive development. Overall, we came out slightly on top in terms of compromising with the other body.

I do not wish to understate the seriousness of the budget cuts in this bill; they will have a very real impact on the lives of many Vermonters. But, generally speaking, the legislative process has worked well, and Congress has arrived at a final bill which distributes the burden of the budget cuts which are necessary for the President's economic program in a much more equitable manner than the original proposal.

I urge passage of the conference report.

Thank you, Mr. Speaker.

● Mr. SNYDER. Mr. Speaker, the aviation reconciliation provision agreed to by the conferees authorizes $450 million for the airport development aid program (ADAP) in fiscal year 1981 and places a cap of $1.05 billion on this program for fiscal years 1981 and 1982.

As my colleagues are aware, earlier this week the House adopted H.R. 4182, the 1981 ADAP authorization. The ADAP program, originally enacted in 1970, has been responsible for over $4.2 billion in needed capital improvement projects at our Nation's airports over the last 10 years.

Unfortunately, the program has not been funded since October 1, 1980, when the old law expired. Therefore, despite a $3.7 billion surplus in the airport and airway trust fund contributed by aviation users, airport operators have not been able to secure Federal grants for many worthy projects designed to increase both safety and capacity throughout the national airport system.

By including the text of H.R. 4182 in the reconciliation conference report, the conferees have endorsed the action taken by the House earlier in the week when that legislation was adopted.

As far as fiscal year 1982 is concerned, the conferees placed a limit of $600 million on the ADAP program. However, because the FAA may not have sufficient time in which to obligate all 1981 funds by the end of September, the provision was drafted so as to allow a total of no more than $1.05 billion to be spent for the program for the 2 years combined. If all of the $450 million authorized is spent in 1981, then the maximum which could be spent in 1982 is $600 million.

Mr. Speaker, the agreement reached by the aviation conferees represents a balance between the needs of the national airport system and the need to support the President in his economic recovery program. The authorization for 1981 is only two-thirds of the amount authorized in 1980 and is the amount recommended by the President. Obviously, the capital needs of the system could justify even higher amounts, but the conferees are aware of their obligation to do their part to control Federal spending.

For these compelling reasons, I urge my colleagues to support the conference report on H.R. 3982.●

● Mr. ALBOSTA. Mr. Speaker, after the Gramm-Latta II amendment passed the House of Representatives, I along with most of my colleagues felt that the minimum benefit for current beneficiaries was doomed for extinction. While I continued to work to reverse that fate, I even told my constituents in a weekly column that our efforts may be in vain.

Today, I take the floor to proclaim that these efforts are not in vain, and passage of H.R. 4331 may prove to prevent this administration and this Congress from reducing social security benefits for current recipients.

This bill would delete the language dealing with the minimum benefit from the conference report to the omnibus reconciliation bill. Doing this would protect those 3 million recipients nationwide—most of whom depend on that $122 check every month literally for survival.

I do not believe this Congress wants to be the first in history to lower benefits for current social security recipients, particularly when it would be affecting those recipients at the lowest level of benefits. Eliminating the benefits for these people would simply be hurting those who need the benefits the most.

Should the House pass this bill today, the Senate must also act in time to save this vital benefit. I urge all House Members to contact the Senators of their States if they question their commitment to the continuation of the minimum social security benefit for current beneficiaries.●

● Mr. MOFFETT. Mr. Speaker, as a conferee on several of the miniconferences dealing with the energy area, I have signed the conference papers with some reservation. Despite the excellent work of staff and conferees in continuing many of the conservation and renewable policies so carefully crafted over the past decade, I remain convinced that the dollar limitations we have had placed on us will work to the detriment of our national energy, economic, and national security goals. Over the next several years, I believe we will find in our haste to cut funding, we have also cutback on numerous worthwhile programs, programs whose benefits more than outweigh the initial costs expended.

The conferees should be proud, however, for having had the fortitude to continue many of the statutory conservation and renewable programs which have tended to balance our energy program. The appliance efficiency standards program, the residential conservation service, the residential commercial retrofit program will all continue due to the work of this conference. The low-income weatherization program will also continue, funded at up to $175 million for fiscal year 1982. It is important to realize

that the conferees intend that $175 million figure to hold only for the next fiscal year and that, within the overall limits for State and local programs, that figure can increase after that time.

The conferees have also provided clear instructions that the funding level under the Economic Regulatory Administration will include sufficient funds to complete compliance activities, activities estimated to result in the recapture of up to $10 billion in moneys overcharged the consumers of the Nation. I am particularly pleased that the conferees have agreed to increase the level for emergency preparedness from the $2 million originally proposed by the President to over $12 million. This funding must be used efficiently and rigorously by the Administration in order to prepare contingency plans so that the Nation will be able to cope with future supply shortages or cutoffs.

We have also continued the Energy Information Administration, with clear instructions that statutorily mandated information systems, including the Financial Reporting System, be maintained. The FRS, mandated under the DOE Organization Act, provides disaggregated data by major lines of business for energy companies, includes activities of companies here and abroad, and identifies investment activity within major lines of business. According to the Library of Congress, it is the "only source of industry data using consistent definitions, thus permitting comparisons to be made across companies" and provides "data sufficiently detailed to monitor competitiveness of the industry." Today, in the light of growing attention to the financial activities of the major companies in the field of mergers and acquisitions, this type of data is particularly important.

The conferees have also supported the mandate given to the Department of Energy under the DOE Organization Act "to provide for, encourage, and assist public participation in the development and enforcement of national energy programs" by increasing the $168,000 requested by the Administration for citizen participation programs to $240,000. The current Administration has expressed its reliance on the citizens of this Nation in determining national policy and has repeatedly expressed its belief that the people should have more of a voice in determining the country's future. The increase in the citizen participation program is a reflection of that feeling and, as a conferee, I would hope that the Administration uses these funds to hear directly from our citizens how they believe our energy policy should be crafted and implemented. The $240,000 is not intended to cover operating expenses for program direction for the Office of Consumer Affairs, which the conferees intend to come out of the $70 million provided under general management for departmental administration.

Finally, I believe many of us reluctantly agreed to place expenditures for the strategic petroleum reserve off-budget after having been directed to do so by actions of the full House of Representatives. Placing expenditures off-budget in no way reduces our commitment to filling the reserve as rapidly as possible in order to provide future protections against supply shortages. While the conferees also included language regarding ongoing negotiations between the Department of Energy and States, such as Alaska, for storage or royalty oil, we did not mean to imply that any special treatment should be afforded those States. During the conference debate, the gentleman from Indiana (Mr. SHARP), assured me that, under the reconciliation bill language, the conferees did not expect that, in any agreement reached for storage of State royalty oil, the price paid for the oil would be significantly different from current market prices, or that any State providing oil would be able to dictate the method or timing of sale of SPR oil. Any State royalty oil stored in the reserve should be handled in a manner which would benefit all the citizens of the Nation and not just the citizens of the State which originally furnished the oil. It was only on the basis of those assurances that I agreed to sign the conference papers regarding this issue.

● Mr. MURPHY. Mr. Speaker, once again the illusion of what the Reagan administration says must be tempered by the reality of what they do. In their zeal to cut Federal expenses they have decided to sacrifice 3 million senior citizens by eliminating their minimum benefits from social security, while only 2 days ago pushing for a tax cut proposal that doled out benefits to the rich, and insured the future excessive profitability of big oil companies by the elimination of the windfall profit tax.

Fourteen percent of older Americans live in poverty now, and millions more are kept out of poverty only because of social security benefits. The President's proposed cuts in social security benefits are needlessly extreme and punishing to those who depend on these resources to survive.

Has the time come in this Congress when we are to forgo our right to think for ourselves and let our vote be cast from the White House? Recently aid for the handicapped was traded for cufflinks; Members deliberated on a tax cut that virtually ignores middle America in response to a barrage of phone calls from the board rooms of the largest corporations in America; Members have abdicated their right to think for themselves in return for pledges of support from the White House in the next election; Members have become willing marionettes for the great puppeteer and manipulator of illusions in the White House.

The time has come to draw the line. The time has come to represent the people who elected us. The time is here to separate the illusions from the realities. Let us recognize the Stockman sleight-of-hand economics; let us understand that the budget cuts and tax cuts are illusions and not realities.

The poverty of those dependent on social security is a reality. That there will be no phone calls to our offices from the board rooms of corporate America on behalf of the aged poor is a reality. There will be no cufflinks; there will be no high powered and expensive lobbyists on their behalf. If this rule is not defeated we will be sidestepping the issue and trying to throw smoke into the eyes of older America just as the President did last Monday. If this rule is adopted, next February, America will turn its back on its most vulnerable citizens; next February, 3 million Americans who now receive minimum social security benefits will be left to their own devices. That is a reality. Do not sacrifice the poor and infirmed on the altar of supply side economics.●

● Mr. LUKEN. Mr. Speaker, I support the budget reconciliation bill reported by the conference committee, and at this time I want to address my remarks particularly to section 1213 of the bill, which provides a much-needed clarification of the jurisdiction of the Consumer Product Safety Commission over amusement rides. In order to resolve an uncertainty reflected in several recent court decisions regarding the Commission's existing jurisdiction over amusement rides, this section amends the definition of consumer product contained in section 3(a) of the Consumer Product Safety Act by expanding the definition of consumer product to include those amusement rides operated by traveling carnivals, while providing that amusement rides operated by amusement parks shall remain exempt from the Commission's jurisdiction. In my opinion, Congress did not intend amusement rides to be included in the definition of consumer product when the Consumer Product Safety Act was passed; in any event, this section resolves whatever uncertainty existed in the definition of consumer product by providing that henceforth the Commission has jurisdiction over amusement rides only when the rides are part of a traveling amusement show or company, such as a carnival, and consequently are moved frequently from place to place. This section confirms that the Commission does not have jurisdiction over amusement rides that are operated by a fixed-location

amusement park or similar facility and consequently are moved infrequently, if at all, and for that reason can be considered to be permanently fixed to a site. In this context permanently fixed does not require that, in order to be exempt from the Commission's jurisdiction, the ride must be attached to a site in such a way as to preclude the ride from ever being moved, nor is the jurisdictional exemption lost because an amusement park alters the location of a ride. The requirement that a ride be permanently fixed to a site is simply intended to differentiate rides that are operated by fixed-location amusement parks, over which the Commission has no jurisdiction, from rides operated by traveling companies, over which the Commission does have jurisdiction. Extending the Commission's jurisdiction to amusement rides operated by traveling companies is justified by the different safety considerations that exist when a ride is frequently assembled and disassembled as the ride is moved from place to place and by the impediment to effective State supervision of rides operated by traveling companies caused by the fact that traveling companies frequently move from State to State in the course of an operating season.●

● Mr. CROCKETT. Mr. Speaker, today, with the vote on the Reagan administration's budget reconciliation proposals, this legislative body has chosen to adopt a framework for a national budget that effectively and painfully reverses fiscal and social policies that governed for more than half a century. Indeed, the new approach dredges up, in spirit and in fact, the discredited and self-defeating, trickle-down theories which led to the Great Depression of the 1930's.

Fifty years, however, have brought vast changes in our society, and it would be wrong to apply those circumstances precisely to our times. Since then, we have survived World War II and two other major international conflicts. We have achieved world leadership in many, if not most, fields of human endeavor. And we have designed and demonstrated the capability to provide for ourselves and for many other cohabitants of this planet the worldly goods and the moral guidance that could yield an era of universal contentment yet undreamed of.

Instead, we have now opted for a return to past injustices and a rejection of present and future promises. Even worse, we have withdrawn support of firmly established productive and vitally needed domestic programs in order to underwrite the most costly armaments program in the history of the world.

It is time the American people understand what the majority of this Congress, in concert with the Reagan administration, has done. This new budget does not cut Government spending. It will not combat inflation or unemployment. It is not designed to benefit the many, but to enrich the few.

It does not reduce total national expenditures—instead, it merely cuts social and human needs programs. It does not reduce the national deficit—instead, it is swollen with mammoth outlays of dollars committed to weapons of war. It does not challenge inflation and unemployment, the twin enemies of economic stability—it lays the groundwork for their further increase and growth.

I do not believe the American people want, need, or even comprehend the full significance of this new social, political, and economic policy. Given the option of land subways carrying atomic missiles versus a sound social security system, how many would choose the MX-1? If asked which was more important, two B-1 bombers or school lunches, how many would vote against hungry kids? If the ballot was marked for 1 modern tank as against 1,000 school classrooms, how would the voters go?

These choices have not been made clear. Instead, through a public relations blitz and pressure from conservative groups in their districts, Members of Congress and the public alike have been mesmerized into seeing only what the administration wants them to see.

If the choices were clear, an aroused public opinion would force this Congress to use its tremendous resources, with the Nation's still-elevated world prestige and the strength of a morally justified crusade for peace, for an end to an arms race which now is without end.

This inability or failure to speak out to the people with clarity and accuracy is not new to this administration or this Congress. The problem seems almost endemic. And recent revelations of evasion and deception on the part of this administration do not add to the Nation's confidence in its leadership. The people were deceived about the propriety, the extent of and the reasons for our involvement in El Salvador. They were lied to about the contacts our U.N. Representative has had with officials of South Africa. They were not informed about the locating of U.S. listening posts and material in China.

Mr. Speaker, it's time we leveled with the people—particularly on the life and death issues of peace and war.

American foreign policy rests on twin policy foundations laid early in our history: The Monroe Doctrine to warn that this hemisphere would be safeguarded from all external dangers, and the maintenance of free and open seas for the peaceful interchange of goods and people. These two principles are still sound.

Now the threat of nuclear war poses for us a new and sensitive vulnerability to foreign attack. The atomic age puts to rest the ancient adage that said, "If you want peace, prepare for war." It no longer applies. That is a false and outdated concept that, today, points only toward nuclear holocaust and the annihilation of a large part of humanity.

If the people understood the full consequences of this nuclear arms race, its staggering costs and its inevitable, apocalyptic conclusion, they would insist that their political leaders stop this insanity.

I see few benefits in this budget, if any, for my constituency in the 13th Congressional District of Michigan. More than one-third of the eligible workers there, are out of jobs; three of every four families depend on one form or another of social aid; the schools are old and the houses are decrepit. What does this budget do for them? How will these new bombers, submarines, and nuclear sites help to cope with their distress? What good will the billions assigned to the Pentagon do for them?

I have opposed with my voice and my vote this budget which promises much for a few and little for the many. I sense a growing public awareness that these new policies favor the wealthy and big business over the workers and the underprivileged. And I fear the trickle-down fallout of social unrest and mounting rebellion that must inevitably flow from this deliberate widening of the deplorable gap that separates these two societies.

We cannot easily turn back the hands of the clock. But we have it within our power to regulate its future movements. We will have no future unless there is peace. Our efforts and our fortunes must be reassigned, now, toward relaxing world tensions, toward extending and expanding for all our people the benefits of our resources and our technology, and toward exporting the virtues of democracy and the blessings of peace instead of warplanes and atomic warheads.

While we still have options, let us examine them and reassess our priorities. We owe no less to my constituency and to all the people of this country.●

● Mr. HAGEDORN. Mr. Speaker, the House-Senate conference committee has reached a compromise on the budget cuts in farm and food programs. In fact, the committee exceeded the direct spending cuts and appropriation authorization reductions mandated by the Budget Committee. A large portion of those cuts resulted from savings in outlays in the dairy price support program. This was accomplished by eliminating the semiannual adjustment in fiscal year 1982.

While the savings achieved in the dairy program will satisfy the requirements for the Omnibus Reconciliation Act, it will not meet budget requirements in the farm bill. The dairy provisions in H.R. 3603 which set dairy support prices at 75 percent of parity would require net outlays in fiscal year 1982 that would exceed the first concurrent budget resolution spending targets by $475 million. The Senate version is targeted at $101 million over the first concurrent budget resolution.

The dairy provisions in this reconciliation conference report should be construed as only an interim measure and the dairy price support for milk will need to be reconsidered along with the support price for other commodities during consideration of the farm bill in order to meet the budget targets in the concurrent budget resolution for the fiscal year ending September 30, 1982.

The Secretary of Agriculture has stated publicly that failure of the Congress to pass dairy legislation with at least a 70 percent of parity minimum could be considered as sufficient grounds for a Presidential veto of the entire farm bill.

It would behoove us, I believe, to show the administration that the Congress is indeed serious about implementing a realistic, yet fair dairy program that will provide stability to both producers and consumers.

Huge inventories of dairy products need to be moved. Time is running out to sell butter stocks to New Zealand. If Congress shows the administration it is serious about readjusting the milk support price, they may consider clearing some of these inventories.

The U.S. dairy industry is the most efficient in the world and one of the most productive sectors of agriculture. The excessive inventories of milk products and the huge Government outlays necessary to store and maintain them threaten to cripple the milk support program and dairy producers.

It must be noted that all farmers, not just dairy producers, must share in this budget-cutting process. User fees for inspection service of grain, cotton, and tobacco will likely be implemented. Cutbacks in the farm facility loans and Farmers Home Administration ownership and operating loans will also affect producers. Farmers have been caught in cost-price squeeze for several years. Agricultural exports lead all U.S. industries in offsetting our national balance-of-payments deficit. Given that, it is quite obvious that agriculture will shoulder its share of cuts through this budget-cutting process.●

● Mr. McEWEN. Mr. Speaker, I rise in support of the conference report resolving the differences between the House and the Senate on H.R. 3982, the Omnibus Budget Reconciliation Act of 1981.

I feel privileged as a freshman Member to have been able to participate in this historic proceeding. While the reconciliation process has forced us to chart unknown legislative waters, I believe that with this conference report we have accomplished both a fiscal and programmatic reconciliation aimed at redirecting the role of the Federal Government while at the same time maintaining the commitment and continuity of previously enacted programs.

The reconciliation process has forced the Congress to review programs and make hard choices necessitated by our current economic climate. I believe history will view favorably the actions that we as a legislative body have taken.

One area that reflects the compromise between continuity and the need to achieve budgetary constraints is our action regarding the Federal-aid highway program. We all recognize a high Federal commitment to maintaining a superior Federal-aid highway system. At the same time, we recognize the need for the Federal-aid highway program to share proportionately part of the necessary budget cuts required by the current economic conditions. I believe our resolution of the obligation limitation for the Federal-aid highway system achieves this result.

During the conference, the Senate and House agreed to establish an obligation limitation of $8.2 billion for Federal-aid highways and highway safety construction programs for fiscal year 1982. This level is consistent with the Reagan administration's economic recovery plan. One feature of that section is to exempt from the limitation emergency relief projects under section 125 of title 23 and projects covered under section 147 of the Surface Transportation Assistance Act of 1978.

Included in the exempt projects under section 147 are the U.S. Grant Bridge project connecting Ohio and Kentucky across the Ohio River and the East End Bridge project over the Ohio River at Huntington, W. Va. I have communicated with Federal Highway Administrator Barnhart regarding these exempt projects. By letter dated July 21, 1981, he has assured me that the statutory exemption covers the entirety of the two projects as finally approved including the necessary bridge approaches and commuter roadways. I am delighted the conference, in its wisdom, recognized that these projects in their entirety should be built and that the building of these projects is consistent with our economic recovery plan. I am appreciative that Federal Highway Administrator Barnhart shares in my understanding of these projects.●

● Mr. DE LA GARZA. Mr. Speaker, the conference report on the omnibus reconciliation bill includes a substantial number of cuts in the food stamp program. It reduces food stamp benefits by more than $6 billion over the next 3 years, for an average of $2 billion a year. The report reduces food stamp costs by $1.657 billion in fiscal year 1982—or $200 million more than the budget resolution required. In fiscal year 1983, the reduction is $2.046 billion, or about $75 million more than the budget resolution required. In fiscal year 1984, food stamp costs are cut by $2.335 billion, or $8 million more than the resolution required.

These are deep cuts. The great bulk of these savings come from families below the poverty line. Of the 22 million persons now receiving food stamps, about 1 million will be terminated from the program and about 20 million—including virtually all of the poorest participants in the program—will receive lower benefits than current law would provide. The only households who will not be adversely affected by the bill are those receiving the minimum benefit of $10 per month.

The report also contains stiffer provisions on fraud disqualification and recovery of overpayments, which further the objectives of other amendments adopted in recent years of eliminating program abuse.

There follows a summary of the key food stamp provisions appearing in the conference report, along with a discussion of some of the issues presented by these provisions. For the most part, it reflects discussions of these issues appearing in the report of the House Committee on Agriculture on H.R. 3603, the Food and Agriculture Act of 1981, which contains provisions similar to many of those found in the conference report.

The following are the key food stamp provisions of the conference report:

PROVISIONS TO TERMINATE RECIPIENTS

First. Gross income limit. The report eliminates households with gross incomes over 130 percent of the poverty line, unless the household contains an elderly or disabled member, in which event the current income limit (which requires that income after deductions must fall at or below 100 percent of the poverty line) would continue to apply. USDA estimates that 875,000 persons would be eliminated from the program by this provision.

Second. Elimination of strikers. The report eliminates households containing a striker during the period of the strike, unless the household was already eligible for food stamps immediately prior to the strike. If the household was eligible prior to the strike, it could not receive any increase in benefits as a result of the loss of wages by the striking member (that is, the household's earned income attributable to the job from which the member is on strike would be deemed to remain

the same as if the member were still working, although other household earnings or unearned income or deductions might fluctuate up or down). It should be noted that the striker ban would not apply in cases of a lockout nor would there be a sanction against a household if one of its members who was not on strike declined to accept employment at a struck plant or site.

Third. Boarders. The report makes boarders (persons who pay for room and board) ineligible for food stamps. These persons would not be able to apply by themselves or as part of another household. They would not be considered part of the household in the place where they lodge, and their income and resources would not be attributed to the household.

PROVISIONS TO REDUCE BENEFITS

First. Changes in adjustments of food stamp allotments. The report repeals a provision of current law under which allotments would be based on more current food price data. It also provides that for the next 3 years, allotments would be adjusted every 15 months instead of every 12 months. During this period, allotments will lag 4 to 18 months behind actual food prices.

Second. Changes in deductions. The report repeals scheduled expansions in the medical deduction for the elderly and disabled and in the child care deduction. It also freezes the standard deduction and the maximum shelter deduction until July 1, 1983, at which time regular adjustments of these deductions would resume. All future adjustments of the deductions would be done on the basis of a modified index. The current index includes the homeownership component of the Consumer Price Index (CPI) which has risen far more steeply than the overall CPI. Since food stamp recipients ordinarily do not purchase homes while on food stamps, there is no reason to include this volatile component in the index. Consequently, the report deletes the homeownership component of the CPI from the indexes used to adjust the deductions starting on July 1, 1983, and provides for the indexes to be reweighted by the Bureau of Labor Statistics. The reweighting is necessary to assure that adequate weight is given to the rental component.

Another change in the report, which the House conferees accepted reluctantly, is the reduction of the earned income deduction from 20 percent of earnings to 18 percent of earnings. The earned income deduction is needed to compensate for taxes and work-related expenses, and to assure that those who work are not made worse off than those who do not. Under the bill, 18 percent of earnings (that is, wages, salaries, training allowances, self-employment income, and workfare and work supplementation benefits earned under other programs) are to be deducted.

Third. Prorating the first month's benefits. The report provides that benefits for the month of application be prorated so that they start with the date of application. This provision will need to be implemented so that it does not cause hardship. If an impoverished family (such as a migrant farmworker family) applied toward the end of the month and was so poor that it qualified for expedited service, that household should not receive a few days' worth of food stamps and then be required to wait up to 30 days for any further assistance. The Secretary would be expected to serve such households by providing them 30 days of stamps on an expedited basis, and then providing benefits in the second month only for those days of the second month that were not covered by the initial 30 days issuance. No stamps would be provided for the days prior to the date of application.

OTHER PROVISIONS

First. Puerto Rico block grant. I am disturbed by the provision of the report that replaces the food stamp program in Puerto Rico with a block grant. Puerto Ricans are American citizens, they fight in our wars, and they should not be treated in a discriminatory fashion in the food stamp program.

Nevertheless, the report does establish a block grant effective July 1, 1982. The block grant is funded at 75 percent of the 1982 current services level in Puerto Rico. This level is not increased in future years to take account of future increases in food prices. This means that as the years go by, the block grant will fall further and further below the 75-percent level, and that as food prices rise, poor citizens in Puerto Rico will have to eat less.

We did succeed in removing a provision of the Senate bill that would have established special income limits for Puerto Rico (lower than those for the rest of the United States) for the interim period before the block grant is implemented.

Second. Retrospective accounting. The report requires that States use retrospective accounting by October 1, 1983. Hopefully, retrospective accounting will lead to some savings through more accurate income determinations. However, it can also cause hardships to some households. As a result, the report includes some exceptions or modifications to retrospective accounting.

The report excludes migrant farmworker households from retrospective accounting. They would continue to be certified on the basis of a prospective accounting system. The current requirements that there be reasonable certainty of the amount and timing of receipt of income would be maintained. And, as under current requirements, availability of work in a particular area could not result in the assignment of income to a migrant household unless a member of the household had actually been hired for the job.

In addition, the report continues the practice of annually averaging income for households that deprive their annual income in a period of time shorter than 1 year (but not on an hourly or piecework basis), such as certain self-employed persons, teachers, and students on scholarship. The Department's current rules on these groups would remain intact. Teachers paid by contract during 9 months of the year would have their income averaged over 12 months so they could not appear to be destitute in summer months. The portion of student income represented by grants or scholarships (other than the portion used for tuition and fees) would be averaged over the school term months the funds were intended to cover. Of course, as under current practice, this procedure would not apply to farmworker income.

The report also mandates that the allotments a household receives during its initial months on the program be supplemented in those cases where serious hardship would otherwise result. A family applying for food stamps may have just suffered a major income loss, such as loss of wages due to a layoff, disability or illness, desertion of a spouse, or termination of child support. For most households, the report provides for eligibility and benefits to be based on income received in the 30 days immediately prior to application. However, for those households that have just had an income loss, that could result in serious hardship. The household would have to wait up to 30 days to receive food stamps, or would receive only a small amount of stamps despite its need. For this reason, the report prescribes supplementation of initial allotments for such cases.

For these households, supplementation is needed so that eligibility and benefits are not based on income that was terminated or reduced before the household applied for food stamps. If a household's wage earner was laid off on the 22d of a month and the household applied for stamps that month, supplementation would be needed to assure that benefits for the 2 succeeding months were not based on income received prior to the layoff. This would prevent hardship. This is why the report directs supplementation of initial allotments (as opposed to supplementation of just the single, initial allotment) where this is needed to avoid hardship.

While the report provides for computing income on a retrospective basis,

current circumstances could be used for other eligibility and benefit factors. For example, household composition should reflect those persons who are members of the household at the time of application, rather than the household's composition at an earlier date. Persons no longer in the household (and their income and resources) would not be considered.

Third. Periodic reporting. The report requires periodic reporting in conjunction with retrospective accounting. Households with earned income, households filing periodic reports in the aid to families with dependent children program (AFDC), and households with potential earners (that is, households receiving unemployment compensation or work registrants) would have to file these reports. The requirement could not be imposed on migrant or elderly or disabled households.

Households required to file reports would have to do so as a condition for receiving benefits. The act does provide that if a report is not filed timely or completely, the household must be given a reasonable opportunity to cure this failure. The household would be notified promptly of failure to file, and if the household then filed within a reasonable period of time, the State would process it in a timely fashion and issue benefits. Households would not be terminated for failure to file until after they had been notified and provided a reasonable opportunity to cure this failure.

If an action to reduce or terminate benefits is required on the basis of information in a report or because a household failed to file the report, the State would have to provide prompt written notice to the household and provide the household an opportunity to exercise its fair hearing rights, in accordance with section 6(c) of the act. If the household appealed within 10 days, its benefits would be continued—or reinstated—at their full level pending the outcome of the hearing, as provided for in section 11(e) of the act.

It is important that where periodic reports are used to determine benefit levels, the gap between the period covered by the report and the issuance of benefits not be too great. The act limits this gap to 30 days unless the Secretary determines a longer period to be administratively necessary. AFDC rules now allow a maximum of no more than 45 days. A 45-day maximum would be appropriate for food stamps. Any longer delay will lead to hardship, undermine the responsiveness of the food stamp program to actual need, and increase possibilities that households may be receiving stamps after they no longer need them.

Fourth. Fraud disqualification. The report contains tough antifraud provisions. The procedures for disqualifying a household for fraud are extended to permit disqualification for intentional misrepresentation—although not for a simple mistake or a misstatement by a recipient; there would need to be proof of intentional misrepresentation. The procedures for securing a disqualification would remain the same; a hearing official or a court would need to determine that fraud or intentional misrepresentation had occurred.

The report also lengthens the disqualification periods to make the penalty for fraud or misrepresentation more severe.

Fifth. Recovery of overpayments. Increased recovery of overpayments should result due to a provision allowing nonfraud claims to be recouped from allotments. This would not apply in cases where the overissuance was wholly or partly due to a State agency action—as when a caseworker did not request certain information, failed to provide a form for reporting changes, or made a computation error.

Sixth. Termination of funding for Outreach. Finally, the report ends Federal funding for State activities in soliciting families to apply for food stamps. State actions and materials informing applicants of their rights and responsibilities, and providing information to persons inquiring about the program, would continue to be considered allowable administrative costs that are eligible for Federal funding.●

Mr. JONES of Oklahoma. Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. JONES of Oklahoma. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 3982, OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent for immediate consideration in the House of the concurrent resolution (H. Con. Res. 167) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3982, to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 167

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 3982), to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for fiscal year 1982, the Clerk of the House of Representatives shall make the corrections specified in the succeeding sections of this concurrent resolution.

SEC. 2. In title VI of the bill:

(1) In section 623(C)(2) of the bill, strike out "Fund" the second place it appears therein and insert in lieu thereof "fund", and strike out "the Fund" and insert in lieu thereof "such fund".

(2) In the first sentence of section 662(a) of the bill, insert "of Education (hereinafter in this subchapter referred to as the 'Secretary')" after "Secretary".

(3) In section 663(a)(1) of the bill, strike out the comma after "1984" and insert in lieu thereof a period.

(4) In section 669 of the bill, insert "(other than section 637(1))" after "637".

(5) In section 674(b)(1) of the bill—

(A) strike out "the" the first place it appears therein;

(B) strike out "remaining in" and insert in lieu thereof "of the amount appropriated under section 672 for"; and

(C) strike out "between" and insert in lieu thereof "among".

(6) In section 675(d)(1) of the bill, insert "officer" after "executive" each place it appears therein.

(7) In section 682(e) of the bill, insert a comma after "records", and insert a comma after "allocations".

SEC. 3. In title VIII of the bill:

(1) In section 11 of the National School Lunch Act (as amended by section 813(b) of the bill strike out "(e)" and insert in lieu thereof "(f)".

(2) In section 820(a)(1) redesignate subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively.

(3) In section 820(a)(1) insert after subparagraph (A) the following new subparagraph:

"(B) that portion of the amendment made by section 810(c) pertaining to the reimbursement rate for supplements;".

(4) In section 820(a)(6) redesignate subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively.

(5) In section 820(a)(6) insert after "except that—" the following new subparagraph:

"(A) the amendment made by section 810(c) pertaining to the reimbursement rate for supplements shall take effect as provided under paragraph (1) of this subsection;".

SEC. 4. (a) In the proposed section 1904(a)(2) of the Public Health Service Act (as contained in section 901 of the bill), strike out "and amounts transferred by the State for use under this part".

(b) In the proposed section 1912(b)(1) of the Public Health Service Act (as contained in section 901 of the bill), strike out in the matter following subparagraph (B) "for the Community Mental Health Centers Act" and insert in lieu thereof "under the Community Mental Health Centers Act".

(c) In the proposed section 1914(b) of the Public Health Service Act (as contained in section 901 of the bill), strike out "section 103" and insert in lieu thereof "section 1913".

(d) In the proposed section 1914(c) of the Public Health Service Act (as contained in section 901 of the bill), strike out "section

1902" and insert in lieu thereof "section 1912".

(e) In the proposed section 1915(c)(1) of the Public Health Service Act (as contained in section 901 of the bill), strike out "section 1902" and insert in lieu thereof "section 1912".

(f) In the proposed section 1915(c)(2) of the Public Health Service Act (as contained in section 901 of the bill), strike out "fiscal year 1980" and insert in lieu thereof "fiscal year 1981".

(g) In the proposed section 1915(c)(4)(B) of the Public Health Service Act (as contained in section 901 of the bill), strike out "emergengy" and insert in lieu thereof "emergency".

(h) In the proposed section 1915(c)(9) of the Public Health Service Act (as contained in section 901 of the bill), strike out "section 1907" and insert in lieu thereof "section 1917".

(i) In the proposed section 1915(c)(11) of the Public Health Service Act (as contained in section 901 of the bill), strike out "section 1903" and insert in lieu thereof "section 1913".

(j) In the proposed section 1915(d) of the Public Health Service Act (as contained in section 901 of the bill), (1) strike out "section 1903" and insert in lieu thereof "section 1913", and (2) strike out in the second sentence "after its transmittal" and insert in lieu thereof "and after its transmittal".

(k) In the proposed section 1916(b)(3) of the Public Health Service Act (as contained in section 901 of the bill), (1) strike out "section 1916" and insert in lieu thereof "section 1915", and (2) strike out "section 1913" and insert in lieu thereof "section 1912".

(l) In the proposed section 1917(a)(2) of the Public Health Service Act (as contained in section 901 of the bill), strike out "section 1905" and insert in lieu thereof "section 1915".

(m) In the matter proposed to be inserted in section 330(g)(2) of the Public Health Service Act by section 903(a) of the bill, strike out "$284,000,000" and insert in lieu thereof "$280,000,000".

(n) In the heading of section 986, strike out the semicolon and all that follows.

SEC. 5. (a) In the proposed amendment to section 15(a)(4) of the Airport and Airway Development Act of 1970 (as contained in section 1102(h) of the bill) strike out "fiscal years 1980 and 1981" and insert in lieu thereof "each of the fiscal years 1980 and 1981".

(b) In section 1111(a), amend paragraph (5) to read as follows:

(5) Section 5(a)(1)(B) is amended by striking out "$900,000,000 in each fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982." and inserting in lieu thereof "$900,000,000 for the fiscal year ending September 30, 1981, and $850,000,000 for the fiscal year ending September 30, 1982.".

SEC. 6. (a) In subtitle E of title XI:

(1)(A) In section 1135(a)(7), strike out "or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this subtitle".

(B) In section 1137, strike out "(a)" after "SEC. 1137.".

(2) In proposed title V of the Rail Passenger Service Act (as contained in section 1137 of the bill)—

(A) in proposed section 501(c)(1), strike out "with respect to safety and with respect to the" the second place it appears;

(B) in proposed section 501(a)(1)—

(i) insert the following before subparagraph (B):

"(A) The President of Amtrak Commuter, ex officio.";

(ii) strike out "selected by the President to serve on the Board of Directors of the Corporation" in subparagraph (B) and insert in lieu thereof "of the Board of Directors of the Corporation who was selected", and

(iii) strike out "the effective" in subparagraph (D)(ii);

(C) in proposed section 504(b)(3), strike out "506" and insert in lieu thereof "508"; and

(D) in proposed section 506(a), insert "than" after "Not later".

(3) In proposed section 217(a) of the Regional Rail Reorganization Act of 1973 (as contained in section 1140(a) of the bill) strike out "during the period between the effective date of the Northeast Service Act of 1981 and August 1, 1983," and insert in lieu thereof "after the effective date of the Northeast Rail Service Act of 1981".

(4) In proposed title IV of the Regional Rail Reorganization Act of 1973 (as contained in section 1142 of the bill)—

(A) insert after and below subparagraph (C) of section 401(a)(2) the following:

"(3) Any plan submitted under paragraph (2) shall be deemed approved at the end of the 60-calendar-day period of continuous session of the Congress beginning on the date the plan was submitted, unless during such period both Houses of Congress pass a concurrent resolution the substance of which states that the Congress does not favor such plan. The Secretary shall implement any plan deemed approved under this paragraph. For purposes of this subsection—

(B) strike out "90-day period" in the matter in the subparagraph (B) immediately before subsection (b) of section 401 and insert in lieu thereof "60-day period",

(C) strike out "subsection (a)(1)" in subsections (b) and (c) of section 401 and insert in lieu thereof "subsection (a)(2)",

(D) strike out "subsection (a)(1)" and all that follows through "of this Act" in subsection (e) of section 401 and insert in lieu thereof "subsection (a)(2), the Secretary shall first offer for sale, to any employees whose wages are reduced pursuant to any agreement entered into in accordance with the goal set forth in section 1134(4) of the Northeast Rail Service Act of 1981",

(E) strike out "section" in section 403(a)(2) and insert in lieu thereof "subsection",

(F) strike out "which would" and all that follows through "were excused" in section 403(a)(2) and insert in lieu thereof "will be able to borrow capital in the private market sufficient to meet all its capital needs",

(G) strike out "subsection (a)(1)" in section 403(b) and insert in lieu thereof "subsection (a)(2)",

(H) amend the proposed paragraph (2) of section 403(b) to read as follows:

"(2) As used in this subsection, 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, and would have been able to borrow capital in the private market sufficient to meet all its capital needs. For the purpose of making such determination the USRA Board shall assume that the interest of the United States in any debt or preferred stock of the Corporation has been limited as required under section 402 of this Act.".

(I) insert at the end of subsection (a) of section 404 the following:

The USRA Board shall approve or disapprove such determination within 15 days after the date of such notification.

(J) strike out "it is notified" and all that follows through "of such approval" in section 404(b)(1) and insert in lieu thereof "of which it is notified under subsection (a)(2), the employees of the Corporation may, within 90 days after the date the Secretary's determination was submitted to the USRA Board",

(K) insert at the end of paragraph (2) of section 404(b) the following:

The Secretary shall consider whether the plan ensures continued rail service and maximizes the return to the United States on its investment.

(L) strike out "has determined that" in section 404(c)(2) and all that follows through "Northeast corridor." in the first proposed section 405(a), and

(M) insert "or if at any time the Corporation requires funding from the Federal Government in excess of amounts authorized on or before the effective date of the Northeast Rail Service Act of 1981," in the second proposed section 405(a) after "is not approved by the Secretary,".

(5) In proposed title VII of the Regional Rail Reorganization Act of 1973 (as contained in section 1143(a) of the bill)—

(A) amend proposed paragraph (2) of section 701(d) to read as follows:

"(2) No individual shall become eligible for benefits under this section after the last day of the eighteen-month period beginning on the date of transfer under section 401 or 404 of this Act.".

(B) in section 702(e)(1), insert ", or in commuter service where applicable," after "in freight service",

(C) in section 702(g), strike out "PASSENGER" and insert in lieu thereof "COMMUTER", and

(D) In section 710(b), strike out "1 The Corporation" and insert in lieu thereof "(1) The Corporation, Amtrak Commuter, and commuter authorities".

(6) In section 1144(a)(2)(A) of the bill, strike out "October 1, 1981," the first place it appears and insert in lieu thereof "the effective date of this subsection".

(7) In section 1147, strike out "(a)" after "SEC. 1147." and strike out subsection (b).

(8) In the subsections proposed to be inserted in section 201 of the Regional Rail Reorganization Act of 1973 (as contained in section 1147 of the bill)—

(A) amend proposed subparagraph (A) of subsection (d)(1) to read as follows:

"(A) The Chairman, who shall be the individual serving as Chairman on the effective date of this subsection, until the expiration of his term of office or his resignation, or his replacement, who shall be selected by the outgoing Chairman and the other members of the Board.

(B) strike out "for an additional term of" in subsection (e) and insert in lieu thereof "and the term of the Chairman shall be",

(C) insert ", or their representatives," in subsection (f) after "Directors",

(D) strike out the closing quotation marks (and period that follows them) at the end of subsection (f) and insert after and below that subsection the following subsections:

"(g) The Board of Directors shall, on the effective date of this subsection, assume the functions previously performed by the Finance Committee.

"(h) The members of the Board of Directors may send representatives to meetings

of such Board, and such representatives may exercise full powers of the members.".

(9) In section 203 of the Regional Rail Reorganization Act of 1973 (as proposed to be amended in section 1149 of the bill), strike out "to determine if the conditions of this Act are met" and insert in lieu thereof "to fulfill its functions under this Act".

(10) In proposed section 219 of the Regional Rail Reorganization Act of 1973 (as contained in section 1150(a) of the bill), strike out "$300 per diem when engaged in the actual performance of his duties, plus".

(11) In proposed paragraph (2)(A) of section 305(f) of the Regional Rail Reorganization Act of 1973 (as contained in section 1155(a)(1) of the bill), strike out "the date of enactment" and insert in lieu thereof "the effective date of the Northeast Rail Service Act of 1981".

(12) In proposed section 308 of the Regional Rail Reorganization Act of 1973 (as contained in section 1156(a) of the bill)—

(A) strike out "November" in subsection (b) and insert in lieu thereof "December",

(B) strike out "1981" in subsection (c) and insert in lieu thereof "1983",

(C) strike out "Any application" and all that follows through "October 1, 1983," in subsection (c)(2) and insert in lieu thereof "At any time after the 90-day period beginning with the filing of a notice of insufficient revenues for a line, the Corporation may file an application for abandonment for such line. An application for abandonment that is filed by the Corporation under this subsection", and

(D) strike out "or less" in subsection (e)(3)(A).

(13) In proposed section 9A(a) of the Railway Labor Act (contained in section 1157 of the bill), strike out "The" and insert in lieu thereof "Except as provided in section 510(h) of the Rail Passenger Service Act, the".

(14) In section 1161—

(A) strike out "hereafter" in subsection (c) and insert in lieu thereof "hereinafter in this section referred to as",

(B) insert ", except those provided for in subsection (f)," in subsection (d) after "carrier obligations and other requirements", and

(C) add at the end the following subsection:

(f) The Commission shall establish fair and equitable divisions of revenues on joint rates until a final order is issued.

(15) In section 1163A—

(A) add the section heading "COMMISSION PROCEEDINGS", and

(B) strike out "1162A." and insert in lieu thereof "1164.(a)".

(16) In section 1163B, strike out "SEC. 1163B. (a)" and insert in lieu thereof "(b)" and redesignate the existing subsection (b) as subsection (c) and amend it to read as follows:

(c)(1) If the Secretary determines under subsection (b) that there is an agreement between a profitable railroad in the Region (as defined in section 102 of the Regional Rail Reorganization Act of 1973) which received a loan under section 211(a) of such Act and a prospective purchaser for the sale of such railroad, the Secretary shall limit the interest of the United States in any debt of such a railroad to an interest which attaches to such debt in the event of bankruptcy, substantial sale, or liquidation of the assets of the railroad. The Secretary shall substitute for the evidence of such debt contingency notes conforming to the limited terms set forth in this subsection.

(2) If the interest of the United States is limited under paragraph (1), any new debt issued by such a railroad subsequent to the issuance of the debt described in paragraph (1) shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt described in such paragraph.

(17) In section 1163C—

(A) add the section heading "INTERCITY PASSENGER SERVICE EMPLOYEES",

(B) redesignate the section as section 1165,

(C) strike out "Not later than" and all that follows through "the Corporation" and insert in lieu thereof "After January 1, 1983, Conrail shall be relieved of the responsibility to provide crews for inter-city passenger service on the Northeast Corridor. Amtrak, Amtrak Commuter, and Conrail", and

(D) insert before the last sentence the following sentence: Such agreement shall ensure that Conrail, Amtrak, and Amtrak Commuter have the right to furlough one employee in the same class or craft for each employee who returns through the exercise of seniority rights.

(b) In subtitle F of title XI:

(1) In proposed paragraph (1) of section 303(a) of the Rail Passenger Service Act (as contained in section 1174(a)(1) of the bill)—

(A) at the end of proposed clause (ii) of subparagraph (C) add the following sentence: "Such Governor may select an individual to represent him at meetings of the Board.", and

(B) by striking out the period at the end of proposed clause (ii) of subparagraph (D) and "(I) If Amtrak Commuter" that follows and insert in lieu thereof the following: ", except that—

"(I) if Amtrak Commuter".

(2) In proposed subsection (e)(2) of section 304 of the Rail Passenger Service Act (as contained in section 1175(3) of the bill), insert "not" after "shall".

(3) In section 1178—

(A) strike out "subsections" and insert in lieu thereof "subsection",

(B) insert closing quotation marks and a period at the end of proposed subsection (n) to section 306 of the Rail Passenger Service Act, and

(C) strike out proposed subsection (o) to that section of that Act.

(4) In proposed section 404(c)(4) of the Rail Passenger Service Act (as contained in section 1183(b) of the bill), strike out "shall include" in subparagraph (D)(ii) and insert in lieu thereof "may include".

(5) Redesignate the subsection (1), proposed to be added to section 602 of the Rail Passenger Service Act by section 1186(b) of the bill, as subsection (k).

(6) In section 1189, strike out "The" and insert in lieu thereof "Except as otherwise provided, the".

(c) In subtitle G of title XI:

(1) In section 1191—

(A) insert "(49 U.S.C. 1654(p))" after "Act", and

(B) in the matter proposed to be inserted, strike out "in the fiscal year" and insert in lieu thereof "for the fiscal year" each place it appears.

(2) In section 1192(e)—

(A) strike out "and" at the end of paragraph (2),

(B) redesignate paragraph (3) as paragraph (5), and

(C) insert after paragraph (2) the following paragraphs:

"(3) in paragraph (2), as redesignated, by striking out "paragraphs (3) and (5)" and inserting in lieu thereof "paragraphs (2) and (4)";

"(4) in paragraph (3), as redesignated, by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)"; and"

(3) In section 1192(h), by inserting after "is amended" the following: "by striking out "paragraph (3)" each place it appears and inserting in lieu thereof "paragraph (2)", and".

(4) In proposed subsection (p) of section 5 of the Department of Transportation Act (as contained in section 1192(i) of the bill), strike out "shall exercise" and insert in lieu thereof "may exercise".

(5) In proposed section 17(2) of the Department of Transporation Act (as contained in section 1194(a) of the bill), strike out "not to exceed" and all that follows through "1982" and insert in lieu thereof "not to exceed $40,000,000 for the fiscal year ending September 30, 1982, to remain available until expended".

(d)(1) In proposed paragraph (4) of section 102 of the Rail Passenger Service Act (as contained in section 1172(2) of the bill), strike out "beverages" and insert in lieu thereof "beverage".

(2) In proposed paragraph (1)(D)(i) of section 303(a) of the Rail Passenger Service Act (as contained in section 1174(a)(1) of the bill), strike out "December 31, 1983" and insert in lieu thereof "December 31, 1982".

(3) In proposed paragraph (2)(A) of section 303(a) of the Rail Passenger Service Act (as contained in section 1174(a)(1) of the bill), strike out "three" and insert in lieu thereof "two".

(4) In proposed subparagraph (B) of section 404(c)(3) of the Rail Passenger Service Act (as contained in section 1183(a)(2) of the bill), strike out "Whenever" and insert in lieu thereof "Beginning on the effective date of the Amtrak Improvement Act of 1981, if".

(5) In proposed subparagraph (F) of section 404(c)(4) of the Rail Passenger Service Act (as contained in section 1183(b) of the bill), insert "or section 403(b) of this Act" after "pursuant to this paragraph" each place it appears.

(6) In section 1187(a)(3) of the bill, strike out "for the funding of rail corridor development".

(e) In section 1193—

(1) strike out "Title VII" and insert in lieu thereof "Section 704(a)", and

(2) strike out "by inserting at the end thereof" in paragraph (2) and insert in lieu thereof "by adding after paragraph (4)".

(f) In subtitle E of title XI:

(1) In section 1134(2), strike out "which".

(2) In section 1136, strike out the comma at the end and insert in lieu thereof a period.

(3) In proposed section 504(e) of the Rail Passenger Service Act (as contained in section 1137 of the bill), strike out "1164" and insert in lieu thereof "1163".

(4) In proposed section 506(h) of the Rail Passenger Service Act (as contained in section 1137 of the bill)—

(A) strike out "or" of the Rail Passenger Service Act",

(B) strike out "the Corporation" and insert in lieu thereof "Conrail" each place it appears,

(C) strike out "a owner" in paragraph (2)(A)(iii) and insert in lieu thereof "an owner", and

(D) strike out "and of the Rail Passenger Service Act" in paragraph (2)(B).

(5) In proposed section 506(j) of the Rail Passenger Service Act (as contained in section 1137 of the bill)—

(A) strike out "nor is it intended",

(B) strike out "the Corporation" and insert in lieu thereof "Conrail" each place it appears, and

(C) insert "of 1973" after "Act".

(6) In proposed section 507 of the Rail Passenger Service Act (as contained in section 1137 of the bill) strike out "Commission" and insert in lieu thereof "Secretary".

(7) In proposed section 217 of the Regional Rail Reorganization Act of 1971 (as contained in section 1140(a) of the bill)—

(A) strike out "The" in subsection (a) and insert in lieu thereof "In addition to the authority provided under section 216 of this Act, the",

(B) strike out "section 409 of the Regional Rail Reorganization Act of 1973" and "section 409 of this Act" in subsection (b)(1) and insert in lieu thereof "section 1163 of the Northeast Rail Service Act of 1981" and "such section", respectively,

(C) strike out "section 216 or 217, the Association shall purchase" in subsection (b)(2) and insert in lieu thereof "this section or section 216 of this Act, the Association shall purchase series A", and

(D) strike out the second sentence of subsection (f).

(8) In proposed title IV of the Regional Rail Reorganization Act of 1973 (as contained in section 1142 of the bill)—

(A) strike out "possible" in section 401(a)(1) and insert in lieu thereof "practicable",

(B) strike out "corporation" in section 403(b)(3)(B) and insert in lieu thereof "the Corporation",

(C) strike out "section" in section 404(b)(3) the first place it appears and insert in lieu thereof "subsection", and

(D) in section 408(d), insert ", except that if the Corporation requires further Federal financing before such date, such sale may be made before such date" before the period at the end.

(9) In proposed title VII of the Regional Rail Reorganization Act of 1973 (as contained in section 1143 of the bill)—

(A) in section 701(c), strike out Rail Passenger Service Corporation" and insert in lieu thereof "National Railroad Passenger Corporation", and

(B) in section 714, insert "of 1981" after "Act" the second place it appears.

(10) In proposed section 508 of the Rail Passenger Service Act (as contained in section 1145 of the bill)—

(A) strike out "Amtrak or commuter" in subsection (c)(7) and insert in lieu thereof "Amtrak Commuter or a commuter",

(B) insert "in" in clause (D) of subsection 508(c)(7) after "in any manner which results", and

(C) strike out "the" in subsection (f) before "Conrail".

(11) In proposed subsection (a)(2) of section 202 of the Regional Rail Reorganization Act of 1973 (as contained in section 1148(a)(1)), strike out "determine" and "conditions" and insert in lieu thereof "review" and "goals", respectively.

(12) In proposed section 214(c) of the Regional Rail Reorganization Act of 1973 (as contained in section 1151 of the bill), insert "and" after "1982,".

(13) In section 1161, strike out "subtitle" and insert in lieu thereof "subsection" each place it appears in subsection (b) and the first place it appears in subsection (d).

(14) In section 1162, insert "(a)" after "SEC. 1162.", and add at the end the following subsections:

(b) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended to read as follows:

"(8) 'restructuring' means (A) any activity (including a consolidation, coordination, merger or abandonment) which (i) involves rehabilitation, or improvement of a facility or the transfer of a facility, and (ii) improves the long-term profitability of any railroad freight system through the achievement of higher average traffic densities or improved asset utilization; or (B) the transfer from the Corporation to any railroad or financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) for common carrier rail service of ownership or operating rights on any rail line owned or operated by the Corporation where the Secretary determines that such acquisition will provide needed transporation benefits, and that such line will not require further Federal subsidy;".

(c) Section 505(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)(1)) is amended by inserting immediately after "railroad" the following: "(or any financially responsible person, as defined in section 10910(a)(1) of title 49, United States Code, who acquires from the Corporation for common carrier rail service any rail line owned by the Corporation on the effective date of the Northeast Rail Service Act of 1981)".

(d) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended by amending clause (C) to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs or, where the application relates to a rail line owned or operated by the Corporation immediately prior to its acquisition by a railroad or financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) for common carrier rail service, whether the financial assistance applied for under this section will further the public interest in transferring rail lines from the corporation to the private sector, and avoid the need for any further Federal subsidy.".

(e) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Not more than 50 percent of the funds received by the Secretary from amounts appropriated under subsection (a) of this section shall be reserved to provide rehabilitation and improvement assistance for facilities transferred from the Corporation after the effective date of the Northeast Rail Service Act of 1981.".

(f) Section 509(b)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976, as redesignated by subsection (e) of this section, is amended by striking "and (2)" and inserting in lieu thereof ", (2) and (3)".

(15) Insert after section 1163D the following sections:

TECHNICAL AMENDMENTS

SEC. 1167. (a) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended by striking the following wherever they appear: "securities,"; "securities and"; "at least one share of series B preferred stock and"; "other securities of the Corporation or"; and "securities or".

(b) For the purpose of computing the amount for which certificates of value shall be redeemable under section 306 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 746), the series B preferred stock and the common stock conveyed to the Secretary under section 1154 of this subtitle shall be deemed to be without fair market value unless in a proceeding brought under section 1152(a)(4) of this subtitle the special court shall have determined that such securities had a value and shall have entered a judgment against the United States for that value. In such an event, the securities shall for purposes of section 306 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 746) be deemed to have that value found by the special court.

(c)(1) The clerk of the special court shall convey to the Secretary within 10 days after the effective date of this subtitle the series B preferred stock and the common stock of Conrail which are then on deposit with the special court pursuant to section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743).

(2) The Secretary is authorized to hold and to exercise all rights that pertain to the Conrail securities conveyed under paragraph (1) of this subsection, and any other securities of Conrail that have been or may be conveyed to the Secretary under any agreement or pursuant to the terms of part 5 of this subtitle or the terms of any other law.

APPLICABILITY OF OTHER LAWS

SEC. 1168. (a) The provisions of the chapters 5 and 7 of title 5 of the United States Code (popularly known as the Administrative Procedure Act and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act, section 102(2)(C) of the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, and section 4(f) of the Department of Transportation Act of 1966 are inapplicable to actions taken in negotiating, approving, or implementing service transfers under title IV of the Regional Rail Reorganization Act of 1973.

(b) The operation of trains by Conrail shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members who must be employed in connection with the operation of such trains.

(16) Redesignate sections 1163D and 1164 as sections 1166 and 1169, respectively.

(17) Conform the table of contents of the subtitle to the changes in section headings, and additions in sections, made in this concurrent resolution.

SEC. 7. In subtitle B of title XII of the bill:

(1) In proposed section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (as contained in section 1227(c)(1) of the bill) strike out "clause (iv)" and insert in lieu thereof "clause (iv)(I)".

(2) In proposed section 396(k)(3)(A)(v)(III) of the Communications Act of 1934 (as contained in section 1227(c)(1) of the bill) strike out "clause (iv)" and insert in lieu thereof "clause (iv)(I)".

(3) In the amendment to section 307(d) of the Communications Act of 1934 made in section 1241(a)(4) of the bill, insert "not to exceed" after "term of".

(4) In the amendment to section 307(d) of the Communications Act of 1934 made in

section 1241(a)(6) of the bill, insert "not to exceed" after "term of".

SEC. 8. In title XVIII of the bill:

(1) In the proposed amendment to section 1007 of the Public Works and Economic Development Act of 1965 (as contained in section 1821(a)(12)) strike out "and September 30, 1981." and insert in lieu thereof "September 30, 1981.".

(2) In the second sentence of section 1807 (a), strike out "of 1965".

SEC. 9. (a) In subtitle C of title XXI:

(1) In proposed subsection (s)(5)(A)(i)(II) of section 1903 of the Social Security Act (as contained in section 2161(a) of the bill), strike out "its operation" and insert in lieu thereof "the operation".

(2) In proposed subsection (t)(3) of section 1903 of the Social Security Act (as contained in section 2161(b) of the bill), strike out "yer" and insert in lieu thereof "year".

(3) In proposed section 1915(b) of the Social Security Act (as contained in section 2175(b) of the bill), insert after the comma at the end of paragraph (2) the following: "if such restriction does not substantially impair access to services of adequate quality where medically necessary,".

(b) In the heading of section 2178, strike out "PREPAID PROVIDER (HMO)" and insert in lieu thereof "HMO AND PREPAID PROVIDER", and amend the table of contents of title XXI accordingly.

SEC. 10. In subtitle D of title XXI, in the proposed title V of the Social Security Act (as contained in section 2192(a))—

(1) in section 501(a), insert "to" in paragraph (3) after "(3)" and in paragraph (4) after "(4)",

(2) in section 502(a)(3), insert "be" before "submitted" and strike out "containing and" and insert in lieu thereof "contain and be",

(3) in section 502(b)(2), strike out "alloted" and insert in lieu thereof "allotted" each place it appears,

(4) redesignate subsection (d) of section 504 as subsection (c) and transfer and insert such subsection at the end of section 503, and

(5) in section 506(b)(3), strike out "the requirements of" and all that follows through "section 502(2)" and insert in lieu thereof "this title".

SEC. 11. In title XXVI of the bill:

(1) In section 2604(b)(1) of the bill, strike out "between" and insert in lieu thereof "among".

(2) In section 2604(d)(1)(A) of the bill, strike out "organizations" and insert in lieu thereof "organization".

SEC. 12. In section 532 of the bill—

(1) insert after "repealed." in subsection (b)(2) thereof the following new sentence: "Nothing in this paragraph or in any other provision of this title, or in any provision of the Higher Education Act of 1965 as amended by this title, shall be construed to permit any analysis of need for the purposes of loans under part B of title IV of such Act other than that expressly required by section 428(a)(2) of such Act as amended by this section or to require a student seeking to qualify under section 428(a)(2)(B)(i) to prove any element of need other than compliance with the adjusted gross income amount specified in such section."; and

(2) in section 438(b)(5) of the Higher Education Act of 1965 as amended by subsection (b)(4) of section 532 of the bill, insert "or" at the end of clause (A)(ii).

SEC. 13. In section 1199A, strike out "July 31, 1981" and insert in lieu thereof "August 4, 1981".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. Is the gentleman from Pennsylvania (Mr. MURTHA) seeking recognition?

Mr. MURTHA. Mr. Speaker, I am waiting for somebody from the minority to ask me a question. Is anybody in particular over there?

LEGISLATIVE PROGRAM

(Mr. CHENEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHENEY. Mr. Speaker, I have requested this time for the purpose of inquiring of the acting majority leader with respect to the schedule for the coming week.

Mr. MURTHA. If the gentleman will yield, the program for the House of Representatives for the week of August 3, 1981, is as follows:

On Monday, August 3, the House will not be in session.

The schedule for Tuesday and the balance of the week is as follows:

The call of the Private Calendar and a special Consent Calendar; conference report on H.R. 4242, Tax Incentive Act of 1981; and while we are waiting for that, the House will consider H.R. 4169, State, Justice, Commerce, judiciary appropriations, fiscal year 1982.

The conference report on H.R. 4242 will be brought to the floor as soon as it is available.

When the House completes the tax conference report, the House will adjourn for the August recess and district work period. The House will reconvene at noon on Wednesday, September 9, 1981.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. CHENEY. I thank the gentleman.

ADJOURNMENT TO TUESDAY, AUGUST 4, 1981

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday next.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MAKING IN ORDER CALL OF THE CONSENT CALENDAR ON TUESDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the Consent Calendar be in order on Tuesday next.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TRIBUTE TO COMMITTEE STAFFS

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, one of the things that I think we brought up during the reports from the various conference committees, and I hope we could stress it again, is the diligent work we have had from members of our staffs.

This is one of the first experiences that I have had to be on a conference committee, and I think through this experience I was reminded—and all of us should be willing to acknowledge, and this went across party lines and across from this House to the other body—that we were well supported by able and dedicated staff. Some of them worked long into the night. I think we should take this moment to pause in the procedure to recognize our staffs and to publicly acknowledge how dependent we are upon them and how grateful we are to them.

□ 1500

GENERAL LEAVE

Mr. RATCHFORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the subject of the special order today of the gentleman from Oklahoma (Mr. SYNAR).

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

FAA'S PURCHASE OF COMPUTERS

(Mr. DUNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNN. Mr. Speaker, today the chairman of the Subcommittee on Aviation and Transportation, the gentleman from Kansas (Mr. GLICKMAN)

and myself are introducing a resolution to address the problems of the FAA and their purchase of new computers.

One of the problems that is pending in the airline strike that is about to hit this Nation today is the problem of new computers for the FAA. We are introducing legislation which says to the FAA, "You have been dragging your heels for a number of years and that at this time we are going to ask you by December 31, 1981, to submit to Congress a new plan as to the type, date, and amount of money you are going to spend on computers."

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4242. An act to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4242) entitled "An act to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. HARRY F. BYRD, JR., and Mr. BENTSEN to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 4242, TAX INCENTIVE ACT OF 1981

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. ROUSSELOT moves that the managers on the part of the House on the disagreeing vote of the two Houses be instructed to insist on section 311 of the bill as passed by the House relating to the amounts which persons, who are active participants in employer-sponsored pension plans, may deduct for contributions to individual retirement accounts.

The SPEAKER. The gentleman from California (Mr. ROUSSELOT) is recognized for 1 hour.

Mr. ROUSSELOT. Mr. Speaker, I will speak briefly on this issue.

It is pretty well understood. It was fully debated in the Committee on Ways and Means and to some degree on the House floor.

The House-passed bill allows persons who are actively participants in employer-sponsored pension plans to deduct $2,000 for contributions to individual retirement accounts.

The comparable provision in the bill passsed by the other body only allows such persons a $1,500 deduction.

Therefore, the effect of the instructions is to insist on the House provision which allows a more general reduction for this category of individual retirement accounts.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Illinois (Mr. ROSTENKOWSKI), the chairman of the committee.

Mr. ROSTENKOWSKI. As the gentleman knows, the instructions refer to a provision that was in our bill as well and sponsored by the gentleman presently addressing the House, the gentleman from California.

I always felt that instructing conferees is very difficult. It does not set the tone that I would like to see in a conference, and I must admit, even though it is a provision that I sponsored and spoke for, I just dislike very much and would oppose any motion to instruct conferees, as I have done consistently throughout my legislative career.

Mr. ROUSSELOT. I understand the gentleman's point.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. CONABLE. I think this is an important provision and I would judge that it was desirable that it go into the final passage of the law.

Mr. ROUSSELOT. It did and passed overwhelmingly.

Mr. CONABLE. Yes. It is merely strongly addressed toward a large and stable savings rate.

I would urge its support.

Mr. ROUSSELOT. Mr. Speaker, I move the previous question on the motion.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ROUSSELOT).

The motion was agreed to.

COMPUTED INTEREST RATES

Mr. DASCHLE. Mr. Speaker, I was going to offer a preferential motion myself that dealt with computed interest rates. I understand I am now precluded from doing that because the minority has preference.

But I would like to engage the chairman and perhaps the ranking Member in a colloquy to understand what the position of the committee will be.

Mr. Speaker, I would like to ask the chairman and perhaps the ranking Member what the position of the committee will be on computed interest rates. As the gentlemen know, the amendment was offered in the other body and was adopted 100 to nothing unanimously, on a rollcall vote.

It simply froze in the 7-percent interest rates that had been in existence prior to July 1 and I would ask the chairman what his position would be.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I know the other body is strongly supportive of this position and I am sure they are going to take a very committed stance in the conference.

I see, as far as I am concerned, an opportunity to discuss this with the other body.

□ 1510

I have no broad objection to it, but I would like very much to have an opportunity to discuss this with my colleagues in the Senate. As the gentleman knows, conferences are a give-and-take proposition. I would like at this time to give the gentleman some relief, that I will certainly look at it with a broad view and without a total commitment, to try to arrange for some favorable consideration if I could.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from New York.

Mr. CONABLE. I say to the gentleman that, where possible, I intend to advance the House position in the conference.

Mr. DASCHLE. As the gentleman knows, the House does not have a position on this particular measure, and I think that given the tremendous vote that occurred in the Senate, and given the consistency I think this has with the whole tax-cut reduction, it plays very well into an economic reform package that the committee would find conducive to including in the final version.

Mr. CONABLE. I thank the gentleman for his earnest views. We will do the best we can to keep all people happy here.

The SPEAKER. The Chair appoints the following conferees: Messrs. Ros-

TENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, CONABLE, DUNCAN, and ARCHER.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4242, TAX INCENTIVE ACT OF 1981

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the conferees may have until midnight Saturday, August 1, 1981, or Monday, August 3, 1981, to file a conference report on the bill, H.R. 4242, Tax Incentive Act of 1981.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT H.R. 4242, ON TUESDAY, AUGUST 4, 1981, OR ANY DAY THEREAFTER

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it be in order for the House to consider the conference report on the bill, H.R. 4242, Tax Incentive Act of 1981, on Tuesday, August 4, 1981, or any day thereafter.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SACCHARIN STUDY AND LABELING ACT AMENDMENT OF 1981

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate bill (S. 1278) entitled the "Saccharin Study and Labeling Act Amendment of 1981."

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Saccharin Study and Labeling Act Amendment of 1981".

SEC. 2. The Saccharin Study and Labeling Act is amended by striking from section 3 "June 30, 1981" and inserting in lieu thereof "twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1981".

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) is recognized for 1 hour.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1278 would extend for 24 months the current prohibition on regulatory action to remove saccharin from the market. The Senate passed this bill on June 25.

Everyone is familiar with the controversy over saccharin. Under current law, the Food and Drug Administration is required to remove from our food supply any food additive that is unsafe or is found to cause cancer. When questions arose about the safety of saccharin in 1977, the FDA proposed to ban its availability in certain forms. Because of the extensive use of saccharin by consumers, the Congress prohibited any regulatory action.

Even though I am recommending that the House accept the Senate bill, I have grave reservations about the wisdom of the Congress intervening in the implementation of our food safety laws and overruling them on a product-by-product basis. As questions arise about other food products, as they certainly will, it is important for the Congress and the public to be confident that our laws are sound and our regulatory agencies thorough and fair.

For this reason, I will begin an extensive review of our food safety laws this fall and expect that the Subcommittee on Health and the Environment will consider saccharin and other controversial food components in the context of overall food safety policy.

My recommendation to extend the saccharin moratorium is not an endorsement of the safety of saccharin. Several epidemiological studies have been conducted and a large-scale animal study is currently underway to determine the effects of saccharin at different dosage levels. I believe we still do not know the answer on saccharin. But given these continuing studies and the demand for saccharin of many people, particularly diabetics and those on special diets, an extension of the current moratorium is appropriate.

I believe the American people expect and deserve a food supply that is free of so many perplexing and annoying questions of safety. I again call for the food industry to make a determined effort to develop a safe alternative to saccharin. Although the FDA recently granted limited approval to the sweetener Aspartame, it is not available for use in liquids, such as soft drinks, or for use in cooking because it loses its sweetening properties.

I want to remind those Members who are concerned about this legislation that the original requirements for labels on food products and signs in retail establishments are not changed. Consumers who choose to avoid saccharin can do so.

I urge my colleagues to join me in passing this bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PETROLEUM PIPELINE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 30 minutes.

● Mr. SYNAR. Mr. Speaker, while we have been primarily occupied in recent weeks with Government spending and Government taxation, I am certain that most, if not all, Members of the body remain concerned over another area of Government activity—the area of Government regulation. I believe we are all committed to regulatory reform in those areas where reform is obviously appropriate. Such reform is obviously appropriate when the removal of burdensome regulation would promote competition without adversely affecting the American consumer.

For these reasons, Mr. Speaker, I take this opportunity to announce my intention to introduce, in the not too distant future, a bill aimed at achieving regulatory reform in the area of petroleum and petroleum product pipeline rates. I hasten to add at this point that I am talking only about petroleum pipelines—pipelines which are not franchised by the Government and which are not, in any sense of the term, a legally protected monopoly.

In my view, the Government has the right, if not the obligation, to regulate rates of an industry when the Government extends to that industry a franchise, a license, or any mechanism to protect it from competition. With regard to petroleum pipelines, however, the Government affords no protection from competition. Competition in the industry is extensive; shippers have multiple options to serve their transportation needs; and the consumers are the beneficiaries of the competition provided by the private sector.

Nonetheless, Congress has, largely through oversight in my opinion, continued the rate regulation of these pipelines. When we created the Federal Energy Regulatory Commission, in Public Law 95-91, we transferred to the Department of Energy and the FERC the authority to regulate pipelines, including petroleum pipelines. Unfortunately, the broad transfer authority included the authority to set and prescribe rates for petroleum pipelines.

Back in 1906, when rate regulation of these pipelines was first established, there was some justification for it, because shippers had relatively few options available to them for transport of their petroleum commodities. Today, however, shippers enjoy a great variety of options, which include intramodal, intermodal, and shipper exchanges. The recent history of the industry reveals that these options have created competitive pressures resulting in the establishment of fair and equitable prices for shippers and for the ultimate consumers.

Despite this healthy competition and the shipper/consumer protection

it provides, the FERC remains saddled with the responsibility to set rates for this industry. Almost from its creation, the FERC has been struggling with the question of how to set these rates. It has yet to come up with a satisfactory answer—simply because there is no satisfactory method for setting rates for a competitive industry. Where there is no need for regulation, there is no satisfactory way to regulate.

I am not calling for the complete deregulation of petroleum pipelines. They are common carriers and their obligations as such should continue to be regulated by the FERC. The FERC should continue to enforce the legal prescriptions against possible discriminatory or preferential behavior.

It is only the rate regulation that is unnecessary; and it is only that function that I want to extinguish. For reasons that I am certain will be brought out at hearings, rate regulation discourages competition. It imposes an unnecessary burden upon the petroleum pipeline industry, especially the independents.

I have discussed this issue with the chairman of the Energy and Commerce Committee (Mr. DINGELL) and with the chairman of the Fossil and Synthetic Fuels Subcommittee (Mr. SHARP) to solicit their support in developing legislation to achieve this regulatory reform. I invite my colleagues to join me in this endeavor. I am pleased to announce that my colleague from Oklahoma, Senator NICKLES, will be leading a similar effort in the other body.●

● Mr. SHARP. Mr. Speaker, the regulation of the oil pipeline industry is an energy policy issue which merits examination by the Congress, and I applaud the efforts of my colleague to raise it. The Federal Energy Regulatory Commission is currently engaged in an examination of the regulatory posture that is most appropriate under existing statutes. A bill may provide an excellent vehicle for a congressional examination of that question, or at a minimum for congressional attention to the regulatory review underway at the FERC. I know other members of the Fossil and Synthetic Fuels Subcommittee, on which the gentleman from Oklahoma so ably serves, will share his interest in this question.●

● Mr. CORCORAN. Mr. Speaker, I compliment the gentleman from Oklahoma (Mr. SYNAR) for his leadership on this issue. As a member of the committee and subcommittee with jurisdiction on this matter, I look forward to working with him in this effort. All of us object to regulation for its own sake. The FERC like other agencies should be relieved of responsibilities to regulate where regulation is unnecessary and counterproductive.●

WHERE IS THE REVOLUTION?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.●

Mr. ST GERMAIN. Mr. Speaker, President Reagan, and his advisers, have been telling us since January that their economic program would succeed against all logic because a revolution in expectations would occur when the American people heard about all the great things in store for them over the next few years. The American people were promised large drops in the interest rates that have strangled our small businesses and caused unemployment to remain at unacceptable levels. Instead, we now have the highest real interest rates in our country's history. If yesterday's Wall Street Journal is correct, the revolution of low interest rates is not exactly a spectre haunting the sidewalks of Wall Street.

In the paper's first section, we have Murray Weidenbaum, Chairman of the President's Council of Economic Advisers, predicting that interest rates will come down "in the near future." These words are beginning to ring hollow, even for the Journal, which headlines the story: "Declining Interest Rates Are Predicted—Again."

In the paper's second section is a story that tells a different tale, this is headlined: "Dollar Is Bolstered by U.S. Economic Data Indicating Interest Rates Will Stay Firm."

The report says, in part:

Analysts said the figures (of leading economic indicators) indicate that the economy, while softening, remains resilient and that interest rates are likely to remain firm . . . The Treasury's borrowing requirements are higher than traders had anticipated . . . As for the Reagan tax program, "the market will look at it as inflationary," according to one New York banker. It indicates the Fed will keep the monetary brakes on and interest rates at a high level," he explained.

When the daily predictions of administration figures are directly contradicted by the economic facts of that day, is it any wonder that the revolution in expectations is not yet upon us? We may not expect another shot heard "round the world," but we could at least hope someone outside of the Office of Management and Budget would hear it.●

A BRAZILIAN CONGRESSMAN'S PERCEPTIONS OF U.S. DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 15 minutes.

● Mr. ZABLOCKI. Mr. Speaker, earlier this year members of the Committee on Foreign Affairs had the opportunity to meet with four members of the Brazilian Congress who were visiting Washington at the invitation of the International Communications Agency.

One of those members, Representative Julio Martins, upon returning to Brazil, related his experience to his colleagues in the Brazilian Congress. His speech demonstrates the powerful example that our country holds for many people around the world who are seeking to promote democracy in their own country, and it is evidence of the usefulness served by the International Communication Agency in bringing such individuals to the United States.

I would recommend that Members of this body read his remarks, which follow.

SPEECH DELIVERED BY REPRESENTATIVE JULIO MARTINS, PDS, RORAIMA

Mr. Speaker, distinguished Representatives: Recently a group of Brazilian Congressmen made a study trip to the United States at the invitation of the United States Government. The program was coordinated by the Department of State and the United States International Communication Agency. The delegation was composed of myself and Congressmen Edson Vidigal, Waldimir Belinatti, and Heitor Alencar Furtado.

The 32-day trip was divided into two parts. The first part was a two-week seminar conducted in Washington. This was followed by an observation trip that took us from coast to coast and through the agricultural midwest. There, in a region whose dynamism has contributed much to the grandeur and strength of the United States, we visited soybean and corn farms.

In the first part of the program we learned about the operation of the U.S. Congress and the doctrine, philosophy, morphology, and operationalization of the political and institutional mechanisms that are the moving force behind American democracy. We heard an analysis of the intricate structure of the American electoral system and the elements that comprise it, some rooted in tradition and others, more recent, born of the needs of modern life, but all designed to faithfully reflect the will of the people. We were treated to an insider's view of the complex structure of the political parties and saw how power was at one time concentrated at the top leadership level, creating an internal dictatorship that threatened the entire system, and was remedied by the adoption of a number of measures, among them the primary elections. We also examined the key issue confronting stable democratic regimes, the need for a system of checks and balances that prevents any individual, however tempted, from seizing power.

There is no doubt that the most important of our many appointments with government officials was our meeting with the House Foreign Affairs Committee whose Chairman, Representative Zablocki, had recently led a delegation of committee members to Brazil. The meeting lasted over two hours and grew stormy at times with the discussion of such controversial topics as the role of the United States in the development of Brazil, raising the living standards of the Brazilian people, and the behavior of multinationals. Although we never achieved a consensus, each of us benefited from the

stimulating opportunity of engaging in a frank discussion with one of the most important committees of the United States Congress.

Also in Congress, we conversed at length with Representative Thomas Railsback of the 19th Illinois Congressional District, a veteran and experienced Congressman with 16 years in office. Later we reencountered Representative Railsback in his home district and were thus able to see for ourselves the system of district representation. It was clear that the division of the electorate into geographically defined districts, each containing an equal number of voters, creates certain advantages. One is the close personal bond between a Congressman and his constituents, a relationship that is not merely formal or temporary. This makes it difficult to fool voters with a phony image of a candidate created by the media and serves as a protection against demagogy, deception, and false charisma, so that the purity of the democratic system emerges in all its splendor. To my mind the strength of American democracy, its enduring stability, is due, in great part, to this vital bond between the people and their representatives. However large or populous the State in which he resides, a citizen will vote for a candidate familiar to him, a person he encounters on the streets of his neighborhood, at his club or church or in the corner grocery store. And for the candidate the voter is not just one more anonymous face in a sea of unknown faces. He is rather an individual known to the candidate. Out of this relationship is born a communion of ideas, thoughts, and interests that is the cement of the representativeness and authenticity of the popular mandate.

I do not know, Mr. Speaker, if this would be the best and most appropriate electoral system for Brazil. I am forever wary of mere copying and of transplanting systems from one environment to another. I am convinced, however, that no parliament anywhere will ever achieve the power and prestige that the U.S. Congress enjoys among the American people until its system of popular representation equals the level of authenticity that exists in the United States.

Something else that I observed, and which I would like to comment on briefly, is the representation accorded to the Federal District. The District of Columbia is not autonomous. It has a single elected but nonvoting representative in Congress. We visited his office and saw for ourselves the importance of his role, even without the right to vote. The people of the District make extensive use of their spokesman to voice their concerns. It is true that there is an extensive campaign aimed at achieving political and administrative autonomy for Washington, D.C., which the most fervent of the campaigners refer to as the "last colony," an ironic reference to the thirteen original colonies.

Invariably one draws a parallel between the situation in Washington and that of our own Federal District. Here at home we are also witnessing a noisy campaign seeking autonomy for Brasilia with elections at all levels, as if the District were a State. Here, however, unlike the United States, the campaign has obviously become partisan and, therefore, clearly less spontaneous. The campaign for voting rights for Brasilia is rendered less creditable to the extent that it plays the opposition game and serves as a banner for the general opposition cause, a tool for the opportunism of the opposition parties. The American example is a useful counterweight to allegations of the opposition that the lack of elections in the Federal District is eloquent proof of the authoritarian nature of the Brazilian regime. Mr. Speaker, no one in his right mind would dare to make such an absurd statement in relation to the government of the United States. And yet, in the very heartland of democracy there does not, at the moment, appear to be any possibility of achieving autonomy for the District of Columbia.

In a strong federal system states represent small sovereign units and as such need some neutral territory, some stage untouched by their divergent interests. This is the essential role of a federal district. Hence, home rule for the Federal District is incompatible with the strengthening of the federative system. Only those who engage in deception, demagogy, or unbridled political opportunism would attempt to combine them under the same roof, as the opposition parties in Brazil are now doing in an incredible demonstration of their lack of respect for the causes, correct or not, that stir the popular imagination.

There is another characteristic of the American people that left me pleasantly and profoundly impressed: their religious sentiment and, closely akin, their reverence for the founding fathers who created a nation based on order, freedom, and the work ethic. Let us remember the words of Rui Barbosa who said: "show me a people whose faith has turned to stone and I will show you a people who has lost its freedom." That the inverse is true can be seen in the United States where religious faith is universal, indomitable, and historical, a reality that stands above the selfishness of men and parties.

Sustained by this living faith, respect and veneration grows for the great figures of the past, the models of integrity, temperance, courage, love of justice, freedom, and the law. The example of their lives teaches new generations the enduring value of the higher virtues. Consider Jefferson. Who can fail to learn from him an important lesson about true values, about the highest tradition of public life in which man eschews vainglory or the ephemeral glamour of public office and seeks only the opportunity to serve. As we know, Jefferson served as just about everything, from revolutionary to representative in several legislatures, governor of his native state, ambassador, Secretary of State, Vice President, and, finally, President of the nation he helped to found. And yet, none of this appears in the inscription on his tomb. Inscribed there are what he judged to be his three major achievements: drafter of the Declaration of Independence, author of the statute of religious freedom, and founder of the University of Virginia.

Mr. Speaker, distinguished Representatives, I have purposely left to the end any mention of the one element in American society that most impressed me. I refer to the role and activities of the United States Congress, to its undeniable power, its immense prestige, its multifaceted presence, its diffuse but decisive authority, and the aura of undying respect and reverence that projects its image of everyone in American life, touching even the deepest recesses of the American consciousness. The Capitol is not some ordinary government building to be entered only to accomplish some disagreeable errand. It is a national shrine, a sacred place sought out by pilgrims of all ages and from all parts of the country, as if one were not truly a citizen unless one had made this pilgrimage to the national pantheon. Muslims go to Mecca; Americans go to the Capitol. Neither the White House, nor the Supreme Court, the Washington Monument, the Lincoln Memorial, the flag, nor any other national symbol can rival the respect and reverence bestowed upon the seat of Congress. During the Civil War, when the Capitol was as yet unfinished and many were criticising the expense of its construction, Lincoln said: "If this matter has an ennobling shrine, the Capitol is it." The immense white dome of the Capitol, rising under a statue of liberty, spreads itself like a canopy over the city and the nation. Inside the rotunda the people view the story of their nation's history, a visible manifestation of their ideals and their representative system of government.

Clearly, Mr. Speaker, the enormous prestige of the institution of Congress is automatically conferred upon the Senators and Representatives, investing them with genuine power, limited only by the Constitution. It must be understood, however, that the source of this power in not the prerogatives allocated to the American Congress or a total immunity for members of Congress. The maxim of the Supreme Court, "Justice under Law," applies to all, whether Congressmen or not. Written texts are not the real source of power, but simply the instrument by which it is transmitted. The true source is intangible and untouched by the tides of life. It lies in the fathomless consciousness of every citizen who, from an early age, is taught to respect the representatives of the people. The powers granted to the Congress were not written into the Constitution by mere circumstance or historical accident. They were first imprinted by the sacred fire of the nation's conscious will, and as such are beyond the reach of any human power. Without this foundation, Mr. Speaker, all efforts to shape democracy are in vain. Without this vital element democracy can not survive the assaults of its enemies.

Mr. Speaker, distinguished representatives, these thoughts are relevant for us now as we begin our consideration of a bill that redefines the powers of our own Congress. Any text, however well drafted, that restores to Congress all of its former powers and such others as the needs or emotions of the moment may dictate will be of little value unless we can sow in the consciousness of all Brazilians, of whatever age and condition, respect for the authority of this institution with its singular and essential role in the building of a just society and a strong nation. Democracy is not first and foremost a political question. It is above all an educational process that is slow and nearly always difficult. It is a process in which prominent men, leaders, the cultural elites, and the members of Congress must set the example. Unfortunately we have not been a good source of models. Our first constituent assembly was dissolved by the Emperor and a constitution then imposed. Since that time our political history has been a series of ups and downs, light and shadow, opening up and closing down of the political system, a phenomenon that Golbery has so aptly referred to as systole and diastole. If I had to describe our democracy in a word I would say that it is pendular, that it comes and goes according to the vicissitudes of history and political fashion, or even the temperament of historical figures present at certain decisive moments. All of this has occurred because we lack the cornerstone, the foundation on which stability depends. Even

today a film that is a tremendous box office success begins with a joke of poor taste that makes a disrespectful reference to the House of Representatives and its Speaker. Such attitudes, Mr. Speaker, such habits can lead us anywhere but to a strong legislature and an enduring democracy.

In conclusion, Mr. Speaker, a great Argentine educator correctly observed that in a democracy the people are sovereign, but one must not forget to educate the sovereign. If the sovereign is not enlightened, it is only natural that he will fail to use his talents and may even fail to be aware of them, or may waste them, or use them to his own detriment, or to bring about his own destruction.

Therefore, Mr. Speaker, I have much for which to thank the Government of the United States, and in particular the Embassy and USICA for having given me this study trip, this valuable opportunity to learn so much about the rich experience and traditions of a great people and a great nation. It is my hope that the program of USICA-sponsored visits will continue so that other Congressmen, political leaders, professors, and students will have an opportunity to know the United States and to learn about its long democratic experience, the moral values that built and sustain it, and the life style of its people, knowledge that one cannot obtain by reading alone. Programs of this nature can do more for the nations of Latin America than all the aid projects of dubious results.

More than ever, Mr. Speaker, I am convinced that the cause of democracy in our country and our hemisphere will be sustained by spreading the ideals of freedom, order, and respect for law that were introduced into this part of the world by the United States. I am equally convinced that democracy shall prevail to the extent the United States helps to educate the peoples of Latin America, communicating to them the same ideals that have brought about the greatness and the happiness of the American people. I believe that the advance of communism in the hemisphere will be checked and Latin American oligarchies drastically limited to the degree that the United States makes an effort to spread the experience of its democratic life.●

RESOLUTION OF IMPEACHMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, last week I introduced a resolution of impeachment directed to the Chairman of the Federal Reserve Board. I accompanied the introduction with some remarks that did not appear in the RECORD because it was my intention to follow through, as I have today, with a subsequent introduction of a series of bills.

Today, I introduced two bills. One would, in effect, repeal the 1913 Federal Reserve Act which I believe has been seriously overdue for many years. As a sequela to that first bill, I have introduced another which, in effect, partially removes jurisdiction by virtue of the Federal Reserve Act from the Federal Reserve to the Department of the Treasury.

Now, I know that when one speaks of impeachment, it seems as if it is farcical or an act that does not have any serious intention, and I wish to dispel that because I would not have made a frivolous introduction of any resolution or bill or measure. I never have because I would consider that to be an abuse of the prerogatives of membership in such a tremendous body as the Congress.

I am in dead earnest. It is my hope, and I am approaching the Judiciary Committee and the proper subcommittee in due course of time to consider the resolution which has been referred there in a serious manner, and will give substantial reasons, what I consider to be serious and substantial reasons.

The two bills introduced today are certainly in dead earnest. They reflect the fruit of investigative research and reading of the past 16 years, since 1965; but more particularly since June 1969, because I believe that history will show that that was a turning point in the history of economic freedom in our country.

□ 1520

What is involved here is the matter of economic freedom and the choice that this country now must inescapably confront. I have spoken out in the interim—that is, since 1969—and I know that what I have had to say, even though it is on the record, has been overlooked. But it really is part of an integral hope and a conviction that I find inescapable as a member of the Banking Committee, because since I first came to the Congress 20 years ago, and also from my preceding studies, I have always been interested in this field and for that reason welcomed my assignment in 1961 and 1962 to membership on the Banking Committee.

I served, I might say by way of explanation, on the Banking Committee of the State senate of the State of Texas, and before that I had made studies in college in this particular field.

When I say that what is at issue now is economic freedom, without which political freedom in societies such as ours is absolutely meaningless, I mean that without economic freedom Americans are in truth slaves, even though without political freedom life in itself and our form of government, of course, would be impossible.

But we have reached the point where this is the choice. The choice is between abolishing the poverty, for example, that is America, and which is great, and the mixing of it with the ancient and petrified poverty of other lands and countries in the world, some of them with systems that are abhorrent and absolutely prohibitive to such a country and such a people as ours, with our traditions.

This is what is at stake—the American standard of living and the fact that we have a choice as to whether we are going to share in the world's poverty, with the doctrines now accepted in Congress and that this administration has initiated.

Mr. MATTOX. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I am pleased to yield to my fellow Texan.

Mr. MATTOX. Mr. Speaker, I appreciate my colleague's yielding.

I say to the gentleman that I am pleased to see he has taken time to bring this critical issue before the Congress. I think that everybody on our side of the aisle ought to join with the gentleman, and I appreciate his adding my name to his bill.

It is obvious to me that if Mr. Volcker and the folks down at the Federal Reserve do not understand the nature of what they are doing—that is, if they have not entered into their activities with a malicious intent—it is obvious that they are a danger to themselves and the communities in this country by the policies they are setting up.

It is obvious also, because of this vast deficit we are going to have as a result of the recent actions of this Congress and the actions that have been initiated by this administration wherein they are going to spend at least $132 billion more in deficit spending in the next 4 years, that money is going to have be financed through borrowing from the Treasury or borrowing from the American people, and if the Federal Reserve keeps these high interest rates up at the same levels, they are going to cause this country to go even deeper in debt because of the unreasonable nature of their actions.

As a member of the Banking Committee, I am glad to give the gentleman my assistance, and I assure the gentleman that I will try, along with him, to get rid of Mr. Volcker and the other people who vote with him down at the Federal Reserve.

Mr. GONZALEZ. Mr. Speaker, I cannot express too greatly my profound gratitude to my most able colleague, the gentleman from Texas, who opposes these actions of the Federal Reserve that have been found so abhorrent in the past by the Texas leadership and which have reached national proportions in the past. I just cannot find the words with which to thank the gentleman. I will give him a copy of the bills, and I will be in consultation with him. One of the bills is rather lengthy; one is short.

Speaking of the impeachment resolution, of course, I have never been one to try to involve especially a friend or a relative in a fight of my undertaking, but I do agree with the gentleman that this is really not one

man's fight. I agree with him that this is a national confrontation.

I agree further on the attitudes that have been shown. The gentleman was present at the meetings of the committee at which Chairman Volcker has appeared, and it has been very painful to me because it is obvious that this is a thoroughly arrogant runaway dependency of the Government, a creature of the Congress that dares come and tell us we have no reason to question them, that they do not need to counsel with us or anybody else for that matter, and that they will continue to play "ducks and drakes" with the economic fate and, what is more important, the economic liberty of our people. This is what is at stake, and this is why I consider this so important.

Mr. MATTOX. Mr. Speaker, will the gentleman yield further?

Mr. GONZALEZ. Certainly, I yield to the gentleman from Texas.

Mr. MATTOX. Mr. Speaker, I say to the gentleman from Texas that I know he and I feel the same kind of embarrassment when we have the Federal Reserve come before our committee and see them engage in just a callous disregard for the industries of America, particularly when we see the automobile industry just on its knees and going into bankruptcy and when we see all the homebuilders, the small homebuilders and the big homebuilders, unable to even operate at anywhere near a profitable level based on the monetary policy that is being followed.

I think we are going to continue to have this kind of problem until this Congress draws unto itself the power that was granted to us by the Constitution, the power over the money system and the money supply.

Mr. GONZALEZ. There is no question about that.

Mr. MATTOX. Until we get the power and draw it unto our own bosom, we are not going to be able to solve this problem.

When we have the Federal Reserve floating around and we have a man like Mr. Volcker there just exercising that arrogance, things are going to be bad not only for our country but it is obvious things are going to be bad for our party also. The gentleman and I know that. It is time that we took this power unto ourselves and got the people to work with it.

It is unfortunate that Mr. Volcker and the present administration have the exact same philosophy of trying to solve this inflation problem with high interest rates. They do not seem to understand that high interest rates feed inflation, because the homebuilders and everybody else cannot operate under such high interest rates. They cannot seem to understand the concept, and they are forcing inflation higher and higher and causing more and more problems because of their actions.

Mr. Speaker, I appreciate having this opportunity, and once again I thank the gentleman for allowing me to join with him in this special order.

Mr. GONZALEZ. Mr. Speaker, I thank my colleague once again.

Let me say that I, too, am convinced that unless and until the Congress does something about it, nothing is going to be done about high interest rates. High interest rates is just one of the concomitants deliberately and premeditatively brought about by the usurious rates and drain the lifeblood of our businessmen, the real business element of our country—not the U.S. Chamber of Commerce-represented groups, not the mastodons who are struggling over the huge resources of banking credit that seem to be available to the people in order to knock off another giant such as Conoco, and not the speculation which has played into the hands of the speculators in Zurich, Switzerland, in London, and even in Russia through these bold manipulations. The resources of bank depositors, who have found themselves, like H. L. Hunt, venturing into this highly speculative market, are at stake, and they have lost literally the economic shirts of the American people and the average small businessman.

I would like to say further—although I know that my time is running out—that the choice is also between abdicating the only vested national and international leadership that we have in the world toward a new and unselfish world order, economic order, and not reviving—and this is what we are doing—an old world economic system which has been tried over and over and which has failed over and over again, and through which I believe the American people will be doomed to economic slavery, and perhaps the much vaunted and free and prideful American standard of living will be irretrievable, sunk once and for all.

As I have said and repeat, we are not going to depend on the bankers, nor should we. We are not going to depend on political leaders who are beholden to those same bankers. We cannot expect either a Member of the Congress or a successful President in an election, who has received, collectively with the congressional candidates of the Senate and the House, over $120 million from those very interests, not to exhibit this shameful, callous display that we saw just the day before yesterday in exercising their muscle in a way never before shown.

□ 1530

We cannot expect freedom to look after the greatest interests of the greatest number when those greedy malefactors of great wealth decide that they have not had enough, and they never have had enough. That is the history of the world, whether it is this country or any other. I know that there is no instance in history where we had the situation that we have in this country, and have had now for too long, where 6 percent bear over half, literally control over 80 percent of the economic and financial resources of a nation. You cannot have that without having dire consequences.

That is the history of the world no matter what form of government or society. The choice is, I say, economic freedom or slavery.

RECONCILIATION RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, with all respect to our President who has strongly supported the cuts which are embodied in this resolution and the Congress which has in many instances reluctantly supported them, I cannot support this reconciliation resolution. The cuts totaling some $35 billion embodied in this resolution will, in my opinion, inflict an unnecessarily painful impact upon the elderly, the ill, the poor, the small businessmen, those employed in public works programs and in many other areas. The cuts are excessive. There will be a powerful remonstrance from the people of this country when they feel the hurt of these cuts, mostly after the first of October. These cuts in Federal funds are going to mean that the States and local authorities will have to bear added tax burdens or the beneficiaries of the eliminated programs will receive no further benefits.

It is interesting, Mr. Speaker, that the amount of the cuts embodied in this resolution are almost the same as the amount of the tax cuts afforded by the tax bill which on Wednesday of this week passed this House. In a way, therefore, we have taken from the aged, the ill, the underprivileged, the poor, those temporarily employed, and many other groups a massive sum and transferred it to the taxpayers of this country with the greatest portion of it going to the taxpayers in the upper brackets. I am morally certain that the taxpayers who are going to receive these sums do not need that money as badly as the people from whom and whose assistance programs it is being taken.

I would, with all respect, warn my Republican friends as Caesar was warned to beware of the Ides of March, to beware of excesses in their zeal to convert our country to the sort of society to which they are dedicated. I would think it would be wise if they

would, as they pass the Archives Building on Pennsylvania Avenue, look to the sculptured figures on each side of the steps. Beneath one are the words, "The past is prologue." On the other side of the steps beneath the figure are the words, "Study the past." I think it might be well for my Republican colleagues and friends to study the 80th Congress and the 83d Congress. Look at under what promise they came to power and how soon their power was interrupted by the election of the people. And in the 84th Congress, that interruption of majority rule in the Congress by the Republican Party began with the election of 1952 and was terminated by the end of the 83d Congress in the year 1954. And that, mind you, Mr. Speaker, was with a very popular Republican President in the White House, President Dwight D. Eisenhower.

The 80th and 83d Congresses furthered and implemented a philosophy which is not embraced by the majority of the American people. Both of these Congresses went to excess in their determination to make over America in their own political image, to repudiate the Rooseveltian past and to rush in a direction which they thought the people mandated.

So I would have preferred to see a balanced budget advocated by the administration and passed by the Congress and such tax cuts as then we could have afforded and such cuts in expenditures as were reasonable and not unjustly oppressive upon those who generally need more help, not less.

In conclusion, Mr. Speaker, today this House, with the support of all but 17 of the Republicans and all but 3 of the Democrats reversed the decision which the Congress in this reconciliation resolution eliminated minimum social security benefits. We now anticipate that the Senate will concur and the wrongs which we implanted into the reconciliation resolution will have been corrected.

I earnestly hope that we shall repent on many other things that we have done in this reconciliation resolution, that we shall soon be willing, as we are today, to admit our error and correct it as soon as possible. I hope, indeed, that the spirit of moderation, the spirit of compassion and concern for the masses of our people would be restored into the hearts and the work of this House, indeed, this Congress.●

NUCLEAR NONPROLIFERATION—THE NEED GROWS MORE CRITICAL

The SPEAKER pro tempore. Under a provision order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

● Mr. LAFALCE. Mr. Speaker, the recent Israeli attack on the Osirak nuclear reactor near Baghdad, Iraq, threatened to bring our world one step nearer to that most feared of all international conflagrations—nuclear war. The incident, itself, again threatened that extremely tenuous balance between peace and conflict in the Middle East.

Equally as troubling as the fact that an armed attack occurred is the reality that we in America and all other nuclear nations have failed to limit access to nuclear technologies. It remains a relatively easy task for almost any nation with the desire and the money to buy nuclear reactor technology. With nuclear reactor technology there is but a short step to the reprocessing facilities necessary to convert spent fuel to bomb-grade material.

This is an especially troubling problem to acknowledge because individual states as well as the international community have tried to limit the spread of nuclear weapons almost since the nuclear age began. There have been treaties, agreements, conferences, and meetings, all of which have failed to achieve this goal.

Many questions remain about the specific character of the Osirak reactor and about the Israeli justification for the raid. The world will probably never know if the reactor complex included the technology needed to separate bomb-grade material from the reactor fuel, as the Israelis believe. We do know that the design of the reactor and the type of fuel planned for its use provided at least the potential for producing nuclear bomb raw materials. We do not know, however, whether a fuel separation facility was included within the plant, nor whether it was Iraq's intention to use the research reactor for such purposes.

The resolution of this controversy will come slowly, if at all. And it would be a mistake for us to dwell on the particulars of what happened, since they are far overshadowed by the meaning of this incident for the prospects for world peace.

What is clear, and what is important for us to learn from the recent Israeli-Iraqi conflict is that the world's nuclear powers have failed miserably in their efforts to restrict the availability of nuclear weapons materials and technologies. Further, this incident suggests that much stronger efforts toward nuclear nonproliferation are required and that nuclear supplier nations such as ourselves, the Soviets, China, France, Italy, Great Britain, and West Germany, among others, must initiate and fully participate in these moves.

In our efforts to share the abundance of our technologies with poorer nations, we are inevitably caught, Mr. Speaker, between a rock and a hard place, as the saying goes. As our nuclear power technology goes, so goes the capacity to produce the material needed to build nuclear weapons.

The problems inherent in our providing nuclear weapons capability to nations around the world were enunciated years ago. In 1963, President John Kennedy foresaw the folly of such action—the insanity of giving access to nuclear materials and technology to any nation in the world that desired such technology. It was 18 years ago that Kennedy warned us to—

> Stop and think what it would mean to have nuclear weapons in so many hands, in the hands of countries large and small, stable and unstable, responsible and irresponsible, scattered throughout the world. There would be no rest for anyone then, no stability, no real security, and no chance of effective disarmament.

During that short 18 years, we have moved perilously close to the scenario described above. As nuclear weapons fall into more and more hands, the world's tenuous grasp on peace becomes weaker and weaker, less and less certain. We are rapidly approaching the point at which there will be no rest, no stability, no security, and no disarmament.

ROOTS OF THE DILEMMA

Ironically, the roots of this most difficult problem are found in America's and other developed nations' attempts to better the lives of the citizens of the poorer countries of the world. In the early 1950's, President Eisenhower's atoms for peace program focused upon sharing the positive features of nuclear technology. Although grounded in the best of intentions, the program was doomed to fail, at least from the nonproliferation perspective, because nuclear weapons and nuclear-generated electricity both can come from a single facility.

EFFORTS TO CONTROL NUCLEAR PROLIFERATION

Our efforts to limit the spread of nuclear weapons technology while, at the same time, selling the technology for nuclear electricity and nuclear research seemed doomed to fail. In 1968, the treaty on the nonproliferation of nuclear weapons was drafted to reduce nuclear arsenals and to limit the spread of weapons technology. Only about two-thirds of the world's nations signed the pact. France, the country that supplied the reactor to Iraq, is one of those nations refusing to participate in the nonproliferation effort.

More recently, our own Government attempted to strengthen America's nonproliferation commitment and efforts. In theory, the Nuclear Non-Proliferation Act of 1978 provided even more strict regulation of the export of nuclear materials and the countries to which American companies could sell their nuclear wares. Stricter monitoring safeguards would be established and the International Atomic Energy Agency would have greater monitoring

authority in countries to which America sold its nuclear technology. One final theme of this legislation was to support the search for alterative energy supplies in less developed nations other than nuclear power. These efforts may provide the cornerstone of any successful policy to limit the spread of nuclear weapons.

Mr. Speaker, it was to the great credit of the Carter administration that the past 4 years saw new strides forward in the quest for nuclear nonproliferation. The Nuclear Non-Proliferation Act of 1978 requires that countries supplied by the United States with nuclear materials must allow the International Atomic Energy Agency to inspect their facilities. In addition, these nations must receive U.S. permission before reprocessing fuel and the act prohibits American nuclear aid to countries engaged in fuel reprocessing that have not renounced weapons development.

I believe that the policies basically charted in the 1978 act provide a strong starting point for a sustained and effective nonproliferation effort for our world. It frightens me greatly to consider the implications of a policy that would reverse these gains and, rather than enforcing greater controls on the exchange of nuclear technologies, increase the ease with which they might be transferred. There are suggestions, Mr. Speaker, that the present administration will enunciate a policy shortly that will undo the gains made during the past 4 years. This new foreign policy, it is said, would aim at increasing exports of U.S. nuclear technology to other nations of the world. Indeed, one immediate example of this is the recent agreement to sell American reactors to Egypt.

We have seen and we will continue to see the ultimate fallacy in this logic. It is virtually impossible to control, from the outside, activities of a country intent upon using a nuclear reactor, whether it be a power-producing or research facility, to produce weaponry. If the desire for such control does not come from within the boundaries of the Nation, no amount of international cajoling, no amount of pressure or inspections from the International Atomic Energy Agency will provide it.

GOVERNMENT INSTABILITY

The instability in various regions of the world and the rapidity with which governments change must cause us to rethink the implementation of a policy that could give nuclear weaponry to an even wider range of nations—to an even greater number of less than responsible and peace-loving national leaders. It is difficult enough to contain the use of nuclear materials with the 15 nations that now either possess the bomb or have the capacity to produce it. In less than a dozen years, it is expected that another 16 may develop nuclear weapons capabilities. Will it be possible, then, to control the use of these most dread of all weapons?

The answer to that question must, regrettably, be "No." It would be easy, Mr. Speaker, to become resigned to this possibility and let events occur as they will. But we cannot. The stakes are too high, and the potential for worldwide destruction is too real. The challenge before us is great. And it is this knowledge that must compel us to strengthen our resolve to seek more effective control mechanisms and to take whatever steps are necessary to address the world's nuclear proliferation problems.

POLICY OF SCHIZOPHRENIA

The industrial nations must accept blame for the widespread distribution of reactor technologies across the world. The Iraqi reactor, for example, was constructed with material and engineering designs and talent from France and Italy. We in America and our Canadian neighbors have also supplied reactors about which there is no question that they have been used to generate the raw materials for bomb production.

This schizophrenic policy, identified by its humanitarian goals to share the benefits of Western technology along with its potentially disastrous effects of leading the world into nuclear war, seems untenable; yet it has dominated our national thinking for years. In part, those who formulated the atoms for peace program and its successors were motivated by humanitarian concerns to share the bounty of the energy from the atom with the less fortunate of the world.

Unfortunately, though, the drive for the sale of reactor technologies around the world is also stimulated by other less altruistic factors. Most important is the economic benefit inherent in the sales of reactor technology. Nuclear power technologies are extraordinarily expensive to develop. The infrastructure of the industry has grown more and more specialized over time, to the extent that in the United States the nuclear power industry provides, for many smaller companies, a substantial portion of their economic livelihoods.

PRESSURE FOR NEW MARKETS

At the same time, in at least some of the countries with strong nuclear power industries, demand for new nuclear powerplants has fallen sharply. In the United States, for example, the post-Three Mile Island period has seen an extraordinary drop in orders for new nuclear facilities. This forces the entire nuclear industry, from the companies that make the steel pressure vessels to the computer design operations to seek new markets. At the present time, the most attractive of those markets are in countries like Iraq that have extraordinary wealth from oil exports and the desire and ability to use their petroleum resources to blackmail their oil-starved industrialized customers.

BALANCE-OF-PAYMENTS PROBLEMS

Further, the sagging economies of the industrialized West are buoyed by the sales of a billion dollar reactor or two. There is no question but that the international sale of nuclear power technology contributes handsomely to redressing the balance-of-payments problems that the West faces as a result of recent oil price increases by OPEC and other oil-exporting nations. Unfortunately, though, conflicts between corporate prosperity, national balance-of-payments problems, and the health and security of the people of the world seldom are resolved in favor of the latter concern. Rather, considerations of corporate and national economical health often take precedence over international stability.

NUCLEAR BLACKMAIL

Another frightening consideration that has entered the nonproliferation scenario is the potential for nuclear "blackmail" exercised by the oil rich nations over the industrialized but oil-poor countries. Iraq threatened to limit its oil exports to Italy and France if these two nations did not supply nuclear equipment to it. Threats such as these provided no small incentives on the parts of France and Italy to supply both the reactor and the type of fuel that Iraq demanded.

THE HUMAN ISSUES

Lost in the debate about the issues of nuclear nonproliferation is that simple fact that the world is not populated with ideologies. Nor is it made up of strong-armed leaders seeking at any and every opportunity to annihilate their neighbors. What we all seem to forget is that the world is made of billions of individuals—people seeking for themselves lives of peace, lives of happiness, and lives of fulfillment. Many seek goals even less far-reaching than this—an adequate meal for tomorrow and a safe and comfortable place to sleep for the night.

The fact that we must not ignore, that we cannot forget, is that humankind of all races and ideologies must learn to live in peace together. We Americans must, through our foreign aid programs and our foreign and domestic policies, give what we can to enable those who are poorer than we to survive and to improve the quality of their lives. Ours is a small world—a single and rather puny little globe whirling through space. If our visits to outer space have taught us anything, it is that we inhabit a very small piece of the universe.

LESSONS OF THE IRAQ-ISRAEL CONFLICT

What should we learn, then, from the Israeli attack on the Iraqi reactor near Baghdad? What can this most frightening international incident teach us about nuclear nonproliferation and our Nation's role in insuring that the future provides no legitimate justification excusing a similar occurrence?

First, we must redouble our efforts to design and implement stronger nonproliferation policies throughout the international community. This will require securing the commitments in both word and deed of those nations not already parties to nonproliferation agreements to support such treaties. It will require the development and adoption of stronger safeguard and inspection authority and techniques at the International Atomic Energy Agency. It will require establishment of sanctions to be used against those who choose to ignore nonproliferation guidelines and it will require the will of the international community to impose those sanctions. It may well require that we insure that recent proposals suggesting that nuclear facilities be made more accessible do not come to represent America's foreign policy position.

The second major sphere of our activities must encompass the nuclear fuel cycle itself. It is imperative in my judgment that the United States provide the impetus for a new worldwide effort to limit the exchange of nuclear materials and nuclear equipment that could be used either for bomb materials or for the production of bomb grade materials. In this regard, the United States along with the other nations that have, or that will have in the near future, either uranium enrichment or fuel reprocessing technology must work to limit its distribution to those nations which seek such technologies. If there is hope to minimize or eliminate the proliferation problem that has until now plagued the world's use of nuclear power production facilities, it must lie in our ability to control the access to, and use and production of, both highly enriched uranium at the front end of the cycle, and reprocessed fuel components, specifically plutonium, at the rear end of the cycle.

I do not have the foolproof plan to insure that the nations that do possess these technologies—reprocessing and enrichment—will come together and agree that it is in every nation's best interest to carefully control them. It might be appropriate, for example, to hold an international conference on the issue with the end goal of securing the signatures of the nuclear nations on a pact to strictly control the dissemination of these dangerous technologies. It is also important that we work immediately to limit the use of highly enriched uranium in nuclear research facilities.

In any event, America's role must be one of leader and model for the world. Not only must we fulfill all our commitments under existing and new nuclear nonproliferation agreements, but we must also work much more vigorously to negotiate effective nuclear arms limitation agreements with the Soviets. It is time to put the brakes on this expensive race to destruction in which we and the entire world are caught.

In conclusion, Mr. Speaker, let me leave you with several parting thoughts about the challenge of nonproliferation that faces humankind. As you may recall, President Carter challenged us with his strong commitment to nuclear nonproliferation in his farewell speech to the Nation. He called the threat of nuclear proliferation one of the most serious issues of our time and warned that the danger of the bomb's use had increased dramatically during the past 35 years. It was only a matter of time, he argued, before madness, desperation, greed, or miscalculation unleashed the full destructive power of technology. His hope for the world lay in the confidence that we, individually and collectively, would find ways to reduce the danger posed by the proliferation of nuclear arms.

During the early development of nuclear energy, India's great leader, Jawaharlal Nehru, pointed out the great dilemma that the progress of technology unfettered by moral and ethical standards posed. "Use nuclear power for evil," he said, "and it will destroy the world; use it for good and it will raise the world to unknown standards of progress and happiness."

It is now time for our Nation individually and the international community generally to reappraise and to rethink the nature of the nuclear proliferation problems that confront us. Nehru pegged the two sides of the dilemma perfectly. What did he not foresee and what we have found to our dismay is that it is awfully difficult for us to "have our cake and eat it too." Indeed, there are some who still question if it is possible in our world and in our time to insure that the power of nuclear technology will be used only for good and not for evil.

If we have the courage to acknowledge that the question is not yet settled, and that it may take many years of very hard work to meet the nonproliferation challenge, then we will have taken our first giant step toward fashioning a new and possibly more realistic approach toward nuclear nonproliferation around the globe.●

SOUTHERN ARIZONA WATER RIGHTS SETTLEMENTS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 15 minutes.

● Mr. UDALL. Mr. Speaker, today I am introducing the Southern Arizona Water Rights Settlement Act, a bill to quantify the water rights of the Papago Indian Tribe to water in three basins in southern Arizona.

The proposed legislation authorizes the Secretary of the Interior to enter into an agreement with the Papago Tribe to acquire and deliver a specified amount of water to three areas of the Papago Reservations in exchange for the tribe's waiver and release of certain water rights claims and withdrawal of a pending lawsuit.

The Papago Tribe occupies three reservations in southern Arizona: San Xavier southwest of Tucson, Sells in western Pima County, and Gila Bend further north in Maricopa County. Ground water under these areas comes from three basins: The Santa Cruz Basin, the Altar-Avra Valley Basin, and the Casa-Grande/Mariciopa-Stanfield Basin. Two of these basins, the Santa Cruz and Altar-Avra Valley, are the source of water for water users in Tucson and surrounding agricultural districts.

For years Arizonans pumped ground water rather freely, without realizing the impact this mining was having on the basins. Over the last several years it was discovered that our ground water supplies are being depleted at a rate about four times greater than the amount of recharge to those basins. A study made by the Eastern Pima County Water Resources Coordinating Committee indicates that in 1980 there was a ground water overdraft of 225,706 acre feet per year in those basins.

In an effort to reduce this overdraft and be able to accommodate the growth expected over the next decades, the city of Tucson has undertaken an effective municipal conservation program. Voluntary measures implemented over the last 6 years have reduced consumption from 205 to 146 gallons per capita per day.

An intensive management and planning process for ground water use has also begun at the State level. The Arizona State Legislature recently enacted a comprehensive ground water managment code to restrict new ground water uses and closely monitor existing uses.

Resolution of the water rights claims of our Indian neighbors is a logical next step in this managment process. In 1975 the United States, on behalf of the tribe, filed suit in district court to enjoin non-Indian water users from interfering with the tribe's rights to surface and ground waters of the

Santa Cruz Basin. The defendants include the State of Arizona, and the city of Tucson, and some 1,700 other named defendants.

The lawsuit places a cloud over the water rights of virtually every water user in the Tucson area. Until these competing water claims are resolved, the city and other users cannot effectively plan for the future.

In an effort to more quickly and cooperatively resolve this issue, parties to the suit have been meeting to discuss the claims made in the suit in an attempt to resolve the claims without litigation.

Although no consensus has been reached, a lot of discussion and debate has been generated. I have been encouraged to see that there is a genuine spirit of mutual concern and cooperation among the parties. I congratulate the tribe and the non-Indian water users of southern Arizona for their good will and hard work.

It is in that same spirit of concern and cooperation that I today offer this proposed settlement. I feel confident that neither the non-Indians nor the Indians will be completely happy with the quantification and terms that I propose. It is no secret that the issue of water rights is a very sensitive one. No other question is more vital to the growth and development of Arizona and the West.

Nevertheless, I believe that the moment is ripe for a legislative solution. The central Arizona project will soon deliver desperately needed supplemental water to our State. Some of that water will be allocated to Indian tribes, including the Papagos. With the CAP water as a base, a reasonable settlement of the tribe's water rights can be achieved.

I anticipate that this legislation will provoke much discussion and comment. I invite that debate and expect that such discussion will produce a resolution that will place Arizona one step closer to our goal of efficient, responsible management of our limited water resources.●

REARMING FOR THE CREDIT WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 10 minutes.

● Mr. NEAL. Mr. Speaker, the United States is currently involved in an intense effort to negotiate, with other industrial countries, a significant reduction of the excessive export credit subsidies many of them now employ in a misguided effort to boost their own exports. We are now approaching the critical stage of these negotiations. The next formal negotiating session is scheduled for October, and the major participants are now formulating their strategies.

The Banking Committee has recently passed a bill I introduced, H.R. 3228, the Competitive Export Subsidy Fund Act, designed to equip the Export-Import Bank, and the administration, with the weapons they need to induce our competitors to agree to a meaningful reform of the existing international export credit agreements, and to protect American exporters if these negotiations should fail to end the ongoing costly and futile export credit war.

In the Senate, Senator HEINZ has introduced a similar bill, S. 868, the Competitive Export Financing Act of 1981. These two bills are designed to achieve the same purpose, but they differ significantly in several important respects. On the occasion of recent hearings held by the Senate Banking Committee, I submitted a statement that summarizes these important differences, and points out some of the advantages I think would flow from my bill, H.R. 3228. In order to bring these advantages to the attention of my colleagues, I would like, at this point, to insert my statement which was prepared for the Senate Banking Committee:

STATEMENT OF CONGRESSMAN STEPHEN L. NEAL

I want to thank Senator Heinz for the opportunity to present a statement to the Senate Banking Committee on a topic of great mutual concern—the capacity of the Export-Import Bank to finance American exports on terms fully competitive with the highly subsidized export credit offered by foreign governments.

I have introduced legislation in the House—H.R. 3228—designed to serve the same purpose as S. 868, the Competitive Export Financing Act of 1981 introduced by Senator Heinz. Both of these bills authorize the Eximbank to employ extraordinary measures to counter foreign export subsidies and to induce other governments to negotiate a meaningful reform of the international agreements on export credits.

H.R. 3228 has passed the Subcommittee on International Trade, Investment and Monetary Policy, which I chair, as well as the full House Banking Committee, by voice vote, with no expressed opposition. I am glad to report a substantial degree of enthusiasm on the House Banking Committee for legislation which would enhance our ability to negotiate an end to the very costly export credit war now upon us, and to equip Exim with the weapons needed to protect American exporters should these negotiations fail. With the House and Senate moving together toward this common goal, I think the Administration will sooner or later lend its support to our efforts. If the export credit negotiations now underway do not show substantial progress in the next few months, the House may well be prepared to move forward on this legislation, even without active Administration support.

Though the House and Senate bills, H.R. 3228 and S. 868, share a common objective, they differ somewhat in the methods by which they seek to achieve that common goal. I think it would be most useful for me to summarize the key provisions of H.R. 3228 which differ significantly from S. 868.

H.R. 3228 authorizes an appropriation of one billion dollars for a "Competitive Export Subsidy Fund" to be established and administered by the Export-Import Bank. This Fund could be used solely to make interest subsidy payments to private lenders so that they can reduce the rate of interest they charge on private export credit. In other words, none of this money would be used for Exim loans. It would all be used as direct payments to a private lender—an outright expenditure, never to be recovered. The export credit itself would have to be provided by the private capital markets. The Exim interest subsidy payment would simply permit those private lenders to earn a rate of return commensurate with the return they could obtain from alternative uses of that capital, while charging the foreign borrower a rate of interest fully competitive with credit offers from official foreign export credit agencies.

This approach has several advantages. Most importantly, it obtains quite a bit of leverage from the one billion dollars. If those funds were used for Exim direct loans, they would represent just one billion dollars in export credit. (For this one billion dollars to represent additional loans, above and beyond the amounts Exim would be permitted to lend under their regular programs, it would probably be necessary for the authorized limitation on Exim direct credit soon to be written into the Eximbank Act to be increased by a corresponding amount, as well as the annual limitation written into the Foreign Assistance Appropriations Act.)

Though one billion dollars is quite a tidy sum, it may nontheless be inadequate to the task at hand. If, on the other hand, the funds are used solely for interest subsidy payments to private lenders, they could, in principle, support a much larger volume of export credit. How much leverage could be obtained would depend, of course, on the degree of interest subsidy required to make U.S. private capital competitive with foreign subsidized export credit. We have done some rough and ready estimates which indicate that, under present market conditions, one billion dollars in private export credit—and all of it fully competitive with whatever the French government, or any other government, would be offering their own exporters. (These estimates assume that Exim is able to stretch that one billion dollars to support the maximum possible amount of private credit by making the subsidy payment in the form of one lump sum payment at the outset of the loan, calculated to equal the present value of the stream of payments it would make if the subsidy were paid out in regular installments over the life of the loan.)

This procedure does raise some problems of its own. It implicitly assumes that the private market will be prepared to provide fixed rate export credit for the necessary maturities. And it assumes that Exim will have sufficient guarantee authority, within the budget ceilings placed on its operations by the Foreign Assistance Appropriations Act, to guarantee a major portion of the private credit receiving these interest subsidy payments. I think there are various ways that Exim could satisfactorily deal with these problems, and I would certainly welcome suggestions or amendments to H.R. 3228 which would make it easier for Exim to employ these funds as effectively as possible.

Before turning to other provisions of H.R. 3228, I might note that, since the funds authorized by H.R. 3228 would be used as out-

right expenditures rather than as direct loans, they would not fall under the annual limitation on Exim direct credit set each year in the Foreign Assistance Appropriations Act, or in the Eximbank Act itself. They would represent an entirely new departure in Exim budgeting procedures. Technically speaking, Exim has never received an outright appropriation of funds for expenditures, and I can understand why the Bank may be somewhat reluctant to receive such appropriations. The Export-Import Bank has always prided itself on being a self-sustaining agency, by which it meant that it received no appropriations, and generally earned a profit. We should all recognize, however, that, no matter how efficiently Exim is managed, the international environment in which it must now operate effectively prohibits the Bank from making a profit while remaining fully competitive. It is up to the Congress to indicate the direction the Bank should take. We could instruct the Bank to remain competitive and accept persistent losses. It would be possible for Exim to operate that way, but it is not a very neat, nor, I fear, a politically sustainable solution. It would force Exim on the defensive, continually justifying its losses. Far better that Congress face this dilemma squarely and, if it judges the costs of keeping Exim competitive worth paying, it should pay those costs in the straightforward fashion that everyone understands, that is, by simply appropriating the money.

Now I would like to turn to some of the targeting, control and timing provisions of H.R. 3228. In my judgement, these funds should not be used to help each and every American exporter facing stiff foreign credit competition. These funds will be used, quite explicitly, for export subsidies. (We call attention to the subsidy element in the name of the Fund: the Competitive Export Subsidy Fund.) The cost of these subsidies is not trivial: if the U.S. government is going to lay out one billion dollars in subsidies, those funds should serve a very well defined purpose. That purpose should, I think, be to bring maximum pressure on those governments that stand in the way of our efforts to negotiate world-widc reductions in export credit subsidies. Therefore, H.R. 3228 directs that these funds be used only when: "the interest subsidy payments involved will assist United States exports which are competing with reports that are assisted by financing from those foreign governments, including the French Government, which are most reluctant to negotiate a meaningful reform of the Arrangement of Guidelines for Officially Supported Export Credits and other existing arrangements, standstills, minutes, and practices involving official export financing."

This provision is explicitly discriminatory. The funds could not be used to help American exporters competing against heavily subsidized foreign export credit granted by governments who, in judgement of the Administration, support our proposals in the export credit negotiations. This is unfortunate, but, I think, necessary. Matching all subsidized export credit all the time could be too costly. We need to keep our eye on the goal and establish clear priorities: the goal is to attain a meaningful reform of the international export credit agreements; the method is to target these additional Exim funds against the French, and against any other government equally intransigent.

The Competitive Export Subsidy Fund would be administered by the Board of Governors of the Export-Import Bank, but the Secretary of the Treasury would retain a veto over any use of the funds that, in his judgment, did not conform with the policy directives laid down in H.R. 3228, in particular the targeting provision mentioned above. This would be novel departure, since the Secretary of the Treasury now possesses no such authority over Exim operations. I do not think this would pose any difficulty, nor set any precedent. The Secretary's veto power would extend only over the use of this Fund, not over any other aspect of Exim operations. It would be highly unlikely that such a veto would ever be needed, or used. But it would be appropriate for the Treasury to have the power written into the law, because the Treasury has carried the primary responsibility for conducting these negotiations. As a practical matter, it must be the Secretary of the Treasury who carries the major responsibility for these negotiations simply because it is his counterparts, the finance ministers of our major competitors, who must finally be persuaded to accept the reform we want to achieve. If the Secretary of the Treasury has the ultimate responsibility for success or failure in these negotiations, he should have greater control over the use of one of the most potent weapons in our arsenal.

In addition, it is quite clear that the administration of this Fund will not be an easy task. It would require *explicit* discrimination—between U.S. exporters, according to the type of competition they face, and between foreign governments, according to whether they were supporting or opposing us in the export credit negotiations. It would, I think, be most appropriate for Exim's Board to share those specific, highly political decisions with the Secretary of the Treasury, the chief political officer of our government with the responsibility of conducting those negotiations.

Finally, let me review the timing provisions of H.R. 3228. We have amended it so that the Fund would not come into existence until October 1, 1982, that is, in fiscal 1983. The Secretary of the Treasury can delay its coming into existence by notifying the Congress that, in his judgement, "satisfactory progress" has been made in negotiating a reform of the international export credit agreements. If at some later date it appears that, despite satisfactory progress," a successful reform is not attainable, the Secretary can then trigger the Fund into existence by so notifying the Congress. Finally, the Fund will go out of existence if and when a satisfactory reform of the international agreements has been attained.

These timing devices serve several purposes. They make it clear that the Fund is to serve an explicit, narrowly defined purpose: to bring pressure to bear on certain foreign governments to conclude a satisfactory reform of export credit practices. It is not an open-ended, all-purpose Subsidy Fund. If such a reform is achieved prior to October 1, 1982, then the Fund is not needed, and we do not want it. Once such a reform is achieved, the Fund would no longer be needed, and we would no longer want it, even if substantial amounts of unspent money were left in the Fund. Thus, these timing controls give the Administration some discretion over the life as well as the use of the Fund—a discretion which it could use, within limits, to delay the budgetary costs of bringing the Fund into existence, insure that the outlays from the Fund serve a well-defined purpose, and insure that those costs would no longer be borne after that purpose was achieved.

Though there are some important differences in the structure of H.R. 3228 and S. 868, they both serve the same ultimate objective, and they will both, in my judgment, command a growing degree of support, within the Congress and without. I hope we never need to implement either approach, but if the ongoing export credit negotiations do not yield real, substantial results sometime this year, I expect we will be moving forward, within the House and Senate, to pass some version of these bills, or to merge them in a way that gives Exim, and our negotiators, the funds and the policy directives they will need.●

TIME TO BEGIN ANALYZING COST-BENEFIT ANALYSIS

(Mr. GAYDOS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GAYDOS. Mr. Speaker, with cost-benefit analysis rejected by the U.S. Supreme Court in matters of worker health, the new managers of the Occupational Safety and Health Administration have begun to speak of a substitute tool, cost effectiveness.

These concepts are closely related.

If they had human form, they would be within the degree of consanguinity that prohibits marriage; in most States, the relationship would be a felony.

Furthermore, cost-benefit analysis, as it applies to worker safety and health, is part of legislation that has been introduced to change what the Court has ruled was the intent of Congress—to make worker well-being the dominant consideration in safety and health.

And cost effectiveness is drawing more frequent mention in news coming out of the Occupational Safety and Health Administration.

So Congress may be dealing with one or both of these concepts in the months and weeks to come.

But these ideas have drawn very little public attention or discussion up to this point; they are largely unknowns as either would be applied to worker safety and health.

As chairman of the Subcommittee on Health and Safety, I suggest it is time to be analyzing the analyses—to begin thinking and discussing.

The United Steelworkers of America and Jack Sheehan, the legislative director and assistant to the President, have given a great deal of penetrating thought to the idea of cost-benefit analysis. With customary force of thought, the steelworkers have taken a very thorough look at the concept in a brief prepared for use in a pending matter.

I think these related issues are important enough to worker safety and health to warrant an unusual step.

Therefore, with the goal of priming the pump of public discussion, I offer the full brief prepared by the United

Steelworkers of America for the consideration of the Congress.

The brief reads as follows:

COST-BENEFIT ANALYSIS

I. INTRODUCTION

OSHA has announced that it ". . . will shortly be undertaking . . . a reevaluation and reconsideration of the occupational health standard regulating employee exposure to cotton dust," in part evaluating ". . . the feasibility and utility of relying on cost-benefit analysis in setting occupational health standards."

At the same time, OSHA has announced an intent to reexamine substantial portions of the existing standard regulating employee exposure to lead, indicating that "a cost-benefit analysis will be performed, in order to assess the practicality of relying on this approach in setting occupational health standards in the context of a specific regulation."

Both notices indicate that OSHA has not decided whether cost-benefit analysis is feasible or useful.

If OSHA actually employs formal cost-benefit analysis in aid of decisionmaking, it will be a radical departure from traditional OSHA rulemaking under one Democratic and two Republican administrations.

Until now, OSHA has consistently resisted the pressure from various sources to do formal cost-benefit analysis on safety and health standards. This is not to say that OSHA has been oblivious to costs and effects of its proposed standards.

OSHA has analyzed the effects produced on workers by the substance it plans to regulate and has projected (to the limited extent it or anyone else can) how many lives and how much human suffering would be saved by a new standard. By so doing, it can determine whether there is a substantial risk of harm as required by the Supreme Court in *Industrial Union Department* v. *American Petroleum Institute,* U.S. , 100 S. Ct. 2844 (1980). OSHA has considered the effectiveness of different proposals to eliminate exposure to particular toxic substances and analyzed, to the extent that it can, the cost of each alternative to the end that if two equally effective methods of eliminating exposure to the toxic substances exist, then the least costly of the two alternatives will be adopted, absent some overriding considerations to the contrary. OSHA has estimated the cost of its proposed method of eliminating exposure to toxic substances (to the extent such costs can be estimated) in order to determine whether the proposed standard is economically feasible—that is, whether or not it will cause "massive economic dislocation," *AFL-CIO* v. *Brennan,* 530 F. 2d 109, 123 (3rd Cir., 1975).

An examination of the practicalities of a proposed OSHA standard is commonplace. But the use of cost-benefit analysis adds an entirely new dimension. Cost-benefit analysis requires a detailed quantification of costs and benefits in the same economic units (usually dollars) and a weighing of the one against the other with the consequence that if the quantified benefits do not outweigh the quantified costs, then the regulation is not issued, and if the quantified benefits do outweigh the quantified costs, then the regulation is issued.

The cost-benefit concept is simple and appealing, but, like so many tempting ideas, its simplicity hides a variety of critical flaws. In this brief, the United Steelworkers of America (hereinafter sometimes "USWA," the "Union" or the "Steelworkers"[1] shall attempt to convince the Secretary that cost-benefit analysis is inappropriate for an agency designed to save lives, is an infeasible technique for OSHA's decisionmaking purposes, and that if the Agency persists in contemplating its use the Secretary should submit a plan for such use to the fullest advance public scrutiny and discussion. In essence, USWA argues as follows:[2]

1. Cost-benefit analysis is inappropriate as an OSHA decisionmaking tool for two reasons. First, the use of cost-benefit analysis, where human life and health are at risk, obliterates the moral values which should underlie the decisions the Secretary must make. Second, the use of cost-benefit analysis would be unfair to the relatively small number of employees who are exposed to toxic substances, for it compares the extreme disadvantages they must presently endure to possible minimal inconvenience of much larger numbers of other persons. These matters are discussed in Part II below.

2. Cost-benefit analysis of occupational health standards is such a primitive tool that it is infeasible for OSHA decisionmaking. Dollar values cannot feasibly be determined and assigned to human life and health. The true costs of compliance with occupational health standards cannot be determined with sufficient precision to be useful in cost-benefit analysis. Artificial economic devices are used to translate future benefits into current dollar terms so that such "present values" of benefits can be compared with costs of compliance. These devices depend upon assumptions which can be manipulated to achieve a predetermined result as a minor change in the assumptions drastically alters the result of the cost-benefit comparison. These matters are discussed in Part III below.

3. If OSHA persists with the idea of performing cost-benefit analysis despite the arguments outlined above, it should proceed with great caution. Utilization of cost-benefit analysis will launch OSHA into uncharted seas where many lives are at stake. Before performing a cost-benefit analysis, OSHA should publish its initial determination on the protocol it plans to use. It should then hold hearings before finally deciding what protocol to use. The Steelworkers offer some suggestions in Part IV on this Brief on items to be included in the protocol.

II. COST-BENEFIT ANALYSIS IS INAPPROPRIATE AS AN OSHA DECISIONMAKING TOOL

OSHA was created to protect the lives and health of American workers. As we set forth in Sections A and B below, cost-benefit analysis does not aid in that objective—rather it detracts from it. As a result, it is inappropriate as an OSHA decisionmaking tool.

A. The use of cost-benefit analysis where human life and health are at risk obliterates the moral values which should underlie decisions the Secretary must make.

Should the cost of saving a human life be weighed against the value of that life so that a decision can be made on whether the life is worth saving? To almost anyone outside of Government, the statement of the question carries with it an immediate negative response.

If a report were radioed in from an old man in a yacht at sea that he has run out of gas and is drifting further out to sea where he will eventually die, we would be horrified if the Coast Guard delayed launching a rescue operation until it had estimated the cost of the gas to power the rescue boat, the wages (including overtime) which would have to be paid to the rescuers, the future earning power or value of the man in the drifting boat to society, the statistical probability of finding the old man and a multitude of other cost and benefit factors. And, if Coast Guard officers refused to launch the rescue operation because the man had a short life expectancy and the value (in dollars) of his life was less than the cost of the rescue operation, the public pressure for discharge of the Coast Guard officers would more than likely be irresistible.

We view the rescue situation involving a known person instinctively and morally. Unfortunately, when dealing with unknown persons at risk, the typical Washington regulator is likely to close his mind to any consideration of moral issues, smugly telling himself that moral issues should be dealt with by religious groups—not by the Government.

Such a reaction reveals an ignorance of the moral foundation of our social legislation, including the Occupational Safety and Health Act.

The OSHA Act authorizes intervention by Government into employer-employee relations in order to raise the moral standards of the labor market. It is one of a series of such moral interventions by Government in the United States, each of which has been vigorously opposed by some shortsighted employers. The first of these interventions was the prohibition of slavery, and the list includes child labor laws, social security, fair labor standards, and pension reform.

Like each of these, the Occupational Safety and Health Act is a conscious effort by our society to regulate the conditions of labor in accordance with recognized ethical principles.

The Occupational Safety and Health Act was passed "to assure safe and healthful working conditions." In section 2, Congress declared "it to be its purpose . . . to assure so far as possible every working man and woman in the Nation safe and healthful working conditions . . . by authorizing the Secretary to set mandatory occupational safety and health standards." In the case of toxic substances, the Secretary is directed to set "the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity." Congress imposed a moral value in the marketplace: "Thou shalt not kill (for profit)."

The Secretary, in promulgating safety and health standards, must implement this congressionally imposed value. But the Secretary cannot do so with cost-benefit analysis.

The "science" of cost-benefit analysis is an effort to measure, in common units of measurement, the total costs and the total benefits which may be reasonably expected to result from a given action. To "rely" on

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[1] The USWA is an International Union consisting of approximately 1.2 million members employed in the steel, aluminum, mining, smelting, chemical and other industries. Accordingly, it has members exposed to virtually every toxic substance which OSHA may regulate. Because decisions made by OSHA in reconsidering the cotton dust standard may later be applied to other substances, USWA has a keen interest and will participate in those proceedings. USWA is particularly concerned with the lead standard because it has approximately 70,000 members with direct workplace exposure to lead.

[2] These arguments are directed to OSHA's discretion assuming the Supreme Court determines that OSHA has such discretion under the OSHA Act.

such analysis is to automatically reject the action if the units of cost exceed the units of benefit—and to take the action in the reverse case.

Although other units of measurement are conceptually possible, the proponents of cost-benefit analysis for health standards have uniformly used money values to make the comparisons. Under the usual system, dollars of "cost" reflect the material worth of the capital investment needed to achieve compliance, plus that of the ongoing operating expenses required. Similarly, the dollars of "benefit" reflect some material valuation of the worth of the lives which would be saved, and the illnesses avoided.

Under cost-benefit analysis, to kill or not to kill becomes a question of expense, not ethics. In a triumph of materialism over morals, the ancient commandment and the congressional purpose simply becomes inoperative at a certain level of cost. "Thou shalt not kill unless it is cheaper."

Instead of asking, "Is it economically and technologically feasible to save this life?", the decisionmaker who relies on cost-benefit analysis asks, "Is this life worth the cost of saving?" The decisionmaker who asks the first question assumes that the life is worth saving and examines the practicalities of doing so.

Cost-benefit analysis places a monetary value on human life thereby obliterating the moral purpose which led Congress to pass the OSHA Act.

B. The use of cost-benefit analysis is unfair to the relatively small number of employees who are exposed to toxic substances for it compares the extreme disadvantages they must presently endure to possible minimal inconvenience of much larger numbers of other persons.

Proponents of cost-benefit analysis imply that a simple summation of the set of numbers categorized as "costs," and a similar summation of the numbers identified as "benefits," leads to a numerical comparison which is meaningful to decisionmakers. Cost-benefit radicals go so far as to argue that an "inflationary" result will flow from setting a standard with dollars of "cost" exceeding the dollars of "benefits."[3]

Cost-benefit analysis was never conceived as a tool for such purposes. Its principal use is as a tool for making private and public investment decisions—where the investor receives the returns. If costs are paid and benefits obtained by the same individual, firm, set of taxpayers, or the like, there is some merit to the use of this tool.

This is not the case with occupational health standards. Costs are paid by large groups—stockholders, consumers and others who deal with the company. The benefits of a standard are enjoyed by another group—those who otherwise must endure the pain and suffering, death and disability caused by the toxic substance.

If costs could be accurately determined, benefits properly evaluated, numbers juggled impartially, and all biases overcome, this issue of fairness would still confront the decisionmakers.

[3] This school of theoreticians, through their spokesmen at the late Council on Wage and Price Stability, did not advocate the deflationary effect which presumably would flow from the reverse side of their theory. As a matter of fact, this group achieved a perfect public record of opposing every single OSHA standard it considered. Every proposal OSHA developed to relieve workers of occupational disease was measured by their yardstick and found wanting.

Cost-benefit analysis sheds no light on the equities of the present distribution, or proposed future distributions of costs and benefits. A recent report by the Subcommittee on Oversight and Investigations of the House Interstate and Foreign Commerce Committee (hereinafter "the Subcommittee") summarized this problem in the following language:

"The essence of the equity argument is that economists have no way of making value determinations when the costs and benefits accrue to different groups within the society. One of the ways that they attempt to avoid this problem is by assuming it away, i.e., they assume that the distribution of good and bad things within the society is equitable to begin with and therefore alterations in the distribution of income or in the distribution of the negative consequences which result from the failure to regulate have no particular value to society. However, ignoring equity considerations constitutes a value judgment. As Professor Guido Calabresi of Yale points out, 'the willingness of a poor man, confronting a tragic situation, to choose money rather than the tragically scarce resource [his health or safety] always represents an unquiet indictment of society's distribution of wealth.'"[4]

III. COST-BENEFIT ANALYSIS IS SUCH A PRIMITIVE TOOL THAT IT IS INFEASIBLE FOR OSHA DECISIONMAKING

In the preceding two parts, we have demonstrated that cost-benefit analysis is inappropriate for use by the decisionmaker on safety and health standards because it forces materialistic valuations on human life and health and because it unfairly pits the small costs of many against the great sacrifices of a few. We shall now assume, for argument's sake, that these problems do not exist and will turn our attention to a consideration of the technical feasibility and utility of using cost-benefit analysis.

The Congressional Subcommittee which published its Report on cost-benefit analysis referred to earlier (p. 10) held exhaustive public hearings after a two-year investigation of this and related matters. Drs. Murray Weidenbaum, James Miller, and other prominent advocates of cost-benefit analysis testified at length before the subcommittee. So did other witnesses who disagreed, in whole or in part, with them. Out of this welter of conflicting views the 17 Subcommittee members (with three exceptions) concluded that, ". . . cost-benefit analysis is in far too primitive a stage of development to be used as a definitive means of making regulatory decisions."[5]

The Union's further comments will amplify the following feasibility and utility arguments:

Dollar values cannot feasibly be determined and assigned to human life and health.

The true costs of compliance with occupational health standards cannot be determined with sufficient precision to be useful in cost-benefit analysis.

Discount rates, disease latency periods, and other variables distort values of costs and benefits, shape the analysis to predetermined results and, when honestly analyzed make it clear that cost-benefit analysis is of no value to the decisionmaker.

A. Dollar values cannot feasibly be determined and assigned to human life and health

Even if they were to overcome the moral problem of placing a value on human life, cost-benefit advocates face an insuperable technical one—that of assigning dollar values to the number of workers' lives which are lost, and to years of pain and suffering and possibly disability which are caused by occupational disease—not to mention placing a monetary value on the suffering borne by the families of these workers.

How Many Lives Will Be Saved?

It is one thing to conclude on the basis of scientific studies that a substantial number of employees are likely to die if exposure to a particular toxic substance continues. It is quite another matter to determine with the kind of precision necessary for cost-benefit comparison how many will die.[6]

To this uncertainty must be added the even greater one caused by the almost total lack of data on the number of workers whose health is impaired by any particular disease.

What Is a Life Worth?

The problems of determining numbers of workers whose death or serious illness will be prevented by a standard are minor, however, compared to the problems of assigning monetary values to the lives saved and health preserved.

The two valuation concepts discussed in the Report are the "Discounted Future Earnings"[7] and "Willingness to Pay"[8] techniques. Each is advocated by its supporters as a comprehensive calculation of the value of a human life. In fact, at best each could only calculate a part of the value of a life—the values of one or a few limited aspects of a life.

Under the "Discounted Future Earnings" method, an estimate is made of each future year's lost earnings. The estimate is then reduced by "discounting," a process which will be discussed later in Section C of this Part III. The estimates, after discounting, are then summed to arrive at a total value.

This method of valuation came into vogue in damage suit proceedings, to assess compensation for victims of negligence or the heirs of victims.[9]

[4] "Cost/Benefit Analysis-Wonder Tool or Mirage"? Report of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, December 1980. U.S. Government Printing Office (Hereinafter "the Report"), p. 27.

[5] The Report, letter of transmittal, p. III. On pages 5 and 6 the Report includes an excellent illustration of the conflict between moral judgments and monetary criteria, in a section which deals with the probability of Lincoln's Emancipation Proclamation having been issued if cost/benefit analysis had been relied on to make the decision.

[6] OSHA's best opportunity to do so occurred when it was deciding whether to reduce the level of permissible exposure to coke oven emissions. The excellent epidemiological studies available to OSHA there in much of the well-defined single industry to be regulated produced three sharply varying estimates of lives lost per year and no possible way of estimating the numbers whose health was impaired.

[7] The Report, p. 28.

[8] The Report, pp. 20, 21.

[9] Of course, the number of lives lost and the life expectancy of each individual at the time of death is known in such lawsuits. Even here, however, juries are permitted to increase damage awards to compensate for the intangible losses of the individual as parent and spouse. Finally, the money awards are made to compensate, however inadequately, for the loss of a life which has already occurred—unlike the cost-benefit model where the calculation is made to determine the life of someone now alive is worth saving.

The specific values which this scheme measures are the payments society would have made for the services of the individual in his or her role as worker. An economic purist would argue that such payments equal the marginal value of the lost output of product by the killed or disabled victim. No one would assert that they cover the value to society of the person's nonoccupational activities as spouse, parent, worshipper, citizen, neighbor, and the like.

This concept, of estimating the value of a human life by anticipated earnings, illustrates the general prejudice of any valuation scheme for the tangible over the intangible. By comparison to the role of wage-earner, the roles of citizen, worshipper, neighbor, parent, spouse and the like produce intangibles. Most observers would agree that these products may be more important to society than the products of wage-earning activity, but these are nonmarket goods and services, and their values are not quantified in monetary terms. Activity which does not earn wages is assigned a value of zero by the Discounted Future Earnings method, in spite of its obvious importance.

Personal valuations of life and health are considered in the "Willingness to Pay" model. It is based on the notion that by accepting hazardous jobs at higher pay rates workers establish their own market values for risk of death and injury. A comparison of pay rates and risk probabilities for different occupations should reveal workers' risk preferences, and the dollar values they themselves assign to those preferences, according to the "Willingness to Pay" idea.

This scheme is fatally flawed when it is applied to the real world, however, as the Subcommittee discovered. Workers in the real world do not, in fact, know the degree of risks they take by pursuing specific occupations. Nowhere is there published, for the benefit of job applicants, the mortality and morbidity rates of various occupations. Workers must proceed on rumor and guesswork, and their guesses are frequently wide of the mark. The Subcommittee concludes that most of the 100,000 workers who die of occupational diseases each year in the United States never know which toxic substances caused their deaths.

Even when workers do know the risks of their jobs, they are still constrained by the range of available jobs open to them, the Subcommittee found. If a worker who would trade 20 percent of his earnings to avoid the associated risk has no other choice but a job at one-half his present wages, he cannot effectively reveal his market valuation of risk preference.

A final point not mentioned by the Report is that, unfortunately for the advocates of this scheme, risky jobs frequently pay less than safe ones, in the real world. Differences of training, responsibility, bargaining power, and other factors may cancel out the "risk premium." No analyst can say that occupational differences in pay are exclusively attributable to any single factor, because it is impossible to demonstrate that all other factors by which pay is determined are equal as between the occupations considered.

These may be some of the reasons that the "Willingness to Pay" analysis yields such varied results. One researcher is known to have used an elaborate survey to conclude that the value of a human life is $28,000. Another analysis, based on the same methodology, reached the startlingly different figure of $5,000,000.[10]

Most cost-benefit analysts do not seem to have recognized that there are at least three distinct sets of values associated with each active human life. These might be characterized as the values of the life to society, the values to the person whose life is at risk and the values to the family and immediate circle of friends of the person.

Therefore, to begin the process of valuation, an analyst must answer the question—"Value To Whom?" Let us explore the question briefly.

First, society invests in the knowledge, skills and training of every worker. The values it receives in return are the productive work of the individual, plus various other services in the role of parent, parishioner, neighbor, citizen and taxpayer. A premature cessation of this work, or these services, would interrupt the flow of a stream of values to society.

Second, to the person at risk life has direct values. There is an instinctive preference for survival to which each individual consciously or subconsciously adds an estimate of the worth of anticipated future enjoyments, accomplishments, experiences, and the like.

Finally, few would disagree that the worker's life will be more valuable to his or her children than it is to society or even to the worker. Similarly, there are values to spouses which may transcend other values. Parents and other close relatives and friends place values on their continued associations with the persons at risk, which certainly should be considered in any calculus of the value of the lives of those persons.

The Discounted Future Earnings concept measures the value to society of an individual's future wage-earning activity. However, it ignores other values of a human life to society, to self, and to family. The Willingness to Pay model attempts to measure the value of one's life to oneself, but not the values to society or family. In general, neither these nor any other valuation scheme put forward so far adequately measures the intangible effects of non-market activities. For these reasons we must conclude that no comprehensive and accurate method now exists to measure the value of human lives.

How Can Health Benefits Be Measured?

Almost everything which has been said about the problem of valuation of human lives applies to the problems associated with valuing human health. The mental and emotional anguish endured by the family and friends of those hospitalized by lingering illness is enormous, yet it rates a zero in the computations of cost-benefit analysis because even those who play with such concepts have not figured a way to place a money value on such suffering. In addition to the valuation problems already discussed, however, there are two other aspects of illness which distinguish it from death in any thoughtful analysis of this kind.

The first of these two matters is the ongoing cost of health care for the ill person. From a cost-benefit standpoint, these costs, combined with disability compensation, could easily become greater than the monetary value assigned to life itself. The benefit of preventing illness could thus become monetarily greater than the benefit of saving lives.

The second major difference, mentioned earlier, has to do with determining numbers of persons affected by an occupational disease. In the case of death, epidemiological research obtains mortality statistics from actual investigation of coroners' records. There are no comparable record-keeping public agencies with respect to nonfatal disease. Most of the data in existence is the property of the employers affected by a proposed standard. To date they have not volunteered such data in connection with standard-setting procedures, or has OSHA subpoenaed such data.

Formal Cost-Benefit Analysis Simply Cannot Be Done

Cost-benefit analysis cannot compare apples to oranges. It can only compare dollar values of apples to dollar values of oranges. In other words, there must be common units of measurement of the items of cost and the items of benefit.

Yet we have seen from the foregoing that there is not an accurate method for valuing human lives or health, even if the number of saved lives and healthy persons which would result from a standard could be counted.

In his testimony before the Subcommittee, Dr. Weidenbaum avoided these problems by simply admitting that dollar values are inappropriate. "I would not presume to put a dollar sign on human life, on human suffering," he testified.[11]

There has been no serious suggestion of any other common unit of measurement, besides dollars, to use in cost-benefit analysis, either by Dr. Weidenbaum or any other witness. If the Secretary accepts Dr. Weidenbaum's view (as the Union does) that human life and suffering simply cannot be measured in dollars, then cost-benefit analysis cannot be performed, let alone relied upon.

B. The true costs of compliance with occupational safety and health standards cannot be determined with sufficient precision to be useful in cost-benefit analysis

What Are Costs?

Lives and health currently being lost are costs to the workers who risk an occupational disease, but these are not the costs considered by cost-benefit analysis. Costs are analyzed from the point of view of the employer, not the worker.

From this perspective costs are the prospective costs of complying with a standard. To determine these costs a technological method for reducing worker exposures to the standard must first be decided on, for each workplace where the toxic substance exists.

Second, the cost of any new equipment required by each such technology selected must be estimated. Third, additional operating costs for energy, labor, spare parts and supplies must be estimated.

None of these three steps is as simple as it may first seem. Some typical problems are explained in the Report.[12]

Regarding the compliance technology, analysts will usually assume the most expensive of the available alternatives. Industry representatives will find this in their own interest. Government analysts may tend to do so to avoid accusation of improperly shrinking the costs. Consulting firms hired

[10] These figures as well as an analysis of human life valuation models are included in Business War on the Law: An Analysis of the Benefits of Federal Health/Safety Enforcement, a report prepared by Ralph Nader's Corporate Accountability Research Group, 1979, pp. 40-48.

[11] The Report, p. 21.

[12] The Report, pp. 10-17.

by regulatory agencies will frequently do so to preserve their relationships with the industry in question, in order to obtain consulting contracts from the industry or firms in it.[13]

The prime example of this tendency is the vinyl chloride standard. Before the standard became effective the chemical and other affected industries estimated costs at $90 billion. Once the firms began to comply they used a totally different technique than the technique assumed earlier. Industry estimates of costs then dropped from $90 to $0.3 billion.[14]

The usual cost estimates rely on data in the possession of firms in the industry affected, which they in turn supply to analysts on a selective basis. Faced with alternative possible estimates of any cost item, it would be unusual if the cheaper were used. The Subcommittee found significant conflict between some employers' dire cost predictions to OSHA, for example, and their reports to stockholders on the same subject.[15]

How Can Compliance Costs Be Separated?

A major costing problem is to disentangle prospective costs of compliance with a new standard from all other costs. Suppose a particular technological change will put a firm in compliance with a prospective OSHA standard, and also an EPA standard which is currently being violated. How much of the cost should be attributed to each? What general criteria should be used to allocate such costs?

Suppose half the firms in an industry are already in compliance with a proposed standard, because of union bargaining, or employer compassion, or the need to attract workers. Should their past expenditures be included as compliance costs? What about their future expenditures? Will the cost-benefit analysis include, as part of the cost of a standard, expenditures which these employers presumably would have made anyway.

Consider the case of a proposed new standard which would reduce the level of toxic exposure permitted by an existing standard. If there are employers not in compliance with the existing standard, the accurate measure of cost of compliance with the new standard for them would be the difference between costs of compliance with each of the two standards. This difference may be very difficult to define, however.

Finally, there are technological changes which both reduce toxic substance exposures and improve product quality. How should costs be allocated in these cases?

How Much Will Costs Shrink?

The very fact that the costs being evaluated are usually prospective rather than based on extensive past experience creates a systemic upward bias, as witness Ashford pointed out to the Subcommittee.[16]

After a standard becomes effective, Ashford argued, costs normally begin to shrink in response to one or more of three influences:

(1) Economies of scale may lower the prices of equipment used to comply.

(2) A "learning curve" commences with respect to the most cost-effective means currently available for compliance.

(3) Technological innovation may occur, spurred by the focus of imagination and experience on cost-effective means of compliance.

[13] The Report, Letter of Transmittal, p. III.
[14] The Report, p. 12.
[15] Report, pp. 14, 15
[16] Report, p. 11.

Most experienced observers would agree with Dr. Ashford on the general tendencies he described, but neither he nor anyone else has attempted to quantify the probable cost shrinkage which might be expected. No general formula seems appropriate, in the light of the uniqueness of each technological situation.

The Costs in Such Analyses Are "Soft" Numbers

For all of the above reasons it is clear that whatever numbers the cost-benefit analyst finally uses as "costs" in a particular occupational health analysis are not firm, hard, material facts, as we usually consider costs to be. On the contrary, they are what might be thought of as "soft" numbers—in the sense that they are based on a great deal of selection among alternatives. Some of them are so soft, in fact, that they are useless to even indicate orders of magnitude—as in the vinyl chloride case.

If all the alternatives were laid out for public consideration and all the selections among alternatives were made by disinterested and knowledgeable experts, the resulting cost figures might be of some usefulness. Unfortunately, this is seldom the case. Many of the alternatives are concealed, or ignored. Most of the knowledgeable persons work for the firms to be regulated, or do business with such firms, so that conflicts of interest are inherent in the situation.

The result of all this is that cost figures simply cannot be accepted as precise, to the extent that a meaningful analysis can be done.

C. Discount rates and disease latency periods distort the relative values of costs and benefits, and shape the analysis to predetermined results

They Shall Not Pass

The story was told, during the struggle for civil rights, of the black college graduate who attempted to register to vote in a rural Mississippi county during the days of "literacy tests." After reading and interpreting several passages successfully the would-be voter was finally presented with a 19th Century legal scholar's abstruse analysis of an obscure, but learned and ambiguously-worded Supreme Court decision.

"What does this mean, boy?" demanded the voting registrar.

After careful study the applicant answered, "It means no black people are going to vote this year, in this County."

If we compare cost-benefit analysis to literacy tests, the function of the undecipherable passage is played, in cost-benefit analysis, by the use of a social discount rate.

Discounting Is Good Business

The idea of a social discount rate is based on the sound business principle that a dollar next year is not worth as much as a dollar today. This is true because today's dollar can be invested, and a year from now amount to a dollar plus interest.

For this reason no business person will knowingly invest a million dollars this year simply to get a return of one million dollars 20 years from now, so long as the alternative of putting the money in a savings account is available, because after 20 years in the savings account the investment is worth one million dollars plus compound interest, which will be considerable.

Cost-benefit analysts argue that, for the same reason, society should not pay one million dollars in cost this year to get the benefit of saving one life after 20 years, even if it is agreed that one life is worth one million dollars.

Reverse Interest, Compounded

To figure out how much future lives and health are worth now, the cost-benefit economic analysts use a social discount rate—a sort of reverse compound interest rate. There is no agreement among analysts as to the proper rate. A few years ago 6 percent would have been an acceptable rate to many of the economists who apply monetary rates to human life. Now, however, an argument could be made by the same economists for a rate as high as 20 percent, as they follow the upward spiral of interest costs in our economy.

Whatever rate is selected is used to reduce the value of future lives and health to a "present value."[1] The higher the discount rate, the lower the present value. Similarly, the farther into the future the lives and health are likely to be saved, the less the present value of saving them, under this scheme.

TABLE OF PRESENT VALUES OF $1,000 IN FUTURE BENEFITS

Intervening years	Discount rates (in percent)							
	6	8	10	12	14	16	18	20
2	$890	$857	$826	$797	$769	$743	$718	$694
4	792	735	683	636	592	552	516	482
6	705	630	564	507	456	410	370	335
8	627	540	467	404	351	305	266	233
10	558	463	386	322	270	227	191	162
12	497	397	319	257	208	168	137	112
14	442	340	263	205	160	125	99	78
16	394	292	218	163	123	93	71	54
18	350	250	180	130	95	69	51	38
20	312	215	149	104	73	51	37	26
22	278	184	123	83	56	38	26	18
24	247	158	102	66	43	28	19	13
26	220	135	84	53	33	21	14	9
28	196	116	69	42	26	16	10	6
30	174	99	57	33	20	12	7	4

The table above shows the declining present values of $1,000 worth of future benefits received after the number of years shown at the far left of each line, calculated at the discount rates shown above each column.

At the upper left we see that $1,000 of benefit to be received two years from now has a present value of about $890, if we use a 6% discount rate to calculate with. (All the dollar amounts are rounded off to whole numbers.) At the lower right we see that $1,000 of benefit to be received 30 years from now has a present value of only $4, if we use a 20% discount rate for our calculations.

The Results Are Startling

The use of this concept in valuing lives and health produces some startling results. If we use a 14 percent discount rate (the approximate current interest rate on 30-year United States government bonds) the Table tells us that each $1,000 of future benefit 20 years from now has a present value of only $73. Under cost-benefit analysis, if a million dollars is accepted as the value of a life, this would indicate no lives should be saved 20 years hence at present cost greater than $73,000 apiece.

[1] Mathematical Note.—The general formula for present value is: $PV = V/(1+r)^n$.
Where:
V = future value.
PV = present value.
r = discount rate.
n = number of years.
Thus, the present value of a million dollar life saved after 20 years could be calculated, at a 14% discount rate as follows: $PV = \$1{,}000{,}000/(1.14)^{20} = \$1{,}000{,}000/13.74 = \$72{,}762$.

Under this scheme, therefore, society should be willing to spend far less of today's income to save the lives of our children in future years than it would spend to save our lives now.

Is the value of future life and health less than present lives and health? Combat soldiers in our nation's wars obviously didn't think so. Neither have all the parents who sacrificed current enjoyments to better their children's lives.

As a matter of fact much human behavior is based on willingness to forego current satisfactions to gain future rewards of living. We do not treat our lives as we treat money, nor can we. Money can be invested, with predictable future returns. Lives are not "invested," in the same sense.

Since there must always be some money spent removing a toxic substance from the workplace environment before any lives are saved or health is improved, the effect of using a social discount rate is always to reduce the value of benefits compared to costs. Yet there is no basis in either law or custom for using a discount rate. Why should the business technique for valuing future monetary returns be used?

In truth, our society has not formulated any generally accepted standards for judging the relative worth of our lives or health at a future time, or our children's. Until such generally accepted standards come into existence cost-benefit analysts are not justified in using social discount rates.

The Results Are Easily Manipulated

The practice of using social discount rates is even worse than the theory. As mentioned earlier, during the past 6 years strong economic arguments could be put forward to justify any convenient discount rate from 6% to 20%. There is no single "correct" rate. Reputable experts could legitimately disagree by two to four percentage points at any given time, and by more than that if opinions are separated by a few months.

But, that's not all. There can also be substantial disputes over the time lag before benefits can be expected to begin. Before the benefits commence the following events must occur:

1. Toxic substance control equipment must be selected, perhaps manufactured, and delivered to the workplace.
2. The equipment must be installed and made to function properly.
3. All related work practices must be learned and implemented on a regular basis.
4. The latent period of the disease, from the time of a sufficient dose of exposure to a response of illness or death, must pass.

There can be substantially different estimates of timing of the first three items, but these differences are minor compared to the range of reputable opinions on latent periods of diseases.

The present state of medical knowledge of most occupational diseases does not allow precise answers to these questions. Quite wide differences of opinion may legitimately be held by honest and reputable health scientists.

The latent periods of many occupational diseases probably exceed 20 years for a majority of those afflicted. Other diseases, such as lead posioning, exhibit substantially increased responses after years of cumulative exposure. Thus the majority of the disputes are likely to occur in the higher ranges of years of time lag.

For example, suppose one analyst assumes a 12 percent social discount rate, and assumes a 16 year time lag before benefits begin. The Table indicates that on these assumptions each $1,000 of future benefits has a present value of $163. If, however, the analyst can be persuaded to assume a 2 percent higher discount rate and two more years of latent period (14 percent and 18 years) the benefit values shift downward by 42 percent—to only $95.

In virtually every case of 10 years' lag time or more, the combined effect of an additional 2 years' lag time and an additional 2 percentage points on the discount rate will generate a drop of 30 percent or more in present value of benefits. At the extreme case a shift from 28 to 30 years lag time and 18 percent to 20 percent discount rate would cut the present value of benfits by 60 percent.

As with the Southern voters' literacy tests, the analytical system is loaded with alternative decisions which can only be made on subjective grounds. Which competent medical opinion does the analyst choose to accept? Which prominent economist's forecast of interest rates is to be believed, Drastic changes in the results of the analysis will result from the answers to these questions. Yet, in each case, several possible answers may be equally valid, scientifically.

Under these circumstances, the results of social discounting inevitably tend to confirm the predilections of the analyst employed.

IV. IF OSHA PERSISTS WITH THE IDEA OF PERFORMING COST-BENEFIT ANALYSIS DESPITE THE ARGUMENTS OUTLINED ABOVE, OSHA SHOULD PROCEED CAUTIOUSLY. BEFORE ACTUALLY PERFORMING COST-BENEFIT ANALYSIS, OSHA SHOULD PUBLISH ITS INITIAL DETERMINATION ON THE PROTOCOL IT PROPOSES TO USE IN CONDUCTING THAT ANALYSIS AND HEARINGS SHOULD BE HELD BEFORE A FINAL DECISION IS MADE ON THE PROTOCOL. THE PROTOCOL SHOULD INCLUDE THE ITEMS DISCUSSED IN THIS PART

We have presented in Parts II and III above, the various reasons why we believe OSHA should not engage in cost-benefit analysis at all. Without in any way intending to undermine the validity of those arguments but rather because the Union fears that the pressures from within the administration to do cost-benefit analysis are so intense that OSHA will be required to do so, we offer a series of suggestions as to how OSHA should proceed.

OSHA should recognize the fact that it has never before done formal cost-benefit analysis. The actual utilization of cost-benefit analysis will launch OSHA into uncharted seas where mistakes can have an effect on the lives and health of many workers. Because of OSHA's lack of expertise in doing cost-benefit analysis and because of the high stakes involved, the USWA suggests that OSHA make a preliminary determination on the procedures which will be followed in developing the cost-benefit analysis, the resources that will be utilized in collecting the data as well as the restrictions, if any, placed on the use of that data. OSHA should announce what, if any, contractor it plans to use in this process. OSHA should make preliminary determinations now on what assumptions it believes are appropriate in connection with the conversion of the relevant data to a single unit of measurement.

OSHA should make a preliminary determination now on all of these items and many more (which we will, for convenience, refer to as the "protocol" for the cost-benefit analysis). OSHA should publish its preliminary determinations and should afford the affected parties and the public generally an opportunity through a hearing to voice their views on the strengths and weaknesses of the proposed protocol. Only after such hearings have been held should OSHA make, publish and implement its final decision on the protocol.

We shall now set forth a series of concepts which we urge OSHA to consider in developing the protocol:[17]

1. Conduct the cost-benefit analysis from the point of view of the affected workers rather than from the point of view of the employer.

In the past, all consideration of cost-benefit analysis has been focused on doing it from the perspective of the employer, not the worker. The Union urges OSHA to construct the cost-benefit analysis so that costs and benefits are analyzed from the point of view of the worker who is the beneficiary of the Occupational Safety and Health Act. Attached in Appendix 1 is a brief analysis of the difference in treatment of the factors involved in cost-benefit analysis when viewed from the perspective of the worker rather than the perspective of the employer.

2. OSHA should use its subpoena power to obtain the cost data it wants—not the carefully massaged information industry chooses to feed it.

Until now, OSHA has relied entirely on cost data supplied to it or its contractors by industry. Since it is industry which will be subject to any regulation which is issued, it is to industry's advantage to supply information which exaggerates the costs and to withhold information which minimizes it.[18]

OSHA should deal with this problem by issuing subpoenas requiring the production of very specifically described data. Section 8(b) of the Act vests the Secretary with the authority "in making his inspections and investigations under this Act" to "require the attendance and testimony of witnesses and the production of evidence under oath." An examination by the Secretary prior to proposed rulemaking for purposes of determining what kind of a standard to propose is an investigation; the term "investigation" must certainly include rulemaking proceedings themselves since to hold otherwise would be to grant OSHA subpoena power prior to rulemaking while denying it during rulemaking proceedings.

The failure of OSHA in the past to subpoena cost data was bad enough—but at least then the data was being used for more limited analytical purposes. In contrast, the use of cost data in a rigorous cost-benefit equation can make the difference between regulating and not regulating. Surely in such a context complete representative data must be used and the subpoena power is a necessary first step to obtain such data.

The same comments apply equally to data on morbidity. Company medical and other records frequently contain substantial amounts of data which is valuable to the rulemaker. This information should be sought out aggressively through subpoena—not forfeited by inaction.[19]

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[17] In the event OSHA decides not to publish a proposed protocol or hold hearings, we nevertheless urge OSHA to announce its protocol in advance of the performance of cost-benefit analysis and to publish such protocol. The protocol should include all of the items discussed here.

[18] OSHA's recent experience with the lead industry's request to stay the MRP removal triggers amply illustrates that employees will simply not submit to OSHA data that is harmful to their position. 46 FR 24559.

[19] In the event OSHA fails for whatever reason to use its subpoena power, it should at least make it

3. The data obtained for the cost-benefit analysis must be subject to scrutiny by OSHA and the public.

Once OSHA obtains data it must itself be in a position to evaluate that data. Equally as important, knowledgeable members of the public must be afforded an opportunity to evaluate it. Such has not been the case with previous standards especially the lead standard.

In the earlier proceedings involving the lead standard, for example, OSHA permitted its contractor to provide a pledge of confidentiality regarding the data which was supplied to it by various companies. Later it changed that policy. However, a very substantial portion of the data relied upon by the contractor was not subject to scrutiny because of the pledge of confidentiality. This meant that the employees and their representatives who were most concerned about both the effects of continued exposure to lead and about the significance of the cost to the various companies were unable to make an independent evaluation of the data supplied. Worse yet, OSHA was also unable to do so for the pledge of confidentiality permitted the contractor to keep the data from OSHA itself.

If the unions which are parties to the lead and cotton dust rulemaking proceedings had announced that they had cost data and that it should be the only data which the contractor relied upon and that the contractor should not reveal that data to OSHA or the companies, no one would take them seriously. Yet that is precisely the situation which exists today with the employers substituted for the Union. The employers are the only groups in possession of data. That data was supplied to the lead contractor on whatever selective, voluntary basis the employers chose. Neither the unions nor OSHA itself had access to that data in order to examine it and evaluate its worth.

OSHA has justified the pledge of confidentiality in the past on the basis that without such a pledge employers will not release the information. That excuse ignores its subpoena power under Section 8(b).

A cost-benefit analysis based upon whatever cost data employers choose to supply with no opportunity for scrutiny by the public or even by OSHA is not a government cost-benefit analysis but an employer cost-benefit analysis.

4. If an outside contractor is picked to perform the cost-benefit analysis, that contractor should be totally free of any potential conflict of interest.

Cost-benefit analyses have traditionally been done by outside consulting firms. The Subcommittee launched a massive investigation into conflict of interest problems associated with these consultants, who may also perform similar studies for firms or whole industries affected by such regulations. Thousands of documents were obtained by voluntary submission and subpoena, and five days of hearings were held.

This Subcommittee's investigation is not yet completed, but already it has found that ". . . the actual use of cost-benefit analyses is even worse in practice than in theory. . . . it appears that conflicts-of-interests on the part of private consultants who prepare these analyses for government agencies has resulted in biased and incomplete information being supplied to decision makers. . .".[20]

Strict rules should be promulgated which disqualify contractors who have performed work for a potentially affected industry or employer on any matter potentially related to the rulemaking from involvement in the government's cost-benefit analysis.

5. OSHA should set forth in the protocol how, if at all, it plans to deal with the various difficult issues regarding the determination of costs of compliance which are set forth in Part III above. In particular, the following questions should be addressed:

(a) Does OSHA intend to separate the costs of compliance with the new standard from costs of compliance with related government standards such as EPA standards? If so, how?

(b) Does OSHA intend to separate out the costs of compliance with a new standard on a particular subject from the costs of compliance with other OSHA standards on other substances where the methods necessary to comply with both overlap? If so, how?

(c) Does OSHA intend to separate out the costs of compliance with the new standard from the costs of compliance with the old standard where companies are not in compliance even with the old standard? If so, how?

(d) How, if at all, does OSHA intend to determine and subtract from the cost of the new standard costs which the employer would most likely have made anyway or the cost of new equipment or facilities which increase productivity in addition to decreasing exposure to the harmful toxic substance?

(e) If a proposed new standard will require the introduction of new technology, what assumptions will be made to reduce the cost estimates over the long run given the fact that costs normally shrink when the new technology is used more frequently and more efficiently?

6. OSHA should set forth in the protocol how it plans to quantify the "benefits" of the standard. Among other questions OSHA should announce in the protocol how it plans to deal with the following questions among others:

(a) How will OSHA determine the number of persons whose health will be impaired, when during their working lives, to what extent, with what degree of pain and with what amount of disability and at what points? How will similar questions regarding the offspring of workers' children be answered?

(b) How will OSHA determine the value to be placed on each human life? Will it use either of the methods discussed in Part III? If so, with what assumptions? How will OSHA quantify the elements of the value of a human life which these methods do not address?

(c) How will a value be placed on the human suffering which is endured by workers who lose health because of their workplace exposure to the toxic substance?

(d) How will productivity improvements associated with better worker health be measured?

7. The Discount rates and disease latency periods, inflationary rates and other key assumptions should be set forth now—not during the actual study. OSHA should specify in the protocol what justification exists for any social discount. The interest rate or rates assumed during the periods in question and why those particular figures were chosen should also be specified. These assumptions would drastically affect the cost-benefit balance. They should be set forth now—not when it is discovered how specific assumptions can skew the balance.

8. The protocol should specifically identify a series of items dealing with respirators which must be investigated.

In the past, OSHA has relied upon its expertise to reach general conclusions regarding the effectiveness of respirators. Recent pressures to find less expensive alternatives to engineering and administrative controls have tended to ignore the significance of the effectiveness issue while assuming that respirators are clearly less costly. If OSHA is to engage in formal cost-benefit analysis and if respirators are to be considered as an alternative to engineering and administrative controls, then a full cost-benefit analysis on respirators should be performed which examines both the effectiveness and costs of respirators as fully as these issues are addressed with respect to engineering and administrative controls. In Appendix 2 to this brief, we set forth in greater detail a series of issues regarding the effectiveness and costs of respirators which should be included in the protocol so as to insure that they will be examined thoroughly.

APPENDIX 1—THE PERSPECTIVE OF COST-BENEFIT ANALYSIS

Significant problems of cost-benefit analysis arise from the perspective normally selected. There are two possible perspectives from which an analysis can be done—that of the worker and that of industry. Significant differences result from the selection of the perspective.

From the workers' viewpoint, good health is the normal circumstance. The costs which need to be analyzed are the current deviations from this norm which include the illness and premature death resulting from industrial disease caused by workplace exposure to toxic substances.

Viewed from this standpoint the benefits to be analyzed are the higher profits of employer companies, and/or the lower prices of goods or services which are made possible by existing unhealthful working conditions. Research might reveal the aggregate value of such benefits and identify the beneficiaries.

Unfortunately, this is not the perspective from which cost-benefit analysis have been done in the past or are being pushed at present by government economists. To the contrary, they have uniformly adopted the point of view of the employers in each given situation.

From this perspective the existing workplace exposures and consequent incidence of occupational disease are taken as the norms. The costs which are analyzed are the expected costs to employers which would result from a regulation compelling change of the status quo. An effort may then be made to predict whether, and to what extent, these expected costs will be borne, ultimately, by consumers.

The benefits which are included in such analyses are the prospective reductions in number of deaths which the proposed standard may accomplish. Further, some consideration may be given to reduced morbidity, if any data exists to use in forecasting.

Adoption of the employer's perspective has more than semantic consequences. In essence, it raises a different set of questions, which must be answered by use of somewhat different information.

known to employers that their failure to supply complete cost data will result in unfavorable inferences being drawn respecting the reason for such failure.

[20] Report, p. 1.

From the workers' point of view the fundamental question would be, "Are existing conditions tolerable"?

The tolerability of existing conditions requires consideration of known facts of mortality, and facts about morbidity which may or may not be known. A cost-benefit analysis of the question would be at least, on one side, be dealing with empirical information.

When the point of view is reversed, the question of concern becomes:

"Shall the status quo be disturbed"?

Since all results of such a disturbance are prospective, there is no empirically provable fact on either side of a cost-benefit analysis. The analysis must by necessity be based on speculation.

The selection of the employers' perspective has led some analysts to the misconception that the cost of compliance with an occupational health standard is a tax on production, which must ultimately be paid by employers or consumers. A greater distortion of the true situation would be difficult to imagine.

Actually, the burden of industrial disease is a subsidy to production which diseased workers currently provide out of their scarce resources. The amount of that subsidy may be measured in terms of its cost to them in premature deaths, pain, suffering and lost earnings. It may be measured in terms of savings to their employers from not providing healthful working conditions. Whichever measure is selected for consideration, the character of the subsidy itself is unchanged.

By ignoring this subsidy which workers provide before regulations, and by mislabeling the effect of the regulations as a tax, opponents of regulation are able to depict new standards as "inflationary" when their true effect may simply be to shift costs from workers to employers. Or, the effect may be to substitute trivial cost increases to consumers for crushing burdens hitherto heaped on workers.

Finally, it should be noted that the Department of Labor and its Secretary are charged generally with the duty of protecting labor's interest, not industry's. In setting occupational health standards the Secretary is specifically instructed by Congress to ". . . set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity." (Section 6(b)(5)). What Congress obviously intended is that the Secretary will act from the point of view of the worker whose health is at risk.

A decision by the Secretary to rely on cost-benefit analysis, performed from industry's perspective, violates the Secretary's statutory responsibilities.

APPENDIX 2—ISSUES REGARDING THE EFFECTIVENESS AND COSTS OF RESPIRATORS

A primary purpose of the current regulatory reform program for OSHA seems to be to sanction the use of respirators instead of engineering controls under the assumption that respirators are "as effective as engineering controls."[21] A second underlying assumption of those advocating cost-benefit analysis for health standards is that the results will show that costs of engineering controls and, therefore, respirators are the preferred method of compliance in this cost-effective scheme of things.

As we show in A below, the first of these assumptions flies in the face of an overwhelming body of expert opinion and the assumption should not be accepted without a careful testing. The second assumption is not based on any detailed analysis of the true costs of respirators. In B below we suggest the elements for such an examination.

A. Respirator effectiveness

The concept that respirators can be "as effective as engineering controls" is a concept totally foreign to the science of industrial hygiene[22] regardless of whether the scientist represents industry, labor or government. Respirators are always regarded as a less effective option to be used only when engineering controls are not feasible or as an interim measure during the installation of the engineering controls. Indeed, during the hearings on the lead standard witnesses for industry, government and labor agreed that respirators have numerous limitations and should only be used as a "stop gap measure" (Tr. 5824) until engineering controls can be installed.[23]

In fact, one of this country's leading experts on respirators has written that:

"The philosophical basis of the use of personal protective devices has been that first preventive measures should be taken to keep contamination from entering the workplace and from contacting workers. This is to be done if at all possible through the use of good engineering control measures.

* * * * *

"The attempt to avoid the use of personal protective equipment in place of engineering controls is readily understandable for several reasons. First, the effectiveness of personal protective devices depends on the actions of many people; each and every user is responsible for knowing the limitations of the devices, using them properly, and in fact, using them at all. Engineering controls, on the other hand, can be installed and operated by a few 'experts'; they can be monitored and even can sound an alarm in the event of a failure so that workers can be removed from the area before an overexposure occurs. If a respirator fails and the air contaminant is not readily detectable by odor or one of the other senses, however, an overexposure will not be detected until after the fact, when it may be too late."

Held, Bruce "Personal Protection" in Patty's Industrial Hygiene and Toxicology, Vol. III, pp. 647, 648, (1979 Ed.)

Similar statements of this fundamental tenet of industrial hygiene can be found in virtually every textbook and reference manual and in the testimony of the respirator experts at past OSHA Standard setting hearings. For example, the Foundry Environmental Control Manual of the American Foundrymen's Society, published in 1972, states that the role of the industrial hygienist is to recommend appropriate control measures. These include local exhaust ventilation, use of less toxic substances, isolation of hazardous operations, good housekeeping and the use of wetting agents. Only where engineering controls cannot be used or are not sufficient alone to control exposure should respirators be used.[24]

This nearly universal expert opinion that respirators should be used only as a "stop gap" measure should not now be rejected unless rigorous testing supports such a re-evaluation. We are confident that the results of the following testing will demonstrate that respirators are even worse than the experts indicate:

1. Quantitative field studies of all types of respirators under consideration to determine how the protection factors in actual use relate to the predicted performance based on laboratory testing. There is currently a growing body of evidence that respirators in actual use are not even as protective as the minimum protection factors recommended by Los Alamos Scientific Laboratory and used by OSHA and NIOSH in the respirator selection tables.[25]

2. Selection of "model" plants where state-of-the-art technology has been installed to evaluate the effectiveness of the engineering controls in reducing exposures and reducing or eliminating the need for respirators. Both domestic and foreign experience must be considered.

3. Consideration of the fact that the NIOSH certification and testing procedures neither incorporate state-of-the-art testing methodology nor assure the marketing of reliable, effective respirators. This has been determined both by NIOSH and a panel of consultants and is evidenced, for example, by the disagreements among researchers as to the airflow level at which the breathing resistance imposed by a respirator should be measured and by the recent (post 1977) efforts by NIOSH to evaluate complaints about respirators and issue stop sale or other notices to users about respirator inadequacies.

B. Respirator costs

In evaluating the use of respirators under cost-benefit analysis, it is apparent that all of the uncertainties and speculations mentioned in this brief in determining accurate costs and benefits apply to respirators.

Beyond the obvious costs of purchase, maintenance and replacement of respirators and the development and enforcement of a complete respirator program, there are other very substantial costs associated with respirators that must be incorporated into any cost-benefit analysis. Examples of such costs include:

1. Productivity loss induced in part from the discomfort and impairment of vision and communication associated with the use of respirators. In the 1975 arsenic hearing, ASARCO estimated an annual production loss of $3.2 million for one plant.[26]

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[21] "A Shift Toward Protective Gear" Business Week, April 13, 1981, p. 56.

[22] "Industrial hygiene is the science of preventing occupational disease through proper control of the environment." Soule, Robert D., "Industrial Hygiene Engineering Controls" in Patty's *Industrial Hygiene and Toxicology*, Vol. I at p. 771 (1979 Ed.).

[23] Stewart, Tr. 2594-5; Varner (ASARCO) Tr. 6455, 6476; NIOSH Tr. 1313, 1561; Hull (Dynalite Battery) Tr. 1240-41; Williams (LIA) Tr. 1966; Coplan (Amax) Tr. 5812; also Tr. 5871, 5508.

[24] The widely used textbook Fundamentals of Industrial Hygiene (2d Ed.) published by the National Safety Council (1979) states that, "Control of health hazards by using respirators and other protective devices is usually considered secondary to the use of engineering control methods." at p. 614.

[25] See for example, Smith, T. J., et al., "Inhalation Exposure of Cadimium Workers: Effects of Respirator Usage," AIHA Journal 41:624 (September 1980); Harris, H. E., et al., "Respirator Usage and Effectiveness in Bituminous Coal Mining Operation," AIHA Journal 35:159 (1974); Revoir, W. H., "Respirators for Protection Against Cotton Dust," AIHA Journal 35:503 (August 1974); Moore, D. E. and Smith, T. J., "Measurement of Protection Factors of Chemical Cartridge, Half-Mask Respirators Under Working Conditions in a Copper Smelter," AIHA Journal 37:453 (August 1976) and Toney, C. R., et al., "Performance Evaluation of Respiratory Protective Equipment Used in Paint Spraying Operations," June 1976, NIOSH Pub. No. 76-177.

[26] ASARCO also stated that the initial cost of the various types of respirators and the associated

2. Adverse health effects due to respirator failure such as the deaths of the firefighters in March, 1979, in Lubbock, Texas, and the lead poisoning of construction workers dismantling lead painted steel. See Fischbein, A., "Lead Hazard Among Ironworkers Dismantling Lead-Painted Electrical Subway Line in New York City", N.Y. State Journal of Medicine, Vol. 78, No. 8, July 1978.

Stress or coronary problems are created or aggravated by respirator use. See the references in the paragraph below. In addition, many workers have expressed concern about this problem to Steelworker personnel during the course of training sessions on OSHA.

Other physiological or psychological responses occur in users. These include alterations in normal breathing, reduction in exhalation time and impairment in lung ventilation. See James R. H. "Breathing Resistance and Dead Space in Respiratory Protective Devices", October, 1976, NIOSH Pub. No. 77-161 and Raven, P. B., et al, "The Physiological Consequences of Wearing Industrial Respirators: A Review" AIHA Journal 40:517 (June 1979).

In fact, it is alarming that accepted medical protocol have not been developed and implemented indicating who can wear a respirator, the type of respirator and the length of time it can be worn. The recent ANSI 288.2-1980 "Practices for Respiratory Protection" is a first effort at devising a medical evaluation protocol. The areas to evaluate include pulmonary and cardio-vascular diseases, hypertension, anemia, diabetes, anatomical abnormalities, claustrophobia and anxiety.

3. The cost of alternate employment without loss of earnings for those employees who cannot wear respirators or who suffer impairment as a result of respirator use or in the alternative the cost to society, the individual, family and friends if the employee is fired. OSHA should request information on specific cases in this area from employers and unions.

NEED FOR IMMEDIATE ACTION TO OFFSET THE DISASTROUS IMPACT OF HIGH INTEREST RATES

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN of Idaho. Mr. Speaker, as ranking Republican of the Subcommittee on Domestic Monetary Policy of the Banking Committee, I want to share my very real concerns about the disastrous and uneven impact which high interest rates are having upon our Nation's economy.

These concerns are outlined in a letter to the President, which has been cosigned by many of my colleagues. After some preliminary contact, I am pleased to report that these ideas have been received favorably by high administration officials who hope to use them in early efforts to reduce interest rates.

These thoughts are more thoroughly presented in the supplemental views to the Banking Committee's semiannual report to the Congress on the conduct of monetary policy. I am pleased to note that several of my good friends and colleagues on the Banking Committee (NORM SHUMWAY of California, ED WEBER of Ohio, BILL LOWERY of California) joined me in signing these views.

I encourage all of my colleagues to read carefully these supplemental views and the general minority views which follow:

SUPPLEMENTAL VIEWS OF HON. GEORGE HANSEN, HON. NORMAN D. SHUMWAY, HON. ED WEBER, AND HON. BILL LOWERY

We offer these Supplemental Views to express our deep concern about the disastrous impact of high interest rates on our Nation's economy. The unfortunate result of these high rates is that they have an uneven effect upon certain sectors of our economy—agriculture, construction, housing, small business and the thrift industry—as Chairman Paul Volcker of the Federal Reserve Board acknowledged at our monetary policy oversight hearings.

The Minority Views—to which we fully subscribe—correctly state that the only long-term solution to lower interest rates is to curb inflation and to break the persistent psychology of inflation. We can do this only by enacting President Reagan's Program for Economic Recovery now. Under Secretary of the Treasury for Monetary Affairs Beryl W. Sprinkel highlighted this crucial point during the hearings when he stated: "... high interest rates are the cost which the economy now bears for repeated failure to fight inflation in the past." Continuing, he affirmed: "high interest rates are the rational reaction of credit markets to the unlegislated tax which inflation imposes on the lending of money."

It should be stated unequivocally that high interest rates are neither the policy of the Reagan Administration nor the result of the present policies which this Administration is implementing. The present Administration unfortunately has inherited the results of past policies, the cruelest of which is that unlegislated tax: inflation. Moreover, the spectres of the past—policies of fiscal irresponsibility, fast money growth and government intervention to allocate credit—are now recognized for what they truly are: discredited policies which favored special interests at the expense of both broken promises to the poor and unconscionable financial burdens heaped upon the majority of taxpayers.

Our Supplemental Views are offered to address two fundamental points. First, past failures of Federal Reserve to control the money supply have contributed to our inflationary problems and in part account for high interest rates today. Second, we believe that there are short-term measures which, if approached properly, can begin to build a base for long-term credibility and create an immediate psychology of hope that will inspire confidence and promote economic activity by producers and consumers alike.

FEDERAL RESERVE POLICIES OF THE PAST

While we appreciate the Federal Reserve's moves to slow money growth during the first half of 1981, a point discussed thoroughly in the Minority Views, we must also observe that in part our problems today are caused by the Federal Reserve's failure in the past to keep the lid on that bubbling caldron which we call the money supply. In recent years M1-B, the monetary aggregate to which many observers pay the most attention, has been wandering and rambling all over the place. Although the Federal Reserve may hit a particular target during any given quarter or two, more often than not it has failed to hit its targets during the past several years.

A witness at followup hearings before the Subcommittee on Domestic Monetary Policy cogently expressed the private sector's frustration with Federal Reserve policy in recent years. Leif H. Olsen, Chairman of Citibank's Economic Policy Committee, stated:

". . .*The marketplace, which has been conditioned by years of disappointment over the broken promises of monetary authorities,* is now dominated by short-run psychology. Interest rates are now divorced from levels of real economic activity, and when they climb they create enormous distortions and distress. . .

"Over the last ten years, people in the financial markets and businessmen generally have listened to speeches and testimony by public officials of both parties promising a reduction of inflation. *And those now in office have inherited a legacy of this syndrome of unfulfilled promises. As a result, the Federal Reserve has no credibility in the financial markets.*"

We believe that a majority of Americans share our concern about the Federal Reserve's credibility based upon its past performance.

This Committee repeatedly has urged the Federal Reserve to gradually lower its targets for monetary growth and, more importantly to achieve those targets. This policy prescription is important to reduce inflation and thereby lower interest rates. We wholeheartedly agree with Under Secretary Sprinkel when he testified: "The attack on inflation can be successful only if we stay the course of persistent slowing in the rate of money growth, with the ultimate goal of a permanent, steady, noninflationary rate of monetary expansion." If we can succeed with this policy, we will lower interest rates over time.

We strongly endorse the Administration's call for a "new commitment to a stable monetary policy" through the "phased deceleration of money supply growth" which Dr. Sprinkel outlined in his testimony. We are reminded that the Administration's proposal for a one percent annual reduction of M1-B beginning in 1981 and continuing through 1986 is not unlike the guidelines for "progressive deceleration of money growth" which this Committee endorsed in a bipartisan fashion in our first two monetary policy reports.

Let us recall what both Republicans and Democrats alike stated in previous reports:

"Roller coaster monetary policies do not work, whether they seek to cure inflation by a sharp rise in unemployment or to eliminate unemployment at the cost of sharply accelerated inflation."

"We are . . . disappointed that the Federal Reserve has failed to set longer term targets for progressive deceleration in monetary growth."

"Achievement of the . . . goals of the Humphrey-Hawkins Act would be promoted by steady deceleration in the average annual rate of monetary expansion over the next five years."

So the Committee's record is clear. In 1979 we endorsed the bipartisan principle of

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cleaning facility would be close to $1 million with an annual cost of $800,000 again for one plant. See Ex. 29(h) Statement of Larry W. Lindquist, Smelter Superintendent, ASARCO, Tacoma (April 14, 1975).

slowing M1-B growth by one percent per year, a principle which the Reagan Administration has adopted for the 1980s. As a reminder we reprint below the Committee's past recommendation for M1-B growth.

Recommended percent growth 4th quarter to 4th quarter M1 (adjusted)—1978-83 [1]

	Percent
1978	7.6
1979	6.0
1980	5.0
1981	4.0
1982	3.0
1983	3.0

[1] Assuming continuation of the present approximately 3 percent velocity growth trend.

It is time that the Federal Reserve learned that the gyrations of its roller coaster policies are creating chaos in the countryside for those sectors which are interest rate sensitive and thus particularly distressed. Consequently, we admonish the Federal Reserve to stick to its stated policy of reducing M1-B growth in 1981 and 1982 and beyond.

SHORT-TERM MEASURES TO LOWER INTEREST RATES

When Undersecretary Sprinkel appeared before our Committee, we began to explore with him possible short-term measures which we believe will get the long-awaited message to the American people that some overdue relief is on the way.

For example, we suggest that the Treasury allocate its financing across the spectrum of short, medium and long-term operations so as to limit not only the cost to the government but also to minimize the crowding-out effect on private sector borrowers. If interest rates decline, as most reputable economists anticipate, at least part of this extra cost can be recovered by the Treasury in future financing operations. Combined with a strong statement about the intent of this action, we believe two things would be accomplished. First, this action would emphasize the Administration's determination to defeat inflation, because it anticipates lower interest rates and thus lower borrowing costs that would flow from reduced inflation rates in the foreseeable future. Second, this step would take pressure off those parts of the credit markets which are especially important to the sectors of our economy which are particularly distressed and interest rate sensitive.

Moreover, additional stimuli with little or no Treasury outlay can be given for business and construction activity through selective advancement of commitment dates on obligations the government already is planning to undertake. For example, we are aware that some 50,000 to 60,000 Section 8 housing units which should be under construction are still in the pipeline, due to a delay in the issuance of certain regulations by the Department of Housing and Urban Development. If properly promoted, such activity would provide a clear signal to encourage private-sector action without any early drain on government resources.

We are confident that other measures to help bring interest rates down in the immediate future can be found. In our opinion, this can be done without resorting to any sleight-of-hand schemes, which smack of credit allocation, and without printing any more phony money to drive interest rates down in the short run.

CONCLUSION

The people of this country just want a fair shake and a chance to overcome high interest rates and business losses during this period of economic readjustment. The Reagan Administration offers a refreshing, new hope to lift the majority of Americans out of the economic excesses of the past by creating both employment and a more stable environment for economic opportunities.

We believe it is time to start thinking about the average person from middle America who pays the majority of taxes in this country and who suffers disproportionately as well as unfairly from high interest rates. It is time to save America—and the American dream of being able to afford to buy or build a home, of starting up a small business, or of remaining on the family farm. We can achieve this dream only by continued efforts to rollback inflation and by declaring war on high interest rates. In addition to the strategies we have mapped out above, our battle plan must be to enact the President's Program for Economic Recovery in its totality and as soon as possible.

MINORITY VIEWS ON MIDYEAR MONETARY POLICY REPORT TO CONGRESS

INTRODUCTION

The Federal Reserve's Midyear Monetary Report to Congress for 1981 comes at a critical time. Inflation remains unacceptably high, although evidently declining from its double-digit levels of the past several years. Resulting high interest rates and unemployment cause serious financial stress for both businesses and individuals. The achievement of balanced economic growth and full employment—the avowed purpose of the Humphrey-Hawkins Act—calls for unrelenting efforts to reduce inflation and associated high rates of interest.

In the Committee's Fifth Report on Monetary Policy of 1981, the Minority noted that one of the four essential pillars of President Reagan's Program for Economic Recovery is "a new commitment to a stable monetary policy." We are pleased that this commitment was embraced most recently by leaders of the major industrialized countries at the Ottawa Economic Summit. Canada, France, Great Britain, Japan, Italy and West Germany joined the United States in reaffirming this policy in their final communique: "We see low and stable monetary growth as essential to reducing inflation."

Many of the witnesses at our hearings concurred in the necessity of a stable, noninflationary growth of the money supply. But, Federal Reserve Board Chairman Paul Volcker perhaps said it best: "An effective program to restore price stability requires reducing growth in money and credit over time to rates consistent with the growth of output and employment at stable prices."

We conclude, therefore, that the present monetary policy of the Federal Reserve Board and the complementary fiscal and regulatory policies of the Reagan Administration represent the only coherent and intellectually persuasive set of policies for the abatement of inflation.

It is unfortunate that the Sixth Report of this Committee on monetary policy fails to come to grips with the basic issues at hand. While the Majority's report may address the special concerns of several Members, it fails to address the major questions of an appropriate monetary policy. Although we may differ on specific points, we are united on the fundamental policies stated in these Minority views.

HIGH INTEREST RATES: LEGACY OF PAST EXCESSES

While we share the Majority's concern about the consequences of high rates of interest, we differ as to their causes. It is our view that interest rates depend importantly on confidence that inflation will, in fact, be controlled, and the purchasing power of funds lent will be returned intact. This confidence has been eroded by repeated reversals of monetary policy and a proliferation of unnecessarily large budget deficits. The only way to lower interest rates, therefore, is to convince the financial community that the Federal Reserve and the Administration are determined to restore stability to the purchasing power of money through restraints on money growth and Federal spending.

Undeniably, these measures will cause some pain, but the pain will be far less than the pain that would come with returning to the old game plan of huge spending increases, tax increases through bracket creep, and fast money growth. That plan accelerated inflation from less than 6 percent in 1976 to more than 13 percent in 1980, and raised interest rates from 4.4 percent in December 1976 to 15.7 percent in December 1980. It helped reduce real GNP growth to virtually zero in 1979 and 1980 and left us with 7.4 percent unemployment at the end of 1980.

Those who complain about tight money causing high interest rates should remember that the Treasury bill rate's latest breathtaking increase was propelled by very rapid money growth in the second half of 1980, and that it fell in the first half of 1980, albeit moderately, as money growth slowed. We can reasonably expect further and substantial downward movement, provided we have the stamina to stay the course.

WHAT ARE THE ALTERNATIVES?

Several witnesses testified against the current policies of both the Federal Reserve and the Reagan Administration. Unfortunately, they suggest no new solution to the problem of inflation and high interest rates in their written statements. When questioned about their policy preferences, these witnesses offered the old, discredited nostrums of incomes policy and government allocation of credit. Such proposed quick fixes are tempting, but experience has taught that they do not work. Wage and price controls imposed by a Republican Administration failed to stop inflation as did credit controls imposed by a Democratic Administration. Both disrupted production, capital accumulation, and the efficient allocation of resources. After last year's experience, new calls for invoking the Credit Control Act of 1969 should fall on deaf ears.

The Majority in its report urges that interest rates be reduced by a policy of greater monetary ease although without suggesting specific growth rates—and after conceding elsewhere that financial markets in recent years have tended to interpret easier money and credit as signals of more inflation. In his testimony, Chairman Volcker succinctly addressed this point:

". . . Curbing inflation will require persistent restraint on the growth of money and credit. An attempt to escape from high interest rates and strains on financial markets and institutions by abandoning that restraint would be self-defeating. By encouraging expectations of more inflation, that approach would soon stimulate even more borrowing, further reduce incentives to save, and ultimately result in still higher interest rates and more economic difficulty . . . Indeed, sustained monetary restraint, by encouraging greater confidence

in the price outlook, will in time help bring interest rates lower."

Similarly, Beryl W. Sprinkel, Undersecretary of the Treasury for Monetary Affairs, offered these observations:

"The Federal Reserve cannot reduce interest rates with new regulations on credit markets or faster money growth. More money signals more inflation. Any dip in rates which might result from faster money growth would be temporary and rapidly dissipated. Interest rates would rise to an even higher level as lenders, now well-trained on and highly attuned to the effects of rapid money growth, would demand even higher rates of interest. The experience of the past two years indicates that this reaction would occur very quickly, as market interest rates rose almost simultaneously with each reported increase in the money supply. Since May of last year, reports of rapid increases in money growth have led almost immediately to higher long-term rates of interest, which are good indicators of the market's perceptions about future inflation."

The Majority also has expressed concern about continued large budget deficits. We welcome their conversion to fiscal responsibility. After recent skirmishes during the reconciliation process, we are surprised but pleased to see this change of heart. We fully expect our colleagues on the other side of the aisle to remember this new commitment.

MONETARY POLICY IN 1981

In recent years, annual money growth has accelerated to a rate that in great part explains rising rates of inflation. While inflation can have many causes, rapid growth in the money supply is certainly a major contributing factor. Conversely, controlling money growth must be a critical part of the effort to reduce inflation. As Chart 1 shows, (chart not reproduced) over extended periods, the rate of inflation tends to track the rate of increase in the money supply. Thus, accelerated money growth leads to higher rates of inflation, and also to higher interest rates.

We stated in the last monetary policy report to Congress that the Federal Reserve's target ranges for the growth of the money supply in 1981 were acceptable. We are encouraged by the fact that the Federal Reserve was well within its target range for the growth of M1-B—the most carefully watched measure of money, consisting of currency, plus demand deposits and other checkable deposits—during the first half of 1981. If we measure M1-B before adjusting for shifts into ATS and NOW accounts, we find that it grew at a seasonally adjusted compound annual rate of 6.9 percent in the first two quarters of this year or well below the midpoint of the Federal Reserve's target range of 6.0 to 8.5 percent and also well below the more than 13 percent per annum growth in the second half of 1980. If we measure M1-B *after* adjusting for these shifts, we note that this monetary aggregate during the first six months of 1981 grew at a seasonally adjusted compound annual rate of only 2.2 percent, significantly below the adjusted target range of 3.5 to 6.0 percent.

We should not be distressed—as the Majority clearly is in its report—at the low growth of M1-B adjusted, which was below the target range during the first half of this year. We do not believe that this will create the economic hardships the Majority's report envisions. While growth of M1-B adjusted was relatively slow, growth of the broader monetary aggregates was at or above the upper limits of their specified ranges. Commercial bank credit also grew near the upper limit of its range. We should not be misguided by the increased gap between growth rates of the narrow and broad aggregates which has occurred this year. As Chairman Volcker noted, high interest rates have intensified efforts to economize on holding transactions balances, contributing to slower growth of the narrow aggregates. At the same time, financial intermediaries have been able to use instruments bearing market-determined yields to compete with open market securities and thus dampening effects of high interest rates on the broader aggregates.

We endorse the recent slowing in the rate of M1-B growth, also, because the Federal Reserve did not hit its targeted growth range in 1980. We are hopeful that slower growth during the first half of 1981 is indicative of a long-term trend, which financial markets will consider when assessing future movements of interest rates. Furthermore, we are pleased that the Federal Open Market Committee targeted the growth of M1-B near the lower end of its range for the year as a whole. We urge the Federal Reserve to achieve this stated intention during the second half of 1981. To do so will lend credibility to the basic thrust of its stated policy—"to lower progressively effective money and credit growth to amounts consistent with price stability."

Furthermore, we must point out that the Majority has favored a deceleration of money supply growth ever since the Committee's first monetary policy report was issued in 1979. In that report, there was strong, bipartisan agreement that long-term, slower money growth was the accepted course to follow. Had the Federal Reserve achieved the Committee's preferences for slower money growth suggested in that first report, we would not have had the inflation and resulting high interest rates which haunt us today. In the current report of the Majority, we regretfully note that they have changed their views. They now find that present monetary policy is neither necessary nor justified. They take this position, however, without disclosing what they consider "prudent monetary restraint" to be.

MONETARY TARGETS FOR 1982

As part of the midyear report, the Federal Reserve announced its tentative target ranges for the monetary aggregates in 1982. We endorse the Federal Reserve's intention to target a single M1 figure in 1982, which will replace the present M1-B. Assuming that major shifts into NOW accounts will be completed by year end, the move to a single M1 figure should help to eliminate current confusion surrounding the M1 aggregates.

More importantly, we concur with the Federal Reserve's proposal for an M1 range of 2.5 to 5.5 percent for 1982. We believe that this target range for M1, should provide the necessary restraint without being recessionary. Slower monetary growth will reduce both inflation and interest rates as time passes.

Chairman Volcker's report indicated that the broader aggregates for M2 and M3 were left unchanged at 6 to 9 percent and 6.5 to 9.5 percent, respectively, in 1982. This is an acceptable range considering the structural changes within the monetary aggregates, if actual growth for these two measures is closer to the midpoint in 1982 than it is currently.

IMPROVING MONETARY CONTROL

In past reports of this Committee, Majority and Minority Members alike have encouraged the Federal Reserve to explore ways to improve its operating procedures. We have urged collectively that the Federal Reserve discontinue its policy of lagged reserve accounting in favor of returning to the contemporaneous reserve assessment procedure, which was used before 1968. We also have urged in the past that the Federal Reserve's discount rate reflect current market rates more explicitly.

The Federal Reserve, however, has yet to respond to these suggested changes. It is unfortunate that because of the wide range of issues discussed during the hearings, adequate attention was not paid to these proposals. We, therefore, urge the Subcommittee on Domestic Monetary Policy to schedule hearings at the earliest possible time to discuss the benefits and the costs of the various suggestions for improving the Federal Reserve's operating procedures.

CONCLUSION

If they accomplished anything, these hearings have served to highlight the contrasting approaches of the Committee's constituent parties in assessing monetary policy and the problem of inflation. We, the Minority, believe in learning from mistaken policies of the past and drawing the necessary consequences for present policy, unpalatable though they may be. We believe in a commitment to a steady course of action to reduce uncertainty, restore the credibility of government, and stabilize capital markets. We favor reliance on competitive market forces to the maximum extent possible. Finally, we believe in the need for a coherent anti-inflation program for the longer term that joins monetary and fiscal restraint with appropriate incentives for savers and adequate rewards for those who risk their investment in productive enterprise.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RATCHFORD) to revise and extend their remarks and include extraneous material:)

Mr. SYNAR, for 30 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. CROCKETT, for 10 minutes, today.

Mr. ZABLOCKI, for 15 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. LAFALCE, for 30 minutes, today.

Mr. UDALL, for 15 minutes, today.

Mr. NEAL, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GAYDOS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CON-

GRESSIONAL RECORD and is estimated by the Public Printer to cost $3,244.80.

Mr. HEFTEL, prior to Mr. BOLLING, on H.R. 4331, in the House today.

Mr. SNYDER, during debate on title XVI, maritime and related programs, of the conference report on H.R. 3982, Omnibus Budget Reconciliation Act of 1981.

Mr. GONZALEZ, immediately following the remarks of Mr. ST GERMAIN, concerning banking, housing, and related programs provisions of the conference report on H.R. 3982. Omnibus Budget Reconciliation Act of 1981.

Mr. RAHALL, prior to passage of the conference report on H.R. 3982, Omnibus Budget Reconciliation Act of 1981.

Mr. GOLDWATER, to insert remarks during debate on conference report on H.R. 3982 immediately after remarks of Mr. WINN.

Mr. FOLEY, to insert statement immediately prior to vote on adoption of conference report on omnibus reconciliation bill.

Mr. HANSEN of Idaho, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,440.

(The following Members (at the request of Mr. WEBER of Ohio) and to include extraneous material:)

Mr. SOLOMON.
Mr. DICKINSON.
Mr. LENT.
Mr. LEE.
Mr. GRISHAM.
Mr. GREEN.
Mr. DERWINSKI in four instances.
Mr. RITTER.
Mr. DUNCAN.
Mr. MARTIN of New York in two instances.
Mr. HANSEN of Idaho in two instances.
Mr. CORCORAN in seven instances.
Mr. MCCLOSKEY in two instances.
Mr. PRITCHARD.
Mr. KEMP.
Mr. ERLENBORN.
Mr. SMITH of Oregon.

(The following Members (at the request of Mr. RATCHFORD) and to include extraneous matter:)

Mr. PATTERSON.
Mr. HOYER in two instances.
Mr. D'AMOURS.
Mr. GAYDOS in three instances.
Ms. FERRARO.
Mr. ALEXANDER.
Mr. FORD of Michigan.
Mr. WON PAT in two instances.
Mr. SANTINI.
Mr. MCHUGH.
Mr. HAWKINS.
Mr. MOFFETT.
Mr. NEAL.
Mr. O'NEILL.
Mr. SOLARZ.
Mr. WAXMAN.
Mr. FLORIO.
Mr. DOWNEY.
Mr. DE LA GARZA.
Mr. SCHEUER.
Mr. LUKEN.
Mr. ST GERMAIN.
Mr. MILLER of California.
Mr. PICKLE.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 102. Joint resolution to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 33 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 4, 1981, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1934. A letter from the U.S. Trade Representative, Executive Office of the President, transmitting a report covering the 6 months ended June 30, 1981, of reviews and hearings arising from complaints of unfair trade practices by foreign governments, pursuant to section 306 of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

1935. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide that certain benefits to which employees of the United States stationed in Alaska, Hawaii, Puerto Rico, or a territory or possession of the United States are entitled may be terminated under certain conditions; jointly, to the Committees on Government Operations and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. Report on monetary policy for 1981 (Rept. No. 97-213). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on DOD's failure to recover nonrecurring research, development, and production costs on foreign military sales. (Rept. No. 97-214). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DICKINSON (for himself, Mr. STANGELAND, Mrs. HOLT, Mr. WHITEHURST, Mr. FORSYTHE, Mr. BETHUNE, Mr. BAFALIS, Mr. CORCORAN, Mr. JOHNSTON, Mr. MCCLORY, and Mr. LOEFFLER):

H.R. 4351. A bill to amend the Federal Election Campaign Act with respect to contributions and expenditures by national banks, corporations, and labor unions; to the Committee on House Administration.

By Mr. EVANS of Georgia:

H.R. 4352. A bill to amend the Controlled Substances Act to revise the penalties for the distribution of marihuana in violation of that act, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. EVANS of Georgia (for himself and Mr. BUTLER):

H.R. 4353. A bill to amend the act entitled "An act to establish a uniform Law on the Subject of Bankruptcies, approved November 6, 1978; to the Committee on the Judiciary.

By Mr. FIELDS (for himself, Mr. ARCHER, Mr. WILSON, Mr. PICKLE, Mr. HANCE, Mr. WHITE, Mr. COLLINS of Texas, Mr. SAM B. HALL, Jr., Mr. LEATH of Texas, Mr. LOEFFLER, Mr. HIGHTOWER, and Mr. STENHOLM):

H.R. 4354. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the X project for flood control and recreation in the Upper White Oak Bayou area, Texas; to the Committee on Public Works and Transportation.

By Mr. GARCIA:

H.R. 4355. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on certain reparation payments received by individuals persecuted under the German National Socialist regime; to the Committee on Ways and Means.

By Mr. GOLDWATER:

H.R. 4356. A bill to amend the Internal Revenue Code of 1954 to insure periodic payments for damages received on account of personal injuries or sickness, and for other purposes; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.R. 4357. A bill to vest in the Secretary of the Treasury all functions relating to the examination and supervision of federally insured banks; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4358. A bill to repeal the Federal Reserve Act and transfer the functions formerly carried out under the act to the Department of the Treasury; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HERTEL:

H.R. 4359. A bill to provide for actions for declaratory and equitable relief for protection of the air, water, and other natural resources of public lands, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 4360. A bill to reduce financing cost to cities, counties, and States by amending section 5135 of the Revised Statutes to permit national banks to underwrite and deal in revenue bonds issued by State and local governments, and for other purposes;

to the Committee on Banking, Finance and Urban Affairs.

By Mr. ST GERMAIN (for himself, Mr. STANTON of Ohio and Mr. WYLIE):

H.R. 4361. A bill to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SAWYER (for himself, Mr. MCCLORY, Mr. TRIBLE, Mr. FISH, Mr. SAM B. HALL, JR., Mr. BUTLER, Mr. MOORHEAD, Mr. SENSENBRENNER, Ms. FIEDLER, AND Mr. SHAW):

H.R. 4362. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 4363. A bill to provide water to the Papago Tribe of Arizona and its members, to settle tribal and individual water rights claim in portions of the Papago Reservations, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4364. A bill to declare that the United States holds in trust for the Pascua Yaqui of Arizona certain land in Pima County, Ariz., to the Committee on Interior and Insular Affairs.

H.R. 4365. A bill to provide that per capita payments to Indians may be made by tribal governments, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WATKINS (for himself, Mr. STUMP, and Mr. OTTINGER):

H.R. 4366. A bill to establish a National Water Utilities Bank to insure the availability of financing to water utilities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WHITE:

H.R. 4367. A bill to amend title 10, United States Code, to increase the number of Assistant Secretaries in the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. BONIOR of Michigan:

H. Con. Res. 168. Concurrent resolution expressing the sense of the Congress that there should be established in Greece a permanent site for the summer Olympic Games; to the Committee on Foreign Affairs.

By Mr. WILLIAMS of Ohio (for himself and Mr. ATKINSON):

H. Con. Res. 169. Concurrent resolution expressing the sense of the Congress that a tax should be imposed on all goods imported into the United States and that the proceeds of such tax should be deposited in the Federal Old-Age and Survivors Insurance Trust Fund; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HORTON:

H.R. 4368. A bill for the relief of Alberto Mayorga; to the Committee on the Judiciary.

H.R. 4369. A bill for the relief of Alberto Mayorga, Jr.; to the Committee on the Judiciary.

H.R. 4370. A bill for the relief of Maria Mayorga; to the Committee on the Judiciary.

By Mr. HUGHES:

H.R. 4371. A bill for the relief of Mrs. Juana Garcia de Lumpuy and her children, Frank Lumpuy and Linelsa Lumpuy; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. ARCHER, Mr. BADHAM, Mr. BEARD, Mr. EDWARDS of Alabama, Mr. EDWARDS of Oklahoma, Mr. FORSYTHE, Mr. FRENZEL, Mr. GOODLING, Mr. HIGHTOWER, Mr. JOHNSTON, Mr. LOEFFLER, Mr. MCCLOSKEY, Mr. PARRIS, Mr. SHAW, Mr. STENHOLM, Mr. WHITEHURST, and Mr. WOLF.

H.R. 27: Ms. OAKAR.

H.R. 116: Mr. MCCOLLUM, Mr. KAZEN, and Mr. LOEFFLER.

H.R. 1325: Mr. BADHAM.

H.R. 2014: Mr. FORSYTHE, Mr. FAZIO, and Mr. SUNIA.

H.R. 2876: Mr. BLILEY.

H.R. 2881: Mr. NEAL.

H.R. 3269: Mr. MILLER of California, Mr. LEWIS, Mr. EVANS of Iowa, Mr. VOLKMER, and Mr. CHAPPIE.

H.R. 3393: Mr. PATTERSON.

H.R. 3397: Mr. LEHMAN.

H.R. 3722: Mr. DANIEL B. CRANE, Mr. CRAIG, Mr. RAHALL, Mr. SHELBY, Mr. NICHOLS, Mr. EVANS of Iowa, Mr. LUJAN, Mr. CHAPPELL, Mr. HALL of Ohio, Mr. DREIER, Mr. SAWYER, Mr. KAZEN, Mr. MATTOX, Mr. SOLOMON, and Mr. PASHAYAN.

H.R. 3882: Mr. TAUKE, Mr. SAWYER, Mr. GINGRICH, Mr. TRIBLE, Mr. SWIFT, and Mr. COLEMAN.

H.R. 3883: Mr. IRELAND.

H.R. 3910: Mr. ALBOSTA, Mr. BEILENSON, Mr. EDGAR, Mr. FISH, Mr. GREEN, Mr. MOAKLEY, Mr. MURPHY, Mr. PRITCHARD, Mr. WEISS, Mr. BEDELL, Mr. STUDDS, and Mr. FAZIO.

H.R. 3927: Mr. LENT, Mr. COELHO, and Mr. GINGRICH.

H.R. 3998: Mr. WEBER of Minnesota, Mr. SHAMANSKY, Mrs. ROUKEMA, Mr. CORCORAN, Mr. MURPHY, Mr. BRODHEAD, Mr. WYDEN, Mr. SCHEUER, Mr. KILDEE, Mr. BEILENSON, Mr. PORTER, Mr. SAWYER, Mr. SHUMWAY, Mr. FAUNTROY, Mr. D'AMOURS, and Mr. GEJDENSON.

H.R. 4009: Mr. SMITH of Iowa.

H.R. 4084: Mr. GUNDERSON.

H.R. 4108: Mr. CLAUSEN, Mr. CHAPPIE, Mrs. COLLINS of Illinois, Mr. HYDE, Mr. HORTON, Mr. DYSON, Mr. BAFALIS, Mr. COURTER, Mr. DYMALLY, Mr. SUNIA, Mr. NAPIER, and Mr. LIVINGSTON.

H.R. 4157: Mr. VENTO, Mr. WEAVER, Mr. MITCHELL of Maryland, Mr. MURPHY, Mr. OTTINGER, and Mr. DWYER.

H.R. 4212: Mr. CORRADA, Mr. ENGLISH, Mr. NELSON, and Mr. DWYER.

H.R. 4328: Mr. MARRIOTT and Mr. RAHALL.

H.J. Res. 260: Mr. LEVITAS and Mr. HANSEN of Utah.

H.J. Res. 293: Mr. WOLPE, Mr. OBERSTAR, Mr. PORTER, Mrs. SCHNEIDER, Mr. COELHO, Mr. SUNIA, Mr. EDGAR, Mr. FISH, and Mr. WHITTAKER.

H. Con. Res. 112: Mr. FISH.

H. Con. Res. 157: Mr. CARNEY, Mr. DOUGHERTY, Mr. FRENZEL, Mr. LANTOS, Mr. LUNGREN, and Mr. YATRON.

H. Res. 192: Mr. RAHALL.

H. Res. 197: Mr. NICHOLS, Mr. GREEN, Mr. EMERY, Mr. MITCHELL of New York, Mr. HORTON, Mr. FISH, Mr. HOLLENBECK, Mrs. SNOWE, Mr. DENARDIS, Mr. PURSELL, Mr. RINALDO, Mrs. HECKLER, Mr. SMITH of New Jersey, Mrs. SCHNEIDER, Mr. LEVITAS, Mr. BOLAND, Mr. DICKS, Mr. KAZEN, Mr. JOHN L. BURTON, Mr. WAXMAN, Mr. WHITEHURST, Mr. YATES, Mr. STUDDS, Mr. FROST, Mr. ROSENTHAL, Mr. GUARINI, Mr. DORGAN of North Dakota, Mr. MOAKLEY, Mr. OBEY, Mr. PHILLIP BURTON, Mr. BIAGGI, Mr. BONKER, Mr. LAFALCE, Mr. ATKINSON, Mr. DAVIS, Mr. APPLEGATE, Mr. DYSON, Mr. LANTOS, Mr. NELLIGAN, and Mr. MOTTL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4169

By Mr. ASHBROOK:

—Page 17, line 22, strike out the period and insert in lieu thereof the following: ": *Provided*, That none of the funds appropriated by this title may be used to require, request, or recommend, in connection with any cause of action that is or may be brought for a violation of the Fair Housing Act of 1968, that a State or a unit of local government make available, or permit to be made available, housing with respect to which Federal financial assistance is provided under the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, or title V of the Housing Act of 1949.".

By Mr. MOTTL:

—Page 17, line 22, strike out the period and insert in lieu thereof the following: ": *Provided*, That none of the funds appropriated by this title may be used to require, request, or recommend, in connection with any cause of action that is or may be brought for a violation of the Fair Housing Act of 1968, that a State or a unit of local government make available, or permit to be made available, housing with respect to which Federal financial assistance is provided under the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, or title V of the Housing Act of 1949.".

SENATE—*Friday, July 31, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Father God, who *setteth the solitary in families*—Psalms 68: 6—we pray for our families who are often the casualties of the demands of public life. We pray for wives who must often suspend plans indefinitely and simply wait for a word from busy husbands. Help them, when despite their willingness to accept the situation, they experience disappointment and resentment. We pray for children who are unable to understand a father's frequent absence, who have not learned to appreciate the significance of his position, do not think of him as an important leader but simply as an absent parent, feel neglected and sometimes rebellious.

Grant to the good and faithful men and women who work here sensitivity to their loved ones and wisdom and grace to fulfill their private obligations as well as their public duties.

For Jesus' sake. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I might say that today perhaps will be a busy day. I expect that at some point during the day when it is convenient to Senators, I shall ask the Senate to go into executive session to consider the nomination of Rex Lee, to be Solicitor General, on which a rollcall vote has already been ordered.

Mr. President, in addition to that, I expect that at some point today, most likely very soon—not at this moment, however—pursuant to the unanimous-consent order granted on last evening, I will ask the Chair to lay before the Senate the message from the House on the tax bill for the purpose of appointing conferees.

In addition to that, Mr. President, I expect that sometime today we will receive a message from the House in respect to the reconciliation conference report. It will be the intention of the leadership to wait until that is done and to dispose of that issue today.

Mr. President, in respect to the further activities of the Senate today or tomorrow, or Monday or Tuesday, I hope to be able to make a further announcement as soon as certain meetings are held with Senators and with Members of the other body, particularly Chairman ROSTENKOWSKI, relating to the time for the conference on the tax bill and the schedule for its probable disposition.

I assure all Senators, most especially my friend, the minority leader, that I will make a final statement on that subject just as soon as possible. That will be immediately after I am given certain information by the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, and the chairman of the Senate Finance Committee (Mr. DOLE).

Mr. ROBERT C. BYRD. Mr. President, I appreciate what the distinguished majority leader has said. I am sure that everyone on this side of the aisle appreciates whatever information the majority leader can give us so that Members on this side can plan their schedules over the weekend and for the early part of next week.

Mr. BAKER. Mr. President, I thank the distinguished minority leader.

I yield to the distinguished chairman of the Senate Finance Committee.

CONFERENCE ON TAX LEGISLATION

Mr. DOLE. Mr. President, we could complete our work in the conference on the tax bill today. I am now advised that those who have the awesome responsibility for drafting that legislation could perhaps finish their work tomorrow, which, under some circumstances, might permit the Senate to finish work on the conference very soon, depending upon the will of the Senate and some Members who may want to examine some of the provisions when it comes back.

I am very optimistic. It would seem to me that we have gone over this, the House-passed version and the Senate-passed version, and I would say that 90 percent of these provisions are identical. There are a number of good provisions that we adopted in the Senate that we want to preserve, but I would hope that if we could start by midafternoon we could complete work on the conference.

I understand the chairman of the House Ways and Means Committee wants to do it very quickly. He will be back in the city within a couple of hours. Then he will call a meeting of myself, the distinguished Senator from Louisiana, Congressman CONABLE, and Secretary Regan. We will go from there to conference.

So there is a good chance, if we can work out some of the problems, which I do not believe will cause much difficulty, we might be able to accommodate many Senators who are calling me, calling the majority leader and the minority leader, and, I assume, Senator LONG, regarding when we can finish.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. I yield the remainder of my time to the distinguished minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THE UNITED STATES SENATE

THE EARLY HISTORY OF SENATE COMMITTEES

Mr. ROBERT C. BYRD. Mr. President, when Woodrow Wilson published his study of *Congressional Government* in 1885, he wrote that "it is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committee-rooms is Congress at work." At the time that Wilson wrote this study, the Legislative Branch was universally recognized as having taken a superior role over the Executive Branch, which had been presided over by a series of weak presidents since the Civil War. Within the Legislative Branch, Wilson identified the committees as the chief centers of power. "I know not how better to describe our form of government in a single phrase," Wilson wrote, "than by calling it a government by chairmen of the Standing Committees of Congress."[1] These sentiments reflected the conditions of the 1880's, and, as we know, there have been many changes in our political system in subsequent years, such as the growth of the modern presidency, the development of party floor leaders, the various committee reforms, and the spread of subcommittees. I have quoted Wilson's remarks to show the committees at their apogee, when they were the central force in the federal government of the United States. Today, I shall discuss the origins of some of these standing committees, as part of my continuing series of addresses on the history of the Senate.

In my last remarks, concerning the events surrounding the War of 1812, I pointed out that the Senate did not create its standing committee system until 1816, nearly twenty-seven years after the Senate had begun to function. The United States Constitution did not

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mention or provide for committees in Congress. This does not mean, however, that there were no committees in the earliest years of the Senate, for indeed, committees have operated since the very beginnings of Congress. Let me explain this paradox.

The use of committees in legislative bodies antedated the First Congress. We can find records of joint committees of the House of Lords and the House of Commons in the British Parliament as early as 1340. The first standing committee of Parliament was the Committee on Privileges and Elections, dating back to the reign of the first Queen Elizabeth. The committee system expanded during the time of Oliver Cromwell, and eventually evolved into what has been called "that all-absorbing committee," the British Cabinet. Members of the first Senate had not only the example of parliamentary committees, but also those of the Virginia House of Burgesses and other colonial legislatures, and of the Continental Congress. It was, we may recall, a select committee of Thomas Jefferson, John Adams, and Benjamin Franklin, that drafted the Declaration of Independence. So committees were a fairly common way of doing legislative business.[2]

The House of Representatives, then as now the larger body of Congress, appointed its first standing committee in 1789. Like the first standing committee of Parliament, it was the Committee on Elections. By 1800, the House had five standing committees, and during the next twenty years it added twenty more. This proliferation of standing committees reflected the swelling size of the House, as population grew and new states were added to the Union. In 1800, there were only 106 members of the House. But by 1823, the number of Representatives had climbed to 213.[3] Of course, there were an even larger number of special committees appointed to handle single pieces of legislation. During the Third Congress, from 1793 to 1795, for example, there were some 350 such ad hoc committees in the House.[4]

The Senate, prior to 1816, appointed only three standing committees, all for "housekeeping" rather than legislative purposes. For the most part, the Senate relied on select committees, the first of which was the five-person-committee appointed on April 7, 1789, to draw up the rules of procedure for the Senate. That committee filed its report on April 13 and, as I have explained in earlier remarks, the Senate adopted 19 of the 20 rules it recommended. In those days, the Senate spent much of its time acting as a "Committee of the Whole," a device for controlling the legislation introduced and under discussion. Today, we are accustomed to a rather straightforward way of introducing bills and resolutions whenever the Senate is in session. Rule VII provides for introduction of bills during the Morning Business, and further stipulates that:

Senators having petitions, memorials, bills, or resolutions to present after the morning hour may deliver them in the absence of objection to the Presiding Officer's desk, endorsing upon them their names, and with the approval of the Presiding Officer, they shall be entered on the Journal with the names of the Senators presenting them and in the absence of objection shall be furnished to the official reporter of debates for publication in the *Congressional Record* under the direction of the Secretary of the Senate.[5]

By contrast, a senator in 1789 could introduce a bill only after he had given the Senate one day's notice of his intention to request permission to introduce the bill, and after a majority of senators had voted to give him such permission. According to Roy Swanstrom's dissertation on "The United States Senate, 1789–1801," such permission was usually granted, and in fact unanimous consent was sometimes given to dispense with the one-day waiting period. But from such a rule we can see how the majority could thwart the introduction of any bill it found distasteful or objectionable. For instance, when Senator James Monroe requested permission to introduce a bill repealing an article of the peace treaty with Great Britain, a majority of the Senate denied his request.[6] A more common form of initiating legislation was for a senator to move that a committee be appointed to report a bill to achieve a specific goal.

This method of introducing bills by permission allowed the majority party more control over legislation being deliberated, and it generally meant that most bills would be enacted once the committee reported them, since a majority had approved their introduction in the first place. During the first session of the Senate only five bills were introduced, of which the Senate passed and the President signed four. (At the same time, thirty-three bills were introduced in the House.) In subsequent Congresses, the number of bills increased, as did the number of rejections. With this increasing amount of legislation came a corresponding need for committees. In addition, select committees were appointed in each session of Congress to deal with the individual proposals of the President's annual State of the Union message.

There were several advantages to this system of introducing bills and forming committees. During the debate over granting permission for the introduction of a bill, the Senate's sentiments on the particular issue at hand would become clearer, providing better guidelines for the committee assigned to draft the final bill. When receiving legislation from the House, the entire Senate could participate in the amending process before the bill went to committee to be put in its final revised form. If this process sounds terribly unwieldy, I should point out that during the first session of the First Congress, the Senate had no more than twenty members present and voting at one time—and today several of our committees approach or exceed that size!

This system made the select committees completely responsive to the Senate as a whole. The Senate decided their jurisdiction, and their membership, and could at any time elect another committee to handle the same matter if unsatisfied with the progress of a particular select committee. According to Professor Swanstrom, the Senate more often created committees to handle specific legislation, but at times it gave the committees broad areas to examine. In 1794, the Senate appointed a special five-person committee to report whatever legislation was necessary to promote the national defense. Some committees might be assigned several bills to draft, but they were usually bills revolving around a similar subject, such as military policy, finance, or national commerce.[7]

For the most part, Senate committees consisted of three members for routine business and five members for more important issues. During the First Congress, the largest committee contained eleven members, and this was created to decide the salaries of the President and Vice President (salary issues being as controversial then as they are now). During the first session, the entire membership of the Senate was divided into two large committees, with half on the committee to prepare legislation establishing the Federal Judiciary and the other half on the committee to define punishment of crimes against the United States. These committees obviously contained more members than was usual, but Senator William Maclay's journal tells us that in the case of organizing the Federal Judiciary a smaller subcommittee actually drafted the bill.[8]

Mr. President, today members of the Senate are accustomed to spending their careers as members of just two or three major committees, specializing in certain areas of legislation and gaining sufficient seniority to enable them someday to become committee chairmen. Things were different in the early years of the Senate. With hundreds of committees created during each Congress, it was more difficult to specialize and establish seniority. However, even then, some members did specialize. Reading through the *Annals of Congress*, one notices the same names appearing and reappearing on certain types of committees. For instance, William Maclay served on a great many committees dealing with private claims bills. Professor Swanstrom points out that certain other senators gained the reputation, from their committee service, of being "watchdogs of the Treasury." Merchant Robert Morris was most often a member of those committees dealing with commerce and shipping. Oliver Ellsworth, a framer of the Constitution who later became Chief Justice of the United States, served on practically every committee dealing with judicial matters during his Senate years. Other senators were likely to serve on committees dealing with treaties and foreign affairs. From 1789 to 1797, nineteen separate committees with a total of sixty-eight members considered treaties. Yet, only twenty-four senators filled those sixty-eight positions. The majority Federalist party members predominated on these early foreign relations committees—particularly men

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such as Morris, Ellsworth, Rufus King, and George Cabot.[9]

The reappearance of certain senators on certain types of committees seems logical when we consider that the Senate as a whole elected members of each committee. We may assume that individual senators developed personal reputations for interest and expertise in particular areas that would lead their colleagues to include them on any committee considering a related subject. Other senators developed political prominence, and sufficient reliability, to encourage the members of the majority party to place them on committees where they would be the most effective. There was also a need to balance committee memberships according to regional and economic interests. Western senators, for instance, were generally included on the public lands committees. Northern senators were elected to committees on commerce and manufacturing. And senators from the thirteen original states most likely served on the Revolutionary War pensions and claims committees. Rarely did two senators from the same state serve on the same committee, except in the case of relatively minor private relief bills, or legislation dealing specifically with their home state.[10]

With the great number of special committees appointed each session, the position of committee chairman was not as influential as it became later with the establishment of standing committees. Chairmen were often the senators who introduced the legislation, since they had the most interest in the bill's passage. But, generally, the chairman was the senator who received the most votes in the balloting for committee members. In 1807, Senator John Quincy Adams of Massachusetts noted in his diary that this had become the "ordinary practice." [11] Under this system it was possible for a member of the minority party (the Anti-Federalists and Republicans), to serve as committee chairman, despite the Federalist majority in the Senate. However, senators who opposed the particular piece of legislation under consideration usually were not appointed to the committee assigned to drafting and reporting it. Vice President Thomas Jefferson in the manual of parliamentary practice he compiled while serving as president of the Senate, noted that the Senate's committee selections followed the principle that "the child is not to be put to a nurse that cares not for it." [12]

The chief disadvantage of the ad hoc committee system was that it permitted an unequal workload for senators. During the second session of the First Congress, for instance, Connecticut Senator Oliver Ellsworth, a Federalist, served on thirty-six committees, while the average senator served on only eleven. During the second session of the Congress, Ellsworth was elected to twenty-three committees, while the average assignment was only six committees. Several senators served on no committees at all. One reads the diary of Senator John Quincy Adams with a sense that the man was eternally caught up in the work of one committee or another. One of his entries reads: "The whole of this month I have been so much engaged upon committees and their business that I have been obliged entirely to forego the continuation of any lectures." Adams noted that since all the committees were chosen by ballot, the number of committees a senator serves on was a fair measure of his influence and weight in the Senate. On the other hand, "as much of the labor of business is transacted in committees, an exemption from those which are important is also an exemption from toil, and leaves profitable leisure." [13]

The unequal distribution of committee memberships continued from the Federalist to the Republican Congress, during the years prior to 1816. Dr. Mary Giunta, in her doctoral dissertation on the legislative career of Virginia Senator William Branch Giles, surveyed the committee memberships of senators from the Eighth to the Thirteenth Congresses, from 1803 to 1815. During the Eighth Congress, Georgia Senator Abraham Baldwin, the Republican president pro tempore, served on forty-one committees, or eleven percent of the total number of committees appointed during that Congress. By contrast, the majority of senators served on fewer than fifteen committees. In the Ninth Congress Senator Baldwin was elected to ninety-one committees—think of it, 91 committees, while the majority of his colleagues served on fewer than eighteen. By the Thirteenth Congress, the last before the creation of standing committees, the range had been reduced considerably. Senator Rufus King, a New York Federalist, served on the most committees, nineteen, while the majority of the Senate served on fewer than eight committees.[14]

When the Jeffersonian Republicans won control of the Senate for the first time in 1801, they continued the system of ad hoc committees, although they instituted some changes. Early in the Seventh Congress, Senator John Breckinridge, one of the Jeffersonian floor leaders, gave notice that he would introduce a bill to repeal the Judiciary Act of 1801, the first priority of the new majority and a major request of President Jefferson's State of the Union message. Breckinridge announced that he was prepared to offer his sentiments on the subject" immediately, if his colleagues had no objection. Federalist Senator Uriah Tracy of Connecticut immediately rose to his feet to observe that the custom until then had been for the Senate to refer each portion of the president's annual message to a separate special committee, which would then prepare a report so that "the minds of the House would be drawn more precisely to the points involved in it, than could be expected from a resolution so loose as the present, which could only give rise to verbal discussions." Senator Stevens Mason of Virginia disagreed with Tracy. As the *Annals of Congress* records it: "He believed the mode, now pursued, was perfectly correct and comfortable to a principle adopted this session, that the Senate was to be considered as a committee of the whole on the President's Message, whenever taken up. Nor did he discern the necessity, in a body so select as this, of referring each subject to a select committee." [15]

Thus, while the House continued to refer separate portions of the president's message to separate committees, the Senate took up the message as the Committee of the Whole. The Senate debated Breckinridge's resolution for six days, with some sixteen members speaking, indicating that the new procedure did not hamper debate on the issue. As Alex Lacy, Jr., has written in his doctoral dissertation on "Jefferson and Congress": "It can be said to the credit of the Republicans that during the Jefferson Administrations they never used their majority in either house to shut off debate unless the Federalists were pursuing dilatory tactics." [16]

As I have mentioned in an earlier address, Federalist Senator Jonathan Dayton of New Jersey moved to have the Judiciary Act repeal sent to a select committee to see if some compromise could be reached. The Republicans anticipated a victory, but the vote on Dayton's measure was 15 to 15, and Vice President Aaron Burr, a close friend of Dayton's broke the tie in favor of referring the resolution to committee. In the jockeying to create a favorable committee, Professor Lacy notes, "The Senate broke one of its most rigid customs . . . . It was customary to place the original mover of a measure on any committee considering that measure. Usually, this member would serve as chairman of the committee. Breckinridge missed election to the committee by one vote." The Republicans were saved from embarrassment when an absent senator returned to the capital, giving them sufficient majority to move to discharge the resolution from the select committee. Breckinridge argued against the committee on the grounds that the question was a matter of principle: whether the Judiciary Act should be repealed or not. Questions of principle, said Breckinridge, should be decided by the Senate as a whole: "A committee cannot, and ought not to settle principles. On the floor of this House alone ought principles, furnishing the ground-work of legislation, to be originated and settled. Details only are proper from your select committees." [17]

While the Senate was considering Jefferson's annual message as a Committee of the Whole, it was changing its traditional practice by considering presidential nominations through select committees. At first, only controversial nominations went to committee, and in the first session of the Seventh Congress only eight were so referred. But by the Tenth Congress, the Senate routinely began to refer nominations to committees. In 1801, three committees considered a total of eight nominations, while in 1807 four committees considered several hundred nominations.[18]

Committee meetings in the early years of the Senate bore many similarities to committee meetings today. Committees met before and after but not during sessions of the Senate. Senators could at-

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tend meetings of committees of which they were not members, although of course they could not vote in them. Occasionally, a committee would hear testimony from witnesses, but this was quite rare. For instance, Secretary of State Thomas Jefferson appeared before one Senate committee to discuss President Washington's diplomatic nominations. No transcript of this or any other committee hearing was made at that time, nor indeed would any be made until well into the nineteenth century. Instead it was the official report of the committee which the Senate would use in its deliberation over legislation, nominations, and treaties.[19]

Mr. President, although no transcripts of these early committee meetings were kept, we are fortunate to have some fascinating inside glimpses of committee workings from the diaries of senators. These diaries are all the more important because of the sparseness of the *Annals of Congress*. The *Annals*, a forerunner of our *Congressional Record*, were prepared after-the-fact, from newspaper accounts and other contemporary sources. Let me give a graphic example from the diary of Massachusetts Senator John Quincy Adams, son of President John Adams and himself a future president of the United States. The *Annals of Congress* tell us that on October 27, 1807, President Jefferson sent his annual message to Congress, and that the message was devoted in large part to British naval aggressions against the United States. The next day, Senator Adams moved that a select committee be created to deal with the issues raised in the president's message:

> That so much of the President's Message as relates to the recent outrages committed by British armed vessels within the jurisdiction, and in the waters of the United States, and to the Legislative provisions which may be expedient as resulting from them, be referred to a select committee, with leave to report by bill or otherwise.[20]

On October 30, the Senate appointed a five-person committee composed of Adams, Samuel Smith of Maryland, John Milledge of Georgia, Samuel Mitchell of New York, and Joseph Anderson of Tennessee. However, a few days later, on November 4, we find Senator Stephen Bradley of Vermont introducing a similar resolution calling for the appointment of another select committee:

> *Resolved*, that a committee be appointed to inquire whether any, and, if any, what further and more effectual provisions are necessary in addition to the act, entitled 'An act for the more effective preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction'; with leave to report by bill or otherwise.[21]

On November 9, Bradley's resolution was referred to the already appointed committee of five, but Senator Bradley and Senator Thomas Sumnter of South Carolina were added to the committee. The *Annals* tell us no more until November 24 when Senator Adams reported for the committee its bill relating to British aggressions and harbor defense. On November 26, the Senate debated the bill and "after progress, adjourned." The Senate never voted on the committee's report.[22]

Now, by contrast to this rather thin and uniformative official verson, let me read from the diary of John Quincy Adams concerning the same events:

November 20, 1807. The sub-committee on aggressions met, and /Stephen/ Bradley presented a bill which he has drawn under the vote of the general committee, which I took home with me to examine and modify. I employed the evening in that work; but Mr. /Joseph/ Anderson, who voted against me on the question, requested me this day to renew it—and told me that on further reflection he was convinced my project was the best. Mitchill told me that he voted with Bradley only to keep him in good humor and to pledge him in support of a plan upon the idea that it was his own; and Mr. /John/ Milledge urged me with some anxiety to renew the question upon my selection; which, however, I shall decline.

November 23. Met the sub-committee this morning at ten. Mr. Bradley had two or three additional sections to offer, which, with modifications, were agreed to, as was my bill, and all to be reported to the committee of seven. The Senate then sat . . . Adjourned before *one*. Committee of seven met, discussed the bill of the sub-committee, and, with some alterations, ordered me to report it. I gave it accordingly to the clerks, to be copied by tomorrow morning.

Through the whole of this transaction I have had some difficulty to steer my way. I moved the first resolution, which has issued in this bill, the day after the President's message at the commencement of the session, merely to put the Senate upon some work. For I knew they would otherwise do nothing but what should come from the House. I was obliged to leave it three or four days for consideration, and when the committee was appointed I was made its chairman. But Bradley not happening to be on the committee (though of five) immediately felt his pride piqued, and he determined to take the business out of my hands; so that, some days after, he moved for a new committee, substantially upon the same subject, though varied in form (a practice often used when the chairman of a committee of importance happens to be a federalist), and he took an opportunity to move this resolution when I was not in the House. From the moment it was made I saw its motive and object, but I saw that to attempt resistance against it was vain. So perfectly similar was it to my resolution in substance that it was noticed by a number of members, and he finally professed that he meant its reference to the *same* committee. I then moved the addition of two members to the committee, that he might be one of the number. When the committee met, he opposed the first principle upon which I wished the bill to be formed, and prevailed. He then proposed successively his own measures, most of which were adopted; and eventually I did scarcely any thing more than draw the bill. Even this, however, he has violently contested; and having drawn a mere proviso, upon the same principle in substance as one which I had drawn, and the committee having given the preference to mine, he broke into a passion, and told them he would vote against the whole bill, and would not vote upon any of the subsequent sections. I believe his purpose is to defeat the whole; and he has introduced some sections which he knows will be violently opposed, with the intention that they shall first fail, and then he will fly from the whole with great disgust at the *want of energy* in the Government.

November 26. The bill I had reported was taken up in committee of the whole. Bradley renewed his attack upon the proviso; Mr. /James/ Hillhouse and Mr. /Timothy/ Pickering immediately sided with him, and a debate of two hours ensued upon a few words which he moved to strike out. On the question taken, it was decided the words should stand—fifteen to fourteen. Mr./ John/ Pope than moved to strike out the whole first section, upon which a second debate arose as warm and as long as the first. It was finally closed by a motion to adjourn, which was agreed to. Bradley supported Pope's motion, with a view to have the bill recommitted, with instructions simply to *continue* the act of 3d of March, 1805, and then add *his* new propositions to it. His ultimate object is to defeat the whole bill . . . The majority of the Senate, at the end of this day's debate, obviously wished for delay—procrastination; and I shall not hurry them on—they shall take their own time. The bill itself, as it stands, is no favorite of mine, and I shall not be much concerned at the fate which awaits it.[23]

Mr. President, the diary of John Quincy Adams has obviously left us a far richer account of this incident than did the *Annals of Congress*. The two hour debate on November 26, to which Senator Adams referred, is contained in exactly six lines in the *Annals*, merely noting that the Committee of the Whole took up the second reading of the bill, and that "after progress" the Senate adjourned without voting. Not only does Adams' diary tell us the story behind this debate, but it reveals the apparently common practice to create a second committee as a means of removing an unpopular or minority party chairman.

The increasing business of the committees, particularly in the handling of nominations, the pressing needs of national defense during the War of 1812, and the growing institutional needs of a body that was now over a quarter century old, all pushed the Senate toward the creation of standing committees. Until 1816, as I have mentioned, the Senate had appointed only three standing committees, all of which dealt with housekeeping functions. They were Enrolled Bills in 1789, Engrossed Bills in 1806, and Contingent Expenses in 1807.[24] The latter was proposed by Senator John Quincy Adams to be appointed at the beginning of each session of Congress to audit and control the Senate's contingent expenses.[25] These first three standing committees may be seen as forerunners of the current Senate Committee on Rules and Administration.

By contrast, the House of Representatives had appointed several standing committees, with both housekeeping and legislative functions, during the years prior to 1816. These included Enrolled Bills in 1789, Commerce and Manufactures and Ways and Means in 1795, Public Lands in 1805, Post Office and District of Columbia in 1808, Judiciary and Pensions in 1813, and Expenditures in Executive Departments in 1816. The House acted first because it was the larger body and could not perform as intimately and effectively as a Committee of the Whole, and because its Republican members wanted to establish the House's legislative independence from the Federalist executive departments. The Jeffersonians opposed Treasury Secretary Alexander Hamilton's plan to have legislative proposals referred first to executive

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agencies rather than to congressional committees. During the Republican-controlled Third Congress, from 1793 to 1795, Hamilton resigned as Secretary of the Treasury and the House created its Ways and Means Committee. As Professor George Goodwin has written: "These steps put an end to a tendency that could have moved the country in the direction of British cabinet government."[26]

By the end of the War of 1812, the stage was set for the Senate to consider establishing its own system of standing committees. Meeting in the "Old Brick Capitol"—because the Capitol Building itself was under repair for damages which the British troops had inflicted upon it during the war—members of the Senate were most likely concerned about the permanency, continuity, and stability of governmental processes. Perhaps their struggling with the issues of the war made more members realize the need for specialization over areas of legislation. In addition, from the constant movement of members of the House over to the Senate we may assume that former House members brought with them a preference for standing committee assignments. During the first session of the Fourteenth Congress, meeting in December 1815, the Senate appointed a series of select committees to report on various portions of the President's State of the Union message. However, instead of allowing these select committees to disband after they had completed their immediate work, the Senate utilized the same committees for other business during the session. The select committee on Finance, for example, which dealt with matters of finances and currency in the president's message, also handled the two most important issues of that session of Congress, the Tariff of 1816 and the rechartering of the National Bank.[27]

During the second session of the Fourteenth Congress, meeting in December 1816, Senator Nathan Sanford of New York moved to have the president's annual message broken into its component parts and distributed to select committees for consideration, as was the usual practice. But on December 5, Senator James Barbour of Virginia moved that the Senate instead create eleven standing committees: on Foreign Relations, Ways and Means, Commerce and Manufactures, Military Affairs, the Militia, Naval Affairs, Public Lands, Claims, Judiciary, Post Office and Post Roads, and Pensions. On Tuesday, December 10, 1816, the Senate adopted Barbour's motion. However, it changed the name of Ways and Means to Finance, a title it had used for such select committees in the past. By Friday of that week, the first appointments to standing committees were announced. Five members were appointed to each committee, with the exception of Commerce and Judiciary, each of which began with four members. On that same day, the president's message was referred to the appropriate standing committees, their first official business. Also on that day, five select committees were appointed to consider issues raised by the president's message that did not fall within any of the standing committee's jurisdiction: weights and measures, a national university, roads and canals, the slave trade, and the creation of a new Executive Department.[28]

The appointment of standing committees permitted the Senate to assign long term studies and investigations to committees, in addition to regular legislative duties. For instance, the Commerce Committee's first assignments consisted largely of compiling statistical reports and conducting investigations required by the Senate on harbor improvements, foreign trade, canal construction, and shipping regulations. Standing committees also spent much of their time handling presidential nominations and petitions from citizens.[29]

It is interesting to note that in creating standing committees, members of the majority party did not appropriate all of the chairmanships to themselves. In 1816, Federalist senators served as chairmen of the committees on Commerce and Manufacturers and Military Affairs, and had a majority of members on Finance and Military Affairs.[30] I wonder if we could contemplate such a circumstance today! Since the Senate as a whole elected members of each committee, and the member with the most votes became chairman, this non-partisanship lingered on through the 1830's, when growing party spirit and factionalism finally made majority party leadership of committees the standard rule.

Members of the Senate found the balloting for committee membership at the beginning of each Congress an increasingly unappealing system. There was both an element of humiliation in the possibility of being turned down for a committee position by one's colleagues in the Senate, and also an annoyance with the tedious and time-consuming system of balloting. In 1823, Senators John Eaton and Andrew Jackson of Tennessee pressed for the Senate to elect committee chairmen and then have the chairmen appoint the rest of the committee members. This plan, however, lost to a proposal by Senator Barbour, the original author of the standing committee system, to have the presiding officer—either the vice president or president pro tempore—to appoint committee members. Until 1845, this system, interspersed by attempts to revive the balloting system, set the course for Senate committee memberships.

During the Mexican War, the system was finally changed. By a margin of one vote the Senate removed from the presiding officer the power to appoint committee members. During the debate, Senator Willie Mangum, the Whig minority leader, accused the Democratic caucus of having prepared a "list made out and decided on by a meeting of members of this body belonging to a particular party." This was obviously what had been done, for when the Senate voted for committee chairmen they were selected by a strict party vote. By the following year, it had become the accepted practice for the members of each party, through their respective caucuses, to name their party members to the standing committees.[31]

Mr. President, the standing committee system of the Senate has now been in existence for 165 years. Over those many years the Senate has added to, substituted from, and divided up its standing committees as the national government took on new areas of responsibilities and the Congress attempted to streamline its procedures. There were times, particularly around the turn of this century, when the Senate created standing committees primarily as an excuse to assign office space and staff members to senators from the majority party. For instance, pulling an old *Congressional Directory* off the shelf at random for the year 1904, one could count fifty-five standing committees and another dozen select committees. These standing committees included Revolutionary Claims, which we may assume did little business 125 years after the Revolutionary War had ended. In 1946, the Senate and House both reduced the number of their standing committees sharply through the Legislative Reorganization Act of that year. Most recently, in 1977, the Temporary Select Committee to Study the Senate Committee System, chaired by Senator Adlai Stevenson, recommended the merger of several committees and reorganization of jurisdiction to reduce Senate standing and joint committees from thirty-one to twenty-four.[32] We now have sixteen standing committees, three select committees, one special committee, and four joint committees.

Many of our current committees in the Ninty-Seventh Congress have a heritage dating back to the Fourteenth Congress. The committees on Foreign Relations, Finance, and Judiciary remain the same in name and similar—although greatly expanded—in function. Our Armed Services Committee combines what, in 1816, were the committees on Military Affairs, the Militia, and Naval Affairs. Commerce and Manufactures has become Commerce, Science and Transportation. Functions of the Pensions Committee are now performed by the Veterans Affairs Committee; functions of the Interior and Insular Affairs Committee are divided among the Energy and Natural Resources Committee and Environment and Public Works Committee. Post Office Committee responsibilities are now handled by a subcommittee of the Governmental Affairs Committee.

Mr. President, I have spoken today about the origins of our standing committees. During the course of my remarks in coming weeks I shall have more to say about individual committees and the role they have played in our national political history. In the preparation of these remarks I have found most useful the ten committee histories that various Senate committees have prepared to mark their anniversaries. These are most interesting documents, such as the one I now hold in my hand, The History of the Committee on Finance. I will affix a list of them to the conclusion of my remarks. These histories range quite widely. Some are handsomely illustrated while others are spare and statistical. Most provide information on committee

Footnotes at end of article.

members and chairmen, and on the background of the committee's jurisdiction and responsibilities. A few also include narrative accounts of the committee's past activities. One of the most informative, and a model for such efforts, is the booklet which I a moment ago called attention to, prepared by the Senate Finance Committee during the Ninety-Fifth Congress. The most recent committee history is that of the Rules and Administration Committee, which was ably prepared by Dr. Floyd Riddick, the Senate's Parliamentarian Emeritus. This volume is a handy compendium of the many changes in the Senate rules since 1789.

Some of these committee histories were published as long ago as 1963, and we know that considerable history has occurred since then. I hope that all of the Senate's committees will consider publishing such histories, or updating and expanding volumes that have long since gone out of print. I believe these histories would be most useful for new members in familiarizing themselves with the workings of the committees to which they are assigned, and in appreciating the rich history of this institution. The committee histories also promote the public's understanding of the legislative process. Certainly this would be a worthy undertaking as the United States Senate approaches its two hundredth anniversary in 1989.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a list of Senate committe histories and notes regarding the early history of Senate committees.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE HISTORIES

Committee on Aeronautical and Space Sciences, *Tenth Anniversary, 1958–1968*, S. Doc. 116, 90th Congress, 2nd session (Washington, DC: Government Printing Office, 1968).

Committee on Agriculture and Foresty, *A Brief History of the Committee on Agriculture and Forestry of the United States Senate and Landmark Agricultural Legislation, 1825–1970*, S. Doc. 91–107, 91st Congress, 2nd session (Washington, DC: Government Printing Office, 1970).

Committee on Appropriations, *100th Anniversary, 1867–1967*, S. Doc. 21, 90th Congress, 1st session (Washington, DC: Government Printing Office, 1967).

Committee on Banking and Currency, *50th Anniversary, 1913–1963*, S. Doc. 15, 88th Congress, 1st session (Washington, DC: Government Printing Office, 1963).

Committee on Commerce, *History, Membership, and Jurisdiction of the Senate Committee on Commerce From 1816–1966*, S. Doc. 100, 89th Congress, 2nd session (Washington, DC: Government Printing Office, 1966).

Committee on Commerce, Science, and Transportation, *A Brief History of the Senate Committee on Commerce, Science, and Transportation and its Activities Since 1947*, S. Doc. 95–93, 95th Congress, 2nd session (Washington, DC: Government Printing Office, 1978).

Committee on Finance, *History of the Committee on Finance*, S. Doc. 95–27, 95th Congress, 1st session (Washington, DC: Government Printing Office, 1977).

Committee on Foreign Relations, *160th Anniversary, 1816–1976*, S. Doc. 94–265, 94th Congress, 2nd session (Washington, DC: Government Printing Office, 1976).

Committee on the Judiciary, *History of the Committee on the Judiciary, 1816–1976*, S. Doc. 94–227, 94th Congress, 2nd session (Washington, DC: Government Printing Office, 1976).

Committee on Labor and Public Welfare, *100th Anniversary, 1869–1969*, S. Doc. 108, 90th Congress, 2nd session (Washington, DC: Government Printing Office, 1970).

Committee on Rules and Administration, *History of the Committee on Rules and Administration*, S. Doc. 96–27, 96th Congress, 1st session (Washington, DC: Government Printing Office, 1980).

NOTES TO "EARLY HISTORY OF SENATE COMMITTEES"

[1] Woodrow Wilson, *Congressional Government, A Study in American Politics* (Cleveland: World Publishing Company, 1956, 1885), 69, 82.

[2] Lauros G. McConachie, *Congressional Commitees, A Study of the Origins and Development of Our National and Local Legislative Methods* (New York: Thomas Y. Crowell and Company, 1898) 7–9; and J. Franklin Jameson, "The Origin of the Standing Committee System in American Legislative Bodies," *Annual Report of the American Historical Association*, 1893, Senate Miscellaneous Documents 104, 52nd Congress, 2nd sess.

[3] Noble E. Cunningham, "Congress as an Institution, 1800–1850." Paper delivered at the Project 87 Conference in Washington, February 1981.

[4] Neil MacNeil, *Forge of Democracy, The House of Representatives* (New York: David McKay Company, Inc., 1963), 150.

[5] United States Congress, Senate, *Standing Rules of the Senate*, S. Doc. 97–10, 97th Congress, 1st sess., 1981, Rule VII, part 6.

[6] United States Congress, Senate, Roy Swanstrom, *The United States Senate, 1787–1801, A Dissertation on the First Fourteen Years of the Upper Legislative Body*, S. Doc. 64, 87th Congress, 1st session (Washington, DC: Government Printing Office, 1962), 233.

[7] *Ibid.*, 224–5; *Annals of Congress*, 3rd Congress, 1st sess., 147.

[8] McConachie, *Congressional Committees*, 267; Swanstrom, *United States Senate*, 147.

[9] Swanstrom, *United States Senate*, 226–7; Joseph Ralston Hayden, *The United States Senate and Treaties, 1789–1817* (New York: Macmillan Company, 1920), 171–172.

[10] Swanstrom, *United States Senate*, 227–8; McConachie, *Congressional Committees*, 257.

[11] Charles Francis Adams, ed., *The Memoirs of John Quincy Adams* (Freeport, New York: Books for Libraries Press, 1969, 1874), vol. 1, 482.

[12] United States Congress, House of Representatives, *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States, 96th Congress*, H. Doc. 95–403, 95th Congress, 2nd session (Washington DC: Government Printing Office, 1979), 176.

[13] Adams, *Memoirs of John Quincy Adams*, 329–30, 496.

[14] Mary Giunta, "The Public Life of William Branch Giles, Republican, 1790–1815" (Ph.D. dissertation, Catholic University, 1980), 209–211.

[15] *Annals of Congress*, 7th Congress, 1st sess., 23–24.

[16] Alex B. Lacy, Jr., "Jefferson and Congress: Congressional Method and Politics, 1801–1809" (Ph.D. dissertation, University of Virginia, 1964), 45.

[17] *Annals of Congress*, 7th Congress, 1st sess., 155.

[18] Lacy, "Jefferson and Congress," 105–106.

[19] Swanstrom, *The United States Senate* 232.

[20] *Annals of Congress*, 10th Congress, 1st sess., 19.

[21] *Ibid.*, 21.

[22] *Ibid.*, 39.

[23] Adams, *Memoirs of John Quincy Adams*, 478–481.

[24] George Goodwin, Jr., *The Little Legislatures, Committees of Congress* (Amherst: University of Massachusetts Press, 1970), 12.

[25] *Annals of Congress*, 10th Congress, 1st sess., 21.

[26] Goodwin, *Little Legislatures*, 7.

[27] United States Congress, Senate, Committee on Finance, *History of the Committee on Finance*, S. Doc. 93–9, 93rd Congress, 1st sess., (Washington, DC: Government Printing Office, 1973), 16–17.

[28] *Annals of Congress*, 14th Congress, 2nd sess., 19–20, 32–33.

[29] United States Congress, Senate, Committee on Commerce, *History, Membership and Jurisdiction of the Senate Committee on Commerce From 1816–1966*, S. Doc. 100, 89th Congress, 2nd sess., (Washington, DC: Government Printing Office, 1966), 2.

[30] McConachie, *Congressional Committees*, 275.

[31] *Ibid.*, 276–286.

[32] *Washington Post*, February 5, 1955; Paul Rundquist, "Senate Committee System Reform," Library of Congress, Congressional Research Service Issue Brief, 1977, 95th Congress, 1st sess., S. Res. 4.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Wisconsin is recognized.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, some critics of the Genocide Convention complain about its wording.

Those critics probably are not aware of the three understandings which were recommended by the Committee on Foreign Relations when it presented a favorable report on this treaty to the Senate in 1976. These understandings strengthen and clarify the treaty in three important respects.

The first understanding explains just what it means to "destroy, in whole or in part, a national, ethnical, racial, or religious group as such." The phrase "in whole or in part" in article II of the treaty is understood to mean in such manner as to affect "a substantial part" of the group concerned.

Thus, a single murder would not qualify as genocide. At the other extreme, not every member of a group must be killed before the crime of genocide could be proven to have occurred.

The second understanding also relates to the definition of genocide. The United States construes the words "mental harm" in the list of acts constituting genocide to mean permanent impairment of mental faculties. Thus, we are assured that normal social tensions among groups would not be genocide, while permanent and destructive brainwashing of a substantial part of a group's members would be.

The third and final understanding to be attached to our ratification of the treaty concerns the trial of Americans accused of genocide. The understanding states that each country may bring to trial in its own court system any of its citizens, even for acts committed outside the country's borders. Article VI of the

Genocide Treaty would in no way alter this right to try one's own nationals, and the Legal Committee of the United Nations General Assembly has agreed on the language included in the understanding.

Taken together, these three understandings are an adequate and specific response to perceived problems with the treaty's wording. They clarify the definition of genocide and the role of extradition in the treaty's implementation. No other explanations are needed.

Critics of the wording of the treaty simply have no case. The Genocide Convention's language is perfectly suited for carrying out its purpose—to make genocide a punishable legal wrong as well as an abominable moral wrong.

I strongly urge my colleagues to ratify the Genocide Convention.

Mr. President, yesterday the distinguished chairman of the Foreign Relations Committee told the Senate that he expected to have hearings on the Genocide Treaty in the fall and to report the treaty this year to the floor of the Senate. I think that is most encouraging. Of course, I am delighted to hear this pledge by the chairman of the committee. I look forward eagerly to the ratification of the treaty by the full Senate.

NORTHERN STATES POWER CO. ENERGY COST CONTROL CENTER

Mr. PROXMIRE. Mr. President, I would like to salute the efforts of Northern States Power of Eau Claire, Wis., which has come up with a new approach to energy conservation.

The company has set up an energy cost control center at the London Square Mall in Eau Claire.

It is designed to help people control energy costs by providing them with information on: Time-of-use electric rates, dual fuel heating systems, electric heat storage furnaces, solar water heating, high-efficiency gas furnaces, and home energy use analysis.

Customers can also learn about cost control by calling special phone numbers.

In addition to equipment and literature displays, the center has over 100 tapes on various energy topics as well as a computer which is programed to analyze customer energy use patterns.

This center should make an excellent contribution to solving our greatest energy problem—lack of knowledge. Consumers cannot be expected to make intelligent decisions about energy conservation unless they have the right information. The NSP energy cost control center is the solution.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, will the minority leader permit me to proceed for 1 minute from the time I yielded to him?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, a moment ago I indicated that at some point, perhaps soon, we would proceed with the business of attempting to appoint conferees on the tax bill.

Mr. President, I now ask unanimous consent that at 12 noon, the other order to the contrary notwithstanding, there be a period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A MESSAGE ON H.R. 4242 SCHEDULED FOR NOON

Mr. BAKER. Mr. President, at 12 o'clock, I shall ask the Chair to lay before the Senate a message from the House on H.R. 4242 and go through the usual procedure, asking that all after the enacting clause be stricken and that in lieu thereof, the language of House Joint Resolution 266, the Senate-passed bill, as amended, be inserted. Assuming that that is done, I shall ask the Chair to appoint conferees on behalf of the Senate.

Mr. President, I make this announcement so that all Senators will be on notice that at 12 o'clock, I shall proceed in that manner.

Mr. President, I thank the distinguished minority leader for yielding for that purpose.

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader is welcome.

Does any Senator on my side of the aisle wish some additional time? I have some time under my control, Mr. President.

Mr. KENNEDY. Mr. President, is this on the routine morning business? I imagine that the leader, in his goodness and fairness, would permit extra time if it is necessary to discuss. I am not prepared at this time. The leader has been accommodating and generous. I expect to make some comment on it. I might ask to have 5 minutes.

Mr. BAKER. Mr. President, I certainly would have no objection to that. I have left it open ended just so every Senator would have every opportunity to speak. I would prefer, frankly, to establish a time for Members to speak, but I shall defer to the wishes of the Senator from Massachusetts and the minority leader in that respect.

Mr. President, later, perhaps, we can consider an addendum to the unanimous-consent order with respect to morning business to limit the time that Senators may speak. I shall not do that at this moment, but if the Senator from Massachusetts and the distinguished minority leader will consider that, I would like to do that a little later.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have an order, do I not, for 15 minutes?

The PRESIDING OFFICER. The Senator from West Virginia has a 15-minute order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 5 minutes of my 15 minutes be used by Mr. PRYOR and that 10 minutes may be used by Mr. KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, do I have time remaining under the standing order for the two leaders?

The PRESIDING OFFICER. The Senator from West Virginia has 5 minutes remaining under the leadership order, also.

Mr. ROBERT C. BYRD. I yield it back to the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

I yield the time remaining to the distinguished Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, I thank the able majority leader and the able minority leader.

S. 1554—BAIL REFORM ACT OF 1981

Mr. THURMOND. Mr. President, it is with genuine appreciation that I note that several cosponsors have joined me in introducing legislation to amend the Bail Reform Act of 1966 to permit pretrial detention of certain dangerous offenders, to permit consideration of danger to the community in setting pretrial release conditions, to eliminate surety and money bonds, and to significantly tighten the criteria for postconviction release pending appellate review. These cosponsors are: Senators HATCH, KENNEDY, BAUCUS, BUMPERS, DECONCINI, DENTON, LAXALT, and SPECTER.

The crime problem in this country is reaching epidemic proportions. No person is safe from the criminal elements that continue to thrive in our society. Behind the economy, fear of crime is becoming the No. 1 social issue. One reason, in my opinion, for the continuing growth of crime in America is the practice of releasing arrested defendants back into the community prior to trial and permitting extended delay in executing a sentence pending appellate review of frivolous issues. Too often, those individuals are simply rearrested or found to have committed additional crimes before going to trial on the initial charge or commencing service of sentence. This legislation is intended to address this serious problem in our present criminal justice system.

First, the legislation expands the basis on which a judicial officer may consider and deal with the potential of the defendant to pose a risk to the community if released prior to trial.

Second, the proposal eliminates as such the use of surety bonds and money bail as a method of assuring the presence of a defendant at trial.

Third, it permits, under certain circumstances, the detention pending trial of those offenders the judicial officer believes may not appear at trial or may be a danger to another person or the community.

Fourth, a convicted person sentenced to a term of imprisonment must be de-

tained pending appellate review of the conviction unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the community and that the appeal is not taken for delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

In short, Mr. President, this proposed legislation recognizes the propensity of certain offenders to pose a continuous danger to society and provides measures to minimize the opportunity for committing further offenses as the criminal justice system progresses to final judgment.

BRIEF HISTORY OF BAIL PROVISIONS

The history of bail as a means of allowing an individual his freedom prior to trial goes back to old English law. In early England, there were lists of crimes for which bail could be granted. Usually they were noncapital offenses. In 1689, a Bill of Rights was adopted which provided that "excessive bail ought not to be required." This specific remedy was imposed to curb abuses by judicial officers, but did not imply any right to bail.

Mr. President, contrary to what some people may argue, there is no fundamental right to bail. The courts have continuously distinguished between statutory bail and excessive bail clauses. Excessive bail clauses are limitations on the judiciary, not the legislature. Thus, the definition of bailable offenses has been left to the legislature.

There are three places where bail is provided for in American jurisprudence. The first is the eighth amendment (adopted in 1789), which states:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

This provision is modeled also directly after the English version adopted in 1689. It is the basis for limitation on the judiciary when imposing bail or conditions of bail, but the Supreme Court has never ruled that the clause establishes a constitutional right to bail.

The other places where bail is provided for is in chapter 207 of title 18 of the United States Code (18 U.S.C. 3141–3156) and rule 46(a)(1) of the Federal Rules of Criminal Procedure. These provisions reflect the notion of a statutory right to bail in noncapital cases which stems from the Judiciary Act of 1789. This statutory right can, of course, be denied, limited, or modified by the Congress.

Mr. President, there are those who argue that pretrial detention is a form of punishment and, therefore, must be strictly tested against the due process clause of the Constitution. In Bell against Wolfish, the court of appeals for the second circuit concluded that pretrial detainees, protected as they were by the presumption of innocense, retain the "rights afforded unincarcerated individuals," and, therefore, the due process clause required that they be subjected only to those restrictions and privations which inhere in their confinement itself or which are justified by "compelling necessity" of jail administration. The Supreme Court, holding that the ordinary usual incidents of pretrial incarceration are not penal, but regulatory in nature, stated:

The presumption of innocence is a doctrine that allocates the burden of proof in criminal trials; it also may serve as an admonishment to the jury to judge an accused's guilt or innocence solely on the evidence adduced at trial and not on the basis of suspicions that may arise from the fact of his arrist, indictment, or custody, or from other matters not introduced as proof at trial. . . . But it has no application to a determination of the rights of a pretrial detainee during confinement before this trial has even begun.

* * * * *

. . . Neither respondents nor the courts below question that the Government may permissibly detail a person suspected of committing a crime prior to a formal adjudication of guilt. . . . Nor do they doubt that the Government has a substantial interest in ensuring that persons accused of crimes are available for trials and, ultimately, for service of their sentences, or that confinement of such persons pending trial is a legitimate means of furthering that interest. . . .

In evaluating the constitutionality of conditions or restrictions of pretrial detention that implicate only the protection against deprivation of liberty without due process of law, we think that the proper inquiry is whether those conditions amount to punishment of the detainee. For under the Due Process Clause, a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law.

* * * * *

This Court has recognized a distinction between punitive measures that may not constitutionally be imposed prior to a determination of guilt and regulatory restraints that may. . . . [*Bell* v. *Wolfish*, 441 U.S. 520 (1979), footnotes omitted.]

Thus, it seems clear that pretrial incarceration for a legitimate state interest—such as assuring appearance at trial, protecting the community, or preventing intimidation of witness—are regulatory in nature and, indeed, may be made effective by measures substantially more restrictive than mere custody under conditions to meet the convenience of the accused.

Mr. President, others have expressed concerns about providing adequate procedural due process safeguards to reflect the importance to be attached to the withholding of liberty pending trial. This legislation would provide all the safeguards necessary to protect the rights of a person who has been arrested and is awaiting trial. For example, sections 3141 and 3142, which are intended to replace existing sections in title 18, provide for due process protections to an individual who has come before an authorized judicial officer for a determination of release or detention prior to trial or other judicial proceedings.

The accused shall have a hearing immediately before a judicial officer. The accused has the right to be represented by counsel in a hearing, to present information and witnesses, be given written findings or a statement of conditions, and to testify in his own behalf. These protections meet whatever requirements the courts have imposed on pretrial proceedings where release or detention may be at issue.

Mr. President, the bill establishes the statutory framework for judicial consideration of and decision on release and detention issues that arise in the course of a Federal criminal case between initial arrest and final judgment. Section 3141 provides that such decisions shall be made pursuant to this chapter—chapter 207 of title 18.

Section 3142 is the central provision dealing with pretrial release, in general, the policy established by this section is that an arrested person should be treated in the least restrictive way pending trial consistent with reasonable assurance that he will appear as required and that he will not endanger the safety of any other person or the community.

A mandatory condition of any release—whether on personal recognizance or otherwise—is that the person not commit a Federal, State, or local crime during the period of release. With the exception of money bond, the court may, as appropriate, impose any other condition reasonably necessary to assure appearance as required and to assure the safety of the community, including the conditions specified in section 3142(c) as follows:

First, remain in the custody of a designated person for supervision;

Second, maintain or actively seek employment;

Third, maintain or start an education program;

Fourth, abide by specific restrictions on personal associations, place of abode, or travel;

Fifth, avoid contact with the victim and witnesses of the alleged offense;

Sixth, report to designated authorities on a regular basis;

Seventh, comply with a specified curfew;

Eighth, refrain from possessing dangerous weapons;

Ninth, refrain from alcohol and drug use;

Tenth, undergo designated medical or psychiatric treatment;

Eleventh, forfeit designated property upon failure to appear as required; and

Twelfth, return to custody for specified hours following release for employment, schooling, or other appropriate purpose.

As noted above, money bond to assure appearance has been eliminated by this bill, but this does not prevent the court from placing in jeopardy the assets of the person as a condition of release—to be seized and forfeited if the person fails to appear as required. Elimination of money bond is a radical departure from current law where a surety or bond can be deposited with the court to assure appearance as required. The use of money bail is not an honest excuse for a judicial officer to avoid locking up an individual.

The use of bail bondsmen to return individuals is also not an honest approach to assuring that a person appear at trial. It is a sham for a judge to impose an extremely high bail as a reason to lock up an individual instead of coming forth with the real reason—the person constitutes a danger to the community.

Subsection (d) is an important provi-

sion that permits detention of a person arrested while free on bail, probation, or parole, for a period of 10 days to permit the appropriate court, probation official, or parole official to take action.

Subsection (e) provides for detention of the arrested person if the judicial officer concludes that no condition or combination of conditions will reasonably assure appearance as required or protect the community and that there is substantial probability that the person committed the offense charged.

As noted above, the proposed measure provides the procedural due process safeguards needed to protect the accused and society. Subsection (f) provides for a hearing to inquire into possible flight and community safety in all cases involving a crime of violence, an offense punishable by life imprisonment or death, and certain narcotic offenses. The Government or the judge may trigger a hearing as they deem appropriate in cases involving a serious risk of flight, a serious risk of obstruction of justice or witness intimidation, or a case where the person arrested has two or more prior convictions involving a crime of violence, an offense punishable by life imprisonment or death, or certain narcotic offenses. The bill is drafted to encourage prompt hearings and prompt disposition. Provision is made for drug addict screening. The accused has, as previously noted, a right to assistance of counsel, to testify, to present witnesses, to cross examine other witnesses who appear, and to present information by proffer or otherwise.

In making release decisions under this chapter, subsection (g) provides that the judicial officer shall consider the nature and circumstances of the offense charged, the weight of the evidence against the person, the history and characteristics of the person, and the nature and seriousness of the danger to a person or the community that would be posed by the person's release.

Subsections (h) and (i) delineate a number of matters to be covered by a release order and detention order, respectively, such as including release conditions, advice as to the consequences for violating a release condition, and findings of fact and reasons for the detention. In the event detention is ordered, ample provision is made to insure the accused has every opportunity to consult with counsel and cooperate in his defense.

Section 3143 replaces current 18 U.S.C. 3148 with respect to release after conviction. While current law permits a judge to consider possibility of flight, danger to the community, frivolity of an appeal, and purposeful delay by appeal as grounds for denying postconviction release, it is an almost universal Federal practice to release convicted offenders for months and even years while they seek judicial review of their convictions.

The new section makes it clear that society's interests are paramount in the postconviction situation by providing for detention pending imposition or execution of sentence, unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the community if released; and detention pending appellate review of the conviction, unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the community and determines that the appeal is not taken for delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

Section 3144 deals with release and detention of a material witness and replaces current 18 U.S.C. 3149 without substantive change.

Section 3145 provides for review and appeal of a release or detention order. It replaces current 18 U.S.C. 3147. A release or detention order entered by a magistrate, or by a person other than a judge of a court with original jurisdiction over the offense or a Federal appellate court, may be appealed to the court having original jurisdiction over the offense by the Government as to release and conditions of release and by the defendant as to detention or, if released, as to conditions of release.

Section 3146 replaces current 18 U.S.C. 3150 and makes it a criminal offense for a person released under this chapter to fail to appear as required or to surrender for service of sentence as ordered. A penalty of imprisonment for 5 years and a $5,000 fine is provided if the person was released in connection with a felony charge, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction of an offense. Failure to appear as a material witness or in connection with a misdemeanor charge is punishable by 1 year imprisonment and $1,000 fine. Penalties for failure to appear must run consecutive to any sentence for other offenses. In addition, property of the person designated for forfeiture upon failure to appear may be forfeited to the United States.

Section 2147 is a new provision that provides mandatory prison terms to run consecutive to any other sentence of imprisonment for the commission of a Federal, State, or local offense while released pursuant to this chapter.

Section 3148 is also new. It is designed to put some teeth into the machinery for dealing with released persons who violate some condition of their release, including violation of the mandatory condition not to engage in criminal conduct, by providing procedures for revocation of release, an order of detention, and a prosecution for contempt of court. This provision is intended to provide the statutory basis for swiftly getting individuals off the street who cannot cooperate by complying with reasonable conditions of release and particularly those individuals who may be committing other offenses.

CONCLUSION

Mr. President, this legislation is a major reform of our current Federal bail laws. It addresses fundamental problems faced by Federal judges when trying to decide whether to release or detain a person prior to trial. Conditions of release with penalties for their violation, the elimination of money bail, and an honest appraisal of a person and his possible danger to the community are the principal elements of this legislation. It should be studied closely by my colleagues on both sides of the aisle because I believe it provides a major step in an answer to the crime problems confronting us.

As chairman of the Senate Committee on the Judiciary, I intend to press for early hearings and action on this proposed legislation.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bail Reform Act of 1981".

SECTION 1. Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof;

"§ 3141. Release and detention authority generally

"(a) PENDING TRAIL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provision of this chapter.

"(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

"§ 3142. Release or detention of a defendant pending trial

"(a) IN GENERAL.—Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance pursuant to the provisions of subsection (b);

"(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

"(3) temporarily detained to permit revocation of conditional release pursuant to the provisions of subsection (d); or

"(4) detained pursuant to the provisions of subsection (e).

"(b) RELEASE ON PERSONAL RECOGNIZANCE.—The judicial officer shall order the pretrial release of the person on his personal recognizance, subject to the condition that the person not commit a federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) RELEASE ON CONDITION.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition, that the person not commit a federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

"(K) forfeit, upon failing to appear as required, such designated property belonging to the person as is reasonably necessary to assure his appearance;

"(L) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

"(M) satisfy any other condition, other than execution of a money bond, that is reasonably necessary to assure appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may at any time amend his order to impose additional or different conditions of release.

"(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE.—If the judicial officer determines that—

"(1) the person is, and was at the time the offense was committed, on—

"(A) release pending trial for a felony under Federal, State, or local law; and

"(B) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(C) probation or parole for any offense under Federal, State, or local law; and

"(2) no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community;

he shall order the detention of the person, for a period of not more than ten days, and direct the attorney for the government to notify the appropriate court, probation, or parole official. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section.

"(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that:

"(1) no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community; and

"(2) on the basis of information presented by proffer or otherwise, there is a substantial probability that the person committed the offense for which he has been charged;

he shall order the detention of the person prior to trial.

"(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community—

"(1) in a case that involves—

"(A) a crime of violence;

"(B) an offense for which the maximum sentence is life imprisonment or death; or

"(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 807 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

"(2) in any other case, upon motion of the attorney for the government or upon the judge's own motion, that involves—

"(A) a serious risk that the person will flee;

"(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror; or

"(C) any felony committed after the person had been convicted of two or more prior offenses described in paragraph (1), or two or more State or local offenses that would have been offenses described in paragraph (1) if a circumstance giving rise to Federal jurisdiction had existed.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The person may be detained pending completion of the hearing.

"(g) FACTORS TO BE CONSIDERED.—The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safey of any other person and the community, take into account the available information concerning—

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

"(2) the weight of the evidence against the person;

"(3) the history and characteristics of the person, including—

"(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

"(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, State, or local law; and

"(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

"(h) CONTENTS OF RELEASE ORDER.—In a release order issued pursuant to the provisions of subsection (b) or (c), the judicial officer shall—

"(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

"(2) advice the person of—

"(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

"(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

"(C) the provisions of section 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court) and 1510 relating to obstruction of criminal investigation).

"(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (a), the judge shall—

"(1) include written findings of fact and a written statement of the reasons for the detention;

"(2) direct that the person be committed to the custody of the Attorney General for confinement in a correction facility separate, to the extent practicable, from persons awaiting for serving sentences of being held in custody pending appeal;

"(3) direct that the person be afforded reasonable opportunity for private consultation with his counsel; and

"(4) direct that, on order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility in which the person is confined deliver the person to a United States marshal for the purpose of an appearance in connection with a court proceeding. The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

"§ 3143. Release or detention of a defendant pending sentence or appeal

"(a) RELEASE OR DETENTION PENDING SENTENCE.—The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142(b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with the provisions of section 3142(b) or (c).

"(b) RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.—The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142(b) or (c); and

"(2) that the appeal is not taken for purpose of delay and raises a substantial ques-

tion of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with the provisions of section 3142(b) or (c).

"(c) RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.—The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3731 of this title, in accordance with the provisions of section 3142, unless the defendant is otherwise subject to a release or detention order.

"§ 3144. Release or detention of a material witness

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 3145. Review and appeal of a release or detention order

"(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a federal appellate court—

"(1) the attorney for the government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

"(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

"(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

"(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

"§ 3146. Penalty for failure to appear

"(a) OFFENSE.—A person is guilty of an offense if, after having been released pursuant to this chapter—

"(1) he fails to appear before a court as required by the conditions of his release; or

"(2) he fails to surrender for service of sentence pursuant to a court order.

"(b) GRADING.—If the person was released—

"(1) in connection with a charge of felony or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction of an offense, he shall be fined not more than $5,000 and imprisoned for not more than five years;

"(2) in connection with a charge of misdemeanor, he shall be fined not more than $1,000 or the maximum provided for such misdemeanor, whichever is less, and imprisoned for not more than one year; or

"(3) for appearance as a material witness, he shall be fined no more than $1,000 or imprisoned for not more than one year or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

"(c) DECLARATION OF FORFEITURE.—If a person fails to appear before a court as required, and the person is subject to the release condition set forth in section 3142(c)(2)(K), the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

"§ 3147. Penalty for an offense committed while on release

"A person convicted of a federal, State, or local offense committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense for which he was on release, to—

"(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

"(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 3148. Sanctions for violation of a release condition

"(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3142, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) REVOCATION OF RELEASE.—The attorney for the government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in this district in which his arrest was ordered for a proceeding in accordance with this section. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

"(1) finds that there is clear and convincing evidence that the person has violated a condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3142(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

"(c) PROSECUTION FOR CONTEMPT.—The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

"§ 3149. Applicability to a case removed from a State court

"The provisions of this chapter apply to a criminal case removed to a federal court from a State court.".

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by striking out "and recommend appropriate release conditions for each such person" and inserting in lieu thereof "and, where appropriate, include a recommendation as to whether each such person should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking out "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145";

(c) section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by deleting "and" at the end thereof;

(3) in paragraph (2) by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or";

(d) the item relating to chapter 207 in the analysis of Part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings..... 3141"; and

(e)(1) the caption of chapter 207 is amended to read as follows:

"Chapter 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS"; and

(2) the section analysis for chapter 207 is amended by striking out the items relating to sections 3141 through 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.
"3142. Release or detention of a defendant pending trial.
"3143. Release or detention of a defendant pending sentence or appeal.
"3144. Release or detention of a material witness.
"3145. Review and appeal of a release or detention order.
"3146. Penalty for failure to appear.
"3147. Penalty for an offense committed while on release.
"3148. Sanctions for violation of a release condition.
"3149. Applicability to a case removed from a State court.
"3150. Repealed.
"3151. Repealed.".

SEC. 2. Chapter 203 of title 18, United States Code, is amended as follows:

(a) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to the provisions of section 3142 of this title,

whether to detain or conditionally release the prisoner prior to trial".

(b) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof "detained or conditionally released pursuant to section 3142 of this title".

(c) Section 3043 is repealed.

(d) The following new section is added after section 3061:

"§ 3062. General arrest authority for violation of release conditions

"A law enforcement officer, who is authorized to arrest for an offense committed in his presence, may arrest a person who is released pursuant to chapter 207 if the officer has reasonable grounds to believe that the person is violating, in his presence, a condition imposed on the person pursuant to section 3142(c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(L), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142 (c)(2)(J).".

(e) The section analysis is amended—

(1) by amending the item relating to section 3043 to read as follows:

"3043. Repealed."; and

(2) by adding the following new item after the item relating to section 3061:

"3062. General arrest authority for violation of release conditions.".

SEC. 3. Section 3731 of title 18, United States Code, is amended by adding after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the pretrial release of a person charged with an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.".

SEC. 4. The second paragraph of section 3772 of title 18, United States Code, is amended by striking out "bail" and inserting in lieu thereof "release pending appeal".

SEC. 5. Section 4282 of title 18, United Code, is amended—

(a) by striking out "and not admitted to bail" and substituting "and detained pursuant to chapter 207"; and

(b) by striking out "and unable to make bail".

SEC. 6. Section 636 of title 28, United States Code, is amended by striking out "impose conditions of release under section 3146 of title 18" and inserting in lieu thereof "issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial".

SEC. 7. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 5(c) is amended by striking out "shall admit the defendant to bail" and inserting in lieu thereof "shall detain or conditionally release the defendant".

(b) Rule 9(b)(1) is amended by striking out the last sentence.

(c) The second sentence of Rule 15(a) is amended by striking out "committed for failure to give bail to appear to testify at a trial or hearing" and inserting in lieu thereof "detained pursuant to 18 U.S.C. § 3144".

(d) Rule 40(f) is amended to read as follows:

"(f) Release or Detention. If a person was previously detained or conditionally released, pursuant to chapter 207 of title 18, United States Code, in another district where a warrant, information or indictment issued, the federal magistrate shall take into account the decision previously made and the reasons set forth therefor, if any, but will not be bound by that decision. If the federal magistrate amends the release or detention decision or alters the conditions of release, he shall set forth the reasons for his action in writing.".

(e) Rule 46 is amended—

(1) in subsection (a), by striking out "3146, 3148, or 3149" and inserting in lieu thereof "3142 and 3144";

(2) in subdivision (c), by striking out "3148" and inserting in lieu thereof "3143";

(3) by deleting subdivision (d);

(4) by amending subdivision (e)(1) to read as follows:

"(1) DECLARATION.—If there is a breach of the condition set forth in 18 U.S.C. § 3142(c)(2)(K), the district court shall declare the property that is the subject of the condition to be forfeited to the United States.";

(5) by deleting the second and third sentences of subdivision (e)(3);

(6) by deleting "obligors" and "their" in the last sentence of subdivision (e)(3) and substituting "defendant" and "his", respectively;

(7) by amending subdivision (f) to read as follows:

"(f) EXONERATION.—If the forfeiture has been set aside or remitted, the court shall exonerate the defendant of the obligation to forfeit the property and shall release the property to him."; and

(8) by adding the following new subdivision at the end thereof:

"(h) FORFEITURE OF PROPERTY.—Nothing in this Rule or in chapter 207 of title 18, United States Code, shall prevent the court from disposing of any charge by entering an order directing forfeiture of property pursuant to 18 U.S.C. § 3142(c)(2)(K) if the value of the property is an amount that would be an appropriate sentence after conviction of the offense charged and if such forfeiture is authorized by statute or regulation.".

(f) Rule 54(b)(3) is amended by striking out "18 U.S.C. § 3043 and".

SEC. 8. Rule 9(c) of the Federal Rules of Appellate Procedure is amended by striking out "3148" and inserting in lieu thereof "3143".

Mr. THURMOND. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska (Mr. MURKOWSKI) is recognized.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Do I have a special order?

The PRESIDING OFFICER. It was the last special order.

Mr. KENNEDY. Mr. President, since the Senator from Alaska is not here, I ask unanimous consent that I may proceed first.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to be able to join Senator THURMOND in introducing the Bail Reform Act of 1981. We will also introduce the Criminal Sentencing Reform Act of 1981, which was reported, without objection, from the Judiciary Committee last year.

Senator THURMOND and I have worked closely together in the criminal law area, and I have respected his fair and balanced approach to reform of the criminal justice system. I am gratified to see the strong bipartisan support behind both these proposals. On the sentencing bill, we are joined by Senators LEAHY, BAUCUS, DECONCINI, LAXALT, HATCH, and SPECTER. On the bail reform bill, we have a slightly different list of cosponsors. We are joined by Senator BUMPERS, who has taken a leadership role in the bail reform area.

Because of the recent dramatic increase in the rate of violent crime, citizens of this Nation are demanding that Congress do more to curb violent crime. I am confident that these bills we are introducing today can meet that challenge and I hope that both will be enacted into law in this Congress.

Of course, neither of these laws alone will solve the very real problem of the most serious crimes committed on the streets of this Nation. But we do have a responsibility to meet the challenge of devising new approaches to the problems of violence. If successful,

If successful, the States will follow our lead. As we consider the comprehensive legislation to reduce the rate of violent crime, revision of bail and sentence laws should have the highest priority.

The Bail Reform Act of 1981 proposes a comprehensive reform of the unsatisfactory two-century-old system of money bail. Under the two key parts of this proposal, money bail will be completely eliminated, and persons accused of crime will be detained in prison prior to trial only if they are a danger to the community or likely to flee before their trial.

Mr. President, our current system of bail is inadequate from the perspective of both the community and the criminal defendant. As written, the bail laws require a judge to release a defendant in noncapital cases prior to trial under those minimal conditions reasonably required to assure his presence at trial. Danger to the community and the protection of society are not factors to be considered under current law in the decision to grant bail.

Over the past 15 years, since the enactment of the Bail Reform Act of 1966, there has been rising public concern that our bail laws are not working. With increasing frequency, persons on bail are being arrested and charged with serious felonies—especially burglary, robbery, larceny, and drug offenses. In Washington, D.C. alone, the rearrest rate has been a startling 22 percent, and the average rate of rearrest hovers around 16 percent.

A recent study by the Lazar Institute commissioned by the Department of Justice made the preliminary finding that rearrested defendants have more extensive prior records than other defendants. They averaged five prior arrests and 2.5 prior convictions—as compared with three arrests and 1.2 prior convictions for other defendants. The public is outraged that these violent repeat offenders, with lengthy records of serious street crime, are put back onto the street to rob and mug again.

Under our present system of bail, it is common knowledge that judges use money bail to detain defendants who they believe, will threaten the community even when there is no indication the defendant will flee. Indeed, the major

reason today for the pretrial detention of defendants is the inability to post bond. A judge knows that the higher the bond, the less likely the defendant will be released from jail prior to trial. Studies show that approximately 65 percent of the persons with bonds of $10,000 or more were jailed for the entire pretrial period. Thus, in practice, we have a system of preventive detention today, but it operates only against the poor.

In the legislation introduced today, we seek to establish a bail system which candidly and openly acknowledges the need to consider safety to the community, and which eliminates the present discrimination against the indigent defendant. Defendants who pose no danger to the community or risk of flight will not be unfairly sent to jail because they cannot afford to pay the cost of bail.

No longer will wealthy drug traffickers be able to meet the money bail requirements, and then flee the jurisdiction. Instead this legislation will permit a judge, in determining whether to release a defendant, to consider both the likelihood of flight and of danger to the community without having to use any subterfuges to reach the legitimate objectives of detaining such persons before trial.

As one who has long been committed to preserving the civil liberties of all our citizens, I firmly believe that this legislation strikes a fair balance between the rights of the accused under the constitution and the rights of the public to be safe in their homes and neighborhoods. It meets the basic goals of law enforcement without infringing unnecessarily on civil liberties. Permitting a judge to consider danger to the community in determining pretrial release does not violate the constitutional presumption of innocence or the constitutional prohibition against excessive bail. The District of Columbia Court of Appeals, in United States against Edwards, recently upheld the constitutionality of the D.C. preventive detention statute. As the court stated—

> Significantly, pretrial detention is closely circumscribed so as not to go beyond the need to protect the safety of the community pending the detainee's trial.

Like the D.C. statute, this legislation establishes careful due process procedures to protect defendants detained prior to trial on the grounds they might flee or pose a danger to the community.

In particular, a defendant cannot be detained prior to trial unless the judge finds: First, by a "substantial probability" that the defendant committed the crime; second, that the defendant will flee or will pose a danger to the community; and third, that there is no other set of conditions which will reasonably insure appearance of the defendant or the safety of the community. Most important, no pretrial detention can be imposed unless a person is accused of dangerous and violent offenses, or unless he has been charged with a felony and has a prior record of violent crime.

Any person detained prior to trial would be tried promptly according to the expedited procedures of the Speedy Trial Act. After the expiration of that time period, the accused must be released on bail.

In making the determination that a person should be detained either because of risk to the community or probability of flight, the judge is required to look at a number of factors, including the circumstances of the offenses, the weight of the evidence against the person, and his prior record of criminal behavior. This list of criteria is derived from the D.C. statute, enacted in 1970, which gives great weight to the prior record of a defendant accused of a violent or serious crime in determining whether there is a substantial likelihood that he will commit another offense while on bail.

A number of important procedural due process rights are afforded the defendant in the pretrial hearing. He is permitted the right to present witnesses and cross-examine witnesses brought against him. A judge must make findings of fact, and the reasons for detention, if imposed, must be stated. A defendant has the right to an appeal of the pretrial detention order.

While this bill is an important first step in achieving bail reform, I have concerns about several provisions in the legislation.

First, the definition of violent crime may be too broad. The legislation defines violent crime in generic terms as an offense which involves the use or threat of physical force against the person or property of another. Other proposals, like the District of Columbia preventive detention statute, list the covered crimes—like rape, robbery, kidnaping, drug trafficking. By specifically listing the crimes, those proposals would limit the use of preventive detention to the most serious offenses.

Second, I am concerned that the bill does not give sufficient weight to the past criminal record of a criminal defendant in determining whether he is likely to be a danger to the community prior to trial. Not surprisingly, the statistics indicate that a defendant is more likely to commit pretrial crimes if he has a past criminal record. For that reason, the District of Columbia preventive detention statute requires that a court find a prior pattern of criminal conduct before he or she can impose preventive detention. We should insure that this legislation is carefully tailored to cover only those defendants most likely to be a danger to the community.

I look forward to extensive hearings which will analyze the procedures in this legislation and welcome any suggestions to improve it.

In sum, Mr. President, I believe that this proposal has the potential to become a historic landmark in the war on crime, and in our ongoing effort to fulfill the great goal of equal justice under law.

This legislation is not a panacea for violent crime in America. Indeed the Federal Government does not have jurisdiction to deal with many of the most serious crimes committed on the streets of the Nation. But, we do have a responsibility to meet the challenge of devising new approaches to the problem of violence. If successful, the States will follow our lead. As we consider comprehensive legislation to reduce the rate of violent crime, revision of the bail laws should have the highest priority.

BAIL REFORM

Mr. HATCH. Mr. President, escalating crime is one of the terrifying realities of our day. Indeed from 1979 to 1980 violent crimes increased at the alarming double-digit rate of 13 percent. Robberies multiplied nationwide at a 20-percent rate, rapes at 9 percent, aggravated assaults at 8 percent, and homicides at 7 percent. With danger to lawful citizens increasing yearly, Federal courts and Federal laws need to recognize more urgently the need to protect neighborhood safety.

Two recent studies conducted in the District of Columbia suggest that present bail procedures have worked to the direct detriment of community security. In the first study, entitled "Pretrial Release and Misconduct in the District of Columbia," 13 percent of felony suspects were apprehended for another crime committed while they were free on bail.[1] In another 1978 study, 65 percent of those released after an arrest for auto theft were taken into custody for another auto theft while out on bail.[2] An older District of Columbia statistical analysis is even more disturbing. According to this 1968 survey of 557 persons indicted for robbery, 70.1 percent of those released prior to trial were rearrested while on bail.[3] Moreover these studies could each be interpreted in light of findings that over 50 percent of criminal activity goes unreported and fewer than 25 percent of reported crimes lead to arrests.[4] Although these studies might suggest the relevancy of community security to a bail proceeding, current law prevents a Federal judge from considering threats to the community when setting conditions for pretrial release.

Under current Federal law, specifically the Bail Reform Act of 1966, the only issue a judge is to consider in determining bail is what condition will reasonably assure that the suspect will appear for trial. By failing to account for potential danger to the community into which the defendant will return when released, Federal bail laws have contributed directly to the rise in criminal activity by releasing suspects to commit other offenses as well as indirectly by augmenting a climate of leniency that has fostered the rampant crime increase.

HISTORY OF BAIL AND DANGER TO COMMUNITY CONSIDERATIONS

The history of bail requirements is a lengthy record of legal standards giving some consideration to society's right to self-defense when weighing conditions for pretrial release. The Statute of Westminster the First of 1275 included a list of violent offenses for which no bail was possible. This reflected an apparent understanding that persons charged with serious felonies pose a greater risk of injury or death to others within the community. This served for

Footnotes at end of article.

more than five centuries as the basic authority for bail.[5] English judges, however, were apparently not fully satisfied that those protections were adequate. They began setting bail for less serious offenses beyond the reach of most offenders. Parliament responded with a provision in the Bill of Right in 1689 that "excessive [bail] ought not to be required."[6] This language became the basis for the Virginia Declaration of Rights which was offered as an amendment to the Constitution verbatim by James Madison in 1789.

Bail laws in the fledgling states carried over the English principle of recognizing the gravity of the offense in determining whether to make bail available to certain classes of dangerous offenders. The pivotal Judiciary Act of 1789 authorized the denial of bail in capital offenses. This same practice was followed in the statutes of the new States. This was particularly significant because six of the States imposed capital punishment for arson, rape, burglary, and robbery, in addition to murder; two other States authorized the death penalty for three of these four violent offenses; other States entrusted formulation of criminal law to the courts under the common law which prescribed capital punishment for most felonies.[7] Bail practice in the new States was fundamentally designed to prevent, at the discretion of the court, suspects in violent crimes from returning to the community in the period between arrest and trial.

Although the Bail Reform Act today still allows the court to detain the accused without bail in capital offenses, the death penalty no longer applies to the breadth of violent offenses it formerly encompassed. Although the definition of capital offenses has changed over the years, the reasons for the retreat from the death penalty are not relevant to the question of detaining a suspect pending trial. Capital punishment has come under attack because its deterrent effect is doubted and rehabilitation of criminals is more trusted. Neither of these factors addresses protection of the community against dangerous conduct by a defendant awaiting trial.

THE EIGHTH AMENDMENT

The eighth amendment, based as it is upon the English law precedents that denied bail to offenders in capital—at that time, violent—crimes, does not guarantee bail to all suspects under all conditions. Instead it explicitly states that bail shall not be excessive, with the implicit message that bail must first be warranted before the excessiveness ban would have any effect at all. To construe the eighth amendment to imply a right to bail in all cases would prohibit any form of pretrial detention. In other words, State laws enacted contemporaneous with the Constitution that permitted denial of bail for capital offenses would have been unconstitutional. Thus, finding an implied universal right to bail in the eighth amendment would run contrary to the historical context in which the Constitution was drafted.

Footnotes at end of article.

In any event, the Supreme Court resolved any questions about a right to bail in Carlson against Landon: [8]

The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. Indeed, the very language of the Amendment fails to say all arrests must be bailable.

Although bail may not be excessive, there is no absolute right to bail. Dangerousness of the defendant is not barred by the Constitution as a consideration in bail proceedings. On the contrary, as previously noted, the absence of a constitutional prohibition in light of the common practice of the time to restrict bail suggests credibly that the framers of the Constitution approved of bail policies to protect the community against recidivists.

THE BAIL REFORM ACT OF 1966

Despite these weighty historical precedents, Congress in 1966 restricted Federal courts' discretion to consider threats to the community when setting pre-trial release conditions. Besides releasing individuals likely to commit other crimes, this leads to several unreasonable contradictions. For instance, the standards a court must use when setting bail may be determined by whether or not the wound inflicted by the prisoner is fatal. As discussed earlier, the court in capital offenses may consider the prospect of risk to the community, but in noncapital offenses may only consider likelihood of flight when setting bail. Therefore, the legal standard used to determine pretrial release conditions may depend on whether the victim in the case is still clinging to life when the defendant is brought before the court to request bail. In other words, the test of law allowing a dangerous suspect to return to the community is more dependent upon the death date of his last victim than considerations of community safety.

Another arbitrary result of the current bail law is that a criminal with a long list of convictions may find it easier to demonstrate that he will appear for trial than a first offender. Former U.S. Attorney for the District of Columbia, Earl J. Silbert, makes this point persuasively:

The utter absurdity of this result is best demonstrated by the argument defense lawyers routinely make and judges too often accept: The defendant should be released because his extensive record of criminal arrests and convictions for serious crimes without any charge of flight is persuasive proof that he appears in court as required. The logical extension of this argument is that the more crimes a defendant has committed, the stronger his argument for release.[9]

Without any consideration of dangerousness allowed by the current Bail Reform Act, a recidivist may actually contend that his lengthy criminal record is good reason for his pretrial release.

The current law also puts judges in a very difficult position. A judge with a sense of duty to protect the innocent probably takes quietly into account a defendant's dangerousness by setting bail beyond his means. This puts the judge in the uncomfortable position of considering in fact matters he must ignore under the law. The "Interim Report of the State of New York Temporary Commission on Revision of the Penal and Criminal Code" commented on this situation in recommending a change of law:

There is little doubt that the average judge will, regardless of the reasons given by him, deny bail to a defendant charged with forcible rape and having an unsavory record of sex crimes, no matter how certain he may be that the defendant will appear in court when required; nor is there any doubt that such practice . . . has the approval of the general public. . . . Upon the premise that in many instances preventive detention is in fact necessary for public protection and will inevitably be practiced even though not specifically authorized, the proposal realistically and implicitly recognizes danger to the community as a valid consideration in the determination of any bail application.[10]

Judges themselves have candidly commented on their policy of disregarding this unworkable law. Judge Tim Murphy formerly on the District of Columbia Court of General Sessions said before a House Committee that:

An unreasonable law has the ultimate effect of forcing those who administer it to ignore it, calloused of the consequences, or else to make extreme rationalizations in circumventing it; this applies to judges. You cannot expect judges to follow the letter of a law that requires them to turn many dangerous criminals loose day after day.[11]

The other side of this dilemma for judges is that a conscientious judge could, within the letter of the law, find himself under popular attack for releasing repeating offenders. Whatever the strict legal test for pre-trial release, however, danger to the community is, and always has been, a major consideration for arriving at the amount of bail. Federal judges should be given the necessary discretion under the law to protect the community by the honest use of preventive detention, and not solely by setting a preposterously high bail figure obstensibly to prevent flight.

COURTS ALREADY PREDICT BEHAVIOR

Changing the Bail Reform Act of 1966 to grant Federal judges the discretion to use the peril a defendant may pose to the neighborhood as a criteria in pretrial release proceedings would remedy each of the problems just discussed. This would involve judges in weighing the potential for future violence based on the defendant's past record. These determinations, however, are not unusual for courts. The Bail Reform Act itself allows a judge to examine the suspect's proclivity for future violence when determining bail in a capital case. Moreover, the same bail law requires the courts to predict the potential for flight by the defendant in all instances of pretrial release. When balancing protection of the public against the first amendment right to hold

a mass demonstration, the courts also must weigh the potential for violence. Thus, projecting potentialities and tendencies in the interest of public safety is not beyond the capability of the courts. The 1966 report of the President's Commission on Crime in the District of Columbia reinforced this principle:

After considering the opposing arguments, the majority concludes that the courts are presently capable of identifying those defendants who pose so great a threat to the community that they should not be released, and that a constitutionally sound statute authorizing detention in certain cases can be drawn.[12]

It is important to recognize that when the court makes a determination about the likelihood of dangerous conduct between arrest and trial, it is not idly gazing into a nonexistent crystal ball, but instead examining a reliable record of past conduct. The current bail act, in effect, blacks out that aspect of the record most relevant to public safety, dangerousness of the defendant, and leaves the court to make its projection based solely on the risk that the suspect will not show for trial. The current law does not prevent courts from predicting, but only withdraws some of the record that would make the forecast reliable.

THE FIFTH AMENDMENT

The fifth amendment forbids any official restraints on liberty without "due process of law." If this were interpreted to mean that no individual could be detained before convicted, law enforcement officers would also be barred from apprehending any suspect to stand trial. Former Attorney General John N. Mitchell makes this point very forcibly:

If such a pretrial presumption of innocence existed as a bar to detention of the dangerous before trial, it would also bar pretrial detention of those charged with capital offenses, those held on money bond and could even be extended to prevent police from arresting persons and taking them into custody on probable cause.[13]

Clearly the fifth amendment cannot be construed as an absolute ban on pretrial detention. The Supreme Court has provided a more reasonable reading of the amendment:

The fact that liberty cannot be inhibited without due process does not mean that it can under no circumstances be inhibited.

The requirements of due process are a function not only of the extent of the governmental restriction imposed, but also of the extent of the necessity for the restriction.[14]

Accordingly, the individual's liberty must be balanced against the society's reasons for restraint. In the case of conditions placed on pretrial liberty, there are two very reasonable explanations for the restriction: To insure the individual will appear to stand trial, and to protect the community. The Bail Act already accommodates the first, but, despite the overwhelming historical, legal, and sociological evidence, disregards the latter. The fifth amendment, however, cannot be construed as a bar to detention on the basis of dangerousness. Already the Supreme Court has upheld various forms of detention as a means of protection.[15]

BAIL REFORM BILL

Senator EDWARD KENNEDY, in an address to the National Governor's Conference on Crime Control, June 1, 1979, perhaps stated the case for a change in current bail laws most succinctly:

Our current bail procedures are not working. In particular, they pose an unnecessary threat to the safety of the community. It is time to recognize that these procedures need substantial revision, within the scope of what is permissible under the Constitution.

The measure that is being introduced today is similar, although not identical, to bail reform provisions that were contained in the proposed criminal code reform measure last year (S. 1722). To summarize briefly, the bill would do the following:

First, it would permit Federal judges to consider the safety of other persons or of the community generally in making pretrial release decisions. The risk of flight is currently the only factor that may be considered by the court (section 3502(b)(c)).

Second, if the court determines that simple pretrial release would not reasonably assure appearance at trial, or that it might endanger the safety of other persons or of the community, it might condition such release in a variety of ways. The list of discretionary release conditions is sharply expanded from present law. In addition, a mandatory release condition is imposed upon every defendant that he not commit a Federal, State, or local crime during the period of his release (section 3502(c)).

Third, if the court determines that no such condition will reasonably assure trial appearance, and the safety of other persons or of the community, and if it determines that there existed a "substantial probability" that the person committed the offense for which he has been charged, it may order the pretrial detention of the accused party (section 3502(e)).

Fourth, only those individuals who have been charged with (or who have a history of) a commission of a crime of violence, espionage, or a drug offense would be subject to possible detention, except upon the specific motion of the court or the U.S. Attorney (section 3502(f)).

Fifth, the presumption would be reversed with respect to whether or not to release a convicted person pending sentence or appeal. Under present law, the court is required to treat such an individual under the identical release standards as a nonconvicted individual, unless it has reason to believe that no condition of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. This presumption would be reversed with the convicted individual subject to release only if the court finds, by clear and convincing evidence, that he is not likely to flee or to pose a danger to any other person or to the community.

In addition, with respect to individuals waiting appeal, the court would be required to find that the appeal was not taken for the purpose of delay and that it raised a substantial question of law or fact likely to result in a reversal or an order for a new trial. (Section 3503).

Sixth, money bond would be abolished as a means for detaining persons whom the courts believe would be likely to flee or to pose a danger to another person or to the community. Instead, the court would be required to consider these factors in setting conditions of release or in detaining a person prior to trial. More honest decisionmaking would be performed by the courts. (Section 3502(b)).

Seventh, new sanctions would be established against those individuals violating their conditions of release. Such individuals would either be subject to summary revocation or release procedures, or to criminal contempt sanctions. (Section 3506).

Eighth, new authority would be granted to law enforcement officers to make arrests of individuals violating certain condition of release.

In conclusion, permit me to restate that amending the Bail Reform Act of 1966 to allow Federal judges to consider whether the suspect would be a menace to public safety if released would remedy the problems we have already discussed. It would provide the courts the discretion to reduce the alarming growth of crime committed by individuals free in the community on bail. It would relieve judges of using the subterfuge of setting an unusually high bail amount to protect the community. It would eliminate several unreasonable legal distinctions, such as making the standard for bail rest on the fatality of the wound inflicted in the case.

Moreover it would honor a tradition reaching back to 1215 of protecting the community against the apprehended in connection with a violent crime. Finally, it would not be repugnant to either the eighth or fifth amendment, indeed using bail conditions to protect the public was not only a practice at the time of the drafting of those amendments but also a course of conduct supported by the Constitution until changed by Congress in 1966.

It is my intention to hold hearings on this measure in the very near future in the Subcommittee on the Constitution. We will consider this and other proposed bail reforms.

FOOTNOTES

[1] J. Roth & F. Wice, "Pretrial Release and Misconduct in the District of Columbia", Institute of Law and Social Research, PROMIS research project No. 16, 1978.

[2] D.C. Bail Agency, "How Does Pretrial Supervision Affect Pretrial Performance?" 1978.

[3] Report of the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia 20–21 May 1969.

[4] "President's Commission on Crime in the District of Columbia" Report 596 (1966).

[5] *The Constitution of the United States, Analysis and Interpretation*, Congressional Research Service, 92nd Congress, Second Session, Document 92–82, Lester S. Jayson Supervising Editor. See Page 1247.

[6] Id at 1247.

[7] Mitchell, John N., "Bail Reform and the Constitutionality of Pretrial Detention," 55 Virginia Law Review 1223 at 1128. 1969.

[8] *Carlson* v. *Landon*, 342 U.S. 524 (1952), at 545–6.

[9] Silbert, Earl J., "Pretrial Release of Dangerous Defendants."

[10] Interim Report of the State of New York Temporary Commission on Revision of the Penal and Criminal Code, Part A, Section B (1969).

[11] Hearings on Amendments to the Bail Reform Act Before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 91st Congress, 1st Session, at 220–221.

[12] Supra, President's Commission.

[13] Supra, Mitchell, at 1231–2.

[14] *Zemel* v. *Rusk*, 381 U.S. 1, at 14 (1965). (1965).

[15] *Greenwood* v. *U.S.*, 350 U.S. 366 (1956), allows detention of those incompetent to stand trial who may endanger safety. *Minnesota ex rel. Pearson* v. *Probate Court*, 309 U.S. 270 (1940), allowed detention of sexual psychopaths deemed dangerous.

I ask unanimous consent to have several related materials printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BELL, ATTORNEY GENERAL, ET AL. VERSUS WOLFISH ET AL.

(No. 77–1829.—Argued January 16, 1979—Decided May 14, 1979)

A

The Court of Appeals did not dispute that the Government may permissibly incarcerate a person charged with a crime but not yet convicted to ensure his presence at trial. However, reasoning from the "premise that an individual is to be treated as innocent until proven guilty," the court concluded that pretrial detainees retain the "rights afforded unincarcerated individuals," and that therefore it is not sufficient that the conditions of confinement for pretrial detainees "merely comport with contemporary standards of decency prescribed by the cruel and unusual punishment clause of the eighth amendment." 573 F. 2d, at 124. Rather, the court held, the Due Process Clause requires that pretrial detainees "be subjected to only those 'restrictions and privations' which 'inhere in their confinement itself or which are justified by compelling necessities of jail administration.'" *Ibid.*, quoting *Rhem* v. *Malcolm*, 507 F. 2d, at 336. Under the Court of Appeals' "compelling necessity" standard, "deprivation of the rights of detainees cannot be justified by the cries of fiscal necessity, . . . administrative convenience, . . . or by the cold comfort that conditions in other jails are worse." 573 F. 2d, at 124 (citations omitted). The court acknowledged, however, that it could not "ignore" our admonition in *Procunier* v. *Martinez*, 416 U.S. 396, 405 (1974), that "courts are ill-equipped to deal with the increasingly urgent problems of prison administration," and concluded that it would "not [be] wise for [it] to second-guess the expert administrators on matters on which they are better informed." 573 F. 2d, at 124.[1]

[1] The NAACP Legal Defense and Educational Fund, Inc., as *amicus curiae*, argues that federal courts have inherent authority to correct conditions of pretrial confinement and that the practices at issue in this case violate the Attorney General's alleged duty to provide inmates with "suitable quarters" under 18 U.S.C. § 4042(2). Brief for the NAACP Legal Defense and Educational Fund, Inc., at *Amicus Curiae* 22–46. Neither argument was presented to or passed on by the lower courts; nor have they been urged by either party in this Court. Accordingly, we have no occasion to reach them in this case. *Knetsch* v. *United States*, 364 U.S. 361, 370 (1960).

Our fundamental disagreement with the Court of Appeals is that we fail to find a source in the Constitution for its compelling necessity standard.[2] Both the Court of Appeals and the District Court seem to have relied on the "presumption of innocence" as the source of the detainee's substantive right to be free from conditions of confinement that are not justified by compelling necessity. 573 F. 2d, at 124; 439 F. Supp., at 124; accord, *Campbell* v. *Magruder*, —— U.S. App. D.C. ——, 580 F. 2d 521, 529 (1978); *Detainees of Brooklyn House of Detention* v. *Malcolm*, 520 F. 2d 392, 397 (CA2 1975); *Rhem* v. *Malcolm*, 507 F. 2d 333, 336 (CA2 1974). But see *Feeley* v. *Sampson*, 570 F. 2d 364, 369 n. 4 (CA1 1978); *Hampton* v. *Holmesburg Prison Officials*, 546 F. 2d 1077, 1080 n. 1 (CA3 1976). But the presumption of innocence provides no support for such a rule.

The presumption of innocence is a doctrine that allocates the burden of proof in criminal trials; it also may serve as an admonishment to the jury to judge an accused's guilt or innocence solely on the evidence adduced at trial and not on the basis of suspicions that may arise from the fact of his arrest, indictment or custody or from other matters not introduced as proof at trial. *Taylor* v. *Kentucky*, 436 U.S. 478, 585 (1978); see *Estelle* v. *Williams*, 425 U.S. 501 (1976); *In re Winship*, 397 U.S. 358 (1970); 9 J. Wigmore, Evidence § 2511 (3d ed. 1940). It is "an inaccurate, shorthand description of the right of the accused to 'remain inactive and secure, until the prosecution has taken up its burden and produced evidence and effected persuasion . . .' [; an] 'assumption' that is indulged in the absence of contrary evidence." *Taylor* v. *Kentucky*, *supra*, at 483–484, n. 12.

Without question, the presumption of innocence plays an important role in our criminal justice system. "The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law." *Coffin* v. *United States*, 156 U.S. 432, 453 (1895). But it has no application to a determination of the rights of a pretrial detainee during confinement before his trial has even begun.

The Court of Appeals also relied on what it termed the "indisputable rudiments of due process" in fashioning its compelling necessity test. We do not doubt that the Due Process Clause protects a detainee from certain conditions and restrictions of pretrial detainment See *infra*, at 13–19. Nonetheless, that clause provides no basis for application of a compelling necessity standard to conditions of pretrial confinement that are not alleged to infringe any other, more specific guarantee of the Constitution.

[2] As authority for its compelling necessity test, the court cited three of its prior decisions, *Rhem* v. *Malcolm*, 507 F. 2d 333 (CA2 1974) (*Rhem I*); *Detainees of Brooklyn House of Detention* v. *Malcolm*, 520 F. 2d 392 (CA2 1975), and *Rhem* v. *Malcolm*, 527 F. 2d 1041 (CA2 1975) (*Rhem II*). *Rhem I's* support for the compelling necessity test came from *Brenneman* v. *Madigan*, 343 F. Supp. 128, 142 (ND Cal. 1972), which in turn cited no cases in support of its statement of the relevant test. *Detainees* found support for the compelling necessity standard in *Shapiro* v. *Thompson*, 394 U.S. 618 (1969), *Tate* v. *Short*, 401 U.S. 395 (1971), *Williams* v. *Illinois*, 399 U.S. 235 (1970), and *Shelton* v. *Tucker*, 364 U.S. 479 (1960). But *Tate* and *Williams* dealt with equal protection challenges to imprisonment based on inability to pay fines or costs. Similarly, *Shapiro* concerned equal protection challenges to state welfare eligibility requirements found to violate the constitutional right to travel. In *Shelton*, the Court held that a school board policy requiring disclosure of personal associations violated the First and Fourteenth Amendment rights of a teacher. None of these cases support the court's compelling necessity test. Finally, *Rhem II* merely relied on *Rhem I* and *Detainees*.

It is important to focus on what is at issue here. We are not concerned with the initial decision to detain an accused and the curtailment of liberty that such a decision necessarily entails. See *Gerstein* v. *Pugh*, 420 U.S. 103, 114 (1975); *United States* v. *Marion*, 404 U.S. 307, 320 (1971). Neither respondents nor the courts below question that the Government may permissibly detain a person suspected of committing a crime prior to a formal adjudication of guilt. See *Gerstein* v. *Pugh*, *supra*, at 111–114. Nor do they doubt that the Government has a substantial interest in ensuring that persons accused of crimes are available for trials and, ultimately, for service of their sentences, or that confinement of such persons pending trial is a legitimate means of furthering that interest. Tr. of Oral Arg. 27; see *Stack* v. *Boyle*, 342 U.S. 1, 4 (1951).[3] Instead, what is at issue when an aspect of pretrial detention that is not alleged to violate any express guarantee of the Constitution is challenged, is the detainee's right to be free from punishment, see *infra*, at 13–14, and his understandable desire to be as comfortable as possible during his confinement, both of which may conceivably coalesce at some point. It seems clear that the Court of Appeals did not rely on the detainee's right to be free from punishment, but even if it had, that right does not warrant adoption of that court's compelling necessity test. See *infra*, at 13–19. And to the extent the court relied on the detainee's desire to be free from discomfort, it suffices to say that this desire simply does not rise to the level of those fundamental liberty interests delineated in cases such as *Roe* v. *Wade*, 410 U.S. 113 (1973); *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972); *Stanley* v. *Illinois*, 405 U.S. 645 (1972); *Griswold* v. *Connecticut*, 381 U.S. 479 (1965); *Meyer* v. *Nebraska*, 262 U.S. 390 (1923).

STATEMENT OF DAVID ROBINSON, JR.

My name is David Robinson, Jr. I am a professor of Law at The George Washington University, Washington, D.C. Most of my experience in the litigation of criminal cases consists of service as both a state and federal prosecuting attorney. My present teaching responsibilities include courses in Criminal Law, Criminal Procedure, Advanced Criminal Procedure, Evidence, and Constitutional Law.

I would like to address myself primarily to the question of the constitutionality of legislation which provides for pretrial detention of dangerous persons.

In other democratic countries explicit permission for detention of persons awaiting trial in criminal cases is given. The legal systems of England, Scotland, France, Norway, Iceland, and Japan approve the practice; I have found no country which does not do so.

Preventive detention is expressly author-

[3] In order to imprison a person prior to trial, the Government must comply with constitutional requirements, *Gerstein* v. *Pugh* 420 U.S., at 114; *Stack* v. *Boyle*, 342 U.S. 1, 5 (1951), and any applicable statutory provisions, *e.g.*, 18 U.S.C. §§ 3146, 3148. Respondents do not allege that the Government failed to comply with the constitutional or statutory requisites to pretrial detention.

The only justification for pretrial detention asserted by the Government is to ensure the detainees' presence at trial. Brief for Petitioners 43. Respondents do not question the legitimacy of this goal. Brief for Respondents 33; Tr. of Oral Arg. 27. We, therefore, have no occasion to consider whether any other governmental objectives may constitutionally justify pretrial detention.

ized by statute and rule in a variety of situations. In capital cases, during appeals from convictions and in civil commitment proceedings and confinement of the mentally ill, bail is commonly denied. The last is a particularly striking example, for under the Ervin Act (78 Stat. 944 (1964)) the only basis for involuntary confinement is preventive detention: a finding that it is likely that the confined person is likely to injure himself or another if released. No provision is made for bail or other conditional release pending adjudication.

In criminal cases preventive confinement prior to trial is common, as every lawyer who engages in practice in the criminal courts knows. But the usual route is the conclusion that a dangerous person is likely to fail to appear in his case, and high bail is accordingly set. Such is the gap between American legal theory and its practice.

A statute explicitly authorizing detention or conditions of release of accused persons in criminal cases because of their dangerousness raises issues under the prohibition of excessive bail of the Eighth Amendment and under the due process requirement of the Fifth Amendment.

Of course, the former does not in its express terms confer a right to bail; it only provides that excessive bail shall not be required. The history of this provision is long, tangled, and obscure, but the prohibition against excessive bail appears to have been drawn from the English Bill of Rights of 1689, which in turn was designed to protect political opponents of the Crown from being jailed in situations where Parliament had established a right to bail. Many serious crimes were not subject to bail at all at that time, and the English Bill of Rights did not seek to alter that practice. The Eighth Amendment was enacted at a time when bail was commonly denied in the Colonies and infant states for serious offenses.

It has rarely been contended that all persons in all cases ought to have an unlimited right to release prior to final adjudication of their guilt. The real problem is to determine under what circumstances such persons should be confined. This involves weighing risks to defendants and to the remainder of society. In other words, a rational approach to the problem is by a due process analysis, whether the problem is formulated in terms of deciding what bail is excessive under the Eighth Amendment or whether it is simply looked upon as a problem of the Fifth Amendment itself.

From the standpoint of the defendant, confinement may impair his ability to locate witnesses, consult with counsel, and otherwise contribute to his defense. It also constitutes a limitation on his autonomy and freedom, and it may disrupt his family and vocational life. Occasionally it is asserted that such imprisonment constitutes an infringement of the presumption of innocence. The latter, however, is a hortatory expression properly given to juries to counteract any implication that a criminal charge should lead them to find guilt. Were it otherwise, the presumption of innocence would prohibit the arrest of defendants and would itself be unconstitutional for lack of a rational relation between facts assumed and the fact presumed.

From the standpoint of society, failure to confine is primarily a problem of inability to incapacitate the crime-prone, although it is likely that the deterrent efficacy of the criminal sanction is reduced by considerable delay between apprehension and ability to incarcerate, as is successful prosecution itself.

Limitation on pretrial freedom of those thought to be dangerous should provide opportunity for fair challenge by an accused who asserts that it should not be applied to him. At the same time the procedures prescribed should not be too complex to be utilized in appropriate cases. The National Conference of Commissioners on Uniform State Laws has provided a useful suggestion in Rule 341 of the Uniform Rules of Criminal Procedure, which adds the consideration of "the safety of any person or the community" to the assurance of the appearance of the defendant in setting conditions of release.

While no definitive answers are presently available, it would be odd if our constitutional jurisprudence allowed measures to assure presence in court but no conditions to protect witnesses or other persons. It should also be conceded that the role of the constitutional prophet is more than challenging. Accordingly, I would respectfully submit that the Congress should be reluctant to preclude traditional conditions of pretrial release until it was confident that workable, better alternatives had been substituted. Among the worst advice, I would add, is academic advice.

Pretrial Release of Dangerous Defendants

(By Earl J. Silbert)

Given the enormously complex problems our society is called upon to solve, one would not consider particularly difficult the solution to the problem of pretrial release or detention prior to trial of those arrested and charged with crime. The commonsense legal solution would appear to be the one used by most countries around the world; detention of the minority of defendants who are dangerous or likely to flee and release of the remainder, some with conditions of release, others without. As cynics might expect and as most regret, our bail system does anything but accomplish what is manifestly reasonable and desirable.

In the early days of our republic, felons who were dangerous or potential fugitives were detained prior to trial. This result was accomplished by laws authorizing detention for capital offenses (those punishable by death) and by the fact that the crimes of violence society fears most—murder, rape, robbery, burglary, etc.—were capital offenses. Today there are no capital offenses in the District of Columbia and the issue of the constitutionality of capital punishment is a hotly contested one presently before the Supreme Court.

Regardless of how the Supreme Court resolves this issue, it has nothing to do with human propensities for dangerous conduct between arrest and trial. Those who commit murder, rape, robbery, and burglary are no less dangerous today than two hundred years ago. Since the law authorized their detention when our republic was founded, albeit for a different reason, it makes no sense to deprive judges of the authority to detain them now.

As capital punishment generally became applicable to a smaller range of crimes, most state and local courts solved the problem of release of dangerous defendants or potential fugitives through the device of money bond as the only condition of release, a device that still prevails today. For the dangerous and for potential fugitives, bond is set high enough to preclude release; for the rest, the amount of bond is low. While theoretically, money bond is used only to assure appearance in court, in practice, it is used to detain dangerous defendants.

Exclusive reliance on money bond as the basis for release or detention, however, is an unacceptable approach: it results in the unfair jailing prior to trial of defendants who are neither dangerous or likely to flee but who cannot raise even the low bond set by judges because of their poverty. It was to eliminate this unreasonable discrimination based on financial status that Congress nearly ten years ago enacted the Bail Reform Act. Certainly no one can quarrel with this purpose of the Act, and even the harshest critics of the Act cannot reasonably advocate a return today to money bond as the only basis for release or detention.

The impact of the Bail Act, however, went far beyond this desirable purpose. By imposing a preference for pretrial release on the promise of defendants to return to court, with or without conditions of release, and by prohibiting the use of money bond or any other method to protect the community from dangerous defendants, the Bail Reform Act—at least as implemented in the District of Columbia—has repeatedly resulted in the release into the community of dangerous defendants who had "community ties." The utter absurdity of this result is best demonstrated by the argument defense lawyers routinely make and judges too often accept: the defendant should be released because his extensive record of criminal arrests and convictions for serious crimes without any charge of flight is persuasive proof that he appears in court as required.

The logical extension of this argument is that the more crimes a defendant has committed, the stronger his argument for release. The Bail Reform Act's prohibition of judges considering dangerousness in determining whether or not to release a defendant prior to trial is, from any rational point of view, a fatal flaw, wholly intolerable for any civilized society.

In the years immediately following the enactment of the Bail Reform Act, crime in the District of Columbia increased at an alarming rate. Disturbed by the increase in crime, Congress, in 1970, amended the Bail Reform Act for the District of Columbia to permit (1) detention for five days of defendants on parole or probation from a prior conviction who are charged with a new crime so that the parole board or the courts and probation department can take them into custody and initiate revocation of parole or probation; (2) detention for up to sixty days of defendants who, to obstruct justice, threaten to injure witnesses or jurors; and (3) detention for up to sixty days for limited, particularized classes of defendants charged with certain named offenses. The first two amendments were not controversial; the third was bitterly contested.

The implementation of the provision authorizing pretrial detention of defendants who threaten witnesses or jurors has generally been successful; in cases with supporting evidence, the United States Attorney's Office has requested and judges have granted detention. The implementation of the five-day hold provisions for revocation of parole or probation, however, has not been satisfactory. Despite numerous requests for five-day holds by the United States Attorney's Office in cases involving a serious new charge based on substantial evidence, judges deny a number of the requests and even when granted, revocation of probation or parole, particularly of probation has occurred much too infrequently.

The fears of some opponents that the sixty-day pretrial detention would result in widespread jailing of defendants have not been realized. One reason for this is that the courts have ruled that before pretrial detention on a new charge may be sought, an attempt must be made to revoke parole or probation. The great majority of those whose potential dangerousness can be established most clearly are on parole or probation from a prior criminal conviction.

For example, of those for whom the D.C. Bail Agency has recommended that a pretrial detention hearing be held, nearly three-fourths have been on parole or probation. Second, because of necessary investigation, the preliminary hearing, the grand jury presentation, the many due process procedures granted defendants in criminal cases, and

the huge volume of cases being processed through the courts, the sixty day time limitation is absolutely unrealistic in all but a tiny minority of the simplest cases. Third, a number of both prosecutors and judges alike have erroneously perceived the pretrial detention provisions as imposing virtually insurmountable, complex obstacles.

What then is the solution to the justifiable community concern about the unwarranted pretrial release of dangerous defendants charged with serious crimes?

First, defendants who have been given a chance by being placed on parole or probation and who subsequently are charged with a serious crime based on substantial evidence should have their parole or probation revoked—immediately; the revocation cannot await trial of the new charge since to do so unfairly jeopardizes the safety of the community.

Second, as long as the sale, possession, and use of heroin are unlawful, requiring addicts to commit crime to supply their habits, addicts charged with crime should be detained—for their health as well as the community's safety. To release a robber—or burglar-addict is to release a walking, more often running, crime wave. If addicts released for treatment fail to comply with the testing and treatment requirements—as often occurs in the District—their release must be revoked immediately—as rarely occurs.

Third, it must be recognized that the fact that a defendant has community ties does not mean he will appear in court as required. The existence of more than 600 post-indictment felons who have failed to appear in the District of Columbia courts is proof positive of this. Courts must, accordingly, set stricter conditions of release to assure appearance, including substantial money bonds. Outright release to third party institutional custodians must be tightened inasmuch as a recent report reveals that 32 percent of those released to these custodians are rearrested or fail to appear—itself a crime—a wholly unacceptable result.

Fourth, the bail Reform Act authorizes pretrial detention of defendants charged with capital offenses on grounds of potential dangerousness of flight. When enacted in 1966, first degree murder was a capital offense and therefore was not included in the specified offenses for which pretrial detention was authorized by Congress in 1970. Since there are no longer any capital offenses in the District of Columbia, including first degree murder, it is necessary that the bail law be amended to authorize detention of those charged with this most serious crime, preferably by changing capital offense in the statute to first degree murder.

First, prosecutors and judges have to overcome their erroneous perception of the existing pretrial detention provisions as overly burdensome and strive, within the restrictive confines of the sixty day time limit, to make them work.

None of the above proposals if effectuated will by itself remedy the deficiencies of the bail system. If all are implemented, however, the system will begin to play some part in protecting the community from serious crime. Implementation will, of course, result in increased pretrial confinement. This will increase the responsibility of procecutors and judges to limit detention to those against whom the proof of guilt is substantial.

It is also imperative that they be detained only after a fair hearing and that they have a speedy trial and not languish in jail for extended periods of time because of congested court calendars. It is also vitally important that they not be detained in outdated, overcrowded, unsuitable prison facilities. At long last, the District will have a modern facility; most regrettably, its limited capacity will require continued use of the present century old D.C. jail.

The above proposals are clearly designed to improve the existing bail system. One might reasonably inquire whether more fundamental changes are needed. The answer is extremely difficult. Regardless of the bail system used, tension must necessarily exist between two desirable but completely contradictory goals: limitation of incarceration of those whose guilt for a crime has not been established in court and protection of society from dangerous criminals charged with crime. Rather than confront the problem directly, as most other countries do, we have historically attempted to protect society through detention for capital offenses and money bonds. With the former now severely restricted or non-existent and the latter likely to result in unfair discrimination against the poor, a new approach is necessary. We must face directly the issue of pretrial detention of the dangerous accused.

In any re-evaluation of our bail system, there must be a recognition that dangerousness is a valid consideration for pretrial release or detention. The idea recognized nowhere else, that bail and pretrial detention are justifiably solely to prevent flight, should be discarded. In fact, it is far easier in most cases to predict dangerousness than it is to predict likelihood of flight. Moreover, it must be acknowledged that detaining dangerous defendants prior to trial does not do violence to the presumption of innocence.

Historically, persons charged with murder, rape, robbery and burglary, when they were capital offenses, could be and were detained prior to trial. The presumption of innocence is a doctrine that requires the government at trial to overcome the defendant's "innocence" with proof beyond a reasonable doubt. It does not prevent persons from being arrested on probable cause or judges from detaining dangerous defendants. Once the discussions can calmly focus on these basic principles, a more rational bail system can be developed which balances the conflicting interests of the accused and society.

STATEMENT OF BURTELL M. JEFFERSON

Mr. Chairman, I would like to thank you and the members of the Subcommittee for affording me this opportunity to testify concerning bail reform, an issue which has a very significant impact on the lives of the citizens of the District of Columbia, and all who come to our nation's capital. With me are Robert Deso, my Deputy General Counsel, and Lieutenant Charles Hersey, Supervisor of the Major Violators' Section.

In 1976 and 1977 Chief Cullinane testified on bail reform before the Judiciary Subcommittee of the House of Representatives Committee on the District of Columbia. I am pleased to be here before you today, and I would like to bring you up-to-date on the progress of Operation Doorstop, our local career criminal program. As Chief Cullinane testified last year, Operation Doorstop is a joint effort of our department and the U.S. Attorney's Office, in which a select team of experienced detectives and prosecutors concentrate their efforts on identifying and processing the cases of those recidivists who are considered to be the greatest danger to the community.

I believe that curbing recidivism is a key element in any successful attack on crime. In the past, some persons have been able to commit dozens of felonies with impunity, often while they were on more than one form of pretrial or post conviction release. We have found that the crimes of robbery and burglary have the highest rates of recidivisim, and of course, these are crimes that the public is very much concerned about. Our career criminal program concentrates on robbers and burglars, and fully seventy-three percent of the defendants in Operation Doorstop are charged with robbery and burglary.

The overall rate of recidivisim for the crimes of homicide, rape, robbery, aggravated assault, burglary, larceny, auto theft, and narcotics and weapons offenses in the District of Columbia was twenty-three percent for 1975, twenty-two percent for 1976, and twenty-seven percent for 1977. For robbery the recidivist rates were thirty-one percent, thirty-two percent, and thirty-one percent for 1975, 1976, and 1977. For burglary the recidivist rate was thirty-four percent, twenty-seven percent, and twenty-nine percent for each year.

RECIDIVIST RATE

[In percent]

	1975	1976	1977
Overall	23	22	27
Robbery	31	32	31
Burglary	34	27	29

While the rate of recidivism remains high, the number of reported robberies during the first twelve months of Operation Doorstop decreased by 920 offenses compared to the previous twelve months; a decline of twelve percent. The number of reported burglaries decreased by 479 offenses, a decline of four percent. The overall crime rate decreased by three percent for the same period.

CRIME RATE

	September 1975 to September 1976	September 1976 to September 1977	
		Number	Percent
Robberies	7,651	6,731	−12
Burglaries	12,128	11,649	−4
Crimes	51,272	49,798	−3

While Operation Doorstop is having some statistical impact on crime, especially robbery, it has had a dramatic and unmistakable impact on the careers of those chronic criminals who, before they came into the program, were literally one man crime waves. Over eighty percent of the defendants in Operation Doorstop were on some type of post conviction release at the time of their rearrest; many were on multiple releases. These prior arrests and convictions apparently did little to impede their criminal careers, but once the career criminal unit assumed responsibility for their cases, ninety-three percent were incarcerated pending trial, eighty-eight percent were convicted, and the great majority received stiff prison sentences.

OPERATION DOORSTOP, AUG. 16, 1976 TO DEC. 31, 1977

	Number	Percent
Defendants processed as career criminals	430	
Defendants incarcerated pending case disposition	398	93
Cases with dispositions	284	66
(a) Convicted and sentenced or awaiting sentencing	250	88
(b) Dismissals	24	8
(c) Acquittals	10	4
Defendants charged with robbery	196	45
Defendants charged with burglary	121	28
Defendants on postconviction release at time of arrest	351	82
Defendants on pretrial release at time of arrest	68	16
Defendants having no release status at time of arrest	11	2

Because eighty-two percent of the defendants in Operation Doorstop were on some type of post conviction release at the time of their rearrest, the "five-day hold" provisions of the Bail Reform Act were used to

incarcerate these defendants pending trial. Since only forty-two percent of all recidivisits* rearrested for the crimes of homicide, rape, robbery aggravated assault, burglary, auto theft, narcotics and weapons offenses in 1977 were on some type of post conviction release, the "five-day hold" provisions of the statute do not apply to most recidivists, and of course they would not apply to someone who is not a recidivist.

The quarterly statistics compiled by our Major Violations Unit for the third quarter of 1977 show that the typical recidivist is a 24–27 year old male charged with robbery who was on pretrial release for an arrest within the past seven months for either robbery, another property offense, or a narcotics offense. One fifth of the recidivists were on two or more conditional releases when the rearrest occurred.

I have brought with me our most recent quarterly Recidivist Report, and I ask that it be made part of the record. Copies of the report for the fourth quarter, which contains an annual summary, will be forwarded upon completion of the report.

Mr. Chairman, I believe that the success of Operation Doorstop has shown that the various components of the criminal justice system in the District of Columbia have both the desire and the ability to cooperate creatively and effectively to control crime. Within the limits of existing law and available resources, we have reduced crime, and we have taken some of the most dangerous criminals in our community off the streets. There is no simple answer for crime; it will never be eliminated in our society, and it can only be reduced through a combination of adequate resources, good laws, wise policies and efficient administration of the criminal justice system. I commend the Congress for the interest you have shown, and for the progress that has been made to remedy the deficiencies in the Bail Reform Act. I support those changes in the act which the prosecutor and court consider necessary or useful to give careful scrutiny to each person charged with a dangerous crime, and to detain those persons who cannot be released back into the community without constituting a danger to our citizens.

Mr. Chairman, this completes my statement, and I would be pleased to respond to any questions you or members of the Subcommittee may have.

BELL AND BURGER CALL FOR STIFFER BAIL LAWS

(By Stuart Auerbach)

ATLANTA, February 11.—The nation's two top legal officers—Attorney General Griffin B. Bell and Chief Justice Warren E. Burger—called today for sweeping changes in bail laws to make sure accused criminals aren't freed from custody to commit other crimes while awaiting trial.

"Surely the protection of the public must always be a major factor in a decision to grant bail release," Burger told the American Bar Association here in his 10th annual State of the Judiciary address.

The speech at the ABA's midyear meeting renewed the old argument that judges are forced to put criminals back on the streets.

Burger said studies from the District of Columbia show 28 percent of persons arrested for serious crimes last year had been released from jail while awaiting trial for an earlier serious crime.

Earlier, Bell called bail laws "lax" and said on "Issues and Answers," (ABC, WJLA), "We ought to find out if the release will endanger the public" before letting accused criminals go free.

Both men attacked the 1966 Bail Reform Act, which affects federal courts across the country and all the courts in the District of Columbia. A federal law, it has been widely copied by the states.

Under the law, the only criterion a judge can use in freeing someone accused of a crime is whether he is likely to show up for trial. The likelihood of that person committing another crime while on bail cannot be considered by the judge.

The separate statements by Bell and Burger on the need to change the bail laws are likely to win support from law-and-order factions who have said for years that courts are freeing criminals to roam the streets.

"Law-abiding citizens must be forgiven if they ask whether the release pending trial, sometimes poses an undue threat to the community," said Burger.

The chief justice said it has become increasingly common for a judge to try to clear a criminal calendar by dismissing pending cases when he sentences someone convicted. This leads many citizens to conclude "that habitual criminals can commit two or more crimes for the price of one," said Burger.

The chief justice voiced no recommendations on how bail laws should be changed. But Bell said the law should allow judges the discretion of keeping an accused criminal in jail if they think he will be a danger to a community.

We ought to find out if the release will endanger the public," said Bell. "If it would not, then we can safely let someone out without making him pay a fee. He could be released on his own recognizance."

This, the attorney general said, would keep money from being the sole criterion for getting out of jail—a major reason for passing the Bail Reform Act more than 10 years ago.

INSERT IN PLACE OF CHAPTER 35 OF S. 1722

§ 3501. Release and Detention Authority Generally.

A judge who is authorized to order the arrest of a person shall order the person's release or detention, pending judicial proceedings pursuant to the provisions of this chapter.

§ 3502. Release or Detention of a Defendant Pending Trial.

(a) IN GENERAL.—Upon the appearance before a judge of a person charged with an offense, the judge shall issue an order that, pending trial, the person be—

(1) released on his personal recognizance pursuant to the provisions of subsection (b);

(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

(3) temporarily detained to permit revocation of conditional release pursuant to the provisions of subsection (d); or

(4) detained pursuant to the provisions of subsection (e).

(b) RELEASE ON PERSONAL RECOGNIZANCE.—The judge shall order the pretrial release of the person on his personal recognizance, subject to the condition that the person not commit a federal, state, or local crime during the period of his release, unless the judge determines that such release will not reasonably assure the appearance of the person as required or may endanger the safety of any other person or the community.

(c) RELEASE ON CONDITIONS.—If the judge determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or may endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judge that the person will appear as required and will not pose a danger to the safety of any other person or the community;

(B) maintain employment or, if unemployed, actively seek employment;

(C) maintain or commence an educational program;

(D) abide by specified restrictions on his personal associations, place of abode, or travel;

(E) avoid all contact with the alleged victims of the crime and with potential witnesses who may testify concerning the offenses;

(F) report on a regular basis to a designated law enforcement agency, pretrial service agency, or other agency;

(G) comply with a specified curfew;

(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

(K) forfeit, upon failing to appear as required, such designated personal property belonging to the person as is reasonably necessary to assure appearance;

(L) return to custody for specified hours following release for employment, schooling, or other limited purpose; or

(M) satisfy any other condition reasonably necessary to assure appearance of the persons as required and to assure the safety of any other person and the community.

The judge may at any time amend his order to impose additional or different conditions of release.

(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE.—If the judge determines that—

(1) the person—

(A) is, and was at the time the offense was committed, on release pending trial for a felony under Federal, State or local law; or

(B) is on probation, parole, or other release pending completion of sentence for any offense under federal, State, or local law; and

(2) no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community;

he shall order the detention of the person, for a period of not more than ten days, and direct the attorney for the government to notify the appropriate court, probation, or parole official. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the provisions of subsection (e).

(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judge finds that:

(1) no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community; and

(2) on the basis of information presented by proffer or otherwise, there is a substantial probability that the person committed the offense for which he has been charged;

he shall order the detention of the person prior to trial.

(f) DETENTION HEARING.—The judge shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as re-

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*The department classifies as a recidivist a person who is on some form of pretrial or post conviction release status at the time of rearrest.

quired and the safety of any other person and the community—

(1) in a case involving a crime of violence, espionage, or an offense described in section 1811 (Trafficking in an Opiate), or a Class B or C felony described in section 1802 (Trafficking in Drugs); or

(2) in any other case upon motion of the attorney for the government or upon the judge's own motion.

The hearing shall be held immediately upon the person's first appearance before the judge unless the person, or the attorney for the government, seeks a continuance. Except for good cause shown, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the government may not exceed three days. During a continuance, the person shall be detained, and the judge, on motion of the attorney for the government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to confront and cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The person may be detained pending completion of the hearing.

(g) FACTORS TO BE CONSIDERED.—The judge shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning:

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person; and

(3) the history and characteristics of the person, including—

(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law.

(4) risk to the community.

(h) CONTENTS OF RELEASE ORDER.—In a release order issued pursuant to the provisions of subsection (b) or (c), the judge shall—

(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

(2) advise the person of—

(A) the penalties for violating a condition of release;

(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

(C) the provisions of section 1323 (Tampering with a Witness, Victim, or an Informant).

(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (e), the judge shall—

(1) include written findings of fact and a written statement of the reasons for the detention;

(2) direct that the person be committeed to the custody of the Attorney General for confinement in an official detention facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

(3) direct that the person be afforded reasonable opportunity for private consultation with his counsel; and

(4) direct that, on order of a court of the United States or on request of an attorney for the government, the person in charge of the official detention facility in which the person is confined deliver the person to a United States marshal for the purpose of an appearance in connection with a court proceeding.

The judge may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judge determines such release to be necessary for preparation of the person's defense or for another compelling reason.

"§ 3503. Release or Detention of a Defendant Pending Sentence or Appeal.

"(a) RELEASE OR DETENTION PENDING SENTENCE.—The judge shall order that a person who has been found guilty of an offense and who is awaiting imposition or execution of sentence, other than a person for whom the applicable guidelines promulgated pursuant to 28 U.S.C. 994 do not recommend a term of imprisonment, be detained unless the judge finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community. If the judge finds that the person is not likely to flee or to pose a danger to the safety of any other person or the community, the person shall be released in accordance with the provisions of section 3502.

"(b) RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.—The judge shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judge finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community; and

"(2) that the appeal is not taken for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judge makes such findings, the person shall be released in accordance with the provisions of section 3502.

"(c) RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.—The judge shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of—

"(1) section 3724 (a) or (b) in accordance with the provisions of section 3502, unless the defendant is otherwise subject to a release or detention order:

"(2) section 3725 in accordance with the provisions of—

"(A) subsection (a) if the person has been sentenced to a term of imprisonment; or

"(B) section 3502 if the person has not been sentenced to a term of imprisonment.

§ 3504. Release or Detention of a Material Witness.

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judge may order the arrest of the person and the person shall be treated in accordance with the provisions of section 3502. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a materterial witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

§ 3505. Review and Appeal of a Release or Detention Order.

(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a judge of a court other than the court having original jurisdiction over the offense charged or a federal appellate court—

(1) the attorney for the government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a judge of a court other than the court having original jurisdiction over the offense or a federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of sections 3723 (a) and 3724(d). The appeal shall be determined promptly.

"§ 3506. Sanctions for Violation of a Release Condition.

"(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3502, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) REVOCATION OF RELEASE ORDER.—The attorney for the government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judge may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judge in the district in which his arrest was ordered for a proceeding in accordance with this section. The judge shall enter an order of revocation and detention if, after a hearing, the judge—

"(1) finds that there is clear and convincing evidence that the person has violated a condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3502(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If the judge finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3502 and may amend the conditions of release accordingly.

"(c) CONTEMPT.—The judge may impose contempt sanctions, pursuant to section 1331, if the person has violated a condition of his release.

"§ 3507. Discharge of an Arrested but Unconvicted Person.

"A court of the United States may direct the United States marshal for the judicial

district to furnish subsistence and transportation to the place of arrest or to the place of bona fide residence, under regulations promulgated by the Attorney General, to—

"(a) a person arrested for an offense but not charged with an offense in an indictment or information;

"(b) a person charged with an offense in an indictment or information but not convicted; or

"(c) a person held as a material witness; upon the release of such person from official detention.

"§ 3508. Inapplicablity to a Case Removed From a State Court.

"The provisions of this chapter are inapplicable to a case in which the judgment of a State court in a criminal proceeding is before the Supreme Court of the United States for review, and the defendant in such a case may not be released from custody pending such review other than pursuant to the laws of such State.

S. 1555—THE CRIMINAL SENTENCING REFORM ACT OF 1981

Mr. KENNEDY. Mr. President, I am pleased to join Senators THURMOND, LEAHY, BAUCUS, DECONCINI, LAXALT, HATCH, and SPECTER in introducing the Criminal Sentencing Reform Act of 1981. This legislation proposes a comprehensive revision of Federal sentencing procedures, in order to achieve greater certainty in sentencing and to insist on similar sentences for similar offenders.

In 1978, this legislation passed the Senate overwhelmingly as part of the comprehensive Criminal Code reform bill. Last year the sentencing proposal was reported, without objection, out of the Judiciary Committee. This bill has strong support on both sides of the aisle, and it is a big part of our effort to combat violent crime.

Current criminal sentencing procedures are in desperate need of reform. Every day Federal judges mete out an unjustifiably wide range of sentences to offenders convicted of similar crimes. As Judge Marvin Frankel has said:

In the great majority of Federal criminal cases . . . a defendant who comes up for sentencing has no way of knowing or reliably predicting whether he will walk out of the courtroom on probation, or be locked up for a term of years that may consume the rest of his life, or something in between.

One offender may receive a sentence of probation while another—convicted of the very same crime and possessing a comparable criminal history—may be sentenced to a lengthy term of imprisonment.

A study of sentencing practices in the second circuit, for example, demonstrates that even within one judicial circuit, defendants can receive widely disparate sentences for precisely the same crime. The disparities are even more stark when sentences imposed by Federal courts in different districts are compared. In 1979, for example, the average Federal sentence for robbery in Arizona was 16 years, but in the Southern District of Illinois it was 7 years. According to recent studies prepared by the Justice Department, such differences persist throughout the entire Federal system.

These glaring disparities can be traced to the unfettered discretion the law confers on judges and correctional authorities responsible for imposing and implementing sentences. This sweeping discretion flows from the lack of any meaningful statutory guidance or review procedures to which the courts may look.

Unfair sentences are also a result of our outdated parole system. This system is predicated on a theory of rehabilitation that permits the courts and the Parole Commission to determine when to release a prisoner because he is rehabilitated yet most criminal law experts doubt that rehabilitation can be achieved in a prison setting. As Professor Norval Morris of the University of Chicago Law School has shown, parole boards are not able to predict which prisoners are likely to be good "release" risks. Our sentencing laws must be advised to take this widely perceived failure of rehabilitation into account.

Under the present law, the judge sets the term of imprisonment and the parole commission determines when to release the prisoner. Unless a court decides otherwise, the parole commission cannot release a defendant until he has served the statutory minimum term of one third of his sentence. The Parole Commission, therefore, has vast discretion in calculating the point at which a convicted offender should be released. In the case of two offenders sentenced. In prison for similar offenses, one may receive a relatively short term and be released after serving most of the sentence, while the other may be sentenced to a relatively long term but be denied parole indefinitely. Although the Parole Commission has attempted to make Federal sentences fairer by setting parole guidelines, these guidelines have not been sufficient to reduce the vast disparities in actual sentences served for similar offenses.

Our current system of parole is as confusing to the public as it is unfair to the defendant. The public has no way of knowing when a judge has imposed a sentence that will be served in full, or when he has imposed a sentence only a small percentage of which will actually be served. Recently a killer was convicted of a brutal murder in Illinois and was sentenced to 2,600 years in prison. That means the sentence should expire in the year 4579. In fact, the defendant will be eligible for parole in exactly 10 years. Sentences like this breed cynicism and disrespect for the law.

The uncertainty of the criteria for determining release dates has created an environment where prosecutors, judges, and parole officers second-guess one another as to the expiration of a sentence. Prosecutors ask for more severe sentences if they know the parole board has a reputation for leniency. This practice, while understandable, is unfair to the defendant, who may end up with a far longer sentence than he deserves if the parole board membership changes. In short, given a sentencing system which permits virtually unlimited discretion on the part of the courts and the parole officers, there is no certainty that a prisoner will get a fair sentence, or that the public safety will be protected.

The legislation which I have introduced today will provide a complete overhaul of this unworkable and open-ended sentencing process. It has three key parts:

First, it establishes a sentencing commission, an independent commission within the judicial branch that will set comprehensive sentencing guidelines for each category of offense. The Commission is instructed to design guidelines which avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct. The guidelines must also maintain sufficient flexibility to permit the consideration of mitigating or aggravating factors in individual cases. These guidelines will be subject to congressional review.

The Commission is also required to provide longer terms of imprisonment for certain categories of serious offenders: First, those who have a history of two or more prior Federal, State, or local felony convictions; second, those who have committed the offense as part of a pattern of criminal conduct from which a substantial portion of their income was derived; third, those involved in leadership positions in organized crime; and fourth, those who have committed a violent crime while on release pending trial, sentence or appeal for a felony for which they are ultimately convicted.

Second, the legislation sets forth clear standards governing judicial imposition of sentences. It requires the Federal courts to impose sentences within the Commission's guidelines unless there is an aggravating or mitigating circumstance not accounted for in the guidelines. The court must publicly state the reasons for the imposition of a particular sentence. Appeal of the court's sentence is limited. A defendant can appeal only where the sentence is above the maximum set by the Commission guidelines. The Government can appeal only upon approval of the U.S. Attorney General or Solicitor General and only where the sentence is below the minimum set by the Commission.

Third, the legislation eliminates the parole system. The sentence imposed by the judge will be the sentence actually served. A sentence to a term of imprisonment that exceeds 1 year may be adjusted at the end of each year by 36 days for satisfactory compliance with institutional regulations, with no adjustment, or a smaller adjustment, or the sentence for less than satisfactory compliance with the rules. Once this credit has been given by the Bureau of Prisons, it cannot be withdrawn; nor may credit that has been denied later be granted. The prisoner, the public, and corrections officials will be certain at all times how long the prison term will be and of the consequences created by institutional discipline problems.

The Parole Commission will have no jurisdiction over offenders sentenced under the guidelines sentencing system. However, it will remain in existence for 5 years after the sentencing guidelines go into effect to set release dates for

prisoners sentenced under the old system.

This sweeping revision of our sentencing system is long overdue. These proposals have been closely examined in years of hearings by the Judiciary Committee. They have received strong support from Senators on both sides of the aisle. The bill itself is an integral part of the Democratic crime package. The citizens of this Nation are insisting that Congress must do more to curb violent crime. This legislation can help to achieve that goal, and I hope that it will be enacted into law.

Mr. President, I welcome the opportunity to work closely with the chairman of the Committee on the Judiciary, Senator THURMOND, who, with other members of the committee, has had a longstanding interest in the issue of crime. I have had the opportunity to work with him in the past.

Crime is not a partisan issue. It demands the best judgment of all of us on both sides of the aisle.

We understand that these pieces of legislation will not end crime in our society, but they will be important measures in developing a process by which we can have some impact on reducing violence in our society.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill is ordered to be printed in the RECORD, as follows:

S. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Sentencing Reform Act of 1981".

SEC. 102. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"3579. IMPOSITION OF A SENTENCE OF IMPRISONMENT

"(a) The court, in determining the particular sentence to be imposed, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed—

"(A) to afford adequate deterrence to criminal conduct;

"(B) to protect the public from further crimes of the defendant;

"(C) to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense; and

"(D) with respect to a sentence other than a sentence to a term of imprisonment, to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

"(3) the kinds of sentences available;

"(4) the kinds of sentence and the sentencing range established for the applicable category of offense committed by the applicable category of defendant and set forth in the guidelines that are issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced;

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that is in effect on the date the defendant is sentenced; and

"(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

"(b) The court shall impose a sentence of the kind, and within the range, described in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described.

"(c) The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence—

"(1) is of the kind, and within the range, described in subsection (a)(4), the reason for imposing a sentence at a particular point within the range; or

"(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described.

The clerk of the court shall provide a transcription of the court's statement of reasons to the Probation System, and, if the sentence includes a term of imprisonment, to the Bureau of Prisons.

"(d) A person who has been sentenced to a term of imprisonment pursuant to this section shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 4167 of this title.

"(e) A prisoner sentenced to a term of imprisonment pursuant to this section shall be released by the Bureau of Prisons on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence as provided in section 4167. If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.".

(b) The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Imposition of a Sentence of Imprisonment.".

SEC. 103. (a) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3621. IMPOSITION OF A SENTENCE OF FINE

"The court, in determining whether to impose a fine, and, if a fine is to be imposed, in determining the amount of the fine, the time for payment, and the method of payment, shall consider—

"(1) the factors set forth in section 3579 to the extent they are applicable, including, with regard to the characteristics of the defendant under section 3579, the ability of the defendant to pay the fine in view of the defendant's income, earning capacity, and financial resources;

"(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent upon the defendant;

"(3) any restitution or reparation made by the defendant to the victim of the offense, and any obligation imposed upon the defendant to make such restitution or reparation to the victim of the offense;

"(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to insure against a recurrence of such an offense; and

"(5) any other pertinent equitable consideration.".

(b) The table of sections for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3621. Imposition of a Sentence of Fine.".

SEC. 104. (a) Chapter 231 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"3657. IMPOSITION OF A SENTENCE OF PROBATION

"The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, shall consider the factors set forth in section 3579 to the extent that they are applicable, as well as the need for the sentence imposed to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.".

(b) The table of sections for chapter 231 of title 18, United States Code, is amended by adding at the end thereof the following:

"3657. Imposition of a Sentence of Probation.".

SEC. 105. (a) Chapter 235 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"3472. REVIEW OF SENTENCE.".

"(a) A defendant may file a notice of appeal in the district court for review of an otherwise final sentence imposed for a felony if the sentence includes a greater fine or term of imprisonment than the maximum established in the guidelines, or includes a more limiting condition of probation than the maximum established in the guidelines, that are issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are found by the sentencing court to be applicable to the case, unless—

"(1) the sentence is equal to or less than the sentence recommended or not opposed by the attorney for the Government pursuant to a plea agreement under rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure; or

"(2) the sentence is that provided in an accepted plea agreement pursuant to rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure.

"(b) The Government may, with the personal approval of the Attorney General or the Solicitor General, file a notice of appeal in the district court for review of an otherwise final sentence imposed for a felony if the sentence includes a lesser fine or term of imprisonment than the minimum established in the guidelines, or includes a less limiting condition of probation than the minimum established in the guidelines, that are issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are found by the sentencing court to be applicable to the case, unless—

"(1) the sentence is equal or greater than the attorney for the Government pursuant to a plea agreement under rule 11(e)(1)(B) of the Federal Rules of Criminal Procedures; or

"(2) the sentence is that provided in an accepted plea agreement pursuant to rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure.

"(c) If a notice of appeal is filed in the district court pursuant to subsection (a) or (b), the clerk shall certify to the court of appeals—

"(1) that portion of the record in the case that is designated as pertinent by either of the parties;

"(2) the presentence report; and

"(3) the information submitted during the sentencing proceeding.

"(d) Upon review of the record, the court of appeals shall determine whether the sentence imposed is unreasonable, having regard for—

"(1) the factors to be considered in impos-

ing a sentence, as set forth in section 3579 of this title; and

"(2) the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3579(c).

"(e) If the court of appeals determines that the sentence is—

"(1) unreasonable, it shall state specific reasons for its conclusions and—

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), shall set aside the sentence and—

"(i) remand the case for imposition of a lesser sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), shall set aside the sentence and—

"(i) remand the case for imposition of a greater sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence; or

"(2) not unreasonable, it shall affrm the sentence.".

(b) The table of sections for chapter 235 of title 18, United States Code, is amended by adding at the end thereof the following:

"3742. Review of Sentence.".

SEC. 106. A new chapter 58 is added after chapter 57 of title 28, United States Code, to read as follows:

"Chapter 58—UNITED STATES SENTENCING COMMISSION

"Sec.
"991. United States Sentencing Commission; establishment and purpose.
"992. Terms of office; compensation.
"993. Powers and duties of the Chairman.
"994. Duties of the Commission.
"995. Powers of the Commission.
"996. Director and staff.
"997. Annual report.
"998. Definitions.

"§ 991. United States Sentencing Commission; establishment and purpose

"(a) There is established as an independent commission in the judicial branch a United States Sentencing Commission which shall consist of seven voting members and one nonvoting member. The President, after consultation with the Judicial Conference of the United States, shall appoint, by and with the advice and consent of the Senate, four members of the United States Sentencing Commission, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chairman. Not more than three of the members of the United States Sentencing Commission appointed by the President shall be members of the same political party. The Judicial Conference shall submit to the President, to the Committee on the Judiciary of the Senate, and to the Committee of the Judiciary of the House of Representatives, a list of at least ten judges of the United States whom the Conference considers best qualified to serve on the Commission. The President shall designate three of the judges from the list of recommended judges submitted by the Conference to serve on the Commission. Prior to consulting with, or submitting a list to, the President, the Judicial Conference shall obtain and give consideration to the recommendations of the district judge members of the Judicial Councils of the Federal judicial circuits. The Attorney General, or his designee, shall be an ex officio, nonvoting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown. The Commission shall have both judicial and nonjudicial members and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the criminal justice process, including one Federal prosecutor and one attorney who regularly represents defendants in federal criminal cases.

"(b) The purposes of the United States Sentencing Commission are to—

"(1) establish sentencing policies and practices for the Federal criminal justice system that—

"(A) assure the meeting of the purposes of sentencing as set forth in section 3579 of title 18, United States Code;

"(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices; and

"(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

'(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective, in meeting the purposes of sentencing as set forth in section 3579 of title 18, United States Code.

"§ 992. Terms of office; compensation

"(a) The voting members of the United States Sentencing Commission shall be designated or appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

"(1) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and the Chairman serve terms of six years;

"(2) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and two members appointed by the President serve terms of four years; and

"(3) two members appointed by the President serve terms of two years.

"(b) No voting member may serve more than two full terms. A voting member designated or appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was designated or appointed shall be designated or appointed only for the remainder of such term.

"(c) Each voting member of the Commission shall be compensated during the term of office as a member of the Commission at the rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

"§ 993. Powers and duties of the Chairman

"The Chairman shall—

"(1) call and preside at meetings of the Commission; and

"(2) direct—

"(A) the preparation of requests for appropriations for the Commission; and

"(B) the use of funds made available to the Commission.

"§ 994. Duties of the Commission

"(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

"(1) guidelines, as described in subsections (b) through (d) and (f) through (m), for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

"(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment; and

"(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment; and

"(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in view of the Commission would further the purposes set forth in section 3579 of title 18, United States Code.

"(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code.

"(c) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

"(d) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall take into account the nature and capacity of the penal, correctional, and other facilities and services available in order to assure that the available capacities of such facilities and services will not be exceeded.

"(e) The Commission shall assure that the guidelines will specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

"(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;

"(2) committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income;

"(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity; or

"(4) committed a crime of violence which constitutes a felony while on release pending trial, sentence, or appeal from a Federal, State, or local felony for which he was ultimately convicted.

"(f) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense.

"(c) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

"(h) The Commission in initially promulgating guidelines for particular categories of cases, shall be guided by the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served, unless the Commission determines that such a length of term of imprisonment does not adequately reflect a basis for sentencing range that is consistent with the purposes of sentencing described in section 3579 of title 18, United States Code.

"(i) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the

Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the Commission any observations, comments, or questions pertinent to the work of the Commission whenever it believes such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

"(j) The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress any amendments of the guidelines promulgated pursuant to subsection (a)(1) and a report of the reasons therefor. The amended guidelines shall be transmitted to Congress and shall not take effect until a period of one hundred and eighty days of continuous session of Congress after the Commission reports and transmits them. All laws in conflict with such sentencing ranges, and guidelines for sentencing shall be of no further force or effect after such sentencing ranges and guidelines have taken effect.

"(k) The Commission shall evaluate the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of an incarceration, and shall, by affirmative vote of a majority of the voting members of the Commission, issue a report of its findings to all appropriate courts, the Department of Justice, and the Congress.

"(l) The Commission, within three years of the date of enactment of the Sentencing Reform Act of 1981 and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

"(m) The appropriate judge or officer shall submit to the Commission in connection with each sentence imposed a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropriate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendation for legislation that the Commission concludes is warranted by that analysis.

"(n) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to subsections (a) through (m).

"§ 955. Powers of the Commission

"(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule day rates (5 U.S.C. 5332);

"(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(6) without regard to section 3648 of Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

"(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(12) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

"(14) publish data concerning the sentencing process;

"(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3579 of title 18, United States Code;

"(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

"(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

"(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

"(22) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 3579 of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities.

"(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a) (1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b).

"(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicably extent to the Commission in the execution of its functions.

"(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994(a) through (l), the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

"(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by it.

"§ 996. Director and staff

"(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

"(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), 89 (Health Insurance), and 91 (Conflicts of Interest).

"§ 997. Annual report.

"The Commisison shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

"§ 998. Definitions.

"As used in this chapter—

"(1) 'Commission' means the United States Sentencing Commission;

"(2) 'Commissioner' means a member of the United States Sentencing Commission;

"(3) 'guidelines' means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

"(4) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 995 of this title.".

SEC. 107. (a) Chapter 309 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4167. Credit toward service of sentence for satisfactory behavior

"A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of thirty-six days at the end of each year of his term of imprisonment, beginning after the first year of the term, unless the Bureau of Prisons determines that, during that year,

he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted.".

(b) The table of sections for chapter 309 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"4167. Credit toward service of sentence for satisfactory behavior.".

SEC. 108. (a) (1) This title shall take effect on the first day of the first calendar month beginning twenty-four months after the date of enactment, except that—

(A) chapter 58 of title 28, United States Code, shall take effect on the date of enactment, and the United States sentencing Commission shall submit the initial sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28 to the Congress within eighteen months of the date of enactment; and

(B) the sentencing guidelines promulgated pursuant to section 994(a)(1) and section 3742 of title 18, United States Code, shall not go into effect until 180 days after the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (A), along with a report stating the reasons for the Commission's recommendations.

(2) For the purposes of section 992(a) of title 28, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to paragraph (1)(C).

(b) (1) The following provisions of law in effect on the day before the effective date of this title shall remain in effect for five years after the effective date as to an individual convicted of an offense before the effective date and shall thereafter be deemed repealed:

(A) Chapter 311 of title 18, United States Code.

(B) Chapter 309 of title 18, United States Code.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this title, the term of office of a Commissioner who is in office on the effective date is extended to the end of the five-year period after the effective date of this title.

(2) The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction the day before the expiration of five years after the effective date of this title, that is the earliest date that applies to the prisoner under the applicable parole guidelines. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of five years following the effective date of this title.

(4) Notwithstanding the other provisions of the subsection, all laws in effect on the day before the effective date of this title pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B) subject to supervision on the day before the expiration of the five-year period following the effective date of this title; or

(C) released on a date set pursuant to paragraph (3); including laws pertaining to terms and conditions of release shall remain in effect as to that individual until the expiration of his sentence, except that the district court shall, in accord with the Federal Rules of Criminal Procedure, determine whether release should be revoked or the conditions of release amended for violation of a condition of release.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. THURMOND. Mr. President, I am pleased to join the distinguished senior Senator from Massachusetts (Mr. KENNEDY) on a bill to reform the sentencing system in Federal criminal cases. This is not an unfamiliar topic to us. The Senator from Massachusetts took the lead a number of years ago to press for sentencing reform both as a part of the Federal criminal code reform bills and as separate legislation.

Indeed, with my strong support, the Senate passed provisions somewhat similar to those presented today in the criminal code measure (S. 1437) in the 95th Congress, January 30, 1978.

The Committee on the Judiciary again approved them as a part of the criminal code bill in the 96th Congress. Unfortunately, we have not been able to complete the legislative process and enact these important reforms into law.

Mr. President, in brief summary, this bill would revamp our Federal sentencing system to insure greater fairness, to eliminate unwarranted sentencing disparity, and to adopt a system under which the defendant would serve the sentence imposed by the judge.

The bill reflects the basic purposes of sentencing—deterrence, protection of the public, just punishment, and rehabilitation of the offender—and would delineate the factors to be considered in determining an appropriate sentence. It provides for the establishment of a sentencing commission charged with the responsibility, among others, to promulgate sentencing guidelines to be used by the trial judge in determining an appropriate sentence for the particular defendant for a specific offense. The judge may depart from the guideline; but if he does, he must explain his reasons for not following the guideline.

The defendant may appeal a sentence above the applicable guideline and the Government may appeal a sentence below the applicable guideline. With respect to imprisonment, the bill would abolish parole and limit "good-time" credit to 10 percent of the sentence so that both the defendant and the public would know at the time of sentencing the term of imprisonment to be served.

Mr. President, this is a broad outline of this bill. I look forward to again working with the Senator from Massachusetts and my other colleagues on the important subject of sentencing reform.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I understand that the distinguished Senator from Alaska (Mr. MURKOWSKI) is not yet ready to avail himself on the time allocated under the special order in his favor, and the Senator from Arkansas is.

Mr. President, I ask unanimous consent that the Senator from Arkansas and the Senator from Alaska switch places on the sequence of special orders for recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PRYOR

Mr. PRYOR. Mr. President, I deeply appreciate the majority leader making this arrangement for me.

Mr. President, I also understand that Senator BOREN, under a previous order, does have a 15-minute special order, and Senator BOREN is near the Chamber. I understand that Senator BOREN is going to yield 14 minutes of that 15 minutes to me.

Mr. BAKER. Mr. President, I understand, and I ask the distinguished Senator from Arkansas, if I am not in the Chamber, and those arrangements need to be made if he will put the unanimous-consent request.

Mr. BOREN. I shall be glad to, and I appreciate the graciousness of the majority leader.

DOLLARS AND DEFENSE

Mr. PRYOR. Mr. President, I wish to address a dilemma that Congress and the taxpayers face today, which is perhaps the most important problem we shall encounter in the 1980's and the 1990's. It is one that I shall continue to address in coming weeks, September and October, and at the proper time I shall make those suggestions even though they may be meager for some solution as to the issue of spending dollars and national defense. In fact, the dilemma we face today is the expenditure of dollars and national defense. On the one hand, we need to restore fiscal austerity and cut Government spending. And simultaneously, we must maintain a national defense strong enough to protect our citizens at home and our interests throughout the world.

Mr. President, let me say at the outset that I am not a military person. I was never a member of the armed services. I am not a member of the Armed Services Committee in the Senate or of the Appropriations Subcommittee on Defense.

But I share with my colleagues, Mr. President, a firm commitment toward a strong defense for the United States. My unswerving support for the wise and prudent spending of defense dollars is a matter of record. I hope that fact is evident during three terms in the House of Representatives and 2½ years in the U.S. Senate.

My present dismay at the increasing cost of national defense is threefold. It springs, first of all, from an abiding impatience and anger with waste and inefficiency. I grow discouraged at the sight of any governmental system that permits the squandering of tax dollars on projects and programs of questionable value to the public.

A second and more specific frustration results from the series of investigations

I made last year into Government consulting. Over and over, I discovered a shocking and calloused disregard for taxpayers' money. And much of this was in the field of procurement—surely the most vulnerable area in defense spending today.

Even now, after months of investigation, I have been given dramatically inadequate answers to a series of questions: Throughout the Federal Government, for instance, why should $1 in every $7 be spent on the procurement of goods and services? Why should $10 million be spent every day in payment of consultants' fees? Why are 70 to 80 percent of these contracts let without competitive bid? Why does the Department of Defense permit unsolicited proposals from contractors and consultants to become the rule rather than the exception? And, to make an even more frustrating point, how did the Pentagon last year spend $30 billion on procurement goods and services without taking competitive bids?

A third source of weary dismay, Mr. President, is the current shuffling of Federal funds out of social programs and into the Pentagon's pocket. We are not actually cutting the budget, Mr. President, as we would have our constituents believe. We are only shifting it around. We are transferring it to the Pentagon. The columnist William Raspberry pointed out on the 17th of this month that the same people who want to slash all kinds of programs, from student aid to food stamps, want to add $44 billion to defense this year—and comparable extra amounts in the years to come. "The whole question of defense spending," he concludes, "seems to have very little to do with defense."

I could point to numerous examples of projected defense spending and programs of equivalent value. The op-ed page of the New York Times, on Sunday of this week, provided stunning reminders of parallel projects. For instance, two B–1 bombers would cost about $400 million—the same amount it would cost to rebuild a water supply system for the city of Cleveland.

Cost overruns, up to 1981, on the Navy's Trident and the Air Force's F–16 programs came to $33 billion. This same amount of money would rehabilitate or reconstruct one out of every five bridges in the United States. And this figure is for cost overruns only.

Another example: The Navy's F–18 fighter program costs about $34 billion. This would modernize America's machine-tool stock to bring it up to the average level of Japan's. This is not to say we do not need new weapons. It is simply to dramatize the magnitude of these expenditures, and to ask what we ask of every other agency in the Federal Government: Are we getting our money's worth? Also is the Pentagon immune from being asked such a question?

I find today, Mr. President, a general discontent abroad in the land with this avalanche of defense dollars. An important new look by James Fallows, entitled, "National Defense," spells out in detail the wasteful spending that occurs in the Pentagon—spending that goes on without design or purpose, without strategy or long-range planning. It strengthens and justifies our present suspicions that spending decisions in the Pentagon are hodgepodge of uncoordinated and perplexing confusion.

The conclusion of a recent CBS series on defense warned, in this vein, that "you can't buy peace simply by spending more and more on arms." Yet we are about to make the largest peacetime commitment to defense we have ever made—witnout knowing what we are about to buy, and probably without adequate debate or discussion. We are preparing to begin a military build-up unprecedented in our history. And I am afraid that unless we guard against inefficiency we will be throwing money toward the Pentagon without increasing our security. Our first priority must be to have a national defense that is lean and mean.

Mr. President, we need to distinguish between defense spending and spending by the Department of Defense, and a starting point of major importance is the daily management policies of the Pentagon. A review of defense expenditures leaves me troubled about the horrendous waste in defense operations. All those billions spent on procurement will not buy our Nation more security unless managers recognize what they are there for.

The General Accounting Office reported earlier this year, for instance, that at least $1 billion—and possibly $3 billion—could be saved through better handling of supply, personnel, purchases, and overhead costs.

The Defense Department's methods of awarding consulting contracts are sloppy, shabby, and incestuous. It will spend this year more than $70 billion for procurment, or well over 60 percent of all total Federal procurement dollars.

The General Accounting Office recently reviewed 256 contracts at DOD, all selected at random, for management support services valued at about $175 million. They found that despite continuing attention to the use of consulting services, "serious and pervasive" problems continue. In fact, GAO found that contractors were playing a significant role in determining defense contracts, a function any thinking person would assume might be performed by Department personnel.

Not only that, contractors were also performing management functions and having a direct impact on defense strategy and policy. My question is, Mr. President, Who actually sets defense policy for our country—the Pentagon or its consultants or defense contractors? Should those whose purpose it is to please stockholders and set "earnings records" be deciding whether we build a new tank or sell F–16's to Israel or AWACS to the Saudis? We know the answer to that question, so now what do we do about it?

The General Accounting Office found that reliance of the Defense Department on contracts has a snowballing effect. As contractors acquire knowledge of the Department's operations, they literally become assured of subsequent, continuous, sole-source contracts—without competitive bidding. The result is that contractors exercise astonishing influence over the scope and direction of work performed.

When President Eisenhower warned America of a military-industrial complex, he was speaking of an incestuous relationship that could endanger our country. Add to that "closed fraternity" those who are now guiding our defense strategy, propelled by the profit motive, and we easily see we have given birth to our own Frankenstein menace.

For example, an $82,000 sole-source contract was awarded to review Army support requirements for the first 30 days of a theoretical war in Europe. Unquestionably, the Department of Defense should have performed this task because it dealt with critical and sensitive defense requirements. But, enter the "outside contractor." Many of his key employees were former defense personnel and military officers, including a retired lieutenant colonel and lieutenant general. And to make matters worse, a month after the study was completed, in-house personnel were used to prepare a second study almost identical to the first. I ask you, Mr. President, is this not wasteful and incestuous?

Another sole-source contract totaling $80,000 was for—and I quote: "studies of nonpecuniary factors in the Federal approach to pay comparability and the feasibility of monetizing these nonpecuntiary factors for consideration in the pay comparability process. When asked if this was an impossible task, one defense official said, "That's what makes it interesting," Did this study make us sleep better at night? Or improve our defense system in any real way?

I think clearly that answer is negative.

Sole-source or noncompetitive awards were found by GAO to be the rule rather than the exception. In fact—and listen to this figure—82 percent of the contracts reviewed were awarded sole-source without any competition whatsoever. And the fact that 82 percent of these awards were sole source is a sad commentary on the commitment of the Defense Department to cost cutting.

Competition has been shown to save an average of 20 percent on a contract—which represents enough in savings to help keep social security in place, or to make substantial increases in military pay. If we cut sole-source procurement by 20 percent, if we demand competition, Mr. President, we could save some $6 billion a year, or more than $15 million every day.

The General Accounting Office study demonstrates, in addition, a pervasive number of "unsolicited" proposals. About 40 percent of the contracts were not initiated by the Department of Defense at all but, instead, they were suggested by the contractors themselves. And this is where we see that famous old "buddy system" reach its full impact. This may or may not make an award automatically improper, but when so many contracts result from unsolicited proposals, Mr. President, I think we need to raise some questions: Is the competitive process being scuttled at the Pentagon? Have we reached a place in our defense procure-

ment of services where outside profit-driven contractors are allowed to tell the Defense Department what it needs to buy in order to keep our defenses strong? And, most important, does the Defense Department unwittingly forfeit responsibility for the scope and direction of its work?

Another area that GAO investigated was the so-called "revolving door" contracts.

The involvement of former Defense Department employees—both civilian and military—in contracts with the Department is extensive. In fact, 51 percent of those contracts reviewed showed that former employees are at top management levels. The concerns, Mr. President, are very clear, but the question remains: Do former top-level officials use their influence to secure contracts for their own benefit? Is the Department of Defense adequately training its own people, or does it depend upon private industry for instruction? Finally, Mr. President, how objective is the work done by former employees in the areas of professional involvement?

Let me offer just another example of my concern with the revolving door contract. A contract at the Defense Department was awarded not too long ago for $294,000 to "survey drug and alcohol abuse within the military services." Because of a misunderstanding between DOD and the contractor, the contract was expanded, increasing the cost by $175,000. DOD officials simply acknowledged the in-house capability existed to perform the study, but because of past congressional criticism the decision was made to obtain an objective assessment from the outside.

The contract was given to a firm whose vice president was a former Director of Research in the Office of Drug Abuse within the Office of the Assistant Secretary of Defense.

An important new book, written by Gordon Adams and published last month by the Council on Economic Priorities, underlines the full extent of exchanges between the Pentagon and private contractors in procuring goods and services.

This book further shows that in the field of independent research and development—and in its bid and proposal programs—the Defense Department yearly reimburses independent contractors for about $1 billion. Virtually all of these private concerns employ a significant number of former Pentagon employees. And between 1970 and 1979 more than 1,600 employees in eight companies were hired directly from Pentagon ranks.

Last August, one of the most distinguished Americans and public servants of our time, Adm. Hyman Rickover, testified before the Governmental Affairs Committee. He made comments about the spending of taxpayer dollars on consultants and contractors and the effect of that spending as it directly relates to national defense. Here, in part is what he said:

> The use of consultants often impedes, rather than facilitates action by government agencies . . . . Contracts for studies frequently waste the time of agency personnel who often must educate the so-called experts doing the study, assist them in gathering the data, and then respond to their reports and recommendations—which often defy common sense.

The American people, in my opinion, owe Admiral Rickover a debt of gratitude for acting as a watchdog over Pentagon spending and unnecessary and excessive profiteering. Jack Anderson recently pointed out in a column only this week that Admiral Rickover "has few friends in the military-industrial complex," and he details examples of excessive profits gained by private companies at, of course, the taxpayer's expense. If President Reagan is now being urged by some Navy officials to remove Admiral Rickover, as Jack Anderson suggests, let me urge him not only to keep Admiral Rickover on board, but to give him encouragement and support in controlling defense costs. We need him now more than ever—as we are being asked to spend $1.5 trillion on defense over the next 5 years.

Without question the Department of Defense spends more money for procurement than all other Government agencies and departments combined. We understand that and we know that that is an absolute necessity. And recognizing the magnitude of the spending that is about to occur in the "name of defense," in the name of a stronger America, I think one question must be asked: Will the inundating of the Pentagon with these new billions of dollars improve our readiness to defend this Nation? That is the issue, Mr. President. That is the basic mission of the Department of Defense and the various branches of the armed services. A layman would naturally assume that an increase in defense spending would thus increase this country's ability to defend itself and maintain the security of its people. This is not the case.

The present increase in defense spending may largely be lost in bureaucratic waste and mismanagement, in turf battles, and in unprecendented profits for the defense contractors supplying everything from advanced weapons systems to Army fatigues and bars of soap in the PX.

We are about to experience and we are on the eve of cost overruns caused by defense contractors and sloppy bidding procedures at the Pentagon that will make those on the Trident and C–5A look pale by comparison. Defense contractors are swarming the Capitol, licking their chops, buying full-page ads in major newspapers and publications, urging us to spend, spend, spend, and telling the people of this country how far we are behind the Russians and how we need to catch up and the way to do it is to spend. Is their real motive our national defense—or their own profit?

Ten years ago a cost overrun of $1 million would have aroused front-page headlines. But now, such overruns add up to billions of dollars and occur so frequently that unless a scandal is associated it is not considered newsworthy. Have we grown so accustomed to waste in the Pentagon that we no longer see it? Or do we no longer care about it? The pollster Lou Harris recently found that over 70 percent of the people of America want to spend more for defense—but also over 65 percent said that much of it and many of those dollars will be wasted.

There is today, Mr. President, an apparent military mania gripping both the Congress and the country. It is manifest in a frenzy to spend unlimited amounts of money on weapons and on the trappings of defense. I only wish that we might somehow turn these same energies away from spending and toward an equally vigorous determination to spend efficiently. Those who today are puzzled by our lack of defense spending might do well to become equally angered by waste in the system we are being asked to support.

The defense contracting industry itself is a phenomenon. In the last 20 years the industry has refined itself to a point where for many military components only one supplier remains.

Because of increasing complexity in technology, our years of doling out contracts to the majors, many small efficient firms have disappeared or been absorbed by the better equipped giants. The result has been that the contractors now have the upper hand, and they use it when bargaining with the Government. Many of these contractors have a "take it or leave it" attitude that results in costs to the taxpayer that stagger the imagination. Excess profits, delays, and cost overruns become the accepted rather than the rare and unusual.

Even where overreaching by the contractor is absent, bureaucratic waste and mismanagement are present. Studies purchased at a cost of million thousands lie unused, collecting dust on the shelf. Disallowed expenses discovered upon audit are forgotten or forgiven. The list of abuses and wastes of money—taxpayers' money—has an almost infinite number of variations.

Mr. President, what have we done in the Congress to see that our defense dollars hit the target? What actions have we taken in Congress to prove to Americans that we are watching and scrutinizing those dollars, to guarantee that they are not simply sent over to the Pentagon—but are actually invested in our national defense?

Sad to say, we have done nothing. In fact, two recent developments have played right into the hands of defense contractors. First, in 1979 we abolished one of the few remaining checks on abusive defense contracting. We took the unwise course of doing away with the Renegotiation Board, a small body empowered with authority to hold the line on excessive contracts. Naturally, the defense lobby, in tandem with the Pentagon, annihilated one of the few advocates the taxpayer had in curtailing sloppiness and excess profits of defense contracting.

Second, only a few weeks ago I heard testimony from the highest Pentagon officials who expressed "concern" about the establishment of an independent Inspector General's office to oversee contracts fraud, waste, and corruption in the Defense Department. "What we need is someone like an Assistant Secretary of Defense for Review and Oversight," one of these officials testified, "a person

responsible to the Secretary himself." The implication was crystal clear: Give us a new office, under our control, but do not let it become independent. In other words, Mr. President, "business as usual."

I want to refer to the words of William Howard Taft IV, General Counsel to the Department of Defense, in his testimony before the Governmental Affairs Committee on June 18, 1981:

> Those provisions which establish the independence of the Inspector General in the Department of Defense are completely inconsistent with the hierarcical commander, subordinate relationship that is at the heart of any military organization and is embodied in the chain of command.

This attitude pervades the Pentagon today. And because of it, the Pentagon is in effect a Holy Across the River City, untouchable and sanctified.

Only when that sense of omnipotence is pierced will America have a justified confidence in our efforts to truly "make America strong."

A report released only this month shows that travel expenses by employees and contractors in Defense are higher than any other Government agency. During fiscal year 1980 there were more than 600,000 trips to "information meetings," over a million-and-a-half trips to training sessions, and some 300,000 "conference trips." The grand total of vouchers in the Defense Department was over 8 million trips. These are dollars we appropriate to defend our country. And does anyone believe our defense posture is stronger after witnessing this massive abuse?

Today's spending decisions are critically important to our survival because of the long-range plans and obligations they include. An effective defense is our highest priority, but the wise path is one where plans have been thought through, where turf battles in the Pentagon are met with disapproval and disdain. Only then can we justify these astronomical increases in spending, because only then will the increase in spending increase readiness and our ability to defend ourselves.

Mr. President, when we come back from our recess in early September I will again on three or four issues relative to defense procurement discuss the record at the Pentagon, and I will demonstrate what I believe, Mr. President, to be a pervasive problem that this Nation is not aware of at this time.

In addition to that, I will also most humbly and most respectfully submit some ideas, some constructive solutions, when the authorizing and appropriating legislation for the Defense Department is before the Senate.

Mr. President, in conclusion I ask unanimous consent to have printed in the RECORD several articles from which I have quoted.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

IS THE BEST DEFENSE A GOOD DEFENSE?

(By William Raspberry)

It's easy enough to argue about the social programs being axed by the Reagan administration. You know how you feel about Neighborhood Legan Services, school lunches and energy assistance.

It's not much harder to form an opinion on the president's tax proposals. Either you are for helping the rich—confident that the benefits will trickle down—or you're not.

It's the defense expenditures that defy rational discussion. The same Reagan people who want to slash all kinds of programs, from student aid to food stamps, want to add $44 billion to defense this year and comparable extra amounts in years to come.

But there is no way for a layman to look at those brain-numbing figures and reach any useful conclusion. You can be for Head Start, or against Head Start, or provisionally for Head Start, depending on whether you think the program is useful, affordable and an appropriate concern of the federal government. The pattern doesn't work for matters of defense. No rational American can be against national defense, not even provisionally. No cost is too high to pay if the alternative is nuclear annihilation.

The troublesome thing about defense budgets—and not just Reagan's—is that no one can be sure what the money goes for, or whether the expenditures buy anything worth their cost.

It's easy to say yes to the notion that we ought to be stronger than the Soviets; hard to know whether MX missiles or B1 bombers make sense. You cannot judge defense outlays the way you judge proposals for, say, guaranteed annual income. You cannot speak intelligently of giving the military the hardware it needs without knowing just what it needs it for, or how it serves the national interest. It's not even possible to demonstrate that the countless trillions we've spent on defense since World War II have been well spent, except to point out that, so far, we haven't been attacked. Which is the way the old folk used to prove the efficacy of asafetida bags worn around the neck as a polio preventive: the kid hasn't got polio, has he?

The easiest thing is to do what most Americans have been doing: accede to the demands for incomprehensible new weapons systems, the best that American technology can dream up, even when you doubt that they will ever be used.

Think about the refinements in nuclear weaponry since the relatively crude little A-bombs were dropped on Hiroshima and Nagasaki. Whole generations of improvements have come and passed into obsolescence without ever having been used. We get so wrapped up in questions like JFK's alleged missile gap that we forget that, gap or no gap, we've never used the missiles. The odds seem overwhelming that we never will.

And even if, through some tragic error, we found ourselves using them, the questions remain: What's wrong with the old ones our leaders used to tell us were capable of wiping out the entire energy population, just as the enemy's were capable of wiping us out? Will the clever new missiles wipe them out more effectively? Kill them a hundred times instead of a mere dozen?

Incidentally, the administration tells us we've got another missile gap. The Russians have 2,010 ICBMs, and we've only got 2,000—a fact that means nothing unless you also consider that we have twice the number of metropolitan areas as the Soviet Union.

The experts say these things aren't the issue. The issue is deterrence: military credibility. If we stop developing new weapons, if we stop impoverishing ourselves with defense appropriations, the Soviets will read it as a sign of weakness and loss of military will. The Soviet experts say the same thing as they spend themselves into bankruptcy. We both are obliged to remain strong—and not just strong but stronger than each other—because everybody knows that weakness invites aggression.

But does it? Does all the stockpiling of ever-more sophisticated weapons really make us safer from enemy attack? Was Iraq safer because it was believed to be developing nuclear capability? If the Israelis are to be believed, the attack on Baghdad came precisely because Iraq was thought to be getting stronger.

The whole question of defense spending seems to have very little to do with defense. Since no one in authority really expects war on a global scale anymore—for the simple reason that everybody understands that such a war would be unwinnable by either side—both U.S. and Soviet militarists have reduced military preparedness to a board game, a sort of missile-rattling Monopoly played with real dollars and rubles.

The point, if you think of it this way, is not what the money buys but how freely it is spent. Both sides dream up new and nightmarish weapons, not because they expect to use them, but because each new zillion-dollar outlay moves one side or the other temporarily ahead in the game.

Is it naive to hope that somebody—perhaps us—will decide that the game is silly and simply refuse to play anymore? And if it happened, would anyone (aside from those involved in the manufacture of armaments) feel less safe?

[From the Washington Post, July 28, 1981]

AN OLD SEA DOG FACES BEACHING FOR CRANKINESS

(By Jack Anderson)

President Reagan doesn't know what to do about Adm. Hyman Rickover, the angry old sea dog who, at 81, is seeking to remain on active duty.

Exasperated admirals have complained to the White House that the four-star curmudgeon has become so cantankerous in his old age that the Navy would dearly like to get rid of him. They have filled the ears of presidential aides with tales of Rickover's alleged senility and pettiness.

Indeed, these details will be chronicled in a forthcoming biography which a wrathful Rickover allegedly is trying to keep out of Navy libraries.

But there is another reason that the admirals don't like Rickover. The Navy is preparing to carve out its share of the $1.5 trillion pie Reagan has promised the Pentagon over the next five years, and Rickover has been a bristling foe of overspending and profiteering. He has few friends in the military-industrial complex.

In an April letter to Rep. Samuel S. Stratton (D-N.Y.), Rickover has charged anew that Pentagon rules fail to safeguard the taxpayers. He offered these examples:

The Boston-Based Cabot Corp., which supplies a cobalt alloy used in naval reactor valves, refused at first to submit cost and pricing data and offered the government only "a catalogue price." After the firm finally provided the information, Rickover charged, "review of the data by the government disclosed that the profit quoted by the contractor was 66 percent of the estimated cost."

U.S. Steel, the company that manufactures high-pressure air flasks for the Trident submarine, "has been able to insist on a profit between 27 percent and 38 percent of estimated costs," the admiral wrote.

The Niagara Falls-based Carborundum Co., the only supplier of some materials needed to fabricate reactor cores, "has historically demanded a profit of 25 percent," according to Rickover.

Newport News Shipbuilding negotiated a contract insuring a profit of 10 percent of the company's estimated cost of overhauling nuclear submarines. Yet, the admiral's analysis of six overhauls claimed the company reaped an average of 17.6 percent profit on costs and "profits" on individual contracts have ranged from 15 to as high as 21 percent."

The companies under fire from Rickover challenged his conclusions. They claimed that his profit figures neglected to include federal and state tax assessments. A spokesman for Newport News Shipbuilding said the company "has no knowledge of how Adm. Rickover arrived at the figures. . . . They apparently were carefully selected samples out of a large mix to support his claim that defense contractors are making too high a profit."

Will the president fire the venerable Rickover? White House sources told my associate Tony Capaccio that Reagan wants to honor the old salt, perhaps with an award or an honorary position, and then ease him gracefully into retirement.

[From the New York Times, July 26, 1981]

LOOTING THE MEANS OF PRODUCTION

(By Seymour Melman)

SOUTH WELLFLEET, MASS.—"America in Ruins" is both the title and forecast of a 1981 report by the Council of State Planning Agencies, an organization of the planning and policy staffs of the nation's governors. The Council finds major deterioration in parts of the country's infrastructure—that is, vital services such as clean water, reliable transportation, efficient ports, and competent waste disposal, which are indispensable underpinnings for an industrial system. The report finds—as any traveler on United States railroads knows—that "the maintenance of public facilities essential to national economic renewal has been deferred."

Simultaneously, the means of production of United States industry have been deteriorating.

Production incompetence, now endemic, is spreading fast, not only in the well-publicized case of automobile firms but also in the following industries: steel, machine tools, radio and television manufacturing, railroad equipment, precision optics, fine cameras, men's shoes, flatware, hi-fi electronics, etc., etc., etc.

As private and public managers become better at making money without making economically useful goods, a new issue finally will have to be confronted: Will American industry reach a condition of "no return," making the achievement of industrial renewal problematic?

The way that an economy uses its capital—its production resources—is a crucial determinant of its productivity and economic well-being.

By 1977, for every $100 of new (producers') fixed capital formation, the United States applied $46 to the military economy. In Japan, the ratio was $3.70 for the military. The concentration of Japan's capital on productive economic growth goes far to explain the current success of that country's industry, where productivity grew 6.2 percent in 1980. By contrast, with the United States' aging machinery stock, the average output per person in manufacturing industry decreased 0.5 percent in 1980.

The United States has "achieved" its present state of industrial deterioration by assigning to the military economy large quantities of machinery, tools, engineers, energy, raw materials, skilled labor, and managers—resources identified everywhere as the "fixed and working capital" that is vital for production.

Since a modern military budget is used to purchase such resources, it is, effectively, a capital fund. A large ratio of military to civilian capital formation drains the civilian economy. The viability of the United States as an industrial society is threatened by the concentration of capital in a fund that yields no product useful for consumption or for further production. This looting of the means of production on behalf of the military economy can only be accelerated as a consequence of the unprecedented size of the war budgets advocated by the Reagan Administration.

The vital resources that constitute a nation's capital fund cannot be enlarged by waving a budgetary wand. Neither can manufacturing facilities be multiplied by ever richer subsidies to the managers of military industry. Basic machinery, skilled labor, engineers and scientists—all are finite in number and difficult to increase.

The concentration of capital on the military portends sharply diminished opportunity for a productive livelihood for most Americans. Clearly, a choice must be made as to where these resources will be used.

The accompanying list of trade-offs illustrates the kinds of choices that the Reagan Administration and the Congress are now making with their budget and tax plans, intended or not.

The following are principal sources of these data: military-program and unit costs, and cost changes (overruns), the Department of Defense: "SAR Program Acquisition Cost Summary (Unclassified)," Dec. 31, 1980, and related reports, and "Procurement Programs (P–1)", March 10, 1981; and news media reports. The civilian capital-cost data range from reported prices (machine tools, buses, trolleys) and reported Federal budget items to informed estimates of industrial-research and project costs and of costs of public works. Economic and engineering estimates are from Representative Les Aspin (Congressional Record, April 27, 1981), Prof. John E. Ullmann of Hofstra University; Mark Hipp, a Columbia University doctoral candidate; the Council on Economic Pirorities, the city of San Diego, and the California Public Policy Center.

Seven percent of the military outlays from fiscal 1981 to 1986 equals $100 billion equals the cost of rehabilitating the United States' steel industry so that it is again the most efficient in the world.

The cost overrun, to 1981, on the Navy's Aegis-cruiser program equals $8.4 billion equals the comprehensive research and development effort needed to produce 80- to 100-mile-per-gallon cars.

The cost overrun, to 1981, on the Navy's current submarine, frigate, and destroyer programs equals $42 billion equals for California, a 10-year investment to spur solar energy for space-, water-, and industrial-process heating; this would involve 376,000 new jobs and lead to vast fuel savings.

Sixty-three percent of the cost overruns, to 1981, on 50 current major weapons systems equals $110 billion equals the 20-year cost of solar devices and energy-conservation equipment in commercial buildings, saving 3.7 million barrels of oil per day.

The cruise-missile programs equals $11 billion equals the cost of bringing the annual rate of investment in public works to the 1965 level.

Two B–1 bombers equals $400 million equals the cost of rebuilding Cleveland's water-supply system.

Cost overruns, to 1981, on the Navy's Trident and the Air Force's F–16 programs equals $33 billion equals the cost of rehabilitating or reconstructing one out of five United States bridges.

The Navy's F–18 fighter program equals $34 billion equals the cost of modernizing America's machine-tool stock to bring it to the average level of Japan's.

Seventy-five percent of the cost overrun, to 1981, on the Navy's 5-inch guided-projectile program equals $263 million equals President's Reagan's proposed fiscal 1981 and 1982 cuts in the Northeast rail-corridor improvement programs, and in the alcohol-fuels development program.

Two nuclear-powered aircraft carriers equals $5.8 billion equals the cost of converting 77 oil-using power plants to coal, saving 350,000 barrels of oil per day.

Eighty-eight percent of the cost overrun, to 1981, of the Navy's Tomahawk cruise missile equals $444 million equals President Reagan's proposed fiscal 1981 and 1982 cuts in the Federal solar-energy budget.

Three Army AH–64 helicopters equals $82 million equals 100 top-quality, energy-efficient electric trolleys (made in West Germany).

One F–15A airplane equals $29 million equals the cost of training 200 engineers to design and produce electric trolleys in the United States.

46 Army heavy (XM–1) tanks equals $120 million equals 500 top-quality city buses (West German-made).

The cost overrun, to 1981, on Navy frigates (FFG–7) equals $5 billion equals the minimum additional annual investment needed to prevent water pollution in the United States from exceeding present standards.

The cost of unjustified noncombat Pentagon aircraft equals $6.8 billion equals six years of capital investment that is needed to rehabilitate New York City transit.

The cost overrun, to 1981, on the Army's heavy-tank (XM–1) program equals $13 billion equals the shortfall of capital needed for maintaining water supplies of 150 United States cities for the next 20 years.

The MX missile system, first cost equals $34 billion equals the cost of a comprehensive 10-year energy-efficiency effort to save 25 percent to 50 percent of United States oil imports.

Reactivating two World War II mothballed battleships equals $376 million equals President Reagan's fiscal 1981 and fiscal 1982 cut in energy-conservation investment.

The cost overrun, to 1981, on the Navy's F–18 aircraft program equals $26.4 billion equals the cost of electrifying 55,000 miles of mainline railroads, and the cost of new locomotives.

The fiscal 1981 nuclear-weapons funding, adding to more than 20,000 on hand equals $5.06 billion equals eight years of capital costs for rehabilitating New York City's sewers.

The cost of excessive, nonstandardized military aircraft service equipment equals $300 million equals President Reagan's fiscal 1981 and fiscal 1982 reduction in capital grants for mass transit..

The cost overrun, to 1981, of the Army's UH–60A helicopter program equals $4.7 billion equals the annual capital investment for restoring New York City's roads, bridges, aqueducts, subways and buses.

One nuclear (SSN–688) attack submarine equals $582 million equals the cost of 100 miles of electrified rail right-of-way.

Ten B–1 bombers equals $2 billion equals the cost of dredging six Gulf Coast and Atlantic Coast harbors to handle 150,000-ton cargo vessels.

One A–6E Intruder (attack plane) equals $23 million equals the annual cost of a staff of 200 to plan mutual reversal of the arms race, and conversion of the military economy to a civilian economy.

(The following occurred during the remarks by Mr. PRYOR):

The PRESIDING OFFICER (Mr. STEVENS). The time of the Senator has expired.

Mr. PRYOR. Mr. President, the distinguished Senator from Oklahoma (Mr. BOREN), under the previous order, does have a special order. He has graciously consented to yield me some of his time.

Mr. BOREN. Mr. President, I will yield 14 minutes of my time to my colleague from Arkansas, reserving only 1 minute at the end.

Mr. PRYOR. Mr. President, I appreciate the Senator from Oklahoma yielding. The Senator can tug me on my coattail if I do go over 14 minutes.

The PRESIDING OFFICER. Under

the previous order, the next Senator to be recognized will be the Senator from Michigan. The Senator from Alaska is here. He had a previous order that was not initiated. The order was that the Senator from Alaska. (Mr. MURKOWSKI) and then the Senator from Michigan (Mr. LEVIN) and then the Senator from Oklahoma (Mr. BOREN) would be recognized.

Mr. BAKER. Mr. President, I came into the Chamber late. I apologize for that. Do I understand that there is a question of the appropriateness for the recognition of the Senator from Oklahoma so that he might yield a portion of his time to the Senator from Arkansas?

The PRESIDING OFFICER. It would take unanimous consent to do so.

Mr. BAKER. Mr. President, I put that unanimous-consent request at this time.

May I say, before the Chair rules, that at 12 o'clock I would like to proceed to the matter of appointing conferees on the tax bill. Would the Senator from Arkansas be agreeable to interrupting at that point or would there be a convenient stopping place then so we could do that?

Mr. PRYOR. The Senator from Arkansas would be glad to yield at that point, but I am wondering if I could reserve the opportunity at the proper time to continue with this very eloquent message that I am presenting.

Mr. BAKER. Yes. I am sure it is eloquent and I look forward, if not hearing it, certainly to read it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, because it is 3 minutes to 12, may I pose a unanimous-consent request that we do another little reversal here and ask unanimous consent that Senator BOREN's special order that he has just yielded me 14 minutes from, that we might yield him 1 or 2 minutes of his special order to proceed at this time?

Mr. BAKER. I am happy for the Senator to make that request.

Mr. PRYOR. I do make such request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. If the Senator would yield to me for one more moment, and I guess we will be up to 12 o'clock with this.

Would the minority leader be in a position now to hear a request from me with respect to the length of time Senators may speak during the morning business period?

Mr. ROBERT C. BYRD. Mr. President, may I say that I would have to object on the part of a Senator or Senators.

Mr. BAKER. I thank the Senator. Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, this is one of the final opportunities, if not the last opportunity, I will have before the long August recess to come to the floor and express my great concern over the problems being caused by continued high interest rates in this country.

Mr. President, over the past several weeks as I have spoken each day about this problem, I have repeatedly emphasized two broad areas—one, the effects of high interest rates on specific segments of our domestic economy and second, the implications that the U.S. economy carries for the economies of other nations in the world.

An editorial in this morning's Wall Street Journal makes the point again that U.S. economic activity influences and is influenced by, the economies of other countries. Most particularly this is true of the interrelated economies of the United States, England, France, Germany, and Japan.

On the domestic level I have spoken about the collision course that the economic policies of this administration has created. An analysis of the Reagan program is contained in an article on the business and finance page of the Washington Post this morning. It basically says that the Congress has put President Reagan's entire economic program in place and that his administration must now assume responsibility for properly implementing it and that it will be held accountable for the outcome.

I would add one additional part to that equation. Mr. President if the Reagan administration and the Federal Reserve Board do not move quickly to reduce the level of interest rates, the Reagan program cannot work. In other words, supply-side economics is doomed before it begins unless action is taken to reduce interest rates. You simply cannot have a policy that is designed to encourage savings and investment and at the same time maintain an interest rate level that makes that investment impossible to pursue. To that extent I agree with the Post article's conclusion—that if these conditions do not change—the economy will fail to improve.

Mr. President, no amount of tax cuts or spending cuts enacted by this Congress or reductions in Government regulations can overcome the basic flaw I have outlined in the Reagan economic program and so the fourth element that simply must be present in the Reagan program, in addition to the tax cut and in addition to the spending cut and in addition to regulatory reform, must be the reduction of interest rates.

At the same time, Mr. President, we cannot become so buried in statistics and immersed in theory that we lose sight of the human tragedy being played out across this country because of escalating interest rates, I have, from time to time, given personal examples of the effects these interest rates are having on our people in agriculture, homebuilding, the automobile businesses and other small businesses. Today I would like to give another. Namely I want to discuss the effects of high interest rates on the most unfortunate members of our society and those least able to defend themselves—I speak of the children of this country who live in children's homes.

Many children's homes are forced to borrow capital in the form of commercial loans or borrow from their endowment funds. The most common reason for this is that Federal funds are often delayed, through no fault of the agencies. According to the Child's Welfare League of America, 1 of 13 national organizations joined together as a task force on grants and contracts, a delay of 3 to 9 months is more the rule rather than the exception. Fifty-six percent of these subgrant-related costly delays were financed with loans from endowment funds or savings, and 17 percent were financed through commercial loans; and $117,382 was lost last year from only 125 agencies in the form of interest paid on commercial loans and this is but a small representation of the entire problem. Every time an agency is forced to borrow money in the form of a commercial loan, the interest they pay on these loans will never be recovered.

Unlike a business or profit-oriented organization, they can never realize this capital. The money that they pay on these loans could be used for the care of these children or for improvements to the agency. The evidence seems clear that the problem is serious and the effects are severe and detrimental to the children and the institutions. For example: At an unreasonably high interest rate of 18 percent, the Turley Children's Home in Oklahoma has a loan of $200,000 and the Oklahoma United Methodist Home has a loan of $50,000. Combined, these two organizations will lose around $45,000 this year because of these high interest rates. Each of these institutions will pay an amount of money that may seem small to this Government but which could greatly affect the operations of these homes.

Mr. President, as representatives of the people of this country, how can we allow the present policy of high interest rates to continue? It is up to this elected body to decide whether the children of this country, along with many others, should continue to suffer because of high interest rates.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BAKER. Mr. President, will the Senator yield to me for a brief moment?

Mr. MURKOWSKI. I yield.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, will the Senator permit me to say that in his absence it was necessary to gain a time certain for the appointment of conferees on the tax bill. We are going to do that at 12 o'clock, which is 1 minute from now. I understand the Senator from Alaska has a special order. I wonder if he can forbear asking for recognition under that special order until we tend to this matter.

Mr. MURKOWSKI. I am happy to do so.

Mr. BAKER. I thank the Senator.

Mr. President, is the Senate ready to proceed on the previous matter?

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. BAKER. Mr. President, this period for the transaction of routine morning business is to provide an opportunity to proceed with the appointment of conferees for the conference with the House on the tax bill, as I indicated earlier.

I see that the distinguished chairman of the Finance Committee is now in the Chamber. I believe those who are interested in this are present as well.

I am prepared to proceed if they are prepared to proceed.

Mr. METZENBAUM. We are prepared.

ECONOMIC RECOVERY TAX ACT OF 1981

Mr. BAKER. Mr. President, I move that the Senate proceed to the considereration of H.R. 4242.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

There being no objection, the Senate proceeded to consider the bill.

MOTION TO STRIKE AND INSERT LANGUAGE OF HOUSE JOINT RESOLUTION 266

Mr. BAKER. Mr. President, I move that all after the enacting clause be stricken; that in lieu thereof the language of House Joint Resolution 266, as amended, be inserted.

Will the Chair withhold for just a moment?

Mr. President, I am advised that we are not prepared at this moment to proceed to that point. I withdraw the request and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to restate the motion I was about to make.

I now move that all after the enacting clause be stricken; that in lieu thereof the language of House Joint Resolution 266, as amended, be inserted.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, I object only for the purpose of preserving my right to object. I want to ask the majority leader a question.

Is it his intent to act in this manner and to subsequently appoint conferees? The Senator certainly has no intent of asking the Senate to accept the House bill?

Mr. BAKER. I do not. It is my purpose to proceed, first, to the unanimous-consent request that the Senator from Colorado will offer which the Senator from Ohio is aware of, I believe.

Mr. METZENBAUM. That is correct.

Mr. BAKER. And after that, that we proceed to insist on the amendments, request a conference with the House on the disagreeing votes, and ask the Chair to appoint conferees.

Mr. METZENBAUM. And that motion is a debatable motion with the second motion?

Mr. BAKER. Yes.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Without objection, it is so ordered.

UP AMENDMENT NO. 345

(Purpose: Conforming amendment to unprinted amendment No. 320 of H.J. Res. 266)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask unanimous consent that it be considered and unanimous consent that it be adopted.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, he asked unanimous consent that it be adopted before we even hear the reading of the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 345:

On line 9 of unprinted amendment numbered 320, delete "1980" and insert "1981".

The PRESIDING OFFICER. There is a unanimous consent request by the Senator from Colorado that this amendment be agreed to.

Mr. ARMSTRONG. Mr. President, this is a technical amendment. It is noncontroversial. It is in the amendment relating to the Continental Employees' ESOP. We inadvertently cited the year 1980 rather than the year 1981. The purpose and effect of this amendment is simply to correct that error.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered. The amendment is agreed to.

So the amendment (UP No. 345) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4242) was passed.

The PRESIDING OFFICER. The majority leader is recognized.

MOTION THAT SENATE INSIST ON ITS AMENDMENTS, REQUEST A CONFERENCE, AND THAT CONFEREES BE APPOINTED

Mr. BAKER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the bill was passed. I will in no way interfere with the right of the Senator from Ohio to debate my last request. I ask unanimous consent that it be in order to do that. I request that it be in order to make that motion at this time.

The PRESIDING OFFICER. Is there objection to the request of the majority leader to make a motion to reconsider the vote? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Now, Mr. President, I thank the Senator from Ohio for permitting me to interrupt.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to address myself to the issue concerning the appointment of the conferees. I want to make it clear to the Members of the Senate I have no objection to the conferees being appointed, nor do I rise with any purpose in mind of delaying the action of the Senate or the Congress in bringing this matter to a conclusion. Rather, I rise to make clear how some of us feel on the question of the bills pending between the House and the Senate at the moment.

I was one of those who voted for the Senate tax bill, and I did so with reservation. But I did so feeling that the President have his way in this instance. Some came to a contrary conclusion. I respect their point of view, and I respect it well because it certainly was not a great bill and is not a great bill.

That bill had $20 billion in special tax breaks for the oil industry. Nobody questions the fact that there really was no reason to change the windfall profit tax, as has been done by the Finance Committee.

It was just put into place a year or two ago. Now we are undoing that which has been done. But there is one thing about the oil industry: No matter what you do for them, they want more. And their avarice and greed for the last dollar available from the Nation's economy cannot be satisfied until they have it all.

Just yesterday, Mr. President, we saw in the paper that Mobil is offering $105 a share for Conoco: the second largest company in the country trying to buy up the ninth largest company. They are absolutely overwhelmed with extra cash. What they do not have in cash, they are

going out into the marketplace to borrow. So nobody can say that the oil industry needs relief.

What we have here, as indicated in the chart behind us, is that in this present bill, there is $14.2 billion in a 50-percent tax reduction plan; there is $5.7 billion in a $2,500 annual tax credit for royalty owners.

And, unfortunately, I cannot give the figure as to the additional amount involved by the Senator from Texas having to do with tight sands. When it went over to the House, the House started to move to buy up some votes. But their efforts were of a modest degree. Then the President said, we want this bill and whatever we have to pay the oil industry in order to buy the votes, we will pay it.

So we find that in the House, they added another $26 billion between now and 1990 for the oil industry.

Elimination of the phasedown of the oil depletion allowance. This Congress fought for years to bring down the oil depletion allowance. Finally, in 1978, it was resolved. But no, they are not satisfied with that. It is a question of stopping the phasedown from 22 to 15 percent, and cut it off at 22 percent. That means that the rest of the taxpayers of this country will wind up picking up the burden that the oil companies will not pick up—$12.9 billion.

Then $6.5 billion more from elimination of the tax on independent stripper wells, and $6.7 billion in barrels exemption for royalty owners, and that is a variable figure.

Mr. President, I think it is important that we talk about how the Congress and how the administrations, both the past one and the present one, have treated the oil industry. We have done so much for them that it is almost unbelievable.

In April of 1979, President Carter granted the oil industry its biggest wish—phased decontrol of domestic crude oil prices. How much did that cost us? At the time of the announcement, the Department of Energy claimed that between April of 1979 and September of 1981, when price controls were scheduled to expire, the total cost to consumers would come to $17 billion. But the House Commerce Subcommittee on Oversight and Investigation disagrees. According to the subcommittee, when all the bills have been paid, the cost of just 2 years of decontrol to the consumers of this country will come to a staggering total of $53.4 billion—more than $70 million a day.

Let us remember, Mr. President, that figure is for 2 years only. In 1979, the Congressional Budget Office high-cost estimate, which appears today to be conservative, put the 6-year cost of decontrol between 1979 and 1985 at an astounding $210 billion.

Mr. President, these numbers are mind-boggling. They are beyond comprehension.

During last year's campaign, President Reagan tried to convey a sense of what such figures mean by describing mile-high stacks of $1 bills. But there are other ways to visualize this sum of money.

On June 30, 1980, the four social security trust funds contained a total of just under $48 billion, $5 billion less than the 2-year cost of decontrol alone. And we hear that there just is not enough money to preserve the minimum benefit. But there is plenty of money to take care of the oil companies. Let the American consumer pay, but forget about the senior citizens of the country.

Or let us look at it in some other way, Mr. President. It would cost $34 billion to bring the Nation's stock of machine tools up to the level of Japan's. For less than $6 billion, we can convert 350 oil-burning powerplants to coal, save 350,000 barrels of oil a day, and keep our money and our jobs here in America—less than $6 billion.

For a mere pittance, for merely $400 million, less than 6 days' cost of decontrol, my home city of Cleveland could replace its antiquated water system.

So we are talking about a lot of money, Mr. President, money that does not go for modernizing industry, for saving energy, or for providing our senior citizens with what is rightfully theirs, and we are talking only about the vast transfer of wealth that is taking place today because of decontrol.

But, Mr. President, we hear that the oil companies need money. They have told us that time and again. They have come to us with their bleeding-heart stories and told us that they need money to explore. They have cried on our shoulders and told us they needed money to develop. And they brought the violins out in order to convince us that they needed the money to produce.

They also need money, Mr. President, to buy department stores, coal mines, almond orchards, newspapers, container companies, fast-food outlets, and at one point, they even attempted to buy Ringling Brothers, Barnum & Bailey Circus. Maybe they should have, because they have made a circus out of the oil industry for the American people.

Let us not forget, Mr. President, their urgent need to buy each other. Consider the ad I mentioned just a moment ago, the full-page ad in yesterday's Washington Post to Conoco shareholders. I ask unanimous consent that that ad be printed in the RECORD, Mr. President.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

TO CONOCO SHAREHOLDERS

A great deal of confusion, inaccurate information and misunderstanding has emerged as a by-product of the bidding for Conoco. The purpose of this message is to try to clarify the situation to enable you, the Conoco shareholder, to make a judgment which suits your best interests. Much of the current confusion concerns three issues—comparisons of the relative values of the three tender offers, unwarranted antitrust allegations about a Mobil-Conoco merger and the bias exhibited by the Conoco management in favor of DuPont and against Mobil.

I. The comparative dollar values of the Mobil, Seagram and DuPont offers demonstrate that the Mobil offer is superior.

These comparisons as of July 28 are shown on the following chart:

Mobil: cash—$105 per share for slightly more than 50 percent of shares outstanding.

DuPont: cash—$95 per share for 45 percent of shares outstanding.

Seagram: cash—$92 per share for approximately 51 percent of shares outstanding.

Mobil: securities—$85 per share for approximately 49 percent in Mobil securities in a later merger transaction.

DuPont: securities—Approximately $77 per share for 55 percent in DuPont common stock (based on 7/27 DuPont closing price of $45.50).

Seagram: securities—None. Remaining 49 percent would continue outstanding.

Mobil: total value—$8.180 billion.

DuPont: total value—$7.335 billion.

Seagram: total value—There is no way to calculate a comparable total value for Seagram, which is bidding only for 51 percent.

To be proposed, as announced, to DuPont Board of Directors on July 29.

As can be seen from the above comparisons, the Mobil offer is superior to both DuPonts and Seagram's offers. Specifically:

Mobil's offer of $105 cash per share for slightly more than 50 percent of Conoco is superior to the Seagram's offer of $92 cash per share for 51 percent and DuPont's offer of $95 cash per share for 45 percent of Conoco's outstanding shares.

The Mobil securities to be exchanged in the merger with Conoco for the remaining shares of Conoco are intended to have a value substantially equivalent to $85 per share of Conoco. This value is greater than the current market value of approximately $77 in DuPont common stock which is proposed to be exchanged for 55 percent of Conoco's outstanding shares pursuant to the DuPont offer. Seagram proposes to acquire only 51 percent.

Mobil's average price, assuming completion of the merger, of $95 per share is superior to DuPont's offer, assuming completion of its merger, of about $85 per share. An average price for Seagram cannot be calculated because it is seeking only 51 percent of Conoco's outstanding shares.

The total value of the Mobil offer and follow-on merger at about $8.180 billion is superior to DuPont's total offer of $7.335 billion. There is no way to calculate a comparable total value for the Seagram offer because it is bidding only for 51 percent.

II. The Antitrust Issue.

Conoco has attempted to bias the bidding for its shares in favor of DuPont by bringing an antitrust action against Mobil and by making irresponsible statements concerning possible antitrust problems resulting from a Mobil-Conoco merger. In our opinion, these actions by Conoco are intended to confuse the Conoco shareholder by raising the unwarranted specter of protracted antitrust litigation. While this may serve the interests of the Conoco management, we are firmly convinced it does not serve the best interests of the Conoco shareholders.

In response to these actions, Mobil has filed a counterclaim seeking, among other relief, to enjoin Conoco or DuPont from further misleading Conoco shareholders about Mobil's tender offer and to cause Conoco management to cease wasting corporate assets by bringing frivolous suits.

Mobil believes that its acquisition of Conoco clearly does not violate antitrust laws. As we have said before, we believe that Mobil is free to acquire and operate all of Conoco's businesses. If there is any doubt about this conclusion, and we believe there is none, it would have to relate only to inconsequential portions of Conoco's U.S. marketing operations in the West. Were it necessary to speed the closing of its offer, Mobil would agree to dispose of certain assets in these areas rather than delay the purchase of Conoco shares.

Mobil strongly believes no Conoco shareholder should forgo the benefit of our offer because of exaggerated and uniformed antitrust concerns featured in the media, which may be inspired in part by Conoco and the other bidders.

III. The biased actions by the Conoco management against Mobil and in favor of DuPont have not served the best interest of the Conoco shareholder.

Conoco has done everything possible to favor DuPont over all other bidders; has given DuPont an option to purchase 15.9 million shares at $87.50 per share as an alleged inducement to make its merger offer, and has raised the false specter of antitrust in an attempt to downgrade the value of the Mobil offer.

Mobil believes that the grant to DuPont of an option to purchase 15.9 million shares of Conoco stock for $87.50 was unnecessary, contrary to the best interests of Conoco shareholders, and illegal. Mobil has sued to declare that option invalid.

If the DuPont option were valid, it could permit DuPont to acquire control of Conoco even if a majority of existing Conoco shareholders had tendered to Mobil. We believe this would constitute an evasion of Delaware law by disenfranchising a majority of Conoco shareholders. Conoco and DuPont did not adequately disclose to the Conoco shareholders this aspect of the option or their intention with respect to it.

These and other actions show that the Conoco management for its own reasons is trying to convince Conoco shareholders to accept an offer inferior to Mobil's. We urge you to weigh these actions when you consider advice rendered by the Conoco management.

Conclusion:

Mobil's offer is the best offer. The claim of violation of the antitrust laws is unfounded. In any event, it should not delay the closing of the transaction. If Conoco shareholders are given a free and fair opportunity to choose between the Mobil offer and the DuPont offer, we are convinced they will choose the Mobil offer. But you must act now. We urge you to tender your shares to Mobil today.

YOU MUST ACT NOW

We strongly recommend that you contact your broker or financial advisor to get objective advice as soon as possible. Prompt action is required to make sure that you get the best price for your stock.

If you have tendered stock to Seagram or DuPont, you should act to withdraw those tenders immediately so that you will be able to tender to Mobil in time to get the best price from Mobil.

Stock tendered to Seagram cannot be withdrawn after July 31. Unless withdrawn it could not be tendered to Mobil.

Stock tendered to DuPont cannot be withdrawn after August 4. Unless withdrawn it could not be tendered to Mobil.

The sooner you tender to Mobil the more likely you are to receive $105 per share for more of your shares.

Your best chance of maximizing the price you receive for your Conoco stock is to tender to Mobil.

Mr. METZENBAUM. Seagram's is offering $92 a share; DuPont weighs in at $95. But Mobil—they have all the money in the world. They are offering $105 for more than 50 percent of the outstanding share and $85 in Mobil securities for the rest. That is an offer of $8.18 billion.

As a matter of fact, Mr. President, I think I just read in the paper the antitrust implications of that acquisition of Mobil, as related by the President of an oil company, not by an antitrust lawyer. The mobil ad says, "You must act now" or you will be stuck with $85 rather than $105.

Mr. President, will that expenditure bring this Nation one drop of oil? It will not.

I submit, Mr. President, that buying Conoco is not the kind of oil exploration some of us thought we would get from decontrol.

But decontrol is not all we have done for this favored industry.

Oil already enjoys more favorable tax treatment than any other industry in this country.

The foreign tax credit, for example, is worth about $2 billion a year—and the Treasury Department has allowed the industry to count as taxes what are clearly royalty payments to countries like Saudi Arabia.

No other industry in America is given the same treatment as is the oil industry with respect to the writeoff of intangible drilling costs or the writeoff in the first year of their upfront expenses. But the oil company gets that preference against the rest of American industry. That is despite the fact that, last year, 40 percent of the total profits of American industry went into the coffers of the oil companies, and the rest of American industry had only 60 percent left for itself.

Independents save another 1.7 billion in taxes through oil depletion allowances.

Those three items alone, Mr. President, amount to an annual gift of $5.2 billion to an industry already awash in profit—$5.2 billion a year. Year after year $5.2 billion that could reduce the deficit; $5.2 billion that other businesses and hard-working men and women have got to buy.

But it is not enough for the oil industry. They want more and more and more.

The Senate bill shaves down the windfall profit tax from 30 percent to 15 percent by 1985. How much? The Joint Tax Committee estimates the cost at $14.2 billion over the next decade.

In that same period, the $2,500 per year tax credit for royalty owners will cost $5.7 billion.

Is that enough? Are they satisfied?

No—the industry wants it all.

They want the House bill—another $26 billion.

They want immediate decontrol of natural gas—more and more and more. You cannot satisfy the oil industry until they own all of America.

They also want to be excused from having to pay back to the people of this country billions in alleged illegal overcharges. And the Economic Regulatory Administration has identified more than $13 billion in potential overcharge violations.

The oil companies of this country have answered the old question of what to give to someone who has everything.

To them, the answer is "more."

More—always more.

There is never an end to it.

I say to my friends across the aisle and to the Reagan administration that unless you start to say, "No," the insatiable demands of the oil companies will destroy everything you are trying to accomplish. Unless this body learns to say, "No," the oil industry will be back here time and time again, seeking a paltry few billion here and a few billion there. And every time, they will say what they always say: "Give us this, and we will bring in a million barrels a day extra."

I recall when Exxon Corp. came before the Antitrust Subcommittee of this body and said they wanted to acquire Reliance Electric and use their billions for that purpose, because Reliance had a new motor, and that new motor could be developed by Reliance Electric and, as a consequence, we would save a million barrels of oil a day.

A year later, they came back, after they had acquired Reliance Electric, and said, "Sorry, old fellows, the motor doesn't work." But they had Reliance Electric under their wing.

Mr. President, during the past 8 years the price of domestic crude oil has increased 1,200 percent, from $3 a barrel to $36 a barrel. With every increase, we heard the same refrain: Production will go up—a million barrels a day.

But it has not happened.

According to EIA, lower 48 State production has declined steadily over the past 8 years. Even when we factor in Alaska, production has declined each year by more than 100,000 barrels a day.

Will that decline continue?

EIA says yes. Their forecast is that domestic petroleum production will decline to 5.8 million barrels a day by 1990; 8 years ago, our production was over 9 million barrels a day.

Exxon recently published a study entitled "Energy Outlook 1980-2000." That study states:

> Domestic oil production peaked in the early 1970s and is declining. This decline has been slowed by the advent of north slope oil. . . . Nonetheless, supply from existing reserves is projected to decline to 3.8 million barrels per day in 2000.

Production has steadily declined, Mr. President. But the same cannot be said of oil company profits.

Look at the annual profits of the 20 largest oil companies. According to the Energy Information Administration's financial reporting system—which, I might add is scheduled for extinction in the 1982 Reagan budget—the 20 largest oil companies alone earned profits totaling $22.5 billion in 1979. In 1980 their profits reached $29.6 billion.

And that is just the 20 largest. We are not including 1 penny from companies the size of Kerr-McGee, Southland Royalty, Murphy, or American Petrofina.

Mr. President, we have allowed the oil companies to collect OPEC prices from the consumers of this country.

We have given those companies tax breaks enjoyed by no other industry.

We have seen them awash in profit, frantically looking around for ways to spend money.

And yet, we hear it again: The oil companies need more.

The House and Senate have been bidding against each other to deliver for the oil companies, but I do not blame the House, because what has really occurred is that the administration has made up the package. The administration has said, "How much do we have to give the oil companies in order to get the votes to pass the bill in the House that we want?"

Mr. President, that is an outrage. Let them bid on the basis of social security

benefits, on food stamps, on help for kids who want to go to college, on help for meals on wheels, on help for many other programs that have been cut back mercilessly in this Congress—help for the families who cannot buy homes; help for the businessmen who cannot pay the interest on their inventories. Nobody is bidding over there to help these programs.

No, Mr. President, all we can think about is the oil companies of this country.

And I say it is time to call a halt.

Mr. President, I say to those who will be the Senate conferees: "You have done a good job in getting this bill through the Senate. You have worked effectively. You have come through with a very large margin. You have done well for the oil companies. You have given them $20 billion. But don't come back with the extra $26 billion that the House has seen fit to give to the oil companies."

The American people will not tolerate that. I do not believe the U.S. Senate will tolerate that. I know that a certain number of us on this side feel that the American people are entitled to know the facts along this line. We hope they can bring this issue to a conclusion. Bring us back a bill without the extra money for the oil companies, and this matter will be resolved in short order. Bring us back a bill with the extra $26 billion in it for the oil companies, and this Senator believes that the people of the country should be apprised of what is happening, before the Senate has an opportunity to vote on it.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. KENNEDY. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I commend the Senator from Ohio for his remarks this afternoon.

As the members of the conference are appointed to adjust the differences between the House and the Senate bills, I believe it is important at this time to restate the strong feelings that I have—and that obviously the Senator from Ohio and a number of others have—about the tax benefits the major oil companies are going to receive.

I do not believe there is any question that during the past few weeks, the major focus and attention of the American people has been on the general tax cuts of the administration and the general tax debate in the Senate of the United States.

There has been very little attention or examination given to the details of this legislation.

Mr. President, the Senator from Ohio has pointed out that there has been a bidding war in the House of Representatives which resulted in $26 billion in tax relief for the oil companies of this country. I think it is appropriate to point out that the Reagan administration did not request any change, any adjustment, in the tax program for the major oil and gas industries in their original tax recommendations.

I quite frankly think that we are doing the President and the Republican administration a great favor, because if we accept the Senate positions we are going to save some $26 billion in tax revenues that can be directed toward the deficit and move us toward a balanced budget in a much quicker and more orderly fashion. So I think we are doing the President a favor by serving notice to that conference that if there is any significant or substantial change over the Senate position there are Members on this side who are prepared to debate and discuss this issue until the American people have a full awareness and understanding of what is exactly included in this proposal.

I say it is time to end the bidding war. There should be no more J. R. Ewing amendments in the Senate or in this Congress.

The parents of this country who have small children are going to find out that there is a reduction of immunization funding under the administration's proposal before Congress—a program which costs just a few million dollars. That program will not be fully funded to meet the really important health care needs of the children of this Nation.

Middle-income people are going to find out that their children will not be able to qualify for student loans, which have been a program which has offered hope and opportunity to millions of young people in this country, because this administration did not seek enough resources or funding for the student loan program.

Millions of elderly people are going to find that they are going to have a lesser life because the administration could not find the billion or so dollars necessary per year to continue the commitment of this Nation to those who receive social security benefits.

The cost of these programs is about $3 billion a year. The administration could not find the $3 billion just for those particular programs. But it could find $46 billion for an industry that Merrill Lynch says is the most profitable industry in this country. They can find $46 billion for that one industry but at the same time they are reducing the immunization program for children, student loan program, social security, and school lunch programs.

Mr. Stockman says we are going to cut school lunch programs by a half because it is helping middle-income families, but they have $46 billion in that House bill to help the most lucrative profitable industries in this country.

That is a message I do not think is understood here in the United States of America. But it will be a message that I will be sure the American people understand if a conference report which increases by any significant or substantial amount the tax benefit and privilege of the major oil industry is reported to the Senate.

Mr. President, enough is enough for the oil industry. It is an industry which the House bill shows, can be accurately described as an industry of greed, for it demands profits which are unjustified and unwarranted and benefits which no other industry receives or is entitled to in this country.

And that is going to be an issue which as far as this Senator is concerned will be debated and discussed as long as the rules of the Senate permit it or until the people of this Nation understand it.

A final point that I would like to make, Mr. President, is that each year Business Week surveys corporate profits. It found that nonoil companies increased their profits by an average of only 11 percent between 1978 and 1980; oil companies increased their profits by 117 percent, 12 times more than nonoil. And still they are asking for this $46 billion windfall.

Mr. President, I yield.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. RIEGLE. Mr. President, reserving the right to object. Before I speak to the issue that is before us, the oil question, I wish to alert the other side that when the bill comes over today from the House of Representatives to restore the minimum benefit under social security it will be my intention to ask that that bill be held at the desk and that the Senate take it up today and we face it and vote on it as the House of Representatives is doing. I think it is essential that we do that.

I know that requires unanimous consent and there may be some on the other side of the aisle who would move to object to my request, but I would ask them to not object, that we have the chance to vote on this issue. It is an issue of critical importance to the country, the senior citizens in the country, and especially the 3 million people who depend on the minimum benefit and do not know what their status is.

The President goes on television one night and says everyone under social security is going to be protected and then lo and behold, the President's party has acted in a way to do away with the minimum benefit under social security, and it is being eliminated in the reconciliation bill that will be coming over here today.

So I think it is essential that we have an opportunity to vote on it and to keep the President's promise on television the other night.

And so I hope to talk to the chairman of the Finance Committee in due course about how we might work out an opportunity to have some time to discuss this later when this particular issue arrives when I will make that request that that legislation be held at the desk.

Having said that, I now turn to the oil issue, and I commend the Senator from Ohio for his leadership today and for his leadership over a period of years in dealing with this problem. I agree with what he has said here today, that this $46 billion gift to the oil industry in this country is one of the worst examples of special interest greed in the history of this country.

It is plain and simple that the Reagan administration is the captive of the oil industry in America.

The $26 billion add-on in the House of Representatives for the oil industry is wrong, it is unjustified, and that add-on

should be defeated, should be taken out of the bill. I support the efforts of the Senator from Ohio and others here who have spoken and will speak to try to delete that gift, that $26 billion gift, in addition to the $20 billion already in the Senate bill that otherwise will be given to this particular industry.

I would say that I think the sponsors of this giveaway, this $46 billion giveaway, really ought to be ashamed of themselves because they know, as we all know, that this Government of ours is going to have to go out and borrow this money in order to give to the oil companies. It is not as if we have this money, it is not as if the budget of the United States is in surplus. We are running a deficit, and so what those who support this giveaway to the oil companies are asking, they are saying, "Go borrow this money, go borrow, raise the Federal debt, pay that extra interest so we can turn around and give that money to the oil industry in this country."

There is not a person in America who does not understand the fact that the oil industry does not need this money. They have got so much money now they do not know how to spend it. In fact, as has been pointed out, they are spending it now trying to gobble up each other.

So the notion of putting this country deeper into debt and borrowing that money to give it to the oil companies is really outrageous. As I say, I think people who come in here and make that assertion really ought to be ashamed of themselves.

We have got other needs for that money. Restoring the minimum benefit under social security is one of those needs. The cutbacks in other domestic programs that are vital—home heating assistance to elderly people in this country is a case in point—these are the areas of critical need facing our country.

Reindustrializing the industrial base of America, rebuilding our auto and steel plants and the other basic supplier industries, that is where we are capital-short. If we are going to have money targeted to a special purpose, let us do it where we are building something and where we are insuring our future and providing jobs for our people.

But to turn around and to give this money to the oil industry is absolutely an unjustified proposal.

There is not a scrap of justification for this kind of a giveaway at this point. I believe when the American people find out what has happened here, when they find out that they are being obligated and their children are being obligated, and their children's children are being obligated to go out and borrow an extra $26 billion to add to the national debt to give to the oil companies on top of the $20 billion already in the Senate bill, I think they are going to be up in arms. and they have a right to be.

So I hope that the Republicans here, who are basically the ones who have supported this and pushed it into the bill, the Reagan administration, would reconsider and would understand that there is no way that one can argue for fiscal responsibility and, at the same time, come in here with this kind of an unjustified giveaway to the oil companies. The two things just do not square. They cannot square down at OMB and they cannot square here in the Senate Chamber.

So I say again to the Senator from Ohio, who has led this fight and continues to lead this fight, that what he says here today is very important for the country to understand.

I want to stand with him, as I know other colleagues do, in the effort to try to get rid of this windfall gain that is built in here, this special interest greed. I think this is the most excessive form we have ever seen here in this Chamber.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I would just like to thank the Senator from Michigan on his effective, strong remarks and comments.

I yield the floor to the Senator from Rhode Island.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object——

Mr. PELL. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the Senator from Ohio for giving me this opportunity to speak, and I congratulate him and the Senator from Massachusetts for the leadership they are showing in bringing to the attention of our Senate and the conferees the importance of standing as firmly as they possibly can to hold for the Senate version of the tax bill, particularly when it comes to the excessive break for the oil industry.

In this regard one could say that a reduction in taxes could help an area like mine because it would mean a reduction in costs of producing or selling the product. In my State three-quarters of the fuel that is consumed is oil, and one could say if taxes were less on that oil we would pay less for it. But that is a fallacious argument because, in fact, the price of oil is not set by the cost of production plus the taxes. The price of oil is set by OPEC, and therefore what we are dealing with here is a windfall, a break for the oil industry which I think is excessive.

I think the extra $26 billion that the House provides for the next 10 years could better be used to go into the general revenues and in replacing some of the human cuts that have been taken or, most wonderful of all, to perhaps more quickly balance the budget and keep it balanced.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. EAGLETON. Mr. President, reserving the right to object, I rise to speak out against an issue that concerns me greatly. I am appalled at the provisions contained in both the House and Senate tax bills that give even greater bounty to the oil industry.

While the Senate-passed version of the tax bill gives one of the Nation's richest industries a substantial tax break, the Conable-Hance substitute passed by the House gives the industry a tax break of twice that magnitude over the next 10 years.

Provisions in the Senate bill pertaining to tax treatment of newly discovered oil and tax treatment of royalty owners yield the industry an additional $20 billion in revenue over the next 10 years. Estimates of the impact of the Conable-Hance provisions will give the industry an additional $26 billion tax break over and beyond the Senate bill over the same period. Both the House and Senate bills offer the same provisions for new oil, but the House version gives twice as large a tax break to royalty owners.

Furthermore, the unlimited exemption for stripper oil allowed by the Conable-Hance bill racks up an additional $6.5 billion revenue gain for the industry. The same bill continues the percentage depletion deduction at 22 percent of gross income, instead of phasing it down to 15 percent as provided for by previous legislation as passed by the Congress in 1975, which gives the industry another $13 billion.

While the House is more than generous to an industry that ranked first in earnings per shareholder from September 1979 to September 1980 according to a Business Week survey on corporate profitability, the Senate is not without parallel in attempting to grant this industry additional concessions. Maybe the most significant vote in this whole tax debate was one that the Republicans won, but decided to put away for another time. That was the Dole-Domenici amendment, which would have phased out the windfall tax on newly discovered oil, as well as the tax on incremental tertiary and heavy oil—$41 billion right into the pockets of the oil companies.

The Republicans pushed this to a test vote and found that they had a majority for it—49 to 47. Now, they draw it back, I guess because it was too much even for them on top of the $20 billion already contained in the bill for the oil industry. But, rest assured, this issue will be before the Senate again. There is not a doubt in my mind. This administration is going to keep pushing until every dollar of the windfall tax is returned to the oil companies. They need the money. It is not cheap to buy out other oil companies or copper companies.

Revenues from the windfall profits tax, as it was originally construed, were pledged to finance the creation of a synthetic fuels industry, to enhance mass transit systems, and to protect the poor and the elderly from skyrocketing energy costs. However, this tax proposal would dismiss these pledges. Instead of investing the profits of decontrol for the common good, we are returning them to the oil companies for the benefit of a wealthy few.

As I mentioned before, we are doing this at a time when Mobil Oil, which has more money than it knows what to do with, is engaged in a bidding war for Conoco. Mobil's current efforts to obtain a loan of $6 billion—which it probably will be able to obtain and afford with ease—mean that there is that much less credit available for the rest of business to borrow. That particularly hits small busi-

nesses hard. As high interest rates persist, fewer and fewer business borrowers will have the wherewithal to secure loans, and only those with top-rated credit—namely, the oil companies with their huge credit lines—will be able to borrow. To heap huge tax breaks on top of all this makes a mockery of any and all commitments made by this administration to a fair and equitable tax bill.

At the same time, we have taken action on a budget bill that has fundamentally altered the economic and social fabric of this Nation by acting like a reverse Robin Hood—we are taking from the poor and giving to the rich. In the course of deliberations on the reconciliation bill, this Congress has committed itself to the following actions:

To 3,000,000 social security recipients receiving the $122 minimum payment—some of the oldest and poorest of our Nation—we have said we no longer can afford to provide you with this minimum payment.

To 1,000,000 recipients of food stamps, again, some of the oldest and poorest of our Nation, we have said we no longer can afford to provide you food stamps and to 1,000,000 other recipients, we have said we must cut your benefits.

To thousands, maybe millions of people receiving the absolute minimum of medical care under medicaid, we have said we must cut back or altogether eliminate even the most elemental and basic medical care.

To 837,000 college students receiving student loans, we have said you will no longer be eligible for student loans.

To 800,000 poor children in elementary schools, we have said we can no longer provide that extra help necessary to overcome economic or social disadvantages.

Mr. President, how is it that we can effortlessly "sock it" to the poor, "sock it" to the needy, "sock it" to the elderly, and "sock it" to the youth of our country and, at the same time, give away billions to those good old boys from Mobil?

Think of what we could do not only with the $20 billion that the Senate has bestowed upon the oil companies, but also the $26 billion that the House has added on top of the $20 billion?

For example, would it not help the elderly of this Nation if we put the $46 billion—that is the Senate's $20 billion and the House's additional $26 billion—what if we put that $46 billion into the social security trust fund? It would not only help the elderly of the country, it would help the President and the Congress in coping with our dilemma on social security.

Mr. President, there used to be an old radio show called "Can You Top This?" In the recent, disgraceful "bidding war" on the tax bill, we have had a form of "Can You Top This?" with respect to the oil industry. For the oil industry, enough is never enough.

In the name of commonsense and fundamental decency, I submit that we draw the line at the already indefensible $20 billion giveaway already perpetuated in the Senate bill.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. SARBANES. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to commend the Senator from Ohio and other colleagues of mine who have taken the floor with respect to this unanimous-consent request to request the conference and to appoint conferees to make very clear to the seven Members of this body who will be the conferees the depth and intensity of the feeling on the part of many Members of the Senate with respect to the issue of whether the conference will add to the Senate bill further concessions, reductions, and giveaways to the oil industry. As the Senator from Missouri said, "enough is enough."

The fact of the matter is the additional $26 billion in tax breaks for the oil industry contained in the House bill is enough to solve the short-term financing problem of the social security system. The cash flow problem which that system will face in the mid-1980's is less than the amount of money contained in the additional tax concessions to the oil industry contained in the House bill. And it is very important, I think, to underscore that, because there is a move afoot to cut the benefits for social security recipients far, far in excess of anything that is necessary to maintain the integrity of the trust funds.

The fact of the matter is that interfund borrowing amongst the three trust funds in the social security system would have solved the short-term problem. That amendment, offered by the Senator from New York and the Senator from Tennessee was rejected on the floor of this body in the course of considering the tax bill.

It would be absolutely unconscionable for the conferees to agree to further concessions with respect to the oil industry and, at the same time, have rejected the opportunity to solve the problem of the social security system without the massive cut in benefits which the administration is proposing; cuts which the American people have not yet begun to fully appreciate; cuts which would make retirement at age 62 virtually an impossibility for all Americans. The administration's proposal would place the social security benefit level at age 62 below the poverty level. It would totally destroy the integration of the social security retirement system with the private pension retirement systems which exist in this country.

In many plants across the country, particularly on assembly lines, workers are permitted to retire after 30 years if they are above the age of 55. At that point, they receive a private pension which continues at a certain level until age 62, when it drops and the social security pension kicks in thereby keeping total retirement benefits at the above existing levels. The administration's proposal by Secretary Schweiker and Budget Director Stockman would preclude workers who have been on those assembly lines for more than 30 years and in their late 50's or early 60's from retiring. It would totally undercut the integration of the social security retirement system with the private pension system which has been established in so many industrial plants in this country.

The administration came in with a proposal to cut $88 billion in social security benefits in order to overcome a short-term cash flow problem, which, by their own predictions of how the economy would function, amounts to $5 billion to $10 billion. It is important to appreciate that—an $88 billion cut in benefits to address a short-term cash flow problem, which, by their own estimates as to economic performance, would amount to $5 billion to $10 billion.

And to come now with a tax bill which would add potentially another $26 billion for the oil industry, when we confront this situation on the social security system, is unconscionable.

So, Mr. President, I wish to underscore to the conferees, as they prepare to go to the conference on this tax bill, again the depth and the intensity and the extent of the feeling on the part of many Members of this body with respect to this very important issue.

I trust that the conferees, as they participate in this conference, will fully recognize the strong view held by many of us in this body.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. Objection.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I would like to join with my colleagues who have been expressing their deep concern over the upcoming conference with the House of Representatives with regard to the windfall profit tax. Much has already been said about what the effect of this could be to consumers and to small businesses all across this country. My strong conviction is that our conferees from this body will enter into that conference and support the Senate provisions.

I certainly oppose the tax reductions contained in both the Senate and the House versions of the tax bill with regard to oil. But what we have done in the Senate is certainly far more palatable than what has occurred in the House bill. The figures are well known.

The reduction of revenues by $20 billion as a result of what was enacted here in this body is bad enough. But to have, as we would have with the adoption of the House language, a loss of some $40 billion to $50 billion over the next 10 years will make any hopes we have of reducing the rate of inflation and getting a handle on our ability to control deficits virtually impossible.

The distinguished Senator from Ohio, Senator METZENBAUM, the distinguished Senator from Massachusetts, Senator KENNEDY, Senator SARBANES, and others, have articulated extremely well on what the impact of this could mean to people all across this country.

The President, as every Member of this body will recall, decontrolled oil prices when he came into office in January. As a result of that, we saw heating oil and gasoline prices take another leap forward. Additional billions of dollars flowed from the strained purses of American

consumers into treasuries of the oil industry. The windfall profit tax, which was enacted only 2 years ago, was an attempt to return a portion of those dollars to the public Treasury so that the Government might ease the burden on low- and moderate-income families and promote the development of alternative sources of energy.

That is the idea. That is how it was sold. It was not just an effort to clamp down on the oil industry but to try to bring in some needed revenues for vital programs to assist those in desperate need in this country.

There have certainly been no lack of incentives for the oil industry to search for new oil, as is evidenced by the recent information with regard to the availability of oil drilling equipment. You have to get in line today to acquire that kind of equipment. There is tremendous incentive out there to go after this vitally needed energy resource.

The windfall profit tax has already provided generous treatment to newly discovered oil and oil produced through innovative techniques in hard to get at places. Further reductions in this tax will simply reduce the Government's ability to promote conservation and renewable energy sources. It would further reduce our ability to assist those hard-pressed families attempting to meet heating bills that have doubled in the past 2 years.

I should point out that we have seen some abatement in price as a result of the glut that has occurred in the international market. But I think everyone recognizes that that may be a very short-lived situation and that we may find in a matter of weeks or months that the OPEC cartel has regained its strength despite the divisions that occur in it today. We may find that cartel flexing its muscles one more time. When they do, of course, those people who depend upon those vital energy resources from overseas are going to be hard pressed again and we could again see an escalation in the price of these energy resources.

Certainly, the Senate reductions in the windfall profit tax, the $20 billion, should be more than ample to satisfy those who sincerely believe that greater incentives are needed to promote the more expensive oil recovery techniques. The giveaway of additional billions, the additional $20 billion or $30 billion as included in the House bill, would only pad the profits of what is already the Nation's most profitable industry.

I am sure the point has been made earlier that at a time when we are trying to figure out how to preserve and maintain a social security system, where a few billions of dollars are needed, to find ourselves giving away anywhere from $20 billion to $50 billion in revenues hardly makes sense to anyone in this country regardless of their political affiliation or ideology. That makes no sense whatsoever.

I recognize the delicate nature of a conference, that it is not necessarily wise procedure to overly instruct conferees when they have to deal in the delicate, fragile matters of working out differences that exist between the two bodies. Certainly, the distinguished Senator from Kansas, the chairman of the Finance Committee, has been through that any number of times. As a matter of procedural policy I do not like to hobble the ability of conferees to deal intelligently with complicated matters.

My point in standing here today and reserving the right to object is merely to express the opinion of one Member of this body, that we should do what traditionally is done by both Houses. That is, to uphold the position of the Senate or uphold the position of the House. In this case I urge the conferees to uphold the Senate provision, which I feel is a far wiser way to proceed. Even though I had difficulty with the Senate bill and did not support it, I think it is a vastly superior bill to what was adopted in the House. In the last analysis, we must protect people who are watching and waiting with great anticipation over what sort of an economic program we are going to have for this country.

My own opinion is that we would have been wiser to proceed with the approach suggested by the distinguished junior Senator from South Carolina, Senator HOLLINGS. He proposed a less aggressive, less excessive tax bill, that would have given us a real chance at balancing the budget in the outyears. I think that is going to be impossible to do, given the magnitude of this tax bill.

I am not an expert, and I would not claim to be, in overall economic matters. But there seems to me to be a direct relationship between Federal deficits and the present high interest rates and ultimately the rate of inflation. If we have any real hope of satisfying and dealing with the problems of inflation, we have to deal with high interest rates and we have to recognize that unless we get deficits at a manageable level it is going to be impossible.

Both in terms of the needs of middle-income families and families in the lower income brackets, as well as the overall economic program, it becomes that much more important that we adhere to the Senate provisions of the tax bill.

I would urge that our conferees stick with that position during the conference.

Mr. DOLE. Mr. President, reserving the right to object, there may be one additional antioil Senator who wants to speak. Some make their career out of attacking the oil industry. I am not certain how many jobs that industry creates in America, but it is a profitmaking venture. I am a little at a loss to understand what the concern is if they are concerned about money going to major oil companies. The major oil companies do not get $1 more under the House bill than they did under the Senate bill. All those charts back there reflect money going to the mom and pop operations, the independents, the small royalty owners. I am at a loss.

They talk about Conoco and Mobil and everybody is writing like mad because we are attacking the major oil companies. It is the understanding of this Senator that in the Senate provision on the lowering of the tax on new oil down to 15 percent it is the same as in the House, and all the other provisions with reference to oil affect independents or royalty owners. So, there is not one additional dollar in the House bill going to major oil companies than there is in the Senate bill.

Many of the Members who have been speaking voted for the Senate bill, though they had reservations about that section.

I just say, Mr. President, that it is somewhat confusing. As a conferee, I am confused. I do not know what to do now. I fairly well understood that there was something wrong until I went into it and saw all this money going to the small independents who are out there, trying to make a living, put a few people to work. But the 5-year revenue loss is $13.2 billion. $1.2 billion of that, over 5 years, goes to majors. That is the identical provision we had in our bill, the same identical provision; $7.6 billion of that figure in the House bill goes to royalty owners. That is the retired farmer or his wife or somebody receiving social security and a little royalty check; $7.6 billion under the House bill as compared to about $3.2 billion in the Senate bill.

Mr. President, I suggest that we are going to do the best we can in the conference. I do appreciate the fact that we were not instructed. I would have been somewhat surprised if there had been a motion to instruct conferees, because I think we have been fair in our treatment of everybody in the Senate.

If, in fact, we are after the major oil companies, then we have the wrong chart up. We are waving around these ads in the paper about Mobil and talking about Conoco. They do not operate in my State. I do not think they operate in the State of the Senator from Ohio. We have little oil wells. The average well in my State produces less than 3 barrels a day. Are we after these people? Are we after the 3-barrel-a-day wells in Kansas, Ohio, and Michigan?

Some of the other Senators do not have a drop of oil in their States, so they can stand up and condemn the oil industry, except when they get cold. Then they wonder what happened to all the oil, what is wrong with OPEC countries, why do American companies not produce more?

Mr. President, it seems to this Senator it is another case of trying to have it both ways. If we want more reliance on the OPEC countries, we just keep taxing and taxing the small independents, who go out and look for 90 percent of the oil. Ninety percent of exploration is done by independents, not the major oil companies.

For some reason, Mr. President, because oil is so popular with the press and the liberals know how to hit the nerve when they talk about oil, it is a good story, because the press does not know how to talk about the oil industry, either. If they did, they would write about it.

We are talking about a vital industry as far as this company's economy is concerned, as far as our defense is concerned, and as far as keeping America warm is concerned or keeping it cold or

running the industrial plants in Michigan, Ohio, or Massachusetts. I do not understand this constant condemnation of an important domestic industry, the independent oil industry.

Mr. President, maybe I am suspect. I come from a State—I do not have any oil income, never had any oil income. I guess I did have a little bit several years ago, but then the well went dry before I could recover my costs. But I am an oil man, I guess, because I once thought I could make a little profit.

I learned that not every well produces. I thought you just put a hole in the ground and oil came out. But I learned that about 9 out of 10 are dry and it costs a lot of money to raise oil in some States, in California and Texas and in some of the tight formations.

So I hope the press, and I do not say this in a general way, but some who write and run—or run and write, whichever—would just take a look at the industry. Take a look at the independents. That is whom they want to punish. The Senators have all made their speeches, all gone on to greater things since they left the floor. They have attacked the oil industry and all the men and women who work in that industry. All the taxes that industry pays have not been mentioned. What are the arguments that have been presented? They are attacking Conoco, Mobil, and Exxon. They do not get a dime out of the House bill. Not a dime goes to the major oil companies any more than we had in the Senate bill. That was $1.2 billion.

I suggest that if we want to argue and want to make headlines, we ought to do it with the facts. I do not quarrel with anybody who wants to make a little ink back in Ohio, Massachusetts, or Michigan. Even we engage in that from time to time. But if we want to attack the major companies, let us put up another chart, or if we want to attack the independents, the little 2- or 3-barrel producers in the State of Kansas. We produce 56 million barrels of oil a year in Kansas. That is not very much. That is about 1 week's imports. I think it may be equivalent to what may be produced in West Virginia. Maybe we produce a little more.

But let us train our fire on the right target. We are going to try to make some accommodations—not to the Senator from Ohio, but because we understand the problem. I have said it before and I say it publicly, I have appreciated the Senator's support. I have referred to him respectfully as "commissioner" from time to time, because we have cleared every amendment with the commissioner. That does not bother the Senator from Kansas.

It is not because the Senator from Ohio does not trust this Senator or the Senator from Louisiana. We have saved a little money with that process and we appreciate that. But I would not want anybody to go away thinking that we are about to give away all this money to major oil companies when they do not get $1 more in the House bill than they got in the Senate bill, which was voted for by many who have been up speaking against that proposition.

Mr. METZENBAUM. Reserving the right to object, Mr. President, it is my understanding that the Senator from West Virginia wishes to be heard at this point. In his behalf, I reserve the right to object and yield the floor to him.

Mr. RANDOLPH. I thank my colleague. I want to comment on what the Senator from Kansas (Mr. DOLE), charged with this legislation, has just said about the fact that those in the oil business and the gas business very often drill dry holes.

My remarks are applicable to the small independent oil and gas producers.

Independent producers are without a doubt this Nation's "explorers"—over 11,000 little companies that do over 90 percent of the exploratory drilling in the United States.

At a very early age I was an active participant in this industry. I helped my father in his efforts as an independent producer when he owned the MCF Gas Co. and was myself secretary/treasurer of the Randolph Oil & Gas Co.

Citizens of our State have been making money in the oil and gas business since the first actual production of crude oil in 1860 and of natural gas in 1885. Since then oil and gas has been discovered in 49 of our 55 counties, natural gas and oil rank as our second and third principal mineral products, and in 1979 total value of gas and oil produced in West Virginia was near $200 million. Our industry also employs 3,800 people in the State.

Mr. President, at the age of 20 I was secretary-treasurer of the Randolph Oil & Gas Co. My father was president. The company went bankrupt and I still have the certificates today. I look at them and think of those days when we were drilling in West Virginia and not able always to find the oil and gas that we had hoped for.

West Virginians made a tremendous contribution to the drilling of oil and gas wells in Kansas and Oklahoma and Texas. Had it not been for those men who were drilling for oil and gas in West Virginia, with the expertise that they had gained, not always by finding gushers, they may not have been able to go into the Southwest, as the record shows, and actually do the drilling that had been so important to the petroleum industry in those two States.

One of those individuals was Micheal L. Benedum. He took the risks and chances necessary to assure this Nation adequately developed its precious oil and gas supplies. His pioneering spirit was expressed well in an article which appeared in a 1955 issue, Success Unlimited. The title of that article, "I Kept Right On Going," was inspired by the attitudes of M. L. Benedum, who if asked what he felt was the best oil field he ever brought in, would probably exclaim, "The next one." He was also given to statements such as:

> I've had no ulcers because I've had confidence, faith and patience to carry me through. If half-way up an obstacle I'd meet a streak of bad luck, I kept right on going 'til I was over the top.

His optimism rang through his every word as he said, That is part of the game. You can't expect to find deposits of oil everywhere you look. If you did, there wouldn't be any fun wildcatting.

Mike Benedum's recipe for success is compellingly put: the first step to success, he explains, is to be doing what you like. Then work. He says:

> Work yourself, drive yourself, make sacrifices, or you'll never achieve anything worthwhile.

As a young man, I worked in the oilfields of West Virginia and I went through the valleys and over the hills as we attempted to find oil and gas. On one occasion in a certain section, we drilled seven dry holes, one after the other. In fact, about 19,000 dry holes have been drilled in West Virginia since inception of the oil and gas industry there. That is 20 percent of all the wells ever drilled in the State.

My father also was always an optimist and hoped for that time when there might be a well which would come in and which would compensate for the losses that we had on other wells. But, really, the reason for my mentioning the matter in this colloquy between the able Senators from Ohio and Kansas is to indicate that, in West Virginia, we are a State where oil and gas wells are being drilled now, as they were in the twenties and thirties and through all these years. Our companies, the independents, those that work in what we call the stripper well industry, are very involved and are well supported by the royalty owners who have the confidence to invest in their operations.

Whatever we do, we must be careful, to differentiate between the so-called "big boys" in any industry, and those that are in a lower scale in the operation of that industry.

I refer once again to West Virginia: We have been a State of independents in the oil and gas industry. It is an industry that continues. A total of 95 percent of our oil wells are stripper wells—those producing less than 10 barrels per day.

I believe we drilled 1,474 wells in our State last year.

Drilling in West Virginia is a lower risk proposition than in some other areas of the country because such activity is close to already known production. Although yield is not as great consider this: While only 66 percent of wells in Texas come in with sufficient quantities of hydrocarbons to make them viable, better than 90 percent of all holes dug in West Virginia are producers. These wells are close to the factories in our Eastern industrialized centers and do much to retain gas reliant industry and thus jobs in our State which otherwise relocate to the Southwest. Gas pipelines already thread all of Appalachian and newly discovered oil can usually be trucked only short distances to refineries.

We are now witnessing significant advances in petroleum geology, new advanced recovery techniques, new producing areas surrounding the Eastern Overthrust Belt, and the drilling equip-

ment industries capability to now produce two rigs a day.

The U.S. Geological Survey has indicated only one-fiftieth of the gas reserves in Appalachia have been tapped. and on a national basis only 2 percent of the domestic rock containing oil and gas has been drilled to date. Much of these potential fuel reserves will have to be recovered through unconventional gas sources or secondary and tertiary oil recovery techniques.

Future oil development could center more and more on the use of secondary and tertiary recovery techniques to increase flow where economical from our low yield producing wells.

Secondary gas and water injection on average can recover from 10 to 30 percent of oil left in place by conventional recovery means. The other two-thirds of so-called unrecoverable oil in reservoirs can now be extracted either by introducing fluids that mix with oil in rock pores—moving it and cleaning it out—or, using thermal methods. Tertiary techniques, as you know, can include liquid petroleum, carbon dioxide, and surfactant chemical injection, along with fireflooding and high-pressure steam injection. The use of these techniques could provide ways by which 50 to 80 percent of the oil remaining in some fields could be recovered.

Although independents around the country are encountering challenges in leases and assembling drilling prospects, getting enough rigs, and sometimes meeting Government reporting requirements, I am excited for the industry because of the strong demand for good prospects and a continued growing interest from investor groups. In West Virginia, drilling was up 33.4 percent in 1980 compared to a year before with the leading State centers being Buchannon, Clarksburg, Parkersburg, and Charleston.

Drilling for oil and gas in West Virginia has been going on for 121 years. To date, approximately 103,000 wells have been developed.

Even though we do not find those tremendous volumes of gas or those great pockets of oil, we continue as people who, in a sense, like to take a chance, like to be entrepreneurs, in searching and questing for that which is helpful in the mobility of a nation that is on wheels and wings.

The energy legislation we enacted in the 95th and 96th sessions of Congress will be sufficient to handle most subsequent energy shifts, because the policy established does not assume our new or revitalized sources will be cheaper, more abundant, or cleaner than the energy it replaces. It is now almost 8 years since OPEC embargoed oil shipments to the United States. Until then our energy policy was basically use as much as you want and pay as little as possible.

With the higher prices and uncertain supply the embargo brought, and the Iran-Iraq war reemphasizing the danger of depending on the Persian Gulf region for energy, Congress for the first time, put the framework for an energy policy in place. It has not been easy. Throughout the legislative process we wrestled with new realities, and the old ones we chose to ignore in the past. We debated energy and national security, the role energy would play in a modern industrial economy, the effect of accelerated depletion of domestic resources, the relative environmental impacts and hazards of our energy sources, changes in social structure, and shifts in regional economic and political power new energy relationships would bring.

The goal of the finalized legislation is simple—reduce dependence on imported oil by cutting energy use through conservation, stepping up domestic energy production, and developing new fuel sources for the future.

Mr. MOYNIHAN. Mr. President, reserving the right to object, I take this occasion to address a query to the distinguished chairman of the committee, who will now proceed to conference on the tax measure. It is with respect to a matter that I know concerns him as it does me—the so-called commodity tax straddle legislation.

The distinguished chairman has written to the chairman of the Committee on Ways and Means to assert the judgment of this body that the measure we have proposed is a better one, a more equitable one than the House proposal in that it does not allow a certain group of individuals a different tax situation than others. The Secretary of the Treasury described the Ways and Means proposal as a measure that outrageously exempts a group of 2,500 wealthy individuals; and President Reagan, in these very Halls, described it in the same terms. Then—unexpectedly—it turned up in the administration's tax bill.

Can we expect, as I know we can, that the chairman will press the Senate position in the commodity straddles tax matter?

Mr. DOLE. I say to the Senator from New York that I thank him for his leadership in this area. He is correct: We will make every effort to maintain the Senate position. So far as I am concerned, that is the best position of the two proposals, clearly.

So far as this Senator knows, the conferees have not yet been appointed, but there will be seven Senators in the conference. I believe all seven voted for the Senate position in the committee and reaffirmed that support in voting on Wednesday, in effect, on the bill. So my answer is, "Yes."

Mr. MOYNIHAN. I thank the chairman.

Will he find the opportunity to call attention to the editorial in the Chicago Tribune—a newspaper not unversed in these matters—which takes very much the Senate view on commodity tax straddles?

I hope also that he will press the point that our legislation invites capital into commodity markets. Curiously, the measure on the House side does the opposite. By making it possible to offset losses only against gains in the markets, it raises the risk to investors to a point that would not be feasible for many. Our legislation invites capital and invites activity. We thought that is what they want.

Mr. DOLE. With reference to the editorial, I intend to have copies available for any conferee who would like to review it during our proceedings.

I say to the Senator from New York that it is our hope that we can go to conference soon.

Mr. MOYNIHAN. If I stop talking.

Mr. DOLE. That is not intended.

Perhaps we can go to conference around 3 o'clock and complete work on the conference today.

As the Senator knows, there are not too many areas of disagreement. The straddle is one, and that may take some time.

Mr. MOYNIHAN. I thank the chairman.

Mr. President, the conferees have two choices as to how to proceed. They have before them an industry proposal, under which outside investors could not use commodities as a tax shelter, but professional commodity traders could continue to do so. This is what Senator DOLE once referred to as a proposal to get "those dentists and doctors and others who are avoiding tax, only don't bother us."

The alternatives is the so-called mark-to-market approach. No one disputes that this approach would put an end to this tax abuse by everyone. The Finance Committee voted for it 18 to 2.

The lobbying has been intense. Members have been told that professional traders perform a useful social function when they invest in commodities. Which is surely true. But does it follow that Congress ought to reward them with special tax benefits? Jerome Kurtz, the former IRS Commissioner, had a good answer for this. He told the Finance Committee:

> I would suggest that when this Committee meets and decides how to hand out tax exemptions on the basis of contributions to society, there will be a very long line ahead of commodity dealers.

The argument has been made that the Senate's mark-to-market approach will not work or is not fair. The Finance Committee heard this, also.

We were told that our failure to allow tax avoidance by commodity traders would reduce liquidity in the markets, and make the markets less efficient. Yet, the markets operated perfectly well before they were being used as tax shelters. Indeed, there are economists who say that the markets will be less efficient if we do not stop the tax straddling, because tax straddling may distort farm prices.

We were told that it is unfair to tax an individual on his profits up to December 31, even though he has not closed out his futures contracts. That is because his profits are "unrealized." Yet, this is fiction. A commodity investor realizes his profits every day as gains are credited to his account. He earns cash that may be withdrawn. The tax section of the New York State Bar Association sees nothing unfair or inconsistent about the Finance Committee's bill, and fully supports it.

Finally, we were told that the mark-to-market approach will not work. Let me repeat what Martin Ginsberg, a very distinguished professor of tax law, said about this to the Finance Committee. He

said he has watched a great many debates about closing tax loopholes, and continued:

Mr. Chairman, it is great fun for an academic to attend a hearing on tax shelter transactions. This morning, no one defends the abusive tax avoidances use of commodities.

But you know, at hearings, no one ever defends the abusive tax avoidance of anything. Everyone at tax shelter hearings turns out to be highly public spirited, without fail. This is evidenced by an intense desire to prevent the destruction of the Republic from the assured and horrendous side effects of whatever tax change is going to be made.

But, in the end, we really have to make some of these tax changes or the Republic will be in a great deal more difficulty, simply because the tax system falls into disrepute.

Mr. President, I say to the chairman of our committee, with the greatest respect, that I concede that he would want a compact group of persons to be conferees on this matter; but this is not a small measure we will adopt today, or will be adopting soon.

I had hoped that the conferees would reflect a wider geographical and ideological—if I may use that term—range than they do. If I am not mistaken, there will be no Member from the Northeastern part of the Nation on the conference committee. There will be no one from the Middle West part of the Nation on the conference committee. On the minority side, the kind of regional balance which we have sought to address—because these are necessarily regional questions in a large country—will not be present.

I can imagine that the chairman feels that the decision made in the House earlier in this Congress about the balance of the committee was unfortunate; the allocation of seats with respect to the majority and the minority may have been unfortunate. Even so, not to put too fine a point on it, the Northeast and the Middle West of this Nation are still part of the Union and are not going to be part of this conference, so far as the Senate is concerned. I wish it had been otherwise, but I understand that elections have their consequences. I learn that as I become older.

Mr. DOLE. We will have seven conferees. There could have been more Senate conferees, but there are only eight House conferees.

Mr. MOYNIHAN. Are there only eight House conferees?

Mr. DOLE. Yes; five and three.

Mr. MOYNIHAN. In that context, I feel that I have to withdraw my remarks, even though I believe that what I said is not wrong. If a more numerous body seeks only eight——

Mr. DOLE. I would be happy to take the Senator's proxy with me and use it wisely.

[Laughter.]

Mr. MOYNIHAN. The Senator knows that he takes with him the high and enduring regard of the Senator from New York.

Mr. METZENBAUM. Mr. President, reserving the right to object—and I do not intend to object, nor do I intend to speak for more than a couple of minutes. I would like to respond to my friend from Kansas, with whom I have had the privilege of working in connection with this entire matter. We have not been in major disagreement, and we have worked well together, and I appreciate his many courtesies.

I acknowledge the fact that the extra House dollars do not affect the majors, but the independents are not exactly little league. The majors are taken care of pretty well by the $14.2 billion and the 50-percent tax reduction on new oil production. That is already in the Senate bill, and the Senator from Kansas is correct in stating that many of the majors are affected by that part of the bill.

The independents, many of whom do billions of dollars and certainly hundreds of millions of dollars of business, are also part of the oil industry and have an impact upon our economy.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of nine of the major independents, showing their volumes as well as their profits.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Company	1980 revenues (millions)	1980 net profits (millions)	1980 profits compared with 1979 (percent)	1980 revenues compared with 1979 (percent)
Superior	$2,497.7	$312.3	+55.9	+38.0
Texas Oil & Gas	1,267.1	152.2	+27.0	+42.0
Louisiana Land & Exploration	1,075.8	180.2	+6.6	+31.7
Mitchell	626.0	94.8	+64.0	+11.4
Houston Oil & Mineral	383.0	71.4	+27.0	+18.0
Southland Royalty Co	363.8	62.3	+42.0	+14.0
MESA	328.3	95.2	+30.0	−67.0
General American Oil of Texas	273.4	54.4	+42.0	+.6.0
POGO Producing Co	220.4	54.0	+38.0	+29.0

Source: Business Week, Mar. 16, 1981.

Mr. METZENBAUM. Mr. President, I will quote what has been said by some of the independents:

Amerex Oil: "Fiscal year 1980 was an extraordinary year."

Callahan Petroleum: "1980 was the best year in the history of the corporation."

Apache Oil: "Record earnings."

As the distinguished Senator from Massachusetts pointed out, Merrill Lynch stated that in 1980 oil exploration and production are more profitable than any other segment of American industry. And that is what the independents do—explore and produce.

It is a fact that the phasedown of the oil depletion allowance which involves about $13 billion does affect these large independents such as Louisiana Land and Exploration with I understand something in the approximate area of $1 billion of business. It affects people like the Hunts. We know the Hunts. Mr. Hun' was recently quoted as saying that he does not know how he could possibly live on less than $1 million a week income. That is his quote, not mine.

I say we are talking about an overall problem of the oil industry. We are talking about depletion allowances where 75 percent of the people who will gain by this $12.9 billion have earnings in excess of $50,000 a year.

I think we have gone far enough in treating not only the majors, but the independents, the royalty owners, the strippers, the whole industry. They are doing well under the laws as they presently exist. They will do quite well under the Senate bill, but that is enough, and I do hope the conference will see fit not to go any further than the bottom line of the Senate bill.

Mr. President, I have no further objections.

● Mr. LEAHY. Mr. President, in the House version of the Economic Recovery Tax Act of 1981, there are provisions which amount to a $16 billion giveaway to an oil industry that is already awash in cash. I must strenuously object to these proposals.

The provisions would reduce the windfall profit tax on all newly discovered oil over the 1982–86 period, exempt stripper oil of independent producers from the windfall profit tax and retain the oil depletion allowance at 22 percent. This major reduction in oil industry taxes comes at a time when a multibillion dollar bidding war rages between industry giants for control of Conoco.

Mr. President, the Windfall Profit Tax Act signed into law last year represents a workable compromise between oil producing and oil consuming States. It is simply outrageous that these provisions—drafted in a mood of escalating partisan bidding in the House—would ruin this compromise.

These provisions are bad economic policy and even worse energy policy, Mr. President, while we ask the Nation's elderly poor to give up $122 per month, we are bequeathing the oil industry a $16 billion gift. I simply cannot support this action and would not be prepared to vote on a tax bill right away if the tax conferees accept these provisions.●

THE TAX BILL—IT COULD BE BETTER

Mr. PELL. Mr. President, the tax bill passed by the Senate is a poor bill, with many flaws, but it is better than the alternative which faced us in the Senate of having no tax reduction bill at all.

American workers, families and businesses deserve a tax cut to compensate for inflation-caused "bracket-creep" and social security tax increases. Accordingly, I voted for the tax cut bill in the Senate, despite its flaws, because voting against it would be a vote to leave the tax system exactly the way it is now.

I want to make clear, however, my strong reservations about this tax bill.

I believe the overall total tax cuts provided by this bill are too large and could pose a serious danger of continued budget deficits and continued inflation.

The tax cuts for individuals provided in this this bill are tilted too heavily in favor of the well-off, while shortchanging the average American family with an income of less than $50,000.

The bill provides some badly needed tax reductions for business and incentives for saving and investment, but it does too little for small business while providing billions of dollars of totally unjustified tax giveaways to the oil industry.

During the past 2 weeks a series of amendments have been offered in the Senate to improve this tax bill, to make

it fiscally sounder and to make it fairer to the average American.

I voted for amendments that would have given a greater share of the tax cuts to the average American family.

I voted for amendments that would have reduced the overall size of the tax reductions with the objective of reducing the Federal budget deficit and getting inflation under control.

All of these amendments, and many more that were offered to improve this tax reduction bill, were defeated here in the Senate, often on party-line votes.

As a result this tax reduction bill is far from perfect. It is clear, however, after dozens of rollcall votes that this is the best tax reduction bill that it will be possible to achieve in the Senate this year. Indeed, it is the only tax reduction bill that we have an opportunity to vote for in the Senate, and I voted for it with the reservations I have noted.

There are, I would note, some provisions of this tax reduction bill that are much needed and commendable. They include a reform of depreciation for business, relief from the marriage tax penalty, and a new tax exclusion for savings interest that should make home financing more affordable. And the cuts in individual income tax rates, while not distributed fairly, will give at least some relief to workers from increased social security taxes and inflation-caused bracket creep.

I am pleased also that the bill includes an amendment, which I cosponsored to provide home heating tax credits to families that have been hard hit by skyrocketing home heating oil costs.

It is my hope that some of the shortcomings in this bill will be corrected when the House and Senate conferees meet to resolve the differences between the two versions of the tax bill. I hope that the conferees will produce a tax bill that I can support more enthusiastically than the bill passed by the Senate.

DIRECT EXPENSING: AN IMPORTANT PART OF THE TAX BILL

Mr. SASSER. Mr. President, the Finance Committee tax bill that the Senate passed Wednesday contains a direct expensing, or first-year writeoff, provision that addresses the very serious problem that small businesses have in raising investment capital.

Unfortunately, an important amendment to increase the value of this provision on a party-line vote. This amendment was offered by the distinguished Senator from Montana (Mr. BAUCUS) and I am proud to say that I supported this worthwhile attempt to make the tax bill more beneficial to small businesses.

Direct expensing, or first-year writeoffs, enable a business taxpayer to deduct the cost of capital expenditures in 1 year. Under current law such an investment must be written off over a period of years.

The primary advantage of expenses is that an investment in a new piece of equipment, for example, can be recovered immediately. The small business person does not have to wait for years to recoup the investment. This advantage gives the small business the impetus to make investments that improve its productivity and its competitiveness.

This edge is desperately needed by the Nation's small businesses because it is virtually impossible for the small enterprise to accumulate capital for investment in the ways that larger businesses are able to do. Due to the greater risks involved with the new or smaller business, the lack of adequate collateral and the higher cost of making smaller loans, the small business is often shunned by banks and other credit suppliers. When they are able to obtain borrowed funds, it is often at the rate of 2 percentage points over the prime rate. The prime rate often is a ceiling on the rates that their larger competitors pay.

In addition to borrowing, larger firms often sell issues of stock to raise equity capital. Once a prime source of funds for small business, this method has all but disappeared.

Another method of capital formation is by way of accumulated earnings. This implies simply holding on to enough of the profits of the business to make the needed investments. This, too, is extremely difficult for the small firm because its profit margins are usually very thin.

These capital formation problems that small businesses face are especially alarming when the critical role of small business in the Nation's economy is realized. Small business accounts for almost 57 percent of all business receipts and 39 percent of the gross national product. It provides 58 percent of total U.S. business employment.

Its tremendous impact on employment has been further illustrated by the research done on job creation. Several studies show that small firms are responsible for well over one-half of all the new jobs created in our economy. Small businesses are also responsible for one-half of new products and processes that make us more productive. Firms of less than 100 employees producer 24 percent of such innovations.

So the need, Mr. President, that small business has for assistance in capital formation is clear. The Finance Committee has very wisely addressed this pressing problem. It is not without high regard for the committee and its efforts with regard to this issue, that I supported the Baucus amendment. The committee held hearings on the issue of small business capital formation and worked hard to include in its bill incentives to assist small business and help make it even more of an asset to our economy than it has been in the past. The committee chose direct expensing as one of these methods. The committee included a direct expensing amendment in the tax cut bill that it reported to the Senate last September.

Last year, however, the committee bill's direct expensing provision contained a ceiling of $25,000 in capital expenditures that could be written off in the year of purchase. The bill before us today contains a phased-in ceiling of $10,000.

Again, I applaud the initiative of the Finance Committee, but feel that our commitment to the small entrepreneur demands that we increase the worth of the direct expensing provision to the level of the committee's bill of last year. This $25,000 in expensing, which will be phased in in 1986, is sorely needed by the small business community.

Mr. President, direct expensing is not a new concept to me. The Tennessee delegates to the White House Conference on Small Business first talked to me in 1979 about their interest in the concept. At that time they were working through the conference process to come up with the priority recommendations that the delegates would make to the Congress and the President. They were convinced of the value of expensing to small business.

So successful were their efforts in gaging the potential support for direct expensing that when the idea came to a vote among their fellow conference delegates from across the country, the idea was approved overwhelmingly. In fact expensing was the second highest priority ranking behind income tax rate reductions.

Soon after this endorsement, I was the first in Congress to introduce a small business direct expensing bill. I have worked toward its passage ever since, reintroducing my expensing bill, S. 171, in the 97th Congress.

Mr. President, the need for assisting small business with its capital formation problems is clear. The endorsement by small business representatives of the concept of direct expensing is clear. The Senate Finance Committee wisely acted on this issue last year and again this year by including expensing in its tax bills.

The amendment proposed by the Senator from Montana (Mr. BAUCUS) would merely have increased the benefit of the committee's expensing provision to the level that the committee itself endorsed in its bill of last year. The committee ordered that bill reported by a vote of 19 to 1.

Mr. President, again I applaud the Finance Committee for including a direct expensing provision in the tax bill. But, at the same time, I regret that the amendment to increase the value of the provision from $10,000 to $25,000 per year did not pass.

I urge the distinguished chairman and the ranking minority member of the Finance Committee to do all that they can in the conference committee on the tax bills to increase the allowed level of direct expensing.

I pledge to continue my efforts to solve the many problems that our productive small business sector faces by working to realine Government tax, credit and regulatory policies. Without such changes, we risk losing the very valuable contributions that small business makes to our economy.

OIL TAX PROVISIONS OF THE HOUSE TAX BILL

Mr. MITCHELL. Mr. President, several provisions in the tax bill passed by the House of Representatives represent a 180-degree turn from the purpose of the tax cut.

The tax bill is intended to form part of the fundamental economic recovery program. It is designed to provide relief

to wage earners. It is intended to lower the rate of taxes on investment and savings income, so that Americans who are fortunate enough to be able to invest and save their money will have the incentive of a greater return to do so.

It is intended to give our industry a chance to rebuild its capital base, so that it may purchase the equipment and machinery needed to modernize outdated plants, to install cost-effective processes, to regain its productive potential.

That was, in my mind, the purpose of the tax bill. That purpose guided me in voting on the Senate bill and the various amendments offered to it.

During work in the Finance Committee, in response to some concerns that the windfall profit tax may have imposed too heavy a burden on smaller royalty holders, the committee inserted in its measure an increase in the credit for royalty holders from $1,000 to $2,500 per year. That was designed to help those royalty owners whose incomes from oil holdings were not large and for whom the windfall profits tax acted less as a recapture of huge profits than as a penalty on modest income. So that tax credit was expanded, as I have explained. A similar provision is in the House bill.

At the same time, in response to concerns about the tax rate on so-called "new" oil—that is to say, on any well producing after 1978—the Senate dropped the level of the windfall tax from 30 to 15 percent. That was meant to respond to concerns that the tax was an onerous burden on domestic production that could not be warranted at a time when we are seeking to maximize domestic energy production and limit reliance on expensive and unreliable OPEC oil. That provision—the halving of the tax on new oil—was not a cheap way to help in domestic production. I disagreed with it as did other Senators. But it stayed in the Senate bill. A similar provision is in the House bill.

Set against the relatively minor expenditures for alternative energy—and the cuts that were taken in those expenditures in the name of helping hold down the budget—halving the tax was a substantial cost for the added production we have been assured it will give us.

If the domestic production promised comes through, the cost may be worthwhile in terms of securing ourselves against supply interruptions and price gougings of the kind we have endured for the past 7 years.

Yet, it is by no means a cheap method of encouraging additional production.

And even during the Senate debate we faced a proposal, not merely to maintain a lowered tax rate on new oil, but to completely eliminate the windfall profit tax on new oil. The Senate wisely refused to accept that suggestion.

At a time when we allegedly cannot afford the modest cost of $43 million for solar heating and cooling research, to give billions for the production of a diminishing resource would have been unconscionable.

Yet the House of Representatives undertook such a giveaway. It would give some $16 billion to the oil companies in lowered taxes over the next 5 years. The Senate rejected a similar proposal during the tax debate. The Senate must now serve notice that it will not accept this massive giveaway in the final conference version of the bill either.

No study undertaken since the 1973 embargo has concluded anything other than that oil is a finite and diminishing resource. No other conclusion has been reached, and I venture to suggest that this is because no other conclusion is feasible.

Oil resources may well last into the next century—as the Saudi reserves are said to be able to do—but that oil will grow increasingly scarce, increasingly hard to find, increasingly expensive to produce, and increasingly hazardous to the environment in the process of production.

The oil companies are the first to assure us that the costs of exploration, the costs of deep drilling, the costs of recovery are all going through the roof.

Yet we cannot afford the costs of technology for renewable energy sources, which will not diminish, will not be finite, because we are so anxious to plow more money back into the increasingly costly job of producing more oil from a constantly declining total reserve.

It is absolutely unclear to me on what basis the House made these tax reductions. Is it a theory that unless this lowered tax provides the incentive to explore, oil companies will cease to explore and recover oil?

At a time when every drilling rig in the Nation is working full time, when various oil companies report in their annual reports to shareholders that drill rig scarcity is the only constraint on their expanded exploration, surely the notion of "incentives" is inappropriate.

Is it a theory that the revenues recovered after payment of the windfall profit tax are so low as to represent the imminent demise of this industry? The Department of Energy has advised that the 16 major companies producing oil last year spent only 44 percent of their revenues on the petroleum industry. The remainder was spent on nonoil business interests, on acquisitions, on building up assets in the form of securities and cash, and on shareholders' dividends.

Prominent financial analysts have remarked, with one voice, that the oil industry today is clearly the most profitable and most attractive investment opportunity in the country. No other industry is awash in the sea of cash that is drowning the oil industry.

One of the goals of the tax bill, in fact, reflects that fact. We have passed a bill to help other industries develop a cash flow sufficient to improve their operations. We are doing everything in our power to help smaller firms overcome the incredible interest costs that cause their operations to run at a loss. We are doing everything we responsibly can, in fact, to make certain that investment capital becomes more plentiful throughout the economy.

One of the causes of the capital shortage is, of course, the incredible drain of national resources that has been caused by the 1979 doubling of oil prices. Companies of all sizes have found their energy costs soaring and have reduced their investments in other areas to compensate.

But energy costs do not just soar: They are ultimately paid and, ultimately, one or another sector receives that money. In the case of energy, the recipients of this massive interindustry transfer of dollars have been the major oil companies and the entire industry.

That fact alone helps account for both the shortage of investment capital throughout the remainder of the economy and for the incredible cash reserves that oil companies have been able to accumulate.

Yet we are faced with the prospect that the final form of the tax bill will give this sector a further infusion of $16 billion over the next 5 years.

I have not made the obvious case that the minimum social security benefit—to take just one essential program which has been cut to save money—could be more than financed for the cost of this amendment. That case has been made by others.

But I would draw the attention—and the memory of the Senate—back to the basis on which the windfall profit bill was enacted. It was not intended to punish the oil companies. That is a canard which has achieved its greatest publicity through repetition by the oil companies themselves.

It was enacted to help reduce the massive inter-industry transfer of dollars which was inevitable as the result of the phasing in of decontrol. It was designed to help provide the income to the Government with which other sectors of the economy—business as well as individuals—could be helped to overcome the dislocation of such a massive energy price increase.

It was intended to defray the direct costs to the poor of the price increase. But equally important, it was designed to help encourage conservation by homeowners and industry by giving them the tax incentives they needed to reduce their energy consumption.

Well, in practice, neither the scope nor the breadth of assistance that was intended has ever actually eventuated. A modest amendment offered by Senator KENNEDY to provide a maximum of $2 to $3 billion in increased conservation tax benefits was rejected, as being an inappropriate and overly costly item.

Yet this massive giveaway is deemed not too costly. It is an essential production incentive to an industry which has seen record-high profits and record-high net income in the last 2 years.

I would suggest that conserving energy for small businesses represents at least as much a way of providing economic growth as giving Sohio the chance to buy another Kennecott Copper, or Exxon the chance to purchase another Reliance Electric.

The fact is that it is simply unfair to American working people who have been paying these massive price increases for energy to give them a very modest tax break—a tax break that will be eaten up by inflation and social security payroll

tax increases within a couple of years—and then to give a needless and huge tax break to this profitable industry for oil it is selling at a worldwide artificially administered price.

No amount of free market rhetoric can hide the fact that the returns on oil production do not represent a realistic connection between the costs of production in each case: They are in fact the proceeds of an administered price.

The Senate bill already forgives a substantial portion of the windfall tax bill. To accede to the vastly larger giveaway contemplated in the House bill would be a betrayal of the American people who have been promised a tax measure based on their needs—not on the preferences of big oil.

If the Senate wants to make good on its rhetorical concern for the integrity of the budget process, for the need to treat all taxpayers similarly, for the need to hold down deficits and to tailor tax breaks to needed purposes—not to preferences—then it will hold fast against any effort to bring these House-passed provisions into the final form of the bill.

Mr. CRANSTON. Mr. President, I voted for the Senate tax bill because, in balance, its good points outweigh the bad and because it is preferable to the House bill—our only other alternative at the moment.

The Senate bill has some very, very bad features—an inequitable 3-year reduction in personal income taxes that is both inflationary and unfair to the vast majority of working Americans.

I, along with many other Democrats, voted against those provisions. We lost every time. I, along with many other Democrats, voted to amend the tax provisions to make them fairer and less risky to the economy. We lost every time.

Such a substantial reduction in our tax base when we plan such a huge increase in defense spending will keep both the deficit and interest rates running at damagingly high levels.

On the other hand, the bill has some very, very good features—incentives to increase productivity and fight inflation by encouraging savings and investments. I argued and worked for many of those provisions for many years:

Elimination of the 70-percent maximum tax on investment income;

Tax credits for increased research and development efforts;

Incentive stock options for managers and employees of high technology companies;

Increases the exemption from estate taxes to encourage preservation of family farms and small businesses and to provide adjustments in estate and gift taxes for inflation; and

Liberalization of rules restricting the use of individual retirement accounts.

I favor yet additional incentives to encourage individual savings. But overall the Senate tax bill reflects most of the incentives I have believed for a long time were necessary to put our economy to greater productivity and to lower the rate of inflation.

I opposed an individual income tax cut at this time because I felt that an across-the-board tax cut would be inflationary and would not lead to as much saving and investment as would better targeted tax cuts. I voted for every amendment to the bill which I thought would promote the overall objective of countering inflation and increasing productivity.

I continue to believe that we are running a great risk by voting such substantial reductions in our tax base at a time when we plan to increase spending for defense and are likely to run very high deficits. This combination of more spending for defense and soaring deficits can only force a continuation of high interest rates. If interests rates continue to be high there may be no economic recovery at all but a continued slide downward.

In all, there is more good in the Senate bill than bad, in my judgment. If we can stimulate business productivity enough we may be able to offset the inflationary aspects of Kemp-Roth.

But should the conferees for the Senate bring back a bill which contains objectionable provisions from the House-passed bill—in particular if the conferees report to the Senate a bill containing anything like an additional $20 billion in tax relief from the windfall profit tax—I will oppose the conference report as being unacceptable.

THE CHILES SENSE OF THE SENATE AMENDMENT TO THE TAX BILL

Mr. ARMSTRONG. Mr. President, it has long been my custom that when in doubt to vote no. This practice has served me well over and over again, as I have simply found that if you do not understand something, you should not vote for it until you do reach a point of understanding. A day or two ago, somehow I failed to abide by that longstanding policy and joined 99 other Members of the Senate in voting in a historic vote, 100 to 0, in favor of a Chiles sense of the Senate amendment to the tax bill.

I just want to say to my colleagues that I regret having done so. Had I realized fully the import of the Chiles amendment, I would have voted against it, had I been the only Senator to do so.

I refer to the provision of that amendment which says:

> It is therefore the sense of the Senate that: . . . b) the Board of Governors of the Federal Reserve System should exercise its regulatory powers to require that loans be made for productive economic purposes, rather than to enable large firms to acquire smaller firms and to assure that sufficient credit is available to protect the viability of thrift institutions without wholesale mergers or takeovers; . . .

This sentiment was expressed so casually and really without the full understanding of Members of the Senate and certainly without extensive debate.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ARMSTRONG. Will the Senator yield me 1 more minute?

Mr. DOMENICI. I yield 1 additional minute to the Senator.

Mr. ARMSTRONG. This sense of the Senate resolution may be worthy. It may be a good idea. I personally have some doubt about it. I just want to say that I think it was not considered with the care that such a sweeping decision merits and, at least on behalf of one Senator, I would like to have the RECORD reflect that a wiser judgment on my part would have been to vote no. I hope that the board of governors will not treat more seriously than it deserves this sense of the Senate resolution. Indeed, it would be my hope that the conferees would remove it from the conference report.

Mr. HOLLINGS. I yield 5 minutes to the distinguished Senator from Florida.

Mr. CHILES. I thank the distinguished minority manager for yielding.

I just want to say to my good friend from Colorado that I am very sorry that he did not read that resolution before he voted on it, because if he had disagreements with it, I would have liked to have heard them at that time.

I want him to know that I did not treat that in a casual manner at all. I considered it to be one of the most important things that the Senate spoke to on that bill. It was the first 100 to 0 vote, I understand, that the Senate has ever made.

But, be that as it may, I would hope that no Senator would vote for that if he did not want to and did not feel we we ought to be doing something about interest rates and that we ought to be doing something about loans and money being available for big business but not being available for the farmer and not being available for the small businessman for him to be able to survive.

I do not want to take a lot more time at this time. But I just did want to say that it was certainly not something that I treated casually or in a cavalier manner.

Mr. SARBANES. Will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. SARBANES. I simply want to underscore what the Senator from Florida has said. There were many Members of the Senate who thought that the section just referred to, which apparently the Senator from Colorado did not fully address, was the most important part of the resolution. We are very much aware of its import and very strongly supportive of it, so I certainly do not think it is accurate to suggest that for many, many Senators that they acted on that resolution, and particularly on that part of the resolution, out of ignorance. They were very much aware of it and supportive of it and supportive of the efforts the Senator from Florida has made with respect to the incredibly high interest rates we are confronting and what thev are doing to large parts of our economy.

Mr. BOREN. Will the Senator yield?

Mr. CHILES. I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I just want to add my comments to those of the Senator from Maryland. I think there were very many of us who thought long and hard about the wording of that amendment, the wording of the sense of the Senate provision. This is a matter about which I certainly feel strongly. It is a matter which I have been speaking on each day on the Senate floor, trying to call attention of my colleagues to the nature of the very serious problem we face.

I commend the Senator from Florida for offering the amendment. I certainly, for one, voted for it with not only a full understanding of it but if I could have said "yea" even more loudly, I would have, because it would have more reflected the strength with which I made my affirmative vote.

Mr. NUNN. Will the Senator yield?

Mr. CHILES. Yes.

Mr. NUNN. Mr. President, I want to join in supporting what the Senator from Florida said. I understand the Senator from Colorado's view on this. I know that many times we do not all read every resolution that comes through here. But that was a very important resolution. I hope the conferees will keep that resolution in the bill. I think it is a very important expression, a unanimous expression of sentiment of the Senate about what is happening to interest rates.

Frankly, I know the Senator from Colorado is certainly a supply-side believer. I am a believer in supply-side economics up to a point. But I do not believe the President's program, his economic program and his tax cuts, are going to work as long as we have these kinds of interest rates. If interest rates do not come down, the very heart of the President's economic program is not, in my view, going to work.

I do not know small businesses that can go out and borrow money, even with liberalized depreciation schedules, and pay back at 20-, 21-, and 22-percent prime rates. I know the big companies can borrow money at less than that. One of the things that this amendment expressed very strongly was the sentiment that while average people could not borrow money at rates they could pay back for homes and automobiles, we have some of the biggest corporations in America going out and sucking up $25 to $30 billion of credit. And this is bound to increase the pressure on interest rates.

The PRESIDING OFFICER. The time the Senator yielded has expired. Does the Senator yield more time?

Mr. NUNN. I yield the floor.

Mr. HOLLINGS. Mr. President, I yield 5 minutes to the distinguished Senator from Wisconsin.

Mr. PELL. Mr. President, the $20 billion in tax reductions that would be provided to the oil industry by the Senate tax reduction bill are excessive, extravagant and unjustified.

But the tax breaks that would be provided to the oil industry by the tax reduction bill approved by the House of Representatives are much, much worse. The $46 billion in oil industry tax breaks in that bill can only be described as grossly excessive, totally extravagant and completely unjustified.

I join my collegaues in urging that the Senate, in its conference with the House of Representatives, stand firmly and resolutely by the Senate bill and reject the huge tax windfall proposed by the House bill.

Businesses and families in my own State of Rhode Island are heavily dependent on oil for energy. Indeed about three-fourths of the total energy consumed in Rhode Island is in the form of oil.

It might be argued that an area so heavily dependent on oil should favor reduced taxes on the oil industry because lower taxes would lower the costs of the oil industry and consumers might benefit from lower price. That argument is to- -y fallacious, because as we all know the price of oil to the consumer is not based on the actual costs of production including taxes. The price of oil is established by the OPEC nations who simply charge as much as they think they can get away with—and the same price applies to oil produced by our own oil companies here in the United States.

So lower oil industry taxes provide no benefit to oil consumers, and the tax reductions provided by the pending bills are simply windfalls to an oil industry that already has more money than it can use productively in exploring or developing new oil sources.

The American people and our economy would be far better served if the billions of dollars now slated for tax windfalls for the oil industry were used instead to finance some of the human services, including education and health care, that are being slashed under the administration's economic program. Best of all, in my view, would be to take the billions of dollars in oil industry tax breaks, and let those funds flow into the Treasury to help eliminate the continued Federal Government budget deficits that threaten us with continued inflation.

I hope very much that the Senate conferees on the tax bill will draw the line at the generosity in the Senate bill and reject the $46 billion extravagance of the House tax reduction bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I understand the minority leader will be in the Chamber shortly. I believe we are ready to proceed with the disposition of the motion which I made.

While we await his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 4242—MOTION THAT SENATE INSIST ON ITS AMENDMENTS, REQUEST A CONFERENCE, AND THAT CONFEREES BE APPOINTED

Mr. BAKER. Mr. President, is there a motion pending before the Senate?

The PRESIDING OFFICER. The request of the Senator from Tennessee is the pending question.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate may temporarily lay aside that request to accommodate the Senator from Iowa to make a statement, after which the motion previously made by me will recur as the pending business before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

HIGH INTEREST RATES

Mr. GRASSLEY. Mr. President, the recent economic summit conference in Canada covered a number of subjects, but none was so important as the continuation of high interest rate levels in the United States. All of us lament the mess we have gotten ourselves into, but it would be wrong to conclude from this that we have any easy way out.

The conventional wisdom is that high interest rates accompany the winding down of inflation. But we have to have noticed by this time that high inflation rates themselves beget high interest rates. There is no way we can have double-digit inflation and expect lenders to accept less than double-digit returns on their money. So it might be better to say that interest rates are not going to show really dramatic declines until inflation has already started down. That certainly seems to be what is happening now.

At this point, we seem to have very high real interest rates, that is, interest rates adjusted for inflation are very high. Economists in the administration confess themselves at least a little confused by the situation, and the records of meetings of the Federal Open Market Committee at the Federal Reserve reflect the same kind of groping for an explanation of what is happening.

Without making any claims to special knowledge or expertise, I want to offer a possible explanation that I do not think has been noticed yet.

I believe it is at least possible that the present high interest rates—especially when adjusted for inflation—are due to uncertainty in the money and bond markets over what direction the Federal Reserve will go in the future.

We are all aware that a stable, consistent monetary policy emphasizing gradual reductions in the rate of growth of the money supply is one of the four legs of President Reagan's economic recovery program. It is also the leg that is most nearly independent of the electoral tide that swept the country last November. So there can be a real question about whether the Federal Reserve will, in fact, go along with the President and the Congress in implementing its part of the economic program.

In the past, the Federal Reserve has certainly not been noted for its consistency. In October 1979, a great change in the Federal Reserve was announced, and it was claimed that thenceforth there would be much more emphasis on the rate at which money was created, and a closer hewing to announced targets. What actually happened was a wild swing in both interest rates and monetary growth. The Federal Reserve met its annual target a year later, but many experts thought it was a stroke of luck.

We know now that the Federal Reserve changed some things, but most importantly it left in place some of the operating tools that have contributed in the past to unstable policy results.

I am not going to go into a long academic discussion here, but I can report that it is the settled view of a large part of the economics profession that has studied the question that the lagged reserve accounting of the Federal Reserve makes it very difficult to have anything but very great short-term instability in money and interest rates.

In addition to the instability caused on a strictly functional level, because of purely technical considerations, the Federal Reserve has been guilty in the past of stop-and-go policy formulation. The Federal Reserve always seems to have one eye on inflation and the other on the gross national product. When prices are leaping upward, the Federal Reserve has decided to clamp down and the result has been a credit crunch and a recession. When business is bad, the Federal Reserve has started dumping reserves into the banks and after a while business does indeed pick up, but eventually those extra reserves means extra money in excess of production and so it means ultimately more inflation. And then the cycle starts over again.

The Federal Reserve has two eyes, but always seems blind in one of them, never having the perspective to understand that it—like so many others—has a poor ability to forecast the economy. Being unable to say where things are going, it is inherently unable to change policy to head off the business cycle. It cannot consciously and deliberately affect something that is hidden from it.

But this has never stopped the Federal Reserve from trying, and so we have gone from boom to bust to boom and so on and on. And as the Federal Reserve has contributed to instability instead of dampening it, the measures it tries to take are accordingly magnified, so the instability is accelerated.

The only answer to this vicious circle is to break out of it by resolutely refusing to chase the business cycle, acknowledging ignorance that cannot be helped, and sticking to a stable and completely predictable set of policy actions that at least assure good long-term results. This is exactly what President Reagan has proposed, it is exactly what the Federal Reserve should do, but it is a complete reversal from the past and there is no assurance that the Federal Reserve will follow the suggestion with anything but lipservice.

The result is that the policy instability of the past may well continue, in addition to technical instabilities. The money and bond markets can be excused if they think they have not had enough evidence yet of stability to bet on having it in the future.

The very fact that the Federal Reserve still refuses to take the relatively simple step of going back to contemporaneous reserve accounting and ending its dependence on an obviously flawed tool is probably taken as evidence by the market that the Federal Reserve really is not intent on mending its ways, and there is little reason to think that a stable monetary policy is forthcoming.

It is my suggestion that this expected instability is itself keeping interest rates up. So far as I can see, it is the one thing that can explain the extraordinarily high level of real interest rates that have already been adjusted for inflation rates. The markets are uncertain of what the Federal Reserve is going to do, and that uncertainty builds another premium into interest rates.

The solution to this problem is actually fairly straightforward, though the details are no doubt cumbersome to arrange. The Federal Reserve should rid itself of its faulty tools, in particular lagged reserve accounting, and it should announce in very concrete terms exactly what it is going to do at the Federal open market desk, aiming at a moderate growth in the monetary base that is the basis of all the money numbers and which is well within the ability of the Federal Reserve to control to a much closer tolerance than has actually been the case in the last decade.

I firmly believe that doing these two things would cause an immediate reduction in market interest rates though, of course, a much more substantial reduction will only come with actual continuing reductions in inflation. But it is at least something that can be done fairly quickly and with no cost other than reduction of bureaucratic makework.

I think we have every right to expect action like this as a response to the country's expressed demand for a change of ways in Washington.

THE GREAT AMERICAN FLAG

Mr. GRASSLEY. Mr. President, the current issue of Nation's Business magazine contains an inspiring story about the creation of "The Great American Flag"—a story all Americans will be proud to read because it describes the kinds of things that made this Nation great; perseverance in the face of adversity and defeat, dedication to an ideal larger than self and, as author Julian Morrison writes, unblushing patriotism.

I think all of us owe a debt of gratitude to the man who originated the concept of this huge flag, Len Silverfine; to the chief organizers of the project, Paul P. Woolard, president of Revlon Cosmetics & Fragrances, and Edmund T. Pratt, Jr., board chairman of Pfizer; and to the many, many men and women, and their companies, who carried it out.

My special thanks to the editors of Nation's Business for publishing this outstanding story.

Mr. President, I ask unanimous consent to have printed in the RECORD the story to which I have made reference.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

REACHING FOR THE STARS WITH OLD GLORY

(By Julian Morrison)

It's a product of private initiative and inventiveness, of unblushing patriotism. And of perseverance after heartbreak. It's the Great American Flag—the biggest flag in the entire world.

Into it have gone the efforts of some of the top minds in commerce and industry, advertising and academe. Old soldiers and young children have given money to it. Seamstresses, ironworkers, dye makers, weavers, secretaries and truck drivers have worked on it.

It started out as a small idea in a small New England town five years ago. Len Silverfine, an ex-New York City advertising man who was lecturing on marketing at Montreal's McGill University and living in Warren, Vt., began wondering what he might contribute to the town's bicentennial parade. He was thinking in terms of something he could pull behind his pickup truck. Nothing spectacular, just something pleasing and patriotic and maybe a bit unusual.

The flag turned out to be more than a bit unusual. A lot more. It quickly passed pickup-class size, outgrew Warren and swept beyond New England.

Silverfine assembled a small group of volunteers and made a 71,000-square-foot flag of nylon taffeta. And since Silverfine's idea by then was to make the flag America's 200th birthday greeting to the world, the only place to unfurl it was the great bridge that vaults the Narrows, the entrance to New York Harbor.

Putting the flag on the 2-mile-long Verrazano-Narrows Bridge—the flag was stretched over cables—ended in disaster. The 3,000 pounds of red, white and blue fabric ripped to shreds with an avalanche of sound on a flawless June morning just six days before the Tall Ships sailed into New York. A mere 7-knot breeze had done in the Great American Flag.

Or had it? Before sunset Silverfine was back thinking, dreaming, planning. Object: A new version of the flag that would not be a tragically temporary feature of the bridge, a flag that would be around for a long, long time. Silverfine went looking for help.

He found Paul P. Woolard, president of Revlon Cosmetics & Fragrances, U.S.A., a man who categorically rejects the word can't. After conversations with Silverfine, Woolard began working with him on a campaign to raise funds and attract volunteers to produce the new flag and put it on the bridge. The flag would be unfurled on all national holidays and on special occasions.

Then Woolard recruited Edmund T. Pratt, Jr., board chairman of Pfizer. Pratt listened to Woolard's reasons for involving themselves and their energies in an affair that had absolutely nothing to do with either company. He signed on immediately.

Says Woolard, "Ed Pratt and I have a lot in common. We think the timing is very right to stand up and salute the flag in some unusual but appropriate fashion and to be proud of the flag, corny as that may sound."

Pratt, whose company has been part of New York for more than 130 years, felt he and Pfizer owed the city a certain debt. "We wanted to help restore some of the luster to the Big Apple, and I just thought this was an exciting thing," he says.

"I'm committed to focusing on the pluses about our country. We've had a defeatist complex in the country and the city here, more than Americans like to have, and I think a few things, such as this flag, that remind us of the greatness of this land are worth doing."

The talent hunt next found Fred Fortess, director of textile and apparel research at the Philadelphia College of Textiles and Science. Fortess joined the spontaneous chorus of "you've got to be kidding" that invariably greeted Silverfine's pitch. Then he went to work.

Fortess soon had a committee of textile experts going full blast: Edward Kubu of Allied Corporation; Norman Vandervoort of Belding Corticelli Thread Company; J. Donald Keen, Robert Stultz and Gilbert Bell of Celanese Fibers Marketing Company; Peter Kennedy and Gary L. English of Du Pont; Robert Leonard of Milliken & Company; and John Skoufis of Sandoz Colors & Chemicals.

Key to the committee's work was Herbert

Rothman, senior partner of Weidlinger Associates and one of the engineers who designed the Verrazano-Narrows Bridge. His role was to ensure that the committee's flag would be compatible with their creation. You don't attempt to casually attach what amounts to the world's biggest sail to just anybody's bridge. The rigging had to be exactly right, ready to raise and lower the flag when needed. In addition, permanent housing to store the flag had to be built on the bridge.

The fabric chosen by the committee is something you may have around your house. It's the stuff lawn mower grasscatcher bags are made of: Lots of air gets through, but the grass stays inside.

Rothman insisted on strength of a minimum of 100 pounds per linear inch for the fabric and the seams, and the committee came up with a knit polyester weighing 13½ ounces per square yard. It allows passage of more than 200 cubic feet of air per minute through every square foot of the huge flag—"a very necessary property," says Fortess, "if the flag is exposed to winds up to 40 miles per hour" that could sweep through the Narrows. The knit of the cloth also allows it to stretch 50 percent in one direction "to permit some ballooning so the flag will have the appearance of billowing."

Then came the matter of dyes and a dyeing system to produce reds and blues that matched the official flag color standards. And the committee had to select the proper thread, seam design, reinforcing tapes and rigging connections. The tapes turned out to be automobile seat belt material.

There remained the ultimate question: Who was going to sew this gargantuan banner?

Don Keen of Celanese suggested Anchor Industries of Evansville, Ind., as much, he said, "for the spirit of their people" as for their ability to carry out unusual tasks.

"Like the sling we made for a guy who wanted to raise his sunken yacht," explains Anchor Vice President Eric Soelter, who welcomed the challenge (although he admits to initial disbelief, the same as everybody else). The flag thrilled Anchor's employes as much as it did Soelter and the company's president, John Daus, Jr.

Suddenly they were drowning in more than 11,000 linear yards of 50-inch-wide fabric knit by Milliken from 12,000 pounds of Allied Corporation's polyester filament yarn. And out of that ocean of cloth they were being asked to stitch a flag 210 feet by 411 feet—larger even than the original because Silverfine wanted this flag to symbolize the American tradition of doing things bigger and better. It would be more than 86,000 square feet, the size of two football fields. With the webbing and the rigging grommets in place, it would weigh approximately 7 tons. And the Anchor people loved it.

Soelter says, "You really became emotionally involved when you saw the reaction it got—everyone was asking, 'When is it my turn to sew?' 'When can I work on it?' It was just tremendous. Everybody wanted to be involved."

They had their hands full. "The seams were 411 feet long, so we rigged up a stand and put the sewing machine on wheels, and rather than pull the fabric through the machine, we pulled the machine through the fabric."

Another problem: "When you do something like this, you have to plan every step and then check and doublecheck yourself because it's so big, you can't actually see whether you have the stars in the right places or the right number of stripes," Soelter says. "It's like a puzzle.

"We inspected every inch of every seam, but the floor area of the factory was only 5 percent of the flag's area, so we got 60 or 70 people in a long line and pleated the flag back and forth across the floor until we'd inspected all of it."

At one point Soelter had 300 T-shirts printed with the slogan, "Anchor Team—Great American Flag," and passed them out to the employees. On one recent day he spotted three employees wearing theirs in the plant, even though the flag had been completed in March of last year.

This is the heart of America, he says, "and these are the kinds of people who built this country. An opportunity to make a contribution like this comes along only once in a lifetime, and I think these people realized it. The excitement it generated, not only in the plant but also in the community, was something to see."

That same excitement had earlier infused the committee, Soelter remembers. "Here were people with a high degree of technical knowledge from different companies that compete with each other in the open marketplace. But when it came to a project like this, they worked as a team."

The original target date for raising the new flag on the bridge was July 4, 1980. That goal wasn't met because the complex rigging to raise and lower the banner had not been built. "I thought we'd be swamped with contributions from the people." Silverfine says, "but the press portrayed it as just a big flag, not as the symbol of this country's greatness it's meant to be. And the money just didn't come in."

The flag, folded up inside a Fruehauf trailer, has been hauled by a Preston Trucking Company tractor to a score of cities and sometimes been unfurled—on the ground—in the attempt to get constributions. aLst month backers again displayed their masterpiece in Central Park in hopes of collecting funds to construct the rigging. The project was also plugged on national TV.

But hundreds of thousands of dollars are still needed.

Woolard insists, "Nobody—is in this thing for commerical reasons. Revlon got involved because somebody had to, and it's up to the corporations in this country that think the way we do to become involved and provide the rest of the money for the project. But we'd love it if thousands of individuals gave a dollar apiece." [Contributions may be sent to the Great American Flag Fund, Inc., 767 Fifth Avenue, 49th Floor, New York, N.Y. 10022.]

He sums up, "The cause is right. It's just the time to say we're proud of our country, whatever difficulties we may be going through. It's time to say we're proud of America."

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 4242—MOTION THAT SENATE INSIST ON ITS AMENDMENTS, REQUEST A CONFERENCE, AND THAT CONFEREES BE APPOINTED

Mr. BAKER. Mr. President, I ask unanimous consent that we may temporarily lay aside the pending motion so that the Senator from Washington can be recognized to make a statement, after which the motion made by the Senator from Tennessee will recur as the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mr. JACKSON. Mr. President, my mailbags have been full in recent weeks with letters and telegrams from folks back home who are outraged and confused by all the talk here in the Nation's capital of benefit cuts—and even bankruptcy—in social security.

They do not know who or what to believe anymore.

One day they hear David Stockman, head of the Office of Management and Budget, say the Nation faces the "most devastating bankruptcy in history" next fall unless we slash social security. I might add, he goes so far as to predict it will occur the day after the November 1982 election, a rather odd coincidence I assume.

And then this week, President Reagan himself goes on national television to assure Americans there will be no cuts affecting persons now receiving social security.

I wish the President would take a close look at some of the proposals Mr. Stockman has sent to Congress.

PROPOSED CUTS IN SOCIAL SECURITY

Mr. Stockman wants to:

Eliminate the minimum benefit payment of $122 per month reducing benefits to more than 1.3 million Americans now receiving social security;

Delay until October next year's cost-of-living increase affecting each and every one of the 36 million Americans now receiving social security;

Phase out survivors' benefits for young people affecting almost 1 million Americans now receiving social security.

Mr. Stockman's hardest cuts, however, affect Americans in their 50's and those nearing retirement who have planned for many years on the social security benefits they have earned:

Anyone retiring before age 65 would receive substantially less than they were promised. Today, persons retiring at age 62 receive on the average about 33 percent of recent earnings. Under Mr. Stockman's plan, they could count on just 19 percent. No one retiring at 62 would get a benefit even equal to the poverty level. Most early retirees leave work because of poor health or job elimination.

Disability benefits would be reduced by one-third and a "Catch-22" clause—that Congress had the wisdom to eliminate several years ago—would be reinstituted. It works like this: Persons with progressive diseases, such as MS, would be ineligible for disability in the early stages of their illness even though they might actually be unable to hold a job. By the time they qualify for disability based on the illness, they are denied it under the "recent employment" test. Right now the test is tough—the Social Security Administration denies 70 percent of disability applications—and a large majority of those denied never return to work.

It is my hope that private industry will recognize the impact of Mr. Stockman's cuts on them. Most private pension plans in this country are based upon beneficiaries receiving a total dollar amount

that assumes a certain portion paid by social security. Should social security benefits be slashed, it would result either in a lower standard of living among beneficiaries or an increased cost to private pension plans that could run into the billions of dollars.

I strongly oppose the extreme changes in social security proposed by the administration. Social security benefits are far from generous now.

I know of no one taking vacation trips to Hawaii or otherwise living high on social security alone. I do know of widows who receive $122 per month and can hardly put food on the table and who are terrified that their income will be cut still further.

Even the average benefit this year paid to retired workers is just $373 per month. For elderly widows it is less, $348, and for disabled workers the amount is about $410.

ADMINISTRATION IS PESSIMISTIC

The fact is that the administration's extreme changes far exceed what is necessary to resolve current social security problems.

Mr. Stockman says his cuts are based upon the assumption there will be a shortfall in social security of between $11 and $111 billion. I would suggest an individual who prides himself on fiscal precision could be more specific than "give or take $100 billion."

Based on those figures, the administration wants to cut $82 billion over the next 5 years, arguing that the extra money, amounting to as much as $70 billion, could be used to build up trust fund reserves.

Mr. Stockman's dire predictions of insolvency are overly pessimistic, inflammatory and insensitive.

"Political terrorism," is how my friend and colleague from New York, Senator MOYNIHAN, characterizes the administration's tactics.

What many of us believe is that Mr. Stockman is using social security to aid in the budget-balancing act and to provide leeway for a general tax cut. I support reducing Federal spending and cutting taxes, but this simply is bookkeeping shenanigans that will not produce an extra penny for those purposes.

In effect, the administration thumbs its nose at the 36 million Americans entitled to social security benefits.

Fortunately, cooler heads have prevailed. The Senate is on record, 96 to 0, in opposition to any proposal that "precipitously and unfairly penalizes early retirees" or reduces benefits more than "necessary to achieve a financially sound system."

SOCIAL SECURITY PROBLEMS IN PERSPECTIVE

There are problems facing social security in the near future, but there is no calamity.

The problems are twofold and they are related:

The immediate one is that old age and survivors insurance (OASI) is running low and could be insolvent in 1984 under the current budget proposal. Social security's other funds, disability insurance (DI) and hospital insurance (HI), also known as medicare, actually are strong and building up cash reserves.

Moreover, because prices have increased faster than wages in recent years, and because we have had a period of relatively high unemployment, payments into social security have not kept up with costs. Benefit payments have increased through cost-of-living allowances.

MODEST STEPS NEEDED TO CORRECT DEFICIENCIES

The problems are short term and manageable. And there are sensible, rational ideas to deal with them.

Using the Congressional Budget Office economic projections, and the cuts included in the budget now under consideration, social security can be protected without any action other than interfund borrowing. There is nothing radical about this suggestion. Allocation of social security taxes among the three funds is based upon actuarial projections of the cost of each program. There is nothing sacred about the division scheme.

There also are a number of proposals to help the system during periods of large scale unemployment or exceptionally high inflation, including one to finance part of the cost with general revenues. Another possibility is to fund some of medicare hospital benefits with general revenues.

These modest steps will take care of the immediate problems and protect social security.

There may be long-term problems beginning in the next century when the post-World War II "baby boom" begins to retire and we must be prepared to manage its impact on the system.

Social security is one of America's great success stories. It has lifted Americans from economic hardship and provided a measure of comfort and security to older Americans.

Social security must continue to be among our Nation's highest priorities.

It should be moved above the political fray and not be subject to the mercy of changing administrations and budget policies.

Social security is the promise of one generation of Americans to another. It is a promise that must not be broken.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be recognized under the same circumstances and under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania.

THE SUIT AGAINST AMERICAN TELEPHONE & TELEGRAPH CO.

Mr. SPECTER. Mr. President, I thank the majority leader for allowing me this opportunity.

I rise to voice opposition to the Government's move to delay the suit against American Telephone & Telegraph Co., pending possible action by the Congress on the proposed telecommunications bill. I base my position on the extensive testimony I have heard as I have chaired some of the proceedings in the Judiciary Committee and my knowledge of the procedural status of the case.

The suggestion has been made by the Justice Department that the litigation should be delayed for some 11 months, and that request was denied by the trial judge, and there has been a report that the suit would be discontinued if the telecommunications bill were to be enacted.

Based on what I have seen in the hearings thus far, it is very problematical when or, if at all, the telecommunications bill will be enacted, and it is problematical as to whether that bill will answer the questions which are raised in the pending litigation.

I believe this lawsuit is broad enough—it involves telephone service to virtually every American in one form or another—so that the litigation with its importance ought to move to conclusion in the Federal court and then the Congress in its deliberate turn can decide what to do about the proposed legislation.

Certainly, the assertions which have been made that litigation must be concluded before the Congress can focus on the bill are, I think, without any merit.

I am strongly opposed to the Government's move to delay the suit against American Telephone & Telegraph Co., pending possible action by Congress on the proposed telecommunications bill, S. 898. I base my position on the extensive testimony I have heard on the proposed bill and my knowledge of the procedural status of the litigation.

At the request of the chairman of the Judiciary Committee, I have presided over several hearings on monopolization and competition in the telecommunications industry. The bill and the record in the A.T. & T. case raise enormously complex issues. Speaking for myself, I would be very interested to know the trial judge's findings of fact as one set of factors against which to evaluate the appropriate legislative action.

I am not suggesting that Congress defer or await the conclusion of the litigation, but it may be enormously helpful for us to know what the trial judge will find. I believe that congressional action and judicial action should continue along their individual courses without either waiting on the other.

I certainly do not believe that the litigation should be suspended or abandoned based on what Congress may or may not do. It may well be that Congress will not legislate on the subject for far longer than the 11-month delay which the Government has sought or for the time which would be required to have an adjudication by the trial court or, for that matter, review by the appellate courts. In addition, the legislation enacted may not conclusively resolve all of the issues raised in the lawsuit.

The litigation has obviously been enormously expensive for the Government and its taxpayers. Similarly, many companies in the field have gone to enormous expense to participate in the Government's case and likely deferred their own litigation relying on the outcome of this suit. We should now have the benefit of the conclusion of the litigation.

Accordingly, I strongly feel that the prosecution should be vigorously and expeditiously pursued.

Within the past 48 hours there have been significant developments in the

Government's handling of its antitrust case against A.T. & T., developments that raise serious concerns for Congress and all Americans.

At noon on Wednesday of this week, the Government and attorneys representing A.T. & T. and other parts of the Bell System approached the judge hearing the case to ask that the trial be postponed almost 1 year, until June 30, 1982. Offered as the basis for the requested delay was the conclusion "that there is no realistic possibility of moving S. 898, the Telecommunications Competition and Deregulation Act of 1981 through the Congress unless, in some sense, the Government's suit against A.T. & T. is put on ice." When pressed by the court, Assistant Attorney General Baxter stated:

> If the legislation passes with the amendments that have been worked out, it would then be the Administration's intention to discontinue the litigation.

Before the day was out, the judge denied the request to recess the trial proceedings for 11 months. The court observed:

> It would be inappropriate for the Court to suspend this lawsuit, which has been pending for seven years, in the middle of a trial, which is now scheduled to end by December of this year, simply because such suspension may have a political impact in other forums.

I am strongly opposed to the request for delay and the implication that the requested delay is a precursor to the Government's abandoning this action. I communicated my position to Assistant Attorney General Baxter by letter yesterday. I now rise to elaborate on my position and to further the debate and public airing that these developments demand.

Mindful of our obligations to the Senate and the people of this country, the distinguished chairman of the Committee on the Judiciary has expeditiously scheduled a hearing on this matter for Thursday, August 6, 1981. Having chaired more than 3 days of hearings of the Judiciary Committee on monopolization and competition in the telecommunications industry, I am very much concerned that developments which may significantly affect the allocation of resources within the telecommunications industry not go unexamined. As we become increasingly dependent on the prompt and accurate transmission of information, it is essential that the Government do all it can to facilitate the growth of healthy and vigorous competition in this industry as our best guarantee of innovative and economical products and services.

One of my principal concerns, which extends beyond even the vast importance of the Government's expansive effort to restructure the Bell System through its litigation against A.T. & T., is that principles of the separation of powers not be sacrificed and that no branch of our Government intrude upon the province of another.

I am concerned, as Judge Greene was apparently concerned, that the judiciary not withhold the exercise of judicial power on matters properly before a court in order to have some predicted impact on congressional action. It is a court's duty to decide cases within its jurisdiction. To ask a court to tailor its deliberations in order to affect a political result is inappropriate. Just as the judicially created doctrine that courts should abstain from deciding "political questions" is a recognition of the necessity to accommodate the other branches so, too, the other branches must respect the courts' duty and competence to decide cases and controversies properly before them.

What the request for postponement ignores is the complementary nature of the judicial and congressional proceedings. The Telecommunications Competition and Deregulation Act of 1981, S. 898, recognizes the inappropriateness of seeking to forestall the judicial proceedings. Section 404 of the bill, disclaims any intent "to affect the applicability of the antitrust laws of the United States or any defenses or remedies (including structural remedies) available thereunder" or to express "in any manner any sense of the Congress with regard to any pending or future litigation or defenses and remedies relating to such litigation to which any person affected by this Act may be a party."

Indeed, at the very same moment that Judge Greene was considering the motion for postponement, John Shenefield, the former Associate Attorney General and Assistant Attorney General of the Antitrust Division was testifying before the Judiciary Committee that legislative and litigative efforts should proceed simutaneously. His statement concluded:

> [T]he government's case against AT&T must continue to conclusion so that we have the benefit of the court's determinations concerning the structure of the Bell system. This dual approach legislative deregulation and adjudication will promote the most balanced planning for the future of the Nation's communications industry, because it will draw on the court's assessment of past conduct and Congress' prescriptions for future policy. With an industry this crucial, we can afford to do no less.

I share the belief that Congress and the courts are cooperative and complementary rather than competing branches of Government. I was dismaved to learn that anyone thinks putting the case "on ice" will somehow speed passage of S. 898 and that the case is viewed as an impediment to congressional action—a "complication that gets in the way of getting anything done," as it was called by A.T. & T.'s general counsel.

I, for one, would be very interested in the trial court's fact findings. After personally experiencing 2½ years of pretrial proceedings and hearing perhaps as much as 9 months of testimony, the trial judge will be in a unique position to make factual findings and offer a definitive history and description of competitive practices in the telecommunications industry.

I have great respect for the judicial process and for the validity of the results of the administration of justice after a fair opportunity to be heard. While I do not believe that final action by the Congress need await the outcome of the trial this winter, as a member of the Judiciary Committee and the Senate, I in no way consider its pendency and proceedings an impediment to legislative action. On the contrary, such proceedings are likely to be helpful in providing additional, relevant information that can be considered by the Congress. It is to convey these views that I wrote the assistant attorney general.

On Wednesday the parties sought to rationalize their request for delay by arguing as if the court's granting a year's continuance would resolve jurisdictional disputes between committees of the Congress. The logic of that argument escapes me entirely. If there is to be a jurisdictional dispute over the antitrust implications of S. 898, and I sincerely hope that there will not be any concerted effort to deny the Judiciary Committee its proper role in the consideration of this bill, I do not see how the abatement of the Government's lawsuit against A.T. & T. could be expected to play a role in its resolution.

Indeed, if ongoing litigation were a factor, the renewed proceedings to modify the 1956 consent decree and the numerous private antitrust suits pending against the Bell System around the county would vitiate any impact that might be anticipated from the postponement in the case pending before Judge Greene. Accordingly, it is hard to understand how a halt in proceedings in United States against American Telephone & Telegraph Co. can be justified on this ground.

The request for an 11-month postponement pending legislation is premised upon speculation about the legislative process. In the brief time I have been a member of this body I have learned that the legislative process is just that, a process. Its timing and ultimate result defy precise prediction. Courts must fulfill their responsibility to decide cases and resolve controversies expeditiously, fairly and in accordance with the law. They cannot and should not be asked to decide them in light of what the law might become. On Wednesday, the parties asked the court to hold the half-completed trial in abeyance for almost a year while, as Judge Greene described it, "somebody thinks about what they will do if the Congress passes a statute."

It is the duty of the Justice Department to enforce the antitrust law as enacted by Congress unless and until the Congress decides to change the law. Any further delay of this action after 7 years of vigorous prosecution in both Republican and Democratic administrations must be justified in terms of the public's interest. The motion made on Wednesday is grossly inconsistent with the interests of the American people who depend upon the operation of three coequal branches of Government.

At this point, I ask unanimous consent that Judge Greene's order of July 29, 1981, and the transcript of the chambers conference, in which the motion for a postponement was discussed, be made a part of the record.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

CIVIL ACTION NO. 74–1698

United States of America, plaintiff, v. American Telephone and Telegraph Company; Western Electric Company, Inc.; and Bell Telephone Laboratories, Inc., defendants

Order

The parties have requested that the trial of this case, which is scheduled to resume on August 3, 1981, be recessed instead until June 30, 1982.

In the course of a chambers conference, attorneys for the parties provided reasons for this request, all of them essentially relating to the pendency of legislation in the Congress and the obstacle that this action may present to the enactment of such legislation. For the reasons articulated by this Court during the Conference,[1] the request for a recess is denied.

In the event that legislation is enacted which exempts the subject matter of this lawsuit from the anti-trust laws or otherwise moots this action, the Court will of course terminate the proceedings. Similarly, if a consent decree between the parties meeting the criteria of the Clayton Act (15 U.S.C. § 16) is presented to the Court, such decree will be entered and enforced. However, it would be inappropriate for the Court to suspend this lawsuit which has been pending for seven years, in the middle of a trial which is now scheduled to end by December of this year, simply because such suspension may have a political impact in other forums.

Trial will resume on August 3, 1981, at 10:30 a.m.

HAROLD H. GREEN,
U.S. District Judge.

Dated: July 29, 1981.

IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

CIVIL ACTION NO. 74–1698

United States of America, plaintiff, v. American Telephone and Telegraph Company; Western Electric Company, Inc.; and Bell Telephone Laboratories, Inc., defendants.

Transcript of proceedings

U.S. COURTHOUSE,
Washington, D.C.,
Wednesday, July 29, 1981.

The above-entitled matter came on for hearing at 12:05 o'clock, p.m. before the Honorable Harold H. Green, in chambers.

Appearances: (Appearing on behalf of the plaintiff:) William Baxter, Esq.; and (appearing on behalf of the defendants:) Howard Trienens, Esq., George L. Saunders, Jr., Esq., and Jim G. Kilpatric, Esq.

Regis Griffey, official court reporter.

Proceedings

Mr. BAXTER. I am William Baxter, Assistant Attorney General.

Mr. TRIENENS. Howard Trienens for defendants.

The COURT. That is Mr. Kilpatric and Mr. Saunders.

Yes, sir.

Mr. BAXTER. Your Honor, we are here to ask you to continue the case until June 30th, 1982. I am urging the motion on you. I can assure you that I am speaking not just for the Antitrust Division of the Department of Justice, but for the Administration and the President.

The Administration has concluded that there is no realistic possibility of moving the legislation, which is now usually known as S–898, a very comprehensive deregulation of the telecommunications industry through the Congress unless, in some sense, this case is put on ice.

I was, myself, rather difficult to convince of that point, not because I do, myself, have any particular expertise about Congress, which I certainly do not, but because I did not view S–898 as an adequate substitute for the relief we were seeking in the case.

In the last several weeks we have worked out an amendment to S–898, which addresses itself to what I viewed as a primary weakness in that legislation. We have checked it out with the Bell Company and the Administration is wholly in support of it, and that enabled us to come to you today with complete agreement, I think, throughout the Administration and ask you to do that.

The case, should it resume next June, we would hope it would resume with adequate notice to everyone, of course, in its present posture, with a timetable that was consistent with the present timetable, simply going forward from the point at which it now is.

The COURT. I am not sure I understand that.

What does all of that mean? You mean the legislation is going to be passed before then? Then the case will not go foward, or the case will go forward in June or—

Mr. BAXTER. If the legislation passes with the amendments that have been worked out, it would be the Administration's intention to discontinue the litigation.

The COURT. Is there anything more you wish to add to that rather summary-cryptic communication?

Mr. BAXTER. There is really nothing else I would like to add, Your Honor, although I would be happy to make it less summary and less cryptic at any particular point you would care to explore.

The COURT. Well, I obviously have to think about it, but the case has been pending for seven years.

We have gone through the—we have heard the government's evidence. We are ready to proceed to hear the defendants' evidence starting next Monday.

If the Congress passes legislation that moots the case in some way or other, that is one thing, but the mere fact that legislation may be pending, that may or may not be enacted, doesn't seem to be a very good basis for truncating a case and recessing it for—what are you talking about?—a year.

Mr. BAXTER. Eleven months.

The COURT. Well, I have to think about it. But I can tell you right now that my immediate reaction is that that is not a good idea.

Now, if the case can be settled, if there is going to be a consent decree, these are all matters that are provided for under the statutes, under the Clayton Act and everything else, but simply to hold a trial in abeyance for 11 months while somebody thinks about what they will do if the Congress passes a statute strikes me as a rather unusual motion.

Mr. BAXTER. It is an unusual motion.

The COURT. While I am not opposed to either unusual or innovative matters, this—well, I haven't made up my mind. Obviously, I have to think about it, but I don't regard it as a very constructive proposal.

Mr. BAXTER. Yes, Your Honor.

The COURT. Mr. Trienens?

Mr. TRIENENS: Well, I did not understand your last characterization. I thought Mr. Baxter had said earlier that if the legislation passed, then we will think about it. If the legislation passed in the form that the Administration has approved it, that that would provide the relief they seek, and the case would be dropped.

That wasn't the contingency. The reason we support this, and we do support it, is that we favor legislation, not because of this case, but because—so we win the case, which we know we will, so we win the case.

We have a computer tool hung up in the District of Columbia Circuit. We have the consent decree in New Jersey. We have all sorts of legal uncertainties. Questions about how should the Bell System be restructured.

Everybody knows with the competition that it ought to be restructured. I think Congress ought to decide it. We think this case—I had a personal experience last summer where this case got in the way of it. It went through the House Committee with every bipartisan vote on the bill, because of the pendency of the case the Judiciary Committee took it.

Nothing happened, and the pendency of this case does in fact, as Mr. Baxter said, get in the way of resolving the structure of this industry through legislation, and it isn't just this case.

It is, as I say, if it is dismissed, if you dismiss it on the motion that is pending, or if you dismiss it at the close of the case we still have all of the other problems.

I think the legislation—all we are doing is having a rapidly moving technological market, changing very fast. Everything is hung up with no answer.

The COURT. I don't understand the Congress. If you think legislation is the appropriate way to go, all of you think that that is the appropriate way to go, why Congress can't pass legislation regardless of what happens here.

Mr. TRIENENS. Your logic is impeccable. There is no question about it. The tensions, the jurisdictions between the two Committees, the Judiciary Committee and the other committee. It is just a complication that gets in the way of getting anything done. It shouldn't be.

I agree, thoroughly, but it does.

The Court. Well, I am sorry the judicial process is a complication, but I can say just like Mr. Saunders "I am just a simple country boy". I don't know about these kinds of high political matters.

All I know is that there is a case before me. We heard the first half of it. We are ready to hear the second half of it on Monday.

The motion to dismiss is pending, the 553-page motion has been filed.

Mr. SAUNDERS. We call that motion "the great whale."

The COURT. Great whale, great weight in every way and to say, to hold everything in suspension for 11 months——

Mr. BAXTER. There is no doubt that it is unusual, Your Honor, but certainly it is the Administration's view as Mr. Trienens has already suggested that the present situation with the industry, which will continue even after this case is decided, however it is decided, would be the uncertainties about the consent decree, the role of the FCC which is causing a great deal of uncertainty throughout the industry as needlessly increasing capital costs throughout the industry.

It has everybody sitting on the edge of their chairs not knowing whether AT&T is going to be in certain lines of business or not.

This case, itself, even if it is resolved, as I expect it will be, the timetable that you have set up, and you certainly made us stick to it so far, will be with us for a very long period of time when one contemplates the inevitable appeals process and that legislation is really essential to get any kind of certainty in the industry from which the private companies, by no means AT&T are able to move forward with investments and market developments.

As I said, it is their conviction and on which I rely very, very little by way of views that the process can simply not be made to go through Congress, because of the jurisdictional conflicts between the Congress, committees and the judiciary committees on both the House and Senate side unless this case is removed as an overhang.

The COURT. Well, with all due respect that

[1] A transcript of the chambers conference is on file with the Clerk of the Court.

really is not a proper consideration for the Court.

Whatever the Congress wishes to do they are perfectly competent and able to do it. They can pass legislation, quickly, or slowly, whatever way they wish, but to say that we have to hold a case in abeyance for a year, because otherwise some committee on the Congress will not agree to having legislation passed, I just think it is a peculiar motion.

I don't want to make a decision right here and now, but to the extent that, you know, you are coming in and you want my reaction, I suppose, my reaction to this peculiar motion.

Now, that is not my business if Congress wants to pass legislation to restructure the communications industry. Part of that involves the issues involved in this case, obviously. I have nothing to do with that, and I will do whatever I am told, but to say I am supposed to hold up the trial in the middle of it, after seven years, after having heard four months of testimony and we are now practically in relative terms, hear the end of it, because in the next 11 months somebody may do something, and this may remove an obstacle to their doing something, it strikes me as peculiar.

Mr. TRIENENS. Peculiar, true. There is another peculiar side of it, though, and you devote your energies, energies of the judiciary and parties and knowing if the bill passes the plaintiff said, "Well, that is what I wanted and bye-bye lawsuit," that is peculiar, too, but that is reality.

The COURT. All I can do is sit here. I didn't file the lawsuit. I didn't pursue the lawsuit since September or November, whenever it was, 1974. I wasn't even on this court at that time.

The case came here. The case was pursued by the Department of Justice. The Department of Justice and the Administration have seen fit not to dismiss it. It is here. I have heard four months of testimony. We have had two and a half years of pretrial maneuverings, and I am ready to proceed.

Now, I am also ready to have the parties settle it. Don't misunderstand me. I am not eager to take this masochistic punishment of being here every day and absorbing a great deal of technical, economic and legal information, day after day, even as much as I like the lawyers in the case.

Mr. SAUNDERS. I thought you were enjoying it, Judge.

The COURT. To an extent. To an extent.

It seems to me I have an obligation to the judicial process, and to say that the judicial process ought to be suspended, because of the pendency of this lawsuit may cause somebody on some committee, one or the other Houses of Congress some concern in terms of passing legislation, I would say I am not going to make a judgment just like that on the basis of what has been said here, but it does not strike me as a very reasonable approach, at least from my point of view.

Mr. TRIENENS. To the extent, Your Honor referred several times to the possibility of settlement or a consent decree. That is not what we are talking about here.

For one reason is that the things that the legislation does, which balanced—I am not going to argue what parts I don't like and what parts I like. It is a balance.

Congress would attempt to achieve something, which we in agreeing on can't do. Changes, jurisdiction of communications, regulations, and deregulation. This is not something we can settle.

We can't say, "Let's take that statute and embrace it in a consent decree," even if we agree to it, it doesn't lend itself to that. The Court has the power to do some of those things, some of them. The problem is whether you really want the Court to be in a regulatory consent decree and this is even if we agree on each comma, we could bring to you in the form of a consent decree.

The COURT. I understand. I didn't mean to imply anything to the contrary. I just thought if there were a consent decree or some sort of stipulation, agreement, I can understand all of that but I find it difficult to understand that because somebody may want to do something, and because this lawsuit may be an obstacle to that, and somebody's mind is on the political process somewhere else, therefore we ought to suspend the trial for 11 months—I suppose nothing is impossible, but I don't want to characterize it any differently than what I said.

It strikes me as peculiar. Not that, as I say, not that I enjoy trying this case day after day, because it is not that easy. It is pretty hard, and pretty hard to absorb all of these things that Mr. Saunders keeps bringing up to me, day after day, but that is what I am supposed to do and I am not supposed to watch what some Congressional committee for a political reason may or may not want to do, and tail it as litigation.

Mr. SAUNDERS. Judge, I have been on the outside of what has been going on over there, because I am just a simple country boy trial lawyer.

There is an aspect of this thing, as I understand it, and Mr. Baxter can correct me if I am wrong.

It does disturb me as a trial lawyer. You may recall when the government started this case, filed pretrial brief, they said they wanted an divestiture of Western Electric. Then when they put in their evidence, they said, "no." They didn't want that, and Your Honor commented on it in court.

They said they wanted a divestiture of the exchange network. Now, as I understand the legislation that is pending, and the amendment, it reflects a decision by the President of the United States that he doesn't want that.

The COURT. He doesn't want——

Mr. SAUNDERS. The exchange divestiture. Thats what he wants is an arrangement that will test the purchasing practices of Western Electric by forcing them to buy out, sell outside the Bell System both to the independents and overseas and to gauge their ability, to constrain their ability to sell within the Bell System, to see how well they do outside.

That is my understanding of this amendment.

Now, you know in the broad sense that is no different than—it is just a legislative proposal to the extent that this reflects a decision by the President that he doesn't want the divestiture, that he—either of Western or of the operating exchange units, that what he wants is an FCC administered regulation and test of Western's strength in the market.

We may be in a situation in which the President has decided that he doesn't want any relief, that an antitrust court can or ought to be given that is my problem, and if I am wrong, I would like to be enlightened.

The COURT. Well, without really going into that in detail it seems to me that there is a perfectly acceptable procedure for that. The Clayton Act provides for a consent decree, which would embody what you suggest the Administration wants, and then a determination can be made whether or not that is in the public interest, but to simply keep everything in abeyance——

Mr. SAUNDERS. I know.

The COURT. —while nothing is going on, because of—it sort of boggles the mind as to what these various balls that are in the air—and, again, as I said earlier, I am not really involved in that, any of that.

I am trying a lawsuit that was brought to me by somebody else, and I am willing to try it. I was willing—I continued it for six weeks at the beginning, because somebody said that they were going to settle it. I was prefectly happy with that, because there are a lot of other things I would rather do than try this lawsuit day after day and here we are again ready to resume and we are not even talking about a brief continuance to settle it, but we are talking about an 11-month continuance for the reason that something may happen in the meantime and some political—in the best sense of the word—interest may consider the fact that this case is not going on, to be of some weight in the equation, and I don't really think that that is a proper role for the judicial process.

I don't think so.

Now, I will certainly think about it between now and Monday, and I take it this is an application for a recess in the trial for 11 months, and I am not going to commit myself to that right this minute, and I will, although I am supposed to go out of town this afternoon, I will either go or not go, and I suppose I can think about it somewhere else, too.

But at least my initial reaction is that that is not my problem.

Mr. BAXTER. I certainly understand your reaction, Your Honor. I hope that you will go on your trip. I would hate to think that we deterred that.

The COURT. Actually it is not a pleasure trip, either. It has to do with antitrust law. I am supposed to give a lecture on handling of antitrust cases at the University of Michigan, among a great number of other federal judges, who have some experience in it, who really have more experience than I do.

But, anyway, that is where I am supposed to go.

Mr. BAXTER. I hope it will seem less unusual to you as the weekend wears on.

Mr. TRIENENS. Just describe them your typical run-of-the-mill antitrust case.

The COURT. That is it, exactly just like this one.

Mr. BAXTER. May we regard the motion as submitted, Your Honor.

The COURT. Yes.

Mr. TRIENENS. Thank you very much for hearing us.

The COURT. Thank you very much. Good to see you again. Thank you, Mr. Baxter. Mr. Saunders.

(Whereupon, the hearing concluded at 12:20 p.m.)

PROF. ALEXANDER LERNER: NOW TRAGICALLY WIDOWED AND WAITING STILL

Mr. SPECTER. Mr. President, 2 weeks ago, at the age of 65, Judith Lerner died of a heart attack in Moscow. She left not only inspiration to all those who admired her tireless efforts on behalf of Soviet refuseniks. Judith Lerner left behind her husband, Prof. Alexander Lerner, the internationally eminent Soviet cyberneticist who, for the last decade, has been refused permission to emigrate from the Soviet Union.

Professor Lerner, formerly vice president of the International Federation of Cybernetics, was the first high-level scientist from Moscow to apply for a visa. As a result of his attempts to leave the Soviet Union and live in Israel, Professor Lerner and his family have been totally cut off from Soviet society and from the normal existence they had known previously. Professor Lerner's son Vladimir lost his job as a systems analyst, and his daughter was forced to terminate her studies as a mathematician.

Professor Lerner himself was dismissed from all his scholarly and academic positions, lost his respected stature in the scientific community, and was, thus, denied the opportunity to continue making his contribution to the world scientific

community. His emigration application has been continually rejected by Soviet authorities on the specious reasoning that he possessed "state secrets," although it would be hard to imagine what secrets would still remain secret 10 years later.

Professor Lerner's personal life has been ridden with tragedy. His wife's parents and his own two little daughters, aged three and four, were killed by the Nazis during World War II. His surviving daughter, who received permission to leave the Soviet Union in 1973, is living in Israel. Separated from her and his two grandchildren—one of whom he has never seen—Professor Lerner now faces a grief and sadness made more acute by the death of his wife, Judith.

At age 65, Prof. Alexander Lerner lives alone and in despair. He fears for his son, still in Moscow, who has also been denied an exit visa. He is separated from his daughter and grandchildren. His brilliant career has been destroyed. Accusations of espionage and treason, as well as threats of arrest and imprisonment, are frequent. Last year Professor Lerner underwent two major abdominal surgical operations.

Yet in the decade since his initial refusal, Dr. Lerner has passionately devoted himself to the cause of the emigration movement and to maintaining the scientific expertise of Soviet Jewish scientists who, like Professor Lerner, have been refused exit permission and have been denied contact with the Soviet scientific world. (He has also become an expert artist.)

When asked last October what message he wanted to send the signatories of the Helsinki Final Act, Professor Lerner said:

> What I think is the most important problem for the Jewish emigration movement in the USSR is the fulfillment of the promises given.

If United States/Soviet relations are ever to be what they were, the Soviet Government must realize that implementation of the provisions of the Helsinki agreement, particularly its human rights and emigration provisions, forms an integral part of our bilateral relations.

Professor Lerner's case is particularly heart rending—this important man, who has devoted so much of his life to society and the betterment of mankind, has been condemned to a spiritless life as a second-class citizen simply because he chose to live his life in Israel.

By granting Prof. Alexander Lerner and his son—now alone without wife and mother to sustain them—the chance to join their only family in Israel, the Soviet Government could effortlessly act to implement several important provisions of the Helsinki agreement and to make one family whole and fulfilled again.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

Will the Senator suspend so that we might receive a message from the President of the United States?

Mr. BAKER. Mr. President, before that, I ask unanimous consent that after the Senate receives the message from the President of the United States, the motion by the Senator from Tennessee recur as the pending business before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The message from the President submitting certain nominations is printed at the end of today's Senate proceedings.)

H.R. 4242—MOTION THAT SENATE INSIST ON ITS AMENDMENTS, REQUEST A CONFERENCE, AND THAT CONFEREES BE APPOINTED

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

Mr. RIEGLE. Reserving my right——

Mr. BAKER. Mr. President, this is on the tax bill, to appoint conferees. The conferees have to go to conference.

Mr. RIEGLE. What is the intention of the Senator from Tennessee on taking up the reconciliation bill?

Mr. BAKER. As soon as we have the conference report. I am advised the House intends to act some time toward the middle of the afternoon, maybe 3:30 or 4 o'clock. As soon as the conference report on reconciliation reaches the Senate, I intend to lay that measure before the Senate. I can assure the Senator from Michigan, I will let him know in advance of the time I intend to take that action.

Mr. RIEGLE. Mr. President, I will reserve my objection now and only indicate that it will be my intention at that later time, when we move on the reconciliation bill, to ask unanimous consent that the minimum benefit social security bill be held at the desk.

Mr. BAKER. Mr. President, I thank the Senator from Michigan for making that statement, and I thank him for informing me of that intention at this time. I am grateful he will not ask any further delay in the appointment of conferees on the tax bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. Without objection——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think on a motion the Chair ought to always put the question. If the majority leader asks unanimous consent on a matter, I think that is quite a different thing. Senators can object or reserve their rights to object, or do nothing. But on a motion, I think the question ought to be put. We can have a voice vote. "Those in favor say aye; opposed, no. The ayes appear to have it. The ayes have it."

We seem to be continuing to present motions as unanimous-consent requests.

This is not in criticism of the Chair. I think the Parliamentarian ought to help the Chair in these situations. I want the Parliamentarian to know that when these most controversial issues arise, there are some people on the floor who should be very careful of their rights. I am sure the majority leader will help protect the minority rights in every way he can, but he cannot if the Chair says, "Without objection, it is so ordered," because that is done. Then, unless the Chair gives us an opportunity to reserve our rights, which he has been doing, a Senator is at the mercy of the Chair.

I would hope that the Chair would put the question on a motion. This is not said in criticism of the present occupant of the Chair. I have been watching this go on for quite a while. I would hope we would proceed in that fashion, if the distinguished majority leader will agree.

Mr. BAKER. Mr. President, I will agree the moment we get this out of the way.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BAKER. I thank the Chair. I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I said in jest a moment ago I would agree with the minority leader as soon as this matter was disposed of, which was an unanticipated expression of my desire to get this done so that the conferees could go to conference.

Of course, the minority leader is correct, and I would urge that when a motion is made, that the question be put.

Mr. ROBERT C. BYRD. It is not a matter that I would insist on in all matters, but where we have a situation as we do now before the Senate, where a Senator may want to be recognized, he may not have heard the Chair. That would be what I am referring to.

I hope that the Chair will proceed to put the motion. I know that is correct.

I thank the Chair.

Mr. BAKER. Mr. President, a part of my motion was that the Chair appoint conferees. Is the Chair in a position to do that at this time?

The motion was agreed to and the Chair appointed Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. HARRY F. BYRD, JR., and Mr. BENTSEN conferees on the part of the Senate.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is conducting morning business.

Mr. INOUYE. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes, I yield.

Mr. INOUYE. Can the majority leader advise the Senate as to the schedule we can expect on this day?

Mr. BAKER. Mr. President, I wish I could, I say to my friend from Hawaii. At about this moment, I understand, the distinguished Republican leader of the House and perhaps the Speaker are conferring on what their intentions are in respect to meeting today or Monday or Tuesday. As soon as we get some indication of what they intend to do and we have some indication of how long it will take these tax conferees and we get some indication of when the reconciliation conference report will reach the Senate, I shall be in a position to make a further statement. I hope to be able to do that by 2 o'clock. I shall try to do it just as soon as possible.

Mr. FORD. Mr. President.

Mr. BAKER. Mr. President, I yield the floor. We are in morning business, are we not?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Kentucky is recognized.

SURFACE MINING—ABANDONED MINE RECLAMATION FUND

Mr. FORD. Mr. President, full implementation of the Surface Mining and Reclamation Act of 1977 has been fraught with many problems. Not the least of these has been the delays and the consequences of delay.

State money for abandoned mine reclamation may be in danger because of timetable slippages, particularly because of past slowness at the Federal level and lawsuits that have stayed State program submissions.

Mr. President, I have been satisfied with reassurances I have received from Interior Department officials from the Secretary on down. However, I have a certain foreboding about OMB's possible role in the disposition of this money.

If the States are deprived of their 50 percent of collections after a 3-year period, this will mean literally hundreds of millions of dollars will be available to be spent for other programs.

This is part and parcel of the policy problems that face this administration, just as it has the previous administration. If dedicated money can be shifted by OMB for other purposes than that for which it is dedicated, then not only the department that administers the program, but also the Congress, is taken out of policymaking.

If this happens with the abandoned mine reclamation money, I intend to lead an attempt to open up the law and I do not really think too many of us desire this to happen at this time. The reclamation fund arrangement is an integral part of the law and without it we would not have enacted the law.

Mr. President, at his July 24 nomination hearing, I addressed a series of questions voicing my concern to J. Robinson West, now Assistant Secretary, Policy, Budget and Administration, Department of the Interior.

For the first time, after several months of effort, I received written responses to my concerns. For this, I am most appreciative. I am satisfied that the Department intends to do everything possible to see that all States receive their rightful 50-percent share for past years, a total allocation of $240,554,204.80 for 1978, 1979, and 1980.

Mr. President, I ask unanimous consent that my questions to Mr. West and his written response be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Mr. West, you and I have discussed the matter of the Abandoned Mine Reclamation Fund. I know this is not your direct responsibility, however, how the money from this fund is budgeted is vital. It will determine whether major states choose to assume primacy or choose to have the program revert back to the Federal Government because of loss of funds.

I'm going to pose a series of questions relating to the fund. These are essentially the same questions I posed to Dick Harris at his nomination hearing. You may not be in a position to answer them, but I would appreciate a written reply for the record.

ABANDONED MINE RECLAMATION FUND

1. Mr. West, the Surface Mining and Reclamation Act establishes the Abandoned Mine Reclamation Fund. Section 401(a) creates a trust fund on the books of the Treasury for payments to the states for reclamation, but only after the state has an approved program.

Fifty percent of the reclamation fees collected in any state shall be allocated to that state pursuant to an approved program.

I realize that the "trust fund" is not a pure one. First, grants are subject to appropriation but without fiscal year limitations. Secondly, and more important to my point, Section 402(g)(2) provides: that if funds *allocated* have not been expended within three years after their *allocation*, they shall be available for expenditure in any *eligible area* as determined by the Secretary.

The previous Administration by regulation provided that the funds in trust for a state lapsed if not expended within three years after collection. This is now under review.

How do you interpret "allocated" in light of the fact that (g)(2) states that fifty percent shall be allocated under an *approved* program?

Does the 3 years run from collection or from the time of allocation under an approved program?

2. Can you furnish the Committee a complete listing by state and by year of collection of the fifty percent money? And how much each state stands to lose if the 3 years from time of collection is enforced?

I feel that this issue is crucial to primacy. If a state loses a substantial amount of its reclamation fee money, it could well opt not to accept primacy.

3. There has been some discussion by state officials, Kentucky included, that the trust money is being used for general expenses. How do you interpret expenditure by the Secretary in any eligible area? As a conferee I understand it to mean any area eligible for reclamation not any expenditure eligible under law for other purposes.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 24, 1981.

Hon. WENDELL H. FORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FORD: Enclosed are answers to the questions you raised this morning regarding the Abandoned Mine Reclamation Fund.

As you may know, the Department is in the preliminary stages of revising its regulations on this matter. While I have attempted to state the Department's positions on various points, these positions are tentative and subject to change during rule-making.

I appreciated the opportunity to discuss this matter with you yesterday. If I can be of further assistance, please do not hesitate to contact me.

Respectfully,

J. ROBINSON WEST,
Assistant Secretary-Designate,
Policy, Budget and Administration.

QUESTION REGARDING THE ALLOCATION OF RECLAMATION FEE RECEIPTS TO THE STATES

Q. How do you interpret "allocated" in light of the fact that (g)(2) states that fifty percent shall be allocated under an *approved* program? Does the three years run from collection or from the time of allocation under an approved program?

A. The section you are referring to in the first part of this question states in relevant part:

"Fifty per centum of the funds collected annually in any State or Indian reservation shall be allocated to that State or Indian reservation by the Secretary *pursuant to* any approved abandoned mine reclamation program to accomplish the purposes of this title." (emphasis added)

OSM has interpreted "pursuant to" to mean "consistent with" an approved reclamation program, not "following the approval of" such a program.

The fees collected in any fiscal year by OSM are allocated to the States on September 30 of that fiscal year, and this date begins the three-year period established in the proviso to Sec. 401(g)(2). Thus fees collected during FY 1978 that have not been expended (i.e., encumbered) by a State prior to October 1, 1981, "shall be available for expenditure in any eligible area as determined by the Secretary."

As you are aware, OSM has been working with the States to clarify the Department's policy regarding the use of moneys that have not been expended within three years. The effort to develop a mutually satisfactory policy statement is ongoing. Tentatively, OSM's rules will be revised to provide that amounts allocated to a State but not expended within three years will be reallocated to the State as long as the State has made reasonable efforts to expend the funds but has been prevented from doing so because of unavoidable delays in program approval.

Q. Can you furnish the Committee a complete listing by State and by year of collection of the fifty percent money? And how much each State stands to lose if the three years from time of collection is enforced?

A. The attached tables show the amount collected in each year in each State, as well as the amount allocated to each State.

As mentioned above, it is the Department's policy, tentatively, that no State will lose its allocated funds as long as it has made a reasonable effort to expend the funds but has been unable to do so because of unavoidable delays in program approval.

Q. How do you interpret expenditure by the Secretary in any *eligible area?* As a con-

feree I understand it to mean any area eligible for reclamation not any expenditure eligible under law for other purposes.

A. Moneys in the fund will be expended only for purposes authorized in Title IV.

APPENDIX A

ABANDONED MINE RECLAMATION FUND—FISCAL YEAR 1978

States/tribes	Total revenues [1]	Allocations to States or tribes [2]
Alabama	$2,643,499.01	$1,321,749.51
Alaska	196,454.10	98,222.55
Arkansas	75,859.80	37,929.90
Colorado	2,483,731.26	1,241,865.63
Georgia	10,061.16	
Illinois	6,656,436,13	3,328,218.07
Indiana	4,798,096,12	2,399,048.06
Iowa	87,160.67	43,580.34
Kansas	363,865.85	181,932.93
Kentucky	20,385,019.62	20,192,509.81
Maryland	500,230.20	250,115.10
Missouri	1,051,748.96	525,874.48
Montana	5,374,401.91	2,687,200.96
New Mexico	1,084,868.93	542,434.47
North Dakota	915,060.64	457,530.32
Ohio	7,500,967.18	3,750,483.59
Oklahoma	1,266,432.93	633,216.47
Pennsylvania	12,323,124.60	6,161,562.30
Tennessee	1,636,494.30	818,247.15
Texas	1,157,651.23	578,825.62
Utah	768,151.39	384,075.70
Virginia	4,505,809.24	2,252,904.62
Washington	1,329,457.68	
West Virginia	9,710,503.59	4,855,251.80
Wyoming	13,846,429.52	6,923,214.76
Crow Tribe	1,177,263.15	588,631.58
Hopi Tribe	243,705.71	121,852.86
Navajo Tribe	3,336,585.74	1,668,297.87
Total	105,429,061.62	52,044,771.45

[1] Includes fees and interest.
[2] Under sec. 402(g)(2), Congress must appropriate funds and State reclamation plans must be approved by OSM before allocations can be made available to States as grants-in-aid.

APPENDIX B

ABANDONED MINE RECLAMATION FUND—FISCAL YEAR 1979

States/tribes	Total revenues [1]	Allocations to States or tribes
Alabama	$5,761,848.54	$2.880,924.27
Alaska	255,589.43	127,794.72
Arkansas	127,827.33	63,913.67
Colorado	4,464,179.35	2,232,089.68
Georgia	7,787.10	
Illinois	14,795,666.99	7,397,833.50
Indiana	9,426,032.04	4,713,016.02
Iowa	144,779.75	72,389.88
Kansas	304,517.18	152,258.59
Kentucky	31,177,345.41	15,588,672.71
Maryland	793,270.28	396,635.14
Missouri	2,377,721.03	1,188,860.52
Montana	10,827,453.47	5,413,726.74
New Mexico	5,787,763.49	2,893,881.75
North Dakota	1,260,367.83	630,183.92
Ohio	11,911,196.19	5,955.598.10
Oklahoma	1,805,947.65	902,973.83
Pennsylvania	22,949,563.02	11,474,781.51
Tennessee	2,048,049.15	1,024,024.58
Texas	2,295,433.50	1,147,716.75
Utah	1,371,423.85	785,711.93
Virginia	5,933,957.06	2,966,978.53
Washington	1,603,547.40	
West Virginia	19,578,398.31	9,789,199.16
Wyoming	21,516,123.11	10,758,061.56
Crow Tribe	1,633,389.90	816,694.90
Hopi Tribe	391,676.94	195,838.47
Navajo Tribe	4,809,880.74	2,404,940.37
Total	185,560,735.94	91,974,700.80

[1] Includes fees and interest.

APPENDIX C

ABANDONED MINE RECLAMATION FUND—FISCAL YEAR 1980

State/tribes	Total revenues [1]	Allocations to States or tribes
Alabama	$6,551,239.74	$3,275,619.87
Alaska	246,338.73	323,168.36
Arkansas	77,489.59	38,744.79
Colorado	5,039,074.93	2,519,537.01
Georgia	4,968.84	
Illinois	15,262,582.81	7,631,291.40
Indiana	10,126,631.91	5,063,315.95
Iowa	222,551.54	111,275.77
Kansas	274,611.85	137,305.92
Kentucky	34,643,491.67	17,321,745.83
Maryland	827,871.18	413,935.59
Missouri	1,987,968.84	93,984.42
Montana	7,386,924.08	3,693,462.04
New Mexico	(1,956,308.30)	[2] (978,154.15)
North Dakota	1,637,868.74	818,934.37
Ohio	11,891,976.59	5,945,988.29
Oklahoma	1,742,666.29	871,333.14
Pennsylvania	22,601,028.86	11,302,014.43
Tennessee	2,423,628.36	1,211,814.18
Texas	2,641,749.08	1,320,874.54
Utah	1,840,970.79	920,485.39
Virginia	6,623,443.71	3,311,721.85
Washington	1,789,006.10	
West Virginia	21,212,109.99	10,606,054.99
Wyoming	30,300,248.54	15,150,124.27
Crow Tribe	972,225.65	486,112.82
Hopi Tribe	588,725.82	294,362.91
Navajo Tribe	7,899,354.31	[2] 3,949,677.15
U.S. total	194,863,439.34	95,534,732.13

[1] Includes fees and interest.
[2] New Mexico was overstated by $4,418,560.22 in prior years and Navajo Tribe was understated $1,100,136.02. Adjustment was mainly due to memorandum submitted by Pittsburgh and Midway Coal and an error in reporting the Navajo Tribe share in both the New Mexico-Public and Navajo Tribe totals and double counting. The New Mexico and Navajo adjustment is based on the best information available at the time of the allocations. Final resolution of the stated amounts will be dependent on additional documentation and the results of congressional consideration of sec. 710 legislation.

APPENDIX D

ABANDONED MINE RECLAMATION FUND—CUMULATIVE TOTALS FOR FISCAL YEARS 1978, 1979, AND 1980

States/tribes	Total revenues [1]	Allocations to States or tribes
Alabama	$14,956,587.29	$7,478,293.64
Alaska	698,373.27	349,186.63
Arkansas	281,176.72	140,588.36
Colorado	11,986,984.64	5,993,492.32
Georgia	22,817.10	
Illinois	36,714,685.93	18,357,342.96
Indiana	24,350,760.07	12,175,380.03
Iowa	454,491.96	227,245.98
Kansas	942,994.88	471,497.44
Kentucky	86,205,856.70	43,102,928.35
Maryland	2,121,371.66	1,060,685.83
Missouri	5,417,438.83	2,708,719.41
Montana	23,588,779.46	11,794,389.73
New Mexico	4,916,324.12	2,458,162.06
North Dakota	3,813,297.21	1,906,648.60
Ohio	31,301,139.96	15,652,069.98
Oklahoma	4,815,046.87	2,407,523.43
Pennsylvania	57,876,716.48	28,938,358.24
Tennessee	6,108,171.81	3,054,085.90
Texas	6,094,833.81	3,047,416.90
Utah	4,180,546.03	2,090,273.01
Virginia	17,063,210.01	8,531,605.00
Washington	4,722,011.18	
West Virginia	50,501,011.89	25,250,505.94
Wyoming	65,662,801.17	32,831,400.58
Crow Tribe	3,782,878.60	1,891,439.30
Hopi Tribe	1,224,108.47	612,054.23
Navajo Tribe	16,015,820.79	8,022,910.95
Total	485,853,236.90	240,554,204.80

[1] Includes fees and interest.

MILITARY PAY BILLS

Mr. JEPSEN. Mr. President, it has come to my attention that unnecessary and irresponsible pressure is being applied by the Office of the Secretary of Defense concerning the pending congressional actions on the military pay bills. Only in a forum of open debate on the floors of the Senate and House of Representatives can the relative merits of a targeted pay adjustment as adopted by the Senate Armed Services Committee vice an across-the-board as proposed by the House Committee on Armed Services be debated. Mr. Weinberger, Secretary of Defense, has fixed opinions on this issue; while well known, I point one that they are not totally consistent with the professional and personal views of the rest of the military leadership. I recommend that those who would hinder and possibly obstruct the Congress from its mission to resolve this issue refrain from what could be interpreted as lobbying in direct contravention with the public law.

MAJ. GEN. EVAN L. HULTMAN, A GREAT IOWAN

Mr. JEPSEN. Mr. President, today I take great pleasure in honoring a fellow Iowan who has contributed much to his country. Maj. Gen. Evan L. Hultman, USAR, of Waterloo, Iowa, has recently been elected to the distinguished position of president of the 128,000-member Reserve Officers Association of the United States. General Hultman has given long and dedicated service to his country, State, and community. He is an outstanding leader and his career has been one of great achievement.

Evan Hultman was born July 15, 1925, in Albia, Iowa. He graduated summa cum laude from the University of Iowa with a bachelor of arts degree in political science in 1949. He received his juris doctor degree in law, cum laude, also from that university in 1952.

The general has had a distinguished civilian career. Admitted to the general practice of law in Waterloo in 1952, he did civil and criminal trial work and actual pleading of appeal cases before the Iowa and U.S. Supreme Courts. He was twice elected and served as the attorney general of the State of Iowa and also completed two terms as U.S. attorney in Iowa. General Hultman was twice appointed general legal counsel, U.S. Junior Chamber of Commerce and was elected and served two terms as Black Hawk County attorney.

A former President of the Iowa Federal Bar Association, he also was elected as National Vice President of the Federal Bar Association in 1980. Evan Hultman currently is a practicing trial attorney whose clients include a major industrial city in Iowa.

His military career has been equally illustrious. He entered military service in 1943 as a private in the infantry and rose to captain before his discharge in 1948. After leaving active duty, he joined the U.S. Army Reserve in 1947.

General Hultman served in a variety of assignments with the 410th Infantry Regiment, including Battalion Intelligence Officer, Assistant Operations Officer, Headquarters Commandant, Battalion Executive Officer, and Battalion Commander. He left the regiment in 1959 to become Division Judge Advocate with the 103d Infantry Division until 1964, when he was assigned to the 5040 USAR School as an instructor. In 1973 he became the commanding officer of

the 450th Military Intelligence Detachment (Strategic).

In 1974, he was assigned as the Deputy Assistant to the Judge Advocate General for Reserve Affairs at Headquarters Department of the Army, and in 1975 was promoted to brigadier general in the Army Reserve. He assumed command of the 103d Support Brigade in 1976. His unit then was selected by Department of the Army in competition with other Support Brigades to be the only Army Reserve Corps Support Command (COSCOM). After serving as deputy commander of the COSCOM from 1977 to 1979, he was selected as commanding general in 1979 and promoted to major general.

The general has completed numerous military schools, including the Army Command and General Staff College, the Industrial College of the Armed Forces, and the Judge Advocate General School.

Among his awards and decorations are the Meritorious Service Medal with Oak Leaf Cluster; Army Commendation Medal; Army Good Conduct Medal; World War II Victory Medal; American Theatre Ribbon; World War II Occupation Ribbon; Armed Forces Reserve Medal; Asiatic-Pacific Theatre Ribbon; and the Army Reserve Component Achievement Medal.

The general has been an activist in civic affairs throughout his adult life. He served as National Legislative Committeeman of United Cerebral Palsy, chairman of the Iowa Heart Fund, and was three times council president of the Boy Scouts of America. He was awarded the Silver Beaver and the Silver Antelope for this service. Additionally, he is a past president of the Waterloo Junior Chamber of Commerce and vice president of the Iowa Junior Chamber of Commerce.

Evan Hultman also has served ROA in a variety of capacities. He was twice appointed National Resolutions Chairman, is a past president of the Iowa Department, past chairman of the Army Affairs Committee, and National Committeeman. In 1980 he was elected as vice president, Army.

General Hultman is a truly outstanding Iowan and American. His dedicated and meritorious service to his community, State, and country has proven him highly worthy of his newly elected position as president of the prestigious Reserve Officers Association.

It indeed gives me pleasure to extend my congratulations and my thanks to Evan Hultman for his many years of dedicated service. His has been a life of accomplishment and the Senator from Iowa takes pride in honoring him today.

THE CATTLE INDUSTRY

Mr. JEPSEN. Mr. President, it is no secret that cattlemen around the country are going through a difficult period. Cost of production and land prices continue to rise while prices received continue to fall.

Many producers are asking what the administration can do to help keep them them solvent and, I believe, Mr. Gerald Pearson has some of the best ideas I have seen. Mr. Pearson is the chief operating officer of Spencer Beef Division in Iowa and was one of the founders of Spencer Foods in 1952. He now serves as chairman, president, and chief executive officer of the corporation.

Mr. President, I would like my colleagues to be aware of Mr. Pearson's ideas and I ask unanimous consent that an article he wrote about the cattle industry which was published in the National Provisioner be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ACTION IS NEEDED TO SAVE CATTLE INDUSTRY

(By Gerald L. (Bud) Pearson)

Supreme optimism has been a common trait among cattlemen throughout the century and, in my 35 years in the beef business, I have found this optimism well warranted—until now.

Since 1946, per capita consumption of beef has more than doubled from 60 lbs. to 120 lbs. That factor, along with population growth in the United States, raised cattle slaughter from 18,881,000 head annually in 1946 to 42,654,000 in 1976. Cattlemen from the cow/calf operator to the cattle feeder prospered during this tremendous growth period.

A closer look reveals that the majority of the cornbelt farmers who have prospered and acquired attractive equities and larger land-holdings were in the cattle business. Cattlemen expected to lose money feeding cattle in two or three out of seven years, but they also knew that if they stayed in the business and did a good job of managing, they would make substantial profits over the years.

The cattleman was king and the envy of most everyone in agriculture, and the gamble of feeding cattle added to the excitement and romance of the business. The cattle cycle always took care of the cattleman with the staying power, never failing to return the business to profitability.

But never is a long time, and it is now becoming apparent that the cattle cycle, in conjunction with other factors, is working against the cattle industry. As a result, it is highly likely that we will see five loss years in the seven-year period of 1979 through 1985 for most segments of the cattle industry, instead of profits. With two and one-half years of that period behind us, showing some good times for the cow/calf operator and only a few good months for some cattle feeders, we are still looking at many dark days ahead for the cattle industry.

To survive this period, we have to inject same realism into our thinking and figure how best to cope with the fact that beef consumption will decrease. We simply cannot profitably market the supply of beef that is currently being produced or will be produced in the next few years without some major adjustments or actions taking place. We must determine how to best manage a mature or declining industry. Shakespeare or someone once said, "If we live in hope, we shall die in despair." Nothing could apply better to the cattle industry today. Hope will not do it, action is needed.

Two culprits are contributing heavily to the profitability problems in the cattle business—high interest rates and inflation. They have a compounding effect. Because of sustained losses most cattlemen have depleted much of their capital and therefore have to borrow more than at any previous time and at record high rates. Land values of cattlemen have increased enough to maintain their net worth and give them a borrowing base, but the total interest cost of raising a steer from conception to consumption at current rates is far beyond what can be absorbed and still produce beef at a profit.

Assuming that the mother cow is worth $700, one could have almost $150 in interest charges in the production cost of the calf from the time it was conceived until it was weaned. The feeder who takes the calf from that point to slaughter will realize another $100 in interest costs in financing the calf purchase and a portion of the feed costs. So, in total, cattlemen are looking at $250 in possible interest costs in producing a market-ready steer, or well over 20 cents per pound of live weight. Carrying it further, this equates to almost 35 cents per pound of carcass weight and approximately 75 cents per pound on the retail price.

Added to this dilemma is the shrinking amount of discretionary dollars in the consumer budget. Because of inflation, the consumer has fewer dollars left over after buying the necessities, and beef suffers first because of its price. But, merely saying that high interest rates and inflation are the only causes of current financial losses in the cattle industry, we are overlooking what is most likely our biggest problem—the shrinking desirability of beef in the eyes of the consumer.

A great majority of consumers in recent surveys have stated that they are reducing their beef purchases. This is much more a perceived notion than an actuality as all the beef that is produced is eaten, and per capita consumption is simply the amount of beef produced plus imports divided by the U.S. population. Actually the consumer will be eating more beef per capita in 1981, 1982 and most likely 1983 and 1984 than in the past two years. The fed cattle, cows, calves and yearlings are already in the system to produce more beef. The price the consumer is willing to pay for that beef is the key to how much beef will be produced and consumed in 1985 and beyond. Unless the price paid will return a profit to the producer, he will cut back production until there is a profit.

The industry profitability problem today can be traced to one factor—the consumer is spending less than 2.2 percent of disposable income for beef instead of the historical 2.6 percent. Each .1 percent of the DPI times $3 per cwt. would amount to $130 per head, and that would cure about all the profitability problems that exist in the cattle industry today. But when most everyone in cattle production is struggling just to survive, it is difficult to find the dollars needed for beef promotion. Unless the whole industry is willing to spend a lot more than it has been spending for beef promotion, it will be practically impossible to regain beef's desirability position.

Chicken and pork have not made inroads into beef consumption without huge sums of money having been spent promoting these products. Three poultry companies spend $5,500,000 annually just in the city of New York to promote their product. That's three times more than is spent nationwide by the beef industry. The National Pork Producer's Council spends four times as much as the cattle industry on promotion. Considering that the consumer dollars spent for beef are more than four times greater than the dollars spent for pork and about eight times greater than that spent for chicken, it is not surprising that beef is losing ground.

The Beeferendum, which was voted down by the cattle industry in 1980, would have raised $30- to $40,000,000 annually. It is conceivable that the economic cost to the beef industry for failure to adopt the Beeferendum is more like $400,000,000 annually.

The cattle industry has to find the funds and then spend them in the best possible way to get its story to the consuming public. We have to take action in responding to the message the consumer is giving us—that leaner beef is desired. We must update our beef grading system so that the producer can deliver lean, palatable beef at a competitive price with other protein sources.

Beyond that, we have not touched the possibilities of what we can do with the total story of cattle and beef. For instance, does the public know that the faithful cow is the world's best converter of solar energy and harvests grass just like a combine harvests grain?

Look at what others are doing with the "romance" of cattle—Merrill Lynch, the No. 1 broker, is spending millions in ads featuring the bull. Marlboro, the No. 1 cigarette maker, spends close to $100,000,000 with its cowboy ads. Western wear, particularly cowboy boots, is setting sales records.

Should cattle raising continue to be unprofitable, we will undoubtedly see many millions of acres of marginal land being plowed up and subjected to severe erosion. Much of this land will then become worthless in less than 50 years because of topsoil loss. Only grass can maintain the precious topsoil on much of our land and preserve it for future generations. Just as the Arabs are depleting their resources by pumping oil as fast as they can, we will be depleting our resources if we plow up grazing land.

The ability of the new administration to solve our economic problems will have a lot to do with the return of profitability to the cattle industry. . . . the real future success of the beef industry depends on our ability to establish priorities and then come to an agreement on what the solutions are and what the price will be. The pertinent priorities as I see them are:

All segments of the industry must do everything possible to expedite the proposed grade change.

Cattlemen should start breeding cattle that will produce ideal carcasses for the new grade, i.e., larger frames and less fat covering.

Get emergency funds from producers and packers to immediately start promoting the good qualities of cattle and beef with a well designed, well aimed public relations program which tells the honest story of cattle and beef.

Utilize risk management tools to capitalize on volatile markets which are here to stay.

The price of no action could well be the demise of one of America's greatest historical industries. If you don't believe it can happen, take a lesson from the lamb industry. It did happen to them—it can happen to us, too.

HEALTH WARNING LABELS ON ALCOHOLIC BEVERAGES

Mr. JEPSEN. Mr. President, I speak in support of the efforts of Senator THURMOND and Senator HATCH to make Americans aware of the hazards of alcohol consumption through the use of alcohol warning labels.

As you are aware, the Senate passed a comparable bill last year in the form of an amendment to S. 440. Because the House-passed bill did not include the Thurmond language, the House-Senate conference committee agreed on compromise language which required that a special report be compiled by two Federal agencies informing Congress, and thus the American people, of the risks surrounding alcohol abuse.

Two State legislatures, Kansas and Utah, have already approved measures to implement the use of warning labels. My own State of Iowa is currently considering similar legislation. Mr. President, I believe that this idea has great deal of support in the U.S. Senate as well.

The warning label would read as follows:

Consumption of Alcoholic Beverages may cause serious birth defects; alcohol can also create dependency or addiction, impair driving ability or may cause other serious health hazards.

If enacted, this warning will apply only to alcoholic beverages with an alcoholic content of 24 percent or more. In this proposed legislation only liquor, not beer or wine, will be required to carry this warning. I intend to offer an amendment to this bill which would extend these warnings to include beer and wine.

According to preliminary reports from the U.S. Department of Commerce, Americans spent a record $43.7 billion in 1979 for beer, wine, and distilled spirits. This means that U.S. spending on alcoholic beverages averaged out to be an incredible $5 million per hour.

Estimates indicate that excessive use of alcohol costs our society between $25 and $40 billion annually. This includes the costs of lost labor productivity, health costs, highway accidents, criminal prosecutions, treatment of abusers, and welfare assistance.

Alcohol abuse accounts for 40 percent of all criminal arrests, and alcohol patients or victims fill one of every four general hospital beds. The number of alcoholics, a large percentage of which are young people still in high school, increases by 200,000 every year.

Earlier this month, the Acting Surgeon General, on the basis of a recent report, advised pregnant women not to drink alcoholic beverages, even in small amounts because of the potential health risks to the fetus.

Despite these statistics, many people question the effectiveness of warning labels on alcoholic beverages and express concern about the cost of putting warning labels on liquor bottles. The price is considerably less than 1 cent per label.

As for the effectiveness, no studies have been made. Since the warnings by the Surgeon General appeared on cigarette packages, however, there has been a marked decline in the number of cigarette smokers and a growing public awareness of the problems surrounding cigarette smoking.

Obviously warning labels will not eliminate the problem of alcoholism, but they may save lives by providing a climate which expresses concern over one of society's most serious health problems. This idea is certainly worth a try.

REFERRAL OF NOMINATION—DEPUTY DIRECTOR OF THE ACTION AGENCY

Mr. BAKER. Mr. President, I believe the minority leader has approved this request.

As in executive session, I ask unanimous consent that the nomination of Winifred Ann Pizzano, to be Deputy Director of the ACTION agency be referred to the Committee on Foreign Relations for not to exceed 15 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business?

Mr. HARRY F. BYRD, JR. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

(The remarks of Mr. HARRY F. BYRD, JR., in connection with the submission of a resolution, are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, what is the status of the special order situation?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. BAKER. I say to the Chair that I am a contributor to the confusion, and I readily confess that.

I asked the Senator from Arkansas to suspend so that we could perform on the special order to proceed at 12 o'clock to consideration of the matter at hand, the tax bill conference. Frankly, I do not know now what status we are in.

I offer my profound apology to the Senator from Alaska, because I believe we have imposed on him to the extent of 2½ hours.

Can the Chair advise me of the special order situation?

The PRESIDING OFFICER. The Chair inquired whether there was further morning business. If the statement of the Senator from Alaska is to be in morning business——

Mr. BAKER. I understand that in seeking recognition, the Senator from Alaska does not intend to speak in morning business.

Do I correctly assume that morning business is closed?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Then, what is the status of the special order situation?

The PRESIDING OFFICER. The next special order was for the Senator from Alaska (Mr. MURKOWSKI), on the first special order.

Mr. BAKER. Has the special order time for the Senator from Arkansas expired?

The PRESIDING OFFICER. The Senator from Arkansas was given 10 minutes by the Senator from West Virginia, which was to be the last special order.

Mr. PRYOR. If I am not mistaken—if I may beg the indulgence of the majority leader—the distinguished Senator from Oklahoma was recognized for a special order; and I believe he yielded me 14 minutes of his remaining time on that special order.

Inasmuch as I have been here most of the day on this matter, I wou'd be very happy to yield to the distinguished Senator from Alaska and to continue my statement later.

Mr. BAKER. Will the Senator do that? I understand that the Senator from Alaska has a 5-minute speech to make. He has been here about 2½ hours.

Mr. PRYOR. I am proud to yield to the distiguished Senator from Alaska.

Mr. MURKOWSKI. I thank the majority leader and the Senator from Arkansas for allowing me to proceed.

S. 1562—THE ARCTIC RESEARCH AND POLICY ACT OF 1981

Mr. MURKOWSKI. Mr. President, several months ago I stood before my Senate colleagues and stressed the need for a national commitment to Arctic science research. The United States is currently without a balanced and well-conceived Arctic research policy—a shortcoming which is detrimental to our quest for greater energy independence, harmful to important national security interests, and potentially damaging to a delicate Arctic environment and a unique indigenous culture. Today, I, along with the senior Senators from Alaska and Washington (Mr. STEVENS and Mr. JACKSON) am introducing legislation which we believe to be an important first step to help correct years of neglect and misdirected effort.

As tensions in and around the oil-exporting Middle East nations continue to increase, our vulnerability to a major disruption of crude oil imports remains painfully clear. The realization of this fact, the leveling-off of domestic energy demand, and increasing energy production from Arctic oil fields have helped to alleviate some of our dependence on expensive and unreliable sources of foreign oil. At the same time, our dependence on the energy resources of Alaska's North Slope is increasing. The major portion of America's new found energy resources will come from areas in Alaska north of the Arctic Circle. Alaskan oil—carried through the Trans-Alaskan oil pipeline—currently represents 16 percent of our Nation's domestic crude oil supply.

Some experts predict that half of all future U.S. domestic oil supplies will one day come from Alaska and its offshore fields. Increased development initiatives and billions of dollars in capital outlays will make this development possible. The Alaska Natural Gas Transportation System, a $30-plus billion project, will one day supply a significant percentage of our Nation's natural gas needs. Increased onshore and offshore energy exploration and development will be attempted in remote and forbidding areas where is has never been tried before.

Despite our increasing dependence on Arctic energy resources and the high stakes involved with their development, we are currently without the scientific knowledge and practical expertise necessary to develop these resources in a wise and conscientious manner. This new energy development will be accompanied by new technology, environmental disruption, and a wide variety of currently unanticipated problems that we are not equipped to deal with at the present time.

Clearly, a variety of scientific activity will have to be undertaken by and on behalf of a wide variety of private, Federal, and local interests. It is important to note that a good deal of Arctic research is already currently underway. However, the research sponsored by the Federal Government, private industry, State agencies, and independent scientific organizations has been fragmented or redundant in the past, and Federal research efforts have never had the benefit of a guiding policy. Duplication, inefficiency, and misdirected research efforts have often resulted as a consequence.

In light of our national dependency on the energy resources of the Arctic, I believe there exists a national responsibility to undertake the scientific research which is still needed to develop these resources wisely and without delay. The legislation we are introducing today is designed to help meet that responsibility.

Mr. President, our national interest in the Arctic does not end with the development of its energy resources. The Alaskan Arctic represents our only common border with the Soviet Union. That fact, along with our increasing dependence on the energy and mineral resources of the area, underscores the strategic importance of the Arctic.

Our own national security demands that we become better aware of the effect of unique Arctic conditions on our military capabilities in the area. It is my sincere belief that the strategic importance of the Arctic will soon rival that of the Persian Gulf. I fear the Soviets have come to realize this fact—they have undertaken a large coordinated Arctic research effort involving an estimated 20,000 scientists.

We, on the other hand, are less knowledgeable than we should be about phenomena unique to polar regions which affect the radio communications crucial to military operations. Little is known of seaborne movements in the Arctic, whether on the surface of the seas or in submarines beneath the waters and ice of the Arctic Ocean. Clearly, our national defense requires a more complete understanding of the Arctic and its effects on our military capabilities.

Mr. President, the Arctic is destined to become a site of increased activity—whether it be in the pursuit of increased energy independence or enhanced national security. Sadly, we are not fully aware of the best means to minimize the effects of this increasing activity on the unique Arctic environment. Pollution control requires an entirely different approach in the Arctic as compared with moderate climates. Transportation, waste disposal, and other potential disruptive activities associated with Arctic operations are still being tested and developed. As you would expect, a wide variety of scientific research still remains to be undertaken in this area, and without this legislation, we are still without the means to pursue that research.

Finally, Mr. President, the irreversible disruptions which could affect the unique culture of Eskimo people as a result of this activity trouble me greatly. The Eskimo people that reside in the Alaska Arctic should be allowed the opportunity to pursue their traditional culture—a culture which is utterly dependent upon the fragile Arctic ecosystem. The wide variety of wildlife, marine mammals, birds and fish, as well as the complex plant life of the tundra are highly sensitive and subject to damage unless properly protected during resource development. If we fail in our stewardship of the Arctic environment, the Eskimo culture could be irreversibly altered or lost.

Mr. President, for these reasons, I believe it is absolutely essential that Congress articulate our national commitment toward Arctic scientific research. It is essential that a mechanism be adopted which will lead to the creation and implementation of an Arctic science policy that will upgrade and help coordinate the scientific initiatives which are so critical to our Nation. It is good economics, and it is good government to adopt the approach specified in this legislation to address the issue of Arctic science policy. The costs, by any measure, are insignificant. The danger of failing to do what is proper and prudent carries large costs in terms of the delay, needless litigation, and expensive development efforts that fail for lack of the required information.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arctic Research and Policy Act of 1981".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Alaskan Arctic, onshore and offshore, contains vital energy resources which can reduce our dependence on foreign oil and improve our trade balance;

(2) the Arctic represents our only common border with the Soviet Union and is critical to our national defense;

(3) the Alaskan Arctic provides essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the nation and which are essential to the subsistence culture of Alaska Natives;

(4) the pace and scale of developmental activities and resource development projects in the Arctic—the United States, Canada, and the Soviet Union—is accelerating in response to the resource needs of the Arctic-rim nations;

(5) resource development projects that are either currently underway in or proposed for the Alaskan Arctic include—

(A) offshore petroleum development in the Beaufort Sea;

(B) the Alaska natural gas transportation system;

(C) a proposed natural gas liquids pipeline;

(D) scheduled lease sales onshore in the National Pertoleum Reserve—Alaska;

(E) exploration of the Arctic National Wildlife Range;

(F) development of icebreaking tankers to move oil from offshore areas to the United States;

(G) other Arctic-rim countries and Japan; and

(H) proposed development of Arctic coal reserves;

(6) Arctic research to date has been fragmented and has been accorded far too low a priority, whether measured in terms of energy resources, wildlife habitat, or national security;

(7) there is a need to better organize the Federal effort in Arctic research and coordinate this effort with ongoing State programs, university projects, and efforts by private industry and indigenous native communities; and

(8) a coordinated Arctic research policy is critical to our national defense, to the timely development of essential natural resources in the Arctic, and to the responsible management of fish and wildlife resources.

(b) It is the purpose of this Act to recognize the importance of the Arctic to our national security and to our economic well-being, and to ensure that needless delay, unnecessary conflict and significant economic losses that could result from the absence of an adequate Arctic research program do not occur. Therefore, the objectives of this Act are to—

(1) direct the administration of a coordinated Arctic research policy in which important basic and applied research issues will be addressed in a timely fashion;

(2) provide an information system through which the results of nonproprietary Arctic research carried out by Federal and State governments, universities, and the private sector are made accessible to the public in order to prevent inadvertent duplication of research;

(3) make the results of such research available to private industry, State governments, and local communities that are also conducting research on or are impacted by Arctic development;

(4) foster international cooperation among Arctic-rim nations, where appropriate, in the development and exchange of scientific information and technology;

(5) accelerate, where appropriate, the pace of basic and applied Arctic research so that needed resource development can take place on a timely basis and in accordance with national needs;

(6) establish the means for providing the financial support necessary to conduct needed applied and basic research; and

(7) establish an institutional framework to assure the achievement of these objectives.

ARCTIC RESEARCH COUNCIL

SEC. 3. (a) There is established the Arctic Research Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of the Interior, who shall serve as the Chairman of the Council, the Secretary of Defense and the Secretary of Commerce. The Governor of the State of Alaska may serve as an ex officio member of the Council. The Administrator of the National Oceanic and Atmospheric Administration, the Director of the Smithsonian Institution and the Director of the National Science Foundation may attend meetings of the Council as observers.

(b) The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council.

DUTIES OF COUNCIL

SEC. 4. The Council shall coordinate a comprehensive Arctic research policy. To carry out this function, the Council shall—

(1) establish a clearinghouse for all Arctic research that has been conducted by the Federal Government. Each executive department or agency of the Federal Government shall provide annually to the Council copies of all studies or reports completed by that department or agency, or on its behalf, related to research on the Arctic. The Council shall compile a comprehensive list and index to all such studies and reports, and shall, to the extent permitted by Federal law, make the studies and reports, as well as the index thereto, available to the public;

(2) request each executive department or agency of the Federal Government to keep the Council currently informed of all ongoing studies, reports, or research projects undertaken by that department or agency, or on its behalf, concerning Arctic research;

(3) establish, on an annual basis, after soliciting the views of affected Federal agencies, the State of Alaska, the native community and private industry, priorities for research activities based on national needs and ongoing activities;

(4) direct each executive department or agency of the Federal Government to prepare a report, within 6 months of the date of enactment of this Act, which contains—

(A) a list of all responsibilities or activities of the respective department or agency that may impact the Arctic environment or the residents of the North Slope of Alaska; and

(B) a description of the steps, including research, that the department or agency has taken or is planning to take to ensure that its activities or the activities of others for which it is responsible are undertaken in a manner that minimizes, to the maximum extent practicable, any adverse impacts on the Arctic environment and residents;

(5) determine, upon the completion of the study mandated in section 1007 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3147), whether the Naval Arctic Research Laboratory should be maintained to house and coordinate substantive research projects or for such other purposes as the Council deems appropriate. If the Council determines that the Naval Arctic Research Laboratory should be maintained, the Council—

(A) may delegate to or contract with any Federal department or agency, the State of Alaska, the North Slope Borough, or the State of Alaska university system to administer the activities of the Naval Arctic Research Laboratory; and

(B) shall permit any Federal department or agency, the State of Alaska, the North Slope Borough, public and private schools and universities, and the private sector to utilize the facilities of the Laboratory, provided that each user of the facilities shall pay to the Council all costs reasonably associated with its use of those facilities;

(6) manage the Arctic Research Fund established pursuant to section 6 of this Act;

(7) coordinate, after consultation with the Secretary of State and in conjunction with his offices, exchanges of information about the Arctic on an international basis; and

(8) report to Congress annually on the activities pursued by the Council.

ADVISORY COMMITTEE

SEC. 5. The Chairman of the Council shall establish an advisory committee comprised of—

(1) scientists with credentials in Arctic research;

(2) representatives of private enterprise active in the Arctic; and

(3) representatives of Native residents of the North Slope of Alaska;

whose views shall be sought and considered in the establishment of priorities for Arctic research activities.

ARCTIC RESEARCH FUND

SEC. 6. (a)(1) There is established an Arctic Research Fund into which there shall be paid 1 percent of all revenues received by the Federal Government from disposition by sale or lease of any interest in the Outer Continental Shelf located off the coast of the North Slope of Alaska and in lands on the North Slope of Alaska. The Arctic Research Fund shall support the activities of the Arctic Research Council and, if the Council determines that the Naval Arctic Research Laboratory should be maintained, the operating and maintenance costs of and the research activities conducted at the Naval Arctic Research Laboratory.

(2) No more than $25,000,000 shall be paid into the Arctic Research Fund in any 1 year and the total amount of money in the fund at any one time shall not exceed $50,000,000.

(b)(1) With regard to those Arctic research projects identified by an executive department or agency pursuant to section 4(2) of this Act and the responsibilities identified by an executive department or agency pursuant to section 4(4) of this Act, the respective executive department or agency shall maintain the responsibility to fund the projects it has so identified.

(2) If an executive department or agency administers a permitting program for exploration or development activities or transportation of energy resources, that department or agency shall, where authorized by other Federal law, require the applicant to conduct or fund specific Arctic research as is necessary to assure that the activity is accomplished in a manner designed to minimize its impact on the Arctic environment and the Native people of the North Slope of Alaska.

(c) Pending the accrual of funds in the Arctic Research Fund to a level sufficient to support the Arctic research mission established by this Act and the operating and maintenance costs at the Naval Arctic Research Laboratory, the Secretary of Defense shall provide the funding necessary to maintain the Naval Arctic Research Laboratory, unless the Council determines pursuant to section 4(5) of this Act that the Laboratory should no longer be maintained. Such funds shall be forthcoming from the various services based in Alaska and such other discretionary funds that the Secretary of Defense has available without regard to restrictions in previous authorization or appropriations Acts.

DEFINITION; NONAPPLICABILITY OF THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 7. (a) For purposes of this Act, "North Slope of Alaska" means all United States territory, offshore and onshore, north of 68 degrees north latitude.

(b) The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement by the Arctic Research Council or the Secretary of Defense for any activities conducted pursuant to the provisions of this Act.

Mr. STEVENS. Mr. President, I am pleased to join my good friend, Senator MURKOWSKI, to cosponsor this measure to establish an Arctic research policy at the national level. As some of you are aware, there is a great need to promote and consolidate Arctic research programs. Tremendous natural resources lie in the Arctic and the pace of the exploration activity that is planned over the next decade is a sizable one.

I feel that the national focus in the past has been on antarctic—rather than Arctic research—although our real national interests are certainly more substantial in the Arctic. Both in the area of national defense and basic resource capability, the Arctic will provide a sizable share of our future development efforts. I feel there are significant effects on the Alaskan Native community that also need to be assessed, and there is

a need to share technical information with a large number of small business concerns that operate in the Arctic environment.

I see this bill introduced by my good friend as an effective means to take that first step to establish consolidated national direction for Arctic research. I urge your careful consideration of this measure and hope that the Senate will be able to take prompt action on it.

Mr. MURKOWSKI. Mr. President, I very much appreciate the accommodation by the Senator from Arkansas.

ORDER OF BUSINESS

Mr. PRYOR. Mr. President, I express my thanks to the majority leader for working this time in for me and I do ask unanimous consent that my remarks appear in the RECORD as spoken without interruption or I should say intervening causes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I wish to assure my colleagues this is not a filibuster. It is simply a minimarathon that I am engaging in for a little while this afternoon to tell our colleagues and the taxpaying citizens out there about how the Defense Department is spending some of our tax dollars.

Mr. President, as I continue I was in discussion relative to a contract awarded at DOD for $294,000 to survey drug and alcohol abuse within the military services.

(Mr. PRYOR's complete remarks are printed earlier in today's RECORD.)

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order the Senator from Michigan (Mr. LEVIN) is recognized for not to exceed 15 minutes.

Mr. LEVIN. Mr. President, would the Chair alert me when I have used 7½ minutes of my special order?

The PRESIDING OFFICER. The Chair will do so.

Mr. LEVIN. I thank the Chair.

ARMS CONTROL IMPLICATIONS OF IMPORTANT NATIONAL SECURITY POLICY DECISIONS

Mr. LEVIN. Mr. President, I want to take this moment to express my strong concern over inadequate consideration being given by the new administration to the arms control implications of important national security policy decisions.

The failure to adequately consider how these policy choices will affect present and future arms control agreements and efforts threatens our national security.

For instance, recent testimony before both the Armed Services Committee and the Foreign Relations Committee clearly indicates that chief foreign policy and arms control officials of the new administration are not being consulted on the most important defense and arms control decision this country may ever have to make, the selection of the MX missile basing mode.

And testimony before the Armed Services Committee demonstrated that arms control considerations were apparently not addressed when the administration decided to sell sophisticated airborne warning and control—AWACS—aircraft to Saudi Arabia.

We all know there are foreign policy and arms control implications of the MX basing mode, in general, Mr. President. Our NATO allies have connected it with their willingness to accept modernization of our theater nuclear forces in Europe. That connection may or may not be unwise, but it nevertheless exists.

We know that without a SALT II agreement limiting the expansion of Soviet missile warheads there are strong doubts whether the multiple protective structure basing modes being evaluated for the MX could be effective in protecting the survivability of our land-based missiles.

We know that some of the deployment proposals for the MX involve abrogating the anti-ballistic-missile treaty and protocol, an action which could have great disadvantages for our defense because Soviet ABM systems, if deployed as a result of our abrogation, could seriously weaken the effectiveness of our own missiles.

And our European allies would question our commitment to continuing the arms control process if we are to tamper with the ABM treaty, since they view it correctly as the one concrete achievement from years of international arms control efforts.

But has this administration asked its chief arms control official about these issues as it decides an MX deployment scheme? No, it has not. Let me read the exchange I had a few days ago with Eugene V. Rostow, the President's choice to head the Arms Control and Disarmament Agency:

Senator LEVIN. Have you made known to the Secretary of Defense and the President the implications for arms control of those various modes so that when they look at the MX basing questions they can have the arms control inputs from you?

Mr. ROSTOW. Well, not yet.

Senator LEVIN. Shouldn't the Secretary have those implications in front of him when he is making his decision?

Mr. ROSTOW. That is the Secretary's choice. He has got enough complications now.

Senator LEVIN. You have not been asked for those?

Mr. ROSTOW. No. I have not participated in that process.

Similarly, Mr. Richard Perle, the administration's nominee to be Assistant Secretary of Defense for International Security Affairs, a top foreign policy post in the Pentagon, early this week told the Foreign Relations Committee that he has not been centrally involved in the MX basing deliberations.

The sale of AWACS aircraft to Saudi Arabia raises serious arms control concerns from a regional perspective, Mr. President. This is important in and of itself, but it also is important because the region of the world involved—the Middle East/Persian Gulf—is the most volatile and tense geographic area in the world today.

Conflict within that region threatens not only economic catastrophe for many nations in Europe and North and South America, but it ultimately could lead to a nuclear confrontation between the United States and the Soviet Union.

The United States should not be contributing to altering the present military balance in the region in any way, and it certainly should have adequately considered the arms control implications of this before it agreed to this sale.

Did the administration ask its top arms control official about these implications of the AWACS sale? No. These excerpts from our Armed Services Committee hearing with Mr. Rostow, are convincing evidence of this. Let me read them:

Senator EXON asked Mr. Rostow the following questions:

What is your position, your official position and your personal position, and certainly indicate, if you can, if there is a conflict between them, on the proposed sale of the AWACS aircraft to Saudi Arabia?

Mr. ROSTOW. I have not completed our studies of that. I shall have to make a statement on that subject, I presume, somewhere down the line fairly soon, and I have read some of the preliminary documents, but I have reached no conclusion as yet.

Senator EXON. Has the Administration contacted you about your views on this?

Mr. ROSTOW. No.

Senator EXON. Would it have been proper for them to do so?

Mr. ROSTOW. Not yet.

I then asked Mr. Rostow the following questions:

Senator Exon asked you whether or not you had been asked your views relative to the AWACS sale, and you said no, and he asked you whether or not you thought it was approporiate, if I remember his question correctly, and you said no, and now my question is why would it not be appropriate for you to be asked your views on AWACS, first, and on the arms control implications of the MX basing mode, second?

Mr. ROSTOW. Well, I suppose it is a possible procedure, but the Director of the Arms Control Agency is not normally a participant in every Defense decision, or even in every defense aid decision.

I then asked:

Well, but my heavens, why should the Secretary of Defense make those recommendations without the benefit of your input?

Mr. ROSTOW. Well, I think the Secretary of Defense has—I believe he has a right under the statutes and under the customs of the United States to make defense recommendations, and I do not propose to barge in on him.

Mr. President, I think there can be no question that foreign policy and arms control implications must be considered in any national defense decision. Arms control is not a substitute for military programs. It should complement them, it can support them, in ways which are beneficial to our overall national security.

This administration ignores its duty to protect the American people when it does not recognize this.

This situation must change in the near future, Mr. President, if this administration is to responsibly discharge the obligations it was elected to assume last November.

Mr. President, I thank the Chair and I yield the remainder of my time to Senator EXON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair and I thank my friend and colleague from Michigan.

Mr. BAKER. Mr. President, will the Senator permit me to interrupt him for one brief moment?

Mr. EXON. I am happy to yield to the distinguished majority leader.

DEPARTMENT OF JUSTICE AUTHORIZATION BILL

Mr. BAKER. I thank the Senator from Nebraska.

Mr. President, a parliamentary inquiry: At the conclusion of the last special order, would the Department of Justice authorization bill recur as the pending business before the Senate?

The PRESIDING OFFICER. It would.

Mr. BAKER. Mr. President, I ask unanimous consent that the Department of Justice authorization bill not be laid before the Senate during this calendar day as the pending business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair and I apologize to the Senator from Nebraska. I appreciate his willingness to permit me to make that request at this time.

ARMS CONTROL

Mr. EXON. I thank my friend from Tennessee, the distinguished majority leader.

Mr. President, I rise today to join my able colleague from Michigan in discussing a subject that has received insufficient attention from this administration. The Senator from Michigan and this Senator do not completely agree on all matters affecting our defense buildup, but we are in complete agreement on the need to actively pursue arms control agreements.

Senator LEVIN has already cataloged for the Senate the questions posed to, and the responses given by, Mr. Eugene Rostow, the Director of the Arms Control and Disarmament Agency, with regard to the lack of consultation with his Agency by the Reagan administration—in particular, with regard to important proposals for foreign military sales and U.S. strategic weapons.

Mr. President, I was surprised, indeed, when, in response to my question of this important person with regard to arms control, he said that he had not even been consulted by the administration to date with regard to the basic mode of the MX.

Now, I think we all should understand that where and how and if or ever the MX is deployed, it will have to have the direct relationship to this Nation and those that we wish to get together with to at least start talking about some type of arms control.

Mr. President, the administration says that its entire arms control policy is still under review. Even if one does not quarrel with this premise and fact of life, I find it unacceptable that the normal processes of intergovernmental consultation on such matters have been bypassed. It would seem to this Senator that if the top officials of the administration have not even begun talking about specifics 7 months into their term and 9 months since the election on arms control and what we are going to do about it, then someone is dragging their arms control negotiation feet.

Arms control impact statements are annual statements required by law. Yet the world does not stop between the issuing of these statements each winter. The proposed sale of the AWACS aircraft to Saudi Arabia and the Townes Commission on Reports on AMX Basing have been and will be off-cycle decisions in the middle of the year. But that does not mean that Arms Control and Disarmament Agency should have no role to play, but simply issue their impact statement after the administration has made its decisions.

I think that most, to understand this issue, would have to agree that that basically is wrong.

The Arms Control and Disarmament Agency's primary function is to advise the President on the arms control implications of his actions—not just the issue after-the-fact justification for decisions already made. It is no sign of weakness for the President and the executive branch to receive this input along with that of the State and Defense Departments. On the contrary, it is only prudent.

I salute my colleague from Michigan in bringing this issue before the Senate. This administration must get serious about arms control, in addition to its already stated commitment, with which I agree, to increase defense spending and foreign military sales—because they all play a part in our own national security.

There is no reason, Mr. President, that if we build upon our defense and ask our military allies to do likewise, that we do not simultaneously begin serious consultation among our allies and with the Soviet Union at the earliest possible date. Such action might prove fruitless, and it is possible that the Soviets would not be reasonable and/or responsive. Talking about arms reduction, the only real chance any country has to at least deescalate the maddening arms race now in full swing is certainly not a sign of weakness but, to the contrary, it is a sign of optimistic strength, in the opinion of this Senator.

Mr. President, that concludes my remarks on this subject. In the balance of the time remaining to me, I would appreciate the opportunity to take up another subject. I will ask how much time is remaining.

The PRESIDING OFFICER. Two minutes remain.

Mr. EXON. I thank the Chair.

MILITARY MANPOWER

Mr. EXON. Mr. President, I was advised a few moments ago by the distinguished Senator from Iowa, the chairman of the Manpower Subcommittee of the Armed Services Committee, of which I happen to be ranking member, that the office of the Secretary of Defense has been making calls around, indeed they have been suggesting, to individuals on both sides of the Hill that delays be placed upon the consideration of the manpower bill reported by our subcommittee and by the full Armed Services Committee.

It seems to me, Mr. President, this is once again unfair, untimely, interference by the executive branch in the deliberations of our two bodies on this tremendously important matter.

I do not quite appreciate the fact that the Secretary of Defense, or those working very closely with him, is attempting to torpedo the carefully constructed manpower increase bill that we are putting forward.

I know that there are others who have differences of opinion, and that it what this is all about. But I think for the Secretary of Defense at this time to begin interferring with the deliberations of the U.S. Senate and the House of Representatives is not only untimely, but indicates to this Senator that the Department of Defense probably does not fully understand the very difficult problems that we have in the immediate future with regard to the manpower of all of our Armed Services.

I yield any remaining time to the Senator from Michigan, if he has further comment.

Mr. LEVIN. Mr. President, in the few seconds remaining, I thank my friend from Nebraska for his strong statements and his kind remarks. I commend him for a forceful statement.

UNANIMOUS CONSENT AGREEMENT—LEE NOMINATION AND RECONCILIATION CONFERENCE REPORTS

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I indicated earlier today at the beginning of the session at some point during the day I would ask the Senate to go into executive session for the purpose of considering the nomination of Rex E. Lee, of Utah, to be Solicitor General of the United States. I am prepared to do that at this time, Mr. President. Before I do so, Mr. President, I would like to propound a unanimous-consent request.

I expect that before very long the Senate will receive a message from the House of Representatives on the reconciliation conference report. That is, of course, a privileged matter. But to make sure that we can proceed to its consideration deliberately and without difficulty, I ask unanimous consent that when we proceed, if we proceed, to the consideration of the Rex Lee nomination to be Solicitor General in executive session, that any time during the consideration of that nomination it would be in order on my motion to lay aside temporarily the nomination and proceed to to the consideration of the reconciliation conference report, when it is available; that upon the disposition of that conference report the Senate immediately return to executive session for the purpose of completing action on the Rex Lee nomination. That is the request, Mr. President.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BAKER. I thank the Chair.

Now, Mr. President, I do now ask unanimous consent that the Senate go into executive session for the purpose of considering the nomination of Rex E. Lee, of Utah, to be Solicitor General of the United States.

Mr. LEAHY. Reserving the right to object, Mr. President, and I shall not object, I have a couple of housekeeping chores that will take me about 3 to 4 minutes. I was wondering if there was some way that that time could be accommodated.

Mr. BAKER. Yes, Mr. President, I am willing to do that now, if the Senator wishes.

The request has been granted, has it not, in respect to the first request, the authority to set aside the nomination?

The PRESIDING OFFICER (Mr. WARNER). The majority leader is correct.

Mr. BAKER. I withdraw temporarily my second request to accommodate the Senator from Vermont.

Mr. LEAHY. I have no objection to the Senator proceeding.

Mr. BAKER. I think the Senator ought to go ahead with his matter.

Mr. LEAHY. I appreciate the helpfulness of the majority leader.

STAFF RETURNS TO VERMONT DURING RECESSES

Mr. LEAHY. Mr. President, 4 years ago, I announced on the floor of the U.S. Senate that I was going to conduct an experiment. I announced I would send my entire Washington staff up to Vermont for the August recess to meet and talk with Vermonters so that my staff could get a firsthand account of how the Federal Government affected their lives. It was a firsthand chance to ask my constituents how things could be improved and what was important to them, be it of local and State, National, or international significance.

My idea for this experiment came from my own personal feeling and awareness that grew with each one of my more than 100 trips back to Vermont during my first 2 years. I found that, on many occasions, not surprisingly, people in Vermont thought differently from what the Washington "experts" and media reported to be the public consensus. They often had viable ideas that Washington "experts" had not even considered.

I found my trips back to Vermont to be so valuable that I decided to see how it would affect my staff. Well, that first August 1977 staff trip was so successful that I sent the staff back up two more times during my first term.

Because it is so valuable, I found it worked well to have the staff go back. We have done this now several times, Mr. President, over the period of years during the recesses, the August recesses especially but sometimes during the winter recesses when it gets down to 35 below zero in Vermont. It has worked very well.

For many of them it was a sacrifice for they were away from their families and had additional living expenses while traveling around the State. There were also long working hours, but they and I felt that this effort was important.

Not only did my staff experience the same renewal of commitment and determination that I did, but much of my work during my first term in the Senate grew out of those trips—preserving prime farm land, "Put-It-To-Congress," the Rural Policy Act, rural health clinics, the Vermont forest management demonstration, and economic revitalization.

We found that, not only was Vermont on the cutting edge of many emerging national domestic issues, but that Vermonters were already dealing with and finding solutions to many of these problems rather than just standing around talking about them. I believe it was this action, the ability to try out and to experiment with ideas, that we so often just see on two-dimensional pieces of paper in Washington, that make these trips back home so valuable.

Well, today I am announcing the first August trip of my second term. This weekend half of my Washington staff leaves to spend a week in Vermont, followed by the other half next week. The two groups will overlap 1 day, at which time I will meet with the entire staff from both my Vermont and Washington offices, and we will all have the opportunity to meet and talk as one.

The rest of the time, the Washington staff will travel around the State, often together with members of my Vermont staff, to visit with folks and to see, and hear, themselves, what the people think—how they think we should shape and mold our lives.

My staff will be visiting municipal utilities that are developing lowhead hydro, businessmen who are experiencing true entrepreneural spirit in developing, marketing and selling energy technologies. They will listen to providers of health care, men and women who are working together to maintain the specialness of Vermont's towns while creating new jobs and retail businesses.

These staff trips have proven successful in the past. And I think there is a need for the staff trip this summer more than ever before for a variety of reasons.

I shall spend the time with them wherever they go, doing everything from dealing with business people to environmentalists to alternative energy technologies. I think that is going to be well worthwhile because, first, and perhaps most importantly, the role of television has taken on a new level of involvement in the political process. More than 95 percent of all American households have televisions in their homes. While television has been an obvious fact of life for some 30 years now, its use this spring in conveying what was happening here in Washington was unprecedented.

Not only were people "out there" affected, we here in Washington were affected by what was reported by the "experts" to be the public consensus.

Second, the action in Congress of these last several weeks has resulted in monumental changes that we have not yet begun to fathom.

We have been targeted by the special interests, pressured by single-issue groups and had our arms twisted by professional lobbyists.

Mr. President, the time has come for me and my staff to go home once again and listen to Vermonters.

To my good friend from Tennessee, the majority leader, I assure him that I shall slip back into town at his call if he needs me at some point during that period. But, Mr. President, I assure him that with all due respect to the two leaders, who are both here, both of whom are two of my closest friends, I shall not miss them at that time. I shall be a lot happier to be in Vermont.

Mr. BAKER. Mr. President, I can tell my friend from Vermont—and indeed he is my friend—that not only do I hear him but I understand him. I understand the tug of his State; indeed, I feel that tug from my own. I am going to return to Tennessee and have opportunities to travel among the citizens of that State and enjoy some of the opportunities that I hope we have to rest and relax. I wish the Senator well in his similar pursuit.

Mr. LEAHY. I thank the majority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination of Rex E. Lee of Utah to be Solicitor General of the United States.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I shall object on behalf of a Senator or Senators.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I thank the minority leader. Indeed, he advised me in advance, I wish the record to show, that it would be necessary to make that objection on behalf of a Senator or Senators. I express my gratitude to him for the courtesy he showed in this instance and that he always does.

In that case, Mr. President, it is my responsibility, I think, to move—and I do now move—that the Senate go into executive session for the purpose of considering the nomination of Rex E. Lee. Calendar Order No. 305 on today's Executive Calendar

Mr. ROBERT C. BYRD. Mr. President, that is a nondebatable motion, but I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. ROBERT C. BYRD. Does the distinguished majority leader maintain that it is in order to move to go into executive session to take up a nomination on the Executive Calendar that is not the first nominee on the calendar?

Mr. BAKER. Mr. President, the minority leader, who is an absolute oracle on the procedure of the Senate—indeed, who has laid the predicate for many of the precedents of the Senate in his own right and during his tenure as majority leader—understands and recalls. I regret to say, how many times I, as minority leader, took the contrary position and asserted as stoutly as I knew how that it was not in order to move to the consideration of a particular item on the Ex-

ecutive Calendar which was not the first item. But the minority leader will recall as well that he prevailed in those cases and established the precedent of the Senate to the contrary of my assertions. Now, Mr. President, in this present incarnation as majority leader, I see with blinding clarity the wisdom of his earlier action and the error of my previous ways.

Mr. MATHIAS. Will the majority leader yield on that point?

Mr. BAKER. Yes, Mr. President.

Mr. MATHIAS. It is just to observe as so many have observed before me that those who live by the sword die by the sword.

Mr. BAKER. Mr. President, it is my contention, as I believe it has been on previous occasions the contention of the distinguished minority leader, that it is in order to move to the consideration of a nomination on the calendar that is not the first nomination in sequence on that calendar.

Mr. ROBERT C. BYRD. Mr. President, may I take a moment to respond to the majority leader?

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. I think it is preeminently appropriate that the majority leader's motion be in order, that he move to take up a particular nomination on the Executive Calendar. I thought it was right when I was majority leader; I think it is right now that Mr. BAKER is doing a very able job as majority leader, so I am willing to let the matter rest there.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to and the Senate proceeded to the consideration of executive business.

DEPARTMENT OF JUSTICE

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate the nomination designated previously.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Rex E. Lee, of Utah, to be Solicitor General of the United States.

Mr. BAKER. Mr. President, may I inquire of the minority leader if it is possible to arrange a time agreement for the consideration of this nomination?

Mr. ROBERT C. BYRD. Mr. President, it is not possible at this time. I shall have to canvass further my side of the aisle At the moment, I must reluctantly say no.

Mr. BAKER. I thank the minority leader.

Mr. President, I yield the floor.

Mr. MATHIAS. Mr. President, Dean Rex E. Lee comes to the position of Solicitor General with eminent qualifications. He graduated first in his class from University of Chicago School of Law; he was the Assistant Attorney General of the Department of Justice Civil Division during the Ford administration; he is the dean of the J. Reuben Clark School of Law at Brigham Young University. He has received glowing professional praise from his past and present colleagues.

However, Dean Lee has been a very vocal opponent of the equal rights amendment. Careful review of his book on this subject, and his testimony before the Senate Judiciary Committee, has revealed to me that I have a very basic disagreement with Dean Lee on both the need for and the potential effect of the ERA. Dean Lee does not believe that the ERA is an appropriate vehicle for the achievement of equal rights for women.

Mr. President, I do believe that ERA is the appropriate vehicle for the achievement of equal rights for women.

The pro-ERA groups in this country believe that Dean Lee's opposition to the equal rights amendment is tantamount to being against true equality for men and women under law. That is what they believe. These groups, and many individuals across the country, have gotten in touch with my office to protest this nomination. I have not taken this protest lightly.

I also take notice of the fact that Dean Lee has given his unqualified assurance—and, Mr. President, I repeat that and I note that that is a direct quotation from Dean Lee—his "unqualified assurance" that he supports equality for all Americans, and that, should he be confirmed as our next Solicitor General, he will devote his energy and demonstrable talents as an advocate for all Americans, without discrimination of any kind by race, by color, by religion, or by sex. Mr. President, I accept those assurance and I shall support his nomination.

Mr. KENNEDY. Mr. President, I have given a great deal of thought to the nomination of Mr. Rex Lee for the important position of Solicitor General of the United States. I think that all of us in the Senate have a very keen awareness of the importance of this position in the formulation of national policy. It has been suggested that a solicitor general is a tenth member of the Supreme Court, and as I look back over my term in the Senate, I have seen firsthand the enormous influence that solicitor generals have had.

A solicitor general has an important voice in the determination of which cases will be brought to the Supreme Court of the United States. As the principal advocate of the Justice Department, he makes important decisions as to the presentation of issues before the Supreme Court.

Therefore, I believe that anyone who is going to serve in that important position should be sensitive to the basic and fundamental concerns of the people of this Nation.

It is inconceivable that we would vote for an individual to be solicitor general who is not fully committed to the elimination of racial discrimination, prejudice, and bigotry in this country. So, too, I believe it is important that we establish a clear standard against the confirmation of any individual not fully committed to the elimination of discrimination, bigotry, and prejudice based on sex.

I know that Mr. Lee has come here well recommended by our colleagues, Senator HATCH and Senator GARN, and by Wayne Owens, a former Congressman who has been a close personal friend of mine and in whom I have great confidence. During the course of hearings before the Senate Judiciary Committee, I had the opportunity to meet Mr. Lee, and I agree with my colleagues that he is a man of high integrity.

Yet, I can not support his nomination, because I believe he does not demonstrate adequate sensitivity to the problems which women face in this society. This is an issue of enormous importance. Time and again, in many different sections of this country. I have seen the injustices and the lost opportunities that exist in this society because of the failure to assure women the full protections of the law.

I respect Mr. Lee's opposition to the equal rights amendment. I took the opportunity over the July Fourth recess to read carefully his book on the ERA. I also studied closely the record of the law school where he was dean on the issue of the progress made on women's rights.

During the hearings, I was very much encouraged by my own personal exchange with Mr. Lee and his responsiveness on this issue. I hope that this hearing was also helpful to Mr. Lee in terms of his understanding of the concerns of women.

Nonetheless, I cannot in good conscience find that he has the sensitivity to women's issues which a solicitor general must have.

Mr. Lee says he believes in equal rights for women. But he cannot have a sufficient commitment if he is the leader of the opposition to the equal rights amendment, which I believe, is essential to the full attainment of those rights.

Mr. President, there have been those on the Senate Judiciary Committee, as well as other Members of this body, who claim we are setting a single-issue standard in opposing this nominee. I have strongly opposed the establishment of a single-issue standard, whether for a nominee to the Federal judiciary or a Cabinet official or even for elective office in this country.

We are a country of many different interests. We pride ourselves on a sense of pluralism. Whether we are talking about elective office, appointive office, or service on the judiciary, I believe it would be unfair to the individual and to the country if we were to establish a single-issue veto for any individual.

Having said that, I also feel that the failure of Mr. Lee to demonstrate his sensitivity on the issue of equal rights for women is not a single issue, because it is a majority issue. The majority of the people of this country are women.

The equal rights amendment, I believe, is critical to the elimination of barriers for women in our society who have been discriminated against since the early days of the Republic.

Mr. Lee has been an unyielding opponent of the equal rights amendment, not only in the preparation and development of his book, but also. in his continued lectures around the country. While I respect Mr. Lee's intellectual reservation that the ERA is not the appropriate way to achieve full rights for women in our society, he has not. to my satisfaction, ever demonstration by ac-

tion his personal commitment and sensitivity to equal opportunities for women. That may be an unfair judgment. I do not believe it is. I hope I will be proved wrong. But it is the conclusion I have reached after thoroughly examining his record.

Mr. President, Mr. Lee is a man with many admirable qualifications. However, given his past record, I cannot support his nomination. I voted against him in the Judiciary Committee, and I urge my colleagues in the Senate to oppose his nomination today.

Mr. METZENBAUM. Mr. President, I will vote against the nomination of Rex Lee to be the next Solicitor General of the United States, and I believe that my colleagues in the Senate are entitled to some explanation with respect to my reasons for this vote.

I agree with the distinguished Senator from Massachusetts that it is not a question of Mr. Lee's technical qualifications, because I believe everyone will agree that he is an able lawyer and he is well qualified to represent the United States in court. What I question, frankly, is his commitment and sensitivity to the advancement of equal rights and equal justice.

In Mr. Lee's nomination, we have a special kind of situation. He is even in a position different from that of a number of the judiciary. He is in the position of being hired as the attorney for the United States. As the Solicitor General, I believe we have a right to concern ourselves as to whether he would have anything less than full enthusiasm in connection with being an advocate in the Supreme Court.

His work in opposition to the equal rights amendment demonstrates a total lack of sympathy for and understanding of the need to guarantee equal rights for women under the Constitution.

During his tenure as the first and only dean of the Brigham Young University, he demonstrated no—and I emphasize "no," none, nothing—serious commitment at all to the advancement of women in his profession, either through admissions to the law school or through faculty appointments.

During his association with the Mountain States Legal Fund he actively participated in decisions to bring suits seeking to gain control of public resources for the benefit of private interests; and he participated in decisions to oppose efforts to secure equal rights for women and minorities.

I ask unanimous consent to have printed in the RECORD statements in opposition to the nomination of Mr. Lee from the National Education Association, the National Organization for Women, and the League of Women Voters.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE NATIONAL EDUCATION ASSOCIATION ON THE NOMINATION OF REX E. LEE

THE NOMINATION OF SOLICITOR GENERAL-DESIGNATE REX E. LEE

The National Education Association, representing more than 1.7 million public school employees nationwide, has strong reservations over the nomination of Rex E. Lee to be Solicitor General of the United States.

The NEA is deeply concerned that Mr. Lee would not be able to override his expressed biases about the lives of one-half of America's population and treat the office of Solicitor General with the evenhandedness necessary to make sound judgments. We respectfully request that Mr. Lee's recent book[1] (which is generally unavailable at bookstores) be entered into the official record of this hearing.

FUNCTION OF THE SOLICITOR GENERAL

The office of Solicitor General is uniquely important to the enforcement of law. The fact that the United States Supreme Court grants certiorari in about 80 percent of the cases brought by the Solicitor General compared to roughly five percent for other attorneys demonstrates the sweeping respect provided the Solicitor General by the Justices of the U.S. Supreme Court. The Solicitor General's ability to intervene on behalf of the federal government in any case before the U.S. Supreme Court which has constitutional impact and the credibility traditionally assigned by the Court to that office's amici curiae exemplify the power and stature of the office.

Additionally, the Solicitor General has the authority to determine which cases to pursue and which to drop. The Solicitor General may concede error of the federal government and settle cases without adjudication. The choice of Solicitor General is critical to the legal and constitutional framework of the United States of America.

THE SOLICITOR GENERAL-DESIGNATE AND WOMEN'S RIGHTS

Mr. Lee is an outspoken opponent of the Equal Rights Amendment. His book, "A Lawyer Looks at the Equal Rights Amendment," demonstrates an unyielding opposition to the concept of guaranteeing equal rights for women under the Constitution. His entire book emphasizes a bias which is stated repeatedly and is summarized in this quote:

"Neither for this generation nor for those that will follow is it in our national interest to cut off debate on that issue by making unconstitutional government's power to prefer women."

The statement is astonishing and appalling. The corollary is that government has the power to prefer men. To NEA, government preference of one sex over the other, simply on the basis of sex, is completely unacceptable as the policy of this nation. Yet it is clearly Mr. Lee's bias.

The Equal Rights Amendment would provide the constitutional means to eradicate at least official governmental implementation of this bias and it is before the people for ratification. It is possible that issues surrounding ERA rescission and extension would come before Mr. Lee if he were confirmed as Solicitor General.

Mr. Lee states further the ERA is potentially a massive change while what is needed is government flexibility to deal with equality of women.

"Regardless of where we were ten years ago, or thirty years ago, or a hundred years ago, today we are at the fine-tuning stage. The need is for careful case-by-case examination of whether and to what extent men and women should be treated differently. A constitutional amendment, very simply, is not a fine-tuning instrument. It has more the qualities of a sledgehammer."

NEA disagrees. If equal treatment of American citizens depends upon flexibility, or to put it another way, governmental whim, there is no guarantee of equal rights for all persons—or for any—in the United States.

[1] *A Lawyer Looks at the Equal Rights Amendment*, Brigham Young University Press, Provo, Utah 1980.

CONCLUSION

Since Mr. Lee has chosen to take a strong public stand in opposition to the Equal Rights Amendment which will come before him if confirmed, he has effectively disqualified himself as Solicitor General and we respectfully ask that he withdraw himself from consideration. If he declines we urge the Committee to recommend disapproval of the nomination.

STATEMENT OF ELEANOR SMEAL

My name is Eleanor Smeal, and I am President of the National Organization for Women (NOW). As President of NOW, I represent 140,000 members nationwide. We are the largest membership organization in the United States dedicated to advancing the legal, economic, social, and political rights of women. We appreciate the opportunity to appear before the Committee today to express our opposition to the Administration's designee for Solicitor General of the United States: Dean Rex Lee of the Brigham Young University Law School.

Because NOW is regularly engaged in litigation in support of its goals of equal rights and opportunities for women, we are particularly aware of the importance of the office to which Dean Lee has been nominated. Other than a Justice of the Supreme Court, no one person has (or is capable of having) as great an impact upon the development of constitutional and federal law as is the Solicitor General. This is so because the Solicitor General is totally responsible for the conduct of litigation (and the establishment of litigation policy) of the United States before the Supreme Court. Indeed, the office of the Solicitor General is so highly respected by the members of the Court that it grants certiorari in 80 percent of all cases which the Solicitor General brings before it. Moreover, the Solicitor General's views are frequently requested by the Court in non-governmental cases raising constitutional and federal issues. The authority and responsibility of the Solicitor General are not limited to practice before the Supreme Court. All appeals filed by the United States (and by most of its agencies) must be approved expressly by him.

Because his authority is so pervasive, the Solicitor General is in a uniquely powerful position to influence the body of law concerning women's rights. NOW is seriously concerned that the nomination of Dean Lee will ultimately result in the substantial undermining of the progress for which we have fought so hard over the past decade. We believe that Dean Lee has demonstrated a significant bias (or extreme insensitivity to) equal rights for women. Our opposition is based principally on three factors: (1) Dean Lee's close association with the Mountain States Legal Foundation and its goals; (2) his record as dean of the Brigham Young University Law School, vis-a-vis women and minorities; and (3) his ill-conceived opposition to the Equal Rights Amendment.

Until his resignation last month (following announcement of his nomination), Dean Lee had been an active member of the Board of Litigation of the Mountain States Legal Foundation (MSLF).

The MSLF, which is a part of a network of organizations affiliated with the National Center for the Public Interest, acts as a "public interest" law firm espousing the economic views and political concerns of its large corporate contributors. Contributors include the Exxon Corporation, Adolf Coors Corporation, ASARCO, Inc., Phelps Dodge Corporation, and several utilities. Its former chairman, Joseph Coors, expressed the MSLF's mandate as being one designed to "meet the challenges made by the extreme environmentalists, no-growth advocates, and excessive government."

In keeping with its restricted view of the world, the great bulk of MSLF litigation (all of which Dean Lee has voted upon) seeks to gain control of public resources for the benefit of private interests and opposes the equal rights of women and minorities. Its position on issues important to women is demonstrated by the following:

The MSLF has sought to cripple Title IX by opposing the most effective means of its enforcement, the withholding of federal funds to institutions that will not promise to abide by its requirement of equality.

The MSLF has (in *Delio* v. *The University of Colorado Law School*) opposed all affirmative action and quota systems as being unconstitutional irrespective of prior discriminatory practice or the need to remedy them.

An MSLF affiliated foundation has opposed as unconstitutional EPA contract set-asides for women-owned businesses.

The most revealing position which the MSLF has taken is, of course, its challenge to Congress's 1978 extension of the time period for ratification of the Equal Rights Amendment and its support of the Idaho Legislature's attempted rescission of its ratification of the Amendment (*Idaho et. al.*, v. *Freeman et. al.*).

Organizations such as the Mountain States Legal Foundation do not litigate in a vacuum. They approach litigation with an overall strategy and purpose in mind. I am on the Board of such a foundation (the NOW Legal Defense and Education Fund), and this is how we choose our cases. When one looks at the MSLF's challenge to the ERA in the context of its other litigation and general philosophy of opposing women's rights, one can only conclude that the ERA litigation is far more than an abstract question dealing with amendatory procedure.

It is simply an overt attempt to frustrate the desires of millions of American women to obtain recognition of their equal rights in the fundamental governing document of our nation. Dean Lee's continued participation in the activities of the MSLF speaks volumes as to his lack of concern with or commitment to the rights of women. We cannot seriously expect from Dean Lee a commitment any different in substance or kind than that he has demonstrated through participation in the affairs of the MSLF.

As I have previously noted, the MSLF's major objective is to further the interests of its corporate contributors in opposing legitimate government activities in the enforcement of federal statutes and regulations. Dean Lee has not only identified himself with this organization and its affiliates, but, as a member of its Board of Litigation since its inception, has also worked to shape its anti-government policies. No one questions his right to do so as a lawyer and as a private citizen.

But, it is another matter to approve of his appointment to an office which has discretion to enforce the very statutes, regulations, and policies which he opposed and which remain the law of the land. It is a legitimate inquiry for this Committee to determine whether these circumstances render Rex Lee unfit to serve as Solicitor General.

We understand that Rex Lee has offered to rescue himself from several matters including the ERA ratification period case. However, he has not offered to withdraw from the large number of other cases in which the MSLF and its affiliates are involved.

Recusal, in any event, is not the solution since the ultimate responsibility for Supreme Court litigation is vested in the Solicitor General; all others in that office are subordinate and are under his direction and control. The propriety of Lee's participation in numerous cases stemming from his association with the MSLF will continue to arise. In this situation, recusal is not the solution; what is required is this Committee's disapproval.

Dean Lee's performance as the first and only dean of the Brigham Young University Law School also concerns us greatly. During his tenure he demonstrated no serious commitment to (or concern with) the development or advancement of women in his own profession. The percentage of women enrolled at his school appears to be the lowest in the nation, a mere 16 percent (73 women in a student body of 456 according to the law school admissions office). This rate is less than half the national average (33 percent). Only one woman is a member of the Brigham Young Law School faculty, 4 percent of the total. This figure contrasts poorly with the national average of 10 percent.

The record clearly shows that Dean Lee did little to recruit, provide support, or create an atmosphere conducive to women's participation in the Brigham Young University Law School. Dean Lee's writings further underscore our concern. In his book, "A Lawyer Looks At the Equal Rights Amendment," Lee seeks to give the impression that, notwithstanding his strong opposition to ERA, he actually favors equal rights for women but prefers to promote that objective through application of the equal protection clause of the 14th Amendment. Lee's judgment in this respect is so patently in error that it can only mask an actual bias against women's rights.

Lee asserts that he does not oppose the objectives of the ERA but fears that a separate amendment will create confusion and extensive litigation. Every major piece of legislation is productive of litigation and requires interpretation and application. Such a prospect has never been regarded as a sound reason for rejecting legislation, let alone a constitutional amendment.

Dean Lee's argument that women should rely upon the equal protection clause rather than the ERA cannot be equated with support for equal rights. Lee recognizes that gender, as a classification subject to judicial scrutiny, is only a recent development and that the concept of equal rights for women had been rejected through most of our constitutional history. *Reed* v. *Reed*, 404 U.S. 71 (1971); *Frontiero* v. *Richardson*, 411 U.S. 677 (1973); *Craig* v. *Boren*, 429 U.S. 190 (1976).

Since these decisions were rendered, the advancement of woman's rights has *not* been a matter of steady progress. Rather there has been virtual checkerboard of results and standards of review. Frequently, the results of woman's rights litigation are determined only by the vagaries of a particular group of judges or a narrow set of circumstances. On more than one occasion, the rights of women have failed to advance or have been set back.

In contrast to the uncertainty of standards applicable to sex discrimination issues under the Fourteenth Amendment, racial discrimination cases are decided generally on the basis of a single standard and receive the most stringent judicial review.

Surely, Dean Lee should have recognized that the ERA offers a far more consistent and predictable result than the patchwork of standards dealing with sex discrimination under the Fourteenth Amendment.

He should also have recognized that, regardless of ERA, litigation in the eighties on the issue of equal rights will be quite extensive. If litigation is not in the context of the ERA, it will be litigated under the vague standards applicable to the Fourteenth Amendment with its varying degrees of scrutiny and uncertainty of results. For these reasons there is good cause to question Lee's professed support for equal rights.

The testimony submitted on behalf of several women's legal rights group carefully analyzes Dean Lee's book on the ERA and points out its significant errors and distortions. We fully agree with these views. At first glance, his book appears to present a serious study. It is, however, by no means an objective appraisal. It is, in essence, a mass of error, omission, and distortion unworthy of a candidate for the position of Solicitor General of the United States.

Lee claims that adoption of the ERA may lead to the invalidation of rape laws or the promotion of homosexuality. His purpose in raising these matters is not to enlighten but rather to frighten and intimidate. Lee supports his views by relying almost exclusively upon the statements of hostile witnesses at Congressional hearings and the rejected views of opponents. He utterly disregards and ignores the clear and definitive legislative history contained in the Committee Reports.

One example of this distortion is Lee's discussion of the effect of the ERA on homosexual rights. While NOW opposes discrimination on the basis of sexual preference, the legislative history clearly states that ERA does not address this issue. In his book Lee relies upon a student law review note published subsequent to passage. The clear thrust of the debate on the Senate floor, however, was exactly to the contrary of the position he sought to support:

"The Equal Rights Amendment would not prohibit a State from saying that the institution of marriage would be prohibited to men partners. It would not prohibit a State from saying the institution of marriage would be prohibited from two women partners. All it says is that if a State legislature makes a judgment that it is wrong for a man to marry a man, then it must say it is wrong for a woman to marry a woman—or if a State says it is wrong for a woman to marry a woman, then it must say that it is wrong for a man to marry a man."

If Lee's statement about the implications of the ERA on homosexual rights were correct, Title VII of the Civil Rights Act of 1964 would prohibit discrimination in employment because of sexual preference. Laws prohibiting discrimination in housing and credit because of sex would also prohibit discrimination because of sexual preference. To our knowledge, no one has made such a claim; certainly, no court has reached this conclusion. Indeed, no court has ever interpreted a state ERA as requiring such results.

A second example of Lee's distortion is his suggestion that adoption of the ERA would invalidate rape laws. This claim is clearly controverted in the Committee Reports. As Senator Bayh noted:

"The Amendment will not invalidate laws which punish rape, for such laws are designed to protect women in a way they are uniformly distinct from men . . . that is one area in which I have agreement with the scholars who wrote that article when they said that rape laws would continue to be valid after the ratification of the equal rights amendment."

In our view, this selective approach to the use of legislative history not only demonstrates a lack of scholarship but, more importantly, evidences a basic hostility to the attainment of equal rights.

Dean Lee's discussion in his book of the application of the minimum wage laws to women requires special mention. He suggests that the principal beneficiaries of minimum wage laws are the more highly skilled workers because the only advantage that a "marginal unskilled" worker has is her willingness to work for less money. Lee then criticizes the minimum wage laws because they take away that so-called "advantage" of the "right" to work for less.

The minimum wage for all employees is the first step towards equality of economic opportunity. Indeed this principal has been a fundamental tenet of the economic system for almost 50 years. The current wage issues

facing the courts—such as the issue of comparable worth—have gone far beyond this basic principal. When one considers this development, Dean Lee's questioning of the need for minimum wage laws for women is extremely disquieting. It further discloses a fundamental bias against women's rights.

CONCLUSION

Dean Lee's record discloses a fundamental commitment to large corporate interests and an opposition to government's enforcement of statutes and regulations designed to serve the public interest. Most significantly—and despite his assertions to the contrary—this record also discloses an insensitivity to the advancement of women's rights. For these reasons, Dean Lee should not be confirmed as Solicitor General.

EQUAL RIGHTS FOR WOMEN

For nearly one hundred years American Women fought for the right to vote which was finally granted by passage of the 19th Amendment in 1920.

Since 1923 American Women have worked to extend full rights to female citizens through passage of the 27th Amendment which simply states:

"Equality of rights under law shall not be denied or abridged by the United States or any state on account of sex."

The Congress of the United States approved this amendment by substantial votes in the early 1970s. Since then thirty-five states, representing over 75 percent of the population of the country have ratified the amendment. 61 percent of the people of the United States support ratification of ERA (Yankelovich Poll, Time Magazine June 1, 1981).

The Equal Rights Amendment is supported because it is needed. Women have been, and continue to be discriminated against.

Full time working women earn 59 cents to every $1.00 men earn.

Women college graduates earn less than male high school drop outs.

Women, who constitute 70 percent of the teachers in our elementary and secondary schools, are 19 times less likely to be promoted to principal than male teachers.

Women on social security receive little more, on the average, than half of what men receive.

Until recently, and only because of the women's movement has there been a change, women found admission to professional schools unlikely except for the very few.

The right to credit, equal employment opportunities, equal pay, fair distribution of property on the dissolution of a marriage, etc. are rights only recently recognized, and in the case of property distribution it is the passage of State ERAs which has brought more equitable property distribution.

The inequalities in earnings continue and indeed the wage gap is growing. Laws dealing with equality of employment opportunity, equal pay for equal work, credit, etc. can be ignored, repealed with ease by Congress, or rendered pointless by the failure to appropriate funds to administer or enforce them. The only guarantee of the right to equality under the law is by Constitutional Amendment.

Rex E. Lee, in his book, "A Lawyer Looks At The Equal Rights Amendment" which was published in 1980, states most clearly his opposition to the Equal Rights Amendment. Furthermore, he writes in the book that the Fourteenth Amendment extends equality to women. On page 84, he refers to the Congressional hearings on the Equal Rights Amendment and states of those testifying:

"They wanted a Constitutional guarantee of equality for women. At the time, there was none. Today, there is."

Again on page 89 in discussing the Fourteenth Amendment he states, "Now there is a general guarantee of equality which extends to all groups, including women. . . ."

Dean Lee is, of course, entitled to his own opinion but the facts are that in case after case the Courts have held that sex is not a suspect class and have not extended the Fourteenth Amendment to cover discrimination on the basis of sex. In 1978 in Vorchheimer versus School District of Philadelphia, for instance, the Court allowed a public high school to refuse admission to a student solely on the basis of her sex.

In further arguments opposing the Equal Rights Amendment Lee holds that it is in the national interest for the government to have the flexibility to treat men and women differently. Should the Equal Rights Amendment pass, he argues, then it would be impossible to have a sub-minimum wage for women (such as proposed by the Reagan Administration for unemployed young people).

This could harm some women who would be unable to obtain jobs because they are not worth the minimum wage. On page 77 he states:

"What about the minimum wage laws for women? . . . In some cases, minimum wage laws in fact benefit the worker. In other cases, . . . the effect of minimum wages for women is not to protect the female worker . . . because such laws prohibit the employment of persons whose labor is worth less than minimum wage."

Having championed the cause of a sub-minimum wage for women, Lee then turns to the professional women and suggests that the Equal Rights Amendment will somehow interfere with affirmative action, or as he puts it will make "unconstitutional government's power to prefer women." Page 85:

"Many people have the perception that, within the last few years, appointments to federal and state judgeships and to important executive positions in government have favored women. That is, if the appointee had not been a woman, someone else more qualified would have been appointed."

Lee then explains why some believe affirmative action is proper and others do not. But, he says, "the important issue is not . . . which side in the debate is right. The real issue is the debate itself."

We totally disagree. The real issue is that more than half of all females 16 years of age and older held paid jobs in 1979; 52 percent of all wives hold jobs outside the home; 30 percent of married mothers with children under 6 worked in 1970; the figure in 1979 was 43 percent.

Women work for the same reason men do: Their paychecks. Over 50 percent of working women support themselves or their families. One of every nine women in the work force—about 5 million—is the only source of support for her family.

Despite the increased participation of and need for women workers, and despite the existence of federal and state equal employment opportunity laws, women are still victims of massive discriminatory practices. For example, in the federal government 78 percent of women workers are concentrated in jobs at GS–8 level or below. At the top of the government ladder (GS–16 and above) women hold only 6.6 percent of the positions while men hold 93.4 percent of these high paying jobs.

In the work force as a whole women are segregated in low-paying jobs. They are 99 percent of all secretaries, 98 percent of food service workers, 98 percent of household workers, and 71 percent of all elementary and secondary school teachers. The sex-segregation of women in the work force is a century-old story. That is the real issue for women, not some debate about affirmative action.

Dean Lee examines family law and the ERA and states that the ratification of the latter would eliminate the favoring of wives over husbands—the obligation of the father to support the family, criminal penalties in the case of desertion, alimony and child support in the case of divorce, etc.

The fact of the matter is that many wives are deserted or divorced and these homemakers, far from being protected under present laws, find themselves with no adequate economic means of survival and hence are relegated, with their children, to the welfare rolls.

The facts are that "marital property laws illustrate the persistence of sex bias against women. In Georgia, for example, a married couple's home belongs only to the husband, even when it has been paid for by the wife." (Statement on the Equal Rights Amendment, U.S. Civil Rights Commission, Dec. 1978). The Commission statement continues:

"Laws governing support and alimony during separation and after divorce are similarly illusory in the benefits they appear to confer upon women. The reality is that only 14 percent of divorced wives were awarded alimony in 1975 and that fewer than half were able to collect their payments regularly. Similar enforcement problems exist for collecting child support. A study tracing child support payments over 10 years showed that 62 percent of male parents failed to comply fully with court-ordered child support payments in the first year after the order, and 42 percent did not make even a single payment. By the 10th year, 79 percent were making no payments at all."

Not only does Dean Lee oppose the Equal Rights Amendment; he has shown his insensitivity to the whole question of women's rights.

The first and present dean of Brigham Young University's Law School, a school established in the early 70s, but not yet accredited by the Association of American Law Schools, Lee has apparently not been concerned about participation by women. The number of women enrolled in the school is the lowest in the nation and represents 11 percent of the student body compared to the national average of 33 percent. Moreover the faculty has only one woman member—4 percent of the total compared, to a national average of 10 percent.

In 1978 Lee headed a panel to recommend three to five names for federal district judges. The panel recommended five men.

There are many cases dealing with women's rights in the courts today. As these cases proceed, the Solicitor General will have to decide the government's position on many of them. As important as any is the case, recently argued in the U.S. District Court in Idaho, *State of Idaho, et al* v. *Freeman*, concerning the legality of the extension of time, voted by Congress, to ratify the Equal Rights Amendment, and the legality of rescission votes by state legislatures. The principal defendant in the case is the Department of Justice on behalf of the General Services Administration.

[Memorandum]

LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES.
Washington, D.C., June 18, 1981.

To Senate Committee on the Judiciary.
From Ruth J. Hinerfeld, President; Ruth Robbins, Action Chair; and Lois Harrison, EPA Chair.
Re Nomination of Mr. Rex Lee for Solicitor General.

The League of Women Voters believes it is appropriate when considering a nominee for Solicitor General to take into account the legitimate concerns of groups and individuals who must depend on full and faithful implementation of the law.

We urge that in debating Mr. Rex Lee's nomination you take into account the following points: He has argued that women should not be as fully protected as men by minimum wage laws. He has suggested that affirmative action programs should not be used to correct the effects of past discrimination against women. As a law school dean, he presided over an admissions policy with the worst record in the nation for admitting women. And, he has made it clear he does not support equality of rights for women and men under the Constitution.

The League of Women Voters believes that to nominate someone with a record of this kind indicates disregard for the legitimate concerns of women throughout the country that their rights and interests be fully protected.

Mr. METZENBAUM. Mr. President, I wish my colleagues would take the time to review these statements, but I am realistic enough to understand that the nomination will come before the Senate within the next several moments and that you will have an opportunity to examine into those statements, but when three such prestigious, well-recognized, well-respected groups as these indicate their opposition, do it publicly, go on record, then one must pause and have reason for concern.

They detail the many positions Mr. Lee has taken which lead to the inescapable conclusion that he has no commitment to advancing the civil rights of women, blacks, hispanics, or any other group seeking to obtain their right to equal justice under the law.

Mr. President, I wish to say parenthetically in connection with the remarks of Senator KENNEDY from Massachusetts as to the question of is this a single issue vote, is this an opposition based upon a single issue, well there is much more than a single issue involved when we are talking about commitment to the rights of women, blacks, hispanics, and other minority groups. That is not a single issue. That is an issue that pervades more than 50 percent of the people in this country, and that is not a single issue.

Mr. President, this is one of the most significant nominations we will be considering. The position is such a powerful and influential one that the Solicitor General is frequently referred to as the "tenth justice." The Solicitor General represents the U.S. Government in all actions before the Supreme Court where the United States is a party.

The Solicitor General intervenes before the Supreme Court on any issue in which a significant Federal interest is involved, whether or not the Federal Government is a party and the Supreme Court often asks the Office of Solicitor General for its opinion on whether to accept jurisdiction over submitted appeals and petitions for certiorari.

So influential is the position that the court grants certiorari in 80 percent of all cases which the Solicitor General brings before it.

We must be confident that the person we charge with these tremendous responsibilities, the person who is speaking for the United States of America, the person who is our attorney, the attorney of everyone in this country, we must be certain that he or she is truly committed to securing the lawful rights of all of the American people.

No one questions Mr. Lee's right to take the positions he has as a private citizen or as a lawyer. But it is an entirely different matter to approve his appointment to an office having the discretion to enforce those statutes, regulations, and policies which he opposed and which are still the law of the land.

This is a time to send a message of support to women and minorities—a message telling them that they too have a right to equal justice under the law.

I simply cannot support the nomination of Mr. Lee for this high office, and I urge my colleagues to join me in opposing his nomination.

It is not easy to vote against the confirmation of any particular individual, but that is part of the advise and consent process.

Therefore, I urge my colleagues to join us in opposing his nomination.

Mr. President, it is my understanding that a rollcall has been agreed upon.

The PRESIDING OFFICER. The Senator is correct.

Who seeks recognition?

Mr. THURMOND. Mr. President, I rise today to state my support for Mr. Rex E. Lee, the nominee of President Reagan for the position of Solicitor General of the United States.

As Solicitor General, Mr. Lee will be responsible for representing the U.S. Government before the Supreme Court. He will decide which cases the Government should ask the Supreme Court to review, and he also will decide which position the Government should take before the Court. He will be called upon to supervise the preparation of Supreme Court briefs and other legal documents of the Government, as well as conduct oral arguments before the Court. The tasks facing Mr. Lee will be difficult, but he is well-equipped to meet them.

Mr. Lee attended Brigham Young University and, upon graduation in 1960, attended the University of Chicago Law School, where he graduated first in his class in 1963.

Mr. Lee distinguished himself as dean of the J. Reuben Clark Law School, Brigham Young University, from 1971 to 1975 and from 1977 to the present. His tenure as dean was interrupted in 1975 when he accepted the position of Assistant Attorney General, Civil Division, U.S. Department of Justice.

I am pleased to support such a qualified and capable individual as Mr. Rex Lee for appointment as Solicitor General of the United States, and I am confident that he will discharge the duties of this high office with courage and determination.

Mr. President, there has been some question raised about his sensitivity toward women and equal rights.

I received a communication from the Utah Association of Women sometime back and I at this time wish to present that. It reads this way:

The Utah Association of Women is a group representing over 1500 Utah women from all walks of life, who have joined together to study current issues of local and national interest.

During our study of the pros and cons of the proposed Equal Rights Amendment (ERA), Dean Rex Lee has been an invaluable source of experience and expertise. His knowledge of the history of discrimination against women, his understanding of its presence in our society today, and his views on how to eliminate it have been a deciding factor in the formation of our Association's Resolution on the Equal Rights Amendment.

We feel, as does Dean Lee, that the ERA is not an appropriate method for resolving women's problems, and choose to work for women's equality in other ways.

As our Association has carefully studied his book, "A Lawyer Looks at the Equal Rights Amendment," we have found it to be not a book against women's rights, but a close scrutiny of the effects of an Amendment to the Constitution based on case studies of past interpretations of the courts.

His objections to the ERA are based not on a desire to deny women equality, but on a desire to offer them all the rights and opportunities to which they are entitled and which the ERA denies them.

As his record clearly shows, Rex Lee is a champion of women's rights, and in our personal and professional dealings with him, he has been an exceptional example of this in every way. We wholeheartedly support his nomination as Solicitor General of the United States.

As I stated, Mr. President, this was a communication received from the Utah Association of Women, a group representing over 1,500 Utah women from all walks of life.

Mr. President, I have a letter that I received from Mr. Lee on July 2, 1981, which, I think, is also encouraging along the lines of sensitivity to the rights of women and minorities. I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks, along with a letter to me dated June 22, 1981, from Mary Anne Wood, associate professor of law.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, in closing, I just want to say that Mr. Lee possesses the personal qualities that I think are desired in a Solicitor General. He is a man of unquestioned character and integrity. He is a man of great ability, he is a man of courage, he has had experience in the Justice Department, he has especially high professional qualifications. I see no reason why anyone, if he really wants to be fair about this nomination, can oppose him.

Mr. Lee is the type of person who, I think, will make an excellent Solicitor General. He has the education, he has the experience, he has the personal qualities. He has been dean of a law school, assistant attorney general, and I do not know what more you could ask for in the way of qualifications in a man to hold the high position in judicial ranks or in legal ranks than those possessed by Mr. Lee.

I sincerely hope the Senate will approve this nomination promptly, and I predict that Mr. Lee will make one of the ablest Solicitors General that this country has ever had.

Mr. President, I yield the floor.

EXHIBIT 1

JULY 2, 1981.

Hon. STROM THURMOND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I have been informed that some question has been raised concerning my sensitivity to the rights of women and minorities, and to matters concerning the environment and preservation of natural resources.

I give you my unqualified assurance that I regard these matters, the rights of women and minorities, and the preservation of natural resources and the environment as among the most important challenges that our Nation faces at the present time. If confirmed by the Senate I will vigorously support and defend those laws that strive for improvement in these areas, as well as the policies underlying those laws. Moreover, in reaching my decisions concerning positions to be taken in litigation before the courts, I will do so in light of the importance of these matters, because in my view they represent important values.

I attach a copy of a letter, which I am informed was sent to you as Chairman, and to Senators Hatch and Kennedy. The letter was written by my law school faculty colleague at Brigham Young University, Mary Ann Wood. I was not aware that the letter had been written until after it was sent, but I believe it gives some indication concerning my sensitivity to some of these matters.

I appreciate all the courtesies that have been extended to me by you and your staff, particularly Mr. Short.

Very truly yours,

REX E. LEE.

Attachment.

JUNE 22, 1981.

Senator STROM THURMOND,
Washington, D.C.

DEAR SENATOR: News reports of the confirmation hearings on Rex E. Lee's nomination as Solicitor General have left the disturbing impression that these hearings focused on Rex Lee's commitment to equality of opportunity for women. As a woman and a law professor at the J. Reuben Clark Law School for the past five years where Rex Lee has served as Dean, I believe I am in a unique position to assess Dean Lee's commitment to equality of rights for women, and I would like to go on record as stating that I have no doubts that Rex Lee will perform the duties of his office with skill and vigor and that he will do so fully committed to equality for all people, men and women.

Reasonable minds can differ about whether or not the Equal Rights Amendment is the most appropriate vehicle for achieving equality of rights for women in our society. Opposition to the Equal Rights Amendment, therefore, should not be viewed as opposition to women. Rex Lee's commitment to equality of opportunity for women should be judged by his record as a law school dean, not by his opposition to one particular mechanism for achieving equality for women. Having observed Rex's record as a dean, I think he has displayed an exemplary commitment to assisting women to enter the legal profession.

I have served on both our law school Admission's Committee and the Faculty Recruitment Committee and I am personally aware of how vigilant Rex's efforts have been to recruit women on both fronts. While at present only 16 percent of our student body are women, this represents a dramatic increase in the number of women who are entering our student body. From a number of 27 women in 1976, we have increased to 78 women currently enrolled in law school. This increase reflects considerable efforts by the Admissions Committee. Our efforts have been fully supported by Dean Lee. Because we draw students primarily from a unique cultural background, the increase reflects not just increased recruiting of women who were previously committed to law school, but has involved vigorous recruitment of women who have not considered law school as an option. In order to engage in this kind of recruiting, the Faculty Admissions Committee has sponsored frequent meetings, luncheons, and dinners for undergraduate women to appraise them of the possibilities for women in the law. Rex has been a tireless participant in these recruiting efforts. He has been a frequent speaker at recruitment meetings for women and a counselor to many women who are considering careers in the law.

With respect to recruiting women for teaching at our law school, the Faculty Appointments Committee has been equally vigorous. To date our efforts have not been as successful. Currently I am the only full time woman teacher of the law school. The plain fact of the matter is that there is a dearth of women in legal education generally. Out of a total of 4,225 full time law teachers in the United States, there are only 517 full time women teachers at 171 ABA approved law schools. I think these figures indicate that BYU is not unique. Nevertheless, with Dean Lee's support and the support of the whole faculty, we have and will continue to search for qualified women faculty members.

The number of women enrolled and the number of women employed at the law school, however, do not tell the full story. I have learned from conversations I have had with other women legal educators that many women feel isolated on their faculties. I have not shared these feelings. Rex has set a tone of collegiality and friendship on our faculty. As the only woman on the faculty, I have felt fully a part of everything that has gone on at the law school. Moreover, the processes which Rex has helped develop for tenure and advancement are fair and even-handed. I have known from the day I joined the faculty what expectations he and my colleagues had for my advancement. I further know that many women in legal education have not enjoyed this kind of openness on their faculties and have believed that the tenure and advancement process is a trap guaranteed to assure their failure. I was hired with the expectation that I would succeed as a law professor, and Rex and my colleagues have done everything to see that that expectation was met.

Rex is a superbly trained, experienced, and skillful advocate. He is a man of great personal warmth and integrity. He is an able administrator. As a colleague in the legal profession and as a woman, I can wholeheartedly endorse his nomination for Solicitor General of the United States.

Sincerely yours,

MARY ANNE WOOD,
Associate Professor of Law.

The PRESIDING OFFICER. Who seeks recognition?

Mrs. HAWKINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mrs. HAWKINS. Mr. President, it is my very great pleasure to rise in support of the nomination of Rex Lee to be the Solicitor General of the United States. This is a nomination which will bring distinction to the United States, and an exceptional quality to the legal actions in which the Government is involved.

Rex Lee has been outstanding all his life, having graduated first in his class at the University of Chicago Law School, having served as a law clerk to Justice Byron White at the Supreme Court, having practiced law in Arizona for 8 years, having been dean of the J. Reuben Clark Law School at Brigham Young University, he then came to Washington as an assistant attorney general in the Department of Justice. That experience will stand him in good stead in the position for which we will confirm him today. In addition to his private practice and academic experience, he does have considerable experience in the kind of legal work the Federal Government is involved in.

Following his service here, Dean Lee returned to BYU as the dean of the law school, where he remained until his nomination as Solicitor General.

Mr. President, I have a personal knowledge of the nominee, and I can testify that he is among the most scholarly and thoughtful of men. There has been some criticism of Dean Lee on the grounds that he opposes the equal rights amendment. In my view that criticism is misplaced. Sandra O'Connor reportedly supports the equal rights amendment. It would be just as wrong to oppose Rex Lee for opposing it as it would be to oppose Sandra O'Connor for supporting it.

Whatever his personal opinions, I am certain that Dean Lee will carefully and thoughtfully apply the canons of law and precedent to the legal questions the Solicitor must decide. In considering his writings, and after conversations with him, I conclude that his opposition to the ERA does not stem from any bias against women, as has been reported, but from serious concern about the ultimate impact of any such amendment on our fundamental social institutions. It is a concern which I share, I might add.

In testimony to this thoughtful approach, Mr. President, I would like to call as a witness Thomas L. Shaffer, professor of law at Washington and Lee University, and former dean of the Notre Dame Law School. Dean Shaffer wrote the foreword to Rex Lee's book examining the equal rights amendment. As a proponent of the amendment, Dean Shaffer found Lee's treatment of it lucid and thoughtful. It caused him to take another look at the ERA, and to recommend the book to anyone seriously interested in the question of equal rights for women.

Mr. President, I ask unanimous consent that the entire foreword to "A Lawyer Looks at the Equal Rights Amendment" be printed at this point in the RECORD.

There being no objection, the foreword was ordered to be printed in the RECORD, as follows:

A LAWYER LOOKS AT THE EQUAL RIGHTS AMENDMENT

A person from Mars, come down to contemplate the development of American government from 1776 to 1980, would stand in wonder before the process we Americans use to change our written Constitution. He would marvel at a bone pile of discarded proposals, and at amendments that, by common judicial consent, have come to mean nothing. And he would shake his head at the story of our attempts to impose grand canons of equality on one another.

There is, for instance, the Fifth Amendment, part of the original Bill of Rights. At first it seemed to protect citizens from all abuses of government. But in Andrew Jack-

son's day the United States Supreme Court justices thought so little of the provision that they were able to hold that it protected citizens from the abuses of only the federal government. Later, by contrast, the justices thought so much of the Fifth Amendment that they applied most of it to local and state governments and decided that the amendment, which says nothing about equality, requires the "equal protection" of citizens. Again and again the Court amended the amendment, even though its words were never changed.

And there is the post-Civil War Fourteenth Amendment, enacted to remove what federal judges came to call "the badges of slavery." The first judges held the Fourteenth Amendment inapplicable to most of the disabilities a former slave might be expected to encounter, but later the Fourteenth Amendment came to mean that virtually the entire Bill of Rights applies against local and state governments—and even against private associations thought to exercise the powers of local and state governments. Then the "equal protection" clause of the Fourteenth Amendment was read to condemn entirely the old American system of apartheid—a system it had earlier been read to permit. That clause has come to abolish distinctions based on race, but at the same time to permit—and maybe even require—distinctions aimed at remedying past discrimination based on race. And, finally, it has come to mean that no level of government can, without the gravest sort of justification, distinguish between men and women. It has come to be an equal rights amendment.

The visitor from Mars might then drop in on political meetings devoted to discussion of the real Equal Rights Amendments, a hardy old feminist Klaxon that has been blaring since the 1920s. One species of discussion involved the sorry history of the subjection of women in Anglo-American law. From this history, the visitor would learn that the time was in America—not so long ago, either—that a married woman did not in any significant sense control her own property. She could not vote, work for pay, borrow money, or practice a profession. The proposed cure—even though, given the Supreme Court's modern view of the Fourteenth Amendment, no cure is needed—is an apparently innocent, straightforward, lucid, short proposal to add an amendment to the Constitution which would forbid discrimination between the sexes. But our visitor would hear opponents of that proposal—acting from motives that are not always clear—suggest that the simple language of equality will result in a ban on rape laws and separate rest rooms for women and men, the legalization of public homosexual behavior, and the conscription of high-school girls into the infantry.

In view of such a history, and in the midst of such strident confusion, the visitor from Mars might ask, "Who can tell me, calmly, what all of this means?" And, chances are, Our Republic being what it is and what it has been, someone would say, "Talk to a good lawyer." Only lawyers can be expected to understand the way Americans amend their Constitution.

Dean Rex E. Lee's book is a good lawyer's answer to the questions of a visitor from Mars. It is, of course, a brief against the Equal Rights Amendment, but there is a difference between a good lawyer's brief and a political argument. I, who have been a supporter of the amendment, and who will continue to wear my ERA bracelet, if only out of habit, am impressed and disturbed by this book. I am persuaded that supporters of the amendment should have second thoughts about their support, and that opponents of the amendment will find in it the sort of balanced, rational lawyer's assessment that their party has so often done without. But no rational reader will put it lightly aside. To his brief Dean Lee brings years of experience in the private practice of law. He brings as well the battle scars from a substantial stint as assistant attorney general of the United States, served at a time (1975–77) when the Justice Department cried out for, and occasionally got, calm, able lawyers of his integrity and rationality. He brings also the reflection of the scholar's study and of the classroom. I am grateful to him, as a colleague, for demonstrating that on some issues, and particularly the most volatile issues of public law, the country occasionally can use a few words from a law professor.

Those who have argued for the Equal Rights Amendment will learn here that the "parade of horribles" assembled against it—the consequences of the amendment for legislation on rape and rest rooms, on homosexual behavior, on conscription, and all the rest—cannot be laughed away. We dare not laugh at the parade and then walk away—not if we have any respect at all for history. Proponents of the ERA may have to remember, as Dean Lee has forced me to remember, that no one can predict what federal judges will do with an innocent piece of constitutional language. No sensitive person can avoid a gulp when he remembers what they have done with the Fifth and Fourteenth amendments and with the right-of-privacy "penumbra" they thought they found in the Bill of Rights.

Dean Lee should cause proponents to take with new seriousness this question: Is a now largely symbolic amendment to the Constitution worth the risk of providing new ammunition to judicial power, which inevitably is—because it has so often been—capricious?

Those who argue against the amendment will find this book encouraging, but they may also learn from it to lower the volume on their arguments. Proponents and opponents alike will learn the difference—a difference our legal history has honored, from Daniel Webster's generation of constitutional advocates to Rex Lee's generation—between a political argument and a good lawyer's brief.

Mrs. HAWKINS. Mr. President, I am proud to support this nomination, and I am certain that Rex Lee will do the Nation proud as its Solicitor. He has already, as designee, successfully argued the Iranian claims case before the Supreme Court. Let us quickly confirm the nomination.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise to express my concern over the nomination of Dean Rex Lee to be Solicitor General of the United States. Numerous women's groups and civil rights groups have voiced their opposition to this nomination for a number of reasons, but principally because of the nominee's objection to the adoption of the equal rights amendment and his participation on the board of litigation in the Mountain States Foundation, which is an organization which has consistently involved itself in litigation in opposition to the enforcement provisions of Federal affirmative action policy.

In addition, this individual has gone on record in criticism of the minimum wage laws and a number of other things that are designed to provide some degree of equity in terms of equal opportunity in this Nation.

I think this is clearly one of those important nominations by the Reagan administration that sends a signal to the entire country as to whether there will be an evenhanded and forceful effort to try to see to it that justice is made available in real terms for all people in the United States.

I must say, based on an examination of the record in this case, that I share the concern that has been expressed by so many others. I think this nomination is not anywhere near the caliber of choice that otherwise would be available and that ought to be brought forward at this time.

So this is a nomination that I cannot support and one that I will not vote for, Nevertheless, this individual, I assume, will be confirmed today.

He certainly brings strong academic and employment credentials to his nomination. My hope would be that, once in this position, there be a broader sense of what the commitment and the responsibility of this job provides, and that is not to carry out some narrow set of personal views and not even to carry out some narrow set of partisan views or the views of an administration. The person who takes this position takes this in behalf of all 220 million Americans. So the obligation is to step up to the responsibility of fighting for and protecting the rights of all those people regardless of positions that this nominee may have taken in the past.

So my hope is that we will see that kind of change in attitude and behavior by this individual.

I am disappointed by this nomination. I think it falls far short of what we should be seeing. Therefore, I must vote "No" on this nomination.

The PRESIDING OFFICER. Who seeks recognition?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will be supporting the nomination of Rex Lee for Solicitor General. But I would like to express a hope that in his role as Solicitor General Mr. Lee will show a greater sensitivity and responsiveness to social needs than he has from his past record.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, it is my pleasure to support the appointment of Rex E. Lee to the office of Solicitor General of the United States. Mr. Lee has as distinguished an academic career as it is possible to have.

Formerly dean of the law school at Brigham Young University and a professor of constitutional law, he also served during the Ford administration as assistant attorney general in the civil division of the U.S. Department of Justice. He is a member of the bar of the U.S. Supreme Court, and obtained his degree at the University of Chicago Law School in 1963 after which he served as law clerk for Justice Byron R. White. Prior to his appointment as Solicitor General, he had argued several cases before the Supreme Court.

He is the author of "A Lawyer Looks at the Equal Rights Amendment" and "A Lawyer Looks at the Constitution," two books which have been acclaimed by legal scholars for their success in communicating legal ideas to a lay readership.

Perhaps the most telling evidence of this man's character and qualification for this appointment is his performance as the first dean of the law school of Brigham Young University in Provo, Utah. In a very short time he did the finest job anyone could imagine of putting together a law school which quickly became nationally known. He successfully attracted an outstanding faculty, which included some of the finest law professors in the country, and recruited top students.

Attorneys who routinely interview law students around the country have repeatedly been impressed with the quality of the legal education possessed by BYU law students. Then, after creating this institution which immediately became known as one of the Nation's finest, he modestly stepped down to resume his private practice.

Mr. President, Mr. Lee's experience uniquely qualifies him for his present appointment, and I strongly urge the support of my colleagues for this nomination.

Mr. HATCH. Mr. President, I wish to discuss briefly the dubious arguments being raised in opposition to the nomination of Dean Rex Lee to be the Solicitor General of the United States.

First, I hope this body will make short shrift of the rhetoric concerning Dean Lee's book, "A Lawyer Looks At The Equal Rights Amendment." The opinions offered by Dean Lee in this book are legal and constitutional ones. Many of them involve issues that have divided this body itself in the past.

The arguments for and against the proposed equal rights amendment were examined carefully in Dean Lee's book. Merely because an author raises an argument for or against some position does not mean the author subscribes to the argument. I am not impressed that the "women's" organizations that testified in opposition to this nomination in the Judiciary Committee found offensive some of the arguments suggested by Dean Lee in opposition to the equal rights amendment.

The arguments suggested in Dean Lee's book were a broad sampling of the arguments given for opposing the equal rights amendment, not necessarily Dean Lee's own concerns about the equal rights amendment. In fact, Dean Lee quite candidly voiced his major concern about the equal rights amendment at his confirmation hearing: The inability to know for certain what precise manner of limitation is placed upon the ability of National and State legislatures to legislate? What precisely does the language of the ERA mean?

Second, those who oppose this nomination on the grounds of Dean Lee's legal and constitutional opposition to the ERA have a limited understanding of the position for which Dean Lee has been nominated. The Solicitor General does not make substantive legal policy; the Solicitor General is merely the advocate for the Government's policy. As such he only makes litigational policy.

For example: In the Department of Justice, a case is initiated at the district court level with the approval of both the U.S. attorney and the departmental division having jurisdiction. A decision adverse to the Government in the district court is appealed to the circuit court with the approval of the department division having jurisdiction after consultation with the Solicitor General. If the circuit court decision is adverse to the Government, the Solicitor General, in consultation with the primary policymaker in the agency or department having jurisdiction, then decides whether or not to bring the appeal before the Supreme Court on a writ of certiorari.

To suggest that Dean Lee's personally held beliefs on a legal issue would affect his role as an advocate for the Government is an affront to his integrity that has no basis whatsoever. In fact, this point was clarified repeatedly during an exchange between Dean Lee and myself at his confirmation hearing. Dean Lee was most specific, in assuring the Judiciary Committee that his personally held beliefs, including his deeply held religious beliefs, would never interfere with his role as an advocate for the interests of the Government.

Third, it is argued that opposition to the ERA is indistinguishable from opposition to equal rights and equal opportunity. I have challenged any "women's" group, or any other organization, to show me a single statement made by Rex Lee in which he takes a position in opposition to equal rights for women, or any other group. I challenge his opponents in this body to do the same thing.

I am more than a little tired of hearing the same old refrain: "Well, if he's opposed to the ERA, he must be opposed to equal rights for women," or "If he's opposed to the ERA, he must be insensitive to discrimination against women." This argument wears thinner and thinner with each telling. Let us have some evidence, some documentation, something concrete to support the accusations being made with respect to Dean Lee's nomination.

Finally, it is argued that Dean Lee's record as dean of the J Reuben Clark Law School—Brigham Young University—with regard to his hiring practices there is somehow suspect. For the record I shall submit a letter by Prof. Mary Anne Wood of the law school.

I also remind my colleagues that Brigham Young University and its law school are private institutions. There are barriers which must be hurdled either before a student or a teacher becomes associated with the school. We have an honor code and dress code at BYU. We require abstention from alcohol, tobacco, tea, and coffee, among other things, in order to enjoy the privilege of teaching there There are other restrictions as well. I would ask my colleagues to recognize that not everyone is interested in teaching in such an environment. BYU is a unique institution, working under unique hiring constraints.

I strongly urge the nomination of Dean Rex Lee. I also ask unanimous consent that an article by N. La Verl Christensen be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[ATTACHMENT I]

BRIGHAM YOUNG UNIVERSITY,
June 22, 1981.

HON. ORRIN G. HATCH,
Dirksen Building,
Washington, D.C.

DEAR SENATOR HATCH: News reports of the confirmation hearings on Rex E. Lee's nomination as Solicitor General have left the disturbing impression that these hearings focused on Rex Lee's commitment to equality of opportunity for women. As a woman and a law professor at the J. Reuben Clark Law School for the past five years where Rex Lee has served as Dean, I believe I am in a unique position to assess Dean Lee's commitment to equality of rights for women, and I would like to go on record as stating that I have no doubts that Rex Lee will perform the duties of his office with skill and vigor and that he will do so fully committed to equality for all people, men and women.

Reasonable minds can differ about whether or not the Equal Rights Amendment is the most appropriate vehicle for achieving equality of rights for women in our society. Opposition to the Equal Rights Amendment, therefore, should not be viewed as opposition to women. Rex Lee's commitment to equality of opportunity for women should be judged by his record as a law school dean, not by his opposition to one particular mechanism for achieving equality for women. Having observed Rex's record as a dean. I think he has displayed an exemplary commitment to assisting women to enter the legal profession.

I have served on both our law school Admissions Committee and the Faculty Recruitment Committee and I am personally aware of how vigilant Rex's efforts have been to recruit women on both fronts. While at present only 16 percent of our student body are women, this represents a dramatic increase in the number of women who are entering our student body. From a number of 27 women in 1976, we have increased to 78 women currently enrolled in law school. This increase reflects considerable efforts by the Admissions Committee. Our efforts have been fully supported by Dean Lee. Because we draw students primarily from a unique cultural background, the increase reflects not just increased recruiting of women who were previously committed to law school, but has involved vigorous recruitment of women who have not considered law school as an option. In order to engage in this kind of recruiting, the Faculty Admissions Committee has sponsored frequent meetings, luncheons, and dinners for undergraduate women to apprise them of the possibilities for women in the law. Rex has been a tireless participant in these recruiting efforts. He has been a frequent speaker at recruitment meetings for women and a counselor to many women who are considering careers in the law.

With respect to recruiting women for teaching at our law school, the Faculty Appointments Committee has been equally vigorous. To date our efforts have not been as successful. Currently I am the only full time woman teacher of the law school. The plain fact of the matter is that there is a dearth of women in legal education generally. Out of a total of 4,225 full time law teachers in the United States, there are only 517 full time women teachers at 171 ABA approved law schools. I think these figures indicate that BYU is not unique. Nevertheless, with Dean Lee's support and the support of the whole faculty, we have and will continue to search for qualified women faculty members.

The number of women enrolled and the number of women employed at the law

school, however, do not tell the full story. I have learned from conversations I have had with other women legal educators that many women feel isolated on their faculties. I have not shared these feelings. Rex has set a tone of collegiality and friendship on our faculty. As the only woman on the faculty, I have felt fully a part of everything that has gone on at the law school. Moreover, the processes which Rex has helped develop for tenure and advancement are fair and even-handed. I have known from the day I joined the faculty what expectations he and my colleagues had for my advancement. I further know that many women in legal education have not enjoyed this kind of openness on their faculties and have believed that the tenure and advancement process is a trap guaranteed to assure their failure. I was hired with the expectation that I would succeed as a law professor, and Rex and my colleagues have done everything to see that that expectation was met.

Rex is a superbly trained, experienced, and skillful advocate. He is a man of great personal warmth and integrity. He is an able administrator. As a colleague in the legal profession and as a woman, I can wholeheartedly endorse his nomination for Solicitor General of the United States.

Sincerely yours,

MARY ANNE WOOD,
Associate Professor of Law.

[ATTACHMENT II]

ERA DESERVES OUR SCRUTINY

(By N. LaVerl Christensen)

Should the ERA become part of the Constitution?

There's a better way to achieve equality while preserving desirable distinctions between the sexes, says Rex E. Lee, Dean of the Brigham Young University Law School and former assistant U.S. Attorney General.

In his book, "A Lawyer Looks at the Equal Rights Amendment" published recently by the BYU Press, Lee makes a strong case for "fine-tuning" present legal and legislative machinery in preference to the less flexible route of locking the rights question into a constitutional amendment.

Given the Supreme Court's modern-day view of the 14th Amendment's equal protection provisions, Lee says the approach should be a case-by-case adjustment of present laws and regulations under existing constitutional guarantees and authority to pass new laws.

In other words, he says, "The situation calls for a scalpel and not a sledgehammer." He reasons this way:

"By far the most inflexible source of law is a judicial decision interpreting a constitutional provision . . . If we are still at the stage when we need to feel our way, committed to equality in the large matters like employment and promotion opportunity, educational opportunity, political activity, and equal pay for equal work, but still uncertain about such things as the draft, military combat, and promiscuity in state college dormitories, then a constitutional amendment is the worst possible choice . . ."

Lee's volume outlines the history of the equal rights movement which first reached Congress in 1923; reviews congressional testimony of the early seventies; notes modern-day use of the 14th Amendments's equal protection language, and analyzes court cases on the subject.

The ERA proposal cleared the House of Representatives in 1971 and the Senate in 1972. The traditional seven-year period for ratification by the necessary 38 states expired March 22, 1979. In an unprecedented step, Congress extended the deadline to June 30, 1982.

Thirty-five states have ratified the proposal—22 of them in 1972, 8 in 1973, 3 in 1974, 1 in 1975, and the last one in January 1977.

Meantime, five state legislatures have voted to rescind ERA ratification. The legality of both the deadline extension and the rescissions has never been ruled on by the Supreme Court. Both issues are pending in a U.S. District court suit in Idaho, Lee notes.

Citing confusion over the "vague" language of the proposed 27th Amendment, Lee says proponents and opponents differ sharply on such questions as whether ERA would invalidate laws prohibiting homosexual relations, forcible rape, and intersexual occupancy of sleeping facilities in public institutions. "Concerning mandatory use of women in combat, even the proponents are in disagreement."

The truth, asserts the author, is that "neither during the present preratification period nor, if ratified, for decades after can anyone on this planet know what the ERA will mean."

An important question, he says, is the "standard of judicial review" which might range from "judicial scrutiny" to "absolutism." No one knows now what that standard will be, he declares, and even when it is identified, the people won't know what they've bought until new rulings and regulations are forthcoming through interpretation by nonelected jurists.

As assistant attorney general 1975–77, Lee headed the Justice Department Civil Division. He has been a practicing lawyer and for a time was clerk to Supreme Court Justice Byron R. White.

Thomas L. Shaffer, professor of law at Washington and Lee University and former dean of the Notre Dame Law School, writes the foreword to Lee's 140-page book and comments:

". . . I am persuaded that supporters of the amendment should have second thoughts about their support, and that opponents . . . will find it (the book) the sort of balanced, rational lawyer's assessment that their party has so often done without. But no rational reader will put it lightly aside."

Lee is a member of the LDS (Mormon) Church which has spoken out for women's rights but opposes ERA.

Mr. CRANSTON. Mr. President, I will vote against confirmation of Rex Lee to be Solicitor General of the United States.

The Solicitor General is the officer of the Deparment of Justice who argues for the U.S. Government before the Supreme Court. As such, he has a controlling voice in which cases will be appealed from lower court decisions. When it appears that departments and agencies will be making controversial decisions which are likely to be litigated, the Solicitor General is consulted. Consequently, the influence of the office of the Solicitor General over the Federal Government's politics is very extensive and often decisive.

Mr. Lee's nomination is vigorously opposed by many women's organizations because of his outspoken opposition to the equal rights amendment and on other issues affecting women and minority groups.

I note also that Mr. Lee was until May this year a member of the board of litigation of the Mountain States Legal Foundation. This is the organization formerly headed by Secretary of the Interior Watt and has as its stated purpose "to combat the presence (and success) of 'special interest groups'—such as environmentalists, no-growth advocates, and those who seek more Government control in the courts."

Mr. Lee's record of opposition to equal rights for women and of opposition to affirmative action programs to carry out our national commitment to end unfair discrimination in employment against women and minorities, does not merit the Senate's vote of approval.

Mr. DIXON. Mr. President, I intend to vote to confirm Rex Lee as Solicitor General of the United States, but I do so with considerable reservations. I have voted for almost all of President Reagan's nominees to executive branch positions, because I believe, in general, that a President is entitled to have people working for him that he is comfortable with, so long as they are qualified. I do not believe, as a general matter, that opposition to the philosophy of a nominee is, by itself sufficient reason to vote not to confirm a nominee.

However, I am concerned about Mr. Lee's seeming insensitivity on issues affecting the rights of women. I do not require him to support the equal rights amendment to the Constitution as a condition of holding office just because I support it, but I am troubled by the way he has dealt with that issue which is so important to so many women.

Women have been, and continue to be, discriminated against in the United States, and I believe this is an injustice that we all must work to correct. Women often do not receive equal pay for equal work; they face discrimination in employment opportunity. Government, also, does not always treat men and women equally. Women face real discrimination under the social security program, for example.

Unfortunately, Mr. Lee's record reflects a less than complete understanding of these facts. As dean of the Brigham Young University Law School, he seems to have had enormous difficulty finding qualified women, both for the student body and the faculty. BYU's percentage of female law students is less than half of the national average, and the school has only one woman faculty member.

He has argued against the equal rights amendment through the use of scare tactics, raising issues that have nothing to do with that worthy amendment.

Mr. President, the Solicitor General represents all Americans; it is disturbing that Mr. Lee seems to be insensitive to issues of importance to women in America. I am particularly concerned because this nomination seems to reflect a pattern of lack of concern on issues of importance to women on the part of the Reagan administration. The President has appointed fewer women to positions in Government than did the Carter administration, and the President, like his nominee for Solicitor General, is opposed to ERA.

I recognize that this nomination will be approved today, and as I stated before, I do not intend to vote against it. I do hope, however, that Mr. Lee, as he undertakes the duties of his new position, will recognize that his duty is to represent all Americans, and that any personal views he may hold will not be reflected in his approach to litigation on behalf of the United States. He must be above reproach in his attempt to represent all persons. I hope he will be.

Mr. PERCY. Mr. President, I intend

to vote to confirm Dean Rex E. Lee, the President's nominee for Solicitor General of the United States. His nomination has been reported to the Senate with the backing of the Senate Judiciary Committee. In addition, he has a distinguished background including service as Assistant Attorney General under my close personal friend, the former Attorney General and past president of the University of Chicago, Edward H. Levi. Mr. Lee, himself, is a graduate of the University of Chicago.

However, Mr. President, I share the concerns of those who have contacted my office over the past several days about Mr. Lee's position in regard to equal rights for women. The Solicitor General is in effect the attorney for the United States. This is an important and sensitive position. I am aware of his stated assurances that he supports equality for all Americans. But, Mr. President, I am reminded of that timeworn phrase, "actions speak louder than words." It is my sincere hope and desire that Dean Lee will conduct his responsibilities as the Office of Solicitor General with the utmost sensitivity to the concerns of those women in this country who sincerely question his commitment to full equality.

Mr. BIDEN. Mr. President, the nomination of Dean Rex Lee to be the next Solicitor General of the United States raises the question of the responsibility of each Senator in evaluating the qualifications of nominees.

I believe the factors we must consider to determine a nominee's qualifications are his or her professional skills, experience, objectivity, and personal integrity. An individual's personal views on a political issue are relevant only insofar as they affect those qualifications. To give personal views any greater weight, or to require a particular point of view would make nearly every intelligent outspoken individual unqualified from the point of view of many of my colleagues, who have a wide variety of strongly held views on religious and philosophical issues.

A number of individuals and groups concerned with the rights of women in this country voiced strong opposition to the nomination of Rex Lee. I believe their concerns are extremely important, particularly when they address the appointment of an individual to the Office of Solicitor General.

I gave a great deal of weight to their concerns as well as the views Dean Lee expressed to Chairman THURMOND on the issue of women's rights:

I give you my unqualified assurance that I regard these matters, the rights of women and minorities and the preservation of natural resources and the environment as among the most important challenges that our Nation faces at the present time. If confirmed by the Senate I will vigorously support and defend those laws that strive for improvement in these areas, as well as the policies underlying those laws. Moreover, in reaching my decisions concerning positions to be taken in litigation before the courts, I will do so in light of the importance of these matters, because in my view, they represent important values.

The Judiciary Committee must always encourage open and through discussion whenever there is opposition to a nominee—that discussion is particularly important when a nominee's position on the rights of individuals is questioned. I am certain that I will continue to be called upon to consider a nominee with whom I have philosophical or political differences.

Dean Rex Lee has demonstrated the professional skills and personal integrity necessary to the Office of Solicitor General. I believe he will represent the United States before the Supreme Court to the best of his legal ability, regardless of his personal or philosophical views on any issue.

Mr. HART. Mr. President, I oppose the nomination of Dean Rex Lee for the Office of Solicitor General.

My position has been not to oppose a nomination on policy grounds. The question here is one of more than disagreement on policy. I have supported other nominees whose policies and views I have opposed. But this nomination concerns fundamental constitutional rights. The Solicitor General is in a unique position of responsibility for insuring constitutional guarantees.

Dean Lee has consistently stated his strong opposition to the equal rights amendment. The purpose of the equal rights amendment, which I strongly support, is to acknowledge that women's rights are constitutional rights, and are as sacred and as deserving of protection from discrimination as those of men. I cannot support a nominee for this special position who is not committed to these constitutional rights.

Mr. BAUCUS. Mr. President, I wish to make a few brief comments concerning the nomination of Dean Rex Lee to be the next Solicitor General of the United States.

I recognize that this nomination has met with a good deal of opposition from organizations representing the rights of women around the country. These groups have serious concerns and their interest in this nomination is clearly warranted as the authority and responsibility of the Office of Solicitor General is substantial.

The members of this committee have an obligation to address the issues raised by the individuals and organizations that have opposed this nomination in our deliberations on Mr. Lee's appointment.

My concern when considering judicial appointments is primarily with the integrity and ability of the nominee. I expect to have philosophical differences with many nominees to judicial office in the future.

These differences are inevitable and I am sure that debates such as this will occur in this forum again.

However, when considering an appointment, I do insist that I be able to satisfy myself that the nominee's understanding of his role in the judicial system is sound and that his ability to serve the Government in this role is unquestioned.

As a result of my questioning both in the confirmation hearings and in a private meeting with Dean Lee, I am convinced that Dean Lee's sole duty and allegiance as Solicitor General would be to the U.S. Government. I am confident that his religious and personal views on any matter, including the equal rights amendment, would have no bearing on the legal positions that he represents.

An exchange that took place between Dean Lee and myself during the confirmation hearings clearly states this position.

Senator BAUCUS. Would you not have to recuse yourself in those cases involving the Equal Rights Amendment even where the church or the university is not a party?

Mr. LEE. Let me put it this way: The only case that I can perceive that would come before me as Solicitor General in the event confirmed involving the Equal Rights Amendment is the one that is now pending in Idaho. I have already identified that as one in which I would disqualify myself.

In the event the amendment were passed, I would be hesitant at this time to make any kind of a blanket qualification as to what I would or would not do.

Senator BAUCUS. You said earlier that your job is to be the advocate of the United States before the United States Supreme Court. Does that mean that in no instance would you advise the Court that a statute is unconstitutional, or that in no instance would you refuse to defend a statute on the grounds that it is unconstitutional?

Mr. LEE. That is a most relevant question to the performance of the responsibilities of Solicitor General. Only in the rarest of instances is it the responsibility of the Department of Justice or the Solicitor General in the discharge of his particular responsibilities to make the judgment that a statute is so clearly unconstitutional that he cannot defend its constitutionality. Apart from that extreme kind of instance, I think that the Solicitor General and the entire Department of Justice owe a heavy obligation to the deference of the Congress and the rest of Government whom they serve to defend the constitutionality of statutes that are passed.

While it is true that Dean Lee and myself have strong differences of opinion on many issues, the most prominent of which is the wisdom of the equal rights amendment, I am satisfied that he will execute the laws of the United States and the U.S. Constitution as they exist, not as he would like them to exist.

I am confident that he will represent the positions of the U.S. Government with integrity, even if the positions are not consistent with his own personal views. I am confident that Dean Lee will represent his client, the U.S. Government, to the best of his professional abilities.

Mr. LEVIN. Mr. President, I intend to vote in favor of the nomination of Rex Lee.

I disagree completely with his views on the ERA but I cannot say his position on ERA alone disqualifies him.

We have heard arguments that a nominee's position on abortion or gun control should disqualify him or her for appointment to important positions. I have argued against that approach.

To vote "no" on confirmation here would, to me, raise the question of applying a double standard.

I particularly feel this way in the absence of a committee report which set forth reasons in the record of Rex Lee, or in the confirmation proceedings, which disqualify him. In that way fairer consideration could be given to arguments that he is disqualified by reason of bias or other significant disqualifying factor.

Mr. MITCHELL. Mr. President, I rise to express my opposition to this nomination.

The post of Solicitor General of the United States imposes a responsibility in the litigation of cases before the Supreme Court and it places upon its holder a burden of openmindedness and fairness toward the various issues to which the U.S. Government is a party in a court of law. The Solicitor General's prestige and position assure that suits in which his office participates are given extremely high respect by the Supreme Court, his opinions are frequently solicited, and the litigation policy over which he presides sets the standard for most other Government agencies as well.

Clearly, the influence of this officeholder is broad and pervasive.

The office demands, therefore, a person whose individual preferences and preconceptions do not, on the face of them, discriminate against any sector of our society.

It is evident from Mr. Lee's own writings and his offer to excuse himself from suits involving the ERA that he does indeed hold opinions and preconceptions which discriminate against the majority of our population—women. The merits of a suit of law are determined in the courts—they ought not be predetermined by the prejudices of appointed officials. I am concerned that in this instance, Mr. Lee's predisposition to believe that affirmative action is needless and that the 14th amendment offers women all the legal protection they need would establish a predisposition on the part of his office to downplay, if not disregard suits involving discrimination on the basis of sex.

It is evident that the advancement of women's rights continues to depend, in large part, on the willingness of individuals and governments to bring suit in cases where discrimination continues to exist. To ignore this fact is to ignore much of recent litigation history. It would be completely at odds with the demands of the Solicitor General's office to place this position in the hands of an individual whose views are so at odds with the facts of contemporary court decisions and contemporary conditions.

I have supported many nominees whose personal opinions differed from mine. I would continue to do so, because it is the Senate's function to measure fitness for the post, not to pass on a nominee's personal opinions. But when those opinions and past actions based on them run counter to the very basic requirements of the position, it is impossible to ignore such personal opinions. I will, therefore, oppose this nomination.

Mr. CHAFEE. Mr. President, the position of Solicitor General, while not widely recognized, is an important one in our Federal system of government. The Solicitor General is responsible for setting policy and conducting litigation for the United States before the Supreme Court. All of the appeals filed by agencies of the U.S. Government must be approved by the Solicitor. In addition, the opinions of the Solicitor General are frequently requested by the Court in non-Government cases that raise constitutional or Federal issues.

Clearly, the Solicitor General is in a uniquely powerful position to influence laws that cover almost every aspect of American life. For this reason, it is extremely important that a solicitor be impartial and objective in his choice of cases, and that he have the knowledge, ability, and experience to litigate these cases effectively on behalf of the United States.

Certainly, Mr. Lee has shown the requisite knowledge of the law to litigate effectively. His previous work with the Department of Justice, as well as his activities in the private sector, speak well of him in this regard.

However, in the course of hearings before the Senate Judiciary Committee, some criticism was raised about Mr. Lee's record and positions, especially as they relate to women's issues. After carefully reviewing both these criticisms and Mr. Lee's record, it is my judgment that Mr. Lee merits confirmation by the Senate.

My support for his nomination, though, does not lessen concern for what his role will be as Solicitor regarding the rights of women in our society. Women still face discrimination in many areas of our society, for example:

Full-time workingwcmen earn 60 cents for each dollar earned by a man;

Women make up 70 percent of the teachers in our school system, but are 20 times less likely to be promoted to principal than a male teacher; and

Seventy-eight percent of the women in the Federal Government are in GS–8 levels or below.

There are many cases dealing with women's rights presently in the courts. These cases deal not only with the extension of time for ratification of the equal rights amendment or the legality of rescission votes by State legislatures, but with issues that go to the heart of this economic discrimination.

As elected representatives, members of this body have a direct and immediate interest in the performance of the Federal Government before the Supreme Court. With this statement, it is my intention to make sure that Mr. Lee is aware that, while myself and other Members of Congress do have concerns about his record in this regard, we anticipate that his actions as Solicitor will be sufficiently evenhanded to put these concerns to rest.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Rex E. Lee, of Utah, to be Solicitor General of the United States? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Montana (Mr. MELCHER), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 15, as follows:

[Rollcall Vote No. 246 Ex.]

YEAS—79

Abdnor	East	Mattingly
Andrews	Exon	Murkowski
Armstrong	Ford	Nickles
Baker	Garn	Nunn
Baucus	Glenn	Packwood
Bentsen	Gorton	Pell
Biden	Grassley	Percy
Boren	Hatch	Pressler
Boschwitz	Hatfield	Pryor
Burdick	Hawkins	Quayle
Byrd, Harry F., Jr.	Hayakawa	Randolph
	Heflin	Roth
Byrd, Robert C.	Heinz	Rudman
Cannon	Helms	Sasser
Chafee	Huddleston	Schmitt
Chiles	Humphrey	Simpson
Cochran	Jackson	Specter
Cohen	Jepsen	Stafford
D'Amato	Johnston	Stennis
Danforth	Kassebaum	Stevens
DeConcini	Kasten	Symms
Denton	Laxalt	Thurmond
Dixon	Leahy	Tower
Dole	Levin	Wallop
Domenici	Long	Warner
Durenberger	Lugar	Williams
Eagleton	Mathias	

NAYS—15

Bradley	Inouye	Moynihan
Cranston	Kennedy	Proxmire
Dodd	Matsunaga	Riegle
Hart	Metzenbaum	Sarbanes
Hollings	Mitchell	Tsongas

NOT VOTING—6

Bumpers	McClure	Weicker
Goldwater	Melcher	Zorinsky

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the nomination was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—BUDGET RECONCILIATION CONFERENCE REPORT

Mr. BAKER. Mr. President, I believe now we are ready to receive a message from the House on the reconciliation resolution. Before I do that, may I ask of the minority leader if it appears now if he is in a position to enter a unanimous-consent agreement for a time limitation consideration of that resolution?

Mr. RANDOLPH. Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. SYMMS). The Senator is correct. The Senate will be in order.

The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, may I inquire of the minority leader if he is in a position to consider a unanimous-consent request to limit the time for debate on the conference report on reconciliation?

Mr. ROBERT C. BYRD. Mr. President, I am. I thank the Chair, and I thank my distinguished senior colleague (Mr. RANDOLPH) for getting order in the Senate.

Mr. President, I think we ought to try for an hour equally divided on the reconciliation measure. I have been talking in terms of 2 hours, but I find that some of my colleagues over here would be discommoded if the matter were carried on that long. I suggest to the majority leader—and I have talked with the ranking manager and he has talked with the majority manager of the resolution and it seems that an hour equally divided might be sufficient time.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that there be an hour equally divided for consideration of this conference report, to be under the control of the distinguished chairman of the Budget Committee (Mr. DOMENICI) and the distinguished ranking member (Mr. HOLLINGS) or their designees, with the additional condition that 10 minutes additional time be allocated to the distinguished Senator from Colorado (Mr. ARMSTRONG).

Mr. President, I modify the request by eliminating the 10-minute request on behalf of the Senator from Colorado, with the understanding, I believe, that he will be accommodated by the distinguished manager of the bill on behalf of the majority.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. Reserving the right to object, Mr. President. Let me inquire, if I may, of the majority leader. As he knows, the House passed H.R. 4331, which is the restoration of the minimum benefit on social security. Is that also here now, waiting to be presented to the Senate along with the reconciliation measure?

Mr. BAKER. Mr. President, I have not received the message from the House and I do not know. I assume both those measures will be delivered by the clerk to the Senate. Let us proceed on that assumption. I am fairly sure that is true.

Mr. RIEGLE. The indication that I have is that it is here as well and it is ready to be presented.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4331 in my own behalf and in behalf of Senator KENNEDY and a number of other Senators on this side who feel very strongly about it. I might say that the House today voted overwhelmingly—the vote was 404 to 20—to reestablish the minimum benefit on social security, not only for those now receiving it but to continue that benefit out into the future for beneficiaries who would become eligible for it. So the House is overwhelmingly on record today.

The President, as recently as last week, has said he intends to keep his promise that no one on social security is to lose their benefits.

So, it is my hope that the majority leader and the majority party will be able to allow this matter to come before the Senate today and be held at the desk and that we have an opportunity to vote on it.

The PRESIDING OFFICER. The majority leader has a request before the Senate.

Mr. BAKER. Yes, Mr. President, I do. But I am prepared to temporarily suspend my request if the Senator wishes to make that.

I had thought that we might get those messages here before we did it.

Since the Senator has made his request at this time, I will make my objection at this time to immediate consideration of that measure, if he wishes to deal with it in that way.

To answer the inquiry, I had anticipated, as the distinguished Senator from Michigan and I had discussed previously, as indeed I have with the minority leader, that when these two messages are received that, No. 1, on his request I would object and the matter would be referred, No. 2, that we will try to set a time for the consideration of the conference report and therefore that the time limitation that we are discussing now applies only to the conference report.

Mr. RIEGLE. Mr. President, let me say I am prepared at the appropriate time, whether it is now or whether it is after the two items are reported at the desk, to renew that request in my behalf and on behalf of a number of other Senators, that we have an opportunity to consider today the vote on this.

Mr. BAKER. Does the Senator wish to make that request at this time?

Mr. RIEGLE. I inquire would it be better that I do that now or does the Senator prefer that that be done after the measures have been reported?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair will advise that the majority leader has a unanimous-consent request before the Chamber.

Are there objections?

Mr. BAKER. Mr. President, I reserve the right to object on my own, and yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader simply get an order that the rights of the Senator from Michigan may be retained so that we can proceed to let the messenger in and proceed with the majority leader's request.

Mr. BAKER. I am prepared to do it either way. I think that is the more orderly procedure.

To make sure that the Senator from Michigan does not feel that he is giving up any rights, I ask unanimous consent that after the messages are received from the House of Representatives on these two measures the Senator from Michigan be recognized for the purpose of propounding a unanimous-consent request in respect to whichever one that is.

Mr. RIEGLE. Mr. President, I appreciate the courtesy of the majority leader. Will that also protect the rights—might I inquire of the majority leader—will that also protect the rights of other Senators? I know Senator KENNEDY wishes to speak on this measure, and I think Senator CHILES does as well. Will the majority leader's request accommodate the protection of their rights as well?

Mr. BAKER. Mr. President, I was distracted momentarily.

Mr. President, I am really not trying to deprive the Senator of any rights.

Mr. RIEGLE. I understand.

Mr. BAKER. Nor to complicate the issue.

Let me approach it from a different angle. I know what the Senator wishes to do, I believe. Why do we not simply make it in order by unanimous consent for him to propound that unanimous consent at this time, even before the incoming of that message?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, there are Senators who are going to be discommoded because once we get into that discussion we may go for 10 or 15 minutes. May I suggest to the majority leader respectfully that he simply get an order protecting the rights of Mr. RIEGLE and others and let the messenger come on in and proceed with his request

for a time limitation on the reconciliation bill? Let us go ahead with the reconciliation resolution and then following that Mr. RIEGLE's rights would be protected. He could stand then as he stands now if that order were entered.

Mr. SARBANES. Mr. President, will it be possible for the majority leader to provide some time for unanimous-consent requests that I think the Senator from Michigan intends to make of—how much time, 10 or 15 minutes? Otherwise, the Senator could object immediately, and those who would at least want to indicate why they think the Senate should take up this measure have no opportunity to make that point.

Mr. BAKER. Mr. President, I have no problem with that, and assuming we can get on with the conference report because there are Senators who wish to vote on that conference report and get it out of the way.

I withdraw my previous request.

Mr. President, let me put another one:

If the Senator from Michigan will give me his attention just for a moment, Mr. President, I ask unanimous consent that after the incoming of the two messages from the House of Representatives, one dealing with the minimum social security benefits and the other with the conference report on reconciliation, that the Senator from Michigan be recognized for not to exceed 15 minutes in preparation for posing a unanimous-consent request that the minimum social security benefit measure be held at the desk and that with the full understanding that at the expiration of that time and when he makes the unanimous-consent request that I will object to the request and in addition to that that there be an hour equally divided for consideration of the other message from the House of Representatives, the conference report on reconciliation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. RIEGLE. Mr. President, reserving the right to object, I appreciate the courtesy of the majority leader. I only wish to clarify so that it will be my intention after the 15 minutes in my unanimous-consent request to propose that the Senate proceed to the immediate consideration of H.R. 4331 just so we are clear on that point.

Mr. BAKER. All right.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I will modify my request in that respect so that the Senator from Michigan will be recognized for the purpose of making a unanimous-consent request for the immediate consideration of that measure.

Mr. RIEGLE. And put that in the other end.

Mr. BAKER. And the other thing is we better have a little division of that time of 15 minutes of 10 to the Senator from Michigan or his designee and 5 minutes for the majority leader's designee.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I am trying to protect the Senators who need to get away from here and catch an airplane, and all I wish to do is preserve the rights which Mr. RIEGLE has at this moment.

May I ask the distinguished majority leads, Will he propound an order that will preserve those rights and let us get on with this message, dispose of it and then return to this matter so that the Senator from Michigan can exercise his rights?

Mr. BAKER. Mr. President, I think we can wrap this up right now with the further agreement that the 15 minutes allocated to the Senator from Michigan under this order and the rights we are protecting not accrue until after the disposition of the conference report.

Mr. RIEGLE. That will be acceptable to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. RIEGLE. I thank the Senator.

OMNIBUS RECONCILIATION ACT OF 1981—CONFERENCE REPORT

Mr. DOMENICI. Mr. President, I submit a report of the committee of conference on H.R. 3982 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the First Concurrent Resolution on the Budget for the fiscal year 1982, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of part II of the RECORD of July 29, 1981.)

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the conference report on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that members of the staff of the Committee on the Budget and of members of the Budget Committee whose names I shall submit at the desk be allowed to remain on the floor during consideration of and votes on H.R. 3982.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, as I understand it the Senator from South Carolina has a half hour and I have a half hour.

Mr. HOLLINGS. That is correct.

Mr. DOMENICI. Mr. President, today I bring to the Senate floor the conference report on H.R. 3982, the omnibus reconciliation budget bill of 1981.

This bill is the culmination of more than 7 months' work by the Senate and House Budget Committees, and every committee of the Senate. And, the result of this unprecedented effort is the most historic effort at Federal spending restraint ever undertaken.

Because the committees of the Senate and House were willing to take a new course—to alter the business as usual approach of the past—this Nation's 1982 deficit will be $35.2 billion smaller than it otherwise would be. That is $35 billion that will not have to borrowed in the credit markets, and that is $35 billion that will not have to be printed by the Treasury.

During the next 3 years, this bill will save more than $130 billion, reducing pressure on inflation and allowing interest rates to drop.

A total of 14 Senate committees were given reconciliation instruction by the Congress earlier this year. And, all 14 have responded favorably. All 14 have used their independent judgments to make the cuts they thought wisest. All 14 have spent hours upon hours in hearings and markup and conference, insuring that this bill will be one of the most widely debated, carefully constructed bills in our history.

But, beyond the enormous effort this bill required, the entire reconciliation process has done two other crucial things: It has strengthened the legislative process and it has restored confidence in Congress among the American people.

Using reconciliation, the authorizing committees have been able to enact reforms that have languished for years. They have, using their special knowledge, refined more than 250 separate statutes. While some persons feared that reconciliation might produce faulty legislation, in fact, reconciliation has produced superior legislation, because of the central role of the authorizing committees and virtually every Member of this body. No other single bill in our history has involved so many Members of the Senate in such an intimate and prolonged manner.

Second, this bill silences all those critics who said that Congress simply would not change its decades-long spending habits. Congress has proven itself equal to the most onerous task it has faced since the end of the Vietnam war—cutting Federal spending across the board. This bill will do more to restore

confidence in Congress and the legislative process than any other single measure we may ever confront as Senators.

I will insert in the RECORD a summary of the individual committee decisions made during reconciliation, but let me give a few numbers that show the magnitude of the task and the great responsiveness of the committees involved. In the spring, we asked the committees to save $35.2 billion in 1982 outlays; and the reconciliation bill we have before us, indeed, saves $35.2 billion. We asked the committees to save almost $140 billion during a 3-year span, and, as of this accounting, they have saved about $130 billion, or 93 percent of the funds we asked them to save. We asked them to make changes in entitlements that would save about $40 billion during the next 3 years and, subject to later review, it appears that the changes in entitlements will save almost that amount.

Mr. President, this is more than success—this is a spectacular success achieved under the most difficult of legislative and time constraints.

On this occasion, which I believe is the highlight of my legislative career, I would like to thank the chairmen and ranking minority members of all the committees involved in this historic effort. Every one of you have been a part of this work; if you had not cooperated, if you had not taken the leap of faith in this work, we would not be here today. While all deserve great credit, I would be remiss if I did not single out Senator BOB DOLE of the Finance Committee, who managed the biggest tax cut bill in history on the Senate floor at the exact same time that he and his committee worked in conference to save the American taxpayers more than $9.3 billion in 1982 outlays and more than $29.8 billion during the next 3 years. The work of his committee and his committee staff in these two matters will stand the test of time when legislative competence is measured.

I also must thank and congratulate the work of Senator GARN, who concluded his most difficult and wide-sweeping Banking Committee conference earlier than almost any other committee chairman, making great changes in our housing and community development programs in the process; and, I offer my congratulations, too, to Senator HELMS and his staff on the Agriculture Committee; to Senator PACKWOOD and his staff on the Commerce Committee; to Senator MCCLURE and his staff on the Energy Committee; to Senator STAFFORD and his staff on the Environment and Public Works Committee; to Senator ROTH and his staff on the Governmental Affairs Committee; and to Senator HATCH and his staff on the Labor and Human Resources Committee, all for concluding multibillion-dollar conferences that entailed the most difficult changes in course in public spending.

In addition, I must commend the work of the chairmen and staffs of the Armed Services Committee, the Foreign Relations Committee, the Judiciary Committee, the Small Business Committee, the Veterans Committee, and the Indian Affairs Committee, for the excellent work they have done and for the changes in law that they have achieved. While the magnitude of the savings involved was not as great as some other committees, the reforms they have been able to achieve are an important part of the fiscal restraint package that we have fashioned. And, the conferences of which they were a part were often as contentious and difficult, and involved just as much member and staff time as other, larger, conferences.

Now, I must conclude on a few personal notes. This conference report would not be on the floor today, and, indeed, may not have ever been achieved without the constant help and advice, and the active support of, Senator HOWARD BAKER, our majority leader, and his staff. No one can ever realize the amount of work and the nature of the decisions he and his staff have made during this past 8 months.

In addition, I must thank Senator FRITZ HOLLINGS, my ranking minority member, for his leadership and his constant help and the help of his staff. Senator HOLLINGS chaired the Senate Budget Committee when the first reconciliation bill was finished last year and his pioneering efforts stood us in good stead during this difficult process this year.

Finally, I sincerely thank the staff of the Senate Budget Committee for the extraordinary work in has produced this year. I believe no committee staff has been under such public scrutiny as it has done its work in a matter of this magnitude and controversy. And, no staff has done a better job under such difficult circumstances.

It has been my privilege to manage this process. I must frankly confess my doubts—about the process and about my ability to manage it—during this past 8 months. That it has been concluded successfully is more a tribute to the process and to those who have helped at every turn than it is to any single individual.

Mr. President, I ask unanimous consent that a summary of the savings achieved and of the actions of the individual committees be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECONCILIATION SUMMARY

[In millions of dollars]

Senate committee	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry:								
Conference agreement	−97	−146	−3,858	−4,677	−4,556	−5,382	−5,545	−6,268
Senate passed	−140	−163	−3,850	−4,167	−4,720	−4,560	−5,401	−5,254
Instruction to committee	−140	−163	−3,667	−4,024	−4,620	−4,443	−5,405	−5,246
Armed Services:								
Conference agreement	−68	−68	−846	−882	−767	−731	−374	−374
Senate passed	−233	−233	−966	−966	−899	−899	−511	−511
Instruction to committee	−233	−233	−966	−966	−899	−899	−511	−511
Banking, Housing, and Urban Affairs:								
Conference agreement	−5,799	−97	−15,703	−737	−18,918	−2,001	−21,918	−3,804
Senate passed	−5,991	−133	−13,779	−917	−18,883	−2,111	−22,774	−3,968
Instruction to committee	−5,846	−133	−14,498	−840	−17,450	−2,133	−20,341	−3,779
Commerce, Science, and Transportation:								
Conference agreement	+450	−25	−1,444	−1,001	−1,379	−1,016	−1,243	−1,160
Senate passed	+255	−25	−1,433	−1,129	−1,761	−1,127	−1,956	−1,640
Instruction to committee			−1,658	−984	−1,798	−1,528	−1,765	−1,637
Energy and Natural Resources:								
Conference agreement	−907	+113	−6,288	−5,139	−4,787	−5,438	−4,036	−4,161
Senate passed	−2,627	−98	−6,055	−5,483	−5,958	−5,890	−5,419	−5,254
Instruction to committee	−1,331	−94	−3,714	−3,398	−3,660	−3,627	−3,604	−3,711
Environment and Public Works:								
Conference agreement	−756		−4,551	−870	−2,545	−1,969	−3,129	−3,427
Senate passed	−2,351	−71	−5,001	−1,063	−3,069	−2,824	−3,710	−4,341
Instruction to committee	−2,350	−68	−4,835	−978	−3,035	−2,740	−3,500	−4,165
Finance:								
Conference agreement	−36	+424	−4,743	−9,352	−4,549	−9,862	−4,389	−10,668
Senate passed	−174	−282	−5,954	−9,506	−6,857	−10,903	−7,579	−12,227
Instruction to committee	−212	−286	−4,490	−9,330	−4,677	−10,876	−4,824	−11,766
Foreign Relations:								
Conference agreement	+518	+26	+563	−52	+763	−18	+702	+158
Senate passed			−268	−167	−340	−239	−306	−301
Instruction to committee			−250	−130	−275	−200	−300	−300

Senate committee	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlay
Governmental Affairs:								
Conference agreement			−4,745	−5,203	−6,309	−6,748	−7,286	−7,624
Senate passed			−4,776	−5,203	−6,360	−6,796	−7,462	−7,777
Instruction to committee			−4,776	−5,203	−6,360	−6,802	−7,462	−7,797
Judiciary:								
Conference agreement			−124	−35	−140	−107	−146	−131
Senate passed			−117	−39	−134	−105	−144	−128
Instruction to committee			−116	−13	−133	−81	−344	−124
Labor & Human Resources:								
Conference agreement	−33		−9,511	−6,288	−11,847	−10,080	−13,666	−13,222
Senate passed	−2,582	−508	−10,667	−8,733	−13,473	−12,070	−16,772	−15,370
Instruction to committee	−2,427	−463	−11,088	−8,800	−14,020	−12,464	−17,500	−16,057
Small Business:								
Conference agreement	−760	−131	−504	−823	−540	−517	−527	−506
Senate passed	−304	−67	−526	−582	−578	−541	−588	−533
Instruction to committee	−97	−67	−526	−390	−564	−541	−554	−533
Veterans Affairs:								
Conference agreement			−110	−116	−122	−127	−124	−128
Senate passed	−18	−18	−109	−109	−109	−115	−118	−123
Instruction to committee	−14	−14	−110	−110	−108	−108	−106	−106
Indian Affairs:								
Conference agreement			−36	−15	−38	−37	−40	−38
Senate passed								
Instruction to committee								
Grand total:								
Conference agreement	−7,488	+96	−51,900	−35,190	−55,734	−44,033	−61,721	−51,353
Senate passed	−14,165	−1,598	−53,501	−38,064	−63,141	−48,230	−72,740	−57,447
Instruction to committee	−12,650	−1,521	−50,694	−35,166	−57,599	−46,442	−66,016	−55,732
4-yr total:								
Conference agreement							−176,843	−130,480
Senate passed							−203,547	−145,339
Instruction to committee							−186,959	−138,861

1982 Reconciliation Highlights

Committee on Agriculture, Nutrition and Forestry

The conference agreement tightens eligibility and freezes increases in benefits for the Food Stamp program (outlay savings of $1.7 billion in FY 1982).

Interest subsidies and loan levels for Farmers Home Administration agricultural and rural development lending are reduced (outlay savings of $0.4 billion in FY 1982).

Restrict eligibility and reduce subsidies for the Child Nutrition programs (outlay savings of $1.5 billion in FY 1982).

Total personnel employed by the Department of Agriculture are to be cut by 6 percent (outlay savings of $0.2 billion in FY 1982).

Allows the phasing out of the farm storage facility loan program and directs the remaining loans to those areas of the country where a deficit in storage capacity exists (outlay savings of $0.1 billion in FY 1982).

Growth in the P.L. 480—Food for Peace Program is reduced (outlay savings of $0.1 billion in FY 1982).

Inspection and grading user fees are established or increased for cotton, tobacco, and grains (outlay savings of $49 million in FY 1982).

Committee on Armed Services

Provides for annual instead of twice-a-year cost-of-living adjustments for military retirees compared to previous twice-a-year adjustment (saving of $394 million in FY 1982 outlays).

Permits sale of surplus materials from the Strategic Stockpile of Critical Materials (results in offsetting receipts of $535 million in FY 1982).

Provides for open enrollment for the Survivor Benefit Plan for military personnel and retired personnel (savings of $37 million in FY 1982 outlays).

Committee on Banking, Housing and Urban Affairs

Reduces the level of funding for Community Assistance Grants (CDBG and UDAG) (saves $47 million in FY 1982 outlays and $940 million over three years).

Reduces budget authority for subsidized housing (Section 8 and public housing) by $11.6 billion in FY 1982. This still provides authority for 150,000 new subsidized housing commitments and reduces FY 1982 outlays by $116 million.

Reduces outlays in FY 1982 for rehabilitation loans by $160 million. The reduction was accomplished by repealing the FY 1982 authorization so that loans might only be made from proceeds available in the revolving loan fund.

Reduces FY 1982 outlays for the National Consumer Cooperative Bank by $132 million. This was accomplished by establishing the Bank as a private entity which will repay its initial capitalization.

Reduces outlays of the Export-Import Bank by $111 million FY 1982 through reduced authorizations for export loan credits.

Committee on Commerce, Science, and Transportation

Gives the Secretary of Transportation options to sell Conrail to the private sector and authorizes $262 million for operating subsidies and $385 million for labor protection payments (outlay savings of $0.3 billion for FY 1982).

Amtrak is authorized at $735 million for FY 1982 and $788 million for FY 1983. This would allow Amtrak to maintain 85 percent of existing services. (Outlay savings of $0.3 billion for FY 1982.)

Limits funds for Airport and Airway Development (ADAP) to $450 million for FY 1981 and $600 million for FY 1982, reducing contract authority for two years (outlay savings of $0.2 billion for FY 1982).

The Federal Communications Commission (FCC) is authorized at $80 million for each fiscal year 1982–84. For the Corporation of Public Broadcasting $130 million is authorized for each fiscal year 1984–86. Radio and T.V. licensing periods are also extended (outlay savings of $0.1 billion for FY 1982–84).

A two-year authorization is provided for the Consumer Product Safety Commission (CPSC). Provides for legislative veto for Congressional disapproval of CPSC safety regulations (outlay savings for 1982 are $13 million).

Eliminates FY 1982 ship construction subsidies and avoids new commitments for operating subsidies (outlay savings of $0.1 billion for FY 1982–84).

Committee on Energy and Natural Resources

Adopt caps for authorizations for the Department of Energy for 1982, 1983, and 1984 (outlay savings of $4.6 billion in FY 1982).

Pricing for enriched uranium would remain as in existing law.

The off-gas provision of the Fuel Use Act (sec 301(a)) was removed. This allows utilities to continue burning natural gas.

Department of Interior authorizations have been capped in FY 1982, 1983, and 1984 (outlay savings of $0.5 billion in FY 1982).

The Strategic Petroleum Reserve is placed off-budget.

Fossil energy construction and R & D were cut substantially, with the largest reductions in coal mining and preparation, synthetic fuels research, and other coal research and development programs (outlay savings of $0.5 billion in FY 1982).

Committee on Environment and Public Works

A two-year obligational ceiling is adopted for the Federal-aid Highway program, for FY 1982 and 1983 (outlay savings of $0.5 billion in FY 1982).

A three-year authorization cap is placed on Corps of Engineers construction funding (outlay savings of $0.1 billion in FY 1982).

An authorization ceiling of FY 1982 is provided for States to administer the 205(g) portion of EPA's construction grants program with an additional $2.4 billion authorized for the program in FY 1982 contingent upon reforms (outlay savings of $0.1 billion in FY 1982).

The Economic Development Administration is authorized at $290 million in FY 1982 including language which gives priority to those projects which are currently authorized and others in the pipeline. The Title V Regional Commissions are to be terminated at the end of FY 1981. (Outlay savings of $0.1 billion in FY 1982.)

An allowance of $92 million for FY 1981 funds is made for TVA's coal gasification plant at Murphy Hill Alabama with language prohibiting funding for the plant in FY 1982–84 (outlay savings of $0.4 billion in FY 1982–84).

COMMITTEE ON FINANCE

Deregulates social service programs through creation of a state-operated social services block grant. Saves $700 million in FY 1982 outlays.

Revises several social security benefits, especially those for students, persons who did not earn them and those claiming disabilities. More appropriate payment starting dates, rounding of minor amounts and cancellation of death benefit payments when no survivors exist contribute to projected savings. Extends present earnings limitations for one year. Helps move the system toward solvency. Saves $2.2 billion in FY 1982 outlays.

Improves income eligibility standards, work incentives and employment options in aid to families with dependent children (AFDC). Tightens Child Support Enforcement. Saves over $1.1 billion in FY 1982 outlays.

Reforms unemployment insurance and trade adjustment assistance. Benefits from these two programs will be coordinated and will encourage unemployed workers to return to the work force. FY 1982 outlay savings are $1.4 billion for unemployment compensation and $1.3 billion for trade adjustment assistance. States will begin to pay interest on borrowing from the Unemployment Trust Fund. Training for displaced workers is increased.

Restrains rapid increases in Federal health program costs. $890 million in 1982 Federal Medicaid outlays will be saved by giving States the incentive to control program increases. Estimated Medicare spending goes down by $1.5 billion in FY 1982 outlays through use of token copayments, new deductibles, and tighter administrative and co-insurance provisions.

COMMITTEE ON FOREIGN RELATIONS

Authorizes $3.24 billion over four years for the International Development Association (IDA), the World Bank's soft loan affiliate (no savings, but limits the FY 1983 appropriation to $0.9 billion rather than $1.8 billion as requested by the President).

Stretches out U.S. assessed payments to international organizations (savings of $73 million in FY 1982 outlays).

Authorizes $0.6 billion over six years for the World Bank.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Provides for annual instead of twice-a-year cost-of-living adjustments (COLA's) for retired Federal employees' pensions (savings of $513 million in FY 1982).

Limits Federal civilian pay raises to 4.8 percent in FY 1982, for savings of $3.7 billion in that year.

Limits the Federal payment to the Postal Service (savings of $879 million in FY 1982).

Limits Federal loans to the District of Columbia for capital improvements (savings of $40 million in FY 1982).

COMMITTEE ON THE JUDICIARY

Reduces the authorizations of appropriations for Indochinese refugee assistance and juvenile justice and delinquency prevention grants (savings of $31 million in FY 1982).

COMMITTEE ON LABOR AND HUMAN RESOURCES

Education.—Creates an elementary/secondary education block grant streamlining Federal support for education. Reauthorizes the Title I compensatory education program with little change. Enhances the State's role. Combines several small education grant programs and gives the States authority to administer the funds. Limits Impact Aid and Vocational Education authorization levels. Savings total $400 million in FY 1982 outlays.

Guaranteed Student Loans.—Reforms the Guaranteed Student Loan program. Students from families with incomes over $30,000 will only be able to borrow the amount of their financial need. Students from families with incomes under $30,000 may borrow the maximum amount. All students will be required to pay a loan origination fee of 5 percent of the value of the loan. These program reforms will save about $320 million in FY 1982 outlays.

CETA.—Eliminates funding for CETA public service employment under Title VI and Title II–D, resulting in savings of $3.8 billion in FY 1982 outlays. Provides funding for CETA training activities and programs for youth at reduced funding levels. $694 million in FY 1982 outlays will be saved in CETA.

Health Block Grants.—Creates three block grants which consolidate 14 categorical grant programs. These are: (1) Health Prevention and Services Block Grant, (2) Alcohol, Drug Abuse and Mental Health Block Grant, and (3) Primary Care Block Grant. The grants provide flexibility for States in administering programs as well as transition provisions to allow States and grantees time to adjust to the new consolidations. These block grants will save $101 million in fiscal year 1982 outlays.

Low Income Energy.—Holds current funding levels, saving $372 million in planned fiscal year 1982 outlay increases. Changes to a State run block grant program.

COMMITTEE ON SMALL BUSINESS

Raises the interest rates on SBA disaster loans to homeowners and businesses, restricts the amount of such loans to businesses to 85 percent of the uninsured loss, and limits loans to creditworthy business borrowers to a maximum term of three years (saving $600 million in fiscal year 1982);

Reduces SBA salaries and expenses by 10 percent annually.

Reduces direct and guaranteed business loan program levels, saving roughly $200 million in fiscal year 1982.

COMMITTEE ON VETERANS AFFAIRS

Restricts eligibility for burial benefits, eliminates the Educational Loan Program, eliminates flight training for new enrollees, reduces reimbursements for correspondence training, and limits eligibility for outpatient dental care. These provisions will result in savings of $116 million in fiscal year 1982.

SELECT COMMITTEE ON INDIAN AFFAIRS

Authorizes Indian education programs at the President's requested level saving $15 million in fiscal year 1982 outlays.

Mr. DOMENICI. I yield the floor at this time.

Mr. HOLLINGS. Mr. President, shortly, we will mark the culmination of one of the most historic periods in the history of Congress. On February 24, when the distinguished chairman of the Budget Committee, Senator DOMENICI and I introduced Senate Concurrent Resolution 9, which started the reconciliation process this year, we knew it would be a difficult task. The reconciliation resolution told Congress to reverse a spending course that we have been on for too many years. It directed the committees of Congress to begin cutting Federal spending, not in bits and pieces but by significant amounts.

As finally agreed to by both Houses, the reconciliation resolution instructed the committees to cut back spending by $35.2 billion in fiscal year 1982 and by a total of $138.9 billion through fiscal year 1984. And the committees responded. In the space of just a few weeks, the Senate passed a reconciliation bill that exceeded those targets. The Senate bill cut fiscal year 1982 spending by $38.1 billion and by $145.3 billion through fiscal year 1984. Now, just 1 month later, we have the conference report before us.

The conference agreement would save $35.2 billion in fiscal year 1982 and a total of $130.5 billion through fiscal year 1984. Getting these savings required extraordinary effort on the part of the 281 conferees from the House and Senate—the largest conference in the history of Congress—meeting in 58 subconferences.

The leadership of both Houses and on both sides of the aisle devoted countless hours to move the conferees along in order to produce what we have here today.

I especially commend the very distinguished chairman of the Budget Committee, Senator DOMENICI, for his truly tireless work in both getting us to conference and returning us safely from it. His dedication to the budget process and his efforts on its behalf have been instrumental in passing the reconciliation bill and bringing this conference agreement to us. He deserves our thanks and our gratitude for a difficult job well done.

Mr. President, as pleased as I am that we have made a historic break with the spending habits of the past, I am a little distressed that the results of the conference with the House yielded less savings than either the original reconciliation instruction or the Senate-passed bill. The conference agreement cuts $2.9 billion less than the Senate-passed bill in fiscal years 1982 and a total of $14.9 billion less through fiscal year 1984.

With the administration's tax bill that has passed both bodies, we are facing a series of staggering budget deficits on the order of $60 billion annually for the next few years, at least. A deficit-laden fiscal policy is not the way to restore the economic vitality to our Nation. It should be clear that this reconciliation bill is not the end, but rather a beginning step which must be followed by further cuts in 1983 and 1984 if we are to have any hope of nearing a balanced budget.

I have supported the significant cuts in Federal spending contained in the Senate-passed reconciliation bill. But I think additional cuts, beyond those made in the conference agreement, will be necessary.

One disturbing aspect of this agreement is the inclusion of provisions that are clearly extraneous to reconciliation. The Senate voted to remove provisions that had no connection to reconciliation and did not achieve any budget savings. The conference agreement not only restores some of these provisions but adds new ones, especially in the housing and communications areas.

Mr. President, this is not the purpose of reconciliation. Even though the Senate is on record opposing extraneous provisions on a reconciliation bill, they are in this bill. This is such a fundamental issue that stronger means, such as an amendment to the Budget Act, may be needed to keep this from happening in the future.

We all are aware of the importance of getting our economy moving on the right track. Unfortunately, the combination of the excessive tax reduction bill we passed on Wednesday and the reduced savings achieved by this reconciliation bill will make that task all the harder.

The past few months have not been easy ones, but the coming months promise to be even more difficult. We cannot escape the fact that the need for budget cuts does not disappear with the lost savings in this bill. If we do not make the cuts now, we must make them in the future—our economy will not wait long.

Mr. President, although we have lost some important savings, I fully support this conference agreement and urge my colleagues to vote for it.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of H.R. 3982, the Omnibus Budget Reconciliation Act of 1981.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 3982, THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SUBCONFERENCE NO. 1

Senate Committee: Agriculture.
House Committee: Agriculture.

Agriculture Programs. On dairy price supports, the conferees deferred the issue by accepting the House position. The statement of managers, however, indicates that the final resolution of this issue will occur during the House-Senate conference on the Farm Bill.

Conferees also agreed on a number of small savings items by essentially receding to the House position on dairy and beekeeper indemnities, AMS payments to the states, fire protection grants, rural development grants, etc. In addition, the conferees accepted the Senate position on commodity inspection fees, grain reserve interest waiver, and the guaranteed access of the REA to the Federal Financing Bank. The conferees also compromised on a number of issues including the USDA personnel cap, the storage facility loan program, and the FmHA rural development loan.

Nutrition Programs. On the major issues of counting school lunches against children receiving food stamps and of increasing the benefit reduction rate, the conferees agreed to achieve savings through other provisions. The largest savings provisions included changes in indexing, prorating benefits, changing eligibility levels and instituting block grants for Puerto Rico.

SUBCONFERENCE NO. 2

Senate Committee: Agriculture.
House Committee: Agriculture and Foreign Affairs.

P.L. 480. The conference dropped the P.L. 480 Senate provisions to increase interest rates. The House Agriculture authorization level was agreed to for FY 1982 while the Senate and House Foreign Affairs levels were split for FY 1983–84.

SUBCONFERENCE NO. 3

Senate Committee: Agriculture and Energy.
House Committee: Agriculture and Interior.

Forest Service. The conferees agreed to the Senate's three-year cap on Forest Service programs.

SUBCONFERENCE NO. 4

Senate Committee: Environment and Public Works.
House Committee: Public Works and Transportation, Agriculture.

Water Policy. The conference agreement modifies the Senate language. It authorizes $12.5 million for the National Water Policy Board, if the board is subsequently authorized, and $24 million for other water resource planning and research activities.

SUBCONFERENCE NO. 5

Senate Committee: Agriculture.
House Committee: Agriculture.

Bankhead-Jones. The conferees agreed to drop this House provision. No provision was included in the Senate bill.

SUBCONFERENCE NO. 6

Senate Committee: Finance; Agriculture.
House Committee: Ways and Means; Agriculture.

SSI Cash-out of Food Stamps. The conferees agreed to continue allowing certain States to pay additional cash benefits to Supplemental Security Income recipients in lieu of food stamp benefits.

SUBCONFERENCE NO. 7

Senate Committee: Labor and Human Resources.
House Committee: Agriculture.

Second Morrill Act. The conferees agreed to drop the Senate reductions in funding for land grant colleges for black institutions.

SUBCONFERENCE NO. 8

Senate Committee: Agriculture and Energy.
House Committee: Agriculture and Energy and Commerce.

USDA Alcohol Fuels. The House receded to the Senate Agriculture Committee provisions to reduce the level of budget authority available for the Department of Agriculture alcohol fuels program.

SUBCONFERENCE NO. 9

Senate Committee: Environment and Public Works.
House Committee: Agriculture.

Rural Clean Water. The conference agreement deletes the House authorizations for the Rural Clean Water program.

SUBCONFERENCE NO. 10

Senate Committee: Armed Services.
House Committee: Armed Services.

Strategic Stockpile, Cost-of-living Allowances. The conference agreement includes the annualization of COLA benefits for military retirees and the sale of materials from the strategic stockpile. Also included are the House provisions for stockpile purchases and a plan for an open enrollment period for survivor benefits for military retirees who did not select the survivor benefits option when they retired.

SUBCONFERENCE NO. 11

Senate Committee: Banking, Housing and Urban Affairs.
House Committee: Banking, Finance and Urban Affairs.

The conference agreement includes, with few exceptions, the housing related extraneous provisions included in the Senate reconciliation bill. In addition, extraneous provisions that were contained in the House reconciliation bill have also been included. The majority of the authorizations in the bill are for only one year, thus requiring another annual housing and development authorization next year.

Issues of particular interest are discussed below.

Rent Control. The Senate receded to the House provision prohibiting flood insurance for undeveloped coastal barriers including islands and other coastal areas. However, the prohibition would not become effective for two years. Within one year, the Secretary of Interior must transmit to Congress a proposed list of the affected areas and recommendations for changes in the definition of coastal barrier. Exemptions are provided for wildlife refuges and sanctuaries.

National Consumer Co-Operative Bank (NCCB). The conferees agreed to convert the NCCB to private status by December 31, 1981, by exchanging Treasury held NCCB stock for equal shares of NCCB debt. This will place the bank off budget. The President would continue to appoint three members of a 15 member board. In addition, the NCCB would be Federally taxed as a co-operative, and exempt from state and local taxes (except real estate taxes). The independent Self-Help Development and Technical Assistance Office would be treated as a non-profit corporation.

Government National Mortgage Association (GNMA) Tandem Program. The conference agreement provides a $1.1 billion FY 1982 increase in GNMA mortgage purchase authority as contained in the House bill. The conference agreement is silent on the issue of program termination.

Federal Housing Administration (FHA) Insurance. The conference agreement extends for only one year the authority of the Secretary of HUD to insure mortgages or loans.

Subsidized Housing. The conference agreement provides authority for about 153,000 new units in FY 1982. It also maintains income eligibility levels at 80 percent of median income (existing practice), but specifies that no more than 5 percent of all newly obligated units may go to renters with incomes between 50 to 80 percent of the area median. Public housing operating subsidies were authorized at $1.5 billion; $0.3 billion above the level requested by the President and provided in the Senate-reported and House-passed HUD Appropriation bill for FY 1982.

UDAG. The conferees adopted the Senate provision which retained the Section 119 authorization for UDAG. The program level was reduced to $500 million annually for FY 1982 and 1983.

SUBCONFERENCE NO. 12

Senate Committee: Energy.
House Committee: Banking and Energy and Commerce.

Low Income Weatherization. Conferees agreed that $175 million of the $336 million allocated for state/local conservation activities be available for low income weatherization. The conferees also agreed to House provisions that building energy performance standards would be developed solely as voluntary guidelines for all buildings, except for federal buildings which would remain subject to mandatory standards.

SUBCONFERENCE NO. 13

Senate Committee: Energy.
House Committee: Banking.

Solar Bank. The conferences agreed to fund the Solar/Conservation Bank at $50 million per year for fiscal year 1982–84. The Senate reported bill authorized $50 million for FY 1982 while the House bill had $132 million annually for FY 1982–84.

SUBCOMMITTEE NO. 13A

Senate Committee: Foreign Relations.
House Committee: Banking, Finance and Urban Affairs.

International Development Association.

The conference agreement provides for an $850 million cap on appropriations for the IDA in FY 1982 which is the level requested by the President. Although this is outside the range of each reconciliation bill ($298 million in the House and zero in the Senate), the Senate has already passed a separate bill, S. 786, at the $850 million level proposed by the President.

The multiyear authorization for IDA requested by the President is for a total of $3.2 billion and covers three years FY 1981–83. The conferees agreed on a four year authorization at $3.2 billion.

SUBCONFERENCE NO. 14

Senate Committee: Governmental Affairs.

House Committee: District of Columbia.

DC Capital Loans. The conference agreement accepts the House bill provision to limit the amount of funds authorized for loans to the District of Columbia for capital projects to $155 million in each of fiscal years 1982 through 1984. The agreement also drops the House limitation on outlays.

SUBCONFERENCE NO. 15

Senate Committee: Labor and Human Resources.

House Committee: Education and Labor.

Elementary and Secondary Education. The conferees agreed to cut funding for elementary and secondary education by 10–15 percent and to consolidate a number of smaller programs into a block grant but continue education programs for the disadvantaged (Title I) and the handicapped as separate categorical programs.

Impact Aid. The conference agreement cuts impact aid by almost 50 percent by eliminating funding for schools on military bases, phasing out over three years funding for "B" children and targeting remaining funds on schools with a high proportion of "A" children.

Employment and Training. The conferees agreed to eliminate CETA public service employment (Reagan proposal). In addition, the conferees cut funding for CETA youth programs by one-third and cut the State Employment Service by about 10 percent. These are smaller reductions than those assumed by the President.

Higher Education. The conferees cut deeper than the Senate bill for Pell Grants but restored funds for guaranteed student loans. Students from families with incomes above $30,000 can qualify for GSL's only after passing a needs test.

Handicapped and other Social Service Programs. Vocational rehabilitation programs will continue at current policy funding and will not be incorporated in a social services block grant. Funding for Gallaudet College is just below the current policy level.

The conferees increased the authorization for Headstart to $950 million as in the Senate bill. Older Americans Act programs were continued at current policy. The Community Services Program, which was not included in the social services block grant, will continue at reduced funding levels through a separate block grant to the States.

FECA. The conference agreement makes no changes in the Federal Employees Compensation Act. The House had proposed cuts in this program.

SUBCONFERENCE NO. 16

Senate Committee: Agriculture.

House Committee: Education and Labor.

WIC. The conferees placed a cap on the WIC program at a level slightly higher than current policy for FY 1982 and at the current policy level for FY 1983 and FY 1984.

Child Nutrition. The conference agreement departs from the Administration's school lunch proposal by retaining subsidies for non-needy students. Non-needy students would receive a subsidy of 21.5 cents per lunch, about a 17-cent reduction from current policy. Free lunch subsidies are set less than current policy. Reduced price lunch subsidies are set at 40 cents less than the free lunch or 80.25 cents per lunch (this represents a 30.5 cents cut due to reconciliation). It is unlikely these cuts will result in the widespread program closings that were once a real possibility.

Other child nutrition savings are achieved by changing the manner and timing of inflation adjustments and sharply reducing or eliminating some programs such as special milk, summer feeding and nutrition education.

SUBCONFERENCE NO. 17

Senate Committee: Judiciary.

House Committee: Education and Labor.

Juvenile Justice Delinquency Prevention.—The House receded to the Senate authorization levels for the Juvenile Justice Delinquency Prevention Program (JJPD): $77 million for FY 1982. In addition, the conferees agreed to continue the JJPD Title III (Runaway and Homeless Youth Act) programs. However, administration of the Title III program would be transferred to ACTION.

Civil Rights Grants.—The conferees agreed to accept the House provision authorizing appropriations for Civil Rights Training Grants at $37.1 million for fiscal years 1982 through 1984.

SUBCONFERENCE NO. 18

Senate Committee: Labor and Human Resources.

House Committee: Education and Labor Energy and Commerce.

Black Lung.—The conferees agreed to drop the Senate proposal placing black lung clinics in a health services block grant.

SUBCONFERENCE NO. 19

Senate Committee: Finance; Labor and Human Resources; Judiciary.

House Committee: Ways and Means; Education anl Labor; Energy and Commerce.

Low Income Energy Assistance. The conferees agreed to authorize the low income energy assistance program at $1.875 billion in FY 1982—the same levels as the Senate bill. The FY 1981 funding level was $1.85 billion. The President had proposed consolidating this program into a block grant and cutting FY 1982 funding to $1.4 billion.

Social Services Block Grant. The conference agreement cuts funding for the block grant by approximately 15 percent rather than 25 percent. Child welfare services, foster care and adoption assistance programs are continued in their present form, and community services and vocational rehabilitation programs were not included in the block grant. The main program included in the social services block grant in Title XX which already is a block grant.

SUBCONFERENCE NO. 20

Senate Committee: Finance.

House Committee: Ways and Means; Education and Labor.

Black Lung Trust Fund. The conference agreement drops the House provision increasing the tax on all coal to $1 per ton.

Community Work Programs for AFDC. The conference agreement provides for a voluntary program for community work projects for AFDC recipients as included in both House and Senate bills.

SUBCONFERENCE NO. 21

Senate Committee: Labor and Human Resources.

House Committee: Education and Labor; Post Office and Civil Service.

Federal Employees Compensation Act. The conferees dropped the House provisions making significant changes in FECA.

SUBCONFERENCE NO. 22

Senate Committee: Indian Affairs.

House Committee: Education and Labor.

Indian Education. The conferees agreed to cut Indian education programs in 1982 by $36 million. This 10 percent reduction reflects the President's proposed level. The House version cut Indian education by $98 million in 1982; the Senate did not make cuts in this area.

SUBCONFERENCE NO. 23

Senate Committee: Commerce, Science and Transportation.

House Committee: Energy and Commerce/ Merchant Marine and Fisheries (for one provision).

Amtrak. The conference agreement adopts the House-Senate authorization level of $735 million for FY 1982 and a split of $788 million in FY 1983. The conferees also adopted a modified House provision which would allow Amtrak to defer approximately $182 million in FY 1982–83 interest payments to the Federal Financing Bank. The Conferees also agreed to change existing criteria which govern Amtrak's reduction of routes and service and to drop Senate changes to Amtrak's labor protection provisions.

Conrail. The conferees resolved differences in authorization levels by adopting the Senate provision of $400 million for labor separations, the House provision of $70 million for computer service transfer and a split of $262 million for operating subsidies. The conferees adopted a compromise on the determination of Conrail's profitability and the sale of the railroad either as an entity or in pieces. The conference agreement postpones any sale in pieces until at least November 30, 1983, a year later than the Senate provision. The conferees also agreed to repeal Conrail's existing and costly labor protection provisions and to provide expedited abandonment of uneconomic lines after 90-day notice.

Other Transportation. The conferees also compromised on a number of miscellaneous transportation provisions with little savings impact. One element of the agreement was to reduce expenses for the Office of the Secretary of Transportation by about 2 percent in FY 1982 and to monitor his official use of Coast Guard and FAA airplanes with the possibility of charging these expenses to his office rather than to either agency.

Communications. The conferees agreed to include several "extraneous" provisions as follows: extending radio station licenses to 7 years and TV licenses to 5 years, and prohibiting nuisance applications on license renewals. The conference did not include the FCC user fee provisions, but did include authorizations for the FCC at $80 million for FY 1982–84. For the Corporation for Public Broadcasting, the conferees adopted the higher House funding level, $130 million for FY 1984 through 1986.

Consumer Product Safety Commission. The conferees agreed to authorize the Consumer Product Safety Commission at $33 million in FY 1982 and $35 million for FY 1983. The conferees ordered the Commission to amend a 1979 rule regulating power lawn mowers and included a legislative veto provision for Congressional disapproval of CPSC rules.

SUBCONFERENCE NO. 24

Senate Committee: Energy.

House Committee: Energy and Commerce.

Strategic Petroleum Reserve. Conferees resolved minor differences with regard to the strategic petroleum reserve off-budget account, the energy conservation activities of the Department of Energy, and the regulatory and information functions of the Department.

In addition, the Senate receded to the House amendments to the Fuel Use Act to eliminate the natural gas outdoor lighting restrictions and the prohibition on industrial/utility burning of gas after the year 1990. Conferees also agreed that a plan to promote voluntary conservation of natural gas by utilities be included in the Fuel Use Act.

SUBCONFERENCE NO. 25

Senate Committee: Finance.

House Committee: Energy and Commerce.

Medicaid. The conference agreement drops the cap on medicaid payments and instead reduces federal reimbursements to States by 3% in FY 1982, 4% in FY 1983 and 4.5% in FY 1984. The reduction in the minimum match from 50% to 40% is dropped. The conferees also agreed to allow States to apply for waivers from HHS if they wish to limit freedom of choice for medicaid beneficiaries in selecting physicians and other providers.

Maternal and Child Health Block Grant. The conference agreement includes 7 programs in the maternal and child health block grant: Title V—Maternal and Child Health, hemophilia, lead paint poisoning, sudden infant death syndrome, adolescent pregnancy, SSI for disabled children, and genetic screening. The conferees split the difference in funding, providing about $365 million for the block grant. (Adolescent pregnancy program is also funded as a categorical program).

SUBCONFERENCE NO. 26

Senate Committee: Environment and Public Works.

House Committee: Energy and Commerce.

Noise Control and Toxic Substances. The conference agreement deletes the House provisions authorizing the noise control and toxic substances control programs.

SUBCONFERENCE NO. 27

Senate Committee: Labor and Human Resources.

House Committee: Energy and Commerce.

Health Block Grants: The conference agreement includes three health block grants:

Community Health Centers—placed in their own block grant called the primary care block grant. In FY 1982, community health centers will remain a categorical program ($280 million) with $2.5 million added for planning grants for the States. Beginning in FY 1983, States may take over administration of the program; existing community health centers would be protected for one year.

Preventive Health—contains 8 programs: health incentive grants, rape crisis centers, risk reduction and health education, rat control, flouridation, high blood pressure, emergency medical services, and home health.

Mental Health, Alcoholism and Drug Abuse—with targeting for each program.

The conference agreement also reauthorizes several categorical programs for three years: family planning, migrant health, venereal disease, childhood immunization, tuberculosis (new authorization), and adolescent pregnancy. The conferees also reauthorized the health professions education program for three years and the health planning program for one year. Several small programs, including HMOs and health services research were also reauthorized.

SUBCONFERENCE NO. 28

Senate Committee: Judiciary.

House Committee: Energy and Commerce.

Drug Enforcement Administration. The conferees accepted a technical House provision repealing an unnecessary, duplicate authorization for the Drug Enforcement Administration, which is contained in the Controlled Substances Act.

SUBCONFERENCE NO. 29

Senate Committee: Energy.

House Committee: Energy and Commerce and Interior.

Alaska Gas Pipeline. Conferees agreed to a compromise on the funding cap for the Federal Inspector of the Alaska Natural Gas Transportation System. In FY 1982 the number will be the level in the House-passed Interior Appropriations bill, H.R. 4035. In FY 1983–84 the number will be the House level.

SUBCONFERENCE NO. 30

Senate Committe: Environment and Public Works.

House Committee: Energy and Commerce, Interior and Insular Affairs.

Nuclear Regulatory Commission. The House receded to the Senate and agreed to strike the reauthorization for the Nuclear Regulatory Commission.

SUBCONFERENCE NO. 31

Senate Committee: Select Committee on Indian Affairs.

House Committee: Interior and Insular Affairs and Energy and Commerce.

Indian Health Service. The conference agreement contains no reduction in Indian health programs, as provided in the Senate bill.

SUBCONFERENCE NO. 32

Senate Committee: Energy.

House Committee: Energy and Commerce, Interior and Insular Affairs, and Science and Technology.

Department of Energy. The conferees accepted the Senate's DOE authorization and the DOE cap in FY 1982. However, in the outyears the established caps are approximately $400 million above the Senate caps. The fair value pricing of enriched uranium provisions were dropped by the House and the Senate energy targets were included in the conference agreement. However, the statement of managers states that these targets do not have legal force.

SUBCONFERENCE NO. 33

Senate Committee: Commerce, Science and Transportation.

House Committee: Energy and Commerce/Public Works and Transportation/Merchant Marine and Fisheries.

Department of Transportation. The conference agreement provides a compromise on provisions affecting the Office of the Secretary of Transportation research and development activities, planning funds, and general expenses. One element of the compromise was to reduce general expenses for the Office of the Secretary by 2 percent in FY 1982 and to monitor the Secretary's official use of Coast Guard and FAA airplanes with the possibility of charging these expenses to his office rather than to either agency.

SUBCONFERENCE NO. 34

Senate Committee: Environment and Public Works.

House Committee: Energy and Commerce, Public Works and Transportation.

Environmental Protection Agency. The conference agreement deletes the Senate's three-year limit on funding for EPA's abatement, control, and compliance and nonenergy research and development activities.

SUBCONFERENCE NO. 35

Senate Committee: Finance and Governmental Affairs.

House Committee: Ways and Means; Post Office and Civil Service; Energy and Commerce.

Federal Employees Health Benefit Coordination. The conferees agreed to drop the House provisions making Medicare the secondary payor of benefits for persons over age 65 who had Federal Employees Health Benefits coverage.

SUBCONFERENCE NO. 36

Senate Committee: Finance.

House Committee: Energy and Finance.

Medicare Physician Services. The conference agreement covered 23 provisions including pneumococcal vaccine, nutritional therapy, deductible levels, renal dialysis services, home health services, and other miscellaneous medicare services.

SUBCONFERENCE NO. 37

Senate Committee: Foreign Relations.

House Committee: Foreign Affairs.

International Organizations. The conference agreement provides for savings in several areas such as international organizations and conferences, voluntary contributions to international organizations, American schools and hospitals abroad, and small miscellaneous items. The agreement reached is essentially the Senate position.

SUBCONFERENCE NO. 38

Senate Committee: Governmental Affairs.

House Committee: Government Operations.

Travel and Consultants. The conference agreement requires the President to submit a rescission bill in FY 1982 to reduce the amount of funds which may be obligated for consultant services and special studies. The required reduction is $500 million below the Carter budget, less any savings achieved in appropriation bills by that time.

The conferees also included similar language regarding $100 million in travel savings. The Director of OMB is responsible for allocating the reduction but the cuts cannot come from funds used for debt collection, law enforcement or national defense.

Block Grants. The conferees modified title XVI of the House bill setting forth administrative and procedural requirements for States receiving block grant funds. The conference agreement requires that States prepare and make public a report on the distribution of funds, conduct public hearings, and audit the use of block grant funds. It also allows GAO access to records for the purpose of evaluating and reviewing the use of block grant funds.

SUBCONFERENCE NO. 39

Senate Committee: Energy and Environment.

House Committee: Interior and Insular Affairs.

Department of the Interior. The House receded to the Senate FY 1982 Department of Interior cap and the Senate receded to the House on the outyear caps. In addition, the Senate accepted the House provision that increases the filing fee for mineral land leases from $10 to $25 but rejected the provision to increase the acreage rental fee to $3 per acre. Conferees also resolved minor differences pertaining to the Pennsylvania Avenue Development Corporation and the Advisory Council on Historic Preservation, and included funding for the Holocaust Memorial Council.

SUBCONFERENCE NO. 40

Senate Committee: Environment and Public Works, Energy and Natural Resources.

House Committee: Interior and Insular Affairs, Public Works and Transportation.

Recreation Fees. The conference agreement adopts the Senate limitation on authorizations for the Corps of Engineers special recreation use fees in FY 1982–84.

SUBCONFERENCE NO. 41

Senate Committee: Select Committee on Indian Affairs.

House Committee: Interior and Insular Affairs.

Indian Relocation. The conferees dropped a House provision limiting the appropriations for the Navajo and Hopi Relocation Commission.

Note: There is no subconference 42 or 43.

SUBCONFERENCE NO. 44

Senate Committee: Judiciary.

House Committeee: Judiciary.

Indo-Chinese Refugee Assistance. The conference agreement drops those provisions of the Senate reconciliation bill reducing authorizations for Department of Justice activities. These authorizations are contained in the Senate-reported (S. 951) and House-passed (H.R. 3462) Department of Justice authorization.

The conferees agreed to accept the Senate's FY 1982 reduction in Indo-Chinese refugee assistance to $583 million and also

accepted for FY 1982 only, the Senate's reduction in authorization for salaries and expenses of the patent and trademark office.

SUBCONFERENCE NO. 45

Senate Committee: Labor and Human Resources.

House Committee: Judiciary.

Legal Services Corporation. The Senate receded to the House position, thus authorizing no funding within the reconciliation bill for the Legal Services Corporation in FY 1982 or beyond.

SUBCONFERENCE NO. 46

Senate Committee: Small Business, Judiciary.

House Committee: Small Business, Judiciary.

Equal Access to Justice. The House receded to the Senate and dropped the Equal Access to Justice provisions of Title XIII of the House bill.

SUBCONFERENCE NO. 47

Senate Committee: Commerce, Science and Transportation.

House Committee: Merchant Marine and Fisheries.

Maritime Administration. The conferees adopted a compromise on the minor House-Senate differences in the Maritime Administration authorization bill which left the Senate savings intact. The conferees adopted a modified House provision which, for 2 years (FY 1982–83), would allow U.S. vessel operators to build or reconstruct vessels in foreign shipyards and still be eligible for operating subsidies if: (1) construction differential subsidies (CDS) are insufficient; and (2) the President requests for FY 1983 at least $100 million in CDS, or proposes an alternative program that creates equal U.S. shipbuilding activity. The conferees did not adopt a House provision which would have deferred the obligation of FY 1981 funds for ship construction subsidies.

SUBCONFERENCE NO. 48

Senate Committee: Environment and Public Works.

House Committee: Merchant Marine and Fisheries, Public Works and Transportation.

Ocean Dumping. The conference agreement deletes the House provision imposing new fees on ocean dumping.

SUBCONFERENCE NO. 49

Senate Committee: Labor and Human Resources.

House Committee: Energy and Commerce, Merchant Marine and Fisheries.

Public Health Service Hospitals. The conference agreement adopts the House language on hospital closure.

Merchant Seamen. The conference agreement adopts the Senate position repealing the entitlement of merchant seamen to free health services.

SUBCONFERENCE NO. 50

Senate Committee: Governmental Affairs.

House Committee: Post Office and Civil Service.

Postal Service. The conferees agreed to reduce Postal Service authorizations close to the Senate-passed level, but reduced the authorization for subsidies for free and reduced rate mail to: $690 million in FY 1982, $708 million in FY 1983, and $760 million in FY 1984.

Offsetting reductions were taken in other areas, primarily the public services cost appropriation. The conferees also agreed to require six days mail delivery for fiscal years 1982 through 1984, as well as to delay implementation of the nine-digit ZIP Code until 1983.

Federal Civilian Pay Raises. The House accepted the Senate provision, thus dropping the outyear cap on pay raises, and accepting the 4.8 percent FY 1982 pay cap.

SUBCONFERENCE NO. 51

Senate Committee: Commerce, Science, and Transportation.

House Committee: Public Works and Transportation.

Aviation. The conference agreed to limit authorizations for expenditures from the Aviation Trust Fund for airport development and planning grants (formerly ADAP) to $450 million in FY 1981 and $600 million in FY 1982. The conference agreement adopted modification of the Senate position on highway safety direct spending/authorization levels and on limiting ICC salaries and expenses.

SUBCONFERENCE NO. 52

Senate Committee: Environment and Public Works.

House Committee: Public Works and Transportation.

Federal Aid Highways. The conferees split the differences between the House and Senate positions on the Federal-aid highway program by agreeing to a two-year obligation ceiling of $8.2 in fiscal year 1982 and $8.8 billion in fiscal year 1983. The Senate included a three-year ceiling.

Economic Development. The conferees included fiscal year 1982 authorizations of $290 million for the Economic Development Administration ($360 million in the House bill, $50 million in the Senate) and $215 million for the Appalachian Regional Commission. The ARC authorization provides $165 million for highways and $50 million for non-highway uses, as in the House bill.

Tennessee Valley Authority. The conference agreement allows TVA to spend $92 million in fiscal year 1981 funds on the Murphy Hill coal gasification plant, as provided in the House bill. However, no funds are authorized in fiscal year 1982–84 for the Murphy Hill project.

EPA Construction Grants. The conferees agreed to authorize $40 million for State management assistance of the EPA construction grant program in fiscal year 1982. The conference agreement retains a modification of the Senate language authorizing $2.4 billion in fiscal year 1982 for construction grants to States contingent on enactment of reform legislation.

Water Projects. The conference agreement adopted essentially the Senate's three-year limitation on authorizations for the Corps of Engineers water project construction.

SUBCONFERENCE NO. 53

Senate Committee: Banking, Housing, and Urban Affairs.

House Committee: Public Works and Transportation.

Mass Transit. The conferees agreed to the House provision for separate program authorizations with a modification to limit overall fiscal year 1982 authorizations for mass transit to $3.792 billion.

SUBCONFERENCE NO. 54

Senate Committee: Energy.

House Committee: Science and Technology.

Department of Energy Research. The conferees reached agreement on the Department of Energy research and development programs including fossil energy, solar, hydro, geothermal, nuclear fission, magnetic fusion, electric energy systems, general science and research, energy conservation and environmental research. For the most part, the authorizations for these programs reflect the House position. The conference agreement also authorizes $247 million for the Department of Energy administrative budget contained in this subconference.

SUBCONFERENCE NO. 55

Senate Committee: Labor and Human Resources.

House Committee: Science and Technology.

National Science Foundation. The conference agreement deletes the Senate's reductions in funding for the National Science Foundation.

SUBCONFERENCE NO. 56

Senate Committee: Small Business.

House Committee: Small Business.

Small Business Administration—The conference agreement provides regular authorizations for appropriations for the business and disaster loan programs. It also provides additional financing in FY 1982 for the SBA business loan programs through implementation of an "interest forgiveness" provision first authorized and used in FY 1981. The provision allows SBA to pass through to Treasury only the interest payments it receives from borrowers rather than the interest it would normally pay on its loan portfolio. The major features of the revised loan programs approved by the conferees are as follows:

Business loans. Targeted loan programs are consolidated into one major loan program with interest rates set at the prevailing market rates, but not less than the Treasury rate plus 1 percent.

Disaster loans. Interest rates are the same as the Farmer's Home Administration disaster loan program.

Homeowners:

unable to obtain credit elsewhere—interest rates of ½ the cost of money to the federal government, plus up to 1% at SBA's discretion, but not to exceed 8%.

able to obtain elsewhere—interest rate at the full cost of money to the federal government plus up to 1%.

Business:

unable to obtain credit elsewhere—8%.

able to obtain credit elsewhere—Administrator of SBA establishes interest rate after discussion with the Secretary of Agriculture, but not to exceed the rate prevailing in the private market and the maximum rate for SBA guaranteed loans.

Nunn/Pryor: The Senate reconciliation bill contained a provision (Nunn/Pryor) overruling regulations implemented by the Administration March 19 limiting SBA business disaster loans to 60% of actual loss and denying disaster loans to creditworthy businesses. The conferees agreed to require SBA to revise its action on pending applications and provide creditworthy borrowers loans at prevailing rates (for 85% of net loss) and to provide non-creditworthy borrowers loans at the rates in effect at the time the disaster commenced (for 100% of net loss).

SUBCONFERENCE NO. 57

Senate Committee: Veterans Affairs.

House Committee: Veterans Affairs.

Veterans Benefits. The conference agreement eliminates burial benefits for all veterans except those receiving compensation and/or pension benefits. The burial plot allowance was maintained. Benefits for flight training are eliminated and reimbursement for tuition for correspondence school courses was reduced from 70 percent to 55 percent. Certain reductions were also made in dental benefits and education loan programs.

SUBCONFERENCE NO. 58

Senate Committee: Finance.

House Committee: Ways and Means.

Social Security. The conference agreement eliminates the minimum benefit beginning in March 1982, phases-out student benefits beginning in the summer of 1982, ends the lump sum death benefit, terminates surviving parents' benefits when the youngest child reaches age 16, and makes changes in benefit formula rounding rules. Under disability insurance, a cap is imposed on total benefits a recipient may receive from federal, State, and local programs. Under SSI, reductions in the vocational rehabilitation program are made.

AFDC. The conference agreement includes tightening of eligibility, lowering of the amount of earnings that can be retained

without losing benefits, strengthening work requirements, limiting striker eligibility, improving reporting of earnings and accounting procedures, and improving child support collections activities.

Medicare. Under Medicare hospitalization, the conferees changed the deductible and coinsurance rates and the reimbursement levels for hospitals, repealed last year's delay in advance payments to States, and reduced the nursing differential bonus paid to hospitals. Changes in dental coverage, hospital interest depreciation, and $1 per day hospital copayments were dropped.

Trade Adjustment Assistance. The conferees agreed to reduce Trade Adjustment Assistance by 75 percent—the President's proposed level—by only paying benefits after regular unemployment insurance benefits are exhausted, limiting the combined UI/TAA payments to a total of 52 weeks and reducing benefit payment levels.

Unemployment Insurance. The conferees accepted most of the Senate's changes in unemployment compensation by terminating the national extended benefits trigger, requiring higher levels of unemployment for State triggers, and eliminating unemployment benefits for voluntary resignations from the military service. In addition, the conferees adopted an unemployment insurance loan reform package that allows States that have depleted their UI trust fund revenues to borrow federal funds at no interest through FY 1984 and at 10 percent thereafter.

CBO ESTIMATES OF CONFERENCE AGREEMENT RECONCILIATION SAVINGS, JULY 31, 1981

[In millions of dollars]

	Fiscal year—							
	1981		1982		1983		1984	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Subconference:								
1		−163	−2,164	−3,042	−2,689	−3,566	−3,551	−4,295
2			−132	−128	−199	−186	−224	−213
3	109	74	−94	−42	−94	−69	−93	−93
4			−9	−2	−10	−7	−12	−10
5								
6			−50	−50	−50	−50	−50	−50
7								
8	−65							
9								
10	−68	−68	−846	−882	−767	−731	−374	−374
11	−5,799	−97	−14,405	−539	−17,072	−1,291	−19,447	−2,449
12	−65		−5,597	−4,572	−4,619	−5,036	−3,715	−3,696
13	−1,000	−10	50	−46	50	−108	50	−102
13A	518	26	807	106	1,088	259	1,016	460
14			−39	−40	−56	−58	−72	−69
15	−33		−8,241	−5,499	−10,035	−8,454	−11,419	−11,073
16	−76		−1,474	−1,457	−1,579	−1,566	−1,682	−1,672
17			−52	−5	−70	−36	−87	−65
18								
19			−1,268	−1,189	−1,662	−1,647	−2,077	−2,054
20					−20	−20	−41	−41
21								
22			−36	−15	−38	−37	−40	−38
23			−746	−693	−901	−658	−713	−695
24[2]								
25			−1,222	−931	−1,051	−982	−942	−1,157
26								
27			−609	−207	−726	−555	−791	−716
28								
29	(1)	(1)	14	13	23	22	24	24
30								
31								
32[2]								
33			−21	−14	−23	−21	−25	−24
34								
35								
36		−1	−44	−45	−50	−518	−52	−707
37			−244	−158	−325	−277	−314	−302
38								
39	93	66	−699	−492	−183	−261	−340	−332
40			(1)	(1)	(1)	(1)	(1)	(1)
41								
44			−72	−30	−70	−71	−59	−66
45								
46								
47			−150	−14	−63	−33	−74	−62
48								
49			−92	−92	−179	−179	−191	−191
50			−4,705	−5,163	−6,253	−6,690	−7,214	−7,555
51	450	−25	−527	−280	−392	−301	−431	−379
52	−756		−4,542	−85[1]	−2,535	−1,962	−3,117	−3,417
53			−1,298	−198	−1,846	−710	−2,471	−1,355
54[2]								
55								
56	−760	−131	−501	−823	−540	−517	−527	−505
57			−110	−116	−122	−127	−121	−128
58	−36	425	−2,778	−7,268	−2,673	−7,487	−2,542	−7,951
Total	−7,488	96	−51,900	−35,190	−55,734	−41,033	−61,721	−51,353

[1] Less than $500,000.

[2] Savings estimates are included with subconference 12 estimates.

Mr. HOLLINGS. Mr. President, I have several Senators willing to put statements in.

Mr. DOMENICI. I am going to see on my side quickly what Senators want to be recognized and for how long.

How long does Senator CHAFEE need?

Mr. CHAFEE. Two minutes.

Mr. DOMENICI. Are there any other Senators who wish to be recognized?

I am aware of the Senator from Colorado. How long does the Senator from Washington require?

Mr. GORTON. Less than a minute.

Mr. DOMENICI. All right.

Mr. HOLLINGS. Mr. President, I yield now to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I am deeply troubled by one of the provisions contained in the bill before us today.

The House-passed bill included language providing that no funds are to be made available for the Youth Conservation Corps for fiscal years 1982, 1983, and 1984. The Senate-passed version included no such prohibition.

Although the YCC is funded through the Departments of the Interior and Agriculture, jurisdiction over the program in the House rests with the Education and Labor Committee.

Under the procedure pursuant to which the House Budget Committee "scored" savings, the Education and Labor Committee was credited with some $160 million of savings for eliminating the YCC program.

Under this process, these savings occur even though the agreement reached between the Senate Energy and Natural Resources Committee and the House Interior Committee includes no such prohibition on funding.

The result of all this, Mr. President, is that in order to ensure funds for the YCC, the conferees would have had to make additional reductions in other youth employment programs within the jurisdiction of the House Education and Labor Committee.

Pursuant to earlier agreements worked out between the House Committee and the Senate Labor and Human Resources Committee, these programs have already been cut drastically and further cuts in these programs to provide money for YCC were unacceptable to these conferees. Consequently, the House language was retained and the program capped at "zero" in fiscal year 1982, 1983, and 1984.

In my view, this action, which is strongly supported by the administration, is shortsighted and not in the best interest of the youth of the country or our priceless natural resources. The YCC is a unique program, one which benefits both those who participate in it—approximately 40,000 since 1977—and the parks, wildlife refuges, recreation areas and other public lands where the YCC projects are located.

The YCC is not just an employment program—it is also a natural resource program. This is something all of us should keep in mind in discussing the YCC.

The YCC has become a vital entity in the ongoing management picture of our national parks, forests, wildlife refuges, and other recreation lands. This program represents the least expensive way to accomplish a variety of essential resource management projects benefiting both the visitor and the resources themselves.

In many instances, cutbacks in regular budgets and reductions in personnel have made it impossible for the land managing agencies to complete essential resource management, visitor safety, and other worthwhile projects without the assistance of the Youth Conservation Corps.

For example, in the last 3 years the acreage in the National Park System has more than doubled. At the same time, despite soaring inflation, significant portions of the Park Service budget have actually been reduced and the agency has lost several hundred employee positions. These factors and others combine to make the YCC the only means of accomplishing a number of projects essential to park operations. Without YCC assistance, many national parks will suf-

fer severe resource deterioration and damage—a condition that everyone, including the present administration, agrees is unacceptable.

As a matter of fact, the administration's support of the elimination of this program is especially curious given the concern that Secretary Watt has voiced regarding the sad state of our park resources. One of the cornerstones of Mr. Watt's natural resource program seems to be to repair, rehabilitate, and restore what we have before acquiring more. And yet, at the same time, the Reagan administration has led the fight to terminate one of the programs best suited to help meet this goal. There is simply no doubt that the demise of the YCC program will have a very adverse effect on our National Park System.

In terms of return on investment, there is no question that YCC is cost effective. Comparing the appraised value of the work accomplished to the cost of the program, the taxpayers have consistently received more in terms of the value of service performed than it costs to provide that service.

The Washington office of youth programs shows a return of $1.23 for each dollar invested in the NPS portion of the YCC program for 1980. While the NPS–YCC program received a $4.4 million budget in 1980, the appraised value of YCC work accomplished totals $5.3 million.

It should be noted that these figures are based on the estimated cost of contracted work for the year YCC completed the project. In reality, the completion of the project would probably be delayed for several years if a private contractor or the NPS maintenance division were employed.

This delay would result in increased deterioration and irreparable damage. The agency would end up paying not only the additional inflationary costs but also the added costs incurred by the increased damage.

In addition, YCC enrollees themselves benefit from the environmental education component of the program, gain a variety of work skills, and are given an opportunity to work with other young people of differing backgrounds.

Mr. President, the language in this measure seeking to eliminate funds for this program is certainly contrary to the action taken by the Senate Committee on Energy and Natural Resources on reconciliation in June.

At that time the committee adopted an amendment, offered by Senator HEINZ, accomplished by appropriate report language, making it clear that the committee supported a modest shifting of funds within the natural resource budget function so that certain programs not recommended for funding in fiscal year 1982 could be funded.

One of those programs targeted specifically by the committee was the Youth Conservation Corps. While the committee recognized the fact that the program would certainly be cut—only $30 million was made available instead of the $60 million authorized—it was clearly the committee's intent that the program be continued—not terminated.

Nor is this proposed elimination consistent with the fiscal year 1981 Interior appropriations bill which passed the House on July 22 and recommended $20 million for the YCC program. Obviously, there is still considerable support in the Congress for this worthwhile program.

I am still optimistic that some resolution of this matter can be reached in the context of an appropriations conference and that $20 million might still be made available this year.

In any event, while the bill before us today limits appropriations for this program, the authority for the YCC is still on the books. I am hopeful that a way can be found to fund a summer youth program of this type in the Departments of the Interior and Agriculture in future years.

I am convinced that the action we are taking today with regard to YCC is a mistake and will certainly do what I can to reverse this decision in the future.

Mr. HOLLINGS. Mr. President, I yield now to the distinguished Senator from Arizona.

Mr. DECONCINI. I thank the distinguished Senator from South Carolina.

Mr. President, I intend to cast my vote in favor of the reconciliation conference report. The bill makes the first significant cuts in nonessential Government programs in decades. Only by substantially limiting the percentage of national wealth expended by the Government can we hope to limit its impact on our lives and on our economy.

Over the last three decades, the role of Government has expanded exponentially; it must now be pared back. I applaud President Reagan for his commitment to this goal, a goal to which I have dedicated much of my public service.

I have disagreed with some of the cuts embodied in this legislation, and with one item especially which I will address in detail. Certain cuts in veterans benefits, health care, and nutrition were ill-advised.

I proposed an amendment that would have eliminated an additional $3.9 billion in waste, fraud and abuse that would have allowed the goals of the budget to be reached without impacting on those programs.

Unfortunately, the Senate Budget Committee was unwilling, at this juncture, to expend the time and effort necessary to trim all the fat from Government. I am hopeful, however, that we will ultimately be successful in achieving those economies.

While I intend to vote in favor of the reconciliation bill, I do so with extreme reluctance because of one particular provision. The Congress and the President have, in the context of this bill, violated their fiduciary duty toward the Nation's senior citizens in eliminating the minimum social security benefit.

There is some questionable application of the minimum benefit, particularly among those individuals who also receive a Government pension. I am convinced, however, that the abuses can be rectified without taking the drastic step of totally eliminating a benefit that is of crucial importance to the continued well-being of millions of citizens.

When President Reagan spoke to the American people to urge support of his tax bill, he briefly but clearly indicated that he was now committed to the position that no person who is currently receiving social security benefits should have them reduced or eliminated. I applaud his change of heart. I only hope that this change can quickly be translated into new legislative action.

Both Houses of Congress have passed resolutions expressing the view that the minimum benefit should be restored to current beneficiaries. I have been assured that work will begin on such legislation immediately, legislation that will have the effect of vitiating or repealing the minimum benefit provision contained in this reconciliation bill.

It is also my understanding that this will be a bipartisan effort. It is only in the context of these assurances that the injustice wrought by the present bill will be rectified before the legislation takes effect that I can vote to support it.

I am firmly committed to the view that we should continue the minimum benefit for both present and future beneficiaries. This does not, of course, rule out developing legislation to eliminate abuse of this benefit.

But the minimum benefit is a critical part of the "safety net" about which President Reagan spoke so eloquently. As legislators, we have an absolute obligation not to break trust with those citizens who depend upon these few dollars for their very survival.

● Mr. McCLURE. Mr. President, all of us are aware of the cancerous consequences of sustained inflation for the vitality of the American economy. All of us are aware of the punishing consequences of inflation. And all of us are aware of the need to promote economic recovery.

Following President Reagan's address to a joint session of the Congress approximately 5 months ago on the economic crisis facing America, the Congress undertook a bold new course of action to rescue our Nation from economic and social distress.

On an unexcelled schedule the authorizing committees brought to the Senate floor within weeks the necessary authorization legislation to achieve the objectives of President Reagan's program for economic recovery. And now we have before us, within approximately 4 weeks, the agreements from more than 50 separate subconferences, 12 of them involving members of the Committee on Energy and Natural Resources.

I am once again reminded of the truth in President Reagan's words when he observed that:

> We can no longer procrastinate and hope things will get better. They will not. If we do not act forcefully, and now, the economy will get worse.

The challenge before us has been to get our country moving again—to restore the "American Dream"—for all Americans, not just for a select few. As I have stated before, we must not think of budget reconciliation in terms of indi-

vidual hardships and losses; rather we must think of it as taking the necessary initial forceful steps to counteract inflation and to foster economic growth and full employment.

The Omnibus Budget Reconciliation Act of 1981 takes the initial steps to revitalize our Nation's energies and to bring efficiency to Government. But we must not assume that our job is over; now we must undertake the necessary steps to assure our country's energies are directed to insure the long-term economic growth that must occur if inflation is to be reduced and the Federal budget balanced.

We must capture control over the Federal budget. The Omnibus Reconciliation Act of 1981 represents the initial legislative step to reduce the rate of growth in the Federal budget that has plagued us for years.

For example, the budget proposed by President Carter for fiscal year 1982 for the civilian programs of the Department of Energy represented a 33.5 percent increase compared to fiscal year 1981.

By comparison the budgets proposed by President Reagan for fiscal years 1981 and 1982 represent a slight increase above a reduced fiscal year 1981 base but, more significantly, a 0.3 percent growth rate compared to President Carter's fiscal year 1981 budget.

When both the on-budget and off-budget provisions of the conference agreement are aggregated, the authorization for the Department of Energy approximately equals the Reagan budget, the conference agreement represents a modest growth in the programs of the Department of Energy primarily due to additional funds for the strategic petroleum reserve, energy conservation research and development and State and local programs, including funds for low-income weatherization, and for fossil and solar energy research and development.

Mr. President, programs within the jurisdiction of the Committee on Energy and Natural Resources amount to $24.81 billion in fiscal year 1982. The Omnibus Budget Reconciliation Act affects $17.93 billion of these moneys, or 72 percent of them. The conference agreement affects the current fiscal year 1982 as well as fiscal years 1983 and 1984.

The conference agreements reached by the committee adopt President Reagan's proposed budgets for fiscal years 1982 through 1984 for the Advisory Council on Historic Preservation, the Office of the Federal Inspector for the Alaska Natural Gas Transportation System, the Pennsylvania Avenue Development Corporation, and the U.S. Holocaust Memorial Council.

In the natural resources areas, the conference agreement establishes limitations on the aggregate appropriations for each Department or agency within the committee's jurisdiction. The agreements are consistent with President Reagan's proposed budgets with two exceptions. Programs of the Department of the Interior were authorized slightly higher than proposed by President Reagan.

The conference agreement adopted the Senate passed authorizations for the Department of the Interior which are $3,970 million for fiscal year 1982; $4,680 million for fiscal year 1983; and $4,797 million for fiscal year 1984. The resultant savings are $683 million for fiscal year 1982; $167 million for fiscal year 1983; and $318 million for fiscal year 1984.

Programs of the Forest Service are authorized very slightly below the levels requested by President Reagan. The conference agreement provides aggregate authorizations for forest research, State and private forestry, National Forest System and construction and land acquisition programs of $1,575,552,000 for fiscal year 1981; $1,498,000,000 for fiscal year 1982; $1,560,000,000 for fiscal year 1983; and $1,620,000,000 for fiscal year 1984.

I would also like to note that the conferees agreed to appropriation targets regarding certain programs within the Department of the Interior in lieu of the line item spending floors originally in the House bill.

The appropriation targets established for each of fiscal years 1982 through 1984 are as follows: $275,000,000 for the Land and Water Conservation Fund; $30,000,000 for the National Historic Preservation Act of 1966; $10,000,000 for the Urban Park and Recreation Recovery Act of 1978; $105,000,000 for the restoration and rehabilitation of units of the National Park System; $239,000,000 for the Office of Territorial and International Affairs, including amounts for the Trust Territory of the Pacific Islands; $6,200,000 for mineral institutes authorized by title III of the Surface Mining Control and Reclamation Act of 1977; and $100,000,000 for payments in lieu of taxes (PILT).

Other programs and offices of the Department of the Interior were not specifically capped, thereby leaving decisions, such as which reclamation projects to fund, to the appropriations committees. While I agree with the sense of the conference report provision, it must be recognized that these targets may not be attainable in all instances in light of fiscal constraints and more pressing priorities.

The conferees agreed to a provision setting a minimum fee of $25 for noncompetitive oil and gas lease applications. Discretion was given to the Secretary of the Interior to set a higher fee but only in accordance with the criteria of existing law absent the judicially imposed limit to actual costs.

While the $25 minimum fee is set by the statute, any increase above that level must be set by regulation using normal procedures thereby protecting against the possibility of arbitrary action.

I would also like to emphasize that permanent appropriations accounts were treated in different ways for the Department of the Interior and the Forest Service. Under the provisions capping spending levels for Interior programs, a savings clause originally in the House bill was accepted by the conferees regarding permanent and indefinite appropriations. In essence, the Interior cap may be exceeded by a sum equal to the amount by which budget estimates are exceeded by actual receipts available for permanent and indefinite appropriations.

Under the provision applicable to the Forest Service, the conferees agreed to drop permanent appropriations from the cap altogether by placing a limit on the forest management, protection, and utilization and the construction and land acquisition appropriations accounts solely.

While different approaches were taken for Interior and the Forest Service, the end result is the same, permanent appropriations such as payments to the States for timber and mineral receipts are unaffected by the reconciliation caps.

In the energy area, the conference agreement contains a Department of Energy 3 year authorization for fiscal years 1982 through 1984, as required by the Department of Energy Organization Act.

This action will thus provide a stability to the Department's programs that has not existed since its establishment in 1977. Such stability is particularly critical for the energy supply research and development programs on whose results rests solutions to our country's long-term energy problems.

The authorization in the conference agreements are $5,386 million for fiscal year 1982; and $6,371 million for fiscal year 1983; and $6,417 million for fiscal year 1984. As discussed earlier, these are very slight increases over President Reagan's proposed budgets for fiscal years 1982 through 1984.

But, more importantly, the resultant savings from the President Carter proposed budget are $5,818 million in fiscal year 1982; $4,985 million in 1983; and $4,286 million in fiscal year 1984 for Department of Energy programs.

Particular mention needs to be made of the procedure followed in the establishment of the limitations by appropriations accounts for programs of the Department of Energy. As the Statement of Managers notes:

> In the Omnibus Budget Reconciliation Act of 1981, the conferees from the Senate Committee on Energy and Natural Resources, the House Committee on Energy and Commerce, the House Committee on Interior and Insular Affairs, and the House Committee on Science and Technology took a common approach in the formulation of their recommendations regarding authorizations for the Department of Energy.

The agreement is to establish limitations by appropriation account for programs of the Department of Energy for fiscal years 1982, 1983, and 1984. Where substantial changes were made in the policy assumptions behind the budget proposed by President Reagan, they are discussed in the Statement of Managers.

The limitations on fiscal years 1983 and 1984 appropriations were established by a projection of the fiscal year 1982 recommendations on a basis of the policy established herein for fiscal year 1982. Changes in the assumptions behind these projections will be considered by the Congress during review of the fiscal year 1983 and 1984 budgets, and in its action on associated authorization bills.

Particular mention also needs to be made of the strategic petroleum reserve (SPR) program. The SPR can provide

our Nation with insurance against the economic dislocations, protection against international embargoes, and a source of fuel for military use in the event of wartime mobilization.

The strategic petroleum reserve was created by the Energy Policy and Conservation Act, Public Law 94–163, and signed into law on December 22, 1975. Motivated by concern for national security, the objective of the strategic petroleum reserve is to reduce the U.S. vulnerability to severe interruptions of petroleum supplies through the acquisition and storage of up to 1 billion barrels of petroleum.

Once again, in the context of the Omnibus Reconciliation Act of 1981, the Congress expresses its concern that the Nation establish and maintain an adequate supply of stored oil to minimize the adverse effects of any serious interruption in petroleum supplies.

The conference agreement creates an off budget funding mechanism for the Secretary of Energy with an authorization of $3.9 billion for fiscal year 1982, for oil acquisition, transportation, injection, and expenses associated with drawin down the reserve in response to an energy emergency.

In addition, on budget authorizations are provided to cover the cost of construction, operation—including the drawdown system—maintenance, program direction, and administration in the amounts of $260 million for fiscal year 1982, $366 million for fiscal year 1983, and $364 million for fiscal year 1984.

The initial storage target was 500 million barrels by 1982. The Congress subsequently approved the implementation of a Government reserve of 750 million barrels with congressional approval on the timing and method for the fourth 250-million barrel increment being deferred.

Consistent with these earlier policies the conference agreement requires the President to seek a fill rate for the reserve of at least 300,000 barrels per day. However, because the ultimate size under present policy was approved during a period when U.S. import of oil was substantially greater than it is at present, the conference agreement also requires the Department of Energy to reevaluate the optimal ultimate size of the reserve in a report to the Congress.

In summary, the conference agreement achieves savings of $6,509 million for fiscal year 1982; $5,153 million for fiscal year 1983; and $4.607 million for fiscal year 1984 for programs within the jurisdiction of the Committee on Energy and Natural Resources.

Mr. President, throughout this process it has been my judgment that it would be possible to ultimately fashion a budget package changes that would achieve the goals and objectives of President Reagan's program for economic recovery, although not necessarily an identical package. This has proven to be the case. Some of the required changes have been painful and we therefore have attempted to assure equity in the distribution of consequencies of the necessary change.

Throughout the reconciliation process our goal has been to direct Federal energy and natural resource programs to release the creativity and individual initiative of the American people to sustain economic growth.●

Mr. DOMENICI. Mr. President, I would like to ask the distinguished chairman of the Committee on Energy and Natural Resources for some clarification in the intent of the conference committees actions with regard to the Clinch River Breeder Reactor. Am I correct that the Statement of Managers affirms the need for and timing of the project, and contemplates that construction be undertaken as expeditiously as possible?

Mr. McCLURE. The Senator is correct.

Mr. DOMENICI. Am I correct that the Statement of Managers reflects the intention to affirm the existing project authorization including location of the project at the existing Clinch River site? And am I also correct that the Statement of Managers affirms the existing project arrangements and objectives which were incorporated into the existing project authorization?

Mr. McCLURE. The Senator is correct on both points.

Mr. DOMENICI. Am I correct that the project will be judged on the basis of its ability to meet the existing informational objectives and not on the basis of providing needed power?

Mr. McCLURE. You are correct.

Mr. DOMENICI. Am I correct that the intent of the conferees is to minimize the effect of unrecoverable delays resulting from the 1977 decision to stop the project, and to that end, affirms the existing project arrangements and objectives, and to the maximum extent possible, the pre-April 1977 project schedule?

Mr. McCLURE. Let me say to my colleague from New Mexico that he is correct on this point also.

Mr. DOMENICI. Mr. President, I ask the distinguished junior Senator from Washington (Mr. GORTON) if he is ready. I yield to the Senator from Washington.

AGENDA FOR THE SENATE FOR THE REMAINDER OF THIS WEEK AND NEXT WEEK

Mr. BAKER. Mr. President, before the Senator from Washington begins, would he allow me to intervene? I ask unanimous consent that I may proceed in colloquy with the distinguished minority leader without any time being charged on the reconciliation conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Washington.

I have asked the distinguished majority leader if he would at this time tell us what the business of the Senate will be for the rest of the day, what the program will be for the rest of the week, and what the program will be for the early part of next week if it is necessary to return.

Mr. BAKER. Mr. President, I thank the minority leader. I must say the situation is not even clear now at 4:40 in the afternoon. I had hoped to make an announcement earlier. This is the best reading I can provide at this time.

The conferees on the tax bill are in conference at this moment. As soon as we finish the reconciliation conference report this afternoon, it would be my intention to deal with routine matters on the calendars as they may be available by unanimous consent.

After we have disposed of those matters, it would be my intention to ask the Senate to recess over until 8 p.m. By that time it is hoped the conferees on the tax bill can give us a good reading on whether or not they will have an early conference report to be filed, perhaps on tomorrow. If that is likely, and if the mechanical requirements of producing that report for submission can be accomplished, I will consider asking the Senate to convene at a late hour on Saturday, perhaps 6 o'clock, to consider that conference report at that time.

I reiterate that is not clear at this point. But if it is, then it is, perhaps, possible we could finish the conference report on the tax bill by tomorrow night. I think it unlikely, in all candor. If we cannot, then it is my intention to ask us to come back next week, I hope just for 1 day, on Tuesday or Wednesday—Wednesday seems the more favored day based on the conversations I have had with Members on both sides so far.

In recapitulation, Mr. President, we will finish the reconciliation conference report, we will attend to housekeeping details, unanimous-consent items on both calendars as they are available this afternoon; we will recess at that point until 8 o'clock to receive a progress report from the conferees on the tax bill. At that time, shortly after 8 o'clock, I intend to have a further announcement and be able to state whether it will be necessary to be in on Saturday, and to choose what day, if it is necessary, to complete the conference report next week.

Mr. RIEGLE. Mr. President, will the Senator yield for a question?

Mr. BAKER. Yes, I yield.

Mr. RIEGLE. Is it the intention of the Senator if we go through and over to next week and come in either Tuesday or Wednesday, would it be the thought that the only matter to arise would be the vote on the tax conference report?

Mr. BAKER. Yes.

Mr. RIEGLE. There would be no other items?

Mr. BAKER. I can assure Senators that based on the remarks I made yesterday this is the only business of any consequence we are going to transact, meaning the only business except by unanimous-consent items.

Mr. RIEGLE. I thank the Senator.

Mr. JACKSON. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. JACKSON. Under the rules would the Senate take up the conference report first, the conference report on the tax bill?

Mr. BAKER. Mr. President, I thank the Senator for inquiring. I was under the impression that since we asked for a

conference, that the House must act first. But I am advised that that is not the case. That is the practice but not the requirement. The Senate does have physical possession of the conference documents or of the documents involved, and I believe I am correct in saying that the Senate could act first in these circumstances.

I might say parenthetically that I have conveyed this point of view to the distinguished Speaker of the House of Representatives and to the minority leader of the Senate. No decision on that has been made, but I believe under the precedents of the Senate that the Senate can act first but that it is not the usual procedure.

Mr. JACKSON. I hope the Senate can act first, and I hope in connection with taking up the conference report that we can get a unanimous-consent request as to the time on the conference report prior to our departure from here.

Mr. BAKER. Mr. President, I think that is absolutely essential. If we are going to come back, we need a maximum certainty on the time we are coming back and an absolute clarity on why we are coming back.

Mr. JACKSON. Those of us who have to fly all night from the West Coast would appreciate a time certain.

I appreciate the comments of the majority leader, and I hope that that can be a part of any consent agreement that would be entered into prior to our departure over the weekend.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes, I am happy to.

Mr. METZENBAUM. Would it be the majority leader's intent, if there is not strong objection and no insistence from any Member of the Senate for a rollcall vote, would it be the majority leader's intent then to pass the conference report by voice vote?

Mr. BAKER. Yes, it would be. I would then propose to pass two measures. One would be the conference report on the tax bill, and the other would be a resolution of commendation to the Senator from Ohio. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. BAKER. I thank the distinguished minority leader.

THE REAUTHORIZATION OF THE AIRPORT AND AIRWAYS DEVELOPMENT PROGRAM FOR FISCAL YEAR 1981

Mr. GORTON. Mr. President, this is a historic moment in our Nation's history. Today the Senate stands on the threshold of passing legislation designed to start our economy along the road toward economic recovery. This measure will result in the largest single reduction in Federal spending ever passed by the Congress—savings of almost $35.2 billion for fiscal year 1982 alone. This reduction from the levels of spending scheduled for next year will reduce the burden on Government by over $150 for every man, woman, and child in the Nation. Moreover, these substantial savings are only the beginning, as even greater savings will take place in future years, because of the nature of the reconciliation process. The total reduction in Federal Government spending scheduled for the years 1982 through 1984 totals $130.5 billion or almost $600 per person.

Clearly, this bill represents a dramatic break in a decade-long trend in Government spending, a break absolutely necessary for economic recovery. A good case can be made for the proposition that a major cause of our current economic problems has been unchecked growth in Government spending. The Federal Government has run huge deficits over the last decade, mainly as a consequence of the growth of expenditures. These deficits have been financed by borrowing money. When all the sources of Government borrowing are totaled, the Government sector of our economy absorbs over 50 percent of the Nation's savings. Is it any wonder that interest rates are so high and growth so low?

Thus, the cause of our current economic problems: Inflation, high interest rates, and low productivity can be traced in large part to the uncontrolled growth in Government expenditures with which we have been plagued. It is this growth of expenditures that this bill attacks. It is because this bill limits future growth in Government expenditures and because it is the first fruit of the congressional budget process, which provides a means of controlling future spending, that this is a historic occasion.

The reconciliation process which produced this bill required the Congress to engage in a full and frank discussion, not only of how much should be spent, but of spending priorities. Every program of the Federal Government was evaluated and compared with other programs. The citizens of the United States can only benefit from the fruits of this discussion.

I would be less than candid if I stated that reducing the trend rate in Government spending will lead immediately to economic prosperity. Things have gone too far for any solution to work quickly. But, a reduction in the growth of Government spending is clearly necessary to stimulate economic recovery. The first step in this required reduction is going to be taken by the Senate today. I am extremely proud to be a part of this historic occasion.

I would be remiss at this point not to pay tribute to the leadership of Senator DOMENICI in this process. His knowledge, his courage, and his understanding have turned an abstract possibility into a concrete reality. We all owe him a debt too great adequately to tell. It has been my great privilege to have served with him on the Senate Budget Committee.

Mr. President, I want to congratulate the conference committee on successfully resolving in an expeditious manner the differences that existed in the two versions of the omnibus reconciliation bill; and I particularly want to congratulate the subconferees who resolved the differences that existed in the provisions of the two bills affecting airport development, airport planning, and airport noise compatibility planning and programs. Their efforts have resolved a problem which is of concern to my State and others.

In the Fiscal Year 1981 Airport Development Authorization Act portion of the bill specific provision has been made to insure that ongoing airport improvement projects will not be interrupted. A perfect example of this situation involves SeaTac International Airport in my home State, where approximately half of a $12 million grant for a comprehensive model noise control project has been received by the Port of Seattle, with the remaining $6 million of the grant still to be received.

Seattle's effective and far-reaching noise control program, which has been approved by the Federal Aviation Administration and which serves as an example to other airports across the Nation, has been stopped when only partially completed because the remaining $6 million has not been available due to the failure of Congress to enact authorizing legislation permitting the FAA to disperse airport and airways development program (ADAP) funds approved in the fiscal 1981 appropriations bill. This part of the bill reauthorizes ADAP for fiscal 1981 and will allow ongoing programs such as the Port of Seattle's to be funded as originally contemplated. I commend the subconferees for resolving this problem.

Mr. CHAFEE. Mr. President, the process of reconciliation was, at times, an extremely painful one. We, as legislators, were called upon to make cuts in a number of very valuable programs. I am hopeful that the net effect of the huge savings we have achieved will outweigh any dislocations which have been caused. At the same time, reconciliation did have a more positive and pleasant element: The opportunity to eliminate waste and to alter programs and spending patterns which have long been in need of reform.

One example of such reform was the unemployment loan legislation which emerged from the Finance-Ways and Means Committee conference. I have long sought some of the revisions in the law which this measure accomplishes.

In January of this year, I introduced legislation aimed at helping numerous States, including my own, which are in deep debt to the Federal Government as a result of having had to borrow large sums of money to pay unemployment benefits during periods of recession. Current law requires that if such moneys are not repaid within a 2- to 3-year period, an escalating penalty tax be assessed on the States' employers. Thus those States whose economies are most fragile, are laden with an ever-increasing burden.

The Finance Committee—and now the joint conference—has arrived at a solution to this problem by placing a cap of 0.6 percent on this penalty tax, thus sparing these States from potentially prohibitive rates.

The passage of this measure is particularly meaningful in Rhode Island. Currently, our employers labor under an unemployment tax rate which is the highest in the Nation. Inasmuch as my State

has already taken steps which have resulted in our program being solvent, the measure will bring immediate and much-needed relief to our employers and taxpayers. Indeed, a savings of some $18 per employee will be realized immediately.

I am heartened that this action, which combines a sensible and compassionate approach with fiscal responsibility, is part of this historic reconciliation bill.

A fuller explanation of the importance of this provision for States facing increased unemployment compensation penalty payments is contained in a news article which appeared in the Providence Journal on July 30. I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EMPLOYERS TO SAVE $6 MILLION IF CAP ON JOBLESS TAX WINS

WASHINGTON.—Rhode Island employers will not have to pay an additional $6 million in federal unemployment taxes next Jan. 1 if Congress approves an action taken yesterday by the Senate-House Conference Committee on the budget reconciliation bill.

As the committee wrapped up work on the final details of the bill, it set a ceiling on the tax penalty the government assesses employers in Rhode Island and other states that have been forced to borrow federal funds to cover deficits in their unemployment compensation funds.

The action was hailed as "a significant victory" by Sen. John H. Chafee, who had been fighting for the ceiling for the last two years and, as a member of the Conference Committee, had played a major role in obtaining the measure's approval.

He said it means that Rhode Island employers will be spared a major increase in payroll costs that, he said, are already among the highest in the nation.

Chafee had introduced a bill providing for the tax penalty ceiling early in this year's Senate session after a bill he introduced last year passed the Senate but died in the House. Then as a member of the Senate Finance Committee, he teamed with another member, Sen. John Heinz, R-Pa. to attach a penalty tax ceiling amendment to the budget reconciliation bill. It was that amendment that was approved by the Senate-House conferees yesterday.

The conference committee measure, which is expected to be approved by the full Senate and House, sets a cap of six-tenths of one percent on the tax penalty the government imposes on employers in states that are delinquent on unemployment compensation borrowings from the federal unemployment trust fund.

Currently ,this penalty is assessed in increments of three-tenths of one percent a year until it reaches a maximum of 2.7 percent. The conference committee measure would limit that tax penalty to a flat six-tenths of one percent.

Last year that penalty tax had reached six-tenths of one percent of employer payrolls in Rhode Island, Connecticut, Vermont and Pennsylvania and had been slated to jump by 50 percent to nine-tenths of one percent on this year's payrolls in those states.

The conference committee action would eliminate that 1981 increase which would have been payable next Jan. 1. For Rhode Island, Chafee said, that will save employers $6 million.

Rhode Island's unemployment compensation fund became insolvent in the 1975 recession year, forcing the state to borrow $121,238,551 from the federal government to cover unemployment benefit payments. Connecticut ran up a debt of $270,894,191; Vermont ran up $40,738,629, and Pennsylvania's indebtedness to the federal government climbed to nearly $1.4 billion.

Actually the tax penalty is a tax credit reduction. Employers by law can be assessed a federal unemployment tax of 3.4 percent of their payrolls. However, they are allowed 2.7 percentage points of that as a tax credit if their state's unemployment compensation program conforms with federal regulations.

Under present law, if a state's unemployment compensation fund is delinquent on any borrowing from the federal government, that tax credit can be reduced at the rate of three-tenths of one percent a year up to the 2.7 percent limit. This additional tax revenue is applied toward the repayment of the loan. The conference committee provision will limit the tax credit reduction to six-tenths of one percent.

In order to qualify for the tax penalty ceiling, the conference committee measures require that a state unemployment compensation fund meet specific conditions. The fund's solvency cannot deteriorate from the previous year, its taxes must meet benefit payments, and there must be no legislative action that reduces the fund's solvency. Rhode Island is expected to meet those conditions.

The conference committee voted to impose interest payments on any borrowings by state jobless benefit funds made after April 1982 if the loans are not repaid within the fiscal year in which they are made.

Mr. CHAFEE. Mr. President, I would also like to bring to the attention of my colleagues another very important provision agreed to by the Senate and House banking conferees which will eventually save taxpayers millions of dollars and at the same time indirectly discourage development on fragile and ecologically-rich undeveloped barrier islands and beaches. The provision would eliminate Federal flood insurance for any new construction or substantial improvements on these areas as designated by the Secretary of the Interior. The prohibition of floor insurance will take effect on October 1, 1983.

As a member of the Banking Committee and one who has been deeply involved in this effort through more comprehensive legislation, I have introduced S. 1018, the Coastal Barrier Resources Act, which prohibits not only Federal flood insurance, but virtually all new Federal expenditures or new financial assistance on undeveloped barriers. I applaud what the conferees did.

According to the language in the conference report, a coastal barrier means:

Depositional geologic features consisting of unconsolidated sedimentary materials subject to waves, tidal and wind energies and protects landward aquatic habitats from direct wave attack;

All associated aquatic habitats including wetlands, marshes, estuaries, inlets and nearshore waters; and

Coastal barrier or portion thereof shall be treated as undeveloped only if there are few people-made structures and human activities do not impede geomorphic and ecological processes.

The report also contains language which directs the Secretary of the Interior to conduct a study for purposes of designating the undeveloped coastal barriers. This study will be submitted to Congress not later than 1 year after the date of enactment and shall include any recommendations the Secretary may have regarding the definition of "coastal barrier."

Mr. President, I would like to point out that for the most part, the Secretary's study is complete. Let me briefly explain. The language used to define a "coastal barrier" in the conference report is identical to the definitions found in the bill I introduced, S. 1018. My bill also contains a series of 125 maps of undeveloped coastal barriers which were prepared by the Department of the Interior in accordance with these definitions. These maps were prepared in a painstaking manner by the Interior Department, and, at my request, are being presently reviewed by State and local government and other knowledgeable experts to insure their accuracy. Thus, the Secretary should incorporate them as the basis for his study recommendations.

Mr. DOMENICI. How much time does the Senator from Colorado desire?

Mr. ARMSTRONG. Mr. President, if the Senator from New Mexico will be kind enough to yield me 5 minutes I believe I will yield part of that time back.

Mr. DOMENICI. I yield 5 minutes to the Senator from Colorado.

Mr. ARMSTRONG. I am grateful to my colleague, the distinguished chairman of the Budget Committee, for yielding.

With the enactment of the Omnibus Reconciliation Act of 1981, Congress has taken a crucial step in restoring national economic sanity. The budget cuts of $35 billion in fiscal year 1982 show that we are beginning to get serious about huge Federal deficits and the resulting inflation that has crippled our economy. Over the past decade, all Americans have come to know the disastrous inflationary efects of irresponsible Federal spending—from the young couple who have seen the hope of owning a home become an impossible dream, to the elderly who have watched a life's savings melt away, to the businessman who comes ever closer to bankruptcy.

Last November, the voters of this country declared that they had reached the end of their patience. Today, Congress is answering their demands for real change. Let us not forget that this Reconciliation Act does not cut spending from last year's levels, it only cuts the rate of growth of spending. Expenditures will rise 6 percent instead of the 12 percent proposed by the Carter administration. But our job has only started. Additional budget restraint will be necessary to achieve our goal of a balanced budget in 1984.

The American people owe an enormous debt of gratitude to Chairman DOMENICI and Senator HOLLINGS, the ranking minority member.

They and their staffs have worked around the clock with remarkable patience and good will for many months. Their efforts—truly superhuman efforts—have provided an agreement that many believed would be impossible. I am personally very much surprised—indeed, I am astounded—at the success which they have brought to this complicated undertaking involving no less than 281

Members and 58 subconferences which went to a conclusion with remarkable smoothness. As Chairman DOMENICI correctly pointed out, the reconciliation conference was a success because of the heroic efforts of those involved. I compliment them.

But, my colleagues, I must at the same time point out that a process which depends so much on superhuman efforts leaves me uneasy. We are, after all, a Government of laws, not of men. And if we had had just a little less good will, a little less personal dedication, a little more partisanship, or if the state of the Nation's economy had been less perilous, this reconciliation effort, in my judgment, would have failed.

In my opinion, the pitfalls of the reconciliation process emphasize the need to strengthen and improve the budget process so that future success will not depend so greatly on superhuman effort nor extraordinary national economic distress.

Of all the measures which would permanently instill fiscal discipline in our system, the most effective would be a constitutional amendment to require a balanced budget. In its most basic form, the amendment would instruct Congress to adopt a balanced budget for a fiscal year unless a three-fifths majority of both Houses voted explicitly for deficit spending.

As Congress has shown year after year that it is unable to bring Federal spending under control, notwithstanding the enormously dedicated efforts of those who bring the reconciliation bill to us today, under the circumstances, it seems proper and prudent to me to impose external discipline on the Congress. To those who say a constitutionally balanced budget amendment would be a restriction on the discretion of Congress to spend, I would say that Congress has abused that discretion to the point that such a restriction is not only necessary but almost inevitable.

If the amendment were enacted, there would, of course, be efforts by Members of Congress and others to remove some programs from the budget and remove them off budget. At the same time, I believe a prohibition or control of off-budget items would be critically essential.

In addition, it is essential that the President be given greater rescission authority. The present rule allows a rescission to take effect only if both Houses of Congress approve the rescission within 45 days.

As most of my colleagues will remember, the restrictions which are now in force, restrictions which require congressional approval of Presidential rescission, came at the end of a long and sometimes bitter struggle with the Nixon administration over a series of impoundments made by the President in order to reduce spending. The Congress objected to the severity of the impoundments which it felt virtually eliminated congressionally mandated programs.

While the problem of excessive executive discretion may have been a real one, Congress over-reacted and has unduly restricted the President's power. Under current law, only 15 percent of all Presidential rescission requests since 1976 have been approved, with the majority of requests never brought to a vote. In the face of this record, the sending up of rescissions has limited appeal.

Accordingly, in fiscal year 1980, a year of near record deficit, inflation and economic chaos, the President sent up only $1.6 billion in rescission requests. The Congress reacted by rejecting through inactions $1.1 billion. Thus, out of a budget of $579.6 billion, a scant $500 million, eight one-hundredths of 1 percent of the total, was saved through the decision of the President that better management could be achieved.

To allow the President more flexibility in achieving needed savings, I have previously introduced an amendment—the Federal Expenditure Control Reform Act of 1981—to change the rescission procedure. Under this amendment the President would continue to notify the Congress of his intent to rescind appropriated budget authority. The Congress would then have 45 days in which to pass a resoltuion disapproving the rescission. This basic change, to congressional disapproval from congressional approval, will alter the climate for Presidential action by requiring a positive, considered action by the Congress in order to require that outlays be made. Thus, the President will be allowed the managerial flexibility required for efficient Government without infringing on the constitutional rights of the Congress to control the public purse.

A related outlay control would be the restoration of the President's authority to impound appropriated funds when such action is required to prevent the increase of Federal indebtedness.

These and other institutional reforms are major items on the agenda of the Budget Committee and the Congress when our session reconvenes in September. I urge all Senators to give these issues their utmost concern and join in the effort to permanently control Federal spending and regularly balance the Federal budget.

I would now like to mention briefly certain specific provisions or the reconciliation bill:

Mr. President, regardless of my reservations about the reconciliation process, I have been forced to make use of it to prevent the loss, or a number of very important Senate-passed housing reform measures would have otherwise been lost.

I am speaking of several amendments to the section 8 housing program, the Nation's largest, most costly, and probably least efficient program of providing shelter to those in need.

Through the reconciliation process, and the resultant Senate/House conference, a number of reforms have been incorporated into this massive piece of legislation that we are about to pass.

To ease the minds of some of my colleagues who believe Senators have come out on the short end of the stick when they engage with a conference with our colleagues from the other body, let me review briefly a few of the accomplishments of the Senate conferees who jousted for a week with the House on these housing matters:

Ninety-five percent of the available subsidized housing units will now be available to the truly needy—those who earn less than 50 percent of the median income in their community.

The Government will no longer make very low-income persons wait for housing only because of arbitrary guidelines about many higher income families should be served to achieve proper economic mix.

Illegal aliens will no longer be afforded public housing at the expense of equally eligible citizens.

The Government will stop allowing ineligible families to live in housing units designated for the needy.

Public housing authorities across the country will be given financial incentive to prosecute employees and tenants for fraud and abuse—not from Government funds, but from judgments awarded against the offender.

The Government will also take steps to institute competitive bidding, reexamine the use of swimming pools and bowling alleys in subsidized housing, limit unnecessary rent increases, and provide more adequate notice to those tenant families who might be losing their subsidized apartments.

The Secretary of Housing will be forced to spend his large discretionary fund on housing for the needy in national emergencies, support for handicapped and minority housing enterprises, housing research and housing needs in new communities. Previously, the Secretary's wide discretion has come under fire due to charges of politicizing housing grants.

I believe the Senate owes a debt of gratitude to Senators GARN and LUGAR—and for that matter, Senator PROXMIRE—for hanging tough in conference and sticking up for housing for the truly needy, and for making politically difficult, but fiscally crucial housing reforms.

Additional reforms are needed and I intend to propose appropriate amendments at the right time.

BUDGET RECONCILIATION—GOOD NEWS AND BAD NEWS

Mr. PROXMIRE. Mr. President, the reconciliation bill now before us is both a good news and a bad news bill. There is a good deal to say in its favor, but there is a very, very great deal wrong with it, both in substance and in the procedures which got it here.

I rise to warn the Senate that unless some of those procedures are changed we risk losing the entire budget process. Let me be specific.

Here are some good things about the bill.

MAJOR INNOVATION

In what must be considered a major innovation in the legislative process, the Budget Committee proposed a resolution early in the year putting the Senate on record favoring major cuts in the budget.

That was a good thing. Like any good business procedure, it first set a ceiling for the budget and a goal for the cuts. We then instructed the legislative committees to carry out the mandate of the Senate and to keep within the totals.

That was a very good thing to do early in the session and the chairman and ranking minority members of the Budget Committee (Mr. DOMENICI and Mr. HOLLINGS) and their staffs deserve great credit for what must be considered a major innovative procedure in the history of the Senate.

$35 BILLION IN CUTS

The second good thing about the bill is that the Congress did in fact cut some $35 billion or more from the budget proposals.

That needed to be done. Inflation is the No. 1 problem this country faces. We have had a long series of deficits over a period of years when we should have had budget surpluses. Cutting the budget by this amount was a major achievement for the Senate.

So the Budget Committee, the Senate, and the Congress must be given very high marks both for the innovative way we proceeded and the size of the cuts.

BAD NEWS

But not everything we did was good. And unless we stop short, take stock, and revise some of these procedures the Budget Reform Act itself may die, or worse, may destroy the Senate as a distributive body.

First of all, while we cut $35 billion, that is far from enough.

We started with a deficit of $40 to $50 billion. We cut $35 billion. We are adding about $7 billion in fiscal year 1982 to military outlays. And on top of that there is a tax cut which will lose $37 billion in fiscal year 1982 and $47 billion in calendar year 1982.

The country therefore faces a deficit, based on the arithmetic of $54 to $64 billion in fiscal and calendar year 1982.

That means more inflation, high interest rates, and no solution to our fundamental problem of inflation.

Having marched up the hill we have now marched down again. This country in fiscal year and calendar year 1982, after the massive $35 billion spending cuts, will face a deficit larger than the estimated deficit when the year began. That, Mr. President, is very bad news indeed.

BAD PROCEDURES

But in addition to a huge fiscal year 1982 deficit, and what is an abandonment of a balanced budget by the new administration in its 4-year term, congressional procedures were greatly abused in spite of the innovative nature of the original reconciliation idea.

ABUSES OF RECONCILIATION

Let me be specific.

The Senate Banking Committee, by a straight party line 8 to 7 vote, adopted in the reconciliation bill a series of substantive changes in the housing laws having nothing whatsoever to do with the budget or reconciliation.

This was a corruption of the Budget Act.

The committee changed the character of housing community development from a targeted approach to a block grant revenue-sharing procedure. This had no effect on the money. Its effect was to usurp the legislative role of the committee and to bring authoritative changes without proper hearings, markup procedures, or attention to the historical legislative process.

The committee raised the ceiling on FHA loans for mobile home parks, on FHA loans for property improvements, and directed HUD to develop a model manufactured housing code, none of which belongs to the budget procedures.

It preempted State usury laws on mobile home parks.

It barred Federal assistance to communities with rent control laws, a provision I favor but which should never have been on this bill.

But this was not all.

In the House, the administration's substitute bill was not even available until the day of the vote. Some of its provisions were penciled in.

The cover of the July 4, 1981, issue of the Congressional Quarterly was a montage of 10 pages from the bill showing penciled in titles, paragraphs, figures and other last-second alterations. Congressional Quarterly entitled its weekly report "An Act In Haste."

That bill, like the Senate bill, contained various items thoroughly irrelevant to the budget. It contained provisions on radio deregulation, TV licensing, and a variety of slip-ups and sleepers.

The block grant provisions were not considered in legislative hearings.

The revisions of the higher education programs in which a $25,000 ceiling was put on the income of the families of those students receiving guarantees was done without proper hearings.

The Office of Management and Budget was given a carte blanche right to define poverty, a definition which up until now has been based on Bureau of Labor Statistics data carefully worked out.

The social security minimum benefit was eliminated without a proper hearing, markup, or review.

By accident the entire Head Start program was eliminated. It was one of the "Sacred Seven" which President Reagan said was among the untouchables.

To garner votes, certain deals were made. One Member said his vote could not be bought, but it could be rented. The return was the promise of a pet energy project.

Other deals include sweeteners for sugar price supports and the Clinch River breeder reactor.

Mr. President, this is a scandalous way to do business.

I favor some of those substantive cuts, but they must not be made and should not be made at the expense of the legislative process.

Senate procedures include hearings on controversial issues, open and public markups, adequate time for reports and study, the unlimited right to amendments on the floor, full and free debate, and the rights of the minority to be heard.

Senator HOLLINGS and Senator DOMENICI controlled the time. They did a fine job, within limitations. They had 10 hours, however, for practically the entire sweep of legislation that this Senate could consider.

On some of these matters, all of us, as Senators, had to simply say, "Well, there is no way that Senator HOLLINGS or Senator DOMENICI can help us. We will just not be able to speak on matters of great importance to our States or to our jurisdictions."

What the administration and the majority in the Senate have done is to apply the special rules we have enacted to make sure that budget matters are not filibustered—particularly the 20-hour limit on debate—to nonbudget, substantive, controversial, and partisan legislative matters as well.

This is wrong.

It may undo the Budget Reform Act if pursued.

It seems to me we have to change the rules to make sure this will not happen again. This is supposed to be a deliberative body with an opportunity for us to speak and to amend. That right was taken away by the way the Budget Act was handled.

Mr. President, I thank my good friend for yielding, and I yield the floor.

Mr. HOLLINGS. I yield to the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, as I said earlier this week, in the short time that I have been in the Senate, I have concentrated my attention on efforts to increase the competitiveness of our national economy. Only with real economic growth will we have the rising living standards that Americans have come to expect as our birthright. Only real economic growth will allow us to keep our promises to the poor, the disabled and the elderly.

I do not believe there is such a thing as a Democratic or Republican economy. We only have an American economy, and we must protect it and nurture it back to health. None of us can afford the high interest rates and high inflation, high sectoral unemployment and general economic uncertainty that we have been experiencing.

Since the President first set forth his economic recovery program in March, I have been concerned that it would lead to continued high inflation, higher interest rates, slower growth and larger deficits. The recent approval of the President's expansionary tax program intensifies the risks to the economy on all these counts.

Federal deficits increase in two ways—through excessive Federal spending or ill-conceived tax cuts. By approving the tax program, Congress regrettably has rejected efforts to contain the risk of a rising deficit inflation. It has rejected a safety valve amendment that would have made the tax cut dependent on the actual performance of the economy. Instead it has chosen to leave the economy exposed to runaway deficits, prices and costs of capital. I believe this is a mistake.

The combination of increased military spending and tax cuts exceeds the administration's own plan for nondefense budget cuts by $197 billion in the next 3 years. Mr. President, that is a receipe for continued economic turmoil and uncertainty. Indeed, my fear is that this expansionary tax cut, will invite drastic budget cuts over the next few years which are not prudent or fair and which endanger a stable and secure society.

But clearly, one of the requirements of a stable economy today is reducing Federal deficit. I accept that view. While no spending cuts are easy to make, some must be made.

Mr. President, the bill before us now does not contain the mix of spending reductions I would have chosen. Although it is a necessary part, it is not sufficient to guarantee long-term economic growth. But this bill does represent a major improvement over the bill passed by the Senate just a few short weeks ago. Indeed, New Jersey has gained enough in the process that, given the present legislative climate, it should be considered a victory. New Jerseyites are much better off under this proposal than under the original Senate bill—in part because of the work of the New Jersey congressional delegation.

Among the more important modifications, I would count the following.

Medicaid: The combination of the 9-percent cap provision and the reduction in the minimum matching rate, both provisions of the Senate bill, would have created severe hardship for those older, disabled and low-income Americans who depend on this program for their health care. The minimum match provision would have unfairly singled out 13 jurisdictions, including my State of New Jersey, for especially onerous burdens.

The compromise which was developed by the conferees—after Senator DOLE gave me his word to help—dropped both provisions in favor of more equitable across-the-board percentage reductions in State medicaid bills and gives States an important measure of flexibility in program administration which will allow them to achieve the cost savings without imposing devastating cuts on the recipients of medicaid services. New Jersey, instead of losing $80 million, suffers only a $10 million loss, and insures that poor people still have access to health care.

Guaranteed student loans: Under the administration's proposals, student loan guarantees would have been drastically reduced and interest subsidies for students while attending school would have been eliminated. Both Houses of Congress had already modified the administration plan by providing more moneys for the GSL program.

In conference a reasonable compromise was reached which will continue the GSL program for students who need these loans to pursue their educational goals, including students from middle-income families over $30,000. I cannot support the requirement for an initial 5-percent loan origination fee, which will be deducted from the student's loan, but I do believe that the compromise goes most of the way to assure that loans will remain accessible to students who need them to pay for their higher education.

Conrail and Amtrak: The administration wanted to dispose of Conrail by selling the system off in whole or in part by the end of fiscal year 1982, just 1 year from this October. The administration also wanted to cut back on Amtrak funding, reducing the country's vital rail infrastructure. In both cases, greater congressional wisdom prevailed in conference, largely through the work of Congressman JIM FLORIO of New Jersey. Conrail freight service will continue to receive necessary Government assistance through September 1983. This service is critical to the businesses and industry in my State and the health of our national export program. Under the administration proposal, 70 percent of that service would have been abandoned—with a loss of 20,000 jobs and $315 million in personal income annually. An orderly transition also has been provided for Conrail commuter services. These provisions are especially reassuring for residents of New Jersey dependent on the system for transportation to their jobs—particularly the New York-Philadelphia route.

Mass transit: We have prevented cuts in rail modernization and bus programs. We have maintained operating assistance at current levels. A major victory is the rejection of the administration's outyear phaseout of capital and operating assistance. With House insistence the conference bill leaves these funding levels subject to reauthorization.

EDA: The administration proposed to eliminate the Economic Development Administration entirely. This Federal program has created many private sector jobs in countless American communities. It is difficult for this Senator to understand the logic behind this shortsighted budget-cutting proposal. The Senate refrained from the total elimination of this valuable program, but provided only $50 million for EDA. Once again, the conference provided a far better outcome. The compromise significantly improves the Senate bill to provide $290 million for the EDA.

Youth training and employment programs: The administration proposed to consolidate these programs with a reduction of funding. In these times of intolerably high youth unemployment, especially severe among minority youth, budget cuts in these programs are extremely ill-advised and unfair. The conferees recognized this fact and agreed to maintain these programs as separate entities, thereby assuring that States will maintain ongoing youth employment and training programs. The conferees also provided $2 billion for these programs instead of the administration's $1.5 billion.

School lunches: Deep cuts were proposed by the administration in the school lunch program, cuts which would have crippled this centerpiece of child nutrition in many school districts. Savings were required, however, and the conferees agreed to reduce the Federal subsidies significantly. These cuts will increase the financial burden on local school districts and on families with children in school. But it is unlikely that they will result in the widespread program closings that were a real possibility with the administration's proposals.

Title XX social services and child welfare services: The services provided by this block grant include child day care, elderly nutrition, homemaker and home health services. The administration proposed to incorporate such programs as child welfare services, foster care, and adoption assistance into title XX and to reduce the funding by 25 percent. The administration claimed States could save money by the creation of the "new" block grant. I made several attempts in the Finance Committee and on the Senate floor to increase title XX funding and to remove child welfare services, foster care, and adoption assistance from the block grant. But those features remained in the Senate bill.

The conferees however markedly improved the Senate-passed bill by agreeing to maintain child welfare, foster care and adoption services in their present form and at current funding levels. The conferees also rejected the administration's proposed 25 percent cut in title XX funds. They limited that cutback to 15 percent. This will create hardships for many, but on the whole, it is an important victory for children and the elderly who need these services.

Maternal and child health: The administration proposed to scatter these programs, including the title V maternal and child health program, into two health block grants and to reduce the funding by 25 percent. Reflecting concern about this poorly conceived idea, the Senate fashioned a new maternal and child health block grant which joined several smaller, related programs with title V. The House followed suit with a similar grouping of programs, and with slightly more funding. The conference compromise is better than either the House or Senate version. Under the compromise, the block grant resembles title V in its commitment to basic services for low-income mothers and children. In addition, it earmarks funds for research programs designed to improve the health of pregnant women and children. The conferees also increased the funding slightly over the Senate figure.

NSF: The administration proposed significant reductions in National Science Foundation programs, including those for science education and new instrumentation grants to upgrade university laboratory equipment needed to train tomorrow's scientists. In a world which is undergoing rapid scientific and technological change, cutting aid to NSF can only be viewed as a false economy. The conferees agreed, and the final bill deletes the Senate's reductions in NSF funding.

I do not suggest that I consider all provisions in the compromise reconciliation bill good policy. Several spending cuts will go beyond reasonable program tightening. I will in future years seek to increase some of these programs with specific legislative efforts, particularly in those areas that relate to children and to the working poor.

But, on balance, I am voting for the bill for two basic reasons. First, I believe we have achieved a substantial victory over the reconciliation bill that I opposed on the Senate floor several weeks ago. Second, I believe our economy requires a reduction in Federal spending if we are ever to restore the economic growth that will allow us for the long term to keep our promises to the poor, the disabled and the elderly.

Mr. DOMENICI. Mr. President, I yield 1 minute to Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, we are about to vote to approve the House-Senate conference agreement on the omnibus-reconciliation bill of 1981. This bill is the culmination of a full 4 months of intense congressional effort in fiscal responsibility. It is through passage of this legislation that we will have achieved an unprecedented savings of $36 billion in fiscal year 1982. The cumulative savings for fiscal years 1981 through 1984 amount to $135 billion. I know that last March, when we on the Senate Budget Committee first began work on this epic piece of legislation, I hardly expected that 4 months later we would be passing a final bill that is very much in line with what we fiscal conservatives hoped that it would be.

I, like many of my colleagues in Congress and the President of the United States, am firmly committed to a balanced budget by 1984. Even though I am a cosponsor of a constitutional amendment to require a balanced budget, I am well aware that simple passage of an amendment demanding this will not necessarily make it so. What we need in order to insure that we achieve true budgetary restraint is the commitment of all our Members to achieving this goal. This is why I am so pleased with our progress on this reconciliation bill.

This legislation is the result of actions taken by each member of each committee in Congress to organize his or her spending priorities. Of course, coordination of this great task would have been impossible without the able leadership of the distinguished majority leader, the distinguished chairman of the Budget Committee, Senator DOMENICI, the chairmen of all the Senate committees and their counterparts in the other body.

For the most part, the bill we have here contains much of the spending and policy changes that President Reagan recommended in his economic recovery program. In most instances, we have managed to achieve the real spending reductions that are necessary to get the productive capacity of our economy going again. I hope that this trend of restraint in Federal spending will continue so that we can indeed "make America great again."

I am concerned, however, that the block grant provisions in this bill are not as extensive as the original proposals recommended by the President and the Senate Budget Committee. The policy objective behind the block grants would be to return control of various social programs to the State. After all, it is the States that best know how to serve the needs of their particular constituencies. The block grants would have allowed them to exercise greater flexibility and discretion to administer these programs. This in turn would minimize the negative effects of the budgetary restraint that is so important to the economy.

Other provisions in this bill that I find troublesome include the absence of the medicaid cap, continued funding for low priority programs and continued funding for programs that clearly have been proven ineffective at best. In some instances, too, there have been economic and policy assumptions that are questionable and could very well lead to supplemental spending if we are not cautious.

On balance, however, I am pleased with this final version of the omnibus reconciliation bill of 1981. We have succeeded in eliminating the Legal Services Corporation, the CETA program, and making substantial revisions in food stamps, housing programs, and education and health programs. These changes are as dramatic as the New Deal was in its day, and I hope that it will result in an era of Federal spending restraint that lasts just as long as those New Deal policies did.

The reconciliation process, of which this bill is a product, is not perfect, but at this point it is the best that we have. I look forward to the day when we can truly maintain fiscal discipline in our budgeting without the reconciliation measure as reinforcement. In this vein, I fully support the initiatives of my colleagues on the Budget Committee to achieve budgetary reforms that will strengthen the process. In particular, I refer to Senator Armstrong's proposal to increase rescission authority to the President, and the Senate Budget Committee's commitment to work with the administration in order to gain some control over outlays. These reforms will be some time in coming, however, and in the meantime, I fully support this reconciliation procedure.

Because this reconciliation bill is unprecedented in its scope, it has been the target of much criticism and controversy. There are those critics that insist that the Budget and Impoundment Control Act of 1974 never intended for reconciliation to be used on such a grand scale. The act, however, clearly intended to shift the budgetary "power of the purse" from the executive to the legislative branch. Reconciliation is the only enforcement mechanism in the budget process that Congress has to maintain its fiscal spending policies. The President has the power of veto over Federal spending bills, and his executive agencies determine the rate at which programs will spend out.

Congress, however, has no formal control over outlays. By practice, spending had increased at the whims of both branches without any restraint. As I have discussed earlier, however, it is from the cumulative efforts of all committees in Congress and Congress as a whole that we are able to bring about this reconciliation bill, which will provide large-scale spending restraint that this economy so badly needs.

The President certainly recommended that Congress pursue a course of action that would lead to these savings, but it is only through the actions of all Congressional committees—from the Budget Committee, the individual authorizing committees, and the Appropriations Committees—that these savings will actually be achieved. Reconciliation bills such as this one can only be initiated, approved, and enacted by the Congress. As such, this bill is the will of Congress and the American people.

The PRESIDING OFFICER (Mr. KASTEN). Who yields time?

Mr. HOLLINGS. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I will be very brief. I did not get to hear what was said about the interest rates. Mr. President, if there is a Senator who does not know that this current interest rate is a roadblock on all the so-called little people, on little businesses, even the ones being successful, he has not had the chance to go out and come in contact with reality, or did not go out and come in contact with reality.

I said the other day that I thought the present level of interest is a possible roadblock to the success of the Reagan plan. I believe that is the main hazard that the Reagan plan is confronted with.

We must continue to try to do something about this very difficult matter.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield to Senator Symms.

Mr. SYMMS. I thank the Senator for yielding.

Mr. President, I would like to say first that I think that Senator HOLLINGS and Senator DOMENICI certainly deserve the commendation of all of us in the Senate for the work they have done to bring this legislation about.

I also have to say that it turned out better than I thought it would. Of course, as big a piece of legislation as this is, there are certainly things that many of us find we agree with and things we do not agree with.

As a Senator who comes from the State in the Union that produces more silver than any other State, I am very concerned about the section in the bill which addresses the silver stockpile issue.

I think it might be worthy of note that the depressed prices that we suffer now have a strong effect on northern Idaho. Northern Idaho, in addition to relying on the mining industry and silver production, also relies on the timber industry. Both of those industries are at a low ebb as far as their profitability. Therefore, it is spilling off into high unemployment rates and a negative slowdown.

The question I want to ask the distinguished chairman pertains to page 27 of the Budget Reconciliation Act, under subsection (2), paragraph (D). It says—

(i) the world silver market (in terms of price and supply), (ii) the domestic and international silver mining industry (in terms of exploration and production).

I would like to say that my interpretation of that, and maybe the chairman could say whether I am correct or not, is that the best way for the problem that we are in would be if there is to be a disposal that it might be done so that it is not left overhanging the market; in other words, so that we do not have little bit sold all the time and having it being negative on the market, which is so detrimental to the economic conditions in northern Idaho.

It appears that this is the intent of this, to see that the least damage to the

market will be done in this process. Is that correct?

Mr. DOMENICI. Obviously, the Senator is more expert than I am on this subject. I do not know whether that is correct or not. But I do know that under this section the President could indeed find that is the situation and could act accordingly, because the authority in subsection (D) clearly indicates that such would be one of the considerations that he would take and conclude on in the process of selling.

Mr. SYMMS. The next question I would ask the distinguished chairman is about this authorization of disposal. Is that a requirement placed on the administration, that they do start disposing of all of these different items?

Mr. DOMENICI. I would say to my good friend it is not mandatory; it is authorized.

Mr. SYMMS. So if the administration in a careful reappraisal of the entire stockpile question comes to the understanding that myself and others, and I could say my distinguished colleague from the other body, Congressman SANTINI, who has spent a great deal of time on this matter, and others, have come to the conclusion that we should be adding to the stockpile for national strategic purposes rather than reducing it, the administration would not be bound, but they would then have to come up with some half billion dollars from some other point to offset this. Is that correct?

Mr. DOMENICI. I would say to my friend my understanding is that it is permissive, not mandatory.

Mr. SYMMS. I would like to let the record show that in the other body, every time the Armed Services Committee studied this and held hearings they have consistently voted in opposition to what we have done here, because of the reliance that the United States has on foreign countries for the production of critical minerals, many of which are listed on page 26 of the report.

I would hope and would urge that the administration go very slowly in implementing this portion of the bill, and if they do it, it be done in a fashion that is not destructive to the producers in this country. It is self-defeating in itself if we go out and slow down and discourage people from producing something. We only compound the problem down the road.

My personal opinion is that if any of these products are sold, we will have to cut back and buy them back at a higher price.

I would hope this part of the bill would not be put into effect.

In closing, I certainly want to give my compliments to the leadership the Senator from New Mexico has exerted, and also the Senator from South Carolina. The cooperation we received on this side has certainly been appreciated by this Senator.

I would also say that Senator DOLE, as chairman of the Finance Committee, and Senator LONG have given us very fine cooperation in the past week on the tax bill.

There is the necessity for these two programs to work hand in glove. I salute all Senators involved.

Mr. DOMENICI. I thank the Senator for his kind remarks.

I am certain that what he has said about the silver stockpile will be taken into consideration by those in authority before action is taken with reference to the sales that this statute permits.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is it in order to yield back our time if such is our desire? There is no rule precluding that.

The PRESIDING OFFICER. The Senator is correct. There is no rule precluding it. The Senator may yield back the remaining time.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I yield 1 minute to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I wish to express my concern that we were unable to include funds in this bill for the section 201 wastewater construction grants program in fiscal year 1982. As my good friend the Senator from Utah (Mr. GARN) knows, a cutoff in funding for this program would have a devastating impact, particularly on cities already under court order and on projects already under construction.

I know that the chairman has already brought his concerns to the attention of the Appropriations Committee members so that they are aware of this need. The committee is, understandably, reluctant to act in the absence of reform legislation for the program and assurances that such funding would be within the ceiling set by the Senate Budget Committee in the second budget resolution.

Mr. GARN. Mr. President, the Senator from Rhode Island is correct. Absent budget authority in the second budget resolution, the committee will not act until there is an administration request and concurrence from the Budget Committee in such a request.

Mr. CHAFEE. As the Senator from Utah knows, the Environmental Pollution Subcommittee has sent to the full Committee on Environment and Public Works legislation to reform the construction grants program. I anticipate that a full committee markup will occur immediately after the August recess, with floor action to follow shortly thereafter. I have discussed this matter with the chairman of the Budget Committee in the past and ask at this time for further clarification of this matter. If this reform bill is not acted upon by the full Senate by September 15, will this preclude the Budget Committee from considering inclusion of budget authority of $2.4 billion for the program in the second concurrent budget resolution?

Mr. DOMENICI. Mr. President, the Senator has raised an important question. While the President has indicated that he will not request funding for this program until reform legislation has been enacted, this does not preclude the Budget Committee from considering and including budget authority in the second concurrent budget resolution, if that is the committee's will.

I have spoken with you, the distinguished Senator from Rhode Island, about the need for a budget waiver on the issue of timeliness in reporting out this bill. I personally am committed to supporting Senator CHAFEE and doing everything I can to insure that that waiver is granted. I look forward to working with him on this matter.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from New Mexico. Given his position, I ask my colleague from Utah what assurances he can provide us with regard to avoiding any interruption of appropriations under this program?

Mr. GARN. I welcome the statements of my two distinguished colleagues. It is unlikely that there will be any unnecessary cut-off of funds under this program. With Senate action on the reform legislation and inclusion of the authorization level in the second budget resolution, it would enable my committee to act promptly in appropriating needed funds for this program.

Mr. CHAFEE. Would such funding have to await a supplemental appropriation?

Mr. GARN. Given quick and positive action as we have discussed, I believe we could act before consideration of any supplemental.

STEPPARENT INCOME IN DETERMINING ELIGIBILITY FOR AFDC BENEFITS

Mr. GORTON. In a State such as Washington, which has a plan relating to the responsibility for support of certain children by their stepparents, which has been approved by HHS, would this proposal prohibit the State from setting a stepparent contribution requirement more stringent than that required pursuant to Federal law?

Mr. DOLE. No, this proposal is intended to set a minimum level for stepparent responsibility, not to reduce the accountability of stepparents in those States which have an approved plan of stepparent responsibility.

Mr. GORTON. What I am concerned about is that this provision might be interpreted to be totally preemptive, thus requiring some States to loosen their standards of stepparent responsibility. If that were the case, it could cost the State of Washington as much as $5 million annually in increased benefits caused by an

increase in the number of families eligible for benefits.

Mr. DOLE. I can assure the Senator that the intent of this provision is to increase the accountability of stepparents, not to reduce it, nor to interfere with the programs of those States which have programs approved by HHS.

Mr. LEAHY. Mr. President, this reconciliation bill would achieve major savings in the areas of child nutrition and food stamps. In the next 3 years, about $10.8 billion in reductions would occur. From my perspective as ranking member of the Subcommittee on Nutrition, these cuts go too far. In the current frenzied political atmosphere, we have opted for short-term savings that may well result in higher long-term costs. These program reductions will result in tangible costs, such as increased health expenditures and lower productivity by present and future workers, as well as intangible human costs of unknown proportions.

This is not to say that no economies can be reasonably achieved in these programs. I do believe that many of the reductions we are enacting are justified. However, I do quarrel with the scope of these reductions. They achieve savings at the expense of persons who can ill afford a reduction in benefits.

Having criticized the scope of these reductions, Mr. President, let me hasten to add that this bill could have turned out far worse than it did.

Many of the provisions in this bill are those that Senator DOLE and I developed as alternatives to those put forth by the President. I take this opportunity to thank Senator DOLE, the Nutrition Subcommittee chairman, for his thoughtful leadership and gracious cooperative spirit in developing proposals in these areas.

Had Congress simply rubber-stamped the proposals put forth by the President or accepted other proposals put forth by Members, the results could have been extremely harmful. For instance, in the area of child nutrition, the President had proposed school lunch cuts that would have threatened the financial viability of thousands of school lunch programs throughout the country. We were able to redesign the President's proposals and develop new ideas for savings to avert this serious problem.

In the area of the special supplemental feeding program for women, infants, and children (WIC), the President had proposed severe reductions. Under his proposal, hundreds of thousands fewer needy persons would have been served than are served now. With the help of many other Members of Congress, we were able to retain authorization levels for WIC that would not require a significant cut in caseload. With its proven record of success and cost-effectiveness, major reductions in the WIC program would have truly been a tragedy.

There are many other important changes from the President's budget proposals that we were able to achieve. In all instances, we tried to be sensitive to the competing considerations of program administrators, advocates for children and low income persons, and the overall need to achieve significant savings.

I am pleased to point out that we were assisted in these efforts by both the American School Food Service Association and the National Antihunger Coalition. Their ability to make joint recommendations in resolving some of the most difficult policy issues and trade-offs in child nutrition helped us immeasurably. Both groups were able to look beyond their own narrow interests and make recommendations that were best for the overall health of these programs and children. Their recommendations became a basis for much of the final settlement. I salute their statesmanlike efforts.

FOOD STAMPS

In the food stamp area, the final result in this bill is very close to the original Dole-Leahy package that was presented in committee.

This bill cuts a bit deeper, in that it would save about $6 billion over the next 3 years. It would achieve about $300 million more in savings in this time period than was proposed by the President and included in the budget resolution.

By and large, however, I believe this bill achieves savings in a manner far preferable to that proposed by the President. It also does not include a variety of other drastic reduction proposals that were pending in Congress. Proposals to restore the purchase requirement, vary allotments by the age and sex of each household member, raise the benefit reduction rate, and count school lunch and energy assistance benefits against food stamp benefits were soundly and, in my judgment, correctly rejected by Congress.

Adoption by Congress of most of the Dole-Leahy package does not mean that I fully support these benefit cutbacks. As I stated before, these cutbacks go too far. If cuts of this magnitude are necessary, I prefer that most of the provisions of H.R. 3982 be enacted rather than alternative proposals. However, in my judgment, many of these reductions do not represent sound social policy.

Mr. President, my views on many of these proposals have already been expressed at length in Senate Report No. 97–128, which accompanies S. 1007, the Food Stamp and Commodity Amendments of 1981. I reiterate my concern here that two of the bill's provisions, gross income limits of 130 percent of poverty and a reduced earned income deduction, will primarily penalize working households that must cope with high living expenses. At a time when the cry to reduce welfare costs has never been louder, I find it ironic that we revise social programs in a way that hurts working people and reduces incentives to work.

I am concerned about the freeze on the shelter deduction until July 1, 1983. This freeze will have a particularly adverse effect on participants in States like Vermont, where winters are long and shelter costs are high. Until July 1, 1983, there will be no increase in the shelter deduction to reflect the rising housing and utility costs incurred by food stamp recipients.

On the positive side, however, this temporary freeze is far preferable to the permanent freeze on deductions recommended by the President.

I also believe that a ban on the participation of strikers is inappropriate. Strikers have always comprised a minute portion of the food stamp caseload. GAO has estimated that households including a striking member, constitute about three-tenths of 1 percent of all households.

If they otherwise meet income, asset, and work requirements, I believe that strikers and their families should be provided the basic subsistence benefits of the food stamp program.

I would like to conclude my remarks with a series of observations on specific food stamp provisions.

CHANGING THE SHELTER/STANDARD DEDUCTION INDEX

In addition to freezing the shelter and standard deductions for 2½ years, H.R. 3982 also modifies the index that would be used in adjusting deductions starting on July 1, 1983. The current index includes homeownership costs. The homeownership component of the Consumer Price Index has been rising far more quickly than the CPI, and appears to distort the overall index. Particularly since no food stamp recipients purchase homes while on food stamps, there is no reason to include the homeownership component of the CPI. H.R. 3982 provides that the homeownership component be deleted from the indexes used to adjust food stamp deductions starting on July 1, 1983, and that the indexes be appropriately reweighted by the Bureau of Labor Statistics. The reweighting procedures should be similar to those used by the Bureau of Labor Statistics in the alternative CPI, known as CPI–XI, since this alternate CPI also removes homeownership costs.

RETROSPECTIVE ACCOUNTING

H.R. 3982 mandates that States use retrospective accounting by October 1, 1983. This requires that eligibility and benefits generally be based on past income.

Retrospective accounting may prove useful in improving the accuracy of benefit determinations, but must be designed carefully to assure that hardships do not result for needy families. H.R. 3982 does require the supplementation of initial allotments in those cases in which pure retrospective accounting causes serious hardship. This is necessary. A worker may recently have been laid off, or other circumstances may arise in which a sudden income loss has occurred. Since eligibility and benefits would otherwise be based on income received in the 30 days immediately prior to application, a household suffering a sudden income loss might have to wait up to 30 days to receive food stamps if supplementation were not provided. This would be needed, for example, in most cases qualifying for expedited service.

Supplementation would, in some circumstances, be needed for the initial months that a household receives food stamps in order to assure that a household's benefits are not based on income that was terminated or reduced before the household applied for food stamps. Accordingly, the reconciliation bill authorizes supplementation for the initial months that a household is on the pro-

gram—rather than restricting this just to the first month of eligibility.

This would be necessary, for example, if a household's bread-winner lost his or her job on the 20th of a month or if a mother with children suddenly had her child support cut off on the 20th of a month. If such households promptly applied for food stamps but supplementation was not provided, their benefits for the 2 months after the month of application would still be based largely on income they had received before their income was cut off.

As a result, they could be declared ineligible for stamps for these months, or eligible for a very small benefit, even though they might have had no income at all for some time. To remedy this problem, the bill provides for supplementation in the initial months a household is on the program where this is needed to avoid serious hardship.

Care must also be taken, Mr. President, in designing retrospective accounting, to assure that after initial application—when benefits are based on income over the preceding 30 days—the lag time between the budget month and the issuance month is not too great. Section 6(c) of the act requires that a household that has timely filed a complete report receive its benefits within 30 days of the end of the month covered in the report, unless the Secretary determines a longer period of time is necessary for administrative reasons.

Current rules in AFDC allow a maximum time lag of 45 days, and a similar maximum should be seriously considered for food stamps. A delay of more than 45 days would both work hardship on recipients and compromise the integrity of the retrospective accounting system by lengthening the period of time for which households continue to receive benefits after their income rises.

While prior income would be used in determining benefits, current circumstances could be used for other eligibility and benefit factors. For example, if a baby had been born shortly before a household applied for food stamps, it would be appropriate to count the baby as part of the household from the time of the application.

PERIODIC REPORTING

Mr. President, the reconciliation bill also requires periodic reporting for certain categories of households. Hopefully, periodic reporting—when used in conjunction with retrospective accounting—will result in more accurate benefit determination and a reduction in overpayments.

The bill prescribes periodic reporting for households with earned income, except migrant farmworker households, that file periodic reports for the AFDC program, and households with potential earners. By potential earners, the bill essentially means households receiving unemployment insurance and households containing persons required to register for work. Potential earners would not include households with no earnings in which all members are elderly or disabled. The bill prohibits extending periodic reporting requirements to these households or to migrant households.

Under a periodic reporting system, Mr. President, some households may not file the required reports or may file them late. If the State does not have a household's report, the household would have to submit the report to receive the benefits which the missing report would generate. If the report is filed late but within a reasonable time, the State would be expected to process it in a timely fashion and issue benefits. States could not terminate a household simply because a report is several days overdue. Section 6(c)(2)(d) of the act requires that households be "given a reasonable opportunity to cure" a failure to file any report timely or completely.

If a State determines to reduce or terminate benefits either on the basis of the report filed by the household, or because the household failed to file a report, the State must provide the household an opportunity to exercise its fair hearing rights under section 11(e)(10) of the act, including the right to have benefits continued, or reinstated, at their full level, pending the outcome of a hearing, if the household appeals within 10 days of being notified. These requirements are clearly set forth in sections 6(c) and 11(e) of the act.

FRAUD DISQUALIFICATION

Mr. President, H.R. 3982 tightens procedures relating to disqualification for fraud or intentional misrepresentation. Currently, if a person is found by an administrative fraud hearing or a court to have committed fraud, he or she is disqualified from the program and must pay back all benefits improperly received. H.R. 3982 provides for these procedures to be used for intentional misrepresentation as well as fraud and lengthens the disqualification period. As is the case now, the standards for proving fraud or misrepresentation should be the same for both administrative and court procedures. "Fraud" and "misrepresentation" are legal terms of art. Proof of misrepresentation is not so difficult as proof of fraud—although misrepresentation still requires a showing of willful intent on the part of the recipient and not simply a mistake. To disqualify a recipient, the State would have to show that an individual intended to misstate household circumstances. Showing of a mere misstatement would not be sufficient if there was not proof of intent.

These changes should encourage States to conduct more administrative fraud hearings and to prosecute more violators. Since an alleged perpetrator of fraud or misrepresentation must be found guilty at an administrative fraud hearing or in court for these stringent penalties to be imposed, the provisions of the reconciliation bill that encourage more aggressive State activities in these areas are welcome.

RECOVERY OF OVERISSUANCES

Mr. President, the reconciliation bill also contains procedures to spur more recovery of food stamp issuances. Collection of overissuances following a finding of fraud or misrepresentation in a hearing or a court would no longer wait until after the guilty individual has served a disqualification period. Recovery could now begin immediately. In addition, in certain circumstances, nonfraud overissuances could be deducted from allotments. This procedure would be limited to those cases where the overissuance was not due in whole or in part to a State agency action—such as the neglect of the State agency to ask the recipient for certain necessary information.

PRORATING THE INITIAL MONTH'S BENEFITS

The reconciliation bill also saves about $500 million by requiring that benefits for the initial month be prorated from the date of application. This is one of the more reasonable cuts in the food stamp portion of the reconciliation bill.

The Secretary will need to carefully integrate this provision with the expedited service requirements of the act. If a penniless household applied on the 26th of a month and was eligible for expedited service, it would make little sense to provide it immediately with only 5 days of food stamps and then make the household wait up to 30 days for any further stamps. The sort of severe hunger situation that could result is exactly what the Food Stamp Act and the expedited service provisions are designed to prevent.

To address this problem, the Secretary should, for expedited service households, provide stamps on an expedited basis for the 30 days following the date of application, and then prorate stamps for the second month unless the household was ineligible for the second month. Thus, the penniless household applying on the 26th of the month would receive no stamps at all for the first 25 days of the month, in keeping with the reconciliation bill, would receive 30 days of stamps on an expedited basis, and would receive a prorated benefit, for 5 days of stamps, in the following month. This achieves the full savings required by the reconciliation bill while not violating the basic intent of the act and its expedited service provisions.

BOARDERS

Mr. President, the reconciliation bill committee closed a loophole in current law by eliminating boarders from the food stamp program. If persons pay room and board for their meals, they do not need food stamps, since they already receive meals. These persons would not be able to apply for stamps themselves.

In addition, under current law, a member of an eligible household could try to declare himself a boarder and apply separately in order to receive additional benefits. H.R. 3982 eliminates persons who pay compensation in return for being served meals. These persons would not be able to apply either by themselves or as part of another household. They and their income and resources would be entirely separate and would not affect the eligibility or benefit levels of others who may reside in the household but are not boarders.

REPEAL OF SECTION 439B OF HEA REGARDING USE OF GSL LOAN IN REPLACING PARENTAL CONTRIBUTION

Mr. STAFFORD. Mr. President, I would like to clarify matters concerning

the guaranteed student loan program, and I would hope that the Senator from Utah, Senator HATCH, chairman of the Labor and Human Resources Committee, could help me clear up any misunderstanding.

Mr. HATCH. Mr. President, I would be happy to cooperate with the Senator from Vermont.

Mr. STAFFORD. It has come to my attention that there is some confusion in the Department of Education regarding whether or not a needs test is required for students from families with adjusted gross incomes less than $30,000. It has always been my understanding that students from families with adjusted gross incomes of less than $30,000 can borrow up to the statutory loan limit of $2,500 without going through any need test. Only those students from families with adjusted gross incomes above $30,000 are to be subject to a needs test for the GSL program.

Mr. HATCH. I concur with the Senator from Vermont on this matter. It was never the intention of the conferees to have students from families with incomes less than $30,000 to undergo a needs test.

Mr. STAFFORD. I thank the Senator from Utah and I concur completely with his remarks.

Mr. HATCH. Mr. President, I have a series of observations relating to the Education Consolidation and Improvement Act, and I would hope that the Senator from Vermont, Senator STAFFORD, chairman of the Education Subcommittee, could help me clear up any misunderstandings about this legislation.

Mr. STAFFORD. Mr. President, I would be happy to cooperate with the Senator from Utah.

Mr. HATCH. Confusion has existed in some quarters about the date when the Education Consolidation and Improvement Act takes effect. Could you please inform our colleagues when this legislation is to begin operation?

Mr. STAFFORD. In reply, I would like to state that it was the intention of the conferees from the House and from the Senate that the programs contained in the Education Consolidation and Improvement Act are to begin operating under the provisions of that act in the 1982–83 school year.

Mr. HATCH. This requirement applies to all programs in the act except followthrough. Do you not agree?

Mr. STAFFORD. Yes, that statement applies to all programs in the act with one exception. The followthrough program will be phased into the block grant over a 3-year period.

Mr. HATCH. I noted that the Omnibus Education Reconciliation Act of 1981 contains separate authorizations for fiscal year 1982 for each of the programs which will be included in the Education Consolidation and Improvement Act. These programs are separately authorized for a variety of reasons for fiscal year 1982.

Mr. STAFFORD. The Senator is correct. Most of the programs which will be included in the act are either forward-funded or advance-funded. Under these procedures, funds that are contained in one fiscal year's appropriations bill are used for spending in the next fiscal year. The purpose of this procedure is to give school officials a reasonable advance indication of the funding they will receive for the school year which follows the fiscal year in which the funds originally were appropriated.

Mr. HATCH. The Senator from Vermont makes an excellent point and I urge him to elaborate on its significance for the fiscal year 1982 authorizations for the Education Consolidation and Improvement Act programs.

Mr. STAFFORD. Our colleagues from the House of Representatives expressed concern that if we had placed an effective date for the act at the beginning of fiscal year 1982, which is October 1, 1981, the impression might have been given that the program provisions of the consolidation bill were to take effect in the upcoming 1981–82 school year. This was definitely not the intention of the conferees. As I stated, these programs take effect in school year 1982–83.

Therefore, we receded to a House provision listing separate authorization levels for fiscal year 1982 only to emphasize that these programs are to operate under their existing authority for the 1981–82 school year.

Mr. HATCH. I thank the Senator for his explanation. Perhaps he could explain further what effect these individual authorizations will have on the education appropriation bill for fiscal year 1982.

Mr. STAFFORD. I would be glad to elaborate.

The conference committee adopted language to insure that the provisions of the Education Consolidation and Improvement Act would receive advance funding en bloc in the fiscal year 1982 appropriations bill. Any funds appropriated for these programs in that appropriations bill would be used in the consolidation act starting with the 1982–83 school year.

To insure that this is done and to guarantee that these programs are not individually funded in the fiscal year 1982 appropriations bill, the conferees approved specific language in the Omnibus Education Reconciliation Act. Section 514(b)(2)(A) of that Act reads:

> Funds appropriated in an appropriation Act for fiscal year 1982 for any program described in section 561(a) (1), (2), (3), (5) and (6) of this Act which are intended for use by a State or local educational agency in the school year 1982–1983 shall remain available to such agency but shall be expended and used in accordance with chapter 2 of the Education Consolidation and Improvement Act of 1981.

The programs described are all those cited in title II of the consolidation bill with the exception of Follow Through.

Mr. HATCH. There are other citations in the legislation expanding on this point?

Mr. STAFFORD. Yes, there are. Section 562 of this act establishes the duration of assistance for the Education Consolidation and Improvement Act as fiscal year 1982 and the 5 succeeding fiscal years. Furthermore, the Secretary is instructed to make payments beginning in July 1, 1982, for these purposes.

Mr. HATCH. In summation, therefore, I ask my colleagues if he shares my conclusion that the funding for title II of the education consolidation bill for fiscal year 1982 be appropriated in a lump sum in the fiscal 1982 education appropriations bill?

Mr. STAFFORD. I agree; that definitely is my conclusion.

Mr. HATCH. I thank the chairman of the subcommittee.

Mr. GOLDWATER. Mr. President, I would like to discuss an issue with the distinguished Senator from Oregon (Mr. PACKWOOD), who is manager of this part of the conference report.

The Senate bill, as originally drafted, amended section 309 of the Communications Act, which allowed the Commission, in its discretion, where there is more than one applicant for a radio or television broadcast frequency that becomes available, to grant the application based on a system of random selection, that is, lottery.

The conference agreement expands the Commission's discretion to use the lottery to the grant of any license for use, not only of broadcast frequencies that become available, but for nonbroadcast frequencies as well. This represents a substantial change from the Senate position, and I understand that the application of the lottery mechanism to the grant of broadcast frequency applications serve many purposes which are not necessarily applicable in nonbroadcast cases.

I assume, therefore, that the Commission will exercise its discretion to use this mechanism carefully and gingerly. The Commission must understand that the random selection process will be used primarily—as it is today—for the grant of broadcast licenses. Is my understanding correct?

Mr. PACKWOOD. The Senator from Arizona is correct in his understanding of the new amendment to section 309. The primary purpose of this amendment is to substantially reduce the expense, delays and backlogs incurred by comparative proceedings. They present a substantial barrier to entry into telecommunications markets by those who are presently unable to incur such costs. The random selection proceeding will encourage those presently discouraged by these barriers to seek license awards. We have emphasized that the random selection proceeding is to be used by the Commission in its discretion. The Commission must be encouraged to use the comparative hearing process where its use would better serve the public interest convenience and necessity.

I have a letter from Mark Fowler, Chairman of the Federal Communications Commission, explaining the rationale of the random selection provisions, and the FCC's plans to use it.

The letter reads:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PACKWOOD: I am writing to respond to your request for the views of the Commission on its implementation of the authority granted to it by the Budget Reconciliation Bill regarding random selection (lotteries) for the grant of new radio spectrum licenses.

Section 1242 of the Budget Bill amends to permit the Commission to establish a system of random selection for new radio spectrum licensees where more than one applicant is applying for the same frequency. The authorization of a random select process for the grant of new broadcast and other radio spectrum licenses represents the opportunity for extensive benefits in terms of time and cost savings to the public, the FCC, and to the broadcast industry.

As you know, I have expressed concern that without the kind of reform in our license process that this new provision represents, unacceptable delays in the processing of applications would continue. The introduction of new technologies employing radio might be delayed unnecessarily pending lengthy comparative hearings. The legislation agreed to by the conferees will provide the FCC with the discretion it needs to implement quickly a random selection procedure in those radio services where it can provide immediate benefit in terms of time and cost savings, and to determine when and in which other radio services random selection is appropriate. I believe this flexibility is important for the Commission, since some radio-based services may not benefit from a random selection process, and the public's interest may be better served by retaining comparative hearings in some services.

I hope the Commission will be able to consider a rulemaking for the implementation of random selection in television and expiration of the 180 day period provided for in the legislation. It is in the broadcast field that the most immediate and substantial benefit can be realized from the utilization of random selection.

The material in the FY 1982 Budget Reconciliation affecting the telecommunications industry involves some of the most complex economic and social issues before our nation; the FCC is aware of the enormous effort that went into the consideration of these issues by the Managers of both Houses. I look forward to continued close cooperation between your Committee and the FCC as we work to implement this important legislation.

Sincerely,

MARK S. FOWLER,
Chairman.

Mr. HELMS. Mr. President, consideration of the conference report on the Omnibus Budget Reconciliation Act of 1981 marks a historic occasion for the Congress of the United States. It has been but 5 months since President Reagan spoke to the Congress about the economic crisis facing this Nation. The Congress responded with one of the most ambitious efforts to reduce Federal spending this country has ever witnessed.

While it has been a difficult task, it is one that, I believe, most Americans agree is an essential first step to revitalizing this country and rescuing it from economic disaster.

As chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I am proud of that committee's efforts in this important endeavor. The committee met and exceeded its reconciliation instructions. Contrary to the approach of many committees, rather than merely capping authorizations and deferring actual program cuts to the appropriations committees, we made specific changes in the authorizing legislation for programs. The members of our committee chose this more difficult course because they wanted to exercise responsibility in the direction of programs under committee jurisdiction.

In the conference on this bill our committee met to resolve differences primarily with the House Committee on Agriculture and the House Committee on Education and Labor. I want to commend both Chairman DE LA GARZA of the Agriculture Committee and Chairman PERKINS of the Education and Labor Committee for their efforts in resolving our differences in an amicable and dignified way. We also met jointly with the House Agriculture Committee and the Senate Committee on Energy and Natural Resources and the House Committee on Foreign Affairs. The efforts of my distinguished colleague from Idaho (Senator MCCLURE), and those of Congressman ZABLOCKI were also extremely helpful in resolving the few differences we had with their committees.

Also, Mr. President, I want to thank the Senate conferees from the Committee on Agriculture, Nutrition, and Forestry: Senator HAYAKAWA, Senator LUGAR, Senator COCHRAN, Senator HUDDLESTON, Senator LEAHY, and Senator ZORINSKY. I know it was difficult to attend conference meetings with so many other things going on at the same time, but the attendance and support of the Senate position by these conferees was of great help to me and facilitated resolution of the differences involved.

Because of substantial differences in many areas between the House bill and the Senate bill—particularly in the agricultural program area—it took some hard bargaining to reach agreement. I am pleased to say, however, that I believe the conference language agreed upon in the areas within the jurisdiction of the Committee on Agriculture, Nutrition, and Forestry represents a fair compromise. As can be expected, we did not get all that we wanted, and I am sure our House counterparts feel the same way.

Nevertheless, in areas within our committee's jurisdiction we achieved savings for fiscal year 1982 totaling $1.5 billion in agriculture and farm-related programs, savings of almost $1.7 billion for fiscal year 1982 in food stamp program reforms, and savings of about $1.5 billion for fiscal year 1982 in the child nutrition program area. Thus, total savings were achieved of $4.7 billion for fiscal year 1982 and a total of $16.3 billion for fiscal years 1982 through 1984.

Mr. President, I ask unanimous consent that a table summarizing the total savings in both authorizations and direct spending for provisions relating to the Committee on Agriculture, Nutrition, and Forestry be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SUMMARY OF SAVINGS OF AGRICULTURE, FORESTRY, CHILD NUTRITION, AND RELATED PROVISIONS OF OMNIBUS BUDGET RECONCILIATION ACT OF 1981

[In millions of dollars]

	Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, forestry, and related programs	728	1,554	936	1,775	1,535	2,267
Food stamps	1,658	1,658	2,046	2,046	2,334	2,334
Child nutrition	1,474	1,457	1,579	1,566	1,682	1,672
Total	3,860	4,669	4,561	5,387	5,551	6,273

I will not go into detail on the provisions agreed to relating to our committee. As mentioned previously, the bulk of the reductions came in the two largest areas of the U.S. Department of Agriculture's budget—food stamps and child nutrition programs. While I personally believe that additional reductions could, and should, have been made in the food stamp area, the conference compromise does contain most of the major cost-saving reforms which were adopted by the Senate on June 10 in S. 1007.

Mr. President, the conference substitute includes a provision that was in both the Senate and the House bills converting the food stamp program in the Commonwealth of Puerto Rico into an $825 million per year food assistance block grant. One of the major issues before the conferees was the effective date of this new block grant.

The Senate would have made it effective April 1, 1982, and the House October 1, 1982. I believe it is fair to say that both sides felt strongly about this issue. The issue was resolved by making the conversion effective July 1, 1982.

The conferees also, however, agreed to require the Commonwealth to submit by April 1, 1982, its plan for carrying out the new program in the last quarter of fiscal year 1982 and in fiscal year 1983

in order to be eligible to receive the block grant funds for those periods. Inasmuch as the legislation removes Puerto Rico from the Food Stamp Act of 1977 on July 1, 1982, it is hoped that the Department of Agriculture and the Commonwealth will cooperate to effect an expeditious transition to the new program by that time.

In the child nutrition area, it has been my aim to minimize the impact of budget cuts in the school lunch program and bring about savings in such areas as summer feeding, where meals are handed out regardless of need. In addition, it has been my goal to tighten up on program management and eliminate fraud and abuse in all feeding programs. I believe that the conference agreement in this area makes important strides toward more effective and cost-conscious programs, while still providing the necessary nutrition for our children.

In the agricultural and related program area we increased interest rates and tightened up loan levels in some Farmers Home Administration programs; made provision for collection of fees for cotton classing, tobacco inspection and grading, grain inspection and naval stores inspection; placed caps on authorizations for certain Department of Agriculture programs; cut back in spending for certain Forest Service activities; and reduced Department of Agriculture personnel.

With regard to the provisions affecting the Forest Service, I would like to point out that it was the intent of the conferees to cap authorizations only as to the Forest Management, Protection, and Utilization and Construction and Land Acquisition accounts. The cap does not include the other currently existing Forest Service appropriations accounts, namely, Acquisition of Lands for National Forests-Special Acts, Acquisition of Lands to Complete Land Exchanges, Rangeland Improvements, Construction and Operation of Recreation Facilities, Youth Conservation Corps, all Permanent Appropriations, including working funds and payments to States, and Trust Funds.

In addition, the conference substitute sets minimum price support levels for milk between 75 percent and 90 percent of parity, with the actual level based on the estimated amount of Government purchases under the price support level.

The conferees made it clear in the Statement of Managers, and I wish to reiterate here, that the action taken in this bill with regard to milk price support levels is merely an interim step.

The farm bill reported by the Senate Committee on Agriculture, Nutrition, and Forestry proposes a 70 percent of parity floor for milk price supports.

This level will be sought during floor consideration of our farm bill in September. Further action on the milk price support issue is necessary to be fair to all concerned—the consumer, the producer, and the taxpayer.

Mr. President, I ask that a summary of the provisions of the conference report relating to the Committee on Agriculture, Nutrition, and Forestry be printed in the RECORD.

The summary follows:

SUMMARY OF PROVISIONS OF OMNIBUS BUDGET RECONCILIATION ACT OF 1981 RELATING TO THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

FOOD STAMPS

The Act would—

(1) prevent artificially splitting households by requiring nonelderly parents and their children to apply as one food stamp household and making "informal" boarders ineligible as separate households;

(2) delay and change the timing of the annual adjustments in the cost of the thrifty food plan and the standard deduction and the ceiling on dependent care/excess shelter expense deductions;

(3) establish gross income eligibility limits at 130 percent of the applicable Federal poverty line except for households with elderly or disabled members;

(4) reduce the earned income deduction from 20 to 18 percent of earnings;

(5) require retrospective accounting and periodic reporting in the determination of eligibility and benefit determinations by all States by October 1, 1983;

(6) deny eligibility for food stamps to households with a member on strike unless the member is exempt from work registration or the household was eligible prior to the strike;

(7) prorate the amount of a household's initial allotment based on the days remaining in the month of application;

(8) prohibit Federal funding of food stamp outreach activities;

(9) extend the penalty of disqualification to include misrepresentation as well as fraud and lengthen disqualification periods;

(10) provide improved procedures for collection of overpayments and allow States to retain 25 percent of certain overissuances;

(11) repeal provisions scheduled to take effect in fiscal year 1982 creating a separate deduction for dependent care expenses of up to $90 per month and lowering the threshold above which medical expenses are deductible from $35 to $25 per month; and

(12) effective July 1, 1982, remove references to Puerto Rico in the present law and provide a block grant for food assistance to Puerto Rico of up to $825 million per year.

REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS; DEPARTMENT PERSONNEL CEILING

The Act would—

(1) establish ceilings on the amount of appropriations at the specified levels for each of the following programs of the Department of Agriculture—

(a) for dairy and beekeeper indemnity programs at $200,000 for each of the fiscal years 1982–1984;

(b) for payments to States and possessions for marketing activities at $1,571,000 for fiscal year 1982, $1,651,000 for fiscal year 1983, and $1,723,000 for fiscal year 1984;

(c) for rural water and waste disposal grants at $154,900,000 for fiscal year 1982 and subsequent fiscal years;

(d) for rural community fire protection grants at $3,565,000 for fiscal year 1982, $3,821,000 for fiscal year 1983, and $4,038,000 for fiscal year 1984;

(e) for rural development planning grants at $4,767,000 for fiscal year 1982, $4,959,000 for fiscal year 1983, and $5,155,000 for fiscal year 1984.

(f) for grants for developing rural private business enterprises at $5,007,000 for fiscal year 1982, $5,280,000 for fiscal year 1983, and $5,553,000 for fiscal year 1984;

(g) for carrying out Soil Conservation Service programs at $588,875,000 for fiscal year 1982, $596,767,000 for fiscal year 1983, and $602,865,000 for fiscal year 1984;

(h) for carrying out the Agricultural Conservation Program at $201,325,000 for fiscal year 1982, $209,647,000 for fiscal year 1983, and $218,216,000 for fiscal year 1984;

(i) for carrying out the Forestry Incentives Program at $15,090,000 for fiscal year 1982, $16,913,000 for fiscal year 1983, and $18,314,000 for fiscal year 1984;

(j) for carrying out the Water Bank Program at $10,876,000 for fiscal year 1982, $10,854,000 for fiscal year 1983, and $10,813,000 for fiscal year 1984; and

(k) for carrying out the emergency conservation program at $10,069,000 for fiscal year 1982, $10,507,000 for fiscal year 1983, and $10,958,000 for fiscal year 1984;

(2) place a cap on appropriations for most Forest Service programs of $1,575,552,000 for fiscal year 1981, $1,498,000,000 for fiscal year 1982, $1,560,000,000 for fiscal year 1983, and $1,620,000,000 for fiscal year 1984, and prohibit the use of any of these funds for construction of the Bald Mountain road in the Siskiyou National Forest;

(3) place a cap on the amount of appropriations for the Secretary of Agriculture for biomass energy development at $460 million;

(4) limit authorized appropriations for all Public Law 480 programs to $1,304,836,000 for fiscal year 1982, $1,320,292,000 for fiscal year 1983, and $1,402,278,000 for fiscal year 1984; and

(5) establish a personnel ceiling for the Department of Agriculture at 117,000 full-time equivalent staff years including overtime, for each of the fiscal years 1982–1984.

COMMODITY CREDIT CORPORATION PROGRAMS

The Act would—

(1) require that the price of milk be supported at a level between 75 and 90 percent of parity based on the projected level of purchases of surplus products by the government for the marketing year. If inventory on hand at the end of the marketing year exceeds 500 million pounds of nonfat dry milk or 5.5 billion pounds milk equivalent of butter or cheese the support price for the next marketing year would be fixed at the minimum level indicated on the sliding scale. Semiannual adjustments would be required during the period beginning October 1, 1982, through September 30, 1985, unless government purchases exceed 5.5 billion pounds milk equivalent (butterfat basis) or 500 million pounds nonfat dry milk, in which case semiannual adjustment would only be made if necessary to prevent the support price from falling below 75 percent of parity;

(2) make farm storage facility loans discretionary; and

(3) limit CCC administrative expenses in fiscal year 1982 to $52 million.

COMMODITY INSPECTION FEES

The Act would—

(1) require collection of fees for cotton classing, standards, and related services furnished under authority of the Cotton Statistics and Estimates Act, the United States Cotton Standards Act, and the United States Cotton Futures Act;

(2) require collection of fees for inspection, grading, and standardization services furnished under authority of the Tobacco Inspection Act and the Naval Stores Act.

(3) require collection of fees for inspection, examination and licensing of warehouses under the United States Warehouse Act; and

(4) require collection of fees to cover the costs of the Federal Grain Inspection Service in providing official inspection and weighing of grain, including supervision of inspection and weighing by official agencies, and limit total administrative and supervisory costs for inspection and weighing (excluding standardization, compliance and foreign monitoring activities) for fiscal years 1982 through 1984 to 35 percent of the total costs for such activities by the Federal Grain Inspection Service.

All user fee provisions would become effective on October 1, 1981.

FARMERS HOME ADMINISTRATION PROGRAMS

The Act would—(1) authorize insured community facility loans of $130 million and insured water and waste disposal loans of $300 million for fiscal year 1982, and increase the current 5 percent interest rate for these loans to a rate set by the Secretary not to exceed the interest rate on comparable municipal bonds, except that the rate of interest shall not exceed 5 percent for any loans for upgrading or construction of facilities to meet health or sanitary requirements in certain low income areas;

(2) authorize insured farm operating loans of $1.325 billion and insured farm ownership loans of $700 million for fiscal year 1982, and provide that at least 20 percent of the total amount of these loans must go to low-income, limited resource borrowers. Interest rates for farm ownership loans to low-income, limited resource borrowers would be set at not more than one-half of the cost of money to the Government nor less than 5 percent, and for farm operating loans to such borrowers at the cost of money to the Government less 3 percentage points;

(3) set interest rates on various FmHA loans (other than guaranteed loans) for activities that involve the use of prime farmland at 2 percent above the rates that would otherwise be applicable;

(4) require the Secretary to make emergency (disaster) loans available to applicants seeking assistance based on production losses due to a disaster if the applicant's farming, ranching, or aquaculture operation has sustained at least a 30 percent loss of normal per acre or per animal production. Loans would be made available based on 80 percent of the total calculated production loss sustained by the applicant;

(5) limit emergency loans to the amounts provided in advance in appropriations acts;

(6) continue discretionary authority to make emergency loans to credit-worthy borrowers but authorize interest rates on these loans at the prevailing private market rate for similar loans; and

(7) increase from 5 to 8 percent the ceiling on interest rates for emergency loans for actual loss to borrowers who cannot obtain credit elsewhere.

RURAL ELECTRIFICATION ADMINISTRATION PROGRAMS

The Act would—

(1) establish the interest rate for insured electric and telephone loans under the Rural Electrification Act (REA) at 5 percent, but with authority to provide loans at a rate of not less than 2 percent when the borrower is experiencing extreme financial hardship or cannot provide service consistent with the objectives of the Act; and

(2) require the Federal Financing Bank on the request of an REA borrower to make a loan which will be guaranteed by the REA.

SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

The Act would—

(1) reduce the total cash reimbursement rate for free lunches to 109.25 cents, adjusted annually for inflation beginning July 1, 1982, except that in schools in which more than 60 percent of the lunches were served free or at a reduced price during the second preceding school year the cash reimbursement rate for free lunches would be 2 cents above that amount;

(2) reduce the cash reimbursement rate for reduced-price lunches to 40 cents less than that for free lunches;

(3) reduce the cash reimbursement rate for paid lunches to 10.5 cents, adjusted annually for inflation beginning July 1, 1982, except that in schools in which 60 percent or more of the lunches were served free or at reduced price during the second preceding school year, the cash reimbursement rate for paid meals would be 2 cents above that;

(4) reduce the commodity reimbursement rate for all lunches (free, reduced-price, and paid) to 11 cents, adjusted annually for inflation beginning July 1, 1982.

(5) reduce the reimbursement rate for paid breakfasts to 8.25 cents, and set the rate for free breakfasts at 57 cents. Reduced-price breakfasts would be reimbursed at half that amount, and all rates would be adjusted annually for inflation beginning July 1, 1982;

(6) limit "severe need" breakfast funding to only those schools in which, during the second preceding school year, a minimum of 40 percent of the lunches were served free or at a reduced price, and for which the rate is insufficient to cover the costs. The schools required by State law to operate a breakfast program would continue their special eligibility only until July 1, 1983 in cases in which the State legislature meets annually, and July 1, 1984 if the legislature meets biennially;

(7) instruct the Secretary to review and prescribe changes in regulations governing child nutrition programs within 90 days of enactment of the bill, in order to achieve the local cost savings without endangering the nutritional integrity of the meals;

(8) establish eligibility for free meals at 130 percent of the OMB income poverty guidelines until June 30, 1983, when eligibility would become the same as food stamp gross income limits. Eligibility for reduced-price meals would be lowered to 185 percent of poverty. In both cases, eligibility would be based only on current income;

(9) require that application forms for free and reduced-price meals contain only the family size income eligibility levels for reduced-price meals;

(10) allow the Secretary, States and local school authorities to seek verification of data submitted on applications for free and reduced-price meals. In addition, the Act would require local school authorities to undertake any other such verification as the Secretary may prescribe and would require documentation of income or documentation of participation in the food stamp program as well as Social Security numbers of all adult household members;

(11) require the Secretary to conduct a pilot study verifying data on a sample of applications;

(12) require that State matching revenues equal at least 30 percent of all general cash reimbursement funds for the school lunch program made available in the school year beginning July 1, 1980;

(13) terminate the food service equipment assistance program;

(14) reduce the authorization for nutritional education and training to $5 million;

(15) eliminate the special milk program except in schools which do not participate in any other meal program;

(16) exclude from the definition of "school" those private schools with average annual tuitions above $1,500;

(17) limit sponsorship of the summer food service program to public or private nonprofit school food authorities, local, municipal or county governments, and residential nonprofit summer camps. Programs sponsored by local, municipal or county governments must be operated directly by these local entities. The program would in addition be restricted to areas in which at least 50 percent of the children meet the income eligibility criteria for free and reduced-price school lunches;

(18) limit participation in the child care food program to children 12 years of age or younger, except for migrants who would remain eligible until age 15, and the handicapped;

(19) require that meal reimbursements for the child care food program be based only on each individual's income eligibility;

(20) make only those "for-profit" child care institutions which receive title XX compensation for at least 25 percent of the participants eligible to participate in the child care food program;

(21) reduce the reimbursement factor for family day care home meals by 10 percent, as well as the reimbursement for day care home providers' administrative expenses. No reimbursement would be provided to children of providers with incomes above 185 percent of poverty;

(22) reimbursement a maximum of two meals and one snack per child per day in the child care food program;

(23) prohibit the Secretary from directly administering any child nutrition program that the Secretary has not administered continuously since October 1, 1980, except in the case of nonpublic schools in States where the State educational agency is prohibited by law from administering the program;

(24) extend to children in elementary schools, when approved by the local school district or nonprofit private schools, the option not to accept foods they do not intend to consume;

(25) eliminate requirement for a State plan of child nutrition operations except for those plans required for State administrative expense funding, nutrition education and training, summer food service, and WIC;

(26) make "commodity only" schools eligible to receive donated commodities equal in value to the total of the general lunch cash reimbursement rate and the national average commodity assistance rate. Such schools would be required to serve meals meeting the nutritional standards set forth for the school lunch program, including fluid milk and components of each of the four basic food groups, and would be eligible to receive special assistance cash payments for free and reduced-price lunches;

(27) authorize appropriations for the special supplemental food program (WIC) of $1,017 million for fiscal year 1982, $1,060 million for fiscal year 1983, and $1,126 million for fiscal year 1984; and

(28) eliminate cost based accounting requirements.

● Mr. BOSCHWITZ. Mr. President, as a member of the Senate Budget Committee and as a conferee on both the Small Business Committee section and the reconciliation package as a whole, I am particularly pleased with the outcome of this process. The bill will save taxpayers more than $130 billion over the next 3 years.

When we first started working on the budget for fiscal year 1982, the ultimate goal was completion by the August recess. Along the way we have hit many snags, but it is a tribute to the cooperation among Congressmen that we managed to smooth out the obstacles and meet our August 1 deadline.

This is truly a remarkable achievement. It is extremely rare for Congress to move so quickly to pass in final form any type of legislation, let alone one as ambitious and comprehensive as this budget reconciliation bill.

I think a large part of the credit should go not only to the Congressmen and staff who worked on this bill here, but also to the American people. Without their support for this effort, I have no doubt that this bill would still be in the infant stages. The avalanche of letters, telegrams, phone calls, and meetings between constituents and ourselves on this bill probably was unprecedented.

The passage of this budget package in response to the call for reduced Govern-

ment spending reaffirms the prescription of government by the people. I believe Washington had perhaps forgotten this concept in the past several years, but citizens all over this Nation let us know that they had not forgotten. My thanks to all who helped us in this effort.●

● Mr. SCHMITT. Mr. President, I would like to address a question to the distinguished Senator from Oregon, Mr. PACKWOOD, who is the manager of this part of the conference report.

The conference decision to adopt the provision requiring the Corporation for Public Broadcasting (CPB) to make available to radio and television stations funds to pay for one-half of the cost of their satellite interconnection operations was intended to balance the conference's other decision to reduce television station grants to 75 percent, down from 80 percent, of the television allocation.

However, as I understand, unless the interest CPB will earn from the advance annual Federal appropriation and the revenues from interconnection are included in the moneys to be made available for the payment of fixed costs, the subsequently imposed 60 percent ceiling on CPB's contributions to the system's fixed costs, including interconnection, would result in CPB's making only a small payment to stations for interconnection. Payments on satellite capital and copyright could use up CPB's 60 percent.

The result, despite our conference intention to balance limited Federal funds between local and national activities, is that we have taken funds away from one party—local stations—with the left hand and given nothing back with the right one. This was not the intention of the conference.

Mr. PACKWOOD. Yes, it is true that we were all concerned about that balance; yet, despite lower appropriations, we did not want to lose altogether some CPB support for programing, research, training, and education activities, even though we know they must necessarily be reduced. Therefore, we hit upon the idea of limiting the amount CPB would pay toward fixed costs out of funds for its own expenses. It was our understanding during the conference that any remainder of fixed costs—beyond that maximum to be borne out of the allocation to CPB's expenses—would be borne by the remaining sums available to television and radio. Although CPB retains the discretion to determine which funds will be used, I presume, and the conferees presume, that CPB will apply any and all resources, including interest earned on appropriated funds and moneys earned from interconnection to meet the fixed costs of the Corporation before requiring a reduction in television and radio grants.

Mr. SCHMITT. Yes, and clearly that was the intention of the conference. This bill has been difficult because we have been trying to sustain the most valuable activities of both CPB and the stations which it supports, even though we must reduce Federal funding. But the conclusion we have reached in the complicited conference is that CPB should devote its other resources, including interest earned on appropriated funds and to the remainder of these fixed costs before it subtracts any funds from station resources. This will encourage the Corporation, as the report states, to be especially prudent in the next few years and through the life of this bill to hold down and stretch out fixed costs consistent with actual and negotiated levels of cost for copyright and interconnection, for example. This is also consistent with CPB's use today of its interest income, which it has historically contributed, to the financing of all of its budgeted expense. I make this point because there should be no doubt as to our intention and expectation of CPB and the stations in interpreting these provisions.

Mr. PACKWOOD. This is an approach which both the House and the Senate conferees believe is appropriate and consistent with our intentions.●

CONSULTANT REDUCTIONS IN THE RECONCILIATION BILL

● Mr. PRYOR. Mr. President, as the sponsor of the original Senate amendment, I would like to express my satisfaction with the provision in the reconciliation bill that makes a reduction in the level of Government spending for consultant and related services. The benefits of that provision are twofold: First, it effects a $500 million reduction in Government spending for consultant, management, and professional services and special studies and analyses, and second, it insures that such spending will become more visible.

For too long the various agencies and departments have avoided the accountability in this area or spending which the taxpayers of this country deserve. My 2 years of investigation have confirmed this as well as other problems which must also soon be addressed. This action is, however, a milestone. It marks a concern and a call for responsibility by the Congress and I believe the taxpayers have been well served.●

Mr. HATCH. Mr. President, let me add to the comments of those who have spoken earlier today with words of high praise for the work we have just completed and those of you who have performed such great work: I, too, am glad to have all that behind us.

These major budget control efforts are never easy, but they will, I assure you all, pay great dividends to this country in the future. Control of the Federal budget has proven to be one of the toughest problems of our time—and many of my colleagues here would agree, I am sure, that we have made significant progress toward gaining control. All things good require effort to achieve.

I consider it a great privilege to chair the Senate's Committee on Labor and Human Resources. A finer group, a more dedicated group of people I have never seen. Each member of that committee has made some major contributions to the budget reconciliation package we have created. My distinguished colleague from Massachusetts is fond of calling the committee the Committee of the People, for the work we do and areas of our concern. The people of the United States were uppermost in our minds and hearts when we went to work to reduce the spending of the programs we oversee, and I think that shows in the final product. We have carved great savings, but we have preserved the essential services for those who are in need and truly have no other place to turn than the Federal Government, the government of the American people. There have been many compromises. Many of those compromises have vastly improved this reconciliation bill; some of those compromises I would rather have left alone.

But in the end, the legislative work we have created is cognizant of two important facts: First, that this country is in a budgetary crisis that by its very nature has severely limited the monetary resources we can tap; and second, that this Government does have a duty, as spelled out in the Constitution, to "promote the general welfare" of the American people.

For fiscal year 1982 the committee proposed a $10.6 billion or 20.2 percent reduction in spending; after the 2 weeks of conference, we still have savings of $9.4 billion. This is no mean task for this committee. The total savings over the 4 fiscal years in this bill of about $40 billion in the programs that this committee alone oversees amounts to almost one-quarter of what the whole Congress is required to achieve.

But the Labor and Human Resources Committee has looked upon reconciliation as presenting a rare opportunity. The committee has not seen reconciliation as an abstract accounting exercise to come up with the required level of savings somehow; but rather, the committee has seen this as a chance to accomplish important objectives. The committee has made its reconciliation reductions in such a manner as to shift to the private sector and to other levels of government some of the responsibilities which hitherto have been exercised all too exclusively by the Federal Government. The conviction that the committee has acted upon in designing some of the major elements of its reconciliation package is simply that the old levels of funding and the old program structures have actually hindered needy Americans in their efforts to overcome disadvantages. Business as usual in human resources area is not good enough.

Business as usual with these programs has fostered special interests with special pleas, but it has not always been equally effective in reaching the general population of the disadvantaged—those who are not organized into special constituencies.

The great danger in the Federal Government's continuing to do business as usual with our human resources is the separation of responsibility from knowledge. The small business person, the State government, or the local government are in a far better position than the Federal Government to know the effectiveness of their measures. Equally important, these private and local powers are far easier to bring to account for the failure of mismanagement of their projects.

The savings that have been made in the committee's programs are. therefore, necessary steps to enable the economy and the State and local governments to

play a far greater role in achieving the ideal of equality of opportunity. Reductions in Government expenditures free up the economy to grow and offer more jobs. Devolution of power to the State and local governments enable these powerful actors to play a greater role in developing human resources. Precisely by reducing funding for Federal human resources programs the way is cleared for other powerful actors to lend assistance in accomplishing our important, human objectives. The total effort resulting is likely to be far greater than what the Federal Government alone can do.

Aside from the savings, the most important substantive feature of the committee's reconciliation package is the block grants, six in all: Health prevention and services block grant, alcohol, drug abuse, and mental health block grant, primary services block grants, education consolidation block grant, community services block grant, and home energy assistance block grant. These six block grants show very clearly the committee's larger purpose in reconciliation. At the same time that the committee transferred administrative controls to the State and local governments, great care was taken to include provisions which are fully consistent with this devolution of power to insure that the money will get to where it will do the most good. Thus such problems as accountability, equitable implementation, and, under the contractual approach, certain program protections, are all addressed by features of these block grants.

This committee's reconciliation package is a first step in getting all levels of Government and the economy to cooperate to a far greater extent than ever before in making equality of opportunity a reality for all Americans.

It is with a great deal of pleasure that I report briefly on the budget reconciliation process that has just been concluded for the education of our youth.

Thanks to the wisdom and foresight of President Reagan, for the first time in decades, we have taken a giant step toward restoring educational decisionmaking to those agencies at the State and local levels actually providing the day-to-day services to people. Admittedly, much more remains to be done, but we are now well on our way, and the pattern has been to guide us in future years in the Congress.

When each of the bodies of this Congress accepted overwhelmingly the concept that we would adopt a budget that represented eliminating unnecessary Federal spending and intrusion into State and local affairs, we knew that this would require compromises from all of us involved if we were going to get the job done.

Henry Clay, who should have known, said at one time that "compromise is the cement that made the Union."

In every way, our reconciliation process this year has been one of compromise in its finest sense—agreeing on common ground without at the same time sacrificing principle. Moreover, we have at long last begun the process of returning to the States and their instrumentalities, the authority over education that has been gradually eroding away over the years downstream toward the delta of Federal paternalism.

Mr. President, I know that I speak for all of the managers of the Senate in the conferences on education, and I am confident our colleagues in the House will agree, when I say that both our budget reconciliation process as well as the conduct of the conferences which ironed out the small differences that did exist between the House and the Senate, can best be described as democracy really at work at its best.

We spent no time concerning ourselves with who or which party was right or wrong on any issue. All that concerned us as conferees was, what is right and what is best for the education of our youth. Certainly, we, like all reasonable people, had some honest differences of opinion, but under the able and congenial leadership of Chairman CARL PERKINS of the House, and in the spirit of friendship and compromise, those differences were worked out to the mutual satisfaction of all concerned.

All of us wrote a chapter in history this week when, with only minor adjustments as I have already mentioned, we were able to consolidate numerous line item, categorical programs, into block grants to State educational agencies.

I want to commend our colleagues in the House for accepting the President's request that we place more discretionary authority for educational decisionmaking in the federally assisted programs into the hands of elected State officials rather than continuing to hold on to these functions here in Washington.

We can be particularly proud of what we accomplished in reshaping several aspects of the student financial assistance programs for college youth. We have made access to educational opportunities available to more of our youth who really need them, while at the same time making it more difficult for programs to be abused by those who would be inclined to do so.

I would be remiss, Mr. President, if I did not recognize on behalf of all of the conferees, the invaluable contributions made by the professional staff of both Houses and both sides of the aisle, in the development of a compromise legislative proposal and a conference report. These fine and dedicated women and men worked tirelessly, long and late hours, including weekends and Sundays, to help us come up with a legislative package of which we can all be pleased and proud.

Mr. President, I feel particularly strong about the work we have performed in the areas of health care. As reported by the conferees from our committee and the House Energy and Commerce Committee, the total health package represents an estimated savings of $850 million. We have consolidated 15 categorical programs into three block grants, putting care for our citizens' health closer to them, into the control of the State and local governments.

In addition we have recognized significant savings in a variety of other programs and incorporated reauthorizing legislation into the reconciliation bill. Without objection, I would like to insert into the RECORD a summary of those actions here.

A summary of actions follows:

RECONCILIATION BILL

As reported by the Conferees from the Senate Labor and Human Resources Committee and the House Energy and Commerce Committee. The total Hatch-Waxman health package represents an estimated savings of $850 million.

1. HEALTH BLOCK GRANTS

These three bills consolidate approximately 15 categorical programs into block grants.

A. Health prevention and services block grant

This block grant includes the following programs:

Home Health, Rodent Control, Fluoridation, Health Education/Risk Reduction, Health Incentive Grants, Emergency Medical Service (to continue existing grants). Rape Crisis (with $3 million set-aside each fiscal year and distributed on population formula), and Hypertension (with set-aside according to following formula: 75 percent in FY 82; 70 percent in FY 83; and 60 percent in FY 84).

The funding levels for these programs were calculated at approximately 25 percent below current services. Total funding for this block is:

[In millions]

Fiscal year 1982	$95
Fiscal year 1983	96.5
Fiscal year 1984	98.5

B. Alcohol, drug abuse and mental health block grant

This block grant includes the following programs:

Mental Health.
Alcohol Abuse.
Drug Abuse.

The funding levels for these programs were calculated at approximately 25 percent below current services. Total funding for this block is:

[In millions]

Fiscal year 1982	$491
Fiscal year 1983	511
Fiscal year 1984	532

This block grant provides protection of existing mental health grantees. Also, there are specific earmarks for Alcohol Abuse, Drug Abuse and Mental Health by with ample discretion to the States to set their own priorities within these earmarks.

C. Primary care block grant (a State-option block)

This block grant includes Community Health Centers. The centers will remain a categorical program in FY 82, and then in FY 83 and FY 84 states may take over administration of Community Health Centers program in their state. Existing grantees protected for FY 83. If a state does not take over programs, then the Secretary would continue to run it.

The funding level for this grant is:

[In millions]

Fiscal year 1982	$280
Fiscal year 1983	302.4
Fiscal year 1984	327

2. MERCHANT SEAMEN ENTITLEMENT/PUBLIC HEALTH SERVICE HOSPITALS AND CLINICS

The bill repeals the entitlement effective October 1, 1981. The hospitals must submit a proposal to the Secretary of HHS by September 1, 1981 to transfer to state or local control, or propose plans for self-sufficiency. Hospitals with some prospect of being transferred could stay open until Setpember 31, 1982.

3. HEALTH PLANNING

The conference agreed to reauthorize health planning programs only through FY 82. The legislation provides for $102 million, which is $66 million below current services.

Of this amount, no more than $65 million may be spent on local health planning (HSA's). This will probably gut the program, paving the way for repeal or major modification next year. Amendments to the Health Planning Act that give the Secretary of the Department of Health and Human Services and the governors of the States the authority to phase out many aspects of this program.

4. CATEGORICAL HEALTH PROGRAMS

	Fiscal year—		
	1982	1983	1984
Immunization	$29.5	$32.0	$34.5
TB	9.0	10.0	11.0
VD	40.0	46.5	50.0
Family planning (fiscal year 1981: $166,000,000)	130.0	143.0	155.0
Migrant health centers	43.0	47.5	51.0
Primary care research and development	3.0	(1)	(1)
Alcohol and drug abuse demonstration projects (new, based on S. 755)	30.0	----	----

1 Repealed effective fiscal year 1983.

5. REAUTHORIZATIONS ATTACHED TO OMNIBUS RECONCILIATION BILL AS APPROVED BY THE CONFEREES

A. S. 1029, Health Maintenance Organizations: Funding levels for this bill: grants: FY 82 $20 million, FY 83 $20 million, FY 84 $20 million. Technical Assistance/Management Training: $1 million for FY 82, FY 83, and FY 84. Loans (maintain $5 million in funds for new loans): amounts equal to defaults plus $5 million.

B. S. 800: Funding levels for the programs reauthorized through this legislation include:

	Fiscal year—		
	1982	1983	1984
National Center for Health Service Technology	3.0	4	5
National Center for Health Services Research	20.0	22	24
National Library of Medicine	7.5	----	----
National Research Service Awards	182.0	----	----

6. S. 799—HEALTH MANPOWER

Total authorization levels are $218.8 for FY 82, $239.05 for FY 83 and $250.3 for FY 84, exactly halfway between Senate and House figures. Health Manpower now includes chiropractic and clinical psychologists included in definitions, data and HEAL sections.

7. S. 801—NATIONAL HEALTH SERVICE CORPS

Funding levels for this program are:

[In millions]

Fiscal year 1982	$110
Fiscal year 1983	120
Fiscal year 1984	130

In the face of a physician surplus and slow but real improvement in geographic distribution, this bill allows the NHSC to grow from its current field strength of 2,060, but holds it at a lower level than the excess of scholarship recipients. This bill makes other provisions attractive to scholarship recipients like the private practice option. This will allow the Secretary flexibility in placing individuals who are obligated to serve in the Corps. 550 new scholarships were added to this legislation, considerably less than previous year's levels.

8. KOOP NOMINATION AS SURGEON GENERAL

The Senate and House Conferees have included legislation that removes the restrictions in the Public Health Service Act that stopped the nomination of Dr. Koop as Surgeon General. Staff anticipates receiving Dr. Koop's nomination in August, and anticipates holding hearings in early September. Further plans of action will be drafted and submitted to you by mid-August.

Mr. HATCH. Mr. President, I want to take a minute to discuss one amendment that was postponed, but to which I remain committed. During the Labor and Human Resources Committee's consideration of S. 800, I proposed an amendment that would have required the National Library of Medicine to charge fees for the information products and services it supplies to commercial organizations at rates designed to recover their full cost. The rates charged domestic and foreign commercial companies would then be comparable to those charged by private information companies. My amendment would in no way effect the National Library's charges to nonprofit organizations.

It is not my intention to alter the National Library of Medicine's important information services, but I feel it is preferable policy that when these services compete with the private sector they should do so on the same terms as everyone else. In this vein, I will ask the GAO to examine whether the pricing practices of the National Library of Medicine may be precluding private companies from entering into competition with the Government.

Finally, Mr. President, I would point out that my concerns are consistent with a much wider Government policy. In 1952, this Congress adopted legislation requiring all Federal agencies to recover the full cost of the services it provides to private parties. This policy has been implemented by the Office of Management and Budget in OMB Circular A–25 and has been upheld by the U.S. Supreme Court. It is possible that the National Library of Medicine may be in violation of this policy. Thus, I will ask GAO in its study to report back to me regarding the National Library of Medicine's compliance with OMB Circular A–25 and the Independent Offices Appropriations Act of 1952.

This is, on the whole, a legislative package of which we can all be proud. I want to extend thanks to Senator DOMENICI, the chairman of the Budget Committee, who has prevailed in doing well a very difficult job; his assistance in the conferences to which I was a party was immensely helpful. Our distinguished majority leader also graciously extended a helping hand when we needed one, and I am sure all of my colleagues join me in thanking these two men, and expressing thanks to you all for a job well done.

Mr. SIMPSON. Mr. President, title 20 of the omnibus reconciliation bill relates to veterans' programs. As chairman of Senate Veterans' Affairs Committee, I am pleased to report that the legislative provisions of title 20—yielding the full amount of reconciliation savings required of us under the conference report on the first concurrent budget resolution—have been agreed to without a single negative vote by conferees from both the House and Senate Veterans' Affairs Committees. A pleasing experience.

Briefly stated, the provisions that we have agreed to are as follows:

First, limiting the $300 VA allowance for non-service-connected burial and funeral expenses to veterans who are entitled to receive either VA compensation or pension. This provision will not affect either the $150 plot allowance or burial benefits for veterans who die from service-connected causes.

Second, making certain types of outpatient dental benefits available only for 3 months after discharge from a period of active duty of at least 6 months.

Third, terminating the flight training program, except as to eligible veterans who have enrolled by August 31 of this year and who remain continuously enrolled thereafter.

Fourth, reducing the rate at which the VA will reimburse veterans for the cost of correspondence courses, from the present 70 percent to 55 percent. And finally, eliminating, with two minor exceptions, the education loan program.

Of these five provisions, the one pertaining to burial benefits generates the bulk of the necessary reconciliation savings—$75 million out of our overall target of $110 million in fiscal year 1982.

I should like to make one additional comment with respect to the burial benefits provision. This provision will have an incidental effect on the VA's ability to compile statistics on mortality among veterans through a program known as the beneficiary identification and records locator subsystem, or BIRLS. These statistics are an indispensable aid in studying long-term health problems among veterans—most notably the effects of exposure to agent orange and low-level ionizing radiation.

BIRLS statistics are presently compiled through the burial allowance program. Since the present measure will greatly restrict the availability of the burial allowance it is our intention that BIRLS will now come to rely instead on the plot allowance program. It is also our intention—since plot allowances, unlike burial allowances, are not paid when the veteran is buried in a national cemetery—that the VA take steps to include records of national cemetery burials in the BIRLS program. Specifically, the committee requests that the VA will establish, by October 1, 1981, the necessary administrative mechanism to assure reporting to BIRLS of all national cemetery burials, in order that this vital recordkeeping system may continue uninterrupted at or near its present rate of accuracy after the effective date of this legislation.

Also with respect to the burial benefits provision, I would add that I have today received written assurances from the Acting General Counsel of the VA indicating that when a veteran's application for compensation or pension is pending at the time of death—and the evidence in the file at that time is sufficient to support that claim of entitlement—the veteran will be deemed to have been in constructive receipt of such compensation or pension prior to death, for purposes of recognition of payment of the $300 VA burial allowance.

Mr. President, I am pleased to have played a part in the framing of this legislation to assist in reducing Federal spending. This bill, in combination with the recently passed tax bill, represents this Congress first major step toward the implementation of President Reagan's

program for economic recovery and a balanced budget by 1984.

Mr. President, I ask unanimous consent that the documents—a white paper of the Veterans' Administration's General Counsel's Office and a letter to me from the VA's Acting General Counsel—be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., July 29, 1981.

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you and other conferees in response to a Senate Veterans' Affairs Committee request concerning the VA's interpretation of proposed statutory language intended to resolve the differences between Senate- and House-passed provisions to limit non-service-connected burial benefits in the pending Omnibus Reconciliation Act of 1982.

The proposal at issue is as follows:

"Delete all of section 902(a) of title 38, United States Code, prior to 'the Administrator' and insert in lieu thereof the following: 'When a veteran dies who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to receive compensation) or in receipt of pension,'."

At issue is whether this language would cover situations in which an application for compensation or pension is pending at the time of the veteran's death and it appears from the evidence in the file at the date of death that the veteran would have been entitled to the benefit had he or she lived.

Under section 3021 of title 38, certain periodic monetary benefits, such as compensation and pension, may be paid to a veteran's survivors with certain limitations to the extent accrued and unpaid on the date of the veteran's death. Accrued benefits payable by virtue of this section include those to which the veteran was entitled under existing ratings or decisions and also "those based on evidence in the file at date of death".

Our longstanding interpretation of this provision (and its predecessors) has been that, where accrued compensation or pension benefits are payable based on the evidence in the file at the date of the veteran's death, the veteran may then be considered to have been in constructive receipt of compensation or pension prior to death. In such case, statutory burial benefits are also payable. We note that resort to this interpretation is rarely required since the present burial benefits provision covers all veterans of wartime service.

Although this matter is not covered expressly in VA regulations and manuals, we refer you to the enclosed memorandum opinion, dated July 28, 1943, from the Solicitor to the Administrator. We have also been advised by the Chief Benefits Director that, where the evidence in the file on the date of death supports an award of accrued benefits (see M21–1, paragraph 37.07, enclosed), steps are taken to assure payment of burial benefits, if appropriate under the circumstances.

We believe that our interpretation is consistent with Congressional intent that veterans' programs be administered fairly and compassionately with due regard to their underlying purpose.

If the proposed amendment to section 902 is enacted, we do not believe there would be any basis for departure from our longstanding interpretation.

We trust that this letter is responsive to your concern.

Sincerely yours,

ROBERT E. COY,
Acting General Counsel.

[White Paper]

PRESERVATION OF MORTALITY DATA REPORTING (VETERANS' DEATHS) AT CURRENT LEVELS

This paper discusses the extent to which the current level of mortality data reporting in the Beneficiary Identification and Records Locator Subsystem (BIRLS) could be preserved if, effective with respect to deaths occurring on and after October 1, 1981, the burial allowance payable for a veteran's non-service-connected death (section 902 of title 38, United States Code) were payable only where the veteran was entitled to compensation or pension on the date of death, with no change in current provisions (section 903 of title 38) respecting the payment of plot-interment allowances.

IMPORTANCE OF PRESERVING MORTALITY DATA REPORTING

The Veterans Administration for many years has paid a burial and plot allowance on presentation of proof of the death of any wartime veteran or veteran in receipt of service-connected disability compensation who was discharged under conditions other than dishonorable.

As a result, the VA has received notice of the deaths of 95 to 98 percent of all wartime veterans dying of any cause. Through the records thus accumulated, scientists have been able to determine the rate of deaths and the causes of death for any defined group of veterans, *e.g.*, for World War II prisoners of war. This access to reliable mortality data for large, defined groups has been an invaluable epidemiological tool and one without parallel in this country.

It has enabled the Medical Follow-up Agency of the National Acedemy of Sciences-National Rsearch Council to conduct studies of great importance, including those mandated by Congress. An example of the latter is the study submitted to Congress in 1979 concluding that traumatic amputation of the lower extremities increases the risk of death from cardiovascular disease.

The Medical Follow-up Agency currently is relying upon these records to study the consequences of exposure to low-level ionizing radiation as experienced by military observers at atmospheric nuclear weapons tests in Nevada and in the Pacific. Epidemiologists of the University of California at Los Angeles plan to use these records in designing the Congressionally mandated study of the health effects of exposure to Agent Orange.

The Air Force is using the records to document deaths among the Ranch Hand participants and among control groups in its epidemiological study. These studies cannot continue unless the data base upon which they are predicated is preserved.

As noted above, it is believed that BIRLS includes reports of from 95 to 98 percent of all veterans' deaths occurring during fiscal year 1980 and previous fiscal years. This level of reporting is the direct result of the current procedures for payment of burial benefits, both for nonservice-connected and service-connected deaths.

PROSPECTIVE LEVEL OF MORTALITY DATA REPORTING

If the plot allowance provisions continue unchanged and veterans' deaths are reported in connection with claims for the plot allowance, the means for achieving a level of mortality data reporting close to the fiscal year 1980 level exists. During that year, 293,245 plot allowances were paid and there were 29,260 burials in National Cemeteries, for which no plot allowances was payable. The total number of deaths reportable to BIRLS would have been 322,505.

To this total must be added those service-connected deaths reported to BIRLS that did not result in National Cemetery burial; in these cases the service-connected death burial benefit is payable in lieu of the plot and burial allowances.

If one asumes that 50 percent of veterans whose deaths were service connected were not buried in National Cemeteries, the total number of deaths reportable to BIRLS would have been 327,547, 98 percent of the deaths actually reported.

It is, therefore, reasonable to assume that three programs currently in place—the plot allowance program, the service-connected death burial benefits program, and the National Cemetery burial program—are capable of yielding a level of mortality data reporting that is almost the same as the present level.

NECESSARY ASSUMPTIONS

The above conclusion is based on three assumptions. First, it is assumed that no change would be made in the present plot allowance and service-connected burial benefits programs.

Second, it is assumed that necessary administrative mechanisms to assure reporting to BIRLS of National Cemetery burials of veterans would be in place prior to October 1, 1981. BIRLS currently does not contain such records, and this objective can be achieved only if reporting procedures are initiated and implemented as soon as possible.

Third, it is assumed that the present level of reporting based on plot allowances will continue.

Currently, the plot and burial allowances are generally paid directly to the funeral director as a reimbursement. The funeral director, having made the necessary inquiries as to veteran status, files a claim and sets off the amount received against the amount owed by the legally responsible parties, who are usually members of the deceased veterans' family.

In virtually all such cases, the funeral director has a direct financial stake in the burial allowance claim. The extent to which funeral directors benefit directly from the payment of plot allowances is less certain.

In the future, if the funeral director is a mere conduit for the payment of the plot allowance to the cemetery and has no direct financial interest in the claim, it is uncertain whether the same level of claims for plot allowances can be achieved. To the extent that claims are not filed either by funeral directors, cemetery officials, or family members, deaths will not be reported and there will be a shortfall.

This may be obviated to some extent by providing information to funeral directors and cemetery officials regarding the importance of reporting veterans' deaths.

CONCLUSION

It is concluded that the proposal would result in a level of mortality data reporting almost the same as present levels if necessary administrative changes are made promptly and the current high level of cooperation by the private sector is maintained.

Mr. CRANSTON. Mr. President, insofar as the conference agreement on title XX, veterans' programs, of H.R. 3982 is concerned, the proposed "Omnibus Reconciliation Act of 1981" reflects a fair compromise of the House and Senate provisions and vindicates to a very considerable extent the approach taken by the Senate.

Mr. President, I would like to comment on certain specific aspects of our negotiations with the House so that my colleagues will have a full understanding of how the conference agreement on veterans' programs was reached.

BURIAL BENEFITS

In proposing that the vast bulk of the required savings be made in burial benefits and plot allowances, our committee recommended and the Senate approved provisions that would have cut off both benefits in many cases. In the face of the mandate to reduce spending for VA

entitlements by more than $100 million in each of 3 fiscal years, such extensive reductions in that area seemed preferable to us to making cuts in almost any of the benefits for living veterans or for the dependents or survivors of veterans with severe service-connected disabilities or the needy survivors of wartime veterans.

Shortly after Senate passage of the bill, however, we learned that the curtailments of eligibility for the $300 burial benefit and $150 plot allowance that would eliminate eligibility for both payments in a substantial number of cases would very likely have the effect of cutting off an extremely valuable source of information that forms a data base for medical studies.

As is explained in a white paper from the VA General Counsel's Office, which Senator SIMPSON inserted in the RECORD, the VA currently receives, in connection with the payment of the burial benefit and plot allowance, notice of the deaths of over 95 percent of all wartime veterans and incorporates that information in a central computerized system—the beneficiary identification and records locator systems, BIRLS. This extensive data base is a uniquely valuable epidemiological tool.

It is often used by the Medical Follow-up Agency of the National Research Council of the National Academy of Sciences for very important studies, including certain studies mandated by the Congress and its current study of the consequences of exposure to nuclear weapons test radiation. Examples of the uses that these data serve also include their planned use by UCLA epidemiologists in the design of the epidemiological study of the possible long-term adverse health effects of the exposure of Vietnam veterans to dioxin, the highly toxic contaminant found in agent orange.

Mr. President, I ask unanimous consent that a letter from the President of the National Academy of Sciences explaining this issue be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., June 26, 1981.

Hon. G. V. MONTGOMERY,
Chairman, House Veterans Affairs Committee, Washington, D.C.

DEAR MR. MONTGOMERY: It has come to my attention that the Congress, as part of the effort to reduce federal expenditures, is seriously contemplating limiting eligibility for the Veterans Administration burial allowance to certain classes of veterans. I write to call to your notice one otherwise invisible secondary consequence of such action, a matter that would present a serious problem for medical research work of importance to veterans specifically and the nation generally. Let me explain:

At this time, the only source of information that can be utilized to assess the health status of veterans generally is the VA Beneficiary Identification and Records Locator Subsystem (BIRLS). From BIRLS it is possible to learn, with about 95 percent accuracy, whether a veteran is alive or deceased; if deceased, a copy of the death certificate can be obtained which shows the cause of death. Thanks to BIRLS, medical research workers have been able, for several decades, to study the relationships between disease and veterans' history of exposure.

For example, you may recall the study of elevated cardiovascular disease mortality among veterans who had major amputations while in service. This study, done by the Academy at the request of Congress, depended critically upon the BIRLS file. Other, similar problems will surely arise in the course of time. If the completeness of BIRLS, as the sole existing source of information about veterans generally, is compromised, it will become impossible to accomplish, at acceptable cost, studies of the kind mentioned.

The reason, of course, that BIRLS contains such complete and reliable information concerning mortality and its causes is that, until now, application has been made for the burial allowance on behalf of virtually every veteran who dies. If eligibility is sharply restricted, as I understand is now being contemplated, the proportion of deaths which generate such claims will decline precipitously and the value of BIRLS as a source of information about veterans' health will be seriously impaired, if not altogether destroyed. A few examples of such matters of current interest may illuminate the problem.

The Congress has instructed the Veterans Administration to design and execute a study of the health of Vietnam veterans who were exposed to the defoliant Agent Orange and a protocol for such a study is now being prepared; it is my judgment that it will be impossible to execute any scientifically valid study of this question in the absence of information about the mortality of veterans which is now available through BIRLS. Similarly, the National Academy of Sciences is performing a study designed to ascertain any possible adverse health effects among veterans who were present at tests of nuclear weapons. This study is also critically dependent upon the accuracy and completeness of information now available through BIRLS concerning mortality among veterans.

I appreciate the difficulties which the Congress faces in finding desirable and/or acceptable ways to accomplish the budget cuts which now seem necessary. I would be negligent, however, were I not to call to your attention the very serious, although unintended, secondary consequences upon medical research that would inevitably follow upon restrictions on the eligibility of veterans generally for the burial allowance.

Sincerely yours,

PHILIP HANDLER,
President.

Mr. CRANSTON. Mr. President, it is extremely important to the Nation's veterans—and to the validity of medical research into the total effects on their health and the length of their lives that may result from the wounds they suffered, the diseases they contracted, and the toxic substances and other hazards to which they are exposed during service—that reliable data regarding a very high percentage of veterans' deaths continue to be received and incorporated in the BIRLS data bank.

Consequently, I and other conferees, in reaching a compromise in this area, took fully into account the need to preserve continuing access to such data regarding deaths in fiscal year 1982 and thereafter, and we consulted extensively with the VA in that regard. The results are amendments to title 38 of the United States Code that would have no effect on entitlement to the $150 plot allowance and would, generally along the lines of the Senate provision, restrict the payment of the $300 burial benefit to the cases of veterans who were, at the time of death, in receipt of compensation or pension.

As the white paper from the VA General Counsel's Office concludes, this proposal:

Would result in a level of mortality data reporting almost the same as present levels if necessary administrative changes are made promptly and the current high level of cooperation by the private sector is maintained.

In order to help insure that that high level of reporting is achieved, it is vital that the VA take all steps necessary to maintain the cooperation it now receives from the private sector, specifically funeral directors, who I am sure will respond appropriately if made aware of the great importance of the data involved. It is equally important that the administrative mechanisms are made operational by October 1, 1981, for reporting to BIRLS information on the deaths of veterans who are buried in national cemeteries.

I therefore strongly urge the new Administrator of Veterans' Affairs, Robert Nimmo, to insure that these steps are taken.

I recognize that setting up such new administrative reporting system would require some minor reallocation of resources under the VA's general operating expenses account, and I strongly encourage the making of the reallocations that will be needed to make certain that the information begins to be fed into BIRLS by October 1.

Mr. President, I would also note, in connection with the burial benefit provision, that the term "in receipt of" compensation or pension is intended, by virtue of the operation of section 3021 of title 38, to include those cases in which the veteran's application for compensation or pension is pending at the time of the veteran's death and the evidence in the file on the date of death shows that the veteran would have been determined to be entitled if he or she had not died.

This approach is consistent with the longstanding VA interpretation—as expressed in the July 29, 1981, letter from the VA's Acting General Counsel, Robert E. Coy, to the distinguished chairman of the Senate Committee on Veterans' Affairs (Mr. SIMPSON), which the chairman has placed in the RECORD—of the phrase "in receipt of * * * compensation" in connection with the eligibility for the burial benefit of those who die while their claims for compensation are pending.

Because the level of savings that would be achieved in this area by the conference agreement is $21.5 million less than the Senate provisions would produce, it was necessary for us to make concessions to the House in order to achieve greater savings in other areas. In seeking those additional savings, however, every effort was made to attempt to preserve benefits in a restricted area rather than agree to the total elimination of a benefit to which the Senate had not previously agreed. With the exception of flight training we were successful in those efforts and, even in that case, we were able to provide one final opportunity for veterans to use their GI bill benefits for flight training.

OUTPATIENT DENTAL CARE

Mr. President, the conference agreement provision regarding outpatient

care for the noncompensable dental conditions, not the result of trauma, of newly discharged veterans incorporates the Senate approach of tightening the eligibility requirements for such care rather than the House approach, which was to terminate the benefit. The changes made in the Senate provision would shorten to 3 months the period within which the veteran must apply for this care in order to be eligible. Under current law, that period is 1 year, and the Senate provisions would have shortened it to 6 months.

In light of the relatively shorter application period of 3 months that the conference agreement would provide, we insisted that the conference agreement also require that, when the servicemembers affected are being discharged, they be advised in writing that the 1-year application period has been reduced to 3 months—with the providing of that advice to be documented by the individual's signature or, if he or she refuses to sign an acknowledgement, by a certification of an appropriately authorized officer.

Mr. President, these provisions are designed to insure that no veteran loses the opportunity to receive outpatient care eligibility for any dental condition that can reasonably be attributed to service-connected causes. I am very gratified that we were able to keep this benefit from being terminated.

FLIGHT TRAINING

Mr. President, despite the enactment in Public Law 96-466 last year of various provisions to eliminate abuses in the use of GI bill benefits for flight training, the House passed a reconciliation provision to terminate the payment of such benefits as of October 1, 1981. Although I believe that termination of this program before we have had a chance to gage the impact of last year's changes is inadvisable—especially since there are preliminary data suggesting that utilization has begun to decline—the House Committee was adamant in its insistence on termination. Moreover, in view of the compelling need, as I discussed earlier, for greater savings in areas other than burial benefits, it was not possible to save the program.

However, I am pleased to note, we were able to get the House to agree to a grandfathering provision under which any veteran who is enrolled in flight training on August 31, 1981, would be unaffected by the termination for as long as he or she continues to be so enrolled. In this connection, I urge that the VA, through the news media, take appropriate steps to alert veterans who may have an interest in pursuing employment in the field of aviation aware of this final opportunity to begin using their GI bill entitlement for flight training and to make a major effort to process pending applications for approval prior to September 1, 1981.

Also, in order to help avoid any confusion that might otherwise result from news that the VA education loan program is generally being terminated, all publicity efforts regarding the flight training and loan programs should clearly point out that loans will continue to be available, as under current law, to those using the GI bill for flight training under the grandfather provision.

CORRESPONDENCE TRAINING

Mr. President, Public Law 96-466 also contained provisions designed to eliminate abuses in the area of training through correspondence courses, as well as in flight training. Those changes in the law included a reduction from 90 to 70 percent in the portion of the costs that the VA pays. I strongly believe that the VA share should remain at 70 percent.

However, similar to the situation with respect to flight training, the House position favoring complete termination and the need to achieve the specified savings made it impossible for us to leave this program intact. Thus, I deeply regret it was necessary in order to achieve the required level of savings to include in the conference agreement the provision reducing the VA share to 55 percent with respect to all lessons that are submitted after September 30, 1981.

EDUCATION LOANS

Mr. President, with respect to the provision terminating the education loan program, we reached a fair compromise also. Although I would have preferred to have retained the additional year that the delayed effective date I proposed in the Senate version—October 1, 1982—would have afforded us to assess further the advisability of generally continuing this program, I am grateful to the House conferees for agreeing to the Senate provisions to keep loans available for those who continue, under the grandfather provision that I discussed earlier, to use GI bill benefits for flight training after October 1, 1981, and for those Vietnam-era veterans who continue fulltime training in the first 2 years after the expiration of their GI bill delimiting period.

CONCLUSION

As I previously indicated, I believe that title XX, veterans' programs, of the pending measure reflects a fair compromise between the positions of the two bodies. I would like to express by gratitude to the very able and distinguished chairman and ranking minority member of the House Veterans' Affairs Committee (Mr. MONTGOMERY and Mr. HAMMERSCHMIDT), and the other House conferees, for their excellent cooperation in our mutual efforts to fashion spending reductions that are as fair as possible to veterans and their survivors and reflect appropriate priorities.

I also want to say how much I appreciate the fine work of the chairman of the Senate Veterans' Affairs Committee, the distinguished Senator from Wyoming (Mr. SIMPSON) and the other Senate conferees, the Senators from Wisconsin (Mr. KASTEN), Alaska (Mr. MURKOWSKI), West Virginia (Mr. RANDOLPH), and Hawaii (Mr. MATSUNAGA), in the development of this legislation.

In addition, thanks for their excellent work on title XX of this measure are due to House committee staff members Mack Fleming, Rufus Wilson, and Charles Peckarsky, Senate Veterans' Affairs Committee staff members Ken Bergquist, Scott Wallace, and Harold Carter and minority staff members Babette Polzer, Molly Milligan, Ed Scott, and Jon Steinberg, as well as to the staff members of Senator KASTEN, Jim Gerard, of Senator MITCHELL, Liz Coffee, of Senator RANDOLPH, Ned Massee, and of Senator MATSUNAGA, Vince Versage.

Mr. CANNON. Mr. President, I rise to explain my position on the Reconciliation Act conference report. I intend to vote for approval of the report because of the demand of the American public that we reduce Federal expenses and move toward a balanced Federal budget. My decision to support the conference report was not reached easily, however, because I believe that some of the priorities of the package have been misplaced, particularly as they affect the elderly, students and their parents, and low-income citizens.

Let me say at the outset that I strongly support this effort of the Senate to bring about substantial savings in programs of the Federal Government. If through this effort we may help alleviate the evils of inflation and high interest rates, we will have served the Nation well. I believe our efforts will have a positive impact, both real and symbolic, and I believe we must continue to fulfill the mandate of those we represent as expressed in the last election.

I am particularly pleased that we were able in the Senate Commerce Committee to secure major funding provisions for aviation, communications, consumerism, highway safety, and rail passenger service. Specifically, I am referring to the $450 million for airport development in fiscal year 1981. This program funds important construction projects around the country, including Las Vegas, Reno, and Elko. Additionally, I was successful in convincing my colleagues to authorize $15 million to fund the noise abatement program at Reno's Cannon International Airport. This $15 million grant will provide the airport authority with essential assistance to reduce the burdensome noise problem around Sparks and Reno.

Regarding rail passenger service, I was successful in increasing Amtrak's funding in the Senate and pressed to retain a national rail structure to insure that the Zephyr and Desert Wind continue service in Nevada.

This package extends the highway safety grant program for an additional 3 years at an authorization level of $100 million per year for the basic grant program, but with one important change for the Western States. The Reconciliation Act preserves the current compliance requirements of the 55 miles per hour national speed limit so that a State will be considered in compliance if it achieves a 50-percent compliance level. This action prevents the imposition of increasingly strict compliance standards scheduled for future years which would pose a particular burden on States such as Nevada.

The communications provisions provide for increased license terms for commercial television and radio stations and the continued Federal commitment to

support public broadcasting. Under the new provisions, radio stations will face the costly license renewal process every 7 years rather than the 3 years as they do today. Television stations will have license terms extended from 3 to 5 years. These changes will greatly reduce the cost of regulation to local stations throughout the country.

Finally, of particular interest to consumers, I am pleased to note the conferees agreed to a 2-year reauthorization for the Consumer Product Safety Commission with new amendments protecting the disclosure of confidential material, which I had originally sponsored.

When analyzing the broader implications of this reconciliation package, I cannot but reflect that many of those who can least afford the burden of reduced assistance or program cutbacks are being asked, nevertheless, to shoulder that burden. I cannot help but reflect that the safety net programs the President spoke of have not fared well in this bill. The most glaring example of this is the social security minimum benefit which has been eliminated. Even if there is another chance later to restore this benefit, I cannot vote for this report without protesting what I feel has been a deplorable disregard for the elderly who must depend on this program and who generally have little else in the way of income.

The House vote today of 404 to 20 on separate legislation to restore the minimum benefit has sent a clear signal to the Senate that this benefit must be reinstated. I urge the Committee on Finance to act quickly and favorably on this House bill so that the Senate can also correct this error.

Substantial reductions have been made in housing programs designed to assist those otherwise forced to live in unsanitary, dilapidated, or overcrowded housing. The 40-percent reduction in this program is just too much, in my opinion. It was a disappointment to many low-income citizens when the Senate failed yesterday to pass an amendment that I offered to the HUD appropiration bill that would have brought the appropriation for housing assistance up to the reconciliation level being approved today.

Child nutrition programs are being substantially cut, forcing higher school lunch prices and cutting off thousands of women, infants, and children from supplemental feeding programs.

Other areas which I feel have been targeted to carry more than a fair share of the budget reduction burden are student assistance programs, medicare benefits, and a number of social programs crowded into block grant programs with their funding slashed at the same time.

As with most matters of legislation, we often have to take the best we can. Thanks to the process of compromise, the cutbacks being sustained in the aforementioned programs are not as severe as the administration originally wanted or as the Senate originally wanted. I have also been somewhat relieved with the more reasonable impact levels on Commerce Committee programs that I have also outlined. In light of these cutbacks in the cutbacks, and the legitimate need to cut Federal spending and work toward a balanced Federal budget. I will vote for passage of this conference report.

As I said earlier, we have a mandate to exercise greater restraint in Federal programs, and if our actions will help stabilize the economy, then all Americans, regardless of their economic status, will benefit. With this economic goal in mind, along with the positive aspects I have mentioned, I feel this report should be passed.

COLLOQUY BETWEEN SENATORS GARN, THURMOND, HOLLINGS, AND TOWER ON COASTAL BARRIER CONFERENCE REPORT

Mr. THURMOND. Senator HOLLINGS and I would like to ask the distinguished chairman of the Banking Committee about the Senate amendment to the House provision relating to Federal flood insurance on coastal barrier islands. It is my understanding that the House provision prohibited Federal flood insurance for new construction or substantial improvements of structures located on undeveloped coastal barriers designated by the Secretary of the Interior. Furthermore, the House provision required the Secretary to designate the affected coastal barriers within 90 days of the date of enactment of this legislation. The Senate, however, contained no such prohibition.

It is my further understanding that, led by the distinguished chairman, the House provision was opposed in conference, for which I would like to thank the chairman.

Mr. GARN. That is correct. We do not believe that this issue should be addressed as part of the budget reconciliation process, but rather, should have the benefit of further legislative hearings. For example, the only geologist who testified, from an internationally recognized engineering consulting firm, indicated in House hearings that the House definition of a coastal barrier was so broad that it could include stable structures on the Atlantic and gulf coasts where productive use of property would be otherwise desirable. The House language also referred to undeveloped areas, but used the vague term "few man-made structures." Clearly, these are issues that deserve further examination.

Under the Senate compromise amendment agreed to by the conferees, the Secretary is required to make a study for the purpose of designating undeveloped coastal barriers. The compromise amendment further requires the Secretary to transmit to the Congress no later than 1 year from the date of enactment a report of his findings and conclusions as to which coastal barriers should be designated as undeveloped coastal barriers, as well as recommendations for any changes in the definition. Assuming that no further changes were made by Congress in the definition or designations, Federal flood insurance would not be available for construction on these designated areas after October 1, 1983.

Mr. HOLLINGS. I note that the conference report does not include any reference to prior inventories prepared by the Department of the Interior. However, the report of the managers does include a reference to maps prepared by the Department of the Interior earlier this year. Could you clarify this for me?

Mr. GARN. The study was required because there has been so much controversy over what is a coastal barrier and particularly over whether the areas listed by Interior are actually undeveloped. It is my understanding that Interior has been making an informal inventory of such areas over the last several years through both the Park Service and the Fish and Wildlife Service, and each year the list changes as to which property qualifies and which property does not.

It was not the intent of the conferees to endorse any of these maps. It is my opinion that no one year's list should be any more authoritative than the next. Indeed that is why we are requiring the Secretary to do a year-long study. We want him to review carefully the definition and to make his designations on the basis of his study. Any other interpretation would contravene the purpose of requiring the study in the first place.

In defining undeveloped coastal barriers, only coastal barriers which are truly undeveloped, unstable and environmentally fragile, either islands or coastal barriers which are connected to the mainland, but which serve in any event to protect the mainland from the effects of ocean wind, wave and tidal energies, are the subject of this legislation.

Mr. TOWER. I have one question to ask the distinguished chairman. Do you interpret the phrase "coastal barrier" to include mainland property?

Mr. GARN. I assure my distinguished colleague that the intent of the Senate amendment is not to prohibit Federal flood insurance on coastal mainland property.

Mr. LUGAR. Mr. President, while the statement of the managers with regard to FHA single-family mortgage limits is directly on point with regard to one aspect of the problem, it does not deal adequately with the situation where, because of a substantially higher proportion of sales of existing units as opposed to newly constructed homes, the median sales price of single-family homes is so low that FHA's mortgage limits are unrealistically low and most new homes in these areas cannot be financed with FHA-insured mortgages. In this situation the conferees also intended for the Secretary of HUD to give greater weight to the sales prices of new homes in determining median sales price.

Mr. President, as author of an amendment agreed to by the budget reconciliation conferees to make statutory a hold harmless agreement for insurance agents who participate in the Federal flood insurance program, I want to clarify the meaning and intent of what the conference committee adopted.

The hold harmless language agreed to in conference is intended to hold insurance agents harmless from and indemnify them for judgment for damages as a result of any court action by a policyholder or applicant, court costs, and

reasonable attorney's fees arising out of errors and omissions on the part of the Federal Emergency Management Agency and its contractors. Implicit in the term indemnification for judgments are claims arising out of errors and omissions on the part of FEMA and its contractors that may be settled prior to judgments for damages.

The language inserted in the conference committee bill, along with report explanation, inadvertently and unnecessarily clouds the clear intent of the amendment's author and of the conferee's agreement.

As I stated in the CONGRESSIONAL RECORD on June 3, 1981, a statutory hold harmless agreement became necessary after an opinion issued by the Comptroller General of the United States voided an earlier agency hold harmless agreement that had been in effect since 1978.

It is my firm belief that nullification of the agreement that shielded insurance agents from sometimes substantial losses caused by the mistakes of others seriously jeopardized the overall success of the flood insurance program. Even apart from the potentially adverse impact of the Comptroller General's opinion, I believe as a matter of simple equity that insurance agent participants in the flood insurance program should not be caused to suffer for the mistakes of others.

The language I offered, and agreed to by the conference committee members, restores a hold harmless agreement to the flood insurance program. As importantly, it restores to the program the confidence of the many thousands of insurance agents who bring flood insurance to the public.

● Mr. ANDREWS. Mr. President, sugar is an internationally traded commodity, but one for which the margin between surplus and shortage is very narrow. Price volatility on the world sugar scene is the rule, not the exception.

The United States is a deficit sugar producer. Unlike grain crops and others produced in surplus for which U.S. production establishes the market, the price U.S. consumers pay for sugar is established by offshore producers.

To assure that there is at least some U.S. production is obviously in the national interest. Price stability is one of the prime requisites for maintaining that production.

When we reconvene after Labor Day, one of the early items of business before us will be the 1981 farm bill. It contains a very simple, but, nevertheless, vitally important, provision mandating the operation of a nonrecourse loan programs for sugar beet and sugarcane growers. This program will provide stability. It sets the loan level at 19.6 cents per pound for raw cane sugar and allows the Secretary of Agriculture to determine the level of the loan for refined beet sugar. Historically, the loan level for the refined product has, of course, been minimally higher since, because it is ready for consumption, it has a higher value and costs more to produce.

We are already hearing from critics of the proposal that it is somehow an effort to "rip-off" the American people while providing windfall profits to U.S. producers.

In April, the Department of Agriculture completed an exhaustive cost of production study of domestic sugar production and issued a preliminary report. The study projects the average cost of producing and processing sugarbeets will be 25.3 cents per pound of refined sugar for the 1981–82 crop year, excluding any consideration for land costs.

Mr. President, certainly, it would not be appropriate to propose a loan level that would assure sugarbeet and sugarcane growers a return equal to their full production costs and the study by the USDA clearly indicates that this is not the case. At 19.6 cents per pound, it provides a stabilizing safety net, not a rip-off.

Mr. President, I wish to have printed in the RECORD that portion of the USDA preliminary report dealing with the cost of producing and processing refined beet sugar.

The report follows:

COST OF PRODUCING AND PROCESSING SUGARBEETS

The estimated 1980/81 and projected 1981/82 costs of producing and processing sugarbeets and refined beet sugar are summarized in table 13. Net production and processing cost, excluding land, per ton of beets was estimated at $54.91 for 1980/81 and are expected to increase to $59.98 for 1981/82 equal to 25.3 cents per pound. Production costs were 10.7 cents per pound of refined beet sugar in 1980/81 representing 45 percent of net costs excluding land. They are projected to increase to 11.6 cents or 9 percent for 1981/82. Processing cost per pound for 1980/81 was estimated at 16.7 cents before credit for by-products. For 1981/82 processing cost per pound is expected to increase to 17.8 cents or 7 percent. This increase was expected to be less than the rate of inflation because of two factors—an increase in recovery per ton of sugarbeets based on trend and an increase in processor volume reflecting increased acreage in response to the relatively high sugar prices of 1980/81. Ownership cost of processing, for example, is projected to increase only .1 cent between 1980/81 and 1981/82. Dried beet pulp and molasses are the major by-products of refined sugar production. Estimated credit from by-products in 1980/81 was 3.8 cents per pound or $8.99 per ton of sugarbeets.

U.S. production costs per planted acre, excluding land, were $472 in 1980/81 (Table 14). Major cost components include fertilizer, chemicals, labor, replacement cost for machinery, and management. Nonland production cost per acre for 1981/82 is projected at $535, an increase of 13 percent over 1980/81. In both years land allocation on a share rent basis was well above interest and taxes on owned land at current market value, with cash rent representing the lowest cost. The relatively high 1980/81 and projected 1981/82 sugar prices resulted in high share rent costs.

Regional sugarbeet nonland production costs per planted acre in 1980/81 were highest in California at $719 and lowest in Minnesota-North Dakota at $326 (table 15). The U.S. average yield was 18.9 tons. Except for Texas-New Mexico, the regions with the highest costs per acre were those with the highest yields. Yields of nearly 26 tons per acre were recorded in Western Idaho and Oregon contrasted with 13.6 tons in Minnesota and Eastern North Dakota. Texas-New Mexico yields were also low at 14.9 tons reflecting difficult growing conditions in 1980/81.

Sugarbeet cost of production, excluding land, for 1980/81 ranged from $18.90 per ton in Michigan and Ohio to $37.40 in Texas and New Mexico (table 16). Five of the eight regions had costs in 1980 between $22 and $25 per ton. Variable costs represented roughly two-thirds of 1980/81 costs in most areas ranging from $13.38 per ton in Michigan-Ohio to $23.86 in Texas and New Mexico. The composite land allocation was $8.53 per ton for the U.S. and ranged from a low of $5.44 per ton in Texas and New Mexico to $10.76 in Kansas, Colorado, Nebraska, and Southeast Wyoming.

AVERAGE PRODUCTION AND PROCESSING COSTS PER ACRE, PER TON, AND PER POUND, REFINED BEET SUGAR, UNITED STATES, PRELIMINARY 1980–81 AND PROJECTED 1981–82

Cost item	1980–81 Acre	1980–81 Ton	1980–81 Pound (cents)	1981–82 Acre	1981–82 Ton	1981–82 Pound (cents)
Sugarbeets:						
Production excluding land	$471.59	$24.95	10.667	$534.68	$27.52	11.612
Processing		38.95	16.653		42.19	17.800
Total		63.90	27.320		69.71	29.412
Byproduct credits		8.99	3.844		9.73	4.104
Net cost, excluding land		54.91	23.476		59.98	25.308

Cost item	1980–81 Acre	1980–81 Ton	1980–81 Pound (cents)	1981–82 Acre	1981–82 Ton	1981–82 Pound (cents)
Land allocation:						
Share rent	258.96	13.70	5.857	289.84	14.92	6.295
Cash rent	87.29	4.62	1.975	97.70	5.03	2.122
Current market value	146.68	7.76	3.318	164.18	8.45	3.565
Composite	161.31	8.53	3.647	180.55	9.29	3.920
Yield per acre (tons)		18.90			19.43	
Recovery per ton (pounds)			233.9			237.0

TABLE 13.—SUGARBEETS: PRELIMINARY AND PROJECTED UNIT COST OF PRODUCING AND PROCESSING PER TON OF BEETS AND PER POUND OF REFINED SUGAR, BY COST ITEM, CROP YEAR UNITED STATES

Cost item	1980		[1] 1981	
	Ton	Pound (cents)	Ton	Pound (cents)
Production	$24.95	10.667	$27.52	11.612
Variable	17.54	7.499	19.35	8.165
Machinery ownership	4.61	1.971	5.90	2.148
General and administration	2.80	1.197	3.08	1.299
Processing	38.95	16.653	42.19	17.800
Variable	22.70	9.707	25.40	10.719
Ownership	10.29	4.399	10.59	4.470
General and administration	1.86	.749	1.93	.813
Dried pulp	4.10	1.753	4.27	1.789
Total production and processing excluding land	63.90	27.320	69.71	29.412
Credits	8.99	3.844	9.73	4.104
Dried pulp	5.74	2.453	6.20	2.615
Molasses	2.80	1.198	3.04	1.281
Other	.45	.193	.49	.208
Net production and processing	54.91	23.476	59.98	25.308
Land allocation:				
Share rent	13.70	5.857	14.92	6.295
Cash rent	4.62	1.975	5.03	2.122
Current market value	7.76	3.318	8.45	3.656
Composite	8.53	3.647	9.29	3.920
Yield per acre (tons)	18.90		19.43	
Recovery per ton (pounds)		233.9		237.0

[1] Projected.

TABLE 14.—SUGARBEETS: PRELIMINARY AND PROJECTED PRODUCTION COSTS PER PLANTED ACRE, PER TON OF SUGARBEETS AND PER POUND OF REFINED SUGAR, BY COST ITEM, CRO YEAR UNITED STATES

Cost item	1980–81			[1] 1981–82		
	Acre	Ton	Pound (cents)	Acre	Ton	Pound (cents)
Variable	$331.42	$17.54	7.499	$375.88	$19.35	8.165
Seed	16.06	.85	.364	17.65	.91	.384
Fertilizer	55.11	2.92	1.248	62.67	3.23	1.363
Chemicals	45.37	2.40	1.026	50.86	2.62	1.105
Custom operations	34.64	1.83	.783	38.14	1.96	.827
Labor	81.17	4.29	1.834	90.04	4.63	1.954
Fuel and lubrication	42.66	2.26	.966	52.82	2.72	1.148
Repairs	25.46	1.35	.577	28.82	1.48	.624
Purchased irrigat on water	10.03	.53	.226	11.04	.57	.241
Miscellaneous	2.47	.13	.056	3.05	.16	.068
Interest	18.45	.98	.419	20.79	1.07	.451
Machinery ownership	87.11	4.61	1.971	98.96	5.09	2.148
Replacement	44.11	2.33	.995	49.43	2.54	1.072
Interest	36.14	1.91	.817	41.48	2.14	.903
Taxes and insurance	6.86	.37	.158	8.05	.41	.173
General farm overhead	10.19	.54	.231	11.24	.58	.244
Management	42.87	2.26	.966	48.60	2.50	1.055
Total excluding land	471.59	24.95	10.667	534.68	27.52	11.612
Land allocat on:						
Share rent	258.96	13.70	5.857	289.84	14.92	6.295
Cash rent	87.29	4.62	1.975	97 70	5.03	2.122
Current market value	146.68	7.76	3.318	164.18	8.45	3.565
Composite	161.31	8.53	3.647	180.55	9.29	3.920
Value of beet tops	3.77	.20	.086	4.27	.22	.093
Yield per acre (tons)	18.90			19.43		
Recovery per ton (pounds)		233.9			237.0	

[1] Projected.

TABLE 15.—SUGARBEETS: PRELIMINARY PRODUCTION COSTS PER PLANTED ACRE BY COST ITEM, SPECIFIED STUDY AREAS, 1980–81 CROP YEAR

Cost item	Regions								
	Michigan and Ohio	Minnesota and North Dakota	Kansas, Colorado, Nebraska, and southeast Wyoming	Texas and New Mexico	Montana and northwest Wyoming, southwest North Dakota	East Idaho	West Idaho and Oregon	California and Arizona	United States
Variable	$254.62	$210.60	$304.43	$399.95	$334.24	$378.27	$439.96	$539.57	$331.42
Seed	5.54	19.31	16.08	18.48	18.09	18.79	20.94	12.36	16.06
Fertilizer	81.08	37.78	45.03	29.83	75.15	73.13	92.15	61.21	55.11
Chemicals	28.69	39.47	36.03	88.27	28.70	31.51	49.01	76.77	45.37
Custom operations	39.98	6.95	15.90	51.84	6.14	19.89	29.69	108.40	34.64
Labor	39.36	49.67	93.74	70.01	101.89	92.90	111.69	125.17	81.17
Fuel and lubrication	24.29	25.30	49.17	79.17	38.15	75.09	44.78	57.58	42.66
Repairs	19.49	20.46	26.37	39.49	26.57	33.03	46.00	26.49	25.46
Purchased irrigation water			5.84		11.74	13.73	23.13	31.43	10.03
Miscellaneous	2.17	.45	.72		11.74	2.64	.06	5.38	2.47
Interest	14.02	11.21	15.55	22.86	16.07	17.56	22.51	34.78	18.45
Machinery ownership	64.53	76.93	97.68	96.94	90.52	106.31	88.88	94.76	87.11
Replacement	31.58	37.72	49.68	52.07	46.04	55.87	46.25	48.87	44.11
Interest	27.43	32.71	40.65	38.52	37.10	42.56	35.54	38.82	36.14
Taxes anb insurance	5.52	6.50	7.35	6.35	7.38	7.88	7.09	7.07	6.86
General farm overhead	7.72	9.01	6.80	9.33	6.38	6.25	8.37	19.66	10.19
Management	32.69	29.65	40.89	50.62	43.11	49.08	53.72	65.40	42.87
Total excluding land	359.56	326.19	449.80	556.84	474.25	539.91	590.93	719.39	471.59
Land allocation:									
Share rent	272.00	187.70	251.37	120.26	260.92	256.83	406.32	277.02	258.96
Cash rent	89.48	76.56	42.43	22.25	72.18	46.62	99.70	121.22	87.29
Current market value	163.85	103.64	127.92	41.97	126.91	76.29	211.05	311.84	146.68
Composite	165.20	93.43	205.38	81.01	180.07	121.13	253.79	233.00	161.31
Yield per acre (tons)	19.02	13.58	19.08	14.89	20.75	22.00	25.94	24.54	18.90
Value of beet tops			7.99	14.72	18.47	1.47	.94	3.12	3.77

TABLE 16.—SUGARBEETS: PRELIMINARY PRODUCTION COSTS PER TON, BY COST ITEM, SPECIFIED STUDY AREAS, 1980–81 CROP YEAR

Cost item	Regions								
	Michigan and Ohio	Minnesota and North Dakota	Kansas, Colorado, Nebraska, and southeast Wyoming	Texas and New Mexico	Montana and northwest Wyoming, southwest North Dakota	East Idaho	West Idaho and Oregon	California and Arizona	United States
Variable	$13.38	$15.51	$15.95	$26.86	$16.11	$17.20	$16.96	$21.98	$17.54
Seed	.29	1.42	.84	1.24	.87	.85	8.1	.50	.85
Fertilizer	4.26	2.78	2.36	2.00	3.62	3.32	3.55	2.48	2.92
Chemicals	1.51	2.91	1.89	5.93	1.38	1.44	1.89	3.13	2.40
Custom operations	2.10	.51	.83	3.48	.30	.91	1.14	4.42	1.83
Labor	2.07	3.66	4.91	4.70	4.91	4.22	4.31	5.10	4.29
Fuel and lubrication	1.28	1.86	2.58	5.32	1.84	3.41	1.73	2.35	2.20
Repairs	1.02	1.51	1.38	2.65	1.28	1.50	1.77	1.08	1.31
Purchased irrigation water			.31		.57	.63	.89	1.28	.53
Miscellaneous	.11	.03	.04		.57	.12		.22	.13
Interest	.74	.83	.81	1.54	.77	.80	.87	1.42	.98
Machinery ownership	3.39	5.67	5.12	6.51	4.36	4.83	3.43	3.86	4.61
Replacement	1.66	2.78	2.60	3.50	2.22	2.54	1.78	1.99	2.33
Interest	1.44	2.41	2.13	2.59	1.79	1.93	1.37	1.58	1.91
Taxes and insurance	.29	.48	.39	.42	.35	.36	.28	.29	.37
General farm overhead	.41	.66	.36	.63	.31	.28	.32	.80	.54
Management	1.72	2.18	2.14	3.40	2.08	2.23	2.07	2.67	2.26
Total excluding land	18.90	24.02	23.57	37.40	22.86	24.54	22.78	29.31	24.95
Land allocation:									
Share rent	14.30	13.82	13.17	8.08	12.57	11.67	15.66	11.29	13.70
Cash rent	4.70	5.64	2.22	1.49	3.48	2.12	3.84	4.94	4.62
Current market value	8.72	7.63	6.70	2.82	6.12	3.47	8.14	12.71	7.76
Composite	8.69	6.88	10.76	5.44	8.68	5.51	9.78	9.49	8.53
Value of beet tops			.42	.99	.89	.07	.04	.13	.20

TABLE 17.—BEET SUGAR: PRELIMINARY AND PROJECTED PROCESSING COSTS PER TON OF SUGARBEETS AND POUND OF REFINED SUGAR, BY COST ITEM, CROP YEAR, UNITED STATES

Cost item	1980–81		1981–82	
	Ton	Pound (cents)	Ton	Pound (cents)
Variable	$22.70	9.707	$25.40	10.719
Beet acquisition	3.52	1.507	3.89	1.640
Processing:				
Labor	3.17	1.356	3.52	1.484
Fuel	4.18	1.785	5.17	2.181
Supplies and materials	3.57	1.527	3.93	1.659
Repair and maintenance	2.96	1.266	3.07	1.299
Labor benefits	1.20	.512	1.25	.527
Marketing	2.77	1.186	3.10	1.306
Interest	1.33	.568	1.47	.623
Ownership	10.29	4.399	10.59	4.470
Depreciation	1.60	.684	1.66	.699
Interest	8.11	3.467	8.33	3.518
Taxes and insurance	.58	.248	.60	.253
General and administration	1.86	.794	1.93	.813
Labor	.77	.327	.80	.337
Nonlabor	1.09	.467	1.13	.476
Dried pulp	4.10	1.735	4.27	1.798
Total processing cost	38.95	16.653	42.19	17.800

● Mr. HUDDLESTON. Mr. President, I urge the adoption of the conference report on H.R. 3982, the Omnibus Reconciliation Act of 1981. This legislation is an important step forward in the effort of Congress to bring Federal spending under control and reduce inflation.

Budget cutting under the reconciliation instructions has not been an easy task. Most, if not all, of the proposed budget cuts provide needed assistance to the people of the United States. Of special concern to me is that this bill makes cuts in programs that are vital to U.S. farmers and rural communities and to insuring that the Nation's people receive the benefits of good nutrition. However, it is clear to me that our Nation's citizens want Congress to reduce the Federal budget deficits. Also, the budget reductions in this bill are not focussed on any one group of Federal programs, but are spread out through a number of sectors of our Government.

AGRICULTURE AND NUTRITION ISSUES

Mr. President, I commend the distinguished chairmen of the House Committee on Agriculture, Mr. DE LA GARZA, and the House Committee on Education and Labor, Mr. PERKINS, for their leadership in the conference committee meetings on the agriculture and nutrition issues. I also wish to commend the distinguished chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, Senator HELMS, for his fair and bipartisan leadership.

I believe that, as the result of the hard work of these men and the other conferees on agriculture and nutrition issues, the conference report makes the cuts in agriculture and nutrition programs equitably and in a fashion that will minimize the adverse effects of the cuts on farmers and others in need of the programs.

CUTS IN AUTHORIZATIONS FOR AGRICULTURAL PROGRAMS

The conference bill places appropriations caps, for fiscal years 1982, 1983, and 1984, on a number of agricultural programs of the Department of Agriculture for which advance appropriations are required, and calls for an across-the-board cut in the number of Department of Agriculture personnel administering the programs of the Department. The appropriations caps, except for several minor variations, were uniformly applied to the programs involved.

The conferees accepted the House caps on the Soil Conservation Service and the agricultural conservation program with two important amendments.

The House cap on the Soil Conservation Service was increased by $30 million. The agricultural conservation program cap was increased by $10 million.

These changes will accommodate new soil conservation programs proposed in the omnibus farm bill reported to the Senate, particularly the special areas conservation program.

The new conservation programs are needed to target funds to areas suffering from severe erosion problems. If efforts to retard the erosion of our farmland are not undertaken now, our agricultural industry, the most productive segment of our economy, will not be able to meet the everincreasing demand for food and fiber.

The conferees agreed to an overall reduction of about 6 percent in several Forest Service accounts over which the agriculture committees have jurisdiction.

A cap for each of the individual accounts was considered in order to insure that cuts would be made in production functions as well as management functions. However, the conferees agreed that the Secretary of Agriculture needed some discretion in this matter, and so did not cap individual accounts. I urge the Secretary to distribute the cuts among the various programs in a fair and balanced manner.

Adequate timber production must be maintained to meet the Nation's immediate needs, but long-term forest management programs must not be neglected. The basis for management of forestry programs affected by the budget cuts should be the principles established in existing law, including the Forest and Rangeland Renewable Resources Planning Act of 1974.

The conferees acted to reduce the program authorization levels for the Public Law 480 programs. These cuts should have no effect on the operation of the programs under the Reagan administration because the administration is not requesting funding in the coming year above what the conference bill allows.

The conferees also acted to strike provisions of the Senate bill that would have increased the interest rates for title I concessional sales under the food for peace program.

The conference bill includes a provision in the Senate amendment to cut Department of Agriculture personnel by restricting the number of staff-years available to the Secretary of Agriculture.

The conferees chose this method of restricting bureaucratic growth to assure that the Secretary of Agriculture will be able to appropriately manage the personnel cutbacks and minimize any possible reduction in the delivery of services to the public.

However, this provision of the bill expands the scope of the personnel limitation proposed under the Senate amendment. The Senate amendment limited the number of USDA staff-years to the fiscal year 1981 level; the conference bill will reduce the number of staff-years by 1,300 from the 1981 level and eliminate the overtime staff time available to the Secretary. I am concerned that this reduction may affect the Department in the wrong places, giving us fewer firefighters or fewer commodity inspectors while leaving the USDA administrative bureaucracy untouched. I will watch the Department's personnel actions with interest and oppose any reduction in public service activities if the Washington and regional office administrative staffs remain intact.

This cut will save over $160 million in fiscal year 1982 and larger amounts in later years. I think that it is more reasonable to make a cut of this size more gradually, but I prefer to see the cut made in USDA's administrative budget rather than in farm or consumer programs.

REDUCTIONS IN FARM PROGRAMS

The conferees adopted several provisions to reduce the budget for farmer assistance programs.

The farm storage facility loan program will be made a discretionary program. However, recognizing the continuing need for farm storage, the conferees have urged the Secretary of Agriculture, in exercising his discretion, to provide this program in storage deficit areas.

The major farm program that will be cut back under the reconciliation bill is the milk price support program. The conference provision will set the minimum level at which the price of milk will be supported during the 1982 through 1985 fiscal years at 75 percent of parity, with the actual support level in any year fixed by a schedule based on projected Government purchases of surplus dairy products. Depending on reductions in amounts of Government purchases, the support level could rise to 90 percent of parity.

By changing the minimum support level from 80 to 75 percent of parity, this provision will reduce Government outlays for the program by $449 million in fiscal year 1982, by $891 million in fiscal year 1983, and by $1.118 billion in fiscal year 1984.

I would like to point out that the Senate Agriculture Committee, prior to considering the reconciliation bill, had reported a dairy price support reduction bill that has already become law which contributes to reducing Federal outlays. This earlier bill eliminated the April 1, 1981, adjustment in the level of price support for milk, and saved $160 million in outlays in this fiscal year. While the conferees indicate that the support price for milk will need to be reexamined during consideration of the farm bill, I would like to see serious consideration given at that time to continuing the program contained in this bill.

INSPECTION FEES

The reconciliation bill includes provisions requested by the President to require users of various agricultural commodity inspection and related services to pay fees to cover the costs of these services. There were few differences between the House and Senate versions of these provisions. These provisions, when enacted, will save Government outlays of more than $50 million in each of the next 3 years.

Tobacco farmers in my State will be affected by this request from the administration by having to pay fees for services under the Tobacco Inspection Act. I am pleased that the conferees adopted the provisions, originally included in the Senate version of the reconciliation bill as the result of the adoption of an amendment offered by Senator HELMS and me, to require the establishment of a permanent Advisory Committee of Tobacco Producers to advise the Secretary of Agriculture regarding the level of tobacco inspection, fees, and other services. The Advisory Committee will have subcommittees for each major type of tobacco.

REDUCTIONS IN FARMERS HOME ADMINISTRATION PROGRAMS

The Farmers Home Administration provides credit in rural areas through a variety of programs. These programs include ownership and operating loans to farmers who cannot get credit elsewhere; loans to farmers who suffer losses because of natural disasters; loans and grants to rural communities for water, sewer, and essential community facilities; and guaranteed loans for rural businesses that create jobs, which are an important source of off-farm income.

These programs had been targeted by the administration as areas in which to achieve much of the budget savings in agricultural programs.

The administration had proposed that savings be achieved by raising interest rates, reducing program levels, eliminating the limited resource farmer loan program and the business and industrial loan program, and allowing the economic emergency loan program to expire at the end of this fiscal year.

Fortunately, both the Senate Committee on Agriculture, Nutrition, and Foresty and the House Committee on Agriculture applied the budget cuts in agricultural programs in a more equitable manner and were able to modify the administration's proposals in this area. Nonetheless, the reductions to which the conferees agreed are painful and will reduce Federal assistance provided to rural areas.

For the water, sewer, and community facilities program, the conferees accepted the House proposal on the interest rate. The interest rate will be increased to the municipal bond rate except for loans used to upgrade or construct facilities required to meet health or sanitary standards in areas where the median family income is below the poverty level. In those cases, the interest rate will be 5 percent. The administration had recommended that the interest rate for all water, sewer, and community facility loans be set at 1 percent above the municipal bond rate.

In addition, the administration had proposed a reduction of over one-half in the loan program level. The administration's proposed program level reductions were accepted by both the Senate and House Agriculture Committees.

It should be noted that if the provision relating to interest rates had been in effect during 1980 and the first three quarters of 1981, then 51 and 68 percent, respectively, of the projects receiving loans would have qualified for the 5-percent interest rate. I believe that the program should continue directing loan funds to those small and poor communities with health and sanitary problems and urge the Department to insure that at least 50 percent of the loan funds are loaned out at the 50-percent rate.

The conferees agreed to authorize $154.9 million for water and sewer grants, which is $54.9 million more than the administration requested. The additional grant funds can be used to offset the increased user rates that will result from the higher interest rate. In addition, the conferees agreed that 75 percent of the water and sewer grant funds should be directed to projects in areas where a significant percentage of the persons served have low incomes.

The conferees accepted the administration's proposal on program levels for operating and ownership loans. These levels will represent a reduction in ownership loan funds and an increase in operating loans will help offset the effect of allowing the economic emergency loan program to expire at the end of this fiscal year.

However, given the magnitude of the economic emergency loan program, it is

clear that there will be less operating credit to farmers who qualify for FmHA programs as a result of the administration-proposed loan level.

With respect to the limited resource farmer program, current law requires that a minimum of 25 percent of the operating and ownership loan funds be allocated to limited resource farmers.

The conferees agreed to set aside 20 percent of the loan funds for limited resource borrowers. The interest rates for limited resource borrowers will be set at one-half the cost of money for ownership loans and 3 percent below the cost of money for operating loans.

With the average age of U.S. farmers approaching 56 years, there is an obvious need to maintain the limited resource programs to assist young and beginning farmers.

The administration's legislative proposals on emergency loans were to raise the interest rate for farmers who cannot get credit elsewhere from 5 percent to a rate based on the cost of money to the Government; limit the amount that may be loaned under the program to amounts provided in advance in appropriation acts; and make farmers who can get credit elsewhere ineligible for emergency loans.

The conferees set the interest rate at 8 percent for borrowers who cannot get credit elsewhere.

The provision limiting the program to amounts provided for in advance by appropriations was accepted. It should be noted that the administration has indicated that supplemental funding will be requested if the need arises.

I am concerned that this provision of the bill could cause needless delays in getting assistance to farmers. The Secretary of Agriculture should monitor this program closely to assure that the loan assistance is available when needed by farmers struck by disaster.

The conferees also accepted a provision contained in the Senate bill relating to emergency loans for borrowers who could get credit elsewhere. This provision gives the Secretary of Agriculture discretionary authority to permit farmers who could get credit elsewhere to participate in the disaster program.

I was the sponsor of this provision of the Senate bill because I believe that a disaster program should be open to anyone who suffers from a disaster. In many cases, there is insufficient loan money available for rebuilding or meeting other financial needs in a community that has suffered a disaster, even for those who have good credit ratings. To assure that this extension of eligibility is not abused, farmers who are creditworthy borrowers will have to pay interest based on the normal commercial rate.

The conferees adopted provisions that will make part of the statute certain regulatory changes in the emergency loan program that have already been implemented by the administration. These changes include increasing—from 20 to 30 percent—the amount of production loss an applicant must suffer to qualify for the program, and decreasing the percentage of the loss to be covered by a loan from 90 to 80 percent.

The conferees' action is not an endorsement of the administration's changes in the FmHA emergency loan regulations. These provisions were included in the bill to insure that the program will not be further restricted by the administration. The conferees also requested that the Secretary of Agriculture review the advisability of these recent changes in the regulations.

The conferees also adopted a House provision designed to protect prime farmland from conversion to nonagricultural uses. The provision sets interest rates on certain projects that use prime farmland 2 percent higher than rates that would otherwise be applicable.

RURAL ELECTRIFICATION ADMINISTRATION

The conferees agreed to two important provisions of the Senate amendment with respect to the Rural Electrification Administration.

First, the 2-percent insured loan program was made discretionary. It is important to note that the 2 percent program has not been abolished. It is intended, and provided for in the bill, that 2-percent loans will be made when a higher rate of interest will result in a substantial disparity between user rates for households in the same or nearby areas.

Second, the conference bill mandates continued access to the Federal Financing Bank for REA borrowers that obtain loan guarantees. The Federal Financing Bank is the most efficient and cost-effective means of handling Rural Electrification Administration loan guarantees.

REDUCTIONS IN NUTRITION PROGRAMS

The conference bill will make substantial reductions in nutrition programs, including the school lunch program and the food stamp program.

In the child nutrition programs, major savings are achieved by lowering the income eligibility levels for free and reduced price meals; significantly lowering the reimbursement rates for school lunches; tightening income verification requirements under the school feeding programs; limiting the number of meals served and the levels of reimbursement provided in the child care feeding program; eliminating the special milk program except for schools with no other Federal feeding program; and reducing the size of the summer feeding program, mainly by eliminating private sponsors.

Anticipated child nutrition savings from this bill are about $1.5 billion a year. While this does represent a deep reduction in these programs, the result could have been far worse.

Contrary to the President's budget proposal, the bill will provide enough support for paid school lunches that most school lunch programs nationwide should remain financially viable.

Under the bill, the WIC program, which a growing body of evidence indicates is one of the most successful of all social programs, will continue to serve about as many low-income women, infants, and children in each of the next 3 years as were served this year. Under the President's budget, WIC would have been cut back dramatically.

And, under the bill, many worthwhile summer feeding programs, including those operated by residential camps for disadvantaged and handicapped children, will continue to operate. The President had proposed complete elimination of all summer feeding programs. The bill will eliminate all categories of program sponsors with a history of fraud, abuse, and mismanagement, but will retain those sponsors with a history of operating effective programs.

In the food stamp program, the conference bill will achieve over $6 billion in savings over the next 3 years, exceeding the savings proposed by the President and assumed in the budget resolution by nearly $500 million. These changes—which include a tightening of eligibility limits, delays in cost-of-living adjustments, stringent antifraud measures, and a variety of other proposals—will unquestionably result in a loss of purchasing power for many low-income Americans.

However, some of us were successful in redesignating the reductions proposed by the President to assure that basic levels of support would continue for those most in need. We were also successful in resisting other proposals before Congress that would have had a drastic effect on many participants, including the elderly and disabled.

On the whole, the food stamp reductions in the reconciliation bill represent a responsible approach to meeting the strict budgetary guidelines that were established for this program.

CONCLUSION

Mr. President, as ranking Demorcat on the Committee on Agriculture, Nutrition, and Forestry, I will make every effort to assure that the reduced budget under H.R. 3982 is managed efficiently and wisely for the benefit of U.S. agriculture and those of our citizens in need of a healthy diet.

Nonetheless, I strongly support the effort to reduce the Federal budget that the conference report on H.R. 3982 represents, and urge its adoption by the Senate.

Mr. President. I ask that a summary of the provisions of the conference report relating to agricultural and nutrition programs be printed in the RECORD.

The material follows:

OMNIBUS RECONCILIATION ACT OF 1981

SUMMARY OF THE PROVISIONS OF TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A.—Food Stamp Program Reductions and Other Reductions in Authorizations for Appropriations.

Part 1.—Food Stamp Program Reductions.

(1) Household Definition:

(a) Family unit requirement (Sec. 101): The bill will require parents and children living together to apply for food stamps as a single household unit, regardless of whether they purchase and prepare food in common, except that households with a parent age 60 or older will be exempt from this requirement.

[In millions of dollars]

	1982 BA and O [1]	1983 BA and O	1984 BA and O
Savings (authorizations)	10	10	11

[1] Budget authority and outlays.

(b) Boarders (Sec. 102):

The bill will exclude all boarders from participation in the food stamp program as separate household units; although boarders will be able to participate together with the rest of the household unit.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	50	55	60

(2) Adjustment of Thrifty Food Plan (Sec. 103):

Under existing law, the basis for computing food stamp benefits (the thrifty food plan) is adjusted annually each January for food-price inflation.

The bill will change the timing of this inflation adjustment. The January 1982 adjustment will be eliminated and following adjustments will be delayed until April 1982, July 1983, and October 1984. Thereafter, an annual schedule of adjustments will resume, to occur each October. Also, each adjustment will continue to reflect changes through the fourth preceding month, rather than (as scheduled under existing law beginning in January 1982) the immediately preceding month.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	512	462	440

(3) Gross Income Eligibility Standard (Sec. 104):

The bill will restrict eligibility for participation in the food stamp program to households with gross monthly income at or below 130 percent of the applicable Federal poverty guideline, except that households with elderly or disabled members will be exempted and continue to have a net income standard of 100 percent of the applicable Federal poverty level.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	110	114	118

(4) Adjustments of Deductions (Sec. 105):

(a) The bill will require that home ownership costs be factored out of the Consumer Price Index used to calculate inflation adjustments to the standard deduction and the ceiling on the shelter and dependent care expense deductions used in determining income eligibility for participation in the food stamp program. The bill also requires that the Index be adjusted by the Bureau of Labor Statistics after consultation with the Secretary of Agriculture.

(b) The bill will hold the amount of the standard deduction and the ceiling on the dependent care and excess shelter expense deductions at 1981 levels through June 30, 1983. The following adjustment will be delayed until October 1984. Thereafter, an annual schedule of adjustments will resume, to occur each October. Also, each adjustment will continue to reflect changes through the fourth preceding month, rather than (as scheduled under existing law beginning in January 1982) the immediately preceding month.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	242	360	374

(5) Earned Income Deduction (Sec. 106):

Existing law requires that 20 percent of a household's earned income be deducted from its gross income in computing net income with respect to food stamp eligibility and benefit levels. The bill lowers the deduction to 18 percent of household earnings.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	48	51	55

(6) Retrospective Accounting and Periodic Reporting (Secs. 107 & 108):

Under existing law, States have a choice of using a retrospective or prospective accounting procedure in determining eligibility and benefits under the food stamp program. States also have the option of instituting a system of periodic reporting by food stamp households. In a retrospective accounting procedure, the household income of an applicant or recipient for the prior month is the basis for eligibility and benefit determinations; when using a prospective procedure, the upcoming month's income is estimated. Under a period reporting system, a household must file monthly reports on pertinent household circumstances (such as income and household size) in order to receive food stamp benefits.

The bill will require, beginning October 1, 1983, that all States use a retrospective accounting procedure and that most households file monthly reports (exemptions are provided for hardship cases).

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	(21)	36	572

(7) Eligibility of Strikers (Sec. 109):

Under existing law, households with members engaged in a labor strike may be eligible for food stamps if they meet normal income and other eligibility tests.

The bill will deny eligibility to any household with a member on strike unless that household member is exempt from food stamp work registration requirements or the household was eligible prior to the strike. Households that were eligible prior to a strike would remain eligible, but could not receive increased benefits because of the decrease in income due to the strike.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	50	55	60

(8) Prorating first Month's Benefits (Sec. 110):

The bill will require that the amount of a household's initial food stamp benefits be prorated to reflect the number of days remaining in the initial benefit period from the date of application. Under existing law, an applicant household receives full benefits for the first month (or other initial period) in the program, regardless of the timing of the application within that month or period.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	495	505	520

(9) Outreach; Bilingual Requirements (Sec. 111):

The bill will prohibit Federal funding of outreach efforts to inform low-income persons of the availability and benefits of the food stamp program. However, the bill will retain the requirement that States use bilingual personnel and printed materials in areas in which substantial numbers of low-income persons speak a language other than English.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	4	4	4

(10) Disqualification Penalties for Fraud and Misrepresentation (Sec. 112):

The bill will (a) expand the basis on which individuals may be disqualified from the food stamp program by (i) lowering the threshold of proof required in administrative hearings to include misrepresentation as well as fraud, and (ii) including as an act subjecting an individual to disqualification the violation of a State statute relating to food stamps; (b) increase penalties for fraud, misrepresentation, or violations by lengthening the period of disqualification; and (c) prohibit any increase in food stamp benefits to a household with a disqualified member as a result of the disqualification.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations) (for items 10 and 11 combined)	25	27	30

(11) Waiving and Offsetting Claims; Improved Recovery of Overpayments (Secs. 113 & 114):

The bill will (a) require food stamp households with a disqualified member to repay overissued benefits; (b) require States to collect overissued benefits in nonfraud cases (other than those caused by State error) by reducing future benefits to the households by 10 percent of the benefits per month, or $10 per month, whichever results in faster collection; and allow States to retain 25 percent of these collections; and (c) give the Secretary of Agriculture expanded authority to waive and offset claims against States.

(12) Repeal of Increases in Deductions (Sec. 115):

The bill will repeal two increases in allowable deductions (used in calculating household income for purposes of determining eligibility and benefits under the food stamp program) scheduled to take effect October 1, 1981. The scheduled increases would (a) establish a deduction for dependent care expenses, separate from the shelter deduction, of up to $90 per month; and (b) lower the threshold above which medical expenses for elderly and disabled persons are deductible from $35 to $25 per month.

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	63	65	69

(13) Puerto Rico Block Grant (Sec. 116):

The bill will convert the food stamp program in Puerto Rico into a block grant program for food assistance, to be funded at $825 million annually, effective July 1, 1982. In order for Puerto Rico to receive the amounts payable under the new block grant program for the last quarter of fiscal year 1982 and for 1983, Puerto Rico must submit,

by April 1, 1982, for the approval of the Secretary of Agriculture, its plan for the implementation of the food assistance program.

(NOTE: The provisions of section 1744 (relating to access by the Comptroller General to block grant program records) and section 1745 (imposing audit requirements on block grant recipients) of the bill would apply to the block grant program for Puerto Rico for food assistance under section 116.)

[In millions of dollars]

	1982 BA and O	1983 BA and O	1984 BA and O
Savings (authorizations)	70	302	336

TOTAL SAVINGS IN THE FOOD STAMP PROGRAM

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Authorizations	1,658	1,658	2,046	2,046	2,334	2,334

Part 2—Other reductions in authorizations for appropriations

(14) Agricultural and Related Programs (Sec. 120 & 121):

The bill establishes maximum limits on the amounts that may be appropriated for certain programs of the Department of Agriculture during each of the fiscal years 1982, 1983, and 1984, as follows:

Program	Authorizations, as limited 1982	1983	1984
Dairy indemnity payments	$200,000	$200,000	$200,000
Agricultural marketing activities by States	1,571,000	1,651,000	1,723,000
Rural community fire protection grants	3,565,000	3,821,000	4,038,000
Rural development planning grants	4,767,000	4,959,000	5,155,000
Rural business enterprise development grants	5,007,000	5,280,000	5,553,000
Soil Conservation Service programs	588,875,000	596,767,000	602,865,000
Agricultural conservation program	201,325,000	209,647,000	218,216,000
Forestry incentives program	15,090,000	16,913,000	18,314,000
Water bank program	10,876,000	10,854,000	10,813,000
Emergency conservation program	10,069,000	10,507,000	10,958,000
Rural water and waste disposal project grants	154,900,000	154,900,000	154,900,000

SAVINGS (AUTHORIZATIONS)

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Sec. 120	40	25	55	44	75	67
Sec. 121 (water and waste disposal grants)	63	7	82	22	99	24

(15) Forest Service (Sec. 122):

The bill establishes maximum limits on the amounts that may be appropriated in fiscal years 1981 through 1984 for the following programs of the Forest Service: forest research, State and private forestry, the National Forest System, and construction and land acquisition. The authorizations are as follows:

(a) For fiscal year 1981, $1,575,552,000.
(b) For fiscal year 1982, $1,498,000,000.
(c) For fiscal year 1983, $1,560,000,000.
(d) For fiscal year 1984, $1,620,000,000.

The bill also provides that none of the funds authorized to be appropriated may be used to build the Bald Mountain road in the Siskiyou National Forest in Oregon (although there will be no restrictions imposed with respect to the Bald Mountain timber sale).

[In millions of dollars]

	1981		1982		1983		1984	
	BA	O	BA	O	BA	O	BA	O
Savings (authorizations)	38	15	40	28	40	40		

(16) Assistance to Land-Grant Colleges (Sec. 123):

The bill establishes maximum limits on the amounts that may be appropriated for the purpose of providing assistance to 1890 land-grant colleges under the Act of August 30, 1890, and the Act of March 4, 1907, during fiscal years 1982 through 1984 of $2,800,000 for each such year.

(17) Public Law 480 Appropriation Limits (Sec. 124):

The bill provides that programs cannot be implemented under title I (including related title III programs) and title II of Public Law 480 during any calendar year that will call for appropriations of more than—

(a) $1,304,836,000 for fiscal year 1982,
(b) $1,320,292,000 for fiscal year 1983, and
(c) $1,402,278,000 for fiscal year 1984.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Savings (authorizations)	132	128	199	186	224	213

Part 3—Department of Agriculture personnel

(18) Establishment of Personnel Ceiling (Sec. 125):

The bill establishes a ceiling on the total number of employee staff years of effort that the Department of Agriculture can use during each of the fiscal years 1982 through 1984. This ceiling fixes the total personnel level for the Department at 117,000 staff years (including overtime) for those years.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Savings (authorizations)	175	158	187	181	200	194

SUBTITLE B—REDUCTIONS IN DIRECT SPENDING

Part 1—Commodity Credit Corporation programs

(19) Milk Price Support (Sec. 150):

The bill provides that, for the period beginning October 1, 1981, and ending September 30, 1985, the price of milk for each marketing year will be supported at a minimum level of 75 percent of the parity price for milk. Under the bill—

(a) the minimum support level will be on a sliding scale between 75 percent of parity and a ceiling of 90 percent of parity based upon projected purchases of surplus milk products by the Government for the marketing year; and as projected acquisitions decline, the minimum support level will increase;

(b) if the Secretary of Agriculture determines that the inventory on hand at the end of the marketing year exceeds 500 million pounds of nonfat dry milk, or 5.5 billion pounds milk equivalent of butter or cheese, the support price will be fixed at the maximum level indicated by the schedule (75 percent), and the Secretary will have no discretion to establish a support level higher than that minimum;

(c) if there are increases in dairy product import quotas during the marketing year, the support price will be redetermined by reducing the final estimate of net Government purchases by the equivalent of the increased imports;

(d) no semiannual adjustment will be made in the marketing year beginning October 1, 1981, but semiannual adjustments will be required during the period beginning October 1, 1982, through September 30, 1985, to reflect estimated changes in the parity index; although, if purchases are being made at an annual rate exceeding 5.5 billion pounds of milk equivalent, butterfat basis, or 500 million pounds of nonfat dry milk, the support price need not be adjusted except as necessary to prevent a support price of less than 75 percent of parity at the beginning of the semiannual period; and

(e) the Secretary must notify in writing the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the Chairman of the House Committee on Agriculture of his decision (and the reasons therefor) on the support level for each marketing year, and on each semi-annual adjustment, at least thirty days prior to the date on which he must provide the annual support level or the semi-annual adjustment.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
avings (direct spending)	449	------	891	449	1,118	

(20) Farm Storage Facility Loans (Sec. 151):

The bill will make the farm storage facility loan program discretionary with the Secretary of Agriculture after September 30, 1981. However, the Statement of Managers on the conference report states that the Secretary should continue to make the program available in storage deficit areas of the country.

[In millions of dollars]

	1981		1982		1983		1984	
	BA	O	BA	O	BA	O	BA	O
Savings (direct spending)	25	----100		----110		---- 120		

(21) Reduction in CCC Administrative Expense Limitation (Sec. 152):

The bill provides that not more than $52,000,000 in Commodity Credit Corporation funds will be available for administrative expenses of the Commodity Corporation for fiscal year 1982.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Savings (direct spending)	6	------	7	6	7	

Part 2—Commodity inspection fees

(22) Grain Inspection and Weighing (Sec. 155):

Effective for the period beginning October 1, 1981, and ending September 30, 1984, the bill will require the Administrator of the Federal Grain Inspection Service to collect reasonable fees to cover, as nearly as practicable, the costs to the Service incurred in the performance of official grain inspection and weighing activities, including related administrative and supervision costs, except when the inspection or weighing (or supervision of weighing) is performed by a designated agency of a State. In setting the fees, the Administrator will take into consideration any proceeds from the sale of samples. With respect to inspection and weighing activities performed by designated officials agencies and State agencies delegated to perform grain inspection and weighing activities, the Administrator will collect reasonable fees to cover the estimated cost to the Service of supervising the agencies' personnel and Service field office personnel. Failure to pay a fee within 30 days after it is due will result in automatic termination of the designation or delegation to perform inspection or weighing services until the fee (plus interest) is paid.

The bill also provides that, during the fiscal years 1982 through 1984 effective period, the administrative and supervisory costs incurred by the Service for each such fiscal year (excluding standardization, compliance, and foreign monitoring activities) cannot exceed 35 percent to the total costs of inspection and weighing (or supervision of weighing) carried out by the Service that year.

The bill also requires the Secretary of Agriculture to establish an advisory committee consisting of not more than 12 members who represent all segments of the grain industry. This advisory committee will advise the Administrator of the Federal Grain Inspection Service on matters relating to the efficient and economical implementation of the U.S. Grain Standards Act of 1976. The advisory committee will be appointed within 30 days after enactment of the bill, and its members will serve without compensation except that they will be entitled to reimbursement for travel expenses incurred in connection with performing services on behalf of the advisory committee. The Administrator will be required to provide clerical assistance and staff personnel to the advisory committee as necessary.

[In millions of dollars]

	1982		1983		1984	
	BA	0	BA	0	BA	0
Savings (direct spending)	25	23	25	25	27	27

(23) Cotton Classing and Related Services (Sec. 156):

(a) The bill requires the Secretary of Agriculture to collect fees under the U.S. Cotton Standards Act for licenses issued to cotton classifers, for determinations of the true classification of cotton or cotton samples, and for the establishment of cotton standards and the sale of copies of standards. The fees will cover, as nearly as practicable, the cost (including administrative and supervisory costs (of providing the services and standards under the Act after taking into account the net proceeds from any sale of samples. Fees collected will be deposited in the current appropriation account that incurs these costs and will be used for paying the expenses of providing the services and standards under the Act and the U.S. Cotton Futures Act. The Secretary will be authorized to establish conditions, by regulation, for cotton samples to become the property of the United States and to be sold. The bill provides that the price established by the Secretary for the sale of practical forms representing the official cotton standards should cover the estimated cost of developing and preparing the forms.

(b) The bill amends section 3a of the Cotton Statistics and Estimates Act, effective only for fiscal years 1982 through 1984, to authorize the Secretary to make cotton classification services available to producers, and directs the Secretary to collect fees on a per-bale basis for participating producers. The fees will cover, as nearly as practicable, the cost of providing these services, including administrative and supervisory costs, after taking into consideration the proceeds from sales of cotton samples. However, in calculating the fee, the Secretary's estimate of the net cost for classification services can not exceed $12,000,000 in fiscal year 1982, $12,400,000 in fiscal year 1983, and $13,000,000 in fiscal year 1984. Cotton samples submitted for classification will become the property of the United States and will be sold. The fees collected and any proceeds from the sale of samples will be deposited in the current appropriation account that incurs the cost and will be used to pay the expenses of providing cotton classing services to producers. Appropriations will be authorized to cover services under section 3a to the extent that financing for the services is not available from fees and sales of samples.

(c) The bill amends the U.S. Cotton Futures Act to provide that (i) fees collected by the Secretary for classifications in connection with tenders and settlements of cotton will be credited to the current appropriation account for fees collected under the U.S. Cotton Standards Act; (ii) cotton samples submitted for classification will become the property of the United States.

(d) The bill requires the Secretary of Agriculture to hold annual meetings with cotton industry representatives to review cotton classing and related services and determine the effect, if any, that providing these services has on cotton prices and sales. The purpose of this review will be to improve the procedures for financing and administering these services. The Secretary will be required to take action as necessary to ensure that the cotton standards and classification system continues to operate and that the licensing and inspection procedures for cotton warehouses are preserved.

[In millions of dollars]

	1982		1983		1984	0
	BA	0	BA	0	BA	0
(e) Savings (direct spending)	12	12	12	12	13	13

(24) Tobacco Inspection and Related Services (Sec. 157):

The bill will amend the Tobacco Inspection Act to require the Secretary of Agriculture to fix and collect fees to cover the cost, as nearly as practicable, of establishing standards and of providing tobacco inspection and certification at designated auction markets. The fees will be collected by warehouse operators from the sellers of tobacco. Fees will also be assessed against the warehouse operators. The failure of a warehouseman to collect or pay the fees imposed will result in the suspension or denial of inspection and certification services. All fees and charges collected by the Secretary will be credited to the current appropriations account that incurs the cost and will be available to pay expenses incident to providing the services.

The bill provides for the establishment of a permanent advisory committee of tobacco producers, with subcommittees for each major kind of tobacco, to advise the Secretary with regard to providing tobacco inspections and related services and the level of the fees charged for these services.

The bill will amend the Tobacco Inspection Act to require the Secretary of Agriculture to fix and collect fees and charges for tobacco sampling, weighing, and inspection services performed at the request of tobacco owners. These fees should be sufficient to cover the cost of providing these services, including administrative and supervisory costs, and will be credited to the same account as the fees collected for services at designated auction markets.

[In millions of dollars]

	1982		1983		1984	
	BA	0	BA	0	BA	0
Savings (direct spending)	8	8	9	9	10	10

(25) Warehouse Examination, Inspection, and Licensing (Sec. 158):

The bill will amend the U.S. Warehouse Act to require the Secretary of Agriculture to charge and collect reasonable fees for inspection and related activities conducted under the Act, including the issuance and amendment of warehouse licenses; warehouse examinations and inspection; and the licensing of applicants to inspect, classify, sample, grade, and weigh products stored under the provisions of the Act. The fees will cover, as nearly as practicable, the cost of providing these services (including administrative and supervisory costs), except that any fees collected for cotton warehouse inspections will be limited to not more than $400,000 in fiscal year 1982, $415,000 in fiscal year 1983, and $430,000 in fiscal year 1984. Fees collected will be credited to the current appropriation account and used to pay the Secretary's expenses in performing services under the Act. If any interest is earned thereon, it will be credited to the account.

The bill also provides for the appropriation of funds as needed to carry out the provisions of the U.S. Warehouse Act except for inspection and related services under the Act for which fees are required to be collected by the Secretary.

(26) Naval Stores Inspection and Related Services (Sec. 159):

The bill will amend the Naval Stores Act to delete references to the payment of costs for providing classification and grading services in connection with naval stores, and to require the Secretary of Agriculture to fix and collect fees for the establishment of standards and for providing inspection and related services with regard to naval stores. These fees will be collected from processors or warehousers of naval stores and will be deposited in the current appropriation account that incurs the cost of providing these standards and services for use in paying the costs incident thereto. The fees should cover as nearly as practicable the cost of providing these standards and services. The failure of any processor or warehouseman to pay the fees will result in the suspension or denial of inspection and related services.

[In millions of dollars]

	1982		1983		1984	
	BA	0	BA	0	BA	0
Savings (direct spending) (for this item item and item (25) combined)	6	6	6	6	6	6

Part 3—Farmers Home Administration (FmHA) programs

(27) Water and Waste Disposal and Community Facility Loans (Sec. 160):

The bill will increase the interest rates on FmFA loans (other than guaranteed loans) to public bodies and nonprofit associations for water and waste disposal facilities and essential community facilities from the current maximum of 5 percent per year to rates set by the Secretary of Agriculture but not to exceed the current market yield for outstanding municipal obligations of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The bill provides however, that the rate will not exceed 5 percent per year for any such loans that are for the upgrading or construction of facilities as required to meet health or sanitary standards in areas where the median family income of persons to be served by the facility is below the poverty line and in other areas as the Secretary may provide where a significant percentage of the persons to be served by the facility are of low income, as determined by the Secretary.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Savings (direct spending)	179	21	208	33	189	49

(28) Farm Ownership and Operating Loans to Low Income, Limited Resource Farms (Secs. 160 & 164):

(a) Interest Rates:

The bill provides that interest rates on FmHA farm ownership loans to low income, limited resource borrowers will be as determined by the Secretary of Agriculture, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States of comparable maturities and not less than 5 percent per annum. (Under existing law, the interest rate on these loans is not to exceed 5 percent.)

The bill provides that the interest rates on FmHA operating loans to these farmers will be rates as determined by the Secretary of Agriculture, not in excess of the current average market yield on outstanding marketable obligations of the United States of comparable maturities (plus not to exceed 1 percent), less 3 percentage points. (Under existing law, there is no separate interest rate for operating loans to low income, limited resource farmers.)

(b) The bill provides that at least 20 percent of all FmHA issued farm ownership and operating loans made in fiscal year 1932 must be made to low income, limited resource farmers. (Under existing law, 25 percent of such loan money is set aside for these farmers.)

(29) FmHA Loans Involving Use of Prime Farmlands (Sec. 160):

The bill provides that the interest rates on certain FmHA loans (other than guaranteed loans) for activities that involve the use of prime farmland will be 2 percent per year higher than the rates that would otherwise be applicable. The kinds of FmHA loans to which this provision will apply include recreation loans or other loans needed to supplement farm income; loans for outdoor recreational enterprises or the conversion of farming or ranching operations to recreational uses; small business enterprise loans; soil and water conservation loans; water and waste disposal facility loans; certain electric transmission loans; business and industrial loans; loans made jointly with other governmental agencies for private business enterprises; and recreation or other loans needed to supplement the farm income of low-income borrowers. The bill also provides that, whenever practicable, construction by a State, municipality, or other political subdivision of local government supported by such loans will be placed on land that is not prime farmland and that if the governmental authority nevertheless desires to carry out the construction on prime farmland, the 2 percent interest increase shall apply unless other options for locating the construction do not exist.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Savings (direct spending)			2	2	3	3

(30) Emergency (Disaster) Loans (Secs. 161, 162, & 163):

(a) Emergency Loan Amounts:

The bill provides that FmHA emergency loans can be made only to the extent and in such amount as provided in advance in appropriation Acts. The Statement of Managers on the conference report on the bill states that this provision does not contemplate any change in the general manner in which prior appropriation Acts have provided funds for emergency loans.

(b) Interest Rates:

The bill changes the interest rates for FmHA emergency loans covering actual losses as follows:

(i) For farmers who cannot get credit elsewhere, the maximum interest rate that may be charged is increased from 5 percent to 8 percent.

(ii) For farmers who can get credit elsewhere, the maximum interest rate that may be charged is increased from the cost of money to the Government, plus 1 percent, to the rate prevailing in the private market for similar loans.

These interest rate changes will take effect with respect to loans made for disasters occurring after September 30, 1981.

[In millions of dollars]

	1982		1983		1984	
	BA	O	BA	O	BA	O
Savings (direct spending)	125	57	65	80	129	

(c) Eligibility for Assistance Based on Production Losses:

The bill will require the Secretary of Agriculture to make FmHA emergency loans available to applicants seeking assistance based on production losses if the applicant shows that a single enterprise that is a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least a 30 percent loss of normal per acre or per animal production (based upon the average monthly price in effect for the previous year) as a result of the disaster, and the applicant otherwise meets eligibility requirements. Also, such loans will be made available based on 80 percent of the total calculated actual production loss sustained by the applicant.

(These limitations reflect recent administrative changes made in the FmHA emergency loan program. The Statement of Managers on the conference report on the bill states that the limitations were included in the bill to ensure that the program is not limited further.)

(31) FmHA Insured Loan Limits (Sec. 164):

The bill establishes limits for insured FmHA loans made in fiscal year 1982 as follows:

(a) For farm ownership loans, $700,000,000.

(b) For operating loans, $1,325,000,000.

(c) For water and waste disposal loans, $300,000,000.

(d) For community facility loans, $130,000,000.

(These amounts are the same as the amounts included in the President's budget for fiscal year 1982.)

[In millions of dollars]

	1981		1982		1983		1984	
	B A	O	B A	O	B A	O	B A	O
Savings (direct spending) (for this item and item (28) combined)		20		199		62		104

Part 4—Rural Electrification Administration (REA) programs

(32) Rural Electrification Act Amendments (Sec. 165):

(a) Interest Rates on Insured Electric and Telephone Loans:

The bill will establish the interest rate for insured electric and telephone loans under the Rural Electrification Act at 5 percent per year, except that the REA Administrator may make insured loans at a lesser rate, but not less than 2 percent, if the Administrator finds that the borrower has experienced extreme financial hardship or cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and those charged for similar services in the same or nearby areas by other suppliers, provide service consistent with the objectives of the Act.

The new interest rates will be applicable to loan applications received after July 24, 1981.

(b) Access to the Federal Financing Bank:

The bill will require the Federal Financing Bank, on the request of any REA borrower, to make a loan that is guaranteed by the REA Administrator. The rate of interest on such loan will be not more than the rate of interest applicable to other similar loans then being made or purchased by the Bank.

SUMMARY OF THE PROVISIONS OF TITLE VIII—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

(1) School Lunch—General and Special Assistance Reimbursement Rates (Sec. 801):

(a) The bill sets the general assistance rates of reimbursement to State educational agencies for the school lunch program for the 1981–1982 school year at (i) 10.5 cents per lunch for school lunches served in school districts in which less than 60 percent of the lunches are served free or at a reduced price, and (ii) 2 cents additional per lunch for school lunches served in school districts in which 60 percent or more of the lunches are served free or at reduced prices.

The rates will be adjusted (to reflect changes in the costs of operating meal programs) each July 1, beginning July 1, 1982, for following school years.

(b) The bill establishes the special assistance rates of reimbursement to State educational agencies for free lunches and reduced price lunches under the school lunch program for the 1981–1982 school year as follows:

(i) For free meals, the rate is changed to 98.75 cents per meal.

(ii) For reduced price meals, the rate is changed from 20 cents less than the free meal rate to 40 cents less than the free meal rate.

The rates will be adjusted (to reflect changes in the costs of operating meal programs) each July 1, beginning July 1, 1982, for following school years.

SAVINGS (AUTHORIZATIONS)

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Lowering overall reimbursement rates for school lunches[1]	50	----	449	468	483	481	514	513
Lower reduced-price lunch subsidy an additional 20 cents[1]	7	----	60	63	63	63	64	63

[1] Includes reductions in commodity assistance. See item (3) below.

(2) School Breakfast Program Reimbursement Rates (Sec. 801):

(a) The bill establishes rates of payments to State educational agencies under the school breakfast program for the 1981–1982 school year as follows:

(1) Fifty-seven cents per meal for free breakfasts.

(2) Eight and one-quarter cents per meal for paid breakfasts.

(3) For reduced-price breakfasts, the rate will be half the free rate or 30 cents less than the free rate, whichever is greater; and the price of a reduced price breakfast cannot exceed 30 cents per meal.

The rates will be adjusted (to reflect changes in the costs of operating meal programs) each July 1, beginning July 1, 1982, for following school years.

(b) The bill changes eligibility for receipt of severe need assistance under the school breakfast program to include only those schools in which (during the second preceding school year) a minimum of 40 percent of lunches were served free or at reduced price and for which the average rate of reimbursement is insufficient to cover the costs of the breakfast program. However, any school required by State law to operate a breakfast program would remain eligible to receive severe need assistance without regard to the revised criteria until July 1, 1983 (if located in a State in which the State legislature meets annually), or July 1, 1984 (if located in a State in which the State legislature meets biennially).

SAVINGS (AUTHORIZATIONS)

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Reduce breakfast subsidy for nonneedy children; change reduced-price rate; reduce eligibility for severe-need assistance	4	----	45	46	54	46	61	61

(3) Commodity Assistance for Lunches (Sec. 802):

The bill sets the rate at which assistance, in the form of donated foods, will be supplied to schools for lunch programs during the 1982–1983 school year at 11 cents per meal. The rate will be adjusted (to reflect changes in the price index for food used in schools and institutions) each July 1, beginning July 1, 1982, for following school years.

(4) Revision of Income Eligibility Guidelines (Sec. 803):

(a) Income eligibility standards: The bill will set new income eligibility standards for participation in the school lunch program as follows:

(1) For free meals, the income eligibility standard will be 130 percent of the OMB nonfarm income poverty guidelines until June 30, 1983. Beginning July 1, 1983, the income eligibility standard will be the same as the gross income eligibility standard for the food stamp program. (NOTE: Under section 104 of the bill, the food stamp gross income eligibility standard will be set at 130 percent of the poverty guidelines also.)

(2) For reduced-price meals, the income eligibility standard will be 185 percent of the OMB nonfarm income poverty guidelines.

The standards will be revised annually to reflect changes in the consumer price index.

(b) Application procedures: With respect to the procedures for handling applications for free or reduced-price lunches, the bill will—

(i) require that application forms and descriptive materials be made available in a timely manner to parents of children attending school;

(ii) permit the Secretary of Agriculture, States, and local school food authorities to verify data contained in application; and require local school food authorities to undertake such other verification of information contained in applications as the Secretary may prescribe; and

(iii) require applicants to furnish the social security account number of all adult members of the applicant's household and require that appropriate documentation of the income of an applicant's household (or that the household is participating in the food stamp program) is provided to the local school food authority.

(c) Income reporting period: The bill will require that eligibility be determined on the basis of the annual household income for the child's household at the time of application (rather than on the applicant's estimate of annual household income for the school year for which the application is submitted).

(d) Verification pilot study: The bill will require the Secretary of Agriculture to conduct a pilot study to verify data submitted on a sample of applications for free and reduced price meals.

SAVINGS (AUTHORIZATIONS)

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
(a) Tie eligibility for free meals to food stamp eligibility	66	61	70	70	71	70		
(a) Change eligibility standard for reduced-price meals	78	73	90	89	97	96		
(b) and (c) Require documentation of income; define income as current income	125	116	125	125	125	12		

(5) Revision of State Revenue Matching Requirements (Sec. 804):

The bill requires States to provide matching funds for the school lunch program at least equal to 30 percent of the funds made available to the State for school lunches under section 4 of the National School Lunch Act in the 1980–1981 school year (except if the per capita income of the State is less than the national average per capita income, in which case the required match would be reduced proportionately). The State funds provided to meet this requirement, to the extent practicable, must be disbursed to schools participating in the school lunch program.

(6) Termination of Food Service Equipment Assistance (Sec. 805):

The bill will repeal those provisions of law providing funding under the National School Lunch Act and Child Nutrition Act of 1966 for food service equipment in schools.

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Savings (authorizations)	19	19	19	19	19	19		

(7) Nutrition Education and Training Program (Sec. 806):

The bill will reduce the authorization for appropriations for grants to support nutrition education and training programs, beginning with fiscal year 1982, from $15 million per year to $5 million per year. The authorization for funding expires at the end of fiscal year 1984.

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Savings (authorizations)	10	10	10	10	10	10		

(8) Revision of the Special Milk Program (Sec. 807):

The bill limits the special milk program to schools and institutions that do not participate in meal service programs under the Child Nutrition Act of 1966 and the National School Lunch Act.

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Savings (direct spending)	10	----	95	103	99	98	102	101

(9) Limitation on Private School Participation (Sec. 808):

The bill will make nonprofit private schools in which the average yearly tuition exceeds $1,500 per student ineligible to participate in the school nutrition programs.

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Savings (authorizations)	5	5	5	5	6	6		

(10) Summer Food Service Program (Sec. 809):

The bill will limit sponsorship of summer food service programs to public or private nonprofit school food authorities; local, municipal, or county governments; and residential nonprofit summer camps. Programs sponsored by local, municipal, or county governments must be directly operated by the governmental entities.

The bill will restrict the summer food service programs to areas in which at least 50 percent (not 33⅓ percent, as under existing law) of the children meet the income eligibility criteria for free and reduced price school lunches.

[In millions of dollars]

	1981		1982		1983		1984	
	B		B		B		B	
	A	O	A	O	A	O	A	O
Savings (direct spending)	90	85	95	93	99	99		

(11) Revisions of the Child Care Food Program (Sec. 810):

(a) The bill will make ineligible for participation in the child care food program for-profit institutions that do not receive compensation under title XX of the Social Security Act for at least 25 percent of the children for which the institution provides day care services.

(b) The bill will reduce the age limit for eligibility for the child care food program from 18 to 12, except for—

(i) handicapped children, for which no age limit is set; and

(ii) children of migrant workers, for which the age limit is 15.

(c) The bill will eliminate the tiering system and require that eligibility for reimbursement for the cost of meals served in child care programs be based on the income needs of the individual applicant, as under the school lunch program.

(d) The bill will change the reimbursement rate for food supplements (i.e., snacks) served in child care programs as follows:

(i) For free supplements, 30 cents per unit.

(ii) For reduced-price supplements, one-half the free rate.

(iii) For paid supplements, 2.75 cents per unit.

The rates will be adjusted (to reflect changes in the costs of operating meal programs) each July 1, beginning July 1, 1982.

(e) The bill limits maximum reimbursements for meals under child care programs to two meals and one supplement per day for each child served.

(f) The bill will change the procedures for determining the reimbursement to child care programs for providing food to children enrolled in the program. For a family or group day care home, the bill will eliminate reimbursement for meals and supplements served to children of the child care provider unless the children are eligible for free or reduced-price school lunches. The bill also lowers the reimbursement rate for family and group day care programs (which is based on the costs of obtaining and preparing food for child care meals) by 10 percent. The reimbursement rate will be adjusted (to reflect changes in the Consumer Price Index for food away from home) each July 1, beginning July 1, 1982. The bill will lower the reimbursement allowance for administrative expenses by 10 percent; and, in making the reduction, the Secretary of Agriculture will be required to increase the economy-of-scale factor used to distinguish institutions that sponsor a larger number of day care homes from those that sponsor a lesser number of such homes. The reimbursement rate for administrative expenses will be adjusted (to reflect changes in the Consumer Price Index for all items) each July 1, beginning July 1, 1982.

(g) The bill eliminates the requirements under the child care food program for State plans and food service equipment assistance.

SAVINGS (AUTHORIZATIONS)

[In millions of dollars]

	1981		1982		1983		1984	
	B A	O	B A	O	B A	O	B A	O
(a) Eliminate certain for-profit institutions			7	6	16	16	16	21
(b), (d), (f), exclude children over 12; reduce reimbursement rate; include children of day-care providers			11	10	14	13	16	15
(c) Eliminate "tiering" in calculating reimbursement			11	10	13	13	14	13
(e) Allow reimbursement for only 3 meals per child per day	4		40	41	58	57	63	62
(f) Reduce the day care reimbursement rate and administrative costs by 10 percent			15	14	17	16	19	19

(12) Food Not Intended to be Consumed (Sec. 811):

The bill extends to children participating in the school lunch program at all grade levels (including children in elementary schools) the option not to accept food offered to them that they do not intend to consume.

(13) State Plan Requirements (Sec. 812):

The bill deletes the provision of law that each State educational agency must provide the Secretary of Agriculture annually with a State plan of child nutrition operations for the following school year describing how school lunch, child nutrition, summer food program, and school breakfast funds will be used.

The bill also deletes the requirement that schools and State educational agencies provide to the Secretary estimates each October 1 and March 1 of the number of children under the entity's jurisdiction who are eligible for free or reduced-price meals.

(14) Commodity Only Schools (Sec. 813):

Commodity only schools are schools that do not participate in the school lunch program, but which receive commodities made available by the Secretary of Agriculture for use in nonprofit lunch programs.

The bill will expand commodity assistance, and offer cash assistance, to commodity only schools, as follows:

(a) They will become eligible to receive donated commodities in an amount equal in value to the national average commodity assistance rate under the National School Lunch Act and the general reimbursement rate for school lunches under that Act;

(b) They will be eligible to receive up to 5 cents per meal of the amount described in item (a) in cash for the costs of processing and handling commodities; and

(c) They will be eligible for special assistance cash payments under the National School Lunch Act for providing children free and reduced-price lunches.

The bill also provides that commodity only schools may not participate in the special milk program.

(15) State Administrative Expenses (Sec. 814):

The bill provides that the minimum administrative expense funds that must be allocated to each State will be the larger of $100,000 and the amount made available for such purpose in fiscal year 1981. Administrative expense funds that are made available in one year will be available for obligation or expenditures in the following year.

(16) Authorizations for Appropriations under the WIC Program (Sec. 815):

The bill provides authorizations for appropriations for the special supplementary food program (WIC) for the 1982 through 1984 fiscal years as follows:

(a) For fiscal year 1982, $1.017 billion.

(b) For fiscal year 1983, $1.060 billion.

(c) For fiscal year 1984, $1.126 billion.

[In millions of dollars]

	1981		1982		1983		1984	
	B A	O	B A	O	B A	O	B A	O
Increases (authorizations)		(19)	(16)		(3)			

(17) Claims Adjustment Authority (Sec. 816):

The bill will give the Secretary of Agriculture authority to determine, adjust, and settle claims arising under the National School Lunch Act and the Child Nutrition Act of 1966.

(18) Limitations on the Authority of the Secretary to Administer the Programs Directly (Sec. 817):

The bill will prohibit the Secretary of Agriculture from directly administering any assistance program under the National School Lunch Act or Child Nutrition Act of 1966, except for—

(a) programs that have been administered by the Secretary continuously since October 1, 1980; or

(b) programs in nonpublic schools in cases in which the State educational agency is not permitted by law to disburse the program funds to nonpublic schools in the State.

The bill will also permit States to assume administration of programs that the Secretary is directly administering.

(19) Cost Saving Revisions by the Secretary (Sec. 818):

The bill will require the Secretary of Agriculture to review regulations under the National School Lunch Act and the Child Nutrition Act of 1966 to determine ways to achieve cost savings in the meal programs at the local level without impairing the nutritional value of the meals. The Secretary will also be required to promulgate regulations to achieve cost savings within 90 days after the bill is enacted.

(20) Extension of the Provisions of the 1980 Reconciliation Act:

The bill, as described above, continues beyond fiscal year 1981 a number of provisions of the Omnibus Reconciliation Act of 1980 (Public Law 96-499) that reduced the authorizations for child nutrition programs for fiscal year 1981 only.

By incorporating these provisions of the 1980 Act and extending the applicability of such provisions to the child care feeding program, the bill makes the following budget savings in the 1981 through 1984 fiscal years:

[In millions of dollars]

	1981		1982		1983		1984	
	B A	O	B A	O	B A	O	B A	O
Authorizations	1		367	343	348	349	366	3

CUMULATIVE SAVINGS—CHILD NUTRITION PROGRAM

[In millions of dollars]

	1981		1982		1983		1984	
	BA	O	BA	O	BA	O	BA	O
Authorizations	66		1,289	1,269	1,385	1,368	1,466	1,457
Direct spending	10		185	188	194	181	201	200

Mr. PERCY. Mr. President, the final version of the Omnibus Reconciliation Act will change the Communications Act of 1934 to permit the Federal Communications Commission to use a lottery in lieu of the present comparative hearing procedure for the purpose of granting licenses to use the electromagnetic spectrum.

One important area which will benefit from the new lottery system is that of cellular mobile telephones.

On April 9, 1981, the FCC issued a decision in its cellular proceeding which created an entitlement to one-half of the available cellular spectrum for the telephone company servicing a given market area. The underlying rationale for this entitlement is the FCC's concern that a comparative hearing would take considerable time and that, in the interim, the public would be denied service.

The change effected by the Omnibus Reconciliation Act will permit the FCC to reexamine its decision, since the delay factor will be eliminated once the law takes effect.

On July 27, 1981, the Committee on Commerce, Science, and Transportation reported out S. 898, the Telecommunications Competition and Deregulation Act of 1981. In it report on the bill, the committee questioned the efficacy of the FCC's cellular decision stating, "the Commission should review its policies in cellular service to insure that they are consistent with the act's competitive policy." (Report 97–170, p. 10.)

The FCC will have its work cut out for it in making this lottery option work reasonable; however, this approach removes the delay factor in the hope the FCC will recognize this and take appropriate action.

Mr. KENNEDY. Mr. President, today's vote on the reconciliation conference report is the final important Senate vote in the budget process. We can no longer hide behind the mask of featureless numbers or the promise that what we do can all be fixed later.

Today we vote to cut back on existing laws in ways that will profoundly affect the lives of millions of Americans—the handicapped, the elderly, the middle class, the poor, the young.

I cannot support a budget that relentlessly cuts programs for those most in need and that ignores the plight of our cities and rural areas. I cannot support a budget that makes it harder for the elderly to heat their homes and breaks the promise of social security for millions of senior citizens. I cannot support a budget that forces students to give up their dreams of a college education because of cutbacks in college loans.

We have worked long and hard in the conference with the House to undo this damage. We have achieved some important victories. The administration's proposal for a medicaid cap has been rejected. Their proposal for vast, formless block grants in health, education, and social services has been rejected. Their proposal to slash funds for home heating for the poor and elderly has been rejected. Their proposal for drastic funding cutbacks in student aid for low- and middle-income families has been rejected.

Mr. President, those victories hardly begin to affect the enormous new burdens this budget will impose. It is a budget of unequal sacrifice. It asks too much of the poor and the middle class, and it asks too little from the rich, the powerful, and the special interests. In the same week that we are taking away school lunches for children, we are granting billions of dollars in new tax breaks for the oil companies.

The budget and the tax bill are the product of an economic theory that says that we can have prosperity only by abandoning the social progress of a generation. But I believe that our people will see that the administration's economic policy is a cruel hoax that produces suffering and hardship for most Americans and windfalls for a privileged few.

It is time to say no to these misguided priorities. We can fight inflation, revitalize our economy and rebuild our cities and towns without turning our backs on the values that have made the Democratic Party great. It is time to provide a vision of society that offers both prosperity and compassion, and that responds to the needs of all our people. The citizens of America deserve better from their Congress, and that is why I oppose this harsh and unjust legislation.

COST REVIEW MECHANISMS IN MEDICAID

Mr. CHAFEE. Mr. President, I would like to speak to my colleague from Kansas (Mr. DOLE) about those sections of the reconciliation report and bill which deal with medicaid and the qualification of a State's cost control program. This is of particular concern to my State of Rhode Island.

Mr. DOLE. The medicaid reimbursement formula which was agreed to in conference is designed to reward States which make efforts to control costs. States which operate cost review mechanisms may lower by 1 percent the amount by which the Federal contribution to their programs is reduced.

Subtitle C, chapter 1, section 2161, paragraph 3, subparagraphs A through D of the reconciliation bill establish criteria under which States' cost review or "prospective reimbursement" programs may qualify for such a reduction.

In the Managers' Statement, we have referred to six States which the conferees expect to be considered to be qualified cost review programs. Though Rhode Island was not among these, the Senate conferees did not wish to specifically exclude Rhode Island as a qualified cost review program.

Mr. CHAFEE. Mr. President, my colleague from Kansas, the distingiushed chairman of the Finance Committee, has correctly stated that Rhode Island was a pioneer in the development of prospective reimbursement systems. As a direct result of my State's program, Rhode Island has been extremely successful in controlling medicaid costs.

It is one of the most cost-effective programs in the country. Therefore, it is appropriate, and the intention of the Finance Committee conferees, that Rhode Island's program not be excluded from qualification for the 1-percent reimbursement which my colleague from Kansas has described. Because of the small size of my State, our medicaid administrators, Blue Cross officials, and hospital association representatives have been able to work together effectively.

Chapter 208, title 27, of the General Laws of Rhode Island, does create the framework for direct State participation in any prospective reimbursement system. And indeed, the State is directly involved in the operation of that system.

Mr. DOLE. Inasmuch as Rhode Island's law and mode of operation with respect to prospective reimbursement have facilitated—rather than lessened—the ability of that State to achieve a cost-effective medicaid program in Rhode Island, it seems appropriate to the Finance Committee that Rhode Island's cost review system qualify the State for the 1-percent reimbursement under the statute described above.

THE BATTLE OVER FEDERAL SPENDING

Mr. President, as we proceed to finalize the spending reductions under the reconciliation bill, we ought to consider how we have reached the point where dramatic changes in the level of Federal spending are needed, and what the consequences will be if we do not act now to change direction. President Reagan has stressed that his economic program should be looked at as a whole, including measures to reduce spending, cut taxes, restrain monetary growth, and reduce the burden of Federal regulation.

That makes good sense, and it is up to Congress to enact a series of legislative changes that, taken together, will constitute a coherent assault on our economic problems. But the President has also emphasized that firm control over Federal spending over the next few years is crucial to the success of this program. That is why the steps we take to control spending are so vital to the well-being of the Nation.

FINANCE COMMITTEE ACTION

There were significant differences between the House and Senate versions of the reconciliation bill. However, after thorough, often spirited, debate, the differences were reconciled to the satisfaction of the conferees. The consensus on what we needed to do clearly outweighed the differences we had to iron out.

At the same time it should be remembered that the recommended changes are not so radical as some would maintain. The revisions that came out of the Finance Committee, and which are incorporated in the bill, are clearly in the nature of tightening up on existing programs.

Funding levels for individual programs are not severely cut, and no substantial programs are eliminated. These spending reductions are carefully chosen, not random or arbitrary.

CLARIFICATION OF MEDICAID LANGUAGE

I would like to bring to the attention of the Senate an ommission from the Statement of Managers in House Report 97–208, explaining the conference agreement on the Omnibus Budget Reconciliation Act of 1981, H.R. 3982. In the explanation of subtitle C of title XXI relating to medicaid, reference is made to an amendment regarding services to the medically needy. The language now states, in pertinent part:

The intent of the amendment is to provide States with flexibility in establishing eligibility criteria and scope of services within the medically needy program to address the needs of different population groups more appropriately. Nothing would allow, however, the State to cover individuals not covered under current law.

Inadvertently, the next sentence was omitted. It was to read as follows:

Moreover, it is not the intent of the conferees to alter the requirements under section 1902(a)(17) of the Social Security Act relating to comparable treatment of income and resources between categorically needy and medically needy programs.

Both Representative DINGELL, the co-chairman of the subconference in which this issue was resolved, and I intend that this sentence be considered as part of the Statement of Managers.

POLICY OF COMPASSION

Mr. President, these cuts are difficult but they are reasonable and they are needed. The opponents of spending restraint—particularly the defenders of specific programs—cry that spending cuts will put this person out of a job, deprive that community of a federally-funded development project, reduce the income supplement that another individual receives.

There is no question that withdrawal of Federal funding on the scale we are contemplating will have consequences. But it is unjust to look at only one side of the ledger. That, I may say, is what we have been doing for too long, and that is why spending has gotten out of control.

Mr. President, to calculate the impact of budget cuts we cannot just look at cases where there may be individual hardship. If there were no tough cases to deal with, we could have undertaken this budget-cutting exercise long ago. We have come to realize that the levels of Federal spending we have become accustomed to can cause hardship as well as relieve it. Financing Government programs through the hidden tax of inflation is not a compassionate policy.

IMPROVE THE ODDS

We can and should increase the probability that the economic recovery program will succeed. That is everyone's economic interest. We can do so by proving that we are firmly resolved to control the budget this year, and next year, and the year after that, and that we will continue to be responsive to the public demand for a more efficient and effective Government.

The clearer our sense of purpose, the more likely it is that people, and financial markets, will respond as the President predicts. Together with lower taxes, stable monetary policy, and limits on the burden of Federal regulation, the Reagan agenda of spending reductions can convince people that we mean business and set in motion the transition to a new period of stable economic growth.

We must demonstrate that the old rules of political behavior no longer are an obstacle to developing and implementing the best policies for the economy as a whole. The Federal budget is the place to start.

SUBTITLE E—CONRAIL: SECTION 1131

● Mr. RIEGLE. Mr. President, at this time, I would like to express again my support for community action agencies—especially those in my home State of Michigan—but also those throughout the country. These agencies were established to develop local programs to eliminate the causes of poverty and to develop coordinated approaches to providing needed services for low-income citizens and the elderly. Thanks to the efforts of effective CAP agencies, hundreds of thousands of people throughout our country have been trained or retrained for available jobs, homes have been weatherized and heated through cold winters and early childhood development needs of low-income families have been met through Head Start and day care programs. Community action agencies offer low-income youth, elderly, and handicapped residents a number of vital services including medical and dental care, transportation, and other essential programs tailored to the needs of these special populations.

On May 26 of this year, I had the privilege of chairing a public forum in Michigan sponsored by the Kent County Community Action Agency. Hundreds of Michigan residents, including members of the State legislature, representatives from private and public social service agencies, public officials, and concerned citizens offered testimony on the benefits provided by Federal programs to local communities and low-income populations throughout the State. They also testified on the impact of the administration's proposal to cut back Federal spending, to eliminate the community services administration, and to fold CAP agency funding into a social services block grant. I would be happy to share this valuable testimony with Members of Congress and their staffs.

I wish also to take this opportunity to commend House and Senate conferees of the Omnibus Reconciliation Act who worked with the community services block grant. I believe the conferees have achieved a favorable compromise which will allow CAP agencies to continue their efforts on the local level to combat problems associated with poverty. As a result of the highest unemployment rates in the country, rising energy costs and spiraling inflation, Michigan is particularly in need of the services and experience of CAP agencies. In addition to concrete services, these community-based agencies offer a source of collective support and comfort to community members experiencing economic hardship.●

LEGAL SERVICES

Mr. KENNEDY. Mr. President, one of the most serious defects of the reconciliation bill we are considering today is that it does not reauthorize the Legal Services Corporation. In the rush to cut the budget, there was too little time to resolve the differences that separate those who support the program from those who oppose it.

But this failure to act does not mean the Legal Services Corporation is dead. The Labor and Human Resources Committee reported out a 3-year extension of the program on June 24. We will vote on the bill authorizing that extension when Congress reconvenes in September.

The Legal Services Corporation is too important for us to let it die. America is built on the concept of equal justice under law. Yet, until the legal services program was created, that principle had a glaring exception—equal justice for all except the poor.

In 1981, we cannot afford to slide backward to that time of lesser justice in our history when the poor were denied access to our legal system. In those days, tenants were illegally evicted, consumers were victimized by fraud, elderly Americans were denied their legal benefits, and countless other groups were severely disadvantaged because they could not afford a lawyer to protect their basic rights.

On the balance sheet of Federal programs, the Legal Services Corporation has become one of the Nation's greatest assets. Its approach to providing legal services for the poor has proved itself enormously efficient.

In 1979, over 94 percent of the Corporation's budget went directly into legal services. Less than 3 percent went for administration, and the figure will be less than 2 percent in 1981.

The Corporation has brought its coverage to the entire Nation. Before 1975, there were entire regions of the country where the poor had no access to legal counsel. In 1980, over 1.2 million citizens were served by local legal services programs in every part of America. For the first time, the poor have a real chance to see their rights and interests vindicated by the legal system.

Only low-income recipients are eligible for the program—individuals earning less than $4,700 a year, or families earning less than $9,300. Those who must live on less than $10,000 a year can rarely, if ever, afford the services of a private attorney. Without the legal services program, they would be denied effective access to justice.

The bitter consequences of that denial are legion. It means children forced into programs for the mentally retarded, without any evaluation of their intelligence. It means mothers left without funds to feed their families when a benefit check stops. It means elderly persons left without heat in their apartments because the landlord did not pay the utility bill.

Those who oppose this program do not understand how legal services attorneys spend their time in service to their clients. Thirty percent of their cases involve family matters—issues such as adoption, divorce, support, spouse abuse, and custody questions; 18 percent of their cases involve income and housing; and another 18 percent involve consumer matters.

The underlying reality is that these are the kinds of everyday food, shelter, health and income problems that can make all the difference in the lives of the poor.

Even those opposing continued Federal funding do not deny that the poor have a need for these services. Instead, they argue that the services should be the responsibility of the private bar. However, the private bar, including many judges and law school deans, has overwhelmingly supported the Legal Services Corporation. Every ABA president since 1965 has endorsed the Corporation. They all have recognized that the private bar is neither able nor willing to meet the need.

Frequently, opponents argue that the legal services program is an agent of social or political change. They forget how the law works. They disregard the fundamental truth that legal services attorneys represent clients—breathing, living, human clients. The attorneys win only when the courts rule that their clients are being treated improperly, unfairly, and illegally. If, as a matter of law, individuals are being denied their rights, then the act of vindicating those rights through legal action may produce change—but change that is made only in accordance with the law.

We have heard the administration discuss its safety net to protect the very poor against the current budget onslaught. The legal services program is a vital means to assure that the "safety net" will be there when it is needed. Without the program, too many needy families will find that the safety net has been pulled out from under them.

The House of Representatives has already extended the life of the Corporation for 2 years, and the appropriation is now before the House. After we return from recess in September, the Legal Services Corporation reauthorization must receive high priority in the Senate.

I am confident that when the Senate hears and understands the facts, it will vote to continue this vital program. We cannot accept a double standard of justice in America. To deny justice to the poor is to deny our heritage and our history. That is a step this Nation must not take.

Mr. PACKWOOD. Mr. President, pursuant to section 1199A of H.R. 3982, the Omnibus Reconciliation Act, I am submitting for the RECORD the following explanatory statement of the House and Senate conferees.

The material follows:

EXPLANATORY STATEMENT OF THE HOUSE AND SENATE CONFEREES WITH RESPECT TO SUBTITLES E, F, AND G OF TITLE XI OF THE OMNIBUS RECONCILIATION BILL (H.R. 3982)

SUBTITLE E—CONRAIL: SECTION 1131

House bill

The House bill states that this bill may be cited as the "Rail Service Improvement Act of 1981."

Senate amendment

The Senate Amendment states that the bill may be cited as the "Northeast Rail Service Act of 1981."

Conference substitute

The conference substitute adopts the Senate provision.

SECTION 1132—FINDINGS

House bill

The House bill finds that current arrangements for rail freight and commuter service in the Northeast and Midwest are inadequate to meet the transportation needs of the public and national security, and that the processes set in motion by previous rail legislation have not made the rail system in the region profitable. The protection of interstate and foreign commerce requires federal intervention to preserve rail service in the private sector, including statutory changes to improve Conrail's ability to become profitable. To return Conrail operations to the private sector requires that labor protection conditions different than those established by Title V of the Regional Rail Reorganization Act be imposed to meet the emergency needs of the situation. Shippers, states, and consumers must be included in any solution to the rail service problems in the Northeast and Midwest. The commuter service must be transferred to other operators dedicated to such service, and the functions of the United States Railway Association should be transferred.

Senate amendment

The Senate Amendment finds that (1) the 3R Act has failed to create a self-sustaining railroad in the Northeast; (2) current arrangements for the mix of freight and commuter services in the region are inadequate; (3) there is little likelihood that Conrail can become self-sufficient in the foreseeable future; (4) the employee protection provisions have been far more expensive than anticipated and now pose an obstacle to establishment of improved rail service and continued employment in the Northeast; (5) integration of Conrail's service into the Nation's private rail system can be successful only if adequate and equitable protection is provided for affected railroad employees and if acquiring railroads are not required to assume Conrail's commuter operations; (6) the operation of commuter services by states or related entities is an integral government function of the states which should be assisted but not superseded, by the Federal Government.

Conference substitute

The conference substitute adopts a majority of the House bill's findings.

SECTION 1133—PURPOSE

House bill

It is the purpose of the Congress in this Act to provide for the removal by a date certain of the federal subsidy for Conrail, and the transfer of Conrail's commuter service to other operators. Also it is the purpose to provide for labor protection in the difficult circumstances of Conrail's financial situation. Conrail's freight operations must be performed by the private sector, and the functions of the United States Railway Association should be transferred.

Senate amendment

This section sets forth the purposes of the legislation: to provide for the reduction by Conrail of its operating costs; to transfer Conrail passenger service responsibilities without consideration to one or more entities; to provide adequate and equitable labor protection for employees deprived of employment by the legislation; and to transfer Conrail's freight service and properties to other carriers for reasonable compensation.

Conference substitute

The conference substitute's purpose is declared to be (1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail; (2) the transfer of Conrail commuter service responsibilities; and (3) an orderly return of Conrail freight service to the private sector.

SECTION 1134—GOALS

House bill

The House bill contains no goals.

Senate amendment

The Senate amendment sets forth several goals.

Conference substitute

The conference substitute adopts as its goal to provide Conrail the opportunity to become profitable through the achievement of the following objectives, among others:

(1) Conrail enters into collective bargaining agreements with its agreement employees which would reduce Conrail's costs in an amount equal to $200 million a year beginning April 1, 1981;

(2) Proportional agreements from non-agreement personnel.

SECTION 1135—DEFINITIONS

House bill

The House bill defines nine terms which are used in this Act. All are technical additions which are necessary to the Act, with the exception of the definition of "profitable carrier". "Profitable carrier" is the term used in determining whether the Secretary is required to sell the common stock of the Corporation, or whether he may sell the assets of the Corporation. The definition requires that Conrail be able to generate sufficient revenues to cover its expenses, and includes reasonable maintenance of equipment and facilities.

In meeting its expenses the Corporation will obviously be required, like any other private business enterprise, to borrow funds in the private markets. If Conrail is unable to borrow such funds, assuming that its debt to the federal government is forgiven, it would be unable to meet the definition of profitability.

Senate amendment

The Senate amendment defines the important terms used in the legislation.

Conference substitute

The conference substitute defines the important terms used in the legislation.

SECTION 1136—END OF CONRAIL OBLIGATION

House bill

Conrail's obligation to operate commuter service ends 540 days after the effective date of the section.

Senate amendment

Conrail's obligation to operate commuter service ends 1 year after the date of enactment.

Conference substitute

The conference substitute adopts the compromise date of January 1, 1983.

SECTION 1137—ESTABLISHMENT OF AMTRAK COMMUTER

House bill

The House bill amends the Rail Passenger Service Act by inserting a new title, Title V, Amtrak Commuter Services, which sets up the Amtrak Commuter Services Corporation.

Amtrak Commuter is established within 240 days after enactment. Amtrak Commuter is a wholly-owned subsidiary of Amtrak.

Amtrak Commuter is solely an operator of commuter service under contract to commuter agencies and has no common carrier obligations.

Amtrak Commuter is exempt from the Interstate Commerce Act, but is subject to other Federal laws affecting the railroad industry, such as the Federal Railroad Safety Act, the Railway Labor Act, the Railroad Retirement Act, and the Railway Unemployment Insurance Act. Amtrak Commuter is also not subject to any state or local laws regarding fares or service and is exempt from certain taxes. Finally, certain prohibitions of the Clayton Act do not apply to transactions between Amtrak Commuter and Amtrak.

The Amtrak Board is required to incorporate Amtrak Commuter.

The House bill details the directors and officers of Amtrak Commuter.

The Board of Directors, consists of six members: the President of Amtrak Commuter (chosen by the other five members of the Board), the two commuter agency members on the Amtrak Board, two additional members selected by the Amtrak Board, and one

member from a commuter agency for which Amtrak Commuter operates commuter services.

Certain provisions of the Rail Passenger Service Act are applied to Amtrak Commuter. References to the Corporation and its board in these provisions should be read in this context as referring to Amtrak Commuter and its Board. For example, the president of Amtrak Commuter is to be named and appointed by the Board of Amtrak Commuter.

The House bill describes generally the powers of Amtrak Commuter, including the power to issue common stock to Amtrak.

The standards under which Amtrak Commuter operates commuter service for a commuter agency are detailed.

Amtrak Commuter is required or allowed to operate commuter service if certain conditions are met. Amtrak Commuter is required to operate commuter service Conrail was obligated to operate if a commuter agency offers a commuter service operating payment designed to cover the difference between revenue attributable to the operation of service and the avoidable cost of the service or an operating payment pursuant to a lease or agreement with a commuter agency under which financial support was being provided on January 2, 1974 for the continuation of commuter service.

Amtrak Commuter may operate any other commuter service if a commuter agency offers a commuter service operating payment designed to cover the difference between revenue attributable to the service and avoidable cost.

No changes in the substantive costs standard is intended by use of the term "commuter service operating payment" in this Act, instead of "rail service continuation payment," as used in the 3R and 4R Acts. The two terms are meant to have the same substantive content.

Any agreement pursuant to subsection (b) is to be made in accordance with regulations issued by the Rail Service Planning office (RSPO) of the ICC. RSPO regulations currently govern operating agreements between Conrail and the commuter agencies.

The conditions under which Amtrak Commuter is allowed to operate additional commuter service are indicated.

Amtrak Commuter is allowed to discontinue service on 60 days notice if a commuter agency does not offer a commuter service operating payment in accordance with subsection (b) or if a commuter service operating payment is not paid when due.

The compensation for use of the Northeast Corridor is to be based on the methodology determined by the ICC or agreed by the parties.

If no commuter service operating payment is offered by a commuter agency pursuant to a lease or agreement, such lease or agreement shall not apply to Amtrak Commuter. In such event, Amtrak and Conrail are to retain appropriate trackage rights for passenger and freight operations over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights is to be fair and equitable. In particular, compensation for freight operations should take into account industry-wide average compensation for freight trackage rights and any additional costs imposed on the commuter agency as a result of freight operations over passenger lines.

Amtrak Commuter has no obligation to operate commuter service if a commuter agency contract for the provision of such service by another operator (including by the agency itself).

The Board of Amtrak Commuter is given the authority to allocate a proportionate share of the excess of the working capital revolving fund transferred to Amtak Commuter to the account of an individual commuter agency, which, after operating service through Amtrak Commuter, elects to operate the service itself. Such allocation can only be made if the Board determines that the amount in the fund is in excess of the amount needed for the purposes of this title. The Board may then allocate only the excess amount. The allocation is to be based on ridership.

This section provides Amtrak Commuter a role in coordination of operations over the Northeast Corridor.

Subsection (a) requires the Amtrak Commuter Board to develop and recommend to Amtrak equitable policies regarding Northeast Corridor access, dispatching, public information, maintenance of equipment and facilities, major capital, facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

Subsection (b) allows the Amtrak Commuter Board to recommend to the President and Board of Amtrak such actions as are necessary to resolve differences of opinion regarding Northeast Corridor operations.

The Corporation and its subsidiary is required to transfer to Amtrak Commuter or other operating entities the rail properties, rights, or interests necessary for commuter service. Inventory transferred shall be paid for at book value. Fixed facilities, rolling stock, and other equipment shall be transferred without consideration. Conrail shall retain appropriate trackage rights over any rail properties transferred under this subsection. Compensation for those trackage rights should be fair and equitable, and should take into account industry-wide average compensation for freight trackage rights and any additional costs imposed on the owner of the facility as a result of freight operations over passenger lines.

The transfer of any lease, agreement, or contract by Conrail pursuant to this title is not a breach, default, or violation of any agreement.

Senate amendment

The Senate amendment establishes Amtrak Commuter, a subsidiary of Amtrak, to provide commuter services on a contractual basis for those commuter authorities that do not assume direct control of their operations.

The Amtrak Commuter Board of Directors will consist of seven members. Three will be representatives of Amtrak and three will be representatives of the commuter authorities. The seventh member is the President. The first President will be appointed by the Secretary. Thereafter, the President will be chosen by the Board of Directors of Amtrak Commuter. The President will serve a three-year term and no individual may serve no more than two terms. The other Board members will serve two-year terms.

Amtrak Commuter is authorized to own, manage, or contract for the operation of commuter services; and to acquire or contract for the facilities and equipment necessary for operation.

This section also authorizes Amtrak Commuter to issue common stock to Amtrak.

A commuter authority shall notify the Secretary and Conrail not later than 90 days after enactment if it intends to assume direct control of its commuter operations or if it intends to contract with Amtrak Commuter.

This section requires Amtrak Commuter to recommend to Amtrak policies regarding harmonious and equitable access and use of the Northeast Corridor for commuter and intercity services; including policies for fares, schedules, facilities, and equipment.

The Amtrak Commuter Board may recommend to the Amtrak Board ways to resolve any differences of opinion regarding operations.

A commuter authority or a state, local, or regional transportation authority is authorized to initiate negotiations with Conrail for the transfer of commuter services operated by Conrail. The transfer agreement shall specify at least the service responsibilities to be transferred, the rail properties to be conveyed, and a transfer date not later than one year after enactment of this Act. Such transfer agreements shall be entered into not later than 180 days after the date of enactment.

If Conrail and Amtrak Commuter have not signed a transfer agreement within 180 days of enactment, the Secretary of Transportation is to determine within 30 days the terms and conditions of the transfer and the rail properties to be transferred.

If a commuter authority later wants Amtrak Commuter to transfer commuter service to the authority, Amtrak Commuter is required to do so upon terms and conditions agreed upon by Amtrak Commuter and the commuter authority.

If Amtrak Commuter and the commuter authority do not sign an agreement for the transfer, either party may appeal to the Secretary for a determination of the properties to be transferred and the terms and conditions of the transfer. Commuter service outside the Northeast Corridor not transferred directly to a State, local, or regional transportation authority would cease to be operated one year after the effective date of the act.

It is provided that a commuter authority assuming rail commuter service responsibilities shall be subject to the Federal Employers Liability Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Federal railroad safety laws.

These transfers are exempt from compliance with the provisions of subtitle IV of title 49 United States Code (formerly the Interstate Commerce Act).

The exemption is applicable to subsequent transfers and determinations of the Secretary under certain sections as long as the transfers are effected within 4 years of enactment.

Conference substitute

The Conference substitute combines the House and Senate provisions on the establishment and duties of Amtrak Commuter.

It is the intent of the conferees that Amtrak Commuter's efforts be directed in the first instance to operating service in the Region as defined in the 3R Act.

The Senate recedes to the House provision on the composition of Amtrak Commuter's Board of Directors. There are minor clarifications.

The House and Senate provisions for the transfer of commuter services and related properties are combined.

The Senate recedes to the House provision on the coordination of the Northeast Corridor.

The House recedes to the Senate provision calling for the Secretary of Transportation to decide the terms and conditions of the transfer of services and properties which cannot be decided by the parties.

The House recedes to the Senate provision on regulatory approval.

SECTION 1138—PROHIBITION OF CROSS SUBSIDIZATION

House bill

The House Bill amended Section 601 of the Rail Passenger Service Act by prohibiting cross subsidization between intercity services

of Amtrak and commuter services of Amtrak Commuter. This is a reflection of the intent that Amtrak and Amtrak Commuter be financially separate and independent entities.

Senate amendment

The Senate Amendment required that cost standards avoid cross-subsidization between commuter and intercity services.

Conference substitute

The substitute adopted the House provision.

SECTION 1139—AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill authorizes $50 million in fiscal year 1982 for use by Conrail's commuter subsidiary as a working capital fund. The fund is available only to meet periodic operating expenses of the subsidiary until the expenses have been reimbursed by the appropriate commuter agencies. When Conrail and its subsidiary are relieved of their commuter service obligation, the fund (and liabilities to it) is transferred to Amtrak Commuter for the same purpose.

The House bill also amends section 601 of the Rail Passenger Service Act by authorizing $20 million in fiscal year 1982 to Amtrak for allocation to any commuter authority providing commuter service, operated by a railroad that entered reorganization after 1974, as of July 1, 1979.

Senate amendment

The Senate amendment authorized $50 million to be appropriated to the Secretary to facilitate the transfer of commuter services from Conrail.

Conference substitute

The substitute generally follows the Senate amendment for the $50 million authorization. The substitute provides the Secretary of Transportation the authority to distribute the funds between Amtrak Commuter and the commuter authorities that operate commuter service, which are those commuter authorities contracting with Conrail for the provision of commuter service. The Secretary is to consider any particular adverse financial impact upon any commuter authority contracting with Amtrak Commuter that would result from the termination of any lease or agreement between such authority, such as MTA, and Conrail. The Secretary should ensure an equitable allocation.

It is the intent of the confereees to provide flexibility to the commuter authorities, in the use of this money. Potential uses of this money include transition and planning expenses for commuter authorities, and startup costs of Amtrak Commuter and commuter authorities that elect to directly provide their own service. The conferees also emphasize the importance of ensuring prompt availability of these funds as early in fiscal year 1982 as possible. This is important in light of the fact that Amtrak Commuter will likely have no source of funds until at least April 1982 when the commuter authorities must notify Amtrak Commuter if they intend to contract with it.

The substitute basically follows the House bill for the $20 million authorization. The purpose of this provision is to provide funds in addition to those locally available for commuter rail purposes to commuter authorities that have been subsidizing commuter rail operations of rail lines that have been in reorganization. The Secretray shall approve the expenditure of the funds by the authority, after consultation with the State in which the commuter authority is located.

SECTION 1140—ADDITIONAL FINANCING OF CONRAIL

House bill

The House bill amends Title II of the 3R Act by requiring that any further investment by the Federal Government in Conrail securities be in accordance within this section.

Purchase dates and amounts for the purchase of additional securities and for the purchase of accounts receivable of the Corporation are established. The dates and amounts are as follows:

October 1, 1981—$125 million;
April 1, 1982—$125 million;
October 1, 1982—$100 million;
April 1, 1983—$75 million;
October 1, 1983—$50 million.

The Association is required to purchase accounts receivable of the Corporation attributable to disputes with Amtrak or the commuter authorities over right-of-way related costs for commuter services on the Northeast Corridor, and accounts receivable attributable to any delays in payment by the commuter authorities to Conrail. Since these items are carried on Conrail's books as amounts owed the Corporation, and the reported bill determines that any decision on such costs is prospective only, the failure to purchase such items would require Conrail to show a substantial loss when such items had to be written off.

If Conrail does not request, or the Association does not approve a request, either in whole or in part, the funds shall be available until expended.

On each purchase date the Association is required to make a determination whether Conrail will be a profitable carrier under the definition of the Act. For the purpose of making this determination the Association must assume that the debt and preferred stock held by the federal government is limited to a contingent interest which arises only under the circumstances described in this Act. The contingent interest would allow Conrail to borrow money in the private markets with debt and securities prior in interest to the contingent interest retained by the Federal Government.

The Association shall purchase stock and accounts receivable only if the following conditions are met:

(1) Management, or non-agreement, employees must forego wage increases and benefits in an amount proportionately equivalent to the amount foregone by agreement employees, and the number of management employees must be reduced proportionately to any reduction in agreement employees.

(2) Materials and service must continue to be available to the Corporation under normal business practices.

(3) Conrail must submit to the Association on each purchase date a report on Conrail's efforts to maximize revenues under this Act, the Staggers Act, and the Interstate Commerce Act. Conrail shippers must not unduly interfere with Conrail's attempts to maximize revenues. Nothing in this subparagraph is intended to remove a shipper's right to challenge an individual action of Conrail under the normal provisions of the Staggers Act and the Interstate Commerce Act.

(4) Conrail must submit to the Association a financial plan which indicates how Conrail will become profitable within the time frame and funding limitations of this Act. If Conrail submits such a plan, the Association shall make funds available. It is not intended that Conrail produce a new plan. They should rely on existing plans and studies, such as its April 1, 1981 plan, in developing this plan.

(5) Conrail must enter into a collective bargaining agreement with its employees which provides the Corporation with $200 million annually, beginning April 1, 1981, adjusted annually for inflation. The agreement may allow any portion of the $200 million not provided in the first year to be made up in the second year.

Benefits to the Corporation are calculated against the cost to the Corporation of the National agreement reached by the railroad industry and its employees.

The benefits may not include any cost reductions which result from the firemen manning or crew consist agreement which are in effect, the termination of employees under other parts of the Act, a collective bargaining agreement signed prior to January 1, 1981, any other provision of law or agreement or the assignment of work or single collective bargaining agreement sections of the reported bill.

The collective bargaining agreement must include a provision for the appointment of a fact-finding panel for the purpose of recommending changes in operating practices and procedures.

(6) Conrail must identify its subsidiaries which operate at a loss, and within twelve months of the effective date sell any subsidiary unless the Association finds that the benefits of maintaining ownership of the Corporation outweigh the financial losses.

The Association may modify any of the conditions if it determines that such a modification is necessary for the Corporation to become profitable. To the maximum extent possible the Association shall modify the conditions so that additional burdens are shared equally by all the parties. The Association may require the Corporation to demonstrate productivity increases if it determines that such increases are the only method available for the Corporation to become profitable.

The Corporation is allowed to submit an amended request if the Association denies a request for funds.

The Corporation is required to enter into an agreement with employees for the establishment of an experimental worker participation and self-management program.

Conrail is exempted from the payment of state and local taxes until the common stock of the Corporation is sold by the Secretary or the assets of the Corporation are sold. The tax exemption is limited to the time the federal government retains control of conrail.

Conrail is required to report to the Association on each purchase date payments for any consultants used by the Corporation.

The Association is required to make no more funds available to Conrail in the event of a work stoppage by employees of the Corporation which directly results from the conditions required by this section.

The Association is required to return debentures to the Corporation in an amount equal to the value of any property conveyed by the Corporation to its commuter subsidiary.

Conrail is allowed to collect any accounts receivable which are due them. Although the commuter services are transferred first to Conrail subsidiary and then to an Amtrak subsidiary or the local authorities, Conrail will still be owed money by the commuter to collect despite the purchase of the accounts receivable by the Association.

Authorizations not to exceed $150 million for fiscal year 1982, and $225 million for fiscal year 1983 are provided. Any funds previously appropriated under section 216(g) of the 3R Act shall be available under new section 217 of the 3R Act, and must be provided to the Corporation only under section 217. Such funds will be available for fiscal year 1981. Any funds authorized are to remain available until expended.

Senate amendment

The Senate bill authorizes $150 million in operating subsidies.

Conference substitute

The conference substitute provides that the Association shall purchase shares of stock and accounts receivable of Conrail in amounts not to exceed $262 million. The Association is expected to purchase the accounts receivable as soon as possible; this is

important in order for Conrail to reach profitability.

Conrail is exempted from any state tax except for any tax imposed by any political subdivision of a state until Conrail is transferred by the Secretary of Transportation.

$262 million is authorized for purposes of purchasing securities and accounts receivable, to remain available until expended. Also, any amounts appropriated under Section 216(g) of the 3R Act are authorized to remain available until expended.

SECTION 1141.—ORGANIZATION AND STRUCTURE OF CONRAIL

House bill

This section of the House bill:

(a) makes technical changes to the section designating the Board of Directors of the Corporation;

(b) requires the Secretary of Transportation to act within ninety days on any application by the Corporation to substitute manual block signalling for automatic block signalling, if such application is filed within two years of the effective date.

Senate amendment

The Senate amendment amends section 301 of the Regional Rail Reorganization Act to permit Conrail within two years of enactment to apply to the Secretary for permission to substitute manual block signal systems for automatic systems on lines which carry less than 20 million gross tons of freight annually. The Secretary has 90 days to act on the application.

Conference substitute

The Conference substitute adopted the Senate amendment.

SECTION 1142.—TRANSFER OF FREIGHT SERVICE RESPONSIBILITIES

House bill

The House bill amends the 3R Act by adding a new Title IV—Transfer of Freight Service. Title IV of the 3R Act requires the Secretary of Transportation, after July 1, 1982, and before December 31, 1983, to sell the common stock of the Corporation held by the federal government, if the Association notifies the Secretary that Conrail will be profitable. The Secretary of Transportation is given broad authority to sell the common stock of the Corporation. The bill only provides general direction to the Secretary to ensure continued rail service, promote competitive bidding for the stock, and maximize the return to the federal government. If the Association notifies the Secretary, the sale is mandatory, not optional.

The Secretary may cancel existing shares of the common stock as a means of determining the size of the offering to be made. When all the common stock held by the United States is sold or cancelled, as it must be, the Board of Directors of the Corporation shall be elected by the new common stockholders. At that point the Corporation is no longer controlled by federal law.

To protect against a paralysis of Conrail in the event one or several railroads purchase stock, railroad purchasers are required to vote their share proportionately with all other shareholders. The effect is to nullify the voting power of any railroad purchaser, and allow the Corporation to function as an effective rail carrier in the region.

The employee contributions will have been the key in making Conrail profitable if that goal is reached. As a result of their enormous contribution to the health of Conrail, the Secretary is required to first offer the stock to the employees in the amount of any wages, or wage increases, foregone by the employees. If the Secretary, or anyone acting as the Secretary's agent in selling the stock, first offers it at a price, and then lowers the price to attract additional purchasers, the Secretary must first, in each case where the price is reduced, first offer it to the employees.

The House bill is intended to permit the transfer of Conrail assets on a piecemeal basis only if a sale of stock has not been required under the bill. The Secretary may not sell Conrail under this section if a finding of profitability has been made.

The provision gives the Secretary broad authority to arrange and consummate sales. The entire plan for transfer must be submitted to the Congress within 180 days after December 31, 1983. It shall be approved unless one House adopts a resolution disapproving the plan within 90 legislative days after the plan is submitted.

The House bill provides that on each purchase date the Association is required to make a determination whether Conrail will be a profitable carrier under the definition of the Act. For the purpose of making this determination the Association must assume that the debt and preferred stock held by the federal government is limited to a contingent interest which arises only under the circumstances described in section 402 of this Act. The contingent interest would allow Conrail to borrow money in the private markets with debt and securities prior in interest to the contingent interest retained by the Federal Government.

The determination of profitability by the Association is intended to be a realistic one. The Corporation must be able to continue providing rail service without federal funds. If the likelihood is that the Corporation would become insolvent or go into bankruptcy without federal funds, the Association would not be able to make a finding of profitability. The definition of "profitable carrier" assumes normal maintenance of plant and equipment, but it is management which should make decisions about the level of maintenance and investment needed. If the Corporation's plans are reasonable, the Association shall not decide different levels are more appropriate.

The Association is to purchase stock and accounts receivable only if certain conditions are met.

SENATE AMENDMENT

The Senate amendment directs the Secretary to utilize this authority to initiate conferences and negotiations with respect to rail restructuring to promote the development of agreements between Conrail and financially responsible persons for the transfer of Conrail's freight properties and service responsibilities. The object of this process would be the integration of Conrail lines into those carriers capable of providing high quality service.

As part of the negotiation process, the Secretary is required to consult with affected employees, appropriate state and local officials, shippers and other interested persons. This provision, added during Committee consideration of the bill, is designed to insure that all interested parties have direct input during the negotiation process before the Secretary enters into a freight transfer agreement or agreements.

Negotiation under the auspices of the Secretary is a practicable method for reconciling the public interest in continued rail service in the Northeast with the need of private sector businesses to discuss confidential data and explore alternate system configurations. Conrail, shippers and other interested persons will play an important role in the negotiations. Conrail management will provide technical support to the Secretary and apply its business expertise to the design and evaluation of proposed transfer agreements. Final agreements will be signed by Conrail as owner of the properties and obligated person under service contracts. Purchase price will be paid to Conrail.

The transfer agreements shall specify the rail properties and the service responsibilities to be transferred and such other terms as appropriate.

The problem of switching and terminal services in the Northeast Corridor is addressed where traffic densities and interference among inter-city passenger, commuter, and freight operations make operations particularly difficult. If potential acquiring railroads are unwilling to undertake adequate freight terminal operations, the Secretary shall provide for the formation of neutral terminal companies in the area to provide the necessary services. If such terminal companies are needed, the Secretary shall make every effort to have them in place by the date of implementation of the transfer agreements. A 1-year period is provided to allow for unanticipated problems.

The Senate amendment expresses Congressional intent that to the extent practicable, the Secretary shall make every effort to transfer Conrail as a single entity.

No sale of property is to occur before June 1, 1982. After that date, the Secretary may propose the sale of Conrail as an entity. If Conrail is determined to be unprofitable, the Secretary can propose to transfer individual Conrail lines to separate purchasers after December 1, 1982. If, however, it is determined that Conrail is profitable, the Secretary may not propose the transfer of individual Conrail lines to separate purchasers until after August 1, 1983.

The Conrail Advisory Board shall periodically report to Congress on whether or not Conrail is meeting the goals set forth in the bill. A Conrail Advisory Board is to determine whether or not Conrail has reached a point of profitability by December 1, 1982. Profitability is defined as the generation of net income in accordance with accepted ICC accounting principles. Further excluded from the definition of profitability are labor protection responsibilities to the extent not reimbursed by the Federal Government and payments made by Conrail with respect to its responsibility on Series A preferred stock held by the Federal Government, and Amtrak costs attributable to passenger operations.

Conrail may be sold as an entire entity anytime after June 1, 1982. However, if the Advisory Board makes the determination that Conrail is unprofitable, the system could be sold in parcels to individual purchasers at anytime after December 1, 1982.

The Conrail Advisory Board shall be composed of the Secretaries of the Treasury and Transportation, the Comptroller General of the United States, the Chairman of the United States Railway Association, and the Chief Executive Officer of Conrail.

Net income is defined as determined by the Interstate Commerce Commission's uniform system of accounts for rail carriers. Transfer of the Conrail system as an entity is defined as the sale of Conrail stock or the sale of substantially all Conrail property as a single transaction.

The Senate Amendment sets forth procedures for public participation and notification of the Congress.

A public comment period of at least 60 days is provided with regard to the transfer agreements and the Secretary's proposed determination of approval. The Attorney General shall comment on any antitrust implications of the transfer agreement.

Comment by the ICC on the effect of the proposed transfer agreement on the adequacy of transportation is provided. Further, the Commission is to comment on any adverse effects the agreement would have on other rail carriers or competition among rail carriers.

The Secretary is permitted after consideration of public comment, to grant final approval to a transfer agreement as modified.

In the event the acquiring railroad and the Secretary do not agree on appropriate modifications, negotiations could be reopened and new proposals developed. Once final approval has been granted by the Secretary, that determination would not be subject to judicial review. This is consistent, with the approach of section 209 of the Regional Rail Reorganization Act of 1973 (3R Act), under which Conrail was created. Challenges to the implementation of transfer agreements could result in extensive delays threatening the continuation of rail service in the region. The threat of piecemeal litigation of agreements could also deter purchasers from participating in the transfer process.

The transfer agreements would be deemed approved at the end of 120 calendar days, unless both Houses pass a resolution stating that they do not approve the transfer agreements.

The ICC and the Attorney General are required to report to Congress on the package of transfer agreements negotiated by the Secretary. The time period for these comments is 30 days from receipt of the agreement from the Secretary.

The Senate Amendment authorized performance under a transfer agreement and exempts the operation of the agreement from any other approval process. The issuance of securities to the United States or Conrail for the financing of a transaction would be exempt from the securities laws, since it would appear that the Government and Conrail will have adequate means to determine the worth of those securities. The Senate amendment provides that the acquiring railroad shall be deemed a rail carrier on the transfer date and shall assume service responsibilities under subtitle IV of title 49 of the Code. It also authorizes the discontinuance of rail service by Conrail over lines conveyed and all other rail properties on the transfer date.

The Senate amendment includes provisions regarding the extent of service to be assumed by acquiring carriers, a final transfer date, and the consolidation of the various transfer agreements. It directs the Secretary to insure that the freight transfer agreements provide for the continuation of the optimum level of self-sustaining rail service, consistent with the needs of the communities now served by Conrail and the long-term viability of acquiring railroads, and the preservation and enhancement of transportation competition.

Further, it provides that all the freight transfer agreements shall include the same transfer date. The transfer date shall be a date not later than 36 months after the effective date of the Act. It also requires the Secretary to consolidate all the freight transfer agreements for purposes of public comment and Congressional review.

Conference substitute

The Conference substitute provides that the Secretary is to engage the services of an investment banking firm to arrange for the sale of the common stock of the Corporation.

A sale of the common stock would insure that all the major assets, including equipment repair facilities, would be transferred and continue in operation.

Following the sale, a new Board of Directors is to be elected and railroad purchasers are required to vote their shares proportionately with all other shareholders. The Secretary is required to first offer to sell the stock to the employees. The stock option would be in an amount equal to wages foregone by employees.

The Conference substitute provides that if Conrail is determined not to be a profitable carrier by the USRA Board, or if the plan for the purchase of the common stock is not approved by the Secretary, or if Conrail requires additional funding, the Secretary is to initiate discussions for the transfer of the Corporation's rail freight properties. The Secretary is to insure that no less than 75 percent of the total rail service operated by the Corporation on the date of transfer shall be maintained if Conrail is transferred in pieces.

The USRA Board, which makes the profitability finding and which reviews the Secretary's determination that Conrail cannot be sold as an entity is composed of the Comptroller General, the ICC Chairman, the Secretary of Transportation, the Conrail Chairman and the present USRA Chairman.

There are two profitability tests. The first profitability test is on June 1, 1983 and is a prospective test. If it is determined on that date that Conrail will not be profitable, it may be sold in pieces. If Conrail is determined to be profitable on June 1, 1983, the Secretary is to continue to try to sell Conrail as an entity until October 31, 1983, when there is a second profitability test. The October test is a historical test for the five month period from June 1, 1983 to October 31, 1983. If Conrail is determined to be not profitable on October 31, 1983, it may be sold in pieces. If Conrail is determined to be profitable on October 31, 1983, it is to be sold at an entity until June 1, 1984, unless Conrail requires additional funding in excess of the funds presently authorized.

After June 1, 1984, if the Secretary of DOT notifies the USRA Board that he cannot sell Conrail as an entity, the Secretary may transfer Conrail in pieces. If the USRA Board does not concur with the Secretary, the procedure is repeated every 90 days.

Within 90 days after a determination by the Secretary of DOT, concurred in the USRA Board, Conrail employees have the option of submitting an offer to purchase. The Secretary shall approve the employee's offer unless the Secretary determines that the employees are not financially responsible.

The Conference substitute defines profitable carrier as a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities and which will be able to borrow capital in the private market sufficient to meet all its capital needs, excluding consideration of the debt held by the Federal Government.

The Conference substitute adopts the Senate Amendment on public comment and congressional notification except that the period of congressional review is 60 days and the time period for ICC and Attorney General comments is 10 days.

The Conference substitute adopts the Senate amendment regarding performance under agreements; exempts transfer proposals from judicial or ICC review and says that unless the Corporation is found to be not profitable, it may not be sold in pieces until June 1, 1984.

The Conference substitute requires the Secretary to consolidate all freight transfer agreements for purposes of approval and review. In addition, all freight transfer agreements are to include a common transfer date.

SECTION 1143—PROTECTION FOR CONRAIL EMPLOYEES

House bill

Section 301 amends the 3R Act by adding a new Title VII. Section 701 establishes a program for protecting Conrail employees previously protected under Title V of the 3R Act, while limiting the cost to the federal government. Conrail Title V labor protection is repealed and the protection provided is less than the normal protection in the railroad industry. It is less only because of the dire financial circumstances of the Corporation.

If the employees and the Secretary of Labor are unable to agree on the elements of protection for the employees within ninety days, the Secretary of Labor shall prescribe the benefits. The program established should not contain elements which cause funds to be expended beyond those authorized under section 713.

The benefits under this section are intended to replace the benefits provided under Title V of the 3R Act. This is the exclusive protection for employees, and any employee protection contained in collective bargaining agreements is replaced by this protection. Title V was originally intended to provide for a limited amount of federal funding of employee protection for Conrail employees. It was anticipated that the liability would not be unreasonable. Despite revisions to Title V the liability has proved too great.

A prerequisite to a legislative solution that will permit continued operation of essential rail services in the region is the replacement of Title V with this program of labor protection. Conrail's liability and the liability of the federal government is strictly limited to the funds authorized in this section.

Section 702 permits Conrail to accelerate the implementation of the crew consist and fireman manning agreements so that all excess firemen and all second and third brakemen can be eliminated before the end of calendar year 1982. The firemen on the crews of trains operated in commuter service must be included by the Corporation in the termination program.

Section 703 allows employees who are deprived of employment on Conrail to have a right of first hire on other rail carriers. The Committee intends that all such employees must be qualified for the positions before they have rights under this provision.

Section 704 requires the Railroad Retirement Board and each rail carrier to maintain a list of positions and eligible employees. This provision is similar to one included in the Rock Island legislation and implemented by the Railroad Retirement Board.

Section 705 provides that any employee who accepts any benefits under section 701 or a termination allowance under section 702 shall be deemed to waive any employee protection benefits otherwise available, and shall waive the right to bring a cause of action for loss of any other benefits. The Committee intends the benefits available under this section be the sole benefits available to employees, and the acceptance of such benefits by the employees waives any rights they might have to other benefits.

Section 706 is a provision from the existing 3R Act which allows the Corporation to assign work.

Section 707 is a provision from the 3R Act which requires the Corporation to continue to use employees who have traditionally performed work for the Corporation.

Section 708 is a provision from the 3R Act which requires the various crafts and classes to enter into single collective bargaining agreements for each craft and class. A new section is added requiring that such agreements be reached within 45 days of the effective date of this title.

Sections 709 (a) and (b) are provisions retained from the 3R Act.

Section 710 limits the liability of the federal government and Conrail. The liability of the federal government under this section is limited to the amount of funds appropriated, and Conrail incurs no liability under section 701 or 702.

Section 711 preempts any State law, rule, or regulation requiring Conrail, Amtrak, or their commuter subsidiaries to hire specified numbers of persons for particular tasks. The Committee specifically intends to preempt any State full crew laws which require crews to contain certain numbers or certain positions, and any State laws which phase out

such requirements. Given the dire circumstances of these rail transportation corporations, such a preemption is necessary.

Section 712 authorizes to be appropriated not to exceed $165 million for fiscal year 1982 and not to exceed $150 million for fiscal year 1983. Of the amounts authorized for fiscal year 1982, $115 million is available for termination allowances under section 702. The Committee emphasizes the importance of the termination program to the financial health of the Corporation, and the importance of these funds. Without funds to implement this program, financial improvement will be difficult to accomplish. Funds appropriated under the Staggers Act provision allowing for early retirement shall also be available for use under this section.

Senate amendment

The Senate bill provides protection for Conrail employees who lose their jobs as a result of transactions authorized by the bill, while title IV defines the rights of employees hired by acquiring railroads. Together, the two titles replace the extremely costly protection scheme set forth in title V of the Regional Rail Reorganization Act of 1973.

Section 413–1—Work Force Reduction Program

This section contains a "Special Termination Allowance" allowing Conrail to "blank" the positions (eliminate the job with the man) vacated under the program. Separations would be limited to the numbers of excess firemen and second and third brakemen (including passenger firemen) presently employed by Conrail (but not necessarily the individuals occupying those positions if more senior personnel wish to be separated). About 4600 positions are at issue, and their elimination would make the properties more saleable. This was addressed in the Conrail settlement after the DOT bill was introduced.

The program would operate at the discretion of Conrail but mandtorily as to affected employees (after voluntary separations were taken). The section provides for payments at the rate of $200 per month of active service with Conrail or a predecessor, with a cap of $25,000 (i.e., 4 years, 2 months service).

Section 413–2—Separation Allowance

This section provides for separation allowances for employees of Conrail who do not receive offers of employment from acquiring railroads. The amount of an allowance would be determined by the number of years the particular employee had been employed by Conrail and its predecessor railroads as of the date of separation. For example, an employee who had served on the New York Central, the Penn Central, and then Conrail would be credited with the individual's service under all three corporate entities.

The maximum allowance would be $30,000. The schedule for computation is graduated to provide greater protection for individuals who have invested significant periods in service to Conrail and its predecessors. The schedule also recognizes the greater difficulty and hardship associated with retraining and relocation of employees who are older and have deeper roots in their communities.

Subsection (d) preserves the eligibility of employees deprived of employment to railroad unemployment insurance. Under a peculiarity of the Railroad Unemployment Insurance Act, for purposes of establishing eligibility for future coverage a separation allowance is treated as income only on the day it is paid. However, an employee is disallowed from receiving unemployment benefits for a period determined by dividing the allowance by the employee's straight-time wage for a two-week period. (For instance, an employee whose allowance is $30,000 and whose straight-time wage per 2-week pay period is $1,000 would be disallowed unemployment compensation for 30 pay periods, or over 1 year.) In some cases, this can result in an employee receiving no unemployment benefits or very limited benefits, even if he remains unemployed through no fault of his own for an extended period. This is because the employee is "earning" no new entitlement to benefits during the period the employee is disallowed from receiving benefits. The bill would disallow eligibility for benefits immediately after payment of the allowance but would treat the allowance as if it had been paid as regular wages for purposes of establishing future eligibility. This protection may be required by some employees affected by service transfers because of the concentration of persons who will be seeking new employment at the same time in specific areas. The provision also eliminates an anomalous situation whereby an employee's entitlement to unemployment insurance following the disqualification period may depend upon the date on which he was separated.

Section 413–3—Preferential Hiring

For Conrail employees who fail to receive offers from acquiring railroads, this section provides the same rights to be hired by other railroads on a priority basis that was afforded to dismissed Rock Island and Milwaukee Railroad employees. This priority is strengthened by deletion of the phrase "unless found to be less qualified than other applicants," and substitution of language that qualifies the hiring preference on the more objective basis of experience in the class and craft of employment.

Section 413–4—Central register of railroad employment

This section creates a central register of railroad employment, building on the system of job placement created for Rock Island and Milwaukee employees by the Railroad Retirement Board. The Board would actively promote the placement of Conrail employees and other displaced railroad employees. All railroads would be required to provide notice of vacancies that they are unable to fill from their existing roster, and the Board would act as an agent for former railroad employees entitled to statutory preference by filing applications for employment. Under section 413–9 discussed below, the Board would have authority to issue any regulations necessary to assure that hiring preferences are effectuated.

The purposes sought to be achieved by these provisions could be accomplished more effectively if the railroads unite with rail labor organizations to establish voluntary mechanisms to place unemployed railroad workers. While the poor placement results of the Rock Island and Milwaukee experiences may have been due in part to the reluctance of railroad employees to move from their communities, there also appears to be a problem of insufficient effort within the industry to preserve the industry's most important asset—trained and experienced personnel.

The central register and related requirements and administrative mechanisms would be maintained for a period of 5 years after the transfer date.

Section 413–5—Moving expenses

This section provides for moving expense benefits for former Conrail employees who are forced to move to obtain employment with another railroad. Under section 414–4(b)(3), discussed below, this benefit would extend to a Conrail employee offered a position with an acquiring railroad that requires a change of residence.

The types of costs for which payment is authorized would be similar to those allowed under other protective conditions. The maximum benefit for any individual would be $5,000, reduced by any retraining benefit paid under section 413–6.

Section 413–6—New career training assistance

This section authorizes the payment of new career training expenses for former Conrail employees who are not offered employment with an acquiring railroad. The maximum benefit would be $5,000 reduced by the amount of any moving expense benefit paid to the individual.

Section 413–7—Medical insurance

This section provides for the continuation of group medical insurance coverage for former Conrail employees who are not offered employment by an acquiring railroad. The maximum period of coverage is 6 months from date of separation. In the event an employee comes under the coverage of another comprehensive group policy as a result of re-employment prior to the expiration of 6 months, coverage lapses immediately.

Section 413–9—Authority of the Board and the Secretary

This section prescribes the powers of the Railroad Retirement Board in administering the provisions of sections 413–3 (Preferential Hiring), 413–4 (Central Register of Railroad Employment), 413–5 (Moving Expenses), 413–6 (New Career Training Assistance), and 413–7 (Medical Insurance). The Secretary is required to transfer to the Board funds appropriated for employee protection. The Board would allocate funds needed for separation allowances to Conrail and Amtrak (as successor to Conrail as an employer of commuter service employees), and the remaining funds would be available for the Board-administered provisions of this title, such as moving expenses, medical insurance, and retraining. In addition, the Secretary is authorized to assist the Board in developing programs under this title. The broad authority given the Board under this Section, is intended to avoid the implementation problems, particularly in regard to priority hiring, that arose under the Milwaukee and Rock Island legislation.

Section 413–11—Authorization for appropriations

This section authorizes the appropriation of not more than $400 million for employee protection under this title.

Conference substitute

The conference substitute combines the labor protection provisions of both Houses. The conferees agreed to the House provision directing the Secretary of Labor and representatives of labor to negotiate the elements of protection for employees. However, the conference substitute sets a $20,000 cap on the protection for each employee.

For the workforce reduction program the conferees agreed that payments to employees should be paid at the rate of $350 per month of active service with Conrail or a predecessor. The purpose of this program is to eliminate 4,600 employee positions; 3,300 brakemen and 1,300 firemen. In addition, all the firemen in commuter service are to be included in this program. This will result in the elimination of firemen positions in commuter service.

SECTION 1144—REPEALS

House bill

Section 302 repeals Title V of the 3–R Act, but provides that any benefits accrued as of the effective date of the Act shall be paid. It also repeals section 11 of the Milwaukee Railroad Restructuring Act and section 107 of the Rock Island Transition and Employee Assistance Act.

Senate amendment

This section defines the relationship of this legislation to other provisions of law.

Subsection (a) repeals all provisions of Title V of the Regional Rail Reorganization Act of 1973, except those necessary to the continued functions of Conrail prior to service transfer. Title V is the source of labor

protection provisions that have proved to be excessively costly to the taxpayer, as described in the April reports of Conrail, USRA, and the Department, as well as the Conrail March 15 report on labor. Retention of Title V, particularly the provisions concerning monthly displacement allowances, constitutes a bar to service transfer, since acquiring railroads would not be willing to assume these obligations. The bill terminates the entitlement program as of October 1, 1981. However, employees who performed service through September of 1981, or held themselves available for service, would be paid any benefits due on October 1, 1981, if timely claimed under present law.

Subsection (b)(1) is a clause of limitation that makes clear that the employee protection provisions of the bill are the exclusive protection for employees affected by service transfers under the bill. The waiver provision of paragraph (2) is a technical provision intended to bar an employee from accepting the protections of the bill while challenging its exclusivity in the courts.

Subsection (c) repeals provisions of the Milwaukee Railroad Restructuring Act and Rock Island Transition and Employee Assistance Act relating to the maintenance by the Railroad Retirement Board of lists of dismissed employees, since those lists would be incorporated into the central register established by section 413–4 of the bill.

Subsection (d) repeals sections 216(b)(3) of the 3–R Act and 509(b)(1) of the 4–R Act which provide for special funding to implement Conrail's workforce reduction program. This funding would not be necessary in view of the funding authorized by section 413–11 for labor protection payments.

Conference substitute

Combines the provisions of both Houses and is effective the first day after the first month of the date of enactment.

SECTION 1145—TRANSFER OF PASSENGER SERVICE EMPLOYEES

House bill

The House bill amends the Rail Passenger Service Act by adding new sections 506 and 507.

Section 506 provided a procedure for transferring current agreement employees of Conrail's commuter subsidiary performing commuter functions to Amtrak Commuter.

Subsection (a) required representatives of the employees to begin negotiating an implementing agreement with representatives of Conrail, its commuter subsidiary, and Amtrak Commuter within 420 days of the effective date. These negotiations are to identify the employees to be transferred, giving preference to employees with commuter service experience, determine the procedure by which employees accept transfer to Amtrak Commuter and are accepted by Amtrak Commuter, determine a procedure for seniority within Amtrak Commuter which shall, to the extent possible, preserve the employees' prior passenger seniority rights, ensure that the proper number of employees are transferred to Amtrak Commuter, ensure that all employees are transferred not later than the 540th day after date of enactment (when Amtrak Commuter assumes operations) and determine the extent to which employees of Amtrak Commuter retain freight seniority with Conrail.

Subsection (b) provided that if no agreement is reached by the end of 30 days after negotiations begin, a neutral referee is to be selected. The referee is to expeditiously resolve all matters in dispute, and his decision is binding. This procedure is to ensure that an implementing agreement is in place, and employees transferred, by the time Amtrak Commuter is to commence operations.

Subsection (c) provided that any employee of Conrail or its commuter subsidy not offered employment with Amtrak Commuter under this section shall be eligible for employee protection under Section 701 of the 3R Act (the successor to Title V) to the same extent as if the employees had remained with Conrail.

Section 507 provided a procedure for negotiation of a new collective bargaining agreement.

Subsection (a) required representatives of the employees to be transferred and Amtrak Commuter to enter into a new collective bargaining agreement prior to the date Amtrak Commuter begins operation. The pre-existing Conrail agreement would not apply to Amtrak Commuter.

Subsection (b) requires the establishment of a fact finding panel, chaired by a neutral expert in industrial relations, to recommend changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

Senate amendment

The Senate Amendment provided for an implementing agreement to transfer Conrail employees to commuter authorities or Amtrak. The implementing agreement worked in a manner similar to that provided in the House bill.

The Senate Amendment also provided for a procedure for negotiating a new collective bargaining agreement for those employees transferred from Conrail, either to Amtrak or a commuter authority. The Amendment provided for a consolidated Amtrak commuter and intercity workforce, with the negotiations conducted by Amtrak and the commuter authority members of the Amtrak Commuter Board of Directors having the power to veto commuter service components of a collective bargaining agreement.

The Senate Amendment provided a procedure for resolving disputes related to negotiation of the initial collective bargaining agreement and also provide for a council of three union representatives to conduct negotiations with a commuter authority.

Conference substitute

The conferees adopted an employee transfer provision. The substitute provides for an implementing agreement, a fact finding panel to recommend changes in operating practices and procedures, and a procedure for negotiation of an initial collective bargaining agreement for Amtrak Commuter and commuter authorities that elect to operate their own service.

The implementing agreement provided for in a new section 508 of the Rail Passenger Service Act is designed to provide for an orderly transfer of employees from Conrail to Amtrak Commuter or the commuter authorities. The conferees note their intent to provide for maximum flexibility to the employees and employers involved by providing generally for retention of seniority rights and the right to "bump" back into Conrail at least once every six months. However, the bumping process is not to result in any disruption of service or the filling of a position which would otherwise not be filled under the terms of any crew consist, fireman manning or other similar agreements. This last provision is designed as protection for Conrail, and is not intended to restrict the ability of Amtrak Commuter or the commuter authorities to manage their work forces, subject to applicable collective bargaining agreements.

The fact finding panel established pursuant to a new section 509 of the Rail Passenger Act is designed to recommend changes in operating practices and procedures which would result in greater productivity to the maximum extent practicable. The fact finding panel should look at a variety of changes which may improve productivity, such as flexibility in employee assignments and ensuring an appropriate number of employees for particular tasks.

The procedure for negotiation of an initial collective bargaining agreement for Amtrak Commuter or commuter authorities provided for in a new section 510 of the Rail Passenger Service Act is designed to provide for an orderly and expeditious procedure for the negotiation of new collective bargaining agreements. The existing Conrail agreements would not apply to Amtrak Commuter or to commuter authorities that chose to operate their own service.

SECTION 1146—LABOR TRANSFER

House bill

The House bill adds new sections 405 and 406 to the 3R Act.

This section requires the rail carrier or other entity purchasing rail properties and the representatives of the employees to be transferred to commence implementing agreement negotiations within 30 days after the date any transfer agreement is entered into.

The negotiations are to determine the number of employees to be transferred, the specific employees offered employment, the procedure by which employees accept employment and are accepted into employment, the procedure for determining seniority (which shall, to the extent possible, preserve prior freight seniority rights), and ensure that all involved employees are transferred no later than 120 days after the date the transfer agreement is entered into.

If no agreement is reached within 30 days of commencement of negotiation, a neutral referee is to be selected, who is to commence hearing and decide all matters in dispute with respect to the implementing agreement negotiations. The referee's decision is to be rendered within 30 days after the date of commencement of hearings.

It requires the Commission to determine the labor conditions to apply to employees affected by any transfer under this title as if such transfer were made under the Interstate Commerce Act.

Senate amendment

The Senate bill requires acquiring railroads and representatives of Conrail and acquiring railroad employees, to make every reasonable effort to achieve a pretransfer agreement. The agreement would determine how new positions on an acquiring railroad would be filled, how Conrail employees would be selected for transfer, and how seniority rights would be determined. The agreement would also deal with compensation, rules, working conditions and fringe benefits applicable to transferred employees, as well as protection of any transferred or acquiring railroad employee adversely affected by service transfer.

The bill permits, and the Department would encourage, a uniform agreement covering multiple acquiring railroads (similar in scope to the agreement covering former Milwaukee and Rock Island operations, known as the "Miami Accords").

Section 414–4—Selection of Employees

This section is the first of the provisions that would take effect only in the absence of an agreement by the parties. The section would accomplish two major objectives. First, it would provide a method for determining the number of new positions on the acquiring railroad that would be filled from the ranks of former Conrail employees ("transferred employees") and the number of positions that could be filled from the acquiring railroad's previous rosters. In general, Conrail employees would be given first bid on new positions. However, if acquisition of a line from Conrail occasions the abolishment of a position due to coordination or consolidation of service, the acquiring railroad employee affected by the transaction would have first bid on any new position the acceptance of which would not require a change in residence.

Second, in selecting Conrail employees for new positions the acquiring railroad would

be required to respect class and craft distinctions common in the industry and to favor persons senior in service over those with less time in service.

Third, the section would provide a method for selecting Conrail employees on a geographic basis. If an insufficient number of Conrail employees are available on the transfered line segment, other employees available to accept positions without change of residence would receive offers. If additional personnel were required, offers would be made at increasingly distant Conrail reporting points.

Section 414–5—Collective-Bargaining Agreements

This section governs basic matters of compensation, work rules, and fringe benefits in the event the agreement is not reached under section 414–3. The approach of this section is to assure transferred employees the same pay and basic quality of working conditions afforded other employees of the acquiring railroad, while avoiding the imposition of unrealistic constraints rooted in the past.

Conrail has filed at least in part because of the legislated imposition of rules and local agreements that derived from the six bankrupt railroads that preceded Conrail in the service area. Those constraints resulted in a balkanization of Conrail labor relations and the perpetuation of artificial barriers to efficient use of personnel. Prospective acquiring railroads will not be willing to accept similar constraints; nor can consumers of rail service afford to support such inefficiencies.

Therefore, section 414–5 would make clear that an acquiring railroad will not be bound by any contract, schedule, or agreement in effect on Conrail. If labor and the management of an acquiring railroad wished to bargain for similar (or even identical) provisions, they would be free to do so; but no inference could be derived from the bill that an acquiring carrier would be bound by prior agreements.

Section 414–6—Seniority Rights

This section assures that a transferred employee's prior service would be respected in determining the employee's relative seniority on the acquiring railroad. The section recognizes that a precise definition of the relative seniority of transferred employees will necessarily await implementing agreements.

Section 414–7—Labor Protection Obligations of Acquiring Railroads

This section requires the Secretary to impose protection for transferred employees and the employees of a Class I or II acquiring railroad who may be adversely affected by a service transfer, in the event no agreement is reached under section 414–3. The protection referenced in this section is principally income protection, since most other issues relating to employee rights and responsibilities are treated in section 414–4, 414–5, and 414–6. The protection imposed would be similar to that adopted by the parties to midwest rail restructing in the "March 4 Agreement," sometimes known as the "Miami Accords."

Those acquiring railroads would be required to provide a guarantee of 80 percent of former straight time wages for up to three years, depending on the employee's length of service.

Amtrak Commuter and the commuter authorities shall not be responsible for the protection under this section.

Section 414–8—Arbitration of Disputes

This section requires that any minor dispute or claim arising under this title shall be subject to binding arbitration under normal Railway Labor Act processes. Resolution of disputes under agreements referenced in this title are already within the purview of the Railway Labor Act and no special provision is required in the bill. This section would make clear that, even if a labor transfer agreement is not reached under section 414–3, the parties would be free to interpret and apply the provisions of this title by agreement; and any subsequent minor dispute or claim would be resolved in accordance with the guidance provided by such agreement.

Section 414–9—Definition

This section restricts the applicability of subpart 4 by defining "acquiring railroad," in the freight context, to mean a Class I or Class II acquiring a railroad or a neutral terminal company established under subpart 2. Thus, short line railroads would not be covered by subpart 4; and, under the definition of "deprived of employment" in section 411–3, Conrail employees who failed to receive a firm offer of employment from a Class I, Class II, or neutral terminal railroad would be entitled to receive the benefits of subpart 3.

Conference substitute

The Conference substitute requires acquiring railroads under a transfer agreement to enter into implementing agreements with employees to determine the number of employees who will transfer to the acquiring railroads and to determine other issues. If no agreement is reached, the issues are submitted to binding arbitration.

If the employees and the acquiring railroads are unable to agree on a collective bargaining agreement, the collective bargaining agreement of the acquiring carrier shall prevail. If the acquiring party is not a railroad, and the parties cannot agree, the collective bargaining agreement of Conrail shall apply.

Employees transferred to acquiring carriers or other parties which become carriers shall be protected under the normal labor protection provisions of the Interstate Commerce Act, which are embodied in New York Dock Railway—Control—Brooklyn Eastern District Terminal, 360 ICC 60 (1979).

SECTION 1147—ORGANIZATION OF USRA

House bill

The Board of Directors of USRA is reconstituted to consist of the Chairman, who shall be selected by any outgoing Chairman and the other members, the Secretary of Transportation, and the Comptroller General of the United States.

Senate amendment

No comparable provision.

Conference substitute

The Board of Directors of USRA is reconstituted to consist of the present Chairman of USRA, who shall remain as Chairman of the Board until the expiration of his existing term, or his resignation, the Secretary of Transportation, the Comptroller General of the United States, the Chairman of the Commission, and the Chairman of the Board of Directors of the Corporation. The present Chairman's term will expire on Dec. 31, 1983, and the next Chairman's term shall be three years. The present Chairman may be reappointed.

SECTION 1148—FUNCTION OF USRA

House bill

The House bill provides that the Association is to monitor the financial performance of the Corporation, determine whether the conditions and requirements of this Act are met, purchase additional stock or accounts receivable of the Corporation, and appoint and fix the compensation of employees.

The Association shall submit to the appropriate Committees of the Congress within 30 days of each additional purchase of stock a report outlining the progress of the Corporation in meeting the goals and requirements of this Act.

Not later than 30 days after the Association makes its last purchase of stock of Conrail, it shall cease to exist.

Senate amendment

This section amends section 201 of the 3–R Act to effect the transfer of certain USRA non-litigation functions to the Secretary not later than January 1, 1982. The Association would transfer to the Secretary, or as otherwise designated by the Secretary, property and budget resources which are primarily related to and support the conduct of the non-litigation functions. This transfer of authority in no way limits USRA's authority to conduct the valuation litigation under sections 303(c) and 306 of the 3–R Act, including related administrative functions, nor is it to interfere with the functions assigned to USRA under section 415–7 of this legislation.

USRA has developed specific systems, data bases, models and the required in-house expertise to utilize these tools to monitor Congress on specific inquiries. Many of these same systems have also been used by the Association in performing the functions being transferred to the Secretary. Where property is needed to support both the Association's functions and the functions transferred to the Secretary, this section provides that the Secretary and the Board of Directors of the Association shall reach agreement on the joint use of such property. With regard to the computer systems and models now operated by USRA, however, the Committee notes that USRA staff is trained in the use of these tools in an effective manner. Under the circumstances, it appears desirable to retain these computer programs and intellectual property at USRA subject to joint use by both USRA and the Secretary as contemplated by the statute.

Any litigation associated with the functions, powers and duties assumed by the Secretary under this subsection would be the responsibility of the Attorney General.

Upon assuming the new functions, the Secretary is directed to assume the financial obligations of USRA issued under sections 210, 211, and 216 of the 3–R Act and to adopt appropriate USRA regulations governing non-litigation matters until the Secretary has had the opportunity to re-promulgate such regulations in appropriate form. Paragraph (5) makes provision for the continuation of non-litigation contracts and loans following the transfer.

Conference substitute

The Senate recedes except that USRA retains its litigation functions.

SECTION 1149—ACCESS TO INFORMATION

House bill

The House bill requires Conrail to make available to USRA such information as USRA determines is needed to carry out its functions. It also requires USRA to request from other affected parties information which will enable USRA to determine if the conditions of this Act are met.

Senate provision

No comparable provision.

Conference substitute

Senate recedes.

SECTION 1150—UNITED STATES RAILWAY ASSOCIATION REPORTS

House bill

No similar provisions.

Senate amendment

This section established the responsibilities of the USRA under this act. USRA would monitor, evaluate and report periodically to Congress on the Secretary's performance with respect to the entire transfer process as it affects, among other matters, labor, rail services, and the security of Federal funds. The periodic reports would also evaluate Conrail's performance. The USRA is also required to issue a final report to

Congress evaluating the Secretary's transfer agreements.

Conference substitute

House recedes.

SECTION 1151—USRA AUTHORIZATION

House bill

There are authorized to be appropriated to the Association for administrative expenses not to exceed $1 million for the fiscal year ending September 30, 1982, $1.1 million for the fiscal year ending September 30, 1983, and $1.2 million for the fiscal year ending September 30, 1984.

Senate amendment

In view of the substantially increased responsibilities that the Secretary would assume under the 3–R Act, this section deletes the existing $12.5 million limit on authorizations and substitutes $15 million. The USRA's authorization is extended through fiscal 1982. Due to the decreased functions of the USRA, the authorization is limited to $15 million.

Conference substitute

The conference substitute provides an authorization of $13,000,000 for fiscal year 1982 and $4,000,000 for fiscal year 1983.

SECTION 1152—JUDICIAL REVIEW

House bill

The House bill consolidates all civil actions arising out of the provisions of or the amendments made by this Act to the Special Court.

Subsection (b) provides for appeals to the Supreme Court.

Subsection (c) provides the standard for review of administrative action under the provisions of or amendments made by this Act.

Subsection (d) provides for the assignment of additional judges to the Special Court, if necessary.

Senate amendment

The Senate bill is identical to the first three subsections of the House bill. The Senate bill does not include a provision for the assignment of additional judges to the Special Court, if necessary.

Conference substitute

Senate recedes.

SECTION 1153—TRANSFER TAXES AND FEES; RECORDATION

House bill

The House bill exempts the transfers or conveyance of rail property made under this Act and the recording of all deeds, bills of sale, and other instruments incident to such transfers, from the payment of any taxes, imposts, or other levies imposed by the United States or any State or political subdivision thereof. The exemption would apply to the transfer of any interest in rail property including real, personal and mixed. The transferors and transferees of rail property would be entitled to record deeds, bills of sale, easements and other such instruments, and to record the release or removal of any pre-existing liens or encumbrances with respect to transfers of property, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed. This provision is not intended to affect the Federal income tax liability of Conrail or acquiring railroads.

This section also provides that transfer of designated rail property under section 205 of the Act is to have the same effect for purposes of rights and priorities with respect to the property as recordation on the transfer date of deeds, or other appropriate instruments, in offices appointed under State law for such recordation. Acquiring railroads and other entities would, however, be required to proffer such deeds or other instruments for recordation within thirty-six months after the transfer date as condition of preserving such rights and priorities beyond the expiration of that period. Conrail would be required to cooperate with the acquiring railroad in preparing the necessary recordation documents.

Senate amendment

The Senate bill is identical.

Conference substitute

The substitute is identical to the House and Senate bills.

SECTION 1154—SATISFACTION OF CLAIMS

House bill

Section 1154 requires Conrail to satisfy all valid claims against the Corporation including loss and damage claims, or make provision for their satisfaction, before making any distribution of assets to the United States.

Senate amendment

This section requires Conrail to satisfy all valid claims against the Corporation, or make provision for their satisfaction, before making any distribution of assets to the United States. The effect of this provision is to relinquish any priority of payment to which the Conrail debentures and series A preferred stock may be entitled on liquidation or otherwise.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment.

SECTION 1155—EXPEDITED SUPPLEMENTAL TRANSACTIONS

House bill

This section requires the Secretary, within 10 days after the effective date of this Act, to initiate discussions and negotiations for the transfer of Conrail's rail properties and freight services in Connecticut and Rhode Island to another railroad in the region.

Within 60 days after the effective date, the Secretary is required to petition the Special Court for an order transferring Conrail's rail properties and freight service in Connecticut and Rhode Island to another railroad in the region. That railroad must have completed negotiations and submitted to the Secretary a proposal to assume Conrail's freight service in those states on a self-sustaining basis for at least 5 years or developed a proposal to assume freight service in those states under an agreement with Conrail or which has, prior to May 1, 1981, submitted a proposal to the Secretary for such a transfer.

The Secretary shall, as part of the transfer, promote the transfer of additional nonmainline Conrail properties in adjoining states that connect with properties to be transferred.

The Special Court is to determine a fair and equitable price for the transferred rail properties and shall, unless the parties otherwise agree, establish fair and equitable divisions. The Special Court may establish a method to ensure that such divisions are promptly paid.

If Conrail continues to operate freight service over those portions of the Northeast Corridor in Connecticut and Rhode Island after the transfer date, Conrail is responsible for paying Amtrak the compensation, as may be agreed to by Conrail and Amtrak, for those operations.

Any employee deprived of employment as a result of the transfer process is eligible for labor protection benefits under the new section 701 of the 3R Act.

Senate amendment

The Senate bill give the Secretary discretion to transfer the lines in Connecticut and Rhode Island.

Conference substitute

The conference substitute adopts special procedures for the transfer of lines in Connecticut, Rhode Island and Massachusetts. Under this section, the Secretary is required within 10 days, to initiate discussions and negotiations for the transfer of some or all lines in Connecticut and Rhode Island under a plan which provides for continued rail service on those lines for a period of four years.

Within 120 days of enactment, the Secretary is required to petition the special court for an order to transfer all of Conrail's rail properties and service obligations to one or more railroads which have submitted proposals to assume operations and service obligations in such states for at least four years. For the purposes of this provision, the transfer proposal may include Conrail as long as the carrier agrees to maintain service for the requisite period.

The special court is to determine a fair and equitable price for the property, and it must establish divisions of joint rates if the parties cannot agree. In addition, the special court is required to establish a method to insure that divisions are promptly paid.

The acquiring carrier or carriers must assume all charges payable by Conrail to Amtrak except in instances where Conrail operates freight service over portons of the Northeast Corridor after the date of the transfer.

Any employee eligible for Title V protection prior to the date of enactment deprived of employment as a result of the transfer shall be eligible for benefits under section 701 unless such employee refuses an offer of employment with the acquiring railroad or railroads.

Subsection (g) provides procedures for the transfer of specified lines in Massachusetts similar to those discussed above for Connecticut and Rhode Island lines. The conferees agree that the Secretary can sell some or all of the lines in Connecticut and Rhode Island to one or more purchasers, so long as 100 percent service is maintained on all of the lines.

SECTION 1156—ABANDONMENTS

House bill

The House bill adds a new section 309 to the 3R Act. Any application for abandonment filed by the Corporation with the Interstate Commerce Commission before November 1, 1981, shall be granted within 30 days by the Commission unless an offer of financial assistance is made. If such an offer of financial assistance is made, the provisions of the Interstate Commerce Act applying to such offers shall apply (49 U.S.C. 10905(d)–(f)). The Corporation may file a notice of insufficient revenues with the ICC for any line prior to November 1, 1981. At any time prior to October 1, 1983, the Corporation may abandon such a line with 30 days notice to the ICC unless an offer of financial assistance is made. The Corporation solely shall determine what is contained in the notice of insufficient revenues. The Committee expects the Corporation to give particular consideration to lines where state or local governments have expressed an interest. The Corporation is given broad authority by this section, which is necessary because of the financial circumstances of the Corporation, but the authority must be exercised with the utmost regard for the transportation needs of states and local communities.

The employee protection provisions of the Interstate Commerce Act do not apply to employees affected under this section. The employees would be covered under the funds available under section 701.

Senate amendment

The Senate amendment provides that all transfer agreements entered into this subsection or section 412–11 of the subtitle shall provide for the disposition of proceeds of liquidation in the event that property transferred or leased is abandoned within five years after the transfer date.

Subsection (b) provides that no purchaser can submit an application for abandonment

on any line transfer until one year after the date of any transfer or sale.

Conference substitute

The Conference substitute adopts the House bill with several changes. The Corporation may file, before December 1, 1981, with the Commission any lines which it will abandon. The Commission shall grant the application within 90 days unless an offer of subsidy is made. The Corporation, at any time before November 1, 1983, may file a Notice of Insufficient Revenues for any line. 90 days after the notice is filed, the Corporation may file an abandonment application. Such application must be granted within 90 days unless a subsidy offer is made.

After a line is abandoned the Commission shall appraise the net liquidation value of such line. If Conrail receives a bona fide offer within 120 days, it must sell the line for 75% of net liquidation value. In addition, Conrail may not dismantle bridges or other structures for an additional 120 days.

The labor protection provision of the Interstate Commerce Act shall not apply to any abandonment granted under this section. The Interstate Commerce Commission may not reject any abandonment application filed under the procedure of this Act.

SECTION 1157—AMENDMENT TO THE RAILWAY LABOR ACT

House bill

The House bill amends the Railway Labor Act to provide a special procedure for disputes involving publicly funded and operated rail commuter services, including those involving Amtrak Commuter.

This provision allows either party to the dispute, or the Governor of any state through which the service operates, to request the President to establish an emergency board. Upon such request, the President must establish an emergency board.

If the President has established an emergency board, either under this new provision or under his existing discretionary authority, no change in conditions may be made by either party for 120 days, unless by agreement.

The emergency board must report on the dispute within 30 days of its creation. Within 60 days of the emergency board's creation, the National Mediation Board shall conduct a public hearing on the dispute at which each party is to explain why it has not accepted the recommendations of the emergency board for settlement of the dispute.

If within 120 days of the creation of the emergency board, there is no settlement, either party, or the affected Governors, may request establishment of a second emergency board, which the President must then establish.

Within 30 days after creation of the second emergency board, the parties to the dispute shall submit final settlement offers to the board. Within 30 days after submission of such offers, the board shall report to the President with its selection of the most reasonable offer. No change in conditions may be made by the parties for 60 days after the board's report, unless by agreement.

If the board selects the carrier's final offer and the employees then engage in work stoppage arising out of the dispute, then such employees shall not be eligible for railroad unemployment benefits for the duration of the dispute. Conversely, if the board selects the employees' final offer which the carrier does not accept, and the employees engage in a work stoppage arising out of the dispute, the carrier is not entitled to any benefits from a mutual aid pact for the duration of the dispute.

Senate amendment

The Senate Amendment did not amend the Railway Labor Act but had a free standing provision of a similar nature that applied only in the negotiation for a new collective bargaining agreement.

Conference substitute

The conference substitute adopts the House provision.

SECTION 1158—CONCERTED ECONOMIC ACTION

House bill

The House bill provides that cross strikes between freight and commuter service are prohibited. Any such action is a violation of the Railway Labor Act.

Senate amendment

The Senate amendment provides that cross strikes between freight and commuter service are prohibited.

Conference substitute

The Senate recedes to the House.

SECTION 1159—CONSTRUCTION AND EFFECT OF CERTAIN PROVISIONS

House bill

The House bill provides that any cost reductions resulting from this Act may not be used to limit the amount of any rate, rate increase or surcharge maintained or proposed by Conrail. The Committee expects the Commission to prescribe a simple formula to allow implementation of this section without undue burden on shippers, Conrail, or other railroads. Conrail management would retain discretion to adjust rates downward on the basis of any reductions or competitive efficiencies that would be achieved as a result of this Act.

Subsection (b) provides that the transfer of any lease agreement or contract by Conrail pursuant to the provisions of or amendments made by this Act is not a breach, default, or violation of an agreement.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute adopts the House provision with a change that limits the House language to labor savings which result from this Act. The Commission may not consider such savings in any rate proceeding.

SECTION 1160—LABOR AUTHORIZATION

House bill

The House bill provides an authorization of $25,000,000 to pay for title V labor protection payments that accrue prior to the repeal of title V.

Senate amendment

Basically the same as the House bill.

Conference substitute

The conference substitute is the same as the House bill.

SECTION 1161—LIGHT DENSITY RAIL SERVICE

House bill

No comparable provision.

Senate amendment

The Senate bill provides that the Secretary shall, to the extent possible, encourage purchasers of property to assume operating responsibilities over all associated branch lines which are financially viable.

Subsection (b) provides that the Secretary may negotiate for and execute the transfer of any lines designated by Conrail as not necessary to achieve profitability as defined in section 412–12 of this subtitle. Conrail shall make such a determination on any line within thirty days of such request by the Secretary of Transportation.

Subsection (c) provides that not withstanding the provisions of section 412–12 from the date of enactment the Secretary may negotiate and execute a transfer of the following classification of lines:

(1) any Conrail lines subject to abandonment.

(2) rail properties located in the States of Rhode Island and Connecticut.

(3) branch lines identified by Conrail as not necessary for the achievement of profitability pursuant to subsection (b) of this section.

Subsection (d) provides that all lines subject to a transfer agreement under section 412–15 of this Chapter for subsection (c) of this section can be transferred to states or shippers or any combination free of the Rail Common Carrier Status under the requirements of Subtitle IV of Title 49, United States Code.

Subsection (e) provides that compensation for the transfer of these properties may be for a nominal consideration if justified by the public benefit. Further, this subsection frees a noncarrier entity purchaser from regulatory authority under Subtitle IV of Title 49, United States Code.

Conference substitute

The conference substitute generally follows the Senate provision. The reference to abandonments in subsection (a) is clarified to indicate that the provision applies to abandonments other than those subject to section 308. A provision is also incorporated to permit a credit against the purchase price for reasonable expenses incurred in negotiations for purchase of rail properties which are subsequently purchased in accordance with the provisions of this subtitle. An equitable division of joint rates for through routes is required.

SECTION 1162—REHABILITATION AND IMPROVEMENT FINANCING

House bill

The House bill limits funding for fiscal years 1981 and 1982 at a $6.5 million level.

Senate amendment

The Senate bill does not limit the funding for this program. Instead it provides that the rail lines of carriers in bankruptcy, such as the Milwaukee Road and Rock Island Railroads, be given the highest priority for rail rehabilitation and improvement financing. It also allows purchasers of Conrail lines to be eligible for funding.

Conference substitute

The House recedes on its provision which limits funding for this program. The conferees adopt the Senate amendment with the addition of a provision providing the same high priority for the St. Louis Rail Gateway Project.

The conferees recognize that restructuring the rail freight network in the St. Louis Rail Gateway is a high priority, necessary to increase terminal capacity and to meet the growing traffic demand.

Since terminal congestion is one of the major deterrents to profitability for railroads, it is the intent of the conferees that the Federal Railroad Administration reserve $50 million of preference share funding in fiscal year 1982 of the available authorization, for the restructuring project in the St. Louis Rail Gateway.

SECTION 1163—NORTHEAST CORRIDOR COST DISPUTE

House bill

The House bill provided a means to resolve outstanding cost disputes on the Northeast Corridor.

Subsection (a)(1) would require the Interstate Commerce Commission (ICC) to determine an appropriate costing methodology for allocation of Northeast Corridor costs resulting from commuter operations within 120 days of the effective date, unless the involved parties otherwise agree on a methodology by that date. The Commission is to consider all relevant factors, including existing statutory standards. The Commission already has the jurisdiction to decide this dispute, but no party has previously invoked its jurisdiction.

Subsection (a)(2) would require the ICC

to determine a fair and equitable costing methodology for compensation to Amtrak by Conrail for freight operations over the Northeast Corridor within 120 days of the effective date of this Act, unless the parties otherwise agree by that date. In making its determination, the ICC is to consider the industry-wide average compensation for freight trackage rights and any additional costs associated with high-speed service provided over the Northeast Corridor.

Subsection (b) would provide that any determination by the ICC would be effective only for the future (or if the parties reach an agreement, only since the date agreed by the parties). Any such determination by the ICC (or agreement by the parties) shall not apply retroactively (or before the date agreed by the parties). The effect of this is to settle the past disputes with no money changing hands, and to resolve the disputes for the future.

Subsection (c) clarifies that this section would not preclude the involved parties from agreeing on different cost allocation methodologies in the future.

Subsection (d) makes the ICC determinations pursuant to subsection (a) final and non-reviewable.

Senate amendment

The Senate amendment provided for separate procedures to resolve the commuter and freight cost disputes on the Northeast Corridor. The procedures were similar to those in the House bill. However, the procedure for resolving the commuter cost dispute was not limited to the Northeast Corridor.

Conference substitute

The substitute adopts the House provision.

SECTION 1164—DELAWARE & HUDSON RAILROAD

House bill

The House bill has two provisions affecting the D&H by requiring it to pay its debt to the federal government and by requiring that its trackage rights not be transferred.

Senate amendment

The Senate bill allowed the Secretary to expand the present trackage rights of the D&H.

Conference substitute

This conference substitute provides an expedited review and decision process for the application to acquire the D&H Railroad. The expedited procedures are necessary given the present cash positions of the carrier. A prospective purchaser, on the other hand, cannot make investments in the D&H when it has no assurance it will be able to acquire and control the property. This amendment will insure that the transaction can occur within 180 days.

A similar provision is included in the conference substitute for the Boston & Maine Railroad.

It would also permit the same treatment of existing D&H debt as will be accorded the Conrail debt in the pending bill only if there is an agreement to purchase.

The Secretary would be empowered to recapitalize the debt structure and make the new securities junior to the securities issued by a prospective purchaser.

Such an amendment would insure that sufficient working capital would be available under the new ownership.

SECTION 1165—INTERCITY PASSENGER SERVICE EMPLOYEES

House bill

The House bill has no provision.

Senate amendment

The Senate amendment requires Amtrak to establish new positions not fewer in number than the equivalent number of full-time Conrail positions devoted to N.E. Corridor intercity passenger operations. Any employee transferred to Amtrak is separated from employment with Conrail.

Conference substitute

The conference substitute requires that Conrail's intercity passenger employees will be tranferred by January 1, 1983. Amtrak, Amtrak Commuter and the Corporation will negotiate for the right of freight and passenger employees to move from any of these services to another once every six months. The work force of each of these services will not be increased by the ability of an employee to move from one service to another. An employee with less seniority will be furloughed when an employee with more seniority moves back into that particular work force.

SECTION 1166—TRACKAGE RIGHTS

House bill

No comparable provision.

Senate amendment

The Senate bill allows trackage rights in Philadelphia to be expanded.

Conference substitute

The Conference substitute modifies substantially the Senate provision. The Conferees expect the Corporation to negotiate with the Philadelphia Belt Line Railroad for trackage rights. The Interstate Commerce Commission shall report to Congress within eight months on the progress of such negotiation.

Although the conferees are concerned that Conrail not lose its own traffic to other carriers to its competitive disadvantage, the conferees fully expect Conrail to agree to trackage rights for reasonable compensation for traffic that would otherwise not move through the Philadelphia Port. For example, certain traffic which is located on the D&H and does not presently move through Philadelphia would do so if trackage rights were granted to the Philadelphia Belt Line.

SECTION 1167—TECHNICAL AMENDMENTS

House bill

No provision.

Senate amendment

The Senate bill effects certain technical amendments. Subsection (a) amends section 303 of the 3–R Act to eliminate Conrail securities as a payment medium in the valuation proceedings before the Special Court. This amendment is necessitated by section 416–6 which provides that the Secretary shall receive, and may vote, such securities. Any remaining obligations of the United States under the 3–R Act will be satisfied in cash, as has been the case with the initial settlements in the valuation proceedings.

Subsection (b) provides that securities conveyed to the Secretary under section 416–6 shall be deemed to be without value, unless the Special Court determines otherwise. The intent of this subsection is to ensure that no transferor under the Regional Rail Reorganization Act of 1973 receives more than the constitutional minimum value of the properties conveyed.

The bill also requires the Clerk of the Special Court to convey to the Secretary, within ten days after the effective date of the legislation, the common stock and series B preferred stock of Conrail which are on deposit with the clerk. These securities were originally intended to serve as partical compensation for the properties conveyed under the 3–R Act to Conrail. However, as a result of Conrail's poor financial performance those securities are without value. The rights of the transferor railroads with respect to compensation for the assets which they conveyed to Conrail are adequately secured by certificates of value. Any claim against the United States resulting from the conveyance of Conrail securities to the Secretary under this section would be litigated in the Special Court in accordance with section 601 of the bill.

Subsection (b) authorizes the Secretary to exercise voting rights with respect to the securities obtained under subsection (a) or by other means, such as settling the claims of transferors arising from the transfer of rail properties to Conrail in 1976.

Conference substitute

House recedes.

SECTION 1168—APPLICABILITY OF OTHER LAWS

House bill

No comparable provisions.

Senate amendment

The Senate amendment exempts actions taken under the authority of the bill from the application of several laws which were not designed with the subject matter of the bill in mind, or the literal application of which would necessitate extensive delays in the transfer process. For instance, exception from the Administrative Procedure Act ensures prompt action, as well as confidentiality of initial discussions over terms of sale, and avoids legal pitfalls associated with alleged procedural defects.

An exception to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) is also necessary. It is the objective of the bill to provide for the continuation of rail service in the northeast and the prevention of significant diversion of traffic to the highways which may have a direct adverse impact on the human environment in the region. On the other hand, formal compliance with requirements for impact statements and judicial review would lengthen the transfer process and could result in serious deterioration of traffic levels as funding is exhausted and service levels deteriorate. Thus, in this case it appears that observance of the NEPA procedures would prompt a result inconsistent with its purposes. Exemptions from the National Historic Preservation Act of 1966 and Section 4(f) of the Department of Transportation Act of 1966 are included for the same reasons—to avoid lengthy days in the transfer process.

CONFERENCE SUBSTITUTE

The conference substitute adopts the Senate Amendment but deletes exemption from the Freedom of Information Act.

SECTION 1169—EFFECTIVE DATE

House bill

The House bill provides the effective date of this Act is October 1, 1981.

Senate amendment

The Senate bill provides that the effective date of this Act is the date of enactment.

Conference substitute

House recedes.

ALASKA RAILROAD REVOLVING FUND

House bill

The House bill provides that no funding shall be authorized for the Alaska Railroad Revolving Fund for fiscal years 1982, 1983, and 1984.

Senate amendment

No similar provision.

Conference substitute

The House recedes.

INSURANCE COVERAGE

House bill

This section affirms Congress' intent that any railroad in reorganization or a successor corporation which has acknowledged certain insurance payments as obligations of the railroad or which was under order of its reorganization court to continue these insurance programs shall be deemed to have conclusively acknowledged that the cost of such continued coverage constitute valid

preconveyance administrative obligations of such railroad in reorganization.

Senate amendment

No similar provision.

Conference substitute

The House recedes.

LOAN GUARANTEES

House bill

The House bill amends Section 511 of the 4R Act by adding a new subsection (o). This new subsection requires the Secretary to guarantee obligations of Conrail's commuter subsidiary and commuter service prior to initial reimbursement by the commuter agencies and to cover any subsequent cash flow problems arising from delayed reimbursements from commuter agencies. The aggregate unpaid principal amount of obligations guaranteed under this subsection cannot exceed $50 million.

The Committee notes it has not adopted the Administration proposal to provide low interest loans for potential purchasers of Conrail freight lines. However, these loan funds are virtually important to other parts of the country. For example, the Committee recognizes that restructuring the rail freight network in the St. Louis Rail Gateway is a high priority, necessary to increase terminal capacity and to meet the growing traffic demand.

The St. Louis Gateway is the nation's second largest, with some 60 rail yards and with more than two million rail cars passing through each year. The number of rail cars passing through is expected to double by the year 2000. The Committee supports the restructuring project aimed at reducing chronic rail freight traffic bottlenecks and improving the capacity of this national rail freight hub to handle the steadily growing volume. Federal funding assistance for this project is crucial, and the Committee directs the Federal Railroad Administration to give high priority consideration in order to assure that the project can proceed.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute does not modify section 511 of the 4R Act.

SUBTITLE F—AMTRAK; SECTION 1170—SHORT TITLE

House bill

The House bill provided that this Act may be cited as the "Amtrak Improvement Act of 1981".

Senate amendment

The Senate amendment provided that this legislation may be cited as the "Amtrak Improvement Act of 1981".

Conference substitute

The Conference substitute provides that this subtitle may be cited as the "Amtrak Improvement Act of 1981".

SECTION 1171—FINDINGS

House bill

The House bill added new findings to the Rail Passenger Service Act to reflect the establishment of Amtrak Commuter.

Senate amendment

The Senate amendment abbreviated the findings under section 101 of the Rail Passenger Service Act to highlight the basis for this legislation, which envisioned a significant reduction in Federal funding for Amtrak. Under subsection (a), Congress finds the need for a cost-efficient and energy-efficient intercity rail passenger service, which can help to alleviate the overcrowding of airways and highways and can add to the alternatives for convenient transportation, to the extent that funds are available to do so. References made under current law to the essentiality of a national rail passenger system as a significant asset in time of national emergency or energy shortage and to the need for Federal financial assistance for such purposes were deleted.

Congress further finds under subsection (b) the need for cooperation among all interested parties, including Amtrak, the operating railroads, labor, and the state and local authorities so as to secure a rail passenger system justifying continued funding. Certain other findings under current law relating to inadequately defined goals, problems with state-subsidized service, and difficulties with the operating railroads were deleted.

Conference substitute

The Conference substitute essentially combines the provisions from both the House bill and the Senate amendment.

SECTION 1172—ADDITIONAL GOALS FOR AMTRAK

House bill

The House bill established the following additional goals for the Corporation:

(1) improvement in the number of passenger miles generated systemwide per dollar of federal investment;

(2) reduction in the cost of long-distance service;

(3) elimination of the deficit in the food and beverage operation;

(4) improvements in productivity and efficiency;

(5) improvement in the "on-time" performance of all trains operated by the Corporation;

(6) development of service on rail corridors;

(7) increases in the nationwide average speed of trains operated by the Corporation;

(8) improvement of the ratio of revenues to operating expenses; and

(9) certain other goals for Amtrak to reflect the establishment of Amtrak Commuter.

Senate amendment

The Senate amendment expanded the goals set forth in section 102 of the Rail Passenger Service Act to reflect the need for Amtrak to take such actions as are necessary to improve performance and decrease Federal spending. Specifically, Amtrak would be encouraged to maintain a fare policy on each route which would minimize Federal subsidy: to reduce management costs and increase labor productivity; to reduce losses on food service and increase revenues on mail service; and to ensure that trains arrive within 15 minutes of their scheduled times and that they adhere to a systemwide average speed of at least 55 miles per hour. With respect to Amtrak's attainment of a certain revenue-to-cost ratio, this legislation would make the ratio under current law more stringent and include it as a mandate under section 15 of this Act rather than as a goal under this section.

This section also emphasizes the need for state, regional and local governments and the private sector to share in the costs of rail passenger service, including the operation of stations. The goal was to reduce Federal expenditures for Amtrak.

Conference substitute

The Conference substitute adopts the following goals from both the House bill and the Senate amendment:

(1) exercise of Amtrak's best business judgment in minimizing Federal subsidies;

(2) encouragement of non-Federal funding of rail passenger service;

(3) improvement in the number of passenger miles generated by Amtrak's system per dollar of Federal funding;

(4) elimination of the deficit in Amtrak's food and beverage operation;

(5) improvements in Amtrak's productivity and efficiency;

(6) improvement in Amtrak's on-time performance;

(7) development of rail passenger corridors;

(8) increase in the nationwide average speed of Amtrak trains;

(9) improved coordination of intercity and commuter rail services on the Northeast Corridor; and

(10) maximization of Amtrak's resources and increase in revenues and decrease in Federal subsidies.

SECTION 1173—DEFINITIONS

House bill

The House bill added several definitions to the Rail Passenger Service Act relating to the establishment of the Amtrak Commuter Services Corporation.

Senate amendment

The Senate amendment amended the definition of basic system in section 103 of the Rail Passenger Service Act to include those changes made in the system pursuant to this legislation. The amendment added two definitions which are important to the labor protection provisions under section 14 of this bill: the term "deprived of employment" was defined as a condition which results when service is discontinued and an Amtrak employee is unable to obtain reemployment; and the term "year of completed service" was defined as a 12-month period during which compensation is credited.

Conference substitute

The Senate recedes to the House with clarifying amendments.

SECTION 1174—CHANGES IN BOARD OF DIRECTORS

House bill

The House bill amended 45 U.S.C. 543(a) by removing the authority for the existing board and providing for the appointment of the new board. This section provided that the new board shall have eleven members.

This section also provided that the Secretary of Transportation and the President of the Corporation shall serve as ex officio members of the board.

Under this section, the President would appoint a total of seven members of the board with the advice and consent of the Senate; one to be selected from a list submitted by each of the following groups:

(a) the American Federation of Labor and Congress of Industrial Organizations or its successor;

(b) the National Governors' Association;

(c) the business community;

(d) the National Association of Railroad Passengers of its successor;

(e) organizations representing users of commuter services operated by the Corporation;

(f) organizations representing the elderly; and

(g) the Association of American Railroads.

This section also provided that two individuals representing commuter agencies shall be members of the board. Prior to the initiation of service by Amtrak Commuter, the two commuter representatives on the board shall be chosen by commuter agencies whose service is operated by either the Consolidated Rail Corporation or Conrail Commuter Corporation. Once the Amtrak Commuter has begun providing service, two members of the board shall be chosen by those commuter agencies for which Amtrak Commuter provides service or those commuter agencies which operate service over properties owned by the Corporation or Amtrak Commuter.

This section provided that presidential appointments to the board shall serve terms of four years and that not more than four of the presidential appointees shall be from the same political party. Representatives of the commuter agencies who serve on the board shall serve terms of two years.

This section provided that six members of the board constitute a quorum and that no

one other than a member of the board serving pursuant to the authority of this act shall be permitted to vote at meetings of the board.

This section also provided that the terms of office of the current members of the board shall terminate upon enactment of this act and that such members shall continue to serve for not more than 90 days during which time the President shall appoint new members to the board. If, for whatever reasons, a vacancy occurs on the board as a result of the failure of the President to make his appointments to the board within the time provided, the President of Amtrak shall fill such vacancy with whomever he chooses, provided that any individual appointed by the President of Amtrak shall serve only as long as it takes for the President to make his appointments.

Under this section, the President of the Corporation shall serve as the chairman of the board.

Senate amendment

The Senate provision amended section 303 (a)(4) of the Rail Passenger Service Act to mandate that the President, in appointing eight members to the Amtrak Board of Directors, would choose out of the eight at least one member to be a States' representative, in view of the increased importance of the state and local role in the provision of rail passenger service anticipated by the legislation, and one to serve as a commuter representative.

Conference substitute

This section represents a compromise of the two provisions by establishing that the Amtrak Board of Directors shall consist of nine members as follows:

(1) the Secretary of Transportation, ex officio, who may be represented by any one of three statutorily designated individuals;

(2) the President of Amtrak, who is to serve as Chairman of the Board;

(3) five members appointed by the President—one from a list representing rail labor; one of the governors of the states interested in rail transportation, or his representative; one from the business community, who has an interest in rail transportation; and two members selected from lists submitted by the commuter authorities, depending upon the entities operating the commuter service; and

(4) two representatives of the preferred stockholder, which under the Conference substitute is the Federal Government.

The Presidential appointees shall serve four-year terms, and not more than two of such members chosen from rail labor, the governors, and the business community can be from the same political party. The commuter representatives shall serve for two years.

This provision also includes certain other requirements relating to member selection. Specifically, the terms of the present Board are to expire October 1, 1981, the effective date of this legislation. However, the current members are to continue serving until the Presidential appointees are selected. If such appointments do not occur within 90 days, the President of Amtrak may fill any vacancy with whomever he chooses until appointments are made.

SECTION 1175—FINANCING OF THE CORPORATION

House bill

The House bill contained no similar provision.

Senate amendment

The Senate amendment made significant changes in the financial structure of Amtrak. It amended section 304 of the Rail Passenger Service Act to provide for the issuance of preferred stock by Amtrak to the Federal Government in order to better protect the Government's interest and investment in Amtrak in the event of liquidation. Specifically new subsection (c) would require such issuance to the Secretary of Transportation as a prerequisite to obtaining further Federal funds. Certain preferred stock would have to be issued by February 1, 1982, and be equal to past capital grants made to Amtrak through fiscal 1981. With respect to future operating and capital grants, Amtrak would be mandated to issue such stock within 30 days of the close of each fiscal quarter. There would be no restrictions on the amount of stock held by the Federal Government nor on its redemption rights.

As under current law, the preferred stock would have liquidation preference over common stock. This section would further provide under new subsection (d) that while Amtrak would still be able to issue various non-voting certificates of indebtedness, no such obligation could have a liquidation preference higher than the Federal Government's outstanding preferred stock nor could it be secured by a lien on Amtrak property without the permission of the Secretary of Transportation.

Under subsection (e), Amtrak stockholders would continue to have inspection rights without respect to the amount of stock held. Also, preferred stock would not be subject to any issuance fees or taxes unless Congress otherwise specifies.

Conference substitute

The House recedes to the Senate provision.

SECTION 1176—CHARGES FOR CUSTOMS AND IMMIGRATION SERVICE

House bill

The House bill amended 45 U.S.C. 545 to exempt the Corporation from the payment of fees to the federal customs and immigrations services for "on-board" inspection of rail passengers crossing international boundaries.

Senate amendment

The Senate amendment contained no similar provision.

Conference substitute

The Senate recedes to the House provision.

SECTION 1177—FOOD AND BEVERAGE SERVICE

House bill

The House bill amended 45 U.S.C. 545 and 45 U.S.C. 565(e) to direct the Corporation to eliminate the deficit in its food and beverage services by September 30, 1982. Beginning October 1, 1982 this section provided that the Corporation shall not operate "on-board" food and beverage service unless revenues cover costs. Amtrak would be allowed to contract out for food and beverage services in order to reduce the associated costs.

Senate amendment

The Senate amendment listed as a goal the reduction of losses associated with food and beverage service.

Conference substitute

In addition to the general Senate goal, the Conference substitute adopts the House provision with an amendment providing for computation of losses on an annual rather than a quarterly basis. With respect to the provision allowing contracting out for food and beverage services, it is the intent of the conferees that Amtrak report to Congress as to other areas of its operation where savings could be realized through contracting out.

SECTION 1178—APPLICABILITY

House bill

The House bill amended 45 U.S.C. 546 by exempting the Corporation from the payment of state and local taxes to the same extent as the Government of the United States is exempt from the payment of taxes. This provision is estimated to save Amtrak $14.5 million in fiscal year 1982.

Senate amendment

The Senate amendment exempted Amtrak from future payment of certain state and local sales and property taxes, which it has been paying. Specifically, Amtrak would not be required to pay any further taxes based on the acquisition and improvement of personal property, such as equipment, or on the improvement of real property, made in connection with the provision of rail passenger service. It is expected that this exemption would provide a reduction of $6.5 million in Amtrak's costs during fiscal year 1982.

This section also exempted Amtrak from state and local full crew laws, which require that a specified minimum crew be employed on passenger trains operated in various states. Such an exemption would allow Amtrak to reduce surplus personnel which now cost Amtrak approximately one-half of a million dollars annually.

Conference substitute

The House recedes to the Senate with respect to the state and local tax exemption. The Senate recedes to the House with respect to the state and local full crew law exemption.

SECTION 1179—SANCTIONS

House bill

The House bill amended section 404 of the Rail Passenger Service Act to provide that any change in the basic system made by Amtrak shall not be reviewable in any court.

Senate amendment

The Senate amendment amended section 307 of the Rail Passenger Service Act to enable Amtrak to make changes in its service subject only to court review upon petition of the United States Attorney General. In the past, Amtrak has been hampered in its efforts to discontinue routes by a multitude of court actions for injunctive relief.

Conference substitute

The House recedes to the Senate provision.

SECTION 1180—ELIMINATION OF UNNECESSARY REPORTS

House bill

The House bill amended section 308 of the Rail Passenger Service Act to relieve Amtrak of its obligations to provide Congress with monthly reports on revenues and expenses attributable to each operating railroad over which Amtrak service is provided. It also would eliminate the requirement that the Interstate Commerce Commission report annually to Congress on Amtrak. Neither of these reporting requirements is necessary.

Senate amendment

The Senate amendment was identical to the House provision.

Conference substitute

The Conference substitute adopts the House provision.

SECTION 1181—FACILITY AND SERVICE AGREEMENTS

House bill

The House bill contained no similar provision.

Senate amendment

The Senate amendment repealed section 401(c) of the Rail Passenger Service Act which provides that, except for auto-ferry service, no railroad or any other person may provide intercity rail passenger service over a route which Amtrak is operating, unless given consent by Amtrak. This amendment should be considered together with section 17 of the legislation, which encourages private entities to undertake rail passenger service.

Under section 402(g) of the Rail Passenger Service Act, Amtrak was required by January 1, 1981, to enter into an industry-wide contract with other rail carriers for the operation of special and charter trains.

This section would eliminate such requirement, which has not been met. Separate contracts with individual railroads still could be entered into with respect to such special service.

Conference substitute

The Senate recedes to the House with an amendment to section 402(a) of the Rail Passenger Service Act specifying that any contracts negotiated between Amtrak and the railroads under that section shall include a penalty for untimely performance.

It is also the intent of the conferees that a rail carrier which commences intercity passenger or auto-ferry service after the date of enactment of the Amtrak Improvement Act of 1981 is authorized to establish, discontinue or change such routes and services as well as passenger fares and freight rates as it deems necessary.

It is the further intent of the conferees that if any rail carrier operating such passenger or auto ferry service, discontinues such service no other rail carrier shall be required to continue • • •.

SECTION 1182—STATE-SUPPORTED SERVICES

House bill

The House bill amended 45 U.S.C. 563(b) to eliminate the deadline for a state to submit an application for the initiation of 403(b) service.

Under this section, a state would pay 60 percent of the short-term avoidable loss of 403(b) service in the first year of operation and 80 percent of the short-term avoidable loss in each year of operation thereafter.

This section eliminated the technical assistance panels and provides instead that the Corporation shall conduct a preliminary evaluation of the market potential of service a state proposes to operate under subsection 403(b). This section further provides that proposed service shall not be eligible for operation under subsection 403(b) unless it is reasonably expected that revenues from such service will cover 30 percent of the costs, with the state's contribution not included.

Under this section, the Corporation could agree to provide 403(b) service on a route that is not expected to achieve this minimum level of performance if the state agrees in advance to pay the annual loss. If the Corporation and a state enter into such an agreement and the service actually does achieve the minimum level of performance, this section provides that the Corporation shall reimburse the state for the difference between the annual loss of such service and the appropriate percentage of short-term avoidable loss the state would have otherwise paid.

This section provided that the Corporation may agree to provide service under subsection 403(f) if:

(a) such service is projected to achieve the minimum level of performance specified above; and

(b) sufficient resources are available to the Corporation.

Under this section, an agreement to provide 403(b) service could be renewed for one or more additional terms of not more than two years, provided that an agreement shall not be renewed for a train that fails to meet the minimum level of performance unless the state agrees to pay the annual loss.

This section further provided that the Corporation shall consult with a state at least 90 days before a fare increase affecting 403(b) service is scheduled to take effect. If any state objects to the fare increase within 30 days from the date of such service will cover 30 percent of the costs, with the state's contribution not included.

Under this section, the Corporation could agree to provide 403(b) service on a route that is not expected to achieve this minimum level of performance if the state agrees in advance to pay the annual loss. If the Corporation and a state enter into such an agreement and the service actually does achieve the minimum level of performance, this section provided that the Corporation shall reimburse the state for the difference between the annual loss of such service and the appropriate percentage of short-term avoidable loss the state would have otherwise paid.

This section provided that the Corporation may agree to provide service under subsection 403(b) if:

(a) such service is projected to achieve the minimum level of performance specified above; and

(b) sufficient resources are available to the Corporation.

Under this section, an agreement to provide 403(b) service could be renewed for one or more additional terms of not more than two years, provided that an agreement shall not be renewed for a train that fails to meet the minimum level of performance unless the state agrees to pay the annual loss.

This section further provided that the Corporation shall consult with a state at least 90 days before a fare increase affecting 403(b) service is scheduled to take effect. If any state objects to the fare increase within 30 days from the date of such notification, this section provided for a delay in the implementation of the fare increase for an additional 30 days to give the state an opportunity to recommend ways to reduce costs in order to reduce or to eliminate the need for the fare increase. At the end of the extended period, the Corporation shall make the decision as to whether the fare increase should take effect in whole or in part, taking into consideration the state's recommendation.

Under this section, the states would be given an opportunity to consult with the Corporation in the development of a definition of short-term avoidable loss and associated capital costs.

This section also provided that the Corporation shall expend at least one but not more than 5 percent of the revenues generated by 403(b) service in the advertisement locally of such service.

This section further stated that the provision for state payments contained in this section shall apply to existing 403(b) service at the time agreements for such service are renewed.

Senate amendment

The Senate amendment amended section 403 of the Rail Passenger Service Act.

Section 403 of the Rail Passenger Service Act provides that Amtrak shall operate additional service if a State, local, or regional government agrees to share in the associated costs. Specifically, such non-Federal entity must agree to cover 20 percent of the solely related costs (interpreted to mean avoidable losses) in the first year of operation, 35 percent in the second year, and 50 percent each year thereafter. The state or locality also must agree to cover 50 percent of the capital costs.

This section made no changes with respect to existing contracts entered into pursuant to this cost-sharing arrangement prior to the date of enactment of this legislation. However, this legislation would add a new section 403a to cover future such agreements.

Section 403a is different from the current program in several respects. First, a private party would be able to fund rail passenger service in addition to the states and localities. Also, such cost-sharing agreements could be entered into for retention of existing service as well as for new service in order to ensure the opportunity for continuing service which Amtrak might otherwise have to discontinue. In addition, Amtrak would not have to enter into these agreements and could require that the non-federal funding source cover more than the percentages of operating loss heretofore mentioned. Finally, this section would eliminate the period for filing applications with Amtrak, the technical assistance panels now convened to review applications, and the requirement that Amtrak notify a state of a fare increase on one of its subsidized routes.

It is expected that these changes in the current program would encourage expanded non-federal funding of rail passenger service. At the same time, this section would ensure that Amtrak share in the costs of operating such service only to the extent that its funding level allows.

This section also amended section 403 relating to commuter rail service which Amtrak is required to operate. Effective October 1, 1981, provisions under subsection (d) mandating that Amtrak operate certain commuter rail service at reduced fares would be repealed since the current law does not require operation after such date.

With respect to any future commuter services operated by Amtrak, new section 403a(c) provided that Amtrak only would operate such service if it is reimbursed for 100 percent of the associated avoidable losses and such other amounts as the Amtrak Board of Directors determines would contribute to the costs of providing intercity rail passenger service. This amendment would help to minimize Amtrak's losses, given the funding level provided in this legislation.

Conference substitute

The Conference substitute adopts certain Senate provisions, and amendments reflecting the House provisions. A non-Federal entity could offer to fund rail passenger service. Amtrak would have the discretion to decide whether or not to operate such service. Such entity would have to agree to pay 45 percent of the short-term avoidable losses in the first year of operation and 65 percent in the second year and thereafter, and also 50 percent of the associated capital costs. Amtrak's Board of Directors would establish the basis for determining short-term avoidable loss and capital costs. The Board must consult with the states and provide them with such basis for determination.

The provision as adopted by the conferees ensures that those 403(b) agreements entered into prior to October 1, 1981, the effective date of the legislation, shall not be subject to the increased percentage shares included in the Conference substitute for fiscal years 1982 and 1983. Renewals of such agreements are to be funded at 35 percent and 50 percent of the solely related costs as provided in the current law for the second and third years of operation.

The conferees believe that states participating in the 403(b) program should have greater impact on the fare decisions than they do under the current law. As a result, the Conference substitute requires Amtrak to notify a state at least 90 days in advance of the date that a proposed fare increase which is applicable to 403(b) service and which represents an increase of more than 5 percent over a 6-month period is scheduled to take effect. The substitute also requires Amtrak to provide such officials with an explanation of the circumstances warranting the proposed fare increase.

Within 30 days of such consultation, the affected state may submit proposals to Amtrak for reducing costs and increasing revenues of 403(b) service. After the 30-day period and after having considered those proposals submitted by the state, Amtrak shall decide whether to implement the proposed fare increase in whole or in part. The conferees expect that a state would object to a fare increase only if it had a proposal that could reasonably be expected to reduce the costs of operating service and therefore reduce or eliminate the need for a fare increase. The conferees would also expect that a state notifying Amtrak of its objection to a fare increase would begin discussion with Amtrak immediately regarding its proposal for reducing costs.

The conferees also intend that Amtrak thoroughly analyze and evaluates a state's proposal and that, only after such consideration, shall Amtrak make a decision as to whether the proposed fare increase should be implemented in whole or in part.

An important exception to the above provisions must be noted. In those cases where either Amtrak's authorization or appropriation for the fiscal year is not enacted at least 90 days prior to the beginning of such fiscal year, Amtrak may increase fares during the 30 days following enactment of such appropriation or recession. However, the conferees intend that in such instances Amtrak must notify the affected state of the fare increase as soon as possible. This exception addresses the conferees' concern that Amtrak not operate service for an additional 90 days in those instances where Amtrak's funding is not finalized 90 days prior to the beginning of the fiscal year.

This section also provides that at least 2 percent but not more than 5 percent of all revenues generated on a particular route funded under this section is to be dedicated to local advertising of such service.

The Senate recedes to the House provision with respect to commuter service, which is dealt with section 1183 of the conference substitute.

The conferees intend that this provision represent a gradual transition towards a greater non-federal share in the funding of rail passenger service under section 403 (b) of the Rail Passenger Service Act as amended.

SECTION 1183—OPERATION WITHIN AVAILABLE RESOURCES

House bill

The House bill amended 45 U.S.C. 564(c)(3) to give the Corporation the authority to amend the route and service criteria by submitting such an amendment to the Congress. If within 120 days, neither the House nor the Senate has disapproved it, it shall become part of the route and service criteria.

This section also amended 45 U.S.C. 564(c)(4). The Corporation is directed to conduct an annual review of each route in the basic system to determine whether such route meets the criteria for short-distance or long-distance trains, whichever is appliable. The Corporation is directed to terminate any route which does not meet the criteria.

Based on an evaluation to be performed at the beginning of each fiscal year, this section directed the Corporation to take necessary actions to reduce its costs in order to operate within the level of funds authorized.

Such actions shall be designed to improve the operational efficiency and cost-effectiveness of service and to preserve the maximum of service feasible.

If, however, the Corporation determines these improvements will not yield the required level of savings, the Corporation would be directed to reduce or discontinue routes in order of their performances under the criteria.

This section also directed the Corporation to give notice to states and localities affected by a route discontinuance.

For purposes of achieving savings necessary to operate within the level of authorized funds, this section amended 45 U.S.C. 564(c)(5) to exempt the Corporation from the route and service criteria. This section repealed 45 U.S.C. 564(e), the authority for the operation of the "regional balance" trains. Under this section, changes in the basic system which are made by the Corporation shall not be reviewable in any court.

Finally, this section amended 45 U.S.C. 563(d) to provide that the Corporation shall continue operating funding service in the same manner it currently operates and funds service under the authority of 45 U.S.C. 563(d) as long as that service meets the ridership criteria for short-distance trains.

Senate amendment

The Senate amendment amended section 404 of the Rail Passenger Service Act which sets forth certain criteria to be followed by Amtrak in determining whether or not to discontinue service. Under existing subsection (d), Amtrak could not discontinue a long-distance train if it meets the criteria of 150 passenger miles per train mile and a 7 cent avoidable loss per passenger mile. Similarly, a short-distance train cannot be eliminated if it meets a criteria of 80 passenger miles per train mile and a 9 cent avoidable loss per passenger mile. Furthermore, Amtrak is mandated under existing subsection (c) to conduct an annual review of all long-distance trains and is required under subsections (e) through (g) to operate certain regional balance trains and short-haul demonstration trains. Finally, subsection (b) requires that Amtrak make certain other discontinuances subject to its corporate route and service criteria.

This section would eliminate those requirements in order to facilitate the adjustments in Amtrak's system necessitated by this legislation. Amtrak would be able to discontinue any service, without regard to any statutory criteria or to its corporate route and service criteria, as it deemed appropriate in order to comply with the funding levels of this legislation.

The Senate amendment also added an important new section 407 to Title IV of the Rail Passenger Service Act. Subsection 407(a) would require Amtrak to operate within the limits of available resources, including Federal grants, state and local assistance, and revenues. Furthermore, beginning in fiscal 1982, Amtrak's revenues, including non-Federal funding, would have to cover at least 50 percent of its total operating costs, excluding capital costs. Also, under subsection (c) Amtrak would be required to reduce its management costs by 10 percent before October, 1983.

Amtrak would be authorized under subsection (b) to discontinue routes, trains and services, or reduce frequency of service, as necessary to comply with the funding levels of this legislation. Amtrak would be required to provide notice upon date of enactment of its intention to discontinue service as appropriate to give states and other parties an opportunity to agree to share in the costs of such operations.

Conference substitute

The Conference substitute is intended to ensure that Amtrak provides cost-effective and efficient service and to ensure that Amtrak has the ability to improve its overall performance.

In this regard, this section requires that, commencing in fiscal 1982, Amtrak recover 50 percent of its costs, excluding capital costs, from its revenues, including non-Federal contributions. In addition, Amtrak is required to reduce costs associated with its management.

The Conference substitute further provides that Amtrak shall conduct an annual review of the trains which it operates in its basic system and shall discontinue, modify or adjust service which does not meet the performance criteria. The criteria are an objective measure of a train's performance and should, therefore, guide Amtrak in making decisions regarding service reduction or adjustments.

For short-distance trains, the statutory criteria provide that the avoidable loss per passenger mile, as calculated by Amtrak and projected for the next fiscal year, not exceed nine cents, and that the passenger miles per train mile not be less than 80. Adjusted to reflected constant 1979 dollars, as both the Conference substitute and the present law require, the criteria in fiscal year 1982 limit the avoidable loss per passenger mile of short-distance trains to 12.9 cents.

The criteria provide that the avoidable loss per passenger mile of long-distance trains, as calculated by Amtrak and projected for the next fiscal year, shall not exceed seven cents and that the passenger miles per train mile not be less than 150.

Adjusted for constant 1979 dollars, this criteria stipulates that the avoidable loss per passenger mile of long-distance trains shall not exceed 10.1 cents during fiscal year 1982.

For purposes of modifying or adjusting routes which do not meet the criteria as determined by the annual review, this section exempts Amtrak from the provision in current law requiring that all reductions or additions of service be made in accordance with the route and service criteria. The conferees believe that adherence to the procedure for eliminating service under the route and service criteria, including requirements for local hearings, could delay Amtrak's ability to make important service modifications or adjustments.

It is the intent of the conferees that Amtrak should make every effort to adjust or modify service so that routes will meet the criteria. The conferees also intend to ensure that Amtrak pursue all available alternatives with respect to all the routes in the system, including the Cardinal, the Inter-American and the Pioneer, in order that the maximum level of service be maintained.

In addition, at the beginning of each fiscal year, the Conference substitute requires Amtrak to assess its financial needs for operating all of the service provided at the time. If Amtrak projects that it cannot operate its system within its available resources, then Amtrak is directed under this provision to take such actions as may be necessary to reduce costs and improve performance. Such actions may include the following: changing the frequency of service; increasing fares; reducing the cost of sleeper car and dining car services on certain routes; increasing the passenger capacity of cars used on certain routes; restructuring, adjusting or discontinuing service over routes, considering short-term avoidable loss and the number of passengers served by such routes.

In order to accomplish the reductions or discontinuances of services which Amtrak determines are necessary in order to operate with the funds available, the conference substitute exempts Amtrak from the requirements of the route and service criteria.

The conference substitute also creates a procedure by which Amtrak may amend the route and service criteria. The conferees believe that Amtrak's management needs flexibility to make adjustment in its system in order to create efficient and cost-effective service.

With respect to discontinuances, this section provides that Amtrak shall give advance notification to states and localities of the discontinuance of service over any route.

In addition, this section provides for the continued operation of rail passenger service which is presently operated under the authority of section 403(d) of the Rail Passenger Service Act, as long as it meets the criteria in section 404(d)(2)(B) of the Act. Those trains which Amtrak operates under this section are among the better performers in the system and provide essential service which the conferees believe Amtrak should continue under the present funding and operating arrangements.

Finally, the conferees would encourage Amtrak to place importance on maintaining its long distance routes. Such routes are an integral part of the nation's transportation network and remain an important al-

ternative which serves the transportation and energy needs of the country.

SECTION 1184—EXTENSION OF COMPENSATION FOR PASS RIDERS

House bill

The House bill amended 45 U.S.C. 565 to provide that Amtrak continue to be reimbursed by other railroads for their employees who ride on Amtrak at a reduced rate. The reimbursement would be equal to at least 25 percent of the revenue that Amtrak would otherwise have received.

Senate amendment

The Senate provision was identical to the House provision.

Conference substitute

The conference substitute adopts the House provision.

SECTION 1185—AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill amended 45 U.S.C. 601(b) to authorize $625 million for operating expenses for fiscal year 1982, of which $24 million is for capital and operating expenses associated with provision of 403(b) service.

This section also stated that not more than 50 percent of the amount by which the Corporation subsidized the provision of food and beverage services in fiscal year 1981 shall be used to subsidize such service in fiscal year 1982. This section also reduced certain prior year authorizations for capital expenses and labor protection.

For fiscal year 1982, this section authorized $842 million, of which:

(a) $170 million is for capital expenses; and

(b) $26 million is for capital and operating expenses associated with provision of service under 403(b).

Senate amendment

The Senate amendment authorized appropriations not to exceed $735 million for each of the fiscal years 1982 and 1983 and not to exceed $640,000,000 for fiscal year 1984. No specific amounts were set aside for operating capital, non-federally subsidized service, or labor protection. Accordingly, section 601 was amended to remove the specific fiscal 1982 figures for capital, state-subsidized service, and labor protection.

Conference substitute

The Conference substitute represents a compromise between the two bills by authorizing $735 million for operating and capital expenses for fiscal year 1982, of which $24 million is for capital and operating expenses associated with provision of 403(b) service. The Conference substitute also authorizes $788 million for operating and capital expenses for fiscal year 1983, of which $26 million is for capital and operating expenses associated with provision of 403(b) service.

The substitute also contains the House provision which states that not more than 50 percent of the amount by which the Corporation subsidized the provision of food and beverage services in fiscal year 1981 shall be used to subsidize such service in fiscal year 1982.

SECTION 1186—LOAN GUARANTEES

House bill

The House bill amended 45 U.S.C. 602(d) to increase the level of loan authority available to the Corporation and to eliminate the requirement that the Corporation pay the Department of Transportation a fee for serving as the guarantor of its loan with the Federal Financing Bank.

This section also amended 45 U.S.C. 602 to provide for the Corporation to defer making interest payments on its debt to the Federal government for the period of this authorization. In addition, this section stated that deferral of interest payments by the Corporation shall not constitute default under any note or obligation of the Corporation, and that notes of the Corporation shall continue to be refinanced by the Secretary and the Federal Financing Bank as they mature in order to pay for previously ordered equipment.

Senate amendment

The Senate amendment contained no similar provision.

Conference substitute

The Senate recedes to the House provision with respect to the guarantee fee and the level of loan authority. The new loan authority will cover the final payment on the purchase by Amtrak of the Northeast Corridor.

The Conference substitute also adopts a provision similar to the House bill with respect to interest deferral. This provision allows Amtrak to defer its interest payments during fiscal years 1982 and 1983, amounting to $82 million and $100 million, respectively. However, such interest would remain as an obligation to the Federal Financing Bank, and it is intended that interest would accrue on this outstanding obligation.

This interest deferral is not to constitute a default with respect to any note or obligation, and the Secretary of Transportation is to continue to guarantee loans to Amtrak for fulfillment of existing obligations. The conferees understand that three of Amtrak's notes having a total value of $750 million will mature in fiscal years 1982 and 1983 and direct the Secretary of Transportation and the Federal Financing Bank to refinance these notes in the usual manner.

This legislation would also require that the Department of Transportation, in consultation with Amtrak, the Treasury Department, and the General Accounting Office, submit to Congress by February 1, 1982, legislative recommendations for relieving Amtrak of its debt obligation. The conferees believe that this continuing issue of Amtrak's loan repayment should finally be resolved by relieving Amtrak of its obligation to repay the principal and interest associated with its debt to the Federal Financing Bank.

The conferees emphasize that this interest deferral is not intended to set a precedent for future actions with respect to a debt owed the Federal Government. The conferees were concerned that Amtrak have sufficient funds to operate its system and thus approved this extraordinary measure of deferral.

SECTION 1187—RAIL CORRIDOR DEVELOPMENT AND OTHER STUDIES

House bill

The House bill required the Corporation to report to Congress by January 15, 1982 with recommendations and a plan for development of rail corridors.

Senate amendment

The Senate amendment required Amtrak and representatives of labor and other railroads to submit to Congress within 6 months of the date of enactment of this legislation a joint report regarding efforts and recommendations to achieve efficiencies in both the Amtrak management and labor areas.

The Senate amendment also required Amtrak to report to Congress within 3 months of the date of enactment of this legislation on any actual or potential problems, with appropriate legislative recommendations, regarding the direct employment of operating employees for whose services Amtrak now contracts with the operating railroads.

Conference substitute

The conference substitute adopts the House provision, with some amendments, and the Senate amendments without modifications.

The conferees believe the cost-effectiveness and energy efficiency of rail passenger service is largely dependent on Amtrak's ability to increase ridership. If Amtrak's system-wide average ridership were increased, the passenger miles generated per dollar of public investment as well as the energy efficiency of Amtrak's service would also increase. Estimates are that increased ridership could result in a tripling of the number of passenger miles per gallon of fuel that Amtrak provides.

The conferees believe, therefore, that Amtrak should develop services which have the greatest potential for increasing ridership. Rail corridors, providing frequent and fast train service over short to medium distances, from city center to city center, hold great potential for increasing Amtrak's ridership.

The Passenger Railroad Rebuilding Act of 1930 directed the Federal Railroad Administration and Amtrak to evaluate the market potential for rail corridor service between 25 different city pairs around the country and to perform detailed design and engineering studies to identify the improvements needed to implement rail corridor service.

The resulting report demonstrates that corridors could help rail passenger service achieve a number of different goals: cost-effectiveness; increased ridership; and energy efficiency. According to the study, six of the corridors could be developed and operated for a public expenditure of 15 cents or less per passenger mile: Los Angeles-San Diego, $.06/passenger mile; Philadelphia-Atlantic City, $.12/passenger mile; New York-Buffalo, $.12/passenger mile; Chicago-Detroit, $.13/passenger mile; Los Angeles-Las Vegas, $.14/passenger mile and Chicago-Cincinnati, $.15/passenger mile.

High ridership was also projected for a number of the corridors. By 1985, the Philadelphia-Atlantic City corridor is projected to carry four million passengers annually, and its passenger mile per train mile rating would be 304—higher than all but two trains Amtrak presently operates. The study also projected Los Angeles-San Diego to have a passenger mile per train rating of 180 and New York-Buffalo, one of 123.

While a number of the corridors were projected to result in substantial energy savings, the Philadelphia-Atlantic City corridor is the only one that was projected to be more fuel efficient than bus service. According to the study, development of the Philadelphia-Atlantic City corridor would result in an energy efficiency rating of 229 passenger miles per gallon of gasoline or diesel fuel. Bus service would yield only 135 passenger miles per gallon of fuel. Other corridors that ranked high in energy efficiency were Chicago-Cincinnati, 117 passenger miles per gallon of fuel, and New York-Buffalo, 100 passenger miles per gallon of fuel.

The conferees note that the potential demand for rail service in certain corridors is high. The Chicago-Detroit corridor has one of the highest "on-line" populations. The State of Michigan has demonstrated strong support for rail service and the conferees believe that Amtrak should work with the state in the development of corridor service on this route.

In addition, development of certain corridors has been shown to significantly increase the share of all intercity passengers who would travel by rail. According to information from the Department of Transportation, development of the New York-Buffalo corridor would increase rail services' share of the total inter-city passenger market from 5.8 percent (projected for 1985 without corridor service) to 9.3 percent (projected for 1985 with corridor service)—a 3.5 percent increase. Furthermore, the conferees note that in some cases states have begun to work directly with Amtrak in building a dedicated rail ridership market and in developing rail corridor service. The State of Illinois is funding the crea-

tion of a station stop at Normal, Illinois which will make rail service on the Chicago-St. Louis corridor accessible to a total student population of more than 170,000.

In addition, the State of Illinois has funded an engineering study for the development of corridor service. The conferees believe Amtrak should work with the state in conducting this study and in evaluating the potential for rail corridor service along this route.

The development of rail corridor service has the potential of improving Amtrak's overall efficiency. Therefore, the conferees believe that in fiscal year 1982 Amtrak should begin design and engineering studies on those corridors which will improve the cost-effectiveness, energy-efficiency and ridership of the service Amtrak provides.

The conferees believe Amtrak should develop design and engineering plans on at least the following corridors: Los Angeles-Las Vegas; Chicago-Detroit; Chicago-St. Louis; New York-Buffalo; the Texas Triangle; and Chicago-Cincinnati; and Philadelphia-Atlantic City.

In addition, the conferees believe Amtrak should undertake development of a preliminary engineering study of the Los Angeles-San Diego Corridor to determine the feasibility of instituting higher frequency of service within the corridor. In doing so, Amtrak shall work with the Orange County Transportation Commission in the development of the transportation study within the Los Angeles-San Diego corridor which is in progress on the date of enactment of the Act. Specifically, Amtrak should participate and cooperate by portion of the study or Draft Environmental Impact Statement dealing with increased frequency of service on the corridor. Upon completion, the Draft Environmental Impact Statement should be transmitted to the Secretary of Transportation for certification.

The conferees believe that Amtrak should work with state and local governments and private interests in the development of rail corridor service. The conferees note with interest that there is strong private sector interest in two of the corridors, Philadelphia-Atlantic City and Las Vegas-Los Angeles. The conferees feel strongly that Amtrak should make every effort to enter into cooperative agreements with private interests, state and local governments or both for the development of these corridors. With particular respect to the Las Vegas-Los Angeles Corridor, the conferees also urge the Department of Transportation to work with Amtrak and the state and local officials in the study and development of high-speed rail passenger service in that area.

The conference substitute directs Amtrak to report to Congress not later than June 1, 1982 with its recommendations for the development of rail corridors. Amtrak is to include in its report an identification of the corridors it would develop, a timetable for their development, and a financial plan outlining how such development would be financed.

The conferees intend to examine Amtrak's report. It is expected that whatever efforts are made towards corridor development should complement and strengthen Amtrak's system.

SECTION 1188—TECHNICAL AND CONFORMING AMENDMENTS

House bill

The House bill made certain technical and conforming amendments.

Subsection (a) merely conformed the Corporation's mission to include the new functions provided in this Act related to commuter service.

Subsection (b) conformed the powers of the Corporation to the new functions provided in this Act.

Subsection (c) merely indicated that preference is to be given to commuter trains as well as intercity passenger trains.

Subsection (d) made inapplicable to Amtrak Commuter certain protective arrangements.

Subsection (e) repealed Section 702 of the Railroad Revitalization and Regulatory Reform Act of 1976. This section established the Operations Review Panel (ORP) to resolve disputes over operations on the Northeast Corridor. The ORP is no longer necessary because of the provisions for Northeast Corridor coordination included as part of the the new Title V of the Rail Passenger Service Act.

Senate amendment

The Senate amendment made certain other technical and conforming amendments to the Rail Passenger Service Act.

Conference substitute

The Conference substitute adopts certain technical and conforming amendments.

SECTION 1189—EFFECTIVE DATE

House bill

The House bill established October 1, 1981 as the effective date.

Senate amendment

The Senate amendment provided that the provisions of the legislation were to take effect on the date of enactment, except as otherwise provided in the legislation.

Conference substitute

The effective date of the Act shall be October 1, 1981 except as otherwise provided under this Act.

EMPLOYEE PROTECTION

House bill

The House bill limited Amtrak's obligation to make certain labor protection payments to $10 million in fiscal year 1982.

Senate amendment

The Senate amendment made significant changes in the employee protection provisions contained in section 405 of the Rail Passenger Service Act in anticipation of the service discontinuances which would result from the legislation.

Specifically, new subsection (f) would require the Amtrak Board of Directors to elect for its employees one of two labor protection programs. This election would be made, within 60 days of the date of enactment of this Act, between the contractual agreements currently in effect and the labor protection provisions included in this section. Pursuant to new subsections (g) and (h)(1), if this latter program is chosen, Amtrak would be required to give appropriate notice, and the current labor protection contracts would no longer be in effect. This program would provide the exclusive protection.

This new labor protection program as outlined in subsection (h) (2) through (4) would provide that an Amtrak employee deprived of employment would receive from Amtrak a separation allowance based on the years of completed service with Amtrak and with a predecessor rail carrier. Employees with service between 6 and 15 years would be entitled to receive $1,000 per year for each year of completed service over 5 years. Employees with service between 16 and 25 years would be entitled to receive $10,000 plus $2,000 for each year of completed service over 15 years. Employees with service of over 25 years would be entitled to receive $10,000 plus $2,000 for each year of completed half of such separation allowance no later than 30 days after the employee is separated from employment, with the remainder to be paid within 90 days. These payments would be considered taxable earnings for the purposes of the Railroad Unemployment Insurance Act.

The benefits provided under this section would also include moving expenses if the employee is required to make a change in residence within 3 years of the discontinuance in order to retain employment with Amtrak or to obtain employment with another rail carrier. The maximum moving expenses benefit would be $5,000 and would include the costs of moving the employee's family and the costs associated with the sale of a house or with an unexpired lease.

The employee also would be entitled to receive reasonable expenses for new career training if begun within 2 years of a service discontinuance. The maximum benefit for retraining would be $5,000. Finally, the employee would be entitled to a continuation of medical insurance coverage for a period not to exceed 6 months from the date of seperation unless covered in a new position by substantially equivalent group medical coverage. Any dispute over these benefits would be resolved through arbitration procedures agreed to by labor and Amtrak management.

A right of first hire with other rail carriers would be provided for any vacancy in a class or craft in which an employee was employed by Amtrak or a predecessor railroad, unless such vacancy is covered by an mandatory or permissive affirmative action plan. All the rights afforded by this labor protection provision are mandated to be coequal with those afforded by the Milwaukee Railroad Restructing Act and the Rock Island Transition and Employee Assistance Act.

In addition to the labor protective provisions outlined above, section 14 of the bill makes two changes in existing law. First, it would repeal existing section 405(e) which prohibits Amtrak from contracting out for services if it would result in an employee layoff. It is expected that the elimination of this provision would allow Amtrak to contract out for food services, on which it loses at least $50 million a year.

Conference substitute

Neither provision was adopted in the Conference substitute. With respect to the Senate provision allowing contracting out for any service, the Senate recedes to the House to the extent that contracting out is limited to the area of food and beverage service, as provided in Section 1177 of the Conference substitute.

BASIC RAIL PASSENGER SYSTEM

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment repealed Title II of the Rail Passenger Service Act as outdated and no longer necessary. Title II of the Act sets forth the process which led to the designation of the original Amtrak system and the restructuring implemented in the Amtrak Reorganization Act of 1979.

Conference substitute

The Senate recedes to the House on this provision.

PRIVATE SECTOR RAIL SERVICE

House bill

The House bill contained no similar provision.

Senate amendment

The Senate amendment added a new section 812 to the Rail Passenger Service Act encouraging any party to undertake rail passenger service, in view of the anticipated reduction by Amtrak of its system pursuant to this legislation.

Conference substitute

The Senate recedes to the House on this provision.

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

House bill

The House bill contained no similar provisions.

Senate amendment

The Senate amendment amended Section 504(f) of the Regional Rail Reorganization Act to provide that labor negotiations between Amtrak and former Conrail employees

are to commence 90 days after the date of enactment of this legislation. In this regard, this section would eliminate the provision that if no agreement is reached within a certain time period, these employees retain the work rules which they had at Conrail. This amendment was intended to encourage a renegotiation with these employees to assist Amtrak in assuming total control over the train and engine crews in the Northeast Corridor and to assist Amtrak in reducing some of its labor costs.

Also, this section amended the 3–R Act to permit Amtrak to transfer employees in the Northeast Corridor outside of their seniority districts. Currently, other railroads operating in the Northeast have this option.

Conference substitute

The Senate recedes to the House on these provisions.

MARKETING AND PROMOTION

House bill

The House bill provided that Amtrak should spend at least 1 percent of the revenues from 403(b) service on the advertisement of such service locally.

Senate amendment

The Senate amendment amended section 403(b)(8) of the Rail Passenger Service Act to require Amtrak to dedicate at least 4 percent of the revenues generated on a route subsidized under that section to local advertising and promotion of such service. The current law provides that Amtrak dedicate no more than 5 percent of such purpose.

Conference substitute

The conference substitute in Section 1182 directs Amtrak to dedicate at least 2 percent, but not more than 5 percent, of the revenues generated on a route subsidized under section 403(b) to local advertising and promotion of such service.

TRANSFER OF NORTHEAST CORRIDOR INTERCITY PASSENGER SERVICES TO AMTRAK

House bill

The House bill contained no similar provisions.

Senate amendment

The Senate amendment authorized Amtrak to initiate negotiations with Conrail for the transfer of intercity passenger service operated by Conrail. The section provided that the transfer agreement shall specify at least the service responsibilities to be transferred, the rail properties to be conveyed, and a transfer date not later than one year after enactment of this Act. Further, it required that such transfer agreements be entered into not later than 180 days after the date of enactment.

If Conrail and Amtrak have not signed a transfer agreement within 180 days of enactment, the section directed the Secretary of Transportation to determine within 30 days the terms and conditions of the transfer and the rail properties to be transferred.

If Conrail and Amtrak do not sign an agreement for the transfer, either party could appeal to the Secretary for a determination of the properties to be transferred and the terms and conditions of the transfer.

This section provided that Amtrak shall be deemed with respect to its service functions a rail carrier subject to Federal laws governing the rights of employees in the railroad industry, including the Federal Employers Liability Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Federal railroad safety laws.

Conference substitute

The Senate recedes to the House on this provision.

TRANSFER OF NORTHEAST CORRIDOR INTERCITY PASSENGER EMPLOYEES TO AMTRAK

House bill

The House bill contains no similar provision.

Senate amendment

The Senate amendment addressed the transfer of Conrail Northeast corridor passenger employees to Amtrak. It required Conrail and Amtrak to estimate the number of positions (by full-time equivalent positions) devoted to services for which Conrail provides personnel for the operation of Amtrak intercity passenger trains on the Northeast corridor. Conrail was directed to transfer to Amtrak a sufficient number of employees to fill the new Amtrak positions.

This section relieved Conrail of its contractual obligation to provide operating personnel for Amtrak Northeast corridor trains, since the requisite personnel will be permanently transferred to Amtrak under this section.

Conference substitute

The Senate recedes to the House on this provision.

DEFINITIONS RELATING TO NORTHEAST CORRIDOR PROVISIONS

House bill

The House bill contained no similar provision.

Senate amendment

The Senate amendment defined the terms "Amtrak" and "Conrail" for purposes of the transfer provisions included in the Senate bill.

Conference substitute

The Senate recedes to the House on these provisions.

PENALTY FOR UNTIMELY PERFORMANCE

House bill

The House bill contained no similar provision.

Senate amendment

The Senate amendment provided that when a passenger train arrives more than 15 minutes late at a station due to interference by a freight train, the responsible railroad must pay a fine to Amtrak. The fine was to be determined by the Commission.

Conference substitute

The Senate recedes with an amendment included in section 1181 of the Conference substitute stating that contracts between Amtrak and the operating railroads shall include a penalty provision for untimely performance.

SUBTITLE G—MISCELLANEOUS: SECTION 1191—AUTHORIZATION OF APPROPRIATIONS

House bill

The House authorized $40,000,000 for the Local Rail Services Assistance Program in fiscal year 1982, $44,000,000 in fiscal year 1983 and $49,000,000 in fiscal year 1984.

Senate amendment

The Senate bill limited the authorization for the Local Rail Services Administration to $40,000,000 in fiscal year 1982, $44,000,000 in fiscal year 1983 and $48,000,000 in fiscal year 1984.

Conference substitute

The Conference substitute adopts the Senate provision.

SECTION 1192—RAIL FREIGHT ASSISTANCE

House bill

Sec. 6521 of the House bill authorizes funding of $40 million to be made available in FY 1982, $44 million in FY 1983, and $49 million in FY 1984.

Sec. 6522 of the House bill changes program in a number of respects. Federal share is changed from 80 percent to 70 percent. Federal share is changed from 80 percent to 70 percent. Applications must be filed during first 6 months of the fiscal year. To the extent applications are not timely filed, Secretary may distribute funds according to new criteria specified in statute (likelihood of future abandonments, ration of benefits to costs, etc.). On the first day of fiscal year, State shall be entitled to $100,000 for planning purposes. DOT is required to approve or disapprove application within 45 days of filing. State retains contingent interest for Federal share if line is sold after receiving Federal assistance.

Senate amendment

Section 422 of the Senate bill authorizes rail service assistance funding as follows: $40 million for FY 1982; $44 million for FY 1983; and $48 million for FY 1984.

Conference substitute

House recedes on funding and elimination of 1 percent guaranteed funding to all participating states.

SECTION 1193—NORTHEAST CORRIDOR IMPROVEMENT PROJECT

House bill

The House bill provided that not more than $200,000,000 would be authorized for the Northeast Corridor Improvement Project in Fiscal Year 1982 and not more than $185 million in Fiscal Year 1983. In addition, the House Bill stated certain provisions of the existing law which the Secretary has cited as reasons for reducing the scope of the project.

Senate amendment

The Senate amendment authorized $215 million for Fiscal Year 1982 and $185 million for Fiscal Year 1983.

Conference substitute

Senate recedes to House authorization. The Conference Substitute also contains a provision requiring the Secretary to complete the Corridor Improvement Project in accordance with the goals and to the extent funds are authorized under the Railroad Revitalization and Regulatory Reform Act of 1976 as amended.

The Conferees note that the Northeast Corridor is an important part of the national transportation system. It is the Conferees intent that all funds authorized under the Railroad Revitalization and Regulatory Reform Act of 1976 as amended be used to complete project improvements.

SECTION 1194—AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill authorized $34,000,000 for fiscal year 1982, $37,000,000 for fiscal year 1983, and $38,650,000 for fiscal year 1984 for railroad research and development. The House bill also authorized $10,000,000 for the Minority Business Resource Center for each of the fiscal years 1982, 1983, and 1984.

Senate amendment

The Senate amendment authorized $40,000,000 for fiscal year 1982, $44,000,000 for fiscal year 1983 and $48,000,000 for fiscal year 1984 for railroad research and development.

The Senate amendment also authorized $5,000,000 for fiscal year 1982, $5,500,000 for fiscal year 1983, and $6,000,000 for fiscal year 1984 for the Minority Business Resource Center.

Conference substitute

The House recedes to the Senate with an authorization of $40,000,000 for Railroad Research and Development for fiscal year 1932. The Conference substitute contains no authorization for fiscal years 1983 and 1984. The conferees intend that the Federal Railroad Administration shall maintain and continue to operate the Transportation Test Center at Pueblo, Colorado. The Senate recedes to the House on funding for the Minority Business Resource Center.

SECTION 1195—RAILROAD SAFETY

House bill

The House bill authorized $27,650,000 for fiscal year 1982 to carry out the provisions of the Federal Railroad Safety Act of 1970.

Senate amendment

The Senate amendment contained no limitation on the existing authorization.

Conference substitute

The Senate recedes to the House on this provision.

Conferees are encouraged by the high priority the Secretary and the Administrator of the Federal Railroad Administration have attached to the need to improve safety. Recent technological improvements provide opportunities for progress in these areas particularly in the detection of cracks and defects in railroad wheels. The Conferees recommend that up to $2 million of the Department's authorization for rail programs be used for the purpose of implementing new technology to improve rail safety in this regard. The Conferees further recommend that this program be a joint one with the railroad industry. The Secretary shall report to the Commerce Committees of both Houses by February 19, 1982 on the progress of the testing and demonstration program.

SECTION 1196—INTERSTATE COMMERCE COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment authorized $77,900,000 for fiscal year 1982, $80,400,000 for fiscal year 1983, and $80,400,000 for fiscal year 1984.

Conference substitute

The Senate recedes to the House with an authorization of $79,000,000 for fiscal year 1982. The House recedes to the Senate with an authorization of $80,400,000 for each of the fiscal years 1983 and 1984.

SECTION 1197—TRANSPORTATION RESEARCH AND SPECIAL PROGRAMS

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment authorized $30,047,000 for fiscal year 1982, $32,300,000 for fiscal year 1984 for Research and Special Programs Administration.

Conference substitute

The House recedes to the Senate on the authorizations for fiscal years 1982 and 1983. The Senate recedes to the House with an authorization of $33,300,000 for fiscal year 1984.

SECTION 1199A—STATEMENT OF MANAGERS

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The conferees included this provision in the final bill because the extraordinary time pressures of the budget process prevented the conferees from preparing a statement of managers in time to be printed in the Conference Report.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER), would vote yea.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Montana (Mr. MELCHER), and the Senator from Nebraska (Mr. ZORINSKY), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 80, nays 14, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—80

Abdnor	East	Matsunaga
Andrews	Exon	Mattingly
Armstrong	Ford	Mitchell
Baker	Garn	Moynihan
Baucus	Glenn	Murkowski
Bentsen	Gorton	Nickles
Biden	Grassley	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Proxmire
Burdick	Hayakawa	Pryor
Byrd, Harry F., Jr.	Heflin	Quayle
	Heinz	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Rudman
Chafee	Huddleston	Sasser
Chiles	Humphrey	Schmitt
Cochran	Inouye	Simpson
Cohen	Jackson	Specter
D'Amato	Jepsen	Stafford
Danforth	Johnston	Stennis
DeConcini	Kassebaum	Stevens
Denton	Kasten	Symms
Dixon	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner

NAYS—14

Cranston	Leahy	Riegle
Dodd	Levin	Sarbanes
Eagleton	Metzenbaum	Tsongas
Hart	Pell	Williams
Kennedy	Pressler	

NOT VOTING—6

Bumpers	McClure	Weicker
Goldwater	Melcher	Zorinsky

So the conference report (on H.R. 3982) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the conference report was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 4331—TO AMEND THE OMNIBUS RECONCILIATION ACT OF 1981 TO RESTORE MINIMUM BENEFITS UNDER THE SOCIAL SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized for 10 minutes.

Mr. RIEGLE. Mr. President, I had 15 minutes on the conference report.

The PRESIDING OFFICER. The Chair understands there were 15 minutes, with 10 minutes allocated to the Senator from Michigan and 5 minutes allocated to the Senator from Tennessee. The Senator from Michigan is recognized, but before the Senator from Michigan begins, the Senate will be in order. Senators will clear the aisles. The Senate is not in order. The Senator from Michigan.

Mr. RIEGLE. Mr. President, very shortly I will endeavor to bring to a vote here on the Senate floor the minimum benefit on the social security restoration.

For the benefit of colleagues in the Chamber you should understand what happened today in the House of Representatives. The House by a vote of 404 to 20 voted to restore and maintain the minimum benefit on social security, and to do it by force of law and, in effect, to undo the removal of that benefit contained in the reconciliation bill we just passed here moments ago. Moreover they not only would maintain the minimum benefit for those people who now receive it but they would continue it on into the future for those who would become entitled to receive it in future years.

I stress again the vote was 404 to 20. So both parties in the House are overwhelmingly on record in terms of acting on that today.

Now that bill has come over from the House and is right now here at the desk of the Senate. We have the remainder of 15 minutes to discuss this issue, but I think it is essential that the Senate vote on this issue today. The President, within the last week, has gone to the country on national television to repeat his promise that no one receiving social security benefits today will have those benefits taken away, and we know that the bill that we have just passed takes away the minimum benefit under social security.

The bill the House has passed today, and which now is at the desk here in the Senate would restore that benefit. It would keep the President's promise and it would enable us to go out during the August recess without having the elderly people in this country, the 3 million who receive this benefit, in doubt, wondering what is going to happen to them, wondering why it is that the House of Representatives could take this issue up today and vote on it, but here in the U.S. Senate, despite the fact that we could act on other issues, we just could not find the time or find a way to act on this issue.

Well, clearly, we can act. I think we can afford the 15 minutes that a rollcall vote takes. I know people want to leave town, and I can understand that. But we are not sure now but that we will be in tomorrow, so there is not really a certainty as to what the schedule is for the next hour in any event.

But even if that were a consideration I would hope the Senate would be willing to take this issue and take it off the desk right now within a matter of 15 minutes and vote up or down, and I would hope vote up the restoration of this minimum benefit under social security. At the very least let us not slip quietly out of this Chamber today without facing this issue squarely.

The President has addressed it, the House of Representatives has voted on it today, and we have an opportunity now here to vote on it. I think we have an obligation to do so.

I think we have an obligation to face this issue, and when you go back to your States during the month of August and you talk to people you can tell them you voted and why. But I do not think it is acceptable to go home today and to say, "Well, I am sorry, we just did not have

time. We just could not take the 15 minutes that it took to vote on this issue."

I think we ought to vote on it and I hope the votes are here to keep the President's promise. The votes were there in the House of Representatives today. Their desire now is to put that burden on our back, the Senate being unwilling to face the issue. We should face the issue, and we ought to vote on it right now. We are in position to do so, and shortly I will ask unanimous consent, as I previously indicated, that the House bill, H.R. 4331, be taken up and voted on immediately and we can settle this issue.

Mr. KENNEDY. Mr. President, will the Senator yield to me?

Mr. DOMENICI. Mr. President, reserving the right to object——

Mr. KENNEDY. The Senator from Michigan has the floor.

The PRESIDING OFFICER. The Senator made unanimous-consent request.

Mr. RIEGLE. I am withholding that. I yield time to the Senator from Massachusetts.

Mr. KENNEDY. I think the Senator from Michigan has made a very important point here. We have just received two messages from the House of Representatives, one on the conference report and one on social security. We acted on the reconciliation proposal here and handled that within a period of 1 hour.

Now, 400 Members of the House of Representatives have said to the elderly people of this country, "We want to say to you we are going to continue the minimum social security payments."

Mr. RIEGLE. Mr. President, could we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. RIEGLE. This is important.

Mr. KENNEDY. Four hundred Members of the House of Representatives have acted this afternoon and said, "We want to give assurances to the senior citizens of this country that they are going to continue to have the minimum social security payments."

Two pieces of legislation came over here. We have acted on one, and all the Senator from Michigan is asking is that the Senate, in its own good time, act this afternoon on the other which got 400 votes in the House of Representatives, on an issue that the President gave assurance to the American people that there was going to be no reduction.

Now, what can possibly be the objection for the Senate of the United States to vote on that issue? We voted up and down on that issue on three different occasions. We know what the issue is. The House of Representatives has asked for it and has voted for it. I just think for us to go out here at a time of the August recess and go home and try to explain to the elderly people of this country that we cannot act because we are tied up in some parliamentary maneuver here, which will refuse to permit the Senate to go on record on a substantive issue, is irresponsible action.

Now, I would hope that the——

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. The majority in this body has the power to delay, to postpone, to reject. I think what we are going to see now in just a few minutes is whether the majority is going to delay and postpone and reject a reasonable request that should be honored by any Member of this body, and that is that what we were able to do for the conference on budget reconciliation we should be able to do with respect to the message that came over on the issue of the minimum payment.

So I hope there will not be objection to the request of the Senator from Michigan.

We know what the issue is. We know what the matter is that is before the Senate. The elderly people in this country know what the issue is, and I think we do this body a disservice if we fail to vote either "Yea" or "Nay" on that matter.

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes and fifty seconds.

Mr. RIEGLE. I yield 30 seconds to the Senator from California.

Mr. CRANSTON. Mr. President, I rise in support of the motion by the distinguished Senator from Michigan (Mr. RIEGLE) which would allow the Senate to proceed immediately to restore the minimum social security benefit.

Mr. President, the House has voted today by an overwhelming margin of 404 to 20 to restore the minimum benefit which would be eliminated for 3 million elderly Americans in the reconciliation conference report. The Senate is now in the position to act in an affirmative fashion to put to rest much of the anguish and fears that have been created in the minds of millions of elderly Americans in the last few months.

Mr. President, Monday night President Reagan told the American people:

> I will not stand by and see those of you who are dependent on social security deprived of your benefits.

Yet, within a few days, he will sign into law a measure that will eliminate the minimum benefit and thereby deprive some of the poorest and most needy social security recipients of their benefits.

Mr. President, over 75 percent of the people who will be affected by elimination of the minimum benefit are elderly women. Most of them are considerably older than 65. Over half are over 70, more than half-million are over 80, and almost 100,000 are over 90. Many of these very elderly social security recipients paid into the social security system at a time when wages were very low and many of them worked in the lowest paying jobs—cooks, laborers, domestic workers.

Mr. President, I think that many Americans are very confused about what this administration intends to do about the social security system. On the one hand, the President has told them he will not stand by and allow those who are dependent upon social security to be deprived of their benefits. Last October, the American people were told by candidate Reagan that the benefits of those now receiving or looking forward to receiving social security must be protected.

Today, they see President Reagan's plan to eliminate the minimum social security benefit received by 3 million elderly Americans being enacted into law. And coming right behind the elimination of minimum benefits is the rest of the Reagan administration's social security benefit reduction proposals—proposals to slash the benefits of millions and millions of Americans who are approaching retirement.

The administration has said it is willing to compromise on the drastic proposal it announced in May.

Yet, what the American people have seen with respect to the first round of social security benefit reductions is an unyielding insistence on total, complete, and retroactive elimination of the minimum benefits. It is important to remember that the votes that have been taken in the Senate on this issue over the past several months have not been whether to eliminate the minimum benefit for future beneficiaries, but whether to take benefits away from elderly individuals who are already receiving these benefits—elderly beneficiaries, in their eighties and nineties who retired 20 and 30 years ago. That is what the fight has been over—and the Reagan administration has not yielded an inch.

Mr. President, if elderly Americans are fearful about the future of the social security system, it is because they have heard the Reagan administration threaten bankruptcy next year, at the same time it has refused to allow the swift passage of legislation—interfund transfer legislation—that would avert any crisis next year.

If elderly Americans are fearful, it is because they have seen President Reagan break promises made by candidate Reagan not to take social security benefits away from current beneficiaries.

If elderly Americans are fearful, it is because they have heard the administration talk about compromises on the drastic proposals it announced in May, but what they see is an unyielding, uncompromising stance on elimination of the minimum benefit.

Mr. President, if President Reagan and the Republicans truly wanted to alleviate the fears of elderly Americans, they would demonstrate it by restoring the minimum benefit for those currently receiving this benefit. If they wanted to eliminate those beneficiaries who receive public pensions or otherwise fail to meet the administration's definition of who should receive the minimum benefit, they would propose legislation targeted at those individuals—not a sweeping elimination of all the individuals affected by the minimum benefit.

Mr. President, we have a unique opportunity to act now to reassure the millions of Americans watching that this Government will not allow social security beneficiaries to suffer, that we will not turn our backs upon 80- and 90-year-old Americans, elderly women receiving minimum social security benefits. To delay,

to give excuses, will send the wrong message to these Americans. Let the Senate speak today with compassion.

Mr. RIEGLE. Mr. President, I yield a minute to the Senator from New York.

Mr. MOYNIHAN. Mr. President, the elemental justice of the issue we are going to present to the Chamber surely commends itself to the Members on both sides of the aisle. We have just adopted an extraordinary reduction in social programs. We are soon to have a tax bill that will provide a third of its unprecedented benefits to 5 percent of the population, and the administration I fear is helping to finance consequent deficits by taking away social security of elderly people, single women, men, who lived their lives at $140 a month, and surely this Chamber will not do that.

It will have an opportunity not to do it in a very short while.

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute and 30 seconds remaining.

Mr. RIEGLE. I yield 30 seconds to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I commend the Senator from Michigan for his leadership in this effort. It is shameful that we ought to stand here talking about whether we are going to reduce the minimum social security benefit of $122 a month at the very same time one of the major disputes facing this Congress has to do with $46 billion in tax cuts for the oil industry.

Mr. President, when I told Budget Director Stockman, several months ago, that I thought that this administration was cruel, inhumane, and heartless, this was precisely the type of issue to which I was addressing myself.

Who are these people, these minimum social security benefit recipients, who deserve to be singled out by this administration for the first actual social security benefit cutbacks in the history of the United States?

Almost a million of them, 941,000 to be precise, are over age 75; 270,000 of them are over age 85; 13,678 of them are over 95.

The only argument we hear from the supporters of eliminating the minimum benefit is that we are somehow eliminating double-dipping. Well, I say to you that if we want to eliminate double-dipping we should begin with someone other than defenseless senior citizens. We should start with high-paid and powerful military retirees and Government retirees who are in the private sector, and not with tens of thousands of people who are 75, 85, and 95 years old.

This Senate must show some compassion here this afternoon. We must show a sense of justice, and we must honor the commitment we have made to our Nation's senior citizens.

Mr. RIEGLE. Mr. President, I yield 30 seconds to the Senator from Maryland.

Mr. SARBANES. Mr. President, I think it is very important to understand that there is a measure at the desk now which, if the Senate will take it up and pass it, will resolve this problem with respect to the minimum social security payment for 3 million people.

It has passed the House earlier today by more than 400 votes. It is at the desk. We can take it up and pass it here and the issue will be put to rest for millions of elderly Americans. We ought not to pass by this opportunity. It would be shameful to do so.

Mr. RIEGLE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee has 5 minutes remaining.

Mr. DOLE. Mr. President, the social security minimum benefit has been the subject of controversy throughout this reconciliation process. The Senate voted on the issue three times during the last 4 months and today the House of Representatives took its second vote on the subject. The elimination of the minimum benefit has become an emotional issue and the emotion, heightened by Democratic rhetoric, threatens to obscure the facts. Obviously, it is time to focus on those often ignored facts.

First of all, and I think this is significant, there is widespread agreement that the minimum benefit should be eliminated for future recipients. The minimum benefit is largely unearned, consisting of a welfare support add-on to the monthly payment a recipient is entitled to from his or her tax contributions. Under current law, some husbands and wives retiring on the minimum benefit next year, for example, would be eligible for a lifetime retirement income from social security about 300 times greater than the amount they paid into the system.

It is widely recognized that the minimum benefit no longer achieves its original purpose. The minimum benefit was intended to provide retirement income for workers with very low wage histories and for those elderly persons whose employment took place primarily before social security covered their work. Times have changed. Today, people who work their lifetimes under social security at low wages—the minimum wage or even half the minimum wage—receive a benefit based on the regular benefit formula that exceeds the minimum benefit.

Elderly poor people actually receive no extra income from the minimum benefit because their Federal assistance payments from SSI are reduced dollar for dollar on account of other sources of income.

The result is that, today, the minimum benefit provides a windfall gain to people with short work histories under social security—such as those with long periods of Government employment. This has been well documented in separate studies by the CBO and GAO. Based on GAO data, it is estimated that 450,000 minimum benefit recipients also receive Federal civil service pensions which average $16,000 annually. Combined with the minimum social security benefit, such retired Federal employees have annual incomes over $18,000.

It is also estimated that some 50,000 minimum beneficiaries have retired spouses who receive $18,500 a year in Federal pension income. The average annual retirement income for such a couple exceeds $21,000.

Yet another group of minimum benefit recipients, approximately 300,000, have working spouses. According to GAO, the combined income for these couples—earnings plus the minimum benefit—is at least $23,000 annually.

To sum up, the relevant data indicate that up to 800,000 current minimum beneficiaries have total incomes which, on the average, exceed $20,000. Certainly, few would consider this a poverty level income.

The only real controversy surrounds the elimination of the minimum benefit for those now receiving it—whether they too should have their benefits recalculated to reflect actual earnings in covered employment. The concern is whether or not there would be a large group of elderly poor adversely affected by this change. This, of course, is no one's intention. Our investigations to date suggest that this would not occur. Anyone who is elderly and poor, or would become poor as a result of eliminating the minimum benefit, is eligible to receive SSI.

For them, Federal assistance payments would rise dollar for dollar to offset any loss of social security income. The available evidence suggests that more than a million of the 3 million minimum benefit recipients will be protected from a decline in their incomes by SSI. The incomes of another million beneficiaries are protected by the fact that they are entitled to more than one social security benefit. In the event one benefit is reduced, the other one is there to make up the difference nearly dollar for dollar.

Two special provisions contained in the reconciliation bill make it even more certain that the elderly poor will not be adversely affected. Under a provision added by the Finance Committee, anyone 60 to 64 who meets the SSI eligibility requirements, would be eligible for a special SSI payment even though they are not yet 65. To insure that they experience no reduction in income, the amount of this payment would be equal to the difference between the minimum benefit they had been receiving and their newly calculated benefit. This means that no minimum beneficiaries 60 or older who are poor must experience a loss of income.

The reconciliation bill also includes a provision that instructs the Social Security Administration to give early notice to recipients who may experience a reduction in benefits. This notice will advise recipients to contact their local social security offices for information on new benefit amounts and eligibility for SSI. This is intended to provide ample time for recipients to contact these offices and be informed of the availability of SSI.

The proposal to eliminate the minimum benefit has been carefully studied in the Finance Committee since it was first recommended by the President in February. For the committee, the facts spoke for themselves, and we adopted the proposal, as did the Senate and the House in their respective reconciliation bills.

To be certain that no unintended side-effects or inequities will be created by eliminating the minimum benefit, we will continue to study the provision during the August recess and hold hearings on the subject in September. If it becomes apparent that the truly needy will be inadvertently harmed by the provision, it will be modified when the Finance Committee meets again.

Since the elimination does not become effective until December, for new recipients, and until March, for current recipients, we will have the opportunity to refine elements of the current provision, where necessary, at the same time we deal with the very serious social security financing problem.

Mr. BAKER. One of the burdens of leadership in the Senate on both sides of the aisle is to attempt to act in a way that serves the ultimate best interests not only of the Members of this community of Senators, but of this Nation.

In the course of the discharge of that responsibility, it is often necessary to meet with Members on both sides of the aisle to try to make arrangements and agreements on how difficult, tedious, and emotional issues will be dealt with.

A good part of my day yesterday was spent in such a meeting with the distinguished Speaker of the House of Representatives; the chairman of the Rules Committee of the House of Representatives, Congressman RICHARD BOLLING; the majority leader of the House of Representatives; the minority leader of the House of Representatives; the minority whip; the chairman of the Budget Committee, and others. Because, at that time, we were on notice that there would be an effort in the Rules Committee of the House of Representatives to attach this measure to the reconciliation conference report as an amendment to be voted on together and that the rule would not have permitted that conference report to have been voted on and dealt with by this Congress before the August recess unless it included this provision.

I must say, in respect to the Speaker of the House and to Congressman BOLLING and others, that we mutually agreed that that should not be the result; that the Congress should act on this measure and do so in a rational and reasonable way. It was decided that there would be a rule in the House today which would provide for two measures instead of one, the conference report and a separate bill dealing with social security minimum benefits.

But it was also clearly understood in that conversation that when that bill—not an amendment to the conference report, not a concurrent resolution, not anything else—but when that bill reached the Senate that it would, indeed, be referred to committee.

All I have said has no bearing on the rights of the Senator from Michigan or the Senator from Massachusetts or the Senator from Ohio or the Senator from California or the Senator from New York. It is to simply tell you the negotiations that went on by the leadership as trustees of the responsibility to operate this body.

Now, if I understand what the distinguished Senator from Michigan has said, he intends to try to produce a rollcall on this issue. He knows, because I have told him, he knows, because it was made clear in a meeting on yesterday, that there would be a unanimous-consent request to proceed to the immediate consideration of this measure and that I would object to it, not because I think there is no need to address the issue of minimum social security benefits, but because this is the way we must transact the business of the Senate in an orderly way and address this question on some basis that bears rational relationship to the issues involved—by referring it to committee.

Mr. President, I do not know what the Senator has in mind. Presumably, he is going to make his unanimous-consent request, and certainly I will object to it. But if he attempts to produce a rollcall vote on this issue or an issue related to it, may I simply suggest to my friend that he has every right to do that. But my friend is also at variance with what Members on both sides of this aisle have agreed was the orderly procedure for trying to dispose of this issue at this time and for the time being.

Mr. President, I have said, the Presi- has said, Congressman MICHEL has said, many have said, and I now repeat, that this issue must be addressed—the question of minimum social security benefits. There are men and women in great need who receive these benefits, but there are others who are not in need and who are a burden on the system unjustly. It is necessary that we address that question as carefully as the system of the Senate will permit.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I will say in the time remaining to me that if the House can act today, the Senate can act today. I think the question here is whether 3 million elderly Americans are worth 15 minutes worth of time that it takes for a rollcall vote on this floor. That is what it takes to vote here.

I plead with my Republican friend to reconsider whatever agreements were made yesterday. Staying here for 15 minutes to vote on this issue is not going to inconvenience anybody. I think it is wrong to leave those 3 million people out there worrying for the next month while we are off on vacation. I think it is wrong. We ought to vote on it.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the bill that is at the desk, H.R. 4331, be called up now and voted on at this time.

Mr. BAKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MOYNIHAN addressed the Chair.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

Mr. President, I withhold the request in deference to the Senator from New York.

Mr. MOYNIHAN. Mr. President, on behalf of Senators KENNEDY, RIEGLE, and myself, I move that the Senate proceed to the immediate consideration of H.R. 4331, the bill to restore the minimum benefit under social security.

The PRESIDING OFFICER. Under rule XIV, paragraph 3, no bill from the House of Representatives may be considered or debated on the day it is received unless by unanimous consent.

Mr. MOYNIHAN. Mr. President, is that the ruling of the Chair?

The PRESIDING OFFICER. Is there objection to the request of the Senator?

Mr. BAKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I recognize that my colleagues want a vote on this measure. I think there ought to be a vote on this measure. I support the measure.

But there are two considerations that I am compelled to mention. One, I asked the distinguished majority leader, I believe it was on yesterday, as to whether or not there would be anything else that would be be called up before the August recess, other than the tax conference report, the reconciliation conference report, and the HUD appropriation bill. He assured me there would not be.

Now, a lot of Senators may have made their plans on the basis of that promise.

Second, the motion has been ruled by the Chair to be out of order. As one who has acted as the majority leader of this body for 4 years, I have to maintain that it is clearly out of order. That is what I would maintain if I were majority leader. I cannot maintain anything else under the present circumstances.

I would hope that we could avoid this controversial vote at this time, which is not going to accurately reveal the sentiments of at least one Senator here. Myself—I can only speak for myself—I support the measure. But I cannot vote to overrule the Chair in this circumstance when the motion is clearly, and beyond any doubt, out of order.

Mr. President, I ask the distinguished majority leader if he would—and I know before I ask the question that it is within the rights of any Senator under rule XIV to initiate action that will force this bill on the calendar after an adjournment over to a new legislative day—I wonder if the distinguished majority leader would consider letting this bill go to the calendar and setting a date next Tuesday or next Monday, when we could move to take up the bill and have a vote on it so that my colleagues would get the vote that they want and we would not have to prostitute the rules of the Senate in order to attempt to force a vote at this time, which is not going to accurately reveal at least one Senator's sentiments on this question. If the distinguished majority leader could find it in his heart to do that, I would personally very much appreciate it.

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, as much as I would like to accommodate the minority leader, I cannot. I recited earlier the long and difficult negotiations undertaken yesterday on how this matter would be handled in both Houses. If for no other reason than that I feel obligated to abide by the arrangements that were worked out at that time, I would not be prepared now to agree by unanimous consent to proceed now or to set a time certain next week.

What I am prepared to say is that if this goes to committee, as I indicated yesterday in our meetings and have said today and repeat now, when this goes to committee I am confident that there will be action on it. I will insist. But, Mr. President, this, I believe, is an effort to force a vote on a collateral issue for the sake of having a vote. I simply cannot agree to that, Mr. President.

I must tell my friend, the minority leader, with great reluctance that I feel obligated to stand by commitments I made in this body and in the other body yesterday. I cannot do that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is another way of going about this, even though I am sure we will be unsuccessful in the effort—as indeed it may be unsuccessful in the long run in the pending approach. I know that the distinguished majority leader and all of my colleagues will understand if I should later resort to another approach by which at least the Senate would have an opportunity to vote on the measure, although indirectly.

Mr. MOYNIHAN. Mr. President, with great reluctance, I cannot accede to the recent request of the majority and minority leaders. They know the respect in which they are held by this Member and all Members.

I respectfully appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The Chair has not ruled. The Chair read rule XIV for the benefit of the Members.

Mr. MOYNIHAN. Was that the ruling of the Chair? Perhaps the Chair will be kind enough to inform the Senator.

The PRESIDING OFFICER. The Chair previously stated under rule XIV, paragraph 3, that no bill from the House of Representatives shall be considered or debated on the day it is received unless by unanimous consent.

The Chair inquired if there was objection and an objection was lodged.

Mr. MOYNIHAN. Mr. President, I move the immediate consideration of the matter and was informed by the Chair that we could not proceed. There was a ruling by the Chair and I ask that the ruling be appealed. That is not an unusual proceeding. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator claim that his motion is in order?

Mr. MOYNIHAN. I claim that my motion is in order.

The PRESIDING OFFICER. The Chair rules that the motion of the Senator is not in order.

Mr. MOYNIHAN. I respectfully appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question, is shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE) and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MELCHER), the Senator from Maine (Mr. MITCHELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

Mr. INOUYE (after having voted in the affirmative). Mr. President, on this vote, I voted "yea." If the distinguished Senator from Tennessee (Mr. SASSER) were here, he would vote "nay." Therefore, I withdraw my vote.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 57, nays 30, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—57

Abdnor	Grassley	Packwood
Andrews	Hart	Percy
Armstrong	Hatch	Pressler
Baker	Hatfield	Proxmire
Boren	Hawkins	Quayle
Boschwitz	Hayakawa	Roth
Byrd, Harry F., Jr.	Heinz	Rudman
Byrd, Robert C.	Helms	Schmitt
Chafee	Humphrey	Simpson
Cochran	Jepsen	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
Denton	Laxalt	Stevens
Dole	Long	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Tower
East	Mattingly	Wallop
Garn	Murkowski	Warner
Gorton	Nickles	
	Nunn	

NAYS—30

Baucus	Exon	Matsunaga
Bentsen	Ford	Metzenbaum
Biden	Glenn	Moynihan
Bradley	Heflin	Pell
Chiles	Huddleston	Pryor
Cranston	Jackson	Randolph
DeConcini	Johnston	Riegle
Dixon	Kennedy	Sarbanes
Dodd	Leahy	Tsongas
Eagleton	Levin	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Inouye, for.

NOT VOTING—12

Bumpers	Goldwater	Mitchell
Burdick	Hollings	Sasser
Cannon	McClure	Weicker
Cohen	Melcher	Zorinsky

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I shall not detain the Senate for very long. I wish to make clear for the record—because I am hearing various questions that are being asked and I think quite properly so—that I was not a participant in the meeting to which the distinguished majority leader referred a moment ago during which certain agreements were reached, and I only wish to say that for the record.

Mr. BAKER. Mr. President, if the minority leader will yield to me, I think he will acknowledge that I did not include his name among them.

Mr. ROBERT C. BYRD. No, not at all. The majority leader did not, nor did he so imply as much.

Mr. President, there is a procedure whereby this measure can be voted on. I do not have any illusions that it will be voted on tonight or in the very near future—with respect to this particular bill at least. But under rule XIV the measure can be put on the calendar and once there, and with passage of two new legislative days, a motion can be made to proceed to this measure.

Of course, if a majority of Senators would vote to uphold such a motion to proceed then the matter would be before the Senate. That is an orderly way in which to proceed.

I do not think I will succeed but at least I have the conviction that I should try.

So, Mr. President, I ask that the clerk proceed to read the bill for the first time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4341), to amendment the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the Senate proceed to the second reading of the bill.

THE PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I make the next motion, with an apology to the distinguished majority leader. I know that I will fail. I always maintained as majority leader that it is the majority leader who has the responsibility to make the motion to adjourn, but it is within the right of any Senator to make that motion, and during my tenure as majority leader and during my tenure as majority whip there were Senators from time to time on the other side who made the motion to adjourn. My argument always was that that is the majority party's prerogative and the majority leader's prerogative, but it is not necessarily a right that reposes only in the majority leader.

So I am going to make that motion to adjourn for the simple reason that by adjourning, if a majority of Senators support the motion, the Senate will then

be in a new legislative day when it resumes its meeting and in that new legislative day under rule XIV the measure, which I have just asked for second reading on, would get that second reading automatically at the close of morning business and then, with the proper objection to further consideration of the measure, it would automatically go on the calendar and then, of course, with another adjournment over in a subsequent calendar day it would be in order to move to take up the measure from the calendar.

I have no illusions that I have the votes to do this, but at least it is a procedure whereby the Senate can, in an orderly way and under the rules, get to a vote on the measure.

Mr. President, the Parliamentarian has pointed out to me that this is the 31st day of July and that it is necessary to adopt a certain concurrent resolution at this time.

So if the distinguished majority leader wishes to take up this concurrent resolution now, I yield the floor for that purpose.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it so ordered.

The majority leader is recognized.

Mr. BAKER. Mr. President, of course, the minority leader is right, and we must pass House Concurrent Resolution 164 before we can proceed further.

But in all candor, I must say that the only thing that I can see that we would do if we make an issue out of this is perhaps create another rollcall vote. I have no desire to do that. I must tell you in all frankness I had no desire to create the last one.

HOUSE CONCURRENT RESOLUTION 164—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. BAKER, Mr. President, so that we are in a position to proceed as the minority leader has indicated, I am prepared now to ask the Chair to lay before the Senate House Concurrent Resolution 164, a message from the House of Representatives.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 164), relative to adjournment to a date certain during the remainder of the 97th Congress.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. SARBANES. Mr. President, could we have the resolution read so we know what is in it or will the majority leader tell us what is in it?

Mr. BAKER. It is the concurrent resolution initiated by the House of Representatives that makes it possible for us to continue this session past a certain date set in the statute that otherwise we could not go beyond.

Mr. SARBANES. I understand that. What is the date and what are the conditions under which we are doing this?

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91–510; 84 Stat. 1193), the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 5 minutes.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, if the minority leader will withhold that, has the Chair put the question on the House concurrent resolution?

The PRESIDING OFFICER. The Chair has not acted on this pending matter.

Mr. ROBERT C. BYRD. I beg the Chair's pardon and I beg the majority leader's pardon.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 164) was considered and agreed to.

MOTION TO ADJOURN FOR 1 MINUTE

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 1 minute.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. GRASSLEY), the Senator from Idaho (Mr. MCCLURE), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr MELCHER), the Senator from Maine (Mr. MITCHELL), the Senator from Tennessee (Mr. SASSER), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 49, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—37

Baucus	Ford	Metzenbaum
Bentsen	Glenn	Moynihan
Biden	Hart	Nunn
Boren	Heflin	Pell
Bradley	Huddleston	Pryor
Byrd, Robert C.	Inouye	Randolph
Chiles	Jackson	Riegle
Cranston	Johnston	Sarbanes
DeConcini	Kennedy	Stennis
Dixon	Leahy	Tsongas
Dodd	Levin	Williams
Eagleton	Long	
Exon	Matsunaga	

NAYS—49

Abdnor	Gorton	Packwood
Andrews	Hatch	Percy
Armstrong	Hatfield	Pressler
Baker	Hawkins	Proxmire
Boschwitz	Hayakawa	Quayle
Byrd, Harry F., Jr.	Heinz	Roth
Chafee	Helms	Rudman
Cochran	Humphrey	Schmitt
D'Amato	Jepsen	Simpson
Danforth	Kassebaum	Stafford
Denton	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Tower
East	Mattingly	Wallop
Garn	Murkowski	Warner
	Nickles	

NOT VOTING—14

Bumpers	Grassley	Sasser
Burdick	Hollings	Specter
Cannon	McClure	Weicker
Cohen	Melcher	Zorinsky
Goldwater	Mitchell	

So Mr. ROBERT C. BYRD's motion to adjourn for 1 minute was rejected.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. ROBERT C. BYRD. Mr. President, the motion to adjourn having failed, is it not true that under rule XIV, the bill, H.R. 4331, will be placed on the calendar at the close of morning business on the next new legislative day, which will require an adjournment, once the second reading has occurred, which will be automatic, and objection to any further proceedings has been placed thereto?

The PRESIDING OFFICER. The Senator is correct. The Chair will state for the RECORD that the bill, having been read the first time, shall remain at the desk pending the second reading the next legislative day.

Mr. ROBERT C. BYRD. I thank the Chair.

Then once on the calendar, of course, it is a candidate for a motion to proceed to its consideration.

The PRESIDING OFFICER. Once it has been on the calendar for 1 legislative day.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, there is

no doubt that, when the time comes and we have completed our work, there will be, indeed, a resolution of adjournment. It is my fond hope that it will occur very fast and we can get on with the business at hand.

At that time, Mr. President, there will be an opportunity for Members to consider the future course of action that they may wish to proceed or pursue on both sides of the aisle on this measure. After we have returned from the recess, and after the requirements of rule XIV and the other Rules of the Senate are complied with, of course the minority leader can move to take up the measure on the calendar. But perhaps by that time the Senate Finance Committee may have other things to say on this subject, as well.

I would only—and this is not meant to reopen the argument or to prolong the debate—I would only reiterate what I began with weeks ago. I suggested in public and on the floor that this issue should be addressed, but not in reconciliation. It will be addressed. It will be addressed in committee.

I assure Members on both sides of the aisle that I do not intend to see that this issue is laid aside, but that it is dealt with. I also must say, Mr. President, I do not intend to agree to consider this motion.

Mr. President, there are two other matters that I would like to take up. I would like to invite the attention of the minority leader, if I may, to another House message which is at the desk, House Concurrent Resolution 167, concerning the correction of the enrollment of H.R. 3982, the budget reconciliation bill.

If the distinguished minority leader has no objection, I would like to proceed to dispose of that remnant of the bill.

Mr. ROBERT C. BYRD. Mr. President, that is the resolution making technical corrections, I believe, to which Senator HOLLINGS referred in his discussions with me and I believe in the presence of Mr. DOMENICI. Am I correct?

Mr. DOMENICI. The Senator is correct.

Mr. ROBERT C. BYRD. There is no objection.

Mr. DOMENICI. It has been checked out with minority and majority staffs on both sides of the aisle. It had already been so cleared on the House side. That is what the resolution does. Technical errors in the reconciliation are cured.

Mr. ROBERT C. BYRD. May I say further, Mr. President, that the staff lady to whom Mr. HOLLINGS assigned the checking out of those corrections has reported to me and I have no objection. I know that I am proceeding in accordance with the wishes of Mr. HOLLINGS, who is the ranking manager on this side.

Mr. BAKER. Mr. President, I thank the minority leader and I thank the distinguished chairman of the Budget Committee.

HOUSE CONCURRENT RESOLUTION 167—DIRECTING CORRECTIONS TO BE MADE IN THE ENROLLMENT OF H.R. 3982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives.

The PRESIDING OFFICER. The legislative clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 167) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3982.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 167) was considered and agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, there is one other matter that has been cleared for action. After the disposition of this matter, it is my intention to ask the Senate to recess for approximately an hour while we await further progress reports from the conferees on the tax bill. I understand the distinguished chairman of the Foreign Relations Committee has a resolution that has been cleared and that he wishes to proceed with at this time.

Mr. PERCY. Mr. President, I thank the distinguished majority leader.

FOOD EMERGENCY IN POLAND—SENATE RESOLUTION 201

Mr. PERCY. Mr. President, I send to the desk on behalf of myself, Senators TOWER, GOLDWATER, BIDEN, MATHIAS, DIXON, BOSCHWITZ, CRANSTON, ZORINSKY, KENNEDY, PELL, SARBANES, TSONGAS, and LUGAR, a resolution relating to the food emergency in Poland and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 201) relating to the food emergency in Poland.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. PERCY. Mr. President, all of us have been impressed by the truly historic renewal that has been taking place in Poland for the last year. The Polish people have shown great discipline and restraint, as well as great political creativity, in this process of evolving a more responsive partnership between workers and government. Most recently, we have admired the calm and order in which the extraordinary party congress introduced substantial changes into its personnel and procedures.

Now that a new party central committee and leadership have been chosen, it is essential that Poland be able to turn to its considerable short and longer term economic predicament, and concentrate on building a productive economy.

A severe food emergency, however, especially difficult in the large urban centers and among older people and large families, threatens to disrupt that process. It could also lead quickly to further instability, with potentially grave political consequences. Foodstuffs are in extremely short supply, and the government has just been forced to cut the already meager monthly meat ration—obtained, if at all, by nights and days in lines—by another 20 percent.

This year's harvest promises to be a good one for the first time in 8 years. But there will be a critical situation for the next couple of months before that harvest is in, and before the broiling chickens, that our $50 million worth of corn is destined to feed this fall, will be available.

American Catholic Relief, CARE, and other private agencies are now stepping into this gap with programs designed to put basic foodstuffs directly into the hands of Polish citizens over the next few months. This is a commendable program that deserves our full support and that of the American people.

I am today introducing a sense-of-the-Senate resolution which commends our private relief agencies and encourages public support for emergency food for Poland. It further urges the President to continue to try to be responsive to Poland's emergency food needs, including expediting purchase of surplus U.S. perishable agricultural products by private American relief agencies for shipment to Poland. Finally, it urges the Western and Eastern Europeans to do their fair share in this effort.

I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

● Mr. D'AMATO. Mr. President, this morning the news from Poland was of increased demonstrations and greater threats of strikes and slowdowns. The Polish economy is on the verge of collapse as food prices skyrocket and rations are inevitably reduced.

The situation as it exists now is similar, if not parallel, to that which existed in 1980 and 1976. Each time spendable income substantially decreases, rioting followed. The austerity program proposed by the Polish Government basically entails a reduction in real income and an increase in prices. This is aggravated by a scarcity of food. Shortage of grain is a large part of this food supply problem. The 400,000 metric tons of corn scheduled to be sent by the administration, as part of the food relief effort, is essential to the Polish poultry industry; a vital source of protein.

The Polish austerity program, it appears, will bring about results little different from that which happened in 1956, 1970, 1976, and 1980. The workers will strike and the economy will slide further. This time there is infinitely more at stake. What was achieved by the party congress at its recent session is a very fragile experiment in democratic expression. The democratic movement cannot be left to dissolve under the weight of a disintegrating economy.

If we, as the world's greatest supporter of the democratic process, stand by and do little or nothing, then Soviet domination will be reffirmed. We cannot expect the Soviets to stand by as the economy

crumbles and possible rioting ensues. Poland could revert to a state of repression: Solidarity and the gains they forged will exist no more.

The food relief effort is one way to support the gains made by the Poles in the extraordinary Polish Party Congress. We must help improve the economic situation as best we can to support the basic principles of freedom and democracy that were a result of the party congress. Cooperation and peaceful negotiations between worker and government should continue and a reviving economy is a necessary predicate for that progress.

Mr. President, I was going to offer my own resolution concerning the fragile balance that now exists. In light of this resolution, I would be happy to join my colleague, Mr. PERCY, as a cosponsor, and urge the rest of my colleagues to show their support for the Polish nation.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

SENATE RESOLUTION 201

Whereas the American people have expressed widespread admiration for the creativity combined with restraint and discipline with which the Polish people have been evolving a mutually more responsive relationship between workers and government;

Whereas it is now essential that the Polish people be free to concentrate on rebuilding a productive economy;

Whereas acute food shortages, particularly in large Polish urban centers, are creating a potentially destabilizing atmosphere between now and the time the harvest comes in and poultry protein, assisted by the recent U.S. sale of corn feed, will be available: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) private relief agencies now embarking on a program of emergency foodstuffs for Poland are to be commended for their initiative, and the American people encouraged to support this worthwhile humanitarian effort; and

(2) the United States Senate supports the President in his efforts to be responsive to the Polish food emergency, and urges a continuation of this stance, including expediting purchase of U.S. surplus agricultural products by private American relief agencies for shipment to Poland.

(3) the United States Senate urges European governments and peoples, Western and Eastern, to further assist in helping to relieve the Polish food emergency.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PERCY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I indicated earlier that at this point the Senate would recess, but since that time I have learned that there would be a requirement for time so that Senators could speak.

Instead of recessing, I now ask that there be a brief period for the transaction of routine morning business to extend not past the hour of 8 p.m., and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HYATT HOTEL TRAGEDY IN KANSAS CITY

Mr. EAGLETON. Mr. President, it is not often these days that one can point with pride to the operations of a Federal agency. I am pleased to have that opportunity today in commending the superb cooperation of the National Bureau of Standards and its center for building technology in the aftermath of the recent Hyatt Hotel tragedy in Kansas City.

On the Monday morning following that accident, my office contacted the Bureau to inquire what assistance might be available to help the city determine the cause of the skywalk's collapse. I have to confess that I was taken back by the almost instant offer made by the Bureau Director—Dr. Ernest Ambler, and his Deputy Director Dr. Richard Wright—to dispatch an investigative team to Kansas City that same afternoon and to prepare an in-depth public report on the most probable cause of the tragedy.

It was a remarkable experience not to hear the usual bureaucratic explanations of how the decision would have to percolate through a maze of clearances before an answer could be given. The Bureau had one interest foremost in mind, and that was to be of immediate assistance to a distressed city and they accomplished that in exemplary fashion.

I am happy to report Kansas City's fine Mayor Richard Berkley recognized the value of bringing in an independent expert group to make an impartial, public investigation of the accident. He welcomed the Bureau's offer and that investigation is now underway.

Mr. President, when the catalog of Government inefficiency and unresponsiveness is next recited in this Chamber, I hope this example of the Bureau's public service will be remembered.

I ask unanimous consent that a recent editorial from the Kansas City Star be printed in full at this point.

[From the Kansas City Star, July 30, 1981]

THE FEDS CAN PLAY A VERY USEFUL ROLE

When a city—take Kansas City, for instance—casts about looking for someone, some agency, some expertise, to do a disinterested professional study of a catastrophe of large and complex dimensions—take the Hyatt Regency tragedy, for example—where does it finally turn? It turns to the federal government—in the instance cited, to the Center for Building Technology of the National Bureau of Standards.

There, one rightfully expects, a fair and objective study can be done, and answers much needed and sought in the interest of the public can be found.

The words "federal government" have all the status of a curse in some circles these days, but right now in Kansas City they mean something else: the only place the public can focus its hope of getting answers. The example surely applies elsewhere, for other times and circumstances.

SECRETARY OF THE INTERIOR JAMES WATT

Mr. SYMMS. Mr. President, in my opinion, one of President Reagan's finest Cabinet officers is Mr. Jim Watt.

I have not been suprised at the intensity of the attack on Secretary of the Interior James Watt because of his dedication to private property. The charges that have been leveled against him are truly incredible, both substantively and emotionally. As a Senator who represents a State in which the majority landlord is Uncle Sam, I have seen emotional reactions to public figures, but few which have reached the depths of the charges against Secretary Watt.

It is not the intention of this Senator to stand before this body to address each of the charges individually. It is becoming increasingly clear to this Senator, however, that it is a no-growth, preservationist policy that has prompted the rancor, which is directed as much to an unwillingness to accept the changes mandated by the last election as to anything truly substantive.

The Secretary is bound by the laws of the land, as they are passed by Congress, and interpreted by the administration. In the 6 months of his term, Secretary Watt has not once proposed the repeal of the environmental laws that protect our public lands. There is always a divergence of opinion of how the laws should be interpreted, but there is nothing new or shocking about that divergence, or even about the changes that take place as a result of a national election.

The law says what it says, but the Senator and Congressman who voted for a particular law will undoubtedly have different ideas about what that law actually meant. No one can rightly say who is right in their interpretation, but this Senator's legislative experience in both bodies of Congress have taught me that legislation is never precise, it is always fluid and changing. And those changes are the inevitable result of this Republic, which makes major changes in its leadership through the elective process.

I am greatly disturbed to see the changes envisioned by leaders such as Secretary Watt labeled as extreme. In fact, they are merely interpretations of the same laws which were viewed and upheld by his predecessor. The difference is that I hear Secretary Watt saying to his bureaucrats, and to the Nation as a whole, in effect, that Congress has passed good laws. They are perfectly adequate and they will both protect the environment and allow for the development so necessary to our economic health. Those laws will be administered, in accordance with the intent of Congress, which is often at odds with the intent of bureaucrats.

In my years in Congress, I have supported some of the laws that form our environmental policy in this Nation. And to this Senator, the interpretations handed down by the previous administration were the truly extreme interpretations of those laws. It was Secretary Andrus and President Carter that adopted the extreme philosophy of no use and no growth of our natural resources. And to the opinion making strata of society that were so accustomed to the policies of the previous administration, some of the policies of Secretary Watt and Ronald Reagan may indeed appear to be a radical departure from the past.

And it is that strata that have orchestrated the hardcore criticism which is leveled at Secretary Watt—the strata of society that favor no growth and managed scarcity of natural resources for the purpose of achieving socioeconomic change. That approach has no place in natural resource management, and certainly has no place when it is camoflaged with the ludicrous charges that accompany the criticisms.

Secretary Watt is attempting to implement a wise, balanced policy that takes into account economic as well as ecological concerns as they are mandated by Congress in the volumes of environmental law that direct the use of our public lands. This policy, clearly a departure from the philosophies and interpretations of the Carter administration, should be welcomed and encouraged for the continued environmental and economic health of this great Nation.

I can tell you this, Mr. President, Jim Watt is doing what this Senator wants him to do, and he is doing what the vast majority of my constituents want him to do. The fact of the matter is that the Department of the Interior, under Cecil Andrus, who was the Governor of my State, had run away with the law. It was, in fact, a law unto itself, ignoring the intent of Congress. The Department of the Interior under Jim Watt is paying careful attention to the intent of Congress, and is dutifully trying to carry out that congressional mandate. That is what Ronald Reagan was elected to do, and that is what he chose Jim Watt to help him do. I hope he will keep on.

Mr. President, I will have more to say on this subject later, and perhaps some specific responses to some of the specific issues raised against my friend, Jim Watt, but for the moment, I yield the floor.

TRIBUTE TO FRED KROLL

Mr. KENNEDY. Mr. President, it was with a deep sense of sorrow and personal loss that I learned of the death of Fred Kroll, president of the Brotherhood of Railway and Airline Clerks, who passed away yesterday at age 45 after a long and courageous struggle with leukemia.

Fred Kroll was not only an energetic, forceful, and dynamic union president, he was widely acknowledged to be one of the most promising young leaders in America.

He was also a close personal friend whose advice and perspective on national transportation issues were of great value to me and to many of my colleagues in the Senate.

He had a sure grasp of the governmental process and of the problems facing our country. He was a man of vision whose extraordinary personality made him one of the fastest-rising young labor leaders in the country. Fred Kroll was first elected to union office in 1961 as chairman of BRAC Local 587 in Philadelphia. He moved up through union positions with the Penn Central Railroad and became International vice president in 1975.

In 1978, he was elected vice president of the AFL–CIO, and became the youngest person ever to be a member of the Labor Federation's executive council. Earlier this year, he was elected chairman of the Railway Labor Executive Association, the top position among railway unions.

Everyone who knew and worked with Fred Kroll recognized his extraordinary abilities. His death is a devastating loss for the American labor movement, to the members of his union, and to everyone who knew and worked with him.

I know the Members of this body join me in expressing our deepest sympathy to the Kroll family, his wife Frankie and his three daughters, Karen, Anita, and Michelle.

Our prayers and thoughts are with them. We know that no words can erase the present pain. But as time goes by, I know they will remember the bright and happy days when Fred was with us.

MIA's RETURNED FROM VIETNAM

Mr. CRANSTON. Mr. President, the Vietnamese Government recently returned to us the remains of three Americans: Navy Commander Ronald W. Dodge, Air Force Lieutenant Stephen O. Musselman, and Air Force Captain Richard Van Dyke. The families of Commander Dodge and Lieutenant Musselman are constituents of mine.

I welcome this action. At least for these three families, the long agony of not knowing whether their missing son, father or brother was alive is finally over. I deeply sympathize with them for their loss and for the years of uncertainty they have had to endure. I remain disturbed that we do not know the specifics of how two or these men died, and I support the efforts of the State Department to obtain an explanation from the Vietnamese Government.

I will also continue to support strongly efforts by our Government to determine the fate of the men still listed as missing in action. Since the 1973 Paris peace accords, the remains of only 78 missing Americans have been returned to the United States by the Vietnamese. Some 2,500 men are still missing and unaccounted for. Hundreds of American families continue to agonize over the possibility their loved ones may be alive. Although we can never relieve their grief, we can help bring them peace of mind. For the sake of our men and for the sake of their families, we must persist in our efforts to account for our other 2,500 soldiers.

Mr. JACKSON. Mr. President, I would like to associate myself with the remarks of the senior Senator from California. I welcome the opportunity to join with Senator CRANSTON in this memorial eulogy. One of these returning Americans, Commander Ronald Dodge, grew up in my home State of Washington, where his parents still reside. I welcome the opportunity to express deep feelings of sympathy to the loved ones of these three men and to share in their great relief in finally receiving word of their fate.

RETIREMENT OF REAR ADM. FRAN McKEE

Mr. HEFLIN. Mr. President, one of Alabama's most distinguished career naval officers and one of her most distinguished daughters retired recently. She is Rear Adm. Fran McKee, an old and valued friend of mine who served 30 years in the U.S. Navy.

Fran McKee's naval career began during the Korean war when she was commissioned as an ensign after her graduation from college. After assignments to duty stations at home and abroad, she became the first female officer ever promoted to flag rank. From June 1978 until June 1981, Admiral McKee served as Director of the Human Resource Management Division in the Office of the Chief of Naval Operations. In this last post she was awarded the Navy's Gold Star Medal, her citation reading in part:

Her untiring efforts to ensure the development of sound relevant programs were nationally recognized and truly enhanced the Navy's image as a service that cares for its own. Her unfailing commitment, perceptive counsel, and personal dignity were manifested in the many programs devised and executed to improve quality of life, educational opportunity and career attractiveness.

At her retirement ceremonies here in Washington, she received—for the second time—the Navy's Legion of Merit Medal capping a series of decorations and awards. Her home State of Alabama also has recognized her by her early induction into the Alabama Academy of Honor in 1969. Her firsts are too numerous to mention here, but her pioneering has resulted in the Navy's enviable record of equal opportunity for naval personnel.

Rear Adm. Fran McKee is one of Alabama's most illustrious citizens, dedicated to her country and to the Navy. Her accomplishments have made naval history; her place in the Navy's proud tradition is assured.

U.S.S. "CROMMELIN" CHRISTENED

Mr. HEFLIN. Mr. President, recently the U.S. Navy honored the State of Alabama by paying tribute to one of our State's most distinguished families, the Crommelins, by naming a naval vessel after two Crommelin brothers who died for their country in combat during World War II.

No Alabama family has produced more distinguished naval officers than has the Crommelin family. The two brothers who died in combat, Comdr. Richard G. Crommelin, a naval pilot killed over Japan in 1945, and Comdr. Charles Crommelin who died the same year during the assault on the island of Okinawa, were heroes of the stuff legends are, and were, made of. Their gallantry in war in the service of their country ennobles the vessel which bears their family's name and reminds those who serve on the U.S.S. *Crommelin* as well as us that love of country may demand the supreme sacrifice. The last full measure of Charles and Richard Crommelin's devotion finds a fitting emblem in this ship, dedicated to two brothers who died within 3 months of the end of the war.

Honored in death, the Crommelin family saw three other brothers in distinguished service during World War II, Vice Adm. Henry Crommelin who died in retirement in 1971, Rear Adm. John

Crommelin retired, of Wetupka, and Capt. Quentin Crommelin, retired, also of Wetumpka. The two surviving brothers, the widow of Vice Adm. Henry Crommelin, and Quentin Crommelin, Jr., staff director of the Senate Judiciary Committee, joined with other relatives, friends, and fellow sailors in the recent dedication ceremonies in Seattle.

I ask unanimous consent that an article from the Montgomery Advertiser of June 26, concerning the christening of the U.S.S. *Crommelin* be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NAVY TO HONOR MONTGOMERY BROTHERS WITH CHRISTENING OF U.S.S. CROMMELIN

(By Richard A. Rosenberg)

The U.S. Navy will be honoring five Montgomery brothers—two of whom died in combat—when it christens the USS Crommelin in ceremonies at the Todd shipyard in Seattle next Thursday.

The brothers—Capt. Quentin Crommelin, retired Rear Adm. John G. Crommelin, Cmdr. Richard Crommelin, Cmdr. Charles Crommelin and Vice Adm. Henry Crommelin—all graduated from the U.S. Naval Academy and were highly decorated for their parts in the Pacific campaign of World War II.

The brothers were nicknamed "The Crommelin Boys" during the war, said Capt. Crommelin's wife, Priscilla. Mrs. Crommelin said she read in Naval literature that the Crommelins were the most highly decorated family in American Naval history.

Richard Crommelin and Charles Crommelin were both fighter pilots in the war. Richard Crommelin was killed in a bombing raid over Japan in 1945 and Charles Crommelin was killed during the invasion of Okinawa. Both died during the last three months of the war.

Vice Adm. Crommelin died in retirement in 1971. Rear Adm. Crommelin lives in Montgomery and Capt. Crommelin and his wife live in Elmore County.

Although the ship is named for all five brothers, the three deceased brothers are to be especially honored by a plaque on the ship which will have their names engraved on it.

Mrs. Crommelin said one reason the five young men all entered the Naval Academy was that it was a good way to get an education during the Depression, although the Academy was tough to get into.

The USS Crommelin is a "ship of the line" combat ship, said Capt. Crommelin. It will carry guided missiles in lieu of the guns combat ships formerly carried.

The missiles will be for surface-to-air and surface-to-surface action, Capt Crommelin said.

There will a guest speaker during the ceremonies Thursday. Capt. Crommelin said he was told Sen. Henry "Scoop" Jackson of Washington state had been scheduled to speak.

"Around 20 family members" from around Alabama will be going to the ceremonies, Capt. Crommelin said, "We're a rather large family you know."

Among those who will attend the ceremony are Rear Adm. John Crommelin and his wife, Lillian; Mrs. Henry Crommelin, the wife of Vice Adm. Crommelin; Quentin Crommelin Jr., who is chief of staff of the Senate Judiciary Committee under Sen. Strom Thurmond of South Carolina; Dr. Henry Crommelin Jr. of Birmingham, his wife, Mary, and their four children; and Mrs. Catherine Jenkins of Anniston, sister of the Crommelin brothers.

Mrs. Crommelin said they were surprised to hear recently from a relative in the Holland branch of the family, Rudolph Crommelin, of the Royal Dutch Navy, who said he also planned to attend the ceremony.

SECRETARY OF THE INTERIOR, JAMES G. WATT

Mr. LEAHY. Mr. President, I would like to submit for the RECORD an editorial which appeared in one of our Vermont newspapers regarding the Secretary of the Interior, Mr. James G. Watt. I am submitting this article because it reflects the growing concerns that many Vermonters have expressed to me over the policies and actions taken by the Secretary in the last 6 months.

I earlier opposed his confirmation as Secretary because I believed his previous experience clearly ran against the grain of basic conservation practices. Mr. Watt has done nothing to allay my fears since his appointment, and in fact has shown a callous disregard for public sentiment. In many ways, the damage to land and water resources incurred by Secretary Watt's policies may be irreparable.

Vermonters are alarmed by the senseless exploitation of resources promoted by Secretary Watt. Vermont is proud of its heritage of protecting the natural resources with which our State has been richly endowed. This strong conservation ethic has been reflected in landmark environmental legislation designed to save our State's resources, yet promote carefully planned development.

Most Vermonters believe that these efforts have been worthwhile: Our water and air are remarkably clean, wildlife is abundant, and our forests still earn the State its "Green Mountain" distinction. A growing industrial base and thriving recreational sector are proof that sensible land and water management and business interests are not necessarily inconsistent.

Of course, problems differ with geographic areas, and Vermonters do not suggest that our solutions are uniformly applicable throughout the United States. But Secretary Watt has not taken a balanced approach to conservation. In fact, in almost every major policy decision where the Secretary has been faced with a choice between conservation and development, he has chosen the latter. Indeed, if the Secretary's policies continue in this fashion, we may witness the greatest land grab since the 19th century.

Mr. President, it is alarming that the man who is charged with the stewardship of almost of one-fifth of the Nation's land acts as if there will be no tomorrow. Secretary Watt has proposed that wilderness study areas be opened up to drilling and mining. He has proposed that over 1 billion acres of land off the California shore be opened to the oil industry, despite the objections of that State and in contrast to other Federal efforts to return more authority to the States. He has tried to halt acquisition of national parks and turn their management over to private interests.

He has emasculated the Office of Surface Mining, and has advocated the drastic reduction of funds designed to identify and protect America's endangered species. The Youth Conservation Corps has also been slated for elimination despite the fact that this is one of the most popular and effective youth work programs. Mr. Watt deplores the physical condition of our park system, yet wants to end this extremely inexpensive source of labor to maintain our trails and grounds.

Mr. President, Secretary Watt's philosophies, which place a premium on short-run economic exploitation, should be an affront to all Americans. Taxpayers will be burdened by the increased costs of acquiring land which the Government has already committed itself to purchase. Private landowners within the areas of proposed Federal purchases will be left in limbo because of the uncertainty caused by the moratorium on land acquisition.

But Americans will suffer more than just an increased financial burden as a result of the Secretary's policies. The quality and character of many of our wilderness areas are in jeopardy as are the existence of many of our endangered species. The damage may very well be permanent. Furthermore, unwise exploitation of nonrenewable or nonrecoverable resources may lead to acute shortages for future generations of Americans, a prospect about which the Secretary seems little concerned.

I cannot believe that a nation as great and as rich as ours needs to develop all of its wilderness and use up all of its resources now. I cannot believe that our Nation is in such sorry condition that we cannot reserve some of our riches for use by future generations. It should be seen as a symbol of our strength that we can afford to put some of our resources aside for alternative future uses.

Secretary Watt has characterized conservationists as "environmental extremists" whose fervent endeavors would weaken our country. Yet the National Wildlife Federation, one of the largest and most conservative of conservation groups, has called for Secretary Watt's removal. The Federation, whose members voted over 2 to 1 for President Reagan in November, admitted that Mr. Watt's unsuitability for the job which he holds has become overwhelming. Many of today's programs that Mr. Watt is attempting to gut were initiated, supported or expanded during Republican administrations.

In recent months, Vermonters have spoken with increasing vehemence against Secretary Watt's policies and decisions. I submit as evidence of this fact the editorial from the Brattleboro Reformer which represents the sentiments of many Vermonters about our Secretary of the Interior.

I hope that Secretary Watt will heed the outcry of Vermonters and of many Americans. The potential that he will permanently affect the character of our public land is enormous—and frightening. Thus far, the Secretary has exercised his power for the benefit of private interests, and to the detriment of the American public. Vermonters will not tolerate Secretary Watt's flagrant abuse of the powers of his office much longer.

I submit the editorial previously mentioned, from the Brattleboro Reformer, for printing in the RECORD.

The editorial follows:

THE ENVIRONMENT

What's bad for the environment is good, at least in the short run, for business. Until this week, that bottom-line mentality seemed to be the sole motivation in the Reagan administration's concerted efforts to dismantle the federal laws and regulations protecting the nation's land, air and water.

Then, last week, The Wall Street Journal printed a profile of the administration's chief despoiler of the environment, Interior Secretary James G. Watt, which indicated that the administration's preference for bulldozing first and asking questions later may have a religious basis. The Journal described an astonishing exchange between Mr. Watt and members of the House Interior Committee in which the new secretary, asked about whether he favored preserving wilderness areas for "future generations," replied, "I do not know how many generations we can count on before the Lord returns."

Apparently, Mr. Watt—a born-again Christian who won't even drink coffee and eschews small talk—wasn't joking. On another occasion, he said that Washington's role is to maintain a balance between preservation and the use of the nation's natural resources so that "people are provided for until He does come."

It is, to say the least, a novel justification for giving over as much as possible of the federal government's 770 million acres to the lumbermen, oil companies and ranchers who covet the land for their own purposes. If the Second Coming is as imminent as Mr. Watt thinks it might be, a rational believer might conclude this would argue in favor of protecting the environment, not pillaging it. A returning Creator would not be happy with us as tenants if his eye should fall first on unreclaimed strip-mine land or the discolored polluted air of Mr. Watt's hometown, Denver.

Perhaps more than any other Cabinet member, the secretary of the interior has the responsibility to take the long view, to worry about whether this generation leaves as its legacy a garden or a garbage dump. Whether this long view has theological underpinnings or is based simply on the parental instinct of duty owed to the next generation, a secretary of the interior who lacks it is going to flounder in his work.

The Republican Party has a long tradition of producing environmentalists who did have such a long view, from Gifford Pinchot and Theodore Roosevelt down to Walter Hickel, Richard Nixon's interior secretary who quit in disagreement with the president over policy. Nathaniel Reed, a Republican businessman from Florida who has served in the Interior Department under several administrations, is cited in the Journal article as one Republican who is worried that Mr. Watt's extremist policy on resource development may wipe out that GOP heritage in the public's consciousness and brand the party indelibly as the enemy of the environment. He could be right. If Mr. Watt is allowed to run unleashed, the GOP may become Grand Old Plunderers until the second coming of Theodore Roosevelt.

OILSPILL STATEMENT

Mr. MITCHELL. Mr. President, I have spoken to the Senate on many occasions about the dependence of the State of Maine on its marine resources. I will continue to do so as long as our resources are threatened.

There is an immediate threat in legislation now pending before the House of Representatives. It would preempt the oil pollution protection programs established by Maine and a number of other coastal States.

I call the Senate's attention to this oil spill bill because some have alleged that a preemptive law would actually be beneficial to the States. I would ask those who hold such a belief to find one State that agrees with that view. Maine need not be polled; its views on preemption of its oil spill law are clear and unequivocal.

Those who support the preemption of State oilspill laws tell us that a comprehensive Federal liability and compensation regime to deal with oil spills is long overdue. I agree. There are gaps in the coverage of the various Federal laws that deal with oilspills. It was for that reason that I cosponsored S. 681, which would provide a unified Federal approach to oil spills. However, those of us who introduced the Senate bill believe that State oil spill statutes are a critical element in a truly comprehensive oilspill protection scheme. Our goal is preservation of our precious natural resources and adequate compensation to damaged parties, not simplicity of administration at the expense of innocent persons.

Mr. President, those who support preemption of State oil spill laws emphasize what States can continue to do if Federal preemption were enacted. I find it equally instructive and relevant to examine what States would be prohibited from doing.

Maine's 12-year-old coastal conveyance law now provides compensation from the State's industry-financed fund for damages to real or personal property or loss of income, directly or indirectly as a result of an oil discharge. Let us examine the damages for which a State could not collect fees for its fund under the House bill:

First, costs of removing spilled oil;

Second, injury to, or destruction of, real or personal property;

Third, loss of use of real or personal property;

Fourth, injury to, or destruction of, natural resources;

Fifth, loss of subsistence use of natural resources.

Sixth, loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss; and

Seventh, loss of tax revenue for a period of 1 year due to injury to real or personal property.

These are all of the critical elements of Maine's compensation regime.

Preemption supporters continue to point to the ability of States to collect taxes for any purposes not covered by the Federal law. But they cannot have it both ways. They cannot praise the comprehensive nature of their bill as a justification for preemption and in the same breath allege that there are significant areas in which the States retain the ability to act. The latter is simply not true. Under the House bill, the States' ability to act in any meaningful way to protect their interests is outlawed.

The House bill specifically cites the purchase and prepositioning of oil spill cleanup equipment, training of personnel, and research as areas that are not preempted. Frankly, these three items are not the essential elements in a State's ability to respond to an oil spill. And, although these three items are constantly cited only as examples of areas in which State funds are not preempted, I challenge anyone to find any other significant way in which a State could still act. This list of three relatively minor responses may be exhaustive.

Preemption supporters also defend their position on the grounds that States with funds will continue to have them and that such funds will not be transferred into the Federal fund. This is true only for a period of 3 years after enactment. After that time no State can collect fees to finance a fund to reimburse persons for any of the damages covered by the Federal fund. The 3-year delay in the effective date of the preemption provision simply postpones the imposition of this impediment to State action; it does not remove it.

And, although existing State funds will not be expropriated by the Federal fund, this will be cold comfort to those States with funds because after 3 years passes, that money cannot be used to pay oil cleanup costs or to compensate for other damages covered by the Federal fund.

Preemption supporters would also have us believe that because the States will be encouraged to act as claims adjusters with respect to claims from the Federal fund to speed claims settlement, that this will somehow result in adequate compensation. It may result in an efficient settlement process, but the ultimate payment of a claim against the Federal fund is not the decision of the State. Compensation is the decision of the Federal administrator of the fund whose priorities must necessarily reflect the needs of all coastal States, not any one State. Yet no State would have the ability to maintain a fund to provide compensation in the absence of a satisfactory Federal payment.

Preemption supporters also point out that if State funds are spent to clean up oil, the State would be eligible for full reimbursement from the Federal fund. This is true. But the critical issue is that States are only eligible for reimbursement. This is not an entitlement. Actual repayment from the Federal fund is discretionary, and will be dependent on the judgment of the Federal administrator of the fund and the resources of the fund. I am not suggesting that this should be an entitlement. But I am suggesting first, that the Federal fund is clearly not going to be large enough to cover all oil spill cleanup costs incurred in this country and second, that if State funds were not preempted by the House bill, there would be another source of funds to pay cleanup costs and other damages.

Preemption supporters tell us that States are not preempted in areas such as ground water pollution from ore. This may be true, but it is not really the issue. What I take issue with is the extent to which State oil spill liability and compensation laws are preempted. If State law is, in the judgment of those who support preemption, adequate to protect ground water that supplies drinking water, why is it inadequate for marine resources? Under the House bill, there is the anomalous situation that State lia-

bility law governs oil damage to ground water but Federal law applies to oil damage to navigable waters.

Mr. President, I would remind those who support preemption of three things:

First, under the hazardous waste "superfund" law, fees on chemical feedstocks have been collected since April 1 of this year. There is approximately $70 million in the fund now. Yet 4 months have passed and not one claim has been paid.

Second, the preemption provision is so broad that States are prohibited from maintaining funds to compensate virtually all damages from oil spills. Compensation is totally dependent upon the resources of the Federal fund and an affirmative Federal decision that the claim is worthy of compensation. This places the States in a position of subservience to the Federal Government and runs counter to the current trend of incorporating a cooperative Federal/State approach into Federal laws.

Third, while the alleged purpose of the House preemption regime is to avoid duplication, there is no inherent evil in duplication if the problem demands more than one avenue of recourse. It is clear to me that the beneficiaries of this preemption provision are not the persons whose property is at risk from oil spills. The parties who will be helped are the oil companies, who advocate preemption on the grounds that differing State statutes are an inconvenience.

There is absolutely no justification for placing at risk the natural resources of Maine and other coastal States simply as a matter of convenience to the oil companies.

ACID RAIN

Mr. MITCHELL. Mr. President, the issue of acid rain continues to grow as an environmental, international, and economic problem.

As the Senate begins its August recess, I would like to share some of my concerns with my colleagues.

First, there is a growing body of evidence with respect to the environmental consequences of acid deposition. It has already been documented that approximately 50 percent of the high elevation lakes in the Adirondack Mountains no longer support fish life. Entire populations of brook trout, lake trout, white sucker, and brown bullhead have been eliminated in the past 40 years as the acidity of these lakes has markedly increased. Maine lakes have undergone a similar change over the past 40 years; an eightfold increase in acidity has been measured.

Recent data suggest that our forests may also be at great risk as acid deposition increases. Swedish studies gave us preliminary indications that acid deposition may retard forest growth. More recently, scientists have linked a 45-percent decrease in the density of red spruce on Camel's Hump in Vermont with increasingly acid soils in the area.

Canadian scientists at the research center of the Domtar Paper Co. have just published a discussion paper summarizing additional data on this subject. German data suggest that serious die-back is occurring in spruce and beech forests in areas receiving relatively heavy acidic deposition. The observed effects are a reduction in growth rate, an initial drying out and loss of needles or leaves from the top of the tree. This condition moves down the tree until it eventually dies after a number of years. In Germany and the United Kingdom, spruce, fir, Douglas fir and beech are affected.

Mr. President, these environmental trends have potentially alarming economic consequences for the national economy and the economy of the State of Maine. Maine is the most heavily forested State in the Union, with about 90 percent of the State covered by forests. Our wood resources are without question the single most important component of the State's economy. Fully 30 percent of all manufacturing jobs in Maine are in the pulp and paper or wood and lumber resources industry. Those industries combined produce better than $2½ billion worth of products, which is 43 percent of the value of all products produced in Maine. If in fact acid rain does cause a reduction in forest growth, it could have a profound effect on Maine's entire economy.

At an April hearing I held in Augusta, Maine, on this subject, a representative of the American Paper Institute and the National Forests Products Association testified that even a 1-percent reduction in productivity would be a catastrophe for this industry.

If trends of adverse effects on forest growth continue in the same direction as the initial data we have, acid deposition may represent a far greater threat to forests than a 1-percent reduction in productivity.

Timber is not the only crop at risk. Damage to agriculture crops and fisheries from atmospheric deposition of oxidants and acid rain has been estimated to be $65 to $75 billion over the next two decades.

The National Research Council of the National Academy of Sciences estimates that in the Eastern United States, current losses to the sport-fishing industry from acid deposition are about $125 million.

According to the Office of Technology Assessment, one of its Federal contractors has estimated total current losses of $250 million from the loss of lakes and streams east of the Mississippi, due to acidification.

Mr. President, the third aspect of the acid rain problem that cannot be ignored is its international ramifications. Acid rain generated in the United States and exported to Canada is severely straining United States-Canadian relations. We are neighbors and friends, and we want to maintain good relations with Canada.

But unless the United States reduces its large contributions to Canadian acid rain levels, the historic relationship of our two countries, and particularly of Maine and the Canadian Provinces, may be sorely tested, by a problem for which the people of Maine are not responsible.

Prime Minister Trudeau has made his government's concern about the acid rain issue known to President Reagan during the course of their two meetings in March and June. President Reagan responded that he is committed to solving the acid rain problem. In addition to the President's recent commitments, the United States is bound by a "Memorandum of Intent" entered into by the United States and Canada in August 1981. Specifically, our mutual commitment is:

> To combat transboundary air pollution both Governments shall:
>
> (a) Develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them;
>
> (b) Promote vigorous enforcement of existing laws and regulations as they require limitation of emissions from new, substantially modified and existing facilities in a way which is responsive to the problems of transboundary air pollution.

Mr. President, to date I have seen no evidence that the United States is willing to act on its stated commitments. The administration has no public position on an acid rain control strategy. However, if working documents are any indication of the administration's position, no recommendation for action to reduce the pollutants producing acid rain will be forthcoming.

The following paragraph from a June 1981 administration document entitled "Summary of the Clean Air Act Working Group Discussion" is the source of my concern:

> The most conspicuous transport issue is acid rain. Canada is exerting considerable pressure for preventive action. Environmentalists also seek prompt and stern action to address the problem. The best option appears to be to accelerate EPA's current ten-year research project (required by last year's energy legislation) as much as currently available dollars and sound science will permit, and defer regulation until the sources and extent of the problem can be better identified. Industrial groups would support this as they feel further regulatory measures would be premature given the present state of knowledge on the subject.

On the basis of my continuing contacts with Canadian officials, I am convinced that they regard the commitments of the United States in the form of the "Memorandum of Intent" and verbal assurances by President Reagan, to mean more than several years of study. I believe they understand us to be committed to action now to control acid rain.

Not only does it appear uncertain that the United States lacks the will to develop an acid rain control strategy the "Memorandum of Intent" also commits both countries to vigorous enforcement of existing laws and regulations that limit emissions of acid rain precursors. Yet the U.S. Environmental Protection Agency is pursuing a policy in direct contradiction of this commitment.

During the confirmation hearing of Kathleen Bennett to be EPA assistant administrator for air pollution programs, I asked the nominee about the decisions that have been made since January to relax sulfur dioxide emission requirements, particularly in the Midwest. She subsequently responded that substantial relaxations, 23 in number, have been granted in the past 7 months, resulting in an additional 50,000 tons of sulfur emissions annually; eleven applications for relaxations are still pending. If

granted, they would result in a 30,000 ton increase annually in sulfur emissions.

I also questioned Ms. Bennett on the broader issue of the administration's commitment to solving the acid rain problem. Her response was equivocal at best. I ask unanimous consent that portions of that transcript be included in the RECORD at the end of my statement.

THE PRESIDENT OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, I am committed to solving the acid rain problem. I will introduce next month legislation that will prevent any further increases in sulfur emissions and that will also require substantial reductions in sulfur over a period of time.

I intend to pursue enactment of this acid rain control strategy in the context of reauthorization of the Clean Air Act this fall.

Mr. President, in a related vein, I regret very much that the administration has not yet been able to make its views on acid rain and other important Clean Air Act issues known to Congress. We are ready and we are willing to examine their positions. I urge those responsible for formulating these positions to expedite their work so that we may get on with our work.

EXHIBIT 1

Senator MITCHELL. Mrs. Bennett, as you recall, we met on Wednesday at which time I asked you a series of questions about your views on the problem of acid rain.

Mrs. BENNETT. Yes, sir.

Senator MITCHELL. Which is a matter of great concern to people of New England and people of Canada, generally the receiving areas of acid deposition. And I would like, if I might, to follow that up today, repeating some of the questions I asked you and going a little bit further.

As you are aware, the governments of the United States and Canada entered into a Memorandum of Intent last year dealing with the problem of acid rain. Are you familiar with that memorandum?

Mrs. BENNETT. Yes, sir, I am.

Senator MITCHELL. In that Memorandum of Intent, each government committed itself to a series of specific covenants, one of which states, and I will read it, Section 2(b) under Interim Actions, Commitment by each Government, "to promote investigation, vigorous enforcement of existing laws and regulations as they require limitation of new emissions from new substantially modified and existing facilities in a way which is responsive to the problems of trans-boundary air pollution."

Are you familiar with that portion?

Mrs. BENNETT. Yes, sir.

Senator MITCHELL. Can you tell me how many applications are now pending at EPA for relaxation of emission limitations in state implementation plants?

Mrs. BENNETT. I can't tell you today but I will certainly inquire of the Agency and provide it for the Agency.

Senator MITCHELL. Will you do so?

Mrs. BENNETT. Yes.

Senator MITCHELL. You are aware, having been at the Agency, that a number of applications have been made and approved, and some are still pending, which result, if approved, those that have been approved and will be approved an increase in emissions, particularly sulfur dioxide.

Mrs. BENNETT. I have heard that but I am not personally familiar with that.

Senator MITCHELL. You are not familiar with this?

Mrs. BENNETT. No, sir.

Senator MITCHELL. If it is true that relaxation of emission limitations does result in increased levels of emissions of those elements which are the precursors of acid rain, would you agree that such relaxations are inconsistent indeed directly contradictory to the commitment of the United States government as stated in the Memorandum of Intent which I just read?

Mrs. BENNETT. This Administration as well as the last is quite firmly committed to carrying out the Memorandum of Intent and the purpose described. There have been several working groups established to study various aspects of the problem of the control technology, source of the problem, scientific certainty and many other questions.

I know the Administrator has met with the Canadians to discuss that. The Canadians also have raised that question at the Agency.

Senator MITCHELL. I appreciate that. But my question to you is, since the United States government has committed itself to promote vigorous enforcement of existing laws and regulations in a way responsive to the problems of acid rain, and if in fact, relaxation of the emission limitations increased the level of acid rain, then would you not agree that any such relaxations are in fact contradictory and inconsistent with the commitment of the United States under this Memorandum of Intent?

Mrs. BENNETT. If the middle portion of that could be demonstrated that would be the case. Mrs. Gorsuch and I firmly are committed, and I hope I will have the opportunity to swear that commitment to a vigorous enforcement of our laws and regulations.

The problem comes when we try to do modeling or whatever tools we have to relate any increase that might occur in acid rain to the precise sources that might cause the acid rain. That is the difficulty and many millions of dollars were committed on both sides of the border to investigate ways of making that determination.

Earlier in the century, the 40's, 50's and 60's when we first started getting serious in air pollution we addressed the problem of sulfur dioxide, and many of the technologies may facilitate the formation of acid rain. We cured the SO_2 problem, but created acid rain. We are concerned any future regulations would not create any now unforeseen problem or aggravate this problem.

Senator MITCHELL. In the question of contributing acid deposition to specific sources, is there any doubt in your mind that acid rain results from the emissions of sulfur dioxide and nitrogen oxide into the atmosphere at some point other than the place where acid deposition falls?

Mrs. BENNETT. Certainly, sulfur dioxide and nitrogen are believed to be the precursors, pollutancy of acid rain.

Senator MITCHELL. Do you have any personal reason to doubt that basic fact?

Mrs. BENNETT. I don't personally, Senator, but I can't say it is a subject I have investigated from a scientific point of view in great detail.

Senator MITCHELL. Do you know of any scientific evidence to the contrary?

Mrs. BENNETT. I don't personally now.

Senator MITCHELL. If then, assuming for the purposes of this question, and I understand what you have said about it—but if, in fact, increased emissions of sulfur dioxide do produce higher levels of acid rain, assuming that now—is it not correct then that relaxation of emissions limitations which result in higher levels of sulfur dioxide are inconsistent with our commitment under the Memorandum of Intent with the Canadian government?

Mrs. BENNETT. Senator, I believe there is some uncertainty as to the direct relationship, because it is not the relation of that, but it also has to do with complex meteorology things, the amount of clouds and water vapor in the air, and many other factors. I can't come before you today and say I have all the answers for acid rain. But I know the scientific community is very concerned about the problem and millions of dollars are used here for that.

Senator MITCHELL. Well, I understand that, and I certainly would not expect you or any other individual to have all the answers to acid rain. It is obvious that all the answers do not exist. But what I am trying to determine here is the extent of your commitment to a resolution of the problem, and by resolution of the problem I am not talking about just more studies.

In the Memorandum of Intent the United States government also committed itself, "to develop domestic air pollution controls, policies and strategies and as necessary and appropriate seek legislation or other support to give effect to them."

Now, as you know, the President met last week with the Prime Minister of Canada in which it was widely reported in most newspapers in the United States and Canada that the President told the Prime Minister that the United States had a commitment to solving the problem. Were you aware of that statement?

Mrs. BENNETT. Yes, sir, I am.

Senator MITCHELL. Now, I have seen an excerpt from an Administration document, a so-called first draft of the Clean Air position by the Administration, which includes a paragraph on acid rain. And I would like to read that to you, it says: "The most conspicuous transport is acid rain. Canada is exerting pressure for action, and environmentalists also seek stern action to address the problem. The best option appears to be to accelerate EPA's current ten year research acquired by last year's legislation, as much as currently available dollars and sound science will permit, and defer regulation until the sources and extent of the problem can be better identified. Industrial groups support this as they feel further regulatory measures would be premature given the present state of knowledge on the subject."

First let me ask you whether your own position is in accord with this summary of the Clean Air Act discussion?

Mrs. BENNETT. I can't hold in my mind all the details of that paragraph. Let me state my position.

There is a great number of regulations on the book calling for control of nitrogen oxides and nitrogens, where the control technologies were not so well developed as in SO_2. But at any rate, the development of these regulations is well underway and the implication is well underway in many cases, that the addition of further regulations should only be done after we are clear on what the effects will be.

Senator MITCHELL. Do I take it your position is that we are not yet clear on what the effects are going to be?

Mrs. BENNETT. I believe that is the case, or the government would not have committed $20 million for that question. A large share of that money is at EPA, about half of it, and the rest is other agencies like Interior and Atmospheric Administration, and other agencies of the government.

Senator MITCHELL. So I would take it that your position seems to be in accord with this draft position which says the best options appear to be to accelerate research as much as available dollars, and defer regulations——

Mrs. BENNETT. Sir, you know there is a ten year program that was authorized last year. And we believe that program can be accelerated significantly to perhaps five years or so, and that even before that time there may be some indications of the appropriate policy directions.

Senator MITCHELL. Well, I just want to say that the Canadian government—I can't speak for it, of course, but in my view, and I have regular contacts with Canadian officials—regard commitments of the United States in the Memorandum of Intent and the commitment by the President of the United States to mean something other than more than several years of study, whether it is ten or five years. I believe they understand that to mean a commitment of some action now.

I share their view. As you know, we discussed this in some detail. And while it is obviously true that more information can and should be gathered, it is also obvious that there is sufficient information that exists to make it clear that this is a very real and severe problem. It is particularly severe and inequitable when one considers the fact that the benefits in reduced cost of facilities and operation accrue to persons in one region of this country and the costs in terms of environmental pollution, acid rain deposition are imposed on persons in another region of this country and in another country.

Most environmental cost benefit analyses relate to the same group of persons. Persons in a particular region or area get certain benefits from that, and certain costs from it, and they then through their elected officials make the judgments as to what the proper cost or benefit is.

In the case of acid rain we have a situation where the group receiving the benefits and the group paying the costs are entirely separate and distinct. And it is clear the Clean Air Act in its present form does not deal with that; because it relies on separate state standards. So there is an overwhelming economic incentive upon people living in the states of Ohio, Indiana, Pennsylvania, and other states to burn the cheapest coal, to install the least expensive facilities possible, because the acid rain does not fall in their states. It falls in Maine, New Hampshire, Vermont, and in Canada.

Mrs. BENNETTT. Yes, Senator, but the Act does provide limits on how much they can do. And there are primary and secondary standards that apply no matter where they are located. And there are further case situations which apply to new cases, and additional limitations would be necessary but——

Senator MITCHELL. But there are, as you well know, a large number of facilities now operating which do not meet new source performance standards.

Mrs. BENNETT. Certainly.

Senator MITCHELL. In fact, they don't meet them by very large factors, as you well know, isn't that correct?

Mrs. BENNETT. Yes, Senator.

Senator MITCHELL. And it is also true, is it not, that every time the EPA approves an application for relaxation of emission limitations, the result is an increase in emissions, isn't that true? That is the very purpose of the application for relaxation?

Mrs. BENNETT. Yes, Senator.

Senator MITCHELL. To permit greater pollution increases than are permitted under the existing limitations, that is true?

Mrs. BENNETT. Yes, Senator.

Senator MITCHELL. I would ask if you would provide to me the number of applications for relaxation of emission limitations which have been made to the EPA this year and the disposition of those—that is, those which have been approved and those which were denied and those still pending.

Mrs. BENNETT. Yes, sir.

Senator MITCHELL. And I would ask you, and indeed I would implore you in your position, because you will have great power and influence in this area, to look very carefully at these applications for relaxation of emission limitations and remember that there are other people involved in this decision who live hundreds and thousands of miles away from the plants which will be emitting this pollution into the atmosphere.

Mrs. BENNETT. Yes, Senator, I will do that.

Senator MITCHELL. And also, you have had experience in this industry, and this draft says that environmentalists seek prompt and stern action. Now this is more than a problem for environmentalists. My state is 91 percent forest land, the highest percentage of any state in the Union. Thirty percent of all jobs manufactured in the state of Maine are in the lumber, wood resources and pulp and paper resources. Forty-five percent of the value of all products manufactured in the state of Maine are produced in those industries. It is overwhelmingly the most important economic element in our state. That is true in other states, but not to the same degree.

As you well know, there are some preliminary studies which indicate that acid rain causes retardation of forest growth. It is not conclusive, I grant that.

The representative of the American Paper Institute, your former employer, testified before me that a one percent retardation in forest growth would be a catastrophe for the paper industry. And a one percent or greater retardation would be a catastrophy for the people of Maine.

This is not just a question for environmentalists. And I hope you won't regard it as such. This strikes at the very foundation of the economy of the state I represent and other states; and we are getting no benefits, none whatsoever. We are just the dumping ground for pollution from other states. And as I said, I employ you to bear that in mind as you pass judgment on these applitions, and as you seek to determine just what the President meant when he said to the Prime Minister, "I have a commitment of solving the problem."

I hope you will come around to the view that does not mean ten or even five years of studies, but doing something right now. Thank you.

Mrs. BENNETT. Thank you, Senator.

ARMS CONTROL

Mr. MITCHELL. Mr. President, since January, the attention of the administration, the Congress and the American people has been focused on budget and tax cuts. Now that work on those important matters has been essentially completed, we must turn our attention to what is in my judgment the most important problem we confront as a nation—the need to prevent nuclear war.

I believe deeply in a strong America. Plainly, American military strength plays an important role in deterring aggression. But maintaining, even increasing our strength is not inconsistent with reaching fair, balanced, verifiable agreements with the Soviet Union to first restrain the increase in the quality and quantity of nuclear weapons and then, hopefully, to bring about a realistic reduction of such weapons.

I urge the President to focus his energies, and those of his administration, on the prompt development of an American policy and the swift resumption of negotiations with the Soviets in an effort to reach such agreements.

Over a century ago, Baron von Clausewitz profounded the idea of war as an extension of diplomacy. He wrote:

> War is not merely a political act, but also a political instrument, a continuation of political relations, a carrying out of the same by other means.

The truth of that maxim is accepted and acted upon by governments today, as it was in von Clausewitz's time. There has been no decrease in man's willingness to resort to armed force when political means fail. We need look only to Afghanistan and the Middle East for recent examples of this unfortunate reality.

Armed conflict between nations remains, as it ever has, a method of settling disputes.

That is a tragic commentary on mankind. It is an indictment of our inability to eliminate war as a method of settling disputes.

But there is a major difference between the environment in which von Clausewitz wrote and the environment in which we live. In the 19th century, wars could and did kill, maim, and mutilate human beings. Wars cost nations their treasuries. Wars strengthened the hatreds and deepened the divisions between peoples. But in the 19th century, no country, no person, had the power to annihilate an entire city, an entire nation, an entire society, even the world as we know it. That is something we can do today. Indeed, in the first hours of an all-out nuclear exchange, more human beings would die than have died in all the wars since the beginning of recorded history.

That power makes von Clausewitz's formulation of war as an arm of diplomacy dangerously irrelevant.

Nuclear conflict is not and cannot be accepted in that way. Nuclear war would not be just another conflict. It presents for the first time the possibility of the ultimate holocaust. It raises for the first time the spectre of the deliberate mutilation of unborn generations of people through genetic radiation damage. Nuclear war is and must remain unthinkable.

In recent years there has developed the notion of "limited" nuclear war. "Tactical" nuclear weapons have entered the debate over strategic doctrine. But it is likely that any conflict in which nuclear weapons are detonated would escalate out of control in a short time.

Our weapons delivery systems are increasingly sophisticated. Fewer and fewer of the judgments surrounding their detonation are in human hands. Targeting and guidance are computer operations. The remaining decision for human minds to make is the very basic one of using the weapons or not. So the practical scope for limiting a nuclear exchange is less today than ever before, and the weight and accuracy of our arsenal makes it unlikely that any party to a low-level nuclear conflict would long remain unwilling to respond in kind.

The difference between conventional war, waged with conventional weapons against conventional targets, and the total annihilation of life and poisoning of the environment involved in a nuclear exchange is not a difference of degree. It is a difference of kind. Mankind simply cannot afford a nuclear exchange.

Ever since the explosion of the atomic bomb in the air over Hiroshima, man has known that this weapon was not merely an addition to the arsenal of war—it is a radical departure from it. The 36 intervening years have accustomed us to the existence of nuclear weapons, but it has not brought home to us their reality.

The only steps we have taken to help control this destructive power are in the form of arms control negotiations with the Soviet Union.

Those negotiations have resulted in a few successes and many failures.

But when the question at stake is the preservation of life as we know it, even the most modest success cannot be ignored. And our successes are modest only in comparison to the scope of our arsenal. The steps we have taken to control nuclear weapons are meaningful, and they are a solid foundation on which we can and should build further controls.

The limited test ban treaty of 1963 has helped prevent the poisoning of the atmosphere and the oceans of the world. The 1968 Nonproliferation Treaty has helped bring 115 signatory nations to agree to prevent the spread of nuclear weapons. The 1971 SALT I agreement and the subsequent interim agreement helped abort the rush to anti-antimissiles, which was brewing during the 1960's. It helped stabilize the balance of nuclear armaments to an extent which permitted us to shift the focus of the United States-Soviet challenge to arenas less threatening to human life.

These are not negligible achievements.

The Senate has before it now two other nuclear limitation treaties: The threshold test ban treaty, which would permit "black box" installations and on-site inspections of tests, and the peaceful nuclear explosions treaty, which would provide some control over explosions for ostensibly peaceful purposes and over possible evasion of the test ban treaty. Neither of these negotiated agreements has been ratified, although both offer good grounds for controlling both the technological and institutional pressures which escalate the arms race on both sides.

Today, we face several factors which could constrain future arms control efforts. These factors demand serious attention.

In addition to the six nations now known to have nuclear weapons, 24 others are within a decade of achieving them. The increased risk of accidental or small-scale nuclear explosions will exponentially increase should those 24 nations successfully realize their weapons potential.

We are now working with our NATO allies to deploy theater nuclear weapons in Western Europe. Allied agreement to this proposal was gained on the understanding that we and the Soviets would recommence arms control negotiations promptly. Without prompt action, European leaders are facing the very real prospect that their electorates may not maintain their agreement to theater force deployment. Many Europeans see deployment of theater forces in their countries as a means of moving the locus of a nuclear confrontation to their continent. Only meaningful arms control agreements can help stem that perception.

Today, we are at a crucial decision point. Our technological advances have brought us to the point of developing and deploying a counterforce capability which is essentially equal to a first-strike force.

If we and the Soviets step across this technological boundary and fully deploy these weapons—a full-fledged first-strike capability on both sides—the control of nuclear arms will be immeasurably more difficult.

Our nuclear strategy is a strategy of deterrence, not a strategy of victory, because we know that in a nuclear holocaust there can be no real winners. There can only be survivors. In the words of President Kennedy, in such a case the "living will envy the dead."

But the full deployment by both sides of a first-strike capability represents movement away from deterrence and toward the goal of nuclear victory. Not only is that goal illusory, each step toward it is fraught with incalculable danger for our world. It represents a quantum leap in the nature of the nuclear arms arsenal, not merely an upgrading of existing weapons. It intensifies the conflict between ourselves and the Soviets, and it returns us to the hair-trigger world of the cold war period at its worst. It gives other nations on the brink of nuclear weapons capability no reason for self-control.

The SALT I treaty has expired. It did so in 1977, but the hope of a follow-up agreement then meant that the expiration was not so serious.

But our inability to reach an acceptable SALT II agreement leaves both sides with no legal or agreed limits on their arsenals.

This not only vastly complicates the task of responding to the Soviet threat, it provides an impetus to technological advances which destabilize the existing relationship.

The United States is abiding by the terms of the agreement, even though no agreement is in place requiring us to do so. But the rapidly increasing call for a new ABM makes it very unclear how long we can resist the temptation to ignore our informal, self-imposed restraint.

In an interview this January, Secretary Weinberger suggested that the 5-year extension of the existing ABM treaty may not be automatic, as it was last time, and he said that the administration may also seek to build a larger ABM site than the treaty permits. The administration has increased ABM research funding from the $285 million provided last year to just under $400 million for fiscal year 1982. The Pentagon has suggested that the closed site at Grand Forks, N. Dak., be reactivated. All these developments point ominously in the direction of reliance on a new ABM technology, even though the successful ABM limitation treaty was achievable only because the technological shortcomings of the early 1970's persuaded both sides that it was an illusory defense hope.

These circumstances and the administration's emergent arms control policies are a disturbing series of signs that arms control negotiations are not a serious objective of this administration.

I was, therefore, deeply concerned when Eugene Rostow, soon to be Director of the Arms Control and Disarmament Agency, recently suggested that negotiations not begin until March next year, and that they be preceded by the revitalization of the containment doctrine. That position surely distressed our allies as well.

Under Secretary of State Walker Stossel testified before the Senate Foreign Relations Committee in May that arms control negotiations and modernization of the nuclear arsenal be decoupled, and he urged that negotiations be based on Soviet behavior. He said that because arms agreements are limited in their ability to restrain competition between ourselves and the Soviets in other areas, so arms control negotiations should receive a correspondingly lower degree of attention and concern from the administration.

That view ignores the central reason for arms controls: To enhance our security.

If we insist that negotiations must wait until we establish clear superiority—beyond equivalence—we will set up a condition under which no arms control negotiations can be successful. We should not and will not accept an arms agreement that leaves the Soviets with clear superiority. Can we expect them to agree to leave us in clear possession of superiority? If that is a precondition to negotiations, then negotiations are already doomed.

It is also disturbing that Mr. Rostow acknowledges that the administration does not know whether it wants to seek limits on arms, or reductions; whether it wants to seek a finite agreement or a permanent one; whether it wishes to seek limits on missiles or on launchers—in short, the administration does not know what it wishes to negotiate.

Those who were instrumental in preventing the SALT II accord from being debated in the Senate, whatever its merits, surely have an obligation to outline in more precise detail the shortcomings of that accord and the corresponding areas in which they would attempt to strengthen a new agreement.

This administration appears to have a perception that arms agreements are a kind of favor we do for the Soviets, which have no corresponding benefit for ourselves.

The notion that we ought not negotiate with the Soviets until their behavior improves is illogical, and not in our interest. It presumes that only when they accept our definition of acceptable behavior can we talk. But if the Soviets accepted our definition, there would be no need to talk for there would be no arms race to control. It is precisely the fact of our disagreement which makes arms control imperative.

Arms control agreements are not needed between nations which are friends; they are essential between potential adversaries.

Arms control agreements are not a reward for good behavior; they are a vital safeguard for ourselves. Without negotiated limits on nuclear weapons, our defense procurement is far more costly, and our strategic planning is far less secure. Without negotiated limits on nuclear weapons, our ability to reduce tensions in other areas of our relationship with the Soviets is seriously undermined.

The fact is, of course, that arms nego-

tiations are not a favor to the Soviets. They are essential for ourselves and for all other people on the face of the Earth. Our Nation has many means of expressing our position to the Soviets when their behavior warrants a U.S. response. We can embargo grain sales, as we did when they invaded Afghanistan, we can withhold credits for trade, we can embargo other items of trade. It is foolish and not in our national interest to hold arms negotiations hostage to Soviet behavior.

Arms agreements are not a reward for the Soviets any more than they are a concession we make. We should enter into agreements only when and because they help meet our security needs. That is not a concession of any kind.

If we insist on viewing the negotiating process and any resulting agreement in terms of winning or losing, we will be doing ourselves much more damage than we inflict on the Soviets. We will have tied our future to the ever-increasing costs of replenishing a nuclear arsenal which we are pledged not to use, which has no value in the conflicts that face us in the real world, and which can only help encourage the proliferation of more deadly weapons around the world, to our own risk and to the risk of every other nation.

MACK GARRETT, DEAN OF ALABAMA'S SHERIFFS, RETIRES

Mr. HEFLIN. Mr. President, Sheriff Mack Garrett of Cherokee County, Ala., has served notice to the people of Cherokee County that he will not be a candidate for reelection next year, retiring after 34 years as the chief law enforcement official in this northeast county.

At a time when only one of my colleagues, the distinguished Senator from Mississippi, Senator STENNIS, has served in the Senate for 34 years, it is impressive, indeed, that a man such as Sheriff Mack Garrett has served so long and so well. All Cherokee County has respect for him and for the law, even outlaws and his former opponents.

When Sheriff Garrett retires, Cherokee County will have an adjustment period no doubt, as will Mack Garrett himself. But his even temper, good humor, and bright outlook will make Mack Garrett Alabama's most experienced and most distinguished sheriff emeritus, and all Alabama salutes his many years of service.

Mr. President, I ask unanimous consent that an article from the Birmingham News of June 17, 1981, related to the retirement and character of Sheriff Mack Garrett be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GARRETT, DEAN OF STATE SHERIFFS WITH 34 YEARS IN OFFICE, TO RETIRE WHEN TERM ENDS

(By Nancy Campbell)

CENTRE.—They say after Sheriff Mack Garrett dies the people of Cherokee County could hang his pants on a line in front of the courthouse and he'd be re-elected to two more terms.

But the dean of Alabama sheriffs—who enjoys that old joke as much as anybody—says he doesn't plan to die—or be re-elected—anytime soon.

In office longer than any other sheriff in the state, 70-year-old Garrett has told The News he'll retire to his little farm near the county seat of Centre when his term expires next year.

"Centre won't be Centre without Mack Garrett," said one voter, when she learned of the lengdary lawman's decision to quit.

Another said Garrett will be missed after 34 years in office "because he's the best we ever had around here."

Garrett admits to enjoying the praise, but he says no amount of flattery will convince him to change his mind because he's tired of working.

"There's a lot goes on and you don't have much private life," he said, in describing life at county jail where he's lived for decades with his wife, Villeta. "That's why I want to quit."

In addition to running the jail that houses Cherokee County prisoners, Garrett helps four deputies police about 17,000 people and 1,000 miles of county roads.

Citizens say Garrett has successfully enforced the law in the rural, northeastern county because he knows at least 14,000 residents personally. Garrett says that estimate is no exaggeration.

They also say he's able to sit in his office on Main Street and make more arrests than any lawman in the field and rarely serves a warrant. The times he's reportedly sat at his desk and picked up the telephone to make arrests are legendary.

When asked if he really tells suspects to meet him at the jail, the sheriff just laughs and says, "It works like that sometimes."

One voter explains the procedure this way: "He don't have to go get 'em. He can sit in his office and tell you who done it."

When asked if she would surrender to Garrett, another voter responded: "I would if Mr. Garrett called. He means business. If he has to come (for a suspect), it would be bad."

Garrett's wife says suspects usually surrender because he knows everything about them, "even their dogs' names."

The sheriff says it's been fun knowing changes when he talks about the changes in law enforcement over the years.

"You can't enforce the law anymore," he complains. "Everybody wants to jump on you and sue you. The courts want to convict sheriffs more than they want to convict the defendants."

Garrett says the rising crime rate is another reason he wants to quit, explaining that the nature of crime "is altogether different now."

He says drug-related crimes, burglaries and the passing of bad checks have been on the upswing in the past six years. Before that, he says investigations were limited mostly to drunk driving cases and an occasional homicide.

The sheriff also says he may be losing his grip "on the crime situation" because so many newcomers are moving into the county. He attributes numerous home burglaries to the building of Weiss Lake several years ago, when he says hoards of strangers started pouring into the county for recreation on the weekends.

Nor is Garrett optimistic the new sheriff can do much about rising crime, calling it a sign of the times nationwide: "The poor devils (who write bad checks) have got to have something to eat. They just hope the money will be in there (the bank) when the checks are cashed."

Mrs. Garrett encourages the sheriff to retire because she, too, is tired of the life.

"Oh, I'll miss it, I guess," she says in recalling the years she raised three sons at the jail. "I tell everybody my boys cut their teeth on jailhouse bars."

But she says she won't miss her husband's career "that much" because she's ready to retire to the farm where she doesn't plan "to do a blessed thing."

In the early years, Mrs. Garrett cooked every meal for the inmates. In recent years she turned the kitchen chores over to trusties, but she still plans menus and buys the groceries for no pay.

Despite the headaches of the job, Garrett recalls past campaigns with enthusiasm. Except for two unsuccessful bids in the mid-50s, the sheriff says the people re-elected him for "treating 'em all fair."

He says politics is "like a man and woman divorcing. You can't take sides."

Garrett says not taking sides is the key to success, particularly on issues he can't control. For example, workers at the independently-owned People's Telephone Co. have gone on strike several times during his reign. But he's never favored the company over the strikers when cut telephone lines disrupted service to customers "because they all vote."

Although she once forced him to leave the campaign trail for the birth of one of their children, Mrs. Garrett predicts the sheriff won't be tempted to run again.

However, some supporters say they're less sure. "I'm wondering if he won't really decide to run again at the last minute," says one.

VETERANS FLIGHT TRAINING PROGRAM

Mr. MURKOWSKI. Mr. President, as a member of the Senate Veterans' Affairs Committee I deeply regret the termination of the GI Bill education benefits for flight training.

In an effort to eliminate certain abuses and lower costs in this program, Congress decreased the cash reimbursement to veterans from 90 to 60 percent and provided eligibility for education loans to cover the remaining costs of the training.

The Veterans' Affairs Committee carefully reviewed the program, and concluded in its report that—

Flight training is a legitimate vocational objective. In certain States, such as Alaska and Hawaii, flight training is necessary to acquire the ability to get to and from a job and may be essential to the performance of the job.

It was for this reason that the committee recommended the continuation of the flight program with improved controls. This legislation was enacted into law only last October. I do not believe sufficient time has elapsed to evaluate the effect of the improvements in the program.

The veterans' flight training program has proven especially beneficial for the veterans of Alaska. The lack of roads and other conventional transportation modes underscore the importance of the program. It has provided the State with many qualified commercial pilots.

In many instances, flight training is a necessity for veteran employment. After graduation, at least 50 percent of the graduates must secure employment in the same type of work or a closely related field for the flight school to remain approved by the Veterans' Administration. In Alaska, our institutions approved for the training of veterans have excellent percentages for veterans finding employment related to their training—most hold a 100-percent employment rate.

The Senate Committee on Veterans' Affairs met the goal of saving $110 million in the Veterans' Administration budget without terminating the veterans flight training program. The Senate

Budget Committee and the full Senate concurred. However, the House of Representatives insisted on termination of the program in its version of the Omnibus Reconciliation Act of 1981.

Because of the adament, though mistaken, opposition to the program by a majority of the conferees and the mandated $110 million cost savings, we were unable to save the program. However, because of the insistence of myself and a few other conferees we were able to protect those enrolled in the program by August 31, 1981, by allowing them to continue to use the benefit as long as they remain continuously enrolled in the program.

Mr. President, this August 31, 1981, enrollment date is especially important to the veterans benefiting from this program. I would like to extend my personal appreciation to Senator CRANSTON and Senator RANDOLPH for their help in including this language.

VOLUNTEER FORCE CAN WORK

Mr. COHEN. Mr. President, recently there have been a number of articles expressing sharp criticism of the All-Volunteer Force.

I share some of the concerns which have been expressed about the ability of the volunteer military to meet our defense needs if there is an expansion of the force, but I have been troubled by some of the charges which have been leveled against the All-Volunteer Force. Debate on the issue is healthy, but the debate must be a fair one.

In the Friday, July 24, edition of the Washington Star, Senator ROGER JEPSEN, chairman of the Armed Services Committee's Manpower Subcommittee, did an excellent job of correcting some of the serious misstatements which have been made recently about the AVF. The article, "Volunteer Military Can Work," emphasized the difference between problems of retention and those of recruiting. As he pointed out, a draft will do nothing to help retain qualified career personnel. That is why the Jepsen-Exon pay bill provides pay increases targeted at key retention points.

Senator JEPSEN makes an important point in noting the significant improvements in quality of recruits in this fiscal year. Most important, he speaks of the needs to

restore the pride and distinct advantages that military service had long offered our youth. Let us create, not destroy, an environment where young people will choose to serve their country. It is just beginning to happen.

I commend the full text of this excellent commentary to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOLUNTEER MILITARY CAN WORK

(By ROGER W. JEPSEN)

Jeffrey Record's op-ed piece "The Comic-Book Version of Defending America" cannot be allowed to stand unrebutted. By mixing the issues of recruiting and retention to advance his own ideology, Jeffrey Record succeeds in totally distorting the manpower picture.

The author commences his article by misleading the readers into a false belief that the All Volunteer Force (AVF) is responsible for the service retention problems. Nothing is farther from the truth. Apparently the reader is supposed to accept the nexus between the AVF and the exodus of skilled and experienced enlisted personnel who volunteer to serve their own country.

Eighteen months ago, a Navy ship was tied up and could not get underway because of a shortage of career personnel. This single occurrence had little to do with AVF, but rather with the fact that low pay, prolonged family separation and arduous working conditions are causing careerists to leave the service. A draft will bring people in the front door upon completion of their obligated service. Take for example the following facts: A petty officer first class (E-6) with ten years of service receives $943 a month in base pay. A chief petty officer (E-7) with 20 years service receives $1,219 in base pay.

INCENTIVE LACKING

Where is the incentive to remain in the service and endure the hardships, if you are only going to realize 10 years later $276 more each month? Further during this 10-year period you probably get to make a few nine-month deployments to the Indian Ocean or pull an 18-month unaccompanied tour overseas. Returning to a draft is not going to solve that problem.

To address the retention problem, the Senate Armed Services Committee on June 25, 1981, reported out a bill which will concentrate this year's pay increase on mid- and senior-grade enlisted personnel. The bill is designed to relieve pay compression and promote a positive career inducement by providing larger pay differentials between first-term and career members. Enhanced pay rates for middle and senior enlisted grades should provide a greater incentive for promotion, career advancement and retention.

Mr. Record alleges that since its inception the AVF has failed to attract sufficient numbers of service age youth into the military. In fact, the AVF did very well in its early years. In fiscal year 1976, the House Appropriations Committee stated: "All of the services are currently meeting their quantity goals and are doing so at higher quality levels than they have ever done before." The decline in quality began in 1976 with the recruiting cutbacks coupled with the slippage in military pay and termination of the G.I. Bill at the end of the year. Today all of the services are not only meeting their recruiting goals but with much higher quality. In fact, the worst year, fiscal year 1979, shows a shortfall of only 24,000 in a two-million man force. Last year the services exceeded their quota and this year they are right on target.

QUALITY IMPROVING

Next, the author turns his attention to the quality of today's young recruit. To foster his position he would have you believe that the Army is on the verge of destruction due to the large number of illiterates and high school dropouts flooding the ranks. Quality has been an issue of great concern, however, the statistics are showing great improvement. This year, 66 percent of the Army's entering males are high school graduates and only 27 percent are in the lowest mental group category. This is a far cry from the "more than one-half" as alleged by Mr. Record. Perhaps in another article he could explain how an equitable draft will insure that the number of illiterates and high school dropouts will be controlled. Or shall we be intellectually dishonest and say that quality constraints will no longer matter?

The AVF is not as representative as some, including myself, might hope, but it is no more "a force largely of the poor, unemployed, and socially disadvantaged" than its conscripted predecessor. One of the reasons for going to the AVF was because the disadvantaged were being drafted disproportionately in the Vietnam era while those with greater resources were able to find means of avoiding service.

Since its inception, a small number of advocates of conscription have been faulting the AVF because they do not want it to survive. They have resisted all attempts to make it work. The AVF has problems, but has time dulled our memories of the insurmountable problems and significant costs associated with our draft?

Whether the military will be served in the future by volunteers or conscripts, let us restore the pride and distinct advantages that military service had long offered our youth. Let us create, not destroy, an environment where young people will choose to serve their country. It's just beginning to happen.

OUR NEW FRIEND IN THE SENATE

Mr. COHEN. Mr. President, the June-July issue of Modern Maturity magazine recently published an article entitled, "Our New Friend in the Senate." The article pays tribute to my friend and colleague, Senator JOHN HEINZ.

It has been my privilege to serve with Senator HEINZ not only on the Senate Aging Committee, but on the House Select Committee on Aging as well, where he first earned his well-deserved reputation as a leading spokesman for the interests of the elderly. As chairman of the Senate Aging Committee, Senator HEINZ has continued to prove himself an effective and knowledgeable leader on a number of concerns to older Americans.

I look forward to continuing to serve under the leadership of Senator HEINZ on the Aging Committee, and I commend my colleagues' attention to the following article, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR NEW FRIEND IN THE SENATE

(By Elliot Carlson)

At first glance, Senator John Heinz (R-Pennsylvania) seems an unlikely choice for chairman of the Senate Special Committee on Aging. He's young (42), rich (he listed assets last year of at least $21.3 million), and a relative newcomer to the Senate (he was elected just five years ago).

But Heinz is an old hand at grappling with the tough problems facing America's aged.

After entering the Senate in 1977, his first move was to go after a seat on the Special Committee on Aging. There were no openings at the time, but he kept trying. "I had to move heaven and earth to get (then Minority Leader) Howard Baker to appoint me in 1979," says Heinz, the heir to a fortune in one of the nation's largest food-processing corporations.

The move paid off last fall when Ronald Reagan won the Presidency and Republicans gained control of the Senate for the first time since 1954. As the ranking Republican available for the job, Heinz emerged as Committee leader (displacing Florida Democrat Lawton Chiles), and thus became the first GOP chairman of the Special Committee on Aging in its 20-year history.

Heinz traces his interest in the elderly back to his days as a freshman in the House of Representatives during the early 1970s. "My interest grew out of the frustration of another Congressman, David Pryor, who was trying to get the House to establish a committee on aging," he recalls. "He was meeting with absolutely no success and was told by the Democratic leadership that there

simply was no space available in the House for any committee on aging.

After Pryor left the House in 1972 (he is now a Democratic senator from Arkansas), Heinz continued the campaign for a House aging committee on his own. He finally succeeded in 1974. "Once we got the issue to a vote, we won easily," remembers Heinz. "I always felt that this was probably the most important thing I ever did."

Since then, Heinz has devoted a good deal of his legislative work to issues affecting the elderly. As a member of a Government Operations subcommittee, which for a time was the main House body dealing with the problems of older Americans, Heinz visited numerous senior centers and personally investigated many of the conditions that distress America's aged.

Now that he is head of the Special Committee on Aging, Heinz has stepped up his activity on behalf of the elderly. In one of his first moves in his new capacity, he joined Senator Chiles in introducing a resolution expressing the sense of the Senate that Social Security benefits remain exempt from Federal taxation. The measure is pending.

Heinz also scheduled a number of hearings in March and April to examine in detail the impact of the Reagan Administration's proposed budget cuts on older Americans. The Senator said he wouldn't take a position for or against the proposed cuts until his committee had a chance to study them.

But Heinz didn't hesitate to attack the budget-cutting proposal advanced by some members of the Senate Budget Committee that called for changing the current system of "indexing" major Federal benefit programs (including Social Security) to the Consumer Price Index (CPI), so that benefits would be less than 100 percent of the CPI.

"I think that would be a grave mistake," Heinz said in an interview. "Such a move would run counter to the promises Congress has made—and that Reagan himself has made—to older Americans."

While Heinz has generally supported legislation backed by groups representing the elderly, there have been exceptions. For example, last year he voted against a bill to provide hospital cost containment.

Heinz says he has his own approach to the problem of soaring health care costs. He plans to introduce a bill that would give Medicare patients the opportunity to take advantage of prepaid health plans. "Such an option would give the elderly a wider freedom of choice," says the Senator. "This would stimulate greater price competition."

GOVERNMENT COMPETITION

Mr. HAYAKAWA. Mr. President, on June 22, 1981, I introduced Senate Joint Resolution 93, which if passed, would reaffirm a longstanding national policy of reliance on the private sector for the goods and services needed by the Federal Government. I am happy to report that the Reagan administration fully supports the resolution.

Recently, in hearings held by the Small Business Subcommittee on Advocacy and the Future of Small Business which I chair, the Administrator of the Office of Federal Procurement Policy of the Office of Management and Budget summarized the administration's position as follows:

The Joint Resolution, as introduced, is a vigorous and welcome reaffirmation of the free enterprise system that has made this country strong. We believe it provides timely support for this Administration's quest for a new, revitalized approach to strengthening this country's economy. Economy and efficiency in government and reward of the private sector for initiative and productivity are necessary ingredients in our formula for economic renewal.

Last week, U.S. News & World Report published a fine article that summarizes this issue of Government competition with private sector firms. Mr. President, I ask unanimous consent to print the article in the RECORD and I highly recommend it to each of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEN UNCLE SAM GOES INTO BUSINESS FOR HIMSELF

Ronald Reagan, aiming to promote free enterprise and save taxpayers money, is launching the most determined drive in years to get Uncle Sam out of competition with private business.

If the President has his way, the U.S. soon will be relying less on federal workers and more on private contractors for a vast assortment of goods and services—from trash collecting to computer key punching.

Departments and agencies already are under White House orders to examine all of their activities to determine which can be handed over to the private sector. Among the first to report: The Small Business Administration, which discovered itself competing with commercial or industrial operators in 14 areas, including microfilming, graphic production and warehousing of forms and publications.

The business community, which for years has protested government's spread into traditionally private areas, has been quick to note that there are thousands of other government activities that seem ripe for farming out. Among them:

An Army depot at Tooele, Utah, rebuilds tires for National Guard units in several states.

A Department of Energy operation at Richland, Wash., requires private contractors as well as its own employes to use government facilities for such needs as printing, photofinishing and reproduction of engineering drawings.

Offutt Air Force Base near Omaha, Nebr., undertakes its own pest-control work.

Jerry W. Keown, part owner of an exterminating business in Omaha, complains: "Offut is in the defense business. We're in the pest-control business. There's no real good reason for them to be doing it. We can do it cheaper and better."

Such claims by business produce loud outcries from government workers whose jobs are on the line and who contend that the economic benefits of having work done by the private sector are more illusory than real. Moreover, public-employe unions argue that contracting out frequently is used by politicians in an effort to circumvent personnel ceilings. They add that it can jeopardize national security and that it encourages corruption.

At stake are billions of dollars in potential contracts or, in the view of federal workers, billions in potential salaries that could be lost.

Commerce Department figures show that federal contracts for all types of goods and services—from the procurement of missiles to the hiring of janitors—amounted last year to 117 billion dollars, nearly one fifth of federal spending.

About 400,000 government workers, meanwhile, were employed last year in nearly 12,000 commercial and industrial activities. They produced an estimated 19 billion dollars' worth of goods and services, most of which, according to the Defense Department, was exempt from private contracting on grounds of national security.

Still, government-performed work worth about 7 billion dollars is subject to cost-comparison studies and could be handed to outside contractors, says Darleen A. Druyun of the Office of Federal Procurement Policy.

Despite their enthusiasm for what Reagan has set out to do, business officials warn that other Presidents have tried to accomplish the same thing—and failed. They observe that every President since Dwight Eisenhower endorsed the idea of contracting out wherever possible, but few pressed the issue after encountering resistance from the bureaucracy.

Furthermore, as far as government competition with the private sector is concerned, the contracting-out issue barely scratches the surface, according to business people.

Private pharmacists, for example, claim that they are being harmed by a Veterans Administration policy requiring participants in a free-prescription-drug program to obtain their medicine from a VA facility or by mail directly from the VA.

David T. Hodgen, owner of a campground in Scotts Valley, Calif., contends that by charging unrealistically low fees, federal land-management agencies, such as the National Park Service, undercut private campground owners, who, he says, "are forced to charge fees that are not profitable and that affect the services they can offer."

Head-on challenges. Compounding the business community's frustration is the direct and indirect competition it feels when state and local governments use federal money to set up commercial and industrial-type activities.

Harold M. Kimble, the proprietor of a tool-renting shop in Cambridge, Ohio, argues that he may be driven out of business by a tool-loan program sponsored by the local community-development agency, which gets funds from the U.S.

Amber Stephenson, the owner of a day-care center in Gloucester County, Va., complains that local governments and nonprofit agencies use federal funds to set up and operate day-care facilities. "It is unfair to a private business for the federal government to fund a competitor," she says.

Adds Earl Hess, an official with the American Council of Independent Laboratories: "Most of the major land-grant universities in the country do soil testing for very nominal fees. Very few of the private labs even compete with them any more."

The government-competition controversy began heating up in April when the Office of Management and Budget sent memos to the heads of 37 executive agencies and departments reaffirming the government's reliance on the private sector for the acquisition of goods and services—a policy that had first been laid out by OMB's predecessor, the Budget Bureau, as far back as 1955.

Four agencies—the Defense Department, General Services Administration, Health and Human Services Department and VA—were singled out for special scrutiny. The OMB told the GSA it was "gravely" concerned that, despite a Carter administration directive some two years ago, "your agency has not reviewed a single in-house activity for possible conversion to contract performance."

Some results. The administration's get-tough policy may be paying off. For instance, the Agriculture Department turned up 230 in-house activities, including film developing, office cleaning and aircraft piloting, that could be contracted out. Annual operating cost: 244 million dollars.

Even before the administration laid out its policy, the Department of Education switched from government employes to private collection agencies for tracing holders of delinquent student loans. The change came after the department had been widely criticized for its past failure to collect such debts totaling hundreds of millions of dollars. With private collectors, whose track record for collecting owed money is better than that of their public-sector counterparts, officials expect to do better.

For now, the administration's focus is on commercial and industrial activities of the executive branch. Neither Congress, where public workers hold such jobs as barbers and tour guides, nor the judicial branch is affected.

Does the government save money by using private contractors? The answer appears to be yes in many—but not all—cases.

Not only does contracting out save money, supporters claim, but it gives the government better flexibility to terminate tasks that are no longer needed, and it generates tax revenue from the businesses that get the contracts.

A book by economists James T. Bennett and Manuel H. Johnson of George Mason University, Fairfax, Va., claims that governments at all levels can cut costs an average of 50 percent by contracting out for goods and services. Example: a National Weather Service facility at Washington's National Airport in 1979 hired a private firm, for $126,000 a year, to provide the same observation services that, as an in-house activity, would have cost taxpayers about $240,000.

Other evidence comes from a series of cost-comparison studies by the Defense Department over a 2½-year period. After studying 335 defense activities around the nation, the department found that 62 percent of the time it was more economical to contract out than to do the work in house.

As a result, the department converted 207 activities to contract arrangements—including bus, guard, food and laundry services and maintenance of buildings, vehicles, aircraft and microwave systems. The conversions resulted in the elimination of 7,800 positions and a three-year saving of 130 million dollars, or 17 percent less than the estimated in-house cost of 747 million.

Sometimes, the private sector cannot match the public sector in efficiency. For example, a 1979 study of gold-refining operations at the Treasury Department's Assay Office in New York showed in-house costs to be about a third less than the contractor's cost.

What happens in some cases, contends procurement official Druyun, is that the mere threat of contracting out stimulates efficiency among employes whose jobs might be eliminated. "The government workers at the Assay Office probably recognized the handwriting on the wall," she says. "They had to become as productive as possible, or else the work would be contracted out. So they're streamlining all the fat."

Kenneth Blaylock, president of the 25,000-member American Federation of Government Employees, dismisses studies that reflect unfavorably on the public sector's efficiency. He contends that it is impossible to fairly compare in-house costs with bids submitted by private contractors because government activities are usually top-heavy with management personnel.

Opponents of the administration's policy also say it fails to recognize the shortcomings of contracting out. They contend, for example, that private-sector workers may strike while government employes may not and that excessive reliance on private workers at military facilities could threaten national security.

Furthermore, asserts Representative Patricia Schroeder (D-Colo.): "Contracting out has been used by both Republican and Democratic administrations to get around personnel ceilings. It's supposed to be used for economies, not for that shell game."

Whether critics are right or not, it is clear they will be hard pressed to stop the administration from proceeding with its plan for turning more public work over to private industry.

THE RETIREMENT OF GEN. RICHARD H. ELLIS

Mr. ROTH. Mr. President, on Friday, July 31, Gen. Richard H. Ellis, Commander of the U.S. Air Force Strategic Air Command will retire after a distinguished career of service to the American people. For 4 years as SAC Commander and Director of the Joint Strategic Target Planning Staff, he has been on the cutting edge of our Nation's defense.

A native of Laurel, Del., General Ellis is a citizen soldier who rose to the top of his profession through determined leadership and hard work. A graudate of Laurel High School, Dickinson College, and Dickinson Law School. General Ellis entered military duty in September 1941.

During World War II, he served with the 3d Bombardment Group in Australia, New Guinea, and the Philippines, and flew more than 200 combat missions in the western Pacific area. He served as a pilot, squadron commander, and group operations officer, and in September 1944 became the group commander. In April 1945 General Ellis was assigned as Deputy Chief of Staff, Far East Air Forces, in the Philippine Islands and Japan. Recalled to active duty in October 1950, he was assigned first to Headquarters, Tactical Air Command, Langley Air Force Base, Va.; then as Deputy for Operations, 49th Air Division, Sculthorpe, England; and later as Chief, Air Plans and Operations Section, at Supreme Headquarters Allied Powers Europe (SHAPE).

From 1957 to 1969 General Ellis' assignments around the world increased in responsibility and complexity and in September of that year he was named Commander of the 9th Air Force with Headquarters at Shaw Air Force Base, S.C.

He was appointed Vice Commander in Chief of U.S. Air Forces in Europe in September 1970 and assigned as Commander 6th Allied Tactical Air Force, with Headquarters at Izmir, Turkey, in April 1971; then as Commander of Allied Air Forces, Southern Europe, with Headquarters at Naples, Italy, in June 1972; and Commander, 16th Air Force, Spain, in May 1973.

General Ellis served as Vice Chief of Staff, U.S. Air Force, Spain, in May 1973.

General Ellis served as Vice Chief of Staff, U.S. Air Force, from November 1973 to August 1975. On August 29, 1975, he was appointed Commander, Allied Air Force Central Europe, and on August 30, 1975, he assumed command of U.S. Air Forces in Europe. He became the Commander in Chief of SAC and Director of the JSTPS on August 1, 1981.

General Ellis is married to another Delaware resident, the former Margaret Parry Wolcott. They have three children: two sons, Josiah O. Wolcott III and Richard Hastings Ellis, Jr.; and a daughter, Mary Elsie Ellis.

The people of Dover and the Governor of Delaware, in May recognized General Ellis' accomplishments through a weekend of public tributes. It was my pleasure to share an evening with General and Mrs. Ellis and to be a part of their recognition.

I am sure that his many friends and colleagues who wear the Air Force blue with such distinction will regret his leaving but he has served us well and his record will be one for future officers to emulate.

QUARTERLY REPORT OF THE OFFICE OF TECHNOLOGY ASSESSMENT

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the quarterly report of the Office of Technology Assessment. This report is available for review by my colleagues in my office.

THE SCHEDULED TOUR OF THE SOUTH AFRICAN RUGBY TEAM TO THE UNITED STATES

Mr. THURMOND. Mr. President, I recently had an opportunity to read a press release from the Executive Secretariat of the Organization of African Unity (OAU) to the United Nations. It was a vicious, unfair attack on the scheduled tour of the Springbok rugby team to the United States. The Springboks hail from the Republic of South Africa, a pro-Western, anti-Communist nation that President Reagan recently praised as a trusted ally and friend.

The OAU statement criticized this nation for issuing visas and providing transit facilities to the Springboks en route to New Zealand. It also denounced the U.S. decision to allow the team to return to America in September to participate in three rugby matches in three American cities.

Mr. President, politics and sports do not mix very well. The Organization of African Unity has attacked the racial policies of the last white-ruled African country, and has extended its criticisms to the Springbok team. Such criticisms are unfair. The South African rugby team is multiracial, and all of its members were selected on the basis of merit. Furthermore, multiracial sports in South Africa has been a reality for a number of years.

Let us hope that fairness and friendship toward an ally prevail, and that Communist and other outside foreign agitation does not disrupt the visit of a famous rugby team.

ROBOTICS TECHNOLOGY

Mr. CANNON. Mr. President, now that our major preoccupation over the dimensions and direction of the Nation's budget and tax goals has been eased, we can devote more of our attention to the substantive elements of our country's drive for economic recovery. In this drive we must recognize the critical importance of industrial productivity. We have already encountered bruising evidence of what can happen to our strongest industries and largest employers when we allow foreign competitors to overtake us in productivity. Those results are easy to identify—but hard to remedy. Those results are lost jobs and bankrupt companies.

Whenever I look into the matter of industrial productivity I see another opportunity for technology development and application toward improvement in productivity. Today I want to applaud two independent activities which strike directly at the problem of industrial productivity. One of these is the convening

of a robotics workshop by our own Office of Technology Assessment, U.S. Congress. This will explore the issues related to robot technology with emphasis on those of interest to the Congress. I commend the Director and staff of the OTA for organizing this workshop.

The other is a recently formulated policy document of the Robot Institute of America which has been brought to my attention by the president of the institute. This is identified as policy document No. 2, dated March 1981. Its title is "Robotics Technology—A Major Component in the Solution of the U.S. Productivity Problem." It points up the key differences between the aggressive pursuit of this technology in Japan and outlines steps that U.S. industry and government should take to assure that robotics technology is developed and deployed to the maximum extent feasible to increase U.S. industrial productivity.

I commend the President and members of the Robot Institute of America and ask unanimous consent to have printed in the RECORD its policy document No. 2.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

ROBOTICS TECHNOLOGY—A MAJOR COMPONENT IN THE SOLUTION OF THE U.S. PRODUCTIVITY PROBLEM

The purpose of this paper is to show how robotic technology can be a major component in reversing the current declining trend of U.S. productivity. A comparison is drawn between how Japan accepts, uses and promotes the technology and what should be done in the U.S. by industry and government. It is not our opinion that we emulate the Japanese but rather learn from them, as they learned from us, and apply, intelligently, the ideas that make sense. It should be recognized that the U.S. is the leader in the development of robotic technology and Japan is the leader in applying and using the technology.

The following is what should be done by industry and government to implement an aggressive program to infuse robotic technology in U.S. industry and surpass the Japanese:

INDUSTRY

(1) Make the firm decision for large scale incorporation of robotics in the production processes.

(2) Assign priority to robotic installation, recognizing it as a form of automation that is one of the quickest and least expensive ways of increasing productivity.

(3) Provide supervisory and engineering training that will assist them in understanding the advantages of robots and how to use them and accept the responsibility for participating in the retraining and upgrading of the displaced workforce.

GOVERNMENT

(1) Set national policies and goals that will permit rapid modernization of production facilities and the rapid installation of robots by establishing robotics as a major strategic industry.

(2) Restructure depreciation schedules so they are more compatible with the real obsolescence of industrial equipment.

(3) Immediately match or surpass foreign government incentive programs for robotic infusion.

(4) Provide government funds to assist in generic applied research for advancing robotic developments.

(5) Provide assistance for the retraining of displaced workers.

(6) Change tax laws to encourage capital accumulation, recovery and investment in innovative processes and products.

(7) Eliminate the adversary condition between government and industry and set a political climate to encourage cooperation toward national goals.

(8) Understand that failure to adopt new technology and invest prodigious amounts of capital in new plants, equipment and processes is a direct roadmap to loss of jobs and plant closings.

JAPAN USES ROBOTICS AS A MAJOR ECONOMIC WEAPON

The Robot Institute of America recently issued a background document on the subject of productivity and how it effects the United States' standard of living, inflation, employment, economic soundness, and loss of world export leadership. It covers the history of our productivity deterioration from factors that contributed to the current climate which, after six years of "problem defining and measuring" still leaves us without coherent national policies and goals. And in a broad sense, it lists the areas in which action must be taken.

The Institute felt such a document was necessary if all groups in the United States were to have at least an elementary knowledge of the problems they face. Little is said in this document that has not already been said by hundreds of industrialists, economists, executives, government officials and others. Placing all their papers side by side would reveal a remarkable similarity on what the problem is, how it developed, and how to solve it. The consensus that is not revealed is the sorting through of and the will to act in a cohesive, cooperative spirit that would put behind us our last few divisive years.

The Japanese have not been noted for their innovativeness. Rather, they have been excellent emulators. They are basically superb, thorough, and exceedingly energetic engineers. In fact, they have researched and used excellent managerial talents, copying our technology and products, to become our foremost economic adversary. The Robot Institute feels, therefore, that we should look at the things Japan did to achieve superiority and use their successful tactics to regain our leadership. It is now apparent that Japan has passed to an innovative mode from strict emulation. Examination of their strategy and motives reveals that next to strategic planning and national goal setting, adequate and new technology are their major strengths. Within that framework, robotics has emerged as their major weapon.

The Robot Institute of America asks the question, "If Japan Can . . . Why Can't We?" Let's look at what Japan has done:

Japan, like other countries, has inflation. But its causes are different and it has acted quickly and effectively to keep it under control; so far, the U.S. has failed to accomplish this.

The Chase Manhattan Bank Newsletter says, "Japan seems to be winning the battle against inflation." Consumer prices rose only 4.8 percent in 1979, 7.5 percent in 1980, and will project an increase of approximately 6.0 percent for 1981. These figures are parallel with both OPEC prices and OPEC events (war, hostages, etc.). And while most of Japan's consumer price increase has been due to oil, it has other domestic forces under control largely by massive increases in productivity, strategic cooperative planning, major doses of technology improvement, and capital investment.

"We have prevented imported inflation from becoming domestic homemade inflation"—Isamu Miyazaki, Vice Minister, Japanese Economic Planning Agency.

". . . there currently is very little homegrown inflation here"—Eric Hayden, Tokyo based Vice President, Bank of America . . . 99 percent of it (inflation) is from offshore."

"Japan does not have the wage/price spiral of other countries," states Tsotomu Nishimura, Chief Economist, Sumitomo Bank. (The 1979 wage increase was 6.9 percent, 7.3 percent in 1980, and the 1981 forecast by Mr. Miyazaki, Japanese Economic Planning Agency is 7.9 percent.)

More importantly, productivity is keeping pace—6 percent in 1980, considered a good year, and a forecast of 11.0 percent for 1981. Therefore, unit costs of production have remained relatively stable, accounting partially for the Japanese cost advantage in foreign trade. (Most charges of Japanese dumping turn out to be simply lower costs because of greater productivity.)

Assistant Secretary of Labor under the Carter administration, Arnold Packer, said, "The difference is we have labor leaders who insist on wage increases that far outstrip productivity, and the Japanese don't." According to Yoshihiro Inayama, Chairman, Nippon Steel, "Cost of living increases are not used in Japan, so wages do not rise automatically with price. The countries with the worst inflation are those that link wage increases to price increases."

Japan has also successfully restricted the growth of its money supply. In 1980, it was only 8.0 percent. Interestingly, Japan has horrendous national deficits ($67.9 billion in 1980) for a country half the population size of the U.S. The difference is that funds are borrowed from the Japanese people, who save 20 percent vs. 5 percent in the U.S. and Japan does not pay its deficits with printing press money. According to Mr. Hayden, Bank of America, in Japan, the people and the government save and in the U.S., the people and the government spend.

What specifically does Japan do to promote the use of technology in solving its inflation, productivity, and world trade problems? First, Japan sets naticnal goals and objectives, combined with consensus and priority as an integral part of the setting, followed by strategic planning for their implementation. Second, Japan takes a specific technology such as robotics (of which the U.S. was the founder and leader) and makes it a prime inclusion in its industrial operations, improving its own productivity and enhancing its world market position for its products. Japan presently has over 7,500 installed robots.

Japan, as a part of its own international and multinational plan, intends to market robots internationally starting with low cost, lower technology robots and working up into the more sophisticated robots as they enter and secure markets. (In late 1980, Fujitsu's new plant had a capacity to produce, yearly, more robots than are currently installed in the entire United States.)

Factors in the Japanese culture that promote robot acceptability are:

1. Guaranteed lifetime employment until age 55–60.

2. Payment of semiannual bonus from company, based on productivity and company profitability equal to 2-5 months of the worker's annual salary. Workers have not opposed robotics because its potential for increasing productivity and profitability enhances their bonus.

3. Assumption by Japanese companies of the responsibility for retraining and upgrading the skills of displaced employees.

4. MITI (Ministry of International Trade and Industry) has deliberately identified robot production as a major strategic industry, vital to Japan's national and international trade development. It regards the installation of robots as necessary to offset Japan's scarcity of labor, to reduce job labor content, and to enhance economies of scale in manufacturing.

MITI has not just talked. It has taken specific actions to implement its robot strategic plan:

a. With MITI direction, Japan Robot Lease was founded in April, 1980. It is jointly owned, 70 percent by the company members of the Japan Industrial Robot Association and 30 percent by ten, non-life insurance companies. The objectives of Japan Robot

Lease are to encourage and support robot installation by small and medium size Japanese manufacturing companies, thereby increasing their productivity. Because 60 percent of operating capital is furnished by government subsidy (Japan Development Bank loans), the leasing conditions will be more advantageous than regular leasing.

b. MITI has arranged for direct government low-interest loans to small and medium sized industry to encourage robot installation, to automate dangerous processes and to increase productivity. The Small Business Finance Corporation budgeted in February, 1980, 5.8 billion yen ($19,000,000 U.S.).

c. MITI has permitted manufacturers who install robots to depreciate 12.5 percent of initial purchase price in addition to regular normal depreciation.

5. The Japanese Industrial Robot Association indicates robot production in 1979 was 36.0 billion yen ($180,000,000 U.S.) and projects 195.0 billion yen ($975,000,000 U.S.) in 1985.[2]

6. Although auto production dominates in the use of robots, robots are well diversified across the industrial spectrum, both in arc and spot welding, painting, materials handling, machine tools and assembly.

JAPAN'S PLANS FOR THE NEXT DECADE

Future Japanese strategic plans call for:

1. Rapid expansion into high volume operations. This will permit quantity production of standard robots that will take advantage of economies of scale both in manufacture and use.

2. Increasing focus on "intelligent" robots which represented 9.9 percent of sales in the first half of 1980.

3. Increasing focus on development of batch manufacturing technology to permit cheaper product diversification.

4. Targeted generic research in vision and tactile sensing for greater flexibility and expansion of the robot user market.

5. Declaration by MITI that robotics is the technology that will permit Japan to hold its productivity lead.

WHAT SHOULD THE UNITED STATES DO?

Industry

1. Complete its feasibility studies and make the firm decision for large scale incorporation of robotics into its production processes.

2. Make large and long term commitment to the acceptance and inclusion of robotics. This will permit U.S. manufacturers to expand their manufacturing capability to supply the needs of U.S. industry and prevent the incursion of Japan into U.S. markets.

3. Accept the responsibility for retraining and upgrading its work force when displayed by or when augmenting robot usage.

4. Assign priority to the installation of robots, recognizing that robots are one of the quickest and cheapest ways to increase productivity.

5. Cooperate with worker groups to assist them in understanding the advantages of robots and accept them more easily. Assign priority of installation to dull, dirty, dangerous jobs. Work out plans to share the benefits of increased productivity. Emphasize that we must have the long term advantages of robot technology, but that they will not happen without near term dislocation of work force, some rather severe.

Government

1. Set national policies and goals that will permit rapid modernization of production facilities and the rapid installation of robots. Establish robotic production as a major strategic industry.

2. Structuring depreciation schedules that are more compatible with the real obsolescence of industrial equipment. Permit rapid write-off for more certain capital recovery.

3. Immediately match (or surpass) foreign government incentive programs for robot usage.

4. Encourage deployment by the Department of Commerce of some of the resources and authority of the Stevenson-Wydler Technology Innovation Act of 1980 to support generic research for tactile and visual sensing for advancing precision robotic developments suitable in a wide range of industrial processes.

5. Provide assistance for the retraining of displaced workers, including attention to our nation's public education system which reflects an appalling lack of basic math and science training required to upgrade unskilled workers for participation in more advanced industrial production processes.

6. Immediately change the tax laws to encourage capital accumulation, recovery, and investment in innovation processes and products.

7. Take immediate steps to eliminate the adversary condition between government and industry, and set a political climate to encourage cooperation toward national goals.

8. Understand that failure to adopt new technologies and invest large amounts of capital in new plants, equipment and processes is a direct roadmap to plant closings and loss of jobs. Technology (38%) and capital investment (25%) equate to over 63% of the driving force that creates new industries and jobs.

SOURCES

1. NBC, "If Japan Can, Why Cant' We?" 24 June, 1980, Lloyd Dobbins, Narrator.

2. Aron, Paul. Report on Robotics in Japan. New York: Daiwa Securities America, Inc. (1980).

AMBASSADOR MIKE MANSFIELD SUMMARIZES THE REAGAN FOREIGN POLICY

Mr. PERCY. Mr. President, our friend and very distinguished colleague, Mike Mansfield, U.S. Ambassador to Japan, has made an important statement on United States-Japanese relations. On July 22, he spoke before a Nikkeiren-sponsored seminar for top management attended by top-level Japanese executives. Ambassador Mansfield has summarized the Reagan foreign policy in an effective way and has explained its benefits and implications for United States-Japanese relations. He has pointed out the resilience of our friendship with Japan, which is the kind actually strengthened by adversity. Ambassador Mansfield is correct in saying that nothing has happened since the summit meeting of Prime Minister Suzuki and President Reagan which detracts in any way from the closeness of our relations.

I ask unanimous consent that Ambassador Mansfield's speech of July 22, 1981, be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY AMBASSADOR MIKE MANSFIELD

President Otsuki, distinguished leaders of the business community of Japan, it is always a pleasure for me to come to the region around Fuji-san. My home state in the U.S., Montana, is known as "Big Sky" country because of the vast expanses, the distant horizon and the great cloud-filled skies. Japan, with all its mountains, valleys and bustling big cities, is quite different, but here in the gentle sloping countryside between this world famous mountain and Suruga Bay, one can get a feeling for the "Big Sky" in Japan too.

It is also a pleasure to be with you today as you examine the changing international situation and seek to identify the measures which Japan and the U.S. should take in response to it. I would certainly not wish to prescribe programs or steps which other countries should take to advance their own interests, least of all Japan, where freedom of discussion and a democratic, political, economic and social structure allow for self-determination after free debate. Given the effects that policies taken by either of our countries have on the other, however, a few words about the foreign policy objectives of the Reagan Administration and how they relate to Japan may contribute to your discussions during these next few days and beyond.

THE REAGAN FOREIGN POLICY

Six months have now passed since President Ronald Reagan took office. During this period, the broad outlines of the foreign policy of his administration have become clear. Secretary of State Haig recently described the four basic elements of this policy as follows:

1. A new approach to East-West relations whereby we will insist on reciprocity and restraint on the part of the East.

2. A strengthening of our own defenses.

3. A commitment to rejuvenate our alliances and revitalize our relations with those with whom we share values.

4. The establishment of a just and responsible relationship with the developing world.

But as we know "4" is an unlucky number in Japan. Thus, I would like to add a fifth goal that is essentially domestic but which will have an exceedingly important impact on the success of our foreign policy—the reconstruction of the American economy. The Reagan Administration has set as its number one priority the restoration of non-inflationary growth and is succeeding.

A strong U.S. economy is an essential basis for exercising the kind of leadership in world affairs that our friends and allies, Japan included, expect. A strong U.S. economy is the dynamo that has generated the outstanding American social, cultural and scientific development so well known around the world. A strong U.S. economy has provided American citizens with a standard of living that has been equaled by few other countries. Indeed, without a strong U.S. domestic economy, we limit the means for working together with our friends toward greater prosperity throughout East Asia and the Pacific and toward maintenance of political freedom and military stability.

During the past several months, a veritable revolution—some call it the "Reagan Revolution"—in the funding and administration of U.S. Government programs has taken place, all aimed at putting our own economic house in order. In my view these steps are long overdue, and I welcome them. Federal spending is being cut, government regulation trimmed, taxes—including those that apply to business—reduced, and the responsibility for a number of social programs returned to the states. These measures will reaccelerate the economy by reducing inflation leading to increased investment and job creation. As inflation declines, so will interest rates decline in time.

THE US-JAPAN ALLIANCE

Where, then does Japan fit into the broad framework of U.S. foreign policy? As I have said on many previous occasions, there is no more important bilateral relationship in the world than that between the United States and Japan. The cornerstone of our policy in Asia and the Pacific is our relationship with Japan. Our trade ties have contributed to prosperity not only in Japan and the United States, but in other countries around the Pacific rim.

The defense relationship has contributed greatly to the strategic balance. And on the cultural and education level, Japan and the United States regularly welcome scholars, artists, scientists, and technicians from each other in a lively exchange of people and ideas that is a valuable learning experience for

both nations. Our relationship, which is based on common values and interests in the world, has been nurtured with understanding, good faith and mutual trust and confidence on both sides.

Over the years, this relationship has matured into a productive partnership to deal with the serious challenges which we face in common. This is what we mean when we in the United States refer to Japan as an ally. And Japan has demonstrated by its action that it understands not only the meaning of the word "ally" but also the responsibilities associated with such a relationship.

Our two nations are now firmly linked as equal partners. For example, we Americans have been particularly appreciative of the support we received in our efforts to have the hostages in Tehran freed, recognizing that of all our friends and allies Japan paid the greatest price for her support when the Iranians unilaterally cut off what has been 13 percent of Japan's petroleum imports. The role of Japan in invoking economic sanctions upon the Soviet Union following that country's invasion of Afghanistan provided another clear example of Japan's willingness to play an active and constructive role in the search for peace and stability in concert with the U.S. and other nations.

THE SUZKI VISIT

The strength of our relationship was recently demonstrated by the visit of Prime Minister Suzuki to Washington. In my view, that visit marked the most successful meeting ever held between a Japanese Prime Minister and an American President. The summit was preceded by the resolution of the automobile trade issue—a testimony to our ability to work out reasonable solutions to seemingly intractable biltaeral problems on the basis of mutual understanding.

In Washington, the Prime Minister and President Reagan concurred on the most important global and regional political and economic issues. They shared a common concern about the rapid growth of Soviet military power in this region of the world and the Soviet willingness to use their power in Afghanistan and elsewhere; they agreed that an appropriate division of defense roles for the United States and Japan is desirable; they concurred in the view that the industrial democracies should consult and cooperate more on defense, on improving the world economy and on development assistance to Third World countries; and they each resolved to maintain a free and fair trading system.

The summit was a clear demonstration of the close ties, which, to repeat, bind our two countries in the most important bilateral relationship in the world. I assure you that nothing has occurred since the summit which detracts in any way from the significance of this meeting between our top leaders or the closeness of our relations. And I can think of no more positive or auspicious way to usher in the two new administrations in Washington and Tokyo, and this new decade of the 80's as well, than this remarkable summit we experienced in May.

THE BILATERAL TRADE PICTURE

There has been much discussion in recent years of trade frictions between our two countries. Indeed, we have faced some difficult problems, both in my period as Ambassador and before. Undoubtedly we will face others in the future. But we have made great progress in our ability to resolve these problems, and in reaping the benefits of the largest overseas trading relationship in the history of the world.

One aim of the President's economic recovery program is to make American business more competitive, both at home and abroad. Recently the President's Special Trade Representative, William Brock, made this point clear when he stated to Congress on July 8, "a strong U.S. economy is our goal. Free trade, based on mutually acceptable goals and relations, is essential to the pursuit of that goal." I recognize that the U.S. has not been immune to protectionist pressures. None of us are. We all have to deal at times with political reality. But, as Ambassador Brock's statement to Congress makes clear, we are acutely aware that the maintenance of open markets is essential to our economic well-being and that protectionist tendencies need to be kept under control everywhere.

It is inevitable that the dynamic Japanese enterprises which you head and our equally dynamic American companies will compete in the market place. This is healthy, but it is neither inevitable nor necessary for commercial competition to result in political friction. However, our companies, as I am sure yours are, will be sensitive to discriminatory practices which distort the market place and place them at a competitive disadvantage. For a free-trading system to work, it must be truly free. The use of export credits and subsidies, tied aid to developing countries, discriminatory investment incentives and restraints in trade are all means for destroying both the fabric and trust upon which the free trade system is built.

It is not enough that legal barriers be removed, if extra-legal barriers and business practices made it very difficult for new suppliers and customers to enter the trading structure. It is not enough to lower tariff barriers if non-tariff barriers remain in place or new ones are erected. We made great progress in the multilateral trade negotiations in establishing a network of agreements for the removal of non-tariff barriers to trade. It is essential that these agreements be effectively implemented. This should be the objective not just of governments, but businessmen as well. For it is the businessman who will suffer most if the trading system collapses under the pressure of non-conformity with its rules and guidelines.

One of the more visible and more important of the agreements flowing out of the multilateral trade negotiations (MTN) was the opening of Nihon Telephone & Telegraph (NTT) procurement to foreign suppliers. As with the other MTN agreements, the manner in which the NTT agreement on procurement policies is implemented in practice will be the key to determining the success of this agreement. Our experience thus far with implementation of the NTT agreement has been particularly encouraging. We are optimistic that the understanding which NTT leaders are demonstrating of the problems facing U.S. businessmen in Japan will prove a model for other sectors of the Japanese economy.

I believe American companies increasingly recognize the need to familiarize themselves with the particulars of the Japanese market and preferences of Japanese consumers and to invest the time, money and effort needed to achieve success in Japan. Moreover, in my view, Japanese businessmen are becoming more internationally minded; they recognize that the prosperity of Japan's economy depends on the economic strength and vitality of Japan's friends and partners. As appreciation of the international aspects of economic affairs depends among Japanese businessmen, the need for continuing efforts to encourage imports and foreign investment is increasingly recognized.

Although I have been talking about our bilateral relationships, I must also mention the other great trading partner of our two countries, the industrial democracies of Western Europe. The growing interdependence linking the economies of Western Europe, Japan and the U.S. is such that the actions of one partner of this triangle cannot but have effect upon the economies of the other two; trading patterns between two affect the third. There is no doubt that the industrial democracies are faced with structural problems in a number of mature, basic industries, including steel, textiles and automobiles. It is equally clear that other sectors of the economy—machine tools, semiconductors, computers—are areas of future competition.

The recent visit of Prime Minister Suzuki to Europe has been particularly valuable in underlining the common interests of these three great economic entities and in pointing the way toward improved economic cooperation among them. I welcome the Prime Minister's leadership in this area and support his efforts to find mutually acceptable solutions to the problems confronting the industrialized democracies.

Energy is also an issue which requires Japan and the United States to work together. There is a major risk that the current softness in oil markets will give rise to unjustified complacency. Japan and the United States have both made remarkable steps in reducing their dependence on imported oil. There is every reason for this effort to continue since the United States and Japan have much to gain through energy cooperation, bilaterally and through assistance to Third Countries seeking to develop their own energy resources.

Japan's efforts on behalf of economic development are equally outstanding. The doubling of Japanese aid over the next five years will further economic development in deserving countries and contribute to global security.

INTERNATIONAL SECURITY

Of course, neither Japan nor the United States can afford to lose sight of the international security situation. The rapid buildup of the Soviet Union's military capability during the past two decades, during a period of so-called detente, and their willingness to use military forces directly, as in Afghanistan, or through surrogates as in Africa and elsewhere is disturbing. Unfortunately, the Northwest Pacific has not been spared this buildup. Troops and fortifications have increased on the occupied Northern Islands and there has been a quantum increase of North Korean offensive capability.

The Soviets have also enhanced their ability to threaten the West's oil lifeline in the Persian Gulf. They have substantially increased their naval forces in the Indian Ocean. Soviet, Cuban and other military advisors and forces are in place in an arc running from Afghanistan to Yemen and Ethiopia, and they have strengthened the already huge forces in the southern part of the Soviet Union which faces this area. In East Asia, the USSR has made the Soviet Pacific Fleet the biggest and best of its fleets. The USSR has established a beachhead in Vietnam and frequently uses some of the best anchorages in Asia at Cam Ranh Bay and Danang and the adjacent airfields.

It is no longer an uncommon sight to see Soviet warships and planes moving back and forth over the Japan Sea on their way between Vladivostok and Vietnam. The USSR also has a strong Indian Ocean naval force and very strong elements—up to 51 divisions or 25 percent of its land forces—along the Sino-Soviet border and the Soviet Far East. Approximately 26 percent of its Air Force is located in these same overall areas.

From 1945 to 1965 the United States was in good shape to protect several fronts unilaterally. Since that time, we have become aware of the fact that no one nation can stand alone but that all the nations of the West capable of so doing must stand together. We have had to depend more and more on our allies and friends.

In standing together, however, we each have certain responsibilities. The Reagan Administration is determined to fulfill its duty. For example, the United States will increase its defense budget more than $30 billion for

this year and next. The 7th Fleet has been strengthened to such an extent that we now maintain two carriers on duty in the western Indian Ocean guarding the back door to the Arab-Israeli area and the front door to the richest oil-producing nations in the world along the Persian Gulf. They are out there in our behalf and in Japan's because we know how vital Mideast oil is to your country.

In the new international situation that we face, the United States firmly believes Japan should, can and will do more—on its own responsibility as a sovereign nation—to ensure the defense of its own territory and surrounding sea and air space. The United States is not asking Japan to do more so that we can do less. Despite overall budget austerity, the Reagan Administration has sought $32 billion more in defense spending next year than had been planned by the previous administration and $200 billion more over the next five years. We recognize the constraints that Japan faces and are not asking Japan to do anything that would contravene its constitution, create major economic difficulties, or alarm neighboring countries. We recognize and appreciate the accomplishments Japan has already made. At the same time, we are convinced that the new challenges we face require a heightened emphasis on defense by the United States and its allies in Western Europe and Japan.

There has been much press discussion of the so-called gap between U.S. and Japanese defense thinking. I do not deny that we have some differences in regard to scale and timing. However, according to reports we have received from the Secretary of Defense, Mr. Weinberger, the Secretary of State, Mr. Haig, and the National Security Advisor to President Reagan, Mr. Allen, the recent visit by the Director General of the National Defense Agency to Washington was good and substantial. Reflecting the views of the President, those officials who met with Mr. Omura spoke with one voice. Since then the Cabinet has underlined this agreement. U.S. officials were clear in stating that we are not asking Japan to do the impossible and are aware of the limits Japan currently faces. Within that framework, however, the United States continues to anticipate a greater effort on the part of Japan.

We welcome and encourage a growing Japanese role in world affairs and look to Japan to contribute to the search for solutions to the many problems which confront us. We also recognize that the comprehensive and complex relationship between our two countries will not be without some rough spots, making it all the more necessray that a true dialogue be maintained and that a common vision of where we want this relationship to go be sought. I am convinced that we are moving, together, in the right direction, and that our partnership will continue to develop to the benefit not only of Japan and the United States but of all nations that share our values and aspirations.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

(Remarks of Mr. ROBERT C. BYRD at this point relating to the U.S. Senate are printed earlier in today's RECORD, by unanimous consent.)

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I wish to report to the Senate the conferees on the tax bill are still hard at work. I expect they will break about now for dinner, briefly, and resume about 8:30. I think it is a good investment of the time of the Senate to wait and see what progress they make a little later in the evening.

RECESS UNTIL 9 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 9 o'clock this evening.

There being no objection, the Senate, at 8:09 p.m., recessed until 9 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

Mr. BAKER. Mr. President, it is my intention shortly to check the progress of the conferees on the tax bill and to make a further statement in a few moments about the plans for the Senate tonight and tomorrow.

While we go about that process, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are certain matters on the Executive Calendar and the Legislative Calendar that are cleared on this side for action by unanimous consent. I inquire of the distinguished minority leader first, of the Executive Calendar, if he is prepared to proceed to the items we are prepared to proceed to, all of those nominations under New Reports, plus the nominations under Department of Agriculture, Harold V. Hunter and Charles Shuman.

Mr. ROBERT C. BYRD. Mr. President, this side is not prepared to proceed on the nominations in the Department of Agriculture. Under New Reports, the minority is ready to proceed with those on page 2, page 3, page 4, and page 5.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering nominations on the Executive Calendar beginning with New Reports on page 2 and including all of those nominations on page 3, page 4, and on page 5.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations just identified be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Charles L. Dempsey, of Virginia, to be Inspector General, Department of Housing and Urban Development.

ENVIRONMENTAL PROTECTION AGENCY

Kathleen M. Bennett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

John P. Horton, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

NUCLEAR REGULATORY COMMISSION

Thomas Morgan Roberts, of the District of Columbia, to be a member of the Nuclear Regulatory Commission.

DEPARTMENT OF COMMERCE

Robert G. Dederick, of Illinois, to be an Assistant Secretary of Commerce.

Rear Adm. Herbert R. Lippold, Jr., NOAA, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

FEDERAL COMMUNICATIONS COMMISSION

James H. Quello, of Virginia, to be a member of the Federal Communications Commission.

Henry M. Rivera, of New Mexico, to be a member of the Federal Communications Commission.

SMALL BUSINESS ADMINISTRATION

Frank S. Swain, of the District of Columbia, to be Chief Counsel for Advocacy, Small Business Administration.

GENERAL SERVICES ADMINISTRATION

Joseph A. Sickon, of Virginia, to be Inspector General, General Services Administration.

DEPARTMENT OF JUSTICE

Richard S. Cohen, of Maine, to be U.S. attorney for the district of Maine.

A. Melvin McDonald, of Arizona, to be U.S. attorney for the district of Arizona.

R. Lawrence Steele, Jr., of Indiana, to be U.S. attorney for the northern district of Indiana.

Thomas E. Dittmeier, of Missouri, to be U.S. attorney for the eastern district of Missouri.

Richard A. Stacy, of Wyoming, to be U.S. attorney for the district of Wyoming.

John C. Bell, of Alabama, to be U.S. attorney for the middle district of Alabama.

J. B. Sessions III, of Alabama, to be U.S. attorney for the southern district of Alabama.

Joseph J. Farnan, Jr., of Delaware, to be U.S. attorney for the district of Delaware.

James A. Rolfe, of Texas, to be U.S. attorney for the northern district of Texas.

Michael R. Spaan, of Alaska, to be U.S. attorney for the district of Alaska.

DEPARTMENT OF EDUCATION

Daniel Oliver, of Connecticut, to be General Counsel, Department of Education.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Robert A. Rowland, of Texas, to be a member of the Occupational Safety and Health Review Commission.

DEPARTMENT OF JUSTICE

Frank H. Conway, of Massachusetts, to be a member of the Foreign Claims Settlement Commission.

GOVERNMENT PRINTING OFFICE

Danford L. Sawyer, of Florida, to be Public Printer.

NOMINATION OF MICHAEL SPAAN TO BE U.S. ATTORNEY FOR ALASKA

Mr. STEVENS. Mr. President, on behalf of Senator MURKOWSKI and myself, it is a pleasure to ask that the nomination of Michael R. Spaan for U.S. attorney for Alaska be confirmed by this body.

I have known Mike for more than 9 years. He was my legislative assistant during the early stages of his legal career. I know him to be a man of high integrity with substantial legal and administrative ability.

Mike Spaan graduated from the law school at the University of California at Davis in 1972 in the top 10 percent of his class. He was made a member of the Order of the COIF.

After graduation, Mike moved to Alaska and was a law clerk for then Justice Robert C. Erwin of the Alaska State Supreme Court. In 1973, he joined my staff as supervisor of the legislative section. For the past 5 years he has been a partner in a major law firm in Alaska.

With this background, Mr. President, Mike possesses a comprehensive understanding of both the Government and private sectors, and with his knowledge of the unique problems facing Alaska, he is very qualified to serve as the U.S. attorney for the State of Alaska.

Senator MURKOWSKI and I strongly urge his confirmation.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were considered and confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to those nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. BAKER. Mr. President, on our legislative calendar, we have six items that are cleared for passage by unanimous consent. Calendar Order No. 242, Senate Joint Resolution 53; Calendar Order No. 243, Senate Joint Resolution 62; Calendar Order No. 244, Senate Joint Resolution 87; Calendar Order No. 245, Senate Joint Resolution 98; Calendar Order No. 246, Senate Resolution 178; Calendar Order No. 247, House Joint Resolution 141. I inquire of the minority leader if he is prepared to consider all or any part of the list I have just recited.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to inform the majority leader that we are ready to proceed with the items enumerated.

WORKING MOTHERS' DAY

The joint resolution (S.J. Res. 53) to provide for the designation of September 6, 1981, as "Working Mothers' Day", was considered, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 53

Whereas more than sixteen million American women are employed outside the home and have children under the age of eighteen;

Whereas these working mothers are making unique and substantial contributions, to both the growth of the economy and the strength of the American family; and

Whereas working mothers deserve special recognition for fulfilling their exceptional responsibilities in the home and in the world of commerce: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating September 6, 1981, as "Working Mothers' Day", and calling upon families, individual citizens, labor and civic organizations, the media, and the business community to acknowledge the importance of the working mother and to express appreciation for her role in American society.

Mr. BAKER. I move to reconsider the vote by which the joint resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CYSTIC FIBROSIS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 62) to authorize and request the President to designate the week of September 20 through 26, 1981, as "National Cystic Fibrosis Week."

Mr. DOLE. Mr. President, I take great pride in seeing this resolution designating the week of September 20 through 26, 1981, as "National Cystic Fibrosis Week", through the Senate. This resolution has the cosponsorship of over 30 distinguished Members of the Senate from both sides of the aisle, and will go far in the movement to generate public awareness of this terrible disease that touches the lives of thousands of American infants, children, and young adults.

Although this resolution is very simple in concept, its impact will be felt in ways that many of us who have never experienced the pain and trauma associated with the disease cannot understand. It means so much to victims of cystic fibrosis, as well as their families. Last year, a similar resolution was passed in the Senate, and I think we should make this an annual tradition for a worthwhile cause.

Setting aside a special week of the year devoted to making the public aware of the implications of cystic fibrosis facilities efforts to develop a base of knowledge and understanding through a process of public education activities. The dream of conquering cystic fibrosis can only be realized when research activities to find a cure have the support they deserve. Members of the Congress have an opportunity to vote for legislation designed to support research activities in this area through the National Institutes of Health.

Although medical science has not yet found a cure or long-term control for CF, advances in medications, therapy and diagnostic procedures have extended the life expentancy of cystic fibrosis victims from 10 to 21 years. Although the disease remains fatal, the periods of relative good health have been greatly increased, thereby allowing the person with CF to participate in a more normal lifestyle.

Mr. President the Cystic Fibrosis Foundation has been the leading force in the battle against CF. This disease is the leading genetic killer of children and young adults in America; however, it remains a mystery in attempts to discover a cure. There is also no practical method of identifying carriers of the CF genetic trait. Through the dedicated efforts of the Cystic Fibrosis Foundation, parents, friends, and physicians, as well as thousands of other concerned citizens from the public and private sectors, CF is beginning to gain the focus of attention that it should have.

Cystic fibrosis is a chronic, degenerative, genetic disease affecting the lungs and the digestive organs, as well as other major organs. It causes intermittent and progressive debilitation and eventual premature death. Its side effects include a severe cough, extreme shortness of breath, malnutrition, growth retardation, and eventual respiratory and heart failure. The process of delaying the effects of the disease involves daily, time-consuming, expensive treatment consisting of physical therapy and a multiplicity of medication. The need for constant care and the knowledge of early death create a high amount of emotional stress and severe financial strain on patient and family members alike.

There are about 1,600 new CF cases per year in the United States, and the annual cost of care for a cystic fibrosis patient is extremely high. Estimates of the cost of care for young adult victims exceed $17,000 per year, and individual expenditures can reach as high as $50,000 to $100,000 annually in the terminal years.

Last summer, my staff was privileged to have the experience of working with a young intern named Keith Jones, who suffered from cystic fibrosis. Although he knew that his days were numbered, Keith always looked ahead with optimism and set goals for himself, living life to the fullest during the time he was given. It was with great sadness that I heard about Keith's death earlier this year, but I will never forget the courage of this young man and the inspiration that he provided to members of my staff, as well as myself.

Since knowing Keith, Mr. President, this year's resolution designating "National Cystic Fibrosis Week" has taken on a more personal dimension, and I urge

my colleagues to support final passage of this resolution in the Senate.

Mr. JEPSEN. Mr. President, I am pleased to be a cosponsor of this resolution for it gives me the great opportunity to join with my distinguished colleague from Kansas, Senator ROBERT DOLE, the sponsor of the resolution, in a noble cause. We are here today to establish September 20th through the 26th as National Cystic Fibrosis Week.

This is but a small tribute in comparison to the many weeks, months and years that the victims of cystic fibrosis must endure from this crippling disease.

Cystic fibrosis is the No. 1 genetic killer of America's children, yet the public knowledge of this disease is limited at best.

Of the 1,500 to 2,500 children born each year with cystic fibrosis, many will face delayed treatment and death. Unfortunately, it is estimated that this killer disease will forever alter the quality of life of not only the immediate victims, but their families as well.

The passage of this resolution will, I hope, generate increased public knowledge, additional research, and the eventual cure of this killer disease.

Therefore, I am honored to be an original cosponsor of this resolution and I look forward to the week of September 20.

The joint resolution (S.J. Res. 62) was considered, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 62

Whereas cystic fibrosis is the number one genetic killer of children in America, and between one thousand five hundred and two thousand five hundred are born each year in this country with the disease; and

Whereas public understanding of cystic fibrosis is essential to enhance early detection and treatment of the disease and reduce the misunderstanding and confusion concerning the symptoms of cystic fibrosis; and

Whereas a national awareness of the cystic fibrosis problem will stimulate interest and concern leading to increased research and eventually a cure for cystic fibrosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That the week of September 20 through 26, 1981, is designated as "National Cystic Fibrosis Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. BAKER. I move to reconsider the vote by which the joint resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMODORE JOHN BARRY DAY

The joint resolution (S.J. Res. 87) to authorize and request the President to designate September 13, 1981, as "Commodore John Barry Day," was considered, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 87

Whereas Commodore John Barry, hero of the American Revolution and holder of the first Commission in the United States Navy, was born on September 13, 1745, in County Wexford, Ireland;

Whereas Commodore Barry was commissioned to command the brig Lexington, the first ship bought and equipped for the Revolution, and became a national hero with the first capture of an enemy warship in actual battle;

Whereas following the Revolution, when the sovereignty of the new Nation was threatened by pirates, Commodore Barry was placed in command of the first ships authorized under the new Constitution and was named senior captain of the United States Navy in 1974;

Whereas Commodore Barry is considered as the father of the United States Navy; and

Whereas Commodore Barry was honored by the United States Congress in 1906, when a statue was commissioned and later placed in Lafayette Park, Washington, District of Columbia, and honored again some fifty years later when the Congress authorized a statue to be presented in his name to the people of County Wexford, Ireland: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate September 13, 1981, as "Commodore John Barry Day," as a tribute to the father of the United States Navy, and to call upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WORLD FOOD DAY

The joint resolution (S.J. Res. 98) to authorize and request the President to issue a proclamation designating October 16, 1981, as "World Food Day" was considered, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 98

Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas children are the ones suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notable among native Americans, migrant workers, and the elderly remain vulnerable to malnutrition and related diseases;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the world hunger problem is critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem; and

Whereas the one hundred and forty-seven member nations of the Food and Agriculture Organization and the United Nations designated October 16, 1981, as "World Food Day" because of the need to alert the public to the increasingly dangerous world food situation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 16, 1981, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.

Mr. BAKER. I move to reconsider the vote by which the joint resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TWO HUNDREDTH ANNIVERSARY OF THE BIRTH OF ROBERT MILLS

The Senate proceeded to consider the resolution (S. Res. 178) to commemorate the two hundredth anniversary of the birth of Robert Mills.

Mr. THURMOND. Mr. President, the Senate is taking action today on Senate Resolution 178, a resolution introduced by my colleague from South Carolina (Senator HOLLINGS). This resolution commemorates the 200th anniversary of the birth of Robert Mills.

As many of you are probably aware, Robert Mills was one of America's finest architects. He was, in fact, the first American-born and American-trained architect, studying under Thomas Jefferson, Charles Bulfinch, and Benjamin Latrobe. As the preamble of Senate Resolution 178 explains, Robert Mills served as Architect of Public Buildings during Andrew Jackson's administration, designing such notable pieces of architecture as the Washington Monument, the Treasury Department, the Old Patent Office, and the Tariff Commission.

Robert Mills, I am proud to say, was a South Carolinian. Born in Charleston, Mills designed many of the beautiful structures in that port city and in other areas of the State. He also designed numerous canals, bridges, and monuments in our State.

Mr. President, I am pleased that the Senate is taking this opportunity to call attention to an individual of historic significance to our Nation and to the State of South Carolina. I am also pleased to add my name as a cosponsor of this resolution.

I ask unanimous consent that a copy of a letter from Mr. Charles H. Atherton, secretary of the Washington Met-

ropolitan Chapter of the American Institute of Architects, regarding this resolution be printed in the RECORD immediately following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN INSTITUTE
OF ARCHITECTS, INC.,
Washington, D.C., July 27, 1981.

Hon. STROM THURMOND,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: I was delighted to learn that Senator Hollings has introduced a resolution (S. Res. 178) honoring Robert Mills, and that it will soon be considered by members of the Judiciary Committee.

On behalf of the Washington Chapter of The American Institute of Architects, I want to urge your timely support of this resolution. As you know, the 200th anniversary of Mills' birth will occur on August 12, and it would be most appropriate to have the resolution enacted by that time.

Each citizen that visits this Capital sees a city that was greatly embellished by the architectural genius of Mills. The Treasury Department, the Old Patent Office, the Tariff Commission and perhaps the most beautiful memorial of all, the Washington Monument are eloquent testimony to his skills.

Like Mills' fellow citizens of South Carolina, we are justly proud of the rich architectural heritage he has left in this Capital and elsewhere for all to enjoy, and believe that a Senate Resolution in his honor is a most fitting expression of indebtedness on the part of all Americans.

With all best wishes.

Sincerely yours,

CHARLES H. ATHERTON,
Secretary,
Washington Metropolitan Chapter, AIA.

Mr. HOLLINGS. Mr. President, I would like to thank the distinguished chairman of the Senate Judiciary Committee for expediting the passage of Senate Resolution 178 which I introduced July 17 in order to commemorate the 200th birthday of Robert Mills. I also appreciate the leadership's cooperation in quickly scheduling this matter insofar as Mr. Mills' birthday falls on August 12, when this Chamber will be in recess.

Robert Mills, born in my hometown of Charleston, S.C., was this Nation's first native born and trained architect. Time does not permit me to list all of his achievements, but I would like to mention some of his more outstanding ones. This impressive list includes the Treasury, Patent Office, and Post Office buildings here in Washington; South Carolina College, which he designed at the age of 20; as well as the most notable edifice of this Nation's Capital—The Washington Monument.

Robert Mills still gives inspiration to those who have followed his pioneer footsteps in American architecture. He embellishes all those qualities which gave America its innovative and strong start as a nation of free people. We are honored to pay a bicentennial birthday tribute to such a great American.

The resolution (S. Res. 178) was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

Whereas 1981 marks the two-hundredth anniversary of the birth of Robert Mills on August 12, 1781;

Whereas Robert Mills was the first American born and trained architect establishing a tradition of outstanding American architecture;

Whereas Robert Mills was born in Charleston, South Carolina, and was trained as a young man to be an architect under such notables as Thomas Jefferson, Charles Bulfinch, and Benjamin Latrobe, and soon set up a flourishing business in Philadelphia designing many churches and public buildings along the east coast of the United States;

Whereas Robert Mills was appointed Architect of Public Buildings in President Jackson's administration, a position in which he served for fifteen years, during which he designed and built the Treasury, Patent Office, and Post Office Buildings, whereby he powerfully established the Greek tradition of early American architecture, and designed the Washington Monument in Baltimore as well as his crowning success of the same name in Washington that stood as the highest structure in America at that time;

Whereas Robert Mills made many contributions to the construction of buildings in South Carolina, beginning with the design of South Carolina College when he was only twenty-one, followed quickly by the design of the Congregational Church in Charleston, and hospitals, including a fireproof insane asylum in Columbia, South Carolina, and using his innovativeness design and pioneered the building of canals, bridges, and monuments; and

Whereas in a time when America is foremost in architecture in the world, Robert Mills gives inspiration to his profession and exemplifies to his country that type of person who gave America its strong and innovative start;

Resolved, That the Senate remembers and pays tribute to the memory of Robert Mills on this the year of the bicentennial anniversary of his birth for his outstanding and significant contribution to architecture in America.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCHOOLBUS SAFETY WEEK

The joint resolution (H.J. Res. 141) authorizing and requesting the President to issue a proclamation designating the period from October 4, 1981 through October 10, 1981, as "National Schoolbus Safety Week", was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a few other items that I believe are routine in nature.

ORDER FOR TIME WITHIN WHICH TO REPORT S. 1080

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have until September 18 to report S. 1080, the Regulatory Reform Act, or be deemed discharged from further consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCING PRESIDENTIAL ELECTION CAMPAIGNS

Mr. BAKER. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 202) to authorize payment for research and analysis with respect to financing of Presidential election campaigns.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, the Senate leadership recently appointed a Joint Leadership Task Force for the purpose of considering modifications to the Federal Election Campaign Act. This bipartisan study group will review both the Campaign Act and the Federal Election Commission, and based on its findings, make recommendations to the Committee on Rules and Administration on how campaign laws might be improved.

In conjunction with this effort to assess the impact of the campaign finance laws, I ask unanimous consent that the Senate approve a resolution to authorize research directed specifically at how current law and regulations affect the financing of presidential election campaigns.

Enactment of the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act, for the first time provided significant Federal funding for the conduct of campaigns to the Nation's highest office. These laws, in conjunction with the Federal Election Campaign Act of 1971, have imposed detailed disclosure and accounting requirements on Presidential candidates and their committees. Yet the effect of these laws on the conduct of Presidential campaigns, and their role in shaping the political institutions central to the electoral process have never been comprehensively studied.

Although the task force will focus on the campaign finance laws, it is not in a position to provide an in-depth examination and analysis of Presidential campaign funding. Additional research would be required for comprehensive review and contemplated modification of all campaign laws.

In accordance with the schedule designed by the leadership, the research authorized in the resolution would be delivered to the Committee on Rules and Administration by the opening of the second session of this Congress.

I believe that this timely study will prove beneficial not only to future Presidential candidates, but to all Members of Congress as well.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 202

To authorize payment for research and analysis with respect to the financing of Presidential election campaigns.

Whereas enactment of the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act, in conjunction with enactment of the Federal Election Campaign Act of 1971, as amended, for the first time provided significant Federal funding for the conduct of campaigns for nomination and election to the Nation's highest office, while imposing detailed disclosure and accounting requirements with respect to Presidential candidates and their committees; and

Whereas no comprehensive study has ever been undertaken of how these laws and resultant regulations have affected the conduct of Presidential campaigns and directly or indirectly shaped the political institutions central to the electoral process: Now, therefore, be it

Resolved, That (a) payment is authorized from the contingent fund of the Senate in an amount not to exceed $115,000 for research to be conducted into the financing of Presidential election campaigns. The results of such research shall be reported to the Committee on Rules and Administration by January 1982.

(b) Payments under this resolution shall be paid from funds available in the contingent fund of the Senate upon vouchers approved by the chairman of the Committee on Rules and Administration. The Committee on Rules and Administration shall supervise any contract entered into under authority of this resolution.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATUS REPORT—ECONOMIC RECOVERY TAX ACT OF 1981 CONFERENCE

Mr. BAKER. Mr. President, within the space of 5 minutes or so I expect to have a further report from the conferees on the tax bill and make a further announcement.

I wish to confer with the minority leader, however, before I suggest what further course the Senate should take tonight and perhaps tomorrow.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, with apologies to the Chair and all those who must remain, I must say that it appears that we are making some progress in terms of rearrangements for the further conduct of the business of the Senate. The conferees are at work. They are making good progress. I estimate that fully three-fourths of the items conferenceable between the House of Representatives and the Senate have been resolved, at least preliminarily.

There is a good chance, I think now, that the conferees may be able to finsh the conference report tonight.

In any event, it appears worth our investment of time to remain.

But there is no further business to transact, and rather than delay with quorum calls I shall recess the Senate.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 4:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4242) to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable property, incentives for small businesses, and incentives for savings, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and has appointed Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. CONABLE, Mr. DUNCAN, and Mr. ARCHER as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill and joint resolution, without amendment:

S. 1278. An act entitled the "Saccharin Study and Labeling Act Amendment of 1981"; and

S.J. Res. 64. Joint resolution designating August 13, 1981, as "National Blinded Veterans Recognition Day".

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4053. An act to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; and

H.R. 4331. An act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 167. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3982.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 4074. An act to revise the laws pertaining to the Maritime Administration.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILL REFERRED

The following bill was read twice by unanimous consent, and referred as indicated:

H.R. 4053. An act to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Energy and Natural Resources.

HOUSE BILL READ THE FIRST TIME

The following bill was read the first time:

H.R. 4331. An act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HEFLIN, from the Committee on the Judiciary, with amendments:

S. 537. A bill to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute (with additional views) (Rept. No. 97-175).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

James C. Miller III, of the District of Columbia, to be a Federal Trade Commissioner for the term of seven years from September 26, 1981.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. HATCH, Mr. KENNEDY, Mr. BAUCUS, Mr. BUMPERS, Mr. DECONCINI, Mr. DENTON, Mr. LAXALT, and Mr. SPECTER):

S. 1554. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions to eliminate surety bond, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. LEAHY, Mr. BAUCUS, Mr. LAXALT, Mr. HATCH, and Mr. SPECTER):

S. 1555. A bill to improve the effectiveness of Federal crime control in the area of sentencing, and for other purposes; to the Committee on the Judiciary.

By Mr. BAKER:

S. 1556. A bill for the relief of Patrick P. W. Tso, Ph.D.; to the Committee on the Judiciary.

By Mr. SYMMS (for himself and Mr. HELMS) (by request):

S. 1557. A bill to amend the Perishable Agricultural Commodities Act, 1930, to increase the ceilings on license fees, remove the exemption from branch fees, and increase the level of damages claimed which entitles a respondent to an opportunity for oral hearing; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. 1558. A bill to amend title 18 to limit the insanity defense and to establish a verdict of not guilty only by reason of insanity; to the Committee on the Judiciary.

By Mr. PELL:

S. 1559. A bill to amend the Social Security Act to provide for trust fund borrowing from general revenues when necessary to maintain an adequate level of reserves in the trust funds; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1560. A bill to authorize a national soil conservation program utilizing incentives to landowners to install and maintain conservation measures meeting certain standards and to establish a pilot program to test the purchase of conservation benefits, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1561. A bill to amend the Internal Revenue Code of 1954 to encourage land conservation expenditures by allowing an income tax credit for such expenditures; to the Committee on Finance.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. JACKSON):

S. 1562. A bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 1563. A bill to amend the Federal Aviation Act of 1958 to provide for designated "non-smoking" areas aboard aircraft; to the Committee on Commerce, Science, and Transportation.

By Mr. WEICKER (for himself, Mr. TSONGAS, Mr. CHAFEE, Mr. HOLLINGS, Mr. ROTH, Mr. BRADLEY, Mrs. HAWKINS, Mr. PELL, Mr. CHILES, Mr. KENNEDY, and Mr. WARNER):

S. 1564. A bill entitled the "American Tuna Protection Act"; to the Committee on Commerce, Science, and Transportation.

By Mr. MITCHELL (for himself, Mr. PACKWOOD, Mr. COHEN, Mr. TSONGAS, and Mr. KENNEDY):

S. 1565. A bill to amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets; to the Committee on Finance.

By Mr. METZENBAUM:

S. 1566. A bill to amend title XVIII of the Social Security Act to provide initiatives to increase the medicare assignment rate for physicians, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 1567. A bill for the relief of Jozo Karoglan and Ilana Karoglan, husband and wife, and their child, Matthias Karoglan; to the Committee on the Judiciary.

By Mr. CHILES:

S. 1568. A bill relating to the application of section 103(b) of the Internal Revenue Code of 1954 to certain bonds for harbor improvements; to the Committee on Finance.

By Mr. WALLOP:

S. 1569. A bill for the relief of Professor Ramarao Inguva; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 1570. A bill to provide for the establishment of a national cemetery in Maricopa County, Ariz.; to the Committee on Veterans Affairs.

By Mr. HEINZ:

S. 1571. A bill to permit the Secretary of Health and Human Services to enter into loan forgiveness agreements with physicians specializing in primary care or psychiatry on the condition that such physicians serve in health manpower shortage areas, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DENTON:

S. 1572. A bill for the relief of William A. C. Mellis and Jill Eastmead Mellis, husband and wife; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 1573. A bill to amend the Water Resources Development Act of 1976 with respect to Lake Oswego, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DENTON (for himself, Mr. GOLDWATER, Mr. THURMOND, Mr. JEPSEN, Mr. CANNON, Mr. NUNN, Mr. HARRY F. BYRD, JR., Mr. QUAYLE, Mr. LAXALT, Mr. SIMPSON, Mr. GARN, Mr. SYMMS, Mr. NICKLES, Mr. ZORINSKY, Mr. DECONCINI, Mr. JOHNSTON, Mr. EAST, Mr. ABDNOR, Mr. MATTINGLY, Mr. HATCH, and Mrs. HAWKINS):

S. 1574. A bill to amend section 673b of title 10, United States Code, relating to the authority of the President to order members of the Selected Reserve of the Reserve components of the Armed Forces to active duty during periods other than war or national emergency; to the Committee on Armed Services.

By Mr. WALLOP (for himself, Mr. GARN, Mr. DOMENICI, Mr. HATCH, Mr. NICKLES, Mr. SIMPSON, Mr. WARNER, Mr. JOHNSTON, and Mr. STEVENS):

S. 1575. A bill entitled "The Combined Hydrocarbon Leasing Act of 1981"; to the Committee on Energy and Natural Resources.

By Mr. JEPSEN:

S. 1576. A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain on the sale of property if the proceeds are used to acquire a small business equity interest; to the Committee on Finance.

S. 1577. A bill to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution; to the Committee on the judiciary.

S. 1578. A bill to restrict the Federal Government from preempting or interfering with State statutes pertaining to spousal abuse; and for other purposes; to the Committee on Finance.

S. 1579. A bill to amend the Internal Revenue Code of 1954 to allow corporations to deduct all contributions made to a joint employee-employer day care facility; to the Committee on Finance.

S. 1580. A bill to amend the Internal Revenue Code of 1954 to provide a personal exemption for childbirth or adoption and to permit the taxpayer to choose a deduction or a tax credit for adoption expenses; to the Committee on Finance.

S. 1581. A bill to amend the Internal Revenue Code of 1954 to allow the taxpayer the choice of a tax credit or a deduction for each household which includes a dependent person who is at least 65 years old; to the Committee on Finance.

S. 1582. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation certain trusts established for the benefit of parents or handicapped relatives, and to provide a deduction for contributions to such trusts; to the Committee on Finance.

S. 1583. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for contributions made by a taxpayer to an individual retirement plan for the benefit of a nonsalaried spouse; to the Committee on Finance.

By Mr. LAXALT:

S.J. Res. 105. Joint resolution to designate October 1981 as "National PTA Membership Month."; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. HATCH, Mr. KENNEDY, Mr. BAUCUS, Mr. BUMPERS, Mr. DECONCINI, Mr. DENTON, Mr. LAXALT, and Mr. SPECTER):

S. 1554. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to eliminate surety bond, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

BAIL REFORM ACT OF 1981

(The remarks of Mr. THURMOND and Mr. KENNEDY on this legislation appear earlier in today's RECORD.)

By Mr. KENNEDY (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. LEAHY, Mr. BAUCUS, Mr. LAXALT, Mr. HATCH, and Mr. SPECTER):

S. 1555. A bill to improve the effectiveness of Federal crime control in the area of sentencing, and for other purposes; to the Committee on the Judiciary.

CRIMINAL SENTENCING REFORM ACT OF 1981

(The remarks of Mr. KENNEDY and Mr. THURMOND on this legislation appear earlier in today's RECORD.)

By Mr. SYMMS (for himself and Mr. HELMS) (by request):

S. 1557. A bill to amend the Perishable Agricultural Commodities Act, 1930, to increase the ceilings on license fees, remove the exemption from branch fees, and increase the level of damages claimed which entitles a respondent to an opportunity for oral hearings; to the Committee on Agriculture, Nutrition, and Forestry.

PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

● Mr. SYMMS. Mr. President, I am today introducing legislation to amend the Perishable Agricultural Commodities Act of 1930, and I ask unanimous consent that a letter of transmittal from Secretary of Agriculture Block be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 23, 1981.

Hon. GEORGE H. W. BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill "To amend the Perishable Agricultural Commodities Act of 1930, as amended, to increase the statutory ceiling on license fees, to remove the limitation on branch fees, and to increase the level of damages claimed which require the opportunity for oral hearing."

The Department strongly recommends that this legislation be passed. Without a change in the current fee authority, the Department projects a program deficit of $700,000 in FY 1982.

The Perishable Agricultural Commodities Act (PACA) establishes a code of fair trading in the fresh fruit and vegetable marketplace and is designed to suppress unfair and fraudulent practices in the marketing of fruits and vegetables in interstate and foreign commerce. Licenses are the key to enforcement.

Fruit and vegetables are produced domestically on 174,000 farms. They are marketed domestically through 15,200 licensed traders into the hands of about 3,200 of the larger retailers. Farm value of the commodities is approximately $11 billion. The marketing bill totals $14 billion, giving a retail value of domestic production of $55 billion. Foreign trading, both imports and exports, is showing steady growth with current estimates of value approximating $2 billion.

The PACA, with its code of fair trading in the marketplace, has brought stability and order to the fruit and vegetable industry through the establishment of an administrative forum which permits prompt resolution of contract disputes and recovery of damages as an alternative to court action, and the protection of traders from persons who fail to live up to the fair play requirements.

Prior to enactment of the PACA, producers, sellers, and buyers were disadvantaged in conducting their business because unethical operators used unfair and fraudulent practices for personal advantage. Without this law, the inability to compete would return because unfair trading practices would again burden the marketplace:

(1) Farmers and traders would be denied their immediate forum for timely resolution of contract disputes and for recovery of money owed for produce.

(2) Recovery of damages resulting from breach of trading contracts through the courts would be costly as well as untimely due to already overburdened court dockets.

(3) Unfair traders will determine the amount they can deduct from sellers' invoices without fear of reprisal.

(4) Sellers will respond to this increased risk by raising selling prices, thus insuring against anticipated losses.

(5) The traders' response to this increased risk will conservatively add a 10 percent burden to the marketing bill with an increased cost to the consumer approximating $4.5 billion.

In 1980, $6 million was recovered by informal negotiations, an average of $6,200 per complaint. An additional $3.1 million was awarded in formal proceedings in which the Department mediated. Seventy-five percent of the 2,000 complaints received annually are disposed of informally. Formal proceedings require twice the turn-around-time as informal settlement.

Of the 19,000 requests for assistance in FY 1980, an estimated 11,400 counseling efforts involving contract responsibility eliminated the cause of complaint. Without the Act, these would probably have required formal resolution. Applying the average rate of recovery of $6,200 per informal proceeding, the value of this recovery to the industry can be projected at $71 million annually. Adding the present total recovery of $9 million yields aggregate recovery benefits because of the Act of $80 million. Projected costs of administration for FY 1982 are $3.2 million, thus benefits outweigh cost by a ratio of 25 to 1.

License fees paid by approximately 15,200 traders deposited into the PACA fund pay the bulk of the cost of administering the program. The cost of legal support services is paid from appropriated funds. It was, and has remained, the intent of the Congress that the major portion of the program be self-supporting. However, statutory limitations prevent the setting of license fees at levels sufficient to meet program costs which are rising primarily because of increased pay and travel costs and general inflation. At the same time, income has been reduced because of a decline in the number of firms requiring a license to trade.

Effective January 1, 1981, license fees were raised to the current statutory ceiling of $150, plus $50 for each branch in excess of nine, with a maximum fee of $1,000. Despite the increase in license fees, costs of operation will exceed income in FY 1981 by approximately $308,000. Most of the reserve fund will be used to pay this deficit. If the current fee authority remains unchanged, a shortfall of income of approximately $800,000 is projected for FY 1982. Without timely legislative authority to establish an adequate license fee structure, the PACA program will have to be terminated in FY 1982 since projected costs will exceed income and the reserve fund residue. If funding authority is enacted as recommended herein, orderly marketing of fruits and vegetables will be promoted by the continuing enforcement of the code of fair trading in the marketplace.

Specifically, the proposed legislation would:

(1) Increase the license fee ceiling to $400 for each license, plus $200 for each branch, not to exceed $4,000 in the aggregate, and repeal the present branch fee exemption. These changes are necessary to provide for continuation of the program and to permit the flexibility needed to establish a fee structure which will better distribute cost-sharing responsibility among licensed firms and yield sufficient revenue to pay costs of operation through FY 1986.

(2) Increase from $3,000 to $15,000 the level of damages which must be exceeded in a claim before an oral hearing must be held, if requested, in reparation proceedings.

With new fee authority, fees would initially be set at a base fee of $200 for each licensee, plus $100 for each branch operated, not to exceed $2,000 for any licensee. This fee structure would yield sufficient income to pay the costs of program operations until FY 1984 and make a contribution to restore the reserve fund. Flexibility for fee adjustment beyond this period is included in the amendment recommending new maximum fee levels to be utilized if program costs again rise above income levels.

Under the existing license fee structure which incorporates a one-to-nine branch exemption, only 2 percent of the licensees pay branch fees, and of the 12 percent who operate nine or less branch operations, many do a substantially larger volume of business (over $3 million annually) than many of the single unit operators. Distribution of the cost responsibility as proposed by repeal of the branch fee exemption would mean that 14 percent of the licensed firms with branch operations would pay branch fees in addition to the basic fee. It would also mean that those firms that have the most impact on the marketing of fruits and vegetables would bear a greater share of the cost responsibility for the program. Repeal of the branch fee exemption would yield additional revenue and enable the Department to maintain the basic license fee at a lower level.

Enactment of this provision will have a minimal cost impact on the 15,200 licensees. The fees are a tax deductible business operating expense. On the other hand, if the program were discontinued, there would be a substantial adverse impact on farmers, traders, and consumers.

One of the main activities of the Department under the PACA is the resolution of claims filed by injured persons for recovery of damages resulting from breach of trading contracts. When negotiations do not result in informal settlement, the parties present their case in a formal proceeding. The Act presently provides that an oral hearing on a reparation complaint must be held, if requested, whenever damages claimed exceed $3,000. The $3,000 level was established on February 15, 1972, based on the approximate wholesale value of a carlot of fresh fruits and vegetables on the New York City market. The $3,000 figure is no longer realistic and results in unnecessary costs to both the fruit and vegetable industry and the Department.

Accordingly, it is recommended that the Act be amended to increase the level of claimed damages requiring an oral hearing from those exceeding $3,000 to $15,000. For the period FY 1976 to FY 1979, 126 oral hearings were held based on the $3,000 level. Based on the facts in those cases, the proposed higher level of $15,000 would have eliminated about two-thirds of the oral hearings which we were required to hold. Hearing these cases without oral hearing by the shortened procedure method will result in bringing these matters to a speedier conclusion at a savings of costs to the Department, which will no longer have to fund the presiding officer's travel expenses. This saving will not come at the expense of depriving members of the industry of any rights since the shortened procedure method affords the parties full opportunity to submit evidence in support of their positions and to seek a trial de novo in a United States District Court if they feel aggrieved by the Secretary's final decision.

Enactment of this provision, which will impact on 15,200 licensees and 174,000 producers, will also result in some savings in the Department's litigation expenses. The benefit of eliminating the cost of travel for witnesses and principals of disputant firms, as well as witness fees, will accrue to the parties making use of the service.

Enactment of this legislation will have no significant effect on the quality of the human environment.

Current annual cost of the PACA program is $2.65 million. Projected annual cost of the program in FY 1982 is $3.2 million, and $3.9 million in FY 1983.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.●

By Mr. HATCH:

S. 1558. A bill to amend title 18 to limit the insanity defense, and to establish a verdict of not guilty only by reason of insanity; to the Committee on the Judiciary.

INSANITY DEFENSE PROCEDURES

● Mr. HATCH. Mr. President, on March 26, 1981, I proposed legislation to abolish the independent insanity defense and substitute in its place a new "Mens rea" defense (S. 818, CONGRESSIONAL RECORD). Rather than inquiring into whether or

not a criminal defendant knew "right from wrong" or lacked "substantial capacity" or possessed an "irresistible impulse"—all questions for which our legal system is ill-equipped—the legislation that I introduced would establish as a new insanity defense that—

The defendant as a result of mental disease or defect lacked the state of mind required as an element of the offense charged.

Mental disease or defect would not otherwise constitute a defense to a criminal prosecution.

As a companion measure to S. 818, I am introducing legislation today to establish a new Federal criminal verdict of "not guilty only by reason of insanity" and to establish procedures for dealing with defendants obtaining such a verdict. Defendants acquitted because of insanity would no longer be freed on the same terms as other individuals acquitted of criminal activity.

The premise of this bill is that such individuals, whatever their formal criminal responsibilities, are clearly dangerous to the community and to other individuals. While they may not be deserving of the same sanctions that would be imposed against a guilty individual, neither are they deserving of the same freedoms that are the right of the individual who is found simply "not guilty." Entirely different consequences would flow from a determination of "not guilty only by reason of insanity" than from a determination either of "guilty" or "not guilty."

Under this proposal, if an individual was found "not guilty only by reason of insanity," he would immediately be committed to a suitable facility for examination by medical doctors. No later than 40 days after such commitment, he would be entitled to a hearing before the sentencing court which would have available to it his psychiatric and medical reports. If, after the hearing, the court found by "clear and convincing" evidence that the individual was suffering from a mental disease or defect as a result of which his release would create a "significant" risk of bodily injury to another person or serious property damage, the court would be required to continue the individual's commitment.

If the court did not make this finding, only then would the individual be discharged from the facility and free to return to society.

Following the initial hearing, a committed individual would be given a new hearing before the sentencing court whenever the director of the facility in which the individual was institutionalized certified to the court his finding that the individual no longer posed a significant risk of doing bodily injury or serious property damage.

At that point, the court could either order the immediate discharge of the individual or conduct a new hearing on the individual's mental condition. Upon the motion of the Government, the court would be required to conduct such a hearing. If the court found by a "preponderance" of the evidence that the individual was not likely to cause bodily injury or serious property damage, he would then be released.

Wherever possible, the Attorney General is instructed to release individuals not guilty only by reason of insanity to the appropriate State officials for institutionalization in State facilities.

A second provision of the proposed measure would address the disposition of defendants who have been found "guilty" of a crime but who nevertheless suffer from some mental disease or defect. This would complement the new, more rigorous insanity defense in S. 818—and repeated in section 16 of this measure.

Upon the motion of either the Government or the convicted individual, within 10 days after the verdict and prior to sentencing, the court may entertain a request for a separate hearing on whether or not to institutionalize a defendant in a medical facility, if it finds "reasonable cause" to believe that the individual may be suffering from a mental disease or defect. That is, is he suffering from a mental disease or defect not substantial enough to have warranted a "not guilty only by reason of insanity" verdict but nevertheless sufficient to warrant custody in a suitable facility for care and treatment. If, after the hearing, the court determined by a "preponderance" of the evidence that the individual was suffering from such a condition, it may order that he be institutionalized in a medical institution, in lieu of probation or imprisonment. This provision is designed to permit a more honest replacement of a primary function of the present insanity defense—the placement of individuals in facilities appropriate to their circumstances.

When the director of the facility in which the individual was hospitalized certified that the individual was no longer in need of such treatment, the sentencing court would proceed with final sentencing.

The defendant or his legal guardian may, upon their own motion, seek the release of the defendant from the custody of a medical facility, even in the absence of certification by the director of the facility. Such a motion may be filed, however, only after 180 days from the time that the sentencing court last determined that the individual should remain in such facility. The director may file a certification at any time.

Mr. President, currently there is no Federal procedure for committing individuals who acquitted by reason of insanity, although the District of Columbia does provide for the mandatory commitment of such individuals, D.C. Code 24–301(d) (1973). It is possible only for Federal officials to obtain institutionalization of exonerated individuals through State or local civil commitment procedures. This is plainly inadequate from either the perspective of community safety or the treatment of the individual. Only rarely are State and local officials willing to take the necessary responsibility for such individuals and initiate commitment procedures.

Let me conclude by making several brief remarks about why I have chosen to incorporate certain provisions in this measure.

First, although I believe that a stronger burden of proof can justifiably be placed upon the individual found not guilty only by reason of insanity prior to his release from a medical facility—perhaps a clear and convincing standard rather than a preponderance standard—I have chosen the latter standard because it represents one that already has gone a long distance from present Federal law where no distinctions whatsoever are made between individuals found not guilty and those found not guilty because of insanity.

I believe that it represents a responsible first step in recognizing that the individual found not guilty only by reason of insanity is not entitled to the same presumptions and incidents of innocence as others found simply not guilty.

Second, I have chosen a not guilty—but insane verdict rather than a guilty—but insane verdict, not because I believe any less strongly in the idea of individual accountability for one's wrongful activities, but because the latter verdict would have neutralized many of the benefits of the new insanity defense. The purpose of the new defense is primarily to avoid having to make essentially medical or psychiatric determinations about defendants—determinations for which they are totally ill-equipped—and substituting for these the single determination of whether or not the defendant possessed the state of mind or mens rea necessary for the commission of the offense—a determination that juries have traditionally performed.

A verdict of guilty but insane would basically require juries to make the determination that but for the defendant's insanity he would have possessed the requisite state of mind for the criminal offense. Thus, under the not guilty but insane formulation, the jury would be confronted with the relatively straightforward question of whether the defendant did or did not possess a criminal state of mind, eliminating in the process much of the need for competing psychiatric testimony. Under the guilty but insane formulation, however, they would have to inquire into precisely what the reasons were for the defendant lacking the requisite state of mind; if his mental condition was responsible, he would be found guilty regardless of its absence.

Not only would this involve the criminal conviction and possible incarceration of an individual who lacked criminal scienter, but it would reinvolve the jury in the same kind of medical-psychological determinations that the proposed insanity defense in S. 818 tries to avoid. Psychatric testimony would continue to play the same role in the criminal trial as it does presently, when the insanity defense was raised. The major strides that would be achieved by the reformed

defense would be largely neutralized by the procedural changes required by the guilty but insane verdict.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 16. Insanity defense.

"(a) STATE OF MIND.—It shall be a defense to a prosecution under any Federal statute, that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

"(b) APPLICATION OF THIS SECTION.—This section applies to prosecutions under any Act of Congress other than—

"(1) an Act of Congress applicable exclusively in the District of Columbia;

"(2) the Canal Zone Code; or

"(3) the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

"§ 17. Determination of the existence of insanity at the time of the offense.

"(a) MOTION FOR PRETRIAL PSYCHIATRIC EXAMINATION.—Upon the filing of a notice, as provided in rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the Government, may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court pursuant to the provisions of section 20 (b) and (c).

"(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in rule 12.2 of the Federal Rules of Criminal Procedure on a motion by the defendant or by the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity.

"§ 18. Hospitalization of a person acquitted by reason of insanity.

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (d) of this section. The court shall order a hearing to determine whether the person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court shall order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 20 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 20(d), and shall be conducted not later than forty days after the date of the finding of guilty only by reason of insanity.

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the acquitted person is currently suffering from a mental disease or defect and that his release would create a significant risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release would not create a significant risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of a facility determines that an acquitted person, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to such person's counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 20(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of evidence that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a significant risk of bodily injury to another person or serious damage to property of another, the court shall order his immediate discharge.

"§ 19. Hospitalization of a convicted person suffering from mental disease or defect.

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant. Such motion must be supported by substantial information indicating that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility for such disease or defect. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order a hearing on its own motion if the court deems that there is reasonable cause to believe that the defendant may currently be suffering from a mental disease or defect and that he is in need of custody for care or treatment in a suitable facility.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 20(b) and (c). In addition to the information required to be included in the psychiatric report pursuant to the provisions of section 20(c), if the report includes an opinion by the examiners that the defendant is currently suffering from a mental disease or defect but that such disease or defect does not require his custody for care or treatment, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best provide the defendant with the kind of treatment needed.

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 20 (d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of evidence that the defendant is presently suffering from a mental disease or defect and that he should in lieu of being sentenced to probation or imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence to the maximum term authorized by law for the offense of which the defendant was found guilty.

"(e) DISCHARGE FROM SUITABLE FACILITY.—When the director of the facility determines that the defendant, hospitalized pursuant to subsection (d), has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing, and may modify the provisional sentence.

"§ 20. General provisions.

"(a) DEFINITIONS.—As used in this title—

"(1) 'insanity' means a mental disease or defect of a nature constituting a defense to a Federal criminal prosecution; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) PSYCHIATRIC EXAMINATION.—A psychiatric examination ordered pursuant to this title shall be conducted by a licensed or certified psychiatrist, or a clinical psychologist and a medical doctor, or, if the court finds it appropriate, by additional examiners. Each examiner shall be designated by the court if the examination is ordered under section 17, 18, or 19. For the purposes of an examination pursuant to an order under section 19, the court may commit the person for a reasonable period not exceeding thirty days, in order to conduct such examination, or pursuant to section 17 or 18, the court may commit such person to the custody of the Attorney General for placement in a suitable facility for a reasonable period, but not to exceed forty days. Unless impracticable, the psychiatric examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension not exceeding fifteen days under section 19, or not exceeding twenty days under section 17 or 18, upon a showing of good cause that additional time is necessary to observe and evaluate the defendant.

"(c) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant to this title shall be prepared by the examiner designated to conduct the psychiatric examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychological and medical tests employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 17, whether the person was insane at the time of the offense charged;

"(B) if the examination is ordered under section 18, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect which would create a significant risk of bodily injury to another person or serious damage to property of another; or

"(C) if the examination is ordered under section 19, whether the person is currently suffering or in the reasonable future is likely to suffer from a mental disease or defect for which he is in need of custody in a suitable facility for care or treatment.

"(d) HEARING.—At a hearing ordered pursuant to this title the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to law. The person shall be afforded an opportunity to testify, to present evidence, to subpena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS FOR SUITABLE FACILITIES.—(1) The director of the facility in which a person is hospitalized pursuant to section 18 or 19, shall prepare annual reports concerning the mental condition of such person, and shall make recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility, and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to section 18, 19, or 20, shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric examination pursuant to section 17 is not admissible as evidence against the accused on the issue of guilt in any criminal proceeding, but is admissible on the issue of whether or not the defendant suffers from a mental disease or defect.

"(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 18 precludes a person who is committed under such section from establishing by writ of habeas corpus the illegality of his detention.

"(h) DISCHARGE FROM SUITABLE FACILITY.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsections (e) of either section 18 or 19, counsel for the person or his legal guardian may, during such person's hospitalization, file a motion with the court ordering such commitment for a hearing to determine whether the person should be discharged from such facility. Such motion may be filed at any time except that no such motion may be filed within one hundred and eighty days after a court determines that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

"(i) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—(1) Before a person is placed in a suitable facility pursuant to section 18 or 19, the Attorney General shall request the director of each facility under consideration to furnish information describing rehabilitation programs that would be available to such person, and, in making a decision as to the placement of such person, shall consider the extent to which the available programs would meet the needs of such person.

"(2) The Attorney General may contract with a State, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this title.".

(b) The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"16. Insanity defense.
"17. Determination of the existence of insanity at the time of the offense.
"18. Hospitalization of a person acquitted by reason of insanity.
"19. Hospitalization of a convicted person suffering from mental disease or defect.
"20. General provisions.".●

By Mr. PELL:

S. 1559. A bill to amend the Social Security Act to provide for trust fund borrowing from general revenues when necessary to maintain an adequate level of reserves in the trust funds; to the Committee on Finance:

SOCIAL SECURITY BORROWING

● Mr. PELL. Mr. President, during the past few months a great deal of concern has been expressed in Congress and around the Nation about the impending financial shortfall which we face in our social security program between 1982 and 1985. Today, I am introducing legislation that offers a solution to this immediate problem and gives Congress time to carefully consider the question of how to insure the long-range viability of the program.

A report recently issued by the social security trustees identified the factors which have caused the shortfall that is expected to occur next year in the old age trust fund. It is not the so-called "greying" of America which has created this situation. Rather, annual double-digit increases in prices and a decline in real wage growth have created an imbalance in the system. The result is that if current trends continue, the amount necessary to pay benefits for retirees will exceed available income beginning in 1982.

Rumors about the financial instability within social security have hit the American people between the eyes. All of our citizens who are retirement age are worried that their monthly checks will be dramatically reduced or stopped altogether. But that is not all. Recent public opinion polls indicate that a majority of wage earners are convinced that the system will be bankrupt before they retire.

I believe, Mr. President, that it is the responsibility of the men and women in Congress to reassure our citizens by taking prompt and decisive action to correct the shortfall in the old age trust fund. However, I reject the idea that we must respond to this short-term cash flow problem by permanently reducing the economic security of those who need it most. Social security beneficiaries are the victims and not the source of the program's funding problem. We cannot and must not balance the system on their backs.

The projected imbalance in the old age trust fund is a direct result of the negative performance of our economy and a failure to accurately predict and, thus, plan for the high inflation and joblessness that has occurred in the past few years. My legislation proposes an uncomplicated solution to the immediate funding problem that will not penalize those who depend upon the program to maintain a bare bones standard of living.

The legislation would allow the Secretary of the Treasury to transfer money from general revenues to the old age trust fund to carry us through the current crisis. It would also guarantee that any loan made to the social security system would be automatically repaid with interest once the condition of the fund improves, as it is projected to do by 1986.

The old age trust fund is one of three social security trust funds that receives income from payroll taxes but it is the only one that is expected to experience an immediate shortfall. The medicare and disability trust funds are relatively healthy, but this condition could change if the economy does not improve. If the economy remains weak and if the Congress approves only an interfund transfer, it is doubtful that there would be enough reserves available to keep all three funds healthy.

My legislation gives the Secretary the flexibility to respond to changing economic conditions and to put this short-term problem behind us once and for all. I hope that this proposal will be adopted so that Congress may turn its attention to the long-range social security funding problem that is expected to occur in the 21st century.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(1)(1) If in any month the assets of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund are insufficient to provide that such Trust Fund shall have assets equal to or greater than 14 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Managing Trustee may borrow from the general fund in the United States Treasury, for deposit in such deficient Trust Fund, an amount not to exceed the difference between the assets of such deficient Trust Fund and 14 percent of the amount so disbursed from such Trust Fund.

"(2) If the assets of the deficient Trust Fund in any month equal or exceed 25 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter he paid into that Trust Fund shall instead be paid into the general fund of the United States Treasury, except so much as shall be required to maintain the assets of the deficient Trust Fund at 25 percent of the amount so disbursed, until the loan under this subsection is repaid. Such loan shall be repaid

with interest at a rate equal to the rate which would be payable on investments under subsection (d) for the corresponding period of time.".

(b) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(j)(1) If in any month the assets of the Trust Fund are insufficient to provide that the Trust Fund shall have assets equal to or greater than 14 percent of the amount disbursed from the Trust Fund during the twelve immediately preceding months, the Managing Trustee may borrow from the general fund in the United States Treasury, for deposit in the Trust Fund, an amount not to exceed the difference between the assets of the Trust Fund and 14 percent of the amount so disbursed from the Trust Fund.

"(2) If the assets of the Trust Fund in any month equal or exceed 25 percent of the amount disbursed from the Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into the Trust Fund shall instead be paid into the general fund of the United States Treasury, except so much as shall be required to maintain the assets of the Trust Fund at 25 percent of the amount so disbursed, until the loan under this subsection is repaid. Such loan shall be repaid with interest at a rate equal to the rate which would be payable on investments under subsection (c) for the corresponding period of time.".●

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. JACKSON):

S. 1562. A bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic; to the Committee on Governmental Affairs.

NATIONAL NEEDS AND OBJECTIVES IN THE ARCTIC

(The remarks of Mr. MURKOWSKI on this legislation appear earlier in today's RECORD.)

By Mr. MATHIAS:

S. 1563. A bill to amend the Federal Aviation Act of 1958 to provide for designated "non-smoking" areas aboard aircraft; to the Committee on Commerce, Science, and Transportation.

"NO-SMOKING" AREAS ABOARD AIRCRAFT

Mr. MATHIAS. Mr. President, I am introducing a bill that basically codifies the Civil Aeronautics Board's nonsmoking regulations.

In 1973, the CAB approved a regulation requiring domestic airlines to provide designated "no-smoking" areas aboard aircraft after July 1, 1973.

In issuing this regulation, the Board found that the existing segregation rules voluntarily adopted by the airlines had been ineffective. The Board said that such rules were "largely unenforced" and "not an adequate remedy." According to the Board, its files were "replete with letters from passengers complaining that the carriers have not maintained the purported separation."

Since its adoption over 8 years ago, the regulations have been amended twice, in 1979 and December 1980. As amended, the CAB requires:

A no-smoking area for each class of service and for charter service.

A sufficient number of seats in the no-smoking areas of the aircraft for all persons who wish to be seated there. A carrier must provide a seat in the nonsmoking section to passengers who demand one, even if they are last-minute arrivals and even if the nonsmoking section must be expanded to accommodate them.

Special segregation of cigar and pipe smokers and a total ban when the aircraft's ventilation system is not fully functional.

The CAB also allows airlines to apply for permission to experiment with alternative methods of protecting nonsmokers from tobacco smoke to the maximum possible degree.

For the past 5 years, the Board has been involved in a rulemaking procedure with regard to its no-smoking regulation. Since that time the Board has received thousands of comments about possible alterations in the present rule.

Just 1 month ago, on June 26, the CAB issued a press release in which it announced its intention to refine its no-smoking rule and directed its staff to draft a revision in the old regulation. According to its press release—

The Board instructed its staff to prepare a rule that will not require airlines to expand the nonsmoking section for passengers who either do not hold confirmed reservations or who arrive after their guarantee of a reservation has lapsed. While the carriers would be required to expand the nonsmoking section, if necessary, they would not have to do so for standby passengers or those who do not check in on time.

At the same time, the Board emphasized that its forthcoming revision would not affect its general requirement for the segregation of smokers and nonsmokers. Despite its reassurance on the separation issue, it is conceivable that the Board could make additional changes in the rule to the detriment of the nonsmokers, such as a relaxation on the rule requiring segregation of cigar and pipe smokers.

My concern that the Board may issue a detrimental revision of the existing rule prompts me to introduce the bill before us. I am taking this action now because of the likelihood that the Board will issue its revision during August while the Senate is in recess. By doing so, I am putting the Board on notice that, should its revision affect adversely the interests of nonsmokers, I will press for the prompt consideration of the bill when Congress returns in September. In my view, any substantial alteration of the effective and existing rule should be undertaken only after careful congressional review. My bill is an appropriate vehicle for such review. I hope its consideration by Congress will not be necessary. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following:

"PROVISION OF DESIGNATED 'NO-SMOKING' AREAS ABOARD AIRCRAFT

"SEC. 418. (a) APPLICABILITY.—It is the purpose of this section to establish rules for the smoking of tobacco aboard aircraft. Each direct air carrier that holds a certificate of public convenience and necessity authorizing the transportation of persons, issued under section 401 and to commuter air carriers registered under this Act in that part of their operations using aircraft designated to have a passenger capacity of more than 30 seats (hereinafter called 'carriers') shall meet the requirements established under this section. Nothing in this Act shall be construed to require a carrier to permit the smoking of tobacco aboard aircraft.

"(b) SPECIAL SEGREGATION OF CIGAR AND PIPE SMOKERS.—The Secretary of Transportation (hereinafter the 'Secretary') shall adopt and enforce rules providing for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing persons seated in no-smoking areas to smoke from cigars and pipes.

"(c) NO-SMOKING AREAS.—The rules promulgated under this section shall require that carriers ensure that non-smoking passengers are not unreasonably burdened by breathing smoke and to that end shall provide at a minimum:

"(1) A no-smoking area for each class of service and for charter service;

"(2) A no-smoking section of at least two rows of seats;

"(3) A sufficient number of seats in the no-smoking areas of the aircraft for all persons who wish to be seated there;

"(4) Specific provision for expansion of no-smoking areas to meet passenger demand; and

"(5) Special provisions to ensure that if a no-smoking section is placed between smoking sections, the non-smoking passengers are not unreasonably burdened.

"(d) BAN ON SMOKING WHEN VENTILATION SYSTEMS NOT FULLY FUNCTIONING.—Carriers shall prohibit the smoking of tobacco whenever the ventilation system of an aircraft is not fully functioning. A ventilation system shall be considered fully functioning only when all parts are in working order and operating at the capacity designed for normal service.

"(e) ENFORCEMENT.—The rules promulgated under this section shall require that each carrier shall take such action as is necessary to ensure that smoking is not permitted in no-smoking areas and shall enforce its rules with respect to the segregation of passengers in smoking and no-smoking areas.

"(f) MANUAL CONTAINING COMPANY RULES FOR SMOKING BY PASSENGERS ABOARD AIRCRAFT.—Each air carrier subject to this Act shall maintain an employees manual containing company rules for smoking by passengers aboard aircraft. Two copies of such manual shall be filed with the Secretary, and revisions and amendments shall be filed within 15 days following adoption by the carrier.

"(g) SECRETARY MAY MODIFY MANUAL RULES TO CONFORM THEM TO THE PROVISIONS OF THIS SECTION.—If the Secretary finds that any carrier rule set forth in the manual is at variance with any provision of this Act, the Secretary may by order modify such carrier rule to the extent necessary to conform the rule to the provisions of this section.

By Mr. WEICKER (for himself, Mr. TSONGAS, Mr. CHAFEE, Mr. HOLLINGS, Mr. ROTH, Mr. BRADLEY, Mrs. HAWKINS, Mr. PELL, Mr. CHILES, Mr. KENNEDY, and Mr. WARNER):

S. 1564. A bill entitled the "American Tuna Protection Act"; to the Committee on Commerce, Science, and Transportation.

AMERICAN TUNA PROTECTION ACT

● Mr. WEICKER. Mr. President, I am pleased to introduce today, along with

my colleagues, Senators TSONGAS, CHAFEE, HOLLINGS, ROTH, BRADLEY, HAWKINS, PELL, CHILES, KENNEDY, and WARNER, the American Tuna Protection Act. This legislation provides for the conservation and management of all tuna within the U.S. 200-mile economic zone established by the Fishery Conservation and Management Act (FCMA). It will fill a serious gap in the overall fishery management program of this Nation. Since the passage of the FCMA all species of fish except tunas have been under the exclusive jurisdiction of the United States.

The United States originally excluded tuna from the FCMA because it was felt that international management was the best way to conserve tuna stocks. Unfortunately, Mr. President, circumstances have changed. While the United States relied on the agonizingly slow or dormant international negotiation process, Canada, Mexico, and the great majority of Central and South American and western African nations have declared control over the catching of tuna within their economic zones.

Even so, the west coast tuna interests and the State Department have resisted past attempts to include tuna in the FCMA, declaring that such action would hurt our fishermen's chances to fish tuna claimed by foreign countries. Despite the protestations of many foreign nations, the State Department has managed to force open access to foreign tuna stocks, largely through use of embargoes. It is hard for me to believe that the State Department through the use of this highly effective tool, could not also negotiate equitable quotas of foreign tuna for U.S. fishermen.

The need for including tuna in our overall management scheme is exemplified by the Atlantic bluefin tuna. The Atlantic bluefin tuna is an oceanic schooling species highly adapted to living in water of varying temperatures, to swimming at fast speeds and to traveling over great distances. It ranges the entire breadth of the North Atlantic Ocean. In the western Atlantic it is found from Labrador southward along the entire east and gulf coasts of the United States extending through the Caribbean, and southward along the coasts of Brazil and Argentina. In the eastern Atlantic the bluefin occurs from Lofoten Islands in Norway southward along the European coast, extending throughout the Mediterranean and Black Seas, and then, along the coast of Africa to Sierre Leone, including the Azores, Maderia, Canaries and Cape Verde Islands.

Evidence is strong that there are at least two separate stocks of bluefin on either side of the Atlantic although this has not been proven beyond doubt. Tagging records of over 15,000 western Atlantic bluefin show that 3.000 were recovered from the western Atlantic while 24 were recovered in the eastern Atlantic.

The location of principal spawning grounds on both sides of the Atlantic and the differing times of spawning also support the concept of two separate stocks of bluefin tuna. The eastern Atlantic spawning grounds are the central Mediterranean Sea and the spawning season extends from April to mid-July. Spawning in the western Atlantic takes place mostly within the north-central part of the Gulf of Mexico from mid-February to June. The significance of the two stock theory is its bearing on the ability of the United States to manage bluefin within its own waters.

Japanese longline vessels fish for giant bluefin tuna in the Gulf of Mexico from March to June during the time of spawning congregation. This directed fishery increased greatly in 1974 after a shift in fleet effort away from the Mediterranean Sea and eastern Atlantic Ocean. The number of giant bluefin tuna that have been caught by the Japanese fleet in the northern Gulf of Mexico has been primarily within the U.S. fishery conservation zone. Their annual reported catches over a 5-year period from 1975 to 1979 average over 8,300 giants, although U.S. observers have consistently shown a higher rate of removal than that reported by the Japanese.

In recent years, Japanese vessels have also concentrated their fishing effort in waters off the northeast and middle Atlantic coasts. Longline fishing activity off these coasts (usually 20 to 200 miles from shore) is conducted during the late summer, fall and winter months by approximately 20 to 46 vessels. However, a half dozen longline vessels have fished there throughout the summer months.

The bluefin fishery in this area is conducted incidentally to operations targeted for bigeye and yellowfin tuna. Nevertheless, the annual catch of bluefin tuna amounts to between 4,000 and 16,000 school- and medium-sized bluefin. Canadian fishermen also purse seine for tuna in U.S. waters, catching 350 tons of bluefin per year under an informal agreement. Canada on the other hand, does not allow U.S. fishermen to fish for tuna in their waters.

Incidental to the tuna harvest, the Japanese longlines catch swordfish, marlin, sailfish, and sharks, and even though they are required to release all but tuna, most of the former species do not recover from the trauma of being hooked on a longline. The domestic Atlantic's bluefin fishery is comprised of commercial and recreational fishermen who use a variety of gear, including handline, purse seines, hook and reel, and harpoons. The fishing extends from the Gulf of Mexico to the Gulf of Maine. The purse seine fishery, which exploited mainly school- and medium-sized bluefin tuna, reached its peak catches in 1963 when over 5,500 tons (approximately 11 million pounds) were taken by vessels from both east and west coast ports.

Shortly after the peak fishing of the early and mid-1960's, medium-sized tuna, which were formerly abundant, became scarce. Soon catches declined, tag return rates became alarmingly high, and an imbalance of stock structure became evident. During this time, recreational failures continued to expand. As a result of this decline, only 2,000 to 3,000 or so giant bluefin tuna are allocated to U.S. fishermen. The great difficulty which has arisen during recent years with the bluefin tuna is the increased demand put on the species because of its value. Formerly, the greatest amount of fishing pressure put upon the bluefin by the Japanese has been in the eastern Atlantic and in the Mediterranean Sea.

The catches by Japanese longline vessels within the Mediterranean, in particular off Italy, had increased substantially from 1970 until 1974. Apparently, due to the increased political pressure being exerted upon Japan by the Mediterranean countries, especially Italy, the amount of fishing effort was reduced there. Concurrent with this, however, it was increased tremendously in the western Atlantic and, in particular, within the Gulf of Mexico. Essentially, the Japanese reduced their catch in the Mediterranean but increased it in the Gulf of Mexico, thereby stabilizing their catch but shifting their fishing from one side of the ocean to the other.

This occurred at a time when the various member nations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) were agreeing to restrict their catch limitations. In essence, the United States had reduced its catch by about 30 percent since 1975 as compared to the previous seasons. The Japanese have not only increased their catch of bluefin during this same period but substantially changed where the fishing took place.

Passage of this legislation will insure effective management of our tuna and billfish resources. We would also expect the Secretary of Commerce to immediately implement emergency legislation particularly for foreign fishing interests. These regulations would be determined by the health of the stock and the needs of the domestic fishermen. At the same time, U.S. fishermen will still be bound by ICCAT restrictions. It has been argued that the unilateral extension of fishery management authority to tunas is inconsistent with ICCAT provisions and threatens the continued existence of ICCAT. Neither assertion seems to have much merit.

In the first place, ICCAT "authority" extends only to the high seas. In the second, regardless of what actions member nations take with respect to their own waters, some form of authority is required in international waters. Moreover, there will in all events be a continuing need for the framework which ICCAT provides for joint research by nations having an interest in the resource.

It has also been argued that we should continue to extract voluntary reductions in catch by the Japanese longliners. This has not worked in the past. In recent years the Japanese fishing industry has volunteered token measures of self-restraint in order to delay the inevitable. When it became known that in the mid-1970's the Japanese were killing 10,000 or more giant bluefins in the Gulf of Mexico annually, there was a loud outcry from U.S. sportsmen and conservationists.

In response the Japanese from time to time announced self-imposed reductions. New information recently disclosed in Japanese industry reports indicates that such reductions were made only in one part of the gulf. East of 90 degrees the Japanese caught only 4,369 giant bluefins, which is more or less what they said

they would do, but west of 90 degrees they took an additional 3,372 fish. Thus, the total number of removals was 7,741 fish.

Present U.S. fishery policy encourages U.S. tuna boat operators to violate laws of nations that have included tuna in their own economic zones. This results in widespread resentment and retaliation against other segments of the U.S. fishing industry. It also operates as a disincentive for the U.S. industry to reach an accommodation with such other nations. Given the present level of hostility generated by past practice, it is unlikely that adoption of the proposed legislation will significantly deteriorate the negotiating posture of the U.S. industry. The U.S. position concerning highly migratory species was rejected by the nations concerned many years ago and is not incorporated in the text of the LOS treaty which generally reflects accepted international practice.

Mr. President, this important legislation is consistent with the worldwide approach to tuna management as spelled out in the Draft Convention of the Law of the Sea. It will remove a source of widespread resentment and will open the door to a more profitable, evenhanded approach to international negotiations on tuna management.

The only hope for the bluefin, as well as other tuna species such as yellowfin, bigeye and albacore is to remove foreign fishing interests from our waters and set up a management plan to insure future stocks for our own fishermen.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows;

S. 1564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended as follows:

(1) by striking out the words "except highly migratory species," from subparagraph (A) of paragraph (1) of subsection (b) of section 2 (16 U.S.C. 1801);

(2) by—

(A) striking out the words "birds, and highly migratory species" and substituting "birds"; and

(B) inserting "and" between the words "mammals" and "birds" in paragraph (6) of section 3 (16 U.S.C. 1802); and

(3) by striking out section 103 (16 U.S.C. 1813).●

● Mr. PELL. Mr. President, I am pleased to join Senator WEICKER and my other distinguished colleagues in sponsoring the American Tuna Protection Act. This legislation is important because it offers a solution to a serious problem confronting the United States—that is, the depletion of tuna and other fish stocks by foreign, particularly Japanese, tuna fishing interests in the American Fishery Conservation Zone.

Japanese longline vessels fish for tuna off the east coast of the United States at a range of about 80 to 140 miles and in the Gulf of Mexico. Japanese fishing causes serious problems for American fishermen in these areas. They are deprived of catch because no limits are imposed on the amount of tuna that foreign boats can harvest. Japanese activity particularly threatens the existence of the Atlantic bluefin tuna, an oceanic schooling species that spawns in the Gulf and migrates into the Atlantic along the coasts of New England and Canada.

The long lines used by the Japanese hook not only tuna but also significant quantities of other species of fish such as sword and marlin. For example, the Japanese sword bycatch equals the catch of American commercial sword fishermen. The Japanese are required to turn these fish back into the sea. However, it is often 18 to 24 hours before this is done. Exposure during this time causes many of the fish to die and, therefore, reduces the catch of American fishermen in these species as well. In the case of swordfish, only about 10 percent of the Japanese bycatch survive. The presence of Japanese vessels also causes serious conflicts with American commercial fishermen over gear. I know that this has been a problem for fishermen in my home State of Rhode Island.

When Congress enacted the Fishery Conservation and Management Act, many Members, myself included, agreed with the administration that tuna stocks could be managed and protected most effectively through international efforts. To date, those efforts have produced few concrete results. Moreover, in recent years many coastal nations such as Canada and Mexico have foresaken international management in favor of national control over tuna in their economic zones. In light of these developments, the Tuna Protection Act is necessary as a means of protecting a vital American resource.

This legislation, which follows the provisions of the Draft Convention on the Law of the Sea, does not automatically prohibit foreign interests from fishing for tuna in the American economic zone. Rather, it allows the United States to control their activities in order to conserve and manage tuna and other migratory species. It is my hope that passage of this legislation will signal American concern on this issue and serve as an incentive for other nations to negotiate agreements with the United States, permitting fair and reciprocal access to tuna.●

By Mr. MITCHELL (for himself, Mr. PACKWOOD, Mr. COHEN, Mr. TSONGAS, and Mr. KENNEDY):

S. 1565. A bill to amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets; to the Committee on Finance.

IMPORT DUTIES ON SYNTHETIC NETS

● Mr. MITCHELL. Mr. President, today I am introducing legislation which would greatly benefit commercial fishermen who use synthetic nets in their operations. My bill, which contains language identical to that introduced in the House of Representatives on June 23 by Representative GERRY STUDDS of Massachusetts, would reduce substantially the high import duty which our Government now levies on imported synthetic nets.

Since 1963, the tariff on imported synthetic nets has been 32.5 percent ad valorem plus 25 cents per pound of netting. This rate results in extremely high netting prices for U.S. fishermen who cannot obtain in this country synthetic nets of certain shapes and sizes, or nets made of synthetic fibers other than nylon.

A large Maine fishing vessel, for instance, may purchase over $15,000 in netting over a 12-month period. Because of the steep duty now required under the tariff schedules of the United States (TSUS), almost $5,000 of this $15,000 amount goes to Treasury in the form of import duties. On a U.S. tuna fishing vessel, the figures are even more dramatic. For the large and very expensive purse seine net used by Tuna fishermen, the duty alone can increase the selling price of the net by more than $70,000.

The measure I am introducing today would reduce this overly protective duty from its present level of 32.5 percent ad valorem plus 25 cents per pound to 17 percent ad valorem. This would place the duty rate in line with the 17.5-percent protective duty which currently applies to imported nets made of cotton. A 17-percent duty would continue to provide a moderate level of protection for domestic makers of fish netting, but would not have the same adverse effect on fishing vessel owners and operators which today results from the established duty.

The United States agreed, at the multilateral trade negotiations (MTN) concluded 2 years ago, to reduce gradually its duty on synthetic nets from the existing rate to a 17-percent ad valorem rate by 1989.

Specifically, the current policy of our Government is to collect 32.5 percent ad valorem, plus 25 cents per pound of net in 1981; 30.6 percent ad valorem, plus 21 cents per pound of net in 1982; 28.6-percent, plus 18 cents per pound of net in 1983; 26.7 percent ad valorem, plus 15 cents per pound in net in 1984; 24.8 percent ad valorem, plus 12 cents per pound of net in 1985; 22.8 percent ad valorem, plus 9 cents per pound of net in 1986; 20.9 percent ad valorem, plus 6 cents per pound of net in 1987; 18.9-percent ad valorem, plus 3 cents per pound of net in 1988; 17 percent ad valorem in 1989 and thereafter.

The bill which I am introducing today would set the duty level at 17 percent ad valorem as of January 1, 1982. This acceleration of the duty reduction is warranted at this time because of the numerous financial pressures which now weigh on the U.S. domestic fishing industry.

Chief among these pressures is the price of fuel. U.S. fishermen must now compete in the U.S. marketplace with foreign fishermen who pay artificially low prices for their fuel. These same foreign fishermen are permitted to import their product into the United States with little or no duty imposed. U.S. fishermen have difficulty prospering in this market

environment and, as a result, are hard put to pay the high prices for nets which the present duty level necessitates.

I urge all Members of the Senate who are interested in the health of our domestic fishing industry to join me and Senators PACKWOOD, COHEN, TSONGAS, and KENNEDY in seeking enactment of this important legislation.●

By Mr. METZENBAUM:

S. 1566. A bill to amend title XVIII of the Social Security Act to provide initiatives to increase the medicare assignment rate for physicians, and for other purposes; to the Committee on Finance.

INCREASE IN MEDICARE ASSIGNMENT RATE FOR PHYSICIANS

● Mr. METZENBAUM. Mr. President, the medicare program was designed primarily to help the elderly, most of whom subsist on fixed incomes. This year some 28 million Americans depend upon the program for essential medical services.

There can be no doubt that the medicare program has substantially improved the delivery of health care services to the Nation's senior citizens. But it is also true that serious problems have developed in the program's administration since its inception in 1965.

One of the most pressing difficulties facing older, disabled Americans living on fixed incomes is the growing refusal of physicians to accept assignment under the medicare program. When physicians refuse to accept assignment, patients become liable for any differences between the physician's fee and the fee deemed reasonable by medicare. Often, that difference is great enough to create significant financial hardship for many senior citizens.

There are a number of reasons why physicians are increasingly reluctant to accept assignment. Some, for example, have argued that medicare simply does not pay enough—the calculation of reasonable charges is usually lower than what they can actually receive from nonmedicare patients.

But the issue is not money alone, at least not in a direct sense. Many physicians argue that the present burden of paperwork, cash flow problems, and complicated negotiations over levels of reimbursement are a major disincentive for them to accept assignment.

Because the assignment system is not working as it should, older patients are faced with ever-growing financial demands on their diminishing financial resources. And once again, older Americans are finding themselves forced out of the health care market.

Mr. President, the fact is that medicare now pays less than 40 percent of health care costs for the elderly—a substantial drop from the level of just a few years ago. And since 1968, the percentage of physicians accepting assignment has declined.

Nationwide only about 50 percent of physicians regularly accept assignment, but in some States, the rate can be as low as 18 percent, depending on specialty and locality. In my State of Ohio, for example, the net assignment rate is only 36.5 percent. Clearly, Mr. President, something must be done to stem this decline, to provide the elderly with the medical services they require at fees they can afford and to eliminate the real problems that discourage fuller participation by the Nation's physicians.

Mr. President, the legislation I am introducing today makes a number of changes in the way medicare administers reimbursement to physicians for services rendered.

A major problem often raised by health care professionals is that the calculation of reasonable and customary charges is often based on outmoded data. As a result, screens and indices that are supposed to be adjusted for inflation lag too far behind inflation's actual pace.

My proposal addresses this problem from several different perspectives.

First, the secretary of HHS is directed to develop, in consultation with representatives of the medical community, an index that can be appropriately revised quarterly, instead of every 18 months as is now the case.

To facilitate the process of deriving reasonable and fair charges, the Secretary, in consultation with medical representatives, is directed to develop a relative value scale (RVS) that will be used to calculate payments to physicians enrolled in the program. The RVS may initially be more complex than the calculation of usual and customary fees now used, but it will provide for more equitable and standard fee schedules. The RVS will be designed to take into account the skill of the physicians, the complexity of the procedures that are used, the visits to the patient and any other factors deemed relevant to the calculation of the scale.

Once the RVS has been determined, dollar multipliers will then be used to calculate per centum increases and decreases in the fees paid by medicare in a rapid and efficient manner. Thus the legislation directly addresses the "inflation lag" that as in the past caused many physicians to refuse assignment.

Another factor that increases the cost of the medicare program is that, at present, there are certain financial incentives to physicians to treat elderly patients in the hospital instead of in their offices. To address that problem, this legislation in proposal directs the Secretary to include an overhead factor in calculating the fee. This factor can only be applied when patients are treated in the physician's office. The advantages of this factor are that costs to the program should be reduced, and there may also be a reduction in the number of expensive, technologically oriented tests applied.

Mr. President, as we are all aware, paperwork is a major burden for everyone involved in Government programs. For the elderly, processing medicare forms is often more objectionable, not to mention incomprehensible, than paying higher fees.

This bill attacks the paperwork problem by providing different, more efficient, programs for processing medicare claims. Each of the programs, alone or in combination, will reduce the burden of paperwork on both physician and patient, thereby reducing overhead costs and the saving for physicians the valuable time now spent in processing claims.

Under my proposal, carriers, who must process the bulk of the work in any case, will have primary responsibility for claim processing. The small increase in computation can be easily and rapidly handled by computers. In fact, what is proposed here has already been operating successfully in demonstration programs supervised by HCFA in different regions of the country.

In addition, all participating physicians will be issued standardized claim forms developed by HCFA in collaboration with health-care providers.

All of the procedure codes used to identify rates and charges will be standardized. Standard codes should result in faster claims processing, fewer errors, and fewer claims disapproved because of mistakes in applying the procedure codes. Furthermore, the forms will be designed in such a way as to make multiple listing possible. Thereby, physicians will find it easier and cheaper to bill the carriers.

Participating physicians may also install remote access, computer billing devices in their offices. The terminal will permit direct transfer of funds from the carrier to the physician's account. The cost of installation and rental of such equipment will be considered as a legitimate tax deduction.

Another source of difficulty for physicians has been slow claims processing, resulting in cash flow problems. This bill addresses this problem by requiring that uncontested physician claims be made by the carrier within 30 days. If a payment is delayed beyond this period, the carrier must pay to the physician 1½ percent interest per month on the outstanding amount due.

Another provision—and one that I consider very important—eliminates the need for a separate billing by the physician for the 20 percent of the fee that the patient is required to pay. Instead, the entire bill will be submitted by the physician directly to the carrier. The carrier will then reimburse the physician directly and collect the deductible amount due from the patient. This service will only be available to those physicians agreeing to participate in the program. It should reduce their overhead costs and result in a significant reduction in office paperwork routines.

The final section of this proposal also addresses a critical need—the education of practicing physicians and their staffs in gerontological medicine. It is now a well recognized fact that the medical and psychological problems of the elderly are different than those of younger age groups.

Mr. President, I believe that physicians who are willing to accept assignment as defined in this legislation, should be encouraged to pursue additional and continued training in geri-

atric medicine or other specialties directly related to the care of elderly patients.

Therefore, I am proposing that physicians be reimbursed for legitimate educational expenses, including the costs of attending relevant meetings, journal subscriptions and costs of travel.

To provide reimbursement, the Secretary will derive a formula for payment based upon the number of medicare patient-hours handled by the physician. There will be a "credit" or "unit" hour for each patient hour. The amount of reimbursement will be based upon the number of units accumulated. Furthermore, the assignment of units may be made, at the physician's discretion, to other members of full-time staff directly involved in patient care. The credit may only be applied to programs approved by the Secretary who must provide such lists upon request.

Physicians who agree to participate in this program must accept assignment on all occasions, and must agree to remain in the program for at least 12 months. They may withdraw at any time thereafter.

Finally, in order to direct patients to participating physicians, the Health Care Finance Administration (HCFA) will develop and publicize a directory, which will include the range of fee schedules of listed physicians. The directory will also provide information on the amounts the program will recognize for each service that will be charged to the patient or to their insurance. Making more visible these physicians who agree to accept assignment and spelling out the costs to the patient would add a degree of competition to the system of health care delivery.

Mr. President, the elderly of this country need a better break than they are today receiving. Something must be done to cut the spiraling, out-of-pocket expenses they must now incur to obtain adequate medical care under the medicare program.

The bill I have introduced does not attempt to redress all of the problems of medicare. But I believe that it can provide direct relief for health care providers and for the beneficiaries of their services. And I believe that this legislation will streamline the program considerably and in the long run, result in more effective and efficient use of the medicare program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PAYMENT FOR PHYSICIANS' SERVICES

SECTION 1. (a) Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new sections:

"PAYMENT FOR PHYSICIANS' SERVICES

"SEC. 1845. (a)(1) Payment for physicians' services under section 1832(a)(1) shall be made, except as otherwise provided under subsection (c), only to a participating physician, and in accordance with the provisions of this section.

"(2) For purposes of this section, the term 'participating physician' means a physician who enters into an agreement with the Secretary which shall provide that the physician shall be paid only on the basis of an assignment described in section 1842(b)(3)(B)(ii) for all services provided to individuals enrolled under this part. Such agreement shall be for a term of at least twelve months, and may be made automatically renewable from term to term in the absence of notice, given in writing at least 30 days prior to the end of the term, by either party of intention to terminate at the end of a term; except that the Secretary may terminate such agreement at any time (after such reasonable notice and opportunity for a hearing to the physician involved as may be provided in regulations) if the Secretary finds that the physician has failed substantially to carry out the agreement or is carrying out the agreement in a manner inconsistent with the provisions of this section or inconsistent with the efficient and effective administration of this part.

"(3) The Secretary shall from time to time publish a list of all participating physicians, and shall make such list, or portions thereof relating to specific localities, available to the public.

"(b)(1) The reasonable charge for physicians' services shall be the lesser of—

"(A) the charge determined under the fee schedule developed by the Secretary under this subsection, or

"(B) the actual charge.

"(2)(A) The Secretary shall develop a fee schedule for those physicians' services with respect to which benefits are payable under this part, based upon a relative value schedule developed in accordance with subparagraph (B). The fee amount for each particular service shall be determined by multiplying the relative value factor for such service by a dollar multiplier amount determined under paragraph (3), and by adding, in the case of services performed in the physician's office, a standard overhead amount which represents the costs incurred by physicians in securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office.

"(B) The Secretary shall develop the relative value schedule for physicians' services. Each particular service shall be assigned a value factor relative to other physicians' services, based upon the complexity of the service, the risk to the patient receiving the service, the time and skill required of the physician performing the service, and such other factors as the Secretary determines to be appropriate. In developing such schedule, the Secretary shall consult with appropriate representatives of the medical community, including representatives of physicians, other health care providers, and health care consumers.

"(3)(A) The Secretary shall determine the dollar multiplier amount for each twelve-month period (beginning on July 1 of each year) to be used in determining the fee schedule for such period. Such amount may vary for different localities, based upon variances in the costs associated with the performance of physicians' services in the locality. In determining such dollar multiplier, the Secretary shall consult with appropriate representatives of the medical community, including representatives of physicians, other health care providers, and health care consumers.

"(B) The dollar multiplier amount for the twelve-month period during which this section first becomes effective may not exceed an amount which would result in a fee schedule under which higher average payments would be paid under this part for physicians' services than would be paid on the basis of reasonable charges as determined under section 1842(b).

"(C) For any twelve-month period beginning after the period described in subparagraph (B), the dollar multiplier amount shall not exceed an amount equal to the dollar multiplier amount for the preceding twelve-month period, multiplied by the percentage by which the index developed by the Secretary under subparagraph (D) for the first quarter of the calendar year in which such period begins, exceeds such index for the first quarter of the calendar year in which such preceding twelve-month period began (rounded to the nearest dollar).

"(D) The Secretary shall develop an index for the purpose of measuring the rate of increase or decrease in the costs associated with the performance of physicians' services. Such index shall be published on a quarterly basis, and may vary for different localities.

"(4) The Secretary shall publish the fee schedule determined under this subsection, and shall make such list, or portions thereof relating to specific localities, available to the public.

"(c)(1) Payment under this part may be made for physicians' services, with respect to which benefits are otherwise payable under this part, performed by a physician who is not a participating physician, only in the case of emergency services, services provided outside the United States (but only as provided in section 1862(a)(4)), and in accordance with paragraph (2). The amount and manner of such payment for emergency services or services performed outside the United States shall be determined as if such services were performed by participating physicians.

"(2)(A) Any individual enrolled under this part may be directly reimbursed with respect to physicians' services rendered to such individual by a physician who is not a participating physician. The amount of the payment to such individual shall be the same as the amount of the payment which would have been made to the physician rendering the services if that physician had been a participating physician, less the amount of any deductibles or coinsurance which would be owed by the individual with respect to such services.

"(B) The Secretary shall encourage, through public advertising and other appropriate means, individuals enrolled under this part to utilize only those physicians who are participating physicians.

"(d)(1) The Secretary shall develop a uniform claims form for use by all participating physicians. Such form shall utilize a procedure terminology and codes based upon the fee schedule determined under subsection (b), and shall provide for multiple listing of patients if the physician desires to submit claims in that format.

"(2) In any case in which a carrier having an agreement with the Secretary under section 1842 is able to develop a system for making payments under this part to physicians utilizing direct account transfers, such carrier may institute such system, and any participating physician may bill the carrier and receive payments using a remote terminal access system for the transfer of funds.

"(3) All billing and payment procedures shall utilize an identification number for the individual enrolled under this part, which shall be the same number as the account number assigned to such individual for purposes of title II of this Act. The Secretary shall issue identification cards to all individuals enrolled under this part which shall include such identification number.

"(e)(1) Payments to participating physicians under this part shall be made by the Secretary or his fiscal agents under contract for the entire amount of the reasonable charge for physicians' services with respect

to which benefits are payable under this part, including any deductibles and coinsurance amounts for which the individual enrolled under this part may be responsible.

"(2) The Secretary shall—

"(A) collect any deductibles and coinsurance amounts owed by individuals enrolled under this part as provided in section 1846;

"(B) provide that billing for all or part of such deductibles and coinsurance amounts shall be made directly to an insurer in the case of an individual who has a medicare supplemental policy which meets the requirements of section 1882(a)(1), or which would meet such requirements but for the exclusion in such section for policies of employers or labor organizations; and

"(C) provide that billing shall be made directly to States for any portion of such deductibles and coinsurance amounts for which an individual is covered under a State plan approved under title XIX.

"(f) All payments to participating physicians under this part shall be made within 30 days after receipt of properly completed claims by the physician. In any case in which such payment is not made within such 30-day period, except in the case of amounts which are contested by the carrier or by the Secretary, interest shall be paid to such physician on the unpaid amount of such claim, beginning on the day following the end of such 30-day period, at a monthly rate of 1.5 percent. Such interest shall be paid by the carrier, or, in the case of claims submitted directly to the Secretary, by the Secretary.

"PAYMENT OF DEDUCTIBLES AND COINSURANCE AMOUNTS

"SEC. 1846. (a) Any amount owed by an individual for deductibles and coinsurance under this part shall be paid to the Secretary by such individual. Such payments may be made, at the option of the individual, by adding such amount to the premiums amount owed by such individual at six-month intervals, and then averaging such total amount owed over a six-month period, to be paid in the same manner as premiums are paid under section 1840.

"(b) Any failure to make timely payment of any amount owed by an individual for deductibles and coinsurance under this section, whether or not such individual chooses to add such amounts to the premiums owed as provided in subsection (a), shall be treated as a nonpayment of premiums for purposes of section 1838(b)(2) (relating to termination of coverage period), and any amount owed by an individual for deductibles and coinsurance shall be treated as an overpayment to such individual for purposes of this title.

"(c) Amounts paid to the Secretary for deductibles and coinsurance shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.".

(b) Section 1842(b)(3) of such Act is amended—

(1) in subparagraph (B), by inserting after "(B)" the following: "will take such action as may be necessary to assure that payment for physicians' services is made in accordance with section 1845, and, where not inconsistent with section 1845,";

(2) by striking out "physician or other" in the second sentence thereof; and

(3) by striking out the fourth and eighth sentences thereof.

(c) Section 1842(b)(5) of such Act is amended by striking out "except as provided in section 1870" and inserting in lieu thereof "except as provided in sections 1845 and 1870".

(d) Section 1838(b) of such Act is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting ", or"; and

(3) by inserting after paragraph (2) the following:

"(3) for nonpayment of deductibles or coinsurance as determined under section 1846.".

(e) The amendments made by this section shall become effective on July 1 of the first calendar year which begins after the date of the enactment of this Act.

EDUCATION PAYMENTS FOR PARTICIPATING PHYSICIANS

SEC. 2. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS FOR CONTINUING MEDICAL EDUCATION

"SEC. 1884. (a)(1) The Secretary shall make payments under this section to any participating physician (as defined in section 1845(a)(2)), or to any member of the staff of such physician, to reimburse such physician or staff member in whole or in part (as determined under subsection (b)) for qualified continuing medical education expenses (as defined in paragraph (2)) incurred by such physician or staff member.

"(2) For purposes of this section the term 'qualified continuing medical education expenses' means expenses actually incurred which—

"(A) would qualify as a deduction as a trade or business expense for such physician or staff member under section 162 of the Internal Revenue Code of 1954 if not paid for under this section;

"(B) are directly related to the care of individuals entitled to benefits under this title (as determined by the Secretary); and

"(C) are not incurred as a part of the program of a teaching hospital by a staff member of such hospital (including a hospital associated physician, resident, or intern).

"(3) Payments under this section shall be made from the Federal Supplementary Medical Insurance Trust Fund, and the total of such payments in any fiscal year shall not exceed $20,000,000.

"(b)(1) The amount of the payment under subsection (a) shall be determined on the basis of a formula (which shall take into account the limitation on the amounts available for such payments) devised by the Secretary whereby each participating physician shall accumulate reimbursement credits based upon the number of patient hours accumulated by such physician in treating individuals entitled to benefits under this title. The amount of payments for which such physician is eligible shall be determined on the basis of the amount of reimbursement credits accumulated by the physician, and the amount of credits accumulated shall be reduced according to the amount of payments made under this section to the physician.

"(2) In the case of a group practice, the number of credits accumulated by the participating physicians within such group may be pooled and disbursed as the members of such group determine to be appropriate.

"(3) Credits accumulated by a physician or group practice may be used to qualify for payments to full-time members of the staff of such physician or group practice, who are directly involved in patient care or treatment, as such physician or group practice determines to be appropriate.

"(c) Any physician or staff member requesting payment under this section shall provide such information as the Secretary may require in order to determine the validity of such request and the amount of such payment.".

(b) The amendment made by subsection (a) shall apply with respect to services provided by participating physicians as defined in section 1845(a)(2) of the Social Security Act and only with respect to expenses incurred by such a physician or his staff after such physician has become a participating physician.

REPORT TO CONGRESS

SEC. 3. The Secretary of Health and Human Services shall report to the Congress not later than 24 months after the date on which the amendments made by this Act become effective with respect to the impact of such amendments on costs of the medicare part B program, benefits to medicare patients, physician and patient satisfaction with the medicare program, and abuses and errors associated with such program, and shall include in such report any proposals for further changes in reimbursement procedures under such program.

By Mr. D'AMATO:

S. 1567. A bill for the relief of Jozo Karoglan and Ilana Karoglan, husband and wife, and their child, Matthias Karoglan; to the Committee on the Judiciary.

RELIEF OF THE KAROGLAN FAMILY

● Mr. D'AMATO. Mr. President, The tradition of political asylum in the United States was established to protect all individuals who fear for their lives or liberties because of personal convictions, religious beliefs of political affiliations. The United States has long sheltered those who have fled their native countries because of threats of persecution, torture or even assassination. We have consistently offered the protection of our Government and have embraced those international accords which have affirmed this right of political asylum.

It is for these reasons that I have sponsored, with my distinguished colleague Representative JACK KEMP, a bill for the relief of a Croation nationalist Jozo Karoglan, and his wife and child. The Yugoslav Government has consistently shown harsh treatment and persecution to Croation nationalists; their threats extending beyond their borders.

Mr. Karoglan has left Europe with his family in the wake of pressure and coercion to cease his nationalist activities, and the eventual threat of assassination if he did not relent. It is my hope that this Congress will reaffirm its dedication to the principles of asylum and freedom of political association in approving this bill for Mr. Karoglan.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(14) of the Immigration and Nationality Act, Jozo Karoglan and Ilana Karoglan, husband and wife, and their child, Matthias Karoglan, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper num-

ber, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202 of such Act.●

By Mr. CHILES:

S. 1568. A bill relating to the application of section 103(b) of the Internal Revenue Code of 1954 to certain bonds for harbor improvements; to the Committee on Finance.

ACQUISITION OF TERMINAL AND WHARF FACILITIES AT THE PORT OF TAMPA

● Mr. CHILES. Mr. President, the bill I am introducing today would permit the issuance of tax exempt revenue bonds for the acquisition of existing terminal and wharf facilities at the Port of Tampa. This legislation embodies the provisions of S. 2548 of the 96th Congress and H.R. 2122 currently pending in the House.

The Port of Tampa is a fast growing, vitally important facility that currently ranks as the seventh largest port in the Nation. Much of the port's activity involves phosphate and phosphate products. In fact, some 50 percent of all shipments through the port are phosphate related.

As trade in general and phosphate trade in particular has increased, congestion has become an increasingly serious problem resulting in greatly increased demurrage costs for shippers and their customers. To illustrate, just last year ships were taking up to 15 days in port when only 3 days would be required with proper facilities and no congestion. Competition in the phosphate industry is very intense, especially from foreign suppliers, and the increased demurrage costs presently occurring at the Port of Tampa are giving rise to concerns that increasing freight differentials and delays threaten the port's reputation as reliable phosphate supplier to overseas customers.

The legislation I am introducing would allow the Tampa Port Authority to purchase existing dock and terminal facilities. The port authority would renovate and rehabilitate the facilities and then could lease them back to the prior owner with the participation of at least one other substantial user.

The revenues generated by rental and wharfage payments would not only serve to amortize the bonds issued by the port authority to acquire the facilities, but would also help provide for future port expansion. Thus, this legislation would help the port authority improve port facilities, help solve its demurrage problems, and provide for its future growth and development.

But the Port of Tampa is not the only entity to benefit from this legislation. Both the State of Florida and the Federal Government would benefit. The State would gain added revenues from sales taxes on the improvement and expansion of the facilities and from severance taxes on phosphate production that could take place due to improved port facilities. The Federal Government would benefit because of reduced demurrage deductions and increased sales of phosphate and fertilizers. Also, the Federal Government would receive capital gains taxes on the sale of the facilities.

Clearly, then, this bill provides across-the-board benefits. Government will receive added revenues, the Port of Tampa will improve its shipping capacity and provide for its future growth, demurrage costs and port congestion will be reduced, and the American overseas trade outlook will brighten. Thus, I would urge my colleagues to support this legislation.●

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 1570. A bill to provide for the establishment of a national cemetery in Maricopa County, Ariz.; to the Committee on Veterans' Affairs.

NATIONAL CEMETERY IN ARIZONA

● Mr. DECONCINI. Mr. President, on behalf of myself and Senator GOLDWATER, I am introducing today a bill to establish a national veterans' cemetery at the site of the Arizona State Cemetery, located 17 miles north of Phoenix at Cave Creek and Pinnacle Peak Roads.

The initial legislation which led to the establishment of what was to become the National Cemetery System was enacted in 1862 and was intended to provide places of burial for soldiers who died in military service during the Civil War. By 1870, 62 national cemeteries had been established in close proximity to Civil War battlefields and hospital sites. Although the National Cemetery System has been expanded through the years to include 107 cemetery sites, the vast majority are located in the East and South. For instance, Virginia has 14 national cemeteries, excluding Arlington, while many Western States have none.

Originally, the National Cemetery system was administered by the Department of the Army. However, jurisdiction for the cemeteries was transferred to the Veterans' Administration in 1973 upon enactment of Public Law 93-94. It is important to note that one provision of that act directed the Administrator to conduct a comprehensive study on a number of issues relating to national cemeteries, one of which was the concept of establishing regional cemeteries. As you know, that concept was ultimately adopted as VA policy. While the VA has attempted to redress the imbalance in the location of our national cemeteries, the fact remains that a disproportionate few are located in the West.

It is my firm belief that every veteran who has served his country honorably has the right to burial in a national cemetery within reasonable proximity to his/her domicile. Statistics indicate that survivors are adverse to burial sites beyond a 75-mile radius of their residence. Yet the closest cemetery available for interment of Arizona veterans is located in Riverside, Calif.—a distance of approximately 300 miles from Phoenix, where half of the Arizona population resides.

In the absence of a national cemetery in Arizona with available burial space, the Arizona Veterans' Memorial Cemetery Board of Directors, along with the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars, worked tirelessly to ensure the establishment of a State veterans' cemetery so Arizona veterans could be buried near loved ones. As a result of their efforts, the State of Arizona, on June 27, 1976, authorized and later appropriated moneys for the development of a parcel of land in Maricopa County to be used for a veterans' cemetery. The site contains 836.34 acres which will accommodate burial space for up to 500,000 veterans.

The initial phase of the cemetery plan was completed in early 1979, and the first three interments took place on March 14, 1979. As of July 27, 1981, 1,225 veterans and their dependents have been buried at this site.

After enactment of the veterans' State cemetery grant program in 1978, Public Law 95-476, the State of Arizona applied for Federal assistance for its cemetery program. I was extremely gratified when in May 1981, the Veterans' Administration released a grant award in the amount of $104,125 to cover the Federal share of the costs involved in the construction of the administration building at the State cemetery. It is anticipated that Federal participation in this program will increase as the cemetery site is further developed.

Despite this Federal assistance, both Senator GOLDWATER and I, as well as all of the veterans of Arizona, believe that this cemetery should be incorporated as part of the National Cemetery System, and I urge my colleagues on the Senate Veterans' Affairs Committee to give this legislation their favorable consideration. If this cemetery is established as a national cemetery, it will become one of the largest in the system both in terms of land area that is available and the number of interments that can be accommodated. It will also help to redress the imbalance in the distribution of our national cemeteries throughout the Nation.●

● Mr. GOLDWATER. Mr. President, it gives me great pleasure to join with my colleague, Mr. DECONCINI, in seeking designation of the Arizona Veterans' Memorial Cemetery as a national cemetery, to be administered by the Veterans' Administration. For as many years as I can recall, there has been interest in establishing a national cemetery in my State.

Back in 1975, for example, I joined with then Senator Paul Fannin in sponsoring legislation on this very subject; unfortunately, the Senate was not given the opportunity to consider the bill. The need for a national cemetery still exists and, in fact, is needed now more than ever. Arizona's national cemetery has been filled for a very long time and veterans who die in Arizona must now be buried in either California or New Mexico if their families choose to use veterans' rights.

The State of Arizona appropriated funds which were supplemented by the contributions of Arizona veterans to cre-

ate the present veterans' cemetery near Pinnacle Peak. But, these well-intended efforts are just not sufficient. The cemetery is in need of much improvement, and these improvements can only come about with full funding support from the Federal Government. This country owes the men and women who served it in uniform a tremendous debt, and the least we can do for our veterans is to provide a final resting place that is an appropriate reflection of this Nation's gratitude.●

By Mr. HEINZ:

S. 1571. A bill to permit the Secretary of Health and Human Services to enter into loan forgiveness agreements with physicians specializing in primary care or psychiatry on the condition that such physicians serve in health manpower shortage areas, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH IMPROVEMENT ACT OF 1981

● Mr. HEINZ. Mr. President, I rise today to introduce the Health Improvement Act of 1981. This bill would create an optional loan forgiveness program for recent graduates of medical and osteopathic schools, specializing in primary care or psychiatry, who choose to locate their private practice in health manpower shortage areas.

Mr. President, as we move away from a national policy of providing scholarships, medical school capitation support, and low-interest loans for medical education, toward one of market-rate loans and debt burdens carried singularly by the medical students and their families, we are simultaneously creating some adverse incentives for recently graduated doctors. The skyrocketing costs of medical education results, of course, in the need for most medical students to borrow large sums of money for their education. I am informed by financial aid officers in a number of the five medical schools in my own State of Pennsylvania that many first-year medical students anticipate educational debts of $50,000 or more.

Although no one denies that physicians, in view of their high future income potential, should pay the lion's share of the costs for their professional training, the dangers we run—and the incentives we create—by not buffering debts of this magnitude, are twofold. First, high debts tend to draw physicians into higher paying specialties and geographic areas where there is greatest potential to pass their indebtedness onto patients and insurance—away from primary care specialties and medically underserved areas. And second, staggering tuition and fees discourage financially disadvantaged and minority students from aspiring to careers in medicine.

The Health Improvement Act is a simple mechanism designed to keep our national commitment to assuring accessibility of quality health care for all Americans, and to enable recently graduated physicians who might otherwise opt for a more lucrative practice, to pursue a primary care or psychiatric specialty.

The Health Improvement Act incorporates a number of important provisions designed to accomplish this dual goal.

First, the bill would provide forgiveness for an increasing percentage of the physician's Federal direct loans or guaranteed loan obligations incurred during the course of the individual's medical education for up to 6 years, in exchange for a postgraduate choice to serve as a primary care provider or a psychiatrist in a health manpower shortage area.

Second, the act would provide that those physicians who exercise this option agree to serve the medicaid population and accept assignment under the medicare program.

Third, the bill provides a graduated schedule of loan forgiveness for up to 6 years, acting as an incentive to keep the physician in the underserved area for many years.

There are some very important differences between the loan forgiveness program established by the Health Improvement Act and the National Health Service Corps, which is currently the primary vehicle for reducing geographic and specialty maldistribution of physicians.

First, the National Health Service Corps provides primary care physicians, psychiatrists, and other health professionals to areas classified as health manpower shortage areas. Most of the National Health Service Corps recipients receive full tuition and stipend support while in medical school, for which they owe service on a year for year basis, and are paid a salary by the Federal Government during their pay-back years.

The Health Improvement Act is available to primary care physicians and psychiatrists who open private solo or group practice in an underserved area.

Second, under the National Health Service Corps, the medical students' decision to pursue a primary care of psychiatric specialty and to practice in an underserved area are made when the medical students need financial assistance prior to or during their medical education. In addition to requiring students to make premature career choices, the National Health Service Corps commits the Federal Government to subsidizing the education of students 4 to 7 years prior to the time they will be practicing physicians, and prior to the time when future manpower needs are known.

Under the Health Improvement Act, a commitment will be required only at the time physicians complete their training—at the time when all medical students, regardless of financial need, are making their specialty and geographic location decisions.

Third, under the National Health Service Corps, the health manpower shortage area designation is removed only after a community or individual files a request for removal with the Secretary.

Under the Health Improvement Act, once a physician shortage in the health manpower shortage area has been filled by a private practitioner, the health manpower shortage area designation would be removed to prevent unnecessary subsidization of additional personnel.

Fourth, the average length of service in the National Health Service Corps is 3 years.

The Health Improvement Act provides a graduated scale of loan forgiveness for physicians who remain in underserved areas for longer periods of time.

Fifth, the annual average National Health Service Corps scholarship cost is $15,629, and the average salary cost per National Health Service Corps member is $40,300.

The Health Improvement Act is cost effective, allowing a maximum payment of $25,000 per year per physician for 6 years only.

Finally, Mr. President, it must be emphasized that the Health Improvement Act interferes in no way with the budgetary savings achieved by the Labor and Human Resources Committee under reconciliation. No significant funding is authorized for the Health Improvement Act's loan foregiveness program until fiscal year 1985—when National Health Service Corps physicians serving in underserved areas complete their obligations.

Mr. President, the Federal Government has made a commitment to the poor, the elderly, and the geographically isolated. The National Health Service Corps is just one example of that commitment to accessible health care for all Americans. The Health Improvement Act is designed to continue that commitment in a much more cost-effective way than the NHSC.

Furthermore, the Federal Government has long played a major role in the assurance of quality health care. Denying a medical education to extremely qualified individuals simply because they are from low-income backgrounds impedes our pursuit of quality health care services.

The Health Improvement Act is one facet of a number of long-range reforms needed to check the rate of increases in health care costs. Encouraging primary care services in other additional ways, including making competitive changes in our medicare and medicaid reimbursement mechanisms, will lead to lower costs to the Federal Government.

A detailed factsheet on the Health Improvement Act is included with the introduction of this bill.

I commend the Health Improvement Act to the attention of my distinguished colleagues. Mr. President, I ask unanimous consent that both the bill and a factsheet thereon be printed in the RECORD.

There being no objection, the bill and factsheet were ordered to be printed in the RECORD, as follows:

S. 1571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a)(1) subpart III of part C of title VII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"LOAN FORGIVENESS AGREEMENTS

"SEC. 745. (a) Notwithstanding any other provision of law, in the case of any individual—

"(1) who has received a degree of doctor of osteopathy or doctor of medicine and who completed the requirements for such degree after April 30, 1982, at an institution awarding such degree;

"(2) who has completed required periods of advanced professional training, including internships and residencies;

"(3) who has a specialty in family medicine, internal medicine, general practice, obstetrics and gynecology, pediatrics, or psychiatry;

"(4) who obtained one or more loans under—

"(A) this subpart or subpart I of this part;

"(B) Part B or Part E of the Higher Education Act of 1965 to assist such individual with tuition and reasonable living expenses while enrolled in a school of osteopathy or medicine; or

"(C) any other Federal loan program providing such individual with assistance for tuition and reasonable living expenses while enrolled in such a school; and

"(4) who enters into an agreement with the Secretary which complies with subsection (g) to practice that individual's profession for a period of at least two years in an area in a State designated as a health manpower shortage area under Section 332;

the Secretary shall make payments in accordance with subsection (c)(1), for and on behalf of that individual, on the principal and the interest on any loan of that individual referred to in clause (2) of this subsection which is outstanding on the date the individual begins the practice specified in the agreement described in clause (4) of this subsection.

"(b) Any individual who entered into an agreement described in subsection (a)(4) may elect to renew that agreement for a one year period which shall be consecutive with the period for which such agreement was made. An individual may renew an agreement made under subsection (a)(4) for a total of four consecutive one year periods. If an individual elects to renew an agreement under this subsection, the Secretary shall make payments for and in behalf of the individual in accordance with subsection (c)(2).

"(c)(1) The payments referred to in subsection (a) shall be made by the Secretary as follows:

"(A) Upon completion by the individual for whom the payments are to be made of the first year of practice specified in the agreement that the individual entered into with the Secretary under subsection (a)(4), the Secretary shall pay 80 per centum of the principal and the interest due in that year, not to exceed 8 per centum of the aggregate interest and principal, of all loans of the individual referred to in subsection (a)(3) which are outstanding on the date that the individual began such practice.

"(B) Upon completion by the individual for whom the payments are to be made of the second year of such practice, the Secretary shall pay 85 per centum of the principal and the interest due in that year, not to exceed 8½ per centum of the aggregate interest and principal, of all loans of the individual described in subsection (a)(3) which are outstanding on the date that the individual began such practice.

"(2) The payments referred to in subsection (b) shall be made by the Secretary as follows:

"(A) Upon completion by the individual for whom the payments are to be made of a third consecutive year of practice specified in the agreement that the individual renewed under subsection (b), the Secretary shall pay 90 per centum of the principal and the interest due in that year, not to exceed 9 per centum of the aggregate principal and interest, of all loans of the individual described in subsection (a)(3) which are outstanding on the date that the individual began such practice.

"(B) Upon completion by the individual for whom such payments are to be made of a fourth consecutive year of practice specified in the agreement that the individual renewed under subsection (c), the Secretary shall pay 95 per centum of the principal and the interest due in that year, not to exceed 9½ per centum of the aggregate principal and interest, of all loans of the individual described in subsection (a)(3) which are outstanding on the date that the individual began such practice.

"(C) Upon completion by the individual for whom such payments are to be made of a fifth consecutive year of practice specified in the agreement that the individual renewed under subsection (c), the Secretary shall pay 95 per centum of the principal and the interest due in that year, not to exceed 10 per centum of the aggregate principal and interest, of all loans of the individual described in subsection (a)(3) which are outstanding on the date that the individual began such practice.

"(D) Upon completion by the individual for whom such payments are to be made of a sixth consecutive year of practice specified in the agreement that the individual renewed under subsection (c), the Secretary shall pay 95 per centum of the principal and the interest due in that year, not to exceed 10½ per centum of the aggregate principal and interest, of all loans of the individual described in subsection (a)(3) which are outstanding on the date that the individual began such practice.

"(3) In any year, the amount of payments that may be made under this section with respect to loans referred to in subsection (a)(3) for and on behalf of any individual may not exceed $25,000, and the total amount of payments under this section for and on behalf of any individual may not exceed $130,000.

"(d) Notwithstanding the requirement of completion of practice specified in subsection (c), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which an individual may receive payments under this paragraph upon the declaration of such individual at such time and in such manner as the Secretary may prescribe (and supported by such evidence as the Secretary may reasonably require) that the individual is then engaged in the practice specified in the agreement described in subsection (a)(4), and that the individual will continue to be so engaged for the period required (in the absence of this subsection) to entitle the borrower to have made on the individual's behalf the payments provided by this subsection for such period; except that not more than the allowable per centum payment as described in subsection (c) may be paid pursuant to this subsection.

"(e) An individual who fails to fulfill an agreement with the Secretary entered into under subsection (a)(4) shall be liable to reimburse the Secretary for any payments made pursuant to subsections (c) and (d) in consideration of such agreement.

"(f) Notwithstanding the obligation of the Secretary to assume loan repayments specified in subsection (c), the death, severe and long lasting disability, or bankruptcy of the individual for whom such payments are to be made, or a finding by the Secretary upon reasonable evidence that such individual is not providing quality care, shall discharge the obligation of the Secretary to make such repayments.

"(g) Any individual who enters into an agreement with the Secretary under subsection (a)(4) must give appropriate assurances to the Secretary that the individual—

"(1) in the case of an individual specializing in family medicine, internal medicine, general practice, obstetrics and gynecology, or pediatrics, will accept assignments under section 1842(b)(3)(B) of the Social Security Act with respect to individuals eligible for benefits under title XVIII of such Act, and will participate under the State plan (of the State in which the individual practices) approved under title XIX of such Act;

"(2) in the case of an individual specializing in psychiatry, will accept a reasonable number of assignments (which the Secretary shall prescribe) under section 1842(b)(3)(B) with respect to individuals eligible for benefits under title XVIII of such Act, and will participate to the extent (of the State in which the individual practices) approved under title XIX of such Act.

"(h)(1) The Secretary shall enter into not more than—

"(A) five hundred agreements under this section for the fiscal year ending September 30, 1985;

"(B) seven hundred and fifty agreements under this section for the fiscal year ending September 30, 1986;

"(C) one thousand agreements under this section for the fiscal year ending September 30, 1987;

"(D) seven hundred and fifty agreements under this section for the fiscal year ending September 30, 1988.

"(2) Renewal of loan agreements under subsection (b) shall not be considered to be agreements for purposes of the limitation contained in paragraph (1).

"(i) There are authorized to be appropriated to carry out the purposes of this section—

"(1) $12,500,000 for the fiscal year ending September 30, 1985;

"(2) $31,250,000 for the fiscal year ending September 30, 1986;

"(3) $56,250,000 for the fiscal year ending September 30, 1987;

"(4) $75,000,000 for the fiscal year ending September 30, 1988.".

(2) Section 735(c)(1) of such Act is amended by inserting "who prior to May 1, 1982, has completed the requirements for the degree of doctor of osteopathy or doctor of medicine at an institution awarding such degree 'before' under which the Secretary agrees".

(3) Section 741(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) The Secretary may not enter into an agreement under paragraph (1) with an individual receiving a degree of doctor of osteopathy or doctor of medicine who has not, prior to May 1, 1982, completed the requirements for such degree at an institution awarding such degree.".

(4) Section 332 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Not later than January 1, 1984, the Secretary shall establish by regulation a list for each health manpower shortage area designated under this section which specifies the number and types of health professionals needed to fulfill health manpower shortages such area.

"(2) By January 1, 1984, the Secretary shall establish by regulation criteria for revoking the designation of health manpower shortage areas under this section whose health manpower shortages have been fulfilled by (A) National Health service Corps private practice physicians, or (B) physicians entering into an agreement with the Secretary under section 745.

"(3) Any revocation by the Secretary of the designation of a health manpower shortage area under this section in accordance with the criteria established under paragraph (2) shall not effect any agreement entered into by an individual under section 745 who has entered into practice in such area. Any such individual may renew such agreement for the maximum length of time specified in subsection (b) of such section and may fulfill his obligations under the agreement by continuing to practice in such area without regard to the revocation of the designation of such area under this section.".

FACTS ABOUT THE HEALTH IMPROVEMENT ACT OF 1981

What is the purpose of the Health Improvement Act of 1981?

To continue our national commitment to meet the health care needs of all Americans including those living in areas of geographic isolation and high poverty with scarce medical resources.

To encourage recent graduates of medical and osteopathic schools, in the face of high debt burdens, to pursue a career in primary care or psychiatry in a health manpower shortage area, through a more cost effective Federal incentive than provided by current law.

To encourage primary care physicians and psychiatrists not only to begin practice in a health manpower shortage area, but also to stay and continue serving the needs of the underserved community for many years.

To, during this time of reorienting Federal resources from low interest direct loans and scholarships to Federal loan guarantees of market rate loans, enable financially disadvantaged individuals to pursue a career in primary care medicine or psychiatry.

What would the Health Improvement Act do?

The Health Improvement Act would provide a program by which the Federal government would forgive a portion of the loans incurred by a newly graduated primary care physician or psychiatrist during the course of his or her medical or osteopathic education, if the physician opts to serve in a health manpower shortage area. As a further incentive to these physicians to continue their practice in the underserved area, the percentage of their loans to be forgiven will be gradually increased over a six year period of service.

Who is eligible to participate in the Health Improvement Act of 1981?

(1) Physicians who complete their medical or osteopathic education after May 1, 1982, who pursue a practice in primary care—family medicine, pediatrics, obstetrics and gynecology, internal medicine, general practice—or psychiatry, and are willing to practice for a minimum of two years in a health manpower shortage area.

(2) Communities that meet the qualifications of a health manpower shortage area as defined by Section 332 of the Public Health Service Act, and apply to be designated as such.

Who benefits from the Health Improvement Act of 1981?

(1) Residents of rural or urban areas, designated as health manpower shortage areas, who otherwise would go without, or be compelled to travel great distances to obtain, adequate health care services.

(2) Elderly residents of health manpower shortage areas who are eligible for Medicare.

(3) Poor residents of health manpower shortage areas who are eligible for Medicaid.

(4) Graduates of medical or osteopathic school who wish to specialize in primary care or psychiatry, or practice in an underserved area, but, because of high educational debt loads may otherwise opt to pursue a more lucrative specialty or to establish practice in a more lucrative geographic specialty.

How would the graduated loan forgiveness program work?

For the first year of the physician service in an underserved area, he or she could have up to 8 percent of his or her total debt burden (principal and interest) forgiven; in the second year, up to an additional 8.5 percent; in the third year, up to an additional 9 percent; in the fourth year, up to an additional 9.5 percent; in the fifth year, up to an additional 10 percent; and in the sixth year, up to an additional 10.5 percent. In no year could the amount of debt forgiven exceed $25,000.

Does the Health Improvement Act set any overall limits on the amount of a physician's education loans that could be forgiven?

Yes, under the Health Improvement Act, a participating physician could not have more than 55.5 percent, or $130,000, whichever is lower, of his or her total debt (principal and interest) forgiven over six years of service.

What is the average debt load of a physician graduating from medical or osteopathic school after May 1, 1982?

Although the debts vary from State to State, and according to tuitions charged by the various educational institutions, it will not be unusual for young physicians to face a debt load of $40,000 or more, at an interest rate of 18 percent, with only a 10-year pay-back period.

What kinds of loans are subject to forgiveness under Health Improvement Act of 1981?

Only loans incurred for tuition and reasonable living expenses during medical and ostepathic schools are subject to forgiveness. Loans eligible to be forgiven are:

(1) Health Education Assistance Loans;
(2) Health Professions Student Loans;
(3) National Direct Student Loans;
(4) Guaranteed Student Loans; and
(5) Other Federal direct loans or loan of guarantee programs.

What is the service obligation under the Health Improvement Act?

A physician participating in the Health Improvement Act must agree to serve for a minimum of two years, and may continue to have his or her loans forgiven in exchange for service of up to six years. The Secretary of HHS is given the right to seek reimbursement from the borrower, should the borrower fail to complete the agreement for which payments have been made.

What else would the physician have to do to participate in the Health Improvement Act?

Any physician who agrees to serve in a health manpower shortage area in exchange for loan forgiveness must also agree to serve Medicaid patients and participate in the Medicare program.

When can primary care physician elect to participate in the Health Improvement Act program?

Any time after graduation from a Medical or osteopathic school, after May 1, 1982.

What is the difference between current law and the Health Improvement Act?

Currently, the National Health Service Corps is the principal Federal program designed to meet physician shortages in medically underserved areas. First, this program provides federally employed physicians and other health professionals to areas classified as health manpower shortages areas. Most of the National Health Service Corps recipients receive full tuition and stipend support while in medical school for which they owe service on a year-for-year basis. Second, the medical students' decisions to pursue a primary care specialty and to practice in an underserved area are made when the medical students need financial assistance prior to or during their medical education.

In addition to requiring students to make premature career choices, the NHSC commits the Federal government to subsidizing the education of students four to seven years prior to the time they will be practicing physicians, and prior to the time when future manpower needs are known. Third, under current law, the health manpower shortage area designation is removed only after a community or individual files a request for removal with the Secretary. Fourth, the average length of services in the NHSC is three years. Fifth, the annual average National Health Service Corps scholarship cost is $15,629, and the average salary cost per NHSC member is $40,300.

The Health Improvement Act is for primary care physicians who open private solo or group practice in an underserved area. Second, a commitment will be required only at the time physicians complete their training—at the time when all medical students, regardless of financial need, are making their specialty and geographic location decisions. Third, once a physician shortage in the health manpower shortage area has been filled by a private practitioner, the health manpower shortage area designation would be removed to prevent unnecessary subsidization of addtional personnel. Fourth, it provides a graduated scale of loan forgiveness for physicians who remain in the underserved areas for longer periods of time. Fifth, it is cost effective, allowing a maximum payment of $25,000 per year per physician for six years only.

What is the cost of the Health Improvement Act of 1981?

The Health Improvement Act would authorize the following sums to be appropriated for the loan forgiveness program:

	Million
Fiscal year 1985	$12.5
Fiscal year 1986	31.25
Fiscal year 1987	56.25
Fiscal year 1988	75.

●

By Mr. HATFIELD:

S. 1573. A bill to amend the Water Resources Development Act of 1976 with respect to Lake Oswego, and for other purposes; to the Committee on Energy and Natural Resources.

RESTORATION OF LAKE OSWEGO NONNAVIGABLE STATUS

● Mr. HATFIELD. Mr. President, today I am introducing legislation which I hope will finally restore Lake Oswego, a privately built and maintained reservoir in Oregon, to its traditional status as a nonnavigable water of the United States. I join in this endeavor the distinguished Representative from Oregon's First District, Mr. AUCOIN, who has already introduced similar legislation in the House of Representatives.

We previously introduced legislation in the 95th Congress that was intended to resolve this matter of nonnavigability of the lake. Unfortunately, the final version of that legislation has only served as partial remedy. The current law exempts Lake Oswego from navigability provisions under the Rivers and Harbors Act of 1899. It falls short, however, by not preventing the Federal Energy Regulatory Commission (FERC) from finding the lake navigable under conditions of the Federal Power Act. The FERC has recently exercised its authority under the Federal Power Act and is ordering that the Lake Oswego Corp., the entity that owns and operates Lake Oswego Dam, powerhouse, and diversion facilities, file for a Federal power license for

the operation of the dam at the foot of the lake.

I believe the FERC order is inappropriate for several reasons. First, this reservoir has no access by any water craft to or from any navigable water of the United States, yet the FERC used one instance from the lake's history to find this reservoir to be a navigable water. I disagree with this conclusion. The lake has been landlocked for many years and there is absolutely no interstate commerce on Lake Oswego. Second, Lake Oswego Dam is structurally sound and in total compliance with State and local health and safety standards. Finally, the licensing requirement will cause unnecessary hardship for the Lake Oswego Corp. and local residents. The licensing process will undoubtedly add substantial operating and maintenance costs for the lake. The ultimate cost of complying with FERC regulations is estimated to cost Lake Oswego millions of dollars of unnecessary expenditures. Licensing this dam, which has a power generating capacity of less than 1 megawatt, will thus declare it a navigable waterway and make the lake subject to a whole host of additional regulations and expensive requirements.

Mr. President, this very small, yet very safe structure is not the type of water diversion facility that the Congress intended to regulate when it enacted the Federal Power Act or the Water Resources Development Act of 1976. It is our hope that the Congress will move, with all dispatch, to enact this bill to finally put an end to needless regulatory harassment that presently threatens the vitality and efficient management of Lake Oswego.

Mr. President, I ask unanimous consent that the text of the bill be entered into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 162 of the Water Resources Development Act of 1976 is amended by inserting the following at the end thereof: "Lake Oswego shall also be treated as nonnavigable for purposes of part I of the Act of June 10, 1920 (41 Stat. 1063 and following; 16 U.S.C. ch. 12, subchapter I).".●

By Mr. DENTON (for himself, Mr. GOLDWATER, Mr. THURMOND, Mr. JEPSEN, Mr. CANNON, Mr. NUNN, Mr. HARRY F. BYRD, JR., Mr. QUAYLE, Mr. LAXALT, Mr. SIMPSON, Mr. GARN, Mr. SYMMS, Mr. NICKLES, Mr. ZORINSKY, Mr. DECONCINI, Mr. JOHNSTON, Mr. EAST, Mr. ABDNOR, Mr. MATTINGLY, Mr. HATCH, and Mrs. HAWKINS):

S. 1574. A bill to amend section 673b of Title 10, United States Code, relating to the authority of the President to order members of the Selected Reserve of the Reserve components of the Armed Forces to active duty during periods other than war or national emergency; to the Committee on Armed Services.

EXECUTIVE MOBILIZATION AUTHORITY ACT OF 1981

● Mr. DENTON. Mr. President, on July 9, 1981, I introduced S. 1458, the Executive Mobilization Authority Act. I introduced this bill in an effort to form a consensus committed to act in a suitable and realistic manner to enhance our prospects for peace with security of our vital interests. At that time, I solicited the advice of my distinguished colleague on means to improve the content of this legislation.

Today, as a result of discussions with fellow Senators, administration, and Department of Defense officials, I am reintroducing the Executive Mobilization Act. This revised measure incorporates several changes designed to provide a stronger impetus in addressing the critical role of our Reserve Forces in total force planning. The principle of the legislation remains unchanged: The pressing need to bring reality and credibility to the total force concept by providing timely, more flexible Presidential authority to mobilize a portion of our Reserve Forces in emergency situations where such action is determined to be the most effective response for defusing a crisis situation.

Mr. President, I wish to express my gratitude to my colleagues for their support and counsel in improving this legislation. I feel strongly that the broad bipartisan cosponsorship which this measure has received is indicative of the studied, realistic approach which this body has taken toward effecting a substantive increase in our national security.●

By Mr. WALLOP (for himself, Mr. GARN, Mr. DOMENICI, Mr. HATCH, Mr. NICKLES, Mr. SIMPSON, Mr. WARNER, Mr. JOHNSTON, and Mr. STEVENS):

S. 1575. A bill entitled "The Combined Hydorcarbon Leasing Act of 1981"; to the Committee on Energy and Natural Resources.

PRODUCTION OF OIL FROM TAR SANDS AND OTHER HYDROCARBON DEPOSITS

● Mr. WALLOP. Mr. President, the perception of the importance of energy today shows signs of changing markedly from what it was a year ago. The energy problem that was so recently being billed as a crisis appears to be regarded as solved. The dominant message in the daily headlines describing the energy glut and insinuating that the once formidable power of OPEC has been broken, reinforces that perception. This is a dangerous misapprehension. Despite fleeting appearances, the days of easy availability have not returned. No one knows how long the surplus will last; it is largely contingent upon the Middle East situation. It should be instructive that many OPEC producers have adopted a policy of restricting production in order to keep prices up. Meanwhile, U.S. domestic production will continue to decline, though at a slower rate because of decontrol, barring any major new discoveries. In short, Mr. President, we must not let our guard down, but must continue to explore all of our options. One promising option is tar sands.

I am pleased to introduce on behalf of myself and Senators GARN, DOMENICI, HATCH, NICKLES, SIMPSON, WARNER, JOHNSTON, and STEVENS, a bill to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits. It would amend the Mineral Leasing Act of 1920 to remove one of the principal causes preventing any progress from being made in developing some 30 to 45 billion barrels of oil contained in the Nation's tar sand deposits which occur in 22 States, with the bulk of it on Federal land in Utah.

The problem it would resolve is the moratorium on Federal leasing of tar sand deposits because of the Interior Department's inability to differentiate heavy oil from tar sand. Leases for oil and gas deposits are presently issued under section 17 of the Mineral Leasing Act, and tar sand leases are authorized pursuant to section 21 of that statute. Leases issued under these two sections are mutually exclusive; an oil and gas lease carries no right to any of the deposits covered by a section 21 lease and a section 21 lease carries no rights to deposits of oil and gas. The bill introduced today would resolve the problem by redefining "oil" to provide that henceforth a single oil and gas lease will entitle a lessee to develop all the nongaseous hydrocarbons in the area covered by the lease, except coal, oil shale, and gilsonite.

It further provides that the holders of oil and gas leases in certain areas containing known tar sand deposits will be entitled to convert their existing leases to the new combined hydrocarbon lease. This will end the controversial stalemate over the development rights of such lessees, mainly small independents, who obtained section 17 oil and gas leases in areas where the resource is so constituted that the Secretary has been unable to determine whether it is heavy oil developable under such leases or tar sand, developable only under a section 21 lease. Unfortunately the Secretary has not issued any such leases for 16 years because of this definitional problem. However, in order to obtain this conversion privilege a lessee must, within 2 years of enactment of this legislation, submit a plan of operations for secretarial approval demonstrating the technical and economic feasibility of developing the resource covered by his lease in a diligent and environmentally acceptable manner. A similar conversion privilege is also afforded valid mining claims in special tar sand areas. In addition, the converted lease will carry a flat 12.5-percent royalty instead of continuing the Secretary's existing authority under section 21 to establish a lower initial rovalty in such leases.

In those portions of special tar sand areas not covered by existing oil and gas leases expected to be converted, the Secretary must issue new combined hydrocarbon leases solely on a competitive basis, but these leases will also carry a 12.5-percent royalty and a 10-year primary term.

All new leases in specal tar sand areas

will enjoy special incentives to encourage and facilitate the production of this important resource, such as a larger size lease, 5,120 acres, and an exemption from the statewide acreage limitation applicable to existing oil and gas leases. The Secretary is also directed to give special attention to the need to reduce royalties on tar sand production in appropriate circumstances under his existing authority under section 39 of the act. Even though tar sand is defined for post production royalty purposes, the bill makes it clear that nothing in it is to affect the taxable status of tar sand production under the windfall profit tax and other Federal tax legislation.

In response to environmental concerns expressed because some of the tar sand resource in Utah is located in or near units of the national park system, the bill provides that the Secretary shall only apply the provisions of the bill in Glen Canyon National Recreation Area and other areas where mineral leasing is already permitted under existing law when it is in accord with an approved minerals management plan and will not significantly adversely affect the administration of the units or other adjacent units of the national park system.

Mr. President, I believe this bill, which is virtually identical to a bill passed a few weeks ago in the House by a recorded vote of 416 to 0, is an essential first step in the development of our Nation's tar sand resource. It does equity to existing oil and gas lessees whose development efforts have been stymied because of the ambiguous and outmoded provisions of the 1960 amendments of section 21.

It does so on terms that I believe appropriately recognize the national interest in widening our energy pool. It corrects previous errors and stimulates the technology and investment needed to help launch a tar sand industry in this country. It is in keeping with the administration's expressed intention of streamlining regulations and laws governing the production of energy and restoring a free market in energy. I believe this bill will accomplish the objective. I hope that the Energy and Natural Resources Committee will hold hearings on the bill when we return from our recess in September and promptly report it so it can be enacted in this session.●

● Mr. GARN. Mr. President, I am pleased to join with Senator WALLOP in introducing this measure. I am also very pleased to note the support of a number of distinguished original cosponsors, as this speaks to the significance of the bill we are introducing.

Mr. President, this is a bill to promote the development of an important national energy resource, tar sands. I am of the opinion that the energy crisis is not over yet, that we are not yet relieved from the strategic obligation to pursue every economically and environmentally feasible energy alternative at our disposal, so as to preserve the maximum degree of self-sufficiency and independence in the energy sector.

The tar sand resources in the State of Utah can make a significant dent in our longstanding dependence on foreign oil. The Utah Energy Office has estimated that the State's tar sands deposits contain up to 26 billion barrels of oil, some 93 percent of the Nation's reserves of this particular resource. Present technological assumptions calculate that 10 to 20 percent of this oil may be recovered, which would allow for operation of a 100,000-barrel-of-oil-per-day facility for almost 100 years. At the same time, the environmental considerations associated with tar sands processing appear to be much less imposing than those associated with development of other synthetic fuels. It is also important to note that the crude oil produced from tar sands is more readily adaptable to existing refining processes than other synthetic fuel products. In short, there are a number of advantages inherent in the tar sands resource that recommend its promotion as a prominent synthetic fuel.

Mr. President, there are numerous other reasons to get tar sands development underway. It is important to recognize that hundreds of thousands of dollars have been invested by private industry to explore the feasibility of commercial tar sands development. Investment in equipment and process development has been made in preparation for the time when the Federal Government would open the way for development of the resource itself.

That is where this bill comes in. Mr. President, for almost 17 years there has been a moratorium on leasing of tar sands on public lands. The primary obstacle has been defining the nature of the tar sand resource so that when it is processed to produce crude oil, it would be possible to differentiate this product from the product found in normal oil reserves found in the same tract of land. To date, no resolution has been found which would remove the dangerous legal implications surrounding this confusion. Instead, we are proposing to approach tar sands development from another angle: the combined hydrocarbon lease.

The combined hydrocarbon lease would enable tar sands to be developed by allowing existing oil and gas leases to be expanded, or converted, into leases which also encompass the right to process tar sands which are located on these existing leases. That is the essence of this bill, and it is an approach that the State of Utah has used in promoting the development of tar sands located on State-owned lands. I believe, Mr. President, that it is a very timely development for this bill to come before the Senate when we have an administration committed to making the widest possible use, within economic and environmental constraints, of our domestic energy resources. The willingness of the Reagan administration in this respect, combined with the receptive attitude of officials in the State of Utah toward a healthy rate of synfuels development, constitute a ripe political setting for the development of this important resource.

In conclusion, Mr. President, I would also like to emphasize the economic setting we are now looking at. We have decontrolled the petroleum market. We have taken the first difficult steps toward harnessing the runaway Federal budget. We are in the process of finalizing enactment of a crucial set of tax relief proposals. The removal of the leasing bottleneck which this bill is designed to accomplish will be in complete harmony with the broad thrust of the President's energy and economic policies. I am enthusiastic about the bill's prospects for successful passage through the Senate, and I am equally enthusiastic about the prospects for tar sands getting a chance to stand the fair test of the marketplace.

With the advantages inherent in the tar sands resource, the congenial political and economic climate and the interest of private industry, I join with Senator WALLOP in introducing this important bill and recommend it to the favorable consideration of the full Senate.●

By Mr. JEPSEN:

S. 1576. A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain on the sale of property if the proceeds are used to acquire a small business equity interest; to the Committee on Finance.

SMALL BUSINESS CAPITAL GAINS ROLLOVER

Mr. JEPSEN. Mr. President, I rise to introduce the Small Business Capital Gains Rollover bill. This provision would allow the deferral of capital gains on the sale of an asset if the proceeds are reinvested in a small business within 12 months of the date of sale.

This measure would amend the Internal Revenue Code by adding a new section 1041 which would permit a taxpayer who sells or exchanges any property to defer paying tax on the gain from the sale providing the proceeds are invested in a qualified small business corporation within 1 year. If the taxpayer does not invest the entire proceeds of the sale in an equity interest in a qualified small business corporation, he will recognize gain up to the amount of the sale proceeds which were not so invested.

This election would be made by filing a statement of election with the Secretary of the Treasury within the statutory period for filing the return for the taxable year in which the property was sold.

This legislation will not cover any bonds or loans and will apply to small business corporations which have received $1 million or less in money or property for stock, as a contribution to capital and as paid-in surplus. Property would be valued at its adjusted basis to the corporation at the time it was received, and its value would be reduced by any liability to which the property was subject or which was assumed by the corporation. Qualified small business corporations could not receive more than 15 percent of their gross receipts as passive investment income during the year the taxpayer invests in the business or in the following 3 years. Passive investment would mean income from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities.

Mr. President, our Nation is currently facing a crucial test of the very essence of our structure—the free enterprise system.

On November 4, the voters saw a U.S. economy that was devastated by inflation, low productivity and high unemployment and which was increasingly unable to compete internationally. Free enterprise was crippled by Government regulation and taxes and stunted by high interest rates. According to information published by the National Association of Manufacturers, America's productivity—the measure of output per hour of work—increased from 1967 through 1977 at an annual average of only 1.6 percent. In 1978, productivity experienced growth of only 0.3 percent and actually declined 0.9 percent in 1979, and 0.6 percent in 1980. In contrast, during the 1967–77 decade, productivity increased 105 percent in Japan, 69 percent in West Germany and France, and 60 percent in Italy. Among the world's industrialized nations, the United States has the lowest ratio of capital investment to gross national product and the highest percentage of obsolete manufacturing facilities.

The voters told us to loosen the reins and give free enterprise a chance. We must now show the 80 percent of the world which lives under an authoritarian system that free enterprise can work. The key to revitalization of the free enterprise system is the livelihood of our Nation's 10 million small businesses.

As President Reagan stated:

> The imagination, skills and willingness of small business men and women to take necessary risks symbolize the free enterprise system of the American economy and must be encouraged.

These small firms generate 66 percent of all new jobs, and have been responsible for over half of all U.S. inventions since World War II. This Yankee ingenuity can be the catalyst of our economic recovery if small business is allowed to compete.

Inflation makes it difficult for small businesses to get started, because it is difficult for the savings to be accumulated to provide risk capital. Government spending and borrowing crowd out private borrowing and push up interest rates. Unfortunately, in this struggle for funds, it is the small businesses who come in last. Unwise tax laws force the absorption through merger of new businesses into old, and the vast paperwork burden which is thrown at businesses of all sizes creates nonproductive burdens which most firms cannot bear.

We must abate the movement toward concentration in U.S. business by promoting investment in small businesses. Current tax laws make it more profitable for small businesses to merge into large corporations than to reinvest in another small business.

Mr. President, the free enterprise system can survive only if we protect and promote competition. To do this we must provide incentive for investment in smaller, more competitive businesses. This bill will help to accomplish that purpose.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONRECOGNITION OF GAIN ON ANY PROPERTY SOLD WHERE SMALL BUSINESS EQUITY INTEREST ACQUIRED.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF PROPERTY WHERE INTEREST IN QUALIFIED SMALL BUSINESS CORPORATION ACQUIRED.

"(a) NONRECOGNITION OF GAIN.—

"(1) IN GENERAL.—If any property is sold by the taxpayer and, within the 1-year period beginning on the date of such sale, any equity interest in any qualified small business corporation is purchased by the taxpayer, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the amount realized on such sale exceeds the cost to the taxpayer of such equity interest.

"(2) ELECTION.—The election under paragraph (1) shall be made by filing, not later than the last day prescribed by law (including extensions thereof) for filing the return of tax imposed by this chapter for the taxable year in which the sale occurs, with the Secretary a statement (in such manner as the Secretary may by regulations prescribe) of such election.

"(b) DEFINITIONS.—For purposes of this section—

"(1) EQUITY INTEREST.—

"(A) IN GENERAL.—The term 'equity interest' means any common or preferred stock.

"(B) DEBT EXCLUDED.—The term 'equity interest' does not include any interest—

"(i) with respect to which the payment of money or other property is required solely by reason of the passage of time, or

"(ii) the repurchase of which may be required of the issuer solely by reason of the passage of time.

"(2) QUALIFIED SMALL BUSINESS CORPORATION.—

"(A) IN GENERAL.—The term 'qualified small business corporation' means a small business corporation (within the meaning of section 1244(c)(3)) which meets the passive investment income limitation of subparagraph (B).

"(B) PASSIVE INVESTMENT INCOME LIMITATION.—

"(i) IN GENERAL.—A corporation shall not be treated as a qualified small business corporation for any taxable year if, for the taxable year or any of the 3 taxable years after such taxable year, the passive investment income of such corporation is more than 15 percent of its gross receipts.

"(ii) DEFINITIONS.—For purposes of clause (i), passive investment income and gross receipts shall be determined as provided in subparagraph (C) of section 1372(e)(5), as if the corporation were an electing small business corporation.

"(C) CONTROLLED GROUPS.—

"(i) IN GENERAL.—In the case of a controlled group, all persons which are members of such group at any time during the calendar year shall be treated as 1 taxpayer for such year.

"(ii) CONTROLLED GROUP DEFINED.—For purposes of clause (i), persons shall be treated as members of a controlled group if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(c) SPECIAL RULES.—For purposes of this section—

"(1) EXCHANGE TREATED AS SALE.—An exchange by the taxpayer of property for other property shall be treated as a sale of the first property, and the acquisition of any equity interest on the exchange of property shall be treated as a purchase of such equity interest.

"(2) LIMITATION ON STOCK SALES.—In the case of any equity interest in a qualified small business corporation which is evidenced by stock (other than stock in a small business corporation as defined in section 1371), subsection (a) shall apply to the sale of such stock only if such sale would, if such stock had been purchased by the issuing corporation in such sale, be treated as a redemption within the meaning of paragraph (1), (2), or (3) of section 302(b), including the application of section 302(c).

"(d) REDUCTION OF BASIS.—Where the purchase of any equity interest results under subsection (a) in the nonrecognition of gain on the sale of any property, the basis of such equity interest shall be reduced by an amount equal to the amount of gain not so recognized on the sale of such property. Where the purchase of more than one equity interest is taken into account in the nonrecognition under subsection (a) of gain on the sale of a property, the preceding sentence shall be applied to each equity interest in the order in which each such equity interest is purchased.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during any taxable year sells any property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of the 3-year period beginning on the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any equity interest which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase any equity interest within the 1-year period described in subsection (a), or

"(C) the failure by the taxpayer to purchase any equity interest within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (21), by striking out the period at the end of paragraph (22) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(23) in the case of any equity interest the acquisition of which resulted under section 1041 in the nonrecognition of gain on the sale or exchange of property, to the extent provided by section 1041(d).".

(c) CONFORMING AMENDMENT.—The table of sections of part III of subchapter O of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of property where equity interest in qualified small business corporation acquired.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply to sales or exchanges after December 31, 1981.

By Mr. JEPSEN:

S. 1577. A bill to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution; to the Committee on the Judiciary.

VOLUNTARY PRAYER AND RELIGIOUS MEDITATION ACT OF 1981

Mr. JEPSEN. Mr. President, the purpose of this bill is to insure and protect the right to the free exercise of religious expression as guaranteed under the first amendment to the Constitution of the United States.

It is appropriately titled the Voluntary Prayer and Religious Meditation Act of 1981. This legislation first appeared as title IV of the Family Protection Act which I introduced on June 17, 1981.

The Voluntary Prayer and Religious Meditation Act of 1981 is designed to reverse the last 19 years of Supreme Court decisions and subsequent case law regarding the constitutionality of State-sponsored religious exercises in the public schools.

The bill directs its attention to the first amendment to the Constitution, specifically the "Free Exercise Clause."

The first amendment states that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

The Supreme Court has prohibited State involvement in school prayer or other religious activity strictly on the establishment clause.

Mr. President, as I noted in my remarks on July 17, 1981 on this subject—

Our forefathers framed the Constitution to insure that all Americans enjoyed the freedom of worship and the free exercise of prayer. However, in 1962, the U.S. Supreme Court ruled that both nondenominational prayer and Bible reading without comment conflicted with the first amendment prohibiting the establishing of religion. At the time of the decision, 26 states permitted Bible reading in schools and 13 permitted the recitation of the Lord's Prayer.

Mr. President, I note for the record since the Senate's inception in the late 1700's, this Chamber has begun each day's activities by asking God's blessing. Yet, throughout this country, public school children are being denied that privilege.

In a novel manner, this bill reinstates the individual's right to the free exercise of religion based on the free exercise clause of the U.S. Constitution, which for some reason or other, the Supreme Court decided to either ignore or make subordinate to the establishment clause.

A strong case must be made for the free exercise of religious expression whether public or private. Such expression is a fundamental freedom which should not be benignly denied in order to protect other freedoms equally fundamental.

This bill directly confronts the religious freedom and establishment clause issue through congressional statutory law.

Finally, this bill provides that any individual aggrieved by a violation under the bill may bring a civil action in the appropriate district court of the United States, or in any State court of competent jurisdiction, for damages or for such equitable relief as may be appropriate, or both.

In short, a parent or guardian representing a student who is being denied the opportunity (right) to participate in religious exercises would have standing to bring a civil action in Federal or State district court.

Mr. President, additional remarks and background information on this issue can be found following my remarks on June 17, 1981, to the Family Protection Act. The Library of Congress has written several outstanding briefs and outlines on this issue. I highly recommend that each Member advise their staff to make part of their files the work by the Library of Congress.

Specifically, I recommend Report No. 81–34A entitled "Religious Activities in the Public Schools and the First Amendment—Judicial Decisions and the Congressional Response," by Mr. David Ackerman, legislative attorney, American Law Division, February 2, 1981.

Mr. President, I anticipate that much discussion and debate will result from this bill. I look forward to such discussions and I am optimistic as to the strength and soundness of the goals we seek to accomplish.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voluntary Prayer and Religious Meditation Act of 1981".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) America is a nation founded on freedom;

(2) essential to freedom of the free exercise of the inalienable rights guaranteed to all by our Creator;

(3) in order to preserve such rights it is equally essential that the Constitution be broadly interpreted in matters of individual freedoms; and

(4) the free exercise of religious expression whether public or private is a fundamental freedom which should not be benignly denied in order to protect other freedoms equally fundamental.

(b) In order to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution, the Congress pursuant to its authority under the necessary and proper clause of section 8, article I, of the Constitution, enacts the provisions of this title.

DEFINITION

SEC. 3. As used in this title—

(1) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands; and

(2) the term "voluntary prayer or religious meditation" includes individual prayer and devotional reading from religious literature initiated by members of the group, provided that any person so desiring is excused from participating in such prayer and devotional reading.

VOLUNTARY SCHOOL PRAYER AND RELIGIOUS MEDITATION RIGHT PROTECTED

SEC. 4. (a) Each individual shall have the right to participate in the free exercise of voluntary prayer or religious meditation in any public building or in any building which is supported in whole or in part through the expenditure of Federal funds.

(b) No department or agency of the United States, of any State, or of any political subdivision of a State, shall abridge the right of free exercise of voluntary prayer or religious meditation in any public building or any building which is supported in whole or in part through the expenditure of public funds.

CIVIL ACTIONS AUTHORIZED; JURISDICTION AND RELIEF

SEC. 5. (a) Any individual aggrieved by violation of this title may bring a civil action in the appropriate district court of the United States, or in any State court of competent jurisdiction, for damages or for such equitable relief as may be appropriate, or both.

(b) The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

(c) Each district court of the United States, and each State court of competent jurisdiction, shall provide such equitable relief, including injunctive relief, as may be appropriate to carry out the provisions of this title.

(d)(1) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge), who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(2) It shall be the duty of the judge designate pursuant to this subsection to assign the case for hearing within thirty days of filing with the court. A hearing of the case must be held within one hundred and eighty days upon the proper filing of the case with the court.

SAVINGS PROVISION

SEC. 6. The provisions of this title shall supersede all the provisions of the Federal law that are inconsistent with the provisions of this title.

By Mr. JEPSEN:

S. 1578. A bill to restrict the Federal Government from preempting or interfering with State statutes pertaining to spousal abuse, and for other purposes; to the Committee on Finance.

SPOUSE ABUSE CENTERS

Mr. JEPSEN. Mr. President, I am introducing a bill which would restrict the Federal Government from preempting or interfering with State statutes pertaining to spousal abuse.

The purpose of this legislation is threefold. This is a basic statement of principle, intended as a guideline for future Federal policymaking, that family relationships are fundamentally beyond the scope of Federal influence.

This bill would also guarantee that existing statutes of the individual States which deal with domestic violence situations are not intended to be nullified or superseded by any Federal bureau, agency, commission, study recommendation, or other body, either in policy directives or in recommendations of any other kind.

Finally, this bill would facilitate the establishment of tax-exempt, private voluntary associations/corporations to provide treatment to care for the victims of domestic violence. The associations thus facilitated would, however, be

barred from using Federal funds for their nonprofit functions.

Violence in the family has been the subject of concern and controversy for some years. First child abuse, then spouse abuse, and, most recently, abuse of elderly have become highly publicized and emotional issues. Experts are beginning to suggest that these problems are more severe and widespread than many have assumed, and, furthermore, that family violence may be learned and transmitted from one generation to the next. These findings have led many to push for Federal intervention in the problem. Accompanying this public outcry, however, has been a deep concern over the short- and long-term effects of the Federal Government becoming so intimately involved in family affairs.

Because of the increased pressure on the Federal Government to intervene in the area of domestic violence, the Federal Government recently has attempted to implement several legislative proposals. During the 95th Congress, identical domestic violence bills were introduced in both Houses of Congress which would have set up a Federal office on domestic violence which would have allowed discretionary grants to be used for shelters and other domestic violence projects. Although the Senate approved this legislation, the House version was defeated on the House floor, and therefore the measure died.

During the 96th Congress, legislation dealing with domestic violence was again introduced in both Houses of Congress. Although this time the bills were successful in the initial votes on both the House and Senate floor, the Senate failed to vote on the final conference report, and therefore, the measure again died.

In the meantime, however, several agencies initiated activities in the area of domestic violence, such as designating domestic violence as a funding priority in certain programs, and participating in intra- and inter-agency coordination and evaluation of Federal domestic violence-related programs and services. However, perhaps partly due to the changing political view on the role of the Government in family affairs, two of these programs—the Office on Domestic Violence in the Department of Health and Human Services and the family violence program in the Department of Justice—were discontinued earlier this year.

Mr. President, 44 States have recently passed legislation dealing with the problems of spouse abuse and have set up domestic violence shelters and counseling programs. Many States have drastically revised their criminal codes to provide for easier arrest and persecution of the abuser; and civil remedies have been implemented to evict the abuser from the residence rather than leaving it up to the victim to flee.

In short, programs at the local and State levels which are already intact, have been able to effectively work with individuals who have become the victims of domestic violence.

Mr. President, "The best government is that government closest to home." This bill, which would provide incentives for State and local communities to develop spouse abuse centers, would be a boon to those of us who are truly concerned about the plight of the victims of spouse abuse and who firmly believe that this task can best be done at the local level.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no Federal law, program, guideline, agency action, commission action, directive, or grant shall be construed to abrogate, alter, broaden, or supersede existing State statutory law relating to spousal abuse or domestic relations.

(b) Subsection (c) of section 501 of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(23) A corporation, trust, or other organization organized under the law of a State or of the District of Columbia and operated exclusively for the purpose of providing treatment and care for individuals who suffer physical or psychological abuse from a spouse, parent, or other member of such individual's family or household, no part of the net earnings of which inures to the benefit of any private shareholder or individual.".

(c) The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1980.

By Mr. JEPSEN:

S. 1579. A bill to amend the Internal Revenue Code of 1954 to allow corporations to deduct all contributions made to a joint employee-employer day care facility; to the Committee on Finance.

TAX DEDUCTIONS FOR DAY CARE FACILITIES

Mr. JEPSEN. Mr. President, I introduce today a bill which allows a corporation which contributes funds to cooperative day care facilities that are established by and for the use of employees, an equal deduction from taxes if the facility meets specified minimum requirements.

There is certainly no doubt that with the growing number of households where both parents work, and the growing number of single-parent households, the need for day care facilities is increasing. Department of Labor statistics show that 53 percent of children under age 18 had mothers in the labor force in March 1980, up from 39 percent in 1970. Among preschool age children, the proportion whose mothers worked or looked for work rose from 29 to 43 percent between 1970 and 1980. Among school age children, 6 through 17, the proportion whose mothers worked or looked for work grew from 43 percent in 1970 to 57 percent in 1980. The number of children under age 6 whose mothers were in the labor force grew from 5.6 million to 7.5 million from 1970 to 1980. The number of children age 6 to 17 grew from 20 million to 23.2 million over the same span of years.

During the last Congress, my colleague from California, Mr. CRANSTON, addressed this problem by noting that—

Without any doubt . . . a majority of mothers of children under the age of 18 are in the labor force and the percentage of working mothers—particularly mothers of younger children is growing every year. Yet, our witnesses clearly indicated that there has been no corresponding growth in the availability of licensed child care for the children of these parents. Indeed, quite the contrary is true.

Although funding for day care centers was a matter of consideration before the last Congress, cost estimates for such programs were set at between $90 million and $150 million annually. Such prohibitive costs could not be covered under the current budget restrictions.

Mr. President, the bill that I am introducing today provides a remedy for those parents who daily seek a reliable form of day care for their children. This bill would encourage employers to take an active interest and become involved in the family needs of their employees, without bringing the Government directly into the matter at all, except in a minor tax capacity.

Additionally, this bill would encourage decentralized, local management whereby the direct beneficiaries of the day care facility would be able to determine the use of available funds.

Ultimately, this bill would have the beneficial potential of creating closer labor-management relations.

Mr. President, because there is a need for quality day care, many corporations and firms would welcome an opportunity to provide such facilities on their premises and, certainly, their employees would welcome an opportunity to keep their children near their place of work.

This legislation contributes to the solution of a very real problem, and it is my hope that the Senate will act favorably on this bill in the near future.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 162 of the Internal Revenue Code of 1954 (relating to charitable contributions and gifts excepted) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to amounts paid or contributed by the taxpayer to a day care center which meets the requirements of section 501(c)(23).".

(b) Subsection (c) of section 501 of such Code (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(23) a corporation organized and operated in the United States exclusively for the purpose of providing day care for children, no part of the net earnings of which enures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on

behalf of any candidate for public office, and which—

"(A) has applied for (and such application has not been rejected),

"(B) has been granted (and such granting has not been revoked), or

"(C) is exempt from having,

a license, certification, registration, or approval as a day care center under the provisions of applicable State law.".

(c) In the case of a day care center described in section 501(c)(23) of the Internal Revenue Code of 1954—

(1) the Secretary of the Treasury may not promulgate any criterion of eligibility for exemption from tax under section 501(a) of such Code which is not described in paragraph (23) of section 501(c) of such Code,

(2) no certification or approval by the Internal Revenue Service shall be required as a condition for such tax exemption, and

(3) no agency or department of the United States Government may require compliance with any rule or regulation by such a center as a condition of such tax exemption.

(d) The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.

By Mr. JEPSEN:

S. 1580. A bill to amend the Internal Revenue Code of 1954 to provide a personal exemption for childbirth or adoption and to permit the taxpayer to choose a deduction or a tax credit for adoption expenses; to the Committee on Finance.

TAX DEDUCTION FOR EXPENSES INCURRED IN ADOPTION OF A CHILD

Mr. JEPSEN. Mr. President, the purpose of this bill is to amend the Internal Revenue Code of 1954 to provide a personal exemption for childbirth or adoption and to permit the taxpayer to choose a deduction or tax credit for adoption expenses.

This legislation is the product of several legislative proposals which I have introduced during the 96th and 97th Congresses, which seek to address what I believe is the greatest burden and disincentive to the adoption process: Namely the cost of adoption.

With the exception of the tax credit provision which is provided by the bill, this is essentially the same provision which I introduced on July 17, 1981 as section 207 of the Family Protection Act.

Specifically, the bill would amend Code section 151 to allow an additional $1,000 personal exemption for a taxpayer in the year that a child is born to or adopted by the taxpayer. An additional personal exemption of $3,000 would be allowed in the case of a child born to the taxpayer, which child is handicapped. In the case of the adoption of a child who is a member of a minority race or ethnic group, or a child who is over age 6, or a handicapped child an extra $3,000 exemption would be allowed under the section. The additional exemption would be allowed only to married individuals filing joint returns. If the exemption reduces a taxpayer's tax liability to zero, the extra amount could be carried over to the following year.

In addition, the bill would add a new Code section 221 which would allow the election of either a deduction or tax credit for expenses incurred in the adoption of a child.

The deduction or tax credit specifically would allow adoption expenses greater than $500, but not more than $3,500 or $4,500 in the case of an international adoption. Adoption expenses would include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses directly related to the legal adoption of a child. Illegal expenses could not be deducted. International adoptions include adoptions in foreign countries, or involving a child who is a citizen of a foreign country who was brought to the United States to be adopted or whose placement for adoption was reasonably foreseeable. Reimbursed expenses or otherwise deductible expenses could not be deducted under this section.

Mr. President, the Senate recently adopted an amendment I offered to the tax bill which provided a deduction for adoption expenses for special needs children. In order that my view on tax deductions for adoptions can be appropriately restated, I ask that my remarks and the discussion which followed on July 28, 1981, pertaining to amendment No. 315 which appeared on page 17811 through 17815 of the RECORD be appropriately printed.

Furthermore, Mr. President, I respectfully refer interested parties to a legislative summary on this issue which appeared as part of my remarks to the Family Protection Act in the RECORD for July 17, 1981.

I thank the Chair, and urge my colleagues to join me in this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTIONS FOR CHILDBIRTH OR ADOPTION

(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL EXEMPTION FOR CHILDBIRTH OR ADOPTION.—

"(1) IN GENERAL.—An exemption of $1,000 for each child born to, or adopted by, the taxpayer during the taxable year.

"(2) BIRTH AND ADOPTION OF CERTAIN CHILDREN.—In the case of—

"(A) a child who is born to the taxpayer and who is handicapped (within the meaning of section 190(b)(3)), or

"(B) the adoption of a child—

"(i) who is a member of a minority race or ethnic group, or

"(ii) who has attained the age of 6 before the beginning of the taxable year for which the additional exemption allowed by paragraph (1) is claimed, or

"(iii) who is handicapped (within the meaning of section 190(b)(3)),

'$3,000' shall be substituted for '$1,000' in paragraph (1).

"(3) JOINT RETURN.—The additional exemption allowed by paragraph (1) for any taxable year shall not be allowed to an individual who is not a married individual (as defined in section 143) or to a married individual (as defined in such section) who does not make a joint return of tax with his spouse for the taxable year.

"(4) CARRYOVER OF UNUSED DEDUCTION.—In the case of a taxpayer for whom the exemption allowed by paragraph (1) for a taxable year reduces his tax liability to zero, and in the case of a taxpayer whose liability for tax under this chapter (determined without regard to the additional exemption allowed by paragraph (1)) is zero, the additional exemption allowed by paragraph (1) for that taxable year, or that portion of such exemption which is properly attributable to a reduction of the taxpayer's liability for tax under this chapter below zero, shall be carried over to the following taxable year and shall be treated, for such following taxable year, as an additional exemption allowed by paragraph (1) for that taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1980.

SEC. 2. ADOPTION EXPENSES.

(a) DEDUCTION.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of the adoption expenses paid or incurred by the taxpayer during the taxable year.

"(b) LIMITATION ON DEDUCTIONS.—

"(1) MINIMUM DOLLAR AMOUNT.—No deduction shall be allowable under subsection (a) for the first $500 of adoption expenses paid or incurred with respect to the adoption of any child.

"(2) MAXIMUM DOLLAR AMOUNT.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the adoption of any child shall not exceed $3,500 ($4,500 in the case of an international adoption).

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any amount for which a deduction or credit (other than the credit allowable under section 44F (relating to adoption expenses)) is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowable under subsection (a) for any adoption expense paid from any funds received under any Federal, State, or local program.

"(C) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax provided by section 44F (relating to adoption expenses). The election shall be made in such manner and at such time as the Secretary shall prescribe by regulations.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ADOPTION EXPENSES.—The term 'adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child by the taxpayer and which are not incurred in violation of State or Federal law.

"(2) INTERNATIONAL ADOPTION.—The term 'international adoption' means an adoption—

"(A) occurring under the laws of a foreign country, or

"(B) involving a child who was a citizen of a foreign country who—

"(i) was brought to the United States for the purpose of adoption, or

"(ii) came to the United States under circumstances with respect to which the necessity for the child's placement in adoption proceedings was reasonably foreseeable.".

(2) CONFORMING AMENDMENTS.—

(A) Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) ADOPTION EXPENSES.—The deduction allowed by section 221.".

(B) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Adoption expenses.
"Sec. 222. Cross references.".

(b) CREDIT.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting before section 45 the following new section:

"SEC. 44F. ADOPTION EXPENSES.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the adoption expenses paid or incurred by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) MINIMUM DOLLAR AMOUNT.—The first $500 of adoption expenses paid or incurred with respect to the adoption of any child shall not be taken into account under subsection (a).

"(2) MAXIMUM DOLLAR AMOUNT.—The aggregate amount allowable as a credit under subsection (a) for all taxable years with respect to the adoption of any child shall not exceed $3,500 ($4,500 in the case of an international adoption).

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) DEFINITIONS.—For purposes of this section, the terms 'adoption expenses' and 'international adoption' have the meaning given such terms under section 221(c).".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"44F. Adoption expenses.".

(B) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "section 44E, and section 44F".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in connection with any adoption which becomes final after December 31, 1980.

By Mr. JEPSEN:

S. 1581. A bill to amend the Internal Revenue Code of 1954 to allow the taxpayer the choice of a tax credit or a deduction for each household which includes a dependent person who is at least 65 years old; to the Committee on Finance.

S. 1582. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation certain trusts established for the benefit of parents or handicapped relatives, and to provide a deduction for contributions to such trusts; to the Committee on Finance.

S. 1583. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for contributions made by a taxpayer to an individual retirement plan for the benefit of a nonsalaried spouse; to the Committee on Finance.

TAX DEDUCTIONS OR EXEMPTIONS RELATING TO MEMBERS OF FAMILIES

Mr. JEPSEN. Mr. President, all too often, low- and moderate-income families are forced to put their elderly parents into subsidized nursing homes. This, even though studies show that many of these older citizens would be much better off at home. There are a number of reasons this occurs, but the primary one is cost.

Many individuals simply cannot afford to keep their parents living with them because of the financial strain. I am therefore introducing a bill to allow a family a tax credit or a tax exemption if they take upon themselves the responsibility of caring for an older relative.

As health care costs continue to skyrocket, tax subsidies cannot attempt to match the amount of money required to keep an elderly dependent at home. But it is certainly a more cost-effective, more humane solution than putting an elderly loved one in a federally regulated, subsidized, institution.

In addition, I am also introducing a bill to allow the establishment of parental trust accounts. These would operate in a manner similar to individual retirement accounts. Under my bill, a deduction of up to $3,000 for contributions to the PTA would be allowed, as long as the trust were established to care for a qualified beneficiary.

No part of the trust could be used for any purpose other than providing care for any qualified beneficiary, paying administrative expenses of the trust, or making a mandatory distribution. The trustee of the trust must be a bank or similar institution or a person satisfactory to the Secretary of the Treasury. No beneficiary of the trust can be a beneficiary of any other qualified parental trust account.

As I mentioned earlier, these changes cannot possibly account for all of the expenses involved in caring for an elderly dependent. But it is a help. It would be more cost effective and it would enable many older individuals desiring to live at home to remain there.

The final provision I am introducing today deals with individual retirement accounts. As you know, Mr. President, Congress made a number of changes regarding IRA's during consideration of the President's tax bill. Unfortunately, a very important change was overlooked.

Under present law, individuals can only make contributions to an IRA based on their own employment or that of their spouse, if the spouse is also employed. This totally ignores the important role a homemaker plays and implies that this work is worthless. My bill would allow an individual to make contributions to an individual retirement account on behalf of his or her spouse.

In order to take advantage of this provision the spouse could not have any earned income of his or her own. For the purpose of computing the amount of the spouse's contribution to the IRA, the spouse would be deemed to have compensation equal to the compensation included in the working spouse's gross income for the taxable year.

The maximum deduction for each individual would remain as under current law—the lesser of 15 percent of compensation or $1,500—with the exception that if the spouse were handicapped, the maximum deduction would be $3,000.

In the past, when efforts have been made to help people deal with a particular problem, the Federal Government has always responded by setting up a new program or establishing a new agency. Many of us believe that the proper response should be to give people a chance to come up with their own solutions. My bill attempts to do just that.

Instead of subsidizing health care institutions, we are helping people choose the alternative—allowing elderly individuals to stay at home. Instead of insuring that social security is the only retirement available to individuals, we are giving them additional opportunities to set up their own retirement programs.

I do not profess to believe that my bills will solve all of the problems facing older Americans or their families. But they do provide viable alternatives to the current system. For any of my colleagues desiring additional information on these provisions or a complete explanation of the measures, I refer you to title II, sections 203, 204, and 205 of the Family Protection Act which appears in the June 17, 1981, CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows;

S. 1581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting before section 45 the following new section:

"SEC. 44F. ELDERLY DEPENDENTS.

"(a) GENERAL RULE.—In the case of an individual who maintains a household which includes as a member a dependent who, as of the close of such individual's taxable year, has attained the age of 65, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, a credit of $250.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) SPECIAL RULES.—For purposes of this section, the special rules set forth in para-

graphs (1), (2), (3), and (4) of section 44A (f) shall apply with respect to the credit allowed by subsection (a).".

(b) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ELDERLY DEPENDENTS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains a household which includes as a member a dependent who, as of the close of such individual's taxable year, has attained the age of 65, there shall be allowed a deduction of $1,000.

"(b) SPECIAL RULES.—Paragraphs (1), (2), (3), and (4) of section 44A(f) shall apply with respect to the deduction allowed by subsection (a).

"(c) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax provided by section 44F (relating to elderly dependents). The election shall be made in such manner and at such time as the Secretary shall prescribe.".

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44F. Elderly dependents.".

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 221. Elderly dependents.
"Sec. 222. Cross references.".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "section 44E, and section 44F".

(d) The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.

S. 1582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. CONTRIBUTIONS TO QUALIFIED PARENTAL OR HANDICAPPED RELATIVE CARE TRUST.

"(a) GENERAL RULE.—In the case of an individual there is allowed as a deduction the sum of the amounts paid or contributed by that individual for the taxable year to or under a trust described in section 645 established by that individual to provide care for a qualified beneficiary (within the meaning of section 645(c)(2)).

"(b) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year may not exceed $3,000 with respect to payments to or contributions under a trust established for a single beneficiary.".

(b) Subpart A of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1954 (relating to general rules for taxation of estates and trust) is amended by adding at the end thereof the following new section:

"SEC. 645. QUALIFIED PARENTAL OR HANDICAPPED RELATIVE CARE TRUST.

"(a) EXEMPTION FROM INCOME TAXES.—

"(1) EXEMPTION FOR TRUST.—Except as provided in paragraph (3), a qualified parental or handicapped relative trust shall be exempt from taxation under this subtitle.

"(2) EXEMPTION FOR BENEFICIARY.—Except in the case of a mandatory distribution provided for in subsection (b), any amount distributed during the taxable year by a qualified parental or handicapped relative care trust shall not be included in the gross income for the taxable year of the qualified beneficiary to or for whose benefit such amount is so distributed to the extent that such amount is received by any individual—

"(A) who is not the spouse of the grantor of such trust, or

"(B) whose relationship to such grantor is not described in paragraphs (1) through (8) of section 152(a),

for the purpose of providing care for such beneficiary.

"(3) TRUST FUNDS TO BE TAXED ON DISTRIBUTIONS.—Except in the case of a mandatory distribution provided for in subsection (b), a qualified parental or handicapped relative care trust shall be treated as having taxable income for the taxable year in an amount equal to the sum of the amounts distributed by the trust during the taxable year, reduced by any portion of such distributions included in the gross income of a beneficiary for the taxable year under paragraph (2).

"(b) MANDATORY DISTRIBUTIONS.—

"(1) TO PARENT UPON ATTTAINMENT OF AGE 64.—In the case of a trust established for the benefit of a parent of the grantor, the amount in the trust shall be distributed to the beneficiary not earlier than the close of the taxable year in which the beneficiary attains age 64.

"(2) DEATH OF BENEFICIARY.—If the qualified beneficiary of a qualified parental or handicapped relative care trust dies, the amount in the trust shall be distributed to—

"(A) in the case of a qualified beneficiary who is a parent of the grantor, the surviving spouse of the beneficiary, or, if there is no surviving spouse, the grandchildren of the beneficiary, or, if there are no grandchildren of the beneficiary, to the grantor, or

"(B) in the case of a trust established to provide care for a qualified beneficiary who is a handicapped relative, to the children of such beneficiary, or if there are not such children, to the grantor.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PARENTAL OR HANDICAPPED RELATIVE CARE TRUST.—The term 'qualified parental or handicapped relative care trust' means any trust—

"(A) which is created and governed by a written instrument under which—

"(i) it is impossible, at any time before the termination of the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of care for any qualified beneficiary of the trust, the payment of administrative expenses of the trust, or a mandatory distribution required under subsection (b), and

"(ii) the grantor of the trust has no reversionary interest in any portion of the trust (other than in the case of a mandatory distribution required under subsection (b)(2)) which may take effect in possession or enjoyment before the death of all qualified beneficiaries of the trust or before all beneficiaries of the trust cease to be qualified beneficiaries of such trust;

"(B) the trustee of which is a bank (as defined in section 401(d)(1)) or any person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the purpose of the trust; and

"(C) no beneficiary of which is a beneficiary of any other qualified parental or handicapped relative care trust.

"(2) QUALIFIED BENEFICIARY.—The term 'qualified beneficiary' means a parent of the grantor or any individual—

"(A) who bears a relationship to the grantor described in paragraphs (1) through (8) of section 152(a); and

"(B) who, under regulations prescribed by the Secretary, at the time such trust is established, is unable to engage in any substantial gainful activity because of a medically determinable mental or physical impairment which can be expected to be of long-continued and indefinite duration.".

(c) (1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and by inserting in lieu thereof the following:

"Sec. 221. Contributions to qualified parental or handicapped relative care trust.
"Sec. 222. Cross references.".

(2) The table of sections for subpart A of part I of subchapter J of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 645. Qualified parental or handicapped relative care trust.".

(d) The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.

S. 1583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 219 of the Internal Revenue Code of 1954 (relating to deduction for retirement savings) is amended by inserting "or for the benefit of his spouse" immediately after "benefit".

(b) Paragraph (2) of section 219(c) of such Code (relating to married individuals) is amended to read as follows:

"(2) MARRIED INDIVIDUALS.—In the case of an individual who claims a deduction under subsection (a) for payments made for the benefit of his spouse—

"(A) The maximum deduction under subsection (b)(1) shall be computed separately for the individual and his spouse. For the purpose of making the computation for the spouse, the spouse shall be treated as having compensation includible in gross income for the taxable year equal to the compensation includible in such individual's gross income for the taxable year.

"(B) The deduction provided by subsection (a) shall be allowed for payments made for the benefit of such individual's spouse only if the individual and his spouse file a joint return of tax for the taxable year.

"(C) In the case of payments made for the benefit of a spouse who is handicapped within the meaning of section 190(b)(3), '$3,000' shall be substituted for '$1,500' in subsection (b)(1) and (b)(7).

"(D) No deduction shall be allowed under subsection (a) for payments for the benefit of a spouse for any taxable year for which—

"(i) the spouse has earned income includible in gross income, or

"(ii) a deduction would not be allowed if the spouse were the individual making the payment for the spouse's own benefit because of any limitation or restriction which would apply if the spouse were the individual making the payment.

"(E) This section shall be applied without regard to any community property laws. For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).".

(c) The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. ROTH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 10, a bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of Government in the United States and of restoring public confidence in Government at all levels.

S. 517

At the request of Mr. BENTSEN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 517, a bill to amend the Clean Air Act to provide for further assessment of the validity of the theory concerning depletion of ozone in the stratosphere by halocarbon compounds before proceeding with any further regulation of such compounds, to provide for periodic review of the status of the theory of ozone depletion, and for other purposes.

S. 635

At the request of Mr. HEINZ, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Montana (Mr. MELCHER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 635, a bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism.

S. 888

At the request of Mr. DURENBERGER, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 895

At the request of Mr. MATHIAS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 895, a bill to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to extend certain other provisions for an additional 7 years, and for other purposes.

S. 1131

At the request of Mr. DANFORTH, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1365

At the request of Mr. DOLE, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1365, a bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes.

S. 1423

At the request of Mr. HATCH, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1423, a bill to revise provisions of the Federal Mine Safety and Health Act of 1977, and for other purposes.

S. 1436

At the request of Mr. D'AMATO, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1436, a bill to amend the Securities Exchange Act of 1934 to require uniform margin requirements in transactions involving the acquisition of securities of certain U.S. corporations by foreign persons where such acquisition is financed by a foreign lender.

S. 1448

At the request of Mr. MATHIAS, the Senator from Montana (Mr. BAUCUS), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 1448, a bill to provide for the issuance of a postage stamp to commemorate the 70th anniversary of the founding of the Girl Scouts of the United States of America.

S. 1476

At the request of Mr. DURENBERGER, the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. EXON), the Senator from Wisconsin (Mr. KASTEN), the Senator from Ohio (Mr. METZENBAUM), the Senator from South Dakota (Mr. PRESSLER), the Senator from Arkansas (Mr. PRYOR), the Senator from Michigan (Mr. RIEGLE), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Michigan (Mr. LEVIN), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 1476, a bill to provide standby authority to deal with petroleum supply disruptions, and for other purposes.

S. 1528

At the request of Mr. PROXMIRE, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1528, a bill to amend the Social Security Act to provide for improved management of the social security trust funds and increase the return on investments to those funds.

S. 1536

At the request of Mr. CHILES, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1536, a bill to amend the Social Security Act to insure adequate short- and long-term financing of the old-age, survivors, and disability insurance program and the medicare program.

SENATE JOINT RESOLUTION 67

At the request of Mr. INOUYE, the Senator from Oregon (Mr. PACKWOOD), the Senator from Michigan (Mr. RIEGLE), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Ohio (Mr. GLENN), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of Senate Joint Resolution 67, a joint resolution to establish "National Nurse-Midwifery Week."

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1982

AMENDMENT NO. 526

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 4035) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes.

PRICE SUPPORT AND PRODUCTION INCENTIVES FOR FARMERS

AMENDMENT NO. 527

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS (for himself and Mr. QUAYLE) submitted an amendment intended to be proposed by them to the bill (S. 884) to revise and extend programs to provide price support and production incentives for farmers to assure an abundance of food and fiber, and for other purposes.

ELIMINATION OF SUGAR TITLE FROM THE FARM BILL

● Mr. TSONGAS. Mr. President, when we return in September, we will begin consideration of the 1981 farm bill (S. 884). Today, Senator QUAYLE and I are submitting an amendment to eliminate the sugar title from the farm bill. As proposed, the sugar program is a prime example of the special interest politics that several Members have pledged to eradicate. I am pleased to join with Senator QUAYLE in a bipartisan effort to delete these provisions for a sugar loan program from the farm bill.

The sugar title sets the loan rate for raw cane sugar for the 1982–85 crop years at no less than 19.6 cents per pound. Over the last several months, the world market price for sugar has ranged from 15 to 19 cents per pound. To insure that the Government does not lose money at the 19.6-cent level, the market price for sugar would have to be maintained at around 25 cents per pound. This rate would be maintained through duty and import fees.

The USDA has calculated that over the next 4 years, the sugar title could cost the American consumer nearly $5 billion. Every penny increase in the price of raw sugar adds over $300 million a year to the cost of consumer sweeteners. The provisions are highly inflationary and totally unnecessary.

Over the years, sugar producers have often sought high price supports for sugar and have thwarted the Government's attempt to protect consumers. In recent months, as a result of high prices, sugar processors and producers have enjoyed near record profits. Sugar processors and producers contend that without the loan program, they will face severe economic hardships. They point to the closings of a small number of sugar beet and sugar cane factories in the past few years as an example.

The truth of the matter is that these factories have closed because they were antiquated and ill-equipped facilities. It is not the responsibility of the U.S. Government to protect inefficient operations. Should the absence of a loan program create extreme hardships for the industry, the Secretary of Agriculture retains the discretionary authority under section 301 of the Agriculture Act of 1949

to implement a loan program as high as 90 percent of parity.

Under the provisions of the sugar title, a processor can get a loan from the Commodity Credit Corporation below market rates, with their sugar as collateral. If the loan is not repaid within the same fiscal year, the sugar would be forfeited to the Government. If the loan forfeitures occur, the cost to the Federal Government could run into the millions of dollars. Mr. President, the sugar industry is dominated by large corporations with enormous resources. These loans below market rates are hardly a protection for a struggling industry.

If anyone is struggling in this Nation, Mr. President, it is the American consumer. Title IX of the farm bill is inconsistent with the objectives of the administration and the 97th Congress. Congress has supported the President's approach in trying to lighten the burden of taxes and inflation on the consumer. This proposed increase in Federal spending—which will hurt the American consumer cannot be justified.

Our amendment has the support of the following organizations: Common Cause, Community Nutrition Institute, Congress Watch, Consumer Federation of America, Independent Bakers Association, International Longshoremen's Association, American Bakers Association, Association for Dressings and Sauces, Biscuit and Cracker Manufactures Association, Chocolate Manufacturers Association, Flavor and Extract Manufacturers Association, International Association of Ice Cream Manufacturers, National Bakery Supplier Association, National Food Processors, National Association of Fruits, Flavors & Syrups, National Preservers' Association, National Restaurant Association, National Soft Drink Association, Pickle Packers International, Inc., Process Apples Institute, Retail Bakers of America, Sugar Workers Council of North America, and the U.S. Cane Sugar Refiners' Association.

Mr. President, we need a strong farm bill that serves the needs of the entire Nation and not just a few special interest groups. I urge support for our amendment.●

DELETING THE SUGAR PROVISION FROM THE 1981 FARM BILL

Mr. QUAYLE. Mr. President, today I am joining with my colleague from Massachusetts (Mr. TSONGAS) in submitting an amendment to S. 884, the 1981 farm bill, which would delete the proposed mandatory price support program for domestically produced sugar.

At a time when the Congress and the administration are working to respond to the demands of the people for less Federal intervention in their lives, fewer Government programs, and economic recovery actions, it is highly inconsistent to mandate a loan program for domestic sugar.

The 19.6-cent loan rate included in the farm legislation reported by the Senate Committee on Agriculture would place a heavy burden on consumers and could result in taxpayers picking up a subsidy of millions of dollars a year.

Every 1-cent increase in the price of sugar is estimated to add, at a minimum, over $300 million a year to consumer sweetener costs. The present spread between the market price and the higher price that a loan program would require would add over $2.4 billion a year more to consumer costs. This certainly is not the way to fight inflation.

Mr. President, I certainly share my colleague's deep concern regarding the impact of the sugar provision on consumers. However, my support for deleting title IX also is based on my sincere belief that we must move to encourage a free market system in agriculture with less government involvement.

There is no demonstrable need for this subsidy program. The Reagan administration did not request a sugar provision in its farm bill. In fact, it is incompatible with the President's economic program.

Secretary of Agriculture John Block underscored this fact when he testified this spring before the Senate Agriculture Committee. The Secretary stated:

Sugar prices today are high. They are well above any support we might even anticipate establishing. I am sure we have some authority under old laws to set some loan levels and do some things if the need should arise.

I really think the sugar industry is in pretty good shape operating in a free market system right now.

The Secretary does indeed have discretionary authority under section 301 of the Agriculture Act of 1949, as amended, to provide some loan levels if the need should arise. In addition, there are other safeguards for the domestic industry relating to foreign competition through various tariffs and quotas.

Mr. President, in recent months this Congress and the administration have responded dramatically to the mandate given by the people for a new beginning in our economic policies. We have voted historic reductions in Federal spending and approved a much-needed 3-year program of tax reductions. If would be inconsistent with this new beginning to permit a newly mandated Federal loan program for a handful of sugar producers to stand.

We therefore urge the deletion of the sugar provision and invite other Senators to join us in this necessary legislative effort.

SENATE CONCURRENT RESOLUTION 26—CONCURRENT RESOLUTION RELATING TO EDUCATION PROGRAMS IN SCIENCE AND TECHNOLOGY

Mr. NUNN submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 26

Whereas the Soviet Union has demonstrated a long-term commitment to scientific and technological education (10 years compulsory schooling in Mathematics and Science, to include 3 years Arithmetic, 2 years Algebra, 10 years Geometry, 2 years Calculus, 5 years Physics, 4 years Chemistry, 1 year Astronomy, 5½ years Biology);

Whereas the United States' thrust in science and technology has diminished (1 year Algebra, 1 year Geometry, and 1 year in some science);

Whereas the traditional technological superiority enjoyed by the United States is dwindling due to the disparity in the commitment;

Whereas the communications and electronics industry pervades all aspects of American life, produces gross profits of over $200 billion per year, and employs more personnel than any other industry in America;

Whereas the fields of communications and electronics are at the core of advancing technology;

Whereas American society needs a continuous flow of trained individuals oriented to and knowledgeable in the area of science and technology;

Whereas the Armed Services are procuring increasingly complex and sophisticated equipment but are receiving persons with little or no scientific or technological orientation;

Whereas it is in the best interest of the United States to reverse the trend of declining U.S. technological superiority and continue to lead in all areas of science and technology;

Whereas the maintenance of leadership in science and technology requires greater emphasis on education, particularly for American youth;

Whereas the United States, unlike the Soviet Union which dictates the educational and occupational direction of its youth, must motivate and inspire our youth to enter the fields of science and technology;

Whereas it is in the best interest of the United States to encourage the public and private sectors (educational institutions, businesses, foundations) to provide students at all levels with opportunities to visit and/or work in non-academic environments as part of their curriculum;

Whereas it is in the best interest of the United States to support the establishment of a National Science Center dedicated to that core of advancing technology, communications and electronics.

Whereas such a National Science Center would promote the interest of the public at large in science and technology, tie the academic, corporate and governmental worlds together to reach a common goal, and thus become a national asset: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Congress should encourage educational programs in the area of science and technology; and that the Congress encourages the establishment of a National Science Center for Communications and Electronics.

SENATE RESOLUTION 199—RESOLUTION TO AUTHORIZE "NATIONAL PRODUCTIVITY IMPROVEMENT WEEK"

Mr. NUNN (for himself, Mr. BENTSEN, and Mr. EAST) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 199

Whereas the desire of American citizens to maintain a decent standard of living has been seriously hampered by the damaging effects of continued economic inflation; and

Whereas a positive stance to reduce inflation involves a total commitment by all private and public sectors of the United States economy, and

Whereas increases in the rate of productivity in industry, business and government

can have a substantial role in reducing inflation, and

Whereas many different techniques, systems and incentives are available which could significantly enhance productivity growth, and

Whereas an awareness of the critical need of productivity improvement will promulgate wider application of productivity improvement methods, and thereby help eliminate the inflationary cancer which threatens our nation, now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States by proclamation designate the week of October 5 through October 11, 1981 to be "National Productivity Improvement Week," for the purpose of providing for a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States, for an increased public awareness of the potential for significantly reduced inflation offered by productivity growth, and for encouraging the development of methods to improve individual and collective productivity in the public and private sectors.

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

● Mr. NUNN. Mr. President, for the past 2 years it has been my pleasure to offer on behalf of the American Institute of Industrial Engineers a Senate resolution designating a week in October as "National Productivity Improvement Week." The importance of providing a better understanding of the debilitating effects of stagnating productivity on the economic well-being of the United States continues to be one of our Nation's most serious economic issues. For this reason, I am pleased to submit this resolution which expresses the sense of the Senate that the President of the United States by proclamation designate the week of October 5 through October 11, 1981, to be "National Productivity Improvement Week" for 1981.

As you know, without labor productivity gains, increases in hourly wages must inflate unit labor costs, and these costs add fuel to our continuing inflationary crisis. Productivity improvements reduce the inflationary impact of hourly wage increases.

Simply put, productivity growth can reduce inflation. Not only can it help to wind down the wage-price spiral, but it can also serve to improve the security of American jobs. Over the last 10 years, it is estimated that declining U.S. competitiveness has cost an estimated $125 billion in lost production and more than 2 million industrial jobs. This is directly related to the fact that, while American productivity growth has declined since 1967, our foreign competitors, such as Germany and Japan, have consistently attained average productivity gains at least three or four times that of the United States.

There are numerous ways in which productivity growth may be encouraged, such as increased rates of capital investment, reduced energy costs, and improved research and development efforts. Any successful solution to our productivity crisis, however, will require a clear appreciation of both the serious effects of declining productivity growth, as well as the potential that a reversal of this trend holds for significantly reducing the inflationary crisis that grips our economy.

Mr. President, I am therefore pleased that once again the American Institute of Industrial Engineers, whose members are actively engaged in management of plant design and engineering, systems engineering, production and quality, energy conservation, performance and operations standards, material flow system and operational research, has continued their public information campaign to promote a better understanding of the critical aspects of productivity improvement. Efforts such as these are to be commended and encouraged, and I am pleased to join in the cosponsorship of this resolution designating October 5 through 11, 1981, as "National Productivity Improvement Week." I am hopeful that the Senate will act expeditiously on this resolution.●

SENATE RESOLUTION 200—RESOLUTION RELATING TO THE SCHEDULED MEETING OF THE INTERPARLIAMENTARY UNION IN HAVANA, CUBA

Mr. HOLLINGS (for himself and Mr. HARRY F. BYRD, JR.) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 200

Whereas the Government of Cuba has military forces or advisers in many trouble spots throughout the world, including Angola, Ethiopia, and Yemen, and is involved in activities in El Salvador and Nicaragua in conflict with the interests of the United States;

Whereas the Government of Cuba not only continues, but deepens, its dependence upon Soviet arms and aid;

Whereas the Government of Cuba has expelled large numbers of its nationals, deliberately causing an enormous influx of refugees into the United States during a short period of time;

Whereas the Interparliamentary Union, an organization consisting of members of parliaments or other national legislatures from about 90 countries, including the United States, is scheduled to meet in Havana, Cuba, from September 15 to 23, 1981; and

Whereas the United States Olympic Committee refused to participate in the 1980 Summer Olympic Games held in Moscow as a protest to the invasion of Afghanistan by the Soviet Union; and

Whereas the House of Representatives on January 24, 1980, and the Senate on January 29, 1980, went on record in favor of nonparticipation in the Moscow Summer Olympic Games because of the unacceptable international behavior of the host country: Now, therefore be it

Resolved, That the Senate hereby expresses its disapproval of United States participation in the meeting at Havana, Cuba, of the Interparliamentary Union to be held from September 15 to 23, 1981.

SCHEDULED MEETING OF INTERPARLIAMENTARY UNION IN HAVANA

Mr. HOLLINGS. Mr. President, I rise today to introduce a resolution putting the Senate on record against U.S. participation in the upcoming Interparliamentary Union meeting scheduled for Havana, Cuba, this September.

The kind of imprimatur that such a meeting puts on the host country—interpreted by some almost as an international Good Housekeeping seal of approval—is altogether inappropriate in this instance, given the aggressive record of the Castro regime.

The morning paper reports Secretary of State Alexander Haig's report to the Senate Armed Services Committee yesterday that Cuba is importing a flood of arms directly from the Soviet Union. Arms deliveries in the first 7 months of 1981 are double the amount brought into Cuba during all of 1980. We have long known, of course, that Cuba has willingly put itself at the disposal of Soviet Russia, opening its borders to Soviet military personnel, submarines, missiles, weapons of a wide diversity, and communications equipment to monitor us and feed the information networks of our adversaries.

The Secretary made it clear in his report yesterday that some of this weaponry is being reexported to Nicaragua and El Salvador, further fueling the flames of turmoil in Latin America. Cuba has, since Castro's coming to power, fomented revolution and terror throughout Central and South America. I ask unanimous consent that an article from this morning's Washington Post be printed in the RECORD at this point of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET ARMS SHIPMENTS TO CUBA ARE RISING, HAIG TELLS SENATORS

(By Don Oberdorfer)

Secretary of State Alexander M. Haig Jr. said yesterday that the Soviet Union is shipping arms to Cuba in near-record quantities, and that Moscow has given "unsatisfactory" replies to U.S. objections.

Haig volunteered his concern about the Cuban shipments in a closed-door session of the Senate Armed Services Committee while justifying U.S. arms sales abroad and the need for congressional approval of increased funds to facilitate them. The text of Haig's prepared remarks was made public by the State Department.

According to Haig, "Soviet military deliveries" to Cuba in the first seven months of this year were more than twice the volume received during all of 1980. Haig suggested that "with moderate additions" the final total for this year will be the largest since 1962, the year of the Cuban missile crisis.

Haig did not give figures in his published testimony, but told The Boston Globe in an interview that 40,000 tons of "sophisticated" Soviet weapons had been shipped to Cuba so far this year.

Haig told reporters on Capitol Hill that most of the new weaponry is believed to be earmarked for modernization of Cuba's regular armed forces or for arming the new "territorial militia" that President Fidel Castro is forming with the expressed purpose of defending against a U.S. invasion. The militia was originally announced last year but was not actually organized until the Reagan administration came to power in January

Haig said there is "solid evidence" that some of the Soviet weaponry has made its way from Cuba to Nicaragua and the insurgent forces in El Salvador.

According to Haig, U.S. discussions with the Soviets on the matter, while unsatisfactory to date, have not been terminated.

Using a phrase that has been used to suggest military pressure or force, Haig added, "There are other aspects of going to the source which are under consideration now in respect to the Cuban situation, and those reviews will continue. And that's all I feel it prudent to mention today."

Haig cited the Soviet shipments to Cuba as a "dramatic illustration" of increasing Soviet activity in the developing world which justifies greater U.S. efforts. Haig told the committee that the Soviet Union last year spent $16 billion for arms to the developing world while the United States transferred $10 billion to such countries.

Haig appealed for congressional action on the security assistance program, which is part of the foreign assistance bill, saying that its status in Congress is "alarming." House Democratic leaders have refused to schedule the aid bill until they are assured of necessary Republican votes to put it through.

The aid program has operated without passage of a full-scale bill for the past two years, a "shortsighted approach" which could have "serious consequences" if repeated this year, according to Haig.

In a related development, Pentagon sources said Cuban MIG21 fighters were twice turned back by U.S. Navy F14s southeast of Florida this month when it appeared that the Cubans might be headed for the U.S. aircraft carrier Independence. The sources said the interceptions were over international waters and the planes got no closer than 60 miles from the carrier.

Mr. HOLLINGS. In addition, Cuban military forces intrude in the far corners of the world, such as Angola, Ethiopia, and Yemen. To further exacerbate relations between our two countries, Castro opened the emigration floodgates, pouring down a tide of boat people on our southern coast, in such a way as to make orderly handling of them impossible. And now we hear that the Cuban dictator is charging the United States with germ warfare against his island.

What Fidel Castro stands for is contrary to all that we stand for, and contrary to the peaceful and prosperous development of the Western Hemisphere. If the new world was called into being to redress the inequities of the old, surely Castro has done his best to plant the seeds here of everything we have striven to overcome. The march to freedom he would stamp out with the stultifying ideology of communism. The ongoing, hemispherewide advance toward economic progress he would smother with the heavy hand of Marxian economics. The broadening expectations of the people of the Americas he would stifle with every totalitarian tool that he can devise himself or import from his Soviet friends.

Mr. President, as a member in good standing of the Interparliamentary Union, I understand the good that our conferring with other parliamentarians accomplishes. I realize the decision on Cuba is not the responsibility of the Interparliamentary Union group from the United States and our distinguished chairman, the Senator from Vermont. It was not their decision. I do not have any idea that they expect particularly to meet with Mr. Castro. But I understand, also, that there are times when conferring with potential adversaries accrues to America's advantage. Indeed, I would recommend as necessary such dialog, because there are times when the executive branch cannot be in touch with some countries, as when diplomatic relations may be for one reason or another ruptured or downgraded. And it is because of this general policy that U.S. nonparticipation in the Havana proceedings would be all the more poignant.

There is no reason for the legislative branch to even seem to be putting a stamp of approval on Fidel Castro at this time. Castro presides over a thoroughgoing dictatorship at home and responds to the beck and call of his Soviet masters overseas. I think that because of the IPU's record of conferring and going the extra mile. American nonparticipation in the Havana meeting would make the point all the more tellingly. It would demonstrate to the world our abhorrence of the regime Mr. Castro has inflicted upon the people of Cuba, and it would provide hope that one day that regime will endure no longer.

America refused to participate in the 1980 summer Olympic games in Moscow because of the Soviet invasion of Afghanistan. I supported that not out of any illustion that our refusing to play would somehow persuade the Soviets to get out of Afghanistan. Rather it was one measure of our disapproval. I wish it had been accompanied by more positive American initiatives. My colleagues will remember both Senate and House going on record overwhelmingly in favor of staying away from those games in January of 1980.

As for Cuba, I offer this resolution not from any overblown idea of what it can accomplish. But it is a restatement of American principle for the freedom and integrity of this part of the world, and its purpose is to keep our U.S. IPU delegation from inadvertently helping build the credibility of Fidel Castro. Additionally, it will help keep shining the hopes of our North and South American citizens for a better tomorrow by focusing the spotlight of world opinion on the excesses of today.

Accordingly, I introduce this resolution asking my colleagues to go on record in disapproval of U.S. participation in the meeting in Havana, and I hope they will join me in this reaffirmation of the most basic principles for which our country must always stand.

Mr. HARRY F. BYRD, JR. Mr. President, recently, the Senator from South Carolina (Mr. HOLLINGS) submitted a resolution which seems to me to have a great deal of merit and should have the attention of the Senate. The resolution submitted by Senator HOLLINGS—the Senator from Virginia is a cosponsor—expresses the sense of the Senate with respect to a scheduled meeting of the Interparliamentary Union in Havana, Cuba, in September.

The resolution points out that the U.S. Olympic Committee, last year, refused to participate in the 1980 summer Olympic games held in Moscow as a protest to the invasion of Afghanistan by the Soviet Union. The resolution also points out that the House of Representatives, last year, and the Senate, last year, went on record in favor of nonparticipation in the Moscow summer Olympic games because of the unacceptable international behavior of the host country, namely, Russia.

Mr. President, we know of the aggressiveness of Castro's Cuba. Just yesterday, Secretary of State Haig told the Senate Committee on Armed Services that Russia, this past year, greatly increased its military supplies to Cuba. The Secretary of State told the Committee on Armed Services yesterday that Cuba has stepped up its activities in the Western Hemisphere. We know, of course, of what Cuba has done in the way of sending troops to Angola and other areas of the world. We know that Castro has oppressed the people of Cuba. We know that Cuba is only a very short distance from the United States. Yet, it is a Communist, Marxist, Russian-dominated area.

It seems to me that it would be unwise for the Congress of the United States to send an official delegation to Cuba for the Interparliamentary Union. The Interparliamentary Union is a fine organization. I believe it is helpful for our country to participate, under normal conditions, in the activities of the Interparliamentary Union. However, I should dislike to see the United States participate in a conference in Castro's Cuba under the conditions existing today.

The executive branch has put an embargo on trade with Cuba, and I believe that the Congress of the United States would be going contrary to the best interests of our Nation and contrary to the wishes of the American people if it should participate officially in a conference in Cuba at this time.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

On Friday, September 11, beginning at 1 p.m., the subcommittee will receive testimony on S. 933, a bill to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes. The hearing will be held at the city hall in Newell, S. Dak.

On Saturday, September 12, beginning at 9:30 a.m., the subcommittee will rereceive testimony on S. 1553, a bill to authorize the Secretary of the Interior to proceed with the development of the web pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power. The hearing will be held at the city auditorium in Pierre, S. Dak.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Re-

sources, Subcommittee on Water and Power, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings, you may wish to contact Mr. Russ Brown of the subcommittee staff at 224–5726.

ADDITIONAL STATEMENTS

ECONOMIC RECOVERY TAX ACT OF 1981

● Mr. MOYNIHAN. Mr. President, on Wednesday I voted for the tax cut bill—the Revenue Act of 1981. I did so primarily because taxes are too high. And they have been too high for nearly two decades. In an era of inflation the last significant individual tax cut was in 1964, a measure President Kennedy first proposed. I raised this issue when I ran for the Senate 5 years ago, I voted for a tax cut last August in the Finance Committee, that bill never reached the Senate floor, I again voted for a tax cut in the Finance Committee on June 25, and I cast my vote for a tax cut on Wednesday.

This bill passed. And it should have passed. In 1980 Federal taxes were 20.3 percent of gross national product. This year they will be 21.1 percent. In 1982 even with this tax cut they will be 20.4 percent which is simply back to last year.

Inflation has been called the cruelest tax of all, and it is. It has to be offset. Clearly the time has come to cut individual tax rates, as this bill does and beyond that to index these tax rates in order to insulate them from the ravages of inflation.

That is why I supported a floor amendment that will automatically increase personal exemptions and tax brackets as the consumer price index increases. This will prevent taxpayers from being pushed into higher tax brackets merely because wages have gone up to match prices.

I also voted for this bill because it contains, at long last, many of the reforms I have worked for since my election to the Senate.

One of the most flagrant loopholes in the Tax Code is the so-called commodity tax straddle which has allowed the wealthy to create paper losses and thus avoid paying millions of dollars in taxes.

The Treasury Department has cataloged thousand of instances of this abuse including one individual with a 1-year income of nearly $11 million who paid not 1 cent of tax.

I sponsored the provision included in the tax cut bill which closes this loophole and which will save the Treasury over $1 billion of lost revenue next year.

In each of the last two Congresses I have introduced legislation that would eliminate the so-called marriage penalty. Many couples find that their taxes increase after marriage. A couple with both spouses working and each earning $15,000 must pay the IRS $1,000 more than they would if they were single. The bill we have passed will reduce this penalty but not eliminate it. A step in the right direction and thus deserving of support. I will continue to work for the complete elimination of the marriage penalty.

Since 1978 I have been a prime sponsor of bills to allow all taxpayers to deduct their contributions to charity. Currently only those who itemize their personal deductions may do so. This tax cut bill incorporates my provision. It will not only correct a major inequity in the tax code, 80 percent of the direct benefit will accrue to taxpayers with incomes below $30,000 but it will stimulate private giving to charitable institutions. This is especially important because of the major reduction in the Federal Government's contributions to the arts, humanities, and sciences.

Finally it has long been my view that any tax reform package must include substantial incentives for investment. This Nation's productive capacity has become outmoded and inefficient in large measure because of our low rate of savings and investment. This bill will increase investment by reducing the top tax rate for investment income from 70 to 50 percent, making it the same as the maximum rate on wages.

These are the reasons I voted for this bill. But any measure as large and complex as this one must have some less attractive features. Here the most disappointing of these is that the tax cuts are not targeted more toward poor and middle-class taxpayers. Those who pay most of the taxes and need the cut the most.

This bill is also flawed by the many concessions to special interests which at times made it appear that a great auction of the Treasury was going on.

I voted in committee and on the Senate floor to target the tax cut more to middle-class taxpayers and I opposed unfair concessions to oil companies and large estates and the creation of new opportunities for tax sheltering.

On balance though I think we have a good bill, worthy of support. And that we have provided Americans the first hope in many a year that their taxes will go down.

Mr. President, I ask that a table showing the distribution of the tax cut by income be included in the RECORD.

The table follows:

ECONOMIC RECOVERY TAX ACT OF 1981[1]

DISTRIBUTION OF INDIVIDUAL INCOME TAX[2] REDUCTIONS BY INCOME

Income	Percent of taxes paid today	Percent of total reduction		
		1982	1983	1984
Under $5,000	(−0.1)	0.2	0.2	0.2
$5,000 to $10,000	2.2	2.7	2.5	2.4
$10,000 to $15,000	5.7	5.6	5.4	5.4
$15,000 to $20,000	8.0	7.7	7.7	7.8
$20,000 to $30,000	20.4	19.4	20.5	20.7
$30,000 to $50,000	29.9	29.4	31.4	31.3
$50,000 to $100,000	18.0	17.1	18.2	18.4
$100,000 to $200,000	8.4	7.6	7.4	7.5
Over $200,000	7.4	10.4	6.8	6.1
Total	100.0	100.0	100.0	100.0

[1] As amended by the Senate Finance Committee.
[2] Individual income tax note reductions and deduction for 2-earner couples.

Source: Economic Recovery Tax Act of 1981, report of the Senate Comm ttee on Finance on H.J. Res. 266, Rept. No. 97–144, July 6, 1981.●

REPORT TO THE PRESIDENT OF THE U.S. SENATE ON FISCAL YEAR 1981 CONGRESSIONAL BUDGET

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1981 pursuant to section 311 of the Congressional Budget Act. Since my last report the Congress has cleared for the President's signature House Joint Resolution 308, urgent health and human services supplemental appropriations for 1981.

The status report follows:

REPORT TO THE PRESIDENT OF THE U.S. SENATE, FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1981 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 115

REFLECTING COMPLETED ACTION AS OF JULY 23, 1981

[In millions of dollars]

	Budget authority	Outlays	Revenues
Revised Second Budget Resolution level	717,500	661,350	603,300
Current level	715,195	660,962	611,900
Amount remaining	2,305	388	8,600

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $2,305 million for fiscal year 1981, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 115 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $388 million for fiscal year 1981, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 115 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $8,600 million for fiscal year 1981, if adopted and enacted, would cause revenues to be less than appropriate level for that year as set forth in H. Con. Res. 115.●

QUESTIONS AND ANSWERS ON SOCIAL SECURITY AND CIVIL SERVICE RETIREMENT PROGRAMS

● Mr. EXON. Mr. President, there has been a great deal of discussion recently about the social security system and its future. Many of my constituents have asked me questions which reflect their great concern about social security. Those who qualify for the civil service retirement program have also raised questions about this retirement system's future.

I have subsequently put together a series of the most commonly asked questions, along with my answers, relating to social security and civil service retirement.

I ask that the information be printed in the RECORD.

The information follows:

QUESTIONS AND ANSWERS RELATING TO SOCIAL SECURITY AND CIVIL SERVICE RETIREMENT

Q. How is the social security program funded?

A. Social Security is really four programs, three of which are financed by taxes paid on the basis of a person's wages or self-employed income. These programs are (1) the old-age and survivors insurance program, called OASI: (2) the disability insurance program; and (3) the hospital insurance program which is Part A of Medicare.

These three programs are financed by a payroll tax on earnings—currently 6.65 percent for employees and 6.65 percent for employers on a worker's earnings up to $29,755. A specific portion of the taxes are earmarked for a separate trust fund for each program, and benefits under one program cannot be paid from one of the other trust funds. One program, Part B of Medicare, which pays for doctor's bills, is financed by monthly premiums paid by people enrolled in the program and general revenues.

Q. What happens to the social security taxes that are paid?

A. The social security payroll taxes are collected by the Internal Revenue Service from employers, who pay their share and the employees' share which is withheld from wages, and from self-employed people. The taxes are then credited to separate trust funds for the three social security programs. These trust funds are managed by the Secretary of Health and Human Services, the Secretary of the Treasury, and the Secretary of Labor.

Q. What happens to the tax money paid into the social security trust funds?

A. Virtually all of the social security taxes received every year are used to pay benefits in the same year. Social security is thus a pay-as-you-go program. It is financed under a policy known as "current-cost financing." Because current social security taxes are almost immediately paid out to current beneficiaries, the trust funds really serve primarily as a contingency reserve against unforeseen increases in benefits or declines in revenues.

Q. Is there a problem with social security that leads so many to say that it is running out of money?

A. Yes, there is a problem. One part of the problem is very critical. Current projections show that the old-age and survivors trust fund will not have enough money to pay benefits by mid-1982 and, if economic conditions worsen, the fund could be exhausted late this year. So action must be taken by the Congress this year to correct this problem.

The other part of the problem is serious but not critical. One way to determine whether social security is financially sound is to project revenues to the trust funds, and benefits to be paid, over the next 75 years. Looking at social security this way, it has been determined that there is a deficit but time is on the side of correcting this part of the problem.

Q. In looking at the critical problem just mentioned, just how bad are things and what can be done about them?

A. The real problem is with the OASI, the old-age and survivors insurance program. For each of the next 5 years (1981–1985), it is projected that this program will pay far more in benefits than it receives in income. In fact, without some action by the Congress, sometime in 1982 there will be no money in that fund to pay benefits.

However, for the disability and hospital insurance programs, income is expected to exceed benefit payments substantially in each of these years.

Consequently, one possible way to solve the critical, short-run problem is to borrow among these three trust funds to assure that OASI benefits continue to be paid. This action would not alter either the amount or timing of benefits, or the payroll taxes now in the law. At the very least, this would give the Congress the time to consider further measures.

Of course, one could modify benefit increases or reduce benefit amounts. Or, one could raise additional payroll taxes or other funds to finance Social Security.

All of these solutions would require action by the Congress.

Q. Why is there a problem with the main social security trust fund, the OASI fund?

A. The major problem stems from a combination of factors. One of the major difficulties is that, over the past few years, there has been higher unemployment and also a decline in the gain in real wages than was anticipated. Among other things, this has severely reduced the amount of social security taxes being paid into the trust fund.

A second problem relates to the provision in the social security law which increases monthly benefits every year at the same rate as prices increase. As long as prices and wages rise at close to the same rate, this isn't a problem. But over the past few years, prices have jumped dramatically and at a far greater rate than wages. This has led to higher monthly benefits than what was anticipated when the present tax rates were written in the law, and certainly more benefits being paid from the trust fund than taxes being paid into it.

Q. What kind of guarantee exists that there will be enough money in the social security trust funds for me when I am eligible to retire?

A. The only true guarantee is that, since the Social Security program was enacted in 1935, each President and the Congress has shown a deep and continuous commitment to social security beneficiaries. For over 40 years each President has recommended, and each Congress provided, sufficient revenues to pay benefits over a long period of time. It is also true that for more than 40 years Social Security has met all its obligations and no one entitled to social security benefits has failed to receive them. But in the long run the financial soundness of Social Security rests on the determination of the President and the Congress to follow through on financial commitments.

Q. Will there be benefit reductions in social security before I am old enough to retire?

A. There may be. However, at this time, both the President and the Congress are only studying what to do about social security, and reducing benefits is only one of several possibilities for helping to correct the financial deficits in one of the social security trust funds. Recently, the Senate unanimously stated that the Congress would not approve immediate or inequitable reductions in benefits for early retirees or cut benefits more than necessary to save the system's finances.

Reducing benefits is not a pleasant prospect for anyone, but if Federal spending must be cut because of the country's present economic problems, it is reasonable to ask why every segment of our society should not bear some of these cuts. It should also be remembered that for most of the last 40 years, economic conditions were very favorable, and the social security program was expanded during those years to include more and more benefit categories as well as increases in benefit amounts. Now, economic conditions have turned around. And there are other government programs which provide assistance to people now receiving certain types of social security benefits. The question might be asked whether social security should pay benefits in these areas any longer.

Q. Does a person ever get back in social security benefits what he or she paid in social security taxes?

A. Most people by far get back what they paid into social security. For example, if a person paid the maximum taxes between 1937 and 1980, the total contribution would be $12,790.10. If that person was a man and became 65 in 1981, his monthly benefit would be $653.80. If he had a spouse who was 65 in 1981, the spouses benefit would be $326.90. The total monthly benefit for this couple would be $980.70.

As can be seen, at this monthly benefit rate, the couple would recover its taxes in about 15 months. Even considering the employer share of the taxes as really being on behalf of the employee, the total taxes would be recovered in 30 months and this is not taking into consideration the automatic annual benefit increases in social security. Of course, during these months, the couple would be receiving Medicare protection as well.

Q. How many people get social security benefits and how many people pay social security taxes?

A. About 36 million people received monthly cash benefits under the old-age and survivors insurance and disability insurance programs. These benefits total about $11 billion each month. The average monthly benefit for a retired worker is $363; for a disabled person, the average monthly check is $395.

About 95 percent of all the people age 65 and over are covered under Medicare.

About 115 million workers in the United States paid social security taxes last year on their earnings or self-employment income.

Q. What kind of benefits does the social security program pay?

A. As might be expected, the social security programs pay benefits for different situations. The old-age and survivors insurance program (OASI) pays monthly cash benefits after a worker retires. Benefits are paid to the worker, his or her spouse, and the worker's younger children. Should a worker die, the surviving spouse and children are paid monthly benefits. This particular part of social security is often overlooked, but it enables a worker to be assured that, after a few years in covered employment, his or her family will be protected should death occur before retirement years.

The disability insurance program pays monthly benefits to a worker, his or her spouse, and younger children should the worker become severely disabled and no longer can work. Should the worker recover or successfully return to work, benefits would stop.

The hospital insurance program, Part A of Medicare, pays for hospital and related care for people age 65 or over and for the long-term disabled.

Q. How does a person get benefits from the social security taxes which he or she pays?

A. Benefits are *not* paid on the basis of social security taxes. Instead, the worker's earnings (wages or self-employment income) on which the social security taxes are based are credited toward future benefits. A record of each person's earnings is kept by the Social Security Administration using the person's social security number. A separate "account" such as one might have at a bank or savings and loan institution is not kept. Benefits are then calculated under a complex formula that takes into account a worker's age, past earnings, and years of employment.

Q. Couldn't the financial condition of the social security program be helped a great deal by requiring Federal workers to be under social security?

A. Yes, it could be—at least for the next few years—because the initial taxes which Federal workers would pay into the system would be more than the benefits that would

be paid to Federal retirees during those first few years. As time went by, however, more and more Federal retirees would be collecting benefits. Whether bringing these workers under social security would have a long-range financial benefit would depend on a number of factors, including how the Civil Service Retirement system might be changed and how that system was combined with social security to cover gaps in protection for Federal workers and to eliminate duplicate coverage.

Some people believe that Federal workers, as well as State and local government employees who are not now covered under social security, should be brought into the system not only because it would help the financial condition in the next few years but also because all Americans should have a stake in the country's primary retirement system. Others say that while this might be a worthwhile goal, it should be considered on its own merits and not as a means just to pump money into the special security trust funds.

Q. Couldn't a lot of social security money be saved by cutting down on the number of social security workers on the social security payroll?

A. Not really. About 85,000 Federal employees administer the social security program. The vast majority of these employees work for the Social Security Administration, which has its headquarters in Baltimore, Maryland, as well as 10 regional offices, 6 payment centers and over 1,300 local offices located throughout the United States. (Nebraska has 10 social security offices—6 of which are primary district offices.) The total administration expenses for administering social security—which includes the salaries paid to Federal employees who do the work—amount to about 2 percent of the social security taxes collected. In other words, about 98 cents of every social security tax dollar collected is paid back in benefits.

Q. What is SSI and is it part of the Social Security program?

A. SSI is the Supplementary Security Income program. It provides a basic level of income for aged, blind, and disabled people who have very little income. Although SSI is run by the Social Security Administration, it is not part of the regular social security program.

In the first place, SSI is paid for by general tax revenues and not from social security trust funds or any other special funds. Thus, a person does not have to work under social security in order to get SSI benefits. Second, SSI was run by the States until 1974 and was called "old-age assistance and aid to the blind and disabled." However, Congress changed the law so that the program would be run primarily by the Federal Government, and this responsibility was given to Social Security.

Applications for SSI are filed in social security offices and claims are processed by Social Security. Many people receive both monthly social security and SSI checks, but the programs are separate. Even the colors of the checks are different—the social security checks are green and the SSI checks are gold.

Q. What is the Civil Service Retirement system and how does it relate to social security?

A. The Civil Service Retirement system (CSR) is the retirement program for Federal civilian workers, those who work for Members of the Congress and for the Congress itself, and U.S. Senators and Representatives.

CSR is not related to social security. In fact, Federal workers who are working under CSR are not covered under social security while working in a Federal position. Rules about retirement age, determining the amount of a monthly pension, disability protection, and so forth are quite different under CSR and social security.

Q. How is the Civil Service Retirement system funded?

A. Participation in Civil Service is mandatory for Federal employees and requires a payroll contribution fixed by law, which currently is 7 percent, of the worker's total salary. Members of the Congress contribute 8 percent of their pay; congressional staffs and Federal workers on hazardous duty contribute 7.5 percent of their pay. A Federal worker's employing agency then matches the worker's contribution on a dollar-for-dollar basis. The amount comes from the agency's budget.

However, the Federal worker's contribution and the matching amount paid by the employing agency are far from adequate to pay future benefits for current workers; and they do not cover the cost of benefit payments being made to present annuitants. As a result, Federal general revenues must be appropriated each year to cover the benefits and administrative expenses that are greater than the contributions paid. In Fiscal Year 1980, for example, the general revenue amount was 45.6 percent of total Civil Service Retirement funding for that year.

Q. What happens to the worker's contribution and the employing agency's matching amount?

A. In practice, the Civil Service Retirement program operates on a pay-as-you-go basis. Contributions paid by Federal workers and the employing agency's matching amount are credited to a special trust fund as income, and all CSR benefits plus administrative expenses are paid from that fund.

However, as previously noted, these funds are not nearly enough to pay benefits in any given year and money must be appropriated from the general treasury to make up the difference. Retired Federal workers, their survivors, and disabled workers thus received benefits that are subsidized by the rest of the American people.

Q. What kind of benefits are paid under the Civil Service Retirement program?

A. The basic benefit categories are: retirement benefits; survivors' benefits; and disability benefits. Retirement benefits are generally based on a combination of the worker's age and length of service. Survivor's benefits are based on the same factors for the worker who died, but also depend in some respects on the number of children who survive the worker. Disability benefits are also paid under the program.

As of the end of 1980, there were slightly over 900,000 retired annuitants receiving benefits under CSR and 343,000 receiving disability benefits.

Q. How does the Civil Service Retirement system (CSR) compare to social security?

A. It is very difficult to compare the two programs. The reason is that they were designed for different purposes. CSR was intended to be the sole source of retirement protection for Federal workers while social security was designed primarily to provide a floor of protection that people could build on by their own savings, by a company pension plan, and so forth.

Apart from the differences in purpose, there are so many other differences between CSR and social security that comparison of their value or worth is virtually impossible. Even their costs are different. For example, Federal workers pay a percent of their total salary into CSR, while workers covered under social security pay a lower percent on wages up to a certain dollar ceiling. On the other hand retirees under both programs are treated differently from a tax standpoint; social security benefits are tax-exempt; CSR benefits are not.

But there are advantages to CSR. For one thing, a Federal worker can generally retire at a much earlier age than other workers and, after retirement, receive cost-of-living raises in benefits that are far superior to workers in the private sector.●

WARE'S INDIANS: MASSACHUSETTS CHAMPIONS

● Mr. TSONGAS. Mr. President, Ware, Mass., has again lived up to its national reputation as "The Town That Can't Be Licked." Just as Ware was able to whip economic disaster during the 1930's, the Ware High School baseball team whipped all opposition this year to become Division III Massachusetts State champions. The team and the town's people are proud of this first State championship for the Ware High Indians.

Ware High did not become champs overnight. Through the leadership and fine coaching ability of George Robidoux, Ware High made it to the State finals last year only to be defeated in a close game. This year under the tutelage of Dave Robidoux, George's son, and assistant coach Tom Orszulak, Ware High not only won its division with a 22–2 record, but went on to beat Palmer High for the western Massachusetts title, and Matigon of Cambridge in the State semifinals. The Indians took the State championship by defeating Blackstone/Milville by a score of 6–4.

The Robidoux father/son team has worked over a 12-year period to bring Ware High this championship. There have been many fine players over the years, but the 1981 team was indeed exceptional. In fact, this team placed an unprecedented seven out of nine starters on the western Massachusetts all-star team.

The 1981 championship squad was led to the State title by a talented group of seniors whose spirit and enthusiasm gave the team that little extra needed to gain the championship. Among them was the team's ace pitcher Kevin Lavallee. The "Boomer," as he is called by his teammates, had a record of 10–1, with an ERA of 0.49 in 1981. During his high school career he struck out an amazing 294 opponents in just 159 innings. He also was a powerful hitter with a batting average of .346, 7 homeruns and 30 RBI's.

Another team leader was second baseman Pete Orszulak. Pete was described by Coach Robidoux as "the best athlete on the baseball team." He played varsity football, basketball, and baseball in each year of his 4 years at Ware High, a feat accomplished by very few athletes in the high school. Pete had a career batting average of .393 and was a defensive standout.

The team was blessed with fine on-the-field leadership in the person of all-star catcher Greg Taggart. Greg batted .411 in 1981 and had only one passed ball in the 24 games he caught. Greg not only excelled on the baseball field but in the classroom where he graduated second in his class.

The first base position was anchored by senior all-star Dana Kent, considered by many fans to be the most pleasant surprise of the season. Dana did not

start a game for the 1980 baseball squad but ended up hitting .444 in 1981. Dana's best performances were during the tournament game where he batted a sizzling .600, going 9 for 15.

Sean McQuaid, a senior left fielder, stabilized an inexperienced outfield with many fine defensive plays during the year. Sean hit a solid .273 in 1981 and had six game-winning hits—a team record.

The last of the group of seniors was Sean Madigan. Despite a 3-year absence from baseball, Sean returned to the varsity in 1981 and ended the season with a .311 average. Known by his teammates as "Mad Dog," Sean inspired the team with his hard-nosed play and constant enthusiasm.

The juniors on the team were led by third baseman/pitcher Billy Joe Robidoux. Billy Joe was 6–0 as a pitcher and hit an astonishing .584 on his way to shattering his own school record for most hits in a season (43) with 47 hits in 24 games. Billy Joe's fine performances in the district and State tournaments were acknowledged when he was voted the "Most Valuable Player" of the tournament.

Junior shortstop Chip Malbeouf, in his first year on the varsity squad, was considered by team followers to be the offensive and defensive spark plug of the team. From his leadoff position Chip batted .371 and drove in 19 runs. Chip's all-star performance far exceeded the expectations of his coach and the Ware fans.

Another key performer on the Ware team was junior/pitcher outfielder Brian St. Onge. Brian had many key relief performances during the tournament, pitching up four saves and finishing the season with a record of 5–1. In addition to being selected to the all-star team in baseball, Brian is also a member of the western Massachusetts all-star basketball team.

Rounding out the starters for this year's championship team was centerfielder Steve "Koko" Kocur. Steve batted .381 during the tournament games and is an outstanding centerfielder. Many of his acrobatic catches in the outfield squelched opponents' rallies and were greatly appreciated by the Ware fans, witnessed by their standing ovations.

Mike Kutt, a junior reserve outfielder, played well when he was called on. He batted .400 as a pinch hitter and displayed promise as an outfielder.

David Desforges, a junior pitcher/infielder was 1–0 on the mound and batted .375. Dave is expected to be a key member of next year's pitching staff.

The only sophomore on the Ware squad was reserve catcher Sean Slattery. Sean batted a team-leading .615, including a game when he had six hits in six at-bats. Sean has a bright future and fits right into the proud Indian tradition of excellence.

Complementing the successful efforts of the team were the dedicated performances of third base coach Mike Dowd and manager Dave Gaugler.

Mr. President, on August 15, 1981, the Ware Sports Booster Association, under the leadership of Athletic Director Paul Orszulak, will honor the Ware High baseball team with a chicken barbecue at the Knights of Columbus grounds. An elaborate program is planned. A tape recording of the tournament games' highlights, as broadcast over radio station WARE will be played. Don Prohovich, a former Ware High athletic superstar and now coach of the Harwich Mariners in the Cape Cod League, will return to his hometown and be the keynote speaker. The team will receive a special resolution passed by the Massachusetts State House of Representatives. A major highlight of the evening will be the presentation of championship rings to each varsity player and the coaches. Local merchants, industries, clubs, organizations and town residents have contributed over $3,000 for this worthwhile memento.

Mr. President, I want to add my congratulations to the division III State Championship Ware High baseball team for a job well done this year and wish them all the best for a successful season in 1982.●

MAGINOT MENTALITY

● Mr. COHEN. Mr. President, I would like to share with my colleagues an excellent editorial from a recent edition of the Boston Globe entitled "Maginot Mentality."

I believe there is a growing consensus in the Congress regarding the need to spend our defense dollars more efficiently. In order to convince our constituents of the need to strengthen our national defense by increasing defense spending, we must show the defense budget is not exempt from the same sort of scrutiny that other Government agencies are receiving.

This article, Mr. President, makes many worthwhile observations about the need to get our money's worth in defense spending, and I commend it to my fellow Senators for their consideration.

The article follows:

MAGINOT MENTALITY

W. C. Fields expressed the dominant American attitude toward military spending in "The Bank Dick" in 1940. As Egbert J. Souse, prominent ne'er-do-well in the town of Lompoc, Fields visits the Black Pussy Cat Cafe one morning to inquire of the bartender:

"Say, was I in here last night and did I spend a twenty dollar bill?"

Informed that he did, Fields roars: "Boy, is that a load off my mind. I thought I'd lost it!"

For more than three decades, a bipartisan consensus in Congress has supported the unwritten motto of the Pentagon: when in doubt, spend. John Kennedy's discovery of a "missile gap" in the 1960 campaign rescued the motto from the skepticism of the Eisenhower era, with its businesslike, bigger-bang-for-a-buck philosophy. Lyndon Johnson and Richard Nixon pursued the motto to its grotesque end in the jungles of Vietnam. Jimmy Carter and Gerald Ford each promised to "get a handle" on the Pentagon budget, but inflation—both a symptom and a cause of military spending—helped throttle their careers.

Ronald Reagan cheerfully campaigned on the more-is-better talisman, as if increased outlays for weapons would not affect inflation. Besides ignoring the political and moral costs of increasing the world's arms supply, he disregarded the truism that bombs and bullets are, by definition, nonproductive and inflationary.

The 1980s will clearly be an era of more military spending. The task for both Congress and the Reagan Administration is to avoid a Maginot mentality. In 1927, the French General Staff and defense minister Andre Maginot fought the previous war by building a huge, expensive chain of intricate underground fortifications along the German border. In 1940, as W. C. Fields was enjoying his more-is-better philosophy, the Nazi blitzkrieg simply skirted around the Maginot Line, conquering France in six weeks.

Politically, the Reagan Administration enjoys a cushion in Congress, a probably majority of those who buy the Pentagon's more-is-better line. When in doubt, this Congress will spend. The dialogue on military spending, therefore, needs a strain of patriotic dissent, free from the ritualistic responses of the recent past.

"Since Vietnam, Democrats have found it difficult to talk about military issues," says Sen. Gary W. Hart (D-Colo.). "That war shattered our moderate consensus on defense. It polarized the nation into hawks, who wanted to spend any amount on defense, and doves, who wanted to cut any amount from defense. Those distinctions still prevail, and, too often, Democrats are considered antidefense."

In his 1980 re-election campaign, Hart emphasized the military issue. His television ads portrayed him emerging from an Army tank. Coloradans discovered that their senator had joined the Naval Reserve. His campaign was criticized by liberals with whom Hart had worked when he was George McGovern's campaign manager in 1972.

Having paid that price in criticism, Hart is now working in the Senate to achieve a new bipartisan consensus on arms spending. Several of his recruits are of the same post-Vietnam generation in Congress: Sens. William Cohen (R-Me.), Christopher Dodd (D-Conn.), Bill Bradley (D-N.J.) and Arlen Specter (R-Pa.). In the House, Reps. Newt Gingrich (R-Ga.) and William Whitehurst (R-Va.) are asking the basic questions that seek to change congressional thinking about military spending.

"It is not a quantitative question, but a qualitative one," says Hart. "We must commit greater resources to defense than we have. There are areas where we must spend more, such as military pay, readiness and naval shipbuilding."

In examining what kind of ships the Navy should be building, Hart suggests that replicating World War II's fleet is foolish.: "Unlike the Japanese Imperial Navy, the Soviet Navy is primarily a submarine navy. Can one fight a submarine navy with big carriers loaded with attack aircraft? The answer is—at best—probably not."

Fortunately for the Reagan Administration and Congress, a new book sums up in 200 cooly-presented pages the responsibility they must face together. James Fallows of The Atlantic, onetime speechwriter for President Carter, has written "National Defense,' a guide to how the trillion dollars of the taxpayers' treasure should be spent in the next half-decade.

In examining manpower and weapons policy, Fallows sees the very size of the military budget as one of its obstacles. Big-spending prospects produce a "culture of procurement," he says, "which draws the military toward new weapons because of their great cost, not in spite of it."

This is a lesson that nearly every Secretary of Defense learns. Robert S. McNamara, after his term at the Pentagon, said "Congress has bought defense the way women buy perfume. If it costs more, they conclude it must be better." Melvin R. Laird last year warned

the incoming Administration: "The worst thing that could happen is for the nation to go on a defense spending binge that will create economic havoc at home and confusion abroad and that cannot be wisely dealt with by the Pentagon."

Caspar Weinberger enjoyed a reputation in California as "Cap the Knife," a diligent cost-cutter on social welfare programs. He needs help from Congress if he wishes to avoid "throwing money at" military problems.

Sen. Hart and his cohorts may provide that by shifting the spending argument from quantity to quality, from how much to how effectively. "We don't want to argue whether more is better or less is better," Hart says, "we want to change ways of thinking until we agree that smarter is better."●

ELDER JOHN RILEY

● Mr. METZENBAUM. Mr. President, on August 1, the members of the Church of God in Christ in my State of Ohio will observe "Elder John Riley Night." I want to add my voice to the many others that will be raised on that occasion in recognition of the 40 years of outstanding service that Reverend Riley has given to his church and his community.

I have known Reverend Riley for many years and I can testify that he is a man who has made the principles of his faith a part of his daily life. Reverend Riley believes in giving—giving unselfishly of himself to make this world a better place for others.

John Riley cares about the young people of this country. He has worked with and for them through the Boy Scouts of America and the YMCA.

He cares about the unemployed. And so he has served on the board of trustees of Cleveland's OIC and as a member of OIC's National Clergy Support Committee.

He cares about the sick. And so he has given his time and energy to the American Red Cross, the Heart Association, the March of Dimes and Forest City Hospital.

And, Mr. President, Reverend Riley believes passionately in the principle of full equality for all Americans. He has been a strong spokesman for civil rights and an active member of the Urban League and the NAACP.

Mr. President, I believe that a great part of the strength of our country is derived from the freely given work of individuals like Rev. John Riley, who take upon themselves the burden of community service. I am very pleased, therefore, to join Bishop Robert S. Fields and the many friends of Reverend Riley in expressing gratitude and admiration to a man who has, in the words of Bishop Fields, "spent the major part of his life in service to God and his fellow man."●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Dennis P. Sharon, a member of the staff of Senator GOLDWATER, to participate in a program sponsored by a foreign educational organization, "Tamkang University School of American Studies in Taipei, Taiwan," from August 17 to 24, 1981.

The committee has determined that participation by Mr. Sharon in the program in Taiwan, at the expense of Tamkang University, to discuss the military and strategic situation in the Western Pacfic, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received requests for a determination under rule 35 which would permit the following named individuals to participate in a program sponsored by Soochow University, in Taipei, Taiwan from August 3–11, 1981:

Mr. Jerry W. Cox, of the staff of Senator DANFORTH; Dr. Jan H. Kalicki, of the staff of Senator KENNEDY; Mr. Edwin C. Graves, of the staff of Senator HUDDLESTON; Mr. Winslow Wheeler, of the staff of Senator KASSEBAUM; Mr. David G. Shoultz, of the staff of Senator HAWKINS; Mr. Vernon C. Loen, of the staff of Senator ABDNOR; Mr. Bruce Lindsay, of the staff of Senator PRYOR; and Mr. Sanford G. Kinzer, of the staff of Senator LEAHY.

The committee has determined that participation by Messrs. Cox, Kalicki, Graves, Wheeler, Shoultz, Loen, Lindsay, and Kinzer in the program in Taiwan, at the expense of Soochow University, to discuss economics and international relations, is in the interests of the Senate and the United States.●

ROSS DOYEN BECOMES PRESIDENT OF THE NATIONAL COUNCIL OF STATE LEGISLATURES

● Mr. DOLE. Mr. President, Ross Doyen of Concordia, Kans., will be installed today as president of the National Council of State Legislatures.

Ross Doyen has been a close friend, and there is no doubt in my mind that he will prove to be an outstanding leader for the NCSL, just as he has been for the Kansas State Senate since 1975, when elected president of that body.

Both Houses of Congress and the President of the United States have laid the groundwork for State governments to reestablish their traditional role in our political system. Legislatures throughout the Nation will, in their upcoming sessions, vote on issues of great importance—issues that have for too long been decided here in Washington.

Mr. President, the Senator from Kansas welcomes this change, and looks forward to the next period in American history. This will be an era in which modern Americans regain control of their lives, an era in which State and local governments will once again have the voice that they should never have lost.

This Senator salutes the National Council of State Legislatures on its successful convention in Atlanta, and offers his best wishes to its new president, Ross Doyen, of the Kansas State Senate.●

TRIBUTE TO PAT McCARRAN

● Mr. LAXALT. Mr. President, I rise before you today to pay tribute to a great Nevadan, a respected and beloved Member of this body, and a great American, Pat McCarran.

The Nevada Legislature, sitting in its 61st session, voted to name August 8 'Pat McCarran Day." In honor of that day, and in honor of the great man to the Nevada Legislature has so recognized, I would like to make a few short remarks today about the contributions Pat McCarran made to his State and his Nation.

Patrick Anthony McCarran was born in Reno, Nev., on August 8, 1876. He attended Nevada public schools and graduated from the University of Nevada in 1901. A farmer and rancher, Pat McCarran was first elected to the Nevada Legislature in 1903. After studying law, he was admitted to the bar in 1905 and served as district attorney in Nye County, Nev., from 1907 to 1909. He served as an associate justice of the Nevada Supreme Court from 1913 to 1917 and was named chief justice in 1917 and 1918.

Pat McCarran was first elected to the U.S. Senate in 1932 and was reelected three times. The inscription on his statue in the U.S. Capitol reads, "Lawyer-Judge-Senator—A True American from Nevada." That, to my mind, is an eloquent tribute to a man whose life touched the lives of so many others. He was a distinguished jurist before he began the career for which he was most known. He became a U.S. Senator who both championed the needs of Nevada and was a real servant to the Nation.

Pat McCarran knew well that the economy of Nevada and the well-being of its citizens depended, in great part, on a strong mining industry. In the U.S. Senate, he introduced or supported legislation which stabilized the price of silver, allowed stockpiling of strategic metals, and provided incentive payments and depletion allowances for the industry.

The major industry of Nevada, tourism, came under fire in the early 1950's. There were allegations of criminal influence in the gaming industry and attempts were made to legislate against legalized gambling in a roundabout manner by imposing a heavy tax on the gross receipts of gambling places. Pat McCarran, defending the right of the State to legalize, regulate, and control gambling without the undue interference of the Federal Government, played a vital role in killing this proposal.

In addition to being a vocal and effective supporter of his State, he became a national figure as chairman of the U.S. Senate Judiciary Committee. It was during his chairmanship that the Judiciary Committee passed legislation which resulted in the Administrative Procedures Act, the act which governs agency pro-

mulgation of rules and regulations. He was a major sponsor of legislation to reorganize and streamline the executive branch through careful analysis of agency goals and functions. He sponsored the McCarran-Ferguson Act, which gave jurisdiction over insurance matters to the State governments. In short, he was a strong advocate of responsible, reasonable government which serves all the people, not small but vocal special interests.

Mr. President, I salute Pat McCarran. And I echo the words of Senator William S. Knowland of California.

I think quite truthfully, that it will be a long time, if ever, before this Chamber again sees the like of Pat McCarran.●

REMARKS OF SENATOR PELL AT DEVRY INSTITUTE OF TECHNOLOGY

● Mr. DIXON. Mr. President, recently my distinguished colleague from the State of Rhode Island (Mr. PELL) gave an address at the graduation ceremonies of the DeVry Institute of Technology in Chicago.

In his remarks, Senator PELL calls on us to remember the enormous benefit our Nation receives from the Federal Government's investment in higher education programs.

I commend the distinguished Senator's remarks to my colleagues and ask that the full text of Senator PELL's speech be printed in the RECORD at this point.

The remarks follow:

REMARKS BY SENATOR CLAIBORNE PELL

Mr. Frey, Father Long, President Edmonds, Faculty, Families, and most important, you students.

First may I say what a fine job of representation Senators Percy and Dixon do for you. It is my particular pleasure to work very closely with Senator Percy as his Ranking Minority Member, and may I add what a truly fine and excellent Chairman of the Foreign Relations Committee is Chuck Percy.

It is a great pleasure to be with you today and participate in this your golden anniversary. I have always been tremendously impressed with the educational programs of the Bell & Howell Education Group, and to take part in these ceremonies today and to share the spirit of enthusiasm that is prevalent today, is extremely exciting.

Today is a milestone for all of you who are graduating. You are now about to enter one of the most exciting and promising fields in our nation, electronics. Electronics is one of the major growth industries in this nation, and the training you have received at the DeVry Institute will prepare you well for entry into that field. And it is a field that is vital to this nation. In the 1980–81 Edition of the Occupational Outlook Handbook, the Department of Labor stated that "an astronaut, a doctor, a mechanic, and a business executive all have something in common—without electronic devices they would be unble to do much of their work. Without the thousands of people working in electronic research and production, space exploration would be impossible and doctors would not have modern electronic equipment to help them diagnose and treat many diseases. Mechanics rely heavily on electronic testing equipment to locate malfunctioning engine and machine parts, while business executives depend on electronic computers to provide more and better information . . . and reduce the cost of their operations." I think it is safe to say that the world of electronics affects all of us in a very profound manner. And now you are part of that world.

All of you who are graduating today have just benefited from an opportunity that is essential if we are to prosper as a nation. You have just experienced the chance to learn, to acquire knowledge, and to personally advance yourselves. Without these chances, our nation and our people would be static. Without our diverse system of education, which is able to meet the appetites for learning of all our people, our country would not be the technologically advanced democracy that it is. Our system of education is a good one, and your presence here today is evidence of that. As one who has been involved with educational matters during all of my twenty years in the Senate, I know the true value of education to the prosperity and growth of a nation. I have always supported programs to advance education, and I intend to continue that support as long as I am in the Senate.

Now that you have received your diploma, the doors of personal advancement will begin to open. You will enter a field where the possibilities of employment are almost limitless. It is a rapidly expanding field, and one in which change is commonplace. And because of the reality of constant and continued change, you will come to appreciate even more the crucial difference that knowledge and learning make to the progress of this nation.

Everyone associated with the Bell and Howell Education Group is involved with a unique type of learning. It is learning devoted to mastering a technical specialty. It is important learning, and it is especially beneficial to our nation. Because of this, I have always believed that technical learning should also enjoy the support of our government, especially through student financial assistance. Students who attend schools like the DeVry Institute should be eligible for all of the Federal student assistance programs, and I will continue to support and work for that goal.

I would like to add, though, that a basic premise of such assistance is that the students repay their loans as quickly as possible—and that the schools exercise all their best effort and diligence to ensure prompt repayment of the taxpayers' money.

Those who are graduating today will soon become productive members of a swiftly changing world. The pace by which this world changes is at times dizzying. The realities and lynchpins of today oftentimes become obsolete by tomorrow. Areas of knowledge and technology are advancing so quickly that many of you are going to have to go back to school several times in the years ahead to keep pace with the state of the art of your chosen occupation.

Over the years the Federal Government has taken the steps to see that funds would be available to students who desired that additional schooling and training. However, in the years ahead, a major question is whether those funds will continue to be available.

In this regard, we should remember that, over the past twenty-three years, we have developed a Federal student assistance policy that provides scholarship aid, work aid, and loans to millions of American students. Today, every American student who has the desire and the ability to pursue postsecondary education is eligible for at least one of these types of Federal assistance. During this past year, 2.8 million students received a Pell Grant; 645,000 students received Supplemental Grants; 990,000 students received Work-Study jobs; 914,000 students received Direct Student Loans, and 2,300,000 students received Guaranteed Student Loans. All of these programs have removed serious financial burdens to educational opportunity.

Our Federal policy today equalizes educational opportunities and marshals the creative energies of our nation's postsecondary educational institutions to address specific national needs. This policy opens wide the doors of postsecondary education to our citizens, and encourages their advanced schooling. It is a good and noble policy. However, it is a policy in jeopardy.

Today in Washington we are facing a new breed of national policy makers who are calling for a halt to this policy. They are saying that we have had too much, that our policies have gone too far. And through these new restrictive policies, they are effectively closing the doors of postsecondary education to millions of our citizens.

These policy makers, by calling for cutbacks in student aid, seemingly ignore the importance of advanced education to our nation. The investment the Federal government makes in the education of her people is a capital investment. Its benefits are long term. A better education means greater opportunities in the job market and the chance for increased earning power. The payoff should be clear to all. We get a nation of better informed, better prepared, and more talented citizens.

But there are those who would overlook that payoff. They get caught up instead in the contemporary rhetoric of Federal budget cutting. And much of this rhetoric completely ignores what these budget cuts are all about. It ignores the human dimension of these cuts, the dreams deferred and the goals set aside by millions of our people who find that they cannot afford to advance themselves through education.

For one who has been involved in the creation and expansion of these Federal student assistance efforts, the past few months in Washington have been extremely frustrating. During these months, we have been required to consider major changes in student aid programs. These changes have been proposed by the Reagan Administration in its efforts to balance the budget and bring Federal spending under control. In my opinion, these proposed changes in student aid programs are penny wise and pound foolish.

Let me tell you what some of these changes are, and what I see as their effect.

First, there have been changes proposed to completely alter the Pell Grant program, a program which I consider the single achievement of which I am most proud as I look back on my career in the United States Senate. It is a program which has enabled millions of young people from low- and middle-income families to attend college. With its enactment, the doors of educational opportunity opened widely. Yet, many of the changes we are considering certainly raise the question as to whether those doors will remain opened.

All of the changes being discussed concerning the Pell Grant program would make it more difficult for American families to be eligible for these grants. The changes would require students and families to finance a larger portion of their education than they currently have to out of their own pockets, and the changes would not take into account the ravaging effect inflation has had on these families' disposable income. The impact these changes would have is devastating.

If these changes were adopted, 190,000 students at independent postsecondary institutions and about 410,000 students at public postsecondary institutions would be knocked out of the Pell Grant program. These 600,000 students would not be eligible to receive a grant. I think such a development would be a national tragedy.

And the changes proposed for the Guaranteed Student Loan program are equally as damaging. These changes would totally repeal the Middle Income Student Assistance Act, which made every American student

eligible for the Guaranteed Student Loan program, and they run the risk of driving commercial lenders completely out of the program. These changes have the potential of forcing more than 500,000 students out of the program, and about 600,000 students, because they would receive smaller loans because of these changes, would have no choice but to go to a lower cost school or no school at all.

Under the most recent forecasts that we have received in the Senate Subcommittee on Education, the combined effect of these changes in the Pell Grant and Guaranteed Student Loan programs would be that college enrollments would decrease by 500,000 to 750,000 students. In my opinion, no nation can afford to waste such a large amount of talent.

For to my mind, the real strength of our nation is determined by the sum total of the education and character of our people. Thus, when I see massive, unplanned increases in defense spending being called for at the same time that essential student aid programs are being severely cut, I am concerned about whether or not we are really strengthening America.

Our strength cannot be measured solely in terms of aircraft carriers, bombers, or missiles. At home and abroad our leadership must be based upon more than the size of our arsenal of weapons. Ultimately, it must surely depend upon our people, and upon their capacity to build, sustain, enrich and enhance this society, which is the longest surviving democracy in the history of the world. That is why I believe it is as important to support programs that provide for the education of our people as well as that provided for the defense of our people. When one portion of this essential equation is supported and the other is not, I believe we make a serious mistake.

But those who graduate today are fortunate. You have completed your education under the existing Federal student assistance programs. Many of you have received the benefits of these programs. Student aid has been extremely important to many of you. Without it, a good number of you may not have had a chance to take part in the programs this wonderful institution has to offer. However, it is quite possible that unless the current mood in Washington changes, these programs will not be there to help your brothers, your sisters, your children, or even yourselves if you find it necessary to go back to school. We cannot allow that to happen.

As you leave this institution to become productive members of society, try not to forget the benefits this institution provided you, and how you were able to finance those benefits. Remember that student aid programs were important to you, and support them so that they can be important to those who follow you. G. K. Chesterton once said that "I do not believe in a fate that falls on men however they act; but I do believe in a fate that falls on them unless they act." Unless we act, we could see the end of Federal student assistance programs as we know them today. But if we act, as taxpayers, as advocates, as voters, and let public officials know the true worth of these programs, and the support they have in communities throughout this nation, we can make sure that these programs will exist for students in the future.

These programs have helped you. As you leave this institution, I hope you can commit yourself to supporting these programs in the future. Benjamin Disraeli said of England over 100 years ago that "upon the education of the people of this country the fate of the country depends." That is as true of our nation today as it was of England then. Student aid programs are essential if we are to be a strong, viable, educated, humane society. With your help and support, we can make the decisions that will ensure a prosperous fate for America, and a life of learning for her citizens.

Thank you for providing me with this chance to participate in this extremely important day with you. And good luck to all the graduates in whatever endeavors you may undertake from this day on.●

AID TO CYPRUS

○ Mr. PELL. Mr. President, today I was informed that the administration has reprogramed $1.5 million earmarked for refugee aid to Cyprus for use in connection with the Sinai peace force. This action comes on top of a decision earlier this year to reprogram $1 million from the Cyprus account for us in Liberia.

These combined reprogramings represent almost a 17 percent reduction in the already modest $15 million authorized and earmarked for use in providing assistance to the refugees displaced during the Turkish invasion of Cyprus in 1974 using American-supplied arms. Our aid to Cyprus is an earnest of America's commitment to a just and early settlement of the Cyprus problem. Withdrawing even a portion of that aid sends entirely the wrong signal to the people of Cyprus about the strength of that commitment, particularly in light of the huge increases in military aid programed for Turkey.

I wish very much that the administration would reconsider this decision. At the very least, I would hope and expect that the reprogramings made to date will not serve as a precedent in the future for considering aid to Cyprus as a convenient contingency fund for other purposes.●

AGENT ORANGE WORK GROUP FORMED

● Mr. CRANSTON. Mr. President, in December 1979 President Carter established the Interagency Work Group on Phenoxy Herbicides and Contaminants in order to assure that there would be active coordination and consultation between various Federal departments and agencies in connection with all Federal research efforts in matters related to agent orange. That work group issued seven reports, including analysis and comment on new scientific studies and other information on the health effects of exposure to agent orange as well as updates on certain previously available study results and Federal agent orange-related activities. The work group also offered constructive comments on the scientific protocol for the recently initiated epidemiological and followup study on the individuals who participated in the actual spraying operations in Vietnam, called ranch hand. With regard to the health-related concerns of Vietnam veterans about agent orange, the work group served as a very valuable source of expertise and counsel for the Congress, the executive branch, and the public.

Because I believe Vietnam veterans concerned about agent orange exposure deserve a high level of responsiveness from the Federal Government, I have advocated that the activities of this special work group continue. On February 27, 1981, I wrote to the President's Assistant for Policy Development, Mr. Martin Anderson, to urge that generally the work group be reauthorized and specifically designated as the body responsible for assuring that the VA, as required by section 307(c) of Public Law 96–151, consults and coordinates with other Federal entities in connection with the conduct of its agent orange study. Also, this was a matter about which I questioned the new Administrator of Veterans' Affairs, Mr. Robert Nimmo, during his confirmation hearing on July 9.

I am pleased to inform my colleagues that, since the committee's confirmation hearing, the administration's response in connection with my recommendations on the continuation of the work group has been encouraging. On July 22, I received a letter from Mr. Anderson in which he described the formation on July 17 of an agent orange working group of the Cabinet Council on Human Resources as a successor to the interagency work group. Although it is not yet clear to me what plans the President has for funding and staffing the newly constituted working group or what specific responsibilities will be assigned to it, the news of its formation was welcome. I intend to contact Mr. Anderson in connection with my remaining questions and to follow very carefully the progress made by the new working group.

Mr. President, I ask unanimous consent that my February 27 letter to Mr. Anderson and his July 22 response to me be printed in the RECORD at this point.

The letters follow:

THE WHITE HOUSE,
Washington, D.C., July 22, 1981.

Hon. ALAN CRANSTON, *Ranking Minority Member, Committee on Veterans Affairs, Washington, D.C.*

DEAR SENATOR CRANSTON: I am writing in response to your request for information relating to this Administration's determination to meet its responsibilities for assuring that the provisions of Section 307(c) of Public Law 96–151 are fully implemented.

Section 307(c) mandates the full coordination of Federal agency studies of the possible health effects of dioxin, one of the components of the "Agent Orange" defoliant, used in Vietnam.

In order to assure the Federal efforts in the area of dioxin-related research involve the widest range of Federal agencies, we have proposed to rename and expand the membership of the former Interagency Working Group on Phenoxy Herbicides and Contaminants.

The newly formed Agent Orange Working Group will be a working group of the Cabinet Council on Human Resources (see attachment).

We believe that the above actions will significantly expand our ability to carry out the statutory responsibilities of Section 307 (c) of Public Law 96–151, and underscore the seriousness of our concern for an issue of great importance to Vietnam veterans and their families.

Sincerely,

MARTIN ANDERSON,
Assistant to the President for Policy Development.

THE WHITE HOUSE,
Washington, D.C., July 17, 1981.

Memorandum for: Secretary Richard Schweiker, Chairman pro-tem, Cabinet Council on Human Resources.

From: Robert Carleson, Executive Secretary of Human Resources, Cabinet Council.

Subject: Agent Orange Working Group.

The Secretariat of the Human Resources Cabinet Council has established an Agent Orange Working Group. The lead agency will be HHS, and participating members drawn from:

Department of Defense.
Department of Agriculture.
Department of Health and Human Services.
Department of Labor.
Environmental Protection Agency.
Veterans Administration.
Action.
Office of Management and Budget.
Council of Economic Advisers.
Office of Science and Technology.
Office of Policy Development.

U.S. SENATE,
Washington, D.C., February 27, 1981.

MR. MARTIN ANDERSON,
Assistant to the President for Policy Development, The White House, Washington, D.C.

DEAR MARTIN: I am writing in connection with a matter that is of great importance to our Nation's Vietnam veterans and a deep concern of mine on the Veterans' Affairs Committee—Agent Orange. As you know, Agent Orange, the defoliant used by our Armed Forces in Vietnam, was contaminated by dioxin, one of the most toxic substance ever identified by the scientific community.

On December 11, 1979, President Carter established, through his Assistant for Domestic Affairs and Policy, an interagency work group to assure that all Federal efforts in the area of dioxin-related research are fully coordinated and that there is a wide and ongoing consultation among all the agencies involved. The President appointed the then-Department of Health, Education, and Welfare—an agency well-equipped, in my view, to deal with the difficulties involved and one not generally perceived as having an interest to defend in these matters—as the work group's chair agency.

On December 20, 1979, the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151) was enacted with provisions, in section 307(a), mandating the VA to design and conduct an epidemiological study on Agent Orange. In addition, for purposes of assuring that any dioxin-related study conducted by the Federal Government would be scientifically valid and conducted efficiently and objectively, section 307(c) of this law required the President to assure that the VA study is fully coordinated with all other Federal agencies' studies regarding the health effects in humans of dioxin exposure and that all appropriate consultation and coordination take place among the heads of Federal agencies involved in the design, conduct, monitoring, or evaluation of such dioxin studies. For your reference, I have enclosed a copy of section 307 of Public Law 96-151.

Since the interagency work group on dioxin (formally the Interagency Work Group on Phenoxy Herbicides and Contaminants) was created, it has issued six progress reports dealing with the many dioxin-related activities of the Federal agencies, including long-term research proposals and various clinical projects of a shorter length, which may help to provide the answers we seek about the possible health effects of exposure to substances containing dioxin. In addition, the work group has itself reviewed and commented on certain of these research proposals. I believe these reports and comments have been of definite value to the agencies involved in terms of the rapid dissemination of useful information, to the Congress in terms of providing members with succinct, periodic updates, and finally, to the public, in terms of widespread concern that the studies be as objective and useful as possible and that no unnecessary delays occur in the Federal Government's pursuit of answers in this area. I also believe that the work group could appropriately serve as the means of the President carrying out his statutory responsibility under section 307(c) of Public Law 96-151.

In light of the immediacy of the issues involved—the VA will, after great delay, shortly sign a contract for the design of the protocol for its study—and their great importance to Vietnam veterans and their families and to the health of many other segments of our population, I believe that the President should reauthorize the interagency group under the chairmanship of the Secretary of Health and Human Services, designating the group as the body responsible for assuring that the provisions of section 307(c) of Public Law 96-151 are fully implemented. Such a designation—accompanied by the appropriate delegation of the authority—would enhance the authority of the group and give greater weight to its recommendations as well as provide needed assurance of full implementation of those provisions.

I would very much appreciate hearing from you at your earliest convenience about these matters and learning of your response to my recommendations.

With warm regards,
Cordially,

ALAN CRANSTON,
Ranking Minority Member.

COMMENTS

SEC. 307. (a)(1) The Administrator of Veterans' Affairs shall design a protocol for and conduct an epidemiological study of persons who, while serving in the Armed Forces of the United States during the period of the Vietnam conflict, were exposed to any of the class of chemicals known as "the dioxins" produced during the manufacture of the various phenoxy herbicides (including the herbicine known as "Agent Orange") to determine if there may be long-term adverse health effects in such persons from such exposure. The Administrator shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to such dioxins or other dioxins.

(2)(A)(i) The Study conducted pursuant to paragraph (1) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(ii) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(B)(i) Concurrent with the approval or disapproval of any protocol under subparagraph (A)(i), the Director of the Office of Technology Assessment shall submit to the appropriate committees of the Congress a report explaining the basis for the Director's action in approving or disapproving such protocol and providing the Director's conclusions regarding the scientific validity and objectivity of such protocol.

(ii) In the event that the Director has not approved such protocol during the one hundred and eighty days following the date of the enactment of this Act, the Director shall (I) submit to the appropriate committees of the Congress a report describing the reasons why the Director has not given such approval, and (II) submit an update report on such initial report each sixty days thereafter until such protocol is approved.

(C) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in the second sentence of this subparagraph, a report on the Director's monitoring of the conduct of such study pursuant to subparagraph (A)(ii). A report under the preceding sentence shall be submitted before the end of the six-month period beginning on the date of the approval of such protocol by the Director, before the end of the twelve-month period beginning on such date, and annually thereafter until such study is completed or terminated.

(3) The study conducted pursuant to paragraph (1) shall be continued for as long after the submission of the report under subsection (b)(2) as the Administrator may determine reasonable in light of the possibility of developing through such study significant new information on the long-term adverse health effects of exposure to dioxins.

(b)(1) Not later than twelve months after the date of the enactment of this Act, the Administrator shall submit to the appropriate committees of the Congress a report on the literature review and analysis conducted under subsection (a)(1).

(2) Not later than twenty-four months after the date of the approval of the protocol pursuant to subsection (a)(2)(A)(i) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing (A) a description of the results thus far obtained under the study conducted pursuant to such subsection, and (B) such comments and recommendations as the Administrator considers appropriate in light of such results.

(c) For the purpose of assuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to dioxins is scientifically valid and is conducted with efficiency and objectivity, the President shall assure that—

(1) the study conducted pursuant to subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to dioxins; and

(2) all appropriate coordination and consultation is accomplished between and among the Administrator and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the study carried out pursuant to subsection (a), in the design, conduct, monitoring, or evaluation of such dioxin-exposure studies.

(d) There are authorized to be appropriated such sums as may be necessary for the conduct of the study required by subsection (a).●

HELSINKI ACCORDS AND THE SOVIET UNION

● Mr. PELL. Mr. President, this morning's New York Times featured a very thoughtful editorial on the Helsinki accords and the Soviet Union's failure to live up to its obligations under that agreement.

In the Helsinki Final Act, signatory states agreed that in the field of human rights and fundamental freedoms, they would act in conformity with the purposes and principles of the Universal Declaration of Human Rights. In addition, the Helsinki accords recognized the right of private citizens to take an active role in monitoring their governments' adherence to the human rights standards set forth in the agreement and the Declaration of Human Rights.

Nonetheless, the recent trial of Feliks Serebrov brings to 47 the number of individuals in the Soviet Union tried and imprisoned for attempting to monitor the Soviet Union's performance in meeting its human rights obligations under the Helsinki accords.

Although it has been tragic to see the hopes of Helsinki obliterated by the Soviet Union's crackdown on human rights spokesmen and the invasion of Afghanistan, the time and effort that went into formulating the Helsinki accords was anything but wasted. As the New York Times points out, the agreement gave all the participating nations the undeniable right to inquire into each other's performance in the area of human rights. Thus, at the various review conferences after Helsinki, the Soviet's disgraceful record in this field has been a legitimate topic for discussion, and the Soviet's cruel and repressive treatment of their own citizens has been bared for all the world to see.

The spirit of Helsinki will remain alive as long as we in the West remember those like Feliks Serebrov who are fighting for human rights behind the Iron Curtain.

Mr. President, I ask that the editorial from this morning's New York Times entitled "Helsinki Rights, Soviet Wrongs" be printed in the RECORD.

The editorial follows:

HELSINKI RIGHTS, SOVIET WRONGS

A circle has been cruelly closed in Moscow with the recent furtive trial of Feliks Serebrov. A 50-year-old factory worker, he is the last active member of a group that monitored the grotesque abuse of Soviet psychiatry for political purposes. Mr. Serebrov was charged with "anti-Soviet agitation" and now faces four years of hard labor and five more of internal exile. That brings to 47 the number of Helsinki monitors imprisoned by the Soviet Union. In Czechoslovakia, the most slavish of satellites, 16 monitors are in jail and 10 more await trial.

So much for the good faith of President Brezhnev's signature on the Helsinki accords six years ago this week. They promised to guarantee "the right of the individual to know and act upon his rights." But in perverse practice, it has become a criminal act for a Soviet (or Czechoslovak) citizen to ask the state to comply with the law. How dare these monitors intervene in the internal affairs of their own countries!

But these brazen violations discredit the Soviet Union, not the impulse that shaped the Helsinki agreements. Signed by 35 European and North American nations, they amounted to a calculated swap. In the absence of peace treaties, the Soviet Union wanted some formal Western acceptance of its expanded postwar boundaries and of the partition of Germany. For its part, the West obtained a Soviet pledge to open its empire to the somewhat freer movement of people and ideas.

The Helsinki Final Act did spur some cultural and commercial exchanges. But that would probably have happened without agreement. At the heart of the accord was a generous vision: that a less threatened Soviet leadership would deal more confidently with the world and less harshly with its internal critics. Those hopes were quickly dampened by the Kremlin's crackdown on prominent dissidents and all but buried in the East-West chill that followed Afghanistan.

Was the effort then worthless? Not quite. For the accords gave all participating nations the undeniable right to inquire into each other's performance on human rights. Of itself, that was a modest advance in the history of international accountability. It also encouraged agitation for greater freedom in Communist countries.

At successive Helsinki review conferences the disgraceful record of Soviet tyranny has been held up to view and Soviet spokesmen have had to struggle to explain why it is an offense for their citizens to take Mr. Brezhnev at his word. No real explanation was offered at the just-adjourned conference in Madrid. But when it reconvenes in October, the matter of the imprisoned Soviet monitors is sure to be raised again and again.

What would truly nullify the promise of Helsinki is Western indifference to the courageous few who have been branded as psychotics and criminals for finding inspiration in the accord. The ordeal of Feliks Serebrov will have no meaning if he is not defended in the only court still open to him.

On this human rights issue, at least, the Reagan Administration has not wobbled. It needs only to keep clear that it speaks not for diplomatic advantage but for universal principle and conscience.●

ARIZONA STATE LEGISLATURE ENDORSEMENT OF SANDRA O'CONNOR NOMINATION

● Mr. GOLDWATER. Mr. President, it is my great pleasure to announce that the Arizona State Legislature has given its official and overwhelming endorsement of the nomination of Sandra O'Connor to the U.S. Supreme Court. I have just today received from Rose Mofford, secretary of state of Arizona, the text of the concurrent resolution urging our body to swiftly confirm Sandra O'Connor's nomination.

The resolution passed the Arizona House on July 23 by 51 ayes and only 2 nays and passed the Arizona Senate on July 24 by 29 ayes and only 1 nay, indicating that the single-issue opposition to Mrs. O'Connor's nomination has virtually disappeared.

I ask that the text of the resolution and the certification of the resolution may appear in the RECORD.

The resolution and certification follows:

STATE OF ARIZONA
DEPARTMENT OF STATE

I, Rose Mofford, Secretary of State, State of Arizona, do hereby certify that the annexed document is a true, correct, and complete copy of House Concurrent Memorial 2001, Thirty-Fifth Legislature, Second Special Session, 1981; that I am the official of the State of Arizona in custody and control of the original of said document and the legal keeper thereof.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Arizona. Done at Phoenix, the Capital, his 27th day of July, 1981.

ROSE MOFFORD,
Secretary of State.

HOUSE CONCURRENT MEMORIAL 2001

To the President and the Senate of the United States of America:

Your memorialist respectfully represents:

Whereas, President Reagan has displayed great wisdom and foresight in the laudable nomination of the Honorable Sandra Day O'Connor to the United States Supreme Court; and

Whereas, Judge O'Connor is an eminently qualified jurist, having served as a trial court judge and presently serving as an appellate court judge; and

Whereas, Judge O'Connor has obtained extensive experience in many areas of the law as a Deputy County Attorney of San Mateo County in California, as a civilian attorney for the Quartermaster Market Center in Frankfurt/M, West Germany, as an Assistant Attorney General of Arizona and as a private practitioner of law; and

Whereas Judge O'Connor first distinguished herself as a legal scholar at Stanford University where she served on the Board of Editors of the Stanford Law Review and from which she graduated in the Order of the Coif; and

Whereas, Judge O'Connor served with great distinction in the Legislature of the State of Arizona as a Senator and demonstrated her inherent leadership capabilities as Majority Leader of the Arizona State Senate; and

Whereas, Judge O'Connor has an outstanding record of service and experience in each of the executive, legislative and judicial branches of state government; and

Whereas, Judge O'Connor has willingly and with great devotion and fervor given of herself in the service of her nation and community for which she was greatly honored as the Phoenix Advertising Club "Woman of the Year" in 1972, the recipient of the National Conference of Christians and Jews Annual Award in 1975 and the recipient of the Arizona State University Distinguished Achievement Award in 1980; and

Whereas Judge O'Connor also possesses the attributes of an outstanding wife and mother; and

Whereas, Judge O'Connor would take to the United States Supreme Court all of the admirable qualities mentioned above.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That President Reagan will take pride in his sensational nomination of the Honorable Sandra Day O'Connor to the United States Supreme Court.

2. That the United States Senate will act swiftly to confirm the nomination of the Honorable Sandra Day O'Connor to the United States Supreme Court.

3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, the Chairman of the Judiciary Committee of the United States Senate, the members of the Judiciary Committee of the United States Senate and to each Member of the Arizona Congressional Delegation.●

SOVIET INVASION OF CZECHOSLOVAKIA

○ Mr. PELL. Mr. President, August 21 marks the 13th anniversary of the Soviet Union's brutal invasion of Czechoslovakia. On that Soviet "Day of Shame," August 21, 1968, Soviet-led tanks and troops extinguished the flames of freedom and liberty which had begun to burn so brightly in Prague that spring.

During 1968, the Czech and the Slovak peoples tried to humanize the Communist system under which they had lived for 20 years. This was a purely internal matter which threatened no other nation; it was clearly within their rights as a sovereign nation. Yet the Soviet Union, in clear violation of the United Nations Charter, took it upon itself to send 600,000 Warsaw Pact troops into Czechoslovakia under the banner of

"proletarian internationalism" and forcibly prevent the people of Czechoslovakia from shaping their own future.

It should be noted that although no Russian soldiers were required to impose communism on Czechoslovakia in 1948, more than half a million Soviet-led troops were needed 20 years later to keep Czechoslovakia within the Soviet sphere. That says something, Mr. President, about the continuing appeal of communism to those people who have been forced to live under it. So, too, does the fact that the Russians still feel it necessary to maintain a garrison of some 80,000 troops in Czechoslovakia today.

My own deep interest in Czechoslovakia dates back to my days as a Foreign Service officer in 1948 when I opened the American Consulate General in Bratislava shortly after the Communist coup.

Ever since, I have followed events in Czechoslovakia with particular concern and visited there as often as I could, including just before and just after the Russian invasion in 1968. In addition, my work on the Commission on Security and Cooperation in Europe, of which I was cochairman, has kept me closely involved with affairs in Eastern Europe.

I was encouraged for a short time in the mid-1970's by the Soviet Union's signature of the Helsinki Final Act. By signing that document, the Soviets agreed that "no consideration may be invoked to serve to warrant resort to the threat or use of force." However, the Soviet invasion of Afghanistan in December 1979, showed that Soviet aggression against its neighbors continues to be a real threat to world peace.

Similarly, the present Government of Czechoslovakia has failed to live up to the obligations it accepted when it signed the Helsinki accords. In particular, the continued imprisonment of Vaclav Havel and other leaders of the "Charter 77" movement and the Committee for the Defense of the Unjustly Persecuted makes a mockery of the human rights provisions in the Helsinki agreement.

Both the Soviet Union and the present regime in Czechoslovakia must be put on notice that the world is watching to see how they live up to their obligations under agreements like the United Nations Charter and the Helsinki accords. Continued failure to live up to their agreements will have a major impact on future relations with the West. In particular, both governments must start respecting the human rights of people living within their borders, and the sovereign rights of nations along their borders. There cannot be any repetition of the tragic events of August 21, 1968.●

NO MORE FOOD STAMPS FOR STRIKERS

● Mr. HELMS. Mr. President, there is a significant provision included within the reconciliation bill which is worthy of note as we proceed to final action on this bill.

For many years, many citizens have expressed outrage at the policy which has allowed employees to receive food stamps after having walked off their jobs on strike. The Department of Agriculture estimates that taxpayers paid about $20 million per month during the coal strike earlier this year to provide strikers with food stamps.

I am pleased that both the Senate reconciliation bill and the House Republican substitute contained identical language which I offered to make such strikers ineligible to participate in the food stamp program.

This reform is sure to improve the public's perception of the program whose integrity has been greatly damaged by the current policy of providing food stamps to strikers.

The underlying philosophy supporting this change should be clear: Any worker who walks off the job to go on strike has given up the income from that job of his own volition. A person making such a choice, and participating in a strike, must bear the consequences of his decision without assistance from the taxpayers who provide the funds for the food stamp program. Public policy demands an end to the food stamp subsidization of all strikers who become eligible for the program solely through the temporary loss of income during a strike.

The public has been demanding this change for many years. I am pleased that the reconciliation process has brought this desire to fruition.

Mr. President, Senators will be interested in an article from the Hartford Courant of July 14 by Jay S. Siegel, a Hartford attorney and former chairman of the American Bar Association's section of Labor and Employment Law, outlining in more detail the significance of this change.

I ask that the article "When Taxpayers Subsidize Strikers" be printed in the RECORD.

The article follows:

WHEN TAXPAYERS SUBSIDIZE STRIKERS

(By Jay S. Siegel)

The proposed renewal of the federal food stamp program barring payments to strikers looks like it could wind up on the president's desk. The Senate and House are meeting in conference and there is some likelihood the final bill will include such a provision. Hopefully, the conference leaders will have the courage to eliminate this special interest arrangement which has been both unfair to employers and an unwise fiscal drain on the program.

The issuance of food stamps to persons who have voluntarily gone out on strike to obtain a personal economic advantage raises two basic issues. The first one, which so far has been overlooked in the debate on Capitol Hill, involves whether strikers should have to accept the risks attendant with their own decision to engage in such conduct. The second concerns whether food stamp payments are a proper use of the general tax revenues in such circumstances.

The National Labor Relations Act clearly guarantees employes the right to strike for economic improvements. It has long been accepted in sophisticated labor-management circles as one of the permitted weapons at the disposal of organized labor and the employes which it represents, to exert economic pressure on management. On the other side of the coin, employers can seek to obtain economic advantage in a less costly collective bargaining agreement by refusing to agree to the demands of the union and the employes. In this case, however, the company has to accept the risk of substantial interference with its operations when the employes withhold their services and go out on strike.

No penalty is imposed under our national labor policy upon either the union or the employes for exercising their right to strike, or the employer's concomitant right to take a strike. However, when it comes to accepting the risks that accompany the exercise of those rights, there is clearly a double standard. The employer gets no economic subsidy in the form of payments from general tax revenues to minimize his losses but many employes do get such assistance in the form of food stamps under the government's current program.

The rationale offered by those supporting such help is that the employes and their families will have no money coming in because of their loss of wages due to the strike and, therefore, society in general, and the government in particular, has an obligation to step in and see that they are able to maintain a minimum standard of food, clothing, and shelter.

What is actually happening, however, is that in so doing, government substantially removes the financial risk of the strike from the shoulders of employes and transfers it to the taxpayers. Further, it lightens the burden of union officials who know they will not have to entirely finance a strike for their members since the government is willing to do so under the food stamp program.

Employers rightly claim that payment under such conditions is basically unfair and that, since the strike form of "economic warfare" is sanctioned by our national labor policy, the government should remain neutral and allow each side to bear its own risks, if they decide to exercise the rights permitted by the labor laws.

In the case of strikers, when they meet at the union hall, on the eve of the expiration of their labor agreement, and are asked to go out on strike, food stamps gives them assurance of a "safety net," courtesy of the U.S. government, if they decide to walk out. Insidize a personal effort at economic self-impunity, to turn to the government to relieve them from the adverse consequences of their own decision.

The machinist who makes $5 an hour and decides that he or she wants to go out on strike to obtain a $1-an-hour increase should not be asking the nation's taxpayers to subsidize a personal effort at economic self-improvement. Nowhere in the labor laws does the right to strike carry with it the right to do so risk free. Subsidization of such endeavors through the food stamp program is a misguided use of the general tax revenues which have been contributed by citizens from every income group.

It is estimated that $30 million a year can be saved by removing strikers from eligibility for food stamp payments. Approval by the Congress and acceptance by the president of such change would be a sound step toward restoring the integrity of the program, and place the matter in its proper perspective to help achieve fairer utilization of the tax revenues which everyone in our society has become increasingly loathe to pay.●

RULINGS BY FEDERAL JUDGES

● Mr. EAST. Mr. President, Representative JOHN ASHBROOK has performed an important service in alerting the public to the threat to representative government posed by high-handed Federal judges. In the August 1981 issue of Reader's Digest, Mr. ASHBROOK criticizes arbitrary rulings by Federal judges who substitute their ideological whim for settled precedent and custom.

President Reagan has promised to appoint judges who will interpret the laws and Constitution as written and intended by their authors. The Founding Fathers intended for Congress and our State legislatures to make our laws, not unelected Federal judges. At a time when violent crime is on the increase and law-abiding citizens live in fear of remorseless savages who rob, rape, and murder, the Federal courts are busy inventing new criminal rights which stymie law enforcement. Mr. President, I ask that Mr. ASHBROOK's article be printed in the RECORD.

The article follows:

ARE JUDGES ABUSING OUR RIGHTS?

(By Rep. JOHN ASHBROOK)

Federal marshals clapped handcuffs on University of Georgia Prof. James A. Dinnan last summer and hauled him off to prison. What could this 50-year-old academician possibly have done? Dinnan had served on a faculty committee that voted 6 to 3 against promoting a young woman assistant professor.

The woman sued, alleging sex discrimination. In pre-trial proceedings, Dinnan readily described the criteria he used in his decision but refused to say how he had voted. For that refusal, federal Judge Wilbur D. Owens, Jr., held him in civil contempt and ordered him to pay $100 a day for 30 days and then spend 90 days in jail unless he answered the question.

Released three months later, Dinnan discovered that he faced another jail term if he refused to reveal his vote in further proceedings. Vowing to move to another country first, Dinnan proclaimed, "If academic freedom is not the right to judge one's peers free from outside pressure or intimidation, then what is it? Once the courts control the schools of America, you're headed toward totalitarianism."

Dinnan's protest is among the growing number of complaints nationwide that many judges are overreaching their constitutional authority. We have, declares Harvard professor emeritus Nathan Glazer, developed an "imperial judiciary" in which judges "now reach into the lives of the people, against the will of the people, more than ever in American history." States the Los Angeles Times: "More and more judges have developed an itch for more and more power, and they are scratching it at every opportunity."

Today, should a judge find that there has been a denial of due process or equal protection, he can overrule the President and Congress as well as state and local legislatures. He can seize a school system, prison or mental hospital, appropriate public funds, and set policy. Examples abound:

In Atlanta, parents, outraged by "head shops" pushing drug paraphernalia aimed at youngsters, persuaded the Georgia legislature to outlaw such sales. But last December a federal judge voided the statute as "vague," even though similar wording has been upheld in laws outlawing counterfeiting, gambling and bootlegging paraphernalia. So drug paraphernalia reappeared in the head shops.

Outside Albany, N.Y., high school students sought to hold a voluntary prayer session in their classrooms before the start of the school day. Outlawing the practice as "too dangerous to permit," federal Judge Irving R. Kaufman argued that it "might indicate the state has placed its imprimatur on a particular religious creed."

In Parma, Ohio, voters chose to require a referendum on all zoning variances. A federal judge treated this vote as evidence, along with other city actions, of intentional racial discrimination and ordered the community to provide low-income housing.

Decisions of this sort have altered the nation's basic governmental structure. They have stripped power from elected officials and transferred it to appointed judges who serve for life.

Keeping judges in their proper sphere is an old problem. Tyrannical and lawless judges in part caused rebelling Englishmen to draw up the Magna Carta in 1215. In 1625 English statesman Francis Bacon warned: "Judges ought to remember that their office is to interpret law and not to make or give law." The judicial role under the U.S. Constitution has been a problem from the start, with judges reaching for power and colliding with Presidents and Congress.

Voter reaction against the "activist" Supreme Court under Chief Justice Earl Warren was a major factor in the 1968 Presidential election of Richard Nixon. Nixon appointed four Justices during his first term, but in many respects the Court's activism actually accelerated. All the busing decisions, the voiding of the abortion laws of 46 states and the overturning of death-penalty statutes are products of the Supreme Court under Chief Justice Warren Burger, who succeeded Warren in 1969. When it comes to voiding acts of Congress, the Burger Court has been the most activist ever.* In 11 years it has voided 37 Congressional enactments compared with 29 such actions by the Warren Court in a 16-year period.

Concern over the High Court's use of its powers is shared even by some of the Court itself. Justice William H. Rehnquist accuses the present activist majority of "fashioning for itself a legislative role resembling that once thought to be the domain of Congress." Justice Byron White has said that the fact "that the Court has ample precedent for the creation of new constitutional rights should not lead it to repeat the process at will."

For generations, the federal judiciary upheld the position that education is a field reserved for the states. Then, in 1969, the Warren Court decreed that the due-process clause gave federal judges the right to oversee public-school discipline, supplanting elected legislators and school boards.

In 1975, the Burger Court expanded the trend by overturning an Ohio law allowing school principals to suspend disruptive students for up to ten days. Such actions have contributed to an epidemic of violence in the nation's high schools. Columnist James Kilpatrick reported the story of a St. Louis teacher who gave this explanation for choosing early retirement: "The courts have made it just about impossible to suspend or expel a disruptive child. I'd had all I could take."

No mandates have stirred more controversy than those directing school busing. In 1971 the Supreme Court declared that a local federal judge had seemingly unlimited power to force a racial balance to his satisfaction. Soon judges were ordering large-scale busing.

Over the past two decades, Supreme Court Justices have written a code of criminal procedure overwhelmingly favoring criminal defendants. In one case, two Bronx, N.Y., policemen saw a man start across the street, glance nervously at them, then turn and hurry off, hugging a vanity case. After giving chase, they cornered him, and found a pistol in the vanity along with heroin packaged for street sale. But the New York Court of Appeals judges ruled that the police had to exclude the evidence, and they dismissed the indictment—thus freeing the pusher—because the officers did not have "probable cause" for arrest. One dissenting judge protested: "Such a conclusion borders on the absurd. The officers had every right, if not the obligation, to pursue the defendant in order to investigate this highly suspicious conduct." Last December the Supreme Court declined to hear the prosecutor's petition that the ruling imposes "an unreasonable burden on our police."

The federal judiciary ruled (in 1936) against police interrogation if the suspect objects. When police could interrogate, they solved 91 of every 100 murders; today the percentage of unsolved murders has tripled to an all-time high.

State legislatures have sought repeatedly to deter murder by imposing the death penalty. Again and again they have been thwarted by a Supreme Court that arbitrarily changes the rules. In 1972 five Justices decreed that the death-penalty laws of 41 states were unconstitutional because they left to the uncontrolled discretion of judges or jurors whether defendants should be imprisoned or die. Thirty-six states promptly enacted new laws making death mandatory for specified categories of murder and other crimes. Then the Justices did a U-turn in 1978, holding Ohio's death-penalty law invalid because it failed to give the sentencing judge enough discretion.

Many legal authorities feel today's rampant judicial activism deprives the American people of the right to be governed by elected representatives. For checks and balances on judges, we must look to the other branches of government and to the electorate. Congress has two clear ways to curb judges:

1. The Constitution gives our elected legislators power to remove whole classes of cases from court jurisdiction. At least 20 bills to do so are pending. Last May Prof. Charles E. Rice of Notre Dame University Law School testified: "It would be a healthful corrective. Supreme Court decisions in several areas are distortions of the constitutional intent. It is the duty of Congress to remedy this wrong. The Court might learn a salutary lesson and avoid future excursions beyond its proper bounds."

2. The 14th Amendment, under which the Supreme Court has invaded most state functions, specifically names Congress the supreme definer and guardian of the rights it creates. Chief Justice Earl Warren, for example, declared that Congress can supplant the rules for police interrogations his Court handed down.

At stake in the struggle to control our high-handed judiciary is nothing less than the sanctity of law itself in our constitutional system. As the distinguished legal historian Raoul Berger asks, "How long can public respect for the Court survive if people become aware that the tribunal which condemns the acts of others as unconstitutional is itself acting unconstitutionally?"●

*Chief Justice Burger has been a frequent dissenter from many of the so-called "Burger Court's" most activist decisions.

GIRL SCOUTING

● Mr. DECONCINI. Mr. President, it is my privilege to join with Senator MATHIAS in recognizing the achievements of millions of girls and women who have participated in Girl Scouting over the last 70 years. The legislation which I rise to cosponsor with Senator MATHIAS authorizes a commemorative postage stamp to honor the 70th anniversary of the founding of the Girl Scouts of the United States of America. In the State of Arizona there are over 47,000 Girl Scouts and over 3 million current members around the world.

Girl Scouting brings girls together from all over the world. These girls learn

to share and grow together. The Scouting program provides girls with new opportunities which enable them to acquire varied skills. Scouting instills in girls a strong sense of responsibility—responsibility to themselves and to their community. Girl Scouting teaches girls to set high standards for themselves. Both my wife and my daughter, Denise, benefited from their experiences as Girl Scouts, and I hope every young girl can have these same opportunities.

Girl Scouting has a proud heritage and bright future. I believe that the outstanding achievements of the Girl Scouts should be commemorated through the issuance of a stamp. This honor is long overdue the excellent organization founded 70 years ago by Juliette Gordon Low.●

THE MONTANA AIR POLLUTION STUDY

● Mr. BAUCUS. Mr. President, in June of this year the Montana Air Quality Bureau published the final report of its Montana Air Pollution Study (MAPS). The objective of this undertaking was to examine in a sound, scientific fashion the relationship between air pollution and the health of people in Montana. In light of the current review of the Clean Air Act, I would like to call attention to the significant results of this 4 year, $1.5 million study.

While we all have an intuitive belief that dirty air results in illness, the MAPS project provides valuable data supporting this understanding. For example, the report confirms the hypothesis that increased air pollution levels result in impaired lung functioning. In addition, the study points toward the involvement of air pollution in lung cancer and respiratory disease. Unfortunately, the effects of "public health enemy number one," cigarette smoking, make conclusive proof impossible.

These results underscore the importance of maintaining a strong Clean Air Act which places public health as its primary objective.

Although the 116 page final report is technical in nature, I do believe that many of my colleagues in the Senate would be interested in reading the "Summary of Conclusions." Therefore, I ask that it be included in the RECORD following my statement.

Finally, I would like to congratulate project coordinator Stephen Medvec, project managers Michael Roach and Hal Robbins, and the many others who participated in the study for their fine efforts.

Thank you.

SUMMARY OF CONCLUSIONS

INTRODUCTION

The Montana Air Pollution Study (MAPS) is a major four-year study by the Air Quality Bureau of the Montana Department of Health and Environmental Sciences of the effects of air pollution on human health in several of Montana's urban areas. Funded initially by the 1977 Montana Legislature for two years and then extended by the 1979 session for an additional two years, MAPS was completed in June 1981 at a cost of $1.5 million.

The 1977 Montana Legislature requested that air pollution-health effects studies be implemented in the cities of Anaconda, Billings, Butte, and Missoula, as well as in the towns of Columbia Falls, Colstrip, East Helena, and Hardin. Bozeman and Great Falls were added during the initial study design to provide data from relatively unpolluted areas for comparative purposes. The study areas are located for the most part in mountain valleys or river canyons, where prolonged periods of air stagnation are common during the late fall and winter. Potential air pollution sources in the study areas include, among others, automobiles, paved and unpaved roads, agricultural tillage, wood home heating, smelters, oil refineries, open-pit mines, pulp paper plants, and industrial tailings. The following health effects studies were performed during the project: lung (pulmonary) function testing of school children and persons with respiratory diseases, screening for the presence of possible carcinogenic substances in the air and in children's urine in the Butte-Anaconda area, and a mortality study to determine numbers of deaths possibly related to air pollution in three counties during the period 1970–75.

RESULTS

Pulmonary function testing

Results of comparative pulmonary function tests conducted in Anaconda, Billings, Butte, Great Falls, and Missoula during the 1978–79 school year showed that Great Falls children, who were exposed to the least urban air pollution levels, had the best pulmonary performance. In contrast, children from Missoula, with the highest particulate levels, and Anaconda, with the highest sulful dioxide levels, had the worst pulmonary performance. Billings and Butte children were found to have readings between the two extremes. A separate analysis of various socio-economic factors in the study cities revealed that those factors were not responsible for differences in pulmonary ability demonstrated among the five cities. The study also revealed that in most cases females reacted more adversely to air pollution than males.

An analysis of pulmonary function measurements among Missoula children during the 1978–79 and 1979–80 school years showed consistently that as particulate levels in the air increased, pulmonary performance decreased. No significant decrease in the children's pulmonary ability was demonstrated following exposure to extremely high levels of volcanic ash in a separate analysis of of data collected one week after the eruption of Mount Saint Helens on 18 May 1980.

In 1978–79, an eighteen-month study of 84 Missoula adults with chronic obstructive pulmonary disease (COPD) was conducted. Results also showed decreasing pulmonary performance, as well as notable increases in coughing, wheezing, and shortness of breath, with increasing air pollution levels.

Carcinogenic screening in Butte-Anaconda

Measurement of the mutagenic potential of substances has become a standard procedure throughout the world to assess the carcinogenicity of substances; i.e., their potential for causing cancer. The Ames test predicts whether a substance will be carcinogenic on the basis of its mutagenicity to certain strains of bacteria. The MAPS project adopted this specific methodology to assess cancer risk in the Butte-Anaconda area.

In 1978–79, urine testing was conducted at three elementary schools in Anaconda and Butte, where lung cancer rates are high, and at one school in Bozeman, where lung cancer rates are low. Eleven Butte children out of 80 sampled had mutagen levels considered to be significantly elevated. This is the first time elevated mutagen levels have been demonstrated in the urine of non-smokers. No Anaconda children reached these levels, and the levels of mutagen among Bozeman children were not significant. The Butte children with elevated mutagen levels lived relatively near Front Street, a major east-west thoroughfare running parallel to the railroad tracks. It is suspected that these students are exposed to high levels of poly-aromatic hydrocarbons, among them benzo-(a)pyrene, known carcinogens that are derivatives of diesel exhaust and other products of combustion. The different mutagen levels between Anaconda and Butte test groups support the existing assumption that the two communities differ in distribution of carcinoma types and risk patterns between men and women.

Mortality study in three counties

A 1974 review of Montana's vital statistics revealed that some counties had abnormally high death rates from asthma, chronic bronchitis, emphysema, cerebrovascular disease, and lung cancer, especially within the 40–65 age group. After an analysis of the data had been completed, Deer Lodge, Lake, and Silver Bow Counties were selected for a more detailed investigation of possible causes for the high death rates. Although strong suspicion remains that exposure to ambient air pollution may have contributed to high death rates among residents of the three counties from lung cancer, respiratory diseases, and cerebrovascular disease, it cannot be proven conclusively because of the variable of undocumented smoking habits. There may be a synergistic effect from air pollution exposure and smoking.

CONCLUSION

Prior to undertaking this study, pollution researchers, such as Drs. Benjamin Ferris of Harvard University and Ian Higgins of the University of Michigan, were of the opinion that a correlation between increased air pollution and decreased lung performance could not be demonstrated at air pollution levels found in Montana. MAPS, however, has confirmed the hypothesis that increased air pollution levels cause a decrease in lung functioning.●

TWENTY-FIFTH ANNIVERSARY OF THE GREAT PLAINS CONSERVATION PROGRAM

● Mr. PRESSLER. Mr. President, August 7, 1981 will mark the 25th anniversary of the Great Plains conservation program. During the last quarter of a century, this program has been one of the most successful and cost-effective programs that the Government has ever established.

In 1956, President Eisenhower signed into law the Great Plains conservation program which was to maintain the soil and water resource base in 10 Great Plains States by helping farmers, ranchers and others install conservation plans. The program offered technical assistance and long-term contractual cost-sharing programs in an effort to improve economic and social stability to the Great Plains area. A study of the number of participants and benefits that have resulted from the program show how successful the program has been.

The Great Plains conservation program serves 518 counties in 10 Great Plains States and over 13,000 ranchers and farmers are assisted annually. In 1980, there were 58,000 contracts covering more than 110 million acres. During the 25-year history of the program, con-

tracts have been written covering half of the eligible land in the 10 States.

In my State of South Dakota, the Great Plains conservation program serves 47 counties, covering most of South Dakota. During the 25 years of the program, 3,755 contracts have been written and over 10 million acres have been under contract. In South Dakota, contracts have been agreed to totaling over $20 million in cost-share obligations under this program.

Through the Great Plains conservation program, many soil and water conservation projects have been funded. Some of the projects funded are windbreaks, terraces, livestock water pipelines and establishing permanent vegetative cover. These projects have done a great deal to reduce erosion and conserve valuable topsoil, but the job is far from complete. Wind erosion continues to be a serious problem in Great Plains States, despite significant gains—in 1981, 12.5 million acres in the Great Plains were damaged by wind erosion. In South Dakota alone, in the 3-month period from March to May 1981, over 1.3 million acres were damaged by wind erosion. Because of this continued erosion problem, the program has been extended until 1991, and it is hoped that further progress can be made during the next 10 years.

Mr. President, I take this opportunity to compliment the people involved in the Great Plains conservation program on their good work during the last 25 years. I would also like to complement the farmers and ranchers who have participated in the program for their efforts to conserve our Nation's most valuable resource—topsoil.●

THE CONSERVATION ETHIC

● Mr. BAUCUS. Mr. President, the Secretary of the U.S. Department of the Interior is the Nation's chief conservation officer. Over 700 million acres of public lands—one-third of the land mass of the United States—fall within his custodial responsibilities. This includes our national parks, wildlife refuges, public rangeland, several wilderness areas, and a vast array of wetlands, rivers, lakes, and streams.

Since the Secretary of the Interior has control over such a vast amount of land, what he thinks, what he does, and what he neglects to do has an enormous impact on public land policy.

Traditionally, Secretaries of the Interior have been strong and outspoken advocates of the conservation ethic. In the past 20 years, for example, we have had the positive leadership of Stewart Udall, Wally Hickel, Rogers Morten, and Cecil Andrus. They shared the same philosophy and sought the same goals. Whatever differences they had were matters of degree, not principle. I think it accurate to say they would have very little to share with Secretary Watt except the same title.

Yet while Secretary Watt's record to date has been bleak, he cannot be accused of not at least knowing the rhetoric of conservation. Indeed, some 14 years ago in a speech given in Dayton, Ohio, the Secretary had the following thoughts:

> Because of carelessness and unconcern, America has experienced the effects of decisions which were made by governmental bodies and private parties without regard or concern as to its effects on the people or on the environment. Roads have been built without consideration of wild animal life or the economic impact on a farmer or town. City dumps and city sewers have been treated like society's illegitimate children and now the effects of our past unconcern is haunting us with water and air pollution problems.
>
> We have learned from experience that some activities under certain circumstances can disrupt the balance of nature and cause unpredictable and irreversible effects upon nature. We can no longer afford to disregard the effects of our activities on nature. Time has run out—we no longer have the resources to spend for single purposes. Our land, water and air must be managed so that their use will bring benefit to man and his environment, both in the long and short run.

Regrettably, the Secretary's record in the past 7 months indicates that he has not paid close attention to his own words. Rather than managing our national lands so that "their use will bring benefits to man and his environment both in the long and short run," we have been treated to a program of consumption at any cost.

This policy of apparent exploitation rather than conservation can be seen by examining a number of the Secretary's recent actions.

An announcement was made on April 6, 1981, that pre-Federal Land Policy and Management Act of 1976 leaseholders on wilderness study areas will no longer be held to a nonimpairment standard as a condition for mineral exploration. Instead a more relaxed no unnecessary or undue degradations standard will be used.

By opening up wilderness study areas to mineral exploration under a standard that allows degradation of the resource, the Secretary may render these areas unsuitable for wilderness designation, thereby forever losing their wilderness value.

In the area of personnel, he fired all Presidential appointees, regardless of experience and ability.

Secretary Watt has launched a broad-based attack on protection of endangered species. His proposed budget reduces funds for endangered species listing, 33 percent; recovery, 20 percent; enforcement, 13 percent; and State acquisition of habitats, 100 percent.

Acquisition programs under the land and water conservation fund were cut 92 percent—by $120 million to $45 million.

The two water resource planning agencies, Water Resources Council and Office of Water Research and Technology, were cut 100 percent to $71.8 million, and replaced by a proposed Office of Water Policy, funded at $2.5 million within the Office of the Secretary.

The Fish and Wildlife Service took a reduction in force of 531 positions in its 5,127 to 4,596—including 194 positions in resource conservation program—from habitat preservation programs.

Secretary Watt has also scuttled the critical issues management system (CIMS) established by Secretary Andrus which was designed to subject all major secretarial actions to intradepartmental review and comment.

Two weeks after taking office, Secretary Watt abolished the Heritage Conservation and Recreation Service (HCRS). The HCRS has, as one of its many duties, the duty to preserve places of historic interest.

On May 21, 1981, Secretary Watt announced his plan to reorganize the Office of Surface Mining. The number of field offices will be cut almost in half, from 42 to 22. All five regional offices will be abolished and replaced with two technical service centers.

It is true the Office of Surface Mining has been a difficult office to deal with in the past. But at the same time, serious concerns are raised when the Secretary can make decisions of such magnitude without the involvement of State governments.

Secretary Watt announced plans to upgrade the existing park concessions at the expense of acquiring new parklands.

While the need to upgrade the existing concessions is real, this need cannot be satisfied at the expense of acquiring more parklands.

Since 1960, visitation to national parks has increased almost 400 percent. During the same period, increase in national park acreage has been only 40 percent. If these trends continue, it is obvious that we will need to acquire more land for national parks.

Professional resource management encompasses an increasingly broad spectrum of disciplines. Yet all these disciplines share the common objective best articulated in the National Wildlife Federation Creed.

> To support sound management of the resources we use, the restoration of the resources we have despoiled, and the safekeeping of significant resources for posterity.

Watt's ideas and aims are not just some different opinions. Rather, they are a conscious effort to directly change decades of legislation, environmental regulations, and philosophy.

Now, I do not wish to go on record as anti-industry or antieconomy or antigrowth. But rather, I feel we should look into and study the many questions dealing with our resource management. Public involvement is critical for solid, long-term environmental decisions.

To run the risk of paraphrasing Secretary Watt, the new conservation requires a political machinery for formulating public policy. This is a task which often involves a difficult choice between conflicting public interest and private demands. The politics of conservation work best when community leaders and interested citizens have an opportunity to openly debate resource management policies with the total environment in mind.

I hope Secretary Watt will come to this realization soon. If not, in his own words from 1967, "unpredictable and irreversible effects" on our environment

may result which we simply cannot afford. If it becomes evident that Secretary Watt cannot come to this realization, I hope President Reagan will have the wisdom and foresight to alter Mr. Watt's, apparently, reckless abandonment of good resource management any way he sees fit.●

THE FUTURE OF DEMOCRACY IN THE PHILIPPINES

● Mr. CRANSTON. Mr. President, I met this week with leaders of the Movement for a Free Philippines, headed by Philippine Senator Raul Manglapus, to discuss their deep concern about the polarization among the Philippine people and about U.S. policy toward the Marcos regime. The leaders of the Free Philippines Movement fear that continued contempt for democracy displayed by Philippine President Ferdinand Marcos—combined with the apparent blindness of the Reagan administration to that contempt—will strengthen radical forces in the Philippines at the expense of moderate reformers.

Moderate Filipinos were especially outraged by the improvised, ill-thought-out toast delivered publicly by Vice President GEORGE BUSH to Marcos several weeks ago. Immediately after Marcos was returned to the Presidency in an election which made a mockery of the democracy, Vice President BUSH declared, "We love your adherence to democratic principle—and to the democratic process."

President Marcos has remained in power over the last 16 years through constitutional amendment and manipulation, imposition of martial law, and politically rigged elections so tightly controlled that in the most recent Presidential campaign, the principal opposition party, the Movement for a Free Philippines, concluded it could not even run a candidate.

While the Reagan administration is on record as favoring a diminution of our public pressure for human rights and democratic freedoms, I believe our national interests require that this policy not be carried to excesses. Remarks like those of Vice President BUSH threaten our interest in a free, strong, and secure Philippines.

Unlimited U.S. backing of Marcos serves to radicalize the many Filipino patriots who are pro-Western and who believe in democracy, but who oppose President Marcos. To date, these moderate forces have resisted calls from leftist extremists to confront Marcos more directly. Our own national security interests obligate us to do what we can to deter such radicalization.

Where will the U.S. Government stand with Marcos' successors and with the Philippine people if we adopt the Reagan administration policy of totally ignoring Marcos' abuses? I fear that such mindless unqualified U.S. support to Marcos could endanger our future relations with the Philippines and possibly place at jeopardy our vital bases at Subic Bay and Clark Airfield.

I also share the concern of Marcos' moderate opponents over the significance of efforts underway to negotiate a United States-Philippine extradition treaty. Our country should be on guard against attempts by Marcos to use this treaty to extradite back to the Philippines leaders of the democratic opposition who have taken refuge in the United States. I share their fears that Marcos may try to press criminal charges that he has lodged against his political opponents. Under such circumstances, it could be left to the discretion of the State Department to bar extradition of Marcos' exiled political opponents back to Philippine prisons. I have communicated to the Reagan administration my deep concern that any extradition treaty must contain ironclad safeguards against political abuses by the Philippine authorities.

I reiterate my concern that our national interests are ill served by rigid ties to dictatorial regimes. Dictators make poor allies and hold little promise of long-term stability. And as Senator Manglapus recently wrote in the New York Times, "rightwing dictatorships, by driving the moderate opposition underground, are the fastest breeders of radical movements." ●

SPINAL CORD RESEARCH

● Mr. HEINZ. Mr. President, I would like to bring to the attention of my colleagues a letter that I recently wrote to Health and Human Services Secretary Dick Schweiker requesting that his Department study and set priorities for research to realize the remarkable promise of recent development in the field of spinal cord regeneration.

Mr. President, this study was previously mandated by Public Law 96-538, title V, section 501.

I ask that the text of my letter to the Secretary of HHS be printed in the RECORD at this point.

The text of the letter is as follows:

Senator John Heinz today called on Health and Human Services Secretary Richard Schweiker to have his department study and prioritize research funding to "realize the remarkable promise of recent developments in the field of spinal cord regeneration."

"The ultimate goal of this research is to give us the ability to restore the injured human spinal cord so that paralyzed patients can regain feeling and motor control over their limbs," Heinz said in a letter to Schweiker.

"This goal has eluded scientists for centuries," he added. "But researchers have recently discovered startling new indications which suggest the key to regeneration lies in the spinal column where the nervous system has shown evidence of attempts to restore itself."

Heinz mentioned his letter to Schweiker at a cornerstone laying ceremony for the new John Heinz Institute for Rehabilitation Medicine. The institute, a project undertaken by the community-based Allied Services organization, was named in honor of the senator because of his longtime involvement in efforts to improve the quality of life for the handicapped.

He noted in his letter to Schweiker that the last Congress mandated the study and a five-year plan on how to marshal the resources for this research. Currently some 200,000 Americans are confined to wheelchairs as a result of suffering spinal cord injuries and another 10,000 people are expected to swell their ranks in 1981.

Further emphasizing the importance of this study, Heinz said that the cost of treatment and care for a person with a spinal cord injury is a devastating expense. The life-time cost for one victim, he said, can amount to more than half a million dollars.

"While the research task of this study is enormous, the promise holds is immeasurable," he said. "We must support this vital research that will someday make a tremendous difference in the lives of thousands of Americans."●

U.S. DEFENSE POLICY: THE NEED FOR SUBSTANTIVE POLICY REVIEW

● Mr. GARN. Mr. President, the Reagan administration has committed itself to revitalize the strength of our Nation's Armed Forces and to restore the health of our country's economy. Much progress has been made toward achieving these objectives during the past several months.

These challenges entail a good many difficult choices and decisions. A substantive and thoughtful public review of the issues involved is an essential part of the effort to maintain strong bipartisan political support for the initiatives undertaken by President Reagan. Two recent contributions to this review, the CBS–TV five-part special on defense and James Fallows' book, "National Defense," falls short in measuring up to the standard we should seek in conducting this debate.

Mr. President, the August Armed Forces Journal includes two articles which review the CBS and Fallows' analyses. The first of these articles, "Ripples and Waves in the National Security Tidal Basin," by Mr. Benjamin F. Schemmer, is a hard-hitting, no-nonsense critique which deserves widespread public distribution in order to counter the distorted picture being painted in some quarters concerning our Nation's defense policy. Mr. Schemmer articulates a view which is characterized by a favorite theme of mine, namely, "while one is entitled to one's own opinion, one is not entitled to one's own facts."

A second article, "The Pen vs. the Tube: Fallows vs. CBS," by R. James Woolsey picks up on the danger we face in this country by an overreliance on TV as the most important source of information on national policy questions. This certainly is distressing, given the shallow and misleading quality of the CBS program.

Mr. President, I ask that these articles from the Armed Forces Journal be printed in the RECORD, and I commend them to the attention of my colleagues.

The articles are as follows:

RIPPLES AND WAVES IN THE NATIONAL SECURITY TIDAL BASIN

(By Benjamin F. Schemmer)

The hot topic in American journalism today is "national defense." As Ronald Reagan and Defense Secretary Caspar Weinberger begin to "rearm America," our TV sets, newspaper op-ed pages, and favorite magazines warn us that the trillion and a half dollars they plan to spend defending us over the next five years won't buy much more security because the Pentagon inevitably will foul things up.

That's true. Just like our lawyers, our stockbrokers, and (less occasionally) our

doctors. (I'm still trying not to pay for a set of chest X-rays which a local hospital took when I went to the emergency ward one day for a bad gash in my knee.) A trillion and a half dollars is a lot of money, and it makes good copy at a time when the public wonders if new tanks will come only at the expense of social security and welfare checks; it makes even better copy when the tanks and planes and submarines don't quite work as advertised, but cost from a million to a billion dollars each.

Defense has become such a popular topic that CBS TV News late in June devoted an unprecedented five consecutive, prime-time, one-hour specials to the subject.

Regretfully, many of the pundits bringing you all this insight into how well the President and his generals are going to defend you don't know their ass from their elbow. Take Dan Rather's "hype" on CBS TV Evening News on Wednesday, June 17th for Richard Threlkeld's "complete investigation" of the military/industrial complex that CBS aired at 10 o'clock that night. He showed a dramatic clip of the Air Force's F–16 fighter with this voice-over: "The planes used by the Israelis to bomb Iraq were US F–16s, developed by General Dynamics. They are widely acknowledged to be the world's best fighter-bombers; they are also the most expensive, technologically sophisticated and requiring massive maintenance."

Airmen the world over must be wondering whom CBS polled to conclude that the F–16 is the "world's best fighter-bomber"—good though it is. Dispassionate pilots debate such issues to no end, and even General Dynamics has never flaunted such a claim for the F–16—although it may now that Dan Rather has pronounced it Gospel.

CBS VERSUS THE FACTS

But while that description of the F–16 is debatable, CBS' flat statement that it is also the world's "most expensive" fighter-bomber is not: it is just plain wrong. In fact, the F–16 may be the world's cheapest fighter-bomber. (Northrop's F–5 costs us less, but the US doesn't use it except in small numbers to simulate Soviet Mig-21s for realistic air-to-air training.) An F–16 bought in this year's defense budget costs about $14-million in so-called fly-away prices (without spare parts or amortizing research and development costs); an Air Force F–15 costs about $28-million; the Navy's F–18 costs about $34-million; the British-German Tornado (its embassies here claim) costs about $23-million.[1]

CBS must have worked hard to make that error: ones that far off base don't come easy. I can't think of anyone anywhere in the world who would call the F–16 the world's "most expensive" fighter-bomber.

CBS was right on, however, when it said the F–16 is "technologically sophisticated." That's one reason it performs so well. Every time it (and the F–15 and F–18) flew at the Paris Air Show in June (usually just before or after the French demonstrated their new Mirage 2000 and Mirage 4000 delta-wing fighters), the president of Dassault Aviation must have turned to his chief engineer and asked him, "What's wrong with you?" (As Time magazine's aerospace specialist, Jerry Hannifin, said of the Mirage when we watched it mush around in wide, high-speed turns one day, "I think the French have finally perfected the F–102." Hannifin was referring to the delta-wing US interceptor which first flew in 1953 but is now being used for target practice.)

[1] Even adding inflation projected for the years ahead, the cost of the US planes will decrease from 23 percent to 50 percent because of "learning curve" effects as more are built and, in some cases, more efficient production rates are acheived.

As for the F–16's "massive maintenance," the plane had the third lowest maintenance man hours per flight hour of all eight USAF first line fighters or bombers last year. And that was its first year of operational use. Its design goal is 25 maintenance man hours per flight hour—once the plane and its spare parts pipeline are "mature": in its first year of operational use ending last September 30th, the F–16 beat that goal by 17 percent.

So why did CBS use the description, "massive maintenance"? Was it to back up Dan Rather's contention, when he introduced Threlkeld's "complete investigation" that what is "disturbing" about the "one-point-three trillion dollars" we will spend to defend ourselves in the next five years, "besides the cost, is that many of the weapons we're already building don't work as well as they're supposed to"?

THE JAIL CELL DOGFIGHTS

Later in the broadcast, Threlkeld cited results of the Air Force/Navy "ACEVAL" tests at Nellis Air Force Base, NV, six years ago to contend that "high technology is not much help" in the air-to-air combat arena, suggesting that we should be aiming for "quantity over quality." He called ACEVAL "the most realistic dogfight in American history."

That's not what the pilots flying those tests said of it. The final chart of their briefing said simply, "ACEVAL Bottom Line: The tests did not achieve the objective of quantifying the influence of numbers versus performance on the outcome of the engagements." In fact, the pilots objected repeatedly and strenuously that the dogfights were limited to day-only visual flight rules, thus totally negating the impact of all-weather radar and weaponry which the "technologically sophisticated" F–15, F–14, and F–18 carry, and which the F–16 will. (At no time in the tests, for instance, was the F–14 ever allowed to use the full capability of its long-range radar, around which the plane is designed; or even turn it on until it got within the "ring" for close-in engagements. Thus, its long-range Phoenix missiles [which account for much of the plane's unique capabilities and cost] were of no advantage whatsoever. To the contrary, they became dead weight, degrading the plane's ACEVAL performance.)

The ACEVAL pilots also objected because they were not allowed to "engage" their opponents until the "enemy" had been visually identified (a rule of engagement that Robert McNamara and Lyndon Johnson imposed on US aircrews flying over North Vietnam, and one reason the US spent three years, 22 billion dollars, and 3,091 lives—after the Paris peace talks began—to bring home 566 American prisoners of war from the dungeons of Hanoi.) The visual identification requirement further nullified any advantage of the technology that differentiates planes like the F–14, F–15, and F–16 from ones like the F–5 and Mirage 2000; their radars were blinded and their long-range missiles rendered inert by the very rules under which the planes were tested against "small, simple, and cheap" ones like the F–5.

Finally, Threlkeld failed or forgot to note, the Nellis tests were flown literally over the runways from which the planes took off—thus the extra range built into America's "sophisticated" fighter-bombers counted for naught.

THE JAIL CELL TESTS

"The most realistic dog fight in American history"? I doubt that CBS could produce one pilot who flew those tests who would do much more than puke at the statement. The most common way they describe ACEVAL is that it was like trying to evaluate a pistol against a rifle by firing them within the confines of a jail cell.

CBS' widely touted in-depth study of your national security rates about a B+ for theater, a D for journalism, and an F for accuracy. (Time magazine said it got 30 percent of the viewing audience, "a virtually unheard of performance for a documentary." It hailed the CBS series as "thoughtful" and "incisive." That's cause for concern, since a separate Time article in the same issue noted that "more people [71 percent] believe that network television does a better job of providing accurate, unbiased news than anyone else," and that "a sizable portion of the television-news audience reads no newspapers or magazines and learns what little it knows of events from television alone.")

Toward the close of Richard Threlkeld's "investigation" that evening into horror stories about the way the Pentagon buys weapons, he told us, "But we couldn't find a single instance of the Pentagon ever recommending canceling one of its programs!"

THEY COULDN'T FIND WHAT?

Who does CBS use for "investigators"? Doesn't the network have anyone run even a superficial check of its "facts"? (CBS' own regular Pentagon correspondent, Ike Pappas, a knowledgeable reporter, never even appeared in the series.) One phone call from Threlkeld or his writers to even the most obvious sources would have produced a top-of-the-head list of scores of major programs the Pentagon has cancelled in recent years (on its own, not just because of Congressional or White House objections)—the Army's Cheyenne helicopter, its IMAAWS Infantry Manportable Anti Tank Assault Weapons System (right after contracts to develop it were awarded last fall), its Roland air defense missile (a decision Harold Brown made last fall, but which Caspar Weinberger has since reversed); the Navy's F-111B, Captor mine (another Brown decision reversed by Weinberger), and the Marine Corps' AV–8B jump jet (a Brown decision which Congress overruled three years running); the Air Force's B–1 (Brown recommended that Carter kill it in favor of air launched cruise missiles), Medium Range Mobile Ballistic Missile, Manned Orbiting Laboratory, KC–10 cargo tankers (a Brown decision overruled by Weinberger), or A–10 close support planes (a Brown decision overruled by Congress and later by Weinberger).

CBS could have done an entire program on the money the Pentagon has spent developing weapons which it later decided to cancel outright or quit buying far earlier than expected. That subject would have been worthy of comment: One reason defense costs so much is that under tight defense budgets, there has been little "constancy of purposes" in the way we buy things. Even when weapons work as advertised (the F–16, Roland, KC–10, our nuclear subs, and the AV–8B are but a few examples), we buy so few of them at such low productions rates or abort the projects so prematurely that the individual cost for what few weapons do reach the field soars higher than the apogee of some satellites.

CBS' special series on "Defense of the US" was unprecedented: Never has a network invested so much prime time to ruin its own reputation. To some, it was ironic that CBS set its new standard for defense reporting right after naming former Defense Secretary Harold Brown to its board of directors: to others, it was poetic justice. He must be catatonic.

THE NEW GURUS ON NATIONAL DEFENSE

But CBS has no monopoly on bum dope. You'll be reading a lot of it about national defense in the months ahead: and some of the worst dope will come from people who know better, but are just as loose with their "facts."

Retiring Comptroller General Elmer Staats said in a widely quoted swan song early this year that the Army's new M–1 Abrams tank

was to have cost $507,000 in 1972, but "now costs $2.8-million." Priced on the same basis as the 1972 number, the M-1 now costs $568,900 per tank. Staats was off by a factor of five—and he was Congress' "watchdog" on government procurement! (When he announced with great fanfare some years ago a new "uniform cost accounting system" for government contractors, we asked Staats what it would cost to implement the system, and what it would save the taxpayer. Neither he nor his staff had an answer to either question: apparently they never considered those issues.)

Former CIA Director Stansfield Turner wrote in the New York Times Magazine recently on "Why We Shouldn't Build the M-X." It was a provocative, thoughtful piece, well written—and punctuated with gross errors. Turner said, for example, that building bases for the M-X would "require, according to some estimates, 40 percent of the country's total cement production for three years." He must have gotten his numbers from the same sources who persuaded him in mid-1978 that the Shah of Iran would remain in power for another decade. Turner was off by a factor of eighty. The largest number I can track down that anyone has ever estimated for M-X cement needs is about one-half of one percent of US production. Turner is writing a book, the Times told us, on "military strategy." It ought to be hilarious.

But the subject is not funny.

President Jimmy Carter's chief speech writer has just come out with a widely quoted and now best-selling book called National Defense. Like so much of the rash of "reporting" now making print on national security matters, James Fallows fails to heed an admonition which Joe Califano cites in his book, Governing America, to those who would try to understand American politics. Califano cautions: "Try to tell the difference between tides, waves and ripples."

Most of Fallows' book is about a lot of ripples. His horror stories of how the Pentagon screwed up its last five or six two-car funerals (the M-16 rifle, F-16 fighter, etc.) are fascinating, engagingly written—but not new, or even that important.

TIDES AND WAVES VS. RIPPLES

It's the tides and waves that should concern America.

How can we get our allies to contribute a proportionate share of their national treasures to their own defense in Western Europe? If Japan refuses to increase its defense spending above nine-tenths of one percent of its gross national product, while we spend over five percent of ours helping to guarantee Japan's petroleum lifeline, would Japan consider an alternative? Like investing 4 percent of its gross national product finding a way to gasify or liquefy coal economically (something Congress has authorized $81 billion in capital investment for us to try doing, and for which it's already appropriated $19 billion). Japan could then use all those empty ships returning from delivering millions of Datsuns to America to haul coal back to Japan—so we can buy it back as synthetic coal liquids. If the U.S. really wants to sell China arms so it can continue tying down 47 Soviet divisions along its border, but without risk of having Sinkiang Province bumped off one dark night, why not ask China—as a friendly quid pro quo—to recognize South Korea—and thus let us redeploy some of the forces now tied down there to where they could better protect our Persian Gulf oil supplies?

Those are the kinds of national defense issues we should expect Presidential speech writers to be addressing; those are the kinds of strategic initiatives which could ease our defense burden by multi-billions of dollars. Fallows doesn't touch on them; instead, he assaults us with relative trivia—for which his publisher wants you to pay six cents a page.

Fallows' indictment of the "ripples" which the Pentagon's way of doing business has caused in our national defense (valid though much of it is) would ring truer had he given equal time to the tidal waves which micromanagement by the White House and Congress have caused (and continue to cause) in national security affairs. A President should be concerned about multi-billion dollar issues like M-X vs. Trident subs, or the B-1 vs. cruise missile—issues where survival is at stake. But Fallows doesn't tell us of the years his boss, Jimmy Carter, spent micromanaging a $6½ million defense issue in a $40 million international flap—all over a little commercial air terminal in Iceland. Accounts vary, even among those closest to the fiasco, but they add up to a story like this.

CARTER'S ICELANDIC DIPLOMACY

Soon after Carter took office and asked NATO's 15 nations to contribute more to their common defense, Carter turned down a $6½-million Pentagon request to build a civil air terminal at Keflavik, Iceland—so that nation's civil air carrier, Icelandic Airways, wouldn't have to process its passengers through the small (and slightly dingy) U.S. Navy terminal there. The Icelanders, he objected, could build their own terminal or continue using ours: If it was good enough for the U.S. Navy, it ought to be good enough for the Icelanders.

Carter scoffed at arguments that the Icelanders have a deep-rooted and strong disinclination, to say the least, to things military; couldn't afford the air terminal out of their meager $600-million annual government budget; represented one of NATO's most critical allies (because of its location right in the center of the Greenland-Iceland-United Kingdom gap, through which Russia's Northern Fleet and Backfire bombers would have to pass before they could interdict the trans-Atlantic resupply of NATO); and had not asked for U.S. aid in a long, long time. Pentagon and State Department planners considered the $6½-million air terminal a bargain in international good will, and a way of demonstrating to the Icelanders that their reluctant membership in NATO had its peacetime dividends too. (Not inconsequentially, it would also let the Navy improve security at Keflavik, which was about to become an increasingly sensitive base. NATO's first AWACS Airborne Warning and Control System planes would be deployed there, and scores of long range anti-submarine patrol planes would be operating from Keflavik in periods of tension.)

Defense Secretary Harold Brown waited almost a year and then appealed to Carter to let the civil air terminal go ahead; its cost, he reported painfully, would now be $11½-million; the Icelanders had come up with a better design, or whatever. Carter wrote on this appeal something like, "I've already said No!" Brown's NATO advisors persuaded Brown to go back to the President still again; by the time he did, the terminal's cost was up to $23-million. Carter reacted quickly: "No!" During Carter's last months in office, Brown resubmitted the proposal for a fourth time; the cost had grown to almost $40-million. To the Pentagon's surprise, Carter approved the project with a hand-scrawled "OK," signed, "JC." But he told one of his military assistants: "Make sure Harold understands that I'm still against this. The only reason I'm approving it is that he's never argued with me four times on the same issue before, so I guess it must be important to him."

That's a weird way to decide important national security issues. Writing so pejoratively about the way the Pentagon handles them, Fallows might have shared with his readers some insight on what happens when those decisions reached the desk of the President he served as chief speech writer.

THE OAKLAND RAIDERS AUDITORS

Like CBS, Fallows spends a lot of time indicting the F-16 for its sophistication and complexity, along with its F-15 "high cost" Air Force counterpart and its sister fighters in the Navy, the F-14 and F-18. Fallows relies openly (as CBS seems to have done, without saying so) for much of his insight into the complex problem of tactical air warfare on a Pentagon document prepared by a Defense Department analyst named Franklin C. Spinney, formally entitled "Defense Facts of Life"—a 56-page single-spaced tome, with 87 briefing charts attached, whose thesis is summarized: "The evidence presented reveals that:

"Our strategy of pursuing ever increasing technical complexity and sophistication has made high technology solutions and combat readiness mutually exclusive."

Fallows apparently never asked Spinney's Pentagon boss for his view of all Spinney's "facts": Former Assistant Defense Secretary Russell Murray II might have told Fallows that one of the big mistakes he made between 1977 and early 1981 was not heeding the advice of a deputy who told him he ought to listen to the briefing Spinney was giving on his behalf throughout the Pentagon to (as Spinney himself put it) "anyone who would listen." A few weeks before he left office, Murray now acknowledges, he finally listened to Spinney's briefing. He was slightly chagrined. Many, perhaps most, of Spinney's facts were solid; but a great many of them, Murray says, were "irrelevant"; some of them didn't support the conclusions drawn; other equally important facts might have supported dramatically different conclusions.

Spinney gave his briefing a few weeks ago to the four star officer who commands the U.S. Air Force Tactical Air Command, General Wilbur Creech. Creech told him that the four-hour briefing was fascinating and contained lots of useful data; but, Creech said, he wasn't quite sure how it related to his real world problem of trying to field a fighter-bomber force that could cope with a Soviet air threat which outnumbers NATO Europe 2,800 to 1,500 in combat airplanes rapidly becoming as modern as ours. Spinney apparently didn't know either; he told Creech, in effect, "That's your problem, General."

To Air Force generals, comments like that aren't very funny. If they could buy combat aircraft as fast as the Soviets have been producing them in recent years (one every 10 hours, compared with a new Air Force plane once every 70 hours), they could re-equip the United States Air Force in Europe every seven months, or completely modernize their entire active inventory every 18 months.

Creech cites an analogy to the Spinney report: cost analysts looking at the Oakland Raiders football team. They would tell the coach and owner: "I am not responsible for war-fighting strategy; you are. I am telling you, these are the cost trends." Cost analysts looking at the Raiders would likely say to the owner, "Get rid of your quarterback and wide receivers, and buy more guards." Were the owner to answer, as might be expected, "But I can't win in this league with more guards," an analyst would tell him: "Don't bother me with those kinds of details; you ought to get rid of the quarterback and your wide receivers—they cost too much and break too often."

"SIMPLE" VS. "COMPLEX"

But whatever Spinney's prescription is, Fallows would have the United States design its fighter forces around it—simple, cheap, non-radar carrying planes like the Korean War F-86, planes the U.S. could buy in vast quantities and fly often because they are

simple to maintain and thus generate more combat flights than "hangar queens" like the F–15.

Spinney and Fallows ought to read a little more history. The F–86 had an accident rate which varied from eight to 26 times higher than today's F–15: In its first seven years of use, the Air Force lost 1,972 of them—just in accidents. (The "complex" F–15, which incidentally has 188 fewer "black boxes" than the plane it is replacing, has the lowest accident rate of any fighter ever produced, and the "sophisticated" F–16 has the lowest accident rate of any single engine fighter ever produced.) In one single year, 1954, the Air Force lost 437 F–86s—one and a half a day—because pilots couldn't bring the simple little Mother down to a safe landing: that's one-third of all the F–16s and about half of all the F–15s the Air Force hopes to buy, ever. That year the F–86 had an accident rate of 61 planes lost for every 100,000 hours flown; the F–15 averages 5.18. (For three years in a row, the Air Force lost more than one F–86 a day in major accidents.)

As for "sortie rates" (how many missions any one plane can fly in a given day or month), Spinney and Fallows (and the other "fighter Mafia" analysts they both quote widely, like former Pentagon whiz kid Pierre Sprey) would really have the Air Force go back to World War II's propeller-driven P–47 Thunderbolts or P–51 Mustangs, not even the Korean War F–86 jet. A fascinating thesis—simple is good, more simple is better. The fact is that F–15s regularly fly two to three sorties per plane per day in realistic wartime "surge" exercises in Germany, in weather that grounds $45-million civil air liners. The highest World War II sortie rate which Europe's 9th Tactical Air Force P–51s and P–47s ever attained was less than one mission per plane per day. During the Battle of the Bulge, when Omar Bradley and George Patton prayed for all the air support they could get, 9th Air Force averaged only about one half a sortie per plane per day. At one juncture in the war, it flew barely one-tenth of a sortie per plane per day; at another juncture, the planes didn't get off the ground for nine days in a row.

One reason those simple planes flew so few sorties is that the weather was bad: the P–51s ad P–47s couldn't take off, couldn't find their targets; or couldn't return safely to base. Bad weather rendered them inert. Spinney and Sprey and Fallows forget one thing that "sophisticated" airplanes have going for them: their radars and complex avionics let them take off, land, and attack targets when the weather is bad. The battlefields of western Europe (and, as Desert One proved, even ones in the Persian Gulf) are not noted for their idyllic climates: few Germans sport sunburns; most Iranians have complexions scarred by desert wind and dust or savage winters.

UBIQUITOUS JOURNALISM

Like plasmodial slime mold, the impressions created by all of this new defense "reporting" will stick around for a long time. Born of the same kind of fictional alchemy that created the monster Frankenstein, Turner's cement estimate, for instance, is already taking on a life of its own. An article in the June 22nd issue of New York magazine, "$1.5 Trillion for Defense?" reads like a seven-page summary of Fallows' book, with a few new facts. One of them reads in full, "Construction of the MX complex would tie up 40 percent of the nation's concrete capacity for three years." What the hell: if Stansfield Turner said so, it must be true. (Not that many Americans, after all, are aware that Turner's four years as CIA Director almost made the phrase "American intelligence" the biggest contradiction in the English language.) New York didn't credit Turner with the cement estimate, so investigative reporters looking into the Pentagon's corner on the cement market now have two hard sources to cite. The Washington Post sometimes doesn't even require one.

The New York article, like a similar Texas Monthly June feature on the F–16 ("The Plan the Pentagon Couldn't Stop"), reads straight Fallows. It's very attractively laid out. A big sell line across one two-page spread tells you, ". . . The top military brass likes sophisticated weapons, but technology has become the new Maginot line . . ." Someone named Michael Kramer by-lined the New York piece; a Michael Ennis wrote the Texas Monthly one. Neither magazine identified who they are, but their articles read as if Fallows has cloned himself. Fallows is ubiquitous. A big interview in a recent issue of People magazine ("Is the Reagan Defense Boom a Bust? It's flying too high on Technolgy, warns Jim Fallows"); a feature article in the Boston Globe excerpts his book; Atlantic Monthly ("America's High Tech Weaponry") and Washington Monthly—all have helped turn his modest work into the Holy Writ. (Fallows is Washington editor of the former and a contributing editor to the latter.) The only thing surer now than getting your IRS 1040 form on time is that, like it or not, James Fallows' National Defense is going to be quoted for a long time. It just made the best-seller list.

I've never met the man, but I wish my publisher would hire him as an ad salesman: the guy really knows how to type books. (Guess what's first on the New York "Defense Reading List" that ends its June 22nd feature? You got it: "The very best overall critique of America's defense posture is National Defense by James Fallows . . .")

Fallows isn't the only new Moses of the defense world whose tablets you'll be reading for months to come. Former Pentagon analyst Pierre Sprey, father of the simple little airplane (the lightweight fighter that became the "complex" F–16) and mastermind of the close support A–10 (which the Air Force is now trying to fix so it can operate in bad weather), was quoted eight times in the New York article and 19 times in Texas Monthly.

AND NOW, AN OBJECTIVE VIEW . . .

Editors who don't have time to bog down in all those facts that Fallows, Turner et al. are throwing at them will owe a special debt to the Center for Defense Information, a tax exempt project of the "Fund for Peace." It's just what they need if they want to editorialize about all this money Reagan is stacking up on top of Ground Zero (Turner used all the cement, so we'll have to make the National Military Command Center invulnerable by hiding it underneath a million dollar bills). A 12-page newsletter it circulated late in June had this headline across the front page: "Military Budget Up $80 Billion in Two Years." Just below that was a box summarizing the facts inside: "The first paragraph [bulleted, to get your attention] read in full: "The Department of Defense is embarking on a vast spending spree of over $1.5-Trillion in the next five years. Most of this money will not be spent on the defense of the U.S." Although I haven't read every word of the newsletter yet (I'm out of No-Doz), I honestly could not find, after scanning it carefully three times what the Center for Defense Information thinks the Pentagon will spend that money for. But the boxes on its inside pages give you a quick feel for its analysis: "Frightening Waste in Defense" and "Runaway Costs" decorate page three; "Vast Opportunities for Savings" tops page 5; CDI's "List of Unjustified Nuclear Weapons Programs" grabs you on page 7 (a modest $12.5-billion); "Future Economic Dangers," "The Wrong Kind of Navy," "Damaging the Economy," and "Need for Arms Limitation" round out the analysis.

If Ben Bradlee repackages the thing right, he could have another Pulitzer prize on his hands. The only thing I could find missing from the document was one digit about how Russian forces have changed in the past decade.

Today's "production lead times" mean that it now takes from 18 months to two years, once an order is placed, to get the first new simple weapon off the assembly line and on its way to the troops. But long before the new Reagan defense budgets produce their first new bolt, CBS and Fallows are creating the subconscious impression that Caspar Weinberger ordered the wrong one, too many of them, and has run out of warehouses to store the ones sent him last week. Americans are likely to soon wonder, "We've spent all this money beefing up our armed forces. Isn't it time to throw our money down some other rat hole?" Your daily newspapers really haven't told you that the first new money Weinberger asked for last January, a $3.04-billion "supplemental" for the Fiscal Year 1981 defense budget now underway, still hasn't been fully approved by Congress.

CBS, Stanfield Turner, Pierre Sprey, Elmer Staats, and James Fallows are just a few of the "authorities" reporting to you today on national defense issues who would have you believe that war now boils down to an issue of quantity versus quality, and that to win one now, we have only to buy more less expensive weapons.

They don't tell you where we will find or how we will pay all the extra pilots needed to fly all those extra simple airplanes, or where we will find the airfields to park them in Western Europe, or that bachelor quarters for an F–86 pilot cost just as much as for an F–15 pilot.

They tell you horror tales of the F–15's and F–16's engine reliability and maintenance problems: they don't tell you that those problems with the "complex" F–100 have been reduced by a factor of two to 10 in the past two years. (The F–100 engine is complex: but at eight-to-one, it has the highest thrust-to-weight ratio of any aircraft engine in the world, one reason the planes it powers perform so well.) They tell you that on an average day in 1978, 44 percent of the Air Force's F–15s were not fully ready for combat. They don't tell you that under the tight defense budgets of recent years, no one budgeted enough spare parts for them, while Congress cut much of the spares support which the Air Force did request; they don't tell you that today, F–15s are fully mission capable over 64 percent of the time, or that only one Air Force plane now has a higher combat readiness rate, or that the F–15 is now more combat ready than the fighter it replaces.

They don't tell you that one reason Navy officers prefer to hunt Soviet submarines with the costly DD–964 destroyer is that the much simpler little FFG–7 frigate can't carry a sonar big enough to do much more than locate schools of fish. They don't tell you that nuclear ballistic missile submarines cost a lot, for one thing, because the 41 boats were built to last; they just finished their 2,000th combat patrol, almost 50 each totaling more than 100,000 days—275 years—under water since 1981. They don't tell you that many skipers of those boats will tell you they have never been detected by a Soviet submarine, surface ship, or aircraft, their boats cost a lot because they are also very quiet, virtually undetectable; their Russian counterparts don't cost as much to build, but trail "signatures" about as silent or invisible as four-alarm fires.

Fallows, Turner, and CBS give you a simplistic view of an enormously complicated problem in a world that is uncertain, uneasy, and unpredictable. When confronted by extremes, Aristotle once wrote,

the prudent man chooses the middle ground.

CBS, Turner, and Fallows have not.

You deserve to be better informed on trillion and a half dollar issues like national defense.

THE PEN VERSUS THE TUBES FALLOWS VERSUS CBS

(By R. James Woolsey)

Two early summer attempts to interpret the entire U.S. defense effort have been widely acclaimed. In five hours of prime time recently, CBS News gave us a visual cornucopia of nuclear explosions, a devastated Omaha, military maneuvers, carrier aircraft operations, and goose-stepping Russians. At about the same time, *Atlantic* editor James Fallows published a short volume titled merely *National Defense*. Since neither Fallows nor the CBS producers are defense specialists, we thus have the elements of a head-to-head competition between the best of what generalists in written journalism and in the electronic media can produce of an overall look at defense issues. After you spend several hours with CBS and several with Fallows' book—to amend slightly Sen. Howard Baker's famous question—what do you know and why do you know it?

CBS gave us five installments, carrying—more or less—the following five messages: (1) nuclear war here would be awful; (2) nuclear war would be awful in Europe too; (3) it's not clear whether the people in the All-Volunteer Force are smart enough; (4) the Navy's new F–18 aircraft is expensive; and (5) the Russians are neither very aggressive nor 10 feet tall.

In each case the issues discussed were heavily driven by the visual demands of television. For example, in the first installment much time was spent on Omaha's simulated destruction (by a particularly large nuclear weapon—for maximum effect) and on the agony of a decision whether to launch nuclear weapons on warning. To illustrate such matters one can show films of burning dolls and of earnest officers going through drills. But the questions that are now central in government decision-making about nuclear issues— e.g., whether to build, or how to base, the M–X missile and the B–1 bomber in order to make our forces able to survive a Soviet strike—were barely mentioned or ignored.

Similarly, nearly an hour was spent on the Navy's F–18 aircraft with virtually no mention being made of its role as a Marine Corps fighter, what alternatives the Marines would have if it were cancelled, or the role of Marine aviation. In recent years it has never been planned for the F–18 to fill more than one-quarter of the Navy's fighter slots (now it is not planned for that role at all)—it is to be a Navy attack aircraft (i.e., carrying air-to-ground weapons) as well as a Marine fighter, and much of the controversy about it recently has centered on its ability to fill these two rather different roles and the alternatives available if it is not built.

In a 90-second evening news slot, one can understand avoiding many major issues in order to focus on a tangential but hot item of news, but if you are spending an hour on nuclear war or on the F–18, you have to work some to avoid the major questions that decision makers are actually addressing.

What was up? Was CBS perceiving and communicating with us about underlying vital issues unknown to those clods in government? I think not. Rather, I think it is clear that the CBS effort was primarily one of consciousness-raising, not of providing information. The producers wanted us to have a heightened feeling about such things as the horror of nuclear war and the great cost of new weapons, and the skillful visual montages were constructed to those ends. Only the manpower installment didn't have a particular therapeutic frame of mind toward which it was trying to steer us, and this made it the most balanced of the five.

Fallows' objective is different. He takes us, explicitly, on his own recent journey of discovery of the defense world. He says clearly that he has reached some tentative conclusions, but he is normally careful to spell out counter-arguments against his positions when he finds them reasonable. His most fascinating chapter, ironically titled "Employees," is as fine a piece of writing on the military manpower issue—indeed on any contemporary defense issue—as I've ever seen. This chapter must be equally troubling to the 1960s-vintage liberal who denigrates the role and contribution of people in military service and to the free-market economist who cleaves to the view that military service is a job like any other, and that military people merely respond to market economic forces.

Fallows' two case studies of weapon systems gone awry through needless complexity are compelling. The M–16 rifle story, as originally uncovered and told by the House Armed Services Investigating Subcommittee (no doves there), is indeed a crime. And of all the things a lightweight fighter such as the F–16 doesn't need, nuclear attack capability should head the list. But Fallows draws, I think, too grand a set of conclusions from his examination of defense technology—e.g., that ICBMs aren't today very accurate, that smaller/simpler/cheaper weapons, bought in large numbers, are almost always the best choice.

There are a number of important jobs the military has to be able to do—to shoot down Soviet Backfire bombers, e.g., or track new and quiet Soviet submarines—for which equipment that can perform sophisticated tasks is, unfortunately, essential. (With proper use of modern electronics we can, if we handle it right, have sophisticated capability that is simple to operate and maintain, however.) What is crucial is to have weapons that can be used flexibly and can be adapted to innovative uses by imaginative commanders. Certainly having large numbers of weapons helps—but even in the case of tactical aircraft, it is far from true that simplicity and large numbers are a panacea. If you give up on having capable radars and avionics, as Fallows seems to suggest, you're not going to be able to fly and fight in bad weather, for example. Europe, and much of the rest of the world, has lengthly periods in which decent flying weather is very rare.

But it is true that we have overindulged our appetite for theoretical technical perfection on more than one occasion. It's a useful debate and Fallows joins it reasonably. He says why he reaches his conclusions and lets the readers, indeed encourages them, toward mental argument with the author.

Is this a necessary difference between electronic and writing journalism? Does television somehow inherently regard us merely as subjects whose emotions need to be torqued, while only a writer can regard us as an intellectual companion? Maybe not, but CBS News—in what must have been a carefully considered decision—settled upon the role of operating a sort of electronic Esalen Institute. After reading Fallows you want to get together with him to compliment him on some things and argue with him on others. After seeing the CBS series, on the other hand, you shrug and walk away—you wouldn't try a dialogue, they'd just figure you were, like, uptight—too, you know, defensive.●

BALONEY

● Mr. PACKWOOD. Mr. President, the Wall Street Journal ran an article last week about working women.

At first glance, the article would seem to present a picture of some of the unique problems faced by women in the work force.

However, I find the underlying message in this article very disturbing indeed.

The day after this article was published, Ms. Judy Mann, columnist for the Washington Post, presented a commentary which, I believe, gets right to the heart of the issue. She said, in a word, "Baloney."

I ask that these articles be printed in the RECORD and I urge my colleagues to give serious consideration to this excellent commentary.

The articles are as follows:

[From the Wall Street Journal, July 20, 1981]

MATERNITY LEAVE: FIRMS ARE DISRUPTED BY WAVE OF PREGNANCY AT THE MANAGER LEVEL

(By Earl C. Gottschalk, Jr.)

LOS ANGELES.—When Lynn Redgrave became pregnant some months ago, it presented delicate problems for the "House Calls" CBS comedy series, in which she portrays a single-woman administrator.

To preserve the plot and the ratings, it was felt, her condition had to be concealed from viewers. So the TV cameras focused on her face a lot, and at other times she carried an oversized medical chart or sat behind an especially high table. Filming of the series was rushed to completion before she gave birth.

Pregancies among key performers are causing an increasing problem these days—and not just on the stage and screen. What happened to the 38-year-old Miss Redgrave at MCA's Universal Studios is also happening in the real world of banks, retailers, computer companies and law firms—outfits that can't cover up the resulting problems with cinematic tricks.

The problems are more widespread these days because more women hold high-level jobs and because pregnancies are increasing among those over 30. In the past eight years, the number of women over 30 having a child has almost doubled, to 104,000 from 57,000. The rate of over-30 pregnancy is even greater among highly educated women who live in metropolitan areas, says Peter Morrison, a demographer at Rand Corp., the think tank.

EPIDEMIC PROPORTIONS

In cities like Los Angeles, Washington and New York, it seems that "almost every married woman executive in her 30s is either pregnant or planning to be," says Beth Olesky, a vice president of Russell Reynolds Associates, a New York executive-recruiting firm.

Bernardo Handszer, a New York obstetrician, says that expectant mothers in their mid-30s were unusual eight years ago but that they make up much of his practice today. And in Beverely Hills, Calif., Jane Fonda's Workout, an exercise studio, says that its classes for expectant mothers are filled with businesswomen in their 30s.

All this is causing some turmoil at companies where at large number of women in their 30s have made their way into important positions, says Mark Lipis, an employe-relations consultant for William M. Mercer Inc. in Los Angeles. All across the U.S. corporations have had to shift managers and other employes to take the place of women on maternity leave, he says. Colleagues of pregnant women in small companies or offices have often seen their workloads swell. And many executives and supervisors have had to burn the midnight oil to take up the slack while women executives are on leave to have their babies.

Companies will be facing more and more

of this kind of problem in the future, says Barbara Boyle Sullivan, the president of Boyle/Kirkman Associates, a New York management-consulting firm specializing in women managers. "This is a part of the changing work force of the 1980's," says Mrs. Sullivan. "Women now want to have the satisfaction of having a family along with having a good, challenging job. In the past, they chose one or the other. Women who have postponed having children now are finding that their biological clock is running out of time."

EFFECT ON CAREERS

Motherhood also has a serious effect on the careers of many women executives. Some resume their former jobs at a full tilt, but a growing number choose a "slower track," shorter hours and more time at home raising their children, management consultants say. Still other drop out of corporate life until their children grow up.

Whatever the effect on their careers may be, maternity leaves of women employes can certainly upset the smooth operation of many businesses. One morning this spring, Linda Foss, 32, the vice president and corporate secretary of Security Pacific National Bank in Los Angeles, was called into a meeting of the banks executives. Mrs. Foss, eight months pregnant, was told that the bank had decided to go ahead immediately with a $100 million convertible-debenture offer. It was the job of Mrs. Foss, an attorney, to coordinate all legal details of the offer.

She began scheduling a long list of briefings with corporate officers and others for the next several days, and she recalls that she went home that night with a million things on her mind.

But Mrs. Foss never made it back to the bank the next day. She went into labor that night and gave birth to a daughter a month before her due date. "It couldn't have happened at a worse time for the bank," says John H. Harriman, senior vice president. "Things got frantic for several days," he says, as attorneys from other departments and other executives helped out in Mrs. Foss' absence. She hadn't had time to brief her planned replacement. But thanks to a lot of long hours and hard work, the offer went off as planned. Mrs. Foss now is back on the job.

Executives at KABC–TV in Los Angeles spent many a nervous night over the motherhood of Christine Lund, an anchor woman on the Channel 7 local news shows, one of the station's biggest sources of advertising revenue. When she became pregnant, KABC executives were worried about whether she would make it through the crucial May ratings "sweeps" before her maternity leave. The ratings sweeps are periods in which television rating services poll viewers to see how stations rank in popularity. Miss Lund, a six-year veteran, is a big reason for Channel 7's leadership of the local news ratings, station officals believe.

In the sweeps, anything that disrupts viewer patterns—such as Miss Lund's being absent from the show—could mean a loss of ratings points and therefore advertising revenues. "It was down to the wire," says Miss Lund, a married television newswoman in her mid-30s. But she made it through the May sweeps and gave birth to a daughter five days later. "I wanted to stick it out to prove pregnant women aren't irrational, irresponsible, ill or anything else," she says. She now is taking a couple of months off.

Losing an important woman can have an especially severe effect on a small company. When Lisa Snyder, 33, an attorney in a 12-member Los Angeles entertainment law firm, announced she was pregnant, she says, there was a "major blowup" at the law firm. Miss Snyder, married to an attorney, was involved in litigation of entertainment law cases, she says. She was handling some 25 cases when she took her pragnancy leave last Dec. 1, and her colleagues who covered for her "just went crazy" because of their heavy workloads, she says.

Unlike some women executives who work up until the last day, Miss Snyder took her maternity leave a month before her due date because "being pregnant was taking precedence over being a lawyer," she says. It was difficult for her to appear in court. Judges, concerned about her condition, kept asking her to sit down. They wouldn't allow opposing counsel to interrupt her because "they didn't want me to be upset," she says. Miss Snyder also says the hormonal changes connected with pregnancy "mellowed me out and made me less combative." She is back on the job now.

Some companies that achieved impressive records of hiring and promoting young women into important positions in the 1970s now find themselves with an office full of pregnant women executives. Tuttle & Taylor, a Los Angeles law firm, not long ago was ranked first among Los Angeles law firms by a legal publication in hiring of women attorneys. Now,the 55-member firm has two women attorneys on maternity leave; two other women lawyers are pregnant, and a law clerk also is pregnant.

Mark Schaffer, the managing officer of Tuttle & Taylor, admits that the maternity problem is "a difficult one" for his firm, because the women attorneys have built up good working relationships with clients. These relationships are hard to interrupt when a woman takes maternity leave, he says.

Tuttle & Taylor has plenty of company, however. At some companies, there almost seem to "tides of pregnancies," says executive recruiter Beth Olesky. A couple of years ago, five members of the 40-person international personnel division of Citibank in New York were pregnant at the same time. Included were the division's director and assistant director.

SOMETHING IN THE COFFEE?

"It was a year of revolution at the bank," says Ann L. McLeod, 37, the former director of the division and now a vice president. "The senior officers' dining room—where executives and customers have lunch—was filled almost every noon with pregnant women. They thought at first it was something in the coffee." By working hard and switching various duties around, the international personnel division managed to accomplish its goals, Mrs. McLeod says.

Some companies have found that women on maternity leave are coming back to work sooner than in the past. Irving Margol, a senior vice president at Security Pacific National Bank, believes that the inflationary economy, which often compels both husband and wife to work, is forcing women to return to work sooner.

Even after they are back on the job, many women executives say, the effect of motherhood on their careers remains substantial. Women with jobs that involve large travel demands and long hours, such as management consulting and law, are especially affected, says Mrs. Sullivan, an expert on women in management in Los Angeles.

"A number of first-class women attorneys with potential to be partners of law firms in New York, Washington and Los Angeles find that once they have a child, they can't stand the long hours," says executive recruiter Mrs. Olesky. "So they leave the high-powered law firms to take legal positions in insurance companies and banks that work nine-to-five hours," she says.

In Washington, D.C., Bonny M. Henderson, 37, associate consultant at the management consulting firm of McKinsey & Co., became pregnant after a hectic 12-year career of travel and long hours. Once she had delivered a son, she decided to take a six-month leave of absence. "I'm moving to a slower track," she says. "I'm making my career second for a while. Six months out of a 50-year working life is nothing."

ACCEPTING THE SLOWER TRACK

Mary F. Cooper, 34, the personnel manager for a division of Addison-Wesley Publishing Co., Menlo Park, Calif., admits she has slowed down since her child was born two years ago. "I won't get to the top as fast. My family is taking a great priority," she says. "Emotionally, accepting this is difficult for an ambitious person."

Other women such as Laurette Spang McCook, 30, an actress on such television series as Universal's "Battlestar Galactica," drop out of their careers once they become pregnant. After she saw the stunts she had to perform for a guest spot on the series "Dukes of Hazzard," she threw in the towel when she was four months pregnant. She spends her time by helping her actor husband with publicity and by modeling maternity clothes for Motherhood Maternity Boutique, a maternity-clothing chain.

Carol Brown, 40, a Manhattan computer consultant, was able to alter her job so she could do most of her work at home. A partner with her husband in a New York investment-counseling and minicomputer-consuling concern, Mrs. Brown switched her job emphasis from consulting with businesses on how to adapt minicomputers to their operations, to writing software programs for clients.

She had a computer terminal installed in her home, and she uses it to communicate and give instructions to one of her clients, a Manhattan architectural firm. She can pick up her telephone, attach it to her computer and make changes in the programs for the firm. She admits she could have made more money by staying in the office, but she enjoys working at home and taking care of her daughter at the same time.

But some women, consumed with their jobs can't bear to be away for very long. Judy Woodruff, 34, a White House correspondent for NBC News, is expecting a child in September. That won't stop her from flying to California to cover President Reagan's August trip. "I want to work as late as I can—up to the last day," she says. She plans to take six weeks off to deliver and care for the baby.

"I'll miss some big stories in October and November," she says wistfully. "Already I'm getting pangs of regret about missing something exciting."

"HAVING IT ALL"

Some women executives maintain that childbirth and childbearing haven't affected their careers and that they have become more efficient and better-organized as a result. The key to success, says Betty Baldwin, 39, the vice president for human resources at Gino's Inc., a fast-food chain, is "a monstrous amount of planning and organization." Thus, Mrs. Baldwin arrives home from her job at 6:30 p.m. in suburban Wynnewood, Pa., to spend from 6:30 to 8:30 p.m. with her young children, and from 8:30 to 10:30 p.m. with her husband, who commutes from New York. She has written a book about how to do this entitled "Having It All."

Lisa Carl, 30, a Los Angeles attorney specializing in medical malpractice suits, was on the phone with her office as soon as she was able to lift her head off the pillow after having her baby. She saw clients nine days after the baby was born, and her secretary brought documents to her hospital room.

Federal law stipulates that women can't lose their jobs as a result of being pregnant and that maternity must be considered just like any other disability. However, what com-

panies pay women while they are out varies widely. Depending on how long the woman has been with the company, most companies give her full pay for several weeks.

Jenene Wilson, 38, the manager of employe-benefit programs at Carter Hawley Hale Stores Inc., a Los Angeles-based retailer, will receive full salary on her maternity leave. But Lisa Snyder, an attorney in a small Los Angeles law firm, had to get by on minimal state disability payments. "I took a tremendous financial beating, but it was worth it," she says.

[From the Washington Post, July 21, 1981]

BALONEY

(By Judy Mann)

Stop the presses. Pregnancy is threatening to bring American business to a halt. This is apparently so serious a matter that the Wall Street Journal found it the most important thing going on in American business this past Monday and made it the lead story of the entire newspaper. The headlines, sounding like something out of an old Saturday Night Live script, were apocalyptic enough to jolt every red-blooded American businessman awake over his coffee. "Firms Are Disrupted by Wave of Pregnancy at the Manager Level, After-30 Motherhood Snags Debenture Offer, Clouds Ratings of TV News Show."

That just goes to show what happens when you hire women. After all, clouding the ratings of a TV news show is one thing, but snagging a debenture offer—whatever that it—is quite another.

Well, it turns out that a debenture offer is sort of like a bond offer except that in the case of a debenture offer it is convertible into stock. It seems that in Los Angeles, whence this story originated, there was a female bank vice president who had a premature baby the day after the bank decided to go ahead with a $100 million-debenture over. It was her job to coordinate the details of the offer, said The Journal, which quotes another bank vice president as saying her childbirth "couldn't have happened at a worse time for the bank. Things got frantic for several days." Says The Journal: "Attorneys from other departments and other executives helped out in [her] absence. She hadn't had time to brief her planned replacement. But thanks to a lot of long hours and hard work, the offer went off as planned." The offer went off, in other words, just as it would have if a male executive in charge had had a heart attack.

Between that example and a handful of anecdotes about other pregnant middle managers and some quotes from management consultants who don't have any numbers to back up their impressions, The Journal drew a portrait of women in business that will warm the heart of every unreconstructed corporate m.c.p. "In cities like Los Angeles, Washington and New York, it seems that 'almost every married woman executive in her 30s is either pregnant or planning to be.' " The Journal quotes an executive recruiter as saying. And a Los Angeles consultant says this is "causing some turmoil at companies where a larger number of women in their 30s have made their way into important positions . . . All across the U.S., corporations have had to shift managers and other employees to take the place of women on maternity leave . . . Colleagues of pregnant women in small companies or offices have often seen their workloads swell. And many executives and supervisors have had to burn the midnight oil to take up the slack while women executives are on leave to have their babies," says The Journal.

You get the picture. Even professional women will succumb to the mothering urge and other employees [read men] will be excessively burdened because of her. But The Journal, ever quick to spot a trend, has been a little trendier than usual in this particular piece.

In an article uncharacteristically unburdened by statistics, there was one figure that if anything illustrates how infinitesimal the impact of pregnant women in the work force actually is. According to The Journal, the number of women over 30 who are having children has not quite doubled in the past eight years from 57,000 to 104,000. What The Journal doesn't mention, and what puts this in some kind of perspective, is that out of a female work force of more than 44 million, there were 10,861,000 women between the ages of 30 and 39 working as of May 1981. Even if all of the 104,000 women who had babies were working, which is certainly not the case, we are dealing with a phenomenon affecting .0095 percent of those working women in their 30s and .0023 percent of the entire female work force. And if we were to look at the numbers of those pregnant women who are in middle management or top management jobs, that figure would vanish right off the screen. If this is disrupting American business, then American business is in a lot of trouble.

"Less than 3 percent of the women in corporations make over $25,000 a year," says Alexis Herman, head of the Labor Department Women's Bureau under President Jimmy Carter. "It couldn't do that much damage if every woman got pregnant . . . I just wish the problem were of the proportion and magnitude the article suggests. Unfortunately, it is not."

"The fact that some women have gotten pregnant makes headlines," says author and management consultant Natasha Josefowitz. "If 30 men quit work and decided to go around the world on a sailboat, it would never make The Wall Street Journal saying most men are quitting their jobs and going around the world."

To say that pregnancy cannot be having much impact on corporate life now is not to say it might not in the future. There is merit in looking ahead at the problem and in devising shared parental leaves and ways for executives to work at home and other approaches.

But if articles such as the one in The Journal keep appearing, there won't be much need to plan ahead. The logical conclusion of that piece was not that there was an intriguing social phenomenon to be dealt with in the future, but that hiring women executives is tantamount to hiring a major pain in the neck.●

YAMAL NATURAL GAS PROJECT: NO LIGHT AT THE END OF THIS PIPELINE

● Mr. GARN. Mr. President, I would like to bring to the attention of my colleagues an article from a German publication, Munchner Merkur, which highlights the views of some German public officials toward the proposed Soviet Yamal natural gas pipeline project. I believe it is important for us to understand that the wisdom of the pipeline project does not go unquestioned in the Federal Republic of Germany. Indeed, deep concerns exist concerning the strategic implications of the energy and financial dependence of our Western European allies on the Soviets which will come about as a result of this project.

Therefore, Mr. President, I ask that the article, "Securing West European Energy Supplies through Natural Gas from the Soviet Union: For Ten Billion Marks—A Look Through the Pipes?," be printed in the RECORD. I extend my appreciation to the Language Service Department of the Congressional Research Service, particularly to Mr. Casimir Petraitis, for his assistance in translating this article on short notice.

The article is as follows:

SECURING WEST EUROPEAN ENERGY SUPPLIES THROUGH NATURAL GAS FROM THE SOVIET UNION: FOR 10 BILLION MARKS—A LOOK THROUGH THE PIPES?

The German-Soviet natural gas—pipeline deal, if it materialized, would be the biggest foreign trade deal in German economic history. Hans Count Huyn—representative of the Christian Social Union (CSU), chairman of the Study Group on German, Foreign, Defense and Development Policy of the CSU national panel in the Bundestag, member of the Committee on Foreign and Domestic Affairs, deputy chairman of the Subcommittee on Disarmament and Armaments Control as well as member of the Subcommittee on International Broadcasting Affairs—deals in the following lines with the multibillion mark project.

"I have no doubt that the Soviet Union will comply with the commitments entered into." With these words, Federal Minister of Economy Otto Count Lambsdorff optimistically swears to the future Soviet treaty fidelity with regard to the planned multibillion mark project, by which large parts of Western Europe, but above all the Federal Republic, shall be made dependent on Soviet natural gas supplies in their energy needs.

"It is a matter of delivery of questionable gas with the aid of questionable credits at a politically difficult time. This is how Karl-Heinz Narjes, foreign trade and energy expert, one of the two members of the German Commission in the European Community in Brussels, assesses the deal.

Which is right: Lambsdorff's opinion or Narjes's statement? What is it all about in the natural gas—pipeline deal and how should it be assessed?

From the Siberian Yamal Peninsula, which gained a sad notoriety through the Soviet death camps of the Gulag Archipelago, about a 5,800-kilometer natural gas pipeline shall be built up to Waidhaus in the Upper Palatinate in order to be connected with the West European natural gas network. From the mid 80's about 40 billion cubic meters of natural gas should be pumped annually to Western Europe through this pipeline. Within the scope of the deal, German steel pipes as well as other industrial goods and machines amounting to about ten billion marks shall be delivered to the Soviet Union in order to build the piepline. From the expected 40 billion cubic meters of natural gas the Federal Republic should receive about one quarter—about twelve billion cubic meters; the remaining will be distributed between France, Italy, Austria, Belgium, the Netherlands and Sweden.

The German banks shall make the multibillion mark project possible with the Soviet Union through credits, which on their side will be safeguarded through Federal guarantees. The Soviet Union will not repay these credits in cash but through supplies in kind: through natural gas deliveries.

It is undisputable that, despite all savings measures, West European energy needs will increase in the coming years. In addition, the decrease in our energy dependence on petroleum imports is to be welcomed.

Are the credits at all justifiable commercially? Here first of all is the question of interest. The Soviet Union is asking for an interest rate of 7.75 percent. The Kremlin is playing poker with high stakes, in order to make German banks and companies submissive; only a short while ago the Soviet Union let it be known that it would not be

interested in low ordinary trade interest rates in the total deal.

Narjes expresses his misgivings: "I don't know of any first class bankers who are getting such an interest rate of 7.75 percent. I see in it preferential treatment, which I consider as markedly questionable. I have doubts whether the participating banks can refinance it with the announced interest rate." This reminds us of a joke about a man who was buying bread rolls for 20 cents a piece and selling them for 15 cents. He had a frantic sale and said: "This is not a good business, but with the high turnover I make it."

AT LOW INTEREST RATES: THE CREDIT IS NOT COMMERCIALLY JUSTIFIABLE

In fact, every German applying for credit at the same banks must pay at least eleven percent—if not even more—in interest. Who then pays the difference? Is it the Federal Government that is being asked to intervene? Or is the German natural gas consumer who in the end will foot the bill? There is no question: at such a low interest rate the credit is not justifiable for purely commercial reasons. Then comes the questions of the constantly increasing federal guarantees. At present the guarantees assumed by the Federation amount to 132 million marks. Faced with the payment difficulties in Poland, Yugoslavia, Romania and other developing countries, the federal guarantees for credit acceptance of ten billion marks means in purely economic—besides political—terms, high risks at a time when at times the Federation is itself not solvent.

An objection is raised here because an order of this amount means for the participating companies a guarantee of jobs in the Federal Republic of Germany which should not be underestimated. We can easily reply to it. If we built nuclear plants in the Federal Republic of Germany for guaranteeing energy supplies instead of giving credits to Moscow for ten billion marks—then 40,000 workers would find employment for five years and we would stand on our own feet in the energy field and would not depend on imports from the Soviet Union.

How does the principle "no economic support for the rearmament of the Soviet bloc directed against the West" fare? The credit would be provided and the deal made with Moscow at a time—

When the Soviet Union is arming against the West as never before in history;

When the Kremlin wants to induce the Federal Republic with stick and carrot to abandon the NATO double decision;

When from Southeast Asia across the Middle East and Africa up to the Caribbean the Soviet Union pursues an aggressive and expansionist policy and threatens Western security;

When the Soviet troops are still in Afghanistan exterminating the defenseless population; and

When in the midst of Europe the threats against Poland are again on the rise.

At this time the Federal government, whose Chancellor Helmut Schmidt is reviled as the "lackey of the American high armaments policy," shall positively decide about the granting of Federal guarantees for a ten billion mark credit.

The Federal government knows exactly that the Soviet Union in its foreign trade policy essentially gives priority to political goals at the expense of economic interests. Can the Federal government prevent Moscow from achieving strategic-political advantages through the natural gas-pipeline deal? And will the granting of credits not make the continuation of the high armament policy possible and facilitate it?

In addition, there is the question of technology transfer important for the defense economics of the Soviet Union—such as the delivery of special drilling equipment for use in permafrost areas.

It is a fact that all Western supplies make it possible for the Soviet Union to allocate resources for the armaments industry. The substitution capacity of the Soviet Union is big enough for placing the resources that had been previously serving peaceful purposes at the shortest notice to the armaments industry. The centralized economic planning makes it possible to undertake such a transformation within a few months.

IN ADDITION TO PIPES WE WOULD SUPPLY THE FAUCET TO TURN THE GAS OFF

From these points of view the conclusion of the pipeline deal would mean that the West would pursue to an increasing degree a policy that it has been following for more than ten years through its irresponsible technology transfer and unjustifiable credit granting: we are financing two separate defense budgets—our own and to an increasing extent that of the Soviet Union directed against us!

How does it look with the last principle 'no creation of economic dependence in key areas such as energy?'

In case of concluding a natural gas—pipeline deal all in all 30 percent of the German natural gas would come from the Soviet Union. In this context Narjes says: "It is a problem for us to concede more than 20 percent in the German market supply to the Russians." The fact is that we would supply the Russians with not only the pipes but also with the faucet with which they would be able to turn off the gas supplies to the Federal Republic and Western Europe. Who does not have in mind the famous Lenin saying that the Western capitalists will be so stupid that they will provide the rope to the Soviets with which they will hang them?

The arguments run that the Soviet Union is faithfully complying with the agreements signed. But how do things look with the treaty compliance of the Soviet Union in this area? Already Konrad Adenauer has stated in his "Memoirs" that "from 1925 to 1960 the Soviet Union concluded 58 treaties with foreign states and broke, violated or cancelled 45 of them on its own."

The Soviet Union did not fulfill repayment commitments towards its former war allies. The countries where foreign trade is under state control are not strangers to harming trade partners through unjustifiable price undercutting and blackmailing price manipulation. When Moscow directed its policy against China, with which it had been closely allied in earlier days, it withdrew all its scientists and technicians. At that time there were still 178 projects which had to be carried out with Soviet aid or were already in the process of construction or in the planning stage. The Kremlin withdrew not only its technicians but also all the planning documents, so that many of the projects could not be completed, causing a heavy loss for Peking. This is one of many examples. The latest non-compliance concerned Austria, when the Soviet Union, despite agreements concluded for natural gas supplies in the winter of 1980/81, reduced them by one third and caused the Republic in the Alps considerable economic difficulties and a controversy at the domestic level.

Economic expert of the Soviet Foreign Trade Ministry, Juri Krasnow, said in April 1980 at the Hannover Industrial Fair: "We can turn the natural gas faucet off if we are forced to in an extreme emergency."

Should the Federal government give the green light to the pipeline deal it makes one thing possible: "We might be left with empty pipes."●

IRREGULARITY IN THE MOVEMENT OF OIL FROM THE BLACKFEET INDIAN RESERVATION

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. MELCHER. Mr. President, yesterday, I presented to the Senate an overview of the Select Committee on Indian Affairs' investigation of oil thefts from Indian and Federal lands. At that time I noted that I had just received a report of yet another irregularity in the transportation of oil from a Blackfeet Indian oil lease.

For the information of the Senate I would like to expand on the details and background of that incident as well as the Federal regulation which was violated.

On the afternoon of July 28, a fully loaded oil-hauling truck was intercepted leaving the Blackfeet Indian Reservation in Montana without a sales receipt—commonly referred to as a "run ticket."

The U.S. Geological Survey regulations require a run ticket as essential documentation to verify that oil transported from an Indian or Federal lease by truck is properly accounted for. The run ticket constitutes legal ownership. The incident on the Blackfeet Reservation seems to be another in a series of continuous and flagrant violations of this as well as other USGS regulations.

The actions of Permean, Inc., the trucker, and Western Oil Transportation, Inc., the purchaser of the oil—while probably only meant to be short cuts—will be investigated by the U.S. Interior Department Inspector General. Everybody in the oil field knows about regulations requiring run tickets. If the regulation is ignored, the Inspector General must determine if the irregular movement of oil is subject to penalty.

I have already discussed this incident with the U.S. Geological Survey officials and the FBI, and am determined to do what I can to clean up this mess in the oil fields. However, I must say that while I am distressed by yesterday's events, I was by no means surprised. During the past 7 months the Select Committee on Indian Affairs has received numerous reports of alleged oil thefts from Indian and Federal leases and violations of U.S. Geological Survey regulations regarding the production and movement of oil from these leases to refineries.

In fact, on May 29, 1981, I and two staff members of the committee made an unannounced on-site visit to several oil leases on the Blackfeet Reservation in Montana, where about 8,000 barrels of oil is produced daily.

At one lease site, there were over 1,000 barrels of oil on a sump pit that had been there more than 2 years, perhaps longer. USGS had apparently never used its authority to shut down the lease until the operator moved the oil. Several days before the visit, a severe rainstorm washed 150 barrels of this viscous crude over the pit into a coulee where it traveled

through 1 mile of wheat and pasture land, leaving an ugly black stain. At this same lease, a large pipe led directly from the back of the five storage tanks, bypassing the LACT meter.

According to a USGS employee present on the site, such piping is not illegal as long as it is locked and sealed. This is contrary to USGS regulations governing excess piping. If it bypasses a meter it is illegal although it may be approved for good cause—that is, water disposal and so forth. There was no evidence that USGS formally approved this piping.

At another lease, we found a seal draped over the valve of a 500-barrel storage tank that was more than half full. All one had to do was lift the seals and turn on the spigot. This tank was at a well site, not a storage battery. Charles Thomas, an employee of the Blackfeet Tribe, who was formerly employed by both the USGS and the Wind River Tribes and has years of experience in oilfields, had never seen an arrangement of this kind at a well site. The oil is pumped right into the tank and then later pumped back into an underground pipe that leads to the battery. It is not clear whether this setup has ever been approved or even questioned by USGS inspectors.

At this same tank, there was a simple pipe coming out of the ground with a faucet that gushed black crude oil when turned off. It had no lock or seal. At the storage battery on this same lease, a storage tank was found to be improperly sealed.

Mr. President, the recent incident on the Blackfeet Reservation reinforces two firm beliefs I have. First, the U.S. Geological Survey has accomplished very little, if anything, in its efforts to improve the Federal monitoring of Indian and Federal oil. Its 8-month-long crash inspection program and its strike force assigned to pinpoint lax enforcement, are programs lacking both direction and results.

Second, the Select Committee on Indian Affairs must with all due diligence carry out its responsibility and move forward with its investigation. To do anything less would be tragic.●

HEARINGS ON REFUGEES AND ASYLUM PROBLEMS

● Mr. KENNEDY. Mr. President, under the able chairmanship of my colleague from Wyoming (Mr. SIMPSON), chairman of our Judiciary Subcommittee on Immigration and Refugee Policy, we held today an extraordinarily important hearing on the problems the United States faces in resettling refugees as a country of first asylum.

Senator SIMPSON's hearings continue the Judiciary Committee's effort from last year to review the problems attendant with the influx last year of Cubans, and from the continuing flow of Haitians seeking asylum in the United States today.

First asylum issues are enormously complex, and both Senator SIMPSON and I wrestled with them as members of the recent Select Commission on Immigration and Refugee Policy.

The administration presented today its proposals for dealing with this issue and we had a good discussion on them in our hearing today.

Because refugee and asylum issues are national problems, they must be of concern to all Senators. And because they are of concern to many Americans, especially the voluntary agencies and church groups as well as State and local agencies, I want to share with them and my colleagues some of the prepared testimony we heard today.

I will not ask that all the testimony we received be printed at this point, but I think it is important for the developing dialog that we must have on this issue if we could have the benefit now of the administration's position as outlined by Assistant Secretary of State for Inter-American Affairs Thomas O. Enders and some of the comments from the voluntary agencies and State and local government representatives.

Again, Mr. President, I commend the leadership of my colleague from Wyoming, especially for his effort to reach out to all interested and knowledgeable persons, in an effort to develop a consensus on the crucial asylum and refugee problems our country faces today.

I ask that selected testimony from today's hearing be printed at this point in the RECORD, along with the opening statement of Senator SIMPSON.

The testimony follows:

UNITED STATES AS A COUNTRY OF MASS FIRST ASYLUM

OPENING STATEMENT—CHAIRMAN ALAN K. SIMPSON

Seldom has the United States been galvanized into more active thinking on an immigration issue as it was last year by reason of the influx of Cubans and Haitians into South Florida.

This was the initial occasion for this country to find itself as a country of mass first asylum, and it was soon evident that there was very little within our laws, or administrative procedures, or national preparedness to provide any clear direction on the handling of this extraordinary situation.

The citizens and social services of Florida were overwhelmed by the sheer numbers of Cubans and Haitians arriving on their shores, and that state continues to feel that great impact to this day. Of the 133,000 persons who arrived last year, many have remained in Florida. Moreover, the problem of new arrivals has not lessened:

Since October 10, 1980, over 8,500 Haitians have come to our shores. We still have 900 Cubans at Fort Chaffee who have been labeled as "difficult to resettle" and 1,800 Cubans with criminal records at the Federal Penitentiary in Atlanta.

The full cost to the Federal Government has risen to $175 million and this does not include the funds expended by states, localities, voluntary organizations and private individuals: this cost figure would be the equivalent of almost 50 percent of the total annual budget of the Immigration and Naturalization Service.

During the course of this hearing, we shall seek to resolve to basic issues: First, the legal status of the Cubans and Haitians who have entered the United States and secondly, the policies and procedures which should be adopted in order to handle future mass asylum crises.

One valid reason why the status of the Cubans and Haitians has not yet been determined—one year after their entry—is the complex and ponderous nature of our asylum adjudications and appeals process.

Current law provides that asylee status be determined on an individual, "case-by-case" basis and decisions can then be appealed up to three levels. (Trial De Novo—at 3 levels) There are 44 immigration judges in the Nation—two of them in Florida.

In addition to the Cuban and Haitian cases, over 58,000 other individuals, some of whom initially entered the U.S. illegally, have also applied for asylum.

Under current law, any person, regardless of legal status, once in the U.S., may apply for asylum. The proven unworkable nature of current adjudications procedures guarantees that these people will remain in the U.S. for 1½–2 years before their cases are even reviewed, and for an indefinite period beyond that if the cases are appealed. During this time, they are granted the right to work, and in the case of Cubans and Haitians, the right to receive cash and medical assistance at the expense of the Federal Government.

Clearly, then, we need to reform present adjudications, exclusion and deportation proceedings in order to provide for speedy determination of status so that legitimate asylum claims can be expedited—while frivolous claims are denied and ineligible applicants deported.

During today's hearing, the Subcommittee will also examine the options of detaining asylum applicants pending the resolution of their status; enforcing the law preventing U.S. citizens and permanent residents from transporting persons in illegal status to this country; interdiction on the high seas; the degree to which due process that is granted to asylum applicants here in this country should parallel that due process granted to refugees being processed overseas; the role of foreign policy and international cooperation in mass asylum crisis; and contingency planning which must be implemented to address such situations in the future.

The United States is a signing party to the 1968 United Nations Protocol Relating to the Status of Refugees, and it is bound by that agreement to refrain from returning persons to a country where they will be persecuted. This does not mean, however, that the United States must accept for permanent resettlement each legitimate asylee who arrives on our shores.

The citizens of the United States are proud of our freedoms and of our generous tradition of offering haven to the persecuted of the world. It is indeed unfortunate that so many peoples on our planet reside in nations whose standards of individual freedom do not match ours. Nevertheless, I firmly believe that the United States cannot and should not attempt to accept the sole responsibility for this tragedy by resettling all of those who leave their homelands bound for our shores. We must develop clear and strong policies and procedures to assist us in distinguishing between the legitimate and the frivolous asylum claims, and to ensure that the true refuge for legitimate asylees is provided equitably by all the nations of the free world.

STATEMENT BY THOMAS O. ENDERS

Mr. Chairman: I am pleased to appear this morning to discuss the international and foreign policy aspects of Cuban and Haitian migration, in the light of the new immigration policy announced by the President, and to support the legislative changes he is requesting. I would like at the outset to make clear that, although the domestic impact of migration from either country is much the

same, the foreign policy significance is quite different.

Your committee asked us to discuss the possibility of future mass migrations to the United States. Emigration of a few dozen or a few hundred people may occur from a number of foreign countries. A sudden, massive outflow of tens of thousands in a short period of time is likely only from a totalitarian state.

In other words, in one case we are dealing with a friendly government, the Government of Haiti, interested in enforcing its laws and respectful of the laws of its neighbors, and desirous of cooperating with the United States in bringing illegal migration under control. Migration occurs as the result of separate decisions by private individuals without the support or sanction of their government.

In the other case, in the Mariel boatlift of last year, we were faced by a deliberate decision of the Cuban Government to permit, and indeed in many instances to force, the departure of large numbers of its citizens for the United States. The offers of several countries to receive these Cubans and the efforts of international agencies to arrange a safe and orderly system of departure were rejected or ignored.

The steps we take to halt illegal migration to the United States, and to arrange the return of citizens of these countries who are not eligible for admission, will obviously be different in these two very different circumstances.

In the case of Haiti, we face a continuing problem. Illegal migrants from Haiti constitute a significant social and economic problem for the United States particularly in the state of Florida. Over 20,000 Haitians entered the U.S. illegally in the last year, many of them in dangerous sea voyages in unseaworthy craft. However, the Government of Haiti has assured us of its determination to enforce its own laws against illegal migration and of its intention to cooperate with the United States, to the maximum extent of its ability, in joint efforts to halt the flow. We are actively engaged in both diplomatic and technical discussions with the Government of Haiti to determine how we may improve the cooperation of our two governments.

One thing that has become clear is that Haiti will not be able to do the job alone, without U.S. assistance. The economic and security assistance requests for FY 1982 that are now before the Congress will be essential to enable the Haitian Government to deal with a severely strained economy and to improve the capability of its Coast Guard to prevent the departure of small boats with illegal migrants.

In addition the U.S. Coast Guard will be assisting foreign governments that request such assistance of attempting to violate U.S. immigration laws. Arrangements will be made for expeditious screening and processing of any asylum requests at sea so that aliens who are not legitimate candidates for asylum can be returned promptly to their country aboard interdicted vessels. We envision that such interdiction would be done selectively and given maximum publicity in Haiti, with the cooperation of the Haitian Government, in order to have maximum impact on intending migrants, without entailing excessive expenditure or enforcement effort.

Legislation to facilitate seizure and forfeiture of vessels bringing aliens to the U.S. in violation of U.S. laws would also assist greatly in dealing with Haitian migration. Indeed, the U.S. Government technical team which visited Haiti last week observed that the traffic in migrants is now highly organized, using sizeable ships. Confiscation of these ships once they have been seized would be a powerful deterrent against those who are cynically profiting from the traffic in Haitian migrants.

Let me now turn to the very different case of Cuba.

Some 125,000 Cubans entered the United States between April 21 and September 26, 1980. This was an unprecedented event—the deliberate use of innocent human beings to impose political and economic costs on a neighboring country. By the end of this fiscal year, it is estimated that the Mariel boatlift will have cost the United States over $700 million. Such politically-inspired exoduses have little in common with legitimate immigration and refugee issues; rather, they are the ultimate in manipulation, exploiting the suffering of an oppressed people to commit an unfriendly act against another country.

Federal, state and local governments were unprepared to deal with the Mariel boatlift of 1980. Although we estimate that between one and two million Cubans would like to leave the island, approximately 200,000 Cubans have been approved by Cuban authorities for emigration. We must and we will be prepared to respond to any attempt by Castro to repeat last year's sudden exodus.

Let me make clear that we propose no change in this country's traditional policy of welcoming individual refugees from persecution and tyranny, whether from Cuba or other repressive regimes. But our experience of last year amply proved that we simply cannot respond in the same way when we are faced with a sudden influx of tens of thousands, including the inmates of jails and asylums.

There are four key elements in our planning for any contingency of this kind.

First, Castro, and the Cuban people, must be in no doubt or uncertainty about the nature of our response to a new Mariel. If they believe we are unprepared to handle an illegal immigration emergency; if they believe we will vaccilate between attempting to stop the migration and welcoming it; if they believe we will in the end welcome the arrivals and resettle them in American communities, then the temptation to deal us another blow will be very great. The President, by asking Congress for the authority to declare an immigration emergency and to take the actions necessary to respond to it, has clearly signaled his determination that there be no mistaking of our intentions. It is important that the Congress send the same signal in its action on the President's legislative proposals.

Second, it is vitally important to deny Castro the one means of transportation by which a massive flood of illegal migrants can be brought to this country: boats. The 1980 experience was made possible by the U.S. citizens and residents who took thousands of U.S.-registered boats to Cuba. Cuba has few boats it could spare for a new boat lift. If U.S. residents do not take boats to Cuba, there can be no migration from Cuba on the scale of Mariel. I am confident they will not do so if the U.S. Government is clear that it disapproves, if it is clear that such action is illegal, and if it is clear that boatowners will lose their boats and be subject to prosecution and heavy fines if they attempt to help a foreign government create an immigration emergency. Again, adoption of the President's legislative proposals would have a major impact.

Third, there are some boats in Cuba, and some may reach there from the U.S. despite our best efforts. The Coast Guard with support from the Navy if necessary, would be available to interdict on the high seas those vessels that we have reasonable cause to believe may be engaged in transporting illegal aliens to the United States in violation of our laws. Cuba has also in the past made use of third-country flag vessels to carry migrants. In the case of third country vessels, interdiction would of course take place only with the prior consent of the flag state. The proposed legislation would facilitate our turning these vessels away from the United States, before they have been able to unload their passengers on our territory, and turning them back toward their port of departure or another point outside of the U.S.

Fourth, for those Cubans and Haitians who do, by one means or another, arrive in the U.S., our policy must be one of immediate detention and prompt exclusion of those found to be inadmissable to this country. To do otherwise is to encourage others to follow.

These four are the elements of a successful policy to prevent new massive influxes of illegal aliens: a clear Administration and Congressional rejection of illegal immigration; seizure and forfeiture of vessels used for illegal boatlifts; interdiction of illegal boatlifts on the high seas; and detention and exclusion of those who arrive by that means.

These are not, of course, cost-free policies. Effective interdiction, whether of the continuing Haitian boatlift or a potential Cuban one, means additional operating costs for the Coast Guard. Expedited exclusion proceedings require additional manpower. Detention of the continuing flow of illegal migrants, plus prudent preparation for any sudden increase, requires, as the Attorney General said yesterday, "additional resources for the construction of permanent facilities." The Administration will ask your approval of the resources needed, and I hope that your Committee will support our request.

I do not wish to convey the impression that discouraging Cuba from the temptation of unleashing a new human wave against this country, or stopping it once it is started, will be easy tasks for which we have found a simple formula. On the contrary, they will require difficult and delicate balances of diplomatic pressures, effective law enforcement actions, and well-coordinated federal, state and local policies. A clear consensus of Congressional and public opinion in support of this approach will be indispensable if it is to succeed.

President Reagan, in his statement, quoted the report of the bipartisan Select Commission that Mariel "brought home to most Americans the fact that United States immigration policy was out of control." The Administration's proposals are designed to bring coherence and control back into our policy and to ensure respect for our laws both at home and abroad. We will well serve our foreign policy objectives by doing so.

TESTIMONY OF BENJAMIN CIVILETTI

Mr. Chairman and Members of the Subcommittee:

I am pleased to be able to testify before this Subcommittee today on behalf of the Citizens' Committee for Immigration Reform. The Citizens' Committee is a broadly-based, non-partisan organization committed to the rational and humane reform of this country's immigration laws and policies. We believe that a new immigration policy must be achieved through careful and thoughtful analysis, and it is our hope that we can hope to cast the debate in a manner that will benefit our nation as a whole.

On a more personal note, the Chairman and I were privileged to serve together for many months on the Select Commission on Immigration and Refugee Policy. During our deliberations, we learned a great deal about the historical impact of immigration on this country and much about the current dilemmas this country faces, including the particular issues we are discussing today.

I have been asked today to address issues

dealing specifically with mass asylum and, more particularly, with the problems caused by the recent influx of Cubans and Haitians over the last 18 months. During my tenure as Attorney General in the Carter Administration, the questions of what to do with the 125,000 Cubans who arrived here in the so-called "Mariel boat lift" or "Cuban Flotilla" and the thousands of undocumented Haitians who continue to come ashore in South Florida, were among the most intractable problems we faced. Frankly, no one was prepared to handle the mass of people who came in those few months in 1980 but we did the best we could to both handle the flow and to stem it. I am well aware that the responses were not quick or complete enough.

During 1980, the boat lifts from Mariel Harbor, Cuba brought approximately 125,000 Cubans to South Florida. Approximately 2.5 percent of these Cubans (3,000) were sent by the Cuban authorities from their prisons, and mental institutions; others were simply social misfits. Most of these people have already been resettled in American communities. But 1,800 criminals remain housed in the Atlanta federal prison and 1,700 mentally ill and social misfits remain at Fort Chaffee, Arkansas pending imminent reassignment.

In addition to this mass inflow of Cubans, there has been a steady flow of Haitians into South Florida during the past two years. This flow averages about 15,000 a year on top of the 35,000 who are currently here. Many of these Haitians face the threat of political persecution at home; however, the vast majority seem to be simply seeking escape from lives of continues poverty and economic despertation. The per capita income in Haiti is less than $300 per year.

Our hearts go out to any people who are seeking better and more productive lives. But we have to be realistic about the absorptive capacity of this country both socially and economically. We cannot let our refugee and mass asylum policy be determined by hostile foreign leaders or by enterpreneurs who make a living from bringing undocumented aliens to our shores. And we must develop a policy that is fair to both the people who want to come here and people who are already here.

I. SHARING THE BURDEN WITH OTHER NATIONS

We should attempt to sort through regional and international organizations to spread the responsibility for accepting people seeking asylum. Our humanitarian instincts suggest that we should be willing to be a country of mass first asylum. As a nation, we are comparatively wealthy. We have always considered our diversity one of our principal virtues. And because we already have various communities where persons of a variety of nationalities have settled, we already have in place some bases for survival networks.

But these humanitarian impulses must be tempered with realism. We do not have the resources to expand infinitely our capacity to welcome unexpected masses of people seeking asylum. This country is in the process of revising an immigration and refugee policy that already accepts large numbers of regular immigrants and other refugees each year. By the terms of the Refugee Act of 1980, the base allocation for refugees is 50,000 per year. We cannot stand ready, however, as a matter of course, to absorb huge numbers of foreign nationals seeking asylum over and above the immigration flows we have adopted as matters of deliberate policy. We should always remain a country of asylum for those fleeing oppression, but we must work through international organizations to share this burden equitably.

We should follow a dual strategy. First, we must work through international organizations, including the U.N. High Commission on Refugees, to obtain commitments from other nations to share the burdens of accepting participants in mass out-migrations. Second, we must be better equipped to act as the country of first asylum only in extraordinary mass asylum situations for those people who do reach our shores.

II. ADVANCE PLANNING FOR ASYLUM EMERGENCIES

There is no way to eliminate completely the substsantial burdens imposed by large groups of foreign nationals seeking asylum in the U.S. Our objective must be to minimize those strains by developing methods to screen the people seeking asylum, if possible, before they leave their native lands and to accommodate them properly once they have arrived.

Whenever possible, we should seek to develop working arrangements with "sending" nations to set up preliminary asylum centers in those countries. The benefits of this type of proposal are obvious. It would allow early evaluation of asylum applications at a point prior to the time applicants are on U.S. soil. It would permit us to work on a multilateral basis to find non-U.S. asylum sites for people determined to leave their native land. Finally, it would permit a more measured entry with greater chance of sound support and limited local disruption.

The problems with this sort of preliminary screening strategy are substantial. There will be cases, as with the Indochinese boat people and the Cubans from Mariel Harbor, where our poor relations with the sending government seem to preclude our working together to make the process more rational and equitable. Moreover, establishing asylum screening centers in the sending country may inhibit precisely those genuinely oppressed people who may have much to fear from coming forward to seek asylum. The process of coming forward, being rejected, then returned to the jurisdiction of oppressive local authorities may most discourage those people whom we should want to seek asylum.

Even in the Mariel Harbor situation, however, we might have done more than we did. First, we should have tried to negotiate with the Cuban government to allow us to send asylum ships to Mariel Harbor. We could have then conducted on-the-spot reviews of asylum claims and rejected those (including the criminals, the insane, and the misfits) who were unsuited to come to the United States. Second, in conjunction with this screening, we could have used the Navy to assist the Coast Guard to prevent other illegal transport vessels from moving to and from Cuba.

These are difficult problems. But it is clear that more can and should be done to make the process of screening asylum applicants more cooperative and less haphazard.

At home, we must be better equipped than we are at present to cope with mass asylum situations. The Select Commission recommended that an interagency body be established that would be responsible for opening and managing federal processing centers. What is needed, in other words, is a federal strategy to provide care for those people seeking asylum while their individual cases are being determined.

We must be able to acknowledge the problems that have surfaced over the last two years. There have been substantial delays in processing those who seek asylum; there has been the widespread perception that the Haitians have been discriminated against on the basis of race; there has been an inconsistent Federal policy with respect to work authorizations for Haitians; the placement of Cubans in processing centers has been, at best, haphazard; communities chosen as the sites for processing centers have reacted quite negatively; and the delivery of necessary services to the processing centers has been inadequate.

We believe that the way to minimize these problems is through careful advance planning. Such planning should involve the appropriate Federal agencies, including the White House, the U.S. Coordinator for Refugee Affairs, INS, the Departments of State, Health and Human Services, Education, the Army, and the FBI. In addition, voluntary agencies and local government representatives who must play essential roles in actually implementing such a system should be brought in at early stages of the planning process. The Select Commission recommended that this planning body develop contingency plans for actually opening and managing federal processing centers where applicants would stay while their applications were being processed.

The advantages of having in place a planning process and a set of procedures to handle these mass asylum situations would be substantial. Moreover, the existence of processing centers would itself have numerous benefits. It would permit large numbers of asylum applications to be processed quickly in a central location. specially trained staff could be supplied to the centers; applicants could be centrally housed, fed, and provided with medica care; law enforcement problems could more easily be controlled; the resettlement of applicants whose asylum applications are denied would be eased by the involvement of the U.N. High Commission for Refugees; ineligible applicants would not be released into communities where they might disappear and thereby avoid deportation; and the existence of such centers would deter those who might otherwise view asylum claims as a reliable means of backdoor immigration.

Serious advance planning would eliminate some of the worst features of our recent experiences with the Cubans and Haitians. It would ensure that individual applicants would be treated more decently and with more respect for their human dignity than we have accorded them in the recent past.

III. ADJUDICATING INDIVIDUAL CLAIMS AND ENFORCEMENT

It is difficult to foresee mass asylum situations. Even with quite sophisticated advanced planning, many of the most important decisions will have to be made as a mass asylum situation develops. With respect to the continuing flow of refugees from Haiti, an appropriate strategy must be developed right now.

It is reported that the Administration has chosen a questionable interdiction strategy to deal with future boatloads of Haitians. It would involve authorizing the Coast Guard to intercept boats carrying Haitian refugees and might include a preliminary hearing process on board ship to determine the presence of passengers ineligible for asylum. The New York Times has already coined the appropriate term for these proceedings, "walrus courts." It is reportedly favored by many in the Administration because it is reasonably inexpensive, and might act as a strong deterrent against future episodes.

The problem with this solution is that it sacrifices procedural regularity for the sake of expediency and threatens to humiliate us throughout the world. It is unlikely that the type of proceeding that could be held on board ship would lead to proper and consistent decisions on whether to admit individual applicants. It is equally inconceivable that ugly spectacles such as Haitians jumping ship or the Coast Guard relying on force to quell disturbances could be avoided. The result would be embarrassment at home and charges of hyprocrisy from abroad.

One part of an appropriate solution is to seek sanctions against those people who make

their living off the backs of undocumented aliens trying to migrate to this country. Harsher enforcement measures against people who bring undocumented aliens into the country makes good sense. These measures could include both criminal policies and forfeiture of vessels.

But the applications of individuals seeking asylum should be handled in some other way than in harried circumstances aboard ship. The Select Commission has endorsed the streamlining of current procedures for evaluating asylum applications to bring them in line with what is currently done with respect to refugees. Currently, a person who belongs to a group qualified for refugee status is accorded a strong presumption of eligibility and the procedure for evaluating an individual claim is quite straightforward. This is in stark contrast to the tedious and onerous individualized burdens of proof required of individuals seeking asylum. Since the grounds on which people should be granted asylum and refugee status are identical, similar procedures should be adopted to process asylum applications.

Group profiles could be developed for asylees based on evidence of how members of particular religious, ethnic, racial, and political groups are treated in different countries. On the basis of these group profiles, presumptions could be made concerning the validity of individual claims. No longer would each asylum claim be treated as unprecedented. The result would be greater consistency and speed in making such decisions.

To further expedite the handling of asylum applications, the Select Committee recommended creating the position of asylum admissions officers within the INS. It was our feeling that a small group of specialists trained in making eligibility determinations would be better equipped to make the individual decisions than the non-specialist officials who do so at present. One level of asylum appeal should be provided as a matter of right, and the appeal should be handled in the same fashion as other immigration appeals.

If we implement the kinds of procedures I have just sketched, we will be better able to ensure that mass asylum situations do not turn into unmitigated disasters. We all wish that these problems did not arise in the way that they do. But the answer is not to go for the glamorous or cruel quick fix. Neither a strategy of interdicting boats carrying undocumented aliens seeking asylum nor rounding them up in detention camps when they arrive in the States is the appropriate solution. Instead, we must seek to ensure that people who seek an escape from oppression and persecution continue to be welcomed here and that we deal with all applicants in a way that allows us to hold our heads high.

TESTIMONY OF JOHN TENHULA

With passage in March 1980 of the Refugee Act of 1980, the United States acquired its first refugee policy in statute, a welcome piece of legislation in that refugees throughout U.S. history had been admitted through a variety of ad hoc admission procedures. The bill accomplished two objectives: it established a uniform policy for refugee admissions; and a domestic policy of resettlement assistance. What the bill failed to do was provide any coherent or comprehensive policy or law for dealing with asylum seekers—those who are physically present in the United States wanting to be called refugees under U.S. definition.

Even today, the United States has no policy or program of dealing with groups seeking asylum here. The possibility of selecting refugees overseas (which also means security, health screening and a sponsor ready to guarantee their movement) ended in a dramatic way last summer when some 125,000 Cubans and 11,000 Haitians (who continue to arrive) landed on our shores. Most recently Salvadorans are arriving in increasing numbers.

Has United States immigration turned sides from a country of hospitality to that of hostility? As we open detention camps throughout the U.S. and in Puerto Rico, have we simply directed our actions to state—out of sight out of mind? Are we ignoring the plight of refugees?

Concerning the granting of asylum, the U.S. experience has been that of acknowledging single and isolated cases that often reflected U.S. political attitude toward asylees and refugees. It was in November 1970 that U.S. national attention was focused on asylum provisions when a Lithuanian seaman, Simas Kudirka was forced to return to a Soviet vessel moored to a Coast Guard cutter in U.S. territorial waters. The result of all this was a set of new "Guidelines" from the Secretary of State approved by the White House in January 1972.

The Guideline insisted that "the request of a person for asylum or temporary refuge shall not be arbitrarily or summarily refused by U.S. personnel", and stated that the basic objective of the policy on right of asylum was "to promote institutional and individual freedom and humanitarian concern for the treatment of the individual." Certainly no other asylum flow better demonstrates the failure of those Guidelines or for the fears and shouts of "enough" more than the recent Cuban and continuing Haitian and Salvadoran influx. What went wrong?

The United States found itself a host nation to uninvited Cubans who, for whatever reason, left or were pushed out of Cuba. The numbers of those mentally impaired, handicapped, social misfits and homosexuals were exaggerated and highlighted by the press—especially in the areas surrounding the four stateside camps: Eglin Air Force Base, Florida; Fort McCoy, Wisconsin; Fort Indiantown Gap, Pennsylvania; and Fort Chaffee, Arkansas. However, most of those who came, came to join their relatives and have since well adjusted.

The Haitian influx offers a more difficult situation to understand; underlining all of this is the question: Are these economic or political refugees? U.S. State and Justice Department officials continue to argue that Haitians are economic migrants seeking employment and a better life in Florida. Their plight is not an easy one to explain. Over one million Haitians of a nation of six million are out of the country. The poverty of Haiti is real and the Haitian people hurt.

But the repression in Haiti is documented. When Papa Doc Duvalier gave his title of President-For-Life in 1972 to Baby Doc, a great deal of discussion was sounded concerning a lessening of repression. Not so. Duvalier rules Haiti with an iron fist and is supported by a secret security force that controls local government and rival activities with a feudal allegiance of Duvalier. The Amnesty International Report of December 18, 1978 stated: "The apparatus of repression established under Francois Duvalier remains in place under Jean-Claude Duvalier." Human rights advocates stress that Haitians who have left Haiti jeopardize their welfare and safety if returned.

Since 1972 Haitians have sought asylum in the U.S., with an estimated 11,000 Haitians arriving on the southern Florida shores during 1981. The issue has found its way into the court system. In July 1980, Federal Court Judge King ruled in the Fifth Circuit Court in Miami that both Justice and State Departments have discriminated against Haitians with "systematic and pervasive discrimination by the Immigration and Naturalization Service (INS)." The government's appeal to that decision was heard in Atlanta in June 1981; no decision has yet been reached.

GOVERNMENT RESPONSE AND POLICY

Monitoring treatment of our government's response to Cuban and Haitian arrivals seems to demonstrate a discriminatory system of treatment. Our concerns range from INS inappropriate I–94 stamping to unequal care and maintenance and processing of Haitians. This wide range of issues begins with involvement and use of government funds and agencies (Federal Emergency Management Agency, FEMA) that assisted Cubans and not Haitians, to the present day unequal processing of immigration documents. Certainly no other asylum group of unaccompanied minor children would have been treated by separation and uncertainty as the Haitians were, housed in Krome South and now Greer-Woodycrest, New York. Anthropologist Virginia Dominquez stated before the June 1980 House Subcommittee on Immigration, Refugees and Naturalization:

"Although President Carter has publicly stated that the two groups will be treated equally, there is as yet little sign that this is happening. The Cubans are screened more 'for resettlement' rather than to determine their eligibility for refugee status. The Haitians are detained for three days for health examinations. Then the INS buses them to Miami's little Haiti without, in many cases, finding housing."

The Carter administration's policy of responding to the Cubans and Haitians was to not call them refugees. "Refugee status would not be presented as an award for the voyage here," stated United States Refugee Cordinator Victor Palmieri in the early days of the movement, and the official Policy Statement of June 20th stated:

"In order to redress this extraordinary situation, yet maintain the integrity of our refugee laws for those applying for admission in the prescribed manner, the President has decided to seek special legislation regularizing the status of Cuban-Haitian entrants. This legislation will allow them to remain in the United States and will make them eligible for certain benefits, but it will not provide the status or benefits accorded to those admitted as refugees or granted political asylum."

The results of handling both groups has been detrimental to their welfare and caused not only bad feelings in refugee-impacted areas of especially Florida, but a severe drain on social service and education systems waiting to be adequately compensated by special Federal legislation. And if cost was a consideration in this program, surely the government gets poor marks.

Clearly the voluntary agencies responsible for decades for refugee sponsorship, have been taxed from the very beginning. We have need of asylum seekers, often called refugees resettlement contracts.

We were asked to respond to the desperate need of aslyum seekers, often called refugees but treated as undocumented and illegal and unwanted aliens. And we did respond.

Through the secular and religious networks of the voluntary agencies around the country we placed the majority of Mariel Cubans and a large number of Haitians in a resettlement opportunity with a stated goal of self sufficiency. Our success in assisting homeless people toward a new life has often been overlooked by the dramatics of the special needs of a minority number of these people.

The formation, then phase-out, of the State Department's Cuban-Haitian Task Force into the Office of Refugee Resettlement, Health and Human Services has

created severe work problems for us. We continue to be asked to assist resettlement of Haitian refugees from the intolerable conditions of Krome North Camp in Miami and now possibly Federal Prisons and Puerto Rico. Our resettlement experience has shown that Haitians are often denied necessary social services and fall into exclusion proceedings in the community they choose to live in. This is probably the most dangerous aspect of our lack of an asylum policy: the handling of the asylees' legal status and INS documentation, a critical issue for a domestic resettlement program. Willing sponsors are still confused over "entrant status." Our future refugee resettlement work has been complicated by the inactions and lack of policy of this program.

We receive reports continually from around the country of confusion and misunderstanding of the procedures and methods used to conduct asylum interviews. Certainly this is reflected in the recent June 1981 closed group courtroom hearings of Haitians in Miami who did not have access to counsel and did not fully understand their rights or the proceedings.

We are also aware of the continued difficulties Salvadorans are having in applying for political asylum. Over 4,500 applications nationally are pending. All this as the State Department continues to decide if conditions in El Salvador merit these claims of a fear of persecution if returned.

The creation of refugees and refugee-producing situations has become a daily global phenomenon, and recent events seem to reinforce the words of former INS Director Leonel Castillo: "The next 20 years will see an untold number of homeless and poor people knocking at our door for admission—how will we respond, in what way will we decide who shall enter who should we welcome."

What should be the policy considerations of the U.S. for asylees? The following are three suggestions: international awareness of this problem, equity and enforcement; and getting to the root causes.

INTERNATIONAL AWARENESS OF THIS PROBLEM

Today, mass asylum is not a U.S. phenomenon but part of a global migration of people seeking a new life and opportunity. In 1980 Germany recorded over 100,000 asylum applications, and over 10,000 East Europeans, mostly Poles, are crowded in camps in Austria today.

The same pressing concerns are heard in France, Greece and Italy. Recognition and action is required by the international community. What is needed now is a system of criteria and standards that can be adopted by member governments, ensuring some degree of equity to the increased asylum requests being received by states today.

Asylum has increasingly been stretched, confused and misunderstood. Certainly this is of deep concern to our national voluntary networks and religious communities. People in uncertain status are vulnerable to abuse. For the U.S., this means coming to terms with a policy and program to deal with the reality of mass asylum. There are several guidelines that deserve serious consideration.

The final report to the President in March 1981 of the U.S. Select Commission on Immigration and Refugee Policy offers sensible goals and objectives such as: (1) the maintenance of the U.S. as a "country for asylum for those fleeing persecution" (2) the adoption of policies and procedures that will deter abuse of asylum, and (3) expeditious handling of individual asylum claims.

We strongly support the Commission's recommendation for the establishment of an interagency body like a Refugee and Asylum Review Board to oversee all aspects of the process. This Board could help to develop and clarify asylum standards and procedures; periodically review selected applications for political asylum as a means of providing uniformity of treatment for all countries and in all INS districts and to consult with Congress and the Executive branch when emergency situations arise.

We support the Select Commission's recommendation about creation of federal asylum processing centers, provided they offer fair treatment and free access; this especially in light of the present use of Federal Correctional Institutions and Fort Allen, Puerto Rico, for Haitians and the possible due process violations these people may incur.

We feel that the protection of a review of asylum applicants on a case by case basis must be respected by INS Regional Directors. We also urge the use of extended voluntary departure as a means of meeting emergency asylum needs.

The Select Commission's recommendation of a group profile raises questions, as yet unanswered, as to how objective assessment of refugees producing conditions can be accomplished.

But most important is the need for improving the efficiency of the asylum process. The present system of individual review with the State Department's Bureau of Humanitarian Affairs is hopelessly bogged with the present national caseload which now exceeds 185,000.

We are also aware that lengthy and costly litigation in our courts is not the answer to this problem.

The present INS interim regulations for asylum requests under the Refugee Act of 1980 lack clarity and direction. There is a little logic in refugee matters bureaucratically falling under the mandate of the State Department's U.S. Refugee Coordinator's office and asylum matters under the mandate of the Bureau of Human Rights and Humanitarian Affairs (BHRHA). Refugees and asylees are directly interconnected and should be managed from one office.

In conclusion, we must protect the welfare and safety of the asylum seeker who has a well-founded fear of persecution. This means creating an asylum policy that is applied with equity. The recent experience of treatment of asylees demonstrates what in policy and program should not happen.

American Council for Nationalities Service.
American Fund for Czechoslovak Refugees.
Buddhist Council for Refugee Rescue and Resettlement.
Church World Service.
HIAS.
International Rescue Committee.
Lutheran Immigration and Refugee Service.
Migration and Refugee Services, United States Catholic Conference.
Polish American Immigration and Relief Committee.
The Presiding Bishop's Fund for World Relief.
Tolstoy Foundation.
World Relief.
Young Men's Christian Association.

STATEMENT OF MR. WELLS KLEIN

Mr. Chairman, members of the Subcommittee, my name is Wells Klein. I'm executive director of the United States Committee for Refugees. We appreciate the opportunity you have afforded USCR to testify before you today.

Our appearance before the Subcommittee stems from a very specific concern of USCR, namely—the manner in which the United States responds to the difficult public policy issue of mass asylum will directly and immediately affect our nation's leadership role with respect to fundamental issues of refugee asylum at an international level. The policy we adopt will confirm or compromise our historical leadership and moral authority in the field of human rights and, most specifically, refugee acceptance and assistance. The world is, in fact, closely watching how we handle this issue.

We must be forthright. We know the policy decisions that result from these deliberations will not please everybody. The issue is complex and not amenable to easy resolutions simply on the basis of good will.

Public attitudes on immigration currently run deep, largely because of the Mariel boatlift of 1980. The nation felt violated and, indeed, was. Mariel introduced a new migration phenomenon to America, one that other nations have experienced before, but not the United States, that which we call "mass asylum."

Our current immigration policy has not anticipated mass arrival on our shores. As you know, current refugee admission policy is based on the assumption that, by and large, screening will occur in a country of first asylum and that those we choose to admit will arrive through an orderly process.

The experiences of the recent past demand that our government articulate a clear policy with respect to mass asylum situations, both so we will be prepared to respond in an adequate fashion to any future episode and so that those who would consider coming will know the results of their actions. The result of our policy must be predictable so that those who don't fit won't come. And should there again occur a mass expulsion to our shores, we must be prepared to react with humanity, but with full recognition of our need to be in control of our own immigration policy. This translates into an immediate request for international cooperation and assistance, and international sanctions against the expelling country.

Failure to clearly articulate a mass asylum policy will inevitably undermine what has always been our country's commitment to a liberal, flexible and humane policy with particular respect to those legitimately seeking asylum and for those refugees fleeing persecution.

To repeat ourselves, this is a complex public policy issue. We believe the only way to come to grips with this issue is by reference to three fundamental principles that should guide U.S. policy.

1. The U.S. must have control, and must appear to have control, of the flow of people permanently entering into this society. We have neither at present. This failure prejudices the constructive expression of the inherent reservoir of good will within the American public to respond positively to genuine refugee emergencies. While we might ideally wish to see the free movement of people across all national boundaries, we do not yet live in the best of all possible worlds.

2. Our mass asylum policy—the result of these deliberations—must be consistent with what we ask of other nations in similar circumstances. Such consistency is fundamental to our continuing role of leadership in the free world.

3. We must fully observe the fundamental tenets of due process in the way in which we deal with the varying circumstances of asylum seekers.

The right to due process is one of the few qualities that distinguishes us from much of the rest of the world. Granted, due process does not always yield the most efficient system. But it is that which separates us from Hitler's Germany, Stalin's Russia and Idi Amin's Uganda. Due process is not only our way, it is also the only practical way. A policy that does not provide for due process for individual as well as group asylum seekers will be consistently and repeatedly chal-

lenged in our courts, thus tying up our whole system as has occurred in the past with respect to Haitians. Due process is, therefore, a prerequisite for a workable policy.

The term "mass asylum" is to loosely used and incorporates, in the vernacular, some other related issues we would like to touch on separately. In our view a mass asylum situation exists when a large number of asylum seekers arrive on or shores is a constrained period of time resulting in a situation with which regular asylum processes are unable to cope. There are, however, two other aslyum situations with which we must be concerned.

The first is that in which significant numbers of individuals already in the United States in nonimmigrant status are caught here by significant events, usually military, in their own countries. While application for political asylum may eventually be a viable alternative for some of these individuals, by and large, the majority are in need of temporary safe haven. This, we believe, can be easily accomplished, and without threat to our control of immigration, by extending such individuals indefinite voluntary departure until such time as they are able to return home.

The second situation is that in which significant numbers of individuals seek to enter the United States as asylum seekers after transiting a third country, most obviously Mexico. In this situation we feel that the country to which they initially fled, be it Mexico or another, should be considered by the United States as the country of first asylum. Practically, and in terms of political realities, we may need to assist that country in the care and maintenance of these persons in first asylum status as we have done elsewhere, for example Thailand. But we should not confuse this situation with one of mass asylum as defined above.

The heart of the matter, however, is another Mariel or the Haitian asylum phenomenon that faces us today. We propose a mass asylum policy based on the following guidelines:

1. However uncomfortable the immediate implications we must accept the obligation of being a country of first asylum. In practice this means we do not interdict at sea and we do not push boats off our shores.

2. In accepting our responsibility as a country of first asylum, we must reserve the right to detain asylum applicants or permit them temporary access to our society either on a group by group or case by case basis, depending on what we deem to be in our best interests.

3. We must recognize there are far more people in the world, including applicants in a mass asylum situation, who meet our definition of refugee than this country can, or can be expected to, integrate into our society. It follows, therefore, that we must involve the UN High Commissioner for Refugees in any mass asylum situation and internationalize our response to those legitimately seeking asylum on the basis of a well founded fear of persecution.

4. It also follows that those who do not meet the test of a well founded fear of persecution must be repatriated or otherwise relocated short of permanent admission to our society.

Mr. Chairman, I personally and we as an agency are not entirely comfortable with the position we have just taken. It results from a good deal of soul-searching. We return, however, to our original set of principles and the conviction that America's long range world leadership and our ability as a nation to provide haven for truly needy refugees hinges on a responsible policy in which the American public can have confidence.

In conclusion, Mr. Chairman we would like to briefly touch on some implications of "due process" in a mass asylum situation. These are in addition to the normal safeguards currently embodied in the law and the intent of the law. First, if due process in a mass asylum situation is to be a reality both for the asylum applicant and ourselves as a nation, adjudications must be handled with reasonable speed. We endorse the concept of group profiles for purposes of establishing a well founded fear of persecution.

We do not endorse the concept of group profiles as the basis for rejecting asylum applications. Rejections must be handled on a case by case basis no matter how inefficient this may be.

Secondly, we feel that the implications for individuals in the rejection of asylum applications are far too great to permit the decision to be made by one individual or one body. There must be an appeal or review mechanism separate from the original adjudication. Every effort should be made to make this a fair and impartial process that strives to give the applicant every reasonable benefit of doubt. We do not, however, believe the appeal or review process should go on ad infinitum, keeping the applicant in a limbo and tying up our adjudication system.

Finally, Mr. Chairman, we must realize that many asylum applicants may have no familiarity with our language, customs or with our laws, and therefore, must have the right to representation in the adjucication and particularly in the appeal process.

Mr. Chairman, we feel our nation cannot allow the ineffective confused type of government response that occurred during the Mariel exodus to occur again. We believe a clearly enunciated policy with rapid implementation in a mass asylum emergency will deter those who fall outside our policy from coming. We believe that clarity of authority and responsibility within the context of the policies we have enumerated will foster a continued willingness on the part of the American public to be positively responsive to the legitimate needs of those seeking asylum. And that is what we are after.

Mr. Chairman, separately we are submitting to your staff a series of detailed suggestions for executive branch implementation of mass asylum policy for your further consideration. We hope you will find these useful.

STATEMENT BY RONALD F. GIBBS

(Associate Director for Human Resources)

Mr. Chairman, honored members of the subcommittee, I am Ronald Gibbs, Associate Director for Human Resources, of the National Association of Counties (NACo).

NACo welcomes the opportunity to testify before you on the issue of the United States as a country of first asylum. It is an issue of great concern to counties—particularly those in Florida—which last year experienced an influx of more than 150,000 Cubans and Haitians seeking asylum in this country.

Although the Federal Government is responsible for determining national immigration and refugee policies, it is county government which must deal on a daily basis with the effects of these policies.

Given the political and economic climate in many Caribbean and Latin American nations, the issue of the United States as a country of first asylum is likely to continue—as evidenced by the arrival of an additional 462 Haitians in South Florida last weekend.

NACo's positions on the issues being addressed at this hearing reflect the work of the NACo Task Force on Refugees, Aliens and Migrants, chaired by Harvey Ruvin, Commissioner, Dade County, Florida. The task force is composed of 40 elected and appointed county officals from across the country. At NACo's annual conference, held in Louisville earlier this month, the NACo membership adopted the resolutions on immigration and refugee policies developed by the task force.

Our position on the issue of the U.S. as a country of first asylum are as follows:

CONTINGENCY PLANS

The widespread confusion and lack of coordination in the handling of the recent Cuban/Haitian influx points to the need for the Federal Government to develop contingency plans for handling future mass asylum situations. Such plans should identify the lead Federal agency responsible for directing the Federal Government's efforts in this area, as well as identifying the programmatic responsibilities of other relevant agencies. To the extent that the contingency plans involve either the selection of sites in which to detain applicants for asylum or the resettlement of asylees into communities, state and local elected officials should be consulted in the planning process.

ENFORCEMENT MEASURES TO PREVENT ILLEGAL ENTRY INTO THE UNITED STATES

Stronger measures are needed to prevent a reoccurrence of the Mariel Boatlift in 1980, in which American vessels brought thousands of Cubans illegally into south Florida. The Mariel boatlift represented not only a gross violation of U.S. immigration laws, but also a hazard to the safety of persons involved, resulting in a number of deaths. In the case of the Mariel Boatlift, existing statutes proved to be inadequate; therefore, NACo would support the enactment of legislation to more effectively deter persons from bringing aliens into the country illegally.

We believe that the U.S. should proceed cautiously before implementing a policy of interdiction of illegal migration on the high seas. Although strong enforcement on our borders is desirable, we recognize that interdiction would be operationally difficult, and hazardous to the safety of persons involved. In addition, if the U.S. turned away "boat people" seeking asylum here, it would weaken our efforts to discourage other nations, such as in Southeast Asia, from doing the same.

EXCLUSION AND DEPORTATION PROCEEDINGS

Without negating the rights of persons to due process, we feel that the current asylum application process should be changed in order to reduce the length of time it takes. Currently, it can take years to complete.

DETENTION

NACo favors a policy of temporarily detaining mass asylum applicants in Federal facilities, pending a determination of their immigration status. With the exception of initial processing centers, the detention facilities should be located outside of areas, such as Florida, which are directly affected by mass asylum. State and local elected officials should be consulted in the selection of sites for the detention facilities. The asylum applicants should also be treated as humanely as possible. Health and safety conditions at the Krome North facility in Dade County, Florida, where Haitians are being detained, are deplorable.

To the extent that it appears that exclusion proceedings for individual applicants are likely to take a long period of time, those applicants who do not represent a danger to the public should be resettled into communities. We believe it is inhumane to keep persons for months and even years in detention facilities without just cause. Moreover, long-term detention is far more costly than resettlement.

RESETTLEMENT OF MASS ASYLEES

The Federal Government should develop placement strategies for resettling mass asylees which take into account the capacity of communities to successfully absorb them. That is, consideration should be given to the availability of housing, employment and other resources which they will need. In addition, resettlement should not take place in

counties in California, Florida, and other States which are already heavily impacted by mass asylees or refugees.

NACo also strongly believes that the Federal Government should fully reimburse States and counties for the costs of assisting asylum applicants, as well as persons granted asylum.

ELIGIBILITY OF ASYLUM APPLICANTS FOR ASSISTANCE

NACo favors extending to asylum applicants the same Federal assistance that is provided to refugees and asylees under the Refugee Act of 1980, and to Cuban/Haitian entrants under the Fascell-Stone amendment. Under present law, applicants for asylum are currently not eligible for Federal assistance programs such as AFDC, medicaid, SSI, or food stamps. As a result, counties must bear the burden of assisting needy asylum applicants. Without passage of the Fascell-Stone amendment last October, Dade County would have had to absorb several million dollars in costs of health care provided to asylum applicants from Cuba and Haiti.

LEGAL STATUS OF CUBANS AND HAITIANS CURRENTLY RESIDING IN THE U.S.

NACo favors permitting Cubans and Haitians currently residing in this country as of July 1, 1981 to remain in the U.S. and to apply for permanent resident alien status after they have been in the country for at least 3 years. We believe that the mass deportation of the more than 150,000 Cubans and Haitians whose legal status is currently unclear is neither feasible nor in the best interest of this country.

However, efforts should be made to repatriate criminals, the mentally ill, and other Cubans and Haitians who are subject to exclusion on other grounds. Consistent with our position on Federal financial responsibility for refugee assistance costs, NACo believes that the Federal Government should fully reimburse States and counties for the costs of providing cash and medical assistance to these Cubans and Haitians until they become economically self-sufficient.

In closing, I would like to thank you for the opportunity to speak before you today. I believe that this hearing is an important first step towards developing national policies and plans which more effectively respond to mass asylum situations.

I am prepared to answer any questions you may have.●

RECESS UNTIL 10 P.M.

Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10 p.m. this evening.

There being no objection, the Senate, at 9:27 p.m., recessed until 10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there is one item on the Executive Calendar, a treaty, Executive A, 93–1, a treaty with Colombia concerning the status of Quita Sueno, Roncador, and Serrana.

Might I inquire of the distinguished acting minority leader if he is in a position to clear that measure for consideration at this time?

Mr. CRANSTON. I am not, at this point. I think we can.

Mr. BAKER. Mr. President, while we inquire into the possible clearance of this matter, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, could I inquire now of the distinguished minority leader if it would be possible to proceed in executive session to the consideration of the treaty with Colombia?

Mr. ROBERT C. BYRD. Mr. President, it is agreeable to this side of the aisle.

EXECUTIVE SESSION

TREATY WITH COLOMBIA CONCERNING THE STATUS OF QUITA SUENO, RONCADOR, AND SERRANA

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering Calendar No. 5 on the Executive Calendar, Executive A, 93–1.

The PRESIDING OFFICER. Without objection, it is so ordered.

The treaty will be stated.

The assistant legislative clerk read as follows:

Treaty, Executive A, 93–1, Treaty with Colombia Concerning the Status of Quita Sueno, Roncador, and Serrana.

Mr. BAKER. Mr. President, has the treaty been taken through the several stages leading to the resolution of ratification?

The PRESIDING OFFICER. The Chair informs the majority leader and the minority leader that it has not been.

Mr. BAKER. Mr. President, I ask that the treaty be advanced through the various stages in preparation for the consideration of the resolution of ratification.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Status of Quita Sueno, Roncador and Serrana, signed at Bogota on September 8, 1972, subject to the understanding that—

(1) the provisions of the Treaty do not confer rights or impose obligations upon, or prejudice the claims of, third states;

(2) the United States of America and the Republic of Colombia, as well as other nations in the Western Hemisphere, are obligated under the Charter of the United Nations and the Charter of the Organization of American States to resolve their differences peacefully; and

(3) as recognized by Senate Resolution 74, Ninety-third Congress, States may contribute to the development of international peace through law by submitting territorial disputes to the International Court of Justice or other impartial procedures for the binding settlement of disputes.

Mr. BAKER. Mr. President, I ask for consideration of the resolution before the Senate by a division vote.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:45 P.M.

Mr. BAKER. Mr. President, I wish to report that negotiations are still underway with respect to the matters in conference between Members of the House of Representatives and the Senate on the tax bill. There are other considerations as well between individual Members of the House and Senate that may expedite the final disposition of the conference report on the tax bill. Once again, I think it may be worth while for the Senate to remain in session a while longer until a further report can be had.

Therefore, Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10:45 p.m.

There being no objection, the Senate, at 10:14 p.m., recessed until 10:45 p.m.; whereupon, the Senate reconvened when called to order by the Presiding Officer (Mr. DENTON).

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I must report that the conferees are still working diligently, and I am hoping we will have some further information before very long.

This time I will not ask the Senate to recess. There is some indication we may have some more information in the next 15 minutes or so, and I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

STATUS REPORT—ECONOMIC RECOVERY TAX ACT OF 1981 CONFERENCE

Mr. BAKER. Mr. President, I just returned from the House side of the Capitol where I visited our diligent and dedicated conferees. They asked me to report that they are making good progress; if my memory is correct, they have only about 10 items remaining of 115 or so that were in conference between the Houses.

I point out that among those 10 are the major items of oil, the tax straddle, stock options, and perhaps one or two others. But when I spoke with the chairman of the conference, the chairman of the Ways and Means Committee on the House side, and our chairman, Senator DOLE, they indicated to me that they thought they might be able to finish the conference yet tonight, maybe in the next hour or so.

Mr. President, I am reluctant to say so, but it seems to me that once again it would be well to stay in for a little while to see if we can make an announcement about the schedule of the Senate for tomorrow.

I do not mean to tantalize Members, nor to threaten staff, but I point out that, if the conferees conclude and if an examination of that conference report suggests that we might be able to take it up as soon as it is available from the Public Printer and pass it by voice vote tomorrow, that would be a great savings. I do not predict that but I confess to wishing for that.

So, Mr. President, it is with regret that I say I wish to ask my colleagues to remain in session for a brief time, and so that we can get another reading on this situation a little later, I shall ask unanimous consent that the Senate stand in recess until the hour of 12 midnight.

RECESS UNTIL 12 MIDNIGHT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 midnight.

There being no objection, the Senate, at 11:30 p.m., recessed until 12 midnight; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MURKOWSKI).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Alaska, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I think it is still worth our while to remain in session. I hope the Senate will agree to do that for the time being.

In the meantime, I have two other items on the Executive Calendar that are cleared on this side: Calendar Order No. 395 and 369, Harold V. Hunter of Oklahoma and Charles Wilson Shuman of Illinois.

May I inquire of the distinguished acting minority leader if those items are cleared for unanimous consent on their side?

Mr. CRANSTON. Yes, Mr. President, they have been cleared. We are delighted to agree to the unanimous consent request.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed into executive session for the consideration of the two nominations just identified.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF AGRICULTURE

The PRESIDING OFFICER. The nominations will be stated.

The legislative clerk read the nominations of Harold V. Hunter, of Oklahoma, to be Administrator of the Rural Electrification Administration and Charles Wilson Shuman, of Illinois, to be Administrator of the Farmers Home Administration.

REA NOMINEE HAROLD V. HUNTER

● Mr. HUDDLESTON. Mr. President, on July 29, the Senate Committee on Agriculture, Nutrition, and Forestry held a confirmation hearing on Mr. Harold V. Hunter, who is to be Administrator of the Rural Electrification Administration.

As part of the confirmation process, Mr. Hunter responded to questions I submitted. One of these questions was in regard to the administration's plans for possibly raising the interest rate on Rural Electrification Administration insured loans.

It is my understanding that in May of this year the administration was considering proposing legislation to:

First, increase the standard interest rate for these loans from 5 percent to 7 percent; or

Second, change the standard interest rate for these loans to an interest rate that is a certain number of basis points below the cost of money to the Treasury; or

Third, authorize the administration to change interest rates on these loans from time to time to make the revolving fund able to continue without future appropriations for interest subsidies and losses.

I am pleased to note that Mr. Hunter has responded that these proposals are no longer under consideration. I support the nomination of Mr. Hunter, and I ask that my questions and Mr. Hunter's answers be printed in the RECORD.

The material follows:

Question: The administration has sought to eliminate the REA 2 percent insured loan program. Are you considering more changes in the insured loan program, such as raising the interest rate about 5 percent?

Answer: No change to an insured loan interest rate of more than 5 percent is being considered at this time.

Question: Congress has in the past rejected specific limitations on REA loan guarantees. Has a ceiling on REA loan guarantees been imposed by the administration?

Answer: REA expects to issue its guarantee commitment for all loan guarantee applications for which processing is completed by the end of this fiscal year. There is no legal restriction on the amount of loans which may be guaranteed in the current year.

Question: Last week, during the reconciliation conference, the conferees agreed to make the 2 percent REA insured loan program discretionary. Could you describe for the committee the circumstances under which 2 percent loans will be made if Congress accepts the conferees' recommendation?

Answer: We understand that the proposed amendments to the Rural Electrification Act to which the conferees have agreed provide that loans may be made at a rate of not less than 2 percent if the borrower has experienced extreme financial hardship or will otherwise be required to charge rates which are unreasonable for the area. Factors such as density will be given consideration to the extent they cause the type of situation for which the discretionary lower rate is to be made available.●

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. BAKER. I move to reconsider the vote by which the nominations were considered and confirmed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12:45 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:45 a.m.

There being no objection, the Senate, at 12:13 a.m. recessed until 12:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MURKOWSKI).

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have to report once more that we still do not have a definitive statement to make on the progress of the conference. I am still encouraged that the conference may be able to conclude this evening. A number of Senators are anxious for the Senate to remain in session so that we can announce a further schedule of the Senate and our intention about the session tomorrow and perhaps next week.

I think the only reasonable course at this hour is to put the Senate in recess subject to the call of the Chair. It is my anticipation that before 1:30 we will have another announcement to make.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 12:52 a.m. took a recess, subject to the call of the Chair.

The Senate reassembled at 2:24 a.m., when called to order by the Presiding Officer (Mr. MURKOWSKI).

STATUS REPORT—ECONOMIC RECOVERY TAX ACT OF 1981 CONFERENCE

Mr. BAKER. Mr. President, it is still likely, I think, that the conferees on the tax bill will finish their work this morning. But it is now 2:30 a.m. in the morning, and I judge there is still more work to be done, a significant amount of work, and it will take a while.

I do not feel inclined now to ask the Senate to remain longer. In a moment I will propound a unanimous-consent request to put us out until this evening, meaning the 1st of August, at 6 p.m.

Mr. President, before I do that, may I say that if the conferees can complete their work on the tax bill yet this morning, I would hope that it would be possible to produce the documents that are necessary to present to the Senate later today and then the Senate, if it chose, could take up the conference report on the tax bill and dispose of it this evening.

I reiterate if we do that it will only be by voice vote. There will not be a rollcall vote on Saturday.

I have advised the distinguished Senator from Ohio and the minority leader that it is my intention, if we cannot dispose of the matter this evening, then I would hope to call up the conference report, if it is available, make it the pending business, perhaps file a cloture motion at that time, and then to recess over until a day in the following week.

I will have a further statement to make on those details when we reconvene.

Mr. President, if no Senator wishes me to yield to him for any purpose I am prepared now to ask the Senate to go into recess.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. CRANSTON. Will that date probably be Tuesday or Wednesday?

Mr. BAKER. Yes; it will probably be Tuesday or Wednesday, and I will confer with the minority leader and the distinguished acting minority leader before we make a decision on that.

Mr. CRANSTON. I thank the Senator.

ORDER FOR RECESS UNTIL 6 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business this morning, it stand in recess until 6 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 6 P.M. SATURDAY, AUGUST 1, 1981

Mr. BAKER. Mr. President I move, in accordance with the order just entered, that the Senate stand in recess until 6 p.m. today.

The motion was agreed to, and, at 2:32 a.m., the Senate recessed until Saturday, August 1, 1981, at 6 p.m.

NOMINATIONS

Executive nominations received by the Senate July 31, 1981:

DEPARTMENT OF STATE

Ronald I. Spiers, of Vermont, a Foreign Service Officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

BOARD FOR INTERNATIONAL BROADCASTING

Ben J. Wattenberg, of the District of Columbia, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1983, vice John A. Gronouski, term expired.

UNITED NATIONS

William Courtney Sherman, of Virginia, a Foreign Service Officer of class 1, to be the Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 531, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be major

Calzada, Jose E., xxx-xx-xxxx
Carroll, Gerard M., Jr., xxx-xx-xxxx
Fleming, John D., xxx-xx-xxxx
Riordon, John A., xxx-xx-xxxx

To be captain

Aavang, Glennis L., xxx-xx-xxxx
Abbit, James H., xxx-xx-xxxx
Abbott, Dwayne E., xxx-xx-xxxx
Acevedo, Patricia K., xxx-xx-xxxx
Adamcik, James P., xxx-xx-xxxx
Adams, Gerald M., Jr., xxx-xx-xxxx
Adams, James R., Jr., xxx-xx-xxxx
Addington, Doyle R., Jr., xxx-xx-xxxx
Aebli, Jacques, III, xxx-xx-xxxx
Aguiar, Lee W., xxx-xx-xxxx
Alfier, John, xxx-xx-xxxx
Allen, Jimmy R., xxx-xx-xxxx
Alley, Frederick L., xxx-xx-xxxx
Allie, Joseph S., xxx-xx-xxxx
Allison, Steven R., xxx-xx-xxxx
Amend, Frank R., Jr., xxx-xx-xxxx
Ames, Milton E., Jr., xxx-xx-xxxx
Anderson, Charles M., xxx-xx-xxxx
Anderson, David G., xxx-xx-xxxx
Anderson, James J., xxx-xx-xxxx
Anderson, John C., xxx-xx-xxxx
Anderson, Thomas L., xxx-xx-xxxx
Andren, George W., xxx-xx-xxxx
Andrews, Charles L., xxx-xx-xxxx
Andrews, Edward, Jr., xxx-xx-xxxx
Antinora, Richard, xxx-xx-xxxx
Antkowicz, Mark, xxx-xx-xxxx
Armentrout, Drew A., xxx-xx-xxxx
Arnold, Joseph W., xxx-xx-xxxx
Arsenault, John A., xxx-xx-xxxx
Athey, Michael W., xxx-xx-xxxx
Atwater, Richard M., xxx-xx-xxxx
Auletta, Joseph F., xxx-xx-xxxx
Bagesse, Robin H., xxx-xx-xxxx
Bailey, Michael A., xxx-xx-xxxx
Baird, Douglas P., xxx-xx-xxxx
Baked, Alfred C., III, xxx-xx-xxxx
Baker, John F., xxx-xx-xxxx
Ballance, Lyle L., Jr., xxx-xx-xxxx
Balyeat, John R., xxx-xx-xxxx
Barca, Robert S., xxx-xx-xxxx
Bare, Harold F., Jr., xxx-xx-xxxx
Barnes, Jeffrey D., xxx-xx-xxxx
Barrett, Ernest J., xxx-xx-xxxx
Barrow, William E., xxx-xx-xxxx
Bartlett, William H., xxx-xx-xxxx
Barton, John D., xxx-xx-xxxx
Bass, Thomas L., xxx-xx-xxxx
Bate, Stephen A., xxx-xx-xxxx
Baughman, Terry L., xxx-xx-xxxx
Beard, Dwight D., xxx-xx-xxxx
Beaty, Gene L., xxx-xx-xxxx
Beck, John F., xxx-xx-xxxx
Becker, Henry D., xxx-xx-xxxx
Becker, Michael E., xxx-xx-xxxx
Beebe, Gary E., xxx-xx-xxxx
Beightol, Willis E., Jr., xxx-xx-xxxx
Bell, Gus, Jr., xxx-xx-xxxx
Beltz, Fredrick M., xxx-xx-xxxx
Bennett, Fredrick E., Jr., xxx-xx-xxxx
Berg, George C., xxx-xx-xxxx
Berger, Dale K., xxx-xx-xxxx
Berger, William R., xxx-xx-xxxx
Bertoglio, James V., xxx-xx-xxxx
Best, William E., xxx-xx-xxxx
Bills, Conrad G., xxx-xx-xxxx
Bina, Robert E., xxx-xx-xxxx
Bitler, Steven A., xxx-xx-xxxx
Bjornstad, Ronald E., xxx-xx-xxxx
Black, Robert H., xxx-xx-xxxx
Blankenship, Robert R., xxx-xx-xxxx
Bledsoe, William L., xxx-xx-xxxx
Bogle, Lewis D., xxx-xx-xxxx
Bohn, Gary P., xxx-xx-xxxx
Bohunko, Joseph F., xxx-xx-xxxx
Bond, Lamar, Jr., xxx-xx-xxxx
Bonifant, Stephen S., xxx-xx-xxxx
Borchardt, William E., xxx-xx-xxxx
Bordman, Roger J., xxx-xx-xxxx
Bouchard, Ronald L., xxx-xx-xxxx
Bowman, Bradley A., xxx-xx-xxxx
Boyd, Franklin K., xxx-xx-xxxx
Boyd, James A., xxx-xx-xxxx
Boyd, Jimmie V., xxx-xx-xxxx
Bracken, George C., xxx-xx-xxxx
Bracken, Harold R., xxx-xx-xxxx
Bradie, Ross L., xxx-xx-xxxx
Bradley, Kenneth A., xxx-xx-xxxx
Bradshaw, Joel C., III, xxx-xx-xxxx
Branan, William C., Jr., xxx-xx-xxxx
Brandt, Lee E., xxx-xx-xxxx
Brewton, Jerry M., xxx-xx-xxxx
Briggs, Kent D., xxx-xx-xxxx
Broestel, Lee L., xxx-xx-xxxx
Brogan, James R., xxx-xx-xxxx
Brooksby, Robert C., xxx-xx-xxxx
Brown, Charles A., xxx-xx-xxxx
Brown, Charles I., xxx-xx-xxxx
Brown, Gregory K., xxx-xx-xxxx
Brown, Henry C., xxx-xx-xxxx

Brown, James H., Jr. xxx-xx-xxxx
Brown, Larry, xxx-xx-xxxx
Brown, Richard E. xxx-xx-xxxx
Brown, Ronald C. xxx-xx-xxxx
Brown, Thomas G. xxx-xx-xxxx
Brumm, Steven H. xxx-xx-xxxx
Bryant, Lillie A. xxx-xx-xxxx
Buckingham, John R. xxx-xx-xxxx
Buckingham, Larry A. xxx-xx-xxxx
Buckman, Robert J. xxx-xx-xxxx
Bukacek, Jody A. xxx-xx-xxxx
Bullock David E. xxx-xx-xxxx
Bunn, Jimmy D. xxx-xx-xxxx
Bunyard, James A. xxx-xx-xxxx
Bupp, Christopher L. xxx-xx-xxxx
Buras, Kathleen A. xxx-xx-xxxx
Burger, George H. xxx-xx-xxxx
Burgeson, James R. xxx-xx-xxxx
Burke, Lloyd S. xxx-xx-xxxx
Burke, Ted S. xxx-xx-xxxx
Burkholder, Ronald xxx-xx-xxxx
Burley, Boyce B., III xxx-xx-xxxx
Burrell, Raymond D. xxx-xx-xxxx
Busko, James P. xxx-xx-xxxx
Butts, Ronald L. xxx-xx-xxxx
Bycura, Michael W. xxx-xx-xxxx
Byers, Terrence L. xxx-xx-xxxx
Byrne, Robert E. xxx-xx-xxxx
Calloni, Ben A. xxx-xx-xxxx
Camp, Michael E. xxx-xx-xxxx
Campbell, James D. xxx-xx-xxxx
Cannon, Garry L. xxx-xx-xxxx
Cantrell, Randall R. xxx-xx-xxxx
Caraker, Michael L. xxx-xx-xxxx
Carlson, John J. xxx-xx-xxxx
Carlson, Robert D. xxx-xx-xxxx
Carpenter, George R. xxx-xx-xxxx
Carpenter, Jerold J. xxx-xx-xxxx
Carr, Robert E., Jr. xxx-xx-xxxx
Carson, Shirley R. xxx-xx-xxxx
Carter, Paul M. xxx-xx-xxxx
Carter, Robert A. xxx-xx-xxxx
Carver, James A. xxx-xx-xxxx
Cassil, John T. xxx-xx-xxxx
Castro, Fred M. xxx-xx-xxxx
Catherwood, John E. xxx-xx-xxxx
Catts, Clarence W. L. xxx-xx-xxxx
Cazessus, Ricardo M. xxx-xx-xxxx
Chamberlain, Craig F. xxx-xx-xxxx
Chapman, Douglas M. xxx-xx-xxxx
Chiles, Henry F. xxx-xx-xxxx
Chiofolo, Joseph M. xxx-xx-xxxx
Chisholm, Barry J. xxx-xx-xxxx
Christian, Terry E. xxx-xx-xxxx
Chubbs, Alonza T. xxx-xx-xxxx
Churchel, Gene E. xxx-xx-xxxx
Clark, Lynda A. xxx-xx-xxxx
Clayton, Richard C. xxx-xx-xxxx
Coats, Roger D. xxx-xx-xxxx
Coche, Dianne E. xxx-xx-xxxx
Cole, John R. xxx-xx-xxxx
Collins, Donal J. xxx-xx-xxxx
Cologne, Richard S. xxx-xx-xxxx
Coloney, Eric M. xxx-xx-xxxx
Confer, Edward C. xxx-xx-xxxx
Connell, James E. xxx-xx-xxxx
Copeland, John M. xxx-xx-xxxx
Copelin, Gary C. xxx-xx-xxxx
Cox, James R., Jr. xxx-xx-xxxx
Cox, Kell, Jr. xxx-xx-xxxx
Cox, Murray D. xxx-xx-xxxx
Coyne, Thomas P., Jr. xxx-xx-xxxx
Crane, Lowell W., Jr. xxx-xx-xxxx
Creel, Charles L. xxx-xx-xxxx
Cridlebaugh, Allan B. xxx-xx-xxxx
Crouse, William E. xxx-xx-xxxx
Crowe, Michael J. xxx-xx-xxxx
Crystal, Gregory C. xxx-xx-xxxx
Cummings, William H., III xxx-xx-xxxx
Cuneo, Jeffrey A. xxx-xx-xxxx
Curtis, Paul W. xxx-xx-xxxx
Daley, Judson D. xxx-xx-xxxx
Damanti, Vincent A. xxx-xx-xxxx
Darrell, Christopher E. xxx-xx-xxxx
Dashiell, Thomas M. xxx-xx-xxxx
Davidson, Walter G. xxx-xx-xxxx
Davies, Robert W. xxx-xx-xxxx
Davis, James C. xxx-xx-xxxx
Davis, John R. xxx-xx-xxxx
Davis, Mark L. xxx-xx-xxxx
Davis, Norvin L. xxx-xx-xxxx
Davis, Olin J. xxx-xx-xxxx
Davis, Shelby, Jr. xxx-xx-xxxx
Day, Richard L. xxx-xx-xxxx
Dean, Jerry N. xxx-xx-xxxx
Degarmo, James H. xxx-xx-xxxx
Demaster, Peter L. xxx-xx-xxxx
Dennison, John C. xxx-xx-xxxx
Denton, Tommy L. xxx-xx-xxxx
Denton, William A. xxx-xx-xxxx
Dewey, Charles S. xxx-xx-xxxx
Dibiase, Matthew xxx-xx-xxxx
Dice, Edward R., Jr. xxx-xx-xxxx
Digrado, Joseph P. xxx-xx-xxxx
Dike, Richard J. xxx-xx-xxxx
Dillard, Susan J. xxx-xx-xxxx
Dion, David P. xxx-xx-xxxx
Dockham, David M. A., II xxx-xx-xxxx
Doffoney, Angela D. xxx-xx-xxxx
Donagher, Francis P. xxx-xx-xxxx
Donahue, Roy G., Jr. xxx-xx-xxxx
Donald, Edwin C. xxx-xx-xxxx
Donovan, Victor R. xxx-xx-xxxx
Doquette, Charles E. xxx-xx-xxxx
Dougherty, Michael V. xxx-xx-xxxx
Douglas, Frank J. xxx-xx-xxxx
Douglas, Kirk R. xxx-xx-xxxx
Downs, Daniel R. xxx-xx-xxxx
Downs, Robert C., Jr. xxx-xx-xxxx
Downs, Victoria W. xxx-xx-xxxx
Dredla, Michael J. xxx-xx-xxxx
Dreher, Alan W. xxx-xx-xxxx
Drew, Michael W. xxx-xx-xxxx
Driscoll, John A. xxx-xx-xxxx
Dunable, Lyle C. xxx-xx-xxxx
Duncan, James R., Jr. xxx-xx-xxxx
Duncan, Jeffrey L. xxx-xx-xxxx
Duplissis, Diane M. xxx-xx-xxxx
Dykes, Joe G. xxx-xx-xxxx
Eadie, Robert D. xxx-xx-xxxx
Eagle, Douglas P. xxx-xx-xxxx
Early, Frances M. xxx-xx-xxxx
Eason, William A. xxx-xx-xxxx
Easterlin, Fred R. xxx-xx-xxxx
Eckburg, James R. xxx-xx-xxxx
Eddleman, Stanley H. xxx-xx-xxxx
Edgerton, Dean D. xxx-xx-xxxx
Edgren, Kevin L. xxx-xx-xxxx
Edie, George S., III xxx-xx-xxxx
Edmonds, Thomas J., Jr. xxx-xx-xxxx
Edwards, Robert R. xxx-xx-xxxx
Effinger, Joseph T. xxx-xx-xxxx
Eldon, Eric G. xxx-xx-xxxx
Eller, Michael M. xxx-xx-xxxx
Ellerbee, Emory E., Jr. xxx-xx-xxxx
Elliott, Andrew S. xxx-xx-xxxx
Elliott, Kurt A. xxx-xx-xxxx
Ellyson, George M. xxx-xx-xxxx
Ely, Neal M. xxx-xx-xxxx
Engle, Weldon D., Jr. xxx-xx-xxxx
Ertler, Dennis R. xxx-xx-xxxx
Estes, George M. xxx-xx-xxxx
Estill, David J. xxx-xx-xxxx
Eudy, Jerry D. xxx-xx-xxxx
Evans, William F., Jr. xxx-xx-xxxx
Everhart, Wilbert L., Jr. xxx-xx-xxxx
Fales, Gary R. xxx-xx-xxxx
Faram, David E. xxx-xx-xxxx
Farnow, Lawrence J. xxx-xx-xxxx
Ferguson, Lawrence xxx-xx-xxxx
Fernandez, Arturo G. xxx-xx-xxxx
Fine, Leslie R. xxx-xx-xxxx
Finney, William M. xxx-xx-xxxx
Fisher, Max L. xxx-xx-xxxx
Fisher, Michael E. xxx-xx-xxxx
Flannery, Paul xxx-xx-xxxx
Flinn, Frank C. II xxx-xx-xxxx
Floyd, Roger D. xxx-xx-xxxx
Fogler, Stephen H. xxx-xx-xxxx
Ford, James C. xxx-xx-xxxx
Fordyce, Victor H. xxx-xx-xxxx
Foreman, Larry W. xxx-xx-xxxx
Forest, Ronald L. xxx-xx-xxxx
Framme, John R. xxx-xx-xxxx
Franzen, Garry L. xxx-xx-xxxx
Fravel, John H. xxx-xx-xxxx
Fredenburgh, Mark xxx-xx-xxxx
Fredericks, John R. xxx-xx-xxxx
Freeman, Dale E. xxx-xx-xxxx
Freeman, William H. xxx-xx-xxxx
Freitas, Jean T. xxx-xx-xxxx
Frisch, John K., Jr. xxx-xx-xxxx
Froslie, Keith E. xxx-xx-xxxx
Fulkerson, Paul C. xxx-xx-xxxx
Fuller, Myrna L. xxx-xx-xxxx
Funck, Paul K. xxx-xx-xxxx
Gabaldon, Ronald P. A. xxx-xx-xxxx
Gabbard, Vernon, Jr. xxx-xx-xxxx
Gaddy, Billy C. xxx-xx-xxxx
Galanos, Demosthenes G. xxx-xx-xxxx
Galloway, Randolph M. S. xxx-xx-xxxx
Gallup, Edgar A. xxx-xx-xxxx
Gamble, Bruce D. xxx-xx-xxxx
Garcia, Alfredo, Jr. xxx-xx-xxxx
Garcia, Edward L. xxx-xx-xxxx
Garcia, Stephen R. xxx-xx-xxxx
Gardner, Curtis L. xxx-xx-xxxx
Garner, Bruce M. xxx-xx-xxxx
Garrett, William A., Jr. xxx-xx-xxxx
Garrison, David K. xxx-xx-xxxx
Garrison, Eugene A. xxx-xx-xxxx
Garza, Javier, Jr. xxx-xx-xxxx
Gasik, James W. xxx-xx-xxxx
Gassman, Richard A. xxx-xx-xxxx
Gebhart, Thomas J. xxx-xx-xxxx
Getzin, Brian R. xxx-xx-xxxx
Gibbs, Frankie W. xxx-xx-xxxx
Givens, Willie L. xxx-xx-xxxx
Glover, Eugene, xxx-xx-xxxx
Godbold, Stephen W. xxx-xx-xxxx
Gonzalez, Gustavo, Jr. xxx-xx-xxxx
Goodell, Joseph D. xxx-xx-xxxx
Goodlin, David P. xxx-xx-xxxx
Goodson, Lonnie C. xxx-xx-xxxx
Gootee, Kevin J. xxx-xx-xxxx
Gormley, William E. xxx-xx-xxxx
Gossell, Lowell C. xxx-xx-xxxx
Goudie, James E. xxx-xx-xxxx
Gouldthorpe, David W. xxx-xx-xxxx
Gourley, Robert P., Jr. xxx-xx-xxxx
Gover, Howard N. II xxx-xx-xxxx
Gowen, Richard A. xxx-xx-xxxx
Grace, Harold W. xxx-xx-xxxx
Gray, William A. xxx-xx-xxxx
Greathouse, James R. xxx-xx-xxxx
Greaves, Robert J. xxx-xx-xxxx
Green, Antionette L. xxx-xx-xxxx
Green, Daniel P. xxx-xx-xxxx
Greff, Ricky J. xxx-xx-xxxx
Grieco, Patrick A. xxx-xx-xxxx
Griffith, Willard D., Jr. xxx-xx-xxxx
Grigus, Jon E. xxx-xx-xxxx
Grunzke, Paul M. xxx-xx-xxxx
Guffey, Maurice H., Jr. xxx-xx-xxxx
Guidry, Murrell J. Jr. xxx-xx-xxxx
Gummel, Joseph E. xxx-xx-xxxx
Gump, Timothy J. xxx-xx-xxxx
Gustafson, Carl D. xxx-xx-xxxx
Gutschenritter, James L. xxx-xx-xxxx
Hadaway, Fred E. xxx-xx-xxxx
Hadley, Emerson E. xxx-xx-xxxx
Haerter, Merville G. xxx-xx-xxxx
Hagee, Kinser H. xxx-xx-xxxx
Halbert, Kenneth C. xxx-xx-xxxx
Hall, Richard H. xxx-xx-xxxx
Hall, Ronald L. xxx-xx-xxxx
Hall, Tony L. xxx-xx-xxxx
Halpin, Senan xxx-xx-xxxx
Hanna, Bruce F. xxx-xx-xxxx
Hanrahan, Thomas P. xxx-xx-xxxx
Hardaway, Steven A. xxx-xx-xxxx
Hare, Thomas R. xxx-xx-xxxx
Harley, Walter L. xxx-xx-xxxx
Harrelson, Kim xxx-xx-xxxx
Harris, Brian K. xxx-xx-xxxx
Harris, Clyde J. xxx-xx-xxxx
Harris, Leslie N. xxx-xx-xxxx
Harris, Michael C. xxx-xx-xxxx
Harris, Randell C. xxx-xx-xxxx
Harris, Stephen xxx-xx-xxxx
Harris, William L., II xxx-xx-xxxx
Harrison, Joe R. xxx-xx-xxxx
Harrison, Kelly D. xxx-xx-xxxx
Harrison, Michael A. xxx-xx-xxxx
Hart, Harold D. xxx-xx-xxxx
Hart, Thomas H. xxx-xx-xxxx
Harter, Merrick D. xxx-xx-xxxx
Hartle, Byron C. xxx-xx-xxxx
Hartranft, Thomas J. xxx-xx-xxxx
Hataway, Clayton M. xxx-xx-xxxx

Hathaway, Kenneth R., xxx-xx-xxxx
Haugo, Keith E., xxx-xx-xxxx
Havko, Arthur F., xxx-xx-xxxx
Hazelton, Norris J., xxx-xx-xxxx
Hazlett, Flynnis B., xxx-xx-xxxx
Head, Willie T., Jr., xxx-xx-xxxx
Healy, Joseph L., III, xxx-xx-xxxx
Heiken, Edward D., Jr., xxx-xx-xxxx
Heisch, Harold V., xxx-xx-xxxx
Heisel, William G., xxx-xx-xxxx
Henderson, George R., xxx-xx-xxxx
Henry, Daniel R., xxx-xx-xxxx
Herman, Abigail I., xxx-xx-xxxx
Hicks, Robert C., Jr., xxx-xx-xxxx
Higdon, Dorsey E., Jr., xxx-xx-xxxx
Higgins, Douglas S., xxx-xx-xxxx
Higgons, Gerald T., xxx-xx-xxxx
Hill, James E., Jr., xxx-xx-xxxx
Hiller, Douglas W., xxx-xx-xxxx
Hiller, John S., xxx-xx-xxxx
Hilliard, Michael G., xxx-xx-xxxx
Hillson, Franklin J., xxx-xx-xxxx
Himmelstein, David A., xxx-xx-xxxx
Hinderleider, Susan K., xxx-xx-xxxx
Hines, Edward E., xxx-xx-xxxx
Hines, John W., Jr., xxx-xx-xxxx
Hodges, Carl D., Jr., xxx-xx-xxxx
Hodges, Harry R., Jr., xxx-xx-xxxx
Hoegel, Peter, xxx-xx-xxxx
Hoesly, William J., xxx-xx-xxxx
Hoffhines, Stephen P., xxx-xx-xxxx
Hofstetter, Craig W., xxx-xx-xxxx
Hogrefe, Thomas S., xxx-xx-xxxx
Holden, Richard W., xxx-xx-xxxx
Holder, Kenneth D., xxx-xx-xxxx
Holderman, Frederick W., xxx-xx-xxxx
Holdiness, Hubert C., Jr., xxx-xx-xxxx
Hollis, James B., xxx-xx-xxxx
Holman, Scott R., xxx-xx-xxxx
Holstun, John B., xxx-xx-xxxx
Holubik, Thomas E., xxx-xx-xxxx
Homrig, Mark A., xxx-xx-xxxx
Honea, Gary S., xxx-xx-xxxx
Honnet, Randy E., xxx-xx-xxxx
Hood, Gregory W., xxx-xx-xxxx
Hood, William C., xxx-xx-xxxx
Horace, Robert F., Jr., xxx-xx-xxxx
Horton, Benjamin C., xxx-xx-xxxx
House, John W., xxx-xx-xxxx
Howard, Byron L., xxx-xx-xxxx
Howell, Ronnie C., xxx-xx-xxxx
Howell, Thomas O., xxx-xx-xxxx
Howlett, Terry L., xxx-xx-xxxx
Hubbard, Elbert B., III, xxx-xx-xxxx
Huber, Richard J., xxx-xx-xxxx
Hudson, Robert E., II, xxx-xx-xxxx
Hull, Stephen G., xxx-xx-xxxx
Hultgren, Allen L., xxx-xx-xxxx
Hundley, David R., xxx-xx-xxxx
Hunsinger, Dennis A., xxx-xx-xxxx
Hunt, Alfred N., xxx-xx-xxxx
Hunt, Ronda J., xxx-xx-xxxx
Huntington, Richard E., xxx-xx-xxxx
Hurley, Daniel D., xxx-xx-xxxx
Hurt, Dewey L., xxx-xx-xxxx
Hutchison, James R., xxx-xx-xxxx
Huwe, Thomas A., xxx-xx-xxxx
Hyde, James C., xxx-xx-xxxx
Iseli, Carolyn J., xxx-xx-xxxx
Isgro, Benjamin A., II, xxx-xx-xxxx
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The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

CHAPLAIN

To be major

Hanrahan, William P., xxx-xx-xxxx

To be captain

Bernstein, John I., xxx-xx-xxxx
Brault, Gilles J. R., xxx-xx-xxxx
Dudash, Harold, xxx-xx-xxxx
Homer, Arthur R., xxx-xx-xxxx
Johnson, Junius W., xxx-xx-xxxx
Revello, James P., xxx-xx-xxxx
Richardson, Cecil R., xxx-xx-xxxx

JUDGE ADVOCATE CORPS

To be captain

Armstrong, Mark W., xxx-xx-xxxx
Barnard, Bruce, xxx-xx-xxxx
Becker, Bruce W., xxx-xx-xxxx
Bersak, Robert A., xxx-xx-xxxx
Blackwell, Paul H., Jr., xxx-xx-xxxx
Bowen, William P., xxx-xx-xxxx
Brupbacher, Emil D., Jr., xxx-xx-xxxx
Cohen, Jay L., xxx-xx-xxxx
Dalessio, Gerard V., Jr., xxx-xx-xxxx
Dippold, Lynn, W., xxx-xx-xxxx
Diver, David M., xxx-xx-xxxx
Faber, William J., xxx-xx-xxxx
Fitch, Donald R., xxx-xx-xxxx
Giebelhaus, Stephen J., xxx-xx-xxxx
Gordon, Croxton, xxx-xx-xxxx
Grady, Jack W., xxx-xx-xxxx
Haggar, Jan G., xxx-xx-xxxx
Hebert, Hamilton D., Jr., xxx-xx-xxxx
Held, Peter R., xxx-xx-xxxx
Heriot, Gail R., xxx-xx-xxxx
Hollis, Brenda J., xxx-xx-xxxx
Jarlenski, Daniel G., Jr., xxx-xx-xxxx
Kuckelman, David J., xxx-xx-xxxx
Kuhn, Kevin J., xxx-xx-xxxx
Levardsen, Martha J., xxx-xx-xxxx
Little, William J. III, xxx-xx-xxxx
Mannix, Charles R., Jr., xxx-xx-xxxx
Martin, Mariann I., xxx-xx-xxxx
Miller, Gary D., xxx-xx-xxxx
Orton, John M., xxx-xx-xxxx
Rellett, John M., xxx-xx-xxxx
Rhoades, Stephen J., xxx-xx-xxxx
Rives, Jack L., xxx-xx-xxxx
Schlegel, Thomas E., xxx-xx-xxxx
Schreier, Margaret L., xxx-xx-xxxx
Smith, Ellis P., xxx-xx-xxxx
Spilker, Alan J., xxx-xx-xxxx
Unpingco, Johnny S., xxx-xx-xxxx
Wichelns, Miles D., xxx-xx-xxxx
Wilber, Gary M., xxx-xx-xxxx
Windham, Terrance, xxx-xx-xxxx

NURSE CORPS

To be major

Hansen, Phillis J., xxx-xx-xxxx
Sanger, Jean K., xxx-xx-xxxx

To be captain

Alverson, Helen M., xxx-xx-xxxx
Ammann, Barbara S., xxx-xx-xxxx
Anderson, Gary E., xxx-xx-xxxx
Armini, Alexis J., xxx-xx-xxxx
Baker, Gerald A., xxx-xx-xxxx
Barr, Kathleen M., xxx-xx-xxxx
Beam, Jay J., xxx-xx-xxxx
Bishop, Linda J., xxx-xx-xxxx
Bolton, Norma K., xxx-xx-xxxx
Brady, Michele M., xxx-xx-xxxx
Brannon, Barbara C., xxx-xx-xxxx
Brasko, Michael J., xxx-xx-xxxx
Brown, Martha A., xxx-xx-xxxx
Brownstein, Annette, xxx-xx-xxxx
Buck, Patricia A., xxx-xx-xxxx
Cannon, Patricia A., xxx-xx-xxxx
Chiles, Marsha R., xxx-xx-xxxx
Colbert, Robert W., xxx-xx-xxxx
Cole, Barbara D., xxx-xx-xxxx
Comparon, Margret I., xxx-xx-xxxx
Corrow, Laura K., xxx-xx-xxxx
Cox, Deanna L., xxx-xx-xxxx
Cross, Charles A., xxx-xx-xxxx
Daniels, Maureen F., xxx-xx-xxxx
Deason, Carol R., xxx-xx-xxxx
Decker, Kristine Case, xxx-xx-xxxx
Dunningham, Mary C., xxx-xx-xxxx
Edwards, Quannetta T., xxx-xx-xxxx
Emmick, Roger D., xxx-xx-xxxx
Fairley, Rhonda V., xxx-xx-xxxx
Ferguson, David L., xxx-xx-xxxx
Ferguson, Scott F., xxx-xx-xxxx
Fesel, Frederick, xxx-xx-xxxx
Figun, Monica A., xxx-xx-xxxx
France, Deborah S., xxx-xx-xxxx
Garcia, Norma I., xxx-xx-xxxx
Gensel, Joanne M., xxx-xx-xxxx
Gentile, Janice W., xxx-xx-xxxx
Gerdes, Jolene J., xxx-xx-xxxx
Gibson, Gailyn J., xxx-xx-xxxx
Gilbert, Shannon N., xxx-xx-xxxx
Grant, Susan E., xxx-xx-xxxx
Grella, Nancy L., xxx-xx-xxxx
Haight, Vicki L., xxx-xx-xxxx
Harris, Patricia E., xxx-xx-xxxx
Herrman, Enrica J., xxx-xx-xxxx
Hertz, Kerby L., xxx-xx-xxxx
Hewson, Carol A., xxx-xx-xxxx
Higgason, Martha F., xxx-xx-xxxx
Hirshouer, Patricia A., xxx-xx-xxxx
Hitt, Robert L., xxx-xx-xxxx
Hohm, Jean M., xxx-xx-xxxx
Holm, Angela M., xxx-xx-xxxx
Holtz, Sharon A., xxx-xx-xxxx
Howard, Illona W., xxx-xx-xxxx
Jensen, Garye D., xxx-xx-xxxx
Johnson, Jewett G., xxx-xx-xxxx
Johnson, Nancy L., xxx-xx-xxxx
Jones, Brenda L., xxx-xx-xxxx
Jones, Judy D., xxx-xx-xxxx
Joyce, Charlotte J., xxx-xx-xxxx
Kamback, Sharon G., xxx-xx-xxxx
Kelley, Sarah L., xxx-xx-xxxx
Kennedy, Vickey A., xxx-xx-xxxx
Lake, Linda R., xxx-xx-xxxx
Lane, Mary J., xxx-xx-xxxx
Larson, Shari A., xxx-xx-xxxx
Leary, Steven E., xxx-xx-xxxx
Lewis, Ellen N., xxx-xx-xxxx
MacDonald, Anna K., xxx-xx-xxxx
MacPherson, Patricia M., xxx-xx-xxxx
Maxin, Mary L., xxx-xx-xxxx

Maxse, Mary E., xxx-xx-xxxx
McClure, Mary J., xxx-xx-xxxx
McDaniel, Donna L., xxx-xx-xxxx
McIntyre, Carol L., xxx-xx-xxxx
McNamara, Nancy L., xxx-xx-xxxx
Moore, Gary J., xxx-xx-xxxx
Moran, Mary E., xxx-xx-xxxx
Moretz, Nancy L., xxx-xx-xxxx
Mosmiller, Anthony J., Jr. xxx-xx-xxxx
Nester, Robert M., xxx-xx-xxxx
Neuberger, Jeffrey L., xxx-xx-xxxx
Nichols, John C., xxx-xx-xxxx
Oset, Diane R., xxx-xx-xxxx
Peters, Patrica A., xxx-xx-xxxx
Pickowitz, Marjorie, xxx-xx-xxxx
Preziosi, Nancy C., xxx-xx-xxxx
Price, Ralph B., xxx-xx-xxxx
Quinn, Susan L., xxx-xx-xxxx
Reynolds, Blancanieve A. G., xxx-xx-xxxx
Rich, Cletus D., xxx-xx-xxxx
Robinson, Julienell N., xxx-xx-xxxx
Rustvang, Daniel R., xxx-xx-xxxx
Saulpaugh, Janine M., xxx-xx-xxxx
Sheldon, Carolyn E., xxx-xx-xxxx
Shultz, Alan F., xxx-xx-xxxx
Sinha, Patricia V., xxx-xx-xxxx
Snide, Joseph E., xxx-xx-xxxx
Stash, Diane M., xxx-xx-xxxx
Stauffer, Michael W., xxx-xx-xxxx
Sult, Stephen K., xxx-xx-xxxx
Tetreault, Jacqueline E., xxx-xx-xxxx
Thompson, Donna D., xxx-xx-xxxx
Thum, Paula E., xxx-xx-xxxx
Toman, Carol A., xxx-xx-xxxx
Urbanik, Alice M., xxx-xx-xxxx
Vann, Thomas A., xxx-xx-xxxx
Villanueva, Anthony M., xxx-xx-xxxx
Walsh, Carl E., xxx-xx-xxxx
Waters, Kenneth D., xxx-xx-xxxx
Weber, Bruce J., xxx-xx-xxxx
Wilkins, Richard L., xxx-xx-xxxx
Williams, Jacquelyn K., xxx-xx-xxxx
Wilson, Catherine L., xxx-xx-xxxx
Wolf, Suzanne, xxx-xx-xxxx
Wotring, Stephanie M., xxx-xx-xxxx
Wright, Geraldine K., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be captain

Anderson, Michael C., xxx-xx-xxxx
Davis, Douglas C., xxx-xx-xxxx
Diehl, Edward B., xxx-xx-xxxx
Friend, Roger W., xxx-xx-xxxx
Garriott, Lee N., xxx-xx-xxxx
Geiger, James F., xxx-xx-xxxx
Goudelock, Walter E., xxx-xx-xxxx
Hay, Martin A., xxx-xx-xxxx
Legg, Brian E., xxx-xx-xxxx
Love, Andrew F., xxx-xx-xxxx
Morris, Dale R., xxx-xx-xxxx
Ontiveros, Alfredo, Jr., xxx-xx-xxxx
Palen, Donald W., Jr., xxx-xx-xxxx
Pisut, Matthias B., III, xxx-xx-xxxx
Renwick, William R., xxx-xx-xxxx
Tatum, Daniel L., xxx-xx-xxxx
Walter, Lucas J., Jr., xxx-xx-xxxx
Williams, Raymond, III, xxx-xx-xxxx

To be first lieutenant

Albano, Rocco L., Jr., xxx-xx-xxxx
Aycoth, David L., xxx-xx-xxxx
Bigelow, Richard E., xxx-xx-xxxx
Ciccocioppo, Michael V., Jr., xxx-xx-xxxx
Drye, Alvin B., Jr., xxx-xx-xxxx
Gilbreath, David D., xxx-xx-xxxx
Halvorsen, Brad J., xxx-xx-xxxx
Hymer, Richard R., xxx-xx-xxxx
Kearney, Jeanie M., xxx-xx-xxxx
Tatko, Thomas P., xxx-xx-xxxx
Tatroe, Randy L., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

To be captain

Anthony, Taylor C., xxx-xx-xxxx
Armbruster, David A., xxx-xx-xxxx
Bailey, Ronald C., xxx-xx-xxxx
Bohannon, Claudette, xxx-xx-xxxx
Bowen, Sue E., xxx-xx-xxxx
Brooker, Alan E., xxx-xx-xxxx
Cargill, William G., xxx-xx-xxxx
Colosimo, Charles P., xxx-xx-xxxx
Costa, Kenneth A., xxx-xx-xxxx
Dehler, John H., xxx-xx-xxxx
Drawbaugh, Richard B., xxx-xx-xxxx
Efird, Carl R., Jr., xxx-xx-xxxx
Elmore, John H., xxx-xx-xxxx
George, Robert A., xxx-xx-xxxx
Greenamyer, Judith J., xxx-xx-xxxx
Gustafson, Lee A., xxx-xx-xxxx
Hall, William C., xxx-xx-xxxx
Harpel, Leslie D., xxx-xx-xxxx
Hess, Alan J., xxx-xx-xxxx
Holt, Danny L., xxx-xx-xxxx
Hunter, David, xxx-xx-xxxx
Jennings, Ronald M., xxx-xx-xxxx
Juhas, Andrew M., xxx-xx-xxxx
Kasa, Thomas J., xxx-xx-xxxx
Keller, William C., xxx-xx-xxxx
Kemp, Candace, xxx-xx-xxxx
Kerch, Paul E., xxx-xx-xxxx
Koreman, Ira J., xxx-xx-xxxx
Krogwold, Roger A., xxx-xx-xxxx
Larsen, Daniel L., xxx-xx-xxxx
Lehman, Jay W., xxx-xx-xxxx
Love, William C., xxx-xx-xxxx
Meier, Terry J., xxx-xx-xxxx
Murry, Michael D., xxx-xx-xxxx
Nelson, Gregory H., xxx-xx-xxxx
Nelson, John P., xxx-xx-xxxx
Nickell, Roy C., Jr., xxx-xx-xxxx
North, Victoria S., xxx-xx-xxxx
Nothnagel, Victor T., xxx-xx-xxxx
O'Neal, Melvin R., xxx-xx-xxxx
Padgett, Richard E., xxx-xx-xxxx
Parisher, Darrel W., xxx-xx-xxxx
Potts, David L., xxx-xx-xxxx
Prado, Karl L., xxx-xx-xxxx
Price, Richard L., xxx-xx-xxxx
Ray, Paul T., xxx-xx-xxxx
Robillard, Thomas A., xxx-xx-xxxx
Rohrig, William L., xxx-xx-xxxx
Rosenfield, James B., xxx-xx-xxxx
Russell, James M., xxx-xx-xxxx
Schlossnagle, George W., Jr., xxx-xx-xxxx
Sierrairizarry, Benigno, xxx-xx-xxxx
Simonini, Rinaldo C., III, xxx-xx-xxxx
Smith, Nelson K., xxx-xx-xxxx
Sybrant, Terry D., xxx-xx-xxxx
Tarpley, Alice A., xxx-xx-xxxx
Tartasky, Donald J., xxx-xx-xxxx
Tweedie, William C., xxx-xx-xxxx
Ward, Leo J., Jr., xxx-xx-xxxx
Weber, Charles S., xxx-xx-xxxx
Woods, Gordon E., xxx-xx-xxxx
Young, Robert W., xxx-xx-xxxx

To be first lieutenant

Alexander, Terrance G., xxx-xx-xxxx
Delagarza, Judith A., xxx-xx-xxxx
Dunne, Elizabeth V., xxx-xx-xxxx
Fairman, Terry M., xxx-xx-xxxx
Kidd, George H., IV, xxx-xx-xxxx
Mason, Robert W., xxx-xx-xxxx
Sargent, James D., xxx-xx-xxxx
Springer, Bobby C., xxx-xx-xxxx

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

CHAPLAIN CORPS

To be colonel

Strawser, Ray A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Bastian, John A., III, xxx-xx-xxxx
Loryea, Robert S., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Abrams, John N., xxx-xx-xxxx
Adams, Barry H., xxx-xx-xxxx
Adams, John E., Jr., xxx-xx-xxxx
Adams, Melville W., xxx-xx-xxxx
Ahnell, Charles P., Jr., xxx-xx-xxxx
Albright, Robert H., xxx-xx-xxxx
Alexander, George M., xxx-xx-xxxx
Alexander, James P., xxx-xx-xxxx
Allanach, William C., xxx-xx-xxxx
Allen, Jon J., xxx-xx-xxxx
Allen, Richard D., xxx-xx-xxxx
Almes, Edward W., xxx-xx-xxxx
Almojuela, Thomas N., xxx-xx-xxxx
Amoroso, Frank P., xxx-xx-xxxx
Andersen, Timothy W., xxx-xx-xxxx
Anderson, Ben L., Jr., xxx-xx-xxxx
Anderson, Dale R., xxx-xx-xxxx
Anderson, David M., III, xxx-xx-xxxx
Anderson, John D., xxx-xx-xxxx
Anderson, Leonard G., Jr., xxx-xx-xxxx
Anderson, Louie H., xxx-xx-xxxx
Anderson, Melvyn L., II, xxx-xx-xxxx
Anderson, Michael R., xxx-xx-xxxx
Andreen, Ronald D., xxx-xx-xxxx
Andrews, Michael A., xxx-xx-xxxx
Andrle, John C., xxx-xx-xxxx
Angeli, Raymond S., xxx-xx-xxxx
Angsten, Joseph J., Jr. xxx-xx-xxxx
Ansel, Raymond B., xxx-xx-xxxx
Antoine, Lawrence V., Sr., xxx-xx-xxxx
Aquino, Paschal A., xxx-xx-xxxx
Arango, Roger J., Jr., xxx-xx-xxxx
Archebelle, Edwin B., xxx-xx-xxxx
Arens, Noel J., xxx-xx-xxxx
Asiello, Robert M., xxx-xx-xxxx
Asimakopoulos, Peter L., xxx-xx-xxxx
Atkins, Edsel R., xxx-xx-xxxx
Audrain, Erin F., Jr., xxx-xx-xxxx
Auger, John D., xxx-xx-xxxx
Babb, Joe P., xxx-xx-xxxx
Back, John F., Jr., xxx-xx-xxxx
Badger, James L., Jr., xxx-xx-xxxx
Baggett, David L., xxx-xx-xxxx
Baggott, Francis M., xxx-xx-xxxx
Baily, Charles M., xxx-xx-xxxx
Baker, Richard L., xxx-xx-xxxx
Baker, Robert M., xxx-xx-xxxx
Balogh, Zoltan J., xxx-xx-xxxx
Banisch, Werner W., xxx-xx-xxxx
Barbara, James C., xxx-xx-xxxx
Barefoot, Allen, Jr., xxx-xx-xxxx
Barrett, Richard E., xxx-xx-xxxx
Barrett, Robert W., xxx-xx-xxxx
Barrington, John E., xxx-xx-xxxx
Barron, Robert C., xxx-xx-xxxx
Barry, Russell W., xxx-xx-xxxx
Barry, William A., III, xxx-xx-xxxx
Barth, David F., xxx-xx-xxxx
Bartley, Randall B., xxx-xx-xxxx
Bassett, Richard S., xxx-xx-xxxx
Basso, George, xxx-xx-xxxx
Bates, William M., xxx-xx-xxxx
Battcher, John A., xxx-xx-xxxx
Batten, Peter R., xxx-xx-xxxx
Bauer, William B., xxx-xx-xxxx
Baumgartner, Glenn W., xxx-xx-xxxx
Beach, Martin H., xxx-xx-xxxx
Beard, Otis R., xxx-xx-xxxx
Beaver, John W., xxx-xx-xxxx
Beck, Dwight A., xxx-xx-xxxx
Beck, James W., xxx-xx-xxxx
Beck, Lois M., xxx-xx-xxxx
Beck, Silas E., xxx-xx-xxxx
Belch, Peter P., xxx-xx-xxxx
Bell, Lester R., xxx-xx-xxxx
Bellamy, Lonnie J., xxx-xx-xxxx
Belz, George D., Jr., xxx-xx-xxxx
Bender, Michael J., xxx-xx-xxxx
Benjamin, Richard D., xxx-xx-xxxx
Bennett, Kelley E., xxx-xx-xxxx
Benson, Charles A., xxx-xx-xxxx
Berg, Allan, xxx-xx-xxxx
Berg, David B., xxx-xx-xxxx
Berger, Joseph B., Jr., xxx-xx-xxxx
Bergeron, Alfred J., xxx-xx-xxxx
Bergman, William K., xxx-xx-xxxx
Berkey, Richard O., xxx-xx-xxxx
Bernard, Joseph P., xxx-xx-xxxx
Bernhardt, Eugene D., xxx-xx-xxxx
Bertagnolli, Joseph J., xxx-xx-xxxx
Beverley, William W., Jr., xxx-xx-xxxx
Biamon, Niels P., xxx-xx-xxxx
Biekkola, James W., xxx-xx-xxxx
Bijold, Gerald P., xxx-xx-xxxx
Bikus, John J., Jr., xxx-xx-xxxx
Birmingham, Irvin, xxx-xx-xxxx
Bise, Lanny C., xxx-xx-xxxx
Bishop, Glade M., xxx-xx-xxxx
Bishop, Lewis M., Jr., xxx-xx-xxxx
Black, John H., xxx-xx-xxxx
Blackburn, David A., xxx-xx-xxxx
Blackwell, Leon B., Jr., xxx-xx-xxxx

Blanchard, Sherman J. xxx-xx-xxxx
Blaylock, Norman R. xxx-xx-xxxx
Bloyd, John R. xxx-xx-xxxx
Blue, Leon D. xxx-xx-xxxx
Blue, Thomas J. xxx-xx-xxxx
Blumenfeld, Charles H., Jr. xxx-xx-xxxx
Bock, William P. xxx-xx-xxxx
Bohuslar, John W. xxx-xx-xxxx
Boles, Edward A. xxx-xx-xxxx
Bonnell, Kenneth L. xxx-xx-xxxx
Booker, Marshall L. xxx-xx-xxxx
Boozer, James D. xxx-xx-xxxx
Boudreau, Michael W. xxx-xx-xxxx
Bougas, Constantine T. xxx-xx-xxxx
Bounds, Gary L. xxx-xx-xxxx
Bowden, David D. xxx-xx-xxxx
Bowen, Wallace J. xxx-xx-xxxx
Bowles, Edward S. xxx-xx-xxxx
Boyd, Michael F. xxx-xx-xxxx
Boyd, Morris J. xxx-xx-xxxx
Braddock, Richard R. xxx-xx-xxxx
Bramblett, John R., Jr xxx-xx-xxxx
Brantley, James E. xxx-xx-xxxx
Braswell, Billie E. xxx-xx-xxxx
Braudaway, Jessie A. xxx-xx-xxxx
Braze, David J. xxx-xx-xxxx
Breeden, Kenneth R. xxx-xx-xxxx
Breman, Stephen L. xxx-xx-xxxx
Brewer, Dennis W. xxx-xx-xxxx
Bridges, Franklin G. xxx-xx-xxxx
Bridges, Terrell D. xxx-xx-xxxx
Brinker, Walter E., Jr. xxx-xx-xxxx
Brisson, Robert F., Jr. xxx-xx-xxxx
Britt, Thomas W. xxx-xx-xxxx
Broadhurst, Carl R. xxx-xx-xxxx
Brockway, Charles R. xxx-xx-xxxx
Brohm, Gerard P. xxx-xx-xxxx
Bronson, James R. xxx-xx-xxxx
Brown, Bradford M. xxx-xx-xxxx
Brown, Charles D. xxx-xx-xxxx
Brown, Clark C. xxx-xx-xxxx
Brown, Jerry A. xxx-xx-xxxx
Brown, Robert J. xxx-xx-xxxx
Brown, Robert M., Jr. xxx-xx-xxxx
Brown, Wayne K., Jr. xxx-xx-xxxx
Brown, William R. xxx-xx-xxxx
Brunnhoeffer, Gilbert C. xxx-xx-xxxx
Bruns, Thomas E. xxx-xx-xxxx
Bryan, Hardy W., III xxx-xx-xxxx
Bryant, Boyd C. xxx-xx-xxxx
Bryant, Charles L. xxx-xx-xxxx
Bryant, Hurley D., Jr. xxx-xx-xxxx
Bryson, Gene K. xxx-xx-xxxx
Buchholz, Douglas D. xxx-xx-xxxx
Buchwald, Clarence R., Jr. xxx-xx-xxxx
Buckley, Daniel J., Jr. xxx-xx-xxxx
Buckley, David L. xxx-xx-xxxx
Buczacki, John B. xxx-xx-xxxx
Buetti, Anthony J., III xxx-xx-xxxx
Bullock, Donald L. xxx-xx-xxxx
Bullock, Howard R. xxx-xx-xxxx
Bumanglag, Carlos J. xxx-xx-xxxx
Bundons, Albert R. xxx-xx-xxxx
Burbidge, John M. xxx-xx-xxxx
Burch, Linda G. xxx-xx-xxxx
Burckhardt, Marland J. xxx-xx-xxxx
Burdette, Robert J. xxx-xx-xxxx
Burnette, Thomas N., Jr. xxx-xx-xxxx
Burns, Kennith R. xxx-xx-xxxx
Burrow, Troy E. xxx-xx-xxxx
Busch, Brian J., Sr. xxx-xx-xxxx
Bush, Charles D. xxx-xx-xxxx
Bush, Robert F., Jr. xxx-xx-xxxx
Butler, Daniel E. xxx-xx-xxxx
Butler, James M. xxx-xx-xxxx
Buys, Albert P. xxx-xx-xxxx
Buzby, Brian xxx-xx-xxxx
Byard, Frederick B. xxx-xx-xxxx
Byrne, William G., Jr. xxx-xx-xxxx
Cabot, O H., Perry, xxx-xx-xxxx
Cadorette, Raymond P. xxx-xx-xxxx
Caine, Bruce T. xxx-xx-xxxx
Calhoun, Norman S., Jr. xxx-xx-xxxx
Callahan, Francis R. xxx-xx-xxxx
Callaway, Larry W. xxx-xx-xxxx
Camerano, Anthony G., Jr. xxx-xx-xxxx
Campbell, Carole M. xxx-xx-xxxx
Campbell, David H. xxx-xx-xxxx
Campbell, John D. xxx-xx-xxxx
Campbell, Julian M., Jr. xxx-xx-xxxx
Canar, Robert G. xxx-xx-xxxx
Cannon, Charles C., Jr. xxx-xx-xxxx
Cannon, James C. xxx-xx-xxxx
Cannon, Joe M. xxx-xx-xxxx
Cannon, Samuel L. xxx-xx-xxxx
Cannon, Walter W. xxx-xx-xxxx
Canon, Charles M., III xxx-xx-xxxx
Capozzi, Roy M. xxx-xx-xxxx
Capps, James H. xxx-xx-xxxx
Cardell, Larry E. xxx-xx-xxxx
Carden, Joe B. xxx-xx-xxxx
Cargile, James P., Jr. xxx-xx-xxxx
Carlsen, Dale A. xxx-xx-xxxx
Carlton, John W. xxx-xx-xxxx
Carpenter, Ronald B. xxx-xx-xxxx
Carr, Jerry T. xxx-xx-xxxx
Carter, Ronald W. xxx-xx-xxxx
Cartier, Eugene N. xxx-xx-xxxx
Carwile, Frederick H. xxx-xx-xxxx
Carzoli, Richard L. xxx-xx-xxxx
Casalengo, Roger W. xxx-xx-xxxx
Case, James W. xxx-xx-xxxx
Cecere, Peter M. xxx-xx-xxxx
Cecil, Gerald T. xxx-xx-xxxx
Cejka, David C. xxx-xx-xxxx
Celani, Albert F. xxx-xx-xxxx
Cepak, Charlie J. xxx-xx-xxxx
Cermenaro, James A. xxx-xx-xxxx
Chambers, Jerry W. xxx-xx-xxxx
Cheatham, Calvin W., Jr. xxx-xx-xxxx
Cheatham, James H., Jr. xxx-xx-xxxx
Cheatham, Ronald C. xxx-xx-xxxx
Cheeks, Robert F. xxx-xx-xxxx
Cherry, Norman R. xxx-xx-xxxx
Childress, Phillip W. xxx-xx-xxxx
Chilton, Forrest S., IV xxx-xx-xxxx
Chobrda, Martin P. xxx-xx-xxxx
Christiansen, Edward T. xxx-xx-xxxx
Ciarlo, Fred H. xxx-xx-xxxx
Cibula, George A. xxx-xx-xxxx
Cindric, Thomas A. xxx-xx-xxxx
Clare, Joseph F., Jr. xxx-xx-xxxx
Clark, David W. xxx-xx-xxxx
Clark, Douglas M. xxx-xx-xxxx
Clark, Michael R. xxx-xx-xxxx
Clark, Patrick W. xxx-xx-xxxx
Clarke, Harold R., Jr. xxx-xx-xxxx
Clegg, Douglas W. xxx-xx-xxxx
Clinger, Charles G. xxx-xx-xxxx
Cochrane, Charles B. xxx-xx-xxxx
Coen, Kendall B. xxx-xx-xxxx
Coffey, Andrew W. xxx-xx-xxxx
Coffman, Raymond J. xxx-xx-xxxx
Coggins, Gary M. xxx-xx-xxxx
Cole, Bruce H. xxx-xx-xxxx
Cole, Gene W. xxx-xx-xxxx
Collar, Roy A. xxx-xx-xxxx
Collard, Nelson B., Jr. xxx-xx-xxxx
Collins, Carl L., Jr. xxx-xx-xxxx
Collins, James L. xxx-xx-xxxx
Collins, Jan C. xxx-xx-xxxx
Collins, Kenneth R. xxx-xx-xxxx
Collmeyer, Michael K. xxx-xx-xxxx
Conaty, Peter M. xxx-xx-xxxx
Condon, John L., Jr. xxx-xx-xxxx
Connally, Sharon C. xxx-xx-xxxx
Cooney, Norman R. xxx-xx-xxxx
Copeland, Donald P. xxx-xx-xxxx
Coradini, William J. xxx-xx-xxxx
Cordes, Arben P. xxx-xx-xxxx
Cork, Stephen D. xxx-xx-xxxx
Corley, Milton D. xxx-xx-xxxx
Corn, Vollney B., Jr. xxx-xx-xxxx
Cosgrove, Colin B. xxx-xx-xxxx
Cottrell, Peter J. xxx-xx-xxxx
Cowan, Charles E., Jr. xxx-xx-xxxx
Cowan, William L. xxx-xx-xxxx
Cowsert, Garrett T. xxx-xx-xxxx
Cox, Ronald H. xxx-xx-xxxx
Coyle, Raymond A. xxx-xx-xxxx
Cozier, Anthony R. xxx-xx-xxxx
Crabtree, Jack D., Jr. xxx-xx-xxxx
Craig, William R. xxx-xx-xxxx
Craven, Grover O., Jr. xxx-xx-xxxx
Crawford, Danny L. xxx-xx-xxxx
Crawford, James L. xxx-xx-xxxx
Creque, Terry R. xxx-xx-xxxx
Cretella, Joseph G., Jr. xxx-xx-xxxx
Crews, Gerald L. xxx-xx-xxxx
Crocetti, Ferruccio M. xxx-xx-xxxx
Crocker, George K. xxx-xx-xxxx
Crockett, John R. xxx-xx-xxxx
Crosby, John W. xxx-xx-xxxx
Crowe, Bobby N. xxx-xx-xxxx
Crowell, David V. xxx-xx-xxxx
Cruikshank, Ralph H., Jr. xxx-xx-xxxx
Culbreth, Larry M. xxx-xx-xxxx
Culbreth, Roy, Jr. xxx-xx-xxxx
Cullem, James M. xxx-xx-xxxx
Curl, Terry W. xxx-xx-xxxx
Curry, Ronald E. xxx-xx-xxxx
Curtis, Craig H. xxx-xx-xxxx
Cushing, John R. xxx-xx-xxxx
Dacey, Richard P. xxx-xx-xxxx
Dalfonzo, Joseph A. xxx-xx-xxxx
Daly, Timothy E. xxx-xx-xxxx
Dangerfield, Harvey D. xxx-xx-xxxx
Darnell, Ronald H. xxx-xx-xxxx
Darone, Ronald D. xxx-xx-xxxx
Davidson, Donald O. xxx-xx-xxxx
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Wray, George L., III, xxx-xx-xxxx
Wright, Cooper L., xxx-xx-xxxx
Wright, Donald A., xxx-xx-xxxx
Wright, James M., xxx-xx-xxxx
Wright, Nelson B., Jr., xxx-xx-xxxx
Wright, Robert D., xxx-xx-xxxx
Wright, Walter G., xxx-xx-xxxx
Wrightson, Samuel H., xxx-xx-xxxx
Wylie, Alexander C., xxx-xx-xxxx
Yap, Rudolph H., xxx-xx-xxxx
Yates, Clyde P., xxx-xx-xxxx
Yeargan, Robert G., xxx-xx-xxxx
Yenrick, Philip C., xxx-xx-xxxx
Youmans, Tommy B., xxx-xx-xxxx
Young, Keith L., xxx-xx-xxxx
Young, Stephen H., xxx-xx-xxxx
Zanini, Daniel R., xxx-xx-xxxx
Zeiler, Richard H., xxx-xx-xxxx
Zierdt, John G., Jr., xxx-xx-xxxx
Zimmerman, Leroy, xxx-xx-xxxx
Zoglman, Robert R., xxx-xx-xxxx

CHAPLAINS CORPS

To be lieutenant colonel

Abel, Donald W., xxx-xx-xxxx
Allen, John M., xxx-xx-xxxx
Anderson, James R., xxx-xx-xxxx
Ashurst, Turpin C., xxx-xx-xxxx
Banner, Ernest A., xxx-xx-xxxx
Barnett, Dillmus W., Jr., xxx-xx-xxxx
Bickley, Hugh J., xxx-xx-xxxx
Brown, Clyde G., xxx-xx-xxxx
Campbell, Robert L., xxx-xx-xxxx
Christensen, Donald G., xxx-xx-xxxx
Davis, Daniel O., Jr., xxx-xx-xxxx
Davis, Elvernice, xxx-xx-xxxx
Dresin, Sanford L., xxx-xx-xxxx
Erbach, William W., xxx-xx-xxxx
Fly, Francis L., Jr., xxx-xx-xxxx
Gantt, Stephen Y., xxx-xx-xxxx
Gogl, George L., xxx-xx-xxxx
Gover, Donald W., xxx-xx-xxxx
Gunhus, Gaylord T., xxx-xx-xxxx
Hartlage, Albert J., xxx-xx-xxxx
Hatler, Gaylord E., xxx-xx-xxxx
Hepner, Theodore W., xxx-xx-xxxx
Hines, Thomas E., Jr., xxx-xx-xxxx
Holland, Jerry H., xxx-xx-xxxx
Iverson, Virgil G., xxx-xx-xxxx
Johnson, Richard C., xxx-xx-xxxx
Jopp, Frank G., Jr., xxx-xx-xxxx
Kennedy, Daniel F., xxx-xx-xxxx
Koss, Saul H., xxx-xx-xxxx
Lamback, Samuel P., Jr., xxx-xx-xxxx
Lieving, Bernard H., Jr., xxx-xx-xxxx
Lokkesmoe, Robert G., xxx-xx-xxxx
McLean, Richard, xxx-xx-xxxx
McSwain, Donald W., xxx-xx-xxxx
Millard, Stanley N., xxx-xx-xxxx
Miller, Paul L., xxx-xx-xxxx
Nichols, George H., Jr., xxx-xx-xxxx
Norris, Paul S., xxx-xx-xxxx
Northrop, Clyde M., III, xxx-xx-xxxx
Oloughlin, Stanley J., xxx-xx-xxxx
Payne, Delbert G., xxx-xx-xxxx
Pitchford, Bertrand C., xxx-xx-xxxx
Polito, Victor V., xxx-xx-xxxx
Pridgen, Lamar B., xxx-xx-xxxx
Pugh, Loren D., xxx-xx-xxxx
Renfrow, Kenneth E., xxx-xx-xxxx
Rogers, James E., xxx-xx-xxxx
Schalm, Roger B., xxx-xx-xxxx
Shaddix, John T., xxx-xx-xxxx
Sharp, Billy R., xxx-xx-xxxx
Shimek, Andrew A., xxx-xx-xxxx
Silverstein, Philip, xxx-xx-xxxx
Slater, Dennis W., xxx-xx-xxxx
Smith, Charles M., Jr., xxx-xx-xxxx
Smith, Douglas T., xxx-xx-xxxx
Spiller, Jimmie C., xxx-xx-xxxx
Suellentrop, Daniel M., xxx-xx-xxxx
Thomas, Jack L., xxx-xx-xxxx
Timm, Harry W., xxx-xx-xxxx
Towley, Carl K., xxx-xx-xxxx
Tyson, Charles A., xxx-xx-xxxx
Vickers, Marvin K., Jr., xxx-xx-xxxx
Vogt, Robert H., xxx-xx-xxxx
Weaver, Jerry A., xxx-xx-xxxx
Webb, Jerry, xxx-xx-xxxx
Webb, William P., xxx-xx-xxxx
White, David A., xxx-xx-xxxx
Wideman, Fletcher D., xxx-xx-xxxx
Young, Jimmy L., xxx-xx-xxxx

JUDGE ADVOCATE GENERALS' CORPS

To be lieutenant colonel

Artzer, Paul E., xxx-xx-xxxx
Baker, James R., xxx-xx-xxxx
Basham, Owen D., xxx-xx-xxxx
Bates, Bernie L., xxx-xx-xxxx
Bonney, Charles E., xxx-xx-xxxx
Bufkin, Henry P., xxx-xx-xxxx
Chwalibog, Andrew J., xxx-xx-xxxx
Cruden, John C., xxx-xx-xxxx
Deberry, Thomas P., xxx-xx-xxxx
Deline, Donald A., xxx-xx-xxxx
Dickerson, Harry A., xxx-xx-xxxx
Edwards, John T., xxx-xx-xxxx
Feighny, Michael L., xxx-xx-xxxx
Frankel, Ronald S., xxx-xx-xxxx
Garretson, Peter W., xxx-xx-xxxx
Gibb, Steven P., xxx-xx-xxxx
Gordon, Jonathan C., xxx-xx-xxxx
Graves, Joseph L., Jr., xxx-xx-xxxx
Hamilton, John R., xxx-xx-xxxx
Havens, Edward A., xxx-xx-xxxx
Howell, John R., xxx-xx-xxxx
Kirby, Robert B., xxx-xx-xxxx
Lancaster, Steven F., xxx-xx-xxxx
Leonardi, Kenneth J., xxx-xx-xxxx
Mackey, Richard J., xxx-xx-xxxx
Rice, Frances P., xxx-xx-xxxx
Richardson, John W., xxx-xx-xxxx
Russell, Richard D., xxx-xx-xxxx
Seibold, Paul M., xxx-xx-xxxx
Sklar, David A., xxx-xx-xxxx
Smyser, James O., xxx-xx-xxxx
Spiller, John E., xxx-xx-xxxx
Taylor, Daniel E., xxx-xx-xxxx
Wagner, Frank J., Jr., xxx-xx-xxxx
Wallace, John K., III, xxx-xx-xxxx
Woodward, William B., Jr., xxx-xx-xxxx
Zimmerman, Charles A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Aspinall, Kenneth B., xxx-xx-xxxx
Bailey, Charles L., xxx-xx-xxxx
Barton, Douglas A., xxx-xx-xxxx
Bearce, Gerald R., xxx-xx-xxxx
Becco, Lawrence A., Jr., xxx-xx-xxxx
Bell, William H., Jr., xxx-xx-xxxx
Bentley, Gerald A., xxx-xx-xxxx
Beringer, George R., xxx-xx-xxxx
Blackwell, Russell R., xxx-xx-xxxx
Bodenbender, David G., xxx-xx-xxxx
Bosetti, Larry G., xxx-xx-xxxx
Boyd, Willie H., xxx-xx-xxxx
Braendel, Douglas A., xxx-xx-xxxx
Brown, Samuel A., Jr., xxx-xx-xxxx
Bunch, James S., xxx-xx-xxxx
Burke, Raymond J., III, xxx-xx-xxxx
Carbonell, Arthur J., xxx-xx-xxxx
Champion, Charles H., Jr., xxx-xx-xxxx
Childs, Ronald P., xxx-xx-xxxx
Church, Zaidos N., xxx-xx-xxxx
Coleman, Richard L., xxx-xx-xxxx
Costanzo, Joseph J., Jr., xxx-xx-xxxx
Covington Bobbie, J., xxx-xx-xxxx
Damato, James J., xxx-xx-xxxx
Danby, James C., xxx-xx-xxxx
Debree William P., xxx-xx-xxxx
Dempster, Clifford R., xxx-xx-xxxx
Dingey, Martha J., xxx-xx-xxxx
Dotson, Prilip E., xxx-xx-xxxx
Draude, John F., Jr., xxx-xx-xxxx
Driskill, Thomas M., Jr., xxx-xx-xxxx
Edge, Rodney A., xxx-xx-xxxx
Farlow, Joseph E., xxx-xx-xxxx
Foust Jerome V., xxx-xx-xxxx
Fulfer, Jesse K., xxx-xx-xxxx
Galenes, Alexander A., xxx-xx-xxxx
Ginn, Richard V., xxx-xx-xxxx
Gmelich, James R., xxx-xx-xxxx
Goldman, Gilbert L., xxx-xx-xxxx
Greene Stonell, B., xxx-xx-xxxx
Gulley, Myra I., xxx-xx-xxxx
Hamilton, John, xxx-xx-xxxx
Hammond, Sterling D., xxx-xx-xxxx
Hash, Franklin R., Jr., xxx-xx-xxxx
Hawkins Robert T., xxx-xx-xxxx
Heln, Richard D., xxx-xx-xxxx
Helmbold, Richard F., xxx-xx-xxxx
Herndon Michael E., xxx-xx-xxxx
Hiu, Patrick S., xxx-xx-xxxx
Hockmeyer, Wayne T., xxx-xx-xxxx
Horn Dennie E., xxx-xx-xxxx
Holland, Frank B., xxx-xx-xxxx
Hooker, Scottie T., xxx-xx-xxxx
Hoopes, Thomas R., xxx-xx-xxxx
Howard David, xxx-xx-xxxx
Howell, James L., xxx-xx-xxxx
Hoxie, Ferman C., xxx-xx-xxxx
Hunt William C., xxx-xx-xxxx
Ihlenfeld, Richard W., xxx-xx-xxxx
Jeffrey, Timothy B., xxx-xx-xxxx
Johnson Barry J., xxx-xx-xxxx
Johnson, Larry G., xxx-xx-xxxx
Kaisershot, Gordon, E., xxx-xx-xxxx
Kimbell David L., xxx-xx-xxxx
Kittinger, Paul F., Jr., xxx-xx-xxxx
Knisely, Benjamin M., xxx-xx-xxxx
Krupka, Thaddeus A., xxx-xx-xxxx
Labaugn William J., xxx-xx-xxxx
Langhorne, Webster L., xxx-xx-xxxx
Lester, Michael B., xxx-xx-xxxx
Lozada Jacob, xxx-xx-xxxx
Luckey, Thomas S., xxx-xx-xxxx
Lyons, Joseph F., xxx-xx-xxxx
Lyons, Matthew, J., Jr., xxx-xx-xxxx
McAdams Charles O., xxx-xx-xxxx
McCarroll, James E., xxx-xx-xxxx
McKinstry, Earl R., xxx-xx-xxxx
Moore, Clayton H., III, xxx-xx-xxxx
Moore, George R., Jr., xxx-xx-xxxx
Morton, Ward D., III, xxx-xx-xxxx
Mumma, Patrick J., xxx-xx-xxxx
Nardozza, Anthony J., xxx-xx-xxxx
Newbill, John L., xxx-xx-xxxx
Nilsen, David I., xxx-xx-xxxx
Odell, Thomas E., Jr., xxx-xx-xxxx
Olson, Roger, xxx-xx-xxxx
Ostrander, James H., xxx-xx-xxxx
Overend, Robert K., xxx-xx-xxxx
Owen, John T., xxx-xx-xxxx
Palmer, Darwin B., Jr., xxx-xx-xxxx
Parker, William R., xxx-xx-xxxx
Perry, Ray H., xxx-xx-xxxx

Peters, Curtis A., xxx-xx-xxxx
Pick, Robert O., xxx-xx-xxxx
Plank, Gordon H., xxx-xx-xxxx
Powanda, Michael C., xxx-xx-xxxx
Quinn, Frank X., xxx-xx-xxxx
Rath, Frank H., Jr., xxx-xx-xxxx
Robinson, Ronald B., xxx-xx-xxxx
Rodman, Terral L., xxx-xx-xxxx
Sanderlin, Larry R., xxx-xx-xxxx
Schlie, James A., xxx-xx-xxxx
Schulz, Jeffrey B., xxx-xx-xxxx
Short, Thomas E., xxx-xx-xxxx
Slaton, Irvin C., xxx-xx-xxxx
Smith, Ray V., xxx-xx-xxxx
Smoluk, John J. III, xxx-xx-xxxx
Sullivan, John E., Jr., xxx-xx-xxxx
Swallow, Gary L., xxx-xx-xxxx
Taylor, James A., xxx-xx-xxxx
Taylor, Roy G., xxx-xx-xxxx
Tessier, Paul L., xxx-xx-xxxx
Thomas, Buddy G., xxx-xx-xxxx
Thompson, Gerald E., xxx-xx-xxxx
Thompson, Jerry F., xxx-xx-xxxx
Treece, Thomas R., xxx-xx-xxxx
Vanvranken, Edwin W., xxx-xx-xxxx
Voss, Daniel R., xxx-xx-xxxx
Wannarka, Gerald L., xxx-xx-xxxx
Webb, Arthur B., xxx-xx-xxxx
Weed, Roger I., xxx-xx-xxxx
Wilkinson, Rowland N., xxx-xx-xxxx
Williams, James N., xxx-xx-xxxx
Williams, Michael D., xxx-xx-xxxx
Woodward, Ronald L., xxx-xx-xxxx
Wortham, James T., Jr., xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Bell, Clyde H., Jr., xxx-xx-xxxx
Brown, Clarence D., xxx-xx-xxxx
Liu, George K., xxx-xx-xxxx
Maize, Roy S., II, xxx-xx-xxxx
Pennell, Clifford R., xxx-xx-xxxx
Sater, Derrol H., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Catanzaro, Thomas E., xxx-xx-xxxx
Debok, Phillip C., xxx-xx-xxxx
Deen, Wallace A., xxx-xx-xxxx
Kyzar, Carl T., xxx-xx-xxxx
Lewis, George E., Jr., xxx-xx-xxxx
Morrissey, Robert L., xxx-xx-xxxx
Scharding, John H., xxx-xx-xxxx
Vescovi, Ronald E., xxx-xx-xxxx
Volkmann, Heiko W., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Accardo, Wilbert J., xxx-xx-xxxx
Adams, Gearl V., xxx-xx-xxxx
Allanach, Bruce C., xxx-xx-xxxx
Arnold, Joseph V., xxx-xx-xxxx
Arrowsmith, David R., xxx-xx-xxxx
Bayliss, Susan E., xxx-xx-xxxx
Baysinger, Douglas M., xxx-xx-xxxx
Beach, Donald M., xxx-xx-xxxx
Bennett, John R., xxx-xx-xxxx
Brockschmidt, Fredric R., xxx-xx-xxxx
Bryan, Gareth D., xxx-xx-xxxx
Bystran, Sharon F., xxx-xx-xxxx
Courcy, Ernest H., Jr., xxx-xx-xxxx
Dingbaum, Herbert H., xxx-xx-xxxx
Elliott, Barbara J., xxx-xx-xxxx
Elliott, Carol J., xxx-xx-xxxx
Evans, Jane E., xxx-xx-xxxx
Gleeson, Roberta L., xxx-xx-xxxx
Glenn, Lucille, xxx-xx-xxxx
Goad, Nan J., xxx-xx-xxxx
Golightly, Clarice B., xxx-xx-xxxx
Gordon, Kenneth A., xxx-xx-xxxx
Hamper, Sandra L., xxx-xx-xxxx
Heston, James V., xxx-xx-xxxx
Hickman, Kathleen R., xxx-xx-xxxx
Hooper, William R., Jr., xxx-xx-xxxx
Hopkins, Roger N., xxx-xx-xxxx
Howard, Duane L., xxx-xx-xxxx
Hutcheson, Marguerite R., xxx-xx-xxxx
Kalpakgian, Olga, xxx-xx-xxxx
Knepper, Glenn B., xxx-xx-xxxx
Kraemer, William J., xxx-xx-xxxx
Kulm, Margaret M., xxx-xx-xxxx
Kutchoodon, Eleanor M., xxx-xx-xxxx
Lavery, Barbara S., xxx-xx-xxxx
Leavell, Ronald E., xxx-xx-xxxx
Leonard, Lawrence C., Jr., xxx-xx-xxxx
Leonhard, John F., xxx-xx-xxxx
Long, Jerry D., xxx-xx-xxxx
Mallory, Jerilyn J., xxx-xx-xxxx
McCarthy, Mary M., xxx-xx-xxxx
Metcalf, Franklin L., xxx-xx-xxxx
Misener, Terry R., xxx-xx-xxxx
Morales, Sandra S., xxx-xx-xxxx
Moriarty, Francis M., xxx-xx-xxxx
Nelson, Iva K., xxx-xx-xxxx
Oatway, David M., xxx-xx-xxxx
O'Connor, Stephen J., xxx-xx-xxxx
Oliver, Randall L., xxx-xx-xxxx
Olson, Thomas J., xxx-xx-xxxx
Oswald, George E., xxx-xx-xxxx
Parker, Cyril C., xxx-xx-xxxx
Pescatore, Edward A., xxx-xx-xxxx
Philiben, Anne N., xxx-xx-xxxx
Rakiewicz, Caroline J., xxx-xx-xxxx
Reimers, Darlene M., xxx-xx-xxxx
Resko, Carolyn B., xxx-xx-xxxx
Sapolis, Richard J., xxx-xx-xxxx
Schanding, Donald W., xxx-xx-xxxx
Schotz, Helen C., xxx-xx-xxxx
Seureau, Kathleen N., xxx-xx-xxxx
Shapiro, Allan E., xxx-xx-xxxx
Smith, Charles L., xxx-xx-xxxx
Squires, Grace E., xxx-xx-xxxx
Thompson, Charles R., xxx-xx-xxxx
Truscott, Alma J., xxx-xx-xxxx
Urick, George M., xxx-xx-xxxx
Welch, Christopher W., xxx-xx-xxxx
Wimett, Joan J., xxx-xx-xxxx
Woldt, Gerald D., xxx-xx-xxxx
Wolf, Richard C., xxx-xx-xxxx
Wondra, George E., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Appleby, Ronald P., xxx-xx-xxxx
Bernstein, David A., xxx-xx-xxxx
Bettes, Stephen F., xxx-xx-xxxx
Blaney, Thomas D., xxx-xx-xxxx
Burnham, Arlie E., Jr., xxx-xx-xxxx
Crino, Samuel J., Jr., xxx-xx-xxxx
Crumpler, Lyle E., xxx-xx-xxxx
Dargon, Paul K., xxx-xx-xxxx
Elliott, James M., xxx-xx-xxxx
Fairchild, William A., xxx-xx-xxxx
Ferguson, Lucian M., xxx-xx-xxxx
Freccia, William F., xxx-xx-xxxx
Quinn, John W., III, xxx-xx-xxxx
Harvey, Gerald W., xxx-xx-xxxx
Henderson, Lester R., xxx-xx-xxxx
Hollinger, Jeffrey O., xxx-xx-xxxx
Hoots, James C., xxx-xx-xxxx
Horsley, John P., xxx-xx-xxxx
Jones, Leonard A., Jr., xxx-xx-xxxx
Koppelman, Eric S., xxx-xx-xxxx
Krantz, William A., xxx-xx-xxxx
Lascher, Michael F., xxx-xx-xxxx
Liley, Charles H., xxx-xx-xxxx
Rajniak, John D., xxx-xx-xxxx
Riddell, Todd R., xxx-xx-xxxx
Rollow, John A., xxx-xx-xxxx
Short, Sinclair G., xxx-xx-xxxx
Skirvin, Dennis R., xxx-xx-xxxx
Wells, Donald W., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Alexander, Milton D., Jr., xxx-xx-xxxx
Antonelli, Mary A., xxx-xx-xxxx
Bacon, David R., xxx-xx-xxxx
Bank, Robert L., xxx-xx-xxxx
Begley, Vincent J., xxx-xx-xxxx
Booth, Bruce W., xxx-xx-xxxx
Bourke, Larry T., xxx-xx-xxxx
Castle, Donald D., xxx-xx-xxxx
Chacko, Anna K., xxx-xx-xxxx
Chamusco, Roger F., xxx-xx-xxxx
Chapman, Ramona M., xxx-xx-xxxx
Cho, Lucy O., xxx-xx-xxxx
Choi, Soonja P., xxx-xx-xxxx
Chow, Jimmy A., xxx-xx-xxxx
Chung, Sooil, xxx-xx-xxxx
Coleman, Fred H., III, xxx-xx-xxxx
Deveney, Clifford W., xxx-xx-xxxx
Diggs, Roderick P., Jr., xxx-xx-xxxx
Dsilva, Francis R., xxx-xx-xxxx
Dunn, Michael A., xxx-xx-xxxx
Eaton, Michael W., xxx-xx-xxxx
Eskestrand, Thomas A., xxx-xx-xxxx
Friendlander, Arthur M., xxx-xx-xxxx
Gamez, Jesus A., xxx-xx-xxxx
Gottlieb, Viktor, xxx-xx-xxxx
Graeber, Geoffrey M., xxx-xx-xxxx
Greenberg, Harvey, xxx-xx-xxxx
Greenspan, Renata B., xxx-xx-xxxx
Gulbrandsen, Patricia H., xxx-xx-xxxx
Harris, John M., Jr., xxx-xx-xxxx
Hur, Kwang D., xxx-xx-xxxx
Kim, Seung H., xxx-xx-xxxx
Kim, Seung I., xxx-xx-xxxx
Kraus, Eric W., xxx-xx-xxxx
Kumar, Surinder, xxx-xx-xxxx
Lawsin, Rosen J., xxx-xx-xxxx
Lee, Da H., xxx-xx-xxxx
Lemon, Stanley M., xxx-xx-xxxx
Lennon, Robert L., xxx-xx-xxxx
Limbo, Zenen C., xxx-xx-xxxx
Lin, Tse H., xxx-xx-xxxx
Lough, Frederick C., Jr., xxx-xx-xxxx
Macasaet, Francisco F., xxx-xx-xxxx
Marsden, Richard J., xxx-xx-xxxx
McAllister, Charles K., xxx-xx-xxxx
McCarthy, Josep, xxx-xx-xxxx
McConnell, Douglas H., xxx-xx-xxxx
McKoy, James, xxx-xx-xxxx
McNeill, Daniel H., Jr., xxx-xx-xxxx
Moessner, Harold F., xxx-xx-xxxx
Monsivais, Jose J., xxx-xx-xxxx
Morgan, James W., Jr., xxx-xx-xxxx
Morrison, Mary J., xxx-xx-xxxx
Mueller, Lawrence P., xxx-xx-xxxx
Norton, Michael L., xxx-xx-xxxx
Ochia, Rowland E., xxx-xx-xxxx
Park, Pyong S., xxx-xx-xxxx
Petrie, Jonathan L., xxx-xx-xxxx
Ramey, Palmer R., Jr., xxx-xx-xxxx
Richmond, Isabell L., xxx-xx-xxxx
Rodriguez Franco, Jose A., xxx-xx-xxxx
Rosenfeld, Robert, xxx-xx-xxxx
Ryan, James M., xxx-xx-xxxx
Saldana, Guido F., xxx-xx-xxxx
Schaffner, Donald P., xxx-xx-xxxx
Sen, Jayanti K., xxx-xx-xxxx
Shehi, Lyle E., Jr., xxx-xx-xxxx
Shervette, Robert E., III, xxx-xx-xxxx
Short, Donald E., xxx-xx-xxxx
Shulman, Robert S., xxx-xx-xxxx
Slade, Clement L., xxx-xx-xxxx
Smythe, Alexander R., II, xxx-xx-xxxx
Solters, John S., xxx-xx-xxxx
Song, Jon E., xxx-xx-xxxx
Spratling, Larry, xxx-xx-xxxx
Srabstein, Jorge C., xxx-xx-xxxx
Swann, James H., xxx-xx-xxxx
Taubner, Rudolf W., xxx-xx-xxxx
Vagshenian, Gregory S., xxx-xx-xxxx
Walcott, William O., xxx-xx-xxxx
Waters, Keith H., xxx-xx-xxxx
Weeks, Kenneth D., Jr., xxx-xx-xxxx
Wuori, Donald F., xxx-xx-xxxx
Xenakis, Stephen N., xxx-xx-xxxx
Zeligs, Joseph, xxx-xx-xxxx

The following-named officers for promotion in the Regular Army of the United States, under provisions of title 10, United States Code, section 3305:

MEDICAL SERVICE CORPS

To be major

Carano, James C., xxx-xx-xxxx
Hehn, Richard D., xxx-xx-xxxx
Nakayama, Harvey K., xxx-xx-xxxx
Schaefer, Ken M., xxx-xx-xxxx
Zumek, David T., xxx-xx-xxxx

ARMY NURSE CORPS

To be major

Clark, Royce Elaine S., xxx-xx-xxxx

DENTAL CORPS

To be major

Haro, David P., xxx-xx-xxxx
Maerki, Henry S., Jr., xxx-xx-xxxx

IN THE MARINE CORPS

The following-named male officers of the Marine Corps for temporary appointment to

the grade of lieutenant colonel under the provisions of title 10, United States Code, section 5769:

George L. Alvarez
Robert E. Boerner
Robert J. Carroll
Alex H. Caylao, Jr.
Edward Dimaio
Donald E. Frost
William H. Harris
Arney M. Johnson, Jr.
Kenneth W. Jones
Ben W. King
Everett W. Krantz
Elbridge W. Lang
Richard A. Lenhart
James W. Lewallen
William N. Lowe
Don E. Mosley
Michael W. Murphy
Edward P. Rolita, Jr.
Arthur J. Seaman
Jerry M. Shelton
Stanley C. Skrobialowski
Donald J. Snooks
Charles E. Swisher
Charles R. Tackett
Roger D. Zorens

The following-named male officers of the Marine Corps for temporary appointment to the grade of major under the provisions of title 10, United States Code, section 5769:

Ronald Achten
Willie A. Armstead
Charles H. Barton, Jr.
Richard J. Beatty
James A. Belfiore
Roy H. Bixler
Robert L. Blake
Thomas J. Borowitz
Frank E. Box
William G. Byrne, Jr
Donald L. Caroway
Francis J. Carr
Thomas E. Cartier
James D. Churchman
Michael J. Clarke
Garnet E. Cope
Hilton Craig, Jr.
Frederick M. Cunningham
Rex L. Curtis
Howard G. Dodd
Arthur J. Douglas
Jack H. Evans
Frederick J. Flihan
Ellwood D. Gordon
Pedro Gutierrez
Robert I. Hall
Henry D. Halloway
Albert L. Hayes
Harold S. Heinbaugh
John D. Hess
William J. Hisle III
Paul R. Hoffman
William Hornhorst, Jr.
Julius B. Hopkins
John W. Johnson
William R. Johnson
John S. Keene
Donald A. Lane
Paul E. Long, Jr.
John W. Loynes
William S. Maire
John R. Marcucci
John P. Marlowe
James H. McGee
Larry G. Merrifield
James Muschette, Jr.
Dewitt R. Reid, Jr.
Lloyd A. Robinson
Marvin C. Rodney
John D. Scroggins
Albert W. Sheldon
Roger A. Sherman
Stephen L. Shivers
Dan W. Showalter, Jr.
David E. Shumpert
Gary G. Simmons
Minter S. Skipper, Jr.
Isaac A. Snipes
Robert R. Stutler
John M. Sweeney, Jr.
Thomas E. Swindell
James M. Thomas
Joseph Thorpe
Marcelo J. Tyler
Daniel Vallee
Leonard R. Webb
William A. Whiting
George E. Williams
Leroy Williams
Billy W. Woodard
James J. Yantorn
Arthur Yow, Jr.

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W–4 under the provisions of title 10, United States Code, section 563:

Clarence T. Anthony, Jr.
Paul T. Ashe
James V. Branum
James D. Churchman
George F. Deckert III
Donald F. Deline
Thomas W. Dolman
Michael B. Graddy
Robert I. Hall
William Hohnhorst, Jr.
Mark C. Hunt
Lorenzo G. Jordan
Ernestine A. Koch
Larry R. Krouse
Jerome F. Lawson
Jack D. Mathis
Roland N. Pannell, Jr.
John B. Samples
Roger A. Sherman
Robert Skyles, Jr.
Lloyd D. Songne
William L. Steigner
David W. Streagle
John W. Sweeney, Jr.
Gary O. Thompson
Donald R. Troutt
Marcelo J. Tyler
Daniel Vallee
Paul R. Weigley, Jr.
John D. Yarbrough

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W–3 under the provisions of title 10, United States Code, section 563:

Thomas E. Adams
John H. Alderson, Jr.
Geza J. Anasagasti
William A. Andrews
Donald P. Angely
Terry L. Armstrong
Charles W. Bailey
Kurt T. Barnes
Craig L. Bauer
Karl P. Beehler
Robert C. Benbow, Jr.
Franklin O. Benjamin
Douglas L. Bishoff
Henry Black, Jr.
Eldon E. Blair, Jr.
Jimmie L. Blick
Hendrik A. Blume
Steven D. Borgeson
Kenneth E. Boyer
Patrick J. Brake
William O. Brenek
Joseph A. Briscoe
Robert D. Brookins
Randy P. Brown
James D. Buck, Jr.
Steven R. Burgess
Fred L. Burpo
Edward L. Burwell, Jr.
Richard E. Byrd
Walter D. Calvert
Stephen E. Cecil
Jesus S. Chacon C.
Jerry W. Chatelain
Vernon J. Chute III
William L. Clyde
Melvin L. Cochran
Merritt L. Cogswell
Matthew W. Conley
John R. Connelley
Barton D. Consford, Sr.
Neely H. Cook
Charles L. Cornwell, Jr.
James F. Cox
Larry D. Cox
Alan T. Cripps
George M. Crouch
Paul D. Cyr
Otto A. Daly III
David Davis
Jere K. Detwiler
Walter S. Dickerson
Robert D. Dorsey
Paul F. Dossin
Roger W. Douthit
Thomas J. Dunphy
Dale A. Dye II
Samuel L. Flores, Jr.
Donald K. Foltz
Stephen H. Foreman
Thomas A. Fox
Rodney Frazee
Peter G. Frederiksen
Ronald H. Freeman
Jack D. Frost
Roland J. Fryer, Jr.
Gary M. Fuhrman
Clarence R. Fussell, Jr.
John J. Gallagher
Thomas H. Gardner
Ronald R. Gaskell
Johnny E. Gebaide
Raymond S. Girardin
Bruno J. Giri, Jr.
Eric A. Glass
Frankie D. Gonzales
Arvis O. Graham, Jr.
Edward Green
Ronald E. Grindle
Harold J. Guillory
Clinton W. Gunter
Louise M. Haebig
Douglas W. Hagee
Loren E. Hajduk
Walter S. Hakala
John C. Hannaford
Donald R. Hansen
Patrick J. Hardy
Stephen L. Harrington
Charles A. Harris
James B. Harris
Gary L. Harvey
Selvin E. Harvey, Jr.
David A. Healy
Daniel A. Henry
William H. Herndon
Edward W. Holder
Roger L. Hoot
Seybourn E. Hopper, Jr
Steven R. Hulland
Dory B. Hux
James A. Inman
George L. Jackson, Jr.
David F. Jacobus
Larry E. Jellison
Percie V. Johnson, Jr.
Robert R. Jones
Douglas R. Keene
John J. Kierepka
Kathleen J. Kincaid
Michael S. Kinsella
Garry N. Klaus
Henry L. Klepac
Arthur C. Koon
Dennis E. Kush
Michael D. Labonne
Leamond F. Lacy, Jr.
Stephen C. Lambeth
Gerald L. Languell
Stanley R. Lemley
Arthur E. Leone
Edward B. Lewis
Alan J. Lirette
John M. Longshore
Ronald J. Lucinski, Jr.
Stephen E. Lusk
Michael R. Lynch
William R. Mahoney
George R. Martin
William H. Martin
Jacabo L. Martinez
Tyrone L. Mason
Richard W. Masterson
Edward G. McDaniel
Robert R. McDonald, Jr.
Donald D. McGuire
Barry L. McLemore
Layton A. McLeod
Donald R. G. McMann
Jack C. McNutt
John W. McRae
Gary P. Meisenhelder
Robert E. Melton
James O. Mick
Charles S. Miller
Montelle E. Miller, Jr.
Robert B. Miller
Michael B. Mitchell
William M. Monroe
Willus L. Morgan
Thomas M. Mulloy
William J. Murphy
Kenneth J. Murray
Levance Myers
James H. Neal, Jr.
Cecil L. Nelson
Richard C. Ortiz
Bobby E. Ott
William L. Payne
Douglas J. Pelko
Thomas L. Penn
Bradford M. Perkins
Wayne M. Poore
Sammy Popwell
Glenn E. Porter
Donald H. Post
Kenneth B. Poteet
Michael Pozzolungo
Guadalupe E. Reyes
Jerry D. Ritchie
William J. Roberge
James C. Roberts
Richard L. Robinson
Joseph M. Rodriguez
Thomas C. Rose
Martin L. Rosenfield
Terry D. Ruhter
Thomas M. Rutherford, Sr.
Leroy E. Sanderson
Michael C. Schaefer
Robert A. Schatz
William W. Schrader
Frank L. Scott, Jr.
Joseph D. Scott
Paul L. Smith
Paul W. Smith
Victor J. Smith
Joseph J. Snow, Jr.
Lawrence R. Soloy
Gerald R. Sorensen
Robert L. Spencer
Roy W. Starks
Keith D. Stevens
Terry G. Stevens
James A. Stone, Jr.
Gary W. Stuck
Jonathon H. Sylvester
Mario H. C. Tamayo
Melvin Thomas
Wayne H. Thomas, Jr.
Ronald Throckmorton
Paul J. Tomecek
Jerrel R. Townsend
John T. Trosper
Donald T. Troublefield
John L. Trudo
John M. Vandeursen
John J. Varelli
Charles A. Vaughan
Daniel G. Walczak
Jake Walker, Jr.
William M. Whittington
Charles B. Wilson, Sr.
Jerry L. Wilson, Sr.
Alva R. Windham
Durwood M. Wingfield
Ronnie J. Wood
James E. Yale
William E. Zimmerly

The following-named officers of the Marine Corps for appointment to the grade of chief warrant officer, W–2 under the provisions of title 10, United States Code, section 563:

Eduardo Acosta
George H. Amerine, Jr.
Gerald D. Anders
Donald J. Anderson
Michael D. Anderson
Terry R. Armstrong
Walter F. Arndt
Edwin G. Avecilla
Dennis L. Baker
Steven M. Banks
Steven M. Baracosa
Charles M. Barrett
Donald J. Bartek
Douglas D. Barton
Billy E. Basham
Randy L. Baum
Robert W. Beard
Eugene G. Beck
Kevin L. Bell
Roger B. Bell
Robert L. Bivens
James Black
William J. Black, Jr.
John D. Blake
Charles E. Bleile, Jr.
William R. Bloomfield
Donald E. Bolen
Carol S. Bonson
Edgar M. Boose
John E. Borraggine
George B. Brown
James W. Brown
Raymond C. Brown
Joseph H. Burt
Lionel J. Bushey II
Jerald D. Byrum
Robert N. Callison
Roy R. Cappadona
Loston E. Carter, Jr.
James R. Casey
Joseph M. Cason
Michael F. Castagna, Jr.
Stephen Centowski
Danny W. Champlin
Morgan F. Chavis
Alvin O. Chesney, Jr.
Alvin P. Christensen
Barkley A. Cornwell
Don C. Cottle
Richard G. Cox
Wayne Craig
Raymond J. Cristman
Roger L. Crone
Edward A. Cruz, Jr.
Moses Culbreath
Edward J. Delehant III
Antonio G. Diaz
Steven C. Dietz
Michael E. Dmytriw
Richard A. Dorn
James M. Dorriety
David L. Duff
Edward R. Dunlap
Stephen A. Eklund
Matthew Eller, Jr.
Ronald W. Ellinger
Dennis R. Emperley
Eligio Espiritu, Jr.
John A. Fails
Michael E. Ferguson
Jonathan R. Field
John L. Fletcher
Gary W. Funk
Marvin G. Gandy
Robert R. Gibbs
David I. Gilbert
Stewart O. Gold
Eugenio Gonzales, Jr.
David R. Gorton
William L. Groothoff, Jr.
Larry A. Grove
Joe R. Hall
Ernest E. Hamilton
Ralph J. Hanegan
Michael T. Harper
Leonard M. Harris, Jr.
David D. Harshbarger
Barbara A. Harvell
Daniel O. Hawthorne
Frederick F. Heimgartner
Wesley C. Henderson
Paul Hicks
Leon Hill
Penelope Hilliard
Richard J. Hoag
Michael P. Holloway
Raymond L. Hopkins, Jr.
Larry P. Hopp, Sr.
Paul T. Howard
Calvin H. Iona
Robert J. Jablonski
Clyde R. Jackson
William L. Jackson
Richard L. Johnson
William G. Julian
Marie G. Juliano
Ronald P. Kale
James A. Kehn
Kenyon T. Kelley
William J. Kerr
Johnny H. King, Jr.
Ronald C. Kinslow
George W. Kirby
Gary D. Kjeldahl
Samuel G. Konrad, Jr.
Carl E. Lagassa II
Ronald D. Lambert
James R. Langley
Thomas J. Langlois
John W. Lawson
Robert R. Leinenbach
David D. Leutwyler
David S. Lewis
Robert W. Lively
Robert E. Long
Gilbert A. Lopez
Michael A. Luther
Daniel P. Lybert
James P. MacFarlane
Raymond H. Lummus
Rodger Macias
John F. Maier III
Erlynn A. Manthey
James K. Marchant
William H. Marron

Perry A. Marzean
Charles D. Matthews
Gary M. Matthews
James P. Mayfield III
Stephen J. Mazza
David A. McCall, Sr.
James G. McClelland
David L. McKay
Donald W. McRaven
Ernie G. Milam
Leslie N. Minihan
Timothy M. Molina
Johnny M. Montoya
Peter D. Morneau
Kenneth A. Morris
Lawrence J. Murello
Samuel G. Murray
Thomas G. Nelson
John H. Neumann, Jr.
Michael E. Nicknadarvich
Kenneth E. Niemi
Wayne D. Nunnery
Michael A. O'Donnell
Lee P. O'Donovan
Timothy J. O'Malley
Alfredo E. Palmejar
Peter J. Pappas
William C. Parrill, Jr.
James L. Paxton
Genero H. Perez
Timothy E. Perry
Carl E. Phillips
Earnest W. Phillips
Gary R. Place
James T. Pollard
Charles A. Pope II
Gregory A. Posey
Richard W. Price
John F. Pritchard
Timothy E. Purcell
Larry J. Quandahl
Edward R. Quintero
Earl T. Radabaugh
Ralph Ramos
James M. Rasmussen
Harold B. Redmond, Jr.
Clinton Reed
Donald C. Reed
James R. Reinbold
Candelario L. Resendez
Charles S. Reynolds, Jr.
Pablo F. Ribadeneira
William J. Richey
Shirley M. Ritzdorf
James A. Roberts
John W. Roberts
Daniel B. Robinson
Mitchell F. Roden
Keith E. Rosemond
Kelvin L. Ruffin
Larry L. Runner
Wayne R. Ryther
John E. Salmon, Jr.
Terry G. Sanders
John T. Saraga
Lorraine A. Scheetz
Alan L. Scheib
Amos D. Scherff
William R. Schweisthal
Marcus L. Scott
Willie F. Scott
Richard A. Seaquist
Timothy L. R. Secrist
Bruce E. Shanks
Christopher H. Shaw
Leonard P. Shipley
William L. Siebold
Billy T. Skaggs
James C. Smith
James L. Smith
Richard W. Smith
Walter B. Smith
Duane H. Snyder
William A. Startt
David T. Stewart
Charles R. Stiers
William R. Stimax, Jr.
Patrick J. Stokes
Dale K. Stone
Larry E. Sullivan
Everett R. Swift
Donnie G. Taylor
Freddie L. Taylor
Louis G. Taylor
Trafford J. Taylor, Jr.
Robert S. Thien
Raymond O. Thomas
Jeffrey D. Touchet
Dennis E. Trach D.
Charles M. Tucker
George P. Turner
Warner L. Twillie
Richard S. Vinton
Fred J. Vinzant
Peter R. Violette
Manuel E. Vizinho
Guntere E. L. Vonderheyde
Thomas D. Wagley
Henry A. Walczky
John J. Walsh III
Mark A. Walters
Mansur J. Ward
William P. Ward
Thomas L. Warren
James W. Washington
Ralph Way
Gordon J. Wehri
Raymond T. West, Jr.
George T. Weston, Jr.
Danny L. White
William C. Whittlesey
Eldon D. Williams
Theodore Wilson
Alan W. Wincek
Robert V. Winton
Marvin G. Wyatt
Martin J. Yannaccone
Robert A. Zink

SELECTIVE SERVICE SYSTEM

Thomas K. Turnage, of California, to be Director of Selective Service, vice Bernard Daniel Rostker, resigned.

REGIONAL COMMISSIONS

Joseph Robert Wright, Jr., of New York to be Federal Cochairman of the following.

Coastal Plains Regional Commission.
Four Corners Regional Commission.
New England Regional Commission.
Old West Regional Commission.
Ozarks Regional Commission.
Pacific Northwest Regional Commission.
Southwest Border Regional Commission.
Upper Great Lakes Regional Commission.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 31, 1981:

DEPARTMENT OF EDUCATION

Daniel Oliver, of Connecticut, to be General Council, Department of Education, vice Betsy Levin, resigned.

DEPARTMENT OF COMMERCE

Robert G. Dederick, of Illinois, to be an Assistant Secretary of Commerce, vice Robert Thallon Hall, resigned.

DEPARTMENT OF JUSTICE

Rex E. Lee, of Utah, to be Solicitor General of the United States, vice Wade Hampton McCree, Jr., resigning.

GOVERNMENT PRINTING OFFICE

Danford L. Sawyer, of Florida, to be Public Printer, vice John J. Boyle, resigned.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Robert A. Rowland, of Texas, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1987, vice Frank R. Barnako, term expired.

DEPARTMENT OF COMMERCE

Rear Admiral Herbert R. Lippold, Jr., NOAA, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration, vice Rear Admiral Allen L. Powell, retired.

FEDERAL COMMUNICATIONS COMMISSION

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1977, vice Charles D. Ferris, resigned.

Henry M. Rivera, of New Mexico, to be a Member of the Federal Communications Commission for a term of 7 years from July 1, 1980, vice James H. Quello, term expired.

SMALL BUSINESS ADMINISTRATION

Frank S. Swain, of the District of Columbia, to be Chief Counsel for Advocacy, Small Business Administration, vice Milton David Stewart, resigned.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Charles L. Dempsey, of Virginia, to be Inspector General, Department of Housing and Urban Development (reappointment).

GENERAL SERVICES ADMINISTRATION

Joseph A. Sickon, of Virginia, to be Inspector General, General Services Administration, vice Kurt W. Muellenberg.

DEPARTMENT OF JUSTICE

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission for the remainder of the term expiring September 30, 1981, vice Ralph W. Emerson.

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission for the term expiring September 30, 1984 (reappointment).

ENVIRONMENTAL PROTECTION AGENCY

Kathleen M. Bennett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency, vice David G. Hawkins, resigned.

John P. Horton, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency, vice William Drayton, Jr.

DEPARTMENT OF JUSTICE

Richard S. Cohen, of Maine, to be U.S. attorney for the district of Maine for the term of 4 years, vice Thomas E. Delahanty, II, resigning.

NUCLEAR REGULATORY COMMISSION

Thomas Morgan Roberts, of the District of Columbia, to be a Member of the Nuclear Regulatory Commission for the term expiring June 30, 1985, vice Richard T. Kennedy, term expired.

DEPARTMENT OF JUSTICE

A. Melvin McDonald, of Arizona, to be U.S. attorney for the district of Arizona for the term of 4 years, vice Michael D. Hawkins, resigned.

R. Lawrence Steele, Jr., of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years, vice David T. Ready, resigning.

Thomas E. Dittmeier, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years, vice Robert D. Kingsland.

Richard A. Stacy, of Wyoming, to be U.S. attorney for the district of Wyoming for the term of 4 years, vice Charles E. Graves, resigned.

John C. Bell, of Alabama, to be U.S. attorney for the middle district of Alabama, for the term of 4 years, vice Barry E. Teague.

J. B. Sessions, III, of Alabama, to be U.S. attorney for the southern district of Alabama for the term of 4 years, vice William A. Kimbrough, Jr., resigned.

Joseph J. Farnan, Jr., of Delaware, to be U.S. attorney for the district of Delaware for the term of 4 years, vice James W. Garvin, Jr.

James A. Rolfe, of Texas, to be U.S. attorney for the northern district of Texas for the term of 4 years, vice Kenneth J. Mighell.

Michael R. Spaan, of Alaska, to be U.S. attorney for the district of Alaska for the term of 4 years, vice Alexander O. Bryner, resigned.

Executive nominations confirmed by the Senate August 1, 1981:

DEPARTMENT OF AGRICULTURE

Harold V. Hunter, of Oklahoma, to be Administrator of the Rural Electrification Administration for a term of 10 years, vice Robert W. Feragen, resigned.

Charles Wilson Shuman, of Illinois, to be Administrator of the Farmers Home Administration, vice Gordon Cavanaugh, resigned.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

MINORITY BUSINESS

HON. PARREN J. MITCHELL
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. MITCHELL of Maryland. Mr. Speaker, I have served as a Member of this distinguished body for over 10 years. In this period of time, I have attempted to serve as a voice for the disadvantaged of this Nation. I am especially concerned with the economic development of viable minority businesses. Such businesses, I believe, can enhance greatly this Nation's effort to reduce unemployment and revitalize decaying neighborhoods. Of equal significance, minority businesses are eager to become a part of this country's economic recovery goal.

Since 1979, many of my distinguished colleagues have rallied to provide congressional support for minority businesses. I thank you for your support. Likewise, there is some positive movement in the corporate structure to develop partnerships with minority entrepreneurs. Mr. Speaker, regarding the latter, I am pleased to share with my colleagues excerpts from a speech by Arthur Levitt, chairman of the American Stock Exchange. The speech was presented in the spring of this year at the annual meeting of the Interracial Council for Business Opportunity.

Good Evening, as chairman of the American Stock Exchange and one of the founders of the American Business Conference—a new organization that promotes the interests of growth companies—I am unabashedly enthusiastic about small business.

Langston Hughes once told businessmen, their lives "ain't been no crystal stair," you survived. You absorbed in recent years the blows of hyperinflation and high interest rates; you made modest gains. For every few businesses that failed, at least one new venture started.

Allow me to point out some of the gains black businesses made in the 1970's.

In 1977, the most recent year for which statistics are available, blacks owned about 200,000 businesses that had gross receipts of over $7 billion.

Eight years ago, the top 100 black businesses cited in Black Enterprise magazine showed gross receipts of $459 million. The latest survey had revenues of the top 100 firms amounting to slightly over $1 billion.

Today there are many black banks, savings and loan associations, and insurance companies with assets of approximately $3 billion.

Black businesses are more diversified today than ever before with companies in the high-growth fields—electronics, computer software, and telecommunications.

There are prospering oil and oil-related companies; Wallace & Wallace Enterprises, Inc. in St. Albans, N.Y.; Vanguard Oil & Supply Co., Inc. in Brooklyn; Grimes Oil Co., Inc. in Dorchester, Mass.

In technology there are companies like Ran-Der Industries, a supplier of oil field drilling chemicals and Baszile Metals Service, a metal parts supplier.

Ten years ago this country had only 14 black-owned radio stations, and 1 black-owned television station. Today there are 108 black-owned radio stations and 6 black television stations.

Timothy Person, president of Allstates Transworld Van Lines Inc., serves as a lesson in perserverance; after battling with the Interstate Commerce Commission for nearly two decades, he won the first nationwide operating license ever awarded to a black enterprise.

I believe I can speak for most small businessmen who welcome the President's so-called supply side economic policies—if those policies will do what is promised; that is, reduce the maze of restrictive regulations, ease credit for productive purposes and cut taxes in ways that will encourage savings and investment. But the worry of many small businessmen and women is that in the well-intentioned push to restore the country's economic vitality, the cure could prove to be worse than the sickness.

Indeed, the proposed cutbacks in the Small Business Administration budget and Federal contract procurement programs are bitter medicine.

One hundred million dollars would be cut from the SBA direct loan budget for fiscal year 1982. As a result, funding for minority enterprise small business investment companies (MESBICS) would be severely reduced. In addition, the interest rate on these loans would increase from 9¾ to 18 percent.

Another $100 million would be cut from the SBA's guaranteed loan program.

Surety bonding, 8a contracts including the 15 percent setaside program in the Department of Transportation and the Commerce Department's Minority Business Development Agency face possible reductions.

Many of you in this audience may agree with one economist's assessment that these proposals, if adopted, could force 20 percent of all small businesses into bankruptcy; and almost half of the number of existing black businesses would have even less access to capital and to markets than they do now.

MESBICS, direct and guaranteed loans and Federal procurement programs made it possible for many black owned businesses to expand from mom and pop experience into franchises and into the high-growth fields I mentioned a moment ago.

Without MESBICS, the Interracial Council for Business Opportunity would have been hard pressed to come up with the $132 million in financing that it secured for minority businesses since 1963. I wonder how many of you know that the National Black Radio Network was started with a $450,000 MESBIC investment made by the Equitable Life Assurance Society? Today, the Nation's first black-owned, black-operated, and black-oriented radio network has 90 affiliates and 300,000 listeners. The parent company, Unity Broadcasting Network, had revenues of $6 million last year.

I am hopeful that the new administration will be sensitive to the needs of all small businesses. I want to believe that the safety net the new administration says it will place under business will protect all businesses.

We should remember that small businesses do not always stay small and in need of Government support. They realize profits, reinvest capital, pay taxes, and eventually many grow into large corporations. More than half of the major corporations now traded on that other exchange here in this city—including Xerox, Alcoa, the Standard Oil Cos., and virtually every airline and aircraft manufacturer—started out as small companies traded on the American Stock Exchange.

Delegates to last year's White House Commission on Small Business drew up an agenda to give small and minority businesses a much-needed boost. Among other proposals, they sought mandatory goals for sharing of all Federal, State, and local government procurement contracts. They called for stronger enforcement of Public Law 95-507, which would require prime contractors to put their goals for small business contractors in writing. Last and not least, they proposed the adoption of a small business investment act to provide for 50 percent tax credits to investors in small or minority business development corporations. They also asked that investment corporations have the authority to borrow from Federal banks at subsidized interest rates.

A group of black Reagan supporters, Progress, Inc., is appealing to the President to drop what it calls the "falsely-held notion" that such programs are principal contributors to inflation. They want expanded SBA loan and 8a programs and special tax incentives to aid minority businesses.

Earl Graves of Black Enterprise magazine and Malcolm Corrin go even further. They are looking for partnerships between Government and the private sector. I mention this because private corporations are unfortunately dragging their feet. The most recent Conference Board estimate shows that of the more than 2 million corporations in the United States, fewer than 30 percent reported making any contributions to organizations like ICBO or other worthy groups.

There are of course exceptions. Corporations listed in ICBO's annual report obviously believe investing in black businesses is an investment in America's future. More corporations must understand that their future depends on a stable social system. They can help build this system if they bring people out of an impoverished underclass and into the economic mainstream. People who have a stake in the system are committed to making it work.

Blacks are not asking for handouts or welfare; just a real opportunity to try, to succeed, and perhaps even fail. After all, America was founded on the right of individuals to pursue a dream and to have every chance to make it a reality. Black business is really a pure form of the American spirit; men and women daring to experiment, to be innovative and to persevere.

At the beginning of his term in Office, President Reagan hailed the spirit of small

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

business people. Heroes, he called them. Entrepreneurs who possess "faith in themselves and faith in an idea, entrepreneurs who work to create new jobs, new wealth, and opportunity." Tonight, we have many of these men and women with us, heroes if you will. It is fitting that here and now those among you in Government and in the private sector renew our commitment to these men and women.

Not to get involved is tantamount to putting a foreclosure sign on the doors of black businesses. The new beginning hailed by this administration can and should be a new beginning for black businesses too. It should and must be the beginning of a drive to keep black business in the black * * * and very much in business.

Thank you.●

THE NATIONAL TOURISM POLICY ACT

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. D'AMOURS. Mr. Speaker, last Tuesday the House resoundingly passed the National Tourism Policy Act, a bill I cosponsored and one that I believe to be landmark legislation for the travel and tourism industry. This bill is the result of over 6 years of deliberations by the Congress and reflects the belief that an aggressive, imaginative effort to promote tourism will provide a great economic stimulus to our Nation.

Tourism is the No. 1 industry in my own State of New Hampshire and it is very important to New England and other regions of the country. The New England Council, a nonprofit association of New England employers who seek to improve economic conditions by monitoring national and regional decisions affecting New England, endorsed this legislation at its midyear meeting held in my congressional district in July. I applaud the council's support of this bill and its efforts in working for Tuesday's victory.

I might add that the council recently opened an office in Washington in an effort to further its effectiveness in bringing the voice of the New England business community to Capitol Hill.

I am inserting into the RECORD the council's position on the National Tourism Policy Act which was adopted by the group in early July:

Travel to New England for business and vacation purposes generates $7 billion in income per year to the region and provides much needed tax revenues to the New England states in the form of meal, gasoline, liquor, sales and hotel taxes from a non-resident taxpayer population. We also know that the travel industry has been growing faster than other industries, that it provides over five percent of our total employment, and in some rural communities it is the single most important source of jobs and income for local residents. But the economic importance of tourism is not unique to New England: it is a national industry. Tourism is the country's fourth major export. In 1980, more foreign visitors came to the United States than Americans traveled abroad, evidence that the tourism industry can make a major contribution to our balance of trade.

The National Tourism Policy Act would establish a national tourism policy. It would also convert the existing U.S. Travel Service into a U.S. Travel and Tourism Administration and upgrade its assistant secretary to an undersecretary thereby giving it a stronger role within the U.S. Department of Commerce. In addition, it would establish an interagency coordinating council designed to coordinate some 100 government programs in 50 federal agencies which deal with tourism. Through passage of this bill, the travel industry would gain national recognition, the support of the government systems necessary to increase international visitors to the United States, and be better able to compete both domestically and overseas.

While similar legislation was passed by both Houses of Congress in the 96th Congress, it was pocket vetoed by President Carter in the final days of his Administration. The New England Council supports congressional passage of H.R. 1311 and urges the Reagan Administration to support this significant legislation.●

THE NATIONAL ENERGY POLICY PLAN, COAL

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, on July 17, the President transmitted to the Congress the Reagan administration's national energy policy plan. I support the approach suggested by the plan, and, as a member of both Energy Subcommittees of the Energy and Commerce Committee, I look forward to being closely involved with energy issues during the 97th Congress.

Mr. Speaker, for the benefit of our colleagues, I insert in the RECORD at this point the national energy policy plan's section on coal:

COAL

Coal is the Nation's most abundant fossil fuel, although it still supplies only one-fifth of the primary energy we consume each year. The Administration intends to reform Federal regulations that place unnecessary constraints on coal demand, to revise outdated leasing policies which threaten to limit future coal production, and to create an economic environment that enables the private sector to develop coal's potential.

Coal's price advantage over oil has widened rapidly during the past decade. Coal is the most economical fuel for most new large boiler applications, even if an oil-fired boiler is abandoned. The average fuel price difference between coal and oil delivered to utilities in the United States increased from about $2 per barrel of oil equivalent in 1973 to $23 per barrel in January of this year.

The coal industry has been responsive to such market forces. Although coal production remained nearly constant between 1970 and the middle of the decade, it rose by an average of about 5 percent annually between 1975 and 1980. Nevertheless, coal production is actually below capacity; and this rate of increase would have been much steeper, in fact, if domestic markets for coal had not been limited by many barriers to its use. The private sector is fully capable of meeting the anticipated future demand for coal in this country if it is not hampered by inappropriate Federal leasing policies and nonessential regulations. Because of the long lead-time required to develop new production capacity, the coal industry is planning now for increases in demand expected to result from higher gas and oil prices, expending export markets, and the emergence of a coal-based synthetic fuels industry.

Domestic demand for coal is subject to many governmental restraints. The Federal regulatory process is being reformed to reduce impediments to the use of coal, including the excessive costs and lead-times now involved in building coal-fired utility and industrial installations. A switch to coal has been impeded by the significantly higher capital cost of the equipment to use this fuel, as compared with that for oil and gas. The Administration's Economic Recovery Program, which cuts taxes to encourage capital investments, should stimulate industrial and commercial users who will thus benefit from long-term fuel savings—and be able to share those economic benefits with their intermediate and ultimate customers. Several environmental laws are scheduled for review in the 97th Congress—the Clean Air Act and the Federal Water Pollution Control Act being most prominent. The Administration's current review of these acts is examining ways to maintain an appropriate balance between environmental quality and the Nation's need to produce and use more coal. (See Section V.) State and local governments also should focus on regulatory reform to remove unnecessary barriers to coal use and provide economically rational supervision of the Nation's regulated utilities.

National coal production capacity should also expand, even though it might take some time for domestic markets to "catch up." Fortunately, world demand for coal should put the excess output to good use, while also improving our trade balance through U.S. exports of steam coal as well as metallurgical grades. The Administration expects vigorous response by the private sector to rapidly increasing demand for such exports through further investment in mining, inland transportation, handling, and ocean transportation facilities. The costs of port and channel improvements needed to accommodate increased trade can be offset by users' fees; and foreign participation in the improvement of facilities intended for export markets should be encouraged. At the same time, the Administration is examining ways to assist the effort by reducing delays in facility and system improvements caused primarily by existing government regulations and permit-issuance procedures.

In the future, more coal is likely to be produced on Federal lands. The Federal Government controls four-fifths of all the known reserves in the western United States—where low-cost, strippable beds of coal are heavily concentrated. Within a few weeks the Administration is scheduled to complete a review of the existing program for coal leasing. This review is seeking changes that would accelerate the rate at which coal-bearing lands are leased and would eliminate redundant regulations for implementing such leases.

The Department of the Interior (DOI) has announced that by next year the primary responsibility for supervising compliance with regulations of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) will be transferred fully to those States that wish to assume this responsibility. The Department also has decided to rewrite the regulations to foster initiative and efficiency in the way compliance is reached. This can be done by replacing rigidly prescriptive "cookbook" design standards (telling industry precisely what it must do) with performance standards that are more responsive to local needs and conditions (telling industry what it is obliged to accomplish through its own resourcefulness).

Coal is delivered primarily within this country now by rail, truck, and barge; and private enterprise is exploring actively the possibility of transporting it extensively by slurry pipeline. The Administration is committed to removing regulatory constraints that would prevent the free market from determining the best way to move coal from mine to customer. The development and smooth operation of coal-carrying capacity is essentially a private sector issue, although maintenance of coal-hauling roads for truck movement is the responsibility of the States in which such roads are located.

Finally, by creating an environment that encourages private sector innovation and adoption of new coal technologies, it will be possible for the Administration to withdraw Federal support from near-term development and demonstration programs which could and should be carried forward by private industry. Government research funding can then be directed toward solving fundamental problems and toward generic research which may benefit many companies, rather than toward helping specific companies to develop new equipment and processes. Coal technology efforts by the Department of Energy (DOE) will focus on long-term, high-risk research and development where the payoff in the long run can be perceived, yet may not be clear enough to motivate adequate investment by individual companies or private institutions. The Administration plans to issue a policy statement on coal exports consistent with these principles.●

THE CITY OF HOPE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. WAXMAN. Mr. Speaker, few institutions are as dedicated to the value of protecting human life as the City of Hope. Its fundamental philosophy is that, "Health is a human right"—a commitment that is under the most severe challenge from the economics of social austerity embraced by this administration. In his keynote address to the City of Hope annual convention, executive director Ben Horowitz outlined the decade of decision that lies ahead. Its ability to face the future lies in the strength of its past achievements. I am pleased to insert Mr. Horowitz's address in the RECORD for the benefit of my colleagues.

KEYNOTE ADDRESS BY BEN HOROWITZ

Welcome delegates and members of the family of the City of Hope.

We are gathered in the 68th year of our history from various corners of the nation and from diverse segments of our population. You here are very special people. You have been chosen as delegates because of the leadership you have given to our auxiliary movement. You are the heart of yesterday's accomplishments, today's endeavors, and tomorrow's dreams of the City of Hope.

Our Conventions have a unique format. We utilize them to reinforce commitment to the noble traditions of our founding pioneers. We evaluate reports on plans approved at prior biennial convocations. We project ambitious programs for the succeeding two years, within our long range perspective.

These years of the eighties constitute a "decade of decision" for the City of Hope. Surrounding us are people caught up in a mood of frustration, a feeling that they cannot influence the course of events. We have imbued our supporters with a far different spirit—a sense of unified purpose, a refusal to let the future slip from our grasp, a determination to move forward to greater achievement on behalf of health and humanism.

The City of Hope has accepted the responsibility of giving active encouragement to creativity and innovation. This is implemented in effective fundraising by our auxiliaries, in the rescue of patients in our hospital rooms, in the discoveries emerging from our research laboratories, in the widening receptivity to our ideology.

The City of Hope is embarked on a great adventure. We have been gearing our organizational forces to win battles, better said victories, in the war against crippling and killer diseases. Our deep conviction is that lofty ideas and ideals can inspire people to fulfill their maximumn potentials. Recognizing the capacity of men and women for both good and evil we have sought to influence them to constructive purposes and social obligations.

The contribution of the City of Hope to America has been monumental. Each Convention has recorded landmarks in our development, reflecting the enduring partnership of auxiliary workers and the medical-scientific staff.

My Keynote Address, and that which will take place in the sessions of the next two days, highlight sweeping advances of recent years. Their attainment emerges from the day to day efforts of our supporters, making a sum total of magnificent proportions. Listen to it with pride. You have a right to say as each area of activity is related, "I helped make it happen." My auxiliary did its share." "Our members are the lifeblood of the City of Hope."

OUR PATIENT SERVICES

We have insisted that our patient care continue to be free, of the highest quality, and with warm personalization. This reflects our philosophy that "health is a human right," the slogan of this convention.

In accordance with our piloting role, our Medical Center has initiated many new approaches which are becoming models of treatment for hospitals.

Our Bone Marrow Transplantation Program has effected high survivor rates and reduced costs for treatment of leukemia and aplastic anemia victims.

Our Medical Oncology Department is working with new drugs and combinations of therapies to control the spread of cancer and to prevent the side effects of chemotherapy.

Our Respiratory Diseases Department has a rehabilitation program which substantially improves the functioning of disabled emphysema and chronic bronchitis patients.

Our Division of Surgery is stressing the importance of nutrition as essential to the healing process, is using new surgical techniques in combinations with other therapies, and has established a staff supportive program to minimize the emotional and social impact of cancer on patients and their families.

Our Division of Radiation Oncology has developed controls on radiation penetration of patients to avoid injuring underlying organs; and is one of the few engaged in delivering electron therapy for skin lymphomas.

Our Division of Pediatrics is dealing with various disorders affecting poverty stricken children, has introduced a new anti-virus drug for treatment of an infection affecting cancer patients, and has set up a psychology counseling service for children and their families.

These are only samplings of what is occurring in the many departments at our Medical Center. Rather than dwelling on additional details, let me relate a personal experience which brings these patient care programs into meaningful human terms. One day, as I was walking on a pathway at the City of Hope, a youngster raced up to me and gave me a hug. Breathlessly he said, "When I came in a wheelchair to the hospital, you told me 'Don't worry, you'll be walking soon.' See, I'm not only walking, I'm running!" That exemplifies the miracles you make available every day.

OUR CONSULTATION SERVICES

Almost three decades ago, the City of Hope formed a Consultation Service to offer the expertise of its staff "outside of its walls." In the early years patients were slow to take advantage of this option and physicians were less than enthusiastic about it.

In recent years, the validity of such "second opinions" has become an established fact. There is a recognition of the many unknowns and variables in diagnosis and treatment. Governmental and private health authorities have urged such confirmation in regard to serious ailments.

There has been widespread use of City of Hope specialists by patients desiring to continue care by their own physicians in their own communities. We have responded generously to this need. It should be particularly noted that our Division of Anatomic Pathology has given thousands of consultations on behalf of patients from every state in our nation and from 35 countries. The federal National Cancer Institute also supports a Reference Center at this division of the City of Hope of tissue sections from lymphoma patients from throughout the United States.

OUR ROLE AS A THINK TANK FOR OTHER HOSPITALS

We are vitally interested in improving the delivery of health care. This applies to improving the functioning of every hospital department, assuring maximum quality, quantity, economy and efficiency. We have won prizes from the National Association of Suggestion Systems for our ideas.

The general trend in the hospital field is to reduce paramedical services as an economy measure. We believe that such programs must be maintained to give patients a sense

of well-being, speeding recovery. Our innovations in paramedical services alert other hospitals to their necessity.

OUR RESEARCH ACTIVITIES

For many years the City of Hope has been designated as a Specialized Cancer Research Center by the National Cancer Institute of the federal government. Some 100 top-level clinical and basic researchers, aided by hundreds of others on our staff, are now involved in its activities.

More than 400 papers detailing the original findings from our laboratories during the last two years were published in scientific journals. They made an enormous contribution to medical science, laying the foundation on which researchers everywhere build. Our breakthrough in genetic engineering is resulting in vast consequences in unlocking the mysteries of disease.

The work of our scientists appears in professional journals throughout the world. National and international honors and awards are bestowed on our staff. They are invited to present their findings at conferences in this country, in Europe, and Asia.

Research projects at the City of Hope receive many millions of dollars each year from funds raised by our volunteers. This is supplemented by government grants, which in 1981 amount to $6,000,000. The current cutbacks in federal and state grants, with more threatened in coming years, will save dollars at the expense of losing lives. Only scientific investigation can make a massive reduction in the "body count" of victims of disease, who number in the tens of millions. This motivated our thrust as a Pilot Medical Center, which has earned us world renown. There can be no impairment of our research endeavors for they are an essential core of our operations.

OUR AUXILIARIES

The dedicated and untiring efforts of our auxiliary members are the mainspring of the progress of the City of Hope.

We now have 511 chartered groups in 235 cities, 31 states, and Washington, D.C. It is gratifying that community and industry auxiliaries have done an outstanding job of reaching out for new members and new sources of income.

Since the inception of the City of Hope, our auxiliaries have provided the national organization with talented leaders and substantial funds. They have formulated the traditions and ideology of our movement and their members have spread its concepts to their communities.

Auxiliary members have written glorious pages in our annual records, but we are confident that the best is yet to come!

OUR FUNDRAISING

Income for 1979–81 will be approximately $105,800,000. We far exceeded what was projected at our last convention. Nevertheless, we accumulated a deficit due to inflation, growth of staff and programs, purchase of new equipment, and other rising costs of health care.

The City of Hope launches a new budget every year. Each one demands a multimillion dollar increase. Its adoption is an act of faith by our Board of Directors, for there are no funds in our treasury. The grand total of dollars is a hope (and may I add a prayer) that the dollars will be forthcoming from our supporters.

Since the beginning of this fiscal year, we have been spending at the rate of $1,100,000 every week. Next year will require an even larger sum. You give us the confidence that it can be done. All of us know that we are not juggling abstract mathematical figures. Life and death are in our hands.

The budget becomes a solemn promise to those who plead for help. Our response is the finest expression of human will, love and compassion.

OUR LEADERSHIP

Napoleon said that every French soldier carried a marshal's baton in his knapsack. It was his way of saying that everyone in his army could be a hero, could rise to leadership.

This prevails in the City of Hope. The many facets of auxiliary activities call for a broad range of leaders who are consistently supplied again and again. We are fortunate in having enlisted so many capable and energetic individuals into our ranks. Our heartfelt thanks to them for their devotion and talents.

You elected a Board of Directors in 1979 with a mandate to do the difficult, if not the impossible. Its members have fulfilled their responsibilities and we owe them special appreciation. Tribute should be given to President Mike Hersch; Past Presidents Louis Tabak, Mannie Fineman, and Percy Solotoy. Our thanks should also be extended to Associate Director Sanford Shapero, and Executive Medical Director Charles Mittman and Medical Center Administrator Tom Galinski.

OUR IDEOLOGY

The City of Hope visualizes itself as a unique phenomenon on the American scene. This means we can never permit institutional hardening of the arteries. We are constantly taking a fresh look at things, renewing and revitalizing ourselves, "reaching for the stars."

Our ideology comprises many aspects.

In a world which all too often emphasizes the depths to which individuals sink, auxiliary workers have demonstrated the heights to which they can rise. Association with the City of Hope has brought forth the best in us, individually and collectively.

We view spiritual values and humanitarian impulses as essential to the preservation of our modern civilization. Otherwise we are headed for destruction and decay.

We uphold the preciousness of human beings, and the need for safeguarding their dignity, self-esteem, and welfare.

We are engaged in a celebration of life. This encompasses both the quantity and quality of living. Human existence must be made meaningful, hopeful and joyful.

We believe that the genius, courage, and vision of the human race are without limit and that they can shape a future closer to our hearts' desire.

In pursuing our mission to further health and humanism, let us resolve:

We can overcome any obstacle.

We are ready to accept greater challenges.

We will mobilize every possible human and financial resource.

The America and the world we will help to bring into being will then surely be a heritage for all generations.●

SENATE JOINS HOUSE IN ALCOHOL EFFORT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. BROWN of California. Mr. Speaker, for a number of years now Senator THURMOND and I have been concerned about the health hazards associated with alcohol. We have proposed on numerous occasions that general health warning labels be placed on alcohol containers. In our eagerness to inform the public, we neglected a very real problem in that Americans have become skeptical about governmental warnings. Therefore, earlier this year I endorsed a warning label which specifically explains the most prominent dangers of alcohol. I am pleased to report that Senator THURMOND yesterday introduced a bill which will require a similar warning. He is being joined by Senators HATCH, LEAHY, GRASSLEY, JEPSEN, KASSEBAUM, and HATFIELD. I commend them for their efforts.

Alcohol is a hidden health hazard in our society. Few Americans realize its dangers: that drinking too fast may cause sickness or death; that consuming only two beers within an hour (for a man of average weight) may cause a 25 percent impairment in driving ability; that for a sizable minority alcohol is addictive; that alcohol consumption increases the chances of miscarriage; and that fetal alcohol syndrome is the third most common cause of birth defects.

It is important that we somehow counteract the immensely popular image of alcohol. Neither Senator THURMOND nor I wish to force Americans to stop drinking, only to allow people to make an informed decision, much in the same way smokers do today. I urge my colleagues to join me in these endeavors, and I hope that Members of the Senate will join Senator THURMOND in his efforts.●

AMERICA IS GOD'S CRUCIBLE, THE GREAT MELTING POT

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. MOLINARI. Mr. Speaker, I would like to present today for insertion in the CONGRESSIONAL RECORD the essay of a young man from the 17th Congressional District named Ned Neuberger. Ned is currently serving as an intern in my Washington, D.C., office. People say that the youth of today do not have the same enthusiasm for our country as past genera-

tions, however I believe that this young man represents the attitudes and opinions of many other young Americans. I am therefore proud to insert the following eassy by Ned that recently won first place in the Staten Island American Legion essay contest.

"America is God's Crucible, the great melting pot, where every person is given the chance to prosper because of the religious and political freedoms that are given to him by the great laws of this land," so said Israel Zangwill, an immigrant.

The United States is the land of opportunity because it gives people freedoms not given by many other countries. To do what one wants to do, live where one wants to live, go where one wants to go, say what one wants to say, write what one wants to write, and become what one wants to become—this is what makes America the land of opportunity for one and for all.

Upon the Statue of Liberty, our guardian of democracy, are inscribed the words: "Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shores send these, the tempest tossed to me. I lift my lamp beside the golden door."

Nowhere else can one find the mingling of so many different ethnic groups working and striving together for a better today and a stronger tomorrow. America is the land where a person from another country can come and live in peace without the fear of being persecuted by the government for one's religious or political beliefs.

As the Soviets are invading Afghanistan and are threatening Poland, and as other peoples of the world do not enjoy the political and economic opportunities ours enjoy, it is easy to see why America is the land of opportunity. As long as the people have their rights and governmental power is distributed, in the years to come we will be the country to which the oppressed people of the world will want to come to because we represent everything that is just and admired. This is why we are the land of opportunity.

The Constitution makes America the land of opportunity because its 26 Amendments make it possible for everybody to have the greatest chance of succeeding with equal ease. Where else but in America could poor men like Andrew Carnegie and John D. Rockefeller rise to become the heads of great corporations. James Madison once said this about the Constitution: "It is the greatest document in the world in regard to democracy which gives the people the means to live free and happy lives and to excel in their endeavors."

Probably the greatest reason why our country is the land of opportunity is that we promote democracy. Democracy means freedom to all people of the world. As the Soviet Union suppresses freedom and doesn't encourage prosperity, these two values are the framework of our country. We promote the minds of the people and let them do what they want. We give them the opportunity to express their beliefs and give their ideas on how to improve this country. Harry Truman once expressed a belief that the United States was the land of opportunity because it was in this country only that dreams become realities. Only in the United States could a poor Missouri farmer rise to become President of a country.

The U.S. hockey team which won the gold medal at the Olympics is a perfect example of why America is the land of opportunity. With a lot of guts, determination and spirit, people can go to the top. Archibald MacLeish, a historian, puts it best why America is the land of opportunity: "Because of the imagination of the American minds—because they imagined a better, a more beautiful, a freer, happier world, because they were men not only of courage, but of warm and vivid desires; they had the power to make these desires come true." This is why America is called the land of opportunity.●

A TRIBUTE TO JIM GRIFFIN

HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. GRISHAM. Mr. Speaker, Jim Griffin is a hard-working family man who drives a truck. It is quite possible that he drives a truck better than anyone else in our Nation.

Jim has been driving the congested freeways of Los Angeles for over 25 years—and he has never had an accident. Jim is one of the few members of the Million Mile Club. That means he has driven over 1 million miles without an accident. I should point out that I am making this statement on the floor today after Jim's record was brought to my attention by his coworkers at the Milne Truck Lines, who respect and admire Jim for all that he has done.

I think it is fitting that we honor Jim today not only for his record as a trucker, but as an outstanding member of his community. Jim has been nominated as Norwalk, Calif. Citizen of the Year for 4 years running, and is an active member of the Moose Club and the Elks Lodge. He has been active in politics and was recently elected to his third term as chairman of the Norwalk Citizens Action Council Consumer Organization.

By the way, Jim recently won first place in the California State Truck Roadeo, and will be going to the National Truck Roadeo this month to compete for the title of the Nation's No. 1 truckdriver. Good luck, Jim.●

THE NATIONAL ENERGY POLICY PLAN, RENEWABLES

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, on July 17, the President transmitted to the Congress the Reagan administration's national energy policy plan. I support the approach suggested by the plan, and, as a member of both Energy Subcommittees of the Energy and Commerce Committee, I look forward to being closely involved with energy issues during the 97th Congress.

Mr. Speaker, for the benefit of our colleagues, I would like to insert in the RECORD at this point the national energy policy plan's section on renewables.

RENEWABLES

Although there is some confusion over what constitutes a renewable energy source, this section will consider those technologies that are commonly called "renewable": solar, wind, ocean systems, biomass, and urban waste. These tend to be small scale; and in many (but not all) cases they are characterized by short lead-times for individual installations. Most "renewables" in this sense have little or no public opposition; nor do they pose severe long-term environmental problems. Thus, they are well suited (and may be confined) to any specific regional markets where they make economic sense. The Administration's clear and consistent adherence to free-market principles will remove artificial barriers and provide a major impetus to the development of such technologies.

The Administration's program for renewable energy resources has three major components that emphasize greater reliance on market forces and private investment initiatives. First, the elimination of large Federal subsidies for conventional fuels, together with the general increase in energy prices, enhances the competitive position of renewables. Second, the continuation of existing tax credits for the time being will stimulate further investment in renewable technologies (although ultimately these credits are subject to careful scrutiny to make sure that the systems favored by them have a reasonable chance of being competitive on their own within a reasonable time frame, via cost reductions, through high-volume production and installation, etc.). Third, the heightened ability of DOE to focus on long-range research and development should encourage the private sector to take greater responsibility for developing and marketing renewable systems.

Direct Federal spending on solar, alcohol fuels, biomass, and urban waste systems, projected through 1986, will drop by $2.2 billion. The use of renewables should continue a healthy growth as the rising cost of conventional fuels and the new tax incentives stimulate demand. In addition, more capital will be available for private investment in renewables projects as a result of the President's Economic Recovery Program.

State governments, partially following the Federal example, have begun to offer solar tax credits and have begun to reduce institutional barriers (such as zoning codes and building standards) that were hindering solar development. In the private sector, financial institutions are becoming more familiar with renewables, so that loans in connection with these technologies are easier to arrange. Some utilities now market residential solar equipment.

In 1978 and 1979, more than 100,000 individuals claimed residential solar tax credits; and by last year 364 manufacturers were shipping a total of 19.5 million square feet of solar collectors. Actual and planned investments by the private sector in solar photovoltaics are estimated at nearly $300 million to date. Direct combustion of wood (primarily in the pulp and paper industry) already provides 2 percent of our national energy consumption, and annual sales of wood stoves (generally for rural residential

use) have increased from 160,000 in 1972 to more than 1 million today. In the mid-1970s there were only about half a dozen importers or manufacturers of small wind systems, and little private funding was available for larger systems. Today about five times that many firms manufacture small wind systems in the United States, and there are at least five privately supported developers of intermediate and large-scale systems in this country. Electricity generated by a wind farm is now reaching utility customers, and similar wind farms are expected in other naturally favorable locations.●

PERSONAL EXPLANATION

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. RUSSO. Mr. Speaker, due to official business on July 27, 1981, I was unable to be present for the following rollcall vote. I am submitting for the record a statement of how I would have voted had I been present:

Rollcall No. 166 "Yea" on H.R. 4119, the Agriculture Appropriations for fiscal year 1982, including Rural Development, and Related Agencies.●

BAIL REFORM ACT

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. SAWYER. Mr. Speaker, it is my great pleasure today to be joined by nine cosponsors in introducing the Bail Reform Act of 1981. A similar bill is being introduced in the other body by the chairman of the Committee on the Judiciary.

Mr. Speaker, in my capacity as the ranking minority member of the Subcommittee on Crime, I am deeply troubled by the problem of bail crime in this country. Although some have argued that the incidence of such crime is relatively slight, statistics on rearrest rates give us little guidance as to the precise extent of the problem. Regrettably, since the chances of being apprehended in our criminal justice system are appallingly low, rearrest statistics do not reflect the total amount of crime committed by persons released on bail. Some studies suggest that the rate may be very high, at least with respect to certain crimes. Testimony received by the Subcommittee on Crime makes two things very clear: Drug traffickers, once released, carry on business as usual, and narcotics addicts who are released commit staggering numbers of crimes to maintain their habits.

I am convinced that the current provision of the Bail Reform Act are woefully deficient. There is simply no justification for permitting a judicial officer to consider danger to the community as a factor in setting bail conditions in capital cases only. Many noncapital cases, such as major drug offenses, are excluded. In addition, we must afford judges the opportunity to detain defendants charged with certain serious crimes prior to trial. Testimony before our subcommittee revealed a sad picture of conscientious and honorable judges who are forced to either release dangerous defendants on bail or to resort to subterfuge to do what commonsense dictates. I believe that preventive detention should be authorized, with a minimum of bureaucracy but with deference to due process rights.

Mr. Speaker, the bill that I am introducing today is an effort to achieve each of the goals that I have outlined. It provides that a defendant shall be released on his personal recognizance or upon execution of an unsecured appearance bond, unless the judicial officer determines that release will not reasonably assure the defendant's appearance at trial or will endanger the safety of any other person or the community. In any event, every release is subject to the condition that the defendant refrain from committing any crime while released. The court may impose additional conditions to assure community safety or the defendant's appearance at trial, including avoiding all contact with pretrial witnesses, reporting to law enforcement authorities, and undergoing medical or psychiatric treatment such as treatment for drug or alcohol dependency.

The bill provides for pretrial detention under two sets of circumstances, where no combination of release conditions is sufficient to assure community safety or appearance at trial. First, a person arrested while awaiting trial, sentencing, or appeal, or who is on probation or parole may be detained for up to 10 days to permit appropriate law enforcement authorities to take action. Second, where there is a substantial probability that the defendant committed the charged offense, defendant may be subject to pretrial detention if the requisite hearing is held. A detention hearing is mandatory in all cases involving a crime of violence, an offense punishable by life imprisonment or death, and certain narcotic offenses. The Government or the judge may initiate a hearing as they deem appropriate in cases involving a serious risk of flight, a serious risk of obstruction of justice or witness intimidation, or where the person arrested has two or more prior convictions involving a crime of violence, an offense punishable by life imprisonment or death, or certain narcotic offenses. The hearing must be held immediately upon first appearance before the judicial officer, unless a short continuance is requested and granted. Provision is made for drug addict screening. The accused has a right to assistance of counsel, to testify, to present witnesses, to cross-examine other witnesses who appear, and to present information by proffer or otherwise. In the event detention is ordered, the accused must be afforded every opportunity to consult with counsel and may be temporarily released in the custody of another to prepare his defense.

With respect to release after conviction, my bill provides for first, detention pending imposition or execution of sentence, unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the community if released; and second, detention pending appellate review of the conviction, unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the community and determines that the appeal is not taken for delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

The bill provides strong criminal penalties for failure to appear at trial or for the commission of an offense while on release. Such penalties must be run consecutive to any sentence for other offenses. Finally, it authorizes sanctions for violating release conditions, including revocation of release, detention and prosecution for contempt of court.

Mr. Chairman, my bill differs from the bill introduced in the other body in one major respect—it does not abolish money bail as a condition of release. Based on my own experiences as a prosecutor and discussions with others currently operating in the field, I believe that this can be most effective in assuring the appearance of a defendant at trial. Like the District of Columbia law, however, my bill would not permit the imposition of a financial condition of release to assure the safety of any other person or the community. I believe this provides an appropriate balance by authorizing an appropriate condition of release, while protecting against its abuse. Under this approach, preventive detention is dealt with in an honest and open manner.

Mr. Speaker, I urge my colleagues on both sides of the aisle and in both bodies to join me and the cosponsors of the bill in support of this important piece of legislation. I am hopeful that there will be expeditious consideration of and action upon the Bail Reform Act of 1981 in both bodies so that we can have a bill on the President's desk before the end of this session.●

TRIBUTE TO MR. AND MRS. ANGELO DeCRESCENTE

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. SOLOMON. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues the family of Mr. and Mrs. Angelo DeCrescente of Mechanicville, N.Y. The DeCrescente family has been presented with the Family of the Year Award by the Order of the Sons of Italy in America.

This award, which is given each year to outstanding members of the Sons of Italy, recognizes years of service to the order and to the community. The DeCrescente family has indeed contributed much.

Mrs. DeCrescente is an active member of several of Mechanicville's community organizations. She is a charter member of the Senior Dante Club, Order of Sons of Italy in America, Mechanicville and was elected venerable in 1979. She has served as grand deputy to both the Albany and Schenectady lodges, and has been past president in the Peters-Purcell Post, Italian-American Society.

Mr. DeCrescente has been a member of the Primavera Italica Lodge, Order of Sons of Italy in America, Mechanicville for 50 years. He was elected venerable in 1953, served with the New York State grand lodge as a grand trustee, and served as grand deputy to both the Albany and Schenectady lodges. In 1966, he was elected supreme deputy to the Massachusetts Lodge, and was instrumental in the reorganization of the Rutland, Vt., lodge. He is an active member in many Mechanicville organizations and is a past president of the Mechanicville Lion's Club.

This family's generous spirit is especially inspiring in a society where often the most valuable gift is time. They deserve our deepest gratitude for their dedication to the community and to the family.

I ask my respected colleagues to join with me today in honoring Mr. and Mrs. Angelo DeCrescente, a truly outstanding American family.●

FURTHER EXPLANATION OF REPRESENTATIVE GREEN'S AUTO THEFT BILL

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. GREEN. Mr. Speaker, yesterday I shared with my colleagues an explanation of the first two titles of the Motor Vehicle Theft Law Enforcement Act of 1981, H.R. 4325. Today I would like to provide an analysis of the remaining titles of the bill:

TITLE III—IMPORTATION AND EXPORTATION MEASURES

Section 301—Amendments to title 18, United States Code

Section 301 adds a new section 553 to chapter 27 of title 18, United States Code, creating a federal offense within the investigative jurisdiction of the U.S. Customs Service to import or export or attempt to import or export, stolen self-propelled vehicles, vessels, or aircraft, or their parts, with knowledge that the vehicle or part was stolen. The section also prohibits the importation or exportation of vehicles or parts whose identification number the importer or exporter knows to have been removed, obliterated, tampered with, or altered. These offenses are punishable by a fine of up to $10,000, up to five years' imprisonment, or both. This section would obviously not be applicable to the importation or exportation of the conveyance by the lawful owner or his agent.

For purposes of this section, the term "self-propelled motor vehicle" includes any automobile; truck; tractor; bus; motorcyle; motor home; and any other self-propelled construction equipment, special use equipment and any other such vehicle designed for running on land but not on rail.

The term "vessel" has the meaning given it in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

The term "aircraft" has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5)).

Section 302—Amendments to Tariff Act of 1930

Section 302 creates two new sections to the Tariff Act of 1930. Section 626 subjects any individual who imports, exports, or attempts to import or export any stolen self-propelled vehicle, vessel, aircraft or parts thereof, or any self-propelled vehicle or vehicle part whose identification number has been removed, obliterated, tampered with or altered, to a civil penalty of up to $10,000 per instance, to be determined by the Secretary of the Treasury. In addition, under this section, any of the above-described self-propelled vehicles, vessels, aircraft or parts are subject to seizure and forfeiture. if they are imported or exported. This section is likewise not applicable to the importation or exportation of the conveyance or part by the lawful owner or his agent. The section also provides for a fine of up to $500 for any person attempting to export a used vehicle who fails to present identifying documents to the appropriate customs officer prior to lading or export. Regulations governing this are to be prescribed by the Secretary of the Treasury.

The terms "self-propelled motor vehicle" and "aircraft" have the same meaning as in section 301.

For purposes of this section the term "used" refers to any self-propelled vehicle, the legal title of which has been transferred, by a manufacturer, distributor or dealer, to an ultimate purchaser.

"Ultimate purchaser" means the first person, other than a dealer, who purchases a self-propelled vehicle for purposes other than resale.

TITLE IV—REPORTING REQUIREMENTS

Section 401—Report regarding theft of off-highway mobile equipment

Section 401(a) provides that the Attorney General of the United States, as soon as practicable after the date of enactment of this Act shall establish a task force to study problems relating to the theft of off-highway mobile equipment and steps being taken to prevent the theft and subsequent disposition of such equipment. The task force shall prepare a report containing the results of such study, after consultation with the Secretary of Transportation, and shall submit such report to Congress not later than 2 years after the date of enactment of this legislation.

Section 401(b) lists those who will be members of the task force. Members of the task force shall serve without pay but are eligible for travel expenses. Subsection (c)(3) provides that the Attorney General, or his delegate shall serve as the chairman of the task force.

Subsection (d) requires that the report contain information relating to: (1) the development and effectiveness of identification numbering systems for off-highway mobile equipment and the major components and attachments of such equipment by manufacturers, user groups and others and the progress which has been made toward the development of a uniform national and international identification numbering system; (2) improvements in formats and procedures of the National Crime Information Center relating to reporting the theft of off-highway mobile equipment and the major components and attachments of such equipment, and the extent to which affected groups are furnishing information in accordance with such procedures shall be included in the report; (3) efforts made by the owners of off-highway mobile equipment voluntarily to affix identification numbers to such equipment and the major components and attachments of such equipment and to otherwise protect such equipment components and attachments, from theft shall be included in the report; (4) measures being taken by the manufacturers of off-highway mobile equipment relating to its physical security features; and (5) the effectiveness of any State laws relating to the titling of off-highway mobile equipment and/or making it unlawful to remove, obliterate, tamper with or alter any identification number affixed by a manufacturer to an off-highway equipment as a major component or attachment of such equipment and permitting seizure by law enforcement officers, for investigative purposes, of off-highway equipment and major components and attachments if identification numbers for such equipment, components, or attachments have been removed, obliterated, tampered with or altered.

The Report shall also cover the availability of certificates of origin which (A) contain adequate internal security features to deter forgery, alteration and counterfeiting; (B) list the identification number of the off-highway mobile equipment involved and major components and attachments of such equipment at original value; and (C) are suitable to serve as proof of ownership for off-highway mobile equipment through assignment to subsequent purchasers as stated in Paragraph (6).

The Report shall cover any action being taken by auction businesses, banks and other financial institutions (in connection with the making of loans) and insurance businesses to deter the reintroduction of stolen off-highway mobile equipment and major components or attachments of such equipment into the normal channels of commerce; as well as, the need for educational and training programs for State and local law enforcement officials designed to famil-

iarize such officials with problems relating to the theft of off-highway mobile equipment will be part of the report.

In addition, the report shall include recommendations for legislative or administrative action if the task force considers any such action to be considered appropriate.

Subsection (e) defines for purposes of this section, the term "off-highway mobile equipment" to mean a work machine which is (1) self-propelled or pushed or towed by self-propelled work machine; (2) the primary function of which is off-highway in application and (3) any on-highway operation of which is incidental to the primary function of the work machine. Such term includes self-propelled agricultural, forestry, industrial, construction and any other non-transportation special use equipment.

Section 402—Report regarding autotheft measures for state motor vehicle titling programs

Section 402(a) provides that the Secretary of Transportation, as soon as practicable after the date of enactment of this Act shall establish a task force to study problems which relate to motor vehicle titling and control over motor vehicle salvage and which may affect the motor vehicle theft problem. The task force should propose a report containing the results of such study and submit such report to Congress and the chief executive officer of each state not later than 18 months after the enactment of this legislation.

Section 402(b) lists those who will be members of the task force. Members of the task force shall serve without pay but are eligible for travel expenses. Subsection (c)(3) provides the Secretary of Transportation, or his delegate, shall serve as chairman of the task force.

Subsection (d)(1) requires the task force report to be made only after a meaningful consultation process and review of existing laws, practices, studies, and recommendations regarding the affect that motor vehicle titling measures and controls over motor vehicle salvage may have upon the motor vehicle theft problem.

Subsection (d)(2) requires that the task force report specify the key aspects of motor vehicle antitheft measures necessary to prevent the deposition or use of stolen motor vehicle, or major components of motor vehicles, and to prevent insurance fraud or income tax fraud based upon false reports of stolen vehicles. The task force report is required to indicate any of the antitheft measures for which national uniformity would be crucial in order for the measure to be adequately effective. The task force is also asked to recommend viable ways of obtaining any necessary national uniformity.

In addition, the task force report shall include other recommendations of legislative or administrative action at the state level or at the Federal level, and any recommendations for actions by private industry which may be appropriate.

Section 403—Report regarding implementation of the act

Section 403 states that the Attorney General of the United States in consultation with the Secretary of Transportation, Secretary of the Treasury, and the Postmaster General, shall submit to the Congress a report on the implementation and development of the provisions of title I, the provisions of title 18 and title 39, United States Code, which are added by the amendments made in title II, and the provisions of title 18, United States Code, and the Tariff Act of 1930 (19 U.S.C. 1202 et seq.) which are added by the amendments made in title III, and the effectiveness of such provisions in helping to prevent and reduce motor vehicle related theft. Such report shall be submitted on or before the first June 30 which occurs at least 15 months after the date of enactment of this act and on or before each June 30, thereafter for the following 9 successive years.●

A TRIBUTE TO SRI CHINMOY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1981

● Ms. FERRARO. Mr. Speaker, I have long been aware of the good works of Sri Chinmoy, who resides in New York City and who will celebrate his 50th birthday this August 27. It was my privilege to become personally acquainted with this dedicated and creative individual at a program held at the National Visitors' Center in May of 1979 commemorating the International Year of the Child. I was honored that day to be one of the guest speakers at the program organized by the U.S. Department of the Interior in conjunction with the Sri Chinmoy Meditation at the United Nations, an organization dedicated to advance the cause of world peace through prayer and meditation.

On that occasion, I had the opportunity to witness first hand the beauty of a few of the hundreds of thousands of dynamic and colorful paintings by this extraordinary man, and to hear one of his many musical compositions, "This Is My Year", the official song of the International Year of the Child. Also during that ceremony, I joined in the dedication of a tree to the International Year of the Child. The tree was subsequently planted in the President's Park behind the White House where it stands today as a testament to America's commitment to the world's children.

The many varied accomplishments of Sri Chinmoy cannot be given proper respect in the limited space I have here, but I would like to highlight some of the achievements of this multitalented man. As a devoted marathoner and cyclist, Sri Chinmoy has served as a symbol of physical fitness to thousands of America's young people. In 1976, the President's Council on Physical Fitness issued a commendation to Sri Chinmoy for his role in the 9,000 mile Liberty Torch relay run held in honor of the Bicentennial.

But Sri Chinmoy is most noted for his creative drive. As a foremost authority on Eastern philosophy, he has authored over 400 books of essays, plays, and short stories.

He has produced some 140,000 paintings, and has received art awards from New York's School of Visual Arts and the Lake Placid School of Art.

He has composed over 4,000 songs, and has performed at Carnegie Hall and Lincoln Center in addition to giving free concerts all over the United States.

The example of Sri Chinmoy is an inspiration to thousands of Americans. I am pleased to join my colleagues in paying tribute to him to the occasion of his 50th birthday both for his many contributions to the American people and for his efforts to further international understanding as founder and director of the Meditation Group at the United Nations.●

GUAM LOSES A GOOD FRIEND

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. WON PAT. Mr. Speaker, I regret to inform my colleagues of the recent passing of a long-time friend of Guam's and a former employee of the Congress, Denver Dickerson.

Denver passed away recently at his home in Bethesda and his loss will be deeply felt by his family, his many friends in this area, and myself, who had the honor and privilege of knowing and working with this fine public servant for many years.

I first met Denver when he was a top aide to former Senator Alan Bible. In 1963 I suggested to Denver that he might be interested in pursuing the position of Secretary of Guam which in those days was the same thing as Lieutenant Governor. He served on Guam in that capacity for 6 years and was a most respected and well liked individual.

In later years, Denver worked for the Senate Rules Committee and later the Joint Congressional Printing Committee from which he retired last March. While Denver worked for the Printing Committee he performed yet another act of friendship for Guam. My office noticed that the picture of the Guam flag was missing from the booklet "Our Flag." I contacted Denver about this matter and asked his assistance in putting the matter straight. Much to his credit, Denver, in a manner which was typical of his ready and willing nature, started the machinery moving and in due time was able to put Guam's flag in the booklet alongside those of other American communities. This may be a small thing to some people, but it was an important act to the people of Guam and knowing this, Denver did his best to accommodate the best interests of Guam.

He was a true friend of Guam and I speak for my constituents when I express my great sorrow over his passing. I extend my sincerest sympathy to

Denver's loving wife, Maxine and his two children

I ask that the following article from the Pacific Daily News be reprinted in the CONGRESSIONAL RECORD.

RITES SET FOR EX-GUAM SECRETARY

WASHINGTON.—Memorial services will be held here Wednesday for Denver Dickerson, 67, secretary of Guam during the Kennedy and Johnson administrations, who died of cancer Sunday at his home in Bethesda, Md.

Dickerson, the son of one-time Nevada Gov. Denver S. Dickerson, served in the Nevada Legislature for two terms, was speaker in 1943, was appointed secretary of Guam by John F. Kennedy in 1963 and was reappointed in 1967 by Lyndon B. Johnson. The secretary of Guam at that time functioned as a lieutenant governor. A Democrat, he resigned the Guam position in 1969.

Dickerson began his career as a reporter and political writer for the Reno Evening Gazette in 1934. He owned the Carson City Chronicle from 1937 to 1943, when he became a correspondent with the Sixth Army in New Guinea and Luzon. He was editorial director of the Las Vegas Review-Journal from 1955-57.

Besides newspaper and public-relations work, Dickerson served a three-year stint as a State Department public information officer at the U.S. Embassy at Rangoon, Burma, beginning in 1952.

He was press secretary for Nevada Sen. Alan Bible from 1957 to 1963 before interrupting his Senate career for the appointment on Guam. After returning to the mainland, he joined the staff of Sen. Howard Cannon, D-Nev., and later was a staff member on the Senate Rules Committee and Joint Printing Committee, from which he retired last March.

Upon his retirement, Sen. Claiborne Pell, D-R.I., praised him as "thoughtful, dedicated and thoroughly decent."

He will be cremated and his ashes interred at Arlington National Cemetery. He is survived by his wife, the former Maxine Desilet, and son, Jeffrey, both of Bethesda, and daughter, Diane Wayman of Washington, D.C.

A TRIBUTE TO FRANK "DOC" KAVANAGH

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. LEE. Mr. Speaker, colleagues, I take great pleasure today in bringing to your attention the award of a special recognition by the President's Council on Physical Fitness to Frank "Doc" Kavanagh, one of the most colorful and highly respected figures on the campus of Cornell University.

Doc Kavanagh, as a trainer for many years with this superlative university, has also earned a place of respect in sports circles virtually throughout the world. He has served with U.S. Olympic teams of 1936 and for 5 years was trainer for the Coaches All-America football team. His ingenuity has produced much of the protective equipment which is today standard garb in both football and hockey contests.

In addition to his many accomplishments of merit, Doc Kavanagh is one of the finest gentleman it has been my privilege to know. It gives me tremendous pleasure to see Doc's many accomplishments recognized by this Nation. My most sincere congratulations are extended to him for this recognition.●

THE REAGAN ADMINISTRATION'S NATIONAL ENERGY POLICY PLAN—A RATIONAL APPROACH TO ENERGY POLICY

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, I congratulate the Reagan administration for its energy approach as expressed in the national energy policy plan transmitted to the Congress on July 17. The President's new energy policy offers the hope of correcting the errors of previous misguided energy policies, and it truly reflects the collective interests of the American people.

The administration's national energy policy plan seems to carefully balance energy needs with economic realities and environmental protection. The new energy policy emphasizes the importance of the free marketplace as the most efficient allocator of energy resources. The administration has also recognized the importance of its policy as a critical component of the total Reagan economic recovery program. This new energy approach bodes well for America's future.

The new energy policy specifically stresses the role of the private sector and public choice. Only when the American people can make free and fully informed energy choices while operating under a free enterprise system can prudent energy policy be formulated. As the national energy policy plan report concludes:

All Americans are involved in making energy policy. When individual choices are made with a maximum of personal understanding and a minimum of government restraints, the result is the most appropriate energy policy.

By emphasizing marketplace realities, the national energy policy breaks cleanly and candidly with previous policy which relied heavily on Government intervention. In keeping with this free enterprise spirit, the administration will reduce Federal involvement in the energy business by decontrolling energy prices and reducing burdensome Government regulations. The report submitted to Congress prudently stresses that Government spending should only be considered "in those promising areas of energy production and use where the private sector is unlikely to invest."

Another point emphasized in the national energy policy plan is the need for the Federal Government to manage properly our vast resources on Federal lands. This administration has correctly recognized the energy potential located on the Outer Continental Shelf and on other Federal lands. President Reagan's administration will hopefully move ahead in an effort to inventory and extract the energy wealth of the land without threatening its ecology. President Reagan is also committed to furthering U.S. cooperation with various international partners in pursuing energy objectives.

The economic recovery program espoused by the President's energy plan will promote development of energy alternatives cheaper than oil. By placing the emphasis on the free market and reducing Government interference and regulation, the administration's policy will increase domestic energy production without sacrificing public health and safety, economic efficiency, or environmental quality.

In the letter transmitting the national energy policy plan to the Congress, Secretary of Energy James Edwards stated,

Our basic role is to provide a sound and stable economic and policy environment that will enable our citizens, businesses, and governmental units at all levels to make rational energy and production decisions—decisions that reflect the true value, in every sense, of all the Nation's resources.

Mr. Speaker, I concur completely with that view, and I urge my colleagues in the Congress to support this approach.

SRI CHINMOY'S 50TH BIRTHDAY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. McHUGH. Mr. Speaker, 1,800 years ago St. Irenaeus said that "the glory of God is a human being who is fully alive." Today, in celebrating half a century of life for Sri Chinmoy, we celebrate not only the duration of a single significant life, but the limitless—the divine—in the life of all humanity.

It is that kind of vision of boundless human possibilities that the life of Sri Chinmoy evokes. The author of hundreds of books, creator of thousands of paintings and songs, proclaimer and teacher of the life of the spirit, and explorer and servant of the ways of peace—Sri Chinmoy has been all of these to his fellow sojourners on our planet. The example of his joyous immersion in life gently and beguilingly

calls us all to truer being, deeper becoming.

It is an honor to join in extending birthday greetings to one who daily honors us all with the beauty and goodness he brings to birth and shares with us.●

DRUG TRADE REDUCED THROUGH SEIZURE OF ITS ASSETS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. KEMP. Mr. Speaker, I would like to share with my colleagues an article written by Peter B. Bensinger, former Administrator of the Drug Enforcement Administration in the U.S. Department of Justice. Mr. Bensinger describes how a change in Federal law to permit seizure of money and assets derived from illicit drug trafficking allowed DEA to curb drastically the drug trade in the United States. Additionally, he proposes a solution to the problem of illegal drugs entering our country—one which has proved to be successful in reducing the drug trafficking from Mexico.

[From the Washington Star, July 13, 1981]

SUFFOCATE THE DRUG TRADE UNDER ITS OWN ASSETS

(By Peter B. Bensinger)

Drug trafficking in the United States can be curbed. And it will not cost much money. In fact, the criminals who deal in illegal drugs can finance their own demise.

No business, legal or illegal, can operate without capital. By wiping out the bank accounts of drug smugglers, seizing their assets—businesses, homes, aircraft, yachts and vehicles—the drug merchants will be forced to drown in their own cesspools of corruption.

In November of 1978, Congress at the request of the Drug Enforcement Administration, amended federal law to permit the seizure of money and assets derived from illicit drug trafficking. Using this powerful weapon in 1980, DEA agents seized the equivalent of nearly one-half their agency's annual budget. The forfeiture law is relatively new but it will be used with increasing success against the drug peddlers. DEA should seize in excess of $150 million of assets this fiscal year. Testimony to the courage and tenacity of DEA agents is their remarkable record of cases completed in recent months at great personal danger.

THE COMPANY CORRALLED

In St. Louis, a major drug ring known as "The Company", run with military precision and secrecy, has been smashed. Some 60 persons were arrested including the top leaders. Long federal prison terms have been handed down. But of equal, if not greater importance, DEA and IRS agents, using the federal forfeiture law, moved quickly to seize The Company's assets. In short order they confiscated over $500,000 in cash, nearly $2 million in real estate, aircraft appraised at nearly $500,000, vehicles valued at nearly $75,000, and brought in $251,000 in fines.

A few months later, a two-year undercover operation by DEA agents came to fruition. Fourteen major drug organizations were immobilized. This DEA mobile task force case known as "Operation Grouper", undertaken in cooperation with 21 other federal, state and local agencies, resulted in the arrest of more than 155 individuals. One billion dollars in drugs were seized, along with $12 million in trafficker assets, including 30 vessels, two airplanes and $1 million in cash. Seizures of several times this amount are still being processed in collateral cases.

But the drugs in question come from outside our borders. Our nation must more vigorously attack the drug problem at its roots—in the countries that grow the opium, the coca bush, and marijuana, and produce and refine qualludes and hashish for export to the United States. Regrettably, the single biggest asset that has not been used recently is our Forest Assistance Act. We spend many billions of dollars overseas, but the U.S State Department allocates only $35 million annually to stem the mushrooming tide of drugs flowing into this country. This, mind you, while the drug dealers are doing a burgeoning business of over $64 billion annually in drug trafficking in our country and while federal agencies are seizing four times the State Department budget in trafficker asset seizures.

MEXICAN EXAMPLE

Five years ago the heroin coming into the United States came from Mexico. "Mexican Brown" was filling the void for our addicts caused by the demise of the "French Connection." It was then that we began a bilateral campaign with Mexico to eradicate that country's illicit opium poppy cultivation. President Ford issued a strong statement on drug abuse in 1976, and backed it up with $100 million in assistance to Mexico, which provided several times that amount. In five years, Mexican heroin at street level has declined from seven tons to one ton and our national heroin overdose deaths have plummeted from 2,000 to 500 per year.

I realize that Secretary of State Alexander Haig is busy, but I'd feel more confident if he scheduled visits to Colombia, Jamaica, the Bahamas, Thailand, Burma, Pakistan and Peru—the major sources of the illegal drug problem in the United States today. We must encourage foreign countries to eradicate their nacotics crops by learning from Mexico's program for opium and marijuana destruction. An international commitment is the only answer to controlling the increase in violence and drug availability. We have to change the odds and ante up with an adequate commitment internationally to control illegal drug distribution. The additional money required is insignificant compared to the terror, violence, addiction and health damage we live with and what's more we can finance these new initiatives from the assets of the criminals we put out of business. But time is not on our side. President Reagan's crime message anticipated next September will give us his answer. I am optimistic.●

SUMMARY REPORT ON THE 33D INTERNATIONAL WHALING COMMISSION MEETING

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. BONKER. Mr. Speaker, as a congressional adviser on the U.S. delegation to the 33d International Whaling Commission, which met last week in Brighton, England, I would like to report briefly on the results of this IWC session.

The U.S. delegation achieved two significant victories which will enhance protection for the world's whale populations. First, the IWC adopted an indefinite ban on the commercial killing of sperm whales in the Southern Hemisphere and North Pacific Ocean, and a 2-year phaseout on sperm whaling in the North Atlantic. This action will save the lives of over 1,000 sperm whales in the coming year. Second, the IWC agreed by consensus to extend the ban on the use of the cold—nonexplosive—harpoon to include the taking of minke whales, beginning in the fall of 1982. The cold harpoon causes a particularly cruel death for the smaller minke whales. Some 12,000 minke whales will be killed with this inhumane weapon before the ban becomes effective in late 1982.

Among other, positive actions, the Commission agreed to a slight reduction in overall quotas on the commercial hunting of fin, sei, and bryde's whales. The IWC also deferred until its 34th meeting a vote on various proposals to revise the new management procedure, the mechanism that recommends commercial catch limits. This 1-year deferral will permit the United States to gain broader support for the revision it tabled in Brighton.

The conservationists suffered several setbacks in the opening days of the session, most notably the failure to gain the required three-quarters majority on the complete, indefinite moratorium on the commercial killing of all whales. Other lesser moratorium proposals, like the ban on North Atlantic whaling, similarly failed to secure a three-quarter's vote. However, the adoption of the sperm whaling ban at the end of the meeting greatly offset these losses. The only major increase in commercial quotas was voted for minke whales, from some 11,000 to over 12,000. It should be noted that the data available for minke whales indicate that these populations have been expanding in recent years.

Mr. Speaker, these important achievements are due in large part to the outstanding leadership exercised by Tom Garrett, the acting U.S. Commissioner, and to the aggressive effort

made by the other members of the American delegation. I am very hopeful that the progress made this year in increasing protection for the world's whales has set the stage for finally bringing an end to all commercial whaling at the 1982 meeting of the International Whaling Commission.●

W. F. CARLE TO RETIRE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. ALEXANDER. Mr. Speaker, at the beginning of August another page will turn in the illustrious history of one of the largest farmer-owned marketing cooperatives in the middle-south States as W. F. Carle steps out of his post as President of Riceland Foods and into well-earned retirement.

Mr. Carle has served the farmers of Arkansas 38 years as a part of Riceland and its predecessor organizations. He will be succeeded as president by Richard E. Bell who has worked as Riceland's executive vice president since 1977, the same year in which Mr. Carle became the chief of the cooperative.

Mr. Carle began his career with the cooperative in 1943 when it was still known as The Arkansas Rice Growers Cooperative Association. His was an important role in the formation and development of Arkansas Grain Corp., the forerunner of Riceland's soybean division which he served as manager from 1958 until his election as president of the cooperative.

When he came to Riceland 4 years ago, Mr. Bell's was a name already well known in the agriculture industry as a result of his work with the U.S. Department of Agriculture. During the Gerald Ford Presidental administration, Mr. Bell worked as USDA's Assistant Secretary of Agriculture for international affairs and commodity programs. At USDA, Mr. Bell also served as president of the Commodity Credit Corporation and chairman of the Federal Crop Insurance Corporation. He was a negotiator of the long-term U.S.-U.S.S.R. grain sales agreement and a senior advisor to the U.S. delegation to the 1974 World Food Conference. Mr. Bell has recently been appointed to the Arkansas Industrial Development Commission.

Riceland Foods has processing facilities at Stuttgart, Jonesboro and Helena, Ark., and New Orleans. It receives rice, soybeans and other grains from its farmer-members at 41 locations.●

THE SAGEBRUSH REBELLION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. SANTINI. Mr. Speaker, as my colleagues know, I am an ardent supporter of transferring to States control and management of public lands in the West. That is why I have introduced H.R. 3655, Public Land Policy Reform Act of 1981. It is also commonly known as the Sagebrush Rebellion. The movement behind the Sagebrush Rebellion originated in the 1970's with a few Nevada State legislators, and has gained considerable steam ever since. It is a controversial issue, but an important issue for all of us here in this body to address.

Since I first introduced the transfer bill in the 96th Congress, several other sagebrush rebels and I have faced considerable opposition from bureaucrats and outside critics. I am entering into the CONGRESSIONAL RECORD an April 26, 1981, Associated Press story which quotes former Bureau of Land Management Director Frank Gregg as saying the sagebrush rebels have "succeeded beyond their wildest dreams." The article was printed in the Las Vegas Review Journal on Sunday, April 26, 1981.

SAGEBRUSH REBS SUCCESSFUL

MISSOULA, MONT. (AP)—The so-called Sagebrush Rebellion is a "political phenomenon, according to the former director of the Bureau of Land Management, but it's more than just a land grab on the part of Western states.

Frank Gregg, who left the BLM post when former President Jimmy Carter left office, told those attending a public land law conference last week that the sagebrush rebels have "succeeded beyond their wildest dreams."

The conference was sponsored by the University of Montana law school

"It's almost embarrassing," said Gregg. "The three Nevada state legislators who introduced the original sagebrush bill were really just looking for a little publicity."

The movement, which has gained steam in several Western states, is aimed at having the states gain control over most remaining federal land inside their borders.

"Its clear the Sagebrush Rebellion has touched a core of resentment about the tremendous role of (the federal) government in the lives of people," Gregg said. "Out of meetings presumably about the rebellion have come discussions about school busing, the MX missile, abortion and railroad deregulation."

Beginning with Nevada's move for all federal land within its borders to be put in state hands, the rebel cry swept the West, Gregg said.

"Politicians by the score were anxious to wrap themselves in the cloak of regionalism," he said. "Eventually, we ended up with a sagebrush rebel in the White House."●

SEQUENTIAL REFERRAL

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1980

● Mr. FORD of Michigan. Mr. Speaker, today is the discharge date for the Post Office and Civil Service Committee's consideration of the bill, H.R. 2590, on sequential referral.

H.R. 2590, which was reported by the Committee on Government Operations on June 16, 1981, would amend the Privacy Act to prohibit Federal agencies from disclosing any individual's address in any form which contains a ZIP code of more than five digits.

Because of the conference agreement on the provisions of the omnibus reconciliation bill which deal with the nine-digit ZIP code issue, I do not believe additional legislative action is needed at this time.

The conference agreement prohibits the Postal Service from implementing ZIP+4 until October 1, 1983. The Postal Service and the Postal Rate Commission will be permitted to take such actions as may be required before October 1, 1983, to prepare for implementation. [For example, the Postal Service may continue to gather necessary preparatory data, and the Postal Rate Commission may continue to process related cases.] Additionally, the conference agreement prohibits executive agencies from taking any action to conform their mailing procedures to the nine-digit system prior to January 1, 1983. The conferees also agreed that a joint House-Senate letter will be sent to the Comptroller General requesting that a full General Accounting Office study of the ZIP+4 program be made and a report delivered to the Congress on December 1, 1982.

The conference agreement delays any implementation of ZIP+4 for more than 2 years. That, plus the pendency of the GAO study and report, will have a natural go-slow effect on the actions the Postal Service will be taking relating to implementation. Congress, of course, can step in and take further action if necessary at any time.

In view of the conference agreement, I do not believe that, on balance, we need pursue any other ZIP code legislation at this time, and so the Committee on Post Office and Civil Service is being discharged from consideration of H.R. 2590 today with no further action.

I can assure the House that the Committee on Post Office and Civil Service will closely monitor implementation of the conference agreement—and will continue to carefully scrutinize all future actions by the Postal

Service relating to the ZIP+4 program.●

THE NATIONAL POLICY PLAN, NATURAL GAS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, on July 17, the President transmitted to the Congress the Reagan administration's national energy policy plan. I support the approach suggested by the plan, and, as a member of both energy subcommittees of the Energy and Commerce Committee, I look forward to being closely involved with energy issues during the 97th Congress.

Mr. Speaker, for the benefit of our colleagues, I insert in the RECORD at this point the national energy policy plan's section on natural gas:

NATURAL GAS

Natural gas provides more than half of all the energy used within U.S. households. It is a leading commercial fuel in the country. And it is also a leading source of energy for our industrial sector.

Current Federal law already provides for some increase in permissible natural gas wellhead prices and deregulation of some post-1977 gas by 1985. (Prices to the consumer are also dependent on transportation costs, long-term contracts, and regulation by the public utility commissions within the respective States). However, the Natural Gas Policy Act of 1978 was based on two assumptions that have since been overturned by events. It assumed that oil prices would average roughly $15 per barrel in 1985, but world oil prices are already more than double that level. As a result, if current trends continue, the existing law will produce a sharp jump in gas prices when most new natural gas is deregulated in 1985.

The act also was written under the assumption that domestic supplies of natural gas were severely limited, yet there are now heartening signs of additional gas reserves in such areas as the Eastern and Western Overthrust Belts and the Anadarko Basin. Expansion of our domestic gas reserves and increased U.S. production of that fuel, however, will lag somewhat below potential so long as controls continue. Because natural gas prices are well below free-market levels, the incentive to explore for new gas reserves in much less than the incentive for oil exploration. As a result, U.S. drilling activity has concentrated on oil—not gas. For the first 4 months of 1981, natural gas well completions increased by only 6 percent over the same period last year, compared to the 41-percent increase for oil.

In view of the situation described above, the Administration currently is assessing options for future natural gas policy.●

A TRIBUTE TO DAVID ROTHBAUM

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. LENT. Mr. Speaker, in these cynical times in which we live we all too often fail to accord proper recognition to those among our citizens who distinguish themselves through invaluable services to their communities and to our Nation.

With that in mind, Mr. Speaker, I wish to call to the attention of my colleagues the outstanding achievements of a most respected constituent residing in my Fourth Congressional District of New York, Mr. David Rothbaum, of East Meadow, N.Y.

Dave, as his many friends know him, has given much to his community and much to our great country. Dave came to the United States nearly half a century ago, emigrating from Poland. Not too long after his arrival in the United States, World War II broke out. During that conflict, Dave entered the Armed Forces of our Nation and gave his adopted country 4½ years of service with the 8th Air Force.

After his wartime service, Dave began a most successful career in the furniture business. He came to East Meadow some 30 years ago, establishing what is now the Clearmeadow Furniture Corp. As one of the outstanding small businessmen in the Fourth Congressional District, Dave Rothbaum has demonstrated the tremendous importance of successful small businesses to the economy of his community and of our Nation.

Just as important as the economic contributions of Clearmeadow Furniture have been the civic contributions of its founder. Dave Rothbaum has given much of his life in dedicated service to his community. Many are the honors attesting to this community leadership. Dave has served as president of the East Meadow Chamber of Commerce and the East Meadow Kiwanis. He has been a district officer of the Kiwanis. He is currently a member of the Nassau County Board on Consumer Affairs and has served on the county's Citizens' Advisory Board and on the Human Rights Commission.

The town of Hempstead, with a population of some 800,000, has depended on Dave Rothbaum for advice and counsel. Dave has served on the town's Citizens' Advisory Board, holding the office of vice president, and recently, Dave was named small business coordinator for the town, charged with responsibility for assisting the many small businesses operating within the town.

Mr. Speaker, the community of East Meadow, the town of Hempstead and Nassau County are fortunate indeed to have a man of Dave Rothbaum's business capability and experience, and civic dedication. For three decades, Dave has performed outstanding service to his community. It has been my privilege to have enjoyed Dave's friendship during much of that time. He is truly a great American.

Mr. Speaker, our Nation has prospered and grown to become the envy of the world through the hard work and dedicated civic efforts of citizens like Dave Rothbaum. His life and work provide us an outstanding example of citizenship worthy of the highest commendation.

I know my colleagues join me in extending the heartiest congratulations to Dave, and in offering our very best wishes for the future.●

THE BOTTOM LINE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. DASCHLE. Mr. Speaker, an article in the Washington Post this morning clearly describes the grave consequences of adopting a russian roulette approach to tax legislation. The russian roulette approach is to enact the most costly tax bill in the Nation's history before balancing the budget.

In an open bidding war to achieve a political victory, the Ways and Means Committee bill and the Conable-Hance substitute resorted to an indefensible tax giveaway for the wealthiest and most powerful economic interests in this country. The result of this no-holds-barred effort to gain political victory meant defeat for the American people who will suffer from the unfavorable economic consequences, double-digit inflation, and relentless runaway interest rates, resulting from the massive deficit in Government spending produced by the brazen raid on the Treasury contained in both the Ways and Means Committee bill and the Conable-Hance substitute.

The totally unwarranted and lavish tax giveaways contained in both bills and the massive budget deficits they will produce are the reasons I could not support either tax bill with any enthusiasm and tried unsuccessfully to offer an amendment to both tax bills to delay tax cuts until the budget is balanced, an amendment which was strongly opposed by both political parties. It was a sad day when both major political parties oppose a yes-or-no vote on an amendment to balance the Nation's budget. It will be a sadder day when the consequences of massive deficit spending resulting from the House-passed tax bill must be borne by the American people.

Mr. Speaker, I ask unanimous consent the article by Washington Post staff writer Caroline Atkinson appear in the RECORD at this point.

[From the Washington Post, July 31, 1981]

REAGAN'S NECK ON BOTTOM LINE

(By Caroline Atkinson)

With this week's overwhelming vote on the tax bill, Congress has put President Reagan's entire economic program in place. It has also put him on the spot.

Reagan promised that his program would lead to faster growth, more jobs, less inflation and lower interest rates.

The only remaining question is whether he was right.

From the start, experts across the political spectrum have questioned the economic basis for the president's plan. In particular they have doubted his forecast that faster economic growth would be combined with falling inflation.

Huge tax cuts to be assured for at least three years were a key element in Reagan's plan. Their distribution—with more of the benefit going to the rich, particularly those with incomes over $100,000, and less to the lower and middle income wage earners—was also an important break with the past.

But many outsiders doubt whether such tax cuts can work the cure Reagan believes in. They believe that to the extent that the tax cuts spur growth, they will also threaten to worsen inflation; and to the extent that they are balanced by spending reductions, their effect on growth will be limited.

On top of this theoretical objection is an even more pressing practical one: Can Reagan achieve his goal of a balanced budget by 1984, and if his policies do not reduce the deficit, will they conflict with the tight money grip of the Federal Reserve Board?

This week's tax bill cuts an enormous $285 billion from Treasury revenues over the next three years, according to the latest official estimates. So far Congress has agreed to cut about $140 billion from spending in the same years, fiscal 1982 to 1984.

This contrast, coupled with fears that the administration's budget numbers will turn out to be too optimistic, makes many observers skeptical about the administration's chances of balancing the budget by 1984. Some congressional budget experts believe that the deficit may not be reduced significantly from this year's $55 billion level.

These numbers strike horror into the hearts of Federal Reserve officials. As one economist remarked, the tax vote puts an enormous burden on the Fed's money policy, already in the front line of the fight against inflation. And high interest rates would be the inevitable result of a clash between an expansionary fiscal and tight money policy.

Of course, the budget cuts so far enacted are nowhere near the final Reagan target. Budget director David Stockman is working on sizable further cuts for 1983 and 1984.

In addition the program changes sealed in the reconciliation conference this week—from which the $140 billion figure comes—account for three quarters of the total cuts Congress has promised to make in 1982 spending, leaving a significant one-quarter still to be made.

The administration has said that on top of these, and its planned Social Security reform, it intends to find further program cuts of $30 billion in 1983 rising to $44 billion in 1984. If Congress swallows these, then spending will be cut by $240 billion over the next three years and the budget will be balanced in 1984, officials say.

But congressional sources put the needed cuts in 1984 still higher by anything between $25 billion and $40 billion. And they wonder whether even Reagan can persuade Congress to ax so much more spending. If it does not, then fiscal policy in 1983 and 1984 will be expansionary.

Chairman of the president's Council of Economic Advisers Murray Weidenbaum is adamant that fiscal and monetary restraint are both necessary to bring down inflation. He stressed to a congressional committee this week that the thrust of the tax and spending changes in 1981 is toward restraint.

On a high-employment basis, which measures the budgetary stance after correcting for unemployment, there has been a swing of $25 billion toward restraint between fiscal 1980 and 1981, according to figures calculated for the CEA. A further squeeze of about $17.5 billion is due next year, if the further budget cuts go through.

These numbers help to explain the present dip in the economy. However, they begin to move the other way in the middle of next year, when the next slice of the tax cuts comes through. Reagan officials predict that then the economy will be picking up speed.

Many outside economists agree with them. But whereas the Reagan team expects interest rates to fall fairly steadily from now until then, other analysts predict that the tax-spurred growth in 1982 will run headlong into tight money.

The Federal Reserve, strongly backed by the administration, plans a persistent and quite dramatic slowdown in money and credit growth over the coming months and years. So far this year, this policy has kept interest rates at record heights.

Administration officials say that as markets begin to believe in the Fed's determination, and to anticipate lower inflation, then rates will start to fall. The continued lid on money growth will accelerate already evident signs of an improvement in inflation, bringing rates down still more.

But if private demand for credit is rising as tax cuts give business and individuals more money to spend, then interest rates must stay high to ration out the money. And since neither the administration nor the Fed can determine how much of a given money growth goes to pay for higher prices and continued inflation, and how much goes to real growth, the money policy on its own cannot reduce inflation.

The Democratic-led scramble for votes left the tax bill even larger than Reagan wanted originally. It is also loaded down with special provisions, which few believe will help to produce the noninflationary growth forecast by the president.

But since the president has embraced it, the responsiblity for success is now squarely on his shoulders.●

TEN OUTSTANDING GOVGUAM WOMEN

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. WON PAT. Mr. Speaker, ordinarily a tribute to the advancement of women in business or public life might be viewed by my colleagues as somewhat "old hat." But, on my island community of Guam, the rise of women to positions of equality has taken much longer than in the United States because of the restrictions and inhibitions of an old world culture.

After 400 years of Spanish colonial rule in an agrarian-subsistence way of life, there was little opportunity until long after World War II for women to first crack the work-a-day world and then advance up the ladder to positions of prominence. It was one thing to get away from the chores of raising a family and providing a home for that family and it was a major step outward and upward for a woman to obtain a job in the early government of Guam.

But even in this isolated Pacific island, located far from the teeming metropolises of the world, women were not to be denied, and with the help of a few farsighted public officials, they made their way up the ladder of success, particularly in the business of serving their fellow men and women.

Recently, the government of Guam's Women's Program Coordinators Organization honored 10 women for their advancement through the rank and file to a higher position; their desire for self-improvement through training, higher education, and civic activities; their leadership abilities; at least 2 years of service with the government of Guam; and their implementation of new ideas in their particular positions.

It is with a feeling of inner satisfaction and great pride that I insert this testimonial to the achievements of these 10 women in the RECORD and add my own personal congratulations.

CIVIL SERVICE COMMISSION AWARDEES FOR 10 OUTSTANDING WOMEN IN GOVGUAM

Following are the names of awardees, their title, place of employment, and address:

Ms. Luling Flores, Personnel Services Administrator, Port Authority of Guam, Agana, Guam 96910.

Ms. Norma Aflague, Chief of Administration, Dept. Public Works, Tamuning, Guam 96911.

Dr. Katherine Aguon, Director of Education, Dept. of Education, Agana, Guam 96910.

Ms. Meding Aguai, Administrative Secretary, Dept. Public Safety, Agana, Guam 96910.

Ms. Adelina Garrido, Police Officer, Dept. Public Safety, Agana, Guam 96910.

Ms. Amparo B. Cenzon, Acting EEO Administrator, Civil Service Commission, Agana, Guam 96910.

Ms. Lourdes F. Cepeda, Wage and Classification Specialist, Civil Service Commission, Agana, Guam 96910.

Ms. Elizabeth Cepeda, Administrative Secretary, GEPA, Agana, Guam 96910.

Ms. Sally Coy, Planner IV, Bureau of Planning, Agana, Guam 96910.

Ms. Anna Muna, Public Information Officer, Guam Memorial Hospital, Tamuning, Guam 96911.●

SOME ANSWERS TO THE PROBLEM OF HIGH-INTEREST RATES

HON. GEORGE HANSEN
OF IDAHO
IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. HANSEN of Idaho. Mr. Speaker, the Banking Committee recently concluded its semiannual oversight hearings on the conduct of monetary policy. As you can well imagine, the focus of these hearings was the twin problems of inflation and disastrously high interest rates.

I believe that there is a fundamental misunderstanding as to why interest rates are so high today. More importantly, I believe that there are constructive and reasonable steps which can be taken to bring interest rates down in the short run and offer some hope to the millions of Americans who are punished daily by these high interest rates.

My ideas of how we can reduce interest rates now are contained in my opening remarks at these monetary policy hearings. Moreover, the answers to many questions—which I know are asked by everyone in this country—are contained in an insightful response to me by Under Secretary of the Treasury Beryl W. Spinkel, who was a witness at these hearings. Although I disagree with his answer to my last question about short-term solutions, his answers deserve a careful reading by all of my colleagues because they fully explain why interest rates are high and what we must do to lower them.

The material follows:

OPENING STATEMENT OF HON. GEORGE HANSEN

Mr. Chairman, let me begin by expressing my appreciation for your testimony today on the conduct of monetary policy. I want you to know that I have faithfully supported the Reagan economic package from its inception during last year's election to date. The program in total offers us long-term hope for the future.

There are, however, short-term problems—such as painfully high interest rates—which I feel that we need to address. I believe there are solutions in the short-term. I am not talking about more phony money from the Federal Reserve, and I am not talking about credit allocation, which many of my colleagues on the other side of the aisle seem to flirt with from time to time.

Chairman Paul Volcker of the Federal Reserve Board has presided over that institution for the past two years. During this time, for whatever reasons, we have been plagued by double-digit inflation and 20 percent interest rates, M1-B—which the Federal Reserve pays the most attention to—has been wandering and rambling all over the place for the past several years. Although the Federal Reserve may hit a particular target during any particular quarter, more often than not the Fed has failed to hit its targets during the past several years. This committee repeatedly has urged the Federal Reserve to lower its targets and more importantly to achieve its targets. Secretary Sprinkel, you correctly point this out in your testimony, and I urge you, in your behind the scenes discussions with the Federal Reserve, to keep their feet to the fire to meet their targets.

Secretary Sprinkel, I would hope that you would take my message back to the Treasury Department with you today and put your best economists to work to find some immediate step to take the hardship out of high interest rates. I like to think of our economy in terms of medical analogies. The Reagan Administration is on the right path to achieve a long-term cure for the cancer of inflation, and I fully support you in these efforts. What we need, however, is some simple, "fast-acting, quiet relief" aspirin for the immediate and painful headaches of high interest rates.

Our economy has been hooked on the heroin of deficit spending. Today, we are suffering from the DT's of this addiction. What we are looking for is an interim painkiller made up of moral confidence and certain available relief measures so that these temporary convulsions in our economic patient will, in fact, be relieved.

There are many quack doctors around today and perhaps many witch doctors that will prescribe various types of medicine for these maladies. Some would like to operate on the economy to do this, and some would like to perform an autopsy to do that. Before we know it, our economy would soon become a cadaver, drawn and quartered, with such devices as credit allocation by many well-intentioned people in the Government. If they are successful in dividing a basically cohesive economy, we will be left with a disjointed carcass by the side of the road.

Mr. Secretary, we must give the patient the moral and economic will to live. We cannot afford to let him slip out of the hospital and to go out on another deficit spending binge. I am confident that you can devise the means to resuscitate the patient to achieve the final necessary cure.

For example, to help bring interest rates down I believe that additional stimuli with little or no Treasury outlay can be given for business and construction activity through selective advancements of commitment dates on obligations the government is already planning to undertake. If procurement contracts or building commitments are in the pipeline, let's get them moving and put people back to work. Such activity would provide a meaningful signal without an early drain on government resources.

Second, I would urge you to abandon all government debt operations in the medium- and long-term issues and concentrate all necessary borrowing in short-term securities. This accomplishes two things: First, it emphasizes the Reagan Administration's determination to defeat inflation, because it anticipates lower interest rates and thus borrowing costs that would flow from reduced inflation rates in the foreseeable future. Second, it takes pressure off the parts of the credit markets which are especially important to the housing industry and for car buyers, two particularly dressed and interest-rate-sensitive sectors.

Mr. Secretary, these are just a few suggestions, which I would like to discuss with you further. It is time that the Federal Reserve learned that the gyrations of its roller coaster policies are creating chaos in the countryside. Why should we expect people in America to have confidence in the Federal Reserve, when the Federal Reserve can't control the money supply? Your appointment as Undersecretary for Monetary Affairs should send a clear signal to the Federal Reserve that the Reagan Administration expects results.

Mr. Chairman, you know as well as I do that it is time that we do away with big leaps in money supply and higher and higher interest rates. It is time to start to think about the little guy from middle America who pays the majority of taxes in this country. It is time to save America and the American dream of affording a home or starting up a small business. We can do this only by declaring war on high interest rates.

WASHINGTON, D.C.,
July 29, 1981.

Hon. GEORGE HANSEN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HANSEN: It was a pleasure to be able to participate in the House Banking Committee's semi-annual oversight hearings on monetary policy. The opportunity to meet with you and your colleagues to exchange views on the various issues relating to monetary policy was very useful.

My responses to the questions that you submitted to me in writing are enclosed. If my staff or I can be of any further assistance, please do not hesitate to call.

I look forward to working with you and the Committee in the future.

Sincerely,

BERYL W. SPRINKEL,
Under Secretary of the Treasury
for Monetary Affairs.

Enclosure.

QUESTIONS FOR UNDERSECRETARY SPRINKEL FROM HON. GEORGE HANSEN

Q. Why are interest rates so high when the inflation rate seems to be subsiding? Please explain in such a manner so that my farmers, builders and small businesses in Idaho will understand.

A. Interest rates remain high because the financial markets are not yet convinced that the Congress, the Administration, and the Federal Reserve will persevere in the fight against inflation. Continued high long-term interest rates, despite the news that inflation is beginning to decline, imply that the financial markets expect inflation to resume in the months ahead.

That is why it is vital that the Federal Reserve persist in its policy to reduce money growth and that the Congress and the Administration maintain budgetary discipline in the months and years ahead. We must signal to the financial markets and to the public that we will not reverse our course before the real, long-term benefits of controlling inflation are appreciated.

Q. Do high interest rates track and follow increases in the money supply? Please elaborate and supply me with any charts or other data which you might have.

A. Excessive money growth causes inflation and, as we are all aware, inflation and the expectation that it will continue causes interest rates to rise. This can be seen in the charts appended to my written testimony. Money growth is closely associated with inflation approximately two years later and interest rates are closely related to current and past rates of inflation.

In addition, the financial markets, with years of rapid money growth and inflation fresh in their memory, have become so sensitive to the money-inflation linkage that even weekly increases in the money supply cause interest rates to rise. Recent experi-

ence indicates that this reaction now comes very quickly. This is demonstrated in the table on page 5 of my testimony.

Contrary to the popular view that more money leads to lower interest rates, more money, by causing inflation and generating inflationary expectations, causes interest rates to rise. In the current environment, any decline in rates associated with faster money growth would be temporary, if it happened at all. Ultimately, more money leads unavoidably to more inflation and would prolong or raise already high interest rates.

Q. How is the Federal Reserve responsible for high interest rates?

A. The high interest rates we have experienced for the past two years or so are the result of four years of excessively rapid money growth. When the money stock grows more rapidly than real aggregate output, the result is inflation. Inflation causes interest rates to rise in order to compensate lenders for the decline in the purchasing power of their money during the life of a loan. Moreover, the expectation of continued inflation causes interest rates to be bid up.

Excessive money growth, by generating inflation and inflationary expectations, therefore causes high interest rates. The Federal Reserve is responsible for high interest rates because it previously followed a path of too-rapid money growth. The slowdown in money that has occurred in recent months is a good first step toward reversing the cycle of fast money growth, inflation and high interest rates. The benefits, in terms of reduced inflation and lower interest rates, will not be realized, however, unless the policy of slower money growth is adhered to over the long run.

Q. People think that the Reagan Administration in its first six months in office is responsible for high interest rates. Is this possible?

A. No. First of all, interest rates were high when the Reagan Administration took office.

Second, the important phychological factors that are helping keep rates high—deeply entrenched expectations of inflation and pessimism that the Government can or will take effective action to curb inflation—have not grown up in response to Reagan Administration policies. They are the result of years of inflationary money growth and repeated broken promises to control inflation.

Q. In 1980 the Federal Reserve's target was 4½ to 7 percent for M1-B growth, yet M1-B grew by 7.3 percent by year end. M1-B growth was even higher in 1978 and 1979. Why has the Federal Reserve missed its targets? Be specific. Will they meet their announced targets in the future?

A. In most cases the Federal Reserve has missed its money supply targets because it has abandoned close control of bank reserves in order to try to affect interest rates. Interest rates fluctuate in response to changes in credit demand and general economic activity and, if the Federal Reserve tries to prevent or soften movements in market interest rates, it sacrifices close control of money supply growth. It is not possible for the Federal Reserve to maintain close control of the money stock and also attempt to manipulate interest rates.

For example, in the Spring of 1980 the combination of credit controls and a contracting economy caused a sharp decline in the demand for credit and interest rates fell rapidly. The Federal Reserve, apparently unwilling to allow interest rates to fall as fast as market forces dictated, slowed the rate of growth in bank reserves and allowed the money supply to decline, even though the economy was contracting. Once credit controls were removed in the summer and the economy began to expand again, interest rates rose in response to increased credit demand. Again, the Federal Reserve tried to ameliorate the upward pressure on interest rates coming from market forces. They injected reserves into the banking system and the result was an explosion of money growth in the second half of 1980.

Q. How can we in Congress make or encourage the Federal Reserve to hit its target ranges, preferably the low end of the range? Please elaborate.

A. While the Federal Reserve is an independent agency, and I believe that independence should be maintained, its independence does not mean it is not answerable for its actions. It is accountable to the Congress and these oversight hearings are the best way for you to make your opinions and concerns, and those of your constituents, known to the Federal Reserve.

It is important for you to emphasize to the Federal Reserve that this Committee expects it to hit its announced targets. That message can be conveyed during these semi-annual hearings and subsequent Committee reports, as well as in your informal dealings with Federal Reserve officials. If the target are not met, I think that the Federal Reserve should be required to provide a detailed explanation of why they failed, what they intend to do to bring money growth back on target, and what they intend to do to avoid similar future failures.

As I mentioned in my prepared testimony, there are a number of procedural changes readily available to the Federal Reserve which I believe would improve the precision of monetary control. The Federal Reserve is considering these changes and I hope they are adopted as soon as possible.

Q. How can we expect to get results from the Federal Reserve to lower interest rates?

A. The only way the Federal Reserve can facilitate permanently lower interest rates is to persist in its policy to reduce the rate of money growth. Although it is popular to blame high interest rates on the recent slowdown in money growth, this is incorrect. Faster money growth will always lead ultimately to even higher interest rates. Recent experience shows that financial markets translate fast money growth into higher interest rates almost simultaneously.

We, therefore, have no alternative. To lower interest rates, we must achieve and sustain a lower, non-inflationary rate of money growth. I urge you and your constituents to support the Federal Reserve's policy of slower money growth for it is the only route to the lower interest rates we all seek.

Q. Since the inflation rate—measured either by the Consumer Price Index or the GNP price deflator—seems to be declining from record levels in the past few years, doesn't it stand to reason that interest rates will soon begin to decline as well? When will we see this happen? My constituents can't wait much longer.

A. Yes. Market conditions should allow for a decline in rates soon, but it is difficult to say exactly when or by how much. Continued high long-term interest rates, in the face of lower current inflation, reflects skepticism in the financial markets that money growth and inflation will be controlled over the long run. Once the markets are convinced that this is not another false start in the fight against inflation, once they learn that we will persevere until that fight is won, inflationary expectations will abate and interest rates will fall.

Q. What short-term solutions, if any, are available to take the pain out of double-digit inflation?

A. I know of no easy remedies for the distortions caused by inflation. Years of rapid money growth and inflation have caused fundamental changes in the American economy and psyche. The distortions and uncertainties of inflation are reflected in wage settlements, speculative activity, pricing decisions, savings behavior, and government programs as well. They are also reflected in higher interest rates.

The attitudes and habits that have grown up over a decade cannot be reversed overnight. Particularly when previous Administrations have repeatedly promised to bring inflation under control, but have failed to do so. Returning the economy to a non-inflationary path of real growth is not an easy or painless task. Hopefully, our experience with double-digit inflation is behind us.●

PLIGHT OF BORIS CHERNOBILSKY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. PEPPER. Mr. Speaker, I would like to bring to the attention of my distinguished colleagues, the American people, and all those who are oppressed in the world, the traumatic plight of a Soviet citizen, Boris Chernobilsky. His only true desire in life is to emigrate to Israel with his family, where many there are waiting with outstretched arms to receive, one day, this noble and ill-fated human being.

Let me remind all of you that this brave "refusenik" applied for emigration to Israel in May of 1975, but was refused that right in March of 1976 on the grounds that he knew of too many secrets in his profession as a radio engineer. Since that time Boris Chernobilsky's safety and rights have been constantly challenged by the Soviet authorities; in fact, he is now being brought up on charges of "resisting a representative of authority while performing duties entrusted to him by law." He is being unjustly charged with calling a Soviet policeman, who was dispersing a peaceful gathering on May 10 in Ovrashky, a "Fascist." As you are aware, if found guilty of this charge, Boris Chernobilsky could face a maximum sentence of 5 years imprisonment. It is deeply alarming to me to see a retreat by the Soviet Government on its policy to allow emigration to Israel. Before 1979, many emigrants to Israel from the Soviet Union have enjoyed and are enjoying a peaceful and meaningful existence in a free society, where their contributions to that society are most appreciated. However, today we see the reverse

taking place in the Soviet Union; in fact, in the first 6 months of this year compared to the first 6 months of 1979, there has been a drastic decline in emigration of 73 percent. I am afraid that if we in the free world stand by idly and allow the Soviets to continue this inhumane policy on emigration, we will be just as much at fault as the Soviets. Thus, let it be known for all times that we in America will not stand by idly and allow, without our deep and earnest protest, human beings in Russia to be denied their basic right to emigrate just because of their religion or race or because of their desire to live in a free and meaningful place in the world. I ask to include in the body of the RECORD the following appeal of Boris Chernobilsky which has just been forwarded to me:

AN APPEAL OF BORIS CHERNOBILSKY TO SOVIET PRESIDENT LEONID BREZHNEV

In recent years, trials involving Jewish "refuseniks" have shown that we can't count on objectivity and impartiality for Jewish individuals in Soviet courts. It is obvious that the authorities fabricate false charges in order to intimidate other Soviet Jews wishing to emigrate to Israel. Every trial became a sham. The verdict of a trial like this is returned in advance. My trial is not an exception despite the fact that there are tens of witnesses who know that my being charged with something has nothing to do with reality.

I do not want to become the next KGB sacrifice. Since I do not have any other means of protecting myself, I simply refuse to show up for such a show trial.●

HENRY BRASHER, JR.

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. PICKLE. Mr. Speaker, I wish to call your and our colleagues' attention to the passing of a man whom I deeply respected, admired, and appreciated, and whose life is an example that we would all do well to emulate. This man was Mr. Henry Brasher, Jr., of Weimar, Tex.

Henry Brasher was born in Weimar, Tex., and it was in Weimar, Tex., that he stayed his whole life. This in itself is noteworthy in these highly mobile times—but Mr. Henry did not just live in Weimar for his entire life, he spent his entire life in the highest form of active involvement in that community, and in our greater central Texas community. I daresay there was not an area of business or civic or charitable activity that went on in that part of the 10th District that Henry Brasher did not have a leading hand in it. He spent 86 years, all told, working to benefit that community and its citizens, and his example of caring for others, and in so many ways, is what really makes the life of Henry Brasher, Jr., noteworthy, and worthy of our esteem. Because even though he was a successful businessman and was always well liked and well respected, he did not stop there: He was always mindful of the welfare of others around him, and if he ever saw that things could be made better, Henry Brasher was the man who would jump in and make things happen. And he got positive results that stand in that community today for all to see.

Mr. Speaker, I insert herewith a newspaper account of the life and death of Mr. Henry Brasher, Jr., which tells as well as anything the accomplishments that this man achieved in one lifetime. I hope my colleagues will take a few minutes of their time to read this account thoughtfully and realize, as I have all too keenly, that we have lost and will miss this man who possessed those qualities that we would all do well to emulate. Our Nation was made, and made strong, by men of Henry Brasher's mettle, and we should all grieve the loss of this great and good man.

The article follows:

HEART ATTACK FATAL FOR H. BRASHER, 86—LONGTIME CIVIC LEADER

Henry Brasher Jr., a Weimar business and civic leader for more than 60 years, died of a heart attack Saturday morning, June 27, while seated at the breakfast table. He was 86.

A few minutes later, as was still his daily habit, he would have been driving to his office, at the automobile business he and his father founded in 1915.

He was a Buick dealer for 66 years, longer than anyone else in Buick's history, and a Chevrolet dealer for 49 years.

Funeral services were held Monday, June 29, from First United Methodist Church, with Rev. Howard MacAllister of Gonzales and Rev. Lyle Pierce, the Weimar pastor, officiating. Burial was in Masonic Cemetery.

Serving as pallbearers were Sam K. Seymour Jr. of Columbus, and Malvin Merrem, Leslie Townsend, Robert F. Kalous, Herbert Pickett, Ernest Scott, Milton Booth, and Jack Montgomery, all of Weimar.

Henry Brasher Jr. was born here January 19, 1895, the eldest of four sons of Henry Sr. and Mattie (Ferrell) Brasher. He was a 1910 graduate of Weimar High School.

After high school, in addition to helping out in the telephone business his family owned, he went to work at T. A. Hill State Bank. In December 1912, he took a job in the Jno. C. Hubbard Lumber Co. Then in 1915 he and his father accepted the Buick agency, and in 1922 they moved into the building that Brasher Motor Co. occupies today.

Over the years the company has expanded to many times its original scope, adding branches at Schulenburg and La Grange, along with a wholesale supply company and a finance company here.

At the time of his death Mr. Brasher was chairman of the board of directors of Hill Bank & Trust Co., a position he had held for many years. He was one of the original directors of Colorado County Federal Savings & Loan Association, and was serving on the board.

He was president of the board of trustees of Weimar Independent School District from 1932 until retiring in 1973.

He was a member of First United Methodist Church of Weimar, where he served as Sunday School superintendent for 25 years and on the church board even longer. He was a 65-year member of the Masonic Lodge, having served as worshipful master and in other offices, and was a member of Arabia Temple Shrine.

He was a charter member of and still active in Weimar Rotary Club and the Chamber of Commerce, having held several offices in both. He helped found and served as a director of the Golden Age Home, the Methodist-sponsored retirement home in Lockhart, and was the driving force in getting Parkview Manor retirement home established here.

"Mr. Henry," as many of at least two generations knew him, was an honorary Lone Star Farmer in the Future Farmers of America, and an honorary chapter member in both Weimar and Schulenburg. He was also an avid supporter of the Little League program.

He married Willie Black here on April 26, 1916. She survives him, along with his daughter and son-in-law, Catherine and David Gunn of Weimar; grandchildren, Henry and Suzie Gunn of Weimar, Martha and John Marsac of Houston, Margaret Gunn and David William Gunn of Weimar; and great-grandchildren, Seth Gunn and Ian Marsac.

Mr. Brasher's death came only six weeks after that of his brother, former mayor F. F. (Teddy) Brasher. The other brothers, Jack and Laure, died a number of years ago.●

THE NATIONAL ENERGY POLICY PLAN, SYNTHETIC FUELS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, on July 17, the President transmitted to the Congress the Reagan administration's national energy policy plan. I support the approach suggested by the plan, and, as a member of both energy subcommittees of the Energy and Commerce Committee, I look forward to being closely involved with energy issues during the 97th Congress.

Mr. Speaker, for the benefit of our colleagues, I would like to insert in the RECORD at this point the national energy policy plan's section on synthetic fuels:

SYNTHETIC FUELS

The United States has enormous hydrocarbon resources in the form of coal, oil shale, tar sands, and heavy oil. Existing processes can extract those resources and/or transform them into synthetic substitutes for conventional oil and gas; and improved processes are being developed.

The Administration has restructured the national synthetic fuels program to rely more heavily on private investment initiatives and less on the general taxpayer. Responsibility for commercializing the technologies of alternative fuels is shifting to

the private sector, with potential support from the Synthetic Fuels Corporation (SFC). Feasibility studies and cooperative agreements which merely subsidize companies to prepare proposals for larger government construction subsidies are being terminated, and DOE funding is being ended for demonstration projects which do not muster significant private-sector support. Under this restructuring, DOE will continue to support and fund long-term, high-risk research and development projects which industry would not be in a position to finance.

This course will reduce Federal outlays substantially. By providing consideration for SFC assistance rather than nearly total DOE funding, the Administration's fiscal year 1982 budget revision document shows that taxpayers save at least $2.7 billion in budget authority for construction over the next 5 years and another $900 million in operating expenses. The development pace for a U.S. synthetic fuels industry will be determined appropriately by private investors, with assistance from the SFC. As its first priority, the SFC will provide financial assistance through minimal outlays "up front" (for example, it will emphasize loan guarantees and price guarantees). If current projections of actual process performance and world oil prices are reasonably correct, such "risk insurance" mechanisms will also minimize total budget outlays.

The prospective competitive position of synthetic fuels has improved as a result of high world oil prices, even though synfuel costs also rise on the basis of the conventional energy required in their production. Private corporate planning activities looking toward oil shale or coal synthetic fuels projects have intensified. Initiatives and financial support from the private sector alone have launched several commercial-scale projects, as well as major technical development programs. Seventeen of the top 20 oil companies are now involved in oil shale projects; and these companies have the financial and technical resources to commercialize technology. Among more than 60 responses to SFC's initial solicitation for proposals, many projects show that private enterprise has invested an impressive amount of corporate resources in them over the past 10 years.

Decontrol of conventional fuel prices, revitalization of the economy, and removal of regulatory uncertainties will improve the growth climate for synthetic fuels.●

REMEMBERING FRED J. KROLL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. FLORIO. Mr. Speaker, it is with great sadness that I rise with my colleagues to mourn the passing of a friend and leader.

Fred J. Kroll, president of the Brotherhood of Railway and Airline Clerks, lost a battle with leukemia yesterday, Thursday, July 30, 1981.

Fred's efforts on behalf of his membership frequently brought him to my office for discussions of mutual interest. I found him always to be a hard-working, concerned and informed spokesman for his membership. It is largely through his efforts that a speedy compromise was achieved between the employees and management of Conrail, thereby preserving this vital transportation system and the thousands of jobs that would otherwise have been lost.

I would at this time like to submit the following biography for the record. Fred Kroll was a friend and a gentleman. He will be missed.

The biography follows:

FRED J. KROLL, 1935–81

A courageously-fought five-year battle with leukemia ended on July 30, 1981 when BRAC International President Fred J. Kroll died at the age of 45.

Death came in a Philadelphia hospital where he had been undergoing treatment and where, characteristically, he continued to chart the union's course and to develop programs and strategies for future collective bargaining and legislative campaigns.

Kroll first became president of BRAC in 1976 when he was chosen by the union's Executive Council to complete an unexpired term of office. He was reelected president by acclamation at BRAC's 1979 Toronto Convention.

When he was elected a member of the AFL-CIO's Executive Council in 1978, he became the youngest person ever to be named a federation vice president.

Assuming a leadership position within the ranks of rail labor, Kroll was elected chairman of the Railway Labor Executives' Association in February 1980. Composed of leaders of 20 unions with membership in the railroad industry, that RLEA is a policy-making group dealing with legislative and regulatory issues involving railway workers and the industry of which they are a vital part.

EARLY CAREER

No stranger to literally thousands of BRAC members, Kroll was an active and dedicated member of the Brotherhood for 28 years.

Born in Philadelphia, Pennsylvania on October 29, 1935, he came from a trade union family. His father was a long-time member of the International Union of Electrical, Radio and Machine Workers.

BRAC's leader launched his rail career in 1953 as an IBM machine operator on the former Pennsylvania Railroad. Quickly becoming involved in Quaker City Lodge 587, he served as vice president, president and local chairman. He also served as division chairman.

In 1970, he was elected general secretary-treasurer of the Penn-Central System Board. The next year he was elected general chairman.

Unanimously returned to office as general chairman in 1973, he continued to head BRAC's largest system board until January 1975 when the Executive Council elected him an international vice president. He was reelected at the union's May 1975 Convention in Washington, D.C.

During the period of his general chairmanship and later his vice presidency, his leadership abilities were successfully tested while meeting the challenge of protecting workers' rights when the northeast railroads (including the giant Penn-Central) plunged into bankruptcy. He played a key rule in shaping the legislation that led to the creation of Conrail.

From his earliest days as a trade unionist, Kroll was widely recognized as a skilled and determined negotiator.

An equally skilled and forceful spokesman on behalf of his own members and all of rail labor, Kroll spearheaded the April 29 Rail Labor Rally in Washington that drew 20,000 railroaders to protest the Reagan Administration's budget-cutting policies with regard to Conrail and Amtrak. Throughout March and April, he worked tirelessly in testifying before Congress to urge restoration of adequate funding for both railroads.

And, shortly before his death, congressional conferees adopted legislation to insure the continuation of Conrail and Amtrak and to provide a solution to the financially ailing Railroad Retirement System.

FROM "REASONABLE MILITANT" TO "MAVERICK LOADER"

Once describing himself as a "reasonable militant," Kroll quickly captured the attention of the media after his election as BRAC president and was frequently profiled in major news magazines and newspapers.

The Norfolk and Western strike, which he launched in July 1978, and which lasted for 82 days, tested his mettle, and his masterful handling of it led to the eventual elimination of both the rail industry's mutual aid pact and one existing in the airline industry. Business Week magazine called him "the maverick leader who bested the N&W."

Kroll himself described that precedent-setting strike as one that "let the railroads know we are an aggressive union, that we mean business and that we have the support of our people."

A cover story in the August 1979 issue of Time Magazine on "Fifty Faces for the Future" cited BRAC's president as one of those who possessed "the sense of boldness that remains the prime prerequisite for leadership." The article described Kroll's efforts to make the labor movement more attractive for younger workers by encouraging greater initiative at the local level.

As Next Magazine phrased it in an April 1981 profile, Fred J. Kroll was one of the "five-score Americans who has the potential to achieve substantial power over the minds and lives of their fellow citizens during this decade."

That potential ended tragically on July 30, 1981 but his legacy of bold leadership and dedication to economic justice and dignity for workers will endure.

A devoted family man, he leaves his wife Hildegarde; three daughters—Karen, Anita and Michale: his parents—Fred and Catherine; and three brothers—Albert, John and Joseph.

In lieu of flowers, the family requests that contributions be made to the Horbert L. Orlowitz Institute for Cancer and Blood Diseases, Hahnemann Medical College and Hospital, 230 North Broad Street, Philadelphia, Pennsylvania 19102.

Mass will be celebrated at 11 a.m. on Monday, August 3 at the Church of the Little Flower, 5601 Massachusetts Avenue, N.W., Bethesda, Maryland.●

REVEREND J. BAZZEL MULL

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. DUNCAN. Mr. Speaker, Tennesseans have a special love for gospel music. I suppose its because of the nat-

ural beauty that surrounds us down there. We have plenty to be thankful for living between the Smoky Mountains and the Mississippi River.

In East Tennessee gospel music is synonymous with the Reverend J. Bazzel Mull. He has brought that music into the homes of many on Sunday mornings for the past 25 years. The show and its sponsor will be honored August 15 at the Tennessee Theater in Knoxville for their long-standing popularity and service to the community.

"Mull's Singing Convention" continues to appear at 8 o'clock Sunday mornings on WBIR-TV in Knoxville. The 1½-hour program includes gospel music, special guests, and community service. The program began with WBIR's broadcasting in August of 1956. The time slot has changed over the years, but the appeal of the program has kept it on the air.

I have had the privilege of being the guest of Reverend Mull and his wife Elizabeth many times in those 25 years. They have always been gracious hosts as well as entertaining and informative television personalities.

The Mulls are also good neighbors in the Christian sense of the word. The camera becomes a pulpit and the audience a congregation as the Mulls seek help for families who have suffered unfortunate tragedies. Over the years many families have been able to overcome formidable obstacles with the aid of Reverend Mull and his wife.

The gospel music weaves through all of this on the show. It is the link between the show's service and spirituality and the link between Reverend Mull and East Tennesseans. The honors that are being heaped on him for this anniversary are justly deserved.●

BLOCK GRANTS TO SUPPORT A CRUMBLING CRIMINAL JUSTICE SYSTEM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. SOLARZ. Mr. Speaker, I am concerned about the many problems which our criminal justice system faces daily. This concern has led me to introduce legislation, H.R. 4344, the Criminal Justice Construction and Program Development Act of 1981. This bill would provide block grants for States to construct and modernize criminal justice facilities and to support programs and personnel in them.

H.R. 4344 is a response to the growing crisis in our criminal justice system. It is a Federal level response because many of the problems our criminal justice system is facing are the result of Federal actions. Recent court cases have highlighted the need for improved prison conditions. The National Institute of Justice has recently published evidence showing that only 45 percent of our State and local prison and jail cells meet an acceptable standard of 60 square feet of space of each prisoner. In spite of the recent Supreme Court decision concerning the allowability of double celling in certain restricted circumstances, 31 States are either under court order to improve prison conditions or are facing such challenges. The minimum estimated cost of improving prison conditions to meet these federally recommended standards is more than $10,000,000,000.

Overcrowding at the State and local levels is also created by other Federal criminal justice policies. Such crimes as interstate auto theft, drug offenses, and bank robbery, which were once prosecuted on a Federal level, are now considered State and local offenses. In addition, a lack of Federal prison space in many areas of our country leads to accused persons being held in State and local facilities in communities where their trial will be located.

There are major problems with other aspects of our criminal justice system. Other buildings including courts are often old and antiquated. Judges must often conduct trials under medieval conditions with rats and falling plaster. Personnel are often not able to investigate such major crimes as burglary; when arrests are made prosecutors often do not have enough time to prepare their cases thoroughly; and judges are often so overworked they must hear as many as 120 cases a day—about 1 every 4 minutes.

These conditions combine to present a picture of a disaster occurring in our rural county seats and jails as well as in our big cities and State maximum security prisons.

My bill represents a beginning toward the rebuilding and rejuvenation of our criminal justice facilities and programs through block grants to renovate existing facilities, construct new buildings and improve programs and staffing for these facilities. It would establish a program for issuing construction, modernization, and personnel grants; providing funds for demonstration grants directed toward evaluating innovative facility designs; collecting and disseminating information concerning advanced designs and practices; and providing an interest subsidy for State and local bonds issued for construction and renovation purposes.

This approach is in keeping with the recent recommendations of the Attorney General's Task Force on Violent Crime that we "should expand where possible the training and support programs provided by the Federal Government to State and local law enforcement personnel" and with a statement by Presidential Counselor Edwin Meese that:

> We can do a lot better in the field of penology and the administration of prisons, but it's going to take money and the public generally is not willing to afford, to provide money for new prisons and better prisons. I think this would be one of our most effective investments.

We need to support the efforts by our State and local criminal justice agencies to control the rising tide of crime and make certain that criminals receive their just desserts. I feel that my bill represents an important start toward achieving the goal of controlling criminal activity and insuring full enforcement of our crime laws.●

SILVER ANNIVERSARY OF GREAT PLAINS CONSERVATION PROGRAM

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. DE LA GARZA. Mr. Speaker, we are within a few days of the silver anniversary of what I consider to be one of the most successful conservation programs of all time—the Great Plains conservation program for the 10 Great Plains States. Just 25 years ago, on August 7, 1956, President Dwight D. Eisenhower signed into law Public Law 84-1021 authorizing the first long-term conservation program in our Nation's history.

The law passed in 1956 allowed the program to expire in 1971. On November 18, 1969, President Nixon signed a law extending the program until 1981. Then on June 6, 1980, President Carter signed Public Law 96-263, which I sponsored, to extend the program until 1991.

In the 1930's, we saw important changes in agriculture which set the stage for the creation of the Great Plains program. Great Plains States, including my own State of Texas, had just experienced the worst drought of modern times. The era of farming with horses drew to a close by the end of the 1930's. Then came World War II with demands for all-out food production forcing rapid farm mechanization. Every available acre of land was put into food production. Weather was favorable, crops flourished, and there was a great optimistic outlook for agriculture on the Great Plains.

Then came the 1950's. The rains did not come, the winds blew, and dust clouds filled the sky. For the second time in a single generation, farmers were exposed to losing everything they had due to the whim of nature and their inability to deal with it; but there was hope. A conservation ethic was emerging with the rapid growth of

conservation districts. The Soil Conservation Service of the U.S. Department of Agriculture was building a corps of personnel with expertise in providing badly needed technical assistance to individual farmers and ranchers. Cost-share programs were adopted to give farmers the incentive to apply certain erosion control practives. Their earlier efforts were good but they were not sufficient to meet the challenge of the 1950's. It was in the course of the long drought of this time that Congress passed the law enacting the Great Plains conservation program.

Under the program, land owners and operators work out complete conservation plans with SCS assistance on the entire operating unit. Contracts last from 3 to 10 years. Cost-share rates on various practices range from 50 to 80 percent.

The program has been highly successful in helping land owners and operators protect their land against drought, wind and water erosion, and also provides greater economic stability to farm and ranch units. Conservation measures and management systems applied on land in the Great Plains area will certainly help them combat the effects of future drought.

We can all take pride and satisfaction in the job done by farmers and ranches working through the Great Plains program. The conservation work they have done has helped them, but the benefits run much deeper than that. Protection of the soils of the Plains provides vital protection to the long-term interests of all Americans and the millions of people abroad who increasingly depend on American farm productivity for their food. If farm productivity declines in the Plains, the whole Nation and the whole world will suffer.

As good as the record is, however, it is not complete. This 25th anniversary of the Great Plains program should remind us that only about 25 percent of the necessary conservation work has been done. The rest of the job is still ahead of us, and we must do it to protect the lives of future generations. We should also give serious consideration to the plan, which has already been approved by the House Agriculture Committee, to apply the Great Plains program principle of targeted conservation to other parts of the country with serious conservation problems.●

CONFIDENCE IN SOCIAL SECURITY

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. O'NEILL. Mr. Speaker, during the Presidential campaign last year, the Republican nominee told the American people he would protect the benefits of all those now receiving social security, as well as those looking forward to receiving those benefits in the future.

After taking office, President Reagan violated that campaign commitment. He pushed through legislation eliminating the social security minimum benefit.

Today, the House of Representatives voted to restore the social security minimum benefit.

This morning, Hon. CLAUDE PEPPER of Florida, the distinguished chairman of the House Select Committee on Aging, made the following statement before that committee. I submit his outstanding remarks for the RECORD and commend them to my colleagues.

STATEMENT OF REPRESENTATIVE CLAUDE PEPPER, CHAIRMAN OF THE HOUSE SELECT COMMITTEE ON AGING, AT HEARING ON ELIMINATION OF THE SOCIAL SECURITY MINIMUM BENEFIT—JULY 31, 1981

Less than half a century ago, our nation was ravaged by the depression, devastated by poverty, devoured by joblessness, and in the case of millions of our fellow countrymen, stripped of hope. Under the guidance of Franklin Delano Roosevelt, we embarked on a bold new course which changed the lives of everyone in America. The New Deal was the name of that course, of which many ideas, people and programs were a part. No part stands taller, none shines more brightly, none has meant more to more people, than Social Security.

Social Security is the shining star which pierces the gloom of want and despair in old age. Ninety-five out of 100 elderly people in this country depend on Social Security; at least 60 percent would be in poverty without it. But Social Security is not a magical blessing. It draws its lifeblood from the confidence and support of the 115 million Americans who contribute each and every working day to its support. Americans support Social Security like no other program, public or private, because they know it will be there to protect them if they retire, become disabled, or die.

Now, I am sure that I am only one of the Members of this House who is troubled by many of the things we hear from those in high places. Only this morning one of the top representatives of our President stated on television that nobody truly in need would lose any Social Security benefits. Does that mean that this Administration is trying to convert Social Security into a means test, that it's a welfare program only, and that's its real character? And that they will have nothing less than that objective?

People weren't so confident about Social Security at the start. But over a period of time, spanning eight Presidents, 22 Congresses, and 45 years, an unshakable, unbreakable, inviolable bond was forged between the Federal Government and the American people. That bond gave people the confidence that they would not be left to the uncertainty and indignity of charity if they lost their livelihood.

This measure that we have before us this morning on the Floor has been arrested, has been converted into inclusion in the Reconciliation Resolution, and destroyed. But with the hope held out by those who have been responsible for its destruction that they will be able to get some money from SSI, to get off of Social Security and on to SSI, a program created by the Congress to take care of the blind, the disabled, and the impoverished of America, the welfare recipients.

People have proudly looked forward to the receipt of their Social Security checks, without a stigma of being impoverished or in the welfare class. There may be some who doubt it, but there are many millions of our fellow Americans who still have a sense of pride and don't want to go on welfare. In fact, the Administration itself has estimated that only a fourth of the people who lose their minimum Social Security benefits will go on SSI. They think they will save money. They are too proud to go on SSI, and they will save money, to kick them off of Social Security on to a program which they will not accept because they feel it tends to degrade them in their status.

In one cruel blow, this Administration destroyed a half-a-century of confidence. I don't know but what the President made an honest and a very revealing statement yesterday when he spoke to the Legislature in Atlanta, the Legislators of the several States. The President said, "We are in the throes of a new revolution." I thought he inferred, if he didn't say it, that he would never be satisfied, nor would his Administration, until it had dismantled and destroyed the social program erected under the guidance of Franklin D. Roosevelt and his spiritual and political successors.

In one cruel blow, this Administration destroyed a half-a-century of confidence. In one cruel blow, this Administration shattered the dreams of tens of millions. In one cruel blow, this Administration has launched the most devastating assault ever on Social Security.

These people, the group receiving Social Security benefits, minimum benefits, two-thirds of them are over 70 years of age. 500,000 of them are over 80 years of age, and a large number even over 90. I'm sure there are a few over 100. They got into the program long ago, when in many instances the occupation in which they were engaged was not covered by Social Security.

My sister retired two or three years ago from a 38-year period of school teaching. She gets a pension from her teaching of about $700 or $800 a month, and $200 a month from Social Security, because she was only in the last few years eligible for Social Security, as so many of these people involved in this category.

Maybe they need to balance the Federal budget, too. Maybe they needed the money to pay for the billion dollar tax give-aways to the truly needy oil companies and other recipients.

I brought out in the Rules Committee yesterday afternoon that the amount of the cuts that have been brought about and are going to be consummated in the Reconciliation Resolution today are just about the same amount of money that will be given back to the taxpayers of this country, mostly to the well-to-do, by the tax bill that we passed on Wednesday.

I wonder if the rider has shifted to the poor, to give the others a tax benefit. Or maybe they just plain don't like the Social Security system. Maybe it started under Roosevelt. For whatever reason, the Administration wants to pull $88 billion in benefits out of the pockets of beneficiaries over the next five years. They want to cut one-quarter of the program and throw it away.

Each one of the Administration's proposals, I must say, is worse than the other. And yet one proposal which stands to save very little money over the long run, stands above the rest in the disregard that we must have for it. The President has proposed, and is within a hairbreadth of succeeding, in slashing the benefits that the people at the very lowest end of the benefit ladder depend on.

The President has made a cruel mockery of his own pledge. "I will not standby and see those of you who are dependent—" Now, what does "dependent" mean? Is that "Philadelphia Lawyer" writing that address for our President, making nice distinctions like a clever lawyer, to be sure that's how the contract will be construed? "Dependent upon", does that mean only 28 percent of the recipients of Social Security depend entirely on Social Security. Are they the only ones that are going to be protected? Is that what they mean by "dependent"? Or does it mean what if you get Social Security along with some other income? If you are "partially dependent", are you dependent? What do they mean by "dependent".

In another case they said those will get back what they earn, indicating that they are going to use a different basis of calculation. And so our President said, "I will not stand by and see those of you who are dependent upon Social Security deprived of your benefits." The 3.1 million people in their 70s and 80s and 90s, who took the President at his word, will be in for a very rude shock when they go to their mailboxes after February of next year—unless the Senate concurs in what I hope we will do here today—to receive the checks that they were dependent on for years. These poor old people didn't realize they weren't what the President had in mind when he gave his pledge.

Maybe they ought to get a Philadelphia lawyer to advise them. They are just plain American people, attributing good faith to our highest executive, to our Administration chosen by the people, thinking that words used in their common understanding, the usual meaning that they had, not with a nice distinction that a technician would draw to safeguard against liability.

There are many compelling reasons not to cut these 3.1 million old people off the minimum Social Security program. Over one-half are near the poverty line, and 1.1 million more live in brutal, abject, grinding poverty.

You know, there are some I'm afraid who have forgotten that a lot of Americans are still desperately and meanly poor. Maybe we should go out more, like Thomas Jefferson when he was in Paris in the throws of a coming resolution. Thomas Jefferson went to many brilliant parties and soirees, but they say in his diaries that the only time Thomas Jefferson ever made any reference to what he did on these excursions into Paris was to go out into the homes of the poor and stick into the mattresses to see how soft the mattresses of the peasants were. I wonder if maybe we shouldn't go on some excursions like that, to see whether there aren't really many poor still left in America.

The proposal will, of course, save money. Much of it is a simple diversion of Federal funds away from Social Security benefits to SSI benefits and administrative costs. And recalculating 3.1 million benefits cases will paralyze the Social Security Administration and cost hundreds of millions of dollars.

But the real reason for keeping our pledge to these people can be said in one word—confidence. There is no reason to eradicate in the blink of an eye the confidence built over the course of 45 years.

Last night I heard a young man speaking to a man from the White House who was standing with me. He said, "I wonder, they are tampering with Social Security so much now, I wonder if there will be anything left when I get there. What will they pay me when I become eligible to receive it."

Today the House will have the first opportunity for a separate vote on the Social Security minimum benefit. This will be legislation today, not and expression of the sentiment of Congress. The 36 million Social Security beneficiaries will be, I'm sure, praying with all their hearts that Congress will take the first step toward restoring confidence in their system.●

WHY I VOTED AGAINST H.R. 4331

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. SMITH of Oregon. Mr. Speaker, I would like to take this opportunity to explain to my constituents in the Second District of Oregon why I voted against H.R. 4331, a bill to restore the minimum social security benefit.

As you know, the social security system will be bankrupt by the end of next year if we do not take decisive action to restore the solvency of the system. The Democrats are presently accusing those of us who advocate responsible action to protect those workers who have paid the price of admission to social security of a callous disregard for the economic situation of elderly Americans. Just the opposite is true. The vote just taken in the House of Representatives was a purely political maneuver initiated by a party which is hard-pressed to find issues which they and the voters can agree on.

The Democrats suggest that if the minimum benefit is abolished, 3 million Americans will no longer receive social security checks. This is an intentional misrepresentation of the truth, calculated to scare elderly citizens who are not aware of how the minimum benefit works. The average recipient of the minimum benefit only worked enough quarters to qualify for $62 worth of benefits per month. Even though this worker earned $62 of benefits, he is currently paid a minimum benefit of $122 per month. I emphasize the fact that anything above the $62 is an unearned benefit. If the minimum benefit were abolished, each worker would be paid benefits at the level which he paid in. If he paid in $62 he would get $62 back out.

Now I realize that there are many elderly citizens who are completely dependent on the minimum benefit for their survival. The vast majority of beneficiaries who receive the minimum benefit would qualify for supplemental security income, and every dollar subtracted from their minimum benefit would be replaced by an additional dollar of SSI.

At the time the minimum benefit was initiated, there was no adequate social safety net to protect low-income elderly with small earned benefits. Today, the Federal safety net of supplemental security income, food stamps, and medicaid can provide a combined benefit of $10,600 per couple for low-income elderly—an amount three times greater than the average minimum benefit. Since this safety net would replace minimum benefits dollar for dollar, the latter has now become a windfall for recipients whose pensions and other income exceeds the safety net floor.

The average individual receiving a minimum benefit would receive $2,122 in 1982 from social security trust funds. He or she would have contributed, based on typical total lifetime earnings for such beneficiaries, less than $355 in social security payroll taxes. Not eliminating the unearned windfall would add $7 billion to the trust fund deficit over the next 5 years, making the social security financing crisis that much more acute and jeopardizing benefits of those who earned them.

Based on General Accounting Office data, it is estimated that 450,000 minimum recipients receive Federal pensions. These retired Federal double-dippers now are estimated to average $16,000 annually from the civil service retirement system on top of the minimum social security benefit for a total Federal retirement income of $18,120. They should only get what they have earned.

In addition, 50,000 minimum recipients have retired spouses who are estimated to receive $18,500 in Federal pension payments. The average family Federal retirement income of these minimum benefit couples is $21,680 annually.

Another 300,000 minimum recipients have working spouses, according to GAO. These working spouses have earnings estimated to average $21,000 annually, for an average family income of at least $23,220 annually, including the social security minimum benefit.

Overall, these social security and GAO data suggest that up to 800,000 minimum beneficiaries have comfortable total incomes which exceed an average of $20,000. This raises considerable doubt that eliminating the minimum benefit harms 3 million people, most of them poor.

The time to take decisive, responsible action is now. We must separate what is a purely emotional response to the social security system, and what is actual fact.●

THE NATIONAL ENERGY POLICY PLAN, OIL AND ENERGY SECURITY

HON. TOM CORCORAN
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, on July 17, the President transmitted to the Congress the Reagan administration's national energy policy plan. I support the approach suggested by the plan, and, as a member of both energy subcommittees of the Energy and Commerce Committee, I look forward to being closely involved with energy issues during the 97th Congress.

Mr. Speaker, for the benefit of our colleagues, I would like to insert in the RECORD at this point the national energy policy plan's sections on oil and energy security:

OIL

Oil still represents about 40 percent of all the primary energy consumed each year in this country, so it is the most appropriate starting point for a survey of energy sources in this section.

The prices of petroleum products, such as heating oil and gasoline, had been increasing steadily before January 28, 1981, when the President eliminated Federal price and allocation controls in U.S. oil production and marketing. The full effects of the December round of OPEC price increases coincided with the removal of the subsidy for imports which had resulted from controls. The combination caused a temporary rise in average domestic prices early this year, but petroleum markets adjusted rapidly. Prices stabilized generally, and have dropped for the past several months. There will continue to be short-term ups and downs in prices; but it is Administration policy to let market forces, rather than government fiat, direct the pricing and sale of petroleum products, as well as investment within the exploration, production, and refining segments of the industry.

There is good reason for optimism about the future effects of this policy on the discovery and production of domestic oil reserves. New oil will not be found unless somebody looks for it. More than 650 land crews and marine vessels were engaged in seismic exploration during May 1981—roughly a 30-percent increase over the level a year earlier. U.S. drilling activity is increasing too. Rising prices prior to decontrol led to a 15-year drilling record in 1979, and it increased still further in 1980. But new drill rigs are coming on line now at a substantially faster rate than they did even last year—with more than 575 beginning operation during the four and a half months after decontrol. Oil well completions for January through April were 41 percent above last year's record during the same period.

The new efforts are productive, even though much of our "easy oil" may be gone. In 1979—the last year for which nationwide industry data are available—additions to reserves were 2.2 billion barrels (about twice the average annual additions reported for 1976 through 1978), and the discovery of new fields accounted for 239 million barrels within that figure. No larger volume of new field discoveries has been added at any time in the past quarter century, except for 1970 (when the giant Prudhoe Bay field in Alaska was added to proved reserves).

Rational development in a free-market economy puts a premium on knowing the available resource base. The Administration's approach toward accelerating exploratory leasing will help raise the degree of certainty in future estimates of our energy resource potential.

By very definition, proved reserves increase to some extent as prices increase, because they are an estimate of the total amount of any resource within recognized fields that can be produced economically over the lifetime of the fields with presently accepted technology. Thus, even wells that had once been considered depleted may again become producers—if economics justify the use of more expensive recovery techniques.

Refiners, too, are responding to decontrol by additional investments. New facilities can upgrade heavy, high-sulfur crude oils into lighter products such as gasoline. Adding only the formally announced new projects to those that have been completed recently, we already see a capability of processing about 600,000 barrels per day of so-called "residual oil" into lighter fuels for which substitutes are less readily available.

Domestic production of oil—along with several other of the energy sources that are discussed in this section—will be greater as a direct result of Administration initiatives to remove unnecessary regulations apart from price. These policy directions are discussed in Section V.

ENERGY SECURITY

A. OIL STOCKPILES

The Nation's energy security can be ensured by a mix of private and government efforts.

A Federal role in stockpile development is essential, because—although the private sector has incentives to develop and maintain its own stockpile of both crude oil and petroleum products—commercial enterprises have no economic reason to achieve stockpile levels that are optimal from the national perspective. Under present conditions, many of the economic, national security, and international policy benefits from such stockpiles accrue to the general public rather than to investors.

To ensure optimal stockpiling of oil, the Administration is working toward a Strategic Petroleum Reserve (SPR) of 750 million barrels by 1989. The SPR will be filled as rapidly as possible, consistent with world oil market conditions and with the availability of storage capacity. In only the first 12 weeks of its tenure, the Reagan Administration contracted for more oil for the strategic reserve than had been contracted during all of 1979 and 1980. At current fill rates, the SPR inventory will more than double during the Administration's first year. Furthermore, various methods are being studied to accelerate the schedule and thus give the United States added protection from foreign oil cutoffs at any time during the 1980s.

Large public and private petroleum stockpiles may be a cost-effective form of insurance. They can lessen the adverse impact of any substantial supply interruption and give time to resolve the problems that may have caused the interruption without the type of severe pressures that can limit diplomatic options. The United States is a major force in the world oil market; so by controlling the short-term effects of supply interruptions on domestic prices, public and private petroleum stockpiles in this country restrain the cost of all imports during a disruption. Furthermore, the very existence of such stockpiles will deter some possible supply interruptions. Reducing the potential economic impact of such interruptions on the United States and restricting the economic benefits to suppliers in the area of a possible disruption leaves us as masters rather than prisoners of any unfortunate situation that might arise.

The stockpiling approach is contrary to past government policies that attempted to manage any oil shortage by intervening in the marketplace. Oil made available from stockpiles actually alleviates a shortage and thus reduces its economic and social losses, without forsaking the principles of free choice for individuals and enterprises.

B. INTERNATIONAL COOPERATION

The U.S. economy and our country's international objectives are intertwined with the economic and geopolitical postures of other free world nations. Thus, security in energy supply is an international challenge. As a member of the International Energy Agency (IEA), this country is committed to cooperation under the IEA emergency oil-sharing system in the event of major oil supply disruptions. Market forces will be the primary means of response to disruptions, but useful adjuncts to those forces may include advance preparations for surge capacity in the production of oil and other energy resources, more flexible methods of using oil stocks during times of emergency, and emergency fuel-switching plans.

C. EMERGENCY PREPAREDNESS

Analysis of previous disruptions of normal oil supply show that imposing an elaborate system of price and allocation controls only drives the social and economic costs higher. Many experts now agree that proposed gasoline rationing programs are administratively expensive and unworkable. A new approach to emergency preparedness is clearly called for, so the approach envisioned by the Administration encompasses the following features:

Primary reliance on market forces to determine the price and allocation of energy supplies, even during an emergency.

Rapid growth in the Government's Strategic Petroleum Reserve, and simultaneous removal of factors that have discouraged private firms from building up their own emergency oil stockpiles (for example, their assumption that government allocations will "rescue" those who have not planned ahead if a supply shortfall should occur).

Development of criteria and mechanisms for making the strategic reserve available for use in case of emergencies.

Encouragement of manufacturers and utilities to stress dual-fuel capability for installations and equipment, so that they could switch readily to the most widely available fuels during a disruption.

Advance planning to permit domestic energy producers to increase output and delivery above optimum levels temporarily during a disruption without economic penalties.

International coordination of emergency response.

The Administration realizes that free markets will not work perfectly during a severe disruption. In general, however, they will work more smoothly, with greater certainty, and ultimately more fairly than complex systems of price and allocation controls managed by the Government. If disruptions should occur in the future, the success of

the Administration's policies should not be measured against normal conditions, but against the chaotic conditions that have been experienced as a result of the rigid "father knows best" approach which was tried in the past for small disruptions. If a major disruption should occur, limited Government involvement might be warranted to make sure that essential services and functions (such as those connected with national security and public health and safety) continue.

Numerous Federal agencies, the States, and the public must all work together to make emergency policies effective in practice. The Administration intends to work closely with the States to ensure that Federal and State plans mesh, instead of moving at cross-purposes to one another.●

REJUVENATION OF TAKOMA PARK, MD.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. HOYER. Mr. Speaker, this past weekend I was pleased to take part in a celebration of the rejuvenation of one of the Washington area's most colorful Victorian communities. The city of Takoma Park, Md., perched on the northern tip of the District of Columbia within both Montgomery and Prince Georges Counties, is a fine community, flavored with the history of turn-of-the-century America. The wooded hillsides bissected by streams have attracted many families since the early 1900's, and they continue to provide a haven for people of all ethnic and religious backgrounds, making the Takoma Park community a thriving and vital neighborhood.

In recent years, the city has been the scene of a major residential revitalization as scores of young professionals have moved into the neighborhood, restoring the gracious Victorian homes located on its quite tree shaded streets.

Now the city fathers have begun the restoration of Takoma Park's aging commerical district located near the Takoma Metro station, launching the Laurel/Carroll Avenue commercial revitalization project. This project unites business, lending institutions, local governments, and the city's citizens in working together to develop a viable commercial district that is sensitive to the neighborhood needs and characteristics.

To herald the revitalization effort, the city held a Victorian Summer Festival on Sunday, July 26, with games, music, contests, and exhibits. It was a fine day, Mr. Speaker, and one which harkened back to a simpler time as the residents and businessmen of Takoma Park, Md., spent a Sunday afternoon visiting together.

The revitalization project in Takoma Park should be an important inspiration to all of the small cities and towns across America which are seeking to refurbish aging business centers now forced to compete with newer commercial districts springing up on the fringes of its communities.

Mr. Speaker, I urge my fellow colleagues to review the Takoma Park experience, and to share with me in the celebration of renewal for our aging towns.●

ALAN EMORY'S "CHINA DIARY"

HON. DAVID O'B. MARTIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. MARTIN. Mr. Speaker, yesterday I inserted into the RECORD the first part of "China Diary," a series of articles by Alan Emory, Washington correspondent of the Watertown (N.Y.) Daily Times and dean of the New York correspondents covering Washington. Today, I am pleased to offer four more articles of that series and, once again, to recommend it to all who recognize the importance of China and our need for more knowledge of that country.

[From the Watertown Daily Times, July 14, 1981]

CHINA DIARY—V

WESTERNERS AN ODDITY IN MONGOLIA

(By Alan Emory)

DATONG. To the 850,000 residents of Datong, a dusty, dry city on the Inner Mongolian border, fair-skinned westerners are a monumental curiosity.

The Chinese stare at these oddities without hostility, regarding them as something like monkeys in a zoo.

The appearance of a western tourist on the street causes cyclists to run into each other and children to be late for school as they flock around the visitor.

The youngsters are fascinated by digital watches, and let a visitor allow one to look through the viewfinder of his camera and he winds up with a long line of other children literally fighting for a chance to be next.

A small bus of tourists in downtown Datong last month was immediately surrounded by townspeople about 12 deep on all sides. When those inside the bus waved greetings, a few of the Chinese waved back, grinning.

At the railroad station early in the morning, people can be found sleeping on the ground, wrapped in colorful blankets, straw hats having been hung on posts. Inhabitants live in homes often 100 years old, some little more than cavities dug into the clay or sandstone, some having rounded tile roofs.

Datong is a coal-mining town, with 13 mines in the immediate vicinity, all of them deep. There is no stripmining.

Nearly one-third of the city's population is involved with agriculture, and the windows of the farm houses this time of year sport brightly colored paper showing the families' wishes for a good harvest.

Early in the morning the local residents head for key street corners where they load buckets with water, carrying them on yokes. Cyclists ride by with containers of human wastes, to be used as fertilizer in the fields. Chickens and goats share with people what would, in a modern city, be a sidewalk, but here is nothing more than packed-down dirt.

On several corners men make fried bread for the Chinese breakfast, rolling out long strips of dough, dredging them with flour, then plunging them into a huge vat of oil over a fire. They are then coiled into rolls or sold as large breadsticks.

Located 150 miles west of Peking and 20 miles south of the Great Wall boundary, on a dry plain, Datong was the 15th-century capital of the Buddhist Northern Wei Dynasty.

Its major point of interest is the 21 caves of Yungang, 10 miles west of the city, reached by dusty roads through hilly country, past one-story mud masonry homes with tile roofs.

The caves, built in the middle of the 5th century, took 100 years to finish. They house more than 100,000 painted sandstone sculptures dug out of a half-mile-long hillside, and the first cave—which visitors are not allowed to photograph—contains a 230-foot-high Buddha with a gold face and blue features. It is a stunning introduction to the place.

There are other huge and intricately carved figures telling a host of stories.

Datong is also home to the largest Nine Dragon Screen in China. There are other Nine Dragon Screens, as well as screens with fewer dragons, in other cities, but this glazed tile work, dating from the Ming Dynasty, is a particularly colorful piece of art, enclosed in a courtyard bounded by a wooden fence.

Other points of interest include the Hua Yen monastery complex, with wood and stone structures dating from the 11th and 12th centuries, and the Shanhua monastery, with its many-tiered pagoda.

Datong has a factory that makes brass pots, with 160 workers and a supervisory staff of 40, working two eight-hour shifts. Most of the workers are from central Datong, though some commute from considerable distances.

Wages vary from $21.60 to $48 a month, depending on seniority and individual productivity. Eighty percent of the employes are women.

The factory proudly displays a commendation for quality and output.

Some of Datong's roads are being widened, with workers painstakingly placing the fill of stones by hand. The weather is hot and the work proceeds at a leisurely pace.

The principal hotel, known, as it is in several cities, as the Guest House, is set well back from the road and guarded by an iron gate.

However, a visitor strolling just outside the hotel grounds can be invited into a local resident's modest home, language barriers notwithstanding.

[From the Watertown Daily Times, July 15, 1981]

CHINA DIARY—VI

ANCIENT PAVILION SITS ATOP "AGELESS SPRING"

(By Alan Emory)

TAIYUAN.—The train traveling through southwestern China from Datong to Taiyuan takes the visitor through long arid stretches, with giant gullies hundreds of feet deep gouged out of the landscape erosion.

Occasionally individuals are sighted out in the wilderness seemingly far from any shelter.

Gradually the scenery shifts to lush vegetation, well-planned fields of crops.

The answer is water.

The water is channeled into running streams, farms have ponds and aqueducts carry the water for longer distances.

Clusters of goats, as well as cattle and pigs, populate the farms.

Taiyuan, the capital of Shanxi Province, has mushroomed to a community of 2 million people. Dating back to the third century, it was visited by Marco Polo. Now it is known for its coal mining and farm machinery industry.

The plain on which Taiyuan is situated reportedly holds some of the richest coal and iron ore deposits in the world.

The coal miners earn about $96 a month—considerably more than the pay at the city's lacquer factory, where the floor is $30 and the ceiling $65, that for old masters. At a nearby steel mill the average is $42 a month.

Lacquer workers whose production tops the average receive bonuses, but they run less than $10 a month.

Between 15 and 20 per cent of a worker's salary goes into a fund to pay for medical care. This contrasts with state-owned plants, where all medical care is free.

The Taiyuan factory is entitled to keep half its profits because the funds to get it started were provided under a cooperative system by older plants.

At the lacquer facility the work day is four hours in the morning and four in the afternoon. Most of the screens and tables there are made for export.

Workers use layers of pigs' blood for glue, and rice paper is a reinforcing ingredient. The outlines of the pictures are traced from master sheets, and the interior parts are painted by hand.

The major point of interest in Taiyuan is the Jin Temple complex, whose buildings are 1,500 years old and span five dynasties of Chinese emperors.

The Complex is a series of pagodas with colorful mosaic tiling and a set of 44 statues of court ladies, displayed in the Hall of the Sacred Mother, dating from the Sung Dynasty. Each statue has a different expression.

The ancient Nanlaochuan Spring, source of a river, has waters that, according to legend, not only refresh but rejuvenate all who wash in them. Tourist try to make a point to drink some of the clear water. The Book of Songs says the spring is always fresh and "never gets old."

Above the spring is 1,400-year-old octagonal pavilion with large inscriptions by famous masters of calligraphy.

Another feature is a 3,000-year-old cypress, whose gnarled branches reach almost across one side of a courtyard.

In another part of the city sheep graze contentedly below the Double Tower Monastery, one of whose towers is under reconstruction.

In the provincial museum, located in a series of temples, there are bronzes, porcelains and examples of embroidery as old as 3,500 years and as "new" as several hundred.

Styles of painting vary, some pictures done with fingernails and palms, others in a more painstaking "classical" style.

One bronze item is what is coming to be known as the "bottoms-up cup," a container in the form of a small dragon with prongs that touch the cheek and a spout that touches the forehead of the drinker when he has drained its contents.

The city is famed for its Apricot Village wine, a potent liqueur that can be purchased in large or small bottles and is produced the same way it was 1,500 years ago, when it became a favorite with emperors.

Fortunately, Taiyuan has an airport. Fortunately, because our original itinerary put us on a train from Taiyuan to Xian for nearly 15 hours.

Instead, the China International Travel Service, the counterpart to the Soviet Union's Intourist Bureau, arranged for our group to fly to Xian, instead, with the flight lasting only an hour and a half.

The service actually provided two planes, a larger one with about 40 passengers and a DeHaviland Otter to carry the overflow.

The plane flew above some of the most spectacular landscape I have every seen, punctuated by the wide, muddy Yellow River.

[From the Watertown Daily Times, July 16, 1981]

CHINA DIARY—VII

TERRA COTTA SOLDIERS GUARD THE GRAVE OF A TANG DYNASTY EMPEROR

(By Alan Emory)

XIAN.—Imagine, if you can, an army of life-size soldiers, made of terra cotta, each different from the other.

The soldiers, with their weapons and horses, were enclosed in a 2,200-year-old tomb that was built in 11 years by 720,000 workers, a 70-minute drive from the fabled city of Xian, capital of Shaanxi Province.

Xian, located in the Wei River valley, was the seat of 11 dynasties under the ancient name of Changan and was chosen as the capital by China's first emperor.

The city was the center of the Tang Dynasty empire, considered the peak of China's literary and artistic achievements.

The soldiers, only 500 of whom have been uncovered and restored, some fragment by fragment, are about six feet tall each, and in battle dress, varied in uniform, face, hair style and expression. There are archers, spear carriers, swordsmen, charioteers, the latter still holding bronze reins.

The army, apparently created by potters using advanced ceramic techniques, and the idea of Emperor Qin Shi Huang, was discovered seven years ago by commune members as they were digging a well.

It, and its burial ground, are enclosed in a kind of airplane hangar surrounded by catwalks for workmen and visitors. No photographers are allowed, though tourist shops sell colored slides.

Xian thrives on antiquity. It is the home of the Banpo Museum, site of a 6,000-year-old village, one-third of which has been uncovered.

The village was discovered as a highway was being built through the region, and experts have reconstructed that the neolithic community was a matriarchal society of farmers.

The village originally covered 12 acres, with about a dozen dwellings, a moat and a cemetery.

Although Xian's population has reached 2.8 million and it is now becoming a tourist center—the largest tourist hotel has air-conditioning and serves ice cream for dinner dessert—it occupies less land than it did under the Tang emperors.

The main downtown site is the Bell Tower, which stands at the intersection of four avenues and provides a panoramic view of the city.

There are two Wild Goose Pagodas in Xian, the most famous being Big Wild Goose Pagoda, a yellow brick tower with seven tiers. It got its name from a story of three monks who were starving for some kind of meat—deer, duck or wild goose.

As the story goes, a monk went outside, saw a flock of wild geese flying overhead, wished for one and it fell dead in front of him. Frightened, he buried it there and built the pagoda on top of it 1,300 years ago.

The courtyard shrine houses Buddhist statues, and a wall map shows the itinerary of pilgrims who brought the sacred writings introducing Buddhism from India to the pagoda.

The charming, fairyland-like Huaqing Hot Springs is renowned for what is called "The Xian Incident," the 1936 capture of Chiang Kaishek by two army generals who felt he was more concerned with fighting the Communists in China than Japanese invaders.

Chiang, according to the story, left his room in such a hurry his false teeth and most of his clothing remained behind and he ran to a cave in the hills that was too small for his body, so he was found with his rump outside. But he was not executed, because his captors were afraid of making him a martyr.

A visitor can dunk in the springs, and a large rectangular pool is framed by weeping willows and delicately painted pavilions.

Xian is home to a large textile mill with 6,000 workers and staff. Seventy percent of the output is for export, but some of the material to make cotton cloth is actually imported. The machinery is made and installed by Chinese.

The mill, which regularly exceeds state quotas, runs four shifts, and workers get two days off. The plant has its own housing, which workers built; a hospital with free medical treatment, primary and secondary schools, self-service dinning halls, a swimming pool, volleyball court and other recreational facilities, all lighted for night activities.

Wages run from about $19 a month to $62, with the average $36. Bonuses run around $3 to $9 a month, averaging $5, for exceeding output quotas. The mill director receives $72 a month, and apprentices are at the lower end of the scale.

At a school in Xian students applaud as groups of visitors enter the classroom.

Kingergarten children greet visitors with a rhythmic clapping and shouts as they line up along a path. Then, for us, they put on a musical show, in costume and make-up, with dance, mime and song, finishing up with "Jingle Bells"—with Chinese words, of course.

Xian's Provincial Museum is a special place itself. It houses a seismograph in the form of a pot with dragons on the outside. When an earthquake is sensed balls fall out of the dragons' mouths into those of bronze frogs surrounding the pot, predicting both the severity of the quake and the direction from which it is coming.

The museum shows the evolution of money from knives and shells and how Emperor Qin standardized money, writing and weights and measures. But he also murdered 400 scholars because he feared they were more clever than he and might try to take over.

A special attraction in Xian is the opportunity to talk with residents who can speak some English.

This is not trick. The Chinese hang around hotel entrances at night, and when visitors stroll outside then or early in the morning they are immediately surrounded by Chinese eager to try out their few words and phrases of English—and sometimes more than that.

One young man recited the Gettysbury Address to a Skaneateles teacher last month, while we were greeted by a teacher of Russian, who had taught himself by listening to English language broadcasts.

And nothing delighted the Chinese more than when this correspondent's wife joined them for some early-morning stretching exercises at Liberation Square.

[From the Watertown Daily Times, July 17, 1981]

CHINA DIARY—VIII

CHINA'S CANTON A CITY OF "STEAMING HOT" HEAT

(By Alan Emory)

CANTON.—China's fourth-largest city is steaming hot.

It swelters in tropical temperatures, and farmers swim in streams near the rice paddies with their water buffaloes.

The city streets are teeming at rush hour, and vehicles crawl along, the drivers leaning on their horns.

Skiffs piled high with vegetables and other goods do big business when they tie up at the riverside docks, and floating restaurants sport large red flags, looking something like an oriental Las Vegas on the water.

The broad river waters dividing the city have strong currents and are filled with freighters, junks and sampans.

Live ducklings are sold on the streets.

Canton, whose modern name is Guangzhou, has a population of 5 million, 60 per cent of which is packed into the center city.

A focal point of international trade—there are two major fairs annually, in the spring and fall—the 3,000-year-old city is a magnet for businessmen from all over the world.

Canton was where Sun Yat-sen founded the Chinese Republic, or Kuomintang, and led the rebellion against the emperors.

Known as the City of the Rams, or the City of Ears of Grain, Canton's legend-tellers say that five celestials came down from heaven, each riding a ram that held a golden ear of grain in its mouth.

The angels then gave the townspeople the ears of grain and blessed them with freedom from starvation forever.

Three rivers converge in the Pearl River delta, and Canton is located in the northern part of the delta. The Pearl divides the city into two areas, one the political and cultural center the other the industrial.

About 13 miles southwest of Canton is the Ta-li commune, run by 19 brigades and 270 teams, with a population of more than 70,000, half of them farmers. The other half work in commune factories.

Rice is the major crop, and it takes 100 days for a crop to grow. Fields yield two crops of rice and one of wheat in a growing year, but the farmers here also cultivate fruit orchards and raise vegetables, sugar cane and peanuts, while the livestock includes pigs, chickens, geese and ducks.

A farm family makes about $60 a month. About $300 a year is spent for rice, oil and other costs, with the money going to the commune. That leaves $420 a year as net income, but a family may also raise poultry and vegetables for its own consumption and sell some farm products—and firecrackers, which commune residents manufacture.

The commune has its own schools, with more than 13,000 pupils, ranging in age from seven to 17. It has a hospital, supported by a family contribution of 20 cents a month.

Thirty per cent of the commune's output is sold to the government, and the operation is self-sufficient.

Visitors are routinely taken in small groups to family residences, but those that are visited seem hardly "typical."

They belong to commune leaders, are brightly decorated, with small rooms, pictures on the walls and a television set in the main room, usually covered by a cloth. The bedroom often has a mat bed, four-poster-style.

One home was owned by a family that actually owned three separate buildings in the commune. The woman worked on the farm, her husband in a factory, and together they earned $1,200 a year.

Canton's points of interest include a host of parks, an orchid garden, the Sun Yat-sen Memorial Hall, a mausoleum of martyrs of the uprising under Sun Yat-sen in which 5,000 died, and the original site of the peasant movement intitute that had been run my Mao Zedong.

In the middle of the Pearl River is Sha Mien Island, which had been a sanctuary for Europeans in pre-war days, but the once-charming villas are now overgrown with weeds.

There is no shortage of hotels, most of them downtown, but the brand-new South Lake Hotel is too plastic and garish, despite its modernity. It is far from shopping areas, the food is poor and the road that leads to the hotel from the highway is too narrow for more than one vehicle to navigate.

The two television channels carry programs in color, but the appeal to a tourist, unless his Chinese is good, is limited.●

H.R. 4083

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. McCLOSKEY. Mr. Speaker, I rise to commend the passage of H.R. 4083, designating certain public lands in California as wilderness, by unanimous consent on July 17. A virtually identical bill passed the House on August 18, 1980, but was killed in the Senate during the lameduck session.

The bill represents both a reasonable compromise as to the amounts and lands set aside for both wilderness and increased timber production—and also represents a fair step forward under the RARE II process.●

SUPPORT FOR ENDING LONGSHORE ACT ABUSE IS BUILDING

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. ERLENBORN. Mr. Speaker, the Longshoremen's and Harbor Workers' Compensation Act, unquestionably the worst workers' compensation law in the Nation, is in dire need of a major overhaul. After 4 years of oversight hearings before two House subcommittees and the Senate Labor and Human Resources Committee, comprising thousands of pages of testimony, it is high time Congress act. My bill, H.R. 25, represents a comprehensive revision of this obscure and unnecessarily expensive program. It corrects the current imbalance in the program by returning the act to its proper moorings, both as a workers' compensation statute and as a means of assuring protection for maritime workers not covered by State workers' compensation laws.

I am not alone in this assessment and, in this connection, announce the names of my colleagues, so far Democratic and Republican, who have agreed to cosponsor H.R. 25. They are Mr. ARCHER, Mr. BADHAM, Mr. BEARD, Mr. EDWARDS of Alabama, Mr. EDWARDS of Oklahoma, Mr. FORSYTHE, Mr. FRENZEL, Mr. GOODLING, Mr. HIGHTOWER, Mr. LOEFFLER, Mr. JOHNSTON, Mr. McCLOSKEY, Mr. PARRIS, Mr. SHAW, Mr. STENHOLM, Mr. WHITEHURST, and Mr. WOLF.

I would be remiss if I failed to mention the heightened attention being paid to the Longshore Act by the Senate. The Senate Labor Subcommittee, chaired by Mr. NICKLES, has completed 3 days of hearings on his bill, S. 1182, which is similar to H.R. 25. The Nickles bill is sponsored by Senators NUNN, EAST, HAWKINS, SYMMS, and HELMS. Moreover, the Senate Permanent Subcommittee on Investigations, chaired by Senator RUDMAN, following an extensive investigation over the past year when chaired by Senator NUNN, held hearings in February on waterfront crime, one major target of which is the extortionist's lode the Longshore Act offers for organized crime and corrupt union officials.

Earlier I said the Longshore Act was the worst workers' compensation law in the Nation. I am not alone. The Supreme Court, as well, has held the act up to contempt. The Chief Justice termed the act "about as unclear as any statute could conceivably be," and Justice Brennan, not to be outdone, referred to it as a "jurisdictional monstrosity."

What is the foundation of the Longshore Act's problems? Its deficiencies extend deeper than the provisions of the statute, themselves. A statute, after all, expresses merely the intentions of a legislative philosophy. So, behind every statute—somewhere—is a legislature's conceptual understanding of the legislation's purpose.

What is the concept of workers' compensation? Since its emergence in our country early in this century, workers' compensation has been conceived as a no-fault means of replacing lost wages

of employees suffering employment-related injuries. That was the purpose of the Longshore Act when enacted in 1927. That, unfortunately, is not the purpose of the act today; and it is here, with the concept of workers' compensation, where lies the Longshore Act's fundamental fault.

With the 1972 amendments, Congress approved a workers' compensation program which reached far beyond its traditional purpose, by incorporating concepts of pensions, life insurance, and punitive damages, and thus perverting the Longshore Act into a new form of social welfare. This excess baggage has strained severely the ability of insurance risk-assessment mechanisms to assure adequate coverage, driven up program costs astronomically, created claims filing incentives and rehabilitation and return-to-work disincentives and, all in all, imposed significantly higher costs of doing business. Not surprisingly, these higher costs have had an adverse effect on jobs and America's competitive edge in the maritime industry generally. I will get back to this point later.

I focus on the conceptual shortcomings of the Longshore Act because that is really what is addressed in H.R. 25 and S. 1182, and because I want to underscore that the insurability crisis in the act stems not from greedy insurance companies ripping off businesses, as organized labor would have us believe, but organized labor's broadened concept of employee social justice. The square peg of workers' compensation cannot fit within the round hole of labor's view of workers' compensation's role. Unless Congress alters the concept of the Longshore Act by ridding the statute of inappropriate provisions, the insurability crisis will worsen. This has been my compass in drafting H.R. 25.

Both H.R. 25 and S. 1182 would return the Longshore Act to its function of replacing lost wages. Benefits for injuries, except permanent total cases, would cease at retirement age because, by definition, retired people cannot lose wages they do not earn. Permanent total benefits would continue for life, because I am concerned that a young worker who becomes truly disabled and has not earned sufficient quarters for social security or whose pension is not vested would unfairly lose financial support at what would be normal retirement age. However, for those premanent total cases not in this extreme category, the bill imposes a benefit offset, so that a retired worker does not reap a windfall through pyramided benefits.

The bills would repeal the unrelated death benefits provision, because life insurance woud not be part of workers' compensation. They also cap death benefits at the same level as disability benefits, reestablishing the link between a survivor's benefits and employment. Gone as well are punitive damages features which have permitted awarding of permanent and temporary partial disabilities without any loss of wages. The bills accomplish this by redefining wage-earning capacity so that benefits are paid only for wages actually lost.

Another punitive damages type of provision is the uncapped annual escalator, in that it overlays an already rich benefits structure and, in itself, probably contributes more to the act's uninsurability than any other feature. H.R. 25 and S. 1182 cap the escalator at 3 percent. Frankly, I believe some escalation is appropriate in today's inflationary economy. Yet, the cap, to be meaningful, and not to perpetuate the insurability problem, must be considerably lower than current inflation. This differential also serves one other beneficial purpose from a legislative perspective: If benefits prove to be inadequate over time, there will be political pressures on Congress to address itself to the perceived shortcomings, and that pressure will permit Congress to reexamine the act on a more regular basis. The cap is, in a sense, a sunset provision.

The other major element of both bills is contracting jurisdiction. The Longshore Act was meant to cover maritime workers who could not constitutionally be covered by a State's workers' compensation law. The 1972 amendments strayed significantly from this purpose. The legislation would go a long way toward reflecting this original purpose.

Against this backdrop, H.R. 25 and S. 1182 should be viewed as merely correcting an imbalance in the program stemming from the 1972 amendments. They most emphatically are not a "gutting of the act" or "vicious" as some labor leaders have so demagogically charged. The shrillness of their voice is meant to cover the weakness of their case. Their reaction reminds me of the mine workers who threatened an illegal strike when the President proposed limiting black lung benefits to those with medical proof of disability due to pneumoconiosis. To believe labor's charges, the President was about to take away benefits from miners disabled by black lung and their widows when this was simply not true.

Moreover, organized labor is incorrect in suggesting that employers now are reneging on their agreement embodied by the 1972 amendments. Specifically, labor alleges that it traded a workers' right to sue a vessel owner for maintaining an unseaworthy vessel in exchange for higher benefits. There was no agreement. The repeal of the seaworthy remedy flowed as a natural consequence of raising benefits, due to the nature of the remedy. Seaworthiness was replaced by a negligence remedy as a Longshoreman's third-party right of action. This right is continued in my bill.

I find the Longshore unions' sudden reverence for the sanctity of agreements refreshing. It should not object, then as it does, to provisions in H.R. 25 repealing unrelated death benefits, and uncapped escalation of disability and death benefits. Employers and insurers contend these elements were not to be part of the 1972 compromise, that they were deceived by Senate Labor Committee staff at a now-infamous midnight meeting when the staff rewrote the bill.

In any case, one yardstick against which to measure a workers' compensation program is the recommendations of the 1972 National Commission on State Workmen's Compensation Law. Personally, I believe the Commission's work, though now somewhat dated, to be a useful contribution to a debate on workers' compensation, although to focus solely on its recommendations as commandments engraved in stone, handed down by some higher authority, is to be narrowminded. Still, this is how organized labor views the Commission's recommendations, so how do H.R. 25 and S. 1182 stack up? Pretty well.

First, the maximum weekly benefits rate remains 200 percent of the national average weekly wage, in conformity with the recommendations of the National Commission. In fact, the National Commission recommended a gradual increase to 200 percent by 1981—this year. The Longshore Act has had this maximum since the 1972 amendments. No other State, except Alaska, has a maximum so high.

Second, there remain no dollar limits on disability, medical, or death benefits and no limit on duration of medical benefits, in conformity with the National Commission's recommendations.

Third, the minimum disability benefit rate is changed from 66⅔ percent of gross wages to 80 percent of spendable income, in conformity with the National Commission's preferred recommendation.

Fourth, the bills continue to pay full benefits during periods of rehabilitation.

Fifth, they require estimates of permanent partial impairments to be in accord with the American Medical Association's guides to the evaluation of impairment, assuring that similarly impaired workers are treated equally. The National Commission recognized that State industrial commissioners lacked adequate criteria for evaluating impairments and cited the AMA guides, specifically, as a useful basis for State commissioners. Some States are now adopting the guides. The Longshore program contains no unified impairment criteria.

Sixth, claims processing in the interest of both employer and employee.

Seventh, a conservator for the special fund is established to prevent unjustified claims on the fund's resources, which would endanger the future payment of benefits from the fund.

Eighth, the bills retain the assessment of employee attorney fees against the employer although in more limited circumstances.

Ninth, they adopt a strict definition of permanent total disability so that, to be judged a permanent total case, a worker must be precluded from earning any wages. This definition comports with social security disability and Internal Revenue Service definitions and, again, is consistent with a recommendation of the National Commission, and most importantly—

Tenth, they do not reduce by 1 cent the benefits of anyone now receiving them.

Incidentally, this legislation deletes provisions of the current act not in conformity with the National Commission's recommendations. I referred to them above: uncapped annual indexation of benefits.

What has been the impact of the 1972 amendments? Truly astounding:

In 1972 the premiums established by the New York State Compensation Rating Board for General Stevedoring was $29.90 per $100 of payroll. As of 1980 that rate had risen to $87.24, translating into $21,000 in premiums for each employee—more than many families earn in a year;

Direct labor payroll of $303 million paid by west coast stevedores generated premiums in excess of $100 million, nearly $10,000 per employee. The annual cost of benefits now nearly equals the cost of all negotiated employee fringe benefits plans;

Skyrocketing retainage of excess insurance purchases, from $30,000 in 1973 to $500,000 now;

Container lift rates nearly 30 percent higher than neighboring Canadian ports, virtually all the differential attributable to workers' compensation, which for one company has become its greatest expense after wages, representing about 8 percent of total costs;

This same company has reduced average annual injuries by 27 percent since 1973 but has experienced a 300-percent increase in premiums. The upshot is continued diversion of cargo to Canadian ports;

For a self-insured company, retention rates have also risen substantially, so that now it faces a possible retention of $1 million. That is, the employer must absorb the first $1 million in the cost of each claim before a reinsurance company will provide excess coverage. The average cost per claim for this company has risen from $1,378 in 1971 to $5,840, an increase of 324 percent, while the cost of living rose only 78 percent. Corporations of similar size experience workers' compensation costs as a percentage of revenues less than four-tenths of 1 percent—.325 percent—compared to this company's 4.6 percent;

Diversion of cargo to Canadian and Mexican ports. Cargo-handling costs of American-flag subsidized vessel operators is now 24 percent of total vessel-operating expense, approximately 60 percent of which is accounted for in cargo handling at U.S. ports;

An efficient Canadian rail system with track in the United States permits easy diversion of U.S. cargoes. Canadian ports are substantially cheaper with a manual rate in Halifax of $2.25 per $100 of payroll and in St. John of $3.50. Export revenue losses from 1974-76 have been estimated by the Commerce Department to run over $90 million.

The act also costs the Federal Government untold millions of dollars. The act has been extended to private sector employers in the District of Columbia and, therefore, it covers all of Washington's subway construction. The Federal Government finances 80 percent of the costs. Compensation payments by March 1981 totaled $131 million, representing $1.9 million for each mile of subway constructed or under construction—66.3 miles. Were workers' compensation costs not so high, it would be easier to finance extension of Metro, including lines to Dulles Airport, and other areas of Fairfax County, Va., and to other points in Montgomery and Prince George's Counties, Md.

Few probably realize the budgetary impact on the Pentagon. Although I have not yet received a report of these costs, pursuant to me and Congressman JACK EDWARDS' requests, I am convinced they will be substantial. The military costs, assumed directly or indirectly, flow from: First, contracting for stevedore services; second, ship construction; and third, extensions of the act—the Defense Base Act, War Hazards Act, and the Nonappropriated Fund Instrumentalities Act—which apply in a military context.

I wonder how many defense dollars will be wasted in refurbishing the U.S.S. *New Jersey* and in building the 600-ship Navy we need, due to excessive Longshore Act costs,

Mr. Speaker, the Longshore Act affects—no, infects—commerce far beyond stevedoring, if that were not tragic enough. Furthermore, it has been a hidden source of higher Government spending which has fueled inflation. The act is one disease that needs curing right away. The antidote is H.R. 25. This bill was not drawn up in the dead of night; it is no "midnight express." It reflects compromises and painstaking review. I am gratified more of my colleagues are sharing my support of H.R. 25.●

HOBSON'S CHOICE BECOMES REAGAN'S CHOICE ON TAX

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. GAYDOS. Mr. Speaker, if the $500 income tax standard exemption of 1946 had been tied to the Consumer Price Index these 35 years, it would be worth $2,123 today, the Library of Congress says.

The $1,000 individual exemption in the tax bill is tied to the index at a future time.

That one change—an exemption that reflects what has happened to the country—would have produced a tax bill that is fairer to working people than anything that has been sent to or debated by this Congress.

Mr. Speaker, I am among what may be a very few Members of the House of Representatives who were not called by the President on the tax bill.

I wish he had called.

I had a question to ask and some things to say.

I would have asked this:

If our 15-year fandango with inflation was caused by Government's refusal to raise taxes to pay for the Vietnam War, which seems to be a consensus starting point, then how can Government now stop inflation by cutting taxes by 25 percent over a very short time while increasing defense spending by $1.5 trillion over a short time?

The proposition does not fit experience; it wildly overlaps it and wishfully defies it.

And I wanted to say: It is an exercise in wishful defiance to expect the bulk of the people to save and invest their tax cut when the bulk of the tax cut goes to the minority of the people; the bulk of the people will have to spend what they get to keep up;

It is an exercise in wishful defiance to expect the bulk of the people to save and invest when the provisions of the bill do not address savings incentive in a way that means anything to people making less than $50,000; for example, rough calculation indicates an individual will need about $6,500 to invest to get full use of the $1,000 exemption for large-denomination savings certificates; and the working people of America can only put their savings away at $50 or, maybe, $100 a month in a good month.

The bill is overgenerous in regard to individuals who make more than $50,000 a year and, in some regards, to business and in energy, and it is an invitation for inflation to step back into the double digits.

It will keep a balanced budget far out of reach and—if the beneficiaries do not invest as theoreticians theorize—it could help institutionalize

these high-interest rates that work such hardships now.

Combined with the budget bill passed earlier, the whole package is so loaded by the administration and backers with specially bargained-for benefits—like sugar price supports—and unknown chits for future cashing that we will be a few years identifying the damage.

A saving feature of the committee bill was that it provided a pause before plunging ahead; if things were not working as planned after the first two steps—if it looks like an application of Murphy's Law rather than Reaganomics—we would not have taken the third, which might be the step that goes over the edge.

But the idea of putting a safety on this particular gun was too conservative for those in power.

So, on the one hand, with the measured and responsible approach rejected by the administration, there still was a tax bill offering to do some of the things that need to be done even if unfair and tilted away from the working people.

And on the other was an economy in trouble, a tax system that is terrible and a part of our problem, and a need to resurrect those things that produce jobs and goods.

The need to try to change the system so there will be more workplaces for more workers was heavier than the accumulated shortcomings of the bill.

I want this particular combination of radical spending and tax cuts to work, and I hope the misgivings I have are misgivings and not premonitions. If they are not, we will spend the 98th and 99th Congresses undoing what this bill will do.

But of the choices available—rejection and no change in a problem causing tax system or acceptance of the administration bill—the decision had to be in favor of change in hopes America's working people will benefit from a renewed industrial base. Therefore, I cast the only vote that was available to me for the workers, and voted yes on final passage of the bill.

The invitation to inflation carries an RSVP. We can start listening for responses on the effective date, October 1.●

THE MILLS BROTHERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. RANGEL. Mr. Speaker, the career of the Mills Brothers has spanned over 2½ score. Through these 56 years they have brought joy to many people of this great country, and all over the world. They have particularly brought pride and joy to the black community, for their music is a true source of happiness and inspiration. Since their career began they paved the way for many later groups in the popular music industry.

They recently were honored by the Temptations at the Savoy, and I would like to share with my colleagues the story that appeared in the New York Times.

[From the New York Times]

MILLS BROTHERS, 56 YEARS AND 2,246 RECORDS LATER

(By Stephen Holden)

With a performing career that has spanned 56 years, the Mills Brothers, who are appearing with Helen O'Connell and Harry James at the Westbury Music Fair this weekend, are not only one of the longest running show business acts, but they also have probably made more records than anyone else—2,246. Originally a quartet, the group now consists of Herbert Mills, 68 years old, Harry Mills, 67, and Donald Mills, 65.

Although their cool three-part harmonies evoke a genteel placidity that is very different in spirit from the emotion-charged gospel-oriented style of most contemporary black groups, the Mills Brothers are regarded as the founders of modern-day black harmony singing. When the Temptations performed a historical tribute to harmony groups at the Savoy recently, their medley appropriately began with the signature song of the Mills Brothers, "Paper Doll." That's because the Mills Brothers were the first singing group to freely incorporate the inflections of band instruments into barbershop harmonies, paving the way for the more uninhibited doo-wop style of 1950's rock-and-roll.

"When we started out in 1925, we were billed as "Four Boys and a Guitar," Harry Mills, the trio's spokesman, recalled the other day. "We were a novelty quartet whose forte was to imitate instruments with our voices."

LESSONS FROM DAD, THE BARBER

The Mills Brothers came from a musical background, both their parents having performed in light opera. When they were growing up in Piqua, Ohio, their father, a barber, taught them to sing. But their style of imitating jazz instruments was something they developed on their own. After having their own successful radio show on Cincinnati's WLW in the late 1920's, the brothers achieved international fame in the early 30's with their recording of "Tiger Rag," a song they had been singing for several years.

"There was a seven-piece band that used to play in our hometown at a club called the Roof Garden," Harry Mills said, "They used to play this little fast tune that didn't have words, and we found out it was called 'Tiger Rag.' That's how we got the idea of trying to sound like a band. We took the song home and started playing with it and finally got some words—'Hold that tiger/Let that tiger go.' After that, we sang it everywhere we went, passing the hat. When we got a little bigger, we recorded it in Indianapolis. But nothing came of it until we went to New York and re-recorded it for Brunswick Records. Then pow, it hit like a ton of bricks."

In the early 1930's, the Mills Brothers were well-known radio stars who sang commercials for Procter & Gamble on one of the first CBS network shows. After "Tiger Rag," they had a series of hits on Brunswick Records that included "You're Nobody's Sweetheart Now," "Sweet Sue," "Lazy Bones," "Old Rockin' Chair" and "Bye-Bye Blackbird." In 1934, Brunswick was bought by Decca, with whom the Mills Brothers recorded for the next 24 years.

The group faced a crisis in 1936 with the death of the oldest brother, John Jr., who sang bass and played the guitar. "We were so broken up, we wanted to get out of show business, but our mother talked us out of it," Mr. Mills said. "So, very halfheartedly, we started auditioning bass singers. Then one day our dad announced he was taking over. Since he had sung bass in his own barbershop quartet and had listened to how John Jr. had imitated a tuba, he fit in perfectly."

John Mills Sr. preformed with the Mills Brothers until his death in 1968, at the age of 85.

SUCCESS WITH THE "DOLL"

In 1943, Johnny Black's novelty ode to the pinup, "Paper Doll," became the quartet's biggest record, launching a string of top-10 hits that continued into the 1950's. As is often the case with novelties, the song's success was as unexpected as it was instantaneous. Recorded in 15 minutes, it had been picked by Donald Mills as the B-side of "I'll be Around."

"Paper Doll" was followed by "You Always Hurt the One You Love," in 1944. Other songs to reach the top 10 included "Till Then," "I Wish," "Across the Alley From the Alamo," "I Love You So Much It Hurts," "Someday (You'll Want Me to Want You)," "Daddy's Little Girl" and "Nevertheless."

In 1952, the group began recording with band arrangements, mostly by the arranger-conductor Sy Oliver. "Glow Worm," their biggest hit with a band, rose to No. 2 on the pop charts. After the 1950's, the hits didn't come so regularly, but "Cab Driver," on their third label, Dot, reached the top 25 in 1968. Since leaving Dot a decade ago, they've recorded an album of country tunes for Ranwood, an independent label.

The Mills Brothers' show today consists entirely of their old hits, revamped with light band arrangements but using the original three-part vocal harmonies. Donald, Herbert and Harry sing first and second tenor and baritone respectively, with a bass guitar filling in the fourth voice.

The sound remains as distinctive and familiar today as it was 40 years ago. "It's in the blood," Harry Mills maintained. "The Boswell Sisters and the Andrews Sisters had it too. It's a family thing."

Tonight's performance begins at 8:30 p.m., tomorrow's shows are at 6:30 and 10, and Sunday's are at 3 and 7:30. Tickets are $9.75 and are on sale at the Westbury box office, at Ticketron locations and through MasterCard and Visa. Call Chargit, 944-9300. For further information, call (516) 333-0533.●

IL PROGRESSO—100 YEARS OF QUALITY AND EXCELLENCE IN JOURNALISM TO BE COMMEMORATED IN NEW YORK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. BIAGGI. Mr. Speaker, on December 13, 1980, a major milestone in U.S. journalism occurred as Il Progresso, the leading Italian language newspaper, observed its 100th birthday. On September 9, 1981, a special 100-page issue will commemorate the 100th anniversary of the founding of this newspaper. I am honored to bring this information to the attention of my House colleagues, and wish to pay tribute to Il Progresso for this marvelous achievement.

In 1880, Il Progresso was founded by Carlo Barsotti to serve the needs of the burgeoning Italian immigrant population in the United States. The first issue was published on December 13 of that year. Il Progresso continued to operate under its original owners until 1928, when the paper was sold.

New ownership and life came to Il Progresso in the summer of 1928, when it was purchased by Generoso Pope, the famous industrialist and philanthropist. Under Mr. Pope's direction, this journal became the leading Italian language newspaper in the United States. It is published daily and on Sundays. To Italian immigrants, Il Progresso became a dear friend, aiding them in assimilating into the United States while allowing them to remain in touch with their homeland.

Throughout its 100 years, Il Progresso has had a profound impact on politics, business, government, education, and the professions. When Generoso Pope assumed ownership of Il Progresso in 1928, Italians and Americans of Italian origin held no high positions in the aforementioned fields of endeavor. By demonstrating the kind of journalistic persistence that has characterized Il Progresso, he let politicians, businessmen, labor people, educators, and professionals know that there were highly qualified, intelligent, hard-working, dedicated men and women of Italian origin available and ready to accept important and responsible positions. Fortunately, the tide began turning; today we can point to great progress, measured by the increased number of Italian Americans in the upper echelons of these fields.

Il Progresso has always used the columns of its newspaper to reinforce the bond of friendship between Italy and the United States. It has consistently been in the forefront of all campaigns to help Italy whenever the country was struck by a disaster. One personal example I can recall occurred following the tragic earthquake which devastated the Friuli region of Italy. Working closely with Il Progresso, we were able to pass emergency legislation providing some $25 million in relief aid to Italy. Il Progresso leadership also aided in raising millions from other sources to help the affected area. Il Progresso has never let the Italian people down in their hours of need.

Another area in which Il Progresso has been in the lead is the battle to end discrimination against Italians. I have worked with Il Progresso throughout my life in public service, in a partnership to eliminate those false stereotypes and stigmas about Italian Americans which have been allowed to exist for too long in our society. This is a battle in which progress, though it is being made, never seems to be swift enough. Yet we would not have made what progress we already have, had it not been for the work of Il Progresso and the Pope family.

In April of 1950, Generoso Pope passed away and his son Fortune Pope became publisher and editor. I am proud to say that Fortune is one of my closest friends, and that under his leadership, many important technical and editorial changes have been made to improve the quality of the newspaper. Through his talent and hard work, Fortune Pope has earned both national and international acclaim and respect. Like his father, he continued to defend and fight for the rights of Italians and Americans of Italian origin.

The profession of journalism is a highly competitive one in these United States. Through some 1,700 daily newspapers and 8,000 weekly newspapers, the multiplicity of journalistic voices in the United States by far surpasses that of the rest of the world. Consequently, in order for a newspaper to continually publish for 100 years, it must maintain both a standard of excellence and a fluidity to reflect the changing times. Il Progresso has done this and much more in its history.

Journalism has always been a profession in which experience is the best teacher. The breadth of experience associated with Il Progresso is remarkable. As it observes its 100th anniversary, Il Progresso looks back with pride on what it has accomplished, and forward—to another 100 years of service. I know my colleagues in the House join me in congratulating Il Progresso on its 100th anniversary.

No tribute to Il Progresso would be complete without a special commendation being extended to the entire Pope family. I have already cited the accomplishments of Generoso and Fortune Pope. Catherine Pope, wife of Generoso and mother of Fortune has been a special inspiration to Il Progresso. Her support and dedication are constant and she has made a major contribution to the success which Il Progresso has and will continue to enjoy. Special recognition must also go to Anthony Pope and Gene Pope, Jr. The Pope family has been deeply involved in many endeavors outside of Il Progresso. For example, they have awarded thousands of scholarships to young American students of all backgrounds. The Pope family combines a strong work ethic with a sense of deep ethnic pride in all they do. They are a family to be emulated for what they have accomplished.●

THE NATIONAL ENERGY POLICY PLAN, NUCLEAR POWER

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. CORCORAN. Mr. Speaker, on July 17, the President transmitted to the Congress the Reagan administration's national energy policy plan. I support the approach suggested by the plan, and, as a member of both energy subcommittees of the Energy and Commerce Committee, I look forward to being closely involved with energy issues during the 97th Congress.

Mr. Speaker, for the benefit of our colleagues, I would like to insert in the RECORD at this point the national energy policy plan's section on nuclear power:

NUCLEAR POWER

For several years, between one-eighth and one-ninth of all U.S. electricity has come from nuclear power. During certain months of the year, nuclear plants now generate more electricity nationwide than those using oil, gas, or hydropower; and nuclear power already accounts for more than half the electricity needs of some States. New plants that are now ready for operation or that are scheduled to be ready by the middle of the decade will raise total generating capacity to approximately twice what it was at the beginning of last year. Looking ahead to the early 1990s, the national share of kilowatt-hours supplied by nuclear power is projected to increase to about 25 percent—based solely on plants now under construction.

Nuclear power has proved to be a safe, economical, and environmentally acceptable energy source. Furthermore, the United States has substantial domestic resources of uranium ore, capable of lasting well into the 21st century as used in the current generation of reactors. Breeder technology multiplies the effectiveness of these resources sixtyfold, so that they could last easily for several centuries.

After the 1973 oil embargo made people more cost conscious about energy, U.S. utilities cut back their projections of future growth in demand for electricity, from 7 percent annually to about half that. Many orders for generating plants of all kinds were cancelled or postponed. The cutback was most severe for nuclear units, however—primarily because excessive and unpre-

dictable government regulatory procedures added cost and time to earlier construction plans, and because the importance of such differences was exaggerated at the time by high inflation rates and high interest rates. Those two factors in the economy worked against capital-intensive projects whose schedule might be stretched out, even though the projects might embody the probability of savings after becoming operational.

The Administration is committed to reversing past Federal Government excesses and to providing a more favorable climate for efficient energy production, thus allowing nuclear power to compete fairly in the marketplace with other potential sources of energy supply. The President's Program for Economic Recovery will reduce inflation and improve the availability of capital to the utilities. Decontrol of oil encourages its more cost-effective allocation and the substitution of lower cost, resource-conserving alternatives, including nuclear power. (See Section III.)

The Economic Recovery Program can provide regulatory relief without compromising safety or basic environmental values. The Administration has the existing licensing process. The Administration will also work with State regulatory bodies to identify and implement needed changes in such areas as siting and waste disposal.

The Federal Government has direct responsibility for two areas that are integral to the future role of nuclear power: (1) proper disposal of highly radioactive or very long-lived wastes, and (2) development of breeder technology to a point where timely commercialization is feasible. In regard to the first, there is no question that technically acceptable means of disposal exist; and the promise has been made for many years that disposal technique(s) would be demonstrated once a number of potential repository sites had been explored and the suitability of a preferred site could be verified through the emplacement of waste. The Administration is taking steps to make that pledge a reality. The Administration's program of breeder reactor demonstration, which contemplates the reprocessing of spent fuel by either the private or the public sector to provide a complete cycle, reflects a similar commitment. With private sector cooperation, the breeder program provides the necessary focus to maintain this potentially important supply option for the future. Appropriate safeguards against the possible misuse of nuclear power must accompany each new step. To further articulate its nuclear power view, the Administration plans to issue a nuclear policy statement.

ELECTRIC UTILITIES

Electricity is not itself a primary source of energy, but it serves as a more flexible and convenient delivery system for many applications of the energy content of coal, gas, uranium, falling water, and a variety of other sources that could be important to us in the future. Thus, electric utilities are consumers, converters, and distributors of energy. They are regulated at the State level for sales to consumers and at the Federal level for "wholesale" transactions. Historically, regulation was meant to prevent utilities from taking advantage of natural monopoly power to charge excessive prices; but some regulations of recent years are not relevant to that purpose (for example, regulations mandating the use of specific fuels). In connection with the Fuel Use Act, the Secretary of Energy has recently exemplified the Administration's preference for allowing purely business decisions to remain with business to the greatest practical degree.

For financial reasons, however, many utilities have not been able to make decisions consistent with real-world economics or based on long-run energy capacity needs. Regulation has increased at an alarming rate, delaying construction and licensing of needed new plants. Cost escalations, coupled with construction delays and the regulatory lag in public utility commission proceedings on rate adjustment, have greatly weakened the financial health of the utility industry. Consequently, that industry is faced with levels of oil and gas usage that are higher than economically disirable, and reliable service in some sections of the country could be threatened during the 1980s because of insufficient generating capacity.

The Administration is reviewing Federal licensing activities, fuel use stipulations, and environmental restrictions, with an emphasis on streamlining procedures, eliminating costly delays and uncertainties, and rescinding ineffective and unnecessary regulations. State public utility commissions will continue to have principal responsibility for economically rational regulation of the utilities.●

THE CASE FOR THE GOLD STANDARD

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. KEMP. Mr. Speaker, one great obstacle stands between us and the beginning of the American renaissance toward which we have worked: the problem of restoring a stable and honest dollar. Like the continental dollar and the Civil War greenback, our latest decade-long experiment with an unbacked paper currency has been a disaster. Since 1971 it has led only to rising prices, rising interest rates, and rising unemployment.

Each time in the past, such unfavorable conditions have been ended only by making the dollar convertible into something of value—silver or gold. I am convinced we must do so again.

No one understands the causes and the nature of our Age of Inflation better than Lewis Lehrman. Lehrman is a successful entrepreneur, a respected academic, and a first-rate, innovative monetary theorist. Because of his eminence, Lehrman was appointed as a member of the U.S. Gold Commission.

In yesterday's Wall Street Journal, Lehrman outlined the dangers to our country of relying on a policy of monetarism, and put forward the case for a modernized gold standard. As Lehrman observed:

Irredeemable paper money has almost always been accompanied by unbalanced budgets, high inflation and high interest rates. But the true gold standard has been associated with balanced budgets, reasonable price stability and low interest rates. Paper money has been the handmaiden of war, protectionism and big government. But the gold standard was the symbol of peace, free trade, and limited government.

Our choice between the two systems is the most crucial of our generation. I commend Lewis Lehrman's excellent article to my colleagues.

THE CASE FOR THE GOLD STANDARD

(By Lewis E. Lehrman)

The U.S. dollar today is an inconvertible paper currency. But this is nothing new. In 1690, the Massachusetts Bay Colony promised a limited issue of 7,000 pounds in paper notes. But by 1714, the colony had issued 194,000 pounds worth, and the value of the paper pound had fallen 70%. Naturally, the politicians blamed the currency depreciation on the people, they being "so sottish as to deny credit to the government."

During the revolution, the Continental Congress financed the war with paper money. "Do you think, gentlemen, that I will consent to load my constituents with taxes," said one member of Congress, "when we can send to our printers, and get a wagonload of money, one quire (25 sheets) of which will pay for the whole?"

Congress issued $2 million worth of continental currency in early 1775. At first, the law required two Congressmen to sign and number each note—a sunlight procedure that much appeals to me. But that implicit restraint limited the number of paper notes, and the issuing technique was soon changed. By 1779 Congress had issued $200 million in continental currency and its purchasing power had fallen to 1/1000th of gold's.

American patriots suffered most of the depreciation, wrote William Gouge, President Andrew Jackson's financial adviser, since they accepted and held the paper money. "The Tories . . . made it a rule to part with it as soon as possible." More than two centuries later, we still hear the phrase "not worth a continental."

PAPER MONEY

During the Civil War, both North and South printed paper money. The Union issued $450 million worth, and the price level more than doubled. Every American knows what happened to Confederate paper money.

In our own time, President Nixon officially uncoupled the last link between the dollar and gold. The U.S. currency became once again in irredeemable paper money issued at will by the government. Since that act in 1971, the money supply has more than doubled, and so have prices.

Irredeemable paper money has almost always been accompanied by unbalanced budgets, high inflation and high interest rates. But the true gold standard has been associated with balanced budgets, reasonable price stability and low interest rates. Paper money has been the handmaiden of war, protectionism and big government. But the gold standard was the symbol of peace, free trade and limited government.

At one time, American companies could sell 100-year bonds paying 4% interest. Because of the gold standard, Americans saved and lent their savings for generations to growing corporations. People saved because the gold dollar's purchasing power did not decline. The price level was no higher in the 1930s, when we left the domestic gold standard, than it had been under President Washington.

Today, we must decide whether to have a nominal paper dollar or a real dollar, defined by its weight in gold; whether to have a budget balanced at current tax receipts, or continued deficits.

Establishing the gold standard would by itself balance the budget. One trillion dollars in national debt will cost the Treasury about $100 billion in interest payments next year, at about a 10% average annual interest rate.

Under the gold standard, the national debt could be refinanced at an interest rate of 5% or less, thus saving at least $50 billion. David Stockman estimates the 1982 deficit at approximately $45 billion.

The road to the balanced budget is paved with the gold standard.

To choose the gold standard and the balanced budget is to choose stable prices, low interest rates and economic growth. To some, that choice seems too simple—a prime reason many economists, politicians, and intellectuals reject the gold standard. Even a balanced budget is too straightforward for them. They want more complex institutions and problems to manipulate.

But a gold-based currency is the only money worthy of a free people. Most Americans cannot afford sophisticated financial and tax advisers, nor an economist to figure out the Fed's actions. Gold money, on the other hand, can be easily understood by everybody, and working people can control the quantity they desire. People, free to choose, decide for gold, because it is democratic money.

Gold is also the best co-ordinator of a world market order. For centuries gold has been a common international currency. A gold dollar would benefit all nations, because there is only one economy, the global economy. Through the mechanism of arbitrage, the prices in all national economies are linked. This is, of course, a good thing. It leads not only to the maximum amount of individual liberty, but also to the maximum production of goods and services, to the special benefit of the poor. To choose the gold standard is to choose openness over isolation.

Inflation is immoral as well as an economic problem. The gold standard, being a human institution, is imperfect. But it is the least imperfect of all monetary institutions. Paper currencies and unbalanced budgets are dishonest and disorderly. The depreciation of the dollar deranges the movement of relative prices and interest rates around the world, and it causes unemployment through misdirected investment and uncertainty.

Above all, inflation fraudulently transfers hundreds of billions of dollars from the weak and honorable to the slick and well-placed. This wealth transfer—from the thrifty to the speculator, from the small businessman to the giant government contractor, from the saver to the spender, from the aged and poor to the rich and powerful—violates our religious heritage, makes a mockery of honest work and erodes our faith in constitutional government.

Today, interest rates are at the highest levels in American history: higher than during the Civil War, when the very life of the nation was in question. The real value of the average worker's paycheck is 14% less than 10 years ago. Small businessmen are being crushed by government bond sales, the result of federal deficits. At present interest rates, Americans can no longer afford to borrow money for a car or a house. They are not consoled by government officials who preach sacrifice for working people while spending more on the public sector.

ALMOST IMPOSSIBLE

The Dow Jones average is 52% lower, in real terms, that in 1971. The bond market is 61% lower, and most companies find it almost impossible to raise long-term capital.

As a remedy we are offered austerity and monetarism. But these well-meaning policies will not work here, any more than in Margaret Thatcher's Britain, where in two years they have doubled unemployment to 11.8%. Compassionate and enterprising Americans reject such an outcome here.

What America needs is a policy of financial order, the Reagan tax program and economic growth. That is why the establishment of the U.S. Gold Commission by Congress was so timely. The commission will consider, in the words of the Helms-Paul Amendment, what role gold should play "in the domestic and international monetary systems."

The National Monetary Commission of 1908 led to the creation of the Federal Reserve System in 1913. The Gold Commission could be as significant, as its work inspires a national debate about the choice between paper money and the gold standard. There is nothing like the free market to determine the real value of a product or idea.

As in the marketplace of ideas, so in the world of money: Now every American must discover again what is false, and what is true.●

REPRESENTATIVE MARTIN REPORTS ON SURVEY

HON. DAVID O'B. MARTIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. MARTIN of New York. Mr. Speaker, it gives me great pleasure to report to our colleagues the results of my first survey of opinions among my constituents on some of the major issues facing our Nation today.

First, however, I want to emphasize how heartened I have been by the interest and concern shown by the 10,134 people, from throughout the seven counties of New York's 30th Congressional District, who responded to my Spring 1981 legislative questionnaire. Many of them addressed the complexities of the issues involved by including written remarks with their responses. These comments, along with every single response I received, will be of tremendous assistance of my work in Congress.

I would also like to emphasize the remarkable level of support among my constituents for President Reagan and his program for economic recovery. This sentiment, I believe, places the 30th Congressional District squarely in the mainstream of American opinion, and I am extremely proud that Congress, as a whole, has recognized that mainstream sentiment and responded in a most appropriate manner.

I know, Mr. Speaker, that the responses of my constituents will be helpful to all of us in the weeks and months ahead as we continue our work in this historic 97th Congress.

Those responses have been listed below by rounded off percentages:

RESULTS OF SPRING 1981 LEGISLATIVE QUESTIONNAIRE

(IN PERCENT)

1. The Reagan Administration has proposed that we sell sophisticated airborne surveillance equipment to Saudi Arabia in order to protect American interests and maintain stability in the Middle East. Opponents of the plan say the kind of surveillance this equipment provides would pose a serious threat to the security of Israel. Should Congress approve the sale? Yes, 60, no, 40.

2. Non-military aid to foreign countries made up approximately 1.12 percent of the U.S. federal budget in 1980. Those who favor foreign aid cite a variety of reasons, ranging from humanitarianism to the maintenance of American influence throughout the world. Others claim that foreign aid money often is misused and, moreover, that we should solve our problems at home before helping others. Do you think we spend too much money on foreign aid? Yes, 58, no, 42.

3. There has been much discussion of tuition tax credits for parents of private and parochial school children. Proponents claim this is necessary to preserve the quality of education offered by our financially strapped private schools and to provide some relief to parents who must pay spiraling tuitions in addition to school taxes. Opponents claim these tax credits would have a damaging effect on our public school systems. Would you favor some degree of tuition tax credit for students (a) elementary and secondary schools? Yes, 47, no, 53. (b) post-secondary education? Yes, 49, no, 51.

4. Another subject of discussion is "Youth Differential" legislation which would permit businesses to hire young people at a lower minimum wage. Supporters claim this would help combat youth unemployment by providing jobs and valuable work experience. Those opposed to this kind of legislation claim it would endanger the higher paying jobs of adult workers. Do you support the concept of a lower minimum wage for teenagers? Yes, 69, no, 31.

5. Some members of Congress are proposing that able-bodied public assistance recipients should be required to work at public service jobs in order to receive payments. They argue that this "workfare" would cut down on fraud and abuse while encouraging welfare recipients to find gainful employment. Others claim that welfare is a benefit to which the less fortunate members of society are entitled; the cost of administering a "workfare" system, these opponents further claim, would offset any savings. Do you support the concept of "workfare"? Yes, 93, no, 7.

6. Among the many proposals for insuring the future financial viability of the Social Security system are some which would gradually raise the age for retirement with full benefits to 68. Proponents of these proposals point out that a retirement age of 65 was established when life expectancy was lower than it is today. They emphasize that any change in the system would not affect those nearing retirement age. Their opponents argue that we should adhere to the traditional retirement age and shore up Social Security in other ways, such as reducing benefits or raising Social Security taxes.

Do you favor an eventual increase in the age of retirement with full Social Security benefits? Yes, 42, no, 58.

In general, do you support President Reagan's plan for economic recovery? Yes, 81, no, 19.

8. How would you evaluate President Reagan's overall performance in office this far? Excellent, 25; good, 47; fair, 16; questionable, 8; and poor, 4.●

AFGHANS BATTLE ON

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. RITTER. Mr. Speaker, I would like to call to the attention of my colleagues some recent statements of Afghanistan made by former Washington Post reporter and now ABC Television producer Carl Bernstein. In a recent article written for the New Republic and a film segment on the June 18, 1981, edition of the ABC news program 20/20, Mr. Bernstein claims that the Afghan Freedom Fighters are receiving all sorts of aid from the United States and other governments which includes, among other things, antihelicopter rockets.

Having traveled to the Afghanistan-Pakistan border to talk with Mujahedin—(freedom fighters)—and having talked with those who have come to the United States to seek assistance or medical attention, I have neither seen nor heard anything that would confirm the Afghan fighters are receiving the types and amounts of weapons and general aid that Mr. Bernstein's reports claim. While I was in Peshawar, Pakistan, which is purported to be one of the main staging areas for supplies going into Afghanistan, I did not see any evidence that would confirm Bernstein's reports.

Last week I met with Malik Muhammed Hussain Wardok, a leader of an Afghan freedom fighter group operating out of the Wardok Province of Afghanistan. Mr. Wardok had spent the previous 3 weeks walking out of Afghanistan so that he could testify in the congressional Helsinki hearings of July 22. During and after the hearings, I met with Mr. Wardok to discuss his situation. Although he claims that many of his men have automatic weapons, these weapons have not come from outside sources but from killing Soviet soldiers and capturing weapons from ambushed troop convoys. Mr. Wardok told me that he had never even seen a heat-seeking missile. This man is on the frontlines all the time and cooperates with six or seven active groups in his region.

What I have learned, however, from the many people who are knowledgeable with the current situation there and from those who are doing the day-to-day fighting, is that the Afghan freedom fighters need assistance. They need SAM-7 or equivalent backpack missiles to stop the helicopter gunships that destroy their people and villages, they need ammunition, and they need medicine and foodstuffs.

While the Afghans are doing better today than they were a year ago, the situation in Afghanistan is not a turkey shoot for the Afghan fighters, as Mr. Bernstein's coverage leads one to believe. I am enclosing, for the benefit of my colleagues, an article by noted Afghan expert Roseanne Klass, which appeared on the July 30, 1981 op-ed page of the New York Times:

AFGHANS BATTLE ON

(By Roseanne Klass)

The Afghan people are more than holding their own in their struggle to regain freedom and national independence. They should not be abandoned by the West, which might be tempted to accept Kremlin terms for a cosmetic withdrawal of Soviet troops in the hope of restoring the atmosphere of détente that was destroyed by the invasion.

Ever since the Soviet Army rolled into Afghanistan on Christmas Day 1979, the world has assumed that the country was conquered. Reports of a growing nationwide resistance, holding its own and even gaining, have been dismissed as bravura boasting by scattered bands of diehard religious fanatics.

But today it is apparent that Afghan resistance, largely under local leadership, is indeed blocking Soviet conquest. After 19 months, 90 percent of Afghanistan, a country somewhat larger than France, is in the hands of the Afghan people. They have paid a terrible price—an estimated one million civilian casualties, and more than two million refugees—but they are united as never before in a singleminded struggle to reject the Communist takeover that began in 1978 and to regain their freedom.

The Russians and the puppet regime that they installed control only Kabul, parts of other cities, major military bases and garrisons, the north-south supply route from Kabul to the Soviet border, and pieces of the north, including the natural-gas fields that fuel the Soviet Central Asian economy.

Even these areas are not secure. Between April 13 and July 15, at least 107 high-level Afghan Communist officials and Soviet officers were assassinated in Kabul, on two occasions at the very gate of the Soviet Embassy at midday. In Herat, a no-man's-land for two years, Soviet soldiers are killed in their barracks. Unable to wrest Kandahar from the resistance, the Russians bombed much of it into rubble in June; two weeks later, the resistance again controlled Kandahar. On June 19, the main Soviet airbase at Bagram was set ablaze, and fuel, ammunition dumps, and aircraft were destroyed. In July, the resistance won Gulbahar on the north-south supply road. The landscape is littered with ruined Soviet tanks and armor.

Contrary to news media reports, the Afghans have received little outside aid. They have fought with the courage and cunning accumulated during centuries of guerrilla resistance to all invaders—and with weapons provided by Afghan forces, who desert en masse, and Soviet troops, who sell arms for hashish, American whisky, and blue jeans. The Afghan Army has disintegrated so badly, and the loyalty of remaining troops is so suspect, that the Russians no longer allow the Afghan soldiers to have antitank and antiaircraft weapons. The regime is reduced to impressing 14-year-olds into military service and ordering civil servants into uniform. Army posts are ringed with mines to keep soldiers in as well as guerrillas out.

Estimates of the Soviet dead run to more than 20,000. The dead are now being buried in Afghanistan because the shipping of coffins to the Soviet Union had become too conspicuous.

Having failed to gain control of Afghanistan, first by proxy in 1978 and 1979 under the regimes of Nur Mohammad Taraki and Hafizullah Amin (aided by 10,000 or more Soviet "advisers" commanding down to the brigade level in the field), and then by using the Soviet Army, Moscow is now seeking to achieve it by diplomatic means.

For months, Soviet officials have been spreading the word that the Kremlin would like to negotiate a settlement. The European Economic Community, eager to restore trade relations damaged by the invasion of Afghanistan, sent Lord Carrington, Britain's Foreign Secretary, to Moscow recently with a proposal for negotiations that was promptly rejected. Undaunted, the E.E.C. hopes to work out terms that would bring the Russians to the negotiating table by late fall.

The Soviet Union has stated its requirements clearly: Its puppets in Kabul would have to participate in negotiations—that is, the Soviet-installed regime would have to be accepted as the legitimate Government of Afghanistan. If the E.E.C. yielded on this point, that would of course legitimize all past Soviet actions and leave the Kabul regime free to keep, or call back, the Soviet Army at any time under a 1978 treaty, regardless of the outcome of negotiations.

That is precisely the sort of sellout feared by the Afghans. The Afghan people won't accept any government imposed by outside powers, or any Communist regime, and would keep fighting. Such a deal would cut off any possibility of international assistance, leaving the Afghans isolated for as many decades as Moscow would need to destroy them. It would force Pakistan to choose between driving two million refugees home to die or accepting them permanently. It would assuredly make a mockery of any claim by the Western democracies to stand for freedom, self-determination, and human rights, and would discourage any future resistance to aggression anywhere in the world.

NOTE: Roseanne Klass is director of the Afghanistan information center at Freedom House, which monitors political rights and civil liberties around the world.●

RESPONSIBLE ARMS CONTROL TALKS WITH THE SOVIET UNION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. SCHEUER. Mr. Speaker, since taking office in January, the Reagan administration has repeatedly stated its commitment to the pursuit of responsible arms control talks with the Soviet Union. However, no real progress has yet been made.

The date for resuming negotiations with the Soviets has been shifted many times. Timetables for beginning new talks have been discussed only in the vaguest terms.

In January, Secretary of Defense Casper Weinberger said that at least 6 months of preparation would be required before Arms talks with the Soviets could be renewed. In late May, President Reagan was quoted as having planned to adhere to an arms talks timetable outlined at a NATO ministers meeting which called for resuming negotiations in December. Now, Secretary of State Alexander Haig has announced that arms control talks will not resume anytime soon.

Mr. Speaker, one must begin to wonder how high a priority the President and his cabinet have assigned to continued progress toward the control of strategic arms.

Two misapprehensions may be inhibiting that progress. First, it is said by some that nuclear arms control is not centrally important to our security. Second, there are those who believe that all strategic arms limitation agreements are necessarily concessions to the Soviet Union rather than mutually beneficial to both sides.

In the nuclear age, national security cannot be measured exclusively in terms of a nation's ability to fight a war and win. Our security depends even more on our ability to prevent the ultimate disaster of nuclear holocaust. In the end, that ability depends on continued progress toward effective arms control.

A responsible arms limitation treaty would enhance our military security as well as our economic strength;

It would free up resources for our domestic needs as well as for conventional arms to deter Soviet adventurism;

It would head off the frightening prospect of an unchecked nuclear arms race; and

It would keep open the lines of communication between the two superpowers at a time when such a dialog is essential.

Let there be no mistake regarding the character of the people with whom we must deal. The Soviet Union continues to be a global predator, snapping up any opportunity to exploit perceived weaknesses in the posture of the West, intimidating the Poles and other East European nations, and perpetrating international muggings such as the continuing brutalization of the people of Afghanistan.

Moreover, Soviet imperialism has always been accompanied by an unprincipled eagerness to employ duplicity and deceit in the pursuit of its ambitions.

None of this diminishes the reality of an ongoing need for strategic restraint. It does underscore the requirement that any negotiated arms control agreement with the Soviets must be verifiable through modern means of surveillance and independent inspection.

Mr. Speaker, President Reagan must decide whether arms control agreements will play an important role in his policy of bolstering our Nation's security. The administration has already demonstrated the qualities of firmness, consistency, and hard bargaining which are necessary for the achievement of a responsible arms agreement. It is to be hoped that those qualities will soon be brought to bear in a new round of strategic arms control negotiations.●

RUDOLF HESS—POLITICAL PRISONER NO. 1—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. McDONALD. Mr. Speaker, there has been throughout the Free World a growing concern for and appreciation of human rights and justice. There is a mounting awareness of the dangers of excessive political power. There is one case, however, that cries out for justice in a voice stronger than all the rest. That is the case of prisoner No. 7 in Spandau Prison, Rudolf Hess.

A review of the Hess case must be read without prejudice, for only the dispassionate mind can follow this tale of world barbarism in a climate saturated with propaganda. Honorable men in America, England, and Europe have expressed the view that Rudolf Hess should be released from prison so that he may live out his life with his family. This release, they feel, is not only humane but just.

It should be pointed out in passing that periodically in Germany today much is made in the news media over activities of neo-Nazi groups. In Germany, such groups are as small as they are comical, with their occasional paramilitary exercises. Such groups have their counterparts in the United States; they are equally comical and have a miniscule impact upon American society and Government. Yet such silly little neo-Nazi groups play a major role with certain elements of the news media.

In the skilled hands of certain media types, these extremist groups are used to smear the legitimate concerns of honorable men and women. That is, the fact that these tiny groups favor the release of Hess is used to imply that anyone who wishes to see justice done in the Hess case is a secret neo-Nazi. That is untrue.

Those whose minds are clouded by propaganda and whose knowledge of history is dependent upon old World War II movies on the television late shows need not read further. None is so blind as he who will not see. This is true in the amazing story of Rudolf Hess, a story of monumental injustice.

Can it be that this injustice is being continued to protect certain high-level wartime leaders? Is Hess a prisoner of the treason of diplomats—a treason against civilization?

Unless death intervenes, October 1, 1981, will mark completion of Rudolf Hess' 15th year as the sole inmate of Spandau Prison in Berlin. These 15 years of solitude lie heavily upon the previous 25 years of imprisonment. On May 10 of this year, Hess had endured 40 continuous years of captivity. He is now 87 years old.

The U.S. Government participates in this protracted torment of a very old man. Our Government's explanation is that we can not help ourselves, because the Soviet Government wishes to continue the torment as long as possible.

Surely this is an excuse unworthy of a great nation.

Few Americans have even an inaccurate notion of who Rudolf Hess is, and virtually none have any accurate notion of why he has been imprisoned all this time, much less why the U.S. Army must still detail American troops to prevent his release.

Rudolf Hess was born in Alexandria, Egypt, on April 26, 1894. His father was a prosperous German merchant, his upbringing comfortably middle class, his education directed toward having him follow a career in commerce. Before his basic dislike of this prospect could cause family problems, World War I intervened; Hess volunteered. After being repeatedly wounded in ground combat, he was commissioned and assigned to the flying corps.

After the war, as a veteran in a Germany crushed by military defeat compounded by the notorious Versailles Treaty and by determined Bolshevik efforts to exploit the condition of the nation, Hess returned to his studies. Abandoning commerce, he studied history, economics, and political science at Munich University. The professor who was to influence him most profoundly was Karl Haushofer, a world renowned geographer and exponent of broad geopolitical theories.

At the same time, many veterans, Hess was appalled at what was happening to his country, and sought out groups which offered some way out of the imposed poverty, humiliation, and disorder which afflicted Germany.

In 1923, Hess encountered Adolph Hitler at one such meeting, and fell under his charismatic spell, believing that Hitler was the type of man necessary to restore Germany to its previously respected status, Hess became a

devoted follower, and participated in the so-called Beer-Hall Putsch in Munich on November 8, 1923.

The failure of the attempt led Hess to seek refuge with professor Haushofer, where he was safe for a while. Eventually, however, both Hess and Hitler were sent to Landsberg Prison, Hitler with a 5-year sentence, and Hess with a sentence of 18 months.

It was here, of course, that Hitler wrote Mein Kampf. Since he did not type, Hess helped him in this and other ways, and it was through Hess that Professor Haushofer's geopolitical theories entered the book, with far-reaching consequences indeed for Haushofer.

Both Hitler and Hess were released early from Landsberg, in 1924. Hess thus became first unofficial, then official private secretary to Hitler, a title which became "personal adjutant" in 1929, and in 1933 he became officially a deputy to Hitler and Reichsminister without portfolio. He held these positions until the events of 1941.

Hess was close to Hitler as his trusted deputy, of long-standing proven loyalty. He did his best to do what Hitler wanted him to do. He never tried to escape any responsibility through the plea of "only following orders", and his flight to England in 1941 was a startling exhibition of his personal initiative. It was simply in the nature of Hess' relationship to Hitler that he carried out policy to a far larger degree than he helped to formulate it.

His actions during the 1930's were later combed over thoroughly by investigators for the International Military Tribunal at Nuremberg. Yet details of the charges of which he was found guilty appear, in retrospect, remarkably vague and even trivial. For example, Hess was ponderously convicted of having signed Germany's draft law in 1935.

Rudolf Hess maintained his friendship with Professor Haushofer and his family; he protected them from the Gestapo, because Haushofer's wife was Jewish, and his son Albrecht was rather outspokenly anti-Nazi, even though he was employed in the German Foreign Office under Joachim Von Ribbentrop. It was either partially or entirely through the Haushofer connection that Hess was drawn to make the flight which was the most dramatic and fateful move of his career, the event which often constitutes the sole reason why his name is remembered.

The geographic and political position of Germany, its placement between both strong powers which are active or potential enemies, and weak powers which can be used as pawns, imparts a great complexity to its foreign affairs. The political basis of the wars of Europe since Germany became a strong, unified nation in the late 19th century will be addressed at another time.

The bare facts of Rudolf Hess' flight to Britain on May 10, 1941, are that he took a Messerschmitt 110 fighter, which he had been privileged to fly, and sought out the airstrip on the estate of the Duke of Hamilton near the west coast of Scotland. Hess could not find the strip, but knew that he was close, so he parachuted to ground; he landed, with minor injuries, about 10 miles from his objective, and was taken into custody.

The entire episode was thereafter at the mercy of wartime security, censorship, and propaganda efforts, so that almost any aspect of it is, to the present day, debatable in some way by someone. There is general agreement that Hess sought to prevent further armed conflict between Britain and Germany. We must stop short here, because acrimony swirls about his presumed reasons for doing so.

Another question which probably should be regarded as settled by now, but which still arises from time to time, is whether Hess made his flight on his own initiative, or whether Hitler sent him. Not only does Hess insist that he went on his own, but Hitler certainly would not have dispatched a close aide with a head full of state secrets to his enemies, without a shred of diplomatic or any other protection. The clinching argument might be that the Nazi propaganda organization needed 3 full days in order to come up with the least damaging "party line" on the subject, which was that he had been acting strange lately.

The matter of sanity, or lack thereof, has been addressed primarily by the British. The fact is that Hess is remarkably sane, especially under the circumstances. He has been the object of the attention of nearly 200 psychiatrists during his 40 years of captivity. Some of these gentlemen were not gentlemen, either. Hess developed the feigning of amnesia to a fine art and devised other defenses against the mindbenders, and they do not like being fooled.

It is wise to keep in mind that the British, far from choosing to reveal what Hess had to say when he landed, have kept that information secret since 1941, and the interrogation transcripts remain officially sealed until the year 2017.

Why? Which individual or individuals are being protected? We should remember that even the documents confirming the *Lusitania* conspiracy of 1914 were only sealed for 50 years, so that we are only now seeing the evidence of how Winston Churchill and Franklin D. Roosevelt were linked to the sinking of the *Lusitania* to cause well over 1,000 civilian casualties, largely American, in order to incite a surge of anti-German sentiment in America. Churchill, of course, hoped to bring America into the European war on the British side.

After his arrival in Britain, Hess never saw the Duke of Hamilton, but became the guest of British intelligence until October 1945. He was then transferred to Germany to participate involuntarily in the famous Nuremberg trials, the proceedings of the four-power International Military Tribunal.

World War II was a monument to both duplicity and brutality. Yet anyone anxious to parcel out blame should hold short, while completing a close reading of the preceding 100 years of European history, as well as the history of the world at large since 1945.

Everybody committed atrocities. Everybody engaged in treachery. Britain invented the concentration camp during the Boer War. Stalin practiced genocide more enthusiastically than Hitler—not to speak of our newfound friend in Southeast Asia, Pol Pot. The list is endless, the cynicism boundless, numbing to all sense of justice and morality.

At Nuremberg, the victors invented an ex post facto set of laws which have had but one application ever, to the losers of World War II. All of the "crimes against the peace," "war crimes," and "crimes against humanity," the three classes of crime devised for Nuremberg, have been committed enthusiastically all over the world since 1945–46, but there do not seem to have been any further indictments.

Hess was charged with all three classes of crime, and convicted only of "crimes against the peace." The specific actions included his signing of the German draft law in 1935, and his giving of a speech in support of the Hitler-Stalin Pact of August 23, 1939. The fact that every participating nation had a draft law, or that the judge representing the Soviet Government thus represented a cosigner, did not seem to have any bearing upon the proceedings. Of course, there is no question but that Hess had carried out Nazi Party policy up to the moment of his May 10 flight.

Hess and his codefendants assumed, rather reasonably, that the tribunal would do with them as it wished, and aside from being forced to attend, they had no desire or even reason to take part in the charade.

Hess was charged with the full array of Nuremberg crimes. Yet it is vital to note that, even in the charged atmosphere prevailing Hess was found innocent of "war crimes" and "crimes against humanity."

Nevertheless, Hess expected the death penalty. Life imprisonment, in Western practice, offers some glimmering hope of freedom; in Stalinist practice it did not, and to the heirs of Stalin, evidently it does not.

Senator Robert A. Taft, a strong voice of American conservatism, in 1946, commented upon the Nuremberg trials and executions as follows:

The trial of the vanquished by the victors cannot be impartial no matter how it has hedged about with the forms of justice. I question whether the hanging of those who, however despicable, were the leaders of the German people, will ever discourage the making of aggressive war, for no one makes aggressive war unless he expects to win. About this whole judgment there is the spirit of vengeance, and vengeance is seldom justice. The hanging of the eleven men convicted will be a blot on the American record which we shall long regret.

In these trials, we have accepted the Russian idea of the purpose of the trials—government policy and not justice—with little relation to the Anglo-Saxon heritage. By clothing policy in the forms of legal procedure, we may discredit the whole idea of justice.

Pope Pius XII, who knew a very great deal about the intrigues of Europe's two disastrous wars in this century, stated that:

* * * the uninvolved party is shocked at seeing how the victor sentences the vanquished for war crimes after the cessation of hostilities, while the victor has been guilty of similar offenses against the vanquished.

Between 1946 and 1966, almost nothing was heard of the inmates of Spandau. The book "Prisoner No. 7: Rudolf Hess," Eugene K. Bird, who was for several years the U.S. director of Spandau, reveals the round of daily life quite well. Prisoners and keepers, in such small numbers, were inevitably on rather familiar terms. In fact, they grew old together, giving the impression to the reader of a home for indigent men with higher authorities constantly struggling to negate everyone's better nature, through the enforcement of a prison regime.

Colonel Bird tried to make life as bearable as possible for the solitary old man who had been selected as a kind of human sacrifice. He says that he was also detailed to wrangle certain items of information from him, which he did, and after he had done so, his own higher authorities belatedly discovered his bending of the Soviet-style rules and sacked him.●

INTRODUCTION OF NONTAXATION OF HOLOCAUST REPARATION PAYMENTS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. GARCIA. Mr. Speaker, I am extremely glad to be here today to be able to help right, at least partially, one of the great wrongs of recent history. A mere four decades ago the German National Socialist regime was in power across Europe. People were fighting to retain their lives, their homes, their way of life, and their ideas. One group of people was fighting more than that. These people, the Jews, were fighting extinction.

The world has long since realized the horror of those years, and the evil genius that lay behind the Nazi's. After the war was over, and the damage done and cleaned up, the various governments involved had to account for their actions. For the victims of the holocaust that accounting has come to mean reparation payments, payments so that the people who suffered the total destruction of their lives, the death of family and friends, and the horrors of the concentration camps could be paid back in some way for the atrocities they suffered through.

We, as Americans, long ago realized that the taxation of these moneys would be cruel, and useless. The Government rightly decided not to further burden those who have already been through so much. Unfortunately, we did not follow up that decision. Recently, one of my constituents, a Mrs. Sonia Gorin wrote me. Mrs. Gorin was born in Kovel, Poland. After she finished her education, she took a degree in nursing. At that point the Germans overran Kovel and carted Mrs. Gorin off to a concentration camp. She was eventually interned in five different concentration camps. This good woman has decided to use the funds the German Government gave her for her dreadful experiences to help others. Sonia's dream is to help provide a good education for children in Israel whose parents are not able to do so.

Right now the U.S. Government is taking that dream away from Mrs. Gorin by taxing her special savings account which contains the payments from the German Government. I see no reason why we should continue to harm these people who have suffered so much, who have had so many burdens placed on them. The amount of money gained from taxation of these reparation payments is small. The bill I am introducing today is designed to stop the taxation of savings accounts which contain reparation payments. With the introduction and passage of this bill the American Government will no longer be oppressing people like Mrs. Gorin and their dreams but will be helping to right the great wrongs of the last few decades. Passage of this bill hurts no one and only helps restore those people who have been so sorely harmed.●

THE TAX CUT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. DASCHLE. Mr. Speaker, a principal difference between the Ways and Means Committee tax bill and the Conable-Hance tax bill was the size of the tax cut for middle-income taxpayers. Compared to the Ways and Means Committee tax bill, the Conable-Hance substitute which was approved by the House provides substantially less tax relief for individual taxpayers earning between $10,000 and $50,000 per year, the overwhelming majority of taxpayers, and much larger tax cuts for the wealthiest taxpayers.

According to an analysis prepared by the Joint Tax Committee, under the House-approved Conable-Hance tax bill, 35.1 percent of the individual tax cuts will be received by only 5.6 percent of the taxpayers. This seriously disproportioned distribution of individual tax cuts for individuals is grossly inequitable and no amount of cosmetic rhetoric to the contrary will disguise the simple fact that the Conable-Hance tax bill greatly favors the wealthiest.

Unfortunately the vote on the tax bill in the House was not limited to the tax cut plan contained in the Ways and Means Committee bill which I favored versus the tax cut plan for individuals contained in the Conable-Hance substitute which I opposed and with reluctance I supported the Conable-Hance substitute tax bill.

Mr. Speaker, the gross inequities in individual tax cuts contained in the Conable-Hance substitute have been explained clearly in a recent article written by Washington Post staff writer Thomas B. Edsall and I ask unanimous consent that this article appear in the RECORD at this point.

UNDER TAX BILL, 5.6 PERCENT WOULD GET 35.1 PERCENT OF CUTS

(By Thomas B. Edsall)

Under the tax bill passed Wednesday by both houses of Congress, 35.1 percent of the individual tax cuts in 1982 would go to 5.6 percent of the population—those making $50,000 or more a year.

The share going to the top 0.2 percent of taxpayers—those making $200,000 or more—would be 10.4 percent, according to figures compiled by the Joint Committee on Taxation. This translates into $3.58 billion of the $34.6 billion 1982 cut going to the top 162,000 taxpayers out of a total of 77.2 million.

For the average taxpayer in the range of $20,000 to $30,000, this would mean a break of $398 in 1982; the average reduction for those in the $30,000-to-$50,000 range would be $751. For the taxpayers receiving above $200,000, this would mean an average cut of $22,129.

At the bottom end of the scale, there are 31.7 million filers who make $15,000 a year

or less; this group, 41 percent of the total, would get 8.5 percent of the 1982 cut, according to the committee. The average reduction for those making $10,000 to $15,000 would be $147 in 1982.

The administration and Republican sponsors of the legislation have supported this apportionment on two grounds: that it distributes tax cuts in proportion to the amount of taxes paid by income groups, and that by granting large cuts to the wealthy, savings and investment in economically productive activities will grow rapidly.

In this respect, the legislation represents a rejection of policies implicit in many past tax bills of using the legislation to increase the progressivity of the distribution of income.

Instead, the GOP argument is that, by taking a gamble on supply-side economics, the general improvement resulting from a tax bill granting significant benefits to the well-to-do will, in the long run, result in an improvement in the quality of life for everyone. Liberal Democrats contend this policy as it has been translated into the individual rate cuts in the tax bill amounts to a return to the "trickle down" economics of the 1920s.

Republicans point out that the 5.6 percent of taxpayers making more than $50,000 pay 33.8 percent of the taxes. The 0.2 percent of those making more than $200,000 pay 7.4 percent of total taxes.

The joint committee's figures do not include a child-care provision that was included in the Senate bill, but is not in the House version.

In addition, the distributional tables do not reflect a variety of other provisions that do not directly alter income-tax tables, including major breaks for oil producers and royalty holders, the near elimination of the estate tax, and exemptions for charitable contributions.

If the House-Senate conference committee that is expected to start work on the legislation today approves the child-care credit, it is likely to benefit those in the lower- and middle-income brackets. Most of the other provisions would result in additional benefits for those with high incomes.

The legislation calls for individual rate cuts totaling 25 percent over three years. In a series of hypothetical examples for 1984, the joint committee found that under the legislation a one-earner couple getting $5,000 in wages would get no tax reduction; at $10,000 the reduction would be $83; at $20,000, $464; at $30,000, $914; at $40,000, $1,438; and at $50,000, $2,158.

For a two-earner couple, these benefits would grow because of the reduction in the so-called marriage penalty. In the upper-income brackets, the difference would not be significant, but for a two-earner couple making $10,000 the break would be $702 instead of the $83 for a one-earner couple.

For those with income from investments and savings—known as unearned or property income—the break under the legislation would be far more significant because of the drop in the maximum rate on this form of income from 70 percent to 50 percent. For a one-earner family with $100,000 in property income, the break in 1982 would be $6,478. At $200,000, the break would grow to $17,514, and at $500,000 it would be a cut of $62,204.●

DISAPPROVAL OF CZM CONSISTENCY REGULATIONS

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. PRITCHARD. Mr. Speaker, a concept central to the Coastal Zone Management Act (CZMA), enacted in 1972, was that the most effective protection and management of land and water resources of the coastal zone would result from encouraging the States to exercise their full authority over these resources. As a result the responsibility for planning and implementing coastal zone programs was given to the States. It also was recognized that activities occurring beyond State boundaries or as a result of Federal programs would affect coastal resources and that it was necessary to insure the coordination of these activities with the planning and management efforts of the States. For these reasons, provisions were included in the act requiring that Federal activities affecting the coastal zone be conducted, to the maximum extent practicable, in a manner consistent with approved State coastal zone management programs.

These consistency provisions have generated conflict principally in one area—OCS leasing activities. The States and NOAA have maintained that preleasing activities, the selection of tracts and formulation of lease stipulations, directly affect coastal zones by initiating a process culminating in development activities which will cause economic and environmental impacts, and which will alter land and water uses. Therefore consistency determinations are appropriate at this stage of the process to encourage the early participation and cooperation of the States. The Department of the Interior has not acknowledged that their leasing decisions directly affect coastal zones and therefore has been unwilling to consider consistency with State CZM programs.

In attempting to resolve these disputes, NOAA decided to issue regulations defining the term "directly affecting the coastal zone" which is the key test triggering consistency determinations. The rules, published on July 8, 1981, represent a total reversal of NOAA's position on this issue. The interpretation adopted is highly restrictive, limiting consideration to "identifiable physical alterations" and delaying the application of the consistency provisions to late in the planning process. This effectively excludes the States from meaningful participation in decisionmaking when plans are still flexible and when a comprehensive overview of the project is still being considered. The exclusion of consideration of State CZM programs is likely to result in litigation at later stages of development. This outcome directly contradicts the spirit of coordination and cooperation which was the intent of the consistency provisions in the CZMA.

Therefore, yesterday I joined in cosponsoring a resolution disapproving NOAA's regulations interpreting the term "directly affecting the coastal zone" as published on July 8, 1981. In promulgating these regulations NOAA and the Department of Commerce have failed to meet their responsibilities for insuring that the objectives of the CZMA are met. These regulations will diminish the effectiveness of State CZM programs by excluding consideration of major activities which will affect their coastal zones. This can only reduce coordination and thus frustrate efforts at comprehensive coastal zone management.

I agree that clarification of the term "directly affecting" is needed to resolve the conflicts which have arisen and which will continue to arise. I hope that NOAA will submit revised regulations which recognize the importance of the role of the States in implementing the CZMA and which adhere more closely to NOAA's historical position of strongly supporting the objectives of the act.●

ROBERT MOSES—GREATEST BUILDER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1981

● Mr. BIAGGI. Mr. Speaker, on Wednesday, New York, and the entire Nation lost our greatest builder—Robert Moses. He had a greater role in designing New York's physical plant than any other man during the 20th century. His vision of large apartment towers, landscaped highways, open parks, and beaches became the face of New York, and other metropolitan areas throughout the Nation.

Robert Moses believed "it is important to get things done," and "those who can, build." He lived up to both statements. During his more than 50 years in public service, he constructed hundreds of public works projects throughout the State. He was a man of extraordinary energy—often working 15 hours a day, and at one time occupying 12 positions simultaneously. They included, New York City Parks Commissioner, head of State Parks Council of the State Power Commission, and Chairman of the Triborough Bridge and Tunnel Authority.

He focused his projects on the rise of the automobile and the suburbs. His highway, bridge, and tunnel projects, made New York the first city prepared for the automobile age. His

work became the model for such efforts like the Los Angeles freeway system. He believed that "we live in a motorized civilization," and his work reflected that.

Robert Moses was not an architect, nor an urban planner. He was a political scientist, educated in Yale, Oxford, and Columbia, who used his education and energy to implement his vision of the public good.

His first, and one of his greatest achievements was the creation of Jones Beach, on the south shore of Long Island. Despite opposition from some of the rich landowners on Long Island, he created a family resort for the masses of people from the city and suburbs. In 1930 Jones Beach opened, complete with bathhouses, restaurants, a bell tower, and an outdoor theater. It is still used as originally planned.

During the Depression, as head of both the city parks department, and the Triborough Bridge Authority, he created mass public works projects. In 1934, within months he had completed 1,700 projects from rebuilding the Central Park Zoo to park bench repairs. In the 1930's he built hundreds of playgrounds, and parks. His highway projects included the Laurelton, Gowanus, and Henry Hudson expressways.

Robert Moses changed the face of New York. It is impossible to conceive of modern New York without his influence. From the thirties to the sixties his power was almost complete. He transformed a modest State park system into one that includes 2,567,256 acres. He built 658 playgrounds in New York City alone. He created 416 miles of State highways and seven bridges. His projects ranged from the 1964-65 World's Fair, to the Lincoln Center for the Performing Arts, to Jones Beach, to the metropolitan area highway system, to the Triborough Bridge, to housing projects throughout the State.

His overwhelming presence in the New York park and highway systems brought him great nationwide influence as his ideas were used, copied, and reacted to. Robert Moses, was known as an advocate of landscaped highways, parks, and open spaces. He symbolized the sweeping, commanding approach to urban renewal.

I extend my heartfelt condolences to his wife Mary, and his children Barbara Olds, and Jane Collins, and to our entire State. We have lost a great source of energy, ideas, and action. But if anyone seeks his monument they do not have to look far. New York's highways, bridges, and parks are all monuments to Robert Moses.●

MSHA GETS GAO SEAL OF EFFECTIVENESS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. GAYDOS. Mr. Speaker, few things are as rare as a compliment from the General Accounting Office, so it is a pleasure for me, as chairman of the Subcommittee on Health and Safety, to report that the Mine Safety and Health Administration has been judged and found effective.

The General Accounting Office (GAO) recently studied coal mining in the United States, and in the study made observations and judgments on the Mine Safety and Health Administration (MSHA) that should be of interest to the House; coal occurs in 52 percent of the States and virtually no State is without mining of some kind.

Although safety was not the point of the study, it was a part, and MSHA drew high marks.

Among GAO's conclusions were these:

MSHA regulation dramatically reduced fatalities in coal mines;

MSHA regulation improves fatality rates by preventing disasters;

Fatality rates underground declined by 10.8 percent annually between 1969 and 1978;

Fatalities underground and in strip mines have declined since 1970 and, before the act was passed, the fatality rate in strip mines was rising;

Strip mine fatalities declined an average of 16.1 percent between 1969 and 1978 while they had been rising prior to passage of the act;

Underground fatalities for 1977 were about half of what they would have been if fatalities had continued at pre-act rates;

Six disasters killed 84 workers in the 8 years following passage while the 8 years preceding passage saw 12 disasters kill 221 workers.

Congress passed the Mine Safety and Health Acts of 1969 and 1977 in response to disasters and rising worker deaths. MSHA has reduced those deaths. MSHA does what Congress intended, Mr. Speaker.

In this relatively new agency we are developing a body of knowledge and the ability to apply it; this is paying off now and will pay bigger dividends in the future as MSHA gets better.

This is true in mining coal and in other forms of mining. Those who would change the act beyond fine tuning should bear in mind that the act was passed because mining deaths caused a public outcry, and that Congress is getting from MSHA exactly what it intended—a reduction of deaths.

Mr. Speaker, my next remarks on mine safety will focus on the nature of death in an underground coal mine.●

SUBSIDIES FOR SYNTHETIC FUELS INDUSTRY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. DOWNEY. Mr. Speaker, our colleague from Connecticut, Mr. MOFFETT, has been leading an important and thorough investigation into the use of Federal dollars to subsidize the synthetic fuels industry.

Apparently Mr. MOFFETT's actions have led to direct involvement at the highest levels of the White House.

In the recent Washington Post article, correspondent Martin Schram examined the dispute that has developed over the question of taxpayer funding of oil company synthetic fuel programs. At this point in the RECORD, Mr. Speaker, I wish to insert that Post story:

[From the Washington Post]

SUBSIDIES FOR SYNTHETIC FUELS INDUSTRY

(By Martin Schram)

Stepping in to referee a bitter cabinet dispute, President Reagan yesterday overrode the strong objections of Office of Management and Budget Director David A. Stockman and authorized Energy Secretary James B. Edwards to sign a Union Oil synfuels contract—just in time to rescue his energy chief from a contempt-of-Congress citation.

Reagan's decision, which was never announced by the White House but was disclosed by an administration official, promptly led the House Government Operations Committee to cancel a vote set for today on a subcommittee resolution citing Edwards for contempt of Congress.

"We had the votes by a big margin and they knew it, " said Rep. Toby Moffett (D-Conn.), chairman of the energy subcommittee that had earlier cited Edwards for refusing to provide subpoenaed documents concerning the Union Oil Co. contract to build an oil shale plant in Colorado. The project could cost the government $400 million, since the Defense Department is promising to purchase the plant's entire production, at a price guaranteed by the Energy Department .

Energy officials said that now that the contract is being signed, Edwards will furnish the Moffett subcommittee with all the documents it requested.

The Union Oil contract was one of three synfuels projects under consideration for loan guarantees that had ignited perhaps the most acrimonious battle yet within President Reagan's frequently fractious cabinet government.

Energy Department officials, while basking in yesterday's victory for their boss, said the president's Union Oil decision did not necessarily mean that the other two projects would also be approved. The battle over synfuels goes on, they said.

The personal battle inside the Reagan inner circle, however, left Edwards and Stockman barely on speaking terms.

"The bitterness is all one-sided—that's what's so weird," said a senior aide to Stockman. "Dave is not the one who is bitter. But it didn't have to be raised to such tension levels."

Edwards, who is a low-key contrast to the hard-charging director of the Office of Management and Budget, concedes that there may be bad feelings. But he hastens to add, "Well, it's not on my part, anyway. . . . I'd like to believe that Dave Stockman was sincerely trying to help me. . . . I'd like to believe he was."

At issue is the fact that Stockman, in his zeal to end all government aid to synthetic fuels programs, wound up working with Moffett's subcommittee in the hope of outflanking Edwards, who has become a champion of the synfuels cause. This left the energy secretary doing a slow burn.

"Either I'm being taken in by you," Edwards says he told Stockman at one point, "or you're being taken in by Moffett." Edwards, clearly upset by it all, makes no secret that he thinks it is the former.

At issue also is whether Stockman went so far as to ultimately bestow his quiet blessing upon the subcommittee's vote that last week cited Edwards for contempt of Congress.

Stockman denies it. His aides concede that they worked with Moffett to make sure the synfuels projects were accorded a long and thorough congressional investigation, one that would delay their federally guaranteed funding.

But Stockman aides maintain that their concerns were philosophical, not fratricidal—and they deny that they advocated the contempt citation that stemmed from Edwards' refusal to give the subcommittee the documents it subpoenaed on the Union contract.

But Edwards remains unconvinced.

"Strange things do happen up here in Washington," says Edwards, who learned his politics as the governor of South Carolina, but says he is just beginning to get educated about the way Washington works. "I'd like to believe that it didn't happen. I'd like to believe."

But he says he has heard that it did.

Moffett, meanwhile, confirms that he decided to press ahead with the contempt of Congress vote in his subcommittee after a conversation between his chief aid and Stockman's. But as Moffett tells it, any encouragement Stockman gave was tacit, not overt.

"There was a noticeable change in attitude from Stockman calling me every day in the recess, when I was in Connecticut and saying, 'Don't go through with this contempt citation,' " Moffett said. The change came after the energy department had responded—unsatisfactorily, he says—to a series of inquiries that Stockman helped Moffett and his staff frame.

"Then suddenly, after we got that insulting reply from Edwards, there was nothing from Dave Stockman," says Moffett. "No more pleas for a delay."

There was, however, the phone call from Las Vegas, word of which has made the rounds. The energy secretary has heard of it—and it makes him furious. The industry lobbyists have heard of it—and it makes them wonder.

It was from Stockman's associate director for energy, Frederick N. Khedouri, to Moffett's subcommittee staff director, John Galloway, and it has assumed an importance all its own in the controversy.

"I heard there were some telephone calls from Khedouri," says Edwards. "I heard he called the members of the committee, giving them some instructions [about the contempt vote]."

Galloway says Khedouri never urged that the committee go ahead and cite Edwards for contempt, but that he did not repeat the previous requests for a delay in the vote. In the call, Khedouri says, Galloway expressed the view that the contempt citation could be enforced even if Edwards subsequently provided the subpoenaed documents.

Khedouri says he urged Galloway to let Edwards' legal advisers know that. "I was not encouraging them to do it [cite Edwards for contempt]," Khedouri says. "I was encouraging them to convey their attitudes."

The call reportedly ended with Khedouri telling Galloway to "have fun" at the upcoming subcommittee meeting. But Khedouri explains: "I say that to a lot of people."

One side issue that has left all of the principals puzzled is the way presidential counselor Edwin Meese III intervened in a bid to head off that contempt citation vote. In a threat that Stockman, Edwards, Moffett and their aides consider bizarre, Meese is said to have twice warned that the White House in turn would accuse Moffett's entire subcommittee with violating the Corrupt Practices Act if it persisted in seeking the DOE documents before the Union contract was signed.

The subcommittee's ranking Republican, Representative Joel Deckard of Indiana, says Meese made the threats to him in phone calls last week. Meese's effort failed, as Deckard was the only Republican to vote for the contempt citation, providing the crucial margin in the final 6 to 4 subcommittee vote.

When Moffett's subcommittee subpoenaed DOE's records on the Union Oil contract, in an effort to ascertain that the deal was being overseen properly, Stockman saw his opportunity. He volunteered his good offices to head off the subcommittee's effort to enforce its subpoena upon Edwards.

Stockman telephoned Moffett in the role of an eager negotiator. According to Moffett, Stockman asked that the committee delay citing Edwards for contempt. In turn, Stockman promised to get the subcommittee the documents it wanted.

In the meantime, he pledged, he would withhold his own certification, required by law, that the funds are available to guarantee the loans. Thus the subcommittee would be assured that the contracts could not be completed while the negotiations over the documents were under way.

As mediator, Stockman had the rationale he wanted for blocking the projects. When Edwards learned of what Moffett said Stockman had promised, he was furious. And in his low-key way, he quickly made this known to the director of OMB.

They agreed to meet in Moffett's office. But Stockman showed up 45 minutes late, which further angered the ever-punctual Edwards. The two barely spoke to each other, other participants say.

And after about 20 minutes, Edwards got up to leave. "I have an appointment," Edwards said cooly to his Cabinet colleague. "I think it is discourteous to keep people waiting, Dave."

Eventually, Reagan had to involve himself in the controversy and chaired a Cabinet council on it last week. There, Stockman pulled out a photograph of another oil shale project, Gulf and Amoco's Rio Blanco site, offering it as proof that a plant could be started without government subsidies.

Edwards sat in puzzled silence. Later, the secretary conferred with aides and wrote Reagan a letter saying that Gulf and Amoco in fact had applied for loan guarantees of an unspecified amount.

Asked about Stockman's photograph, Edwards now says: "It was rather misleading, in a way."●

ANITA DUNCAN AND PHILIP EURIE: ACE INTERNS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. HAWKINS. Mr. Speaker, during this summer session, our offices and halls are filled with congressional interns. These young people journey to Washington to see their Government in action through their actual participation. Two of the finest interns it has been my pleasure to know, Anita Duncan and Philip Eurie, have worked in my office these past months. They have been actively involved in various aspects of the office duties including research and writing, as well as the often maligned but vitally necessary clerical duties. Both of these young people have handled these tasks with skill and professionalism far beyond their years. In addition, their good humor has helped their office mates to maintain a sense of perspective in this rather gloomy legislative session.

Anita and Philip will soon be returning to their studies and then on to careers. I am sure that they will meet with great success in every endeavor they undertake. Hopefully, their experience in my office will prove as beneficial to them as they were helpful to me. I join my staff in wishing a sad farewell and good luck to Anita Duncan and Philip Eurie.●

HANDICAPPED TO BE EXCLUDED FROM PUBLIC TRANSPORTATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. MILLER of California. Mr. Speaker, the Secretary of Transportation's recent decision to eliminate guarantees for handicapped citizens' access to public transportation is a shortsighted move which ignores the needs and desires of millions of disabled and elderly individuals in this country.

The regulations implementing section 504 of the Rehabilitation Act of

1973 were developed to correct long-standing inequities which kept the handicapped of our society hidden from view. Much more can, and should, be done to rectify past neglect. The administration's recent decision, however, will effectively stop significant progress toward integrating handicapped citizens into the mainstream of daily life.

Despite its lipservice to "independent living" and self-sufficiency for all Americans, the Reagan administration has now deemed that the cost of providing accessible public transportation to 10 percent of our population outweighs the benefits which would accrue to them. Has the administration forgotten that many disabled people pay taxes, and they have every right to use the public facilities they helped to fund?

Has the administration also forgotten that most disabled individuals currently dependent on Government assistance would themselves become taxpayers, if only they could reliably get to the workplace?

The Department's action also reduces from 5 percent to 3½ percent the amount of its Federal support which local transit authorities must spend on undefined "special efforts" to provide some form of transportation for the disabled.

Consequently, not only will the administration's action remove hard-won protections, but it also further reduces the possibility that handicapped citizens will receive even limited segregated transportation.

Not content to simply deny the disabled the ability to use public transportation, the administration has decided to review section 504 regulations Government-wide, with an eye toward the cost of compliance. How, I wonder, does one measure the cost-benefit of a feeling of self-worth, of independence, of contributing to society, that comes from holding a job because you can count on an accessible bus to take you to work every day? It costs roughly $10,000 to install a lift in a new bus. If just five handicapped individuals use that bus twice daily for 1 year, it would cost approximately $2.25 per ride, not including the fare. Is that too high a price to pay for a privilege all able-bodied citizens take for granted? You and I consider transportation to be a minor detail in life, and usually give it little thought. We can hop in our cars, take a bus, or walk wherever we are going. Many disabled people cannot. Accessible buses could mean the difference for a disabled person between a fulfilling, creative, and taxpaying, career and a jobless, frustrating, and Government dependent existence.

Recently I received a letter from two disabled Californians who rely daily on the newly accessible services of Alameda/Contra Costa Transit (AC Transit). Their extreme dismay with the Department of Transportation's decision is a poignant reflection of the setback in store for millions of other disabled individuals throughout the country. I urge the Department of Transportation to reconsider its decision. The letter follows:

HANDICAPPED TO BE EXCLUDED FROM PUBLIC TRANSPORTATION

DEAR CONGRESSMAN MILLER: We are utterly overwhelmed and dismayed at the Department of Transportation's decision to throw out the 1979 504 regulations. While we have always felt that those regulations were a reasoned compromise between the concerns of the transit operators and those of the disabled community, we realize that for some local rail and bus operators the implementation of the regulation posed severe problems. The Secretary had the waiver power written in the regulations; this could have been exercised rather than completely scrapping the regulations which guaranteed our right to public transportation and putting in their place a set of old regulations which have been shown to be next to useless in terms of guaranteeing service to elderly and disabled persons.

We can't believe that not only is it now left up to the local operators to decide how they will provide service, but that they are not even given minimum service standards to guarantee that service will be even remotely comparable to that provided the general public. And that the insufficient minimum funding levels of the 1976 regulations have been even further decreased. The disastrous impact these regulations will have on disabled and elderly people of this country is heartbreaking.

We now have 150 AC Transit (Alameda/Contra Costa Transit) accessible buses in the main service area. You would be proud of the service, and the next time you're back here in the district, we invite you to ride the bus with us. On our own together, we have ridden AC Transit and Santa Clara buses and BART to Marriott's Great America, and on AC buses to the Berkeley Marina, to a baby shower, and to San Francisco to film a commemoration of the 1977 504 sit-in. We could never have done this before because our disabilities prevent us both from driving. We both ride AC Transit buses to work every day. This has really changed our lives and given us a new independence which cannot be adequately described.

Although the service is less than two months old, thousands of lift passengers have already used the service. In the one day AC did an official count, 71 wheelchair passengers and 23 other passengers used the lift and 329 passengers requested use of the kneeler. The accessibility program has started off so successfully here because AC Transit has approached it very positively and has worked with the Elderly and Disabled Advisory Committee and the community at large every step of the way.

AC Transit has pledged to continue purchasing accessible buses and we commend them highly for this, but we are totally disheartened to know that this type of service will be eliminated for millions of disabled and elderly people in other parts of the country. We ask your support in anything you can do to influence this situation as we have always been able to count on you in the past.

Sincerely,

KITTY CONE,

JUDY HEUMANN.●

THE HOUSE TAX CUT ACTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. BONKER. Mr. Speaker, from a political standpoint I must congratulate President Reagan on his victory Wednesday on the tax cut vote. It demonstrates his continued strength and overwhelming persuasiveness.

Mr. Reagan has now had 100 percent of his economic recovery program approved by the Congress—budget cuts and tax cuts. He now has the full opportunity—and the full responsibility—to bring about economic recovery in this country.

From a substantive standpoint, however, I must confess grave misgivings over the President's victory.

I did not support the President's tax package, because I did not believe it to be in the best interests of the people of the Third District. According to most economists, it will prove inflationary, and it will result in massive budget deficits and continued high interest rates over the next 3 years.

The Congressional Budget Office has estimated that the Federal Government will run a budget deficit of $80 billion by 1984 if the President's 3-year tax cut were enacted.

Federal deficits are one of the chief causes of high interest rates, which have devastated the housing and timber industries in my district. Thousands of men and women in my district have been thrown out of work. In some of the counties that I represent, unemployment is a staggering 16 percent. All told, the unemployment rate in my district is 11 percent, compared to a national jobless rate of about 7.3 percent for the same period.

The President's budget cuts and Wednesday's tax plan will be a savage one-two punch to the people of my district. Funding for social service programs, including unemployment compensation and job training, will be slashed just as high inflation and continued record interest rates—fueled by this tax cut—throw still more people out of work.

We must balance the budget. The Federal deficit is approaching $1 trillion; it cost $75 billion just to finance that debt last year. Mr. Reagan's tax cut proposal refuses to address these realities.

The vast majority of the people in the Third District agree with me on this point, even though many of them may support the President anyway. It is a testimony to his public relations skill.

In a recent poll I sent to all constituents in the Third District, 64 percent

said they would not support a tax cut that results in higher Federal deficits.

Nationwide polls have found that 70 percent of all Americans would rather passup a tax cut in 1982 in order to balance the budget.

In good conscience, I could not support a policy which would pay for a tax cut by Federal borrowing.

The second central issue in the tax debate was who would benefit.

The Reagan plan skewed the tax cut to the 5 percent of the population earning more than $50,000 a year.

The median income in the Third District is only $9,736, with a mere 18 percent of the families earning more than $15,000.

A tax cut that favors the wealthy simply is not in the best interests of my constituents.

Another disturbing factor in the Reagan proposal is that it ignores the interests of small business, the backbone of the American economy and of the Third District. The President has skewed his proposal to favor the largest corporations.

I supported a third alternative tax cut bill, which would have provided meaningful tax cuts for middle-income Americans and productivity incentives for American businesses but would have resulted in a $2 billion budget surplus next year, and a $20 billion surplus by 1983.

It did so by eliminating the billions of dollars of special interest loopholes for the oil companies and commodity traders found in the Reagan proposal.

A tax cut is overdue, but one that shortchanges working Americans is unfair.●

IRISH GUN BAN TO MARK 2-YEAR ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1981

● Mr. BIAGGI. Mr. Speaker, tomorrow, August 1, marks the second year that our Department of State has suspended the sale of arms to Great Britain for use in Northern Ireland. As chairman of the Ad Hoc Congressional Committee for Irish Affairs, and the sponsor of the legislation which resulted in this suspension, I restate my commitment today to maintaining this suspension pending completion of the ongoing review of our foreign policy in this area.

Let me refresh the memories of my colleagues here today on the exact events which led to this suspension. It was brought to my attention that on January 31, 1979, our State Department has approved a license for the sale of 3,000 .357 magnum handguns and 500 .223 rifles to the Royal Ulster Constabulary, the official police force in Northern Ireland. This action was wrong in two respects. First, the licensing was done without any consultation with Congress. Second, this action violated one very basic tenet of our foreign policy, articulated on numerous occasions by former President Jimmy Carter: respect for the human rights of all citizens of all nations. The RUC, has been cited on countless occasions by international organizations for their violations of human and civil rights of prisoners and prison suspects in Ulster. To sell arms to this organization was to make a mockery of the principal of human rights while at the same time, fueling the fire of repression which reinforces the notion that humans can be a selective, rather than a universal concern of this country.

Finally, this sale was wrong because it was in violation of the intent of section 502(b) of the Foreign Assistance Act of 1961 which prohibits sales or licensing under the Export Administration Act for "crime control detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."

Once this sale became public knowledge, cries of outrage came from all corners of this Nation. Concerned Irish-Americans as well as others who value and respect the human rights component of our foreign policy noted the inherent hypocrisy in selling arms to the RUC. The police force has been cited for countless violations of human rights by Nobel Prize winning Amnesty International, the European Court and Commission on Human Rights, and most notably, the Bennett Commission, appointed by their own British Government.

In response to this public outcry, I dispatched a letter, cosigned by 29 of my colleagues on the ad hoc committee, to the State Department, expressing our disapproval of the sale on June 6, 1979. The reply I received on June 15 prompted me to offer an amendment to the 1980 State Department appropriations bill to prohibit the use of State Department funds for any further arms sales to Great Britain for use in Northern Ireland.

It is most important to note that in this amendment effort, we had the close cooperation of our former colleague, the late John Slack, of West Virginia, who managed this bill on the House floor and was chairman of the Appropriations Subcommittee on State, Commerce, and Judiciary. His untimely passing created a great loss in this body. John Slack was responsible for providing us the opportunity—for the first time on the floor of the House in general debate—to discuss the gun sale issue in relation to the State Department.

As a result of that debate, with the cooperation of House Foreign Affairs Committee Chairman CLEMENT ZABLOCKI, I withdrew my amendment in exchange for congressional hearings by his committee on the gun sale issue. The result of those hearings, in which I participated, the State Department announced its intention to suspend all sales of arms to Britian for use in Ulster pending a "full review of our policy in this area."

To date, this suspension remains in effect. This has been confirmed by letter I have received from the previous administration as well as the current administration. One of my first actions at the onset of the 97th Congress was to contact President Reagan and request a status report on this issue. I received a reply from the White House on March 5 of this year reaffirming the ban on gun sales to Northern Ireland police and security forces. For the benefit of my colleagues, I wish to insert a copy of this letter at this point.

THE WHITE HOUSE,
Washington, March 5, 1981.

Hon. MARIO BIAGGI,
Chairman, Ad Hoc Congressional Committee for Irish Affairs, House of Representatives, Washington, D.C.

DEAR MARIO: This is to thank you for your February 24 letter cosigned by your 35 colleagues on the Ad Hoc Congressional Committee for Irish Affairs, in which you urge the President to maintain the embargo of U.S. arms to the Royal Constabulary of Northern Ireland.

Please know that the President shares your concerns toward the achievement of a peaceful political solution in Northern Ireland. As the situation now stands, the Administration is holding to the policy of not approving licensing for sale of hand-guns to the RUC. We support cooperative United Kingdom-Ireland efforts to halt terrorism in Northern Ireland and we believe that the only reasonable basis for a solution to the conflict there is a settlement which the parties living there can accept.

Again, thank you for writng and sharing with us the timely presentation of your views on this matter.

With cordial regard, I am

Sincerely,

MAX L. FRIEDERSDORF,
Assistant to the President.

The issue of human rights in Northern Ireland has as much, if not greater significance today, than it did 2 years ago. In retrospect, over the past 2 years, human rights violations have continued, unabated in Ulster. To compound the problem, we have witnessed the tragically unnecessary deaths of eight young men in the Maze Prison from hunger strikes. As chairman of the Ad Hoc Congressional Committee for Irish Affairs, I introduced House Resolution 158 regarding the hunger strike, as well as condemning the violence which has preceded it and accompanies it. This resolution calls upon the British Government to abandon its position of intransigence in this matter and escalate its efforts to end this situtation. House Resolu-

tion 158 currently has over 70 cosponsors and I intend to push for its adoption. Approval of House Resolution 158 will send a clear and unmistakenly signal to the British that we feel that this situation must be resolved in we will ever be able to find a just and lasting peace for all of Ireland.

It is essential that we continue this current suspension of arms to the RUC. I intend to seek a status report of the ongoing review of this policy at the State Department during consideration of the 1982 appropriations bill by the House next week. Further, I intend to investigate reports we have received regarding the use of U.S.-made plastic bullets by the RUC to quell the most recent outbreaks of violence there. I wish to include my response from the State Department on this plastic bullets issue in the RECORD at this point.

DEPARTMENT OF STATE,
Washington, D.C., July 22, 1981.

Hon. MARIO BIAGGI,
House of Representatives.

DEAR MR. BIAGGI: The Secretary has asked me to reply to your letter of June 15, requesting information regarding the origin of the plastic bullets used by security forces in Northern Ireland.

The Department has had extensive consultations with United States industry and Americans knowledgeable in the ammunition industry. To date we have been unable to identify any conventional "plastic bullets" that are of United States origin for use in a rifle, carbine, or handgun. It might be that the "plastic bullets" are plastic projectiles for dispersing tear gas which, when used incorrectly, could cause bodily harm. Such projectiles are manufactured in the United States and are on the U.S. Munitions List, requiring Department of State approval prior to export.

Since August 1979, the Office of Munitions Control has not approved any license for the export of arms, ammunition or riot control equipment on the U.S. Munitions List destined for end-use in Northern Ireland. All such applications have been returned without action or are currently being held in abeyance.

To enable us to provide you and your Ad Hoc Congressional Committee for Irish Affairs with more complete information, the Department has asked its Embassy in London to obtain information as to the description and origin of the "plastic bullets". When this information is received from the British authorities or when additional information becomes available, we will advise your office immediately.

I hope this will be helpful to you and your committee.

Yours sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.

It should be noted that this letter both reaffirms the suspension of arms sales to the RUC as well as notes the final word on the issue of U.S.-made plastic bullets by the RUC has yet to be heard. As chairman of the Ad Hoc Congressional Committee for Irish Affairs, I believe I speak for all members of our committee when I say that this issue is of primary concern to us and we will pursue its resolution with vigor until we have confirmed that the United States is not supplying these bullets to the RUC—lethal bullets which have been used to kill and maim innocent women and children in the name of crowd control. It is interesting to note that while Great Britain condones the use of plastic bullets in Northern Ireland, it has, at the same time, outlawed their use in their own country to deal with the current riots by unemployed youth which have occurred because of their lethal nature.

The Ad Hoc Congressional Committee for Irish Affairs will continue to monitor this situation closely in the weeks ahead. I intend to resolve these issues so that the current suspension of arms sales to Northern Ireland will become a permanent component of our foreign policy in this part of the world. Today marks a milestone—and provides testimony to the effectiveness of the ad hoc committee in raising the issue of Northern Ireland both in Congress as well as around the world. We have as our shared goal, the return of peace and justice to all people of Northern Ireland. We will continue to raise this issue until our goal becomes the reality that we all long for.●